

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863  
[www.coastal.ca.gov](http://www.coastal.ca.gov)



# CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

*For the*

*June Meeting of the California Coastal Commission*

MEMORANDUM

Date: June 9, 2005

TO: Commissioners and Interested Parties  
FROM: Charles Lester, Central Coast District Deputy Director  
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the June 9, 2005 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

***IMMATERIAL AMENDMENTS***

4-84-071-A5 Department Of Parks & Recreation, San Luis Obispo District, Attn: Steve M. Yamaichi,  
Superintendent, Special Projects (San Simeon, San Luis Obispo County)

**TOTAL OF 1 ITEM**

## DETAIL OF ATTACHED MATERIALS

### REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>4-84-071-A5</b> Department Of Parks & Recreation, San Luis Obispo District, Attn: Steve M. Yamaichi, Superintendent	Amend previously approved permit for concession facility improvements to include the construction and enclosure of approximately 400 s.f. on the exterior portion of existing visitor center breezeway.	Hearst Castle Visitor Center (one quarter mile north of Highway 1), San Simeon (San Luis Obispo County)

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**NOTICE OF PROPOSED PERMIT AMENDMENT**

TO: All Interested Parties  
FROM: Peter Douglas, Executive Director *by fmd 5/31/05*  
DATE: May 31, 2005  
SUBJECT: **Permit No: 4-84-071-A5**  
Granted to: Department Of Parks & Recreation, San Luis Obispo District, Attn: St

**Original Description:**

for **Redevelopment of Hearst Castle Visitor Center including main visitor center and concession building, area office, maintenance building, corporation yard, parking lot, landscaping and underground utilities.**  
at **Hearst Castle Visitor Center (one quarter mile north of Highway 1), San Simeon (San Luis Obispo County)**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

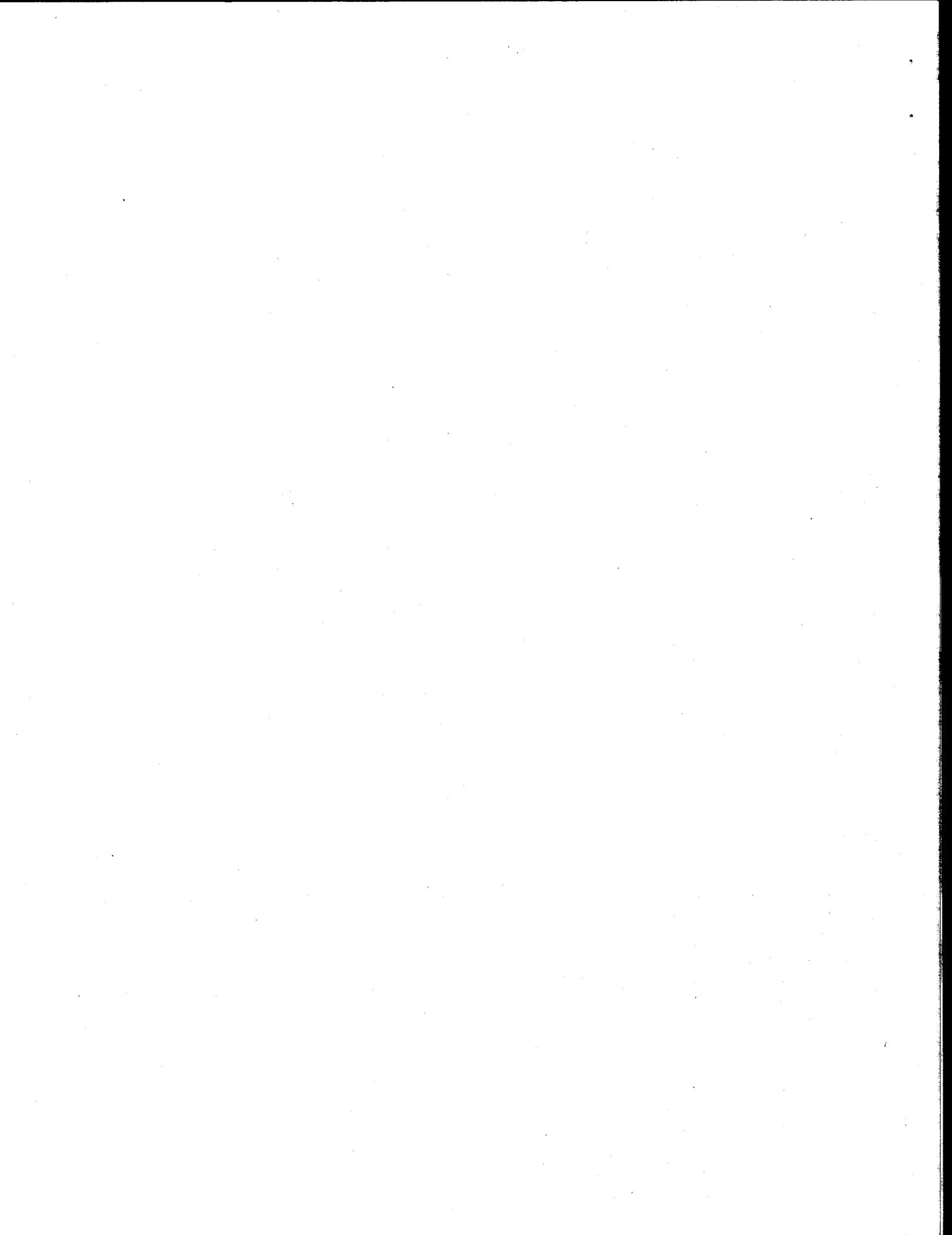
**Amend previously approved permit for concession facility improvements to include the construction and enclosure of approximately 400 s.f. on the exterior portion of existing visitor center breezeway.**

**FINDINGS**

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled meeting. This amendment has been considered IMMATERIAL for the following reason(s):

**The improvements are designed to enhance coastal recreation opportunities and avoid adverse impacts to coastal resources. The breezeway enclosure will be attached to the existing Visitor Center facility and will not add to the height of the structure, block scenic views, or encroach within sensitive habitat areas. The project includes measures to protect coastal water quality through the implementation of construction and drainage best management practices.**

If you have any questions about the proposal or wish to register an objection, please contact Jonathan Bishop at the Central Coast District office.

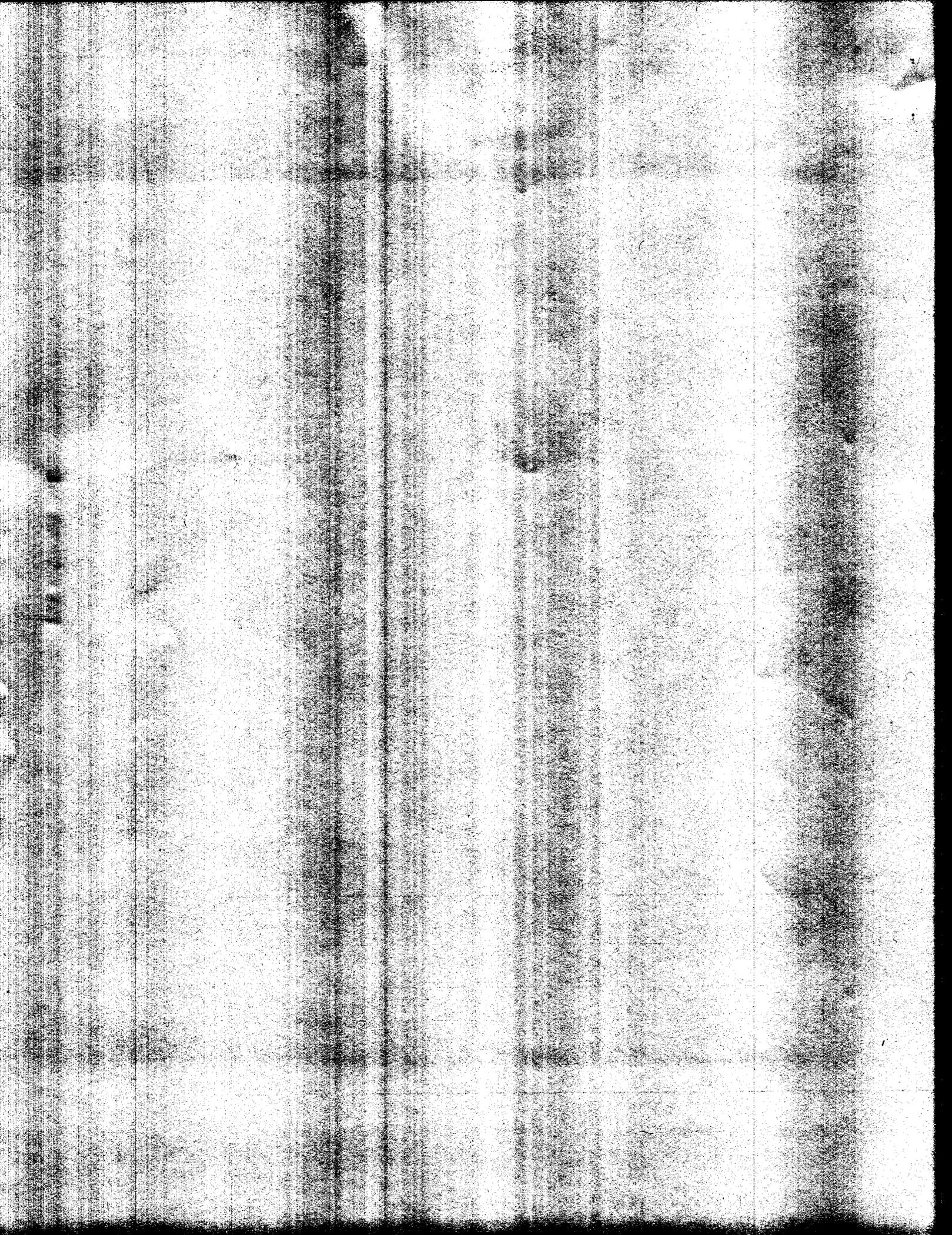


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**Memorandum****June 7, 2005****To:** Commissioners and Interested Parties**From:** Charles Lester, Deputy District Director, Central Coast**Re:** **Additional Information for Commission Meeting, Thursday, June 9, 2005**

<u><b>Agenda Item</b></u>	<u><b>Applicant</b></u>	<u><b>Description</b></u>	<u><b>Page</b></u>
<b>Th8a, SLO-MAJ-1-04</b>	<b>San Luis Obispo County</b>	Staff Report Addendum	1
<b>Th9a, A-3-04-61</b>	<b>Oceano Pavillions</b>	Correspondence	3
<b>Th9b, A-3-05-13</b>	<b>McNece</b>	Correspondence	19
<b>Th10a, A-3-05-17</b>	<b>CCSD</b>	Correspondence	21



# CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

# Th8a



**Prepared June 6, 2005 (for June 9, 2005 hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Charles Lester, Deputy District Director *C.L. 6/3/05*  
Jonathan Bishop, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Th8a**  
**LCP Amendment No. SLO-MAJ-1-04 Part 2 (Agricultural Preserve Map)**

The applicant has proposed the attached clarifying language changes to proposed Conditions No. 27 & 28. Commission staff is in agreement with these changes.

