

**CALIFORNIA COASTAL COMMISSION**

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# Tu-16

Staff: AGD-SF  
Staff Report: April 19, 2001  
Hearing Date: May 8, 2001

**MEMORANDUM**

Date: May 4, 2001

To: Commissioners and Interested Parties

From: Abe Doherty, Headquarters Enforcement Officer

RE: **Addendum to Cease and Desist Order CCC-01-CD-01 staff report (Howard and Terry Rubinroit, 25351 Piuma Road, Calabasas, Los Angeles County)**

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The Commission staff makes the following revisions to the staff report CCC-01-CD-01:

1. To address the Rubinroits' request for continuance of the cease and desist order hearing, Commission staff recommends that the following text be inserted after Table 2 on page 12 of the staff report:

The Rubinroits, through their counsel, Mark Haddad, submitted a letter on April 26, 2001 to request a continuance of the cease and desist order hearing "to allow Mr. Rubinroit a reasonable opportunity to submit a complete CDP application" (**Exhibit 21**). The Rubinroits assert that they have yet to receive a "clear, specific and definitive list" of what is required to complete the application(s).

The Commission staff sent a letter to the Rubinroits on May 4, 2001 responding to this request and stating that the staff recommends that the hearing not be continued due to the history of the case (**Exhibit 22**). The Commission staff already removed a cease and desist order hearing regarding the subject property from the Commission's agenda in 1998 after the Rubinroits stated that they would submit application(s) for the unpermitted development. In letters dated February 26, 1999 and September 7, 2000, the Commission staff described the outstanding items necessary to complete the applications. After Mr. Rubinroit stated, on December 1, 2000, that he would not pursue completing the permit applications, the Commission staff reinitiated the cease and desist order proceedings. The Rubinroits have been on notice that the Commission was proceeding with the cease and desist order hearing since their receipt of the January 2, 2001 notice of intent. The Rubinroits have not demonstrated a good faith effort to submit the outstanding items; in fact, they have not submitted any of the items necessary to complete the

application(s), including the majority of the filing fee and list of property owners and occupants within 100 feet of their property. The cease and desist order establishes a schedule for submittal of a complete application(s). If the Rubinroits follow through on their stated intent to complete the applications, they should not have a problem complying with paragraph B of the cease and desist order which sets forth the schedule for completion of the application(s).

2. On page 3, revise the first sentence of the third paragraph as shown:

On February 26, 1999, Commission staff sent the Rubinroits two incomplete filing letters (one for each application) identifying nine pieces of information that ~~are~~ were needed to make each application complete and requesting that the additional information be submitted by March 24, 1999.

3. On page 12, revise the fifth sentence of the second paragraph as shown:

In this case, CDP 5-88-056 contains a condition (Special Condition 5) requiring the recordation of a document stating deed restricting ~~deed restricting indicating~~ that all future development requires a CDP or CDP amendment.

4. On page 26, revise the first sentence of the Commission's response to contention 3c as shown:

The installation of pipes or lines in the easement area constitutes development under Section 30106 of the Coastal Act (see Commission's response to defense number two ~~one~~ above).

5. On page 32, revise the reference to the Ojavan case as shown:

*Ojavan Investors, Inc. v. Cal. Coastal Commission* (1997) 54 Cal.App.4<sup>th</sup> 373, 389,

6. Revise the last sentence of page 32 as shown:

~~This~~ Thus, for purposes of section 1213, the OTD is a "conveyance of real property", the recordation of which provides constructive notice of the contents of the OTD to all future owners of the property including the Rubinroits. ~~an offer to dedicate is constructive notice to future landowners.~~

7. On page 34, revise the second sentence of the Commission's response to contention 13 as shown:

In the second Ojavan case (~~*Ojavan Investors, Inc. v. California Coastal Commission*~~ (1997) *supra*, at 39897 Daily Journal D.A.R. 4997), the Court of Appeal ruled that, even though there was "very little or no physical damage to the properties involved," a judgment for injunctive relief and civil fines ~~was~~ should be upheld,

8. Revise the last two sentences of page 37 as shown:

In *Fahmy v. Medical Board of California* (1995) 38 Cal.App.4<sup>th</sup> 810, the Court of Appeal ruled that statutes of limitations are products of legislative authority and control. At p. 816, the court noted that the law which governed the administrative enforcement proceeding at issue in that case:

*noticeably lacks a statute of limitations. The legislature is presumably aware that there are statutes limiting the right to bring action in other, arguably analogous situations. Yet the legislature chose not to impose any limitation on the Board in this precise situation.*

9. On page 38, revise the last sentence of the first paragraph as shown:

The Commission ~~staff is recommending issuance of~~ this cease and desist order to remedy a series of violations of the permit requirements of the Coastal Act, seek injunctive relief of the unpermitted development, not to collect fines and penalties for actions conducted to date.

10. On page 38, revise the last two sentences of the Commission's response to contention 18 as shown:

In the case of *South Central Coast Regional Commission v. Charles A. Pratt Construction Co.* (1982) 128 Cal.App.3d 830, 847-8.), the Court of Appeal held that ~~the~~:

*the estoppel argument fails because the overriding public interest in environmental regulation evidenced by the Coastal Act far outweighs any injustice which the developers would suffer by being required to obtain a permit from the Commission.* [Emphasis added.]

Accord: *State Air Resources Board v. Wilmshurst* (1999) 68 Cal.App.4<sup>th</sup> 1332, 1347, in which the Court of Appeal ruled that:

*As for their claim of estoppel, 'We previously have recognized that this doctrine ordinarily will not apply against a governmental body except in unusual instances when necessary to avoid grave injustice and when the result will not defeat a strong public policy.* [Citation omitted; emphasis supplied by Court of Appeal].

11. On page 40, revise the first sentence of paragraph B of the cease and desist order as shown:

B. Within 60 days of the date of this order, or within such additional time as the Executive Director may grant for good cause, submit to the Coastal Commission's South Central District Office a complete coastal development permit or amendment to the CDP 5-88-056 application requesting one of the following options:

- 1) to ~~retain~~ authorize the unpermitted development after-the-fact,
- 2) to remove said development and restore the property to its pre-violation condition, or
- 3) some combination of the above that, for each of the items listed in the violation description, proposes to either
  - a) ~~retain~~ authorize the unpermitted development after-the-fact, or

- b) remove the unpermitted development and restore the property ~~for each of the items listed in the violation description.~~

12. On page 42, revise the first sentence of the Compliance Obligation paragraph as shown:

Strict compliance with this order by all parties subject thereto is required.

13. Add the letter dated April 26, 2001 from Mark Haddad to Abe Doherty as **Exhibit 21**.

14. Add the letter dated May 4, 2001 from Abe Doherty to the Rubinroits as **Exhibit 22**.

SIDLEY & AUSTIN  
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April 26, 2001

Mr. Abe Doherty  
Headquarters Enforcement Officer  
California Coastal Commission  
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San Francisco, CA 94105-2219

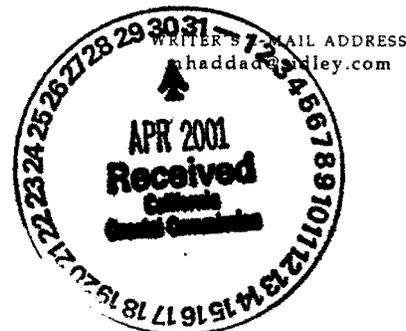
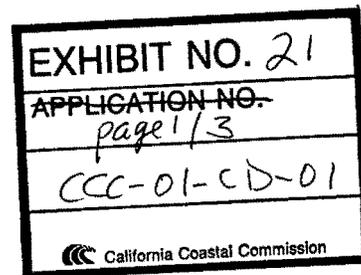
Re: Rubinroit Request for Continuation of CDO Hearing

Dear Mr. Doherty:

As I explained during our phone conversation yesterday, this firm represents Howard Rubinroit in connection with the Coastal Commission inquiry regarding his property at 25351 Piuma Road in Calabasas. It is our understanding that a CDO hearing on the Rubinroit property has been scheduled for May 8, 2001 in Monterey, and that the purpose of the proposed order is to compel Mr. Rubinroit to submit a completed CDP application for the existing development. This letter sets forth the reasons why we believe that entry of cease and desist order at this time is inappropriate, and why we respectfully request that Commission action on this matter be continued to allow Mr. Rubinroit a reasonable opportunity to submit a complete CDP application.

In several letters over the past two years, Mr. Rubinroit was informed that he could avoid cease and desist order proceedings if he submitted complete applications prior to any hearing date. This was repeated most recently in letters from you and Mr. Douglas dated March 20, 2001. As Mr. Rubinroit has repeatedly stated, he is eager to submit a completed application and obviate the need for any hearing, and to that end has repeatedly requested a complete list of the application components.

He has yet to receive, however, a clear, specific, and definitive list of what is required to complete his application, which has made full compliance impossible. We acknowledge that the Commission has claimed for some time that Mr. Rubinroit's previously submitted applications were incomplete. But the Commission has never definitively stated what materials are needed to complete them. The letter of November 13, 1998, for example, apologized for the unavailability of application forms and directed Mr. Rubinroit to meet with Commission staff who could review the specific requirements. The letter of December 21, 1998



Mr. Abe Doherty  
April 26, 2001  
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merely references "site plans, a current geology report, and proof of local approval" – uncertain terms that nevertheless appear to encompass far less than what the Commission is now demanding. In 1999, Commission staff indicated, in brief, that nine additional items were necessary to complete the applications, but as you have acknowledged in your letter of March 20, only "some" of the items were discussed in greater detail during the site visit. Additional required submissions were added by your letter of March 20, 2001. At one point, you suggested that an "update" to the geological survey done in 1995 might suffice to meet the soil and geological report requirements, however you stated that "[t]he exact requirements for the contents of this report will be determined by the Commission's South Central District Staff."

Since receiving your letter, and Mr. Douglas's letter, each dated March 20, 2001, Mr. Rubinroit has repeatedly asked to have a telephone conference arranged with Mr. John Ainsworth of the District Staff, the person whom you have indicated would be in the position to advise Mr. Rubinroit on what, precisely, is needed at this point to create a complete application. But for various scheduling reasons, you have indicated that Mr. Ainsworth has not been available to speak with Mr. Rubinroit.

In light of this delay, I suggested to you that the May 8<sup>th</sup> hearing be postponed to give Mr. Rubinroit an opportunity to speak with Mr. Ainsworth, obtain a definitive list of required items to complete the application, and submit the required items. You responded that it was now too late to delay the hearing, and that a cease and desist order Report that had been sent to Mr. Rubinroit contains in writing the definitive list of required items.

We have now reviewed that report, which Mr. Rubinroit received yesterday afternoon. The Report shows that, at the eleventh hour, the Recommended Findings prepared by Commission staff have moved the target once again. The "Revised List" of application components has grown exponentially, now requiring, *inter alia*, health department reviews, resource delineations by an ecologist, county environmental review board approval, and "[a]ny additional information that the Commission staff determines to be necessary to complete the application." With this last catchall provision in place, Mr. Rubinroit cannot be assured that even if he jumps through all of the new hoops there will be finality on the other end.

We have been placed in an untenable position. We would like to fully comply so that a cease and desist proceeding is unnecessary, but we have been unable to secure a definitive list of CDP requirements. Staff has been unavailable for conferences on the matter and now, at the eleventh hour, Mr. Rubinroit has received an expanded list of alleged violations and new CDP details. It is simply impossible for Mr. Rubinroit to comply with this new list of requirements before May 8th. Thus, the Commission is preparing to take enforcement action against Mr. Rubinroit for failing to comply with requirements that have only recently been identified, while not providing him an opportunity to follow up and submit the requested information. This is unfair. The only sensible and fair approach given the circumstances is to continue any Commission activity on this matter until Mr. Rubinroit is given a good faith opportunity to fulfill a clear and definitive list of permitting obligations.

SIDLEY & AUSTIN

Mr. Abe Doherty  
April 26, 2001  
Page 3

EXHIBIT NO. 21
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 California Coastal Commission

The May 8<sup>th</sup> hearing date is inappropriate for a second reason. As you know, there are number of documents that are relevant to Mr. Rubinroit's defense. Your letter of April 20 makes clear that the staff will be unable to provide the requested documents in time for Mr. Rubinroit to thoroughly prepare a statement before the Commission's submission deadline of May 4, 2001. You indicated, in particular, that you will need additional time (and perhaps further information in the form of addresses and/or parcel numbers which Mr. Rubinroit is seeking to obtain) to make the Quaker-Ross, Triangle, and Cold Canyon property files available because they must be ordered from the archives.

We welcome your interest in a positive and timely resolution of this matter. I particularly appreciate your candor yesterday regarding the Commission's agenda and other scheduling matters. Let me reiterate that it is Mr. Rubinroit's desire to work constructively with the Commission to resolve this matter. However, in light of the new information contained in the staff report - dated April 19, 2001, but received by Mr. Rubinroit only yesterday afternoon - we respectfully request that any deliberation on, vote on, or entry of any cease and desist order be postponed until a subsequent meeting of the Commission. We also ask that the documents requested in Mr. Rubinroit's April 10 letter be fully made available at the Ventura office for review and copying in time for Mr. Rubinroit to prepare a thoughtful reply before the Commission renders a decision on the matter.

Finally, we would ask that you forward our Request for a Continuation on to Commission members for their review. I am confident that we can reach a mutually agreeable timetable and look forward to talking with you next week.

Sincerely,

MARK E. HADDAD /img

Mark E. Haddad

MEH:lmg

cc: Howard J. Rubinroit

**CALIFORNIA COASTAL COMMISSION**

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VIA FAX TO 213 896 6600 AND REGULAR MAIL

May 4, 2001

Howard & Terry Rubinroit  
c/o Howard J. Rubinroit  
Sidley & Austin  
555 West Fifth Street  
Los Angeles, CA 90013

EXHIBIT NO. 22
APPLICATION NO. page 1/2
CCC-01-CD-01
California Coastal Commission

**Re: Response to Request for Continuance of Cease and Desist Order Hearing**

Dear Mr. Rubinroit:

This letter serves to provide a written response to your request for a continuance of the cease and desist order hearing. I have previously informed you of staff's recommendation that the hearing not be continued, including in a telephone conversation with your counsel, Mark Haddad, on April 25, 2001. On April 26, 2001, I received a letter from Mr. Haddad requesting a continuance of the cease and desist order hearing to allow you "a reasonable opportunity to submit a complete CDP application". In this letter, Mr. Haddad asserts that you have yet to receive a "clear, specific and definitive list" of what is required to complete the application(s).

In letters dated February 26, 1999 and September 7, 2000, the Commission staff described the outstanding items necessary to complete the applications (Table 1 of the staff report for CCC-01-CD-01). After documenting the presence of additional unpermitted development on the property, the items necessary to complete the applications were revised to address this development (Table 2 of the staff report for CCC-01-CD-01). Due to a lack a sufficient amount of staff, the Commission permit staff is unable to meet with all applicants to provide them with additional guidance regarding the items needed to complete permit applications. Typically, the permit staff reviews submittals and then communicates with applicants if any further information is required. Since you have requested additional guidance from the permit staff regarding the items necessary to complete your application(s), I helped to facilitate a meeting with Melanie Hale, permit supervisor for the South Central office, which occurred yesterday.

Commission staff recommends that the hearing not be continued for several reasons. The Commission staff already removed a cease and desist order hearing regarding your property from the Commission's agenda in 1998 after you stated that you would submit application(s) addressing the unpermitted development. Since you stated, on December 1, 2000, that you would not pursue completing the permit applications, the Commission staff reinitiated the cease and desist order proceedings. You have been on notice that the Commission was proceeding with the cease and desist order hearing since your receipt of the January 2, 2001 notice of intent to commence cease and desist order proceedings. You have not demonstrated a good faith effort

to submit the outstanding items; in fact, you have not submitted any of the items necessary to complete the application(s), including the majority of the filing fee and list of property owners and occupants within 100 feet of their property.

The main purpose of the cease and desist order is to establish a schedule for the completion of your application(s). If you follow through on your stated intent to complete the applications, you should not have a problem with complying with paragraph B of the cease and desist order which sets forth the schedule for completing the applications.

Please call me at (415) 904-5297 if you have any questions.

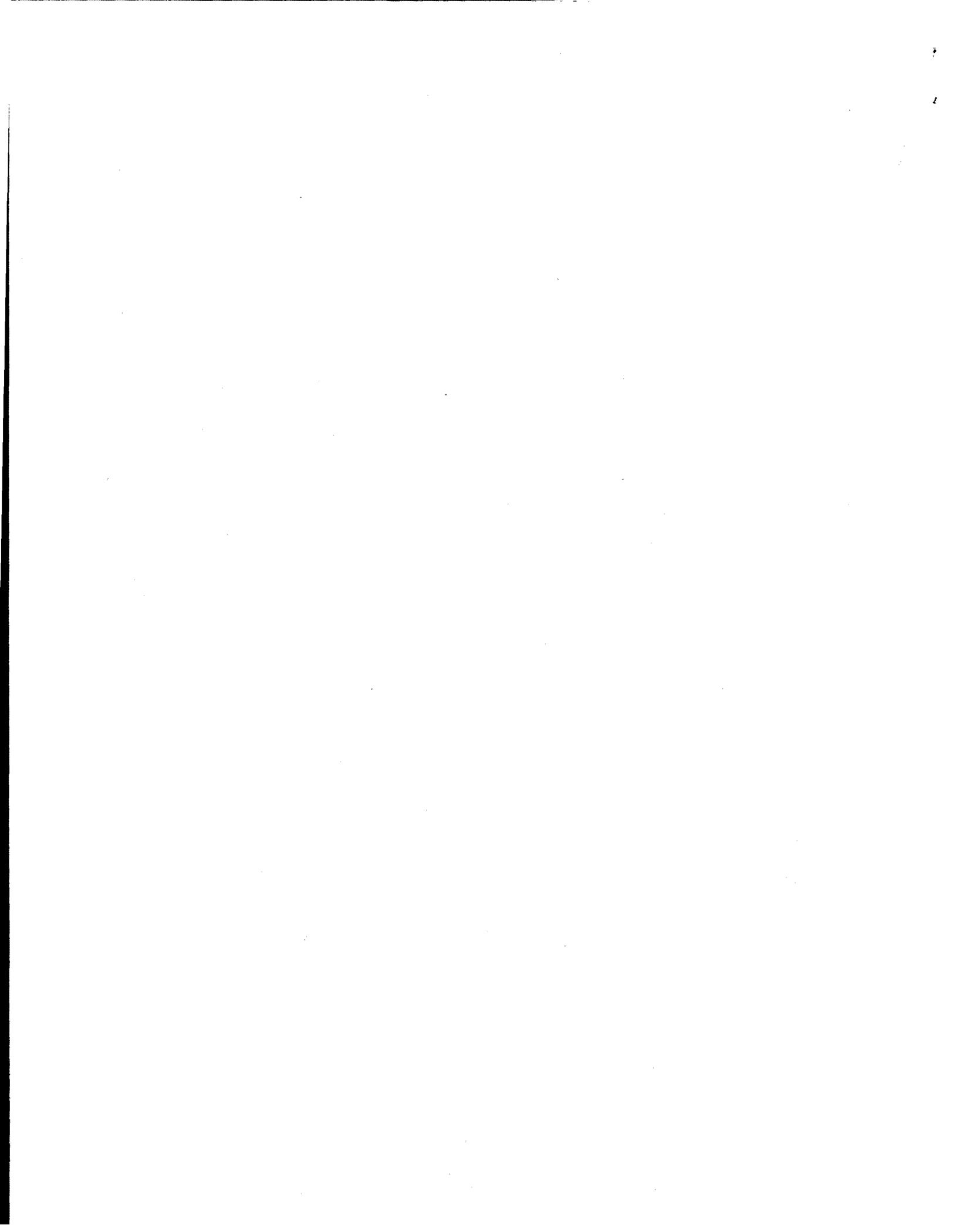
Sincerely,



Abe G. Doherty  
Headquarters Enforcement Officer

cc: Amy Roach, Chief of Enforcement  
John Bowers, Staff Counsel  
Melanie Hale, South Central Permit Supervisor  
Steve Hudson, South Central Enforcement Supervisor  
Tom Sinclair, South Central Enforcement Analyst  
Sabrina Tilles, South Central Coastal Program Analyst

EXHIBIT NO. 22
APPLICATION NO. page 2/a
CCC-01-CD-01
 California Coastal Commission



**CALIFORNIA COASTAL COMMISSION**

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**RECORD PACKET COPY**

Staff:  
Staff Report:  
Hearing Date:

AGD-SF  
April 19, 2001  
May 8, 2001

**RECOMMENDED FINDINGS FOR CEASE AND DESIST ORDER****Tu16**

<b>CEASE AND DESIST ORDER:</b>	CCC-01-CD-01
<b>RELATED VIOLATION FILE:</b>	V-4-97-031
<b>PROPERTY LOCATION:</b>	25351 Piuma Road in Calabasas, Los Angeles County, APN 4456-37-007 ( <b>Exhibit 1</b> )
<b>DESCRIPTION OF PROPERTY</b>	The property is a 2.76 acre parcel of land along Piuma Road in the Santa Monica Mountains
<b>PROPERTY OWNERS:</b>	Howard and Terry Rubinroit
<b>VIOLATION DESCRIPTION:</b>	Construction of a lighted sports court, swimming pool with spa and pump, retaining wall and associated carport, lighted stairway extending from the pool area to the sports court, lighted steps and pathways on both sides of the house, chain link fence and gates around pool and house, propane above-ground storage tank (AST) with concrete pad, water AST, concrete in eastern watercourse, patio area with low walls near pool, nonnative sand fill adjacent to unnamed blue line stream, nonnative sand fill to the east of the pool (used as children's play area), partially buried PVC piping that appears to be part of a drainage system, septic system extending out of permitted area, irrigation system, transformers and removal of major vegetation beyond the authorized limits ( <b>Exhibit 2</b> )
<b>SUBSTANTIVE FILE DOCUMENTS:</b>	Coastal Development Permit 5-88-056 File ( <b>Exhibit 3</b> ),  Coastal Development Permit Application Nos. 4-99-023 and 4-99-024 (incomplete) Files,

Cease and Desist Order CCC-01-CD-01 File

**CEQA STATUS:**

Exempt (CEQA Guidelines (CG) §§ 15061 (b)(1) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308 and 15321)

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**I. SUMMARY**

The subject property is located within the Malibu/Cold Creek Resource Management Area, adjacent to a blue line stream Environmentally Sensitive Habitat Area (ESHA) that is a tributary to Cold Creek.

The subject violation consists of construction of the following development:

1. lighted sports court,
2. swimming pool with spa and pump,
3. retaining wall and associated carport,
4. lighted stairway extending from the pool area to the sports court,
5. lighted steps and pathways on both sides of the house,
6. chain link fence and gates around pool and house,
7. propane above-ground storage tank (AST) with concrete pad,
8. water AST,
9. concrete in eastern watercourse,
10. patio area with low walls near pool,
11. nonnative sand fill adjacent to unnamed blue line stream,
12. nonnative sand fill to the east of the pool (used as children's play area),
13. partially buried PVC piping that appears to be part of a drainage system,
14. septic system extending out of permitted area,
15. irrigation system,
16. transformers and
17. removal of major vegetation beyond the authorized limits.

This development was performed without a coastal development permit (CDP) or CDP amendment and in violation of conditions of a previously issued CDP. The prior CDP authorized construction of a single family residence (with a septic system and well), which was built between 1988 and February, 1990. The unpermitted development is inconsistent with four conditions of that CDP: Standard Condition 3 requiring changes to the approved plans to be approved by the Commission and three special conditions. These special conditions required recordation of an irrevocable offer to dedicate (OTD) an open-space easement (**Exhibit 4**), a deed restriction that prohibits future development of the property without a CDP or CDP amendment (**Exhibit 5**), and compliance with an approved Fuel Modification and Landscaping Plan (**Exhibit 6**).

On June 6, 1997 Coastal Commission staff first became aware of a possible violation of the Coastal Act at the subject site. On June 19, 1997, Commission staff sent the Rubinroits the first

of five letters (**Exhibit 7**) requesting that they apply for an after-the-fact (ATF) CDP for all unpermitted development on the subject property and establishing deadlines for submittal of a CDP application(s)<sup>1</sup>. Collectively, these letters identified the violation as the sports court, swimming pool, retaining walls and excessive vegetation removal. After the Rubinroits failed to comply with all of these deadlines, on October 9, 1998, Commission staff sent the Rubinroits a notice of intent (NOI) to schedule a public hearing on the issuance of a cease and desist order by the Commission (**Exhibit 8**).

During a conversation with Commission staff on November 12, 1998, Howard Rubinroit indicated that he would file a complete CDP application (**Exhibit 9**). In reliance on this commitment by Mr. Rubinroit, the enforcement staff removed the cease and desist order from the Commission's agenda. On January 29, 1999, the Rubinroits submitted two CDP applications: CDP 4-99-023 for construction of decking and fencing (sports court) within the area defined by the OTD open space easement and CDP 4-99-024 for a swimming pool, decking, fencing, carport and retaining wall.

On February 26, 1999, Commission staff sent the Rubinroits two incomplete filing letters (one for each application) identifying nine pieces of information that are needed to make each application complete and requesting that the additional information be submitted by March 24, 1999. Howard Rubinroit responded in a letter dated March 15, 1999 requesting additional time to submit the information needed to complete the application. After not receiving any of the requested information, the Commission staff sent the Rubinroits a set of two letters on September 7, 2000 reiterating the information needed to create a complete application. Howard Rubinroit told Commission staff on December 1, 2000 that he did not intend to complete the applications and has not submitted a complete application as of the date of this staff report.

As a result of the Rubinroits' failure to obtain a permit or permit amendment for all unpermitted development on the subject property, Commission staff recommends that, pursuant to Coastal Act section 30810, the Commission issue a cease and desist order to resolve the subject violation. Since receipt of the notice of intent to issue the cease and desist order, Mr. Rubinroit has indicated to Commission staff that he will submit complete permit applications. However, in light of the history of this case, staff recommends that the Commission proceed with issuance of the cease and desist order at this time.

The proposed Commission cease and desist order would require the Rubinroits to refrain from:

- 1) performing any further development activity at the site without first obtaining a Coastal Development Permit or Amendment to the existing permit, and
- 2) maintaining any existing unpermitted development on the property by applying for a Coastal Development Permit or Amendment to either remove the development or authorize it after-the-fact.

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<sup>1</sup> The Commission sent letters on June 19, 1997, September 15, 1997, October 8, 1997, January 29, 1998 and August 13 1998.

## **II. HEARING PROCEDURES**

The procedures for a hearing on a proposed Cease and Desist Order are outlined in section 13185 of the California Code of Regulations (CCR), Title 14, Division 5.5, Chapter 5, and Subchapter 8. The Cease and Desist hearing procedure is similar in most respects to the procedures that the Commission utilizes for permit and LCP matters.

For a Cease and Desist Order hearing, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any other speaker. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

The Commission should receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR section 13186, incorporating by reference section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the order.

## **III. MOTION/STAFF RECOMMENDATION OF APPROVAL**

### **A. Motion**

Staff recommends adoption of the following motion:

*I move that the Commission issue Cease and Desist Order No. CCC-01-CD-01 pursuant to the staff recommendation.*

### **B. Staff Recommendation of Approval**

Staff recommends a YES vote. Passage of this motion will result in issuance of the cease and desist order. The motion passes only by an affirmative vote of a majority of Commissioners present.

### **C. Resolution to Issue Cease and Desist Order**

The Commission hereby issues Cease and Desist Order number CCC-01-CD-01 set forth below and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and inconsistent with a coastal development permit.

## **IV. PROPOSED FINDINGS**

Staff recommends the Commission adopt the following findings of fact in support of its action:

### **A. Background and Administrative Resolution Attempts**

#### **1. Coastal Development Permit 5-88-056**

On March 24, 1988, the California Coastal Commission approved CDP 5-88-056 for construction of a four level 4,260 square foot, 28-foot high single family residence with a water well and a septic system, at 25351 Piuma Road, in Calabasas, Los Angeles County. At that time, the property was owned by Jack and Ann-Marie Moses and Ron and Marco Landry. The single family residence was approved to be located on one of two preexisting graded pads on the property<sup>2</sup>.

The subject property is a 2.76-acre lot located on a northern facing slope and has drainageways on the eastern and western sides of the house. The portion of the vegetation on the property that has not been cut or cleared is dominated by drought resistant shrubs characteristic of coastal sage scrub or lower chaparral communities. The site is located in the upper portions of the Malibu/Cold Creek Resource Management Area. The northern portion of the property is adjacent to a blue line stream Environmentally Sensitive Habitat Area (ESHA) which is an unnamed tributary to Cold Creek. The property is also located near the Dark Canyon Creek ESHA.

To mitigate the adverse impacts of the residential development on the Environmentally Sensitive Habitat Area (ESHA), the Commission imposed standard and special conditions on CDP 5-88-056 as described in the following paragraphs.

Special Condition 2 requires Fuel Modification and Landscape Plans to be submitted to the Commission staff for review and approval. The approved Fuel Modification and Landscape Plans include the following statement:

*It is the intent of the fuel modification plan to avoid vegetation clearance in any designated "OPEN SPACE" area as shown on the attached site plan including the drainage courses to the west and east of the building pad.*

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<sup>2</sup>The house was proposed and approved as being located on graded pad number one. The second graded pad, graded pad number two was located just slightly northwest of the house and adjacent to Piuma Road.

The Fuel Modification and Landscaping Plans limit the clearance of vegetation to a distance of 30 feet from any structure and cutting of flammable vegetation to a height of 18 inches for another 70 feet unless authorized by the Fire Marshall.

Standard Condition 3 of CDP 5-88-056 states that "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." Thus, this condition requires, among other things, that all development occur consistent with the approved Fuel Modification and Landscape Plans required by Special Condition 2.

Special Condition 4 requires the applicant to execute and record an irrevocable offer to dedicate (OTD) an open space and conservation easement. This condition requires that the open space easement encompass all the area on the property outside the boundary of graded pad number one on which the residence was located (**Exhibit 10**). The findings for CDP 5-88-056 state that this OTD was required to "protect the remaining, undisturbed watershed cover on the property," and to limit adverse impacts on critical resources within the nearby ESHA that might arise from future development on the subject property. In support of the requirement for an open space and conservation easement, the findings also cite Policy 72 of the Malibu/Santa Monica Mountains Land Use Plan, which states:

*Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.*

On August 8, 1988, the Moseses and the Landrys recorded the offer to dedicate (OTD) an open-space easement, as Instrument No. 88-1246285, at the Los Angeles County Recorder's Office. The OTD restricts the use of the open space easement to "natural open space for habitat protection, private recreation, and resource conservation uses," and prohibits development except as approved by the Coastal Commission in a subsequent permit. The OTD prohibits "development as defined in Public Resources Code section 30106. . . including but not limited to removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, buildings, etc." The language of the OTD indicates that its purpose is to "restrict development on and use of the Property so as to preserve the open-space and scenic values present on the property and so as to prevent the adverse direct and cumulative effects on coastal resources..."

Special Condition 5 required the applicant to record a document stating that any future development of the property (as defined in Public Resources Code section 30106) would require either an amendment to CDP 5-88-056 or an additional CDP permit. The Commission imposed this condition so that future development that would otherwise be exempt, such as certain improvements to the residence, would be subject to permit requirements. The purpose of this condition is to enable the Commission to ensure that future development does not damage the ESHA. On August 8, 1988, the Moseses and the Landrys recorded the deed restriction, as Instrument No. 88-1246284 at the Los Angeles County Recorder's Office.

CDP 5-88-056 was issued to the Moseses and the Landrys on December 5, 1988. Based on the final dates listed in the county permits for the house, it appears that the construction of the house was completed by February 2, 1990. On February 14, 1990, title to the property was transferred to Howard and Terry Rubinroit.

## 2. Discovery of Violations and Contact with Landowners

On June 10, 1997, Coastal Commission staff received a report of a possible violation of the Coastal Act from the construction of a sports court at the subject property. On June 19, 1997, Commission staff confirmed the presence of a sports court in the area of the OTD open space easement. On this same date, Commission staff sent the Rubinroits the first of five letters requesting that they apply for an after-the-fact CDP for all unpermitted development on the subject property<sup>3</sup>. The June 19, 1997 letter specifically identified the alleged violation as the sports court and excessive vegetation removal. While investigating the violation during the fall of 1998, Commission staff discovered additional unpermitted development consisting of the swimming pool and retaining walls.

Commission staff contacted the Los Angeles County Building and Safety Department on August 11, 1998 and was informed that on April 22, 1996, they issued to the Rubinroits a permit for a 10 ft. by 50 ft. retaining wall with a retaining height of 10 feet (**Exhibit 11**). Although Commission staff initially believed that this retaining wall was associated with the carport, Commission staff now believes that this permit was issued for a retaining wall to support the pool and patio area in the northern portion of graded pad number one. This retaining wall is addressed in the violation description as part of the phrase "patio area with low walls near pool." Commission staff was also informed by this agency that they had issued to the Rubinroits a permit on February 29, 1996 for construction of a pool/spa (**Exhibit 12**).

Through letters to the Rubinroits, Commission enforcement staff established four initial deadlines for submittal of applications for a CDP<sup>4</sup>. These letters indicated that lack of compliance with the deadlines could result in enforcement actions, including penalties and the initiation of cease and desist order proceedings.

After the Rubinroits failed to comply with all of these deadlines, on October 9, 1998, Commission staff sent the Rubinroits a notice of intent (NOI) to schedule a public hearing on the issuance of a cease and desist order by the Commission. This NOI described the violation as the unpermitted construction of the sports court, swimming pool and retaining wall.

On November 5, 1998, Mr. Rubinroit submitted a lengthy Statement of Defense in response to the NOI to commence cease and desist order proceedings. On November 10, 1998, Mr. Rubinroit called Commission staff member Mary Travis to express his desire for an "amicable resolution." During a conversation with Commission staff on November 12, 1998, Howard

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<sup>3</sup> The Commission sent letters on June 19, 1997, September 15, 1997, October 8, 1997, January 29, 1998 and August 13, 1998.

<sup>4</sup> The Commission staff had established CDP application submittal deadlines of July 24, 1997, October 1, 1997, November 15, 1997 and September 14, 1998.

Rubinroit indicated that he would file a complete CDP application. In reliance on this commitment by Mr. Rubinroit, the enforcement staff removed the cease and desist order from the Commission's agenda. On November 13, 1998, Commission staff sent Mr. Rubinroit a letter memorializing the November 12, 1998 conversation and establishing a deadline of December 11, 1998 for submittal of the applications.

On December 9, 1998, during a conversation with Commission staff, Rubinroit agreed to file two CDP applications, one for the sports court and the other for the swimming pool and retaining wall. Commission staff determined that they would likely recommend approval of the swimming pool and retaining wall, and denial of the sports court. Since the Rubinroits suggested that they would contest a denial of the sports court, staff encouraged the Rubinroits to file two separate permit applications, one for the sports court and the other for the development on graded pad number one, outside of the area defined by the OTD. Staff indicated to the Rubinroits that filing two applications would enable the Rubinroits to expeditiously resolve the swimming pool and retaining wall violations while contesting a likely denial of the sports court.

This conversation was memorialized in a letter sent to the Rubinroits on December 21, 1998 wherein the Commission granted the Rubinroits a time extension until January 15, 1999 to file both CDP applications (**Exhibit 13**).

On January 7, 1999, the Rubinroits were granted a two-week extension until January 29, 1999 for submittal of the CDP applications.

On January 29, 1999, the Rubinroits submitted two CDP applications to the Coastal Commission: 1) CDP 4-99-023 for the construction of decking and fencing (of the sports court), and 2) CDP 4-99-024 for the construction of a swimming pool, decking, fencing, carport and retaining wall. In a cover letter accompanying the applications, Mr. Rubinroit challenged the need for a CDP and requested that the Commission waive the permit requirements for the retaining wall and swimming pool.

After this point, the Commission became aware of the presence of the carport. Since the carport is structurally composed mainly of the retaining wall, many of the future references to this development focused on the retaining wall portion of the structure.

On February 26, 1999, Commission staff sent the Rubinroits two "incomplete filing" letters (one for each application) notifying them that their applications could not be filed because they lacked certain required materials and information. Each of the letters identified nine additional items (consisting primarily of information and the proper application fee) that were needed to make the applications complete such that they could be filed. Each of these letters established a deadline of March 24, 1999 for submittal of the additional information. Commission staff also stated in the letter addressing the application for the development on graded pad number one (CDP 4-99-024) that the development does not qualify for a permit waiver.

In a letter dated March 15, 1999, Mr. Rubinroit requested clarification regarding the items that needed to be submitted to complete his applications and requested additional time to complete his application. Around this time, the Commission district staff member who had been

reviewing the applications left the Commission and the case was not immediately reassigned due to lack of sufficient staff. On September 7, 2000, Commission staff sent the Rubinroits two additional letters (one for each application) notifying them that their applications were incomplete and that they still needed to submit nine more pieces of information for each application before the applications could be deemed complete. Each of these letters established a deadline of December 6, 2000 for submittal of the additional information. Table 1 summarizes the missing information needed to complete CDP applications 4-99-023 & 4-99-024 based upon the items listed in the February 26, 1999 and March 15, 1999 letters.

**Table 1. Initial List of Items Necessary to Complete  
CDP Applications 4-99-023 & 4-99-024**

1. A filing fee of \$2,400. [The filing fee for each application is \$1200 (the regular filing fee is \$600, but ATF permits are subject to a double filing fee). The Rubinroits had submitted a check for \$200 with the incomplete applications; a balance of \$2200 remains unpaid.]
2. A complete list of property owners and occupants within 100 feet of the subject property and stamped envelopes addressed to each person on this list.
3. 2-sets of project drawings including site plans, floor plans, and all elevations. The drawings must be approved by the local planning department and stamped "Approval in Concept."
4. Two sets of detailed grading and drainage plans with cross sections, and quantitative breakdown of grading amounts (prepared by a registered engineer).
5. Two copies of comprehensive, current (not more than one year old), site-specific geological and soils reports.
6. A current LA Co. "approved" geologic review sheet.
7. The "Approval in Concept" form completed by the local planning department or other responsible local agency.
8. A reduced set of 8 1/2 by 11 inch drawings of the project.
9. A mapped survey of the property performed by a licensed surveyor, which indicates the location of the development and the location of the irrevocable offer to dedicated and open space easement.

On December 1, 2000, during a phone conversation with Commission staff, Mr. Rubinroit stated that he had no intention of completing either CDP application.

On January 2, 2001, Commission staff sent the Rubinroits a notice of intent (NOI) to commence cease and desist order proceedings (**Exhibit 14**). The unpermitted development was described in this NOI as the construction of a sports court (decking and fencing), swimming pool, and retaining wall with a footnote referencing the carport. Howard Rubinroit requested and Commission staff granted a five day extension from January 31, 2001 until February 5, 2001 for submittal of the Statement of Defense (SOD). Commission staff received the SOD from Mr. Rubinroit on February 6, 2001 (**Exhibit 15**).

In the process of preparing the staff report for the cease and desist order hearing, Commission staff determined that additional unpermitted development was present at the subject property

which should be addressed in the cease and desist order so that all unpermitted development on the site is addressed by the Commission at one time. Commission staff requested and received authorization from Mr. Rubinroit to conduct a site inspection (a letter from Mr. Rubinroit granting authorization was received by the Commission staff on March 13, 2001.) On March 15, 2001, Commission staff member Abe Doherty conducted a site investigation and documented the presence of additional unpermitted development other than the previously mentioned sports court, swimming pool and retaining wall.

In order to address all of the unpermitted development at the same cease and desist order hearing, the Commission staff issued an amended notice of intent to commence cease and desist order hearings on March 20, 2001 (**Exhibit 16**). This amendment to the NOI replaced the description of the unpermitted development that was included in the NOI dated January 2, 2001 with the following description:

1. lighted sports court,
2. swimming pool with spa and pump,
3. retaining wall and associated carport
4. lighted stairway extending from the pool area to the sports court,
5. lighted steps and pathways on both sides of the house,
6. chain link fence and gates around pool and house,
7. propane above-ground storage tank (AST) with concrete pad,
8. water AST,
9. concrete in eastern watercourse,
10. patio area with low walls near pool,
11. nonnative sand fill adjacent to unnamed blue line stream,
12. nonnative sand fill to the east of the pool (used as children's play area),
13. partially buried PVC piping that appears to be part of a drainage system,
14. septic system extending out of permitted area,
15. irrigation system,
16. transformers and
17. excessive vegetation removal.

In this amendment to the NOI, the description of the alleged violations was also amended to explicitly include the grading, vegetation removal and other activities associated with the construction of the unpermitted development listed above.

On March 20, 2001, Commission staff member Abe Doherty sent Mr. Rubinroit a letter memorializing the conversations from the site visit and explaining the need for the amendment to the NOI to contribute to the achievement of a comprehensive resolution of the violations of the Coastal Act on the subject property. In this letter, Mr. Doherty also informed the Rubinroits that they needed to submit proof of a permit from the Los Angeles County Building and Safety Department for repairs to the septic system as an additional filing requirement for the CDP application(s).

On April 6, 2001, Mr. Rubinroit requested and Commission staff granted a two-day extension from April 9, 2001 until April 11, 2001 for submittal of the amendment to the Statement of

Defense (SOD). Commission staff received the amendment to the SOD from Mr. Rubinroit on April 11, 2001 (**Exhibit 17**).

As of the date of this report, the Rubinroits have failed to submit to the Commission a complete CDP or CDP amendment application(s) for all unpermitted development on the property. Based upon the revised description of the unpermitted development at the subject property, the Commission's South Central Coast District Office has revised the list of items needed to complete the CDP or CDP amendment application(s). The list of the items needed to complete the applications that is contained in Table 1 is now replaced with the following list:

**Table 2. Revised List of Items Necessary to Complete  
CDP Applications 4-99-023 & 4-99-024**

1. A complete filing fee based on Section 13055 of the Commission's regulations. (The Rubinroits had submitted a check for \$200 with the incomplete applications that were submitted on January 29, 1999. If the Rubinroits decide to complete the two CDP applications, an additional \$2,200 must be submitted.)
2. A complete list of property owners and occupants within 100 feet of the subject property and stamped envelopes addressed to each person on this list.
3. Two sets of project and resource plans that show all development, vegetation removal, riparian canopy, drainageways, oak trees, OTD easement boundary, property boundaries, topography and all elevations. Drawings must be to scale with dimensions shown and be based upon a mapped survey of the property performed by a licensed surveyor. The resource area delineations must be made by a qualified ecologist. The drawings must be approved by the local planning department and stamped "Approval in Concept."
4. Two sets of detailed grading and drainage plans with cross sections and quantitative breakdown of grading amounts (cubic yards of cut and fill). Plans must be to scale with dimensions shown and prepared by a registered engineer.
5. A set of legible drawings reduced to 8 1/2 by 11 inch in size. The reduced set shall include the project and resource plans and the grading and drainage plans.
6. Two copies of comprehensive, current (not more than one year old), site-specific geological and soils reports (including maps) prepared in accordance with the Guidelines for Engineering Geologic Reports, prepared by the State Board of Registration for Geologists and Geophysicists (11/93). (Copies of the guidelines are available from the District office.) The "Limited Geotechnical Investigation" report dated December 6, 1995 can be submitted with an update report. This update report should include discussion of the current soils and geology at the site, the potential impacts of all unpermitted development, the volume and rate of pumping for storage in the water tank, methods of construction (especially for pool and retaining walls), erosion control and measures to support geologic stability.
7. A current LA County "approved" geologic review sheet for all development.
8. The "Approval in Concept" form completed by the local planning department or other responsible local agency.
9. County Health Department review of septic system and approval for repairs or

removal of exposed greywater outlet.
10. Fire department and any other local agency approval for the propane tank.
11. County Environmental Review Board Approval.
12. Copies of all required public agency approvals for all of the development. Include minutes of any public hearing, if applicable.
13. Revised description of development that includes all of the unpermitted development at the subject property.
14. Any additional information that the Commission staff determines to be necessary to complete the application.

Since the Rubinroits have failed to submit a complete application for a CDP or CDP amendment for all unpermitted development on their property, Commission staff recommends the issuance of the cease and desist order set forth in section V of this staff report.

### 3. Violations

All of the unpermitted development on the subject property violates the Coastal Act since it was undertaken without a CDP or CDP amendment. Some of the unpermitted development consists of improvements to the residence within the meaning of section 30610(a) of the Coastal Act. That section provides that improvements to single family residences are exempt from permit requirements unless they are identified in the Commission's regulations at California Code of Regulations title 14, Division 5.5. Section 13250 of these regulations state that improvements to a single family residence are not exempt if the CDP for the original structure indicates that future improvements require a permit. In this case, CDP 5-88-056 contains a condition (Special Condition 5) requiring the recordation of a deed restricting indicating that all future development requires a CDP or CDP amendment. Thus, to the extent that any of the unpermitted development constitutes an improvement to the residence, it requires a CDP.

In addition, all of the development that is located within the area of the OTD is inconsistent with Special Condition 4 of CDP 5-88-056 which prohibits development within the area defined by the OTD open space easement, except as approved by the Coastal Commission in a subsequent permit.

Finally, some of the unpermitted development is inconsistent with Special Condition 2 and Standard Condition 3, which require conformance with the approved Fuel Modification and Landscaping Plans. These plans limit the clearance of vegetation to a distance of 30 feet from any structure and cutting of flammable vegetation to a height of 18 inches for another 70 feet unless authorized by the Fire Marshall. If greater clearances were required by the fire department, these conditions require the Rubinroits to obtain an amendment to CDP 5-88-056.

The following paragraphs describe the unpermitted development in greater detail and indicate where the development is located in relation to the area defined by the OTD. These descriptions are based upon a review of plans for the property, aerial photographs, photographs of the development and observations of Commission staff.

The following development appears to be located entirely within the area defined by the OTD open space easement:

1. A lighted sports court on an unpermitted graded pad (graded pad number three) is located in the northeastern portion of the site, within approximately five feet of the unnamed blue line stream. This sports court is approximately 50 feet by 25 feet and consists of a chain link fence (with a section of solid wall) and gates with a concrete pad, light post, basketball net, tennis net and small storage shed.
2. A water above-ground storage tank (AST) is located in the southeastern corner of the property adjacent to Piuma Road. Plans submitted by Mr. Rubinroit in his Statement of Defense indicate that this tank has a capacity of 8,000 gallons.
3. Approximately 25 square feet of concrete has been poured on a portion of the eastern watercourse, adjacent to the sports court. (Staff guesses that wet concrete left over from the construction of the concrete pad of the sports court may have been thrown on the banks of the watercourse.)
4. On the northeastern side of the sports court is an area of unvegetated nonnative sand fill that directly abuts the unnamed blue line stream corridor.
5. Signs of active cutting of shrubs located over 100 feet to the north of the residence were observed during the March 15, 2001 site investigation. The area around the sports court also appears to have been cleared of vegetation during the construction of the sports court and the grading of the pad. This removal of major vegetation was performed in violation of Special Condition 2 and Standard Condition 3 of CDP 5-88-056 which required compliance with the approved Fuel Modification and Landscaping Plans. These plans limit the clearance of vegetation to a distance of 30 feet from any structure and cutting of flammable vegetation to a height of 18 inches for another 70 feet unless authorized by the Fire Marshall.

The following development is either located partially within the area defined by the OTD, or is located too close to the boundaries of graded pad number one to be able to definitively determine whether it is located within the area defined by the OTD:

1. A lighted stairway was observed extending from the pool area to the sports court. The majority of this stairway appears to be located within the area defined by the OTD. This stairway, which is illuminated with light posts, is constructed with wooden steps and a railing made of wooden posts with connecting ropes.
2. Portions of the chain-link fence around the pool and house appear to extend off of graded pad number one (especially to the east of the house) into the adjacent area defined by the Open space easement OTD.
3. An area of sand fill which appears to be used as a children's play area was observed to the east of the residence, apparently within the area defined by the OTD open space easement.
4. Partially buried PVC pipe was observed a) to the northeast of the pool area, b) on the southwestern side of the sports court and c) within the shrubs to the northwest of the sports court. These pipes appear to be part of an unpermitted drainage system.
5. To the west of the residence, an exposed greywater outlet (approximately two inch pipe) with a film of dried effluent was observed during the March 15, 2001 site investigation. Not only is this outlet located outside of the area approved for the septic system, but it also represents a change in the design of the system by discharging greywater directly to the ground surface.

The approved plan for the septic system that was authorized by CDP 5-88-056 shows the septic tank as being located north of the residence, apparently in the area currently developed as the patio area between the house and the pool. (**Exhibit 18**) The seepage pits are shown on this plan as being located on the northern portion of graded pad number one, outside of the area defined by the OTD. In contrast, the exposed outlet was observed to the west of the residence, downslope of graded pad number one, potentially within the area defined by the OTD.

6. Sprinkler heads for an irrigation system were observed both within the area defined by the Open space easement OTD and on graded pad number one.
7. A plan of the subject property dated November 1994 that was approved by the LA County Fire Department shows six transformers (300 VA, 12 V) as being located primarily on graded pad number one, but also on the stairway leading down to the sports court. Commission staff has a photograph from the March 15, 2001 site investigation of one of these transformers on the western side of the house.

The following development appears to be located completely within the boundaries of graded pad number one and thus is outside of the area defined by the OTD:

1. An in-ground swimming pool (approximately 10 feet by 40 feet) with an attached spa and pump are located on the northern portion of graded pad number one.
2. A retaining wall and an attached carport (pipes attached to the retaining wall and pavement supporting a cloth covering) with spaces for two cars are located to the southeast of the residence, adjacent to Piuma Road.
3. Lighted steps and pathways are located in close proximity to the eastern and western sides of the house. On the eastern side of the house, these steps are constructed primarily of wood and have railings. On the western side of the house, the steps closer to Piuma Road are constructed with wood with concrete pads whereas the lower steps are constructed with wood steps without concrete.
4. A propane tank with a concrete pad is located on the northern side of the retaining wall, adjacent to the carport.
5. A tiled patio area with low walls is located in the vicinity of the pool to the north of the house. These walls likely include the 10 by 50 feet retaining wall that was approved by the County in 1996.

