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REGULAR CALENDAR AND DE NOVO HEARING ON APPEAL STAFF REPORT AND RECOMMENDATION

APPLICATION NUMBER: 5-00-400 (PLAYA CAPITAL); A-5-PLV-00-417 (PLAYA CAPITAL)

APPLICANT: Playa Capital Company LLC

AGENTS: Catherine Tyrrell, Playa Capital
Wayne Smith, Psomas Associates

PROJECT LOCATION: Culver Boulevard, and adjacent to and south of existing Lincoln/Culver ramp, Area C Playa Vista, Los Angeles County

PROJECT DESCRIPTION: Construct modified and new ramp connections between Lincoln and Culver Boulevards, widen the southerly half of Culver Boulevard between Lincoln Boulevard and the Marina Freeway to provide an additional eastbound lane, widen and improve grade level connections between Culver Boulevard and Marina Freeway, and install drainage, lighting and landscaping. The project will add 38 to 41 feet of pavement to the 34 to 37 foot wide road, and additional area to the connections to the Marina Freeway, where the finished road may be as much as 104 feet wide. The project will require 23,000 cubic yards cut and fill.

PROPOSED CHANGE IN DESCRIPTION DE NOVO: Construct 1.1 acre extended detention/biofiltration basin and restoration area within curve of ramp loop, to capture and treat storm water run off from the widened roads, through detention-induced settling and biofiltration before it drains to Ballona Creek; install additional landscaping along Culver Boulevard and along recently widened portions of Lincoln Boulevard rights-of-way.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **DENY** the proposed development because there is a dispute concerning the applicant's ability to construct those portions of the project that are located on property held by the US Trust of California in trust for the state. Secondly, a new detailed survey of plants and soils located in the area to be filled by the ramp indicates that the proposed construction will result in the fill of approximately 0.2 acres of wetland. The loop ramp must be denied because the proposed fill is not consistent with Section 30233 of the Coastal Act.

LOCAL APPROVALS: City of Los Angeles CDP 00-03B
Playa Vista Project, Phase I EIR, 1993, as amended.

Staff Note: The Commission previously held a hearing on this matter at the April 2001 meeting. The hearing was continued to allow staff to further investigate allegations that the proposed project will require fill of wetlands. After a site visit, and collection and analysis of sampling data, Commission staff has determined that the proposed loop ramp connecting Culver Boulevard to Lincoln would require fill of wetlands. Therefore, staff is recommending denial of the proposed loop ramp because it is a road improvement associated with new development and thus is not an allowable use of wetlands. Other portions of the project, including widening of Culver Boulevard, do not require fill of wetlands. However, at this time, the Commission recommends denial of all the development proposed in this project, because the State Controller asserts that the applicant does not have the right to use the property for the proposed project. U.S. Trust Company, as Trustee, owns the project site on behalf of the State of California. The applicant disagrees with the Controller and alleges that it does have the right to use the property for the project. The Coastal Commission cannot resolve this dispute and therefore staff recommends denial of the proposed project.

EXECUTIVE SUMMARY

As described below, the proposed road improvement is a required mitigation measure for development located outside the Coastal Zone, the first phase of a much larger project. The 280 acre first phase consists of two tracts (See Table I, below). The City approved these tracts in 1995. Most of the first phase development including all Phase I residential, commercial and office structures is located outside the Coastal Zone, in an area known as "Area D." Some road and drainage facilities to serve Playa Vista Phase I are located within the Coastal Zone. These include: (a) this proposed widening of Culver Boulevard, (b) the extension of Playa Vista Drive (Bay Street) from Jefferson to Culver Boulevard (application expected), (c) widening along Lincoln Boulevard (approved as 5-99-139), (d) the construction of 26.1 acre freshwater marsh restoration, 5-91-463(Maguire Thomas), and (e) other minor road widening and intersection expansion, including a changed intersection configuration at Culver and Jefferson within Area B. In the City's approval of residential and commercial units outside the Coastal Zone, the City required construction of several road expansion projects, including this one. The standard of review for this road expansion project is whether or not it is consistent with Chapter 3 of the Coastal Act. The Commission does not have jurisdiction to review impacts of the Phase I development occurring outside the Coastal Zone.

The Playa Vista Project has long been controversial because of its size and intensity and because of the presence of wetlands. The Department of Fish and Game has identified 196.53 acres of wetlands on the Playa Vista property, including the 3.47 acres identified by the Corps in Area D. (Area D is located outside the Coastal Zone.) Because the

historic wetland was much larger than the presently identified wetland, the extent of the wetlands is also subject to controversy. In 1984, the Department of Fish and Game identified 2.5 acres of wetland in Area C (the northeast quadrant of Playa Vista.) This road widening is proposed in the southwest corner of Area C and along the entire south side of Culver Boulevard, which bisects Area C.

Due to the presence of a small (2.5-acre) mapped wetland on the north side of Area C, the public has also raised issues whether the road expansion and ramp building could impact that wetland and/or other areas that are not mapped wetlands. The proposed project does not fill or drain into any of the wetland areas on the project site that were previously mapped by the California Department of Fish and Game in 1984. However, the proposed new ramp from northbound Lincoln to Culver Boulevard impacts a 0.19 acre area that is vegetated with a mixture of mulefat and other plants, raising concerns with the wetland impacts of this project. Opponents have indicated that they believe that the Department of Fish and Game should have determined that this area is a wetland. Mulefat is a wetland facultative plant – it is found in wetlands and marshes but also in other areas subject to occasional flooding. An initial cursory visit seemed to indicate that the area was not a wetland. At its April 2001 hearing, the Commission received testimony regarding the possible presence of wetlands in Area C that were not identified when Fish and Game conducted its delineation in 1984. The public cited the area that is dominated by mulefat, and soil samples that they testified demonstrated that the 0.19-acre area north of the existing ramp is a wetland. The Commission continued the matter and requested the applicant and the staff biologist to provide more information concerning the vegetation and the possible wetland status of land that would be filled and developed as part of this proposed road widening. In response to this concern, staff requested Playa Capital to conduct a formal wetland delineation.

The Commission staff biologist visited the site with applicant's consultants and observed the field work conducted for the delineation. The vegetation within the area of mulefat is comprised predominantly of hydrophytes. In addition, there was evidence of inundation during winter 2000/2001 and evidence of previous inundation in the form of adventitious roots of a variety of sizes on the mulefat. Adventitious roots are an adaptive response to the anaerobic conditions that accompany inundation. As a result of this new information, the Commission's senior biologist determined that the area qualifies as a wetland as defined In the Coastal Act and the California Code of Regulations. The proposed new ramp from northbound Lincoln to Culver Boulevard impacts this 0.19-acre area. Section 30233 of the Coastal Act does not allow fill of wetland area for roads to serve new residential, office and commercial projects. This road project is driven by and directly required by a residential, commercial and office project located nearby.

Area C is owned by the State. There are two issues regarding State ownership -- whether the applicant has a right to develop roads to accommodate its development on State property, and whether a road is an appropriate use of State property. A significant part of the land necessary to develop the roads is located on property held by U. S. Trust as

trustee for the State. In 1984, the State granted Playa Vista an automatic a right to purchase Area C for an agreed sum if it purchased the area before December 31, 2000. In 1990, the State[1] granted Playa Capital an easement right to develop roads that were identified in the approved LUP and in City-approved tract maps for the area. Playa Vista failed to purchase Area C by December 31, 2000. The State Controller has now written a letter asserting that Playa Capital no longer has the ability to develop or improve roads on the property because its right to use the property for roads lapsed when the applicant failed to exercise its option. Playa Capital disputes this interpretation of the agreements between the parties. Until this dispute is resolved, the Commission cannot approve development by Playa Capital in Area C.

Because the applicant no longer has an automatic right to purchase it, Area C is now under consideration for development as a State Park. A second issue raised is the compatibility of a three-lane 72-foot wide road with a State Park.

In response to concerns that the increased runoff will carry additional polluted waters into Ballona Creek, the applicant is proposing an extended detention/biofiltration basin to filter runoff from the road, which will then discharge to Ballona Creek. The drainage basin will be vegetated with willows and other plants so it can provide both bio-remediation and habitat.

The project involves the removal of about five acres of upland vegetative cover. The applicant is proposing to revegetate the 1.1-acre drainage basin and the roadside areas adjacent to both Culver and Lincoln Boulevards.

The project is located in an area underlain by oil and gas bearing sediments, which release gas through the soil. There are measurable levels of thermogenic soil gas within the area, although most recent surveys indicate that concentrations of soil gas in the immediate area of the proposed road are not hazardous and are lower than those found in Area D, which is located south of this project. Soil gases are dangerous when they build up in enclosed spaces and are then mixed with oxygen. The City of Los Angeles standards for protection of structures from soil gas exempt small structures and unenclosed areas from the burden of collecting and venting gases. The staff of the City of Los Angeles Department of Public Works indicates that the City has not experienced problems with soil gas under roads, even in areas where structures are required to collect and vent methane. The Commission's staff geologist has reviewed the available reports and concurs that construction of the road will not raise dangers from soil gas. In addition, a report from the City Legislative Analyst indicates that Area C is not subject to high levels of soil gas.

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1. [1] Easement Agreement By and Between U.S. Trust Company of California, N.A. and Maguire Thomas Partners—Playa Vista, a California Limited Partnership. August 1990.
2. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.

The project will impact two mapped archaeological sites. Exploration and recovery of those sites is authorized in a programmatic agreement between the applicant, the US Army Corps of Engineers, the Tongva/Gabrieleño tribes and the State Historic Preservation Officer. Exploration of these sites, but not recovery, is authorized in Coastal Development Permit 5-98-164. The applicant has completed initial exploration of the two sites. One of the sites showed evidence of cultural deposits. The applicant has submitted an application to enable it to undertake archaeological recovery. The recovery plan has been distributed to the parties that co-signed the programmatic agreement. The Corps and SHPO have approved the recovery plan.

The California Code of Regulations (14 CCR section 13053.4) requires: "to the maximum extent feasible, functionally related developments to be performed by the same applicant shall be the subject of a single permit application." The Commission notes that this project is one of three road projects in the Coastal Zone that Playa Capital is required to complete. Another road project now approved by the City, and which may also be appealed, includes the installation of a bridge over Ballona Channel and an extension of a road, "Playa Vista Drive", from the channel to Culver Boulevard. This project is related to the present project because they are both located in Area C and they are both traffic mitigation measures required in the Playa Vista First Phase EIR. The third project is located in Area B, and involves changing the configuration of the intersection of Jefferson Boulevard and Culver Boulevard from a "V" configuration to a "T" configuration. That project is still under consideration at the City of Los Angeles. The project is related because it is also a Phase I traffic mitigation. The archaeological recovery is related to the present project because the Culver Road and intersection expansion will impact the site.

Caltrans has submitted an application to construct a grade-separated intersection at Culver Boulevard and the Marina Freeway. Caltrans has also circulated a draft EIR for additional widening of Lincoln Boulevard. That project has recently been submitted, and is being reviewed. The two projects are related but are not under the control of the applicant and they are not functionally related developments because the Caltrans project is not required to mitigate traffic impacts of the Playa Vista Phase I development.

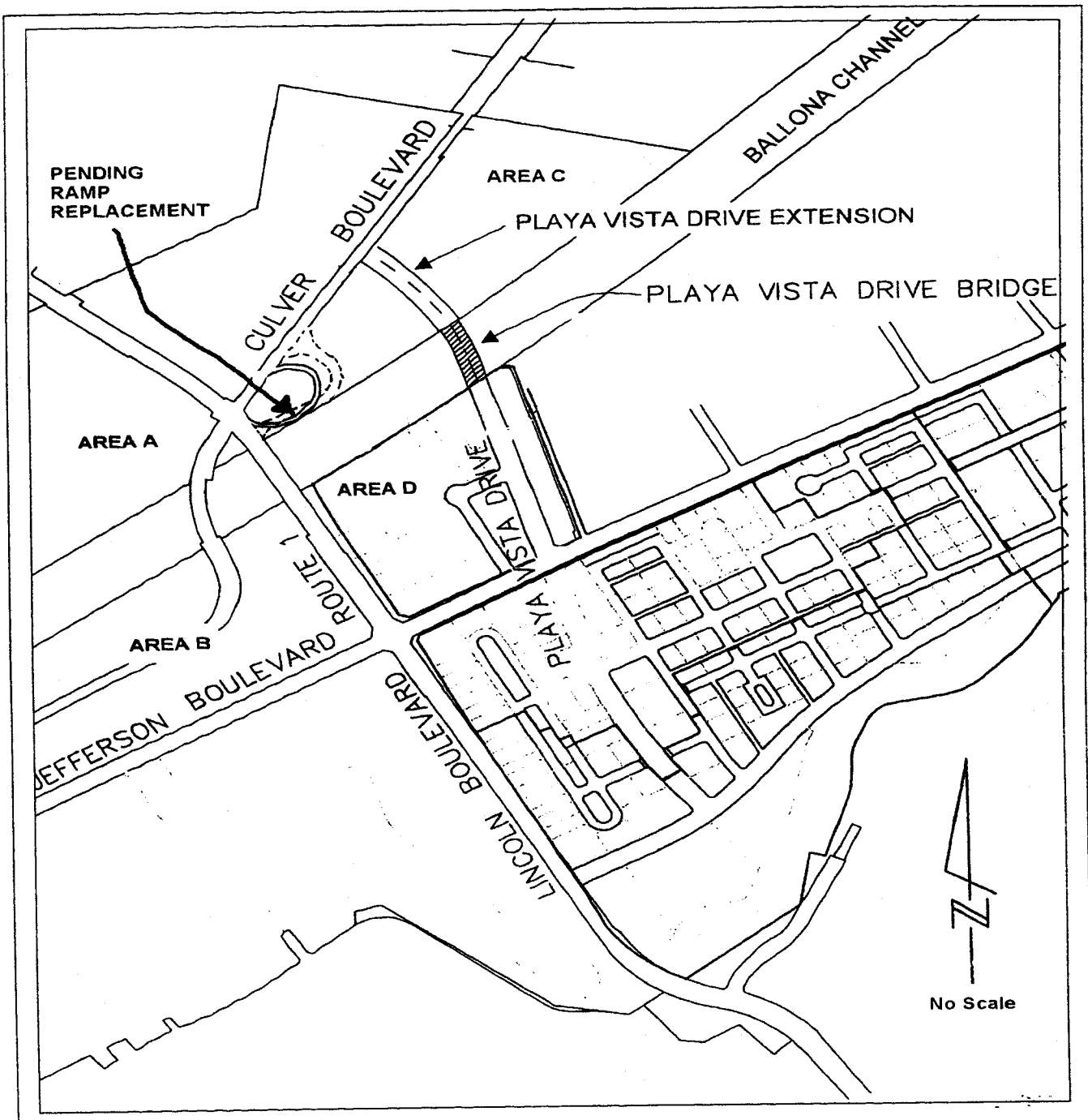

Figure 1. Project Location.

Procedural Note:

This project is located in the City of Los Angeles, which has assumed pre-certification permit jurisdiction under Section 30600(b) of the Coastal Act. While there is a certified LUP for this area, the Commission has not certified implementation ordinances. Section 30600(b) allows a local jurisdiction to issue coastal development permits prior to certification of its Local Coastal Program, subject to appeals by any person within 20 working days of issuance of the permit.

The Coastal Act also identifies areas where, irrespective of the City's grant of a coastal development permit in its pre-certification program, the Commission must grant a second coastal development permit for all development. Section 30601 establishes that, in addition to a permit from local government pursuant to subdivisions (b) or (d) of Section 30600, a coastal development permit shall be obtained from the Commission for all major public works projects, for developments located within 100 feet of any wetland, estuary or stream, or located between the first public road paralleling the sea and the sea. The project is a major public works project. This road-widening project is also located between Culver Boulevard, a public road, and the Ballona Channel, which because it is subject to tidal action, is regarded as an arm of the sea for purposes of Section 30601. Finally, the ramps are located within 100 feet of Ballona Creek, a tidal estuary.

On January 11, 2001, the Commission found that the appeal of local permit CDP-3B, appealed as A-5-PLV-00-417 (Playa Capital Company LLC), raised substantial issue with respect to its conformity with the Coastal Act. This present action is a combined action on the de novo hearing on Appeal A-5-PLV-00-417 and on permit application 5-00-400, which the applicant submitted in accordance with Section 30601. The Commission held an initial hearing on these matters on April 12, 2001, and continued the matter until its June 2001 hearing.

To avoid confusion, there is one set of findings applying to both permits, since the standard of review for both permits is identical--the Coastal Act. However, there are two motions and two resolutions.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **DENY** the de novo permit and coastal development permit application:

FIRST MOTION

"I move that the Commission approve Coastal Development Permit 5-00-400 per the staff recommendation as set forth below."

Staff recommends a **NO** vote, which would result in the adoption of the following resolutions and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. RESOLUTION TO DENY COASTAL DEVELOPMENT PERMIT 5-00-400:

The Commission hereby **DENIES** a coastal development permit **5-00-400** for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act.

SECOND MOTION

"I move that the Commission approve Coastal Development Permit A-5-PLV-00-417 per the staff recommendation as set forth below."

Staff recommends a **NO** vote, which would result in the adoption of the following resolutions and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

II. RESOLUTION TO DENY DE NOVO PERMIT A5-PLV-00-417

The Commission hereby **DENIES DE NOVO COASTAL DEVELOPMENT PERMIT A5-PLV-00-417** for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act

III FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The project before the Commission is to (1) add a loop ramp that will connect north bound Lincoln Boulevard to east bound Culver Boulevard, (2) relocate, improve the radius of and widen a second loop ramp that presently connects east bound Culver Boulevard with north

bound Lincoln Boulevard, and (3) add a lane (38-41 foot wide strip) to Culver Boulevard on the south side of Culver Boulevard from Lincoln Boulevard to the Marina Freeway, (Route 90), (4) construct ground level ramps between Culver Boulevard and the Marina Freeway, (5) add lighting, drainage and landscaping, and (6) install a 1.1 acre extended detention/bio-filtration basin. Both the Commission and the City approved the ramp and road widening portions of this project in 1995 as 5-95-148(Maguire Thomas). Due to financial difficulties, the applicant did not construct the project and the permit expired. This and recently approved Coastal Development Permit 5-99-139, widening of Lincoln Boulevard, are applications to seek re-approval of two parts of the project approved in CDP 5-95-148.

The proposed street expansion is required to mitigate traffic generated by Playa Vista Phase One, two tracts located outside the Coastal Zone that the City of Los Angeles approved in 1995 (see Table 1). This and other widening projects were mitigation measures imposed by the Phase I EIR, as amended. It is proposed to add 38 to 41 feet of pavement to the 34 to 37 foot-wide road, improve the safety of an existing ramp at Lincoln, provide a connection to north bound Lincoln from Culver Boulevard and provide at-grade one-way ramp connections at the Marina Freeway. The enlarged road is required by the City in order to relieve Jefferson Boulevard from traffic seeking to take the northbound 405 from the homes and workplaces in the Phase I Playa Vista project and reduce its traffic impacts on Lincoln Boulevard, an already over-burdened north-south route.

B. MARINE RESOURCES

The project is proposed in an area that included a historic wetland. The project will also drain into Ballona Creek, which is an estuary.

Sections 30230, 30231 and 30233 of the Coastal Act state:

Section 30230.

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

Section 30231.

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

Section 30233

(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:

(l) 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.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

WETLANDS IDENTIFIED IN 1984 BY THE DEPARTMENT OF FISH AND GAME

In 1984, (and again in 1991) the Department of Fish and Game identified 2.5 acres of wetland in Area C (Exhibit 11, p6). The identified wetland areas constitute a drainage channel (the Marina Drain) that flows into the Marina del Rey and also a patch of Salicornia near the northwesterly corner of Area C (Exhibit). The drainage channel is an identified Corps wetland. It flows in a culvert under Lincoln Boulevard into a similar channel in Area A that drains, through another culvert into Marina Basin H. Any fish found on the site would reside in this channel that has water. The widened road will not encroach into either of these identified wetlands; in fact both are north of Culver, while the widening and the ramps are south of Culver. The proposed street drains will drain into the Ballona Creek and not to the Marina Drain or the patch of Salicornia identified elsewhere.

WETLANDS RECENTLY IDENTIFIED BY THE SENIOR STAFF BIOLOGIST

This area was historically part of the Ballona wetlands. It was farmed as late as the 1950s. In the 1960's, construction activities in surrounding areas disturbed the site which received considerable amounts of fill, probably at different times and from different sources. The site is now surrounded by topographic highs formed by the levee for Ballona Creek, road embankments, and the twenty-foot high mound of fill south of Culver Boulevard between Culver Boulevard and Ballona Creek that is occupied by Little League ball fields. The loop ramp site is a depression west of this mound, and east of the present ramp. This depression supports a mix of native and exotic vegetation. The dominant vegetation is comprised of weedy exotic species characteristic of disturbed areas. There

are also several small stands of mulefat (*Baccharis silicifolia*), a typically riparian species. Nine other species which are tolerant of wet conditions are present at the site, the most common being bristly oxtongue (*Picris echioides*) and curly dock (*Rumex crispus*). Mulefat is a native plant that grows along streams, on the borders of wetlands and in areas that are seasonally wet. Bristly oxtongue is found sometimes in wetlands, and sometimes in uplands. Curly dock is generally found in wet areas, but is also common in seasonally moist upland situations. All three of these species are wetland facultative plants, which means that they tolerate wet and saturated habitats, but are not dependent on them. They also are found in areas that are not wetlands or along stream banks.

Under the Cowardin method of wetland delineation, a method used by the Department of Fish and Game in California, a site is a wetland if one of the following applies:

1) the land is periodically inundated or saturated, or
2) the soils are hydric (soils that are periodically anaerobic due to saturation), or
3) the predominant vegetation is adapted to life in saturated soil conditions.

In its regulations, the Commission defines wetlands

> 13577(b) Wetland ...Wetlands shall be defined as land where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, waterflow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface wet or saturated substrate at some time during each year and their location within or adjacent to vegetated wetlands or deepwater habitats. For purposes of this section, the upland limit of a wetland shall be defined as:
>
> (A) The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;
>
> (B) The boundary between soil that is predominantly hydric and soil that is predominantly non-hydric; or
>
> (C) In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

So the presence of either water on or near the soil surface, predominantly wetland vegetation, or predominantly hydric soils defines wetlands. The presence of only one indicator is enough--if the plants are there; the soils do not have to be hydric for an area to be defined as a wetland.

The area in which the proposed road widening is located is a historic wetland that has been altered by fill, by the channelization of Ballona Creek in the 1930's and by the construction of the Marina in the 1950's. Part of the 0.19-acre area just north and west of the present ramp supports mulefat and ponds in the rainy season—the frequency and

duration of ponding is still subject to debate. The applicant submitted a soils report that shows that the soils are not hydric, confirming reports prepared by the previous owner during preparation of the LUP.

In this case, the Commission staff biologist, Dr. John Dixon, visited the site twice. At the time of the first visit, he walked the site with the applicant's biologist who described the vegetation, which consisted of mulefat, and other facultative wetland species intermixed with upland weeds. Dr. Dixon noted that mulefat is a perennial plant that is found in wetlands but also in upland areas that are occasionally subject to wet conditions. It is a drought evader that is able to persist where surface conditions are dry if it can establish deep roots that contact ground water. He indicated that the simple presence of mulefat at the loop ramp site did not mean it was a wetland and that, if the predominant vegetation in and around the mulefat was comprised of upland species, the area probably wouldn't delineate. However, no data were taken and no formal wetland determination was made. The staff report dated March 22, 2001 states that the Commission's biologist determined that there were no wetlands at the location of the proposed project. However, this statement is incorrect. In reviewing the report, the Commission's biologist thought the report reviewed to a different location. See John Dixon, Commission Senior Biologist, Memorandum to Pam Emerson: "Wetland Delineation at Culver Loop Ramp," May 22, 2001. (Exhibit 5). At that time, the Commission's biologist had not made a determination regarding the presence of wetlands at the project site.

Subsequently, it was reported to the Commission staff that there was evidence of ponding at the site and that the mulefat in one of the stands bore adventitious roots. An adventitious root is a root which originates above the ground surface as an adaptive response to inundation. As a result of this new information, the applicant was requested to complete a formal wetland delineation. Dr. Dixon again visited the site and observed the field work for the delineation. His report, made on May 22, 2001 is contained in Exhibit 5, and excerpts are presented below.

The applicant asserts that no areas at the site are wetlands and that no areas have positive indicators of all three wetland criteria (hydrology, hydrophytes, and hydric soils). The applicant acknowledges the predominance of wetland vegetation is some areas, but notes that those areas have no hydric soils. The applicant also points out that most of the wetland species present also are sometimes found in uplands and that the vegetation appears to have become of a wetter nature over the past decade, and therefore evidence of wetland hydrology must be shown. The applicant discounts the evidence of ponding provided by the presence of adventitious roots because they do not prove that ponding occurs in most years. Similarly, they discount the observations of ponding earlier this year, because the temporal pattern of rainfall was highly unusual (several instances of very high rainfall over a period of a few days). In fact the applicant's hydrological consultant goes so far as to assert that the observations of ponding following extremely intense rainfall events, "...illustrate the extreme events required to cause inundation or saturation to the surface in this feature." Of course, this is a logically untenable position.

Observations of ponding following an extreme event is not evidence that ponding can not occur following less extreme events. It appears to staff that the applicant is applying a standard that requires positive indicators of two or three wetland criteria as defined by the Army Corps of Engineers. This is a much more stringent standard than required under the Coastal Act and California Code of Regulations.

After review of the sampling data collected from 18 "sample plots", and another site visit, the Commission's staff biologist concluded that the area that is dominated by mulefat with adventitious roots and that showed evidence of ponding during the last year is a wetland under the Coastal Act and Regulations.

Dr. Dixon's analysis follows:

The vegetation at the subject site is comprised of a mix of upland and wetlands species (Table 1). Eighteen, more-or-less uniformly arrayed, sample plots were examined at the loop ramp site on April 19, 2001.

Table 1. Plant species observed in sample plots at Culver Boulevard loop ramp.[4]

Common Name	Species Name	USFWS Indicator Status
Russian knapweed	Acroptilon repens	Non indicator *
Scarlet pimpernel	Anagallis arvensis	FAC
Wild oats	Avena barbata	Non indicator
Mulefat	Baccharis salicifolia	FACW
Ripgut grass	Bromus diandrus	Non indicator
Foxtail chess	Bromus madritensis	Non indicator
Soft chess	Bromus mollis	Non indicator
Chrysanthemum	Chrysanthemum coronatum	Non indicator
Alkali weed	Cressa truxillensis	FACW
Umbrella sedge	Cyperus sp.	FACW**
Sweet fennel	Foeniculum vulgare	FACU
Alkali mallow	Malvella leprosa	FAC
Indian sweet clover	Melilotus indica	FAC
Bristly oxtongue	Picris echioides	FAC
Wild radish	Raphanus sativa	UPL
Castor bean	Ricinus communis	FACU
Curley Dock	Rumex crispus	FACW-
Rat-tail fescue	Vulpia myuros	FACU
Spiny cocklebur	Xanthium spinosum	FAC+

* Not in the USFWS list of wetland species. Can conservatively be assumed to be upland species. **No species ID, but probably FACW.

In eight of these plots, there was a predominance of plants designated OBL, FACW, or FAC (Table 2). Applying the FAC-Neutral test, there were five plots with a preponderance of hydrophytic vegetation. The site is bounded on all sides by topographic highs forming a closed basin. Plots 12 and 13 were in a stand of mulefat in the lowest part of the basin.

[4] Winfield 2001, op. cit.

