

Item Fr 6a

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

Arnold Schwarzenegger, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: NA
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Staff: Carey
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Hearing Date: 8/13/04



RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-108

APPLICANT: Jean Ross, LLC

AGENT: Schmitz & Associates

PROJECT LOCATION: North of Pacific Coast Highway Northeast of Sweetwater Mesa Road, APNs - 4453-005-018; 4453-005-002; 4453-005-037

PROJECT DESCRIPTION: Proposal to improve a 1,750-foot long portion of an existing access road/jeep trail to 10 feet in width with 465 cubic yards of grading (350 cu. yds. cut, 115 cu. yds. fill) and removal of 8,302 sq. ft. of vegetation to accommodate geologic testing equipment.

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Building and Safety, Approval in Concept, June 7, 2001.

SUBSTANTIVE FILE DOCUMENTS: Certified 1986 Malibu/Santa Monica Mountains Land Use Plan; Malibu Beach Quadrangle, California-Los Angeles County, 7.5 Minute Series Topographic, US Geologic Survey, 1950, Photo Revised 1967 & 1981; Department of County Forester and Fire Warden Map, Battalion 5, Santa Monica Mountains, County of Los Angeles, California, 1970 Edition; NASA Aerial Photography, January 1977.

Staff Note

Permit Application 4-01-108 was originally considered and denied by the Commission at the January 2004 hearing. The applicant filed a lawsuit in connection with the permit denial. The Commission subsequently reached a settlement agreement with the applicant whereby the applicant would supply additional information and the Commission would once again consider the application.

Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with **three (3) special conditions** regarding: (1) Drainage and erosion control; (2) Landscaping Plan; and (3) City of Malibu Coastal Development Permit.

I. Staff Recommendation

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-108 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. Standard Conditions

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

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

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

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

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

III. Special Conditions

1. Drainage and Erosion Control Plans

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a final drainage and runoff control plan for the access road, including supporting calculations. The plan shall be prepared by a licensed engineer and shall be designed to control the volume and velocity of runoff off the access road in a non-erosive manner. The plan shall include the following:

- (a) Detailed plan and cross sectional views of the roadway and drainage pathways, berms, water bars and other drainage system elements. Details of drainage structures and other erosion control measures. Energy dissipating measures shall be installed at the terminus of outflow drains.
- (b) The plan shall include provisions for maintaining the drainage system in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) drainage system shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of portion the project's drainage system fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage system. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if amendment(s) or new Coastal Development Permit(s) are required to authorize such work.
- (c) The erosion control plan shall include a provision that grading shall not take place during the rainy season, which is from November 1st – March 31st. Should grading operations cease for a period of more than thirty (30) days, the plan shall include temporary erosion control measures such as: stabilization of all stockpiled fill, disturbed soils, and cut and slopes with geotextiles and/or mats,

sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species or another appropriate native ground cover as recommended by a qualified resource specialist or biologist. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

2. Revegetation Plans

Prior to issuance of a coastal development permit, the applicants shall submit two sets of revegetation plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director, for all graded and disturbed slopes. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Revegetation Plan

- (1) All cut and fill slopes shall be stabilized with plantings at the completion of final grading. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures. Such planting shall be adequate to provide 90 percent coverage within three (3) years. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (2) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (3) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B. Monitoring

Five (5) years from the date of completion of the proposed development, the applicant shall submit for the review and approval of the Executive Director a revegetation monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that assesses the on-site revegetation and certifies whether it is in conformance with the revegetation plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the revegetation monitoring report indicates the revegetation is not in conformance with or has failed to meet the performance standards specified in the revegetation plan approved pursuant to these permits, the applicant, or successors in interest, shall submit a revised or supplemental revegetation plan for the review and approval of the Executive Director. The supplemental landscaping plan must be prepared by a licensed landscape architect or qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The permittee shall implement the remedial measures specified in the approved supplemental revegetation plan.

3. City of Malibu Coastal Development Permit for Access Road Improvements within the City of Malibu.

Prior to construction of the access road improvements within unincorporated Los Angeles County, approved pursuant to this permit, the applicant shall obtain a coastal development permit from the City of Malibu for the portion of the road improvements within the jurisdiction of the City of Malibu.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant **proposes** to improve a 1,750-foot long portion of an existing access road in order to **conduct** geologic tests on a vacant parcel. (Exhibits 1-4). The improvements involve 495 **cubic yards** of grading (350 cu. yds. cut, 115 cu. yds. fill) to provide for a 10-foot wide **road bed** and appropriate road grades to allow geologic test equipment to access an **undeveloped** parcel (4453-005-037). The project site is located north of Pacific Coast **Highway** at the end of Sweetwater Mesa Road. The proposed road improvements are **within** an existing 80-foot wide road easement through two adjacent offsite parcels.

Commission staff has reviewed aerial photography and various map resources and have confirmed the access road/jeep trail existed prior to the Coastal Act. The existing access road is a rough jeep trail that traverses five undeveloped parcels on steep hillside terrain. The existing road traverses three parcels within the jurisdiction of the City of Malibu and two within unincorporated Los Angeles County. The total length of proposed access road to be improved including the portion within the jurisdiction of the City of Malibu is 3,416 feet in length. The applicant has submitted evidence the parcel (4453-005-037) where the geologic test will be conducted on was created legally prior to the Coastal Act.

The area traversed by the proposed road is vegetated with a mixed chaparral plant community. While the existing road has disturbed this plant community the surrounding area can be characterized as a relative undisturbed contiguous chaparral habitat that is

considered to be environmentally sensitive habitat area (ESHA). The parcels the proposed road traverses to the south within the jurisdiction of the City of Malibu were designated as ESHA in the adopted Malibu Local Coastal Program. The proposed road improvements for the most part do not extend beyond the existing roadbed and adjacent disturbed area. The applicant estimates that 8,302 sq. ft. of vegetation would be removed along the length of the proposed road improvements. While this would be a fairly large area of impact all in one location, in this case, it reflects small areas of removal along the 1,750-foot extent of the proposed road improvements and will not result in significant impacts to the chaparral vegetation.

B. Background

The subject permit application was submitted to the Coastal Commission South Central District office on June 7, 2001. Commission staff determined the permit application was incomplete on July 3, 2001 and sent a letter to the applicant's agents indicating the file was incomplete and itemized what information was necessary to complete the file. On July 11, 2001 the applicant's agents submitted additional information in response to the July 3, 2001 incomplete notice. Commission staff responded in a letter to this submittal on August 25, 2001 indicating the file was still missing the following items: 1) Approval in Concept from the City and County Planning Departments; 2) Geologic Review Sheets or Geologic Referral Sheets from the City and County; 3) an alternatives analysis that addressed the use of tracked vehicles; 4) underlying evidence of lot legality.

On September 13, 2002 the Commission adopted a Local Coastal Program (LCP) for the City of Malibu which transferred coastal development permit authority to the City of Malibu. Commission staff notified the applicant's agents by letter on September 24, 2002 of the adoption of the LCP and that Commission no longer had permit authority for the portion for the project within the City of Malibu. Commission staff returned those materials of the file that related to the portion of the access road within the City of Malibu.

On June 23, 2003 the applicant's agents submitted additional information to complete the file including: 1) a "Approval in Concept" from the City of Malibu, 2) a Geologic Review Sheet from the City of Malibu; 3) a Certificate of Compliance from Los Angeles Department of Regional Planning for the subject parcel as evidence the lot was legality. The applicant's agent's sent another letter on July 25, 2003 asserting that the file was complete because staff did not respond to their June 23, 2003 submittal within 30 days. However, the applicant's June 25, 2003 submittal did not include all of the required information previously requested by commission staff in previous correspondence. The applicant failed to provide: 1) the "Approval-in-Concept" for the project from the Los Angeles County Department of Regional Planning; and 2) the Geologic Referral Sheets from Los Angeles County. Unfortunately, the staff person assigned to this application left the Commission and the incomplete application was not reassigned. As such, staff did not respond to the applicant's letter.

