

CALIFORNIA COASTAL COMMISSION

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**Th19a**

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Staff: MV-LB
Staff Report: 5/23/01
Hearing Date: 6/12-15/01
Commission Action:

STAFF REPORT: REGULAR CALENDAR**RECORD PACKET COPY****APPLICATION NUMBER: 5-00-051****APPLICANT: Cameo Community Association****AGENT: Dave Bartlett****PROJECT LOCATION: 117 Milford Drive, Corona del Mar (Newport Beach)
Orange County**

PROJECT DESCRIPTION: Reconstruction of approximately 65 linear feet of private beach accessway and slope stabilization. The proposed improvements will be within the footprint of the original structure.

Lot Area:	14,500 square feet
Building Coverage:	0 square feet
Pavement Coverage:	3,600 square feet
Landscape Coverage:	0 square feet
Land Use Designation	Recreational & Environmental Open Space

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept No. 974-99 (amended 2) dated 4/19/01.

SUBSTANTIVE FILE DOCUMENTS: Update Geotechnical Investigation for Proposed Cement-Treated Soil Slope prepared by Geofirm, dated February 4, 2000; Evaluation of Environmental Impacts of Proposed Slope Repair at the Third Beach Access Walkway, Corona del Mar, California, prepared by PCR, dated May 4, 1999; Department of Fish & Game Streambed Alteration Agreement No. 5-249-99; Coastal Development Permit No. 5-85-592; Coastal Development Permit Application 5-99-224 (withdrawn prior to Commission action).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project subject to 5 special conditions. The recommended special conditions are: 1) a requirement that construction methods minimize adverse impacts to the stream and adjacent habitat; 2) recordation of a deed restriction which prohibits future protective devices; 3) a requirement that no expansion beyond the original project's footprint is allowed; 4) conformance to the geologist's recommendations and 5) recordation of an Assumption of Risk Deed Restriction. These special conditions are necessary to bring the proposed project into conformance with Sections 30231, 30236, 30240, and 30253 of the Coastal Act regarding streams, habitat, water quality, and hazards.

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve CDP #5-00-051 pursuant to the staff recommendation.

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

RESOLUTION TO APPROVE THE PERMIT WITH CONDITIONS:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Construction Methods

A. Prior to issuance of the permit a construction methods plan shall be prepared by a qualified professional and submitted for the review and approval of the Executive Director. At a minimum the construction methods plan shall include the following:

i) A map of the project site identifying the perimeter of the work site. During construction the perimeter of the work site shall be flagged to prevent damage to adjacent portions of the streambed and habitat. No work shall occur outside the flagged work area.

ii) The location where the construction equipment will be fueled, maintained and stored. No refueling, maintenance, or storage of construction equipment shall occur in the stream or on the beach.

iii) An erosion control plan indicating the erosion control measures that will be employed to prevent erodible surfaces and construction debris from washing into the stream.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development

A. This permit is only for the development described in Coastal Development Permit No. 5-00-051. Pursuant to Title 14, California Code of Regulations, section 13250(b)(6), the exemptions otherwise provided in Public Resources Code, section 30610(a) shall not apply. Accordingly, any future improvements to the walkway and supporting slope described in this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code, section 30610(d) and Title 14, California Code of Regulations, sections 13252(a)-(b), shall require an amendment to Permit No. 5-00-051 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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

3. Deviation from Approved Project Footprint

No expansion beyond the approved project footprint is allowed. The only development allowed under this permit is construction of the walkway and cement treated soil slope, as depicted on the

plans prepared by Toal Engineering, and signed by the engineer on 4/17/01. Any development beyond that, including improvements, repairs, and maintenance, cannot occur without an amendment to this coastal development permit or a new coastal development permit from the Coastal Commission, unless the Executive Director determines that no amendment or new permit is required.

4. Conformance of Design and Construction Plans to Geotechnical Engineering Investigation - Hazards

A. All final design and construction plans, including grading, foundations, site plans, elevation plans, and drainage plans, shall be consistent with all recommendations contained in the Update Geotechnical Investigation (Project No. 70861-02) by Geofirm, dated February 4, 2000. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Assumption-of-Risk, Waiver of Liability, and Indemnity Deed Restriction

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding and erosion; (ii) to assume the risks to the applicant and the property, that is the subject of this permit, of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards, (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from injury or damage due to such hazards.

B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection A of this condition. The deed restriction shall include a legal description of the applicant's parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to replace a storm damaged private beach access walkway and to stabilize the slope beneath the walkway with cement treated soil. The damage was caused by intense storm flows on December 6, 1997 which resulted in erosion along the outer bend of the gully that undermined the existing walkway. The entire project is proposed to occur within the footprint of the former walkway structure. The cement treated soil slope is proposed in the same location as the former modified slope prior to the erosive storm event of 1997. The walkway and slope stabilization were originally constructed in 1958.

The project is proposed to include construction of a 4 foot wide concrete walkway and excavation and recompaction of 247 cubic yards of soil beneath the walkway. The 247 cubic yards of excavated soil will be replaced in place as cement treated soil. The project also proposes to install a subdrain beneath the walkway. The previous structure included concrete slope stabilization in the form of sacked concrete along the slope beneath the walkway.

The subject site is located in Morning Canyon in the Corona del Mar area of the City of Newport Beach. The Cameo Shores community is located along the downcoast edge of Morning Canyon and along the bluffs above the ocean. Morning Canyon is located between the residential developments of Shorecliffs to the northwest and Cameo Shores to the southeast. It originates inland in the Newport Coast area and extends to the beach. Morning Canyon is identified in the City's certified Land Use Plan as an environmentally sensitive habitat area.

In addition to the private beach accessway proposed to be replaced, two other private accessways to the sea serve the Cameo Shores Community. Both are located on Brighton Road (adjacent to 4533 and 4639 Brighton Road). One is located approximately a quarter mile downcoast of the subject site and the other is approximately a half mile downcoast of the subject site (see b). Both of these accessways lead to rocky shoreline. The sandy beach at the base of the proposed project is difficult to get to from the other two community accessways. All three accessways are locked and available only to residents and guests of Cameo Shores. The proposed project will restore beach access to the Cameo Shores community

Although the Cameo Shores Community is not a locked gate community, no public access is available through the neighborhood to the sea. The nearest public access in the vicinity is located approximately a mile and a half down coast at Crystal Cove State Park and approximately three quarters of a mile upcoast at Little Corona Beach (see exhibit B).

B. Project Background

The applicant previously submitted coastal development permit No. 5-99-224 to repair the walkway. That application was withdrawn prior to Commission action. The scope of the previous project was significantly larger than the project currently proposed. The project proposed under application No. 5-99-224 included a curvilinear gabion wall, sixty eight feet long, eleven to fourteen feet high, three feet wide at the top, with the base width ranging from six feet to seven and a half feet. In addition, the gabion wall was to include an apron which would have extended out six feet

from the base of the gabion wall and would have been one foot deep. The formerly proposed project included excavations to the extent necessary to trim the existing irregular surface in order to accommodate the gabion wall, and to partially layback the cut for a safe working environment during construction. In addition, riprap was proposed to locally replace existing shallow alluvium to support the gabion system. The riprap was proposed to be placed beneath the apron. Two feet of fill was proposed above the apron and within the stream bottom.

