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## CALIFORNIA COASTAL COMMISSION

TH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
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Filed: 11/02/99  
49th Day: 12/21/99  
180th Day: 4/30/00  
Staff: AAV  
Staff Report: 11/17/99  
Hearing Date: December 9, 1999  
Commission Action:



### STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-99-124

**APPLICANT:** State of Cal. Dept. of Parks and Recreation

**AGENT:** Russ Guiney

**APPLICANT:** City of Malibu

**AGENT:** Rick Morgan

**PROJECT LOCATION:** 23480 Pacific Coast Highway, Malibu Lagoon State Park, Malibu, Los Angeles County.

**PROJECT DESCRIPTION:** Malibu Lagoon storm drain water treatment facility. City of Malibu installation of stormceptor device and ozone disinfecting unit on existing 24 in. storm drain near outlet into Malibu Lagoon. Project includes excavation of approximately 10 cu. yds. for installing the water treatment device and a 200ft. trench 2ft.-3ft. deep along existing service road to supply electricity to project site.

**LOCAL APPROVALS RECEIVED:** N/A

**SUBSTANTIVE FILE DOCUMENTS:** California Regional Water Quality Control Board, Los Angeles Region letter September 23, 1999; City of Malibu Environmental Review Board Memorandum August 25, 1999; U.S. Fish and Wildlife Service letter August 26, 1999; California Department of Fish and Game letter August 20, 1999; State of California Department of Parks and Recreation Project Evaluation Form June 14, 1999, Environmental Review Memorandum September 13, 1999, Notice of Exemption September 20, 1999; Surfrider Foundation, Malibu Chapter letter October 22, 1999.

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with 2 special conditions limiting the term of the approved permit to two-years, during which time, monitoring and analysis data of the project's impact and effectiveness will be compiled into a report and be submitted, prior to expiration of the permit, to the Executive Director for review and approval. California

Department of Parks and Recreation is ~~proposing~~ a small water treatment facility, to be installed by the City of Malibu, on an existing 24in. storm drain near the outlet into Malibu Lagoon. The water treatment facility will consist of a stormceptor chamber for the removal of solids and petroleum-based pollutants and a disinfecting contact chamber that will utilize ozone and UV combination technology to reduce microbial and bacteriological contaminants of water discharge from the storm drain into Malibu Lagoon. The water treatment facility is designed to treat dry-weather flows and first flush rainfall of up to 200 gallons per minute. The proposed project includes excavating approximately 10 cu. yds. for installing the water treatment device and trenching 2ft.-3ft. deep along 200ft. of an existing service road to provide electricity to the project site. All equipment and utilities will be located below grade with the exception of two manholes providing access for servicing the device. The proposed project has been funded by the City of Malibu and a Los Angeles County Proposition A Grant, and donations from Bioxide Corporation and Southern California Edison.

Malibu Lagoon is located in Malibu Lagoon State Park, in the City of Malibu, Los Angeles County, at the mouth of the Malibu Creek Watershed (Exhibit 1). Malibu Lagoon is one of two remaining estuaries in the County of Los Angeles inundating approximately 13 acres of land between Pacific Coast Highway and the ocean. Poor water quality of Malibu Lagoon has been the subject of several concerns and proposals for reducing the amount of pollutants entering Malibu Lagoon, mitigating the effects of contaminated lagoon water on public health and wildlife, and enhancing habitat values and biological productivity of the lagoon. The proposed project site for the storm drain water treatment facility is located in a disturbed upland area of the estuary along the southwest boundary of Malibu Lagoon State Park adjacent to the Malibu Colony residential community. The project will include the installation of a small water treatment device below grade to a 24in. storm drain which drains approximately 25 acres of water run-off from the Malibu Civic Center area. The storm drain, referred to as the Mystery drain, is thought to be a significant contributor of contaminants to Malibu Lagoon.

### **STAFF RECOMMENDATION :**

Staff recommends that the Commission APPROVE the permit application with special conditions.

