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STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

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Hearing Date: 10/13/00
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION No. 4-00-130

APPLICANT: GTE California, Inc.

AGENT: Tait & Associates, Inc.

PROJECT LOCATION: 3705 Cross Creek Road, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Installation of a double walled, 2,000 gallon, aboveground gasoline storage tank to dispense gasoline to telephone service vehicles, construction of a concrete containment basin and steel canopy above the fueling area, and removal of a 10,000 gallon underground gasoline storage tank and aboveground hazardous waste storage area.

Area of Lot:	34,700 square feet
Building Coverage:	3,200 square feet (existing)
Impermeable Coverage:	29,700 square feet (existing)
Parking Spaces:	29
Height Above Finished Grade:	20 feet

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department, Approval in Concept, October 13, 1999; City of Malibu, Geology Department, Approval in Concept, April 29, 1999; City of Malibu, Environmental Health Department, No Approval Required, April 29, 1999; County of Los Angeles, Fire Department, Petroleum Chemical Unit, Approval, January 21, 1999; South Coast Air Quality Management District, Permit to Construct, February 1, 2000; and Los Angeles County, Department of Public Works, Hazardous Material Underground Storage, Approval, November 5, 1998.

SUBSTANTIVE FILE DOCUMENTS: "Geotechnical Review," Southern California Geotechnical, Inc., August 17, 2000; "GTE-Malibu Plant Yard," letter from Tait & Associates, Inc., to California Coastal Commission Staff, May 22, 2000; "GTE-Malibu Plant Yard," letter from Tait & Associates, Inc., to California Coastal Commission Staff, April 13, 2000; "Installation of UL2085 Tank at GTE," letter from Containment Solutions

to California Coastal Commission Staff, March 3, 2000; "Petroleum Storage Tanks," GTE Service Corporation, January 20, 2000; "GTE-Malibu Plant Yard," letter from GTE Service Corporation to the City of Malibu, August 16, 1999; "Underground Storage Tank Closure Report," letter from GTE Service Corporation to the Los Angeles County Department of Public Works, May 26, 1999; "Report - Environmental Assessment Related to the Removal of One Underground Storage Tank and Hazardous Waste Storage Area," Environmental Engineering & Contracting, Inc., March 15, 1999; "Containment Solutions, 2000 Gal. 4" Vault Tank," KCJ Engineering Inc., January 5, 1999; "Aboveground Steel Tanks," Containment Solutions, 1999; "Chemical Release or Spill Environmental Emergency Response Guidelines, California," GTE Telephone Operations, December 1998; "Storage Tank Maintenance/Management," GTE, August 13, 1998; "Affordable Aboveground Storage, Hoover Vault Tank, Fire-Rated Doublewall Aboveground Tanks," Containment Solutions, March 1998; "Specifications, Hoover Vault Tank, UL Listed 2085, Protected Secondary Containment Tank," Hoover Containment Inc., September 1997; "Report on Insulated Aboveground Tanks for Flammable Liquids, Protected Secondary Containment U/L 2085," Underwriters Laboratories Inc., March 14, 1995; "SPCC Plan," GTE Service Corporation; Coastal Development Permit 5-81-081; Coastal Development Permit 5-81-081-A; Coastal Development Permit De Minimis Waiver 4-97-046-W; Coastal Development Permit De Minimis Waiver 4-99-138-W; Coastal Development Permit 5-99-363; and the certified Malibu/Santa Monica Mountains Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed project with six (6) special conditions regarding geologic and engineering recommendations; a Spill Prevention Control and Countermeasures Plan; assumption of risk, wildfire waiver of liability, and indemnity; drainage, polluted runoff, and best management practices; abandonment; and future improvements. Approval of this coastal development permit will result in the approval of the installation of a 2,000 gallon aboveground gasoline storage tank and after the fact approval of the closure and remediation of a 10,000 gallon underground gasoline storage tank and aboveground hazardous waste storage area.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-130 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

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. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **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.
5. **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. Plans Conforming to Geologist's and Engineer's Recommendations

All recommendations contained in the report prepared by Southern California Geotechnical Inc., dated August 17, 2000; report prepared by KCJ Engineering Inc., dated January 5, 1999; report prepared by Environmental Engineering & Contracting, Inc., dated March 15, 1999; and submittal letters prepared by Tait & Associates, Inc., dated April 14, 2000 and May 22, 2000 shall be incorporated into all final design and

construction including recommendations concerning foundation, drainage, best management practices, and safety. The final plans and must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultants' review and approval of all final design and construction plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, drainage, and best management practices. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

2. Spill Prevention Control and Countermeasures Plan

Within 60 days of completion of construction of the proposed development, or within such additional time as the Executive Director may grant for good cause, the applicant shall submit to the Executive Director a copy of a Spill Prevention Control and Countermeasures Plan for the aboveground storage tank for gasoline. The applicant shall inform the Executive Director of if any changes to the project are required pursuant to the Spill Prevention Control and Countermeasures Plan. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

3. Assumption of Risk, Waiver of Liability, and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that there are inherent risks in the aboveground storage of gasoline that may not be completely eliminated and the site may be subject to hazards from fire, flooding, earth movement, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director

determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

4. Drainage, Polluted Runoff Control, and Best Management Practices Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a drainage, polluted runoff control, and best management practices plan designed by a licensed engineer to minimize the volume, velocity and pollutant load of stormwater leaving the developed site and reduce the possibility of gasoline spills, leaks, and drips and containment if an such an incident were to occur. The plan shall be reviewed and approved by the consulting engineer to ensure the plan is in conformance with the engineer's recommendations. The plan shall be subject to the following requirements, and shall at a minimum, include the following components:

- (a) Structural Best Management Practices (BMPs) designed to capture, infiltrate or treat runoff from all roofs, parking areas, driveways and other impervious surfaces and to contain and treat any potential spills, leaks, and drips of gasoline, shall be identified and incorporated into final plans.
- (b) Non-Structural BMPs, such as housekeeping, cleanups, storage, and inspection of the aboveground storage tank and fueling area shall be identified and incorporated into final plans.
- (c) Selected BMPs shall, when implemented, ensure that post-development peak runoff rate and average volume from the site will be maintained at levels similar to pre-development conditions. The drainage system shall also be designed to convey and discharge runoff from the site in a non-erosive manner.
- (d) The plan shall include provisions for BMP maintenance. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) all traps/separators and/or filters shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

5. Abandonment

If the aboveground storage tank for gasoline approved under permit 4-00-130 is no longer used for a period of six months, the aboveground storage tank shall be considered abandoned and an application shall be submitted to the Commission within 30 days for the removal of the aboveground storage tank.

6. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-00-130. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (b) shall not apply to the proposed development. Accordingly, any future improvements to the subject site shall require an amendment to Permit No. 4-00-130 from the Commission or shall require an additional coastal development permit from the Commission or the applicable certified local government.