The currently proposed project represents a significant scaling back of the magnitude of the project. The proposed project will not extend beyond the footprint of the previously existing walkway. The proposed development is the minimum necessary to achieve the applicant's objective of replacing the former use.

C. Project Not Exempt from Permit Requirements

Section 30610 of the Coastal Act states that no coastal development permit is required for the replacement of any structure destroyed by disaster provided that the replacement structure does not exceed the bulk of the destroyed structure by more than 10 percent. The proposed project does not qualify for a disaster replacement exemption because the bulk of the replacement project exceeds the bulk of the destroyed project by more than 10 percent. This is based on the fact that the walkway is now proposed to be supported by compacted cement treated soil, where the original walkway was supported by modified slope lined with sacked concrete. Because the proposed walkway support area includes area that had been disturbed to a lesser extent, the 10 percent bulk criteria is exceeded. In addition, the proposed project also includes a new subdrain system. The previously existing structure did not include a subdrain.

D. Streambed Alteration

Section 30236 of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

The proposed project is located along the south slope of the stream within Morning Canyon. The stream exhibits ephemeral flows associated with rain events as well as sustained flows associated with urban runoff. The Streambed Alteration Agreement prepared by the California Department of Fish and Game (No. 5-249-99, see exhibit I) states that "the stream contains standing and slowly flowing water, with little to no emergent vegetation" and that "slope vegetation largely consists of introduced ornamental vegetation."

The proposed project would replace a 65 foot length of flood damaged walkway within the former structure's footprint. The length of the entire walkway along the stream is approximately 200 feet. The damaged portion is in the middle. Undamaged walkway exists both upstream and downstream of the project. The applicant has reduced the scope of the project so that it will not extend beyond the footprint of the former walkway. This will minimize adverse impacts to the stream because no new area will be affected.

The City of Newport Beach owns a sewer pump station in Morning Canyon slightly upstream of the subject site. The City's plans for the pump station, dated November 1958, show the original walkway. The City's Public Works Department has compared the proposed project plans to the 1958 plans and has found that the footprint will remain the same. Regarding this, the Public Works Department states (see exhibit F): "Based on our review, it is our opinion the original footprint for slope stabilization and the pedestrian pathway is in substantial conformance with the proposed walkway reconstruction project and is consistent with the City's original construction plans for the Morning Canyon Project." Commission staff has reviewed the plans submitted by the applicant as well as the City's 1958 plans and has also found the footprint to be the same.

The proposed project, which includes replacement of a walkway and stabilization of the slope beneath the walkway with cement treated soil, technically constitutes a type of stream channelization pursuant to Coastal Act Section 30236. Section 30236(2) allows channelization that constitutes flood control projects where no other method for protecting existing structures in the floodplain is feasible, and where necessary to protect existing development. The remaining portions of the walkway are existing structures located within the flood plain. Without construction of the proposed project, the stream will continue to erode and undermine the remaining portions of the walkway and channelized slope. The proposed project would control the erosional effects of stream flows so that the entire walkway, as well as the opposite bank, is protected from further damage. Thus the proposed project is a flood control project necessary to protect existing development within the floodplain. In addition, the geotechnical consultant has found that the proposed project will permanently restore the accessway and will adequately protect the adjacent slope.

The applicant's engineering consultant has reviewed the proposed project for potential adverse impacts on the opposite bank (see exhibit G). Regarding this the engineering consultant states:

At the location where the project is to take place, the channel bends, with the project being on the outer side of the curve. The project will provide a uniform, smooth surface, gradually varying, which will reduce eddies and turbulence. The smooth turn will also reduce other eddies and currents which are presently directed away from the opposite bank causing loose material to be pulled away. The cumulative effect, long term, would be to cause severe erosion and possible failure of the bank, absent an improved surface.

Thus the proposed project will not have any negative impact on the alternate bank.

However, in addition to being necessary to protect existing development, the project may only be allowed where no other method for protecting the existing structure is feasible. In addition to the project previously proposed under coastal development permit (cdp) application No. 5-99-224, other alternatives to the proposed project have been studied and considered. Placing the replacement walkway on a bridge was considered. This alternative was rejected because the bridge structure would require caissons for support to be placed in the streambed and would not provide permanent protection of the adjacent slope, nor would it prevent further erosion of the bank. Also considered was construction of a Loeffelstein or keystone wall. This alternative was essentially the same as the project proposed under cdp application No. 5-99-224, except it would allow for the wall to be planted to give it a more organic appearance, while still maintaining an erosion resistant face. However, this alternative was rejected because it would have encroached further into the streambed creating new adverse impacts to the stream beyond those which already existed under the former structure. Finally, the applicant considered construction of a

caisson embedded H-pile and treated wood lagging retaining wall. This alternative was rejected for the same reasons.

The proposed alternative is the only feasible alternative because it protects the existing flood-threatened structures without violating Coastal Act policies and is the most minor in scope. New adverse impacts will be minimized because the proposed project will be located entirely within the footprint of the previous channelization and so will encroach no further into the stream than the previous structure. The project is considered feasible because it will achieve the applicant's objective of protecting the walkway and restoring long term access to the beach for the Cameo Shores community.

Finally, in order to be consistent with Section 30236 any stream channelization must incorporate the best mitigation measures feasible. The proposed project has been reduced in scope in order to minimize or eliminate adverse impacts on the surrounding area. Adverse impacts will be further reduced by the special condition requiring a construction methods plan. The construction methods plan requires, at a minimum, that: the work site be flagged and prohibits work outside the flagged work area; that no fueling, maintenance, or storage of construction equipment occur in the stream or on the beach; and that erosion control measures be employed to prevent erodible surfaces and construction debris from washing into the stream. These measures represent the best mitigation feasible for the proposed development because they will substantially reduce adverse impacts that otherwise may have resulted. These measures are feasible because they can be reasonably accomplished by the applicant. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the requirement of Section 30236 to provide the best mitigation measures feasible.

Staff notes that Section 30235 of the Coastal Act addresses when revetments and similar structures that alter natural shoreline processes may be allowed. The subject site is not an oceanfront site. It is located inland, upstream from the shoreline. The subject site is not tidally influenced and is not subject to wave attack. Other than the fact that the stream empties into the ocean, it has no interaction with the sea. Therefore, Section 30235 is not applicable because the proposed project will not alter natural shoreline processes.

Therefore, the Commission finds that the proposed project is consistent with Section 30236 of the Coastal Act regarding channelization of streams.

E. Environmentally Sensitive Habitat Areas

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.

The subject site is located within Morning Canyon. Morning Canyon is identified in the City's certified Land Use Plan (LUP) as environmentally sensitive habitat area (ESHA). The site is

identified in the LUP as ESHA because it contains some native vegetation, it acts as a buffer for the Marine Life Refuge located off coast, and it provides a wildlife corridor inland to the Newport Coast area.

