

## CALIFORNIA COASTAL COMMISSION

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Staff:  
Staff Report:  
Hearing Date:

SMR-SF  
September 23, 2005  
October 13, 2005

# Th5b

## FINDINGS FOR CEASE AND DESIST ORDER CCC-05-CD-10 AND RESTORATION ORDER CCC-05-RO-06

**CEASE AND DESIST AND  
RESTORATION ORDERS:**

CCC-05-CD-10 and CCC-05-RO-06

**RELATED VIOLATION FILE:**

V-4-95-029

**PROPERTY LOCATION:**

5656 Latigo Canyon Road, Malibu, CA.  
(APN 4459-001-001) (Exhibits 1 and 2)

**DESCRIPTION OF PROPERTY:**

42-acre parcel on Latigo Canyon Road, located  
approximately one mile inland of Pacific Coast  
Highway in Malibu, CA, Los Angeles County.

**PROPERTY OWNER:**

Sanford J. Horowitz

**VIOLATION DESCRIPTION:**

Unpermitted development including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat; and unpermitted grading and paving of a building pad and two roads, one paved and one packed earth.

**SUBSTANTIVE FILE DOCUMENTS:**

1. Public records contained in the Commission file regarding Violation No. V-4-95-029;
2. Coastal Development Permit No. 5-89-1008;
3. Exhibits 1 through 15.

**CEQA STATUS:**

Exempt (CEQA Guidelines (CG) §§ 15060(c)(2)),  
and Categorically Exempt (CG §§ 15061(b)(2),  
15037, 15038, and 15321).

**I. SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission approve Cease and Desist and Restoration Orders set forth below, to 1) direct Sanford Horowitz to cease and desist from performing unpermitted development on the subject property, and 2) require the restoration of the subject property. The unpermitted development includes but is not limited to dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat, including but not limited to removal of native chaparral; and unpermitted grading and paving of a building pad and two roads, one paved and one packed earth (**Exhibit 3a-3h site photos**). The unpermitted development is located down slope of an existing single-family residence on the property. The Commission approved a single-family residence in Administrative Coastal Development Permit ("CDP") No. 5-89-1000 (**Exhibit 4**). A January 24, 1977 aerial photo indicates that no development at all was located on the property prior to the effective date of the Coastal Act (**Exhibits 5a**). A May 10, 1986 aerial photo indicates that the approved driveway and building pad was present, as well as the additional unpermitted roads, lower building pad, and storage structures (**Exhibit 5b**).

The unpermitted development on the subject property was performed without a CDP and is a violation of the Coastal Act. The Commission first learned about the Coastal Act violations on the subject property in 1995 and notified the previous owner of the violations in July of that year. The Commission recorded a Notice of Violation Action ("NOVA") regarding the debris dumping against the property title in November 1995. The current owner of the property, Mr. Sanford Horowitz, bought the property in 2000 and was aware of Coastal Act violations on the property when he purchased it.

The subject property is a 42-acre parcel located on Latigo Canyon Road in the Coastal Zone, approximately one mile inland of Pacific Coast Highway in Malibu, California. The subject property is located within the City of Malibu's coastal permit jurisdiction, while the Commission retains appeal jurisdiction for the portions of the property that are within 100 feet of two streams on the property (one of the two streams has been impacted by the debris dumping). The unpermitted development is inconsistent with the certified Local Coastal Program ("LCP") and the Coastal Act.

In an April 21, 2005 letter to City of Malibu planning staff, Commission staff asked the City to notify Commission staff whether the City intended to pursue an enforcement action to resolve the Coastal Act violations located on the subject property that are within the City's LCP jurisdiction (**Exhibit 6**). Section 30810(a) of the Coastal Act provides that the Commission may

issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests that the Commission assist with or take primary responsibility for enforcement or if the local government is notified of the violation and declines to act, or does not take action in a timely manner. In a telephone response in June 2005, City of Malibu staff indicated that the City would prefer that the Coastal Commission assume enforcement jurisdiction for the entire subject property and to order abatement of violations on the subject property. The proposed Orders before the Commission would prohibit unpermitted development at the site, and would require restoration of the affected areas under Section 30811 of the Coastal Act.

Under Section 30810 of the Coastal Act the Commission may issue a Cease and Desist Order if it finds that any person has undertaken or is threatening to undertake any activity which requires a permit from the Commission without such a permit. No permit was issued for the various development activities performed at the site.

Under Section 30811 of the Coastal Act, to order restoration, the Commission must find that development has occurred without a coastal development permit, is inconsistent with the Coastal Act and is causing continuing resource damage. As explained herein, the development is 1) unpermitted, 2) inconsistent with the Coastal Act, and 3) causing continuing resource damage, and that, therefore, the standards for a restoration order are satisfied.

## **II. HEARING PROCEDURES**

The procedures for a hearing on a proposed Cease and Desist Order are described in Section 13185, and procedures for a proposed Restoration Order are described in Section 13195, incorporating by reference Sections 13185 and 13186 of Title 14 of the California Code of Regulations (CCR).

For a Cease and Desist and Restoration Order hearing, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any other speaker. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR Section 13195, incorporating by reference Sections 13185, 13186, and 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall

determine, by a majority vote of those present and voting, whether to issue the Cease and Desist and Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the order.

### **III. MOTION/STAFF RECOMMENDATION OF APPROVAL/RESOLUTION**

Staff recommends that the Commission adopt the following two motions:

#### **1. A. MOTION:**

I move that the Commission issue Cease and Desist Order No. CCC-05-CD-10 pursuant to the staff recommendation.

#### **1. B. STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

#### **1. C. RESOLUTION TO ISSUE CEASE AND DESIST ORDER:**

The Commission hereby issues Cease and Desist Order No. CCC-05-CD-10, as set forth below, and adopts the findings set forth below on grounds that the development described in the order has occurred without a coastal development permit. Upon approval, the Commission authorizes and orders that the actions set forth in the Cease and Desist Order be taken.

#### **2. A. MOTION:**

I move that the Commission issue Restoration Order No. CCC-05-RO-06 pursuant to the staff recommendation.

#### **2. B. STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Restoration Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

#### **2. C. RESOLUTION TO ISSUE RESTORATION ORDER:**

The Commission hereby issues Restoration Order number CCC-05-RO-06, set forth below, and adopts the findings set forth below on grounds that the development described in the order 1) has occurred without a coastal development permit, 2) is inconsistent with the Coastal Act, and 3) is causing continuing resource damage. Upon approval, the Commission authorizes and orders that the actions set forth in the restoration order be taken.

#### **IV. FINDINGS FOR CEASE AND DESIST ORDER CCC-05-CD-10 and RETORATION ORDER CCC-05-CD-06**

Staff recommends the Commission adopt the following findings in support of its action.

##### **A. Description of Unpermitted Development**

The development that is the subject of these Cease and Desist and Restoration Orders ("Orders") consists of: unpermitted development including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat, including but not limited to removal of native chaparral; and unpermitted grading and paving of a building pad and two roads, one paved and one packed earth (**Exhibit 3a-3h site photos**).

##### **B. Background**

In letters dated July 18, 1995 and October 3, 1995, the Coastal Commission sent a notice of violation to Forrest Freed, the former owner of 5656 Latigo Canyon Rd., regarding the unpermitted dumping of materials in a canyon containing a blueline stream (**Exhibits 7 and 8**). On November 13, 1995 a Notice of Violation Action ("NOVA") was recorded against the subject property (**Exhibit 9**). In letters dated January 23, 1996 and May 28, 1996, Commission staff reminded Mr. Freed of missed deadlines for submittal of a CDP application for removal of unpermitted development. In a letter dated February 4, 1998, Commission staff set a new deadline of March 4, 1998 for submittal of a complete CDP application. On February 28, 2000, Mr. Freed submitted an incomplete CDP application (No. 4-00-051) to remove debris on the site. In a letter dated March 27, 2000, Commission staff described numerous items that were required to complete the application, and set a deadline of June 27, 2000 for their submittal (**Exhibit 10**).

The current owner of the property, Mr. Sanford Horowitz, bought the property on October 6, 2000, after the Notice of Violation that had been recorded in the chain of title for the property. Mr. Freed withdrew CDP Application No. 4-00-051 on November 2, 2000.

Commission staff met with Horowitz's representative, Mr. Gregory Bloomfield, on October 12, 2001 to discuss the permit history of the site. Mr. Bloomfield was informed by staff that in addition to the unpermitted dumping of materials in the canyon and stream, the grading of the lower pad, two roads and placement of two mobile homes and erection of two storage buildings also appeared to be unpermitted development. The two mobile homes have since been removed from the property. Mr. Bloomfield asserted that aerial photos showed that the two roads were present in 1977. In fact, a January 24, 1977 aerial photograph of the subject property indicates that no graded roads, debris, buildings, or graded pads are visible on the site as of this date (**Exhibit 5a**). The Coastal Act's permit requirements became effective on January 1, 1977. During the October 2001 meeting, Commission staff advised Mr. Bloomfield that an application to retain the lower pad and structures on the pad would likely not be consistent with the Coastal Act because it did not appear to minimize landform alteration. Commission staff advised Mr.

Bloomfield and Mr. Horowitz in November of 2001 that an application for a CDP must be submitted before any removal or restoration work could begin on the subject property.

The unpermitted development on the subject property, which is located in the Coastal Zone, was performed without a coastal development permit and is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit.

In 2002, Horowitz submitted an application for a plot plan review to the City of Malibu, proposing a tennis court on the lower pad and new development on the upper pad (next to the permitted single-family residence). The submittal did not address resolution of the Coastal Act violations on the subject property, was not a CDP application and did not address the issue of unpermitted development under the Coastal Act. In an April 21, 2005 letter to City of Malibu planning staff, Commission staff asked the City to notify Commission staff whether the City intended to pursue an enforcement action to resolve the Coastal Act violations located on the subject property that are within the City's LCP jurisdiction (**Exhibit 6**). Section 30810(a) of the Coastal Act provides that the Commission may issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests that the Commission assist with or take primary responsibility for enforcement or if the local government is notified of the violation and declines to act, or does not take action in a timely manner. In a telephone response in June 2005, City of Malibu staff indicated that the City would prefer that the Coastal Commission take the lead in enforcement of the violations. In a letter dated July 12, 2005, the City of Malibu informed Mr. Horowitz that, because of lack of activity, the proposed project had been administratively withdrawn, effective as of July 7, 2005 (**Exhibit 11**).

On July 6, 2005, the Executive Director sent Mr. Horowitz a Notice of Intent (NOI) to Commence Cease and Desist and Restoration Order Proceedings, to seek an order compelling Mr. Horowitz to cease violating the Coastal Act and to restore the subject property (**Exhibit 12**). The NOI stated the basis for issuance of the proposed Cease and Desist and Restoration Orders, stated that the matter was tentatively being placed on the Commission's October 2005 hearing agenda, and provided the opportunity to respond to allegations in the NOI with a Statement of Defense form.

On August 10, 2005, Mr. Horowitz submitted a Statement of Defense in response to the NOI for the proposed Cease and Desist and Restoration Orders (**Exhibit 13**). The substance of the Statement of Defense, and the Commission's response, is outlined in subsequent sections below.

On August 5, 2005, the Executive Director issued a Notice of Intent to record a Notice of Violation of the Coastal Act (**Exhibit 14**). The NOI informed Mr. Horowitz that all unpermitted development on the subject property (i.e., the unpermitted construction of two storage structures; removal of major vegetation, grading and paving of a building pad and two roads, as well as the debris dumping that had been recorded in a previous NOVA), would be recorded in an updated NOVA unless Mr. Horowitz submitted a written objection to such recordation within 20 days of the issuance of the NOI (August 25, 2005). A written objection to the recordation of the updated

NOVA was not received; therefore, the updated NOVA was recorded on September 20, 2005 (**Exhibit 15**).

On September 20, 2005, Commission staff conducted another site visit to the subject property to confirm current site conditions. Staff confirmed that while two mobile homes had been removed from the property, the rest of the cited unpermitted development was still present, including the debris, two storage structures on the lower pad and the two unpermitted roads (**Exhibits 3e-3h**).

**C. Basis for Issuance of Cease and Desist Order:**

The statutory authority for issuance of this Cease and Desist Order is found in Section 30810 of the Coastal Act, which states:

- (a) If the commission... determines that any person... has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person to cease and desist.*

*Section 30810 also provides that:*

- (b) The cease and desist order may be subject to such terms and conditions as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division.*

**D. Basis of Issuance of Restoration Order**

The statutory authority for issuance of this Restoration Order is provided for in §30811 of the Coastal Act, which states:

*In addition to any other authority to order restoration, the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission, local government, or port governing body, the development is inconsistent with this division, and the development is causing continuing resource damage.*

Commission staff has already verified that no permit was issued for this development. The following paragraphs provide evidence that the unpermitted development is also inconsistent with specified resource protection policies of the certified LCP and the Coastal Act and is causing continuing resource damage.

## **Unpermitted Development is Inconsistent with the LCP and the Coastal Act**

### *Water Quality*

Section 30231 of the Coastal Act states, in part, that

*"the quality of coastal waters, [and] streams appropriate to maintain optimum populations of marine organisms...shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff [and] preventing depletion of ground water supplies and substantial interference with surface water flow."*

### *Water Supply and Flood Control*

Section 303256 of the Coastal Act states that:

*"Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat."*

The 2002 City of Malibu Local Coastal Program ("LCP") incorporates Sections 30231 and 30236 of the Coastal Act and also includes several land use policies in its Local Implementation Plan that are designed to protect water quality and address stream protection and erosion control. These policies include:

17.1B All development should be designed to prevent the introduction of pollutants that may result in water quality impacts.

17.9A Alterations or disturbance of streams or natural drainage courses...shall be prohibited, except for: 1) necessary water supply projects where no feasible alternative exists; 2) flood protection for existing development where there is no other feasible alternative; and 3) the improvement of fish and wildlife habitat.

Grading and vegetation removal on the site has removed surface vegetation, ground cover, subsurface rootstock, and left areas of bare soil on the subject property. Dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream has substantially altered the stream and negatively impacted the quality of coastal waters. These affected areas are highly susceptible to erosion and may contribute directly to the degradation of water quality in the surrounding coastal waters and streams through increased sediment input and the presence of materials that may be harmful to aquatic organisms and wildlife (asphalt and plastics). Therefore, based on these facts, the unpermitted development that is the subject of



these Orders is inconsistent with Sections 30231 and 30236 of the Coastal Act and with the certified LCP.

*Environmentally Sensitive Habitat Areas*

Section 30240 of the Coastal Act states, in part, that

*"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."*

The 2002 City of Malibu LCP defines Environmentally Sensitive Habitat area ("ESHA") as "any area 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." The LCP incorporates Section 30240 of the Coastal Act regarding ESHA and also includes several land use policies in its Local Implementation Plan that are designed to protect ESHA. These policies include:

- 4.1 The purpose of the environmentally sensitive habitat overlay zone or "ESHA" overlay zone is to protect and preserve 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 easily be disturbed or degraded by human activities and development. The environmentally sensitive habitat overlay zone shall extend not only over an ESHA area itself but shall also include buffers necessary to ensure continued protection of the habitat areas. Only uses dependent on the environmentally sensitive habitat areas and which do not result in significant disruption of habitat values shall be permitted in the ESHA overlay zone.
- 4.2 The ESHA overlay provisions shall apply to those areas designated environmentally sensitive habitat area on the Malibu LIP ESHA overlay map and those areas within 200 feet of designated ESHA. Additionally, those areas not mapped as ESHA, but found to be ESHA under the provisions of Section 4.3 of the Malibu LIP shall also be subject to these provisions.
- 4.3 A. Any area not designated on the ESHA Overlay Map that meets the "environmentally sensitive area" definition (Chapter 2 of the Malibu LIP) is ESHA and shall be accorded all the protection provided for ESHA in the LCP. The City shall determine the physical extent of habitat meeting the definition of "environmentally sensitive area" on the project site, based on the applicant's site-specific biological study, as well as available independent evidence.

- 4.3 B. Unless there is site-specific evidence that establishes otherwise, the following habitat areas shall be considered to be ESHA:
1. Any habitat area that is rare or especially valuable from a local, regional, or statewide basis
  2. Any habitat area that contributes to the viability of plant or animal species that are designated or are candidates for listing as rare, threatened, or endangered under State or Federal law
  3. Any habitat area that contributes to the viability of species that are designated "fully protected" or "species of special concern" under State law or regulations.
  4. Any habitat area that contributes to the viability of species for which there is other compelling evidence of rarity, for example plant species eligible for state listing as demonstrated by their designation as "1b" (Rare or endangered in California and elsewhere) or designation as "2" (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society,
  5. Any designated Area of Special Biological Significance, or Marine Protected Area.
  6. Streams.

A natural drainage containing a blueline stream, which constitutes ESHA, has been directly impacted through the debris dumping, which has partially filled the canyon containing this drainage. The area surrounding the stream is dominated by healthy, contiguous chaparral habitat. Chaparral is ESHA if it is not isolated or in small patches, but is part of a large, healthy native habitat area. The unpermitted grading and vegetation clearance caused the direct removal and discouragement of the growth of watershed cover, including native chaparral on the subject property, which is also considered ESHA, resulting in a reduction in the amount and quality of the habitat and watershed cover in the area. Therefore, based on these facts, the unpermitted development that is the subject of these Orders is inconsistent with Section 30240 of the Coastal Act and with the certified LCP.

*Scenic and Visual Qualities; Minimization of Natural Landform Alteration*

Coastal Act Section 30251 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 government shall be subordinate to the character of its setting."*

The 2002 City of Malibu LCP incorporates Section 30251 of the Coastal Act and also includes several land use policies in its Local Implementation Plan that are designed to protect scenic, visual, and hillside resources. These policies include:

- 6.1 The purpose of the Scenic, Visual, and Hillside Resource Protection Ordinance is to enhance and protect the scenic and visual qualities of coastal and mountain areas within the City of Malibu as a resource of public importance in accordance with the policies of the City's Local Coastal Plan (LCP) and the California Coastal Act. To implement the certified Land Use Plan (LUP), development standards, permit and application requirements, and other measures are provided *to ensure that 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.* (emphasis added)
- 6.5A3 Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.
- 6.5A4 New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.

The unpermitted roads, pads, structures, and vegetation clearance on the subject property do not minimize landform alteration or disturbance to the natural drainage or native vegetation. Therefore, based on these facts, the unpermitted development that is the subject of these Orders is inconsistent with Section 30251 of the Coastal Act and with the certified LCP.

