

**CALIFORNIA COASTAL COMMISSION**

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**Th21a**

Filed: September 12, 2000  
Staff: KFS-LB ~~TS~~  
Staff Report: May 24, 2001  
Hearing Date: June 12-15, 2001  
Commission Action:

**REVISED FINDINGS: PERMIT AMENDMENT****APPLICATION NO.:** 5-97-367-A1**RECORD PACKET COPY****APPLICANT:** Hellman Properties LLC**AGENT:** Dave Bartlett

**PROJECT LOCATION:** Northeast of Pacific Coast Highway (State Route 1), Southeast of the San Gabriel River, South of Adolfo Lopez Drive, West of Seal Beach Boulevard, and North of Marina Hill; City of Seal Beach; County of Orange

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Subdivision of 196 acre site into 9 parcels, including further subdivision of one of the parcels into 70 single-family residential lots in a private community; fill of 27 acres of wetlands to construct 28.1 acres for a salt marsh restoration project and an 18 hole public golf course including 6.8 acres of freshwater marsh integrated into the golf course and reservation of 16.2 acres of existing oil production areas for future wetland restoration; dedication of Gum Grove Park to the City of Seal Beach; construction of interpretive areas, visitor-serving recreation facilities, and a golf clubhouse; dedication of public access trails; extension of Adolfo Lopez Drive; excavation of test pits for an archaeological testing program; and 1,600,000 cubic yards of grading.

**DESCRIPTION OF PROPOSED AMENDMENT:** The amendment request is to change the proposed project description to eliminate a 100 acre golf course and associated wetland impacts and wetland restoration; add a deed restriction reserving 100 acres of lowlands for acquisition for wetlands restoration; add a deed restriction reserving 57 acres of land presently used for mineral production to be made available for sale for wetlands restoration upon cessation of oil production; expand the footprint of the 70-lot residential subdivision from 14.9 acres to 18.4 acres; reduce mass grading from 1.6 million cubic yards to 420,000 cubic yards; eliminate proposed development on the State Lands Commission parcel, construct a bio-swale, riparian corridor and water quality basin and include changes to the language of previously imposed special conditions.

**DATE OF COMMISSION ACTION:** October 11, 2000

**COMMISSIONERS ON PREVAILING SIDE:** Daniels, Desser, Dettloff, Estolano, Hart, Kruer, McClain-Hill, Nava, Potter, Rose, Woolley, Chairman Wan

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission adopt the following revised findings in support of the Commission's approval with special conditions of Coastal Development Permit Amendment application 5-97-367-A1 on October 11, 2000. The major issues raised at the public hearing

related to 1) the quantity of land which needed to be reserved for water quality purposes (as identified on Exhibit 4); 2) the requirement that the raptor foraging habitat be provided separate from and in addition to the proposed 100 acre lowlands area to be deed restricted for sale for wetlands restoration; 3) future uses of the 57 acre mineral production area adjacent to the 100 acre 'lowland' area; 4) the need to clarify which Native American peoples were to be consulted during the archeological investigation; 5) allowing the archeological investigation to proceed in advance of compliance with the other special conditions imposed; and 6) the need to implement controls over domesticated animals using Gum Grove Park. The Commission found that the quantity of land identified on Exhibit 4 is needed for water quality purposes. Meanwhile, the Commission was concerned that the 57 acre mineral production area adjacent to the 100 acre lowlands would be converted to a commercial and/or residential use once oil production ceased which could have adverse impacts upon wetlands and wildlife. In order to address this concern, the applicant modified the project description at the hearing to include a deed restriction which would make the 57 acre mineral production area available for sale for wetlands restoration once oil production ceased on the property. This 57 acre area would be adjacent to the 100 acre area that is presently being offered for sale for wetlands restoration. Therefore, in total the proposed project includes 157 acres of land to be made available for wetlands restoration (100 acres now and an additional 57 in the future). With this change to the project description, Commission staff modified the recommendation to delete the requirement that the raptor foraging habitat be separate from and in addition to the 100 acres of deed restricted land. Accordingly, the raptor foraging habitat may be placed within the 157 acre lowland/mineral production area. Meanwhile, in order to address concerns related to Native American consultation during the archeological investigation, Commission staff modified the recommendation to specify the Native American peoples to be consulted. Commission staff also modified the recommendation to include a provision prohibiting unleashed domestic animals within Gum Grove Park. Finally, the Commission adopted an amending motion to modify Special Condition 19 to allow the Executive Director to issue a coastal development permit for the archeological investigation in advance of compliance with the other special conditions of Coastal Development Permit 5-97-367, as amended.

Coastal Development Permit 5-97-367 was approved by the Commission in 1998. Since that time, the permit has been subject to a lawsuit and settlement agreement. This amendment was submitted in response to the settlement agreement in an effort to carry out the terms of the settlement. The revised proposed project eliminates the golf course and the direct impacts upon wetlands which were previously controversial and carries forward a revised residential subdivision. In addition, the applicant is proposing to deed restrict, for wetland restoration purposes, 157 acres of lowlands. Finally, the applicant is proposing a bio-swale and water quality basin to treat run-off from the proposed development.

The major issues raised by this revised proposed development are impacts upon ruderal uplands which presently provide foraging habitat for raptors and the maintenance of water quality. At the October 2000 hearing, the Commission approved the proposed amendment with special conditions. Special Condition 15 carries forward previously imposed special conditions. Special Condition 16 implements the proposed lowlands deed restriction and addresses the concern regarding the displacement of future wetlands restoration by requiring that any land which is in the proposed deed restricted area which is now going to be used for water quality purposes must be replaced by restriction of land elsewhere on the property for wetland restoration purposes. Special Conditions 17, 18 and 19 replace previously imposed Special Conditions 4 (Gum Grove Park dedication), 5 (Public Access Program) and 6 (Archeology), respectively, which must be updated to reflect the current amendment. Special Condition 20 requires the applicant to submit

final plans regarding the water quality structures. Special Conditions 21 and 22 require the identification and deed restriction of at least 9.2 acres of raptor foraging habitat and the management of that habitat as raptor foraging habitat. Special Condition 23 requires the applicant to implement the proposed water quality program (including bio-swale and detention basin) and mandates that such facilities be designed to mitigate runoff up to the 85<sup>th</sup> percentile 24-hour event. Special Condition 24 requires the deed restriction of land to support the required water quality treatment system. Special Condition 25 addresses construction related requirements to avoid impacts to existing wetlands. Special Condition 26 requires strict compliance with the proposal as conditioned by the Commission. Special Condition 27 replaces previously imposed Special Condition 2 and places restrictions on the subdivision of the property. Special Condition 28 implements the applicant's proposal to make the 57 acres of land presently used for mineral production available for sale for wetlands restoration when oil production ceases on that land.

LOCAL APPROVALS RECEIVED and SUBSTANTIVE FILE DOCUMENTS: See Appendices

**PROCEDURAL NOTE:**

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

B. Standard of Review

The City of Seal Beach does not have a certified local coastal program ("LCP"). Therefore, the standard of review is the Chapter 3 policies of the Coastal Act.

C. Permit Expiration

The proposed development is being processed as an amendment to Coastal Development Permit 5-97-367 which was approved on September 9, 1998. Standard Condition 2 of the permit states that the permit expires two years from the date on which the Commission voted on the application, September 9, 1998. Therefore, under normal circumstances, unless an extension was requested and approved, the permit would have expired in September 2000. However, Coastal Development Permit 5-97-367 is subject to litigation and a settlement agreement which serve to toll the permit

as of December 29, 1999 (Superior Court of California, County of Orange, Case #801830 and Case #807590). Therefore, Coastal Development Permit 5-97-367 has not expired. The tolling on the permit will cease once the case is dismissed or litigated to conclusion.

## **STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL OF FINDINGS**

**MOTION:** *I move that the Commission adopt the revised findings in support of the Commission's action on October 11, 2000 concerning Coastal Development Permit 5-97-367-A1*

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a YES vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the October 11, 2000 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

### **RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for Coastal Development Permit Amendment 5-97-367-A1 on the ground that the findings support the Commission's decision made on October 11, 2000 and accurately reflect the reasons for it.

## **I. APPROVAL WITH CONDITIONS**

The Commission hereby APPROVES the amendment to Coastal Development Permit 5-97-367, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, would be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, including the public access and recreation policies of Chapter 3, would not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## **II. STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date 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. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**III. SPECIAL CONDITIONS** (These conditions supplement the previously adopted conditions; deletions and modifications are also noted)

**15. PRIOR CONDITIONS**

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367 remain in effect.

Please Note: Special Conditions 1, 2, 3, 4, 5, 6, 11, 12, 13 and 14 imposed under Coastal Development Permit 5-97-367 (see Appendix A) have been deleted as a result of this coastal development permit amendment (5-97-367-A1). Several of these conditions have been replaced by subsequent conditions, as follows: Special Condition 1 has been replaced by Special Condition 16; Special Condition 2 has been replaced by Special Condition 27; Special Condition 4 has been replaced by Special Condition 17; Special Condition 5 has been replaced by Special Condition 18; and Special Condition 6 has been replaced by Special Condition 19.

**16. RESERVATION OF POTENTIAL FOR LOWLANDS ACQUISITION FOR WETLANDS RESTORATION**

- A. 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 which shall provide that:
- (1) For a period of twenty-five years, the applicant agrees to sell the lowlands area of the property as defined in "Attachment 1" (as revised pursuant to subsection B. of this condition) to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property or, through the normal State of California land acquisition practices if the State is the prospective buyer; and,
  - (2) The sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,

- (3) The uses shall be restricted to wetlands restoration, open space and environmental education purposes, with reversion rights to the State Coastal Conservancy.

The deed restriction shall remain in effect for twenty-five years and be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a revised "Attachment 1" consisting of a map, prepared by an appropriately licensed professional, which (i) depicts the area to be deed restricted pursuant to subsection A. of this condition and Special Condition 28, (ii) which maintains this restriction over at least 100 acres, (iii) which removes those areas necessary for the bio-swale and water quality basin from the area to be deed restricted pursuant to subsection A. of this condition and (iv) which off-sets the removal of those areas from the deed restriction with other land within the project site suitable for a deed restriction pursuant to subsection A. of this condition.

Note: Special Condition 16 replaces Special Condition 1 in its entirety.

17. **GUM GROVE PARK**

PRIOR TO THE ISSUANCE OF RESIDENTIAL BUILDING PERMITS, the applicant shall submit, for the review and approval of the Executive Director, written evidence demonstrating that the area known as Gum Grove Nature Park and as delineated as Lot 3 of proposed Vesting Tentative Tract Map 15381 has been dedicated in fee to the City of Seal Beach, as proposed by the applicant. The dedication documents shall provide that:

- (a) The park shall be preserved in perpetuity as a passive recreational nature park open to the public. Active recreational activities or commercial facilities shall be prohibited.
- (b) Necessary parking facilities which are the minimum required to serve the park and which meets Americans with Disabilities Act requirements shall be provided. The existing twenty (20) striped parking spaces for Gum Grove Park shall be maintained.
- (c) All trails within the dedicated park area shall be constructed to be accessible to persons with disabilities consistent with the Americans with Disabilities Act requirements. No trails shall be lighted in order to minimize impacts on wetlands.
- (d) Small scale interpretive signage which describes the Monarch Butterfly may be permitted if approved by the Executive Director.
- (e) Gum Grove Park shall be open from dawn to dusk (one hour after sunset) on a daily basis. Changes in hours of operation of Gum Grove Park shall require an

amendment to this permit unless the Executive Director determines that an amendment is not required.

- (f) Signage shall be conspicuously posted which states that the park is open to the general public.
- (g) That portion of proposed Lot 3 of Tentative Tract Map No. 15381, comprised of an approximately 25 foot wide strip of land which borders Seal Beach Boulevard and extends west from Seal Beach Boulevard to connect with the primarily used part of Gum Grove Park, shall be subject to the following requirements:
  - (1)The frontage along Seal Beach Boulevard shall not be gated, fenced, or obstructed in any manner which prevents public access from Seal Beach Boulevard.
  - (2)The area shall be reserved for a public trail and parking lot, which are visible, and directly accessible to the public from Seal Beach Boulevard, and which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot area shall be large enough for a minimum of ten (10) parking spaces. Where it is not feasible to reserve enough public parking area on this portion of proposed Lot 3, public parking directly accessible from Seal Beach Boulevard shall be provided for on proposed Lot 2 of Tentative Tract Map No. 15381 adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 18.B. of this permit.
- (h) Domesticated animals (including, but not limited to, dogs) shall be leashed and under the control of the party responsible for the animal at all times within Gum Grove Park.

Note: Special Condition 17 replaces Special Condition 4 in its entirety.

**18. PUBLIC ACCESS PROGRAM**

- A. **Public Access Signage.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a detailed signage plan which provides for the installation of signs clearly visible from Pacific Coast Highway and Seal Beach Boulevard which invite and encourage the public to use the public access, parking, and recreation opportunities proposed at Gum Grove Park, and the public access trail and public parking linking Gum Grove Park to Seal Beach Boulevard. Key locations include but are not limited to; 1) Gum Grove Park, both at its western entrance and at the proposed Seal Beach Boulevard entrance. The plans shall indicate the location, materials, dimensions, colors, and text of the signs. The permittee shall install the signs in accordance with the signage plans approved by the Executive Director.
- B. **Residential Community Streets (Vesting Tentative Tract Map No. 15402).** 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, which shall provide that: 1) public pedestrian and bicycle access to the streets

and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall not be precluded, 2) no locked gates, walls, fences, or other obstructions prohibiting public pedestrian or bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall be permitted, 3) no requirement to allow public vehicular access over the private streets is necessary if the applicant is willing to provide public parking within Gum Grove Park and a separate vehicular entrance from Seal Beach Boulevard to said public parking; 4) if fewer than the ten (10) public parking spaces required by Special Condition 17.(g)(2) of this permit can be constructed on proposed Lot 3 of Vesting Tentative Tract Map No. 15381, the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3 shall be reserved for the balance of the public parking spaces so that the parking spaces are directly accessible from Seal Beach Boulevard. The deed restriction shall be recorded over the entire area subject to Vesting Tentative Tract Map No. 15402 and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- C. **Revised Vesting Tentative Tract Map No. 15402.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two copies of a revised vesting tentative map for Tract No. 15402 if: (1) all of the ten public parking spaces required under Special Condition 17.(g)(2) cannot be built on proposed Lot 3 of Vesting Tentative Tract Map 15381, and/or (2) the entities with jurisdiction over Seal Beach Boulevard do not approve a separate vehicular entrance off of Seal Beach Boulevard to said public parking spaces. The revised map shall show: (1) the locations and design of said public parking spaces which cannot be built on Lot 3 and instead shall be built on the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3, and 2) the location of the public street which connects the public parking required under Special Condition 17.(g)(2) of this permit with the entrance to the subdivision proposed by Vesting Tentative Tract Map No. 15402. The revised map shall be accompanied by written documentation demonstrating that the governmental agencies which have jurisdiction over Seal Beach Boulevard and parking space standards have approved the revised map. The applicant shall record the revised map approved by the Executive Director.
- D. **Construction of Trail and Parking Lot.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE HOUSES WITHIN THE AREA SUBJECT TO VESTING TENTATIVE TRACT MAP NO. 15402, the applicant shall construct a public access trail and parking lot, which are visible and directly accessible to the public from Seal Beach Boulevard, which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot shall contain a minimum of ten (10) parking spaces and shall be directly accessible from Seal Beach Boulevard. Where it is not feasible to construct the public parking and vehicular entrance on this portion of proposed Lot 3 of Vesting Tentative Tract Map No. 15381, public parking directly accessible from Seal Beach Boulevard shall be constructed on proposed Lot 2 of Tentative Tract Map No. 15381 (i.e., the area subject to Vesting Tentative Tract Map No. 15402) immediately adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 18.B of this permit.



Note: Special Condition 18 replaces Special Condition 5 in its entirety.

19. **ARCHAEOLOGY**

*For purposes of this condition, "OHP" shall mean the State Office of Historic Preservation, and "NAHC" shall mean the state Native American Heritage Commission.*

- A. **Research Design.** The permittee shall undertake the proposed archaeological investigation in conformance with the proposed archaeological research design entitled A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area dated November 1997 prepared by KEA Environmental, Inc. for the City of Seal Beach. Prior to issuance of the coastal development permit for the archeological investigation, the applicant shall submit written evidence, subject to the review and approval of the Executive Director, that a copy of the archaeological research design has been submitted to the OHP, the NAHC, and the Native American person/group from the Juaneno/Acjachemem, Gabrielino/Tongva, or Luiseno people designated or deemed acceptable by the NAHC, for their review and comment. An amendment to this permit shall be required for any changes to the research design suggested by OHP, NAHC, or the Native American group/person unless the Executive Director determines that an amendment is not required.
- B. **Selection of Archaeologist(s) and Native American Monitor(s).** The archaeologist(s) selected by the City shall meet the United States Department of Interior minimum standards for archaeological consultants, as also endorsed by the OHP. The City shall select the Native American monitor(s) in compliance with the "Guidelines for monitors/consultants of Native American cultural, religious and burial sites" issued by the NAHC, and in consultation with the appropriate Native American person/group from the Juaneno/Acjachemem, Gabrielino/Tongva, or Luiseno people deemed acceptable by the NAHC.
- C. **Post-Investigation Mitigation Measures.** Upon completion of the archaeological investigation, and prior to the commencement of construction of any development approved by this coastal development permit (other than archaeological investigation activities or subdivision), the applicant shall submit, for the review and approval of the Executive Director, a written report regarding the following: 1) a summary of the findings of the archaeological investigation, and 2) a final written mitigation plan which shall identify recommended mitigation measures, which may include capping of archaeological sites, data recovery and curation of important archaeological resources as defined by the California Environmental Quality Act, and detailed additional mitigation measures which need to be implemented. The applicant shall also submit for review and approval of the Executive Director, a signed contract with a City-selected archaeological consultant that provides for archaeological salvage that follows current accepted professional practice, if additional archaeological data recovery measures are determined appropriate. The written report and additional mitigation measures shall also be submitted to the OHP and the appropriate Native American person/group from the Juaneno/Acjachemem, Gabrielino/Tongva, or Luiseno people designated or deemed acceptable by the NAHC. An amendment to this permit shall be required to implement any additional mitigation measures unless the Executive Director determines a permit amendment is not required.

- D. Implementation of Mitigation Measures and Summary of Fieldwork.** Prior to commencement of site preparation, grading, and construction activities for any development (other than archaeological investigation activities) located within a fifty foot (50') radius of the furthest boundary of each state-identified archaeological site as delineated in the archaeological research design, all of the requirements of Special Conditions 19.A., 19.B., and 19.C. shall have been met. All development shall occur consistent with the final plan required by Special Condition 19.C. A written synopsis report summarizing all work performed in compliance with Special Conditions 19.A, 19.B, and 19.C shall be submitted to the Executive Director, OHP, the NAHC and the person/group from the Juaneno/Acjachemem, Gabrielino/Tongva, or Luiseno people designated or deemed acceptable by the NAHC, within six (6) weeks of the conclusion of field work. No later than six months after completion of field work, a final report on the excavation and analysis shall be submitted to the Executive Director, OHP, the NAHC, and the person/group from the Juaneno/Acjachemem, Gabrielino/Tongva, or Luiseno people designated or deemed acceptable by the NAHC.
- E. Monitoring of Construction Activities.** All site preparation, grading and construction activities for the proposed development shall be monitored on-site by a qualified archaeologist and Native American monitor. The archaeologist and Native American monitor shall have the express authority to temporarily halt all work in the vicinity of the discovery site should significant cultural resources be discovered. This requirement shall be incorporated into the construction documents which will be used by construction workers during the course of their work.
- F. Discovery of Cultural Resources / Human Remains During Post-Archaeological Testing Construction Activities.**
- (1) If additional or unexpected archaeological features are discovered during site preparation, grading, and construction activities for approved development other than the archaeological investigation, all work shall be temporarily halted in the vicinity of the discovery site while the permittee complies with the following:
- The archaeologist, in consultation with the Native American monitor, shall sample, identify and evaluate the artifacts as appropriate and shall report such findings to the permittee, the City and the Executive Director. If the archaeological resources are found to be significant, the archaeologist, in consultation with the Native American monitor, shall determine appropriate actions, and shall submit those recommendations in writing to the Executive Director, the applicant and the City. The archaeologist shall also submit the recommendations for the review and approval of the Executive Director and shall be prepared in accordance with the provisions outlined in Special Condition 19.C above. Any recommended changes to the proposed development or the mitigation measures identified in the final plan required by Special Condition 19.C. shall require a permit amendment unless the Executive Director determines that a permit amendment is not required.
- Development activities may resume if the cultural resources are not determined to be 'important' as defined by the California Environmental Quality Act (CEQA).

(2) Should human remains be discovered on-site during the course of site preparation, grading, and construction activities, immediately after such discovery, the on-site City-selected archaeologist and Native American monitor shall notify the City of Seal Beach, Director of Development Services and the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted in the vicinity of the discovery site until the remains can be identified. The Native American group/person from the Juaneno/Acjachemem, Gabrielino/Tongva, or Luiseno people designated or deemed acceptable by the NAHC shall participate in the identification process. Should the human remains be determined to be that of a Native American, the permittee shall comply with the requirements of Section 5097.98 of the Public Resources Code. Within five (5) calendar days of such notification, the director of development services shall notify the Executive Director of the discovery of human remains.

**G. Incorporation of Archaeology Requirements into Construction Documents.** Special Condition No. 19 of Coastal Development Permit 5-97-367 shall be incorporated in its entirety into all the construction documents which will be used by construction workers during the course of their work as well as all construction bid documents.

**H. Sequencing of Issuance of Coastal Development Permit Related to Archeological Investigation.**

In advance of compliance with the other special conditions of Coastal Development Permit 5-97-367, as amended, the Executive Director may issue a coastal development permit, consistent with the terms of subsections A through G of this condition, for the development needed to undertake the archeological investigation.

Note: Special Condition 19 replaces Special Condition 6 in its entirety.

**20. FINAL PLANS**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for review and approval of the Executive Director:

1. Final design, grading, construction, structural, and drainage plans for the bio-swale, riparian corridor and water quality basin that substantially conform with the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, submitted to the Commission; and
2. Final landscape plans for the bio-swale, riparian corridor, and water quality basin that substantially conform with the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, submitted to the Commission, and the letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated June 28, 2000, regarding Biological Benefits of Proposed Wetland Treatment System, CDP 5-97-367-A1, Hellman Ranch Property, Orange County, California. These final plans shall be prepared in consultation with the

California Department of Fish and Game and U.S. Fish and Wildlife Service and shall be accompanied by written evidence of their endorsement of the landscape plans.

- 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.

21. **REQUIREMENT FOR IDENTIFICATION OF SUITABLE RAPTOR FORAGING HABITAT AND REQUIREMENT FOR MANAGEMENT PLAN**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, a map, prepared by a biologist in accordance with current professional standards, delineating raptor foraging habitat with long term conservation potential available within the lowlands of the subject property as identified in the letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated September 11, 2000, regarding *Response to June 19, 2000, letter from the California Department of Fish and Game Regarding Biological Resources at Hellman Ranch*. The area delineated shall not be less than 9.2 contiguous acres of raptor foraging habitat. The delineation and site selection shall occur in consultation with the California Department of Fish and Game, and the map submitted to the Executive Director shall be accompanied by a written endorsement by the California Department of Fish and Game of the raptor foraging habitat delineation, the selected site and the map; and
- B. The raptor foraging habitat to be identified in subsection A. of this condition shall have the same or better functions and values as the site to be impacted, in accordance with the biological assessment prepared by Glenn Lukos Associates in their letter dated September 11, 2000. If there are no raptor foraging habitat areas with the same or better functions and values as the site to be impacted in the area previously identified by the applicant as having such, the applicant shall obtain an amendment to this coastal development permit in order to remedy the discrepancy; and
- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, a raptor foraging habitat management plan which identifies management measures necessary to, at minimum, maintain the functions and values of the raptor foraging habitat identified in subsection B. of this condition. Such measures shall include appropriate brush management measures for the maintenance of raptor foraging habitat. Measures may include brush clearance and brush mowing; planting of plant species associated with raptor foraging habitat, and exotic and invasive plant species controls for the removal of plant species which upset the functioning of the raptor foraging habitat, including, but not limited to, ice plant, pampas grass, arundo giant cane, and myoporum. Any chemical controls to be used in areas adjacent to wetlands shall be limited to those which are non-toxic to wetland organisms (e.g. Rodeo® Herbicide). The raptor foraging habitat management plan shall be prepared in consultation with the California Department of Fish and Game, and shall be accompanied by a written endorsement of the plan by the California Department of Fish and Game. The permittee shall undertake development in accordance with the raptor

foraging habitat management plan approved by the Executive Director. Any proposed changes to the approved raptor foraging habitat management plan shall be reported to the Executive Director. No changes to the approved raptor foraging habitat management plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**22. OPEN SPACE DEED RESTRICTION**

- A. No development, as defined in section 30106 of the Coastal Act shall occur in the raptor foraging habitat delineated by the map required pursuant to Special Condition 21 except for:
1. Activities related to raptor foraging habitat maintenance pursuant to the raptor foraging habitat management plan required pursuant to Special Condition 21.C.; and
  2. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: activities related to public access, recreation, and wetland restoration provided that such development continues to designate a minimum of 9.2 acres of equivalent or better functioning raptor foraging habitat.
- 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, which shows that the open space area identified pursuant to Special Condition 21 shall be restricted as open space for raptor foraging habitat and the deed restriction shall reflect the above restriction on development in the designated open space. The deed restriction shall contain the raptor foraging habitat management plan approved by the Executive Director pursuant to Special Condition 21.C. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**23. WATER QUALITY**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final Storm Water Management and Water Quality Control Plan (SWM & WQCP) designed to mitigate stormwater runoff and nuisance flow from development on Vesting Tentative Tracts 15381 and 15402. The final SWM & WQCP shall include structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and nuisance runoff leaving the developed site. The final plan shall be reviewed by the consulting engineering geologist to ensure conformance with geotechnical recommendations. The final plan shall demonstrate substantial conformance with the Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared by MDS Consulting of Irvine, California, dated January 2000, and the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting

and Fuscoe Engineering of Irvine, California, dated July 27, 2000, and the following requirements:

1. Post-development peak runoff rates and average volume from the developed site shall not exceed pre-development levels for the 2-year 24-hour storm runoff event.
  2. Post-construction treatment control BMPs shall be designed to mitigate (infiltrate or treat) stormwater runoff from each runoff event up to and including the 85th percentile 24-hour runoff event.
  3. The approved SWM & WQCP shall be implemented prior to or concurrent with the construction of infrastructure associated with the development on Vesting Tentative Tracts 15381 and 15402. The approved BMPs and other measures included in the final SWM & WQCP shall be in place and functional prior to the issuance of the first residential building permit within Vesting Tentative Tract 15402.
  4. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development. Maintenance activity shall be performed according to the recommended maintenance specifications contained in the California Stormwater BMP Handbooks (California Stormwater Quality Task Force, 1993) for selected BMPs. At a minimum, maintenance shall include the following: (i) all structural BMPs shall be inspected, cleaned and repaired, as needed prior to the onset of the storm season, no later than October 1st of each year and (ii) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- B. Any changes to the structures outlined in the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, including changes to the footprint of any such structures, necessary to accommodate the requirements of subsection A of this condition, shall require an amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.
- C. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- D. 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 requirements outlined in subsections A., B., and C. of this condition. The deed restriction shall include legal descriptions of both the applicant's entire parcel and

the deed restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**24. RESERVATION OF LAND FOR WATER QUALITY PURPOSES**

- A. The area of land containing the proposed water quality basin, bio-swale and riparian corridor, and associated appurtenances as depicted in Figure 8 (inclusive of the landscaped areas) of the Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, shall be reserved for water quality improvement purposes through a deed restriction as required pursuant to subsection B. of this condition. The deed restriction shall not preclude use of the same such land for wetland restoration provided the water quality improvement functions of the system described in the SWM & WQCP, as revised and approved by the Executive Director pursuant to Special Condition 23, is, at minimum maintained. In addition, the deed restriction shall not preclude construction and maintenance of the access road depicted on Figure 8, nor shall it preclude the construction and maintenance of the utilities and oil transmission lines depicted on Vesting Tentative Tracts 15381 and 15402, as approved by the Executive Director, nor shall it preclude the maintenance of existing oil operations, provided the water quality improvement functions of the system described in the SWM & WQCP, as revised and approved by the Executive Director pursuant to Special Condition 23, is, at minimum maintained. Finally, the deed restriction shall not preclude development associated with the archaeological investigation required pursuant to Special Condition 19.
- 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. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the deed restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**25. STAGING AREA FOR CONSTRUCTION**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands.
1. The plan shall demonstrate that:
    - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
    - (b) Construction equipment, materials, or activity shall not be placed in any location which would result in impacts to wetlands.

2. The plan shall include, at a minimum, the following components:

(a) A site plan that depicts:

- (1) limits of the staging area(s)
- (2) construction corridor(s)
- (3) construction site
- (4) location of construction fencing and temporary job trailers with respect to existing wetlands

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.

26. **PERMIT COMPLIANCE**

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 herein. Any deviation from the approved plans must be reviewed and approved by the Executive Director and may require Commission approval.

27. **REVISED VESTING TENTATIVE TRACT MAP NO. 15381**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two copies of a revised vesting tentative map for Tract No. 15381. The revised map shall show only five legal lots as generally depicted in Exhibit 1, page 4; namely, 1) the lot currently owned by the California State Lands Commission, 2) the lot currently owned by the City of Seal Beach Redevelopment Agency, 3) proposed Lot 2 which is proposed to be further subdivided into seventy residential lots pursuant to proposed Tentative Tract Map 15402, 4) proposed Lot 3 for the proposed dedication of Gum Grove Park, which shall be in substantial conformance with the configuration shown on the map submitted with the permit application and maintain the proposed minimum 25 wide frontage along Seal Beach Boulevard, and 5) a lot consisting of the remainder of the subject site owned by the applicant. The applicant shall record the revised map approved by the Executive Director. No further subdivision of the lot identified in sub-section 5 shall occur other than to accommodate the transfer of land to a non-profit entity, subject to the review and approval of the Executive Director, for wetlands restoration, open space and environmental education purposes and which shall require an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

Note: Special Condition 27 Replaces Special Condition 2 in its entirety.



**28. RESERVATION OF POTENTIAL FOR ACQUISITION OF OIL PRODUCTION AREA FOR WETLANDS RESTORATION**

- A. 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 which shall provide that:
- (1) At the time oil production ceases and for a period of twenty-five years thereafter, the applicant agrees to sell the oil production area of the property as defined in "Attachment 1" (as revised pursuant to subsection B. of Special Condition 16) to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property or, through the normal State of California land acquisition practices if the State is the prospective buyer; and,
  - (2) The sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,
  - (3) The uses shall be restricted to wetlands restoration, open space and environmental education purposes, with reversion rights to the State Coastal Conservancy.

Within 30 days of the cessation of oil production, the applicant shall notify the Executive Director in writing of the date oil production ceased. The deed restriction shall remain in effect for twenty-five years from the date oil production ceases and be recorded over the oil production area of the property and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**IV. FINDINGS AND DECLARATIONS**

**A. Detailed Site Description and Amended Project Description**

The subject site totals approximately 196.6 acres. Of that amount, the applicant owns approximately 183.9 acres (93% of the site). Southern California Edison utility company owns 7.9 acres (4%). The California State Lands Commission owns a parcel totaling 3.4 acres (2%). Finally, the City of Seal Beach owns a parcel totaling 1.4 acres (1%).

The site consists of approximately 160 acres of lowland areas, covered for the most part by an average of five feet of fill. A low marine terrace known as Landing Hill reaches an elevation of 66 feet and creates a distinct upland on the south and east edges of the property. Except for the approximately 11 acre slope comprising most of Gum Grove Park, the upland on the southern edge of the lowland is off-site and is developed with the existing Marina Hill residential area of the City of Seal Beach. About 20 acres of the upland on the east side of the lowlands is on the subject site, forming a mesa, and is currently vacant (Exhibit 1).

In addition, the subject site is bounded on the west by Pacific Coast Highway (State Route One), on the south by the Marina Hill residential area, on the east by Seal Beach Boulevard, on the north by City of Seal Beach Police and Public Works Departments and the Los Alamitos Retarding Basin, and on the northwest by the Haynes Cooling Channel owned by the City of Los Angeles Department of Water and Power (Exhibit 1).

The mesa and Gum Grove Park can be considered to be adjacent to the sea because the lowlands on-site are traversed by a tidal channel which is connected to the San Gabriel River which leads to the Pacific Ocean. Section 30115 of the Coastal Act states, in relevant part:

*"Sea" means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.*

Thus, this tidal channel, which is subject to tidal action with a connection to the Pacific Ocean, meets the definition of "sea" under the Coastal Act.

The project previously proposed by the applicant included the following basic elements: subdivision of the 196 acre site into 9 lots, including further subdivision of one of the lots into 70 single-family residential lots in a private community; construction of a public golf course and golf clubhouse; dedication of Gum Grove Park to the City of Seal Beach; 1,600,000 cubic yards of grading (800,000 cubic yards of cut and 800,000 cubic yards of fill); creation of saltwater marsh totaling 39.1 acres (including buffer area) and reservation of 13.2 acres of existing oil production areas for future wetland restoration; construction of interpretive areas and visitor-serving recreation facilities; dedication of public access trails; and extension of Adolfo Lopez Drive. As outlined in more detail below, special conditions imposed by the Commission reduced the subdivision from 9 lots to 5 lots and required that the residential subdivision be open to pedestrian and bicycle traffic, but not open to public vehicular traffic.

Under the proposed amendment, the applicant is changing the proposed project to eliminate the previously proposed golf course, eliminate direct impacts to wetlands and the associated wetland mitigation, and to eliminate the previously proposed development on the property within the project area owned by the California State Lands Commission. The changes to the project are outlined as follows:

**1. Subdivision**

**a. As-Approved Under Coastal Development Permit 5-97-367**

There is no existing subdivision on the Hellman Ranch property. The applicant proposed subdivision of the 196 acre site into 9 lots, including further subdivision of one of the lots into 70 single-family residential lots in a private community.

More specifically, the subdivision of the site into 9 lots was proposed under Vesting Tentative Tract Map (VTTM) 15381 as approved by the City of Seal Beach on September 22, 1997. The 9 proposed lots were for: oil production (3 lots comprising a total of 27.5 acres); single family detached residential use in a private community on the mesa adjacent to and west of Seal Beach

Boulevard (14.9 acres); Gum Grove Park (11.1 acres), visitor-serving facilities (1.8 acres); golf course and freshwater wetlands (110.1), saltwater marsh wetlands, wetland buffers and public trails (29.6) acres and 1.4 acres of City owned land to extend Adolfo Lopez Drive.

Special Condition 2 of Coastal Development Permit 5-97-367 required changes to VTTM 15381 to show only 5 legal lots, rather than 9 legal lots. The 5 legal lots were to be comprised of 1) the lot currently owned by the California State Lands Commission, 2) the lot currently owned by the City of Seal Beach Redevelopment Agency, 3) proposed Lot 2 which is proposed to be further subdivided into seventy residential lots pursuant to proposed Tentative Tract Map 15402, 4) proposed Lot 3 for the proposed dedication of Gum Grove Park, and 5) a lot consisting of the remainder of the subject site owned by the applicant.

b. Proposed Amendment

The applicant is proposing to fully comply with Special Condition 2 of Coastal Development Permit 5-97-367 (which is replaced by Special Condition 27 under this amendment) in that the final project will consist of only 5 legal lots. However, as a result of this amendment, a change to VTTM 15381 will be required. This change will consist of increasing the size of the lot proposed for residential subdivision from 14.9 acres to 18.4 acres (Exhibit 2).

2. Residential Development

a. As-Approved Under Coastal Development Permit 5-97-367

Subdivision of the 14.9 acre residential site into 70 single-family residential lots (minimum lot size of 5,000 square feet with an average lot size of 6,250 square feet), 7 private open space lots for landscaping (2.08 acres), and a private roadway system was conditionally approved. No physical structures were approved. A subsequent approval is necessary for any structures such as utilities, storm drains, roads, perimeter walls, houses, and any gating. The conditions of the Commission's approval prohibited restrictions on the free movement of pedestrians and bicycles, but did not prohibit restrictions on public vehicular access to the subdivision.

b. Proposed Amendment

The applicant proposes to increase the size of the residential subdivision from 14.9 acres to 18.4 acres. The 18.4 acre site will be subdivided into 70 single-family residential lots, two landscape lots (Lots A and B), three open space lots (Lots C, D, and E), and four private street lots (Streets A through D). The 70 single-family residential lots will occupy 11.92 acres of the 18.4 acre site and have a maximum lot size of 11,059 square feet, a minimum lot size of 6,175 square feet with an average lot size of 7,430 square feet. The two landscape lots will occupy 1.63 acres of the 18.4 acre site. The three open space lots will occupy 0.55 acres of the 18.4 acre site. The street lots will occupy approximately 4.30 acres of the 18.4 acre site (Exhibit 2).

3. Wetland Fill

a. As-Approved Under Coastal Development Permit 5-97-367

A total of approximately twenty-seven (27) acres of wetlands exist on-site (Coastal Resources Management & Chambers Group, 1996). The 110.1 acre public 18-hole golf course would have

required the fill of 17.9 acres of existing wetlands. The proposed wetland creation would have also resulted in the fill of 9.1 acres of wetlands.

b. Proposed Amendment

The amendment would eliminate all proposed development resulting in the fill of existing wetlands.

4. **Salt Marsh**

a. As-Approved Under Coastal Development Permit 5-97-367

A total of 52.3 acres of salt marsh (including buffers) were ultimately to be provided. The applicant was proposing to construct 39.1 acres of salt marsh, including transition buffers, initially (Phase 1). The applicant was also proposing to reserve two existing areas which presently contain mineral production facilities for potential future wetland creation in two future phases. Phase 2 would include a mineral production area adjacent to the Haynes Cooling Channel and would be contiguous with the proposed salt marsh. Phase 3 would consist of the westernmost portion of a 19.28 acre mineral production area towards the center of the site. The applicant proposed to set aside a combined total of 13.2 acres of existing mineral production area for potential future expansion of the Phase 1 salt marsh. If all three phases were completed, the entire salt marsh (including buffers) would be 52.3 acres.

b. Proposed Amendment

Since the applicant is no longer proposing direct impacts upon wetlands, the applicant is eliminating all proposed salt marsh restoration.

5. **Grading**

a. As-Approved Under Coastal Development Permit 5-97-367

A total of one million, six hundred thousand (1,600,000) cubic yards of grading were proposed. Eight hundred thousand (800,000) cubic yards of grading (cut) would have been excavated to construct the wetlands. The 800,000 cubic yards of excavated material would have been used for fill for the proposed golf course and clubhouse.

b. Proposed Amendment

In the current amendment, the applicant would reduce the amount of grading from 1,600,000 cubic yards to 420,000 cubic yards of grading (210,000 cubic yards of cut and 210,000 cubic yards of fill). This proposed grading will occur in the upland area for the residential development.

6. **State Lands Parcel**

a. As-Approved Under Coastal Development Permit 5-97-367

The parcel of land adjacent to Pacific Coast Highway currently owned by the California State Lands Commission was contemplated for visitor-serving uses. A City historic building, the Krenwinkle House, was proposed to be moved to the site to be used as a historical museum

and/or interpretive center for the adjacent **proposed** salt marsh. Also contemplated were 10,000 square feet of visitor-serving commercial uses. Sixty-two (62) parking spaces were shown on the conceptual site plan. A simple interpretive facility consisting of a raised platform with displays overlooking the proposed salt marsh was also proposed.

b. Proposed Amendment

All proposed development on the California State Lands Commission parcel has been eliminated. Any development on this site would be the subject of a separate amendment to this coastal development permit or a new coastal development permit.

7. Archaeology

a. As-Approved Under Coastal Development Permit 5-97-367

The applicant is proposing an archaeological investigation to document the existence of cultural resources in the eleven cultural resource sites identified on the property. The eleven State-identified cultural resource sites are CA-ORA-256, CA-ORA-260, CA-ORA-261, CA-ORA-262, CA-ORA-263/852, CA-ORA-264, CA-ORA-850, CA-ORA-851, CA-ORA-1472, CA-ORA-1473 and Area D.

The archaeological investigation consists, in part, of digging 30x30 centimeter square shovel test pits ("STPs") to a maximum depth of 50 centimeters. STPs will be placed at 20 meter intervals on each cultural resource site, resulting in approximately 91 STPs. An additional 19 STPs will be dug on selected sites to supplement the sampling of the 91 STPs.

In addition, the proposed archaeological investigation will consist of digging Test Excavation Units ("TEUs"). The proposed TEUs are 1x1 meter square and will be hand excavated at 10 centimeter intervals. A total of 45 TEUs (between 2 and 8 per site) are expected to be dug. The TEUs will be placed on each site based on the results of both the STPs and a ground penetrating radar survey of each site.

b. Proposed Amendment

No changes are proposed to the previously approved archeological investigation.

8. Golf Course and Clubhouse

a. As-Approved Under Coastal Development Permit 5-97-367

The applicant was proposing a 110.1 acre, 18 hole golf course open to the public. A golf clubhouse, also to be open to the public, was also contemplated.

b. Proposed Amendment

The previously proposed golf course and clubhouse have been eliminated.

9. **Parks and Trails**

a. **As-Approved Under Coastal Development Permit 5-97-367**

The applicant was proposing to dedicate the 11.1 acre Gum Grove Park to the City of Seal Beach. The City currently leases the park, an unimproved nature park with a eucalyptus tree grove, from the applicant. The applicant also proposed to dedicate public trails which would extend from the State Lands parcel to the north and south of the Phase 1 salt marsh and end at viewing nodes along the salt marsh.

b. **Proposed Amendment**

The applicant is not proposing to change the previously proposed Gum Grove Park dedication. In addition, the applicant has announced the intention to comply with the requirements of Special Conditions 4 and 5 as imposed under Coastal Development Permit 5-97-367 (which are replaced by Special Conditions 17 and 18, respectively, under this amendment). In complying with the previously imposed special conditions, Gum Grove Park is to increase in size from 11.1 acres to 14.8 acres. The additional 3.7 acres will be reserved for the parking lot and trail required by the Commission's conditions of approval.

Since the development on the State Lands parcel and the golf course are being eliminated, the applicant is eliminating the previously proposed public trails and viewing nodes extending from the State Lands parcel to the north and south of the previously proposed and now eliminated Phase 1 salt marsh.

10. **Acquisition of Southern California Edison Property**

a. **As-Approved Under Coastal Development Permit 5-97-367**

Prior to the September 9, 1998 Commission hearing, the applicant amended the project description to provide for the acquisition of the 8 acre Southern California Edison property which bisected the wetland restoration area. Prior to adding this element to the project description, the applicant would have been required to buy or lease at least 5 acres of this land to accomplish their previously proposed restoration. Therefore, this addition to the project description did not change the quantity of previously proposed wetland restoration. This addition simply clarified that the applicant had a responsibility to acquire or lease lands in order to carry out their proposed project.

b. **Proposed Amendment**

The applicant has not proposed to eliminate acquisition of the Southern California Edison (SCE) property. Since the wetland restoration is no longer proposed, the SCE property is not needed for this purpose. However, as outlined below, the applicant is proposing to deed restrict the "lowlands" portion of the property. A portion of the area proposed for deed restriction includes the SCE property. Therefore, in order to carry out their proposal, the applicant would still need to provide for some legal interest in the SCE property in order to record the proposed deed restriction.

11. Mineral Production Area - Deed Restriction/Conservation Easement

a. As-Approved Under Coastal Development Permit 5-97-367

Prior to the September 9, 1998 Commission hearing, the applicant amended the project description to propose to deed restrict and add a conservation easement over 13.2 acres of mineral production area that would allow for future restoration or open space upon cessation of mineral production.

b. Proposed Amendment

This conservation easement is no longer proposed. However, as is discussed more fully below in item 13, the applicant amended the project description at the Commission hearing on October 11, 2000 to make 57 acres of mineral production area available for purchase for wetlands restoration upon cessation of oil production on the property.