The subject site was evaluated by the applicant's biological consultant and by the California Department of Fish and Game (CDFG). No wetlands were identified on site. Evaluating the immediate vicinity of the subject site, the consultant specifically found: "Morning Canyon supports minimal habitat for native species within the gully, lacks a floodplain or terrace to support adjacent wetlands and does not have an estuarine component. Options to introduce or create such resources to the system would be limited due to existing development adjacent to both sides of the creek." In addition, a Streambed Alteration Agreement was prepared for the proposed project by the CDFG. The Streambed Alteration Agreement (No. 5-249-99, see exhibit I) concurs that "the stream contains standing and slowly flowing water, with little to no emergent vegetation" and that "slope vegetation largely consists of introduced ornamental vegetation." The Commission concurs with the decisions made by the CDFG.

As discussed earlier, the proposed project will be located entirely within the footprint of the former walkway and stabilized slope support structure. The slope is proposed to be restored to its former configuration.

Section 30240(a) of the Coastal Act prohibits significant disruption of habitat values and limits uses within ESHA to those dependent on the resource. In addition, Section 30240(b) requires that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade those areas and that development be compatible with the continuance of the habitat area.

The proposed project will restore the pre-Coastal Act, modified slope and walkway to its original configuration and location prior to the erosive storm event of 1997. Consequently, the proposed project will not extend beyond the former structure's footprint. A structure existed adjacent to the stream and within Morning Canyon at the time the City's LUP identified it as an ESHA. The proposed project is not located within the ESHA, but adjacent to it. Reconstruction of the project within the original footprint will not result in new development expanding beyond what previously existed in Morning Canyon. For all the foregoing reasons, no ESHA will be displaced or degraded. The canyon area surrounding the walkway and support constitutes the ESHA.

Since the proposed structure will not expand beyond that of the previous structure, no adverse impacts to the continuance of habitat in Morning Canyon will result.

Section 30240(b) of the Coastal Act requires that development adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade the ESHA. The applicant has proposed that the project be sited within the former structure's footprint and configuration. A structure in this location and with this design has existed at the site for 43 years (1958 to present); during that time the adjacent area was determined to be ESHA. This indicates that the previous structure did not significantly degrade and was compatible with the continuance of the ESHA. The replacement structure is proposed with the same characteristics, indicating that it too will not degrade and will be compatible with the continuance of the ESHA.

The proposed project has been sited and designed to prevent impacts to ESHA and to be compatible with its continuance consistent with Section 30240(b). Special conditions have been imposed to assure that the project remains consistent with Coastal Act Section 30240. To assure

that any future modifications to the project will not encroach into the sensitive area, a special condition is necessary which requires that no future expansion of the project beyond the approved footprint is allowed. Expansion of the project could extend into ESHA or could prove disruptive to it, inconsistent with Section 30240 of the Coastal Act.

In order to assure that potential construction impacts to ESHA are avoided, it is necessary to impose a special condition that addresses construction methods. This special condition requires that the work site be flagged and that the stream and ESHA be avoided. In addition, the condition requires that no refueling, maintenance, or storage of vehicles occur within the canyon or on the beach at the mouth of the canyon. This condition also requires control of any construction related or other erosion to prevent adverse impacts to the stream or ESHA.

Therefore, the Commission finds that the proposed project as conditioned is consistent with Section 30240 of the Coastal Act regarding protection of ESHA.

F. Water Quality

Section 30231 of the Coastal Act states:

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

Section 30231 of the Coastal Act requires that the biological productivity and water quality of the stream and ocean be maintained and, where feasible, enhanced. The proposed project is not expected to create long term adverse impacts to the water quality of the stream. However, construction impacts must be considered. These issues are also addressed in the CDFG Streambed Alteration Agreement.

The Streambed Alteration Agreement (SAA 5-249-99) prepared for the proposed development (see exhibit I) identifies the necessary requirements to protect the stream and to assure that adverse water quality impacts are avoided. Among the provisions included in the SAA are: limiting access to the site to existing roads and access ramps; prohibiting equipment from being operated in ponded or flowing areas; flagging the limits of the work site in order to prevent damage to the adjacent area; preventing runoff from the work site from entering the stream; and requiring that construction related material and debris must be kept out of the stream. The applicant is required by the Streambed Alteration Agreement to comply with all these provisions. Section 30231 of the Coastal Act espouses the same concerns as those identified in the SAA.

The proposed project could cause damage to the stream's water quality if contractors were not made clearly aware of the areas which must be avoided. Flagging the work site would make it clear to contractors the limits of the project work site. This would keep construction equipment out of the stream. Refueling, maintaining (e.g. washing, repairing, etc.) construction equipment in the canyon or on the beach could result in toxins dripping to the ground. These toxins could then be washed or blown or otherwise introduced into the stream and ocean, polluting the water quality.

Additionally, if methods to prevent or direct erosion appropriately are not employed, pollutants could enter the stream with erosive events. If preventative measures are employed this can be avoided.

Adverse impacts to the water quality of the stream and ocean must be avoided. In order to assure that potential construction impacts to sensitive areas are avoided, it is necessary to impose a special condition that addresses construction methods. This special condition requires that the work site be flagged and that the stream and ESHA are avoided. In addition, the condition requires that no refueling, maintenance, or storage of vehicles occur within the canyon or on the beach at the mouth of the canyon. This condition further requires control of any construction related or other erosion to prevent contamination of the stream.

Therefore only as conditioned to prevent adverse impacts to the water quality of the stream and ocean, does the Commission find the proposed project consistent with Section 30231 of the Coastal Act.

G. Hazards

Section 30253(1) and (2) of the Coastal Act states:

New development shall:

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

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

The project is proposed to replace a section of the stabilized slope and walkway that was washed out by the high storm flows resulting from the heavy rains of the winter of 1997. The section of the slope and walkway that was effected is located where the stream makes a bend. Given this history of the site, the project could be at risk from flood hazard and geologic instability. However, the proposed replacement structure is designed to withstand expected future erosive storm events. The applicant's geotechnical and engineering consultants have indicated that the proposed project will improve the site's stability. The engineering consultant has found that without the proposed project, severe erosion and possible bank failure would also occur on the opposite bank.

Expansion of the project could be contemplated if the proposed replacement walkway section appeared to need protection from future storm flows or if it began to deteriorate. The applicant's geotechnical consultant has provided comments on the expected life of the project and the possibility of the need for protection in the future (see exhibit H). The geotechnical consultant states:

"Cement treated soil has been used successfully for canal linings, reservoir slope protection, and embankment construction since the 1940's and 1950's. The excellent performance of literally thousands of applications over the past 50+ years has demonstrated that cement treated soil has a very long useful life expectancy. It is our opinion that the expected life of the proposed project is therefore greater than 100 years.

Consequently, future protection of the cement treated soil slope, walkway, and related elements is not anticipated."

Section 30253(2) prohibits development that would require the construction of protective devices that would substantially alter natural landforms along bluffs. The subject site is located within a canyon. The walls of the canyon are considered bluffs. Substantial alteration of the natural landform along these bluffs is prohibited.