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The subject site is located just north of Civic Center Way, at 3705 Cross Creek Road in the City of Malibu, Los Angeles County. The property is situated within the Transverse Ranges geomorphic province, at the base of the Santa Monica Mountains in the Civic Center area. In addition, the site is located approximately 2,000 feet north of the Pacific Ocean, 625 feet west of Malibu Creek, and 1,000 feet northwest of the Malibu Lagoon. Furthermore, adjacent to the subject site, the City of Malibu is currently operating a temporary skate facility on an existing paved and fenced parking lot.

The project site, which has been previously paved, has been occupied by GTE since 1970. In addition, there is also an existing GTE personnel building located on the northern side of the site, while the remainder of the site consists mainly of an asphalt parking lot. This application is for the installation of a double walled, 2,000 gallon,

aboveground gasoline storage tank to dispense gasoline to telephone service vehicles, construction of a concrete containment basin and steel canopy above the fueling area, and after the fact approval for the removal of a 10,000 gallon underground gasoline storage tank and aboveground hazardous waste storage area.

The applicant has stated that the proposed aboveground storage tank will be used to service 12 GTE vehicles that are permanently assigned to this particular facility and the annual throughput for the facility is estimated to be between 13,000 to 14,000 gallons a year. GTE has stated that one of the main considerations for installing this vehicle refueling system is access to fuel during emergencies such as forest fires, road closures, and mud slides, when Malibu may be cut off from other areas of Los Angeles County and GTE emergency service vehicles require refueling. In addition, GTE has also stated that the fuel will also be available to emergency vehicles of the City of Malibu.

The proposed 2,000 gallon aboveground storage tank will be double walled, with a single hose suction dispenser mounted on the end of the tank. Both the dispenser and all piping will be located within a third containment area, consisting of the concrete pad and walls capable of containing at least 2,725 gallons of liquid. Furthermore, the dispenser hose will have a "dry break breakaway," that prevents the spillage of fuel in the event that a vehicle accidentally drives away during fueling. GTE has also stated that they are willing to consider installing structural BMPs consisting of flow diverting berms around the fueling area's concrete slab to prohibit sheet flow runoff across the fueling pad and a spill containment trench with a 50 gallon capacity within the fueling area's concrete slab to contain spills and drips. Furthermore, the applicant must design a Spill Prevention Control and Countermeasures Plan, which is required by Section 25270 of the California Health and Safety Code upon completion of construction of the aboveground storage tank. This SPCC Plan is designed to reduce the number of potential accidental spills of gasoline. The applicant has also received a permit to construct the tank from the South Coast Air Quality Management District, which ensures that the project will have a vapor recovery system as a component of the development. Finally, the aboveground storage tank also meets all required setbacks established by Table A-II-F-1 of the 1998 California Fire Code.

The removal and remediation of the 10,000 gallon underground storage tank for gasoline, including all associated pipelines, and the aboveground hazardous waste storage area was completed on December 4, 1998. In addition, a total of 160 cubic yards of soil was excavated pursuant to the underground tank removal and this material was transported and disposed of at a recycling facility outside of the coastal zone. This excavated area was then backfilled with clean base material. Likewise, the aboveground hazardous waste storage area, which was previously used to store waste oil and antifreeze, has also been demolished and removed from the subject site. Furthermore, two groundwater monitoring wells were installed and soil sampling was performed to provide information regarding potential contamination from the underground storage tank and/or hazardous waste storage area. These groundwater monitoring wells were then properly abandoned upon completion of testing and remediation.

B. Hazards and Geologic Stability

The proposed development would be located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Furthermore, the proposed development involves the removal of an underground gasoline storage tank and hazardous waste storage area and a new aboveground gasoline storage tank. There are inherent risks in the storage of gasoline that may not be completely eliminated through design elements, however. In addition, there is also an increased risk of fire, as gasoline is a highly flammable substance.

Section 30253 of the Coastal Act states, in part, that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The applicant has submitted a report, entitled "Geotechnical Review," by Southern California Geotechnical, Inc., dated August 17, 2000, addressing the proposed 2,000 gallon aboveground gasoline storage tank. That report concludes:

Based on our review of the project design documents, and our discussions with the client, the project appears to have been adequately designed per the UBC. While designing the project per the UBC guidelines does not preclude any damage to the project during a seismic event, the UBC is the current standard, and is designed to provide a reasonable measure of safety without imposing cost-prohibitive restrictions.

The proposed project does not involve any significant grading that would alter the stability of the subject site or the surrounding improvements. Furthermore, the site is located in a relatively flat area and is therefore not considered to be subject to landslides, slippage or other localized instabilities.

It should also be noted that the proposed AST will be supported on a highly rigid mat foundation. Therefore, the tank will be resistant to the effects of any differential movements that could result from adverse geotechnical conditions such as soil movement or seismic forces.

In addition, Southern California Geotechnical, Inc.'s August 17, 2000 report also reviews the foundation and structural elements of the aboveground storage tank that will assist in assuring the stability of the project and the subject site. This report states:

The proposed project will consist of a new 2,000-gallon aboveground (UL 2085) fuel storage tank. The tank will be supported on a concrete foundation, surrounded by a concrete containment system. The foundation will consist of a 9-inch thick concrete slab, with a turned-down edge, extending at least 12 inches below adjacent grade. The foundation will be reinforced with 2 layers of #5 bars, running in both directions, at 12 inches on center. We understand that the project has been designed using the 1997 Uniform Building Code, using Seismic Zone 4 parameters.

We understand that the project is located in a relatively flat area, with no significant slopes or other terrain features. We also understand that the proposed project involves no significant grading of the site of adjacent properties.

Furthermore, KCJ Engineering Inc.'s report, dated January 5, 1999, also makes specific recommendations regarding the foundation, footings, and anchoring of the aboveground storage tank, specifically to address seismic and stability concerns.

In addition, in their letter to Coastal Commission staff, dated May 22, 2000, Tait & Associates, Inc., have addressed concerns regarding potential risks to public safety and other hazards that could be posed by the aboveground storage tank for gasoline. Staff's concern regarding the safety of the aboveground gasoline storage tank was of particular concern, since the adjacent lot owned by the City of Malibu is being utilized as a temporary skate park. The letter from Tait & Associates, Inc., dated May 22, 2000, addresses these safety concerns, and states:

The proposed tank is an Underwriter's Laboratory's (UL) 2085 listed fuel storage tank, third party approved, and as such, has passed extremely stringent tests designed to provide maximum protection to the general public. It was developed to be equivalent in terms of safety and fire protection to an underground tank. It is a true double-wall steel tank with 6" of light-weight concrete insulation, a steel exterior, and carries a 2 hour fire protection rating. It is equipped with U.L. listed emergency venting devices in the event of a catastrophic fire exposure. It has passed pool fire exposure tests. It has passed high-power rifle ballistics tests. It has passed vehicular impact tests. It will be surrounded by a 2 foot high concrete wall and guard posts. It has a full-time electronic leak detection and monitor system, which is both locally and remotely alarmed. It is the only above ground tank type allowed by the California Fire Code, and is consistent to be the safest construction for this type of application. There have been no known explosions of this type of tank, even though many thousands have been installed over the last few years. . . .

A motor vehicle sitting in a parking lot poses more of a fire and explosion hazard than the proposed fuel tank . . .

