

**CALIFORNIA COASTAL COMMISSION**

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

**Item No.: Tu.15.a.**

Appeal Filed: May 30, 1997

Found Substantial Issue: July 9, 1997

Staff: John T. Auyong *JTA*

Staff Report: January 20, 1998

Hearing Date: February 3, 1998

Commission Action:

STAFF REPORT: DE NOVO (APPEAL)

RECORD PACKET COPY

DE NOVO APPLICATION NO.: A-5-LGB-97-166 (De Novo)

APPLICANT: County of Orange

AGENT: Mike Wellborn (County of Orange, Planning and Development Services)

APPELLANTS: Rico Dagomel; Aliso Creek Inn (d.b.a. Ben Brown's Restaurant)

PROJECT LOCATION: Aliso Creek, 300 feet upstream of the Coast Highway bridge, and 1.5 miles off-shore of Aliso Creek County Beach, City of Laguna Beach, County of Orange

PROJECT DESCRIPTION: Installation of, 1) a temporary sand berm on the banks of Aliso Creek, 2) motorized pump, and 3) a 200 foot long pipe between a point in Aliso Creek, upstream of the proposed berm, and an adjacent existing sewage outfall; to collect creek flows (up to 3.23 million gallons per day) and divert them to the existing outfall line which discharges approximately 1.5 miles offshore for one summer season.

LOCAL APPROVALS RECEIVED: City of Laguna Beach CDP97-19

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

**STAFF NOTE:** The appealed project is part of an overall project to divert the summertime flows of Aliso Creek into the Aliso Water Management Agency ("AWMA") outfall for one year. The City of Laguna Beach approved the entire proposed project, including the portion of the berm within the creek bed. The creek bed is submerged lands which are the Commission's area of permit jurisdiction. The subject appeal therefore only deals with the portions of the proposed project (i.e., the portions of the berm not within the creek bed, the connecting pipe and pump) which are within the certified area of the City of Laguna Beach and not within the Commission's jurisdiction. The Commission found substantial issue on July 9, 1997. This staff report deals with the De Novo portion of Appeal A-5-LGB-97-166.

The applicant has filed permit application 5-97-316 which covers the portion of the proposed project solely within the creek bed which is the Commission's permit jurisdiction. In addition, the

## A-5-LGB-97-166 De Novo (County of Orange)

AWMA outfall was approved by coastal development permit A-61-76 by the California Coastal Zone Conservation Commission (predecessor to the present Coastal Commission). The permit approval was only for the discharge of secondary treated sewage and did not contemplate the type of creek flow discharge being proposed. AWMA has thus filed permit amendment 5-83-959-A4 for the proposed diversion of Aliso Creek into their outfall. Applications 5-97-316 and 5-83-959-A4 are scheduled concurrently with this De Novo appeal action.

### STANDARD OF REVIEW

Section 30604(b) provides that the standard of review is the certified LCP for the portions of the proposed project within the certified area. This includes all of the project except for the portion of the berm in the creek bed and the portion of the outfall located offshore.

<u>SUMMARY OF STAFF RECOMMENDATION - ISSUES TO BE RESOLVED:</u>
<p>Staff is recommending approval of the proposed project with special conditions regarding; 1) duration of the proposed project, 2) restoration of the creek after the proposed project is removed, 3) monitoring of water quality, and 4) removal of the berm in the event of a severe summertime storm, and 5) preservation of parking at the inland Aliso Creek County parking lot. The primary issue to be resolved is whether diversion of the creek's flows so that creek flows are discharged 1.5 miles offshore, rather than the creek's mouth, would result in adverse impacts to offshore marine life and humans who use the offshore waters.</p>

### STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

#### **I. APPROVAL WITH CONDITIONS.**

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of City of Laguna Beach certified local coastal program, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

#### **II. STANDARD CONDITIONS.**

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

**A-5-LGB-97-166 De Novo (County of Orange)**

2. **Expiration**. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance**. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation**. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections**. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment**. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land**. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**III. SPECIAL CONDITIONS**

1. **Removal of Development**. The diversion of up to a twenty-four (24) hour average flow rate of five (5) cubic feet per second (i.e., 3.23 million gallons per day) of the water flow of Aliso Creek approved by this permit is authorized only for the 1998 summer season from May 1 through October 15, 1998. In no case shall the diverted flows exceed seven (7) cubic feet per second (i.e., 4.52 million gallons per day) at any time. This permit does not authorize the diversion to continue past October 15, 1998. All structural development shall be removed as quickly as possible prior to the rainy season but in no case shall any development remain after October 25, 1998.
2. **Restoration**. The bed and banks of Aliso Creek disturbed by the approved project shall, after the removal of the berm and pipe from the creek, be restored, at a minimum, to the condition in which they existed prior to construction of the berm and installation of the pipe.
3. **Water Quality Monitoring**. The permittee shall comply with the requirements of Order No. 95-107, NPDES Permit No. CA0107611, "Waste Discharge Requirements for the Aliso Water Management Agency, Orange County, Discharged to the Pacific Ocean through the Aliso Water Management Agency Ocean Outfall" including Addendum No. 1 for the approved diversion of Aliso Creek's flows into the outfall) issued by the California Regional Water Quality Control Board - San Diego Region ("RWQCB"). The permittee shall submit to the Executive Director copies of

4

**A-5-LGB-97-166 De Novo (County of Orange)**

the results of the monitoring data required by the RWQCB, along with written conclusions on : 1) water quality changes which occurred during the monitoring period, 2) whether the water quality changes occurred as a result of the project, and 3) the effects of these changes on offshore marine life and human health; at the same time it submits the required monitoring data to the RWQCB. The written conclusions shall be prepared by the Orange County Health Care Agency.

**4. Removal of berm prior to October 15, 1998 to prevent flooding.** Notwithstanding Special Condition No. 1 above, if, prior to October 15, 1998, the National Weather Service predicts that a significant storm event will occur prior to October 15, 1998 which could cause flooding in Aliso Creek, the proposed berm shall be removed prior to the forecasted date of the storm event so that no flooding will occur. For purposes of this condition, a "significant storm event" shall be defined as: an event of one inch or more of rainfall within a 24 hour period in any area which drains into the watershed of Aliso Creek.

**5. Preservation of Parking.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised plans, for the review and approval of the Executive Director, which clearly show that the pipe connecting the berm with the outfall, nor the staging or storage of construction equipment or material, does not eliminate, or otherwise obstruct the use of, parking spaces in the public parking lot inland of Pacific Coast Highway adjacent to Aliso Creek. The applicant shall comply and implement the plans approved by the Executive Director.

#### **IV. FINDINGS AND DECLARATIONS**

##### **A. *Project Description***

The proposed project would be for one summer season. The applicant is proposing to divert low-flow summertime nuisance flows of Aliso Creek into an existing sewage outfall which outlets 1.5 miles offshore for one summer season only. The proposed diversion would occur by building a berm in Aliso Creek, approximately 300 feet inland of Coast Highway, and pumping the water which ponds behind the berm to the adjacent sewage pipeline which discharges 1.5 miles offshore.

The proposed project involves three separate permit actions. First, the subject De Novo permit application (A-5-LGB-97-166) covers the portion of the proposed project within the certified area of the City of Laguna Beach. The City issued coastal development permit CDP97-19 which was appealed to the Commission based on inconsistency with the certified local coastal program regarding potential flooding of nearby properties and offshore water quality. On July 9, 1997, the Commission found that the appeal raised a substantial issue.

Coastal development permit application 5-97-316 covers the portion of the proposed project within the Commission's area of retained permit jurisdiction; namely, the portion of the proposed berm within the bed of Aliso Creek which is submerged lands. Third, an amendment to permit 5-83-959 is necessary. In 1976, the State California Coastal Zone Conservation Commission (predecessor to the present Coastal Commission) approved on appeal permit A-61-76 for the construction of the

**A-5-LGB-97-166 De Novo (County of Orange)**

AWMA outfall. The approved outfall discharges secondary treated effluent into the ocean. The permit was conditioned to limit effluent as a means to regulate development served by the outfall. However, the type of discharge (i.e., storm runoff within a creek) proposed into the outfall is not covered under the previously approved permit and nor the previous three amendments. Therefore, another permit amendment is required.

The proposed sand berm would be six feet high, 24 feet wide, and sixty feet long. The proposed berm would be lined with plastic to prevent erosion and allow for ponding of water behind the berm. The portion of the proposed berm in the creek bed is within the permit jurisdiction of the Coastal Commission because the creek bed is submerged lands. This portion of the proposed berm would have an 18" deep notch at the top in the middle for overflow purposes, in the event the pump fails or water ponds too rapidly. The portions of the proposed berm not within the creek-bed (e.g., where the berm is on the banks of the creek) thus are within the certified area of the City of Laguna Beach and are covered by the subject De Novo permit application.

The applicant also proposes to install a pipe, one end of which would be placed upstream of the proposed berm and the other end which would connect with the existing nearby Aliso Water Management Agency ("AWMA") pipeline. The proposed pipe would be laid in a shallow trench dug across a previously graded and surfaced terrace. The water which ponds behind the proposed berm would then be pumped, at a rate of about five cubic feet per second, via the new pipe into the AWMA outfall. To minimize pump noise, the proposed pump would be electric and be housed in an unused building owned by AWMA. These development components are located entirely within the City of Laguna Beach's area of coastal development permitting authority.

The applicant is proposing this temporary project to remedy the problem of polluted water ponding at Aliso Creek County Beach, where Aliso Creek outlets at the beach. The low flows of Aliso Creek during the dry summertime are not strong enough to breach the sand at the beach, resulting in water ponding at the beach. The concentration of pollutants in the water is higher during the summer than in the winter, due to the lower flows during the dry summer season. Thus, the ponding water becomes stagnant and, in combination with higher concentrations of pollutants, poses a health hazard to beachgoers. The number of beachgoers is higher in the summer than in the winter, increasing the number of people at risk.

The applicant has chosen the proposed project in part because it is cheaper (\$8,500 versus \$100,000 for treatment) and is only intended to be temporary solution until an overall plan for reducing pollutants in Aliso Creek can be formulated. The U.S. Army Corps of Engineers is in charge of the overall effort and in June 1997 released its feasibility phase project study plan.

**B. Water Quality**

City of Laguna Beach Certified Local Coastal Program Policy 4-H states:

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

**A-5-LGB-97-166 De Novo (County of Orange)**

The proposed project would result in the diversion of polluted, low flow summertime nuisance flows from Aliso Creek into an existing outfall owned by the Aliso Water Management Agency ("AWMA") which outlets 1.5 miles offshore. This would result in diversion of the polluted water from the beach to the offshore waters 1.5 miles offshore. The proposed project consists in part of development located within the certified area of the City of Laguna Beach. Therefore, the standard of review for these portions of the proposed project is consistency with the certified local coastal program ("LCP").

The project is being proposed primarily to alleviate the problem of water polluted with coliform bacteria which gets stuck at the beach from harming the health of beach users. 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 creek's polluted water ponds behind the berm at the creek's mouth, right on the popular and heavily used Aliso Creek County Beach. 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'."

On July 9, 1997, the Commission found that the proposed project raised a substantial issue in part because no data was provided which described the types of pollutants other than coliform in the waters of Aliso Creek. High levels of coliform in the creek which exceed the standards for safe human contact were documented. However, without data regarding other types of pollutants, the Commission could not determine whether the diversion of the creek would result in pollutants other than coliform which are harmful to humans or marine life being discharged into offshore waters. Therefore, the Commission could not determine if the proposed project should be opposed because it degrades the quality of offshore waters.

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 creek's mouth, so the water collects behind the berm. County beach staff has in the past attempted to fix the problem by breaching 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.

The RWQCB has approved an addendum to its Order N. 95-107, NPDES ("National Pollutant Discharge Elimination System") Permit No. CA0107611 which regulates discharges from the AWMA outfall. The addendum approves the proposed diversion. The addendum sets a limit on the proposed diversion of Aliso Creek flows into the outfall at 4.52 million gallons per day. The addendum also prohibits diversion of the creek between October 16 and April 30 of the following year. The addendum further requires the normal outfall monitoring program to include the diverted

## A-5-LGB-97-166 De Novo (County of Orange)

creek flows. The addendum does not raise the limits on the types of pollutants which can be discharged through the outfall. Therefore, even with the addition of the pollution from the creek, AWMA is still responsible for ensuring that the effluent discharged from its outfall are within the limits currently prescribed by the RWQCB for the effluent without the creek flows.

As required by Emergency Permit 5-97-219-G, the applicant monitored the water quality in Aliso Creek and the AWMA effluent during an approximately three week period from September 19, 1997 to October 8, 1997. This is within the summertime period May to mid-October during which Aliso Creek would be diverted. The pollutants monitored are those prescribed by the California Regional Water Quality Control Board - San Diego Region ("RWQCB"). Since the proposed project was not built last summer, the data do not reflect the discharge of Aliso Creek into the outfall. However, the data do document existing conditions which provide a base to which post-project monitoring can be compared.

### 1. Bacteriological pollutants

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.*

The ocean waters off Aliso Creek County Beach spanning both sides of the mouth of Aliso Creek are water-contact sports areas which should be tested for coliform. Coliform is a bacteriological pollutant which poses a risk to human health. The proposed project would be undertaken primarily to solve the problem of high levels of coliform at Aliso Creek County Beach.

The outfall into which Aliso Creek's flows are proposed to be diverted discharges secondary sewage operated by the Aliso Water Management Agency ("AWMA"). Secondary sewage is not raw sewage. Secondary sewage has been treated for removal of suspended solids but has not been chlorinated or otherwise treated to kill bacteriological contaminants such as coliform and

### A-5-LGB-97-166 De Novo (County of Orange)

enterococcus. The RWQCB requires AWMA to monitor water at AWMA's various surf zone (i.e., water area adjacent to the beach) monitoring stations, nearshore waters (i.e., 1,000 feet offshore) monitoring stations, offshore waters (i.e., below the ocean surface, above the outfall's outlet 1.5 miles offshore) monitoring stations, and creekside monitoring stations for bacteriological pollutants such as coliform which are hazardous to human health.

The data collected during the September 19, 1997 through October 8, 1997 period indicate that, with the exception of bacteriological parameters (i.e., coliform), the water quality in the creek was considered within ocean discharge standards. As for data regarding effluent from the AWMA outfall, bacteriological water quality in the nearshore zone (i.e., 1,000 feet offshore, above the outfall at a depth of 25-50 feet below the surface of the ocean), was good but occasionally poor in the surf zone (i.e., the water area immediately adjacent to the beach). The poor surf zone water quality was reported at stations closest to the creek's mouth and are likely the result of the County's breaching of the berm at the creek's mouth, which allows the polluted water trapped behind the berm to flow into the surf zone. Except for at the offshore stations, the RWQCB sets limits on the amount of bacteriological pollutants which are allowed in the water. The limits are the same as those prescribed in the Health and Safety Code for safe human contact.

During the substantial issue phase of the related appeal A-5-LGB-97-166 for the proposed project, the Orange County Health Care Agency provided data from its monitoring program for summer months during 1996. There was insufficient time for the Health Care Agency to provide comprehensive historical data. However, based on the 1996 monitoring, in many instances coliform organism concentration 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 organisms in the surf zone waters off Aliso Beach rarely exceed 100 per 100 ml., well below the prescribed standard. Only at the Aliso-Middle station near the creek did the concentrations rise above 100 per 100 ml., and then not by much. The 1996 data therefore corroborates the 1997 data. Since the only high levels of coliform in the ocean occurred at the creek's mouth, and testing of the creek's waters also indicated high levels of coliform, the source of coliform in the ocean is likely the creek's waters.

