

1/28/04

3/16/04

7/25/04

LKF-V 6/30/04

7/14/04

# LIFORNIA COASTAL COMMISSION

89 SOUTH CENTRAL COAST AREA 89 SOUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 585-1800

Filed: 49th Day: 180th Day: Staff: Staff Report: Hearing Date: Commission Action:

RECORD PACKET COPY

# STAFF REPORT: PERMIT AMENDMENT

**APPLICATION NO.:** 5-82-192-A2

APPLICANTS: A. Jerrold Perenchio

**PROJECT LOCATION:** 23554 Pacific Coast Highway, City of Malibu (Los Angeles County)

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construction of an approximately ten acre private park, eight foot high rock wall around ten acre parcel, landscaping including lawn, construction of three ponds, installation of jogging track, irrigation system, lighting system, dish radio receiver, and three gazebos and approximately 11,500 cu. yds. of grading.

**DESCRIPTION OF AMENDMENT:** Request for after-the-fact approval for construction of golf practice areas in an existing 10 acre private park, 985 sq. ft. storage building, driveway, and approximately 8,982 cu. yds. of additional grading for a total of 20,482 cu. yds. of grading on site. In addition, the project includes a new proposed 10-foot wide, approximately 620 foot long native vegetation buffer, recirculating drainage system, turf management plan, water quality monitoring plan, abandonment of existing unpermitted septic system, installation of new secondary treatment septic system, and offer to dedicate the site as a public park pursuant to a settlement agreement at 23554 Pacific Coast Highway in the City of Malibu, Los Angeles County.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, February 18, 2003; City of Malibu Geology Review, Approval in Concept, January 14, 2003; City of Malibu Environmental Health, Septic Abandonment Permit No. 02-2065, December 23, 2002.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu Local Coastal Program; Coastal Development Permit No. 5-82-192; Certified copy of Reporter's Transcript of Proceedings, Coastal Commission, Application No. 5-82-192, Tuesday July 27, 1982; Limited Engineering Geologic and Soils Report, 23554 Pacific Coast Highway, Malibu, California," SubSurface Designs, Inc., December 26, 2002; "Supplemental Geologic Report, Section 111 Statement for Existing Shed, 23554 Pacific Coast Highway, Malibu, California," SubSurface Designs, Inc., June 18, 2003; "Comparison of Potential Biological Impacts on Malibu Lagoon Between 1982 Approved Plan for Perenchio Park and Current Park Configuration," Glenn Lukos Associates, December 19, 2002; "Re: Initial Preliminary Draft Water Quality Analysis, Perenchio Park,

Malibu, CA," GeoSyntec Consultants, December 19, 2002; "Perenchio Park Drainage System Improvements Preliminary Design Report," GeoSyntec Consultants, April 21, 2003; "Re: Chemical Usage Analysis, Perenchio Park, Malibu, CA," GeoSyntec Consultants, April 21, 2003: Correspondence from Bridget Fahey, U.S. Fish and Wildlife Service, re: Perenchio Park Vegetation Project, February 27, 2003; Correspondence from Scott P. Harris, California Department of Fish and Game, January 3, 2003; Correspondence from Suzanne Goode, California Department of Parks and Recreation, re: Perenchio Park, 23554 Pacific Coast Highway, Malibu, California, February 20, 2003; Correspondence from Suzanne Goode, California Department of Parks and Recreation, re: Perenchio Park, 23554 Pacific Coast Highway, Malibu, California, June 12, 2003; "Discussion of impacts to Malibu Lagoon State Park associated with the stone wall and adjacent vegetation surrounding the Perenchio Park property," Glenn Lukos Associates, November 25, 2003; "Field Study Report," by GeoSyntec Consultants, dated December 22, 2003; "Updated Perenchio Park Drainage System Improvements Preliminary Design Report," by GeoSyntec Consultants, dated December 22, 2003; Proposed septic system report by Ensitu Engineering, Inc., dated January 28, 2004; "Perenchio Park Runoff Frequency Estimates," by GeoSyntec Consultants, dated April 8, 2004; "Turf Management Plan," by David L. Wienecke, dated June 7, 2004; "Water Quality Monitoring Plan," by GeoSyntec Consultants, dated June 7, 2004; Settlement Agreement between A. Jerrold Perenchio, individually and as Trustee of that certain Jerry Perenchio Living Trust dated April 16, 1987, as amended, Margaret Rose Perenchio and the California Coastal Commission dated June 24, 2004.

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

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

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material (14 Cal. Code of Regulations Section 13166). In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect previously imposed special conditions required for the purpose of protecting coastal resources.

# SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the applicants' proposal with **eleven (11) additional special conditions** regarding conformance with geologic recommendations, drainage system improvements plan, turf management plan, water quality monitoring plan, on-site wastewater treatment system, buffer landscaping plan, lighting restriction, future development restriction, offer to dedicate, deed restriction, and condition compliance.

# I. STAFF RECOMMENDATION

## MOTION: I move that the Commission approve Coastal Development Permit Amendment No. 5-82-192-A2 for the development proposed by the applicants.

# STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:**

The Commission hereby approves a coastal development permit amendment for the proposed development on the ground that the development as amended and subject to conditions will conform with the policies of the City of Malibu Local Coastal Program (LCP). Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

# II. STANDARD AND SPECIAL CONDITIONS

Note: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit (CDP) 5-82-192 continue to apply. The approved coastal development permit includes two (2) special conditions. In addition, the following additional special conditions (numbered 3 through 13) are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 5-82-192-A2.

# **SPECIAL CONDITIONS**

# 3. Plans Conforming to Geologic Recommendations

All final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to issuance of a coastal development permit amendment, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to foundations, construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require an amendment to the permit or a new Coastal Development Permit.

## 4. Drainage System Improvements Plan

Within 180 days of issuance of this permit, or within such time as the Executive Director may grant for good cause, the applicant shall implement and complete the proposed drainage system improvements described in "Updated Perenchio Park Drainage System Improvements Preliminary Design Report," by GeoSyntec Consultants, dated December 22, 2003 (Exhibit 13).

## 5. <u>Turf Management Plan</u>

Within 60 days of the issuance of this permit, or within such time as the Executive Director may grant for good cause, the applicant shall implement the proposed "Turf Management Plan," by David L. Wienecke, dated June 7, 2004 (Exhibit 14), for the life of the development.

## 6. Water Quality Monitoring Plan

Within 60 days of the completion of the proposed drainage system improvements required in **Special Condition 4**, or within such time as the Executive Director may grant for good cause, the applicant shall implement the proposed "Water Quality Monitoring Plan," by GeoSyntec Consultants, dated June 7, 2004 (Exhibit 15), for the life of the development.

# 7. On-Site Wastewater Treatment System

Prior to the Issuance of the coastal development permit amendment, the applicant shall submit for the review and approval of the Executive Director a report and plans verifying that the proposed on-site wastewater treatment system (OSTS) complies with the policies and provisions in the Malibu LCP pertaining to the siting, design, installation, operation and maintenance requirements for OSTSs. In addition, the report shall include plans and a description for the proposed abandonment of the existing unpermitted septic system. The report and plans shall be prepared by a qualified professional and approved by the City of Malibu's Environmental Health Department, and comply with sections 18.4, 18.7 and 18.9 of the Malibu Local Implementation Plan, adopted by the Coastal Commission on September 13, 2002. Any substantial changes to the septic system approved by the Commission which may be required by City of Malibu's Environmental Health Department shall require an amendment to the permit or a new coastal permit.

# 8. Buffer Landscaping Plan

Prior to issuance of a coastal development permit amendment, the applicants shall submit, for review and approval by the Executive Director, two sets of landscaping plans for the ten foot wide strip of land located east of the existing stone wall and adjacent to Malibu Lagoon State Park. The plan shall be prepared by a licensed landscape architect or a qualified resource specialist, and shall incorporate the following criteria:

a. Plantings shall be native, drought-tolerant plant species, and shall blend with the existing natural vegetation and natural habitats on the site. The native plant species shall be chosen from those 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.

- b. Invasive plant species, as identified 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 and identified in the City of Malibu's Invasive Exotic Plant Species of the Santa Monica Mountains, dated March 17, 1998, that tend to supplant native species and natural habitats shall be prohibited.
- c. Landscaping shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for restoration.
- d. Landscaping shall be monitored for a period of at least five years following the completion of planting. Performance criteria shall be designed to measure the success of the plantings. Mid-course corrections shall be implemented if necessary. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met.

# 9. Lighting Restriction

- A. The only outdoor night lighting allowed on the subject parcel other than temporary lighting in connection with short-term special occasions is limited to the following:
  - 1. The minimum necessary to light the driveway, gates, and walkways used for entry and exit to the structure on the site. This lighting shall be limited to fixtures that do not exceed three feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
  - 2. Security lighting attached to the maintenance building shall be shielded and directed downward; controlled by motion detectors; and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
  - 3. No lighting around the perimeter of the property and no lighting for aesthetic purposes is allowed
- B. Any temporary lighting shall be of low intensity and shielded and directed away from the adjacent Malibu Lagoon State Park and nearby residences. No temporary lighting shall be placed within one hundred feet of the eastern property line bordering the Malibu Lagoon State Park.
- C. Events or occasions for which temporary lighting may be used shall not exceed three per year, and each event or occasion shall not exceed three successive days in duration.

# 10. Future Development Restriction

This permit is only for the development described in coastal development permit 5-82-192-A2. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by coastal development permit 5-82-192-A2. Accordingly, any future improvements to the development authorized by this permit shall require an amendment to Permit 5-82-192-A2 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

# 11. Offer to Dedicate

Prior to issuance of the Coastal Development Permit Amendment 5-82-192-A2, the owner of the property at 23554 Pacific Coast Highway, Malibu shall execute and record an irrevocable offer to grant the property to the State of California in accordance with the terms and conditions of the Settlement Agreement between A. Jerrold Perenchio, individually and as Trustee of that certain Jerry Perenchio Living Trust dated April 16, 1987, as amended, Margaret Rose Perenchio and the California Coastal Commission dated June 24, 2004. The document shall include a legal description and graphic depiction of the property being offered and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

# 12. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Special Conditions"); and (2) imposing Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

# 13. Condition Compliance

Within 180 days of Commission action on this coastal development permit amendment application, or within such time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

# III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

# A. Project Description and Background

The applicants request after-the-fact approval for construction of golf practice areas in an existing 10 acre private park, 985 sq. ft. storage building, driveway, and approximately 8,982 cu. yds. of additional grading for a total of 20, 482 cu. yds. of grading on site. In addition, the project includes a new proposed 10-foot wide, approximately 620 foot long native vegetation buffer, recirculating drainage system, turf management plan, water quality monitoring plan, abandonment of existing unpermitted septic system, installation of new secondary treatment septic system, and offer to dedicate the site as a public park pursuant to a settlement agreement.

The project site is located south of Pacific Coast Highway in the Civic Center area of the City of Malibu **(Exhibit 1)**. The property consists of three approximately 3.3 acre lots that have been joined by lot tie. The property is designated Residential – Single Family Medium (4 du/ac) in the certified Malibu Local Coastal Program (LCP).

The site is located immediately west of Malibu Lagoon State Park, which is mapped as an environmentally sensitive habitat area (ESHA) in the Malibu LCP (Exhibits 2 and 3). With the exception of several tree-tops, the site is not visible from Pacific Coast Highway or Malibu Lagoon State Park due to the presence of an eight foot high perimeter wall approved under the original permit [Coastal Development Permit (CDP) No. 5-82-192 (Perenchio)] (Exhibits 10 and 11).

The original permit was issued in 1982 for construction of a 10-acre private recreational park on the site. The approved park included an eight foot high perimeter wall, manmade ponds, three gazebos, a jogging track, irrigation system, lighting system, dish receiver, 11,500 cu. yds. of grading (3,000 cu. yds. cut, 8,500 cu. yds. fill), and landscaping. The approved landscaping plan featured primarily lawn, as well as planter areas containing ornamental species. The plan also included some California sycamores and several non-native trees, including the invasive Peruvian pepper (*Schinus molle*) and Eucalyptus (*Eucalyptus globulus*). In addition, Special Condition One (1) of the permit required the applicant to submit a specific landscaping plan, utilizing species consistent with those in Malibu Lagoon State Park, for a 10 foot wide setback adjacent to the park. The plans that Commission staff approved for CDP 5-82-192 included construction of an underground storm drain along the southern property boundary that outlets into Malibu Lagoon State Park.

Following issuance of the permit, and prior to construction, the applicant modified the design of the park. These modifications eliminated the jogging track, gazebos, and ponds, altered the grading, drainage, irrigation, and landscaping, and added golf practice areas consisting of a putting green and sand traps and a 985 sq. ft. storage building with a secondary treatment septic system. The landscaping plan for the 10-foot wide strip of land adjacent to Malibu Lagoon State Park was not implemented.

In early 2002, Commission Enforcement staff was informed that unpermitted development had occurred on the property. At the direction of Enforcement staff, the applicant submitted Coastal

#### 5-82-192-A2 (Perenchio) Page 8

Development Permit (CDP) Application No. 5-82-192-A1 to address the unpermitted development. The application was heard and continued at the July 2003 Commission hearing. The applicants withdrew CDP Application No. 5-82-192-A1 and simultaneously submitted the current application on December 24, 2003. The current application incorporates the development proposed under CDP Application No. 5-82-192-A1 along with additional proposals for a new septic system, updated turf management, drainage system, and water quality monitoring plans, and an offer to dedicate the property to the State pursuant to a settlement agreement dated June 24, 2004 (Exhibit 12).

Under the Settlement Agreement, when the property is transferred to the State, the State will be permitted to remove the stone wall along the north and eastern borders of the property (adjacent to PCH and Malibu Lagoon State Park) and to convert up to 2 acres of the property adjacent to Malibu Lagoon State Park to wetlands.

As noted above, the 10-acre subject property is located in a single family residential zoning district that allows construction of 4 dwelling units per acre. However, Policy 2.7 of the Malibu LUP states that public parklands shall be a permitted use in all land use and zoning designations. In addition, in the land use designations described in Chapter 5 of the Malibu LUP, the "Single-Family Residential (SF)" land use designation provides: "Public open space and recreation may be permitted." Therefore, the proposed amendment would allow continued use of the property as a private park, as permitted under CDP 5-82-192, and long-term use of the property as public parkland and open space, as permitted by Policy 2.7 and Chapter 5 of the Malibu LUP.

# B. Land Use

The Malibu Local Coastal Program designates the subject site as Single Family Residential Medium which allows for a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation are permitted uses within the Single Family Residential designation.

The following LUP policies are applicable in this case:

2.7 Public accessways and trails to the shoreline and public parklands shall be a permitted use in all land use and zoning designations. Where there is an existing, but unaccepted and/or unopened public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities e.g. parking, construction of necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use.

### Land Use Designations

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density singlefamily residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. The Commission originally permitted the private park as an interim use until the Commission certified a Local Coastal Program for Malibu. Special Condition 2 of the permit stated:

2. Interim Use. By accepting this permit, the applicant acknowledges that the proposed improvements (perimeter wall and landscaping) constitute a temporary and interim use of the parcel and that the eventual appropriate use will be designated in the Commission certified Malibu Coastal Program. The applicant further acknowledges that this approval in no way constitutes a commitment to private intensification of residential use of the applicant's ownership.

In the findings for CDP 5-82-192, the Commission found that the subject parcel could be a potential visitor serving use provided sewage disposal concerns could be addressed through a regional or local sewer system. The Commission acknowledged that the land use issue should be addressed in a future Local Coastal Program for Malibu. The Commission also found that the proposed private park as an interim land use was appropriate in this case and consistent with the chapter three policies of the Coastal Act.

On September 13, 2002 the Commission adopted the Malibu LCP. The subject site was designated as medium density (1- 4 units) single family residential in the Malibu LCP. The applicant is not proposing any residential use on the site and proposes to continue to use the property as a private park on an interim basis. Under the terms of the settlement agreement between the applicant and the Coastal Commission the property will become a public park after the death of Jerrold Perenchio and his wife, Margaret Rose Perenchio. The future use of the site as public open space is a permitted use under the residential designation in the Malibu LCP. As discussed below, the proposed improvements to the private park do not increase the footprint of the private park and include drainage improvements and treatment of surface water runoff before it reaches Malibu Lagoon State Park. Accordingly, the modifications as conditioned are consistent with the development polices of the Malibu LCP. Therefore, the Commission finds that the modifications to the private park and the long term use of the subject property as public open space is consistent with the Malibu LCP.

# C. Hazards, Geologic Stability, and Landform Alteration

The proposed development is located in Malibu, an area generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to Malibu include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

In addition, Malibu contains many highly scenic areas offering mountain, canyon, and ocean views. Substantial landform alteration can degrade scenic and visual resources.

The Malibu Local Coastal Program (LCP) contains the following development policies related to hazards and landform alteration that are applicable to the proposed development:

Section 30253 of the Coastal Act, which also is incorporated as part of the Malibu LCP, 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.

In addition, the following LUP policies are applicable in this case:

- 4.2. All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.
- 4.5. Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.
- 4.10. New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.
- 4.45 New development shall minimize risks to life and property from fire hazard through:
  - Assessing site-specific characteristics such as topography, slope, vegetation type, wind patterns etc.;
  - Siting and designing development to avoid hazardous locations;
  - Incorporation of fuel modification and brush clearance techniques in accordance with applicable fire safety requirements and carried out in a manner which reduces impacts to environmentally sensitive habitat to the maximum feasible extent;
  - Use of appropriate building materials and design features to insure the minimum amount of required fuel modification;
  - Use of fire-retardant, native plant species in landscaping.
- 6.2 Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.
- 6.9 Ail new development shall be sited and designed to minimize alteration of natural landforms by:
  - Conforming to the natural topography.
  - Preventing substantial grading or reconfiguration of the project site.
  - Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs.
  - Requiring that man-made contours mimic the natural contours.
  - Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.
  - Minimizing grading permitted outside of the building footprint.

- Clustering structures to minimize site disturbance and to minimize development area.
- Minimizing height and length of cut and fill slopes.
- Minimizing the height and length of retaining walls.
- Cut and fill operations may be balanced on-site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.

The Malibu LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazard. In addition, the LCP requires a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. The LCP also requires that landform alteration be minimized in order to protect scenic views.

The applicant has submitted two geologic reports that discuss geologic hazards and site stability ("Limited Engineering Geologic and Soils Report, 23554 Pacific Coast Highway, Malibu, California," SubSurface Designs, Inc., December 26, 2002; "Supplemental Geologic Report, Section 111 Statement for Existing Shed, 23554 Pacific Coast Highway, Malibu, California," SubSurface Designs, Inc., June 18, 2003).

The SubSurface Designs, Inc., report dated June 18, 2003 concludes:

# It is the finding of this firm that the existing shed will not be affected by settlement, landsliding, or slippage. Further, the presence of the shed will not have an adverse effect on off site property.

As such, the proposed project will serve to ensure general geologic and structural integrity on site at the present time. However, to ensure that final plans are reviewed and approved by the geologic consultants, **Special Condition One (1)** requires the applicant to submit project plans certified by the consulting geologist and geotechnical engineer as conforming to all geologic and geotechnical recommendations, as well as any new or additional recommendations by the geologic consultants to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundations, grading, sewage disposal and drainage. Any substantial changes to the proposed development approved by the Commission that may be recommended by the consultants shall require an amendment to the permit or a new coastal development permit.

Modification of the previously approved private park to create the as-built golf course involved approximately 9,000 cu. yds. of additional grading for a total of 20,482 cu. yds. of grading on site (2,092 cu. yds. cut, 18,390 cu. yds. fill). Although the amount of additional grading is substantial, it occurred over the entire 10 acre site and therefore did not result in substantial landform alteration. As shown in **Exhibit 8**, the cut reduced the ground level less than one foot, and the fill raised the ground level an average of approximately two feet, with additional fill placed to create up to two foot high berms. The additional grading consists mainly of additional fill, which was placed within the same footprint as the previously approved 11,500 cu. yds. of grading. The additional fill resulted in a slightly more undulating landscape but did not result in a substantial alteration of the previously approved topography. Furthermore, due to the location of the existing previously approved eight foot high wall along the site's perimeter, the site is not visible from Pacific Coast Highway, a designated Scenic Road, or from any public viewpoints.