27. The installation of public sewer and water utilities may be allowed on the Camp Ocean Pines Recreation site only where necessary to serve recreational uses that have received all necessary development approvals, provided that all pipelines are the minimum size necessary to serve the approved development and the deed for the property is permanently restricted in a manner that prohibits offsite tie-in to the utility lines. In addition, the Camp shall record a one-foot wide easement around the perimeter of the site, to a third party, acceptable to the Planning Director, that creates a utility prohibit zone. This zone shall prohibit the extension of water & sewer utilities across it, except in the single location required to provide such services to the Camp.

28. All water and sewer lines shall be designed and installed in accordance with the requirements of the County of San Luis Obispo and the Cambria Community Services District. the water and sewer lines shall be the minimum size necessary to accommodate the permitted use; designed and built without extra offsite connection points (i.e., stub-outs) not necessary for the permitted use; and, accompanied by a permanent restriction recorded on the deed for the property that prohibits the extension of water and sewer service beyond site. Fire flows must be considered when designing these pipelines, which shall be installed only in conjunction with actual construction of the development that they are to serve. Plans for water and sewer infrastructure shall identify the location and size of all water and wastewater main and service pipelines, as well as calculations indicating the amount of water needed and wastewater generate from the development, and the commensurate sizing of the utility line.

Th 9a

The Law Office of Marshall E. Ochylski  
Post Office Box 14327  
1026 Palm Street, Suite 210  
San Luis Obispo, California 93406

Telephone: (805) 544-4546  
Facsimile: (805) 544-4594  
E-mail: MOchylski@SLOlegal.com

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CENTRAL COAST AREA

**Overnight Delivery via Federal Express**  
**Coastal Commissioners and Coastal Commission Staff**

June 1, 2005

Ms. Meg Caldwell  
Director  
Environmental and Natural Resources Law & Policy Program  
Stanford Law School  
559 Nathan Abbott Way  
Owen House Room 6  
Stanford, CA 94305-8610

**Subject: Oceano Pavilions**  
**California Coastal Commission**  
**Appeal Number A-3-SLO-04-061**  
**San Luis Obispo County, California**  
**June 2005 Agenda Item Th9a**

This office represents Oceano Pavilion LLC regarding the pending Coastal Commission Appeal. We are writing this letter in response to the Staff Report that was prepared for the June meeting of the Coastal Commission.

We have a number of concerns regarding the analysis and recommendations made in the Staff Report which lack a basis in either fact or law since the County approved project is wholly consistent with both the certified Local Coastal Plan of the County of San Luis Obispo and the California Coastal Act.

The following analysis identifies those concerns, directly relates them back to the Staff Report, and addresses what we believe are factual discrepancies in the Staff Report.

**Consistency with Certified Local Coastal Plan:**

Staff simply does not provide applicable policies that could form a basis for a finding of substantial issue. Staff cites LCP Coastal Plan Policies 1, 2, 27, 34, and Oceano Specific Plan Standard 9 as a basis for the Commission finding substantial issue. Since the approved project does not fall either "within or adjacent to ESHA's and State Park holdings," the cited

policies do not apply. The biological analysis prepared as a part of the County's approval process supports this conclusion. Further, the right-of-way for Smith Avenue provides a buffer between the approved project and any identified ESHA or State Parks holdings. Since the entire site is currently a paved parking lot with a number of existing structures, the proposed development will actually reduce impacts on the State Parks land over the existing use of the property.

Contrary to the assertion that the project was approved "without any buffer," the County required as a condition of approval that Smith Avenue be maintained as a buffer between the approved project and the State Park lands. Restoration of this land as a viable buffer will be undertaken as a coordinated effort between the various stakeholders. This forty (40) foot buffer meets all the requirements of the certified Local Coastal Plan.

As to the statement that "there is no evidence . . . that the entirety of the site is necessary to accommodate a viable commercial use at this location," it should be fairly self-evident that restricting approximately one-half of a site that is currently entirely developed does not meet the required "reasonable investments expectations" of the property owner.

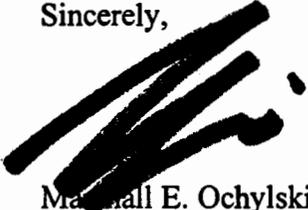
Finally, the approved project will meet the requirements of the Coastal Act by providing visitor-serving facilities and coastal access.

**Conclusion:**

Because the approved project is in fact wholly consistent with all the requirements and policies of the certified Local Coastal Plan and the Coastal Act as determined by the appropriate local governmental jurisdictions, and because of the aforementioned inconsistencies in the Staff Report, I respectfully request that the Commission agree and find no substantial issue exists.

Thank you for your consideration in this matter.

Sincerely,



Marshall E. Ochylski,  
Attorney at Law

MEO/ac

cc: Central Coast District Office  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

Mr. Patrick Kruer  
The Monarch Group  
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Ms. Mary K. Shallenberger  
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Ms. Sara Wan  
22350 Carbon Mesa Rd.  
Malibu, CA 90265

Mr. Steven Kram  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Ms. Bonnie Neely  
Board of Supervisors  
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Councilmember Toni Iseman  
Laguna Beach  
2338 Glenneyre  
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Councilmember Scott H. Peters  
City of San Diego  
202 C Street, MS 10-A,  
San Diego, CA 92101

Robert Mueller  
Oceano Pavilions LLC  
Post Office Box 12627  
San Luis Obispo, CA 93406

## ***Oceano Pavilion, L.L.C.***

**P.O. Box 12627 San Luis Obispo, CA 93406**

**(805) 544-5651 FAX: (805) 597 5151**

June 2, 2005

Ms. Meg Caldwell, Director

Environmental and Natural Resources Law & Policy Program

Stanford Law School

559 Nathan Abbott Way

Owen House Room 6

Stanford, CA 94305-8610

**Subject: Oceano Pavilions  
California Coastal Commission  
Appeal Number A-3-SLO-04-061  
San Luis Obispo County, California  
June 2005 Agenda Item Th9a**

Dear Commissioners and Staff:

Prior to submitting a proposal and continuing thru years of county process, we have invited the Commission staff, County planners, property owners and State Parks to review and comment on our proposal. In 1999 the site was used as storage for impounded cars and equipment. Uses adjacent the site include all terrain vehicle trails, informal camping and dumping. Property extending north beyond the county right of way on both sides of the site has been extensively, mechanically graded in the past 18 months. Although described as degraded in the biological sense, the project is a peninsula of potential for advocates of the Oceano Specific Plan goals.

The review process and evaluations that led to local approval demonstrate that jurisdiction is best retained by the County of San Luis Obispo. County conditions of approval are to coordinate with State Parks and the county coastal zone management team to provide for effective resource protection, maintenance standards and public recreation access. The project is required to meet every standard proposed in the Coastal Commission staff report recommendation *except* the requirement to take property needed to build an economically viable project.

The following are only a few examples of how the facts don't match the information included in the staff report:

In asking to take half the site, staff concurrently asks the Commission (p11, *Section B. 2 c.*) to mandate that the applicant build a minimum of twenty underground parking spaces in a space of 50x 117. The project documents show that it takes twice that space to accommodate a maximum of 25 spaces.

While the project is designed to keep all project related impacts on the site (including maintenance) and to direct current destructive activity away from the resources identified, the staff proposes (p29, 5 B 4 A 1, 2, & 3) that new trails and activity might be welcome in the buffer. Separately, staff incorrectly informs (p6 A, 3) Commissioners that the project "will introduce significant new noise, lights, activities immediately adjacent and into the dunes". Clearly the County neither intends nor could allow this to occur based on their conditions included in their approval.

Staff incorrectly reports again (p25 Water Quality b) that site pollutants will flow off site "to the beach and Pacific Ocean". The vehicle junk yard and current parking lot use certainly will send pollutants offsite. Even though surface coverage for the project is not increased, stormwater and migrating sand will no longer be mixed with automotive pollutants. The County mandate for "best management practices" is a clearly defined standard, which mirrors what Commission staff would seek under their jurisdiction.

Finally, the site is not vacant or without use as is stated in the staff analysis. The finality of the road abandonment, construction of a low impact visitor serving use, and enhancement of resources, are all insured under the county conditions of approval.

We have always welcomed into this project any *factually correct* analysis to improve standards by which we work. However if staff is not correct assuming the halved project is viable, the existing use would be retained, and we feel an opportunity is lost, perhaps forever.

Thank you to the commissioners for considering our efforts, and to consider the ability and intent of the county to properly administer this project.