If nothing else, the proposed project should not make the current situation worse. Since the County currently breaches the mouth of Aliso Creek, the polluted water with the coliform currently enter the ocean anyway. If the same coliform were to be discharged into the outfall and wash back onshore, the situation would be no different. The question then is whether discharge of the creek's flows, with its levels of coliform which exceed Health and Safety Code standards for safe human contact, would reduce the human health risk if discharged 1.5 miles offshore as proposed and restore water quality at the creek's mouth.

RWQCB staff has indicated that the current levels of coliform and bacteriological pollutants in the secondary treated sewage discharged from the outfall are already significantly higher than that detected in the creek. This is because secondary treated sewage is not required to be treated to kill bacteriological contaminants. RWQCB staff has indicated that the addition of bacteriological



## **A-5-LGB-97-166 De Novo (County of Orange)**

contaminants from the creek's flows would not result in a significant proportionate increase in bacteriological contaminants being discharged from the outfall. Given this fact along with the fact that, except at the creek's mouth, levels of coliform in ocean waters are currently within acceptable standards for human contact, the RWQCB staff does not believe the proposed diversion of creek flows would result in levels of coliform in the ocean increasing to levels above accepted standards for human contact.

The pollutants in the sewage effluent which comes out of the outfall mix with the ocean water at the outlet and become diluted. Immediately around the outfall's outlet, pollutant levels are high. However, once the pollutants have been diluted and travel beyond the mixing zone, pollutant levels fall. Therefore, significantly high levels of bacteriological pollutants from the sewage coming out of the outfall 1.5 miles offshore has not translated into the same high levels at the surf zone and nearshore waters. It can be expected that, if the creek's flows were diverted into the outfall as proposed, the coliform in the creek's flow which would come out of the outfall would become similarly diluted and not translated into high levels of coliform closer to shore. Thus, it can be expected that the proposed project would maintain the currently acceptable levels of coliform. At the creek's mouth where coliform levels currently exceed the acceptable level, the proposed project can be expected to reduce coliform counts and increase water quality.

The regulatory requirements under which the RWQCB operates also require the RWQCB to determine where shellfish harvesting areas exist in coastal waters and to monitor the coliform in those areas. The RWQCB has determined that no shellfish harvesting areas exist in the coastal waters affected by the AWMA outfall. Therefore, there are no shellfish in the area which would be adversely affected by the proposed addition of coliform from the diverted creek flows.

Therefore, it can be expected that the proposed project would maintain the quality of ocean waters appropriate to maintain optimum populations of marine organisms and for the protection of human health, and actually restore it at the creek's mouth.

### **2. Pollutants Other Than Coliform**

The diversion of Aliso Creek's flows is being proposed primarily to resolve the problem of coliform trapped at the beach which poses a human health risk. However, because Aliso Creek's flows contain general storm runoff from a 36 square mile watershed drainage area, it contains other pollutants besides bacteriological pollutants. At high levels, these other pollutants which wash off from streets through storm drains and from agricultural lands also pose a risk to human health and marine life.

The RWQCB has imposed limitations in its NPDES permit for the AWMA outfall for a variety of pollutants. (see Appendix B) Limitations are imposed on: 1) major constituents and properties of wastewater such as total suspended solids, pH balance, turbidity, and oil & grease.; 2) materials such as ammonia, arsenic, copper, lead, mercury, and zinc which are toxic to marine life, 3)

### **A-5-LGB-97-166 De Novo (County of Orange)**

non-carcinogenic materials which are toxic to humans, and 4) carcinogenic (i.e., cancer-causing) materials such as benzene, chloroform, and DDT which are toxic to humans.

The data taken during the September 19, 1997 through October 8, 1997 monitoring period indicate that the pH levels and levels of non-coliform pollutants in the creek and the outfall, such as total suspended solids, are within the limits prescribed by the RWQCB's NPDES permit for the AWMA outfall. The purpose of the proposed development is to address the levels of coliform.

#### **3. Duration of Development and Monitoring**

The Commission finds that it is necessary to limit the duration of the project to one summer season as proposed; specifically, between May 1, 1998 and October 15, 1998. The Commission further finds that compliance with the RWQCB's NPDES permit is required to ensure that bacteriological pollutants do not pose a health risk to humans. Since the applicant would like to continue the diversion in subsequent summers until a permanent solution to pollution in the creek can be found, information is needed to determine if the proposed project is reducing coliform pollution levels at the mouth of Aliso Creek. Information regarding whether the proposed project is or is not attaining the intended goal would assist the Commission in evaluating future permit applications for the same project. Therefore, in addition to submitting the results of the monitoring required by the RWQCB, the applicant must analyze the results and address whether the proposed project is achieving reductions in coliform levels at the creek's mouth.

It is possible that monitoring may show that, even with the proposed project, bacteriological pollutants in the ocean water at the creek's mouth are still above maximum levels for safe human contact. The NPDES permit requires AWMA to ensure that discharges from its outfall do not result in levels of bacteriological pollutants which are unsafe for human contact. As a result, if the monitoring data show that bacteriological pollutants at the creek mouth have not decreased, AWMA will have to determine if the bacteriological pollutants are washing back onshore from its outfall, or if there is a different source. If the cause is bacteriological pollutants from the outfall, then AWMA will have to further determine if the source is from the creek's flows or from one of its sewage treatment plants. If the source is the creek's flows, then AWMA is responsible for eliminating this source. Section 3.4 "Violations of Regulations" of the agreement between AWMA and the applicant (County of Orange) allows AWMA to terminate the agreement and halt the diversion if AWMA is in non-compliance with water quality regulations as a result of the proposed project. Therefore, if a water quality problem occurs as a result of the proposed project, AWMA would have to discontinue the project, eliminating the water quality problem, or be in violation of its NPDES permit.

Addendum No. 1 to AWMA's NPDES permit approved by the RWQCB requires AWMA to continue its monitoring program, taking into consideration the additional discharge from creek. The addendum does not raise the allowable limits for pollutants to accommodate the increase discharge from the creek. Therefore, compliance with the RWQCB's NPDES permit for the outfall would ensure that the discharge from the creek would not result in either coliform or

## A-5-LGB-97-166 De Novo (County of Orange)

non-coliform pollutants from rising to levels above that considered safe for marine life or human contact.

### 4. Conclusion (Offshore Water Quality)

Thus, as conditioned for: 1) limiting the proposed project to the summer season of 1998; 2) compliance with the RWQCB NPDES permit for the outfall; 3) submission to the Executive Director of monitoring data required by the RWQCB along with conclusionary statements summarizing the data, the Commission finds that the proposed project would maintain the quality of coastal waters appropriate to maintain optimum populations of marine organisms and for the protection of human health. Therefore, as conditioned, the Commission finds that the proposed project would be consistent with LCP Policy 4-H.

### C. Streambed Alteration

Certified Laguna Beach Local Coastal Program ("LCP") Policy 1-J states:

*In order to maintain stable channel sections and the present level of beach sand replenishment, sediment movement in natural drainage channels shall not be significantly changed.*

Certified Laguna Beach Local Coastal Program ("LCP") Policy 4-A states:

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

Certified Laguna Beach LCP Policy 9-B states:

*Prohibit filling and substantial alteration of streams and/or diversion or culverting of such streams except as necessary to protect existing structures in the proven interest of public safety, where no other methods for protection of existing structures in the floodplain are feasible or where the primary function is to improve fish and wildlife habitat. This provision does not apply to channelized sections of streams without significant habitat value.*

Certified Laguna Beach Local Coastal Program ("LCP") Policy 9-U states:

*Restore and retain Aliso Creek in a natural state and protect the Creek from infringement of new development.*

The construction of the sand berm in Aliso Creek will result in the alteration of the creek bed (which is actually within the Coastal Commission's permit jurisdiction and thus not part of this De Novo appeal) and the banks of the creek as well as impede sediment movement. Ponding of water

**A-5-LGB-97-166 De Novo (County of Orange)**

upstream of the proposed berm would flood riparian vegetation upstream from the berm. Riparian vegetation seaward of the proposed berm would be deprived of water and may die. However, because the proposed construction would be temporary (i.e., not more than six months in duration) and last for the 1998 summer season only, it is not substantial alteration. In addition, the proposed project would occur during the dry summer season, when there is not much water in Aliso Creek and therefore the amount of riparian vegetation which grows would likely be less than during the rainy season. Thus, the amount of riparian vegetation which would be temporarily impacted would be less than during the rainy season. Similarly, because the proposed project would occur during the dry summer season when creek flows are low, the amount of sediment which would be washed down the creek and trapped behind the proposed berm would not be as much as during the rainy season. Further, the applicant has received a streambed alteration agreement from the California Department of Fish and Game approving the proposed project.

Still, the Commission finds that it is necessary to require that the banks of Aliso Creek be restored to their natural state, as they previously existed prior to construction of the project. The condition describes both the banks and bed of Aliso Creek, even though the bed is not within the certified area of the City, because of the physically integrated nature of the proposed berm. Limiting the berm to one summer season would restore sediment movement. Because the proposed project does not constitute substantial alteration, and as conditioned for restoration of the creek and removal of the berm by October 15, 1998, the Commission finds that the De Novo appeal portion of the proposed project within the certified area of the City of Laguna Beach would be consistent with certified LCP Policies 1-J, 4-A, 9-B, and 9-U.

**D. Public Access and Recreation**

Section 30604(c) of the Coastal Act states:

*Every coastal development permit issued for any development between the nearest public roadway and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200) [of the Coastal Act].*

The proposed project would temporarily resolve the problem of ponding polluted water at Aliso Creek County Beach, a popular beach. This may encourage greater use of the beach. Therefore, the Commission finds that the proposed project is consistent with Section 30210 of the Coastal Act.

**E. Visual Quality**

Section 30251 of the Coastal Act states, in relevant part:

**A-5-LGB-97-166 De Novo (County of Orange)**

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

The subject site is located inland of the first public road and the sea in a canyon. The proposed project would not block views along the ocean at the beach nor to the ocean from the first public road. The proposed project consists of a berm which would be set in Aliso Creek. The berm would not be higher than the banks of the creek and would not protrude above the level of the creek. The proposed project thus would not block inland views up the canyon nor views from the canyon to the beach. Therefore, the Commission finds that the proposed development would be consistent with Section 30251 of the Coastal Act.

**F. Local Coastal Program**

The City of Laguna Beach local coastal program was effectively certified on January 13, 1993. The portions of the proposed project within the certified areas of the City of Laguna Beach have been conditioned to be consistent with the provisions of the certified local coastal program.

**G. California Environmental Quality Act**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the water quality and streambed alteration policies of the certified local coastal program. Mitigation measures requiring; 1) limiting the proposed project to one summer season, 2) requiring restoration of the stream bank after the development is removed, 3) a monitoring program, 4) removal of the berm in the event of a strong summertime storm, and 5) preservation of public parking; will minimize all significant adverse impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**A-5-LGB-97-166 De Novo (County of Orange)****Glossary of Selected Acronyms**

AWMA = Aliso Water Management Agency

CDP = coastal development permit

LCP = local coastal program

NPDES = National Pollution Discharge Elimination System

RWQCB = California Regional Water Quality Control Board - San Diego Region

**Appendix A****Substantive File Documents**

1) Coastal Commission Substantial Issue Report dated June 20, 1997 for Appeal No: A-5-LGB-97-166; 2) City of Laguna Beach Certified Local Coastal Program; 3) Emergency Permit 5-97-219-G; City of Laguna Beach coastal development permit CDP97-19.

Order No. 95-107

13

December 15, 1995

**B. DISCHARGE SPECIFICATIONS**

1. The discharger shall not cause pollution, contamination, or nuisance, as those terms are defined in CWC 13050, as a result of the treatment or discharge of wastes.
2. The following effluent limitations apply to the combined undiluted effluent from the wastewater treatment facilities identified in Finding 9 of this Order and discharged through the AWMA Ocean Outfall.

a. Effluent Limitations For Major Constituents and Properties of Wastewater

Constituent/ Property	Units	Monthly Average (30 day)	Weekly Average (7 day)	Maximum at any time
CBOD <sub>5</sub> <sup>a</sup>	mg/l lb/day	25 5,600	40 9,000	45 10,000
total suspended solids <sup>a</sup>	mg/l lb/day	30 6,800	45 10,000	50 11,000
oil & grease <sup>b</sup>	mg/l lb/day	25 5,600	40 9,000	75 17,000
settleable solids <sup>b</sup>	ml/l	1.0	1.5	3.0
turbidity <sup>b</sup>	NTU	75	100	225
pH <sup>a</sup>	pH units	Within limits of 6.0 - 9.0 at all times.		
acute toxicity <sup>b</sup>	TUa	1.5	2.0	2.5

Appendix B (9 pages)

5-97-316

A-5-LGB-97-166 (De Novo)

5-83-959-A4

Order No. 95-107

14

December 15, 1995

## b. Effluent Limitations For Toxic Materials For Protection Of Marine Aquatic Life

Constituent/ Property	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
arsenic <sup>c</sup>	mg/l lb/day	1 200	7.6 1,700	20 4,500
cadmium <sup>a</sup>	mg/l lb/day	0.3 70	1 200	2.6 590
chromium (hexavalent) <sup>c,d</sup>	mg/l lb/day	0.5 100	2 500	5.2 1,200
copper <sup>a</sup>	mg/l lb/day	0.3 70	2.6 590	7.3 1,600
lead <sup>c</sup>	mg/l lb/day	0.5 100	2 500	5.2 1,200
mercury <sup>c</sup>	ug/l lb/day	10 2	42 9.5	100 20
nickel <sup>c</sup>	mg/l lb/day	1 200	5.2 1,200	13 2,900
selenium <sup>a</sup>	mg/l lb/day	3.9 880	16 3,600	39 8,800
silver <sup>c</sup>	mg/l lb/day	0.1 20	0.69 160	2 500
zinc <sup>c</sup>	mg/l lb/day	3.1 700	19 4,300	50 11,000
cyanide <sup>c,e</sup>	mg/l lb/day	0.3 70	1 200	2.6 590
total chlorine residual <sup>a,f</sup>	mg/l lb/day	0.5 100	2 500	16 3,600
ammonia (as N) <sup>c</sup>	mg/l lb/day	160 36,000	630 140,000	1600 360,000
chronic toxicity <sup>a</sup>	TUc	—	300	—
phenolic compounds <sup>c</sup> (non-chlorinated)	mg/l lb/day	7.8 1,800	31 7,000	78 18,000

ApX. B



Order No. 85-107

15

December 15, 1995

Constituent/ Property	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
chlorinated phenolics <sup>c</sup>	mg/l lb/day	0.3 70	1 200	2.6 590
endosulfan <sup>c,1</sup>	ug/l lb/day	2 0.5	4.7 1.1	7 1.6
endrin <sup>c</sup>	ug/l lb/day	0.5 0.1	1 0.2	2 0.5
HCH <sup>c,2</sup>	ug/l lb/day	1 0.2	2 0.5	3.1 0.7
radioactivity	Not to exceed limits specified in Title 17, Division 5, Chapter 4, Group 3, Article 3, Section 32089 of the California Code of Regulations.			