#### *Geologic Stability*

Section 30253 of the Coastal Act states, in part, that

*"New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard, [and] (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area."*

The 2002 City of Malibu LCP incorporates Section 30253 of the Coastal Act and also includes several land use policies in its Local Implementation Plan that are designed to ensure geologic stability. These policies include:

- 9.1 The purpose and intent of this chapter is to implement the policies of the City's certified Local Coastal Program (LCP) Land Use Plan (LUP) to

insure that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. To implement the certified LUP, development standards, permit and application requirements, and other measures are provided *to ensure that permitted development is sited and designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, or in any way require the construction of protective devices that would substantially alter natural landforms along canyons, hillsides, bluffs and cliffs.* (emphasis added)

The grading of roads and removal of vegetation has left substantial areas of bare soils on steep slopes. Such areas will contribute significantly to erosion at the site. The unpermitted debris dumping has occurred on a steep slope. The unpermitted graded roads and pad, which have been cleared and graded on steep slopes and adjacent to the stream channel on the subject property, do not minimize landform alteration on the site, as is required by Section 30253. Therefore, based on these facts, the unpermitted development that is the subject of these Orders is inconsistent with Section 30253 of the Coastal Act and with the certified LCP.

### **Unpermitted Development is Causing Continuing Resource Damage**

The unpermitted development is causing continuing resource damage, as defined in Section 13190 of the Commission's regulations:

*'Continuing,' when used to describe 'resource damage,' means such damage which continues to occur as of the date of issuance of the Restoration Order.*

*'Resource' means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.*

*'Damage' means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development."*

Since the unpermitted development continues to exist at the subject property and, as described in detail in the sections above, is causing adverse impacts to resources protected by the Coastal Act that continue to occur as of the date of this proceeding, damage to resources is "continuing" for purposes of Section 30811 of the Coastal Act.

### **E. CEQA**

The Commission finds that the cease and desist activities and removal of the unpermitted development and restoration of the property to the conditions that existed prior to the unpermitted development, as required by these Cease and Desist and Restoration Orders, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the

meaning of CEQA. The Cease and Desist and Restoration Orders are categorically exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(3), 15061(b)(2), 15307, 15308 and 15321 of the CEQA Guidelines.

**F. Findings of Fact**

1. Mr. Sanford J. Horowitz owns the property at 5656 Latigo Canyon Road (APN 4459-001-001).
2. Unpermitted development, including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream; unpermitted construction of two storage structures; removal of major vegetation; and grading and paving of a building pad and two roads have occurred on the subject property.
3. No exemption from the permit requirements of the Coastal Act applies to the unpermitted development on the subject property.
4. No permit was issued for the cited development activities on the subject property.
5. The unpermitted development is a violation of the Coastal Act.
6. The unpermitted development is inconsistent with Chapter 3 policies of the Coastal Act, including Sections 30231, 30236, 30240, 30251 and 30252.
7. The unpermitted development is inconsistent with resource protection policies of the certified Local Coastal Program, Local Implementation Plan Sections 4, 6, 9 and 17.
8. The unpermitted development is causing continuing resource damage.
9. A Notice of Violation Action (NOVA) has been recorded against the subject property.

**G. Violators' Defenses and Commission Staff's Response**

On August 10, 2005, Drew D. Purvis submitted a Statement of Defense in response to the NOI for the Cease and Desist and Restoration Orders, on behalf of Sanford Horowitz (**Exhibit 13**). The following section describes the defenses contained in the Statement of Defense and sets forth the Commission's response to each defense.

**Owner's Defense:**

1. "The current owner of the subject property (Mr. Sanford Horowitz) has not felt the need to retain legal council regarding this issue because it is his intent to comply fully to what he believes to be the current standing of this violation."

**Commission's Response:**

Based on the defenses raised in more detail below, this statement appears to be referring to Mr. Horowitz's assertion that before he purchased the property he was only aware of the Coastal Act violation concerning the debris dumping into the canyon and blue line stream, that he was not aware of any other alleged violations on the property, and that he intends to resolve only that part of the alleged violation involving the debris dumping (i.e., he appears to be asserting that he is not responsible for resolving the alleged violations regarding the unpermitted grading of the lower pad, the unpermitted grading of two roads leading to the lower pad, and the unpermitted placement of sheds on the lower pad).

Even if Mr. Horowitz was not aware when he purchased the property that the lower pad, structures on the pad, and roads were constructed in violation of the Coastal Act, as the current property owner, Mr. Horowitz is responsible for resolving all Coastal Act violations on the subject property.

**Owner's Defense:**

2. **"I concur that unpermitted dumping of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials [has occurred] in canyon containing a blue[line] stream."**

**Commission's Response:**

Mr. Horowitz has acknowledged that when he purchased the subject property, he was aware of the violation regarding the debris dumping. Mr. Horowitz has indicated that he is willing to remove the materials from the canyon and stream, but he has not submitted a CDP application to obtain authorization to do so. This statement does not constitute a defense to issuance of the Orders.

**Owner's Defense:**

3. **"I do not concur with the allegations of unpermitted placement of two mobile homes, unpermitted construction of two storage sheds, and grading and paving of a building pad and two roads, one paved and one packed earth."**

**Commission's Response:**

Mr. Horowitz has stated that he only knew about the unpermitted debris dumping, and that he was not informed when he purchased the property about other alleged violations on the property (i.e., the unpermitted lower pad, the two unpermitted graded roads and the unpermitted sheds on the lower pad). As noted above, even if some of the unpermitted development on the subject property was performed or placed there by a previous owner, Mr. Horowitz is liable for actions of previous owners who may have conducted the unpermitted development. Mr. Horowitz is violating the Coastal Act by maintaining the unpermitted development on his property.

In addition, in (*Leslie Salt Co. v. San Francisco Bay Conservation and Development Com.* (1984) 153 Cal. App.3d 605, 622), the court held that:

*"whether the context be civil or criminal, liability and the duty to take affirmative action [to correct a condition of noncompliance with applicable legal requirements] flow not from the landowner's active responsibility for [that] condition of his land...or his knowledge of or intent to cause such [a condition] but rather, and quite simply, from his very possession and control of the land in question."*

Mr. Horowitz is also maintaining conditions that are causing harm to water quality and therefore constitute a public nuisance. Mr. Horowitz is liable for abatement of public nuisances on the subject property based on Civil Code 3483, which states:

*Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it.*

#### **Owner's Defense:**

4. **"I had no personal knowledge of any of the allegations [in #3 above]. When I purchased the resident [sic] the only issue that I was told about from the prior owner, his real estate agent, and the people who I met at the property from the Coastal Commission was this issue of illegal dumping of debris. The mobile homes, steel sheds, pads were never mentioned. Later Greg Bloomfield was told about the possibility of the road going down the canyon but we proved thru aerial photos that that road pre-dated the existence of the Coastal Commission."**

#### **Commission's Response:**

The aerial photos provided by Mr. Horowitz do not prove that the road pre-dated the Coastal Act. In fact, these aerial photos of the subject property clearly indicate the opposite. The Statement of Defense included two attached photos, one dated May 5, 1975, and one dated April 20, 1987 (**Exhibit 13 pages 7 and 9**). No development is visible on the subject property in the 1975 photo. In the 1987 photo, development is clearly visible. Commission staff examined a similar set of aerial photos dating from 1977 and 1986 (described below), which also indicate that no development was located on the subject property prior to the effective date of the Coastal Act.

In an aerial photo dated January 24, 1977, no development at all is visible on the subject property (**Exhibit 5a**). In an aerial photo dated May 10, 1986, development is clearly visible on the subject property. Visible development in this photo includes the permitted driveway and upper building pad (before the single family residence was constructed) as well as the unpermitted lower graded building pad, two unpermitted graded roads leading down to the unpermitted pad, and two unpermitted storage structures on the lower pad (**Exhibit 5b**). Development on the subject property clearly occurred after the permitting requirements of the Coastal Act went into

effect on January 1, 1977. None of the development on the subject property, whether permitted or unpermitted, occurred before January 1977.

As discussed above, even if some of the unpermitted development on the subject property was performed or placed there by a previous owner, Mr. Horowitz is liable for removal of the unpermitted development and restoration of the site.

**Owner's Defense:**

6. **"In regards to the unpermitted dumping of materials I have hired a team of technical and environmental consultants to study the existing condition and prepare recommendations for remediation of this condition. We intend to submit a comprehensive application before the end of the year. The two mobile homes were removed years ago."**

**Commission's Response:**

The Statement of Defense includes three attached proposals dated February 17, 2005, December 2, 2003, and February 20, 2005 (**Exhibit 13, pages 10-20 and 24-30**). The February 17, 2005 proposal outlines a scope of work "to prepare a biological assessment for a new home and associated improvements within/adjacent to designated environmentally significant habitat area, Horowitz property, Latigo Canyon Area, Malibu, CA." The December 2, 2003 proposal outlines a scope of work "to provide a preliminary geologic and soils engineering investigation of the subsurface earth materials on the subject property for the proposed garage/guesthouse, pottery studio, spa and driveway retaining walls and provide appropriate recommendations." The February 20, 2005 proposal outlines a scope of work "to perform a grading and drainage plan for planning purposes and a local stormwater management plan (SWPCPC and SUSMP) for review by the City of Malibu." These work scopes are for the preparation of reports that would be prepared in support of new proposed development on the subject property, which would be located on the upper approved pad where the existing single-family residence is located. None of the proposed development listed in these work scopes addresses resolution of the existing Coastal Act violations on the site through removal of existing unpermitted development or restoration of the site or even address the area where the violations are located.

The Statement of Defense also includes an attached agreement for landscape design services (**Exhibit 13, pages 21-23**), dated February 21, 2005. This agreement describes a scope of work for "new planting plan for all areas around existing and new residence along property access road and private driveway approach; hardscape and softscape design for pool area, hillside area behind proposed garage/guest house, tennis court area, conceal graded hillside embankment below tennis court per cities request; irrigation plan around surrounding proposed landscaped areas; identify areas requiring landscape for erosion control measures; redesign drainage system as required by City for property located in the coastal zone at 5656 Latigo Canyon Road in the City of Malibu, California." Similar to the scopes of work discussed above, this landscaping agreement appears to be linked to new proposed development that would be located on the upper approved pad where the existing single-family residence is located. The landscaping agreement does refer to "tennis court area," which on plans submitted to the City of Malibu is proposed for



the unpermitted lower pad area, and to "conceal graded hillside embankment below tennis court," which is the location of the unpermitted debris in the canyon. The lower pad is unpermitted, does not appear to be approvable under the Coastal Act because it does not minimize landform alteration, and to "conceal" the debris slope is not an appropriate resolution of the Coastal Act violation.

The work scopes do not propose any measures to resolve the Coastal Act violations on the subject property. Therefore, it is apparent that Mr. Horowitz has not "hired a team of technical and environmental consultants to study the existing condition and prepare recommendations for remediation of this condition." In fact, it appears Mr. Horowitz is proposing to retain the unpermitted lower pad, is proposing to place new development at this location, and is proposing to "conceal" the unpermitted debris instead of removing the debris and restoring the site. During a site visit on September 20, 2005, Commission staff confirmed that no mobile homes were present on the lower pad, and they are not subject to the proposed Orders.

Staff recommends that the Commission issue the following Cease and Desist and Restoration Orders:

### **CEASE AND DESIST ORDER CCC-05-CD-10**

Pursuant to its authority under Public Resource Code §30810, the California Coastal Commission hereby finds that unpermitted development has occurred on the site in violation of the Coastal Act, and hereby orders and authorizes Mr. Sanford Horowitz, his agents, contractors and employees, and any person(s) acting in concert with any of the foregoing (hereinafter referred to as "Respondents") to cease and desist from: dumping of concrete, rebar, bricks, asphalt, plastics, metal materials or other materials into a canyon containing a blueline stream; unpermitted construction of two storage structures; removing major vegetation; and grading and paving of a building pad and two roads and from conducting any other unpermitted development at the site which would require a CDP, and 2) maintaining on said property any unpermitted development including that referenced above or as otherwise referenced in Section IV.A of this report; and 3) conducting any future development in the future without first obtaining a CDP.

### **RESTORATION ORDER CCC-05-RO-06**

Pursuant to its authority under Public Resource Code §30811, the California Coastal Commission finds that the development is 1) unpermitted, 2) inconsistent with the Coastal Act, and 3) causing continuing resource damage, and hereby orders and authorizes Mr. Sanford Horowitz, his agents, contractors and employees, and any person(s) acting in concert with any of the foregoing (hereinafter, "Respondents") to restore the subject properties to the extent provided below. Accordingly, the persons subject to this order shall fully comply with the following conditions:

- A. Within 60 days of issuance of this Restoration Order, Respondents shall submit for the review and approval of the Executive Director of the Commission a Restoration, Revegetation and Monitoring Plan (hereinafter referred to as the "Restoration Plan"). The Executive Director may require revisions to this and any other deliverable required under these Orders. The Executive Director may extend this time for good cause.

The Restoration, Revegetation and Monitoring Plan (hereinafter referred to as the "Restoration Plan") shall be prepared by a qualified restoration ecologist and a qualified engineering geologist or licensed engineer, as described in section (d), below and shall include the following:

- a) Goals and Performance Standards. Section A of the Restoration Plan shall present the following goals of the Restoration and Revegetation Project.
  1. Restoration of the property to the condition that existed prior to the unpermitted development through removal of all unpermitted development, including debris (including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials) and storage structures, and restorative grading of the topography in the areas impacted by the unpermitted development, including the canyon slope, paving and the location of the unpermitted building pad and the two unpermitted roads. Restorative grading plans should include sections showing original and finished grades, and quantitative

breakdown of grading amounts (cut/fill), drawn to scale with contours that clearly illustrate the original topography of the subject site prior to any grading disturbance. The restorative grading plans shall provide for the restoration of the property to the condition that existed prior to the unpermitted development to the maximum extent feasible. If Respondents believe the site cannot be completely restored to its pre-violation condition, they shall demonstrate to the Executive Director's satisfaction that the Restoration Plan proposes restoration to the maximum extent feasible. The location for any excavated debris and material to be removed from the site as a result of the restoration of the impacted areas shall be identified. If the dumpsite is located in the Coastal Zone and is not an existing sanitary landfill, a coastal development permit shall be required.

2. Revegetation of all graded areas and areas impacted by the removal of major vegetation so that disturbed areas have a similar plant density, total cover and species composition as that typical of undisturbed chaparral vegetation in the surrounding area within 5 years from the initiation of revegetation activities.
3. Eradication of non-native vegetation within the areas subject to revegetation and those areas that are identified as being subject to disturbance as a result of the restoration and revegetation activities.
4. Minimization of the amount of artificial inputs such as watering or fertilizers that shall be used to support the revegetation of the impacted areas. The Restoration and Revegetation Project will not be successful until the revegetated areas meet the performance standards for at least three years without maintenance or remedial activities other than nonnative species removal.
5. Stabilization of soils so that soil is not transported off the subject property or into the chaparral or riparian ESHA and so that slumping, gullyng, or other surficial instability does not occur.
6. Section A of the Restoration Plan shall also include specific ecological and erosion control performance standards that relate logically to the restoration and revegetation goals. Where there is sufficient information to provide a strong scientific rationale, the performance standards shall be absolute (e.g., specified average height within a specified time for a plant species).
7. Where absolute performance standards cannot reasonably be formulated, clear relative performance standards shall be specified. Relative standards are those that require a comparison of the restoration site with reference sites. The performance standards for the plant density, total cover and species composition shall be relative. In the case of relative performance standards, the rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant will be specified.

Reference sites shall be located on adjacent areas vegetated with chaparral undisturbed by development or vegetation removal, within 2000 feet of the subject property with similar slope, aspect and soil moisture. If the comparison between the revegetation area and the reference sites requires a statistical test, the test will be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program shall relate logically to the performance standards and chosen methods of comparison. The sampling program shall be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of monitoring and sampling shall be specified for each parameter to be monitored. Sample sizes shall be specified and their rationale explained. Using the desired statistical power and an estimate of the appropriate sampling variability, the necessary sample size will be estimated for various alpha levels, including 0.05 and 0.10.

- b) Restoration and Revegetation Methodology. Section B of the Restoration Plan shall describe the methods to be used to stabilize the soils and revegetate the impacted areas. Section B shall be prepared in accordance with the following directions:
1. The plan shall be designed to minimize the size of the area and the intensity of the impacts from disturbances caused by the restoration of the impacted areas. Other than those areas subject to revegetation activities, the areas of the site and surrounding areas currently vegetated with chaparral shall not be disturbed by activities related to this restoration project. Prior to initiation of any activities resulting in physical alteration of the subject property, the disturbance boundary shall be physically delineated in the field using temporary measures such as stakes or colored tape.
  2. Specify that the restoration of the site shall be performed using hand tools wherever possible, unless it has been demonstrated to the satisfaction of the Executive Director that heavy equipment will not contribute significantly to impacts to resources protected by the Coastal Act, including, but not limited to geological instability, minimization of landform alteration, erosion and impacts to native vegetation and the stream.
  3. The qualified geologic engineer and restoration ecologist shall specify the methods to be used after restoration to stabilize the soil and make it capable of supporting native vegetation. Such methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid or similar materials. Any soil stabilizers identified for erosion control shall be compatible with native plant recruitment and establishment. The plan shall specify the erosion control measures that shall be installed on the project site

prior to or concurrent with the initial grading operations and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment outside of the disturbed areas. The soil treatments shall include the use of mycorrhizal inoculations of the soil, unless it can be demonstrated to the satisfaction of the Executive Director that such treatment will not likely increase the survival of the plants to be used for revegetation.

4. Describe the methods for revegetation of the site. All plantings shall be the same species, or sub-species, if relevant, as those documented as being located in the reference sites. The planting density shall be at least 10% greater than that documented in the reference sites, in order to account for plant mortality. All plantings shall be performed using native plants that were propagated from plants as close as possible to the subject property, in order to preserve the genetic integrity of the flora in and adjacent to the revegetation area.
  5. Describe the methods for detection and eradication of nonnative plant species on the site. Herbicides shall only be used if physical and biological control methods are documented in peer-reviewed literature as not being effective at controlling the specific nonnative species that are or become established in the revegetation area. If herbicides are to be used in the revegetation area, specify the target plant, type of herbicide, concentration, and the precautions that shall be taken to protect native plants and workers, consistent with all applicable laws and regulations.
  6. Specify the measures that will be taken to identify and avoid impacts to sensitive species. Sensitive species are defined as: (a) species which are listed by state or federal agencies as threatened or endangered or which are designated as candidates for such listing; (b) California species of special concern; (c) fully protected or "special animal" species in California; and (d) plants considered rare, endangered, or of limited distribution by the California Native Plant Society.
- c) Monitoring and Maintenance. Section C of the Restoration Plan shall describe the monitoring and maintenance methodology and shall include the following provisions:
1. The Respondents shall submit, on an annual basis for a period of five years (no later than December 31<sup>st</sup> each year) a written report, for the review and approval of the Executive Director, prepared by a qualified restoration ecologist and qualified geologic engineer, evaluating compliance with the performance standards. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet

the goals and performance standards specified in the Restoration Plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery at the site. Carry out the further recommendations and requirements for additional restoration activities that are authorized by Commission staff.

2. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the restoration of the project site. If any such inputs are required beyond the first two years, then the monitoring program shall be extended by an amount of time equal to that time during which inputs were required after the first two years, so that the success and sustainability of the restoration of the project site are ensured.
3. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved performance standards, the applicant shall be required to submit a revised or supplemental plan to compensate for those portions of the original program that were not successful. The Executive Director will determine if the revised or supplemental restoration plan must be processed as a CDP, a new Restoration Order, or modification of Restoration Order CCC-05-RO-06.
- d) Appendix A shall include a description of the education, training and experience of the qualified engineering geologist or licensed engineer and restoration ecologist who shall prepare the Restoration Plan. A qualified restoration ecologist for this project shall be an ecologist, arborist, biologist or botanist who has experience successfully completing restoration or revegetation of chaparral habitats. If this qualified restoration ecologist does not have experience in creating the soil conditions necessary for successful revegetation of chaparral vegetation, a qualified soil scientist shall be consulted to assist in the development of the conditions related to soils in the Revegetation and Monitoring Plan. A qualified engineering geologist or licensed engineer for this project shall be a geologist or engineer who has experience evaluating and designing soil stabilization projects in the Santa Monica Mountains area.
- e) Submit interim erosion control plans for the review and approval of the Executive Director. The Interim Erosion Control Plan shall be prepared by a qualified restoration ecologist and shall include the following:
  1. The Interim Erosion Control Plan shall demonstrate that:
    - a. The following temporary erosion control measures shall be used: hay bales, straw wattles, silt fences.

- b. Erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and resources.
  2. The Interim Erosion Control Plan shall include, at a minimum, the following components:
    - a. A narrative report describing all temporary runoff and erosion control measures to be used and any permanent erosion control measures to be installed for permanent erosion control.
    - b. A detailed site plan showing the location of all temporary erosion control measures.
    - c. A schedule for installation and removal of temporary erosion control measures, in coordination with the long term restoration, revegetation and monitoring plan discussed below.
- B. Within 30 days of the approval by the Executive Director of the documents submitted under paragraph A, or within such additional time as the Executive Director may grant for good cause, Respondents shall complete the following actions, in compliance with the plans approved under paragraph A:
  1. Restore the topography consistent with the Restoration, Revegetation and Monitoring Plan required by Part A of this order and as approved by the Executive Director.
  2. Submit to the Executive Director a report documenting the restoration of the topography. This report shall include photographs that show the restored site. This report shall include a topographic plan that is prepared by a licensed surveyor, shows two-foot contours, and represents the topographic contours after removal of the development and grading to achieve restoration of the topography to the maximum extent possible, as described in paragraph A.
- C. Within 15 days of the approval by the Executive Director of the documents submitted under paragraph B2 above, or within such additional time as the Executive Director may grant for good cause, revegetate the disturbed areas with native plants, following the specifications of the Restoration Plan approved by the Executive Director, pursuant to paragraph A above.
- D. In accordance with the required frequency and timing of monitoring reports set forth in the Restoration Plan, approved by the Executive Director pursuant to paragraph A above, submit to the Executive Director monitoring reports.
- E. After approval of the monitoring reports by the Executive Director, implement within such timeframe as the Executive Director may specify all measures specified by the Executive Director to ensure the health and stability of the restored areas, as required by the Restoration Plan.
- F. For the duration of the restoration project, including the monitoring period, all persons subject to this order shall allow the Executive Director of the Commission, and/or his/her

designees to inspect the subject property to assess compliance with the Restoration Order, subject to twenty-four hours advance notice.

### **Persons Subject to the Orders**

Mr. Sanford J. Horowitz, his agents, contractors and employees, and any person(s) acting in concert with any of the foregoing

### **Identification of the Property**

The property that is subject to these orders is located at 5656 Latigo Canyon Road in Los Angeles County (APN 4456-001-001).

### **Description of Unpermitted Development**

All unpermitted development including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat; and grading and paving of a building pad and two roads, one paved and one packed earth.

### **Effective Date and Terms of the Orders**

The effective date of these orders is October 13, 2005. The orders shall remain in effect permanently unless and until modified or rescinded by the Commission.

### **Findings**

These orders are issued on the basis of the findings adopted by the Commission on October 13, 2003, as set forth in the attached document entitled "FINDINGS FOR CEASE AND DESIST ORDER CCC-05-CD-10 and RESTORATION ORDER CCC-05-CD-06".

### **Compliance Obligation**

Strict compliance with the orders by all parties subject thereto is required. Failure to comply strictly with any term or condition of the orders, including any deadline contained in the orders, will constitute a violation of the orders and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists, in addition to any other penalties authorized under Sections 30820 and 30821.6. The Executive Director may extend deadlines for good cause.

### **Deadlines**

Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.



### **Appeal**

Pursuant to PRC § 300803(b), any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

### **Government Liability**

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Horowitz in carrying out activities required and authorized under this Cease and Desist Order, nor shall the State of California be held as a party to any contract entered into by Horowitz or his agents in carrying out activities pursuant to this Order.

### **Successors and Assigns**

The Cease and Desist and Restoration Orders shall run with the land, binding all successors in interest, future owners of the Subject Property, heirs and assigns of Horowitz. Notice shall be provided to all successors, heirs and assigns of any remaining obligations under these Orders.

### **No Limitation on Authority**

Except as expressly provided herein, nothing herein shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Cease and Desist and Restoration Orders.

### **Access**

Respondents agree to provide access to the subject property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under these Orders. Nothing in these Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the subject property on which the violations are located, and on adjacent areas of the property to view the areas where development is being performed pursuant to the requirements of the Orders for purposes including but not limited to inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting and reviewing the progress of Respondents in carrying out the terms of these Orders.

### **Governing Law**

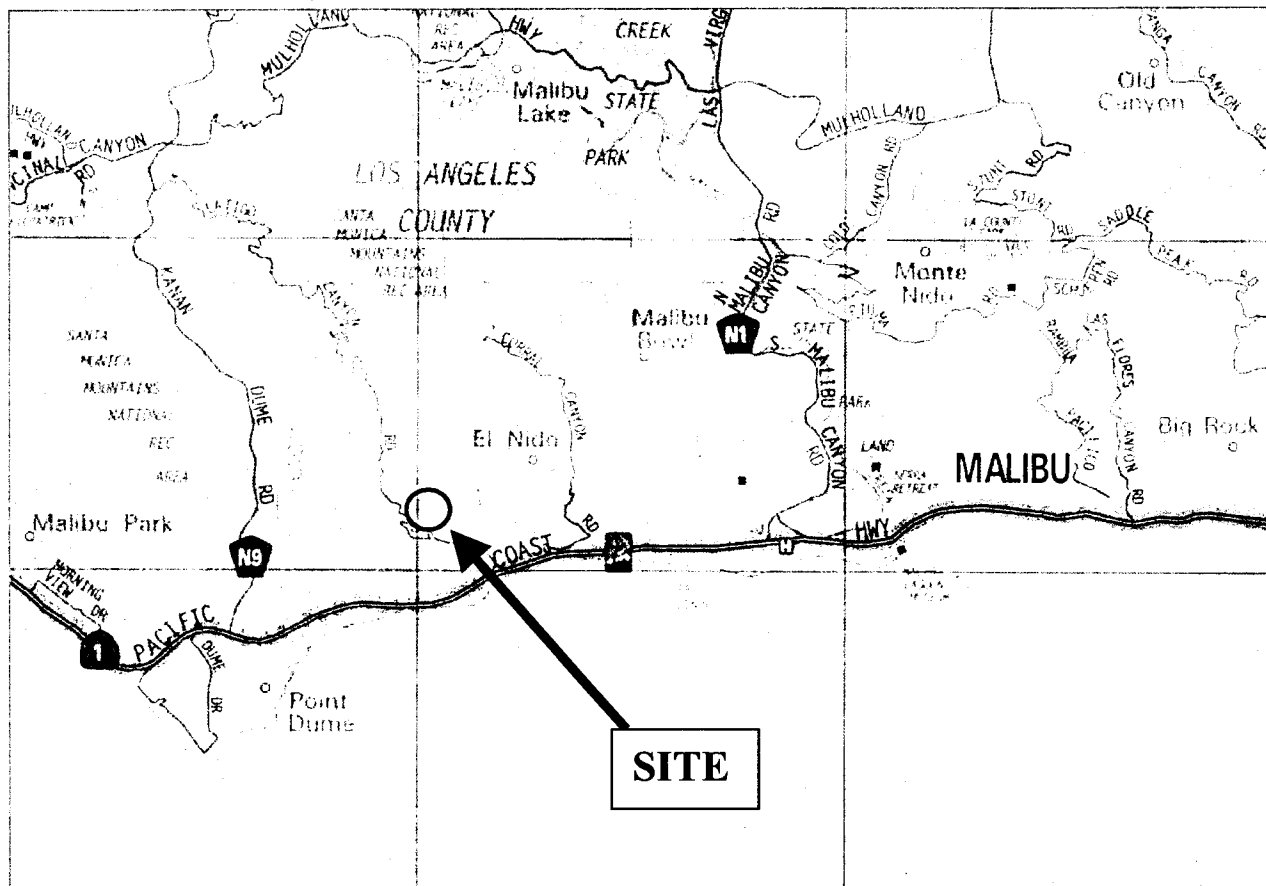
These Orders shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California, which apply in all respects.

Executed in \_\_\_\_\_ on \_\_\_\_\_, on behalf  
of the California Coastal Commission.

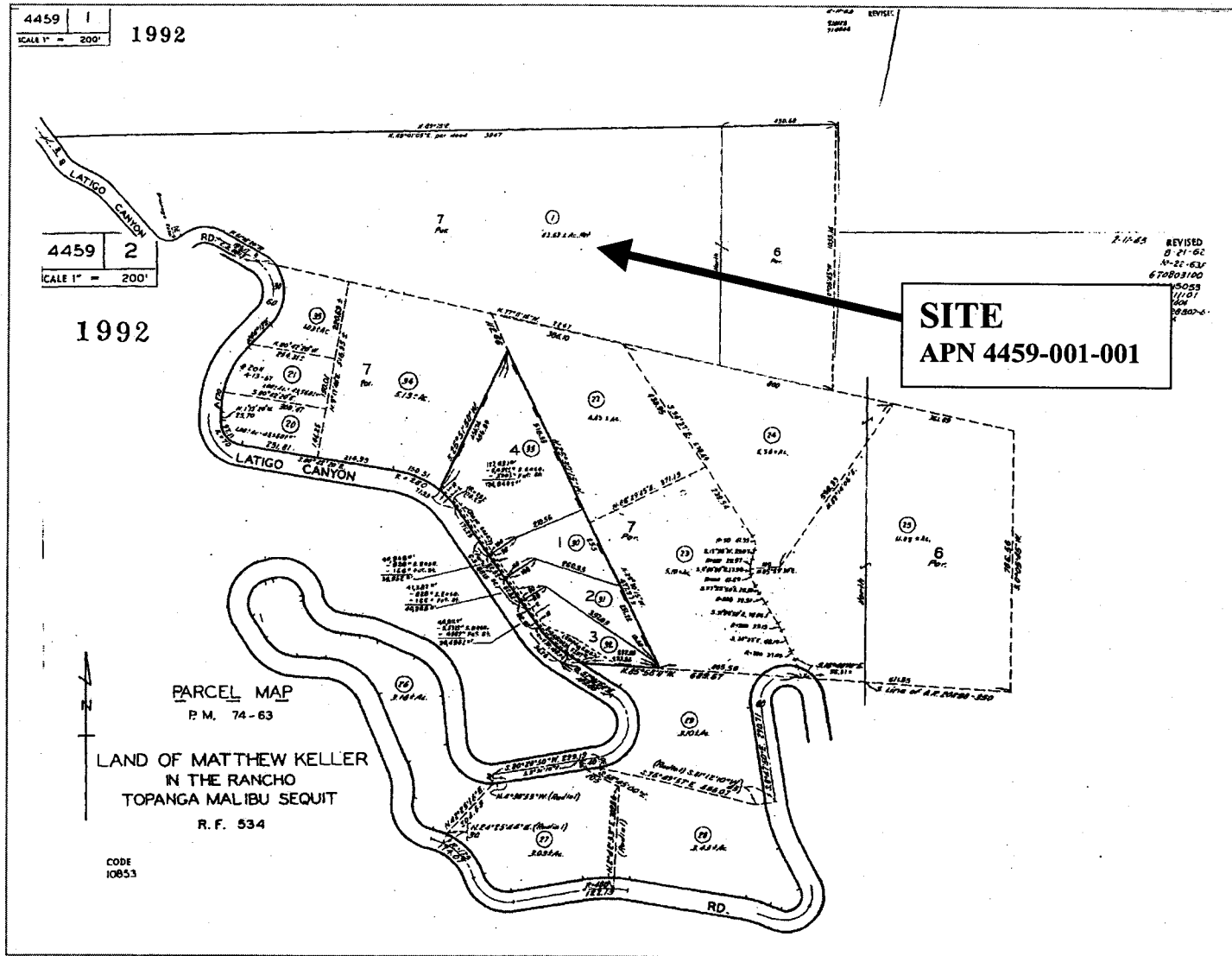
By: \_\_\_\_\_ Peter Douglas, Executive Director

**Exhibits**

1. Site Location Map.
2. Parcel Map.
3. Site photos.
4. Administrative CDP 5-89-1000 approved site plan.
5. 1977 and 1986 aerial photos.
6. Letter dated April 21, 2005 from Commission to City of Malibu planning staff.
7. Letter dated July 18, 1995 from Commission to Forrest Freed, former property owner.
8. Letter dated October 3, 1995 from Commission to Forrest Freed, former property owner.
9. November 13, 1995 Notice of Violation Action (NOVA) recorded against the subject property.
10. Incomplete letter dated March 27, 2000 from Commission to Forrest Freed.
11. Letter dated July 12, 2005, from the City of Malibu to Sanford Horowitz.
12. Notice of Intent (NOI) letter dated July 6, 2005, from the Executive Director to Sanford Horowitz.
13. Statement of Defense dated August 10, 2005.
14. Notice of Intent (NOI) letter dated August 5, 2005, to record an updated Notice of Violation of the Coastal Act, from the Executive Director to Sanford Horowitz.
15. September 20, 2005 Notice of Violation of the Coastal Act (NOVA) reflecting updated description of Coastal Act violations recorded against the subject property.



Area location map.



Parcel map

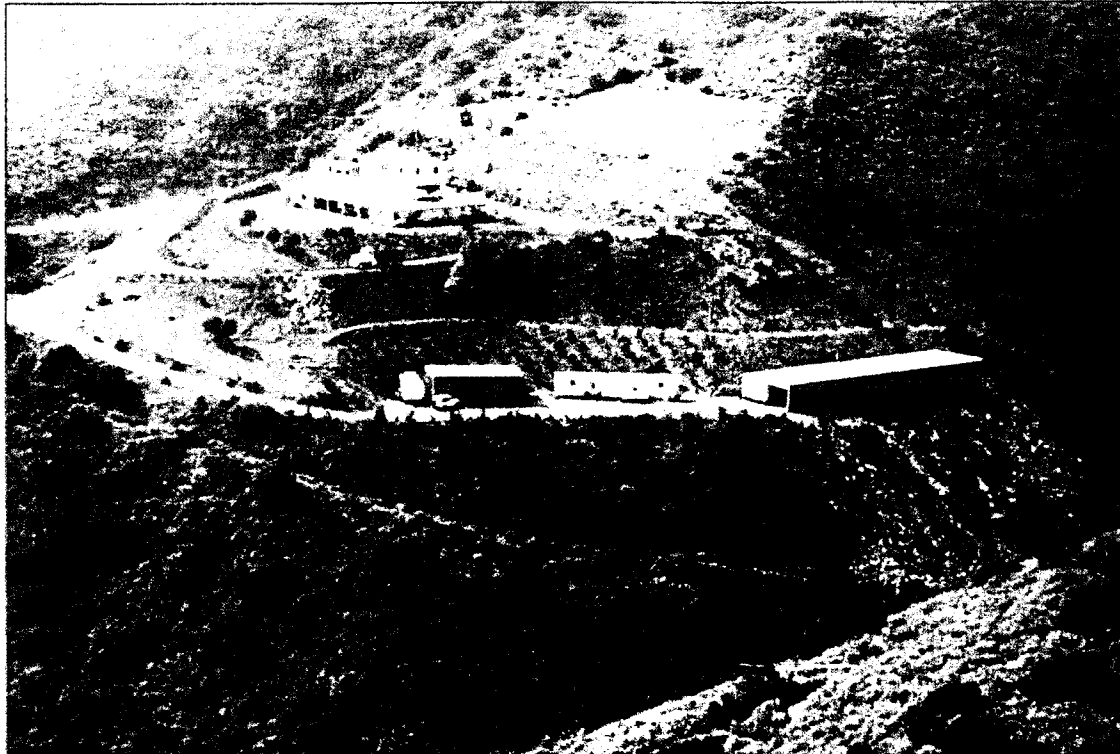


Exhibit 3a. 1995 site photo. Debris dumped in canyon is visible down slope of large shed.



Exhibit 3b. 1999 site photo. Packed earth road extends into debris dumped in canyon.



Exhibit 3c. 1999 site photo. Packed earth road extending into dumped debris.



Exhibit 3d. 2000 site photo. Debris dumped into canyon and blueline stream.



Exhibit 3e. September 2005 site photo. Concrete debris with metal rebar.

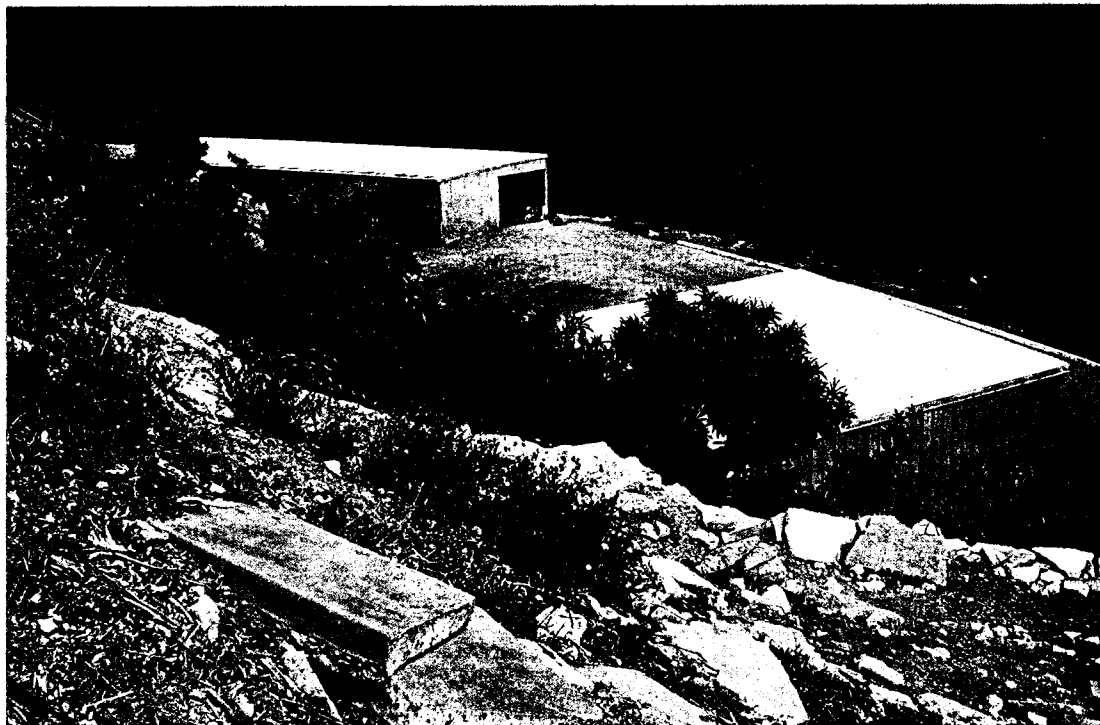


Exhibit 3f. September 2005 site photo. Debris on upper slope; looking down at unpermitted sheds and paved lower building pad.