Therefore, for the reasons discussed above, the Commission finds that the project, as conditioned, is consistent with the applicable hazard, geologic and landform alteration policies and standards of the Malibu LCP.

# D. Environmentally Sensitive Habitat Areas (ESHA) / Water Quality

The Malibu LCP provides for the protection of environmentally sensitive habitat areas (ESHA). ESHA within the City includes those areas designated on ESHA maps included in the LCP, as well as any area that meets the definition of ESHA provided in Policy 3.1. The Malibu LCP allows only uses dependent on ESHA (such as nature trails) to be located within ESHA. It also requires new development in and adjacent to ESHA to be sited and designed to minimize impacts to ESHA. Where this is not possible, the LCP requires mitigation for impacts to ESHA.

The Malibu LCP also provides for the protection of water quality. The policies require new development to protect, and where feasible, enhance and restore wetlands, streams, and groundwater recharge areas. The policies promote the elimination of pollutant discharge, including nonpoint source pollution, into the City's waters through new construction and development regulation, including site planning, environmental review and mitigation, and project and permit conditions of approval.

Section 30231 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, states that:

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, minimizing alteration of natural streams.

Section 30240 of the Coastal Act, which is also incorporated as a policy of the Malibu LCP, states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

In addition, the following LCP policies for the protection of ESHA and water quality are applicable in this case:

3.1 Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are

Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.

- 3.6 Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.
- 3.8 Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- 3.14 New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts onsite or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.
- 3.18 The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat Areas, shall be prohlbited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application.
- 3.23 Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.
- 3.24 New development adjacent to parklands, where the purpose of the park is to protect the natural environment and ESHA, shall be sited and designed to minimize impacts to habitat and recreational opportunities, to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width.
- 3.42 New development shall be sited and designed to minimize impacts to ESHA by:

#### 5-82-192-A2 (Perenchio) Page 14

- Minimizing grading and landform alteration, consistent with Policy 6.8
- Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.
- Limiting the maximum number of structures to one main residence, one second residential structure, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.
- Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.
- Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.
- Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.
- Minimizing impacts to water quality, consistent with Policies 3.94-3.155
- 3.45 All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody.
- 3.56 Exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESHA in order to minimize impacts on wildlife. High intensity perimeter lighting and lighting for sports courts or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA is prohibited.
- 3.83 Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens shall be designated as wetland. Identified wetlands include Malibu and Zuma Lagoons. Any unmapped areas that meet these criteria are wetlands and shall be accorded all of the protections provided for wetlands in the LCP.
- 3.84 Any wetland area mapped as ESHA or otherwise determined to have previously been wetlands shall not be deprived of protection, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, filled, degraded, or that species of concern have been illegally eliminated.
- 3.87 The biological productivity and the quality of wetlands shall be protected and, where feasible, restored.
- 3.88 Buffer areas shall be provided around wetlands to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the wetland they are designed to protect, but in no case shall they be less than 100 feet in width.

- 3.95 New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:
  - Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.
  - Limiting increases of impervious surfaces.
  - Limiting land disturbance activities such as clearing and grading, and cutand-fill to reduce erosion and sediment loss.
  - Limiting disturbance of natural drainage features and vegetation.
- 3.96 New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of the Los Angeles Regional Quality Control Board's municipal stormwater permit and the California Ocean Plan.
- 3.98 Development must be designed to minimize, to the maximum extent feasible, the introduction of pollutants of concern<sup>1</sup> that may result in significant impacts from site runoff from impervious areas. To meet the requirement to minimize "pollutants of concern," new development shall incorporate a Best Management Practice (BMP) or a combination of BMPs best suited to reduce pollutant loading to the maximum extent feasible.
- 3.99 Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate. Dry weather runoff from new development must not exceed the pre-development baseline flow rate to receiving waterbodies.
- 3.100 New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.
- 3.102 Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs and/or the 85<sup>th</sup> percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.
- 3.110 New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal

<sup>&</sup>lt;sup>1</sup> Pollutants of concern are defined in the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County as consisting " of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein, or the detectable inputs of the pollutant are at a concentrations or loads considered potentially toxic to humans and/or flora or fauna".



facilities and prevent contamination of runoff by construction chemicals and materials.

- 3.111 New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.
- 3.113 Outdoor material storage areas shall be designed using BMPs to prevent stormwater contamination from stored materials.
- 3.115 Permits for new development shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required BMPS. Verification of maintenance shall include the permittee's signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility.
- 3.116 The City, property owners, or homeowners associations, as applicable, shall be required to maintain any drainage device to insure it functions as designed and intended. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.
- 3.120 New development shall protect the absorption, purifying, and retentive functions of natural systems that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems shall be restored, where feasible, except where there are geologic or public safety concerns.

The project site is located immediately west of Malibu Lagoon State Park, in the Civic Center area of the City of Malibu. Malibu Lagoon State Park is mapped as an environmentally sensitive habitat area (ESHA) in the Malibu LCP. The Malibu Lagoon has been determined to be ESHA due to its unique nature, its extreme vulnerability to development, and its important role in providing habitat for endangered species. Malibu Lagoon is one of the last large wetlands in Los Angeles County. Federally endangered tidewater gobies (*Eucyclogobius newberyyi*) and southern steelhead trout (*Oncorhynchus mykiss irideus*) use the lagoon and federally endangered brown pelicans (*Pelecanus occidentalis californicus*) can be seen in and around the lagoon. Malibu Lagoon and Malibu Creek support one of the few remaining steelhead trout runs in Southern California.

Currently, surface runoff flows into two large inlets along the southern edge of the property. These inlets tie directly into a large storm drain, which outlets to Malibu Lagoon. Subsurface drainage is collected in an underdrain system located beneath the putting area, which is also tied into the large storm drain. Under current conditions, there is no treatment or filtration (except for natural infiltration) of any runoff from the property. The transport of drainage into Malibu Lagoon was permitted under CDP 5-82-192.

Because the as-built development drains directly into the lagoon, water quality impacts in this case are synonymous with impacts to ESHA. Therefore, consistency of the proposed project with the water quality and ESHA policies of the Malibu LUP is addressed jointly in this section.

The proposed project includes the request for after-the-fact approval for construction of golf practice areas in an existing 10 acre private park, a 985 sq. ft. storage building, a driveway, and approximately 8,982 cu. yds. of additional grading for a total of 20, 482 cu. yds. of grading on site. In addition, the project includes a new 10-foot wide, approximately 620 foot long native vegetation buffer, recirculating drainage system, turf management plan, water quality monitoring plan, abandonment of existing unpermitted septic system, installation of a new secondary treatment septic system, and an offer to dedicate the site as a public park pursuant to a settlement agreement.

Because the applicant is seeking to modify a previously approved project, in order to determine the proposed project's consistency with the ESHA policies of the Malibu LUP, the Commission must consider the impact of the proposed modifications on the adjacent Malibu Lagoon. Possible impacts include: 1) increased disturbance of adjacent ESHA, including introduction of non-native invasive plant species, decreased setbacks, and light pollution; and 2) increased impacts on water quality, including increased transport of polluted runoff into the lagoon, and increased freshwater inputs that, via groundwater migration or surface runoff, decrease the salinity of lagoon waters. These potential impacts are discussed in turn below.

#### Disturbance of adjacent ESHA

The proposed project site consists of an approximately 10 acre property developed as a private park with a storage building, driveway, and golf practice areas. An eight-foot high stone perimeter wall separates the majority of the project site from the adjacent Malibu Lagoon State Park, with the exception of a ten-foot wide strip of land that lies east of the wall and is contiguous with State Park land. Landscaping within the walled area consists of turf and primarily non-native trees, as well as some California sycamores (*Platanus racemosa*). Special Condition One (1) of the original permit required submittal of a landscaping plan, utilizing plants consistent with those on the State Park, for the area east of the wall. The landscaping plan, however, was not implemented, and the area is currently sparsely vegetated with non-native grasses.

The applicant proposes to landscape this area with native plant species consistent with the surrounding habitat. The habitat adjacent to this area consists of mixed scrub, dominated by quail bush, mule fat, coyote brush, and lemonadeberry, as well as some non-native pine trees. The mixed scrub habitat extends approximately 50 to 165 feet east of the applicant's property line, where it transitions into wetland habitat. Thus the distance between the developed portion of the project site and the wetland is approximately 60 to 175 feet. Policy 3.88 of the Malibu LCP requires a minimum 100 foot setback from wetlands, and Policy 3.24 of the Malibu LCP requires a minimum 100 foot setback from park lands. However, the development parameters, including the location of the eight foot high wall that marks the developed portion of the project, were lawfully established under CDP No. 5-82-192. The proposed project does not reduce the setback distance or expand the development area of the project. The applicant proposes to restore native plants in the buffer area between the private park and the wetlands in Malibu Lagoon State Park. This is essentially what was required in CDP 5-82-192, but not implemented. Restoration of this area with native plants will improve the value of this area as a wetland buffer.

The applicant has submitted a report comparing the impacts of the previously approved private park and the as-built golf course ("Comparison of Potential Biological Impacts on Malibu Lagoon Between 1982 Approved Plan for Perenchio Park and Current Park Configuration," Glenn Lukos Associates, December 19, 2002). The report notes that the plant palettes for the approved and as-built parks are very similar, containing primarily non-native trees (as well as some California sycamores) and turf. The approved landscaping plan also contains two invasive non-native trees, Peruvian pepper (*Schinus molle*) and Eucalyptus (*Eucalyptus globulus*), and several planter areas containing ornamental species planted on a seasonal basis. The report concludes that habitat values for the approved and existing parks would not be measurably different, and would primarily provide habitat for urban bird species. The report also concludes that the approved park exhibits a greater potential for invasion of non-native invasive plant species into the lagoon because of the two species of invasive trees included in the approved landscaping plan. These trees are eliminated in the proposed amendment.

Therefore, the proposed modifications to the approved park will not increase the potential for introduction of non-native invasive plant species into the lagoon. As noted above, the proposed project also includes a native landscaping plan for the ten foot wide strip of land adjacent to the lagoon, as required by Special Condition One (1) of the original permit. In order to ensure that the proposed plan is implemented, **Special Condition Eight (8)** requires the applicant to submit a buffer landscaping plan, utilizing a native plant palette consistent with the surrounding habitat, prior to issuance of the permit amendment. In order to ensure that the proposed restoration is successful, **Special Condition Eight (8)** also requires the applicants to submit annual performance reports during a five-year monitoring period.

In order to implement the applicant's offer to execute and record an irrevocable offer to grant the property to the State of California in accordance with the terms and conditions of the Settlement Agreement, **Special Condition Eleven (11)** is required.

As noted above, the Malibu Lagoon provides vital habitat for a variety of wildlife, including several endangered species. The Commission has found, in past permit actions, that night lighting may alter or disrupt feeding, nesting, and roosting activities of both terrestrial and aquatic organisms. Policy 3.56 of the Malibu LCP requires that night lighting be minimized where it would increase illumination in ESHA. Although the applicant has not proposed any lighting for the golf course at this time, in order to mitigate any potential future impacts, Special Condition Nine (9) limits the amount of lighting allowed on the site to the minimum necessary for security purposes, and to temporary event lighting to be used no more than three times annually. In addition, in order to ensure that any future site development is reviewed for its potential impacts on ESHA, Special Condition Ten (10) addresses future development by ensuring that all future development proposals for the site, which might otherwise be exempt from review, would require prior review so that potential impacts to the adjacent ESHA may adequately be considered. Finally, Special Condition Twelve (12) requires the applicant to record a deed restriction that imposes the terms and condition of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

#### Water Quality

As noted above, the project site is located immediately west of Malibu Lagoon State Park, a designated environmentally sensitive habitat area (ESHA) in the Malibu LCP. Malibu Lagoon is

one of the last large wetlands in Los Angeles County, and provides habitat for federally endangered species including tidewater gobies (*Eucyclogobius newberyyi*), southern steelhead trout (*Oncoryhynchus mykiss irideus*), and brown pelicans (*Pelecanus occidentalis californicus*). In addition, Malibu Lagoon discharges to the Pacific Ocean at Malibu Beach, a popular recreation area.

Currently, surface runoff flows into two large inlets along the southern edge of the property. These inlets tie directly into a large storm drain, which outlets to Malibu Lagoon. Subsurface drainage is collected in an underdrain system located beneath the putting area, which is also tied into the large storm drain. Under current conditions, there is no treatment or filtration (except for natural infiltration) of any runoff from the property.

Because the as-built development drains directly into Malibu Lagoon, the Commission must consider the potential impacts of the proposed modifications on the water quality of the lagoon and surrounding coastal waters. These impacts include increased transport of pollutants into the lagoon and ultimately into ocean waters, and decreased salinity of lagoon waters due to increased freshwater inputs.

The discharge of pollutants such as fertilizers, herbicides, and pesticides can cause cumulative impacts such as eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat including adverse changes to species composition and size; algae blooms that reduce the penetration of sunlight needed by aquatic vegetation, which provides food and cover for aquatic species; disruptions to the reproductive cycles of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. Excessive freshwater inputs can contribute to lowered salinity levels in saltwater environments, thus altering the chemical balance upon which saltwater organisms depend.

Commission staff notes that there is concern regarding chemical use and excessive irrigation on site and the potential impacts that these activities may have on water quality in the lagoon and surrounding coastal waters, including groundwater. The applicant has prepared and submitted several plans and reports that address these potential impacts and propose modifications and measures to monitor and protect water quality. The applicant incorporated suggestions made by Heal the Bay and Wetlands Action Network into their plans and proposals.

The applicant has submitted a report containing details of the proposed new drainage system, entitled "Updated Perenchio Park Drainage System Improvements Preliminary Design Report," by GeoSyntec Consultants, dated December 22, 2003 (Exhibit 13). This report recommends modifications and improvements to the current drainage system, including the elimination of all subsurface drainage connections to the main storm drain, installation of a sump and pump underdrain system, which includes filters, installation of a storage tank and redistribution system for water collected in the underdrain system, and manually controlled valves at the inlets to the main storm drain.

Removing the subsurface drainage connections to the main storm drain will eliminate the direct discharge of runoff containing the highest concentrations of chemicals to the lagoon. This runoff will, instead, enter the underdrain system through inlets or by infiltration, be pumped through a set of filters designed to remove solids and organic matter, contained in the storage tank, and then redistributed on site, allowing for biofiltration prior to discharge or re-collection in the underdrain system. With these drainage improvements, there will be no discharge of surface water from the site during dry weather or during storms up to and including a 1-inch 24-hour

rainfall event, which meets the Los Angeles Regional Water Quality Control Board standard treatment requirement.<sup>2</sup> Therefore, the implementation of the Drainage System Improvements will minimize impacts to water quality of the lagoon and surrounding coastal waters.

The applicant has also submitted a report addressing the use of chemicals on the site, entitled "Turf Management Plan," by David L. Wienecke, dated June 7, 2004 (Exhibit 14). This report defines Best Management Practices (BMPs) for the site, focusing on BMPs concerning irrigation, fertilization, and pest management. The plan goal is to develop and implement biorational maintenance procedures for minimizing pesticide and fertilizer use within an integrated pest management framework. The Turf Management Plan states:

The Park employs both source and treatment control measures to minimize the potential for site activities to negatively affect the nearby surface or ground water. Source control measures include implementation of an Integrated pest management plan that prescribes the type, scheduling, and application rate of chemical application at the site to maintain healthy vegetation and control pests. Another component of the source control program at the Park is efficient management of irrigation water to ensure that no surface runoff is generated during irrigation and that the rate of irrigation is matched to the plant's needs.

Treatment control measures include the capture of return flows from the putting area underdrain and surface runoff from smaller sized storm events, mechanical filtration, a 4,000-gallon storage tank for detention of collected flows, and surface application of the collected water. The collected water will be applied to the turf approximately 500 ft. up gradlent from the outlet catchbasins from the site allowing for biofiltration, evapotranspiration, and degradation of chemicals that may be entrained in the flow. Stormdrain inlets will be sealed and controlled by valves to prevent any dry-weather or nuisance flows from being released from the site.

With implementation of these best management practices, no dry-weather surface runoff will be discharged from the property and wet-weather flows should only occur during infrequent flood-sized events.

The report also includes a recommended pesticides list that contains the least toxic chemicals proposed for use. In addition, the irrigation management measures will minimize excessive freshwater input to the lagoon, reducing the potential for impacts to saltwater organisms in the lagoon ecosystem. Therefore, the implementation of the provisions in the Turf Management Plan will minimize impacts to water quality of the lagoon and surrounding coastal waters.

The applicant has submitted a plan for water quality monitoring to provide water quality data that demonstrates that the best management practices proposed for the site adequately protect the Malibu Lagoon and surrounding coastal waters from any potentially negative impacts associated with activities that occur at the park. This plan, entitled "Water Quality Monitoring Plan," by GeoSyntec Consultants, dated June 7, 2004 (Exhibit 15), includes: (a) monitoring for all pollutants of concern; (b) specifying maximum threshold levels for each water quality parameter; (c) specifying sampling protocols; (d) conducting monitoring for at least three years; (e) preparation of annual reports summarizing of monitoring for submittal to Coastal Commission, the City of Malibu and Los Angeles Regional Water Quality Control Board (LARWQCB); and (f)

<sup>&</sup>lt;sup>2</sup> Final County of Los Angeles MS4 Permit, (Regional Board Order 01-182, December 13, 2001)

corrective measures to address chemicals that significantly contribute to water quality threshold exceedances after three years. The Water Quality Management Plan states:

The goal of this monitoring plan is to provide a set of standard procedures and protocols to collect data of sufficient breadth and quality so that the impacts management activities at Perenchio Park may have on the water quality of Malibu Lagoon and surrounding coastal waters can be accurately assessed. Additionally, the results of the water quality monitoring will be useful for managing chemical usage on the property to maintain optimal vegetative conditions while minimizing potential for transport of chemicals off site via surface water runoff or groundwater infiltration. This monitoring plan also includes a "contingency plan describing the actions to be taken if water quality impacts are discovered."

Both return flows collected by the underdrain collection system and stormwater runoff will be sampled for a select list of constituents, including nutrients and pesticides. Return flow sampling will occur at least twice each year for a minimum of three years, and stormwater sampling will occur at least three times each year (weather permitting) for a minimum of three years. During this monitoring, if any water quality thresholds are exceeded, the applicant will notify the Executive Director, report on the possible causes of the exceedances and any proposed corrective actions taken, and consult with Commission and LARWQCB staff regarding the need for additional sampling or corrective actions. In addition, if after three years of water quality monitoring, the average concentration of any parameter exceeds the action threshold for the year-three monitoring data, additional physical improvements or water quality treatment systems will be proposed and implemented as required by the Executive Director. After the initial three-year monitoring.

The monitoring plan includes sampling to evaluate both surface water and groundwater impacts. Stormwater runoff will be sampled when a storm event occurs that is large enough to produce runoff that enters the main storm drain. Sampling of this stormwater runoff will provide data on the quality of surface runoff entering the lagoon. The groundwater monitoring component includes sampling the return flows during dry weather when the only source of water entering the underdrain collection system will be that which infiltrates through the putting areas (the most heavily irrigated and chemically managed areas). This sampling will provide data on the quality of water that could potentially be infiltrated to groundwater at the site, and will serve as an indicator of potential groundwater impacts.

The Water Quality Monitoring Plan will provide data to evaluate if the best management practices being implemented on site are adequately protecting the water quality of the lagoon and surrounding coastal waters. If any water quality thresholds are exceeded, corrective actions must be taken to reduce pollutants to below threshold levels and minimize water quality impacts. Therefore, the implementation of the provisions in the Water Quality Management Plan will minimize impacts to water quality of the lagoon and surrounding coastal waters.