This area was ponded to an unknown depth and for an unknown duration during the winter of 2000/2001 as evidenced by photographs and the presence of sediment deposits (some with a thin algal crust). The mulefat in this portion of the site have adventitious roots arising from the lower 5 inches of the stems. Adventitious roots are a response to ponding. They develop at or just below the surface of the water after a period of 2-5 days or more, depending on the species.[2] The adventitious roots on the mulefat individuals in the bottom of the depression at the loop ramp varied from around 1/8 to 1/2 inch in diameter. This suggests substantial ponding for a week or more on at least several occasions. As one moves upslope from this relatively wet area, the proportion of upland plants increases. I conclude that the area at the bottom of the basin supporting mulefat with adventitious roots is "covered periodically with shallow water" and supports a vegetative cover that is "predominantly hydrophytic," and therefore qualifies as a wetland under the Coastal Act and California Code of Regulations. For the rest of the document, see John Dixon, Commission Senior Biologist, Memorandum to Pam Emerson: "Wetland Delineation at Culver Loop Ramp," May 22, 2001. (Exhibit 5)

Table 2. Standard and FAC-Neutral tests of predominance of hydrophytic vegetation. For purposes of this analysis, "Non-indicator" species were assumed to be UPL. Mulefat was included in plots 2, 12 & 13.[3]

Sample Plot	Percent FAC or wetter (no/total)	Percent Wetland Plants in FAC Neutral Test (OBL+FACW/Total – FAC)	Sample Plot	Percent FAC or wetter (no/total)	Percent Wetland Plants in FAC Neutral Test (OBL+FACW/Total – FAC)
1	40 (2/5)	25 (1/4)	10	67 (2/3)	50 (1/2)
2	**100 (2/2)**	**100 (2/2)**	11	50 (2/4)	33 (1/3)
3	25 (1/4)	25 (1/4)	**12**	**100 (5/5)**	**100 (2/2)**
4	25 (1/4)	25 (1/4)	**13**	**75 (3/4)**	**67 (2/3)**
5	50 (1/2	0 (0/2)	14	20 (1/5)	20 (1/5)
6	**100 (5/5)**	**100 (1/1)**	15	50 (4/8)	33 (2/6)
7	50 (2/4)	33 (1/3)	16	29 (2/7)	17 (1/6)
8	**75 (3/4)**	**67 (2/3)**	17	20 (1/5)	20 (1/5)
9	67 (2/3)	50 (1/2)	18	80 (4/5)	50 (1/3)

The applicant's consultant arrived at different findings:[4] "Based on all of the evidence, this report concludes that there are no wetlands in the project area and that there is no area that clearly possesses positive indicators for all three of the basic criteria used to define

[2] Tiner, 1999, op. cit.
[3] Mulefat was not included on the data sheets for these plots in Winfield's report. This is because the nature of the sampling procedure excluded this species. Only those species rooted within a haphazardly placed quadrant were noted. Since the quadrant was a square of PVC pipe the stems of large bushes like mulefat could not be included However, where the quadrant was under the canopy, mulefat should have been counted.
[4] Winfield, 2001, op.cit.

wetlands." I believe the difference in conclusions is a result of the fact that Dr. Winfield in fact applied an Army Corps of Engineers three-criteria test, requiring positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation.

The area identified by the staff biologist covers areas expected to be impacted by the proposed loop ramp connector and its supporting berm. It does not extend appreciably north from the intersection of the proposed ramp and Culver Boulevard.

Accordingly, fill of wetlands is necessary for construction of the proposed new ramp. However, fill of wetlands for this purpose is not an allowable use of wetlands under Section 30233 of the Coastal Act. The new ramp is required to mitigate traffic impacts of new residential and commercial development proposed by the applicant outside the coastal zone. Section 30233 allows fill of wetlands for commercial fishing facilities, ports, coastal-dependent industry, boating facilities and for incidental public purposes. Section 30233 does not allow fill of wetlands for new residential, commercial office building or retail development. The proposed ramp is required as part of the applicant's new residential and commercial development project, to accommodate additional traffic that the development will generate. To the extent that the new ramp constitutes part of the residential/commercial development, it is not an allowable use of wetlands under Section 30233. In *Bolsa Chica Land Trust v. Superior Court* (1999) 83 Cal.Rptr. 2d 850, 860, the Court of Appeal stated that under Section 30233 "residential development is not a use permitted in wetlands." Furthermore, the new ramp is also not allowed under Section 30233(a)(5) as an "incidental public service purpose." In *Bolsa Chica*, the Court of Appeal also found that widening of a road to accommodate additional traffic from new development in the area was not allowable as an "incidental public service purpose." *Id.* at 864. Similarly, in this case, the road expansion project (the new ramp connecting Culver Boulevard to Lincoln), is required to accommodate additional traffic from new development. Therefore, the new ramp is not "an incidental public service purpose" and is not allowable under Section 30233(a)(5).

The applicant has not yet had the opportunity to review the Commission's biologist's findings or to propose an alternative design of the loop ramp that avoids the wetlands. Therefore, the Commission staff cannot presently determine whether there is a feasible alternative that might be consistent with Section 30233. Furthermore, because of the lack of information about potential alternatives, even if the ramp were an allowable use, the Commission cannot find that the proposed new ramp complies with requirement in Section 30233 (a) that fill is only allowed where there is no feasible less environmentally damaging alternative. Therefore, since the new ramp is not allowable fill under Section 30233, the new ramp is inconsistent with Section 30233 and must be denied.

RUNOFF

The applicant notes that the addition of a loop ramp and widening of Culver Boulevard would increase the impervious surfaces in Area C from 2.53 acres to 7.40 acres (including future road areas) of the total project drainage area of 21.3 Acres. Moreover, impervious areas result in an increase in the volume and velocity of runoff, due in part to the loss of infiltrative capacity of permeable space. Runoff conveys surface pollutants to receiving waters through the storm drain system.

Pollutants of concern associated with the proposed roadway development include heavy metals (copper, zinc, and lead), oil and grease. Other pollutants commonly found in urban runoff include pesticides, herbicides, suspended solids, floatables, viruses and bacteria.

The receiving waters for the development, Ballona Estuary and Channel are listed on the 303(d) list of impaired water bodies. According to the California Water Resources Board 1998 303 (d) list, the following parameters are causing impairment: Heavy Metals, Pesticides, Chem.A, PCBs, Tributlyn, Trash, Enteric Viruses/High Coliform bacteria counts, toxicity and sediment toxicity.

The applicant's consultant from GeoSyntec has examined the effect of the proposed development on the receiving waters, in part, relative to these parameters. A thorough discussion is provided in a GeoSyntec Consultants Report entitled "Stormwater System Water Quality Evaluation Report – Culver Loop Ramp and Widening" dated November 30, 2000, and signed by Eric W. Strecker, Associate GeoSyntec Consultants.

The proposed stormwater system involves a storm drain system comprised of catch basins (inlets) and pipes that convey runoff off the roadways, and an extended detention/biofiltration basin, to be located in the center area of the loop ramp, which will detain and treat runoff from the Playa Vista Culver Loop Ramp and the Culver Boulevard Widening Project. The extended detention/biofiltration basin will drain to the Ballona Channel.

The proposed extended detention/biofiltration basin incorporates a series of earthen vegetated berms that will direct water through native vegetation. The basin will provide pollutant removal through settling and biofiltration functions. According to the applicant's consultant, the extended biofiltration system was chosen because of its "expected high effectiveness in achieving good stormwater effluent quality ... and because of the fact significant land area was available for such a facility in the center of the loop." The consultant believes that, when practical, above-ground facilities are preferable to below ground, because they typically have improved performance due to more enhanced removal mechanisms such as photo-degradation." The consultant also indicates that with such a system, needs are more visible.

The consultant asserts that with the planned system to treat existing runoff, as well as runoff from the project and from roads proposed for the area in the future the quality of stormwater discharged from the site will almost certainly improve. The proposed development is not expected to introduce additional pesticides to stormwater from this project because many pesticides are banned. According to the consultant, PCBs are typically highly absorbed to particulates, thus the proposed Best Management Practice (BMP)(described in detail below) should be effective at reducing any minor concentrations which might be present. The proposed BMP is expected to collect trash and reduce levels of coliform bacteria. The consultant states that levels of coliform bacteria can be reduced by over 50% in water quality basins (such as the proposed BMP described below).

The Commission finds, however, that the construction of an extended detention biofiltration basin as a water quality treatment BMP intended to "treat" the capture volume, is dependent upon the applicant's ability to construct the improvements. The Commission notes that the basin and the fill for the ramps would extend over a low area that is the site of the mulefat and is a wetland. For the same reasons that the loop ramp is not allowed in wetlands under Section 30233, any fill or increase flooding due to the proposed detention basin is also not an allowable use in wetlands and cannot be approved.

The Commission notes that the detention basin was designed to be integrated with the new loop ramp and since the loop ramp is not approved, it is not possible to construct or operate the detention basin as proposed. Without the basin, the applicant is not providing the mitigation needed to prevent adverse impacts on water quality due to the increase in pavement from widening Culver Boulevard and the ramps between Culver Boulevard and the Marina Freeway. Therefore, the Commission cannot find the project constant with Sections 30230 or 30231.

The detention basin is designed to treat runoff from the widening of Culver Boulevard, the ramps between Culver and the Marina Freeway, and construction of a new loop ramp. Since the loop ramp is not approved, the capacity and or size of the detention basin may not be appropriate. Therefore, the Commission also cannot approve the proposed basin for this reason as well.

Determining whether it is a feasible alternative to move the basin east so it does not disturb the mulefat requires consideration of numerous factors, including the following: 1) the basin would need to be redesigned so that it did not damage the biological productivity and functioning of the present mulefat area; 2) the depth, function and hydrology of the basin would need to be reconsidered, and 3) the change in the location of the intersection with Culver and the ramp would affect the sight distance between the ramp intersection and the intersection of Culver and the proposed Playa Vista Drive and also between the ramp intersection and the Culver City Little League Driveway, which will require analysis and approval by the City of Los Angeles Department of Transportation.

Finally, if the loop ramp could be approved, appropriate mitigation for water quality impacts could be required with conditions to assure its adequacy. However, the mitigation as currently designed will impact a wetland area. Possible alternatives may exist that would not impact the ±0.19 acre wetland but such alternatives would require study and analysis. Therefore, the Commission finds that the project will have individual and cumulative impacts on water quality and marine resources, inconsistent with Sections 30231 and 30232 of the Coastal Act and must be denied.

C. RELATED PROJECTS

There are other street and highway expansion projects that are required in the Playa Vista Phase One mitigation measures and are expected to be submitted to the Commission in coming months.

The California Code of Regulations (14 CCR section 13053.4) requires: "to the maximum extent feasible, functionally related developments to be performed by the same applicant shall be the subject of a single permit application." Section 15165 of the California Code of Regulations, addressing "Multiple or Phased Projects " under the California Environmental Quality Act, (CEQA), requires:

> When individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the lead agency shall prepare a single program EIR for the ultimate project as described in section 15168.

For purposes of this section, subsection 15378 (a) defines "Project.'

> (a) "Project" means the whole of an action, which has potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and that is any of the following: [...]
>
> (3) An activity involving the issuance to a person of a lease, permit license certificate or other entitlement for use by one or more public agencies.

In this case, the roads will all be transferred to public agencies upon their completion. The Commission notes that this project is one of three major road projects in the Coastal Zone that Playa Capital is required to complete as mitigation measures for Phase I of its project. Therefore, in this case, the total undertaking comprising one project is all traffic mitigation measures, "improvements" and road widening that Playa Capita will undertake for Phase I, as approved by the City. (Exhibits 13 and 14) Many of the required improvements are located outside the Coastal Zone, or involve activities such as the installation of left turn lanes or the upgrading of traffic light systems that are exempt due to their minimal impact.

The applicant has received a City of Los Angeles coastal development permit for another required Phase I road improvement that will be located in Area C which consists of the extension of Playa Vista Drive (previously identified as "Bay Street") from Jefferson Boulevard, over a new bridge over Ballona Creek, then through the present Little League ball field area to an intersection with Culver Boulevard, the street subject to the current application. The applicant has submitted an application # 5-01-107 directly to the Commission for the same project. The application is still incomplete due to ownership issues outlined in Section C above. A City of Los Angeles application is pending for a third project that is also a Phase One requirement but that is not located in Area B. The City has required the applicant to change the geometry of the intersection at Culver Boulevard and Jefferson Boulevard in Area B from a "V" shaped intersection to a "T" intersection and is conducting hearings on the coastal development permit for this intersection improvements. The project will facilitate traffic over the same Culver Boulevard roadway, but is located at the edge of the central area of the saltmarsh as mapped by the Department of Fish and Game in 1984.

Other proposed road widening projects in the vicinity are not being carried out by Playa Capital and are therefore not part of this project as defined by CEQA. Caltrans has submitted an application, still incomplete, for a full freeway interchange at Culver Boulevard and Route 90, bridging over Culver Boulevard at the Coastal Zone boundary. Caltrans has also released an EIR and submitted an application for a coastal development permit for widening Lincoln Boulevard to eight lanes from Hughes Terrace, at the southern end of the Playa Vista project, to Fiji Way. The first Phase of Playa Vista does not require these two Caltrans expansions.

Projects located in Area C may have cumulative impacts on the resources of Area C when examined together. Two roads very close to each other can affect hydrology, and interrupt both vegetation and animal migration routes. Public Resources Code Section 21083 requires that the guidelines for implementing CEQA shall contain criteria for determining whether a project has a significant effect on the environment, and states:

> The criteria shall require a finding that a project may have a 'significant effect on the environment' if any of the following conditions exist: [...] (b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, 'cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The Commission is required to consider the cumulative impacts of proposed projects, and therefore in this case, the Commission must consider the effects of both other current projects and probable future projects that may have adverse impacts on the resources in the area of the proposed road expansion. The two road projects in Area C -- the project proposed in this application and the extension of Playa Vista Drive with a bridge over

Ballona Creek -- should be considered together so that their cumulative impacts and all alternatives can be considered at the same time. The intersection change in Area B could be evaluated independently because the effects on hydrology and habitat of the area attributable to the road re-alignment in Area B may be analyzed independently of the road work in Area C.

As proposed, all related projects have not been submitted in one application, so all related and cumulative impacts can be considered. The project as submitted does not include all functionally related projects at the same time, or all reasonably foreseeable projects, and is therefore not consistent with the California Code of Regulations, Section 13053.4 (14 CCR section 13053.4), or the requirements of CEQA, and therefore must be denied.

D. RIGHT OF THE APPLICANT TO SUBMIT THE APPLICATION

Section 13053.5(b) of the California Code of Regulations requires that an applicant for development shall provide documentation of its legal interest in all the property upon which work would be performed, if the application were approved, e.g., ownership, leasehold, enforceable option, or authority to acquire the specific property by eminent domain. If the applicant does not own the property, it must also provide evidence that the owner of the property has been invited to be a co-applicant.

Area C is owned by a trust company, the United States Trust Company of California N. A., for benefit of the State of California. When the previous owner of the property, Howard Hughes, died, his successor in interest, Summa Corporation, and the State agreed that the State would take Area C in lieu of part of the amount due in estate taxes. In a Security Agreement, the State also agreed that the Summa Corporation or its successors could buy back the land for an agreed on sum by December 31, 2000. After that time, the State was not obliged to sell the property back to Summa's successor. However, Summa or its successor has a right of first refusal if the property is intended to be sold. The Security Agreement, and subsequent amendments, gave Playa Capital certain rights to fence, test, maintain and propose development on the Area C property. Independent of that agreement, in 1990, U.S. Trust Company and the developer recorded an easement over the property granting Maguire Thomas (Summa's initial successor) or its partners or successors an easement to build certain road improvements. The applicant, Playa Capital Company, LLC, is Summa Corporation's successor.

On May 14, 2001, the State Controller wrote the Commission Chair stating in part:

> "My office is opposed to any roads constructed or expanded on this parcel. As you know, this property is currently being held in trust for the benefit of the State of California. Moreover, efforts are currently underway to transfer the entire 73-acre parcel to the California department of parks and recreation. Given that my office is entrusted with the responsibility and stewardship of this land until such time as we

can transfer it to the Department of Parks and Recreation, I am notifying you that any purported consent previously given by my office to the applicant for the purpose of constructing or expanding roads on Area C is hereby withdrawn. Any such consent would have been premised upon Playa Capital exercising its option to purchase the 73 acres in issue. The option expired December 31, 2000, and was not renewed." (See Exhibit 9)

In asserting its rights to develop the road, the applicant provided documents as listed below.

1. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.
2. Copy of October 30, 1998 correspondence from Chief Deputy Controller to US Trust Company of California with attached irrevocable offer to dedicate.
3. Easement agreement by and between Maguire Thomas partners—Playa Vista and U.S. Trust Company, dated August, 30,1990. (Exhibit 11)
4. Map and conditions of approval, Tentative Tract Number 44668, City of Los Angeles, May 4, 1987

The applicant asserts the following: that the Easement Agreement survives the termination of the Security Agreement, and the 1990 easement authorizes improvements that are defined in Section I.A.4, Page 3 of the Easement Agreement (Exhibits 11,12) by reference to certain provisions of the Security Agreement between the State and Maguire Thomas Property Playa Vista (the applicant's immediate predecessor). The Security Agreement includes an exhibit, Exhibit B, that lists road improvements contemplated. The 1990 easement adopts the list by reference. The applicant's response to the Controller's position is set forth in a letter attached as Exhibit 10.

Independent of the dispute, some of the area subject to this application is already dedicated to the City, and the City has approved its use for the project. These areas include:

1. An arcuate (bow-shaped) area directly northwest of and adjacent to the existing loop ramp.
2. A tapered area extending from the widened loop intersection to a point approximately half the distance from the loop ramp to the northern property line.

With respect to the expansion that is proposed adjacent to the freeway, the applicant owns a 50-foot strip adjacent to the freeway and also a strip directly north of and parallel to Culver Boulevard for the entire length of the property from the Marina freeway to Lincoln Boulevard. These two strips are former railroad rights-of-way. The applicant has provided an agreement with Caltrans that allows it to encroach on the highway to install the ramps (California Department of Transportation (CALTRANS), Encroachment Permit 798-6MC-0618; Encroachment Permit Rider 700-6RW-2956, November 8, 2000.)

Caltrans has submitted an application to the Commission to widen and improve Route 90, indicating that their long-term plans also include an improved Culver/Route 90 interchange.

Completion of the entire project however will require some land where development of roads will be dependent on authorization to use the property held by U.S. Trust Company on behalf of the State of California.

Section 30601.5 of the Coastal Act provides the following:

> "Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as co-applicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval."

Under Section 13053.5(b), Title 14 of the California Code of Regulations, an applicant must provide: "A description and documentation of the applicant's legal interest in all the property upon which work would be performed, if the application were approved, e.g., ownership, leasehold, enforceable option, authority to acquire the specific property by eminent domain."

In this case, the owner of the fee interest has not joined the applicant as co-applicant. The Controller's assertion that any approval given for use of the State trust property is revoked has created a dispute regarding the applicant's legal rights to carry out the project and/or comply with the required conditions of approval. With this issue in dispute, the Commission cannot approve the project as submitted because the applicant has not established the legal right to carry out the project or comply with the required conditions of approval.

While the applicant asserts that it has provided documentation of its legal interest or entitlement to use the property for the proposed project, the State Controller disputes this. This dispute raises questions of interpretation of complex contractual agreements to which the Commission is not a party. The Coastal Commission cannot resolve this dispute. Therefore, the Commission must deny the project because the applicant has not established compliance with Section 30601.5 of the Coastal Act or Section 13053.5(b) of the Commission's regulations.

E. PUBLIC SHORELINE ACCESS

This is a case in which the development, a road, works very well as a traffic improvement and does improve the ability of the public to drive to and from the coastline. However, the road has impacts on the land that it is intended to cross.

The Coastal Act requires the Commission to protect shoreline access. Culver Boulevard is a major coastal access route in a network of heavily traveled roads. It is already heavily traveled during peak hours, Level E or 1,000 cars per hour at the Culver/Marina Freeway on ramp.[5] Culver Boulevard was first constructed in the late 1920's. It extends from Playa del Rey to the intersection of Venice, Robertson, and Exposition Boulevards, following the route of a railway line that one served the beach cities. Culver Boulevard crosses Lincoln Boulevard on a bridge and only one connection from Culver Boulevard to Lincoln is possible: travelers eastbound on Culver Boulevard from the beach cities can now use a ramp to transition to northbound Lincoln Boulevard. It is not possible to turn from Lincoln Boulevard to Culver in either direction, or turn off westbound Culver Boulevard to Lincoln Boulevard.

The purpose of this project is to divert traffic originating in Playa Vista Phase One from Lincoln and Jefferson Boulevards by providing an alternate route from Area D Playa Vista to the 405 Freeway via Route 90. In this way, it is expected to reduce Playa Vista Phase I traffic impacts on one of the more important coastal access routes in Los Angeles, Lincoln Boulevard (Route 1). The eastbound Culver Boulevard/Route 90 ramps are already heavily used, performing at Level of Service (LOS) D and E during the evening peak hour. Additional capacity is needed on these ramps to accommodate Playa Vista Phase I and to reduce impacts on commuters from South Bay communities who use Culver Boulevard to access the 405 Freeway. The new loop ramps will provide a connection from westbound Culver Boulevard to Lincoln and from there to the South Bay, Marina del Rey, Venice Beach or Santa Monica. The project will make it possible to reach Area C via Lincoln Boulevard, which is now not possible (Exhibits 2, 3 and 4).

Section 30210 of the Coastal Act requires maximum access and recreational opportunities to be provided.

> Section 30210.
>
> 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 30252 requires that new development be sited and designed to reduce traffic impacts and to improve and protect access to the coast:

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[5] Traffic engineers consider 1,000 cars per hour per lane "capacity" for a major collector such as Culver Boulevard (Barry Kurtz, Los Angeles County Public works, personal communication.)

Section 30252.

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.

This road widening is only one of the many road widening and other traffic mitigation measures that the City has required Playa Vista Phase One to provide. The Phase I EIR requires many automobile and non-automobile traffic mitigation measures (Exhibits 13 and 14). Traffic calculations for the entire project predict that the location of commercial, business and residential uses in the same complex, combined with the provisions of internal jitneys, will reduce the number of trips generated by the project by as much as 25% (when the project is built out). The project also includes measures to improve mass transit serving the project, although traffic planners indicate that no more than 2% of trips will occur on mass transit. The non-automobile traffic mitigation measures include alteration of traffic signals on Lincoln Boulevard to allow "smart" signals that will increase speed of busses and internal jitneys. Despite the careful planning, Playa Vista Phase I will have major impacts on the street system.

The City of Los Angeles in its first phase EIR for the Playa Vista project documented major traffic impacts due to the project on all of the major north/south and east/west routes between Robertson Boulevard and the coast, and between Rose Avenue and Manchester. Lincoln Boulevard and other north/south routes are the most congested because there are few alternatives. These routes are also main coastal access routes.

The applicant's traffic engineers predict that 98% of trips from Phase I will be by automobile. They indicate that most employees and residents of Phase I will make most trips in private cars and, therefore, the project traffic mitigation measures must include widening streets and intersection improvements in a wide area surrounding the project. The purpose of the street widening and ramps proposed in this project is to allow private automobiles to leave the Playa Vista Phase I and reach the freeway system without impacting Lincoln Boulevard, which is one of the most heavily traveled streets in the City. A second required connection (Bay Street or Playa Vista Drive), still under review by the City Department of Public Works, would connect the center of Area D to Culver Boulevard by means of a bridge over Ballona Creek (Exhibit 2). The two connections would divert

traffic from both Lincoln and Jefferson Boulevards enabling commuters and residents to reach the Marina Freeway without entering Lincoln Boulevard. The City has issued a coastal development permit for Bay Street/Playa Vista Drive, a new street ,and the applicant has submitted an application to the Commission, which will be accepted after the appeal period is complete.

The applicant asserts that the purpose of the present project is to reduce the impact of Playa Vista Phase One on Lincoln Boulevard and make access to Area C possible from communities to the north and the south. The improvement of access and the mitigation of impacts to access attributable to an approved project that is located outside the Coastal Zone can be found consistent with the public access policies of the Coastal Act. Increased traffic on Lincoln Boulevard would have adverse impacts on beach access and public recreation and the proposal subject to this application will address and mitigate, in part, such impacts. As proposed, the project is consistent with Sections 30210 and 30252 of the Coastal Act. Before the project can be found consistent with Chapter 3, however, the Commission must also evaluate the project's consistency with Coastal Act policies that protect wetland and recreational resources.

F. RECREATION

The Coastal Act provides for protection of oceanfront land that is suitable for recreation and for recreation support.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Controller has initiated a process that could lead to the State retaining Area C for public park purposes. The investigation is in its initial stage only. No funds have been allocated to create the park, and no legislative authorization to convert the land is yet approved. While no final decision has been made concerning the disposition of the property, the Commission can consider the compatibility of a 74-foot, three-lane roadway with a park. The Commission's ability to deny a project based on future use of the area as a park is limited by Section 30604(e), which states:

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property

on, or property adjacent to the property on, which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds which could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

Presently, the road is two lanes wide and carries significant commuter traffic. It is hazardous to cross during morning or evening rush hours. Staff consulted with Russ Guiney, Director of the Santa Monica Mountains parks, and with Wayne Woodroof, a senior park official now charged with redeveloping the Baldwin Hills oil field into a park regarding their experience with major roads in parks. According to these officials, many State Parks, such as California's north coast parks include major highways. Roads are difficult to manage in parks. This is because roads can cut off corners of a park, cut off habitat and can be a source of noise, reducing the quality of the recreational experience. They can be hazardous, and they can be barriers. They continue that an unrelieved expanse of asphalt is not attractive in an area that is supposed to represent and interpret California's natural heritage. The Department of Parks and Recreation is developing a plan to construct a park in the Baldwin Hills which is crossed by two heavily traveled roads, La Cienega and La Brea Boulevards. As is the case with this road, there is little option to re-route the roads to a different location, because the roads are long established links in the transportation grid.

Although there are impacts, roads are necessary to provide access. Without the planned ramps, there is very limited access to this parcel. Few visitors, even in cities, go to parks on a bus. Roads can be used for parking and can separate active recreation areas and areas where human traffic should be limited. They can provide views of a park and access to natural open space. There is some evidence that the 34 feet that the applicant plans to add is more than the "one lane" and a right lane deceleration turning lane required by the Playa Vista Phase I EIR mitigation measures. Ordinarily a lane in an urban collector is ten to twelve feet wide. With an eight-foot shoulder, two lanes and a shoulder would result in a 32-foot wide addition to the street, which is what is being proposed. A narrower street could accommodate on street parking, and vegetation.

The City of Santa Monica has recently adopted an open space plan that suggests methods to mitigate the visual and noise impacts of its roads and highways. One of the prime techniques suggested is the use of extensive planting. This includes street trees, landscaped median strips; jogging trails integrated with the roads, and the installation of a "freeway forest". Santa Monica uses another technique: it narrows travel lanes to reduce speeds and also to provide area to widen sidewalks.

The Playa Vista Drive project includes a bicycle lane. This street connects under the proposed Marina Freeway Bridge with upper Culver that accommodates a jogging/bike trail on much of its length. Playa Vista Drive also includes a traffic light, which is vital to plan ways of linking the two sides of Area C. However, that project is not yet before the Commission.

Unmitigated, the road will have impacts on the land that will be inconsistent with developing the area as a park or with maintaining the area for urban development in a way that is consistent with providing a link to nearby jogging and park uses. While there may be mitigation measures available, these measures are irrelevant if the project is not properly before the Commission. Until the dispute regarding the applicant's right to proceed with the project, the Commission will refrain from imposing mitigation measures or changes to the project that are necessary to comply with the recreation policies of the Coastal Act. As proposed, the project is inconsistent with the use of the property as recreation. It provides no mitigating vegetation, it will interrupt views, ad it provides no bicycle or jogging alternative and no support parking or any public use. As proposed, the project is inconsistent with Section 30223 of the Coastal Act.

G. HAZARDS

The Coastal Act requires that the Commission examine development in terms of its effects on human safety and the safety of the development itself.

Section 30253 of the Coastal Act states:

> Section 30253.
>
> 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.
> (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development. ...

This development is in an area that faces a number of risks:

Flooding. Historically, this area was subject to flooding. In the mid-thirties, the US Army Corps of Engineers channelized Ballona Creek, which reduced flooding. However, all flood control channels were designed on a model of the most likely storm and on level of

runoff that was expected at the time the system was designed. With the increase of impervious surfaces in Los Angeles, some flood control facilities reach their capacity more often than in the past. According to the Los Angeles County Flood Control District planners, this facility was sized to accommodate the 1934 storm which is the equivalent of a hundred year storm; the recent information about the size of Los Angeles area storms indicates that many facilities designed for that storm may be over sized.