#### **4. Rubinroits' Chronology**

In response to the NOI to commence cease and desist order proceedings sent on January 2, 2001 and the amendment to the NOI sent on March 20, 2001, the Rubinroits submitted Statements of Defenses (SODs) dated February 5, 2001 and April 10, 2001. Their defenses and the Commission's responses are set forth in Section D of the findings. The following is a brief description of the chronology of events relating to the construction and/or performance of the unpermitted development as described by the Rubinroits in their SODs.

In his SODs, Mr. Rubinroit presents the following description of the chronology of the development at the site:

- The following development was constructed and/or installed at the time that the house was originally constructed by Mr. Moses:
  1. grading of graded pad number three (location of sports court),
  2. lighted steps on both sides of the house,
  3. propane tank,
  4. water tank,
  5. drainage system,
  6. septic system,
  7. irrigation system and
  8. some of the vegetation removal outside of the permitted limits of clearance.
- “We acquired the property after the house has been substantially completed, and a Certificate of Occupancy had issued in February 1990.”
- “At or about the time that we acquired our home, I was advised that a portion of the property had been offered for dedication, and an easement recorded, for open space and private recreational use. However, I also was advised specifically by Mr. Moses that the area offered for dedication lay outside of the area of the three graded pads, which, again, were represented to me to be freely developable.”
- In his SOD received by the Commission on April 11, 2001, Mr. Rubinroit submitted photographs with automatic digital dates in July and October of 1990. These photographs show stairs and steps on the eastern side of the house, a propane tank, a water tank and the retaining wall located in the area of the carport.
- “The catalyst to our decision in 1995 finally to construct a pool, the so-called ‘sports court’, and attendant improvements, was the recommendation of our local fire station that our house, which is serviced only by a well, have a large, readily available water source.”
- “We engaged a highly regarded landscape architect. . .”
- “The plans were provided to the Fire Department for their initial review.”
- “On or about November 7, 1995, the plans were submitted for plan check to the Department of Building and Safety (**Exhibit 19**). . . the only agencies that were checked as requiring a permit for our construction were the Drainage Section of the Department of Building and Safety, the Fire Prevention Bureau, the Geology/Soils Section of the Department of Building and Safety, and the Health Services Department.”
- The following improvements were installed or constructed in 1996:
  1. sports court,
  2. swimming pool with spa and pump,
  3. retaining wall and associated carport,
  4. lighted stairway extending from the pool area to the sports court,
  5. lighted pathways alongside the house,
  6. chain link fence and gates around the pool and house,

7. patio area with low walls near the pool,
  8. sand fill adjacent to the unnamed blue line stream,
  9. sand fill to the east of the pool,
  10. transformers and
  11. some vegetation removal (see below).
- “We deny that there was any “grading” or native “vegetation removal” in connection with the improvements installed in 1996.” “The only work necessary to put down the pad for the so-called ‘sports court’ was to do slight leveling of the already graded pad, which was done essentially by hand. The only vegetation disturbed was some very sporadic and sparse weeds that had sprung up after the rainy season (and which normally dry out and ‘disappear’ starting in the Spring, and which were insignificant in comparison to the weed removal that the fire department requires us to perform each Spring.)”
  - “We deny that there was any changes made to the systems (water, drainage, septic, irrigation, or otherwise) installed during the original construction of the house and improvements, other than in connection with the swimming pool. . .”

## **B. Resource Impacts**

All of the unpermitted development included in the violation description has been undertaken without a CDP or CDP amendment and without benefit of the Coastal Commission’s review of potential impacts that the cited development might have on coastal resources. The unpermitted developments raise issues under Coastal Act sections 30240 (environmentally sensitive habitat areas or ESHA), 30251 (Hazards), and 30253 (Scenic and Visual Qualities).

### **Section 30240: Environmentally Sensitive Habitat Areas (ESHAs)**

Some of the unpermitted development is potentially inconsistent with Section 30240 which provides for the protection of ESHAs. The subject property is located in the upper portions of the Malibu/Cold Creek Resource Management Area which is shown on the Sensitive Environmental Resources Map (Figure 6 of the Malibu Land Use Plan) (**Exhibit 20**). Policy 57 of the Malibu Land Use Plan states that the areas shown on this map shall be designated as Environmentally Sensitive Habitat Resource Areas (ESHAs). Based on the above information, the subject property may be ESHA; however, the determination regarding this issue will be made during staff review of the CDP or CDP amendment application(s). The subject property is also located directly adjacent to a blue line stream that is an unnamed tributary to Cold Creek and is ESHA. The property is also located near the Dark Canyon Creek ESHA.

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 areas shall be sited and designed to prevent impacts which would*

*significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

When the underlying project (construction of a four level, 4,260 square foot single family residence with a well and a septic system) was permitted, the Commission was concerned about the cumulative impacts on the Malibu/Cold Creek Resource Management Area, particularly impacts from runoff, as well as erosion from construction activities. To address this concern, the Commission conditioned the permit to:

- 1) require the landowner to obtain an amendment to CDP 5-88-056 or a new CDP before constructing any additional development on the property, including improvements that might otherwise be exempt from permit requirements,
- 2) require the applicant to record an OTD open space easement on the portion of the property outside of grading pad number one and
- 3) develop Fuel Modification and Landscaping Plans to minimize vegetation clearance in the open space area.

Since the development was performed without a CDP or CDP amendment, the Commission has been unable to conduct a thorough review of its consistency with the Chapter 3 Policies of the Coastal Act. Therefore, the development has the potential to negatively impact the ESHA that the Commission had intended to protect through the standard and special conditions of the previously issued CDP.

Although the Commission is unable to do a thorough review of the potential impacts to the ESHA from the development without a complete CDP or CDP amendment application, it is apparent that the unpermitted development is likely to have several adverse impacts on the ESHA. The potential direct impacts from the development include the following:

- 1) By increasing the amount of impervious surface area through the construction of the sports court and the patio area, the Rubinroits have likely reduced the amount of stormwater infiltration in the area, thus potentially increasing the volume and velocity of sheet flow down the hillside, into the ESHA stream that is a tributary to Cold Creek. This increased surface transport of stormwater could result in increased erosion, change in stream morphology and impaired water quality.
- 2) The removal of major vegetation in this area, performed in violation of the Fuel Modification and Landscaping Plans, also likely harmed the ESHA by reducing the amount of available habitat and increasing the potential for erosion.
- 3) The Rubinroits have not submitted plans which indicate how the pool water is discharged. If this water (presumably treated with pool chemicals) is discharged to the ground surface or directly into the stream, it could adversely impact the water quality of the ESHA stream.

In addition to these potential direct impacts to the ESHA, the development within the area defined by the OTD may deter acceptance of the OTD. To date, the OTD has not been accepted.

### **Section 30251: Scenic and Visual Qualities**

The unpermitted development at the subject property is potentially inconsistent with Section 30251 of the Coastal Act which requires that the scenic quality of the coastal zone be protected as an important public resource and that permitted development be sited to protect the visual qualities of the areas. Section 30251 states:

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

The subject site and violation are located in the Malibu/Cold Creek Resource Management Area and the site is adjacent to and visible from Piuma Road and State Park Lands. The findings for CDP 5-88-056 state that "only as conditioned will the proposed development not adversely impact visual resources along Piuma road and from State park lands to the east in the upper Dark Canyon drainage." The development listed in the violation description violated the conditions of the previously issued permit which were required to minimize visual impacts from development at the subject property.

Based upon examining photographs taken in June, 1997, January, 2001, and March, 2001, the following unpermitted development is visible from Piuma Road, a public viewing area:

- a) the sports court,
- b) swimming pool and spa,
- c) retaining wall and associated carport,
- d) steps and pathways on both sides of the house,
- e) chain link fence and gates around pool and house,
- f) water tank,
- g) patio area with low walls near pool,
- h) nonnative sand adjacent to the unnamed blue line stream, and
- i) removal of major vegetation beyond the authorized limits.

The adverse visual impacts would be potentially worsened if the lights for the sports court, steps and pathways and other areas were used.

### **Section 30253: Geologic, Flood and Fire Hazards**

Section 30253 states that new development shall "minimize risks to life and property in areas of high geologic, flood, and fire hazard." The findings for CDP 5-88-056 state that the property is located in an area subject to an unusually high amount of natural hazards, including landslides, slope failure and fire. The findings also state that the applicant shall assume these risks as a condition of approval. Special Condition 3 required the recordation of a deed restriction in

which the applicant waived any future claims of liability for damage from such hazards. This deed restriction was recorded on August 8, 1988.

Section 30253 also states that new development shall:

*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.*

Although the Commission cannot make a complete assessment of the consistency of the development with this Section of the Coastal Act without having a complete application(s), there is evidence that the unpermitted development may be causing erosion and geologic instability of the subject property and downgradient areas. The construction of the sports court and the patio area has the potential to accelerate the rate of erosion on the ridge by replacing a vegetated area with an impervious surface. By reducing infiltration, the development may cause an increase in the volume and velocity of discharge of stormwater from the property, thus causing erosion of downgradient areas, including the adjacent unnamed stream ESHA. The removal of major vegetation beyond the authorized limits may also lead to an increase in erosion.

The unpermitted development on the subject property may also be adversely affecting the stability of the ridge in which the unpermitted development is sited. The report entitled *Limited Geotechnical Investigation for Proposed Swimming Pool and Carport*, prepared for submittal to local authorities for approval of the development conducted in 1996, includes several statements that indicate that the unpermitted development may cause erosion and geological stability. This report states that:

*The property did reveal the presence of past surficial slope failures on the slope below the proposed pool area. . . the slump is 15 to 20 feet downslope of the proposed pool area and headward encroachment towards the pool may continue to occur. . . Calculation(s) indicate that the existing fill slopes below the pool will continue to slump. . . The loose fill and soil in the pool and carport area are subject to downhill creep.*

This slope failure downgradient of the pool area was observed by Abe Doherty during the March 15, 2001 site investigation. The chain link fence surrounding the pool area and house is falling downhill in the area of this slump. Since the Rubinroits have not submitted information documenting the construction methods and provisions for stability of the unpermitted development, the Commission staff does not know whether the geotechnical recommendations were followed and whether the site will continue to be geologically unstable.

**C. Allegations**

**Set forth below is a list of allegations that the Rubinroits admit or do not contest.**

1. Howard and Terry Rubinroit are the owners of the property located at 25351 Piuma Road in Calabasas, Los Angeles County APN 4456-37-007. **(Admitted)**
2. The Rubinroits constructed a lighted sports court, swimming pool with spa and pump, retaining wall, carport, lighted stairway to the sports court, lighted pathway adjacent to the house, chain link fence and gates around the house and pool, patio area with low walls near the pool, nonnative sand fill adjacent to the unnamed blue line stream, nonnative sand fill to the east of the pool and transformers without obtaining a CDP or CDP amendment. **(Admitted)**
3. The subject property also contains the following: graded pad number three (location of sports court), lighted steps on both sides of the house, propane tank, water tank, drainage system, septic system and irrigation system. **(Admitted)**
4. In letters dated June 19, 1997, September 15, 1997, October 8, 1997, January 29, 1998 and August 13, 1998 and in numerous telephone conversations, Commission staff informed the Rubinroits that they should submit an application for a CDP for the removal of all unpermitted development and restoration of the site or apply for an after-the-fact (ATF) permit to retain the development. **(Admitted)**
5. Because the Rubinroits failed to submit a CDP application, Commission staff sent the Rubinroits a notice of intent to commence cease and desist proceedings letter on October 9, 1998. **(Admitted)**
6. On November 12, 1998, Mr. Rubinroit agreed to submit two CDP applications. In reliance on this commitment by Mr. Rubinroit, Commission staff removed the cease and desist order hearing from the Commission's agenda. **(Admitted)**
7. On December 9, 1998, Mr. Rubinroit informed Commission staff of his intent to file two CDP applications, one for retention of the sports court and the other for retention of the swimming pool and retaining wall. This conversation was memorialized in a letter to Mr. Rubinroit dated December 21, 1998 wherein Commission staff agreed to grant a time extension until January 15, 1999 to file both CDP applications. **(Admitted)**
8. On January 7, 1999, Commission staff granted the Rubinroits an extension until January 29, 1999 to submit the CDP applications. **(Uncontested)**
9. On January 29, 1999 the Rubinroits submitted two CDP applications; CDP 4-99-023 for approval of the sports court and CDP 4-99-024 for approval of the swimming pool and retaining wall. **(Admitted)**

10. On February 26, 1999, Commission staff sent the Rubinroits two "incomplete filing" letters (one for each application) notifying them of nine additional materials and pieces of information that they needed to submit to complete the filing of the applications. **(Admitted)**
11. As of September 2000, the Rubinroits had not submitted the required items. On September 7, 2000, Commission staff sent the Rubinroits two additional letters reiterating the earlier nonfiling letters and again identifying the nine items that are required in order for the applications to be deemed complete. Each of these letters gave the Rubinroits until December 6, 2000 to submit the additional items. **(Admitted)**
12. In a phone conversation with Commission staff on December 1, 2000, Mr. Rubinroit stated that he had no intention of completing either CDP application. **(Admitted)**
13. On January 2, 2001 the Commission sent the Rubinroits another notice of intent to commence Cease and Desist proceedings. **(Admitted)**
14. On March 15, 2001, the Rubinroits provided Commission staff with the opportunity to inspect the subject property. **(Admitted)**
15. On March 20, 2001, Commission staff sent the Rubinroits an amendment to the notice of intent dated January 2, 2001. **(Admitted)**

**The Rubinroits expressly deny the following allegations:**

1. The items listed in the description of the violation constitute development, require a permit from the Commission and are violations of the Coastal Act.
2. The two CDP applications that were submitted by the Rubinroits were incomplete.
3. The March 15, 2001 site inspection enabled the Commission staff to have a clearer understanding of the unpermitted development described in the NOI issued on January 2, 2001.
4. The subject property is located within or is adjacent to an Environmentally Sensitive Habitat Area (ESHA).
5. There was any grading or native vegetation removal in connection with the improvements installed in 1996.
6. There is concrete in the eastern watercourse or partially buried PVC piping that appears to be part of a drainage system on the subject property.
7. The Rubinroits deny that they performed, constructed and/or installed the following: the unpermitted grading of graded pad number three (location of sports court), the lighted steps on both sides of the house, the propane tank, the water tank, the drainage system, the septic system, the irrigation system and part of the removal of major vegetation beyond the

authorized limits. They allege that these developments were on the property at the time they purchased the property.

**D. Violators' Defense and Commission Response**

The Statement of Defense (SOD) submitted by Howard Rubinroit that was received by the Commission staff on February 6, 2001 is included as Exhibit 15. The amendment to the SOD that was received by Commission staff on April 11, 2001 is included as Exhibit 17. The following describes the Rubinroits' defenses in more detail and sets forth the Commission's response to each contention.

**The Rubinroits' Defense:**

- 1. The Commission has no jurisdiction over the subject property since it is "in excess of five miles from the mean high-tide line and separated from the sea by at least one ridge line."**

**Commission's Response:**

In 1976, the California State Legislature specifically mapped the inland boundary of the Coastal Zone. These maps are on file with the Coastal Commission and the Secretary of State. In 1977, the Coastal Commission adopted conformed copies of these maps pursuant to Section 30103 of the Coastal Act of 1976. The inland boundary of the coastal zone is now depicted on a set of 161 maps that are on file with the Coastal Commission and the County Clerk of the respective coastal counties. These maps include Coastal Zone Map 135, which depicts the Malibu area. Real property that is located within the coastal zone, as shown on these maps, is subject to the statutory authority of the Coastal Act of 1976.

The subject property at 25351 Piuma Road (which can also be described as a portion of the northeast quarter of the north half of Section 20, T1S, R17W, San Bernardino Base and Meridian) is located within the coastal zone as depicted on Coastal Zone Map 135 (Malibu Beach Quadrangle). Coastal Zone Map 135 indicates that the subject property is located approximately 2.5 miles inland of the mean high tide line and approximately 2.5 miles seaward on the inland coastal zone boundary. Since the property is shown on this map as being within the coastal zone, the Commission has jurisdiction over development on the subject property.

**The Rubinroits' Defense:**

- 2. The items listed in the violation description do not constitute development.**

**Commission's Response:**

Section 30106 of the Coastal Act defines development as:

*on land, in or under water, the placement or erection of any solid material or structure; ... grading, removing, dredging, mining, or extraction of any materials; ...construction,*

*reconstruction, demolition, or alteration of the size of any structure; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations. . . As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.*

All of the unpermitted development on the subject property meets the above definition of development. Generally, the unpermitted development constitutes the following:

- a) placement of solid materials and/or structures (concrete in eastern watercourse, nonnative sand fill adjacent to unnamed blue line stream and nonnative sand fill to the east of the pool, lighted sports court, swimming pool with spa and pump, retaining wall and associated carport, lighted stairway extending from the pool area to the sports court, lighted steps and pathways on both sides of the house, chain link fence and gates around pool and house, propane tank with concrete pad, water tank, patio area with low walls, PVC piping that appears to be part of a drainage system, septic system extending out of permitted area, irrigation system and transformers),
- b) grading: creation of graded pad number three and any other grading performed in association with the development listed above, and
- c) the removal of major vegetation beyond the authorized limits.

Consequently, the subject activities satisfy the definition of development contained in section 30106 of the Coastal Act. This definition of development based on section 30106 was recorded with the LA County Recorder's Office as Exhibit C of the deed restriction and Exhibit D of the OTD open space easement.

Refer to the Commission's response to the third point of the Rubinroit's defense (below) for additional discussion of why the items listed in the violation description constitute development that is not exempt from CDP permit requirements even if they are considered improvements to a single family residence.

### **The Rubinroits' Defense:**

3. **"The purported 'developments'. . . did not require a Coastal Development Permit ("CDP") and/or constitute work performed pursuant to a vested right."**

(The following presents the different arguments the Rubinroits use to support this contention with the Commission's response to each.)

#### **3a. Mr. Rubinroit contends that:**

*the foregoing purported improvements are exempt from the requirement of a CDP pursuant, among other things, to Public Resource Code Section 30610(a). . . We believe that that regulation [presumably Section 13250(b)(1)] is contrary to the Coastal Act itself (and unenforceable since it would largely if not totally emasculate and vitiate the exemption provided under 30610(a).)*

**Commission's Response:**

As stated in the August 13, 1998 letter from Commission staff to Mr. Rubinroit, the requirement for obtaining a CDP or CDP amendment prior to conducting development on the subject property is provided for in the following :

- a) section 13250(b)(6) of the Coastal Commission regulations,
- b) Special Condition 5 of CDP 5-88-056, which required recordation of a deed restriction prohibiting future development on the property without a CDP or CDP amendment, and
- c) Special Condition 4 of CDP 5-88-056, which required the recordation of an OTD of an open space easement.

Pursuant to section 30610(a) of the Coastal Act, improvements to a single family residence are exempt from permit requirements except under circumstances identified in Section 13250 of the Coastal Commission regulations. Section 13250(a) indicates that the term "improvements" refers to structures directly attached to a residence or normally associated with a residence, such as garages, swimming pools, fences and storage sheds. Section 13250(b)(6) states that the following improvements require a CDP:

*Any improvement to a single-family residence where the development permit issued for the original structure by the commission, regional commission, or local government indicated that any future improvements would require a development permit.*

Special Condition 5 of CDP 5-88-056 required the recordation of a deed restriction prohibiting future development without a CDP or CDP amendment. Special Condition 5 contains one exception, which is that removal of vegetation for fire protection, as required by the County Fire Marshall, does not require a CDP. However, the removal of vegetation for fuel modification was specifically addressed in the Fuel Modification and Landscaping Plans which limit the clearance of vegetation within the area defined by the open space easement OTD. Thus, under Section 13250(b)(6), any improvements to the residence or other development on the property require a CDP. The adopted findings for CDP 5-88-056 indicate that the deed restriction limiting future development was necessary to prevent cumulative adverse impacts to the ESHA and to make the development of the house consistent with Section 30240 (b) of the Coastal Act. Therefore, to the extent that any of the unpermitted development qualifies as improvements to the residence, in light of the deed restriction required by Special Condition 5, they are not exempt from permit requirements pursuant to section 13250(b)(6).

In addition, the requirement of Special Condition 4 of CDP 5-88-056 for recordation of the Open space easement OTD prohibits development within the area to which the OTD pertains in the absence of a permit for such development issued by the Commission. As in the case of the deed restriction, the adopted findings for CDP 5-88-056 state that the open space easement OTD was required to prevent cumulative adverse impacts to the ESHA and to make the development of the house consistent with Section 30240(b) of the Coastal Act.

**3b) Mr. Rubinroit also argues that the Commission staff understood that the following development would take place as part of the project authorized by CDP 5-88-056, even though the permit did not explicitly authorize this development:**

- a) the lighted steps on both sides of the house,**
- b) the propane tank,**
- c) the water tank,**
- d) the drainage system,**
- e) the septic system extending out of the permitted area,**
- f) the irrigation system and**
- g) the excessive vegetation removal.**

Mr. Rubinroit also refers to a plan dated February 8, 1988 (Exhibit 1 of the Amendment to the SOD) which he claims shows the "water tank, propane tank, and the location of the septic pits."<sup>5</sup>

**Commission's Response:**

The application for CDP 5-88-056 (Section II, question 2) instructs the applicant to "describe the proposed development." The applicants are instructed to "include secondary improvements such as septic tanks, water wells, roads, etc." The applicants for this permit, Jack and Annie Moses, described the development as "construct single family residence, water well (and) septic system." Later in the application, the Moses state that there will be two covered parking spaces and two uncovered parking spaces and that no grading was being proposed. Therefore, with the exception of the septic system, all of the development listed above (items a through d, f and g) were not included in the description of the proposed development. Consistent with the description of the proposed development contained in the application for CDP 5-88-056, the adopted findings state that the applicants propose to "construct a 4,260 square-foot, 28-foot high (above existing grade), four-level single family residence with water well and septic system." In order to have been authorized by CDP 5-88-056, all of the items listed above (items a through d, f and g) should have been explicitly described as being part of the proposed development.

Although a septic system was approved as part of the development authorized by CDP 5-88-056, an exposed greywater outlet discharging directly to the ground surface was observed outside of the approved location for the septic system. This change in the location and design of the septic system was not approved by the Commission.

The plan dated February 8, 1988 that Mr. Rubinroit includes as Exhibit 1 in his amendment to the SOD was not the one that was submitted and approved by Commission staff. The file for CDP 5-88-056 contains a set of four sheets of figures which are dated November 9, 1987, with stamps indicating 1) approval in concept by the Department of Regional Planning on December 30, 1987 and 2) approval by the South Coast District Office of the Commission with an effective date of December 5, 1988. The file also contains a figure that was received by the Commission on January 29, 1988 which displays the approved location of the septic system. These plans that

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<sup>5</sup> Mr. Rubinroit claims that the plan dated February 8, 1988 shows the water tank, propane tank and the location of the septic pits. This plan does show the water tank and septic system, but does not appear to show the propane tank.

were approved by the Commission do not show any of the development listed above except for the septic system, which does not show the greywater outlet located to the west of the house.

**3c) Mr. Rubinroit also claims that “even if the easement was and is valid, it does not prohibit the title owner from installing such pipes or lines in the easement area. See, e.g. *Colegrove Water Co. v. City of Hollywood*, 151 Cal.425 (1907).”**

**Commission’s Response:**

The installation of pipes or lines in the easement area constitutes development under Section 30106 of the Coastal Act (see Commission’s response to defense number one above). The deed restriction prohibiting development on the subject property without a CDP or CDP amendment was required as a condition of CDP 5-88-056 in order to prevent future impacts to the ESHA. Once a complete CDP or CDP amendment application(s) is filed, the Commission staff will evaluate the development, including the installation of the septic system (outside of the permitted area), irrigation system and drainage system based upon the Policies of Chapter 3 of the Coastal Act. The primary goal of the Commission’s enforcement activities, including the issuance of this cease and desist order, is to have the Rubinroits submit a complete CDP or CDP amendment application(s) so that the staff can determine whether the development is consistent with the Chapter 3 policies of the Coastal Act.

Contrary to the Rubinroits’ argument, the provisions of the open space easement OTD are fully consistent with the *Colegrove Water Co.* case. In that case the Supreme Court held that a municipal easement holder could not preclude the owner of the fee interest that the easement encumbered from installing underground water piping. However, the court also held that any such undertaking would be “subject to reasonable regulation [by the municipality] in the interest of the comfort and convenience of the community as a whole.” Similarly, section 1(c) of the open space easement OTD expressly allows in the area that is the subject of the OTD “the installation or repair of underground utility lines,” subject, however, “to applicable governmental regulatory requirements.” Thus, there is no conflict between the requirement for a permit for pipes in the OTD area and the *Colegrove Water Co.* case.

**3d) The Rubinroits claim they have a “vested right” to enjoy the benefits of their development activity without applying for and obtaining a permit under the Coastal Act.**

**Commission’s Response:**

The availability of an exemption from the permit requirements of the Coastal Act based on a “vested rights” theory is governed by section 30608 of the Act and by sections 13200-13208 of the Commission’s administrative regulations. The cited regulations establish an administrative procedure by which claims of vested rights can be made and adjudicated. The Rubinroits have not filed a claim of vested right under these procedures. See also the Commission’s response to contention numbers 6 and 14.

**The Rubinroits' Defense:**

- 4. Even if a CDP is required, only one is necessary, not two. The Rubinroits have been advised by Commission staff that it is likely that a CDP for the sports court would be denied.**

"I allege that I advised Commission staff that the demand that I submit two separate applications, pay two separate, additional and increased fees, and submit each and all of the 'additional' information was unreasonable and unnecessary, and stated that I could not (and therefore would not) make such further applications, pay further fees, or supply all of the additional information demanded."

**Commission's Response:**

The Commission staff did not *require* separate CDP applications for the unpermitted development. The Commission staff determined that it would most likely recommend denial of an application for approval of the sports court since it was constructed within the area affected by the OTD open space easement. The Commission staff warned the Rubinroits of the probable denial as a courtesy to save the Rubinroits time and money which may be wasted in an attempt to retain the sports court in the OTD open space easement area. However, the Commission staff also advised Mr. Rubinroit that he had the right for approval of the sports court in the OTD open space easement. Commission staff also determined that it would likely recommend approval of the swimming pool and retaining wall on graded pad number one. Therefore, to facilitate expeditious resolution of the swimming pool and retaining wall violations, Commission staff suggested that the Rubinroits submit two permit applications to distinguish between the development located in the OTD open space easement area and the development located on the house pad. In a phone conversation with Commission staff on December 9, 1998, Mr. Rubinroit agreed to submit two CDP applications.

**The Rubinroits' Defense:**

- 5. The applications for two CDPs submitted on January 29, 1999 were complete.**

Mr. Rubinroit alleges that there "was and is no basis for staff's finding our applications incomplete. . . further allege that the 'additional information' requested was either previously supplied and/or unreasonable, and deny that any additional information should be required."

**Commission's Response:**

Commission staff reviewed the applications that Mr. Rubinroit submitted on January 29, 1999 and found that they were incomplete based upon the absence of the items that are described in Table 1 of this staff report. Section 13056 of the Commission's regulations grant the Executive Director (who has delegated this task to Commission staff) the authority to file applications only after they have been reviewed and found to be complete. The determination of incompleteness was made pursuant to the provisions set forth in CCR sections 13052, 13053.5, 13054 and

13055. Commission staff informed the Rubinroits that the aforementioned items were necessary to file the applications in letters dated February 26, 1999 and September 7, 2000.

The regulations provide that if an applicant disagrees with a determination that an application is incomplete, he or she can appeal the determination to the Commission. The Rubinroits failed to avail themselves of this administrative appeal procedure for determinations of incompleteness (14 CCR § 13056(d)). In addition, the Rubinroits did not explain in their SOD why they disagree with each of the items required to complete the applications.

**The Rubinroits' Defense:**

**6. Los Angeles County staff advised the Rubinroits that a CDP was not required. "In reliance on such advice we have expended a total of approximately \$200,000 on such improvements." Mr. Rubinroit later contends that they have "expended in an excess of \$100,000 on those purported improvements, such that we believe we acquired a vested right to construct such improvements."**

Mr. Rubinroit contends that since the LA County Building and Safety department did not check off the Coastal Commission permit in its checklist of other approvals required when it issued its building permit, the County, in effect, advised him that a CDP was not required for the development.

**Commission's Response:**

The Commission disputes Mr. Rubinroit's claim that they had a right to rely on LA County's advice regarding other required permits and the money that they spent in reliance on that advice to the exclusion of any other applicable regulatory requirements. Section 30600(a) of the Coastal Act states that, "in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person. . . wishing to perform or undertake any development in the coastal zone. . . shall obtain a coastal development permit." Under California law, one public agency cannot impair the legal jurisdiction of another public agency by giving erroneous advice. (*California Tahoe Regional Planning Agency v. Day and Night Electric, Inc.* (1985) 163 Cal.App.3d 898.) Thus, regardless of whether the County failed to inform the Rubinroits of the CDP requirements or informed the Rubinroits that no CDP is required, the Rubinroits are responsible for complying with the Coastal Act requirements. In addition, the recorded deed restriction limiting future development without a CDP or CDP amendment and the OTD served to put the Rubinroits on notice of the requirements to obtain authorization from the Commission for development on the subject property. For further discussion of the vested rights argument, refer to the Commission's response to contention 3d.

**The Rubinroits' Defense:**

**7. None of the Rubinroits' consultants informed them of the need to obtain a CDP.**

"Until we received a copy of staff's letter of June 17, 1997, no one had ever suggested to us that a Coastal Commission permit was required or that there was any restriction or prohibition on the

improvements which we made. This is noteworthy, since both the landscape architect and contractor have a great deal of experience in the Coastal Zone.

**Commission's Response:**

Since Mr. Rubinroit does not provide a detailed description of the role of his consultants, it is not clear whether he employed them to obtain all necessary permits for the development and if they had knowledge of the OTD or the deed restriction requiring a CDP or CDP amendment for future development on the property. If the Rubinroit's consultants knew about the OTD and the deed restriction and had enough knowledge of the CDP requirements to know that a CDP or CDP amendment was required for any future development on the subject property, then the Rubinroits are expected to know that information regardless of whether the consultant passed that information on to the Rubinroits. The theory of imputed knowledge states that "an agent is under a duty to inform his principal of matters in connection with the agency that the principal would desire to know about. Even if he fails to do so, *the principal will in most cases be charged with such notice.*" (2 Witkin, *Summary of California Law 9<sup>th</sup>*, "Agency and Employment," § 99; emphasis added.) In *Columbia Pictures Corp. v. DeToth* (1948) 87 Cal.App.2d 620, the Court of Appeal explained the doctrine of imputed knowledge as follows:

*The fact that the knowledge acquired by the agent was not actually communicated to the principal . . . does not prevent operation of the rule. . . The agent may have been guilty of a breach of duty to his principal, yet the knowledge has the same effect as to third persons as though his duty had been faithfully performed. The agent acting within the scope of his authority, is, as to the matters existing herein during the course of the agency, the principal himself.*

In addition, Civil Code § 2332 states the following:

*NOTICE TO AGENT, WHEN NOTICE TO PRINCIPAL. As against a principal, both principal and agent are deemed to have notice of whatever either has notice of, and ought, in good faith and the exercise of ordinary care and diligence, to communicate to the other.*

Thus, even if, as Mr. Rubinroit claims, the Rubinroits' consultants did not inform them of the need to obtain a CDP, under the doctrine of imputed knowledge, the Rubinroits are still responsible for complying with the provisions of the Coastal Act. If the Rubinroits' consultants did not know about the CDP requirements or about the existence of the OTD and the deed restriction, that does not excuse the Rubinroits from compliance with legal requirements.

**The Rubinroits' Defense:**

- 8. The unpermitted grading of graded pad number three (location of sports court), the lighted steps on both sides of the house, the propane tank, the water tank, the drainage system, the septic system, the irrigation system and the excessive vegetation removal were all performed, constructed and/or installed by the previous owner.**

In his Statement of Defense dated February 5, 2001, Rubinroit states that at the time of the closing on the property in February 1990, the property was developed with three pads, including

graded pad number three in the open space easement. He alleges that the grading for graded pad number three occurred in or about 1988 by the original developer. In his amendment to his Statement of Defense dated April 10, 2001, Mr. Rubinroit listed certain development that he claims was "constructed and/or installed at the time that our house was originally constructed by Mr. Moses pursuant to the 1988 Administrative Permit."

### **Commission's Response:**

Regardless of who performed the development, the persistence of the unpermitted development remains a continuing violation of the Coastal Act and a continuing public nuisance that the current owners are liable for correcting. The Coastal Act represents a legislative declaration that acts injurious to the state's natural resources constitute a public nuisance. (*Leslie Salt Co. v. San Francisco Bay Conservation etc. Com.* (1984) 153 Cal. App.3d 605, 618; *CREED v. California Coastal Zone Conservation Com.* (1974) 43 Cal.App.3d 306, 318.) The Coastal Act is a "sensitizing of and refinement of nuisance law." (*CREED*, at 319.)

The Rubinroits are liable for actions of previous owners who may have created some of the public nuisances on the subject property based on Civil Code 3483 which states:

*Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it.*

In addition, in *Leslie Salt* (p. 622), the court held that:

*"whether the context be civil or criminal, liability and the duty to take affirmative action [to correct a condition of noncompliance with applicable legal requirements] flow not from the landowner's active responsibility for [that] condition of his land...or his knowledge of or intent to cause such [a condition] but rather, and quite simply, from his very possession and control of the land in question."*

Thus, even if certain unpermitted development was constructed by the prior owner, the Rubinroits' maintenance of that development without a permit constitutes a continuing violation of the Coastal Act and CDP 5-88-056.

### **The Rubinroits' Defense:**

**9. "The demand for and acceptance of the easement appear to constitute a per se taking which was and is unlawful and unconstitutional, and which we as subsequent owners may and do challenge."**

"The actions and/or proposed actions by the Commission constitute a taking, were done or are threatened to be done without due process, and deny us our rights to equal protection under the law." Mr. Rubinroit cites the *Nollan v. California Coastal Commission* case to support his contention that the requirement for filing an OTD for an open space easement is a taking and that he has a right to challenge it as a subsequent owner.

**Commission's Response:**

The original permittees, the Moses and Landrys, had the ability and opportunity to file a legal challenge contesting Special Condition 4 of CDP 5-88-056 (requiring an offer to dedicate an open space easement) at the time it was imposed by the Commission. Any such legal challenge would have had to have been made pursuant to the terms and within the timeframe specified by Section 30801 of the Coastal Act. That section states:

*Any aggrieved person shall have a right to judicial review of any decision or action of the Commission by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure, within 60 days after the decision or action has become final (emphasis added).*

However, the Moseses and Landrys did not file such a legal challenge. They accepted the permit as granted by the Commission and met all necessary conditions of approval including the recordation of the irrevocable OTD in compliance with Special Condition 4. Permittees who, like the Moseses and Landrys, fail to challenge a permit condition within the appropriate limitations period lose the ability to challenge it later. (*California Coastal Commission v. Superior Court* (1989) 212 Cal.App.3d 1488.) A permittee's successors in interest, like the Rubinroits, are subject to this legal incapacity to the same extent as the permittee. (*Ojavan Investors, Inc. v. California Coastal Commission* (1994) 26 Cal.App. 4<sup>th</sup> 516.)

Furthermore, under California land use law, once a permittee has acquiesced in and accepted the benefits of a permit approval, he or she is deemed to have waived his or her right to challenge any requirement associated with that approval. (*County of Imperial v. McDougal* (1977) 19 Cal.3d 505, 510-11.) Thus, once a permittee acquiesces in a permit and accepts its benefits, the burdens of the permit run with the land and bind both the permittees and all successors in interest. In this case, the original permittees accepted the benefits of the permit by constructing the residence authorized by the permit. As successors in interest to the original permittees, the Rubinroits are bound by Special Condition 4 of CDP 5-88-056.

Finally, in section 13166 of its administrative regulations, the Commission has provided a procedure by which permittees may submit applications to seek amendments to previously approved permits. The Rubinroits have not availed themselves of this procedure.

The above-cited authorities conclusively refute Mr. Rubinroit's suggestion that the *Nollan* decision gave rise to a new legal justification for acting in disregard of the recorded OTD. *Nollan* did not establish a new limitations period within which all coastal development permittees who had previously acquiesced in and accepted the benefits of their permits could now challenge the terms or conditions of those permits. Nor did it establish an opportunity for permittees or their successors in interest to revoke either their or their predecessors' acquiescence in and acceptance of the benefits of the respective permit. For these reasons, Mr. Rubinroit's reliance on the *Nollan* decision is completely misplaced.

**The Rubinroits' Defense:**

**10. The Rubinroits had not seen a copy of the Irrevocable Offer to Dedicate Open-Space Easement until Commission staff sent them a copy in October 1997. "My wife and I had no knowledge of any restrictions or conditions on our ability to improve the already graded pads..."**

**Commission's Response:**

Mr. Rubinroit admits in his statement of defense that:

*"At or about the time that we acquired our home, I was advised that a portion of the property had been offered for dedication, and an easement recorded, for open space and private recreational use. However, I also was advised specifically by Mr. Moses (former owner) that the area offered for dedication lay outside of the area of the three graded pads, which, again, were represented to me to be freely developable."*

Thus, at the time the Rubinroits acquired the property, the Rubinroits were on notice that a portion of the property was subject to an OTD an easement. Upon purchase of the property, the Rubinroits should have obtained a copy of the OTD to determine the limits of the area subject to the OTD and any use restrictions specified in the OTD.

Because the OTD was properly recorded against title to the property, the Rubinroits are presumed to have constructive knowledge of the OTD. In *Ojavan Investors, Inc. v. Cal. Coastal Commission* (1997) 54 Cal.App.4<sup>th</sup> 373, 389 the Court of Appeal held that:

*Because the restrictions were properly recorded prior to appellants' purchase of the lots, appellants (who are admittedly engaged in the land auction business and therefore are sophisticated in land transfer transactions) are deemed to have constructive notice of the deed restrictions.*

As a practicing attorney who has tried several real estate disputes, Mr. Rubinroit is presumed to be sophisticated enough in land transfers to have obtained a title report, which would have listed the deed restriction and the open space easement OTD.

The issue of constructive notice is also addressed in section 1213 of the Civil Code which states the following:

*Every conveyance of real property or an estate for years therein acknowledged or proved and certified and recorded as prescribed by law from the time it is filed with the recorder for record is constructive notice of the contents thereof to subsequent purchasers and mortgagees. . .*

Civil Code § 1215 provides that, "as used in section 1213, the term 'conveyance' embraces every instrument in writing...by which the title to any real property may be affected...." This recordation of an offer to dedicate is constructive notice to future landowners.

In further support of the Rubinroits' constructive knowledge of the deed restrictions and OTD, the treatise, 5 Miller and Starr, *California Real Estate 3d*, "Recording and Priorities," § 11:59 states the following:

*When such an instrument is duly recorded, ... all persons who thereafter deal with the property described in the instrument are conclusively presumed to have constructive notice of the contents of the recorded document*

Since the deed restriction limiting future development and the OTD were both recorded with the LA County Recorder's Office on August 8, 1988, the Rubinroits, as subsequent owners, are conclusively presumed to be aware of their existence.

**The Rubinroits' Defense:**

11. "The Irrevocable Offer indicates that the land as dedicated could be used for "private recreation" purposes. That is precisely the use to which the lower pad, even assuming it lies within the dedicated area, is being put."

**Commission's Response:**

The adopted findings of CDP 5-88-056 state that Special Condition 4 requires the OTD to prevent future impacts to the ESHA. Therefore, the intent of the open space easement OTD was to protect the adjacent ESHA. In fact, Special Condition 4 of CDP 5-88-056 specifically refers to "an open space and conservation easement for Environmentally Sensitive Habitat Area resource protection."

The OTD stated that "the use of the Protected Land shall be limited to natural open space for habitat protection, private recreation, and resource conservation uses." Therefore, private recreation is one of the authorized uses of the OTD open space easement. Any development in the OTD open space easement requires a CDP regardless of the purpose of the development. The limitation on uses in the OTD easement is not an authorization to undertake development; rather, it indicates that certain uses may be compatible with the intent of the easement. This description of the uses does not obviate the need for a CDP for development in support of such a use, it simply allows for the possibility for such development to be approved in a CDP. In fact, the OTD explicitly states that no development in the easement area shall occur without a CDP. Specifically, it states:

*No development as defined in Public Resources Code Section 30106, attached hereto as Exhibit D and incorporated herein by reference, including but not limited to removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, building, etc., or except as approved by the Coastal Commission or its' successor agency on a subsequent Coastal Permit shall occur...*

Thus, any development in the OTD area requires a CDP regardless of the purpose of such development.

**The Rubinroits' Defense:**

**12. Graded pad three and the sports court are "essentially invisible to the public".**

**Commission's Response:**

The Commission staff would examine the visual impacts of the development after a complete application for a CDP or a CDP amendment was submitted. However, based upon examining photographs taken in June, 1997, January, 2001, and March, 2001, the following unpermitted development is visible from Pioma Road, a public viewing area:

1. the sports court,
2. swimming pool and spa,
3. retaining wall and associated carport,
4. steps and pathways on both sides of the house,
5. chain link fence and gates around pool and house,
6. water tank,
7. patio area with low walls near pool,
8. nonnative sand adjacent to the unnamed blue line stream, and
9. removal of major vegetation beyond the authorized limits.

The visual impacts could be potentially worsened if the lights for the sports court, steps and pathways and other areas were used. Based upon the topography of the vicinity of the subject property, portions of the site also appear to be visible from the adjacent State Park lands (possibly including views from the Backbone trail).

**The Rubinroits' Defense:**

**13. No harm has been suffered to either the environment in the area of our property or the spirit or purpose of the Coastal Act.**

**Commission's Response:**

The Commission does not have to establish that there has been a harm to the environment for it to enforce violations of the Coastal Act. In the second Ojavan case (*Ojavan Investors, Inc. v. California Coastal Commission* (1997) 97 Daily Journal D.A.R. 4997), the Court of Appeal ruled that, even though there was "very little or no physical damage to the properties involved," a judgement for injunctive relief and civil fines was upheld,

*in light of the public interest goals of the TDC (transfer development credits) program, the need for uniform compliance with the program so as to further the Coastal Act's objectives to protect the coast, and appellants' blatant disregard of the deed restrictions.*

The Rubinroits have violated the Coastal Act by failing to obtain a CDP or CDP amendment for development on the subject property and by violating conditions of a previously issued CDP (CDP 5-88-056). An analysis of the compliance of the development with the Coastal Act is performed after a complete application for a CDP or CDP amendment is filed. Without this

information, the Commission staff cannot make a full assessment of the impacts of the development on coastal resources. However, it is likely that the development has resulted in a decline in the area and quality of available habitat, increased erosion, geological hazards, decreased water quality in the adjacent blue line ESHA stream and adverse impacts to visual resources. Refer to the Resource Impact section of the findings, on pages XXX of this staff report.

**The Rubinroits' Defense:**

**14. The development serves as a firebreak and as a source of water in case of fire.**

**Commission's Response:**

The benefits of the development would be assessed by Commission staff after it has filed a complete CDP or CDP amendment application for the proposed development.

**The Rubinroits' Defense:**

**15. The Rubinroits would be "irreparably harmed if required to remove any of the improvements."**

**Commission's Response:**

At this time, the Commission staff is recommending that the Commission order the Rubinroits to comply with the permit process. The recommended cease and desist order does not require the removal of any development. If a CDP or CDP amendment is denied after the Rubinroits submit a complete CDP or CDP amendment application, the Commission would consider ordering the removal of the development. At that time, the Rubinroits could provide any reasons why the removal would cause irreparable harm and the Commission would investigate and assess such reasons. The issue of whether the development should be removed is separate and distinct from the issue of whether the development requires a CDP or a CDP amendment.

**The Rubinroits' Defense:**

**16. "We believe that the Commission can no longer support a claim (if it ever could) that the area in which our house is located is a sensitive habitat or that the impact of development on our property must be considered and mitigated if the Commission in fact permitted those activities on those other properties."**

In his amendment to the SOD, Mr. Rubinroit states that "we also deny that . . . a 'blue-line stream' any longer traverses the property in the area of the so-called sports court or otherwise. . . As a result, the entire premise respecting the supposed 'sensitivity' of this area is unsupported and unsupportable."

**Commission's Response:**

The subject property is located in the upper portions of the Malibu/Cold Creek Resource Management Area which is shown on the Sensitive Environmental Resources Map (Figure 6 of the Malibu Land Use Plan) (Exhibit 20). Policy 57 of the Malibu Land Use Plan states that the areas shown on this map shall be designated as Environmentally Sensitive Habitat Resource Areas (ESHAs). Based on the above information, the subject property may be ESHA; however, the determination regarding this issue will be made during staff review of the CDP or CDP amendment application(s).

The subject property is located directly adjacent to a stream that is an unnamed tributary to Cold Creek and appears to be ESHA. The stream is shown on the USGS Malibu Beach Quadrangle as a blue line stream and was observed by Commission staff during the March 15, 2001 site investigation as flowing within approximately five feet of the northern portion of the sports court. In his discussion of ESHA in the amendment to his SOD, Mr. Rubinroit appears to have mistaken one of the watercourses on the eastern or western sides of his house for this blue line stream that is adjacent to the northern portion of the property.

**The Rubinroits' Defense:**

**17. The Commission has committed selective enforcement.**

**Commission's Response:**

The Rubinroits are the subject of the enforcement actions due to their failure to apply for a CDP or CDP amendment for their development, in violation of the conditions of a previously issued CDP. The Commission staff is investigating Mr. Rubinroit's assertions that there are violations of the Coastal Act on properties in the vicinity of the subject property. Regardless of the results of this investigation, the Commission has the statutory right to enforce the Coastal Act with its cease and desist order powers, pursuant to Section 30810 of the Coastal Act.

**The Rubinroits' Defense:**

**18. "We believe that any action by the Commission either by reference to the Attorney General or by way of a Cease and Desist Order proceeding is barred by the doctrine of Laches and by applicable statutes of limitation"**

"In effect, the Commission, on behalf of the People of the State of California, is proposing to take action based on a "right (the permit) or title" (the easement) which accrued more than ten (10) years ago. Accordingly, any such action is barred under Code of Civil Procedures Section 315. Additionally, insofar as the Commission is claiming that we have any liability under the Coastal Act, any such claims are barred by the three year statute of limitations contained in Code of Civil Procedures Section 338. Finally, and among other things, insofar as the Commission believes that we may be liable for civil fines or penalties, any such claim would be barred either pursuant to the one-year statute of limitations contained in Code of Civil Procedure Section 340, or by the three-year statute of limitations contained in the Coastal Act itself (Section 30820)."

"We deny that (the March 15, 2001) site inspection 'enabled [Staff] to have a clearer understanding of the unpermitted development described in our NOI,' and allege that , in fact, on at least one occasion and perhaps more, Commission Staff (by Ms. Susan Booker) conducted a site investigation of our property, and that the conditions on the site were identical at the time of her inspection as they were when Mr. Doherty made his site inspection on March 15, 2001. That is, there were no physical changes made to our house, other structures, or our property between the time of those two site inspections." The "improvements" conducted in 1996 have been "open and notorious" since the time they were installed.

"I further allege that the Commission has been guilty of laches, and waived, released, and/or is estopped to assert that the so-called 'carport' is either improper or a different supposed violation."

### Commission's Response:

The doctrine of laches does not apply in this case. It is well settled that the equitable defense of laches "will not ordinarily be invoked to defeat policy adopted for the public protection" (*City of San Francisco v. Pacello* (1978) 85 Cal.App.3d 637, 646.<sup>6</sup>) In this case, the cease and desist order proceedings were initiated to bring the subject violations into compliance with the Coastal Act, which was adopted to protect coastal resources.

Even if the doctrine were applicable to this proceeding, it is well-established that "laches is an equitable defense that requires *both* unreasonable delay *and* prejudice resulting from the delay. The party asserting and seeking to benefit from the laches bar bears the burden of proof on these factors." (*Mt. San Antonio Comm. Coll. Dist. v. Pub. Emp. Rel. Bd.* (1989) 210 Cal.App.3d 178.) In his Statement of Defense, Mr. Rubinroit fails to explain either 1) why he believes the Commission's enforcement actions against him involved delay that should be considered to be "unreasonable," or 2) how any such delays have operated to his prejudice.

Mr. Rubinroit's statute of limitations defense is equally unavailing. The limitations periods the Rubinroits cite, Code of Civil Procedure §§ 315 and 338, are applicable, if at all, only to judicial enforcement proceedings. They have no applicability to administrative enforcement proceedings such as a cease and desist order proceeding brought by the Commission. In *Fahmy v. Medical Board of California* (1995) 38 Cal.App.4<sup>th</sup> 810, the Court of Appeal ruled that statute of limitations are products of legislative authority and control. The court noted that the law which governed the administrative enforcement proceeding at issue in that case:

*noticeably lacks a statute of limitations. The legislature is presumably aware that there are statutes limiting the right to bring action in other, arguably analogous situations. Yet the legislature chose not to impose any limitation on the Board in this precise situation.*

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<sup>6</sup> Accord: *Morrison v. California Horse Racing Board* (1988) 205 Cal.App.3d 211, 219 ("Where there is no showing of manifest injustice to the party asserting laches, and where application of the doctrine would nullify a policy adopted for the public protection, laches may not be raised against a governmental agency.")

Similarly, the Coastal Act's limitation provision in Section 30805.5 does not on its face apply to the issuance of the CDO. Rather, it applies only to actions to recover civil fines and penalties. The Commission staff is recommending issuance of this cease and desist order to seek injunctive relief of the unpermitted development, not to collect fines and penalties.