On November 14, 2002, the applicant sent commission staff a letter indicating that, pursuant to the Section 65956 of the Government Code (Permit Streamlining Act), the applicant is sending public notice of the "deemed approved" status of the permit application (Exhibit 5). However, this section of the Government Code also provides that, if an applicant provides the required public notice of the application, "the time limit for action by the permitting agency shall be extended to 60 days after the public notice is provided." Staff does not agree that the permit file has been completed given the applicant did not submit all the required items staff originally requested of the applicant in written correspondence. However, the application has been scheduled for hearing within 60 days of the applicant's notice so that the applicant may not assert that the project was deemed approved.

As previously mentioned, the Commission adopted a LCP for the City of Malibu on September 13, 2001. The permit application file was incomplete at the time the Malibu LCP was adopted. Commission staff returned those elements of the file that related to the portions of the road within the jurisdiction of the City of Malibu. One of the incomplete items was approval of the project from the City of Malibu. The applicant and the City of Malibu were in a legal dispute over the local approval for the portion of the road within the City. The applicant's agent asserts that the litigation between the City and the applicant over the local approval somehow extended or tolled the date that the application needed to be complete in order for the Commission to retain jurisdiction over this application. Commission staff is not aware of any authority for a lawsuit between the applicant and the City of Malibu to confer jurisdiction on the Commission over a project within the City after the date of approval of the Malibu LCP and transfer of permitting authority to the City, pursuant to Section 30166.5 of the Coastal Act. Therefore, the Commission does not have jurisdiction over the portion of the development within the City of Malibu.

Finally, the two neighboring parcels that also take access off of the access road have unpermitted fencing and water tanks for a proposed future agricultural operation. However, this unpermitted development is not directly related to the proposed road improvements. The Commission's enforcement unit will address the unpermitted development on the adjacent properties

C. Alternatives

Potential alternatives to the proposed geologic test road have been considered, including the use of tracked vehicles transported to the proposed project site on the existing jeep trail, the use of an alternative access route to the site outside the existing easement through property owned by the State, and the use of alternative access routes from the north and the east.

Commission staff asked the applicant to explore alternative methods to access the property such as tracked mounted drilling vehicles that could negotiate the existing unimproved jeep trail. The applicant provided information from its geologic consultants that it would not be possible to transport the necessary equipment to the site on tracked

vehicles. The applicant's consulting geologist, Scott Hogrefe, addressed this issue in a letter dated September 1, 2001:

On August 22, I met at the property with two drilling subcontractors, Jay Cook of Roy Brothers Drilling and Dale Scheffler with Scheffler Drilling, and a water truck contractor, Gary Jensen of Jensen Water Trucks, to determine if it is feasible to access the planned testing locations within Sweetwater Highlands project site using track-mounted drilling rigs and water truck equipment. All of the subcontractors concluded with us that it is not feasible to access the planned testing sites to conduct all of the necessary geologic and geotechnical studies unless an access road is first constructed that would allow vehicular access for all of the necessary equipment.

Information was provided during the January 2004 Commission hearing that the existing jeep trail is passable by tracked vehicles. Additionally, several letters have been provided regarding the use of tracked vehicles. A nearby property owner, James Smith has provided several letters, including some from companies who carry out drilling and testing in the Santa Monica Mountains area. These letters provide information that it would be possible to transport a track mounted drill rig to the proposed project site along the existing jeep trail (these letters are attached as Exhibit 7). A letter from Hard Rock Drilling to Jim Smith, dated June 10, 2004 states that:

Method 1 would use a limited access track mounted drill rig for the job. This rig is 5' wide and can drill 65' deep. It is capable of soil testing and rents for \$195 per hour plus travel time. If this rig was used, there would be no need for grading a road, as the existing grown over road would be sufficient for this rig.

Method 2 would use a much larger track mounted Lodril. This rig is 9' wide and can drill 70' deep. This rig rents for \$225 per hour plus \$800 move-in fee but can drill probably three times as fast as the limited access drill rig. The offset for this rig is that it would require a dozer for probably 4 hours to sufficiently widen the existing path to gain access to the drilling site.

Staff would note that the second method would include an undetermined amount of grading to widen the jeep trail. Based on several letters provided as well as staff's field visit to the site, it is apparent that it is possible, although difficult given the steepness of several sections, to access the proposed project site without further grading or improvement of the existing jeep trail. However, question remains as to whether the type of equipment that can be transported to the site over the existing roadway will provide the necessary information for geologic exploration of the project site. The applicant's agent has provided an additional letter from the project geologist which states that such track-mounted equipment would not be adequate. This letter, dated July 21, 2004, prepared by Gold Coast Geoservices, Inc. states that:

In accordance with your request, this letter provides our finding regarding the feasibility of utilizing a "limited-access" type drilling rig to perform subsurface geologic exploration work that we have planned as necessary for adequately evaluating the geologic conditions within the Sweetwater Highlands Project to meet Los Angeles County minimum requirements for projects of this scope. Such "limited-access" type drilling rigs measure about 4.5 feet in width and about nine feet in length, and have the capability of drilling to a

maximum depth of 65 feet. We would not use a "limited access" type drilling rig for our planned subsurface geologic exploration...because the Sweetwater Highlands Project site [Jean Ross site] is known to be underlain by hard rock formations that cannot be drilled with a limit-access type drilling rig. We also plan to drill borings that will extend greater than 65 feet in depth, with anticipated exploration depths of up to about 95 feet. The deep borings are necessary to adequately evaluate subsurface geologic conditions due to the fact that this property at the south side of the Santa Monica Mountains contains hillsides having several hundred feet in relief. We will also need to obtain bedrock samples at depths exceeding 65 feet for slope stability analysis of the project as required by prudent engineering geologic practice and as required to meet Los Angeles County Geology and Geotechnical Engineering Division requirements.

Staff is not aware of the typical or preferable depths to which subsurface geologic test borings are drilled. However, staff did review geologic exploration reports for developments in the area as a point of comparison. One report (Geotechnical Investigation Report, dated 12/29/86, prepared by Schaefer Dixon Associates) for Permit 5-86-293 (Gordon) on Sweetwater Mesa, was based on geologic test borings that ranged from a depth of 40 feet to 80 feet. So, it is not unreasonable to assume that the applicant's geologic consultants will need to drill borings in excess of the 65 feet possible with a track-mounted drill rig.

Another potential alternative raised by members of the public at the January hearing and in letters is the use of a portion of the existing jeep trail that is outside of the applicant's access easement instead of constructing a new road segment that would be within the easement. A letter from James Smith, dated July 10, 2004 states the following regarding this alternative:

Two weeks ago Mr. Sweeney had workers cutting the brush on his easement which lies on the Gordon, Conservancy property. At the January coastal Hearing it was presented that Mr. Sweeney wanted to improve an existing old jeep trail in order to do geology and per testing. Attached is exhibit 2 of the Jan. staff report showing the beginning and end of the 10 wide road sought. This routeing is not entirely an "old" jeep trail. The old trail is shown on the Whitson Engineering sheet enclosed marked "Vernon Road". The curved section of Mr. Sweeney's design to the West of the Vernon road was brushed two years ago and has been driven on repeatedly so it now appears to be an existing jeep trail. It really is a section that was cleared without a permit and up to two years ago was undisturbed brush. This is the area where Mr. Gordon and Paul Edelman of the Conservancy offered to allow Mr. Sweeney to go outside of his easement and use the old road for geo and perc. testing.

Exhibit 8 to this staff report shows the portion of the road improvements discussed in this letter and discussed by several members of the public at the January Commission hearing. As described by Mr. Smith and others, in this area, the existing jeep trail departs from the recorded access easement for the Jean Ross parcel where the applicant proposes to carry out geologic testing. It seems clear that utilizing an existing roadway in this area, instead of creating a new roadway within the access easement area would serve to minimize new impacts. The owners of the two properties that underlie the access easement in this area (RTMS Land Company and Mountains Recreation and Conservation Authority) have provided letters to the City of Malibu

indicating their willingness to allow the applicant use of the existing roadway even though it is outside of the easement area.

However, this portion of the road is not under consideration by the Commission in this permit application. As shown on Exhibit 8, this portion of the road is within the City of Malibu. After the Commission's adoption of the City of Malibu LCP in September 2002, coastal development permit authority transferred to the City. As such, the Commission does not have jurisdiction over the portion of the road crossing the RTMS Land Company and Mountains Recreation and Conservation Authority ownerships in question and this alternative cannot be considered here.

