


CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

MURRAY, CA 93001

(805) 585-1800

Filed: 07/03/02
49th Day: 08/21/02
180th Day: 12/30/02
Staff: A.A.V. 
Staff Report: 08/22/02
Hearing Date: 09/10-13/02
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-02-144**APPLICANT:** Los Angeles County, Department of Public Works**PROJECT LOCATION:** 6338 Paseo Canyon Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Rehabilitation and upgrade of existing wastewater treatment plant to meet Regional Water Quality Control Board requirements, including new headworks, extended aeration treatment system, filters, related support equipment, a new disinfection system, approximately 1405 cu. yds. excavation (470 cu. yds. to be used as backfill, 935 cu. yds. export), and native landscaping.

Lot area:	2.76 acres
Proposed Building Coverage:	2700 sq. ft.
Proposed Pavement coverage:	300 sq. ft.
Proposed Landscape coverage:	0 sq. ft.
Unimproved:	0.34 acres

LOCAL APPROVALS RECEIVED: N/A

SUBSTANTIVE FILE DOCUMENTS: Initial Study, Trancas Water Pollution Control Plant Rehabilitation Project, Lee & Ro, Inc., June 2002; California Regional Water Quality Control Board, Los Angeles Region, Order Nos. 00-30 and 00-31, Monitoring and Reporting Program No. 3017, for Trancas Water Pollution Control Plant; Geotechnical Evaluation, Trancas Water Pollution Control Plant Upgrade Design, prepared by Ninyo & Moore, Geotechnical and Environmental Sciences Consultants, 04/16/01, Coastal Development Permit No. P-6-7-76-8063.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with **3 special conditions** regarding 1) geologic recommendations, 2) removal of excavated material, and 3) visual landscaping.

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-02-144 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **Special Conditions**

1. **Geologic Recommendations**

All recommendations contained in the Geotechnical Evaluation Report prepared by Ninyo & Moore Geotechnical and Environmental Sciences Consultants dated 04/16/01 shall be incorporated into all final design and construction including foundations, grading, and drainage. Final plans must be reviewed and approved by the geotechnical consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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

2. **Removal of Excavated Material**

The applicant shall remove all excavated and debris material from the site and shall provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

3. **Visual Landscaping Elements**

Prior to issuance of a coastal development permit, the applicant shall submit a landscaping plan, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director, which includes vertical landscaping elements, such as trees and shrubs, that will serve to partially screen the appearance of the proposed structures as viewed from Zuma Ridge Trail and those parcels with recorded trail easement dedications (Exhibit 6). The landscaping plan shall identify those portions of the public scenic viewing areas from which the proposed development will be visible, and will specify the location and type of landscaping

elements that will be planted to partially screen the development from the identified visual locations. To minimize the need for irrigation and to screen and soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species that tend to supplant native species shall not be used.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

Los Angeles County Department of Public Works is proposing to rehabilitate and upgrade an existing wastewater treatment plant to meet Regional Water Quality Control Board requirements. The Trancas Water Pollution Control Plant (TWPCP) rehabilitation project will include a new headworks, an extended aeration treatment system, filters, related support equipment, and a new disinfection system (Exhibits 3,4). The proposed project also includes native landscaping and approximately 1405 cu. yds. excavation (470 cu. yds. to be used as backfill, 935 cu. yds. export). The 935 cu. yds. of excavated material will be exported to an appropriate site for disposal as required by **Special Condition 2**.

The TWPCP is located on a 2.74 acre parcel, approximately 1000 ft. east of the intersection of Trancas Canyon Drive and Pacific Coast Highway in the City of Malibu (Exhibits 1,2). The TWPCP is located at the southern end of a community of single family residences and condominiums, in which the facility serves for treatment and discharge of wastewater. Adjacent property east and southeast of the site consists of ascending hillside terrain that is moderately developed with single family residences. Property to the south of the facility is undeveloped and consists of a minor, east-west trending ridgeline that serves to screen the majority of the facility's structures from Pacific Coast Highway. Property west of the subject site is developed with numerous single family residences, which are also served by the existing facility, and a vacant parcel containing the leach fields for effluent dispersal from the plant, and the Trancas Canyon Creek channel. The applicant is not proposing any change or improvements to the facility's leach fields.

The TWPCP was constructed by a private developer in 1963 and was later turned over to the County for operation and maintenance. In 1976 the Commission approved Coastal Development Permit No. P-6-7-76-8063 for reconstruction and upgrade of the treatment facility which included reconstruction of, and an addition to, the existing leach field, allowing for a total of 53,000 sq. ft. of leach field area, and additional site improvements. The TWPCP is designed for an average daily dry weather flow of 75,000 gallons per day (gpd) and a peak flow of 150,000 gpd. The treatment facility

receives domestic sewage from 237 single family residences and condominiums in the Trancas community and, 33 single family residences in the Lechuza community (Exhibit 5).

The TWPCP has experienced corrosion problems with its tanks and equipment due to the age of the facility and the deteriorating effects of the coastal environment. The Regional Water Quality Control Board has issued new Waste Discharge Requirements (Order No. 00-30) for the facility, which establish a higher level of wastewater treatment and monitoring requirements, and that further mandate the rehabilitation, and upgrade of the facility including installation of a disinfection process. Order No. 00-30 also requires the upgrade of treatment capacity to accommodate existing levels of average peak flows. The operators have attempted to identify the source, or sources, of water infiltration into the water treatment system but have been unable to locate and eliminate the source of unpermitted infiltration. As such, the facility must be upgraded to accommodate existing flows to the TWPCP to comply with the Boards new Waste Discharge Requirements. As such, the facility will be upgraded to treat an average dry weather flow of 85,000 gpd and a peak day flow of 220,000 gpd consistent with the requirements of the Regional Water Quality Control Board. It should be noted that the capacity upgrade is only required to meet existing influent flow, therefore, the applicant is not proposing to expand the functional capacity of the TWPCP to serve additional development in the area.

The applicant is proposing to upgrade the subject wastewater treatment facility to comply with Waste Discharge Requirements (Order No. 00-30) issued by the Regional Water Quality Control Board for limits and requirements of discharged effluents. Proposed upgrades of the treatment facility will enhance the existing level of treatment by upgrading the plant with a new headworks, extended aeration package plant, new filters, disinfection unit (chlorine contact tank), and other auxiliary work (piping, power and monitoring equipment). The proposed treatment upgrades are intended to provide an effluent quality to meet all criteria of Waste Discharge Requirements of the Regional Water Quality Control Board. In conjunction with the proposed upgrades, the Regional Water Quality Control Board has also ordered the operators of the facility to implement a groundwater and surface water monitoring program.

Topographic relief across the proposed project site is approximately 2 ft., consisting of a slope that gently ascends towards the southeast. No environmentally sensitive habitat area exists at the project site. Vegetation at the site is significantly degraded and primarily consists of non-native grasses, ice plant, ivy, low brush, and mature trees located along the west perimeter fence and northeast and southeast corners of the property. Vegetation on the site is maintained on a monthly basis for weed and brush control required for the facility and adjacent residential development. The proposed plant upgrades will be carried out entirely within an area that was previously disturbed by its former use as a leachfield that was eventually abandoned and backfilled.

As previously described, the project site is located adjacent to a number of intensely to moderately developed residential areas. Due to an ascending, approximate 5ft. grade

change south of the facility the existing plant facilities are minimally visible from Pacific Coast Highway. The applicant is proposing to incorporate native landscaping along the top of the ascending slope which will serve to partially screen those existing and proposed facility structures from views from Pacific Coast Highway. Though the proposed project site is not significantly visible from Pacific Coast Highway, the existing facility and proposed site improvements will be visible from a number of sections of the Zuma Ridge Trail located directly south and east of the subject site, as well as parcels located north and east of the site which have recorded trail easement dedications (Exhibit 6). Despite the visibility of the proposed project components, it should be noted that the proposed improvements will be located in an area either directly adjacent to, or presently occupied by the facility's structures. As such, the proposed project will not result in a change in use of the site nor will it significantly expand the footprint or mass of the facility so as to create a new and significant impact on public views from the adjacent trails. In response to issues and concerns raised by neighboring property owners located to the east of the site, however, the applicant has indicated that vertical native landscaping elements will be incorporated into the proposed project to partially screen the facility from public scenic views points on the adjacent trails. (See Section C. Visual Resources for further discussion).

B. Geology

The proposed development is located in the Santa Monica Mountains area, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains.

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

Section 30253 of the Coastal Act mandates that new development shall be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted a Geotechnical Evaluation Report prepared by Ninyo & Moore Geotechnical and Environmental Sciences Consultants dated 04/16/01. The consultants have determined that the project site is appropriate for the proposed development. The Geotechnical Evaluation Report states:

Based on the results of our evaluation, the proposed construction is feasible from a geotechnical standpoint. There are no known geotechnical conditions that would preclude the proposed construction provided the recommendations of this report and appropriate construction practices are followed.