For this project, we have obtained permits and approvals from the Los Angeles County Fire Department, Petro-Chemical Division. This facility will comply with all applicable sections of the California Fire Code, specifically sections 52, 79, and appendix II-F, regarding fueling from aboveground tanks. We have obtained permits and project approvals (or "no action required" sign-offs) from the City of Malibu Building and Safety

Department, Planning Department, City Geologist, and City Health Department. We have also received an Authority to Construct from the South Cost Air Quality Management District.

In their letter dated July 17, 2000, Tait & Associates, Inc., also state:

Unauthorized use of the AST fueling system will be prevented through the "installation of a magnetic card and keypad actuated electronic fuel management system, only accessible by authorized GTE employees. Vandalism is deterred by the fact that the site is a locked and fenced facility. Even if the system was vandalized, there would be no loss of gasoline to the environment.

In addition, the document prepared by Underwrites Laboratories Inc., entitled "Report on Insulated Aboveground Tanks for Flammable Liquids, Protected Secondary Containment U/L 2085, Hoover Containment, Inc.," dated March 14, 1995, also addresses the design and safety of the specific type of aboveground storage tank proposed by the applicant. That report states:

These are secondary containment aboveground steel tanks with an insulation system which is intended to reduce the heat transferred to the steel primary tank should the insulated tank be exposed to a hydrocarbon pool fire situation. They are designed for aboveground storage of flammable and combustible liquids . . .

Furthermore, in their letter to Coastal Commission staff, dated March 3, 2000, which also addresses safety concerns, Containment Solutions, states:

An emergency vent is a pressure-relieving device that is installed on top of the tank. The emergency vent is normally closed to prevent any vapors from exiting the tank during normal operation. If the pressure builds up in the inner tank the emergency vent opens at ½ lb. of pressure. . . .

If a tank were subjected to fire for a prolonged period of time the liquid in the tank would generate excessive vapors, these vapors would exit the tank through the emergency vent and prevent a catastrophic failure of the tank. The emergency vent will prevent the overpressurization of the tank. . . . GTE is installing a UL2085 protected tank, this type of tank has insulation to prevent the transfer of heat to the inner tank. An insulated tank will prevent the transfer of heat to the inner tank for a extended period of time.

In conclusion, properly sized emergency venting will prevent the tank from any type of catastrophic failure even when the tank is exposed to fire for a prolonged period of time.

Additionally, as stated previously, the proposed development also includes the removal of a 10,000 gallon underground storage tank and hazardous waste storage area, which is after the fact in nature. The applicant has submitted a document prepared by Environmental Engineering & Contracting, Inc., (EEC) entitled, "Report-Environmental Assessment Related to the Removal of One Underground Storage Tank and Hazardous Waste Storage Area," dated March 15, 1999, which documents the removal of the underground storage tank and hazardous waste storage area and the associated remediation of the site

Pursuant to that closure report, EEC performed groundwater monitoring and sampling; monitored excavated soil and the breathing zone for volatile organic compounds (VOCs) during tank excavation activities; directed segregation of excavated soil; inspected the tank and pipelines after their removal for holes or pitting; collected soil samples from the tank excavation, hazardous waste storage area, and beneath the fuel dispenser; collected soil samples from the stockpiles; submitted soil samples to a State of California laboratory; and coordinated the transport and recycling of petroleum hydrocarbon-impacted soil. The removal and remediation that was performed is discussed in further detail below, in Section C, of this staff report. However, in the above-referenced report, EEC concludes:

Laboratory results indicated that the areas previously containing hydrocarbon impact had been effectively remediated by excavation and removal of the impacted soil. . . . Field evidence and laboratory data collected during the hazardous waste storage area assessment indicate that petroleum hydrocarbon-impacted soil was successfully delineated by removal. . . . EEC believes that the site warrants no further action, and that site closure be granted.

As stated above, Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood, and fire hazard, and to assure stability and structural integrity. To ensure that the recommendations of the geotechnical and engineering consultants have been incorporated into all proposed development, **Special Condition One (1)** requires the applicant to submit project plans certified by both the consulting geotechnical and geologic engineer and the coastal engineering consultant as conforming to all recommendations to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

As discussed previously, the Commission notes that the applicant's geology and geotechnical engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. The Commission also notes that many of the risks associated the storage of gasoline have been reduced through design elements. The Commission notes, however, that there are inherent risks in the storage of gasoline that may not be completely eliminated through design elements and an increased risk of fire, as gasoline is a highly flammable substance.

In addition, the proposed development is located in the City of Malibu, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu/Santa Monica Mountains area include earth movement, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Due to the concerns previously discussed, the proposed development will continue to be subject to a certain degree of risk posed by the storage of gasoline that may not be completely eliminated through design elements. Furthermore, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire. As a result, the Commission can only approve the project if the applicant assumes the liability from the associated risks, as required by **Special Condition Three (3)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is commonly required for new development throughout the greater Malibu and Santa Monica Mountains region in areas where potentially hazardous geologic conditions exist, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such deed restrictions for other development throughout the Malibu and Santa Monica Mountains region.

Furthermore, the Commission also finds that if the aboveground storage tank for gasoline were to be abandoned and no longer in use, the inherent risks associated with an aboveground storage tank for gasoline could increase due to a potential lack of maintenance. As a result, **Special Condition Five (5)**, requires that if the aboveground storage tank approved under this permit is no longer used for a period of six months, it will be considered abandoned and an application must be submitted within 30 days to the Commission for the removal of the aboveground storage tank.

In addition, the Commission finds that drainage, polluted runoff control, and structural and non-structural BMPs, such as housekeeping, cleanup, storage, and inspection of the aboveground storage tank, will aid in reducing risks inherent in the aboveground storage of gasoline. As a result, prior to issuance of the permit, **Special Condition Four (4)** requires the applicant to submit, for the review and approval of the Executive Director, a drainage, polluted runoff control, and BMP plan designed by a licensed engineer to minimize the volume, velocity and pollutant load of stormwater leaving the developed site and to reduce the possibility of gasoline spills, leaks, and drips and containment measures if such spills, leaks, or drips occur.

Furthermore, the Commission finds that a Spill Prevention Control and Countermeasures Plan, which is required by Section 25270 of the California Health and Safety Code, will assist in reducing the number of potential accidental spills of gasoline from the aboveground storage tank proposed by the applicant. The SPCC Plan is prepared following completion of construction. As a result, within 60 days of completion of construction of the aboveground storage tank, or within such additional time as the Executive Director may grant for good cause, **Special Condition Two (2)** requires the applicant to submit to the Executive Director a copy of the SPCC Plan for the aboveground storage tank for gasoline. Under this special condition, the applicant must

also inform the Executive Director of any changes to the project required pursuant to the SPCC Plan. In addition, such changes may not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

In addition, due to the remote but present risks associated with the aboveground storage of gasoline proposed by the applicant, the Commission also finds that any future improvements to the subject site will require an amendment to this permit or require an additional coastal development permit from the Commission or the applicable certified local government. This will also serve to ensure that any future improvements to the subject site will conform to the required setbacks from the aboveground storage tank required by the 1998 California Fire Code. As a result, prior to issuance of this permit, **Special Condition Six (6)** requires the applicant to execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and includes a legal description of the applicant's entire parcel. The deed restriction will run with the land, binding all successors and assigns, and will be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction may not be removed or changed without a Commission amendment to this coastal development permit.