The proposed project would restore the slope to its previous location and configuration. Since the 1950's the slope was reinforced with sacked concrete. The proposed project would replace the sacked concrete with cement treated soil. Although this change constitutes new development, it will be a minor change. The replacement of sacked concrete with cement treated soil within the same footprint of the previous structure is not a substantial alteration. In addition, because the slope has been reinforced with concrete since the 1950's, the portion that consisted of the sacks cannot be considered a natural landform. Thus, the proposed project would constitute a minor alteration to an already altered landform. The geotechnical consultant also states that if the damaged sacked concrete slope is replaced with soil treated cement that no additional protective devices would be necessary. Special condition No. 2 requires the applicant to record a deed restriction agreeing to no future protective devices. Therefore the proposed project is not inconsistent with Section 30253(2) regarding substantial alteration of natural landforms.

The report indicates that the site is suitable for the proposed development. The Update Geotechnical Investigation includes certain recommendations to increase the degree of stability of the proposed development. The recommendations included in the Update Geotechnical Investigation address clearing and grubbing, surface soil removals, compaction and method of filling, excavation conditions, and subsurface drainage.

In order to assure that risks are minimized, the recommendations of the geotechnical consultant must be incorporated into the design of the project. As a condition of approval, the applicant shall submit final grading plans, foundation plans, site plans, elevation plans, and drainage plans signed by the appropriately licensed professional indicating that the recommendations contained in the Update Geotechnical Investigation prepared by Geofirm and dated February 4, 2000 have been incorporated into the final design of the proposed project. Because all risks of development cannot be completely eliminated the applicant is also required to record an assumption of risk deed restriction acknowledging that the site is subject to extraordinary risk from flood hazard and erosion.

As conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act which requires that geologic and flood hazards be minimized, that stability and structural integrity be assured and that no alteration of natural landforms occur.

H. Public Access

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed development is located between the sea and the nearest public road.

The proposed project would allow reconstruction of a section of an existing private beach accessway. The Cameo Shores Community itself is not a locked gate community. The subject

accessway however, is locked and the beach access it provides is available only to members of the Cameo Shores community and their guests. However, the proposed development, partial reconstruction of an existing walkway, will not effect the existing public access conditions. The proposed development will not create any new adverse impacts to existing public access or recreation in the area. Public coastal access exists in the project vicinity approximately a mile and a half down coast at Crystal Cove State Park and approximately three quarters of a mile upcoast at Little Corona Beach (see exhibit B). Therefore the Commission finds that the project is consistent with the public access and recreation policies of the Coastal Act.

I. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

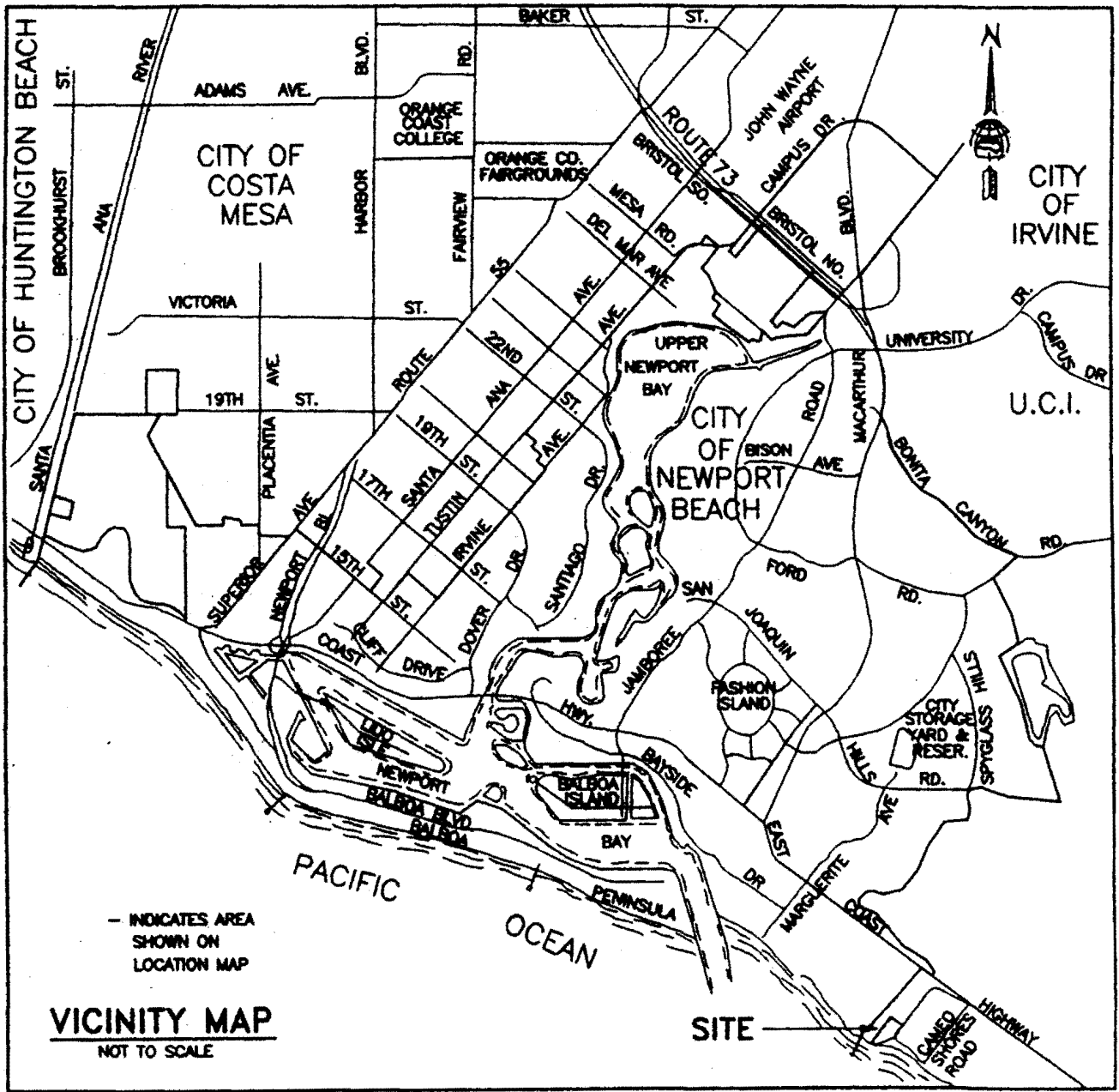
The Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

J. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

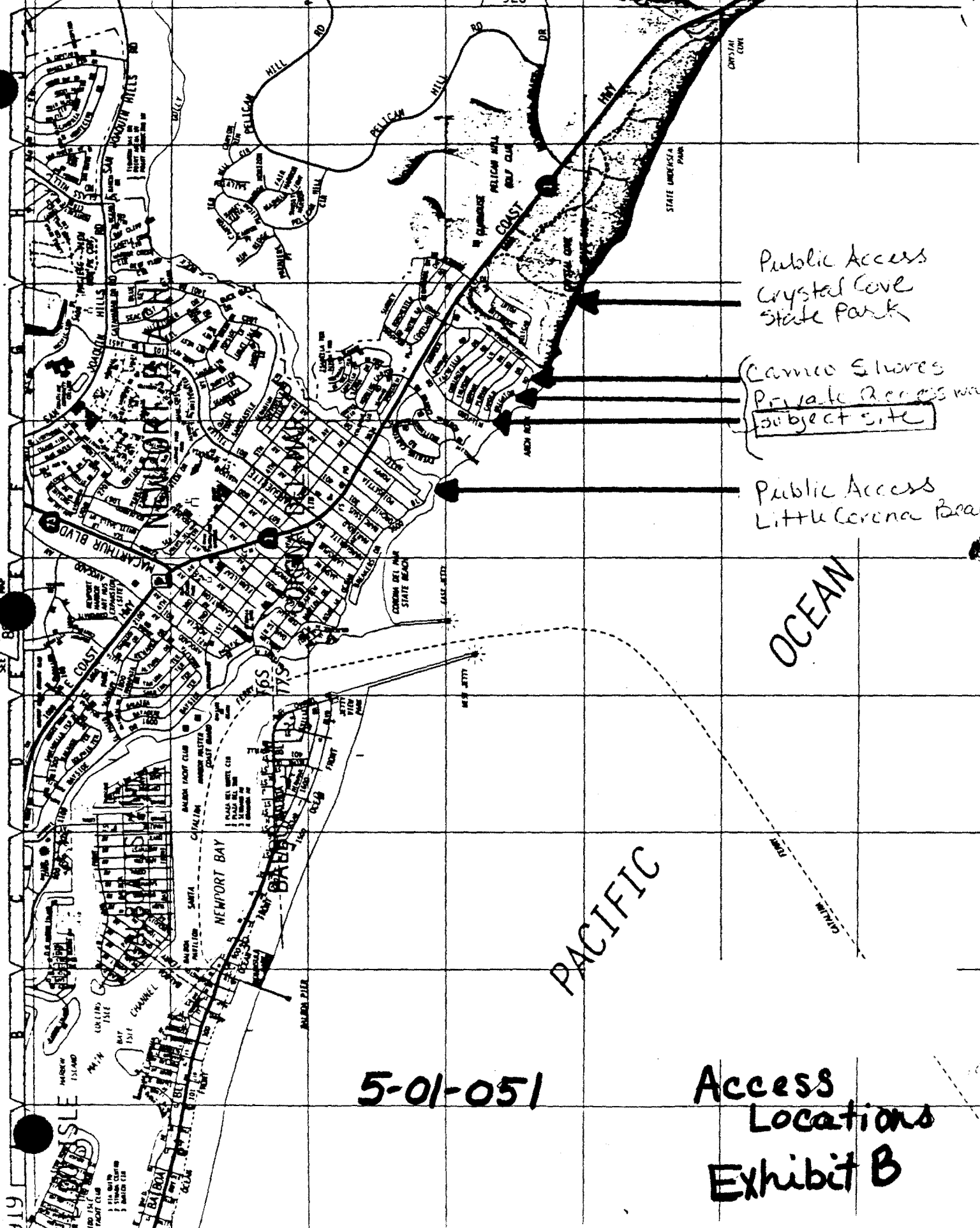
The proposed project is located in an urban area. All infrastructures necessary to serve the site exist in the area. As conditioned, the proposed project has been found consistent with the streambed alteration, sensitive habitat, water quality, hazard, and public access policies of Chapter Three of the Coastal Act. These conditions also serve to mitigate any significant adverse impacts under CEQA. Mitigation measures requiring that construction methods avoid impacts to the stream and ESHA, that no future protection device is allowed, that no future expansion of the proposed project is allowed and conformance with geotechnical recommendations will minimize any significant adverse effects that the activity may have on the environment.

There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.