### **MOTION**

Staff recommends a YES vote on the following motion:

I move the Commission approve with special conditions CDP #4-99-124 per the staff recommendation as set forth below.

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

## RESOLUTION

### I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse effects 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.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. 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 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 development during construction, 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. **Term and Duration:** This permit is valid for two years from the date of Commission approval. During this period the applicants shall maintain and monitor the treatment facility throughout the duration of its operation in accordance with maintenance recommendations of the facility manufacturers and with the requirements of **Special Condition No. 2** below.
2. **Monitoring and Maintenance:** Prior to expiration of this permit, the applicants shall submit to the Executive Director, for review and approval, a report detailing monitoring activities, data analysis, and conclusions. The monitoring report shall include an analysis of any possible adverse impacts on coastal resources due to the project and the results and effectiveness of the water treatment facility on water quality. Should the applicants wish to continue operation of the facility beyond the 2-year term, the applicants shall be required to submit an application for a new coastal development permit, or an amendment to the subject permit, for further review of the Commission to allow project activities to continue.

### **IV. Findings and Declarations**

The Commission hereby finds and declares:

#### **A. Project Description and Background**

State of California Department of Parks and Recreation is proposing a storm drain water treatment facility, installed by the City of Malibu, onto an existing 24in. storm drain near the outlet into Malibu Lagoon. The project will require approximately 10 cu. yds. of excavation to install the device and a trench approximately 200ft. long and 2ft.-3ft. deep along an existing gravel service road to provide electricity to the project site. All equipment and utilities necessary for operating the facility will be located below grade with the exception of two manholes that are necessary to access and service the facility. The proposed project site is located in a highly disturbed upland area of Malibu Lagoon in the southwest corner of Malibu Lagoon State Park between the maintained service road and the Malibu Colony development (Exhibits 2, 3). The water treatment facility will be installed directly onto an existing 24in. storm drain that discharges water run-off into the most seaward channel of the lagoon. The storm drain originates ½ mile west of Malibu Lagoon and collects run-off from approximately 25 acres of the Malibu

Civic Center area. The proposed water treatment facility consists of a stormceptor, which will intercept and filter solids and petroleum-based pollutants, and an ozone/ultraviolet light contact chamber to reduce microbial and bacteriological loads of water discharging into the lagoon from the storm drain (Exhibits 4-6). The proposed project was awarded funds from a Los Angeles County Proposition A Grant for the purpose of improving water quality in Malibu Lagoon and will be adequately funded by the City of Malibu and through donations of the Bioxide Corporation and Southern California Edison.

Water resources of Malibu Lagoon are seriously degraded due to many imposing factors originating from near and distant sources. Malibu Lagoon serves as a catch basin for the 105 mile Malibu Creek Watershed as well as 3 major storm drains which channel polluted runoff from nearby urban development into the lagoon. Trash, oil, grease, excess sediment and nutrients, harmful levels of bacteria, and disrupted natural hydrological cycles are identified as some of the major factors degrading lagoon waters. Poor quality of lagoon water has long been the subject of many proposals for identifying and managing polluted run-off, improving water quality, and enhancing habitat and biological productivity of Malibu Lagoon.

The City of Malibu will be responsible for installing, operating, and monitoring the results of the Malibu Lagoon storm drain water treatment facility. As mentioned, the facility will be installed onto an existing 24in. storm drain and will function to filter solid debris, petroleum-based pollutants, and reduce biological contaminant loads of water discharging into Malibu Lagoon. Installation of the proposed project is expected to require 5-7 days. The water treatment facility is designed to treat dry-weather flows and the first flux of rainfall runoff of up to 200 gallons per minute. The facility is equipped with an overflow chamber to insure increased flow capacity during high run-off episodes is not impeded and a flap valve is designed to prevent tidal flows from entering the storm drain. The water treatment facility consists of two major chambers. The stormceptor chamber first functions as a waste interceptor for the removal of solids and petroleum-based pollutants. After filtration, storm water enters an ozone and ultraviolet light contact chamber where the two react to oxidize bacterial and viral contaminants reducing the loads of these contaminants. The reaction of ozone and ultraviolet light with water results in diatomic oxygen ( $O_2$ ), and disinfected water which are then discharged. The treatment is designed to reduce loads of biological contaminants below those standards set forth by the EPA for recreational use in a process that does not add harmful residues or byproducts to discharged water. The proposed project will require monthly pump-out and maintenance of the facility is expected to occur in 3 month intervals.