Finally, members of the public speaking at the January 2004 Commission hearing raised a potential alternative of the applicant taking access to the proposed project site across adjacent property either to the north of the parcel or to the east of the parcel. The applicant's agent has submitted additional information regarding access easements across these areas. This information indicates that several parcels north of the proposed project site have deeded access easements extending to Costa del Sol Way. However, the applicant does not own any of these lots, and does not have any access easement that allow for accessing the subject site from Costa del Sol Way. Furthermore, as can be seen from an aerial photo of the area (Exhibit 9), the existing roadway on Costa del Sol Way is some distance from the project site. Likewise, the applicant does not have an access easement or own property that could allow for access to be provided from the east through Carbon Canyon. Further, as shown on the aerial photograph, the intervening terrain is very steep and constructing an access road in this area would be very difficult. One could speculate as to whether the applicant could obtain an alternative access easement to the proposed project site across a different route to the north or east. However, given the topography and distance from existing road segments, it seems unlikely that impacts from grading and vegetation removal would be reduced by utilizing one of these routes.

D. Geology and Water Quality

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. 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. Grading of steep slopes with highly erodible soils can also result in sedimentation of drainages and streams adversely impacting water quality and degrading environmentally sensitive habitats.

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

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

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

Section 30231 of the Coastal Act states:

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

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. As previously described, the proposed project includes improvement to a 1,750-foot long section of an existing access road/jeep trail with 465 cubic yards of grading (350 cu. yds. cut, 115 cu. yds. fill). The proposed road improvements require only minimal grading over the length of the road and require very minimal cut and fill slopes.

The proposed road improvements are necessary to provide access for geologic test equipment to an undeveloped parcel. The geologic testing is required to determine the geologic stability of the parcel for future residential development. As discussed above, Commission staff asked the applicant to explore alternative methods to access the property such as tracked mounted drilling vehicles that could negotiate the existing unimproved jeep trail. However, based on the professional opinions of the consulting geologist, track mounted vehicles are not a feasible option in this case because the necessary depths to which they must drill cannot be performed with such vehicles.

The access road traverses very steep hillside terrain that is highly susceptible to erosion if disturbed. Runoff from the proposed roadway if not properly controlled will result in significant erosion of the steep slopes the road traverses. Erosion of these slopes would result in geologic instability of the area and sedimentation of nearby drainages and streams. Controlling and diverting run-off in a non-erosive manner from the proposed road will add to the geologic stability of the proposed road. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicants to submit drainage and erosion control plans

certified by the consulting civil engineer, as specified in **Special Condition No. One (1)**. In addition, Special Condition 1 prohibits grading operations during the rainy season to ensure the proposed road improvements will not result erosion of neighboring slopes and sedimentation of nearby streams and drainages.

In addition, revegetation of the cut and fill slopes associated with road improvements with native vegetation will minimize the potential for erosion of these slopes. Therefore, the Commission finds **Special Condition No. Two (2)** is necessary to ensure these slopes are stabilized with native vegetation at the conclusion of grading operations.

Finally, in order to improve the portion of the road within unincorporated Los Angeles County the road segment within the jurisdiction of the City of Malibu must be improved. To ensure the applicant obtains a coastal development permit from the City of Malibu for the proposed road improvements prior to construction of the road improvements within the County of Los Angeles the Commission finds **Special Condition 3** is necessary. The applicant's agent has indicated that small "bobcat" type equipment could be used to access the upper portion of the road within Los Angeles County and that this portion of the road could be constructed even before a coastal development permit is considered by the City of Malibu for the lower portion of the road. However, even if the applicant could construct the upper portion of the road, as the applicant itself has stated the geologic testing equipment could still not be transported to the site in advance of City approval and construction of the lower portion of the road. As such, the applicant still could not conduct the necessary geologic testing. Furthermore, grading of the upper portion of the road in advance of the lower portion, particularly without having an estimate of when City approval and construction might take place, would lead to an excessively long period of time during which the geologic test road would be exposed to erosion. Even with the required drainage improvements and slope stabilization in place, constructing the upper portion of the road in advance of City approval of the lower portion would not minimize impacts to resources to the maximum extent feasible.

For the reasons set forth above, the Commission finds that, the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties and is consistent with §30253 of the Coastal Act.

E. Visual Resources

Section 30251 of the Coastal Act states that:

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

Recreation Plan prepared by the Department of Parks and Recreation and by local governments shall be subordinate to the character of its setting.

To assess potential visual impacts of projects, the Commission investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and roads. The Commission also examines the site and the scale of the proposed construction in relation to nearby scenic resources. The subject site is located $\frac{3}{4}$ of a mile north of Pacific Coast Highway at the end of Sweetwater Mesa Road. Portions of the access road are visible at a distance from Pacific Coast Highway, a designated scenic highway. In addition, portions of the road are visible from the Saddle Peak Trail located to the west of the project site.

The proposed improvements to the existing roadway require only minimal grading and will result in very small shallow cut and fill slopes. These slopes will not result in significant landform alteration or adverse visual impacts as seen from public view areas. Revegetation of the cut and fill slopes with native vegetation will further mitigate any potential visual impacts and minimize erosion of these slopes. Therefore, the Commission finds the applicant must submit a revegetation plan for any graded and disturbed slopes as specified in **Special Condition 2**.

For the reasons cited above the Commission finds that the proposed project, as conditioned, is consistent with §30251 of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act states:

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 §30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with §30200).

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

Mountains which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

G. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a

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

The Commission finds that, the proposed project, as conditioned, will not have any 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.