APX B

Order No. 95-107

16

December 15, 1995

## c. Effluent Limitations For Toxic, Noncarcinogenic Materials for Protection of Human Health

Constituent/ Property	Units	Monthly Average (30-day)
acrolein <sup>c</sup>	mg/l lb/day	57 13,000
antimony <sup>c</sup>	mg/l lb/day	310 70,000
bis(2-chloroethoxy) methane <sup>c</sup>	ug/l lb/day	1100 250
bis(2-chloroisopropyl) ether <sup>c</sup>	mg/l lb/day	310 70,000
chlorobenzene <sup>c</sup>	mg/l lb/day	150 34,000
chromium (III) <sup>c</sup>	g/l lb/day	50 11,000,000
di-n-butyl phthalate <sup>c</sup>	mg/l lb/day	910 200,000
dichlorobenzenes <sup>c,3</sup>	g/l lb/day	1.3 290,000
1,1-dichloroethylene <sup>c</sup>	g/l lb/day	1.9 430,000
diethyl phthalate <sup>c</sup>	g/l lb/day	8.6 1,900,000
dimethyl phthalate <sup>c</sup>	g/l lb/day	210 47,000,000
4,6-dinitro-2-methylphenol <sup>c</sup>	mg/l lb/day	57 13,000
2,4-dinitrophenol <sup>c</sup>	ug/l lb/day	1,000 220
ethylbenzene <sup>c</sup>	mg/l lb/day	1,100 250,000

ApX B

Order No. 95-107

17

December 15, 1995

Constituent/ Property	Units	Monthly Average (30-day)
fluoranthene <sup>c</sup>	mg/l lb/day	3.9 880
hexachlorocyclopentadiene <sup>d</sup>	mg/l lb/day	15 3,400
isophorone <sup>e</sup>	g/l lb/day	39 8,800,000
nitrobenzene <sup>e</sup>	mg/l lb/day	1.3 290
thallium <sup>e</sup>	mg/l lb/day	3.7 830
toluene <sup>e</sup>	g/l lb/day	22 5,000,000
1,1,2,2-tetrachloroethane <sup>e</sup>	mg/l lb/day	310 70,000
tributyltin <sup>e</sup>	ug/l lb/day	0.37 0.08
1,1,1-trichloroethane <sup>e</sup>	g/l lb/day	140 32,000,000
1,1,2-trichloroethane <sup>e</sup>	g/l lb/day	11 2,500,000

Apx. B

Order No. 95-107

18

December 15, 1995

## d. Effluent Limitations for Toxic, Carcinogenic Materials for Protection of Human Health

Constituent/ Property	Units	Monthly Average (30-day)
acrylonitrile <sup>e</sup>	ug/l lb/day	26 5.9
aldrin <sup>e</sup>	ng/l lb/day	5.7 0.0013
benzene <sup>e</sup>	mg/l lb/day	1.5 340
benzidine <sup>e</sup>	ng/l lb/day	18 0.0041
beryllium <sup>e</sup>	ug/l lb/day	8.6 1.9
bis(2-chloroethyl)ether <sup>e</sup>	ug/l lb/day	12 2.7
bis(2-ethylhexyl)phthalate <sup>e</sup>	ug/l lb/day	910 200
carbon tetrachloride <sup>e</sup>	mg/l lb/day	0.23 52
chlordane <sup>e,4</sup>	ng/l lb/day	6.0 0.0014
chloroform <sup>e</sup>	mg/l lb/day	34 7,700
DDT <sup>e,5</sup>	ng/l lb/day	44 0.0099
1,4-dichlorobenzene <sup>e</sup>	mg/l lb/day	4.7 1100
3,3-dichlorobenzidine <sup>e</sup>	ug/l lb/day	2.1 0.47
1,2-dichloroethane <sup>e</sup>	mg/l lb/day	34 7,700

ApX B

Order No. 95-107

19

December 15, 1995

Constituent/ Property	Units	Monthly Average (30-day)
dichloromethane <sup>a</sup>	mg/l lb/day	120 27,000
1,3-dichloropropene <sup>c</sup>	mg/l lb/day	2.3 520
dieldrin <sup>a</sup>	ng/l lb/day	10 0.0023
2,4-dinitrotoluene <sup>a</sup>	ug/l lb/day	680 150
1,2-diphenylhydrazine <sup>c</sup>	ug/l lb/day	42 9.5
halomethanes <sup>c,8</sup>	mg/l lb/day	34 7,700
heptachlor <sup>c,7</sup>	ng/l lb/day	190 0.043
hexachlorobenzene <sup>a</sup>	ng/l lb/day	55 0.012
hexachlorobutadiene <sup>a</sup>	mg/l lb/day	3.7 830
hexachloroethane <sup>c</sup>	ug/l lb/day	650 150
N-nitrosodimethylamine <sup>c</sup>	mg/l lb/day	1.9 430
N-nitrosodiphenylamine <sup>c</sup>	ug/l lb/day	650 150
PAHs <sup>c,8</sup>	ug/l lb/day	2.3 0.52
PCBs <sup>c,8</sup>	ng/l lb/day	5.0 0.0011
TCDD equivalents <sup>a,10</sup>	pg/l lb/day	1.0 0.00000023

Apk B

Order No. 95-107

20

December 15, 1995

Constituent/ Property	Units	Monthly Average (30-day)
tetrachloroethylene <sup>o</sup>	mg/l lb/day	26 5,900
toxaphene <sup>o</sup>	ng/l lb/day	55 0.012
trichloroethylene <sup>o</sup>	mg/l lb/day	7.0 1600
2,4,6-trichlorophenol <sup>f</sup>	ug/l lb/day	76 17
vinyl chloride <sup>o</sup>	mg/l lb/day	9.4 2,100

g/l = grams per liter  
 mg/l = milligrams per liter  
 ug/l = micrograms per liter  
 ng/l = nanograms per liter  
 pg/l = picograms per liter  
 ml/l = milliliters per liter  
 NTU = Nephelometric Turbidity Units  
 TUs = toxic units acute  
 TUs = toxic units chronic  
 lb/day = pounds per day

- a. Effluent limitations were determined as described in Finding No. 31.
- b. Effluent concentration limitations are the limiting concentrations specified in Table A of the Ocean Plan. Mass emission rate limitations, where applicable, were determined using procedures outlined in the 1990 version of the Ocean Plan and a flowrate of 27.0 MGD.
- c. Effluent concentration and mass emission rate limitations were determined using the procedures outlined in the 1990 version of the Ocean Plan and using water quality objectives from Table B and background seawater concentrations from the 1990 version of the Ocean Plan, an initial dilution of 250, and a flowrate of 27.0 MGD. Except for differences due to rounding, significant figures, or calculation errors, these effluent concentrations and mass emission rate limitations are the same as or more stringent than those in Order 90-50.
- d. The discharger may, at its option, meet this limitation as a total chromium limitation.
- e. If the discharger can demonstrate to the satisfaction of the Regional Board (subject to USEPA approval) that an analytical method is available to reliably distinguish between strongly and weakly complexed cyanide, effluent limitations for cyanide may be met by the combined measurement of free cyanide, simple alkali metal cyanides, and weakly complexed

ApX. B.

Order No. 95-107

21

December 15, 1995

organometallic cyanide complexes. In order for the analytical method to be acceptable, the recovery of free cyanide from metal complexes must be comparable to that achieved by Standard Methods 4500CN, G, H, and J (Standard Methods for the Examination of Water and Wastewater, Joint Editorial Board, American Public Health Association, American Water Works Association, and Water Pollution Control Federation, Eighteenth edition.)

1. The effluent concentration and mass emission rate limitations for total chlorine residual are based on a continuous discharge of chlorine. Effluent concentration limitations for total chlorine residual which are applicable to intermittent discharges not exceeding 2 hours, shall be determined through the use of the following equations:

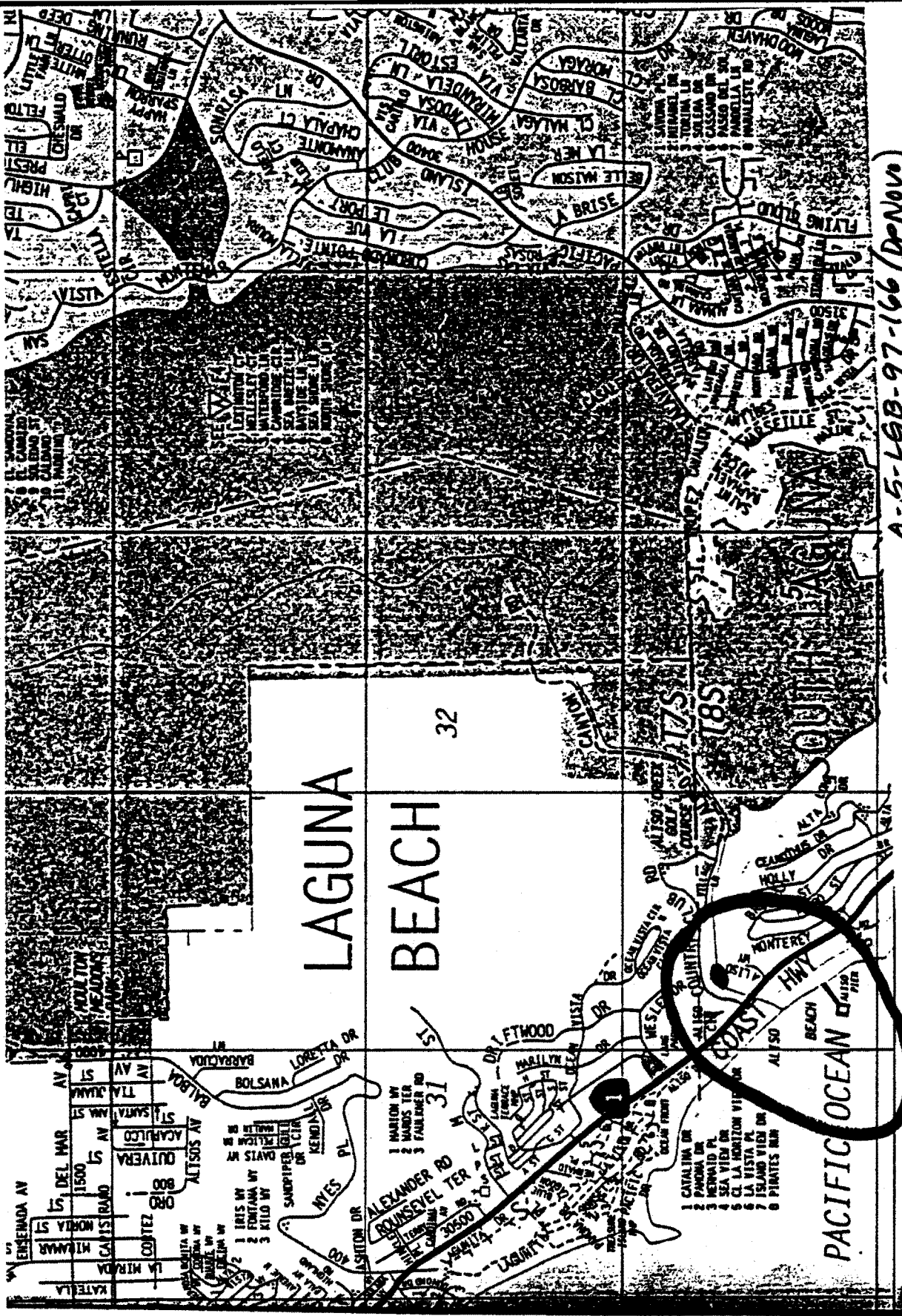
$$\log C_e = -0.43 (\log x) + 1.8$$
$$C_e = C_o + D_m (C_o - C_s)$$

where:

- $C_o$  = the concentration (in ug/l) to be met at the completion of initial dilution
- $x$  = the duration of uninterrupted chlorine discharge in minutes
- $C_e$  = the effluent concentration limitation (in ug/l) to apply when chlorine is being intermittently discharged
- $D_m$  = the minimum probable initial dilution
- $C_s$  = the background seawater concentration = 0

- 
3. The 30-day average percent removal of CBOD<sub>5</sub> and TSS shall not be less than 85 percent.
  4. Waste management systems that discharge to the ocean must be designed and operated in a manner that will maintain the indigenous marine life and a healthy and diverse marine community.
  5. Waste discharged through the AWMA Ocean Outfall must be essentially free of:
    - a. Material that is floatable or will become floatable upon discharge.
    - b. Settleable material or substances that form sediments which degrade benthic communities or other aquatic life.
    - c. Substances which will accumulate to toxic levels in marine waters, sediments or biota.
    - d. Substances that significantly decrease the natural light to benthic communities and other marine life.
    - e. Materials that result in aesthetically undesirable discoloration of the ocean surface.

Apx. B



A-5-LGB-97-166 (DeNovo)  
 COASTAL COMMISSION  
 VICINITY MAP

EXHIBIT # A  
 PAGE 1 OF 2

berm site

A-5-LGB-97-166



S16  
Main Beach

LAGUNA  
BEACH

S15

Woods Cove

PCH

S14

S13

Golf Island

S12

S11

S10

C1

Also Creek

-PFRD Monitoring Station

N7

N6

N5

N4

N3

N2

N1

OCEAN  
OUTFALL

S9

S8

Pier

S8.5

S7

S6

S5

SOUTH LAGUNA

S4

THREE ARCH  
BAY

S3

Mussel Cove

PACIFIC OCEAN

A5-LGB-97-166 (DeNovo)

COASTAL COMMISSION

VICINITY MAP

EXHIBIT # A

PAGE 2 OF 2

S2

# AWMA RECEIVING WATER MONITORING STATIONS

Figure 1

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

RECEIVED  
MAY 30 1997

CALIFORNIA  
COASTAL COMMISSION

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: \_\_\_\_\_

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

DISTRICT: \_\_\_\_\_

HS: 4/88

*A-5-LGB-97-166 (DeNovo)*

*Rico Dagomel Appeal*

COASTAL COMMISSION

Appeals

EXHIBIT # B

PAGE 1 OF 7

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

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

- a.  Planning Director/Zoning Administrator      c.  Planning Commission  
b.  City Council/Board of Supervisors      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 R.

**COASTAL COMMISSION**  
*Appeals*  
EXHIBIT # B  
PAGE 2 OF 7

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.  
*Rico Dagomel Appeal      A-5-LAB-97-166 (De Novo)*

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 (De Novo)*

**COASTAL COMMISSION**

*Appeals*

EXHIBIT # B

PAGE 3 OF 7

*Ricardo Rico Dagome*

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.

*Rico Dagome 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 commercial mobile, medium scale filtration systems (typical in agricultural and military operations) 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 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, pesticide 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.