Furthermore, the Rubinroits' actions contributed to staff's delay in enforcing the violations. After issuing the Rubinroits a notice of intent to commence cease and desist proceedings on October 9, 1998, Mr. Rubinroit called Commission staff member Mary Travis to express his desire for an "amicable resolution." On November 12, 1998, Commission staff members Mary Travis and Nancy Cave called Mr. Rubinroit to discuss resolution. Mr. Rubinroit subsequently agreed to file two complete CDP applications. In reliance on this commitment by Mr. Rubinroit, the enforcement staff removed the cease and desist order hearing from the Commission's agenda. The discussions between staff and Mr. Rubinroit constituted settlement agreements that should not be used to argue delay by the Commission. In the case of *Transwestern Pipeline Company v. Monsanto Company* (1996) 46 Cal.App.4<sup>th</sup> 502, the Court of Appeal ruled that settlement negotiations weaken, if not completely refute an argument of unreasonable delay in bringing enforcement actions.

Finally, Civil Code § 3490, which states that "no lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right" contravenes Mr. Rubinroit's laches and statutes of limitation defenses.

Mr. Rubinroit's use of an estoppel argument to defend his contention that he does not need a CDP for the development on the subject property is similarly weak. In the case of *South Central Coast Regional Commission v. Charles A. Pratt Construction Co.* (1982) 128 Cal.App.3d 830, 847-8.), the Court of Appeal held that the

*estoppel argument fails because the overriding public interest in environmental regulation evidenced by the Coastal Act far outweighs any injustice which the developers would suffer by being required to obtain a permit from the Commission.*

Accord: *State Air Resources Board v. Wilmshurst* (1999) 68 Cal.App.4<sup>th</sup> 1332, 1347, the Court of Appeal ruled that:

*As for their claim of estoppel, 'We previously have recognized that this doctrine ordinarily will not apply against a governmental body except in unusual instances when necessary to avoid grave injustice and when the result will not defeat a strong public policy. [Citation omitted; emphasis supplied by Court of Appeal].*

### **The Rubinroits' Defense:**

19. "We believe that the Commission lacks jurisdiction to commence, prosecute, or enforce a Cease and Desist Order proceeding, and is and/or will be acting in an ultra vires manner if it proceeds with this notices of intention to institute a Cease and Desist Order proceeding.

“We do not believe that either the Commission or the Executive Director has jurisdiction to commence a Cease and Desist Order proceeding, and/or to issue a Cease and Desist Order in connection with our property, and/or to take administrative action at all respecting the matters in connection with our property, and/or to take administrative action at all respecting the matters referred to in the NOIs and (NOI) Amendment. The NOIs and (NOI) Amendment allege purported violations of the 1988 permit and/or of provisions of that Permit, and violations of the provisions of the California Coastal Act of 1976. Such claims are addressable only by reference to the Attorney General for appropriate action under either Section 13172 or Section 13173 of the Commission’s Regulations. A Cease and Desist Order proceeding before the Commission (or Cease and Desist Orders by the Executive Director) is appropriate, if at all, only in situations where someone is presently engaging in some activity.”

**Commission’s response:**

The commission’s authority for issuing cease and desist orders is provided in Section 30810(a) of the Coastal Act that states:

*If the commission, after public hearing, determines that any person or governmental agency **has undertaken**, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing a permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. [Emphasis added.]*

The phrase “has undertaken” conclusively refutes the Rubinroits’ argument that the Commission’s authority to issue and cease and desist order is limited to situations in which “someone is presently engaging in some activity.”

Since the Rubinroits have undertaken multiple activities that (1) require a CDP or CDP amendment from the Commission and (2) are inconsistent with the previously issued permit (CDP 5-88-056), Section 30810(a) of the Coastal Act provides the Commission with the statutory authority to issue a cease and desist order. Section 30810(b) states that the cease and desist order may be subject to:

*such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division (emphasis added).*

In this cease and desist order, the Commission is, among other actions, setting a schedule for the filing of a complete CDP or CDP amendment application to address the unpermitted development. The cease and desist order proceedings undertaken to date are in compliance with the Coastal Commission regulations on the procedures for the issuance of commission cease and desist orders set forth in Chapter 5, Subchapter 8.

**V. CEASE AND DESIST ORDER**

Staff recommends that the Commission issue the following Cease and Desist Order:

Pursuant to its authority under Public Resource Code section 30810, the California Coastal Commission hereby orders Howard and Terry Rubinroit and any person acting in concert with any of the foregoing to cease and desist from: 1) performing any further development activity at the site without first obtaining a Coastal Development Permit or amendment to the existing permit, and 2) maintaining any existing unpermitted development on the property by applying for a Coastal Development Permit or amendment to either remove the development or authorize it after-the-fact. Accordingly, all persons subject to this order shall fully comply with paragraphs A, B, C and D:

- A. Refrain from engaging in any future development activity at the subject property without a coastal development permit (CDP) or CDP amendment.
- B. Within 60 days of the date of this order, or within such additional time as the Executive Director may grant for good cause, submit to the Coastal Commission's South Central District Office a complete coastal development permit or amendment to the CDP 5-88-056 application requesting one of the following options:
  - 1) to retain the unpermitted development,
  - 2) to remove said development and restore the property to its pre-violation condition, or
  - 3) some combination of the above that proposes to either
    - a) retain, or
    - b) remove the unpermitted development and restore the property for each of the items listed in the violation description.

Requests for approval of the development may be submitted as CDP or CDP amendment applications and will be processed as a CDP amendment regardless of how it is submitted. For purposes of this requirement, an application under option no. 1 shall be considered to be complete if it includes all of the following information:

**Table 2. Revised List of Items Necessary to Complete  
CDP Applications 4-99-023 & 4-99-024**

1. A complete filing fee based on Section 13055 of the Commission's regulations. (The Rubinroits had submitted a check for \$200 with the incomplete applications that were submitted on January 29, 1999. If the Rubinroits decide to complete the two CDP applications, an additional \$2,200 must be submitted.)
2. A complete list of property owners and occupants within 100 feet of the subject property and stamped envelopes addressed to each person on this list.
3. Two sets of project and resource plans that show all development, vegetation removal, riparian canopy, drainageways, oak trees, OTD easement boundary, property boundaries, topography and all elevations. Drawings must be to scale with dimensions shown and be based upon a mapped survey of the property performed by a licensed surveyor. The resource area delineations must be made by a qualified ecologist. The drawings must be approved by the local planning department and stamped "Approval in Concept."

4. Two sets of detailed grading and drainage plans with cross sections and quantitative breakdown of grading amounts (cubic yards of cut and fill). Plans must be to scale with dimensions shown and prepared by a registered engineer.
5. A set of legible drawings reduced to 8 ½ by 11 inch in size. The reduced set shall include the project and resource plans and the grading and drainage plans.
6. Two copies of comprehensive, current (not more than one year old), site-specific geological and soils reports (including maps) prepared in accordance with the Guidelines for Engineering Geologic Reports, prepared by the State Board of Registration for Geologists and Geophysicists (11/93). (Copies of the guidelines are available from the District office.) The "Limited Geotechnical Investigation" report dated December 6, 1995 can be submitted with an update report. This update report should include discussion of the current soils and geology at the site, the potential impacts of all unpermitted development, the volume and rate of pumping for storage in the water tank, methods of construction (especially for pool and retaining walls), erosion control and measures to support geologic stability.
7. A current LA County "approved" geologic review sheet for all development.
8. The "Approval in Concept" form completed by the local planning department or other responsible local agency.
9. County Health Department review of septic system and approval for repairs or removal of exposed greywater outlet.
10. Fire department and any other local agency approval for the propane tank.
11. County Environmental Review Board Approval.
12. Copies of all required public agency approvals for all of the development. Include minutes of any public hearing, if applicable.
13. Revised description of development that includes all of the unpermitted development at the subject property.
14. Any additional information that the Commission staff determines to be necessary to complete the application.

- C. In a manner which complies fully with the terms and conditions of any coastal development permit that the Commission may grant under option 2 or 3 of the preceding paragraph, carry out the removal of any unpermitted development and restore the site to pre-violation status within 180 days of the issuance of the permit amendment, or within such additional time as the Executive Director may grant for good cause.
- D. With respect to any permit that the Commission may grant under paragraph B, 1) comply with all conditions of approval that the Commission may impose, and 2) within 60 days of the Commission's decision, or within such additional time as the Executive Director may grant for good cause, comply with all such conditions that by their terms must be satisfied as a prerequisite to issuance of the permit.

**Persons Subject to the Order**

Howard and Terry Rubinroit

**Identification of the Property**

The property that is subject to this cease and desist order is described as follows:

25351 Piuma Road in Calabasas, Los Angeles County APN 4456-37-007

**Description of Unpermitted Development**

The unpermitted development consists of the construction of a lighted sports court, swimming pool with spa and pump, retaining wall and associated carport, lighted stairway extending from the pool area to the sports court, lighted steps and pathways on both sides of the house, chain link fence and gates around pool and house, propane above-ground storage tank (AST) with concrete pad, water AST, concrete in eastern watercourse, patio area with low walls near pool, nonnative sand fill adjacent to unnamed blue line stream, nonnative sand fill to the east of the pool (used as children's play area), partially buried PVC piping that appears to be part of a drainage system, septic system extending out of permitted area, irrigation system, transformers and removal of major vegetation beyond the authorized limits.

**Effective Date and Terms of the Order**

The effective date of this order is **May \_\_, 2001**. This order shall remain in effect permanently unless and until modified or rescinded by the Commission.

**Findings**

This order is issued on the basis of the findings adopted by the Commission on **May \_\_, 2001**, as set forth in the attached document entitled **"Adopted Findings for Cease and Desist Order No. CCC 01-CD-01"**.

**Compliance Obligation**

Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order including any deadline contained in this order or in the above required coastal development permit(s) as approved by the Commission will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists. The Executive Director may extend deadlines for good cause.

Howard and Terry Rubinroit  
Cease and Desist Order No. CCC-01-CD-01  
April 19, 2001

**Deadlines**

Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

**Appeal**

Pursuant to Public Resource Code §30803(b), any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

**Exhibits**

1. Locus map for the subject property.
2. Photographs of the violation.
3. Coastal Development Permit 5-88-056.
4. Irrevocable Offer to Dedicate Open-Space Easement and Declaration of Restrictions (without exhibit B which is CDP 5-88-056).
5. Deed restriction against future development and for assumption of risk (without exhibit B which is CDP 5-88-056).
6. Page 1 of the Fuel Modification and Landscape Plans.
7. Notice of violation letter dated June 19, 1997.
8. Notice of intent to commence cease and desist order proceedings letter dated October 9, 1998.
9. Letter sent to the Rubinroits on November 13, 1998.
10. Map showing open space easement area (Exhibit 4 of CDP 5-86-056).
11. Permit for a retaining wall, issued on 4/22/96 by the Building and Safety/Land Development Division of the LA County Department of Public Works.
12. Permit for a pool/spa, issued on 2/29/96 by the Building and Safety/Land Development Division of the LA County Department of Public Works.
13. Letter granting time extension to file applications, sent to the Rubinroits on December 21, 1998.
14. Notice of Intent to commence cease and desist order proceedings letter dated January 2, 2001.
15. Statement of Defense from Howard Rubinroit, received by the Commission staff on February 6, 2001.
16. Amendment to the Notice of Intent to commence cease and desist order proceedings dated March 20, 2001.
17. Amendment to the Statement of Defense from Howard Rubinroit, received by the Commission.
18. Plan showing approved location of the septic system, received by the Commission on January 29, 1988.
19. Plan Check Document dated November 7, 1995 from the Building and Safety/Land Development Division of the LA County Department of Public Works.
20. Figure 6 of the Malibu Land Use Plan, entitled "Sensitive Environmental Resources".





PHOTO 1 Looking east from Piuma Road at sports court, major vegetation removal outside of approved area, pool/patio area, chain link fence and residence on June 9, 1997

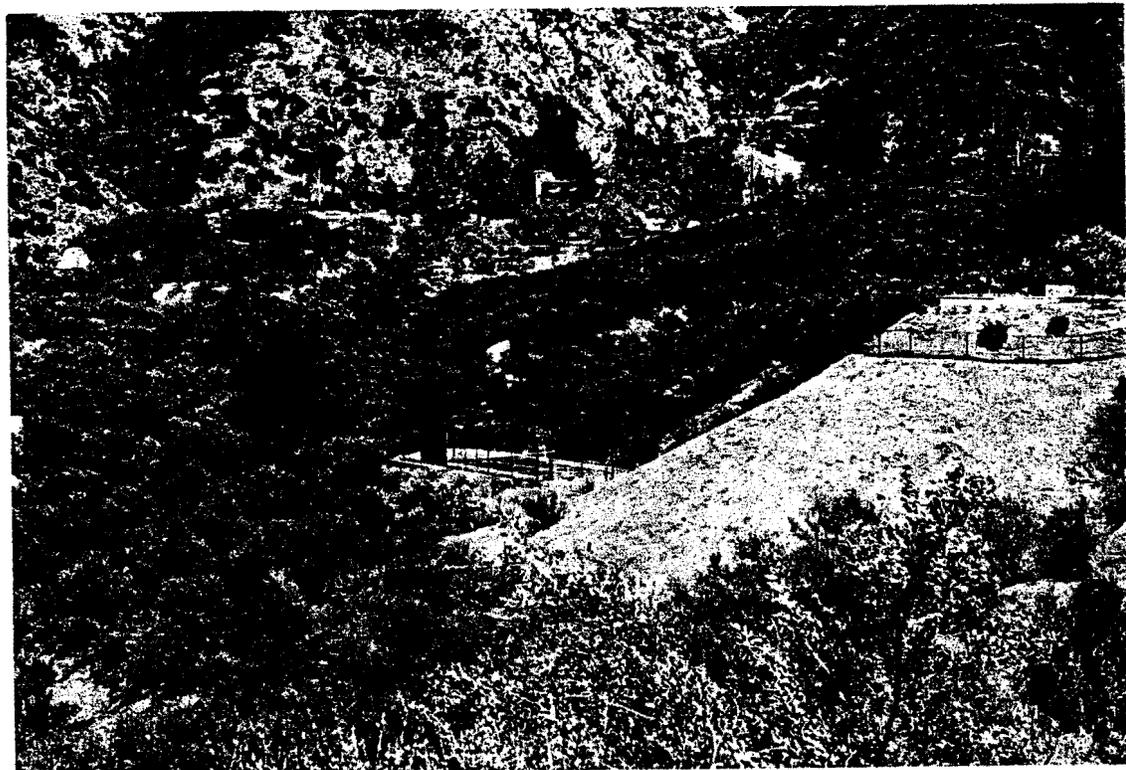


PHOTO 2 Looking east from Piuma Road at sports court, major vegetation removal outside of approved area, chain link fence and pool/patio area on June 9, 1997



PHOTO 3 Looking north (from area south of pool) at sports court on building pad number three on March 15, 2001.

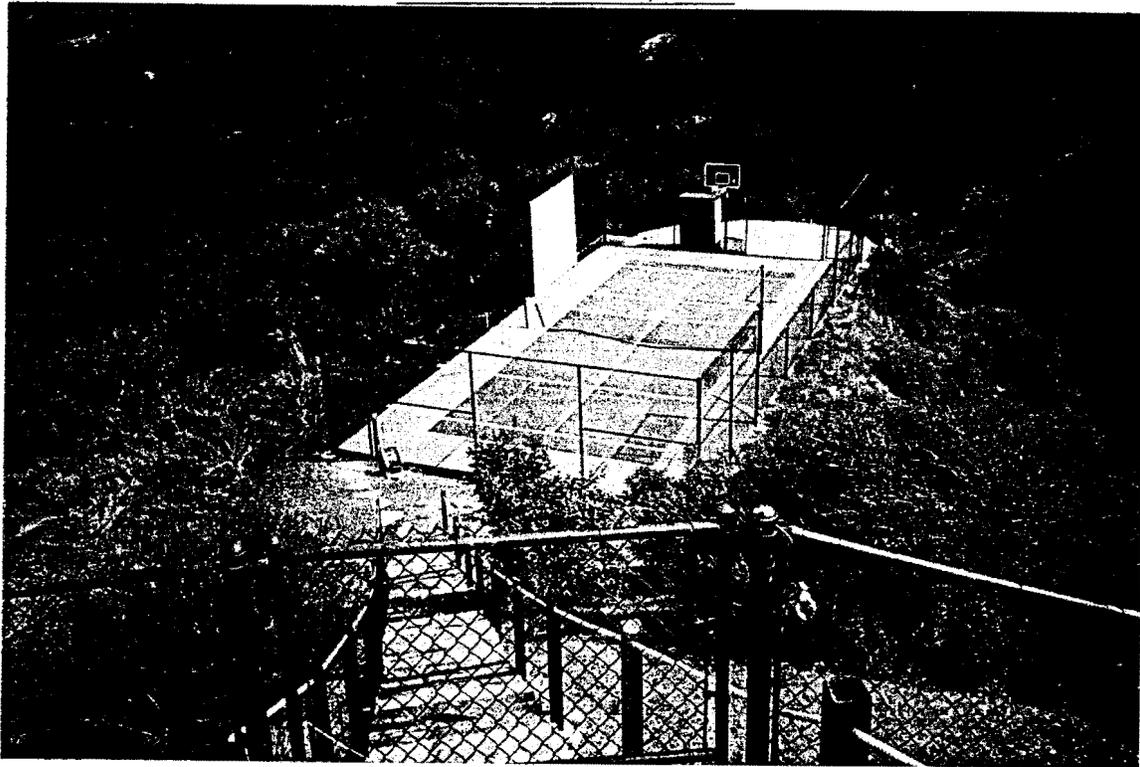


PHOTO 4 Looking north (from stairs below pool) at 1) stairs leading from pool area to sports court, 2) sports court and 3) nonnative sand fill behind basketball net, adjacent to blue line stream on March 15, 2001.

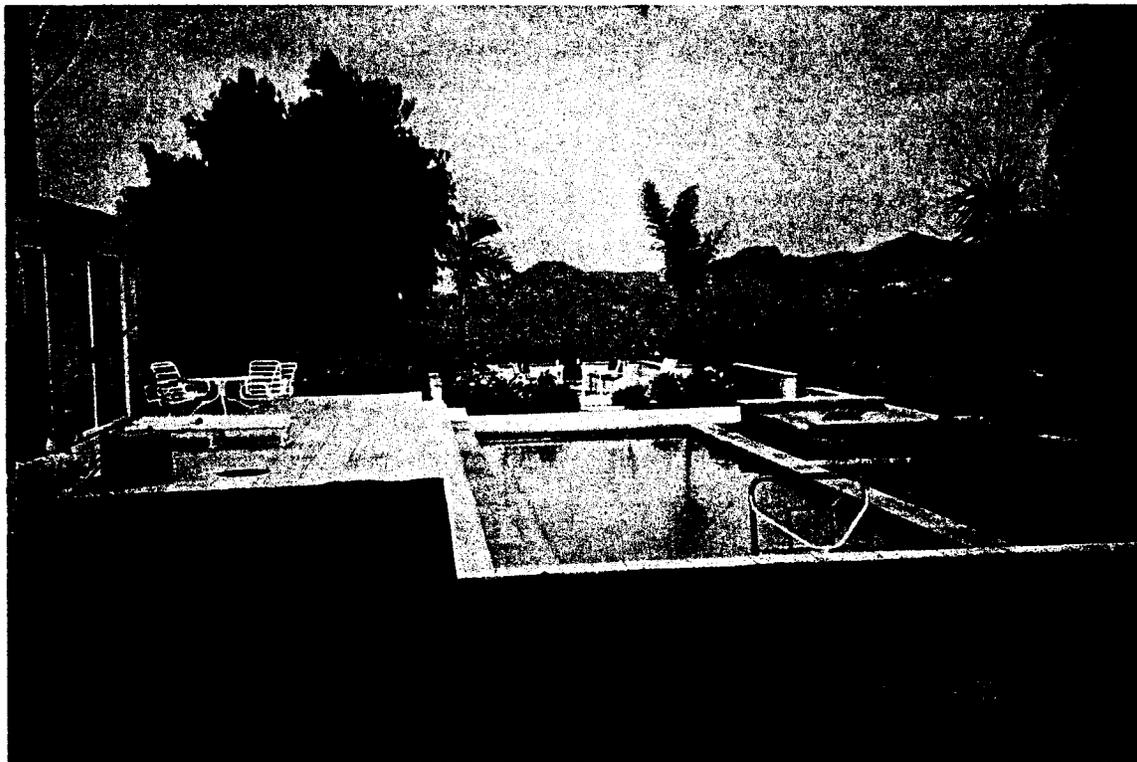


PHOTO 5 Looking west at pool, spa and patio area with low walls on March 15, 2001



PHOTO 6 Looking west at retaining wall, carport, propane tank with concrete pad, irrigation system, chain link fence and house on March 15, 2001.

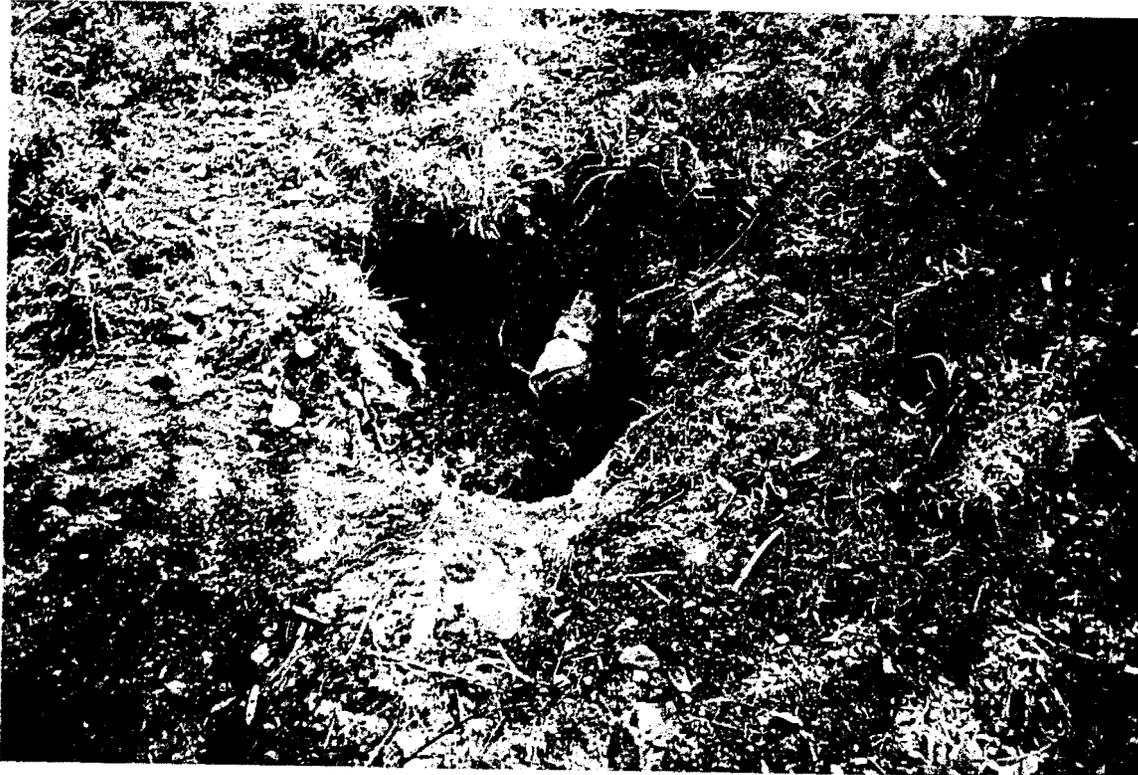


PHOTO 7 View of exposed septic/grey water outlet located on slope to the west of house on March 15, 2001



PHOTO 8 Looking south from sports court at eastern watercourse, slump area with falling chain link fence, stairs on eastern side of house, house on March 15, 2001



PHOTO 9 Looking west at freshly cut shrubs to the west of the sports court on March 15,  
2001

# FILE COPY

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
15 WEST BROADWAY, SUITE 380  
LONG BEACH, CA 90802  
(213) 590-5071

Page 1 of 8  
Permit Application No. 5-88-056/1s  
Date 29 February 1988



### ADMINISTRATIVE PERMIT

APPLICANT: Jack and Annie Moses, and Ron and Margo Landry

PROJECT DESCRIPTION: Construct a 4260 square-foot, 28-foot high, four-level single family residence with water well and septic system.

PROJECT LOCATION: 25351 Piuma Road, Malibu.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:  
Thursday, 9:00 A. M. March 24, 1988. (415) 873-3200

Grosvenor Airport Inn, 380 South Airport Blvd., San Francisco.

IMPORTANT - Before you may proceed with development, the following must occur:

For this permit to become effective you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.

PETER DOUGLAS  
Executive Director

by: LARRY SUMNER

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

(See Page 3)

SPECIAL CONDITIONS:

(See Page 7)

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

  
 Applicant's Signature

  
 Date of Signing

EXECUTIVE DIRECTOR'S DETERMINATION (Continued):A. PROJECT DESCRIPTION.

The applicant proposes to construct a 4260 square-foot, 28-foot high (above existing grade), four-level single family residence with water well and septic system on a 2.76-acre parcel of land along Piuma Road in the Santa Monica Mountains (Exhibits 1 and 2). The site is a north descending hillside characterized by a series of minor ridges and drainage courses. Slopes range from nearly level on the two previously-graded building pads to no greater than 2:1 below the pads. The proposed residence will be sited on the larger pad in the southeast corner of the property. Vegetation is absent on the pads but consists of moderate chaparral cover on the balance of the property. Minor grading of less than 50 cubic yards will be required for a short driveway access. The seepage pits for the proposed septic system will be located north of the residence at the nose of the building pad. A favorable percolation test was performed at this site and the consulting geologist has stated in his report that the site of the proposed septic system is acceptable and that "percolation of effluent from the proposed residence is not expected to raise groundwater levels in the area, adversely affect site stability, or pose a hazard to the site or adjacent properties."

The parcel is located within the Malibu/Cold Creek Resource Management Area and runoff from the parcel drains into Dark Canyon (Exhibit 3). The Malibu/Santa Monica Mountains Land Use Plan (LUP) designates the parcel as Rural Land II (1 DU/5 acres), and allows development of non-conforming parcels if LUP resource protection policies are met. The proposed development is therefore consistent with the allowable LUP density. The subject parcel was included in the Malibu/Santa Monica Mountains build-out survey conducted in 1978 using the Los Angeles County Engineer Maps. Therefore, no cumulative impact mitigation requirements shall be imposed as a condition of approval of this permit.

B. HAZARDS.

The proposed project is located in an area which is subject to an unusually high amount of natural hazards, including landslides and fire. Section 30253 of the Coastal Act states in part that new development shall:

- (1) minimize the 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.

In addition, the Malibu/Santa Monica Mountains LUP contains numerous policies addressing the geologic (P147-150) and fire (P156-160) hazards present in the Santa Monica Mountains. The applicant's geology report states that the basaltic bedrock which is exposed over much of the proposed building site is "very competent...and is expected to provide excellent support for the proposed residence." The geology consultant found no evidence of ancient or

recent landslides on the property; only minor soil sloughing adjacent to on-site drainage courses was observed and will present no hazard to the proposed development. The consultant concludes that "the site is considered to be suitable from a soils and engineering geologic standpoint for construction of a single family residence" provided that the geologic report recommendations are followed.

Vegetation surrounding the building site is native chaparral, a highly combustible plant community. Fuel load modification pursuant to Los Angeles County Fire Marshall requirements will be necessary in order to reduce the risks of wildfire on the site. In addition, landscaping plans that utilize native plants suitable for fuel modification criteria and soil erosion control, and that incorporate drainage devices to control runoff and erosion, will serve to lessen the possibility of fire and erosion hazards, and to assure the continued protection of resources within this portion of the Malibu/Cold Creek Resource Management Area.

The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

The Commission finds that due to the unforeseen possibility of slope failure following wildfires and their resultant effect on slope stability due to loss of protective vegetative cover, the applicant shall assume these risks as a condition of approval, as well as prepare fuel modification and landscape plans and follow all the recommendations contained in the geology report prepared for this project and site. Because the risk of harm cannot be completely eliminated, The Commission is requiring the applicant to waive any claim of liability on the part of the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, when executed and recorded on the property deed, 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. Only as conditioned can the Commission find the project consistent with Section 30253 of the Coastal Act and the geology and natural hazard policies of the LUP.

### C. VISUAL RESOURCES.

Section 30251 of the Coastal Act requires that the scenic quality of coastal areas be protected as an important public resource and that permitted development be sited to protect the visual quality of coastal areas. In addition, the Malibu/Santa Monica Mountains LUP contains several policies (P72, 125, 129, and 130) regarding viewshed protection which are applicable to the proposed development. Due to presence of a previously-graded building pad, only minor grading (less than 50 cubic yards) is proposed for a short driveway. The proposed residence is designed to step down from the garage which is located just below the elevation of Piuma Road. From this point, the

structure descends in three steps down the existing pad to the lowest level, 30 feet below the elevation Piuma Road. As a result, the structure extends only 11 feet above the centerline of Piuma Road and at no point extends more than 28 feet above the existing graded pad.

However, because the project is adjacent to and visible from Piuma Road and State Park lands immediately to the east, and in order to mitigate any adverse visual impacts which could occur as a result of construction of the residence, the Commission finds that it is necessary to require the applicant to submit landscaping plans designed to screen or soften the visual impact of the proposed development. Only as conditioned will the proposed development not adversely impact visual resources along Piuma Road and from State Park lands to the east in the upper Dark Canyon drainage. As conditioned, the project conforms to Section 30251 of the Coastal Act and the visual resource protection policies of the LUP.

D. LAND RESOURCES.

Section 30240(b) of the Coastal Act states that:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The proposed development site is located in the upper portion of the Malibu/Cold Creek Resource Management Area, and runoff from the site drains into the Dark Canyon Environmentally Sensitive Habitat Area (ESHA). The Malibu/Santa Monica Mountains LUP policies addressing protection of ESHAs are among the strictest and most comprehensive concerning new development, and are designed to protect significant resources from individual and cumulative impacts of development. Among them is Policy 72, which states that:

Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.

In addition, Table 1 of the LUP contains a discussion of permitted land uses and development standards in Resource Management Areas:

Residential land use: for parcels less than 20 acres, buildout at existing parcel cuts (build-out of parcels of record) at 1 unit/parcel in accordance with specified standards and policies and subject to review by the Environmental Review Board.

Development standards: Allowable structures shall be located in proximity to existing roadways, services and other development to minimize impacts on the

habitat, and clustering and open space easements to protect resources shall be required in order to minimize impacts on the habitat.

Grading and vegetation removed shall be limited to that necessary to accommodate the residential unit, garage, one other structure, one access road, and brush clearance required by the Los Angeles County Fire Department.

Stream protection standards shall be followed.

On both sides of the existing building pad proposed for development are undisturbed drainage courses which collect runoff from and above the property and carry it downslope to the Dark Canyon ESHA. The applicants propose only minimal grading on this pad and no development is proposed in the drainage courses. In addition, no development is proposed at this time on the smaller, existing building pad in the northwest corner of the parcel. Nevertheless, the Commission still has concerns about the cumulative impacts in the Malibu/Cold Creek Resource Management Area, particularly impacts of urbanization such as runoff, erosion from construction and grading activities, and pollutants from septic systems, pesticides, and herbicides.

Staff is recommending two special conditions to prevent future impacts to the Dark Canyon ESHA. One condition will require the landowner to secure an amendment to this coastal permit or apply for a new coastal permit for any future additions or development on the property. The Commission finds that as conditioned, the proposed development is consistent with Section 30240(b) of the Coastal Act.

A second condition will require the landowner to offer to dedicate an open space and conservation easement for resource protection on that portion of the subject property outside the building site (Exhibit 4). This easement will serve to protect the remaining, undisturbed watershed cover on the property, and limit adverse impacts on critical resources within the nearby Dark Canyon ESHA that might arise from future development on the subject property. Of concern to the staff is the potential future use of the second building pad, located in the northwest corner of the property. Utilization of this site for the second structure allowed by the LUP "Table 1 Standards" would require improvement of the existing accessway off Piuma Road. This accessway would constitute a second driveway on the property, separate from the driveway included as a part of the currently proposed development and, therefore, not allowed by the LUP. Development of this second pad, at some distance from the proposed residence, would also conflict with "Table 1 Standards" that require clustering of allowable structures to minimize impacts on habitat. In addition, vegetation removal required by the Los Angeles County Fire Department for a structure on this second pad, and the vegetation clearance necessary for the improvement of the accessway would constitute a significant impact on watershed cover. Siting any future development adjacent to the proposed residence would be much less disruptive to habitat values and more in keeping with the "Table 1 Standards" of the LUP. Therefore, the Executive Director finds that it is necessary to require the applicant to offer to

dedicate an open space and conservation easement for FSHA and Resource Management Area protection on that portion of the subject property outside the building site (Exhibit 4). As conditioned, the proposed development is consistent with Section 30240(b) of the Coastal Act and the land resource protection policies of the LUP.

#### SPECIAL CONDITIONS.

##### 1. Geologic Recommendations.

The applicant must comply with the recommendations contained in the "Soils and Engineering Geologic Investigation Report for Proposed Single-Family Residence, 25351 Piuma Road, Malibu, California, 1-19-88," prepared by California Geosystems, Inc.

##### 2. Fuel Modification and Landscape Plans.

Prior to authorization to proceed with development, the applicant shall submit for review and approval by the Executive Director, plans that show the provision for the Los Angeles County Fire Marshall fuel modification requirements. The plans shall indicate that no vegetation clearing will occur in the drainage courses to the west and east of the building pad. The plans shall incorporate the use of primarily native plants which are suitable for fuel modification criteria, controlling erosion, screening or softening the visual impact of the development, and are suitable to be used as a part of the ornamental planting scheme. The plans shall include non-erosive, energy-dissipating drainage devices which collect all concentrated runoff generated from the residence area and discharge it into the two watercourses that flank the building pad.

##### 3. Assumption of Risk.

Prior to authorization to proceed with development, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide (a) that the applicant understands that the site may be subject to extraordinary hazard from landslide, slope failure, and fire, and (b) that the applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

##### 4. Conservation and Open Space.

Prior to authorization to proceed with development, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, an open space and conservation easement for Environmentally Sensitive Habitat Area resource protection. Such easement shall be located at 25351 Piuma Road, Malibu,

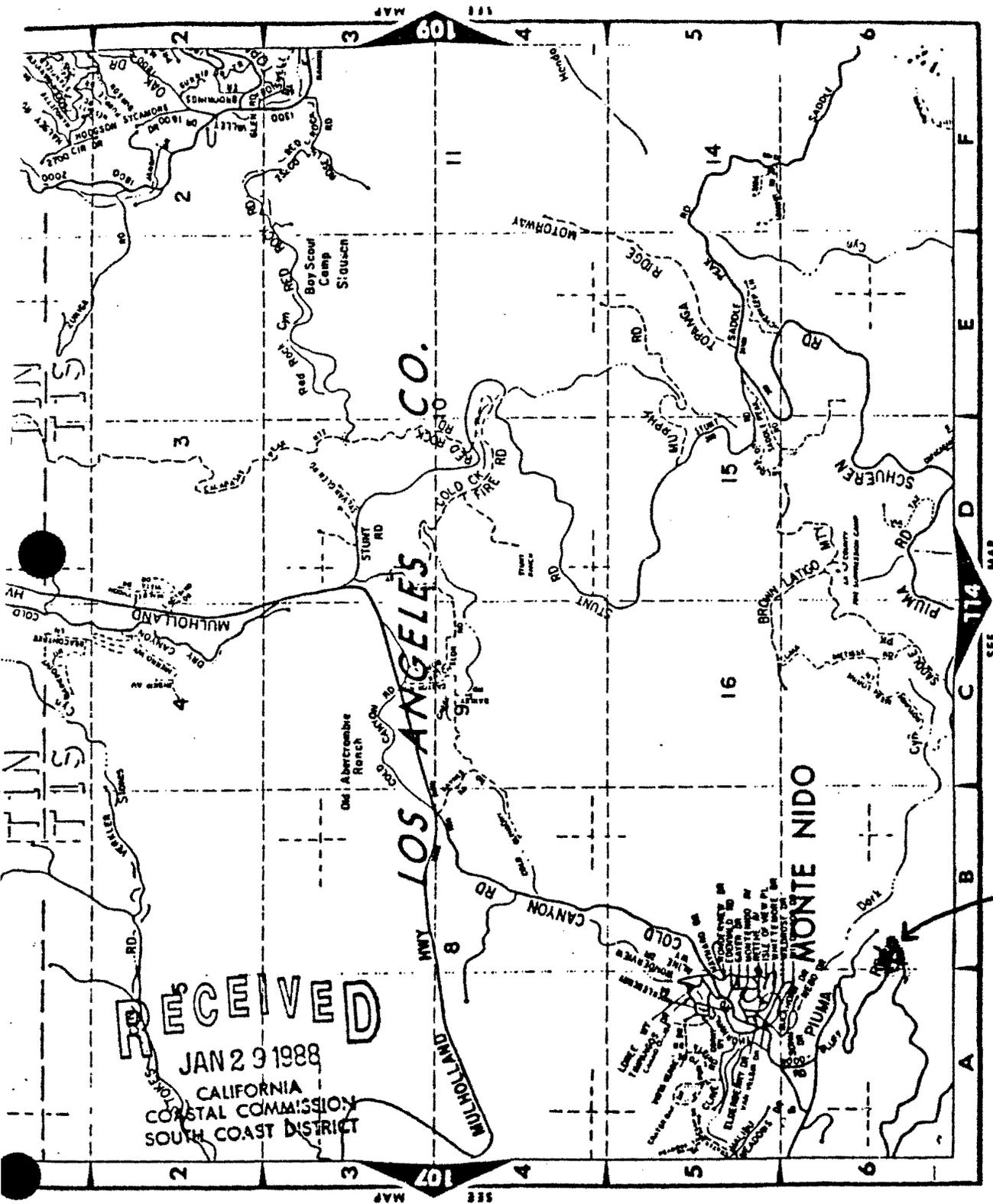
as shown in Exhibit 4. The applicant shall also submit as a part of said document a "meets and bounds" survey description of the easement. The document shall run with the land in favor of the people of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

5. Future Development.

Prior to authorization to proceed with development, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit No. 5-88-056; and that any future additions or development as defined in Public Resources Code section 30106 will require an amendment to Permit 5-88-056, or will require an additional coastal development permit from the California Coastal Commission or its successor agency. Clearing of vegetation for fire protection, outside of on-site drainage courses, as required by the Los Angeles County Fire Marshall is allowed and shall not require a new permit. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

After you have signed and returned the duplicate copy of this Administrative Permit, you will be receiving the legal forms to complete (with instructions) from the San Francisco office. When you receive the documents if you have any questions, please call the Legal Department at (415) 543-8555.

5095A



PROJECT  
LOCATION

RECEIVED  
JAN 29 1988  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

88-1246284

EXHIBIT 3  
CCC-01-CD-1 (RUBINROIT)  
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THE MOORE ENGINEERING ASSOCIATES  
2201 BROADWAY, SUITE 200  
SAN FRANCISCO, CALIFORNIA 94133  
PHONE (415) 774-1000  
FAX (415) 774-1001  
DATE 10/19/88

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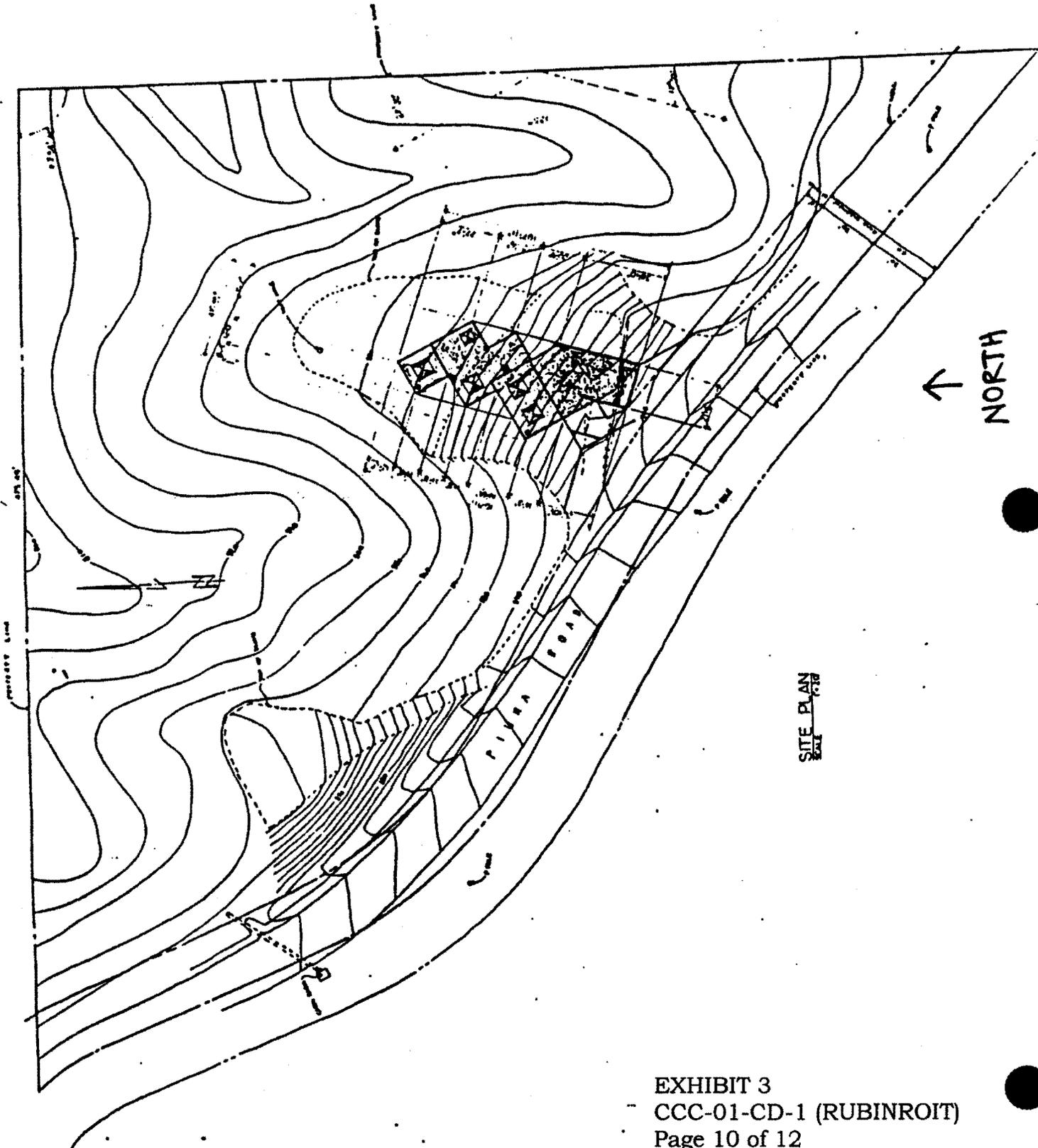
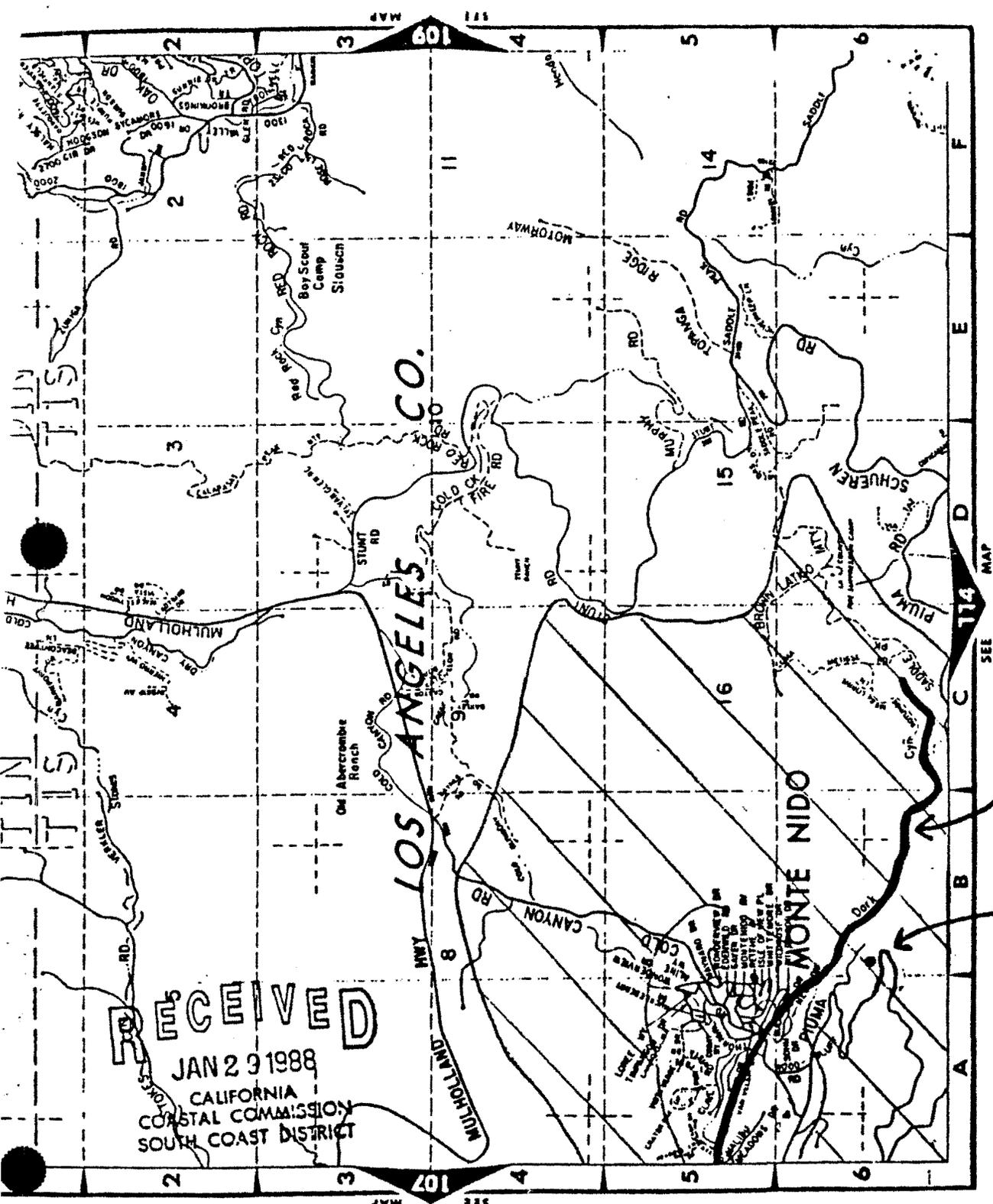


EXHIBIT 3  
CCC-01-CD-1 (RUBINROIT)  
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PROJECT LOCATION

DARK CANYON CANYON ESHA

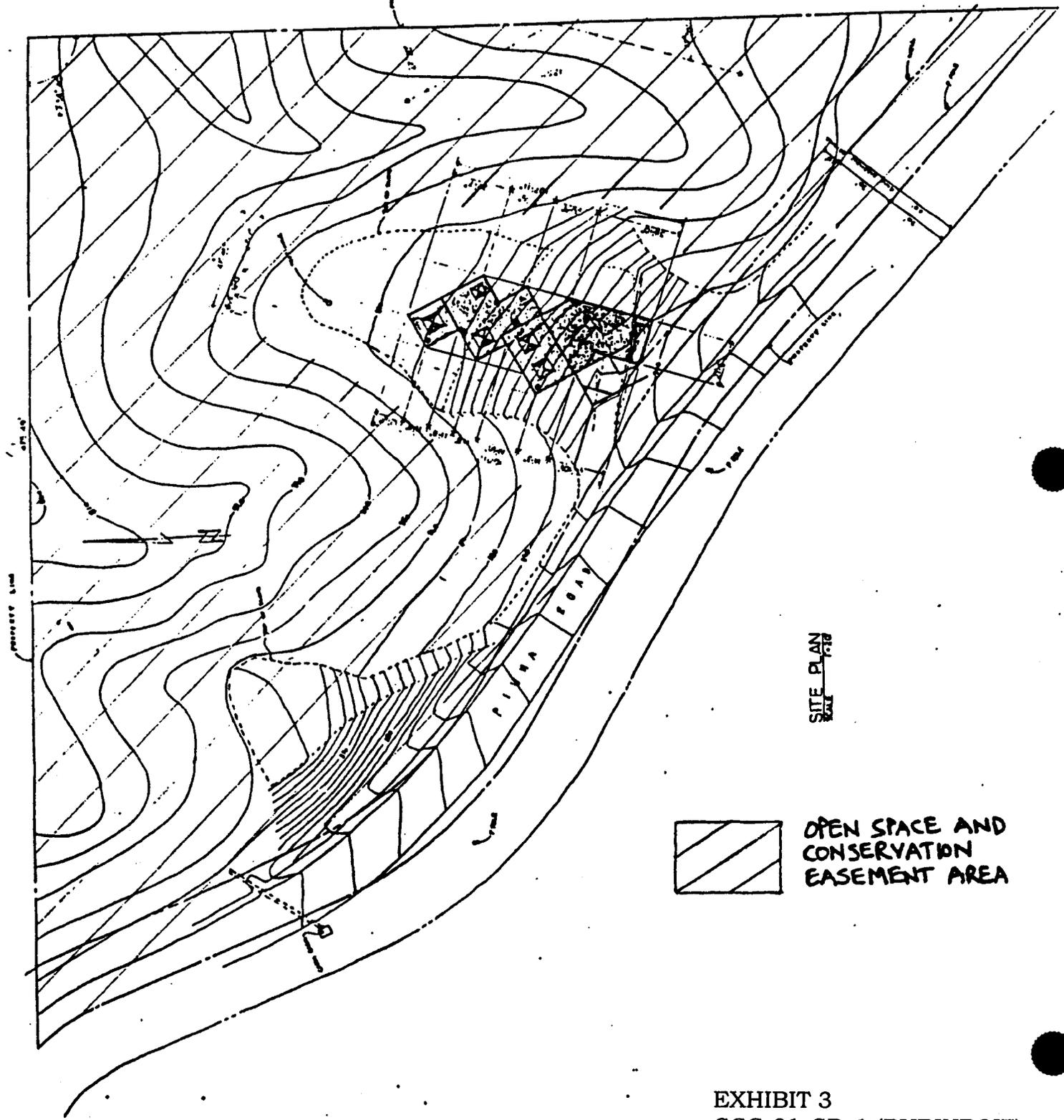
 MALIBU-COLD CREEK RESOURCE MANAGEMENT AREA

**RECEIVED**  
 JAN 29 1988  
 CALIFORNIA COASTAL COMMISSION  
 SOUTH COAST DISTRICT

19

THE MOORE SPACE  
PLANNING ASSOCIATE, INC.  
10000 WILSON BLVD.  
CANTON, CALIFORNIA 95721  
TEL: (916) 835-1111  
FAX: (916) 835-1112  
L.C.E. 013132-1151  
DATE: 10/1/88

RECORDER'S MEMO:  
POOR RECORD IS DUE TO  
QUALITY OF ORIGINAL DOCUMENT



OPEN SPACE AND  
CONSERVATION  
EASEMENT AREA

88-1246284

Recording Requested by and  
When Recorded, Mail To:  
California Coastal Commission  
631 Howard Street, 4th Floor  
San Francisco, California 94105  
Attention: Legal Department

RECORDED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
MIN. CALIFORNIA  
I PAST 11 A.M. AUG 8 1988

IRREVOCABLE OFFER TO DEDICATE OPEN-SPACE EASEMENT

AND

FEE \$ 57 F

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE OPEN-SPACE EASEMENT AND

DECLARATION OF RESTRICTIONS (hereinafter "offer") is made this 16th day  
of July 16, 19 88, by Jack Moses and Ann-Marie Moses  
Ron Landry and Margo Landry  
(hereinafter referred to as "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real  
property located in the County of Los Angeles, State of  
California, and described in the attached Exhibit A (hereinafter referred to as  
the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as  
defined in Section 30103 of the California Public Resources Code (which code is  
hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to  
as the "Act") creates the California Coastal Commission, (hereinafter referred  
to as the "Commission") and requires that any coastal development permit  
approved by the Commission must be consistent with the policies of the Act set  
forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, pursuant to the Act, Grantor applied to the California Coastal  
Commission for a permit to undertake development as defined in the Act within  
the Coastal zone of Los Angeles County (hereinafter the  
"Permit"); and

V. WHEREAS, a coastal development permit (Permit No. 5-88-056 )

1 was granted on March 24, 1988, by the Commission in  
2 accordance with the provision of the Staff Recommendation and Findings,  
3 attached hereto as Exhibit B and hereby incorporated by reference, subject to  
4 the following condition:

5 Conservation and Open Space: Prior to authorization to proceed with development  
6 the applicant shall execute and record a document in a form and content  
7 acceptable to the Executive Director, irrevocably offering to dedicate to a  
8 public agency or private association approved by the Executive Director, an  
9 open space and conservation easement for Environmentally Sensitive Habitat Area  
10 resource protection. Such easement shall be located at 25351 Piuma Road,  
11 Malibu, as shown in Exhibit 4. The applicant shall also submit as a part of  
12 said document a "meets and bounds" survey description of the easement. The  
13 document shall run with the land in favor of the people of the State of  
14 California, binding all successors and assignees, and shall be irrevocable for a  
15 period of 21 years, such period running from the date of recording.

