W 20a

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

Filed: May 30, 1997
49th Day: July 18, 1997
180th Day: November 26, 1997
Staff: John T. Auyong
Staff Report: June 20, 1997
Hearing Date: **July 8-11, 1997**
Commission Action:

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE

APPEAL NO.: **A-5-LGB-97-166**

LOCAL GOVERNMENT: City of Laguna Beach

DECISION: Permit granted with conditions by the City of Laguna Beach City Council

APPLICANT: County of Orange AGENT: Mike Wellborn

PROJECT LOCATION: Aliso Creek, 300 feet upstream of the Coast Highway bridge; City of Laguna Beach, County of Orange

PROJECT DESCRIPTION: Installation of: a temporary sand berm in Aliso Creek; motorized pump; and a pipe between a point in Aliso Creek, inland of the proposed berm, and an adjacent existing sewage outfall; to collect creek flows and divert them to the existing outfall line which discharges approximately 1.5 miles offshore.

APPELLANTS: Rico Dagomel; Aliso Creek Inn (dba Ben Brown's Restaurant)

SUBSTANTIVE FILE DOCUMENTS: (See Appendix A)

SUMMARY OF STAFF RECOMMENDATION - ISSUES TO BE RESOLVED

The issues to be resolved regarding the subject appeal are the proposed project's impact on offshore water quality and disturbance of the banks and borders of Aliso Creek, and the City's approval of development which is the Coastal Commission's original jurisdiction.

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed because the proposed project is inconsistent with the LCP policies for the following reasons: (1) lack of data indicating whether pollutants in the nuisance flows would result in adverse impacts to offshore water quality, offshore marine life, and the health of human users of offshore waters for water-contact sports, (2) lack of

required approval from the Regional Water Quality Control Board for the proposed new discharge location in offshore waters, (3) lack of a special condition in the City's approval of the coastal development permit requiring monitoring at the proposed new offshore discharge point, (4) disturbance of the banks and borders of Aliso Creek, (5) lack of a requirement to restore the banks of Aliso Creek to their pre-existing state after dismantling the proposed project, and (6) lack of a Streambed Alteration Agreement from the Department of Fish and Game. In addition, a portion of the proposed project is within the Commission's coastal development permit jurisdiction. The proposed berm would be within the Commission's original jurisdiction because it would be development which is located in submerged lands (i.e. the creek bed).

The staff further recommends that the Commission, after finding substantial issue, continue the De Novo portion of the hearing. Data and other information has not yet been provided to allow staff to evaluate a De Novo coastal development permit. The appealable portions of the proposed project could be reviewed in conjunction with the Commission's review of a permit application for those portions of the development in the Commission's original jurisdiction.

I. STAFF RECOMMENDATION - MOTIONS AND RESOLUTIONS

The staff recommends that the Commission find that Appeal No. A-5-LGB-97-166 of the City of Laguna Beach's action of approval of Coastal Development Permit 97-19 raises substantial issue with the grounds listed in Section 30603(b) of the Coastal Act.

Motion on Substantial Issue

> *I move that the Commission determine that Appeal No. A-5-LGB-97-166 raises **NO substantial issue** as to conformity with the certified local coastal program for the City of Laguna Beach*

A majority of the Commissioners present is required to pass the motion.

Staff recommends a **NO** vote which would result in the finding of substantial issue and the adoption of the following findings on substantial issue.

II. APPELLANT CONTENTIONS

A. Appeal of Rico Dagomel

On May 30, 1997, the Coastal Commission received an appeal by Rico Dagomel of the City of Laguna Beach's ("City") approval of CDP97-19. (See Exhibit 2) Mr. Dagomel contends that the approved project does not conform to standards set forth in the certified local coastal program ("LCP"). He also contends that; (1) a full environmental impact report should have been prepared rather than a negative declaration and that there are other feasible alternatives, (2) the City as a member of the Aliso Water Management Agency has a conflict of interest in being a member of the agency, (3) the proposed project would result in the destruction of coastal wetlands and ocean habitats, and (4) approval of the proposed project as an interim measure would reduce the incentive to develop a long-term solution to the problem of pollution in Aliso Creek.

In a June 3, 1997 letter to Commission staff, Mr. Dagomel further clarifies his contentions to specifically allege that the project approved by CDP97-19 is inconsistent with LCP Land Use Plan Open Space/Conservation policies 2-A and 2-B with respect to mitigating impacts to tide pools and marine habitats, especially for coastal dolphin, whale, and squid habitats. Mr. Dagomel contends that the proposed project would not be consistent with LCP Land Use Plan Open Space/Conservation policies 4-A and 4-H regarding water quality and conservation. Mr. Dagomel also contends that the proposed project would be inconsistent with Sections 30230, 30231, 30236, and 30240 of the Coastal Act as they pertain to the Aliso Woods/Canyon park riparian, watershed, wetlands, beach and ocean habitats.

B. Appeal of the Aliso Creek Inn

On June 5, 1997, the Coastal Commission received an appeal from the Aliso Creek Inn dba Ben Brown's Restaurant. (See Exhibit 3) Their appeal contends that the project approved by City CDP97-19 does not conform to the standards set forth in the certified LCP. The appellant contends that the proposed project would result in pollution, flooding, silt deposition, safety, sickness and mosquito infestation. The appellant further contends that the proposed project would simply relocate the polluted runoff farther offshore. In addition, the appellant contends that the proposed project would expose guests of the Aliso Creek Inn and golfers at the adjacent golf course to the stench and dangers of the water which would pond behind the proposed sand berm.

III. APPEAL PROCEDURES

The City of Laguna Beach Local Coastal Program was effectively certified in July 1992. As a result, the City has coastal development permit issuing authority over development located within its jurisdiction except for development located on tidelands, submerged lands, or public trust lands. The City of Laguna Beach ("City") took action on CDP97-19 on May 6, 1997. After certification of LCPs, Section 30603 of the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit ("CDP") applications. The CDP ordinance in the City's LCP reflects the requirements of Coastal Act Section 30603.

A. Appealable Development

Pursuant to Section 30603(a) of the Coastal Act and Section 25.07.006(A) of the City's CDP ordinance, only certain types of development may be appealed to the Coastal Commission. Pursuant to Section 30603(a)(2) of the Coastal Act and Section 25.07.006(A)(1)(b) of the City's CDP ordinance, one of the appealable developments is development located within 100 feet of any wetland, estuary, or stream. The development approved by the City would be located in a stream, and within 100 feet of a stream; namely, Aliso Creek. The sand berm would be in the creek, and the motorized pump and pipe would be within 100 feet of the creek. Therefore, the City's action on CDP97-19 is appealable to the Commission.

B. Grounds for Appeal

Pursuant to Section 30603(b) of the Coastal Act and Section 25.07.016(B)(1) of the City's CDP ordinance, grounds for appeal is an allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies of Chapter 3 of the Coastal Act.

C. Eligible Appellants

Section 30625 of the Coastal Act provides for appeals of local coastal development permits by "aggrieved persons." Section 30801 of the Coastal Act and Section 25.07.006(L) of the City's CDP ordinance define a qualified appellant or an "aggrieved person" as any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision being appealed. CDP97-19 was appealed separately by Rico Dagomel and the Aliso Creek Inn (dba as Ben Brown's Restaurant). The minutes for the City Council's May 6, 1997 meeting at which CDP97-19 was approved indicate that both Mr. Dagomel and representatives Ed Slyman and Roy Ableson for the Aliso Creek Inn and the Brown family testified at the hearing. Therefore, the appellants qualify as "aggrieved persons" who are eligible to appeal the City's action.

D. Eligible Appeals

Section 25.07.016(B) of the City's LCP coastal development permit ordinance states that "[A]ll appealable development, as defined in section 25.07.006(A), may be appealed to the coastal commission by a qualified appellant, as defined in Section 25.070.006(L), within ten working days from the date of coastal commission receipt of the notice of final action." The City's Notice of Final Action was received by the Coastal Commission on May 19, 1997. (See Exhibit 4) The tenth working day from May 19, 1997 was June 3, 1997. Therefore, the ten working day appeal period to the Coastal Commission expired after the close of business on June 3, 1997.

The appeal of Rico Dagomel, was received on May 30, 1997, before the expiration of the appeal period on June 3, 1997. Because the Aliso Creek Inn appeal was sent to the South Coast District Office's old address, it was not received until June 5, 1997, after the expiration of the appeal period to the Coastal Commission. However, the appeal of the Aliso Creek Inn was postmarked on June 2, 1997. The LCP is silent on whether an appeal must be postmarked or received within the appeal period. As cited above, the City's LCP states that an appealable development may be appealed within the ten working day Coastal Commission appeal period. Therefore, the Aliso Creek Inn can be considered to have appealed the action on CDP97-19 within the ten working day appeal period.

IV. LOCAL GOVERNMENT ACTIONS

In 1995, the applicant filed coastal development permit application 95-89 with the City of Laguna Beach for essentially the same project as the current proposal. The applicant withdrew the application after the City of Laguna Beach Design Review Board ("DRB") held two public hearings but before the DRB took action on the application.

Since then, several changes were made to address local concerns. For instance, the use of an electric rather than a diesel pump is proposed to minimize noise and fumes. The applicant resubmitted the project as coastal development permit application 97-19. The DRB held public hearings on the CDP97-19 on March 27, 1997, and April 10, 1997. According the Board members comments in the DRB meeting minutes, the DRB denied CDP97-19 on April 10, 1997 because of inadequate data and the fact that the proposed project would only be a temporary solution that would prolong development of a permanent solution. The applicant appealed the DRB's denial to the City of Laguna Beach City Council ("Council"). (See Exhibit 9)

On May 6, 1997, the Council held a public hearing on the appeal. Also on May 6, 1997, the Council adopted Resolution No. 97.025 approving CDP97-19 with conditions. (See Exhibit 7) The conditions of approval include: (1) limiting the approval to May through September of 1997, with the option of extending it on an annual basis up to five subsequent years, (2) obtaining required approval from the Regional Water Quality Control Board prior to diverting the creek into the outfall, (3) constructing a v-notch in the berm to accommodate overflow in the case of pump failure, and requiring the pump to be electrically operated, (4) dismantling the berm and piping by October 15, 1997 (5) stipulating that the height of the berm cannot be such that it would result in flooding at Ben Brown's restaurant, (6) requiring the applicant to report back to the City Council on the status of the project within 30 days after the berm is constructed, and (7) requiring the applicant to cooperate with the management of Ben Brown's restaurant regarding the project.

Because a portion of the development - the proposed berm - is located in submerged lands, it is within the Commission's original jurisdiction. Therefore, the applicant is required to obtain a coastal development permit directly from the Commission for that portion of the project. Thus, the City's coastal development permit cannot authorize installation of the berm and is invalid to the extent it attempts to do so.

V. FINDINGS

A. Project Description

The applicant is proposing to construct a sand berm in Aliso Creek at a location approximately three hundred (300) feet inland from the point where Coast Highway (State Route One) crosses over Aliso Creek. The proposed sand berm would be six feet high, 24 feet wide, and sixty feet long. (See Exhibit 10) The proposed sand berm would collect the waters of Aliso Creek which would then be diverted by a motorized pump into a proposed new pipe. The rate of stream water flow proposed to be diverted would be approximately five cubic feet per second. The proposed new pipe would connect to an existing outfall which discharges secondary treated sewage offshore.

The proposed sand berm would have a "V" shaped notch at the top to allow water collecting behind the berm to flow over the berm in the event that the diversion pump fails. The notch would be 18 inches deep. The overflow notch would prevent the level of water collecting behind the berm from rising high enough to a point where it would overflow the creek banks and flood adjacent property such as the golf course and Aliso Creek Inn.

The proposed pump to divert the collected water would have an electric motor. The pump would be housed in an existing building owned by the Aliso Water Management Agency ("AWMA") which is not currently used by the AWMA. By being housed in a structure, noise from the pump's motor would be minimized.

According to the U.S. Army Corps of Engineers February 1997 "San Juan and Aliso Creeks Watershed Management Study Reconnaissance Report" ("ACOE Report"), the existing outfall into which the creek's flow would be diverted outlets offshore. The outlet has a diffuser to slow and diffuse the discharge from the outfall. The outfall pipe is 1.5 miles long from shore to the nearshore end of the diffuser. At this point, the diffuser is 170 feet below Mean Lowest Lower

Water ("MLLW") level. The diffuser extends from this point 1,200 feet further seaward, at a depth of 195 feet MLLW.

The proposed project would be temporary and last only for the duration of the summer of 1997. The proposed project would have to be completely dismantled by October 15, 1997. As approved and conditioned by the City, the applicant has the option of undertaking the proposed project during the next five summers provided a written request to do so is submitted to the City and approved by the Design Review Board.

The reason for undertaking the proposed project is to alleviate an existing pollution problem which occurs at the mouth of Aliso Creek at Aliso County Beach Park. The Aliso Creek watershed drains an area approximately 36 square miles in size, according to the ACOE Report. Because of the large size of the creek's watershed, significant amounts of non-point source pollution enters the creek, such as agricultural runoff or storm drain runoff.

Because of the littoral drift, sand from areas adjacent to the mouth of Aliso Creek drifts into the creek's mouth. This results in the creation of berms across the creek's mouth which prevents the creek's water from entering the ocean. Therefore, the water ponds behind the berm at the creek's mouth, right on the popular and heavily used Aliso Creek County Beach. The ponded water becomes stagnant and, combined with the fecal coliform pollution in the creek's water, creates a health risk for the beach users. In a March 4, 1997 letter to the San Diego Regional Water Quality Control Board, the Orange County Health Care Agency indicates that the mouth of Aliso Creek ". . . is regarded as chronically contaminated and is therefore permanently posted with . . . signs stating, 'Keep Out', 'Contaminated Water'."

The problem of ponding polluted water and the attendant public health risks are greater during the summer, when creek flows are low and use of the beach by the public is at its highest. Low creek flows mean that the water is not forceful enough to cut through the sand berms at the creeks mouth, so the water collects behind the berm. County beach staff has in the past attempted to fix the problem by digging ditches through the berm to allow the ponded water to drain into the ocean. In addition, low flows mean that concentration of pollution in the water is higher. This contrasts with heavy winter flows in which the pollution is diluted because of the high volume water from heavy rainfall.

Thus, the proposed project proposes a temporary solution to the problem of polluted water ponding on the beach by building a berm inland from the creek's mouth. Instead of ponding at the beach, the creek's water would pond at the inland berm. The ponded water would be diverted into the existing outfall and discharged approximately 1.5 miles offshore.

B. Substantial Issue Analysis

1. Appellants' Valid Contentions Which Raise a Substantial Issue

Appellant Rico Dagomel contends that the proposed project, as approved and conditioned by the City, would be inconsistent with Policies 4-A and 4-H of the Water Quality and Conservation section (Topic 4), and Policy 2-A of the Open Space/Conservation Element of the LCP.

a. Stream Banks and Borders

Policy 4-A states:

> *Protect fresh water lakes, streams, waterways and riparian habitats, and preserve the borders and banks of lakes and streams in their natural state, where possible.*

Aliso Creek is not channelized at the site of the proposed project. Thus, the creek's banks and borders are in their natural state. The proposed project would result in impacts to the borders and banks of Aliso Creek by building a berm across the creek from bank to bank. Further, the east bank would have to be disturbed in order to construct the proposed connector pipe which would divert the water collected behind the berm into the existing outfall. The proposed project would not preserve the borders and banks of Aliso Creek in their natural state. Further, the City did not impose a condition requiring the creek banks and borders to be restored to their previously existing state after the proposed project is removed at summer's end.

In addition, while the applicant applied to the State Department of Fish and Game for a Streambed Alteration Agreement, no evidence has yet been received by Commission staff that a valid Streambed Alteration Agreement was issued for the proposed project. Alterations within a streambed like Aliso Creek which would result from the proposed project have to be reviewed for adverse impacts by the Department of Fish and Game and approved by a Streambed Alteration Agreement.

Therefore, the Commission finds that the proposed project raises a substantial issue with Policy 4-A because (1) the proposed project would disturb the banks and borders of Aliso Creek, (2) the City did not impose a requirement to restore the banks to their pre-existing state, and (3) no evidence has been submitted of an approved Department of Fish and Game streambed alteration agreement.

The Commission also notes that no evidence has been submitted that the applicant has applied for or received a permit for the project from the U.S. Army Corps of Engineers which also regulates work in streambeds.

b. <u>Offshore Water Quality</u>

Policy 4-H states:

> *Oppose activities which degrade quality of offshore waters.*

As described under the project description section of this report, the water in Aliso Creek exceeds acceptable levels of fecal coliform bacteria, as described by the Orange County Health Care Agency in it's March 4, 1997 letter to the San Diego Regional Water Quality Control Board. Consequently, the mouth of the creek is permanently posted with warning signs indicating that the water is contaminated and poses a known risk to human health. No data have been provided regarding concentrations of pollutants other than coliform (e.g., oil and grease, heavy metals, and petroleum hydrocarbons) in the waters of Aliso Creek.

The City's approval of the proposed project would not correct the basic problem of pollution entering Aliso Creek which drains into the ocean. The proposed project would move the pollution

problem from the mouth of Aliso Creek - where it has been documented to affect human health, public recreation and the quality of nearshore waters - to a point 1.5 miles offshore. Discharge at such an offshore location may adversely impact: (1) offshore marine life; (2) nearby Laguna Beach and South Laguna marine life refuges and other sensitive marine habitat areas; and (3) humans such as surfers who use offshore waters. Therefore, while the proposed project may not increase the amount of pollution entering the ocean, it would change the location of where the pollution enters the ocean. Since the pollution would now enter offshore waters rather than nearshore waters, the proposed project may degrade offshore waters, inconsistent with Policy 4-H.

i. Coliform

Section 7958 of the California Code of Regulations (Title 17, Chapter 5, Subchapter 1, Group 10) contains prescribed standards for maximum allowable concentrations of coliform organisms at public beaches or water-contact sports areas as follows:

Samples of water from each sampling station at a public beach or public water-contact sports area shall have a most probable number of coliform organisms less than 1,000 per 100 ml. (10 per ml.); provided that not more than 20 percent of the samples at any sampling station, in any 30-day period, may exceed 1,000 per 100 ml. (10 per ml.), and provided further that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml. (100 per ml).

Section 24155 of the California Health and Safety Code (Division 20, Chapter 1, Article 4) defines "water-contact sport" as

> *. . . any sport in which the body of a person comes into physical contact with water, including but not limited to swimming, surfboarding, paddleboarding, skin diving, and water-skiing. It does not include boating or fishing.*

Therefore, the offshore waters of Aliso Beach spanning both sides of the mouth of Aliso Creek are water-contact sports areas which should be tested for coliform.

The Aliso Water Management Agency ("AWMA"), which owns the outfall into which the polluted water of Aliso Creek is proposed to be diverted, tests and monitors the waters in the surf zone off Aliso Beach at ten sampling stations. The Orange County Health Care Agency provided data from the monitoring program for summer months during 1996 (see Exhibit 14). There was insufficient time for the Health Care Agency to provide comprehensive historical data. Based on the 1996 monitoring from last year's summer months, in many instances the coliform concentrations found at the mouth of Aliso Creek, where the present pollution problem occurs, exceeds the limit of 1,000 per 100 ml., and is sometimes double the allowable limit. On the other hand, the coliform concentrations in the surf zone offshore waters off Aliso Beach rarely exceed 100 per 100 ml., well below the prescribed standard. Only at the Aliso-Middle station did the concentrations rise above 100 per 100 ml., and then not by much.

Diverting the creek flow into the offshore outfall would transfer the 1,000+ per 100 ml. concentrations from the creek's mouth to the offshore waters. Concentrations exceeding the 1000 per 100 ml. standard in offshore waters would pose a risk to human users of the offshore waters. Data have not yet been provided as to whether the elevated coliform levels present in the waters of

Aliso Creek, as noted by the Orange County Health Care Agency, would continue to pose a risk to human health at an offshore location. Further, data have not been provided to evaluate whether the coliform concentrations would not result in adverse impacts to offshore marine life and marine resources.

In addition, the ACOE Report does not contain data regarding concentrations of coliform in the outfall's existing effluent discharges. If the creek's flow is diverted into the outfall, the already elevated coliform concentrations in the creek flow when combined with possible coliform in the existing effluent may result in extremely high levels of coliform being discharged from the outfall into offshore waters.

ii. Pollutants Other Than Coliform

Further, data have not been provided regarding the levels of pollutants in Aliso Creek other than coliform (e.g., oil and grease, heavy metals, and petroleum hydrocarbons). The ACOE Report contains data regarding the current levels of pollutants other than coliform contained in the effluent discharged from the outfall into which the creek's flow would be diverted. The ACOE Report also specifies limitations on the amount of pollutants other than fecal coliform are allowed. The ACOE Report data indicate that most pollutants in the effluent are below the specified limits.

Therefore, it is not possible to determine whether diversion of the creek into the outfall would cause the concentrations of pollutants other than coliform in the outfall to exceed the specified limits. If the level of pollutants were to exceed the specified limits, this would result in offshore water quality being degraded.

iii. Monitoring

Further, monitoring of pollutants in the creek flow or effluent in the outfall is not proposed nor required as a condition by the City's approval of the proposed project. Even if current data were to show that pollutant levels in the creek were below acceptable levels, future levels of pollutants could change. Therefore, without monitoring, it would not be possible to determine whether increases in pollutant levels are occurring which would result in the degradation of offshore water quality.

iv. Regional Water Quality Control Board Approval

In addition, the applicant has not received approval for the project's discharges from the San Diego Regional Water Quality Control Board ("RWQCB"). The RWQCB is the state agency responsible for regulating discharges of pollution into streams and the ocean. The RWQCB determines whether a discharge into surface waters maybe permitted or must be prohibited. The proposed project would result in polluted water from Aliso Creek being discharge from an existing ocean outfall. Without RWQCB approval of the project, a definitive determination as to the acceptability of the proposed discharge and whether adverse impacts to offshore water quality would result. The City has approved a project without determining the proposed project would have an adverse impact on offshore water quality. Therefore, the City's action is not consistent with Policy 4-H.

v. Conclusion (Offshore Water Quality)

Therefore, in the absence of: (1) RWQCB approval; (2) a program to monitor the outfall; and (3) data indicating whether the diversion of the polluted Aliso Creek water into the existing outfall and its subsequent discharge into offshore waters; the consistency of the proposed project with Policy 4-H cannot be evaluated. Thus, the Commission finds that the proposed project raises a substantial issue with LCP Open Space/Conservation Element Policy 4-H.

c. Tide Pools and Marine Habitats

Policy 2-A states:

> *Encourage the expansion of the Marine Life Refuges and the designation of particularly unique or ecologically sensitive coastal areas as Ecological Reserves (such as seal and bird rocks), pursuant to the provisions of the State Department of Fish and Game.*

The pollution discharged from the outfall resulting from the proposed project may result in marine life being killed. If marine life and marine resources become so severely degraded to the point where they no longer qualify for a marine life refuge, the proposed project would discourage the expansion or designation of new marine life refuges. The proposed project is designed as a temporary measure to deal with a pollution issue. Therefore, the Commission finds that the proposed project raises a substantial issue with LCP Open Space/Conservation Element Policy 2-A.

d. Public Access and Recreation - Aliso Creek Inn Appeal

Appellant Aliso Creek Inn contends that the proposed project would result in sickness, mosquito infestation, and exposure of guests to the stench of the ponded water. These issues are not covered by the LCP but do raise an issue with public access and recreation policies of the Coastal Act. If the proposed project would discourage visitors from using the visitor-serving commercial uses of the Aliso Creek Inn, Ben Brown's Restaurant, and the adjacent golf course, adverse impacts to public access and recreation may result. Therefore, the Commission finds that these contentions raise a substantial issue with the public access and recreation policies of the Coastal Act.

2. Appellants' Valid Contentions Which Do Not Raise a Substantial Issue

Appellant Rico Dagomel contends that the proposed project, as approved and conditioned by the City, would be inconsistent with the following policy of Topic 2 of the Open Space/Conservation Element of the LCP.

Policy 2-B states:

> *Initiate procedures to post signs at the boundaries of tide pools, marine life refuges and ecological reserves that clearly denote their ecological significance and the penalty for disturbing these natural environments.*

Policy 2-B requires signage informing the public of the location of marine refuges and the penalty for disrupting the natural environment. The proposed project would not interfere with the first provision of Policy 2-B requiring the posting of signs to denote marine life refuges. The second

part of the policy having to do with the disruption of the marine habitats refers to removing or otherwise physically disturbing marine life. Thus, the Commission finds that the proposed project raises no substantial issue with LCP Open Space/Conservation Policy 2-B.

b. Flooding

Appellant Aliso Creek Inn contends that the proposed project, as approved and conditioned by the City, would be inconsistent with the flooding policies of the LCP.