The Geotechnical Evaluation Report prepared by Ninyo & Moore Geotechnical and Environmental Sciences Consultants dated 04/16/01 includes several geotechnical recommendations to be incorporated into project construction, design, and drainage to ensure the stability and geologic safety of the project site. To ensure that the recommendations of the consultants have been incorporated into all proposed development **Special Condition 1** requires the applicant to submit project plans certified by the consulting geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

The Commission notes that the applicant is proposing to excavate approximately 1405 cu. yds. of soil, 470 cu. yds. of which will be used as backfill, resulting in 935 cu. yds. excess material. Excavated materials that are placed in stockpiles are subject to increased run-off and erosion, therefore, **Special Condition 2** requires the applicant to remove all excavated material, including any building or construction debris from the demolition of the existing structures, from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

C. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and protected. As previously described, the project site is located adjacent to a number of intensely to moderately developed residential areas. The proposed project includes construction of a new headworks, extended aeration package plant, new filters, disinfection unit (chlorine contact tank), and other auxiliary work (piping, power and monitoring equipment). The maximum height of all structures at the project site corresponds to the existing operations building, which is 12 ft. above existing grade. The maximum height of new structures proposed on site corresponds to the aeration treatment system, which will be constructed approximately 5 ft. above existing grade, with an additional 3.5 ft. high handrail that will run along the perimeter of the aeration system. The rest of the proposed structures will be constructed at an elevation less than 8.5 ft. above existing grade, or will be placed entirely below grade.

Due to an ascending, approximate 5ft. ascending grade change south of the facility the plant's structures are minimally visible from Pacific Coast Highway. The applicant is proposing to incorporate native landscaping along the top of the ascending slope which will serve to partially screen those existing and proposed facility structures that may be visible from views from Pacific Coast Highway.

Though the proposed project site is not significantly visible from Pacific Coast Highway, the existing facility and proposed site improvements will be visible from a number of sections along the Zuma Ridge Trail, located directly south and east of the subject site, as well as from parcels located north and east of the site which have recorded trail easement dedications (Exhibit 6). Despite the visibility of the proposed project components, it should be noted that the proposed improvements will be located in an area either directly adjacent to, or presently occupied by the facility's structures. As such, the proposed project will not result in a change in use of the site, nor will it significantly expand the footprint or mass of the facility so as to create a new and significant impact on public views from the adjacent public viewing areas. In response to issues and concerns raised by neighboring property owners (Exhibit 7), however, the applicant has indicated that vertical native landscaping elements will be incorporated in to the proposed project to partially screen the facility from public scenic views points. Therefore, pursuant to **Special Condition 3**, the applicant shall submit a landscaping plan, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director, which includes vertical landscaping elements, such as trees and shrubs, that will serve to partially screen the appearance of the proposed structures as viewed from Zuma Ridge Trail and those parcels with recorded trail easement dedications. The landscaping plan shall identify those portions of the public scenic viewing areas from which the proposed development will be significantly visible, and will specify the location and type of landscaping elements that will be planted to partially screen the development from the identified visual locations. To minimize the need for irrigation and to screen and soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants.

The Commission finds that, as proposed, the proposed project will not result in significant adverse impacts to visual resources, and is therefore consistent with Section 30251 of the Coastal Act.

D. Local Coastal Program

Section 30604 of the Coastal Act states:

- 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 program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the Malibu area and Santa Monica Mountains which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application 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 Environmentally Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.



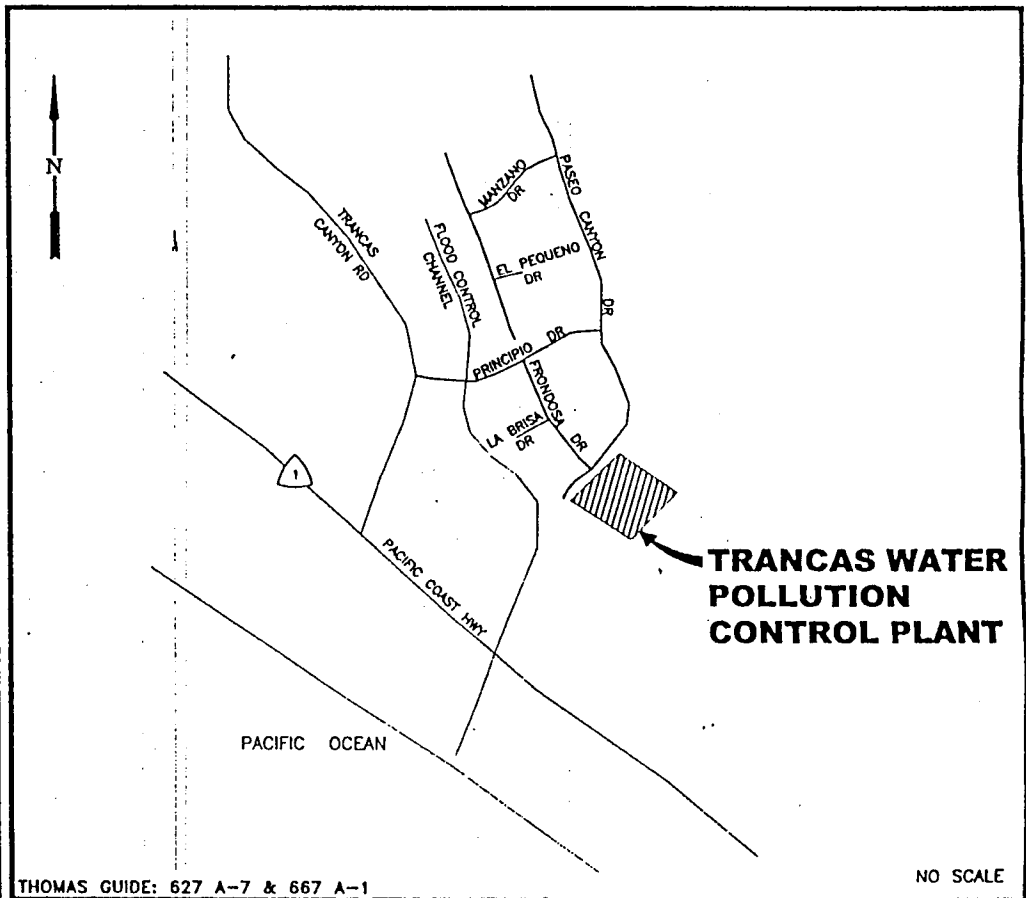
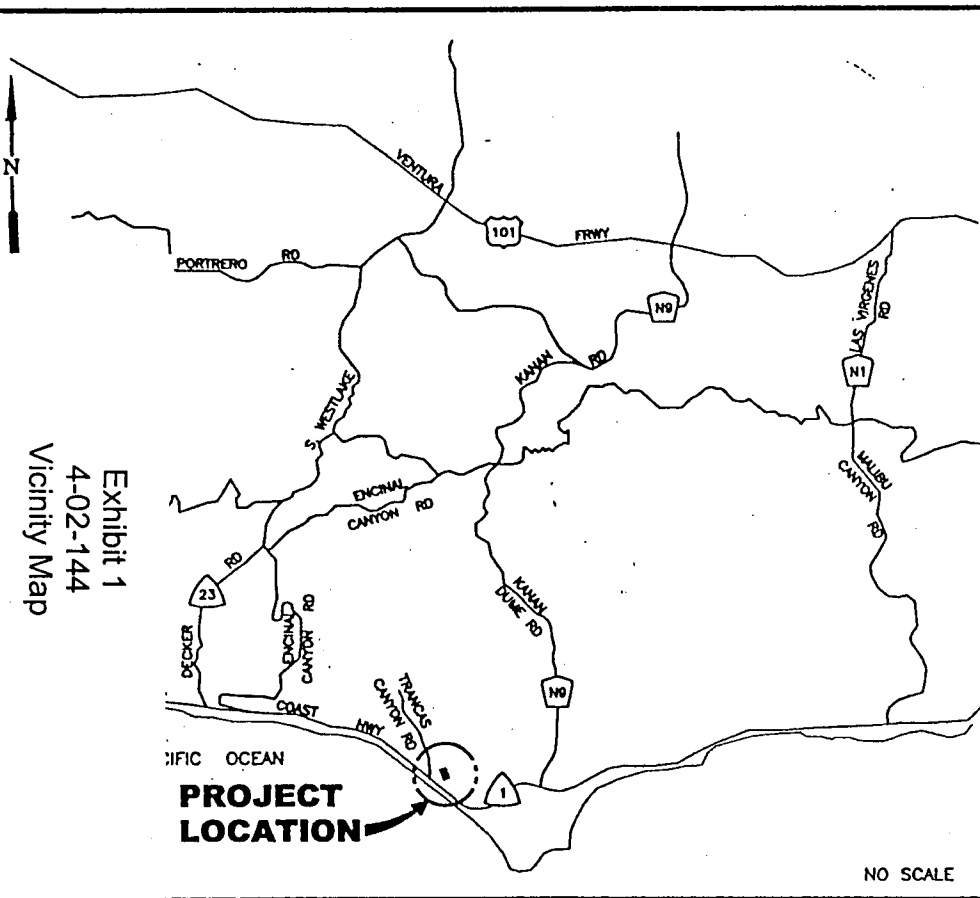
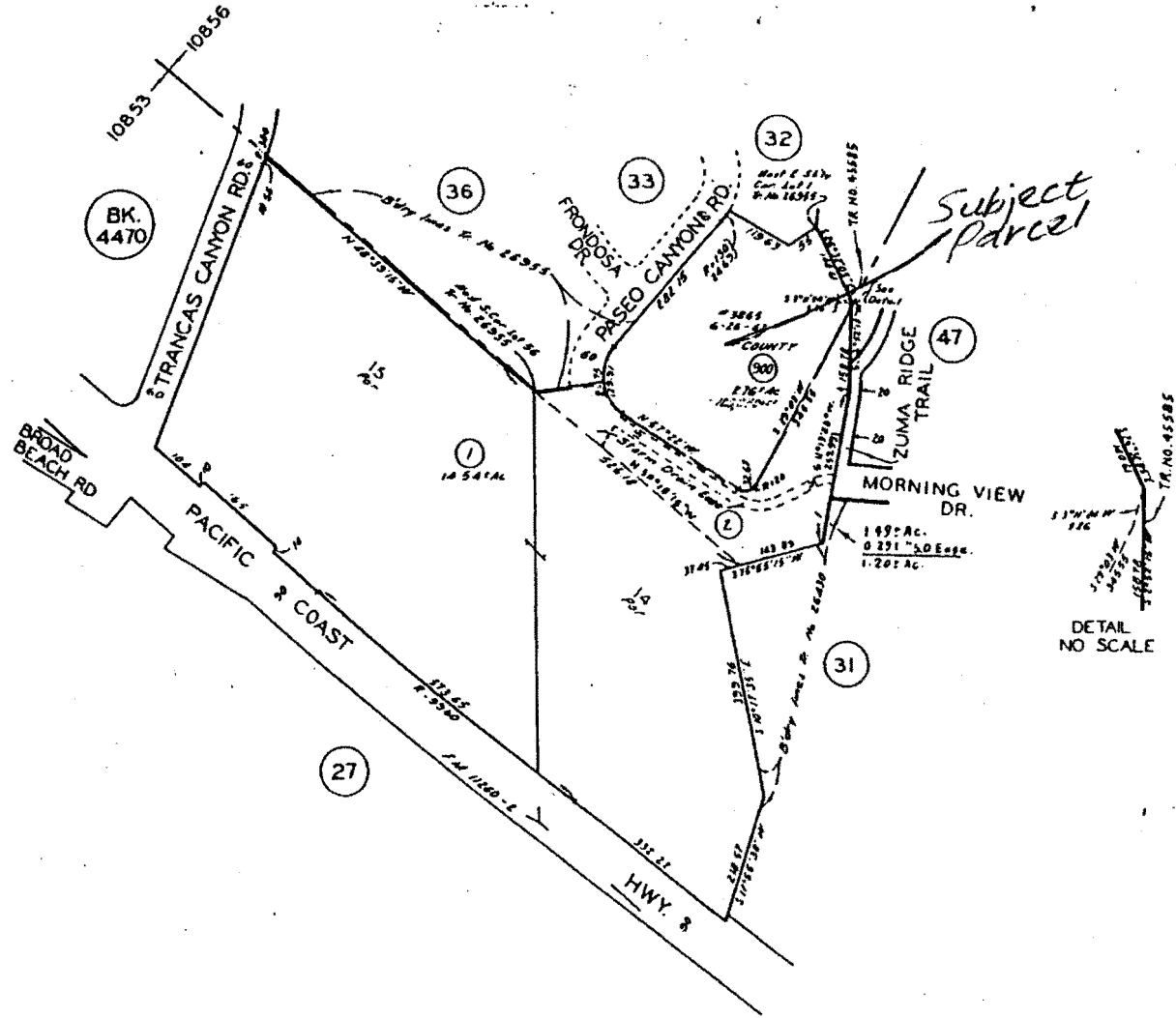