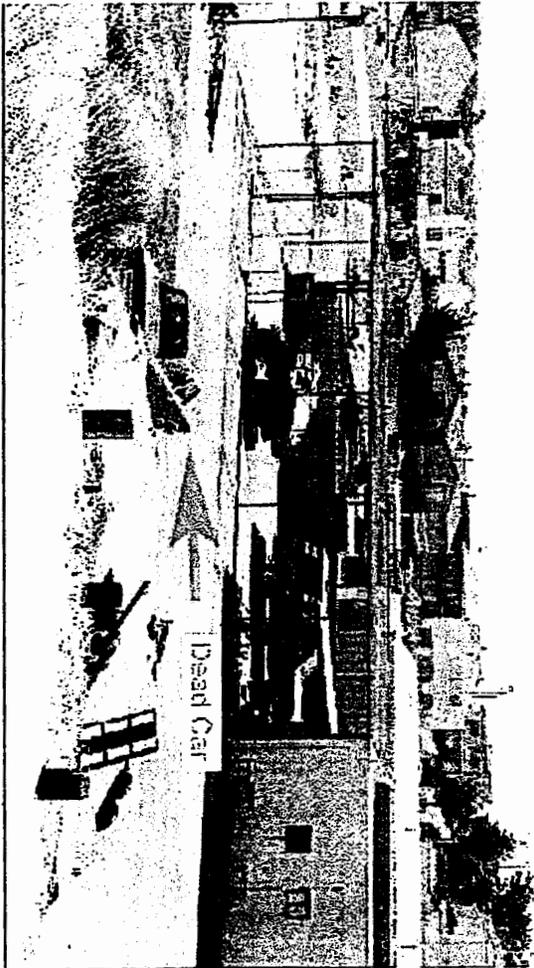
Sincerely,



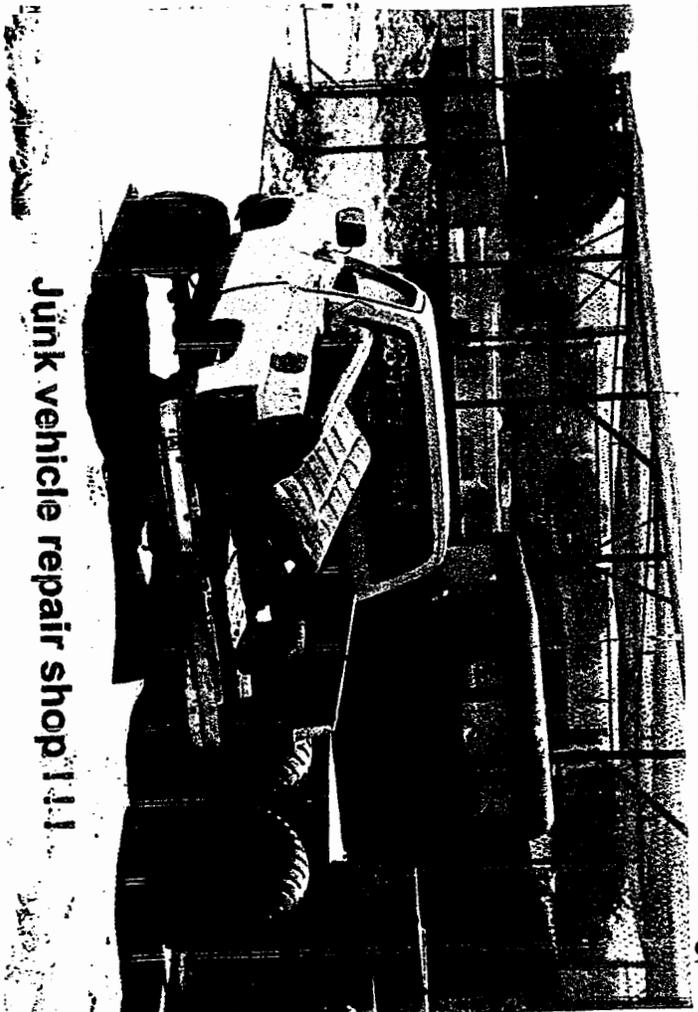
Robert Mueller and Pragna Patel  
For Oceano Pavilion, LLC

1. Site - Historic
2. Site - at Acquisition
3. County road and assessors map  
Strand is existing curb gutter sidewalk and road base  
Smith Ave. has historic use but is not built
4. Existing county approved site use
5. Conceptual rendering from visual survey

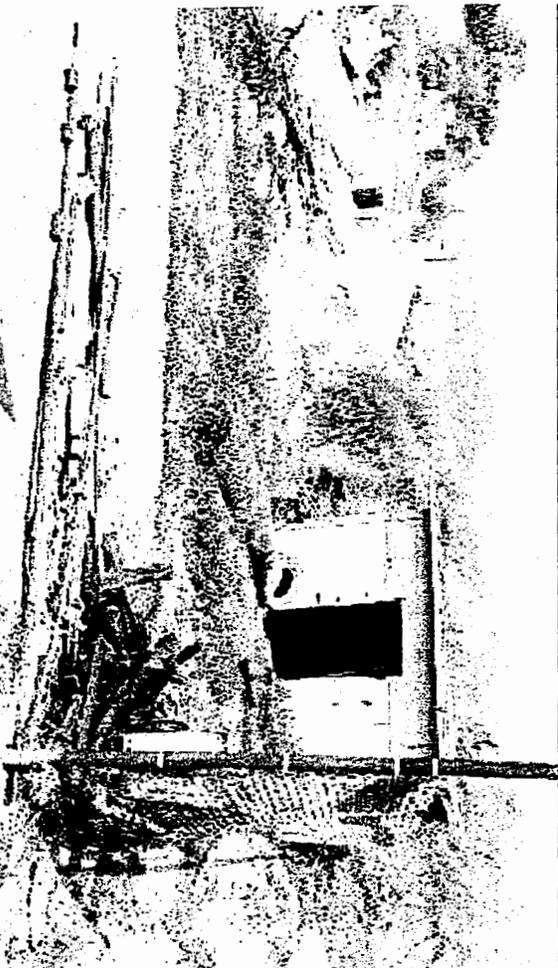
Pier Avenue Entrance to the Beach in Oceano, CA



Rear of junk yard from scenic path thru sand dunes. Beautiful !

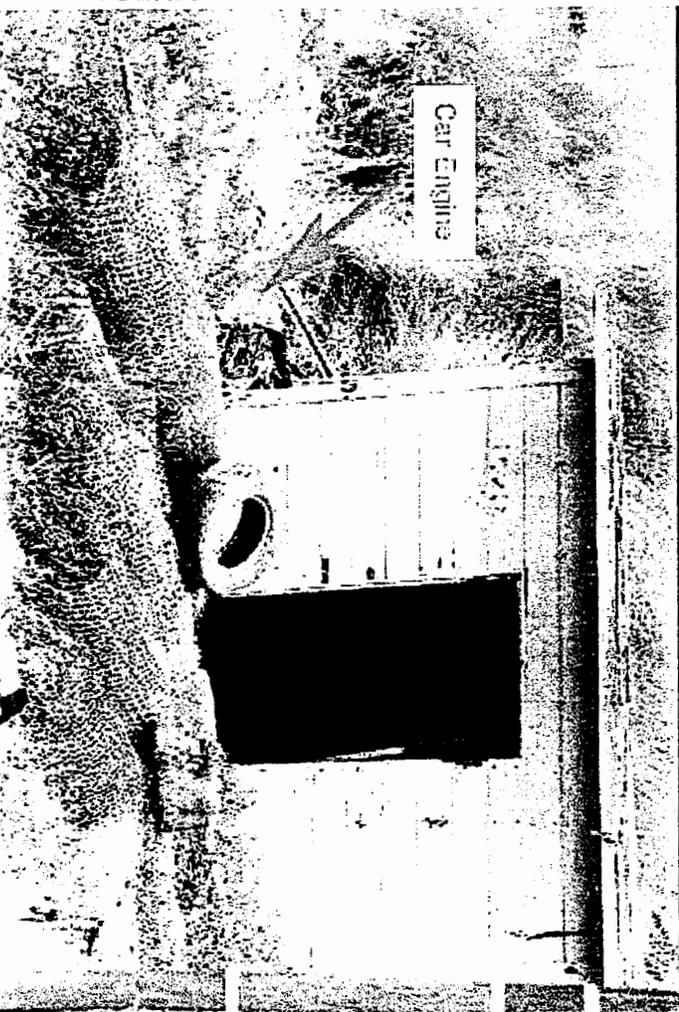


Junk vehicle repair shop !!!



Scrap Metal (junk)