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VI. WHEREAS, the Commission, acting on behalf of the People of the State of  
California and pursuant to the Act, granted the permit to the Grantor upon  
condition (Hereinafter the "Condition") requiring inter alia that the Grantor  
record a deed restriction and irrevocable offer to dedicate an open-space  
easement over the Property and agrees to restrict development on and use of the  
Property so as to preserve the open-space and scenic values present on the  
property and so as to prevent the adverse direct and cumulative effects on  
coastal resources and public access to the coast which could occur if the  
Property were not restricted in accordance with this Offer; and

88-1246285

1 VII. WHEREAS, the Commission has placed the Condition on the permit because  
2 a finding must be made under Public Resources Code Section 30604(a) that the  
3 proposed development is in conformity with the provisions of Chapter 3 of the  
4 Act and that in the absence of the protections provided by the Condition said  
5 finding could not be made; and

6 VIII. WHEREAS, Grantor has elected to comply with the Condition and execute  
7 this Offer so as to enable Grantor to undertake the development authorized by  
8 the Permit; and

9 IX. WHEREAS, it is intended that this Offer is irrevocable and shall  
10 constitute enforceable restrictions within the meaning of Article XIII, Section  
11 8 of the California Constitution and that said Offer when accepted shall  
12 thereby qualify as an enforceable restriction under the provision of the  
13 California Revenue and Taxation Code, Section 402.1;

14 NOW THEREFORE, in consideration of the above and the mutual benefit  
15 and conditions set forth herein, the substantial public benefits for the  
16 protection of coastal resources to be derived, the preservation of the Property  
17 in open-space uses and the granting of the Permit by the Commission, Grantor  
18 hereby irrevocably offers to dedicate to the State of California, a political  
19 subdivision or a private association acceptable to the Executive Director of  
20 the Commission (hereinafter the "Grantee"), an open-space easement in gross and  
21 in perpetuity for light, air, view, and for the preservation of scenic  
22 qualities over that certain portion of the Property specifically described in  
23 Exhibit C (hereinafter the Protected Land); and

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1 This Offer and Declaration of Restrictions subjects the Property to the  
2 following terms, conditions, and restrictions which shall be effective from the  
3 time of recordation of this instrument.

4 1. USE OF PROPERTY. The use of the Protected Land shall be limited to  
5 natural open space for habitat protection, private recreation, and resource  
6 conservation uses. No development as defined in Public Resources Code Section  
7 30106, attached hereto as Exhibit D and incorporated herein by reference,  
8 including but not limited to removal of trees and other major or native  
9 vegetation, grading, paving, installation of structures such as signs,  
10 buildings, etc, or except as approved by the Coastal Commission or its'  
11 successor agency on a subsequent Coastal Permit, shall occur or  
12 be allowed on the Protected Land with the exception of the following subject to  
13 applicable governmental regulatory requirements:

14 (a) the removal of hazardous substances or conditions or diseased plants  
15 or trees;

16 (b) the removal of any vegetation which constitutes or contributes to a  
17 fire hazard to residential use of neighboring properties, and which vegetation  
18 lies within 100 feet of existing or permitted residential development;

19 (c) the installation or repair of underground utility lines and septic  
20 systems,

21 (d) development approved by the Coastal Commission or its' successor  
22 agency on a subsequent Coastal Permit.

23  
24 2. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property  
25 to ascertain whether the use restrictions set forth above are being observed at  
26 times reasonably acceptable to the Grantor.

27 88-1246285



1           7. MAINTENANCE. The Grantee shall not be obligated to maintain, improve,  
2 or otherwise expend any funds in connection with the Property or any interest  
3 or easement created by this Offer. All costs and expenses for such  
4 maintenance, improvement use, or possession, except for costs incurred by  
5 grantee for monitoring compliance with the terms of this easement, shall be  
6 borne by the Grantor.

7           8. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted  
8 upon the express condition that the Grantee, its agencies, departments,  
9 officers, agents, and employees are to be free from all liability and claim for  
10 damage by reason of any injury to any person or persons, including Grantor, or  
11 property of any kind whatsoever and to whomsoever belonging, including Grantor,  
12 from any cause or causes whatsoever, except matters arising out of the sole  
13 negligence of the Grantee, while in, upon, or in any way connected with the  
14 Property, Grantor hereby covenanting and agreeing to indemnify and hold  
15 harmless the Grantee, its agencies, departments, officers, agents, and  
16 employees from all liability, loss, cost, and obligations on account of or  
17 arising out of such injuries or losses however occurring. The Grantee shall  
18 have no right of control over, nor duties and responsibilities with respect to  
19 the Property which would subject the Grantee to any liability occurring on the  
20 land by virtue of the fact that the right of the Grantee to enter the land is  
21 strictly limited to preventing uses inconsistent with the interest granted and  
22 does not include the right to enter the land for the purposes of correcting any  
23 dangerous condition as defined by California Government Code Section 830.

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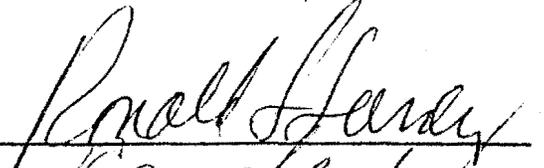
1 9. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions,  
2 exceptions, obligations, and reservations contained in this Offer shall be  
3 binding upon and inure to the benefit of the successors and assigns of both  
4 the Grantor and the Grantee, whether voluntary or involuntary.

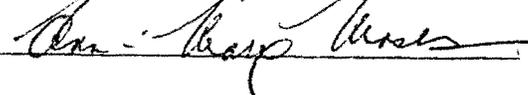
5 10. TERM. This irrevocable offer of dedication shall be binding upon the  
6 owner and the heirs, assigns, or successors in interest to the Property  
7 described above for a period of 21 years. Upon recordation of an acceptance  
8 of this offer by the grantee in the form attached hereto as Exhibit E, this  
9 offer and terms, conditions, and restrictions shall have the effect of a grant  
10 of open-space and scenic easement in gross and perpetuity for light, air, view  
11 and the preservation of scenic qualities over the open-space area that shall  
12 run with the land and be binding on the parties, heirs, assigns, and  
13 successors.

14 Acceptance of the Offer is subject to a covenant which runs with the  
15 land, providing that any offeree to accept the easement may not abandon it but  
16 must instead offer the easement to other public agencies or private  
17 associations acceptable to the Executive Director of the Commission for the  
18 duration of the term of the original Offer to Dedicate.

19 Executed on this 16<sup>th</sup> day of JULY, 1988  
20 at CANOGA PARK, CA.

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22 \_\_\_\_\_  
23 Jack Moses  
24 TYPE OR PRINT NAME ABOVE

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23 Ron Landry  
24 TYPE OR PRINT NAME ABOVE

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27 Ann-Marie Moses  
TYPE OR PRINT NAME ABOVE

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27 -7- Margo Landry  
TYPE OR PRINT NAME ABOVE

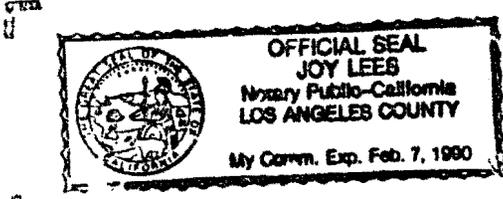
EXHIBIT 4  
CCC-01-CD-1 (RUBINROIT)  
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1 NOTE TO NOTARY PUBLIC: If you are notarizing the signature of anyone  
2 signing on behalf of a trust, corporation, partnership, etc., please use  
3 the correct notary jurat (acknowledgment) as explained in your Notary Law  
4 Book.

5 STATE OF CALIFORNIA  
6 COUNTY OF LOS ANGELES } ss

7 On this 16<sup>th</sup> day of JULY, in the year 1988,  
8 before me JOY LEES, a Notary Public, personally  
9 appeared JACK MOSES ANN-MARIE MOSES RONALD LANDRY &  
10 MARGO LANDRY  
11 personally known to me (or proved to me on the basis of satisfactory  
12 evidence) to be the person whose name is subscribed to this instrument, and  
13 acknowledged that he/she executed it.



Joy Lees  
NOTARY PUBLIC IN AND FOR SAID COUNTY  
STATE

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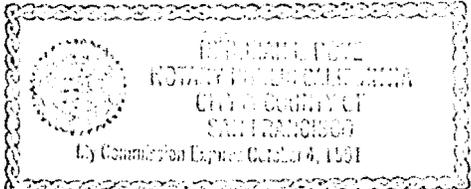
1 This is to certify that the Offer to Dedicate set forth above is  
2 hereby acknowledged by the undersigned officer on behalf of the California  
3 Coastal Commission pursuant to the action of the Commission when it granted  
4 Coastal Development Permit No. 5-88-056 on March 24, 1988  
5 and the California Coastal Commission consents to recordation thereof by its  
6 duly authorized officer.

7 Dated: July 29, 1988

8 John Bowers  
9 John Bowers, Staff Counsel  
California Coastal Commission

10  
11 STATE OF California)  
12 COUNTY OF San Francisco)

13 On July 29, 1988, before me DEBORAH L. BOUÉ,  
14 a Notary Public, personally appeared JOHN BOWERS, personally known to  
15 me to be (or proved to me on the basis of satisfactory evidence)  
16 to be the person who executed this instrument as the STAFF COUNSEL  
17 and authorized representative of the California Coastal Commission and  
18 acknowledged to me that the California Coastal Commission executed it.



19  
20 Deborah L. Boué  
21 NOTARY PUBLIC IN AND FOR  
22 SAID STATE AND COUNTY

10

EXHIBIT A  
Property

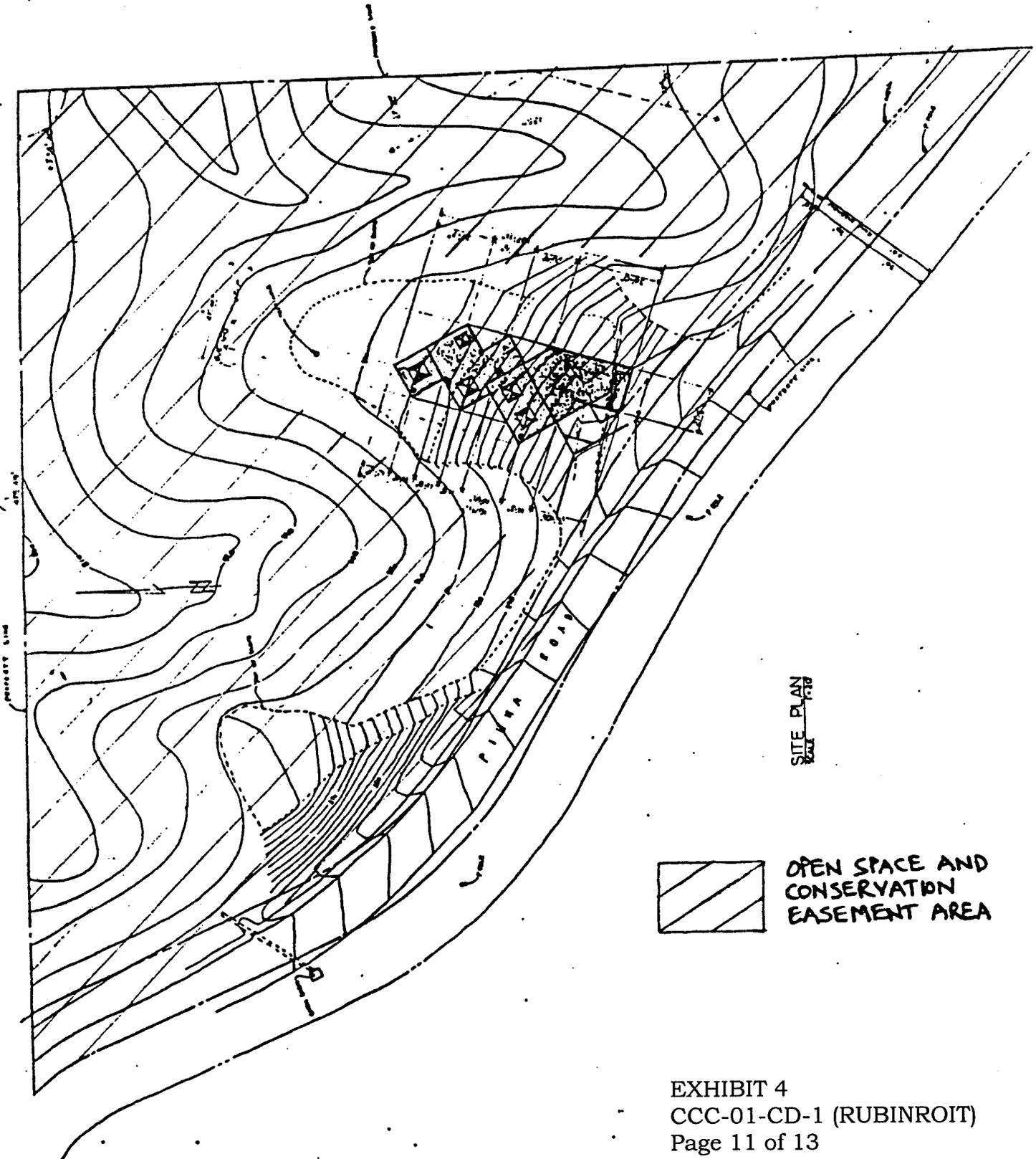
The land referred to in this policy is situated in the County of Los Angeles, State of California, and is described as follows:

That portion of the Northeast quarter of the Northwest quarter of Section 20, Township 1, South, Range 17 West, San Bernardino Meridian, according to the official plat said land approved by the Surveyor General June 20, 1896, described as follows:

Beginning at the Northeast corner of said Northeast quarter of the Northwest quarter; thence along the Northerly line of said Northeast quarter of the Northwest quarter; North  $89^{\circ} 54' 40''$  West 475.49 feet to the center line of Piuma Road (formerly Caol Canyon Road) 60 feet wide, as described in parcel 1 in the deed to the county of Los Angeles, recorded on November 30, 1931, as Instrument No. 954, in Book 11285 Page 87, Official Records of said county; thence Southeasterly along said center line, being a curve concave Southwesterly, (a radial line to said intersection of the Northerly line of the Northeast quarter of the Northwest quarter with said center line bears North  $46^{\circ} 51' 40''$  East) an arc distance of 34.68 feet; thence South  $23^{\circ} 16' 05''$  East, 114.04 feet, tangent to said curve, to the beginning of a tangent curve concave Northeasterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 130.74 feet; thence tangent to said last mentioned curve, South  $60^{\circ} 43' 20''$  East, 134.48 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 36.98 feet; thence tangent to said last mentioned curve, South  $50^{\circ} 07' 45''$  East to the Easterly line of said Northeast quarter of the Northwest quarter; thence Northerly along said Easterly line to the point of beginning.

88-1246285

THE MOORE SPACE  
PLANNING ARCHITECTS  
1700 CALIFORNIA  
AVENUE SUITE 100  
SAN FRANCISCO, CA 94109  
PHONE 415-774-1100  
FAX 415-774-1101  
WWW.MOORESPACE.COM




**OPEN SPACE AND  
CONSERVATION  
EASEMENT AREA**

EXHIBIT 4  
 CCC-01-CD-1 (RUBINROIT)  
 Page 11 of 13

88-1246285

24.

LEGAL DESCRIPTION OF OPEN SPACE

The land referred to in this policy is situated in the County of Los Angeles, State of California, and is described as follows:

That portion of the Northeast quarter of the Northwest quarter of Section 20, Township 1, South, Range 17 West, San Bernardino Meridian, according to the official plat said land approved by the Surveyor General June 20, 1896, described as follows:

Beginning at the Northeast corner of said Northeast quarter of the Northwest quarter; thence along the Northerly line of said Northeast quarter of the Northwest quarter; North 89°54'40" West 475.49 feet to the centerline of Pioma Road (formerly Caol Canyon Road) 60 feet wide, as described in parcel 1 in the deed to the County of Los Angeles, recorded on November 30, 1931, as Instrument No. 954, in Book 11285 Page 87, Official Records of said County; thence Southeasterly along said centerline, being a curve concave Southwesterly, (a radial line to said intersection of the Northerly line of the Northeast quarter of the Northwest quarter with said centerline bears North 46°51'40" East) an arc distance of 34.68 feet; thence South 23°16'05" East, 114.04 feet, tangent to said curve, to the beginning of a tangent curve concave Northeasterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 130.74 feet; thence tangent to said last mentioned curve, South 60°43'20" East, 134.48 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 36.98 feet, thence tangent to said last mentioned curve, South 50°07'45" East to the Easterly line of said Northeast quarter of the Northwest quarter; thence Northerly along said Easterly line to the point of beginning.

Excepting the following:

Beginning at a point in the centerline of Pioma Road at the Southeasterly terminus of that certain curve of radius 200.00 feet and a arc distance of 130.74 feet as described above. Thence along said centerline tangent to said curve South 60°43'20" East, 96.00 feet to the true point of beginning. Thence, North 28°16'37" East, 120.00 feet to a point; thence, North 36°46'37" East, 40.00 feet to a point; thence, North 22°46'37" East, 36.00 feet to a point; thence, North 81°06'37" East, 22.00 feet to a point; thence, South 52°53'23" East, 34.00 feet to a point; thence, South 22°13'23" East, 56.00 feet to a point; thence, South 18°43'23" East, 36.00 feet to a point; thence, South 07°23'23" East, 27.00 to a point; thence South 30°06'37" West, 138.31 feet (more or less) to the centerline of said Pioma Road; thence along said centerline North 50°07'45" West, 60.50 feet (more or less) to the beginning of a tangent curve concave Southwesterly having a radius of 200.00 feet; thence northwesterly along said curve, an arc distance of 36.98 feet; thence tangent to said last mentioned curve, North 60°43'20" West, 38.48 feet to the true point of beginning.

EXHIBIT D

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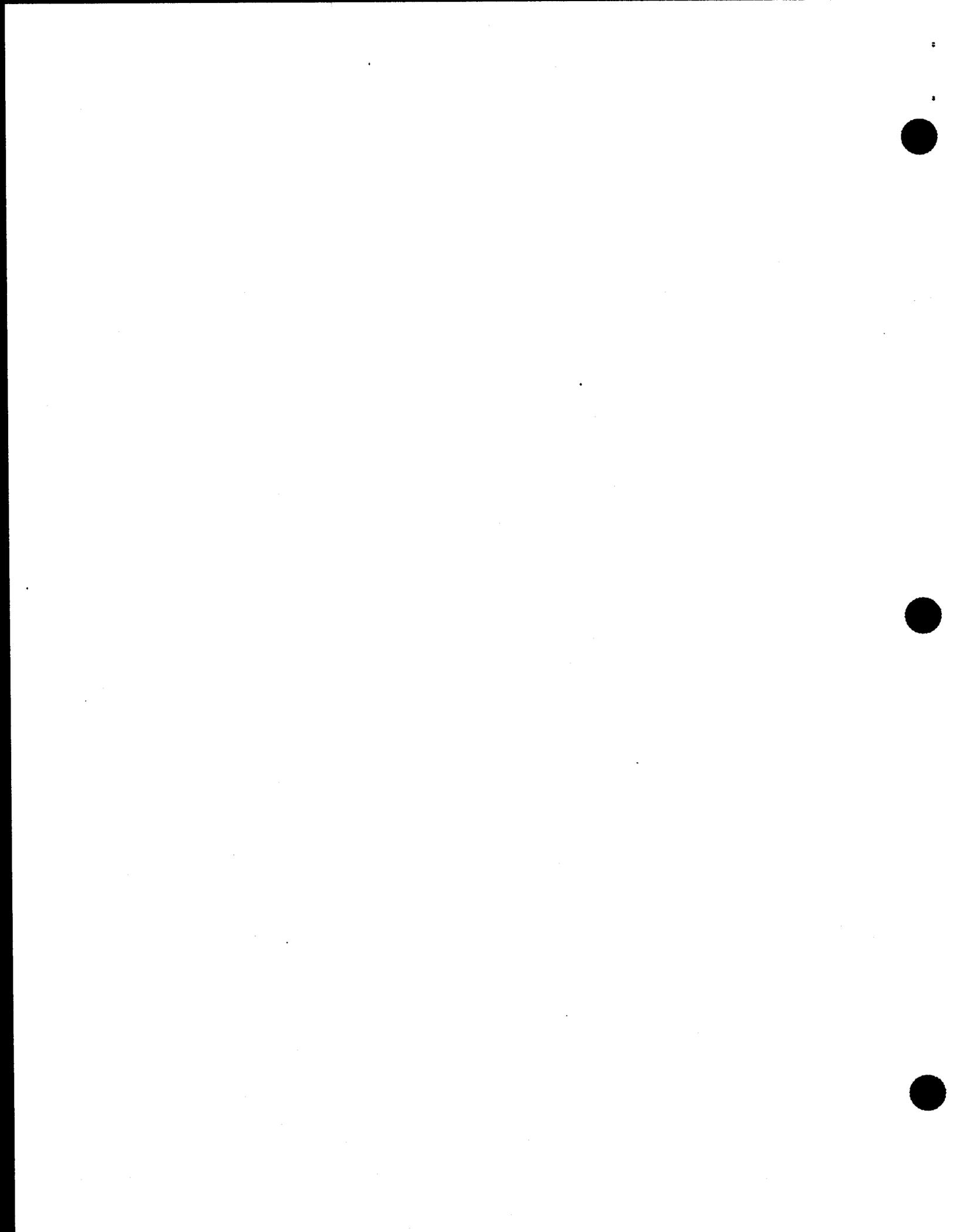
Public Resources Code Section 30106

[30106. Development

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal of harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

88-1246285



88 1246284

DEED RESTRICTION

FEE \$43- F

I. WHEREAS, Jack Moses, Ann-Marie Moses, Ron Landry & Margo Landry  
\_\_\_\_\_, hereinafter referred to as  
Owner(s), is the record owner(s) of the real property located in the County  
of Los Angeles, described in attached Exhibit A, hereby  
incorporated by reference, and hereinafter referred to as the subject  
property; and

II. WHEREAS, the California Coastal Commission is acting on  
behalf of the people of the State of California; and

III. WHEREAS, the subject property is located within the coastal  
zone as defined in Section 30103 of the California Public Resources Code  
(hereinafter referred to as the California Coastal Act); and

IV. WHEREAS, pursuant to the California Coastal Act of 1976, the  
Owner applied to the California Coastal Commission for a coastal development  
permit for the development on the subject property; and

V. WHEREAS, a coastal development permit No. 5-88-056 was  
granted on March 24, 1988 by the California Coastal  
Commission based on the findings adopted by the California Coastal  
Commission attached in Exhibit B and hereby incorporated by reference; and

VI. WHEREAS, coastal development permit No. 5-88-056 was  
subject to terms and conditions including but not limited to the following

//

// GO TO NEXT PAGE

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//

RECORDED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA  
1 MIN.  
PAST 11 A.M. AUG 8 1988

1 condition:

2 Assumption of Risk: Prior to authorization to proceed with development, the  
3 applicant shall execute and record a deed restriction, in a form and content  
4 acceptable to the Executive Director, which shall provide (a) that the applicant  
5 understands that the site may be subject to extraordinary hazard from landslide,  
6 slope failure, and fire, and (b) that the applicant hereby waives any future  
7 claims of liability against the Commission or its successors in interest for  
8 damage from such hazards. The document shall run with the land, binding all  
9 successors and assigns, and shall be recorded free of prior liens and any  
10 other encumbrances which the Executive Director determines may affect the  
11 interest being conveyed.

12 Future Development: Prior to authorization to proceed with development, the  
13 applicant shall execute and record a document, in a form and content acceptable  
14 to the Executive Director, stating that the subject permit is only for the  
15 development described in the coastal development permit No. 5-88-056; and  
16 that any future additions or development as defined in Public Resources Code  
17 Section 30106 will require an amendment to permit 5-88-056, or will require  
18 an additional coastal development permit from the California Coastal Commission  
19 or its successor agency. Clearing of vegetation for fire protection, outside of  
20 on-site drainage courses, as required by the Los Angeles County Fire Marshall  
21 is allowed and shall not require a new permit. The document shall be recorded  
22 as a covenant running with the land binding all successors and assigns in  
23 interest to the subject property.

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VII. WHEREAS, the Commission found that but for the imposition  
of the above condition the proposed development could not be found  
consistent with the provisions of the California Coastal Act of 1976 and  
that a permit could therefore not have been granted; and

VIII. WHEREAS, it is intended that this Deed Restriction is irrevocable  
and shall constitute enforceable restrictions; and

IX. WHEREAS, Owner has elected to comply with the condition  
imposed by Permit No. 5-88-056 so as to enable Owner to undertake the  
development authorized by the permit;

//

1 NOW, THEREFORE, in consideration of the granting of Permit  
2 No. 5-88-056 to the Owner by the California Coastal Commission,  
3 the Owner hereby irrevocably covenants with the California Coastal  
4 Commission that there be and hereby is created the following  
5 restrictions on the use and enjoyment of said subject property, to  
6 be attached to and become a part of the deed to the property. The  
7 undersigned Owner, for himself/herself and for his/her heirs,  
8 assigns, and successors in interest, covenants and agrees that:

- 9 1. (a) The site may be subject to extraordinary hazard from landslide, slope failure  
10 and fire, and (b) that the applicant hereby waives any future claims of liability  
11 against the Commission or its successors in interest for damage from such hazards;  
12 2. The subject permit is only for the development described in the coastal development  
13 permit No. 5-88-056; and that future additions or development as defined in Public  
14 Resources Code Section 30106, hereto attached as exhibit "C" and herein incorporated  
15 by reference, will require an amendment to permit 5-88-056, or will require an addi-  
16 tional coastal development permit from the Coastal Commission or its successor agency.  
17 Clearing of vegetation for fire protection, outside of on-site drainage courses, as  
18 required by the Los Angeles County Fire Marshall is allowed and shall not require a  
19 new permit.

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24 If any provision of these restrictions is held to be invalid  
25 or for any reason becomes unenforceable, no other provision shall  
26 be thereby affected or impaired.

1 Said deed restriction shall remain in full force and  
2 effect during the period that said permit, or any modification  
3 or amendment thereof, remains effective, and during the period  
4 that the development authorized by said permit or any  
5 modification of said development, remains in existence in or  
6 upon any part of, and thereby confers benefit upon, the subject  
7 property described herein, and to that extent, said deed  
8 restriction is hereby deemed and agreed by Owner to be a  
9 covenant running with the land, and shall bind Owner and all  
10 his/her assigns or successors in interest.

11  
12 Owner agrees to record this Deed Restriction in the  
13 Recorder's office for the County of Los Angeles  
14 as soon as possible after the date of execution.

15  
16 DATED: July 16 1988

17  
18 SIGNED: Anh Marie Moses

19  
20 Jack Moses  
Jack Moses & Anh-Marie Moses

21 PRINT OR TYPE NAME OF ABOVE

22  
23 SIGNED: Ronald Landry, Ron Landry

24  
25 Margo Landry  
Ron Landry & Margo Landry

26 PRINT OR TYPE NAME OF ABOVE

27 EXHIBIT 5  
CCC-01-CD-1 (RUBINROIT)  
Page 4 of 8

(NOTARY ACKNOWLEDGMENT ON NEXT PAGE)

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NOTE TO NOTARY PUBLIC: If any party signing the attached subordination agreement is signing on behalf of a corporation, public agency, trust, partnership, etc., please use the proper notary acknowledgement (jurat).

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

On this 16<sup>th</sup> day of JULY, in the year 1988, before me  
JOY. LEES, a Notary Public, personally appeared

RONALD LANDRY & MARGO LANDRY,

personally known to me / proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to this instrument, and acknowledged that he/~~she~~/they executed it.



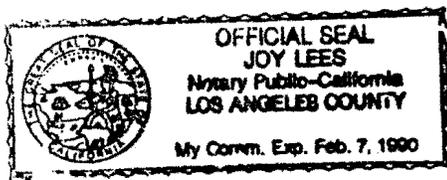
Joy Lees  
NOTARY PUBLIC IN AND FOR SAID  
COUNTY AND STATE

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

On this 16<sup>th</sup> day of JULY, in the year 1988, before me  
JOY LEES, a Notary Public, personally appeared

JACK MOSES AND ANN-MARIE MOSES,

personally known to me / proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to this instrument, and acknowledged that he/~~she~~/they executed it.



Joy Lees  
NOTARY PUBLIC IN AND FOR SAID  
COUNTY AND STATE

1 This is to certify that the deed restriction set forth above is hereby  
2 acknowledged by the undersigned officer on behalf of the California Coastal  
3 Commission pursuant to authority conferred by the California Coastal  
4 Commission when it granted Coastal Development Permit No. 5-88-056 on  
5 March 24, 1988 and the California Coastal Commission consents to  
6 recordation thereof by its duly authorized officer.

7 Dated: July 29, 1988

8 John Bowers  
9 John Bowers, Staff Counsel

10 California Coastal Commission

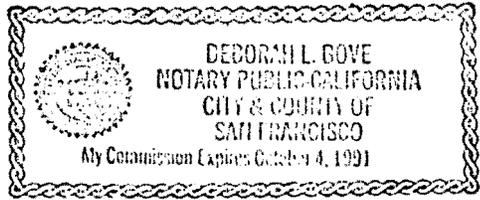
11  
12 STATE OF California )  
13 ) ss

14 COUNTY OF San Francisco

15  
16 On July 29, 1988, before me DEBORAH L. BOVE,  
17 a Notary Public, personally appeared JOHN BOWERS, personally  
18 known to me to be to be the person who executed this instrument as the  
19 STAFF COUNSEL and authorized representative of the California

20 TITLE

21 Coastal Commission and acknowledged to me that the California Coastal  
22 Commission executed it.



27  
Deborah L. Bove  
Notary Public in and for said  
County and State

EXHIBIT A  
Property

The land referred to in this policy is situated in the County of Los Angeles, State of California, and is described as follows:

That portion of the Northeast quarter of the Northwest quarter of Section 20, Township 1, South, Range 17 West, San Bernardino Meridian, according to the official plat said land approved by the Surveyor General June 20, 1896, described as follows:

Beginning at the Northeast corner of said Northeast quarter of the Northwest quarter; thence along the Northerly line of said Northeast quarter of the Northwest quarter; North  $89^{\circ} 54' 40''$  West 475.49 feet to the center line of Pioma Road (formerly Caol Canyon Road) 60 feet wide, as described in parcel 1 in the deed to the county of Los Angeles, recorded on November 30, 1931, as Instrument No. 954, in Book 11285 Page 87, Official Records of said county; thence Southeasterly along said center line, being a curve concave Southwesterly, (a radial line to said intersection of the Northerly line of the Northeast quarter of the Northwest quarter with said center line bears North  $46^{\circ} 51' 40''$  East) an arc distance of 34.68 feet; thence South  $23^{\circ} 16' 05''$  East, 114.04 feet, tangent to said curve, to the beginning of a tangent curve concave Northeasterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 130.74 feet; thence tangent to said last mentioned curve, South  $60^{\circ} 43' 20''$  East, 134.48 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 36.98 feet; thence tangent to said last mentioned curve, South  $50^{\circ} 07' 45''$  East to the Easterly line of said Northeast quarter of the Northwest quarter; thence Northerly along said Easterly line to the point of beginning.

EXHIBIT C

Public Resources Code Section 30106

[30106. Development

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal of harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Rejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

88-1246284

88-056

## FUEL MODIFICATION AND LANDSCAPE PLANS

### Fire Hazard Reduction Requirements:

1. CLEAR all hazardous flammable vegetation to mineral soil for a distance of 30 feet from any structure. Cut flammable vegetation to a height of 18 inches for another 70 feet.

Exception: This does not apply to single specimens of trees, ornamental shrubbery or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground cover, provided that they do not form a means or readily transmitting fire from native growth to any structure. Greater clearances may be required by the administrative authority.

2. It is the intent of the fuel modification plan to avoid vegetation clearance in any designated "OPEN SPACE" area as shown on the attached site plan including the drainage courses to the west and east of the building pad.

### Grading, Drainage and Landscape Plans:

1. All construction slopes are to be protected from erosion by the planting of ground cover, shrubs and trees as noted in the attached "Standard Specifications For Hillside Planting" which is designed to implement the requirements of the Los Angeles County Building Code.

2. Existing drainage courses located east and west of the project site shall remain unaffected by this construction. Surface waters around the building site shall be collected and diffused as necessary into energy-dissipating drainage devices as shown on the attached diagram.

3. Landscaping of the project site shall include the planting of shrubs and/or trees in the locations shown on the site plan in the manner specified from the attached "Standard Specifications For Hillside Planting". The intent of this landscaping is to screen and/or soften the visual impact of the development.

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142

**CERTIFIED MAIL**

June 19, 1997

Howard and Terry Rubinroit  
25351 Piuma Road  
Calabasas, CA 91302

Violation File Number: V-4-MAL-97-31

Property Location: 25351 Piuma Road

Re: Non-compliance with Coastal Development Permit 5-88-056

Dear Mr. Rubinroit:

Our office has confirmed that development undertaken on your property does not fully comply with the terms and conditions of previously issued coastal development permit 5-88-056. The unauthorized development includes construction of a tennis court in an area designated as "open space" land and excess removal of vegetation.

The Coastal Commission issued coastal development permit 5-88-056 on March 24, 1988 for a single family residence at 25351 Piuma Road in Los Angeles County. Standard Condition 3 attached to your permit states:

*All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.*

In addition, Special Condition 2 of your permit requires that landscape plans are approved prior to any development. Within the approved landscape plans, removal of vegetation to mineral soil is allowed to a maximum of 30 feet from any structure and construction slopes are to be protected from erosion by the planting of ground cover. However, the removal of vegetation on your property exceeds the amount allowed on the permit. According to Special Condition 4 of your Coastal Development Permit an irrevocable offering of open space is required for Environmentally Sensitive Habitat Area resource. The Declaration of Restrictions of an open space easement states:

*No development including but not limited to removal of trees and other major native vegetation, grading, paving, installation of structures such as signs, buildings, etc. shall be allowed on the Protected Land.*

Your tennis court appears to lie within the area dedicated for open space which is a violation of your permit.

Please be advised that non-compliance with the terms and conditions of an approved permit constitutes a violation of the Coastal Act. Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, Coastal Act section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1000 nor more than \$15,000 for each day in which the violation persists.

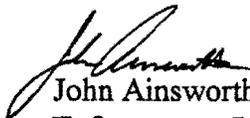
Although you are entitled to submit a permit application for this project, this development or activity does not appear to be consistent with the terms and special conditions of your Coastal Development Permit. Section 13166 of the California Code of Regulations states:

*An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit...*

As such our staff could reject an amendment to retain development. Therefore, in order to avoid a delay in resolution of this violation we are requesting that you please submit a completed Coastal Permit Application for the removal of the tennis court and the restoration of the site of the unpermitted development to this office by July 24, 1997. If we do not receive a coastal development permit application by July 24, 1997, we will be forced to proceed with enforcement action which could include a referral of this matter to our Statewide Enforcement Unit in San Francisco for further legal action.

Thank you for your anticipated cooperation.

Sincerely,

  
John Ainsworth  
Enforcement Supervisor

  
Sue Brooker  
Enforcement Assistant

encl: CDP Application, waiver

File: rubinroit.doc/

EXHIBIT 7  
CCC-01-CD-1 (RUBINROIT)  
Page 2 of 2

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200

**REGULAR AND CERTIFIED MAIL** (Article No. P 121 002 771 )

October 9, 1998

Howard J. Rubinroit  
Sidley & Austin  
555 West Fifth Street  
Los Angeles, CA 90013

**SUBJECT: Notice of Intent to commence Cease and Desist Order proceedings;—  
Coastal Act Violation File No. V-4-MAL-97-31**

Dear Mr. Rubinroit:

This letter is to notify you of the intent of the California Coastal Commission to commence Cease and Desist Order proceedings as a consequence of unpermitted development activities on your property (APN 4456-37-007) at 25351 Piuma Road in Calabasas, Los Angeles County.

The above-referenced violation file concerns development (as that term is defined in section 30106 of the Coastal Act) that is inconsistent with the permitting requirements contained in section 30600 of the California Coastal Act. This development consists of construction of a "sports court," a swimming pool, and a retaining wall. These developments were not authorized by previously issued Coastal Development Permit (CDP) No. 5-88-056 or by any subsequent CDP or permit amendment.

We have previously indicated to you that the sports court requires a CDP, and that your failure to apply for and obtain after-the-fact permit approval for this unauthorized development activity constitutes a violation of the Coastal Act. By letters to you dated June 19, 1997, September 15, 1997, October 8, 1997, January 29, 1998, and August 13, 1998, and telephone conversations with you on July 8, 1997, and October 6, 1997, Commission staff recommended that you resolve this matter administratively by submitting an application for a coastal development permit for the removal of the unpermitted sports court and the restoration of the site. As of the date of this notice, you have failed to submit a coastal development permit application to either remove or retain the unpermitted sports court.

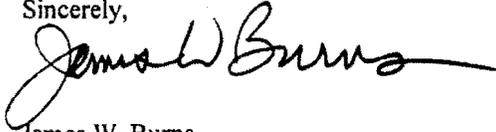
Recently we discovered that you also have constructed a swimming pool and a retaining wall on your property. As is the case with the sports court, these activities must be permitted by the Commission. Your failure to obtain a CDP for these activities as well causes us to include the swimming pool and the retaining wall within the scope of the Cease and Desist Order in which the proceedings initiated by this letter may result.

Our last letter to you, dated August 13, 1998 (enclosed), informed you that if you failed to submit a CDP application for removal of the sports court and restoration of the site, Commission staff would initiate Cease and Desist Order proceedings. Therefore, by this letter, Commission staff is notifying you of its intent to commence a proceeding to recommend that the Commission issue a Cease and Desist Order pursuant to Public Resources Code section 30810. The order would require that you cease and desist from 1) engaging in any further development activity at the property without first obtaining a coastal development permit or permit amendment that authorizes such activity, and 2) continuing to maintain any development on the property that violates the Coastal Act.

EXHIBIT 8  
CCC-01-CD-1 (RUBINROIT)  
Page 1 of 2

In accordance with the Commission's regulations, you have the opportunity to respond to the staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. California Code of Regulations, Title 14, Section 13181(a) requires the return of a completed Notice of Defense form. The completed Statement of Defense form must be received by this office no later than November 6, 1998. Should you have any questions, please contact Mary Travis at (415) 904-5294.

Sincerely,



James W. Burns  
Chief Deputy Director

Enclosures

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



November 13, 1998

Howard J. Rubinroit  
555 West Fifth Street  
Los Angeles, CA 90013

Violation File Number: V-4-MAL-97-31  
Property Location: 25351 Piuma Road, Calabasas; Los Angeles County  
APN 4456-37-007  
Violation Description: Unpermitted construction of a "sports court," a swimming pool, and retaining walls

Dear Mr. Rubinroit:

Thank you for talking with Nancy Cave and me yesterday about reaching an amicable resolution to the above-referenced violation case. This letter will confirm the outcome of our telephone conversation. You agreed that you would proceed with filing a coastal development permit application for "after the fact" approval of the unpermitted developments that are the subject of the violation investigation ("fencing and decking," a.k.a. "sports court" or "children's play court," swimming pool, and retaining walls). We agreed that we would postpone our cease and desist proceeding to allow you time to file a complete application. You agreed to a filing deadline of four weeks; in other words, you will submit a CDP application to the South Central Coast Area Office by **December 11, 1998**.

We have made this agreement with the understanding that we will be willing to grant you an extension if you demonstrate a good-faith effort to file on time, but that if you fail to meet the deadline or to demonstrate a good-faith effort to do so, we will proceed with a cease and desist order hearing at the January 1999 Commission meeting. We have explained to you that we cannot guarantee approval of your developments, or of every aspect of your developments. Staff cannot guarantee any applicant in advance of receiving a filed application that we will recommend approval of a CDP application, nor can staff presume to speak for the Commission, which may accept or reject staff recommendations on a specific CDP application.

In response to points you raised in your Statement of Defense, we attempted to explain the after-the-fact permit process and clarify statements we had made in past communications with you. When we advised you that "staff most likely would recommend denial of a request to retain" the sports court, we were trying to give you advance notice that we thought your proposed project appeared inconsistent with Chapter 3 of the Coastal Act, and that you risked expending your time, energy, and money in vain. We did not intend to suggest that you do not have the right to file an application to retain; you have the right to file for any proposed development. Nor did we intend to suggest that such an application would automatically be denied because the development had been done in violation of the Coastal Act. While we cannot guarantee approval, we can guarantee a fair process. Staff will base its review of any application you submit solely on the proposed project's consistency with the Chapter 3 policies of the Coastal Act. The fact that these developments already were built and are the subject of a violation investigation will be included in the staff report to the Commission, but will not prejudice either staff review or the Commission's decision. Finally, by filing an application, you do not waive your right to claim that a CDP is not required. I would suggest that you make that argument in a cover letter that you include with your completed application at the time of filing. You also have the right to protest any term or condition attached to your permit.

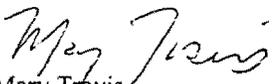
You requested that I send you a permit application. Unfortunately, our office seems to be out of applications for the South Central Coast Area. I have already asked Sue Brooker of our Ventura office to send you an application. I do enclose a copy of the recorded offer to dedicate, which has among its attachments the adopted findings for CDP No. 5-88-056. I also enclose a copy of the deed restriction recorded pursuant to that CDP.

In your Statement of Defense you argue that the work you have done on your property comprises "improvements" that are exempt from permit requirements. I refer you to the language regarding "future development" in the deed restriction, which specifies that "any future additions *or development* as defined in Public Resources Code Section 30106 ...will require an amendment...or...an additional coastal development" (emphasis added). Similarly, the offer to dedicate states that "no development as defined in (P.R.C. Section) 30106" shall occur on the open space easement "except as approved by the Coastal Commission." Please note that "improvements" still constitute "development" under section 30106. When approving a permit in an area where there is concern about a resource issue, the Commission frequently attaches "future development" conditions specifically to ensure that it will be able to review any future development at a given property, even development that would otherwise be exempt.

Upon receiving this letter, you should contact either Jack Ainsworth or Sue Brooker at the Coastal Commission's South Central Coast Area Office (805/641-0142) to schedule a pre-application filing meeting. They will discuss with you the specific materials you need to include with your application and give you any guidance you need on how to proceed.

If you have any questions about or comments on the contents of this letter, please feel free to call me at (415) 904-5294. Thank you again for your cooperation in resolving this matter.

Sincerely,

  
Mary Travis  
Statewide Enforcement Analyst

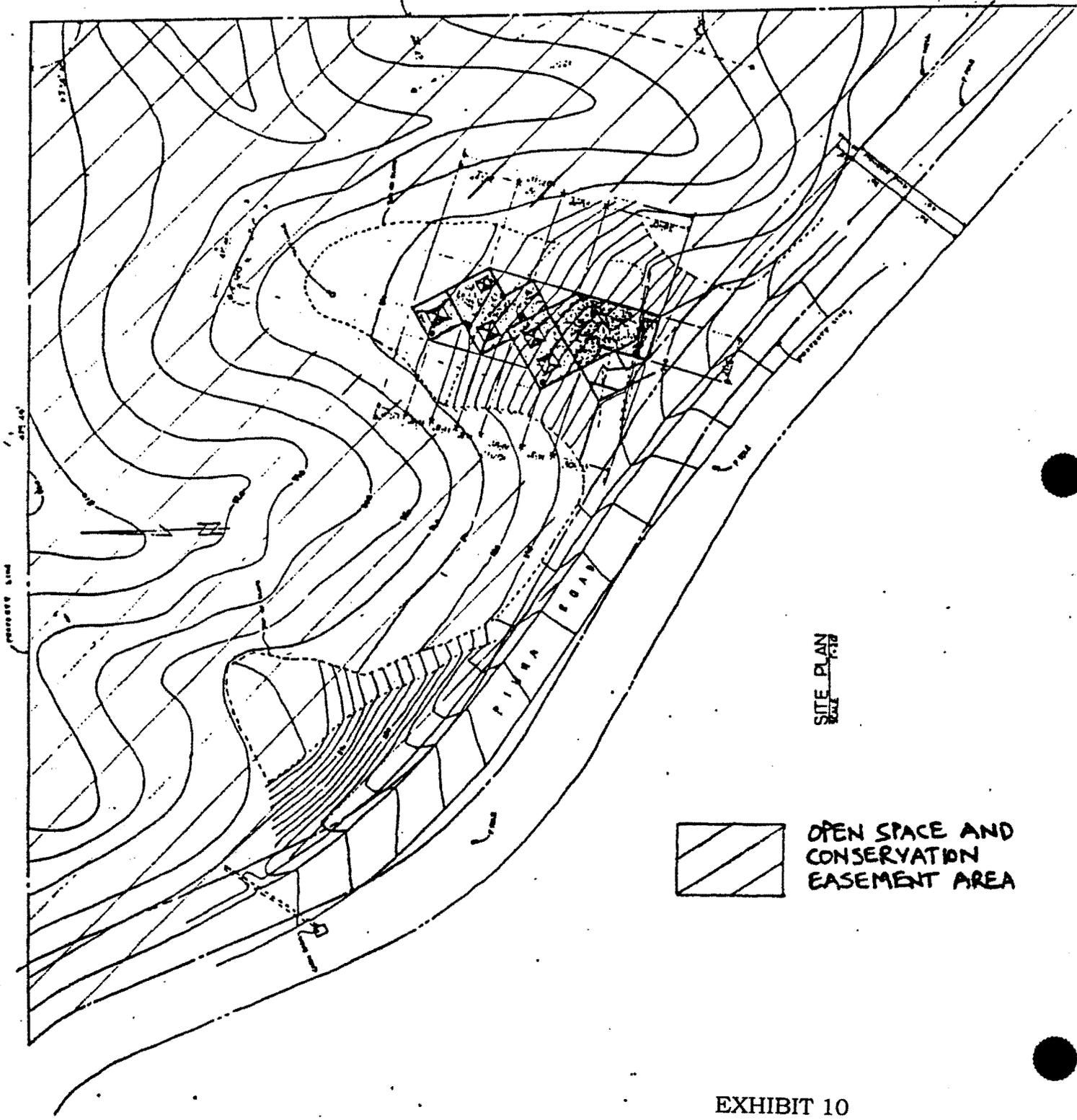
Enclosures

cc: Nancy L. Cave, Supervisor, Statewide Enforcement Program  
John Ainsworth, Enforcement Supervisor, South Central Coast Area Office  
Sue Brooker, Enforcement Officer, South Central Coast Area Office

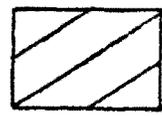
19

THE ABOVE OFFICE  
1151 PAVANA BOUL  
MANTUA, CALIFORNIA  
M.F.E. ASSOCIATE, INC.  
2222 WILLY AVENUE  
EMERY PARK, CALIFORNIA  
PHONE: 415-952-1521  
DATE: 10/2/87

RECORDER'S MEMO:  
POOR RECORD IS DUE TO  
QUALITY OF ORIGINAL DOCUMENT



SITE PLAN  
SCALE 1"=100'



OPEN SPACE AND  
CONSERVATION  
EASEMENT AREA

88-1246284

EXHIBIT 10  
CCC-01-CD-1 (RUBINROIT)



CALABASAS/MALIBU  
4111 LAS VIRGENES  
CALABASAS CA

Phone: (818) 880-4150 Ext:

ISSUED ON: 02/22/96  
 PROCESSED BY: SH  
 FINAL DATE: 5-29-96  
 VALUATION: 30,000  
 FEES PAID:  
 FEE DESCRIPTION: QUANTITY: UNIT:  
 14 0000 POOL PLUMBING 30000.00 VALUATION  
 02 0000 PERMIT INSURANCE FEE 30000.00 VALUATION  
 06 0000 POOL PERMIT 30000.00 VALUATION  
 08 0000 STRONG MOTION RESID 30000.00 VALUATION  
 TOTAL FEES

# COMBINATION SWIMMING POOL

CP 0910 9511070001

BUILDING ADDRESS: 25351 PILMA RD N CLUBS CA 91302	LEGAL ID: ON FILE	CONTRACTOR: COMTEPRO 654 N. SEPULVEDA BLVD LOS ANGELES CA 90049	TEL. NO: TEL. NO: (818) 476-3675 LIC. NO: 518132
LOCALITY: CALABASAS	ASSR INFO NBR: 4456-087-007	APPLICANT: TERRY RUBINROIT 25351 PILMA RD CALABASAS CA 91302	TEL. NO: TEL. NO: (818) 222-4431
NEAREST CROSS STREET: 02RD CYN	OWNER: RUBINROIT, KENNEDY 25351 PILMA RD	ARCHITECT OR ENGINEER: GORDMAN, MERRIN 14401 SYLVAN ST VAN NUYS CA	TEL. NO: TEL. NO: (818) 785-3387 LIC. NO: FE 1155
ALIAS:	TEL NO:	LOT SIZE: 60. FT. SIZE: 432 USE ZONE: A-1 STATISTICAL CLASS: 31 CONSTR. TYPE: Y	POOL TYPE: RESIDENTIAL/SPA
		SPECIAL CONDITIONS: GE/SOIL APPROVED 2-22-96/VD 11-16-95/FC 1-25-96	
		DESCRIPTION OF WORK: INSTALL NEW SWIMMING POOL	
REQUIRED SET BACK	YARD:	HWY:	TOTAL SETBACK FROM EXIST PROP LINE
FRONT PL-SIDE PL-	20	10	30
			60

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Date 2-27-96 Applicant Contempo Pools

**WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.**

### CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3997, Civ. C.)

Lender's Name

Lender's Address

I certify that I have read this application and note under the penalty of perjury that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-named property for inspection purposes.