FIGURE 1 - LOCATION AND VICINITY MAPS

1992

7807/803
761193
310401
910926

Exhibit 2
4-02-144
Parcel Map



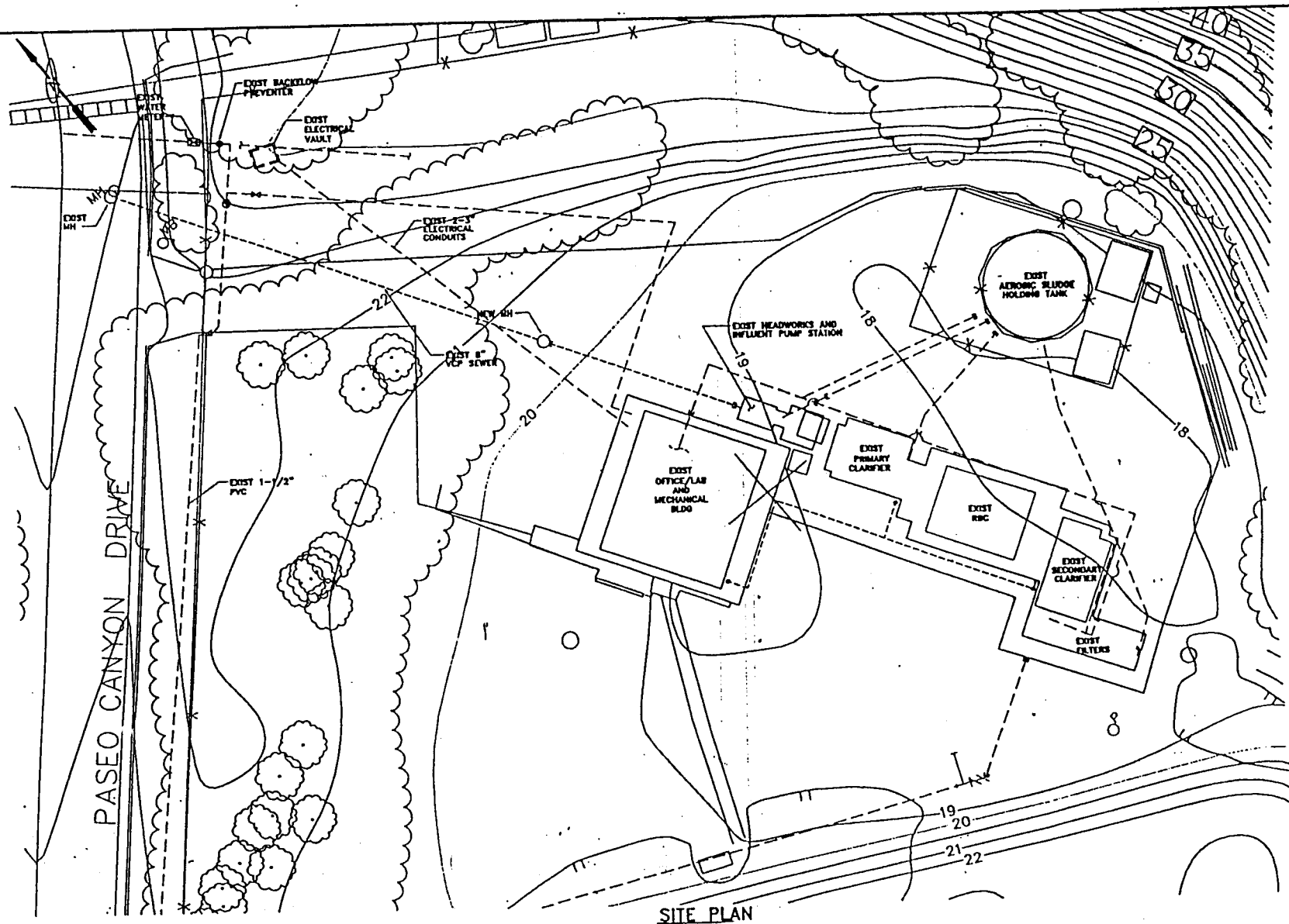
CODE
10853
10856

LAND OF MATTHEW KELLER IN THE RANCHO
TOPANGA MALIBU SEQUIT R.F. 534

FOR PREV. ASSM'T SEE:
4469 - 45

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

Exhibit 3
4-02-144
Existing Facilities



SITE PLAN

<p>LEE & RO, Inc. City of Industry, California</p>		No.	DATE	REVISIONS	<p>LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS TRANCAS WATER POLLUTION CONTROL PLANT REHABILITATION PROJECT PROJECT ID NO. 8WDOC40001</p>	<p>FIGURE 3 EXISTING FACILITIES SITE PLAN</p>	<p>JOB NO. 82402 DRAWING NO. 3 SHEET NO. 1 OF 1</p>
		DESIGNED	DRAWN	CHECKED			