12. Lowlands Deed Restriction

a. As-Approved Under Coastal Development Permit 5-97-367

The previously proposed golf course resulted in the fill of wetlands and was occurring in a lowland area that had been identified as suitable for wetlands restoration. The Commission acknowledged that the lowlands were potentially restorable to wetlands given sufficient funding and the presence of an entity willing to undertake the restoration. In acknowledgment of this potential, the Commission imposed a special condition (Special Condition 1) which required that the lowlands be available for sale to a public or non-profit entity wishing to perform a wetlands restoration. The deed restriction was to be in place for the life of the golf course use approved under CDP 5-97-367.

b. Proposed Amendment

The golf course has been eliminated from the proposed project. Therefore, there is no longer any proposed physical development in the lowlands. However, under this amendment, the applicant is proposing a deed restriction to be recorded against the property which would reserve approximately 100 acres of contiguous wetlands, lowlands and uplands on the site (Exhibit 3). The language of the proposed deed restriction is a slightly modified version of Special Condition 1 of Coastal Development Permit 5-97-367 (Appendix A). The language of the proposed deed restriction is as follows:

**RESERVATION OF POTENTIAL FOR LOWLANDS ACQUISITION FOR WETLANDS RESTORATION**

*PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and of content acceptable to the Executive Director which shall provide that:*

- (a) *for a period of twenty-five years the applicant agrees to sell the lowlands area of the property as defined in Attachment 1 to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property;*

*(b) the sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,*

*(c) for uses restricted to wetlands restoration and education purposes, with reversion rights to the State Coastal Conservancy.*

*The deed restriction shall remain in effect for twenty-five years and be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.*

**13. Oil Production Area Deed Restriction**

a. As-Approved Under Coastal Development Permit 5-97-367

Not previously proposed.

b. Proposed Amendment

Adjacent to the 100 acre lowlands identified above, there are 57 acres of land which are presently used for oil production. No development is presently proposed within the oil production area. Meanwhile, existing oil production operations will continue.

The 57 acre oil production area is contiguous with the 100 acre lowlands where existing wetlands are present. The 57 acre oil production area was historically wetlands and could be restored into wetlands in the future. Restoration of this 57 acre area would complement any wetlands restored on the adjacent 100 acre area. Therefore, the applicant is proposing to make the 57 acre oil production area available for sale for wetlands restoration when oil production ceases on that property. It is not known at this time when oil production will cease, however, estimates at this time are that oil production will cease on the property within 20 years. In order to implement this proposal, the applicant is proposing the following deed restriction which, similar to the 100 acre lowlands area, would make the land available for sale for wetlands restoration:

**RESERVATION OF POTENTIAL FOR ACQUISITION OF OIL PRODUCTION AREA FOR WETLANDS RESTORATION**

**A. 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 which shall provide that:**

*(1) At the time oil production ceases and for a period of twenty-five years thereafter, the applicant agrees to sell the oil production area of the property as defined in "Attachment 1" (as revised pursuant to subsection B. of Special Condition 16)*



*to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property or, through the normal State of California land acquisition practices if the State is the prospective buyer; and,*

- (2) *The sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,*
- (3) *The uses shall be restricted to wetlands restoration, open space and environmental education purposes, with reversion rights to the State Coastal Conservancy.*

*Within 30 days of the cessation of oil production, the applicant shall notify the Executive Director in writing of the date oil production ceased. The deed restriction shall remain in effect for twenty-five years from the date oil production ceases and be recorded over the oil production area of the property and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.*

**14. Infrastructure**

- a. As-Approved Under Coastal Development Permit 5-97-367

An extension of Adolfo Lopez Drive across land owned by the City of Seal Beach was proposed.

- b. Proposed Amendment

The extension of Adolfo Lopez Drive is still proposed in the amendment.

**15. Bio-Swale and Water Quality Basin**

- a. As-Approved Under Coastal Development Permit 5-97-367

There was no bio-swale or water quality basin previously proposed.

- b. Proposed Amendment

The applicant is proposing the construction of a bio-swale and riparian corridor plus a water quality detention and filtration basin (Exhibit 4). The purpose of the proposed structures is to capture and treat storm water run-off and non-storm related low flows discharged from the proposed residential subdivision, as well as to treat some off-site storm and non-storm related discharges originating from Seal Beach Boulevard. The proposed system is outlined in the *Storm Water Management &*

*Conceptual Water Quality Control Plan*, dated July 27, 2000, prepared by MDS Consulting and Fuscoe Engineering of Irvine, California.

The proposed system consists of three basic elements: 1) water quality catch basins within the residential subdivision designed to remove trash, litter and grease; 2) a "bio-swale" consisting of vegetated and coarse gravel filter areas where sediment, debris, soap, dirt, fertilizers and pesticides will be filtered; and 3) a 1.94 acre filtration basin/treatment wetland where first flush will be detained and nutrients, bacteria, metals, and organics are removed.

## **B. Ownership and Existing Legal Parcels**

The applicant has confirmed that there is no existing subdivision of the Hellman Ranch property. In addition, this parcel is currently utilized for mineral production, of which Hellman Properties owns the entire operating interest. Further, although Shell Oil (now Signal Hill Petroleum) has a 50% producing interest in APN 980-36-605, Signal Hill Petroleum has no land rights (Exhibit 10).

There are several assessor's tax parcels within the Hellman ownership, including assessor's tax parcels for mineral rights. However, County of Orange assessor's parcels which are utilized for tax purposes are not the same as legal lots for purposes of the Subdivision Map Act.

Under Coastal Development Permit 5-97-367, the applicant was requesting approval of Tentative Tract Map 15381 which subdivided the applicant's lot into several lots. This subdivision of the land was approved by the Commission subject to a special condition which reduced the total number of lots created from 9 lots to 5 lots. Under this permit amendment, the applicant is proposing to expand the size of the residential subdivision from 14.9 acres to 18.4 acres.

## **C. Previous Commission Actions**

### **1. 1982 Commission Actions**

In 1982, Ponderosa Homes applied for coastal development permit application 5-82-221 for the fill of all the existing on-site wetlands and construction of parks and 1,000 homes. Staff recommended that the Commission hold a hearing (May 18, 1982) to discuss the proposed development in light of the wetland and seismic hazards constraints, but the item was ultimately withdrawn.

The California Department of Fish and Game prepared a wetlands determination of the site in conjunction with the Ponderosa project in 1982. In addition, the Coastal Conservancy developed a wetlands enhancement plan for the on-site wetlands. The Conservancy plan evaluated several wetland restoration alternatives that would work around the development proposed under coastal development permit application 5-82-221.

The consolidation of the on-site wetlands into either an on-site tidal salt marsh or an on-site brackish water marsh near the culvert leading to the San Gabriel River was deemed to be technically feasible. Ultimately, however, the Conservancy determined that these alternatives presented significant problems regarding the cost of wetland construction, required changes to the then-proposed Ponderosa Homes project to accommodate the wetlands and long-term maintenance of the culvert linking the wetland with the salt marsh site.

The consolidation of the on-site wetlands into a brackish water marsh near the Los Alamitos Retarding Basin was also considered to be technically feasible. This marsh would have essentially been an extension of the seasonal wetland created when the flood control basin fills with winter storm runoff. This wetland alternative would be dependent on runoff, ground-water pumping and diversion of runoff from the flood control basin for its water supply. Again, however, the Conservancy determined that this alternative would have required changes to the design of the then-proposed Ponderosa Homes project.

The Conservancy thus concluded that off-site restoration would provide the best chance for creation of a long-term viable and regionally significant wetland in the area. This conclusion was also based in part on minimizing changes to the then-proposed housing development, costs to the developer and revenue loss to the City of Seal Beach. The Conservancy recommended three preferred off-site areas: the Talbert Marsh and Fairview areas of the Santa Ana River and uplands areas next to and within the Seal Beach National Wildlife Refuge (Anaheim Bay wetlands).

The Conservancy presented these wetland alternatives to the Commission as Coastal Conservancy Project #1-82. The Commission approved the Conservancy project in concept with conditions requiring: 1) further study of all alternatives, data from which was to be presented to the Commission along with the selection of a final site and 2) conditions addressing the specific alternatives of the on-site wetlands near the culvert, on-site wetlands near the flood control basin and the Seal Beach wildlife refuge site. None of the Conservancy project wetland restoration alternatives were undertaken because the Ponderosa Homes project was never constructed.

## **2. 1989-1990 Commission Actions (MOLA)**

On November 14, 1989, the Commission denied permit application 5-89-514 by the MOLA Corporation to construct 355 homes with both wetland fill and wetland restoration. The Commission then waived the six month waiting period required by the Regulations to rehear a project which has already been denied by the Commission. On January 12, 1990, the Commission approved Coastal Development Permit 5-89-1087 for construction of 355 homes, 4 acres of wetland fill, 36.8 acres of wetland habitat and 1.3 million cubic yards of cut and 1.4 million cubic yards of fill.

As a condition of approval, the Commission required the proposed wetland restoration area to be expanded by four acres to further mitigate the four acres of fill. The four acre expansion would have: 1) removed planned homes that would have intruded into planned wetland, 2) removed structural development from a highly liquefiable site, 3) further ensured the success of the planned wetland by creating additional wetland and buffer area and 4) allowed the Port of Long Beach to use the site for mitigation credits. The MOLA project was also never undertaken.

## **3. 1998 Commission Action (Hellman Properties LLC)**

On September 9, 1998, the Commission approved Coastal Development Permit 5-97-367 for subdivision of the 196 acre Hellman Ranch into several parcels including a 70-home subdivision, and construction of an 18-hole golf course, construction of 39.1 acres of wetlands, dedication of a public park (Gum Grove Park), visitor serving amenities including trails and reservation of 13.2 acres of existing mineral production area for future wetlands restoration. The Commission imposed 14 special conditions (see Appendix A), which required 1) reservation of the lowlands

portion of the property for acquisition for wetlands restoration; 2) a revised Vesting Tentative Tract Map No. 15381 reducing the number of lots from 9 to 5; 3) lease restrictions on the uses proposed on the State Lands Commission parcel; 4) dedication of Gum Grove Park; 5) implementation of a public access program; 6) requirements regarding the review and implementation of the archeological investigation; 7) conformance with water quality requirements; 8) implementation of mitigation measures for geologic hazards; 9) requirements to obtain future coastal development permits for the houses; 10) demonstration of legal interest; 11) requirements for wetlands restoration; 12) requirements for a final revised wetlands restoration program; 13) requirements related to operation of the golf course and implementation of a wetland education program for golfers; and 14) requirements regarding the timing of construction.

The approved project resulted in the fill of wetlands for the construction of a golf course. As noted more fully in the findings adopted by the Commission on February 3, 1999, the Commission's approval was based on Section 30233(a)(3) and 30411(b)(3) of the Coastal Act. This approval was challenged in a lawsuit filed by the League for Coastal Protection, California Earth Corps and the Wetlands Action Network. In response to the lawsuit, a settlement agreement was reached by the parties involved. As noted in the written settlement, "[t]he basic purpose of this Agreement is to resolve litigation by remanding the subject project to the Coastal Commission for consideration of a modified Project as set forth in Exhibit "A" that would: (1) eliminate development within and impacts to wetlands that would have been caused by the golf course portion which would have resulted in the fill of 17.9 acres of existing wetlands; and (2) allow the balance of the project within the upland areas to proceed forward...". In response to this settlement agreement, the applicant filed the subject application for an amendment to Coastal Development Permit 5-97-367 which eliminates the proposed golf course and direct impacts to wetlands.

#### **D. Chapter 3 Coastal Act Policy Analysis**

##### **1. Wetlands**

Section 30108.2 of the Coastal Act states:

*"Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.*

Section 30121 of the Coastal Act states:

*"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.*

The subject site contains 27.087 acres of scattered wetlands according to a wetlands assessment of the site (Coastal Resources Management & Chambers Group, 1996). According to the assessment, the existing wetlands are comprised of 15.91 acres of salt marsh vegetation, 2.026 acres of seasonally ponded water, 7.0059 acres of alkaline flat and 3.146 acres of tidal channel. The majority of the wetlands are clustered: 1) around the tidal channel which runs through the middle of the property and delivers site runoff to a culvert which connects to the San Gabriel River or 2) adjacent to the Haynes Cooling Channel at the north edge of the property. The project previously proposed and approved under Coastal Development Permit 5-97-367 resulted in the fill of all of the existing wetlands. The proposed fill resulted from the construction of a golf course and

from implementation of a wetlands restoration program. Under this amendment request, the applicant is proposing to eliminate the golf course and associated wetlands impacts and wetlands restoration. There would be no direct impact to wetlands from the revised project as proposed under this amendment.

**a. Background on On-site Wetlands**

The Commission found previously in its approval of Coastal Development Permit 5-89-1087 that, historically (and as recently as the late 1890's), all of the lowland areas of the subject site were part of the 2,400 acre Alamitos Bay wetland complex at the mouth of the San Gabriel River. Over time, however, man-made alterations reduced the size and quality of the wetlands.

Substantial degradation of the wetlands on the Hellman property began with oil production in the 1920's, which resulted in the fill of wetlands for access roads and production facilities. The wetlands were further altered following the rerouting and channelization of the San Gabriel River from 1930-34. Marsh land receded further as canals and levees were built to control water on the property. The construction from 1961-63 of the adjacent Los Angeles Department of Water and Power cooling channel for the upriver Haynes Power Plant resulted in the deposition of large quantities of fill on the site and additional fill of wetlands.

The City of Seal Beach also allowed fill to be placed on the property during the 1960's and early 1970's, and the Commission's predecessor Coastal Zone Conservation Commission also approved fill activity between 1972-75. Continued oil production and off-road vehicle use on the site currently contributes to the degradation of the wetlands.

**b. Importance of Wetlands**

One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological function. First and foremost, wetlands provide critical habitat, nesting sites and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway, a north-south flight corridor extending from Canada to Mexico used by migratory bird species. In addition, wetlands also serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas.

Another critical reason for preserving, expanding and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of coastal wetlands have been lost. As described earlier, the 27 acres of existing on-site wetlands are part of only 150+ acres which remain of the former 2,400 acre Alamitos Bay wetland complex. Therefore, it is critical to maintain and enhance the remaining wetlands to ensure that wetlands exist to carry out the functions described above.

**c. Section 30233 Analysis**

Section 30233 of the Coastal Act regulates the type of development which may occur in wetlands located in the Coastal Zone. Section 30233 of the Coastal Act states, in relevant part:

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (7) Restoration purposes.*
- (8) Nature study, aquaculture, or similar resource dependent activities.*

The previously proposed project would result in development upon wetlands regulated by Section 30233 of the Coastal Act. More specifically, construction of the golf course and wetland restoration elements of the proposed project would have filled or dredged all 27 acres of existing on-site wetlands. Of the total 27 acres of wetland fill or dredge, 17.9 acres of fill would have resulted from construction of the proposed golf course and 9.1 acres of dredging and some fill would have resulted from the proposed salt marsh enhancement. The applicant was proposing to construct a total of 39.1 acres of restored wetlands with reservation of an additional 13.2 acres of land for potential restoration by a willing agency or non-profit entity.

In order to ensure that the proposed wetland restoration program was carried out, the Commission imposed Special Condition 11 (Wetlands Restoration Area/Conservation) which specifically

identified the applicant's responsibility to provide the approved quantity of restored wetland habitat. Since the project proposed under this amendment results in no direct impacts upon wetlands, the Commission finds that the previously imposed Special Condition 11 is no longer necessary. Therefore, the Commission removes, in entirety, Special Condition 11.

The Commission also previously imposed Special Condition 12 (Final Wetland Restoration Program) which outlined various requirements for the wetlands restoration program. Since no direct impacts upon wetlands are occurring and no wetlands restoration is being proposed under this amendment, the Commission finds that the previously imposed Special Condition 12 is no longer necessary. Therefore, the Commission removes, in entirety, Special Condition 12.

Since the previously proposed golf course was being constructed adjacent to wetlands which were proposed to be restored and/or created and the golf course would have had adverse impacts upon wetlands, the Commission imposed Special Condition 13 (Golf Course Operations and Golfer Wetland Education Program) which identified the timing of golf course opening, limitations on golf ball retrieval, requirements for golfer education on wetlands, a deed restriction outlining for existing and future owners the requirements for managing the golf course in a manner that was compatible with management of the wetlands for habitat purposes, and design requirements of the golf course. Since the golf course has been eliminated from the project and there is no proposed wetlands restoration, the Commission finds that previously imposed Special Condition 13 is no longer necessary. Therefore, the Commission removes, in entirety, Special Condition 13.

**d. Section 30231 Analysis - Wetlands**

Section 30231 of the Coastal Act requires wetland biological productivity to be maintained, and where feasible restored. 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.*

The proposed project includes grading for a residential subdivision and construction of a bio-swale and detention basin. This development will be occurring in areas that are adjacent to existing wetlands on the project site.

As noted previously, the subject 196 acre site contains approximately 27 acres of wetlands. Most of these wetlands are concentrated around the Haynes Cooling Channel and around a linear tidal channel which roughly bisects the Hellman Ranch. However, there are also scattered wetlands around the property.

The proposed residential subdivision and associated grading will occupy an upland mesa which is bound by Seal Beach Boulevard to the west and the lowlands and oil production area to the east (Exhibit 1, page 3). There are three wetland areas in the lowlands which are near to this

development including 1) an irregularly shaped approximately 60 foot long by 40 foot wide salt marsh (herein referred to as "Wetland A") which will be 171 feet away from the limits of the grading and residential subdivision; 2) an irregularly shaped 300 foot long by 150 foot wide salt marsh and alkaline flat (herein referred to as "Wetland B") that is 270 feet away from the limits of the grading and residential subdivision; and 3) the western terminus of the approximately 20 foot wide tidal channel (herein referred to as "Tidal Channel") which is 238 feet from the limits of the grading and residential subdivision. Therefore, the limits of the grading and the residential subdivision will place the development between 171 feet to 270 feet away from the nearest wetlands.

The applicant is also proposing to construct a bio-swale and detention basin along the northeastern side of the proposed residential subdivision. The bio-swale will be placed between the residential subdivision and Wetland A. The proposed bio-swale and detention basin will require grading and the placement of structures. In addition, these structures will be surrounded by a landscaped area that will require the placement of vegetation. At the nearest point, the edge of the proposed bio-swale will be 60 feet from the edge of Wetland A. The edge of the landscaped area would be approximately 10 feet from the edge of Wetland A.

i. Wetland Buffer

Buffer areas are undeveloped lands surrounding wetlands. Buffer areas serve to protect wetlands from the direct effects of nearby disturbance. In addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in the wetland such as amphibians, reptiles, birds, and mammals. Buffer areas provide obstructions which help minimize the entry of domestic animals and humans to wetlands. Buffers also provide visual screening between wetland species that are sensitive to human impacts, such as lighting. Buffers can also reduce noise disturbances to wetland species from human development.

The proposed project is providing a 171 foot to 270 foot wide buffer between existing wetlands and the proposed residential development and associated grading. Furthermore, the applicant is proposing to construct a vegetated bio-swale and water quality basin between the residential development and existing wetland.

The applicant has provided a biological analysis analyzing the compatibility of the proposed vegetated bio-swale and water quality basin with the continuance of Wetland A. The biological analysis identifies impacts upon hydrology as the only substantial source of potential impacts upon Wetland A. The biological analysis states that Wetland A is an isolated wetland which exhibits substantial degradation due to a lack of hydrology. Hydrological input is from direct rainfall only. The proposed bio-swale will not change the hydrology of the wetland. Therefore, the biological analysis concludes that the proposed buffer is adequate because the proposed development will not change the hydrology of Wetland A.

The applicant also submitted a biological analysis of the compatibility of the proposed bio-swale and water quality basin with the potential future restoration of wetlands in the lowlands. This biological analysis states that the proposed bio-swale will be planted with native hydrophytes such as southern cattail, California bulrush, Olney's bulrush, Mexican rush and iris-leaved rush. In addition, native riparian species such as mulefat, arroyo willow, narrow-leaf willow and black willow will be planted. The biological analysis states that this vegetation palette will provide habitat for



wetland associated avian species such as marsh wren, common yellowthroat, song sparrow, mallards, red-winged blackbird, black phoebe, and a variety of egrets and herons.

However, the biological analysis also states that the final plant palette has not been developed, but will generally consist of the above species. The Commission finds that the use of vegetation native to southern California wetland and riparian environments is necessary to ensure the proposed bio-swale and water quality basin are compatible with the continuance of existing wetlands, as well as potential future wetland restoration. Therefore, the Commission imposes Special Condition 20 which requires that, prior to issuance of the coastal development permit, the applicant submit for review and approval of the Executive Director, a final landscape plan for the proposed bio-swale and water quality basin. The final landscape plan shall be prepared in consultation with the California Department of Fish and Game. The final plan shall be accompanied by a written endorsement of the landscape plan by the California Department of Fish and Game. The applicant shall construct the bio-swale and water quality basin in accordance with the final plan approved by the Executive Director. Any changes to the plan shall be reported to the Executive Director and the applicant shall obtain an amendment to this coastal development permit for any changes the Executive Director determines requires an amendment.

In addition, if construction equipment and staging is not appropriately managed, adverse impacts upon wetlands on the project site could occur. For instance, soil stockpiles could erode causing sedimentation of wetlands. In addition, if not sited appropriately, construction equipment and activity could cause trampling of the wetlands. Therefore, the Commission imposes Special Condition 25. Special Condition 25 requires that, prior to issuance of the coastal development permit, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands. The plan shall demonstrate that construction equipment or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition and that construction equipment and activity shall not be placed in any location which would result in impacts to wetlands. The plan shall include, at a minimum, the following components: a site plan that depicts the limits of the staging area(s); construction corridor(s); construction site; the location of construction fencing and temporary job trailers with respect to existing wetlands.

As noted in the project description, under the previously proposed project, the applicant was requesting approval of a subdivision of one 196.6 acre parcel in a configuration that would separate the existing mineral production areas from the previously proposed golf course, wetlands and residential areas. Under the previous approval, the Commission found it necessary to approve a revised land division configuration that maintained in single parcel ownership and usage the land areas proposed for the golf course and wetland restoration, as well as the area currently used for oil production which provides an economically viable use of the property. This means that should any owner of the separate lowlands parcel come forward at some time in the future with a new development proposal in the lowlands portion of the project site now before the Commission, that owner would already have an economically viable use of the property (assuming mineral production is ongoing). Only by keeping the mineral production sites combined with the remainder of the lowlands area as one parcel could the Commission allow the subdivision of the remainder of the project site and ensure that future development proposals will not compel the Commission to allow uses in the lowlands solely to avoid a takings claim. Accordingly, the Commission attached Special Condition 2 for revision of the proposed Tentative Tract Map 15381. Only as conditioned,

could the Commission find the proposed project consistent with the Coastal Act. Under this proposed amendment, the applicant is proposing to fully comply with Special Condition 2.

As previously imposed by the Commission, Special Condition 2 did not allow further subdivision of the subject property. However, it may be necessary to further subdivide the property in order to convey land to a non-profit entity for wetlands restoration, open space and environmental education purposes. Therefore, the Commission eliminates Special Condition 2 and replaces it with Special Condition 27 which allows further subdivision of the property if such subdivision is for the purpose of wetlands restoration, open space and environmental education purposes.

The Commission finds that the revised VTTM 15381 depicted in Exhibit 2 conforms with Special Condition 2 and complies with the required merger of the oil production parcel with the lowlands acreage.

Also, the concern regarding any future development of the lowlands and mineral production area is further addressed by the applicant's proposal to make the 100 acre lowlands area immediately available for sale for wetlands restoration, open space and environmental education. In addition, the applicant is proposing to place a deed restriction on the 57 acre mineral production area which makes this land available for sale for 25 years for wetlands restoration, open space and environmental education once oil production ceases.

ii. Potential Future Restoration

There are few potential wetland mitigation sites left in the Southern California coastal zone available for meaningful, substantial wetland mitigation. There are several entities, such as the Ports of Los Angeles and Long Beach which require wetland mitigation to off-set impacts to wetlands resulting from improvements to the ports. The need for wetland mitigation sites in the future is inevitable to the extent certain entities need to fill coastal waters to expand and grow coastal dependent facilities.

As noted above, the Hellman Ranch lowlands were historically a part of the 2,400 acre Alamitos Bay wetland complex. These wetlands have been substantially impacted over time due to oil production activities, work upon the San Gabriel River channel and construction of the Haynes Cooling Channel. At least one entity, the Port of Long Beach, has identified the Hellman lowlands as a potential wetland restoration site. In addition, a preliminary plan prepared by the Southern California Wetland Recovery Project (not a public entity) identifies the Hellman lowlands as a potential wetland restoration site.

Section 30231 of the Coastal Act encourages the restoration of the biological productivity of coastal waters, wetlands, estuaries, streams, and lakes. In recognition of this and in compliance with the settlement agreement noted above, the applicant is proposing a twenty-five year deed restriction which will make available for sale approximately 100 acres of lowlands of the Hellman Ranch for wetlands restoration and open space purposes. Specifically, the applicant is proposing that, prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction which shall provide that: (a) for a period of twenty-five years, the applicant agrees to sell the lowlands area of the property as defined in Attachment 1 to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property; (b) the sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and

applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and, (c) for uses restricted to wetlands restoration and education purposes, with reversion rights to the State Coastal Conservancy. The applicant proposes that the deed restriction shall remain in effect for twenty-five years and be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns. Special Condition 16.A. implements the applicants proposed deed restriction and replaces previously imposed Special Condition 1.

The limits of the proposed deed restricted area have been defined in a document titled "Attachment 1" which is found in Exhibit 3, page 1 of these findings. "Attachment 1" shows that the applicant is proposing to deed restrict some areas which are also being proposed for use as a bio-swale and water quality basin. In order to assure that the proposed approximately 100 acre deed restricted area provides the identified acreage for possible restoration/open space, the areas committed to the bio-swale and water quality basin should be deleted from the 100 acres and offset. The Commission therefore imposes Special Condition 16.B. which requires the applicant to submit a revised "Attachment 1", for review and approval of the Executive Director, which maintains the quantity of proposed deed restricted area and which removes those areas and replaces the removal of those areas from the deed restriction with other land within the project site suitable for wetlands restoration, open space and environmental education purposes. As conditioned, the Commission finds the proposed project is consistent with Section 30231 of the Coastal Act.

## 2. Upland Biological Resources

Section 30240 of the Coastal Act states, in relevant part:

*(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.*

As part of the proposed development, the applicant is dedicating a 14.8 acre passive recreational nature park, Gum Grove Park, to the City of Seal Beach. As described below, Gum Grove Park contains natural resources which could be degraded if the proposed development is not designed to be compatible with the continuance of the park's resources.

According to the Environmental Impact Report (EIR) for the Hellman Ranch Specific Plan, approximately 137 acres of the Hellman Ranch site can be characterized as ruderal grassland containing mostly non-native early successional herbaceous plants. Existing plant species include slender wild oat, ripgut grass, Italian ryegrass, telegraph weed, bristly ox-tongue, Australian saltbush, five-hooked bassia, alkali weed and white sweet clover. The EIR states that these areas are disced on a regular basis.

There are various bird species which nest and/or forage at the Hellman Ranch and within Gum Grove Park. The EIR and subsequent biological analyses outline species present. The federally and state listed American peregrine falcon (*Falco peregrinus anatum*) may occasionally forage at the site. Loggerhead shrikes (*Lanius ludovicianus*) (a state listed Species of Special Concern) may breed in large shrubs and small trees in ruderal areas of the property and forage on small prey such as insects and lizards which occur on the property. The white-tailed kite (*Elanus*

leucurus) (a state listed Fully Protected species) may breed in Gum Grove Park and has been observed in the project area. In addition, other raptors that are state listed Species of Special Concern, such as the northern harrier (*Circus cyaneus*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), osprey (*Pandion haliaetus*), prairie falcon (*Falco mexicanus*), merlin (*Falco columbarius*) and short-eared owl (*Asio flammeus*), occasionally forage on the subject site. Among these raptors, the Cooper's hawk has the potential to breed in Gum Grove Park. Other raptors which have been observed at the project site include the turkey vulture (*Cathartes aura*), American kestrel (*Falco sparverius*), red-tailed hawk (*Buteo jamaicensis*) and red-shouldered hawk (*Buteo lineatus*). Gum Grove Park provides roosting, nesting and breeding areas for these sensitive avian species. In addition, Gum Grove Park provides potential habitat for the monarch butterfly (*Danaus plexippus*).

The proposed project will subdivide and grade 18.4 acres of ruderal upland habitat within Hellman Ranch. This ruderal area presently provides foraging area for raptors present at the subject site and which roost, nest and breed in Gum Grove Park. In letters from the California Department of Fish and Game, dated May 21, 1997 and June 19, 2000, as well as by the U.S. Fish and Wildlife Service, dated March 13, 1998 and June 5, 1998, the loss of open space areas such as ruderal habitat on the subject site would have a significant impact upon raptor species, especially those that are listed as sensitive or endangered. The most recent letter from the California Department of Fish and Game, dated June 19, 2000, recommends that the loss of documented raptor foraging habitat be compensated by committing some remaining upland forage area as mitigation. The CDFG recommends that losses would be adequately offset through the onsite dedication of raptor foraging habitat at a 0.5:1 mitigation-to-impact ratio in an area with long-term conservation potential.

The applicant responded to the recommendations of the California Department of Fish and Game in their letter prepared by their biologist, Glenn Lukos Associates, dated September 11, 2000. The applicant's letter suggests that over 70 acres within the approximately 100 acre lowlands portion of the property contains ruderal habitat identical to that being lost within the 18.4 acre subdivision. The applicant states in their letter, dated September 11, 2000, that 9.2 acres of suitable habitat would be dedicated by means of a conservation easement or similar mechanism and that the identification of such areas would occur in consultation with the California Department of Fish and Game.

The Commission finds that subdivision and grading of 18.4 acres for residential purposes will impact 18.4 acres of raptor foraging habitat. The foraging habitat to be impacted supports sensitive resources associated with Gum Grove Park. The California Department of Fish and Game has recommended that such impacts be mitigated at a 0.5:1 mitigation-to-impact ratio. The Commission finds that in order to assure the continuance of the resources within Gum Grove Park, the applicant must preserve 9.2 acres of suitable raptor foraging habitat. Therefore, the Commission imposes Special Conditions 21 and 22. Special Condition 21 requires that prior to issuance of the coastal development permit, the applicant shall submit for review and approval of the Executive Director, a map, prepared by a biologist in accordance with current professional standards, delineating suitable raptor foraging habitat with long term conservation potential, within the lowlands of the subject property as identified in the letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties, dated September 11, 2000, regarding Response to June 19, 2000, letter from the California Department of Fish and Game Regarding Biological Resources at Hellman Ranch. The area delineated shall not be less than 9.2 contiguous acres of raptor foraging habitat. The delineation shall be prepared in consultation with

the California Department of Fish and Game, and the map submitted to the Executive Director shall be accompanied by a written endorsement by the California Department of Fish and Game of the raptor foraging habitat delineation, the site selected and the map. Special Condition 21 also requires that the raptor foraging habitat to be identified shall have the same or better functions and values as the site to be impacted, in accordance with the biological assessment prepared by Glenn Lukos Associates in their letter dated September 11, 2000. The applicant's letter, dated September 11, 2000, states that equivalent raptor foraging habitat is available in the lowlands portion of the property (Exhibit 7, pages 16 and 17). If there are no raptor foraging habitat areas with the same or better functions and values as the site to be impacted in the area previously identified by the applicant as having such, the applicant shall obtain an amendment to this coastal development permit in order to remedy the discrepancy. In addition, Special Condition 21 requires that, prior to issuance of the coastal development permit, the applicant shall submit for review and approval of the Executive Director, a habitat management plan which identifies management measures necessary to, at a minimum, maintain the functions and values of the raptor foraging habitat to be preserved. Such measures shall include appropriate brush management measures for the maintenance of raptor foraging habitat. Measures may include brush clearance and brush mowing; planting of plant species associated with raptor foraging habitat, and exotic and invasive plant species controls for the removal of plant species which upset the functioning of the raptor foraging habitat, including, but not limited to, ice plant, pampas grass, arundo giant cane, and myoporum. Any chemical controls to be used in areas adjacent to wetlands shall be limited to those which are non-toxic to wetland organisms (e.g. Rodeo® Herbicide). The raptor foraging habitat management plan shall be prepared in consultation with the California Department of Fish and Game, and shall be accompanied by a written endorsement of the plan by the California Department of Fish and Game.

Special Condition 22 requires that an open space deed restriction be recorded over the site identified in Special Condition 21 which provides that no development, as defined in Section 30106 of the Coastal Act, shall occur in the raptor foraging habitat except for activities related to raptor foraging habitat maintenance; and the following development, if approved by the Coastal Commission as an amendment to this coastal development permit: activities related to public access, recreation and wetland restoration provided that such development continues to designate a minimum of 9.2 acres of equivalent or better functioning raptor foraging habitat. Special Condition 22 requires that, 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 restriction on development in the designated open space. The deed restriction shall include a copy of the raptor foraging habitat management plan approved by the Executive Director.

The applicant has suggested that a portion of the 100 acres proposed to be deed restricted for sale for wetland restoration purposes could be used for raptor foraging habitat. The applicant has further suggested that the integration of raptor foraging areas into a wetland restoration plan would be a given component of any wetland restoration plan which would have a mixture of open water, tidal flats and upland areas. The Commission finds that use of the 100 acre area for this purpose, in conjunction with the additional 57 acre area, would be consistent with the preservation and enhancement of wildlife resources. However, the Commission imposes Special Condition 22, because the proposed 100 acre deed restriction is an offer for sale for 25 years and not a restriction of land –without expiration- as is necessary to mitigate the permanent impacts upon raptor foraging habitat resulting from grading and use of 18.4 acres for residential purposes. Therefore, Special Condition 22 requires a separate restriction without expiration.

As will be discussed more fully in the 'Public Access' section of these findings, the proposed project includes the dedication of 14.8 acres of land known as Gum Grove Park. This park area provides habitat for sensitive biological resources including the American peregrine falcon, the Loggerhead shrike and the Monarch Butterfly. Use of the public park for active recreational activities, such as team field sports, could result in impacts to these sensitive resources. In addition, unleashed domesticated animals could harass sensitive wildlife. In order to avoid these impacts, the Commission imposes Special Condition 17 which reserves the park for passive recreational activities and prohibits use of the park for active recreational activities. Special Condition 17 also requires the leashing of any domesticated animals using Gum Grove Park. As conditioned, the Commission finds the proposed project is consistent with Section 30240 of the Coastal Act.

### 3. Archaeological Resources

Section 30244 of the Coastal Act states:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

The subject site contains eleven State-identified cultural resources sites. Two of these sites would be left untouched in their current location in Gum Grove Park. However, the proposed grading for the residential subdivision would impact seven of the other designated archaeological sites. In addition, construction of the proposed bio-swale and detention basin would potentially impact two additional sites.

This amendment removes the previously proposed golf course and clubhouse, expands the footprint of the previously proposed residential subdivision and adds the bio-swale and detention basin. The net effect of the changes proposed under this amendment result in the same impacts upon archaeological resources as was previously proposed. Therefore, the scope of work proposed and required under the archeological investigation remains unchanged.

The various archeological sites have been documented during the course of previous archaeological investigations. However, because of differences in the methodologies of the previous investigations, the precise location of each archaeological site is uncertain. Therefore, the applicant is proposing to undertake an archaeological investigation prior to the commencement of any grading for the residential subdivision and grading or other construction for the proposed bio-swale and detention basin to document the precise extent of cultural resources on-site. To ensure the applicant's measures are implemented, Special Condition 19.C. and 19.D. are attached by the Commission. Special Condition 19.C., as now imposed, differs from Special Condition 6.C. as previously imposed by the Commission, in that it eliminates the specific reference to "proposed Lot 2" such that the special condition relates to all of the development as revised and proposed under this amendment. This is necessary because Special Condition 13.A., which previously provided this function, is no longer applicable. Special Condition 13.A. which was previously imposed by the Commission related to the timing of golf course construction. Since the golf course is being eliminated under this amendment, the Commission finds that Special Condition 13.A. is no longer required and is thus eliminated. In addition, several revisions are necessary to

Special Condition 6 in order to update and clarify references within the condition. For clarity, Special Condition 19 replaces previously imposed Special Condition 6 in its entirety.

The applicant has prepared an archaeological research design that attempts to reconcile as best as possible the uncertain locations of the identified cultural resources sites using the best information and methods available. The research design will guide the proposed archaeological investigation. The proposed investigation will consist of the excavation of small sections within the areas of the overall development site thought to contain the identified cultural resources sites.

The Commission finds that the following reasonable mitigation measures shall be required. First, to minimize impacts to cultural resources, Special Condition 19.A. requires that the archaeological testing program must be done in accordance with the approved research design. Second, Special Condition 19.A. also requires that the State Office of Historic Preservation ("OHP"), the state Native American Heritage Commission ("NAHC"), and the Native American group/person deemed acceptable by NAHC, shall have the opportunity to review and comment on this research design. Special Condition 19.A. also specifies that the Native American group/person to be consulted must be from one of the potentially interested Native American peoples which include the Juaneno/Acjachemem, Gabrielino/Tongva, or Luiseno peoples. This specification is also included within subsections B, C, D, and F of Special Condition 19.

Further, Special Condition 19.B. requires that selection of the archaeologist must be in accordance with accepted guidelines endorsed by the OHP. Also, because of the likelihood of Native American remains being found, Special Condition 19.E. requires that a Native American monitor must monitor the archaeological activities. The Native American monitor shall be selected by the City in accordance with NAHC guidelines in consultation with the Native American group/person deemed acceptable by the NAHC.

To ensure that impacts to cultural resources are minimized, no development (besides the archaeological testing program) shall take place until the archaeological testing has been completed and mitigation measures that minimize impacts to cultural resources have been implemented. However, since the locations of many of the cultural resources sites are in dispute and not precisely known, it is possible that the archaeological test program may miss cultural resources that are then discovered during development activities. Therefore, the Commission finds that the permit must require that development be temporarily halted in the vicinity of the discovery site until appropriate mitigation measures are developed for resources discovered during the course of post-investigation construction activities. These requirements are contained in subsections C, D and F of Special Condition 19.

In addition, the Commission finds that all mitigation measures must comply with the requirements of the State Office of Historic Preservation and the Native American Heritage Commission. Therefore, Special Condition 19.F. requires that a qualified Native American monitor shall also be present during construction activities to ensure sensitive treatment of Native American cultural resources. Should human remains be found, the Special Condition 19.F. requires that construction shall be temporarily halted in the vicinity of the discovery site and the County Coroner notified to initiate identification proceedings. The Native American group/person shall participate in the identification process. Should the remains be determined to be that of a Native American, the applicant must comply with the provisions of Public Resources Code Section 5097.98. However, the Commission notes that PRC Section 5097.98, which governs procedures when

human remains of a Native American are found, exempts these procedures from the requirements of the Coastal Act.

To ensure that contractors and workers are notified of their obligations related to archeological conditions at the site, Special Condition 19.G. requires that the content of the special condition be incorporated into all documents that will be used by contractors and workers for construction related activity, including bids.

Finally, the outcome of the proposed archeological investigation may affect the locations where development may occur. Therefore, it is important that the archeological investigation proceed as quickly as possible. This coastal development permit, as amended, contains several special conditions with a requirement for compliance prior to issuance of the permit. Compliance with these special conditions may take time which could be utilized for the archeological investigation. Therefore, the Commission includes Special Condition 19.H. which authorizes the Executive Director to issue a coastal development permit for the archeological investigation to proceed in advance of compliance with the other special conditions of Coastal Development Permit 5-97-367. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30244 of the Coastal Act.

#### **4. Public Access and Recreation**

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30213 of the Coastal Act states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

##### **a. Proposed Gum Grove Park Dedication**

The applicant proposes to dedicate Gum Grove Park to the City of Seal Beach. The applicant currently leases the land to the City for public park purposes. The park, even though it is leased, is currently signed as being a public park and has been used as such. The Commission finds that prior to issuance of any residential building permits, the applicant must submit written evidence that they have dedicated the park to the City for passive recreation, as proposed, to ensure maximum public recreation opportunities. Therefore, the Commission imposes Special Condition 17. Special Condition 17 replaces in its entirety previously imposed Special Condition 4. To provide maximum public access and recreation opportunities, the Commission finds that the dedication documents must ensure that: 1) new and upgraded trails will meet the Americans with Disabilities Act requirements and provide access to physically challenged persons, 2) the existing number of parking spaces shall be maintained, 3) signage informing the general public of the park's public nature shall be maintained, 4) changes in park hours which adversely affect public access shall be limited to demonstrated public safety concerns and shall require an amendment to this permit and 5) an area fronting on Seal Beach Boulevard, as proposed, shall be reserved for a



public trail and ten public parking spaces which are directly accessible from Seal Beach Boulevard.

Special Condition 17 differs from previously imposed Special Condition 4 by requiring the dedication to occur prior to issuance of residential building permits, rather than prior to issuance of the coastal development permit; and by including a clarification regarding the parks closing time to specify that "dusk" means one hour after sunset.

**b. Trails**

Section 30212.5 of the Coastal Act states:

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

(i) Trail Linking Gum Grove Park to Seal Beach Boulevard & Public Parking

The applicant is proposing Tentative Tract Map No. 15402 which would subdivide the proposed 18.4 acre lot of Tentative Tract Map No. 15381 into lots for seventy (70) single-family residences, common areas and private streets. The proposed subdivision is located at the eastern end of the subject site adjacent to Seal Beach Boulevard, a major thoroughfare which runs to the beach to the south and the freeway to the north. Assuming there are at least three people occupying each of these 70 proposed homes, the proposed development will result in an increased burden of at least 210 people on existing public recreation facilities.

The project previously proposed under Coastal Development Permit 5-97-367 included gating the residential community. Under this proposed amendment, as noted in the project description, the applicant has announced their intention to comply with previously imposed Special Condition 5, which allows the applicant to restrict public vehicular access to the residential subdivision, but which prohibits the applicant from restricting public pedestrian and bicycle traffic from entering the community. The Commission previously found that, in this case, there is no need to require that the proposed subdivision's streets be open for public vehicular access over the private streets so long as public parking directly accessible from Seal Beach Boulevard is provided. However, the Commission did not sanction exclusivity in the coastal zone and found that gates which preclude

public pedestrian and bicycle access cannot be found consistent with the public access and recreation policies of the Coastal Act. Therefore, any method of prohibiting public vehicular access to the subdivision (e.g. gates) must be designed such that public pedestrian and bicycle access to the subdivision is not impeded. The Commission finds that these requirements must be maintained as part of the development proposed in this amendment. However, several modifications to the references in Special Condition 5 are necessary to update the condition. Therefore, the Commission replaces, in its entirety, Special Condition 5 with Special Condition 18.

In addition, the project previously proposed under Coastal Development Permit 5-97-367 included the creation of Lot 3 of proposed Tentative Tract Map No. 15381 for the purposes of conveying Gum Grove Park to the City of Seal Beach. The previously proposed Lot 3 was configured to include a linear strip that extended from the area generally used as Gum Grove Park eastward to Seal Beach Boulevard. The Commission previously found that this linear strip of land would provide a second public access entrance to Gum Grove Park. Currently, the only entrance to Gum Grove Park is at the far western end of Gum Grove Park. The current park entrance is tucked away in the existing residential subdivision adjacent to the south side of the subject site. No signs on major public thoroughfares such as Pacific Coast Highway or Seal Beach Boulevard currently point the way to the existing park entrance. This requires people driving or biking down Seal Beach Boulevard to find their way through the existing residential neighborhood clear to the other side of the park. Since Gum Grove Park is a long, linear park, a second public entrance at its eastern end would promote public access to the park. An eastern entrance from Seal Beach Boulevard would also link the park with the public bike lane on the west side of Seal Beach Boulevard, thus encouraging non-automobile trips to the park. Also, a park entrance right on Seal Beach Boulevard, a well-traveled arterial which leads both to the beach to the south and freeway to the north, would be much more visible to the public than the current entrance and thus promote public access.

Therefore, the Commission previously found that the linear strip of land within the area proposed for dedication by the applicant shall be reserved for a public access trail and public parking lot directly accessible from Seal Beach Boulevard. Further, the Commission required that the applicant shall construct the trail and ten public parking spaces within the reserved area. Since parking is prohibited on both sides of Seal Beach Boulevard for at least a half mile in either direction of the subject site, the Commission found that there is a need for public parking to make the trail accessible by the public. The two go hand-in-hand. The Commission found that the construction of a public trail and ten parking spaces would require a minimal amount of improvement over the mostly flat, relatively narrow strip of land in question.

Thus, the Commission attached Special Condition 4 to Coastal Development Permit 5-97-367 which required that the park dedication documents for the proposed dedication of Gum Grove Park provide for the provision of a public trail connecting to Seal Beach Boulevard and the construction of public parking. In order to update several references within the condition to reflect current conditions, the Commission replaces Special Condition 4, in its entirety, with Special Condition 17.