Rear of junk yard showing stored junk and trash



Car Engine

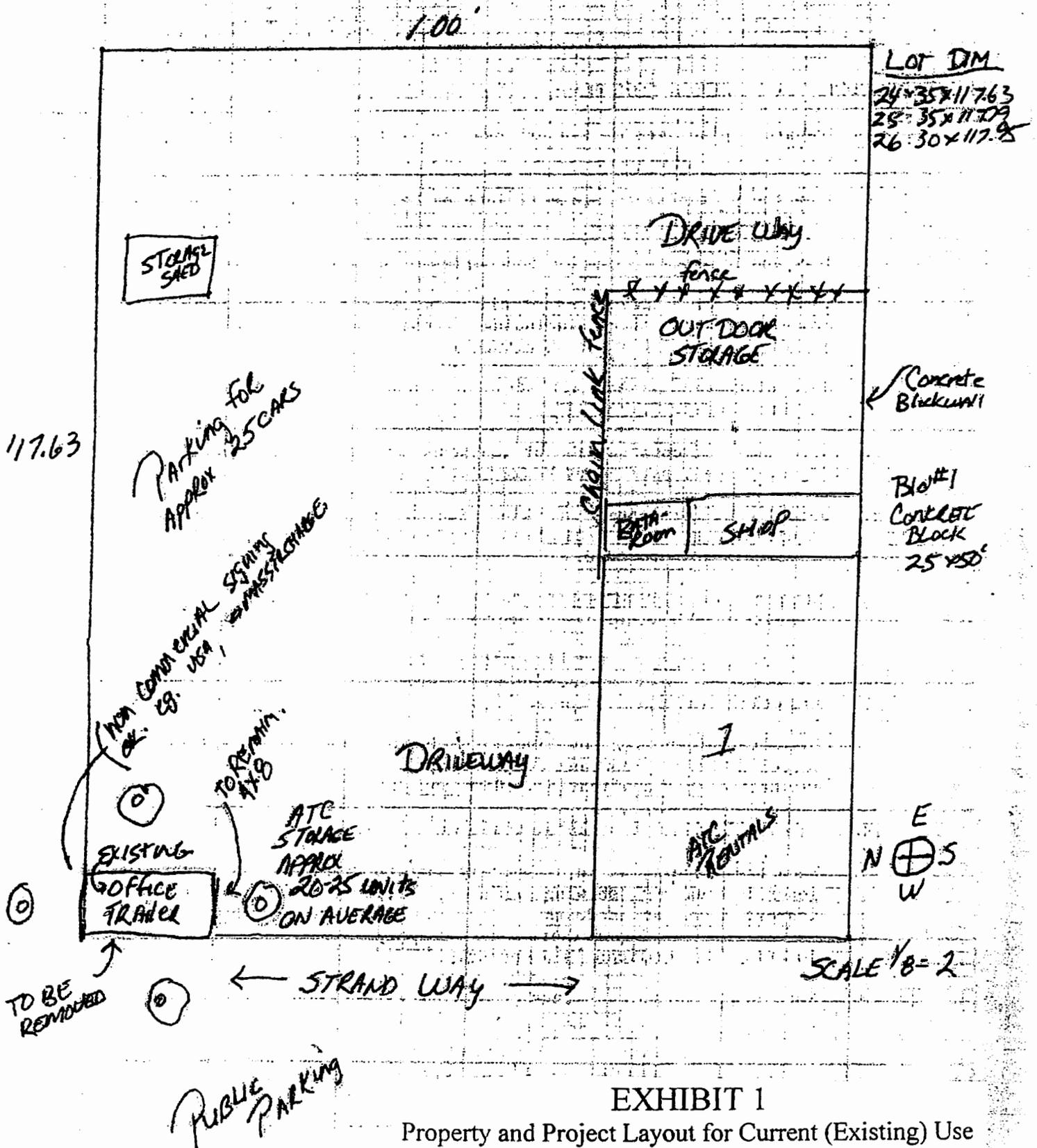
Old engines, tires, scrap metal, dead cars, junk everywhere



# Property and Project Layout

County Planning Department

CHECK SIGNATURE  
EXISTING



## EXHIBIT 1

Property and Project Layout for Current (Existing) Use



5.

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CALIFORNIA  
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**Appeal Number** ..... A-3-SLO-061, Oceano Pavilions  
**Applicant** ..... Oceano Pavilions LLC, Attn: Robert Mueller  
**Appellants** ..... Commissioners Meg Caldwell and Sara Wan  
Airport Land Use Commission of San Luis Obispo County  
**Local Government** ..... San Luis Obispo County

**Commissioners and Staff:**

The Airport Land Use Commission of San Luis Obispo County very much appreciates the time and effort that Coastal Commission staff has devoted to preparing their report for this appeal. Nonetheless, we are obliged to request that you, as members of the Commission, reach a conclusion different from that suggested and determine that the proposed Oceano Pavilions hotel project not only violates the provisions of the applicable Local Coastal Program, but would also create an appreciable public safety hazard and would potentially impair the access of Californians to coastal resources.

**Inconsistency with Local Coastal Program**

The Local Coastal Program of the County of San Luis Obispo not only provides multiple sections requiring that all development in areas covered by adopted airport land use plans (ALUP) conform to all conditions of the applicable ALUP, but also incorporates by reference the Airport Land Use Plan for the Oceano County Airport. Any proposal which is inconsistent with the ALUP is, therefore, also inconsistent with the Local Coastal Program.

In addition, page 44 of the Oceano Specific Plan (certified by the Coastal Commission on April 14, 2004) provides even more specific requirements for commercial development north of Pier Avenue:

*“The intensity of this development must be compatible with the guidelines contained in the Airport Land Use Plan as interpreted by the Airport Land Use Commission. (emphasis added).”*

In the case of the Oceano Pavilions proposal, the Airport Land Use Commission has provided extensive interpretation of applicable Airport Land Use Plan provisions and has, at two separate public hearings, determined that a hotel which includes more than five guest rooms is inconsistent with the ALUP. The intensity of the proposed sixteen-room project would clearly not be “compatible with ALUP guidelines as interpreted by the Airport Land Use Commission” and, therefore, would be in violation of the provision stated above.

**Hazards to Public Safety**

- In 2003, there were 1,679 crashes involving general aviation (non-commercial) aircraft. Approximately 63% of these incidents occurred during approach to landing, landing, takeoff, or climbout. There is no doubt that, sooner or later, there will be an aircraft accident in the vicinity of the Oceano County Airport. Because of prevailing winds, virtually every aircraft taking off from the airport will fly directly over the site of the proposed Oceano Pavilions hotel development.
- The proposed hotel project lies in an aviation safety area which is referred to by the California Department of Transportation’s *Airport Land Use Planning Handbook* as the Inner Approach/Departure Zone. Statistically, more departure accidents (28%) are expected to occur in this zone than in any other safety area.
- The *Airport Land Use Planning Handbook* characterizes the Inner Approach/Departure Zone as an area of “substantial risk”, and indicates that nonresidential uses should be limited to “activities which attract few people”.

- Because of the upward angle of flight, a pilot taking off from the airport cannot see the ground beneath or ahead of his or her aircraft and will have no idea of the location of the proposed hotel.
- At a climbout speed of seventy knots (relatively typical for small aircraft), an airplane departing the Oceano County Airport would pass over the proposed hotel site within 15 seconds after leaving the airport boundary.
- At a rate of climb of 500 feet per minute, an airplane departing the Oceano County Airport would overfly the proposed hotel at an altitude less than 150 feet above the roofline. Aircraft that are heavily-loaded and those with less power would be lower.
- An aircraft on departure from Oceano that loses engine power at an altitude between 95 and 140 feet above sea level will be very likely to impact the proposed project site unless the pilot takes evasive action. Assuming that the pilot recognizes and reacts to the predicament in five seconds (a very quick response), he or she will have between three and six seconds to accomplish whatever evasive maneuvers may be required.
- An aircraft departing Oceano that stalls directly above the proposed project site will impact the ground in approximately five seconds. Due to a lack of sufficient altitude, there is no possibility of recovery in this circumstance.

### Limiting Safety Risks

In the words of the *California Airport Land Use Planning Handbook*

*“Protecting people and property on the ground from the potential consequences of near-airport aircraft accidents is a fundamental land use compatibility planning objective. To accomplish this, some form of restrictions on land use are essential.....The most direct means of limiting the potential consequences of an off-airport aircraft accident is to limit the intensity of use.”*

To this end, the *Handbook* also provides guidelines for appropriate intensities of land use in various aviation safety areas. The guidelines are organized according to the extent preexisting development in the airport area. The categories are:

**Rural Farmland/Open Space** – Defined by the *Handbook* as “minimal development”. This category would appear to encompass many of the smaller, unattended airports in the Central Valley and in Northern California.

**Urban** – Defined by the *Handbook* as “heavily developed”. This category would appear to include airports such as Santa Monica, Van Nuys, and San Jose International, which are surrounded by a dense city environment. In such circumstances, tens of thousands or even hundreds of thousands of persons may live and work within the airport review area.

**Rural/Suburban** – Defined by the *Handbook* as “mostly to partially undeveloped”. This category is clearly most applicable to the Oceano County Airport, where some residential and commercial neighborhoods are included in the airport area, but vast tracts of undeveloped property are also present. It is of note that, in the specific planning area north of Pier Avenue, more than half of the property is currently vacant and the overall land use density is less than 20 persons/acre.

The Oceano County Airport is most properly categorized as a “Rural/Suburban” airport. The entire population of the Oceano community is approximately 7,260 persons, and the total number of occupied dwelling units in the area is only 2,447. Oceano is not, in fact, even incorporated as a town – it is merely a community services district. Large expanses of land within the airport area are either vacant or devoted to such low-intensity uses as farming, grazing, or storage of empty shipping containers. Clearly, the assertion that the Oceano County Airport is an “urban” airport is not tenable. The fact that portions of the airport review area lie within an “Urban Reserve Line” is irrelevant, as the “Urban Reserve Line” is a planning construct that may or may not be applied to future development, but gives no information as to the existing airport environment. Likewise, the fact that properties in the airport area may be zoned

for commercial uses has no bearing, as viable commercial land uses, such as manufacturing or warehousing, may be developed at very low land use densities.

In the "Rural/Suburban" environment, the maximum potential nonresidential land use density recommended by the California Department of Transportation is 25 to 40 persons per acre. Since the proposed hotel project site is 0.4 acres, the maximum number of persons permissible at this site would be 10 to 16 persons. Assuming the hotel has at least two employees, the maximum number of guests allowable would be between eight and fourteen.

The County of San Luis Obispo and your own staff report have suggested that it is reasonable to assume that there will be only 1.5 occupants per guest room. Even if this were the case, the proposed 16-room hotel would result in 24 guests and two employees on a 0.4 acre site. This is equal to 65 persons per acre, a figure which exceeds state guidelines by more than 50%. On the other hand, neither the County nor staff's report provide any documentation for the figure of 1.5 persons per room. I would submit that you should evaluate this estimate in light of your own experience and common sense. Do you truly believe that half of the visitors to a beach hotel adjacent to a popular off-road vehicle area will be traveling alone? Is it really reasonable to expect that none of the other groups staying at the hotel will have more than two members? The California Travel and Tourism Commission reports that the average size of groups traveling for pleasure in our state is 2.1 persons. Wouldn't an area whose primary attraction is off-road vehicle use (a highly group- and family-oriented activity) be likely to experience a travel group size that is at least equal to the state average? The Airport Land Use Commission continues to assert that an estimate of 2.5 persons per room is far more realistic and that the lower figure proposed by the County was selected purely for the purpose of making this project appear to be less of a safety hazard than is actually the case.