Exhibit 3g. September 2005 site photo. Debris extending into canyon and stream.



Exhibit 3h. September 2005 site photo. Unpermitted pad, shed and debris.





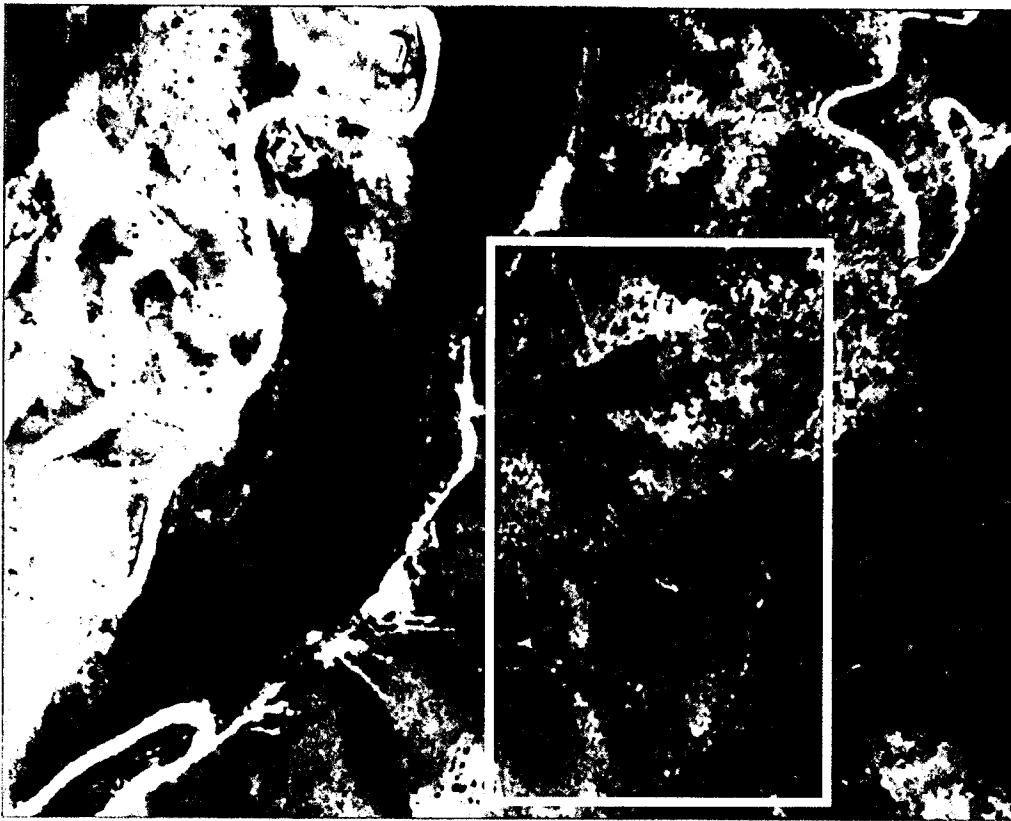


Exhibit 5a. January 24, 1977 aerial photo. No development visible on site (approximate site location is within the rectangle).

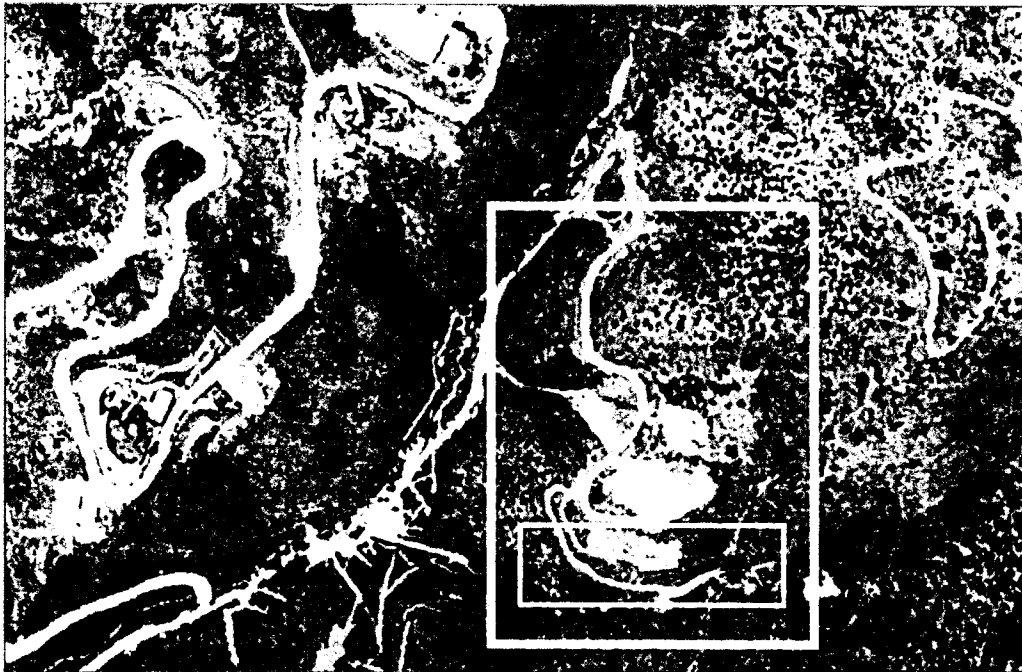


Exhibit 5b. May 10, 1986 aerial photo. Approved driveway and building pad are visible in center of site location; smaller rectangle indicates approximate location of unpermitted lower building pad, two roads, and storage structures.

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
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TDD (415) 597-5885



April 21, 2005

Gail Sumpter, Public Services Manager  
Environmental and Community Development, Permit Services  
City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265

Re: California Coastal Commission Violation File No. V-4-95-029 (Horowitz): Request to the City of Malibu to pursue joint enforcement action of the unpermitted development at 5656 Latigo Canyon Road, Malibu (APN 4459-001-001).

Dear Ms. Sumpter:

The purpose of this letter is to coordinate with the City of Malibu in resolving the above referenced violation of the City's certified Local Coastal Program. The California Coastal Commission ("Commission") has confirmed that unpermitted development has occurred at the above referenced site located within the jurisdiction of the City of Malibu's certified Local Coastal Plan (LCP). The Commission opened this violation investigation prior to the certification of the City's LCP and has taken some initial enforcement action with respect to the situation at hand. The Commission would like to pursue additional enforcement action to resolve this Coastal Act violation, and obtain removal of unpermitted development as well as restoration of damaged or destroyed resources within both the Commission's retained coastal development permit jurisdiction and within the City of Malibu's coastal permit jurisdiction, on parcel APN 4459-001-001.

Coastal Act violations within the Commission's retained jurisdiction on this site include, but are not limited to the following: unpermitted dumping of materials in a canyon containing a blue-line stream.

Coastal Act violations within the City of Malibu's LCP jurisdiction on this site include, but are not limited to the following: unpermitted development consisting of placement of two mobile homes, construction of two large storage structures, and grading of a pad and two roads.

For your convenience, to provide some background on this violation case, enclosed are relevant documents from the Commission's violation file. Some or all of these materials are confidential and exempt from public disclosure under the Public Records Act (Government Code Section 6254(f)), which pertains to law enforcement investigatory files. Providing these materials to you does not waive their confidentiality. Section 6254.5(e) of the Government Code requires that an agency that receives confidential documents agree to treat the documents as confidential, in order for the documents to continue to be exempt from disclosure. If you do not agree to treat the

material as confidential and to limit further disclosure and use as required under Section 6254.5(e) of the Government Code, please return these materials to my attention. Section 6254.5(e) of the Government Code limits the use of such confidential information disclosed to a government agency, as follows: "[o]nly persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information."

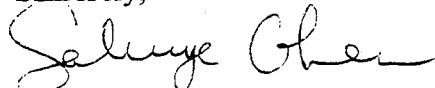
On November 13, 1995 the Executive Director of the Commission recorded a Notice of Violation of the California Act of 1976 against the subject property for a violation consisting of: "dumping of materials into a canyon which contains a blue-lined stream" without a coastal development permit as required by Sections 30106 and 30600(a) of the Coastal Act. At this time the property was owned by Forest Freed, who previously discussed the violation with Commission Staff, but failed to remove the unpermitted development and restore the site to pre-violation conditions. A new owner, Stanford Horowitz, purchased the property at 5656 Latigo Canyon Road in 2001. On October 12, 2001, Coastal Commission staff met with Mr. Horowitz's agent, Gregory Bloomfield, to discuss the permit history of the site and to examine aerial photographs of the unpermitted development. Mr. Bloomfield indicated that his client intended to submit an application for a Coastal Development Permit to resolve the violation. As of February 2005 no application has been submitted to the Coastal Commission to resolve the ongoing violation at 5656 Latigo Canyon Road. In addition, Coastal Commission staff has determined by aerial photographic evidence that the additional development consisting of placement of two mobile homes, construction of two large storage structures, and grading of a pad and two roads did not pre-date the Coastal Act and is therefore also considered to be unpermitted development at the property site.

While enforcement action by the Commission does not preclude the City from pursuing resolution of violations of LCP policies, the Commission may assume primary responsibility for enforcement of Coastal Act violations pursuant to Section 30810(a) of the Act. Section 30810(a) provides that the Commission may issue an order to enforce the requirements of certified local coastal program in the event that the local government requests the Commission to assist with or assume primary responsibility for issuing such order, or if the local government declines to act or fails to act in a timely manner to resolve the violation. As such, please notify me regarding whether the City intends to take separate enforcement action to resolve the above referenced violations that are located within the City's LCP jurisdiction or if the County would prefer the Commission to take the lead in enforcement of the violations as part of the Commission's existing enforcement action. If the County requests the Commission's assistance in this matter, the Commission will pursue further enforcement action which may include the issuance of a cease and desist and restoration order and/or a restoration order for all unpermitted development, including development within the County's LCP jurisdiction, that has occurred on site. If we do not receive a response from you by May 5, 2005, we will assume that the City declines to take enforcement action on this violation case at this time, and the Commission shall assume primary responsibility to resolve all Coastal Act violations on the above-mentioned properties.

Thank you very much for your cooperation. We look forward to working with your staff to resolve this matter. Should you have questions regarding this matter, or if you require additional

information, please contact me at 415-904-5396 on Thursdays, or in my absence, you may contact Nancy Cave at 415-904-5290.

Sincerely,



Sahrye Cohen  
Enforcement Staff

Encl: copy of photograph of site  
copy of NOVA, Nov. 13, 1995  
copy of notice of violation letter to Forest Freed, July 18, 1995

Cc: Nancy Cave  
Sheila Ryan  
Pat Veasart  
Tom Sinclair



## • CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142

CERTIFIED MAIL

July 18, 1995

Forest Freed  
5656 Latigo Canyon Road  
Malibu, CA 90265

Violation File Number: V-4-MAL-95-029

Property Address: 5656 Latigo Canyon Road, Malibu, Los Angeles County

Unpermitted Development: Dumping of materials into a canyon

Dear Mr. Freed:

Our office has confirmed that the above-referenced activity, the dumping of materials into a canyon on your property which contains a "blue lined stream", and which is located in the coastal zone, was undertaken without first obtaining a coastal development permit. Section 30600(a) of the Coastal Act states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit. "Development" is broadly defined by section 30106 of the Coastal Act to include:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....

The dumping of materials into a canyon, which also contains a "blue lined stream", activity undertaken on your property constitutes "development" and therefore requires a coastal development permit.

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting

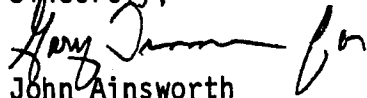
requirements. Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Coastal Act section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1000 nor more than \$15,000 for each day in which the violation persists.


As one step toward resolving the violation, please stop all unpermitted work on the property. Any additional work could be considered a knowing and intentional violation of the Coastal Act. Please submit a completed coastal development permit application for this activity, and any other development activities contemplated on this property in the near future, to this office by August 22, 1995. If we do not receive a coastal development permit application by August 22, 1995, we will refer this case to our Statewide Enforcement Unit in San Francisco for further legal action.

Please contact Troy Alan Doss at our office if you have any questions regarding this matter. Please refer to your file number when communicating with this office.

Thank you for your anticipated cooperation.

Sincerely, .

  
John Ainsworth  
Enforcement Supervisor

  
Troy Alan Doss  
Enforcement Officer

encl: CDP Application, Waiver of Legal Argument

TAD-VNT  
0803V



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142

CERTIFIED MAIL—SECOND NOTICE

October 3, 1995

Forest Freed  
5656 Latigo Canyon Road  
Malibu, CA 90265

Violation File Number: V-4-MAL-95-029

Property Address: 5656 Latigo Canyon Road, Malibu, Los Angeles County

Unpermitted Development: Dumping of materials into a canyon

Dear Mr. Freed:

Our office has confirmed that the above-referenced activity, the dumping of materials into a canyon on your property which contains a "blue lined stream", and which is located in the coastal zone, was undertaken without first obtaining a coastal development permit. Section 30600(a) of the Coastal Act states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit. "Development" is broadly defined by section 30106 of the Coastal Act to include:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....

The dumping of materials into a canyon, which also contains a "blue lined stream", activity undertaken on your property constitutes "development" and therefore requires a coastal development permit.

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting

requirements. Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Coastal Act section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1000 nor more than \$15,000 for each day in which the violation persists.

Our office informed you of the above referenced violation/enforcement action on July 18, 1995. On August 6, 1995, we spoke with you on the telephone and you requested an extension due to the fact that you were out of the country when our initial letter was sent to you. You were then given an extension until September 5, 1995. As you are now a month past this extended deadline you should be made aware that this case is now being prepared for referral to our Statewide Enforcement Unit in San Francisco for further legal action. If we do not have a complete application for a coastal development permit by October 31, 1995, we will refer this case.


As one step toward resolving the violation, please stop all unpermitted work on the property. Any additional work could be considered a knowing and intentional violation of the Coastal Act. Once again, please submit a completed coastal development permit application for this activity, and any other development activities contemplated on this property in the near future, to this office by October 31, 1995. If we do not receive a coastal development permit application by October 31, 1995, we will refer this case to our Statewide Enforcement Unit in San Francisco for further legal action.

Please contact Troy Alan Doss at our office if you have any questions regarding this matter. Please refer to your file number when communicating with this office.

Thank you for your anticipated cooperation.

Sincerely,

  
John Ainsworth  
Enforcement Supervisor

  
Troy Alan Doss  
Enforcement Officer

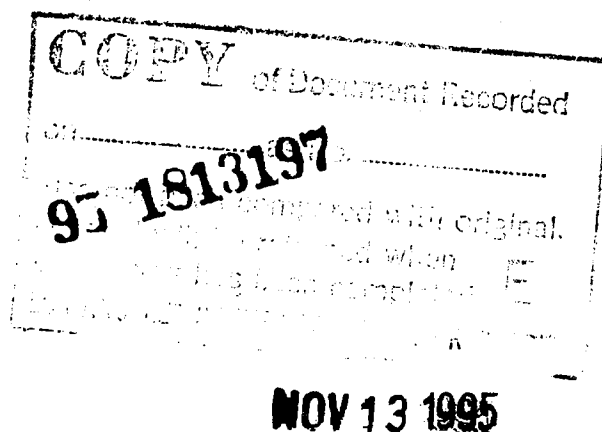
encl: CDP Application, Waiver of Legal Argument

TAD-VNT  
0862V

RECORDED AT THE REQUEST  
State of California  
California Coastal Commission

WHEN RECORDED mail to:  
CALIFORNIA COASTAL COMMISSION  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CALIFORNIA 94105-2219

STATE OF CALIFORNIA  
OFFICIAL BUSINESS: Document  
entitled to free recordation pursuant  
to Government Code section 6103



NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL  
ACT OF 1976  
(Public Resources Code Section 30000, et seq.)

I, James W. Burns, declare:

1. I am the Chief Deputy Director of the California Coastal Commission.
2. Violations of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) are alleged to have occurred regarding a certain parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows: 5656 Latigo Canyon Road, Malibu, APN 4459-001-001 (hereinafter the "property").
3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owner of said real property is: Forrest Lloyd Freed.

5. The alleged violation of the Coastal Act consists of: dumping of materials into a canyon which contains a "blue lined stream" without a coastal development permit as required by Sections 30106 and 30600(a) of the Coastal Act.
6. The undersigned has determined that said development may be illegal unless and until a coastal development permit has been obtained from the California Coastal Commission.
7. Remedies available to the California Coastal Commission for the correction of this alleged violation affecting the possession, use, and enjoyment of said property include, but are not limited to: (1) injunctive relief pursuant to Section 30803 of the Coastal Act; (2) the issuance of (a) cease and desist order(s) pursuant to Sections 30809 and/or 30810 of the Coastal Act; (3) the issuance of (a) restoration order(s) pursuant to Section 30811 of the Coastal Act; and/or (4) the imposition of conditions, pursuant to Section 30607 of the Coastal Act, should the required coastal development permit be applied for.

Executed at San Francisco, California, on Oct. 16, 1995.

I declare under penalty of perjury that the foregoing is true and correct.

California Coastal Commission

  
James W. Burns, Chief Deputy Director

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

On October 16, 1995 before me, Deborah L. Bove, A Notary Public,  
personally appeared James W. Burns, personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person whose name is subscribed to the within instrument and  
acknowledged to me that he executed the same in his authorized capacity, and that by his  
signature on the instrument the person, or the entity upon behalf of which the person acted,  
executed the instrument.

WITNESS my hand and official seal.

Signature Deborah L. Bove



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001  
(805) 641-0142



DATE: March 27, 2000

Forrest Freed  
5656 Latigo Canyon Rd.  
Malibu, CA 90265

RE: Application No. 4-00-051

Dear Mr./Ms. Freed:

Your Coastal Commission application is incomplete and cannot be filed or processed until the following items have been received. These items must be received in our office by June 27, 2000.

SEE ATTACHED PINK SHEET

If you have any questions regarding your application, please contact me at the address and phone number listed above.

Sincerely,

A handwritten signature in cursive script that reads "Julie Reveles".

JULIE REVELES  
Office Technician

cc: Envicom Corporation, Attn: Joseph Johns

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142



4-00-051  
(File No.)

Forrest Freed

(Applicant)

Envicom, c/o Joseph Johns

(Agent)

5656 Latigo Canyon Rd. Malibu

(Project Street and City)

Your coastal permit application has been reviewed and is incomplete. Before it can be accepted for filing, the information indicated below must be submitted.