Earthquake. Because of high ground water levels and the presence of unconsolidated sediment, the area is subject to liquefaction. The certified LUP requires calculations of very high (0.5g) levels of bedrock acceleration prior to construction due to this condition. In the first phase EIR, it is estimated that after compression and dewatering, only the top four to six inches could liquefy in the event of a local severe earthquake. While this is not a significant amount for a road, it is significant for buildings. All new buildings will require special foundations as have been installed in the newer buildings along Lincoln Boulevard. Reports by ETI (April 17,2000) to the City indicated a possibility of a fault east of and parallel to Lincoln Boulevard have caused great concern. Further studies by the project geologists, and by consultants employed by the City Legislative Analyst have indicated that there is no evidence that such a fault exists. (See Substantive File Document Numbers 16, and 19)

Methane. The City is still debating the type and amounts of methane mitigation to require in new buildings in Playa Vista. Oil and natural gas deposits release gas through the soils in various concentrations. In Area D, some soil gas has been measured in heavy enough concentrations to require "mitigation": foundation membranes, venting devices and the like. The Department of Building and Safety has adopted procedures and standards for reviewing development proposals in areas in which concentrations of soil gas have been measured: City of Los Angeles Department of Building and Safety, Memorandum of General Distribution, #92: Methane Potential Hazard Zones, March 19, 1991. To address neighboring Area D, the City Council established a committee, chaired by the City Legislative Analyst to study whether the presence of methane in this area could or should change the City's decision to guarantee Mello/Roos road improvement bonds for the project. The bonds would be obligations of the future owners of this project. (Exhibit 13)

The most thorough study of soil gas emissions, the Jones ETI study, was done for adjacent Area D. The survey showed that concentrations in Area D were high enough to raise concerns about the safety of enclosed structures. The applicant has provided geology reports that also conclude that the road will be a safe structure. The soil gas survey prepared on behalf of the applicant for Areas A and C showed strikingly lower levels of concentrations of methane gas than the survey done for Area D. The City Department of Building and Safety has now approved that survey. (Exhibits 12, 13)

Neither the City of Los Angeles Department of Public Works nor the project geologist found that such concerns applied to a road, a structure that is not enclosed but is placed on the ground surface. As noted above, the City Department of Public Works states that

the City has not experienced problems associated with roads that have been located in high soil gas areas. After careful examinations of technical reports, including the methane gas surveys, the Commission's staff geologist has found no evidence that soil gas represents a hazard to the safety of the proposed road or the travelers on it. The staff geologist reviewed the Camp Dresser and McKee 2000, "Soil gas sampling and analysis for portions of Playa Vista Areas A and C near Culver Boulevard Widening Project" report cited above and concluded:

> " Although the sample spacing was too coarse to adequately delineate an anomaly, it was appropriate for the detection of an anomaly sufficient to pose a hazard to the proposed development.
>
> The report indicates that soil methane concentrations encountered range from 0.48 to 5.43 ppmv. For reference, the concentration of methane in the atmosphere is currently about 1.75 ppmv, and the lower explosive limit of methane is 50,000 ppmv; thus the values reported in the referenced document represents essentially background levels. ... Accordingly, it appears that no significant methane seeps occur in the area investigated.
>
> Further, methane would only be able to attain dangerous levels if it were allowed to accumulate in an enclosed space. No such enclosed space exists beneath a roadbed. ... Therefore, it is my opinion that no explosion hazard exists in association with the widening of Culver Boulevard between Lincoln Boulevard and the Marina Expressway, nor will the construction of a ramp between Culver and Lincoln Boulevards create such a hazard." (Exhibit 14)

The Commission finds that, as proposed, the project is consistent with Section 30253 and raises no issues of hazard to life and property. Section 30253 also requires conformity with the standards of the air quality district. The air quality district does not regulate methane. The increased traffic with associated increase in the discharge of more pollutants, is a function of the Phase I development and not this road. This road itself will not contribute to air quality problems.

H. CULTURAL 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.

Both the Coastal Act and the City's certified Land Use Plan require mitigation measures for development areas that contain significant cultural resources. In 1991, the Corps, the Advisory Council on Historic Preservation and the California State Historic Preservation

Officer, with the approval of the Gabrielino (Tongva) tribal representatives, authorized a research and recovery project for all the identified or suspected archaeological sites in the Playa Vista project area. In 1998, the Commission approved Permit 5-98-164 that authorized preliminary exploration of the identified sites in the Coastal Zone portion of the Playa Vista Property. In approving Permit 5-98-164, the Commission found:

> "The proposed Research Design also includes detailed field and laboratory methods.
>
> The proposed Research Design conforms with the Programmatic Agreement among the Corps of Engineers, the Advisory Council on Historic Preservation, and the State Office of Historic Preservation. In addition, the Programmatic Agreement has been reviewed and signed by Vera Rocha, Tribal Chairman of the Coastal Gabrielinos, Manuel Rocha, spiritual leader, and Cindi Alvitre, Chairperson Tribal Council.
>
> To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, a Native American monitor should be present at the site during all excavation activities to monitor the work. The monitor should meet the qualifications set forth in the NAHC's guidelines. There are reasonable mitigation measures to be provided to offset impacts to archaeological resources.
>
> According to the project's archaeologist, once a site is determined to contain significant cultural resources, a Treatment Plan (Mitigation Plan) will be prepared and reviewed by the appropriate Federal and State reviewing agencies. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is consistent with the proposed permit or if an amendment to this permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in area of disturbance or change in the type of excavation procedures."
>
> In the event that grave goods are discovered, the Research Design provides that upon the discovery of human remains, the Los Angeles County Coroner's Office will be notified in compliance with state law, and they in turn will request the Native American Heritage Commission to determine the cultural affiliation.

The Commission approved the exploration but required the applicant to return for an amendment or for a new permit if recovery was necessary. Two archaeological sites identified for exploration in 5-98-164 are located within the footprints of the proposed road expansion. To avoid work in advance of preliminary exploration, the Commission requires that the approved initial exploratory work in Area C be complete, and the parties agree that no further work is necessary before the grading or excavation proposed in this project can take place.

However, the Commission also requires that if deposits or grave goods are uncovered during construction, work stop, and a treatment plan be developed that is consistent with the programmatic agreement. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is consistent with permit 5-98-164, or if an amendment to that permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in the area of disturbance or change in the type of excavation procedures. If remains are found, the Commission requires that the applicant carry out recovery or reburial consistent with the research design approved in the programmatic agreement and CDP 5-98-164.

The applicant reports that deposits were found in one of the areas. The applicant has prepared a treatment plan which involves significant excavation and that will require an amendment to the coastal development permit. The applicant has applied for an amendment to 5-98-164 in order to carry out required mitigation measures. The Commission finds, therefore, that the proposed mitigation measures, if imposed as conditions of approval, would make the proposed project consistent with Section 30244.

I. LOCAL COASTAL PROGRAM

Coastal Act Section 30600 states in part

> (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

On November 26, 1986, the Commission certified, with suggested modifications, the Land Use Plan portion of the City of Los Angeles, Playa Vista segment, Local Coastal Program. The certified LUP contains policies to guide the types, locations and intensity of future development in the Playa Vista area. The LUP designated most of Playa Vista for intense urban development, reserving 163 acres as wetland and additional area for other habitat purposes. The Land Use Plan portion included all roads proposed in this project although the proposed roads do not include all of the widening envisioned in the LUP, but only widening appropriate to the first stage of development. When the Commission certified the LUP for this area in 1986, this road was included as an eight-lane connector to the Marina Freeway. There is one other difference: the project does not bridge Lincoln

Boulevard over Culver Boulevard but at this time retains the existing circa 1938 bridge over Lincoln.

This project involves less impact on resources and structures than envisioned in the LUP. The Commission finds that the proposed roads are in locations identified by the certified LUP, and do not prevent development as envisioned in the plan from taking place. The proposed development is consistent with the policies of the certified LUP.

However, while, as proposed, the project will not adversely impact access, it will have impacts on wetland and recreation resources. The Commission, therefore, finds that the proposed project will not be consistent with the Chapter 3 policies of the Coastal Act. Construction of this project at this time will reduce the commission's ability to consider alternative levels, kinds and configurations of development if and when it revisits the certified Land Use Plan.

J. CEQA

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

The Commission notes that the consideration of the project without all other roads that are required for Phase I mitigation results in the consideration of a partial project, as defined by Section 15378 (a). Consideration of a partial project makes it nearly impossible for the Commission to examine the full cumulative effect of the development or to adopt mitigation measures on such issues as habitat, wetlands, and public recreation that would be logical, practical and effective.

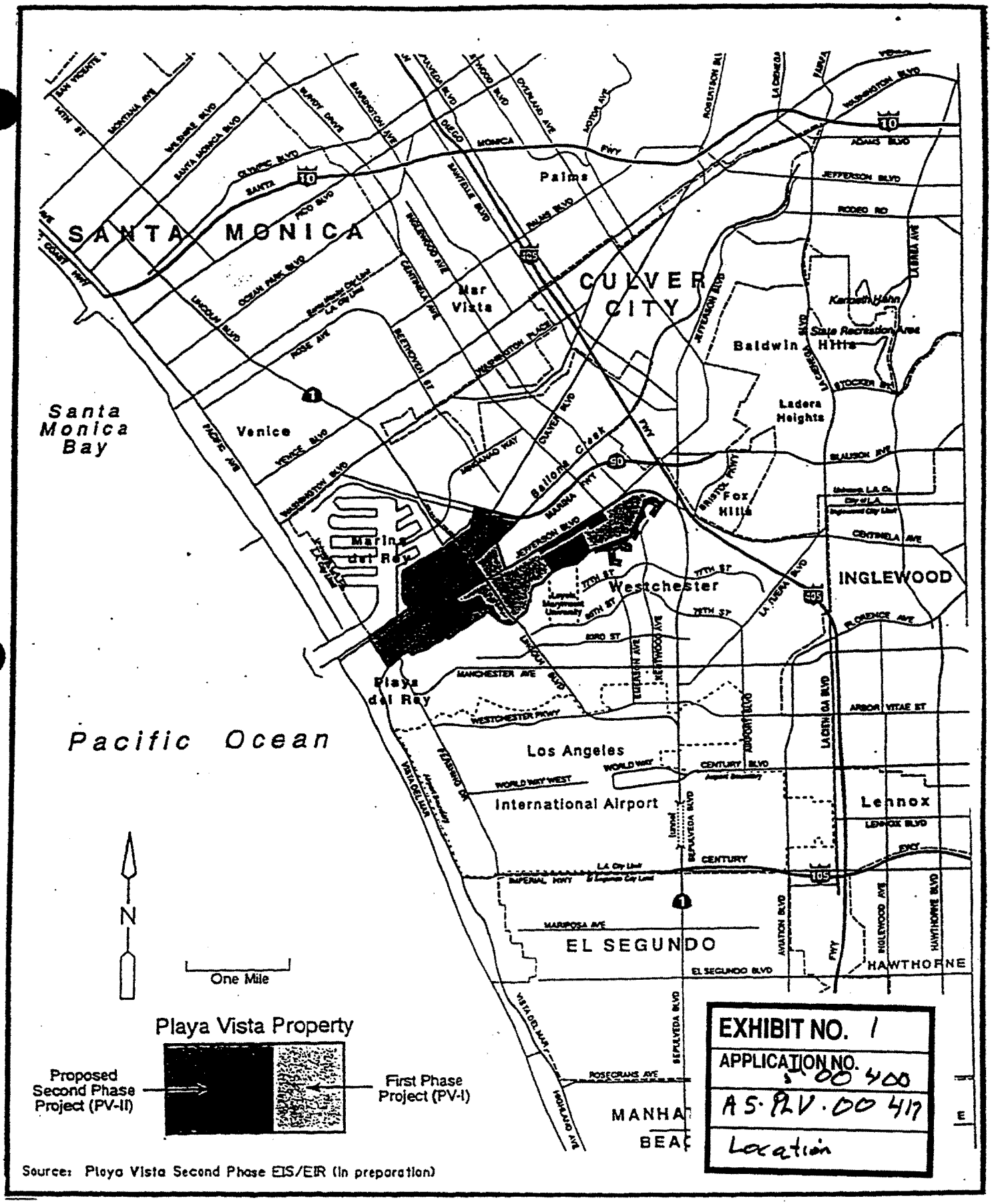
The Commission has determined that it is difficult to assess all cumulative and individual impacts of the project without having all related roads before it. However, it has determined that the proposed project in itself could have significant adverse impacts, which the applicant cannot demonstrate that it has mitigated. There appear to be additional feasible alternatives or mitigation measures available such as relocating the ramps away from the wetland, or reducing the size of the road that could substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the proposed project is not consistent with CEQA and the policies of the Coastal Act and does not conform to CEQA

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

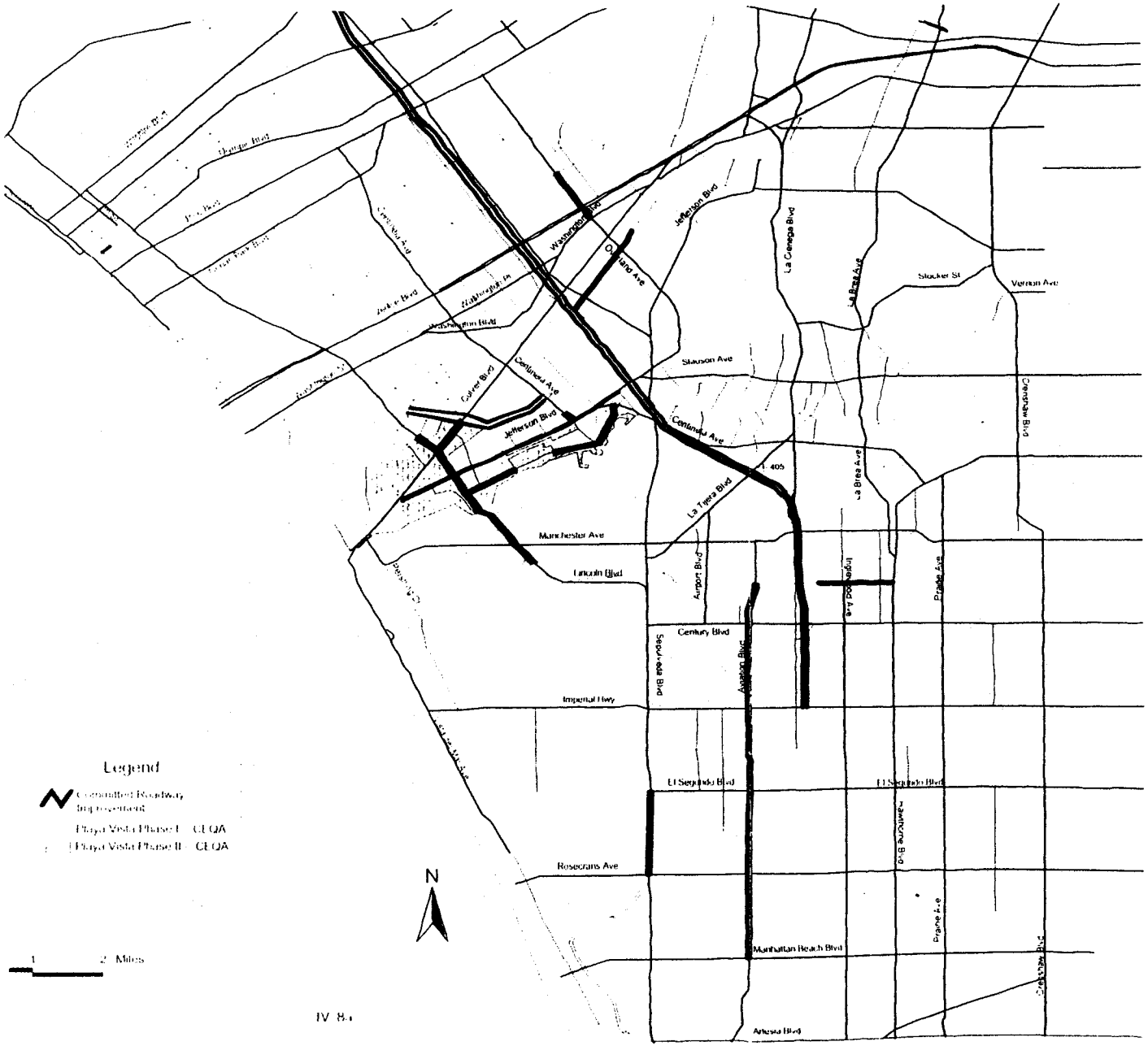
1. City of LA CDP No. 95-03 (August 1995), extended (October 1997), currently expired;
2. State CDP No. 5-95-148 (January 1996), extended (October 1997), currently expired:
3. City of LA CDP No. 00-3B (subject appeal)
4. Easement Agreement By and Between U.S. Trust Company of California, N.A. and Maguire Thomas Partners—Playa Vista, a California Limited Partnership, August 1990.
5. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.
6. Chief Deputy Controller to US Trust Company of California, October 30, 1998 correspondence and attached irrevocable offer to dedicate.
7. California Department of Transportation (CALTRANS), Encroachment Permit 798-6MC-0618; Encroachment Permit Rider 700-6RW-2956, November 8, 2000
8. First Phase Project for Playa Vista, Final EIR SCH # 90010510) –EIR No 90200-Sub (c)(CUZ)(CUB)
9. Mitigated Negative Declaration--Playa Vista Plant Site (MND# 950240 (SUB) & Addendum to the EIR for the first Phase Project for Playa Vista --August 1995
10. Los Angeles County Marina La Ballona certified LUP, October 1984.
11. City of Los Angeles Local Coastal Program, Certified Land Use Plan for Playa Vista 1987 (Section C4);
12. Coastal Development Permits: 5-91-463, 5-91-463A2, 5-91-463R, 5-95-148, permit waiver 5-00-139, 5-91-463, 5-98-164, A-5-PDR 99-130/5-99-151
13. City of Los Angeles Bureau of Engineering Staff Report, No. 95-03 –August 2, 1995
14. LADOT Inter-departmental correspondence --Amendment of Initial Traffic Assessment and Mitigation Letter dated September 16, 1992 --Revised May 24, 1993.
15. City of Los Angeles City Engineer, Memorandum Public Works review of ETI report titled "Subsurface Geo-chemical Assessment of Methane Gas Occurrences" for the Playa Vista project; file 1996-092; May 10, 2000
16. Victor T. Jones, Rufus J. LeBlanc, Jr., and Patrick N. Agostino, Exploration Technologies, Inc, Subsurface Geotechnical Assessment of Methane Gas Occurrences. Playa Vista First Phase Project. April 17, 2000. [Also referred to as the Jones Report or "the ETI report."]
17. Camp Dresser and McKee 2000, "Soil gas sampling and analysis for portions of Playa Vista Areas A and C near Culver Boulevard Widening Project" 4 page geologic letter report to Maria P Hoye dated 27 November, 2000 and signed by A. J. Skidmore and M. Zych (RG).
18. Mark Johnsson, Senior Geologist, California Coastal Commission, Memorandum: "Culver Boulevard Widening Project and Potential Soil Methane Hazards"

19. City of Los Angeles Department of Building and Safety, Memorandum of General distribution, #92, Methane Potential Hazard Zones, March 19, 1991.
20. City of Los Angeles, Office of the Chief Legislative Analyst, City Investigation of Potential Issues of Concern for Community Facilities District No 4, Playa Vista Development Project, March, 2001
21. California Department of Fish and Game, Memorandum: Extent of Wetlands in Playa Vista, December 1991."
22. California Coastal Commission, Memorandum: "Volume II Preliminary Working draft EIS/EIR Existing Conditions –Playa Vista March 5, 1998"
23. City of Los Angeles General Plan Palms, Mar Vista Del Rey District Plan, –Playa Vista Area C Specific Plan;
24. City of Los Angeles City Council: Conditions of Approval, Vesting Tentative Tract Map 49104 (As Revised December 8, 1995)
25. City of Los Angeles City Council: Conditions of Approval, Vesting Tentative Tract Map 52092 (December 8, 1995)
26. City of Los Angeles Tentative Tract Number 44668, Map and conditions of approval, May 4, 1987.
27. Agreement in Settlement in Litigation in the 1984 case of Friends of Ballona Wetlands, et al. v. the California Coastal Commission, et al. Case No. C525-826
28. Programmatic Agreement among the US Army Corps of Engineers, Los Angeles District, the Advisory Council on Historic Preservation and the California State Historic Preservation Officer, regarding the implementation of the Playa Vista Project, 1991.
29. Wetlands Action Network, Ballona Wetlands Land Trust and California Public Interest Research Group v. the United States Army Corps of Engineers.
30. Judge Lew, Federal District Court, June 1996, decision in Wetlands Action Network et al v United States Army Corps of Engineers,
31. Agreement Among U.S. Trust Company of California N. A, Maguire Thomas Partners – Playa Vista Area C a California limited partnership, and Maguire Thomas Partners-Playa Vista, a California limited partnership, September 28, 1990.
32. First Amendment to Agreement Among U.S. Trust Company of California N. A, Maguire Thomas Partners – Playa Vista Area C a California limited partnership, and Maguire Thomas Partners--Playa Vista, a California limited partnership, effective May 15, 1994.
33. Second Amendment to Agreement among U.S. Trust Company of California N. A, Maguire Thomas Partners – Playa Vista Area C a California limited partnership, and Maguire Thomas Partners-Playa Vista, a California limited partnership, entered into December 29, 1994.
34. Davis and Namson, Consulting Geologists, "An evaluation of the subsurface structure of the Playa Vista Project Site and Adjacent Area, Los Angeles, California", November 16, 2000.
35. Kathleen Connell, Controller of the State of California, May 10, 2001, Letter to Sara Wan, Chair, California Coastal Commission.
36. John Dixon, Commission Senior Biologist, Memorandum ,to Pam Emerson: "Wetland Delineation at Culver Loop Ramp," May 22, 2001



Source: Playa Vista Second Phase EIS/EIR (In preparation)

Figure 1. Location of Playa Vista Development
(Modified after CDM, 1998)



IV 8.1

EXHIBIT NO. 2
APPLICATION NO. 5-00400
A5PLV00417
Traffic improvement phase 1

FIGURE 4-3
COMMITTED BASE ROADWAY IMPROVEMENTS

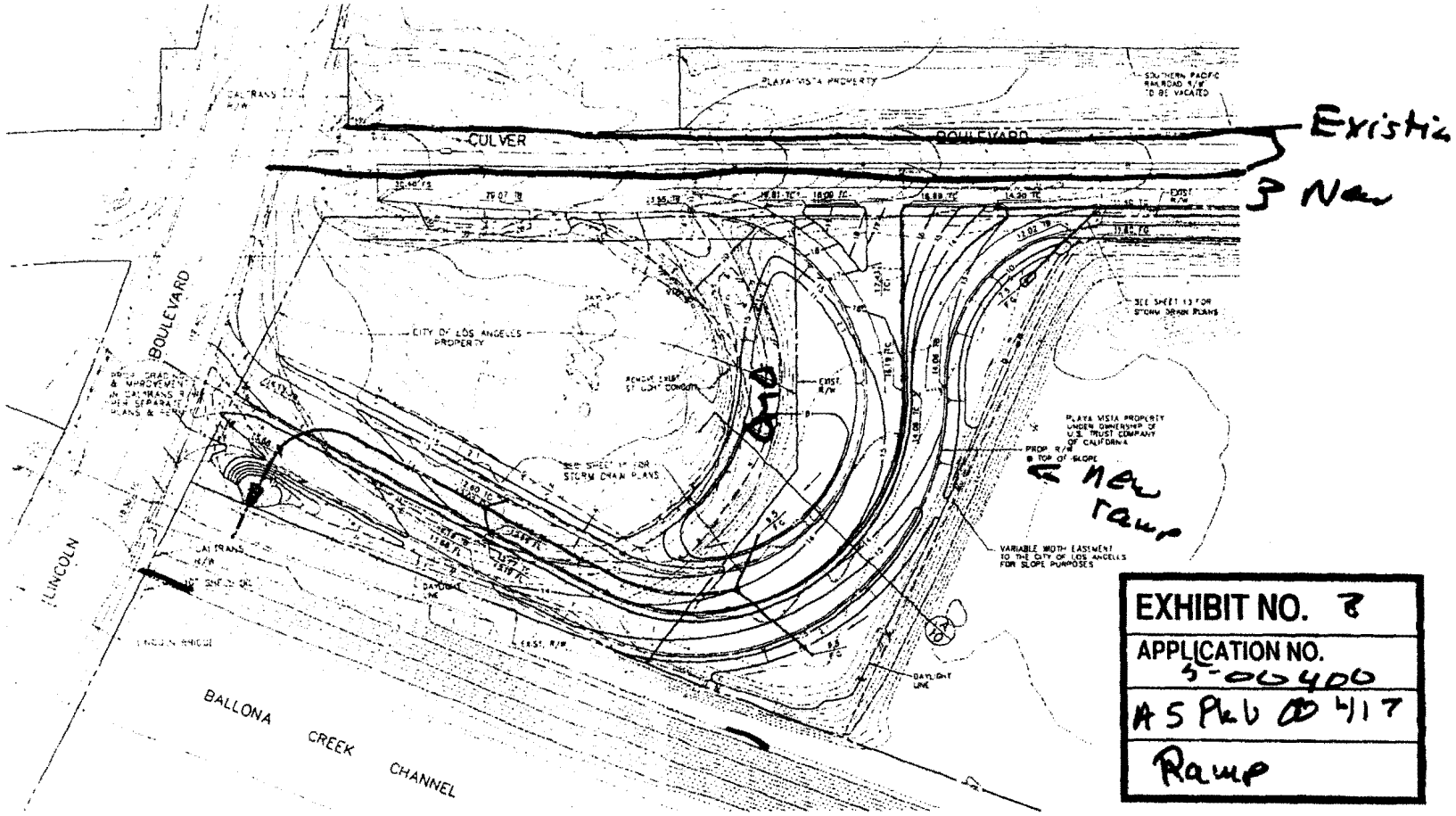
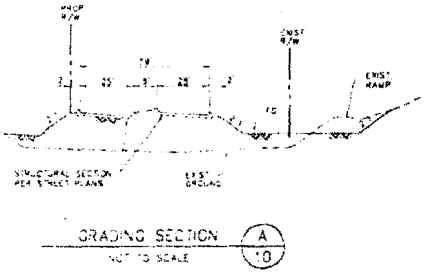
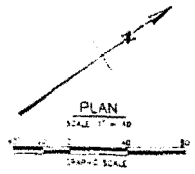


EXHIBIT NO. 8
APPLICATION NO. 5-00400
A5 Pkd 4/17



GRADING SECTION (A/10) NOT TO SCALE



ESTIMATED EARTHWORK QUANTITIES

RAW CUT 4,380 C.Y.
RAW FILL 5,909 C.Y.

THE ABOVE LISTED QUANTITIES REFLECT THE ENGINEER'S ESTIMATE OF THE EARTHWORK VOLUMES

THESE QUANTITIES ARE FOR DESIGN AND BONDING PURPOSES ONLY, AND NOT FOR CONTRACT PURPOSES.

THE CONTRACTOR IS RESPONSIBLE FOR COMPUTING HIS OWN QUANTITIES

ALL GRADING SHALL BE IN CONFORMANCE WITH THE APPROVED GEOTECHNICAL REPORTS FOR THE PROPOSED WETLANDS RESTORATION AND PROPOSED DEVELOPMENT NORTH OF JEFFERSON BOULEVARD PLAYA VISTA PROJECT-PARCEL B, DATED AUGUST 8, 1991, AND THE REPORT OF RECOMMENDATIONS FOR GRADING AND STORM DRAIN SUPPORT PHASE 1A AND FRESHWATER MARSH AND GRADING PLAYA VISTA PROJECT, DATED NOVEMBER 4, 1991.