5-d-051

EXHIBIT A



Public Access
Crystal Cove
State Park

Camero Shores
Private Access with
subject site

Public Access
Little Corona Beach

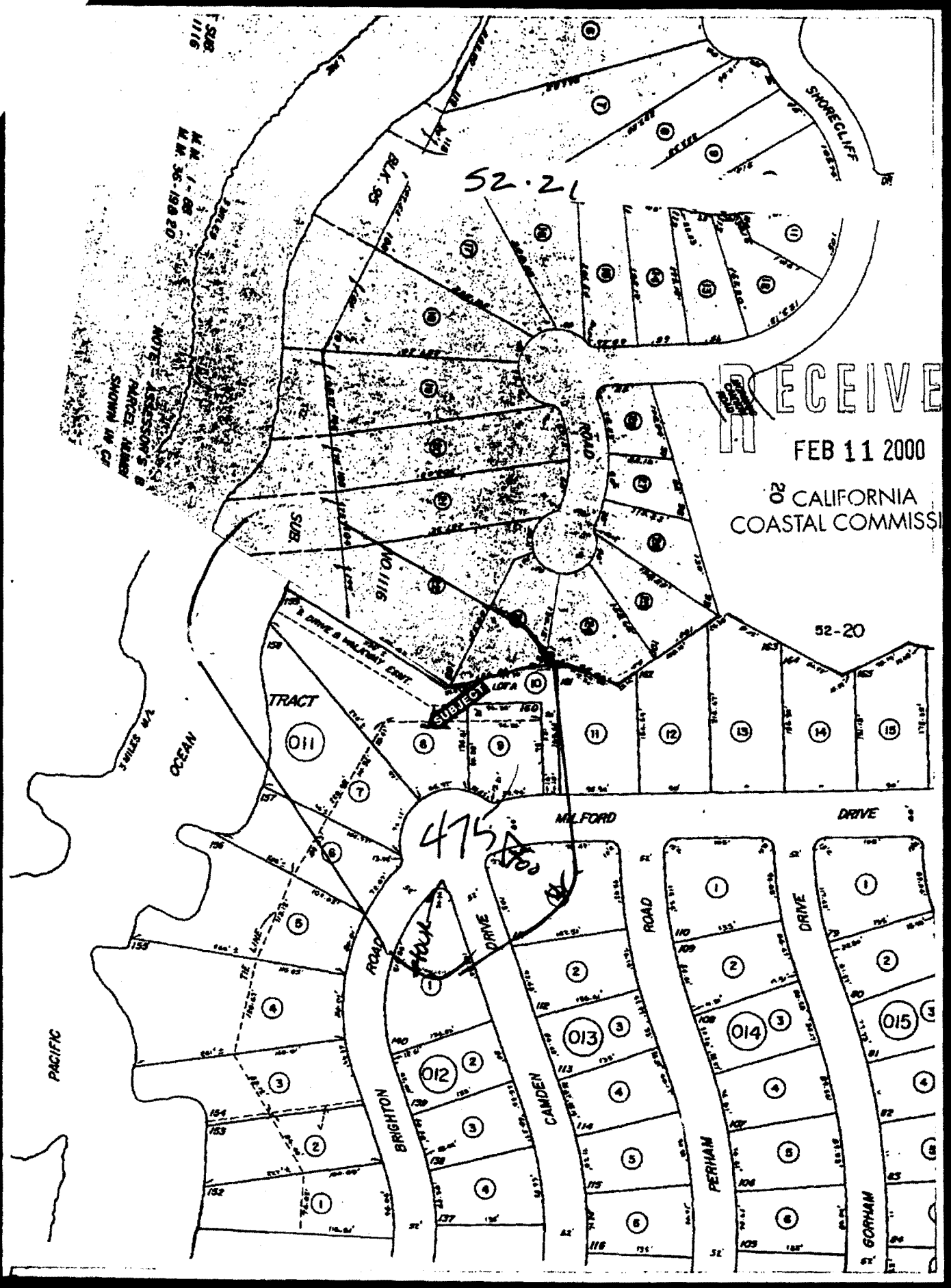
OCEAN

PACIFIC

5-01-051

Access
Locations
Exhibit B

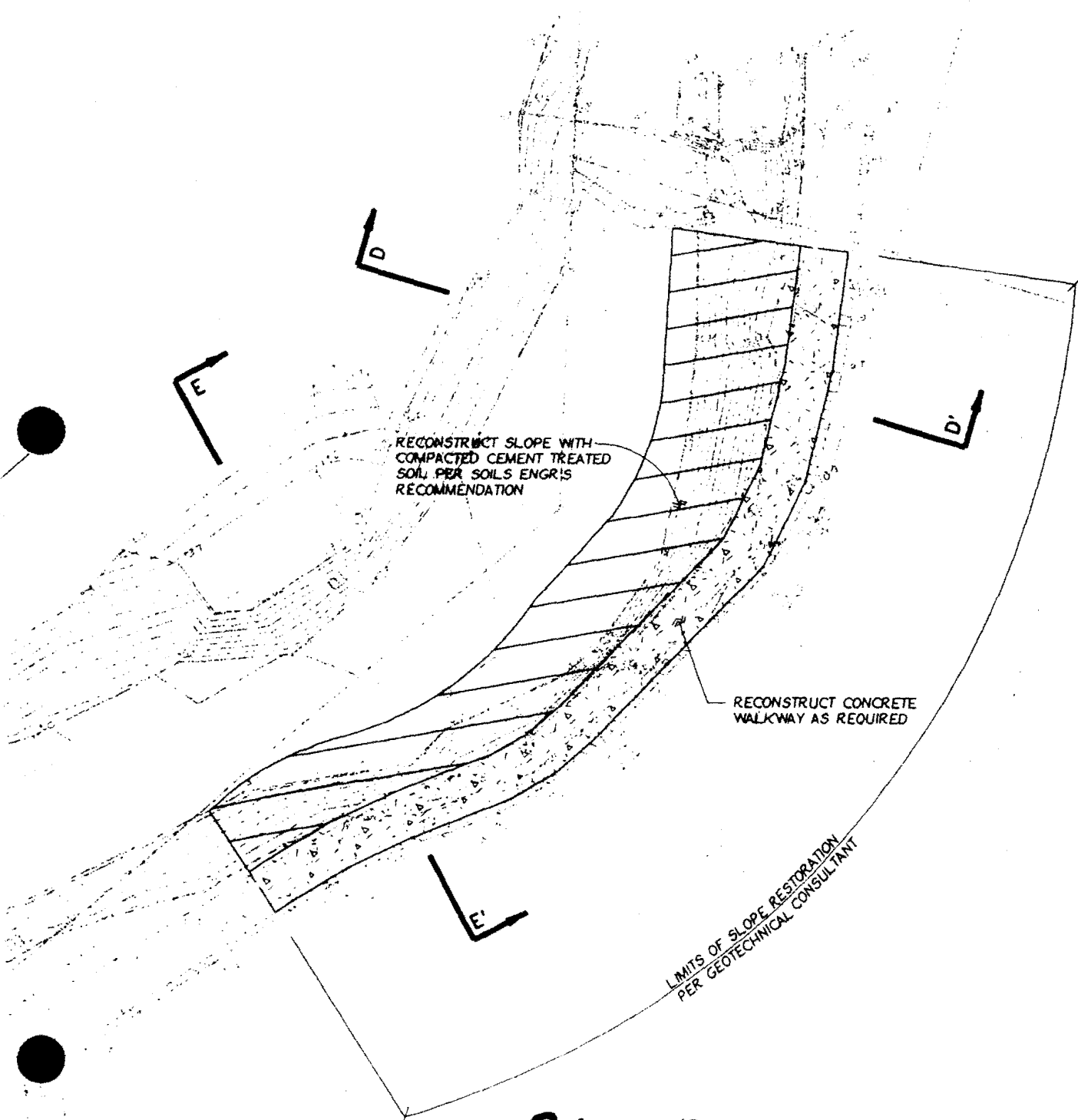
RECEIVED
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CALIFORNIA
COASTAL COMMISSION