In 1979 California Department of Parks and Recreation finalized an environmental impact report and resource management plan for Malibu Lagoon. Restoration began in 1983 when the Department of Parks and Recreation excavated three main channels of the lagoon and contoured the land for sloping mudflats, marshes, and upland habitat.

Graded areas within the State Park were re-vegetated with native plant species. Prior to the restoration process Malibu Lagoon and adjacent areas were utilized as a Caltrans dumping site and a general fill site for the construction of two baseball fields and parking for beach access. Department of Parks and Recreation now manages Malibu Lagoon State Park as an area providing recreational access within the park and to Surfrider Beach and as a place designated for public education, research, conservation, and sustained wildlife habitat. Malibu Lagoon provides habitat for 14 fish species, including the federally listed endangered tidewater goby and the California species of special concern southern steelhead trout. Approximately 151 bird species are known to use lagoon habitat as a permanent resident or during migration. Of the bird species known to occur in the lagoon vicinity, 5 are species of special status including the California brown pelican, California least tern, snowy plover, double-crested cormorant, and elegant tern.

Hydrological processes of Malibu Lagoon and natural properties of lagoon water have been significantly altered due to increased runoff from agricultural and urban development in the near vicinity of the lagoon and within the upper watershed of Malibu Creek. The lagoon receives a combination of natural freshwater input and an increasing amount of non-natural water input from treated wastewater originating from the Tapia Wastewater Treatment Plant in the Malibu Creek Watershed, as well as irrigation and urban run-off from various sources. Runoff is identified as a major contributing factor of non-point water pollution that contributes to the accumulation of biological contaminants such as coliform bacteria in the lagoon. Increasing quantities of runoff flowing into the lagoon also raises the water level to unnaturally high levels which causes the lagoon to artificially breach. Breaching of the lagoon releases water of poor quality with accumulated bacteria loads into the surf zone of adjacent beaches. The high levels of biological contaminants released with the outflow when the lagoon breaches poses a threat to public health and wildlife. Identifying and treating major non-point water pollution sources before reaching coastal waters is identified as a major factor for increasing the restoration potential of Malibu Lagoon and improving water quality for the benefit of public health and wildlife.

The storm drain proposed as the installation site for the water treatment facility is often referred to as the Mystery Drain due to a lack of information and documentation about permits or plans for its location. There are some concerns that address the legality of the location of the drain and the impacts of its discharge into Malibu Lagoon. Some response indicates that the drain may have originally directed runoff through Malibu Colony directly to the ocean. However, staff is unable to obtain any information or documentation to support the suggestion that the drain was previously located at a different site. The storm drain originates approximately ½ mile west of Malibu Lagoon, running along Malibu Road and collecting run-off from various non-point sources. The drain is identified as a major source of pollutants entering Malibu Lagoon. Studies have indicated that total coliform bacteria counts discharged into the lagoon from the Mystery storm drain are substantially higher than those standards set forth by the EPA for recreational contact. The proposed project is intended to significantly reduce the

amount of these biological pollutants in outflow of the storm drain below EPA standards, and remove solid debris that contaminates lagoon waters. The proposed water treatment facility will be an attempt at improving the quality of water discharging from the storm drain into Malibu Lagoon while serving as a demonstration project for applying new technology alternatives in treating non-point water pollution sources.