TR 49104
PLAYA VISTA DEVELOPMENT - PHASE 1
PHASE 1A TRAFFIC MITIGATION - CULVER BOULEVARD
CHECK PERMIT B0401335, CONST. PERMIT BC-

PSOMAS

CITY OF LOS ANGELES

SCALES	SHEET 10	INDEX NUMBER

PV515

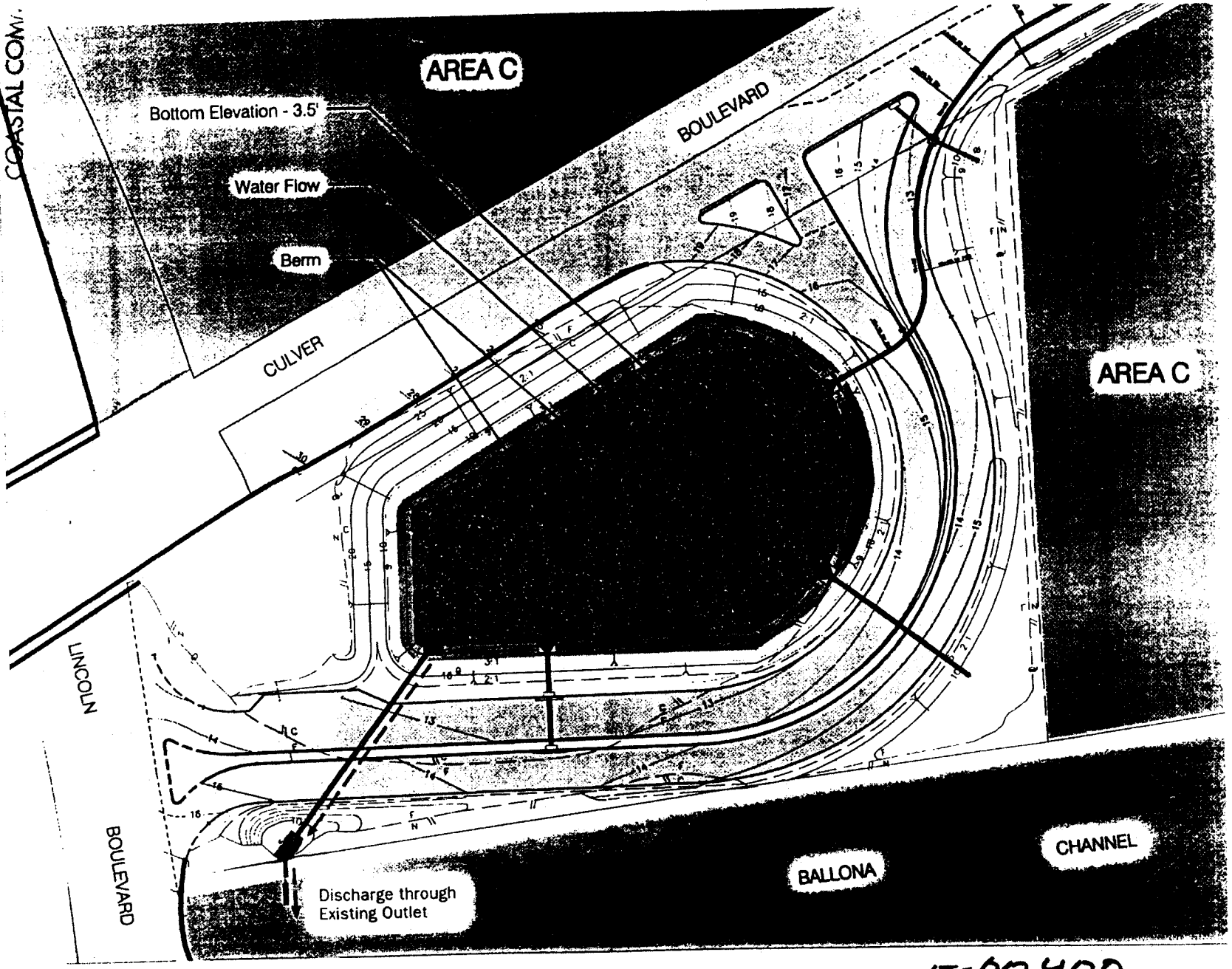


EXHIBIT 2 - WATER QUALITY BASIN SCHEMATIC PLAN

5-00400
A 5 PLV 00417
Exhibit 4

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

MEMORANDUM

FROM: John Dixon

TO: Pam Emerson

SUBJECT: Wetland Delineation at Culver Loop Ramp

DATE: May 22, 2001

The purpose of this memo is to convey my findings concerning the existence of wetlands at the subject site and to summarize my analysis of the wetland delineation submitted by Playa Vista.[1] I was in the field on April 19, 2001 and observed the field work conducted by Dr. Ted Winfield, Dr. Edith Reid, and Mr. Blake Parker to gather the data upon which the wetland delineation is based. I have also reviewed the delineation report and several related documents.[2]

The intent of the delineation was to identify any areas that would be classified as a "wetland" based on the definitions in the Coastal Act and California Code of Regulations. Section 30121 of the Coastal Act defines wetlands as "...lands within the coastal zone which may be covered periodically or permanently with shallow water...." Section 13577 of the Regulations defines wetland[3] as "...land where the water table is at near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent...." The latter definition is further clarified: "For purposes of this section, the upland limit of a wetland shall be defined as:

(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;

(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

[1] Winfield, T.P. 2001. Delineation of coastal wetlands in the area of the Culver Boulevard loop ramp. A report submitted to Playa Capital dated May 11, 2001.

[2] Huffman, T. 1986. Determination of the presence of aquatic and wetland habitats subject to federal regulatory jurisdiction within the Ballona Creek land tract. A report submitted to the USEPA dated September 1986; Sanders, D.R. & W.T. Straw. 1987. Determination of waters of the United States in Areas A, B, and C of Playa Vista, and A hydrological study of areas A, B, And C at Playa Vista. A report dated October 1987; Straw, W.T. 2000. Hydrologic study of Playa Vista Phase II Federal Project. A report submitted to Playa Capital Co., LLC dated March 2000.

[3] The definition in the Regulations was adapted from: Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRue. 1979. Classification of wetlands and deepwater habitats of the United States. Office of Biological Services, U.S. Fish and Wildlife Service, Washington, D.C.. The definitions of upland limits are identical to those of the Service.

Exhibit 5 5-00-400
Wetland mem A-5-PLV-00417
Exhibit 5 p1

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not."

Therefore, in order to qualify as a wetland in the Coastal Zone, land must be at least periodically inundated or saturated for sufficient duration to result in a predominance of hydrophytes or a predominance of hydric soils. There is no specific periodicity or duration of inundation or saturation required. The primacy of hydrology is implicit in the definition, but is presumed adequate if either hydrophytic cover or hydrophytic soils are predominant. However, neither the definitions of hydrophytes or hydric soils nor field methods for their identification are provided in California law. In practice, delineators primarily rely on the definitions and technical guidelines developed by the Army Corps of Engineers.[4] Several other technical publications also provide useful guidance.[5]

Under the wetland definition provided by the California Code of Regulations, the boundary of a wetland is determined by the extent of vegetation that is predominantly hydrophytic or of soils that are predominantly hydric. In practice, the boundary is usually based on plants. Plants are generally considered hydrophytic if they are designated OBL, FACW, or FAC in a list compiled by the U.S. Fish and Wildlife Service.[6] The percentages of occurrences in wetlands are estimated to be > 99% for OBL, 66 – 99% for FACW, 33-66% for FAC, 1 – 33% for FACU, and < 1% for UPL species. Since the Coastal Commission only requires evidence of one of the three wetland characteristics (hydrophytic vegetation, hydric soils, or wetland hydrology), there is opportunity for error if the vegetation is dominated by one or two species that are also common in upland vegetation. Tiner[7] discusses this problem as follows: "While both OBL and FACW species are universally recognized as useful indicators of wetlands, FAC and FACU are not reliable wetland indicators...." "Hydrophytic members of these species can be recognized in four ways. 1. When associated with OBL and FACW species. 2. When they possess certain morphological adaptations. 3. After verification of undrained hydric soils. 4. By their occurrence in areas with documented wetland hydrology. FAC species, by definition, have essentially no affinity for wetlands or nonwetlands and, therefore, are not indicative of either. This has led to the development of the so-called "FAC Neutral Rule" for determining the presence of hydrophytic vegetation. This rule does not utilize FAC species...in assessing the potential for hydrophytic vegetation, but weighs the abundance of OBL and FACW species against the abundance of FACU and UPL species." The standard test of

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[4] Environmental Laboratory. 1987. Corps of Engineers wetlands delineation manual. Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Stations, Vicksburg, Mississippi.

[5] Federal Interagency Committee for Wetland Delineation. 1989. Federal manual for identifying and delineating jurisdictional wetlands. Cooperative technical publication. U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and USDA Soil Conservation Service, Washington, D.C.; National Research Council. 1995. Wetlands: Characteristics and boundaries. National Academy Press, Washington, D.C.; Tiner, R.W. 1999. Wetland indicators. A guide to wetland identification, delineation, classification, and mapping. Lewis Publishers, N.Y.

[6] Reed, P.B. 1988. National list of plant species that occur in wetlands: National Summary. Biological Report 88(24). U.S. Fish and Wildlife Service, Washington, D.C.

[7] op.cit. p. 78.

5. CC 400
5. PLV CC 417
Exhibit 5
p2

predominance of hydrophytes in the 1987 ACOE Manual is whether OBL, FACW and FAC species comprise > 50% of the vegetation. The FAC-Neutral test requires that, of the dominant vegetation, OBL+FACW > FAC+UPL.

The vegetation at the subject site is comprised of a mix of upland and wetlands species (Table 1). Eighteen, more-or-less uniformly arrayed, sample plots were examined at the

Table 1. Plant species observed in sample plots at Culver Boulevard loop ramp[8]

Common Name	Species Name	USFWS Indicator Status
Russian knapweed	*Acroptilon repens*	Non indicator *
Scarlet pimpernel	*Anagallis arvensis*	FAC
Wild oats	*Avena barbata*	Non indicator
Mulefat	*Baccharis salicifolia*	FACW
Ripgut grass	*Bromus diandrus*	Non indicator
Foxtail chess	*Bromus madritensis*	Non indicator
Soft chess	*Bromus mollis*	Non indicator
Chrysanthemum	*Chrysanthemum coronatum*	Non indicator
Alkali weed	*Cressa truxillensis*	FACW
Umbrella sedge	*Cyperus sp.*	FACW**
Sweet fennel	*Foeniculum vulgare*	FACU
Alkali mallow	*Malvella leprosa*	FAC
Indian sweet clover	*Melilotus indica*	FAC
Bristly oxtongue	*Picris echioides*	FAC
Smartweed	*Polygonum lapathifolium*	OBL
Wild radish	*Raphanus sativa*	Non indicator
Castor bean	*Ricinus communis*	FACU
Curly Dock	*Rumex crispus*	FACW-
Rat-tail fescue	*Vulpia myuros*	FACU
Spiny cocklebur	*Xanthium spinosum*	FAC+
* Not in the USFWS list of wetland species. Can conservatively be assumed to be upland species. **No species ID, but probably FACW.		

loop ramp site on April 19, 2001.[9] In eight of these plots, there was a predominance of plants designated OBL, FACW, or FAC (Table 2). Applying the FAC-Neutral test, there were five plots with a preponderance of hydrophytic vegetation. The site is bounded on all sides by topographic highs forming a closed basin. Plots 12 and 13, both of which had a predominance of hydrophytes, were in a stand of mulefat in the lowest part of the basin. This area was ponded to an unknown depth and for an unknown duration during the winter of 2000/2001 as evidenced by photographs and the presence of sediment deposits (some with a thin algal crust). The mulefat in this portion of the site have adventitious roots arising from the lower 5 inches of the stems. Adventitious roots are a response to ponding. They develop at or just below the surface of the water after a period of 2-5 days or more, depending on the species.[10] The adventitious roots on the

[8] Data from Winfield, 2001, op.cit.
[9] Figure 3 in Winfield, 2001, op.cit.
[10] Tiner, 1999, op.cit.

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mulefat individuals in the bottom of the depression at the loop ramp varied from around 1/8 to 1/2 inch in diameter. This suggests substantial ponding for a week or more on at least several occasions. As one moves upslope from this relatively wet area the proportion of upland plants increases. I conclude that, at a minimum, the area at the bottom of the basin supporting mulefat with adventitious roots is "covered periodically with shallow water" and supports a vegetative cover that is "predominantly hydrophytic," and therefore qualifies as a wetland under the Coastal Act and California Code of Regulations.[11]

Table 2. Standard and FAC-Neutral tests of predominance of hydrophytic vegetation. For purposes of this analysis, "Non-indicator" species were assumed to be UPL. Mulefat was included in plots 2, 12 & 13.[12]

Sample Plot	Percent FAC or wetter (no/total)	Percent Wetland Plants in FAC Neutral Test (OBL+FACW/Total – FAC)	Sample Plot	Percent FAC or wetter (no/total)	Percent Wetland Plants in FAC Neutral Test (OBL+FACW/Total – FAC)
1	40 (2/5)	25 (1/4)	10	67 (2/3)	50 (1/2)
2	100 (2/2)	100 (2/2)	11	50 (2/4)	33 (1/3)
3	25 (1/4)	25 (1/4)	12	100 (5/5)	100 (2/2)
4	25 (1/4)	25 (1/4)	13	75 (3/4)	67 (2/3)
5	50 (1/2	0 (0/2)	14	20 (1/5)	20 (1/5)
6	100 (5/5)	100 (1/1)	15	50 (4/8)	33 (2/6)
7	50 (2/4)	33 (1/3)	16	29 (2/7)	17 (1/6)
8	75 (3/4)	67 (2/3)	17	20 (1/5)	20 (1/5)
9	67 (2/3)	50 (1/2)	18	80 (4/5)	50 (1/3)

The applicant's consultant arrived at different findings:[13] "Based on all of the evidence, this report concludes that there are no wetlands in the project area and that there is no area that clearly possesses positive indicators for all three of the basic criteria used to define wetlands." It appears that the difference in conclusions is a result of the fact that Dr. Winfield in actuality is applying an Army Corps of Engineers three-criteria test, requiring positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation. The report acknowledges that, "...hydrophytic vegetation occurs at a number of plots but, with one exception (CL-8), the sample plots lacked hydric soils."

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[11] This opinion is in conflict with the April staff report that states, "The staff biologist determined that this 0.19-Acre patch of mulefat and other species was not a wetland." This statement in the earlier staff report is incorrect; I made no formal determination of the presence or absence of wetlands at the loop ramp site since at that time there were no sample data. In discussions following our May 31, 2000 site visit, I did point out that there were many upland species present at the site and that the simple presence of mulefat did not necessarily signify the presence of a wetland. When on December 15, 2000, I approved the language used in the staff report, I thought it referred to another area we had recently visited where mulefat was growing in an upland situation, rather than to the loop ramp visited the previous May. I apologize for this confusion.

[12] Mulefat was not included on the data sheets for these plots in Winfield's report. This is because the nature of the sampling procedure excluded this species. Only those species rooted within a haphazardly-placed quadrat were noted. Since the quadrat was a square of PVC pipe the stems of large bushes like mulefat could not be included. However, where the quadrat was under the canopy, mulefat should have been counted.

[13] Winfield, 2001, op.cit.

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The reports adds an additional qualifier that, "The main species (*Rumex crispus* and *Picris echioides*) are annuals that can rapidly respond to increased wetness at a site, such as an increase in rainfall over several years. Because these species can occur in upland relatively frequently, additional evidence should be evaluated to confirm that there (sic) occurrence is the result of hydrological conditions occurring 'in most years' and not the result of hydrological features resulting from above average rainfall." It seems clear that the wetland consultant applied a standard that requires a positive indicator for more than one wetland criterion.

In summary, direct evidence of ponding in 2001 and the presence of adventitious roots of a range of sizes on mulefat demonstrate that the site is periodically covered with shallow water. The fact that both sample plots within that mulefat pass the FAC-Neutral test demonstrates a preponderance of hydrophytic vegetation. Therefore, the evidence discussed above demonstrates that the stand of mulefat meets wetland standards under the Coastal Act and the California Code of Regulations.

Exhibit 5
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Table 1. Summary of findings for each sample plot relative to vegetation, soil and hydrology.

Station	Vegetation	Soils
CL-1	Upland	Non-hydric
CL-2	Hydrophytic	Non-hydric
CL-3	Upland	Non-hydric
CL-4	Upland	Non-hydric
CL-5	Hydrophytic	Non-hydric
CL-6	Hydrophytic	Non-hydric
CL-7	Hydrophytic	Non-hydric
CL-8	Hydrophytic	Hydric(?)
CL-9	Hydrophytic	Non-hydric
CL-10	Hydrophytic	Non-hydric
CL-11	Hydrophytic	Non-hydric
CL-12	Hydrophytic	Non-hydric
CL-13	Hydrophytic	Non-hydric
CL-14	Upland	Non-hydric
CL-15	Upland	Non-hydric
CL-16	Upland	Non-hydric
CL-17	Upland	Non-hydric
CL-18	Hydrophytic	Non-hydric
CL-19	Hydrophytic	Non-hydric
CL-20	Hydrophytic	Non-hydric

Wetland plot Summary (Winfield 5.00.400 A 5 PLV 00417 Exhibit 6 p1

Exhibit 6, p2
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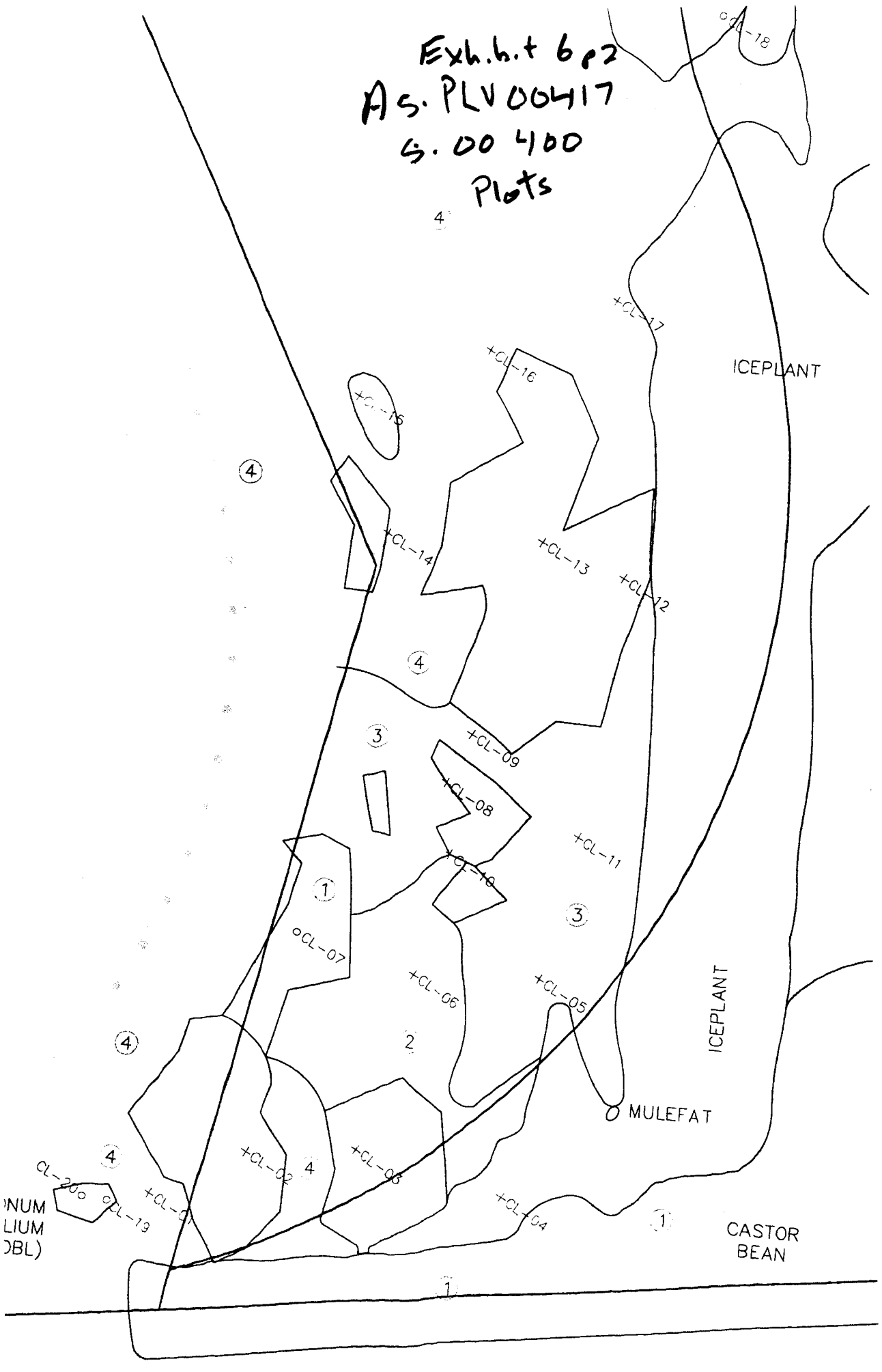
Plots



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I. MULEFAT ASSOCIATIONS

- Mulefat with mixed upland forbs and grasses; dock (FACW–) <30% of herbaceous cover
- Mulefat with Picris (FAC) upland forbs and grasses comprise >50% of herbaceous cover
- Mulefat with dock (FACW–)
- Mulefat with Picris (FAC); Dock (FACW–) and upland herbs and grasses <50% of cover
- Open Ground with 10% – 100% cover seasonally present. Area of exploratory archaeological trenches and work area (Permit No. 5–98–164)

II. HERBACE(

Symbol	*Description*
①	Dock (FACW–)
②	Picris (FAC) >!
③	Mixed upland f
④	Mixed upland f
⑤	Leymus triticoi

Miscellaneous features: a

P.P = Peruvian Pepper

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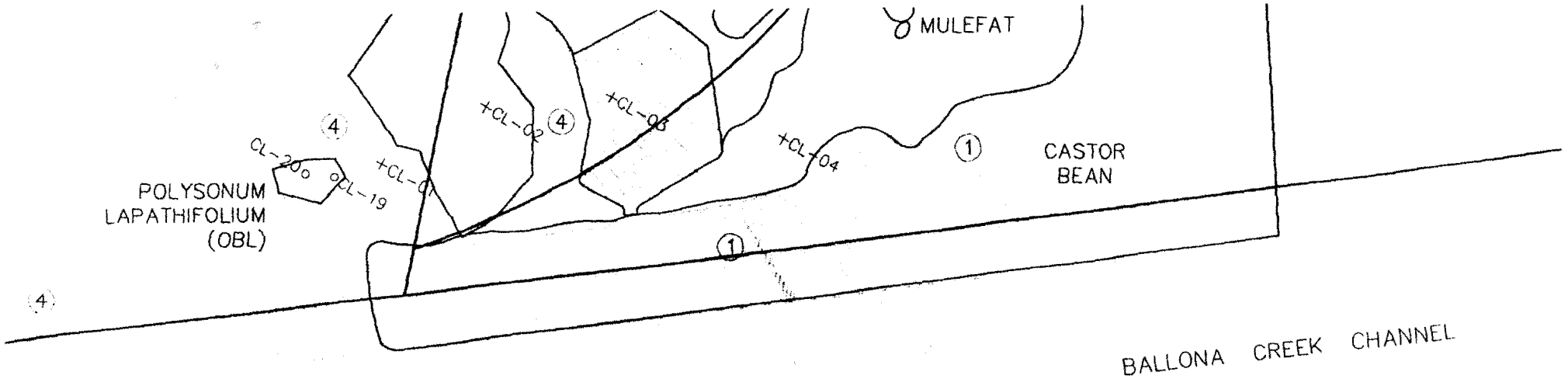
key



SOCIATIONS

...d upland forbs and grasses;
...50% of herbaceous cover

...s (FAC) upland forbs and
... >50% of herbaceous cover

... (FACW-)

...s (FAC); Dock (FACW-) and
... grasses <50% of cover

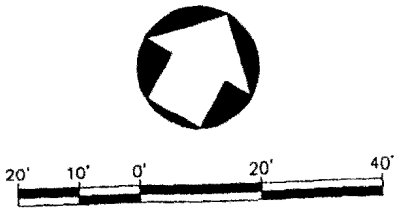
...n 10% - 100% cover
...t. Area of
...eological trenches

II. HERBACEOUS ASSOCIATIONS

Symbol	Description
(1)	Dock (FACW-) >50% cover; Picris <50% cover
(2)	Picris (FAC) >50% cover; Dock <50%
(3)	Mixed upland forbs and grasses with Dock and/or Picris ≤50% cover
(4)	Mixed upland forbs and grasses; Dock, Picris <10% cover or absent
(5)	Leymus triticoides (?) (FACU+)

Miscellaneous features: as located

P.P = Peruvian Pepper Tree



NOTE:
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2) AERIAL CONT
3) FIELD SURVE

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DELINEATION OF COASTAL WETLANDS IN THE AREA OF THE CULVER BOULEVARD LOOP RAMP

Report Prepared For:

Playa Capital

Report Prepared By:

Ted P. Winfield, Ph.D.
Ted Winfield & Associates

May 11, 2001

Exhibit 7
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Winfield report
p. 1

2.0 REGULATORY AND PROCEDURAL BACKGROUND

2.1 INTRODUCTION

The project site lies within the California Coastal Zone and is subject to the authority of the California Coastal Commission. Project opponents recently alleged that wetlands, as defined by the California Coastal Act, occur in the project area. As a result of these allegations, Coastal Commission staff asked Playa Capital to conduct a formal wetland delineation in the project area. This report summarizes the results of the wetland delineation conducted April 19, 2001.

While the California Coastal Act defines wetlands, there are no set procedures established by the California Coastal Act to identify and delineate the extent of wetlands. The following discussion first presents a comparison of wetland definitions under the California Coastal Act and the federal Clean Water Act, which both stress the importance of hydrology as being the driving force for wetlands. This comparison is followed by a discussion of the key criteria and process typically used to identify wetlands.

2.2 DEFINITION OF COASTAL ACT WETLANDS

Regulations enacted pursuant to the California Coastal Act define wetlands as follows: 14 California Code of Regulations 13577(b)

> *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, or fens. Wetlands are lands where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent or drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salt or other substance in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deepwater habitats.*

Further, the regulations elaborate that "*wetlands shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes*" 14 California Code of Regulations Section 13577(b)(1) they also provide the following general guidance for determining the upland limit of a wetland:

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(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or zerophytic cover;

(B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

2.3 KEY CRITERIA FOR IDENTIFYING WETLANDS

While the actual procedures vary between public agencies there consensus between state public agencies and federal public agencies as to the three key parameters that need to be considered when defining the limits of wetlands. The definitions of these parameters, as currently used to define the three key wetland parameters are found in the STET Corps of Engineers' 1987 "Wetland Delineation Manual". These three parameters are hydrology, hydrophytic vegetation and hydric soils.

2.3.1 Hydrology

The Wetland Delineation Manual defines wetland hydrology as follows:

> The term "wetland hydrology" encompasses all hydrologic characteristics of areas that are periodically inundated or have soils saturated to the surface at some time during the growing season. Areas with evident characteristics of wetland hydrology are those where the presence of water has an overriding influence on characteristics of vegetation and soils due to anaerobic and reducing conditions, respectively. Such characteristics are usually present in areas that are inundated or have soils that are saturated to the surface for sufficient duration to develop hydric soils and support vegetation typically adapted for life in periodically anaerobic soil conditions. Hydrology is often the least exact of the parameters, and indicators of wetland hydrology are sometimes difficult to find in the field. However, it is essential to establish that a wetland area is periodically inundated or has saturated soils during the growing season.

The established standard for determining wetland hydrology set forth in the Wetland Delineation Manual for the purposes of a delineation is the hydrology that occurs in most years, which is roughly every other year on average (or in the case of rainfall data, the rainfall totals expected to occur 51 out of 100 years).

The central importance of proper hydrology was highlighted by the National Research Council (1995) study on the characteristics and boundaries of wetlands. The Committee on Characterization of Wetlands developed a broad reference definition of wetlands.