Since the linear strip of land in question was relatively narrow, and it was uncertain that 10 parking spaces and a trail could be provided, the Commission previously required under Special Condition 5 that if the ten public parking spaces could not be provided entirely on the dedicated Gum Grove Park area, then the spaces which could not be built on Lot 3 shall be built on the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3. The Commission found

that even if all ten parking spaces were to be built on the area covered by Vesting Tentative Tract Map No. 15402, they would only occupy a small portion of the residential site. Assuming a parking space dimension of 9'x20', ten spaces at this size would occupy only about 0.04 acres, which is a fraction of the area covered under Vesting Tentative Tract Map No. 15402. Further, the parking spaces would be at the edge of the residential site so as to be adjacent to the proposed Gum Grove Park dedication area. Thus, the small area and location at the edge of the subdivision would be the least intrusive method of providing needed public parking for trail access which cannot be provided on the dedicated Gum Grove Park land itself.

As noted above, the applicant has indicated the intention to comply with previously imposed Special Conditions 4 and 5 (now revised and replaced by Special Conditions 17 and 18). In filing the subject amendment application, the applicant has submitted a revised Tentative Tract 15381 and revised Tentative Tract 15402. These revised tract maps increase the size of the previous linear strip of land and allow more space for the construction of the required parking spaces and trails. The applicant also submitted a conceptual parking and trail plan which preliminarily indicates that there is adequate space to construct the required parking and trail in the expanded area shown on revised Tentative Tract Maps 15381 and 15402. However, previously imposed Special Conditions 4 and 5 included provisions to assure that the subdivision is designed with enough area to construct the required parking and trails. In addition, previously imposed Special Conditions 4 and 5 included provisions to assure that the public parking spaces were directly accessible from Seal Beach Boulevard and that appropriate signage was provided. The Commission continues to require that such assurances are in place as they relate to the revised proposed development. However, as noted above, Special Conditions 4 and 5 must be updated to reflect changes made as a result of this amendment. Therefore, Special Conditions 4 and 5 are replaced in their entirety by Special Conditions 17 and 18, respectively.

Also, under this amendment, the Commission re-affirms the need for the proposed development to provide public parking and a trail from Seal Beach Boulevard to Gum Grove Park. These facilities are an integral feature of the public access and recreational component of the proposed project by which the Commission finds that the proposed project is consistent with the public access and recreation policies of the Coastal Act.

(ii) **Previously Proposed Trails around Salt Marsh**

Under the previously proposed project, the applicant was installing trails around the proposed salt marsh. The Commission previously imposed Special Condition 5.E. in order to assure the public nature and accessibility of the trails and to minimize the impacts of the trails on wetlands. Since there is no longer a proposed salt marsh restoration under this amendment, trails around the salt marsh are no longer proposed. Therefore, the Commission finds that Special Condition 5.E. is no longer necessary and removes Special Condition 5.E. by not carrying it forward to Special Condition 18, which has replaced Special Condition 5 in its entirety.

**c. Previously Proposed Golf Course**

Under the previous project, a golf course and clubhouse were proposed. In order to assure the golf course and clubhouse remained public and to assure that adequate parking was required to support the use, the Commission imposed Special Condition 13. Since neither the golf course or clubhouse are proposed under this amendment, Special Condition 13 is no longer required. Therefore, the Commission removes Special Condition 13. Therefore, as conditioned, the

Commission finds that the proposed project is consistent with the public access and recreation policies of the Coastal Act.

**5. Previously Proposed Visitor Serving Uses**

The applicant was previously proposing visitor-serving uses and an interpretive center at the parcel of land owned by the California State Lands Commission ("CSLC"). The Commission previously imposed requirements related to this development in Special Condition 3. However, under this amendment, the applicant is no longer proposing development on the CSLC property. Therefore, the Commission finds that Special Condition 3 is no longer necessary and removes Special Condition 3.

**6. Hazards**

Section 30253 of the Coastal Act states, in relevant part:

*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.*

**a. Seismic / Geologic Hazards**

The Seal Beach splay of the Newport-Inglewood fault (a major earthquake fault in Southern California) transects the site in a northwesterly direction. The Alquist-Priolo Act requires development for human habitation to be setback 50 feet from a fault zone. The fault across the subject site is 20 feet wide. Therefore, structures for human habitation cannot be built within a 120 foot wide strip of land running over the fault (20 feet for the fault plus 50 feet on either side of the fault).

No homes or other structures for human habitation are proposed on the fault. However, to further minimize hazards from seismic activity, the Commission previously imposed Special Condition 8 which required incorporation of the City's geological hazards mitigation measures outlined in the EIR for the Hellman Ranch Specific Plan. The Commission finds that this condition shall remain in effect. These measures include requirements such as proper recompaction of fill material and construction of buildings in accordance with the latest seismic standards. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 8, remain in effect.

**b. Flood Hazards**

The subject site is located near a major river and a flood control basin. As with the previously proposed project, most of the structural development will be located on an upland mesa well above flood level. However, in order to minimize flood hazards, the Commission previously imposed Special Condition 8 which incorporated the City's hydrology mitigation measures outlined in the

City-approved EIR for the Hellman Ranch Specific Plan. The Commission finds that Special Condition 8 shall remain in effect. These measures include conformance to floodplain elevation standards and compliance with requirements for the adjacent flood control basin. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 8, remain in effect. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act.

## 7. 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.*

The hydrology and drainage patterns of Hellman Ranch are broken into two drainages which drain on-site and off-site areas. The first drainage area is approximately 76 acres and includes a portion of Seal Beach Boulevard, the upland area of the property (including all of the proposed residential subdivision), and existing oil production areas on the property (herein referred to as Drainage Area A). The second drainage area is an approximately 152 acre area which drains some of the existing residential development south of the project site, Gum Grove Park, the lowlands on the property (where the existing wetlands are located) as well as some existing oil production areas (herein referred to as Drainage Area B). Drainage Area A presently drains into the adjacent Los Alamitos Retarding Basin, which subsequently discharges to the San Gabriel River. Drainage Area B drains directly to the San Gabriel River. Except for a 3 acre region adjacent to Seal Beach Boulevard, the proposed development will leave these drainage patterns largely unchanged.

The proposed project will result in the subdivision and grading of 18.4 acres within Drainage Area A for residential purposes. In addition, the amended project includes the extension of Adolfo Lopez Drive. The implementation of the project will result in two phases where potential impacts upon water quality would occur: 1) the construction phase; and 2) the post-construction phase including the commitment of an 18.4 acre area for residential purposes. Construction phase impacts include erosion and sedimentation of coastal waters during grading. Post-construction phase impacts relate to the use of the proposed project, a residential subdivision. Run-off from residential developments is commonly polluted with petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic

species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

In order to assure that the previously proposed project conformed with Section 30231 of the Coastal Act, the Commission previously imposed Special Condition 7. Special Condition 7 required that, prior to the issuance of the coastal development permit, the applicant submit, for the review and approval of the Executive Director, a National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan, and Structural and Non-structural Best Management Practices for the proposed project, in compliance with the standards and requirements of the California Regional Water Quality Control Board. Special Condition 7 requires the applicant to implement and comply with the water quality measures approved by the Executive Director. In addition, Special Condition 7 requires that runoff from the site be directed to the Los Alamitos Retarding Basin (LARB) to the maximum extent feasible. In addition, Special Condition 7 requires the permittee to comply with mitigation measures WQ-5 through WQ-10 inclusive as approved by City of Seal Beach City Council Resolution 4562. Water Quality (WQ) measures 5 through 10 are contained in the City's certification of the Hellman Ranch Specific Plan and are as follows:

- WQ-5 Prior to moving construction equipment on site, the project developer shall provide evidence to the City Engineer that a national Pollution Discharge Elimination System (NPDES) permit has been obtained from the State Water Resources Control Board (SWRCB). Once obtained, the NPDES permit shall be retained on the construction site throughout the construction period, and a copy shall be filed with the City Engineer.*
- WQ-6 During construction, the City Engineer shall ensure that all the terms and conditions outlined in the National Pollution Discharge Elimination System (NPDES) permits, including the implementation of Best Management Practices (BMP's) are complied with.*
- WQ-7 Prior to issuance of grading permits, Project developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for the proposed project. This plan shall be submitted to the City Engineer for review and comment prior to implementing any SWPPP provisions or starting any construction activity. A copy of the SWPPP shall be held by the construction contractor(s) on the construction site throughout the development of the Hellman Ranch Specific Plan. The City Engineer will monitor and enforce the provision of the SWPPP.*
- WQ-8 During operation of the proposed project, the Project Owner/Operator shall ensure that all pest control, herbicide, insecticide and other similar substances used as part of maintenance of project features are handled, stored, applied and disposed of by those doing facility maintenance in a manner consistent with all applicable federal, state and local regulation. The City Engineer shall monitor and enforce this provision. Responsible agencies shall be indicated in the Golf Course Management Plan.*

*WQ-9 Prior to issuance of grading permits, the project developer shall provide evidence to the Director of Development Services that a water quality management plan (WQMP) has been prepared for the project in a manner consistent with the Orange County Drainage Area Management Plan. The WQMP shall contain provisions and Best Management Practices (BMP's) for both construction and operating/municipal conditions. The WQMP shall also remain flexible to modification to provide appropriate safeguards for the wetlands and Los Alamitos Retarding Basin.*

*WQ-10 Prior to issuance of the grading permits, the City Engineer shall verify that structural BMP's have been permanently incorporated into project plans by the Applicant. Such BMP's shall ensure that pollutants from project-related storm water entering the LARB and the San Gabriel River are mitigated consistent with applicable state and local standards.*

This proposed amendment to Coastal Development Permit 5-97-367 changes the scope of work previously contemplated. Therefore, the Commission finds it necessary to define how Special Condition 7 relates to the development as now proposed and the products which are expected as compliance with the special condition. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 7, remain in effect.

Special Condition 7 references several documents including the National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan; Structural and Non-structural Best Management Practices, the Orange County Drainage Area Management Plan, and a Water Quality Management Plan. These references refer to permits and documents required under the regulations of other governing agencies with regard to stormwater runoff associated with new development during and after construction. Relevant permits implementing these requirements include the State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated with Construction Activity; and the County of Orange Municipal NPDES Stormwater Permit No. CAS618030.

The proposed project involves construction activity including clearing and grading more than 5 acres of total land area. In cases where more than 5 acres of such construction activity is involved for residential use, the applicant is required to comply with the State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated with Construction Activity. This permit requires the applicant to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) which addresses construction-related impacts upon storm water quality associated with the specific development occurring at the particular site in question. The SWPPP identifies pollutant sources and outlines the measures (i.e. Best Management Practices) to be taken to avoid impacts from those pollutant sources. By submitting a SWPPP which is in conformance with the requirements of the NPDES General Permit No. CAS000002 for review and approval of the Executive Director of the Coastal Commission, the applicant will demonstrate the specific measures which will be implemented to avoid adverse impacts upon water quality during the construction phase of the project. Such measures would include, but not be limited to, use of hay bales, sand bags, silt fences and temporary detention basins/settlement ponds to prevent the discharge of sediment from the construction site, use of temporary erosion control landscaping to secure graded and disturbed areas, prior to the rainy season, which remain exposed after

interruptions in construction or which remain exposed after grading is completed and before fine grading and construction of infrastructure and homes.

The subject site is also governed by the County of Orange Municipal NPDES Stormwater Permit No. CAS618030 which was issued by the California Regional Water Quality Control Board – Santa Ana Region to the County of Orange and co-permittees including the City of Seal Beach. The municipal stormwater permit requires the County and co-permittees including the City of Seal Beach to prepare and implement a drainage area management plan which addresses those measures that will be implemented to mitigate polluted run-off. These measures include requirements for the use of post-construction phase structural and non-structural Best Management Practices (BMPs) to avoid and minimize the impacts of polluted run-off upon surface waters.

The Orange County Drainage Area Management Plan (OC DAMP), submitted to the Regional Boards for compliance with the municipal NPDES permit is the implementing program for the NPDES permit. The guidelines for the use of structural and non-structural BMPs outlined in the OC DAMP were developed based upon the principle criterion identified in the NPDES permit, that being the term Maximum Extent Practicable or "MEP." The NPDES permit defines "MEP" as follows:

*"MEP" means to the maximum extent practicable, taking into account equitable considerations of synergistic, additive, and competing factors, including but not limited to, gravity of the problem, fiscal feasibility, public health risks, societal concern, and social benefits."*

The OC DAMP includes a section focused on New Development Control (Section 7.0), which requires new development (such as the proposed project) to incorporate non-structural, routine structural, and special structural BMPs "to minimize the amount of pollution entering the drainage system."

In order to identify for the Commission the non-structural, routine structural and special structural BMPs the applicant is proposing to use to address post-construction water quality impacts from the proposed development, the applicant has submitted a Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared by MDS Consulting of Irvine, California, dated January 2000 and a Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000. The WQMP outlines, in general, the non-structural and structural BMPs which are proposed to address water quality impacts associated with the residential development. Meanwhile, SWM & WQCP describes more fully the specific measures to be implemented including the bio-swale/riparian corridor and water quality basin which is being proposed as part of this amendment.

Briefly, the WQMP describes several BMPs designed to mitigate water quality impacts from the proposed development. Non-Structural BMPs include: 1) education for property owners, tenants, and occupants; 2) activity restrictions, to be a part of the Conditions, Covenants and Restrictions (CC & R's) for the development, including i) no car engine cleaning onsite, ii) car washing only allowed using bucket and sponge method, iii) a prohibition of car maintenance on site; iv) limitations on the use of chemicals and fertilizers; 3) in the CC & R's, identification of the homeowners association as the entity responsible for inspection and maintenance of structural and non-structural BMPs; 4) common area litter control; 5) inspection and maintenance of



common area catch basins by October 15<sup>th</sup> of each year; and 6) street sweeping. Structural BMPs include: 1) filtration of surface runoff through landscaped areas; 2) efficient irrigation of common areas; 3) use of energy dissipaters; 4) catch basin stenciling; and 5) installation of inlet trash racks.

Expanding upon the WQMP, the applicant submitted the SWM & WQCP which outlines in more detail the non-structural and structural BMPs which will be implemented to mitigate the impacts of polluted storm run-off related to the proposed development. The structural BMPs outlined in the SWM & WQCP are categorized into three zones. Zone One (1) consists of trash racks and fossiil filters installed into catch basins within the proposed development. The measures in Zone 1 will primarily intercept trash, litter, grease and other hydrocarbons. Zone Two (2) consists of a bio-swale designed to control fine particle sediments, debris, soap, dirt, herbicides, pesticides, and fertilizers. The bio-swale will consist of an infiltration swale with a wetland bottom and vegetation which will impound surface runoff and filter it as it passes through the basin floor. Zone Three (3) will consist of a filtration basin designed to control nutrients, microbial contaminants and toxic materials. This basin is designed to accommodate the first flush from a drainage area of 30.6 acres (i.e. the 18.4 acre residential subdivision and the 12.2 acres of off-site drainage area).

As stated on Page 5 of the SWM & WQCP, the goal of the proposed system is to "manage developed storm water flows (runoff) and to "minimize pollutants from urban runoff." Page 16 of the SWM & WQCP further states that the system will function such that low-flows will be shunted to Zones 2 and 3 of the water quality management system, while high flows will bypass the Zones 2 and 3 and discharge directly to the LARB. In a letter to Commission staff, dated September 6, 2000, prepared by Fuscoe Engineering, the applicant further clarifies that the system is designed to capture the first flush storm event. The system has the capacity to hold two first flush events. Anticipated residence time of the water entering the system is seven days. During this period, the water is expected to infiltrate or evaporate. The system is not designed to discharge the water entering it directly to any other body of water or storm drain system. Meanwhile, the system is also designed with an overflow which will discharge to the Los Alamitos Retarding Basin in the event that system capacity is exceeded<sup>1</sup>.

Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost<sup>2</sup>.

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<sup>1</sup>Exhibit 4-2 of the SWM & WQCP indicates that overflow from the proposed water quality remediation system will be discharged directly to the Hellman Ranch lowlands. The applicant has since indicated that this was an error in the drawing, and that Figure 8 of the SWM & WQCP supercedes this exhibit with respect to the management of overflows. Rather than discharging overflow to the Hellman Ranch lowlands, Exhibit 8 shows a 'diffusion corridor' which will connect the system to the Los Alamitos Retarding Basin and that overflows will be directed through the diffusion corridor to the retarding basin rather than into the Hellman Ranch lowlands.

<sup>2</sup>[ASCE/WEF, 1998. Urban Runoff Quality Management. WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.]

Commission staff requested that the applicant analyze whether the proposed system, which is designed to capture and mitigate first flush and low flows, would be capable of mitigating (infiltrating or treating) storm water runoff from each runoff event up to and including the 85th percentile 24-hour runoff event. In a letter dated September 22, 2000, Fuscoe Engineering responded that conceptually, the system would provide this capacity; however, final detailed calculations would be necessary to determine whether any adjustments to capacity would be required. However, Fuscoe Engineering indicated that, in their experience, the calculations for first flush, which were made to design the system as now proposed, are conservative, and that it is very likely the system provides the capacity to mitigate the 85th percentile 24-hour runoff event without any adjustments. The calculations are conservative because they assume 100% impervious surface within the residential development and off-site areas. Under final build-out, the amount of impervious surface would be less than 100%. Furthermore, the currently proposed system has the capacity to capture two first flush events, rather than a single event. These two features of the system, conservative estimation of capacity based on discharges from 100% impervious surface, and the capacity to hold two such events, contribute to the applicant's statement that the currently proposed system will be capable of mitigating storm water from the 85th percentile 24-hour runoff event. In addition, the applicant has indicated that if final calculations show that the system must be enlarged to mitigate the 85th percentile 24-hour event, there is additional land where this can be accommodated.

The Commission finds that sizing the proposed post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. The applicant has indicated the proposed water quality management plan will meet the requirements specified in Special Condition 7. Since the final calculations for the proposed water quality management system have not yet been performed, and to assure that the proposed measures are consistent with Section 30231 of the Coastal Act, the Commission wishes to clarify for the applicant the requirements. Therefore, the Commission imposes Special Condition 23.

Special Condition 23 requires the applicant to submit a final SWM & WQCP for review and approval by the Executive Director of the Coastal Commission which is consistent with the Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared by MDS Consulting of Irvine, California, dated January 2000 and Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000, submitted by the applicant, and which includes the following specifications. Special Condition 23 requires the proposed post-construction treatment BMPs to be sized based on design criteria specified in the condition, and finds this will ensure the proposed overall SWM & WQCP will serve to reduce pollutants in stormwater to the maximum extent practicable, as required in Special Condition 7. Since the proposed water quality management system is necessary to mitigate the water quality impacts associated with use of the development, Special Condition 23 requires that the structural elements of the SWM & WQCP, approved by the Executive Director, be implemented prior to or concurrent with construction of infrastructure for the residential subdivision (i.e. streets, utilities, etc.). Special Condition 23 also specifies that all structural and non-structural BMPs shall be maintained in a functional capacity throughout the life of the approved development. Special Condition 23 specifies that any changes to the structures outlined in the SWM & WQCP necessary to accommodate the requirements outlined in Special Condition 23, shall require an amendment to this coastal development permit. Finally, in order to

assure that the applicant and all successors-in-interest are aware of the requirements of Special Condition 23, the condition requires, prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction reflecting the requirements outlined in Special Condition 23.

In addition, since final site plans, grading plans, structural plans and landscape plans have not been submitted related to the proposed bio-swale and water quality basin, the Commission imposes Special Condition 20. Special Condition 20 requires the applicant to submit final site plans, grading plans, structural plans and landscape plans for the proposed bio-swale and water quality basin which conform with the final SWM & WQCP required pursuant to Special Condition 23 above. In addition, plans shall conform with the specifications regarding hydrology and landscaping for the system outlined in the letters dated June 28, 2000, and September 11, 2000, prepared by Glenn Lukos Associates of Lake Forest, California.

In addition, the applicant's SWM & WQCP indicates that land is necessary outside the area of the residential subdivision to construct the water quality measures necessary to assure the development is consistent with Section 30231 of the Coastal Act. Therefore, the Commission imposes Special Condition 24 which requires the applicant, prior to issuance of the coastal development permit amendment, to execute and record a deed restriction, in a form and content acceptable to the Executive Director, over the area of land depicted in Figure 8 of the SWM & WQCP (including the landscaped area surrounding the water quality basin and bio-swale) as generally depicted in Exhibit 4, page 1. The area shall be restricted for uses related to water quality management purposes. As outlined elsewhere in these findings, the deed restriction shall not preclude use of the area for wetland restoration and open space purposes so long as any such project maintains the water quality improvement function performed by the system proposed under the SWM & WQCP. In addition, this deed restriction shall not preclude construction and maintenance of the access road depicted Figure 8 of the SWM & WQCP, nor shall it preclude the construction and maintenance of the utilities and oil transmission lines depicted on Vesting Tentative Tracts 15381 and 15402, as approved by the Executive Director, provided the water quality improvement functions of the system described in the SWM & WQCP, as revised and approved by the Executive Director pursuant to Special Condition 23, is, at a minimum, maintained. Finally, the deed restriction shall not preclude development associated with the archaeological investigation required pursuant to Special Condition 19. As conditioned, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

## 8. New Development

Section 30250 of the Coastal Act states, in relevant part:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

The subject site is approximately 196.6 acres in size and is essentially undeveloped except for about 28.2 acres of oil production facilities and small structures housing the property owner's offices. Thus, the subject site is one of a few remaining, non-public vacant pieces of land along the Southern California coast. The proposed development involves subdivision for 70 homes and

park uses. The proposed development is less dense and intense than previous development proposals for the subject site. Further, the subject site is completely surrounded by urban development. Infrastructure to serve the proposed development exists in the area. Thus, the proposed development is located within an existing developed area able to accommodate it. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30250 of the Coastal Act.

#### 9. Other Conditions

The applicant has proposed further subdivision of the mesa for 70 single family residential lots. However, plans for development of the lots, including the footprint, height, and design of the homes, grading and landscaping, common walls, and infrastructure and utilities were not submitted. Therefore, the Commission finds that a subsequent Commission approval is required for the homes to allow the Commission to review the proposed homes for consistency with Chapter 3. Therefore, the Commission previously imposed Special Condition 9. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 9, remain in effect.

Also, the Commission has reviewed the materials submitted by the applicant for conformance with Chapter 3 of the Coastal Act. The project has been conditioned accordingly. Any changes to the proposed project must be reviewed for consistency with the Chapter 3 policies of the Coastal Act. Therefore, the Commission imposes Special Condition 26 which requires that 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 herein. Any deviation from the approved plans must be reviewed and approved by the Executive Director and may require Commission approval.

In addition, the proposed project involves the placement of deed restrictions and structures on land which they must demonstrate a legal interest to do so. For instance, the applicant is proposing to deed restrict land presently owned by Southern California Edison. In addition, The applicant is proposing storm water facility connections to the Los Alamitos Retarding Basin which is owned by the Orange County Flood Control District. Therefore, the Commission previously imposed Special Condition 10 which requires that, prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, written documentation demonstrating that it has the legal ability to carry out the proposed development and all conditions of approval of this permit. Special Condition 15 notes that unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-97-367, such as Special Condition 10, remain in effect.

#### D. Development Agreement

The applicant has entered into a development agreement with the City of Seal Beach for the proposed development. California Government Code Section 65869 stipulates that development agreements shall not be applicable to development in the coastal zone unless, prior to certification of the local coastal program ("LCP") for the jurisdiction in which the development is located, the Commission, through formal action, approves the development agreement.

Since the LCP for the City of Seal Beach has not been certified, the Commission will have to approve the development agreement before the agreement can be effective. The development agreement will be acted on by the Commission as a separate hearing item.

**E. Local Coastal Program**

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

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

**F. California Environmental Quality Act**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 development is located in an urban area. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned in order to be found consistent with the wetlands, public access, ESHA, natural hazards, water quality and archaeology policies of Chapter Three of the Coastal Act. As amended, the mitigation measures which apply to the project include 1) implementation of the proposed lowlands deed restriction to make the area available for wetlands restoration and submission of a revised map showing changes necessary to the delimits of the lowlands deed restricted area in order that there is no reduction in potentially restorable wetland area; 2) conformance with the requirement for a revised Tentative Tract Map 15381 limiting the site to 5 parcels in order to avoid impacts on wetlands; 3) implementation of the proposed Gum Grove Park dedication to assure public access; 4) implementation of a public access program; 5) conformance archeological investigation requirements to assure appropriate mitigation for impacts upon archeological resources; 6) conformance with water quality requirements to avoid the degradation of coastal waters; 7) conformance with hazard mitigation requirements to avoid geologic and flood hazards; 8) notification that future residential development requires a permit; 9) conformance with evidence of legal interest; 10) submission of final plans to assure that the project conforms with this approval; 11) identification of raptor foraging habitat suitable for long term conservation and management and recordation of an open space deed restriction over 9.2 acres for raptor foraging habitat; 12) conformance with water quality standards related to the proposed bio-swale, riparian corridor and water quality basin; 13) the reservation of land outside the proposed residential subdivision for water quality purposes; 14)

submission of a construction staging plan demonstrating that no impacts to wetlands will occur; and 15) strict conformance with approved plans. The required mitigation measures will minimize all significant adverse effects which the activity will have on the environment.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of CEQA.

**APPENDIX A: Previously Imposed Special Conditions of Approval imposed by the Commission on September 9, 1998**

**1. RESERVATION OF POTENTIAL FOR LOWLANDS ACQUISITION FOR WETLANDS RESTORATION**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and of content acceptable to the Executive Director which shall provide that:

- (a) the applicant agrees to sell the lowlands area of the property to any public agency or non-profit association acceptable to the Executive Director that requests in writing to purchase the property;
- (b) the sale shall be at fair market value as established by an appraisal paid for by the buyer and prepared by an appraiser mutually acceptable to the buyer and applicant, or, if the parties are unable to agree, by an appraiser designated by third party, or if the buyer and applicant agree through an arbitration on value; and,
- (c) for uses restricted to wetlands restoration and education purposes, with reversion rights to the State Coastal Conservancy.

The deed restriction shall be recorded over the lowlands area of the property and shall run with the land, binding all successors and assigns for the life of the golf course use approved in the coastal development permit, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**2. REVISED VESTING TENTATIVE TRACT MAP NO. 15381**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two copies of a revised vesting tentative map for Tract No. 15381. The revised map shall show only five legal lots as generally depicted in Exhibit 1, page 4; namely, 1) the lot currently owned by the California State Lands Commission, 2) the lot currently owned by the City of Seal Beach Redevelopment Agency, 3) proposed Lot 2 which is proposed to be further subdivided into seventy residential lots pursuant to proposed Tentative Tract Map 15402, 4) proposed Lot 3 for the proposed dedication of Gum Grove Park, which shall be in substantial conformance with the configuration shown on the map submitted with the permit application and maintain the proposed minimum 25 wide frontage along Seal Beach Boulevard, and 5) a lot consisting of the remainder of the subject site owned by the applicant. The applicant shall record the revised map approved by the Executive Director.

3. **STATE LANDS PARCEL**

A. **Lease Restriction.** Prior to the issuance of the coastal development permit, the applicant shall execute and record a lease restriction, subject to the review and approval of the Executive Director, over the property commonly known as the California State Lands Commission parcel, situated northeasterly of Pacific Coast Highway at its intersection with First Street in the City of Seal Beach, which provides that:

- (1) This coastal development permit approves only the construction of: a) an interpretive center consisting of a raised, handicap-accessible platform with information panels containing photographs, maps, exhibits, etc., overlooking the proposed salt marsh, b) the placement only of the Krenwinkle House on the site (no uses are established), c) the construction of public parking spaces, d) construction of a structure or structures containing a maximum of 10,000 square feet of visitor-serving uses on the State Lands parcel; provided that adequate parking is supplied; e) salt marsh enhancement and/or restoration; and f) public recreational trails.
- (2) Any modifications to the development described in this condition shall require an amendment to the permit from the Coastal Commission.
- (3) An approved coastal development permit from the Coastal Commission shall be obtained prior to the establishment of uses to be contained in the Krenwinkle House after it is located on the State Lands parcel.
- (4) Only public access, public recreation, public education, and lower-cost visitor-serving commercial facilities, which are consistent with the Chapter 3 policies of the Coastal Act and with the requirements established by the California State Lands Commission for use of public lands, shall be permitted on the State Lands parcel.
- (5) All office uses are prohibited on the State Lands parcel (excepting offices which are necessary for the administration of, and are adjunct to, the public access and approved visitor-serving uses).
- (6) Parking for the visitor-serving uses on the State Lands parcel shall be provided based on the standards contained in the Hellman Ranch Specific Plan, as adopted by City of Seal Beach Ordinance 1420 on October 20, 1997. A minimum of sixty-two (62) public parking spaces, as depicted on Figure 5-4, Page 5-21 of the coastal development permit application, shall be provided and maintained on-site. Of these 62 public parking spaces, ten (10) shall be reserved for visitors who are not patronizing any of the commercial visitor-serving uses.
- (7) Consistent with Mitigation Measure R-5 of Seal Beach City Council Resolution No. 4562, the permittee or lessee shall install a bicycle rack near the entrance to the proposed pedestrian trail for the saltwater wetland. The bicycle rack shall; 1) be public, 2) be maintained by the permittee, and 3) accommodate a minimum of twenty (20) bicycles.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the



enforceability of the restriction. This lease restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- B. **Agreement to be bound.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall obtain a written agreement from the owner of the State Lands parcel, subject to the review and approval of the Executive Director, stating that in the event of termination of the lease, and for so long as the building and facilities constructed pursuant to permit 5-97-367 exist, the owner of the State Lands parcel will agree to require each new or different tenant, occupant or operator, including itself, to sign a lease restriction or other appropriate instrument agreeing to comply with the conditions set forth in Special Condition 3.A. above.
- C. **Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, plans for the proposed interpretive center and visitor-serving commercial building which are consistent with the requirements of this permit. The applicant shall comply with the plans approved by the Executive Director.

4. **GUM GROVE PARK**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, written evidence demonstrating that the area known as Gum Grove Nature Park and as delineated as Lot 3 of proposed Vesting Tentative Tract Map 15381 has been dedicated in fee to the City of Seal Beach, as proposed by the applicant. The dedication documents shall provide that:

- (a) The park shall be preserved in perpetuity as a passive recreational nature park open to the public. Active recreational activities or commercial facilities shall be prohibited.
- (b) Necessary parking facilities which are the minimum required to serve the park and which meets Americans with Disabilities Act requirements shall be provided. The existing twenty (20) striped parking spaces for Gum Grove Park shall be maintained.
- (c) All new or upgraded trails within the dedicated park area shall be constructed to be accessible to persons with disabilities consistent with Americans with Disabilities Act requirements. New or upgraded trails shall not be lighted in order to minimize impacts on wetlands.
- (d) Small scale interpretive signage which describes the Monarch Butterfly may be permitted if approved by the Executive Director.
- (e) Gum Grove Park shall be open from dawn to dusk on a daily basis. Changes in hours of operation of Gum Grove Park shall require an amendment to this permit unless the Executive Director determines that an amendment is not required.

- (f) Signage shall be conspicuously posted which states that the park is open to the general public.
- (g) That portion of proposed Lot 3 of Tentative Tract Map No. 15381, comprised of an approximately 25 foot wide strip of land which borders Seal Beach Boulevard and extends west from Seal Beach Boulevard to connect with the primarily used part of Gum Grove Park, shall be subject to the following requirements:

(1)The frontage along Seal Beach Boulevard shall not be gated, fenced, or obstructed in any manner which prevents public access from Seal Beach Boulevard.

(2)The area shall be reserved for a public trail and parking lot, which are visible, and directly accessible to the public from Seal Beach Boulevard, and which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot area shall be large enough for a minimum of ten (10) parking spaces. Where it is not feasible to reserve enough public parking area on this portion of proposed Lot 3, public parking directly accessible from Seal Beach Boulevard shall be provided for on proposed Lot 2 of Tentative Tract Map No. 15381 adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 5.B. of this permit.

5. **PUBLIC ACCESS PROGRAM**

- A. **Public Access Signage.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a detailed signage plan which provides for the installation of signs clearly visible from Pacific Coast Highway and Seal Beach Boulevard which invite and encourage the public to use the public access, parking, and recreation opportunities proposed at Gum Grove Park, the State Lands parcel, and the public access trail and public parking linking Gum Grove Park to Seal Beach Boulevard. Key locations include but are not limited to; 1) the entrance to the State Lands parcel (intersection of First Street and Pacific Coast Highway, and 2) Gum Grove Park, both at its western entrance and at the proposed Seal Beach Boulevard entrance. The plans shall also provide for signage which designates ten (10) of the parking spaces at the State Lands parcel for the exclusive use of trail users and which clearly indicates that the bike racks on the State Lands parcel are for the general public. The plans shall indicate the location, materials, dimensions, colors, and text of the signs. The permittee shall install the signs in accordance with the signage plans approved by the Executive Director.
- B. **Residential Community Streets (Vesting Tentative Tract Map No. 15402).** 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, which shall provide that: 1) public pedestrian and bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall not be precluded, 2) no locked gates, walls, fences, or other obstructions prohibiting public pedestrian or bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402 shall be permitted, 3) no requirement to allow public vehicular access over the private streets is necessary if the

applicant is willing to provide public parking within Gum Grove Park and a separate vehicular entrance from Seal Beach Boulevard to said public parking, 4) if fewer than the ten (10) public parking spaces required by Special Condition 4.(G)(2) of this permit can be constructed on proposed Lot 3 of Vesting Tentative Tract Map No. 15381, the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3 shall be reserved for the balance of the public parking spaces so that the parking spaces are directly accessible from Seal Beach Boulevard. The deed restriction shall be recorded over the entire area subject to Vesting Tentative Tract Map No. 15402 and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- C. **Revised Vesting Tentative Tract Map No. 15402.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two copies of a revised vesting tentative map for Tract No. 15402 if: (1) all of the ten public parking spaces required under Special Condition 4.(G)(2) cannot be built on proposed Lot 3 of Vesting Tentative Tract Map 15381, and/or (2) the entities with jurisdiction over Seal Beach Boulevard do not approve a separate vehicular entrance off of Seal Beach Boulevard to said public parking spaces. The revised map shall show: (1) the locations and design of said public parking spaces which cannot be built on Lot 3 and instead shall be built on the portion of the area subject to Vesting Tentative Tract Map No. 15402 closest to Lot 3, and 2) the location of the public street which connects the public parking required under Special Condition 4.(G)(2) of this permit with the entrance to the subdivision proposed by Vesting Tentative Tract Map No. 15402. The revised map shall be accompanied by written documentation demonstrating that the governmental agencies which have jurisdiction over Seal Beach Boulevard and parking space standards have approved the revised map. The applicant shall record the revised map approved by the Executive Director.
- D. **Construction of Trail and Parking Lot.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE HOUSES WITHIN THE AREA SUBJECT TO VESTING TENTATIVE TRACT MAP NO. 15402, the applicant shall construct a public access trail and parking lot, which are visible and directly accessible to the public from Seal Beach Boulevard, which lead from Seal Beach Boulevard to the primary part of Gum Grove Park to the west. The public parking lot shall contain a minimum of ten (10) parking spaces and shall be directly accessible from Seal Beach Boulevard. Where it is not feasible to construct the public parking and vehicular entrance on this portion of proposed Lot 3 of Vesting Tentative Tract Map No. 15381, public parking directly accessible from Seal Beach Boulevard shall be constructed on proposed Lot 2 of Tentative Tract Map No. 15381 (i.e., the area subject to Vesting Tentative Tract Map No. 15402) immediately adjacent to proposed Lot 3, in accordance with the provisions of Special Condition 5.B of this permit.
- E. **Public Trails Deed Restriction.** 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, which shall provide that:

- (1) Uses within the proposed and required trail areas generally depicted on Exhibit L of the March 19, 1998 staff report (except for the trail depicted linking Gum Grove Park to the State Lands parcel) shall be limited to public access, trail maintenance, emergency access to and from the existing mineral production facilities, and construction and maintenance of utilities and oil and gas pipelines. Any construction or maintenance activities for utilities and oil and gas pipelines, and emergency access to and from existing mineral production facilities, within the proposed trails, shall be carried out in a manner which minimizes any impact on the use of the surface area of the proposed trails for public access purposes.
- (2) The design of the proposed and required trails and access to the proposed and required trails shall meet the requirements of the Americans with Disabilities Act.
- (3) The proposed and required trails shall be described in metes and bounds and shall be a minimum of twenty-five feet (25') wide with the paved portion being a minimum of ten (10) feet wide.
- (4) The trails shall not be lighted in order to minimize impacts to the wetlands.
- (5) The trails shall be open to the public from dawn to dusk and shall not be gated. Any changes to the hours of operation of the trails shall require an amendment to this permit unless the Executive Director determines that no amendment is required.
- (6) The proposed view overlooks at the ends of the trails shall contain handicap accessible seating.
- (7) The trails shall be, as necessary, partially or fully enclosed with see-through structures, such as cages or arched fences, which protect trail users from errant golf balls.

The deed restriction shall be recorded over the public access trail area as generally depicted on Exhibit L of the March 19, 1998 staff report (except for the trail depicted linking Gum Grove Park to the State Lands parcel) and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## **6. ARCHAEOLOGY**

*For purposes of this condition, "OHP" shall mean the State Office of Historic Preservation, and "NAHC" shall mean the state Native American Heritage Commission.*

- A. **Research Design.** The permittee shall undertake the proposed archaeological investigation in conformance with the proposed archaeological research design entitled A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area dated November 1997 prepared by KEA Environmental, Inc. for the City of Seal Beach. Prior to issuance of the coastal development permit, the applicant shall submit written evidence, subject to the review and approval of the Executive Director, that a

copy of the archaeological research design has been submitted to the OHP, the NAHC, and the Native American person/group designated or deemed acceptable by the NAHC, for their review and comment. An amendment to this permit shall be required for any changes to the research design suggested by OHP, NAHC, or the Native American group/person unless the Executive Director determines that an amendment is not required.

- B. **Selection of Archaeologist(s) and Native American Monitor(s)**. The archaeologist(s) selected by the City shall meet the United States Department of Interior minimum standards for archaeological consultants, as also endorsed by the OHP. The City shall select the Native American monitor(s) in compliance with the "Guidelines for monitors/consultants of Native American cultural, religious and burial sites" issued by the NAHC, and in consultation with the appropriate Native American person/group deemed acceptable by the NAHC.
- C. **Post-Investigation Mitigation Measures**. Upon completion of the archaeological investigation, and prior to the commencement of construction of any development (other than archaeological investigation activities or subdivision) located within proposed Lot 2 of proposed Vesting Tentative Tract Map 15381, the applicant shall submit, for the review and approval of the Executive Director, a written report regarding the following: 1) a summary of the findings of the archaeological investigation, and 2) a final written mitigation plan which shall identify recommended mitigation measures, which may include capping of archaeological sites, data recovery and curation of important archaeological resources as defined by the California Environmental Quality Act, and detailed additional mitigation measures which need to be implemented. The applicant shall also submit for review and approval of the Executive Director, a signed contract with a City-selected archaeological consultant that provides for archaeological salvage that follows current accepted professional practice, if additional archaeological data recovery measures are determined appropriate. The written report and additional mitigation measures shall also be submitted to the OHP and the appropriate Native American person/group designated or deemed acceptable by the NAHC. An amendment to this permit shall be required to implement any additional mitigation measures unless the Executive Director determines a permit amendment is not required.
- D. **Implementation of Mitigation Measures and Summary of Fieldwork**. Prior to commencement of site preparation, grading, and construction activities for any development (other than archaeological investigation activities) located within a fifty foot (50") radius of the furthest boundary of each state-identified archaeological site as delineated in the archaeological research design, all of the requirements of Special Conditions 5.A., 5.B., and 5.C. shall have been met. All development shall occur consistent with the final plan required by Special Condition 5.C. A written synopsis report summarizing all work performed in compliance with Special Conditions 5.A, 5.B, and 5.C shall be submitted to the Executive Director, OHP, and NAHC within six (6) weeks of the conclusion of field work. No later than six months after completion of field work a final report on the excavation and analysis shall be submitted to the Executive Director, OHP and the NAHC.
- E. **Monitoring of Construction Activities**. All site preparation, grading and construction activities for the proposed development shall be monitored on-site by a qualified archaeologist and Native American monitor. The archaeologist and Native American

monitor shall have the express authority to temporarily halt all work in the vicinity of the discovery site should significant cultural resources be discovered. This requirement shall be incorporated into the construction documents which will be used by construction workers during the course of their work.

**F. Discovery of Cultural Resources / Human Remains During Post-Archaeological Testing Construction Activities.**

- (1) If additional or unexpected archaeological features are discovered during site preparation, grading, and construction activities for approved development other than the archaeological investigation, all work shall be temporarily halted in the vicinity of the discovery site while the permittee complies with the following:

The archaeologist, in consultation with the Native American monitor, shall sample, identify and evaluate the artifacts as appropriate and shall report such findings to the permittee, the City and the Executive Director. If the archaeological resources are found to be significant, the archaeologist, in consultation with the Native American monitor, shall determine appropriate actions, and shall submit those recommendations in writing to the Executive Director, the applicant and the City. The archaeologist shall also submit the recommendations for the review and approval of the Executive Director and shall be prepared in accordance with the provisions outlined in Special Condition 5.C above. Any recommended changes to the proposed development or the mitigation measures identified in the final plan required by Special Condition 5.C. shall require a permit amendment unless the Executive Director determines that a permit amendment is not required.

Development activities may resume if the cultural resources are not determined to be 'important' as defined by the California Environmental Quality Act (CEQA).

- (2) Should human remains be discovered on-site during the course of site preparation, grading, and construction activities, immediately after such discovery, the on-site City-selected archaeologist and Native American monitor shall notify the City of Seal Beach, Director of Development Services and the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted in the vicinity of the discovery site until the remains can be identified. The Native American group/person deemed acceptable by the NAHC shall participate in the identification process. Should the human remains be determined to be that of a Native American, the permittee shall comply with the requirements of Section 5097.98 of the Public Resources Code. Within five (5) calendar days of such notification, the director of development services shall notify the Executive Director of the discovery of human remains.

**G. Incorporation of Archaeology Requirements into Construction Documents.** Special Condition No. 6 of coastal development permit 5-97-367 shall be incorporated in its entirety into all the construction documents which will be used by construction workers during the course of their work as well as all construction bid documents.

7. **WATER QUALITY**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan, and Structural and Non-structural Best Management Practices for the proposed project, in compliance with the standards and requirements of the California Regional Water Quality Control Board. The applicant shall implement and comply with the water quality measures approved by the Executive Director. Runoff from the site shall be directed to the Los Alamitos retarding basin to the maximum extent feasible. The permittee shall comply with mitigation measures WQ-5 through WQ-10 inclusive as approved by City of Seal Beach City Council resolution 4562.

8. **HAZARDS**

Mitigation Measures WQ-1, WQ-2, WQ-3, WQ-4, GEO-1, GEO-2, GEO-3, GEO-4, GEO-5, GEO-6, GEO-7, and GEO-8 as shown on Exhibit B of City of Seal Beach City Council Resolution 4562 certifying the Hellman Ranch Specific Plan Environmental Impact Report on September 22, 1997 (Exhibit 11 of the September 9, 1998 Staff Report) are hereby incorporated by reference as special conditions of this coastal development permit.

9. **FUTURE CONSTRUCTION OF HOMES ON THE MESA**

This coastal development permit does not approve development on the lots created by Vesting Tentative Tract Map No. 15402. A future coastal development permit(s) is required for development, such as site preparation, construction of streets, common walls and landscaping, and construction of the actual homes, etc. on the site. Construction spoils, materials, and equipment shall not be placed in any wetland areas.

10. **LEGAL INTEREST**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, written documentation demonstrating that it has the legal ability to carry out all conditions of approval of this permit.