Marty Sata  
 Signature of Applicant or Agent  
 Date 2-27-96

Complete this section for permits in unincorporated Los Angeles County only

### LOBBYIST ORDINANCE CERTIFICATION

This is to certify that I, as permit applicant, am familiar with the requirements of Los Angeles County Code Chapter 2.160 et seq., pertaining to the Los Angeles County Lobbyist Ordinance and that all persons acting on behalf of project completed and will continue to comply therewith through the application process.

Martha Esterline  
 Applicant (Print Name)  
Contempo Pools  
 App (and Agency) Signature  
 Date 2-27-96

Date

Method of Sewage Disposal approved. This approval relates only to the minimum requirements of the Plumbing Code and does not include an evaluation of geological problems.

*Paula Hittler*  
County of Los Angeles  
Department of Health Services

*Pool & Spa Addition*  
This Approval Expires One Year From the Above Date.

ADDRESS: 25381 PINNACLE

NEW  REMODEL

STORM DAMAGE  BURN-OUT

SYSTEM FAILURE / ADDITION

NO. SEPTICMS / F. U. \_\_\_\_\_

SEPTIC TANK SIZE \_\_\_\_\_

PRESENT: \_\_\_\_\_

FUTURE: \_\_\_\_\_

SYSTEM ADDITION \_\_\_\_\_

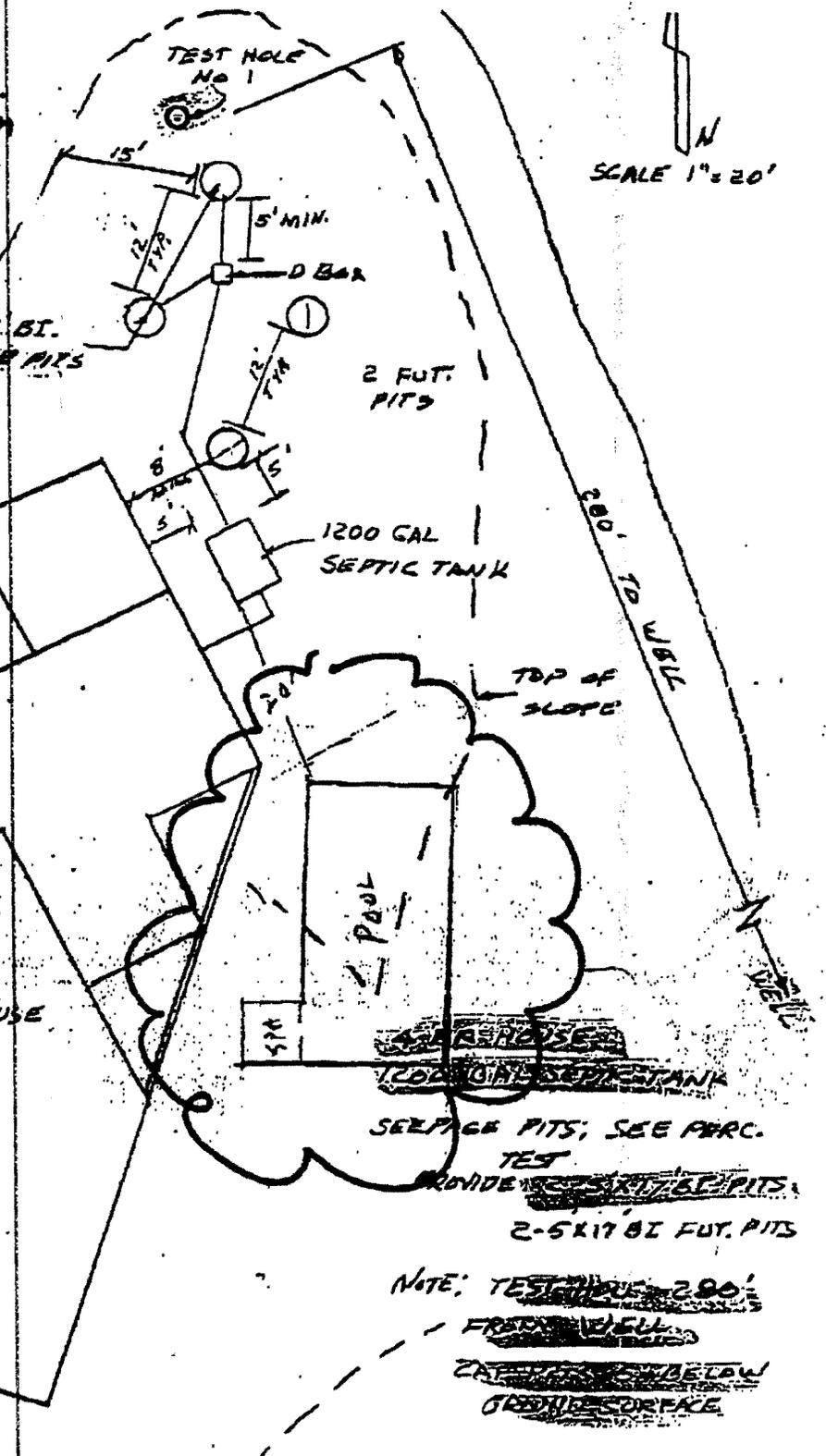
PERC. RATE / CAT. \_\_\_\_\_

SPECIAL NOTES / REQUIREMENTS

*\* Pool & Spa Addition*

*ONLY*

3-5X17 FT. SEE PAGE PITS



**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142



December 21, 1998

Howard Rubinroit  
555 West Fifth Street  
Los Angeles, CA 90013

Violation File Number: V-4-MAL-97-031  
Property Location: 25351 Piuma Road, Calabasas; Los Angeles County  
APN 4456-037-007  
Violation Description: Unpermitted construction of a "sports court," swimming pool, and retaining walls

Dear Mr. Rubinroit

This letter is in regards to our telephone conversation on December 9, 1998 regarding the above-referred alleged violation. After speaking with John Bowers and Mary Travis from our legal department, you have agreed to submit two separate coastal development permit applications. One application will be for the after-the-fact approval for the construction of a retaining wall and swimming pool. The second application is for the after-the-fact approval for the "sports court" area.

During our conversation you asked if the first application for the swimming pool and retaining walls could be processed as a permit waiver. As I have explained, once our office receives all of the information for the proposed development including site plans, a current geology report, and proof of local approval, Commission staff can determine if the proposed project will qualify as a waiver under 14 California Code of Regulations.

In response to your request for an extension from your December 11, 1998 deadline, we have extended your deadline for submittal of an application until January 15, 1998. However, I would like to remind you that failure to meet the deadline or to demonstrate a good-faith in going so, will result in proceeding with the Commission's cease and desist order hearing.

If you have any questions regarding the coastal development permit application please contact our office at (805) 641-0142.

Sincerely,

A handwritten signature in cursive script that reads "Sue Brooker".

Sue Brooker  
Coastal Program Analyst

File: smb/tr/ Rubinroit 12-21-98.doc

EXHIBIT 13  
CCC-01-CD-1 (RUBINROIT)

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200

**REGULAR AND CERTIFIED MAIL (Article No. Z 210 986 709)**

January 2, 2001

Howard & Terry Rubinroit  
c/o Howard J. Rubinroit  
Sidley & Austin  
555 West Fifth Street  
Los Angeles, CA 90013

**SUBJECT: Notice of Intent to commence Cease and Desist Order proceedings;  
Coastal Act Violation File No. V-4-97-31**

Dear Mr. Rubinroit:

*This letter is to notify you of the intent of the California Coastal Commission to commence Cease and Desist Order proceedings as a consequence of unpermitted development activities on your property (APN 4456-37-007) at 25351 Piuma Road in Calabasas, Los Angeles County.*

**History of the Violation Investigation**

The above-referenced violation file concerns development (as that term is defined in section 30106 of the Coastal Act) that is inconsistent with the permit requirements of section 30600 of the California Coastal Act. This development consists of construction of a "sports court" (decking and fencing), swimming pool, and retaining wall. The development occurred in 1996 and was not authorized by previously issued Coastal Development Permit (CDP) No. 5-88-056 or by any subsequent CDP or permit amendment.

As we have previously indicated to you, construction of the "sports court," swimming pool, and retaining wall required a CDP, and your failure to obtain a CDP prior to construction constitutes a violation of the Coastal Act. By letters to you dated June 19, 1997, September 15, 1997, October 8, 1997, January 29, 1998, August 13, 1998, and on October 9, 1998, and in numerous telephone conversations since June 1997, Commission staff informed you that you could resolve this matter without further enforcement actions by submitting an application for a CDP for the removal of all unpermitted development on the site and the restoration of the site and by implementing an approved permit for such removal and restoration. Staff also informed you that you had the option of applying for an after-the-fact (ATF) permit to retain the development. You failed to submit a CDP application for either removal or retention of the subject unpermitted development.

As a consequence of this failure, on October 9, 1998, Commission staff sent you a letter notifying you of our intent to schedule a hearing for the purpose of issuing a cease and desist order against you. On November 12, 1998, you requested a postponement of the impending hearing to enable

you to submit to the Commission by December 11, 1998, a complete CDP application for retention of all unpermitted development.

On December 9, 1998, you informed Commission staff of your intent to file two CDP applications, one for retention of the "sports court" and the other for retention of the swimming pool and retaining wall. This conversation was memorialized in a letter to you dated December 21, 1998, wherein Commission staff granted you a time extension until January 15, 1999 to file both CDP applications.

On January 29, 1999 you submitted to the Commission two incomplete permit applications: CDP 4-99-023 for retention of the sports court, and CDP 4-99-024 for retention of the swimming pool, and retaining wall<sup>1</sup>. On February 25, 1999 Commission staff sent you two "incomplete filing" letters (one for each application) notifying you of nine additional materials and pieces of information that you needed to submit to complete the filing of your applications<sup>2</sup>. Each of these letters gave you until March 24, 1999 to submit the additional items. You did not submit the required items.

As of September 2000, you still had not submitted the required items. Therefore, on September 7, 2000, Commission staff sent you two additional letters reiterating the earlier nonfiling letters and again identifying the nine materials and pieces of information that are required in order for each application to be deemed complete. Each of these letters gave you until December 6, 2000 to submit the additional items.

In a phone conversation with Commission staff on December 1, 2000, you stated that you had no intention of completing either CDP application.

As a result of your violations of the permit requirement of the Coastal Act, and your subsequent failure to submit complete ATF, CDP applications for all the cited unpermitted development on your property, Commission staff is moving forward with proceedings for the Commission to issue pursuant to Coastal Act section 30810 a Cease and Desist Order to resolve the subject violation.

### **Steps in the Cease and Desist Order Process**

Pursuant to Coastal Act section 30810, the Commission has the authority to issue an order directing any person to cease and desist if the Commission, after a public hearing, determines that such person has engaged in "any activity that requires a permit from the commission without securing one." Additionally, pursuant to section 30810(b), the cease and desist order may be

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<sup>1</sup> Between February 25, 1999 and September 20, 2000 Commission staff discovered an unpermitted carport on the subject property.

<sup>2</sup> CDP applications 4-99-023 & 4-99-024 each need the following pieces of information before the applications can be deemed complete: 1) filing fee of \$1,200; 2) a complete list of property owners within 100 feet of your property; 3) two sets of site plan drawings; 4) two sets of detailed grading plans; 5) two copies of comprehensive, current geological and soils reports; 6) a current LA Co. "approved" geologic review sheet; 7) the "Approval in Concept" form completed by the local planning department; 8) a set of 8 ½ by 11 inch copies of the blueprint size, drawings of the project; and 9) a mapped survey of the property preformed by a licensed surveyor which indicates the location of the development and the location of the property that is subject to the irrevocable offer to dedicate an open space easement.

subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including immediate removal of any development or material.

An order issued pursuant to section 30810 would require that you: 1) refrain from engaging in any further development activities on your property without a CDP; and 2) submit a complete CDP application to the Coastal Commission's South Central District Office requesting a permit either to retain the existing unpermitted development, or to remove existing development and restore the site to its pre-violation condition within a specified period of time.

Please be advised that if the Commission issues a cease and desist order, section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order for each day in which the violation persists.

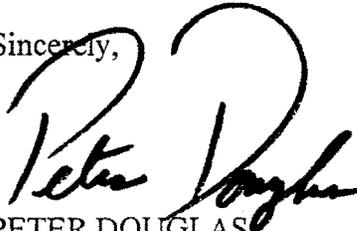
**The Commission intends to hold a hearing on the issuance of a cease and desist order in this matter no later than the Commission meeting that is scheduled for March 13-16, 2001.**

In accordance with the California Code of Regulations, Title 14, section 13181(a), you have the opportunity to respond to the Commission staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. **The completed Notice of Defense form must be returned to this office no later than January 31, 2001.**

#### **Options for Resolving this Violation**

You can prevent this hearing from taking place by submitting the materials and information required by the staff's nonfiling letters to our Ventura Office prior to the scheduled date of the cease and desist order hearing. Alternatively, you can file a complete application to remove the unpermitted development and restore the site to its pre-violation condition. A CDP is required if you propose to remove cited unpermitted development because removal constitutes "development" as defined in section 30106 of the Coastal Act. The Commission must review any proposed removal project to ensure that it is consistent with the resource protection policies contained in the Coastal Act. For CDP filing requirements or questions about the additional materials and information required to complete your submitted applications, please contact John Ainsworth in our Ventura Office at (805) 641-0142.

Sincerely,



PETER DOUGLAS  
Executive Director

cc: Amy Roach, Chief of Enforcement  
Jan E. Perez, Statewide Enforcement Analyst  
John Ainsworth, South Central Enforcement Program Supervisor  
Tom Sinclair, South Central Enforcement Analyst  
Sabrina Tilles, South Central Coastal Program Analyst

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200

**STATEMENT OF DEFENSE FORM**

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE YOU COMPLETE THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by either a cease and desist order issued by the executive director or a notice of intent to initiate cease and desist order proceedings before the commission. This document indicates that you are or may be responsible for or in some way involved in either a violation of the commission's laws or a commission permit. The document summarizes what the (possible) violation involves, who is or may be responsible for it, where and when it (may have) occurred, and other pertinent information concerning the (possible) violation.

This form requires you to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. This form also requires you to enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You should complete the form (please use additional pages if necessary) and return it **no later than January 31, 2001** to the Commission's enforcement staff at the following address:

**Jan E. Perez, Legal Division,  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105**

If you have any questions, please contact **Jan E. Perez** at (415) 396-9708.









SIDLEY & AUSTIN  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

CHICAGO  
DALLAS  
NEW YORK  
SEATTLE  
WASHINGTON, D.C.

555 WEST FIFTH STREET  
LOS ANGELES, CALIFORNIA 90013-1010  
TELEPHONE 213 896 6000  
FACSIMILE 213 896 6600

HONG KONG  
LONDON  
SHANGHAI  
SINGAPORE  
TOKYO

FOUNDED 1866

WRITER'S DIRECT NUMBER  
(213) 896-6602

WRITER'S E-MAIL ADDRESS  
hrubinro@sidley.com

February 5, 2001

By Federal Express

Mr. Abe Doherty  
Statewide Enforcement Analyst  
California Coastal Commission  
45 Fremont Suite 2000  
San Francisco, California 94105-2219

RECEIVED  
FEB 06 2001

CA COASTAL COMMISSION  
LEGAL DIVISION

Re: Violation File Number: V-4-97-031  
Property Location: 24351 Piuma Road, Calabasas, Los Angeles  
County  
Violation Description: Unpermitted construction of a "sports court"

Dear Mr. Doherty:

Responding to staff's January 31, 2001 letter to me, I am enclosing herewith a Statement of Defense form prepared and executed by me, along with the designated exhibits. My wife and I have been and remain perfectly interested in resolving this matter amicably. I look forward to further hearing from you.

Very truly yours,

  
Howard J. Rubinroit

HJR:wg  
Encl.

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



REGULAR AND CERTIFIED MAIL (Article No. Z 210 986 709)

January 2, 2001

RECEIVED  
FEB 06 2001

Howard & Terry Rubinroit  
c/o Howard J. Rubinroit  
Sidley & Austin  
555 West Fifth Street  
Los Angeles, CA 90013

CA COASTAL COMMISSION  
LEGAL DIVISION

**SUBJECT: Notice of Intent to commence Cease and Desist Order proceedings;  
Coastal Act Violation File No. V-4-97-31**

Dear Mr. Rubinroit:

*This letter is to notify you of the intent of the California Coastal Commission to commence Cease and Desist Order proceedings as a consequence of unpermitted development activities on your property (APN 4456-37-007) at 25351 Piuma Road in Calabasas, Los Angeles County.*

#### **History of the Violation Investigation**

The above-referenced violation file concerns development (as that term is defined in section 30106 of the Coastal Act) that is inconsistent with the permit requirements of section 30600 of the California Coastal Act. This development consists of construction of a "sports court" (decking and fencing), swimming pool, and retaining wall. The development occurred in 1996 and was not authorized by previously issued Coastal Development Permit (CDP) No. 5-88-056 or by any subsequent CDP or permit amendment.

As we have previously indicated to you, construction of the "sports court," swimming pool, and retaining wall required a CDP, and your failure to obtain a CDP prior to construction constitutes a violation of the Coastal Act. By letters to you dated June 19, 1997, September 15, 1997, October 8, 1997, January 29, 1998, August 13, 1998, and on October 9, 1998, and in numerous telephone conversations since June 1997, Commission staff informed you that you could resolve this matter without further enforcement actions by submitting an application for a CDP for the removal of all unpermitted development on the site and the restoration of the site and by implementing an approved permit for such removal and restoration. Staff also informed you that you had the option of applying for an after-the-fact (ATF) permit to retain the development. You failed to submit a CDP application for either removal or retention of the subject unpermitted development.

As a consequence of this failure, on October 9, 1998, Commission staff sent you a letter notifying you of our intent to schedule a hearing for the purpose of issuing a cease and desist order against you. On November 12, 1998, you requested a postponement of the impending hearing to enable

EXHIBIT 15  
CCC-01-CD-1 (RUBINROIT)  
Page 2 of 38

you to submit to the Commission by December 11, 1998, a complete CDP application for retention of all unpermitted development.

On December 9, 1998, you informed Commission staff of your intent to file two CDP applications, one for retention of the "sports court" and the other for retention of the swimming pool and retaining wall. This conversation was memorialized in a letter to you dated December 21, 1998, wherein Commission staff granted you a time extension until January 15, 1999 to file both CDP applications.

On January 29, 1999 you submitted to the Commission two incomplete permit applications: CDP 4-99-023 for retention of the sports court, and CDP 4-99-024 for retention of the swimming pool, and retaining wall<sup>1</sup>. On February 25, 1999 Commission staff sent you two "incomplete filing" letters (one for each application) notifying you of nine additional materials and pieces of information that you needed to submit to complete the filing of your applications<sup>2</sup>. Each of these letters gave you until March 24, 1999 to submit the additional items. You did not submit the required items.

As of September 2000, you still had not submitted the required items. Therefore, on September 7, 2000, Commission staff sent you two additional letters reiterating the earlier nonfiling letters and again identifying the nine materials and pieces of information that are required in order for each application to be deemed complete. Each of these letters gave you until December 6, 2000 to submit the additional items.

In a phone conversation with Commission staff on December 1, 2000, you stated that you had no intention of completing either CDP application.

As a result of your violations of the permit requirement of the Coastal Act, and your subsequent failure to submit complete ATF, CDP applications for all the cited unpermitted development on your property, Commission staff is moving forward with proceedings for the Commission to issue pursuant to Coastal Act section 30810 a Cease and Desist Order to resolve the subject violation.

### **Steps in the Cease and Desist Order Process**

Pursuant to Coastal Act section 30810, the Commission has the authority to issue an order directing any person to cease and desist if the Commission, after a public hearing, determines that such person has engaged in "any activity that requires a permit from the commission without securing one." Additionally, pursuant to section 30810(b), the cease and desist order may be

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<sup>1</sup> Between February 25, 1999 and September 20, 2000 Commission staff discovered an unpermitted carport on the subject property.

<sup>2</sup> CDP applications 4-99-023 & 4-99-024 each need the following pieces of information before the applications can be deemed complete: 1) filing fee of \$1,200; 2) a complete list of property owners within 100 feet of your property; 3) two sets of site plan drawings; 4) two sets of detailed grading plans; 5) two copies of comprehensive, current geological and soils reports; 6) a current LA Co. "approved" geologic review sheet; 7) the "Approval in Concept" form completed by the local planning department; 8) a set of 8 ½ by 11 inch copies of the blueprint size, drawings of the project; and 9) a mapped survey of the property performed by a licensed surveyor which indicates the location of the development and the location of the property that is subject to the irrevocable offer to dedicate an open space easement.

subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including immediate removal of any development or material.

An order issued pursuant to section 30810 would require that you: 1) refrain from engaging in any further development activities on your property without a CDP; and 2) submit a complete CDP application to the Coastal Commission's South Central District Office requesting a permit either to retain the existing unpermitted development, or to remove existing development and restore the site to its pre-violation condition within a specified period of time.

Please be advised that if the Commission issues a cease and desist order, section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order for each day in which the violation persists.

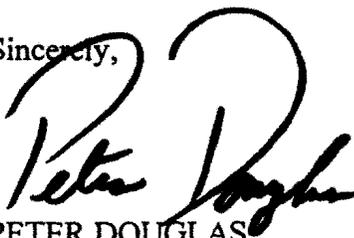
**The Commission intends to hold a hearing on the issuance of a cease and desist order in this matter no later than the Commission meeting that is scheduled for March 13-16, 2001.**

In accordance with the California Code of Regulations, Title 14, section 13181(a), you have the opportunity to respond to the Commission staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. **The completed Notice of Defense form must be returned to this office no later than January 31, 2001.**

#### **Options for Resolving this Violation**

You can prevent this hearing from taking place by submitting the materials and information required by the staff's nonfiling letters to our Ventura Office prior to the scheduled date of the cease and desist order hearing. Alternatively, you can file a complete application to remove the unpermitted development and restore the site to its pre-violation condition. A CDP is required if you propose to remove cited unpermitted development because removal constitutes "development" as defined in section 30106 of the Coastal Act. The Commission must review any proposed removal project to ensure that it is consistent with the resource protection policies contained in the Coastal Act. For CDP filing requirements or questions about the additional materials and information required to complete your submitted applications, please contact John Ainsworth in our Ventura Office at (805) 641-0142.

Sincerely,



PETER DOUGLAS  
Executive Director

cc: Amy Roach, Chief of Enforcement  
Jan E. Perez, Statewide Enforcement Analyst  
John Ainsworth, South Central Enforcement Program Supervisor  
Tom Sinclair, South Central Enforcement Analyst  
Sabrina Tilles, South Central Coastal Program Analyst

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200

**STATEMENT OF DEFENSE FORM**

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE YOU COMPLETE THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by either a cease and desist order issued by the executive director or a notice of intent to initiate cease and desist order proceedings before the commission. This document indicates that you are or may be responsible for or in some way involved in either a violation of the commission's laws or a commission permit. The document summarizes what the (possible) violation involves, who is or may be responsible for it, where and when it (may have) occurred, and other pertinent information concerning the (possible) violation.

This form requires you to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. This form also requires you to enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You should complete the form (please use additional pages if necessary) and return it **no later than January 31, 2001** to the Commission's enforcement staff at the following address:

**Jan E. Perez, Legal Division,  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105**

If you have any questions, please contact **Jan E. Perez** at **(415) 396-9708**.

1. **Facts or allegations contained in the cease and desist order or the notice of intent that you admit (with specific reference to the paragraph number in such document):**

Unnumbered paragraph 2: I admit that your "Violation File" concerns the construction of a swimming pool, retaining wall, fencing and decking (the "so-called 'sports court'") on our property as to which construction we did not seek a Coastal Development Permit ("CDP") or permit amendment prior to 1998, but further allege that the grading for the "development" occurred in or about 1988 by the original developer purportedly pursuant to CDP No. 5-88-056..

Unnumbered paragraph 3: I admit that Commission staff has previously indicated that a so-called "sports court" required a CDP, but further allege that staff has been unable to articulate why a "sports court" requires a CDP, while fencing and decking, which are the only components of the so-called "sports court" do not require a permit under CCR Section 13250(a). I also admit Commission staff has previously indicated that a CDP was required for the swimming pool and retaining wall, but deny that a CDP was required, and further deny that separate CDP's were required for the fencing and decking, on the one hand, and the swimming pool and retaining wall, on the other. I admit that I was sent letters dated June 19, 1997, September 15, 1997, October 8, 1997, January 29, 1998, August 13, 1998, and October 9, 1998, and further allege that they are the best evidence of their contents and in all respects speak for themselves. I admit that, in telephone conversations, Commission staff has suggested that I submit an application for a CDP as to the so-called "sports court" which is already constructed, but further allege that I have also been advised that it is "likely" that such a CDP permitting the so-called "sports court" would be denied. I further allege that on or about January 29, 1999, I submitted an application: 1) seeking a waiver and/or after-the-fact approval of the construction of the retaining wall and swimming pool, and 2) seeking after-the-fact approval for the construction of the fencing and

decking, both of which were agreed to be without waiver of or prejudice to my position and claim that a CDP or ATF is not required for either.

Unnumbered paragraph 4. I admit that on October 9, 1998, Commission staff sent me a letter of that date, and further allege that it is the best evidence of its contents and in all respects speaks for itself. I admit that I spoke with Commission staff on November 12, 1998, and indicated a willingness to file the aforesaid applications; deny that I requested a postponement of any hearing; and allege that Commission staff itself offered and agreed to an extension of staff's unilaterally imposed deadlines.

Unnumbered paragraph 5. I admit speaking to Commission staff on or about December 9, 1998; also admit that Commission staff wrote to me on December 21, 1998, respecting that conversation; and allege that the December 21, 1998 letter is the best evidence of its contents and in all respects speaks for itself.

Unnumbered paragraph 6. I admit that, on or about January 29, 1999, I submitted the two applications referred to above, and deny that the applications were incomplete. I have no knowledge of when Commission staff "discovered an unpermitted carport" (as noted in footnote 1), but allege that the so-called "carport" is part of the retaining wall that was, as I understand it, one of the subjects of the Commission staff's previous actions. I further allege that the Commission has been guilty of laches, and has waived, released, and/or is estopped to assert that the so-called "carport" is either improper or a different supposed violation. I admit that the Commission staff sent me two letters, dated February 26 (not 25), 1999, each enclosing a letter dated February 25, 1999, all of which letters are the best evidence of their contents, and speak for themselves. I admit that I did not make any further application or submission; allege that there was and is no basis for staff's finding our applications incomplete or for requiring separate

applications requiring the payment of separate (and increased) fees; further allege that the "additional information" requested was either previously supplied and/or unreasonable, and deny that any additional information should be required.

Unnumbered paragraph 7. I admit that on or about September 7, 2000, Commission staff sent me two additional letters, and allege that they are the best evidence of their contents, and speak for themselves.

Unnumbered paragraph 8. I allege that I advised Commission staff that the demand that I submit two separate applications, pay two separate, additional and increased fees, and submit each and all of the "additional" information was unreasonable and unnecessary, and stated that I could not (and therefore would not) make such further applications, pay further fees, or supply all of the additional information demanded.

Unnumbered paragraph 9, et seq. I acknowledge that the January 2, 2001 letter purports to be notice of Commission staff's intention to commence a proceeding for a section 30810(b) Cease and Desist Order; further acknowledge staff's advice as to the supposed consequences thereof; and allege that such action is barred, and is or would be improper, ultra vires, unlawful, and unconstitutional under the circumstances here.

**2. Facts or allegations contained in the cease and desist order or notice of intent that you deny (with specific reference to paragraph number in such document):**

See above. I deny that the aforesaid construction of "improvements" constitutes "development", and/or which is inconsistent with the permitting requirements contained in Section 30600 of the California Coastal Act, and/or is "development" as to which a CDP or permit amendment was or is required. I further deny that the grading portion of the "improvements" was done in 1996, and/or that the "improvements" were and are not authorized

under CDP No. 5-88-056, and/or that the swimming pool, retaining wall, or so-called "sports court" must be permitted by the Commission, and/or that the Commission may seek to enforce and/or claim any rights with respect to the easement demanded of the and accepted from original developer.

- 3. Facts or allegations contained in the Cease and Desist Order or notice of intent of which you have no personal knowledge (with specific reference to paragraph number in such document):**

See above.

- 4. Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can:**

My wife and I were not the developers or original owners of the subject property. We acquired the property after the house has been substantially completed, and a Certificate of Occupancy had issued in February 1990. Accordingly, we were not the applicants as to any of the permits involved in the original development of our home or property, including but not limited to CDP No. 5-88-056, which, as of the end of 1988, I had never even seen. I assume from the number of that CDP that it was issued in 1988. We did not even know of the property until 1989, when grading had been completed and construction had already commenced. That grading by the original owners included the cleaning (and denuding) and grading of the areas on which the so-called "sports-court" and swimming pool were later built in 1996.

Shortly before closing on the purchase of the home in February 1990, I requested of the developer — Jack Moses — that he provide us with all of the permits for the construction of our home. Attached hereto as Exhibit A is a copy of a letter from Mr. Moses' attorney, enclosing a certification from the Department of Public Works that the house is located in unincorporated Malibu for Regional Planning and Building Department purposes. Attached hereto as Exhibit B is a letter, also from Mr. Moses' attorney, enclosing various permits for the home. For whatever reason, the permits sent to me by Mr. Moses' attorney did not include CDP No. 5-88-056. As stated above, I did not see that permit until after the swimming pool, retaining wall, and so-called "sports court" were constructed by us. The other permits which I did obtain, evidence that Mr. Moses was the owner of the property and the applicant for those permits.

We acquired the property in February 1990. Attached hereto as Exhibit C is a copy of our deed. As of the time of closing, the property was developed with three buildable pads: 1) the pad upon which the house was constructed, and upon which the swimming pool and retaining wall were constructed in 1996 (the "house pad"); 2) a pad adjacent to Piuma Road, which is presently vacant and which was graded by Mr. Moses (he said) in anticipation of construction of a future guest house (the "guest house pad"); and 3) a pad downhill from the house pad, on which the so-called "sports court" was constructed in 1996 (the "lower pad"). (I am confident that the Commission has available to it historic aerial photographs which encompass the area of our property, and I know that those historic aerial photographs will show the pads had been graded as of February 1990.) At the time we acquired the property, the house pad was in the process of being landscaped by Mr. Moses, and the guest house pad and lower pad were denuded of vegetation, as they remain until 1996. Accordingly, if there are issues as to the grading of any

of the pads, including the lower pad, and/or of the "excess removal of vegetation", those issues arose prior to 1990, and did not involve actions by me or my wife.

Prior to acquiring our home, my wife and I had discussions with Mr. Moses concerning potential future development of the property. Mr. Moses advised us that, as graded, the guest house pad would accommodate and allow a small guest house, and the lower pad would accommodate and could be used either to construct stables, a tennis court, or a pool. Mr. Moses did not at any time advise that future development of the graded pads was conditioned or restricted in any way. Accordingly, my wife and I have always been under the impression that all three pads were freely developable, and that the original grading thereof complied with all applicable permits, (which would include the Coastal Development Permit obtained by Mr. Moses).

At or about the time that we acquired our home, I was advised that a portion of the property had been offered for dedication, and an easement recorded, for open space and private recreational use. However, I also was advised specifically by Mr. Moses that the area offered for dedication lay outside of the area of the three graded pads, which, again, were represented to me to be freely developable. Indeed, at the time, I discussed with Mr. Moses his designing and constructing for us a pool on the lower pad, and he provided us with certain concepts therefor. However, we decided not to go forward with the project at that time.

By letter dated October 8, 1997, Sue Brooker, then of the Commission's staff, sent to me a copy of the Irrevocable Offer to Dedicate Open-Easement, etc. (the "Irrevocable Offer") and a purported map of the property. That was the first time that I saw or reviewed such Irrevocable Offer and/or the purported map. Accordingly, our construction of the so-called "sports court" was performed without knowledge thereof, or of any supposed prohibitions, restrictions, or

conditions as to constructing the so-called "sports court" on the lower pad. Indeed, as of this date, I have not surveyed the area claimed to be subject to the easement, and therefore do not know whether, in fact, the so-called "sports court" is located on any portion of such dedicated land.

I have never been advised by Commission staff whether either 1) the original developer was compensated for the "taking" of the property purportedly subject to the easement, or 2) the Commission even performed an analysis of whether there was a "nexus" between the demanded easement and issues presented by Mr. Moses' development which purportedly served as a justification therefor, (as required by Nollan v. California Coastal Commission, 483 U.S. 825 (1987)). As I understand the facts, I believe that the demand for and acceptance of the easement constituted a per se taking which I, as a subsequent owner, may, and do, challenge. See, Nollan, 483 U.S. at 834, n. 2.

Moreover, it should be noted that the Irrevocable Offer, if it impacts our 1996 construction at all, at most affects the lower pad on which the so-called "sports court" only was built. The pool and walls were constructed on the house pad which is not subject to any dedication restriction.<sup>1</sup> Moreover, the Irrevocable Offer indicates that the land as dedicated could be used for "private recreation" purposes. That is precisely the use to which the lower pad, even assuming that it lies within the dedicated area, is being put. We have young children (ages 8 and 10). There are no parks in the vicinity of our home with play areas, nor has the Commission apparently seen fit to provide for or require the same. Thus, given the treacherous

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<sup>1</sup> Indeed, the construction of the pool and retaining wall, which took place at the same time as the construction of the so-called "sports court" was not raised as an issue until I indicated the I was not prepared simply to acquiesce to staff's demand to rip up the "sports court."

nature of traffic on Piuma Road and the isolation of our property, there is no other place where our children can play safely.

The Commission should also know that the lower pad and the so-called "sports court" are essentially invisible to the public — it is located in a "valley" well downhill from the home pad and surrounded by native vegetation; it can scarcely be seen from Piuma Road (especially given the existing vegetation adjacent to the road); and there is no development whatsoever, other than the residence on our property, from which the lower pad and so-called "sports court" can be viewed. Finally, there are significant buffers between the lower pad and the State preserve behind our property, including abundant native vegetation on our property and the adjacent property, and a road servicing the adjacent property.

The catalyst to our decision in 1995 finally to construct a pool, the so-called "sports court", and attendant improvements, was the recommendation of our local fire station that our house, which is serviced only by a well, have a large, readily available water source. (We have had to vacate our house on two occasions because of wildfires that reached Piuma Road and threatened our property, including the fire that traveled half-way down the mountain (in the area of the Backbone Trail) which, if the wind had not shifted, would have consumed the areas on which the "sports court" and so-called pool were later constructed by us). Having made the decision to go forward, we proceeded very responsibly. We engaged a highly regarded landscape architect to develop plans which were as aesthetic as possible given our budget. The pool and walls were planned to and were built on the house pad, in areas which had been previously landscaped. The so-called "sports court" was scaled so that it fit entirely within the already graded area of the lower pad, which, as discussed above, Mr. Moses had graded prior to 1990 for use as a tennis court, swimming pool, or stables. All the planned landscaping was

intended to be, and has been, limited to the previously landscaped areas on the house pad, and were, with the exception of the lawn (which replaced the previous lawn) largely restricted to plantings native to the area. See Exhibit D, a copy of our plans as submitted for plan check, submitted with our earlier letter of November 5, 1998.

More significantly to staff's concern that we failed to obtain a CDP, we proceeded scrupulously to determine what permits were required, and were specifically advised that a CDP was not required. As Exhibit D indicates, the plans were provided to the Fire Department for their initial review. On or about November 7, 1995, the plans were submitted for plan check to the Department of Building and Safety, Land Development Division ("Building & Safety"). The form which we received in return from Building & Safety purported to provide notice of the "AGENCIES [WHICH] IN ADDITION TO BUILDING OR GRADING PLAN CHECK APPROVAL, [APPROVAL] MUST BE OBTAINED PRIOR TO [BUILDING] PERMIT ISSUANCE." A copy of that form is attached hereto as Exhibit E. You will note that the only agencies that were checked as requiring a permit for our construction were the Drainage Section of the Department of Building and Safety, the Fire Prevention Bureau, the Geology/Soils Section of the Department of Building and Safety, and the Health Services Department.

Although the form contains a space (towards the very top) for indicating whether a Coastal Commission permit is required, you will note that space was not checked. Accordingly, when we proceeded to construct the swimming pool, so-called "sports court", and walls, we did so under the clear advice from Building & Safety that those improvements did not require a Coastal Commission permit. In reliance on such advice we have expended a total of approximately \$200,000 on such improvements, which are now all in place. (Attached hereto as Exhibit F is a copy of the inspection records in our possession as to such work.)

Indeed, until we received a copy of staff's letter of June 17, 1997, no one had ever suggested to us that a Coastal Commission permit was required or that there was any restriction or prohibition on the improvements which we made. This is noteworthy, since both the landscape architect and contractor have a great deal of experience in the Coastal Zone.

The advice of the Department of Building and Safety that no Coastal Commission permit was required appears to be perfectly consistent with the provisions (and intent) of both the Coastal Act itself and the regulations concerning the same. Thus, PRC Section CCR 13250(b)(6) provides, in pertinent part that:

"Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: (a) improvements to existing single-family residences. . . ."

Title 13, Subchapter 6, Section 13250 of the Regulations in turn provides:

"Section 13250. Additions to Existing Single-Family Residences.

(a) For purposes of the Public Resources Code Section 30610(a) where there is an existing single-family residential building, the following shall be considered a part of that structure:

- (1) All fixtures and other structures directly attached to a residence;
- (2) Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences and storage sheds; but not including guest houses or self-contained residential units; and

(3) Landscaping on the lot. (Emphasis supplied).

Pursuant to the foregoing, the swimming pool and retaining wall appear to be expressly excluded from the requirement for a permit. Moreover, since the swimming pool and retaining wall were unquestionably not constructed on land which had previously been dedicated pursuant to the Commission's demand, there were no and could not be any restrictions on their development.

As for the so-called "sports court", it consists merely of fencing (which is also specifically excluded under PRC 30610) and hardscaping (also excluded), and thus does not require a permit. Indeed, the fact that the regulations specifically clarify that a guest house or self-contained residential unit do require a permit, but make no mention of a tennis court or "sports court" (which in many Coastal areas and certainly in the Malibu Coastal area are "normally associated with a single-family house"), would lead the most careful reader to conclude that their construction does not require a CDP. This, of course, must also be the interpretation of the Department of Building and Safety, which, when presented with plans for the so-called "sports court" as well as the swimming pool and attendant walls, advised that a Coastal permit was not required.

Finally, and with all due respect, staff's previous suggestion to us that CCR 13250(b)(6) applies is, at best, unsupportable. It cannot be seriously suggested that an exterior swimming pool, retaining wall, and/or so-called "sports court" is an "addition" to a single-family residence. An "addition" by any normal definition applied to a single-family residence is the increase in the number or size of the residence itself, typically by way of a remodel. Indeed, the language CCR 13250(a) makes it clear that swimming pools, fencing, etc. are "structures ... associated with a single-family residence," and do not constitute a part of the residence itself.

Moreover, the fact that our property is being targeted for attention (and possible enforcement activity) appears anomalous, if not a denial of equal protection. Both before and since our 1996 work, there has been what I can only characterize as a significant decimation of the natural conditions on the Quaker-Ross properties below us on Piuma, the so-called "Triangle" lots at the corner of Cold Canyon and Piuma, and other near-by properties, which "improvements" must negatively impact (unlike our 1996 work) the Malibu Creek eco-system. No fair observer driving on Piuma Road between Malibu Canyon Road and our property could possibly understand why, in the face of such ostensibly permitted (by the Commission) wholesale decimation of the area, our improvements are or could be or should be of concern.

The Commission staff has previously suggested that, in connection with our 1996 work, we performed grading or were guilty of "excess removal of vegetation" on the supposedly dedicated area. That is absolutely not the case. The pad upon which the so-called "sports court" was constructed had, as I already indicated above, been graded prior to February 1990. At such time it was denuded of vegetation. Accordingly, the only work necessary to put down the pad for the so-called "sports court" was to do slight leveling of the already graded pad, which was done essentially by hand. The only vegetation disturbed was some very sporadic and sparse weeds that had sprung up after the rainy season (and which normally dry out and "disappear" starting in the Spring, and which were insignificant in comparison to the weed removal that the fire department requires us to perform each Spring).

Accordingly, it is submitted that the true situation here is as follows:

- 1) Absent some type of restriction or condition which supposedly arose from the offer and acceptance of dedication of the easement, there would be no question

that no CDP or amendment to the original CDP would have been required in connection with the construction of the so-called "sports court";

2) The swimming pool and walls are unquestionably not located on the dedicated area, and are specifically exempted by the regulations from the requirements for a permit;

3) Insofar as work was done on land compelled by the Commission to be dedicated, that work was and is consistent with the purposes of the easement;

4) In any event, the demand for and acceptance of the easement appear to constitute a per se taking which was and is unlawful and unconstitutional, and which we as subsequent owners may and do challenge;

5) There was no grading or landscaping done by us (and none done since prior to 1990 by the previous developer) which in any way falls within any proscriptions of the Act or its regulations;

6) My wife and I had no knowledge of any restrictions or conditions on our ability to improve the already graded pads, and proceeded in good faith and entirely responsibly and appropriately by drawing plans, going through a plan check, and following the advice of the plan checker (with the concurrent of both our experienced landscape architect and contractor) that no Coastal permit was required;

7) The advice which we received was and is consistent with any fair reading of the Act and its regulations;

8) If there was a violation here of the Act, it was and is merely a technical violation which was committed unknowingly and inadvertently by us, since we

had never seen CDP No. 5-88-056, and did not see the Offer of Dedication until it was sent to us by Commission staff in October, 1997;

9) No harm has been suffered to either the environment in the area of our property or the spirit or purpose of the Coastal Act by reason of what has been constructed; indeed, the work done serves as both a firebreak and (as suggested by the Fire Department) and a source of water in case of prevalent brush fires in the area;

10) My wife and I proceeded in reliance on the advice of a competent governmental agency; did the work according to permits which had vested, pursued in good faith our vested rights as we understood them; and would be irreparably harmed if required to remove any of the improvements;

11) Targeting our property in light of the decimation of neighboring properties ostensibly under permits from the Commission would be unfair, improper and a denial of equal protection; and

12) In any event, the Commission has been guilty of laches, and any action is barred by applicable statutes of limitations.

Under the circumstances, we believe that it is both appropriate and required for the Commission itself to desist from taking any action in connection with these improvements, including by issuing a Cease and Desist Order. At the most, the Commission should grant us a waiver, or require us to apply for a permit under the understanding that the permit will be granted.

**5. Any other information, statement, etc. that you want to offer or make:**

In closing, I would like to interject a personal observation. I voted for the adoption of the Coastal Act. In doing so, I never conceived that it would be applied to subject homeowners like me to the positions and attitudes adopted here by the Commission's staff. Strikingly, and as discussed above, my house is the developed property most closely adjacent to two recent developments — 1) the Quaker/Ross grading and construction of finished lots on Piuma Road, and 2) the construction of finished lots on the so-called Triangle at the corner of Piuma Road and Cold Creek. The fact that the Commission could approve those developments with the massive grading, disturbance of natural vegetation, and obliteration of scenic views which were inevitable and have occurred there, while at the same time complaining about our work and advising that a CDP, if applied for, would not "likely be issued", is terribly disturbing. If the Commission's staff or the Commission itself has reached a point where it accommodates major developers and the significant, deleterious results of their developments, while at the same time pursuing homeowners (like me) who have proceeded innocently, in good faith, and with sensitivity to the surroundings, it is staff and the Commission which are perverting the Act and its purposes.

If the Commission and its staff disregard the real priorities which the Act was meant to address, it will alienate not only people like me who fully support those goals and appropriate priorities, but will also lose future generations who will be turned off by the Commission's apparent hypocrisy or excesses. In that regard, the Commission should consider how I can should respond to my eight year old's inquiries as to why the Coastal Commission is trying to "take away my play area", while allowing numerous surrounding lots to be destroyed.

**6. Documents, exhibits, declarations under penalty of perjury or other materials that you have attached to this form to support your answers or that you want to be made part of the administrative record for this enforcement proceeding (Please list in**

chronological order by date, author, and title, and enclose a copy with this completed form):

As you can see, I have utilized the form provided by Commission staff. I am fully prepared to execute a declaration concerning each and all of the facts which are stated in this Response if it is either necessary or helpful. Please advise.

Exhibit C - February 14, 1990 Deed to our property.

Exhibit A - December 20, 1990 letter from Jeffrey M. Lee, Esq., enclosing certification from the Department of Public Works.

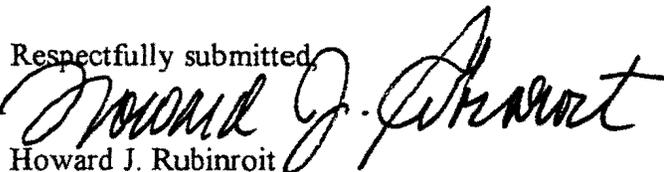
Exhibit B - December 26, 1990 letter from Jeffrey M. Lee, Esq., enclosing permits obtained in the construction of our home.

Exhibit D - November, 1995 Plan for the subject improvements (submitted previously with letter of November, 1988).

Exhibit E - November 7, 1995 plan check form from County of Los Angeles Department of Public Works/Building and Safety/Land Development Division, indicating that no Coastal permit required for subject improvements.

Exhibit F - 1996 Building and Safety Inspection Records concerning subject improvements.

Dated: February 5, 2001

Respectfully submitted,  
  
Howard J. Rubinroit

LAW OFFICES

WINOGRADE, LEE & HORN

1875 CENTURY PARK EAST, SUITE 1400

LOS ANGELES, CALIFORNIA 90067-2515

STEVEN J. HORN  
JEFFREY M. LEE  
ROBERTA WINOGRADE LEE

AREA CODE 213  
TELEPHONE 277-9140  
FAX (213) 277-1155

December 20, 1990

Howard Rubinroit, Esq.  
Sidley & Austin  
2049 Century Park East  
Suite 3500  
Los Angeles, CA 90067

Re: Jack Moses  
25351 Piuma Road, Malibu

Dear Howard,

It was a pleasure talking to you this date. As I indicated to you I would attempt to get you some preliminary information prior to our speaking the first week of January, 1991. In accordance with our conversation, I am enclosing for your immediate review an Application for Building Permit reflecting that the location of the property is being within the Malibu limits. In the meantime, Jack will obtain copies of the various permits and Building Permit itself from the Building Department's files.