629

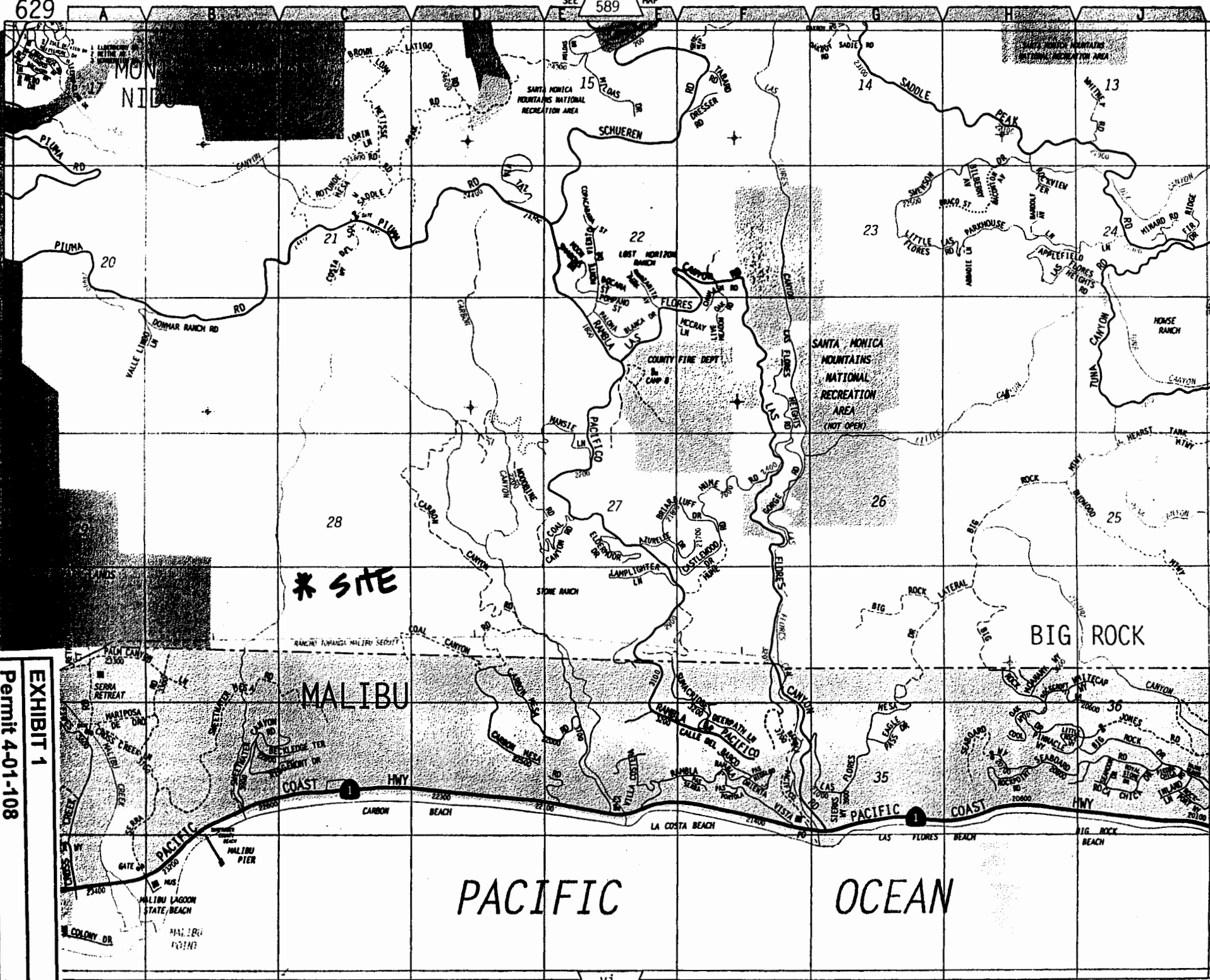
SEE 589 MAP

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SEE 630 MAP

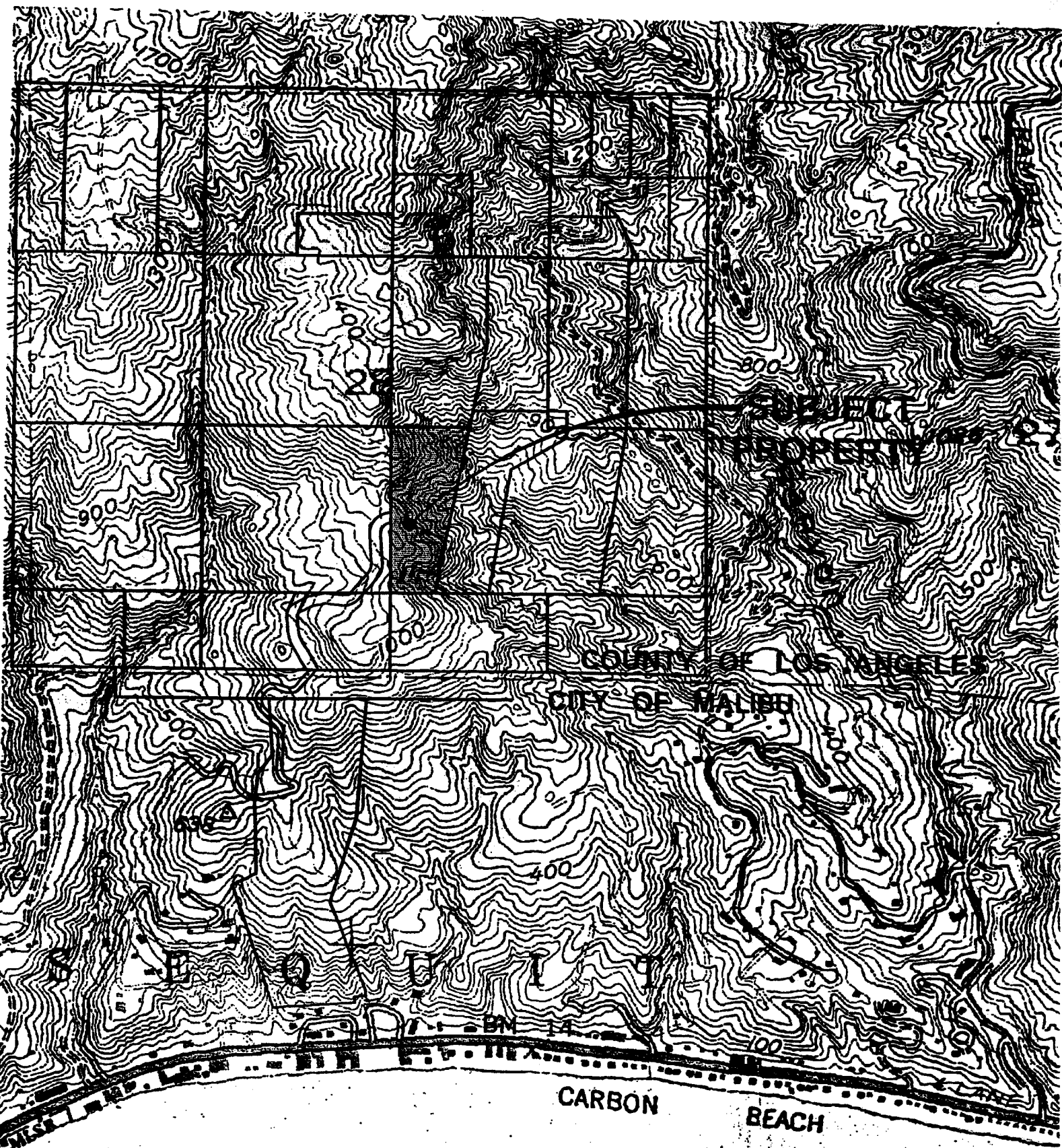
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EXHIBIT 1
Permit 4-01-108
Vicinity Map



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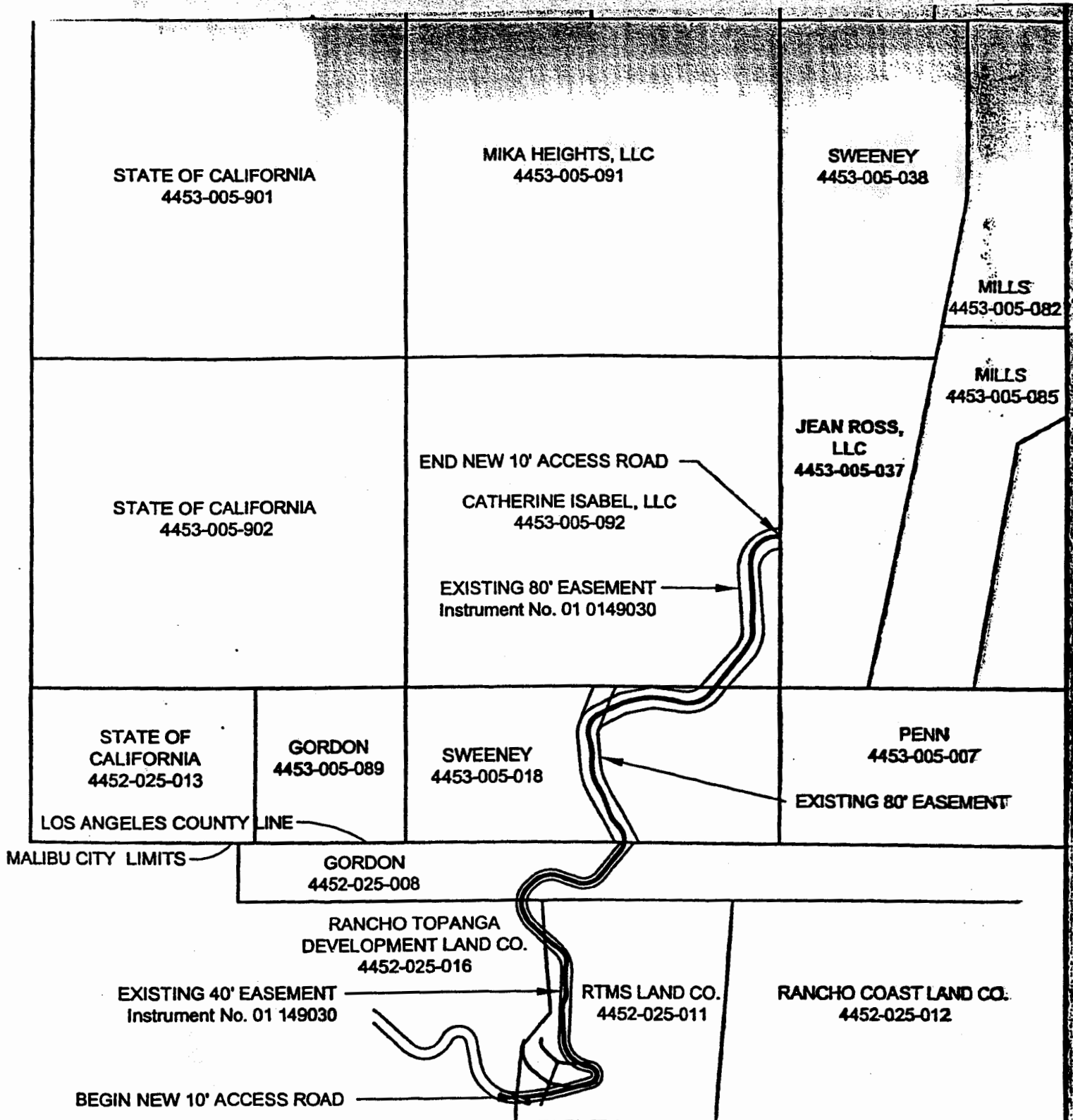