Ownership Map

5-01-051

Exhibit C

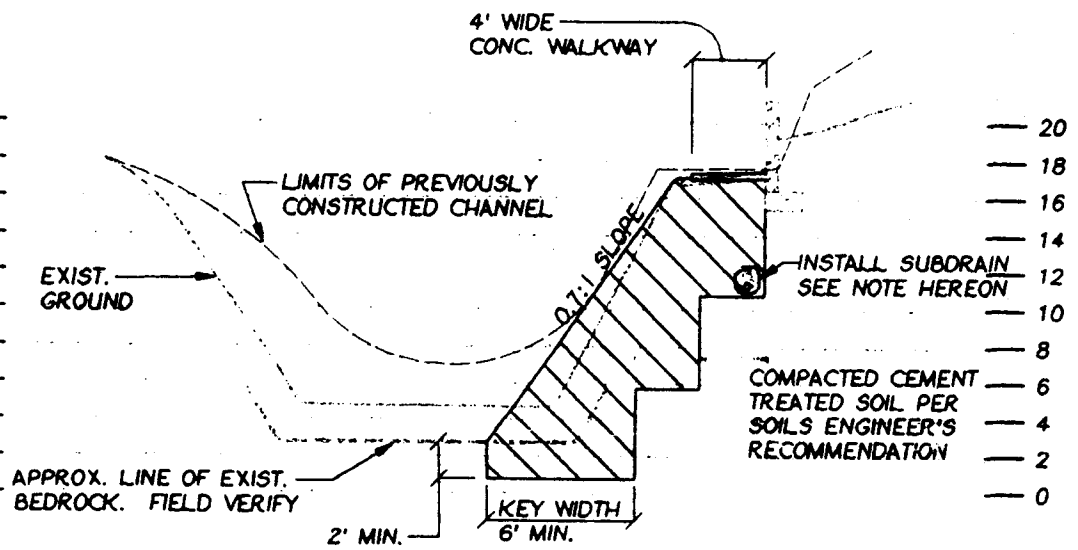


5-01-051

Site Plan

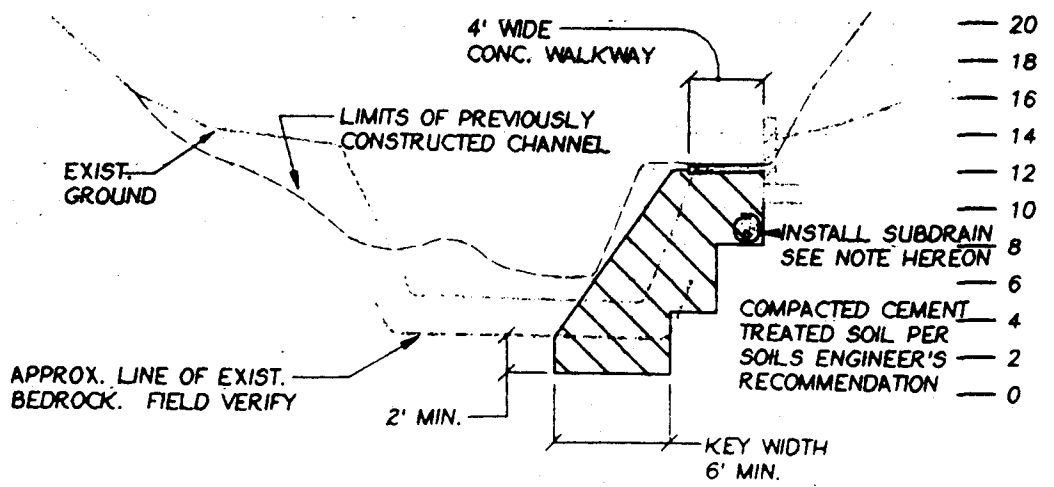
Exhibit D

TRACT 1337



SECTION D-D'

SCALE
H: 1/10"=1'
V: 1/10"=1'



SECTION E-E'

SCALE
H: 1/10"=1'
V: 1/10"=1'

Cross Sections

5-01-051

Exhibit E



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT
P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915
(714) 644-3311

December 14, 2000

Ms. Anne Kramer
Coastal Program Analyst
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802

Subject: Morning Canyon Pedestrian Walkway Reconstruction

Dear Ms. Kramer,

The City of Newport Beach has reviewed the plans for the Morning Canyon Walkway Reconstruction Project. Our Planning Department has issued an "Approval in Concept" based on their review.

The Public Works Department has also reviewed the proposed project as well as the original construction plans for the City's sewer pump station at Morning Canyon. Those original plans provided for slope stabilization of Morning Canyon for the pedestrian path as well as access improvements for Public Works purposes. Based on our review, it is our opinion the original footprint for slope stabilization and the pedestrian pathway is in substantial conformance with the proposed walkway reconstruction project and is consistent with the City's original construction plans for the Morning Canyon Project.

Sincerely,

Michael J. Sinacori, P.E.
Utilities Engineer

cc: Don Webb, Director of Public Works
Dave Bartlett

F:\Users\IPBW\MSinacori\Word\Letters\to agencies\state agencies\L-Kramer 12-14-00.doc

3300 Newport Boulevard, Newport Beach

5-01-051

Exhibit F

TOAL ENGINEERING, INC.
CIVIL ENGINEERS, LAND PLANNERS AND LAND SURVEYORS
139 AVENIDA NAVARRO • SAN CLEMENTE, CA 92672
(949) 492-8586 • FAX (949) 498-8625
e-mail: toalengineer@earthlink.net

RAYMOND R. TOAL, RCE 16889
OLAV S. MEUM L.S. 4384
MICHAEL A. ROTH L.S. 6211

MAILING ADDRESS
P.O. Box 387
SAN CLEMENTE, CALIFORNIA 92674

April 17, 2001

Cameo Community Association
Concord Executive Services
18 Technology, #104
Irvine CA 92718

Attention: Barbara Plimpton

Subject: California Coastal Commission
Letter dated 4/12/01
Item #5

Dear Ms. Plimpton:

This letter is presented in response to the California Coastal Commission review letter dated 4/12/2001 regarding proposed cement treated soils slope at Cameo Shores in Corona Del Mar, California.

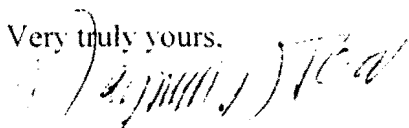
The letter addresses administrative, civil and geotechnical issues. This response addresses only item #5. Item #5 is worded as follows: "an assessment by a qualified engineer of any impacts on the alternate bank resulting from the proposed project".

At the location where the project is to take place, the channel bends, with the project being on the outer side of the curve. The project will provide a uniform, smooth surface, gradually varying, which will reduce eddies and turbulence. The smooth turn will also reduce other eddies and currents which are presently directed away from the opposite bank causing loose material to be pulled away. The cumulative effect, long term, would be to cause severe erosion and possible failure of the bank, absent an improved surface.

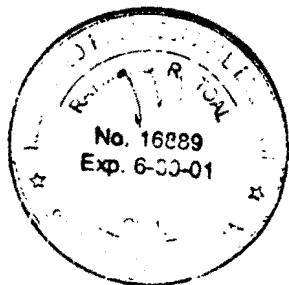
Thus the proposed project will not have any negative effects on the alternate bank.

If you have any questions regarding the above please call us at your convenience.

Very truly yours,


Raymond R. Toal

RRT:met
8549CCC#5



5-01-051

Exhibit G



801 Glenneyre St. • Suite F • Laguna Beach • CA 92651
(949) 494-2122 • FAX (949) 497-0270

April 17, 2001

Cameo Community Association
c/o Concord Executive Services
18 Technology, Suite 104
Irvine, CA 92718-23

Project No. 70861-02
Report No. 01-3696

Attention: Ms. Barbara Plimpton

**Subject: Geotechnical Response to California Coastal Commission
Review Letter dated April 12, 2001**
Proposed Cement- Treated Soil Slope
Morning Canyon Beach Access Walkway at Cameo Shores
Corona del Mar, CA

Reference: "Update Geotechnical Investigation for Proposed Cement-Treated
Soil Slope, Morning Canyon Beach Access Walkway at Cameo Shores, Corona del
Mar, CA", prepared by Geofirm, dated February 4, 2000, Project No. 70861-02,
Report No. 00-3330.

Dear Ms. Plimpton;

This letter is presented in response to the California Coastal Commission review letter dated
April 12, 2001, regarding the proposed cement-treated soil slope at Cameo Shores in Corona del
Mar, California.

While the letter addresses administrative, civil, and geotechnical issues, this response will
address only the geotechnical comments.

2. A qualified engineer's assessment of the expected life of the proposed project.
3. A qualified engineer's assessment of the potential need for future protection for the
proposed project. Future protection includes but is not necessarily limited to hardscape
structures erected for the purpose of protecting the walkway and its related elements from
future disaster(s).

5-01-051

EXHIBIT H,

April 17, 2001

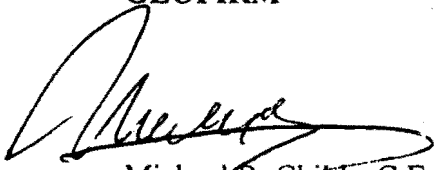
Project No: 70861-02
Report No: 01-3696
Page No: 2

Cement treated soil has been used successfully for canal linings, reservoir slope protection, and embankment construction since the 1940's and 1950's. The excellent performance of literally thousands of applications over the past 50+ years has demonstrated that cement treated soil has a very long useful life expectancy. It is our opinion that the expected life of the proposed project is therefore greater than 100 years. Consequently, future protection of the cement treated soil slope, walkway, and related elements is not anticipated.

Please call this office if you have any questions.