Land Use Element Policy 3-E states:

> *Continue to ensure consideration of flood hazards when reviewing projects within the 100-year flood plain.*

The proposed project would be located in a stream and therefore is within the 100-year flood plain. The City has conditioned the project to ensure that the proposed project would not result in flooding of adjacent properties. Therefore, the City did consider flood hazards when reviewing the proposed project. In addition, the proposed project would only occur during the dry summer season, when flows in the stream are lower than during the winter rainy season. The berm is required to be removed no later than October 15, 1997. Thus, the Commission finds that the proposed project does not raise a substantial issue with respect to LCP Land Use Element Policy 3-E.

3. Appellants' Invalid Contentions

The following contentions of the appellants are not valid because they are based on grounds other than consistency of the proposed project with the City of Laguna Beach Certified Local Coastal Program or the public access policies of Chapter 3 of the Coastal Act.

Appellant Rico Dagomel contends that; (1) a full environmental impact report should have been prepared rather than a negative declaration and that there are other feasible alternatives, (2) the City as a member of the Aliso Water Management Agency has a conflict of interest in being a member of the agency, and (3) approval of the proposed project as an interim measure would reduce the incentive to develop a long-term solution to the problem of pollution in Aliso Creek.

Regarding the first contention, the Commission is not responsible for assuring that the CEQA process is followed by the City. The second and third contentions are not covered by the LCP. Therefore, the Commission finds that these contentions are not valid grounds for appeal.

APPENDIX A - Substantive File Documents

1. City of Laguna Beach Certified Local Coastal Program

2. Appeal of CDP97-19 by Rico Dagomel, signed May 27, 1997 and received by the Coastal Commission May 30, 1997

3. June 3, 1997 letter from Rico Dagomel to Steve Rines [Coastal Commission staff member Stephen Rynas]

4. Appeal of CDP97-19 by the Aliso Creek Inn postmarked June 2, 1997

5. City of Laguna Beach City Council Resolution No. 97.025 approving coastal development permit 97-19 with conditions

6. Minutes of the May 6, 1997 City of Laguna Beach City Council meeting

7. Agenda Bill for Item No. 5 of the May 6, 1997 City Council meeting

8. March 4, 1997 letter from Jack Miller of the County of Orange Health Care Agency to John Robertus of the San Diego Regional Water Quality Control Board

9. File for City of Laguna Beach coastal development permit application 95-89

10. San Juan and Aliso Creeks Watershed Management Study, Orange County, California - Reconnaissance Report" dated February 1997 and prepared by the Planning Division of the Water Resources Branch of the U.S. Army Corps of Engineers, Los Angeles District, South Pacific Division.

11. October 12, 1995 letter from Arthur Coe of the California Regional Water Quality Control Board, San Diego Region, to William Becker of the Aliso Water Management Agency

List of Exhibits

1. Vicinity Map/Site Location

2. Appeal of Rico Dagomel

3. Appeal of the Aliso Creek Inn

4. City Notice of Final Action

5. Coastal Commission "Notification of Appeal Period"

6. "Commission Notification of Appeal"

7. City Council Resolution 97.025

8. Minutes of May 6, 1997 City Council meeting

9. Agenda Bill for Item No. 5 of the May 6, 1997 City Council meeting

10. Plans

11. March 4, 1997 letter from Jack Miller of the County of Orange Health Care Agency to John Robertus of the San Diego Regional Water Quality Control Board

12. October 12, 1995 letter from Arthur Coe of the California Regional Water Quality Control Board, San Diego Region, to William Becker of the Aliso Water Management Agency

13. Table 12.6; U.S. Army Corps of Engineers February 1997 San Juan and Aliso Creeks Watershed Management Study Reconnaissance Report.

14. Coliform Concentrations in the Aliso Beach surf zone, as monitored by the Aliso Water Management Agency during summer, 1996

9071F:jta

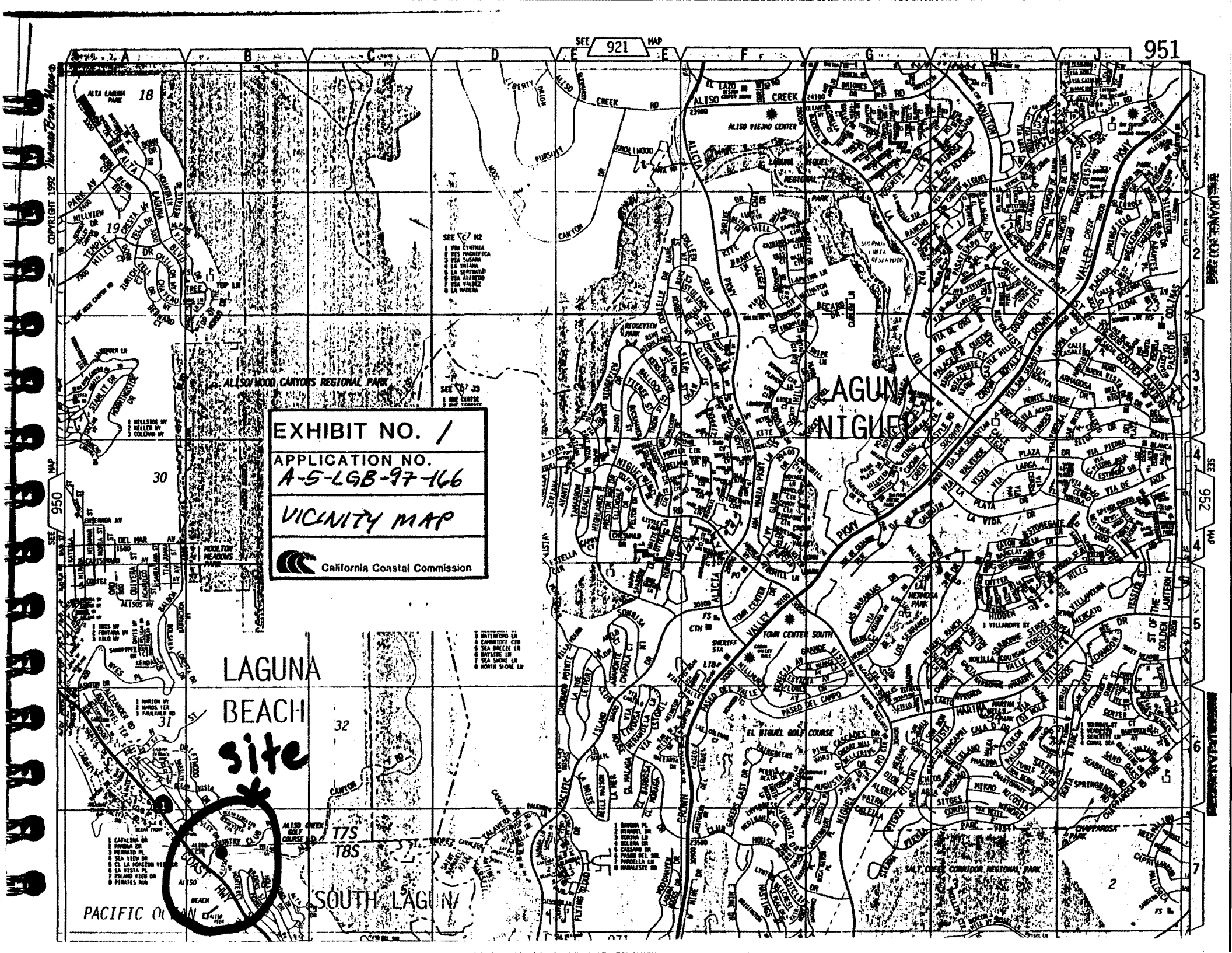


EXHIBIT NO. 1
APPLICATION NO.
A-5-LGB-97-166
VICINITY MAP
California Coastal Commission
site
LAGUNA BEACH
LAGUNA NIGUEL
SOUTH LAGUNA
PACIFIC OCEAN
ALISO/WOOD CANYONS REGIONAL PARK
EL NIGUEL GOLF COURSE
SALT CREEK CORRIDOR REGIONAL PARK
ALISO VIEJO CENTER
TOWN CENTER SOUTH
SEE MAP 921
SEE MAP 951
SEE MAP 950
SEE MAP 952
COPYRIGHT 1992 Thomas Bros. Maps

RECEIVED
MAY 30 1997
CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Rico Dagomel, et al.
31618 Jewel
South Laguna, CA 92677 (714) 499-6078
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach/County of Orange

2. Brief description of development being appealed: Creation of sand berm to divert untreated summer nuisance runoff into protected coastal water from Aliso Creek

3. Development's location (street address, assessor's parcel no., cross street, etc.): Approximately 300 ft. upstream of the Pacific Coast Highway Bridge at Aliso Creek, Laguna Beach, County of Orange (CDP NO.;97-19)

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: _____

c. Denial: Denial of a major public works project*

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

*that does not conform to standards set forth in certified LCP (P.R.C. Section 30603 (b)) and CEQA EIR requirements.

COASTAL COMMISSION
A-5-LGB-97-166
Rico Dagomel Appeal
EXHIBIT # 2
PAGE 1 OF 23

5. Decision being appealed was made by (check one):

a. __Planning Director/Zoning Administrator

b. X City Council/Board of Supervisors

c. __Planning Commission

d. __Other_____

6. Date of local government's decision: May 6, 1997

7. Local government's file number (if any): CDP NO:97-19

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
County of Orange
P.O. Box 4048
Santa Ana, CA 92702-4048

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Ken Frank, City Manager, City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92652

(2) Mike Dunbar, Manager, South Coast Water District
31592 West Street
South Laguna,CA 92677

(3) Aliso Water Management Agency
30290 Ranch Viejo Road
San Juan Capistrano, CA

(4) South Laguna Civic Association
P.O. Box 9668
South Laguna, CA 92677

(5) Surfrider Foundation, San Clemente, CA

COASTAL COMMISSION
A-5-LGB-97-166
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 2 OF 23

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The proposed major public works project (CDP.97-19) seeks to dispose of 5 million gallons of highly toxic urban runoff each day over a May through October summer season into a sensitive ocean habitat. The applicant submitted a Negative Declaration and failed to prepare an Environmental Impact Report per CEQA, for public comment, to establish a scientific pre-project data base and identify:

1) All municipal, residential and industrial drainage outlets

(OVER)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 3 OF 23

Ricardo Rico Dagomel
Signature of Appellant(s) or Authorized Agent

Date 5/27/97

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date _____

for non-point pollution into the Aliso watershed and project disposal area.

2) Specific quantitative values for all organic and inorganic compounds associated with summer nuisance flows and correlations with known cumulative health impacts to human, animal and plant life occupying established coastal wetland, beach and ocean habitats. The related food chain was not considered.

3) Feasible project alternatives, including:
   A) Serial upstream berming at inland municipal boundaries for retention, biotic treatment and/or filtration
   B) Placement of low cost, low flow monitoring devices at all storm drain outlets to Aliso Creek to identify and abate gross polluters.
   C) Use of commerical mobile, medium scale filtration systems (typical in agricultural and military operation for immediate emergency filtration.
   D) Permanent beach closure pending watershed restoration as proposed by Councilmember Wayne Peterson, City of Laguna Beach.

As the local decision making body, the City of Laguna Beach (overturning it's own Board of Adjustment's unanimous denial of the project may have a potential conflict of interest in approving the proposed project in that:

1) The City is a member of the Aliso Water Management Agency (AWM Summer nuisance flow from residential/industrial surplus water runoff is the principal contributing factor for beach pollutio

2) AWMA, as the primary provider for the water delivery industry, distributes surplus water throughout the summer at a profit to create non-point urban nuisance runoff. Such runoff includes water borne automotive residues, herbicides, pesticid fertilizers and fecal contamination of the environment not tested or adequately considered in the Negative Declaration.

The proposed project seeks to dispose of over one-half billion gallons of untreated, toxic urban runoff over the forthcoming summer season alone. The County of Orange and respective cities in the Aliso watershed have had several years to design and implement a reasonable, feasible project instead of creating an emergency condition through neglect. The destruction of established coastal wetlands and ocean habitats without mitigation through inadequate planning and negligence will establish a dangerous precedent for all coastal protection effort and should be properly denied.

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 4 OF 23

Rico Dagomel Appeal
COASTAL COMMISSION
A-5-LGB-97-166

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

EXHIBIT # 2
PAGE 5 OF 23

APPEAL INFORMATION SHEET

LOCAL COASTAL PROGRAM DEVELOPMENT PERMITS

Please read these instructions before completing the appeal application, Commission Form D - Appeal from Coastal Permit Decision of Local Government.

Appeals to the Coastal Commission from local government decisions on coastal permit applications are limited to certain types of decisions. The information below outlines the limitations and also describes the requirements for filing appeals.

Time Frame for Filing an Appeal. An appeal must be filed by 5:00 P.M. of the 10th working day after a sufficient local government notice of final action on the permit application was received by the Commission. 14 Cal. Admin. Code Section 13110. (The local government is required to send a notice of final local action to the Commission within 7 calendar days of a final local action.) The appeal must be filed in the Commission district office having jurisdiction over the affected local government. The final date for filing an appeal is available from the local permit decision notices posted in the Commission's offices and may also be obtained by calling the local Commission district office.

Persons Eligible to Appeal. The applicant, any aggrieved person or any two members of the Commission may appeal. P.R.C. Section 30625. An "aggrieved person" is any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision being appealed, or who, by other appropriate means prior to a hearing, informed the local government of the nature of his/her concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit. P.R.C. Section 30801.

Decisions Which May Be Appealed. (P.R.C. Section 30603)

A. Within the appeals area, as shown on the Commission-adopted Post-LCP Certification Permit and Appeal Jurisdiction Map, any approval decision is appealable.

B. In coastal counties only, an approval decision on a development that is not designated as the principal permitted use under the certified zoning ordinance, or zoning district map, is appealable.

C. Any decision on a major works project or major energy facility is appealable.

Proper Grounds for an Appeal. (P.R.C. Section 30603 (b))

(1) The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act.

(OVER)

H6: 4/88

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) are limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access polices set forth in this division.

Exhaustion of Local Appeals. Pursuant to 14 Cal. Admin. Code Section 13111 and 13573, the process of appealing a local decision to the Commission cannot begin until all possible appeals to local appellate bodies first have been made and have been exhausted; except that exhaustion of local appeals is not required if any of the following occur:

A. The local government requires an appellant to appeal to more local appellate bodies than have been certified in the implementation section of the local coastal program, or designated in the LUP implementing procedures, as appellate bodies for permits in the coastal zone.

B. An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.

C. An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of Article 17 (LCP Implementation Regulations) of the California Administrative Code.

D. The local government charges a fee for the filing or processing of appeals.

Appellant Notification of Appeals. Section III of the appeal application form is for the identification of persons interested in the project being appealed. An additional important step is that the appellant notify these persons and the local government of the appeal filing, within one week of the filing. Notification must be by mailing or delivering a copy of the completed appeal application form, including any attachments, to all interested parties, at the addresses provided to the local government. Failure to provide the required notification may be grounds for Commission dismissal of the appeal. 14 Cal. Admin. Code Section 13111(c).

Commission Review of Appeal. If the Commission hears a coastal development permit or appeal, the Commission shall approve the permit if it finds that the proposed development is in conformity with the certified local coastal program (P.R.C. Section 30604(b). Furthermore, every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (P.R.C. Section 30604(c)). In determining whether a proposed development is in conformity with the certified LCP, the Commission may consider aspects of the project other than those identified by the appellant in the appeal itself, and may ultimately change conditions of approval or deny a permit altogether.

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

5263F

EXHIBIT # 2
PAGE 6 OF 23

NOTICE OF FINAL LOCAL ACTION
FOR COASTAL DEVELOPMENT PERMITS

The following project is located within the City of Laguna Beach Coastal Zone:
Applicant: County of Orange
Mailing Address: P.O. Box 4048, Santa Ana, CA 92702-4048

Coastal Development Project No.: 97-19
Project Description: Creation of Sand Berm

Location: Approximately 300 feet upstream of the Pacific Coast Highway Bridge

On May 6, 1997 a coastal development permit application for the project was

(X) approved
( ) approved with conditions
( ) denied

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

Twenty-day right-of-appeal ends N.A.

This action was taken by: (X) City Council
( ) Design Review Board
( ) Planning Commission

EXHIBIT # 2
PAGE 7 OF 23

The action (X) did ( ) did not involve a local appeal; in any case, the local appeal process has been exhausted. Findings supporting the local government action and any conditions imposed are found in the attached report.

This project is

( ) not appealable to the Coastal Commission

(X) appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission if a valid appeal is filed. Appeals must be in writing to the appropriate Coastal Commission district office and in accordance with the California Code of Regulation Section 13111.

cc: Coastal Commission
Property owner/agent
All known interested persons

CALIFORNIA COASTAL COMMISSION
ATTN: STEVE RINES

FAX (562) 590-5084
JUNE 3, 1997

RE: APPEAL OF CDP No. 97-19
CITY OF LAGUNA BEACH

AS A PARTICIPANT AT ALL LEVELS IN THE PROJECT REVIEW PROCESS, TESTIMONY WAS PROVIDED IN WRITTEN AND ORAL FORM TO ALERT DECISION MAKERS TO SIGNIFICANT VIOLATIONS OF THE OPEN SPACE AND CONSERVATION ELEMENTS OF THE LAGUNA BEACH GENERAL PLAN / LOCAL COASTAL PLAN AS ADOPTED MAY 1, 1984.

SPECIFICALLY THE PROPOSED PROJECT DOES NOT ADDRESS OR ADEQUATELY MITIGATE IMPACTS TO TIDE POOLS AND MARINE HABITATS (PG. 14 - TOPIC 2 - A & B AND POLICIES 2-A AS PERTAINS TO COASTAL DOLPHIN, WHALE, SQUID HABITATS AND 2-B); AND WATER QUALITY AND CONSERVATION (PG. 24 - TOPIC 4 "OCEAN RESOURCES" AND POLICIES 4-A AND 4-H).

THE PROPOSED PROJECT VIOLATES COASTAL ACT POLICIES SECTION 30230; 30231; 30236 AND 30240 AS THEY PERTAIN TO THE ALTO WOODS/CANYON RIPARIAN, WATERSHED, WETLANDS, BEACH AND OCEAN HABITATS.

THANK YOU.

RICO DAGOMEL

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 8 OF 23

Saddleback/South Beach

LAGUNA BEACH

Plan to Pump Polluted Water Out Approved

Hoping to rid Aliso Beach of a pool of contaminated water that tends to attract young children, the City Council has agreed to let the county launch a project that will divert the polluted water and pipe it into the ocean.

The Environmental Management Agency's bid for a coastal development permit had been denied by the city's Design Review Board but the council overturned that decision with a 4-1 vote Tuesday night. Councilman Steve Dicterow cast the dissenting vote.

County and city officials have long wrestled with ways to clean the water in polluted Aliso Creek, which holds urban runoff from inland cities and ultimately dumps into the ocean at Aliso Beach, a county-owned beach in South Laguna.

Before the water flows to the ocean, it tends to pool, attracting youngsters despite posted warnings that the water is contaminated.

Most Laguna Beach residents who spoke at the meeting opposed the project, which one compared to taking a "Band-Aid" approach to a problem that requires a long-term solution. Some residents believe the polluted water should be treated before it is released into the ocean.

But Councilman Wayne J. Baglin said Wednesday that the permit approval is an important step in dealing with the pollution problem.

"This is a key factor in getting polluted water off the beach in Aliso where children are playing," he said. "It is a major health risk."

The project involves constructing a temporary sand berm in Aliso Creek about 300 feet upstream from Coast Highway. The berm will be lined with plastic and will create a shallow pool from which the polluted water can be pumped through a pipeline to an outfall line that will dump it 1½ miles offshore.

The project is a joint effort by the county and by the Aliso Water Management Agency, which treats waste water from six cities and water districts within the Aliso Creek watershed area.

The water management agency still must obtain permission from the Regional Water Quality Control Board to divert the flow into the outfall line. Agency officials will meet this morning with board representatives at Aliso Creek to explain the project.

The goal is to keep the polluted water off Aliso Beach during the busy summer months. The permit applies only to the 1997 summer season and the berm will be dismantled in October. But the permit can be renewed for up to five years.

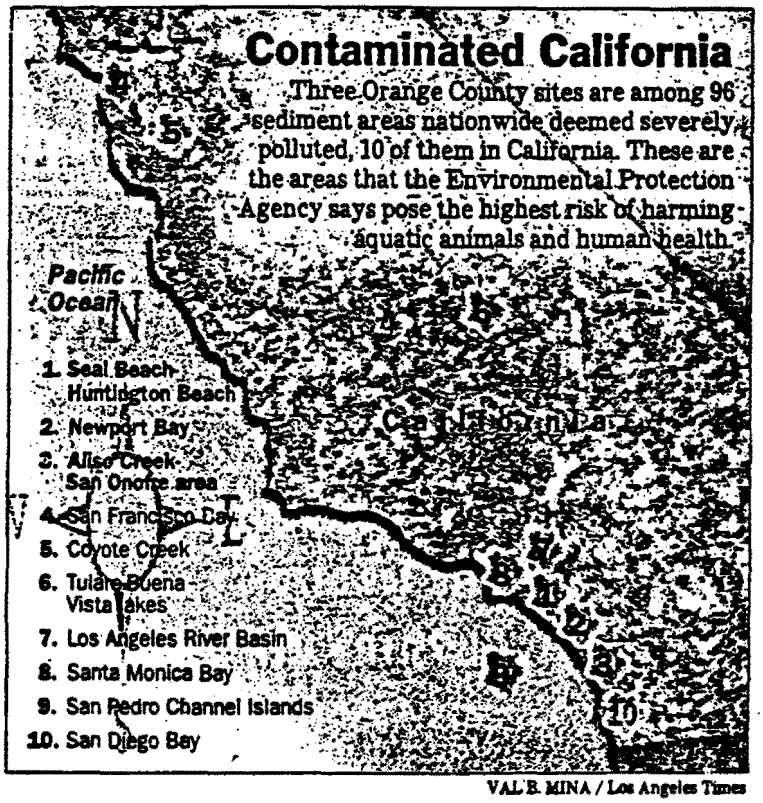
The Army Corps of Engineers has been studying the creek's pollution problem and is expected to eventually propose long-term solutions.

—LESLIE EARNEST

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 9 OF 23

L. A. Times
3/26/97



VAL B. MINA / Los Angeles Times

Three Sites Off O.C. Coast High on Polluted List

By DEBORAH SCHOCH
TIMES STAFF WRITER

Tourist brochures of Orange County boast of the sandy expanses of Huntington Beach and the sail-studded coast of Newport Beach, not of contaminated mud lurking beneath the water.

But three areas along the county's coast have caught the attention of federal experts conducting a survey of sediment contamination nationwide.

The three sites—off Huntington Beach, Newport Bay and the Dana Point area—rank among 10 in California the U.S. Environmental Protection Agency has pinpointed as areas of concern.

Please see O.C., A16

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 10 OF 23

O.C.: Three Areas Off County Shores Listed

Continued from A1

Public agencies detected PCBs, DDT, copper, arsenic and other contaminants in sediment at those sites during tests conducted in the 1980s and early 1990s. The EPA used those findings in compiling its massive coast-to-coast inventory that is focusing new attention on sediment problems.

Polluted sediment does not pose a direct threat to swimmers and surfers, EPA officials said. But it can accumulate in mud-dwelling creatures such as crabs and worms, then spread through the food chain, sometimes prompting warnings that certain fish are unsafe to eat.

The Orange County sites resemble a number of spots across the country, known to have contaminated sediment, said Jim Keating, the EPA scientist overseeing the study in Washington.

Since Orange County was once largely agricultural, experts are not surprised that the now banned pesticide DDT continues to turn up in its sediment. And runoff from industrial sites can taint offshore sand and silt with PCBs, metals and other pollutants.

Huntington Beach was the sole county site showing a higher risk to human health, due to findings of PCBs in barred sand bass in 1987, 1989 and 1991.

Most of the high Huntington Beach readings are clustered several miles off the coast, especially on either side of a major sewer release pipe. The 4½-mile pipe releases an average of 240 million gallons of treated sewage daily into the ocean off Huntington Beach.

Some local officials criticized the survey for relying on old information. They note some data was gathered as far back as the early 1980s and does not reflect that some contamination levels have decreased locally in the years since. They are awaiting a report to be released later this year that will provide more current information about contamination off the Southern California coast.

The EPA study relied on tests conducted by a number of public agencies. For instance, in studying sediment off Huntington Beach, EPA relied heavily on testing conducted by the County Sanitation Districts of Orange County, which provides sewage treatment to most county residents.

A 1995 report from the district says that testing found "significant declines" in contaminant concentrations, especially in metals, from 1985 to 1995. In addition, levels of

as Among State's Most Contaminated

DDT and PCBs in some fish tissues have decreased since the late 1980s, the report states.

"In general, things are getting better, not worse," said Nancy J. Wheatley, director of technical services at the districts.

Although DDT and PCBs were banned in the United States in the 1970s, they persist in the environment, proving two of the most common contaminants detected in the EPA study.

"If you go looking in sediments off any shore in the country . . . this stuff was so ubiquitous, you ought to check your instruments if you don't find any, which isn't to say it isn't a problem," Wheatley said.