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which states, in part, *"[a] wetland is an ecosystem that depends on constant or recurrent, shallow inundation or saturation at or near the surface of the substrate."* In identifying the central importance of hydrology in creating and sustaining wetland ecosystems, the National Research Council's definition of wetlands requires that the observed physical, chemical and biological features be the result of the hydrologic driving force (National Research Council 1995).

The wetland definition contained in the California Coastal Act, which states in part *"Wetlands are lands where the water table is **at, near, or above the land surface long enough** to promote the formation of hydric soils or to support the growth of hydrophytes"*[emphasis added] recognizes the importance of hydrology as a basis for the existence of wetlands. This definition correctly recognizes that hydrology is the driving force behind the formation of wetlands and that there is a relationship between this parameter and the development of either hydrophytic vegetation or hydric soils or both.

2.3.2 Vegetation

Hydrophytic vegetation is defined in the 1987 Corps of Engineers Wetland Delineation Manual as *"...the sum total of macrophytic plant life that occurs in areas where the frequency and duration of inundation or soil saturation produces permanently or periodically saturated soils of sufficient duration to exert a controlling influence on the plant species present."* Hydrophytic vegetation is dominated by macrophytic plants adapted to wetland inundation or saturated soils because of physiological and reproductive adaptations. The USFWS National Wetlands Inventory has used field observations, expert opinion, and technical documents to identify hydrophytic plant species and has developed wetland species lists that identify species occurring in wetlands (Reed 1988). The Corps of Engineers 1987 Wetland Delineation Manual lists several indicators that may be used to determine whether hydrophytic vegetation is present at a site. The most commonly used indicator is the following:

- *More than 50 percent of the dominant species are OBL, FACW, or FAC on lists of plant species that occur in wetlands*

The acronyms OBL, FACW and FAC are defined in Reed (1988) as follows:

- **OBL** – obligate wetland plant species with an estimated probability of occurrence in wetlands under natural conditions of >99%

- **FACW** – facultative wetland plant species with an estimated probability of occurrence in wetlands of between 67% and 99%. When a minus sign (-) is attached to the acronym (FACW-) it signifies that the frequency of occurrence of that particular species is toward the lower end of the category (less frequently found in wetlands).

- **FAC** – facultative wetland plant species with an estimated probably of occurrence in wetlands of between 33% and 66%.

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If just vegetation is being used as a primary indicator of the presence of wetlands, then the customary approach is to evaluate the indicator status of the dominant species. FACW and FAC species can and do frequently occur in uplands as well as wetlands, so to prevent mis-identifying an area as a wetland, at least one of the other two parameters (soils or hydrology) should be evaluated in conjunction with the vegetation to determine if the area in question is a wetland or not. Tiner (1999) recommends that if the prevalent index for an assemblage of plant species in a sample plot is 2.0 or higher (2.0 is equivalent to a FACW species), then the presence of hydric soils or wetland hydrology should be confirmed before determining that the area in question is a wetland.

The following are other indicators identified in the Corps of Engineers' 1987 Wetland Delineation Manual that can be used to determine if hydrophytic vegetation is present although in most cases use of these other indicators will not be necessary:

- ❑ *Visual observation of plant species growing in areas of prolonged inundation and/or soil saturation*
- ❑ *Morphological adaptations*
- ❑ *Technical literature*
- ❑ *Physiological adaptations*
- ❑ *Reproductive adaptations*

However, the presence of hydrophytic plants is not conclusive that an area is a wetland, especially where the plants present are characterized as FACW, FAC or FACU.

2.3.3 Soils

A hydric soil is a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of hydrophytic vegetation (see Corps of Engineers 1987 Wetland Delineation Manual). In non-sandy soils, prolonged anaerobic conditions cause chemical reactions, evidence of which can include sulfidic material, reduced soil conditions, an aquic or peraquic moisture regime, a gleyed soil matrix chroma, bright mottles and/or low matrix chroma, and iron and/or manganese concretions. In situations where data on hydrology is unreliable or unavailable, soils provide a reliable method for delineating wetlands (see Hurt and Carlile 2001).

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3.0 METHODS

3.1 INTRODUCTION

Because Coastal Act regulations does not establish detailed procedures for defining "*predominantly hydrophytic cover*" or "*soil that is predominantly hydric,*" definitions developed and currently used by the federal government (1987 Corps of Engineers Wetland Delineation Manual; Environmental Laboratory, 1987) were used to determine the presence of hydrophytic vegetation and hydric soils in the project area. These definitions and how they were applied in the field are described below. Therefore, these field observations were augmented by an analysis of recent rainfall records and a comparison of the amount of rainfall occurring during the months prior to March, 2001 with the median rainfall to determine if the rainfall totals for the time period examined can be considered to be "normal" or if the rainfall totals were above or below the median rainfall. Dr. W. Thomas Straw, a nationally recognized expert in wetland hydrology, performed the analysis of recent rainfall records.

3.2 FIELD PROCEDURES

The Culver Loop Ramp Expansion area was surveyed on April 19, 2001 by Dr. Ted P. Winfield and Dr. Edith Read, and Mr. Blake Parker, consultants for Playa Capital, in the company of Dr. John Dixon (California Coastal Commission staff) and Mr. Bradley Henderson (California Department of Fish and Game). Dr. Winfield is a wetlands ecologist with over twenty years experience of delineating wetlands. Dr. Read is a plant ecologist with over 10 years experience delineating wetlands. Mr. Parker is a nationally recognized expert in hydric soils. Ms. Sharon Lockhart was also present as an observer on behalf of Playa Capital. Ms. Lockhart is a wetlands ecologist. The location of the sample stations is presented in Figure 2 (located at back of report)

3.2.1 Hydrology

Observations of hydrology made during the field survey were limited to looking for indicators that water had ponded at the sites sometime prior to the field survey as ponded water was not present at the site during the April 19 or May 8, 2001 site visits. These indicators included sediment deposits on the soil surface or surface of plants, drift lines, and watermarks on woody vegetation. On April 6, 2001 project opponents submitted to Coastal Commission Staff photographs allegedly taken on March 11 and April 3, 2001. These photographs showed some ponding in the Culver Loop area according to the labels on the photographs and the field notes submitted with the photographs. Their observations provide no information about the duration of the ponding illustrated in the photographs.

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3.2.2 Vegetation

Vegetation in a 5-foot by 5-foot quadrat was evaluated at each of the sample site locations. Twenty sites were sampled in the Culver Loop area, another two sites along Culver Boulevard between the Culver Loop area and the entrance to the Little League fields and another sample taken near the Marina Freeway. The list of plant species and dominant species in each quadrat were noted on the field data sheets. The indicator status of each species was confirmed later in the office. The presence of adventitious rooting on mulefat shrubs located near sampling locations was also noted.

3.2.3 Soils

Determination of the hydric status of the soil sample from each station was made following the procedures outlined in the 1987 Corps of Engineers Wetland Delineation Manual. Soil samples were collected to at least 16 inches at most of the stations and the soil hue, value and chroma determined using the Munsell® Soil Color Chart were noted for each layer. The texture of the soil was then determined tactilely. Finally, the soil sample was evaluated for the occurrence of other indicators of hydric soils (redoximorphic features), including the presence of iron and manganese concretions, and bright mottles.

3.2.4 Mapping

Each sampling station was surveyed to determine its location and elevation and the results plotted on the base topographic map of the project impact site (Figure 2, back of report). Further, a detailed survey was conducted at the Culver Loop to locate the boundary of major vegetation associations, with a focus on mulefat, and major associations of hydrophytic vegetation (Figure 3, back of report). Finally, a detailed topographic survey of the Culver Loop area was conducted to update the existing topographic information for this area.

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Exhibit 7 p 6

4.0 FINDINGS

No areas qualifying as wetlands were observed at the Culver Loop area. All evidence for the project site were analyzed to make this determination, including present and historical vegetation descriptions for the project wetlands site, the analysis of rainfall data developed by Dr. Tom Straw, and data obtained during the two field surveys. Dr. Tom Straw's analysis of rainfall data suggests that the ponding observed in March was due primarily to the abnormally high rainfall that occurred in February and early March 2001. Based on all of the evidence, this report concludes that there are no wetlands in the project area and that there is no area that clearly possesses positive indicators for all three of the basic criteria used to define wetlands. The field data sheets are in Appendix A.

Soils at all but one site (CL-8) lacked any indicators (redoximorphic features) of hydric soils. According to Mr. Blake Parker, "*[a]dditional information will be needed to determine if this site is saturated long enough in most years to become reducing in the upper part; therefore meeting the definition of hydric soil.*"(see Appendix D for copy of Mr. Blake Parker's report) Subsequent to the field survey, additional information concerning activities in the Culver Loop area was evaluated. Of particular interest was the fact that the bare areas (sparsely vegetated) near CL-8 and CL-15 were the result of archeological exploration activities conducted in December 19, 2000 (Figure 3 at back of report; see Appendix E for a copy of the Coastal Development Permit No. 5-98-164). A trench was dug at as part of the exploration activities and the dirt piled to the side of the trench and the trenches refilled after the archeological survey.

The archeological exploration activity resulted in the buried plant debris observed during the field survey at CL-8 and CL-15, modification of the soil profile and development of a linear depressional area adjacent to CL-8. The soils at CL-8 were different than the nearby soils observed at CL-9 and CL-10 probably as a result of this alteration of the landscape. The areas adjacent to each of the disturbed areas were evaluated to provide a local context with which to evaluate the status of the open dirt areas (CL-8 and CL-15). The surrounding vegetation in both cases is predominantly facultative or a mixture of facultative and upland species. Additionally, the sediment observed on the ground surface in the vicinity of the disturbed areas probably was the result of erosion of the mounded dirt during the excessive rainfall that occurred in February and early March 2001. Therefore, these two open patches of sparsely vegetated areas do not qualify as a wetland.

4.1 HYDROLOGY

The only record of direct observations of hydrology for the site are the photographs taken March 11, 2001 and submitted to the Coastal Commission staff on April 6, 2001 by the project opponents. These photographs and the accompanying field notes indicate that ponding occurred along the southwestern portion of the Culver Loop area. However, this submittal lacked data on the duration of ponding. The evidence of ponding observed during the field site surveys includes sediment deposits on the ground and lower portions

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of the vegetation. Some of the sediment deposits included a thin algal crust. The extent of sediment deposits was more limited than the extent of ponding depicted in the field notes submitted to the Coastal Commission staff and was observed primarily in a band located along the central portion of the western end of the Culver Loop site. These deposits were particularly noticeable at stations CL-6 through CL-11 and CL-14. The areas with more noticeable sediment deposits (lighter in color) probably resulted from erosion of the areas disturbed during archeological investigations conducted in December 2000. The presence of sediment deposits are a primary indicator of wetland hydrology, but they do not provide any evidence of the duration of ponding nor do sediment deposits provide any indication about the return occurrence of the events leading to the ponding. Therefore, other evidence is still necessary to determine if the observed indicators are the result of events that would be expected to occur "in most years" or simply the result of extreme events. According to Tiner (1999), ephemeral signs of hydrology, such as water-carried debris and water-stained leaves, indicated that an event has occurred but provides no information on the duration of the event. Many of the indicators of hydrology occur in uplands flooded during extreme events and not just wetlands so care needs to be used in evaluating hydrology indicators.

The rainfall records analyzed by Dr. Straw show that the rainfall totals between January 1 and early March 2001, just prior to observations of ponding at the Culver Loop area by project opponents. Accordingly, these records indicate that the rainfall totals during this period were characterized by periods of intense rainfall that had a probability of occurring of less than 5 percent, far less of a probability than the accepted standard of "in most years" used to define wetland hydrology in the 1987 Corps Wetland Delineation Manual and the more conservative 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Federal Interagency Committee for Wetland Delineation, 1989). Dr. Straw concluded, based on his analysis of the rainfall data and knowledge of the project impact areas, that *"[I]nundation at the Culver Loop depressional area during February and early March was the result of intense rainfall events that can be accurately classified as extreme events, and they are not consistent with events that occur, every other year 51 years out of 100. Consequently, such observations do not establish that this small depression exhibits wetlands hydrology."* Dr. Straws report is presented in Appendix B.

Because of the lack of direct observations on the duration and extent of hydrology during the winter of 2001, other indicators of hydrology also were investigated, including the presence of oxidized rhizospheres (redox concentrations) and soil matrix color (see Section 4.3). Pits were dug beneath three mulefat plants with fine (current year) adventitious roots, located in the lower elevations at the site, to look for the presence of redox concentrations. Soils from the top four inches beneath mulefat located near stations CL-9, CL-10 and CL-13 were collected and evaluated by examining the live root channels. If the soils had been ponded and saturated for a sufficient duration to result in reduction in the soil, redox concentrations along live root channels should have been present. No redox concentrations were observed in any of the samples examined. In fact, the soils contained numerous crotovinas (earthworm casts), indicating that earthworms had been and were still active in the soils sampled.

Exhibit 7
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4.2 VEGETATION

The presence or absence of hydrophytic vegetation was explored using the accepted procedures described in the 1987 Corps of Engineers Wetland Delineation Manual. The vegetation present at the site during the most recent site survey was also compared to the vegetation described for the site in 1990 (Henrickson 1991). This analysis was performed to determine if the structure of the vegetation observed at the site during the 2001 survey was the same as that described approximately 10 years earlier. Since many of the dominant species are annuals, consistent occurrence of hydrophytic annual species would suggest that the hydrological conditions at the site had been consistent for the past ten years and the vegetation currently at the site, therefore, would represent a fair evaluation of long-term hydrological conditions. However, major differences in the annual species at the site between the two surveys would indicate that the site has been subject to different hydrological regimes, assuming the lack of other types of disturbances to the site affecting vegetation structure. Because of the conflicting data concerning the presence of hydrophytic vegetation, the lack of hydric soils and likely lack of wetland hydrology, such an analysis provides insight as to the variable nature of the site.

4.2.1 Historical Vegetation Composition

As part of the evaluation of the vegetation, the historical vegetation study completed by Dr. James Henrickson, Department of Biology, California State University, Los Angeles (Botanical Resources on Playa Vista (Draft), May 12, 1991) was reviewed. According to Hendrickson (1991), a mixture of upland and some facultative species characterized the vegetation at the Culver Loop and curly dock (*Rumex crispus*), a facultative wetland plant (FACW-; the negative sign indicates that the frequency of occurrence of curly dock is toward the lower end of the category (less frequently found in wetlands), occurred infrequently at the site. Mulefat occurred as isolated patches at the Culver Loop area. Currently, curly dock is common at localized areas at the Culver Loop area.

4.2.2 Present Vegetation Composition

The vegetation at the Culver Loop site is a mixture of upland and hydrophytic plant species (Figure 3). Mulefat (FACW) occurs at several locations in the southern and central portion of the Culver Loop area and areas dominated by curly dock and bristle ox-tongue (*Picris echioides*, FAC) (Figure 3). The remainder of the Culver Loop area is dominated by upland species or a combination of upland and facultative species (Figure 3). The current vegetation structure is different from that observed by Henrickson and can be explained in part by the fact that the years between the Henrickson study and now (2001) were wetter than normal, favoring the increased occurrence of species such as curly dock and bristly ox-tongue at the Culver Loop site.

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4.2.3 Vegetation in Sample Plots

Vegetation observed in the sample plots is presented in Appendix C. Thirteen of the 20 sample sites were dominated by hydrophytic vegetation (CL-2, CL-5, CL-6, CL-7, CL-9, CL-10, CL-11, CL-12, CL-13, CL-18, CL-19 and CL-20). Vegetation in the remaining sample plots was dominated by upland species. Mulefat occurred at several locations at the site (Figure 3) and most of the mulefat had adventitious roots. The presence of adventitious roots suggests that at some time in the past the base of the mulefat was flooded to some depth, probably between one and five inches judging from the location of the adventitious roots on the trunk of the observed mulefat, by ponded water. Although the observation of adventitious roots suggests ponding of water for a duration long enough to trigger the production of adventitious roots, the presence of these roots does not indicate whether the ponding resulting in the root development occurs 'in most years", which is necessary for such ponding to be considered wetland hydrology. Single year events resulting from above average rainfall may be sufficient to produce ponding for a long enough period of time to result in the production of adventitious roots.

Plots with hydrophytic vegetation were generally dominated by curly dock (FACW-), bristly ox-tongue (FAC) or a combination of both species. These species are annuals and are often found in non-wetland sites or can respond rapidly to increased wetness at a site. Curly dock is a facultative wetland minus species, meaning that is generally occurs up to two-thirds of the time in wetlands but does occur a substantial part of the time in uplands (one-third). Bristly ox-tongue is a facultative species that occurs equally in wetlands and uplands. . Based on Tiner (1999), the presence of these FACW and FAC plants were not considered to be conclusive evidence that such vegetated areas are wetlands.

Plots CL-19 and CL-20 were different in that the plots consisted of a stand of smartweed (*Polygonum lapathifolium*), an obligate wetland species. This small patch occurs on a sloped area that does not pond water and the soils are a sandy loam with little structure, easily crumbling when extracted from the soil pit. The list of plant species observed in the sample plots and their indicator status is presented in Appendix C

4.3 <u>SOILS</u>

The characteristics of soils at the 20 sample plots are summarized in Appendix D and the data sheets in Appendix B. None of the soils were found to exhibit hydric characteristics, although the soil at one sample plot (CL-8) was borderline. Sample plot CL-8 was located at the edge of a small area with sparse vegetation cover and sediment deposits on its surface. A layer of organic plant debris occurred at 6 inches to 8 inches deep indicating that the upper 6 inches of soil was imported to that area and placed on top of the vegetation present at the time of deposition of the imported fill. The soils at CL-19 and CL-20 were sandy and did not exhibit any redoximorphic features and are not considered hydric. Based on the observations of the soils from the remaining sample plots, the soils do not appear to have been reduced in the past, including the months previous to the sampling. Saturation of the soils resulting in anaerobic (reduction) conditions does not appear to have occurred in these soils, which is a pre-requisite for a soil to be considered a hydric soil. Therefore, with one possible exception in the area of

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CL-8, the soils at site are not hydric. Mr. Parker's summary report and the results of the soil analysis for each sample plot is presented in Appendix D

4.4 SUMMARY OF FINDINGS

The results of the field survey indicate that hydrophytic vegetation occurs at a number of plots but, with one exception (CL-8), the sample plots lacked hydric soils. The species dominating the plots with hydrophytic vegetation are annual species that also have a substantial occurrence in uplands. The main species (*Rumex crispus* and *Picris echioides*) are annuals that can rapidly respond to increased wetness at a site, such as an increase in rainfall over several years. Because these species can occur in upland relatively frequently, additional evidence should be evaluated to confirm that there occurrence is the result of hydrological conditions occurring "in most years" and not the result of hydrological features resulting from above average rainfall.

The soils at all sampling locations were found to be non-hydric, lacking any redoximorphic features, except for the soils in the vicinity of CL-8. However, these soils had been recently disturbed due to exploration for archeological artifacts. Because of the recent disturbance at the CL-8 site, it was necessary to look at surrounding soils.

The surrounding soils at CL-9, CL-10 exhibited different characteristics than the soil at CL-8 and were considered to be non-hydric. (see table of soils data in Appendix E). Soils at both sites had live roots down to at least 17+" and crotovinas (worm activity) were present in the top 11" of soil at CL-9. Additionally, investigations of the soil directly beneath mulefat near CL-10 found the soils to be devoid of any redoximorphic features. If the flooding had resulted in reductions of the soil, a requirement for a soil to be considered hydric, redoximorphic features such as redox concentrations along the live root channels should have been present. Also, crotovinas were common in the soil and earthworms were observed in the soil (see photos 2 and 3 in Appendix F). Investigation of the soils beneath mulefat near CL-9 and CL-13 found the same type of soils as observed at the base of mulefat plants near CL-10.

The small patch of smartweed is located on a slope and this landscape location and the sandy nature of the soil and the lack of any indicator of wetland hydrology suggests that the area does not pond water. The soils are lack redoximorphic features, indicating that the soils have not been reduced, and are not hydric. The findings for vegetation and soils are summarized in Table 1.

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Table 1. Summary of findings for each sample plot relative to vegetation, soil and hydrology.

Station	Vegetation	Soils
CL-1	Upland	Non-hydric
CL-2	Hydrophytic	Non-hydric
CL-3	Upland	Non-hydric
CL-4	Upland	Non-hydric
CL-5	Hydrophytic	Non-hydric
CL-6	Hydrophytic	Non-hydric
CL-7	Hydrophytic	Non-hydric
CL-8	Hydrophytic	Hydric(?)
CL-9	Hydrophytic	Non-hydric
CL-10	Hydrophytic	Non-hydric
CL-11	Hydrophytic	Non-hydric
CL-12	Hydrophytic	Non-hydric
CL-13	Hydrophytic	Non-hydric
CL-14	Upland	Non-hydric
CL-15	Upland	Non-hydric
CL-16	Upland	Non-hydric
CL-17	Upland	Non-hydric
CL-18	Hydrophytic	Non-hydric
CL-19	Hydrophytic	Non-hydric
CL-20	Hydrophytic	Non-hydric

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5.0 REFERENCES

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State of California

Memorandum

To : Mr. Jim Burns
Assistant Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California

Date : December 20, 1991

From : Department of Fish and Game

Subject : Ballona Wetlands Acreage Determination Contained in the Department of Fish and Game's September 12, 1991 Memorandum to the Fish and Game Commission

The Department has provided the Coastal Commission with information regarding the extent and condition of wetland and other environmentally sensitive habitat areas within the Playa Vista Land Use Planning area for the past ten years. Our determinations in this regard were used by the Coastal Commission in certifying the Playa Vista Land Use Plan.

It seems that the primary, present, controversy is limited to the extent of wetland acreage north of the Ballona Creek Channel. It is important to recognize that this controversy existed at the time we prepared our September 12, 1991 memorandum to the Commission regarding approximately 52-acre "Freshwater Marsh/Open-Water Wetland-Riparian Area Project". This project was before the Commission at that time (Application Number 5-91-463). We provided the Commission with a map indicating the extent of pickleweed-dominated saltmarsh and other vegetative communities on the large fill area north of Ballona Creek Channel. Department personnel ground-truthed the accuracy of the vegetation map prior to its transmittal to the Commission, and we found it to be highly accurate. We also provided the Commission with a table indicating precisely quantified acreage for each of 28 distinct, independently-measured subareas of the pickleweed-dominated saltmarsh wetland type on the fill area. This totaled 19.95 acres which we rounded off to 20 acres for the purposes of discussion in the text of our 7-page memorandum.

We also mapped 17.66 acres of patchy pickleweed distributed within what was characterized as an upland vegetative association (page 2 of our September 1991 memorandum). Most of this 17.66 acres was dominated by pickleweed prior to the onset of the present drought cycle. Consequently, we found it likely that a portion of these 17.66 acres would again be dominated by pickleweed given a return of normal rainfall.

Lastly, we determined that portions of the 4.78 acres of saltflat were wetlands by virtue of periodic inundation which we

observed several years ago but that was at the time of the field inspection of Area A, prior to transmittal of our September 12, 1991 memorandum, these saltflats did not function as wetlands.

Using the observation discussed in the presiding two paragraphs, and applying the wetland definition contained in the document entitled "Classification of Wetlands and Deepwater Habitats of the United States" (Cowardin, et al., 1979), we informed the Commission that not less than 20 acres of the Area A presently functioned as wetland by virtue of dominance by obligate hydrophytic vegetation even after five years of drought. Since our past wetland determinations on Area A included the acknowledgement of the presence of 2.5 acres of saltflat which functioned as wetland by virtue of periodic inundation we found it probable, and continue to find it probable, that 2.5 acres of saltflat would again function as wetland given a return of normal rainfall. We formerly identified 37.5 acres of wetland in Area A, and we continue to believe that, under normal rainfall conditions, 37.5 acres would again function as wetland. These 37.5 acres of wetlamd may be generally characterized as being composed of the 20 acres of existing pickleweed-dominated saltmarsh, 2.5 acres of saltflat, and 15 acres of recovered saltmarsh from the existing 17.66 acres of patchy pickleweed community. We reiterate for clarity that only the 20 acres of pickleweed-dominated saltmarsh presently functions as wetland.

We do not agree with the opinion which holds that the pickleweed-dominated flats are simply an indication of the saline nature of the original dredge spoils. In point of fact, there are several plant species in Area A which are very tolerant of saline soil conditions. Among these are salt grass (Distichilis spicata) and Atriplex spp. Further, Salicornia grows quite well in nonsaline soils. The patterns of vegetative dominance in Area A are based upon essentially two factors, soil salinity and substrate saturation. Where we have both saline soils and low-elevation (and therefore increased degree of substrate saturation) we find that competitive advantage is conferred upon pickleweed. In areas with low soil salinities at higher elevation (and therefore relatively little soil saturation) typical ruderal species predominate. In areas of similar elevation, and elevated soil salinities, we find Atriplex and Bacchuaris. In areas where soil saturation levels are especially high and the substrate is subject to inundation and/or has been highly compacted through time, we have saltflats which typically are too salty for pickleweed and at times may be too wet, too long to support pickleweed. Lastly there are areas, essentially the 17.66 acres of patchy pickleweed designated on the map we appended to our September 12, 1991 memorandum, where salinities and saturation are in a state of flux and in which after 5 years

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Wetland delineation

of drought pickleweed is being out-competed by upland indicator species.

Additionally, we do not necessarily agree that substrate salinities in Area A are markedly different now than they were a decade ago. One has only to observe the pickleweed-dominated flats at Bolsa Chica, which have been isolated from tidal influence for 70 years, to see that maintenance of substrate salinity in an essentially closed system is definitely both possible and fairly frequently encountered in southern California.

In summary, we found that 20 acres of Area A functioned as wetland in September 1991, and that we saw little reason to assume that less than 37.5 acres of wetland would exist in Area A given normal rainfall. This continues to be our position.

It is important to realize that the Commission and the Department have used the Cowardin wetland definition for wetland identification purposes in the Commission's land use decisions since 1978 (when the 1979 document was still an operational draft); that the Commission allied the wetland definition contained in the Coastal Act with the U.S. Fish and Wildlife Service's (USFWS) wetland definition (i.e., Cowardin, 1979) in the Commission's Interpretive Guidelines (1982); and that the Commission very clearly indicates in these Interpretive Guidelines that the USFWS definition is to be used for wetland identification in the Coastal Zone. The USFWS definition identifies areas which are at least seasonally dominated by hydrophytes as wetlands. In Area A, 20 acres are dominated by Salicornia virginia, an obligate hydrophyte with a wetland occurrence probability in excess of 99 percent after five years of drought. The areas in which Salicornia virginia continues to dominate are usually at a somewhat lower elevation than the patchy pickleweed and other areas which do not presently function as wetlands. The reason that pickleweed continues to dominate the lower elevations is that these lower areas are wetter longer than the areas at higher elevations. Areas which are wet enough, long enough to support dominance by hydrophytic vegetation are wetlands per the USFWS definition. Any fair application of the Cowardin (USFWS) wetland definition to Area A will reveal the presence of not less than 20 acres of pickleweed-dominated saltmarsh, which is clearly a wetland type.

In Area B we are on record as having agreed with the Corps of Engineers identification of 170.56 acres of wetland. During the evolution of the now certified Playa Vista Land Use Plan, we predicted that, were it not for the then ongoing agricultural operation, wetlands in Area B would expand. These agricultural

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p 3
wetland

activities ceased for approximately three years prior to the Corps' wetland determination, and, as we predicted, the wetlands did expand into the area which was formerly used for the production of barley and lima beans. Further, wetlands expanded in the triangular area south of Centinella Creek and immediately adjacent to Lincoln Boulevard presumably in response to increased run-off from recently developed areas located on the bluffs. We were instrumental in the ultimate designation of 170.56 acres of wetland by the Corps in Area B and we support that figure as accurate. In Area C, we identified 2.5 acres of wetland in our previous determination, and we continue to believe this to be an accurate assessment. In area D, outside the Coastal zone, east of Lincoln Boulevard and south of Ballona Creek Channel, we have not independently determined wetland acreage. However, we have examined the Corps' delineation, briefly inspected Area D, and find the Corps' identification of 3.47 acres of wetland in Area D to be accurate.

For these reasons we find that 196.53 acres of wetland presently exist within the overall planning area, and we find that 214.03 acres would likely exist given a return of normal precipitation.