11. **WETLANDS RESTORATION AREA / CONSERVATION**

The wetlands restoration area shall consist of a minimum 52.3 acres of wetlands comprised of: 1) a minimum thirty-nine point one (39.1) acre salt marsh wetland (Phase 1 of the overall salt marsh wetland creation) to be created initially, located adjacent to the Haynes Cooling Channel and connected to the San Gabriel River by a culvert (as generally depicted on Page 4 of Exhibit 1 of the September 9, 1998 staff report as amended by the addendum), and surrounded by a buffer area consistent with the transition zone/densely vegetated berms/upland areas described in the conceptual wetlands restoration plan (dated November 1997) and addendum (dated February 1998), and 2) reservation of a minimum 13.2 acres of mineral production area for future Phase 2 and Phase 3 creation of salt marsh wetlands. The wetlands shall be created, preserved, and maintained as described in the following conditions:

A. "Phase 1" Initial Proposed Salt Marsh Wetland Restoration Area. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, 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, private association, or non-profit association approved by the Executive Director an open space and conservation easement, as proposed by the applicant, for the purpose of creating and maintaining a minimum thirty-nine point one (39.1) acre salt marsh wetland (Phase 1 of the overall salt marsh wetland creation) surrounded by a buffer area consistent with the transition zone/densely vegetated berms/upland areas described in the conceptual wetlands restoration plan (dated November 1997) and addendum (dated February 1998). Such easement shall be over the area of the site located adjacent to the Haynes Cooling Channel and connected to the San Gabriel River by a culvert, including areas in the general vicinity of the green for the 12th hole and the tee for the 13th hole and in the general vicinity of the green for 5th hole and the tee for the 6th hole, as generally depicted on Page 4 of Exhibit 1 of the September 9, 1998 staff report (as amended by the addendum) for this permit. The easement shall:

- (1) Permit the applicant, its agents, and/or the accepting agency or non-profit organization to enter the property, create and maintain habitat, revegetate portions of the area, and fence the newly created/revegetated area in order to protect such habitats.
- (2) Restrict all development, vegetation clearance, fuel modification and grading within the easement except that necessary to establish/maintain the habitat.
- (3) Permit staff of the Coastal Commission and other resources agencies (e.g., California Department of Fish and Game, U.S. Fish and Wildlife Service, etc.) to enter and inspect for purposes of determining compliance with coastal development permit 5-97-367 and other agency approvals.
- (4) No development, as defined in Section 30106 of the Coastal Act shall occur in wetland creation areas and wetland buffer areas except for the creation and maintenance of habitat and fencing of the created habitat in order to protect such habitats.

The easement area shall be described in metes and bounds. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The offer shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

B. Reservation of Mineral Production Area for Phase 2 and Phase 3 Wetland Creation. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that the allowable uses and allowable



development on both the entire 4.5 acre area of mineral-production facilities immediately to the southeast of the Haynes Cooling Channel (Lot 7 of Vesting Tentative Tract Map 15381) and the 8.7 westernmost acres of mineral-production facilities immediately to the southeast of the Haynes Cooling Channel (Lot 6 of Vesting Tentative Tract Map 15381) shall, either at the time the on-site mineral-production ceases or on April 15, 2023 (whichever occurs earlier), be restricted to; 1) the removal of the existing mineral-production facilities, 2) removal of contaminants and remediation of the site, and 3) wetland habitat creation/restoration and conservation/open space. The deed restriction shall be recorded over the revised lot of Vesting Tentative Tract Map 15381 which contains the wetlands, golf course, and mineral-production facilities, and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

12. **FINAL WETLAND RESTORATION PROGRAM**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final wetland restoration program for the proposed project. The program shall be developed in consultation with the Commission, California Department of Fish and Game, and U.S. Fish and Wildlife Service and at a minimum shall include:

- A. A detailed final site plan of the existing degraded and severely degraded wetlands and a detailed final site plan of the wetland creation restored sites that substantially conform with the plans contained in the Addendum to Concept Wetlands Restoration Plan for the Hellman Ranch ("Addendum") dated February, 1998 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management (M&N File: 3693) and the Concept Wetlands Restoration Plan for the Hellman Ranch ("Concept Plan") revised November, 1997 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management, as revised as follows:

(1)The proposed initial "Phase 1" Salt Marsh Wetland shall be a minimum thirty-nine point one (39.1) acre salt marsh wetland (Phase 1 of the overall salt marsh wetland creation) surrounded by a buffer area consistent with the transition zone/densely vegetated berms/upland areas described in the conceptual wetlands restoration plan (dated November 1997) and addendum (dated February 1998).

(2)Revise Figures A1, A4, and A7 of the Addendum to reflect that the Phase 1 Salt Marsh Wetland has been expanded, to a minimum 39.1 acres, in the general vicinity of the green for the 12th hole and the tee for the 13th hole and in the general vicinity of the green for 5th hole and the tee for the 6th hole, as generally depicted on Page 4 of Exhibit 1 of the September 9, 1998 staff report (as amended by the addendum) for coastal development permit application 5-97-367.

- B. The baseline ecological assessment of the existing degraded and severely degraded wetland area submitted with the coastal development permit application.

C. A final overlay map (if a large scale map is produced, a reduced 8 1/2"x11" or 11"x17" copy shall be included in the program) which superimposes the following:

(1)The twenty-five (25) acres of degraded wetland as mapped by the California Department of Fish and Game in its January 13, 1982 Determination of the Status of Wetlands Within the City of Seal Beach, Immediately South and East of the San Gabriel River Channel (Ponderosa Seal Beach Wetlands);

(2)The current 1996 wetlands delineation (27 acres) of the project site prepared by Coastal Resources Management & Chambers Group as shown on Figure 4-7, Page No. 4-13 of the application for coastal development permit 5-97-367;

(3)The areas of wetland fill resulting from the golf course and resulting from creation of the required minimum 39.1 acres of salt marsh; and

(4)The required minimum 39.1 acres of Phase 1 (initial creation) salt marsh areas.

D. Monitoring and Remediation

The monitoring and remediation component of the final wetland restoration program shall include the following:

(1) Statement of Goals and Objectives

The statement of goals and objectives shall specify that the goals of the restoration and habitat construction plans shall be to provide subtidal basin and channel, mudflat, low salt marsh, high salt marsh, upland transition/buffer, and similar in composition, diversity, and abundance to equivalent well-functioning natural habitats, and that it is intended that the restored and created tidal wetlands will be self-sustaining.

(2) Construction and Restoration

Construction of the Phase 1 initial wetland habitats shall occur concurrent with golf course construction. A post-construction survey, to be submitted within ninety (90) days of completion of construction to the Executive Director for review and approval, shall be carried out by the permittee to demonstrate that the wetland and transitional habitats were built to the approved specifications. If the Executive Director determines that the restoration and construction was not accomplished to specifications, the permittee shall modify the restored and created wetlands, in consultation with the California Department of Fish and Game and subject to the review and approval of the Executive Director, to meet the approved specifications within six (6) months of the post-construction survey. The Executive Director may grant a one-time extension of time to these deadlines for good cause.

The initial planting shall be completed within six (6) months after construction is completed. The applicant may continue planting and other restoration activities within the tidal wetlands for three (3) years following construction with the approval of the Executive Director.

(3) Purpose and Timing of Monitoring and Remediation

After the initial restoration and construction of the initial Phase 1 wetlands and associated upland transitional habitats is completed, the wetlands and transitional habitats will be monitored, managed, and, if necessary, remediated. Monitoring shall be implemented to determine whether the performance standards of this condition are met and, if any performance standards are not met, to determine the reasons for the inadequate performance and identify, in consultation with state and federal resources agencies (e.g., the U.S. Fish and Wildlife Service and the California Department of Fish and Game), appropriate remedial measures.

The wetlands and transitional habitats shall be monitored for a period of ten (10) years following completion of construction to measure the success of the restored and created wetlands in achieving the performance standards specified in subsection (6) below. Upon completion of ten (10) years of independent monitoring that demonstrates that the restored and constructed habitats are in compliance with the performance standards, independent annual site inspections shall be conducted for an additional five (5) years to identify any noncompliance with the performance standards.

If the performance standards are not being met, then the permittee shall conduct an independent study to collect, in consultation with the state and federal resources agencies, the information necessary to determine what remediation is needed. The Executive Director, in consultation with state and federal resources agencies, shall determine the required remedial action based on information from the independent study. The permittee shall be required to implement any remedial measures determined necessary by the Executive Director in consultation with state and federal resources agencies. The remedial actions shall be monitored as described herein.

The monitoring plan shall describe the sampling methodology and analytical techniques, which shall be developed in consultation with state and federal resources agencies, for measuring performance relative to the performance standards set forth in subsection (6) below.

(4) Independent Monitoring Biologist

An independent biologist to monitor the establishment and success of the salt marsh shall be selected by the applicant and approved by the Executive Director, and funding for the monitor biologist shall be provided by the applicant for a period of ten (10) years.

(5) Reference Sites

At least three reference sites shall be selected, in consultation with the California Department of Fish and Game and subject to the review and approval of the Executive Director. The reference sites shall be relatively undisturbed natural tidal wetlands located in at least two separate geographic areas within the Southern

California bight. The salt marsh reference sites shall have resident populations of Belding's Savannah sparrows. Reference sites must be accessible to the independent monitor and shall contain habitat of interest and shall be characterized by a muted tidal regime similar to the proposed salt marsh.

(6) Success Criteria/Performance Standards

Performance standards shall be either fixed values or defined variables. The monitoring of the salt marsh shall be in compliance with the standards and criteria contained in the Concept Plan, except that: 1) exotic, invasive, and non-native species shall be excluded from any assessment of performance standards, and 2) the proposed performance standards shall be modified as follows for the various proposed habitat zones (the performance standards and success criteria shall be met within the first five (5) years after completion of construction of the Phase 1 salt marsh):

a. Transition Zones

The permittee shall provide a management plan for the proposed berm ringing the salt marsh which serves as transition/buffer area. The plan shall also provide for salvage and ongoing maintenance and management of coulter's goldfield and southern tarplant. The management plan shall be applied to all native species, not just sensitive species.

b. High Salt Marsh

Vegetation in the High Salt Marsh shall contain at least seventy-five percent (75%) as many of the same native species (both in quantity and type) as the least speciose reference site. The average vegetative cover (all native species combined) shall be at least as great as the average vegetative cover at the reference site with the lowest vegetative cover. The average plant height for each species shall be at least seventy-five percent (75%) of the average height of the same species at the reference site with the lowest average plant height, except that pickleweed (*salicornia virginica*) shall be no less than twenty centimeters (20 cm) in average height.

c. Low Salt Marsh

The average vegetative cover shall be at least as great as the average vegetative cover at the reference site with the lowest vegetative cover. The average plant height for each species shall be at least seventy-five percent (75%) of the average height of the same species at the reference site with the lowest average plant height, except that pickleweed (*salicornia virginica*) shall be no less than twenty centimeters (20 cm) in average height (refer also to performance standards for birds in subsection f).

d. Mud Flat

The species composition and abundance of the epifauna (i.e., invertebrates which live on top of the sediment) and infauna (i.e., invertebrates which live in the sediment), shall be estimated at both the project and reference sites. The standards for birds are discussed in subsection f below.

e. Subtidal Basin and Channels

The species composition and abundance of the epifauna and infauna shall be estimated at both the project and reference sites. The total number of fish species shall be seventy-five percent (75%) as great as the reference site with the lowest number of species. The average total number of individual fish shall be seventy-five percent (75%) as great as the reference site with the lowest average total number of individuals. The performance standards for birds are discussed in subsection f below.

f. Birds in all habitats

Performance standards will only apply to wading birds and shorebirds in tidal wetlands. For wading birds and shorebirds, the average number of species present, the average total number of individuals present, and the foraging use of the tidal wetlands shall be similar during the winter and during the summer at the project site and at the reference sites. During the winter and during the summer, a general bird survey of each habitat will be conducted to document the species present and their approximate abundance. In addition, an annual survey to document the presence, abundance, and habitat use of Belding's Savannah sparrows will be conducted in the spring of each year.

- E. The final design and construction methods that will be used to ensure the mitigation site achieves the defined goals, objectives, and performance standards, and final construction plans.
- F. Preliminary remedial measures and provisions which require the final remedial measures to be determined in consultation with the Coastal Commission ("CCC"), California Department of Fish and Game ("CDFG"), and the U.S. Fish and Wildlife Service ("USFWS"). The determination that the wetlands have established and are functioning at a level where they no longer require remediation shall be made by the CCC, CDFG, and USFWS.
- G. Provisions for submittal, within thirty (30) days of completion of initial restoration work, of "as built" plans demonstrating that the Phase 1 saltwater marsh wetlands have been constructed in accordance with the approved design and construction methods.
- H. A written final detailed plan for financing the actual cost of constructing, establishing, and maintaining in perpetuity all approved wetlands. The plan shall provide that the landowner, property manager, and golf course owner/operator are ultimately responsible in perpetuity for wetland maintenance, as proposed in Sections 5.5.1 and

6.5.1 of the "Concept Wetlands Restoration Plan for the Hellman Ranch" revised November, 1997 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management. In addition to the restoration obligations as delineated in Special Condition 12.D. above regarding monitoring and remediation, the applicant shall be responsible for maintenance of the Phase 1 (initial construction) of the required minimum 39.1 acre salt marsh for a period of ten (10) years commencing with the start of construction of the wetlands or until the conservation easement over the salt marsh is accepted, whichever occurs later. If the conservation easement is accepted, the accepting agency shall be responsible for maintenance of the salt marsh. The plan shall indicate, at a minimum; 1) the sources of funding, 2) projected costs of constructing, establishing, and maintaining in perpetuity all approved wetlands, and 3) require that costs of on-going maintenance of the wetlands, including monitoring by the independent biologist, shall be paid out of the golf course revenue before any other costs incurred by the golf course, landowner, and its owner/operator.

- I. Periodic cleaning and maintenance of the culvert connecting the salt marsh to the San Gabriel River.
- J. Periodic removal of invasive, non-native plants from the saltwater marsh wetland areas in perpetuity to ensure maintenance of wetland habitat values.
- K. Invasive, exotic, non-native plants shall not be used anywhere in the golf course except as approved by state and federal resources agencies.
- L. All construction activities for the golf course and the wetlands, shall not occur during the nesting seasons of sensitive species unless the California Department of Fish and Game provides a written determination to the Executive Director that construction during a particular nesting season will not result in harm to the nesting species, and the determination is accepted by the Executive Director.
- M. Prior to commencement of construction of the golf course, the proposed wetland, shall be staked and signed in a manner which clearly demonstrates to construction crews that the wetland areas are not to be entered for any reason.

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

**13. GOLF COURSE OPERATIONS AND GOLFER WETLAND EDUCATION PROGRAM**

- A. Timing of Golf Course Construction. Prior to commencement of construction of the golf course, the proposed archaeological test program (including all required excavation and development of reasonable mitigation measures) shall have been completed for those sites impacted by golf course development (ORA-261, -262, -850, and -851).
- B. Timing of Golf Course Opening. The golf course shall not be opened for use until the Phase 1 saltwater marsh wetlands have been constructed in accordance with the final

wetlands restoration program approved by the Executive Director, as required in Special Condition No. 12 regarding the Final Wetland Restoration Program.

- C. Golf ball retrieval. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a written plan which describes in detail the proposed method for retrieving golf balls from the wetland. The plan shall include the following: 1) a controlled program for golf ball retrieval which minimizes impacts to the wetlands, and 2) golf balls shall not be retrieved from the wetlands by golfers themselves under any circumstances. The golf course operator shall comply with the plan approved by the Executive Director.
- D. Golfer education on wetlands. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a detailed written plan which describes the methods by which users of the golf course will be informed of the wetlands areas (e.g., signage, brochures, instructions printed on score cards, etc., which instruct golfers not to enter wetland or wetland buffer areas).
- E. Golf Course Deed Restriction. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that:
- (1) The applicant, golf course owner/operator and/or wetlands manager/owner shall implement and comply with the final wetland restoration program approved by the Executive Director.
  - (2) Development and management of the golf course shall be in compliance with the document An Environmental Approach to Golf Course Development & Management prepared for Hellman Properties LLC by Siena College-Audubon International Institute dated December 1996 as proposed by the applicant.
  - (3) Native plant species shall be used to the maximum extent possible throughout the golf course. No invasive exotic species listed by the California Exotic Pest Plan Council as unwanted species will be used in the golf course. In addition, the final golf course plant palette will be subject to review and approval by the Executive Director.
  - (4) The applicant and golf course owner/operator shall implement and comply with the final golf ball retrieval plan approved by the Executive Director.
  - (5) The golf course shall not be lighted nor shall it be open for night play.
  - (6) The golfer education program approved by the Executive Director shall be complied with and implemented.
  - (7) Wetlands areas shall be designated as lateral hazards, so indicated by red stakes or lines in accordance with the provisions of "the U.S.G.A. 1998 Official Rules Of Golf", in which golfers shall not enter and over which golfers shall not hit a penalty shot resulting from hitting a ball into the wetlands.

- (8) The golf course shall be open to the general public during all hours of operation.
- (9) The golf course shall not be converted to a private membership course.
- (10) Signs shall be installed which are clearly visible to the general public which inform the general public that the golf course is open for play to the public.
- (11) Public parking for the golf course shall be provided at all times based on the standards contained in the Hellman Ranch Specific plan adopted by City of Seal Beach City Council Ordinance No. 1420 on October 27, 1997 (Hellman Ranch Specific Plan Amendment 97-1).

The deed restriction shall be recorded over the revised lot, containing the golf course, wetlands, and mineral-production facilities, of Vesting Tentative Tract Map 15381 and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- F. Final Golf Course Plan Designs. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, final design and construction plans for the proposed golf course. The final plans shall be in substantial compliance with the final wetland restoration plan approved by the Executive Director and the document entitled "An Environmental Approach to Golf Course Development & Management" prepared for Hellman Properties LLC by Siena College-Audubon International Institute dated December 1996.
- G. Final Plans for the Golf Clubhouse. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, final plans for the golf clubhouse. Public access shall be maintained to all common areas of the public golf clubhouse. Public parking for the golf clubhouse shall be provided at all times based on the standards contained in the Hellman Ranch Specific plan adopted by City of Seal Beach City Council Ordinance No. 1420 on October 27, 1997 (Hellman Ranch Specific Plan Amendment 97-1).

#### 14. RESIDENTIAL DEVELOPMENT-TIMING OF CONSTRUCTION

Residential development, including subdivision improvements and home construction, shall not commence until construction of the Phase 1 initial salt marsh wetlands has commenced. The homes shall not be occupied until all the following occur: 1) construction of the Phase 1 initial salt marsh wetlands has been completed, and 2) Gum Grove Park has been dedicated to the City of Seal Beach.



**APPENDIX B: Substantive File Documents**

1. COASTAL DEVELOPMENT PERMITS AND COMMISSION ACTIONS

- A. Coastal Conservancy Project #1-82; Approved 4/22/82
- B. 5-82-221 (Ponderosa Homes); withdrawn 11/17/82
- C. 5-89-514 (MOLA Development Corporation); denied 11/14/89
- D. 5-89-1087 (MOLA Development Corporation); approved 1/12/90
- E. 6-90-219 [Batiquitos Lagoon restoration and enhancement]
- F. 5-97-367 (Hellman Properties LLC); approved September 9, 1998.

2. WETLAND AND BIOLOGICAL RESOURCES DOCUMENTS

- A. An Assessment of Wetland Resources Within the City of Seal Beach South of the San Gabriel River, prepared by Bob Radovich of the California Department of Fish and Game, June 1980.
- B. Determination of the Status of Wetlands Within the City of Seal Beach, Immediately South and East of the San Gabriel River Channel (Ponderosa Seal Beach Wetlands), prepared by the California Department of Fish and Game, January 13, 1982.
- C. Conceptual Wetlands Restoration Plan for the Hellman Ranch dated November 1997 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management.
- D. Addendum to Concept Wetlands Restoration Plan for the Hellman Ranch dated February, 1998 prepared for Hellman Properties LLC by Moffatt & Nichol Engineers (M&N) File: 3693) in association with Coastal Resources Management
- E. Hellman Ranch Wetland Restoration Feasibility Study dated July 20, 1998 prepared for The Port of Long Beach by Moffatt & Nichol Engineers (M&N File: 3693)
- F. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated September 11, 2000, regarding Response to June 19, 2000, letter from the California Department of Fish and Game Regarding Biological Resources at Hellman Ranch.
- G. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated June 28, 2000, regarding Biological Benefits of Proposed Wetland Treatment System, CDP 5-97-367-A1, Hellman Ranch Property, Orange County, California.

- H. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes dated January 6, 2000, regarding Results of Biological Resources Review and Analysis of Wetland Impacts Associated with 18.4-Acre Portion of the Hellman Ranch Property, Orange County, California.
- I. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes dated February 23, 2000, and revised July 14, 2000, regarding Results of Focused Surveys Conducted for Western Burrowing Owl on 18.4-acre Portion of the Hellman Ranch Property, Orange County, California.

3. WATER QUALITY DOCUMENTS

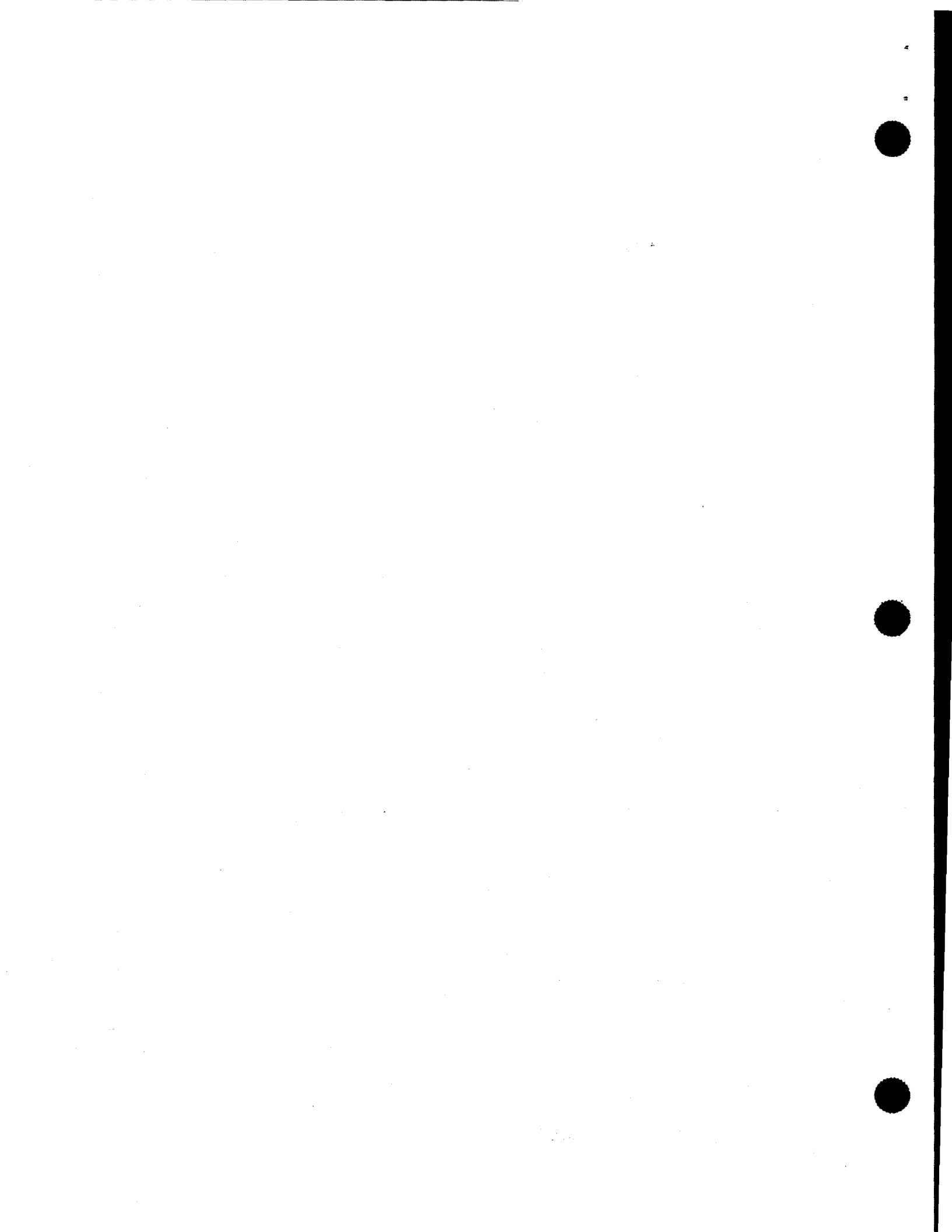
- A. State Water Resources Control Board Order No. 99-08-DWQ, National Pollution Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction Activity.
- B. California Regional Water Quality Control Board, Santa Ana Region, Order No. 96-31, NPDES No. CAS618030, Waste Discharge Requirements for the County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County within the Santa Ana Region, Areawide Urban Storm Water Run-off, Orange County.
- C. Orange County NPDES Stormwater Program, Drainage Area Management Plan, April 1993.
- D. Storm Water Management & Water Quality Control Plan, prepared for Hellman Properties LLC and John Laing Homes, prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000.
- E. Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared for John Laing Homes by MDS Consulting of Irvine, California, dated January 2000.

4. OTHER DOCUMENTS

- A. Final Environmental Impact Report for the Hellman Ranch Specific Plan dated August 1997 prepared by P&D Consultants for the City of Seal Beach (State Clearinghouse No. 96121009) and certified by City of Seal Beach City Council Resolution 4562 on September 19, 1997.
- B. "Development Agreement by and Between the City of Seal Beach and Hellman Properties, LLC Relative to the Development known as the Hellman Ranch" dated October 27, 1997
- C. A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area dated November 1997 prepared by KEA Environmental, Inc. for the City of Seal Beach

**APPENDIX C: Local Approvals**

- 1) City of Seal Beach City Council Resolution 4570 approving Tentative Tract Map No. 15381 (subdivision of site into 9 lots)
- 2) City of Seal Beach City Council Resolution 4571 approving Tentative Tract Map No. 15402 (Residential subdivision);
- 3) City of Seal Beach Ordinance 1420 adopting the Hellman Ranch Specific Plan
- 4) City of Seal Beach Resolution 4562 approving the Final Environmental Impact Report for the Hellman Ranch Specific Plan; October 27, 1997
- 5) Development Agreement
- 6) City of Seal Beach, Approval-in-concept of revised Tentative Tract Map No. 15402 (Residential subdivision) dated April 26, 2000.
- 7) City of Seal Beach Ministerial Approval of Administrative Amendments to the Hellman Ranch Specific Plan dated May 5, 2000.



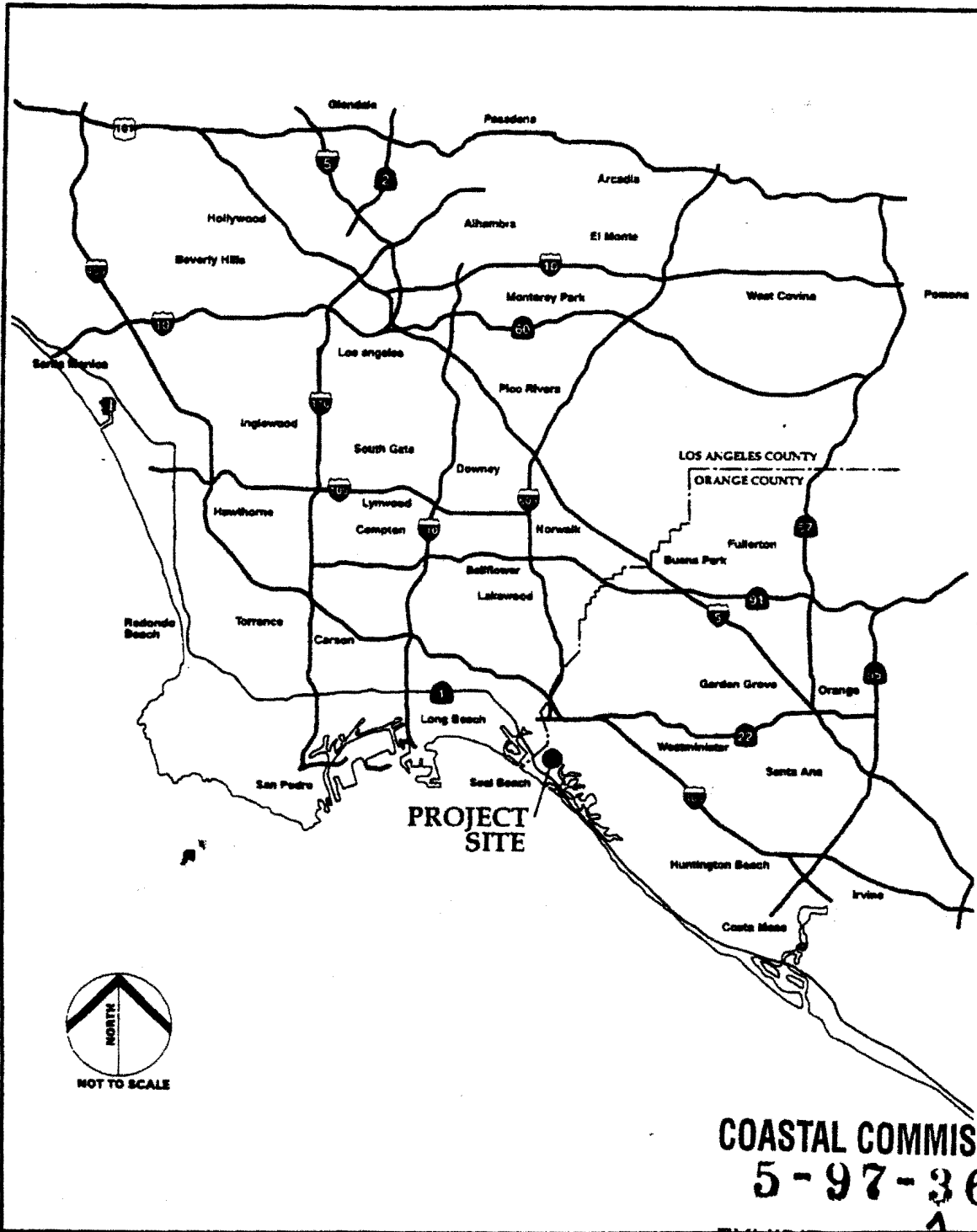
# 5-97-367-A1 (Hellman)

## List of Exhibits

All Exhibits of the Staff Report dated September 21, 2000 and the Addendum to the Staff Report dated October 6, 2000 are herein incorporated by reference. The information in the following exhibits was available at the Commission meeting on October 11, 2000 and thus was the basis for the underlying decision. Selected exhibits are attached to facilitate understanding of the findings. Complete copies of the exhibits are available from staff upon request.

<u>Exhibit</u>	<u>Description</u>	<u>Exhibit Attached</u>	<u>Exhibit Not Attached – See Staff Report Dated 9/21/2000</u>	<u>Exhibit Not Attached – See Addendum Dated 10/6/2000</u>
1	Vicinity Map and Existing Land Use Map	X		
2	Tentative Tract Maps 15381 and 15402	X		
3	Location of Lowlands and Oil Production Area	X		
4	Water Quality Management Plan	X		
5	Blank – No Exhibit			
6	Letter from California Dept. of Fish and Game dated June 19, 2000	X		
7	Biological Surveys dated January 6, 2000; February 23, 2000 (revised July 14, 2000); May 31, 2000; June 28, 2000; and September 11, 2000	X		
8	Correspondence from the Public Received as of September 26, 2000		X	
9	Applicants Response to Selected Issues Raised in the Letters Received as of September 26, 2000	X		
10	Assessors Parcel Maps of the Subject Site	X		
11	Map Showing Major Proposed Features of Subject Site	X		
12	Additional Correspondence from the Public Published in the Addendum dated October 6, 2000			X
13	Additional Correspondence Received After Publication of the Addendum	X		

### Regional Location Map



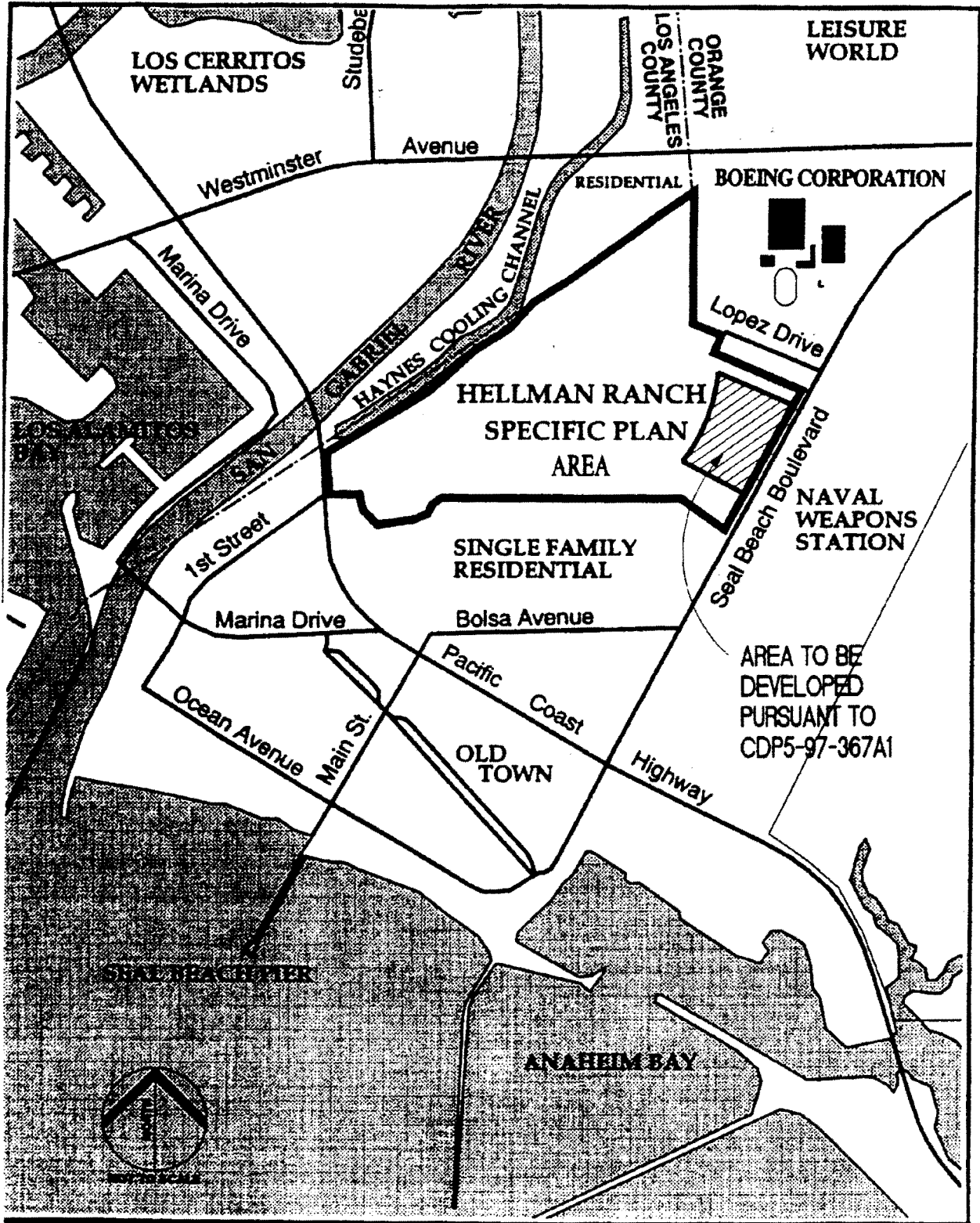
**COASTAL COMMISSION**  
**5-97-367-A1**

EXHIBIT # 4

PAGE 1 OF 3

Source: Hellman Ranch Specific Plan, 1996

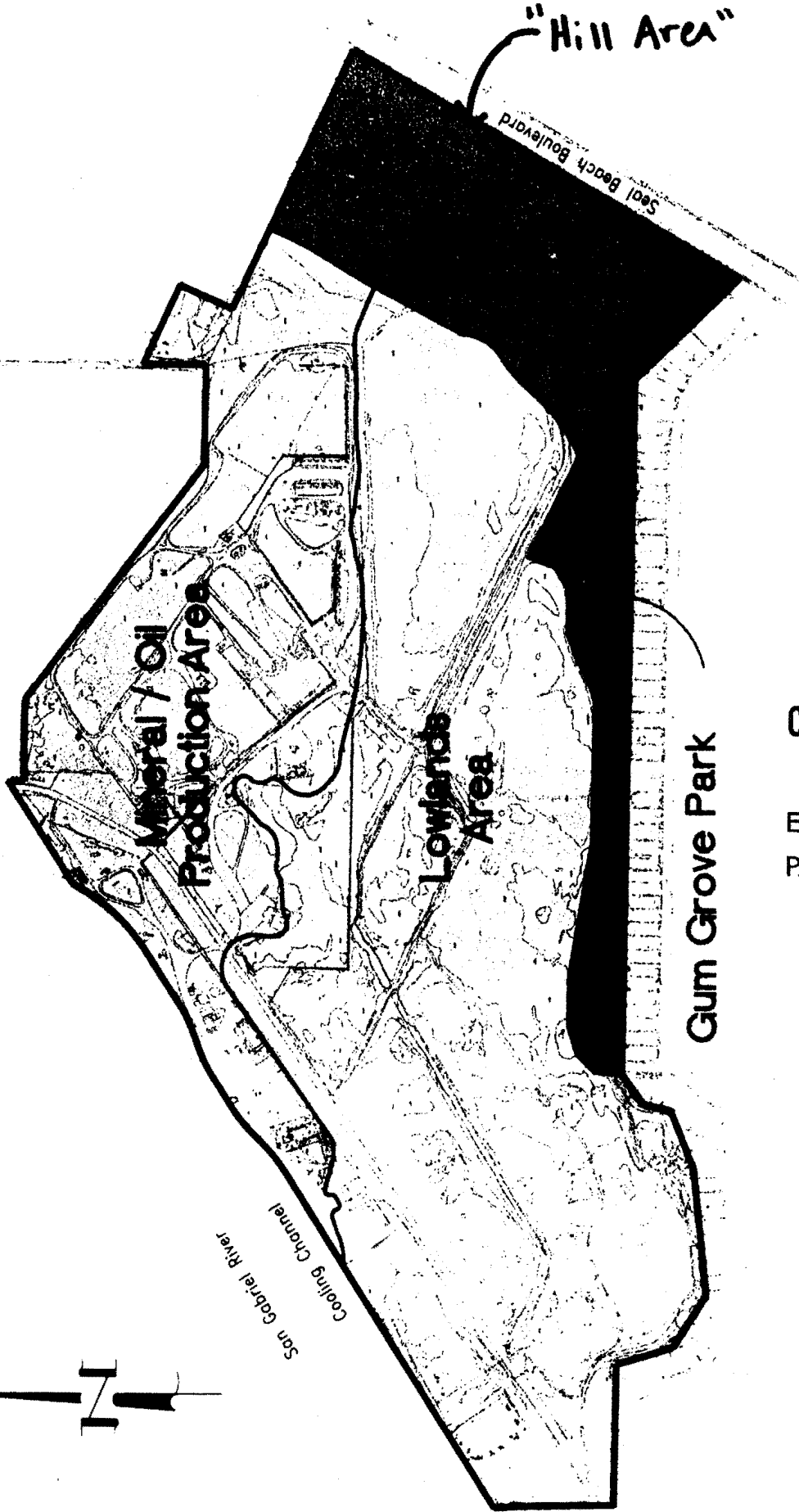
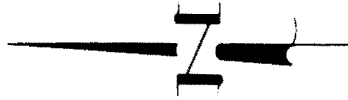
Local Area Map



Source: Hellman Ranch Specific Plan 1999

COASTAL COMMISSION  
5-97-367-A1

Los Alamitos Retarding Basin



COASTAL COMMISSION  
 5-97-367-A  
 EXHIBIT # 1  
 PAGE 3 OF 3

Figure 1  
 Existing Land Use Map

**MDS**

PLANNERS ENGINEERS SURVEYORS

10001  
 Suite 210  
 Irvine, CA 92614  
 949-451-8800

Date Prepared: 7-27-00

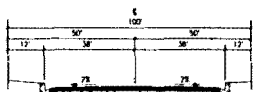


# TENTATIVE TRACT NO. 15381 HELLMAN RANCH

FOR FINANCIAL & CONVEYANCE PURPOSES  
(COASTAL COMMISSION PLAN)



**ABOLFO LOPEZ DRIVE**  
HALF AND FULL WIDTH EXISTING  
(N15)



**PACIFIC COAST HIGHWAY**  
ALL IMPROVEMENTS EXISTING  
(N15)



**SEAL BEACH BOULEVARD**  
ALL IMPROVEMENTS EXISTING  
(N15)

**LEGEND**

- TRACT BOUNDARY
- TRACT OF NO. 15381
- COASTAL COMMISSION
- PROPOSED LOT LINE

**LOT AND LAND USE SUMMARY**

NO.	DESCRIPTION	ACRES
1	RESIDENTIAL	1.14
2	COMMERCIAL	1.14
3	INDUSTRIAL	1.14
4	AGRICULTURAL	1.14
5	PUBLIC USE (SUN ORCH PARK)	1.14
6	PUBLIC UTILITIES	1.14
7	PUBLIC FACILITIES	1.14
<b>TOTAL</b>		<b>198.4</b>

**UTILITIES**

- WATER - CITY OF SEAL BEACH
- SEWER - CITY OF SEAL BEACH
- GAS - SOUTHERN CALIFORNIA GAS COMPANY
- TELEPHONE - PACIFIC TELEPHONE
- ELECTRICITY - SOUTHERN CALIFORNIA Edison COMPANY

**NOTES**

1. THIS MAP MAY HAVE NEARLY FINAL SHOPS
2. THIS MAP IS AN APPLICATION FOR A DEVELOPMENT PLAN
3. THE HELLMAN RANCH SPECIFIC PLAN

**PURPOSE**

THE PURPOSE OF THIS MAP IS TO SUBMIT AND CONVEYANCE PURPOSES TO THE COASTAL COMMISSION FOR REVIEW AND APPROVAL OF THE DEVELOPMENT PLAN AND TO OBTAIN THE NECESSARY DEVELOPMENT PERMITS FROM THE COASTAL COMMISSION AND THE SUPERVISOR OF THE COUNTY OF SEAL BEACH.

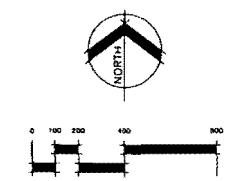
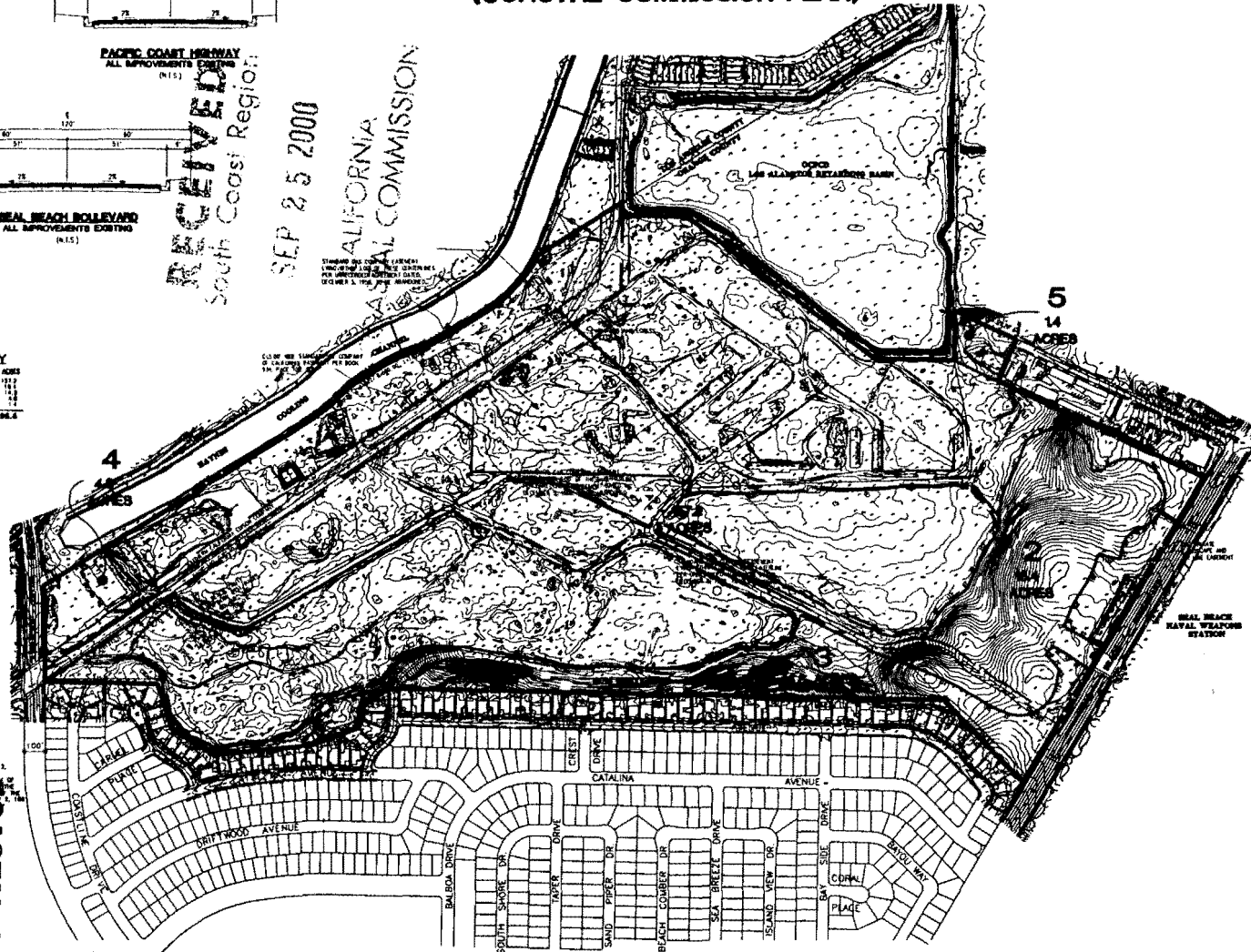
**ASSESSOR'S PARCEL NO.**

92-91-35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

**LEGAL DESCRIPTION**

SECTION 10, TOWNSHIP 10N, RANGE 10E, COUNTY OF SEAL BEACH, CALIFORNIA. THE TRACT DESCRIBED IS A PORTION OF THE LAND DESCRIBED IN THE COASTAL COMMISSION PLAN NO. 15381, HELLMAN RANCH, SEAL BEACH, CALIFORNIA.