Officials at the EPA regional office in San Francisco downplayed the findings of PCBs in fish off Huntington Beach.

"We don't think there's any need for people to be concerned about fish out there," said EPA scientist Terry Fleming.

Still, the general health of the Huntington Beach marine environment could attract increased public attention in coming months as EPA determines how much treatment Orange County sewage really needs.

The sanitation districts are operating under an EPA waiver that allows the discharge of sewage that has not received treatment as stringent as that required under the Clean Water Act.

District officials applied for a new waiver in 1989 so they could continue that practice, and after a multitude of delays the EPA is expected to make a decision later this year.

But stepped-up treatment of sewage would not solve the problem of sediment contamination, especially since chemicals like DDT and PCBs have already accumulated off the coast, Wheatley said.

New details about the extent of local contamination will be made public later this year with the completion of a 3-year study coordinated by the South California Coastal Water Research Project, a Westminster-based agency funded largely by sanitation districts and other government agencies.

Tests were conducted in 1994 at 250 sites throughout the region, including about two dozen in Orange County.

The report, due out later this year, is expected to be the most detailed to date on sediment conditions along Southern California's coast, said Stephen Weisberg, the research project's executive director.

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 11 OF 23

LOS ANGELES TIMES

EPA Lists 10 State Sites as Harmful to Life

By MARLA CONE
TIMES ENVIRONMENTAL WRITER

In the first large-scale analysis of polluted sediment, the U.S. Environmental Protection Agency has named 96 areas on the bottom of the nation's oceans and rivers as severe threats to marine life or people.

Included are 10 in California that encompass nearly the entire coastlines of Los Angeles and Orange counties: Santa Monica Bay, the Los Angeles River, the Channel Islands, Newport Bay, ocean waters off Seal Beach and Huntington Beach, the coast off south Orange County especially Aliso and San Juan creeks, San Diego Bay, San Francisco Bay and Coyote Creek in San Jose.

Four offshore sites in California are among those singled out as high risks to human health:

- San Pedro and Palos Verdes, where fish contain DDT and PCBs. The main source is Los Angeles County's sewage outfall, which releases half a billion gallons of treated waste into the ocean daily.
- Huntington Beach, off Huntington State Beach, where fish contain PCBs and arsenic, most likely from Orange County's sewage outfall and urban runoff from the Santa Ana River.
- San Diego off Imperial Beach,

Please see EPA, A18

3)

EPA: Most of Local Coast Cited

Continued from A17

where fish are tainted with PCBs, lead and other compounds. Likely sources are the city's sewage outfall and wastes from Mexico via the Tijuana River.

- Catalina Island, where mussels contain arsenic. The source is unknown.

Ordered by Congress in 1992 and due to be completed this summer, the EPA's National Sediment Quality Survey examines pollution levels from 11% of the nation's waterways gathered during the 1980s and early '90s.

"What we've now learned is that this isn't just an issue in the major ports," said Jim Keating, the EPA scientist who leads the study.

Of the nation's 63,000 river reaches and other bodies of water, 6,744 have been tested. Of those, 35% contain sediments that the EPA deemed high risks to animal or human health, while 42% pose an "intermediate" threat. No harmful contamination was found at the rest.

The EPA says a site poses a human health risk if eating a small amount of its fish from—one-quarter ounce a day for a lifetime—raises the cancer risk by at least one case out of every 100,000 people exposed.

Birth defects are also linked to many of the pollutants, and new evidence suggests that some can alter reproductive hormones, suppress immunity and slow brain development of children born to mothers exposed to the pollutants.

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal
EXHIBIT # 2
PAGE 12 OF 23

Partial Accord Reached on DDT Cleanup in Ocean

By FRANK CLIFFORD
TIMES ENVIRONMENTAL WRITER

In a partial settlement of the nation's largest case of offshore chemical contamination, the Los Angeles County Sanitation Districts and 155 other municipalities agreed Tuesday to pay $45.7 million to help clean up the world's largest known deposit of DDT, off the Palos Verdes Peninsula. The amount, which represents about 20% of the estimated cost of cleanup, would also help restore damaged fish and wildlife populations.

Filed in U.S. District Court in Los Angeles, the settlement reinstates an agreement that was struck down by the U.S. 9th Circuit Court of Appeals two years ago on grounds of insufficient evidence.

The federal government sought damages from municipalities in Los Angeles, Ventura and Orange counties for operating sewage lines and treatment plants that processed DDT and dumped it into the ocean.

But the settlement leaves pending the federal government's much larger claim against the Montrose Chemical Corp., the now-defunct company that manufactured the DDT in Torrance. Montrose representatives contend the government lacks sufficient proof for its claim.

In July, the U.S. Environmental Protection Agency declared the 27 miles of contaminated ocean floor a Superfund site. Over a 24-year period ending in 1970, several million pounds of DDT seeped through county sewer lines from the Montrose plant into the ocean.

In 1971, the county cut off the plant's access to the sewer system because of growing concerns about ocean pollution.

Federal investigators found that wildlife around Catalina and the other Channel Islands still has high DDT concentrations.

From the Bottom Up

From the sand-dwelling red tube worm to human beings, polluted sediment can poison every link of the food chain. Fish that eat bottom-dwelling organisms become contaminated over time through a process called bioaccumulation. This buildup of toxins can cause death or mutation in contaminated organisms, or be passed along to fish, mammals and humans that eat them.

Toxic 10

From more than 21,000 sampling stations nationwide, 15,922 were found to have levels of chemical pollutants in sediments that pose a high or intermediate danger to human and/or animal life. The top 10 chemicals found in the silt:

Substance	Locations
Copper	7,172
Nickel	6,284
Lead	5,681
PCBs	5,454
Arsenic	5,392
Cadmium	4,808
Mercury	4,333
Zinc	3,468
DDT	3,422
Chromium	3,070

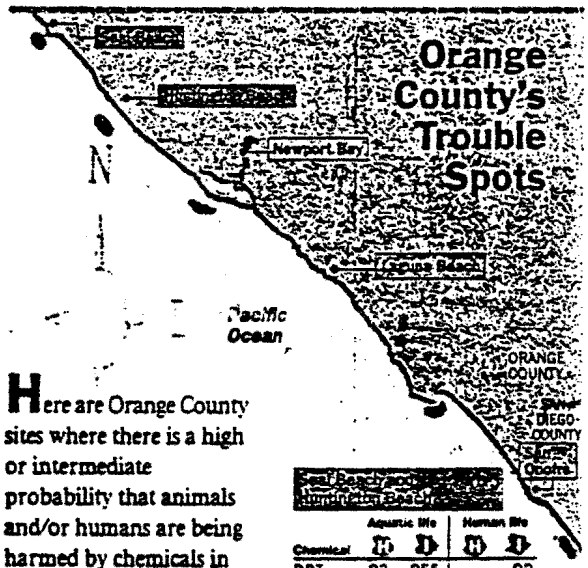
Contaminant Sources

Water pollution usually results from nearby human activity. The classifications:

Historical: Sediment contamination from industrial/agricultural use of currently banned toxic chemicals such as polychlorinated biphenyls (PCBs) and chlordane

Nonpoint: Pollution by runoff from agriculture, mining, streets, marinas and boating, construction and atmospheric deposition

Point: A single, identifiable source such as a pipe from a waste-water treatment plant, oil refinery or power plant



Here are Orange County sites where there is a high or intermediate probability that animals and/or humans are being harmed by chemicals in sediment:

High probability

Intermediate probability

Seal Beach/Huntington Beach

Chemical	Aquatic life H	Aquatic life I	Human life H	Human life I
DDT	23	255	-	92
Copper	-	163	-	-
PCBs	4	64	4	146
Cadmium	-	126	-	-
BHC	-	95	-	12
Arsenic	-	63	-	4
Silver	-	60	-	-
Mercury	5	38	-	-
Nickel	-	31	-	-

Newport Bay

Chemical	Aquatic life H	Aquatic life I	Human life H	Human life I
DDT	11	44	-	21
Copper	-	47	-	-
Cadmium	-	35	-	-
Mercury	10	13	-	-
Nickel	-	23	-	-
PCBs	1	9	-	20
Arsenic	-	19	-	-
Lead	-	15	-	-
BHC	-	14	-	1

Laguna Beach to San Onofre

Chemical	Aquatic life H	Aquatic life I	Human life H	Human life I
Copper	-	22	-	-
Arsenic	-	16	-	-
Cadmium	-	16	-	-
Mercury	5	7	-	-
DDT	4	6	-	5
PCBs	-	-	-	9
Chromium	2	6	-	-
Lead	-	8	-	-
Nickel	-	8	-	-
Zinc	-	7	-	-

Sources: U.S. Environmental Protection Agency, California Department of Fish and Game, Orange County Marine Institute, National Toxicology Program, "Pacific Coast," "Parks of the Pacific Coast" and World Book Encyclopedia. Researched by MARLA CONE and APRIL JACKSON/Los Angeles Times

VAL B. MINA · Los Angeles Times

COASTAL COMMISSION A-5-LGB-97-146 Rico Dagomel Appeal

EXHIBIT # 2
PAGE 13 OF 23

COLUMN ONE

Solutions Are as Clear as Mud

■ California's coast is a hotbed for a growing national problem—toxic sediment. Silty residue can endanger marine life, pose a human health risk and clog harbors.

By MARLA CONE
TIMES ENVIRONMENTAL WRITER

Off Southern California's shore, purity is an illusion that lies only a few feet deep.

The trouble's not with the water; it's with what lies beneath it.

From Santa Catalina Island to New York Harbor, the mud and silt that line the bottom of rivers, bays and lakes contain chemicals deemed potent enough to kill aquatic animals and endanger the health of people who consume marine life. Dangerous compounds such as mercury, arsenic, lead, PCBs and DDT—the residue of years of pollution—are hidden below the surface.

Among the local hot spots are coveted coastal playgrounds including Catalina, Malibu, Santa Monica, the Palos Verdes Peninsula, Newport Beach, Dana Point and Coronado—most of Southern California's offshore waters.

The underwater legacy of sediment contamination is one of the country's most extensive and intractable—yet overlooked—pollution problems.

"For the last 20 years, we've focused on the water, and there are appreciable changes for the better," said Jim Keating, who is heading up an unprecedented study of the problem for the U.S. Environmental Protection Agency. "But there has not been a lot of focus on the sediment. And sediments are the ultimate sink for water pollutants."

Nearly 5,200 bodies of water—three out of every four targeted for testing—contain sediment likely to injure marine life or human health, according to the EPA's National Sediment Quality Survey. People who eat fish, mussels or other aquatic life from 2,300 sites face a significantly heightened chance of cancer or birth defects, the EPA data show.

Individual problem areas have long been recognized, such as

Please see MUD, A16

L.A. Times 3/26/97

Rico Dagomel Appeal
COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 2
PAGE 14 OF 23

MUD: Dangers of Toxic Sediment

Continued from A1

Puget Sound, Cape Cod and Chesapeake Bay. But the sheer number discovered to pose a high risk has astonished the EPA research team.

There is so much "hot sediment" in so many places that there is little hope of a quick or easy cure.

In the meantime, the buildup of silt is also wreaking economic havoc. Where sediment is contaminated, routine dredging often is halted, creating "mud lock" that blocks ships at many of the nation's busiest ports and marinas, including New York, Oakland and Marina del Rey.

Soft, muddy sediments are like sponges that slowly soak up the world's most dangerous and persistent chemicals, including some now banned because of their toxicity.

Poisons are spread throughout the food web from fish to bird to mammal, starting with the variety of creatures that feed and spawn in the silt and sand.

Particles embedded in the mud are ingested by small burrowing animals such as worms and crabs. Crustaceans and other organisms can die from poisoning, and fish can grow cancerous tumors and cataracts. Once-thriving shellfish harvests have been shut down on both coasts, including much of the Gulf of Mexico and Chesapeake Bay. If a creature survives, its body can build up a toxic load over its lifetime that passes to whatever consumes it.

While never touching the sediment itself, fish-eating birds such as eagles and pelicans can perish from poisoning, or produce unhatchable eggs or chicks with deadly birth defects. Seals, dolphins and other water-reliant animals may grow tumors or lose their ability to fight off disease.

People are not immune. In the water itself, the pollution is often barely detectable, so swimming above the sediment is safe. But eating the tainted fish can cause cancer or birth defects.

Some places are so severely damaged by sediment that they are virtually void of life.

"There's no question that some systems are highly stressed by toxics," said Raymond Alden, director of the Applied Marine Research Laboratory at Old Dominion University in Virginia, who has studied sediment along the Eastern Seaboard for almost 20 years. "We see certain species disappearing, and eventually everything starts disappearing. Diversity goes down, and that's a good measure of how healthy a community is."

Still, scientists in the relatively new field of sediment toxicology question how serious the ecological risk is in the thousands of places where the injury to animals is less obvious. If a type of worm, or brittle star, is killed in one spot, what, if anything, does that mean to a marine ecosystem as a whole? No one at this point has an answer.

For decades, sediment has been a case of out of sight, out of mind.

Some of the contamination dates to the chemical boom just after World War II. Until the late 1960s, disposal offshore was deemed safe because the chemical doses were too low to be considered poisonous. It came as a harsh surprise when many of the compounds, insoluble in water, worsened over the years by accumulating in animals' bodies.

The worst compounds—especially PCBs, or polychlorinated biphenyls, employed mostly as insulation in electrical transformers—have not been used since the 1970s, but they simply refuse to go away. They can remain toxic for decades, perhaps centuries, before degrading to harmless levels.

Today, much of the waste dumping has stopped under laws protecting water quality. However, toxic chemicals still flow from modern sewage plants, urban streets, farm fields and industrial sites. Some, such as mercury spewed by coal-burning power plants, fall from the air.

Some sites are getting worse, some better, but the vast majority have stayed the same despite an array of pollution laws, the National Oceanic and Atmospheric Administration recently concluded.

In a report to be unveiled Thursday, a committee of the National Academy of Sciences will identify sediment contamination as an immense problem that warrants more attention. The panel of experts will recommend policies aimed at finding effective yet reasonable solutions.

Getting rid of tainted sediments—or at least ensuring that they are entombed—poses a monumental engineering challenge.

Does digging them up make matters worse by stirring them up? And once removed, what do you do with tons of contaminated material? Where, especially in congested urban areas, is there room on land to dump hundreds of truckloads? And when left in offshore waters, do tomb-like pits covered with sand really keep the material sealed permanently?

Most sediments are not bad enough to be declared hazardous waste. Instead, they are half-jokingly called "chemically challenged"—although perilous in waters as they build up in animals, they are fairly safe on land.

At New York Harbor, sediment has touched off a crisis.

Every year, millions of cubic yards of chemical-tainted mud accumulate on the harbor floor. Until recently, the U.S. Army Corps of Engineers dredged and dumped it off New Jersey. But in 1995, the EPA deemed it too contaminated for ocean dumping, and an impasse among local authorities has left mud clogging much of the harbor.

Meanwhile, barges and tankers are switching to other ports or transferring cargo to smaller vessels, threatening the harbor's billions of dollars in annual revenue and raising the cost of fuel and other goods.

At the Port of Oakland, ships used to line up, awaiting high tide to avoid running aground on silt. After a heated debate over drawing the line between clean and dirty sediment, the EPA recently approved a novel solution—the California Coastal Conservancy used large amounts of the least tainted material to construct new wetlands at San Francisco Bay.

Still, more than 1 million cubic yards contain so much ship-building waste and coal tar that the port had to spend $15 million to create a special landfill and haul the sediment there over the past three years, said Jim McGrath, the port's environmental manager.

A-5-LGB-97-166
Rico Dagomel Appeal
Exhibit 2
p. 15 of 23

MUD 3/26/97 LA Times

In the Los Angeles area, recreational boaters at Marina del Rey have navigated around sediment hazards for 15 years. Choked with polluted silt washing down Ballona Creek, the channels are periodically shut down. Fed up with the recurring hunt for disposal sites, county supervisors and the Corps of Engineers last month launched a $2.7-million search for new solutions.

Trouble is also brewing at the ports of Los Angeles and Long Beach. The California Coastal Commission warned in January that it will no longer allow disposal of contaminated sediment in marine waters because of heavy metals and other toxic compounds.

That leaves port officials and the Corps of Engineers with few options. They had been excavating silt from the harbor and moving it to waters near shore, creating special pits covered with sand. But the coastal commissioners question whether this is a safe and justifiable use of California's ocean resources. A task force has just been formed to head off a disposal crisis. Compounding the fears, the EPA is drafting more rigorous national guidelines. Now, a small amount of silt is tested in a laboratory aquarium before disposal to see whether it kills small aquatic creatures. But if new testing criteria are applied rigidly—so that sediment either "passes" or "fails"—the Corps worries that it would stymie more navigation projects.

"What I foresee is a potential for whole mud lock," said James Raives, a program analyst at the Coastal Commission. "These problems will happen more and more, and we will eventually get to a point where there will be no dredging of any contaminated sediments at all."

To end the paralysis, John Farrington, a geochemist at Woods Hole Oceanographic Institution, said the parties involved should be willing to try some controversial disposal techniques on a small scale.

"People say it is experimenting with the environment, but by leaving the stuff in place, we are experimenting too," Farrington said. "In some instances, it's not going to make it any worse and it could make it better. But some groups want an answer that's going to survive for eternity and, of course, science can't give that answer right now."

Although most biologists and chemists agree that toxic sediment threatens underwater life, some question whether the EPA used too stringent criteria in highlighting 5,200 sites.

Robert Risebrough, who discovered in the 1960s that DDT-tainted sediment off California was inflicting severe ecological damage, says most of today's lingering problems are nowhere near as serious as they were 30 years ago. At most sites today, he says, there is no proof of serious injury to birds and mammals, so expensive cleanups are unwarranted.

"I don't believe there is any hazard to most of these sediments in the real world," said Risebrough, a researcher at the nonprofit Bodega Bay Institute in Berkeley. In the laboratory, "you put a tiny amphipod in the mud, and if it doesn't like it, then the sediments are considered toxic. You can't predict anything from those labo-

Please see MUD, A17

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 16 OF 23

MUD

Continued from A16

ratory tests."

In the 1960s and '70s, injuries from sediment were obvious. Brown pelicans nearly became extinct along the West Coast because they ate anchovies and other fish contaminated by DDT that flowed into waters off Palos Verdes from a pesticide plant near Torrance. Even today, those wounds have not healed. Bald eagles on Catalina Island still cannot produce young because their eggs contain too much of the old DDT. Dolphins and seals off Los Angeles County also remain highly contaminated.

But the Palos Verdes site is an extreme case. At most locations with tainted sediment, the damage is more subtle—perhaps reflected in fewer chicks, or a disappearance of tiny sea organisms.

EPA officials acknowledge that many questions remain, and testing of many waterways remains sparse or outdated. Such uncertainty is one reason why they have not ordered cleanups, or told anglers to avoid eating fish at most of the thousands of sites identified as a risk to humans. Only a few are posted with health warnings—including the Palos Verdes area and parts of the Great Lakes. The EPA's Keating said the goal of the new analysis is to highlight troublesome areas that warrant more thorough looks by local authorities.

Alden said the uncertainty comes in "quantifying how bad is bad" when it comes to the threat chemicals pose to underwater life and the people who feed on it.

"It's a political issue as much as a scientific one," Alden said. "Do you try to get a more realistic answer about certain chemicals or do you err on the side of protecting the environment and human beings?"

Human Immune Systems May Be Pollution Victims

■ **Health:** Contamination seems to lower resistance to diseases. Theory is bolstered by growing body of evidence.

By MARLA CONE
TIMES ENVIRONMENTAL WRITER

Deep in the Canadian Arctic, the native Inuit live on permafrost so thick they must rely upon the bounty of the icy blue sea. Like their ancestors a millennium ago, they hunt the whale, seal and trout they call "country food."

Life seems unspoiled in the polar wilderness a thousand miles from the nearest industrial center. But in reality, these Arctic people carry in their bodies the world's biggest loads of immune-suppressing pollutants—mirroring the poisons found in whale blubber.

Inuit mothers [illegible]ably are passing damage to their [illegible]ts through their wombs and breast milk. Born with depleted white blood cells, the children suffer excessive bouts of diseases, including a 20-fold increase in life-threatening meningitis compared to other Canadian children. Their immune systems are so dysfunctional that they sometimes fail to produce enough antibodies even to react to the usual childhood vaccines.

DEFENSES DOWN
Pollution's toll on immunity against disease

■ Second of two parts

The plight of the Inuit illustrates the hidden danger that environmental pollutants seem to pose to

Please see HUMANS, A14

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 17 OF 23

DEFENSES DOWN: POLLUTION'S TOLL ON IMMUNITY AGAINST DISEASE

HUMANS: Pollution May Boost Risk

Continued from A1

the human body's vital defenses for fighting off disease.

New scientific findings suggest that contaminated water, food and air seem to be suppressing people's immune systems, lowering their resistance to viruses, bacteria and tumors they otherwise could have fended off.

Around the world, people routinely encounter industrial compounds and pesticides that deplete the immune cells of marine mammals and laboratory animals at fairly small doses. The most ubiquitous and persistent ones—polychlorinated biphenyls (PCBs), DDT and dioxin—are believed to be carried in the tissues of every living thing on Earth.

For most healthy people, a slight drop in immunity caused by the pollutants carried in their bodies merely could mean they catch the flu more often or stay sick a bit longer. But for vulnerable newborns or the chronically ill—especially those with the AIDS virus or other immune deficiencies—it could seriously compromise their health, immune experts say.

"We're probably all—and I mean the whole doggone planet—immunosuppressed," said Steve Holladay, an immunotoxicologist at Virginia-Maryland Regional College of Veterinary Medicine. "Simply, it means we're not quite as healthy as we could or would be. Our risk of developing [diseases] is slightly higher."

emerged and old ones thought to be under control—such as tuberculosis—are flaring up again. No one knows what role immune-suppressing pollutants are playing, but health experts warn that the danger posed by a suppressed immune system has been demonstrated with the emergence of AIDS, where immune-deficient people are left defenseless to disease.

"On a population basis, even a rather modest immune suppression from pollution, in my view, has a contribution to the severity of a disease going on," said Henk van Loveren, head immunobiologist at the Netherlands National Institute of Public Health and Environmental Protection, which has conducted pioneering research on immune suppression.

"People aren't dropping dead," he said. "But they may have an infection longer or get it faster, or maybe one person will die a bit earlier."

Effect of Chemicals

Like soldiers on the front line, immune cells defend the body against a foreign invader such as a virus. But chemicals can block the cells from proliferating and mobilizing.

The immune system, like any good army, has multiple layers of defense. "Natural killer" cells are powerful, fast-moving warriors that mount the first attack against viruses and tumors. T cells clear an infection and order B cells to

leaves birds with severely depressed immunity.

All animals, including humans, share the same basic immune system.

"We have to remember we live on the same planet as these animals," said Sylvain De Guise, an immunotoxicologist studying Quebec beluga whales. "If we can demonstrate effects in a wildlife population, we raise concern about many other populations that may suffer more subtle effects, including humans."

Experts suspect that the most severe damage begins before birth, since a fetus' developing immune system is vulnerable to toxic chemicals consumed by its mother.

"If you ask me what the most sensitive organism is to these adverse effects, it's the embryo," said Linda Birnbaum, director of experimental toxicology at the U.S. Environmental Protection Agency's Health Effects Research Laboratory.

There is no doubt that people who encounter extraordinarily large doses of industrial chemicals suffer severe immune deficiencies. Scientists, however, are undecided about whether the multilayered immune system is resilient enough to rebound from the long-term, low dose exposure to contamination typically found in the modern environment.

"What we're trying to decide is . . . at what point [of immune suppression] do you worry about

icologist at IIT Laboratories, a Chicago research institute largely funded by the chemical industry.

"Look at HIV. You've really got to knock the hell out the immune system to see effects, so why should we worry about the subtle effects from pollution?"

Most healthy adults can fend off viruses even with compromised immunity, but a fetus could suffer permanent damage to its thymus or bone marrow—the factories for immune cells—if its mother is exposed to contaminated food or water.

"Children are my greatest concern when it comes to those kinds of effects," said Dr. Lynn Goldman, a pediatrician who is EPA's assistant administrator for pesticide and toxics control. "Where we have observed health problems in humans, they have been found at the lowest contamination levels in children, particularly for prenatal exposure."