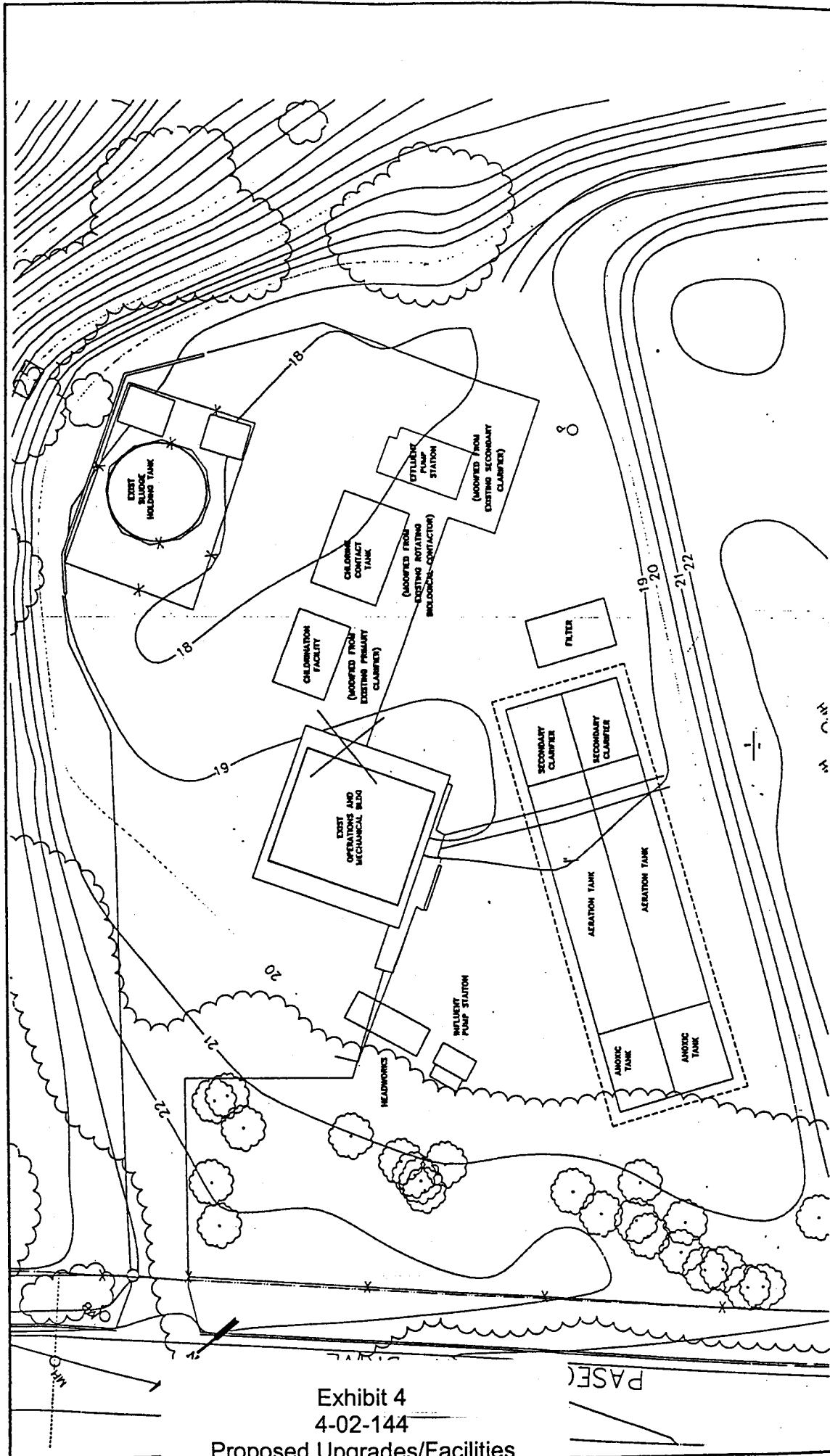


Exhibit 4
4-02-144
Proposed Upgrades/Facilities

LEE & CO. INC.
City of Industry, California

DESIGNED: []
CHECKED: []
DRAWN: []
DATE: []

LOS ANGELES COUNTY
DEPARTMENT OF PUBLIC WORKS
TRANCAS WATER POLLUTION CONTROL
PLANT REHABILITATION PROJECT
PROJECT ID NO. S0000-00001

FIGURE 4
PROPOSED FACILITIES PLAN

NO.	DATE	REVISIONS

JOB NO. []
SHEET NO. 4
DATE []