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EXHIBIT 2

Permit 4-01-108

Topography



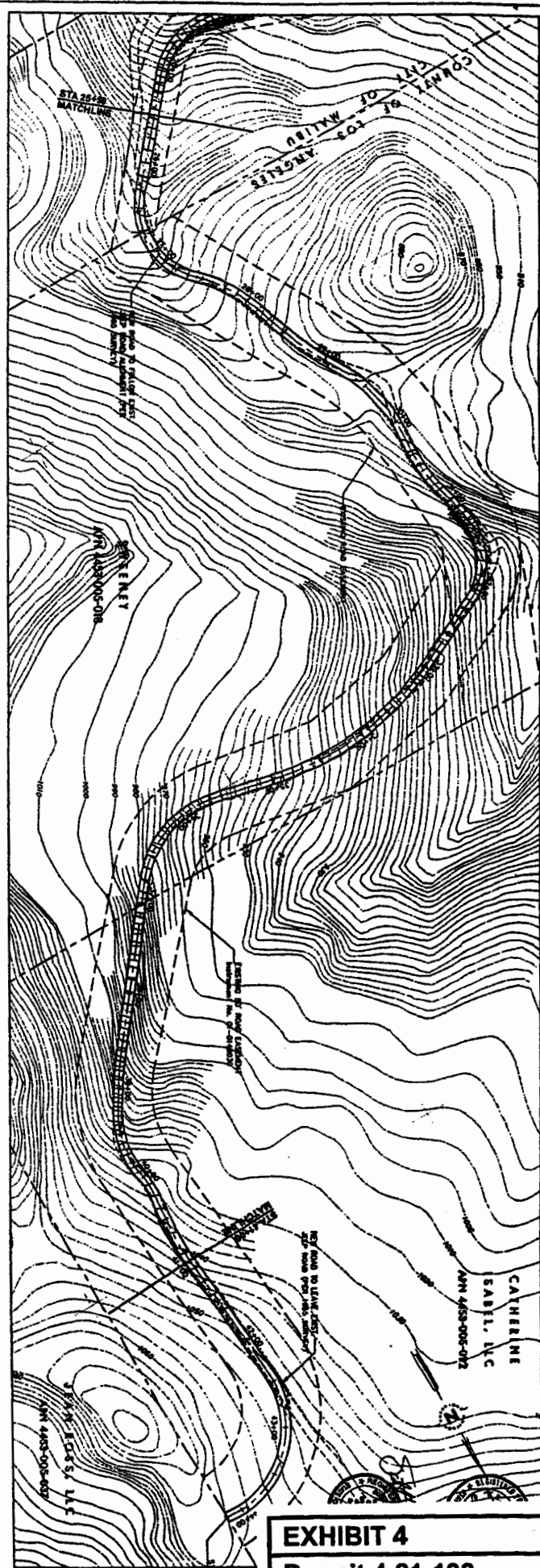
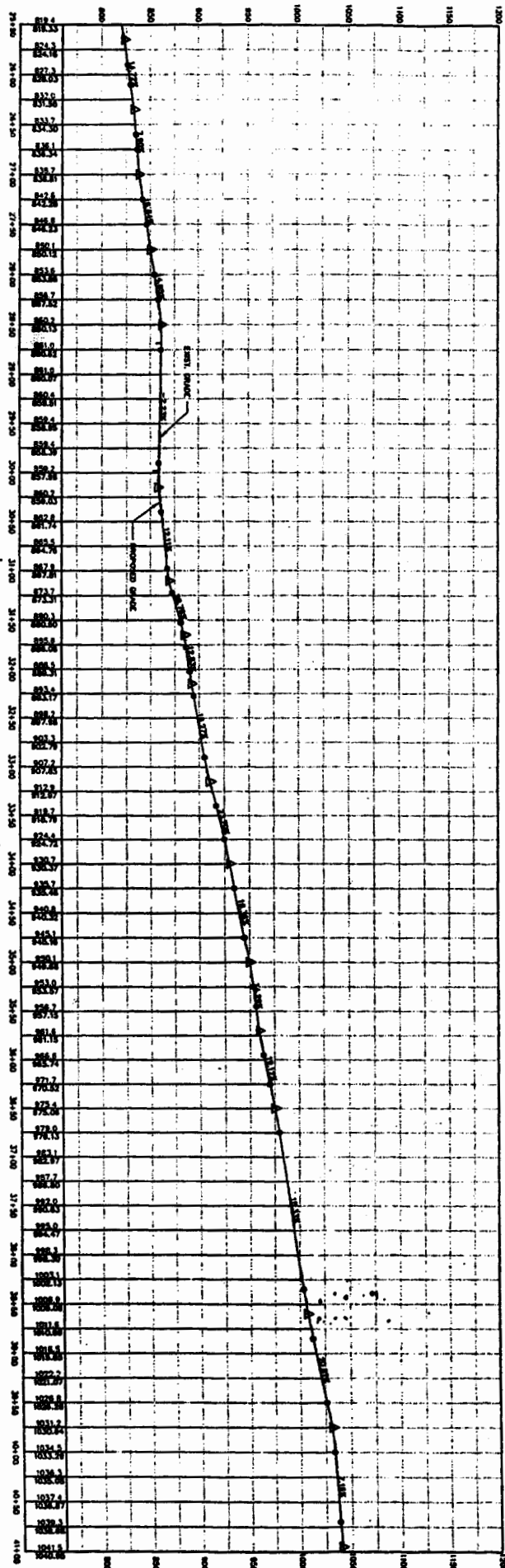
OVERALL SITE PLAN

Scale 1"=500'

EXHIBIT 3

Permit 4-01-108

Overall Site Plan



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APN 4453-005-037
MALIBU, CALIFORNIA
10' ACCESS ROAD FOR GEOLOGIC INVESTIGATION
PLAN & PROFILE

DATE: 08.1.2009
SCALE: 1" = 50'
DRAWN BY: J.E.W.

EXHIBIT 4
Permit 4-01-108
Grading Plan (1 of 2)

Sep 05 01 04:38p

09/05/2001 WED 15:16 FAX Gold Coast GeoServices

P.2

0002/003

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GOLD COAST GEOSERVICES, INC. SEP 1 2001

Engineering Geologic and Geotechnical Consultants

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RECEIVED

JUN 24 2003

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

September 1, 2001

BRIAN SWEENEY
116 11th Street
Manhattan Beach, CA 90266

SUBJECT: Reconnaissance Geologic Report Regarding Sweetwater Highlands Project, Malibu.

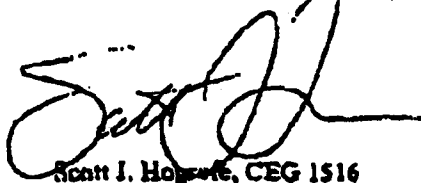
Dear Mr. Sweeney:

On August 22, I met at the property with two drilling subcontractors, Jay Cook of Roy Brothers Drilling and Dale Scheffler with Scheffler Drilling, and with a water truck contractor, Gary Jensen of Jensen Water Trucks, to determine if it is feasible to access the planned testing locations within the Sweetwater Highlands project site using track-mounted drilling rigs and water truck equipment. All of the subcontractors concluded with us that it is not feasible to access the planned testing sites to conduct all of the necessary geologic and geotechnical studies unless an access road is first constructed that would allow vehicular access for all of the necessary equipment.

Please call this office at (805) 484-5070 if you have any questions regarding this report.

Very truly yours,

GOLD COAST GEOSERVICES, INC.