The proposed drainage improvements, best management practices, and monitoring requirements, as described in the reports and plans discussed above, meet the Water Quality Management Plan requirements prescribed in the Malibu LIP, provided that the plans are properly implemented. Therefore, in order to ensure that these measures to minimize water quality impacts are implemented, **Special Condition Four (4)** requires the applicant to implement the drainage system improvements described in "Updated Perenchio Park Drainage System Improvements Preliminary Design Report," by GeoSyntec Consultants, dated

#### 5-82-192-A2 (Perenchio) Page 22

December 22, 2003 (Exhibit 13); Special Condition Five (5) requires the applicant to implement the provisions described in "Turf Management Plan," by David L. Wienecke, dated June 7, 2004 (Exhibit 14); and Special Condition Six (6) requires the applicant to implement the provisions described in "Water Quality Monitoring Plan," by GeoSyntec Consultants, dated June 7, 2004 (Exhibit 15). With these measures, the proposed amendment will result in minimal impacts to water quality in the lagoon and surrounding coastal waters and, in fact, will reduce the risks of polluted runoff entering the lagoon.

In addition, the applicant proposes to abandon an unpermitted septic system on the site and to install a new septic system. In order to ensure that the proposed new secondary treatment septic system complies with the policies and provisions of the Malibu LCP pertaining to on-site wastewater treatment systems, and to prevent any water quality impacts that may result from continued operation of the sub-standard septic system, **Special Condition Seven (7)** requires the applicant to submit a report that verifies the new septic system's compliance with the relevant sections of the Malibu LCP and that includes plans and a description of the proposed abandonment of the existing septic system.

Finally, in order to ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition Thirteen (13)** requires the applicant to comply with all conditions of the permit within 180 days of Commission action on the permit application.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with the ESHA and water quality protection policies of the Malibu LCP.

## E. Violations

Development has occurred on the subject site without the required coastal development permits, including the construction of golf facilities, a 985 sq. ft. storage building, septic system, and driveway in a permitted 10 acre private park, changes to the landscaping, irrigation and drainage plans, and approximately 9,000 cu. yds. of additional grading. The originally approved project allowed for approximately 11,500 cu. yds. of grading on site, the as-built project includes 20,482 cu. yds. of grading (2,092 cu. yds. cut, 18,390 cu. yds. fill). The applicant requests after-the-fact approval for the development described above with the exception of the unpermitted septic tank. The applicant also requests approval to construct a new recirculating drainage system, implement turf management and water quality control plans, construct a ten foot wide, approximately 620 foot long native vegetation buffer area, abandon the unpermitted septic system in place, and implement an offer to dedicate the property to the State pursuant to a settlement agreement dated June 24, 2004.

The subject permit application addresses the unpermitted development, as well as the new development proposed in the subject application. In order to ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition Thirteen (13)** requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 180 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Consideration of this application by the Commission has been based solely upon the policies of the Malibu LCP. Review of this permit does not constitute a waiver of any legal action with

#### 5-82-192-A2 (Perenchio) Page 23

regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

# F. <u>CEQA</u>

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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 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 that would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



Exhibit 1 CDP No. 5-82-192-A2 Vicinity Map

Local Coastal Program - City of Malibu ESHA and Marine Resources Map 3:

# Dan Blocker to Malibu Pier



Exhibit 2 CDP No. 5-82-192-A2 ESHA Map



Copyright (C) 2002 Kenneth Adelman, California Coastal Records Project, www.californiacoastline.org

Exhibit 3 CDP No. 5-82-192-A2 Aerial View



Copyright (C) 2002 Kenneth Adelman, California Coastal Records Project, www.californiacoastline.org

Exhibit 4 CDP No. 5-82-192-A2 Aerial Close-up









Exhibit 8 CDP No. 5-82-192-A2 As-Built Grading Plan

11.12



State of California, Edmund G. Brown Jr., Governor

7-29-82/RF/bp

Calitornia Coastal Commission SOUTH COAST DISTRICT	COASTAL DEVELOPMENT PERMIT NO	5-82-192
666 E. Ocean Blvd., Suite 3:107	福姆特部 自己的 化不可能 防衛化 常知	
Long Beach, CA = 90801 (213) 590-5071		Page 1 of <u>2</u>

On July 27, 1982, The California Coastal Commission granted to

A. Jerrold Perenchio, c/o 1901 Avenue of the Stars, Los Angeles, CA 9006

this permit for the development described below, subject to the attached Standard and Special conditions.

Construction of 8 foot high rock wall around ten acre parcel, landscaping including construction of 3 ponds, installation of jogging track, irrigation system, lighting system, dish radio receiver, and 3 gazebos.

SITE: 23554 Pacific Coast Highway Malibu, CA

Issued on behalf of the California Coastal Commission by

 IMPORTANT:
 THIS PERMIT IS NOT VALID UNLESS

 AND UNTIL A COMMUNICATION OFFICE
 STATE OF THE SIGNED ALL STATE OFFICE.

 SIGNED TO THE COMMUNICATION OFFICE.

<u> </u>	u/u/n )	
MICHAEL	L. FISCHER	
Executiv	ve Director	
and 👝	and a second and a second and a second and a second a sec	
and the second sec		
	and the second s	
14	and the second and the second and the	
V		

ACKNOWLEDGEMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.



Date

Exhibit 10 Signati CDP No. 5-82-192-A2 Original Permit (CDP No. 5-82-192) Coastal Development Permit No. \_\_\_\_\_ Fage 2

#### STANDARD CONDITIONS:

 Notice of keceipt and Acknowledgement. The permit is not valid and construction 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.

5-82-192

- Expiration. If construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction 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. Congliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- 6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affadavit accepting all terms and conditions of the permit.
- 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.

#### SPECIAL CONDITIONS:

This permit is subject to the following special conditions:

1. Landscaping Plan. Prior to issuance of the permit, the applicant shall submit a specific landscaping plan for the setback area adjacent to Malibu Lagoon State Park. This plan shall indicate specific plant species and shall utilize species consistent with the landscaping contained in the Malibu Lagoon Restoration Plan. This plan shall be subject to the review and approval of the Executive Director. In reviewing this plan the Executive Director shall consult with the Department Division of the Department of Parks and Recreation to ensure consistency with the Lagoon Restoration Plan. All landscaping called for in this plan, as well as all irrigation improvements required by this plan shall be completed within three (3) months of completion of the eastern portion of the rock wall.

2. Interim Use. By accepting this permit, the applicant acknowledges that the proposed improvements (perimeter wall and landscaping) constitute a temporary and interim use of the parcel and that the eventual appropriate use will be as designated in the Commission certified Malibu Local Coastal Program. The applicant further acknowledges that this approval in no way constitutes a commitment to private intensification of residential use of the applicant's ownership. Coastal Development Permit No. \_\_\_\_ Page 2

5-82-192

STANDARD CONDITIONS:

- Notice of Receipt and Acknowleciement. The permit is not valid and construction shall not commerce 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.
- Expiration. If construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction 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. Congliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affadavit accepting all terms and conditions of the permit.
- 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.

#### SPECIAL CONDITIONS:

This permit is subject to the following special conditions:

1. Landscaping Plan. Prior to issuance of the permit, the applicant shall submit a specific landscaping plan for the setback area adjacent to Malibu Lagoon State Park. This plan shall indicate specific plant species and shall utilize species consistent with the landscaping contained in the Malibu Lagoon Restoration Plan. This plan shall be subject to the review and approval of the Executive Director. In reviewing this plan the Executive Director shall consult with the Department Division of the Department of Parks and Recreation to ensure consistency with the Lagoon Restoration Plan. All landscaping called for in this plan, as well as all irrigation improvements required by this plan shall be completed within three (3) months of completion of the eastern portion of the rock wall.

2. Interim Use. By accepting this permit, the applicant acknowledges that the proposed improvements (perimeter wall and landscaping) constitute a temporary and interim use of the parcel and that the eventual appropriate use will be as designated in the Commission certified Malibu Local Coastal Program. The applicant further acknowledges that this approval in no way constitutes a commitment to private intensification of residential use of the applicant's ownership.

-Condition incorporated on Communication in component by Communication in component by Communication of the commun

State of California, Edmund G. Brown Jr., Governor

California Coastal Commission SOUTH COAST DISTRICT 666 E. Ocean Blvd., Suite 3107 P.O. Box 1450 Long Beach, CA 90801 (213) 590-5071

Date Filed: 4-14-82 49th Day: waived 10-7-82 180th Day: Staff Analyst: RF Staff Report Hearing Date: 7-27/30-82

ABBroved purtit

#### REGULAR CALENDAR

#### STAFF REPORT AND RECOMMENDATION

Application No. 5-82-192

Applicant: A. Jerrold Perenchio

Agent: Lynne Boutross Christine Brophy

Construction of 8 foot high rock wall around ten acre parcel, Description: landscaping including construction of 3 ponds, installation of jogging track, irrigation system, lighting system, dish radio receiver, and three gazebos (Exhibit 2)

Site: 23554 Pacific Coast Highway, Malibu, Los Angeles County (Exhibit 1)

SUMMARY

Staff recommends approval of the proposed development as the project does not represent a permanent commitment of this parcel to private use, and will not adveresly impact coastal resources.

Exhibit 11 CDP No. 5-82-192-A2 Staff Report, Original Permit (CDP No. 5-82-192)

7-27/30-82
#### SUBSTANTIVE FILE DOCUMENTS

1. Malibu/Santa Monica Mountains Interpretive Guidelines.

2. Recreation Technical and Information Papers No. 1, <u>A Study of Visitor</u> <u>Use in Selected Units of the California Park System, Summer, 1968</u>, prepared by Ralph McCormick for Department of Parks & Pecreation, May, 1972.

3. Commission testimony before Senate Committee on Natural Resources and Wildlife, November 27, 1978.

4. Commission staff comments on County Santa Monica Mountains Area Plan, December 22, 1980.

5. <u>Santa Monica Mountains Comprehensive Plan</u>, Santa Monica Mountains Comprehensive Planning Commission, August, 1979.

6. <u>Preliminary Area Plan</u>, Malibu/Santa Monica Mountains Area Planning Program, Los Angeles County, Department of Regional Planning, August, 1980.

7. <u>Santa Monica Mountains and Seashore Plan</u>, California Department of Parks and Recreation, 1975.

3. Appeals Nos. 171-77 (Jacobs), 215-79 (Schulte), 101-79 (Hollister), 381-78 (Headlands Properties, Inc.), 509-77 (Bel Mar), 1673-77 (Mooney), 45-77 (Issaac & Martin), 302-79 (Bergin, 174-77 (Sorensen).

9. Division 14 of the California Public Resources Code.

10. Title 7.75 of the Natural Resources Code.

11. Public Law 95-626, enacted by Congress November 10, 1978, creating NPA.

#### STAFF RECOMMENDATION

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a parmit for the proposed levelopment on the grounds that the development is conditioned will be in conformity with the provisions of Chapter 3 of the Taliformia Coastal Act of 1976, 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 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

#### II. Standard Conditions

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

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

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

4. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

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

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

. . .

#### III. Special Conditions

The permit is subject to the following special condition:

1. Landscaping Plan. Prior to the issuance of the permit, the applicant shall submit a specific landscaping plan for the set-back area adjacent to Malibu Lagoon State Park. This plan shall indicate specific plant species, and shall utilize species consistent with the landscaping contained in the Malibu Lagoon Restoration Plan. This plan shall be subject to the review and approval of the Executive Director. In reviewing this plan the Executive Director shall consult with the Development Division of the Department of Parks and Recreation to ensure consistency with the Lagoon Restoration Plan. All landscaping called for in this plan, as well as all irrigation improvements required by this plan shall be completed within three (3) months of completion of the eastern portion of the rock wall.

#### IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

1. <u>Project Description</u>. The applicant proposes construction of a private park for his personal use on a ten acre parcel bounded by Malibu Colony, Pacific Coast Highway, and Malibu Lagoon State Park (Exhibit 1). The parcel is currently vacant. The park would be enclosed by an eight foot high natural rock wall (Exhibit 3). This wall would be set-back 22 feet from the Pacific Coast Highway right-of-way, and seven feet from Malibu Lagoon State Park. Within the enclosed area the applicant proposes grading to create three ponds, a half-mile jogging trail of decomposed granite, and landscaped areas (Exhibit 2). The applicant further proposes installation of a water line from Pacific Coast Highway, an irrigation system, a lighting system, and a drainage swale at the southern edge of the property draining to Malibu Lagoon State Park, to replace an existing drainage channel which is subject to stagnation. Other improvements include three gazebos and a dish radio receiver. The subject parcel is located within Malibu Civic Center.

#### 2. Recreation Land in the Malibu/Santa Monica Mountains Idastal Zone

Section 10001.5 of the Coastal Act states that one of the basic goals of the Coastal Act is to maximize public recreational opportunities in the coastal zone consistent with the protection of public rights, private property rights, and preservation of natural resources. As one means of realizing this goal, Section 30222 and 30223 provide that:

#### Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

# Section 30223

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

In testimony presented to a joint Senate-Assembly committee on proposed legislation intended to limit the Commission's jurisdiction within the Mountains in 1978, the Commission declared the mountains an upland recreational support area capable of providing needed recreational opportunities for residents of and visitors to the greater Los Angeles metropolitan area. Assessing the value of the mountains as a recreational entity, the Commission stated:

> The Santa Monica Mountains are located in the midst of a population center of 10 million people in Los Angeles and Ventura Counties. In spite of some outstanding parks, metropolitan Los Angeles is relatively deficient in parks. According to the Southern California Association of Governments (Conservation and Open Space Plan, 1977), the region meeds to acquire 75,000 acres in Los Angeles County along by 1997 to reach commonly accepted standards.

> The iemand for recreation in California is increasing at a rate faster than the growth of population. The annual demand for outdoor recreational activities in the Santa

Monica Mountains and seashore area will jump from 43% of the total recreational demand of Ventura and Los Angeles Counties combined in 1970 to 65% of the total in 1990...outdoor recreational participation days for the Santa Monica Mountains are expected to increase 160% between 1970 and 1990 in comparison to a 70% increase for the overall Ventura-Los Angeles region...

The natural and largely unspoiled setting of the Mountains and shoreline combine with its proximity to a large metropolitan region to make this area a most logical and desirable location for parks and open spaces offering a wide array of recreational opportunities. A KEY COMPONENT OF THE COASTAL ACT IS TO ENSURE THAT THESE OPPORTUNITIES, AND ACCESS TO THEM, ARE PRESERVED ON AND ALONG THE COAST. THE INCLUSION OF UPLAND AREAS IS ALSO RECOGNIZED AS A MECESSITY IN SUPPORTING COASTAL RECREATIONAL USES. (P.R.C. 30210, 30220-4)

The excellent sun-bathing and swimming opportunities provided at Santa Monica Mountain beaches generate visitor attendance in excess of twelve million annually. Inland parks, including Pt. Mugu State Park, Leo Carillo State Park, Malibu Creek State Park, Topanga State Park, Will Rogers State Historical Park and Tapia County Park serve the needs of picnicking, hiking, camping and horseback riding.

Of course, scenic sightseeing can and does occur throughout the area. The dramatic contrasts of rugged ridgetops and pastoral valley floors, meandering streams in lush riparian corridors and dry chaparral covered slopes, sandy beaches and rolling hills combine to distinguish the scenic splendor of the second regions. In addition to experiencing these qualities at beaches and parks, tens of thousands of people enjoy the visible natural beauty as they travel for business or pleasure on the mountaincus and coastal. roadways. THE COASTAL ACT RECOGNIZES THE NEED TO PROTECT SCENIC AND VISUAL QUALITIES WITHIN THE COASTAL ZONE IN THE SITING AND DESIGNING OF DEVELOPMENT AND DEGREE OF ALTERATION OF NATURAL LAND FORMS. (P.R.C. 30251) The concept of viewshed protection is applied to ensure that scenic views from public parks and roadways are protected.

The Commission's recognition of the recreational potential of the mountains is paralled by a continuing state and federal interested in protection of the mountains as a unique coastal recreational resource. This interest was first expressed by the Legislature in its creation of the Santa Monica Mountains Comprehensive Planning Commission in 1976:

المحمد سوك بدعان الكائم سك بمتحد بعادي والرا

The Legislature hereby finds and declares that the Santa Monica Mountains Zone...is a unique and valuable economic, environmental, agricultural, scientific, educational and recreational resource which should be held in trust for present and future generations; that, as the last large undeveloped area <u>contiguous to the</u> <u>shoreline</u> within the Los Angeles region it provides essential relief from the urban environment; that it exists as a single ecosystem in which changes in one part may also affect other parts; and that the preservation and protection of this resource is in the public interest (Section 67450 of Title 7.75 of the Natural Resources Code)

-6-

Through adoption of the Coastal Act in 1976 the Legislature acknowledged the significance of the Santa Monica Mountains as a coastal recreational resource by expanding the regulatory authority of the Commission to the five mile limit allowed under the Coastal Act. Two years later the Legislature reaffirmed its commitment to protection of the valuable land, aquatic, current and potential recreational resources of the Mountains in its rejection of two bills which proposed limiting the Coastal Zone Boundary to 1,000 yards in land from the MHT line or the first major ridgeline paralleling the sea, respectively (AB 2301, Papan; SB 770, Cusanovich). In 1979 the Legislature formed the Santa Monica Mountains Conservancy to implement the proposals formulated by its predecessor agency, the Comprehensive Planning Commission.

The federal government expressed its interest in preservation of the mountains as a recreational resource of natural significance through the creation of the Santa Monica Mountains National Recreational Area in 1978.

Although the preparation of the local coastal program for this area is at a virtual standstill, plans prepared by the National Park Service (1980), the Santa Monica Mountains Comprehensive Planning Commission (1978), the County Regional Planning Commission (1980) and the Department of Parks and Recreation (1975) are fairly united in their proposals for the development of the Mountains as a recreational resource. These plans envision a network of parklands, beaches, private recreational facilities, and trails linking significant scenic, cultural, and natural features of the mountains.

#### 3. Malibu Civic Center

The subject parcel is part of what is considered the Malibu Civic Center, a flat coastal lowland marking the delta of Malibu Creek. The Malibu Civic Center, as it is located in the center of Malibu and at the intersection of the two major traffic arteries in the Malibu coastal zone (malibu Canyon Road and Pacific Coast Highway) has historically developed as the service center of Malibu. While most of the Civic center remains undeveloped, existing development already includes the county of Los Angeles administration building and sherriff's station, several professional buildings, and a wide variety of retail and shopping stores serving local needs. The Civic Center area presently does not contain a wide variety of visitor-serving facilities, e.g. hotels.

Because of the Civic Center area's central location and large amount of developable land, proximity to existing state parks and beaches, the strong mandate of the Coastal Act to provide visitor serving uses, and the wide recognition Malibu has had a regional recreational area, the Commission has adopted policies for reserving vacant land in the Civic Center for visitorrelated uses. Until such time as the extent of these needs can be determined, as through the Local Coastal Program, the Commission's Guidelines stress that new development for the Civic Center should not bedapproved prior to certification of a Local Coastal Program unless that development provides such uses. The Guidelines state:

> New development in the Malibu Civic Center should not be permitted until the Local Coastal Program (LCP) for the area is certified. Prior to the certification of the LCP, applicants should demonstrate that the project is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 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 of the Coastal Act of 1976.

The subject parcel represents 10 acres of approximately 160 acres currently vacant in the Civic Center. The subject parcel also represents the parcel of land in the Civic Center with the strongest relationship to the shoreline, as the parcel is seaward of Pacific Coast Highway and adjacent to Malibu Lagoon State Park (see below).

والمحاصف والمترو

88.5 g**f**1 - Life (77.5%)

antitalita Creed a man water ser a mater the second s - Printer Stranger (\* 1920) Method (\* 18

States States



The applicant through this application proposes development of this parcel into private open space for use in conjunction with his adjacent home in Malibu Colony. Such use of a parcel highly suited for a visitor-serving use is clearly inconsistent with Sections 30222 and 30233 of the Coastal Act, as well as the Commission Malibu/Santa Monica Mountains Interpretive Guidelines. As such, were the use of this property confined to private open space, the Commission would be required to deny the application so as to retain this this land's potential for visitor-serving uses. The Commission notes, however, that realistically the development of this parcel for a visitor-serving use, e.g. a hotel, is not a short-term possibility. Like most of the Civic Center, the subject parcel is alluvial deposits of Malibu Creek, and as such has a high-water table. This is especially tru of the subject parcel as it borders Malibu Lagoon. Thus, major development of the Civic Center, especially the subject parcel, is predicated on development of some form of sewage treatment facility, either through individual systems which Los Angeles County has discouraged or a regional system. Either way, development of a visitor-serving use on this parcel would not be likely in the short-term.