Should you have questions regarding this memorandum, please contact Mr. Bob Radovich, Wetland Coordinator, Environmental Services Division, Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814, telephone (916) 653-9757.

Howard A. Saraach for

Pete Bontadelli
Director

cc: Mr. William Shafroth
Resources Agency

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Exhibit F p4

This map is accurate for wetland in Area B

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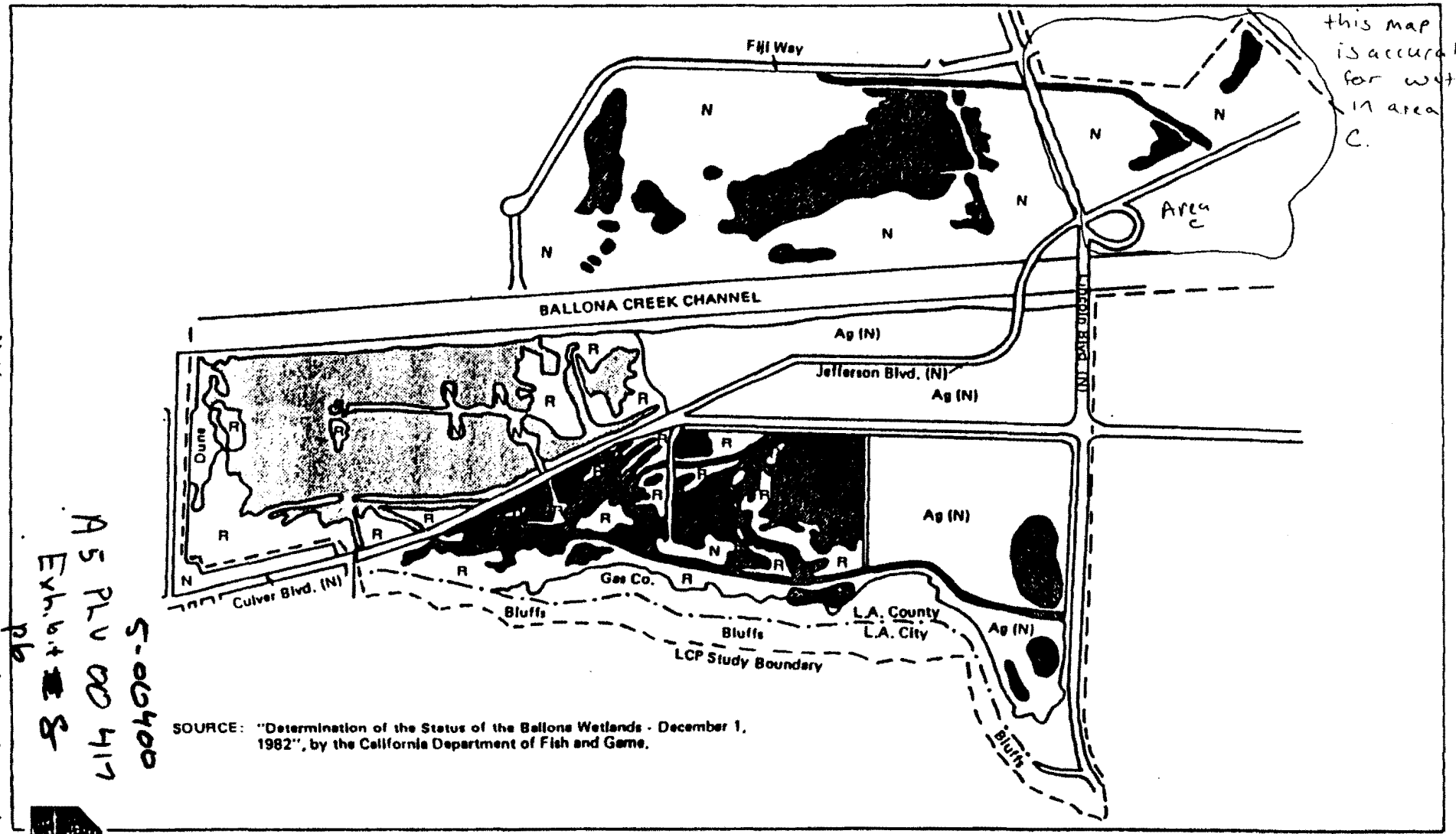
Exhibit 8 p5
attached to

map 14

PRESENT STATUS OF THE BALLONA REGION

Non-degraded wetland
Degraded wetland
R — Feasibly restorable former wetland
N — Former wetland not feasibly restorable
Ag (N) — Former wetlands Agricultural Field
Dune & Bluffs — Environmentally sensitive upland



this map is accurate for wetl. in area C.

SOURCE: "Determination of the Status of the Ballona Wetlands - December 1, 1982", by the California Department of Fish and Game.

COUNTY OF LOS ANGELES DEPARTMENT OF REGIONAL PLANNING

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5-06400
Exhibit 8 pg
attached wetland map

KATHLEEN CONNELL
Controller of the State of California

RECEIVED
MAY 14 2001
CALIFORNIA
COASTAL COMMISSION

May 10, 2001

The Honorable Sarah Wan, Chair, California Coastal Commission and
Honorable Coastal Commissioners

Re: *Ballona Wetlands "Area C"*

Dear Chair Wan and Honorable Commissioners:

I would like to take this opportunity to clarify my position on the proposed road construction and expansion projects through Area C of the Ballona Wetlands. My office is opposed to any roads constructed or expanded on this parcel. As you know, this property is currently being held in trust for the benefit of the State of California. Moreover, efforts are currently underway to transfer the entire 73-acre parcel to the California Department of Parks & Recreation.

Given that my office is entrusted with the responsibility and stewardship of this land until such time we can transfer it to the Department of Parks & Recreation, I am notifying you that any purported consent previously given by my office to the applicant for the purpose of constructing or expanding roads on Area C is hereby withdrawn.

Any such consent would have been premised upon Playa Capital exercising its option to purchase the 73-acres in issue. The option expired December 31, 2000, and was not renewed.

Please feel free to contact my Chief of Staff and Chief Counsel, Richard J. Chivaro, at 916/445-2636, or my Deputy, Cindy Aronberg, at 310/342-5678, with any questions you may have concerning the foregoing. Thank you.

Sincerely,

KATHLEEN CONNELL
State Controller

☐ SACRAMENTO 300 Capitol Mall, Suite 1850, Sacramento, CA 95814 (916) 445-2636
☐ Mailing Address: P.O. Box 942850, Sacramento, CA 94250
☐ LOS ANGELES 600 Corporate Pointe, Suite 1150, Culver City, CA 90230 (310) 342-5678

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May 18, 2001

VIA FACSIMILE AND U.S. MAIL

Pam Emerson
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, California 90802

Re: Coastal Development Permit Applications
A-5-PLV-00-417, 5-00-400, 5-98-184A, 5-01-107
(the "Applications")

Dear Ms. Emerson:

Our client, Playa Capital Company, LLC ("Playa Capital") has asked that we respond to your letter to Catherine Tyrrell dated May 16, 2001 pursuant to which you provided Playa Capital with a copy of a letter sent to the Coastal Commission by Kathleen Connell, Controller of the State of California dated May 10, 2001. In that letter, Ms. Connell advised the Commission that she was thereby withdrawing "any purported consent" previously given by her office to Playa Capital for the purpose of constructing or expanding roads on Area C. Such letter further stated: "Any such consent would have been premised upon Playa Capital exercising its option to purchase the 73-acres in issue. The option expired December 31, 2000, and was not renewed."

First and foremost, Ms. Connell's office has given no such consent and none is required. We would like to call your attention to the fact that Playa Capital's right to construct the various roadway improvements and to conduct the other work related thereto (the "Improvements") covered by the above referenced Applications arises under an Easement Agreement dated August 30, 1990 (the "Easement Agreement") between U.S. Trust Company of California (the "Trustee"), the trustee which holds legal title to Area C, and Maguire Thomas Partners – Playa Vista ("MTP-PV"), Playa Capital's predecessor-in-interest. As set forth in our memorandum of August 26, 2000, a copy of which was provided to you by Catherine Tyrrell, and our correspondence of February 9, 2001 and February 20, 2001, the Easement Agreement has been recorded against Area C and by its express terms is perpetual and irrevocable. Playa Capital's right to construct the Improvements arises directly under the Easement Agreement and

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Exhibit
10 pg

is not dependent in any manner on the consent of the Trustee, let alone the Controller who has no direct powers of any sort under the Easement Agreement. In other words, as set forth in our earlier correspondence, so long as the Improvements covered by the Applications are permitted improvements under the Easement Agreement (which as set forth in our letter of February 9, 2001 is clearly the case), Playa Capital has the absolute right to construct such Improvements whether or not such Improvements have been consented to by the Trustee as the landowner, or by Ms. Connell acting in her capacity as Controller.

In fact, the only action of any kind ever taken by the Controller with respect to the Improvements is the October 30, 1998 directive (a copy of which has been submitted in these proceedings) given by the Chief Deputy Controller to the Trustee, directing the Trustee to enter into an irrevocable offer to dedicate certain portions of the Improvements to the City of Los Angeles following completion of their construction. This irrevocable offer, the issuance of which is mandatory under the Easement Agreement and which is in no way essential to Playa Capital's right to construct the Improvements, has been executed by the Trustee, delivered to the City of Los Angeles, remains in full force and effect and, by its very terms, cannot be, and has not been, revoked. Moreover, pursuant to Section 30601.5 of the Coastal Act the landowner Trustee has by letter dated December 15, 2000 been advised of its right to participate in this proceeding as a co-applicant and has declined to do so.

Further, Ms. Connell is incorrect in implying that Playa Capital's rights to construct the Improvements in Area C are in any manner affected by the expiration of Playa Capital's option right to purchase Area C. Those rights arose under an Option Agreement entered into between U.S. Trust Company of California and MTP-PV on September 28, 1990. The Easement Agreement, pursuant to which Playa Capital maintains its right to construct the Improvements, predated and is not conditioned, or in any manner dependent, on the Option Agreement. In fact, at the time the Option Agreement was entered into the Easement Agreement was already a recorded encumbrance against all of Area C. We would also like to point out that the Option Agreement has not been terminated. Although Playa Capital's primary option right has expired, it retains an ongoing right of first purchase and right of first refusal with respect to Area C, which rights survive the expiration of its purchase option and will not themselves expire until December 31, 2005.

Lastly, please note that any future conveyance of all or any portion of Area C to the California Department of Parks and Recreation or any other entity would be subject to Playa Capital's rights under the Easement Agreement, which is recorded against all of Area C and would continue to burden the land following any such conveyance.

Accordingly, for the various reasons set forth above, we respectfully submit that Ms. Connell's purported withdrawal of her "consent" to Playa Capital's construction of the

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Improvements has no bearing on the pending Applications. She has given no such consent and none is required. Playa Capital's rights arise directly under the Easement Agreement between it and U.S. Trust Company of California which is the legal owner of Area C. Such rights are perpetual, irrevocable, run with the land and their exercise does not require the consent of the Trustee or of Ms. Connell who has no direct rights of any sort under the Easement Agreement.

Sincerely,

David Vena

David H. Vena
of LATHAM & WATKINS

cc: Ms. Catherine Tyrrell
Patricia T. Sinclair, Esq.
Mr. David Nelson
Richard S. Zbur, Esq.
Ralph Faust, Esq.

Exhibit 10
A 5 PLV 00417
5-00-400
P3

Recording Requested By:

MAGUIRE THOMAS PARTNERS - PLAYA VISTA

When Recorded Return To:

MAGUIRE THOMAS PARTNERS - PLAYA VISTA
c/o Maguire Thomas Partners
1299 Ocean Avenue, Suite 1000
Santa Monica, California 90401
Attention: Craig A. Smith, Esq.

EASEMENT AGREEMENT

BY AND BETWEEN

U.S. TRUST COMPANY OF CALIFORNIA, N.A.

AND

MAGUIRE THOMAS PARTNERS - PLAYA VISTA,
a California limited partnership

A 5.RLW 00417
5-00400
Exhibit 11
Pt P1

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EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made as of the 30th day of August, 1990 by and between U.S. Trust Company of California, N.A., as trustee ("Trustee") and Maguire Thomas Partners - Playa Vista, a California limited partnership ("MTP-PV").

RECITALS

A. The Trustee holds legal title to certain real property in the County of Los Angeles, State of California, as more particularly described in Exhibit A (the "Burdened Property"), in trust for Gray Davis (successor-in-office to Kenneth Cory), as Controller for the State of California and on behalf of the State of California ("California") pursuant to a Declaration of Trust dated August 29, 1983, as amended by an Amendment to Declaration of Trust dated December 11, 1984.

B. MTP-PV is the owner of certain real property in the County of Los Angeles, State of California, as more particularly described in Exhibit B (the "Benefited Property").

C. California and Summa Corporation, a Delaware corporation ("Summa") are parties to a Security Agreement dated August 29, 1984 (the "Original Security Agreement"). California and Summa entered into an Amendment to Security Agreement dated June 16, 1986 and an Amendment to Security Agreement dated February 26, 1988. Summa subsequently assigned certain of its rights under the Original Security Agreement, as amended, to

Exhibit 11 p3
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MTP-PV, and MTP-PV assumed certain obligations of Summa under the original Security Agreement, as amended. California, Summa and MTP-PV thereafter entered into a Third Amendment to Security Agreement of even date herewith (the "Third Amendment"). The original Security Agreement, as amended, is hereinafter referred to as the "Security Agreement." Under the Security Agreement, MTP-PV has certain obligations (subject to the limitations set forth in the Security Agreement) to process and construct on the Burdened Property or for the benefit of the Burdened Property and the Benefited Property various roadway and other infrastructure improvements and to perform certain activities to establish development entitlements for the Burdened Property.

D. In consideration of MTP-PV's entry into the Third Amendment, in order to protect the Benefited Property and to assure the ability of MTP-PV and its affiliates to process and construct improvements on the Burdened Property as required or permitted by the Security Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, MTP-PV and Trustee agree that the Burdened Property shall be subject to certain easements, upon and subject to which the Burdened Property, and each and every portion thereof, shall be held, improved and conveyed.

I. GENERAL PROVISIONS

A. Definitions

1. "Benefited Owner(s)" shall mean each and every owner, from time to time, of the Benefited Property, or any

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portion thereof or interest therein, during the term of its ownership.

2. "Burdened Owner(s)" shall mean each and every owner, from time to time, of the Burdened Property, or any portion thereof or interest therein, during the term of its ownership.

3. "Development Standards" shall mean all zoning, land use, density, height, set back, design, phasing and other restrictions regarding the use and development of the Burdened Property set forth in the LUP, the LIP and the Transportation Plan, and all other similar requirements from time to time imposed by governmental agencies having jurisdiction thereover.

4. "Improvements" shall mean the Improvements defined in Paragraph 4 of the Security Agreement and the improvements described in Paragraph 6(e) of the Security Agreement, to the extent located on the Burdened Property.

5. "LIP" shall mean the Local Implementation Program consisting, inter alia, of the Playa Vista Area C Specific Plan (City of Los Angeles Ordinance No. 160,522) and the Post-Certification Coastal Development Permits Procedural Ordinance (City of Los Angeles Ordinance No. 160,524), each as amended prior to the date hereof, as the same may be further implemented by a Joint Powers Agreement respecting the same to be entered into between the City of Los Angeles and the County of Los Angeles, as each of the foregoing may be modified after the date hereof pursuant to the Stipulation or the Stipulated Judgment, and as each may otherwise be modified after the date hereof, to

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the extent such other modification(s) (a) has (have) been consented to in writing by Burdened Owner, whose consent shall not be unreasonably withheld with respect to the Improvements, and by Primary Benefited Owner or (b) is (are) otherwise permitted by the Security Agreement.

6. "LUP" shall mean Los Angeles County's Marina Del Rey/Ballona Local Coastal Program, Phase II - Land Use Plan as approved by the California Coastal Commission on December 9, 1986 and the City's Playa Vista Land Use Plan as approved by the California Coastal Commission on May 13, 1987, each as amended prior to the date hereof, as each of the foregoing may be modified after the date hereof pursuant to the Stipulation or the Stipulated Judgment, and as each may otherwise be modified after the date hereof, to the extent such other modification(s) (a) has (have) been consented to in writing by Burdened Owner, whose consent shall not be unreasonably withheld with respect to the Improvements, and by Primary Benefited Owner or (b) is (are) otherwise permitted by the Security Agreement.

7. "Playa Vista" shall mean the real property described on Exhibits A, B and C.

8. "Primary Benefited Owner" initially shall mean MTP-PV, provided that, pursuant to the provisions of Section III, another entity hereafter may become Primary Benefited Owner with respect to any or all of the rights of Primary Benefited Owner, and thereafter each reference to Primary Benefited Owner herein shall mean only the Primary Benefited Owner which has the right to enforce the specified rights of the Primary Benefited Owner,

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unless otherwise stated. It is understood that there may be more than one Primary Benefited Owner hereunder at any one time, but there shall be only one entity at any one time which may enforce a particular right of Primary Benefited Owner hereunder.

9. "Roadway Improvement" shall mean an Improvement that is to be used as a roadway.

10. "Stipulated Judgment" shall mean the Judgment entered pursuant to the Stipulation; it being understood that if the Stipulated Judgment does not exist or is rescinded or otherwise rendered void, the validity and enforceability of any provision of this Agreement shall not be affected thereby.

11. "Stipulation" shall mean that certain Stipulation for Entry of Judgment entered into by all, and not less than all, of the parties to that certain litigation brought by Friends of Ballona Wetlands, inter alia, in the Superior Court of the State of California, County of Los Angeles, Case No. C525 826; it being understood that if the Stipulation does not exist or is rescinded or otherwise rendered void, the validity and enforceability of any provision of this Agreement shall not be affected thereby.

12. "Transportation Plan" shall mean the Coastal Transportation Corridor Specific Plan (City of Los Angeles Ordinance No. 160,394), as modified after the date hereof by the Stipulation or the Stipulated Judgment, and as otherwise further modified after the date hereof.

13. "Trustee's Agreement" shall mean any Agreement entered into among the Trustee, MTP-PV and an affiliate of MTP-PV regarding the purchase and sale of the Burdened Property.

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B. Nature of Easements. Burdened Owner hereby agrees that the Burdened Property, and each and every portion thereof, is now, and shall hereafter be, held, transferred, sold, leased, conveyed, developed, improved, maintained and occupied subject to the easements set forth in Section II, each and all of which shall be binding upon each and every Burdened Owner.

The easements granted pursuant to Section II.A.1. and Section II.A.3. are perpetual, irrevocable, non-exclusive easements in gross, with the right to grant and transfer the same pursuant to the terms hereof, which are granted to Primary Benefited Owner as personal rights. The easements granted pursuant to Section II.A.2. are appurtenant easements granted for the benefit of the Benefited Property and shall inure to the benefit of, pass with and be appurtenant to, the Benefited Property, and each and every portion thereof, and shall inure to the benefit of and be enforceable by each Benefited Owner.

C. Purposes of Easements. The purposes of the easements contained herein are to preserve the value of the Benefited Property and, upon the terms and conditions set forth below, to permit (1) the processing, construction, repair, maintenance, restoration and use of the Improvements on the Burdened Property, and (2) the replacement, repair and maintenance of any landscaping or improvements incidental thereto.

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II. EASEMENTS

A. Grant of Easements.

1. Improvement Easements. Subject to the applicable terms and conditions contained herein, Burdened Owner hereby grants to Primary Benefited Owner, a perpetual, irrevocable, non-exclusive easement in gross, together with the right to grant and transfer the same pursuant to the terms hereof, over and right at any time to enter upon, pass over and along, and otherwise alter, improve, use, repair and maintain: (a) all or any portion of the Burdened Property, to the extent reasonably necessary for purposes of planning and processing each Improvement, provided that such easement shall remain effective only until the precise location of each Improvement has been designated in the Final Map (as defined in Paragraph 6 of the Security Agreement); and (b) that portion of the Burdened Property which constitutes the precise location of each Improvement (after the precise location of such Improvement has been so designated), to the extent reasonably necessary for purposes of the planning, processing, construction, installation, repair, maintenance and use of such Improvement. After the precise location of an Improvement has been designated in the Final Map, Burdened Owner and Primary Benefited Owner shall execute, acknowledge and record against the Burdened Property an amendment to this Agreement which shall set forth the precise description of the location of the easement for such Improvement. Subject to the applicable terms and conditions contained herein, Burdened Owner hereby grants to Primary Benefited Owner a perpetual, irrevocable, non-exclusive easement

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in gross, with the right to grant and transfer the same pursuant to the terms hereof, over and right to enter upon, pass over and along, and otherwise alter, improve, use, repair and maintain the Burdened Property, at any time after the precise location of an Improvement has been designated, to the extent reasonably necessary for the purposes set forth in Section II.A.1(b), including, without limitation, for purposes of using portions of the Burdened Property temporarily for roadways and storing of equipment and materials.

2. Easement Appurtenant. Subject to the applicable terms and conditions contained herein, Burdened Owner hereby grants to Benefited Owners, for the benefit of the Benefited Property, a perpetual, irrevocable, non-exclusive, appurtenant easement over and right to enter upon and pass over and along the precise location of each Improvement at any time after the construction of such Improvement has been completed, for vehicular access, ingress and egress with respect to each Roadway Improvement, and for the use of and, if necessary, the repair, restoration and maintenance of, each Improvement.

3. Post-Dedication Easement. As provided in Section II.C., any easement or right to enter (collectively, "Easements") granted by Section II.A.1. or Section II.A.2. shall automatically terminate with respect to any Improvement upon the dedication of such Improvement to any entity described in Section II.C., provided that (a) to the extent any Improvement is dedicated but any landscaping or other improvements incidental thereto are not, Primary Benefited Owner shall continue to have a perpetual,

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irrevocable, non-exclusive easement in gross, with the right to grant and transfer the same pursuant to the terms hereof, over and right at any time to enter upon and pass over and along that portion of the Burdened Property which constitutes the precise location of such Improvement, all to the extent reasonably necessary for purposes of the replacement, restoration, repair and maintenance of such incidental landscaping and other improvements and all at the expense of Primary Benefited Owner, and (b) to the extent the entity which is accepting the dedication does not assume or fulfill all obligations with respect to the Improvement being dedicated, Primary Benefited Owner shall continue to have a perpetual, irrevocable, non-exclusive easement in gross, with the right to grant and transfer the same pursuant to the terms hereof, over and right at any time to enter upon and pass over and along that portion of the Burdened Property which constitutes the precise location of such Improvement, all to the extent reasonably necessary for purposes of fulfilling any such obligation which is not so assumed or fulfilled and all at the expense of Primary Benefited Owner.

B. Commencement of Right to Use Easements.

1. Primary Benefited Owner shall have the right, at Primary Benefited Owner's sole cost and expense (without affecting Primary Benefited Owner's rights under the Security Agreement or the Improvement Fund Escrow (as defined in the Security Agreement) to offset or receive reimbursement of such costs and expenses), to use the Easements granted pursuant to

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Section II.A.1. and II.A.3 with respect to each Improvement only upon the approval of the location and requirements of such Improvement by all applicable governmental entities, provided that such Improvement is or would be permitted pursuant to the terms of the Security Agreement, whether or not the Security Agreement is then in full force and effect.

2. Benefited Owners shall have the right to use the Easements granted pursuant to Section II.A.2. with respect to an Improvement only upon the approval of the location and requirements of such Improvement pursuant to Section II.B.1. and the substantial completion of construction of such Improvement.

C. Public Dedication. Upon the request of Primary Benefited Owner, Burdened Owners shall join with Primary Benefited Owner in any irrevocable offer to dedicate to the City of Los Angeles or other appropriate governmental or public agency, any public or private utility, any community association, any quasi-public organization or any mutual benefit corporation, their interest in any or all Improvements (including, without limitation, all rights-of-way therefor), provided that in each such instance: (1) the City of Los Angeles or such other entity, upon acceptance of such dedication, undertakes to maintain (unless such maintenance is otherwise provided for) and operate (a) each such Improvement for the use and benefit of the public, and (b) each such Roadway Improvement as a public street and roadway; and (2) such dedication shall be subject to all matters then appearing of record. Upon the completion of the construction and dedication of all Improvements by any person or

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entity, Primary Benefited Owner and the Burdened Owner shall execute, acknowledge and record against the Burdened Property an agreement which terminates all Easements granted pursuant to Section II.A.1. and Section II.A.2., except to the extent otherwise provided in Section II.A.3.

D. Conditions to Use of Easements.

1. Each Primary Benefited Owner (an "Indemnitor") shall indemnify Burdened Owners for any and all losses, expenses, damages, demands, liabilities, payments, causes of action, or other claims (including, without limitation, costs and expenses of litigation and reasonable attorneys' fees) to the extent arising from, based upon or relating to, such Indemnitor's or its authorized agents' use of the Easements set forth in this Section II. Following completion of an Improvement by an Indemnitor, such Indemnitor (a) shall leave the Burdened Property free of liens and encumbrances (except those arising in connection with any Financing District (as defined in the Trustee's Agreement) formed pursuant to the Trustee's Agreement) arising from the use of such Easements by such Indemnitor or its authorized agents in connection with such Improvement, or (b) shall promptly bond against or contest (and if any such contest is unsuccessful, shall remove before the enforcement thereof against the Burdened Property) any such existing lien or encumbrance arising from such use. All operations of any Indemnitor and its authorized agents on the Burdened Property pursuant to this Agreement shall be (i) performed in a good, professional and workmanlike manner which is in conformity with

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the Development Standards and the provisions of this Agreement, (ii) performed in full compliance with all laws, ordinances and regulations applicable to the Burdened Property, and (iii) diligently prosecuted to completion so as to cause the least practicable interference with the use of the Burdened Property by Burdened Owners.

2. Each Benefited Owner shall indemnify Burdened Owners for any and all losses, expenses, damages, demands, liabilities, payments, causes of action or other claims (including, without limitation, costs and expenses of litigation and reasonable attorneys' fees) to the extent arising from, based upon or relating to, such Benefited Owner's use of the Easements granted pursuant to Section II.A.2.

III. ASSIGNMENT OF RIGHTS OF PRIMARY BENEFITED OWNER

As provided herein, the initial Primary Benefited Owner is MTP-PV. There shall be only one entity which may enforce a particular right of Primary Benefited Owner hereunder at any one time and such enforcing entity need not own any portion of the Benefited Property.

Primary Benefited Owner may assign, including, without limitation, collaterally assign, any or all rights then held by Primary Benefited Owner hereunder to another entity, including, without limitation, any appropriate governmental authority, any public or private utility or one or more associations formed by Primary Benefited Owner. Each instrument creating an assignment of any rights of Primary Benefited Owner hereunder shall specify when and under what circumstances the assignor or assignee shall

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be entitled to exercise the rights of Primary Benefited Owner assigned thereby.

No assignment of any rights of Primary Benefited Owner under this Section III shall grant the assignee any rights to enforce this Agreement nor be effective unless and until (a) the time that the instrument creating such assignment provides that the assignee shall be entitled to exercise such rights, and (b) the assignee assumes in writing the corresponding duties hereunder of Primary Benefited Owner (provided that any such assumption shall be subject to the limitations on liability set forth in this Agreement, including, without limitation, Section IV.B.). Upon any effective assignment and assumption of the rights of Primary Benefited Owner as described above, (a) such assignee shall have the rights assigned by the assigning Primary Benefited Owner and shall be deemed Primary Benefited Owner hereunder with respect to such rights, all to the extent provided in the instrument creating such assignment, and (b) the assigning Primary Benefited Owner shall be released from all obligations and liabilities associated therewith, except to the extent such obligations and liabilities arise as a result of actions taken by such assigning Primary Benefited Owner prior to such assignment.

If at any time Primary Benefited Owner ceases to exist and has not made an assignment of all of its rights hereunder, a successor Primary Benefited Owner may be appointed with respect to any rights not so assigned only with the written consent of the owners of 50% or more of the acreage of the Benefited

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property or 50% or more of the undivided interests in all of the Benefited Property, as applicable.