FIGURE 4
PROPOSED FACILITIES PLAN

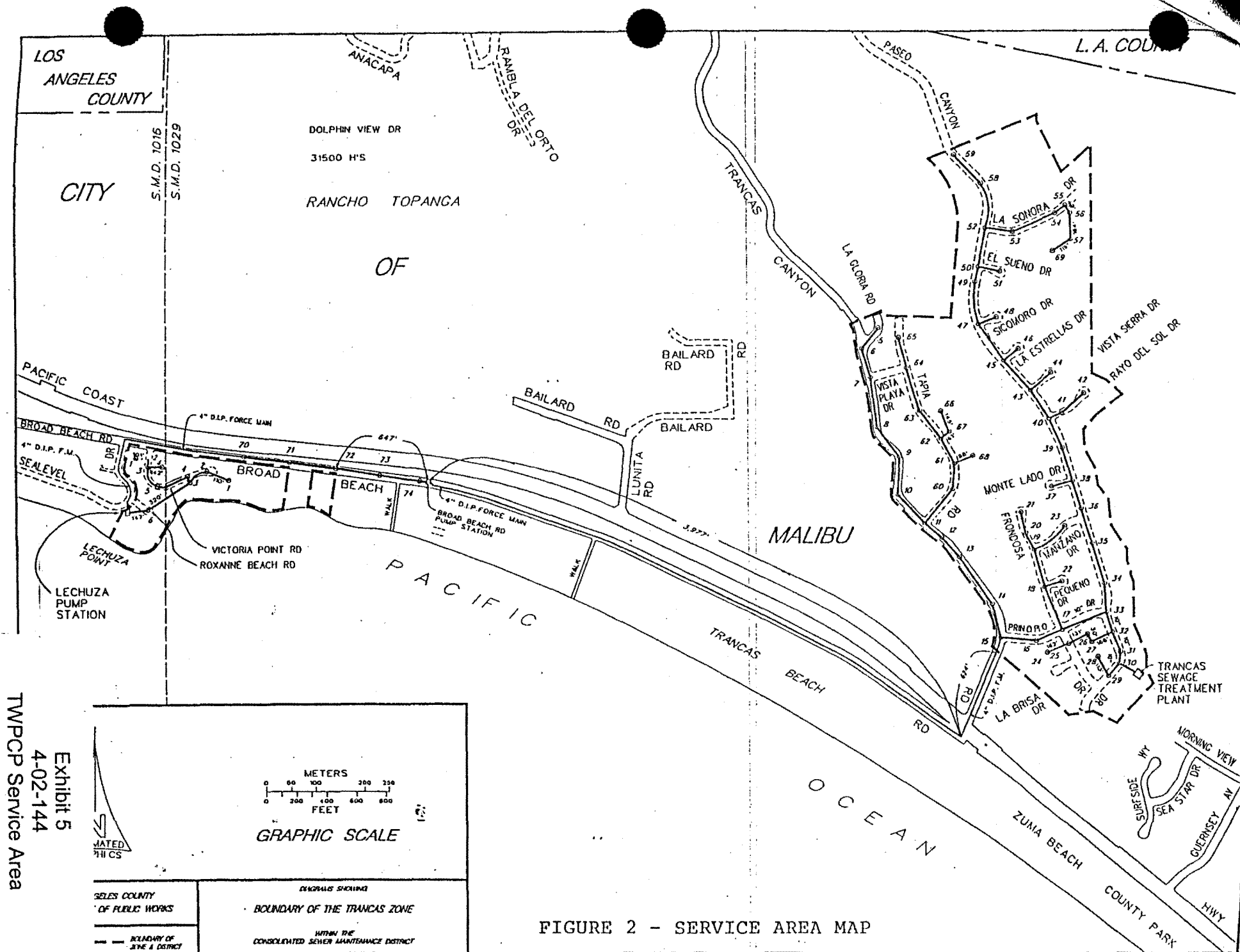


Exhibit 5
4-02-144
TWPCP Service Area

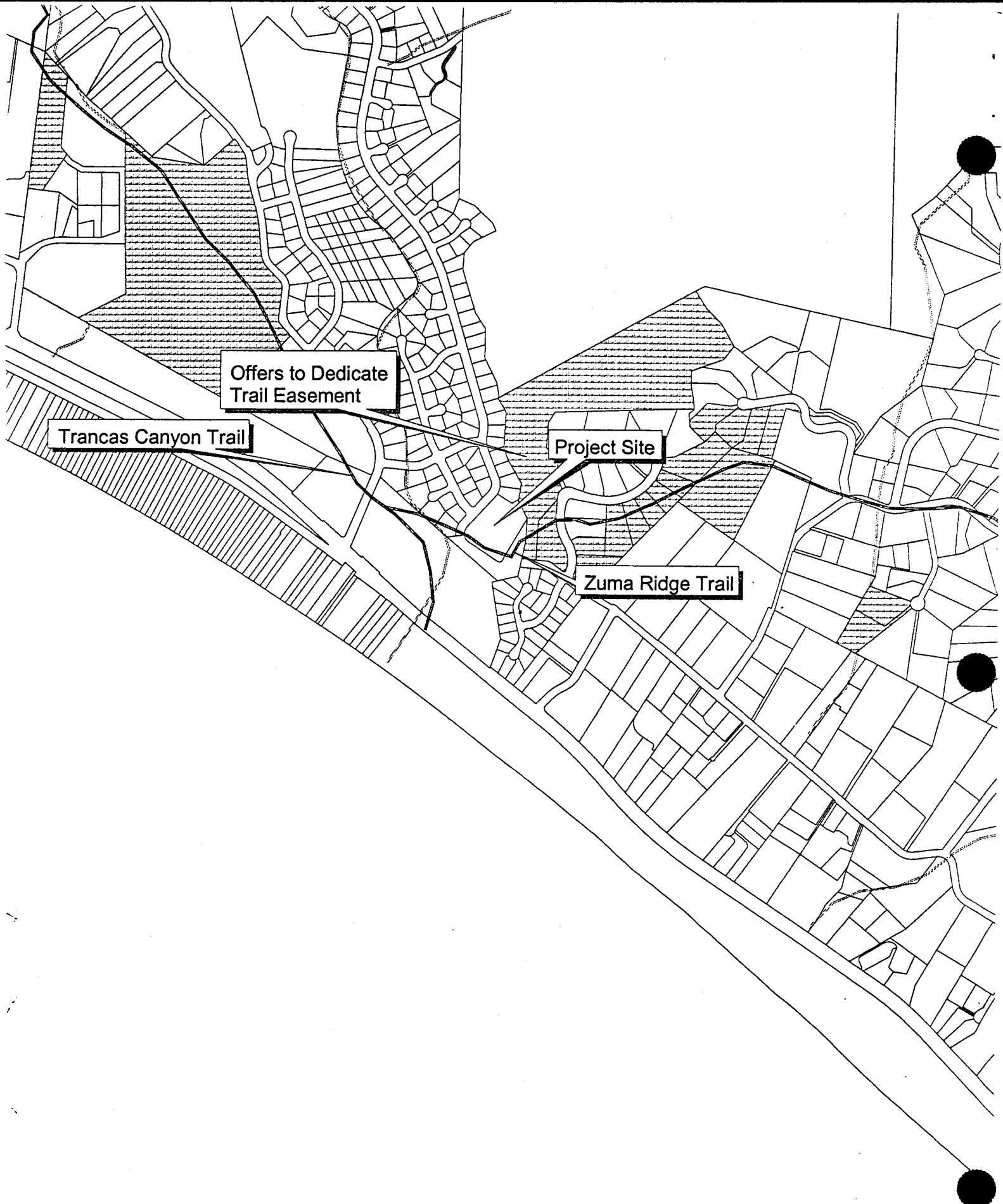


Exhibit 6
4-02-144
Visual Resource Map

Jeff Bouse,
Dept. of Public Works,
Los Angeles County
P.O. Box 1460
Alhambra CA 91802-1460

July 20th, 2002

Jeff,

Again, I thank you for the time and attention you are devoting to the matter of the Trancas Rehabilitation project. Last week, I filed with you comments relating to the Initial Study being circulated by the County of Los Angeles Department of Public Works. In discussing this matter with you, the issue of environmental law and Los Angeles County's obligations under the California Environmental Quality Act (CEQA) came up.

I have done further research and found Title 14 of the California Code of Regulations to be quite relevant in this regard. I found these citations, labeled Chapters 1-20, Guidelines for Implementation of the California Environmental Quality Act; Article 2. I hereby submit accurate and contextual excerpts of relevant sections, and request that this letter be appended to and become a part of my July 10th comments filed with the County in response to the Initial Study.

My comments on the Codes and their relevance to the Project's deficiencies, as detailed in my letter dated July 10th, will follow each citation/quote.

Section 15002 General Concepts.

(g) Significant Effect on the Environment. A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project. (See: Section 15382.) Further, when an EIR identifies a significant effect, the government agency approving the project must make findings on whether the adverse environmental effects have been substantially reduced or if not, why not. (See: Section 15091.)

(h) Methods for Protecting the Environment. CEQA requires more than merely preparing environmental documents. The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:

- (1) Changing a proposed project
- (2) Imposing conditions on the approval of the project;
- (3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;
- (4) Choosing an alternative way of meeting the same need;
- (5) Disapproving the project;
- (6) Finding that changing or altering the project is not feasible;
- (7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.

Comments: As detailed in my July 10 letter, this project will substantially adversely change physical conditions in the vicinity of public recreational facilities, private houses and Environmentally-Sensitive Habitat Areas in Trancas Canyon. The County is obligated under Section 15002(g) to identify any and all significant negative impacts to the environment caused by a project, find whether the adverse environmental impacts have been substantially reduced or if not, why not. The County has utterly failed to do this.

Thus, the county is obligated to prepare a full Environmental Impact Report to respond to the seven alternative methods delineated in Section 15002(h) (1-7). The first five methods listed in this section are clearly available to the County, meaning that either abandoning the Project or declaring that this potential environmental damage is inevitable in order to rehabilitate the Trancas Plant are not appropriate solutions.

Section 15021. Duty to Minimize Environmental Damage and Balance Competing Public Objectives.

(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.

(1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.

(2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.

(b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.

(c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.

(d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding

considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

Comments: The County has failed in its duty to accurately inventory environmental damage in its proposed Project as currently conceived, and then produce alternatives to mitigate or minimize the damage. In the Initial Study, the County has not explored feasible alternatives or other mitigation measures such as structures (buildings and walls) and landscaping to mitigate the offensive views, sounds, smells, insects and foam-blowoff inflicted upon surrounding residences and park uses by open-air, roiling sewage vats. No statement of overriding considerations as described in sections 15021 or 15093 has been prepared. No economic data are provided to justify the minimal expense of the current proposal vis-à-vis the added cost of providing adequate environmental mitigation. The County's obligation to provide a "satisfying living environment for every Californian", as mandated in Section 15021(d), makes it clear the proposed open, roiling sewage vats, and related apparatus, within the primary view range of no fewer than eight homes in Trancas Canyon is contrary to impacts allowed by CEQA.

Section 15063. Initial Study

(a) Following preliminary review, the Lead Agency shall conduct an Initial Study to determine if the project may have a significant effect on the environment. If the Lead Agency can determine that an EIR will clearly be required for the project, an Initial Study is not required but may still be desirable.

(1) All phases of project planning, implementation, and operation must be considered in the Initial Study of the project.

(2) To meet the requirements of this section, the lead agency may use an environmental assessment or a similar analysis prepared pursuant to the National Environmental Policy Act.

(3) An initial study may rely upon expert opinion supported by facts, technical studies or other substantial evidence to document its findings. However, an initial study is neither intended nor required to include the level of detail included in an EIR.

(b) Results.