In essence, the applicant is therefore faced with the choice of letting the land remain vacant, as has been the case in the past, or enclosing the property, landscaping as proposed in the application, thereby enabling the applicant to, while waiting for infrastructure to develop in the Civic Center, enjoy an interim use of the property. More importantly, all the development proposed in this application would not preclude eventual use of the property as a visitor-serving use. The proposed development would in fact enhance the suitability of the property for a visitor-serving use by doing major landscaping now thereby permitting the landscaping to mature when a visitor-serving use is possible on the property.

Thus, while the applicant now proposes a private use of the property, the Commission finds that this use of the property will not praclude eventual use as a visitor-serving site, and will in fact enhance this eventual use. Further, the Commission acknowledges that short-term use of this property for visitor serving uses in infeasible due to the present lack of infrastructure. The Commission therefore concludes that the proposed use of this parcel is merely a holding use for future development. As nothing in this application will preclude such future development, the Commission finds the subject application will not result in a loss of land suited for recreational use, and the application is therefore consistent with Sections 30222 and 30223 of the Coastal Act.

#### 4. Scenic and Visual Qualities

Section 30251 of the Coastal Act provides:

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 an 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.

The applicant proposes construction of an 8 foot wall adjacent to Pacific Coast Highway and Malibu Lagoon State Park. The applicant contends, however, the wall will be setback 22 feet from Pacific Coast Highway's right of way, and approximately 30 feet from the edge of the pavement. The applicant further contends that Pacific Coast Highway is two feet above the grade of the parcel, reducing the apparent height of the wall to six feet. The wall will not block any views of the ocean. The applicant finally notes that the setback area will be landscaped and that the wall materials will be natural rock materials which will enhance the appearance of the area. Without comment on the materials used in the wall, the Commission concurs with the applicant that the setbacks proposed, the difference in grade between the highway and the wall, as well as the landscaping will mitigate any adverse impacts construction of such a wall might have. The Commission does have concerns on the wall's impact on Malibu Lagoon State Park.

The proposed wall will be set back seven feet from the park boundary, and will actually be located several feet above the grade of the park. To address these concerns, Commission staff contacted the Department of Parks and Recreation. The Department of Parks and Recreation responded that the wall will in fact be an asset to the park, as it will block views of the highway and existing commercial development from the natural areas of the Lagcon, as well as significantly reduce noise from Pacific Coast Highway. Parks and Recreation also believes that the choice of materials in the wall will be consistent with the character of Malibu Lagoon State Park.

Based on this information, the Commission finds that the proposed wall will not degrade coastal views from Malibu Lagoon State Park. The Commission does note that it is important for the landscaping used by the applicant in this setback area be consistent with that in the State Park, both to protect the ecological integrity of the park as well as for visual consistency. To ensure such protection, the applicant must submit a landscaping plan for this area to be reviewed by the Department of Parks and Recreation which will utilize species consistent with the plan for the Lagoon. As conditioned, the project's consistency with the State Park will be ensured, therefore the project will be consistent with Sections 30240(a) and 30251 of the Coastal Act.

#### 5. Public Trust Lands

There is historical evidence that Malibu Lagoon used to include portions of the subject parcel, and as such were at one time subject to the public trust. This area has been filled for some time. While the issue of public trust lands on Rancho lands was recently settled by the California Supreme Court, this ruling did not address filled wetlands.

Commission staff has contacted both the State Lands Commission and the Attorney General's office regarding this application. It is the opinion of both these agencies that the applicant's proposed project would not adversely affect the eventual legal outcome of filled wetlands as no division of land is proposed nor any structures proposed.

#### 6. Local Coastal Program

Section 30604(a) of the Coastal Act provides:

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 (commencing with Section 30200). A denial of 4 coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

-10-.

While Los Angeles County has not submitted a Local Coastal Program, the County has completed an Area Plan for the Malibu/Santa Monica Mountains which the Commission has considered in past permit actions. This plan designates the subject parcel as part of the Malibu Civic Center, a designation which is defined in the plan as:

> ...a multipurposes area encompassing a variety of uses including retail commercial, office, service business and compatible industrial uses, visitor serving commercial, governmental, residential--not in excess of the standards applicable to category 9B (10-15 dwelling units per acre), and agricultural. Each use requires a discretionary review procedure to insure that adequate design standards are applied includ-ng significant landscaped areas. Note: The plan calls for a "specific" plan" development program to be prepared for the Civic Center area.

Thus, while Los Angeles County has not prepared a Local Coastal Program, its other planning work has already signaled out the Civic Center area as meeding special protection and planning to protect the qualities of this area and ensure a mix of uses.

As discussed previously, the Commission finds that the development proposed in this application will not preempt future use of this site for civic center development, and will in fact provide significant landscaping and open areas. The Commission therefore finds that approval of this project will not prejudice the ability of Los Angeles County to prepare a Local Coastal Program consistent with Chapter 3 of the Coastal Act, and is therefore consistent with Section 30604 of the Coastal Act.







SENT BY: COASTAL COMM;

### SETTLEMENT AGREEMENT

# 1.0 PARTIES

The Parties to this Settlement Agreement ("Agreement") are A. Jerrold Perenchio, individually and as Trustee of that certain Jerry Perenchio Living Trust dated April 16, 1987, as amended ("Perenchio"), Margaret Rose Perenchio and the California Coastal Commission ("Commission") (collectively, "Parties").

## 2.0 <u>RECITALS</u>

- 2.1 Perenchio owns and controls that certain property located at 23554 Pacific Coast Highway, Malibu, in the County of Los Angeles, California, and more particularly described in Exhibit A, attached hereto ("Property").
- 2.2 On July 27, 1982, the Commission issued Coastal Development Permit No. 5-82-192 ("the Permit") for construction of a 10-acre private recreational park on the Property.
- 2.3 On June 24, 2002, the Commission issued Notice of Violation number V-4-02-064 ("NOV"), which alleges that certain development on the Property did not comply with the terms of the Permit, and requested that Perenchio submit an application for an "afterthe-fact" permit for the alleged unpermitted development.
- 2.4 On December 30, 2002, Bruce Darian filed an amendment to a complaint previously filed on September 22, 2000 in United States District Court, Central District of California, (United States of America ex rel. Darian v. Accent Builders, Inc., et. al., Case No. CV 00-10255-FMC (JWJx)) (the "Darian Litigation") naming numerous defendants, including Perenchio, and alleging, among other things, the occurrence of violations of environmental laws on the Property.

2.5 On May 12, 2003, Perenchio submitted an application for Coastal Development Permit 5-82-192-A1 (the "Application"), which sought authorization for development on the site, including among other things approval for the existing landscaped areas, a 985 square foot storage building, a driveway, an underground drainage system, approximately 9,000 cubic yards of grading, and new environmental enhancements including, among other things, a water quality improvement system and a native vegetation buffer area, and the abandonment of a septic system.

- 2.6 The Application was submitted in an attempt to resolve the dispute between Perenchio and the Commission as to the alleged violations and without any admission by Perenchio as to any of the alleged violations, and was intended to authorize all existing and proposed development at the Property under the California Coastal Act ("Coastal Act").
- 2.7 On October 14, 2003, Wetlands Action Network filed a complaint in the Superior Court of California, Los Angeles County, (Wetlands Action Network v. A. Jerrold Perenchio,

LA\1163733.20

Exhibit 12 CDP No. 5-82-192-A2 Settlement Agreement No. BC304169) (the "Wetlands Action Network Litigation") against Perenchio alleging, among other things, the occurrence of violations of the Coastal Act and the Porter-Cologne Water Quality Control Act of 1970 (the "Porter-Cologne Act") on the Property.

- 2.8 To allow the Commission staff additional time to review matters related to the Property, on December 23, 2003, Perenchio withdrew the Application and filed a re-application for Coastal Development Permit 5-82-192-A2 (the "Proposed Amendment"), which Proposed Amendment seeks authorization for the same development sought under the Application, as well the replacement of the existing septic system.
- 2.9 Perenchio disputes any allegation of non-compliance with the Fermit, the Coastal Act, the Federal Water Pollution Control Act (the "Clean Water Act"), the Porter-Cologne Act, or any other law or requirement with respect to the Property and makes no admission of violation or liability.
- 2.10 Subject to the terms and conditions set forth herein, Perenchio intends to donate the Property, excluding that portion over, and easement rights to, the Malibu Colony entrance road right-of-way, as more particularly described in Exhibit B, attached hereto ("Offered Property"), to the State of California upon the later to occur of his death and the death of his wife, Margaret Rose Perenchio, subject to the terms and conditions set forth herein. For the purpose of this Agreement, State of California ahall mean the State of California, any department, agency or other instrumentality of the State of California, and also any Joint Powers Authority organized and existing under the Joint Exercise of Powers Act (Gov. Code section 6500, et seq.) that has been approved by the Executive Director of the California Coastal Commission as grantee of the offer made in this agreement and in the accompanying "Irrevocable Offer to Dedicate Fee Title" (the "State").
- 2.11 The proposed donation of the Offered Property within the Coastal Zone to be maintained in perpetuity for use and enjoyment by the public would result in significant benefits to the people of California.
- 2.12 The Parties intend by this Agreement to fully and completely resolve, waive, and perpetually extinguish all claims by whomever brought arising under the Coastal Act and/or the Permit in connection with or related to the development, uses, activities or conditions on, or with respect to, the Property as it exists on the date of this Agreement.

#### 3.0 CONDITIONS PRECEDENT TO SETTLEMENT

- 3.1 This settlement is conditioned on, and this Agreement shall have no force or effect unless, the following conditions are satisfied:
  - a. The Proposed Amendment shall have been approved by the Commission no later than July 16, 2004 and issued no later than thirty (30) days after the satisfaction by Perenchio of all conditions of the Proposed Amendment that must be satisfied prior to its issuance, which issuance shall constitute authorization to use the Property as currently developed and constructed, and as authorized by the Proposed Amendment, subject only to the conditions of approval more particularly described in Exhibit C, attached hereto and

accepted by Perenchio, and including any Commission-required permit for the sink and toilet in the equipment shed and a new associated sewage disposal system for such sink and toilet, and such Proposed Amendment shall not have been determined to be invalid or unlawful as a result of any challenge to the Proposed Amendment;

b. Perenchio shall have entered into an executed settlement agreement providing for the dismissal with prejudice and without penalties of the Wetlands Action Network Litigation no later than June 9, 2004.

### 4.0 SETTLEMENT TERMS AND CONDITIONS

- 4.1 After approval of the Proposed Amendment, and prior to issuance of the Proposed Amendment, and as a condition thereof, Perenchio shall irrevocably offer to dedicate to the State fee title to the Offered Property at no cost to the State for the uses and subject to the conditions described in Section 4.3 hereof ("Offer") and shall record such irrevocable offer to dedicate. The form of the irrevocable offer to dedicate shall be as set forth in Exhibit D hereto. The Offer shall (i) have priority over any and all monetary liens or encumbrances, except for real property taxes and any general or special assessments or bonds; (ii) reserve a right in Perenchio and, if Margaret Rose Perenchio survives her husband A. Jerrold Perenchio, in Margaret Rose Perenchio during the remainder of her lifetime, to grant an easement in the land underlying and proximate to the underground storm drain on the Property to a public agency sufficient to maintain and allow the continued operation of the storm drain; and (iii) reserve in Perenchio, and if Margaret Rose Perenchio survives her husband A. Jerrold Perenchio, in Margaret Rose Perenchio during the remainder of her lifetime, a permanent, exclusive easement in the strip of land on the Property located between the 8-foot high rock wall along the southerly portion of the Property and Assessors Parcel Numbers 4458-003-015; 4458-003-017; 4458-003-020; 4458-003-024; and 4458-003-025 ("Adjacent Perenchio Parcels") appurtenant to the Adjacent Perenchio Parcels for purposes of pedestrian access and installing, altering, upgrading, restoring, repairing, maintaining, irrigating and replacing turf and landscaping located thereon; and (iv) shall not include any easement, license or other right to enter, go upon or otherwise use (the "Easement") the 50-foot wide strip of land abutting the westerly line of the Property and commonly known and used as the entrance road to the Malibu Colony. To the extent that any such Easement exists and is appurtenant to the Property, acceptance of the Offer shall constitute a release and quitclaim of such Easement to Perenchio, or his successors, as the owner of the fee title to the land encumbered by the Easement.
- 4.2 Acceptance of the Offer shall be subject to the following conditions, which must be satisfied or title to the Offered Property shall not pass to the State:
  - a. Both A. Jerrold Perenchio and his wife, Margaret Rose Perenchio (collectively, "Perenchios"), shall be deceased; provided, however, that at any time during A. Jerrold Perenchio's lifetime he shall have the right to offer the

Offered Property for dedication to the State, and if Margaret Rose Perenchio survives her husband A. Jerrold Perenchio, she shall have the right during the remainder of her lifetime to offer the Offered Property for dedication to the State, which offer in either case shall expire eighteen months (18) months after notice of such offer is provided to the State;

- b. Provided that the Perenchios have complied with, and the use of the Property has been in compliance with, the terms and conditions of the Proposed Amendment, the Commission shall not have: (i) imposed, sought to impose or requested, fines or penalties for such use, (ii) imposed, sought to impose or requested conditions or restrictions on such use of the Property not contained in the Proposed Amendment, (iii) imposed, sought to impose or requested changes on such use of the Property, (iv) issued notices of violation, cease and desist orders, restoration orders or similar notices of orders for such use of the Property, (v) held permit revocation proceedings that were requested by the Commission, or revoked the Permit, or (vi) initiated enforcement actions or other similar actions or proceedings, in each case where either Perenchio or Margaret Rose Perenchio during their respective lifetimes have provided a written notice ("Notice") to the Commission requesting that such conduct cease, (collectively, "Interference"), and such Interference has not ceased or been remedied or withdrawn within thirty (30) days after receipt by the Commission of a Notice;
- c. Provided that the Perenchios have complied with, and the use of the Property has been in compliance with, the terms and conditions of the Proposed Amendment, no governmental or quasi governmental entity, other than the Commission, having or asserting jurisdiction or enforcement authority over the Property in connection with federal, state, district, or local land use, environmental, health and safety or similar laws, statutes, rules, regulations or requirements ("Other Enforcement Authorities") shall have (i) imposed conditions or restrictions on such use of the Property not contained in the Proposed Amendment, (ii) imposed changes on such use of the Property, or (iii) issued cease and desist orders, restoration orders or similar orders for such use of the Property, in each case that results in a regulatory prohibition of, or material reduction in, the area of the Property that Perenchio or Margaret Rose Perenchio may use or maintain for recreation, for golf, or as a park as permitted by the Proposed Amendment (collectively, items (i) through (iii), "Other Interference"), except for Other Interference by the California Department of Transportation or the City of Malibu for a road widening project or by a governmental entity to acquire an easement in the land underlying and proximate to the underground storm drain on the Property that does not affect surface use of the Property;
- d. No litigation shall be brought by the Commission or by the Office of the Attorney General on behalf of the Commission, nor shall any penalties or fines be imposed as a result of any action brought by the Commission or by the Office of the Attorney General on behalf of the Commission related to the

alleged non-compliance associated with the Permit br use of the Property, which alleged non-compliance or use is claimed to have occurred prior to the issuance of the Proposed Amendment or the execution of the Agreement; and

- e. No administrative proceeding or litigation shall be brought after the execution of this Agreement by, or on behalf of, the Other Enforcement Authorities or by any third party on its behalf or on behalf of the Commission or the Other Enforcement Authorities related to the alleged non-compliance associated with the Permit or use of the Property, which alleged non-compliance or use is claimed to have occurred prior to the issuance of the Proposed Amendment or the execution of the Agreement, where any such administrative proceeding or litigation results in Other Interference.
- 4.3 After title to the Offered Property passes to the State, use of the Offered Property shall be subject to each and every one of the following conditions and the Offer or other appropriate documents shall be executed and recorded restricting such use:
  - a. The Offered Property shall be used as public open space for passive use and enjoyment, with landscaping (grass, ornamental plants and/or native vegetation); with no man-made barriers (other than temporary barriers) blocking access to any significant portions of the property; and with no structures other than those in existence at the time the State accepts the Offer, except as provided below, for the benefit of the public, in perpetuity. The grantee of the interest offered may make improvements for the purpose of facilitating the ability of the general public to use and enjoy the Offered Property for passive recreational uses, including but not limited to: (i) public restrooms, (ii) paved and unpaved trails and pathways, (iii) installation, maintenance and repair of sewer, electrical, water and other underground utilities, (iv) fencing, (v) trash receptacles, (vi) drinking fountains and spigots, (vii) picnic tables, benches and associated installations, (viii) interpretive signage, and (ix) landscaping, including removal of existing vegetation and planting of native vegetation.
  - b. That portion of the existing 8-foot high rock wall that borders the west and south portions of the of the Property, as shown on Exhibit E, attached hereto, shall not be removed.
  - c. The underground storm drain along the southerly boundary of the Property, any stormwater connections from the Property, all legally existing stormwater connections from off-site sources existing on the date of this Agreement, any connections that drain only surface water from Assessors Parcel Numbers 4458-003-015, 4458-003-017, 4458-003-020, 4458-003-024, and/or 4458-003-025 existing on the date of this Agreement, and any connections from Assessor Parcel Number 4458-001-007 or to the Malibu Lagoon State Park existing on the date of this Agreement shall be allowed to remain; provided that modifications may be made from time to time to maintain, improve, upgrade, or realign the underground storm drain, and further provided that

Perenchio reserves the right at any time during his lifetime, and if Margaret Rose Perenchio survives her husband A. Jerrold Perenchio, she shall have the right during the remainder of her lifetime, to grant an easement in the land underlying and proximate to the underground storm drain on the Property to a public agency sufficient to maintain and allow the continued operation of the storm drain.