IV. ENFORCEMENT AND LIABILITY

A. Rights to Enforce Agreement. Only Primary Benefited Owner shall have the right to enforce any of the obligations of Burdened Owners under this Agreement, provided that (1) Benefited Owners shall have the right to enforce their rights to use the easements granted pursuant to Section II.A.2., and (2) Primary Benefited Owner, in its sole discretion, may join with any Benefited Owner or any other Primary Benefited Owner hereunder, or authorize one or more Benefited Owners, to commence any legal action or arbitration to enforce any of the obligations of Burdened Owner hereunder. No Benefited Owner or Primary Benefited Owner who does not commence or join in any action or arbitration shall be responsible for any costs associated therewith, except (a) to the extent otherwise provided herein, or (b) if any such Benefited Owner or Primary Benefited Owner receives any monetary award pursuant to any such action or arbitration, such Benefited Owner or Primary Benefited Owner shall pay (up to the amount of the monetary award received by such Benefited Owner or Primary Benefited Owner) the Proportion of the costs of the related action or arbitration. The term "Proportion" shall mean the proportion that the amount of the monetary award received by such Benefited Owner or Primary Benefited Owner bears to the total monetary award granted pursuant to such action or arbitration.

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Each Benefited Owner (subject to the limitations set forth in this Section IV.A. above) and Primary Benefited Owner has and retains all rights at law and at equity necessary and appropriate to enforce this Agreement and to carry out the intentions of the parties hereto. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

B. Liability. Only each Primary Benefited Owner, and no Benefited Owners, may have any liability to any Burdened Owner in connection with this Agreement, except to the extent otherwise expressly provided in Section II.C.2.

C. Attorneys' Fees and Costs. In any legal or equitable proceeding for the enforcement of this Agreement or any provision hereof, if a Primary Benefited Owner or any Benefited Owner receives any relief whatsoever from the opposing party or parties, Burdened Owner shall pay all reasonable attorneys' fees of, and costs incurred by, all Primary Benefited Owners and all Benefited Owners in such proceeding.

D. Failure to Enforce Not a Waiver of Rights. The failure of any Primary Benefited Owner or any Benefited Owner to enforce any provision hereof shall not be deemed a waiver of the right to do so thereafter nor of the right to enforce any other provision hereof.

V. MISCELLANEOUS PROVISIONS

A. Term. This Agreement and every Easement contained herein shall continue in full force and effect in perpetuity, unless sooner terminated in accordance with the provisions hereof.

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B. Rights of Representatives. Whenever a right is granted in this Agreement to a Primary Benefited Owner, it also may be exercised by the authorized representatives, agents, employees, contractors and invitees of such Primary Benefited Owner upon the terms set forth herein.

C. Modification. This Agreement or any provision hereof may be terminated, extended, modified or amended, as to the whole of the Burdened Property or any portion thereof, with the written consent of (a) (i) for so long as Primary Benefited Owners collectively own 20% or more of the Benefited Property, the Primary Benefited Owner possessing each right to be terminated, extended, modified or amended, or (ii) if Primary Benefited Owners collectively own less than 20% of the Benefited Property, the fee owners of 50% or more of the Benefited Property, and (b) the fee owners of 50% or more of the Burdened Property or such affected portion thereof; provided, however, that for so long as Primary Benefited Owners collectively own less than 20% but at least 5% of the Benefited Property, no such termination, extension, modification, or amendment shall be effective without the written consent, in its sole discretion, of each Primary Benefited Owner whose rights hereunder are affected thereby. All determinations of percentage of ownership shall be based on acreage.

In addition, if any entity (a "Consenting Party") has recorded against the Burdened Property a notice executed by the appropriate Primary Benefited Owner which states that the provisions of this Agreement regarding the rights that such

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primary Benefited Owner has the right to enforce cannot be terminated, extended, modified or amended without the prior written consent of such Consenting Party (an "Amendment Notice"), such Consenting Party's written consent also shall be required prior to any termination, extension, modification or amendment of such provisions of this Agreement. The recordation of an Amendment Notice shall not, however, itself create any liabilities or obligations on the part of any such Consenting Party.

No termination, extension, modification or amendment of this Agreement shall be effective until a proper instrument in writing has been executed and acknowledged by all requisite parties as set forth above and recorded in the office of the County Recorder of Los Angeles County, California.

D. Constructive Notice and Acceptance. Every Burdened Owner is and shall be conclusively deemed to have consented and agreed to every easement contained herein, whether or not any reference to this Agreement is contained in the instrument by which Burdened Owner acquired an interest in the Burdened Property.

E. Section Headings. Section headings are inserted for convenience only and are not intended to be a part of this Agreement or in any way to define, limit or describe the scope and intent of the particular Sections to which they refer.

F. Effect of Invalidation. If any provision of this Agreement is held to be invalid by any court of competent

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jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

G. Further Assurances. Each party in good faith shall take such actions, grant such further easements and rights of way and execute, acknowledge, record and deliver such documents as may be reasonably necessary to effectuate the terms and intent of this Agreement.

H. Notices. All notices, demands, requests, consents, approvals or other communications (for the purpose of this Section, collectively called "Notices") required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly made or given, as the case may be, when delivered by hand, upon receipt by telecopy or express delivery service, or on the fourth business day following deposit in the United States mail, certified or registered, return receipt requested, postage and fees prepaid, addressed as follows:

To Burdened Owner:
U.S. Trust Company of California, N.A.
555 South Flower Street, Suite 2700
Los Angeles, California 90071
Attention: Sandra Leess

To Benefited Owner and
Primary Benefited Owner:
Maguire Thomas Partners -
Playa Vista
c/o Maguire Thomas Partners
1299 Ocean Avenue, Suite 1000
Santa Monica, California 90401
Attention: James A. Thomas
with a copy to: Craig A. Smith, Esq.

Any party may change its address for Notices set forth above by notice to the other parties as provided for in this Section.

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I. No Third Party Beneficiary. This Agreement has been entered into by the parties for the sole benefit and protection of themselves, and their respective successors and assigns, and, except as expressly provided herein, no other person or entity shall have any rights or interest hereunder.

J. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

K. No Partnership or Joint Venture. Neither anything contained in this Agreement or any amendment hereto, nor any act of any party hereto shall be deemed or construed to create the relationship of principal and agent or of partnership or of joint venture or of any association between or among Burdened Owner, Primary Benefited Owner(s) and Benefited Owner(s) or any other party.

L. Number and Gender. When the context in which the words are used herein indicates that such is the intent, words in the singular number shall include the plural and vice versa. All pronouns and any variations thereof shall be deemed to refer to all genders.

M. Counterparts. This Agreement may be executed in multiple counterparts, each one of which shall constitute an original and all of which taken together shall constitute one and the same agreement.

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IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first hereinabove written.

U.S. TRUST COMPANY OF CALIFORNIA, N.A., as trustee for the HRH Inheritance Tax Security Trust

By: _____
Its: _____

MAGUIRE THOMAS PARTNERS - PLAYA VISTA, a California limited partnership

By: MAGUIRE THOMAS PARTNERS/JMB ASSOCIATES, L.P., a California limited partnership, its General Partner

By: MAGUIRE THOMAS PARTNERS - PLAYA VISTA ASSOCIATES, a California limited partnership, its General Partner

By: MAGUIRE/THOMAS PARTNERS, INC., a California corporation, its General Partner

By: _____
Its: _____

By: _____
Its: _____

By: JMB/PLAYA VISTA LIMITED PARTNERSHIP, an Illinois limited partnership, its General Partner

By: JMB/PLAYA VISTA, INC., an Illinois corporation, its General Partner

By: _____
Its: _____

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Exhibit 11
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IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first hereinabove written.

U.S. TRUST COMPANY OF CALIFORNIA, N.A., as trustee for the HRH Inheritance Tax Security Trust

By: _____
Its: _____

MAGUIRE THOMAS PARTNERS - PLAYA VISTA, a California limited partnership

By: MAGUIRE THOMAS PARTNERS/JMB ASSOCIATES, L.P., a California limited partnership, its General Partner

By: MAGUIRE THOMAS PARTNERS - PLAYA VISTA ASSOCIATES, a California limited partnership, its General Partner

By: MAGUIRE/THOMAS PARTNERS, INC., a California corporation, its General Partner

By: _____
Its: CO-CHAIRMAN

By: _____
Its: PRESIDENT

By: JMB/PLAYA VISTA LIMITED PARTNERSHIP, an Illinois limited partnership, its General Partner

By: JMB/PLAYA VISTA, INC., an Illinois corporation, its General Partner

By: _____
Its: _____

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STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On this 30th day of August, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared James A. Thomas and Edward D. Fox personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as the Co-Chairman and President, respectively, of Maguire/Thomas Partners, Inc., a California corporation, the corporation that executed the within instrument on behalf of Maguire Thomas Partners - Playa Vista Associates, a California limited partnership, the partnership that executed the within instrument on behalf of Maguire Thomas Partners/JMB Associates, L.P., a California limited partnership, the partnership that executed the within instrument on behalf of Maguire Thomas Partners - Playa Vista, a California limited partnership, and acknowledged to me that such corporation executed the same as such general partner, for such general partner, and that such partnership executed it.

WITNESS my hand and official seal.

Toshie Fujita
Notary Public

OFFICIAL SEAL
TOSHIE FUJITA
Notary Public-California
LOS ANGELES COUNTY
My Comm. Exp. May 9, 1992

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STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On this 30th day of August, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared Malcolm Morris ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as the Authorized Signatory of JMB/Playa Vista, Inc., an Illinois corporation, the corporation that executed the within instrument on behalf of JMB/Playa Vista Limited Partnership, an Illinois limited partnership, the partnership that executed the within instrument on behalf of Maguire Thomas Partners/JMB Associates, L.P., a California limited partnership, the partnership that executed the within instrument on behalf of Maguire Thomas Partners - Playa Vista, a California limited partnership, and acknowledged to me that such corporation executed the same as such general partner, for such general partner, and that such partnership executed it.

WITNESS my hand and official seal.

G. A. Villa
Notary Public

OFFICIAL SEAL
G. A. VILLA
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires APR 19, 1994

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Exhibit 11
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STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

On this 30th day of August, 1990, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Sandra H. Leess, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Vice President, on behalf of U.S. Trust Company of California, N.A., as trustee for the HRH Inheritance Tax Security Trust, the national association therein named and acknowledged to me that the national association executed it.

WITNESS my hand and official seal.

Notary Public

OFFICIAL SEAL
ANE SLOCUM CAHILL
Notary Public-California
LOS ANGELES COUNTY
My Commission Expires
April 18, 1994

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EXHIBIT B

IMPROVEMENTS COST ALLOCATIONS

ITEM	QUADRANT 1 %
Lincoln Blvd. Construction	17
Lincoln Blvd. Streets Lights (55)	17
Lincoln Blvd. Traffic Signals (6)	17
Lincoln Blvd. Fire Protection	17
Lincoln Blvd. Street Landscaping	17
Culver Blvd. Construction	17
Culver Blvd. Street Lights (57)	17
Culver Blvd. Traffic Signals (6)	17
Culver Blvd. Fire Protection	17
Culver Blvd. Street Landscaping	17
Falmouth Ave. Construction	17
Falmouth Ave. Streets Lights	17
Falmouth Ave. Traffic Signals	17
Falmouth Ave. Fire Protection	17
Falmouth Ave. Street Landscaping	17
Lincoln/Culver Interchange	17
Lincoln/Culver Bridge	17
Lincoln/Ballona Channel Bridge	17
Culver/Ballona Channel Bridge	17
Bay/Ballona Channel Bridge	17
Bay St. On-Site (Culver to Ballona Channel)	100
Bay St. On-Site Street Lights	100
Bay St. On-Site Traffic Signals	100
Bay St. On-Site Fire Protection	100
Sewer to connect to Ballona Pumping Plant	16
Ballona Pumping Plant Improvement	16
Sewer On-site (Culver & Bay)	100
Power On-Site	100
Gas On-site	100
Water On-site	100

1. ROADWAY IMPROVEMENTS OTHER THAN BAY STREET: The costs of roadway improvements other than Bay Street have been allocated on the basis of "vehicular trip generation" amongst Quadrants 1, 2, 3, and 4. For these purposes, trip generation factors as delineated in the Coastal Transportation Corridor Specific Plan (Ordinance No. 160, 394) were used, and result in a 17% allocation to Quadrant 1.

2. BAY STREET: The cost of Bay Street on-site between Culver Boulevard and the Ballona Channel, including required street lighting, fire protection, traffic signals and street landscaping has been allocated above to Quadrant 1. The cost of Bay Street off-site from the Ballona Channel to Hughes Way, including required street lighting, fire protection, traffic signals and street landscaping will not be allocated to Quadrant 1.

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3. POWER, GAS, WATER: The cost of extending these utilities in Culver and Bay Street (on-site) has been allocated above to Quadrant 1. No other sitewide cost is included.

4. SEWER: A portion of the cost of the new sewer system necessary to connect the Quadrant 1 on-site system to the Ballona Pumping Plant, and the cost of improving the Ballona Pumping Plant has been allocated above to Quadrant 1. Based on projected flows from Quadrants 1, 2, 3 and 4, such Quadrant 1 allocation is estimated at 16.1%. The cost of sewer lines in Culver Boulevard and Bay Street have been allocated above to Quadrant 1.

5. GRADING: The cost of rough grading of Quadrant 1 will be allocated to Quadrant 1. Grading associated with street construction will be allocated in the same manner as the cost of street construction.

6. TEMPORARY ROADS: The cost of temporary roads required during construction of Lincoln and Culver Boulevards will be allocated on the same basis as the cost of street construction.

7. PEDESTRIAN BRIDGE: The cost of a pedestrian bridge between Quadrant 1 and Quadrant 2 will be allocated 50% to each Quadrant.

8. FALMOUTH AVENUE: It is understood that the parties contemplate deleting the Falmouth Avenue improvements. In the event any substitute improvements or measures are required and approved by the applicable governmental agencies, the percentages for the Quadrant 1 allocation which would have applied to the Falmouth Avenue improvements shall apply thereto.

Exhibit 13 p2

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FORM GEN. 160 (Rev. 6-80)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

Lincoln Bl. & Jefferson Bl.
DOT Case No. CTC 91-025

5-00400
5. PLV 00417
Exhibit #13 p1
Concepts from EIR mitigation measure

Date: May 13, 1993

To: Merryl Edelstein, Senior Planner
Attn: Dick Takase, City Planner
Department of City Planning

From: Haripal S. Vir, Senior Transportation Engineer
Department of Transportation

Subject: PLAYA VISTA PROJECT - PHASE I
AMENDMENT TO THE INITIAL TRAFFIC ASSESSMENT AND MITIGATION LETTER DATED SEPTEMBER 16, 1992
EIR NO. 90-0200 (C) (CUB) (CUZ) (GPA) (SUB) (VAC) (ZC)

This letter amends our traffic assessment letter dated September 16, 1992. With the release of the project's Draft EIR in September 1992 and receipt of several comments on the proposed traffic mitigation measures, it became necessary to propose alternate mitigation measures at certain intersections. It should be noted that the Playa Vista Phase I mitigation measures adequately mitigated the traffic impacts as described in the Draft EIR. However, due to numerous requests for alternate access to the Marina Freeway and Caltrans' concerns regarding the proposed northbound "loop ramp" at the Jefferson Boulevard / I-405 freeway interchange, the Department of Transportation recommends alternate mitigation requirements which affect the following intersections/street segments:

- Lincoln Boulevard/Culver Boulevard interchange
- Bay Street bridge and connection to Culver Boulevard
- Culver Boulevard / Marina Freeway interchange
- Jefferson Boulevard between Lincoln Boulevard and San Diego Freeway
- Centinela Avenue between Marina Freeway and Jefferson Boulevard

The proposal is to construct a new ramp connection from northbound Lincoln Boulevard to eastbound Culver Boulevard and the Bay Street connection to Culver Boulevard (over Ballona Creek Channel) in order to provide a new access to Culver Boulevard and the Marina Freeway. This alternate mitigation will provide motorists on Lincoln Boulevard and Jefferson Boulevard with an alternate access route to the northbound San Diego Freeway via Culver Boulevard and Marina Freeway. These regional roadway improvements will

divert traffic and, thereby, relieve congestion on Jefferson Boulevard between Lincoln Boulevard and the San Diego Freeway (including Jefferson Boulevard at San Diego Freeway northbound ramps) and on Centinela Avenue between Jefferson Boulevard and Culver Boulevard.

In addition to Caltrans' comments, there were a number of additional concerns from local jurisdictions and municipalities including the City of Santa Monica. The City of Santa Monica requested that impacts within the City of Santa Monica be re-evaluated using an alternate traffic assignment. In the process of doing this, a new impact was identified at the intersection of Main Street and Rose Avenue in Los Angeles. The City of Santa Monica also requested that the intersection of Centinela Avenue and Short Avenue be evaluated. This resulted in an additional impact. The signalized intersection of Centinela/Washington immediately north of Short Avenue was also analyzed and found to be not impacted.

These two additional impacted intersections change the Phase I impacted intersections to a total of 54 intersections (including 50 within the City of Los Angeles, 3 in Los Angeles County, and 1 in Culver City) which can be fully or partially mitigated. These additional intersections are summarized as follows:

- Centinela Avenue and Short Avenue
- Main Street and Rose Avenue

Due to these alternate mitigation requirements and additional impacted intersections, our traffic assessment letter dated September 16, 1992 is revised as follows:

A. <u>Paragraph on Page 3 of the September 16, 1992 Assessment Letter</u>

Replace the paragraph on Page 3 of the letter that reads:

"Three of the remaining five intersections, as stated below, can be only partially mitigated and will yield a projected level of service (LOS) of C or better with the proposed mitigations. Generally, DOT considers any intersections functioning at LOS C or better to be at a good operating condition.

- Centinela Avenue and Mesmer Avenue

Exhibit #13
p2

- Jefferson Boulevard and Mesmer Avenue
- Jefferson Boulevard and San Diego Freeway southbound ramp"

with the following text:

"Four of the remaining five impacted intersections, as stated below, can be only partially mitigated; however the projected levels of service (LOS) will be C or better with the proposed mitigations. Generally, DOT considers any intersection functioning at LOS C or better to be at a good operating condition. Additionally, the mitigations provided by the project at other intersections in the vicinity of these four intersections would add capacity in excess of that needed by the project impact. DOT considers these mitigations sufficient to offset the residual significant impact at the following intersections:

- Centinela Avenue and Mesmer Avenue
- Centinela Avenue and Teale Street
- Jefferson Boulevard and Mesmer Avenue
- Jefferson Boulevard and San Diego Freeway southbound ramp"

and add the following text:

"With the alternate mitigation for Jefferson Boulevard/I-405 northbound ramps, four of the remaining five impacted intersections, as stated below, can be only partially mitigated and will yield a projected level of service (LOS) A or B as shown below with the proposed mitigations. Level of Service A is the highest quality of service a particular highway or intersection can provide. Level of Service B represents an intersection which operates well. Additionally, the mitigations provided by the project at other intersections in the vicinity of these two intersections would add capacity in excess of that needed by the project impact. DOT considers these mitigations sufficient to offset the residual significant impact at these intersections.

- Centinela Avenue and Mesmer Avenue (LOS A)
- Centinela Avenue and Teale Street (LOS A)
- Jefferson Boulevard and Mesmer Avenue (LOS B)
- Jefferson Boulevard and McConnell Avenue (LOS A)"

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B. Attachment "E" - Phase I Impact and Mitigation Summary

The Phase I - Attachment "E" - Impact and Mitigation Summary (LOS Table), has been updated for several reasons. First of all, alternate mitigation requirements will result in rerouting of traffic; hence the volume to capacity (V/C) ratios and corresponding levels of service at a number of intersections have been revised. Secondly, the recently constructed LAX ATSAC system along the Lincoln Boulevard and Sepulveda Boulevard corridors improved the existing LOS at several intersections which in turn prompted changes to the LOS Table. And finally, the two intersections discussed above were added to the LOS Table as newly impacted study intersections. Please see the revised Attachment "E". The list of affected intersections is as follows:

▸ Alla Rd. and Jefferson Blvd.	(rerouting)
▸ Bali Wy. and Lincoln Blvd.	(correction)
▸ Beethoven St. and Jefferson Blvd.	(rerouting)
▸ Centinela Ave. and Culver Blvd.	(rerouting)
▸ Centinela Ave. and Jefferson Blvd.	(rerouting)
▸ Centinela Ave. and Marina Freeway EB Ramps	(rerouting)
▸ Centinela Ave. and Marina Freeway WB Ramps	(rerouting)
▸ Centinela Ave. and Short Ave.	(addition)
▸ Century Blvd. and Sepulveda Blvd.	(LAX ATSAC)
▸ Culver Blvd. and Marina Freeway EB Ramps	(rerouting)
▸ Culver Blvd. and Marina Freeway WB Ramps	(rerouting)
▸ Hughes Terrace and Lincoln Blvd.	(LAX ATSAC)
▸ Jefferson Blvd. and McConnell Ave.	(rerouting)
▸ Jefferson Blvd. and Mesmer Ave.	(rerouting)
▸ Jefferson Blvd. and San Diego Freeway NB Ramps	(rerouting)
▸ Jefferson Blvd. and San Diego Freeway SB Ramps	(rerouting)
▸ Jefferson Blvd. and Westlawn Ave.	(rerouting)
▸ Lincoln Blvd. and Loyola Blvd.	(LAX ATSAC)
▸ Lincoln Blvd. and Manchester Ave.	(LAX ATSAC)
▸ Lincoln Blvd. and Sepulveda Blvd.	(LAX ATSAC)
▸ Main St. and Rose Ave.	(addition)
▸ Manchester Ave. and Sepulveda Blvd.	(LAX ATSAC)

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C. **Attachment "G" - Intersection Mitigation Descriptions Revised/Added/Deleted**

A revised supplemental traffic analysis (dated April, 1993) has been prepared by Barton Aschman Associates, the traffic consultants, to assess the benefits of the new connection to Culver Boulevard and the additional impacts of the diverted traffic resulting from the improvements proposed as an alternate to the Jefferson Boulevard "loop ramp" at San Diego Freeway. After a careful review of the study, DOT has determined that the project-related traffic impacts can be adequately mitigated with the following changes to the mitigation requirements stated in our letter dated September 16, 1992. Attachment "G" of the September 16, 1992 Assessment Letter is amended as stated below:

Additional Required Physical Roadway and Intersection Improvements - The following improvements should be added to the "description of physical roadway and intersection improvements":

1. Bay Street Bridge (additional) - (see attached Drawings "BB-1", "BB-2" signed May 6, 1993)

   a. Construct the Bay Street Bridge to City standards over the Ballona Creek Channel with an 80-foot roadway and two 10-foot (minimum) sidewalks to connect north of Jefferson Boulevard and Culver Boulevard.

   b. Stripe Bay Street between Culver Boulevard and "B" Street to provide two through lanes in both the northbound and southbound directions.

   c. Bike lanes should be provided from Ballona Creek Bridge southerly. Construct ingress and egress to provide access to the existing bike path along the north levee of the Ballona Creek.

   This improvement would require approval and coordination of the Los Angeles County Flood Control and the Army Corps of Engineers.

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2. Bay Street and Culver Boulevard (additional) - (see attached Drawing "AA-1", "AA-2" signed May 6, 1993)

   a. Dedicate property and improve both sides of Culver Boulevard from Lincoln Boulevard to a point approximately 640 feet easterly of Bay Street centerline to provide up to a 74-foot roadway within a right-of-way varying between 92 feet and 94 feet.

   b. Stripe Culver Boulevard to provide one through lane and one shared through/right-turn lane in the eastbound direction and two left-turn only lanes and two through lanes in the westbound direction.

   c. Stripe Bay Street to provide two through lanes in the southbound direction and one shared left-turn/right-turn lane and one right-turn only lane in the northbound direction.

   d. Concurrent with LADOT's determination as to warrants for a traffic signal, the applicant is required to fund the design and installation of a traffic signal at this intersection.

3. Centinela Avenue and Short Avenue (additional)

   The proposed project can mitigate the project-related traffic impacts at this intersection by contributing $120,000 to a project in the City's Five Year Capital Improvement Program proposed at this location.

4. Culver Boulevard and Lincoln Boulevard Interchange, "south-east quadrant" (additional) - (see attached Drawing "AA-1" signed May 6, 1993)

   a. Dedicate, construct, and realign the existing ramp to provide a new interchange in the south-east quadrant of Lincoln Boulevard and Culver Boulevard to provide two separate roadways connecting (1) the northbound Lincoln Boulevard to the eastbound Culver Boulevard and, (2) the eastbound westbound Culver Boulevard to the northbound Lincoln Boulevard.

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b. Restripe Lincoln Boulevard at the interchange turn-off to provide three through lanes and one right turn only lane in the northbound direction.

c. Widen a portion of the Lincoln Boulevard bridge over Ballona Creek on the east side to accommodate the northbound right-turn only lane at the new interchange turn-off.

d. Restripe Culver Boulevard at the interchange to provide one left-turn only lane and one through lane in the westbound direction.

e. Concurrent with LADOT's determination as to warrants for a traffic signal, the applicant is required to fund the design and installation of a traffic signal at this intersection.

This improvement would require the coordination and approval of the County of Los Angeles, Caltrans, Los Angeles County Flood Control, and the Army Corps of Engineers.

5. Culver Boulevard and Marina Freeway (Route 90) Grade Separation (additional) - (see attached Drawings "AA-2", "AA-3", and "AA-4" signed May 6, 1993)

Design a complete grade separation at the Culver/Route 90 interchange and complete the construction as described below:

a. Westbound Grade Separation - Guarantee the westbound portion prior to the issuance of any certificate of occupancy of office space in sub-phase 1F and complete construction of the westbound portion of the grade separation between Ballona Creek and a point approximately 1400 feet westerly of the Culver Boulevard centerline before the issuance of any certificate of occupancy beyond the initial 200,000 square feet of office space in the sub-phase 1F of Phase I Playa Vista.

b. Eastbound Grade Separation - Complete the eastbound portion of the grade separation in sequence with the westbound portion if adequate funding is provided by other sources including the Playa Vista Master

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Plan, other developments, or public funding sources. This portion should be completed within 3 years of the availability of funding and approval of permits unless otherwise conditioned in future Playa Vista Master Plan conditions beyond Phase I.

The Marina Freeway is under the jurisdiction of Caltrans and any improvements must be coordinated with and approved by Caltrans.

6. <u>Main Street and Rose Avenue (additional) - (see attached Drawing "CC-1" signed May 6, 1993)</u>

a. Widen the east side of Main Street by 7 feet between Rose Avenue and the alley located approximately 180 feet southerly of the Rose Avenue centerline to provide a 34-foot half roadway and a sidewalk of varying between 7 feet and 9 feet within the existing half right-of-way.

b. Restripe Main Street to provide one left-turn only lane, one through lane and one shared through/right-turn lane in the northbound and southbound directions.

c. Widen the south side of Rose Avenue by 5 feet adjacent to the island/parking lot west of Main Street to provide a 25-foot half roadway and a 10-foot sidewalk within the existing 35-foot half right-of-way.

d. Restripe Rose Avenue to provide one left-turn only lane, one through lane and one right-turn only lane in the eastbound direction.

e. Restripe the City-owned off-street parking lot on the southwest corner of the intersection. Also, relocate the parking meters (if necessary) and set-back the chain-linked fence (northerly boundary) further south.

f. This improvement in street capacity requires on-street parking prohibition at all times on the west side of Main Street between a point approximately 110 feet south of Rose Avenue and a point approximately 180 feet southerly of Rose Avenue. This prohibition

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System.

4. Centinela Avenue widening between the Marina Freeway (SR 90) and Jefferson Boulevard - Pages 6, 7 : item 5: Option "B" (see attached Drawings "C-1(1)" through "C-3(1)")

Delete Option "A" entries. Substitute Option "B" as follows:

Projected-related traffic impacts on Centinela Avenue between Jefferson Boulevard and the Marina Freeway can be mitigated by providing six continuous through lanes in both the northbound and southbound directions during the a.m. and p.m. peak periods. This segment of Centinela Avenue is under the jurisdiction of the County of Los Angeles and any improvements must be coordinated with and approved by the County of Los Angeles.

a. These improvements require on-street parking restrictions on both the east and west side of Centinela Avenue between Jefferson Boulevard and the Marina Freeway. These restrictions will cause parking impacts and reduce on-street parking by 86 spaces during both the a.m. and p.m. peak periods.

b. In addition, access to Juniette Street at Centinela Avenue shall be restricted to right-turn inbound and outbound in both the eastbound and westbound directions. This will cause operational traffic impacts at Centinela Avenue and Juniette Street.