- ✓ 1. Filing fee is \$600<sup>00</sup>. Payable by check or money order to the California Coastal Commission. Amount due \$600<sup>00</sup>.
- \_\_\_ 2. Proof of the applicant's legal interest in the property. (A copy of any of the following will be acceptable: current tax bill, recorded deed, signed Offer-to-Purchase along with a receipt of deposit, signed final escrow document, or current policy of title insurance. Preliminary title reports will not be accepted.)
- \_\_\_ 3. Assessor's parcel number as indicated on a property tax statement. The property legal description as contained in a Grant Deed is not the assessor's parcel number.
- \_\_\_ 4. Assessor's parcel map(s) showing the applicant's property and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available from the County Assessor). Drawings or facsimiles are not acceptable.
- ✓ 5. Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same. The envelopes must be plain (i.e., no return address), and regular business size (9 1/2 x 4 1/8"). Include a first class postage stamp on each one. Metered envelopes are not acceptable. Mailing list must be on the format shown on page C-1 of the application packet.
- ✓ 6. Enclose appropriate map(s) indicating location of property in relation to the coastline. Thomas Brothers map, road map or area maps prepared by local governments may provide a suitable base map.

- ✓ 7. Cost valuation by city/county or contractor for the development.
- ✓ 8. Copies of required local approvals for the proposed project, including zoning variances, use permits, etc. Include minutes of any public hearing.
- ✓ 9. Verification of all other permits, permissions or approvals applied for or granted by public agencies (e.g., Dept. of Fish and Game, State Lands Commission, U.S. Army Corps of Engineers, U.S. Coast Guard).
- \_\_\_ 10. Where septic systems are proposed, percolation test prepared by a qualified sanitarian or soils engineer.
- \_\_\_ 11. County or City Health Department review of septic system.
- \_\_\_ 12. Where water wells are proposed, evidence of County or City review and approval.
- ✓ 13. 2 set(s) of project drawings including site plans, floor plans, and all elevations. Drawing must be to scale with dimensions shown. Trees to be removed must be marked on the site plan. All oak trees and riparian vegetation (canopy), streams and drainages, wetlands, easements, and public hiking and equestrian trails (including existing offers to dedicate trails) must be identified on the site plan. Plans must be approved by the planning department and stamped "Approval-in-Concept." We need 2 more set(s).
- ✓ 14. 2 set(s) of detailed grading and drainage plans with cross-sections and quantitative breakdown of grading amounts (cubic yards of cut and fill). Plans must be to scale and prepared by a registered engineer.
- ✓ 15. Two copies of a comprehensive, current (not more than 1 year old), site-specific geology and soils report (including maps) prepared in accordance with the Guidelines for Engineering Geologic Reports, prepared by the State Board of Registration for Geologists & Geophysicists (11/93). Copies of the guidelines are available from the Coastal Commission District Office.
- ✓ 16. A current (not more than 1 year old) City or County "Approved" Geologic Review Sheet.
- ✓ 17. "Approval-in-Concept" form <sup>\*</sup>completed by the planning department or other responsible department.
- ✓ 18. <sup>\*</sup>Page 10 of the application contains this form, enclosed.  
Current zoning for project site.
- ✓ 19. A reduced set of legible drawings to 8 1/2 x 11" in size. The reduced set shall include a site plan, grading plan, elevations and topography if required for submittal.



20. For projects which include demolition, two copies of a site plan and elevations or photographs of the structure to be demolished. Demolition must be included in the "Approval-in-Concept" project description.

21. Remodel projects must include percent of walls to be demolished (interior and exterior), and indicate walls to be demolished and retained on-site plans.

✓ 22. City or County Environmental Review Board Approval.

23. A copy of any Final Negative Declaration, Draft of Final Environmental Impact Report (FIR) or Final Environmental Impact Statement (FEES) prepared, for the project. Comments of all reviewing agencies and responses to comments must be included.

✓ 24. All projects in or adjacent to a Stream, Wetland, or possible Wetland - California Department of Fish and Game and U.S. Fish and Wildlife Service approvals.

25. Fire Department approved fuel (vegetation) modification plans.

26. Driveways, access roads, and turn-around areas - preliminary Fire Department Approval.

27. Preliminary approval from the Regional Water Quality Control Board. Single family dwellings and additions to existing structures are excluded.

28. An archaeological report developed by a qualified archaeologist regarding the presence and significance of archaeological and cultural resources.

#### THE APPLICATION FORM

✓ 1. The application must be signed by the applicant (original signature) and the applicant's representative, if representative is authorized to represent applicant.

2. If application is not signed by the applicant(s), a letter executed by the applicant(s) which authorizes the representative to act in his/her behalf and to bind the applicant(s) in all matters concerning his/her application or the authorization page of the application form must be completed by the applicant. *\*agent did not sign form or list name as representative, see attached*

✓ 3. Section Summary of the application must be completed. *\*see attached copy of application submitted*

*I have highlighted all sections that should be completed.*

## DEVELOPMENT ON A BEACH OR BLUFF

- \_\_\_1. All projects on a beach require State Lands Commission determination of location of most landward property line. (State Lands Commission, 100 Howe Street, Suite 100, Sacramento, CA 95825-8202, phone (916) 574-1800. Please make reference to your Coastal Development Permit file number when contacting the State Lands Commission.
- \_\_\_2. For projects on a coastal bluff or shoreline - a stringline map showing the existing, adjacent structures, decks and bulkheads in relation to the proposed development. The stringline is to be prepared in accordance with the Coastal Commission's Interpretive Guidelines.
- \_\_\_3. For shoreline development and/or protective devices (seawalls, bulkheads, groins & rock blankets) - project plans with cross-sections prepared by a registered engineer. The project plans must show the project foot-print in relation to the applicant's property boundaries (include surveyed benchmarks), septic system, Mean High Tide Line (winter and summer), and the Wave Uprush Limit Line.
- \_\_\_4. For shoreline protective devices a geotechnical report and wave uprush study prepared in accordance with the Commission guidelines. Copies of guidelines are available from the District Office.

## SUBDIVISION OF PROPERTY

- \_\_\_1. Approved tentative tract/parcel maps with list of conditions and minutes for subdivisions and condominium projects. Maps must include location of proposed building sites (2 copies).
- \_\_\_2. Comprehensive site specific geologic/soils report indicating that all lots are buildable. For Malibu/Santa Monica Mountains, must have a current (not more than one year old) Geologic Review Sheet from the city or county and two copies of a geologic and/or soils report.
- \_\_\_3. Detailed grading and drainage plans with cross-sections showing all roads, building pads, and remedial grading with a quantitative break down of grading amounts.
- \_\_\_4. Map showing all parcels and their sizes within a 1/4 mile radius of the property.
- \_\_\_5. Percolation test results indicating lots are capable of accommodating a septic system.

## DEVELOPMENT IN SMALL LOT SUBDIVISIONS

- \_\_\_ 1. Surveyed topography map and gross structural area calculations for Malibu/Santa Monica Mountains small lot subdivisions. See Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan-copies available from district office.
- \_\_\_ 2. Statement of Water Service and Access Certificate for Building Permit signed by Los Angeles County Fire Department. If Fire Department requirements include road or water installation or modifications, submit plans stamped and approved by Los Angeles County Fire Department (not required for minor additions to single family dwellings):

### STAFF COMMENTS

Under certain circumstances, additional material, not previously indicated, may be required before an application can be deemed complete. The following additional material is required for the completion of this application:

- ① An alternatives analysis for the project (the goal of which was described as bringing "the area back to its original condition," establishing the possible methods of debris removal/site remediation, from the most comprehensive alternative which would result in the highest degree of removal, to the proposed method, or less aggressive alternative with less removal.
- ② Address the level of removal and method selected with the basis for this selection from the alternatives available.
- ③ Biological survey of the stream/riparian area and slopes, as these areas were prior to the debris disposal.
- ④ Evidence of Coastal Commission approval of the trailers, shed/barn, and any other accessory structures on the site.

FAILURE TO PROMPTLY SUBMIT THE INFORMATION REQUESTED ABOVE WILL RESULT IN THE DELAY OF YOUR PROJECT. PLEASE ADD ANY COMMENTS TO THE BACK OF THIS SHEET.

By: Sabin T. Miller

Date: March 27, 2000



# City of Malibu

23815 Stuart Ranch Rd. • Malibu, California • 90265-4816

(310) 456-2489 • fax (310) 456-7650

[www.ci.malibu.ca.us](http://www.ci.malibu.ca.us)

July 12, 2005

Sandy Horowitz  
5656 Latigo Canyon Road  
Malibu, CA 90265

Gregory Bloomfield  
3231 Ocean Park Boulevard  
Santa Monica, CA 90405

Re: **Plot Plan Review (PPR) 02-133**  
**5656 Latigo Canyon Road**  
New Tennis Court

To Whom It May Concern:

On August 14, 2002, an application for a new tennis court was submitted to the City of Malibu Planning Division for processing. On September 13, 2002, this office transmitted to you correspondence indicating that the subject application was incomplete. On January 13, 2005, this office transmitted to you a request to convert the application into a coastal development permit (CDP) or apply for a CDP exemption. According to the Planning Division's records, no other activity has occurred regarding this application since 2003.

Due to this lack of activity, this project has been administratively withdrawn, effective as of July 7, 2005. No fee refund is deemed appropriate.

If you have any questions regarding this matter, please call me at (310) 456-2489, extension 250 or email me at [jhart@ci.malibu.ca.us](mailto:jhart@ci.malibu.ca.us).

Sincerely,

Joshua Hart, AICP  
Senior Planner

cc: California Coastal Commission

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

Via Certified and Regular Mail

July 6, 2005

Sanford J. Horowitz  
5656 Latigo Canyon Rd.  
Malibu, CA 90265-2815

Subject: **Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings**

Violation No.: V-4-95-029

Location: 5656 Latigo Canyon Rd., Malibu, CA.  
APN 4459-001-001

Violation Description: Unpermitted dumping of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one paved and one packed earth.

Dear Mr. Horowitz:

The purpose of this letter is to notify you of my intent, as Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist Order and Restoration Order for unpermitted development. The unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; major vegetation removal; and grading and paving of a building pad and two roads, one paved and one packed earth. This unpermitted development is located on property you own at 5656 Latigo Canyon Rd., Malibu, CA., APN 4459-001-001 ("subject property"). The subject property contains environmentally sensitive riparian habitat along the blueline stream.

Development is defined in section 30106 of the Coastal Act as follows:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous,*



*liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...* (emphasis added)

The disposal of debris, removal of major vegetation, grading of pads and roads, and the placement and/or erection of buildings constitute development under the Coastal Act, and as such are subject to Coastal Act requirements, including the rules regarding permits.

The purpose of these enforcement proceedings is to resolve outstanding issues associated with the unpermitted development activities that have occurred at the subject property. Collectively, the Cease and Desist Order and Restoration Order will direct you to cease and desist from performing any unpermitted development and will compel the removal of unpermitted development and restoration of the areas impacted by the unpermitted development. The Cease and Desist Order and Restoration Order are discussed in more detail in the following sections of this letter.

### **History of the Violation Investigation**

On July 18, 1995 the Coastal Commission sent a notice of violation to Forrest Freed, former owner of 5656 Latigo Canyon Rd., for dumping of materials in a canyon containing a blueline stream. On November 13, 1995 a Notice of Violation Action (NOVA) was recorded against the subject property. Mr. Freed verbally communicated with Commission staff in 1996 that he intended to remove the debris from the stream and to restore the site. Subsequent to that, Mr. Freed, without prior application for a Coastal Development Permit, had a road cleared to the stream, apparently to provide access for debris removal.

On February 2, 2000, Mr. Freed submitted an application for CDP 4-00-051 to remove debris on the site. The subject property was sold to you on October 6, 2000, with the Notice of Violation in place and recorded in the chain of title. The application for a CDP (4-00-051) was withdrawn on November 2, 2000.

Commission staff met with your representative, Gregory Bloomfield, on October 12, 2001 to discuss the permit history of the site. Mr. Bloomfield was informed by staff that in addition to the unpermitted dumping of materials in the canyon and stream, the grading of a lower pad, two roads and placement of two mobile homes and erection of two storage buildings also appeared to be unpermitted development. A 1977 aerial photograph of the subject property indicates that no debris, buildings, graded roads, or graded pads were visible on the site in 1977. Thus, the cited development was placed after the Coastal Act's permit requirements became effective (February 1977). Commission staff advised Mr. Bloomfield and you in November of 2001 that an

application for a CDP must be submitted before any removal or restoration work could begin on the subject property.

The unpermitted development on the subject property, which is located in the coastal zone, was performed without a coastal development permit and is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit. A coastal development permit was neither applied for, nor obtained, for any of the unpermitted development on the subject property.

In 2002, you submitted an application to the City of Malibu proposing development on the subject property. As of June 14, 2005 this application remains incomplete. In an April 21, 2005 letter to City of Malibu planning staff, Commission staff asked the City to notify Commission staff whether the City intended to pursue an enforcement action to resolve the Coastal Act violations located on the subject property that are within the City's LCP jurisdiction. Section 30810(a) of the Coastal Act provides that the Commission may issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests that the Commission assist with or take primary responsibility for enforcement. In a telephone response in June 2005, City of Malibu staff indicated that the City would prefer that the Coastal Commission take the lead in enforcement of the violations as part of the Commission's existing enforcement action.

### Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

*(a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.*

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings because unpermitted development has occurred at the subject property. This unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; major vegetation removal; and grading and paving of a building pad and two roads, one paved and one packed earth. The Cease and Desist Order would order you to desist from any further unpermitted dumping or removal of debris, grading, or other unpermitted development on your property.

Based on Section 30810(b) of the Coastal act, the Cease and Desist Order may also be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including immediate removal of any development or material. Staff will

recommend that the Cease and Desist Order include terms requiring additional site investigations to ensure removal of all unpermitted development on the subject property, with a schedule for removing the unpermitted development.

### **Restoration Order**

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

*In addition to any other authority to order restoration, the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission, local government, or port governing body, the development is inconsistent with this division, and the development is causing continuing resource damage.*

Commission staff has determined that the specified activity meets the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development consisting unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; clearance of major vegetation; and grading and paving of a building pad and two roads, one paved and one packed earth has occurred on the subject property.
- 2) This development is inconsistent with the resource protection policies of the Coastal Act. The debris on the subject property, which is located in a sensitive riparian area, the graded pad and roads, and major vegetation removal in the area leading to the debris site constitute a disturbance and negative impact to the quality of the environmentally sensitive riparian habitat, as well as to the quality of coastal waters contained in the blueline stream (Section 30231). Grading of roads and building pads, and erection and/or placement of structures resulted in major vegetation removal and disturbance to the natural habitat (Section 30240). The debris and areas where the debris was dumped remains unvegetated and is visually apparent on aerial photographs. Additionally, the unpermitted buildings and graded pad and roads are readily apparent from nearby roads. The unpermitted development has not minimized the alteration of natural landforms and has degraded the scenic and visual qualities of this coastal area (Section 30521).
- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted environmentally sensitive riparian habitat. Such impacts meet the definition of damage provided in Section 13190(b): "any degradation of other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted



*development*". The unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one paved and one packed earth.

Debris on the canyon slope and in the blueline stream on the property includes but may not be limited to: concrete, rebar, bricks, asphalt, plastics and metal. The graded roads, graded pad, mobile homes and storage structures continue to be present and maintained. Unpermitted development continues to exist at the subject property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence a Cease and Desist and Restoration Order proceeding before the Commission in order to restore the subject property to the condition it was in before the unpermitted development occurred. Restoration will require removal of all unpermitted development on the subject property and restorative grading and revegetation of the impacted slope and riparian areas.

The procedures for the issuance of Cease and Desist and Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

*Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred*

Accordingly, any Cease and Desist and Restoration Order that the Commission may issue will have as its purpose the restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described above.

### **Additional Procedures**

In addition to the procedures for proposing and issuing enforcement orders that are discussed in this letter, Section 30812 of the Coastal Act allows the Executive Director, after providing notice and opportunity for a hearing, to record a Notice of Violation of the Coastal Act against your property. The Commission staff will send you a subsequent notice if it intends to proceed with recordation of a new Notice of Violation in this matter, revising and superceding the previous Notice still in effect on the property.

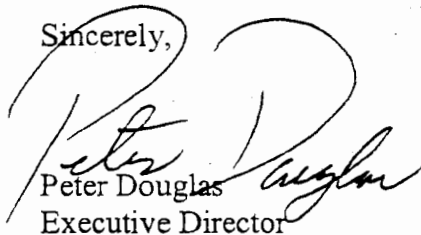
Please be advised that Coastal Act Sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of up to \$15,000 for each day in which the violation persists. Additional penalties of up

to \$6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act.

In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this Notice of Intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form. The Statement of Defense form must be returned to the Commission's San Francisco office, directed to the attention of Brian Graziani, no later than July 26, 2005.

The Commission staff is tentatively scheduling the hearing for the Cease and Desist Order and Restoration Order during the Commission meeting that is scheduled for September 2005 in Eureka, CA. If you have any questions regarding this letter or the enforcement case, please contact Brian Graziani at 415-904-2335, or send correspondence to his attention at the address listed on the letterhead.

Sincerely,



Peter Douglas  
Executive Director

Cc without encl: Lisa Haage, Chief of Enforcement  
Sandy Goldberg, Staff Counsel  
Pat Veesart, Southern California Enforcement Supervisor  
Brian Graziani, Headquarters Enforcement Officer  
Gail Sumpter, Public Services Manager, City of Malibu  
Josh Hart, Senior Planner, City of Malibu

Encl: Statement of Defense form for Cease and Desist Order and Restoration Order



planning & development, inc.

## Confidential fax

**To:** Mr. Brian Graziani,  
California Coastal Commission

**From:** Drew D. Purvis  
CEO / President



**Fax:** (415) 904-5235

**Pages:** 32 (including cover)

**Phone:** (415) 904-2335

**Date:** 8/10/2005

**Re:** Statement of Defense

**CC:**

Coastal Violation No. V-4-95-029

☐ Urgent    ☒ Please Review    ☐ Comment Appreciated    ☒ Per Request    ☐ Hard Copy  
US Mail

### Comments:

Please phone if you do not receive all 32 pages, or if you have any questions. Thank you thus far for your cordial consideration concerning this matter.



planning & development, inc.

August 10, 2005

Mr. Brian Graziani  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Re: Notice of Intent to Issue a Cease and Desist Order regarding Coastal Violation No. V-4-95-029 (Mr. Forrest Freed) located at APN: 4459-001-001

Dear Mr. Graziani:

The current owner of the subject property (Mr. Sanford Horowitz) has not felt the need to retain legal council regarding this issue because it is his intent to comply fully to what he believes to be the current standing of this violation. Mr. Horowitz has hired my firm to manage his consultant team in an effort to efficiently provide reports, plans and recommendations for remediation of the recorded violation.