- d. No portion of the Offered Property may be transformed into a wetlands, marsh, ponds, or lagoons, except for that portion of the Offered Property described and depicted as the "Wetlands Restoration Area" in Exhibit F, attached hereto; provided, however, that the boundary lines of the Wetlands Restoration Area labeled B, C and D in Exhibit F may be adjusted by up to twenty (20) feet in any direction from the corresponding original boundary line described and depicted in Exhibit F, and further provided that, after any such adjustment, the Wetlands Restoration Area is contiguous to the Malibu Lagoon State Park, is internally contiguous, and the land within the exterior boundary lines of the Wetlands Restoration Area is not more than two (2) acres. Barriers to keep people out of the Wetlands Restoration Area shall be allowed.
- e. No portion of the Offered Property shall be used for parking.
- f. The Offered Property shall be restricted to passive uses, and shall not be used for athletic fields or facilitics for sports, including but not limited to soccer, baseball, football, tennis, or basketball.
- g. No exterior lighting shall be permitted on the Offered Property, except for the maintenance building, lighting permitted by the Proposed Amendment and security lighting; provided that all such lighting is low level, directed downward and shielded away from adjacent and nearby residences.
- h. The State shall have the right to convey or to otherwise dispose of the Offered Property only to any other entity eligible to accept the Offer under the provisions of Section 2.10 hereof, and may also by contract delegate responsibility for management of the Offered Property to any such entity as well as to any local governmental body or nonprofit organization approved for such responsibility by the Executive Director of the Commission.
- i. The name "Perenchio" shall not be used in connection with the Offered Property.
- 4.4 The Commission hereby agrees to consider and, if approved, to issue the Proposed Amendment within the time limits established under Section 3.1(a) of this Agreement.
- 4.5 The Parties agree that:

SENT BY: COASTAL COMM;

- a. The value of the Property is at least \$24,000,000, as evidenced by an appraisal completed by Fred E. Chin, Inc. dated April 15, 2004, which has been reviewed by the Commission.
- b. If any fines, penalties, liabilities, costs, damages or judgments ("Costs") are awarded to the State or the federal government as a result of any claim, by whomever made, of a violation of the Permit, the Coastal Act, the Clean Water Act, or the Porter-Cologne Act with respect to: (1) use of the Property by Perenchio prior to the date of this Agreement or to conditions on the Property existing prior to the date of issuance of the Proposed Amendment or (2) use of the Property or conditions on the Property existing subsequently if such use and/or conditions are in compliance with the terms and conditions of the Proporty, as indicated in Section 4.5.a hereof, shall constitute, and be accepted by the State or the federal government as, a credit toward payment of such Costs that may be obtained against Perenchio individually and as Trustee of that certain Jerry Perenchio Living Trust dated April 16, 1987, as amended, Margaret Rose Perenchio, and Perenchio's heirs, successors-in-interest, transferees, assignees, employees, agents and/or attorneys.
- 4.6 The Commission for itself and its officers, governing members, employees and agents, fully and forever release Perenchio individually and as Trustee of that certain Jerry Perenchio Living Trust dated April 16, 1987, as amended, Margaret Rose Perenchio, and Perenchio's heirs, successors-in-interest, transferees, assignees, employees, agents and/or attorneys from any and all liability, claims, demands, damages, punitive damages, disputes, suits, claims for relief and causes of action, whether known or unknown, foreseen or unforeseen, which directly or indirectly relate to any claims, facts or circumstances arising out of or alleged in the NOV or relating to the use of or conditions on the Property before the issuance of the Proposed Amendment. The foregoing release applies to Commission participation in or support of any litigation by third parties, including the Wetlands Action Network Litigation and the Darian Litigation. However, the foregoing release shall not apply to any future Coastal Act violations of the Proposed Amendment that occur after the issuance of the Proposed Amendment, and the Commission shall be entitled to pursue legal action and seek whatever remedies it has under the Coastal Act and to address any violations on the Property if any unpermitted uses or development occurs on the Property. Except as provided in this Section 4.6, the Commission specifically waives the provision of California Civil Code section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

4.7 This Agreement, including the Commission's covenant under Section 4.4 hereof, does not in any way indicate whether any development, including that proposed

by Perenchio, is approvable under the Chapter 3 policies of the Coastal Act or any other relevant authorities, or bind the Commission to approve any Coastal Development Permit application for the Property. The Commission in its sole lawful discretion may issue or refrain from issuing the Proposed Amendment. If the Proposed Amendment is not issued, no obligation under this Agreement arises, and there is no settlement between the Parties.

4.8 Upon the request of either Perenchio or Margaret Rose Perenchio, the Commission shall cooperate with Perenchio and/or Margaret Rose Perenchio, as the case may be, in defending (including without limitation providing testimony and written declarations), any litigation brought by a third party or parties related to the alleged non-compliance associated with the Permit or use of the Property, which alleged non-compliance or use is claimed to have occurred prior to the issuance of the Proposed Amendment or the execution of this Agreement.

4.9 If any federal or state governmental entity exercises the power of eminent domain with respect to the Property in whole or in part, for any purpose (other than (i) a road widening project or (ii) to acquire an easement in the land underlying and proximate to the underground storm drain on the Property that does not affect surface use of the Property) in a manner which results in a material reduction in the area of the Property that Perenchio or Margaret Rose Perenchio may use or maintain for recreation, for golf, or as a park as permitted by the Proposed Amendment, the Offer shall terminate. In the event any governmental entity exercises the power of eminent domain with respect to the Property in whole or in part, any valuation of the Property shall not consider the existence of the Offer or any change to the land use or zoning designation of the Property from that existing as of the date of this Agreement.

#### 5.0 SITE ACCESS

If the Proposed Amendment is approved, Perenchio and/or Margaret Rose Perenchio agree to grant access to the Property to Commission staff no more than once per year at a mutually convenient time within seven (7) days after receipt of prior written notice, to evaluate compliance with the terms and/or conditions of the Proposed Amendment. After the State receives notice in accordance with Section 4.2.a hereof, Perenchio and/or Margaret Rose Perenchio agree, upon 72 hours notice, to grant access to the Property to the State and its agents, employees or contractors for any testing of any type, including of soil, groundwater, surface water or septic systems on the Property, that the State determines is appropriate prior to agreeing to accept the Property.

SENT BY: COASTAL COMM;

# 6.0 INTERPRETATION

The Parties acknowledge and agree that this Agreement shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California, which apply in all respects.

# 7.0 INTEGRATION

This Agreement is entire in and of itself and may not be modified or amended except by an instrument in writing and signed by all the Parties.

# 8.0 EXECUTION IN COUNTERPART

The Parties, in order to more expeditiously implement the compromise and settlement terms set forth herein, agree that the Agreement may be executed in two or more counterparts as if all Parties signed one document and each executed counterpart shall be regarded as if it is an original document. Duplicate original executed counterparts shall be kept in custody of the Commission and Perenchio. Execution may be via facsimile copy.

# 9.0 WARRANTY OF NON-ASSIGNMENT

The Parties warrant that they have not assigned or transferred, or will they in the future attempt to assign or transfer, any claim for relief or cause of action released herein.

# 10.0 BINDING ON SUCCESSORS-IN-INTEREST

This Agreement is binding upon the Parties, and their successors-in-interest, transferees and assignces.

# 11.0 NON-ADMISSION OF LIABILITY

No part of this Agreement shall be construed or otherwise deemed an admission of any liability whatsoever on the part of any of the Parties.

# 12.0 DIVORCE

For purposes of this Agreement, Margaret Rose Perenchio shall be deemed to have predeceased Perenchio if she and Perenchio are not married to each other at Perenchio's date of death.

# 13.0 ATTORNEYS' FEES

If a lawsuit is filed against the Commission and/or Commission members and/or employees that challenges this Settlement Agreement, Perenchio and/or Margaret Rose Perenchio shall pay the Commission's attorneys' fees and costs of defending such challenge, including the attorneys' fees and costs of the California Attorney General's Office, and any of the challenger's attorney fees and costs for which a court has found that the Commission is liable; provided, however, that the Commission's selection of legal counsel to defend such action, if other than the California Attorney General's Office, shall be reasonably acceptable to Perenchio and/or Margaret Rosc Perenchio.

IN WITNESS WHEREFORE the Parties have caused this Agreement to be executed.

Approved as to form: tere 24 Zach Date:

CHIEF COUNSEL FOR CALIFORNIA COASTAL COMMISSION

A. 1 Ralph Faust

Attorneys for the California Coastal Commission

Date:\_\_\_\_

LATHAM & WATKINS

Rick Zbur Attorneys for A. Jerrold Perenchio

The Parties:

Date:

6/24/04 Date:

ASTAL COMMISSION

Peter M. Douglas Executive Director

A. JERROLD PERENCHIO

A. Jerrold Perenchio, individually and as Trustee of the Jerry Perenchio Living Trust dated April 16, 1987, as amended

MARGARET ROSE PERENCHIO

Date:\_\_\_\_

SENT .BY:	COASTAL COMM;	4;40M	;COASTAL	415904523 сомм; #З	5; 8: FAGE 2	JUN-24	l-04	6:03PM;	PAGE	12/12		
FROM	LATHAM & WATKI	NS LLP 2	13-891-8763	#4 (T	`HU) 6. 24' 04	4 16:36/8	<b>\$</b> T. 16:	35/NO. 4800000(	)37 P	2		
•	Attorney General's Office, shall be reasonably acceptable to Perenchic and/or Margaret Rosc Perenchic.											
	executed.	IN WIT	NESS WHER	EFORE the	Parties have	caused th	is Agr	eement to be				
	Approved as t	o form:										
	Date:			CHI CO/	EF COUNSI	el for ( Imissio	CALIF N	ORNIA	·			
				Ralp Atto	h Faust meys for the	Californ	a Coas	tal Commission				
	Date: VNE	24,1	614	Rick	HAM & WA			· ·				
	The Parties:			THE	CALIFORNI	errold Pe	renchio					
				Peter : Execu	M. Douglas trive Director					• ·		
	Date: كبنز	<u>24,2</u>	<u>.004</u>	A. Jen A. Jen the Jen 1987, a	COLD PER Cold Perenchin ry Perenchio as amended	ENCHIO o, individ Living T	lually a	and as Trustee of ted April 16,	F			
	Date: <u>アルビョ</u>	ry 20	<u>104</u>	MARC	ARET ROS	E PEREN	CHIO	)	-	•		

LA1163733.20

10

.



Ē	(503)222-9518					
838 SW	First Avenue, Suite 530	(503)242-1416 Fax				
Portland, OR 97204						
To:	Rick Zbur, David Goldberg	From:	Eric Strecker			
		Date:	December 22, 2003			

Subject: Updated Perenchio Park Drainage System Improvements Preliminary Design Report

# Introduction

In response to the property owners desire to protect water quality in the Malibu Lagoon, GeoSyntec Consultants has been asked to assess the current drainage system for Perenchio Park and prepare a preliminary design for improvements to ensure no surface runoff will be discharged from the site to the lagoon during dry weather and most storm events. This document provides a discussion of the existing hydrology of the site, an assessment of the current drainage system, and recommends water quality enhancements for improving the quality and reducing the quantity of drainage from the park.

# Hydrologic Analysis

For grassed areas, the root zone extends approximately 12" below the ground surface. This root zone is estimated to have a field capacity of about 1/3 of the soil volume. Field capacity refers to the capacity of the soils to retain water or the volume of water that the soils can hold before either runoff or infiltration occurs. Assuming a root zone depth of 12-inches, the field capacity of the soil in the root zone would equal about 4.0 inches of rainfall over the site.

Another important factor in evaluating the site hydrology is the infiltration rate of the soils. For sandy loams, as would be expected on the site, the infiltration rate should be between 0.5 and 1.0 inches per hour. Higher infiltrations rates and would be expected in the putting areas.

In order for surface runoff to be generated from the site, a sufficient depth of rainfall would have to occur to exceed the field capacity of the soils, and it would have to be maintained at a rate that would exceed the infiltration rate.

The Los Angeles County Standard Urban Stormwater Mitigation Plan (SUSMP) recommends a 1" in 24-hour rainfall event be used in this area for sizing water quality management practices. For a one-inch storm event, no surface runoff would be expected to enter into the storm drain or indirectly into the Malibu Lagoon from the site.

# **Drainage System Assessment**

Prior to construction of the park, drainage from the site was predominantly sheet flow collected by two large inlets along the southern edge of the property (see Figure 1). These inlets tie directly into a large diameter concrete stormdrain that services the areas to the west of the project.

1

Exhibit 13 CDP No. 5-82-192-A2 Drainage System Improvements Plan

ہ ۲

As constructed, the park has two additional connections to the main stormdrain. These connections were necessary to accommodate flows from the underdrain of the putting area as well as flood drainage interrupted by modification of site grading. Figures 2 and 3 show the existing surface and sub-surface drainage systems. The primary difference between approved plan and the existing conditions are the sub-surface drainage components.

# **Recommended Improvements**

٦

4

To eliminate the potential of dry-weather runoff or incidental surface water being released from the site to the Malibu Lagoon, abandoning all sub-surface pipe connections from the site's drainage system to the main stormdrain is recommended. To accomplish this and still maintain proper flood drainage, several modifications to the drainage system will be required. We recommend that sumps with pumps be installed to collect drainage from the underdrain system. Water collected in these sumps will be conveyed via a pipe to a storage tank and then applied to the surface at the end of the park furthest and most upgradient from the stormdrain inlets. All potential nuisance flows, dry-weather flows, and most storm flows will be collected by this system and treated by bio-filtration and absorbed by soils as flow continues down gradient across the surface of the grass. Figure 4 shows a schematic of the proposed drainage improvements. Small inlets to the sump system would be placed in front of the main inlets to intercept incidental runoff and route it to the new distribution system. Figure 5 is a process flow diagram for the proposed system.

Since some of the existing inlets that collect surface flows connect to the underdrain system, runoff that accumulates in these areas will have to be re-routed. For these areas, sumps, pumps, and a pipe network are proposed to be installed to convey any accumulated runoff during flooding events to a point where it can discharge from the surface to the main stormdrain inlets.

As precautionary measure, we recommend sealing the inlets of the main stormdrain to the lagoon. A concrete wall should be placed in the inlet openings with a valve that can be manually opened to allow surface runoff to enter the stormdrain. The valve should remain shut until the runoff volume exceeds the storage capacity of the site and recirculation system, at which point it can be opened. A safety overflow should be installed at an elevation lower than the adjacent property to prevent flooding (see Figure 6).

A holding tank is recommended to temporarily store runoff and return flows prior to distribution. Such storage may be desirable to control flows and ensure that flow distribution does not occur when doing so would exceed the field capacity of the soil. Water stored in the tank would be redistributed at the upper ends of the drainage.

If implemented, these modifications would result in no discharge of surface water from the site during dry weather or the SUSMP's standard one-inch/24-hour storm events.

\* 2

a



Figure 1: Pre-park Surface Drainage Patterns

; , 2



Figure 2: Existing Surface Drainage Patterns

, ,



Figure 3: Existing Sub-surface Drainage



Figure 4: Proposed Collection and Distribution System

.


Figure 5: Process Flow Diagram of Recommended Drainage Improvements

Replace 24" diameter manhole cover with equivalent grate to provide alternate drainage path for surface flows during big storm events

Leave a 6" gap at between the top of the wall and the top of the lid of the catch basin to provide a drainage path for high flows. Set top of wall elevation to 1 foot below elevation of stonewall bottom

> Construct a wall at the inlet the storm drain to prevent low flows form draining to the catch basin.

Install short 8" PVC pipe stub to the valve

Install 8" diameter PVC slide gate valve.

Figure 6: Proposed Modifications to Outlet Structures

\* \$

÷ ٩.

#### **System Components**

#### Sump and Pump System

۹

The sump pump should be sized to accommodate the expected runoff rate for the site during a large storm event (6 inches in 24 hours, maximum intensity of 1 inch/hour). A 70 gpm pump system should be sufficient to drain the runoff that would accumulate during the 6-inch rainfall event in a 24-hour period.

Since two sump pumps will be used for this system, each should be able to accommodate half the maximum design runoff intensity (~35 gpm). A Grundfos Ejector Package (EpPaQ) system with ½ hp. pump should provide sufficient flow at the expected operating head.

These are package sump and pump units that run on single-phase 110 V current. The units are approximately 24 inches in diameter and about 30 inches tall. The unit would be located underground with only an access cover visible. Two of these units will be required. Each of these pumps will provide about 30 gallons per minute at the expecting operating head of 15 ft.

#### Storage Tank

The Los Angeles County SUSMP recommends a 1" in 24-hour rainfall event be used in this area for sizing water quality management practices. By managing irrigation prior to a storm event and maintaining soil saturation at less than 85%, the field capacity of the soil could accommodate rainfall from the entire 1-inch storm event. However, to ensure that no return flows are released during the SUSMP water quality event, a storage tank has been included in the design to capture return flows from an event 25% larger than the SUSMP requirement.

Table 1 summarizes the assumptions used for sizing the storage tank. The storage tank may be located above or below ground and in a location near the storage shed in the northwest corner of the site or in another locations that will be determined prior to submission of final design plans.

Assumptions		
Putting area	22,000	ft^2
Rain depth - excess	0.25	inches
Storage Volume Required	450	ft^3
	~3,500	gallons

Table 1: Storage Tank Sizing

#### Conclusion

As designed with the recommended water quality improvements, the park will fully conform to all SUSMP requirements. With the recommended improvements, no surface water runoff will enter into the storm drain or indirectly into the Malibu Lagoon during dry weather or the SUSMP-standard one-inch/24-hour rainfall event.



\$

ې د

JUN 2 2 2004

CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT 6/7/2004

## RECEIVED)

#### JUN 2 2 2004

#### PERENCHIO PARK Turf Management Plan

#### David L. Wienecke, Agronomist USGA Green Section, Southwest Region

CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

#### Introduction

Special Condition No. 5 recommended by the California Coastal Commission staff in connection with Application No. 5-82-192-A2 (Perenchio) requires the implementation of this Turf Management Plan for the Perenchio Park. The Turf Management Plan defines Best Management Practices (BMPs) for the Park with characteristics typical of a residential lawn and putting green. The plan focuses on BMPs concerning irrigation, fertilization, and pest management for this park.

The plan goal is to develop and implement biorational maintenance procedures for minimizing pesticide and fertilizer use within an integrated pest management framework. Successful implementation of these practices will maintain healthy turfgrass, minimize or eliminate agrochemical environmental impact, and optimize irrigation water use. These procedures follow the environmental stewardship principals of BMPs approved by the Audubon International Cooperative Sanctuary Program for Turf Management. The plan elements are also the same as found in BMPs that have received approval by the National Marine Fisheries Board for protecting salmon in aquatic environments that are adjacent to turf. These criteria are specified because they are based on 15-years of university research in pesticide and agrochemical management and environmental stewardship including aquatic ecosystem impacts nationwide. The research provides criteria used in this plan that are the most conservative and environmentally friendly plan characteristics for protection of coastal resources.

#### Site Description

Perenchio Park is located south of Pacific Coast Highway in the Civic Center area of the City of Malibu. The property consists of approximately 10-acres that is used for residential recreational uses including golf.

The site is located immediately west of Malibu Lagoon State Park, which is mapped as an environmentally sensitive habitat area (ESHA) in the Malibu LCP. An eight-foot high perimeter wall is maintained as a barrier between Perenchio Park and Malibu Lagoon State Park (Reference: GeoSyntec Consultants: Perenchio Park Drainage System Improvements Preliminary Design Report, December 22, 2003).

The park consists of creeping Bentgrass turf area located on the southwest corner of the park with eight sand features spread throughout the Kentucky Bluegrass and perennial Ryegrass lawn-like park used for various recreational activities. In addition to the turfgrass and the sand features the park is landscaped with trees.

Exhibit 14 CDP No. 5-82-192-A2 Turf Management Plan

#### Best Management Practices (BMP) Details

#### Source Controls and Structural BMPs

The Park employs both source and treatment control measures to minimize the potential for site activities to negatively affect the nearby surface or ground water. Source control measures include implementation of an integrated pest management plan that prescribes the type, scheduling, and application rate of chemical application at the site to maintain healthy vegetation and control pests. Another component of the source control program at the Park is efficient management of irrigation water to ensure that no surface runoff is generated during irrigation and that the rate of irrigation is matched to the plant's needs.

As recommended in the California Storm Water Best Management Practices Handbooks – Municipal (2003) pertaining to municipal landscape, maintenance staff will adhere to the following general guidelines:

#### Fertilizer and Pesticide Management

- Follow all federal, state, and local laws and regulations governing the use, storage, and disposal of fertilizers and pesticides and training of applicators and pest control advisors.
- Check the regulatory status of chemicals prior to purchase. Use only chemicals with current approved regulatory status.
- Use pesticides only if there is an actual pest problem (not on a regular preventative schedule).
- Do not use any chemicals if there is a 10% chance of rain within 48 hours of chemical application.
- No irrigation will be applied for 48 hours after chemical application (other than nitrogen).
- Do not mix or prepare pesticides for application near storm drains.
- Prepare the minimum amount of pesticide needed for the job and use the lowest rate that will effectively control the pest.
- Employ techniques to minimize off-target application (e.g. spray drift) of pesticides, including consideration of alternative application techniques.
- Calibrate fertilizer and pesticide application equipment to avoid excessive application.
- Periodically test soils for determining proper fertilizer use.
- Sweep pavement and sidewalk if fertilizer is spilled on these surfaces before applying irrigation water.
- Purchase only the amount of pesticide that you can reasonably use in a given time period (month or year depending on the product).
- Triple rinse containers, and use rinse water as product. Dispose of unused pesticide as hazardous waste.
- Dispose of empty pesticide containers according to the instructions on the container label.