The Commission finds, for the reasons set forth above, that the proposed development, as conditioned, is consistent with Sections 30253 and 30232 of the Coastal Act.

C. Water Quality

The Commission recognizes that new development in Malibu and the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation; increase of impervious surfaces; increase of runoff, erosion, and sedimentation; and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Furthermore, the Commission also recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area.

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, minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

As stated previously, the proposed development includes the installation of a 2,000 gallon, aboveground gasoline storage tank to dispense gasoline to telephone service vehicles and removal of a 10,000 gallon underground gasoline storage tank and aboveground hazardous waste storage area. As stated previously, the proposed 2,000 gallon aboveground storage tank will be double walled, with a single hose suction dispenser mounted on the end of the tank. Both the dispenser and all piping will be located within a third containment area, consisting of the concrete pad and walls capable of containing at least 2,725 gallons of liquid. Furthermore, the dispenser hose will have a "dry break breakaway," that prevents the spillage of fuel in the event that a vehicle accidentally drives away during fueling. GTE has also stated that they are willing to consider installing structural BMPs consisting of flow diverting berms around the fueling area's concrete slab to prohibit sheet flow runoff across the fueling pad and a spill containment trench with a 50 gallon capacity within the fueling area's concrete slab to contain spills and drips. Furthermore, the applicant is required to design a Spill Prevention Control and Countermeasures Plan under Section 25270 of the California Health and Safety Code, which will assist in reducing the number of potential accidental spills of gasoline from the aboveground storage tank proposed by the applicant.

In addition to the aboveground storage tank, however, the proposed development also includes the removal of the 10,000 gallon underground storage tank and hazardous waste storage area, which is after the fact in nature. The applicant has submitted a document prepared by Environmental Engineering & Contracting, Inc. (EEC), entitled, "Report-Environmental Assessment Related to the Removal of One Underground Storage Tank and Hazardous Waste Storage Area," dated March 15, 1999, which documents the removal of the underground storage tank and hazardous waste storage area and the associated site remediation.

Pursuant to that closure report, EEC performed groundwater monitoring and sampling; monitored excavated soil and the breathing zone for volatile organic compounds (VOCs) during tank excavation; inspected the tank and pipelines after their removal for holes or pitting; collected soil samples from the tank excavation, hazardous waste storage area, and beneath the fuel dispenser; collected soil samples from the stockpiles; submitted soil samples to a State of California laboratory; and coordinated the transport and recycling of petroleum hydrocarbon-impacted soil to a site outside of the coastal zone.

As part of this process, a laboratory analysis was performed for water samples taken from the groundmonitoring wells for total petroleum hydrocarbons (TPHg), benzene, toluene, ethylbenzene, total xylene isomers (BTEX), and methyl tertiary butyl ether (MTBA) by the approved Environmental Protection Agency (EPA) method. EEC's

report states that analytical results of the water samples collected from the site's wells were reported "at non-detectable concentrations for all constituents analyzed." In addition, no hydrocarbon odors were detected during excavation activities. All soil removed from the excavation was stockpiled onsite prior to disposal. Furthermore, prior to removal of the underground storage tank, it was triple-rinsed and rinsate from the tank was transported separately for disposal.

Additionally, soil samples were collected from the tank excavation area and tested for toluene, ethylbenzene, benzene, TPHg, BTEX, and MTBE under an approved EPA method. The EEC report states:

Analytical results of soil samples collected from the UST excavation yielded non-detectable TPHg, BTEX, and MTBE concentrations in the samples collected at 11.5 feet bgs. Soil samples collected at a depth of 10 feet bgs yielded non-detectable TPHg and BTEX concentrations. MTBE concentrations, as confirmed by EPA Method 8260, however, were reported at 0.050 milligrams per kilogram (mg/kg) and 0.096 mg/kg. The two product line samples, and the one dispenser sample, contained detectable TPHg, BTEX, and MTBE concentrations. Organic lead concentrations in the samples collected from the tank excavation were reported at non-detectable concentrations.

Analytical results of soil samples collected from the potentially reusable UST stockpile (SP1) yielded non-detectable concentrations for TPHg and benzene, but detectable concentrations of toluene, ethylbenzene, xylenes and MTBE. The maximum MTBE concentration was reported at a concentration of 0.073 mg/kg . . . Analytical results of the soil sample collected from the potentially impacted UST stockpile (SP2) yielded non-detectable concentrations for TPHg and BTEX. MTBE was reported at a concentration of 0.110 mg/kg . . .

The hazardous waste storage area, which was removed, measured approximately 19 feet long by six feet wide. This area was used to store drums of used antifreeze and oil. The bottom of the storage area was constructed of concrete and it contained an aboveground containment sump. Soil samples taken from this area yielded non-detectable concentrations of all VOCs, with the exception of toluene, xylene, and MTBE; glycols; and organic lead.

The EEC report states:

Because petroleum hydrocarbon concentrations were detected within the UST excavation, at the two product line elbows, below the gasoline dispenser, and below the hazardous waste storage area, EEC directed the overexcavation of these areas to remove hydrocarbon-impacted soil. Soil removed from areas where overexcavation was performed was combined with soil designated for offsite disposal/reclamation.

In order to ensure that all hydrocarbon impacted soil was removed, additional soil samples were performed in both the area of the UST and the hazardous waste storage area. All samples reported non-detectable concentrations of contaminants. Furthermore, as groundwater accumulated in the excavation, water samples were also analyzed and yielded non-detectable concentrations of contaminants. Finally, a total of 160 cubic yards of soil excavated during the tank removal activities was transported for

recycling outside of the coastal zone. Stockpiles of excavated soil were selected for recycling based on sample results indicating detectable hydrocarbon concentrations. Furthermore, none of the soil removed from the tank excavation was used as backfill, but with base material. Lastly, two on site groundwater monitoring wells were also abandoned and backfilled.

In their above-referenced report, EEC concludes:

Laboratory results indicated that the areas previously containing hydrocarbon impact had been effectively remediated by excavation and removal of the impacted soil. . . . Field evidence and laboratory data collected during the hazardous waste storage area assessment indicate that petroleum hydrocarbon-impacted soil was successfully delineated by removal. . . . EEC believes that the site warrants no further action, and that site closure be granted.

Although the proposed development will not result in an increase in the amount of impervious surface or a reduction in any naturally vegetated area, the proposed development will introduce potential sources of pollutants, such as petroleum, from impervious surfaces, such as the fueling area. While infiltration of precipitation into soil allows for the natural filtration of pollutants, such infiltration is prevented by impervious surfaces. In the case of impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and the ocean. Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensure that runoff is conveyed from the site in a non-erosive manner, such measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site would be allowed to return to the soil, overall runoff volume is reduced and more water is available to replenish groundwater and maintain stream flow. The slow flow of runoff allows sediment and other pollutants to settle into the soil where they may be filtered. The reduced volume of runoff takes longer to reach streams and the pollutant load of runoff will be greatly reduced.