At an occupancy of 2.1 persons per room, the proposed project would create a potential density of 34 hotel guests and two employees on a 0.4 acre site, or 90 persons per acre (225% of the maximum allowed by state guidelines). If the 2.5 persons per room estimate is utilized, the nonresidential density would be actual land use density that will be created by this project would be 40 guests and two employees per 0.4 acres or 105 persons per acre (263% of that permitted by state guidelines). In either event, the proposed project is inconsistent with the Oceano County Airport Land Use Plan and is, therefore, incompatible with the Local Coastal Program

### **A Unique Resource for Coastal Access**

#### **California Coastal Act of 1976, Section 30211: Development not to interfere with access**

*Development shall not interfere with the public's right of access to the sea where acquired by use or legislative authorization.*

Maintaining maximum coastal access for the citizens of California requires recognition of the need for diversity. The current over-reliance on the automobile must be replaced by a balanced approach that will take into account the needs of those who arrive by bus and by train, on bicycles and on foot, and by air. The Oceano County Airport represents a nearly unique resource in this regard – it is an airport located within easy walking distance of the coast. In Oceano, Californians can fly in from wherever they live, stroll to the beach, enjoy lunch in one of the nearby restaurants, and return home without renting a car or hiring a cab. In addition, the Oceano Airport provides a camping area where tourists arriving by air can actually pitch a tent and sleep under their plane's wing. In all of central and southern California, there is only one other airport which affords the public such access – Half Moon Bay.

The suggestion the the Oceano Airport is not a coastal access resource because it is not located directly on the beach is hardly reasonable. Many important access elements, including train stations, parking lots, bus stops, and subway stations are located in convenient proximity to coastal access areas, but are not necessarily on the sand. In this instance, it should be noted that one of the pedestrian connections between the community and the coastline (the Creek to Beach Trail) actually crosses airport property. In other words, the beach is, in fact, more accessible from Oceano County Airport than from the village of Oceano.

Oceano County Airport provides the closest coastal air access for residents living in all or part of 17 counties, from the Mexican border to the Central Valley. Together, the population of these counties is over 24 million persons. Allowing development that creates fundamental and inappropriate incompatibilities with airport operations entails a significant potential for the eventual closure of this unique resource for coastal access. This would be a loss for all Californians.

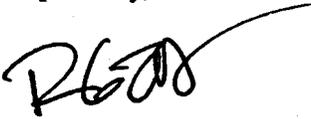
### Conclusion

In summary, the Airport Land Use Commission requests that the Coastal Commission:

- a.) Find that the proposed Oceano Pavilions hotel project is inconsistent with the Airport Land Use Plan for the Oceano County Airport, as interpreted by the Airport Land Use Commission and is, therefore, incompatible with the Local Coastal Program of San Luis Obispo County,
- b.) Find that the Oceano County Airport provides a unique facility for non-automobile access to the coast and should be protected under the California Coastal Act,
- c.) Find that the safety hazards to persons on the ground which would be created by the proposed project represent a substantial issue, and
- d.) On the basis of the above, deny a *de novo* coastal development permit with respect to the proposed development.

We appreciate your time and your consideration of these issues.

Respectfully,



Robert G. Tefft, MD  
Commissioner, Airport Land Use Commission of San Luis Obispo County

## **LOCAL COASTAL PROGRAM OF THE COUNTY OF SAN LUIS OBISPO**

### **Provisions Requiring Development in the Oceano County Airport Review Area Be Consistent with the Airport Land Use Plan**

#### **Title 22: Coastal Zone Land Use Ordinance, Page 7-3:**

**22.07.022 – Limitation on Use:** Developments within areas covered by land use plans adopted by the San Luis Obispo County Airport Land Use Commission are limited to those identified in the plans as “compatible” and “conditionally approvable”. Projects conditionally approvable may be granted a permit only when in conformity with all conditions of the applicable airport land use plan or implementing rules adopted pursuant thereto.

#### **Oceano Specific Plan, Page 10:**

##### **Airport Review Area**

The entire planning area is within the Airport Review Area. This designation allows the County to establish various land use conditions, such as building height and density, which are necessary to maintain airport takeoff and landing corridors and to reduce the exposure of people and property to airplane accidents. The County’s Airport Land Use Commission (ALUC) reviews all proposals for new development within the Airport Review Area. The airport review area is divided into various zones within different types and intensities of development may be found compatible with safety guidelines established and interpreted by the ALUC.”.

#### **Oceano Specific Plan, Page 37:**

“Land uses near the airport will be controlled to prevent conflicts with the safe operation of the facility. Note that the entire study area is within the Airport Review Area and land uses must be consistent with the Oceano County Airport Land Use Plan.

#### **Oceano Specific Plan, Page 44:**

**Pier Avenue Commercial Development.** .... The intensity of this development must be compatible with the guidelines contained in the Airport Land Use Plan as interpreted by the Airport Land Use Commission.

#### **Oceano Specific Plan, Page 47:**

**Limitation of Uses Within the Airport Area.** Allowable uses are limited to those designated as “compatible” or “conditionally approvable” by the adopted Oceano County Airport Land Use Plan. All permit applications for sites within the boundary of the adopted Oceano County Airport Land Use Plan are subject to development standards set forth in that plan.

Th 9a

**Oceano Pavilion, L.L.C.**

**P.O. Box 12627 San Luis Obispo, CA 93406**  
**(805) 544-5651 FAX: (805) 597 5151**

June 2, 2005

Jonathon Bishop  
jbishop@coastal.ca.gov  
(831) 427-4877

Jonathon:

Thank you for the call today.

As you know it is quite late in the process for you to finally be available to have a discussion with us. In order to properly address your comments, we could be glad to agree to a postponement of the Agenda item, both Substantial Issue and De Novo. The concern that we have is the date of the delay, and do not understand your statement that you do not know when it could be continued to, as you likely have the new meeting tentative schedule at hand.

We would like to have adequate time to discuss the staff report and include items that County staff may have omitted in communicating with you. Additionally, the County has information that we have requested but not yet received which should be of material interest to the commission. You may also need to review of statements made in your staff report.

I have not received the form you were offering to send, so please let me know if you still send it. Please include your comments on when the new date would be proposed. We would like to review those items prior to agreeing to continuance.

Yours truly  
  
Robert Mueller

**RECEIVED**

JUN 02 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Th 96

**RECEIVED**

JUN 06 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**HEARING ITEM Th9b**  
**Appeal Number**  
**A-3SCO-05-013, McNece SFD**  
Les and Alice McCargo-  
Appellants  
June 9, 2005 Hearing

California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

June 2, 2005

Attn: Mike Watson

Project at 622 & 624 Bayview Drive, Aptos, CA Santa Cruz  
County.

**SUBSTANTIAL ISSUE**

The original structure was built in the 1930s, as were many of the neighborhood residences. There is evidence that these residences are of the age that and character that qualify for inclusion in the National Register of Historic Places. The "Casa Del Mar" is on the National Register, and located only a few lots away from and on the same side of Bayview Drive as the proposed 1000 square feet addition to a 1700 square foot building. The site has already been built with non-conforming structures and to support the proposed large ratio development, the applicants are seeking variances to accommodate further development.

The current proposal only addresses the non-conforming garage built over the property line and access to 624 Bayview Drive. The side yard variance and reconstruction of the garage still leaves encroachment into the normal setback. The additional five car parking spaces proposed, without a variance, are to be within a non-conforming front yard setback. The remaining structures will remain non-conformance due to lot coverage.

There has been testimony that the residents of Bayview Drive used a trail to the beach for an extended period of time. The current staff report states that the trail does not exist, however the earlier report stated that the access was "private". So it does exist and not as stated in the current staff report. The fact that other access to the beach does exist would not remove any public right of way that was established by continued use.

The staff has not made any attempt to validate or disprove that testimony by a simple mailing to the residents on Bayview Drive, as was suggested.

The staff report uses the existing development elsewhere in the area as justification of "no substantial issue", but fails to acknowledge that those structures were there for a considerable period of time. Many of which are of similar construction in the 1930s, which was before there was a Coastal Commission to preserve and protect the public's interest in the California Coastline.

This project does have substantial issues. The staff report did not address the impact by continuing and expanding the non-conforming development; the lot coverage of over 41%; the visual impact of the two story addition to the surrounding community; the adverse impact of views of the ocean; the loss of public access to the beach previous enjoyed by Bayview Drive residents.

The staff report states that the garage modification corrects the significant non-conformity, but that is not correct. The garage modification only removes the footprint of the structure on the lot line. Other variances are required to leave the remaining portion on the site. Pre-Coastal Commission development character is not justification to continue abuse of the coastline development and coastal views.

The Commission needs to find that this proposal **does** have a substantial issue with the scope and intent of the certified LCP.

Thank you for taking the time to review this proposal in detail yourselves and not base your decision on the incomplete staff report.

  
Lee and Alice McCargo  
622 Cliff Drive  
Aptos, CA 95003

**Jonathan Bishop**

Th 10a

**From:** Steve Monowitz  
**Sent:** Monday, May 09, 2005 9:25 AM  
**To:** Jonathan Bishop; Charles Lester; Diane Landry  
**Subject:** FW: Cambria Water Tanks Issue

-----Original Message-----

From: Doug Buckmaster [mailto:dougb@thegrid.net]  
Sent: Sunday, May 08, 2005 8:39 PM  
To: Peter Douglas; steve monowitz  
Subject: Cambria Water Tanks Issue

1965 Emmons Road  
Cambria, CA 93428  
May 9, 2005

Peter Douglas  
Executive Director  
California Coastal Commission

Dear Mr. Douglas and Honorable Commissioners,

I am a resident of Cambria, but also I am writing to comment on behalf of SLO Coast Alliance. The Alliance is a consortium of 40 environmental organizations dedicated to the preservation and protection of our precious coast, the creatures in the sea, and the watersheds which lead to it. We have nearly 25,000 supporters in the Alliance.

Recently, the directors of the Alliance voted unanimously to support this motion:  In accord with the mission of SLO Coast Alliance, we believe the precedent of invading a conservation easement and building in an ESHA is a bad one.

The motion is sort of an understatement, actually. We believe it is unconscionable to invade a conservation easement when there are a number of alternatives which could be chosen to avoid such an egregious precedent. Cambria today is protected by two other major nearby conservation easements and several smaller ones. One of the major easements literally is in the heart of town, on the 436 acres of East-West Ranch.