#### Irrigation

- Use automatic timers or weather stations to estimate irrigation needs and minimize runoff.
- Apply water at rates that do not exceed the infiltration rate of the soil.

#### 6/7/2004

#### Inspection

- Inspect irrigation system periodically to ensure that the right amount of water is being applied and that excessive runoff is not occurring.
- Minimize excess watering by repairing leaks in the irrigation system as soon as they are observed.
- Inspect pesticide/fertilizer equipment and transportation vehicles daily.

#### Training

- Educate and train employees on use of pesticides and in pesticide application techniques to prevent pollution. Pesticide application must be under the supervision of a California qualified pesticide applicator.
- Annually train employees responsible for pesticide application on the site's BMPs.
- Prohibit employees who are not authorized and trained from applying pesticides.

#### Spill Response and Prevention

- Have spill cleanup materials readily available.
- Cleanup spills immediately and use dry methods if possible.
- Properly dispose of spill cleanup material.

#### **Other Considerations**

• All employees who handle pesticides should be familiar with the most recent material safety data sheet (MSDS) files.

Treatment control measures include the capture of return flows from the putting area underdrain and surface runoff from smaller sized storm events, mechanical filtration, a 4,000gallon storage tank for detention of collected flows, and surface application of the collected water. The collected water will be applied to the turf approximately 500 ft. up gradient from the outlet catchbasins from the site allowing for biofiltration, evapotranspiration, and degradation of chemicals that may be entrained in the flow. Stormdrain inlets will be sealed and controlled by valves to prevent any dry-weather or nuisance flows from being released from the site.

With implementation of these best management practices, no dry-weather surface runoff will be discharged from the property and wet-weather flows should only occur during infrequent flood-sized events.

#### Turfgrass cultural maintenance plan

A. Turfgrass Mowing Management – Mowing frequency and height shall be maintained for optimal physiological health. By maintaining turfgrass at it physiological optimum health and vigor the plant will by virtue of high stress tolerance be better able to tolerate disease, insect pests, and weed encroachment. The optimum mowing height and frequency ranges for these grasses are shown below:

Grass/Use	Mowing Height Range	Mowing Frequency Range
Creeping Bentgrass	1/8" to 5/32"	3 to 7 times per week
Bluegrass/Ryegrass	1/2" to 3/4"	1 to 3 times per week

- Grass clippings shall be mulched back onto the course to improve moistureholding capacity, reduce nutrient loss, and eliminate disposal off site.
- Application of turf growth regulators may be used to reduce mowing frequency requirements and improve surface density for week encroachment reduction.
- Mowing heights may change to improve turfgrass stress tolerance. As an example, mowing heights may be higher during hot summer periods compared to the cooler spring and fall periods.
- Mowers shall be maintained in a sharp, well-adjusted condition to produce a clean consistent cut, thus reducing foliar damage that can contribute to insect pest or disease susceptibility. Engines shall be maintained consistently to reduce air and noise pollution and ensure productive utilization of fuels.
- A wash rack will be utilized that captures equipment washings, separates grass products from petrochemicals consistent with Clean Water Act compliance requirements.
- Fuel shall be stored in compliance with Clean Water Act and Uniform Building and Fire Code requirements. All fueling/lubricating of equipment will be done on paved surfaces. Any spilled fuel or lubricants will clean up immediately using and appropriate absorbent and disposed of according to City regulations.
- All liquid chemicals will be stored in secondary containers
- B. Cultivation Management Frequent cultivation will be done to maximize irrigation effectiveness in the Turfgrass areas. These procedures are essential for maintaining Turfgrass health and vigor while maintaining a viable microbial root zone climate. These procedures are also essential for managing organic matter layers (i.e. thatch). Recommended cultivation schedules are outlined below:

Grass/Use Cultivation Procedure		Sand Topdressing
Creeping Bentgrass Core aeration 2-4 X per year and Vertical mow/groom 2-4 X per year		Topdress to fill macropores Light topdress to fill surface voids
Bluegrass/Ryegrass	Core aeration 2 X per year	Grind up cores as topdress

C. Turfgrass Fertility Management – Fertility management will be done to meet turfgrass growth requirements and minimize nutrient loss by volatilization or leaching. Fertility plan goal is to apply only the fertilizer amount needed and used by the plant. By following these criteria applied nutrients are used by the plant to sustain growth while minimizing for potential nutrient runoff or leaching.

A secondary benefit is that less fertilizer is typically applied compared to traditional calendar based fertility programs. Fertilizer application will be made based on a yearly soil test nutrient sufficiency level analysis (SLAN) and daily visual observation. Fertility guidelines are outlined below:

	Fertilizer Rates	Fertilizer Application	Yearly fertilizer amounts
Bentgrass	Foliar spoon-feeding 0.25 Ib nitrogen per 1,000 sq.ft. or slow release granular fertilizer at 2 lb. Nitrogen per 1,000 sq.ft.	Foliar application of available nitrogen at 0.25 lb nitrogen per 1,000 sq.ft. or granular application of natural product slow release fertilizer e.g. Sustane® or equivalent	2 to 4 lb nitrogen & potassium & 0.5 lb phosphorous per 1,000 sq.ft per year maximum. Match nitrogen, phosphorous, and potassium and use soil test as criteria for fertility needs
Bluegrass/Ryegrass	2 lb nitrogen per 1,000 sq.ft. of slow release fertilizer per application.	Slow release fertilizer synthetic or natural based	3 to 4 lb nitrogen & potassium & .05 lb phosphorous per 1,000 sq.ft per year maximum. Match nitrogen, phosphorous, and potassium and use soil test as criteria for fertility needs

Since turfgrass requires very little phosphorus, this nutrient will only be applied if indicated by the SLAN not to exceed 0.5 lb. per 1,000 sq.ft. per year.

- D. Turfgrass Pest Management The focus of pest management will be to develop healthy and vigorous Turfgrass, and thus minimize or eliminate pesticide application. The prioritized pest management protocol is outlined below:
  - Cultural and mechanical management in conjunction with pest monitoring and scouting based on threshold action levels for the pest. This will include visual observations for pest establishment and removal via weeding, etc.
  - Biological treatment (e.g. release of natural enemies such as predacious beetles or nematodes for aphids or insect larva or application of biological agents such as *Bacillus thuringiensis* for moth larvae control)
  - Chemical pesticide (e.g. herbicide or fungicide) application is the management option, used <u>only</u> when the other above management options fail to adequately control potential damage. It is the stated purposes of this plan to minimize if not eliminate pesticide (e.g. herbicide or fungicide) application except for cases of severe damage that the turfgrass plant is unable to tolerate without additional actions being taken. A list of approved pesticides and their application times and amounts is in the Appendix A. Only pesticides approved for use in this plan will be applied in this facility. The pesticides were selected because when applied following the Turf Management Plan, in conjunction with the pesticide label requirements, they will likely result in no impact (toxicity) to aquatic life (as per CA DPR and EPA FIFRA) as they have the lowest possible mobility, persistence, and/or toxicity to aquatic life. The following applies to chemical applications:
    - i. *Herbicide Application:* Use of the approved herbicides listed in Appendix A shall be restricted to the green at all times, except that no more than 64 ounces of Rodeo and 128 ounces of Blade or Escort may be applied in other areas of the Park during any calendar year. If use of Rodeo or Blade or Escort in excess of the above amounts is required to address a problem that cannot be remedied with these allocations or through other means described above, greater amounts may be used only if 24-hour advance

telephonic and written notice (fax) is provided to the CCC staff, with a written explanation as to the necessity for use. In such instances, application may occur 24 hours after notice is delivered.

- ii. *Fungicide Application:* Use of the approved fungicides listed in Appendix A shall be restricted to the green at all times, unless use in other areas of the Park is necessary to address an infestation or problem that cannot be remedied through other means described above. In such cases where use in other areas of the Park is required, 24-hour advance telephonic and written notice shall be provided to the CCC staff, with a written explanation as to the necessity for use. Application may occur 24 hours after notice is delivered.
- iii. Growth Regulator Application: During the rainy season (November 1 March 1), use of the approved growth regulator listed in Appendix A shall be restricted to the green, unless use in other areas of the Park is necessary to address an infestation or problem that needs prompt attention. In such cases where use in other areas of the Park during the rainy season is required, 24-hour advance telephonic and written notice shall be provided to the CCC staff, with a written explanation as to the necessity for use. Application may occur 24 hours after notice is delivered.

A designated pesticide storage and mixing area will be established following CA DPR and EPA FIFRA requirements to prevent unintended chemical transport and to assure label use, storage, and application requirements are followed at all times.

Pest concerns, action threshold levels, and actions for this site are outlined below:

Grass/Use	Pest	Action Threshold Level	Action
Bentgrass	Anthracnose disease	1 to 3 active disease spots	Apply fungicide
	Fusarium patch disease	2 to 5 disease spots	Apply fungicide
	Rhizoctonia brown patch or Yellow patch disease	2 to 5 disease spots	Apply fungicide
	Brown Patch	2 to 5 disease spots	Apply fungicide
	Pythium disease	1 to 3 active disease spots	Apply fungicide
	Dollar spot disease	5 disease spots	First apply nitrogen fertilizer to see if turf will grow past disease prior to fungicide application; apply fungicide if necessary
	Grass or broadleaf weeds	0-5	Manual removal; apply herbicide if necessary
	Sod wetworm or cutworm	10 - 20	Apply irritant (household bleach at 8 oz/gal of water and mow immediately after.
. ,	White grub	0 to 5	Apply irritant (wetting agent) during pupate stage in late spring and mow immediately after.
	Dollar spot or Brown	10 to 15% area affected	Apply fungicide

Page 6 of 9

6/7/2004

Grass/Use	Pest	Action Threshold Level	Action
Bluegrass/Ryegrass	patch		
	Grass or broadleaf weeds	10 to 25% area affected	Manual removal; apply herbicide if necessary

- E. Turfgrass Irrigation Management Irrigation management will include Evapotranspiration (ET) and visual criteria for irrigation application and scheduling. Irrigation management protocols are outlined below:
  - Daily rootzone moisture level using a probe to 8" depth will be used to addition to turf condition visual assessment (i.e. soil moisture monitoring).
  - ET replacement irrigation criteria will be used following the <u>www.CIMIS.water.ca.gov</u> website for this site or from an on site weather station integrated by a computer modeled ET based controller system. Evapotranspiration models (i.e. ET) include soil moisture, evaporation, and plant transpirational water loss. These are the preferred water conservation models for Turfgrass because they define the current state of the art in terms of plant available water, plant use studies, and technology available.
  - Uniformity of irrigation sprinkler water distribution will be assessed and maintained in the 70% to 80% range to minimize water inefficiency. Daily water budgets will be targeted to the replacement ET level to match the water actually needed by the plant.
  - Manual spot watering will be used in lieu of irrigation system use to resolve localized dry spot problems.
  - Daily reprogramming of irrigation system controllers will be done to fine tune irrigation system application to actual turf needs.
  - Application of wetting agents, such as Primer®, Cascade®, Aqueduct®, etc., will be used to reduce hydrophobic areas and increase irrigation efficiency.

The pesticides listed in the Perenchio Park Turf Management Plan are chosen because they are the most biorational and thus low environmentally impacting pesticides available for management of the disease and weed problems at this site. When used according to label and turf management plan criteria no impact to water or aquatic ecosystems is expected. Pesticides that are equivalent to or less toxic to aquatic life than those listed in this plan may be added to this plan or substituted for a listed pesticide upon providing the Coastal Commission staff 15-days prior written notice. In the case of the removal or lack of availability from the market of a listed pesticide, another pesticide may be substituted with prior CCC staff approval. Other pesticides registered for these pests such as Chlorpyrifos, Flutolanil, Triadimefon, Mancozeb, and Imidacloprid are not included in this pest management plan due to human mammalian or aquatic ecosystem toxicity concerns.

#### Appendix A

#### **Recommended Pesticides List**

#### Herbicides

Trade Name	Chemical Name	Pest Target	Ecological Effects Risk Assessment
			Metsulfuron methyl is practically nontoxic to fish
Blade™ / Escort™	Metsulfuron methyl	Broad leaf weeds and aquatic invertebrates. Metsulfuron meth	and aquatic invertebrates. Metsulfuron methyl does
			not build up (bioaccumulate) in fish. (1)
			The Accord and Rodeo formulations are practically
		on methyl         Broad leaf weeds         and aquatic invertebrates. Metsulfuron methyl do not build up (bioaccumulate) in fish. (1)           osate         Nonselective weed control         The Accord and Rodeo formulations are practical non-toxic to freshwater fish and aquatic invertebrate animals and permitted for use on aquatic systems. The Roundup formulation is moderately to slightly toxic to freshwater fish and aquatic invertebrate animals. (1)(2)	non-toxic to freshwater fish and aquatic
DadaaM	Churchenette		invertebrate animals and permitted for use on
Kodeo''	Giyphosale		aquatic systems. The Roundup formulation is
			aquatic invertebrate animals. (1)(2)

à

э.

#### Fungicides

Trade Name	Chemical Name	Pest Target	Ecological Effects Risk Assessment
Endorse™	Polyoxin D	Anthracnose	"Given the lack of toxicity and limited use sites, this active ingredient is not expected to harm people, pets, wildlife, or the environment when used according to label directions." (3)
Subdue™	Metalaxyi	Pythium Blight	"Metalaxyl poses minimal if any risks to birds, small mammals, fish and estuarine species, honey bees and aquatic plants. The registered uses of metalaxyl do not present an acute hazard to endangered terrestrial and aquatic animals or plant species." (4)
Chipco 26 GT™	Propiconazole	Brown Patch	Slightly to moderately toxic to fish (5)
Heritage™	Azoxystrobin	Anthracnose, Fairy Ring, Fusarium Patch	Low toxicity to mammals, birds, and insects. High toxicity to freshwater fish and invertebrates, however, Azoxystrobin is considered a "Reduced Risk" pesticide because of low mobility and application rates. (6)
Compass™	Trifloxystrobin	Anthracnose, Fairy Ring	Low toxicity to mammals, birds, and insects. High toxicity to freshwater fish and invertebrates, however, Trifloxystrobin is considered a low risk pesticide because of low application rates (7)

#### Growth Regulators

Trade Name	Chemical Name	Pest Target	Ecological Effects Risk Assessment	
Embark™	Mefluidide	Poa annua seed suppression	Slightly to non-toxic to birds, mammals, warm water fish and freshwater invertebrates. Practically non- toxic to coldwater fish and shrimp. (8)	

(1) USDA, Pesticide Fact Sheet, Metsulfuron methyl, November 1995.

(2) USEPA, R.E.D. Facts: Glyphosate, EPA-738-F-93-011, September 1993.

(3) USEPA, Pesticide Fact Sheet: Polyoxin D, August 2001

(4) USEPA, Pesticide Fact Sheet: Metalaxyl, September 1994

(5) USDA, Pesticide Fact Sheet: Propiconazole, May 1994

(6) USEPA, Pesticide Fact Sheet: Azoxystrobin, February 1997

(7) USEPA, Pesticide Fact Sheet: Trifloxystrobin, September 1999

(8) USDA, Pesticide fact Sheet: Mefluidide, 1994

#### 6/7/2004

#### **Relevant References**

Branham, B.E. and Gardner, D.S.; 2002; *How Does Turf Influence Pesticide Dissipation?*; USGA Green Section Record; March-April 2002, pp. 18-20

Cohen, S.; Svrjcek, A.; Durborow, T.; and Barnes, N.L; 1999; Ground Water Quality. Water Quality Impacts by Golf Courses; J. Environ. Qual. 28:798-809

Cohen, S.; 1990; The Cape Cod Study; Golf Course Management, Feb. 1990; pg. 26-42

Gold, A.J.; Morton, T.G.; Sullivan, W.M.; McClory, J.; 1988; Leaching of 2, 4-D and Dicamba from Home Lawns; Water, Air and Soil Poll, v. 37; pp. 121-129

Haith, D.A.; 2002; *Modeling Pesticide Runoff from Turf*; USGA Green Section Record, March-April 2002; pp. 7-9

Horst, G.L.; Shea, P.J.; and Christians, N.; 1995; *Pesticide Degradation Under Golf Course Fairway Conditions;* USGA Green Section Record, January-February 1995; pp. 26-28

Kenna, M.P.; 1995; What Happens to Pesticides Applied to Golf Courses?; USGA Green Section Record, January-February 1995; pp. 1-9

Mackay, J.; 2001; What is a buffer?; USGA Green Section Record, September-October 2001; pg. 24

Miles, C.J.; Leong, G.; and Dollar, S.; 1992; *Pesticides in Marine Sediments Associated with Golf Course Runoff*; Bull. Environ. Contam. Toxicol. 49:179-185

Pesticide Use in New Jersey: A Survey of Golf Courses and the Lawn Care Industries; 1993; NJDEPE/Rutgers Cooperative Extension Report E174

Pesticides in Ground Water Data Base, 1988 Interim Report, U.S. Environmental Protection Agency, 1988b; Office of Pesticide Programs, Environmental Fate and Ground Water Branch; Washington, D.C.



JUN 2 2 2004

CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

### **Perenchio Park**

4

Water Quality Monitoring Plan

Prepared By: GeoSyntec Consultants 06/07/2004

i

Exhibit 15 CDP No. 5-82-192-A2 Water Quality Monitoring Plan

#### **Table of Contents**

Introd	luction and Organization	2
1.1	Introduction and Purpose	2
Goals	and Objectives of the Monitoring Effort	3
Site C	Conditions and Characteristics	4
3.1	Site Location and Description	4
3.2	Hydrology	4
3.3	Best Management Practices and Design Attributes	5
Types	of Monitoring and Sampling Locations	7
4.1	Types of Water Quality Monitoring	7
4.2	Sampling Locations	7
4.3	Specific Sampling Equipment	7
4.4	Monitoring and Maintenance of Drainage System Components	8
Monit	oring Frequency and Event Targeting	9
5.1	Monitoring Frequency	9
5.2	Weather Forecasting and Event Targeting	9
Selec	tion of Analytical Parameters	10
Samp	le Collection Procedures	12
7.1	Clean Sampling Techniques	12
7.2	Sampling Equipment	12
7.3	Sample Packing and Shipping	12
7.4	Chain of Custody	13
Qualit	y Assurance and Quality Control	14
Data I	Management and Reporting	15
Contir	ngency Plan	16
Gener	al Standard Operating Procedures for Stormwater	
Monite	oring (SOPs)	18

## Goals and Objectives of the Monitoring Effort



The goal of this monitoring plan is to provide a set of standard procedures and protocols to collect data of sufficient breadth and quality so that the impacts management activities at Perenchio Park may have on the water quality of Malibu Lagoon and surrounding coastal waters can be accurately assessed. Additionally, the results of the water quality monitoring will be useful for managing chemical usage on the property to maintain optimal vegetative conditions while minimizing potential for transport of chemicals off site via surface water runoff or groundwater infiltration. This monitoring plan also includes a "contingency plan describing the actions to be taken if water quality impacts are discovered."

## Site Conditions and Characteristics

# 

#### 3.1 Site Location and Description

Perenchio Park is located south of Pacific Coast Highway in the Civic Center area of the City of Malibu. The property consists of approximately 10-acres that is used for residential recreational uses including golf.

The site is located immediately west of Malibu Lagoon State Park, which is mapped as an environmentally sensitive habitat area (ESHA) in the Malibu LCP. An eight-foot high perimeter wall is maintained as a barrier between Perenchio Park and Malibu Lagoon State Park (Reference: GeoSyntec Consultants: Perenchio Park Drainage System Improvements Preliminary Design Report, December 22, 2003).

The park consists of creeping Bentgrass turf area located on the southwest corner of the park with eight sand features spread throughout the Kentucky Bluegrass and perennial Ryegrass lawn-like park used for various recreational activities. In addition to the Turfgrass and the sand features, the park is landscaped with trees.

#### 3.2 Hydrology

Perenchio Park is located at the foot of the Malibu Creek watershed. The nearest rainfall gauge for which long-term data is available is the Los Angeles International Airport NCDC station. The LAX station is approximately the same distance inland from the coast and approximately the same elevation as the Park, and there is about 50 years of hourly precipitation data available for the station.