As described above, the project is conditioned to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion and sedimentation are also minimized. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the subject site. This plan is required by **Special Condition Four (4)**. Such a plan will allow for the infiltration and filtration of runoff from the developed areas of the site and will capture the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with

it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season, making the capture of the "first flush" flow a vital component of the drainage and polluted runoff control plan. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

In addition, the Commission finds that both structural and non-structural BMPs (such as housekeeping, cleanup, storage, and inspection) for the aboveground storage tank will aid in reducing the risk of gasoline spillage and polluted runoff from the site, a potential risk with the aboveground storage of gasoline. As a result, prior to issuance of this permit, **Special Condition Four (4)** requires the applicant to submit, for the review and approval of the Executive Director, a plan for both structural and non-structural BMPs designed to minimize the volume, velocity, and pollutant load of stormwater leaving the developed site and to reduce the possibility of gasoline spills, leaks, and drips and containment measures if spills or leaks occur.

Furthermore, the Commission finds that a Spill Prevention Control and Countermeasures (SPCC) Plan, which is required by Section 25270 of the California Health and Safety Code, will assist in reducing the number of potential accidental spills of gasoline from the aboveground storage tank proposed by the applicant. The SPCC Plan is prepared following completion of construction. As a result, within 60 days of completion of construction of the aboveground storage tank, or within such additional time as the Executive Director may grant for good cause, **Special Condition Two (2)** requires the applicant to submit to the Executive Director a copy of the SPCC Plan for the aboveground storage tank for gasoline. Under this special condition, the applicant must also inform the Executive Director of any changes to the project required pursuant to the SPCC Plan. In addition, such changes may not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

The Commission also finds that if the aboveground storage tank for gasoline were to be abandoned and no longer in use, the potential impacts on water quality due could increase due to a potential lack of maintenance. As a result, **Special Condition Five (5)**, requires that if the aboveground storage tank approved under this permit is no longer used for a period of six months, it will be considered abandoned and an application must be submitted within 30 days to the Commission for the removal of the aboveground storage tank.

In addition, the Commission has found in past permit actions that conformance with the provisions of the health and safety codes is protective of resources and serves to minimize any potential for wastewater discharge that could adversely impact coastal waters. The City of Malibu, Environmental Health Department has stated that no action is required pursuant to their review of the proposed development. The applicant has received approval in concept for the aboveground storage tank from the County of Los Angeles, Fire Department, Petro-Chemical Division. In addition, the applicant has also received the final closure permit from the County of Los Angeles, Department of Public

Works, Environmental Programs Division, Hazardous Material Underground Storage for the after the fact portion of the proposed development.

Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Sections 30231 and 30232 of the Coastal Act.

D. Violations

As stated previously, the removal of the underground storage tank for gasoline and aboveground hazardous waste storage area occurred on the subject site without the required coastal development permit. That development that occurred without the benefit of a permit has been included within the current coastal development permit application, however.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

(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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with 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 development will not create adverse effects 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 of Malibu's ability to prepare a Local Coastal Program for the City of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

ZIP

SEE MAP 628

029

91302

90290

91302

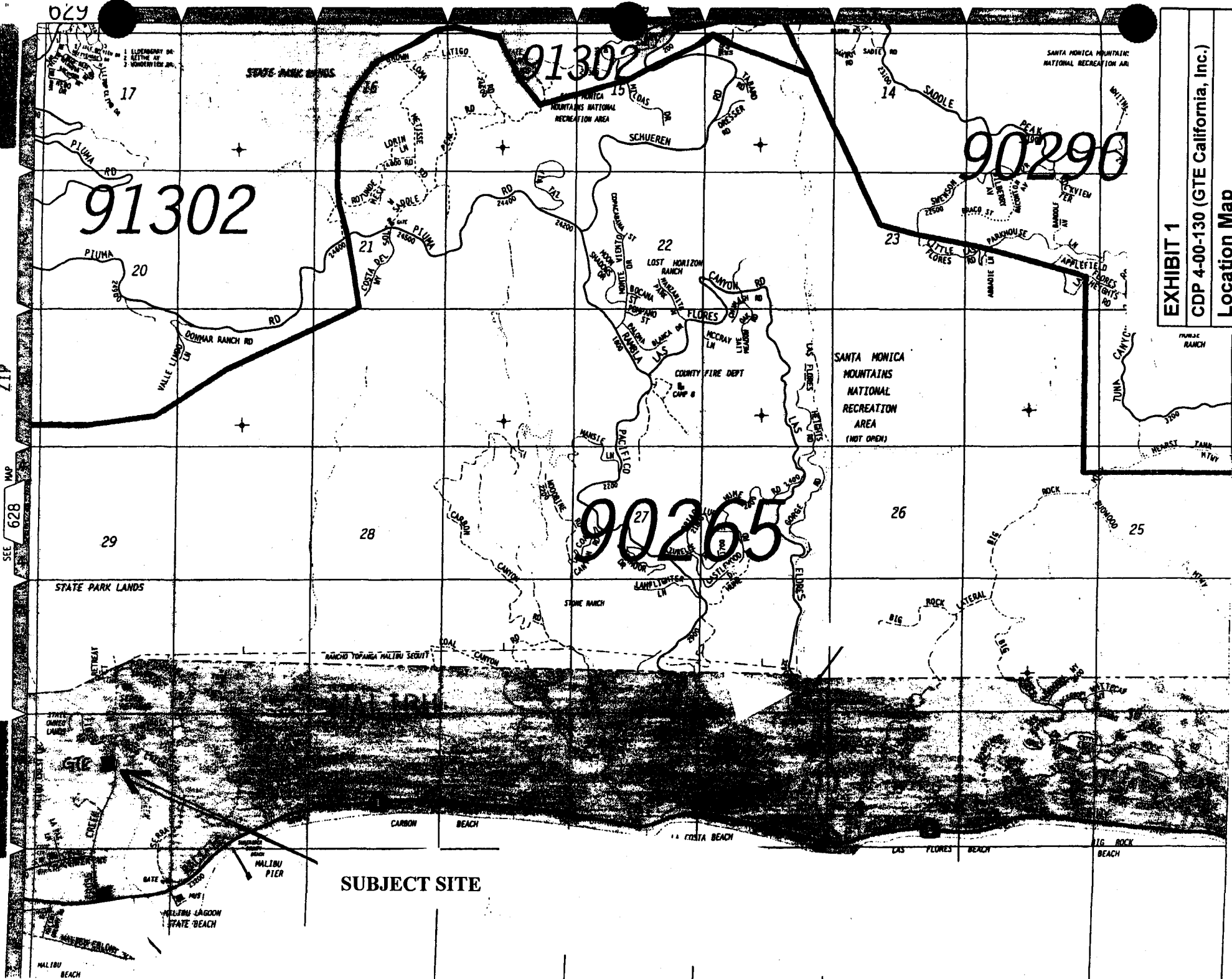
90265

EXHIBIT 1

CDP 4-00-130 (GTE California, Inc.)