**RECEIVED**  
 South Coast Region  
 SEP 25 2000  
 CALIFORNIA  
 COASTAL COMMISSION



**TENTATIVE TRACT NO. 15381**

**DEVELOPER**  
 JOHN LANE HOWES  
 18800 FAIRCHILD, SUITE 150  
 JAYVE, CA. 92412

**OWNERS**  
 HELLMAN PROPERTIES, L.L.C.  
 711 SEAL BEACH BOULEVARD  
 SEAL BEACH, CA. 90740

**SOUTHERN CALIFORNIA EDISON COMPANY**  
 7333 BOLSA AVENUE  
 WESTMINSTER, CA. 92683

**STATE OF CALIFORNIA**  
 STATE LAND COMMISSION  
 DIVISION OF LAND MANAGEMENT  
 100 HOWE AVENUE - SUITE 100 SOUTH  
 SACRAMENTO, CA. 95825-8202

**CITY OF SEAL BEACH REDEVELOPMENT AGENCY**  
 311 EIGHT STREET  
 SEAL BEACH, CA. 90740

**CONSULTANT / CIVIL ENGINEER**

**MDS CONSULTING**

19700 Redwood Ave., Suite 200, Irvine, CA 92614  
 949-453-8888  
 949-453-8889  
 949-453-8890

PLANNERS ENGINEERS ARCHITECTS

COASTAL COMMISSION  
 EXHIBIT # 2  
 97-3674  
 PAGE 1 OF 2

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AUG 1 2000

CALIFORNIA COASTAL COMMISSION

BOZING

SEAL BEACH NAVAL WEAPONS STATION

COASTAL COMMISSION

6-97-367-A1

EXHIBIT # 2

PAGE 2 OF 2

GENERAL INFORMATION

LEGAL DESCRIPTION: A certain parcel of land, more particularly described as follows: ...

INCORPORATION BY REFERENCE

THE following documents are hereby incorporated by reference into this tentative map: ...

TENTATIVE TRACT NO. 15402

HELLMAN RANCH

OWNER: HELLMAN PROPERTIES, LLC

APPLICANT & DEVELOPER: JOHN LAING HOMES

CITY DEVIATIONS: ...

LAND USE SUMMARY

LAND USE	AREA (SQ. FT.)	PERCENTAGE
RESIDENTIAL	1,100,000	100%

STREET SECTION NOTES

- 1. All streets shall be constructed to the standards set forth in the City of Seal Beach Municipal Code.
- 2. All streets shall be constructed to the standards set forth in the City of Seal Beach Municipal Code.

OWNER

HELLMAN PROPERTIES, LLC

APPLICANT & DEVELOPER

JOHN LAING HOMES

CITY DEVIATIONS

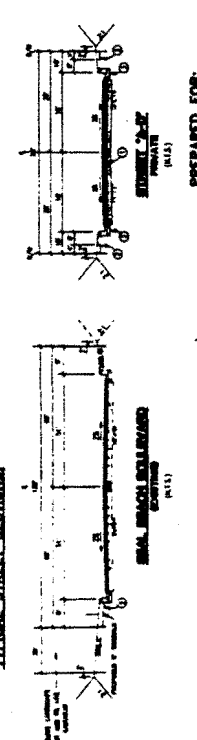
...

LEGEND

- 1. Proposed Street
- 2. Existing Street
- 3. Proposed Right-of-Way
- 4. Existing Right-of-Way
- 5. Proposed Lot
- 6. Existing Lot
- 7. Proposed Easement
- 8. Existing Easement
- 9. Proposed Utility
- 10. Existing Utility

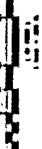


TYPICAL STREET SECTIONS



NORTH

GRAPHIC SCALE



DATE	BY	REVISION

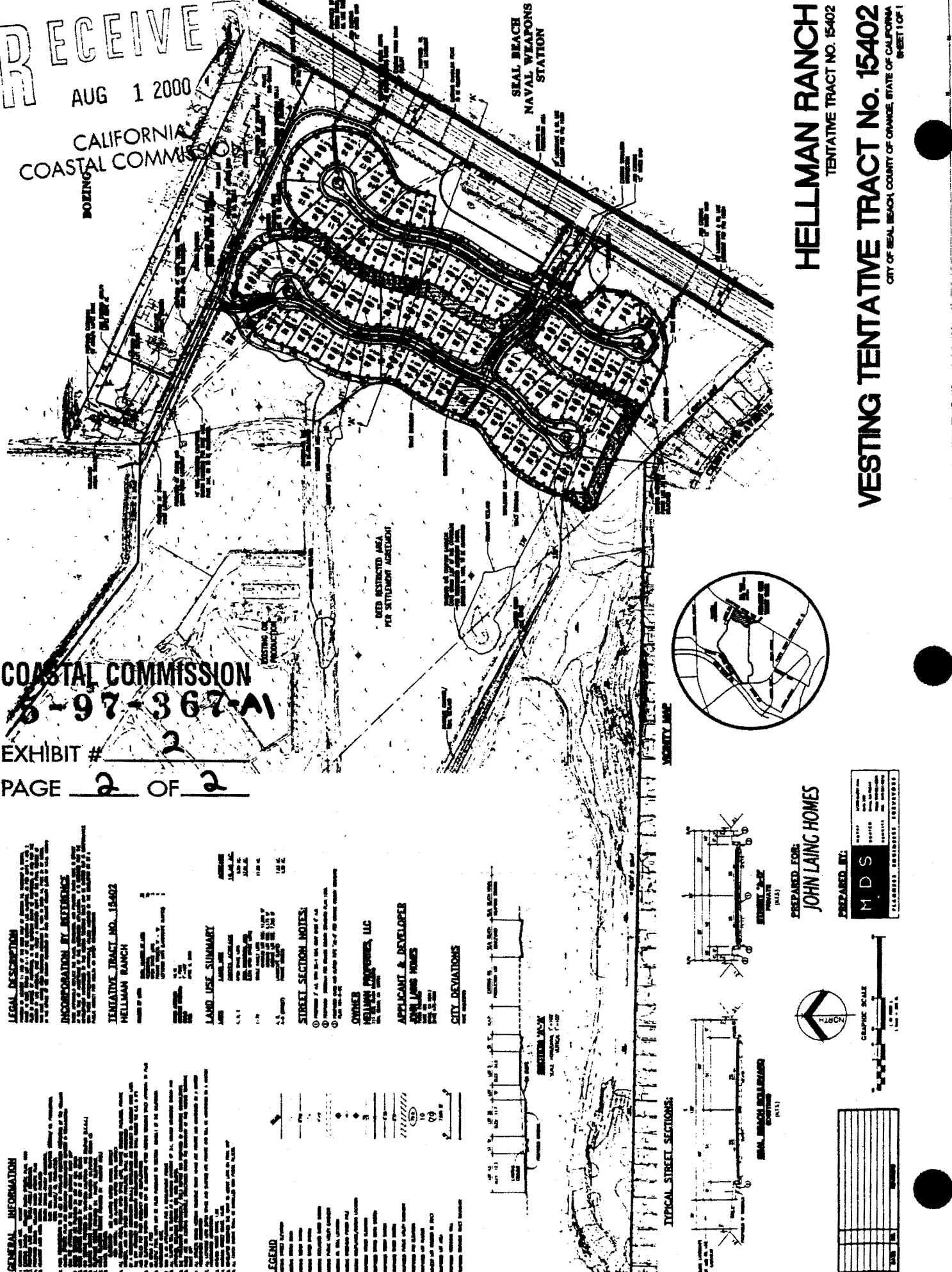
PREPARED FOR: JOHN LAING HOMES

PREPARED BY: MDS

MDS  
 REGISTERED PROFESSIONAL ENGINEER  
 LICENSE NO. 45888  
 CIVIL ENGINEERING  
 1000 WEST 10TH AVENUE, SUITE 100  
 DENVER, COLORADO 80202  
 TEL: 303.733.8888  
 FAX: 303.733.8889  
 WWW.MDSINC.COM

HELLMAN RANCH  
TENTATIVE TRACT NO. 15402

VESTING TENTATIVE TRACT No. 15402  
CITY OF SEAL BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA  
SHEET 1 OF 1



P. 02/02

TEL: 310.313.1313

FAX:

MDS CONSULTING

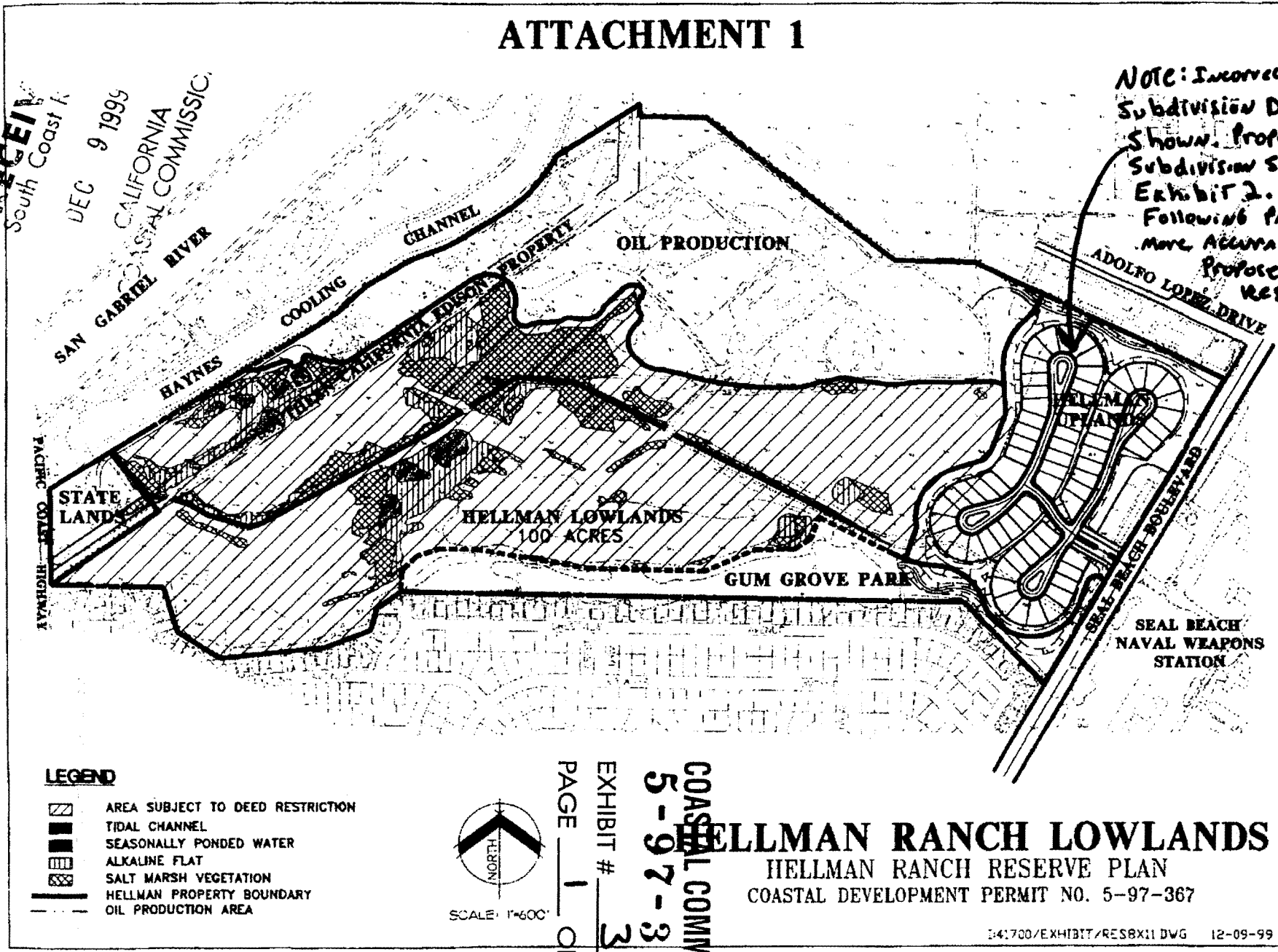
DEC-09-99 THU 10:05 AM

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South Coast R

DEC 9 1999  
CALIFORNIA  
COASTAL COMMISSION

# ATTACHMENT 1

*NOTE: Incorrect  
Subdivision Design  
Shown. Proposed  
Subdivision shown in  
Exhibit 2. Also, the  
following page shows  
more accurately the  
proposed deed  
restricted area*



### LEGEND

- AREA SUBJECT TO DEED RESTRICTION
- TIDAL CHANNEL
- SEASONALLY PONDED WATER
- ALKALINE FLAT
- SALT MARSH VEGETATION
- HELLMAN PROPERTY BOUNDARY
- OIL PRODUCTION AREA



SCALE: 1"=600'

PAGE 1 OF 3

EXHIBIT # 3

HELLMAN RANCH LOWLANDS  
HELLMAN RANCH RESERVE PLAN  
COASTAL COMMISSION  
5-97-367-A

**HELLMAN RANCH LOWLANDS**  
HELLMAN RANCH RESERVE PLAN  
COASTAL DEVELOPMENT PERMIT NO. 5-97-367

D41700/EXHIBIT/RESBX11 DWG 12-09-99

# HELLMAN RANCH

## Land Use Summary

Lot No.	Proposed Land Use
1	Single Family Detached Residential
2	Public Park (Gum Grove Park)
3	Deed Restriction Area
4	State Lands
5	Oil Production
6	Public Facilities

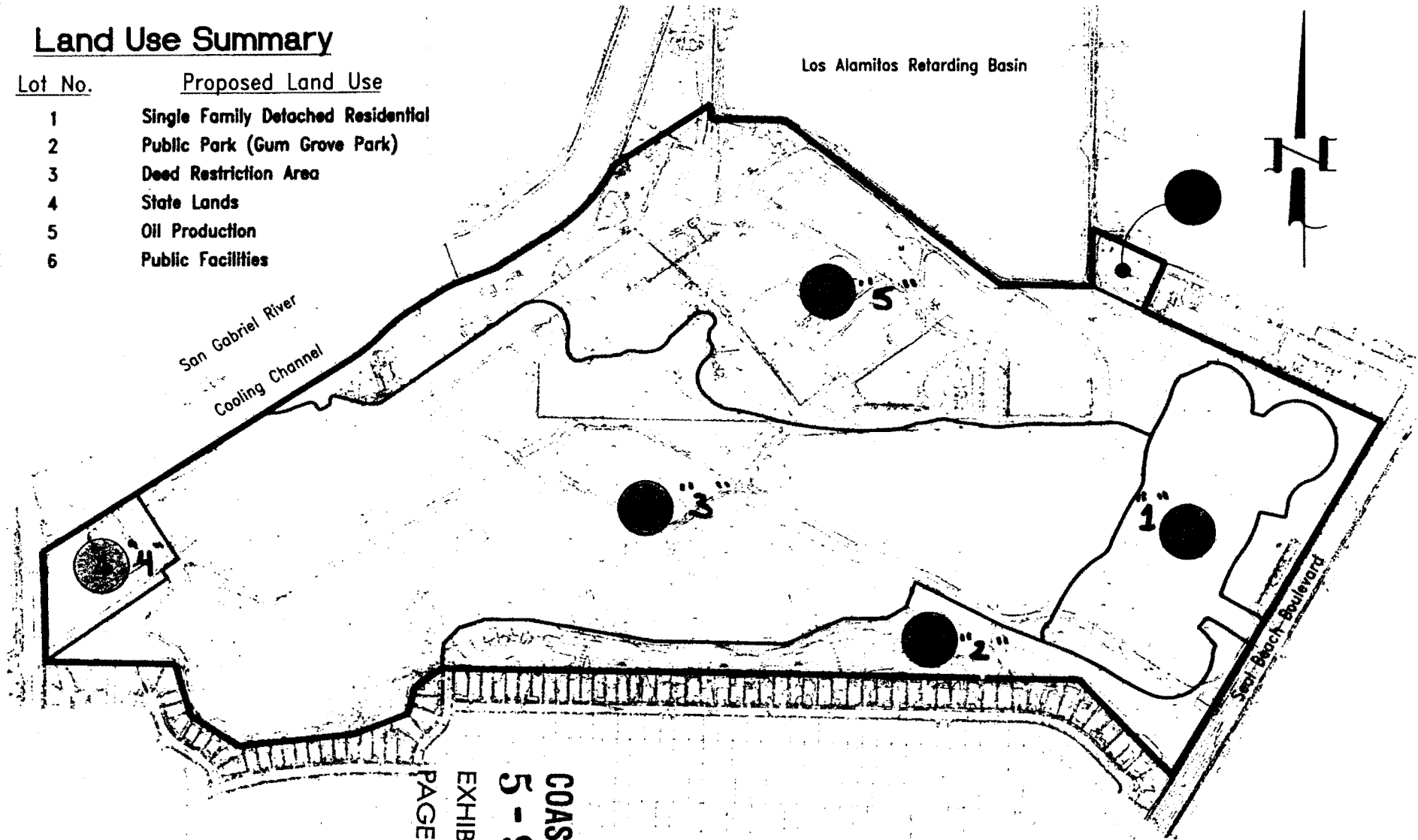


Figure 6  
Proposed Land Use

PAGE 3 OF 3  
EXHIBIT # 3  
COASTAL COMMISSION  
5-97-367

Owners  
Hellman Properties, LLC.  
Southern California Edison Co.  
State of California  
City of Seal Beach  
Redevelopment Agency

Developer  
John Laing Homes

<b>MDS</b>	PHONE	949-441-1111
	FAX	949-441-1112
	ADDRESS	10000 S. Tustin Ave., Suite 200, Tustin, CA 92680-4001
	WEBSITE	WWW.MDS-ENGINEERS.COM
PLANNERS ENGINEERS SURVEYORS		

Date Prepared: 7-27-00

# HELLMAN RANCH

Proposed Tract 15402

HELLMAN RANCH  
TENTATIVE TRACT NO. 15402  
**CONCEPTUAL URBAN  
RUN-OFF PLAN**  
(FOR RESIDENTIAL DEVELOPMENT  
& OFF-SITE SEAL BEACH BLVD)

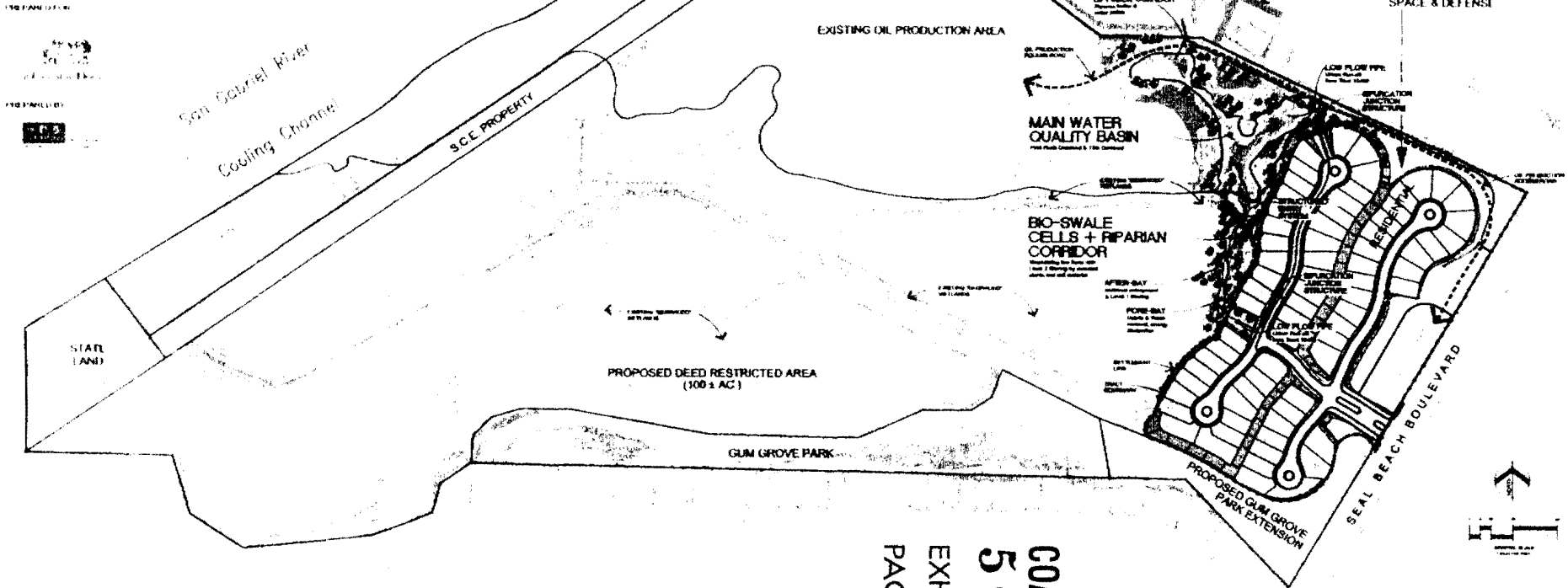


Figure 8  
*Proposed Drainage Facilities*

COASTAL COMMISSION  
5-97-3674  
EXHIBIT # 4  
PAGE 1 OF 6

<b>MDS</b> CONSULTING	PHONE	714/948-4444
	FAX	714/948-4444
	ADDRESS	3700 CA 42614
	WEBSITE	WWW.MDS-CONSULTING.COM
PLANNERS ENGINEERS SURVEYORS		

Date Prepared: 7/27/00

**DIFFUSION CORRIDOR**

Riparian buffer & water polish.

PROPOSED LOPE DRIVE EXTENSION

Area To be deed restricted For water quality Purposes

LOW Urban R from Tract

Area to be deed restricted For water quality Purposes

EXISTING "DEGRADED" WETLANDS

STRUCTURED ENTRY SYSTEM

COASTAL COMMISSION 5-97-367-A1

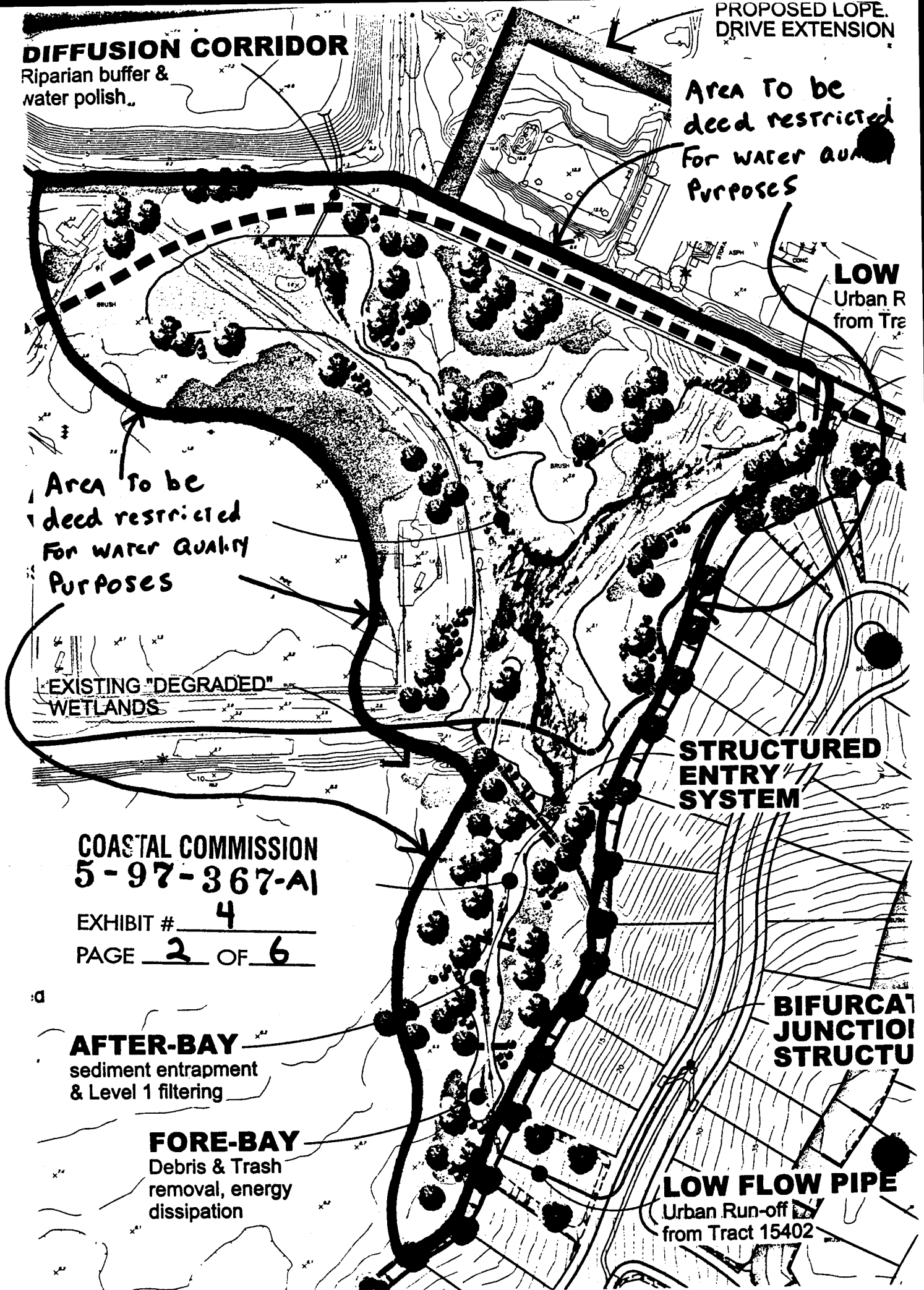
EXHIBIT # 4 PAGE 2 OF 6

BIFURCATED JUNCTION STRUCTURE

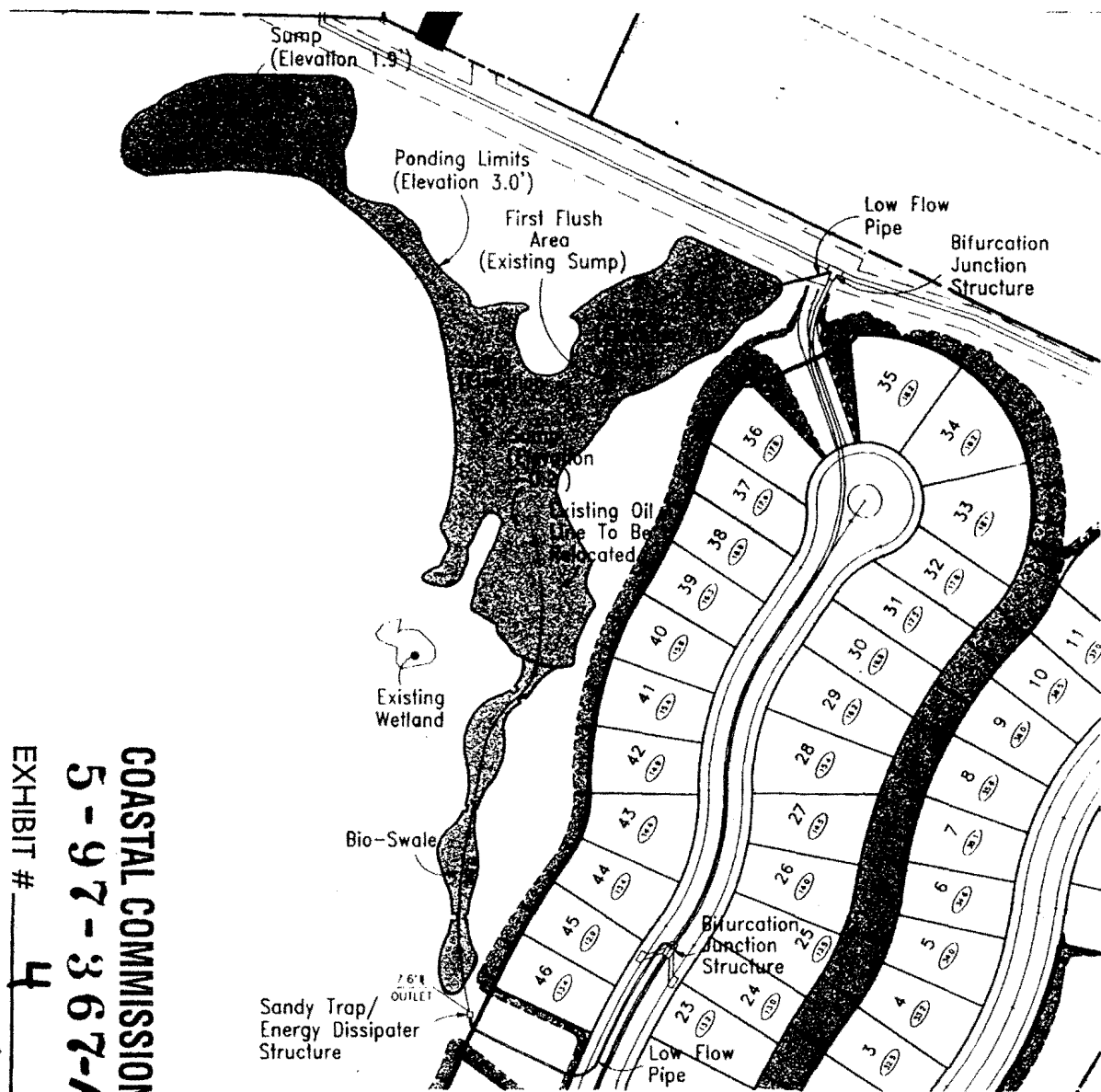
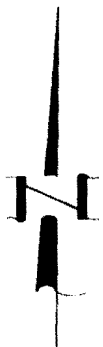
AFTER-BAY sediment entrapment & Level 1 filtering

FORE-BAY Debris & Trash removal, energy dissipation

LOW FLOW PIPE Urban Run-off from Tract 15402



# HELLMAN RANCH



## First Flush Area Data

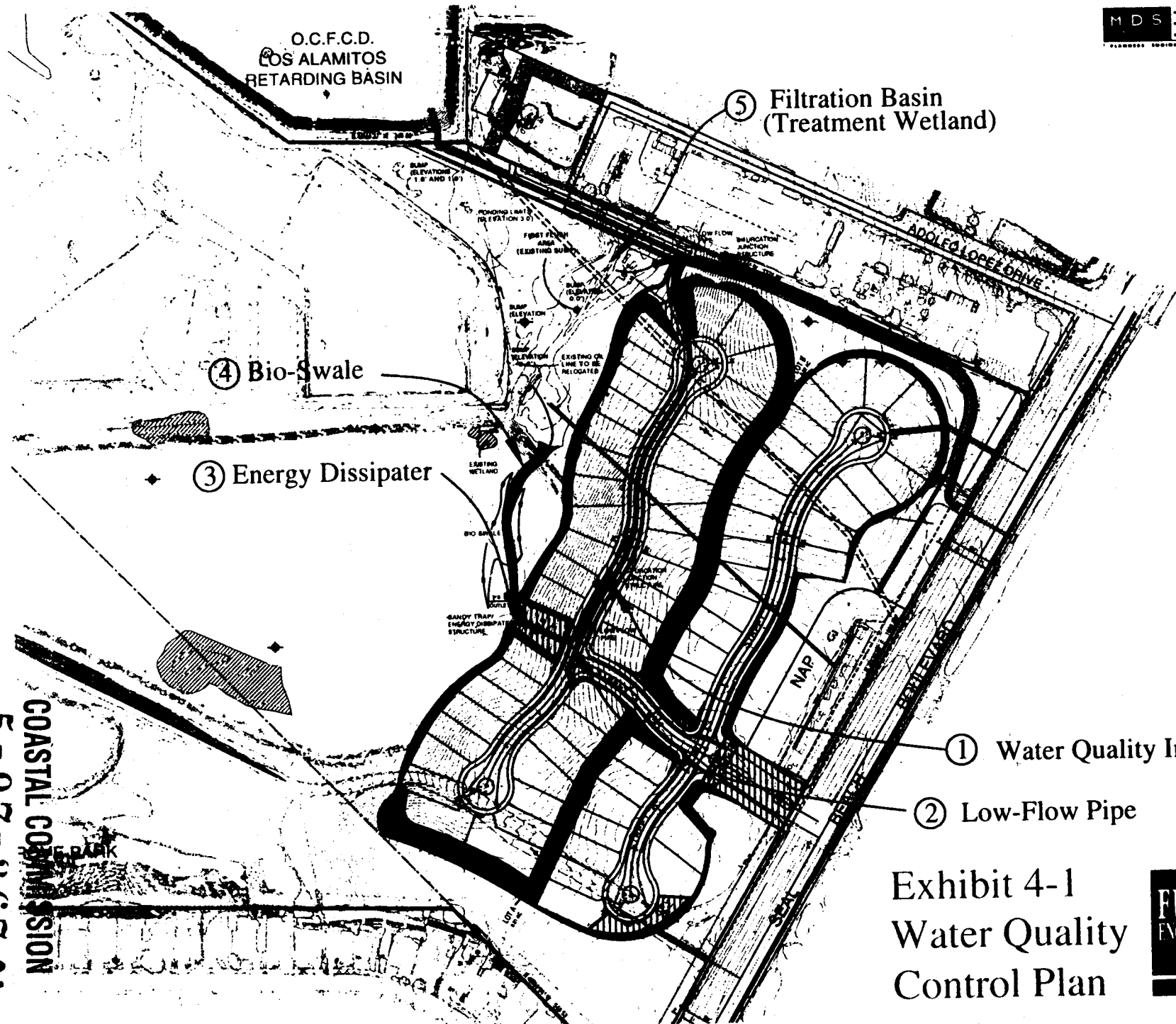
First Flush Area = 1.93 Acres  
 First Flush Volume = 3.09 AF  
 (Assume Average Of 1.5 Ft Drop)

COASTAL COMMISSION  
 5-97-367-A1  
 EXHIBIT # 4  
 PAGE 3 OF 6

Figure 8A  
 Proposed Drainage Facilities

<b>MDS</b> CONSULTANTS	PROJECT	17200 Piedmont Ave.
	DATE	July 27, 2000
	PROJECT	Storm Water Mgmt. Plan
	CLIENT	HELLMAN RANCH
PLANNERS ENGINEERS SURVEYORS		DATE: 04-20-00

Date Prepared: 7-27-00



O.C.F.C.D.  
 LOS ALAMITOS  
 RETARDING BASIN

⑤ Filtration Basin  
 (Treatment Wetland)

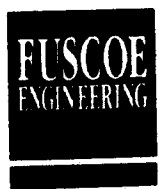
④ Bio-Swale

③ Energy Dissipater

① Water Quality Inlet

② Low-Flow Pipe

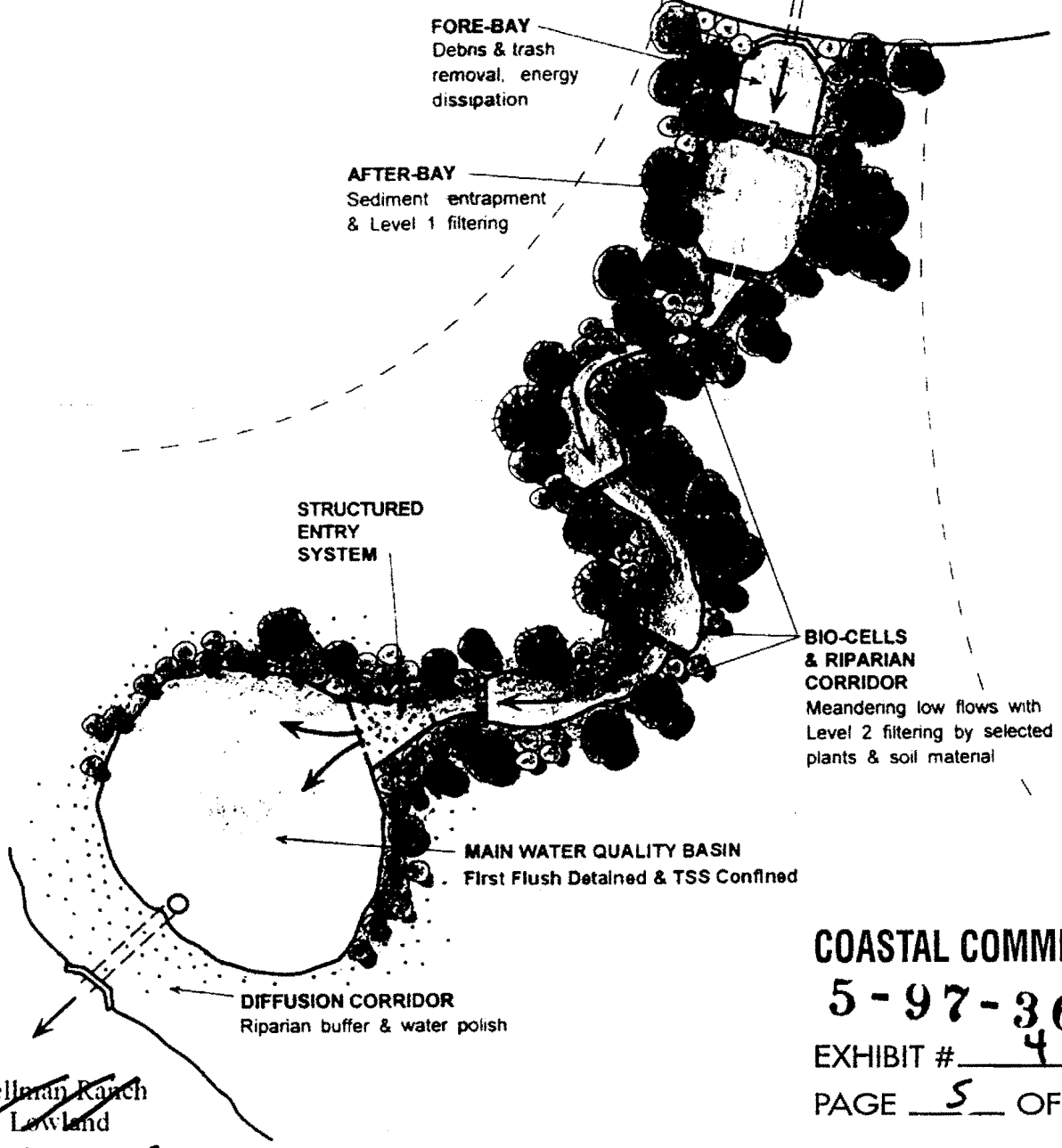
Exhibit 4-1  
 Water Quality  
 Control Plan



COASTAL COMMISSION  
 5-97-367-A1  
 EXHIBIT # 4  
 PAGE 4 OF 6



Urban Runoff from Tract 15402



~~Hellman Ranch~~  
Lowland  
LOS ALAMITOS  
RETARDING BASIN

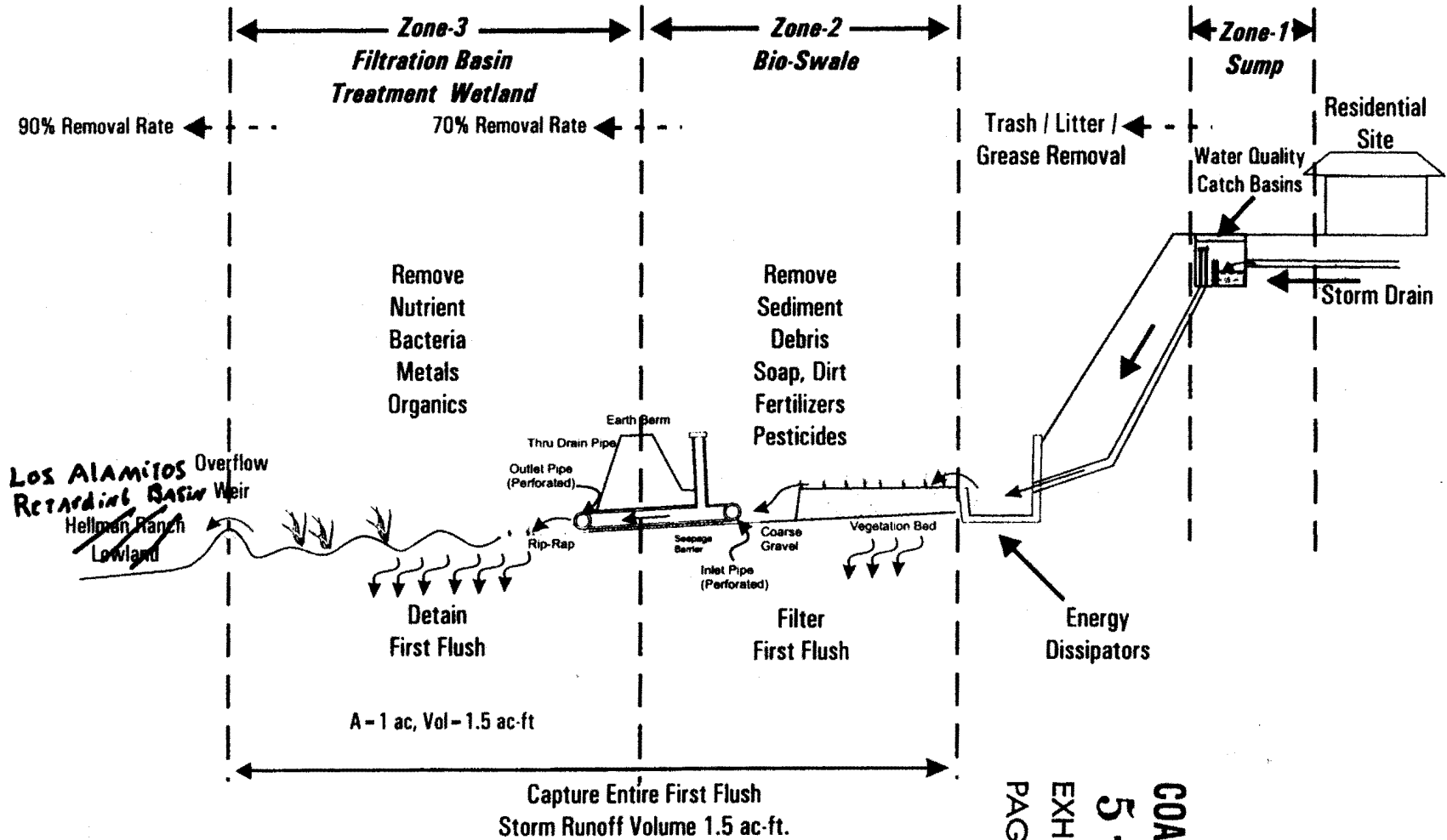
COASTAL COMMISSION  
5-97-367-A1  
EXHIBIT # 4  
PAGE 5 OF 6

Exhibit 6  
Bio-Swale &  
Water Quality Pond Concept



Date Prepared 06-15-00

# THE HELLMAN RANCH



**Exhibit 4-2  
Water Quality Control Plan**

COASTAL COMMISSION  
 5-97-367-A1  
 EXHIBIT # 4  
 PAGE 6 OF 6



Date Prepared: 6-15-00

## DEPARTMENT OF FISH AND GAME

South Coast Region  
4949 Viewridge Avenue  
San Diego, California 92123  
(619) 467-4201  
FAX (858) 467-4239

RECEIVED

JUN 22 2000



June 19, 2000

CALIFORNIA  
COASTAL COMMISSION

5-97-367-A1

EXHIBIT # 6

PAGE 1 OF 2

Mr. David Bartlett  
D. Bartlett Associates  
36 Bramford Street  
Ladera Ranch, CA 92694

**Comments on the Hellman Ranch Biological Assessment (1/6/00), Burrowing Owl Survey (2/23/00) and Subsequent Confirmation of the Biological Assessment (5/31/00)**

Dear Mr. Bartlett:

As requested by you in a memo dated May 30, 2000, the Department of Fish and Game (Department) has reviewed the above-referenced Biological Assessment, Burrowing Owl Survey and Subsequent Confirmation of the Biological Assessment (documents) that are part of a California Coastal Commission permit application. These documents provide an assessment of an 18.4-acre portion of the 196-acre Hellman Ranch site that is proposed for development in the City of Seal Beach, California. Additional information, specifically a vegetation map, was requested from your consultants and provided on June 2, 2000 for our review. We have not field-checked the property and our comments only pertain to the documents and other information that we have received.