From the historic rainfall record, about seventeen storm events can be expected per year in the Malibu area. About four events per year would be expected to be greater than oneinch in total depth and therefore may have the potential to generate runoff from the Park.

#### 3.3 Best Management Practices and Design Attributes

The Park employs both source and treatment control measures to minimize the potential for site activities to negatively affect the nearby surface or ground water. Source control measures include implementation of a Turf Management Plan that prescribes the type, scheduling, and rate of chemical application at the site to maintain healthy vegetation and control pests. Another component of the source control program at the Park is efficient management of irrigation water to ensure that no surface runoff is generated during irrigation and that the rate of irrigation is matched to the plant's needs.

To prevent dry-weather runoff or nuisance flows from being released from the site, the stormdrain inlets will be sealed and valves installed to allow for controlled release of storm flows during large events.

Treatment control measures include the capture of return flows from the putting area underdrain, mechanical filtration, detention, and surface application of collected water. The collected water will be applied to the turf approximately 500 ft. up gradient from the outlet catchbasins from the site allowing for biofiltration, evapotranspiration, and degradation of chemicals that may be entrained in the flow. With implementation of these best management practices, no dry-weather surface runoff will be discharged from the property and wet-weather flows should only occur during infrequent flood-sized events. Figure 1 shows a plan of the Perenchio Park drainage system.



Figure 1: Perenchio Park Drainage System

## **Types of Monitoring and Sampling Locations**



#### 4.1 Types of Water Quality Monitoring

Two types of water monitoring will be conducted at the park, (1) return flows collected by the underdrain collection system will be monitored for nutrients and pesticides, and (2) stormwater runoff will be monitored for a select list of constituents as described below in Section 6.

#### 4.2 Sampling Locations

Stormwater samples will be collected at each of the two-catchbasin outlets just prior to discharge into the main stormwater drainage pipe that drains the Park and surrounding properties. Return flow samples will be collected from the storage tank outlet.

#### 4.3 Specific Sampling Equipment

A multiparamter stormwater probe similar to the YSI 85 shown below will be used for measuring field parameters.



MEASUREMENT		RESOLUTION	ACCURACY
Dissolved Oxygen	0 to 200%	0.1%	±2%
	0 to 20 mg/l	0.01 mg/i	±0.3 mg/l
Conductivity	0 to 49.99 mS/cm	0.01 mS/cm	±0.5% full scale
	0 to 499.9 µS/cm	0.1 µS/cm	±0.5% full scale
-	0 to 4999 µS/cm	1.0 µS/cm	±0.5% full scale
	0 to 200.0 mS/cm	0.1 mS/cm	±0.5% full scale
Salinity	0 to 80 PPT	0.1 PPT	±2% or ±0.1 PPT
Temperature	-5 to +95°C	0.1*C	±0.1°C (±1 isd)

## 4.4 Monitoring and Maintenance of Drainage System Components

#### Daily:

- Check irrigation schedule against California Irrigation Management Information System CIMIS data
- Record rainfall accumulated for previous day

#### Weekly:

- Record water level in storage tank
- Record reading on flow meter at outlet of storage tank
- Visually inspect outlet drains to ensure valves are closed
- Visually inspect irrigation system for maintenance needs (stuck sprinklers, wet spots), repair or adjust as required
- Examine filter screens and clean/replace as necessary

#### Monthly:

• Clean sump screens

#### Quarterly:

- Test sump and pump system, maintain/repair as necessary
- Manually activate each irrigation station and adjust/maintain sprinklers as necessary

#### Yearly:

• Perform water audit on irrigation system

## Monitoring Frequency and Event Targeting



#### 5.1 Monitoring Frequency

A minimum of three storm events (weather permitting) will be sampled each year for runoff water quality. Samples will be collected at each of the two catch basin outlets just prior to discharge into the main storm drain. No changes to or reductions in monitoring may occur without the approval of the Executive Director of the Coastal Commission.

At least twice each year, samples of the return flows collected in the detention/storage tank will be collected. Samples will be taken the first time the storage tank fills and at least once during wet weather. In addition, if return flows reach the storage tank during dry weather, sampling will occur at least once, and, if possible, twice during this period. No changes to or reductions in monitoring may occur without the approval of the Executive Director

Monitoring at this frequency shall occur for a minimum of three years from implementation of this monitoring plan, after which time, the Executive Director of the Coastal Commission may permit the applicant to reduce this frequency.

#### 5.2 Weather Forecasting and Event Targeting

Daily quantitative precipitation forecasts will be examined as part of the site irrigation management. If an event being tracked has a 75% or greater probability of generating 1 inch of rainfall with in a 24-hour period, preparations will be made for monitoring the event.

Target events should produce a sufficient volume of runoff to cause ponding at the outlets.

## Selection of Analytical Parameters



This water quality monitoring plan includes stormwater/surface runoff monitoring for all constituents of concern listed in Table 1.

Parameter	Analytical Method	Method Detection Limit	Action Threshold <sup>a</sup>	Unit
Nutrients				
Nitrite as N	EPA 300.0	0.1	b	mg/L
Nitrate as N	EPA 300.0	0.1	b	mg/L
Total Nitrogen as N	EPA 300.0	0.1	8.0 <sup>c</sup>	mg/L
Orthophosphate as P	EPA 365.2	0.002	b	mg/L
Ammonia	EPA 350.2	0.1	b	mg/L
Total Phosphate as P	SM 4500-P C	0.001	0.3 <sup>d,1</sup>	mg/L
General/Physical Parameters		. <u>.</u>	,,	
Dissolved Oxygen	Field probe	-	b	mg/L
Temperature	Field probe	-	b	°C
pH	Field probe	-	<6.0 or >8.5	pH Unit
Total Suspended Solids	EPA 160.2	1	b	mg/L
Organics				
Pesticides, PCBs	EPA 8081/SM 8082	varies	CTR <sup>2</sup>	
Herbicides	EPA 8141	varies	CTR <sup>2</sup>	
Toxicity				
Acute	EPA 600-4-90-027f		< 90%	% survival

 Table 1: Constituents of Concern for Surface Runoff Samples from Perenchio Park

<sup>a</sup> The Action Thresholds contained in this Water Quality Monitoring Plan shall be used to determine whether the various management activities contained in this Plan are warranted. These Action Thresholds are not intended to affect any Total Maximum Daily Loads (TMDLs) that may be adopted in the future by the Regional Water Quality Control Board. Any Total Maximum Daily Loads adopted in the future by the Regional Water Quality Control Board also shall not be substituted for the Action Thresholds contained herein, because the regulatory purpose and responses differ.

<sup>b</sup> These parameters are being monitored for informational purposes only therefore no action threshold is provided

<sup>c</sup> Nitrogen thresholds are based on the proposed Total Maximum Daily Loads for Nutrients, Malibu Creek Watershed

<sup>d</sup> Phosphorous threshold based on the Redfield atomic ratio of 550:30:1 Carbon:Nitrogen:Phosphorous for estuarine plants normalized to the proposed 8 mg/L nitrogen threshold. Value rounded to the nearest 1/10th mg/L

<sup>(1)</sup> Nutrient Criteria Technical Guidance Manual, Estuarine and Coastal Marine Waters, USEPA, October 2001

<sup>(2)</sup> CTR California Toxics Rule Acute Freshwater Criteria as listed in the USEPA 40 CFR Part 131, 2000

In addition, Table 2 provides a list of compounds that will be sampled for in the return flows:

Parameter**	Analytical Method	Method Detection Limit	Action <sup>a</sup> Threshold	Unit mg/L	
Total Nitrogen	EPA 300	0.1	8.0 <sup>b</sup>		
Total Phosphorous	EPA 365.2	0.002	0.3 <sup>c,1</sup>	mg/L	
Metsulfuron methyl*	Manufacturers Method	0.00003	4.7 <sup>d,2</sup>	mg/L	
Glyphosate*	EPA 547	0.010	6.4 <sup>d,3</sup>	mg/L	
Azoxystrobin*	EPA 632	0.06	44 <sup>d,4</sup>	ug/L	
Metalaxyl*	8270 Modified	0.0003	1.2 4.5	mg/L	
Propiconazole*	8081 Modified	0.12	3.2 <sup>f,6</sup>	ug/L	
Trifloxystrobin*	EPA 608	0.06	2.7 <sup>d,7</sup>	ug/L	

Table 2: (	Constituents of	Concern f	or Return	Flow Mon	itoring and	l Action	Threshold	S
------------	-----------------	-----------	-----------	----------	-------------	----------	-----------	---

<sup>a</sup> The Action Thresholds contained in this Water Quality Monitoring Plan shall be used to determine whether the various management activities contained in this Plan are warranted. These Action Thresholds are not intended to affect any Total Maximum Daily Loads (TMDLs) that may be adopted in the future by the Regional Water Quality Control Board. Any Total Maximum Daily Loads adopted in the future by the Regional Water Quality Control Board also shall not be substituted for the Action Thresholds contained herein, because the regulatory purpose and responses differ.

<sup>b</sup> Nitrogen thresholds are based on proposed Total Maximum Daily Loads for Nutrients, Malibu Creek Watershed

<sup>c</sup> Phosphorous threshold based on the Redfield atomic ratio of 550:30:1 Carbon:Nitrogen:Phosphorous for estuarine plants normalized to the proposed 8 mg/L nitrogen threshold. Value rounded to the nearest 1/10th mg/L

Value based on lowest No Observed Effect Level (NOEL) or No Observed Effect Concentration (NOEC) for the most sensitive aquatic species <sup>f</sup> Value based on 1/1000th of the LC50 for most susceptible aquatic species (Daphnia magna)

(1) Nutrient Criteria Technical Guidance Manual, Estuarine and Coastal Marine Waters, USEPA, October 2001

(2) (2) USDA, Forest Service, Metsulfuron methyl (Escort)-Final Report, SERA TR 99-21-01f, March 2001.

(3) Monheit, Susan, Glyphosate-Based Aquatic Herbicides An Overview of Risks, California Department of Food and Agriculture, April 2003.

- (4) Pesticide Fact Sheet, Aoxystrobin, USEPA, February 1997
- (5) European Commission on Heath and Consumer Protection, Commission Working Document-Metalaxyl, September 2002
- (6) EXTONET, Pesticide Information Profile, Propiconazole, October 1997

(7) European Commission on Heath and Consumer Protection, Commission Working Document-Trifloxystrobin, April 2003

Indicates chemical is a pesticide

\*\* Because of their low toxicity, use of the fungicide Polyoxin-D and the growth regulator Mefluidide are permitted in the Turf Management Plan; however, since there are currently no analytical methods available for detecting these chemicals in surface water, they are not included in these analytical parameters.

## Sample Collection Procedures



#### 7.1 Clean Sampling Techniques

Clean sample collection techniques should be followed to minimize the potential for contamination of stormwater runoff samples. Care must be taken during all sampling operations to avoid contamination of the water samples by human, atmospheric, or other potential sources of contamination. The monitoring team should prevent contamination of any of the following items: composite bottles, lids, sample, tubing, and strainers. Whenever possible, samples should be collected upstream, and upwind of sampling personnel to minimize contamination.

#### 7.2 Sampling Equipment

#### Grab Sampling Methods and Equipment

Time weighted composite samples will be collected from each outlet during the storm event over a 6-hour period and will include an estimate of the total flow of the sampled storm. A minimum of eight discrete samples will be collected and composited, 2-liters every <sup>1</sup>/<sub>2</sub>-hour.

- Two person clean sampling team: one "dirty hands" to move equipment and remove inlet grates. One "clean hands" to handle sampling equipment and bottles.
- Sample blank to be determined by sampling team at time of event.

Using a clean beaker, collect 2 liters per grab. Collect the sample from the middle of the flow stream and composite in the field into first 2-gallon container. Screw on the lid and place on ice in the cooler. Once full begin filling the second 2-gallon container with 2-liter samples following the protocol listed above.

Collect the sample from the middle of the flow stream. Pour the sample from the bailer into the autoclaved bottle. Fill the bottle to just below the neck. Screw on the lid and place on ice in cooler. Fill out the field data sheet.

#### 7.3 Sample Packing and Shipping

Monitoring personnel will deliver the samples to the laboratory. Sample bottles will be placed in coolers or some other package that is rigid enough to provide protection of the samples and has insulative properties to keep samples cold. During packing, the sample from one monitoring location should not be separated into separate shipping containers unless bottles of one size need to be shipped together because of container size. If samples from a location are separated a copy of the field-sampling sheet pertaining to the bottles will be enclosed in each shipping container. Prior to shipping, all sample bottles will be recorded on the packing lists, which will include the shipping date and the method of transporting the samples. Samples must be delivered to the analytical laboratory within 4 hours of sampling to ensure the maximum holding time for bacteria of 6 hours is not exceeded.

#### 7.4 Chain of Custody

After samples have been obtained and the collection procedures properly documented, a written record of the chain of custody of each sample will be made. This record ensures that samples have not been tampered with or inadvertently compromised in any way, and it also tracks the requested analysis for the analytical laboratory. "Chain of Custody" (COC) refers to the documented account of changes in possession that occur for samples. The Chain of Custody record tracks the sampling path from origin through laboratory analysis. Information necessary in the chain of custody include:

- Name of the person collecting the sample(s)
- Date and time of sample collection
- Location of sample collection
- Names and signatures of all persons handling the samples in the field and in the laboratory
- Laboratory analysis requested and control information (e.g., duplicate or spiked samples etc.) and any special instructions (e.g., time sensitive analyses)

To ensure that all necessary information is documented a COC form will accompany each sample or set of samples. COC forms will be printed on multipart carbonless paper so that all personnel handling the samples may obtain a copy. A COC record should accompany all sample shipments and the sample originator should retain a copy of the forms. When transferring custody of samples the transferee should sign and record the date and time of each transfer. Each person who takes custody should complete the appropriate portion of the chain of custody documentation. Quality Assurance and Quality Control

## Quality Assurance and Quality Control



Quality Assurance and Quality Control for sample analysis will be in accordance with USEPA guidelines (See SOP A-7).

## Data Management and Reporting



Results will be reported by the laboratory as hard copy and as electronic files. Hard copy data will be entered into an electronic format, and checked at least once by a different person than did the data entry. Electronic submittal of results will be discussed with the analytical lab in advance of delivery and its format arranged. A separate record will be generated for each sample analysis.

In addition, the key information such as; station ID, sample date and time, name of sampler, name of constituent), all results, units, detection limits, EPA methods used, name of the laboratory, and any field notes will be entered into the database. Additional information, such as compositing of multiple samples, or the use of grab or automatic samples, will also be included.

When reporting the laboratory results for each stormwater sample the following information will be provided:

- Sample site
- Sample date and time
- Sample number (or identification)
- Sampling technician(s)
- Detection Limit and Reliability Limit of analytical procedure(s)
- Sample Results with clearly specified units
- Written key to all data qualifiers reported

Results of surface runoff monitoring will be submitted in an annual report to the Executive Director of the California Coastal Commission and the City of Malibu. Results of underdrain collection system/return flow monitoring will be submitted in an annual report to the Executive Director of the California Coastal Commission, the City of Malibu and the Executive Officer of the LARWQCB. If any water quality thresholds established in this monitoring plan are exceeded, the applicant (or its successor in interest) will notify the Executive Director of the California Coastal Commission of the exceedances and the potential impacts within two business days of receipt of the monitoring data. The applicant will report to the Executive Director of the LARWQCB on the possible causes of the exceedances and any proposed corrective actions taken within 30 days of the initial receipt of the data. At the same time, the applicant will consult with the California Coastal Commission and LARWQCB staff regarding the need for additional sampling to evaluate the exceedance or corrective action to minimize water quality impacts.

## **Contingency Plan**



#### 10.1 Surface Runoff

Surface water runoff is expected to occur only during large storm events. A minimum of three storm events per year will be sampled for the parameters listed in Table 1.

If water quality monitoring results exceed any of the threshold criteria, the following actions will be taken:

#### 10.1.1 Phosphorous

If phosphorus concentrations in runoff samples exceed the 0.3 mg/L threshold criteria in any single sample, no phosphorous containing fertilizers or pesticides will be applied to the site until subsequent monitoring results are below the threshold. A soil nutrient assay (SLAN) will be performed the following spring. If the SLAN results indicate that the soil is deficient in phosphorous, the nutrient may be applied as prescribed by the SLAN.

#### 10.1.2 Nitrogen

If nitrogen concentrations in winter runoff samples exceed the 8.0 mg/L threshold criteria in any single sample, no nitrogen containing fertilizers or pesticides will be applied to the site until subsequent monitoring results are below the threshold. A soil nutrient assay (SLAN) will be performed the following spring. If the SLAN results indicate that the soil is deficient in nitrogen, nitrogen may be applied as prescribed by the SLAN.

#### 10.1.3 Organics, Pesticides, Herbicides

If any of the specific California Toxics Rule Freshwater Acute Toxicity Criteria (CTR) are exceeded in any single stormwater runoff sample, these specific chemicals will not be applied to the site until either the source of the exceedence is determined and eliminated or subsequent sampling shows no exceedances of the criteria.

#### 10.1.4 Toxicity

If toxicity results show less than 90% survival of any of the indicator species resulting from exposure to stormwater runoff samples, no toxic chemical may be applied to the site until either the source of the toxicity is eliminated or subsequent sampling shows 90 % or greater survival.

#### 10.2 Return Flow Samples

Excess irrigation water that infiltrates through the putting area and surface runoff from smaller storm events from the entire site will be captured via a sump and pump system and stored in a collection tank. This collected water will be recycled for irrigation of specific portions of the

property. At least twice each year, the return flow will be sampled and analyses performed for specific chemicals applied to the site (see Table 2)

If any of the chemicals (other than nutrients) are found in the return flows at levels above the action threshold, stored water will be pumped from tank and the tank will be flushed. All water pumped from the tank, including flush water, will be taken to an approved sanitary waste disposal facility. Use of the specific chemical(s) will be prohibited until follow-up results (e.g. subsequent monitoring) show concentrations are below the threshold values. The annual nutrient requirements for the areas that return flows are applied will be adjusted to account for nutrient concentrations in the return flows.

#### **10.3 Corrective Measures**

At the end of the third year of monitoring, the data that has been collected will be summarized using the appropriate statistical methods for the distribution of the data set. If after three years of water quality monitoring, the average concentration of any parameter exceeds the action threshold for the year-three monitoring data, additional physical improvements or water quality treatment systems, consistent with the recreational and golf uses on-site and designed to contain on-site and/or treat water containing pollutants exceeding water quality threshold levels, will be proposed to the Executive Director of the Coastal Commission. The proposed physical improvements or water quality treatment systems will be implemented as required by the Executive Director of the Coastal Commission. General Standard Operating Procedures for Stormwater Monitoring (SOPs)



#### SOP A-1 Weather Tracking and Monitoring Preparation

The Storm Event Coordinator will review the daily National Weather Service forecasts (www.nws.noaa.gov) and track all potential rainfall events. If an event being tracked has a 75% or greater probability of generating 1.0" of rainfall within a 24 hour period, the Monitoring Team will go into the "Prepare Mode".

Monitoring Team "Prepare Mode"

- Order bottles from lab and alert lab of possible monitoring activities (may want to keep a supply on hand during monitoring season)
- Assemble field equipment
- Arrange team members schedule for field activities
- Arrange vehicle for monitoring activities

The Storm Event Coordinator will frequently check the Weather Service Forecast and if the forecast still predicts a target magnitude event at 48 hours before its arrival, the Monitoring Team will be placed in a "Stand-By Mode".

Monitoring Team "Stand-By Mode"

- · Identify Monitoring Team and arrange schedules for field activities
- Check bottle inventory against station check list
- Initiate chain of custody procedure
- Bench test and calibrate all field equipment
- · Confirm team members schedules for field activities
- Arrange for vehicle to conduct monitoring activities

At 24 hours before the event is predicted to arrive if there is still a 75% probability that the storm will generate 1.0" of rainfall within 24 hours a monitoring "Alert" will be issued.

