

CALIFORNIA COASTAL COMMISSION

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**M15b**

May 22, 1998

TO: CALIFORNIA COASTAL COMMISSIONERS

FROM: PETER M. DOUGLAS, EXECUTIVE DIRECTOR

SUBJECT: STAFF RECOMMENDATION ON REVISED MAP OF POST-LCP
CERTIFICATION JURISDICTION, COUNTY OF SAN LUIS OBISPO,
MAP 104 (MORRO BAY SOUTH QUADRANGLE)
(for Commission consideration at its June 8-11, 1998 meeting)

This recommendation was developed by Jonathan Van Coops, Coastal Program Analyst, assisted by Pascale Soumoy, Environmental Services Intern, Mapping Program, working under the direction of Susan Hansch, Manager, Energy and Coastal Resources Division.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the revised post-LCP certification map 104 (Morro Bay South quadrangle) incorporating changes prepared by staff showing the areas where the Commission retains permit authority pursuant to Public Resources Code (PRC) §30519(b), and where appeals of local government coastal development permit approvals are allowed pursuant to PRC §30603(a)(1) and (2) within the Cuesta by the Sea area of San Luis Obispo County.

MOTION

Staff recommends that the Commission adopt the following motion:

I move that, for the reasons stated in the Staff Report and Recommendation dated May 22, 1998, the Commission hereby approve the revision proposed by staff to the San Luis Obispo County Post-LCP Certification Map Sheet 104 in the vicinity of Cuesta by the Sea.

BACKGROUND ON POST-LCP CERTIFICATION MAP PROCEDURES

After the Commission certifies a local government's LCP, permit authority within that jurisdiction is delegated to that local government. However, pursuant to §30519(b) of the Coastal Act, the Commission retains permit authority (with certain exceptions) after LCP certification over developments occurring on tidelands, submerged lands, and public trust lands. In addition to the retained permit jurisdiction, §30603 of the Coastal Act defines certain areas and types of development for which approvals by the local government may be appealed to the Commission. Appeal jurisdiction exists, for example, on lands within

100 feet of streams or wetlands, lands within 300 feet of the coastal bluffs, beaches, or estuaries, and lands between the sea and the first public road paralleling the sea.

The Commission's administrative regulations (14 CCR §13576) provide that a map portraying the areas of continuing Commission permit and appeal jurisdiction be adopted in conjunction with the final LCP certification. An update procedure is also described and provides the basis for revisions of the map by the Commission. Within these regulations is implicit the idea that, while the adopted map should portray the various jurisdiction boundaries with reasonable accuracy, it remains only a cartographic representation, and not a precise definition of the jurisdiction. These maps may be revised from time to time where there are changed circumstances or where additional information becomes available indicating that the mapped boundaries do not reflect the jurisdictional criteria established in the Coastal Act and the Commission's implementing regulations. Additionally, where the boundaries are inaccurate, the Commission may assert jurisdiction as appropriate regardless of the boundaries depicted on the map.

STAFF ANALYSIS

The Commission first adopted Post-LCP Certification permit and appeal jurisdiction maps for the County of San Luis Obispo on May 13, 1988. Based on these maps, the Commission's continuing permit jurisdiction in the community of Cuesta by the Sea area exists only on lands lying below the mean high tide line (MHTL), and within potential public trust lands located along the shoreline as well as adjacent to the shoreline of Morro Bay (see Exhibit 2). The primary source for the previous retained permit jurisdiction boundary was map 104 (Morro Bay South quadrangle, scale 1:24,000) from the set showing potential public trust lands prepared for the Commission by the State Lands Commission staff in the late 1970's using, among other sources, U.S. Coast and Geodetic Survey (now known as the National Geodetic Survey) Topographic maps produced in the mid to late 1800's.

These historic maps and other documents and information are typically analyzed wherever the public trust component appears to be the controlling boundary criterion. Given the complexity involved in precisely mapping potential public trust boundaries, however, it is understood that boundary delineations based on these sources may include or exclude areas subject to the trust. Questions regarding the exact location and extent of public trust lands are generally referred to the State Lands Commission for determination.