COASTAL COMMISSION

Appeals

EXHIBIT # B

PAGE 4 OF 7

A-5-LAB-97-166  
(De Novo)

Rico Dagomed Appeal

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 nuisance 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:

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

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

*Aliso Creek Inn Appeal*

**COASTAL COMMISSION**

*A-5-LGB-97-166*

*(De Novo)*

EXHIBIT # B

PAGE 5 OF 7

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

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

- a.    Planning Director/Zoning Administrator      c.    Planning Commission
- b. X City Council/Board of Supervisors      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

*A-5-LGB-97-166 (De Novo)*

**COASTAL COMMISSION**  
*Appeals*

EXHIBIT # B  
PAGE 6 OF 7

**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 proposal to 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 condi-  
tions will occur. To expose the tens of thousands <sup>of</sup> 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*

*(De Novo)*

EXHIBIT # \_\_\_\_\_

PAGE 7 OF 7

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date June 2, 1997

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 \_\_\_\_\_



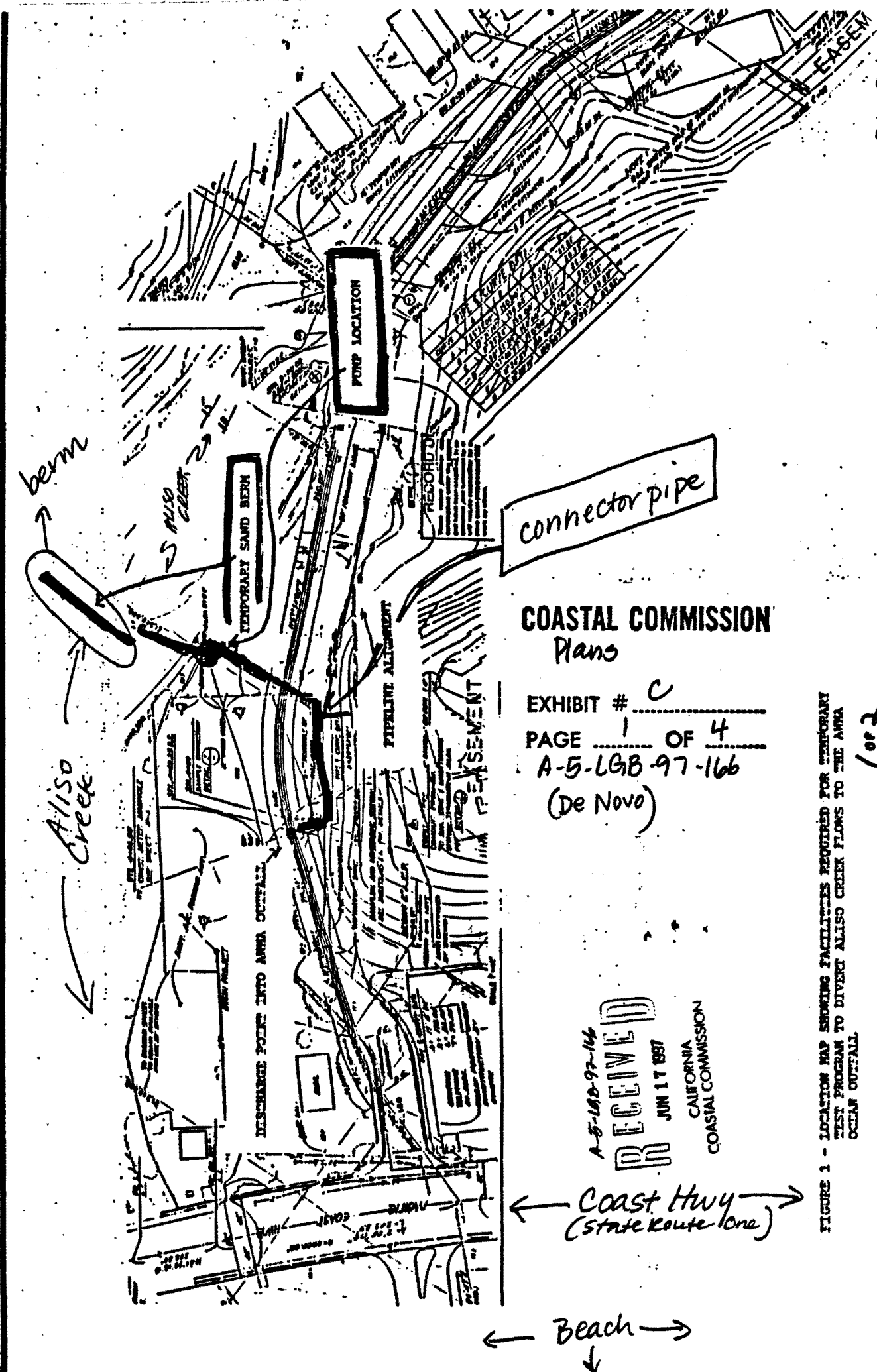
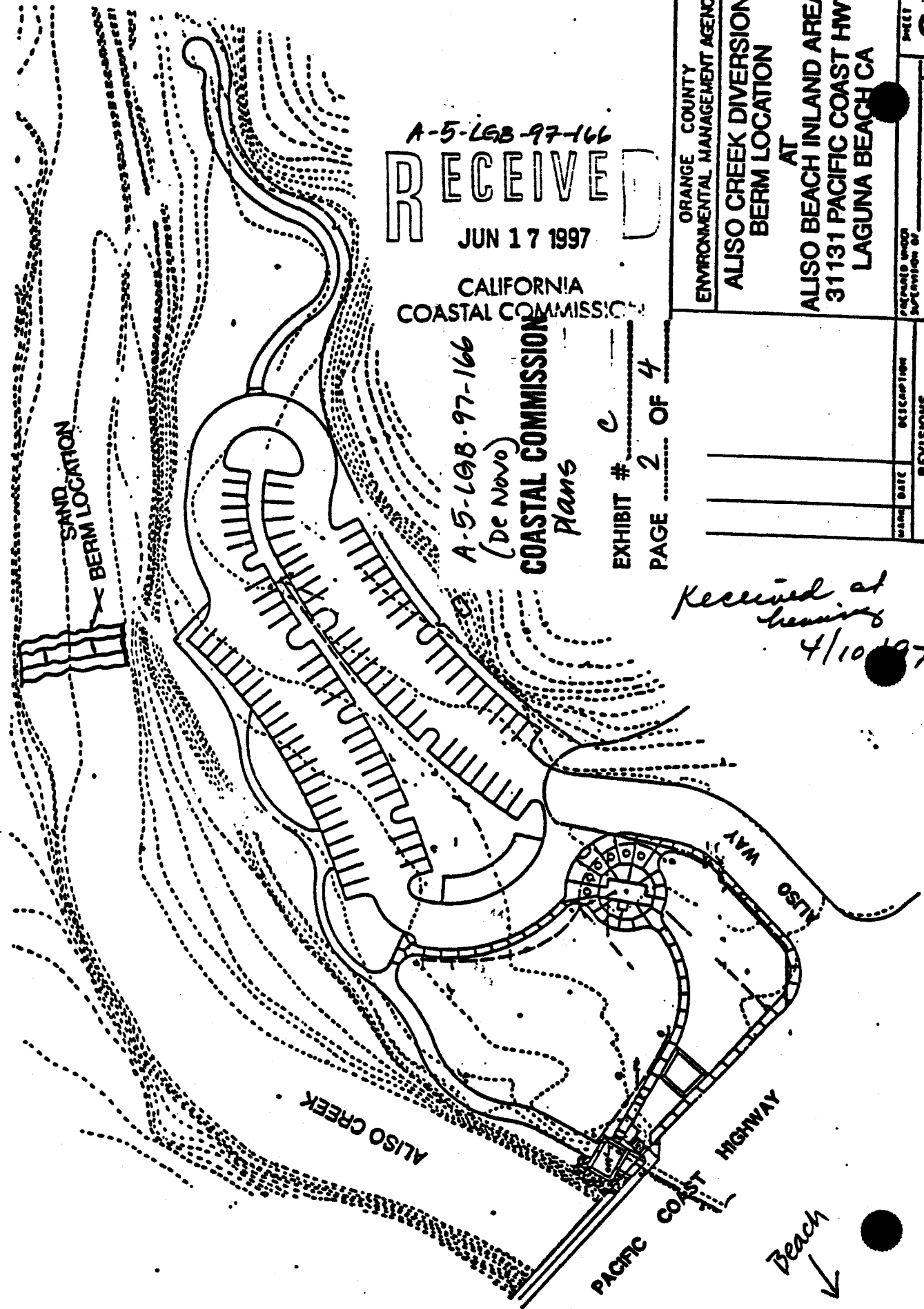


FIGURE 1 - LOCATION MAP SHOWING FACILITIES REQUIRED FOR TEMPORARY TEST PROGRAM TO DIVERT ALISO CREEK FLOWS TO THE ANRA OCEAN OUTFALL.

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

1002

ALISO CREEK BEACH INLAND AREA



A-5-LGB-97-166  
**RECEIVED**  
JUN 17 1997

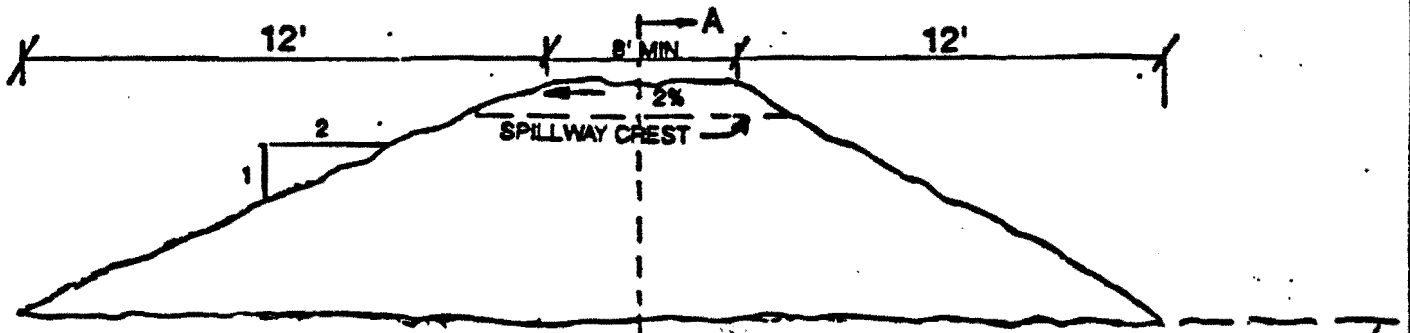
CALIFORNIA  
COASTAL COMMISSION

A-5-LGB-97-166  
(De Novo)  
COASTAL COMMISSION  
Plans

EXHIBIT # C  
PAGE 2 OF 4

ORANGE COUNTY ENVIRONMENTAL MANAGEMENT AGENCY	
ALISO CREEK DIVERSION BERM LOCATION	
AT ALISO BEACH INLAND AREA 31131 PACIFIC COAST HWY LAGUNA BEACH CA	
DATE	DESCRIPTION
REVISIONS	
DATE	DESCRIPTION

Received at  
hearing  
4/10/97



BERM SECTION  
NO SCALE

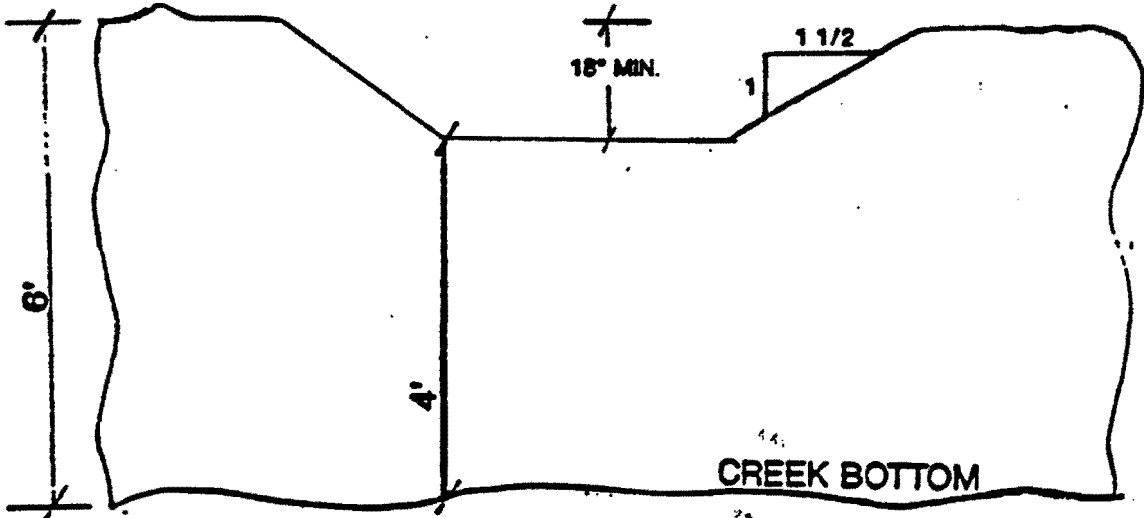
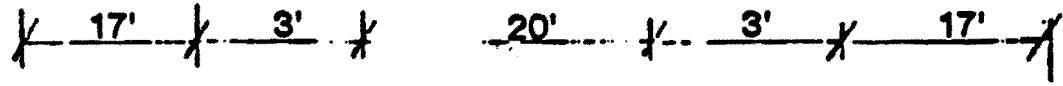
COASTAL COMMISSION

Plans: A-5-LGB-97-166

(De Novo)

EXHIBIT # C

PAGE 3 OF 4



SECTION AA

**RECEIVED**  
JUN 17 1997

CALIFORNIA  
COASTAL COMMISSION

A-5-LGB-97-166

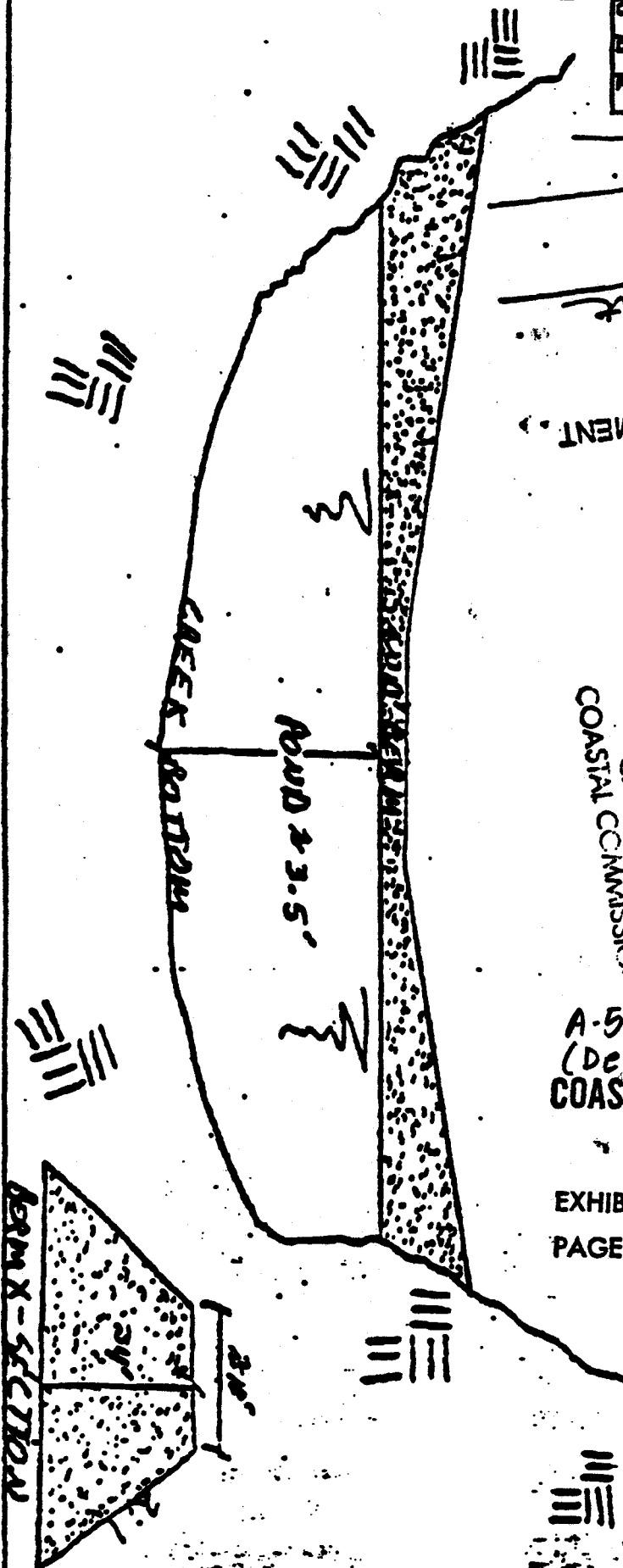
ORANGE COUNTY  
ENVIRONMENTAL MANAGEMENT AGENCY

ALISO CREEK DIVERSION BERM  
CROSS SECTION

AT  
ALISO CREEK BEACH  
31131 PACIFIC COAST HWY  
LAGUNA BEACH CA

FIGURE 3

Post-it brand fr		ansmittal memo 7571	# of pages 1
To	KATHY LOTTES		From
Ca	CITY OF LAGUNA		OC & WA
Dept.	PLANNING		Phone #
Fax #	497-0771		834-181
			Fax # 834-4652



DATE 4/10/97  
SIGNATURE - G. Hunt

BOARD OF ADJUSTMENT DENIED

ALISO CREEK DIVERSION PROJECT  
BERM CROSS SECTION

A-5-16B-97-166  
**RECEIVED**  
JUN 17 1997  
CALIFORNIA  
COASTAL COMMISSION

A-5-16B-97-166  
(De Novo)  
COASTAL COMMISSION  
Plans

EXHIBIT # C  
PAGE 4 OF 4

STAMPING UNIT  
SERIAL NO. 55-52  
DATE 10-7-92



USEPA

California  
Regional Water  
Quality Control  
Board, San Diego  
Region

9771 Clairemont Mesa  
Blvd., Suite A  
San Diego, CA 92124  
(619) 467-2952  
FAX (619) 571-6972

September 18, 1997

Mr. David A. Caretto  
General Manager  
Aliso Water Management Agency  
30290 Rancho Viejo Road  
San Juan Capistrano, California 92675

RECEIVED

SEP 24 1997

A.W.M.A.