Monitoring Team "Alert Mode"

- Label bottles
- Ensure a sufficient amount of ice for sampling and sample transport
- Set up sampling equipment at sites (preferably during daylight hours)

At 12 hours before a target event is scheduled to arrive, a Go/No-Go decision on monitoring will be made by the Storm Event Coordinator.

Monitoring Team "Go"

Mobilize Monitoring Team

Monitoring Team "No-Go"

- Retrieve sampling equipment
- Inventory, clean, organize, and prepare sampling equipment for next event.

Once precipitation has begun the Monitoring Team will go into "Sample Mode"

Monitoring Team "Sample Mode"

#### SOP A-2 Bottle Organization

- Bottles of proper size and material and sufficient quantity should be prepared by the analytical lab and delivered to the Monitoring Team at least 48 hours prior to the sampling event (see sample bottle order form). Bottles should be inventoried and checked against the SSOPs for each monitoring station.
- An 80-quart Environmental Cooler should be prepared and clearly labeled for each monitoring event. The cooler should include the required bottles for sampling at that as well as bottles for blanks and duplicates as required by QA/QC plan.
- All sample bottles should be labeled prior to placement in sampler and as much information as possible should be filled out on the labels when bottles are dry. A second label or corresponding Sample ID No. should be place on sample bottle lid.
- One set of clean beakers in Ziploc bags (1-250 ml and 1-500 ml.) should be placed in coolers with bottles.
- Powder free nitrile gloves should be worn whenever handling clean bottles.
### SOP A-3 Clean Sampling Techniques

Sample collection personnel should adhere to the following rules while collecting stormwater samples to reduce potential contamination.

#### General

- No Smoking
- Do not park vehicles in immediate sample collection area, do not sample near a running vehicle.
- Always wear clean powder-free nitrile gloves when handling composite bottles, lids, sterile grab sample bottles, tubing, or strainers.
- Never touch the inside surface of a sample bottle, lid, or sampling tube (even with gloved hands) to be contacted by any material other than the sample water.
- Never touch the exposed end of a sampling tube.
- Never allow any object or material to fall into or contact the collected sample water.
- Avoid allowing rainwater to drip from rain gear or other surfaces into sample bottles.
- Do not eat or drink during sample collection.
- Do not breathe, sneeze, or cough in the direction of an open sample bottle.

#### Equipment Decontamination Procedures

Non-dedicated sampling equipment will be properly cleaned before sample collection Nondedicated equipment may include:

- Teflon or fluoropolymer scoops buckets used to collect manual grab samples
- Water quality probe for field parameter measurements

Scoops and buckets used to transfer samples into the sample bottles required for will be cleaned as follows:

- Clean with tap water and phosphate-free laboratory detergent such as Liquinox®
- Rinse thoroughly with tap water
- Rinse thoroughly with analyte-free water
- Air dry

Before the water quality probe is used at each site, the probe will be double-rinsed with analytefree water.

### SOP A-4 Outlet Operation

The valves on the outlets to the stormdrain should be in the closed position and sufficient water should ponded near the outlet to allow for sampling (one foot deep minimum).

- Open slide gate by pulling handle up
- Collect samples as described in section 7.2
- If runoff ceases before sampling is complete, close side gate before leaving site
- If runoff is still present upon completion of sampling, leave slide gate open. Close slide gate upon return to site for normal work.

#### SOP A-5 Grab Sampling

Grab sample technique is described as follows:

- Put on sterile nitrile gloves
- Adhere to clean sampling techniques in SOP-A3
- Remove lid of sample bottle
- Place lid top down on a clean surface out of the rain or hold in hand while taking sample, do not allow inside of lid to contact any objects.
- Fill sample bottle directly from flowing stream with bottle opening facing upstream.
  - · Avoid touching sample bottle to the bottom of the stream or any fixed object.
  - · Avoid capturing floating or suspended plant material in sample.
- Replace lid on sample bottle
- Fill out label on sample bottle and place in cooler

## SOP A-6 Chain of Custody Records

A chain of custody record (COC) is a legal document designed to track samples and persons who are responsible for them during preparation of the sample container, sample collection, sample delivery, and sample analysis. These forms are supplied by the analytical laboratory that performing the sample analysis. The procedures for filling out these forms are as follows:

#### **Prior to sampling**

After bottles are labeled placed in coolers, fill out general information on COC form including:

- Company information and Client Code
- Project Name
- Sample Site ID
- Matrix
- Date
- Sample Numbers (unique to each bottle, see SSOPs for labeling instructions)
- Type of sample

Place COC in a Ziploc bag and tape to the lid of the cooler

#### After Sampling is complete

After sampling has been completed, fill out remainder of the COC including:

- Time sampling was initiated
- Number of containers
- Comments or special instructions (see SSOPs)
- Disposal requirements

Replace in Ziploc bag and tape to lid of cooler

#### At Laboratory or Transfer to Another Person

Whenever custody of the samples is relinquished:

- Sign and date
- Have new custodian sign and date
- Relay any special instructions
- Take one copy of COC for your records

# SOP A-7 Transporting, Packaging, and Shipping Samples from the Field to the Laboratory

- Clearly mark the analyses to be performed for each sample.
- Fold the field-sampling sheets and chain of custody record form and place them in plastic bags to protect the sheets during transport. Tape COCs to the lid of the cooler.
- Pack samples well to prevent breakage or leakage (samples should already be labeled) and provide additional protection for glass sample bottles (e.g. foam or bubble wrapping).
- Sample should be packed in ice or an ice substitute to maintain a sample temperature of 4°C during shipping. Ice (or substitute) should be placed in double wrapped watertight bags to prevent leaking during shipping.
- Using duct tape or packing tape, wrap the cooler twice to seal the opening.
- On the sealing tape, write the date and time the sample container was sealed
- Affix destination, identification, and FRAGILE labels to each shipping container.
- Samples must be delivered to the analytical laboratory within 4 hours of sampling to ensure the maximum holding time for bacteria of 6 hours is not exceeded.

### SOP A-8 Quality Assurance and Quality Control

The quality assurance/quality control (QA/QC) program will be implemented to satisfy the data quality objectives of the monitoring program. The primary data quality objectives are to obtain defensible data of acceptable sensitivity and quality to:

- evaluate the stormwater management program, and
- evaluate stormwater quality.

Analytical accuracy and precision are two parameters typically used to evaluate data quality. Accuracy is defined as the closeness of agreement between an observed value and an accepted reference value. Accuracy is expressed as percent recovery:

$$%R = \frac{X}{T} x100$$
 (10-1)

where:

% R = Percent recovery X = Observed value of the measurement T = True value of the measurement

The analytical laboratory selected for this study will evaluate the accuracy of its sample extraction and/or analytical procedures using spike samples, which may include matrix spikes (MS), laboratory control samples (LCS) and surrogate spikes. Acceptable spike recoveries must fall within statistically derived laboratory "control limits".

Precision is the agreement among a set a replicate measurements of the same parameter. Precision is quantified by calculating the relative percent difference (RPD) between duplicate measurements:

$$RPD(\%) = \left(\frac{(C_1 - C_2)}{\left[\frac{C_1 + C_2}{2}\right]}\right) x100$$
(10-2)

where:

C1 = First sample result

C2 = Second sample result

The analytical laboratory will evaluate precision by performing matrix spike duplicate (MSD), laboratory control sample duplicate (LCSD) and duplicate stormwater sample analyses (typically performed for inorganic parameters only). Acceptable RPDs must meet the precision criteria established by the laboratory.

The data quality objectives also include obtaining data that are comparable and representative of the water quality conditions at each monitoring location. Comparable data will be collected if comparable sampling, analysis, QA/QC and reporting procedures are implemented throughout the monitoring program. Representative samples will be collected by performing sampling activities compliant with the procedures described in this monitoring plan. Duplicate samples will be collected and the results will be used to evaluate representativeness.

Comparability expresses the confidence with which one data set can be compared to another. Data are comparable if collection techniques, measurement procedures, methods, and reporting are equivalent for the samples within a sample set.

volume for the sample selected as the matrix spike sample. Field personnel will identify the MS/MSD sample on the chain-of-custody form .

#### Laboratory Quality Control

This section summarizes the QC procedures the laboratory must perform and report with the analytical data packages. These procedures are not inclusive of the QA/QC that is required for compliance with the analytical method. The laboratory will be required to implement all procedures required by the analytical methods listed in Section 6, and to implement the Standard Operating Procedures documented in its Quality Assurance Plan. The required frequency for QC procedures and evaluation criteria are summarized in Table 10.1.

#### Method Blanks

A method blank is prepared using reagent-grade water, and is extracted and analyzed with each sample batch (typically 20 samples extracted and/or analyzed on a given day). Method blank results are used to identify potential sources of sample contamination resulting from laboratory procedures. Target analytes should not be detected in the method blank above the practical quantitative limit.

#### Matrix Spike and Laboratory Control Samples

Matrix spikes (MS), matrix spike duplicates (MSD), laboratory control samples (LCS) and laboratory control sample duplicates (LCSDs) are performed by the laboratory to evaluate the accuracy of the sample extraction and analysis procedures. MS/MSDs are also performed to evaluate matrix interference. Matrix interference is the effect of the sample matrix on the analysis, which may partially or completely mask the response of the analytical instrumentation to the target analyte(s). Matrix interference may affect the accuracy of the extraction and/or analysis procedures to varying degrees, and may bias the sample results high or low.

The MS/MSD is prepared by adding known quantities of target analytes to a sample. The sample is then extracted and/or analyzed as a typical environmental sample, and the results are reported as percent recovery. The percent recovery for the MS/MSD analysis is expressed as:

$$\%R = \left(\frac{C_{obs} - C_{org}}{C_s}\right) x100$$

where:

% R	=	Percent recovery
Cobs	=	Concentration measured in MS analysis
Corg	=	Concentration measured in un-spiked sample analysis
<u></u>		MS concentration

The LCS/LCSD is prepared exactly like a MS/MSD, except a clean control matrix such as reagent-grade water is used. The LCS recoveries are used to evaluate the accuracy of the analytical procedures, independent of matrix effects (see Equation 10-1).

#### **Surrogates Spikes**

Surrogate spikes are performed for organic analysis method only. Surrogates are organic compounds that are similar to the target analytes in terms of their chemical structures and response to the analytical instrumentation, but are not usually detected in environmental samples. Surrogates will be added to each environmental sample and laboratory QC sample per the analytical method to monitor the effect of the matrix on the accuracy of the extraction and/or analysis. Surrogate analysis results are reported as percent recovery (Equation 10-1).

#### **Duplicate Analyses**

The laboratory will perform duplicate analyses that may include LCSD, MSD and replicate stormwater sample analyses (for inorganic methods only). The laboratory will evaluate the precision of the duplicate analyses by calculating RPDs (Equation 10-2).

#### **Data Reduction and Validation Requirements and Methods**

#### Laboratory Requirements

Laboratory data reduction and validation requirements will be consistent with the procedures documented in the laboratory Quality Assurance Plan and Standard Operating Procedures (SOPs). Data review will be performed by the project manager and the laboratory QA officer. Generally, the review will determine whether or not the:

- Sample preparation information is correct and complete.
- Analysis information is correct and complete.
- The appropriate SOPs have been followed.
- Analytical results are correct and complete.

27

(10-3)

ų.

- QC samples are within established control limits.
- Special sample preparation and analytical requirements have been met.
- Documentation is complete.
- Data reduction and validation steps are documented, signed, and dated by the analyst.

#### Independent Data Review Process

The analytical data received from the laboratory will be independently reviewed by the Project chemist to evaluate if the data are of acceptable quality to satisfy the project data quality objectives. The data quality evaluation will be performed following USEPA guidelines. Guidance is provided in the following documents:

- USEPA Guidance on the Documentation and Evaluation of Trace Metals Data Collected for Clean Water Act Compliance Monitoring (April 1995).
- USEPA Contract Laboratory Program National Functional Guidelines for Organic Data Review (October 1999).
- USEPA Contract Laboratory Program National Functional Guidelines for Inorganic Data Review (February 1994).

A summary of the evaluation criteria that will be used for the independent data review process is provided in Table 10.1. The data qualifiers that will be used to flag analytical results associated with QC parameters outside the evaluation criteria are defined below. All qualifiers are defined by USEPA, with the exception of the "H" qualifier.

UJ -- The analyte was not detected above the reporting limit. However, the non-detect concentration is considered an estimated value.

U -- The analyte was detected, however due to potential sample contamination from laboratory procedures, sampling equipment, sample handling or transportation to the laboratory, the sample reporting limit was raised to the concentration detected in the sample.

J -- The analyte was positively identified. However the result should be considered an estimated value.

R - The sample result is rejected due to serious deficiencies in the ability to analyze the sample in compliance with the QC criteria or other laboratory protocols.

H -- The reported petroleum hydrocarbon concentration is not representative of the fuel specified for analysis.

QC Parameter	Applicable Method	Frequency	Conditions Under Which Data May be Qualified	Reanalysis Required?	Use of Qualified Data	Reference
Method Blank	Organic and Inorganic Methods	One per sample batch (i.e., 20 samples of a similar matrix analyzed within a 12-hour period)	Detection of Common Laboratory Contaminants in Blank* If the sample concentration is less than 10 times the associated method blank concentration, the sample result is qualified by raising the quantitative limit to the concentration detected in the sample. If the sample result is greater than 10 times the method blank concentration, no qualification is necessary.	Yes	Qualified results should be reported as non-detect	USEPA 1994, 1995, 1999
			Detection of Other Analytes in Blank: If the sample concentration is less than 5 times the associated method blank concentration, the associated sample result is qualified by raising the quantitative limit to the concentration detected in the sample. If the sample result is greater than 5 times the method blank concentration, no qualification is necessary.			
Field Duplicate Samples	Organic and Inorganic	One per event	Concentrations at least 5 times the quantitative limit: if the relative percent difference between the original and duplicate sample result exceeds 25 percent, sample results are qualified as J. Concentrations less than 5 times the quantitative limit: if the relative percent difference between the original and duplicate sample result is greater than the quantitative limit, detected sample results are qualified as J.	Νο	Results qualified as J and UJ should be considered estimated values, but can be used to fulfill the project data quality objectives Results qualified as R can not be used to fulfill the project data quality objectives	USEPA 1994, 1995
			quantitative limit shall be used to calculate the relative percent difference. If the relative percent			

QC Parameter	Applicable Method	Frequency	Conditions Under Which Data May be Qualified	Reanalysis Required?	Use of Qualified Data	Reference
			difference between the original and duplicate sample is greater than the quantitative limit, the non-detect result is qualified as UJ and the detected result is qualified as J.			
			Exceedingly high relative percent differences (e.g., 100%) will be qualified based on professional judgment. These data may be qualified as <b>R</b> (rejected).			
Matrix Spike/ Matrix Spike Duplicate	Organic and Inorganic	One per sample batch (i.e., 20 samples of a similar matrix analyzed within a 12-hour period)	Organic analyses are not qualified based on matrix spike data alone. Inorganics: Data are qualified only if the original sample concentration does not exceed the matrix spike concentration by greater than 4 times.	No	Results qualified as J and UJ should be considered estimated values, but can be used to fulfill the project data quality objectives	USEPA 1994, 1995, 1999
			If MS recovery is above the upper laboratory control limit, detected results are qualified a J, and non-detect results are not qualified. If the MS recovery is below the lower laboratory control limit, but is greater than 30%, detected results are qualified as J, non-detect results are qualified as UJ. If the MS recovery is below 30%, detected results are qualified as L and non-detected results are		Results qualified as <b>R</b> can not be used to fulfill the project data quality objectives	
			are qualified as $\mathbf{J}$ and non-detected results are qualified as $\mathbf{R}$ (rejected).			

QC Parameter	Applicable Method	Frequency	Conditions Under Which Data May be Qualified	Reanalysis Required?	Use of Qualified Data	Reference
Laboratory Control Sample/ Laboratory Control Sample Duplicate	Organic	nic One per sample batch (i.e., 20 samples of a similar matrix analyzed within a 12-hour period)	If the LCS recovery is above the upper laboratory control limit, associated detected analytes are qualified as J. Non-detect associated analytes are not qualified. If the mass spectral criteria are met but the LCS recovery is below the lower control limit, associated detected analytes are qualified as J and associated non-detect analytes are qualified as R (rejected). If more than half the compounds in the LCS are not within the laboratory control limits, all associated detected analytes are qualified as J and all associated non-detect analytes are qualified as	Yes, to verify recoveries outside laboratory control limits	Results qualified as J should be considered estimated values, but can be used to fulfill the project data quality objectives Results qualified as R can not be used to fulfill the project data quality objectives	USEPA 1999
	Transmis		R (rejected). Professional judgment will be used to qualify sample data for the specific compounds that are not included in the LCS solution.	Vac de		
	Inorganic		If the LCS recovery is above the laboratory control limits, detected results are qualified as J. Non-detect results are not qualified. If the LCS recovery is below the laboratory control limits but greater than 50%, detected results are qualified as J and non-detect results are qualified as UJ.	Yes, to verify recoveries outside laboratory control limits	Results qualified as J and UJ should be considered estimated values, but can be used to fulfill the project data quality objectives	USEPA 1994, 1995
			If the LCS recovery is below 50%, detected results are qualified as J and non-detect results		Results qualified as <b>R</b> can not be used to	

31

QC Parameter	Applicable Method	Frequency	Conditions Under Which Data May be Qualified	Reanalysis Required?	Use of Qualified Data	Reference
			are qualified as R (rejected).		fulfill the project data quality objectives	
Surrogates	Organic	Added to every environmental and batch QC sample	<ul> <li>Volatile Organic Compounds</li> <li>If a surrogate recovery is above the upper laboratory control limit, detected sample results are qualified as J. Non-detect results are not qualified.</li> <li>If a surrogate recovery is below the lower laboratory control limit but above 10%, detected results are qualified as J and non-detect results are qualified as UJ.</li> <li>If a surrogate recovery is less than 10%, detected results are qualified as J and non-detect results are qualified as K (rejected).</li> <li>Pesticides</li> <li>The guidance above for volatile organic compounds will be used but professional judgment will be used in applying these criteria as surrogate recovery problems may not directly apply to target analytes.</li> </ul>	Yes, to confirm non- compliance is due to sample matrix effects rather than laboratory deficiencies	Results qualified as J and UJ should be considered estimated values, but can be used to fulfill the project data quality objectives Results qualified as R can not be used to fulfill the project data quality objectives	USEPA 1999
Laboratory	Inorganic	One per sample batch (i.e., 20	Concentrations at least 5 times the quantitative limit: if the relative percent difference between	Yes	Results qualified as J and III should be	USEPA 1994

QC Parameter	Applicable Method	Frequency	Conditions Under Which Data May be Qualified	Reanalysis Required?	Use of Qualified Data	Reference
Replicate Analysis		samples of a similar matrix analyzed within a 12-hour period)	the original and duplicate sample result exceeds the laboratory control limit, sample results are qualified as J.		considered estimated values, but can be used to fulfill the project data quality objectives	
			<u>Concentrations less than 5 times the quantitative</u> <u>limit:</u> if the relative percent difference between the original and duplicate sample result is greater than the quantitative limit, detected sample results are qualified as J.		Results qualified as R can not be used to fulfill the project data quality objectives	
			If one result is below the quantitative limit, the quantitative limit shall be used to calculate the relative percent difference. If the relative percent difference between the original and duplicate sample is greater than the quantitative limit, the non-detect result is qualified as UJ and the detected result is qualified as J.			
			Exceedingly high relative percent differences (e.g., 100%) will be qualified based on professional judgment. These data may be qualified as $\mathbf{R}$ (rejected).			

\*To be determined in laboratory audit and stated in laboratory contract

References:

USEPA. 1994. Contract Laboratory National Functional Guidelines for Inorganic Data Review. February

USEPA. 1995. Guidance on the Documentation and Evaluation of tract Metals Data Collected for Clean Water Act Compliance Monitoring. April.

USEPA. 1999. Contract Laboratory Program National Functional Guidelines for Organic Data Review. October.

33

7. F