Scott J. Hoge, CEG 1516

1

390 Dawson Drive • Camarillo, CA 93012 • (805) 484-5070 • Fax (805) 484-4295 • E-Mail gcgs1@yahoo.com

Serving Southern California's Gold Coast Since 1991

EXHIBIT 6

Permit 4-01-108

Applicant's Letters (3 pages)



GOLD COAST GEOSERVICES, INC.

Engineering Geologic and Geotechnical Consultants

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JUL 22 2004

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

July 21, 2004
File No. GC01-041485

THOMAS RAINEY
SCHMITZ & ASSOCIATES
29350 Pacific Coast Highway
Malibu, CA 90263

re: Geologic studies and drilling rig requirements for Sweetwater Highlands Project
APN 4453-005-018;037;038;091;092, Sweetwater Mesa Road, Malibu, CA

Dear Mr. Rainey:

In accordance with your request, this letter provides our finding regarding the feasibility of utilizing a "limited-access" type drilling rig to perform subsurface geologic exploration work that we have planned as necessary for adequately evaluating the geologic conditions within the Sweetwater Highlands Project to meet Los Angeles County minimum requirements for projects of this scope. Such "limited-access" type drilling rigs measure about 4.5 feet in width and about nine feet in length, and have the capability of drilling to a maximum depth of 65 feet. We would not use a "limited access" type drilling rig for our planned subsurface geologic exploration of the Sweetwater Highlands Project, because the Sweetwater Highlands Project site is known to be underlain by hard rock formations that cannot be drilled with a limited-access type drilling rig. We also plan to drill borings that will extend greater than 65 feet in depth, with anticipated exploration depths of up to about 95 feet. The deep borings are necessary to adequately evaluate subsurface geologic conditions due to the fact that this property at the south side of the Santa Monica Mountains contains hillsides having several hundred feet in relief. We will also need to obtain bedrock samples at depths exceeding 65 feet for slope stability analysis of the project as required by prudent engineering geologic practice and as required to meet Los Angeles County Geology and Geotechnical

SWEETWATER HIGHLANDS

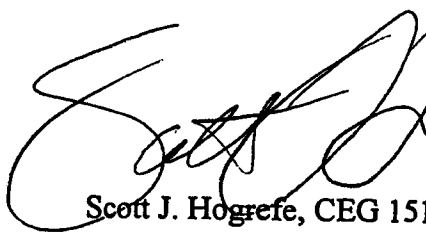
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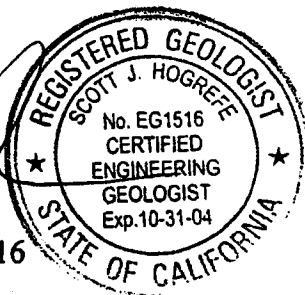
Engineering Division requirements.

Please call me at (805) 484-5070 if you have any questions regarding this matter.

Very truly yours,

GOLD COAST GEOSERVICES, INC.


Scott J. Hogrefe, CEG 1516



RECEIVED

JUL 22 2004

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

James P. Smith
3140 Sweetwater Mesa Road
Malibu, Ca. 90265
(310) 456-2781
FAX 456-5467

July 10. 04

California Coastal Commission

Attention Jack Ainsworth

Re: Brian Sweeney temporary road application
Sweetwater Mesa , Malibu

RECEIVED

JUL 21 2004

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Jack,

Attached is a letter from Hard Rock Drilling showing that the present dirt road is adequate for a drilling rig to do geological testing on the Sweeney property . This is the third contractor who has told me they could get equipment to the site without making a second road where one carved by Mr. Vernon years ago still exists .

The L A County Environmental Health department said Mr. Sweeney can use leach fields on his property for his septic system . This requires removing one cubic foot of soil and placing seven gallons of water in the hole to measure percolation . You can confirm this by calling Mr. Behzad Saleh , Environmental Health Specialist III at the L A County Calabasas office . The phone number is (818) 880-6279.

Two weeks ago Mr. Sweeney had workers cutting the brush on his easement which lies on the Gordon, Conservancy property . At the January Coastal Hearing it was presented that Mr. Sweeney wanted to improve an existing old jeep trail in order to do geology and perc testing . Attached is exhibit 2 of the Jan. staff report showing the beginning and end of the 10 wide road sought . This routeing is not entirely and "old" jeep trail . The old trail is shown on the Whitson Engineering sheet enclosed marked "Vernon Road"(in green) . The curved section of Mr. Sweeney's design to the West of the Vernon road was brushed two years ago and has been driven on repeatedly so it now appears to be an existing jeep trail . It really is a section that was cleared without a permit and up to two years ago was undisturbed brush . This is the area where Mr. Gordon and Paul Edelman of the Conservancy offered to allow Mr. Sweeney to go outside of his easement and use the old road for geo and perc. testing .

I understand that in August the Commission will rehear Mr. Sweeney's request for a temporary road . I have provided evidence to the City of Malibu and the Coastal Commission showing that there already is an existing useable road and that what is being sought is a second road going to the same place . Mr. Sweeney had no problem taking three large water tanks to his site for his planned cow farm . You saw them on your site visit . The existing road has been used extensively for a jeep his worker drives . The jeep is in the photo , His track brushing machine is in the enclosed picture . The right side of the picture shows where the brush has been cut and there is no road . Today it looks like an old trail because as I said , they have driven over it repeatedly . This part of the road is in Malibu but an effort was made to have Coastal act on the entire length claiming the application was in before the LCP .

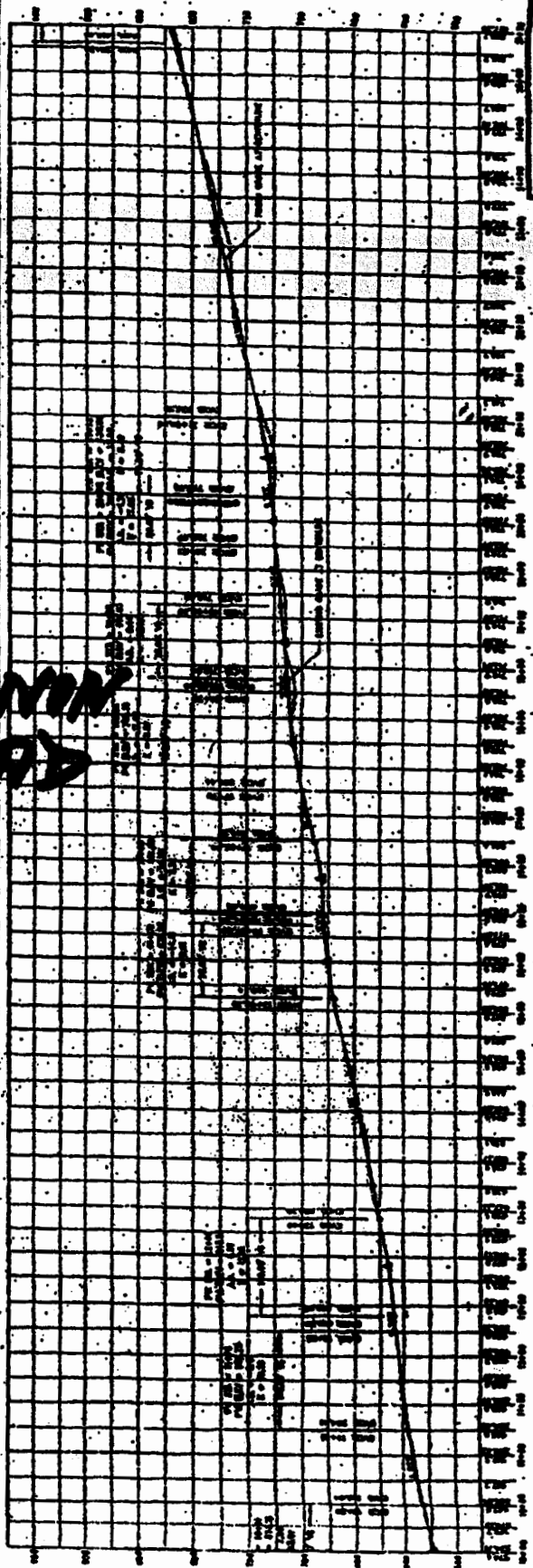
There already is an existing useable road so there is no need to have a second road to do the same thing . Pictures 1 through 4 were given to Malibu officials . The explaining letter is enclosed .