Pete Wilson  
Governor

Dear Mr. Caretto

ADDENDUM NO. 1 TO ORDER NO. 95-107, NPDES PERMIT NO. CA0107611, "WASTE DISCHARGE REQUIREMENTS FOR THE ALISO WATER MANAGEMENT AGENCY, ORANGE COUNTY, DISCHARGE TO THE PACIFIC OCEAN THROUGH THE ALISO WATER MANAGEMENT AGENCY OCEAN OUTFALL"

Enclosed is a copy of Addendum No. 1 to Order No. 95-107 which modifies the waste discharge requirements for the Aliso Water Management Agency (AWMA). The Addendum allows the discharge of Aliso Creek flows through the AWMA Ocean Outfall between May 1 and October 15.

Please note that the Addendum modifies the Reporting Period for the Semiannual Monitoring, and also modifies the Effluent Monitoring to include the Aliso Creek flow to the Ocean Outfall. If AWMA will divert creek flow to the Ocean Outfall this year, the quarterly and semiannual effluent monitoring must include sampling of the creek flow.

If you have any questions, please contact Mr. Paul J. Richter of my staff at (619) 627-3929.

Respectfully,

*John H. Robertus*  
JOHN H. ROBERTUS

Executive Officer

RECEIVED  
NOV 24 1997  
D 5-97-316

CALIFORNIA  
COASTAL COMMISSION

Enclosure  
PJR  
File: AWMA, 01-0117.02

- cc: Mr. Larry Paul, County of Orange (w/enclosure)
- Mr. John T. Auyong, California Coastal Commission (w/enclosure)
- Mr. Mike Beanan & Mr. Ron Harris, South Laguna Civic Association
- Mr. John Youngerman, SWRCB (w/enclosure)
- Mr. Christopher Crompton, County of Orange (w/enclosure)
- Mr. Terry Oda, USEPA, Region 9 (w/enclosure)

A-5-LAB-97-166  
(De Novo)

COASTAL COMMISSION  
R.W.Q.C.B. Approval

EXHIBIT # D

PAGE 1 OF 5

ADDENDUM 3



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**  
**SAN DIEGO REGION**  
*A-5-LGB-97-166*  
*(De Novo)*  
**COASTAL COMMISSION**  
*R.W.Q.C.B. Approval*

ADDENDUM NO. 1  
TO  
ORDER NO. 95-107

EXHIBIT # D NPDES NO. CA0107611

PAGE 2 OF 5 WASTE DISCHARGE REQUIREMENTS  
FOR THE  
ALISO WATER MANAGEMENT AGENCY  
ORANGE COUNTY

DISCHARGE TO THE PACIFIC OCEAN  
THROUGH THE ALISO WATER MANAGEMENT AGENCY  
OCEAN OUTFALL

5-97-316  
**RECEIVED**  
NOV 24 1997  
CALIFORNIA  
COASTAL COMMISSION

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. On December 14, 1995, this Regional Board adopted Order No. 95-107, NPDES No. CA0107611, Waste Discharge Requirements for the Aliso Water Management Agency, Orange County, Discharge to the Pacific Ocean Through the Aliso Water Management Agency Ocean Outfall. Order No. 95-107 established requirements for the discharge of up to 27 million gallons per day (MGD) of treated wastewater to the Pacific Ocean via the Aliso Water Management Agency (AWMA) Ocean Outfall.
2. On March 27, 1997, AWMA submitted an application to amend Order No. 95-107 to allow a diversion of summertime low flow from Aliso Creek to the Ocean Outfall. The diversion would occur from May through October 15th. The anticipated maximum flow rate would be 4.52 MGD and the anticipated average flow rate would be 3.23 MGD. The County of Orange would maintain the pumping and conveyance facilities.
3. Summertime flow in Aliso creek consists primarily of urban runoff. At the mouth of the creek, these flows pond behind a sand barrier. This ponded water contains high levels of coliform bacteria. Intermittently, the sand barrier is breached and the creek flows enter the Pacific Ocean. As a result, the adjacent ocean waters sometimes contain high levels of coliform bacteria. The presence of high levels of coliform bacteria is an indication that pathogens may be present. Consequently, water contact recreation in the creek and ocean waters near the mouth of the Aliso Creek ocean has been prohibited. The purpose of the creek diversion is to mitigate the threat to public health from the ponded water and any creek flow to the ocean.

4. The creek flow will be diverted to a small pump building and then pumped to the AWMA outfall. In the outfall, the creek flow will commingle with the treated secondary effluent from the AWMA treatment facilities.
5. AWMA has reported that the summertime flow diversion of the Aliso Creek to the ocean outfall is a temporary diversion for the protection of human health and that the summertime flow of Aliso Creek will be restored to its natural discharge channel in the future.
6. The issuance of this Addendum is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with the California Water Code, Section 13389.
7. This Regional Board has notified AWMA and all known interested parties of its intent to modify Order No. 95-107.
8. This Regional Board, at a public meeting on August 13, 1997, has heard and considered all comments pertaining to the modification of Order No. 95-107.

IT IS HEREBY ORDERED THAT:

1. Prohibition A.4 of Order No. 95-107 shall be replaced by the following:
  4. Discharge to the Pacific Ocean through the AWMA Ocean Outfall in excess of 27.0 MGD average dry weather flow rate is prohibited unless the discharger obtains revised waste discharge requirements authorizing an increased flowrate. The summertime stream flows diverted from the Aliso Creek to the AWMA Ocean Outfall shall be included when calculating the average dry weather flowrate discharged through the AWMA Ocean Outfall. The summertime stream flow diversion from the Aliso Creek to the AWMA Ocean Outfall shall not exceed 4.52 MGD unless the discharger obtains revised waste discharge requirements authorizing an increased flowrate.

A-5-LGB-97-166 (De Novo)  
COASTAL COMMISSION

R.W. Q.C. B. Approval

EXHIBIT # D

PAGE 3 OF 5

- 2. Order No. 95-107 shall be amended to add the following *Prohibition A.10.*
  - 10. Diversion of Aliso Creek stream flows to the AWMA Ocean Outfall is prohibited between October 16, and April 30 each year.
- 3. Order No. 95-107 shall be amended to add the following *Discharge Specification B.11.*
  - 11. The stream flow diversion from Aliso Creek to the AWMA Ocean Outfall shall be included as a component of the effluent limitations as listed in Discharge Specification B.2
- 4. The Semiannual Reporting Period and the Semiannual Report Due Date as listed in Monitoring Provision II.14 of Monitoring and Reporting Program No. 95-107 shall be replaced by following:

<u>Monitoring Frequency</u>	<u>Reporting Period</u>	<u>Report Due</u>
Semiannually	May -- October November -- April	November 30 May 30

- 5. The following paragraph shall be added to *Monitoring and Reporting Program No. 95-107* in the IV. Effluent Monitoring section as the first paragraph in that section.

For the purposes of this Monitoring and Reporting Program, effluent includes Aliso Creek flows diverted to the AWMA Ocean Outfall as well as treatment plant effluent.

A-5-LGB-97-166  
(De Novo)  
COASTAL COMMISSION  
R.W.Q.C.B. Approval  
EXHIBIT # D  
PAGE 4 OF 5




6. Monitoring and Reporting Program No. 95-107 shall be amended to add the following VI. Aliso Creek Monitoring.

VI. Aliso Creek Monitoring

The stream flow diversion from Aliso Creek to the AWMA Ocean Outfall shall be monitored for the following:

Parameter	Unit	Type of Sample	Minimum Frequency
Flowrate	MGD	recorder/totalizer	continuous
CBOD, @20°C	mg/l	24-hr composite	daily <sup>3</sup>
Suspended Solids	mg/l	24-hr composite	daily <sup>3</sup>
pH	units	grab	daily <sup>3</sup>
Total and fecal coliform	#/100ml	grab	weekly

I, John H. Robertus, Executive Officer of the San Diego Regional Water Quality Control Board, do hereby certify the foregoing is a full, true, and correct copy of Addendum No. 1 to Order No. 95-107 adopted by the California Regional Water Quality Control Board, San Diego Region, on September 17, 1997.

  
JOHN H. ROBERTUS  
Executive Officer

A-5-LGB-97-166  
(De Novo)  
COASTAL COMMISSION  
R.W.Q.C.B. Approval  
EXHIBIT # D  
PAGE 5 OF 5

A-5-LGB-97-166 (De Novo)

COASTAL COMMISSION

Water Quality  
Monitoring

EXHIBIT # ..... E

PAGE ..... 1 OF 13

Aliso Creek Diversion Project

1997 Monitoring Report

RECEIVED  
NOV 24 1997

CALIFORNIA  
COASTAL COMMISSION

General

Per the requirements of the California Coastal Commission, Orange County Public Facilities and Resources Department (PFRD) / Harbors, Beaches and Parks and the Aliso Water Management Agency (AWMA) have performed a two week monitoring of the water quality and quantity in Aliso Creek, the final effluent from the AWMA Joint Regional Plant, and the ocean receiving waters. The constituents that were monitored are as prescribed in the project permit from the California Regional Water Quality Control Board - San Diego Region.

PFRD Data

Table 1 lists the data collected in Aliso Creek by PFRD. It shows that the water quality is that which is typically expected from a primarily residential and light-commercial land use watershed. With the exception of the bacteriological parameters (Total and Fecal Coliforms), the water quality is good and well within ocean discharge standards. The average daily flow rate was low and ranged from 1.74 to 2.13 cubic feet per second (cfs) or approximately 1.3 million gallons per day (mgd). It should be noted that there was a rainfall event on September 25, 1997 that interrupted the continuity of the monitoring. Figure 2 shows that there was approximately 0.7 inches of accumulated precipitation in the Aliso Creek Watershed at this time. Since the diversion project is intended for non-storm purposes only, monitoring was discontinued from September 25, 1997 to September 30, 1997 (until the effects of the storm subsided).

AWMA Data

In comparison, tables 2 and 3 show the results of water quality monitoring of the final effluent from the AWMA Joint Regional Treatment Plant. With an average daily flow rate of 6.78 to 11.33 mgd, the daily volume of the discharged effluent exceeded the daily volume of creek flow by approximately 5 to 9 times. The chemical and physical constituents measured showed the close similarities of treated wastewater and urban runoff in this watershed. Bacteriological measurements of the non-disinfected effluent were not made, and are obviously significantly higher than the values listed for Aliso Creek discharges. Figure 1 shows the nearshore and surf zone AWMA monitoring stations in the receiving waters. Tables 5 through 9 show the results of monitoring at these locations during the Aliso Creek Diversion Project study period. The results indicate that the good bacteriological water quality in the nearshore zone with occasional poor water quality in the surf zone. It should be noted that the outlet of Aliso Creek into the ocean could meander anywhere from station from station S-7 to station S-10.

**Synopsis**

The water quality and quantity monitoring performed during this study period indicates that diversion of Aliso Creek non-storm flow into the AWMA ocean outfall should not cause any increased negative impact on the nearshore environment and should improve water quality in the surf zone.

A-5-LAB-97-166  
(De Novo)  
COASTAL COMMISSION  
Water Quality Monitoring Report  
EXHIBIT # E  
PAGE 2 OF 13