Location Map

SUBJECT SITE



1998

CODE
10850

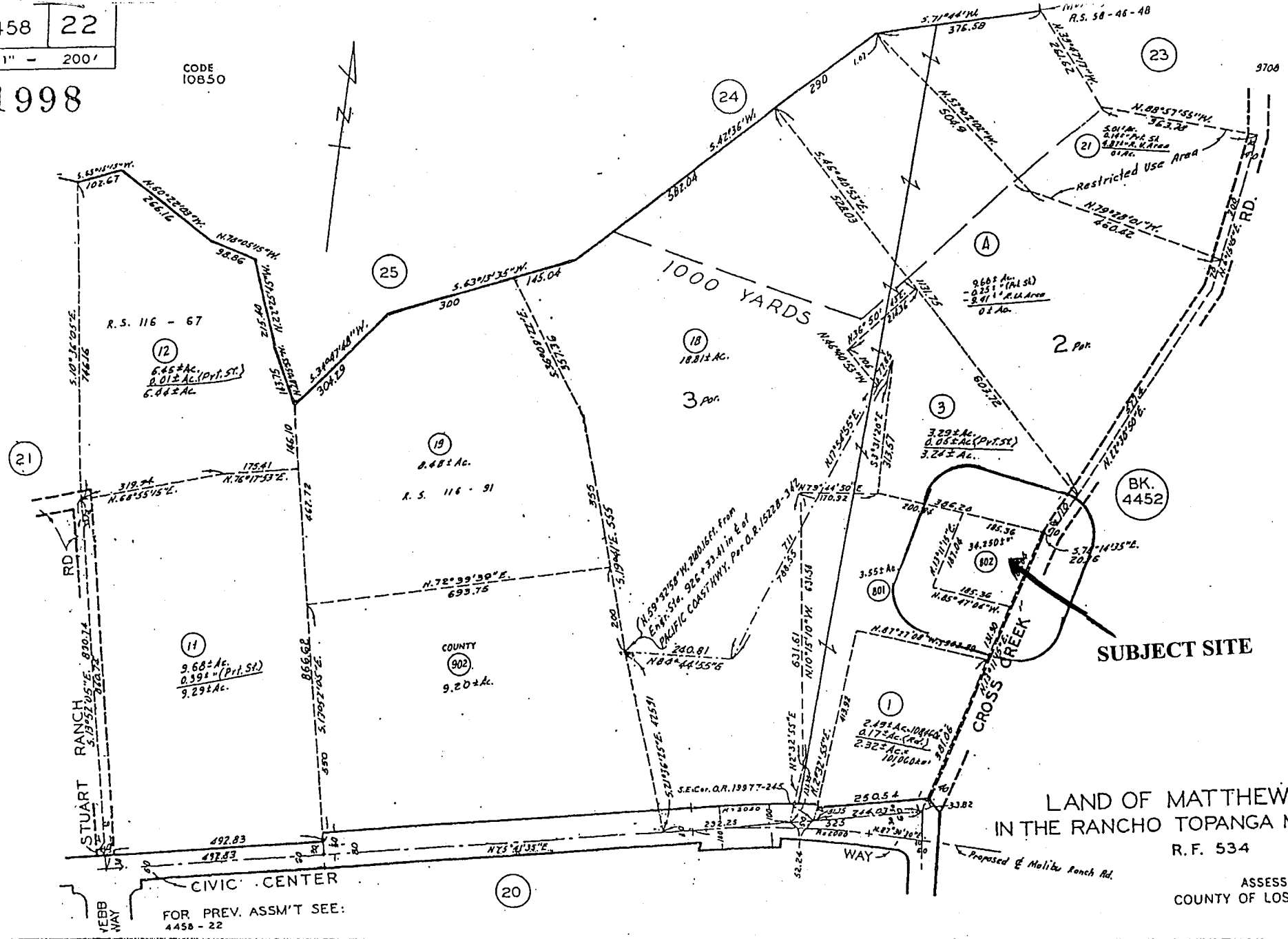


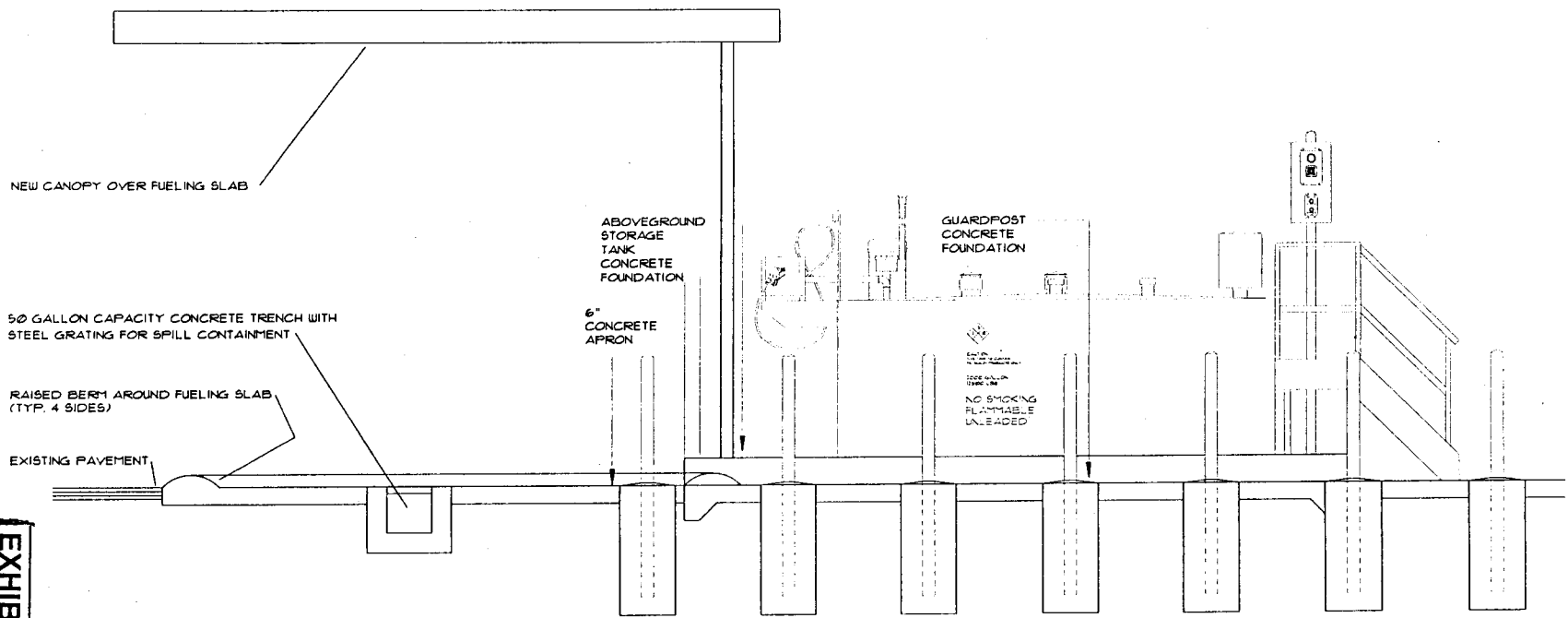
EXHIBIT 2
CDP 4-00-130 (GTE California, Inc.)
Assessor Parcel Map

LAND OF MATTHEW KELLER
IN THE RANCHO TOPANGA MALIBU SEC
R.F. 534
SEP 02
ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

CDP 4-00-130 (GTE California, Inc.)