Regards Jim Fox

EXHIBIT 7

Permit 4-01-108

Other Letters (8 Pages)



PRELIMINARY
 NOT FOR CONSTRUCTION

Hard Rock Drilling, Inc.
1180 Old Topanga Canyon Road
Topanga, CA 90290
(805) 577-1129
License 558430

June 10, 2004

Jim Smith Construction

Re: Property Identified on attached exhibit 1 and 2

Dear Jim,

Having reviewed the attached maps and walked the site, I can recommend two different approaches to you for the test drilling required.

Method 1 would use a limited access track mounted drill rig for the job. This rig is 5' wide and can drill 65' deep. It is capable of soil testing and rents for \$ 195 per hour plus travel time. If this rig was used, there would be no need for grading a road, as the existing grown over road would be sufficient for this rig.

Method 2 would use a much larger track mounted Lodril. This rig is 9' wide and can drill 70' deep. This rig rents for \$225 per hour plus \$ 800 move-in fee but can drill probably three times as fast as the limited access drill rig. The offset for this rig is that it would require a dozer for probably 4 hours to sufficiently widen the existing path to gain access to the drilling site.

Let me know which way you want to go and we can get it scheduled for you.

Thank you,

E O'Neill

Ed O'Neill
Hard Rock Drilling

RECEIVED

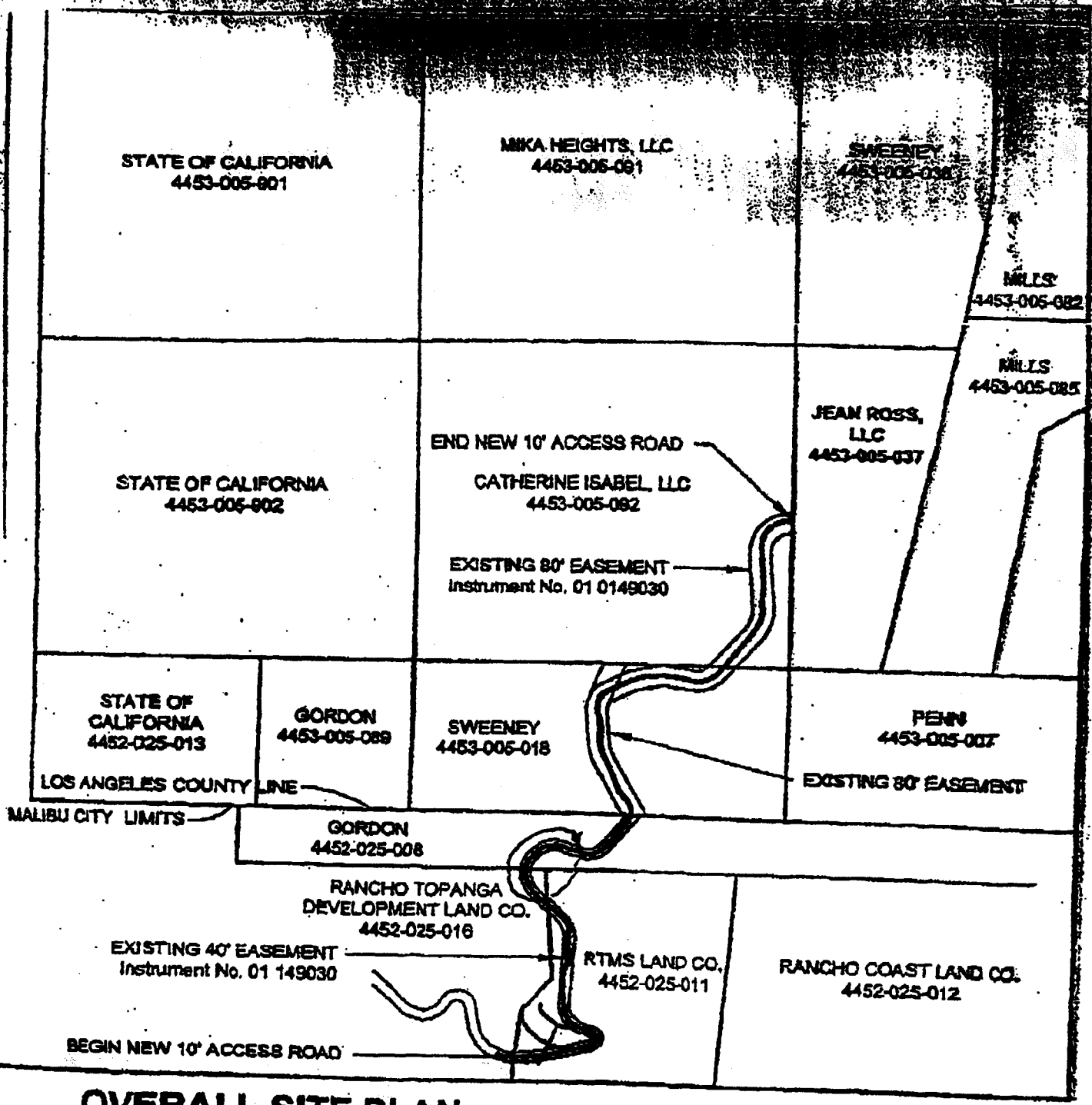
JUL 21 2004

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



Shelter

Exhibit 1
CDP 4-01-108
Location Map



OVERALL SITE PLAN

Scale 1"=500'

Exhibit 2
CDP 4-01-108
Overall Site Plan



SUNSET Construction

Lic. #440679

May 15, 2001

To Whom It May Concern:

I have worked on the Gordon Sweetwater Mesa property and am quite familiar with the project. The proposed geology exploration North of Parcel 3 can be done without having a road constructed. The slope is 3 to 1 which a backhoe can go up. If drilling is required, a track mounted drill rig can go up the existing slope without requiring grading. My company, Sunset Construction, has years of experience in Malibu and would be able to provide equipment necessary for geology studies without the need to construct a temporary road.

Jim Purcell



Owner
Sunset Construction

2180 Calle Norte • Thousand Oaks, CA 91320-4934 • (805) 373-9283

James P. Smith
3140 Sweetwater Mesa Road
Malibu, Ca. 90265
(310) 456-2781
FAX 456-5467

June 20, 04

There are two subjects I would like to address . First is the temporary 10' road . Last Monday several conflicting portrayals of the temporary road were presented to the Council understandably resulting in confusion . I am enclosing photos which I hope exceed words in value.

Photo #1

Aerial taken December 17, 03 . shows existing conditions . The numbers relate to other enclosed photos . The existing old "Vernon" road diverges from the Sweeney easement at point "A". Point "B" on the left is the Sweeney easement which looks like a road but is an area where Sweeney illegally cleared brush a year ago without a permit . The cleared area is not a road , it is just brushed terrain. Point "A" on the right is partially on Conservancy property and partially on the Gordon property . This is the area outside of Mr. Sweeney's easement which the enclosed letters from the Conservancy and Mr. Gordon grant Mr. Sweeney temporary use . As I have said many times , there already is an existing road, a second road is not needed . Mr. Sweeney's intention here is very transparent . He wants to establish a 10' road which then only needs to be expanded to 20' .

Photo #2

A slope on the Gordon property which has been used many times by Mr. Sweeney's consultants . Two pickup trucks are at the top .

Photo #3

The SUV which I referred to at the June 14 Council meeting . It is a Range Rover , not a Lexus . The driver went off the road and became stuck . It is clear that there is a road here . The driver knew it and it is obvious that he intended to use the road to go to the Sweeney property . It was dark when he went up the slope with two other people , one who came to the property in a Ferrari and the other in a second Range Rover . Driving at night strengthens the position that it is a known useable road .

Photo #4

The last section of the existing Vernon road as it approaches Sweeney's property .

I had submitted letters to Planning stating equipment could be taken up the existing road for Mr. Sweeney to conduct geology and septic testing , copies are enclosed . I had reviewed this with Planning and they knew a second road to the same place was not needed . Many City personnel have been taken on visits to the Sweeney property using the existing road . I felt there was as clear of an understanding that a second road was not needed as could possibly be presented .