Respectfully submitted,

Drew D. Purvis  
CEO / President

cc: Mr. Sanford Horowitz

Enclosures:

Statement of Defense Form  
Aerial Photos of the Subject Property (1975, 1987)  
Technical and Environmental Consultant Contracts  
Notice of Violation Recorded on 13 November 1995

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STRATEGIC LAND USE PLANNING / ENVIRONMENTALLY THOUGHTFUL SOLUTIONS / EFFICIENT PROJECT MANAGEMENT

31211 PACIFIC COAST HIGHWAY MALIBU, CA 90265 - T: (310) 457-0658 - F: (310) 919-0340

Exhibit 13

CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 2 of 32

## CALIFORNIA COASTAL COMMISSION

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

**STATEMENT OF DEFENSE FORM**

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE COMPLETING THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by either a cease and desist order and restoration order issued by the Executive Director or a notice of intent to initiate cease and desist order and restoration order proceedings before the Coastal Commission. This document indicates that you are or may be responsible for, or in some way involved in, either a violation of the Coastal Act or a permit issued by the Commission. This form asks you to provide details about the (possible) violation, the responsible parties, the time and place the violation that (may have) occurred, and other pertinent information about the (possible) violation.

This form also provides you the opportunity to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. You must also enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You must complete the form (please use additional pages if necessary) and return it no later than **August 2, 2005** to the Commission's enforcement staff at the following address:

Brian Graziani  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

If you have any questions, please contact Brian Graziani at 415-904-2335.

1. Facts or allegations contained in the notice of intent that you admit (with specific reference to the paragraph number in the notice of intent):

*I concern that "unpermitted dumping of materials, including but not limited to: concrete, rebar, bricks asphalt, plastics and metal materials in canyon containing a blue stream."*

2. Facts or allegations contained in the notice of intent that you deny (with specific reference to paragraph number in the notice of intent):

I do not concur with the allegations of unpermitted placement of two mobile homes, unpermitted construction of two storage sheds; unpermitted and grading and paving of a building pad and two roads, one paved and one packed earth.

3. Facts or allegations contained in the notice of intent of which you have no personal knowledge (with specific reference to paragraph number in the notice of intent):

I had no personal knowledge of any of the allegations in <sup>th</sup> 2.

4. Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can:

When I purchased the resident the only issue that I was told about from the prior owner, his real estate agent, and the people who I met at the property <sup>from the coastal commission</sup> was this issue of illegal dumping of debris. The mobile homes, steel sheds, pads were never mentioned. Later Greg Bloodfield was told about the possibility of the road going down the canyon but we provided him ~~that~~ aerial photos that that road pre-dates the existence of the coastal commission.

5. Any other information, statement, etc. that you want to offer or make:

~~For~~ In regards to the "Unpermitted dumping of materials" I have hired a team of technical and environmental consultants to study the existing condition and prepare recommendations for remediation of this condition. We intend to submit a comprehensive application before the end of the year. The two mobile homes were removed years ago.

6. Documents, exhibits, declarations under penalty of perjury or other materials that you have attached to this form to support your answers or that you want to be made part of the administrative record for this enforcement proceeding (Please list in chronological order by date, author, and title, and enclose a copy with this completed form):

attached

DATE OF PHOTOGRAPHY: 5-5-75  
GEOGRAPHIC LOCATION: Malibu, CA  
NEG. #: 160 W.O. # 01-1346  
SCALE OF ORIGINAL PHOTOGRAPHY: 1" = 3000' (41-)  
SCALE OF THIS ENLARGEMENT: 1" = 400' (41-)

*This photograph was taken in the normal course of business for I.K. CURTIS SERVICES, INC.  
This photograph has not been altered in any way other than normal photographic enlarging. It is  
a true and factual representation of the scene.*

**I.K. CURTIS SERVICES, INC.**

**2901 EMPIRE AVENUE**

**BURBANK, CA 91504**

**Ph. (818) 842-5127 Fax (818) 842-7235**



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*Jesse*





Exhibit 13  
CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 7 of 32

DATE OF PHOTOGRAPHY: 4-20-87

GEOGRAPHIC LOCATION: Malibu, CA

NEG. #: 239 W.O. # 01-1346

SCALE OF ORIGINAL PHOTOGRAPHY: 1" = 3000' (+/-)

SCALE OF THIS ENLARGEMENT: 1" = 3000' (+/-)

*This photograph was taken in the normal course of business for I.K. CURTIS SERVICES, INC.  
This photograph has not been altered in any way other than normal photographic enlarging. It is  
a true and factual representation of the scene.*

**I.K. CURTIS SERVICES, INC.**  
2901 EMPIRE AVENUE  
BURBANK, CA 91504  
Ph. (818) 842-5127 Fax (818) 842-7235





17 February 2005

Skye Purvis  
**DP PLANNING AND DEVELOPMENT**  
31211 Pacific Coast Highway  
Malibu, California 90265

**RE: SCHEDULE 1 REVISED : PROPOSAL TO PREPARE A BIOLOGICAL ASSESSMENT FOR A NEW HOME AND ASSOCIATED IMPROVEMENTS WITHIN/ADJACENT TO DESIGNATED ENVIRONMENTALLY SIGNIFICANT HABITAT AREA, HOROWITZ PROPERTY, LATIGO CANYON AREA, MALIBU, CA**

Dear Skye:

Please consider this letter proposal our revised Scope of Work and Not-to-Exceed Services Agreement for the project referenced above. This proposal is to assist you in achieving compliance with City of Malibu and, as and if necessary, California Coastal Commission development permit processing. TERACOR is familiar with the conditions of the project area, and based on this familiarity, we propose the following Scope of Work.

Because the proposed home is located near to or within a Coastal Commission designated Environmentally Sensitive Habitat Area (ESHA) (i.e., native chaparral and scrub habitats, ravines, and streambeds), your client will need a full Biological Assessment for the property to determine the location of the ESHA, potential impacts and mitigation measures,

**Scope of Work - Conduct a Biological Assessment**

**Task One - Assemble Baseline Information**

In accordance current City of Malibu processing requirements under the Coastal Commission-mandated Local Coastal Program (LCP) and Local Implementation Plan (LIP) and/or similar land use controls in effect subsequent to initiating work on the project, TERACOR will assemble an overview of the biological resources present immediately adjacent to and on the site in question. We already performed an inventory of floral and faunal species, both observed and determined likely to be present; one subsequent update survey will be necessary in 2005. We will review available aerial and ground photography of the property to assess conditions of the property. Based on this information, we will construct a biological resource profile of the property, including overall resource value, suitability to support rare species based on habitat conditions, extent of prior and historic disturbances, degrees of weed invasion, presence of non-native or ornamental vegetation, and other conditions which would clarify the condition of the site.

TERACOR will query the *California Natural Diversity Database* to determine the range of sensitive

species known to occur in the general area. We will also review available reports prepared for area projects which describe the flora and fauna which reasonably can be expected to be present. We will assess the probability of those species to occur on the project site.

#### **Task Two - Prepare a Biological Assessment/Constraints Analysis**

In order to provide an objective framework for project evaluation, TERACOR will prepare a biological assessment/Constraints Analysis of the entire site. The assessment will include the underlying and adjacent vegetation community, and any sensitive elements found or believed potentially present. No focused surveys for specific flora or fauna will be conducted. The assessment will obviously be predictive in scope and investigative methodology. Determinations of habitats and species presence will be predicated on overall habitat suitability, degree of disturbance, adjacency to larger habitat blocks, and similar criteria. The report will be prepared in a manner considered suitable for presentation to both the City of Malibu and if necessary, the California Coastal Commission.

Vegetation mapping will be prepared on topographic information you provide or on a 2001 aerial photograph of the property which we have in our database. Location information and photographs of the site's biological resources, as well as interpretive information will be contained within the body of the assessment.

#### **Task Three - Prepare a Mitigation Measures Section for the Report**

We anticipate the need to provide Mitigation Measures to off-set 1) historic disturbances, and 2) perceived impacts which may occur as a result of the proposed project. There should be adequate opportunities to enhance disturbed areas of the property and utilize native vegetation, or similar measures, to off-set the impacts associated with the proposed home and associated improvements. We will develop these measures in close consultation with you and your client, Mr. and Mrs. Horowitz.

#### **Task Four - Coordination, Consultations and Support**

TERACOR will provide the necessary level of support to you and your representatives, in order to effectively move the development plan through the review process. As you know, we reviewed the project site in some detail with you and your client in 2003 and 2004 in order to assess the requisite scope of work necessary to move the project through the regulatory process. As you know, it is very difficult to predict the amount of time necessary in this regard, therefore, we have proposed another coordination meeting on-site in early 2005 with you and your client to focus our efforts efficiently and comprehensively, one meeting (or equivalent telephone conversations) at the conclusion of the fieldwork and Biological Assessment (BA) preparation, one Environmental Review Board (ERB) meeting for the Principal of the firm to attend, as well as two hours of general coordination in the future with you and the City Biologist, or others as necessary. Only time actually allocated and used will be invoiced. Please coordinate early with TERACOR if our presence is necessary at other development meetings.



## Cost Estimate

TERACOR will complete those tasks for review by you for a "not-to-exceed" fee. We are at this time suggesting a cap of time spent by TERACOR for all proposed tasks under the Scope of Work, based on our 2005 Fee Schedule. We will not exceed any cap unless we have obtained written direction from you to do so, based on a clear need for additional or revised work. TERACOR will correct any clear omissions or errors to the draft report at no cost. Subjective revisions requested of the BA (i.e., political considerations, client preferences, City Biologist opinions, etc.) will be made on a time and materials basis. Except for any omissions or clear errors on the part of TERACOR, all consultations and revisions performed after completion of the first draft work product following your review would be performed on a time and materials basis, in accordance with the Fee Schedule in effect at that time. If additional work is necessary, we will communicate in writing the anticipated time and cost necessary and proceed. Only time actually spent on the project will be billed, so if we have allocated more time than is actually necessary, those costs will not be billed. If time is needed in one Task and not another, the budget will shift accordingly.

TERACOR already performed two days of field investigations on the property in Spring 2004. We believe we can conduct one additional day as an update to map the vegetation communities present on-site and inventory any annual plants which were not present during our 2004 surveys, at no additional cost.

TERACOR requires submission of a 50% retainer to initiate work, less the invoice already paid. Our May 2004 invoice (\$2,071.00) should be credited against the retainer, for a total retainer amount of \$2,519.00. All travel time for our Malibu work is calculated from our Santa Monica office. Work is invoiced against the retainer and billing is monthly thereafter, and is due upon receipt.

### Fee Proposal for Biological Assessment

#### Task 1 - Assemble Baseline Environmental Information

Principal - Field Assessment/Mapping/travel	10 hours @ \$200/hour	\$2000
Biologist - Field Assess/Mapping/species list/travel	8 hours @ \$85/hour	\$680
Environmental Specialist/Analyst/Mapping/travel	20 hours @ \$70/hour	\$1400
Field Technician - Assemble existing info, etc.	10 hours @ \$50/hour	\$500

#### Task 2 - Prepare a Biological Assessment

Principal - Prepare Text, Mapping, Review staff work	5 hours @ \$200/hour	\$1000
Environmental Specialist/Analyst	28 hours @ \$70/hour	\$1960
Graphics/Cartography/Mapping	6 hours @ \$75/hour	\$450
Word Processing/Administrative Support	4 hours @ \$35/hour	\$140

#### Task 3 - Prepare Proposed Mitigation Measures

Principal	1.5 hours @ \$200/hour	\$300
Environmental Specialist/Analyst	5 hours @ \$70/hour	\$350

Skye Purvis, DP Planning and Development  
17 February 2005

Direct Costs - Mapping, Photography, Mileage, Graphic Reproduction, etc.

\$400

**TOTAL**

**\$9,180.00**

**Task 4 - OPTIONAL/AS REQUESTED - Coordination, Consultations and Support** (meet with representatives and/or client on-site, ERB attendance, telephone conversations, etc.)

Principal - Meetings, letter preparation, coordination

10 hours @ \$200/hour

\$1000

We have prepared this Scope of Work and Cost Estimate based on the information provided to us and on a review of the property in 2003. As you may know, working with local agencies and/or the Coastal Commission is somewhat unpredictable. Unforeseen events, previously-unauthorized development projects or grading on-site, delays by others, new information or revised project design, and changes in agency staffing and policies can result in significant processing delays. If additional time is necessary to perform unanticipated tasks or analyses, we will advise you immediately and supplement this proposal with a revised schedule and scope of work and obtain your written authorization before proceeding further.

Please note that all work will be considered confidential for review and consideration by your client prior to its release. TERACOR will duly consider your requests on appropriate wording and determinations in order to increase the accuracy and objectivity of the document. This report will be available for submission to the City no later than eight (8) weeks of the receipt of the retainer and signed authorization to proceed.

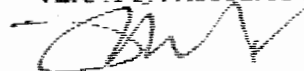
This proposal remains in effect for a period of sixty (60) days, and then will expire if not executed by 18 April 2004. If you and your client are in agreement with our proposal, please indicate by signing both original copies of this Schedule and return one executed copy to our office in Temecula, along with a \$2,519 retainer.

Before we can make substantial progress on the report, we will need 1) first generation grading and building plans, fire clearance zone plans, and topographic mapping of your property, and a complete description of all work planned. If you have any background biological information or other information about your property which may also be on file with the City or Coastal Commission, please provide a copy of that as well, particularly as that information relates to existing violations on the property.

Thank you very much again for your interest in TERACOR Resource Management, and we hope to assist you with your project. Please call me at 909 694 8000 or in Santa Monica at 310 451 7343 if you have any questions or matters to discuss.

Sincerely,

**TERACOR Resource Management**



Samuel Reed  
Principal

Skys Purvis, DP Planning and Development  
17 February 2005

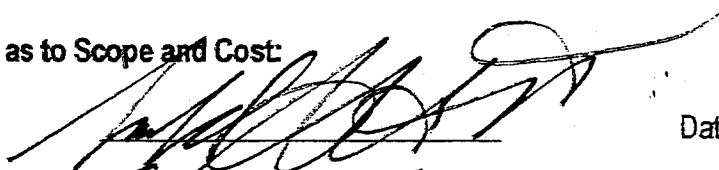
Thank you very much again for your interest in TERACOR Resource Management, and we hope to assist you with your project. Please call me at 909 694 8000 or in Santa Monica at 310 451 7343 if you have any questions or matters to discuss.

Sincerely,

**TERACOR Resource Management**

Samuel Reed  
Principal

Agreed as to Scope and Cost:



Date: 2/21/05

Print Name:

SANFORD J. HOROWITZ

H:\Archived Files\Latigo Canyon - Horowitz\Proposal\Schedule 1 Revised Latigo Horowitz.wpd





# **GeoConcepts, Inc.**

**Geology • Geotechnical Engineering**

14401 Gilmore St. #200  
Van Nuys, CA 91401  
Office (818) 994-8895  
Fax (818) 994-8599

December 2, 2003

Proposal Ref. 4433

Mr. Sandy Horowitz  
5656 Latigo Canyon Road  
Malibu, California 90265

SUBJECT: PROPOSAL  
Preliminary Geologic and Soils Engineering Investigation  
Garage/Guesthouse, Spa, Studio & Retaining Walls  
5656 Latigo Canyon Road  
Malibu, California

Dear Mr. Horowitz:

Pursuant to your request, this proposal has been prepared to provide a preliminary geologic and soils engineering investigation of the subsurface earth materials on the subject property for the proposed garage/guesthouse, pottery studio, spa and driveway retaining walls and provide appropriate recommendations.

The geologic and soils engineering investigation will include reconnaissance mapping, subsurface investigation by logging test pits, seismic trench and boring, description of geologic materials, collecting representative earth samples for laboratory testing, determination of geologic structure and compilation of data in a formal report. Our proposal is outlined in the scope of the investigation, cost and completion schedule.

## Scope of Investigation

**Mapping and Subsurface Investigation:** Perform geologic mapping of surface exposures. Perform subsurface investigation by drilling one boring and excavating between 4 and 6 test pits with hand laborers and one seismic trench with a backhoe. Explorations will be geologically logged to evaluate the three dimensional geometry of the underlying structure and to obtain earth samples for laboratory testing.

**Analyses:** Geologic and soil engineering evaluation of data and findings with regard to the proposed project. This evaluation will include, but is not limited to, a discussion on geologic structure, faulting, seismicity and recommendations for site preparation, foundation design and drainage control.

**Report:** Compile data, findings, conclusions and recommendations in a geologic and soils engineering report suitable for submission to your design consultants.

December 3, 2003  
Proposal Ref. 4433

Page 2

The City of Malibu requires an excavation permit and application fee. GeoConcepts, Inc. shall submit the application, prepare the plot map, submit the Dig Alert Number and pay the application fee for Three Hundred Dollars (\$300.00). The City of Malibu review process may also request an archeology report and charge additional fees, which is beyond the scope of this contract and our investigation.

The total cost for the proposed service is Five Thousand Dollars (\$5000.00) plus Three Thousand Dollars (\$3000.00) for drilling equipment, backhoe and hand laborers. A retainer in the amount of Four Thousand Dollars (\$4000.00) is required to initiate this investigation with the balance due upon presentation of our report in our office. As an alternative, you may mail the balance due and we will send the report to you.

This investigation is anticipated to be completed within three to four weeks after the fieldwork. Professional opinions will be based upon conditions revealed at exploration locations and reconnaissance of surrounding terrain.

To facilitate the investigation and governmental review process, we should be provided with a topographic survey map prior to our fieldwork. Also, we should review a copy of the preliminary plan of the proposed project.

Approval of plans and reports and the issuing of permits rest with the controlling agencies. Therefore, GeoConcepts, Inc. cannot guarantee that additional information or analysis will not be required by the governing agencies. If additional work is requested or required, these services will be billed on a time and material basis.

Meetings, Plan Reviews and Site Observations requested or required will be billed at our prevailing hourly rates, see Professional Fee Schedule.

If the contract documents are acceptable, GeoConcepts, Inc. can begin work upon receiving a copy of the signed Agreement and retainer. Please sign, date and return the Agreement to this office and a fully executed copy will be returned to you. We would, of course, have to approve any requested changes before proceeding.

Respectfully submitted,  
GeoConcepts, Inc.

Robert Sousa  
President  
RLS:

Attachments: Agreement  
Professional Fee Schedule

Distribution: (1) Addressee  
(1) Planning & Development

December 3, 2003  
Proposal Ref. 4433

Page 3

## AGREEMENT

The undersigned hereby retains GeoConcepts, Inc. (GCI) to perform a preliminary geologic and geotechnical investigation on the subject site per the terms of this agreement.