Further, you will also find enclosed a copy of the list of contractors, suppliers and engineers who participated in the construction of the property.

Very truly yours,

WINOGRADE, LEE & HORN

*Jeffrey M. Lee*  
JEFFREY M. LEE *JML*

JML:skw  
Enclosures

cc: Mr. Jack Moses

wp50\work\landry.ltr



**COUNTY OF LOS ANGELES  
DEPARTMENT OF PUBLIC WORKS**

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (818) 458-5100

THOMAS A. TIDEMANSON, Director

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE  
REFER TO FILE:

June 21, 1991

This letter is to verify that the house located at 25351 Piuma Road is in Los Angeles County, unincorporated Malibu for Regional Planning and the Building Department.

*Grant M. Lawseth*

**MALIBU OFFICE  
BUILDING AND SAFETY DIVISION  
23533 W. CIVIC CENTER WAY  
MALIBU, CALIFORNIA 90265  
Telephone (818) 317-1353**



Los Angeles County  
Department of Public Works

**GRANT M. LAWSETH**  
Dist. Engineering Associate/Office Mgr.  
Building and Safety Division

23533 West Civic Center Way  
Malibu, California 90265

Office Hours  
8 a.m.-12 p.m. Daily  
(213) 317-1353

**EXHIBIT A**

STEVEN J. HORN  
JEFFREY M. LEE  
ROBERTA WINGRADE LEE

LAW OFFICES  
WINGRADE, LEE & HORN  
1875 CENTURY PARK EAST, SUITE 1400  
LOS ANGELES, CALIFORNIA 90067-2515

RECEIVED

JAN 4 1991

SIDLEY & AUSTIN

FAX (213) 277-1155

December 26, 1990

Howard Rubinroit, Esq.  
Sidley & Austin  
2049 Century Park East  
Suite 3500  
Los Angeles, CA 90067

Re: Jack Moses  
25351 Pioma Road, Malibu

Dear Mr. Rubinroit:

Pursuant to our discussions, enclosed please find the following permits obtained in the construction of your home.

Very truly yours,

WINGRADE, LEE & HORN

JEFFREY M. LEE

JML:skw  
Enclosures

cc: Mr. Jack Moses

wp50\work\landry.ltr

EXHIBIT 15  
CCC-01-CD-1 (RUBINROIT)  
Page 24 of 38

EXHIBIT B

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to sell my... Workers' Compensation Insurance...

Policy No. \_\_\_\_\_ Company \_\_\_\_\_
Certified copy is hereby furnished.
Certified copy is filed with the county building inspection department.

Date \_\_\_\_\_ Applicant \_\_\_\_\_
CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE
(This section need not be completed if the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation laws.

Date \_\_\_\_\_ Applicant \_\_\_\_\_
NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number \_\_\_\_\_ Lic. Class \_\_\_\_\_

Contractor \_\_\_\_\_ Date \_\_\_\_\_

I am exempt under Sec. \_\_\_\_\_

B.&P.C. for this reason \_\_\_\_\_

Date: \_\_\_\_\_

Signature \_\_\_\_\_

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):

- I, as owner of the property, or my employees with wages as their sole compensation, will do the work and the structure is not intended or offered for sale (Section 7044, Business and Professions Code).
I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Section 7044, Business and Professions Code).

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name \_\_\_\_\_

Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all County ordinances and State laws relating to building construction, and hereby authorize representatives of this County to enter upon the above-mentioned property for inspection purposes.

Signature of Applicant or Agent

Date

APPLICATION FOR BUILDING PERMIT

COUNTY OF LOS ANGELES

BUILDING AND SAFETY

EXHIBIT B

FOR APPLICANT TO FILL IN
BUILDING ADDRESS 25351 PIUMA ROAD
CITY MALIBU ZIP 90265
LOCALITY Malibu
NEAREST CROSS ST Cold Cyn
ASSESSOR MAP BOOK PAGE PARCEL
USE ZONE AH MAP NO. 138-77
SPECIAL CONDITIONS PP 30577
SCHOOL NO. 12500-12-5-88
COASTAL 5-88-56
DISTRICT 9.2 GROUP TYPE CONST. FIRE ZONE TX PROCESSED BY SAJ/af
STATISTICAL CLASSIFICATION CLASS NO. 01 DWELL UNITS TI APT. CONDO.
SEWER MAP BK. PG.
VALUATION \$
FINAL DATE 2-2-90
FINAL By Young
FOUNDATION ONLY PERMIT FOR FIRE DEPT. PURPOSES.
LDMA Ref. # 8068
LDMA P/C #
LDMA Perm. #
P.C. Fee \$ 835.13 Permit Fee 1432.50
APP. 382.50 Insurance Fee 10.50
Investigation 1817.63 Total Fee 1,443.00
LDMA 2500
SEE REVERSE FOR EXPLANATORY LANGUAGE

EXHIBIT 15
CCC-01-CD-1 (RUBINROIT)
Page 25 of 38

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800, Lab. C.)

Policy No. 14296370855 Company FIREMADE FUND

- Certified copy is hereby furnished. Exp 12-20-89  
 Certified copy is filed with the county building inspection department.

Date 11-2-89 Applicant [Signature]

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

(This section need not be completed if the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws.

Date \_\_\_\_\_ Applicant \_\_\_\_\_  
 NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number 442825 Lic. Class C-16

Contractor VALLEY FIRE PROT Date 11-2-89

I am exempt under Sec. \_\_\_\_\_

B.&P.C. for this reason \_\_\_\_\_

Date: \_\_\_\_\_

Signature \_\_\_\_\_

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):

- I, as owner of the property, or my employees with wages as their sole compensation, will do the work and the structure is not intended or offered for sale (Section 7044, Business and Professions Code.)  
 I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Section 7044, Business and Professions Code.)

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name \_\_\_\_\_

Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all County ordinances and State laws relating to building construction, and hereby authorize representatives of this County to enter upon the above-mentioned property for inspection purposes.

Signature of Applicant or Agent [Signature] Date 11-2-89

# APPLICATION FOR BUILDING PERMIT

COUNTY OF LOS ANGELES

BUILDING AND SAFETY

FOR APPLICANT TO FILL IN				BUILDING ADDRESS <u>25351 PIUMA RD.</u>	
BUILDING ADDRESS <u>25351 PIUMA RD.</u>		CITY <u>MALIBU</u> ZIP <u>90265</u>		LOCALITY <u>MALIBU</u>	
CITY <u>MALIBU</u> ZIP <u>90265</u>		NO. OF BLDGS. NOW ON LOT		NEAREST CROSS ST. <u>Cold Cym</u>	
SIZE OF LOT		FRACT. BLOCK LOT NO.		ASSESSOR MAP BOOK PAGE PARCEL	
OWNER <u>JACK MOSES</u> TEL. NO.		ADDRESS <u>28925 PCH</u>		USE ZONE <u>All</u> MAP NO. <u>138-77</u> SPECIAL CONDITIONS	
CITY <u>MALIBU</u> ZIP <u>90265</u>		ARCHITECT OR ENGINEER TEL. NO.		DISTRICT <u>9.2</u> GROUP <u>R3</u> TYPE CONST. <u>Fire Sprinkler</u> FIRE ZONE <u>II</u> PROCESSED BY <u>SAH</u>	
ADDRESS _____		CONTRACTOR <u>VALLEY FIRE PROT.</u> TEL. NO. <u>583-1777</u>		STATISTICAL CLASSIFICATION   APT. CONDO	
ADDRESS <u>2370 SHASTA WAY</u> LIC. NO. <u>442825</u>		CITY <u>SIMI VALLEY</u> LIC. CLASS <u>C-16</u>		CLASS NO. DWELL. UNITS	
SQ. FT. SIZE <u>9,000</u> NO. OF STORIES <u>2</u> NO. OF FAMILIES <u>3</u> CHECK ONE		DESCRIPTION OF WORK <u>FIRE SPRINKLERS</u>		SEWER MAP BK. PG.	
USE OF EXISTING BLDG. <u>RENOVACE</u>		APPLICANT (PRINT) <u>MICHAEL HEISLER</u> TEL. NO. <u>583-1777</u>		VALUATION \$ <u>7,500</u>	
ADDRESS <u>2370 SHASTA WAY</u>		PRESENT BUILDING ADDRESS _____		\$ <u>8000.00</u>	
LOCALITY _____		MOVING CONTRACTOR TEL. NO. _____		FINAL DATE _____	
ADDRESS _____		REQUIRED SETBACK YARD HWY TOTAL SETBACK FROM PROP. LINE EXIST. WIDTH		FINAL By _____	
FRONT P.L. <u>10</u> <u>30</u> <u>40</u>		P.C. Fee \$ <u>71.61</u> Permit Fee <u>85.45</u>		LDMA Ref # _____	
SIDE P.L.		Issuance Fee <u>13.00</u>		LDMA P/C # _____	
P.L.		Investigation Fee _____ Total Fee <u>98.45</u>		LDMA Form # _____	

EXHIBIT B

VALIDATION

EXHIBIT 15  
 CCC-01-CD-1 (RUBINROIT)  
 Page 26 of 27

Dec. 21 '90 10:51 0000 MOSE SOC. ARCHITECTS TEL. 442-7411

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800, Lab. C.)

Policy No. WP87098540 Company Fremont  
 Certified copy is hereby furnished.

Certified copy is filed with the county building inspection department.  
 Date 11-22-88 Applicant ROY BROS.

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

(This section need not be completed if the work involved by the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws.

Date \_\_\_\_\_ Applicant \_\_\_\_\_  
 NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number 529521 Lic. Class A  
 Contractor ROY BROS Date 11-22-88

I am exempt from the licensing requirements as I am a licensed architect or a registered professional engineer acting in my professional capacity (Section 7051, Business and Professions Code).

Lic. or Reg. No. \_\_\_\_\_ Date \_\_\_\_\_

HOME OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):

I, as owner of the property, will do the work and the structure is not intended or offered for sale (Section 7044, Business and Professions Code).

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name \_\_\_\_\_

Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all County ordinances and State laws regulating Plumbing and Sewers, and hereby authorize representatives of this County to enter upon the above-mentioned property for inspection purposes.

76A642D  
 CE 808 (2-80)

APPLICATION FOR PERMIT  
 SEWER-SEWAGE DISPOSAL

COUNTY OF LOS ANGELES

BUILDING AND SAFETY

FOR APPLICANT TO FILL IN	
BUILDING ADDRESS <u>253512 PINMA</u>	STATION _____ DEPTH _____
LOCALITY <u>MAJIBU</u>	MANHOLE REFERENCE _____ UPPER _____ LOWER _____
NEAREST CROSS ST. <u>COO. CYN</u>	TYPE OF CONNECTION _____ LENGTH FROM CURB, P.L. _____ M.L. TO P.L. _____
OWNER <u>JACK MOSES</u>	CO. IMP. NO. _____ P.C. NO. _____ JOB NO. _____
MAIL ADDRESS _____	TRUNK PERMIT NO. _____ ROAD PERMIT NO. _____
CITY _____ TEL. NO. _____	AFFIDAVIT _____ HAZAR. BASEMENT RECORD, INSTR. NO. _____ DATE _____
LEGAL DESCRIPTION _____ LOT NO. _____	HWY. OR ST. WIDENING _____
BLOCK _____ TRACT _____	STATE ENCROACHMENT PERMIT NO. _____
SIZE OF LOT _____ NO. OF BLDGS. NOW ON LOT _____	CHARGES _____
USE OF BUILDINGS <u>DWELL</u>	CONNECTION CHARGE FEE _____
CONTRACTOR <u>ROY BROS</u>	REIMBURSEMENT FEE _____
ADDRESS <u>2812 P.C. HWY</u>	DISTRICT NO. _____ GROUP _____ MAP _____ PROCESSED BY _____
CITY <u>MAJIBU</u> TEL. NO. <u>457-5077</u>	FINAL DATE <u>2-2-90</u>
STATE LICENSE NO. <u>529521</u> LIC. CLASS <u>A</u>	FINAL BY <u>C. King</u>
NO. _____ DESCRIPTION OF WORK _____ FEE _____	VALIDATION _____
1 HOUSE SEWER CONNECTING TO PUBLIC SEWER _____	
1 SEPTIC TANK, SEEPAGE PIT OR PITS AND JOINTS _____ 35.00	
1 HOUSE SEWER CONNECTING TO PRIVATE DISPOSAL SYSTEM _____ 113.00	
CONNECT ADDITIONAL BLDG. OR WORK TO HOUSE SEWER _____	
OVERFLOW SEWAGE PIT, DRAINFIELD EXTN., CREEPPOOL, DRYWELL, MANHOLE _____	
ALTER, REPAIR OR ABANDON HOUSE SEWER OR DISPOSAL SYSTEM _____	
OWNER'S AUTHORIZATION Permit _____ 10.50	
TOTAL FEE _____ 56.50	
I HAVE AT THIS DATE A CONTRACT WITH THE HEREIN NAMED CONTRACTOR TO CONNECT THE ABOVE DESCRIBED EXISTING DWELLING TO THE PUBLIC SEWER.	
SIGNED THIS _____ DAY OF _____ 1988	
OWNER OR OWNER'S AGENT <u>D.A. Roy</u>	
ADDRESS _____	

FOR TEST PURPOSES ONLY  
 IF PIT OR PITS ARE UNACCEPTABLE THEY WILL BE BACKFILLED AT ONCE PER L.A. CO. P.L. ORD. SEC. 11196  
 DATE 11-22-88  
 PERMITTED [Signature]

SEE REVERSE FOR EXPLANATORY LANGUAGE

EXHIBIT 15

EXHIBIT 15  
 CCC-01-CD-1 (RUBINROIT)

DEC. 21 PM 10:32 0000 NUF ARCHITECTS TEL 213-457-7993

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3300, Lab. C.)

Policy No. \_\_\_\_\_ Company \_\_\_\_\_

Certified copy is hereby furnished

Certified copy is filed with the county building inspection department.

Date \_\_\_\_\_ Applicant \_\_\_\_\_

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

(This section need not be completed if the work involved by the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws.

Date 4/13/89 Applicant TROY SHIPP

NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 7 (commencing with Section 7001) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number 552455 Lic. Class C-36

Contractor Shipp's Plumbing Date 4/13/89

I am exempt under Sec. \_\_\_\_\_

B.&P.C. for this reason \_\_\_\_\_

Signature Troy Shipp Date \_\_\_\_\_

SINGLE FAMILY

HOME OWNER BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7001.5, Business and Professions Code):

I, as owner of the property, will do the work and the structure is not marketed or offered for sale (Section 7044, Business and Professions Code).

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3397, C.V.C.).

Lender's Name \_\_\_\_\_

Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all County ordinances and State laws regulating Plumbing, and hereby authorize representatives of this County to enter upon the above mentioned property for inspection purposes.

Troy Shipp 4/13/89

20-0026 DPW 6/87  
76A867A

APPLICATION FOR PLUMBING PERMIT

COUNTY OF LOS ANGELES

DEPT. OF PUBLIC WORKS

EXHIBIT B  
1

FOR APPLICANT TO FILL IN (PRINT OR TYPE)			BUILDING ADDRESS
NUMBER	FIXTURE OR ITEM	FEE	<u>25351 PUMA RD</u>
<u>6</u>	WATER CLOSET	<u>36 00</u>	LOCALITY <u>Malibu</u>
<u>3</u>	BATH TUB	<u>18 00</u>	NEAREST CROSS ST. <u>Malibu Cyn</u>
<u>2</u>	SHOWER	<u>12 00</u>	OWNER <u>MOSES</u>
<u>6</u>	LAVATORY	<u>36 00</u>	MAIL ADDRESS _____
<u>4</u>	SINK	<u>24 00</u>	CITY _____ TEL. NO. _____
<u>1</u>	DISHWASHER	<u>6 00</u>	CONTRACTOR <u>Shipp's Plumbing/Master Etc.</u>
<u>2</u>	CLOTHES WASHER	<u>12 00</u>	ADDRESS <u>329 ALPINE AVE</u>
	SWIMMING POOL RECEPTOR		CITY <u>VTA</u> TEL. NO. <u>93004</u>
	LAWN SPRINKLER SYSTEM		STATE LICENSE NO. <u>552455</u> LIC. CLASS <u>C-36</u>
<u>2</u>	WATER HEATER	<u>12 00</u>	DISTRICT NO. <u>9.2</u> PROCESSED BY <u>OF</u>
<u>1</u>	GAS SYSTEM <u>8</u> OUTLETS	<u>6 00</u>	FINAL DATE <u>2-2-90</u> VALIDATION _____
	OUTLETS OVER 5 PER SYSTEM	<u>4 50</u>	FINAL BY <u>[Signature]</u>
	Plan check fee	<u>166 50</u>	
	PLUMBING PERMIT ISSUING FEE \$	<u>10 30</u>	
	TOTAL FEE	<u>177 00</u>	
	Plan check applicant		
	Name		
	Address		
	City		
	Tel. No.		

561  
H...  
1-17  
-17  
0&13

EXHIBIT 15  
CCC-01-CD-1 (RUBINROIT)  
Page 28 of 38

WORKERS' COMPENSATION DECLARATION  
I hereby affirm that I have a certificate of consent to self insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800, Lab. C.)

Policy No. \_\_\_\_\_ Company \_\_\_\_\_

Certified copy is hereby furnished.

Certified copy is filed with the county building inspection department.

Date \_\_\_\_\_ Applicant \_\_\_\_\_

**CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE**

(This section need not be completed if the work involved by the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws.

Date SEPT 5 1989 Applicant Sam Hartman

NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

**LICENSED CONTRACTORS DECLARATION**

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number 44387 Lic. Class C-205

Contractor HEATING INC Date SEPT 15 1989

I am exempt under Sec. \_\_\_\_\_

B.&P.C. for this reason \_\_\_\_\_

Date: \_\_\_\_\_

Signature \_\_\_\_\_

**OWNER-BUILDER DECLARATION**

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):

I, as owner of the property, or my employees with wages as their sole compensation, will do the work and the structure is not intended or offered for sale (Section 7044, Business and Professions Code).

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Section 7044, Business and Professions Code).

**CONSTRUCTION LENDING AGENCY**

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.)

Lender's Name \_\_\_\_\_

Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all County ordinances and State laws relating to building construction, and hereby authorize representatives of this County to enter upon the above-mentioned property for inspection purposes.

Signature of Applicant or Agent Sam Hartman Date SEPT 15 1989

**APPLICATION FOR PERMIT  
HEATING - VENTILATING - AIR CONDITIONING**

76A364C  
20-0046 DPW 9/88

COUNTY OF LOS ANGELES

BUILDING AND SAFETY

EXHIBIT B  
1

FOR APPLICANT TO FILL IN (PRINT OR TYPE ONLY)			BUILDING ADDRESS <u>25351 PLUMA RD</u>	
NO.	TYPE OF APPLIANCE OR EQUIPMENT	FEE	LOCALITY <u>MALIBU</u>	
	ABSORPTION UNIT, BTU _____		NEAREST CROSS ST.	
	AIR HANDLING UNIT, CFM _____		DISTRICT NO. <u>9.2</u> PROCESSED BY <u>OF</u>	
	BOILER, BTU _____		APPROVALS DATE INSPECTOR'S SIGNATURE	
<u>2</u>	COMPRESSOR, BTU <u>3 1/2 TON</u> <u>3 TON</u>	<u>24 00</u>	ROUGH	<u>11-7-89</u> <u>Tommy</u>
	VENTILATION SYSTEM _____		FINAL	<u>2-2-90</u> <u>[Signature]</u>
	EVAPORATIVE COOLER _____		<b>VALIDATION</b>	
<u>2</u>	FURNACE: FAU <u>✓</u> GRAVITY FLOOR BTU <u>2000</u> <u>BASE</u>	<u>24 00</u>		
	HEATER: SUSPENDED _____ UNIT _____ WALL _____			
<u>2</u>	<u>VENTS</u>	<u>12 00</u>		
<u>18</u>	<u>REG. INLETS &amp; OUTLETS</u>	<u>36 00</u>		
Plan check fee				
PERMIT ISSUING FEE \$		<u>63 00</u>		
TOTAL FEE		<u>109 00</u>		
PLAN CHECK APPLICANT				
NAME _____				
ADDRESS _____				
CITY _____		TEL. NO. _____		
OWNER <u>BRYANT &amp; SNIDER CONST</u>				
MAIL ADDRESS <u>28925 PAC COST HWY</u>				
CITY <u>MALIBU 90265</u>		TEL. NO. <u>457-4411</u>		
CONTRACTOR <u>MALIBU HEATING &amp; AIRCOND</u>				
ADDRESS <u>1745 APPLETON WAY</u>				
CITY <u>VENICE CA 90591</u>		TEL. NO. <u>392-2303</u>		
STATE LICENSE NO. <u>403858</u>		LIC. CLASS <u>C-20</u>		

29994A  
.....  
1-10900  
..-109003  
1002-89

INSPECTOR COPY

EXHIBIT 15  
CCC-01-CD-1 (RUBINROIT)  
Page 29 of 38

SEE REVERSE FOR EXPLANATORY LANGUAGE

I hereby affirm that I have a certificate or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800 Lab. C.)

Policy No. MC 23330 Company PAULINVESTMENT CO

Certified copy is hereby furnished.  
 Certified copy is filed with the county building inspection department.  
Blissdale Electric  
Blissdale Electric

**CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE**  
 (This section need not be completed if the work involved by the applicant is for one hundred dollars (\$100) or less.)  
 I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Law.

Date \_\_\_\_\_ Applicant \_\_\_\_\_

**NOTICE TO APPLICANT:** If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed voided.  
**LICENSEE CONTRACTORS DECLARATION:**  
 I, the undersigned, being duly licensed under provisions of Chapter 6 of the Labor Code, and my license is in full force and effect.

License Number 468437 Lic. Class C-10

Contractor Blissdale Electric Date Sept 15-89

I am exempt under Sec. \_\_\_\_\_ Date \_\_\_\_\_  
 BAPC for this reason \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Exemption for Reg. Maint. Elec.

**SINGLE FAMILY HOME OWNER-BUILDER DECLARATION**  
 I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):  
 I am owner of the property, will do the work and the structure is not intended or offered for sale (Section 7044, Business and Professions Code).

**CONSTRUCTION LENDING AGENCY**

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3087, Civ. C.)

Lender's Name \_\_\_\_\_

Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all County ordinances and State laws regarding Electrical wiring, and hereby authorize representatives of this County to enter upon the above-mentioned property for inspection purposes.

Signature of Permittee Blissdale Electric Date Sept 15-89

FOR APPLICANT TO FILL IN		EACH	NO.	FEE
New Residential Bldg. & Room	1 & 2-Family, Sq. Ft. <u>4200</u>	<u>5.05</u>	<u>1</u>	<u>25.00</u>
Multi-Family Sq. Ft.				
Recreational Swimming Pools				
Outdoor Pools	<u>66 LUN</u> <u>28 S</u> <u>75</u>			
Total No.	<u>208</u>			
Lighting Fixtures	Fixed 20 _____ Additional _____			
Total No.				
Fixed Appliances Not Over 1 HP	Range <u>2</u> Heater <u>2</u> DW <u>2</u> Oven <u>2</u> Drier <u>2</u> W/D <u>1</u> Top <u>2</u> F/W <u>2</u> W/H <u>1</u> Hood <u>2</u> Fan <u>2</u> Other _____ Dish. <u>2</u> Room-Air Cond. _____			
Power Appliances & Large Appliances	Size & Type HP, KW, KVA, or KWVA			
	Up to 1/2 Hpd. _____ Over 1 to 10 hpd. <u>2</u> Over 10 to 60 hpd. _____ Over 30 to 100 hpd. _____ Over 100 _____			
Service Switches, Joints, Checkboards	0-500 Amp. Under 600 V <u>2</u> 201-1000 Amp. Under 600 V _____ Over 1000 Amp. or Over 600 V _____			
Wiring, Raceways & Accessories	Wired with One Branch Circuit _____ Wired with One Branch Circuit _____ Additional: Split Branch Circuits _____			
Main, Controller & Connections	Other (See Complete Fee Schedule) _____			
PERMIT FEE	(Sub-Total)			<u>13</u>
PLAN CHECKING FEE				
PERMIT INSURING FEE				
TOTAL FEE				<u>13.00</u>

JOB ADDRESS: 25357 River Ln  
 LOCALITY: WYLLIE, SAN DIEGO  
 LICENSEE OR OWNER OF: Blissdale Electric  
 PERMITTEE: Blissdale Electric  
 CITY: WYLLIE TEL. NO. \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 PLAN CHECK: \_\_\_\_\_  
 APPLICANT: \_\_\_\_\_  
 CITY: \_\_\_\_\_  
 PERMIT APPLICANT: PAULINVESTMENT CO  
 ADDRESS: 865 SW 17th Ave  
 CITY: PAULINVESTMENT CO  
 LICENSEE OR REG. NUMBER: 468437  
 DISTRICT NO. \_\_\_\_\_  
 FINL DATE: 2-2-90  
 FINL BY: Blissdale Electric  
 INSPECTOR COPY: Blissdale Electric  
 1-21300  
 1-213005  
 0915-PO

# APPLICATION FOR ELECTRICAL PERMIT

## COUNTY OF LOS ANGELES

DEPT. OF PUBLIC WORKS

EXHIBIT B

I hereby affirm that I have a certificate of consent to sell insur., or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800, Lab. C.)

Company \_\_\_\_\_  
 Certified copy is hereby furnished.

Certified copy is filed with the county building inspection department.

Date \_\_\_\_\_ Applicant \_\_\_\_\_

### CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

(This section need not be completed if the work involved by the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws.

Date \_\_\_\_\_ Applicant \_\_\_\_\_

**NOTICE TO APPLICANT:** If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

### LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number \_\_\_\_\_ Lic. Class \_\_\_\_\_

Contractor \_\_\_\_\_ Date \_\_\_\_\_

I am exempt under Sec. \_\_\_\_\_  
 B.&P.C. for this reason \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

Exemption for Reg. Maint. Elect.

### SINGLE FAMILY HOME OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):

I, as owner of the property, will do the work and the structure is not intended or offered for sale (Section 7044, Business and Professions Code).

### CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name \_\_\_\_\_

Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct, I agree to comply with all County ordinances and State laws regulating Electrical wiring, and hereby authorize representatives of this County to enter upon the above-mentioned property for inspection purposes.

Signature of Permittee \_\_\_\_\_ Date 12-8-88

FOR APPLICANT TO FILL IN			EACH	NO.	FEE
<b>New Residential Bldgs. &amp; Pools</b>					
1 & 2-Family, Sq. Ft. _____	\$	=	\$		
Multi-family Sq. Ft. _____					
Residential Swimming Pools _____					
<b>Outlets: Rec. _____ Light _____ Sw. _____</b>					
Total No. _____					
First 20 _____					
Additional _____					
<b>Lighting Fixtures</b>					
Total No. _____					
First 20 _____					
Additional _____					
<b>Fixed Appliances Not Over 1 HP</b>					
Range _____ Heater _____ D.W. _____					
Oven _____ Dryer _____ W.M. _____					
Top _____ FAU _____ W.H. _____					
Hood _____ Fan _____ Other _____					
Disp. _____ Room Air Cond. _____					
<b>Power Apparatus &amp; Large Appliances</b>					
Size & Type HP, KW, KVA, or KVAR _____					
Up to 1 Incl. _____					
Over 1 to 10 Incl. _____					
Over 10 to 50 Incl. _____					
Over 50 to 100 Incl. _____					
Over 100 _____					
<b>Services, Swbd., MCC &amp; Panelboards</b>					
0 - 200 Amp. Under 600 V _____					
201 - 1000 Amp. Under 600 V _____					
Over 1000 Amp. or Over 600 V _____					
<b>Temp. Power Pole &amp; Apparatuses</b>					
Sign with One Branch Circuit _____					
Additional Sign Branch Circuits _____					
<b>Misc. Conduits &amp; Conductors</b>					
Other (See Complete Fee Schedule) _____					
					15 00
<b>PERMIT FEE</b>					(Sub-Total) 15 00
<b>PLAN CHECKING FEE</b>					10 50
<b>PERMIT ISSUING FEE</b>					25 50
<b>TOTAL FEE</b>					25 50

<b>JOB ADDRESS</b> 25351 PIUMA RD, MALIBU	
<b>LOCALITY</b> OFF MALIBU CANYON RD	
<b>NEAREST CROSS ST.</b> CULD. CANYON RD.	
<b>OWNER OR FIRM NAME</b> JACK MOSES	
<b>MAIL ADDRESS</b> 22333 VICTORY BLVD #125	
<b>CITY</b> CANOGA, PK.	<b>Tel. No.</b> (818) 992-1125
<b>PLAN CHECK APPLICANT</b> JACK MOSES	
<b>ADDRESS</b> ABOVE	
<b>CITY</b>	<b>Tel. No.</b>
<b>PERMIT APPLICATION</b>	
<b>ADDRESS</b>	
<b>CITY</b>	<b>Tel. No.</b>
<b>LICENSE OR REG. NUMBER</b>	
<b>DISTRICT NO.</b> 9.2	<b>PROCESSED BY</b> O.F.
<b>FINAL DATE</b>	
<b>FINAL BY</b>	

**VALIDATION**

EXHIBIT 15  
 CCC-01-CD-1 (RUBINROIT)  
 Page 31 of 38

The temporary power pole is for the CONSTRUCTION OF SINGLE FAMIL. RES. ONLY. Any unauthorized use will cause immediate disconnection of power.

Signature of Owner \_\_\_\_\_  
 Owner's Signature

SEE REVERSE FOR EXPLANATORY LANGUAGE

Dec. 21 '90 10:57 0000 MOSES ASSOC. ARCHITECTS TEL 213-457-3699

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME: Mr. & Mrs. Howard Rubinoit  
STREET ADDRESS: c/o SIDLEY & AUSTIN  
CITY, STATE, ZIP: 2049 CENTURY PARK EAST, 35TH FL, LA, CA. 90067

RECORDED IN OFFICIAL RECORDS OF LOS ANGELES COUNTY, CA  
FEB 14 1990 AT 8 A.M.  
Recorder's Office

FEE \$7 N  
2

SURVEY MONUMENT FEE \$10. CODE 99

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Table with 4 columns and 2 rows (ALL, PTN)

Title Order No. 8936332-12  
Escrow or Loan No. 24103

GRANT DEED

80

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX is \$ 1,210.00 CITY TAX \$  
 computed on full value of property conveyed, or  
 computed on full value less value of liens or encumbrances remaining at time of sale,  
 Unincorporated area:  City of \_\_\_\_\_, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, JACK MOSES AND ANN-MARIE MOSES, husband and wife, as Joint Tenants, as to an undivided one-half interest, and RON LANDRY AND MARGO LANDRY, husband and wife, as Joint Tenants, as to an undivided one-half interest, as Tenants in Common hereby GRANT(S) to HOWARD RUBINROIT AND TERRY RUBINROIT, husband and wife, as Community Property

the following described real property in the

County of Los Angeles State of California:

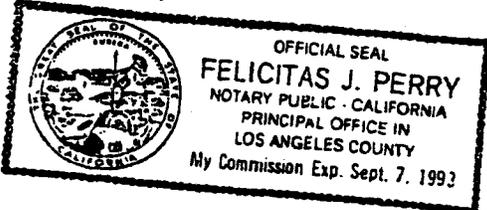
PER LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A"

Dated January 15, 1990

STATE OF CALIFORNIA }  
COUNTY OF Los Angeles } ss  
On January 15, 1990 before me, the undersigned a Notary Public in and for said State, personally appeared Jack Moses and Ann-Marie Moses and Ron Landry and Margo Landry

Signatures of Jack Moses, Ann-Marie Moses, Ron Landry, and Margo Landry

personally to me to be the person whose name is are recorded to the within instrument and acknowledged that executing the same witness my hand and official seal  
Signature: Felicitas J. Perry



(This area for official notarial seal)

EXHIBIT 15  
CCC-01-CD-1 (RUBINROIT)  
Page 32 of 38

EXHIBIT C

EXHIBIT "A"

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 1, SOUTH, RANGE 17 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT SAID LAND APPROVED BY THE SURVEYOR GENERAL JUNE 20, 1896, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER; NORTH 89 DEGREES 54 MINUTES 40 SECONDS WEST 475.49 FEET TO THE CENTER LINE OF PIUMA ROAD (FORMERLY COAL CANYON ROAD) 60 FEET WIDE, AS DESCRIBED IN PARCEL 1 IN THE DEED TO THE COUNTY OF LOS ANGELES, RECORDED ON NOVEMBER 30, 1931 AS INSTRUMENT NO. 954 IN BOOK 11285 PAGE 87 OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE, BEING A CURVE CONCAVE SOUTHWESTERLY (A RADIAL LINE TO SAID INTERSECTION OF THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER WITH SAID CENTER LINE BEARS NORTH 46 DEGREES 51 MINUTES 40 SECONDS EAST) AN ARC DISTANCE OF 34.68 FEET; THENCE SOUTH 23 DEGREES 16 MINUTES 05 SECONDS EAST, 114.04 FEET, TANGENT TO SAID CURVE TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 200 FEET; THENCE SOUTHEASTERLY ALONG SAID LAST MENTIONED CURVE AN ARC DISTANCE OF 130.74 FEET; THENCE TANGENT TO SAID LAST MENTIONED CURVE SOUTH 60 DEGREES 43 MINUTES 20 SECONDS EAST, 134.48 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 200 FEET; THENCE SOUTHEASTERLY ALONG SAID LAST MENTIONED CURVE AN ARC DISTANCE OF 36.98 FEET; THENCE TANGENT TO SAID LAST MENTIONED CURVE, SOUTH 50 DEGREES 07 MINUTES 45 SECONDS EAST TO THE EASTERLY LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE NORTHERLY ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

90 250325

EXHIBIT 15  
CCC-01-CD-1 (RUBINROIT)  
Page 33 of 38

EXHIBIT C

Exhibit D

previously submitted with letter of  
November 5, 1998



COUNTY OF LOS ANGELES  
DEPARTMENT OF PUBLIC WORKS  
BUILDING AND SAFETY/  
LAND DEVELOPMENT DIVISION



CALABASAS - MALIBU DISTRICT OFFICE  
4111 N. Las Virgenes Road, Calabasas, CA. 91302-1929  
Telephone: (818) 880-4150, FAX: (818) 880-6279  
Office Hours: 8:00 a.m. - 4:30 p.m.  
Plan Checker's Hours: 8:00 a.m. - 11:30 a.m. Appointments are recommended.

Plans for a structure at 25351 Aluma Rd Cala  
(Address) (Locality)  
Plan Check No. 9511070001 was submitted on 11-7-95 for  
Building (or Grac) in Check

MINIMUM PLAN CHECK SUBMITTAL REQUIREMENTS:

- Building & Drainage Plan Check requires 2 complete sets of working drawings including 2 sets of structural & energy calculations. Also provide a soils & geology report (if any), & Hydrology Report (if any). If Energy Calculations are computer methods (MICROPAS Etc.), an additional set of plans is required and is checked by the Mechanical Section at the Alhambra Hdqts.

THIS NOTICE IS TO INFORM YOU THAT APPROVAL FROM THE AGENCIES MARKED BELOW, IN ADDITION TO BUILDING OR GRADING PLAN CHECK APPROVAL, MUST BE OBTAINED PRIOR TO PERMIT ISSUANCE. You may need to submit the pertinent plans, plan check number, calculations, reports, etc., directly to these agencies. To assist you, we have listed below the information which you will need to contact these agencies. Follow-up is your responsibility. Please be aware that some items resulting from these agency plan reviews may affect your building plan check. These should be communicated to your Building Plan Check Engineer as soon as possible to prevent unnecessary delays. Additional agency clearances may be requested by your Building Plan Check Engineer.

**CALTRANS** - Permits are required for excavation, encroachment (including driveway aprons) and improvements (including grading or structures that affect drainage) on State Highways (Pacific Coast Hwy., Topanga Cyn. Bl., Decker Rd. & Westlake Bl.).

1 Spring St. Room 112  
Los Angeles, CA 90012-3606  
(213) 897-3631

**COASTAL COMMISSION** - A permit is required from the Coastal Commission. Prior to submitting an application to the Coastal Commission, an "Approval in Concept" must be obtained from the Regional Planning Department.

89 So. California St.  
Ventura, CA 93001-2801  
(805) 641-0142

**CONSTRUCTION DIVISION** - Permits are required for road excavations and encroachments.

5530 W. 83rd Street  
Westchester, CA 90045-3309  
(310) 649-6300

**DRAINAGE SECTION (BUILDING AND SAFETY / LAND DEVELOPMENT DIV.)** - Plan approval is required for drainage and flood hazard. Initial plan submittal will be forwarded by Building & Safety.

Mr. Mark Pestrella  
Calabasas Office:  
Tuesdays & Thursdays 8:00-11:00 a.m.  
(818) 880-4150

Headquarters:  
900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
Closed Fridays

FIRE DEPARTMENT (LOS ANGELES COUNTY)

- FIRE STATION DEVELOPER FEE must be paid to the Fire Dept. prior to issuance of a Building Permt. Obtain "DETERMINATION" form from Building & Safety. This fee does not apply to City of Westlake Village or to the Chatsworth area.

Fiscal Services Division  
1320 No. Eastern Ave., Room 225  
Los Angeles, CA 90063-3294  
(213) 881-2404, Ext. 2442

- "HAZMAT" form must be submitted to and approved by the Fire Dept. for non-residential occupancies if hazardous materials are being handled. Obtain "HAZMAT" form from Building and Safety.

Fire Prevention Bureau, Hazardous Materials Section  
5823 Rickenbacher Rd.  
Commerce, CA 90040-3027  
(213) 890-4000

- COMMERCIAL BUILDINGS OVER 2,500 SQ.FT. and MULTIPLE RESIDENTIAL BUILDINGS require plan approval from the Fire Dept.

Fire Prevention Bureau  
5823 Rickenbacher Rd.  
Commerce, CA 90040-3027  
(213) 890-4125; FAX (213) 890-4129

- ALL NEW DWELLINGS, DWELLING ADDITIONS OVER 2,000 SQ.FT., COMMERCIAL BUILDINGS UNDER 2,500 SQ.FT. and any structures in Deer Lake Highlands require approval from the Fire Department. Provide Fire Department with a WATER CERTIFICATE completed by the local water company. A water information form is required before a rough plumbing inspection.  Swimming pools in the VHFHS zone require plan check by Fire Dept.

Las Virgenes Municipal Water Dist.  
4232 Las Virgenes Road  
Calabasas, CA 91302-1994  
(818) 880-4110

Waterworks District #29  
23533 W. Civic Center Wy.  
Malibu, CA 90265-4804  
(310) 317-1388, Hours 8:00-10:00 a.m.

AND  
Fire Prevention Bureau

Capt. Jim Jordan  
23533 W. Civic Center Way  
Malibu, CA 90265-4804  
(310) 317-1351  
*Sadie*

For Chatsworth area only:  
Ms. Nina Giannone  
23757 Valencia Blvd.  
Santa Clarita, CA 91355-2192  
(805) 253-7266

**GEOLOGY / SOILS SECTIONS (MATERIALS ENGINEERING DIVISION)** - Plan approval is required for geologic hazards. Initial submittal consisting of two copies of geotechnical reports together with consultant signed plans will be forwarded by Building & Safety. Subsequent submittals are your responsibility and must also contain copies of the latest geology/soils review sheet. The plans must incorporate the consultant's recommendations with their approval. If required, plans must be approved by manual signature by the consultants prior to resubmittal. This section may impose additional fees for resubmittals.

Messrs. Mike Montgomery / Scott Ezell  
Calabasas Office:  
First & Third Tuesday 8:00 - 10:00 a.m.  
(818) 880-4150

Headquarters - Closed Fridays  
900 S. Fremont Ave., 4th Floor  
Alhambra, CA 91803-1331  
(818) 458-4925 M & W 9:00 - 11:00 a.m.

**GRADING SECTION (BUILDING AND SAFETY/LAND DEVELOPMENT DIV.)** - Grading/Landscaping permit and approval are required. Grading/Landscaping plan check is done primarily at the Central Office. Submit 4 sets of Grading plans and 3 sets of Geology & Soils Reports.  
 Rough Grading approval is required before a building permit can be issued.

900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
(818) 458-4921 Closed Fridays

EXHIBIT E

**HEALTH SERVICES DEPARTMENT (MOUNTAIN AND RURAL)** - Approval is required for private sewage disposal systems for new construction, for modification or repair to existing systems and for increase in use for an addition or remodel (increase in number of bedrooms for residential.) Contact the Sanitarian that handles your area. Five copies of the plot plan showing the sewage disposal are required.

Mr. Anthony Lawrence R.E.H.S.  
Calabasas Office  
Monday - Friday 8:00-9:00 a.m.  
(818) 880-4121

Headquarters Environmental Mgmt.:  
2525 Corporate Pl.  
Monterey Park, CA 91754-7641  
(213) 881-4157

Mr. Bob Saleh  
Mr. Arnie Fielding  
Mr. Bart Slutska  
Malibu Office:  
23525 W. Civic Center Wy.  
Malibu, CA 90265-4804  
Monday - Friday 8:00-9:00 a.m.  
(310) 317-1317

**HEALTH SERVICES DEPARTMENT (ENVIRONMENTAL SANITATION DIV.)** - Approval is required for all food establishments.

12502 Van Nuys Blvd., Room 204  
Pacoima, CA 91331  
8:00 - 10:00 a.m.  
(818) 834-3370

2509 W. Pico Blvd. Room 329  
Santa Monica, CA 90405-1899  
8:00 - 10:00 a.m.  
(310) 315-3351

**HIGHWAY DESIGN SECTION (DESIGN DIVISION)** - Plan approval for street improvements and/or dedication is required for commercial and multiple residential blocks. "Bridge & Major Thoroughfare (B&T) Fee" is also required for commercial, multiple residential buildings and designated tracts in the Lost Hills and Parkway Calabasas B & T Districts. Form "48-0040-DPW" (RD 490) should be filled out when submitting plans to Building and Safety.

Mr. Duane Andrus  
900 S. Fremont Ave. 6th Floor  
Alhambra, CA 91803-1331  
(818) 458-7984 Closed Fridays

**LAS VIRGENES MUNICIPAL WATER DISTRICT** - A letter is required stating financial arrangements have been made for sewer connections. In commercial buildings, an approval is required for installation of additional plumbing fixtures.

4232 Las Virgenes Road  
Calabasas, CA 91302-1994  
(818) 880-4110

**MECHANICAL AND ELECTRICAL ENERGY PLAN CHECK** - Required for all commercial and industrial buildings with comfort heating and which are over 1000 sq. ft. in area or have an occupant load over 50. When submitting plans for building plan review, submit two extra complete sets along with the required energy conservation forms and calculations.

Mechanical Section  
Building & Safety/Land Development Div.  
900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
(818) 458-3182 Closed Fridays

Electrical Section  
Building & Safety/Land Development Div.  
900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
(818) 458-3180 Closed Fridays

**DIVISION OF OCCUPATIONAL SAFETY & HEALTH (STATE DEPT. OF INDUSTRIAL RELATIONS)** - Permit is required for excavation of trenches which are 5 ft. or more deep into which a person is required to descend or for the construction or demolition of any structure 4 or more stories. Brick lined seepage pits may require permit.

6150 Van Nuys Blvd. Suite 405  
Van Nuys, CA 91401-3379  
(818) 901-5403

**DIVISION OF OIL AND GAS (STATE DEPARTMENT OF CONSERVATION)** - Obtain clearance for the requirements of abandonment of oil wells.

245 West Broadway, Suite 475  
Long Beach, CA 90802-4455  
(310) 590-5311

1000 S. Hill Rd. Suite 116  
Ventura, CA 93003-4455  
(805) 654-4761

**PARKS AND RECREATION DEPARTMENT** - Plan approval is required for construction adjacent to a "General Plan Designated Trail."

433 S. Vermont Avenue  
Los Angeles, CA 90020-1975  
(213) 738-2973

**REGIONAL PLANNING DEPARTMENT** - Approval is required for:

- |   |   |
|---|---|
| <input type="checkbox"/> Compliance to General Plan   | <input type="checkbox"/> Topanga Cyn. Comm. Sids. Dist.         |
| <input type="checkbox"/> Land use/approval in concept | <input type="checkbox"/> Chatsworth Twin Lake Comm. Sids. Dist. |
| <input type="checkbox"/> Legal lot                    | <input type="checkbox"/> Malibu Lake Urgency Ordinance          |
| <input type="checkbox"/> Parking and landscaping      | <input type="checkbox"/> Sensitive Environmental Zone           |
| <input type="checkbox"/> Setbacks                     | <input type="checkbox"/> Oak Tree Permits                       |
| <input type="checkbox"/> Building Height              |   |

320 W. Temple St., 13th Floor (Rm. 1360), Los Angeles, CA 90012-3282  
Public Counter : 1:00 p.m. to 6:00 p.m. Monday thru Thursday only  
Telephone Hours : 7:00 a.m. to 12:00 p.m. (213) 974-6411 Monday thru Thursday only

**SCHOOL DISTRICT** - Development fee must be paid to the District for residential and commercial construction. A "Certificate of Payment of Developer Fee" must be submitted to Building and Safety prior to obtaining a building permit.

Las Virgenes Unified School Dist.  
4111 Las Virgenes Road  
Calabasas, CA 91302-1929  
(818) 880-4000  
Obtain "Certification Form" from  
Las Virgenes School District.

L.A. Unified School Dist.  
600 East Pico Boulevard  
Los Angeles, CA 90015-3116  
(213) 743-3670  
Obtain "Certification Form"  
from Calabasas B & S Office.

Santa Monica - Malibu Unified School District  
1651 16th Street, Santa Monica, CA 90404-3891  
(310) 450-8338  
Obtain "Certification Form" from Calabasas B & S Office.

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD)** - Applicant residential buildings must fill out "Air Quality Permit Checklist" furnished by Building & "Yes" is marked, a written release will be required before occupancy is allowed. Notices required for demolition and alteration permits where ASBESTOS is involved.

21865 E. Copley Dr.  
Diamond Bar, CA 91765-4182  
(909) 396-2000, (800) 388 - 2121

**TRAFFIC AND LIGHTING DIVISION** - Clearance is required for traffic requirements:

Traffic and Lighting Division, Traffic Studies Unit  
900 S. Fremont Ave.  
Alhambra, CA 91083-1331  
(818) 458 - 5909 Closed Fridays

**WASTE MANAGEMENT DIVISION** - Plan approval is required for most commercial and industrial buildings for:  Industrial Waste,  Underground Tanks,  Floor Drains.

Mr. Jerry Wong  
125 S. Baldwin Ave.  
Arcadia, CA 91007-2652  
8:00-9:00 a.m. Monday -Friday.  
(818) 574-0957

Waste Management Division  
900 S. Fremont Ave.  
Alhambra, CA 91803-1331  
(818) 458-3517  
Closed Fridays

**WESTLAKE VILLAGE (CITY OF)** - Zoning/Engineering approval is required prior to submitting for Building Plan Check.

Zoning Dept.  
Mr. Robert Theobald  
4373 N. Park Terrace Dr.  
Westlake Village, CA 91361-4631  
(818) 706-1613

Engineering Dept.  
City Engineer & Road approval  
374 Poli St., Suite 102  
Ventura, CA 93001-2605  
(805) 653 - 6597

EXHIBIT E

EXHIBIT 15  
CCC-01-CD-1 (RUBINROIT)  
Page 36 of 38

# NOTICE TO OWNER

POOL MUST BE COMPLETELY FENCED  
BEFORE FILLING

BUILDING AND SAFETY DIVISION  
411 North Las Virgenes Road  
Calebasas, California 91302  
Telephone: 880-4150

## SWIMMING POOL INSPECTION RECORD

POST THIS CARD AT JOBSITE

9511070001 2-29-96  
BLDG. PERMIT NO. DATE  
25351 Rubino Rd  
ADDRESS  
Rubinoit

INSPECTION	DATE	INSPECTOR
LOCATION		
STEEL & FORMS	3-5-96	[Signature]
LIGHT CONDUIT		

DO NOT GUNITE OR POUR UNTIL ABOVE SIGNED

CONDUIT UNDER DECK		
GAS LINE UNDER DECK	3-1-96	[Signature]
WATER LINE UNDER DECK		
SEWER UNDER DECK		

DO NOT POUR DECK UNTIL ABOVE SIGNED

WATER SUPPLY		
ELECTRIC WIRES		
FENCE (HEIGHT)		
GATES (SELF-CLOSING) (SELF-LATCHING)		

DO NOT FILL POOL UNTIL ABOVE SIGNED

ROUGH WIRING		
FINAL ELECTRIC		

DO NOT ENERGIZE UNTIL ABOVE SIGNED

HEATER (LOCATION & VENT)		
GAS LINE TEST	5-29-96	[Signature]
POOL DRAINAGE		
FINAL APPROVAL		

20-0004 DPW 3/86

EXHIBIT F

# POST THIS CARD AT JOB SITE

DEPARTMENT OF PUBLIC WORKS  
 BUILDING AND SAFETY DIVISION  
 4111 NORTH LAS VIRGENES ROAD  
 CALABASAS, CALIFORNIA 91302  
 TELEPHONE: (818) 891-4100

## INSPECTION RECORD

PERMITS WILL BE VOIDED IF WORK IS  
 STOPPED FOR 180 CONSECUTIVE DAYS

0007                      4/22/96                      R-3  
 BLDG. PERMIT NO.                      DATE                      GROUP  
 25351 PUMARD  
 ADDRESS  
 Rubinoit  
 OWNER

NOTE: Do Not Cover Walls Until Frame, Insulation, Electrical,  
 Mechanical and Plumbing Have Been Signed.