The revision which is the subject of this recommendation, was requested by the property owners, Mr. and Mrs. Jim and Sharon Walker, through their representative, Jeffrey H. Edwards. The purpose of the proposed change is the refinement of the boundary at 1780 Pecho Road near the Cuesta inlet in Los Osos, an area where the previous delineation of the Commission's permit and appeal jurisdiction included, or was based on, former mapped locations of the shoreline of Morro Bay (see Exhibit 2). The Commission staff did a boundary determination for the Central Coast area office staff in April of 1997, which placed the property partly inside and partly outside the Commission's retained

permit jurisdiction. As mentioned above, this determination was based on the location of the potential public trust lands delineated by the State Lands Commission staff in the late 1970's (see Exhibits 3 and 4).

After receiving the commission staff's boundary determination, Mr. Edwards contacted the State Lands Commission, whose further research appears to indicate the current adopted boundary needs revision to reflect the position of an 1881 mapped boundary, and other applicable case law. The re-delineation of the potential public trust boundary that is the basis for the recommended change was a result of the State Lands Commission staff's investigation of historical data involving the subject property. While many maps were analyzed, the primary source is the topographic chart "T-1500 B" produced by the USC&GS (now the National Geodetic Survey) in 1881. Using this "T-Sheet," the resulting placement of the line is approximately 300 to the north of its previous location.

As described in greater detail below, the recommended revision redesignates the boundaries of the Commission's retained permit and appellate jurisdiction on the subject parcel to be consistent with the redelineation by the State Lands Commission staff. Specifically, it changes from retained permit jurisdiction to appeal jurisdiction areas that: (1) are no longer subject to a public trust claim because of the redelineation; and (2) do not satisfy any of the other criteria for the assertion of Commission retained permit jurisdiction. The tidally influenced portions of Morro Bay and the property immediately adjacent to the bay and Cuesta inlet north of the subject parcel do satisfy the tidelands component of these criteria and are therefore retained in the Coastal Commission's permit jurisdiction (see Exhibit 6).

Permit Jurisdiction Revisions

In the area at the northern end of the parcel adjacent to Morro Bay, approximately 1.9 acres located within previously identified potential public trust lands are changed from the Commission's retained permit jurisdiction to appeal jurisdiction, as shown in Exhibit 6.

Appeal Jurisdiction Revisions

In the area at the northern end of the Walker property, approximately 1.9 acres previously included in the retained permit jurisdiction are located between the Sea and The First Public Road Paralleling the Sea, and are therefore changed from the Commission's retained permit jurisdiction to appeal jurisdiction, as shown in Exhibit 6. All other appeal areas remain as depicted on Exhibit 2.

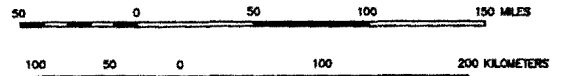
NOTE: Due to the reproduction cost of the large scale map sheet 104, only the 8.5 X 11 size maps have been included with the staff report. Copies of the full-size map will be available at the County of San Luis Obispo, at Coastal Commission offices in San Francisco and Santa Cruz, and at the Commission meeting in Santa Barbara.