(1) If the agency determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, the Lead Agency shall do one of the following:

- (A) Prepare an EIR, or
- (B) Use a previously prepared EIR which the Lead Agency determines would adequately analyze the project at hand, or
- (C) Determine, pursuant to a program EIR, tiering, or another appropriate process, which of a project's effects were adequately examined by an earlier EIR or negative declaration. Another appropriate process may include, for example, a master EIR, a master environmental assessment, approval of housing and neighborhood commercial facilities in urban areas as described in section 15181, approval of residential projects pursuant to a specific plans described in section 15182, approval of residential projects consistent with a community plan, general plan or zoning as described in section 15183, or an environmental document prepared under a State certified regulatory program. The lead agency shall then ascertain which effects, if any, should be analyzed in a later EIR or negative declaration.
- (2) The Lead Agency shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.
- (c) Purposes. The purposes of an Initial Study are to:
 - (1) Provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or a Negative Declaration.
 - (2) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration.
 - (3) Assist in the preparation of an EIR, if one is required, by:
 - (A) Focusing the EIR on the effects determined to be significant,
 - (B) Identifying the effects determined not to be significant,
 - (C) Explaining the reasons for determining that potentially significant effects would not be significant, and
 - (D) Identifying whether a program EIR, tiering, or another appropriate process can be used for analysis of the project's environmental effects.
 - (4) Facilitate environmental assessment early in the design of a project;
 - (5) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;
 - (6) Eliminate unnecessary EIRs;
 - (7) Determine whether a previously prepared EIR could be used with the project.
- (d) Contents. An Initial Study shall contain in brief form:
 - (1) A description of the project including the location of the project;
 - (2) An identification of the environmental setting;

(3) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or negative declaration. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found.

(4) A discussion of the ways to mitigate the significant effects identified, if any;

(5) An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls;

Comments: Section 15063 is the crux of the County's attempt to fulfill its obligation under CEQA by attempting to use an Initial Statement. In section 15063(a), the County is charged with fully determining "if the project may have a significant effect on the environment." The Initial Statement fails to meet that goal. The County is charged with considering "all phases of project planning, implementation, and operation" with the goal of minimizing negative environmental impacts. No details about working with neighbors, government or park agencies or other stakeholders in the planning process to mitigate the impacts of the Project are specified in the Initial Study. The Initial Study does not properly address project construction or operation and the mitigations that can be accomplished in those phases. No details about such important mitigations as landscaping installation or maintenance are addressed.

In Section 15063(b), the County is obligated to prepare a full Environmental Impact Report if "the agency determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment." The mistakes and omissions of the Initial Statement mask the severe effect on the environment this Project will inflict. An honest assessment of the Project's overwhelming impact on the environment of Trancas Canyon clearly mandates a full Environmental Impact Report under this section.

In observing the County's compliance with sections 15063(c) and 15063(d), we note that the County has arrived at faulty

Initial Study conclusions because of the flaws and shortcomings in the Initial Statement itself. No accurate analysis on the true impact of the Project can be made given the errors and omissions in the Initial Study. Proper mitigation of the negative environmental impacts cannot be discussed as those impacts are ignored, downplayed or understated in the County's faulty Initial Statement. Most egregious is the County's failure to follow Section 15063(c)(4), "The purposes of an Initial Study (is) to facilitate environmental assessment early in the design of a project", and Section 15063(c)(5), "The purposes of an Initial Study (is) to provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment." The county has utterly failed to provide an accurate assessment as mandated here.

Section 15064. Determining the Significance of the Environmental Effects Caused by a Project

(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the Lead Agency and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the Lead Agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and

immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there

is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

Comments: Section 15064(a) defines in plain language the obligations placed by CEQA on the County. The County's failure to draft an Environmental Impact Report as mandated by this section of the Administrative Code, and CEQA, is obvious. This section says "if there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR." The errors and omissions in the Initial Study notwithstanding, comments filed by me in my letter of July 10th show clear and convincing evidence that the Project will have a devastating impact on an Environmentally-Sensitive Habitat Area, a coastal estuary, city and National Park Service recreational trails, endangered animals and nearby residents. A complete and factual examination of this affected area and the scope of the Project prove there is no question that Los Angeles County is mandated to write a complete Environmental Impact Report as mandated by this section.

Section 15064(b) points out the County's obligation to make its decision "based to the extent possible on scientific and factual data." This was not done. This section also notes that the very limited mitigations in place at other Wastewater Plants operated by the County in Malibu - such as the facility surrounded on three sides by busy urban streets and the fourth side by a condominium project at the Malibu Civic Center - may not be appropriate in rural Trancas Canyon. That other plant is in an area of the Malibu Civic Center zoned for high-density residential uses, across the busy Pacific Coast Highway and Civic Center Way from the largest shopping center between Santa Monica and Oxnard. Trancas Canyon, on the other hand, is zoned Rural Residential, and is substantially wild.

Section 15064(c) shows the County its obligation to seek input from all persons and agencies potentially affected by the planned project **before** writing the Initial Statement. The County's document does not include input from the California Coastal Commission, City of Malibu, National Park Service, local recreational groups such as Trancas Riders and Ropers,

the Malibu Coastal Lands Conservancy, the Santa Monica Mountains Conservancy, or many local residents in its design or mitigation. Those groups were not consulted by the County, as it is obligated by this Section, before the issuance of the Initial Study.

Section 15064(d) gives the County specific directions it must follow in preparing an Initial Statement, directions the County has failed to follow. The County has failed to "consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project."

Section 15064(d)(1) gives the County specific warnings about potential negative environmental impact given by the Code ("the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant"), conditions which would trigger a full Environmental Impact Report if the incomplete Initial Study had documented them, as it failed to do.

Section 15064(d)(2) again cites a hypothetical sewage project which would trigger additional growth as a condition which must trigger a full Environmental Impact Report. The Trancas Project includes a 13 percent increase in sewage treatment capacity, and although no new housing in the adjacent area is expected by the County, there are no legal covenants or prohibitions in the scope of the current Project which would preclude such growth. This section should have served as a clear direction to the County that a full Environmental Impact Report is mandatory in this case.

Section 15064(e) shows that "economic or social changes may be used ... to determine that a physical change shall be regarded as a significant effect on the environment." Given that the installation of open-topped, bubbling sewage tanks in the direct view of recreational areas and residences is a key negative environmental impact of the proposed Project, this section also triggers a full Environmental Impact Report and complete mitigation.

Section 15064(f)(1) places the obligation upon the County to

write a full Environmental Impact Report based on the presentation of a "fair argument" by opponents of the current scope of the Project." It must be noted that the county failed to consult with local government agencies, groups and neighbors in advance of issuing the Initial Statements, as directed by Section 15064(c) and discussed above. Further, the objections laid out in my July 10th letter were communicated to the County when its representatives met with me in July 2001 at my house to discuss the Trancas Project. None of the objections raised by me were addressed in the Initial Study, even though those objections are clearly a "fair argument" as defined by Section 15064(f)(1). Further, the county is clearly obligated to draft a full report based upon the objections I raised last summer: "If a lead agency is presented with a fair argument that a project **may** (emphasis added) have a significant effect on the environment, the lead agency **shall** (emphasis added) prepare an Environmental Impact Report even though it may also be presented with other substantial evidence that the project will not have a significant effect", says the code. Thus, the County's obligation to prepare an Environmental Impact Report, as opposed to an Initial Statement of Negative Declaration, is clear.

Section 15064(f)(2) allows the county to prepare mitigations and offer a Mitigated Negative Declaration only if "the applicant would avoid the effects or mitigate the effects to a point where **clearly no significant effect** (emphasis added) on the environment would occur. The public agency must find there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared." This section makes it plain that a Mitigated Negative Declaration is also not proper in this case, and that a complete Environmental Impact Report is the only acceptable and legal path for the Project.

Section 15065. Mandatory Findings of Significance

A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where any of the following conditions occur:

- (a) The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish and wildlife species, cause a fish or wildlife population to drop below self-sustaining levels,

threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory.

(b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

(c) The project has possible environmental effects which are individually limited but cumulatively considerable.

"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 as defined in Section 15130.

(d) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

Comments: The County's obligation to provide a complete Environmental Impact Report is clearly met by all four conditions, easily exceeding the statutory requirement that says that meeting any one of these criteria alone is enough to trigger an Environmental Impact Report. As delineated in my July 10th letter, I have shown that the project far exceeds the standard set by Section 15065(a): "the Project has **the potential** (emphasis added) to substantially degrade the quality of the environment". The County is well aware of this potential, having been informed of it last year.

As for Section 15065(b), my letter of July 10th clearly shows the long-term environmental quality of Trancas Canyon will be irreparably harmed in accomplishing the short-term goal of providing secondary sewage treatment in a haphazard, obnoxious manner).

The cumulative effects of the Plant rehabilitation are indeed considerable, thus exceeding the threshold set by Section 15065(c).