5. Culver Blvd and the Marina Freeway (SR 90) eastbound ramps (revised) - page 13: item 16 - (see attached Drawing "AA-2" and "AA-3" signed May 6, 1993)

a. Dedicate property along the project frontage on both sides of Culver Boulevard between the southerly property line of the 90-foot railroad right-of-way and a point approximately 480 feet southerly of the Marina Freeway eastbound ramp centerline to provide up to 106-foot right-of-way. Widen both the east and west sides of Culver Boulevard from the Marina Freeway Eastbound ramps to a point approximately

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Exhibit B, 9

480 feet southerly of the Marina Freeway eastbound ramp centerline to provide up to 86-foot roadway, a 10-foot sidewalk on the south side and 10-foot dirt shoulder on the north side within a 106-foot right-of-way.

b. Widen both the north and south sides of the Marina Freeway eastbound roadway from Culver Boulevard to a point approximately 680 feet easterly of the Culver Boulevard centerline to provide up to a 48-foot roadway. Restripe the roadway for three lanes in the eastbound direction.

c. Restripe Culver Boulevard to provide two through lanes and two right-turn only lanes in the northbound direction and one left turn only lane and three through lanes in the southbound direction.

d. Relocate and modify signal equipment as required.

The Marina Freeway is under the jurisdiction of Caltrans and any improvements must be coordinated with and approved by Caltrans.

6. Culver Boulevard and the Marina Freeway (SR 90) westbound ramps (revised) - page 13, 14; item 17 - (see attached Drawing "AA-3" signed May 6, 1993)

a. Widen both sides of the Marina Freeway westbound off-ramp from Culver Boulevard to a point approximately 420 feet easterly of the Culver Boulevard centerline to provide up to a 60-foot roadway.

b. Widen the east side of Culver Boulevard by 2 feet from the Marina Freeway westbound roadway to a point approximately 340 feet northerly of the Marina Freeway westbound roadway centerline to provide a 42-foot half roadway and an 8-foot sidewalk within the existing 50-foot half right-of-way.

c. Relocate and modify signal equipment as required.

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The Marina Freeway is under the jurisdiction of Caltrans and any improvements must be coordinated with and approved by Caltrans.

7. Jefferson Boulevard and McConnell Avenue (deleted) - (see September 16, 1992 Assessment Letter, Attachment "G" page 18, item 26)

Delete the description of the intersection improvement that reads:

"a. Dedicate 14 feet of property and widen the south side of Jefferson Boulevard by 12 feet along the project frontage from Beethoven Street to Westlawn Avenue to provide a 54-foot half roadway within a 64-foot half right-of-way.

b. Remove the raised median islands on Jefferson Boulevard between Beethoven Street and Westlawn Avenue. Relocate and modify traffic signal equipment as required.

c. Restripe Jefferson Boulevard to provide one left-turn only lane and four through lanes in the eastbound direction and three through lanes and one shared through/right-turn lane in the westbound direction and midblock two-way left-turn lanes between Beethoven Street and Westlawn Avenue."

8. Jefferson Boulevard and Westlawn Avenue (deleted) - (see September 16, 1992 Assessment Letter, Attachment "G" page 20, item 30)

Delete the description of the intersection improvement that reads:

"a. Dedicate 14 feet of property and widen the south side of Jefferson Boulevard by 12 feet along the project frontage from McConnell Avenue to a point approximately 800 feet easterly of the Westlawn Avenue centerline to provide a 54-foot half roadway within a 64-foot half right-of-way.

b. Remove the raised median islands on Jefferson Boulevard between McConnell Avenue and Centinela Avenue. Relocate

and modify traffic signal equipment as required.

c. Restripe Jefferson Boulevard to provide one left-turn only lane and four through lanes in the eastbound direction and three through lanes and one shared through/right-turn lane in the westbound direction and midblock two-way left-turn lanes between McConnell Avenue and Centinela Avenue."

9. Jefferson Boulevard and the San Diego Freeway (I-405) northbound ramps (revised) - page 19; item 28; (see attached Drawing "A-11" signed May 6, 1993)

a. Widen the north side of Jefferson Boulevard up to 8 feet from the San Diego Freeway northbound on-ramp to a point approximately 180 feet easterly of the on-ramp centerline to provide up to a 52-foot half roadway and a 10-foot sidewalk. This widening may require the construction of a retaining wall on the north side of Jefferson Boulevard. Relocate, modify, or remove traffic signal equipment as required. The east leg of the intersection is under the jurisdiction of Culver City and any improvements must be coordinated with and approved by Culver City.

b. Widen both the east and west sides of the San Diego Freeway northbound on-ramp up to 6 feet from Jefferson Boulevard to a point approximately 400 feet northerly of the Jefferson Boulevard centerline to provide up to a 40-foot roadway. This widening may require the construction of a retaining wall on the east and/or west side(s) of the San Diego Freeway northbound on-ramp. Relocate, modify, or remove ramp metering equipment as required.

c. Restripe the San Diego Freeway northbound on-ramp to provide three through lanes.

d Modify raised median island on Jefferson Boulevard (west leg) to facilitate northbound left turns from the San Diego Freeway to westbound Jefferson Boulevard.

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Exhibit 13, 12

ROADWAY IMPROVEMENTS IN THE MARINA AREA
MITIGATION FOR ALL DEVELOPMENTS
MARCH 2001

1. **Route 90 Connector Road Project**

   Create a new two-way access road to the Marina from State Route (SR) 90 to Admiralty Way. (2006 est. by DPW)

2. **Admiralty Way Widening Project**

   Widen Admiralty Way to 5 lanes from Via Marina to north of Bali Way and 6 lanes from north of Bali Way to Fiji Way (2005 est. DPW.)

3. **Admiralty Way/Via Marina Intersection Realignment Project**

   Realign the intersection of Admiralty Way and Via Marina to provide a continuous curving alignment between Via Marina and Admiralty Way. (2005 est. by DPW).

4. **Admiralty Way Extension Project**

   Extend Admiralty Way southerly from Fiji Way to Culver Bl or to Jefferson Bl This includes construction of a new Admiralty Way bridge over Ballona Channel to replace the existing Culver Bl bridge. (*2010 Playa Vista Phase II).

5. **Fiji Way Improvement**

   - Improve Fiji Way from Lincoln Bl to the westerly end. (*2010 Playa Vista Phase II).
   - Move the bicycle facility presently on the Fiji Way roadway to off the road on the south side of Fiji Way. (*2010)

6. **Culver Bl Realignment**

   Realign Culver Bl between Lincoln Bl and the extension of Admiralty Way to provide a new entrance into the Marina. (*2010 Playa Vista Phase II).

7. **Culver Bl Widening**

   Widen Culver Bl to two lanes in each direction between SR 90 and Lincoln Bl. (*2010Playa Vista Phase II).

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Source: Barry Kurtz LA County

8. Lincoln Bl Widening

- Widen Lincoln Bl to 4 lanes northbound and 3 lanes southbound between La Tijera Bl and Hughes Terrace. (2003 per Caltrans).
- Widen Lincoln Bl to 4 lanes in both directions between Hughes Terrace and Jefferson Bl. (2005).
- Provide 4 lanes in either direction along Lincoln Bl between Jefferson Bl and the Ballona Channel Bridge. (*2005)
- Provide 3 lanes in either direction along Lincoln Bl between Ballona Channel bridge and Fiji Way. (2005)
- Provide 4 lanes in either direction from Jefferson Bl to Fiji Way. (2005) Public Hearing was on January 24, 2001.
- Provide 4 lanes northbound and 3 lanes southbound from Fiji way to SR 90. (*2010 Playa Vista Phase II).

9. Jefferson Bl Widening

- Widen Jefferson Bl to 4 lanes eastbound between Lincoln Bl and Alla St (*2010).
- Widen Jefferson Bl to 3 lanes in each direction between Centinela Ave/ Inglewood Ave and Mesmer Ave (*2010).

10. Culver Bl and Lincoln Bl New Interchange

- Provide grade separated connections northbound Lincoln Bl to eastbound Culver Bl and eastbound and westbound Culver Bl to northbound Lincoln Bl, in the southeast quadrant. (*2005 Playa Vista Phase I).
- Northbound Lincoln Bl to westbound Culver Bl. (*2010 Playa Vista Phase II).
- Provide grade separated connections eastbound and westbound Culver Bl to southbound Lincoln Bl and southbound Lincoln Bl to eastbound and westbound Culver Bl in the northwest quadrant. (*2010 Playa Vista Phase II)

11. SR 90 Interchange at Culver Bl and other SR 90 Improvements

- Construct the SR 90/Culver Bl interchange. This would provide a 4-lane bridge for SR 90 (2 lanes/direction) over Culver Bl. (*2005).
- Provide signalized on/off ramps at Culver Bl from SR 90. (*2005)
- Provide a new single-point urban interchange at Culver Bl/SR 90. (*2010 Playa Vista Phase II).

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- Improve SR 90 to 3 lanes in each direction from Lincoln Bl to the Culver Bl interchange. (*2010 Playa Vista Phase II)
- Improve the intersections of SR 90 and Mindanao Way. (2005 & 2010 Playa Vista Phase II.)

12. San Diego Freeway Improvement

- Provide high occupancy vehicle lanes (one lane in each direction) along the freeway between SR-90 and 105 Freeway. (2004)
- Provide high occupancy vehicle lanes (1 lane in each direction) along the freeway between SR 90 and the Santa Monica Freeway. (2007)
- Provide a new on- /off-ramp at Arbor Vitae St to/from the south. (2015)
- Provide realigned ramps at the San Diego Freeway and Culver Bl. (2005)

13. Centinela Ave Widening

- Widen Centinela Ave from Jefferson Bl to north of Juniette St. to 3 lanes in each direction. (*2005)
- Provide 6 lanes on Centinela Avenue/12th Street between Jefferson Bl and Bluff Creek Drive. (*2005)

14. Bluff Creek Dr (Teale Street)

Construct Bluff Creek St. between Lincoln Bl and Centinela Ave. (*2010) (Playa Vista Phase II provides the middle connection between the two ends which will be constructed for Playa Vista Phase I).

15. Playa Vista Dr

Provide a 4-lane divided Playa Vista Dr. roadway with bike lanes from Bluff Creek Dr. to Culver Bl This includes a 4-lane bridge over Ballona Channel. (*2005).

16. SR 90/McConnell Ave Interchange

Construct a new interchange on SR 90 between Culver Bl and Centinela Ave. It would provide a direct connection for westbound traffic on SR 90 to enter the Town Center of Playa Vista (Area D in the City of L.A.) along McConnell Ave and also allow the reverse traffic flow from Playa Vista to eastbound SR 90. (*2010 Playa Vista Phase II).

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17. SR-90/Slauson Ave Interchange

Construct a flyover ramp connection for westbound Slauson Ave traffic currently turning left onto westbound SR 90. (*2010 Playa Vista Phase II).

18. Sepulveda Bl/Centinela Ave Interchange

- Construct a third left-turn lane for northbound Sepulveda Bl traffic to westbound Centinela Ave (*2005 Playa Vista Phase II).
- Construct a new interchange grade - separating northbound Sepulveda Bl to westbound Centinela Ave. (*2010 Playa Vista Phase II).

19. Lincoln Corridor Transit Improvement

- Playa Vista will generate and maintain an internal shuttle for the areas within Playa Vista and also to the beach on weekends.(*2005 Playa Vista Phase I.)
- The internal shuttle system will be expanded to include Marina del Rey, all areas of Playa Vista, LAX, and two new Transit Centers. (*2010 Playa Vista Phase II.)
- Provide 5 buses along Lincoln Bl plus beach shuttle service between the Cities of El Segundo and Santa Monica. (*2005)
- Provide 8 additional buses to operate within peak periods on bus lines in the area operated by Culver City, Santa Monica, and LADOT. (*2010 Playa Vista Phase II.)
- Construct two transit centers. The Lincoln Bl Transit Center would be located on both sides of Lincoln Bl immediately north of the Culver Bl overcrossing. This Transit Center would offer a link to bus lines serving retail areas along Lincoln Bl, as well as the beaches and other visitor destinations in Santa Monica. The other Transit Center would be located in the eastern end of Playa Vista Area D. (*2010 Playa Vista Phase II.)

20. Sepulveda Bl Widening

Provide 4 lanes in each direction on Sepulveda Bl between El Segundo Bl and Rosecrans Ave (2010).

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21. Aviation Bl Widening

Widen to 6 lanes from Manhattan Beach Bl to Arbor Vitae St. (*2005)

Note: (*) - Indicates the improvement is a Playa Vista related improvement

(Year) - Indicates the improvement is expected to be completed on or before this date. Unless otherwise indicated, the dates are rough estimates from the LAX Master Plan study.

BK:

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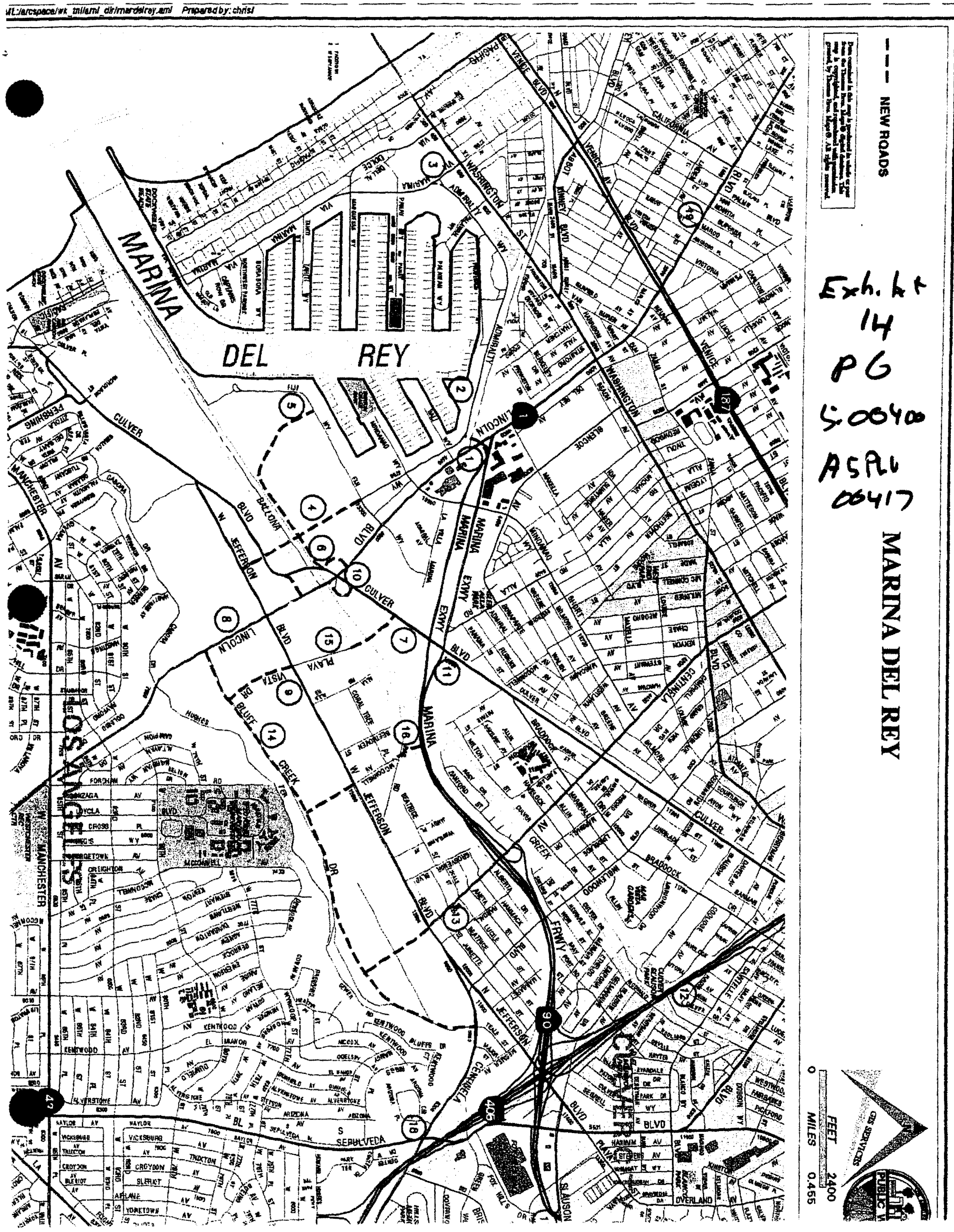

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CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

12 December 2000

MEMORANDUM

To: Pam Emerson, Los Angeles Area Supervisor
From: Mark Johnsson, Senior Geologist
Re: Culver Boulevard widening project and potential soil methane hazards

At your request, I have reviewed the following document relevant to the proposed widening of Culver Boulevard and ramp construction at the intersection of Lincoln and Culver Boulevards, Los Angeles:

Camp Dresser and McKee 2000, "Soil gas sampling and analysis for portions of Playa Vista areas A and C near Culver Boulevard widening project", 4 p. geologic letter report to Maria P. Hoye dated 27 November 2000 and signed by A. J. Skidmore and M. Zych (RG).

As you are aware, a concern has been raised that the proposed development would be at risk of explosion due to buildup of methane from gas seeps known to exist in the vicinity. The report describes a soil gas sampling protocol that would appear adequate to characterize methane concentrations adjacent to Culver Boulevard between Lincoln and Boulevard and the Marina Expressway. Although the sample spacing was too coarse to adequately delineate an anomaly, it was appropriate for the detection of an anomaly sufficient to pose a hazard to the proposed development. The other parts of the sampling protocol appear to be adequate

The report indicates that soil methane concentrations encountered range from 0.48 to 5.43 ppmv. For reference, the concentration of methane in the atmosphere is currently about 1.75 ppmv, and the lower explosive limit of methane is 50,000 ppmv; thus the values reported in the referenced document represent essentially background levels. Although no data are provided with which to assess methane flux, it seems reasonable to assume that the flux is very low, since limited exchange of soil gas with the atmosphere at the 4-foot sampling depth would otherwise have resulted in much higher methane concentrations in soil gas. Accordingly, it appears that no significant methane seeps occur in the area investigated.

Further, methane would only be able to attain dangerous levels if it were allowed to accumulate in an enclosed space. No such enclosed space exists beneath a roadbed. Any S0040

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methane escaping from the soil beneath the roadbed would simply move laterally until a free path to the surface was encountered.

Therefore, it is my opinion that no explosion hazard exists in association of the widening of Culver Boulevard between Lincoln Boulevard and the Marina Expressway, nor will the construction of a ramp between Culver and Lincoln Boulevards create such a hazard.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Mark Johnsson
Senior Geologist

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Evaluation of
Hazard

Gas issue Summary from ETI

EXECUTIVE SUMMARY

Exploration Technologies, Inc. (ETI) was retained in May 1999 by the City of Los Angeles, Department of Building and Safety (LADBS), and Playa Capital to serve as Peer Reviewer regarding subsurface methane gas issues in the proposed Playa Vista Development in Los Angeles, California. In order to provide adequate methane data for evaluation, ETI designed and supervised the collection and analysis of two shallow soil vapor surveys consisting of 812 sites placed on a 100 foot staggered grid over the First Phase of the Playa Vista Development. The soil gas samples were collected by Scientific Geochemical Services in Casper, Wyoming and analyzed by Microseeps in Pittsburgh, Pennsylvania. Using the soil gas data as a guide, 32 monitor wells were installed by Camp, Dresser and McKee and sampled for their free and dissolved gases. Gas analysis for these samples were also conducted by Microseeps. Stable carbon isotopes for the free gases in the ground water were analyzed by Isotech Labs in Champaign, Illinois.

This soil gas and ground water data have defined two main areas of methane gas seepage, one very large thermogenic gas anomaly (the soil gas expression is over 1700 feet in length and 200 feet wide) in Track 01 and another, slightly smaller thermogenic gas anomaly (slightly smaller in size, but not in concentrations) in the southern part of Track 02. Anomalous levels of ethane, propane and butanes are coincident with methane in both anomalies, inferring that the methane is related to deeper thermogenic sources. The free gases and the dissolved gas anomalies in the ground water within the 50-foot gravel aquifer are also directly related to the soil gas anomalies indicating a vertical migration pathway from deeper sources. Methane isotopes completes this investigation, confirming a common, thermogenic source for the gases measured within these two anomalous areas.

The source of the thermogenic gas observed at the Site is most likely derived from shallow natural gas sands within the Upper Pliocene Pico Formation, probably sourced from the gross interval from 510 feet to 3434 feet, encountered in the non-commercial wells surrounding the Site. There is a north-south linear trend (1700 feet long and 200 feet wide) of very large to intermediate methane concentrations defined by soil gas, dissolved gas, free gas and isotopes measured in the aquifer, which lies to the east and parallel to Lincoln Boulevard. This anomaly has been interpreted as migration of thermogenic gases from depth from a proposed subsurface fault, herein named the Lincoln Boulevard Fault.

The position and attitude of the proposed Lincoln Boulevard Fault is based upon a combination of subsurface geologic data, surface topographic lineations, and a north-south trend of anomalous geochemical data. With respect to seismicity, this fault should be considered as a potentially active low potential fault. Geochemically, this fault is an active pathway for vertical natural gas migration. The proposed Lincoln Boulevard Fault provides a permeable vertical pathway for the natural gases at depth to migrate to the near-surface and have the observed distribution and concentrations.

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A future earthquake with an epicenter close to the site could potentially cause a rapid flux of very large volumes of thermogenic methane gas to the surface along the Lincoln Boulevard Fault plane. Because the geologic data from the surrounding wells is only of a general nature and of an early vintage, it is not possible to calculate, or even estimate, the volumes of shallow natural gas beneath the Site. Adequate well logs or other testing data is not available.

Present data indicate that the anomalous methane gas concentrations could extend to the north into Area C. Data from this assessment do not show any evidence that the source of thermogenic gas is from the gas storage facility.

Methane mitigation systems should be required for all buildings in the First Phase of the Playa Vista Development. The design of the methane mitigation systems should follow the same specifications as previously modified and approved for the Fountain Park Apartments in Tract 03.

Because of the very high methane concentrations in soil vapor in the Tract 01 and Tract 02 anomalies, and the future potential for an earthquake-induced flux of additional very large volumes of methane gas in these same anomalous areas, it is recommended that there be mitigation of the 50-foot gravel aquifer in these two areas. A monitor well system should be required to continuously measure methane gas concentrations in the 50-foot gravel aquifer.

A similar subsurface methane assessment should be conducted in the Tract 49104-04 and Tract 52092 areas of the remainder of the First Phase Playa Vista Development. Although the available data is too limited in scope for adequate evaluation, there is no question that a similar methane issue exists in these areas.

Although only leaking minor amounts of thermogenic gas, the Universal City Syndicate Vidor #1 well and the Cooperative Development Co. Community #1 well should be re-abandoned.

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7.0 CONCLUSIONS

1. Results from this comprehensive assessment indicate the source of the anomalous thermogenic methane is primarily from shallow natural gas within the Upper Pliocene Pico Formation. These shallow natural gas sands are beneath the area of First Phase Playa Vista Development, and are migrating up the Lincoln Boulevard Fault.

2. A previous subsurface methane assessment, limited to the area of Tract 03, indicated that the probable source of anomalous methane was leakage of thermogenic gas from the Universal City Syndicate Vidor #1 well. Although there is some leakage from this well, the dominant seepage appears to issue from a natural, fault related seep.

3. Methane concentrations in soil gas samples from the near-subsurface and from groundwater samples within the 50-foot gravel aquifer range from background to nearly 100%. The correlation between these samples is excellent, indicating migration from natural subsurface pathways.

4. There are two main areas of high methane concentrations (above 70% methane, see Plate 11) in the west half of Tract 01 and the south half of Tract 02. Anomalous levels of ethane, propane, and butanes are also coincident with these two methane seepage areas, indicating the methane is related to deeper thermogenic sources.

5. There is a north-south linear trend (1700 feet long and 200 feet wide) of very large to intermediate methane concentrations of soil gas, which lies to the east and parallel to Lincoln Boulevard. This anomaly has been interpreted as migration of thermogenic gases from depth from an associated subsurface fault.

6. Areas of anomalous methane concentrations dissolved in groundwater and methane from free gas in the groundwater from the 50-foot gravel aquifer are coincident with the anomalous areas of ethane, propane and butanes, which are only sourced by thermogenic sources. The data indicate that all three data sets have a common origin. This correlation of independent data sets confirms that the methane is from a deeper thermogenic source.

7. Methane isotope analyses on free gases collected from the 50-foot gravel aquifer further confirm a thermogenic source for the anomalous methane gas. Areas of background to low methane concentrations are primarily biogenic in origin, but bear a spatial relationship that suggests that the biogenic gases have been generated in response to the thermogenic gases.

8. Three independent analytical data sets (soil gas, groundwater, and isotopes) are in concert and confirm that the source of areas of anomalous methane soil gas is due solely to a thermogenic source.

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9. The source of the thermogenic gas observed at the Site is most likely derived from shallow natural gas sands within the Upper Pliocene Pico Formation, probably sourced from the gross interval from 510 feet to 3434 feet, encountered in the non-commercial wells surrounding the Site.

10. It is not possible to calculate, or even estimate, the volumes of shallow natural gas beneath the Site due to nature of the surrounding well data. Adequate well logs or other testing data is not available.

11. The position and attitude of the proposed Lincoln Boulevard Fault is based upon a combination of subsurface geologic data, surface topographic lineations, and a north-south trend of anomalous geochemical data. With respect to seismic activity, this fault should be considered as a potentially active low-potential fault. Geochemically, this fault is an active pathway for vertical natural gas migration.

12. The proposed Lincoln Boulevard Fault provides a permeable vertical pathway for the natural gases at depth to migrate to the near-surface, and exhibit the distribution and magnitudes observed.

13. A future earthquake with an epicenter close to the Site could potentially cause a rapid flux of very large volumes of thermogenic methane gas to the surface along the Lincoln Boulevard Fault plane.

14. Present data indicate that the anomalous methane gas concentrations could extend to the north into Area C.

15. Data from this assessment do not show any evidence that the source of thermogenic gas is from the gas storage facility.

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8.0 RECOMMENDATIONS

1. Methane mitigation systems should be required for all buildings in the First Phase of the Playa Vista Development. The design of the methane mitigation systems should follow the same specifications as previously approved for the Fountain Park Apartments in Track 03.

2. Because of the very high methane concentrations of free gas (greater than 70 %, see free gas contour map, Plate 11) in the gravel aquifer, and the future potential for an earthquake-induced flux of large volumes of methane gas in these same anomalous areas, it is recommended that there be mitigation of the 50-foot gravel aquifer in these areas having methane concentration in excess of 70%.

3. For the methane mitigation system of the 50-Foot gravel aquifer a pump and treat methane stripper system is recommended. Pump tests in the aquifer are required in order to determine the number and spacing of the recovery wells required. This must also include water reinjection to prevent subsidence.

4. A monitoring well system following the design approved for the Visitor Center in Track 03 will also be required to continuously measure methane gas concentrations in the 50-foot gravel aquifer.

5. A similar subsurface methane assessment should be conducted in the Tract 49104-04 and Tract 52092 areas of the First Phase Playa Vista Development.

6. Although only leaking minor amounts of thermogenic gas, the Universal City Syndicate Vidor #1 well and the Cooperative Development Co. Community #1 well should be re-abandoned.

7. In the future, methane assessments should be conducted and methane mitigation and monitoring systems completely designed at sites slated for development before zoning is approved.

8. A similar subsurface methane assessment should be conducted in the area of Second Phase Playa Vista Development before zoning use is established and, more important, to aid in the planning.

9. The City of Los Angeles Methane Gas Code should be revised to provide conditions for mitigation based upon whether the methane gas is of a biogenic or thermogenic origin.

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