According to the documents, the majority of the project site has been disced. Vegetation communities on the project site include non-native grassland and ruderal habitats. Burrowing owl surveys were conducted on the project site recently but none were observed and no sign was evident. The reports conclude that development of the 18.4-acre portion does not constitute a significant impact, nor does it recommend any mitigation. The report also concludes that the development may benefit adjacent wetlands by increasing the amount of runoff from the developed area.

Based on the documents, the Department believes that the proposed development of the 18.4-acre portion of Hellman Ranch is acceptable if the following conditions are met:

1. All impacts will be limited to the 18.4-acre site, including but not limited to buildings, paved areas, fire management zones, and access roads. All documents and project plans should clearly delineate this 18.4-acre development area.
2. The loss of documented raptor foraging area should be compensated by committing some of the remaining upland forage area within Hellman Ranch as mitigation. Raptor foraging areas are a declining resource and impacts to this habitat may be considered significant. White-tailed kite and northern harrier (both California Species of Special Concern) were observed near the project site and the presence of nesting habitat in Gum

David Bartlett

June 19, 2000

Page 2

Grove Nature Park as well as within Hellman Ranch further increases the local significance of this habitat. The loss of this area could be adequately offset through the onsite dedication of raptor foraging habitat at a 0.5:1 mitigation-to-impact ratio in an area with long-term conservation potential. Upland habitat within Hellman Ranch that will remain after project implementation may be suitable for mitigation purposes and the Department is available to evaluate the location of the mitigation site to ensure an area of equal or greater biological resource value is conserved.

3. The purported benefit of additional runoff into the wetlands from the proposed development site is not appropriately justified in the documents. While the increase may benefit the wetland by increasing quantity of water, the quality of the water should be analyzed and discussed to ensure that additional pollutants (e.g., oil/gas, pesticides) and nutrients would not adversely affect adjacent sensitive habitats.
4. According to the documents, "GLA biologists visited the site on December 28, 1999 and January 11 and 13, 2000 ... (and) walked the entire 18.4-acre site." It appears that the focused surveys are inadequate to determine presence/absence. Department survey protocol for burrowing owls includes a minimum of four site visits at either dusk or dawn during the nesting season or between December 1 and January 31 for winter surveys. Based on the suitability of habitat and previous reports of burrowing owls in the project vicinity, we recommend additional focused surveys be conducted over the project site as well as a 150-meter buffer area around the project site during the nesting season (April 15 to July 15). Survey results should also include the time of day in which surveys were conducted. Further questions concerning burrowing owl survey protocol should be directed to Lyann Comrack of the Department at (858) 467-4208. If burrowing owls are determined to be present onsite or if found to utilize the site, additional mitigation measures may be required to protect the home range and/or burrows.
5. While the documents focus on the development of the 18.4-acre site, it is our understanding that approximately 100 acres of the Hellman Ranch site will be set aside for conservation purposes. The project description should provide more information on the delineation, restoration and management plans for this conserved area.

The Department appreciates the opportunity to comment on your project. Please contact me at the above address or at (858) 467-4212 if you wish to discuss this response.

Sincerely,

*William E. Tippetts*

William E. Tippetts  
Habitat Conservation Supervisor

COASTAL COMMISSION

5-97-367-A1

EXHIBIT # 6

PAGE 2 OF 2

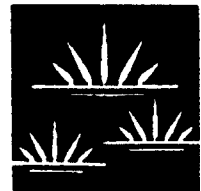
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South Coast Region

JUN 7 2000

CALIFORNIA  
COASTAL COMMISSION

**GLENN LUKOS ASSOCIATES**

Regulatory Services



January 6, 2000

Tim McSunas  
John Laing Homes  
19600 Fairchild, Suite 150  
Irvine, California 92612

**COASTAL COMMISSION**  
**5-97-367-A1**

EXHIBIT # 7  
PAGE 1 OF 18

**SUBJECT: Results of Biological Resources Review and Analysis of Wetland Impacts  
Associated with 18.4-Acre Portion of the Hellman Ranch Property, Orange  
County, California**

Dear Mr. McSunas:

Biologists from Glenn Lukos Associates, Inc. (GLA) visited the above-mentioned property on December 28, 1999 and January 5, 2000 in order to evaluate biological resources present on site and to evaluate whether the proposed development of 18.4 acres of the Hellman Ranch property would have potential indirect impacts on wetlands associated with the San Gabriel River Basin. It is GLA's understanding that the Coastal Development Permit now being proposed for Hellman Ranch would eliminate previously proposed impacts to jurisdictional wetlands and that approximately 100 acres are being set aside for conservation purposes, including potential restoration. Therefore, the current biological analysis focused primarily on the 18.4-acre portion of the property proposed for development and the isolated wetland areas west of the proposed development area.

#### **METHODOLOGY**

Biologists from GLA visited the 18.4-acre site on December 28, 1999 and January 5, 2000 to evaluate the potential for sensitive species and/or habitats on the proposed development site and to determine whether significant changes to the property have occurred since the most recent biological surveys in 1996-97. The entire 18.4-acre portion of the property was walked in such a manner as to allow visual inspection of the entire site. The remaining portions of the Hellman Ranch property were surveyed on foot and by automobile.

Engineering data provided by MDS Consulting, as well as on-site inspection of topographic features, was analyzed to assess potential impacts to wetlands resulting from the proposed development.

23441 South Pointe Drive  
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▪ Suite 150

▪ Laguna Hills, California 92653  
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## SITE DESCRIPTION

Hellman Ranch encompasses approximately 196 acres in the City of Seal Beach, California. The entire property is roughly bounded by Pacific Coast Highway on the west, the Haynes Cooling Channel on the northwest, Adolpho Lopes Drive and Boeing Space and Defense on the north, Seal Beach Boulevard and the United States Naval Weapons Station on the east, and residential development to the south. The site is composed of primarily of lowland areas which are highly degraded and support minimal wetland vegetation (e.g., *Salicornia virginica*, *Baccharis salicifolia*, *Distichlis spicata*, *Atriplex semibaccata*, *Frankenia salina*, *Rumex crispus*) as well as a predominance of ruderal and non-native species (e.g., *Brassica nigra*, *Salsola tragus*, *Conyza bonariensis*, *Pennisetum clandestinum*, *Bromus* sp.).

The 18.4-acre area proposed for development is located on uplands along the eastern border of the Hellman Ranch property adjacent to existing development. The upland area consists primarily of relatively flat land which slopes gently downward along the western edge. High levels of gopher activity are evidenced throughout the site. Vegetation on site is dominated by non-native grassland and ruderal species including black mustard (*Brassica nigra*), prickly lettuce (*Lactuca serriola*), flax-leaved horseweed (*Conyza bonariensis*), cheeseweed (*Malva parviflora*), bristly ox-tongue (*Picris echioides*), lamb's quarters (*Chenopodium album*), tocalote (*Centaurea melitensis*), summer mustard (*Hirschfeldia incana*), field mustard (*Brassica rapa*), castor bean (*Ricinus communis*), Russian thistle (*Salsola tragus*), wild radish (*Raphanus sativus*), oat (*Avena* sp.), rippgut brome (*Bromus diandrus*), red brome (*Bromus madritensis* ssp. *rubens*), Italian ryegrass (*Lolium multiflorum*), horehound (*Marrubium vulgare*), curly dock (*Rumex crispus*), spiny clotbur (*Xanthium spinosum*), morning glory (*Calystegia macrostegia*), small-flowered iceplant (*Mesembryanthemum nodiflorum*), alkali heliotrope (*Heliotropum curassavicum*), milk thistle (*Silybum marianum*), Bermuda grass (*Cynodon dactylon*), dallis grass (*Paspalum dilatatum*), and kikuyu grass (*Pennisetum clandestinum*). Scattered Mexican fan palms (*Washingtonia robusta*) occur throughout the site and one Brazilian pepper tree (*Schinus terebinthefolius*) is present on the western edge of the proposed development area.

Birds observed on or near the Hellman Ranch property include house finch (*Carpodacus mexicanus*), mourning dove (*Zenaidura macroura*), European starling (*Sturnus vulgaris*), red-winged blackbird (*Agelaius phoeniceus*), American crow (*Corvus brachyrhynchos*), great blue heron (*Ardea herodias*), rock dove (*Columba livia*), northern mockingbird (*Mimus polyglottos*), Anna's hummingbird (*Calypte anna*), black phoebe (*Sayornis nigricans*), yellow-rumped warbler (*Dendroica coronata*), lesser goldfinch (*Carduelis psaltria*), savannah sparrow (*Passerculus sandwichensis*), Say's phoebe (*Sayornis saya*), white-crowned sparrow (*Zonotrichia leucophrys*), song sparrow (*Melospiza melodia*), pied-billed grebe (*Podilymbus podiceps*), common raven

Tim McSunas  
John Laing Homes  
January 6, 2000  
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COASTAL COMMISSION  
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(*Corvus corax*), great egret (*Casmerodius albus*), snowy egret (*Egretta thula*), western meadowlark (*Sturnella neglecta*), loggerhead shrike (*Lanius ludovicianus*), and killdeer (*Charadrius vociferus*).

Raptors observed on or near the site include red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), white-tailed kite (*Elanus leucurus*), northern harrier (*Circus cyaneus*), American kestrel (*Falco sparverius*), osprey (*Pandion haliaetus*), and turkey vulture (*Cathartes aura*). Species observed in flight over the property include Canada goose (*Branta canadensis*), double-crested cormorant (*Phalacrocorax auritus*), brown pelican (*Pelecanus occidentalis*), western gull (*Larus occidentalis*), and Caspian tern (*Sterna caspia*).

Mammals present on site based on direct observation or physical evidence include Botta's pocket gopher (*Thomomys bottae*), California ground squirrel (*Spermophilus beechyi*), and coyote (*Canis latrans*).

## RESULTS

### Biological Resources

The following sensitive species were observed on or near the 196-acre Hellman Ranch property: Belding's savannah sparrow (state-listed endangered), loggerhead shrike (species of special concern), white-tailed kite (species of special concern and a California fully protected species), northern harrier (species of special concern), osprey (species of special concern), and brown pelican (federally-listed endangered and a California fully protected species). Of the sensitive species noted above only the white-tailed kite and northern harrier were observed in the vicinity of the 18.4-acre area proposed for development. The remaining sensitive species listed above were noted on the lowland portions of the site or, as in the case of the brown pelican, observed west of the Hellman Ranch property near the Haynes Cooling Channel.

Suitable foraging habitat for a variety of raptor species is present throughout the entire 196-acre Hellman Ranch property, including the 18.4-acre portion proposed for development. Suitable nesting habitat for raptors is associated primarily with eucalyptus trees in Gum Grove Nature Park (southwest of the proposed development) as well as a windrow of eucalyptus trees present in the approximate middle of the Hellman Ranch property. Suitable nesting habitat for raptors is not present within the 18.4 acres proposed for development.

Tim McSunas  
John Laing Homes  
January 6, 2000  
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Sensitive plant and animal species noted within lowland areas on the Hellman Ranch property during focused surveys in 1996 were not observed within the 18.4-acre proposed development site<sup>1</sup>.

Lowland areas, which would not be affected by the proposed development, do not exhibit any significant changes from previously reported site conditions.

Potential burrowing owl habitat is present throughout the Hellman Ranch property and is associated primarily with berms located within the lowland area, although slight potential habitat for burrowing owl is present in areas of high ground squirrel activity within the 18.4-acre upland area. No burrowing owls were observed on any portion of the Hellman Ranch property during the current biological surveys. In addition, no evidence of burrowing owl occupation (e.g., white-wash, small mammal bones, owl pellets, etc.) was noted in potential habitat areas present within the proposed development area.

#### Wetland Resources

Approximately 27.0 acres of jurisdictional wetlands have been identified on the Hellman Ranch property, of which 3.1 acres consist of tidal drainage ditch, 14.9 acres consist of salt marsh vegetation, 2.0 acres consist of seasonally ponded water, and 7.0 acres consist of alkaline flat<sup>2</sup>. The 3.1 acres of tidal drainage ditch receive water primarily from the San Gabriel River and are tidally influenced. The remaining 15.3 acres of jurisdictional wetlands on site receive water mainly in the form of precipitation and are not significantly influenced by run-off from uplands located on the eastern portion of the site nor from run-off produced by Gum Grove Nature Park and the residential area located to the southeast of the site.

At the present time, approximately 210.8 cubic feet per second (cfs) (Q=100) of run-off is generated from Gum Grove Nature Park, the residential area located to the south of the Hellman

---

<sup>1</sup> One western burrowing owl (*Speotyto cunicularia*) and three Belding's savannah sparrows (*Passerculus sandwichensis beldingi*) were identified during surveys in April and December of 1996. In addition, southern tarplant (*Hemizonia parryi* ssp. *australis*) and Coulter's goldfields (*Lasithenia glabrata* ssp. *coulteri*) have been identified on the Hellman Ranch property. None of the sensitive plant or animal species observed on the Hellman Ranch property in 1996 were identified within the proposed development area during current surveys and suitable habitat for none of these species is present within the 18.4-acre development area with the exception of the burrowing owl.

<sup>2</sup> Source: Wetlands Surveys on the Hellman Ranch Property, 1996. Prepared by Coastal Resources Management and Chambers Group, Inc.



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John Laing Homes  
January 6, 2000  
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Ranch property, and the undeveloped upland area proposed for development<sup>3</sup>. Approximately half off this total (103.1 cfs) and is discharged into the Los Alamitos Retarding Basin. A majority of the run-off from the park and residential area flows northwest into the southern portion of the Hellman lowlands property and is prevented from flowing northward by a berm which runs along the tidal drainage ditch. Run-off from the undeveloped upland area which does not drain to the Los Alamitos Retarding Basin flows westward to the northern portion of the Hellman Ranch property and is prevented from flowing further southward by the berm which runs along the tidal drainage ditch. Run-off from the undeveloped upland area is not considered to be a significant source of water for the wetlands located on site nor is loss of such runoff expected to significantly impact the San Gabriel River Basin, which extends from the base of the San Gabriel Mountains to the mouth of the San Gabriel River and covers approximately 1,608 square miles.

#### DISCUSSION

Of the sensitive species observed on the Hellman Ranch property, only white-tailed kite and northern harrier were observed in the vicinity of the 18.4-acre area proposed for development. Although both species are state-designated species of special concern, there is currently no protection for such species. The white-tailed kite is a California fully protected species, which means that activities which would cause harm to the species are prohibited. In instances where loss of foraging habitat would be considered significant under the California Environmental Quality Act (CEQA), removal of such habitat would be prohibited. However, due to the relatively minor loss of foraging habitat for the species on site and due to the presence of large areas of remaining foraging habitat on site and on adjacent sites (e.g., Seal Beach Naval Weapons Station, Boeing, etc.), loss of 18.4 acres of foraging habitat would be considered insignificant under CEQA.

Although the proposed development area does provide foraging habitat for a variety of raptors, it is not anticipated that the loss of 18.4 acres of the total 196 acres present on the Hellman Ranch project site would represent a significant impact to foraging habitat on site under CEQA. In addition, as stated above, more than 5000 acres of suitable foraging habitat are present on adjacent sites (Seal Beach Naval Weapons Station, Boeing, etc.).

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<sup>3</sup> All run-off totals are based on MDS Consulting engineering calculations (January 2000) estimated totals for a hundred-year-flood event and do not represent the amount of run-off produced in an average year.

Tim McSunas  
John Laing Homes  
January 6, 2000  
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Minimal burrowing owl habitat is present on site. At the present time, protocol surveys for this species are being conducted by GLA within the 18.4-acre development area and no occurrences of burrowing owl have been recorded

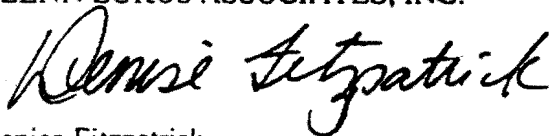
Under the proposed amendment to the Hellman Ranch project, direct impacts to all wetlands present on the Hellman Ranch site will be avoided. In addition, run-off from Gum Grove Nature Park and the residential area located to the south of the property will not be diverted to the Los Alamitos Retarding Basin (within the San Gabriel River Basin) but will instead continue to flow into the tidally-influenced channel on site and ultimately out to the San Gabriel River.

It is anticipated that an additional 14.9 cfs of run-off will result from the proposed development and will be directed into the Los Alamitos Retarding Basin, resulting in a total discharge of 117.97 cfs into the Los Alamitos Retarding Basin. The loss of any remaining run-off from the upland area would not be considered to have a significant impact on the hydrologic function of the wetlands present to the west of the proposed development. However, if adequate measures were taken to ensure compliance with current water quality standards, it may be beneficial to re-direct the proposed residential run-off into the Hellman lowlands, thereby providing increased flows to wetland areas and resulting in increased hydrologic function of jurisdictional wetlands.

If you have any questions or comments regarding this letter report, please contact Tony Bomkamp or Denise Fitzpatrick at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES, INC.



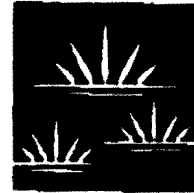
Denise Fitzpatrick  
Biologist

cc: Dave Bartlett - D. Bartlett Associates

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# GLENN LUKOS ASSOCIATES

Regulatory Services



February 23, 2000 [Revised July 14, 2000]

Tim McSunas  
John Laing Homes  
19600 Fairchild, Suite 150  
Irvine, California 92612

RECEIVED  
AUG 1 2000

CALIFORNIA  
COASTAL COMMISSION

SUBJECT: Results of Focused Surveys Conducted for Western Burrowing Owl on 18.4-acre  
Portion of the Hellman Ranch Property, Orange County, California

COASTAL COMMISSION

5-97-367-A1

Dear Mr. McSunas:

EXHIBIT # 7

Biologists from Glenn Lukos Associates, Inc. (GLA) visited the above-mentioned  
December 28, 1999, January 11 and 13, and July 11 2000 to conduct focused surveys for western  
burrowing owl (*Speotyto cunicularia*).

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## SITE DESCRIPTION

Hellman Ranch encompasses approximately 196 acres in the City of Seal Beach, California. The entire property is roughly bounded by Pacific Coast Highway on the west, the Haynes Cooling Channel on the northwest, Adolpho Lopez Drive and Boeing Space and Defense on the north, Seal Beach Boulevard and the United States Naval Weapons Station on the east, and residential development to the south. The site is composed of primarily of lowland areas which are highly degraded and support minimal wetland vegetation (e.g., *Salicornia virginica*, *Baccharis salicifolia*, *Distichlis spicata*, *Atriplex semibaccata*, *Frankenia salina*, *Rumex crispus*) as well as a predominance of ruderal and non-native species (e.g., *Brassica nigra*, *Salsola tragus*, *Conyza bonariensis*, *Pennisetum clandestinum*, *Bromus* sp.).

The 18.4-acre survey area is located on uplands along the eastern border of the Hellman Ranch property adjacent to existing development. The upland area consists primarily of relatively flat land which slopes gently downward along the western edge. High levels of gopher activity are evidenced throughout the site. Vegetation on site is dominated by non-native grassland and ruderal species including black mustard (*Brassica nigra*), prickly lettuce (*Lactuca serriola*), flax-leaved horseweed (*Conyza bonariensis*), cheeseweed (*Malva parviflora*), bristly ox-tongue (*Picris echioides*), lamb's quarters (*Chenopodium album*), tocalote (*Centaurea melitensis*), summer mustard (*Hirschfeldia incana*), field mustard (*Brassica rapa*), castor bean (*Ricinus communis*), Russian thistle (*Salsola tragus*), wild radish (*Raphinus sativus*), oat (*Avena* sp.).

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ripgut brome (*Bromus diandrus*), red brome (*Bromus madritensis* ssp. *rubens*), Italian ryegrass (*Lolium multiflorum*), horehound (*Marrubium vulgare*), curly dock (*Rumex crispus*), spiny clotbur (*Xanthium spinosum*), morning glory (*Calystegia macrostegia*), small-flowered iceplant (*Mesembryanthemum nodiflorum*), alkali heliotrope (*Heliotropium curassavicum*), milk thistle (*Silybum marianum*), Bermuda grass (*Cynodon dactylon*), dallis grass (*Paspalum dilatatum*), and kikuyu grass (*Pennisetum clandestinum*). Scattered Mexican fan palms (*Washingtonia robusta*) occur throughout the site and one Brazilian pepper tree (*Schinus terebinthefolius*) is present on the western edge of the proposed development area.

Birds observed on or near the Hellman Ranch property include house finch (*Carpodacus mexicanus*), mourning dove (*Zenaida macroura*), European starling (*Sturnus vulgaris*), red-winged blackbird (*Agelaius phoeniceus*), American crow (*Corvus brachyrhynchos*), great blue heron (*Ardea herodias*), rock dove (*Columba livia*), northern mockingbird (*Mimus polyglottos*), Anna's hummingbird (*Calypte anna*), black phoebe (*Sayornis nigricans*), yellow-rumped warbler (*Dendroica coronata*), lesser goldfinch (*Carduelis psaltria*), savannah sparrow (*Passerculus sandwichensis*), Say's phoebe (*Sayornis saya*), white-crowned sparrow (*Zonotrichia leucophrys*), song sparrow (*Melospiza melodia*), pied-billed grebe (*Podilymbus podiceps*), common raven (*Corvus corax*), great egret (*Casmerodius albus*), snowy egret (*Egretta thula*), western meadowlark (*Sturnella neglecta*), loggerhead shrike (*Lanius ludovicianus*), cliff swallow (*Hirundo pyrrhonota*), and killdeer (*Charadrius vociferus*).

Raptors observed on or near the site include red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), white-tailed kite (*Elanus leucurus*), northern harrier (*Circus cyaneus*), American kestrel (*Falco sparverius*), osprey (*Pandion haliaetus*), and turkey vulture (*Cathartes aura*). Species observed in flight over the property include Canada goose (*Branta canadensis*), double-crested cormorant (*Phalacrocorax auritus*), western gull (*Larus occidentalis*), and Caspian tern (*Sterna caspia*).

Mammals present on site based on direct observation or physical evidence include Botta's pocket gopher (*Thomomys bottae*), California ground squirrel (*Spermophilus beechyi*), and coyote (*Canis latrans*).

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## METHODOLOGY

GLA biologists visited the site on December 28, 1999, January 11 and 13, and July 11 2000<sup>1</sup> to conduct focused surveys for western burrowing owl. Surveyors walked the entire 18.4-acre site in parallel transects approximately 25-100 feet apart. The entire site was walked in this manner, with special attention given to rodent burrows to determine whether such burrows exhibited current or past occupation by burrowing owl. Evidence of burrowing owl occupation would include the presence of white wash around the burrow entrance, discarded pellets, feathers, grasses within the burrow entrance, or the presence of small mammal, reptile, or bird bones.

## RESULTS

The western burrowing owl as not observed on site nor was evidence of past burrowing owl occupation noted on the 18.4-acre site. Please refer to table 1 for survey conditions and general comments during the four focused surveys.

**Table 1. Burrowing Owl Survey and Weather Information.**

Date	Observer(s)	Time (Hrs)	Temperature (°F)	Wind Speed (Mph)	Comments
12/28/99	DF & TB	0730-1000	55	No wind	Light marine layer burning off to clear
01/11/00	DF & DM	0830-1000	60	2-3	Light marine layer
01/13/00	DF	0745-1015	52	1-2	Marine layer
07/11/00	JA	0650-0830	66-70	0-1	Marine layer

\*DF refers to Denise Fitzpatrick, DM refers to Dave Moskovitz, JA refers to Jeff Ahrens, and TB refers to Tony Bomkamp.

## RECOMMENDATIONS

The 18.4-acre surveys area is not currently occupied by western burrowing owl. Therefore, no further action regarding this species is required.

<sup>1</sup> A forth focused burrowing owl survey of the 18.4-acre site and surrounding 150 meter buffer was conducted during the nesting season (April 15 to July 15) by GLA biologist Jeff Ahrens on July 11, 2000 as requested in CDFG letter dated June 19, 2000, from CDFG Habitat Conservation Supervisor William E. Tippetz addressed to Dave Bartlett, and is in addition to the three previous focused surveys conducted during the winter season (December 1 to January 31).

Tim McSunas  
John Laing Homes  
February 23, 2000 [Revised July 14, 2000]  
Page 4

If you have any questions regarding this letter report, please contact Denise Fitzpatrick or Tony Bomkamp at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES, INC.



Jeff Ahrens for Denise Fitzpatrick  
Biologist

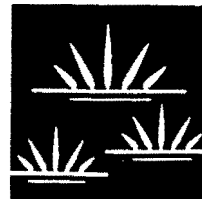
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cc: Dave Bartlett - D. Bartlett Associates

COASTAL COMMISSION  
5-97-367-A1  
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# GLENN LUKOS ASSOCIATES

Regulatory Services



May 31, 2000

Tim McSunas  
John Laing Homes  
19600 Fairchild, Suite 150  
Irvine, California 92612

SUBJECT: Results of Biological Resources Review Conducted for 18.4-Acre Portion of the Hellman Ranch Property, Seal Beach, Orange County, California

Dear Mr. McSunas:

Biologists from Glenn Lukos Associates, Inc. (GLA) visited the above-mentioned property on May 18 and 30, 2000 to determine whether any previously unidentified sensitive biological resources occur on the property. Reports prepared during early 2000 for the 18.4-acre portion of Hellman Ranch proposed for development include a biological resources review dated January 6, 2000 and a western burrowing owl (*Speotyto cunicularia*) survey report dated February 23, 2000.

At the present time, the majority of the site has been disced. Remaining undisced areas are vegetated with non-native ruderal species including black mustard (*Brassica nigra*), wild radish (*Raphinus sativus*), milk thistle (*Silybum marianum*), ripgut brome (*Bromus diandrus*), and annual sow-thistle (*Sonchus oleraceus*). Additional birds identified on site include Allen's hummingbird (*Selasphorus sasin*) and cliff swallow (*Hirundo pyrrhonota*) and one additional mammal, Audubon's cottontail (*Sylvilagus audubonii*), has been identified on site. A more complete listing of flora and fauna identified on site can be found in the two above-mentioned reports.

No sensitive biological resources occur on the site and with the exception of changes noted above, site conditions remain largely unchanged.

COASTAL COMMISSION

5-97-367-A1

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Tim McSunas  
John Laing Homes  
May 31, 2000  
Page 2

If you have any questions regarding this letter report or either of the enclosed reports, please contact Denise Fitzpatrick or Tony Bomkamp at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES, INC.



Denise Fitzpatrick  
Biologist

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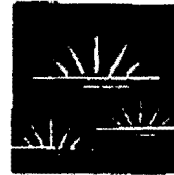
Enclosure

COASTAL COMMISSION  
5-97-367-A1  
EXHIBIT # 7  
PAGE 12 OF 18



**GLENN LUKOS ASSOCIATES**

Regulatory Services



June 28, 2000

Jerry Tone  
 Hellman Properties  
 980 5th Avenue, Suite 202  
 San Rafael, California 94901

Tim McSunas  
 John Laing Homes  
 19600 Fairchild, Suite 150  
 Irvine, California 92612

**SUBJECT:** Biological Benefits of Proposed Wetland Treatment System, CDP 5-97-367-A1,  
 Hellman Ranch Property, Orange County, California

Dear Messers. Tone and McSunas:

Pursuant to your request, Glenn Lukos Associates (GLA) has reviewed the Conceptual Water Quality Control Plan developed by Fuscoe Engineering for the 18.4-acre Hellman Ranch residential development and 0.8 mile of offsite Seal Beach Boulevard for a total drainage area of 30.6 acres, to determine the following:

- Biological benefits of the proposed treatment wetlands system;
- Biological compatibility with future wetland restoration within Hellman Ranch lowlands.

The proposed treatment wetlands system would include a number of components: 1) water quality catch basins at the urban interface; 2) a bioswale; and 3) filtration basin treatment wetland. Water would be collected at the urban interface in the gutters and discharged through a fossil filter before being fed by gravity to the bioswale which consists of vegetated sand and gravel. After moving through the bioswale, the water would discharge into the filtration basin treatment wetland.

#### **BIOLOGICAL BENEFITS OF THE TREATMENT WETLANDS SYSTEM**

##### Existing Conditions

The area currently occupied by the proposed treatment wetland system consists of ruderal upland habitat that supports non-native grassland and ruderal species including black mustard (*Brassica nigra*), prickly lettuce (*Lactuca serriola*), flax-leaved horseweed (*Conyza bonariensis*).

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Tim McSunas  
June 28, 2000  
Page 2

cheeseweed (*Malva parviflora*), bristly ox-tongue (*Picris echioides*), lamb's quarters (*Chenopodium album*), tocalote (*Centaurea melitensis*), summer mustard (*Hirschfeldia incana*), field mustard (*Brassica rapa*), castor bean (*Ricinus communis*), Russian thistle (*Salsola tragus*), wild radish (*Raphanus sativus*), oat (*Avena* sp.), ripgut brome (*Bromus diandrus*), red brome (*Bromus madritensis* ssp. *rubens*), Italian ryegrass (*Lolium multiflorum*), and horehound (*Marrubium vulgare*).

### Proposed Treatment Wetlands System

Construction of the treatment wetlands system would result in conversion of areas of upland ruderal habitat to native wetland habitat vegetated with emergent marsh species and riparian species. Although a final plant palette has not been selected for the wetlands, it is expected that native hydrophytes such as southern cattail (*Typha domingensis*), California bulrush (*Scirpus californicus*), Olney's bulrush (*Scirpus americanus*), Mexican rush (*Juncus mexicanus*), iris-leaved rush (*Juncus xiphioides*) would be incorporated into the wetlands. Native riparian species would include mulefat (*Baccharis salicifolia*), arroyo willow (*Salix lasiolapis*), narrow-leaf willow (*Salix exigua*), and black willow (*Salix gooddingii*). This would provide a significant amount of habitat for a variety of wetland associated avian species such as marsh wren (*Cistothorus palustris*), common yellowthroat (*Geothlypis trichas*), song sparrow (*Melospiza melodia*), mallards (*Anas platyrhynchos*), red-winged blackbird (*Agelaius phoeniceus*), black phoebe (*Sayornis nigricans*), and a variety of egrets and herons.

### Structural BMPs that Benefit Wildlife

An important design feature of the created treatment wetlands system with regard to wildlife use is the incorporation of the catchment basins and fossil filters at the urban interface. These structures and associated management practices will provide for removal of a variety of substances such as oil, grease, trash, and debris before they reach the bioswale or filtration basin, which could potentially be harmful to some of the avian species.

### **COMPATIBILITY WITH FUTURE WETLAND RESTORATION**

The created wetlands would be fully compatible with future wetland restoration projects in a number of ways:

#### Compatibility With Future Hydrology

The location of the treatment wetlands is to be on a portion of the site that would not be suitable for saltmarsh restoration due to the elevation and muted tidal flow to the Hellman Ranch site.

COASTAL COMMISSION

5-97-367-A1

EXHIBIT # 7

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Jerry Tone  
Tim McSunas  
June 28, 2000  
Page 3

Future restoration or creation of wetlands on this hydrologically remote portion of the site would be difficult due to the lack of existing hydrology. Under any future wetland restoration scenario, the area in question would not be restored as salt marsh but instead would be created as seasonal wetlands, dependent upon rainfall and local runoff and vegetated with riparian, wet meadow and possibly limited areas of emergent marsh vegetation. As such, the habitat proposed for the treatment wetlands system would be similar to and complement future restoration/creation projects.

Compatibility with Future Wetland Habitat

The presence of established emergent and riparian wetlands (i.e. the treatment wetlands system) adjacent to wetlands to be restored or created in the future would benefit the created wetlands in their early stages by providing a source of native plant propagules as well as invertebrates and vertebrates which would colonize the future wetlands. The treatment wetlands system would also serve as a refugia for a variety of species during temporary disturbance (grading, planting, etc.) associated with future wetland restoration of the degraded wetlands on the Hellman site.

Water Quality Benefits Provided by Treatment Wetlands System for Future Wetlands

The treatment wetlands system would also ensure that there would be no adverse impacts to water quality to future created or restored wetlands from the 18.4-acre residential development and 12.2-acre offsite Seal Beach Boulevard drainage.

If you have any questions regarding this analysis, please contact me at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES

*Tony Bomkamp*

Tony Bomkamp  
Senior Biologist/Regulatory Specialist

cc: Dave Bartlett  
Wayne Brechtel, Wardon, Williams, Brechtel & Gibbs

s:0140-6a.ltr

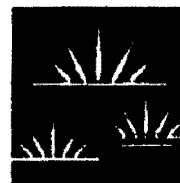
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# GLENN LUKOS ASSOCIATES

Regulatory Services



September 11, 2000

Tim McSunas  
John Laing Homes  
19600 Fairchild, Suite 150  
Irvine, California 92612

Jerry Tone  
Hellman Properties  
980 5th Avenue  
Suite 202  
San Rafael, California 94901

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Subject: Response to June 19, 2000 Letter from California Department of Fish and Game  
Regarding Biological Resources at Hellman Ranch

Dear Messers. McSunas and Tone:

The California Department of Fish and Game (CDFG) reviewed the results of additional biological surveys conducted by Glenn Lukos Associates (GLA) in early 2000 which were intended to provide up-to-date information regarding biological resources on the site. The surveys conducted in early 2000 focused on the 18.4-acre area proposed for development on the upland portion of the site immediately adjacent to Seal Beach Boulevard. Upon reviewing the survey reports, CDFG stated its concurrence with the project based upon specific conditions. Subsequently, Coastal Commission staff requested additional clarification regarding the conditions proposed by CDFG. Condition 2 of the CDFG June 19 letter is provided below with the "Response" addressing the Coastal Commission staff.

*2. The loss of documented raptor foraging area should be compensated by committing some of the remaining upland forage area within Hellman Ranch as mitigation. Raptor foraging areas are a declining resource and impacts to this habitat may be considered significant. White-tailed kite and northern harrier (both California Species of Special Concern) were observed near the project site and the presence of nesting habitat in Gum Grove Nature Park as well as within Hellman Ranch further increases the local significance of this habitat. The loss of this area could be adequately offset through the onsite dedication of raptor foraging habitat at a 0.5:1 mitigation-to-impact ratio in an area with long-term conservation potential. Upland habitat within Hellman Ranch that will remain after project implementation may be suitable for mitigation purposes and the Department is available to evaluate the location of the mitigation site to ensure an area of equal or greater biological resource value is conserved.*

23712 Birtcher Drive  
Telephone: (949) 837-0404

▪ Lake Forest

▪ California 92630-1782  
Facsimile: (949) 837-5834

**Response**

The lowland portion of the Hellman site covers approximately 100 acres, of which approximately 23.2 acres consist of wetlands subject to the U.S. Army Corps of Engineers jurisdiction and 27.1 acres consist of wetland subject to CDFG and Coastal Commission jurisdiction. The remaining areas are upland (over 70 acres) and consist of non-native grassland and/or ruderal habitat dominated by non-native grasses and forbs identical to the 18.4-acre area to be impacted by the development.

CDFG noted in their letter that the loss of 18.4 acres of ruderal habitat could be adequately mitigated through onsite dedication of upland habitat within the undeveloped portions of Hellman ranch at a ratio of 0.5:1 (9.2 acres). Substantial areas for such dedication occur on the site and will be determined in consultation with CDFG. Once the area for dedication is determined, the area will be dedicated by means of a conservation easement or similar mechanism.

**Potential Impacts to Isolated Wetland**

GLA has also been asked to review potential impacts to an isolated wetland that is located in the vicinity of the proposed bioswale. In order to conduct the evaluation, GLA conducted a site visit to examine condition of the isolated wetland as well as reviewing the existing plan for the bioswale prepared by Fuscoe Engineering.

The small, isolated wetlands is located well beyond the proposed development area and exhibits substantial degradation due to a lack of hydrology. At the time of the site visit, the wetland exhibited a predominance of non-native species including five-hook bassia (*Bassia hyssopifolia*, FAC), small-flowered ice plant (*Mesembryanthemum nodiflorum*, UPL), foxtail barley (*Hordium murinum leporinum*, UPL), sicklegrass (*Parapholis incurvas*, OBL), alkali weed (*Cressa truxillensis*, FACW), and rabbitsfoot grass (*Polypogon monspeliensis*, FACW+).<sup>1</sup> Hydrological input for this wetland is from direct rainfall only. Sheet flow from adjacent upland areas is prevented from reaching the wetland by topography high points to the north and east of the wetland. It is expected that in the absence of active restoration, this wetland will continue to degrade and ultimately convert to uplands similar to the ruderal areas that fully surround it and are dominated by non-native upland species including black mustard (*Brassica nigra*), ripgut (*Bromus diandrus*), and wild radish (*Raphanus sativus*).

<sup>1</sup> Of the wetland species identified, only alkali weed is native to southern California wetlands. All of the other species are non-native invasive species and indicate substantial degradation of the seasonal wetland.


Tim McSunas  
John Laing Homes  
September 11, 2000  
Page 3

The plan proposed by Fuscoe Engineering for the bioswale would fully avoid the degraded wetland and would be constructed so as to not alter existing hydrology associated with the degraded wetland. Because there is no hydrological connection between the area proposed for the bioswale and the degraded isolated wetland, there would be no adverse impacts to the wetland associated with creation of the bioswale.

If I can be of further assistance please do not hesitate to contact me at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES



Tony Bomkamp  
Senior Biologist

cc: Dave Bartlett

s:0140-6b.ltr

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**PUBLIC INTEREST LAWYERS GROUP**

INDEPENDENT PRACTITIONERS

2070 ALLSTON WAY, SUITE 300  
Berkeley, California 94704  
TELEPHONE (510) 647-1900  
FAX (510) 647-1905

**RECEIVED** *at Hear*  
South Coast Region

OCT 11 2000

CALIFORNIA  
COASTAL COMMISSION

August 4, 2000

Jamie Jordan Patterson, Esq.  
Office of Attorney General  
P.O. Box 85266  
San Diego, CA 92186-5266

(619) 645-2012

D. Wayne Brechtel, Esq.  
Worden, Williams, Richmond, Brechtel & Gibbs  
462 Stevens Avenue, Suite 102  
Solana Beach, CA 92075

(619) 755-5198

Re: *Wetlands Action Network v. California Coastal Commission*, Case No. BC 801830

Dear Counsel:

Thank you for your patience in waiting for a response to the issue of the bioswale and associated water runoff components. After so many weeks without receiving any word on the status of the project and its presentation to the commission, I am sorry that events occurred such that the issue arose while I was out of town on a family reunion.

My understanding at this point is that the developer and the Coastal Commission want to know whether petitioners view the bioswale creation as a violation of the settlement agreement. Also, it is my understanding that California Earth Corps has not provided an answer to that question, and has asked for additional information on the transverse and lateral cross sections showing the water flow and an opportunity for their biologist to examine the plant palette.

At this point, Wetlands Action Network is of the same position. First, it appears that the bioswale uses deed restricted land which was to be provided to the public and therefore violates the settlement. Nonetheless, it may be that the creation of the bioswale, taken in isolation, is viewed as a beneficial feature and Wetlands would agree to not raise its creation as a grounds for a claim of breach of the settlement, however, before that determination can be made, the additional cross section information must be provided and plant palette information considered.

I hope this is helpful and look forward to discussing this with you further.

Counsel  
August 4, 2000  
Page 2

Finally, as to the status conference on August 18, 2000, I too would like to avoid the need to travel to San Diego, and will consider any ideas you might have in that regard.

Sincerely,

A handwritten signature in black ink, appearing to read "D. H. Williams". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

David H. Williams

cc: Charles Post, Esq. (310) 459-7806  
Laurens Silver, Esq. (415) 383-7532



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# Exhibit 8

Correspondence from the Public Received as of September 26, 2000

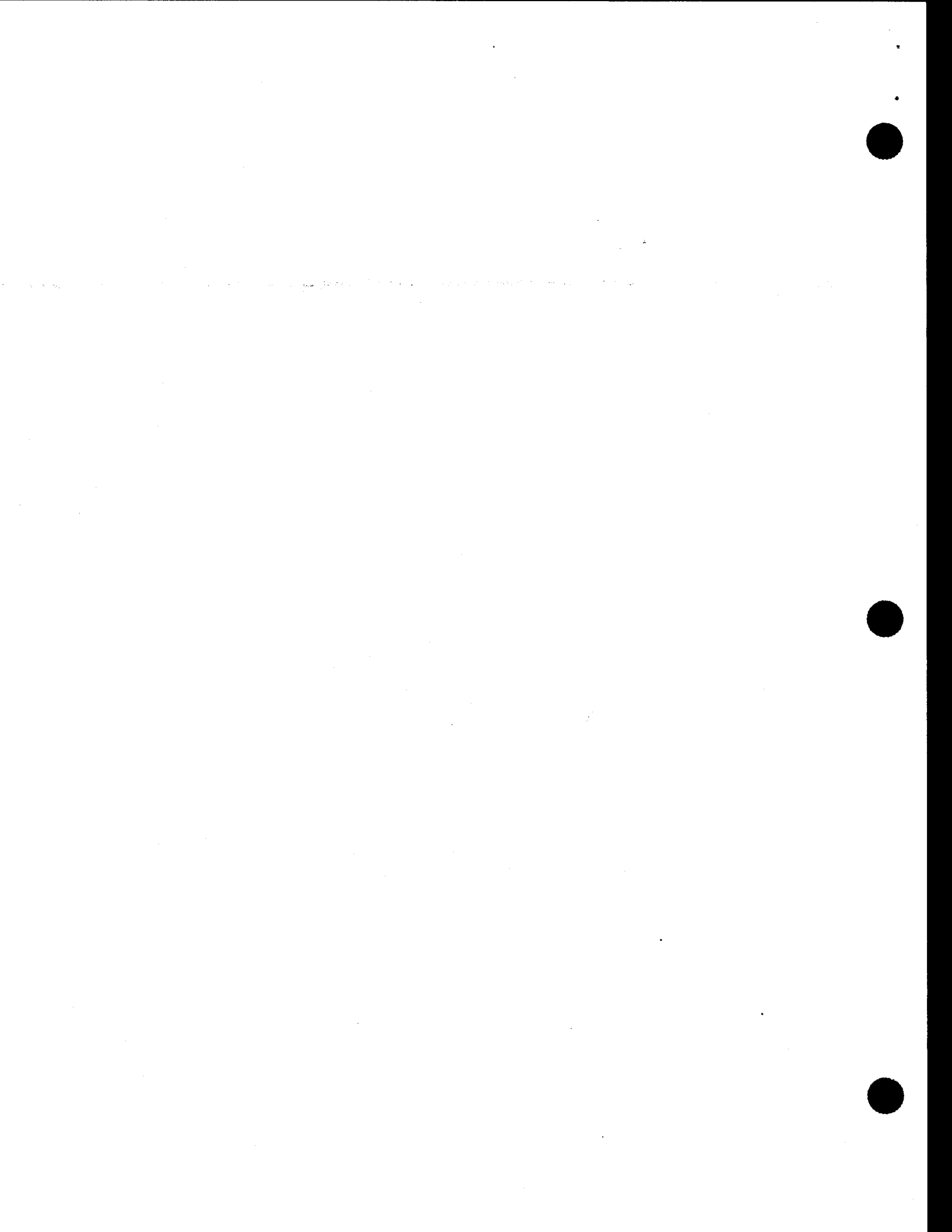
These letters were previously published in the Staff Report dated September 21, 2000. Copies of these letters are available upon request.

## Summary of Letters

Sixty-three (63) letters were submitted expressing opposition to the project. Opposition letters cited impacts upon archeological resources and wetlands and the need to preserve open space.

Fourteen (14) letters were submitted expressing concern regarding specific elements of the project and offered suggested changes to the project. Issues raised concerned impacts upon archeological resources and the need to maximize potential wetland restoration in the lowlands portion of the property.

No letters in support of the project were submitted.