And the substantial negative impact of the Project on human beings living or pursuing recreation near the plant, as specified by Section 15065(d), are irrefutable. All four conditions have been exceeded here, where we need only to prove the possibility of one standard violation to trigger the provisions mandating a full Environmental Impact Report is needed.

Section 15070. Decision to Prepare a Negative or Mitigated Negative Declaration

A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
- (b) The initial study identifies potentially significant effects, but:

- (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
- (2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

Comments: The record before the County now, as a result of comments filed in response to the faulty Initial Study, provides more-than "substantial evidence, in light of the whole record before the agency, that the project **may** (emphasis added) have a significant effect on the environment." We have more than exceeded numerous Sections that trigger a full Environmental Impact Report, making the issuance of Negative Declaration or Mitigated Negative Declaration wholly insufficient.

Section 15071. Contents

A Negative Declaration circulated for public review shall include:

- (a) A brief description of the project, including a commonly used name for the project, if any;
- (b) The location of the project, preferably shown on a map, and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;
- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.

Comments: The County failed to provide a complete description of its proposed mitigation measures in the Initial Study, as dictated by Section 15071(e).

Section 15371. (Definition of) Negative Declaration. "Negative Declaration" means a written statement, by the Lead Agency briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and

therefore does not require the preparation of an EIR. The contents of a Negative Declaration are described in Section 15071.

Comments: As detailed in my letter of July 10, a complete study of the Project's impact would provide conclusive evidence of a significant effect on the environment as defined by Section 15382, as discussed below. Section 15371 requires that the County's Negative Declaration state reasons why the Project will not have a significant impact, while evidence supplied in my comment letter of July 10th clearly prove a substantial impact will occur if the Project is built as described in the Initial Study. The County's Initial Study does accurately assess the impact of the Project, so it cannot state that there will be no significant impact as required under Section 15371.

Section 15382. (Definition of) Significant Effect on the Environment. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

Comments: The County's faulty Initial Study, as detailed in my July 10 letter, is filled with errors and omissions. It cannot accurately assess the significant effect on the environment as defined in Section 15382 due to its flaws. In my letter of July 10th, I have pointed out no fewer than 37 significant and minor errors or omissions in the Initial Statement. Thus, the County's declaration that there are no negative environmental impacts caused by the Project in accordance with Section 15382 cannot be accurate.

Section 15384. (Definition of) Substantial Evidence.

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which

is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

Comments: More than enough relevant information and reasonable inferences have been supplied to make a fair argument that this Project as currently drafted will create an enormous negative environmental impact on Trancas Canyon. In filing my comments, I cite specific facts that are not speculative, unsubstantiated or inaccurate. Rather, in setting forth the existing environmental setting of the Project's site in Trancas Canyon, and the Project's extensive negative impacts, I have completed and corrected the County's assessment obligation as defined by this Code and CEQA. The Initial Statement failed utterly in this attempt, and must be discarded in favor of a complete Environmental Impact report as mandated repeatedly in this code.

Summary: As detailed in my letter of July 10th, there will be numerous substantive and negative impacts on the environment of Trancas Canyon, an environmentally-sensitive habitat area, under the County's current Project plans. As ample evidence in this letter sets forth, this Project qualifies for a full Environmental Impact Report on many levels. This report must be prepared, and proper mitigating steps must be amended into the Project, before the Plant can be built successfully and in compliance with the California Environmental Quality Act, and with administrative codes as delineated in Title 14, California Code of Regulations, Chapter 3, Guidelines for Implementation of the CEQA.

It should be noted that the status quo - no project - is equally unacceptable. The County and regional Water Quality Control Board have valid and good reasons to upgrade the Plant. It remains to be seen if the current scope of the project will fulfill CEQA and California Water Code (CWC) standards, however. I repeat our families' full support for the proper design, completion and lawful operation of this important and welcome Trancas Wastewater Rehabilitation Project. We stand willing to help Los Angeles County design the Trancas Plant Rehabilitation Project in compliance with CEQA and CWC as quickly as possible. With that in mind, please be aware that I will be out of the country July 31st through August 21st. Hopefully we can meet before that time.

Please excuse the addition of these legal comments to my earlier comments. I am a layman, and have no experience writing comments such as these, or analyzing environmental laws and codes that I never knew existed. I am learning more about this process and must add these comments to the record as called for by CEQA. And I thank you for appending my comments of July 10th with these comments.

Sincerely,

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Christi Hogan, Malibu City Attorney

Jeff Bouse,
Waterworks and Sewer Maintenance Division
Los Angeles County Dept. of Public Works
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Alhambra CA 91803

Mr. Bouse,

10 July, 2002

This letter is to formally protest and challenge the findings by the County of Los Angeles, Department of Public Works, Consolidated Sewer Maintenance District, Trancas Zone, (hereafter referred to as "The County") on its Initial Study of the Environmental Impact Report (IS-EIR) for its proposed Rehabilitation Project ("the Project") for the Trancas Water Pollution Control Plant (the "Plant"). The county contends in its IS-EIR, prepared by Lee & Ro Inc., that there will be few negative environmental impacts caused by this Project.

I speak for the consensus reached by homeowners who live on a prominent hillside that overlooks the plant from the southeast. My neighbors and I contend the IS-EIR finding is fatally flawed. This letter will prove the County's findings violate California and federal environmental and water quality laws. Further, we will prove that permits granted to the County by the Los Angeles Regional Water Quality Control Board (RWQCB) contravene the State of California Water Code (CWC) in that they allow a Project which will establish a new wastewater nuisance, in direct violation of the code.

As far as the IS-EIR, numerous and egregious errors render it useless in determining the Project's true and significant impact on the surrounding ecosystem, scenic viewsheds, recreational facilities, archaeological relics, open space and Environmentally-Sensitive Habitat Areas (ESHAs).

We forcefully request that the county reject the Initial Study based on the following errors we observe in the IS-EIR.

- [1] The IS-EIR fails to acknowledge or accurately describe the current Plant's status as a flagrant public nuisance per se as defined by the CWC. This law defines any wastewater treatment plant that subjects neighbors to the unobstructed view of sewage being treated as a public nuisance. The CWC also defines plants that emit any detectable odors at all as a public nuisance per se. As it currently operates, the Project subjects its neighbors and parkland users to the constant negative visual impact of raw sewage churning in open-air tanks, as well as odors. The CWC prohibits the licensing of plants that meet the definition of a public nuisance. These are points not addressed in the background section of the IS-EIR. (Specific violations of the CWC will be addressed later in this letter.) The proposed Project would not only fail to screen currently existing views of raw and semi-treated sewage, but would impose greater visual blight in the form of new extensive views of gurgling sewage and froth in new open air aeration tanks, anoxic tanks and secondary clarifiers. These tanks will be above-ground and open to the air under the county's Plan.

private developer of the adjacent Seastar Estates subdivision. This land is the trailhead for the "Chumash Trail", a footpath linking pre-Columbian habitations at Trancas Estuary with former Indian villages in the Rocky Oaks and Calabasas areas.

A second pedestrian path, heavily used by bicyclists, also branches off the Chumash Trail and overlooks the Plant from the north and east. This unnamed trail follows the fire road along the eastern side of Malibu West, branching to the west from the Chumash Trail just north of the Plant's boundary on the north. This trail also overlooks the Plant and the site intended for open sewage aeration.

On the Plant's southern boundary, a heavily used footpath connects the intersection of Seastar and Morning View drives with the Trancas Market retail area. This path is used by several hundred pedestrians, equestrians, and bicyclists daily, and is about 30 feet in elevation above and overlooking the Plant. Although the a small portion of this path lies on private land, this "Morning View Connector Path" is on City of Malibu's Master Trails Plan, and the city has been awarded a \$300,000 state grant to begin construction of this path to the east. The path links the city's park facilities, Malibu High School, and several hundred homes in the Malibu Park area to the east, shopping and transportation facilities and the Malibu West subdivision to the west.

In addition, the Morning View Connector Path provides access from the national parklands to Zuma Beach County Park to the south, providing a rare lateral connecting path between the Santa Monica Mountains National Recreation Area and a public beach. Dozens of residences also use this path as beach access. None of these heavily-used public paths that directly abut the Plant are even mentioned in the IS-EIR. o mitigation of the substantial impact this Project will have on adjacent recreational uses can be addressed due to the IS-EIR's critical omissions in this regard.

- [8] The IS-EIR neglects to mention that the Plant site's open space provides a wildlife and scenic corridor linking open space in the Recreation Area, the Trancas Creek estuary, and Zuma Beach. Nor does the IS-EIR address the topography of the Plant site, a natural bowl surrounded on three sides by hills.