## **B. Marine Resources and Environmentally Sensitive Habitat Areas**

The proposed project involves development within Malibu Lagoon State Park that is designated as an environmentally sensitive habitat area. The proposed project is also directly related to the marine resources of the Malibu Lagoon estuary. The Coastal Act contains policies that address development and special protection measures for such environmentally sensitive coastal resources.

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240 of the Coastal Act States:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation shall be cited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The proposed project site is located in a disturbed upland area of Malibu Lagoon between an existing service road and the southwest boundary of Malibu Lagoon State Park. The project site is adjacent to the Malibu Colony residential community where a rock wall and chain link fence border the park. The project site is disturbed upland habitat with minimal vegetation coverage with the exception of 3 pine trees, myoporum, and a few exotic grasses. Excavating approximately 10 cu. yds. will be required to install the water treatment facility onto the existing 24in. storm drain near the outlet into Malibu Lagoon. A 200ft. trench, 2ft.-3ft. deep, will also be required to provide electricity to the project site for operating the water treatment facility. The water treatment facility is designed to filter and disinfect polluted runoff before it is discharged into Malibu Lagoon without impeding the flow capacity of the drain and without adding harmful byproducts to effluent as a result of the water treatment process.

Malibu Lagoon and adjacent habitat within Malibu Lagoon State Park require special protection under provisions of the California Coastal Act. These areas are designated as environmentally sensitive habitat areas and development within such areas shall be resource-dependent and function to maintain, enhance, and where feasible, restore the resource. As previously described, Malibu Lagoon State Park is managed by Department of Parks and Recreation for recreational use, beach access, public education, research, conservation, and sustained wildlife habitat. Malibu Lagoon provides habitat for a wide variety of resident and migratory bird species as well as 14 species of fish. Additionally, Malibu Lagoon provides important habitat for several fish and wildlife species of federal and state special concern status including the tidewater goby, southern steelhead trout, the California brown pelican, California least tern, snowy plover, double-crested cormorant, and elegant tern. Continuing efforts for enhancement and restoration of Malibu Lagoon helps to sustain resources for fish and wildlife and human use. With respect to Malibu Lagoon restoration efforts, poor water quality of the estuary is an issue that raises concerns for maintaining and increasing biological productivity of lagoon habitat and for insuring a healthy environment for the public users of Malibu Lagoon State Park and adjacent beaches.

Section 30230 of the Coastal Act requires marine resources to be maintained, enhanced, and where feasible restored, and that uses of the marine environment shall be carried out in a manner that will sustain biological productivity of coastal waters and maintain healthy populations of all species of marine organisms. Further, Section 30231 of the Coastal Act requires biological productivity and quality of coastal waters and estuaries be maintained and, where feasible, restored for optimum populations of marine organisms and human health. The proposed project will improve water quality by reducing solid, petroleum-based, and biological pollutants in water runoff that is discharged into Malibu Lagoon at the project site. The proposed water treatment facility

utilizes a water treatment process that does not result in residual byproducts added to the effluent as a result of the treatment process. Therefore, the proposed project, when in operation, is designed to filter and disinfect polluted runoff while resulting in no additional contamination or degradation of water discharged into Malibu Lagoon. Water is a defining physical component of the health and viability of estuary ecosystems and the proposed project will function to improve the quality of this physical component without the addition of harmful byproducts. The proposed project is also, however, a demonstration project illustrating the use of new technology alternatives for improving water resources, particularly non-point water pollution sources.

Due to the demonstration status of the proposed project, Special Conditions 1 and 2 of this permit require that the coastal development permit be limited to a two-year term, and that throughout the duration of the project the applicants will be responsible for operating the facility and monitoring the impacts and results of the water treatment facility on coastal resources. Prior to expiration of the permit, should the applicants wish to continue operation of the facility, the applicants will be required to submit to the Executive Director, for review and approval, a monitoring report with conclusions addressing any adverse impacts of the project on coastal resources and the effectiveness of the facility on improving water quality of Malibu Lagoon. In addition, the applicants will be required to file a new application or an amendment to the coastal development permit subject to the Commission's approval in order to continue operation of the facility beyond the expiration date.