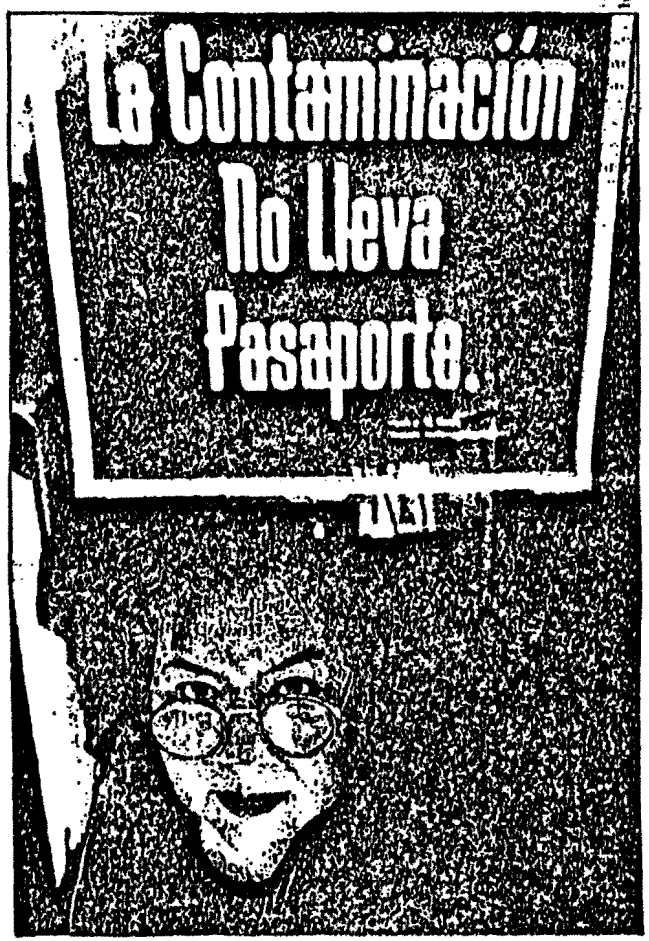
Inuit infants have provided a living test tube for immunologists.

By air and by sea, the Canadian Arctic soaks up much of the hemisphere's pollution. PCBs, used as insulators in electrical transformers, and the pesticide DDT used thousands of miles away, wind up there due to the northward flow of air and ocean currents. PCBs and DDT don't break down or wash away, binding instead to sediments and building up in the fat of animals and humans via the food chain.

Due to their diet of contaminated sea animals and fish, Inuit women's breast milk contains six times more PCBs than women in urban Quebec, according to Quebec government studies. Their babies have low B and T cell counts, which could explain their strikingly high rates of meningitis, bronchitis, pneumonia and other infections compared with other Canadians. One Inuit child out of every four has chronic hearing loss due to infections.

"In our studies, there was a marked increase in the incidence of infectious disease among breast-fed babies exposed to a high concentration of contaminants," said Eric Dewailly, a Quebec Public Health Center researcher who coordinated the work.

Few Alternatives



Anna Acuna, who suffers from lupus, heads a Nogales, Ariz., group that spreads information about rising lupus and bone marrow cancer rates in the town. Her sign says: Contamination Doesn't Carry a Passport. Another sign, left, warns of

The Poisoned Pole

Although they live in one of the last vast wild regions, the Inuit people of Arctic Canada are believed to be the most highly contaminated humans on Earth. They are where they live because much of the world's pollution due to northbound air and ocean currents. Because the Inuit rely on a diet of marine mammals and fish, their bodies collect extremely large amounts of PCBs, an infinitesimal suppressing industrial pollutant. The women's breast milk is more contaminated than is whale and seal blubber, and an infant could build up dangerous PCB levels in the blood after just a few months of breast-feeding. Inuit children suffer frequent meningitis, pneumonia, bronchitis and ear infections, which appear to be related to the immune damage caused by PCBs and other pollutants.

Arctic women's milk fat	1,052 parts per billion of PCBs
Polar bear fat	7,002 ppb
Whale blubber	1,002 ppb
Seal blubber	527 ppb

A-5-LGB-97-166 Rico Dagomel Appeal Exhibit 2

p. 18 of 23

A-5-LGB-97-166 Rice Dagomel Appeal Exhibit 2 p.19 of 23

Los Angeles Times

Also, in an unusual twist that only recently has captured the attention of experts, some chemicals, rather than suppressing the immune system, accelerate it—triggering an array of often-crippling and mysterious autoimmune disorders. Immune cells go haywire, attacking the body's own healthy tissue in a false notion that they detected a foreign invader.

In recent years, lupus and other autoimmune diseases have increased internationally and seem to have popped up in extraordinary clusters in communities tainted with toxic chemicals—most notably the sleepy, sun-baked border town of Nogales, Ariz.

"To tell you the truth, it scares the hell out of me," said Anna Acuna, one of many longtime Nogales residents afflicted with lupus. "It frightens me when I see young people diagnosed, it frightens me when I see mothers incapacitated. I think of us as being on the cutting edge of something that is happening all over the world."

Suspicions about immune-damaging pollution are unproved, and the scientific techniques to test them have emerged in only recent years. Yet the theories are bolstered by a growing body of evidence from several hundred researchers, especially in Europe and Canada, who are examining animals in the wild, cells in laboratory tests and some human populations.

Gathered last year at an unprecedented environmental health summit, U.S. government, academic and industry scientists concluded that "the wide range of immune system impairments" that seem tied to pollution must be thoroughly investigated because the human race could be leaving itself biologically ill-equipped for survival.

[illegible] unleash antibodies, the ammunition against specific foreign agents.

Disarming of this immune infantry has been linked to environmental causes in various populations. Among the evidence:

- In the former Soviet Union, children in villages highly contaminated with pesticides are afflicted with two to five times more lung infections than those in less contaminated areas. Nearly 80% showed abnormal T cell counts or other immune deficiencies.
- Swedish fishermen who eat Baltic Sea fish containing PCBs and dioxin had reduced natural killer cells, and the more fish they ate, the fewer of the cells they had, a 1993 study showed.
- Children born to mothers who lived in dioxin-contaminated Times Beach, Mo., had a sixfold decrease in T cells compared to other children, a 1993 study showed. Adults, however, seemed normal and there was no evidence of increased disease.
- Sons and daughters of 2,000 people in Taiwan who ate rice oil accidentally tainted by PCBs in 1979 had a high rate of immune cell deficiency and three times more lung infections.
- One-third of Michigan farmers who consumed meat and milk from cows fed an immune-suppressing flame-retarding chemical in 1973 had unusually low T cell counts.

Ominous Damage

The animal kingdom, especially, is sending clear warning signals about the human danger. Europeans eat the same Baltic herring that left harbor seals defenseless to a massive viral dicoff. Canadians eat fish from the St. Lawrence River linked to T cell suppression [illegible] an increase in infectious diseases and tumors?" said Ralph Smialowicz, an EPA researcher who co-authored an immunotoxicology textbook.

As shown by AIDS patients, if immune cells are depleted by half, the human body succumbs to deadly infections. Damage from pollution, though, is nowhere near that severe.

Worldwide, people on average carry 1 part per million of PCBs in their fat. In comparison, seals suffer 35% depletion of immune cells when carrying 17 parts per million in their bodies. Terns in the Great Lakes had 30% fewer immune cells when the eggs they hatched from had 8 ppm.

A reasonable assumption, based on the animal data, is that most people have lost 5% of their disease-fighting ability due to PCBs in their bodies, said Michael Luster, head of immunology at the National Institute of Environmental Health Sciences and one of the nation's foremost experts on the topic.

A 5% decline may sound minimal—a stressful day at the office could weaken immunity that much. But Luster said that, unlike transient stress, the damage from pollution can be permanent and effect billions of people.

"If the individual's immune response is decreased by 5% in the large population," he said, "and that is chronic, then over the years that would be a pretty large decrease that probably increases infectious disease."

Lacking definitive proof connecting disease to pollution, some scientists remain dubious that the amount of suppression is substantial enough to cause human illness.

"Your immune system is being assaulted at all times during the day and night, but most of us go [illegible] brings $25 and fresh [illegible] are a rare treat. Quebec health official Susan Bruneau said the Inuit would resort to processed foods that leave them prone to an even worse threat—heart disease.

Breast-feeding is still encouraged because its immunological benefits could outweigh its threats. "The benefits are well-known," Bruneau said, "but the risks are potential."

In the United States, the EPA banned PCBs and DDT two decades ago, but the agency does little to protect people from other immune-suppressing chemicals. Pesticides undergo a battery of tests on lab animals to predict health effects, but the tests are not sensitive enough to detect most changes in immune cells.

"With immune effects, we're right at the cutting edge," Goldman said. "There may be some opportunities in the future to add new tests to look for signs of immunotoxicity. But we need to know whether the animal data is predicting something meaningful to public health."

Although all animals have the same basic immune systems, some species are more susceptible to pollution damage than others, perhaps due to different metabolism. And no one knows where humans fall in the spectrum of vulnerability.

"There appears to be a considerable difference in sensitivity. So do we protect the most vulnerable species or do we go for an average or do we go only for humans?" said Cornell University immunotoxicologist Rodney Dietert. "That's one of the great dilemmas we face."

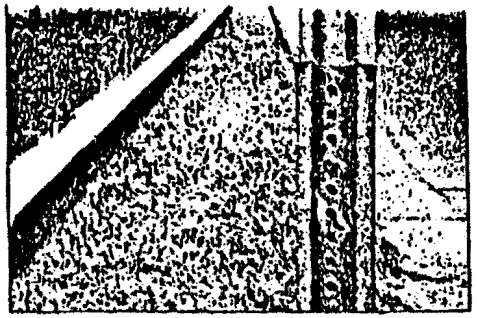
Dioxin, for example, is the most toxic substance ever created by humans when it comes to laboratory rats and guinea pigs. But in people—such as Vietnam veterans exposed to Agent Orange or residents of Times Beach—results have been mixed about the impact on their immune systems.

"The public needs to understand," said University of Wisconsin zoologist Warren Porter, "that we will *never* know the ramifications of the large-scale mixtures of all this stuff in our air and water."

To unravel the mysteries of immune suppression and autoimmunity, experts look for a telltale symbiosis of pollution and sickness that is unlikely to be explained by mere coincidence.

On the Arizona side of Nogales, Anna Acuna lives in the shadow of Mexican factories and smoldering waste dumps. For years she would awake sobbing, convinced that her body—or maybe her mind—was crumbling. The joints in her legs and feet throbbed, and she was so fatigued that she struggled to simply climb out of bed and dress for work.

When finally diagnosed with the rare autoimmune disorder lupus,



town, located across the border from factories and waste dumps.

Photos by LAWRENCE K. HO
Los Angeles Times

The Immune System

Mammals, including humans, have developed a sensitive, elaborate and multilayered network to protect themselves from foreign invaders such as viruses, bacteria and tumors:

Autoimmunity
The immune system can malfunction and become hyperactivated, triggering a condition in which immune cells attack the body's healthy tissue as if it were a foreign agent. Many diseases can result, such as lupus. The most common symptom is joint pain.

Natural killer cells
These cells mount the first and most rapid defense against viruses and tumors. They recognize some tumor and virus cells without the need for specific antibodies.

T cells
These white blood cells play an essential role in clearing an infection. Some (called T-helper cells) communicate with other cells, such as B cells, to order an attack.

B cells
These white blood cells produce and secrete antibodies.

Antibodies
The proteins produced by B cells that attack specific foreign agents in bacteria, viruses, tumor cells.

Thymus
The small organ where stem cells mature to form T cells. Impairment of the thymus leads to low immune cell counts.

Bone marrow
The soft tissue in bones where stem cells are manufactured. Stem cells then pass through to the thymus to mature into T cells, while natural killer cells and B cells move straight to the blood.

Lymph nodes
These small structures, situated throughout the body, filter out [illegible] cells draining from body tissues [illegible]

Autoimmune disorders linked to chemical pollutants:

CHEMICAL	DISEASE
Cadmium	autoimmune kidney disease
Carbon tetrachloride	Goodpasture's syndrome
Chlordane	lupus
Chromium	lupus
Hydrazine	lupus
Hydrocarbon solvents	Goodpasture's syndrome
Mercury	autoimmune kidney disease
Paraquat	autoimmune kidney disease
Perchloroethylene	autoimmune kidney disease
PCBs	autoimmune thyroid disease
Silica	scleroderma
Trichloroethylene	lupus, scleroderma
Vinyl chloride	scleroderma

Source: Experimental Immunotoxicology

Effects of Pollution at 2 Creeks Spelled Out

■ **Environment:** Corps of Engineers warns of range of problems from South County streams. Supervisors may join search for solution.

4-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 20 OF 23

By SHELBY GRAD
TIMES STAFF WRITER

Erosion and pollution at two South County creeks threatens to kill off aquatic and riparian species, worsen water quality and cause up to $4.2 million a year in damage to bridges, sewer lines and other utilities, according to a draft study by the U.S. Army Corps of Engineers.

The grim findings come as the county Board of Supervisors votes today on a proposal to join with the federal government and several South County cities to develop solutions to the long-standing problem.

Officials and environmentalists have been eagerly awaiting the results of the one-year study—the first comprehensive examination of the Aliso and San Juan creek watershed systems.

Already, erosion has eaten away at creek banks and beds and caused sewer lines to break, polluting beaches in Dana Point and Laguna Beach. But the report predicts even greater problems unless potentially expensive mitigation measures are taken.

"This is an issue that must be addressed," said Supervisor Thomas W. Wilson. "The entire ecosystem is at risk."

The two creeks run from the Santa Ana Mountain down through the rapidly growing communities of south Orange County before emptying into the ocean.

The problems now facing the watersheds are blamed largely on urbanization, which has deprived the creeks of needed sediment while increasing pollution.

Please see REPORT, B5

REPORT

Continued from B1

"The man-made features have put the [creeks] out of whack," said Mark Williams, planning sector chief for the U.S. Army Corps of Engineers. "It's a long-term problem. There is no quick fix."

Eroded creek beds and banks have created stagnant water conditions in some parts of the watersheds. As shade trees and other plants are uprooted by the erosion, the water temperature rises, worsening bacterial contamination, according to the report.

The creeks once teemed with fish and lush plants. But the declining water quality has already devastated the ecosystem, and the corps study said some species could all but "disappear" in the future.

"It's a chain of events," Williams added. "When you have less aquatic species, you have less species dependent on the them. It goes on and on."

Unless solutions are found, the erosion will continue to eat away at both private and public property, damaging public infrastructure and eventually causing sand erosion at local beaches, officials warn.

Because of the volume of development over the last two decades, the report recommends that officials re-examine the flood zone maps for the creek areas and determine whether they are still accurate or need to be redrawn.

The corps indicated that 700 homes, 76 industrial sites and 179 commercial properties near the creeks might be vulnerable during some future "large magnitude flooding."

Local officials said the corps effort is important because it looks at all the problems facing the creeks rather than focusing on a single issue in one community.

"We can never have our concerns dealt with until all inland cities and agencies have a stake in the same process," said Laguna Beach Councilman Wayne J. Baglin. "This is the first time we have seen broad support for this."

Laguna Beach agreed last week to move forward with the corps on a second "watershed study" that will recommend ways to improve water quality, reduce erosion and protect species. The Board of Supervisors is expected to follow suit today, while other water districts and government agencies will consider the matter over the next few weeks.

Once the watershed repor completed, local and federal cials will have to somehow fi way to pay for the proposed r gations.

Some solutions being discu range from placing stones a the side of the creek bed to pl ing new trees to reduce w temperature.

Others have suggested an "a a creek" program as well as ed tional efforts designed to in the public about the fragile wa sheds and the danger of v dumping and urban runoff.

"It's a matter of both educ and government action," said guna Hills Councilman Rand Bressette. "It's important that ple understand the dangers [pose] to the environment."

LOS ANGELES TIMES

EPA to Set Pollution Limits in 18 Rivers

From Associated Press

SAN FRANCISCO—In a move with broad implications for loggers, ranchers and developers, the federal government has agreed to set standards for pollution in rivers and streams caused by runoff, erosion and other broad-scale sources, attorneys said Friday.

The Environmental Protection Agency will set limits on the total amount of sediment and heat pollution for 18 Northern California rivers and creeks, said Joseph Brecher of the Sierra Club Legal Defense Fund, which negotiated the agreement.

"If you had a pipe sticking out into a river, you've always had to get a permit," he said. "But now we're talking about pollution from diffuse sources—dirt and dust from logging, roads and ranches that finds its way into the streams."

The settlement marks the first time the agency has agreed to a strict, enforceable timetable, he said, although EPA officials say a consent decree in West Virginia is similar.

The EPA acted in response to a lawsuit by 14 environmental and fishing groups aimed in part at protecting salmon and steelhead trout.

Glenn Spain of the Pacific Coast Federation of Fishermen's Associations chapter in Eugene, Ore., said his organization is pleased with the settlement. Thousands of fishing jobs are at stake, he said.

"It's more than past time that the agencies looked seriously at water quality and how that affects fish and fishermen," Spain said. "Without abundant and clean water, much of the fishing industry would disappear."

Under the agreement, the EPA has 10 years to draw up its standards, which could be enforced through existing logging, grazing, water and development permits, Brecher said. Included among the affected waterways are the Trinity, Klamath and Eel rivers.

The standards must be enforced by federal or state agencies that control the watersheds, said EPA spokeswoman Maria Rea.

Although the agreement reached in a case before U.S. District Judge Marilyn Patel applies only [illegible] Northern California, Brecher said [illegible] same basic issues are being litigated in dozens of other cases from New York to Oregon and New Mexico.

The limits on so-called nonpoint source pollution were called for under the 1972 Clean Water Act. But states balked at implementing the law, in many cases refusing even to identify rivers to be protected. Under the act, the EPA had the legal obligation to step in, and in 1991 named the 18 Northern California waterways.

But California water resources officials still balked at setting standards for its rivers and creeks.

"They told me they had a plan for the year 2050, and when I squawked, they said maybe by 2030," Brecher said. "I told them that wasn't good enough."

In 1995, the Sierra Club Legal Defense Fund filed its suit aimed at enforcing the standards.

In Northern California, the biggest violators are loggers, Brecher said. Logging not only puts silt into the rivers, it removes shade and raises the temperature of the water.

But in many areas, agriculture is a major culprit, especially ranching. Runoff puts excess nutrients in the water and [illegible] the break down riverbanks, Brecher said.

Development, especially [illegible] building, can put tons [illegible] into rivers as well.

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 21 OF 23

A-5-LGB-97-166
COASTAL COMMISSION
Rice Dagomel Appeal

EXHIBIT # 2
PAGE 22 OF 23

Design Review Board
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA.

March 26, 1997

RE: Aliso Creek Summer Pollution
Proposed Berm Diversion Project

The routine pollution of Aliso Creek has been allowed to occur each summer for more than 20 years. Last year's proposal for a similar berm diversion project was widely criticized as an inadequate, dangerous, short term fix to a serious chronic problem. Rather than address the legitimate concerns and recommendations generated during previous deliberations, water authorities have simply resubmitted a duplicate proposal for approval. The Berm Diversion Project is a toxic timebomb and should be denied. Furthermore, the applicants should be directed to create a reasonable, feasible alternative to collect and treat this year's forthcoming summer nuisance flows into the creek upstream of the Aliso Woods Canyon or face legal economic sanctions. A systematic review of the chronic sources and remediation of this problem can be best achieved by referring the matter to the Planning Commission for multivariant research and deliberation.

The community of South Laguna continues to be seriously concerned with the routine pollution of Aliso Creek, Aliso Beach and fish the adjacent inshore waterways and beaches. The unchecked "summer nuisance flows" generated by excess water runoff from inland communities is an inexcusable example of irresponsibility and negligence.

The proposed Berm Diversion Project should be rejected. It will aggravate the existing public and safety hazard by discharging millions of gallons of untreated pollutants within 500 yards of the beach. Contaminated discharge will subsequently be broadcast in waters utilized by migrating marine mammals and absorbed by game popular among commercial and recreational anglers. As littoral currents distribute the toxic discharge, surrounding beaches at Treasure Island and southerly designated marine refuges will suffer severe, increased degradation and dangers to public health. Many of the summer nuisance toxins contribute to birth defects and the incidence of cancer (see L.A. Times - March 23, 1997).

Summer nuisance flows from streets and drainage systems are the primary source of water borne pollution during the May through September dry season. The runoff is exclusively a surplus capacity of water delivered to inland communities at a profit by commercial and public providers. Accountability for surplus water residues, i.e. runoff, rests with those entities are profiting from it's delivery.

The annual berming at the mouth of Aliso Creek is an historically natural process to create freshwater ponds for incubating species propagation. Freshwater ponds provide a warm, protected environment for species renewal. Berm sand barriers are also seasonally removed by winter storm runoff to discharge any accumulated toxicity. With the increase in urban pollution of the Aliso Creek, the biological function of this coastal wetlands pond has deteriorated although the sand berm continues to block inland toxins from entering the ocean. However, the sand berm actually continues to filter out many of the pollutants by allowing water to seep through the berm through osmotic pressure to the ocean. The natural berm filter is routinely compromised when County maintenance crews bulldoze the beach berm and release highly concentrated, accumulated runoff onto the beach. The proposed Berm Diversion Project simply directs the polluted summer nuisance flows beyond the surf line to seriously aggravate the hazard by contaminating a larger area.

The City of Laguna Beach must insist upon regulation of summer nuisance flows at their source. Detention and retention basins capable of ponding summer runoff were required as conditions for development approvals and many were built but not utilized. As a public policy, no toxic water should be allowed to enter the Aliso/Woods Canyon Park. All runoff from the Aliso Creek Golf Course should be captured and treated behind earthen berms preventing any discharge into the creek. The mouth of the creek where berming is a natural phenomena can be accommodated by designing elevated wooden walkways with rails and similar barriers for interpretative viewing typical of other California coastal wetlands, such as Bolsa Chica.

Summer is approaching and we must insist upon safe behavior from water providers and upstream neighboring communities. To do otherwise will invite continued pollution of our beaches and the serious loss of revenues from beach closures and tourist health concerns.

Sincerely,

Michael Beanan
31952 Sunset Avenue
South Laguna

cc: AWMA
Coastal Commission

A-5-LGB-97-166
COASTAL COMMISSION
Rico Dagomel Appeal

EXHIBIT # 2
PAGE 23 OF 23

Attn: MEG VAUGHN

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

A-5-LGB-97-166

APPEAL INFORMATION SHEET

LOCAL COASTAL PROGRAM DEVELOPMENT PERMITS

Please read these instructions before completing the appeal application,

Commission Form D - Appeal from Coastal Permit Decision of Local Government.

Appeals to the Coastal Commission from local government decisions on coastal permit applications are limited to certain types of decisions. The information below outlines the limitations and also describes the requirements for filing appeals.

Time Frame for Filing an Appeal. An appeal must be filed by 5:00 P.M. of the 10th working day after a sufficient local government notice of final action on the permit application was received by the Commission. 14 Cal. Admin. Code Section 13110. (The local government is required to send a notice of final local action to the Commission within 7 calendar days of a final local action.) The appeal must be filed in the Commission district office having jurisdiction over the affected local government. The final date for filing an appeal is available from the local permit decision notices posted in the Commission's offices and may also be obtained by calling the local Commission district office.

Persons Eligible to Appeal. The applicant, any aggrieved person or any two members of the Commission may appeal. P.R.C. Section 30625. An "aggrieved person" is any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision being appealed, or who, by other appropriate means prior to a hearing, informed the local government of the nature of his/her concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit. P.R.C. Section 30801.

Decisions Which May Be Appealed. (P.R.C. Section 30603)

A. Within the appeals area, as shown on the Commission-adopted Post-LCP Certification Permit and Appeal Jurisdiction Map, any approval decision is appealable.

B. In coastal counties only, an approval decision on a development that is not designated as the principal permitted use under the certified zoning ordinance, or zoning district map, is appealable.

C. Any decision on a major works project or major energy facility is appealable.

Proper Grounds for an Appeal. (P.R.C. Section 30603 (b))

(1) The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act.

(OVER)

H6: 4/88

Aliso Creek Inn Appeal

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) are limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access polices set forth in this division.

Exhaustion of Local Appeals. Pursuant to 14 Cal. Admin. Code Section 13111 and 13573, the process of appealing a local decision to the Commission cannot begin until all possible appeals to local appellate bodies first have been made and have been exhausted; except that exhaustion of local appeals is not required if any of the following occur:

A. The local government requires an appellant to appeal to more local appellate bodies than have been certified in the implementation section of the local coastal program, or designated in the LUP implementing procedures, as appellate bodies for permits in the coastal zone.

B. An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.

C. An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of Article 17 (LCP Implementation Regulations) of the California Administrative Code.

D. The local government charges a fee for the filing or processing of appeals.

Appellant Notification of Appeals. Section III of the appeal application form is for the identification of persons interested in the project being appealed. An additional important step is that the appellant notify these persons and the local government of the appeal filing, within one week of the filing. Notification must be by mailing or delivering a copy of the completed appeal application form, including any attachments, to all interested parties, at the addresses provided to the local government. Failure to provide the required notification may be grounds for Commission dismissal of the appeal. 14 Cal. Admin. Code Section 13111(c).

Commission Review of an Appeal. If the Commission hears a coastal development permit on appeal, the Commission shall approve the permit if it finds that the proposed development is in conformity with the certified local coastal program (P.R.C. Section 30604(b). Furthermore, every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (P.R.C. Section 30604(c)). In determining whether a proposed development is in conformity with the certified LCP, the Commission may consider aspects of the project other than those identified by the appellant in the appeal itself, and may ultimately change conditions of approval or deny a permit altogether.