Client: <u>Sandy Horowitz</u>	Phone: <u>(310) 457-8125</u>
<u>5656 Latigo Canyon Road, Malibu, CA</u>	FAX: <u>(?) ?</u>
2. Project Address: <u>5656 Latigo Canyon Road, Malibu, CA</u>	
3. Scope of Investigation: proposal dated: <u>December 3, 2003</u>	<u>Pr. 4433</u>
4. Geology and Soils Fee: <u>Five Thousand Dollars</u>	<u>(\$5000.00)</u>
Exploration and /Excavation Permit Fee: <u>Thirty Three Dollars</u>	<u>(\$3300.00)</u>
Total Fee: <u>Eighty Three Hundred Dollars</u>	<u>(\$8300.00)</u>
Retainer Fee: <u>Four Thousand Dollars</u>	<u>(\$4000.00)</u>

**RIGHT OF ENTRY & PERFORMANCE:** Right of entry is hereby granted to the job site for GCI to perform the proposed site studies and subsurface investigation. Client assumes full responsibility that boundary surveys and property dimensions and descriptions are correct. GCI will take reasonable precautions to protect the environment during the fieldwork. GCI shall be held harmless and indemnified from liability, claims and damages to all underground utilities, pipes and structures not disclosed prior to the commencement of work. Fees and scheduling are subject to change if unusual or unforeseen elements develop, subject to client's prior consent. As the identification of geologic conditions and the prediction of future or concealed conditions is an inexact endeavor, professional opinions will be based upon conditions revealed at exploration locations only. No warranty, express or implied, of any type, including merchantability of fitness, is made or intended in connection with the work to be performed.

**LIMITATION OF LIABILITY:**

To the fullest extent permitted by law, the total liability, in aggregate, of GCI and its officers, associates, agents, and consultants to the client and anyone claiming by, through, or under the client, for any and all injuries, claims, losses, expenses, liability, or damages, including attorneys' and experts fees and all other costs arising out of or in any way related to GCI services, the project, or that agreement from any theory of cause of action, including but not limited to other costs, negligence, strict liability, breach of contract or warranty of GCI, officers or associates shall not exceed the total compensation received by the consultant under this agreement or \$(25,000), whichever is greater. Client has been advised of the relative risks of a project of this type and is hereby advised of its ability to increase the limitation of liability limit for additional fee.

**INDEMNIFICATION:**

GCI agrees to perform its services consistent with the applicable standard of care. The client agrees to indemnify and hold harmless GCI, officers and associates against all injuries, claims, losses, expenses, liabilities or damages, including all reasonable attorneys and expert fees and all other costs arising out of or in any way related to the acts, errors, or omissions of third parties including, but not limited to the owner, inspectors, contractor, subcontractor and designers connected with the project excepting only the sole negligence or willful misconduct of GCI.

**CERTIFICATE OF MERIT:**

As a condition precedent for filing a claim against GCI, client shall first provide GCI with a written certification executed by an independent professional currently practicing in the same discipline as GCI and with geological and/or geotechnical licenses in the State of California. This certificate shall set forth in detail the basis for the claim and the alleged failure to perform pursuant to the standard feature and shall be provided to GCI not less than thirty calendar days prior to the presentation of any claim.

**BILLING:**

Payment is due on receipt of invoice. A service charge of 1.5% per month will be added to any invoice unpaid by client after 30 days. GCI has the right to stop work if payment is not made when due. In the event GCI must institute action under this Agreement to enforce its terms, it shall be entitled to all attorney's and expert fees and costs incurred therein. Venue shall be in Los Angeles County.

**MEDIATION/ARBITRATION:**

In the event of any dispute under this Agreement or relating to the services provided by GCI, the parties agree to jurisdiction in Small Claims Court if the dispute is \$5,000 or less.

With regard to any dispute having a value in excess of \$5,000, the parties agree to mediate before a mutually agreeable mediator prior to

December 3, 2003  
Proposal Ref. 4433

Page 4

resorting to arbitration or litigation. The parties agree to mediate within thirty days of notice of a dispute having a value in excess of \$5,000.

Should the mediation be unsuccessful, the parties agree to submit any dispute having a value of less than \$50,000 to the Los Angeles office of the American Arbitration Association pursuant to the AAA's rule concerning construction industry disputes.

In the event there is any dispute regarding a matter having a value in excess of \$50,000, the parties agree that the dispute will be litigated before the appropriate Superior Court having jurisdiction over the dispute in Los Angeles County, California.

**SITE OBSERVATIONS:**

Site observations by GCI are not for the purpose of observing the contractor's or owner's means, methods, sequence, techniques or procedures; nor for the performing, supervising or conducting any portions of the work or related safety procedures or precautions. These responsibilities are solely the contractors' or owners'.

**INSTRUMENTS OF SERVICE:**

All reports, plans, field data and notes, including documents on structure design, are instruments of service and shall remain the property of GCI who shall retain all common law, statutory law, and other rights including any and all applicable copyright.

**EXCLUSIONS FROM SCOPE OF SERVICES:**

Unless set forth specifically in the proposal, GCI's services shall not include any environmental assessment or investigation of the presence or absence of hazardous or toxic metal in the soil, surface water, groundwater or air at or around the site. Further, services do not include the determination of elevation control, rough or final grades; lateral limits of removal and recompacted fill blankets used for building sites; the type of equipment used for excavation and placement of compacted backfill; methodology or sequence of grading operations; determination of graded cut and fill slope gradients; determination of the placement or need for slope terrace drains, brow drains, and slope irrigation and related systems; or the review of structural calculations.

**VERBAL APPROVAL:**

Client hereby authorizes GCI to take verbal direction from any owner representative and/or owner architect, structural engineer, contractor, subcontractor or City inspector to perform appropriate services requested in the field by any of the above. Any request for additional services pursuant to this clause will be performed by GCI on a time and material basis pursuant to the attached schedule and Client will be invoiced appropriately. Client agrees to pay for these additional services based upon the verbal request to perform these services as outlined in this paragraph.

**PREVAILING PARTY CLAUSE:**

In the event of a dispute between the parties, the prevailing party shall be entitled to its reasonable attorneys' fees and expert fees as well as any other costs that may be appropriately awarded to the prevailing party pursuant to the Code of Civil Procedure.

**ENTIRE AGREEMENT:**

This Agreement represents the entire and integrated agreement between the parties and supercedes all prior negotiations, representations, or agreements, either written or oral.

I/we have read and understand the services described above, and agree to the conditions and terms of this contract.

---

CLIENT OR AUTHORIZED AGENT

Date

GEOCONCEPTS, INC.

Date

Exhibit 13

CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 18 of 32



# GeoConcepts, Inc.

*Geology • Geotechnical Engineering*

14401 Gilmore St. #200  
Van Nuys, CA 91401  
Office (818) 994-8895  
Fax (818) 994-8599

## 2003 PROFESSIONAL FEE SCHEDULE

### HOURLY PROFESSIONAL FEES

#### Technical Personnel

Office Services.....	\$ 45.00/hr
Technical Illustrator.....	\$ 50.00/hr
CAD Drafting .....	\$ 80.00/hr

#### Professional Personnel

Field Technician (2hr. min.).....	\$ 65.00/hr
Senior Field Technician (2hr. min.).....	\$ 75.00/hr
Deputy Grading Inspector (2hr. min.).....	\$ 75.00/hr
Laboratory Technician.....	\$ 55.00/hr
Staff Geologist/Engineer.....	\$ 75.00/hr
Project Geologist/Engineer.....	\$ 95.00/hr
Principal Geologist/Engineer.....	\$135.00/hr
Expert Witness or Deposition (4hr. min.).....	\$270.00/hr
Expert Witness-Stand-By Time (4hr. min.) .....	\$135.00/hr
Review and/or Signing Plans, minimum per submission .....	\$100.00

### OTHER FEES

Company owned transportation and mileage.....	No Charge
Computing and communication equipment .....	No Charge
Company owned field equipment.....	No Charge

Outside Service ..... Cost Plus 15%

Report Reproduction

Subcontracted exploration expenses

Drilling, Backhoe, Laborers, etc.

### BASIS FOR CHARGES

A minimum charge of two hours will be made per site observation as requested or required by the Building Department, including grading, footing excavations and pile borings. Site observations include travel time portal-to-portal from our office. Show-up time is a minimum of two (2) hours.

Billing will be at the above rates for actual time spent. Overtime for hourly charges will be billed at the above rates times 1.5. Overtime is in excess of 8 hour/day, Saturdays, double time for Sundays or holidays. All fees are applicable for this year and rates may be modified the following year.

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Proposal Ref. 4433

Page 4

resorting to arbitration or litigation. The parties agree to mediate within thirty days of notice of a dispute having a value in excess of \$5,000.

Should the mediation be unsuccessful, the parties agree to submit any dispute having a value of less than \$50,000 to the Los Angeles office of the American Arbitration Association pursuant to the AAA's rule concerning construction industry disputes.

In the event there is any dispute regarding a matter having a value in excess of \$50,000, the parties agree that the dispute will be litigated before the appropriate Superior Court having jurisdiction over the dispute in Los Angeles County, California.

#### SITE OBSERVATIONS:

Site observations by GCI are not for the purpose of observing the contractor's or owner's means, methods, sequence, techniques or procedures, nor for the performing, supervising or conducting any portions of the work or related safety procedures or precautions. These responsibilities are solely the contractor's or owner's.

#### INSTRUMENTS OF SERVICE:

All reports, plans, field data and notes, including documents on structure design, are instruments of service and shall remain the property of GCI who shall retain all common law, statutory law, and other rights including any and all applicable copyright.

#### EXCLUSIONS FROM SCOPE OF SERVICES:

Unless set forth specifically in the proposal, GCI's services shall not include any environmental assessment or investigation of the presence or absence of hazardous or toxic material in the soil, surface water, groundwater or air at or around the site. Further, services do not include the determination of elevation control, weight or fixed grades, lateral limits of removal and recommended fill blankets used for building sites, the type of equipment used for excavation and placement of compacted backfill, methodology or sequence of grading operations, determination of graded cut and fill slope gradients, determination of the placement or need for slope terrace drains, brow drains, and slope irrigation and related systems, or the review of structural calculations.

#### VERBAL APPROVAL:

Client hereby authorizes GCI to take verbal direction from any owner representative and/or owner architect, structural engineer, contractor, subcontractor or City inspector to perform appropriate services requested in the field by any of the above. Any request for additional services pursuant to this clause will be performed by GCI on a time and material basis pursuant to the attached schedule and Client will be invoiced appropriately. Client agrees to pay for these additional services based upon the verbal request to perform these services as outlined in this paragraph.

#### PREVAILING PARTY CLAUSE:

In the event of a dispute between the parties, the prevailing party shall be entitled to its reasonable attorney fees and expert fees as well as any other costs that may be appropriately awarded to the prevailing party pursuant to the Code of Civil Procedure.

#### ENTIRE AGREEMENT:

This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral.

I/we have read and understand the services described above, and agree to the conditions and terms of this contract.

CLIENT OR AUTHORIZED AGENT

Date

1/28/04  
GEOCONCEPTS, INC.

Date

## AGREEMENT FOR LANDSCAPE DESIGN SERVICES

This agreement is entered into by and between **dp planning & development, inc.** ("dp") and **Mr. & Mrs. Sanford Horowitz** ("Client") as of the date it is signed by both parties. dp shall provide the services described herein and Client shall pay for such services, on the terms and conditions set forth herein.

### I. SCOPE OF PROJECT

dp shall provide detailed landscape design services to the Client related to new planting plan for all areas around existing and new residence along property access road and private driveway approach; hardscape and softscape design for pool area, hillside area behind proposed garage/guest house, tennis court area, conceal graded hillside embankment below tennis court per city's request; irrigation plan around surrounding proposed landscaped areas; identify areas requiring landscape for erosion control measures; redesign drainage system as required by City for property located in the coastal zone at **5656 Latigo Canyon Road** in the City of Malibu, California "the project."

#### A. Detailed Landscape Plan

1. Existing Inventory and New Planting/Tree Plan

#### B. Other Technical Plans included with this Scope of Work

1. Planting/Tree Details/Notes
2. Planting Schedule
3. Hardscape Plan and Notes
4. Fuel Modification Plan and Notes
5. Schematic Irrigation Plan and Notes
6. Landscape and Pathway Lighting Plan
7. Garden and Retaining Walls and Terraces
8. Details and Sections
9. Demolition Plan

### II. STRATEGIC DEVELOPMENT PLANS

dp shall use reasonable efforts to complete the services described herein in a timely fashion. Client acknowledges that there is no guarantee of success or financial viability for Client's project, that dp makes no express or implied warranty, and that payment of fees for dp's efforts shall not depend on any particular approval of Client's project or on any approval or construction of Client's project. dp shall not be liable for any damages resulting from the action or inaction of any governmental agency regarding the project or for any delay in the project.

### III. FEES

Client shall pay dp for services rendered as follows:

Total Project Cost	\$9,000.00
Deposit	\$4,500.00 due before commencement of work
Balance	\$4,500.00 due upon completion of city "submittal-ready" plan set

Fee Includes:

Detailed design work, concepts and technical plans; initial client consultation; 3 additional client meeting/project team meetings; coordination with other consultants (surveyor, civil engineer, architect, biologist) etc.; revisions required by the City of Malibu and other regulatory agencies; all meetings and coordination with the City of Malibu and other regulatory agencies; minor change requests will be accommodated; however, substantial changes in design or additional project scope will require an addendum to this agreement

Client shall pay dp for costs as follows:

\$ 0.10 cents per copy, color and oversized copies at actual cost.

Client shall pay all other costs and fees (such as fees for applications) associated with the project at the rate charged to dp, adjusted as set forth below.

If Client does not pay for dp's services and costs when due, dp may suspend all work on the project until payment in full has been made.

In the event that either party initiates litigation to enforce this agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs as fixed by the court.

IV. DEPOSIT

Client shall deposit with dp the amount of **\$4,500.00** as a deposit. dp shall bill for balance upon completion of city "submittal-ready" plan set.

V. INDEMNITY

Client shall indemnify defend and hold dp harmless from any and all liability claims, damages, costs, expenses, attorneys fees and other charges incurred by or threatened against dp on account of any services rendered by dp pursuant to this agreement, except for those arising from the willful misconduct of dp.

VI. TERMINATION

Any party to this agreement may terminate the agreement by written notice to the other, which shall be effective: (a) as to dp upon actual receipt of such written notice; and (b) as to Client, upon deposit into the U.S. mail, addressed as set forth below, certified, return receipt requested and postage prepaid. Upon termination, Client shall pay all fees and costs incurred through termination, and dp shall deliver Client's files to Client upon request. dp shall have no duty to retain or maintain Client's files longer than 30 days after termination.



VII. LIEN FOR SERVICES

Client hereby creates a security interest and lien in favor of dp against the project for the amount of all incurred and unpaid services and costs, which may be enforced by dp against the project in a manner and at times identical to those provided by law for enforcement of mechanic's liens (California Civil Code §3110 *et seq.*) or in any other manner provided by law or in equity. This remedy shall be in addition to any other remedy at law or equity which Consultant may have.

IX. ASSIGNMENT

This agreement shall be binding upon and inure to the benefit of the parties only, and it may not be assigned by any party without the written consent of the other, and any such assignment without consent shall be voidable at the election of the non-assigning party.

In Witness Whereof, the parties hereto have entered into this Agreement as of the last date set forth below.

Dated: FEB. 21, 2005

**dp planning and development, inc.**  
"dp"

by

  
Drew D. Purvis, CEO/President

Dated: 2/21/05

"Client"

by





## RJR ENGINEERING GROUP

*Civil Engineering / Land Planning • Hydrology / Hydraulics • Geotechnical Engineering / Geology • Water Resources / Environmental Engineering*

February 20, 2005

P.N. 05-1378C

MR & MRS. SANFORD HOROWITZ  
dp Planning and Development  
31211 Pacific Coast Highway  
Malibu, California 90265

Subject: **PROPOSAL FOR CIVIL ENGINEERING SERVICES  
5656 LATIGO CANYON  
MALIBU, CALIFORNIA**

Dear Mr. & Mrs. Horowitz:

RJR Engineering Group (RJR) is pleased to present this proposal for you (herein referred to as "Client") performing civil engineering services for your property as reference above for the development of a single family residence. The intent of this proposal is to perform a grading and drainage plan for planning purposes and a local stormwater management plan (SWPCPC and SUSMP) for review by the City of Malibu.

We proposed to provide the engineering scope of work as outlined in Exhibit "A". The scope of work is based upon our previous experience with the County. Exhibit "B" presents an itemized breakdown of costs. Exhibit "C" provides general exclusions from this agreement.

### **1.0. Project Summary**

The following understandings and assumptions form the basis for this proposal:

- A. A preliminary schematic site plan which illustrates the development of the single family residence.
- B. The property is a 44 acres site located in the City of Malibu, California. This proposal assumes it is the Client's intent to construct one custom single-family residential structure, with a garage and access driveway, yard, and associated structures.
- C. These plans are for submittal to the City Planning and Grading Departments.

**Principals:**

James O'Tousa, R.G., C.E.G.  
Robert W. Anderson, N.S.P.E, R.C.E.

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(Horowitz) Page 24 of 32



- D. This proposal is based on the adopted ordinances, standards and policies for the City of Malibu.
- E. We understand that a new survey and boundaries will be prepared by Mario Quiros Surveying. It is understood that topographic map provided will be suitable for the engineered plans. RJR will field check the topography map to evaluate its accuracy and will advise the Client of its findings. However, RJR shall not be responsible for the accuracy of the topographic map prepared by others. It is necessary that the survey be provided in an electronic format with the all the line and points with the elevations.

## **2.0. Fee Schedule**

All fees are based on the attached fee schedule at the hourly rate. All work outlined in Exhibit A will be performed on a "Time and Materials" and will not exceed the estimates presented in Exhibit B.

The above quoted fee does not include work not outlined in the above scope of work, nor surveying. However, the above quoted prices will not be exceeded without prior written approval. Additional work and significant design changes will be billed at our typical hourly rate presented above. All blueprinting and reproduction costs will be billed separately at a rate of:

- a. \$0.10 per square foot for all blueprints;
- b. \$1.00 per square foot for Cadd plots;
- c. \$0.10 per page of reproduction

All outside reproduction and other services will be billed to the Client at cost if paid within 30 days of the date in invoices. Any invoices in excess of 30 days will require an additional 1.5 percent interest.

## **Schedule**

RJR estimates the grading and drainage plan will take approximately 4 to 6 weeks from the time we receive the electronic survey.

## **Staffing**

The following key persons will be directly assigned to the design and over-sight of the project:

**RJR**

Principal Engineer:

Mr. Robert W. Anderson, RCE 58383

Project Engineer:

Mr. Jeff Van Fleet

This proposal is valid only if accepted within 30 days of the date submitted. Should the proposed scope of work and terms meet with your approval, please sign a copy of the Standard Agreement, and return to RJR with a retaining of \$5,000 to RJR as authorization to proceed. The initiation of the contract will be based on the date of receipt of the full agreement and retainer by RJR. We will subsequently provide you a copy of the executed contract.

We appreciate the opportunity to provide this proposal for your project. If you have any questions, or if we can be of further assistance on this or other projects, please do not hesitate to give us a call at (805) 650-5125.