BUILDING		DATE	INSPECTOR'S SIGNATURE
FOUNDATION: LOCATION		4-22-96	[Signature]
FORMS SETBACK			
SLAB		4-23-96	[Signature]
Pour No Concrete Until Above Has Been Signed			
FRAME: FIRE STOPS, BRACING, BOLTS			
INSULATION			
LATH. INT. <input type="checkbox"/>			
DRYWALL <input type="checkbox"/>			
LATH. EXT.			
ELECTRICAL		DATE	INSPECTOR'S SIGNATURE
UNDER SLAB WORK			
ROUGH CONDUIT			
ROUGH WIRING			
TEMP. POWER			
MECHANICAL		DATE	INSPECTOR'S SIGNATURE
FAU    A.C.    REF			
BOILER    OTHER			
COMBUST. & CIRCULAT.			
AIR, DUCTS, VENTS, ETC.			
LOCATION, CLEARANCE, ACCESS			
PLUMBING		DATE	INSPECTOR'S SIGNATURE
UNDER SLAB WORK			
ROUGH PLUMBING			
ROUGH GAS PIPING			
HOUSE SEWER			
SEPTIC TANK, SEEP PT(S) AND/OR DRAINFIELD			
FINAL APPROVALS		DATE	INSPECTOR'S SIGNATURE
ELECTRICAL			
GAS PIPING			
MECHANICAL			
PLUMBING FIXTURES			
BUILDING			

EXHIBIT 15  
 CCC-01-CD-1 (RUBINROIT)  
 Page 38 of 38

EXHIBIT F

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200

**REGULAR AND CERTIFIED MAIL (Article No. Z 210 987 333)**

March 20, 2001

Howard & Terry Rubinroit  
c/o Howard J. Rubinroit  
Sidley & Austin  
555 West Fifth Street  
Los Angeles, CA 90013

**SUBJECT: Amendment to the Notice of Intent to commence Cease and Desist Order proceedings; Coastal Act Violation File No. V-4-97-31**

Dear Mr. Rubinroit:

This letter amends the Notice of Intent (NOI) to commence Cease and Desist Order (CDO) proceedings that was sent to you on January 2, 2001 to clarify our description of the unpermitted development and to include additional unpermitted development on your property (APN 4456-37-007) at 25351 Puma Road in Calabasas, Los Angeles County.

On March 15, 2001, you provided Coastal Commission staff with the opportunity to inspect your property. This site inspection enabled us to have a clearer understanding of the unpermitted development described in our NOI. As a result, we are amending the NOI by replacing the description of the unpermitted development in the NOI with the following language:

1. lighted sports court,
2. swimming pool with spa and pump and
3. retaining wall and associated carport.

In addition, staff observed other unpermitted development on the site. For purposes of clarity and to address your site comprehensively, we are amending the NOI to include the following additional unpermitted development:

4. lighted stairway extending from the pool area to the sports court,
5. lighted steps and pathways on both sides of the house,
6. chain link fence and gates around pool and house,
7. above-ground storage tank (AST) containing gas heating fuel (propane) with concrete pad,
8. water AST (approximately 3,000 gallon capacity),
9. concrete in eastern watercourse,
10. patio area (with low walls) near pool,
11. nonnative sand fill adjacent to unnamed blue line stream,
12. nonnative sand fill to the east of the pool (used as children's play area),

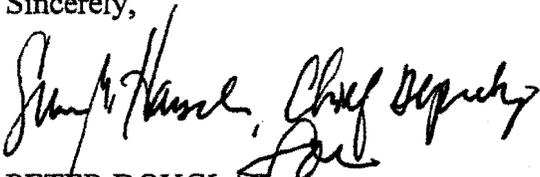
13. partially buried PVC piping that appears to be part of a drainage system,
14. septic system extending out of permitted area,
15. irrigation system,
16. transformers and
17. excessive vegetation removal

To further clarify our NOI, we are amending the description of the alleged violations to explicitly include the grading, vegetation removal and other activities associated with the construction of the unpermitted development listed above.

In accordance with the California Code of Regulations, Title 14, Section 13181(a), you have the opportunity to respond to the Commission staff's allegations as set forth in this amendment to the NOI by completing the enclosed Statement of Defense (SOD) form as a supplement to your SOD dated February 5, 2001. You are not required to repeat the defenses set forth in your February 5, 2001 SOD; you simply have the opportunity to augment it to address the revision of the description of the alleged violations contained in this amendment to the NOI. The supplemental SOD must be returned to this office not later than April 9, 2001.

You can prevent this hearing from taking place by submitting to our Ventura Office the materials and information required by the staff's nonfiling letters dated February 26, 1999 and September 7, 2000 and by the letter from Abe Doherty dated March 20, 2001, prior to the scheduled date of the CDO hearing and by amending your CDP applications to include all of the unpermitted development. Alternatively, before the CDO hearing date, you can file a complete CDP application to remove the unpermitted development and restore the site to its pre-violation condition. A CDP is required if you propose to remove cited unpermitted development because removal constitutes "development" as defined in section 30106 of the Coastal Act. The Commission must review any proposed removal project to ensure that it is consistent with the resource protection policies contained in the Coastal Act. For CDP filing requirements or questions about the additional materials and information required to complete your submitted applications, please contact John Ainsworth in our Ventura Office at (805) 641-0142.

Sincerely,



PETER DOUGLAS  
Executive Director

cc: Abe Doherty, Headquarters Enforcement Officer  
Amy Roach, Chief of Enforcement  
John Bowers, Staff Counsel  
John Ainsworth, South Central Enforcement Program Supervisor  
Tom Sinclair, South Central Enforcement Analyst  
Sabrina Tilles, South Central Coastal Program Analyst

SIDLEY & AUSTIN  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

CHICAGO  
DALLAS  
NEW YORK  
SEATTLE  
WASHINGTON, D.C.

555 WEST FIFTH STREET  
LOS ANGELES, CALIFORNIA 90013-1010  
TELEPHONE 213 896 6000  
FACSIMILE 213 896 6600

HONG KONG  
LONDON  
SHANGHAI  
SINGAPORE  
TOKYO

FOUNDED 1866

WRITER'S DIRECT NUMBER  
(213) 896-6602

WRITER'S E-MAIL ADDRESS  
hrubinroit@sidley.com

April 10, 2001

RECEIVED  
APR 11 2001

By Federal Express

Mr. Abe Doherty  
Headquarters Enforcement Officer  
California Coastal Commission  
45 Fremont  
Suite 2000  
San Francisco CA 94105-2219

CA COASTAL COMMISSION  
LEGAL DIVISION

Re: Amendment to Notice of Intent/Amended Statement of Defense

Dear Abe:

Responding to the Staff's March 20, 2001 letter to my wife and me, we are enclosing herewith a Statement of Defense form prepared and executed by me, along with the designated exhibits.

Pursuant to your letter of March 20, 2001, we would propose to file, without prejudice to our arguments, an application for a CDP prior to any hearing on the NOI. We are most interested in resolving this matter amicably, but are prepared to contest the Commission's NOI (or any other enforcement action) if necessary.

Thank you for your personal courtesies and efforts.

Very truly yours,



Howard J. Rubinroit

HJR/sk

Enclosures

**CALIFORNIA COASTAL COMMISSION**

46 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-8200

**REGULAR AND CERTIFIED MAIL (Article No. Z 210 987 333)**

March 20, 2001

Howard & Terry Rubinroit  
c/o Howard J. Rubinroit  
Sidley & Austin  
555 West Fifth Street  
Los Angeles, CA 90013

Dear Mr. Rubinroit:

This letter memorializes the conversation I had on March 15, 2001 with you and your wife and discusses issues related to the Cease and Desist Order (CDO) hearing. I appreciate your cooperation in allowing me to conduct a site investigation at your property at 25351 Piuma Road in Calabasas on March 15, 2001. During the site visit, I observed additional development that was performed in violation of the original Coastal Development Permit (CDP 5-88-056), but that had not been described in the original Notice of Intent to commence CDO proceedings (NOI). I am obligated to report this additional unpermitted development. As a result, the Executive Director is by separate letter issuing to you an amendment to the NOI to include within the scope of the NOI the additional unpermitted development. Addressing all of the unpermitted development at the same CDO hearing will contribute to the achievement of a comprehensive resolution of all alleged violations of the permit requirements of the Coastal Act on your property.

During my site investigation, I observed an exposed septic outlet and septic effluent on the slope to the west of your house. To address this issue, we are requiring that you submit proof of a permit from the Los Angeles County Building and Safety Department (after first obtaining approval from the County Health Department) for repairs to the septic system as a filing requirement for your CDP applications.

In our conversation during the site investigation, you questioned why you had been asked to submit two CDP applications. I explained my understanding, based upon review of phone logs and discussion with current and former Commission staff, that the idea of two applications was suggested so that development on the building pad number one (house pad) would be considered separate from the sports court. The Commission district staff has indicated that they would be likely to recommend approval of the development associated with the pool on the house pad located outside of the area that is the subject of the Offer to Dedicate (OTD) an open space easement. Therefore, submitting an application addressing this development on the house pad would facilitate the partial resolution of the alleged violation by legitimizing this development. However, I advised you that if you did not want to pay the fee to submit two CDP applications, you are at liberty to include all unpermitted development in one CDP application. You indicated that you were interested in submitting two applications to speed up the process of achieving at

least a partial resolution of this proceeding by obtaining after-the-fact (ATF) approval of the development on the house pad.

We discussed some of the items needed for completion of your CDP applications. I indicated that you may be able to submit the geotechnical report prepared for the design of the pool and carport with an addendum evaluating current soil and geologic conditions to meet the requirements that you submit a current soil and geologic report. This addendum should include a description of the footings used to support the pool and/or carport and an evaluation of the stability of the soils and bedrock at the site. The exact requirements for the contents of this report will be determined by the Commission's South Central District staff.

You asked if we would be willing to stop the CDO proceedings if you agreed to submit the items that are needed to complete the CDP applications. I told you that we would consider this offer, but that we were concerned about repeating what happened in 1998 after Commission staff issued a NOI to commence CDO proceedings. A November 13, 1998 letter from Commission staff to you memorializing a conversation with you on the previous day states:

*You agreed that you would proceed with filing a CDP application for ATF (after-the-fact) approval of the unpermitted developments. . . We agreed that we would postpone our cease and desist proceedings to allow you time to file a complete application.*

Since you submitted incomplete applications and later indicated on December 1, 2000 that you would not pursue obtaining the permits, the Commission staff is concerned about postponing the CDO hearing again. Nevertheless, the NOI and the amendment to the NOI indicate that if you submit complete applications prior to the scheduled hearing, we will postpone or cancel the hearing. I am optimistic that your indication of willingness to submit the items needed to complete the applications means that we are closer to a resolution of this case.

We are planning on scheduling the CDO hearing for the Commission's May meeting (May 7-11). You indicated in our conversation on March 15, 2001 that you may have a trial during that time that might make it difficult for you to attend the hearing. The Commission does not typically postpone CDO hearings. However, if you submit a written request documenting a conflict that would prohibit you from attending a hearing during the Commission's meeting in May, we will consider the request.

In conclusion, I am hopeful that our discussions last Thursday helped to set the groundwork for resolution of this matter. Please call me at (415) 904-5297 if you have any questions.

Sincerely,



Abe G. Doherty  
Headquarters Enforcement Officer

cc: Amy Roach, Chief of Enforcement  
John Bowers, Staff Counsel  
John Ainsworth, South Central Enforcement Program Supervisor

EXHIBIT 17  
CCC-01-CD-1 (RUBINROIT)  
Page 3 of 44

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-6200

**REGULAR AND CERTIFIED MAIL (Article No. Z 210 987 333)**

March 20, 2001

Howard & Terry Rubinroit  
c/o Howard J. Rubinroit  
Sidley & Austin  
555 West Fifth Street  
Los Angeles, CA 90013

**SUBJECT: Amendment to the Notice of Intent to commence Cease and Desist Order proceedings; Coastal Act Violation File No. V-4-97-31**

Dear Mr. Rubinroit:

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On March 15, 2001, you provided Coastal Commission staff with the opportunity to inspect your property. This site inspection enabled us to have a clearer understanding of the unpermitted development described in our NOI. As a result, we are amending the NOI by replacing the description of the unpermitted development in the NOI with the following language:

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7. above-ground storage tank (AST) containing gas heating fuel (propane) with concrete pad,
8. water AST (approximately 3,000 gallon capacity),
9. concrete in eastern watercourse,
10. patio area (with low walls) near pool,
11. nonnative sand fill adjacent to unnamed blue line stream,
12. nonnative sand fill to the east of the pool (used as children's play area),

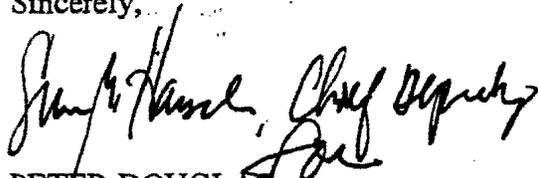
13. partially buried PVC piping that appears to be part of a drainage system,
14. septic system extending out of permitted area,
15. irrigation system,
16. transformers and
17. excessive vegetation removal

To further clarify our NOI, we are amending the description of the alleged violations to explicitly include the grading, vegetation removal and other activities associated with the construction of the unpermitted development listed above.

In accordance with the California Code of Regulations, Title 14, Section 13181(a), you have the opportunity to respond to the Commission staff's allegations as set forth in this amendment to the NOI by completing the enclosed Statement of Defense (SOD) form as a supplement to your SOD dated February 5, 2001. You are not required to repeat the defenses set forth in your February 5, 2001 SOD; you simply have the opportunity to augment it to address the revision of the description of the alleged violations contained in this amendment to the NOI. The supplemental SOD must be returned to this office not later than April 9, 2001.

You can prevent this hearing from taking place by submitting to our Ventura Office the materials and information required by the staff's nonfiling letters dated February 26, 1999 and September 7, 2000 and by the letter from Abe Doherty dated March 20, 2001, prior to the scheduled date of the CDO hearing and by amending your CDP applications to include all of the unpermitted development. Alternatively, before the CDO hearing date, you can file a complete CDP application to remove the unpermitted development and restore the site to its pre-violation condition. A CDP is required if you propose to remove cited unpermitted development because removal constitutes "development" as defined in section 30106 of the Coastal Act. The Commission must review any proposed removal project to ensure that it is consistent with the resource protection policies contained in the Coastal Act. For CDP filing requirements or questions about the additional materials and information required to complete your submitted applications, please contact John Ainsworth in our Ventura Office at (805) 641-0142.

Sincerely,



PETER DOUGLAS  
Executive Director

cc: Abe Doherty, Headquarters Enforcement Officer  
Amy Roach, Chief of Enforcement  
John Bowers, Staff Counsel  
John Ainsworth, South Central Enforcement Program Supervisor  
Tom Sinclair, South Central Enforcement Analyst  
Sabrina Tilles, South Central Coastal Program Analyst

This Statement of Defense Form ("Statement") is both in specific response to the Amendment to Notice of Intent ("Amendment"), dated March 20, 2001, from Peter Douglas respecting the above captioned matter, and further intended to amend and supplement our earlier responses to previous Notices of Intent ("NOI") and other Commission inquiries, including our Statement of February 5, 2001. Accordingly, each and all of our earlier Statements and responses are incorporated herein, and this Statement is specifically incorporated in each and all of those earlier Statements and responses.

This Statement and our earlier Statements and responses are and were made without prejudice to (and specifically preserving) our positions, among other things, that: 1) the Commission and/or Executive Director are without power to bring, purport to determine, or seek to enforce a Cease and Desist Order ("CDO") proceeding in this matter, in that, inter alia, the original jurisdiction respecting the alleged violations referred to in the NOIs lies in the Superior Court and not with the Commission or Executive Director (as more fully discussed below); 2) the purported "developments" which were the subject of the Commission's earlier Notices of Intent (and which appear to be re-stated in the Amendment as items 1-6, 10-12, and 16-17) do not and did not require a Coastal Development Permit ("CDP") and/or constitute work performed pursuant to a vested right; 3) any action by the Commission and/or Executive Director pursuant to any of the Notices of Intent and/or Amendment and/or otherwise is barred by applicable statutes of limitations and the doctrine of Laches; and 4) the actions and/or proposed actions by the Commission constitute a taking, were done or are threatened to be done without due process, and deny us our rights to equal protection under the law.

1. **Facts or allegations contained in the cease and desist order or the notice of intent that you admit (with specific reference to the paragraph number in such document):**

Unnumbered paragraph 2: We admit that, on or about March 15, 2001, my wife and I provided Coastal Commission Staff (Mr. Abe Doherty) with the opportunity to inspect our property, and allege that on that date Mr. Doherty in fact conducted a lengthy site investigation of our property as well as a survey of surrounding property and the surrounding area. We deny that that site inspection "enabled [Staff] to have a clearer understanding of the unpermitted development described in our NOI," and allege that, in fact, on at least one occasion and perhaps more, Commission Staff (by Ms. Susan Booker) conducted a site investigation of our property, and that the conditions on the site were identical at the time of her inspection as they were when Mr. Doherty made his site inspection on March 15, 2001. That is, there were no physical changes made to our house, other structures, or our property between the time of those two site inspections.<sup>1</sup>

2. **Facts or allegations contained in the cease and desist order or notice of intent that you deny (with specific reference to paragraph number in such document):**

Unnumbered paragraphs 1, 2 and 3: We deny the claim that the purported "additional unpermitted development" described in the Amendment constitutes unpermitted development; and/or that the site inspection of March 15, 2001 "enabled" staff "to have a clearer understanding of the unpermitted development described in our NOI," and/or that "staff observed other unpermitted development on the site."

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<sup>1</sup> We would request that prior to any hearing, we be afforded access to the file respecting our property and this matter to seek to determine what Staff knew or should have known, and when, respecting the various items of "development" which are the subject of the NOIs and the Amendment.

In fact, and as stated above, on at least one prior occasion, my wife and I agreed that staff could make a site visit, and, in response to that offer, Ms. Susan Booker in fact made a site visit. At that time, the condition of our house, other structures, and property were identical to those which existed at the time Abe Doherty made his site visit on March 15, 2001 (other than we had added some additional native vegetation in the form of 15 trees on our slopes, and some of the other vegetation had matured further between Ms. Booker's and Mr. Doherty's site visits). Moreover, on at least one occasion that we know of, staff came unannounced to our property and had an opportunity on that occasion to view our house, other structures, and the entirety of the property (at least from the street, assuming our property was not entered onto without our permission). Moreover, pursuant to the so-called Offer of Dedication and so-called Administrative Permit (both of which were issued in 1988), the Commission reserved the power (which we challenge) to inspect our property upon 24-hours notice. Accordingly, at all times since the initial development of the property until the present, the Commission had the power (if not the right) to demand and make a site visit of our property.<sup>2</sup>

Additionally, we deny that the items listed as 1, 2 and 3 in the Amendment constitute either "unpermitted development" or "additional unpermitted development." The so-called "lighted sports court" listed as item 1 is the same purported improvement as that described as "construction of a tennis court" in the Commission's letter of June 19, 1997, and which has been

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<sup>2</sup> In connection with the Laches and statute of limitations defenses which we have raised in this matter, in the interest of "fundamental fairness," and to provide us due process, demand is hereby made that the Commission make available to us any and all records evidencing visits by the Commission or its staff to our property or to the area of our property from and after January 1, 1990, and/or evidence of any other surveillance of our property or the area of our property, such as arial photographs by the Commission or any sister agency of the State.

referred to as a "tennis court" or "sports court" in subsequent communications (including previous NOIs) from and to the Commission. Likewise, the so-called "swimming pool with spa and pump" and so-called "retaining wall and associated carport," listed as items 2 and 3, respectively, are the same purported improvements as have been the subject of various communications between the Commission Staff and us, including our applications for permits which the Staff deemed incomplete.

As more fully discussed in our previous Statements of Defense and in our rejected applications, all of the foregoing purported improvements were fully permitted by the Department of Building and Safety of the County of Los Angeles (pursuant to a process where they advised us that no Coastal Development Permit was required), and, given our good faith reliance on the County permits and advice, we expended in an excess of \$100,000.00 on those purported improvements, such that we believe we acquired a vested right to construct such improvements.<sup>3</sup> Additionally, and as more fully discussed in our previous Statements of Defense, insofar as the Commission has any jurisdiction respecting our property (which we question)<sup>4</sup>, it is our position that the foregoing purported improvements are exempt from the requirement of a CDP pursuant, among other things, to Public Resources Code § 30610(a). Moreover, insofar as the Commission's regulations purport (in §13250(b)(1) or otherwise) to require a CDP for improvements to single family structures located, among other things, in a "sensitive habitat area" or other broadly enumerated areas, we believe that that regulation is

---

<sup>3</sup> Insofar as any application or other paperwork is required in order to establish and/or satisfy the Commission respecting our claim of vested rights pursuant to the Commission's Regulations (§ 13200) or otherwise, request is hereby made that we be furnished with advice respecting (and if necessary copies of) such application or other paperwork.

<sup>4</sup> We would request that we be provided prior to the hearing with evidence that supports that our property, which we believe to be in excess of 5 miles from the mean high-tide line and separated from the sea by at least one ridge line, is subject to the jurisdiction of the Commission.

contrary to the Coastal Act itself (and unenforceable, since it would largely if not totally emasculate and vitiate the exemption provided under § 30610(a)).<sup>5</sup>

The same is true with respect to the so-called "lighted stairway" referred to in item 4, the "lighted pathway" referred to in item 5, the "chain linked fence and gates" referred to in item 6, the "patio area" referred to in item 10, the "supposedly non-native sand fills" referred to in items 11 and 12, the "transformers" referred to in item 16, and the "excessive vegetation removal" referred to in item 17, all of which were part of the so-called improvements (permitted by the County) performed in 1996 and all of which have been "open and notorious" since the time they were installed. We deny that those purported improvements constitute "additional unpermitted development;" believe and contend that we had a vested right to install the same; and do not believe that a CDP was required therefor.

We also deny that the so-called lighted steps referred to as part of item 5, the propane tank described in item 7, the so-called water AST referred to in item 8, the drainage system referred to in item 13, the septic system referred to in item 14, and/or irrigation system referred to in item 15 constitute "unpermitted" development. All of those improvements were constructed and/or installed at the time that our house was originally constructed by Mr. Moses pursuant to the 1988 Administrative Permit. Enclosed herewith as Exhibit 1 is a site plan prepared by Mr. Moses, dated February 8, 1988, which shows, among other things, the water tank, propane tank, and the location of septic pits. Attached here collectively as Exhibit 2 or various (self-dated) photographs which show the lighted steps (item 5), propane tank (item 7),

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<sup>5</sup> Insofar as the Commission contends that improvements to any or all other single family residences in the area of our home require a Coastal Development Permit, demand is hereby made that the Commission make available to us the files and records reflecting the Commission's enforcement of that requirement respecting improvements to any other single family residences in the area of our property. If the Commission does not contend that it applies to other homes in our area, we would request an explanation as to why our property and we are treated differently.

water tank (item 8), the extent to which existing vegetation was denuded in connection with the original development, and the original non-native grass which was, in part, replaced in 1996 with the supposedly non-native sand (and what we actually understand to be native crushed granite) referred to in items 11 and 12.

We assume that Commission Staff at the time that the 1988 permit was issued understood that our property, which is not connected to any municipal or other water source, and which is not connected to any existing gas service, would require both water and gas service. We further assume that that they knew that there were no sewers in the area, and that a septic system was being installed. We also assume that Commission Staff understood that the foregoing, as well as irrigation of permitted vegetation, would require pipes and other transmission lines.<sup>6</sup> We further assume that Commission Staff at the time reviewed the plans for the work under the 1988 Administrative Permit, and, even if they did not, understood that a stairway would be required to traverse a property containing a house on four levels. We further assume that Commission Staff knew of the grading that was required for constructing the permitted structure on this difficult site, and that native vegetation would be removed in the process. If Commission Staff did not know all of the foregoing, than we believe they should have known the same, and that the claim that these items were "unpermitted" is at best specious.<sup>7</sup>

We also deny that, as indicated in 11, a "blue-line stream" any longer traverses the property in the area of the so-called sports court or otherwise. During the March 15, 2001 site

---

<sup>6</sup> We have no knowledge respecting what pipes and lines are referred to in the Amendment, but know that the only additional pipes and lines installed since the original development were in connection with the permitted pool. Insofar as any pipes or other lines may extend underground into the so-called easement area, they were we believe all installed as part of the work which was the subject of the 1988 Administrative permit. Moreover, even if the easement was and is valid, it does not prohibit the title owner from installing such pipes or lines in the easement area. See, e.g., Colegrove Water Co. v. City of Hollywood, 151 Cal.425 (1907)

<sup>7</sup> Insofar as the Commission has any witnesses who will testify to the contrary respecting the foregoing, we would request that they be made available at the time of the hearing so that they may be examined in connection with any "facts" supplied to and/or relied on by the Commission.

visit, Abe Doherty himself observed and pointed out to me that the run off from above the property no longer (if it every did) goes under Piuma Road and into the so-called blue-line stream. Rather, and apparently as a result of work done by the County's streets and maintenance people, the run off from above the property now flows out onto and down Piuma Road before it reaches our property. As a result, the entire premise respecting the supposed "sensitivity" of this area is unsupported and unsupportable.

We also do not understand what is meant by "concrete in eastern water course" referred to in item 9, or "partially buried PVC pipe that appears to be part of a drainage system" referred to in item 13, and accordingly deny the same. Insofar as there exist any PVC pipe, other drainage devices pipes, or transmission lines on or under our property, we deny that there has been any changes made to the systems (water, drainage, septic, irrigation, or otherwise) installed during the original construction of the house and improvements, other than in connection with the swimming pool which was fully permitted by the Department of Building and Safety, and is the subject of our earlier comments.

Finally, we deny that there was any "grading" or native "vegetation removal" in connection with the improvements installed in 1996. The only grading of the property of which we are aware, was the grading in connection with the original construction, which is, indeed, referred to in the 1988 Administrative Permit. The so-called sport court, as discussed in our earlier Statements of Defense, did not require any grading, other than some fine hand grading. While there was excavation for purposes of installing the swimming pool, that was fully permitted by the Department of Building and Safety, and as discussed above we believe exempt from any requirement for a permit. The vegetation removed was a portion of the existing, non-native lawn. Attached hereto collectively as Exhibit 3 area pictures which show the extent of

removal of vegetation at the time of the earlier construction, and, indeed, shows the grading of the pad on which the so-called sports court was placed.

3. **Facts or allegations contained in the cease and desist order or notice of intent of which you have no personal knowledge (with specific reference to paragraph number in such document):**

See above.

4. **Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can:**

We believe that our visit to the surrounding area with Mr. Doherty on March 15, 2001 demonstrated to him what we have earlier advised the Commission Staff respecting the massive grading, vegetation removal, and other destructive activity which has occurred on the so-called Quaker-Ross lots on Piuma and on the so-called Triangle lots on the corner of Piuma Road and Cold Creek. We believe that the Commission can no longer support a claim (if it ever could) that the area in which or house is located is a sensitive habitat or that the impact of development on our property must be considered and mitigated if the Commission in fact permitted those activities on those other properties. Similarly, and among other things, we showed Mr. Doherty two properties which are being developed on Cold Creek, which directly abutt on a tributary to Malibu Creek, where the pipes and grading directly and irreparably threaten the creek. Copies of photos of the foregoing conditions are attached hereto collectively in Exhibit 4.

We also advised Mr. Doherty that in all the time that we have owned our property, we have never once received any notice of intended development for any surrounding property. However, the surrounding properties have all been "improved," sometimes in dramatic fashion, nevertheless, as Mr. Doherty observed. In order that we may establish our due process, equal protection, and fundamental fairness defenses, as well as demonstrate that the effect of our de minimis improvements are and could only be considered negligible in terms of their impact, if any, given what is occurring and what has occurred in our neighborhood,<sup>8</sup> we would request that the Commission make available to us any and all files respecting the Quaker-Ross lots, the Triangle lots, the two properties on Cold Canyon, and the properties adjacent to ours as to which we should have received notice of any development.

5. **Any other information, statement, etc. that you want to offer or make:**

We do not believe that either the Commission or the Executive Director has jurisdiction to commence a Cease and Desist Order proceeding, and/or to issue a Cease and Desist Order in connection with our property, and/or to take administrative action at all respecting the matters referred to in the NOIs and Amendment. The NOIs and Amendment allege purported violations of the 1988 Permit and/or of provisions of that Permit, and violations of the provisions of the California Coastal Act of 1976. Such claims are addressable only by reference to the Attorney General for appropriate action under either Section 13172 or Section 13173 of the Commission Regulations. A Cease and Desist Order proceeding before the Commission (or Cease and Desist Orders by the Executive Director) is appropriate, if at all, only in situations where someone is

---

<sup>8</sup> We believe that Mr. Doherty observed, and we are attached collectively as Exhibit 5 pictures to demonstrate, that there has been no degradation of our property by the improvements which are the subject of the NOIs and Amendment, no less the type of significant degradation contemplated and required by § 30240.

presently engaging in some activity. Accordingly, we believe that the Commission lacks jurisdiction to commence, prosecute, or enforce a Cease and Desist Order proceeding, and is and/or will be acting in an ultra vires manner if it proceeds with its notices of intention to institute a Cease and Desist Order proceeding.

Moreover, we also believe that any action by the Commission either by reference to the Attorney General or by way of a Cease and Desist Order proceeding is barred by the doctrine of Laches and by applicable statutes of limitations. In effect, the Commission, on behalf of the People of the State of California, is proposing to take action based on a "right (the permit) or title" (the easement) which accrued more than ten (10) years ago. Accordingly, any such action is barred under Code of Civil Procedure § 315. Additionally, insofar as the Commission is claiming that we have any liability under the Coastal Act, any such claims are barred by the three year statute of limitations contained in Code of Civil Procedure § 338. Finally, and among other things, insofar as the Commission believes that we may be liable for civil fines or penalties, any such claim would be barred either pursuant to the one-year statute of limitations contained in Code of Civil Procedure § 340, or by the three-year statute of limitations contained in the Coastal Act itself (§ 30820).

SIDLEY & AUSTIN  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

CHICAGO

DALLAS

NEW YORK

SEATTLE

WASHINGTON, D.C.

555 WEST FIFTH STREET  
LOS ANGELES, CALIFORNIA 90013-1010  
TELEPHONE 213 896 6000  
FACSIMILE 213 896 6600

FOUNDED 1866

HONG KONG

LONDON

SHANGHAI

SINGAPORE

TOKYO

WRITER'S DIRECT NUMBER  
(213) 896-6602

WRITER'S E-MAIL ADDRESS  
hrubinroit@sidley.com

April 10, 2001

RECEIVED  
APR 11 2001

By Federal Express

Mr. Abe Doherty  
Headquarters Enforcement Officer  
California Coastal Commission  
45 Fremont  
Suite 2000  
San Francisco CA 94105-2219

CA COASTAL COMMISSION  
LEGAL DIVISION

Re: Amendment to Notice of Intent/Amended Statement of Defense

Dear Abe:

Responding to the Staff's March 20, 2001 letter to my wife and me, we are enclosing herewith a Statement of Defense form prepared and executed by me, along with the designated exhibits.

Pursuant to your letter of March 20, 2001, we would propose to file, without prejudice to our arguments, an application for a CDP prior to any hearing on the NOI. We are most interested in resolving this matter amicably, but are prepared to contest the Commission's NOI (or any other enforcement action) if necessary.

Thank you for your personal courtesies and efforts.

Very truly yours,



Howard J. Rubinroit

HJR/sk

Enclosures

EXHIBIT 17  
CCC-01-CD-1 (RUBINROIT)  
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**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200

**STATEMENT OF DEFENSE FORM**

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE YOU COMPLETE THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by either a cease and desist order issued by the executive director or a notice of intent to initiate cease and desist order proceedings before the commission. This document indicates that you are or may be responsible for or in some way involved in either a violation of the commission's laws or a commission permit. The document summarizes what the (possible) violation involves, who is or may be responsible for it, where and when it (may have) occurred, and other pertinent information concerning the (possible) violation.

This form requires you to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. This form also requires you to enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You should complete the form (please use additional pages if necessary) and return it **no later than April 9, 2001** to the Commission's enforcement staff at the following address:

**Abe Doherty, Legal Division,  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105**

If you have any questions, please contact Abe Doherty at (415) 904-5297.







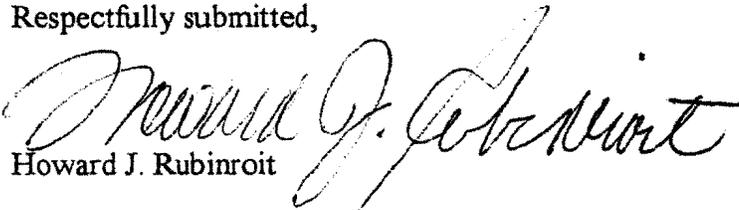


6. Documents, exhibits, declarations under penalty or perjury or other materials that you have attached to this form to support your answers or that you want to be made part of the administrative record for this enforcement proceeding (Please list in chronological order by date, author, and title, and enclose a copy with this completed form):

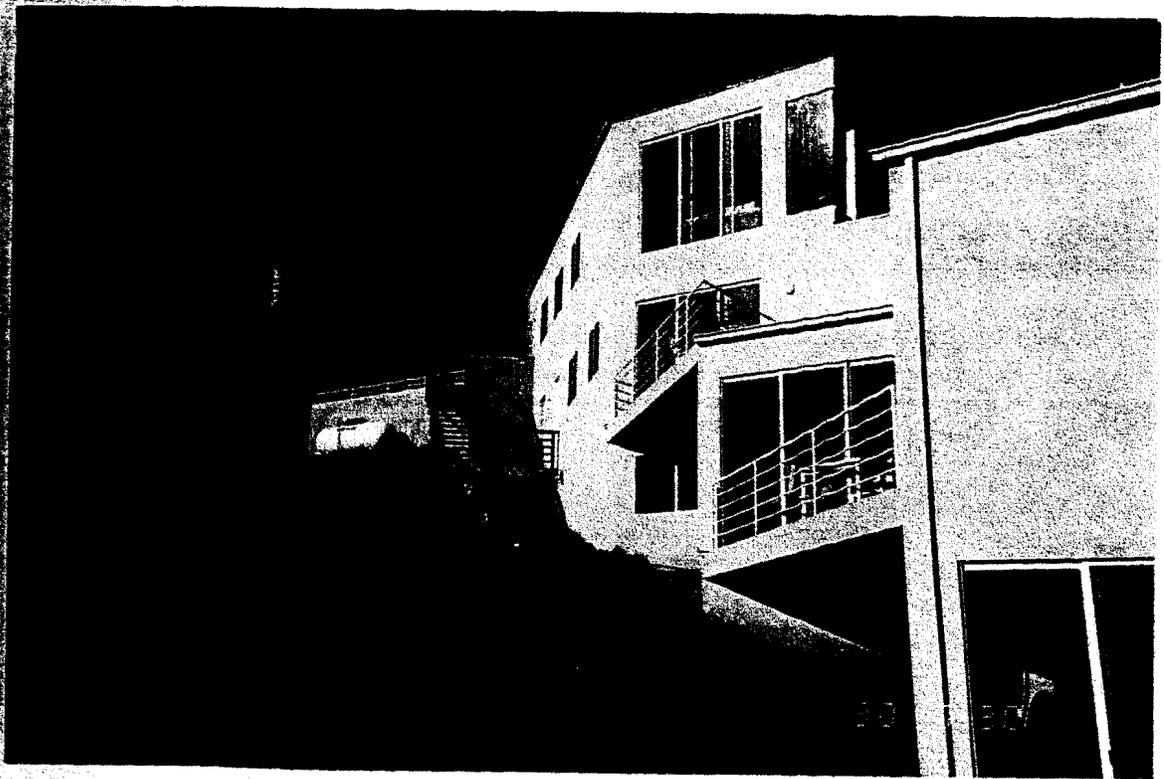
1. Exhibit 1 -- Site plan, dated February 8, 1988;
2. Exhibit 2 -- Six (self-dated) photographs which show the lighted steps (item 5), propane tank (item 7), water tank (item 8), the extent to which existing vegetation was denuded in connection with the original development, and the original non-native grass which was, in part, replaced in 1996 with the supposedly non-native sand (what we actually understand to be native crushed granite) referred to in items 11 and 12;
3. Exhibit 3 -- Photographs which show the extent of removal of vegetation at the time of the earlier construction, and, the grading, in 1989 or 1990, of the pad on which the so-called sports court was placed in 1996; and
4. Exhibit 4 -- Twenty-seven photographs of the Quaker-Ross lots, Triangle lots, and Cold Creek developments.

Dated: April 10, 2001

Respectfully submitted,

  
Howard J. Rubinroit





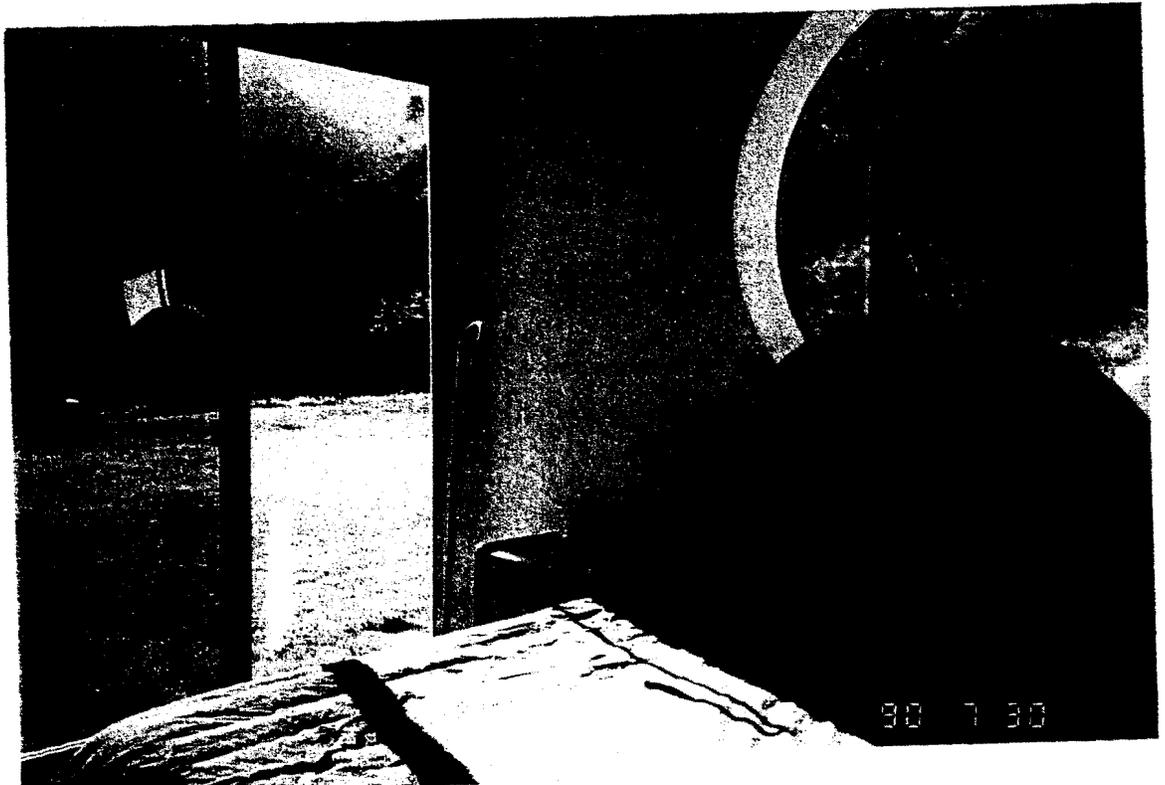
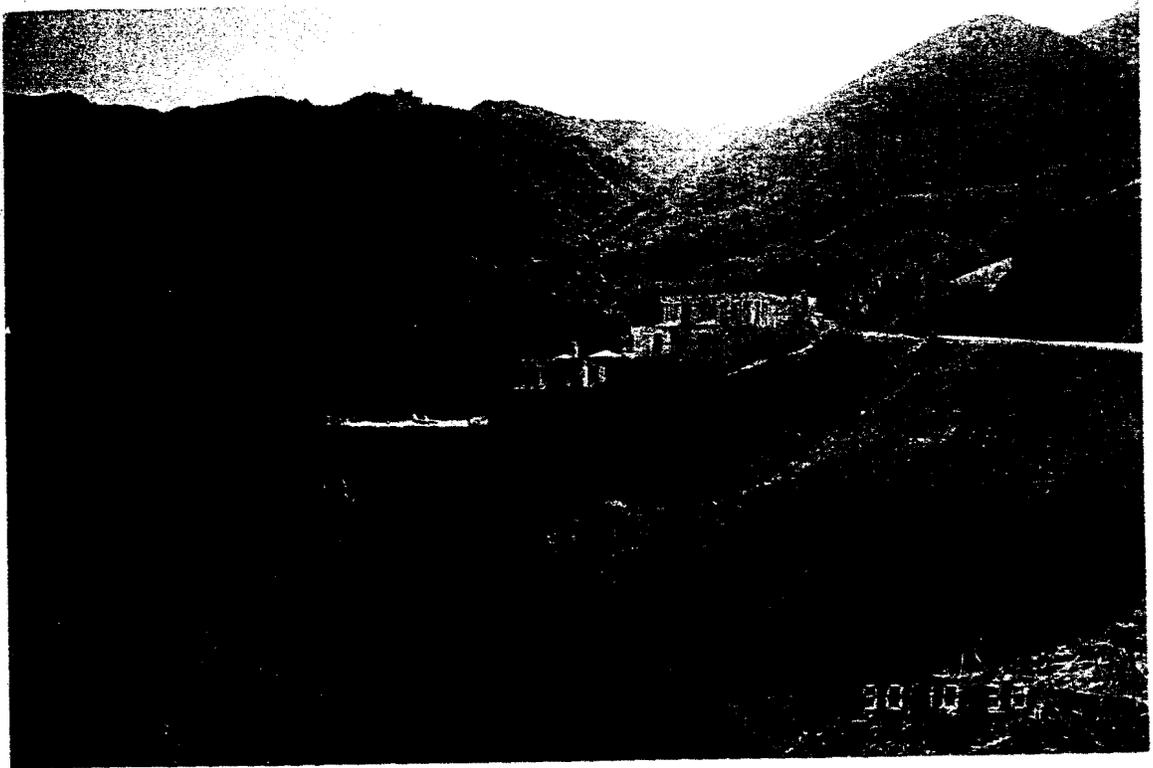
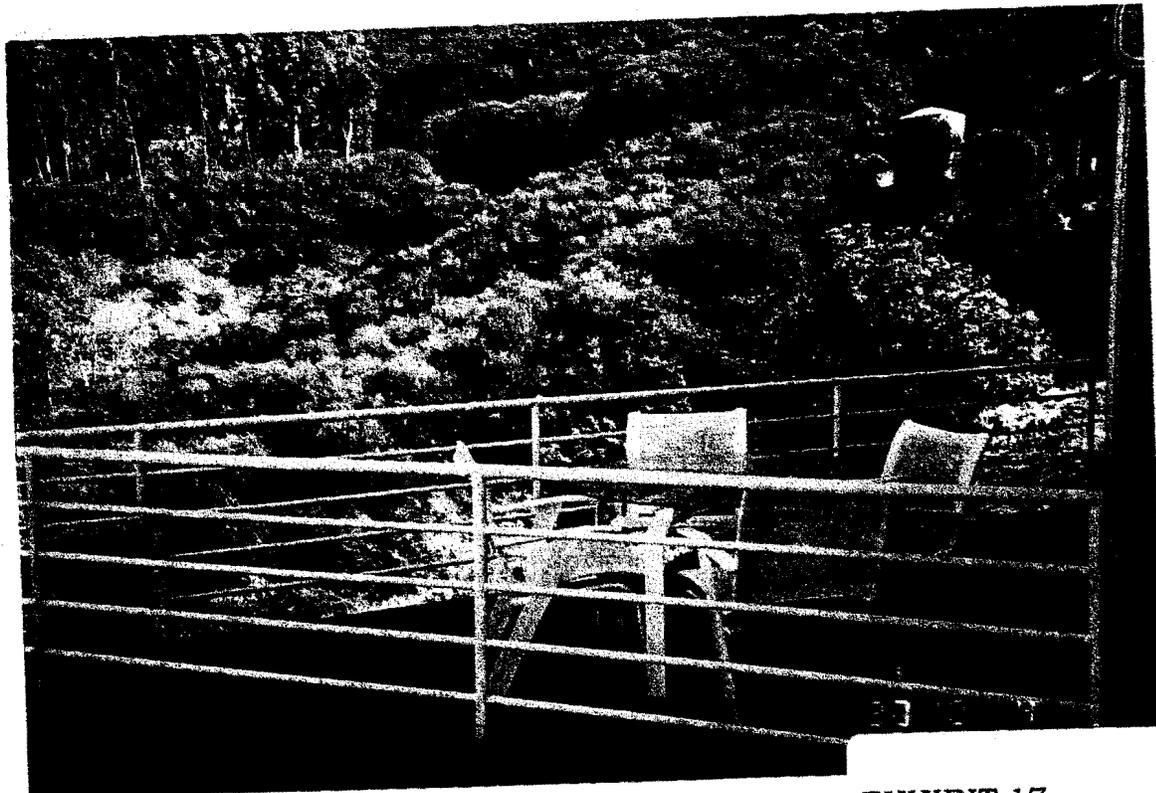
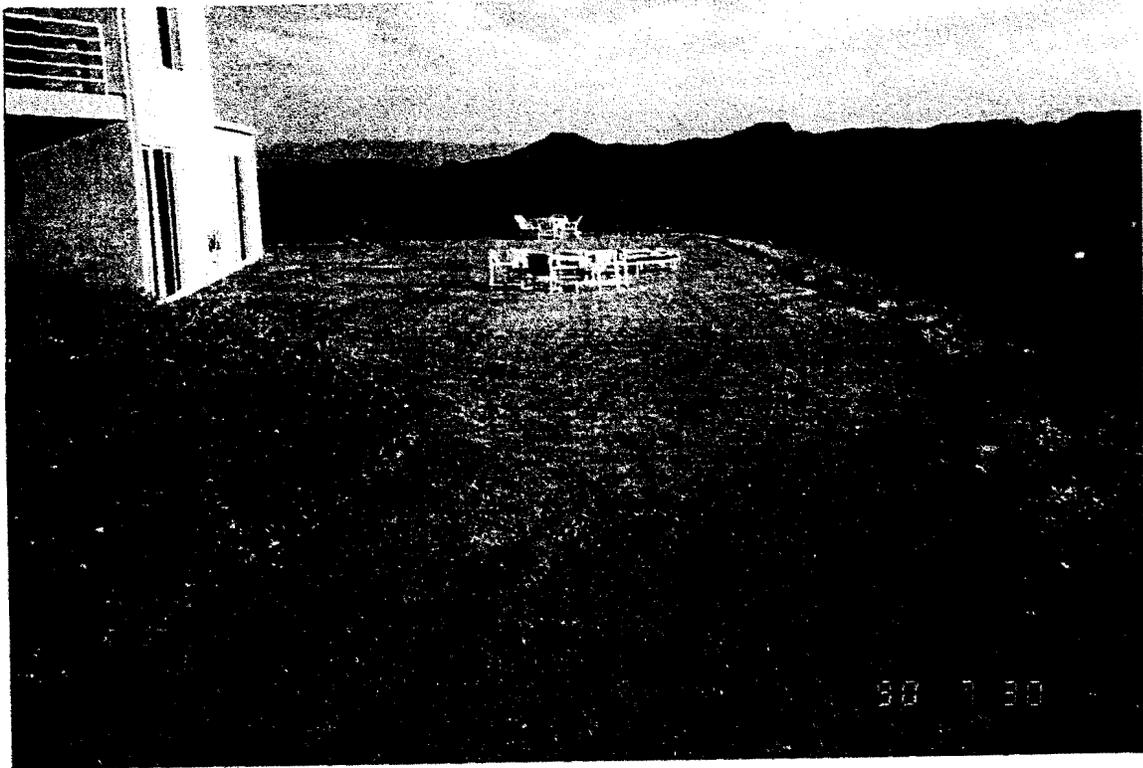
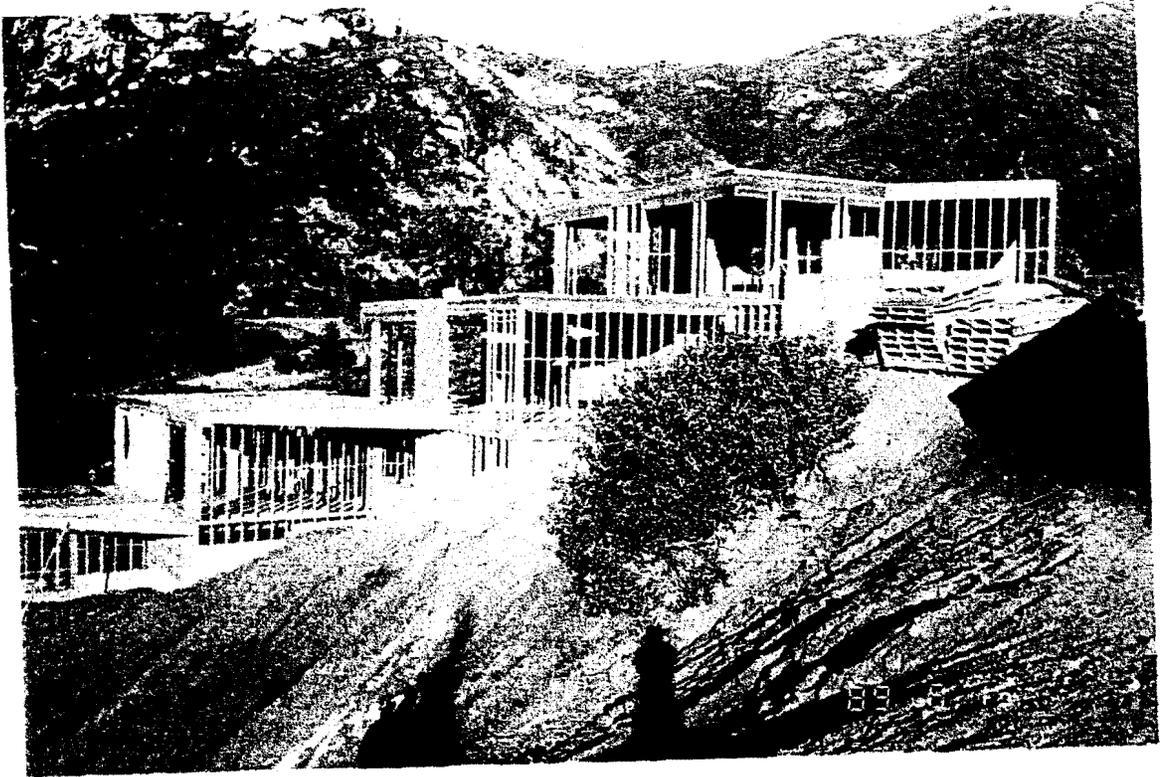
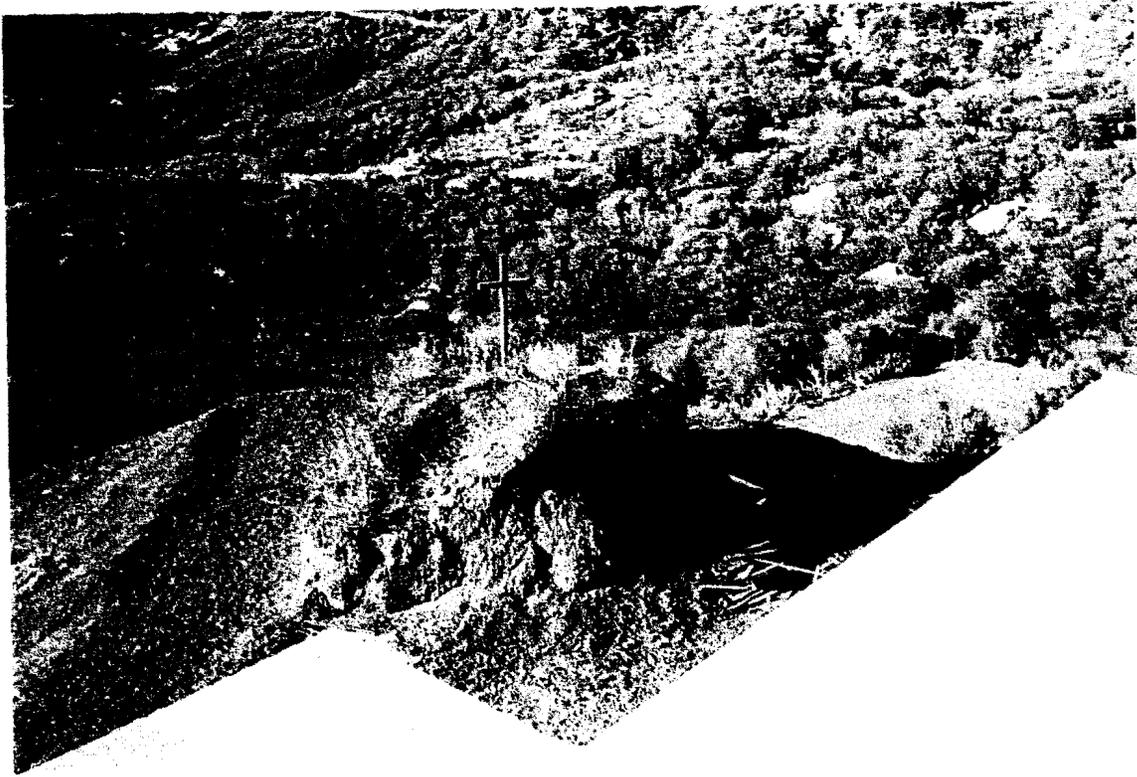