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# Exhibit 9

APPLICANTS RESPONSE TO SELECTED ISSUES RAISED IN THE  
LETTERS RECEIVED AS OF SEPTEMBER 26, 2000  
REGARDING THE PROPOSED PROJECT

COASTAL DEVELOPMENT PERMIT APPLICATION NO. 5-97-367  
HELLMAN RANCH

SUMMARY OF ARCHAEOLOGY ISSUES

*A number of letters have been received by the Coastal Commission regarding the proposed development's impact on archaeological resources in connection with the current application. Many of these letters contain incorrect statements and allegations regarding the Research Design and the City's work on the Hellman Ranch archaeological resources which must be corrected for the record. These inaccuracies do not properly characterize the proposed excavations, the numerous studies that have been conducted on the site, and the known information about the Hellman Ranch archaeological resources. Most of these letters continue to raise the same issues previously considered and addressed by the City, the Superior Court, the California Court of Appeals, and the Coastal Commission itself in prior considerations and actions on Hellman Ranch. In order to establish a clear and accurate record for the Coastal Commission, the following highlights various topics raised in the letters and provides the Commission with an accurate factual statement of the proposed archaeological test program and response to the issues raised.*

*This summary is followed by a more detailed discussion of the Hellman Ranch archaeological studies, the measures adopted to address archaeological impacts by the City and Coastal Commission, the unsuccessful litigation challenging the adequacy of those measures, and the proposed archaeological investigations described in the Research Design. Detailed responses to individual allegations and misstatements made in the letters also follow this summary.*

Application No. 5-97-367: Archaeology Project Component

- The current application requests approval of an archaeological test program for 11 sites on Hellman Ranch to be conducted by the City of Seal Beach's archaeological consultant pursuant to a peer-reviewed, and City-approved Research Design.
- The proposed archaeological test program will be the 17th archaeology study conducted on the Hellman Ranch. Since the 1950's, 16 separate studies have been conducted including 5 site surveys, 3 surface collections, and 4 test excavation programs.
- The current application reduces impacts to archaeological resources. It avoids 2 additional sites that were previously affected by golf course development.
- The proposed Gum Grove Nature Park expansion and the residential development will not create any new, different, or increased impacts to archaeological resources.

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### City Treatment of Archaeological Issues Upheld Through Legal Challenges

- Implementation of the studies described in the Research Design implement one of the EIR mitigation measures adopted by the City. In 1997, the City approved the Hellman Ranch project and certified an EIR. The EIR identified 9 measures to mitigate archaeological impacts, including conducting additional test excavations pursuant to a peer-reviewed Research Design.
- CEQA and the CEQA Guidelines contain specific provisions addressing the treatment and analysis of cultural resources. The adequacy of the City's compliance with CEQA in connection with the analysis of archaeological impacts and the adequacy of the archaeology mitigation measures were challenged by several individuals. Both the Orange County Superior Court and the California Court of Appeals summarily rejected all of the arguments raised in the lawsuit. A copy of the appellate decision, *Hotchkiss et al. v. City of Seal Beach*, Super. Ct. No. 785769, dated October 13, 1999, is attached.

### Project's Consistency With Coastal Act Section 30244

- In 1998, the Coastal Commission found the Hellman Ranch archaeological excavation program consistent with Coastal Act Section 30244. The Coastal Commission required implementation of 7 mitigation measures, in addition to the 9 EIR mitigation measures adopted by the City to address archaeological resources. The current application proposes the same archaeological excavation program.
- The Coastal Commission found the following measures, including those adopted by the City, to be "reasonable mitigation measures" to address potential impacts to archaeological resources: consultation with the State Office of Historic Preservation, the Native American Heritage Commission, and designated Native Americans; compliance with State and federal qualification standards for archaeologists and Native American monitors; site preparation, grading and construction monitoring; incorporation of archaeology requirements into construction documents; compliance with the City of Seal Beach's Archaeological and Historical Element of its General Plan; compliance with State laws if human remains are discovered; and integration of ethnographic/ethnohistoric research into archaeological investigations.

### Letters from the Public Raise No New Issues Not Previously Considered

- Many of the letters submitted to the Coastal Commission on this application are from individuals who litigated the adequacy of the City's EIR analysis of archaeological resources and lost at both the trial court and Court of Appeals. The letters do not raise new issues not previously considered or addressed by the Research Design and proposed archaeological investigations.

- These letters continue to raise the same issues previously considered and addressed by the City's Archaeological Advisory Committee, the City, the Superior Court, the California Court of Appeals, and the Coastal Commission.

**Adequacy of the Research Design and Investigation Methods**

- The proposed archaeological test program will be conducted in accordance with a Research Design prepared by the City's archaeological consultant. The Research Design has been peer-reviewed by three County-certified archaeologists. The Research Design has been submitted to the State Office of Historic Preservation and to designated Native Americans and other interested Native American individuals and organizations for their review and comment.
- The Research Design was approved by the City and its Archaeological Advisory Committee. Four public hearings were held by the City's Archaeological Advisory Committee on the Research Design and comments from the public were incorporated as appropriate by the City.
- The City's archaeology consultant will use a variety of techniques to test the 11 sites, including remote sensing procedures (ground penetrating radar) to detect presence of subsurface archaeological features; shovel test pits to ascertain site boundaries and relationships between surface scatter and subsurface, intact deposits; and 1-meter square test excavation units and column samples to obtain artifact samples of each site. These excavations will be followed by detailed testing such as radiocarbon, obsidian and faunal analysis.
- Consultation with 30 Native American individuals and organizations has been initiated as part of the Research Design's study of ethnographic and ethnohistoric research questions.

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COASTAL DEVELOPMENT PERMIT APPLICATION NO. 5-97-367  
HELLMAN RANCH, SEAL BEACH, CALIFORNIA

ARCHAEOLOGY ISSUES BRIEFING PAPER

1. Introduction.

In 1998, the California Coastal Commission ("Commission") approved Coastal Development Permit No. 5-97-367 ("CDP") for development of the Hellman Ranch property in the City of Seal Beach. The approved project included an archaeological test investigation for 11 archaeological sites on the Hellman Ranch property. Subsequent to the Commission's action, a lawsuit was filed challenging the Commission's approval of the CDP. The CDP application before the Commission reflects the terms of a Settlement Agreement entered into by all parties to the lawsuit and includes the same archaeological test program previously approved by the Commission.

In its prior approval, the Commission adopted Special Condition 6 which included 7 separate provisions addressing the archaeological investigations. These measures supplemented and strengthened the 9 archaeological measures adopted by the City of Seal Beach to address potential archaeological impacts, thereby assuring consistency with Coastal Act Section 30244. The CDP application currently before the Commission does not change or otherwise increase the impacts of the development on cultural resources, and in fact, avoids impacts altogether for two archaeological sites that would have been impacted by golf course development.

2. History of Cultural Resource Investigations at Hellman Ranch.

The Hellman Ranch has been the subject of archaeological investigations since the late 1950's. In fact, 16 separate archaeological studies have been conducted by professional archaeologists since that time, including a baseline study, 5 site surveys, 3 surface collections, 4 test excavation programs, and an aerial photographic review. The proposed archaeological excavations that would be permitted by this CDP would be the 17th archaeological study of the Hellman Ranch property.

3. City Consideration of Archaeological Issues.

In 1997, the City of Seal Beach approved the Hellman Ranch project and certified an environmental impact report ("EIR") that assessed the impacts of the proposed Hellman Ranch development. The EIR included an extensive analysis of the impacts of the project on cultural resources, including archaeological resources. As noted above, the City adopted 9 measures to mitigate impacts to archaeological resources.

The City is unique in this State in that its General Plan also includes an Archaeological and Historical Element that specifies the procedures that must be followed for the management of all

cultural resources within the City. The City found that the Hellman Ranch project was consistent with the City's General Plan, including the Archaeological and Historical Element.

Concurrent with its consideration of the Hellman Ranch project, the City initiated steps to implement the EIR mitigation measures and comply with the procedures of its General Plan Element. The City retained KEA Environmental to prepare a research design, which is the first step in conducting archaeological investigations. KEA prepared "A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area," dated November 1997 ("Research Design"), which was peer-reviewed, and circulated for public comment for 30 days. Four public hearings were held by the City's Archaeological Advisory Committee to discuss the report. The Research Design was revised in response to public comments, and approved by the City. Among the comments received and addressed by the City were those from Moira Hahn and Eugene Ruyle, the same individuals who have sent letters to the Coastal Commission repeating their comments on the Research Design and who unsuccessfully challenged the adequacy of the EIR's analysis of archaeological impacts.

4. **Legal Challenge to City's Archaeological Impact Analysis.**

The adequacy of the City's EIR was challenged after certification of the document and approval of the Hellman Ranch project by, among others, Moira Hahn, Mark Hotchkiss and Eugene Ruyle. Specifically, these plaintiffs alleged that the City failed to adequately analyze impacts to archaeological resources. Many of their allegations are repeated in the comments submitted to the Commission. Both the Orange County Superior Court and, on appeal, the California Court of Appeals held that the City's analysis of archaeological impacts satisfied the strict mandates of CEQA and summarily rejected the arguments raised in the lawsuit. A copy of the Court of Appeals opinion, *Hotchkiss et al. v. City of Seal Beach*, Super. Ct. No. 785769, dated October 13, 1999, is attached.

5. **Coastal Commission Findings Regarding Archaeological Resources.**

In approving the CDP in 1998, the Coastal Commission found the Hellman Ranch project, with incorporation of the Special Conditions, consistent with Section 30244 which provides:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

The Commission adopted 7 specific measures to mitigate impacts to archaeological resources, including:

- Conducting the proposed archaeological investigation in conformance with the KEA Research Design, which has been submitted to the State Office of Historic Preservation, the Native American Heritage Commission ("NAHC"), and the Native

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American person/group designated or deemed acceptable by the NAHC for their review and comment.

- Selecting an archaeologist that meets the U.S. Department of the Interior minimum standards for archaeological consultants, and selection of the Native American monitor in compliance with NAHC Guidelines for Native American monitors.
- Submitting a written report after completion of the archaeological work which includes a summary of the archaeological investigation findings and a final mitigation plan for important archaeological resources to the Commission and to OHP and appropriate Native American person/group designated or deemed acceptable by the NAHC.
- Demonstrating compliance with the above-identified measures prior to any site preparation, grading and construction activities for any development within a 50 feet radius of an archaeological site.
- Monitoring of all site preparation, grading and construction activities by a qualified archaeologist and Native American monitor.
- Providing for the temporary halting of work should additional or unexpected archaeological features be discovered during site preparation, grading or construction activities, and providing for compliance with State law should human remains be discovered.
- Incorporating all archaeological measures identified in Special Condition 6 into all construction documents.

No changes to these special conditions were proposed in the Settlement Agreement. The current CDP application makes no changes to these measures and proposes implementation of the conditions to assure consistency with Coastal Act Section 30244.

6. **CDP Application 5-97-367.**

A number of letters have been received by the Coastal Commission regarding the proposed development's impact on archaeological resources in connection with the current application. Many of these letters contain incorrect statements and allegations regarding the Research Design and the City's work on the Hellman Ranch archaeological resources which must be corrected for the record. These inaccuracies do not properly characterize the proposed excavations, the numerous studies that have been conducted on the site, and the known information about the Hellman Ranch archaeological resources. Most of these letters continue to raise the same issues previously considered and addressed by the City, the Superior Court, the California Court of Appeals, and the Coastal Commission itself in prior considerations and actions on Hellman Ranch. In order to

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establish a clear and accurate record for the Coastal Commission, the following highlights various topics raised in the letters and provides the Commission with an accurate factual statement of the proposed archaeological test program and response to the issues raised.

**Sites have not been properly studied; EIR Lawsuit; Adequacy of Findings**

**Allegation:** "These sites have never been adequately studied, . . . There is a lawsuit against the City of Seal Beach over the faulty EIR for this project."

**Response:** There have been 16 separate archaeological studies conducted on the Hellman Ranch property, including at least 5 site surveys, 4 test excavations and 3 surface collections. A lawsuit was filed by several of the individuals submitting letters to the Coastal Commission (Mark Hotchkiss, Moira Hahn, Eugene Ruyle) challenging the adequacy of the City's EIR analysis of and mitigation measures for cultural resources. Both the Orange County Superior Court and the California Court of Appeals held the City's EIR to be adequate and satisfy the requirements of CEQA. A copy of the Court of Appeals opinion is attached.

**Allegation:** The permit was granted to desecrate archaeological sites because of the overriding benefit of the proposed golf course. Without the golf course, there is no justification for destroying the graves of the ancestors by building houses on the Mesa.

**Response:** The golf course was only one of several benefits, including preservation of open space, and dedication of a park site, creation of public access opportunities, and overriding considerations cited by the City in certifying the EIR and approving the Hellman Ranch project and was not the sole consideration identified by the City to approve the project.

**Adequacy of the KEA Research Design and Excavation Program**

**Allegation:** The Research Design does not provide a comprehensive testing program for the "flat portion of the Hellman Ranch, where wetlands may be restored."

**Response:** In accordance with the Settlement Agreement, only specifically identified areas of the Hellman Ranch will be subject to development activities. These areas were previously identified in the KEA Research Design, and archaeological resources in these areas are subject to the proposed test program. The "flat portion" of the Hellman Ranch will be deed restricted and no development is proposed.

**Allegations:** KEA's proposed excavation strategy would replace standard units with a sprinkling of 110 30x30 cm shovel test pits over the project site.

The proposed study relies on remote sensing to identify features. Data generated by remote sensing must be validated by more traditional sampling and analytical methods.

The sampling strategy and analytical methodologies proposed will not produce data that is typologically or statistically valid. Too much emphasis is placed on the use of (small) shovel test pits and not enough on (larger) excavation units.

**Response:** KEA's proposed excavation includes an organized set of procedures to provide an increasingly detailed level of information from each site. KEA proposes to initially survey the sites with remote sensing tools (ground penetrating radar) to determine if specific types of archaeological features can be detected. If detected, this would help focus the excavations in areas where cultural materials are more likely to be found. Following the remote sensing work, KEA proposes 30x30cm shovel test pits excavated to a maximum depth of 50 cm to determine the extent of subsurface deposits at each site. This will be followed by 45 1x1m test excavation units (approximately 5 one-square meter units per site); and 27- 10x10 cm column samples (approximately 3 per site). As many of these sites have been excavated previously through a variety of methods including shovel test pits, hand excavated units and trenches, there may be only limited areas of undisturbed soil in which in situ deposits could be found, therefore, KEA's proposed scope of work is intended to build on prior documentation and not re-excavate areas previously disturbed by archaeological work.

**Allegation:** The firm plans to excavate only "between two and eight" standard units per site, on sites that measure up to 42,000 square feet.

**Response:** Many of these sites have been the subject of previous excavations, and, therefore, only those areas not previously impacted by prior excavations would be tested. Additionally, there is significant questions as to the accuracy of site dimensions as those figures are based upon surface scatter which have been spread over a larger area as a result of past agricultural operations and may not reflect subsurface deposits which may be concentrated in a much smaller area. Consequently, in order to assess the relationship between surface scatter and subsurface deposits and to identify the actual extent of those deposits, KEA proposes the use of numerous shovel test pits.

**Allegation:** The diagnostic methods selected by KEA appear to be insufficient to determine the ten affected sites' eligibility for the National Register of Historic Places.

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**Response:** KEA is a qualified archaeological consultant selected by the City. The test excavations described in the Research Design are designed to support the evaluation of cultural resources in accordance with National Register of Historic Places criteria and the regulations of the federal Advisory Council on Historic Preservation.

**Native American Consultation**

**Allegation:** The [Juaneno Band of Mission Indians, Ajachemen Nation] recommend that it be directly consulted and that no action be taken until it has received all EIR and archaeological documentation for review and comment. They also request if any inadvertent discoveries of burial or cultural resources are made that it be notified and that the material be returned to our Archaeology Committee Head, Anthony Rivera.

**Response:** Although the Native American Heritage Commission has designated a member of the Gabrielino Tribe as the Native American representative, KEA consulted with a number of Southern California Native American individuals and organizations. As part of that consultation, KEA wrote a letter to the Tribal Chair of the Juaneno Band of Mission Indians, Jean Fietze requesting her input on the cultural resource management program. Ms. Fietze was also a member of the City's Archaeological Advisory Committee, and in that capacity also received a copy of the EIR and archaeological documentation for review and comment. The Native American Heritage Commission has designated Vera Rocha, the most likely descendant, and if burials are discovered, the law requires notification of Ms. Rocha, not Mr. Rivera.

**Allegation:** The proposed ethnographic/ethnohistoric research (Research Design pages 44-45, 50-51) with contemporary Native Americans has not been carried out, and is not adequate to assess the cultural significance of the site.

**Response:** Twenty-nine Native Americans were contacted by KEA during preparation of the Research Design. They were notified of the proposed archaeological investigations, the availability of the research design for review, and their comments solicited regarding the management of cultural resources on Hellman Ranch. After the KEA Research Design was approved by the City, the Hellman Ranch project has been in litigation first regarding the EIR and then the Coastal Commission's approval. No work has been undertaken by the City during the pendency of litigation because no valid coastal development permit has been issued to permit archaeological investigations. At such time as a coastal development permit is issued and approved for the archaeological excavations, KEA will reinitiate consultation with the Native Americans, including ethnohistoric interviews as described in the Research Design.

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**5-97-367-A1**

**Allegation:** Have the Native American Heritage Commission, and the Native American(s) it deems appropriate received and reviewed the KEA Research Design? As of August 23, 2000, the State Office of Historic Preservation had not reviewed it. Ms. Marcia Hoaglen, the Assistant Director of Native American Affairs at the State Attorney General's Office, has not reviewed it.

**Response:** KEA has submitted the Research Design to the State Office of Historic Preservation and the Native American person/group designated or deemed acceptable by the Native American Heritage Commission, and to other interested Native American organizations.

### Relationship to Puvungna

**Allegations:** The question of the sites' relationship to Puvungna is not one of the formal research questions KEA addresses as a goal of its Research Design.

"Our [the Native American community] exclusion hurts us, and may explain the consultants inability to answer important research questions stressed in the Research Design, such as the sites' relationship to the Native American settlement Puvungna. I believe that the sites represent a suburb of Puvungna."

**Response:** As the consultant has not even begun work pursuant to the Research Design, it is entirely premature and inaccurate to conclude that the consultant was unable to answer important research questions. One of the research objectives of the test excavations is to evaluate the sites' relationship to the prehistoric Puvungna settlement located in the City of Long Beach. (See KEA Research Design at pages 45- 46.)

### Impact of Gum Grove Park Improvements

**Allegation:** The Gum Grove Nature Park improvements along the southern boundary of the Hellman Ranch would potentially impact five additional archaeological sites.

**Response:** The expanded footprint of Gum Grove Nature Park, including the proposed new parking lot, impacts land areas that were previously identified for residential development. Therefore, impacts to the archaeological resources in this area (ORA-260 and -261) were previously considered and mitigation measures identified to address potential impacts to these resources. The City's EIR and KEA's Research Design anticipated impacts to two of the sites identified in the comment as a result of golf course development: ORA-1473 and ORA-256. These two sites will no longer be impacted and are located in an area to be deed restricted. The three

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remaining sites listed in the comment are currently located in Gum Grove Nature Park and are not affected by the current CDP Application.

**Evidence Regarding Archaeological Resources on Hellman Ranch**

**Allegation:** "There is evidence of innumerable ancient graves on the Mesa."

**Response:** As a result of all of the past excavations and studies that have occurred on this property, the confirmed discoveries of human bone on the Hellman Ranch is limited to portions of human bone fragments at one site, and a hand bone at another site. There is no other evidence that indicate the presence of innumerable ancient graves. The EIR mitigation measures and the Coastal Commission's proposed Special Conditions require compliance with State law, including consultation with Native Americans, if any human remains are discovered during either the proposed archaeological test excavations or during monitored grading activities.

**Allegation:** "Dr. Stickel, a previous archaeological consultant hired by the City to plan this investigation, discovered evidence of architectural structures on the project site. Stickel's staff used aerial infrared and multi-spectral photography . . . to locate what appear to be the foundation of dome houses and elliptical ceremonial enclosures on the proposed housing site. KEA and the developer have refused to acquire Stickel's data or to repeat his study . . ." "Ancient canoes landed at this site, and there is evidence of ancient structures, as shown by infrared aerial photos."

**Response:** The City and Hellman Properties LLC made repeated requests to Dr. Stickel to obtain the alleged original aerial infrared photographs so that they could be reviewed and studied. Despite the repeated requests, the alleged original photographs were never provided to the City; only poor photographic reproductions that lacked sufficient clarity or detail, including a location finder indicating what area the photo was taken, and whether it was even of the Hellman Ranch. KEA proposes to conduct its own remote sensing methods to identify subsurface archaeological features.

The City's consideration of the poor quality aerial photo copies was raised in the litigation, and the City's actions and conclusions regarding the photocopies were upheld.

**Relationship Between Hellman Ranch and Naval Weapons Stations**

**Allegation:** One of the sites, ORA-260, is divided by Seal Beach Boulevard and has a component across the Boulevard on the Naval Weapons Station, ORA-322/1118. The latter site

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has been declared eligible for the National Register of Historic Places by the Navy's archaeologist.

**Response:** ORA-260 has been subject to several excavations, including 2 test pits in 1958, 16 trenches in 1981, and 20 1x1m units in 1990. These prior investigations and their findings were discussed in the City's EIR and KEA Research Design. The Research Design also acknowledges that the sites on the Naval Weapons Station may be an extension of ORA-260, however, there has been considerable disturbance of the area between the two sites and the site itself that may affect site integrity and value, including the construction of Seal Beach Boulevard and the prior oil and agricultural operations on Hellman Ranch. Neither document recommended that this site be considered eligible for listing on the National Register of Historic Places. Both the City and Coastal Commission, however, identified measures to mitigate potential impacts to this site.

#### Impact of Seal Beach Public Works Project on Archaeological Resources

**Allegation:** "[T]he developer recently having permitted road crews to use burial sites on Hellman Ranch as a major staging and dumping area for the reconstruction of Seal Beach Boulevard. It will be difficult to locate cultural resources with a hand trowel, in the mountain of imported soil currently deposited on our sites."

**Response:** The landowner permitted the City to use a small portion of the property to temporarily store construction equipment used on the Seal Beach Boulevard public works project. There is no evidence indicating that this area is a "burial site." The area on which the equipment is stored has been used historically for oil production and agricultural operations, including storage of associated equipment. Before the test excavations commence, the City will remove any soil it has deposited there as part of its public works project.

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**COPY**

**COURT OF APPEAL-4TH DIST. DIV. 3  
FILED**

**OCT 13 1999**

**NOT TO BE PUBLISHED**

**Stephen M. Kelly, Clerk**

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION THREE**

**MARK HOTCHKISS et al.,**

**Plaintiffs and Appellants,**

**v.**

**CITY OF SEAL BEACH et al.,**

**Defendants and Respondents,**

**HELLMAN PROPERTIES,**

**Real Party in Interest and Respondent.**

**G023966**

**(Super. Ct. No. 785769)**

**OPINION**

**Appeal from a judgment of the Superior Court of California, County of Orange, Robert E. Thomas, Judge. Affirmed.**

**Douglas P. Carstens, Brandt-Hawley & Zoia and Susan Brandt-Hawley for Plaintiffs and Appellants.**

**Quinn M. Barrow, City Attorney, Richards, Watson & Gershon, Steven H. Kaufmann, Craig A. Steele, and Patricia K. Oliver for Defendants and Respondents.**

**Shute, Mihaly & Weinberger, Rachel B. Hooper, Susan Cleveland, Paone, Callahan, McHolm & Winton and Susan Hori for Real Party in Interest and Respondent.**

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In this case, we are asked to assess the sufficiency of an environmental impact report (EIR) prepared by the City of Seal Beach (the City) in conjunction with the approval of a specific plan for the development of the Hellman Ranch by Hellman Properties. The appellants, Mark Hotchkiss, Moira Hahn, Eugene Ruyle and Barbara Young (collectively Hotchkiss), contend the EIR contains an insufficient analysis of the site's archaeological resources, the City adopted inadequate mitigation measures with respect to the environmental impacts on those archaeological resources and gave incomplete responses to public comments made regarding the archaeological impacts of the project. The trial court denied Hotchkiss's petition for writ of administrative mandamus. (Code Civ. Proc., § 1094.5.)<sup>1</sup> We conclude the EIR complies with the California Environmental Quality Act (CEQA)<sup>2</sup> and affirm.

*Factual and Procedural Background*

*Hellman Ranch Specific Plan*

The Hellman Ranch Specific Plan governs the development of a 231.3-acre portion of the historic Hellman Ranch located in the City. It is largely undeveloped open space, but the land has been highly disturbed by ranching, agriculture, oil production, channelizing of the San Gabriel River, which runs adjacent to the site, and dumping and landfilling. The site has four distinct physical areas: a 19-acre mesa; 177 acres of lowlands, which include vacant land, degraded wetlands, abandoned electric transmission facilities, and oil production facilities; a 10-acre eucalyptus grove called "Gum Grove Park"; and a 35-acre flood control retention basin.

Failed earlier development proposals for the site have included plans for the construction of up to 1,000 residential units on the site.<sup>3</sup> The Hellman Ranch Specific Plan

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<sup>1</sup> The complaint contained other causes of action which have been abandoned.

<sup>2</sup> Public Resources Code section 21000 et seq. All further statutory references are to the Public Resources Code unless otherwise indicated.

<sup>3</sup> *Molo Development Corp. v. City of Seal Beach* (1997) 57 Cal.App.4th 405 involved an earlier project for this site which proposed 300 residential units.

proposes a maximum of 70 homes on 15 acres of the mesa and visitor-serving commercial uses on about 1.8 acres. A golf course and accompanying facilities would take up about 110 acres. The 35-acre flood control retention basin would remain in place; as would about 28 acres of oil production property. The plan calls for restoration of about 33 acres of wetlands and dedication of the Gunn Grove Park and various nature trails to the public.

*Hellman Ranch Specific Plan EIR: Analysis of Archaeological Resources*

In April 1997, the City circulated a draft EIR on the Hellman Ranch Specific Plan. The final EIR was released in August and certified by the City in September.<sup>4</sup> The EIR contains a 90-page cultural resource study of the site, which includes a detailed discussion of its archaeological resources, the subject of this litigation. The analysis of archaeological resources was done in accordance with former Appendix K of the CEQA Guidelines. (Cal. Code Regs., tit. 14, § 15000 et seq.; hereafter referred to as the Guidelines.)<sup>5</sup>

The Hellman Ranch area was occupied by the Tongva (also called Gabriellino) group of Native Americans about 2,500 years ago. Some scholars believe the area bears some relationship to "Puruvungva," a village of great religious significance to the Tongvans.<sup>6</sup>

<sup>4</sup> The final EIR is a compilation of several documents: the draft EIR, comments received on the draft EIR, the City's responses to comments, and revisions to the draft EIR based on comments.

<sup>5</sup> Appendix K was deleted by 1998 amendments to the Guidelines and its provisions incorporated into others sections. However, amendments to the Guidelines are prospective only (§ 15007) and we will analyze the adequacy of this EIR under the Guidelines when it was adopted.

<sup>6</sup> *Native American Heritage Com. v. Board of Trustees* (1996) 51 Cal.App.4th 675, engaged in some discussion about Puruvungva. In that case, California State University, Long Beach (CSULB) had decided to develop 22 acres of its campus. The California Native American Heritage Commission sought to enjoin the development under various state laws that prohibit damaging Native American religious sites; it contended the CSULB campus occupied the site of the ancient Puruvungva. (*Id.* at p. 677.) The trial court dismissed the action, agreeing with the University that those state laws violated constitutional provisions against establishment of religion, but the appellate court reversed and remanded for a trial.

The opinion set forth the facts alleged in the Commission's complaint regarding Puruvungva. We relevant them here solely for background as to the cultural significance of Puruvungva: "According to the verified complaint for injunctive relief, CSULB's approximately 319-acre campus is part of what was once Puruvungva, a Native American village of about 500 acres. Puruvungva was occupied by Native Americans now known as the Gabriellinos (alternatively called Tongvans), Luisenos and Jusenos (alternatively called members of the Aangpashanen Nation) . . . from . . . around 500 A.D.[] up to the early nineteenth century." The village Puruvungva is among the sites the Gabriellinos inhabited until the early 1800s, when a combination of Spanish missionaries and American ranchers

At least 16 official archaeological studies of prehistoric sites in the Hellman Ranch Specific Plan area have been conducted over the years. Some of the studies included only surface collections, but several others involved subsurface excavations. The results and findings of each of those studies were analyzed in the EIR.

The EIR identified 10 prehistoric archaeological sites in the mesa area of the Hellman Ranch. Four were identified as having important archaeological resources based on the artifacts found in excavations and studies. The other six sites were ranked low in level of significance because they lacked significant surface artifacts and little had been done in the way of subsurface excavations of those sites. The report noted that the lack of surface artifacts on the remaining six sites made it unlikely subsurface artifacts would be found. Nonetheless, the EIR concluded, "[T]here is insufficient data at this time to determine whether these [six] sites are important archaeological resources under CEQA. Because an importance determination cannot be made at this time for these [six] sites, this EIR provides mitigation measures . . . that will allow for the determination of the importance of these sites prior to disturbance of these sites in the future."

The EIR recommended, and the City subsequently adopted, nine mitigation measures for the archaeological resources: (1) Before any disturbance of the site, the City must retain a qualified archaeologist to conduct an additional literature search to confirm the importance of each site; (2) before any disturbance of the site, the City must retain a qualified archaeologist to conduct an additional site survey to determine the importance of each site and further document the resources on each site; (3) the City must retain a qualified archaeologist to establish a peer-reviewed research design for further study of each

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forced them out and nearly killed them off.' [¶] The complaint alleges Povungna is the birthplace and spiritual center of the Chinigchinich religion, which the Gabrielinos originated. According to the complaint, many Gabrielinos, Juanenos, Luisenos and other Native Americans presently practice the Chinigchinich religion. . . . [¶] In the Chinigchinich faith, 'Povungna is the most significant and sacred site there is, equivalent to Bethlehem for Christians and to Mecca for Muslims. Adherents of the tenets of the Chinigchinich sect, as well as adherents of the tenets of the Native American church as a whole, have long regarded Povungna as a sacred place and have used the land for religious, spiritual and ceremonial purposes for centuries, up to and including the present time.'" (*Native American Heritage Com. v. Board of Trustees, supra*, 51 CalApp.4th at pp. 678-679.)

site; (4) after completion of that research design, the archaeologist must prepare a peer-reviewed report; (5) there would be a "clear preference" for preserving all archaeological sites deemed important and placing those sites in open space, and all construction documents must contain references to those sites to avoid their disturbance; (6) if preservation of important sites is not feasible, the EIR details further mitigation measures with respect to those sites; (7) a Native American representative will monitor all field activities; (8) a further ethnographic/ethnohistorical study would be completed; and (9) if any human remains are found on any site at any time, all construction activities will cease until the provisions of the Public Resources Code regarding Native American remains are complied with.

*Procedure*

Hotchkiss filed this petition for writ of administrative mandate (Code Civ. Proc., § 1094.5) alleging the final EIR does not comply with the requirements of CEQA. The trial court denied the petition, finding the EIR to be adequate.

I

Hotchkiss contends the EIR is inadequate, and its certification and the approval of the Hellman Ranch Specific Plan must be reversed. He argues that by failing to undertake the full study of the archaeological sites in the Hellman Ranch Specific Plan area before certification of the EIR, the City lacked sufficient information to support its conclusion the impacts on the sites would be significant but could be mitigated. We reject the argument.

In *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390-392, the Supreme Court set forth the following overview of CEQA: "CEQA requires an EIR whenever a public agency proposes to approve or to carry out a project that may have a significant effect on the environment. Project means, among other things, activities directly undertaken by any public agency. Significant effect on the environment means a substantial, or potentially substantial, adverse change in the

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environment. The Legislature has made clear that an EIR is an informational document and that the purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project. [¶] Under CEQA, the public is notified that a draft EIR is being prepared, and the draft EIR is evaluated in light of comments received. The lead agency then prepares a final EIR incorporating comments on the draft EIR and the agency's responses to significant environmental points raised in the review process. The lead agency must certify that the final EIR has been completed in compliance with CEQA and that the information in the final EIR was considered by the agency before approving the project. Before approving the project, the agency must also find either that the project's significant environmental effects identified in the EIR have been avoided or mitigated, or that unmitigated effects are outweighed by the project's benefits. [¶] The EIR is the primary means of achieving the Legislature's considered declaration that it is the policy of this state to take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state. The EIR is therefore the heart of CEQA. An EIR is an environmental alarm bell whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The EIR process protects not only the environment but also informed self-government." (Footnotes, internal quotation marks and citations omitted.)

The applicable standard of review is found in section 21168.5 which states, "In any action or proceeding . . . to attack, review, set aside, void or annul a determination, finding, or decision of a public agency on the grounds of noncompliance with this division, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence."

On appeal we do not "pass upon the correctness of the EIR's environmental conclusions, but only upon its sufficiency as an informative document. [Citation.] Courts do not 'substitute our judgment for that of the people and their local representatives. We can and must, however, scrupulously enforce all legislatively mandated CEQA requirements.' [Citation.] 'Under CEQA, an EIR is presumed adequate [citation], and the plaintiff in a CEQA action has the burden of proving otherwise.' [Citation.]" (*Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners* (1993) 18 Cal.App.4th 729, 740.)

Section 21083.2 and, at the time this EIR was certified, former Appendix K of the Guidelines, govern an EIR's analysis of archaeological resources. The EIR need only address significant effects on unique archaeological resources. No consideration need be given to nonunique archaeological resources. (§ 21083.2, subd. (a).)<sup>7</sup> If a project will cause damage to a unique archaeological resource, the agency "may require *reasonable efforts* to be made to permit any o. all of these resources to be preserved in place or left in an undisturbed state." (§ 21083.2, subd. (b), italics added.) If *in situ* preservation is not feasible, other means of avoiding impacts may include: planning development to avoid archaeological sites; incorporating them into parks or open space; capping or covering the

<sup>7</sup> "[U]nique archaeological resource' means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: [¶] (1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information. [¶] (2) Has a special and particular quality such as being the oldest of its type or the best available example of its type. [¶] (3) Is directly associated with a scientifically recognized important prehistoric or historic event or person." (§ 21083.2, subd. (g).)

"[N]onunique archaeological resource' means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects." (§ 21083.2, subd. (h).)

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site before putting low impact facilities on top (tennis courts, parking lots); and deeding the sites into permanent conservation easements. (Appendix K (II)(B).) "To the extent that unique archaeological resources are not preserved in place or not left in an undisturbed state, mitigation measures shall be required . . . ." (§ 21083.2, subd. (c).) The mitigation measures may include preparation of an excavation plan, but the amounts a developer can be required to spend on mitigation are limited and field excavations required in a mitigation plan must be completed 90 days after the final approvals necessary to begin physical development. (§ 21083.2, subds. (d), (e) & (f).)

The Hellman Ranch Specific Plan EIR complied with the requirements of CEQA. The 90-page cultural resources study analyzed 16 different archaeological studies of the area and identified 10 archaeological sites. It concluded four were unique, the other six probably were not. But the City, rather than adopt the conclusion those six sites were not significant—a conclusion which would have been supported by substantial evidence in the record—took a more conservative approach. It found all the sites were probably significant and adopted the mitigation measures specified by CEQA for all of them.

Hotchkiss complains the City should not have presumed the six sites, about which the existing studies were inconclusive, were significant without first conducting more detailed studies of those sites. We disagree.

*Society for California Archaeology v. County of Butte* (1977) 65 Cal.App.3d 832 is directly on point. In that case, the county had certified an EIR for a 31-acre residential development. The EIR contained results of a simple walking survey conducted by an archaeologist, which revealed six archaeological sites. The archaeologist concluded three of the sites might be significant, but a test excavation of each site was necessary before "a professionally adequate assessment of impact may be made . . . ." (*Id.* at p. 835.) The county eventually approved the EIR after finding the project would have a significant effect on cultural (i.e., archaeological) resources, but conditioned approval on the developer setting

aside the sites for six months for further archaeological study by any interested person.

(*Id.* at p. 836.)

On appeal, the *Society for California Archaeology* plaintiffs argued the EIR had acknowledged the "true impact of the project on the archaeological potential of the area could not be fully determined without the recommended tests, and since the tests were not conducted, . . . the environmental impact of the project necessarily was not covered in the EIR, rendering the EIR inadequate as a matter of law." (*Society for California Archaeology v. County of Butte, supra*, 65 Cal.App.3d at p. 837.) The court rejected the contention and found the EIR was adequate with respect to the archaeological impacts of the project.<sup>8</sup> "In essence, [plaintiff's] contention advocates a rule making it mandatory for an agency to conduct every test and perform all research, study and experimentation recommended to it to determine true and full environmental impact, before it can approve a proposed project. We reject this contention, first because it is unreasonable, and second because neither the statutes [citation] nor the guidelines of the secretary of the resources agency [citation] suggest it. . . . [T]he estimated cost of the testing recommended in this case was \$1,900.60, a sum which arguably might not be unreasonable to assess against the real party in interest. Suppose however that the estimated cost were \$100,000, or any sum the expenditure of which would make the project either impossible or unfeasible for the developer; the requirement proposed by plaintiff would then automatically eliminate the project from further consideration, irrespective of other factors." (*Society for California Archaeology v. County of Butte, supra*, 65 Cal.App.3d at p. 838.)

The court noted the purpose of an EIR is to provide environmental information only; the agency has discretion to accept or reject it. Thus, "it is totally inconsistent with the legislative objective to cease all further consideration of a project unless recommended testing is performed. Just as an agency has the discretion for good reason to approve a

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<sup>8</sup> The court found the EIR inadequate for other reasons. (*Society for California Archaeology v. County of Butte, supra*, 65 Cal.App.3d at p. 839.)

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project which will admittedly have an adverse environmental impact, it has discretion to reject a proposal for additional testing or experimentation. Similarly, it may, again in the sound exercise of its discretion, direct that the project site be made available for a certain period for testing by persons, other than the developer, and at their own expense. Thus, assuming the existence of sound reason and its proper articulation in the EIR, the board here could properly have made the decision that it made." (*Society for California Archaeology v. County of Butte, supra*, 65 Cal.App.3d at pp. 838-839.)

As in *Society for California Archaeology v. County of Butte, supra*, 65 Cal.App.3d 832, the City was not required to conduct exhaustive studies and excavations before it could certify the EIR and adopt mitigation measures. Indeed, section 21083.2 specifically envisions mitigation measures will include the further study of archaeological resources and either their *in situ* preservation, if feasible, or excavation of the site after certification of the EIR, but before construction begins. Hotchkiss's reliance on *San Joaquin Raptor/Wildlife Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713 is completely misplaced, as that case did not involve the adequacy of the EIR's analysis of archaeological resources, and the requirements of CEQA, with respect to archaeological resources, are unique.

## II

### *Mitigation Measures*

Hotchkiss next contends the mitigation measures adopted by the City were inadequate because they contemplate a future determination of the actual specific actions which will be taken if the archaeological sites turn out to be of significance. We reject the contention.

The mitigation measures adopted in the EIR are in accord with the requirements of section 21083.2 and former Appendix K of the Guidelines. An EIR is only required to discuss currently feasible mitigation measures. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028.)

Hotchkiss relies on *Sundstrom v. County of Mendocino* (1988)

202 Cal.App.3d 296. In that case, the county adopted a negative declaration which included mitigation conditions. One was that the developer must perform a hydrological study showing no adverse environmental effects; the other was that the developer would perform a soil study which would in turn propose concrete and specific mitigation measures. (*Id.* at p. 306.) The court declared this deferral of the identification of mitigation measures to be improper. (*Id.* at p. 307.)

But subsequently *Sacramento Old City Assn. v. City Council, supra*, 229 Cal.App.3d 1011 distinguished *Sundstrom*. In *Sacramento Old City Assn.*, a city certified an EIR which required traffic and parking effects to be mitigated by the subsequent preparation of a transportation management plan. The EIR recommended seven potential mitigation measures to be considered as part of the future plan. (*Id.* at pp. 1020-1023.) Citing *Sundstrom*, opponents argued that this constituted impermissible deferred mitigation. (*Id.* at p. 1026-1027.)

First, *Sundstrom* involved a negative declaration, rather than an EIR. A negative declaration has as its premise that the project would not have any significant environmental impacts. (*Sacramento Old City Assn. v. City Council, supra*, 229 Cal.App.3d at p. 1028.) Second, in *Sundstrom* the lead agency had not considered any mitigation measures, but simply left it up to the developer to devise them. "In contrast, the City in the present case acknowledged traffic and parking have the potential, particularly under the worst case scenario, of causing serious environmental problems. The City did not minimize or ignore the impacts in reliance on some future parking study." (*Sacramento Old City Assn. v. City Council, supra*, 229 Cal.App.3d at p. 1028.)

As *Sacramento Old City Assn.* explained, "*Sundstrom* need not be understood to prevent project approval in situations in which the formulation of precise means of mitigating impacts is truly infeasible or impractical at the time of project approval. In such cases, the approving agency should commit itself to eventually working out such measures

as can be feasibly devised, but should treat the impacts in question as being significant at the time of project approval. Alternatively, for kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process (e.g., at the general plan amendment or rezone stage), the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval. Where future action to carry a project forward is contingent on devising means to satisfy such criteria, the agency should be able to rely on its commitment as evidence that significant impacts will in fact be mitigated. [Citations.]' [Citation.] [¶] The City in the present case has, in fact, committed itself to mitigating the impacts of parking and traffic." (*Sacramento Old City Assn. v. City Council, supra*, 229 Cal.App.3d at pp. 1028-1029; see also *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 377.)

Here, as in *Sacramento Old City Assn.*, the City did not ignore the impacts of the Hellman Ranch Specific Plan on archaeological resources. As to four identified sites, it found they were significant; and as to the other six, although the current evidence indicated they were not significant, the City resolved to keep all options open. It assumed the sites were significant and committed *itself* to mitigating the adverse impacts. We find the City did not abuse its discretion in deferring the final choice of mitigation measures to a time when more information is revealed.

### III

#### *Responses to Comments*

Finally, Hotchkiss complains the City failed to adequately respond to certain comments which were made to the draft EIR. We disagree.

Section 21091 requires the lead agency to evaluate and respond to all *environmental comments* received during the public review period. The responses must describe the disposition of "any significant environmental issue that is raised by the

commenters." (§ 21091, subd. (d)(2)(B).) In reviewing comments, the courts do not look for perfection, "*but for adequacy, completeness, and a good faith effort at full disclosure.*" Thus, a lead agency need not respond to each comment made during the review process, however, it must specifically respond to the most significant environmental questions presented. [Citation.] Further, the determination of the sufficiency of the agency's responses to comments on the draft EIR turns upon the detail required in the responses. [Citation.] Where a general comment is made, a general response is sufficient. [Citation.]" (*Browning-Ferris Industries v. City Council* (1986) 181 Cal.App.3d 852, 862, original italics.)

Of the over 400 responses to public comments contained in the EIR, Hotchkiss complains about three. First, one resident wrote that she had once observed a painted rock which had been found on one of the Hellman Ranch archaeological sites. She asked about the specific nature of that rock, its purpose, and its relationship to other artifacts found in the area. The City responded that such in-depth analysis was beyond the scope of the EIR, but would be addressed in the subsequent investigations to be undertaken pursuant to the mitigation measures.

The second was a private citizen's letter stating her opinion that the site was part of the ancient Puvungna village. The City's response was that the comment did not raise an environmental issue and referred back to another response. The earlier response was that the current studies suggested the Hellman Ranch was not the site of the Puvungna village, but that any such relationship would be further examined in the additional research to be done in accordance with the mitigation measures.

Finally, a professor of anthropology made several comments with regard to the social and emotional impact of the destruction of their ancestral sites on Native Americans. The City noted this was not an environmental issue, but the comment would be forwarded to the City during the review process.

We have reviewed the voluminous responses to public comments to the Hellman Ranch Specific Plan EIR *as a whole*. Hotchkiss does not provide any compelling argument that, when considered in the context of all of the comments and all of the responses, any arguable inadequacies in these three specific replies render the comments as a whole incomplete. We conclude the City sufficiently responded to the significant environmental questions presented in the public comments to the EIR.

The judgment is affirmed. Respondents are awarded their costs on appeal.

SEYMOUR, J.\*

WE CONCUR:

RYLAARSDAM, ACTING P.J.

BEDSWORTH, J.