- [9] In Section Three, Part I, Paragraph d, the IS-EIR falsely claims "no impact" in the category "disrupt or divide the physical arrangement of an established community". The IS-EIR does not address the visual impact of a 10-foot-high concrete open-topped tank bisecting an open space lying in an environmentally-sensitive area. The tank will effectively bifurcate the open space corridor linking Zuma Beach with the Trancas Canyon section of the Santa Monica Mountains National Recreation Area. "No impact" vastly understates the true impact of the Project, which is "Potentially Significant".

...adequately addressed.

- [10] In Section Three, Part III, Paragraph f, the IS-EIR falsely claims "no impact" as a response to "development within areas defined as having high potential for water or wind erosion?" The Plant is located in a

- [15] Although county engineers assure us that the Plant will emit fewer odors after it is reconfigured, we must note that the same county engineers allowed the Trancas Plant to operate in flagrant violation of its permit and state laws last summer, when a piece of equipment failed and was allowed to dry in the sun and open air for six weeks. This equipment, called a digester, was coated with raw solid waste and created a significant odor, fly and wind-borne debris problem for six weeks! The operators of the plant have acknowledged that this was a health hazard and a violation of state environmental and health laws, and they have apologized to us for it.

Frankly, the County's credibility in this regard has been strained. The county's new assurances do not convince us that there will be no smell, nor will they mitigate the horrendous impact our neighborhood felt when subjected to the smell and particles of windborne primary sewage. And: they do they assure us that future operations of the plant will not include similar failures.

- [16] In Section Three, Part VII, Paragraph a, the IS-EIR falsely claims "no impact" in the category "development within a Environmentally-Sensitive Area as identified in the general plan". As the California Coastal Commission, in accordance with new state law, is formulating a new general land-use plan for the Malibu municipality, it is possible that this Plant site will be designated an Environmentally-Sensitive Area. "No impact" vastly understates the true impact of this aspect of the Project, which is likely to be designated Environmentally-Sensitive Habitat.
- [17] In Section Three, Part VII, Paragraph b, the IS-EIR falsely claims "no impact" in the category "impacts to endangered, threatened, or rare species or their habitats (including, but not limited to, plants, mammals, fish, insects and birds)." This is laughable. Endangered frogs, salamanders, and fish have been observed immediately adjacent to, and on the site of, the Plant and along Trancas Creek and its estuary. Endangered mammals such as bobcats have been seen at the Plant. Migratory birds, including egrets, herons, least terns, geese and ducks routinely stop at the year round estuary immediately south of the Plant, an estuary that likely contains subsurface water from the Plant.
- [18] In Section Three, Part VII, Paragraph b, the IS-EIR falsely claims "no impact" in the category "impact to wetland habitat (e.g., marsh, riparian and vernal pool)?" A saltwater/freshwater marsh exists in the bed of Trancas Creek immediately to the southwest of the Plant. A pond exists there in all but the driest years, and subsurface water can be the only source to replenish water lost to evaporation, as there is no runoff, creekwater or tidal flow entering the pond. Given that the leachfields are adjacent to this pond, the overall impact of the quality and quantity of subsurface runoff from the leachfield to the pond and its wildlife must be more-thoroughly-addressed.
- [19] In Section Three, Part VII, Paragraph e, the IS-EIR falsely claims "no impact" in the category "impacts to sensitive coastal zones, marine

"Less than significant impact", as the IS-EIR concludes, is a vast understatement of the deleterious effect this noisy intrusion will have upon our quiet neighborhood.

[24] In Section Three, Part XIII, Paragraph a, the IS-EIR states "no impact" to the question "could the proposal result in ... permanent obstruction of any significant or important scenic view based on evaluation of the viewshed verified by site survey/evaluation?" "No impact" is laughable on its face. In that the IS-EIR has missed the fact that surrounding recreational trails and parkland wrap around the Plant site, there has been no evaluation of the aesthetic impact of open-topped, roiling sewage tanks on nearby park users. It appears that at no time did the consultants who authored the IS-EIR visit any of the five houses that overlook the Plant from a prominent ridgetop to the south and east for the mandatory site survey. And the overwhelming permanent negative impact of replacing natural-appearing open space with the open-topped roiling sewage tanks is not addressed - no wonder the IS-EIR found this to be "no impact".

[25] In Section Three, Part XIII, Paragraph b, the IS-EIR found a "less than significant impact" result to the question "will the visual impact of the Project create aesthetically-offensive changes in the existing visual setting?" It is impossible to understate the negative impact of bubbling, frothing sewage viewed 80 feet away and 30 feet below the living rooms, bedrooms, decks and dining areas of the homes occupied by the houses in Malibu Park. As set forth in the prior paragraph, there will be an overwhelming change in the visual aesthetics of Trancas Canyon under the current Plan specifics. The IS-EIR drastically understates the issue here.

[26] In Section Three, Part XIII, Paragraph c, the IS-EIR found a "no impact" to the question could the Plan "create significant light or glare?" Again, as noted above, the roiling partially-treated sewage will be open to view from recreational areas and homes on adjacent hills. The imagined view of the California sunset, reflected in the bubbling sewage, is an abomination. At best, "no impact" understates the negative effect dramatically.

[27] In Section Three, Part XIV, Paragraph a, the IS-EIR asks if the "development (is) in a sensitive archaeological area as identified in the general plan?" Contrary to the IS-EIR, the answer to this question is yes, as there is historical record of a large Chumash Indian fishing village present at the Plant site in territorial days. Although there are raised leachfield immediately to the south of the proposed site for the aeration tanks, the actual location planned for the tanks appears to be natural grade, and there is no reason this specific site would have been graded in the Plant's construction back in the early 1960s. Further, minor surface disruption would not substantially disturb subsurface artifacts. Given the large Chumash village that existed here in historical records, it is easy to predict that archaeological artifacts exist below grade. Digging in this area is a "potentially significant impact" on those artifacts, yet the IS-EIR says "less than serious" or

the broad range of such animals that use the space above, adjacent and on the Plant site. The IS-EIR says the Plant has been in operation for 40 years, and is "fairly well disturbed", but does not mention the fact that the disturbed area has largely returned to a natural state, with the exception of invasive foreign plant species that have been allowed to grow. The IS-EIR falsely maintains that "there are no endangered, threatened or rare species of the Project's site", but such species have been observed on it and adjacent to the site as detailed above.

- [34] In Section XIII, Paragraph a, the IS-EIR makes the breathtaking claim that "the coastal view will not be impacted" by installation of open air sewage raceways in a flat area lying between hillside National Parkland and the ocean. The IS-EIR claims that churning, open-air sewage treatment will not "obstruct any significant scenic views." The IS-EIR claims that the addition of open-air sewage settling tanks is not a change to the existing land use of the site. The IS-EIR authors are apparently oblivious to the fact that scenic views can be negatively impacted by installations that do not block views, but that merely destroy them. These errors alone render the ultimate conclusions of the IS-EIR as fatally flawed.
- [35] In Section XIII, Paragraph b, the IS-EIR acknowledges that "the new facilities will be more centrally located on the property that the existing structures, making him somewhat more visible to the residences on the adjacent hills east of the site." The IS-EIR does not acknowledge that the fundamental change in the nature of the new facilities will make the visual impact substantially degraded, in addition to more prominent, from parkland and houses bordering the site.
- [36] In the same paragraph (Section XIII, Paragraph b), the IS-EIR proposes to mitigate this serious and offensive view of raw sewage being treated - visible from within several living rooms within 100 feet of the proposed tanks - with the use of native landscaping along the property boundary. No details about the types, maturity or visual screening capabilities of this landscaping to mitigate the offensive nature of this public nuisance are given. Nor does the IS-EIR address how the negative visual impact will be mitigated for the trails south, east and north of the Plant.
- [37] Given the deficiencies in the County's research, evaluation and conclusions, it is not surprising that the Department of Public Works erroneously found that this Project could not have a significant effect on the environment, resulting in a negative conclusion. This finding is fundamentally flawed.

In addition to the errors detailed in the IS-EIR, we have discovered that the County's current permits for the Rehabilitation Project granted by the Los Angeles Regional Water Quality Control Board are clearly illegal. Review of the current proposed Project makes it clear it will result in a "nuisance" as defined in CWC section 10350(m), to wit: "nuisance" means anything which ... is indecent or offensive to the senses ... so as to interfere with the comfortable enjoyment of life or property; affects at the same time an entire

We have found 37 specific errors in the County's Initial Study, and blatant errors in the County's RWQCB permits as well. It is now the obligation of the county to withdraw the flawed Initial Study, and return to us with new plans for the necessary rehabilitation of this aging Plant that are lawful, reasonable, and appropriate. Failure to reject the current IS-EIR is a violation of California law and is actionable.

We stand ready to work with the County to come up with plans that do not place this incredible, incalculable damage upon us.

Sincerely,

Hans Laetz
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cc:

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