EXHIBIT 17  
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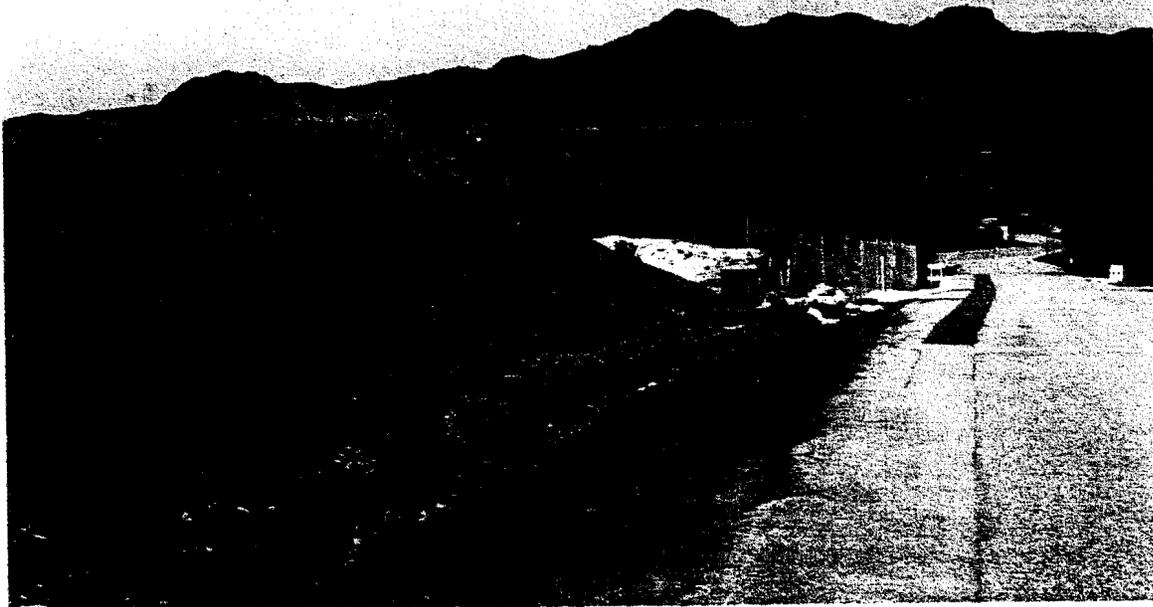


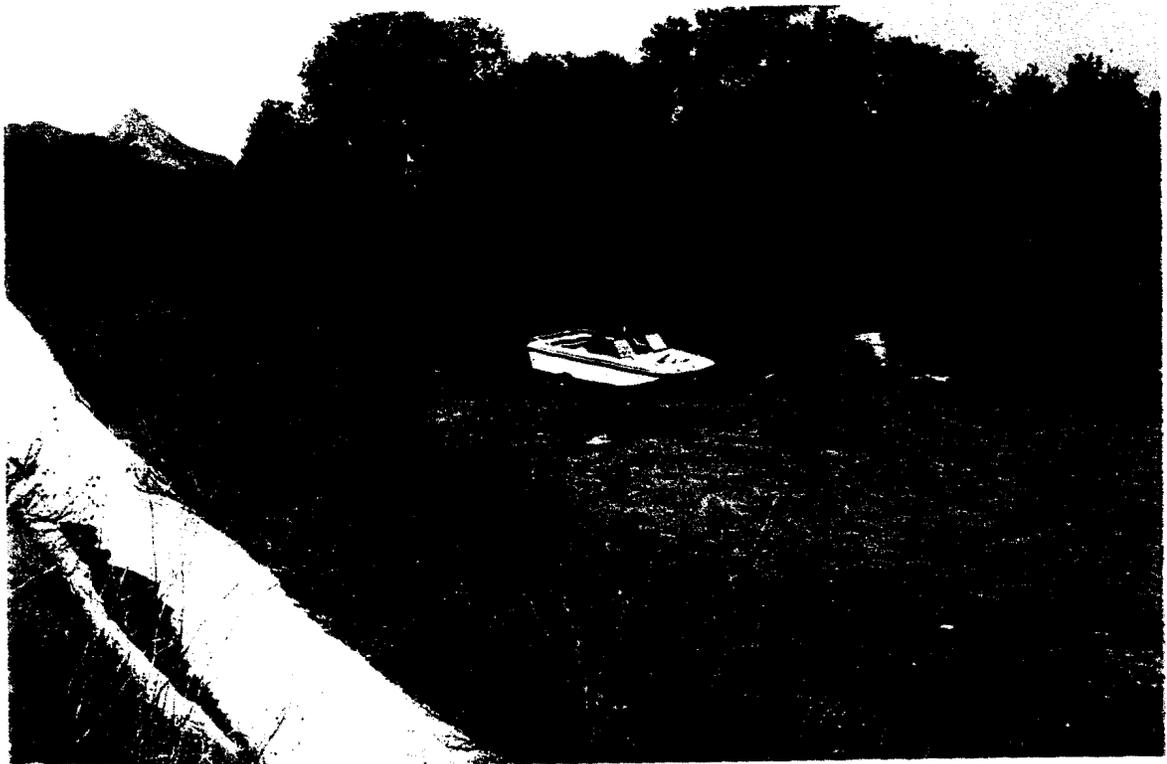


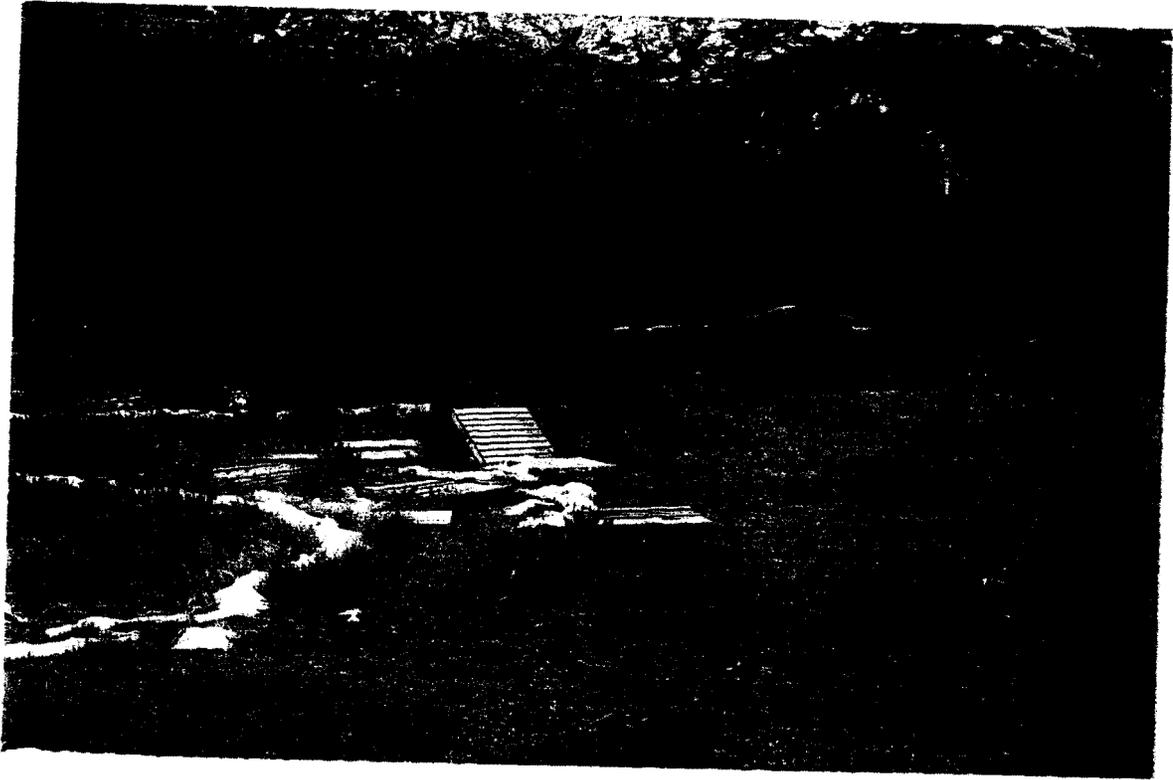


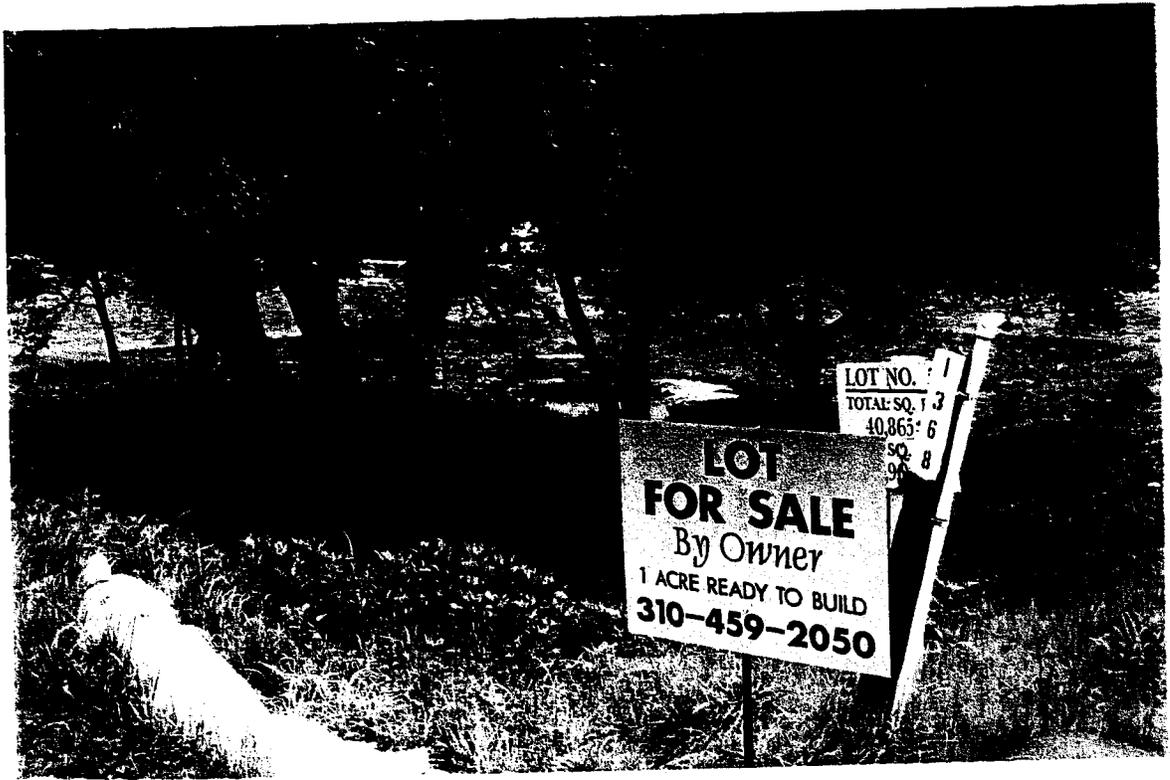
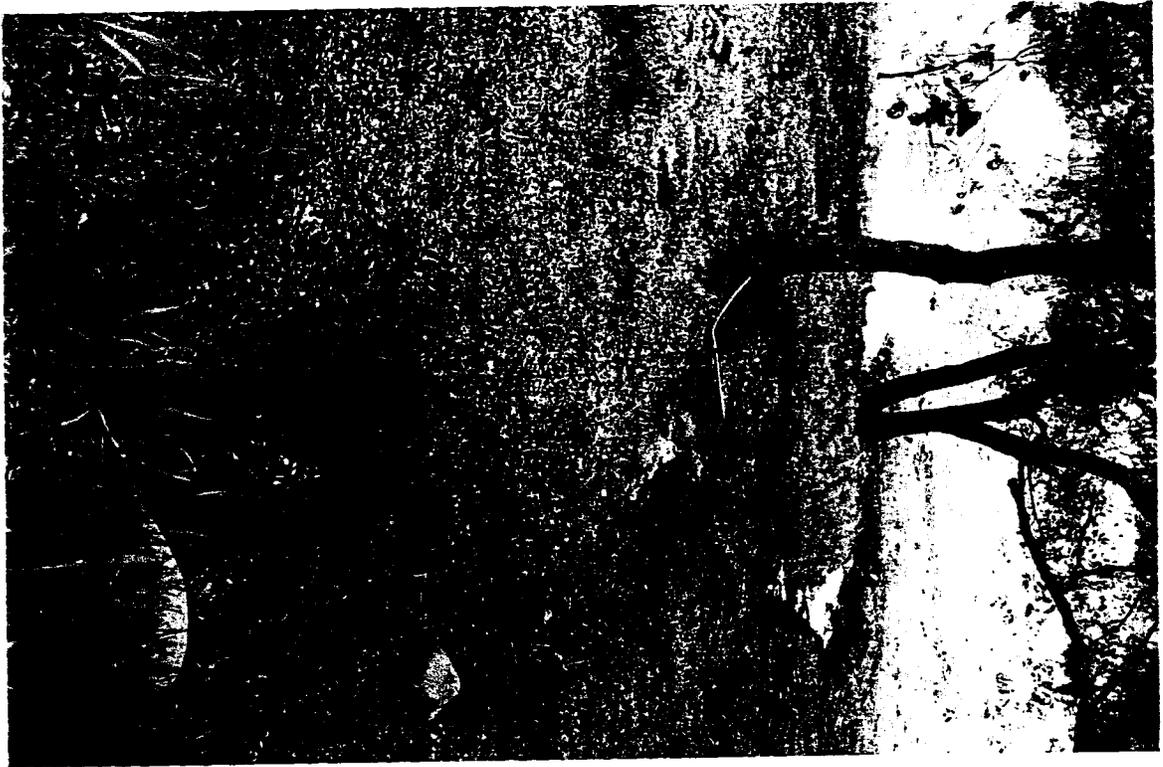




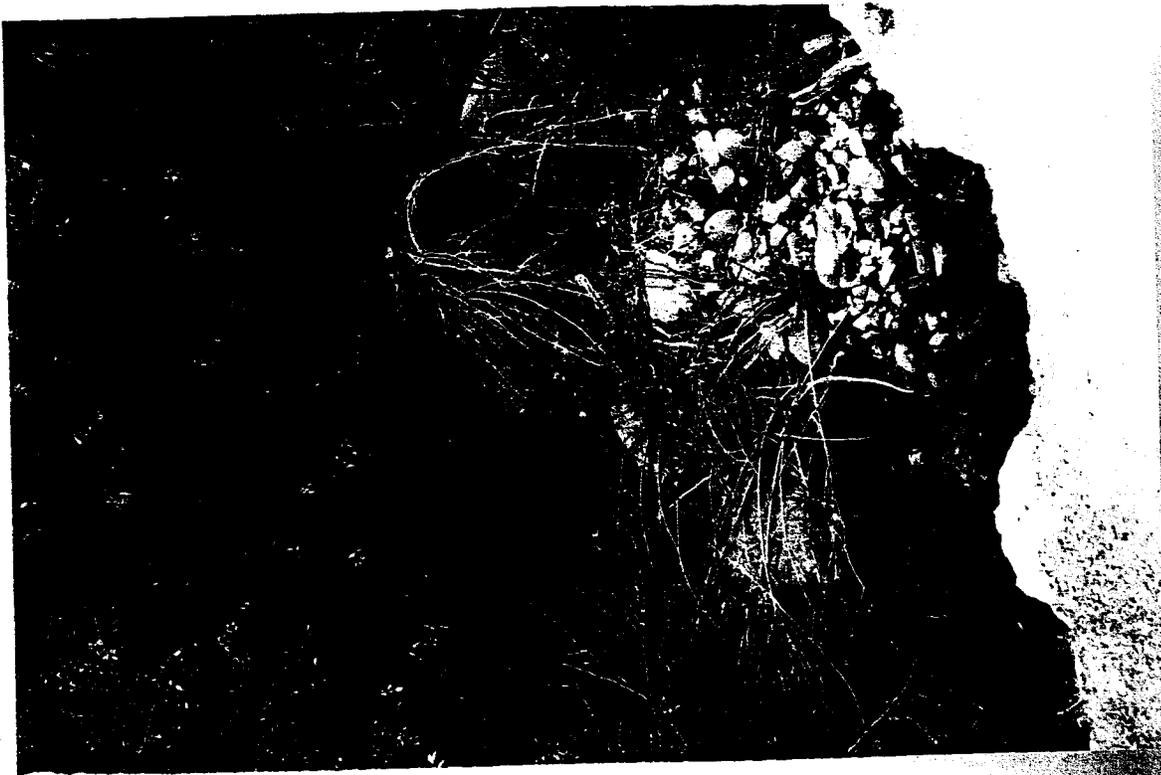












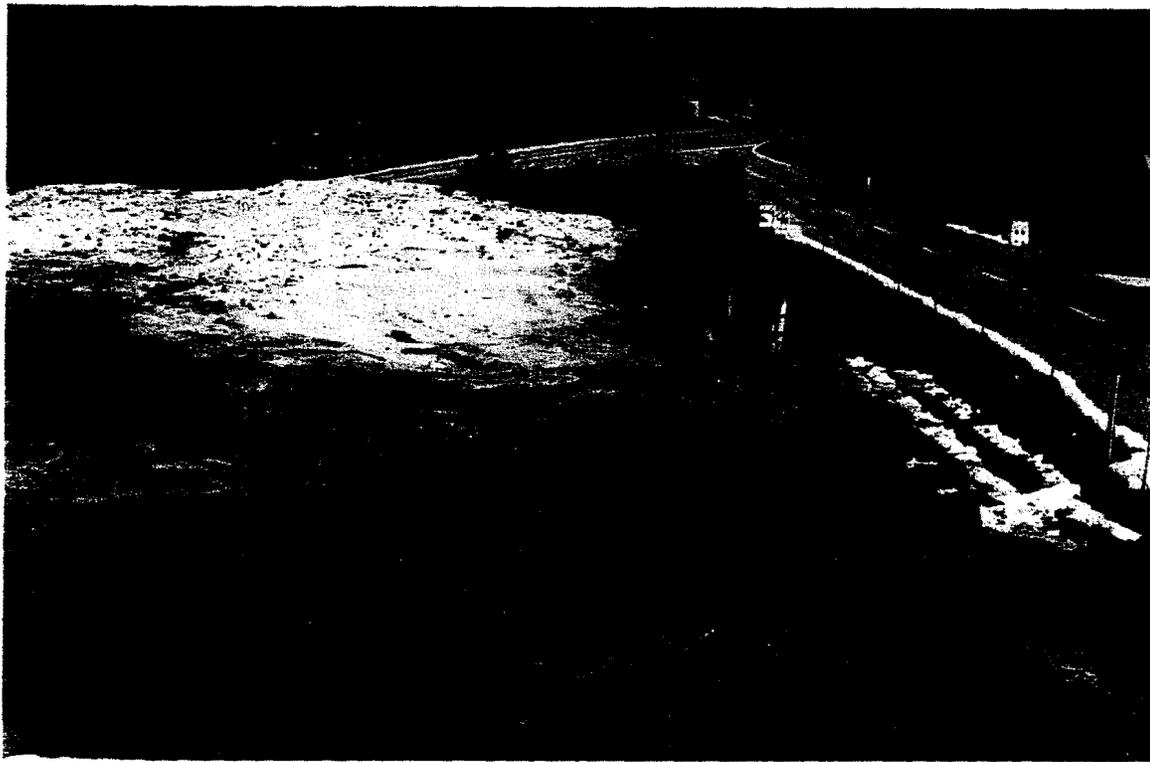






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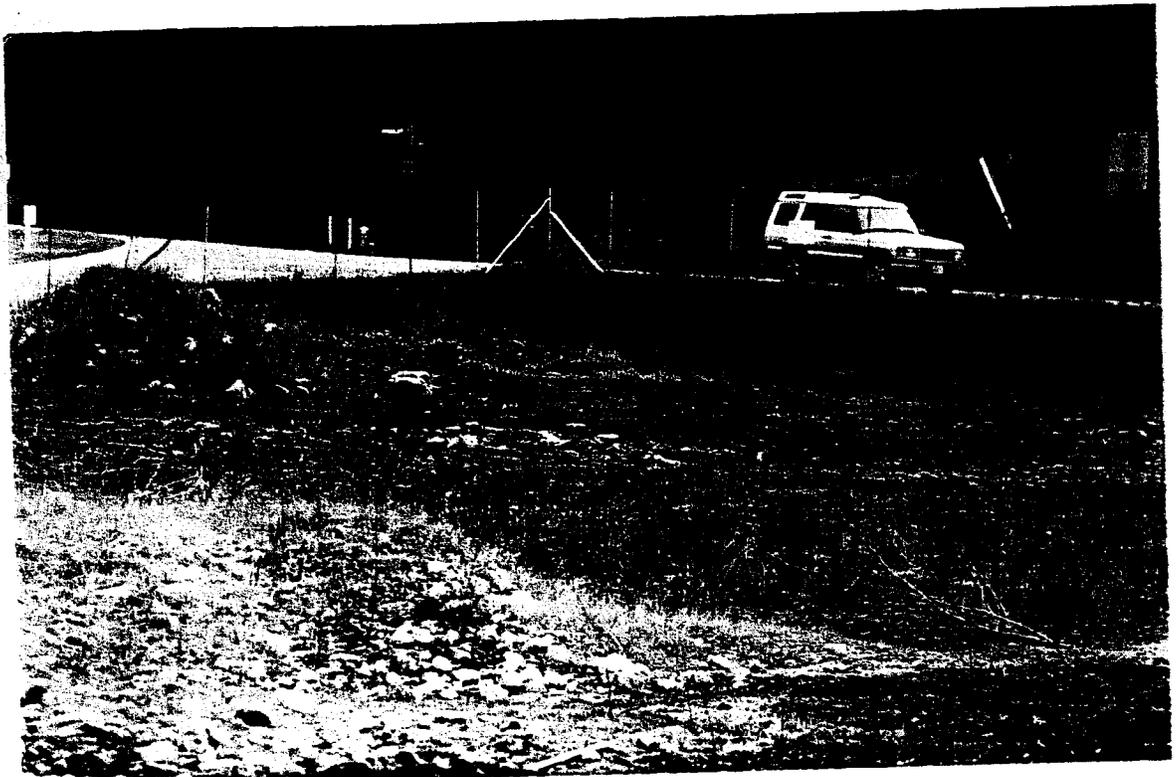
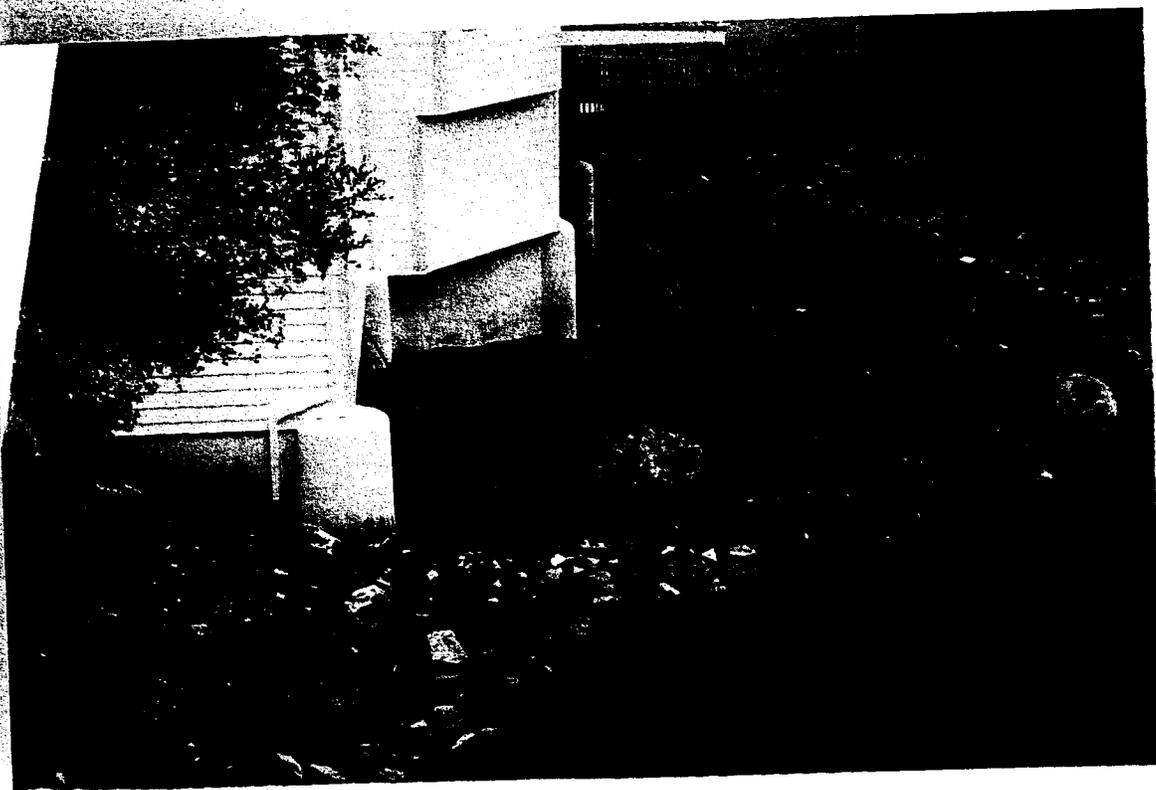
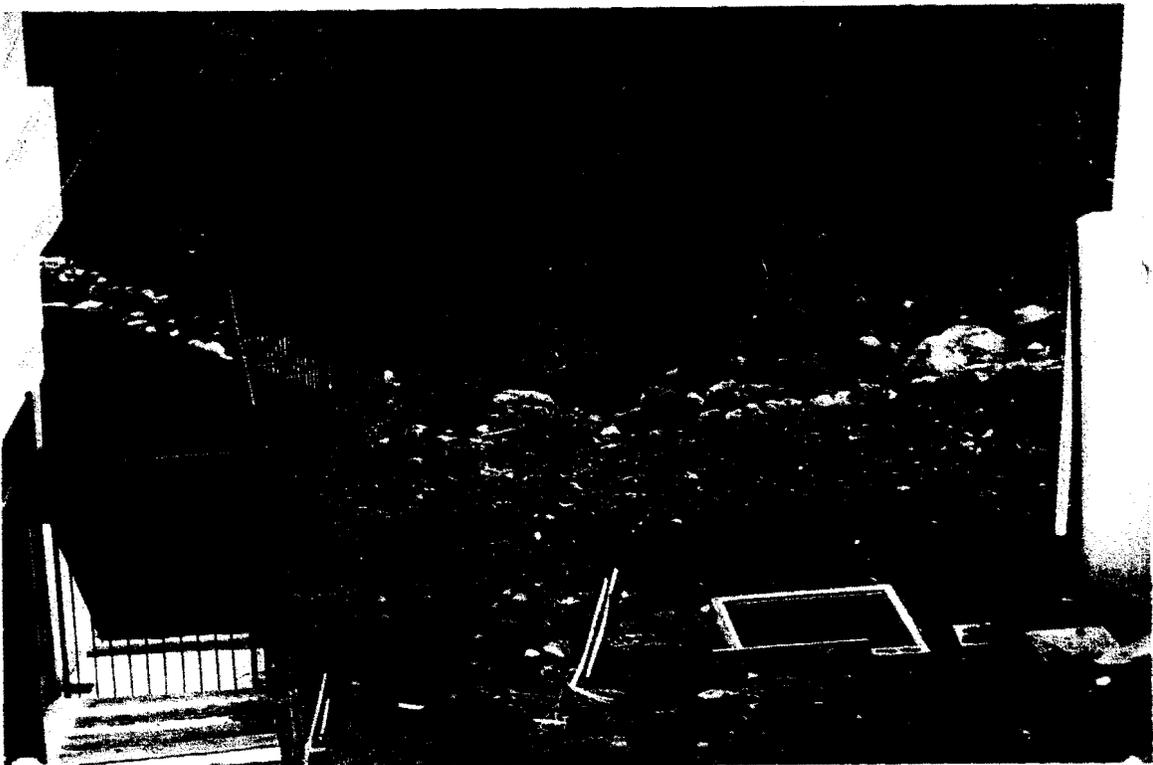


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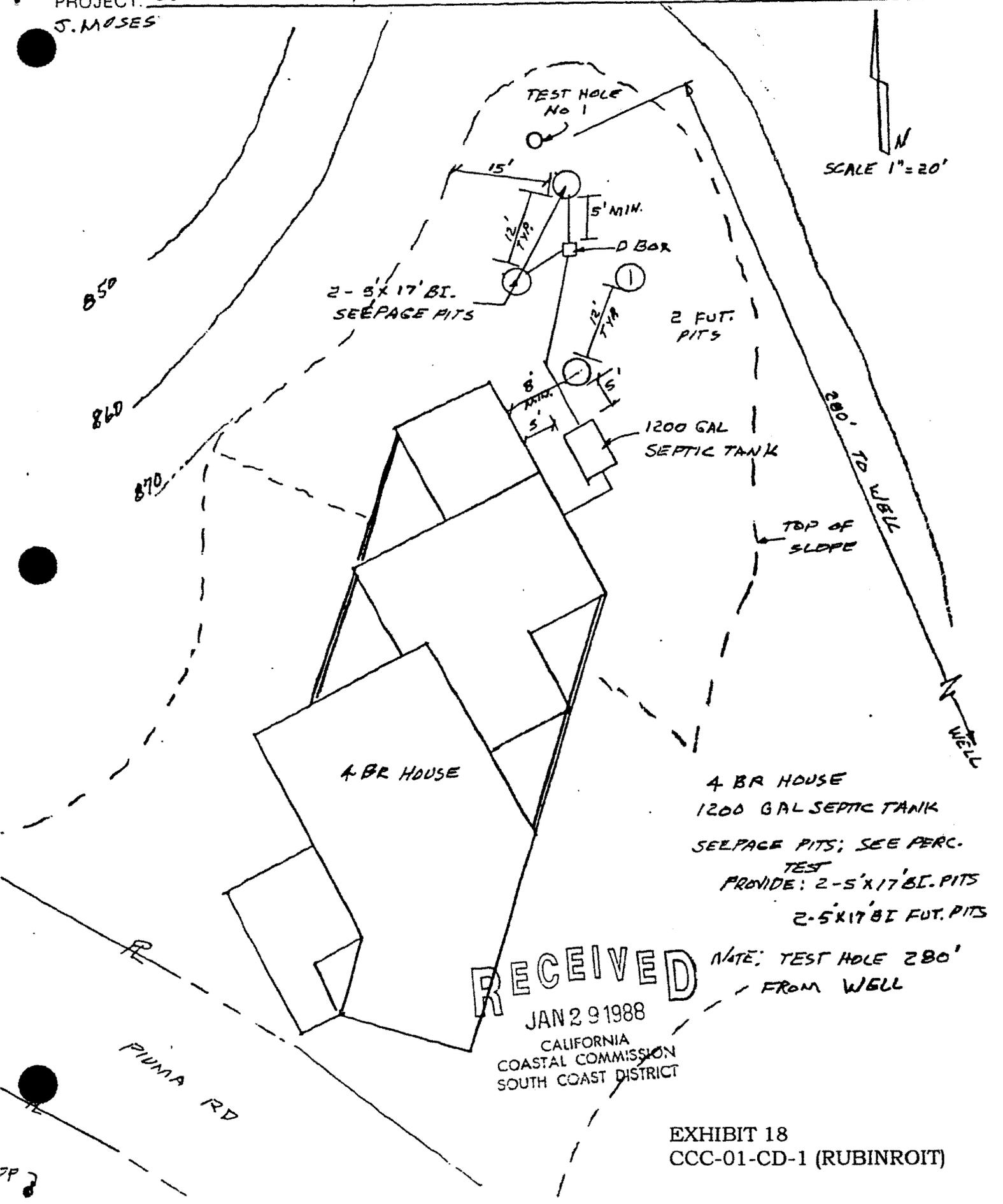
EXHIBIT 17  
CCC-01-CD-1 (RUBINROIT)  
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DATE 12-18-87

PROJECT: 25351 PIUMA RD, MALIBU  
J. MOSES



4 BR HOUSE  
 1200 GAL SEPTIC TANK  
 SEEPAGE PITS; SEE PERC.  
 TEST  
 PROVIDE: 2-5'x17' BI. PITS  
 2-5'x17' BI. 2 FT. PITS

**RECEIVED**

JAN 29 1988

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH COAST DISTRICT

NOTE: TEST HOLE 280'  
 FROM WELL

EXHIBIT 18  
 CCC-01-CD-1 (RUBINROIT)

7P 3



**COUNTY OF LOS ANGELES  
DEPARTMENT OF PUBLIC WORKS  
BUILDING AND SAFETY/  
LAND DEVELOPMENT DIVISION**



**FIRE DEPARTMENT (LOS ANGELES COUNTY)**

- FIRE STATION DEVELOPER FEE must be paid to the Fire Dept. prior to issuance of a Building Permit. Obtain "DETERMINATION" form from Building & Safety. This fee does not apply to City of Westlake Village or to the Chatsworth area.

Fiscal Services Division  
1320 No. Eastern Ave., Room 225  
Los Angeles, CA 90063-3294  
(213) 881-2404, Ext. 2442

- "HAZMAT" form must be submitted to and approved by the Fire Dept. for non-residential occupancies if hazardous materials are being handled. Obtain "HAZMAT" form from Building and Safety.

Fire Prevention Bureau, Hazardous Materials Section  
5823 Rickenbacher Rd.  
Commerce, CA 90040-3027  
(213) 890-4000

- COMMERCIAL BUILDINGS OVER 2,500 SQ.FT. and MULTIPLE RESIDENTIAL BUILDINGS require plan approval from the Fire Dept.

Fire Prevention Bureau  
5823 Rickenbacher Rd.  
Commerce, CA 90040-3027  
(213) 890-4125; FAX (213) 890-4129

- ALL NEW DWELLINGS, DWELLING ADDITIONS OVER 2,000 SQ.FT., COMMERCIAL BUILDINGS UNDER 2,500 SQ.FT. and any structures in Deer Lake Highlands require approval from the Fire Department. Provide Fire Department with a WATER CERTIFICATE completed by the local water company. A water information form is required before a rough plumbing inspection.  Swimming pools in the VHFHS zone require plan check by Fire Dept.

Las Virgenes Municipal Water Dist.  
4232 Las Virgenes Road  
Calabasas, CA 91302-1994  
(818) 880-4110

Waterworks District #29  
23533 W. Civic Center Wy.  
Malibu, CA 90265-4804  
(310) 317-1388, Hours 8:00-10:00 a.m.

AND  
Fire Prevention Bureau

Capt. Jim Jordan  
23533 W. Civic Center Way  
Malibu, CA 90265-4804  
(310) 317-1351 *Sadie*

For Chatsworth area only:  
Ms. Nina Giannone  
23757 Valencia Blvd.  
Santa Clarita, CA 91355-2192  
(805) 253-7266

**GEOLOGY/SOILS SECTIONS (MATERIALS ENGINEERING DIVISION)** - Plan approval is required for geologic hazards. Initial submittal consisting of two copies of geotechnical reports together with consultant signed plans will be forwarded by Building & Safety. Subsequent submittals are your responsibility and must also contain copies of the latest geology/soils review sheet. The plans must incorporate the consultant's recommendations with their approval. If required, plans must be approved by manual signature by the consultants prior to resubmittal. This section may impose additional fees for resubmittals.

Messrs. Mike Montgomery / Scott Ezell  
Calabasas Office:  
First & Third Tuesday 8:00 - 10:00 a.m.  
(818) 880-4150

Headquarters - Closed Fridays  
900 S. Fremont Ave., 4th Floor  
Alhambra, CA 91803-1331  
(818) 458-4925 M & W 9:00 - 11:00 a.m.

**GRADING SECTION (BUILDING AND SAFETY/LAND DEVELOPMENT DIV.)** - Grading/Landscaping permit and approval are required. Grading/Landscaping plan check is done primarily at the Central Office. Submit 4 sets of Grading plans and 3 sets of Geology & Soils Reports.  Rough Grading approval is required before a building permit can be issued.

900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
(818) 458-4921 Closed Fridays

**CALABASAS - MALIBU DISTRICT OFFICE**  
4111 N. Las Virgenes Road, Calabasas, CA 91302-1929  
Telephone: (818) 880-4150, FAX: (818) 880-6279  
Office Hours: 8:00 a.m. - 4:30 p.m.  
Plan Checker's Hours: 8:00 a.m. - 11:30 a.m. Appointments are recommended.

Plans for a structure at 25351 Pluma Rd Cala  
(Address) (Locality)

Plan Check No. 9511070001 was submitted on 11-7-95 for Building (or Grading) in Check

**MINIMUM PLAN CHECK SUBMITTAL REQUIREMENTS:**

- Building & Drainage Plan Check requires 2 complete sets of working drawings including 2 sets of structural & energy calculations. Also provide a soils & geology report (if any), & Hydrology Report (if any). If Energy Calculations are computer methods (MICROPAS Etc.), an additional set of plans is required and is checked by the Mechanical Section at the Alhambra Hdqrs.

THIS NOTICE IS TO INFORM YOU THAT APPROVAL FROM THE AGENCIES MARKED BELOW, IN ADDITION TO BUILDING OR GRADING PLAN CHECK APPROVAL, MUST BE OBTAINED PRIOR TO PERMIT ISSUANCE. You may need to submit the pertinent plans, plan check number, calculations, reports, etc., directly to these agencies. To assist you, we have listed below the information which you will need to contact these agencies. Follow-up is your responsibility. Please be aware that some items resulting from these agency plan reviews may affect your building plan check. These should be communicated to your Building Plan Check Engineer as soon as possible to prevent unnecessary delays. Additional agency clearances may be requested by your Building Plan Check Engineer.

**CALTRANS** - Permits are required for excavation, encroachment (including driveway aprons) and improvements (including grading or structures that affect drainage) on State Highways (Pacific Coast Hwy., Topanga Cyn. Bl., Decker Rd. & Westlake Bl.).

1st Spring St. Room 112  
Los Angeles, CA 90012-3606  
(213) 897-3631

**COASTAL COMMISSION** - A permit is required from the Coastal Commission. Prior to submitting an application to the Coastal Commission, an "Approval in Concept" must be obtained from the Regional Planning Department.

89 So. California St.  
Ventura, CA 93001-2801  
(805) 641-0142

**CONSTRUCTION DIVISION** - Permits are required for road excavations and encroachments.

5530 W. 83rd Street  
Westchester, CA 90045-3309  
(310) 649-6300

**DRAINAGE SECTION (BUILDING AND SAFETY / LAND DEVELOPMENT DIV.)** - Plan approval is required for drainage and flood hazard. Initial plan submittal will be forwarded by Building & Safety.

Mr. Mark Pestrella  
Calabasas Office:  
Tuesdays & Thursdays 8:00-11:00 a.m.  
(818) 880-4150

Headquarters:  
900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
Closed Fridays

EXHIBIT 19  
CCC-01-CD-1 (RUBINROIT)  
Page 1 of 2

**HEALTH SERVICES DEPARTMENT (MOUNTAIN AND RURAL)** - Approval is required for private sewage disposal systems for new construction, for modification or repair to existing systems and for increase in use for an addition or remodel (increase in number of bedrooms for residential.) Contact the Sanitarian that handles your area. Five copies of the plot plan showing the sewage disposal are required.

Mr. Anthony Lawrence R.E.H.S.  
Calabasas Office  
Monday - Friday 8:00-9:00 a.m.  
(818) 880-4121

Headquarters Environmental Mgmt.:  
2525 Corporate Pl.  
Monterey Park, CA 91754-7641  
(213) 881-4157

Mr. Bob Saleh  
Mr. Arnie Fielding  
Mr. Bart Slutsky  
Malibu Office:  
23525 W. Civic Center Wy.  
Malibu, CA 90265-4804  
Monday - Friday 8:00-9:00 a.m.  
(310) 317-1317

**HEALTH SERVICES DEPARTMENT (ENVIRONMENTAL SANITATION DIV.)** - Approval is required for all food establishments.

12502 Van Nuys Blvd., Room 204  
Pacoima, CA 91331  
8:00 - 10:00 a.m.  
(818) 834-3370

2509 W. Pico Blvd. Room 329  
Santa Monica, CA 90405-1899  
8:00 - 10:00 a.m.  
(310) 315-4381

**HIGHWAY DESIGN SECTION (DESIGN DIVISION)** - Plan approval for street improvements and/or dedication is required for commercial and residential blocks. Bridge & Major Thoroughfare (B&T) Fee is also required for commercial, multiple residential buildings and designated tracts in the Lost Hills and Parkway Calabasas B & T Districts. Form "48-0040-DPW" (RD 490) should be filled out when submitting plans to Building and Safety.

Mr. Duane Andrus  
900 S. Fremont Ave. 6th Floor  
Alhambra, CA 91803-1331  
(818) 458-7984 Closed Fridays

**LAS VIRGENES MUNICIPAL WATER DISTRICT** - A letter is required stating financial arrangements have been made for sewer connections. In commercial buildings, an approval is required for installation of additional plumbing fixtures.

4232 Las Virgenes Road  
Calabasas, CA 91302-1994  
(818) 880-4110

**MECHANICAL AND ELECTRICAL ENERGY PLAN CHECK** - Required for all commercial and industrial buildings with comfort heating and which are over 1000 sq. ft. in area or have an occupant load over 50. When submitting plans for building plan review, submit two extra complete sets along with the required energy conservation forms and calculations.

Mechanical Section  
Building & Safety/Land Development Div.  
900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
(818) 458-3182 Closed Fridays

Electrical Section  
Building & Safety/Land Development Div.  
900 S. Fremont Ave., 3rd Floor  
Alhambra, CA 91803-1331  
(818) 458-3180 Closed Fridays

**DIVISION OF OCCUPATIONAL SAFETY & HEALTH (STATE DEPT. OF INDUSTRIAL RELATIONS)** - Permit is required for excavation of trenches which are 5 ft. or more deep into which a person is required to descend or for the construction or demolition of any structure 4 or more stories. Brick lined seepage pits may require permit.

6150 Van Nuys Blvd. Suite 405  
Van Nuys, CA 91401-3379  
(818) 901-5403

**DIVISION OF OIL AND GAS (STATE DEPARTMENT OF CONSERVATION)** - Obtain clearance for the requirements of abandonment of oil wells.

245 West Broadway, Suite 475  
Long Beach, CA 90802-4455  
(310) 590-5311

1000 S. Hill Rd. Suite 116  
Ventura, CA 93003-4455  
(805) 654-4761

**PARKS AND RECREATION DEPARTMENT** - Plan approval is required for construction adjacent to a "General Plan Designated Trail."

433 S. Vermont Avenue  
Los Angeles, CA 90020-1975  
(213) 738-2973

**REGIONAL PLANNING DEPARTMENT** - Approval is required for:

- |   |   |
|---|---|
| <input type="checkbox"/> Compliance to General Plan   | <input type="checkbox"/> Topanga Cyn. Comm. Stds. Dist.         |
| <input type="checkbox"/> Land use/approval in concept | <input type="checkbox"/> Chatsworth Twin Lake Comm. Stds. Dist. |
| <input type="checkbox"/> Legal lot                    | <input type="checkbox"/> Malibu Lake Urgency Ordinance          |
| <input type="checkbox"/> Parking and landscaping      | <input type="checkbox"/> Sensitive Environmental Zone           |
| <input type="checkbox"/> Setback                      | <input type="checkbox"/> Oak Tree Permits                       |
| <input type="checkbox"/> Building Height              |   |

320 W. Temple St., 13th Floor (Rm. 1360), Los Angeles, CA 90012-3282  
Public Counter: 1:00 p.m. to 6:00 p.m. Monday thru Thursday only  
Telephone Hours: 7:00 a.m. to 12:00 p.m. (213) 974-6411 Monday thru Thursday only

**SCHOOL DISTRICT** - Development fee must be paid to the District for residential and commercial construction. A "Certificate of Payment of Developer Fee" must be submitted to Building and Safety prior to obtaining a building permit.

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| <input type="checkbox"/> Las Virgenes Unified School Dist.<br>4111 Las Virgenes Road<br>Calabasas, CA 91302-1929<br>(818) 880-4000<br>Obtain "Certification Form" from<br>Las Virgenes School District. | <input type="checkbox"/> L.A. Unified School Dist.<br>600 East Pico Boulevard<br>Los Angeles, CA 90015-3116<br>(213) 743-3670<br>Obtain "Certification Form"<br>from Calabasas B & S Office. |
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- Santa Monica - Malibu Unified School District  
1651 16th Street, Santa Monica, CA 90404-3891  
(310) 450-8338  
Obtain "Certification Form" from Calabasas B & S Office.

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD)** - Applicants for non-residential buildings must fill out "Air Quality Permit Checklist" furnished by Building & Safety. If "Yes" is marked, a written release will be required before occupancy is allowed. Notification form required for demolition and alteration permits where ASBESTOS is involved.

21865 E. Copley Dr.  
Diamond Bar, CA 91765-4182  
(909) 396-2000, (800) 388-2121

**TRAFFIC AND LIGHTING DIVISION** - Clearance is required for traffic requirements.

Traffic and Lighting Division, Traffic Studies Unit  
900 S. Fremont Ave.  
Alhambra, CA 91083-1331  
(818) 458-5909 Closed Fridays

**WASTE MANAGEMENT DIVISION** - Plan approval is required for most commercial and industrial buildings for:  Industrial Waste,  Underground Tanks,  Floor Drains.

Mr. Jerry Wong  
125 S. Baldwin Ave.  
Arcadia, CA 91007-2652  
8:00-9:00 a.m. Monday-Friday.  
(818) 574-0957

Waste Management Division  
900 S. Fremont Ave.  
Alhambra, CA 91803-1331  
(818) 458-3517  
Closed Fridays

**WESTLAKE VILLAGE (CITY OF)** - Zoning/Engineering approval is required prior to submitting for Building Plan Check.

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| <input type="checkbox"/> Zoning Dept.<br>Mr. Robert Theobald<br>4373 N. Park Terrace Dr.<br>Westlake Village, CA 91361-4631<br>(818) 706-1613 | <input type="checkbox"/> Engineering Dept.<br>City Engineer & Road approval<br>374 Poli St., Suite 102<br>Ventura, CA 93001-2605<br>(805) 653-6597 |
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