Sincerely,

GEOFIRM



Michael B. Childs, C.E.G. 1664
Engineering Geologist
Registration Expires 3-31-02

MBC/HHR:kaa



Hannes H. Richter, P.E.
Geotechnical Engineer, No. 717
Registration Expires 3-31-04
Date Signed: 4/17/01

H₂

CALIFORNIA DEPARTMENT OF FISH AND GAME

4949 Viewridge Avenue
San Diego, California 92123

Notification No. 5-249-99

Page 1 of 5

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and Gary L. Ross, Emmons Company, 17300 Red hill Avenue, Irvine, CA 92614, hereinafter called the Operator, is as follows:

WHEREAS, pursuant to Section 1603 of California Fish and Game Code, the Operator, on the 25th day of August, 1999, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed of, the following water: Morning Canyon, tributary to Pacific Ocean, Corona del Mar, Orange County, California, T. 7S, R. 9W, Section 95.

WHEREAS, the Department (represented by Terri Dickerson who examined the site on the fifth day of May, 2000) has determined that such operations may substantially adversely affect those existing fish and wildlife resources within the vicinity of the project, specifically identified as follows: (1) saltwater fish, mollusks, crustaceans, and other aquatic wildlife; (2) amphibians: Pacific tree frog (*Hyla regilla*), Pacific slender salamander (*Batrachoseps pacificus major*); (3) birds: mourning dove (*Zenaidura macroura*), black phoebe (*Sayornis nigricans*), barn swallow (*Hirundo rustica*); (4) mammals: California ground squirrel (*Spermophilus beecheyi*). According to a report prepared by PCR Services dated May 4, 1999, the stream contains standing and slowly flowing water, with little to no emergent vegetation.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife resources during the Operator's work. The Operator hereby agrees to accept the following measures/conditions as part of the proposed work.

If the Operator's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this Agreement and with other pertinent code sections, including but not limited to Fish and Game Code Sections 5650, 5852, 5937, and 5948, may result in prosecution.

Nothing in this Agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute Department of Fish and Game endorsement of the proposed operation, or assure the Department's concurrence with permits required from other agencies.

5-01-051

EXHIBIT I

1/5

Page 2 of 5

STREAMBED ALTERATION CONDITIONS FOR NOTIFICATION NUMBER: 5-249-99

This Agreement becomes effective the date of Department's signature and terminates on June 1, 2003 for project construction only. This Agreement shall remain in effect for that time necessary to satisfy the terms/conditions of this Agreement.

1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Operator is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement shall be subject to separate notification pursuant to Fish and Game Code Sections 1600 et seq.
2. The Operator proposes to rebuild the Third Beach Access Walkway damaged during heavy rains in 1997. The stream in Morning Canyon undermined the slope associated with the walkway, resulting in the need for stabilization of the slope and reconstruction of the walkway. The walkway will be constructed of concrete and will be four feet in width. In order to construct the path, the slope will be rebuilt to a 7.4 gradient and will be stabilized with compacted cement treated soil. The slope stabilization and rebuilt pathway will be located within the footprint of the original structure. According to a report prepared by PCR Services dated May 4, 1999, the stream contains standing and slowly flowing water, with little to no emergent vegetation. Slope vegetation largely consists of introduced ornamental vegetation. The limits of Department jurisdiction average approximately 15 to 20 feet in width, and the stream exhibits ephemeral flows associated with rain events as well as sustained flows associated with urban runoff. HAR
0.7
BTM
3. The agreed work includes activities associated with No. 2 above. The project area is located in Orange County. Specific work areas and mitigation measures are described in the Streambed Alteration Package and subsequent project revisions received between August 25, 1999 and April 20, 2001. The package includes the following documents: Notification of Lake or Streambed Alteration dated July 29, 1999; the Project Questionnaire dated July 29, 1999; the "Evaluation of Environmental Impacts of Proposed Slope Repair at the Third Beach Access Walkway, Corona del Mar, California" report dated May 4, 1999 prepared by PCR Services; the Pedestrian Plan Reconstruction Preliminary Plan dated November 1, 2000; and the Notice of Exemption dated April 19, 2001 prepared by the City of Newport Beach. The project shall be implemented as proposed unless directed differently by this agreement.
4. The Operator shall not impact more than 362 square feet (0.0083 acre) of stream, all of which are permanent impacts.
5. Access to the work site shall be via existing roads and access ramps.
6. No equipment shall be operated in ponded or flowing areas.

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Page 4 of 5

STREAMBED ALTERATION CONDITIONS FOR NOTIFICATION NUMBER: 5-249-99

responsibility of the operator to ensure compliance.

17. No equipment maintenance shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas under any flow.

18. The Operator shall provide a copy of this Agreement to all contractors, subcontractors, and the Operator's project supervisors. Copies of the Agreement shall be readily available at work sites at all times during periods of active work and must be presented to any Department personnel, or personnel from another agency upon demand.

19. The Department reserves the right to enter the project site at any time to ensure compliance with terms/conditions of this Agreement.

20. The Operator shall notify the Department, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities. Notification shall be sent to the Department at Post Office Box 1870; Redondo Beach, California 90278, Attn: Brad Henderson ES III.

21. It is understood the Department has entered into this Streambed Alteration Agreement for purposes of establishing protective features for fish and wildlife. The decision to proceed with the project is the sole responsibility of the Operator, and is not required by this agreement. It is further agreed all liability and/or incurred cost related to or arising out of the Operator's project and the fish and wildlife protective conditions of this agreement, remain the sole responsibility of the Operator. The Operator agrees to hold harmless the State of California and the Department of Fish and Game against any related claim made by any party or parties for personal injury or any other damages.

22. The Department reserves the right to suspend or cancel this Agreement for other reasons, including but not limited to the following
- a. The Department determines that the information provided by the Operator in support of the Notification/Agreement is incomplete or inaccurate;
 - b. The Department obtains new information that was not known to it in preparing the terms and conditions of the Agreement;
 - c. The project or project activities as described in the Notification/Agreement have changed;
 - d. The conditions affecting fish and wildlife resources change or the Department determines that project activities will result in a substantial adverse effect on the environment.

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Page 5 of 5

STREAMBED ALTERATION CONDITIONS FOR NOTIFICATION NUMBER: 5-249-99

23. Before any suspension or cancellation of the Agreement, the Department will notify the Operator in writing of the circumstances which the Department believes warrant suspension or cancellation. The Operator will have seven (7) working days from the date of receipt of this notification to respond in writing to the circumstances described in the Department's notification. During the seven (7) day response period, the Operator shall immediately cease any project activities which the Department specified in its notification. The Operator shall not continue the specified activities until that time when the Department notifies the Operator in writing that adequate methods and/or measures have been identified and agreed upon to mitigate or eliminate the substantial adverse effect.

CONCURRENCE

(Operator's name)

CALIFORNIA DEPT. OF FISH AND GAME

[Handwritten Signature] 5/19/01
(signature) (date)

[Handwritten Signature] 05/25/01
(signature) (date)

GARY ROSS
(Type or print name and title)

C.F. Raysbrook, Regional Manager

Prepared by: Brad Henderson, ES III

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