On a visit to Coastal to see what was going on I examined the Sweeney file and was shocked to find an "Approval in Concept" from Malibu Planning for the second road . I asked Planning how could this have happened ? I was told the City Attorney had directed them to approve the application . I have asked the City Attorney why was this done and the only answer I received was , " we had to " , which is not an explanation. I have asked in a council meeting why this was done and got no answer . I have asked the City Manager many times why this happened and have not received an answer . My reason for pursuing an explanation on this action is I have great concern about what might happen on the handling of the permanent road application . The City has already given Mr. Sweeney permission for a 10' road even though it is temporary . This could be of great value to him in court saying he only needs to expand it to 20' .

The second subject is easements from the North .

Mr. Sweeney is seeking water from Piuma Road for his project . As I said June 14, he has to grant the Las Virgenes Water Dist. specific easements for the water line before they will give him the equivalent of a will serve letter . Boyle Engineering has been paid thousands of dollars to design the system which they are working on . Mr. Sweeney is not doing this for practice . I believe he has unrecorded agreements which will surface after this Council acts on the variances . If in the future he discloses easements to the North it will be too late for the Council to consider in the variance application .

Mr. Sweeney purchased all the property the Vernon family owned North of Sweetwater Mesa except parcels 26 and 53 . These two parcels are 30 and 35 acres and would complete the access to the Piuma easement if Mr. Sweeney owned them . At one time Mr. Vernon had initiated subdivision on one of them but let the application expire . I believe there is a strong probability that this additional 65 acres has been purchased by Mr. Sweeney and that it is in an unrecorded contract . If so he could grant the water district easements with no problem . This would also mean more homes could access Sweetwater Mesa .

It is fact that the DeBell easement is for 600 acres . Looking into the future if access to the North is created there are many houses in existence on Costa del Sol which enjoy the DeBell easement . If they become aware of their rights they might well pursue exercising their rights . The convience of coming down Sweetwater Mesa to PCH would appeal to them as well as resulting property value increases .

This is a project under L A County jurisdiction and should be served by L A County access .

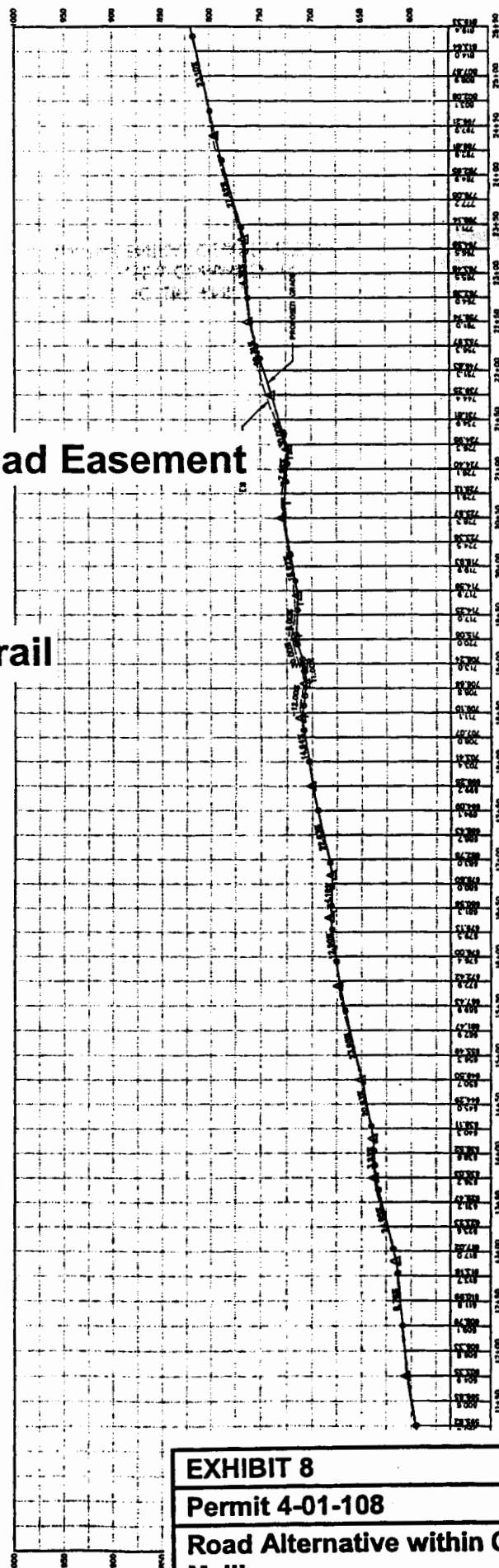


EXHIBIT 8
Permit 4-01-108
Road Alternative within City of Malibu

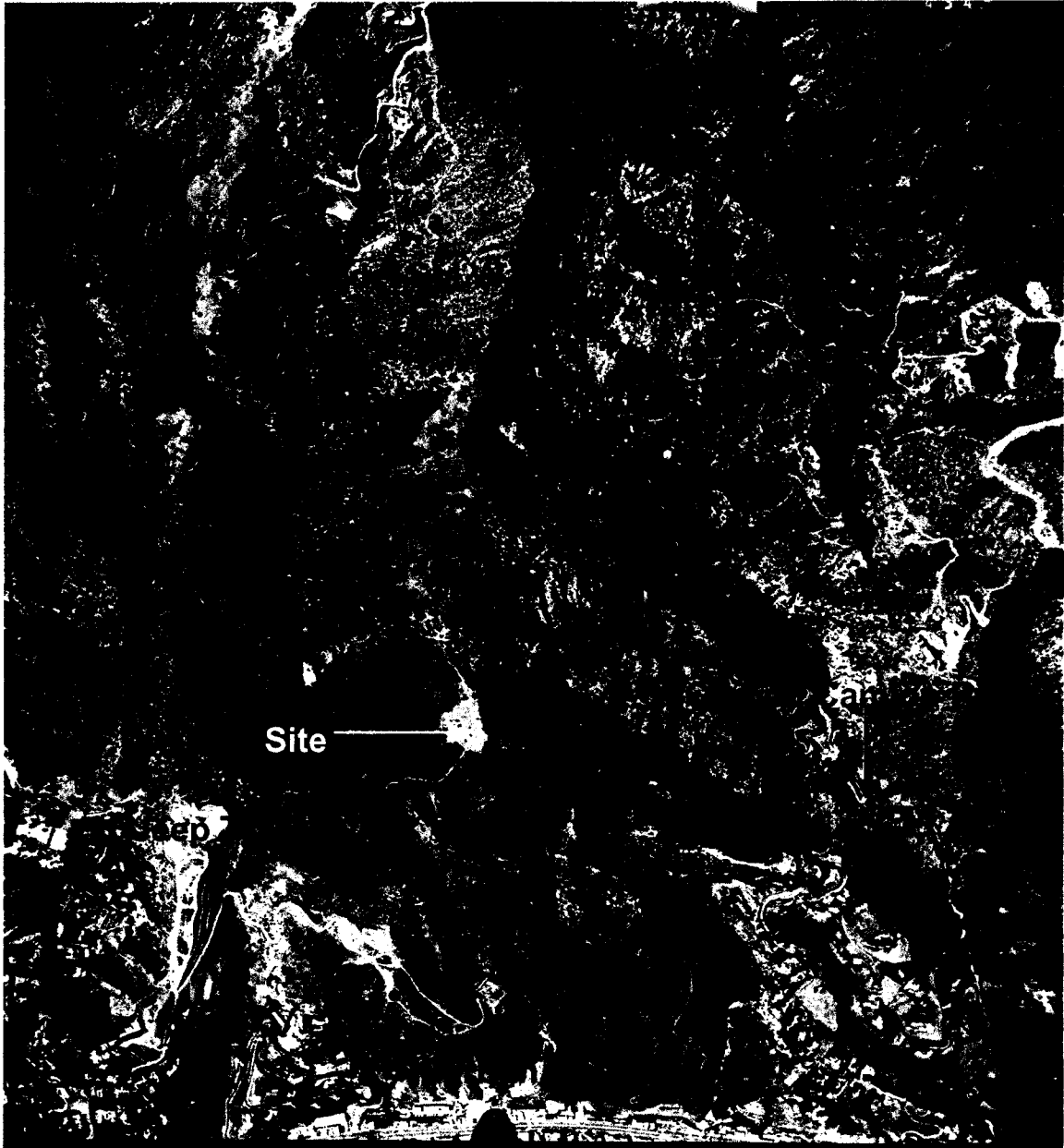


Exhibit 9

Permit 4-01-108

Aerial Photo