ALISO CREEK STUDY  
9/19/97 - 10/8/97

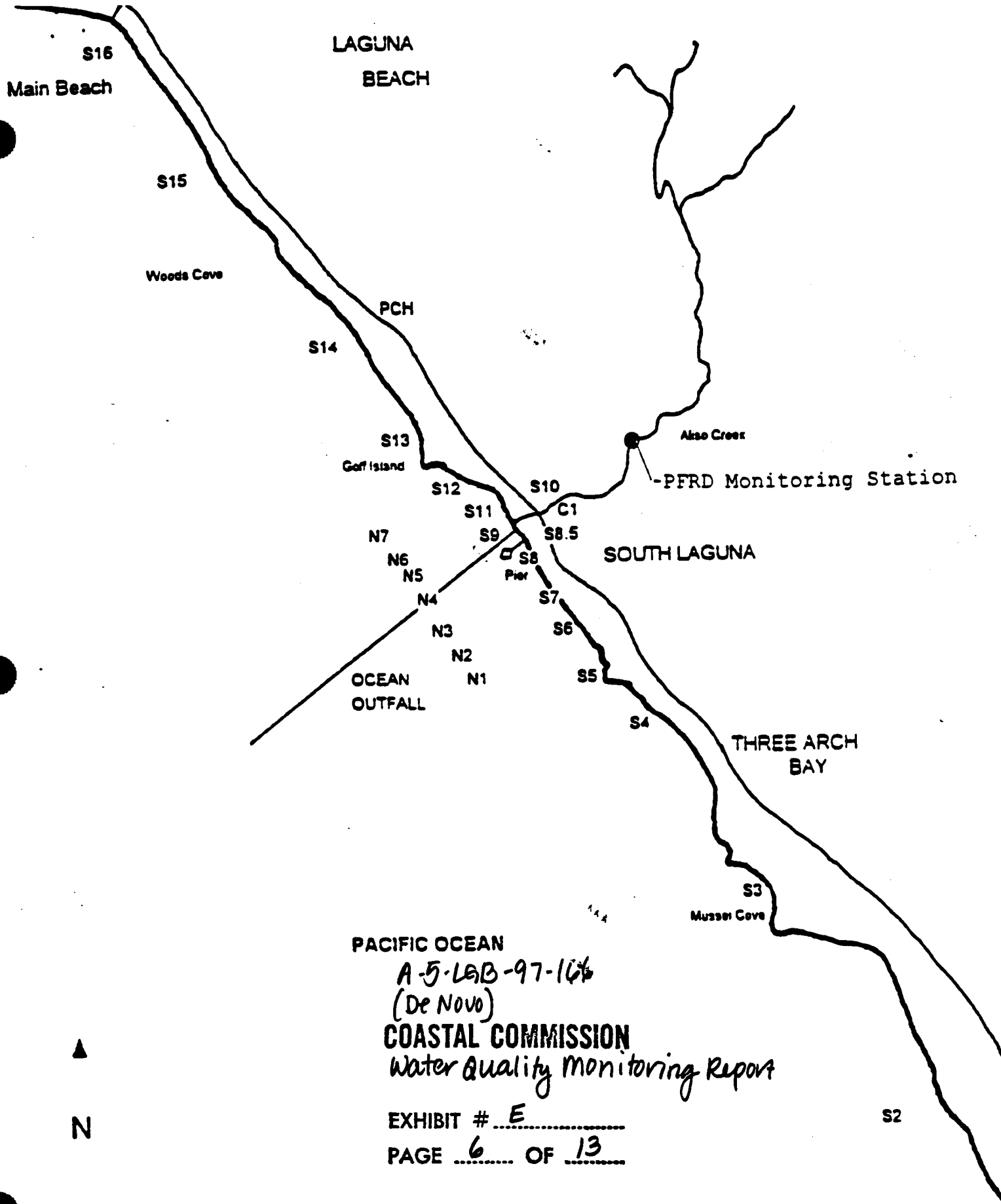
DATE	TIME	pH	TSS mg/L	CBOD mg/L	Total Coliform MPN/100 ml	Fecal Coli. MPN/100 ml	Ave. Flow cfs
9/19/97	10:30	7.6	23	<7	9,000	1,300	2.02
9/20/97	9:00	7.6	20	<7			1.96
9/21/97	10:00	7.5	10	<7			1.96
9/22/97	9:45	7.5	7	<7	5,000	700	2.10
9/23/97	9:30	7.8	10	<7	5,000	1,700	2.13
9/24/97	9:30	7.5	21	<7	1,300	170	2.09
10/1/97	9:30	7.4	13	<7	9,000	5,000	1.75
10/2/97	9:00	7.5	<6	<7	3,000	<20	1.78
10/3/97	9:40	7.5	6	<7	16,000	5,000	1.89
10/4/97	9:30	8.0	19	<7			1.85
10/5/97	9:30	7.5	13	<7			1.75
10/6/97	13:00	7.6	10	<7	5,000	5,000	1.76
10/7/97	9:00	7.5	6	<7	3,000	2,400	1.87
10/8/97	12:00	7.6	9	<7	9,000	2,400	1.74

Composite sample represents 24-hr period prior to reported date/time

A-5-LGB-97-166  
 (De Novo)  
**COASTAL COMMISSION**  
*Water Quality Monitoring Report*  
 EXHIBIT # E<sup>1</sup>  
 PAGE 3 OF 13







PACIFIC OCEAN

A-5-LAB-97-166  
(De Novo)

COASTAL COMMISSION

Water Quality Monitoring Report

EXHIBIT # E

PAGE 6 OF 13

AWMA RECEIVING WATER  
MONITORING STATIONS

## AWMA Shoreline Stations

AWMA's NPDES discharge permit requires surfzone samples be collected at these stations and tested for total and fecal coliform and enterococcus. The test results are located on the following pages.

Station	Location
S1	20,000' south of outfall - small beach north of Marine Studies Inst.
S2	15,000' south of outfall - Salt Creek beach; use access road to the beach, sample just north of the little rock jetty
S3	10,000' south of outfall - Three Arch Bay; straight down street at end, then left; access across from #5 house
S4	5000' south of outfall - 1000 steps beach, across from 9th Street
S5	4000' south of outfall - Laguna Lido Apt; take elevator at end of hall, push "B" (use floor "1" in winter when "B" boarded up)
S6	3,000' south of outfall - Table Rock, one way street; use stairs at end of street, sample just left of rock reef
S7	2,000' south of outfall - Camel Point (#1924); sample straight across from porta-potties
S8	1,000' south of outfall - So. of Aliso pier, straight down from trailer
S8.5	Adjacent and just north of pier
S9	Surf at outfall - sample straight down from manhole in parking lot
C1	In Aliso Creek, on east side of PCH bridge
S10	1,000' no. of outfall - Treasure Isl., so. end, at house w/ gray pillars
S11	2,000' no. of outfall - Treasure Isl. south end, 50 ft. from ramp
S12	3,000' no. of outfall - Treasure Isl, access just left of isl. at old pier
S13	4,000' no. of outfall - Blue Lagoon; access through Treasure Island
S14	5,000' north of outfall - Diamond Street, straight down from stairs
S15	10,000' north of outfall - Mountaine Road; straight down from stairs
S16	15,000' north of outfall - Laguna Ave.; park at cul-de-sac near Main Beach, sample in front of Hotel Laguna

*A-5-65897-166  
(De Novo)*

*Water Quality  
Monitoring Report*

*Exhibit E  
p. 7 of 13*



AWMA's NPDES discharge permit requires nearshore samples be collected monthly at the N stations shown on the preceding map. Samples are collected at the surface, mid, and bottom depths and analyzed for total and fecal coliform, and enterococcus. The test results are given below.

DISCHARGER: AWMA  
 REPORT FOR: September 1997  
 REPORT DUE: October 30, 1997  
 SAMPLE SOURCE: Receiving water, nearshore  
 EXACT SAMPLE POINTS: As specified in permit  
 SAMPLES COLLECTED BY: SERRA Lab  
 SAMPLES ANALYZED BY: SERRA Lab

NPDES No. CA0107611  
 ORDER/RESOLUTION No. 95-107  
 REPORT FREQUENCY: Monthly  
 SAMPLING FREQUENCY: Monthly  
 TYPE OF SAMPLE: Grab

Comments: Overcast and humid, heavy surf, high tide at 10:16, rain on 9/14-15.

Sta No	Sample Depth	Sample Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Enterococcus CFU/100ml	Sample Time	Oil & Grease	Sewage Debris
N1	Surface	09/17/97	50	10	<10	09:55	0	0
N1	25'	09/17/97	10	<10	<10		0	0
N1	50'	09/17/97	<10	10	<10		0	0
N2	Surface	09/17/97	<10	<10	<10	09:45	0	0
N2	25'	09/17/97	<10	<10	<10		0	0
N2	50'	09/17/97	<10	<10	<10		0	0
N3	Surface	09/17/97	<10	<10	<10	09:40	0	0
N3	25'	09/17/97	<10	10	<10		0	0
N3	50'	09/17/97	<10	10	<10		0	0
N4	Surface	09/17/97	<10	<10	<10	09:30	0	0
N4	25'	09/17/97	<10	<10	<10		0	0
N4	50'	09/17/97	<10	<10	<10		0	0
N5	Surface	09/17/97	<10	<10	<10	09:20	0	0
N5	25'	09/17/97	<10	10	<10		0	0
N5	50'	09/17/97	10	<10	<10		0	0
N6	Surface	09/17/97	<10	<10	<10	09:10	0	0
N6	25'	09/17/97	<10	10	<10		0	0
N6	50'	09/17/97	<10	<10	<10		0	0
N7	Surface	09/17/97	70	10	<10	09:00	0	0
N7	25'	09/17/97	<10	<10	<10		0	0
N7	50'	09/17/97	<10	<10	<10		0	0

\*0 - None  
 1 - Mild  
 2 - Moderate  
 3 - Severe  
 4 - Extreme

REQUIREMENT (1) Floating particulates and grease and oil shall not be visible (2) The discharge of waste shall not cause aesthetically undesirable discoloration of the ocean surface.

A-5-LGB-97-166 (De Novo)  
**COASTAL COMMISSION**  
 Water Quality Monitoring Report

EXHIBIT #   E    
 PAGE   8   OF  13

WEEKLY RECEIVING WATER REPORT FOR ORANGE COUNTY HEALTH DEPARTMENT

Aliso Water Management Agency

NPDES No. CA0107611

DISCHARGER: AWMA

ORDER/RESOLUTION No. 95-107

REPORT FOR: September 14 through 20, 1997

REPORT FREQUENCY: Weekly

SAMPLE SOURCE: Receiving water surf zone

EXACT SAMPLE POINTS: As specified in permit

SAMPLES COLLECTED BY: SERRA Lab

SAMPLES ANALYZED BY: SERRA Lab

TYPE OF SAMPLE: Grab

COMMENTS: Aliso Creek reaches surfzone north of S9.  
Rain on 09/14-15/97.

Station No.	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Enterococcus CFU/100ml	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Enterococcus CFU/100ml
S-1	09/16/97	<10	<10	<10	09/18/97	6	8	2
S-2	09/16/97	<10	<10	20	09/18/97	8	<2	2
S-3	09/16/97	40	10	<10	09/18/97	2	2	10
S-4	09/16/97	1000	650	<10	09/18/97	20	<10	<10
S-5	09/16/97	40	<10	<10	09/18/97	10	2	<2
S-6	09/16/97	110	20	10	09/18/97	6	<2	<2
S-7	09/16/97	60	10	<10	09/18/97	30	<10	10
S-8	09/16/97	80	50	10	09/18/97	10	10	<10
S-8 S	09/16/97	70	50	100	09/18/97	<10	10	<10
S-9	09/16/97	20	10	10	09/18/97	30	<10	<2
S-10	09/16/97	<10	10	10	09/18/97	60	30	<2
S-11	09/16/97	10	<10	<10	09/18/97	24	6	4
S-12	09/16/97	10	<10	<10	09/18/97	2	<2	4
S-13	09/16/97	1600	750	<10	09/18/97	<2	<2	<2
S-14	09/16/97	40	40	20	09/18/97	4	<2	<2
S-15	09/16/97	250	100	70	09/18/97	10	2	2
S-16	09/16/97	320	91	100	09/18/97	20	20	<10
C-1	09/16/97	15000	6700	900	09/18/97	3600	280	250

REQUIREMENT (a) Samples of water from each sampling station shall have a density of total coliform organisms less than 1,000 per 100 ml, provided that not more than 20% of the samples at any sampling station, in any 30 day period, may exceed 1000 per 100 ml, and provided that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml. (b) The fecal coliform density based on a minimum of not less than 5 sample for any 30-day period, shall not exceed a geometric mean of 200 per 100 ml nor shall more than 10% of the total samples during any 60-day period exceed 400 per 100 ml

SAMPLING FREQUENCY: Twice weekly

A-5-LEB-97-166 (De Novo)  
COASTAL COMMISSION  
Water Quality Monitoring Report

EXHIBIT # E  
PAGE 9 OF 13

WEEKLY RECEIVING WATER REPORT FOR ORANGE COUNTY HEALTH DEPARTMENT

Aliso Water Management Agency

NPDES No. CA0107611

DISCHARGER: AWMA

ORDER/RESOLUTION No 95-107

REPORT FOR: September 17 and 24, 1997

REPORT FREQUENCY: Weekly

SAMPLE SOURCE: Receiving water surf zone

EXACT SAMPLE POINTS: As specified in permit

SAMPLES COLLECTED BY: SERRA Lab

SAMPLES ANALYZED BY: SERRA Lab

TYPE OF SAMPLE: Grab

A-5-LEB-97-116 (De Novo)

COASTAL COMMISSION

Water Quality Monitoring Report

COMMENTS Aliso Creek reaching surfzone just north of S9.  
No sample at S7 09/17/97 due to high tide that impeded access.

EXHIBIT # E

PAGE 10 OF 13

Station No	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Enterococcus CFU/100ml	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Enterococcus CFU/100ml
S-1								
S-2								
S-3								
S-4								
S-5								
S-6								
S-7	09/17/97	N/S	N/S	N/S	09/24/97	<10	<10	<10
S-8	09/17/97	<10	10	<10	09/24/97	10	<10	<10
S-8	09/17/97	<10	<10	<10	09/24/97	200	20	<10
S-9	09/17/97	<10	<10	30	09/24/97	<10	<10	<10
S-10	09/17/97	<10	<10	<10	09/24/97	<10	<10	<10
S-11	09/17/97	<10	<10	<10	09/24/97	<10	<10	10
S-12	09/17/97	<10	<10	<10	09/24/97	<10	<10	<10
S-13								
S-14								
S-15								
S-16								
C-1	09/17/97	3,200	820	310	09/24/97	80	40	<10

REQUIREMENT (a) Samples of water from each sampling station shall have a density of total coliform organisms less than 1,000 per 100 ml, provided that not more than 20% of the samples at any sampling station, in any 30-day period, may exceed 1,000 per 100 ml, and provided that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml. (b) The fecal coliform density based on a minimum of not less than 5 sample for any 30-day period, shall not exceed a geometric mean of 200 per 100 ml nor shall more than 10% of the total samples during any 30-day period exceed 400 per 100 ml.

SAMPLING FREQUENCY: Three times weekly

Table 7

WEEKLY RECEIVING WATER REPORT FOR ORANGE COUNTY HEALTH DEPARTMENT

Aliso Water Management Agency

NPDES No. CA0107611

DISCHARGER: AWMA  
 REPORT FOR: September 21 through 27, 1997  
 SAMPLE SOURCE: Receiving water surf zone  
 EXACT SAMPLE POINTS: As specified in permit  
 SAMPLES COLLECTED BY: SERRA Lab  
 SAMPLES ANALYZED BY: SERRA Lab  
 TYPE OF SAMPLE: Grab

ORDER/RESOLUTION No. 95-107  
 REPORT FREQUENCY: Weekly

COMMENTS: Aliso Creek reaches surfzone at S9 on 9/23, surf washing into pooled creek on 9/25. On 9/25, pool of runoff noted at S2, S6, S11, and S15. Runoff to surf at S16 on 9/25. Rain beginning 1/24, becoming heavy during sampling on 9/25.

Station No	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Entero-coccus CFU/100ml	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Entero-coccus CFU/100ml
S-1	09/23/97	4	2	20	09/25/97	20	20	30
S-2	09/23/97	42	8	2	09/25/97	50	10	30
S-3	09/23/97	30	10	4	09/25/97	20	<10	20
S-4	09/23/97	16	18	12	09/25/97	<10	<10	<10
S-5	09/23/97	10	4	18	09/25/97	30	30	10
S-6	09/23/97	<2	<2	4	09/25/97	<10	10	<10
S-7	09/23/97	<10	10	40	09/25/97	20	20	30
S-8	09/23/97	90	20	10	09/25/97	40	50	10
S-8.5	09/23/97	220	10	10	09/25/97	80	50	90
S-9	09/23/97	270	70	10	09/25/97	73	60	10
S-10	09/23/97	10	<10	<10	09/25/97	40	10	10
S-11	09/23/97	<2	2	2	09/25/97	<10	10	<10
S-12	09/23/97	2	8	<2	09/25/97	190	130	130
S-13	09/23/97	8	<2	2	09/25/97	30	60	<10
S-14	09/23/97	4	6	140	09/25/97	850	480	290
S-15	09/23/97	18	6	16	09/25/97	630	340	180
S-16	09/23/97	30	<10	10	09/25/97	2,700	720	780
C-1	09/23/97	1,100	130	82	09/25/97	10,100	4,200	960

REQUIREMENT : (a) Samples of water from each sampling station shall have a density of total coliform organisms less than 1,000 per 100 ml, provided that not more than 20% of the samples at any sampling station, in any 30-day period, may exceed 1000 per 100 ml, and provided that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml. (b) The fecal coliform density based on a minimum of not less than 5 samples for any 30-day period, shall not exceed a geometric mean of 200 per 100 ml nor shall more than 10% of the total samples during any 60-day period exceed 400 per 100 ml.