Aliso Creek Inn Appeal
COASTAL COMMISSION
A-5-LGB-97-166

5263F

EXHIBIT # 3
PAGE 2 OF 6

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Aliso Creek Inn, Inc. dba Ben Brown's Restaurant
31106 Coast Highway, Laguna Beach CA, 92677
(714) 499-2271
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach/ County of Orange

2. Brief description of development being appealed: Building of a sand berm to capture and divert nuissance water runoff into existing outfall.

3. Development's location (street address, assessor's parcel no., cross street, etc.): Approximately 300 feet upstream of the Pacific Coast Highway Bridge at Aliso Creek, Laguna Beach and 150' from our property.

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: _____

c. Denial: Denial of a major public works project that does not *

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

*conform to standards set forth in certified LCP (P.R.C. Section 30603(b)) and CEQA EIR requirements.

Aliso Creek Inn Appeal
COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 3
PAGE 3 OF 6

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. __Planning Director/Zoning Administrator

b. X City Council/Board of Supervisors

c. __Planning Commission

d. __Other_____

6. Date of local government's decision: May 6, 1997

7. Local government's file number (if any): CDP NO: 97-19

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
County of Orange
P.O. Box 4048
Santa Ana, CA 92702-4048

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Ken Frank, City Manager, City of Laguna Beach
505 Forest Ave
Laguna Beach CA 92652

(2) Mike Dunbar, Manager, South Coast Water District
31592 West Street
South Laguna, CA 92677

(3) ~~Aliso Water Management Agency~~
~~30290 Ranch Viejo Road~~
~~San Juan Capistrano, CA~~

(4) South Laguna Civic Association
P.O. BOX 9668
South Laguna CA 92677

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 3
PAGE 4 OF 6

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

Aliso Creek Inn Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The proposalto install a sand berm 150 yards from Aliso Creek Inn will cause adverse conditions to occur on our property. Pollution, flooding, silt deposition, safety, sickness and mosquito infestation are just a sample of the concerns expressed. This is not even a temporary fix that solves the problem of unsightly, nuisance water, rather it is a "non-fix": it simply relocates or "catches" the water and moves it further off shore. When the water slows down, before pumped into the outfall, the above described conditions will occur. To expose the tens of thousands of guests of the hotel and golf course to the stench and dangers of ponding waters is completely ill-advised.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Aliso Creek Inn Appeal
COASTAL COMMISSION
A-5-LGB-97-166

Signature of Appellant(s) or Authorized Agent

Date June 2, 1997

EXHIBIT # 3
PAGE 5 OF 6

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Aliso Creek Inn Appeal
A-5-LGB-97-166

PAGE 3 OF 6

Aliso Creek Inn
AND GOLF COURSE
31106 SOUTH COAST HIGHWAY
LAGUNA BEACH, CALIFORNIA 92651

RETURN RECEIPT
REQUESTED

Fold at line over top of envelope to the right of the return address

CERTIFIED

Z 705 811 165

MAIL

FIRST CLASS

UNITED STATES POSTAL SERVICE

0000

90802

U.S. POSTAGE
PAID
SOUTH LAGUNA, CA
92677
JUN 02, 97
AMOUNT
$2.52
00022355-02

JUN - 5 1997

CALIFORNIA COASTAL COMMISSION
~~SOUTH COAST AREA~~
245 W. BROADWAY,
LONG BEACH, CA 9

ATTN: MEG VAUGHN

CALI245 908029004 1497 06/04/97
NOTIFY SENDER OF NEW ADDRESS
:CA COASTAL COMM ST 06
PO BOX 1450
LONG BEACH CA 90801-1450

RETURN TO SENDER

RECEIVED
MAY 19 1997
CALIFORNIA
COASTAL COMMISSION

NOTICE OF FINAL LOCAL ACTION FOR COASTAL DEVELOPMENT PERMITS

The following project is located within the City of Laguna Beach Coastal Zone: A-5-LGB-97-166
Applicant: County of Orange
Mailing Address: P.O. Box 4048, Santa Ana, CA 92702-4048

Coastal Development Project No.: 97-19
Project Description: Creation of Sand Berm

Location: Approximately 300 feet upstream of the Pacific Coast Highway Bridge

On May 6, 1997 a coastal development permit application for the project was

(X) approved
( ) approved with conditions
( ) denied

COASTAL COMMISSION
A-5-LGB-97-166
EXHIBIT # 4
PAGE 1 OF 1

Twenty-day right-of-appeal ends N.A.

This action was taken by: (X) City Council
( ) Design Review Board
( ) Planning Commission

The action (X) did ( ) did not involve a local appeal; in any case, the local appeal process has been exhausted. Findings supporting the local government action and any conditions imposed are found in the attached report.

This project is

( ) not appealable to the Coastal Commission

(X) appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission if a valid appeal is filed. Appeals must be in writing to the appropriate Coastal Commission district office and in accordance with the California Code of Regulation Section 13111.

cc: Coastal Commission
Property owner/agent
All known interested persons

ORNIA COASTAL COMMISSION
COAST AREA
ox 1450
0 Oceangate, 10th Floor
LON EACH, CA 90802-4416
-5071

NOTIFICATION OF APPEAL PERIOD

DATE: May 21, 1997

TO: Kyle Butterwick
City of Laguna Beach, Community Development Department
505 Forest Ave.
Laguna Beach, CA 92651

FROM: Meg Vaughn, Coastal Program Analyst

RE: **Application No. 5-LGB-97-038**

Please be advised that on May 20, 1997 our office received notice of local action on the coastal development permit described below:

Local Permit #: **CDP 97-19**

Applicant(s): **County Of Orange**

Description: **Temporary sand berm in Aliso Creek in order to collect and dispose of summertime nuisance flows through diversion to an adjacent outfall line. The sand berm will be placed approximately 300 feet upstream of the PCH bridge.**

Location: **Aliso Creek Upstream Of Pch Bridge, Laguna Beach (Orange County) (APN(s) 056-240-36)**

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on June 3, 1997.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: County Of Orange

COASTAL COMMISSION
A-5-LGB-97-166
EXHIBIT # 5
PAGE 1 OF 1

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
PO Box 1450
200 Oceangate, 10th Floor
LONG BEACH, CA 90802-4416
(562) 590-5071

RECEIVED
JUN 17 1997
CALIFORNIA COASTAL COMMISSION

COMMISSION NOTIFICATION OF APPEAL

RECEIVED
4 1997
BUILDING DIVISION
CITY OF LAGUNA BEACH

DATE: June 2, 1997

TO: Kyle Butterwick
City of Laguna Beach, Community Development Department
505 Forest Ave.
Laguna Beach, CA 92651

FROM: Meg Vaughn, Coastal Program Analyst

RE: **Commission Appeal No. A-5-LGB-97-166**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #:	**CDP 97-19**
Applicant(s):	**County Of Orange**
Description:	**Temporary sand berm in Aliso Creek in order to collect and dispose of summertime nuisance flows through diversion to an adjacent outfall line. The sand berm will be placed approximately 300 feet upstream of the PCH bridge.**
Location:	**Aliso Creek Upstream Of Pch Bridge, Laguna Beach (Orange County) (APN(s) 056-240-36)**
Local Decision:	**Approved**
Appellant(s):	**Rico Dagomel, Et Al**
Date Appeal Filed:	**5/30/97**

COASTAL COMMISSION
A-5-LGB-97-166
EXHIBIT # 6
PAGE 1 OF 6

The Commission appeal number assigned to this appeal is A-5-LGB-97-166. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Laguna Beach's consideration of this coastal development permit must be delivered to the South Coast Area office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Meg Vaughn at the South Coast Area office.

RECEIVED
MAY 30 1997
CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Rico Dagomel, et al.
31618 Jewel
South Laguna, CA 92677 (714) 499-6078
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach/County of Orange

2. Brief description of development being appealed: Creation of sand berm to divert untreated summer nuisance runoff into protected coastal water from Aliso Creek.

3. Development's location (street address, assessor's parcel no., cross street, etc.): Approximately 300 ft. upstream of the Pacific Coast Highway Bridge at Aliso Creek, Laguna Beach, County of Orange (CDP NO.;97-19).

4. Description of decision being appealed:

a. Approval; no special condit. :

b. Approval with special conditions:

c. Denial: Denial of a major public works project*

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-LGB-97-166

DATE FILED: 5.30.97

DISTRICT: So. Coast Long Beach

*that does not conform to standards set forth in certified LCP (P.R.C. Section 30603 (b)) and CEQA EIR requirements.

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 6
PAGE 2 OF 6

H5: 4/88

"Commission Notification of Appeal"

5. Decision being appealed was made by (check one):

a. __Planning Director/Zoning Administrator

b. X City Council/Board of Supervisors

c. __Planning Commission

d. __Other_____

6. Date of local government's decision: May 6, 1997

7. Local government's file number (if any): CDP NO:97-19

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
County of Orange
P.O. Box 4048
Santa Ana, CA 92702-4048

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Ken Frank, City Manager, City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92652

(2) Mike Dunbar, Manager, South Coast Water District
31592 West Street
South Laguna, CA 92677

(3) Aliso Water Management Agency
30290 Ranch Viejo Road
San Juan Capistrano, CA

(4) South Laguna Civic Association
P.O. Box 9668
South Laguna, CA 92677

(5) Surfrider Foundation, San Clemente, CA

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

"Commission Notification of Appeal"

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The proposed major public works project (CDP.97-19) seeks to dispose of 5 million gallons of highly toxic urban runoff each day over a May through October summer season into a sensitive ocean habitat. The applicant submitted a Negative Declaration and failed to prepare an Environmental Impact Report per CEQA, for public comment, to establish a scientific pre-project data base and identify:

1) All municipal, residential and industrial drainage outlets

(OVER)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Commission Notification of Appeal
COASTAL COMMISSION
A-5-LGB-97-166

Ricardo Rico Dagnino
Signature of Appellant(s) or Authorized Agent

EXHIBIT # 6
PAGE 4 OF 6

Date 5/27/97

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date _____

for non-point pollution into the Aliso watershed and project disposal area.

2) Specific quantitative values for all organic and inorganic compounds associated with summer nuisance flows and correlations with known cumulative health impacts to human, animal and plant life occupying established coastal wetland, beach and ocean habitats. The related food chain was not considered.

3) Feasible project alternatives, including:
   A) Serial upstream berming at inland municipal boundaries for retention, biotic treatment and/or filtration
   B) Placement of low cost, low flow monitoring devices at all storm drain outlets to Aliso Creek to identify and abate gross polluters.
   C) Use of commerical mobile, medium scale filtration systems (typical in agricultural and military operation: for immediate emergency filtration.
   D) Permanent beach closure pending watershed restoration as proposed by Councilmember Wayne Peterson, City of Laguna Beach.

As the local decision making body, the City of Laguna Beach (overturning it's own Board of Adjustment's unanimous denial of the project) may have a potential conflict of interest in approving the proposed project in that:

1) The City is a member of the Aliso Water Management Agency (AWMA) Summer nuisance flow from residential/industrial surplus water runoff is the principal contributing factor for beach pollution

2) AWMA, as the primary provider for the water delivery industry, distributes surplus water throughout the summer at a profit to create non-point urban nuisance runoff. Such runoff includes water borne automotive residues, herbicides, pesticides fertilizers and fecal contamination of the environment not tested or adequately considered in the Negative Declaration.

The proposed project seeks to dispose of over one-half billion gallons of untreated, toxic urban runoff over the forthcoming summer season alone. The County of Orange and respective cities in the Aliso watershed have had several years to design and implement a reasonable, feasible project instead of creating an emergency condition through neglect. The destruction of established coastal wetlands and ocean habitats without mitigation through inadequate planning and negligence will establish a dangerous precedent for all coastal protection efforts and should be properly denied.

"Commission Notification of Appeal"

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 6

PAGE 5 OF 6

CALIFORNIA COASTAL COMMISSION
ATTN: STEVE RINES

FAX (562) 590-5084
JUNE 3, 1997

RE: APPEAL OF CDP No. 97-19
CITY OF LAGUNA BEACH

AS A PARTICIPANT AT ALL LEVELS IN THE PROJECT REVIEW PROCESS, TESTIMONY WAS PROVIDED IN WRITTEN AND ORAL FORM TO ALERT DECISION MAKERS TO SIGNIFICANT VIOLATIONS OF THE OPEN SPACE AND CONSERVATION ELEMENTS OF THE LAGUNA BEACH GENERAL PLAN / LOCAL COASTAL PLAN AS ADOPTED MAY 1, 1984.

SPECIFICALLY THE PROPOSED PROJECT DOES NOT ADDRESS OR ADEQUATELY MITIGATE IMPACTS TO TIDE POOLS AND MARINE HABITATS (PG. 14 - TOPIC 2-A & B AND POLICIES 2-A AS PERTAINS TO COASTAL DOLPHIN, WHALE, SQUID HABITATS AND 2-B); AND WATER QUALITY AND CONSERVATION (PG. 24 - TOPIC 4 "OCEAN RESOURCES" AND POLICIES 4-A AND 4-H).

THE PROPOSED PROJECT VIOLATES COASTAL ACT POLICIES SECTION 30230; 30231; 30236 AND 30240 AS THEY PERTAIN TO THE ALTA WOODS/CANYON RIPARIAN, WATERSHED, WETLANDS, BEACH AND OCEAN HABITATS.

THANK YOU.

RON DAGOMES

"Commission Notification of Appeal"

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 6
PAGE 6 OF 6

RESOLUTION NO. 97.025

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, OVERTURNING THE DENIAL BY THE DESIGN REVIEW BOARD AND APPROVING COASTAL DEVELOPMENT PERMIT 97-19 TO PERMIT TEMPORARY DIVERSION OF ALISO CREEK FLOWS.

WHEREAS, an application has been filed by the County of Orange on behalf of the Aliso Water Management Agency (AWMA) requesting approval for a coastal development permit in accordance with the provisions of Municipal Code Chapter 25.07 to allow a temporary sand berm in Aliso Creek approximately 300 feet upstream of the Coast Highway bridge; and

WHEREAS, the Design Review Board of the City of Laguna Beach, after conducting legally noticed public hearings regarding this proposal on March 13, 1997 and April 10, 1997, denied the project; and

WHEREAS, the City Council of the City of Laguna Beach has conducted a legally noticed public hearing of the appeal of the Design Review Board denial on May 6, 1997;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH does RESOLVE and ORDER as follows:

SECTION 1. In order to ensure compliance with the Certified Local Coastal Program the following criteria were incorporated into the review of the application:

1. The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in the adopted Local Coastal Program Land Use Plan in that the project will not substantially impact the public parking area provided for Aliso Beach.

2. The proposed development will not adversely affect marine resources or environmentally sensitive areas in that the project is temporarily diverting an existing stream flow of approximately 5 cfs to a different point of ocean discharge and that discharge is under the jurisdiction of the Regional Water Quality Control Board.
3. The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources in that the stream diversion will actually benefit Aliso Beach by removing ponded water, containing high coliform levels, that collects on the beach during the summer months.
4. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources. Flooding will not occur because the sand berm is provided with a v-notch to facilitate drainage in the case of pump failure.
5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards in that the project is proposed only for the dry season when the danger of creek erosion is negligible.

SECTION 2. In accordance with Chapter 25.07.012 of the Municipal Code regarding approval of a Coastal Development Permit, the following findings have been made:

1. The project is in conformance with all the applicable provisions of the General Plan, including the certified local coastal program and any applicable specific

plans in that the project is a temporary diversion involving minimal impact on the Aliso creek bed, and the discharge will be in compliance with standards imposed by the Regional Water Quality Control Board.

2. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that an initial study was completed and it was found that there will be no significant environmental impact; and therefore, a negative declaration was previously prepared and reviewed.

SECTION 3. Coastal Development Permit 97-19 and the associated Negative Declaration are hereby approved, subject to the following conditions:

1. This approval shall be valid for the 1997 summer season (May through September). This approval may be extended on an annual basis for up to five subsequent years, provided the applicant submits a request in writing for an extension and provided the Design Review Board conducts a public hearing prior to approving such extension.

2. The applicant shall obtain all necessary approvals from the Regional Water Quality Control Board prior to any diversion of the creek flow to the AWMA outfall.

3. The sand berm shall be constructed with a v-notch to allow drainage in the case of pump failure. All pumps shall be electrically operated.

4. The sand berm shall be dismantled and all piping removed from the creek by October 15, 1997.

City of Laguna Beach
City Council Resolution
No. 97-025

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 7
PAGE 3 OF 4

5. The height of the sand berm shall be set at a point that will ensure water will not backup at Ben Brown's.

6. The applicant shall report back to City Council within 30 days after the berm is constructed.

7. The applicant shall cooperate with the management of Ben Brown's and work together on the project.

SECTION 4. That Coastal Development Permit 97-19 shall not become effective until after an elapsed period of ten working days from and after the receipt of Notice of Final Action by the California Coastal Commission.

ADOPTED this 6th day of May, 1997.

Mayor

ATTEST:

City Clerk

I, VERNA L. ROLLINGER, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. 97.025 was duly adopted at a Regular Meeting of the City Council of said City held on May 6, 1997 by the following vote:

AYES:	COUNCILMEMBER(S):	Blackburn, Baglin, Freeman, Peterson
NOES:	COUNCILMEMBER(S):	Dicterow
ABSENT:	COUNCILMEMBER(S):	None

COASTAL COMMISSION
A-5-LGB-97-166

City Clerk of the City of Laguna Beach, CA

EXHIBIT # 7
PAGE 4 OF 4

Public Comment

Larry Ring, Hillcrest, favored the district. Don Luzak, 743 Gaviota opposed his $28,000 assessment. Lloyd Spance, Viejo Street, said he is retired and can't handle the expense. Olin Hutchinson, 757 Rembrandt, reported this has been his home for 34 years, he will gain little from the project, he favors the district but protests his assessment which he thinks is unfair. Jeff Weiss, 779 Rembrandt, said he thought Olin should have been given the 25% discount, he, himself has high voltage wires over his bedroom and supports the district. Dick Loomis, 760 Rembrandt, was concerned about safety in addition to trees vs. wires and supported the district. Kel Bratton, 137 Cleo, said the majority of his neighbors want the poles and wires gone. Rosemary Luzak, 729 Gaviota, said she doesn't see the poles on Cleo, her sand and ocean view was removed by the Mac Gillivray project and she objected to her $28,618.99 assessment, as she receives no benefit. Don Romano, 890 Hillcrest, supported the district because of visual and safety issues. Betty Haight, 815 Rembrandt, supported the district. Steven Koontz, 851 Van Dyke, said he is a new resident and he supports the district, noting property values will go up and safety. He also supported lowering Olin's assessment. Don Lowry, 375 Heather Place, said the pole in front of his house has "grown" and supported the district. The owner of 1025 Hillcrest said he receives no direct benefit but he supports the district. Minette Carter, 1250 Hillcrest, favored the district on safety grounds. The owner of 800 Hillcrest said he was retired and supported the district. Ilse Lenschow, 275 San Joaquin, said she was happy about the district but was disappointed that the wires in her view are not included in the district. She said she will have a large on-site expense and would appreciate a reduction. Stillman Sawyer, 313 Heather Place, protested the inequity of the assessment, thought undergrounding a good idea and said the wires are not that intrusive. Marie Millard, 1465 Hillcrest, objected to the amount of her assessment, noting the wires affect her home but not her rentals. John Cabone and Judy Flynn, 360 Pinecrest, favored the district and were willing to pay the assessment even though they receive no direct benefit. They suggested a modification for those with little benefit.

Baglin said he was concerned this process gives Edison a free ride. Dicterow said safety is a city-wide benefit and we should look into a joint effort between the city and residents. He was also concerned about affordability. Freeman supported the advance of the process, welcomed exploring other processes and said undergrounding the whole city would be great. Joe Chiquette was asked to review the properties of those making protests.

5. APPEAL OF DENIAL OF COASTAL DEVELOPMENT PERMIT 97-19: ALISO CREEK SAND BERM: RESOLUTION NO.97.026A OVERTURNING THE DENIAL AND APPROVING THE PROJECT WITH CONDITIONS (93)

City Manager Frank introduced this proposal to create a sand berm in Aliso Creek that is to be located approximately 300 feet upstream of Pacific Coast Highway bridge, for the purpose of diverting summertime nuisance flows to an adjacent outfall line, noting this is a multi-agency project.

Mayor Freeman opened the Public Hearing.

Larry Paul, County of Orange, reported the watershed cities are working on a long-term solution (5-year), this is an interim improvement for the summertime and is a safety and health

issue. He said the County will bear the cost of this proposal and the federal government will fund 65% of the long-term solution which is estimated at $10 million. He said that the remedies proposed by the long-term solution will most likely be phased.

Mike Dunbar, General Manager of South Coast Water District, reported that the district supports the project and that he had run four samples of the creek water which showed very low concentrations of heavy metals and high bacterial content.

Dave Coretto, General Manager of AWMA, displayed an exhibit showing the location of the outfall that empties 8,544 feet from Pacific Coast Highway.

Tom Slattery, South Laguna, supported the project on behalf of the youth who use the beach.

Dr. Gene Atherton, said the DRB took a brave position, a promise was made 15 years age, we need a show of good faith and that an appropriate retaining basin now would satisfy that need.

Ed Slyman, Aliso Creek Inn, was concerned about stagnation, pollution and mosquitoes. He said pooling will cause problems, displayed photos of the present conditions, opposed the project and applauded the DRB. He said this would exacerbate the problem in the interim.

Roy Ableson, attorney and civil engineer representing Mrs. Brown, reported he was also concerned about siltation, flooding and said the term "dam" made him nervous. He said not enough thought had been given to this proposal and asked why Mrs. Brown had not been included as a partner in this process.

Mike Beanan applauded the DRB and said pollution of the beach is of great concern but this proposal represents a quick fix to a problem that should and could be solved. He said the pond at the mouth of the creek is a natural resource and the water should be cleaned before it enters Aliso/Wood Park. He noted the water in the creek is so toxic that it can't be handled by the sewer treatment plant. Beanan recommended capturing the water before it enters the creek, denying the project and referring the investigation to the Planning Commission.

Kathy McMullen, Monterey Street, said she was in bed when she saw this hearing on the television. She said she can smell the creek from her balcony and the problem needs to be addressed at the beginning. She was also concerned about noise from a pump.

Rico Dogomel supported looking at where the pollution comes from and addressing it there. He said we should clean the water, not hide it.

Jeannie Bernstein, Driftwood Drive and neighbor of the creek for 37 years, said she was skeptical of the interim solution, that the berm is a deception and not a solution. She thought the DRB did well to deny the application.

Jinger Wallace, Village Laguna Board, suggested denying the application and advocated a solution at the source and not discharging this into the ocean.

Ron Harris, South Laguna Civic Association President, said the Ben Brown property is an asset and jewel of this town, noted the 5/0 denial by the DRB, and that everyone agrees the condition of the creek is appalling. He said that expedient action is not always the best and can be worse than no action. He said this doesn't solve anything and we need to keep the urgency focus on the problem. He suggested a wetlands retention basin as a trial in the interim, noted no science or engineering was presented and supported keeping the pressure on to clean the creek.

In response to issues that were raised, Larry Paul said that wetlands upstream were part of the ultimate project, that not much sediment will build-up and the berm height could be determined so it won't back-up to Ben Brown's. Mike Dunbar said the plant was designed to process waste from humans, not chemical and mineral pollutants.

Council Comments

Dicterow said he would uphold the denial because he was not convinced or persuaded this will help the problem, there will be no reduction of pollution, no attempt at reduction of the pollution and this could exacerbate the problem. He suggested focusing up stream. Baglin reported attending many meetings on this issue and displayed documents associated with those meetings. He said there is a comprehensive study underway and supported overturning the DRB. Blackburn said this is a positive move and will get contaminated water of the beach. She thought the DRB didn't have enough information and we a moving forward in a logical manner. She supported having the notch low enough so the creek won't back-up to Ben Brown's and testing after 3-4 weeks of operation. Blackburn supported overturning the Board and adding conditions. Peterson supported overturning the denial and getting the polluted water off the beach. He thought that would give the Corps the message that we won't tolerate the polluted water. He said this action should be taken for health and safety reasons and to make a statement. Freeman said that sometimes a Band-Aid solution makes sense. He didn't think this would stall the momentum, said this is a compelling public health issue and we won't pull-back on the pressure.

Ed Slyman asked if ponding occurs, can he dismantle the berm.

Moved by Councilmember Peterson, seconded by Councilmember Baglin and carried 4/1 to adopt Resolution No.97.026A overturning the denial and approving Coastal Development Permit 97-19, setting the height of the berm at a point that will ensure that water won't back up at Ben Brown's, require a report back 30 days after the berm is constructed, and require the management of Ben Brown's and the County to exchange business cards and work together on this project.