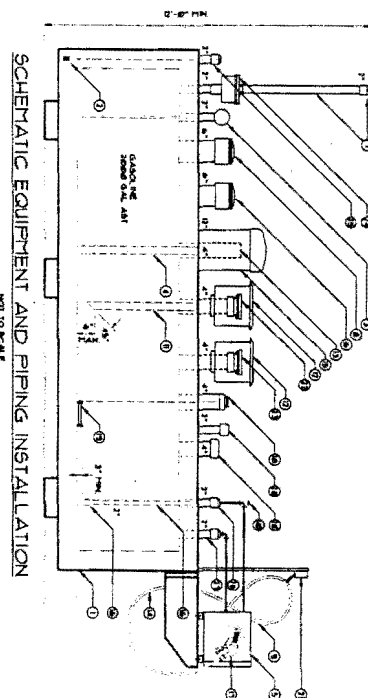


EXHIBIT 4
 CDP 4-00-130 (GTE California, Inc.)
 East Elevation

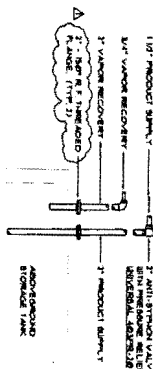


EAST LOOKING ELEVATION C
 SCALE: NONE

 TAT & ASSOCIATES INC.	
HOOPER VALLEY ABOVEGROUND STORAGE TANK INSTALLATION 3706 CROSCREEK ROAD MALIBU, CALIFORNIA 90265	GTE GTE GTE
DATE: 11/11/83 DRAWN BY: J. L. BROWN CHECKED BY: J. L. BROWN APPROVED BY: J. L. BROWN	GTE GTE GTE

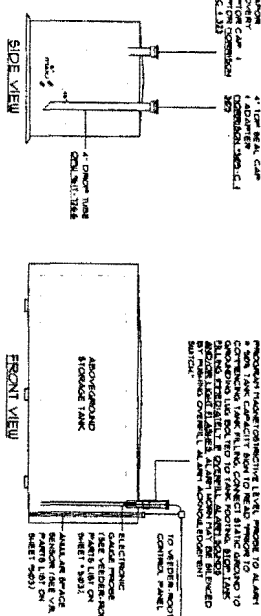


TANK PIPING LAYOUT PLAN VIEW

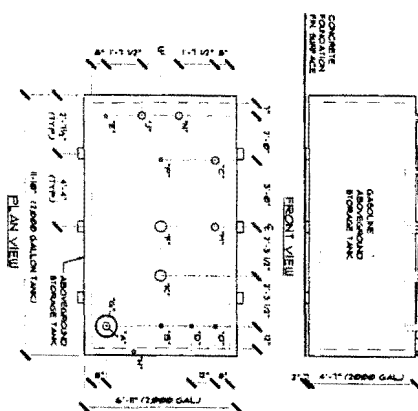


TANK SECTION "A"

TANK SECTION "B"



FILL DROP TUBE / TANK GAUGE PROBE DETAILS



FRONT VIEW

PLAN VIEW

[illegible]

TANK ORIENTATION / FITTING LAYOUT

SCHEMATIC EQUIPMENT AND PIPING INSTALLATION

MATERIAL LIST

NOTE: ALL ABOVE-SHOWN STORAGE TANK AND DISCHARGE MANHOLES TO BE SUPPLIED AS ONE UNIT IN THE TAKE-UP/REELS HOODS/CONTAINMENT

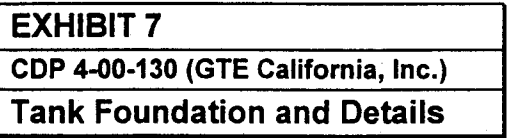
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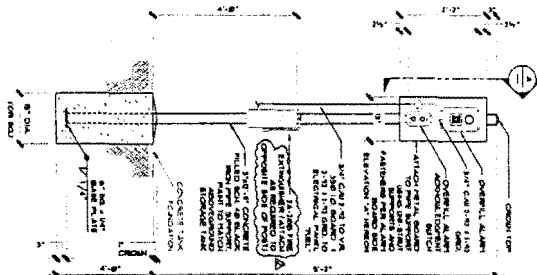
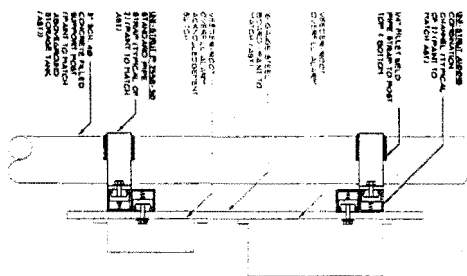
ENGINEER'S NOTE TO CONTRACTORS

[illegible]

UNAUTHORIZED CHANGES & USES

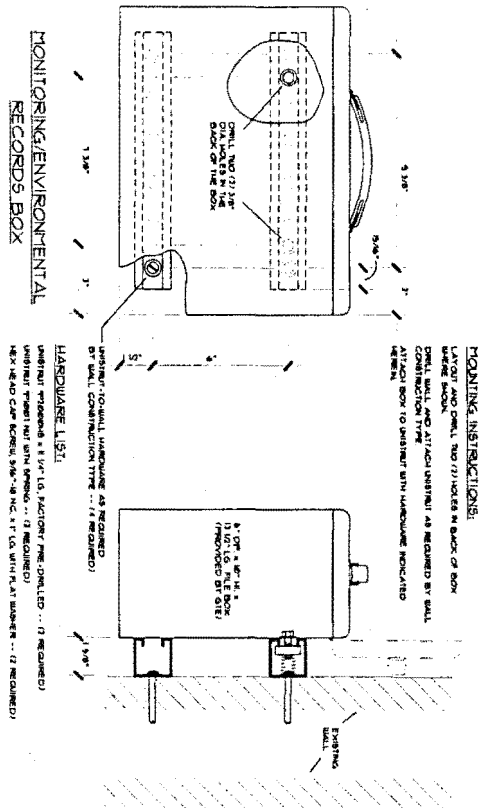
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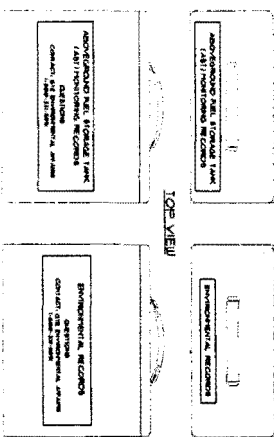
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ALARM BOARD ELEVATION
NO SCALE

SYSTEM COMPONENTS LIST:

[illegible][illegible][illegible]