SAMPLING FREQUENCY: Twice weekly

A-5-LGB-97-166 (De Novo)  
**COASTAL COMMISSION**  
 Water Quality Monitoring Report

EXHIBIT # E

PAGE 11 OF 13

WEEKLY RECEIVING WATER REPORT FOR ORANGE COUNTY HEALTH DEPARTMENT

Aliso Water Management Agency

NPDES No. CA0107611

DISCHARGER: AWMA

ORDER/RESOLUTION No. 95-107

REPORT FOR: September 29 and 30, 1997

REPORT FREQUENCY: Weekly

SAMPLE SOURCE: Receiving water surf zone

EXACT SAMPLE POINTS: As specified in permit

SAMPLES COLLECTED BY: SERRA Lab

SAMPLES ANALYZED BY: SERRA Lab

TYPE OF SAMPLE: Grab

COMMENTS: Aliso Creek reaches surfzone between S7 and S8 on 9/29; pooled above surf on 9/30.  
No other runoff noted.

Station No	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Enterococcus CFU/100ml	Date	Total Coliform CFU/100ml	Fecal Coliform CFU/100ml	Enterococcus CFU/100ml
S-1	09/29/97	40	10	<10				
S-2	09/29/97	<10	<10	<10				
S-3	09/29/97	50	10	20				
S-4	09/29/97	<10	<10	10				
S-5	09/29/97	20	<10	<10				
S-6	09/29/97	<10	<10	<10				
S-7	09/29/97	10	<10	<10	09/30/97	18	2	2
S-8	09/29/97	40	10	<10	09/30/97	60	20	<10
S-8 S	09/29/97	150	70	20	09/30/97	80	30	10
S-9	09/29/97	50	60	20	09/30/97	200	50	20
S-10	09/29/97	20	<10	<10	09/30/97	4	<2	<2
S-11	09/29/97	<10	<10	<10	09/30/97	2	4	<2
S-12	09/29/97	10	20	10	09/30/97	2	<2	<2
S-13	09/29/97	<10	<10	<10				
S-14	09/29/97	50	40	50				
S-15	09/29/97	20	10	10				
S-16	09/29/97	60	50	40				
C-1	09/29/97	1,800	980	280	09/30/97	>2000	510	240

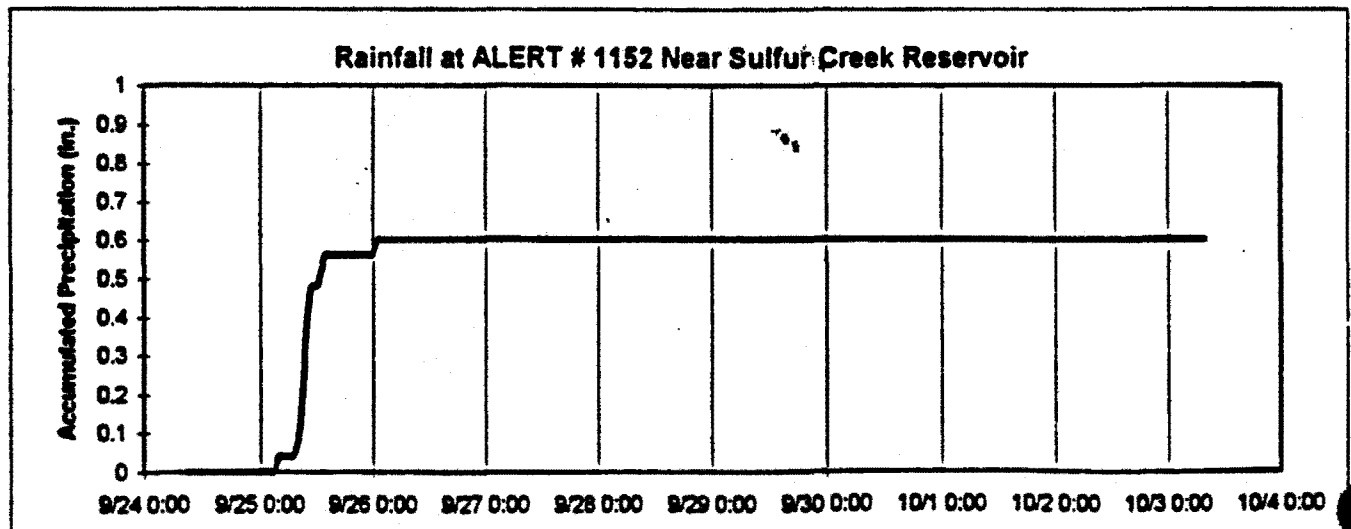
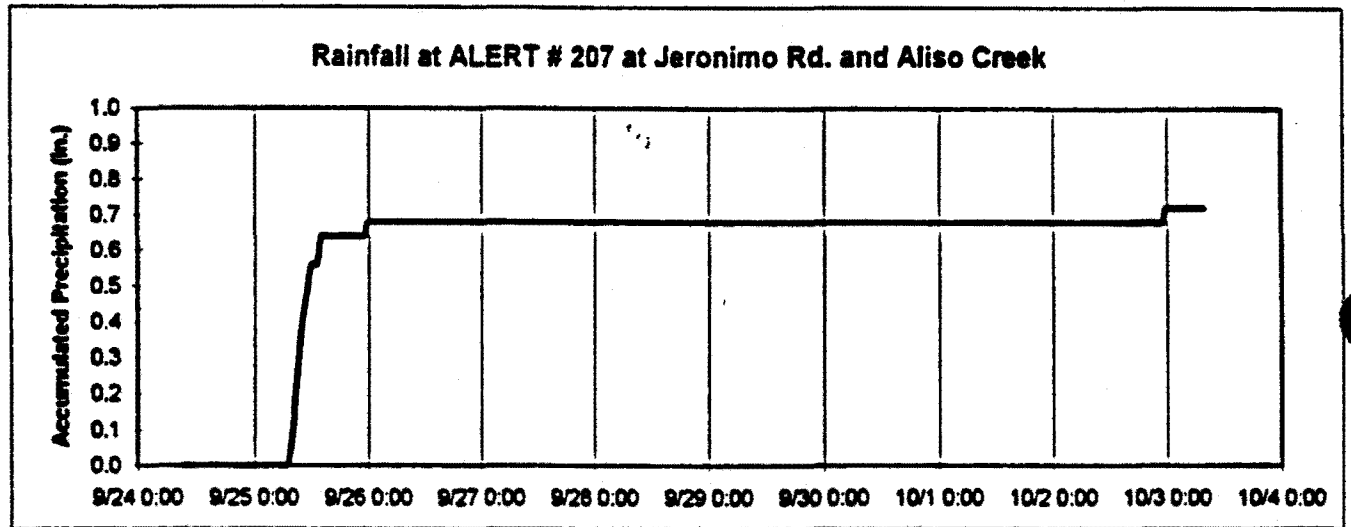
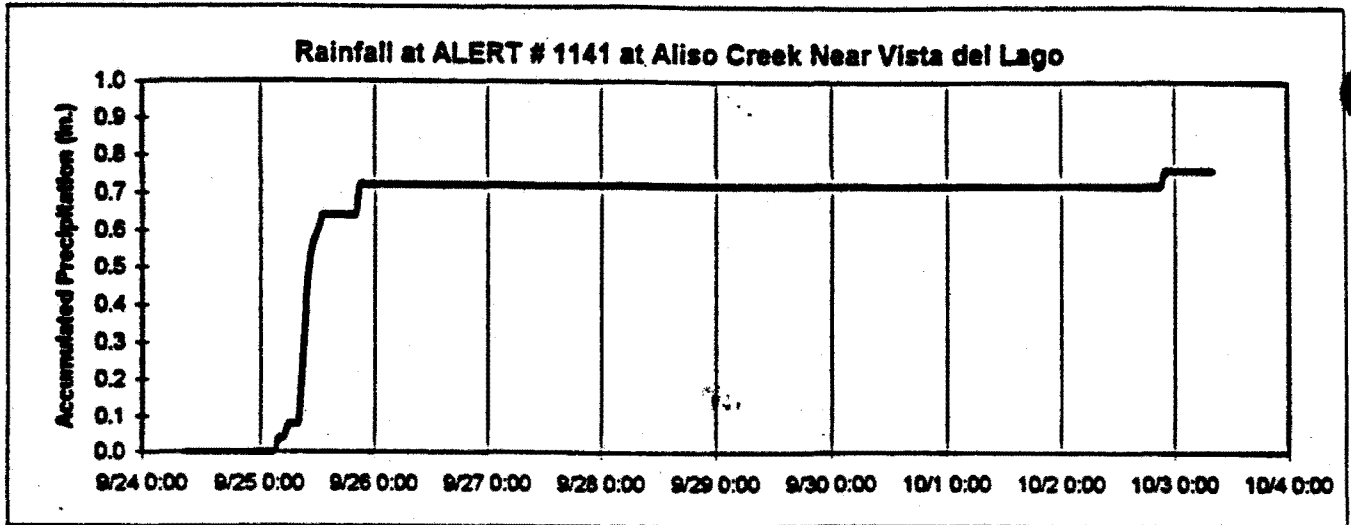
REQUIREMENT (a) Samples of water from each sampling station shall have a density of total coliform less than 1,000 per 100 ml, provided that not more than 20% of the samples at any sampling station, in any 30-day period, may exceed 1000 per 100 ml, and provided that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml. (b) The fecal coliform density based on a minimum of not less than 5 sample for any 30-day period, shall not exceed a geometric mean of 200 per 100 ml nor shall more than 10% of the total samples during any 30-day period exceed 400 per 100 ml.

SAMPLING FREQUENCY: Twice weekly

A-5-LGB-97-166 (De Novo)  
COASTAL COMMISSION  
Water Quality Monitoring Report

EXHIBIT # E  
PAGE 12 OF 13

Accumulated Precipitation at Three Rain Gauges in Aliso Creek Watershed



A-5-LAB-97-166 (De Novo); Exhibit E; p. 13 of 13

Figure 2

Ben  
Brown's

Aliso Creek Inn  
AND GOLF COURSE

A-5-LGB-97-166

RECEIVED  
JUN 17 1997

February 22, 1996

Laguna Beach Director of Community Development  
City of Laguna Beach

CALIFORNIA  
COASTAL COMMISSION

Re: Coastal Development Permit 95-89

As outlined in our letter of January 17, 1996 as well as during our attendance at the last Design Review Board, we have several concerns regarding the above permit and project.

In reviewing your resolution approving the permit, you continue to ignore the project's impact on Aliso Creek Inn. Paragraph three of the resolution states that the development "will not adversely affect recreational facilities...and that the stream diversion removes ponded water." It in fact moves it up stream to our course and collects on the course rather than on the beach.. Paragraph four further states that it is designed to prevent adverse impacts in "adjacent recreation areas." We are located 175 yards adjacent to the test site!!! Your Negative Declaration study has no mention of Aliso Creek Inn whatsoever.

Add to the concerns previously stated, a very real problem of the creek's capacity to carry the volumes of water slowed by the berm. While the pump is pumping, not even assuming breakdowns, the water is slowed and silt will deposit upstream of the site. Slowly but surely the creek bed level rises, diminishing the creek's capacity to contain water within it's banks.

We've discussed odor, noise, mosquitoes, ponding and the like. Who will be responsible if a golfer complains about these factors, or becomes sick or hurt? Who is responsible if September floods unexpectedly hit the watershed and waters back-up suddenly before the berm is breached. Liability must be addressed.

We do not feel we will have full use and enjoyment of our property as we did prior to such a project. Understand that if we see that this is in fact the case, alternate measures to remove the berm and discontinue the proposed project must be explored.

Again, we have been serving the City of Laguna Beach, and the County of Orange before that, for 35 years and join in your combined desire to clean up Aliso Beach. But we do not feel it has to be done at our expense.

Sincerely,

Violet Brown

A-5-LGB-97-166 (De Novo)  
COASTAL COMMISSION  
Correspondence in opposition

EXHIBIT # F  
PAGE 1 OF 2

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 PREREQUISITE 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 POLLUTION, 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 ALYD WOODS/CANYON RIPARIAN, WATERBODIES, WETLANDS, BEACH AND OCEAN HABITATS.

THANK YOU.

BOB DALYMEZ  


A-5-LGB-97-166 (De Novo)  
 COASTAL COMMISSION  
 Correspondence in Opposition

EXHIBIT # F  
 PAGE 2 OF 2





**COUNTY OF ORANGE  
HEALTH CARE AGENCY**



**TOM URAM  
DIRECTOR**

**HUGH 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**

**COASTAL COMMISSION**

*A-5-LGB-97-166 (De Novo)  
Correspondence in Support*

March 4, 1997

EXHIBIT # 67

PAGE 1 OF 9

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

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

**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 bath 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*

John Robertus  
March 4, 1997  
Page 2

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-97-146  
(De Novo)  
**COASTAL COMMISSION**  
Correspondence in Support  
EXHIBIT # 6  
PAGE 2 OF 9

ROBERTUS.LTR/WQ7

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



**ALISO WATER MANAGEMENT AGENCY**

30280 RANCHO VIEJO ROAD • SAN JUAN CAPISTRANO, CA 92675 • (714) 489-7730 • FAX (714) 489-7724

July 3, 1997

California Coastal Commission  
South Coast Area  
P. O. Box 1450  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4416

**RECEIVED**  
JUL 7 1997

RE: PERMIT #A-5-LGB-97-166  
ALISO CREEK DIVERSION PROJECT

CALIFORNIA  
COASTAL COMMISSION

Ladies and Gentlemen:

On behalf of the Aliso Water Management Agency (AWMA) and its six Member Agencies which serve the water and/or wastewater needs of the vast majority of residents within the Aliso Creek Watershed, I am writing to express support for the County of Orange's proposed Aliso Creek Diversion Project. This project, as designed, would divert up to 5 cfs of polluted creek water during dry weather periods into the AWMA Outfall and away from Aliso Beach where it can harm children and other beach users.

We at AWMA are cooperating with the County of Orange and others on this project because we recognize it as a temporary solution to a problem which has plagued Aliso Beach for the many years since polluted urban runoff to the creek became a serious problem. We also realize that this is only a temporary measure and that the real solution to the problem will come after the completion of the U. S. Army Corps of Engineers Aliso Creek Watershed Management Study which is now underway.

We encourage the Commission to act responsibly to protect the health and welfare of the thousands of residents and tourists who use Aliso Beach, and we urge you to reject the appeal and approve the Aliso Creek Diversion Project [Permit #A-5-LGB-97-166].

Thank you for your attention to this matter.