The other major easement, on most of the 83,000-acre Hearst Ranch, is less than ideal. However, the Alliance is dedicated to fight to maintain its limited protection of that property. The Alliance does not want to see the easement on the Covell Ranch or any of the other conservation easements in the Cambria area threatened in any way.

Accordingly, in April we asked that the Commissioners support your staff's reasoned recommendations that a substantial issue exists, and we asked that you approve the Coastal Development Permit as conditioned. Further, we applaud the decision to conduct a hearing on this precedent-setting issue. There are several alternatives which can provide improved fire protection for the community without invading the conservation easement.

Many in the Cambria community have been extremely embarrassed by the behavior of Community Service District officials in the months-long effort to build an additional water tank on the Pine Knolls property which the District owns. It has been documented that instead of proceeding on its own site, the District arbitrarily decided to exercise

eminent domain and invade a major section of ESHA because of complaints by one or more neighbors that a second tank at that site would not be acceptable. Because of this complaint and perhaps a threat of a lawsuit, the District went ahead with eminent domain.

In addition, the District went to great lengths, including threats of litigation, distortions of the facts, misrepresentations, and outright lies to justify their seeking first a permit from the County and secondly in seeking to overcome Coastal Commission opposition. They have denied that any alternatives exist to their plan to invade the conservation easement. This simply is not true like so many of their other claims.

Burial of a new tank or tanks has been dismissed out of hand. It might be more complicated and slightly more expensive because of piping needs, but the emergency road which the District insists must enter the Covell Ranch through their tank site could be built over a buried tank. We are seeking the assistance of a hydrologist to verify our position.

There is a cistern already constructed at the new grammar school site on Main Street which can provide over one million gallons of water to use in an emergency. This cistern could be filled with rainwater runoff before January, 2006 -- far sooner than any new tank could be built to provide additional fire protection for the community. Granted, this would be grey water and could not course through Cambria's freshwater system, but in an emergency, water could be pulled from that cistern.

There is another huge water tank on the highest point in Cambria -- beyond the end of Pineridge Drive and on Estrada Ridge which runs south to the former Cambria Air Force (Radar) Station. The existing tank is on David Fiscalini Ranch property. The site is in the southernmost corner of the Monterey Pine Forest. It was built in an ESHA, but immediately next to the existing tank is grassland. Because it is at the highpoint of Cambria, gravity will take the water anywhere in town. An additional tank here certainly is a viable alternative.

There are other alternatives which the CSD may not want to consider, but nonetheless exist and should be explored fully in order to avoid invasion of the Covell Ranch and the conservation easement on that property. Based on the District's proven lack of honesty in this matter, their claims that there are no alternatives have a hollow ring.

It should be noted that the CSD's legal counsel is very litigious. He does not have a very good track record of success. However, he may have urged the District to do whatever it wanted to do and if the County or Coastal Commission didn't like it, they could sue.

It is unfortunate that so much money has been spent on studies, design, and litigation for what was a bad project in the first place. It seems that the \$9 million Chevron award because of the MTBE spill has given the District a false sense of financial security. At the current rate of expenditure, that windfall is not going to last long.

Sincerely,

Doug Buckmaster  
Secretary-Treasurer  
SLO Coast Alliance  
(805) 927-4206

Th 10a

TO: CALIFORNIA COASTAL COMMISSION  
725 Front St, Santa Cruz, CA  
cc. Jonathan Bishop, Steve Monowitz

JUN 2, 2005

SUBJ: JUNE 9 DENOVO HEARING AGENDA ITEM TH 10A,  
NEW WATER STORAGE TANKS FOR CAMBRIA, CA

FROM: Norman Fleming, Citizens For Fiscal Responsibility  
PO Box 1561, Cambria, CA.

As stated in a previous letter to the Commission, the significant advantage of increased capacity water storage tanks in the vicinity of the conservation easement is that it gives maximum protection to the trees and wildlife within the easement.

Enclosed are photos taken from the West side of the easement. They show many fallen trees and clumps of dry brush. The situation is the same from the East side of the easement. It is a tinder box and a disaster waiting to happen.

Hikers can easily enter the easement from either side. One careless smoker can start a fire that requires quick response and hundreds of thousand gallons of water. The requested tanks in the proposed location provides the protection needed.

Sincerely,

  
Norman Fleming

NORMAN & GERD FLEMING  
952 IVA COURT  
CAMBRIA, CA 93428

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JUN 06 2005

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COASTAL COMMISSION  
CENTRAL COAST AREA

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CAMBRIA COMMUNITY  
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SERVICES DISTRICT

JUN 06 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

By Expedited Delivery

**THU 10a**

Hearing Date: June 9, 2005

June 3, 2005

**DIRECTORS:**

Gregory Sanders  
*President*

Meg Caldwell, Esq., Chair, and Commissioners  
California Coastal Commission  
45 Fremont Street, 20th Floor  
San Francisco, California 94105-2219

Donald Villeneuve  
*Vice President*

SUBJECT: CDP A-3-SLO-05-017, CCSD WATER TANK REPLACEMENT/UPGRADE

Peter Chaldecott  
*Director*

Dear Madam Chair and Commissioners:

The Cambria Community Services District's proposed Pine Knolls water tank replacement project is again before the Coastal Commission for *de novo* review on Thursday, June 9 (Agenda Item Th 10a), in San Pedro.

Joan Cobin  
*Director*

Because the Commission elected not to proceed with the *de novo* hearing on April 14, CCSD has already lost the ability to get this critically needed water storage capacity on line during the 2005 fire season. And despite this two-month delay, with its potentially dire consequences for Cambria and surrounding forests, the staff recommendation has not altered from what was before the Commission in April, *except* to further hamper project feasibility by reducing storage capacity by over 15%, and deleting the project's overhead electric line undergrounding component, which is mandatory for storage capacity expansion in any configuration at the Pine Knolls site.

Ilan Funke-Bilu  
*Director*

CCSD continues to dispute the premises from which staff purports to draw its recommendations, which ignore the voluminous information and analyses already in the record before you.

**OFFICERS:**

Tammy Rudock  
*General Manager*

We were initially optimistic when staff announced a short while ago that that it would seek assistance from outside expertise. However, the efficacy of that "assistance" is significantly undermined by staff's decision to retain a civil engineer (1) whose expertise is "wastewater treatment and collection systems," (2) with no familiarity with Cambria, the service area terrain, fire suppression requirements and practices, local and CDF firefighting equipment dimensions, or the functioning of the existing water delivery system, (3) who was provided with both incomplete and erroneous information about the project scope itself, (4) with severely limited time constraints, and (5) with no site visit or meeting with District personnel and consulting engineers, and has thus simply added another layer of distortion and error to staff's already misleading and factually erroneous assertions.

Arther R. Montandon  
*District Counsel*

Kathy Choate  
*District Clerk*

Especially offensive is the assertion that, as an alternative, the Pine Knolls project Pressure Zone 1 project could be relocated to the new Coast Unified School District school site in Pressure Zone 2, based on staff analyst Jonathan Bishop's reported identification of a 285' elevation on the site.

The site's engineering infeasibility has been addressed with staff *ad nauseam*. In addition, as noted in the CUSD'S letter, this school is slated for opening in two months, having already been redesigned at an additional cost of some 6 million tax dollars in order to meet the special conditions imposed by your Commission. The 285' elevation is fill slope, that cannot be excavated for tank foundations or otherwise support water storage weight. The site is not only underlain by two miles of five-foot diameter rainwater retention pipes for on-site irrigation, but is also *overtain* by a conservation easement imposed by your Commission that limits utility access to the site to a one-foot corridor limited to provide service *only* to the school facility itself, which is woefully to small for a water storage project.

Unfortunately, your staff was not available to meet with District representatives prior to release of its latest recommendation last Friday, but has consented to a meeting on Friday, June 3, to attempt to resolve the myriad of misunderstandings. Despite the fact that most of these have persisted for the past eight months, Board members (elected by, and accountable to, the residents of Cambria), along with other District officials and experts, have made themselves available in another attempt to resolve them before next Thursday's hearing.

If that is not possible, we request the Commission's indulgence in granting CCSD the time at the hearing needed to fully acquaint you with the facts and analysis pertinent to the project before you.

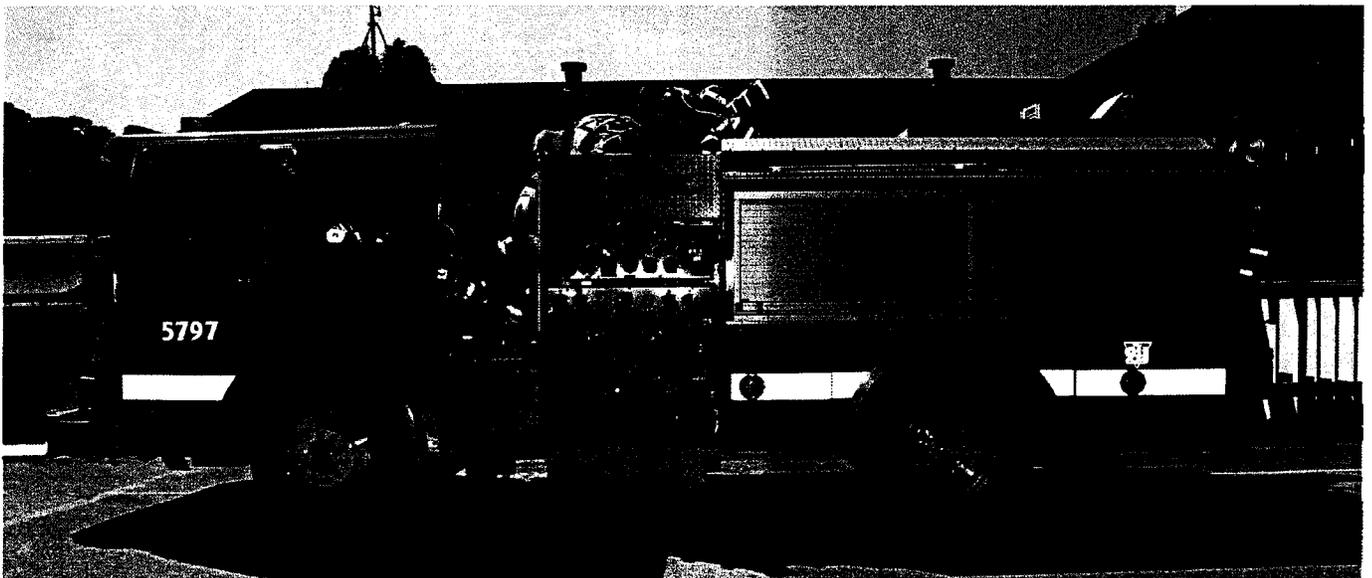
Thank you for your consideration.