Consistent with Section 30230 and 30231 of the Coastal Act, the proposed project, as conditioned to avoid possible adverse impacts to coastal resources, will improve the water quality of Malibu Lagoon. Improving the water quality of Malibu Lagoon will help to maintain marine resources and aid in the process of enhancing and restoring Malibu Lagoon habitat for fish and wildlife, and safe public recreational use.

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas be protected against significant disruption of habitat values and that development affecting environmentally sensitive habitat areas be located and designed to prevent adverse impacts to the environment. The proposed project requires excavation and trenching in an environmentally sensitive habitat area for installation of a water treatment facility and for providing electricity to the project site. Installing the facility will consist of approximately 10 cu. yds. of excavation in a heavily disturbed upland area of Malibu Lagoon. This upland area is located just inside the southwest boundary of the State Park behind Malibu Colony residences and is separated from estuarine habitat by a service road. The majority of the project site is bare ground with a few exotic grasses and scattered locations with myoporum and pine. No trees will be removed during excavation, however, some removal of exotic vegetation will be necessary. Trenching 2ft.-3ft. deep for supplying electricity to the project site will occur along 200ft. of an existing gravel service road and will require no removal of vegetation. The process of installing the water treatment facility is expected to require 5-7 days for completion and all equipment and utilities will be installed below grade, therefore limiting the duration of

any annoyance or physical disruption of habitat in Malibu lagoon. Once the proposed water treatment facility is installed and in operation access to the project site for maintenance and monitoring will be provided by the existing service road.

Therefore, installation and operation of the proposed water treatment facility on the designated site and below grade will not require any continuing disturbance of native or sensitive habitat of Malibu Lagoon. All excavating and trenching activities occur in areas void of vegetation or where only a minimal amount of exotic vegetation removal is required. The project site is located in such a way that access necessary for maintenance of the facility will not encroach into sensitive estuarine habitat. Consistent with Section 30240 of the Coastal Act, the proposed project has been designed and located in such a way as to mitigate disruption of natural resources associated with Malibu Lagoon and to avoid adverse impacts on environmentally sensitive habitat area.

Given the minimal and limited term disruption of habitat around the project site, the location of the project site outside of the estuarine environment and within a separated upland area, and the long term benefits for coastal resources associated with the proposed project, the Commission finds that the proposed project, as conditioned, is consistent with all applicable resource protection policies of the Coastal Act.

### **C. Local Coastal Program**

Section 30604 of the Coastal Act states:

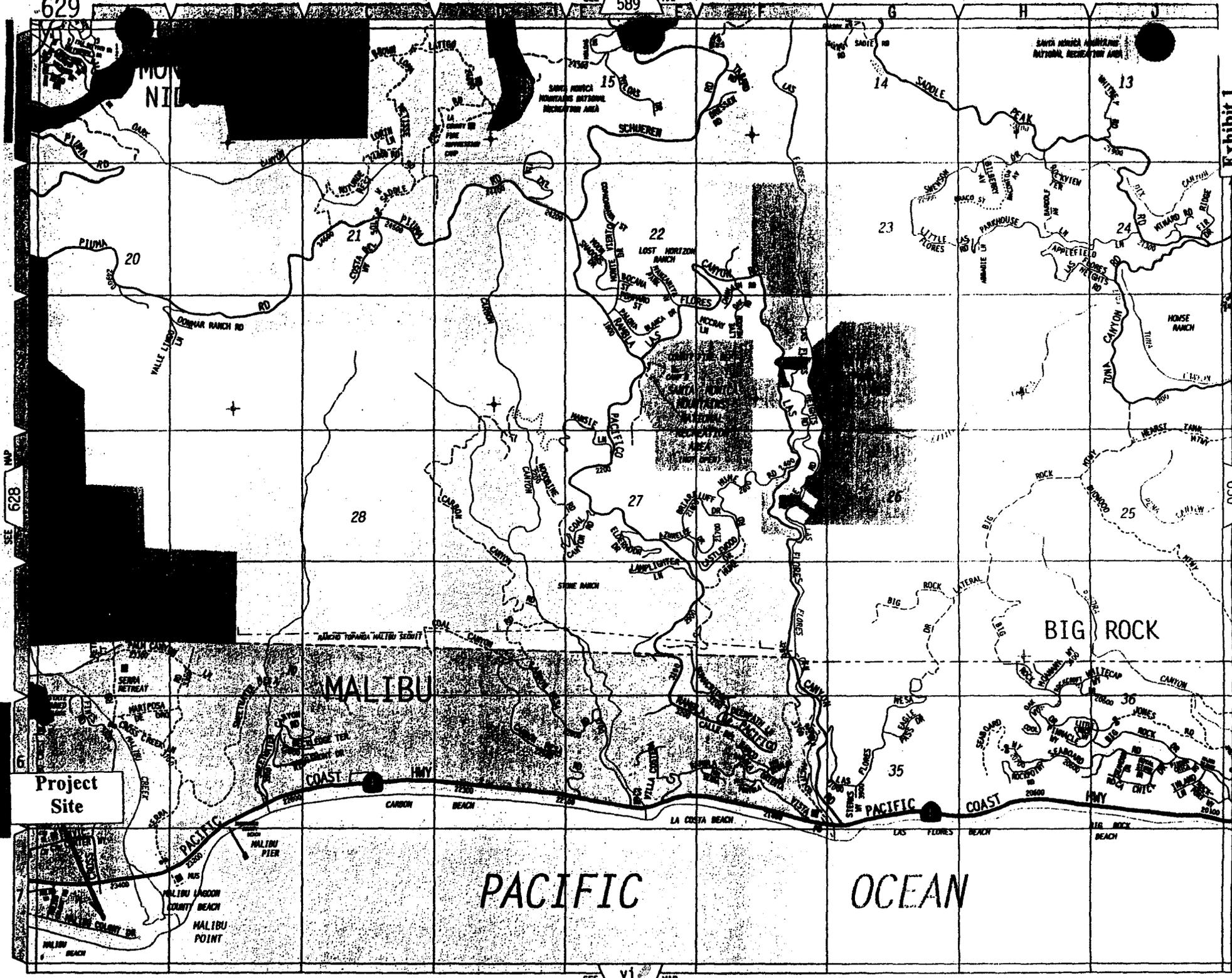
- A) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### **D. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

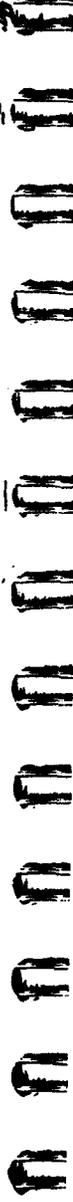


629  
SEE 628 MAP

589  
SEE vi MAP

630  
SEE MAP

Exhibit 1  
CDP 4-99-124  
Location Map



4-14-93

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1-1

BBK-C

Project Site

STATE OF CALIFORNIA DEPT. OF  
I.K.CURTIS SERVICES, INC.  
FLIGHT LINE 59

RESOURCES  
WILD RE-30  
ASL

Exhibit 2  
CDP 4-99-124

Aerial Photo  
Location

# LAGOON

STORM DRAIN  
OUTLET

GRAVELED

ROADWAY

STORM WATER  
TREATMENT  
FACILITY

NOT ALL MYO -

FORUM TREES SHOWN

GOLF  
COURSE

COLONY  
RESIDENTIAL

36" CONC. CULVERT  
INSIDE WIDTH = 41"  
TOP OF LID = ELEV. 7.29'  
OUTLET FLOOR = ELEV. 7.7

36" STORM  
DRAIN

JUMP FLOOR  
O.E.L. 4.2  
(No cover)

M.B. 234, 745, 26