EXHIBIT 1

The Resources Agency
California Coastal Commission

STATE OF CALIFORNIA County Location Map

Scale 1:5,000,000
1 inch equals approximately 80 miles



1927 NAD. Albers equal area projection - standard parallels 29.5° and 45.5°.



Location of
Map Revision
1-98

A B C D E F G H I J K L M N O



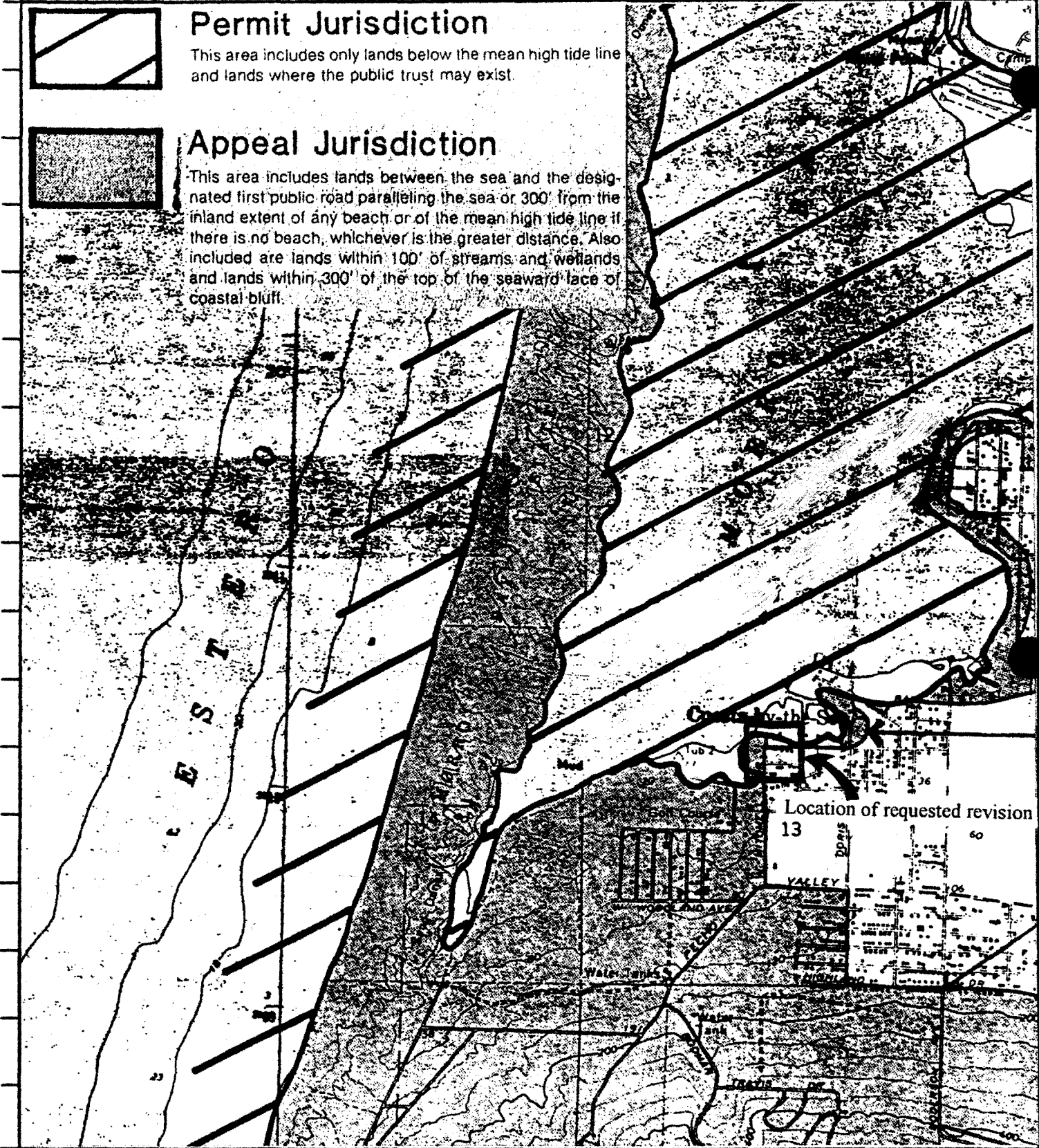
Permit Jurisdiction

This area includes only lands below the mean high tide line and lands where the public trust may exist.



Appeal Jurisdiction

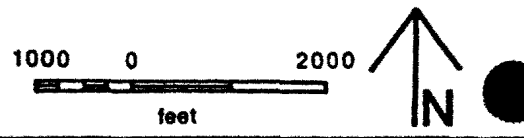
This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of coastal bluff.