Sincerely,

Tammy A. Rudock  
General Manager

Cc: All Commissioners, Alternates, and Ex Officio Members  
Charles Lester, PhD.  
CCSD Board of Directors  
Steven Kaufmann, Esq., Special Counsel, CCSD  
Dall & Associates  
Sergeant Major Associates

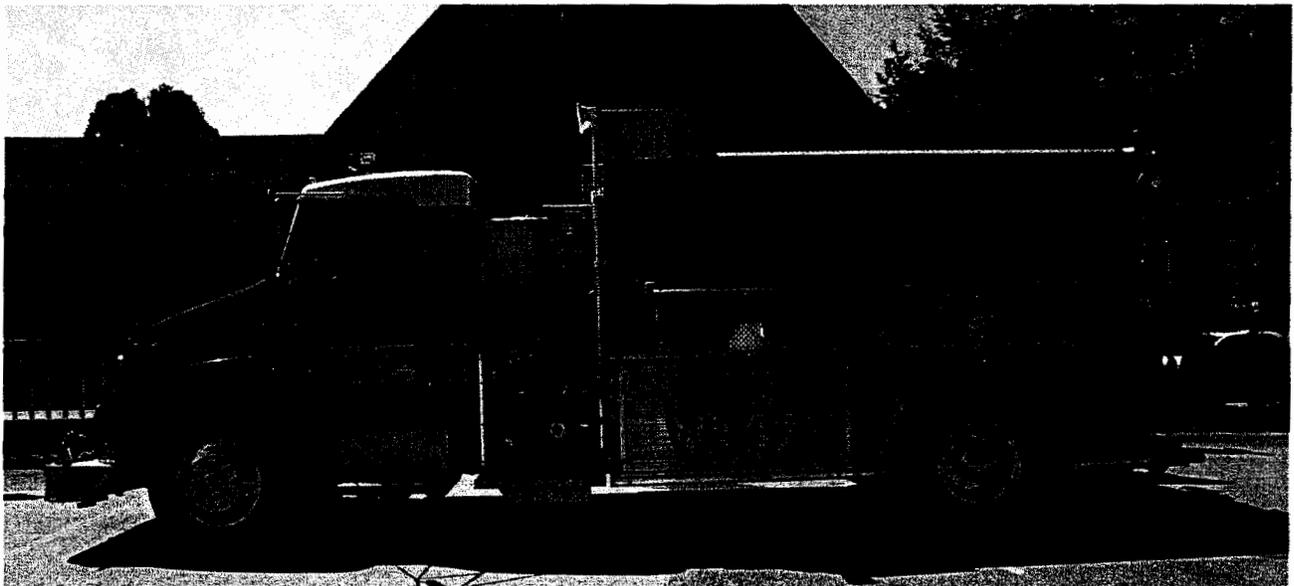
TH 10a



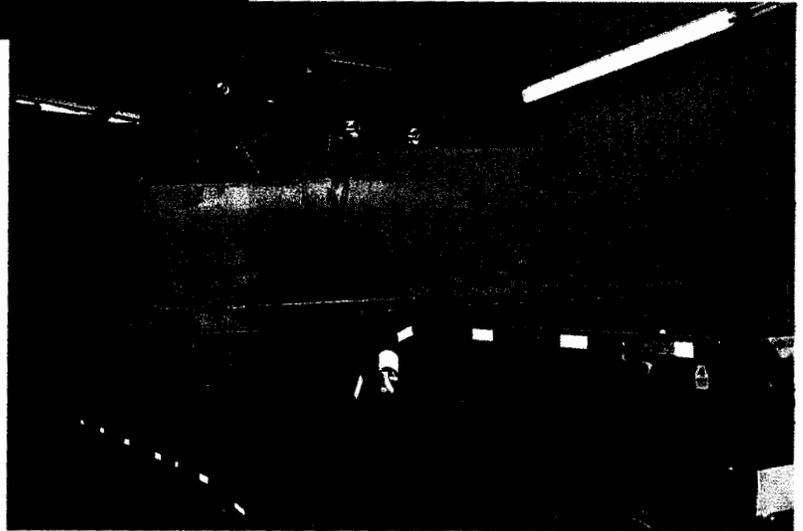
**Engine 5797**  
**Type 1 Engine**  
**O.A.L. – 27 feet, 6 inches**  
**O. A. W. – 9 feet, 5 inches**



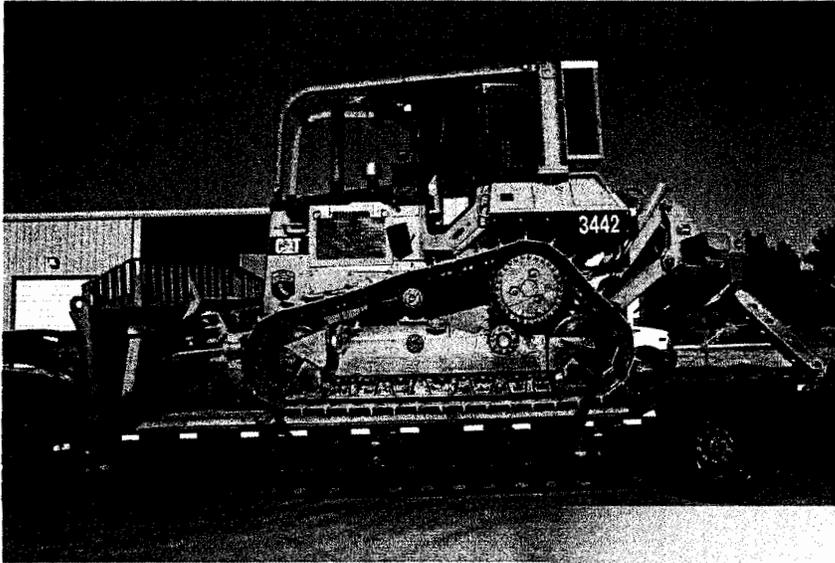
**Engine 5787**  
**Type 2 Engine**  
**O.A.L. – 25 feet, 3 inches**  
**O.A.W. – 9 feet, 8 inches**



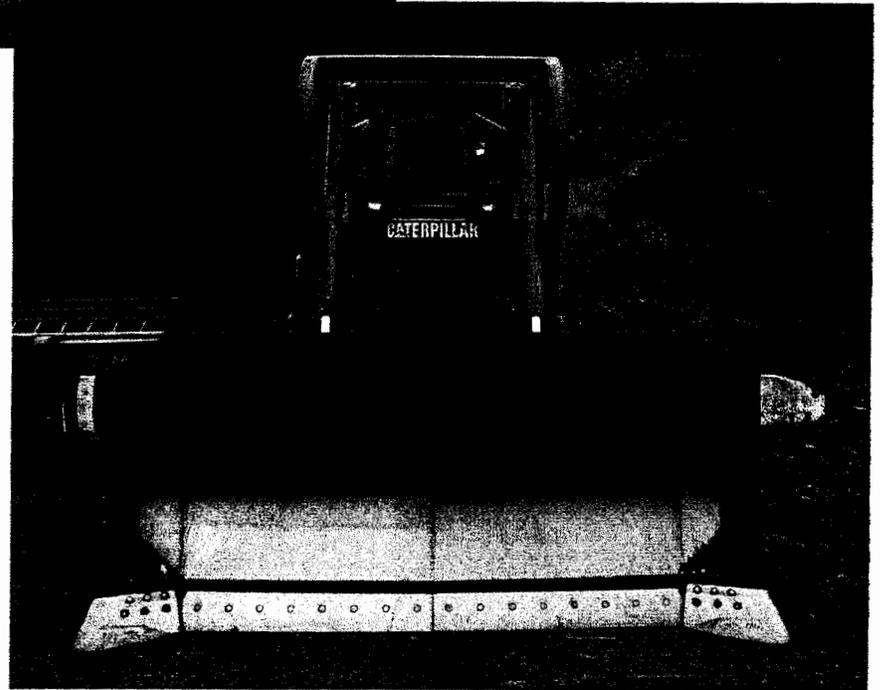
**Water Tender 57**  
**Type 2 Water Tender**  
**O.A.L. – 26 feet, 8 inches**  
**O.A.W. – 9 feet, 4 inches**