ROLL CALL

AYES: COUNCILMEMBERS: Peterson, Blackburn, Baglin, Freeman

NOES: COUNCILMEMBERS: Dicterow

COASTAL COMMISSION

A-5-LGB-97-166

EXHIBIT # 9

PAGE 1 OF 21

City of Laguna Beach

AGENDA BILL

No. 5

Meeting Date: 5/6/97

SUBJECT: APPEAL OF DENIAL BY THE DESIGN REVIEW BOARD OF COASTAL DEVELOPMENT PERMIT 97-19, ALISO CREEK SAND BERM

SUMMARY OF THE MATTER: The project proposed under this permit is for a temporary sand berm in Aliso Creek, to be located approximately 300 feet upstream of the Pacific Coast highway bridge, for the purpose of diverting summertime nuisance flows to an adjacent outfall line. The project is a cooperative effort between the County of Orange and the Aliso Water Management Agency (AWMA). During the summertime, nuisance flows from Aliso Creek end up pooling on Aliso Beach. The ponded water, which has been discovered to contain high levels of coliform bacteria, is a natural attraction to young children and an undesirable health hazard. In the past, County park staff has shoveled a trench each morning across the beach to allow the ponded water to drain out to the ocean.

As discussed in the attached memorandum to the Design Review Board, staff recommended approval of the project for a number of reasons. Importantly, the berm will eliminate a beach health hazard and will be in place only during the summer season. In addition, concerns about noise and water back-up have been addressed with the use of an electric motor and incorporation of a v-notch in the berm. Conditions of approval proposed by staff limited the approval to the 1997 summer season, with annual renewal (up to 5 years maximum) possible only after a public hearing. It should also be noted that all discharge from the outfall is under the jurisdiction of the Regional Water Quality Control Board and the County has already filed its request for the necessary approvals.

At its meeting of April 10, 1997, the Design Review Board denied the Coastal Development Permit. The Board's action was based on concerns about water stagnation and backup onto the golf course at Ben Brown's; the lack of engineer calculations relating pumping capacity, pipe diameter and berm height to water flow; and the lack of a long-term solution.

RECOMMENDATION: It is recommended by the Design Review Board that the City Council:

Uphold the denial of Coastal Development Permit 97-19.

RECEIVED

JUN 17 1997

A-5-LGB-97-166

CALIFORNIA COASTAL COMMISSION

Appropriations Requested: $_____

Fund: _____

Attachments: Appeal Form; 3/13/97

Staff Memo; 3/27/97 and 4/10/97 DRB

Minutes

Submitted by: [signature]

Coordinated with: _____

Approved: [signature]

City Manager

CITY OF LAGUNA BEACH
NOTICE OF APPEAL

PART A: NOTICE TO APPELLANT (Please read carefully)

1. Appeals may be filed by the applicant, any other aggrieved property owner within three hundred feet of the subject property, or by a member of the City Council.
2. Fee: $330.00
3. This form must be prepared within the time allowed for appeal.
4. Every question must be answered. If a question does not apply, you must answer "does not apply" or words to that effect.
5. Attach additional pages for long answers.
6. Prior to completing this form, you may wish to read the appropriate appeal sections of the Laguna Beach Municipal Code. Copies of code are available at the Community Development counter.

PART B: APPEAL BACKGROUND INFORMATION

1. NAME County of Orange - EMA (Appellant)
2. Residence address 300 North Flower Street, Santa Ana, CA 92708
3. Subject Property Address: Aliso Creek Beach Park
4. State the name or title of the board, commission or officer from which this appeal is taken, and the date of the action:
   Design Review Board - 4/10/97
5. a. Were you given written notice of the action, ruling or determination from which this appeal is taken? ___Yes X No

   If your answer to "5a" is "yes", attach a copy of the written notice, if available, and indicate here the date you received such notice. _____

   b. Are you the owner of the property that was subject of the action? X Yes ___No

   c. If your answer to "5a" is "no", who is the owner of the property?

6. State generally what kind of permit, variance, ruling, determination or other action was the basis of the decision from which this appeal is taken:
   Coastal Development Permit
7. State the specific permission or relief that was originally sought from the board commission or officer:

   Diversion of contaminated creek flows to AEMA outfall line during the summer months for summer 1997.

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda

EXHIBIT # 9
PAGE 2 OF 21

PART C: REASON FOR APPEAL

The project was denied by the Design Review Board. However, the project is temporary and will be in effect only during the summer months. Concerns about water backup and stagnation have been addressed. The scope of the project can be limited with conditions of approval limiting such approval to the 1997 summer season with opportunity for annual renewal based on a public hearing. The project will benefit the health and safety of Aliso Creek beach users.

The foregoing statement contained in PART B and Part C, are true and correct to the best of my knowledge and belief.

Signature of Appellant

File Date:_____
Appeal received by:_____
Appeal Fee:_____
Date of Hearing:_____

PROCEDURE FOR REQUESTING A CONTINUANCE OF A PUBLIC HEARING

Continuances are granted at the discretion of the City Council. Either the applicant or the appellant may request a continuance at the time of the public hearing. Only the applicant (owner of the subject property or his/her designee) may request a continuance prior to the hearing. If, no later than the Wednesday prior to the public hearing, the applicant submits a written request along with $50.00 to cover the cost of renoticing, the City staff has the authority to continue the hearing, if in the judgement of the staff, there is no valid or legal reason not to continue the hearing. Such requests are to be submitted to the City Clerk.

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 9
PAGE 3 OF 21
City Council Agenda Bill

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill

MEMORANDUM

EXHIBIT # 9
PAGE 4 OF 21

DATE: March 13, 1997

TO: Design Review Board

FROM: Kyle Butterwick, Community Development Director

SUBJECT: Aliso Creek Sand Berm
Coastal Development Permit 97-19

The County of Orange is proposing to build a temporary sand berm in Aliso Creek approximately 300 feet upstream of the Pacific Coast Highway Bridge. This berm will allow the summertime nuisance flow to be captured and diverted to an adjacent outfall line.

The project is a cooperative effort between the County of Orange and the Aliso Water Management Agency (AWMA). It is for the purpose of eliminating summertime nuisance flows in Aliso Creek which end up pooling on Aliso Beach. The ponded water, which has been discovered to contain high levels of coliform bacteria, is a natural attractor to young children and an undesirable health hazard.

In the past, park staff has shoveled a trench each morning across the beach to allow the ponded water to drain out to the ocean. The proposed sand berm will provide a more efficient method of eliminating the ponded contaminated water on the beach.

BACKGROUND: In February 1996, the proposed project was reviewed by the Design Review Board. There was considerable interest in the project and the larger issue of the Aliso Creek Watershed. Attached is the staff report prepared for the Board and minutes of the 2/15/96 and 2/22/96 Board meetings. The project was approved for a 3-week test period by the Board on February 22, 1996.

The County filed an appeal, requesting that the approval extend for the entire summer. However, the County withdrew the appeal prior to the scheduled City Council hearing.

In the interim, the Army Corps of Engineers has initiated the Aliso Creek watershed stakeholders meetings to address the pollution problems in Aliso Creek that are caused by urban runoff throughout the entire watershed. This process should ultimately result in suggestions for long-term solutions to the creek pollution problems.

PROJECT DESCRIPTION AND ANALYSIS: The project proposes the same method of flow diversion as proposed earlier. That is, the sand berm approximately four feet high

will be constructed in Aliso Creek upstream approximately 300 feet of the Coast Highway bridge. The sand berm will be lined with plastic to prevent erosion and to create a shallow pool; the pooled water will be pumped through a pipeline to the AWMA outfall line. A shallow trench will be dug across a previously graded and surfaced terrace for the connecting pipeline.

In order to address the concerns of neighboring property owners, several improvements have been made to the project since last proposed. The pump will be an electric, rather than diesel, operated pump and the pump itself will be located in a small AWMA outbuilding to minimize engine noise. In addition, the sand berm will contain a v-notch to allow drainage should pump failure occur; this will prevent water from backing up and flooding the golf course.

As proposed, the sand berm will be dismantled in early October and the pipe will be removed from the creek bed for the rainy season.

The County is in the process of obtaining permission from the Regional Water Quality Board to divert the nuisance flow to the outfall. This request for 401 clearance has already been filed.

As indicated in the attached memo, AWMA is willing to cooperate with the project. The City has also received a letter from the County of Orange Health Care Agency supporting the project (see Exhibit C).

RECOMMENDATION: Staff recommends the Design Review Board approve the Coastal Development Permit and associated Negative Declaration, subject to the suggested conditions of approval including annual renewal.

ATTACHMENTS: Exhibit A, AWMA Memo
Exhibit B, 2/9/96 Staff Report & Negative Declaration
Exhibit C, Letter from County of Orange Health Care Agency
Resolution of Approval

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 5 OF 21

ALISO WATER MANAGEMENT AGENCY
30290 RANCHO VIEJO ROAD • SAN JUAN CAPISTRANO, CA 92675 • (714) 489-7730 • FAX (714) 489-77

FEB 1997

MEMORANDUM

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill
EXHIBIT # 9
PAGE 6 OF 21

TO: AWMA Board of Directors

FROM: David A. Caretto, General Manager

DATE: February 24, 1997

SUBJECT: Information Item-Aliso Creek Diversion Project Update

---

I previously indicated to you that we had been approached by Mr. Larry Paul of the Orange County Department of Harbors, Beaches and Parks and Mr. Mike Dunbar of SCWD regarding the possibility of resurrecting the project to divert water from Aliso Creek into our outfall temporarily during the summer months. On Friday we met at the site with the aforementioned individuals, along with representatives of the Surfrider Foundation and a group of engineers who have offered to design the project for the County. The County has conferred with the Regional Board, and there does not seem to be a problem with discharging approximately 5 cfs from the creek to the outfall. The Regional Board has asked the County for some monitoring information regarding the creek to determine what types of materials would be going into the outfall.

The County will be seeking permits for the project from the City of Laguna Beach (I understand that the City Council is supportive) and the Regional Board, and also the approval of the AWMA Board to use the outfall. We have indicated a willingness to participate as long as the interests of AWMA are protected. The County has indicated that they will cover the entire cost of the project. They have, of course, requested the ability to tap into the outfall at a location near our manhole in the Aliso Creek Beach parking lot. They have also requested to utilize a small brick building adjacent to the manhole in which to place the electric pump needed for the project. The building would help to muffle any sound from the engine (there isn't likely to be much as compared to the diesel engine previously proposed), and it already has an appropriately sized electric meter which could be used. The building is not currently being used by AWMA, and we will probably have no use for it in the foreseeable future. We have asked that AWMA be indemnified against any problems resulting from the project.

The project would be designed to pond the water from the creek and then pump it out through the outfall. While the volume does not appear to be a problem, sand or silt from the water could be a problem unless the pond and pump are properly designed. We will review the plans carefully to insure that our outfall is not compromised. Another concern previously expressed by the operators of Ben Brown's was the possibility of the pump malfunctioning and the pond backing

up onto the golf course. The County indicates that they will design the pond with a V notch so that in the unlikely event of a pump failure, the pond would overflow naturally to the creek, thereby eliminating any potential problem for Ben Brown's. We would expect to meet with the owners of Ben Brown's well in advance of any formal approval in order to respond to any concerns they might have. The Surfrider Foundation staff who were present at the meeting were supportive of the project as an interim solution during the summer.

The project is intended only as a short-term solution to the problem of poor quality water in the creek. The Corps of Engineers Watershed Management study of the creek should suggest longer term solutions to the improvement of the environment along the creek. This project seems to be more carefully conceived than the original project proposed by the AWMA staff, and with the cooperation of all the parties, it could be in place for the upcoming summer beach season.

I will keep you informed as this project progresses. Ultimately the Board will be asked to give final approval for use of the outfall. If you have any questions in the meantime, please do not hesitate to give me a call.

cc: SERRA Board
Mr. Larry Paul, Orange County Dept. of Harbors, Beaches and Parks
Mr. Mike Dunbar
Mr. Matt Smith

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill
EXHIBIT # 9
PAGE 7 OF 21

EXHIBIT A

MEMORANDUM

TO: Design Review Board

FROM: Kyle Butterwick, Community Development Director KB

DATE: February 9, 1996

SUBJECT: Aliso Creek Project
Coastal Development Permit 95-89

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill
EXHIBIT # 9
PAGE 8 OF 21

On January 18, 1996, I conducted a public hearing on Coastal Development Permit 95-89 in accordance with the City's Coastal Development Permit Ordinance. Due to the public interest in the project and the need for additional information, I referred the project to the Design Review Board. It should be noted that because of the cooperative nature of the project, the application was submitted by the County of Orange Environmental Management Agency (EMA) while the project construction and operation will be carried out by the Aliso Water Management Agency (AWMA).

For the Board's convenience, the following provides a summary of the project and related information.

BACKGROUND: Aliso Beach is managed by Orange County's Harbors, Beaches and Parks Division. As noted in the application, ponding of Aliso Creek summer flows has occurred on the beach in recent years. This pond water is warm and is a natural attractor to young children for wading. Park staff has tested the ponded water and discovered high levels of coliform bacteria that are likely due to the water temperature and source nutrients. In order to remove the contaminated water from public access, the park staff has shoveled a "starter trench" each morning across the beach berm to allow the ponded water to drain out to the ocean. A temporary sand berm is now proposed as a more efficient method of eliminating the ponded contaminated water on the beach.

PROJECT DESCRIPTION AND ANALYSIS: The proposed project consists of constructing a temporary sand berm in Aliso Creek upstream approximately 300 feet of the Coast Highway bridge. This will allow the summertime nuisance flows in the creek to be collected and diverted to a nearby AWMA outfall line. The AWMA outfall discharges approximately two miles out to sea at a depth of 200 feet.

As proposed, a sand berm approximately four feet in height will be constructed in the spring; it will be located in the creekbed near the existing South Coast Water District Field Maintenance Shops. The sand berm will be lined with plastic to prevent erosion and to create a shallow pool and a float operated diesel pump will be used to pump the pooled water through a pipeline to the AWMA outfall line. A shallow trench will be dug across a previously graded and surfaced terrace for the connecting pipeline.

EXHIBIT

An initial test period will be conducted so that the pumping capacity can be properly sized to handle the incoming flow. Subsequently, the project is proposed for the dry season (summer) only. Most of the summer season surface flow of Aliso Creek will be conveyed into the AWMA ocean outfall line. The sand berm will be dismantled each year prior to the rainy season to allow flood flows to move naturally to the ocean.

The test period will be held for a 2-3 week period in the spring. This test period will not only provide an opportunity for the Water District to determine sizing and related design details for all components of the system, but it will also allow the District to test the outfall discharge (that would include the diverted flow). In addition, it will allow for a demonstration period to alleviate concerns about possible flooding of the golf course and stagnation.

The Water Quality Control Board, which sets strict limits on the outfall discharge, has indicated their support for the proposed project.

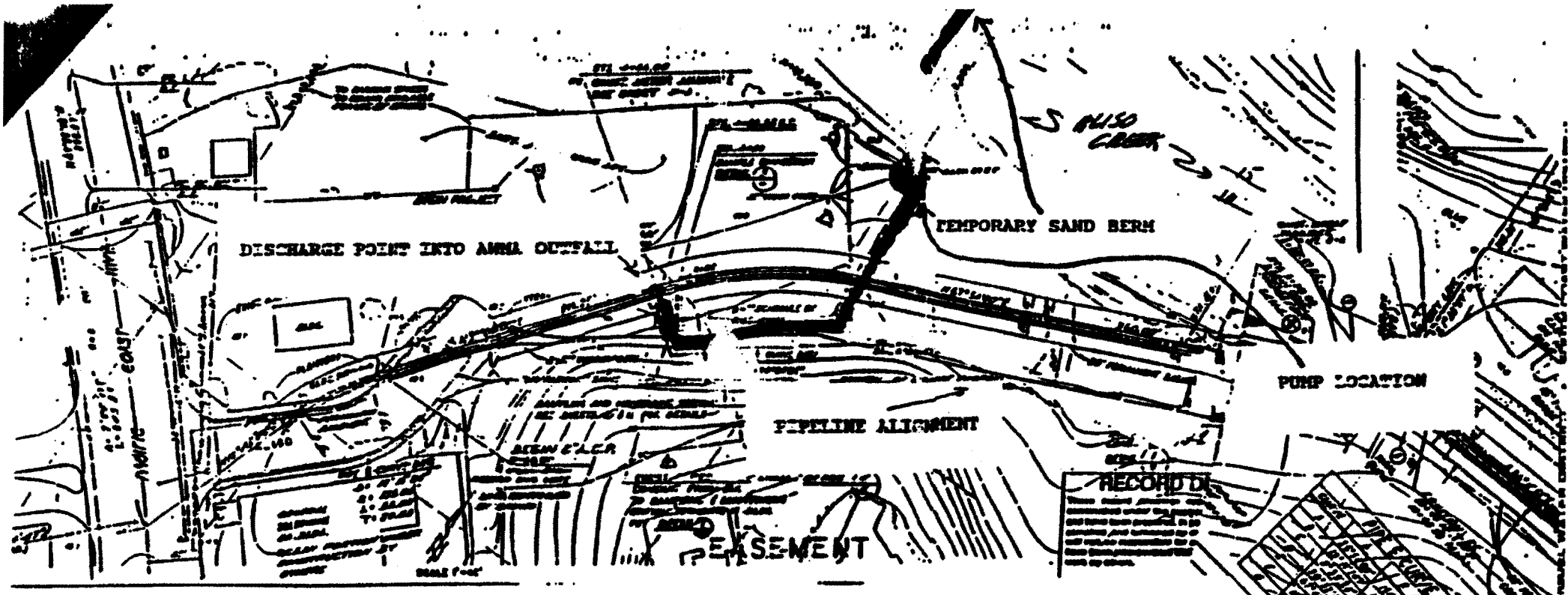
At the January 18, 1996 public hearing, concern was expressed about Aliso Creek pollution from the perspective of the entire watershed. According to the County EMA staff, the Corps of Engineers has been granted funds to restart the Aliso Creek watershed stakeholders meetings (that had come to a halt with the County bankruptcy). The County will be facilitating the meetings which are expected to begin in March or April. The Corps should be able to pursue hydrological and biological studies as well as help develop an action plan as a result of the funding. Ultimately, this process should result in substantial improvement to the pollution levels in Aliso Creek caused by urban runoff throughout the entire watershed.

RECOMMENDATION: The proposed project is recommended for approval for the test period and the 1996 summer season. As specified in the suggested conditions of approval (see the attached Resolution), the project should return for re-evaluation after the 1996 summer season.

ATTACHMENTS: Exhibit A, Site Plan and Elevation
Negative Declaration
Resolution of Approval

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 9 OF 21



A-5-LGB-97-146
COASTAL COMMISSION
City Council Agenda Bill
EXHIBIT # 9
PAGE 10 OF 21

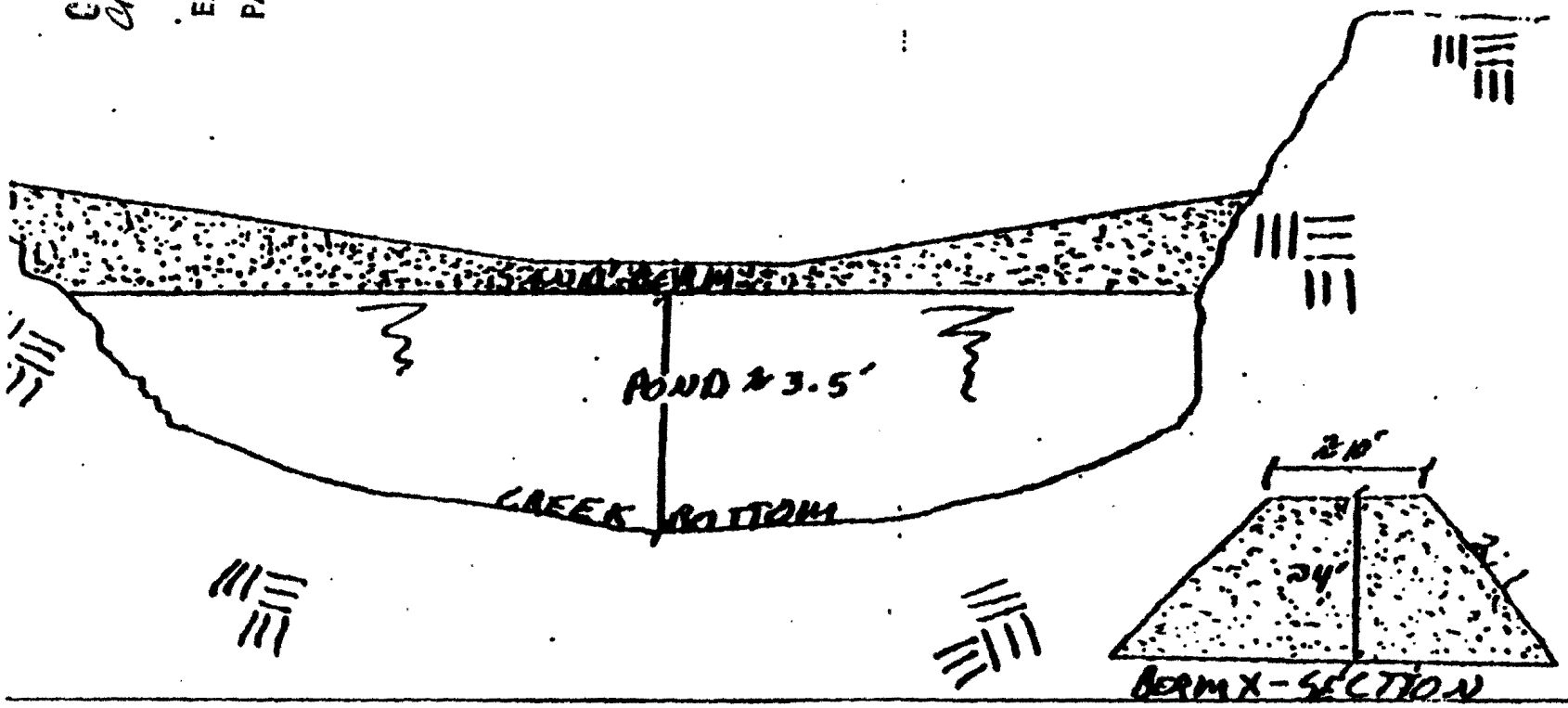
FIGURE 1 - LOCATION MAP SHOWING FACILITIES REQUIRED FOR TEMPORARY TEST PROGRAM TO DIVERT ALISO CREEK FLOWS TO THE ANNA OCEAN OUTFALL

A-5-LGB-97-146
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 11 OF 21

ALISO CREEK DIVERSION PROJECT

BERM CROSS SECTION



RESOLUTION NO. _____

A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE CITY OF LAGUNA BEACH APPROVING COASTAL DEVELOPMENT PERMIT 97-19 TO PERMIT TEMPORARY DIVERSION OF ALISO CREEK FLOWS

WHEREAS, an application has been filed by the County of Orange on behalf of the Aliso Water Management Agency (AWMA) requesting approval for a coastal development permit in accordance with the provisions of Municipal Code Chapter 25.07 to allow a temporary sand berm in Aliso Creek approximately 300 feet upstream of the Coast Highway bridge; and,

WHEREAS, the Design Review Board of the City of Laguna Beach, acting in accordance with the provisions of Municipal Code Section 25.07.014, conducted a legally noticed public hearing regarding this proposal on March 13, 1997; and,

WHEREAS, in order to ensure compliance with the Certified Local Coastal Program the following criteria were incorporated into the review of the application:

1. The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in the adopted Local Coastal Program Land Use Plan in that the project will not substantially impact the public parking area provided for Aliso Beach.
2. The proposed development will not adversely affect marine resources or environmentally sensitive areas in that the project is temporarily diverting an existing stream flow of approximately 5 cfs to a different point of ocean discharge and that discharge is under the jurisdiction of the Regional Water Quality Control Board.

COASTAL COMMISSION A-5-LGB-97-166
City Council Agenda Bill

EXHIBIT # 9
PAGE 12 OF 21

3. The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources in that the stream diversion will actually benefit Aliso Beach by removing ponded water, containing high coliform levels, that collects on the beach during the summer months.

4. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources. Flooding will not occur because the sand berm is provided with a v-notch to facilitate drainage in the case of pump failure.

5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards in that the project is proposed only for the dry season when the danger of creek erosion is negligible.

NOW, THEREFORE, the Design Review Board has made the following findings:

1. The project is in conformance with all the applicable provisions of the General Plan, including the certified local coastal program and any applicable specific plans in that the project is a temporary diversion involving minimal impact on the Aliso creek bed, and the discharge will be in compliance with standards imposed by the Regional Water Quality Control Board.

2. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that an initial study was completed and it was found that there will be no significant

environmental impact; and therefore, a negative declaration was previously prepared and reviewed.

NOW, THEREFORE, BE IT RESOLVED that coastal development permit 97-19 and the associated Negative Declaration are hereby approved to the extent indicated:

Permission is granted to allow a four-foot high temporary sand berm, with associated pumps and connection to the AWMA outfall.