FRONT VIEW
MONITORING/ENVIRONMENTAL RECORDS BOX
DECAL LOCATIONS DETAIL



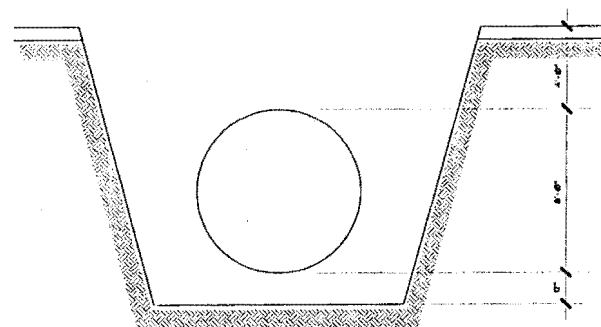
10/27/98	HOOVER VAULTED ABOVEGROUND	503	ONE GTE PLACE, THOUSAND OAKS, CA 91326 P.O. Box 2200, HAWAII, HI 96841 P.O. Box 1001, Everett, WA 98205
503	STORAGE TANK INSTALLATION	X	GTE
	3765 CROSSCREEK ROAD		
	MALIBU, CALIFORNIA 90265		
48 NOTED	SAGGETT / BOX		GTE

[illegible]

VICINITY MAP

NO SCALE

FROM THOMAS BROTHERS GUIDE © 1996
LOS ANGELES CO. PG. 875 A-B

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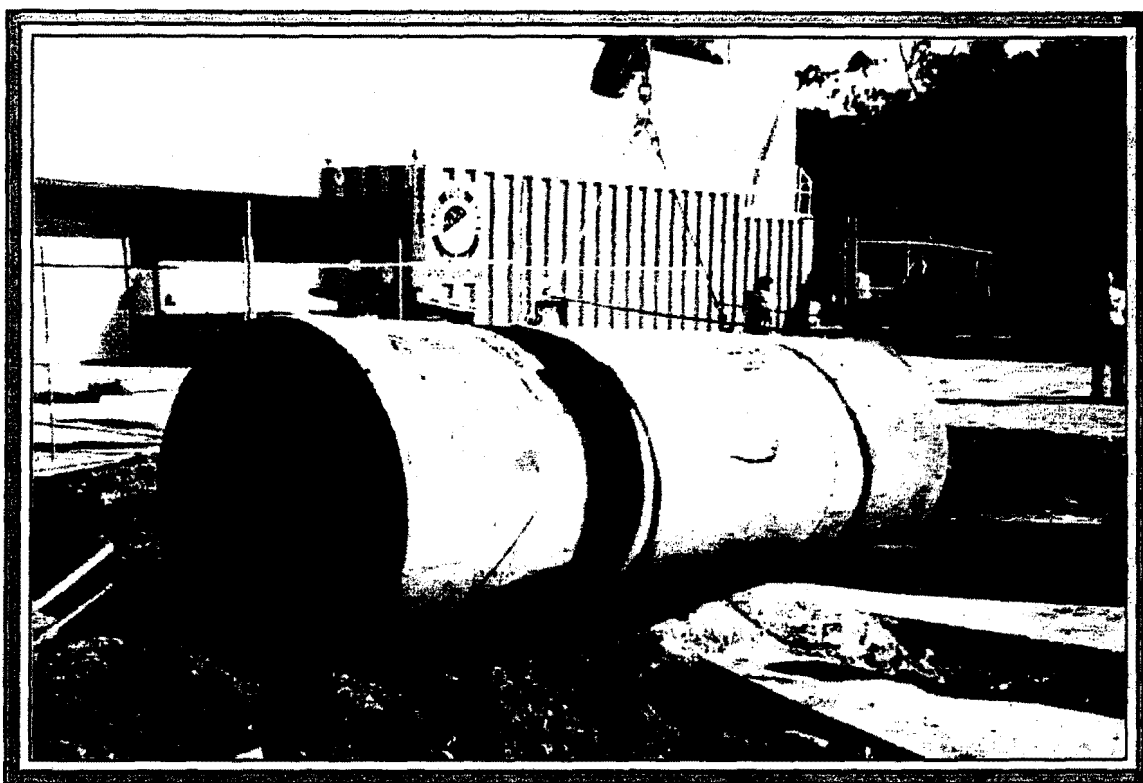


PHOTO #1: View of UST being lifted from the excavation.

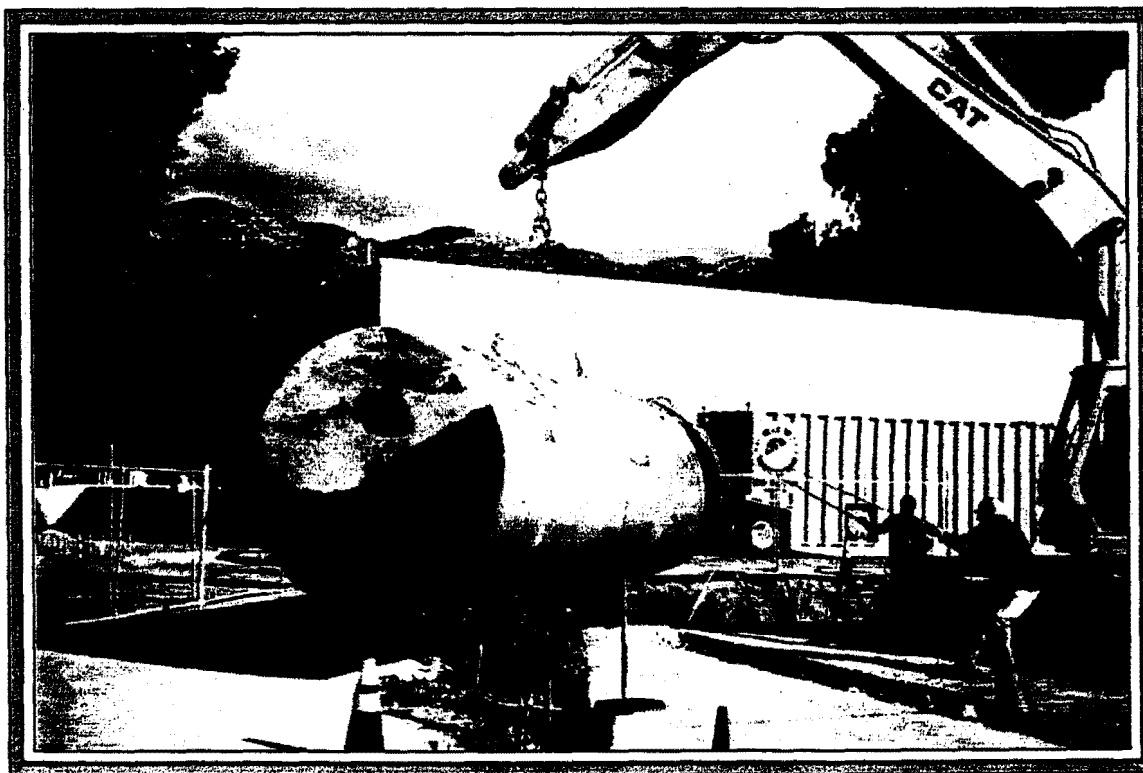


PHOTO #2: View of UST being lifted from the excavation.

EXHIBIT 11

CDP 4-00-130 (GTE California, Inc.)

Photographs of Removal