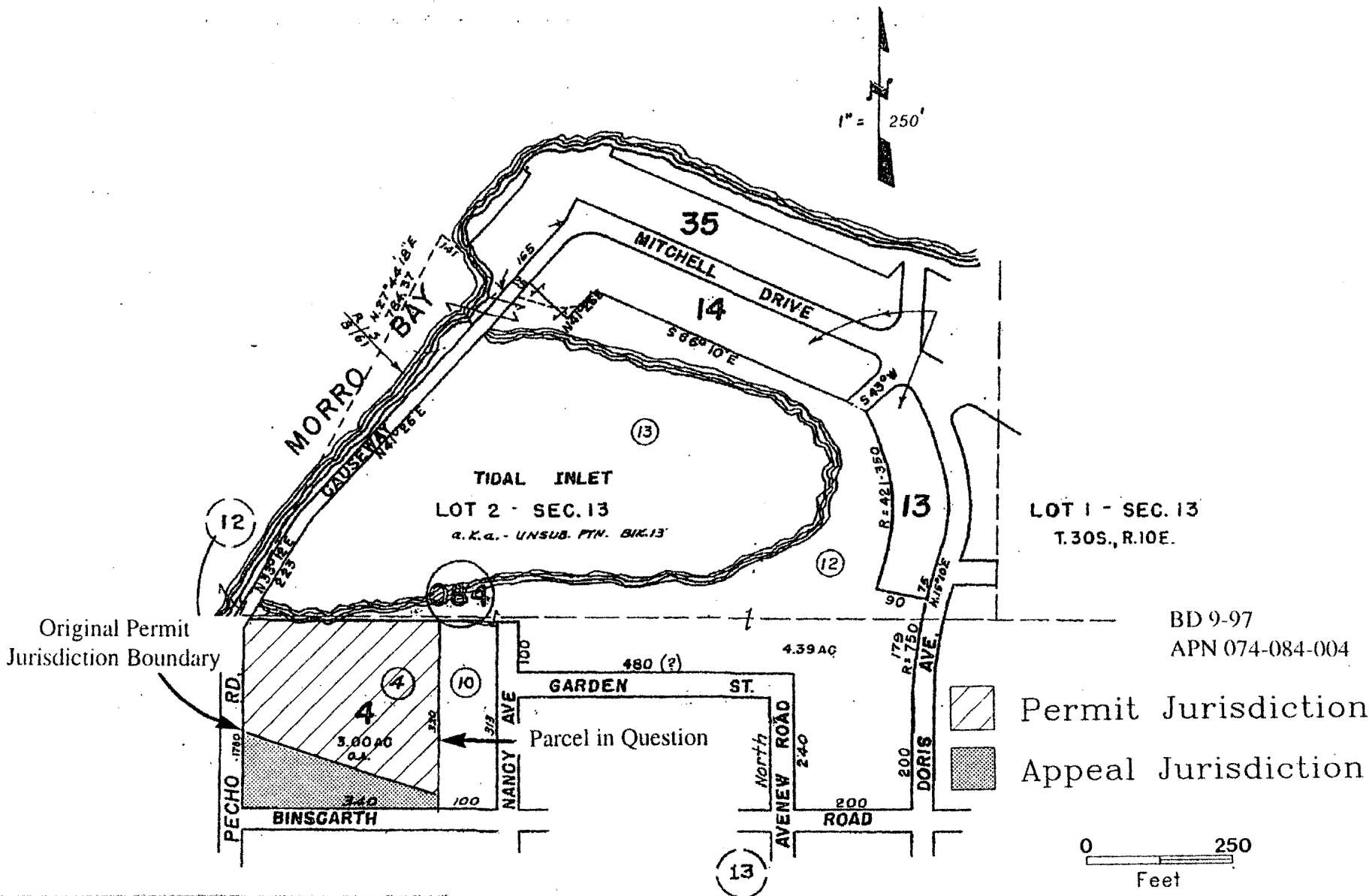


Map Revision 1-98
APN 074-084-004



Portion of San Luis Obispo
County's adopted Post-LCP
Certification Map # 104
(Morro Bay South Quadrangle)



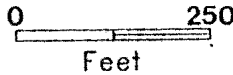


Original Permit Jurisdiction Boundary

LOT 1 - SEC. 13
T.30S., R.10E.

BD 9-97
APN 074-084-004

Permit Jurisdiction
Appeal Jurisdiction



Map Revision 1-98
Morro Bay

Property map from previous
Boundary Determination



Exhibit 3

A B C D E F G H I J K L M N O



Map Revision 1-98
APN 074-084-004

Portion of public trust
"redline" maps from
State Lands Commission



 California Coastal Commission

County of San Luis Obispo

EXHIBIT 4

Proposed Post-LCP Certification Map Revision

Cuesta-by-the-Sea



Photo Source: California Department of Boating and Waterways
November 1, 1986, Frame 215, Original Scale 1:12,000

Locations approximate. For illustrative purposes only.