BE IT FURTHER RESOLVED, that the following conditions are necessary to assure that the approval hereby authorized is in compliance with the Local Coastal Program:

1. This approval shall be valid for the 1997 summer season (May through September). This approval may be extended on an annual basis for up to five subsequent years, provided the applicant submits a request in writing for an extension and provided the Design Review Board conducts a public hearing prior to approving such extension.
2. The applicant shall obtain all necessary approvals from the Regional Water Quality Control Board prior to any diversion of the creek flow to the AWMA outfall.
3. The sand berm shall be constructed with a v-notch to allow drainage in the case of pump failure. All pumps shall be electrically operated.
4. The sand berm shall be dismantled and all piping removed from the creek by October 15, 1997.

A-5-LGB 97-166
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 14 OF 21

BE IT FURTHER RESOLVED, that the subject Coastal Development Permit shall not become effective until after an elapsed period of twenty (20) days from and after the date of authorizing such permit.

PASSED on March 13, 1997, by the following vote of the Design Review Board of the City of Laguna Beach, California.

YES:

NOES:

ABSENT:

ABSTAIN:

Chairman Oligino

Staff Representative

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 15 OF 21

COUNTY OF ORANGE
HEALTH CARE AGENCY

TOM URAM
DIRECTOR

HUGH P. STALLWORTH, M.D.
HEALTH OFFICER

JACK MILLER, REHS
DEPUTY DIRECTOR

MAILING ADDRESS:
2009 EAST EDINGER AVENUE
SANTA ANA, CA 92705-4720

TELEPHONE: (714) 667-3600
FAX: (714) 972-0749

PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 16 OF 21

March 4, 1997

A-5-LGB-97-166

John Robertus, Executive Officer
San Diego Regional Water Quality Control Board
9771 Clairemont Mesa Blvd., Suite A
San Diego, CA 92124-1331

SUBJECT: ALISO CREEK DIVERSION

Dear Mr. Robertus:

Aliso Creek receives urban runoff from a variety of non-point sources within the watershed and subsequently discharges into the ocean at Aliso Beach. Current and historical monitoring of Aliso Creek waters by the Orange County Health Care Agency (HCA) and other agencies indicate that total coliform bacteria levels are consistently elevated. Although the coliform bacteria in the creek are not typically of sewage origin, there have been intermittent, unauthorized discharges of sewage into creek waters resulting in numerous closures of portions of Aliso Beach. The creek mouth is regarded as chronically contaminated and is therefore permanently posted with warning signs stating, "Keep Out", "Contaminated Water". In spite of the signage, small children and surfers still find the creek waters attractive.

The Santa Monica Bay Restoration Project recently released the result of a large-scale epidemiology study which found, in part, that there was an increased risk of illness associated with swimming at or near flowing storm drain outlets of Santa Monica Bay. The study also recommended a number of action items including, but not limited to, preventing and controlling the discharge of pathogens into urban runoff, diverting dry weather flows to sewage treatment facilities, identifying and eliminating illegal connections to the storm drain system, initiating sanitary surveys of the watershed, and educating the public.

In response to these concerns, discussions to divert Aliso Creek waters away from Aliso Beach during dry weather periods are underway. HCA strongly supports the dry weather diversion as an interim solution to the potential public health concerns associated with the intermittent unauthorized discharges of sewage and urban runoff at Aliso Beach.

EXHIBIT C

If you have any questions, please feel free to contact me or Larry Honeybourne of my staff at (714) 667-3750.

Very truly yours,

Jack Miller, REHS, Director
Environmental Health Division

JM:dp

cc: Larry Paul, PFRD, HBP
David Carretto, AWMA
Ken Frank, City of Laguna Beach

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 17 OF 21

ROBERTUS.LTR/WQ7

Approved 4/3/97

MINUTES
BOARD OF ADJUSTMENT
REGULAR MEETING AND NOTICED HEARING
MARCH 27, 1997

Present: Al Oligino, Bob Dietrich, Ilse Lenschow, Linda Morgenlander, Horst Noppenberger

Absent: Bob Lovett (Excused Absence)

Staff: Carolyn Martin, Martha Anderson

COASTAL COMMISSION
A-5-LGB-97-166
City Council Agenda Bill
EXHIBIT # 9
PAGE 18 OF 21

PUBLIC WORKS

1. **COASTAL DEVELOPMENT PERMIT 97-19: COUNTY OF ORANGE, ALISO CREE UPSTREAM OF THE PACIFIC COAST HIGHWAY BRIDGE, APN 056-240-36, CONTINUE FROM THE MEETING OF MARCH 13, 1997, CONTINUED TO THE MEETING OF APRIL 1 1997**

The applicant requests a Coastal Development Permit to allow a temporary sand berm in Aliso Creek in orc to collect and dispose of summertime nuisance flows through diversion to an adjacent outfall line. The sa berm will be placed approximately 300 feet upstream of the Pacific Coast Highway bridge.

Staff noted a letter from the applicant requesting a continuance to the meeting of April 10, 1997.

Mr. Noppenberger made a motion, seconded by Ms. Morgenlander, to continue Coastal Development Pen 97-19, Aliso Creek Upstream of the Pacific Coast Highway Bridge, to the meeting of April 10, 1997. T motion carried unanimously.

CONDITIONAL CONSENT CALENDAR

2. **DESIGN REVIEW 97-047: CARL J. BENSON TRUST, 465 FOREST AVENUE, APN 641-264- CONTINUED FROM THE MEETI[illegible] MARCH 20, 1997, WITHDRAWN**

The applicant (Pacific Bell Mobile Services) requests Design Review to [illegible] communication equipment c commercial site in the CBD – 2 Downtown Commercial Zone.

Design Review 97-047 was approved at the meeting of March 20, 1997, on the condition that the projec brought back on the Conditional Consent Calendar at the meeting of March 27, 1997, with the conditions forth by the Planning Commission included on the plans.

Staff noted a request from the applicant for withdrawal. Chairman Oligino said that in the case c withdrawal, no action was necessary.

3. **VARIANCE APPLICATION 6394 AND DESIGN REVIEW 97-049: YANK AND RICKIE SEFT 2177 GLENNEYRE STREET, APN 644-283-06, CONTINUED FROM THE MEETING OF MAR 20, 1997, APPROVED**

The applicant requests a Variance in the R-2 Zone to construct additions to an historic single-family resid that do not provide the required on-site turnaround, including Design Review not necessarily limite additions that exceed 50% of the original structure, additions above the ground floor level, encroachment the additional rear setback, grading. (Historic Register K)

Approved 4/17/97

April 10, 1997

MINUTES
BOARD OF ADJUSTMENT
REGULAR MEETING AND NOTICED HEARING
APRIL 10, 1997

Present: Al Oligino, Bob Dietrich, Ilse Lenschow, Bob Lovett Linda Morgenlander, Horst Noppenberger

Absent: None

Staff: John Tilton, Carolyn Martin, Martha Anderson

COASTAL COMMISSION
A-5-LGB-97-166
City Council Agenda Bill
EXHIBIT # 9
PAGE 19 OF 21

PUBLIC WORKS

1. **COASTAL DEVELOPMENT PERMIT 97-19: COUNTY OF ORANGE, ALISO CREEK UPSTREAM OF THE PACIFIC COAST HIGHWAY BRIDGE, APN 056-240-36, CONTINUED FROM THE MEETING OF MARCH 27, 1997. DENIED**

The applicant requests a Coastal Development Permit to allow a temporary sand berm in Aliso Creek in orde to collect and dispose of summertime nuisance flows through diversion to an adjacent outfall line. The san berm will be placed approximately 300 feet upstream of the Pacific Coast Highway bridge.

Ms. Lenschow participated for Mr. Dietrich, who had not been present at the initial hearing.

Testimony in Support: Michael Wellborn, Senior Planner with the County of Orange Planning an Development Services Department, said the proposed project attempts to take contaminated water from th beach and redirect it to the ocean. He presented a diagram depicting the proposed sand berm location and it relation to the Aliso Creek Inn and Golf Course. Last year's concern had been noise and odor from a diese pump. The proposed electric pump, which would be housed in a building adjacent to the AWMA line near th County's parking lot, would eliminate those concerns. The proposed sand berm would be 4 feet in height an would be located 600 feet from the nearest structures of the motel and 800 feet from the golf course. Pum failure is not anticipated, but should that occur, w[illegible]uld back up behind the [illegible] and pour over it, thu degrading it within two hours. This would eliminate [illegible]p water. Water will not [illegible] flow onto the gol course. and it would be a less stagnant situation than currently exists. Mr. Wellborn feels the key issues hav been resolved and did not understand why the City would not want to join AWMA, the County and Sout Coast Water District in supporting the proposed project. Mr. Wellborn remarked that the opposition is wel intentioned, but they are looking for a miracle from a shoestring budget. This is a short-term, simple approach hopefully within five years a better solution will be found. Mr. Wellborn said it was time to move forward fo the health and safety of the people using the beach.

Mr. Oligino asked, given the fact that the proposed berm would be relatively inexpensive to build, if the Count would object to a test to see what sort of nuisance might be created should the pump fail. Mr. Wellborn sai they would be happy to accept that condition.

Mike Dunbar, General Manager of South Coast Water District, said Aliso Creek is in his district, and he ha worked with Mr. Wellborn. The SCWD board feels the proposed project will benefit the community.

Testimony in Opposition: Ed Slymen, General Manager of Aliso Creek Inn, said the only time he had bee contacted was to acknowledge receipt of an indemnification letter. The first time he has seen a design was tha evening. He did not understand why a 4-foot berm was necessary and suggested a 1-foot berm might be

adequate. He wanted to know the diameter of the pipe and said he would like to see the engineering calculations. He said that the proposed project affects the complete use and enjoyment of the Aliso Creek Inn property by guests and employees and amounts to reverse condemnation. Nothing has changed in his mind since last the last meeting. This is not a quick fix, but a relocation of the same problem—stagnant contaminated water.

Jinger Wallace, representing *Village Laguna*, asked the board to consider a long-term approach which would put the remedy closer to the source of pollution rather than approving a quick fix, which merely puts it out of sight into the ocean, where it would still be a problem for beach goers. She suggested processing the polluted water through the sewer treatment plant.

John Keith, Vice President of *South Laguna Civic Association* said the board has struggled with the problem for months. They are concerned that pollutants originating inland result in contamination of Aliso Creek and Aliso Beach. The water should be treated before being released into the ocean. *SLCA* suggested that a detention basin/wetlands area upstream using marsh vegetation could provide a filtration system nearer the source of the pollution. *SLCA* is concerned that if the City accepts this short-term fix, efforts to provide a permanent solution will cease.

Michael Beanan, commenting that this had been a chronic problem, cited a March 26, 1997, *L.A. Times* article identifying Aliso Creek as one of the ten worst polluted areas in California. He thanked the board for its consideration of the proposed project, but suggested that perhaps Design Review was not the appropriate forum for a problem of this magnitude. Mr. Beanan wanted the record to reflect that the *L.A. Times* article mentioned a number of pollutants including heavy metals, copper, arsenic, cadmium, mercury, DDT, chromium, lead, nickel and zinc present in the water of the creek.

Mr. Beanan charged that every year the County presents a contrived emergency and asks for approval of a quick fix. The ocean habitat is deteriorating seriously as a result of the ongoing pollution from Aliso Creek. The polluted area is a major thoroughfare for marine mammals. Mr. Beanan said that the natural watershed has been aggravated by residential and industrial development, and he does not believe it is appropriate to use a canyon or wetlands as a cesspool for inland development. If the berm is a good idea, the County should be berming further upstream; i.e., every mile east of Aliso Woods Canyon. There are some retention basins already in place. He felt the City Council should provide leadership to restore the wetlands at the mouth of the creek to a natural setting. Mr. Beanan said the Negative Declaration is completely inappropriate. He has spoken with the Coastal Commission about the problem, and the Coastal Commission is not in favor of dumping untreated, highly polluted water into the ocean. If the board approves the proposed project, it will be an embarrassment to the community.

In response to a question from Mr. Noppenberger, Mr. Beanan said that he felt approval of the proposed "quick fix" would present less compelling reasons for the County to effect a long-term solution, thus causing delay of a comprehensive program.

Rebuttal: Mr. Wellborn said the diameter of the pipe would be between 6 and 12 inches, depending on the specific pump used. In regard to the request for indemnification, Counsel has advised him not to comment. He understands the *SLCA* concerns of pollution; that is why the County has proposed this design until something better can be found. The County's focus is the health issue—getting the contaminated water off the beach. Ms. Morgenlander asked why locating the berm upstream was a bad idea. Mr. Wellborn said that would affect AWMA's permit with the Regional Water Control Board which regulates the operation and outfall of the sewage treatment plant. It would also require substantial construction cost investment, not just a pipe into the treatment plant.

COASTAL COMMISSION
A-5-LGB-97-166
City Council Agenda Bill
EXHIBIT # 9
PAGE 20 OF 21

Boardmembers' Comments: Mr. Noppenberger said that when the project was initially presented, he was in favor of it because he felt it was better than no solution at all. He had been swayed by *SLCA* testimony that evening. Living in South Laguna and having a two-year old son, Mr. Noppenberger said he was concerned about the quality of the ocean. He felt compelled to vote *no* because a *yes* vote would mean a considerable delay in the length of time before a more long-lasting solution could be found.

Ms. Morgenlander said that at the last hearing she had wanted an opportunity to visit Aliso Creek Inn. She had also wanted to give the applicant an opportunity to meet with the Aliso Creek Inn staff to address their concerns, but that did not happen to her satisfaction. She was uncomfortable giving an approval based on inadequate studies. It sounded as though there were alternatives, though political problems might prevent pursuing those alternatives. She did not feel the board should have to approve a project that may be irresponsible. She felt that some constructive conversations among the stakeholders needed to take place with the plans brought back to the board. She felt that possibly the proposed project could be approved at a future date, but she would vote for a continuance that evening

Mr. Lovett noted the conversation was the same at the last hearing. The stream is polluted and will continue to damage the ocean environment regardless of what happens with the berm. That is not a problem that the board can solve. The board is being asked to approve a quick fix solution for a health problem on the beach. The long-term issue is to clean up the stream. Mr. Lovett did not like to see pollution diverted into the ocean. He commented that the larger issue should have been solved, and they should not even be having this meeting. He is still concerned with backup of water and stagnation. He could agree with the idea of testing the berm and pump and if it did not work, send it back to the County. On that basis he could approve something that had a time frame and parameters set so as to make an accurate judgment of its effectiveness. He agrees with the opposition that it is not the solution to the problem, but it might be a solution to the health problem in the short run.

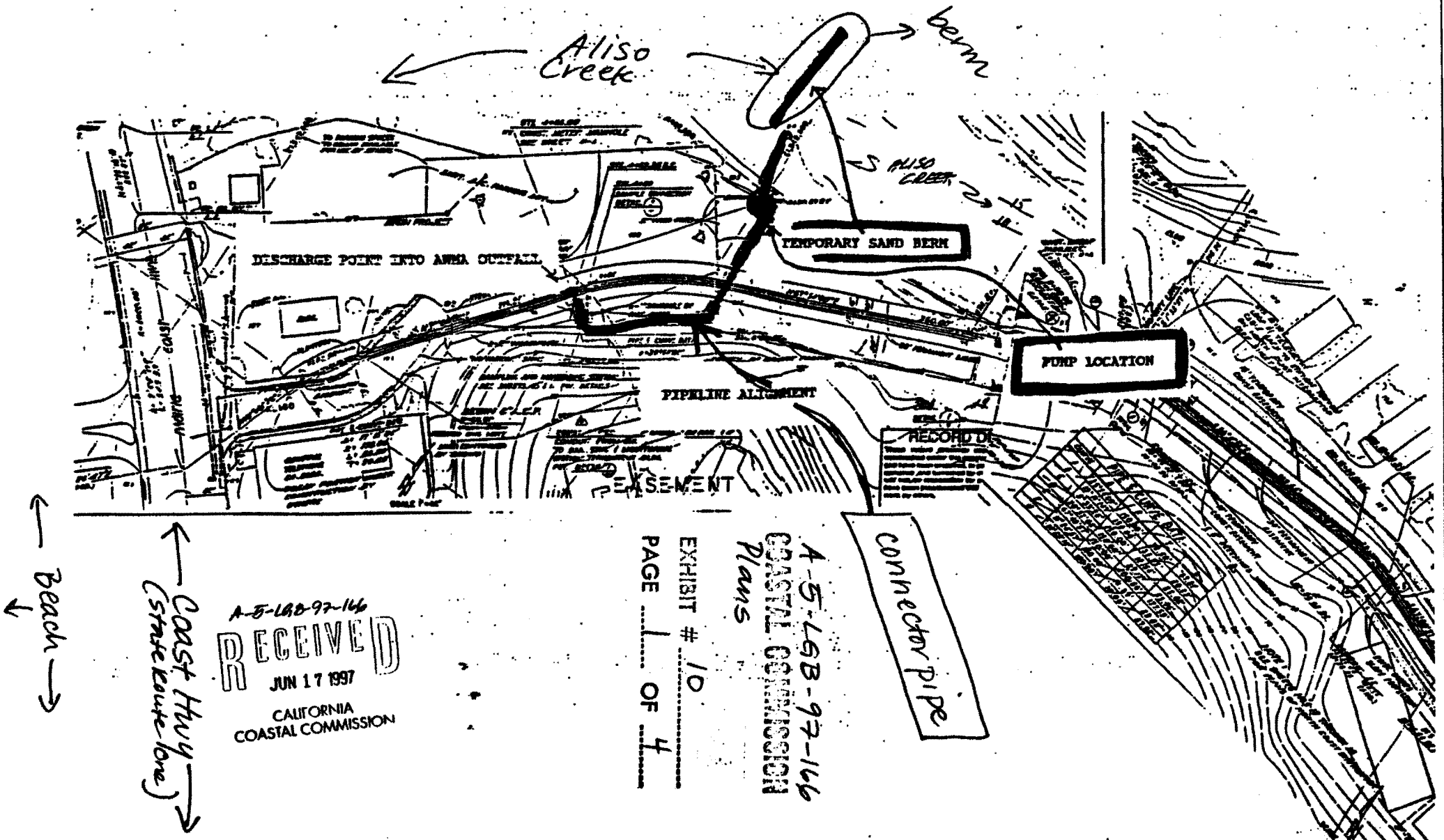
Ms. Lenschow felt as she had previously. She had a problem with the time limit; a temporary solution for five years becomes a permanent solution. This is a Band-Aid that moves pollution from one location to another when they should be looking at an alternative design. She felt the water should be moved more quickly so it does not back up to Aliso Creek Inn. She wanted to know the actual size of the pipe, because that will determine how quickly the water can flow. She thought perhaps the berm should be lower and wondered how far the water will back up, should the pump fail. She could not approve the proposed project that evening.

Mr. Oligino said the larger issue is not within the board's purview; they can only look at what is before them. The water presents an attractive nuisance to children, and while he does not like dumping polluted water into the ocean, it is better than having it on the beach. The concerns are the same as last time with no additional information since then. Mr. Slymen's comment about lack of information is valid. At the last hearing, Mr. Oligino commented that the information available to the board was sketchy, and he would like to see something more concrete. What has been presented at this hearing is not much better than the last time. There are no drawings stamped with an engineer's seal. He would like to see the engineer's calculations telling how the project would be built, how and why it works, then a test. Assuming all this happened to his satisfaction, Mr. Oligino would only give his support for a limited time to assure it actually works, and then on a year-to-year basis.

At the request of the applicant, Ms. Morgenlander made a motion, seconded by Ms. Lenschow, to deny Coastal Development Permit 97-19, County Of Orange, Aliso Creek Upstream of the Pacific Coast Highway Bridge. The motion carried unanimously.

A-5-LGB-97-166
COASTAL COMMISSION
City Council Agenda Bill

EXHIBIT # 9
PAGE 21 OF 21

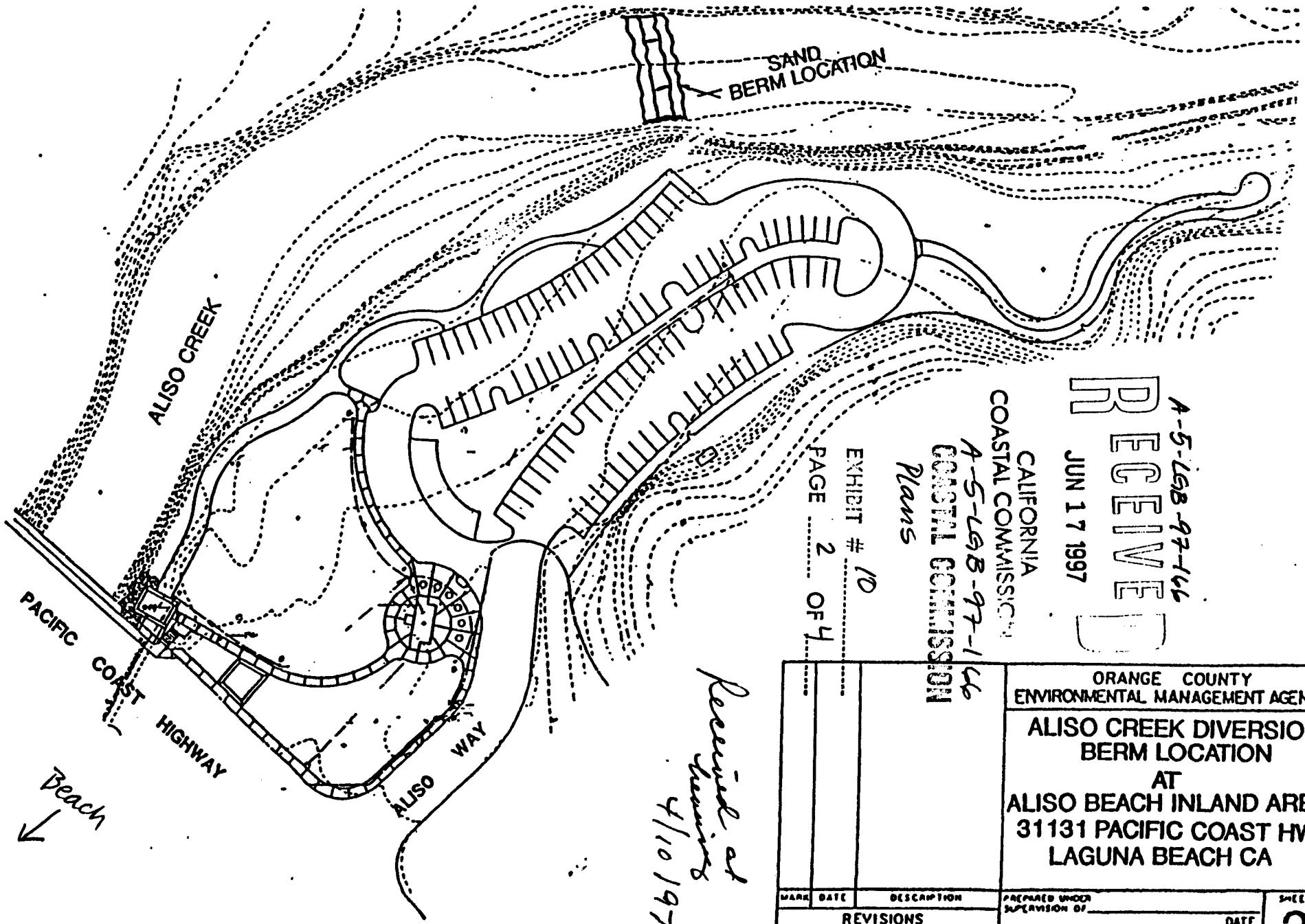


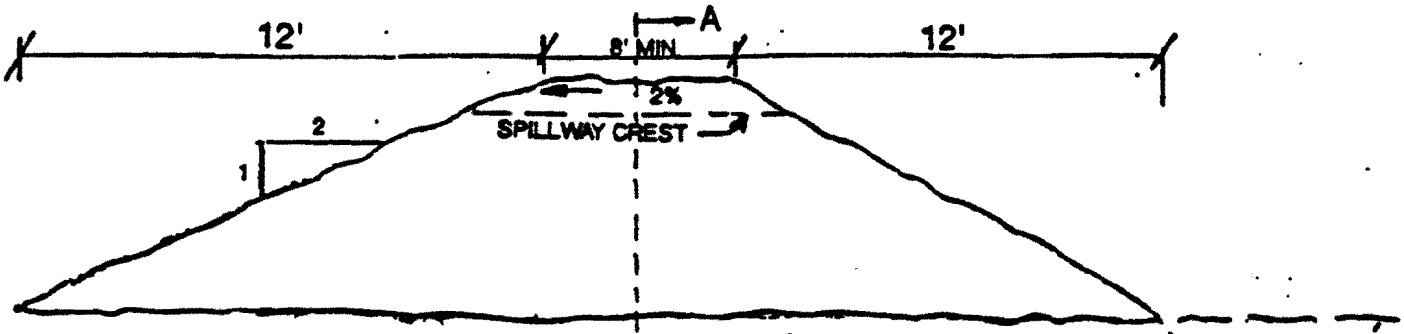
A-5-LGB-97-166
RECEIVED
JUN 17 1997
CALIFORNIA
COASTAL COMMISSION