\* Judge of the Orange County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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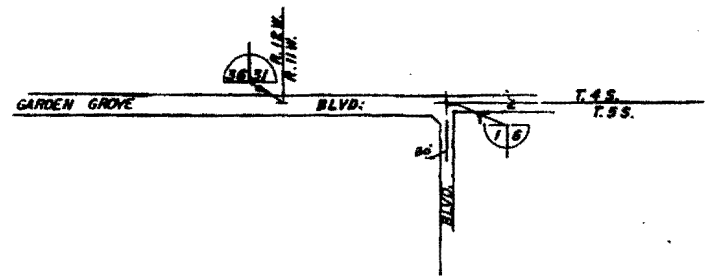
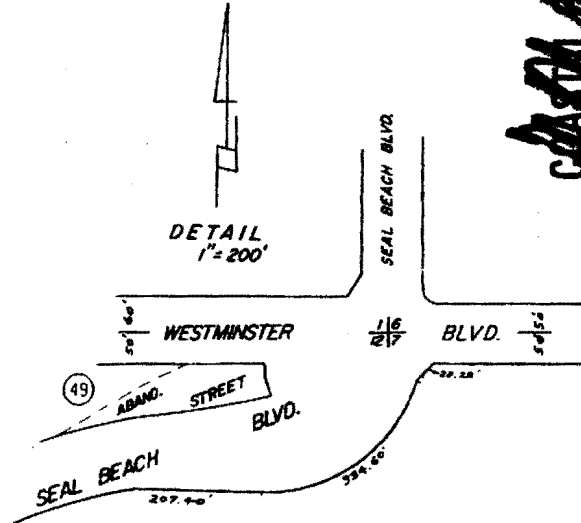
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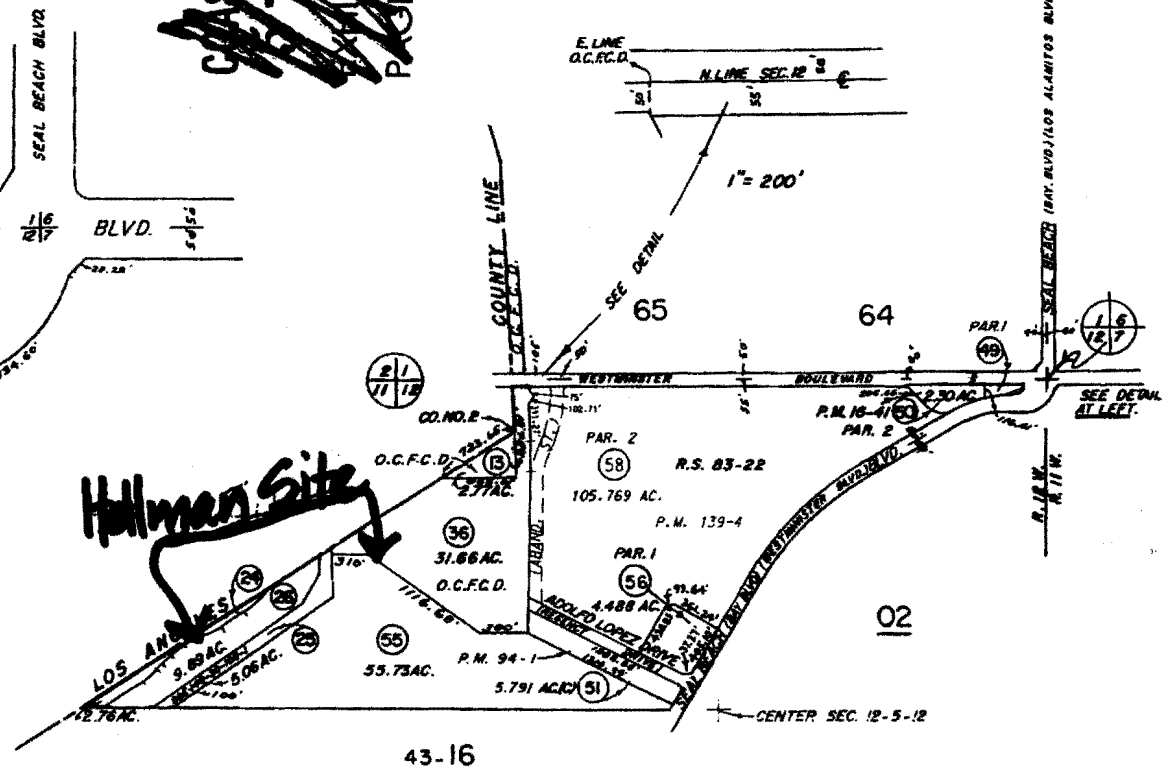
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1" = 1000'

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Hollman Site



43-16

1951

RANCHO LOS ALAMITOS  
PARCEL MAP

DEED BK. 14-52, 53, 54, 55  
P.M. 16-41, 139-4

NOTE - ASSESSOR'S BLOCK &  
PARCEL NUMBERS  
SHOWN IN CIRCLES

ASSESSOR'S MAP  
BOOK 095 PAGE 01  
COUNTY OF ORANGE





HELLMAN RANCH  
TENTATIVE TRACT NO. 15402  
**CONCEPTUAL URBAN  
RUN-OFF PLAN**  
(FOR RESIDENTIAL DEVELOPMENT  
& OFFSITE SEAL BEACH BLVD.)

PREPARED FOR:



STATE  
LANDS  
PARCEL

STATE  
LAND

SOUTHERN  
CALIFORNIA  
EDISON  
PROPERTY

Proposed Tract 15402

CITY OF  
SEAL  
BEACH  
PROPERTY

WATER  
QUALITY  
FACILITIES

San Gabriel River  
Cooling Channel

LIMITS OF AREA PROPOSED TO BE  
DEED RESTRICTED FOR SALE FOR  
WETLANDS RESTORATION

OIL  
PRODUCTION  
AREA

LOS ALAMITOS  
RETARDING BASIN

MAIN WATER  
QUALITY BASIN

BIO-SWALE  
CELLS + RIPARIAN  
CORRIDOR

GUM GROVE PARK

GUM GROVE PARK

EXISTING  
RESIDENTIAL

BOEING  
SPACE & DEFENSE

EXHIBIT No. 11

Application Number:

5-97-367-A1

California Coastal  
Commission

Exhibit is Based Upon Figure 8 of the SWM & WQCP dated 7-27-2000 by MDS Consulting

WHA





5-97-367-A1

# Exhibit 12

Additional Correspondence from the Public Published in the Addendum dated  
October 6, 2000

These letters were previously published in the Addendum to the Staff Report  
dated October 6, 2000. Copies of these letters are available upon request.

## Summary of Letters

Eight (8) letters were submitted expressing opposition to the project. Opposition letters cited the need for a comprehensive development plan ensuring the preservation of open space and wetlands, the need for wetlands restoration, and the need to protect resources in Gum Grove Park.

5-97-367-A1

# Exhibit 13

Additional Correspondence Received After Publication of the Addendum

September 22, 2000

CALIFORNIA EARTH CORPS  
4927 Minturn Avenue  
Lakewood, CA 90712  
(562) 630-1491

RECEIVED  
SEP 28 2000

Peter Douglas, Executive Director  
California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105

CALIFORNIA  
COASTAL COMMISSION

Re: Hellman Ranch Amended Application

Dear Commissioners and Director Douglas:

California Earth Corps requests that certain Conditions be attached to the Permit Amendment to protect and facilitate the right and ability of the Plaintiffs CEC, League for Coastal Protection and Wetlands Action Network, and the State Coastal Conservancy, Trust for Public Land and/or the Los Cerritos Wetlands Task Force, to acquire and to restore the former tidal wetlands on the lowlands of the Hellman property.

Over two years ago, on September 9, 1998, in Eureka, the Commission approved the Hellman Permit Application, subject to several conditions, amongst them, a deed restriction granting the above entities the right to purchase 106 acres of lowlying property at Fair Market Value, for the purpose of wetland restoration. Despite the availability of funds from a variety of sources (1), this purchase has not moved forward(2). CEC and the Los Cerritos Wetland Task Force are particularly concerned that this purchase go forward promptly and worry that further problems may arise subsequent to approval of upland housing. We therefor request that the Commission reaffirm our right to purchase the parcel at Fair Market Value in the Permit Amendment.

On November 9, 1998, CEC along with LCP and WAN, filed petitions with the Court requesting a Writ of Mandate to overturn this approval, citing violation of the Coastal Act preventing fill of wetland for a golf course. Subsequently, Settlement was reached, requiring the deletion of the golf course by permit amendment, to be approved by the Commission before March 1, 1999. This deadline was extended in order to allow certain problems to be worked out. CEC indicated our concern that the grading plan directed project runoff likely to contain substances detrimental to wetlands into the deed restricted area. Hellman responded with the preparation of the "Storm Water Management and Water Quality Control Plan" which was submitted with their Application for Permit Amendment August 1, 2000. This Plan fully addresses our concerns and meets the Standard Urban Storm Water Management Plan (SUSMP) including the .75 numeric guidelines (3). But the Plan is NOT included as a condition of the amended permit, and thus, the adverse impact of stormwater and urban runoff on the future restored wetlands remains unmitigated. Please require the implementation of this Plan as a Condition of Permit Amendment.

Now is the appropriate time, as it will be most difficult to attach the Storm Water Management and Water Quality Control Plan after the property has been subdivided, as some future Condition of Permit for each individual dwelling permit. Please Condition this Permit Amendment with the requirement to implement this SWM&WO Plan

A Hellman Ranch Wetland Restoration Feasibility Study was completed July 20, 1998, for the Port of Long Beach by Moffatt & Nichol Eng. file #3693. We, and the Los Cerritos Task Force, strongly prefer the Batiquitos Full Tidal Flushing Model. It was estimated to cost \$31,276,665 for the 106 acre restoration. At \$295,063/acre, (or mitigation credit), deemed by the Port as too expensive for their budget. It forms the basis of the Restoration Plan advocated by the Los Cerritos Wetland Task Force. They observe nearly \$20 million, almost 2/3 of the estimated cost, is for ocean disposal of the 4 to 10 feet of overburden placed on the wetland back in 1960. They note that the adjacent Orange Co. Flood Control Los Alamitos Retention Basin, source of much of the deposit, when backfilled with the part marked for ocean disposal, fills the basin back to sealevel. When the portion suitable for beach disposal is subtracted, the volume necessary for subtidal and drainage channels is met. Full tidal restoration would substantially reduce flood hazard, the District agrees, by clamping the basin to sealevel and quintupling retention volume, eliminating a \$\$ multimillion flood protection improvement mandate and adding the 65 acre Basin to the Los Cerritos Wetland Restoration at Hellman. Using M&N 3693, this would reduce the cost of a restoration expanded to 189.5 acres to less than \$20. million, or <\$100,000/acre. But it would require the addition of "18.0 acres that are restricted by the oil production area due to wetland restoration grading limitations" (M&N 3693 p3) to provide unmuted tidal flow to a restored Los Alamitos Basin. These 18 acres between the deed restricted area & the Los Alamitos Basin, which are key to both the financial viability and technical feasibility of an expanded restoration, are hydric soils with salt marsh vegetation and seasonally ponded water. This is the area identified in the Storm Water Management Plan to impound the first 3/4 inch of storm water runoff (.75 numeric limit) from the proposed Hellman Project now before you for amendment. This is a classic opportunity for conjunctive use. Please refer to Exhibit 4-1 of the Hellman Storm Water Management Plan enclosed. WE ASK THAT THE BIO-SWALE AND FIRST FLUSH WATER PONDING AREA OUTSIDE THE SETTLEMENT AREA BE DEDICATED BY CONSERVATION EASEMENT TO THE WETLAND RESTORATION PROJECT AND THAT THE DEED RESTRICTED AREA BE INCREASED BY 18 ACRES TO 124 ACRES AS A CONDITION OF PERMIT AMENDMENT.

These amendments will protect the ability to purchase and restore the Orange County half of the Los Cerritos Wetlands, designated as the "Signature Project" of the Southern California Wetlands Recovery Project and #1 priority of all State and Federal resource agencies, including the Coastal Commission. PLEASE HELP BY ADOPTING THESE CONDITIONS AND APPROVING THIS PERMIT AMENDMENT

Thank You! *Don May* Don May, President

9/15/00

CEC

1) Funding sources identified:

Water Conservation Act funds available to Trust for Public Lands. This option is preferred by Hellman but they do not want to start negotiations until after they have received final approval for the subdivision and housing. TPL feels they will get a lower new fair market value appraisal after subdivision than now.

Los Cerritos Wetlands Task Force initiated and pushed through the appropriation of \$14 million for the Coastal Conservancy for the acquisition of Los Cerritos property in the current budget. They prefer to let TPL acquire this (and the adjacent Bryant Ranch property with WCA funds. Any funds not required at Los Cerritos would be available for other Conservancy projects elsewhere.

Both the Port of Long Beach and POLA urgently need additional mitigation credits before any additional planned expansion can be permitted. Both would like to pay <\$180,000/credit, but nothing is available at that number. POLB would greatly like to do this restoration, but only unilaterally, so they "can control costs to keep the project within budget".

Audubon has applied for, and gained substantial support, for a Land & Water Conservation Act grant; now on hold pending purchase by TPL with WCA funds.

Army Corps of Engineers Sec.206 grant funds, the preferred option of Congressman Horn, can be made available. LCWTF has received a preliminary project approval letter from ACE opening the door to a \$10,000 planning grant, but prefers a levy and tide gate project necessary to win Project support from OCFCD and ACE.

Packard Foundation wetland restoration fund and other private sources have expressed interest; additional Prop 12 and 13 funds; CEC SONGS funds diverted from San Diegito with SCE approval and other options are now available, should TPL acquisition falter, so long as the Coastal Commission keeps the "willing seller at fair market value" in place. Probably all of these sources of funding will be asked to contribute to the restoration effort.

- 2) Just as Hellman fears that they will not get their housing approved after the lowlands are sold, we fear that we won't be able to buy the lowlands after the housing is approved. This may be years after grading and subdivision. Although many funding options are available now, and have been for the last two years, who knows what will be available by the time the last building permit issues.
- 3) While we unqualifiedly approve of the SWM/WQ Plan Hellman has submitted, we have some local expertise with native plant pallets that has proven effective in prior projects. Our comments and participation may result in a better project at lower cost.

California Coastal Commission  
200 OceanGate, 10<sup>th</sup> Fl.  
Long Beach, CA 90802-4416

Oct. 5, 2000  
Seal Beach, CA

**RE: Hellman permit 5-97-367-A1, Oceanside Oct. 11, 2000, Agenda item 14a  
Archaeological Resources, KEA not authorized, comment on  
"Applicants response to selected issues raised in the letters received as of September 26, 2000..."**

Dear Coastal Commission Chair Wan, Commissioners, and staff:

You will find in the packet of letters on this issue the pleas of many Native Americans, especially Gabrielino/Tongva, Juaneno/Acjachmen, and other local California Indians.

The reason why they are concerned about this project is that they, like their ancestors, placed great reliance in their relation to their land. Much of their ancestors time and effort was spent in religious ceremonies concerning this relationship. They were forcibly removed from their land, isolated in what we would now call concentration camps, and, via the Indian Indenture Act of 1851, subjected to slavery, involuntary servitude, deprivation of civil rights, denial of due process, and were largely wiped out and exterminated (what we would now call a "holocaust", or "ethnic cleansing"). Under that law, no white man could be convicted of a crime on the testimony of Indians alone.

Today you are to decide if the archaeological element of the project is in accordance with sect. 30244 of the Coastal Act, which states "*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required*".

The applicant states that the proposed plan, by KEA, has been submitted to the relevant authorities and to the "...Native American person/group designated or deemed acceptable by the Native American Heritage Commission...". KEA was chosen by the city and the developer, not the local First Nation tribes. Even if the plan is approved, it will not be valid under Tribal Law, because it has not been presented and approved by the sovereign power in the area, i.e., the Gabrielino/Tongva Tribal Council of San Gabriel, and its allies, the Juaneno/Acjachmen Council. There has never been a treaty of peace or cession of land from the Native American authorities to the Spanish or United States authorities. Instead, the pre-existing and sophisticated Indian culture, and its dependent laws, were simply pushed aside and ignored during the intervening two centuries. This would be valid only if force were always legal. However, there is no inherent preference between the system of California laws established by the European settlers, and the pre-existing Indian law, under which all were welcome to share hospitality of the land as guests, with the understanding that guests would leave at some point.

Consequently, the KEA plan is invalid, has no force of law or validity under Indian law, until and unless it is reviewed by the relevant Tribal Authorities. Simply ignoring the claims of the Sovereign Tribe in the region is incorrect, and the city of Seal Beach's assumption that choice of monitor is at their sole discretion is flawed. The remedy for this is simple, and could have been cured at any time: the status of the Sovereign Tribes must be recognized by the city, and the plan must be presented to them for approval - not just comment. That is, the Tribal Authority has, as it chooses to assert, final decision over its own land, under Indian Law. This right extends certainly to potential human remains of its ancestors, dwellings, archaeological treasures, artifacts, implements, and other resources. To say otherwise would be to deny the Tribal Authority, and the cultural matrix of the relevant people, their essential human dignity, which is against our constitution as now Amended and interpreted.

Korthof Re: 5-97-367 A1 (Hellman) Oceanside, Oct. 11, 2000, Agenda Item 14a  
Archaeological Resources/KEA is not authorized

Because *de facto* the relevant Tribal Authorities are not as vigilant nor as united as one would wish, does not diminish the requirement that they be the sole arbiter of their own cultural resources. There are five (5) main groups or Chiefs of the so-called Gabriellino:

1. Gabriellino/Tongva Tribal Council of San Gabriel (appx. 200-300 members, Tribal Chair is Chief Anthony Morales, letter on file opposing the project)
2. Tongva Springs Foundation (appx. 25 members, associated with Angie Dorame)
3. Gabriellino/Shoshone Nation (led by Chief Ya'ana, Vera Rocha, unknown number)
4. Coastal Group (led by Martin Alcalá, appx. 25 members)
5. Ti'at Society (Cindy Alvitre, appx. 40 members)

In addition, the Juaneno/Aejachemen Nation claims kinship and authority of some sort over portions of this land, and are ancient allies and relatives of our own First Nation peoples. They are numerous and active, and also have a letter on file opposing the current KEA plan.

According to Indian Law, all of these Chiefs or Groups must give assent to any plan for their Cultural Resources or land. None of the Chiefs are paramount, but certainly, the Gabriellino/Tongva group, due if nothing else to sheer numbers, must be approached for permission and guidance.

No approval for this project, so far as it affects Tribal heritage, is valid unless the Applicant and the city get the relevant permissions under Indian Law. Permission from the city alone is not sufficient.

**All plans, monitoring, extraction/preservation decisions, etc., must be approved by the Gabriellino/Tongva Tribal Council, and the other relevant Tribal Authorities.** Until and unless that is done, no plan is valid, and any incursion on so-called cultural resources belonging to the Gabriellino/Tongva and their allies will be opposed with all available resources.

You have the ability to require this approach, just as you required the applicant to approach the port of Los Angeles for a restoration project.

All that is asked of you is to require that the choice of company, and the research design document, must be approved by those it directly affects, that is, the affected First Nation Tribes. Moreover, at the very least, all Native American Monitors must themselves be monitored, their decision and observations must be documented, and they must be in constant contact with the Tribal Authorities. It is easy, in the heat of bulldozing, to overlook many things, especially when there is only one Native American Monitor, and no one checks the other bulldozers.

Sincerely,



Lisa and Doug Korthof (email to: Doug@Seal-Beach.org)

1020 Marvista

Seal Beach, CA 90740-5842

562-430-2495

FAX=562-430-2097

CELL=714-496-1567

cc: Please distribute to the Commissioners

RECEIVED  
OCT 2 2000

California Coastal Commission  
Attn: Mr. Carl Schwing  
200 OceanGate, 10th Fl.  
Long Beach, CA 90802-4416  
Telephone=562-590-5071 Fax=562-590-5084

CALIFORNIA  
COASTAL COMMISSION

RE: Against Coastal Permit 5-97-367, housing tract on the former Hellman Estate

9/13/2000

Mr. Schwing:

The wetlands portion of the former Hellman estate has been slated for restoration. However, the upland, or "Mesa", is threatened with a housing tract.

This area is sacred to our local First Nations groups. Ancient Canoes landed at this site, and there is evidence of ancient structures, as shown by infrared aerial photos.

The permit was granted to desecrate the "archaeological" sites because of the over-riding benefit of the proposed Golf Course which was to be constructed in the wetlands. The City and the Developer stated at the time that the Golf Course in the Wetlands was necessary to pay for the whole "restoration" project.

Subsequent Court Case (Wetlands Action Network et al vs. CCC) proved that the Golf Course in the Wetlands was illegal. Without that so called "over-riding" benefit of the Golf Course, there is no justification in the Environmental Impact Report for destroying the graves of the Ancestors by building houses on the Mesa.

There is evidence of innumerable ancient graves on the Mesa. These sites, if verified, must not be desecrated. Further investigation must be performed, and for that, more time is required. This matter should at a minimum be delayed, and held over until it can be heard where local Citizens can express their opinion.

I strongly urge you to refuse any permit or permission for building on this important upland resource and historical treasure. Please do not allow this truncated, half-baked and unplanned travesty to destroy a potential wildlife corridor, devastate the nearby Wetlands, and desecrate a sacred burial and religious ground of our local First Nation.

Sincerely,

Francis E Lambert  
Signature

FRANCIS E LAMBERT  
Printed Name

246 Beverly St  
Address

La Brea Beach, Calif  
City

90651

949-494-0673  
Tele/Email

For more info, please see [www.LosCerritos.org](http://www.LosCerritos.org)  
F. Lambert@earthlink.net



Stephen Reg Clewley  
945 Catalina Ave.  
Seal Beach, CA 90740  
(562)430-8841  
regclewley@aol.com

RECEIVED  
OCT 6 2000

California Coastal Commission  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4416  
(562) 590-5071

CALIFORNIA  
COASTAL COMMISSION

RE: Coastal Development Permit Application Number 5-97-367A1  
Hellman Properties

Honorable Chairperson and members of the Commission;

I oppose any action by the Commission granting approval of this Development Permit Application. The sweeping changes proposed by this Application as amended constitute an entirely new project requiring an entirely different approach within the context of a new Environmental Impact Report (E.I.R.). The City adopted in this case a fundamentally flawed E.I.R. relying on mis-spoken assurances by City Staff in concert with the developer through his agent.

The overriding considerations which the City took into account when the City Council voted to approve the E.I.R. were the increased revenues to the City which were to accrue from the developer's installation and operation of a golf course. As residential home construction is considered to be revenue neutral the overriding considerations taken into account by the City in their deliberations have been expunged from the project within the Application as amended. So far back as cited in 1982 Commission Actions (1.), revenue loss to the City of Seal Beach is grounds for further study of all alternatives. Including but not limited to a new environmental impact report.

The benefit cited by the City of preservation of open space has been purged from the proposed project as amended, all that is left in its place is a deed restriction for a period of 25 years. No open space is preserved, all the City gets is houses, indeed houses built upon an expanded footprint of that approved in the extant (E.I.R.)

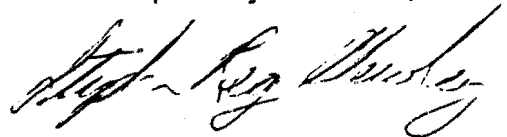
The benefit cited by the City of dedication of a park site as set forth in the Resolution approving the (E.I.R.) was the benefit of lands set aside in perpetuity as a, "Nature Park", Gum Grove park is no longer a Nature Park it is a Dog Park and has no value as a conservation area as such. The City of Seal Beach and indeed the California Coastal Commission must define, lest these misunderstandings be repeated, specific criteria for .  
(1.) Page 24 of 74 paragraph 5, line 4 of Coastal Commission Staff Report

activities acceptable within the metes and bounds of a Conservation Area and or Nature Park.

The benefit cited by the City in certifying the (E.I.R.) and approving the Hellman Ranch project of, Creation of Public Access Opportunities was eliminated by passage of Ordinance 1458 which the developer's Agent Dave Bartlett himself testified against before the City of Seal Beach City Council. Mr. Bartlett said he no longer would take his daughter to that park as the dogs made it an unsafe environment. Wheelchair users can't safely use that park, frail and elderly dare not attempt use that park, able bodied adults not in possession of armaments are at risk of great bodily harm darest they venture within the metes and bounds of Gum Grove Dog Park. The leash law provided under Ordinance 1458 has not been enforced and there has be no demonstrated will on the part of the City of Seal Beach that it will ever be enforced.

Thusly every benefit cited by he City in Certifying the (E.I.R.) and approving the Hellman Ranch project has long since ceased to be a consideration as the California Coastal Commission now sits to consider this preposterous amendment to the wrongfully approved Coastal Development Application Number 5-97-367.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Stephen Reg Clewley".

Stephen Reg Clewley

**RECEIVED** *at hearing*

South Coast Region

10/10/00

OCT 11 2000

CALIFORNIA  
COASTAL COMMISSION

Stephen Reg Clewley  
945 Catalina Ave.  
Seal Beach, CA 90740  
(562)430-8841  
regclewley@aol.com

California Coastal Commission  
200 OceanGate, 10th Floor  
Long Beach, CA 90802-4416  
(562) 590-5071

RE: Coastal Development Permit Application Number 5-97-367A1  
Hellman Properties

Honorable Chairperson and members of the Commission;

I have reviewed the letter from the City of Seal Beach dated October 9, 2000 and find it revolting while not unexpected that the City will threaten to do all within it's power to scuttle any proposal resulting in restoration of wetlands no matter how misguided and filled with shortcomings that proposal is. The City's "compromise" amounts to dedicating a significant portion of restorable wetlands to be a sewer system for 70 homes which should not be built in the first place. The City wants those upland acres the Commission is considering for bio-swale to be left available for further residential and or commercial development. The City is determined to use any acreage dedicated to it as a Dog Park for the exclusive use of individuals familiar with the nearly invisible and well hidden entrance as currently configured. While insisting to leave this potential viable raptor nesting habitat unpatrolled by the local police department as was designed by allowing domesticated canines access to the park which freed the police department from responding to the growing number of complaints regarding the dogs destructive activities within the park. The City has threatened and will not hesitate to trash this project if it does not get it's way as it did in 1982. The City under no circumstances should be granted any dedication of the park nor should the City be given any jurisdiction over this valuable potential raptor nesting area. This "Conservation Area", Nature Park In Perpetuity turned Dog Park will become the site of a new Fire Station faster than the Commission can say, "But the Executive Director said.

It is clear the applicants proposal will be met with lawsuits both by the City, whose interest is in the collection of revenue and by individuals and organizations whose interests are in protection of wetlands, wildlife, and ancient burial sites. Spare the people this unfunded liability and remand this matter for a new Environmental Impact Report.

Respectfully submitted,  
Stephen Reg Clewley

RECEIVED  
OCT 6 2000

CALIFORNIA  
COASTAL COMMISSION

Stephen Reg Clewley  
945 Catalina Ave.  
Seal Beach, CA 90740  
(562)430-8841  
regclewley@aol.com

California Coastal Commission  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4416  
(562) 590-5071

RE: Coastal Development Permit Application Number 5-97-367A1  
Hellman Properties

Honorable Chairperson and members of the Commission;

In examining Exhibit 9, the applicants response to "selected" issues raised in the letters received as of September 26, 2000 it is interesting to note that no letters were received by the California Coastal Commission from individual citizens supporting this Development Permit Application. Gone are the buses offering free transportation and free meals to residents of Seal Beach Leisure World who otherwise would not get out of their compound to go for a free bus ride to anywhere and most likely face dog food for supper tonight since the Applicant won't purchase their proxy for the price of a bus ride and a sandwich.

According to the documents , Glenn Lukos Associates biologists visited the site on December 28, 1999 and January 11 and 13, 2000...(and) walked the entire 18.4 acre site. It appears that the focused surveys are inadequate to determine presence/absence. Department survey protocol for burrowing owls includes a minimum of four site visits at either dusk or dawn during the nesting season or between December 1 and January 31 for winter surveys. Further questions concerning burrowing owl survey protocol should be directed to Lyann Comrack of the Department at (858) 467-4208 said William E Tippets of the Department of Fish and Game on June 19, 2000

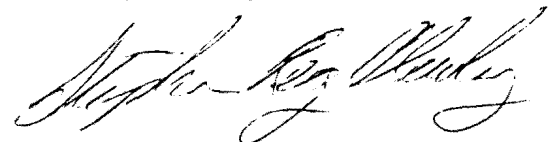
Exhibit 9, page 1 fourth bulleted point by the applicant is a fabrication. The

dedication of Gum Grove Park to the City of Seal Beach, expanded or not, most certainly will, under the conditions of this permit have increased impacts to archaeological resources. The grading of extant trails for the physically challenged will impact upon a minimum of two known ancient grave sites. The expansion of Gum Grove Park as proposed will impact upon a minimum of one known ancient grave site at the juncture of the rear property line of 1733 Crestview.

The applicant's driving motivation to dedicate those lands to the city is not to placate the people of the City of Seal Beach but to wash his hands of a widely known and documented graveyard. In the hopes of obfuscating yet further any serious piecing together of the true history and significance of the cultural resources on the subject property.

Exhibit 9 page 2, fifth bulleted item is a fabrication. Letters from the public have most certainly have raised new issues not previously considered. The Commission need carefully consider the Stewardship of the land offered by the City of Seal Beach. The City of Seal Beach has unlawfully paved over wetlands situated in Gum Grove Park. The City of Seal Beach saw fit in its wisdom to dump asphalt upon the wetlands within Gum Grove Park. Asphalt the City of Seal Beach would have otherwise been required to have disposed of properly. The City of Seal Beach in its wisdom has seen fit to allow domesticated canines access to Gum Grove Park in an effort to eradicate the potential habitat value of this park which was to be preserved as a "Nature Park" a "Conservation Area" "in perpetuity". The City of Seal Beach has demonstrated itself to be an unfit steward, duplicitous of tongue and in writing.

Respectfully submitted,



Stephen Reg Clewley

www.LosCerritos.org

RECEIVED  
OCT 10 2000

CALIFORNIA  
COASTAL COMMISSION

California Coastal Commission  
Attn: Mr. Karl Schwing  
200 Oceangate, 10th Fl.,  
Long Beach, CA 90802-4416  
FAX: 562-590-5084 Phone: 562-590-5071

RE: Hellman permit (5-97-367) Date: 10/8/2000

Dear Mr. Schwing:

I respectfully request that the California Coastal Commission not permit any development on the former Hellman Estate in Seal Beach.

The City and the Land Owner have agreed that the Wetlands will be restored to a 106.5 acre functioning wildlife preserve. The upland, or "mesa", area is vital to the health of the Wetlands below. The grading plan would suffice to protect the Wetlands from urban runoff, domestic animals, and human incursions.

Building a housing tract on the highland would destroy the viewscape, making the restored wetlands less visually attractive and less viable. It does not make sense to inject a few houses into the nexus of the future wildlife connection of the Los Cerritos Wetlands with the National Wildlife Refuge, just across Seal Beach Blvd.

The permit was originally granted for the Golf Course in the Wetlands and Housing Tract on the upland as one unit. Since the Wetlands will, instead, be preserved, the houses should not be built until the entire plan is re-examined. It is important to me that the entire property be restored as a whole, and not "piecemealed" into an unsightly housing tract and too-small wetlands.

In the staff report which you are compiling for the upcoming Commission meeting on this permit, I strongly urge you to consider these objections and to recommend denying any permission to build houses on the upland portion of the ecosystem on the former Hellman Estate. If we're going to restore it, let's do it right

Sincerely,

(Signed) Alfred G. Cruz Jr.

Name: Alfred G. Cruz Jr.

Address: 331 E. Truslow

City: Fullerton, CA 92832

Tele: (714) 447-4778

Email: \_\_\_\_\_@\_\_\_\_\_

www.LosCerritos.org

California Coastal Commission  
Attn: Mr. Karl Schwing  
200 Oceangate, 10th Fl.,  
Long Beach, CA 90802-4416  
FAX: 562-590-5084 Phone: 562-590-5071

RECEIVED  
OCT 10 2000

CALIFORNIA  
COASTAL COMMISSION

RE: Hellman permit (S-97-367) Date Oct 8/2000

Dear Mr. Schwing:

I respectfully request that the California Coastal Commission not permit any development on the former Hellman Estate in Seal Beach.

The City and the Land Owner have agreed that the Wetlands will be restored to a 106.5 acre functioning wildlife preserve. The upland, or "mesa", area is vital to the health of the Wetlands below it. No grading plan would suffice to protect the Wetlands from urban runoff, domestic animals, and human incursions.

Putting a housing tract on the highland would destroy the viewscape, making the restored wetlands less visually attractive and less viable. It does not make sense to inject a few houses into the nexus of the future wildlife connection of the Los Cerritos Wetlands with the National Wildlife Refuge, just across Seal Beach Blvd.

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In the staff report which you are compiling for the upcoming Commission meeting on this permit, I strongly urge you to consider these objections and to recommend denying any permission to build houses on the upland portion of the ecosystem on the former Hellman Estate. If we're going to restore it, let's do it right

Sincerely,

(Signed) Arnon R Cruz

Name: Arnon R. Cruz

Address: 329 E. Truslow

City: Fullerton Ca.

Tele: (714) 773-5058

Email: @

www.LosCerritos.org

RECEIVED  
OCT 10 2000  
CALIFORNIA  
COASTAL COMMISSION

California Coastal Commission  
Attn: Mr. Karl Schwing  
200 Oceangate, 10th Fl.,  
Long Beach, CA 90802-4416  
FAX: 562-590-5084 Phone: 562-590-5071

RE: Hellman permit (5-97-367) Date: 10/8/2000

Dear Mr. Schwing:

I respectfully request that the California Coastal Commission not permit any development on the former Hellman Estate in Seal Beach.

~~The City and the Land Owner have agreed that the Wetlands will be restored to a 106.5 acre~~ functioning wildlife preserve. The upland, or "mesa", area is vital to the health of the Wetlands below it. No grading plan would suffice to protect the Wetlands from urban runoff, domestic animals, and human incursions.

Putting a housing tract on the highland would destroy the viewscape, making the restored wetlands less visually attractive and less viable. It does not make sense to inject a few houses into the nexus of the future wildlife connection of the Los Cerritos Wetlands with the National Wildlife Refuge, just across Seal Beach Blvd.

The permit was originally granted for the Golf Course in the Wetlands and Housing Tract on the upland as one unit. Since the Wetlands will, instead, be preserved, the houses should not be built until the entire plan is re-examined. It is important to me that the entire property be restored as a whole, and not "piecemealed" into an unsightly housing tract and too-small wetlands.

In the staff report which you are compiling for the upcoming Commission meeting on this permit, I strongly urge you to consider these objections and to recommend denying any permission to build houses on the upland portion of the ecosystem on the former Hellman Estate. If we're going to restore it, let's do it right

Sincerely, *Sharon R. Cruz Gonzalez*

(Signed) \_\_\_\_\_

Name: Sharon R. Cruz-Gonzales

Address: 4220 Lively St, #B

City: Riverside, CA 92505-1682

Tele: (909) 637-1283

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RECEIVED  
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www.LosCerritos.org

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Sincerely,

(Signed) Alfred G. Cruz Sr.

Name: Alfred G. Cruz, Sr.

Address: 331 E. Truslow Ave

City: Fullerton, CA 92832

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Email: N/A @

California Coastal Commission  
200 Oceangate, 10th Fl.,  
Long Beach, CA 90802-4416

RE: **Hellman permit (5-97-367 A1)**

Oct. 11, 2000

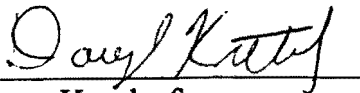
Honorable Chair Wan, Commissioners and staff:

Hon. Lillian Robles, elder of the Acjachemen/Juaneno First Nation, is here to address you.

She stands as the representative of a sovereign people, and therefore requests the honor of presentation with reasonable time limits. An issue important to her people is going to be raised, and it needs to be explained in oral testimony before the Commission.

I ask the courtesy of addressing the commission first, with a time limit of 5 minutes, and then the privilege of introducing the **Hon. Lillian Robles** for her comments, which stand as the position of the Acjachemen/Juaneno peoples on the issue of this Coastal Development Permit Amendment.

Thank you.



Doug Korthof  
1020 Mar Vista  
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Cell phone 714-496-1567

**RECEIVED at Hearing**  
South Coast Region

OCT 11 2000

CALIFORNIA  
COASTAL COMMISSION

You've heard the arguments against the Hellman project. Some of us travelled 700 miles to Eureka, CA to get our 3 minutes to tell you that the project was illegal, and against Sect. 30233 of the Coastal Act, as your own staff report also told you. Instead of voting with the Coastal Act, the Commission took the easy path of issuing the permit per Applicant, not staff.

After the inevitable defeat of this permit in the Courts, now the developer and the city want to continue with part of the project. This does not make sense, because the golf course and the housing tract were supposed to work together. For example, \$3,000,000 from the housing tract was to go to support the Golf course, which the Applicant admitted was not economically viable, even neglecting the cost of the land, and the need for the Golf Course was used in the EIR as an "over-riding benefit" to justify loss of archaeological resources.

Worse, the city now wishes that you do not approve public access to Gum Grove park as part of the project, and the developer wishes to "expand the footprint" of the housing tract – that is, take more land from the habitat – keep the windfall profit from the housing tract which was to go to support the golf course, and, in addition, take part of the salt water wetland habitat for a stormwater detention basin to facilitate construction.

Most important of all, continuing with the housing tract would preclude a reconsideration of the project as a whole. The entire project needs to be reconsidered in view of the required restoration of the majority of the project to some semblance of what it was before it was "degraded" by the activities of the applicant and its forbears. There is a wildlife corridor at stake here, extending from the Los Cerritos Wetlands through Hellman, the National Wildlife Refuge, and wetlands extending to Bolsa Chica. Wildlife corridors are good, for animals and ecotourism. Putting a concrete block in the middle of it is not good.

Ironically, the main reason this small parcel is still relatively undeveloped is those very oil operations which degraded it. All the really good land has already been taken away and built on.

Two centuries ago, the Coastal Act and the Commission were not needed. This land was a living paradise, our First Nation peoples spent much of their time in religious ceremonies.

The existing tribal laws and the complicated culture on which they depended was not apparent to the Europeans at that time, who were not trained in tolerance, much less Cultural Anthropology.

First, the savage monks herded the inhabitants into what we would now call concentration camps, via what we would now term a campaign of "ethnic cleansing", where they were subject to forced labor, disease and intense indoctrination.

When the United States took over, things got much worse. From 1848 to 1850, the estimated population of Native Americans in California declined from 100,000 to 50,000.

The 1851 Indian Indenture law permitted indentured servitude -- slavery -- for Native Americans, and put forth the legal principle that no European could be convicted on the testimony of Indians alone. This meant that no settlement of Indians alone could ever be secure. Documented accounts of what we would now view as genocide are common in the literature of the time.

To bring the point home, up until the 1900's, there was a bounty in California on killing Indians.

To this day, there has never been a treaty or transferral of the land from the local Native Americans to the Europeans, nor the establishment of a reservation or sanctuary, probably because the policy of the State was to exterminate them.

In Los Angeles and Orange Counties, this policy nearly succeeded. What few Tongva, Acjachemen or others survived, were forced to take Spanish surnames and hide their ancestry. The few existing descendants and their Tribal Councils are not even federally recognized, as if they never existed.

Their culture, and the laws which are dependent on it, were logically equivalent to the culture and laws of the Europeans. The Courts will recognize that it was and remains illegal under our laws to brush aside and ignore the rights of an entire people.

Clearly, human rights violations have occurred, and the local Native Americans can be viewed as a 'captive people' under international law. Captive, but still possessing those rights, as will come out eventually in the Courts.

Today, what is before you is only the Hellman development plan. No one is expecting you, or anyone else, to undo the sins of generations. What you *can* do is interpret the term "reasonable mitigation" in Sect. 30244 to take account of the people whose cultural heritage is at stake here, and require that special condition #19 be modified to include the following:

- 1. Require the applicant to get permission from the Tribal Councils, not the City Council, for approval of the archaeological plan;**
- 2. Require the applicant to get permission from the Tribal Councils for the nature and extent of Native American monitoring during any construction.**

This accepts and establishes a new and more forceful interpretation of the Coastal Act, one which, it will be argued, is in accordance with its intent, but has not been enforced in prior years. I believe the Courts, the Governor, and the Legislature will support this interpretation, which is little enough for the Native Americans to ask of you.

It is important, and will acquire increasing importance when the issue of construction on the Bolsa Chica Mesa comes before you next month. Only this condition will avoid a

repetition of the tragedy which occurred when ORA-64 and ORA-86 were bulldozed without adequate respect for the indigenous culture, and certainly without adequate mitigation.

**The existing KEA plan has been specifically rejected by the Gabrielino/Tongva Tribal Council**, among others, in letters available to you, as inadequate, particularly for reasons given in letters on file by King, Singer, and others, which question its reliance on remote sensing and the adequacy of 50 cm. test pits, as well as the extent of participation by the Native American community, and for other reasons. Reasonable mitigation will require their approval of the plan, which has not yet been obtained.

**On-site monitoring must require one Native American monitor to oversee each grading unit, such as a bulldozer, and must require all work to stop** when and if artifacts or bodies are found. In both cases, it is reasonable that the local Councils of the Gabrielino/Tongva and the Acjachemen/Juaneno be notified, and that they decide what action is to be taken, and which of the Most Likely Descendants is to be notified. While this might require some additional time and care on the part of Applicant, what is at stake here is the Cultural Heritage of an entire sovereign people, and this would seem to be the minimum that reasonable mitigation would entail.

What is at stake here is important, not trivial. Without adequate protection, bulldozers will roll, scraping bodies and artifacts into oblivion. It has happened before, and will happen again unless you require reasonable mitigation under the Coastal Act.

This year's Native American March for the Ancestors, on Oct. 7, traversed a sort of trail of tears from a village on Pendleton to ORA-64, where 650 to 800 bodies were scraped out of the earth and surrepticiously reburied, to ORA-86 at Bolsa Chica, where unreported bodies were scraped out of the earth at the Sandover project and even worse is threatened on ORA-83 and other sites, to Hellman, where the same tragedy is threatened, and ending at Puvungna, the legendary village on CSULB which was saved from a strip mall.

This year, there was a candlelight march from Puvungna to the campus by the United Farm Workers, and others. This shows that momentum is building for a respect for the land, and for our First Nations culture and burial sites.

It is up to you whether next year's, and succeeding years, marches to Hellman are to a triumph, like Puvungna, or to a tragedy, as the Applicant is asking you to approve. The simple requirement of Tribal Approval would avoid this, and perhaps go a small way toward mitigating the tragedies we cannot undo.

California Coastal Commission  
200 Oceangate, 10th Fl.,  
Long Beach, CA 90802-4416

Oct. 11, 2000

RE: **Hellman permit (5-97-367 A1)**, Exhibit 9 and requested amendments to Special Condition #19 to require Tribal approval and oversight

**Honorable Chair Wan, Commissioners and staff:**

The developer states in Exhibit 9 of the staff report that all questions about this permit have been addressed, in particular, with respect to the "Archaeology Issues".

On p. 4, Applicant states that there were "16 separate ... studies ..." but does not mention that most of the results of these "studies" were lost or deliberately destroyed, as were the aerial photos and 900 bags of artifacts. Such tragedies were due to insufficient oversight of the prior "studies", and would be avoided by the requested modification to special condition #19.

On p. 5, Applicant states that the inadequacy of the "30x30 cm" pits (50 cm deep) would be cured by "remote sensing tools". However, it is the considered opinion of at least some qualified professionals that such techniques often miss important features. Moreover, the Applicant states that there will be little, if any, testing done on areas of prior "studies". Yet the loss of important data concerning those sites indicates that they should not be excluded from intensive testing.

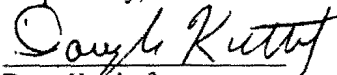
On p. 6, Applicant states that "...KEA consulted with a number of Southern California Native American individuals and organizations...". But they evidently did not get approval, since both Councils, and the multitude of Native Americans who wrote letters to the Commission, did not concur with the plan. It is not sufficient to "notify" the Indians, it is necessary to get their approval.

On p. 7, Applicant states that the Research Design has been submitted to the Native American Heritage Commission. However, this is the same Commission which permitted the desecration of ORA-64, and evidently does not have the detailed knowledge of local tribal matters which our local First Nations possess.

On p. 8, Applicant states that "confirmed discoveries" of human bone on Hellman Ranch is limited to "...one site...". However, this does not include the 900 bags of bone fragments and other materials "lost" after the Mola project failed. In addition, the originals of the infrared photographs of structures on the mesa have been "lost" by the city and the investigator, although copies are to be found on the internet which appear to depict regular structures beneath the mound located where the proposed new parking lot for Gum Grove Park public access will be built.

On p. 9, Applicant glosses over the recent use of the Mesa area for City of Seal Beach staging and dumping ground for a street improvement project. No permit approval was received for this project, so the extent of transgression onto the Hellman Mesa is unknown to the Coastal Commission. Applicant should have obtained a Permit for this activity which would have limited such activities to such as were consistent with the Coastal Act. Instead, debris, piles of dirt, construction equipment, pipe and other material were scattered in a zone extending many dozens of yards into the Mesa. This unpermitted activity prejudices and must logically invalidate the entire Permit Amendment, since the Applicant was "jumping the gun" and may have caused significant damage to protected resources on the Mesa.

Respectfully,



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