Sincerely,

**RJR ENGINEERING GROUP**

Robert W. Anderson, N.S.P.E., P.E.  
Principal Engineer/Partner

Enc.: Professional Fee Schedule

Standard Agreement Number 05-1378C, dated February 20, 2005



2/21/05



EXHIBIT A  
Request for Proposal – Civil Engineering  
Scope of Work – Grading & Drainage Plan

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All work will be performed in accordance with the City of Malibu requirements for grading and drainage. RJR proposes the following scope of work:

**Task 1:** Research County records pertaining to existing facilities and information;

**Task 2:** Prepare a preliminary grading and drainage feasibility plan at a 1' = 40' or larger for the proposed residential improvements in accordance with the general requirements City Grading based on the preliminary architectural site plans.

The grading plan shall be at a scale of 1" = 20' and will indicate pad elevations, rough site grades and elevations, slopes, walls, and detailed location of drainage devices. This includes preparation of separate title sheet with a vicinity map, general notes, legend and summary of earthwork quantities.

We will need a copy of a recent title report and legal descriptions describing all easements. All plans will be prepared on Autocad 2005 and Land Development Design Program. However, all drawings, sections and details are considered the intellectual property and copyrighted by RJR, and unauthorized use or reproduction are prohibited, with all rights are expressly reserved. RJR will not provide electronic copies of details, standard sheets or details. RJR reserves the sole right to refuse distribution the electronic files.

We also request that any other available information such as plans, previous reports, and any other information pertaining to the site be forwarded to be forwarded to RJR for review at the start of the project;

This plan assumes no widening to the existing streets, or utility improvements are required.

**Task 3:** Prepare hydraulic calculations for the on-site pad drainage, as necessary, for the proposed pad in accordance with the City specifications';

**Task 4:** Prepare projects notes, cross sections and details as they pertain to the preliminary grading and drainage plan;

**Task 5:** Prepare an earthwork estimate from the RJR Grading Plan using information available fro the first soils reports and subsequent soils letters provided by the Client. All



information setforth therein shall be reviews and understood by RJR and the Client. All earthwork quantities shall be indicated on the grading plans.

**Task 6:** The State Regional Control Board and the California Coastal Commission now requires that a Storm Water Management Plan (SWPCP/SUSMP) be prepared as a part of the design package following the State and County requirements for the National Pollution Discharge program. The design requires "Best Practice Measure" be implemented into the plan with notes and details. In addition, methods will include on-site detention; mitigation of non-point source pollution, an appropriate filtering system, and temporary and permanent erosion control be designed for the project.

Since the site consists of an area less than 1 acre of grading, a NOI and SWPPP report will not be required at this time.



EXHIBIT B  
Cost Estimate – Preliminary Grading & Drainage Plan

---

All work will be performed in accordance with the City of Malibu requirements. RJR proposes the following scope of work:

<u>Task 1 – County Research &amp; Reconnaissance:</u>	\$ 500
<u>Task 2 - Preliminary Grading &amp; Drainage Plan:</u>	\$10,000
<u>Task 3 – Drainage Calculations for the Building Site:</u>	\$ 3,000
<u>Task 5 – Earthwork Estimates:</u>	\$ 1,500
<u>Task 6 - Storm Water Management Plan/SWPCP:</u>	\$ 3,000
<u>Task 7 – Reproduction:</u>	T&M
<u>Task 8 – Processing and Meetings:</u>	T & M
<u>Task 9 – PC Corrections &amp; Design Changes:</u>	T & M
Total Fees:	<hr/> \$18,000.00



## EXHIBIT C

### Specific Exclusions to the Scope of Work

The following services are expressly excluded from the Scope of Work in Exhibit B:

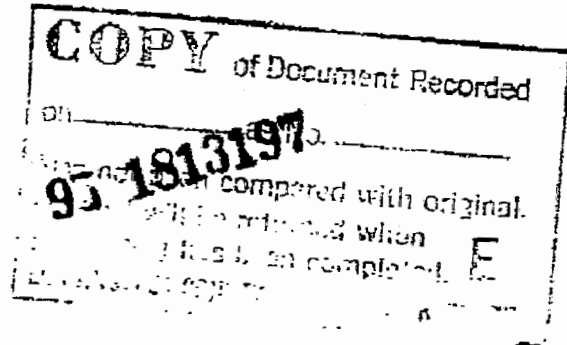
1. Perspective drawings, renderings, scale models of mock-ups or samples except as specifically noted in the Scope of Work.
2. Presentations and preparation of documents and exhibits for hearings, community groups or review committees.
3. Dry utilities and laterals which is to be done by Client's contractor representative. This includes design of electrical systems, telephone facilities, and/or underground cable television systems.
4. Title reports and title services which are to be provided by the Client's title company.
5. Obtaining permission from off site property owners for grading or improvement work outside of the Client's ownership.
6. Acting as an expert witness.
7. The design of earthwork disposal and borrow plans and related earthwork calculations outside of the boundary of the development.
8. Designs or calculations related geologic remedial work or site mitigation that was not explicitly stated in the scope of work.
9. The structural engineering of any of the required improvements including retaining walls except as related for conventional cantilever walls included in this scope of work; it is understood that RJR shall use standard designs approved and made available by the City of Malibu, County of Los Angeles, or special designs prepared by others.
10. Revisions of plans necessitated because of Client or Client's consultants changes to the design criteria. This shall include any review comments made by the client deemed not relevant, excessive or not pertinent to work performed by RJR.
11. Changes that are inconsistent with written approvals or instructions previously given; or, are required by the enactment or revision of codes, laws, or regulations subsequent to RJR's preparation of documents, maps, or improvement plans.
12. Bid forms and documents, including construction cost estimates.
13. Any requirements for stream improvements, wetlands mitigation, etc. not expressly stated in the scope of work.
14. No Field, Boundary or Construction Surveying. It is understood that topographic mapping suitable for engineered plans will be provided by the Client. RJR will field check the topography map to evaluate its accuracy and will advise the Client of its findings. However, RJR shall not be responsible for the accuracy of the topographic map prepared by others.
15. The Client will provide the services, as required, of a soils and geology firm, title company, building architect, utility consultant, traffic consultant, landscape architect, biology (and other environmental consultants) and other specialized consultants. Any specialized structures for the water system such as pressure reducing stations, etc., for the water system or lift stations for the sewer will be either standard plans acceptable to the various agencies, or will be designed by others as "shop drawings". RJR will provide civil engineering services only.
16. No off-site storm drain or other improvement plans. This includes temporary shoring and other specialty plans not considered part of standard civil engineering drawings.
17. It is understood that the Client will furnish any environmental documentation and studies that may be required by the City of Malibu, County of Los Angeles, State of California and other agencies.
18. The Client shall pay all fees, bonds, etc., required by the approving agencies including, school districts, water districts, and other jurisdictional agencies.
19. Printing and reproduction cost.
20. Preparations of documents and exhibits for Planning or Council Meetings.
21. Improvements, beyond a rough grade pad, for the recreation area.
22. Landscape and irrigation plans and related specifications.
23. All other discussions or exclusions previously discussed or not typically included in civil engineering services provided for custom residential developments.



RECORDED AT THE REQUEST  
State of California  
California Coastal Commission

WHEN RECORDED mail to:  
CALIFORNIA COASTAL COMMISSION  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CALIFORNIA 94105-2219

STATE OF CALIFORNIA  
OFFICIAL BUSINESS: Document  
entitled to free recordation pursuant  
to Government Code section 6103



NOV 13 1995

NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL  
ACT OF 1976  
(Public Resources Code Section 30000, et seq.)

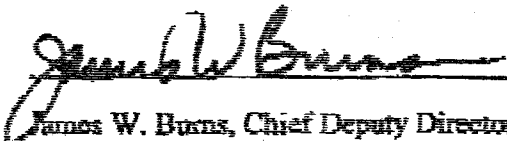
I, James W. Burns, declare:

1. I am the Chief Deputy Director of the California Coastal Commission.
2. Violations of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) are alleged to have occurred regarding a certain parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows: 5656 Latigo Canyon Road, Malibu, APN 4459-001-001 (hereinafter the "property").
3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owner of said real property is: Forrest Lloyd Freed.

5. The alleged violation of the Coastal Act consists of: dumping of materials into a canyon which contains a "blue lined stream" without a coastal development permit as required by Sections 30106 and 30600(a) of the Coastal Act.
6. The undersigned has determined that said development may be illegal unless and until a coastal development permit has been obtained from the California Coastal Commission.
7. Remedies available to the California Coastal Commission for the correction of this alleged violation affecting the possession, use, and enjoyment of said property include, but are not limited to: (1) injunctive relief pursuant to Section 30803 of the Coastal Act; (2) the issuance of (a) cease and desist order(s) pursuant to Sections 30809 and/or 30810 of the Coastal Act; (3) the issuance of (a) restoration order(s) pursuant to Section 30811 of the Coastal Act; and/or (4) the imposition of conditions, pursuant to Section 30607 of the Coastal Act, should the required coastal development permit be applied for.

Executed at San Francisco, California, on Oct. 16, 1995

I declare under penalty of perjury that the foregoing is true and correct.  
California Coastal Commission

  
James W. Burns, Chief Deputy Director

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



VIA REGULAR AND CERTIFIED MAIL  
7004 1160 0001 3918 8603

August 5, 2005

Sanford Horowitz  
P.O. Box 6262  
Malibu, CA 90264

Drew Pervis  
DP Planning and Development  
31211 Pacific Coast Highway  
Malibu, CA 90265

Subject: Notification of Intent to Record a Notice of Violation of  
the Coastal Act

Violation No.: V-4-95-029

Location: 5656 Latigo Canyon Rd., Malibu, CA.  
APN 4459-001-001

Violation Description: Unpermitted dumping of materials, including but not  
limited to: concrete, rebar, bricks, asphalt, plastics and metal  
materials in a canyon containing a blueline stream;  
unpermitted placement of two mobile homes; unpermitted  
construction of two storage structures; removal of major  
vegetation; and grading and paving of a building pad and  
two roads, one paved and one packed earth.

Dear Mr. Horowitz:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to record a Notice of Violation for development in violation of the Coastal Act on property that you own at 5656 Latigo Canyon Road, Malibu, Los Angeles County.

The unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes;

unpermitted construction of two storage structures; major vegetation removal; and grading and paving of a building pad and two roads, one paved and one packed earth. The subject property contains environmentally sensitive riparian habitat along the blueline stream.

Development is defined in section 30106 of the Coastal Act as follows:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, keep harvesting, and timber operations... (emphasis added)*

The disposal of debris, removal of major vegetation, grading of pad and roads, and the placement and/or erection of buildings constitute development under the Coastal Act, and as such are subject to Coastal Act requirements, including the rules regarding permits.

In our attempts to resolve this violation informally, we previously notified you of the Coastal Act violations on the subject property. You acquired the subject property on October 6, 2000, with a Notice of Violation of the Coastal Act (Document No. 95-1813197) in place and recorded in the chain of title. Commission staff met with your representative, Gregory Bloomfield, on October 12, 2001, to discuss the history of the site. Mr. Bloomfield was informed by Commission staff that in addition to the unpermitted dumping of materials in the canyon and stream identified in the 1995 Notice of Violation, the grading of a lower pad, two roads, placement of two mobile homes and erection of two storage buildings also appeared to be unpermitted development that is present at the site. A 1977 aerial photograph of the subject property indicates that no debris, buildings, graded roads, or graded pad were visible on the site in 1977. Thus, the cited development was placed after the Coastal Act's permit requirements became effective (January 1977). Commission staff advised Mr. Bloomfield and you in November of 2001 that an application for a coastal development permit ("CDP") must be submitted before any removal or restoration work could begin on the subject property.

On August 14, 2002, you submitted an application to the City of Malibu proposing development of a new tennis court on the subject property<sup>1</sup>. Shortly thereafter, the Planning Division of the City of Malibu responded, notifying you that the application was incomplete. On January 13, 2005 the City of Malibu requested that you convert the application for development into an application for a CDP or that you apply for a CDP exemption. Subsequently, this application was administratively withdrawn by the City of Malibu on July 7, 2005, due to the incomplete nature of the application and lack of activity to complete the application.

The unpermitted development on the subject property, which is located in the coastal zone, was performed without a CDP and is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. A CDP was neither applied for, nor obtained, for any of the unpermitted development on the subject property.

Commission staff spoke with your current representative, Drew Pervis, on July 14, 2005. Mr. Pervis stated an intent to work cooperatively with the Commission towards an administrative resolution of the Coastal Act violations existing on the subject property. We appreciate this stated intent to cooperate, but note that you have not yet submitted a permit application seeking authorization for removal of the unpermitted development and restoration of the site, or otherwise resolved this violation.

Due to the length of time that this violation has existed and the nature of the violation that exists on the subject property, I am issuing this Notice of Intent to record a Notice of Violation. The purpose of my intent to record this Notice of Violation is to update an already existing recorded Notice of Violation for the subject property. The Notice of Violation will record the additional unpermitted development on the subject property including, but not limited to, unpermitted placement of two mobile homes, unpermitted construction of two storage structures, removal of major vegetation, and grading and paving of a building pad and two roads, one paved and one packed earth. The recorded Notice of Violation is for informational purposes only and is not a defect, lien, or encumbrance on the property. Within thirty days after the final resolution of this violation, I shall mail a clearance letter to you and shall record a notice of rescission in the Los Angeles County recorder's office. The notice of rescission will have the same effect of a withdrawal or expungement.

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<sup>1</sup> This application was not for purposes of removal or restoration work to resolve the Coastal Act violation on the subject property pursuant to the prior communication between Commission staff and Mr. Bloomfield in November of 2001.

8/5/2005

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**Notice of Violation**

The Commission's authority to record a Notice of Violation is set forth in Section 30812 of the Coastal Act, which states the following:

*(a) Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.*

I am issuing this Notice of Intent to record a Notice of Violation because development has occurred in violation of the Coastal Act at the subject property.

If you object to the recordation of a Notice of Violation in this matter and wish to present evidence to the Commission at a public hearing on the issue of whether a violation has occurred, you must respond, in writing, within 20 days of the postmarked mailing of the notification. If, within 20 days of mailing of the notification, you fail to inform Commission staff of an objection to recording a Notice of Violation, I shall record the Notice of Violation in the Los Angeles County recorder's office as provided for under Section 30812 of the Coastal Act. If you would like to avoid a hearing, you need only to not object to the recordation of the Notice of Violation.

**If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether a violation has occurred, you must respond in writing, to the attention of Brian Graziani, no later than August 25, 2005. Please include the evidence you wish to present to the Commission in your written response and identify any issues you would like us to consider.**

If you have any questions regarding this letter or the enforcement case, please call Brian Graziani at (415) 904-2335, or send correspondence to his attention at the address listed on the letterhead.

Sincerely,

/s/

Peter Douglas  
Executive Director

V 4-95-029 (Horowitz)

8/5/05

Page 5

cc: Lisa Haage, Chief of Enforcement  
Sandy Goldberg, Staff Counsel  
Drew Pervis, representative for Mr. Horowitz

U.S. Postal Service™

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**OFFICIAL U.S. MAIL**

Postage	.60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 4.65</b>

**Postmark:** RINCON FINANCIAL STATION, SAN FRANCISCO, CA 94105, AUG 5 2005

Sent To Sanford Horowitz  
Street, Apt. No., or PO Box No. PO Box 6262  
City, State, ZIP+4 Malibu, CA 90264

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

Sanford Horowitz  
P.O. Box 6262  
Malibu, CA  
90264

**2. Article Number**  
(Transfer from service)

7004 1160 0001 3918 8603

**COMPLETE THIS SECTION ON DELIVERY**


<b>A. Signature</b> 		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
<b>B. Received by (Printed Name)</b> Marshall M. Horowitz	<b>C. Date of Delivery</b> 8-8-05	
<b>D. Is delivery address different from item 1?</b> <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No		

Exhibit 14  
CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 5 of 5

This page is part of your document - DO NOT DISCARD

05 2267642

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA

11:21 AM SEP 20 2005

TITLE(S) : \_\_\_\_\_



L E A D S H E E T

FEE

D.T.T.

FREE PP

4

CODE  
20

CODE  
19

CODE  
9 \_\_\_\_\_

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

THIS FORM IS NOT TO BE DUPLICATED

Exhibit 15

CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 1 of 5



RECORDING REQUESTED BY:  
California Coastal Commission

ORIGINAL

05 2267642

WHEN RECORDED MAIL TO:

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105  
Attention: Sheila Ryan

[Exempt from recording fee pursuant to Gov. Code § 27383]

DOCUMENT TITLE:

NOTICE OF VIOLATION OF THE COASTAL ACT

Re: Assessor's Parcel No. 4459-001-001

Property Owner:

Sanford J. Horowitz

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

**CALIFORNIA COASTAL COMMISSION**

**Attention: Sheila Ryan  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105**

**STATE OF CALIFORNIA OFFICIAL BUSINESS**

**Document entitled to free recordation  
Pursuant to Government Code §27383**

**NOTICE OF VIOLATION OF THE COASTAL ACT  
(Public Resources Code Section 30812)**

On behalf of Peter Douglas, I, Lisa Haage, declare:

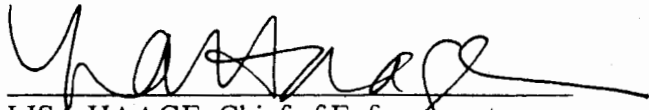
1. Peter Douglas is the Executive Director of the California Coastal Commission. Section 30812 of the Coastal Act provides for the Executive Director to record Notices of Violation of the Coastal Act. Peter Douglas, Executive Director, has specifically delegated this authority to me to act on his behalf.
2. A violation of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) has occurred involving the parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows:

**A single 43.56-acre parcel located at 5656 Latigo Canyon Road, Malibu, Los Angeles County  
(Assessor's Parcel Number 4459-001-001)**

3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owner of said real property is: Sanford J. Horowitz.
5. The violation of the Coastal Act (Violation File No. V-4-95-029) consists of the following unpermitted development: unpermitted disposal of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing and from which runoff drains into a blueline stream; unpermitted placement of mobile homes; unpermitted construction of storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one of which is paved and one of which consists of packed earth.
6. The requirements set forth in Section 30812 for notice and recordation of this Notice of Violation have been complied with. Recording this notice is authorized under Section 30812 of the California Public Resources Code.
7. The Executive Director notified Sanford Horowitz of his intent to record a Notice of Violation in this matter in a letter dated August 5, 2005.
8. As of this date, the Commission has not received a written objection to the recordation of the Notice of Violation. Therefore, on behalf of the Executive Director, I am recording the Notice of Violation as provided for under Section 30812 of the California Coastal Act.

Executed in San Francisco, California, on 16 Sept 2005.

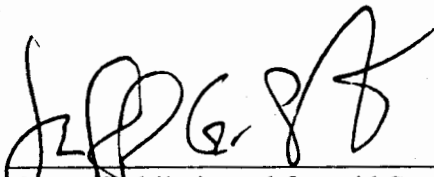
I declare under penalty of perjury that the foregoing is true and correct.

  
LISA HAAGE, Chief of Enforcement

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

On this 16 day of September, in the year 2005, before me the undersigned

Notary Public, personally appeared Lisa Haage, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument on behalf of the Executive Director of the California Coastal Commission and acknowledged to me that the California Coastal Commission executed it.

  
Notary Public in and for said State and County