Very truly yours

*Herbert H. Hoyas*  
Herbert H. Hoyas, Chairman  
Aliso Water Management Agency

A-5-LGB-97-166  
(DeNovo)  
COASTAL COMMISSION  
Correspondence in Support

EXHIBIT # 9  
PAGE 3 OF 9

rti ~~A-5-LGB-97-166 Addendum Letter # 1 of 1~~



A-5-LGB-97-166  
(De Novo)

July 1, 1997

COASTAL COMMISSION

Correspondence  
in support  
EXHIBIT # 6

PAGE 4 OF 9

Charles Damm  
District Director  
California Coastal Commission  
P.O. Box 1450  
Long Beach, CA 90801

~~A-5-LGB-97-166~~  
~~Addressed to~~  
~~Letter #1~~  
~~Letter from the City of~~  
~~Sejouris Beach~~  
~~Page 1 of 2~~

Dear Mr. Damm:

I am writing this letter to follow up on my meeting yesterday with you and other members of your staff regarding appeal number A-5-LGB-97-166 which is an appeal from an approval by the City of Laguna Beach. The City, Orange County, the Aliso Water Management Agency and the South Coast Water District are all cooperating to install a temporary sand berm in Aliso Creek so that summer nuisance water can be transported to an existing sewage outfall. This will remove that polluted water from the near shore portion of the beach which is used by swimmers, surfers and small children. This project is intended to improve the water quality and protect the health of everyone who goes in the water at Aliso Beach.

During our meeting, I indicated that the creek water currently reaches the ocean each day since the County cuts open the sand berm that presently causes the water to pond near the ocean. This means that the polluted creek water is being fed into the near shore ocean water on a daily basis. Our proposal would transport that same water more than a mile offshore which will be of major benefit to beach users. Therefore, the issue raised in the staff report about the project's impact on offshore water quality should be moot since there will be no change to the amount of creek water entering the ocean each day.

A second issue raised in the staff report is the possible disturbance of the banks and borders of Aliso Creek. At the time your staff report was prepared, you did not have a copy of the permit which has been issued by the State Department of Fish and Game. That permit requires us to restore the banks of the creek. However, as a practical matter, there will be virtually no change whatsoever to the banks of the creek. As Larry Paul indicated, there will be an 8" diameter pipe that goes over the bank into the creek. That pipe will have virtually no impact on any sand or any vegetation. While there will be some minor disturbance of vegetation because the water will pond behind the temporary sand berm, the State Department of Fish and Game has already determined that there would be no damage to native habitat such as willows or mule fat. Instead, there is some ice plant and other non-native species at that portion of the bank that may be impacted in a very minor way. Again, State Fish and Game has already issued a permit for this project.



I hope that this letter clarifies some of the issues that were raised in the staff report. It is our position that there is no substantial issue raised by the appeal and that the Commission should vote to authorize the project to proceed in a timely manner so this public health measure can benefit everyone using Aliso Beach this summer.

Thanks for your cooperation in helping to resolve any issues regarding this project.

Sincerely,



Kenneth Frank  
City Manager

- cc: City Council
- Larry Paul, Orange County Director of Community Development
- Dave Caretto, Aliso Water Management Agency
- Mike Dunbar, South Coast Water District

~~A-5-LGB-97-166 Addendum~~  
~~Letter #1~~  
~~Letter #2~~

A-5-LGB-97-166  
(De Novo)  
COASTAL COMMISSION  
Correspondence in Support

EXHIBIT # B  
PAGE 5 OF 9



**Surfrider Foundation, Laguna Chapter**

2955 Laguna Canyon Road  
Laguna Beach, CA 92651  
(714) 494-0059  
Fax 494-5485

A-5-LGB-97-166  
(De Novo)  
COASTAL COMMISSION  
Correspondence in Support

7-3-97

California Coastal Commission  
South Coast Area  
Re: Permit number: A-5-LGB-97-166

EXHIBIT # 6  
PAGE 6 OF 9

Dear Sirs,

I am writing on behalf of my fellow Laguna Chapter members, Christian Morris Smith, and Bob Foes. We are very much in support of the berm proposition for Aliso Creek as an interim solution to the problem.

We see it as an excellent way to reduce public exposure, while the long term solution is developing. Public exposure means thousands of hours of exposure to the bathers who play within 20 yards of the mouth or in the creek itself. The warning signs have no impact whatsoever on most of the people who visit Aliso, and a significant number of bathers are entirely unaware of the likelihood of infection.

The skimboards, and surfers refer to Aliso as Spilliso Beach. Because we are a collective group of beach users, we communicate between ourselves far more frequently than the average beach user. We know, with absolute certainty, by virtue of decades of anecdotal evidence, that the creek frequently causes illness and infection. Just like the issue of smoking and cancer. Our county officials, just like the tobacco lawyers, have repeatedly stated that there hasn't been a single documented case of this happening. BUT, since it is scientifically un-provable, we consider this the ultimate cop out by the officials. There is no way to show where someone picked up an infection unless they lived in a bubble and you could control access to pathogens.

We know from Aliso Water Management Agency testing that the amounts of heavy metals and inorganic pollutants in the creek are totally negligible. We see very little harm in temporarily diverting some of this flow into the offshore canyon. Meanwhile, the long term solution by the Army Corp. is well under way and as the city of Arcata has shown, it is proven to be an excellent fix for the pollution as well as a new wetlands for the area.

Christian Smith has been working on this problem for 7 years. Bob Foes, B.S. Berkeley, and myself, B.S. Stanford, have been at it for 5 years. We think this a great band aid. Why not use it?

On July 26th, and 27th, my company, Victoria Skimboards will stage its 22nd Annual Skimboard Championships at Aliso Beach. We have 120 contestants, about 20 from outside the U.S. and I can't tell you how much I hate having to put contestants into the water when it is questionable. We have no other options. No other site even begins to meet out requirements for steep slopes, close shore break and public facilities. Maybe, by next year, I won't have to apologize.

Thank you for your time

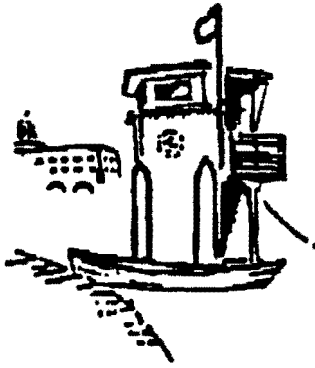
*Tex Haines*

Tex Haines, Bob Foes, Christian Smith  
Laguna Chapter, Surfrider Foundation

copy to Wayne Baglin, Laguna City Council

~~A-5-LGB-97-166 Substantive letter #3. of 1~~

*38*



LAGUNA BEACH TAXPAYERS ASSOCIATION, INC.  
FOUNDED IN 1947 FOR EFFICIENT LOCAL GOVERNMENT  
P.O. BOX 404 LAGUNA BEACH, CALIFORNIA 92652

Tel/Fax (714) 376 1979

July 3, 1997

CALIFORNIA COASTAL COMMISSION  
South Coast Area  
200 OceanGate 10th Floor  
Long Beach, CA 90802

RECEIVED  
JUL 7 1997

CALIFORNIA  
COASTAL COMMISSION

Attn: Meg Vaughn

Reference: Temporary Sand Berm in Aliso Creek in Laguna Beach Orange County  
Appeal No. A-5-97-166.

The Board of Directors and Advisory Board of the LAGUNA BEACH TAXPAYERS ASSOCIATION, INC. supports the City of Laguna Beach granting a permit to County of Orange for a temporary sand berm in Aliso Creek to collect and discharge low summertime flows 1.5 miles out in the ocean while the U. S Corp of Engineers studies a permanent solution to surface pollution runoff.

Existing Aliso Creek surface flow now concentrates the non-point surface pollution on the public beach exposing beach users to health hazards. We understand the proposal for the berm is only for periods of low flow and is thus temporary. It will, however, keep concentrated surface runoff pollution off the beach during low flow periods. Rather than concentrating the surface runoff at the public beach, the flow will be sent in an adjacent outfall and discharged 1.5 miles offshore in deep water.

We request the permit be approved and the outfall monitoring continue to identify any problems or health hazards while a permanent solution is developed.

LAGUNA BEACH TAXPAYERS ASSOCIATION

  
Gary Alstot, President

A-5-LGB-97-166  
(De Novo)  
COASTAL COMMISSION  
Correspondence in Support

EXHIBIT # 9  
PAGE 7 OF 9

cc: City of Laguna Beach Mayor and Council Members

Copy Faxed to 562 590 5084

~~A-5-LGB-97-166 Addendum: Letter # 5, 8/10/97~~

Frank P. Barbaro  
31285 Camel Point Drive  
South Laguna, CA 92675

RECEIVED  
JUL 7 1997

July 2, 1997

CALIFORNIA  
COASTAL COMMISSION

A-5-LGB-97-166 (De Novo)  
COASTAL COMMISSION  
Correspondence in Support

California Coastal Commission  
South Coast Area  
P.O. Box 1450  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4416

EXHIBIT # 6  
PAGE 8 OF 9

Re: Coastal Permit Number: A-5-LGB-97-166  
Project Location: Aliso Creek, Laguna Beach  
Hearing: July 9, 1997, Ventura

Dear Members of the Coastal Commission:

As a resident of Laguna Beach, whose home is immediately adjacent to Aliso Beach, which includes the outlet for Aliso Creek, I ask you to deny the appeal of the temporary sand berm project in Aliso Creek. As your hearing notice states, this berm is intended to assist in the collection of polluted creek water which will be directed into the Aliso Water Management Agency's outfall line.

At the present time, nuisance water flows down Aliso Creek from a watershed area of approximately thirty-six square miles, collecting water contaminated with bacteria all of the way. The creek ordinarily runs into the surf line just north of the Aliso pier, but periodically is trapped by normal wave and sand action to form a pond backing up under Coast Highway toward the Aliso Creek In. This polluted water, whether flowing across the beach or collecting in ponds on the beach, is not fit to swim or play in.

Young children find the water warm and appealing and typically play in it for several hours ignoring the posted contaminated water signs. Youth find Aliso Beach to be one of the premier skim-boarding beaches in Southern California. The creek pollutes the surf line for several hundred feet north and south of the outlet. My son, as well as many others, report health problems associated with using the Aliso Beach because of the polluted water flowing on the beach. It does not look or smell hazardous, but it is.

The proposal to divert the creek flow does not change the amount or character of the water flowing into the ocean. It does dilute the water with the treated sewage plant effluent and carries it out to sea about a mile and one half and one hundred and eight feet deep.

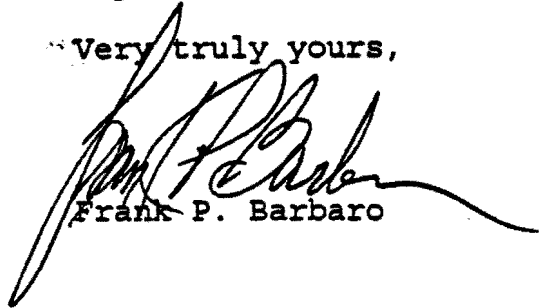
~~A-5-LGB-97-166 Addendum. Letter # 6, p 1 of 2~~

#



This project is only temporary while local government agencies continue their work with the Army Corps of Engineers to restore Aliso Creek to a clean flowing stream. That is the goal we all are supportive of. In the meantime, we need to protect the health and safety of all beach goers, especially the children. Please deny the appeal of the project and let it proceed.

Very truly yours,



Frank P. Barbaro

A-5-LGB-97-166 (De Novo)  
COASTAL COMMISSION  
Correspondence in Support

EXHIBIT # 6  
PAGE 9 OF 9

~~A-5-LGB-97-166 Addendum: Letter C, p 2 of 2~~

~~#2~~

CALIFORNIA COASTAL COMMISSION

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



EMERGENCY PERMIT

TO: County of Orange - Mike Wellborn
Planning and Development Services
300 North Flower Street, 3rd Floor
P.O. Box 4048
Santa Ana, CA 92702-4048

8 August 1997
Date
5-97-219-G
(Emergency Permit No.)

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

Location of Emergency Work

Collect creek flows and divert them to the existing outfall line which discharges approximately 1.5 miles offshore. This is to be accomplished by the installation of: a temporary sand berm in Aliso Creek; electric pump; and a pipe between a point in Aliso Creek, inland of the proposed berm, and an adjacent existing outfall line.

Work Proposed

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of ponding of polluted water at Aliso Beach requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

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

The work is hereby approved, subject to the conditions listed on the reverse.

A-5-16B-97-166 (DeNovo)
COASTAL COMMISSION
Emergency Permit

EXHIBIT # H
PAGE 1 OF 4

Very Truly Yours,

Peter M. Douglas
Executive Director

Charles Damm

By: Charles Damm
Title: Deputy Director

COASTAL COMMISSION

A-5-LGB-97-166 (De Novo)

EXHIBIT # H

PAGE 2 OF 4

CONDITIONS OF APPROVAL:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed prior to October 15, 1997.
4. Within 60 days of the date of this permit, the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent. If no such application is received, the emergency work shall be removed in its entirety within 150 days of the date of this permit unless waived by the Director.
5. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
7.
  - A. The applicant shall provide monitoring data required by the San Diego Regional Water Quality Control Board for; (1) the quantities and types of pollutants (both organic and heavy metals) being discharged from the outfall, and (2) the effects of the project on the marine environment in the vicinity of the outfall and Aliso Creek County Beach, including adverse effects on human health and marine life.
  - B. The applicant shall also monitor and provide data regarding; (1) the effects of the project on riparian vegetation along the banks of Aliso Creek inland of the proposed berm, and (2) the effects of the project on the adjacent Ben Brown's restaurant property, including any minor flooding which may occur.
  - C. The applicant shall submit the results of the monitoring, including any monitoring reports required by the San Diego Regional Water Quality Control Board for this development, to the Executive Director by November 30, 1997.
8. If the National Weather Service predicts a significant storm event would occur prior to October 15, 1997 which could cause flooding in Aliso Creek, the proposed berm shall be removed prior to the forecasted date of the storm event so that no flooding will occur. For purposes of this condition, a "significant storm event" shall be defined as: an event of one inch or more of rainfall within a 24 hour period.

9. This emergency permit does not authorize the development to continue past October 15, 1997. The development within Aliso Creek shall be removed in its entirety by October 15, 1997, and the development site restored to its previously existing state.

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

If you have any questions about the provisions of this emergency permit, please call the Commission Area office.

Enclosures: 1) Acceptance Form; 2) Regular Permit Application Form

cc: City of Laguna Beach Planning Department (w/o enclosures)

9218F:jta

COASTAL COMMISSION  
A-5-LGB-97-166 (Denial)  
EXHIBIT # H  
PAGE 3 OF 4

# CALIFORNIA COASTAL COMMISSION

South Coast Area Office  
200 OceanGate, 10th Floor  
Long Beach, CA 90802-4302  
(562) 500-5071



**RECEIVED**  
AUG 20 1997

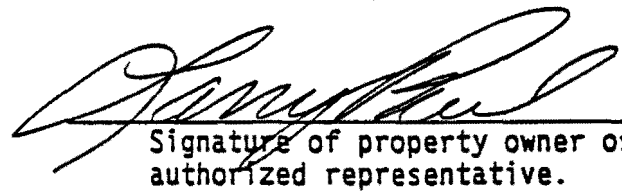
## EMERGENCY PERMIT ACCEPTANCE FORM

CALIFORNIA  
COASTAL COMMISSION

Emergency Permit No. A-5-97-219-G

**Instructions:** After reading the attached Emergency Permit, please sign this form and return within 15 working days from the Permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them. I understand that the emergency work is temporary and a regular Coastal Permit is necessary to make it a permanent installation.

  
Signature of property owner or authorized representative.

Larry Paul

Name County of Orange/Harbors, Beaches & Parks  
300 N. Flower Street

Address Santa Ana, CA 92702

Aug 15, 1997  
Date of Signing

*A-5-LGB-97-166*  
**COASTAL COMMISSION**  
*Emergency Permit*

EXHIBIT # H  
PAGE 4 OF 4

*A-5-LGB-97-166*  
*file copy*