A-5-LGB-97-166
COASTAL COMMISSION
Plans
EXHIBIT # 10
PAGE 1 OF 4

FIGURE 1 - LOCATION MAP SHOWING FACILITIES REQUIRED FOR TEMPORARY TEST PROGRAM TO DIVERT ALISO CREEK FLOWS TO THE ANNA OCEAN OUTFALL

ALISO CREEK BEACH INLAND AREA

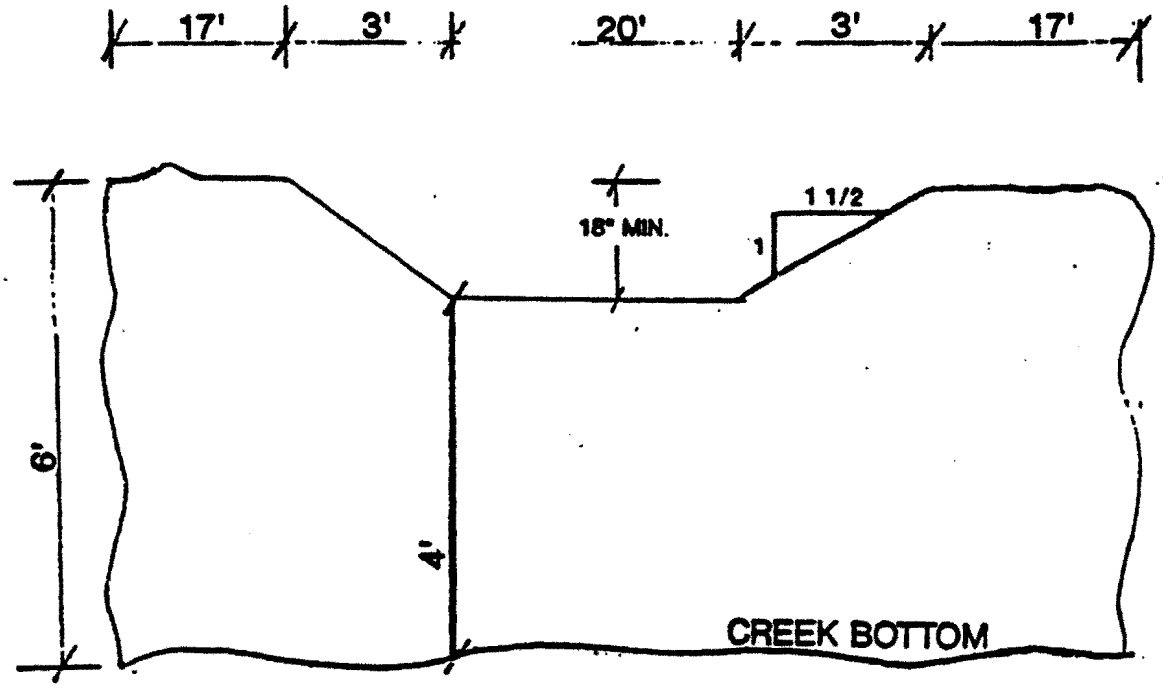




BERM SECTION
NO SCALE

A-5-LGB-97-166
COASTAL COMMISSION
Plans

EXHIBIT # 10
PAGE 3 OF 4



SECTION AA

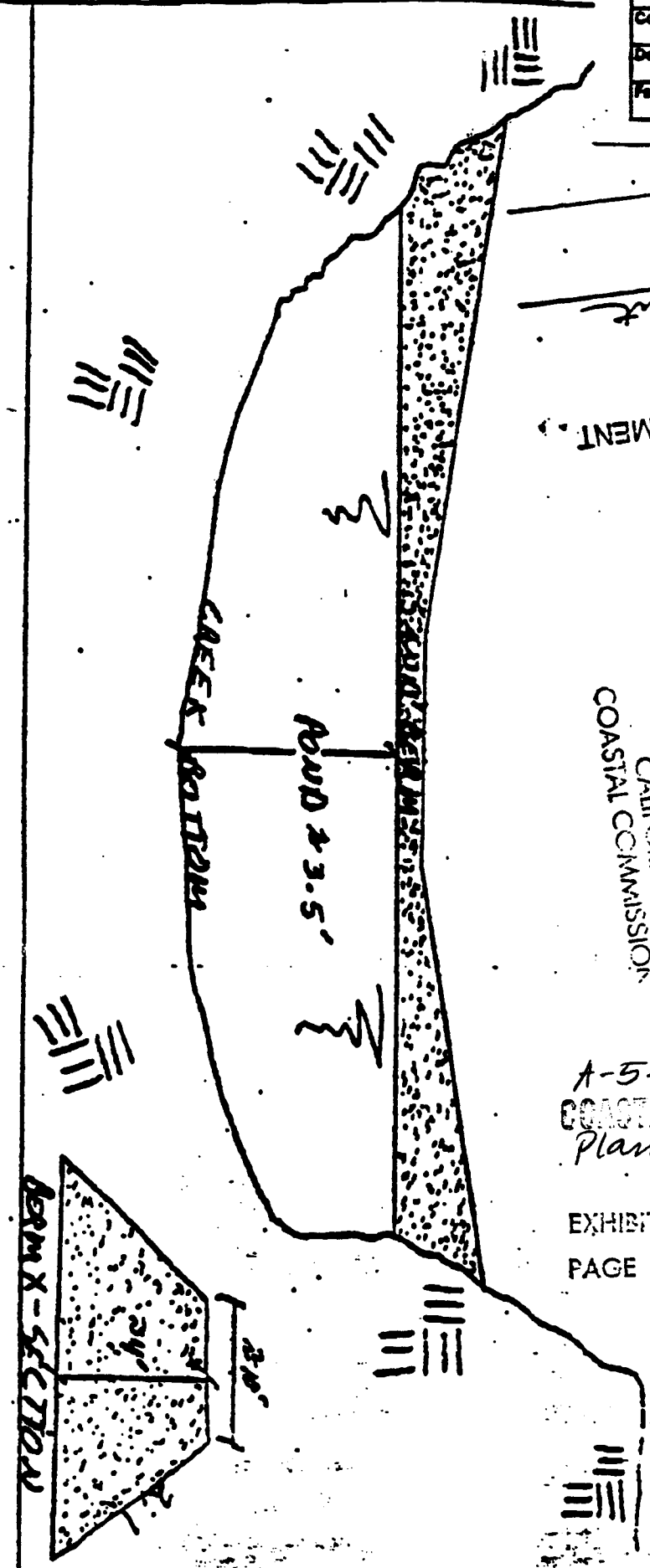
ORANGE COUNTY
ENVIRONMENTAL MANAGEMENT AGENCY

ALISO CREEK DIVERSION BERM
CROSS SECTION
AT
ALISO CREEK BEACH
31131 PACIFIC COAST HWY
LAGUNA BEACH CA

FIGURE 3

Post-it™ brand transmittal memo 7671 | # of pages ▸ 1

To KATHY HOTTES	From MIKE WELLBO
Co. CITY OF LAGUNA	Co. OC SWA
Dept. PLANNING	Phone # 834-2481
Fax # 497-0771	Fax # 834-4652



DATE 4/10/97

SIGNATURE

BOARD OF ADJUSTMENT
DENIED

ALISO CREEK DIVERSION PROJECT
BERM CROSS SECTION

A-5-LGB-97-166
RECEIVED
JUN 17 1997
CALIFORNIA
COASTAL COMMISSION

A-5-LGB-97-166
COASTAL COMMISSION
Plans

EXHIBIT # 10
PAGE 4 OF 4

TOM URAM
DIRECTOR

HUGH A. STALLWORTH, M.D.
HEALTH OFFICER

JACK MILLER, REHS
DEPUTY DIRECTOR

MAILING ADDRESS:
2009 EAST EDINGER AVENUE
SANTA ANA, CA 92705-4720

TELEPHONE: (714) 667-3600
FAX: (714) 972-0749

COUNTY OF ORANGE
HEALTH CARE AGENCY

PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH

COASTAL COMMISSION
A-5-LGB-97-166

March 4, 1997

EXHIBIT # 11
PAGE 1 OF 2

RECEIVED
JUN 17 1997
A-5-LGB-97-166
CALIFORNIA
COASTAL COMMISSION

John Robertus, Executive Officer
San Diego Regional Water Quality Control Board
9771 Clairemont Mesa Blvd., Suite A
San Diego, CA 92124-1331

SUBJECT: ALISO CREEK DIVERSION

Dear Mr. Robertus:

Aliso Creek receives urban runoff from a variety of non-point sources within the watershed and subsequently discharges into the ocean at Aliso Beach. Current and historical monitoring of Aliso Creek waters by the Orange County Health Care Agency (HCA) and other agencies indicate that total coliform bacteria levels are consistently elevated. Although the coliform bacteria in the creek are not typically of sewage origin, there have been intermittent, unauthorized discharges of sewage into creek waters resulting in numerous closures of portions of Aliso Beach. The creek mouth is regarded as chronically contaminated and is therefore permanently posted with warning signs stating, "Keep Out", "Contaminated Water". In spite of the signage, small children and surfers still find the creek waters attractive.

The Santa Monica Bay Restoration Project recently released the result of a large-scale epidemiology study which found, in part, that there was an increased risk of illness associated with swimming at or near flowing storm drain outlets of Santa Monica Bay. The study also recommended a number of action items including, but not limited to, preventing and controlling the discharge of pathogens into urban runoff, diverting dry weather flows to sewage treatment facilities, identifying and eliminating illegal connections to the storm drain system, initiating sanitary surveys of the watershed, and educating the public.

In response to these concerns, discussions to divert Aliso Creek waters away from Aliso Beach during dry weather periods are underway. HCA strongly supports the dry weather diversion as an interim solution to the potential public health concerns associated with the intermittent unauthorized discharges of sewage and urban runoff at Aliso Beach.

Letter from Jack Miller

If you have any questions, please feel free to contact me or Larry Honeybourne of my staff at (714) 667-3750.

Very truly yours,

Jack Miller, REHS, Director
Environmental Health Division

JM:dp

cc: Larry Paul, PFRD, HBP
David Carretto, AWMA
Ken Frank, City of Laguna Beach

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 11
PAGE 2 OF 2

Letter from the Orange County Health Care Agency to the San Diego Regional Water Quality Control Board

ROBERTUS.LTR/WQ7

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY PETE WILSON, Governor

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9771 CLAIREMONT MESA BOULEVARD, SUITE B
SAN DIEGO, CA 92124-1331
TELEPHONE: (619) 467-2952
FAX: (619) 571-6972

RECEIVED
OCT 16 1995
A.W.M.A.

October 12, 1995

Mr. William Becker
General Manager
Aliso Water Management Agency
30290 Rancho Viejo Road
San Juan Capistrano, CA 92675

Dear Mr. Becker:

I have reviewed your proposal for diversion of Aliso Creek flows into the AWMA Ocean Outfall. I understand a two week testing period will occur in October and, if successful, a longer project operation would occur next summer. You specifically asked for approval to pump approximately 7 cfs of Aliso Creek flow into the AWMA Ocean Outfall during the October test period.

It is my opinion that the temporary diversion of 7 cfs to the currently used AWMA Ocean Outfall can be made under the existing permit. If you proceed with the test it will be necessary to ensure that the existing effluent monitoring program includes the diverted flow. Also, you should be aware that AWMA will be responsible for meeting all permit conditions during the test period.

I noted in the information you sent me that use of the abandoned South Coast Water District outfall is also being considered for this project. A discharge through this outfall will require a new NPDES permit. Application for this permit must be submitted at least 180 days in advance of the discharge date. You should also be aware that without facilities to treat the diverted flows compliance with the permit conditions may not be possible.

Please call me at the number on the letterhead if you need any additional information.

Very truly yours,

Arthur L. Coe
EXECUTIVE OFFICER

A-5-LGB-97-166
RECEIVED
JUN 17 1997
CALIFORNIA
COASTAL COMMISSION

COASTAL COMMISSION
A-5-LGB-97-166

EXHIBIT # 12
PAGE 1 OF 1

Table 12.6. Water Quality of AWMA Ocean Outfall Effluent, December 1989

Constituent	Unit	Monthly Average	Limitations (30-Day Average)
Total Suspended Solids (T.S.)	mg/L	6.6	30
Settleable Solids	mg/L	0.0	1.0
C.B.O.D.	mg/L	4.34	25
Oil & Grease	mg/L	5.0	25
pH	units	7.4	6.0-9.0
Temperature	°C	6.0-9.0	N/A
Turbidity	NTU	3.6	75
Ammonia-Nitrogen	mg/L	13.7	640*
Cyanide	mg/L	0.05	1*
Arsenic	ug/L	3	7800*
Cadmium	ug/L	4	1000*
Chromium (Hexavalent)	ug/L	5	2000*
Copper	ug/L	17	2700*
Lead	ug/L	14	2000*
Mercury	ug/L	0.4	40*
Nickel	ug/L	19	5300*
Silver	ug/L	1	440*
Zinc	ug/L	82	19000*
Phenols (Chlorinated & non-chlorinated)	mg/L	0.02	1000*
Hexacholorocyclohexanes	ug/L	0.02	0.1
DDT	ug/L	0.04	0.083
Chlordane	ug/L	0.1	0.011
Endrin	ug/L	0.02	1*
Toxaphene	ug/L	0.1	0.1
Polychlorinated Biphenyls (PCBs)	ug/L	0.1	0.009
Aldrin & Dieldrin	ug/L	0.01	0.011

Note: *Indicates daily maximum limitations

or relocation.[7] Estimated costs for relocating the Effluent Transmission Main range between 3 and 4 million dollars. Moulton Niguel Water District also has an 18-inch sewer line, which runs parallel to the ETM, which has burst several times over the last 10 to 15 years and has cost the

Feb. 1997 Army Corps of Engineers Report

COASTAL COMMISSION
A-5-LGB-97-166

[7] Pers., Comm. Matt Smith, Engineer, AWMA

AWMA Bacteriological Monitoring Program (MPN/100 ml)

STATION	Location Description	5/1/96	5/2/96	5/7/96	5/8/96	5/9/96	5/14/96	5/15/96	5/16/96	5/21/96
[illegible] BEACH [illegible]										
OLB16 / S16	Laguna Hotel	NA	50	4	NA	230	40	NA	70	130
OLB15 / S15	Projection of Mountain Rd.	NA	<10	<2	NA	<10	20	NA	20	10
OLB14 / S14	Victoria Beach	NA	<10	4	NA	<10	8	NA	<10	<10
OLB13 / S13	Blue Lagoon	NA	<10	8	NA	<10	6	NA	20	<10
[illegible]										
OSL12 / S12	Treasure Island Pier	14	<10	<2	4	20	4	<10	10	<10
OSL11 / S11	Treasure Island Sign	10	<10	14	4	<10	10	<10	10	<10
OSL10 / S10	Aliso-North	10	<10	<2	6	<10	12	<10	30	10
OSL09 / S09	Aliso-Middle	<10	80	200	<100	10	10	<10	160	60
OSL08 / S08	Aliso-South	12	<10	40	30	16	12	10	30	70
OSL07 / S07	Camel Point	10	<10	2	12	<2	10	<10	<10	10
OSL06 / S06	Table Rock	NA	<10	12	NA	2	12	NA	20	10
OSL05 / S05	Laguna Lido Apt.	NA	20	<2	NA	2	8	NA	40	<10
OSL04 / S04	9th St. 1000 Steps Beach	NA	<10	10	NA	6	4	NA	10	10
OSL03 / S03	Three Arch Bay	NA	<10	28	NA	<2	6	NA	20	10
[illegible]										
CABAC / C1	Aliso Creek Mouth	1100	1200	2000	<100	400	1200	500	900	700
CABAC / C1	Aliso Creek Mouth / Fecal Coli.	1100	900	400	100	700	600	500	<100	600
[illegible]										
OSL02 / S02	Salt Creek Beach	NA	<10	10	NA	2	4	NA	<10	20
OOP01 / S01	Marine Studies Inst. Beach	NA	60	4	NA	2	4	NA	20	450

Aliso Beach offshore waters

COMMENTS: 6/4 & 6/8 sampled at low tide; Aliso Creek runoff just north of S9; no runoff at S16; no other runoff noted.
Aliso Creek emptied at S9 on 6/11 and 6/13; runoff noted at S16 6/11.
6/17 - 6/19 Aliso Creek empties near S9

NA - Data not available; not a scheduled sampling day.

A-5-LGB-97-166
COASTAL COMMISSION
coliform counts

EXHIBIT # 14
PAGE 1 OF 4

AWMA Bacteriological Monitoring Program (MPN/100 ml)

Aliso Beach offshore waters

STATION	Location Description	5/22/96	5/23/96	5/28/96	5/29/96	5/30/96	6/4/96	6/5/96	6/6/96	6/11/96
[illegible]										
OLB16 / S16	Laguna Hotel	NA	10	320	NA	850	10	NA	740	190
OLB15 / S15	Projection of Mountain Rd.	NA	<10	30	NA	100	<10	NA	<10	<10
OLB14 / S14	Victoria Beach	NA	20	<10	NA	70	4	NA	<10	<10
OLB13 / S13	Blue Lagoon	NA	<10	10	NA	<10	2	NA	<10	10
[illegible]										
OSL12 / S12	Treasure Island Pier	<10	<10	<10	<2	<10	16	8	20	<10
OSL11 / S11	Treasure Island Sign	<10	<10	<10	<2	<10	<2	2	<10	<10
OSL10 / S10	Aliso-North	<10	10	20	<10	10	28	6	60	10
OSL09 / S09	Aliso-Middle	290	70	30	110	140	180	20	110	480
OSL08 / S08	Aliso-South	30	10	20	50	20	<2	4	20	10
OSL07 / S07	Camel Point	10	10	<10	<2	<10	<2	6	<10	<10
OSL06 / S06	Table Rock	NA	10	30	NA	30	<2	NA	10	<10
OSL05 / S05	Laguna Lido Apt.	NA	<10	10	NA	30	<2	NA	<10	20
OSL04 / S04	9th St. 1000 Steps Beach	NA	<10	<10	NA	20	<2	NA	<10	20
OSL03 / S03	Three Arch Bay	NA	<10	10	NA	10	4	NA	10	<10
[illegible]										
CABAC / C1	Aliso Creek Mouth	5600	2700	7200	400	4400	1700	700	3700	1700
CABAC / C1	Aliso Creek Mouth / Fecal Coli.	500	1000	1300	300	1400	700	400	700	1800
[illegible]										
OSL02 / S02	Salt Creek Beach	NA	<10	<10	NA	1500	10	NA	10	<10
ODP01 / S01	Marine Studies Inst. Beach	NA	10	10	NA	<10	170	NA	40	<10

COMMENTS: 6/4 & 6/6 sampled at low tide; Aliso Creek runoff just north of S9; no runoff at S16; no other runoff noted.
Aliso Creek emptied at S9 on 6/11 and 6/13; runoff noted at S16 6/11.
6/17 - 6/19 Aliso Creek empties near S9

NA - Data not available; not a scheduled sampling day.

A-5-LGB-97-166
COASTAL COMMISSION
coliform counts

EXHIBIT # 14
PAGE 2 OF 4

AWMA Bacteriological Monitoring Program (MPN/100 ml)

STATION	Location Description	8/21/96	8/22/96	8/27/96	8/28/96	8/29/96	9/4/96	9/5/96	9/6/96
LAGUNA BEACH (surf zone)									
OLB16 / S16	Laguna Hotel	NA	20	<10	NA	2100	10	6	NA
OLB15 / S15	Projection of Mountain Rd.	NA	<10	<10	NA	20	20	4	NA
OLB14 / S14	Victoria Beach	NA	<10	<10	NA	<10	<10	2	NA
OLB13 / S13	Blue Lagoon	NA	20	<10	NA	<10	10	<10	NA
ALISO BEACH (surf zone)									
OSL12 / S12	Treasure Island Pier	10	<10	<10	10	<10	<10	<10	<10
OSL11 / S11	Treasure Island Sign	100	<10	20	100	<10	10	20	<10
OSL10 / S10	Aliso-North	<10	20	10	<10	<10	10	10	<10
OSL09 / S09	Aliso-Middle	60	40	90	60	<10	20	20	10
OSL08 / S08	Aliso-South	<10	60	20	<10	<10	<10	<10	<10
OSL07 / S07	Camel Point	10	10	<10	10	<10	20	<10	<10
OSL06 / S06	Table Rock	NA	<10	<10	NA	<10	<10	<10	NA
OSL05 / S05	Laguna Lido Apt.	NA	<10	30	NA	<10	40	<10	NA
OSL04 / S04	9th St. 1000 Steps Beach	NA	<10	<10	NA	<10	<10	<10	NA
OSL03 / S03	Three Arch Bay	NA	20	<10	NA	<10	10	10	NA
ALISO CREEK									
CABAC / C1	Aliso Creek Mouth	800	400	1700	800	300	2200	1800	2700
CABAC / C1	Aliso Creek Mouth / Fecal Coll.	300	<100	200	300	<100	400	800	<100
DANA POINT (surf zone)									
OSL02 / S02	Salt Creek Beach	NA	<10	50	NA	<10	10	30	NA
ODP01 / S01	Marine Studies Inst. Beach	NA	10	<10	NA	<10	<10	20	NA

COMMENTS 8/6, 8/7 & 8/8: Aliso Creek empties north of S9; no runoff noted at S16.
8/13 & 8/15: Aliso Creek enters surfzone north of S9; no runoff at S16.
CW/NC: Confluent with non-coliform growth. 8/14: Aliso Creek empties near S9; CW/C - confluent with coliform present.
8/20, 8/22, 8/27, 8/29: Aliso Creek emptied at S9: no runoff at S16
8/21 - Aliso Creek empties near S9
9/6: Aliso Creek enters surfzone near S9.
NA - Data not available; not a scheduled sampling day.

A-5-LGB-97-166
COASTAL COMMISSION
coliform counts

EXHIBIT # 14
PAGE 3 OF 4

RECEIVED
JUN 19 1997
CALIFORNIA
COASTAL COMMISSION

Date: 10/3/96 Time: 13:25:25

From: County of Orange To: Monica Mayer

AWMA Bacteriological Monitoring Program (MPN/100 ml)

STATION	Location Description	9/6/96	9/10/96	9/11/96	9/12/96	9/17/96	9/18/96	9/19/96	9/24/96	9/25/96	9/26/96
LAGUNA BEACH (surf zone)											
OLB16 / S16	Laguna Hotel	NA	62	NA	44	18	NA	52	<10	NA	<2
OLB15 / S15	Projection of Mountain Rd.	NA	<2	NA	2	2	NA	8	<10	NA	6
OLB14 / S14	Victoria Beach	NA	8	NA	4	8	NA	8	40	NA	<2
OLB13 / S13	Blue Lagoon	NA	<2	NA	<2	2	NA	6	10	NA	8
ALISO BEACH (surf zone)											
OSL12 / S12	Treasure Island Pier	<10	2	<10	4	28	42	6	<10	40	12
OSL11 / S11	Treasure Island Sign	<10	8	<10	2	6	12	18	<10	<10	4
OSL10 / S10	Aliso-North	<10	2	<10	8	<2	34	4	60	<10	10
OSL09 / S09	Aliso-Middle	10	130	140	68	64	220	<10	54	20	10
OSL08 / S08	Aliso-South	<10	56	20	46	60	30	<2	10	18	27
OSL07 / S07	Camel Point	<10	2	10	<2	14	66	8	10	6	6
OSL06 / S06	Table Rock	NA	<2	NA	2	<2	NA	2	40	NA	2
OSL05 / S05	Laguna Lido Apt.	NA	8	NA	2	4	NA	4	30	NA	4
OSL04 / S04	9th St. 1090 Steps Beach	NA	6	NA	2	20	NA	2	80	NA	6
OSL03 / S03	Three Arch Bay	NA	<2	NA	38	4	NA	8	20	NA	30
ALISO CREEK											
CABAC / C1	Aliso Creek Mouth	2700	1700	2000	2300	320	2300	CW/C	290	2000	1640
CABAC / C1	Aliso Creek Mouth / Fecal Coll.	<100	1100	<100	300	130	600	600	36	100	640
DANA POINT (surf zone)											
OSL02 / S02	Salt Creek Beach	NA	220	NA	4	17	NA	6	10	NA	25
ODP01 / S01	Marine Studies Inst. Beach	NA	20	NA	4	8	NA	2	<10	NA	4

COMMENTS: 9/29, 9/24, 9/26: Aliso Creek empties at S9: no runoff at S16
9/10, 9/12, 9/17, 9/18, 9/19, 9/25: Aliso Creek emptied near S9
9/6, 9/11: Aliso Creek enters surfzone near S9.
9/10, 9/12: No runoff at S16.
9/17: possible runoff noted at S16.
NA- not a scheduled sampling day.

A-5-LGB-97-166
COASTAL COMMISSION
coliform counts

EXHIBIT # 14
PAGE 4 OF 4