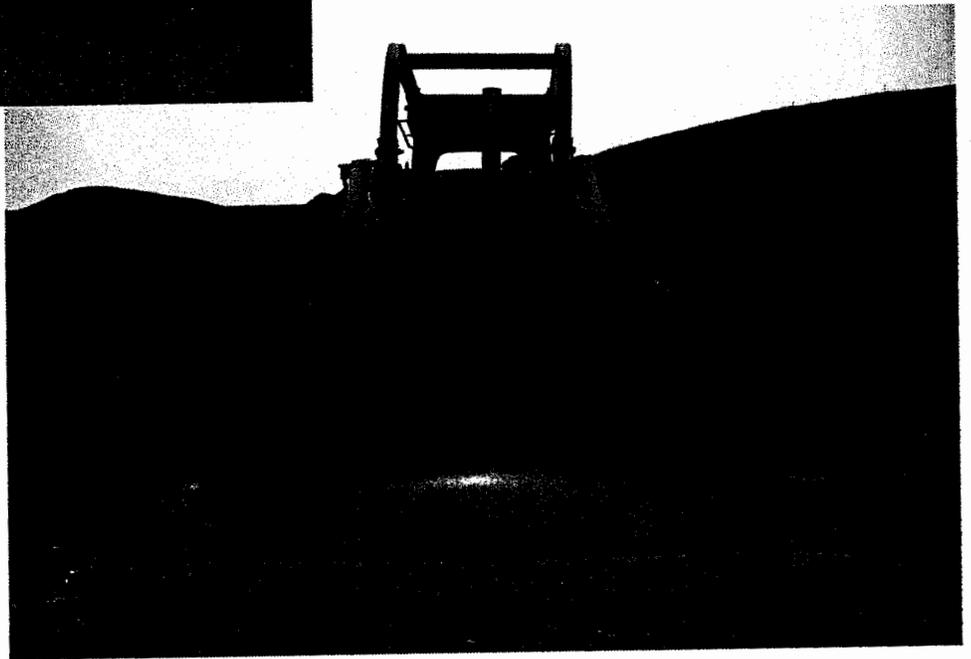
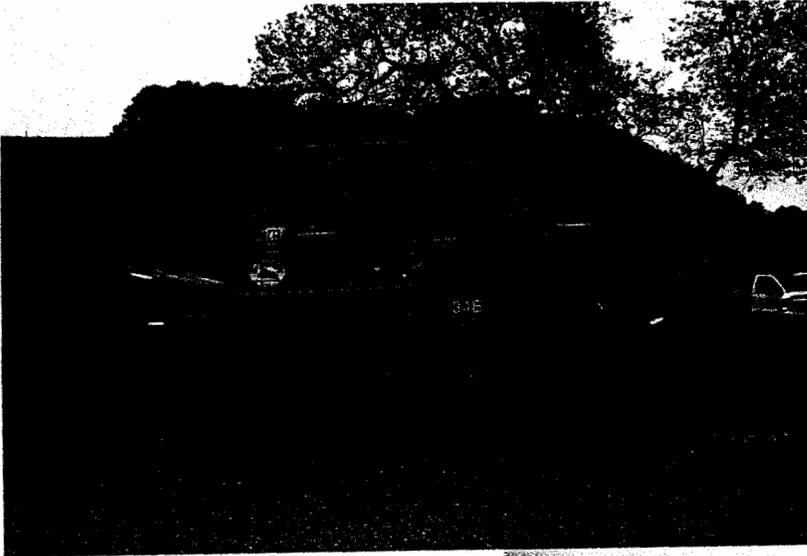
CDFFP Medium Dozer 3441  
D6-C Caterpillar Type 2 (Medium)  
Blade width – 12 feet, 6 inches  
O.A.L. – 20 feet, 5 inches  
O.A.W. – 10 feet, 1 inches



CDFFP Medium Dozer 3442  
D5-N Caterpillar Type 2 (Medium)  
Blade width – 10 feet, 11.5 inches  
O.A.L. – 19 feet, 7 inches  
O.A.W. – 8 feet, 2 inches



**Winsor Construction**  
**Federal and CDFFP Fire - Private Contract Dozer 34E**  
**D6H Caterpillar Type 2 (Medium)**  
**Blade width – 10 feet, 11 inches**  
**O.A.L. – 18 feet, 9 inches**  
**O.A.W. – 10 feet, 5 inches**



**Winsor Construction**  
**Federal and CDFFP Fire - Private Contract Dozer 34E**  
**D8K Caterpillar Type 1 (Heavy)**  
**Blade width – 13 feet**  
**O.A.L. – 24 feet, 2 inches**  
**O.A.W. – 12 feet, 3 inches**

1194 Pacific Street, Suite 204  
San Luis Obispo, CA 93401  
TEL: (805)542-9840  
FAX: (805)542-9990  
www.boyleengineering.com

Employee Owned

Robert C. Gresens, PE  
District Engineer  
CAMBRIA COMMUNITY SERVICES DISTRICT  
1316 Tamson Drive, Suite 201  
Cambria, CA 93428

June 8, 2005  
BK-C35-100-05

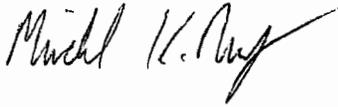
**Pine Knolls Tank Replacement**  
**Response to Whitley Burchett & Associates Letter (May 26, 2005)**  
**Pile/Pier Foundation and Separation Between Tanks**

The WBA letter, and their recommendations for constructing the tank on piers or pile foundations, did not consider the soil/ structure interaction. The soils report was not mentioned in the letter and, based on our conversation on June 3, 2005, was not reviewed by WBA prior to making their recommendations. Also, the reviewer contacted neither the project geotechnical engineer nor the project structural engineer.

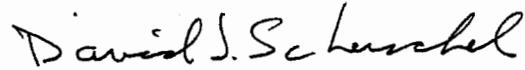
Our structural design, and selection of a ringwall foundation instead of piles or piers, was based on our review of the soils report, including our analysis of the seismic response spectrum of the site. The seismic response spectrum is a tool used to evaluate site-specific lateral ground acceleration and predict soil reaction during an earthquake. Since we have rock near the surface, we designed a separation between the rock and ringwall in order to break the potential ground motion thru the rock to the tank foundation. Based on our review of the soils report, we determined we would need to have a foot or two between the bedrock and the bottom of the footing to provide a "cushion" between the two elements. Our design and specs are developed to require this over excavation and backfilling below the tank ringwall footing. Using piles will not develop this mechanism, as it would "hard-tie" the rock to the footing.

The 12-foot separation between the proposed and existing tanks is needed to prevent undermining the existing tank, as stated. The installation of piles or piers to support the tank would not eliminate the need for the 12-foot setback along the ringwall footing. Also, driving piles into shallow bedrock is not feasible nor is it warranted for this situation. The separation is required in order to allow 5 feet of undisturbed area adjacent to the existing tanks and an additional 7 feet for a temporary 1:1 slope during excavation for the ringwall construction. The size of the ringwall is needed for tank anchorage and mass (approximately 4' by 3' 6") to prevent overturning.

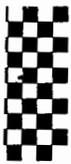
**Boyle Engineering Corporation**



Michael K. Nunley, PE  
Branch Manager



David J. Scherschel, SE  
Principal Structural Engineer



TH10a

**EVALUATION OF REPORT PREPARED BY**

**Kelley & Associates Environmental Sciences, Inc.**

**Report Titled**  
**“Site-Specific Tree Assessment and Characterization**  
**CCSD Pine Knolls Water Tank Replacement Project Area”**  
**Cambria, San Luis Obispo County, California**  
**April 6, 2005**

**Prepared For:**

**Cambria Community Services District**  
**P. O. Box 65**  
**Cambria CA 93428**

**Prepared By:**

**Bailey O. Hudson, Urban Forestry Consultant**  
**1032 East Orange Street**  
**Santa Maria CA 903454**

**June 3, 2005**

## ASSIGNMENT

Bailey O. Hudson, Urban Forestry Consultant ("Reviewer"), was retained by the Cambria Community Services District ("CCSD") to prepare an evaluation of Kelley & Associates Environmental Sciences, Inc.'s ("K&AES") characterization of the condition of trees within and immediately adjacent to the Pine Knolls Water Tank expansion area at the end of Manor Way, Cambria, San Luis Obispo County.

In the course of this assignment the Reviewer reviewed the K&AES report entitled "Site-Specific Tree Assessment and Characterization - CCSD Pine Knolls Water Tank Replacement Project Area, Cambria, San Luis Obispo County, California, April 6, 2005," as well as field notes, tree assessments, plant lists, and site maps on which the report relied, along with the qualifications of David B. Kelley, who authored the report. The Reviewer also visited the site on two occasions, referenced relevant literature, and consulted with others familiar with Monterey pines and the site's history.

### Summary of Findings

K&AES produced a generally well-written, comprehensive, and *accurate* analysis of the condition of the trees at the Pine Knolls Water Tank Replacement Project site. [Mr. Kelley, the author, is qualified by education, training, and experience to prepare his analysis, and is well regarded by his peers in the scientific community.]

Based on the Reviewer's independent evaluation, current tree health problems typical of Pine Pitch Canker and weak boles (central stem of the tree) are visible throughout the project area. The Reviewer concurs with the K&AES conclusion that trees in the area are neither "undisturbed" nor "healthy," according to accepted arboricultural criteria. (Whether or not the area meets the Coastal Commission or County Local Coastal Program definition of environmentally sensitive habitat is beyond the purview of this evaluation.)

The existing poor state of health and questionable stability of trees within the project area pose serious hazards and dangers to trail users and structures in the area. Irrespective of proposed water tank expansion plans, the trees pose serious liabilities and should be removed.

## EVALUATION

### K&AES Characterization

K&AES characterizes trees in the project area as dead, unhealthy, fallen, and structurally unsound, with Monterey pines generally presenting one or more symptoms of Pine Pitch Canker, and concludes that "The disturbed conditions on the ground on the expansion parcel...do *not* support a characterization of the

trees, understory, soils, or fauna as 'undisturbed,' 'healthy,' or 'pristine'...". (Emphasis added.)

K&AES supports this characterization and conclusion with a recitation of historic and ongoing disturbances, uses, and conditions, based on first-hand observation, aerial photography, and personal communications from knowledgeable professionals in the area, along with tables summarizing the condition of each "regulatory" Monterey pine and coast live oak potentially affected by the tank expansion prepared from field notes and tree-specific mapping made over several days in early April 2005.

### **Reviewer Observations**

A site visit by the Reviewer on Tuesday, April 26, 2005, confirmed that the majority of the Monterey pine trees are in extremely poor health.

Pine Pitch Canker symptoms include, but are not limited to, wilting and fading of needles on previously vigorous unshaded branch tips, with resin exudation from the infection site. Foliage becomes yellow, then red, and falls from the branch. This produces dieback that is often striking, with loss of all needles between the branch tips and the most recent branch and cone whorls. Removal of bark from infected areas or cankers reveals honey-colored wood that is soaked with resin.<sup>1</sup>

The Reviewer's observations at the site confirmed that symptoms of Pine Pitch Canker disease were evident throughout the project area. However, caution should be used when stating that any pine tree is in fact actually infected with Pine Pitch Canker (*Fusarium circinatum*). There are a number of insects and environmental conditions that create symptoms similar to Pine Pitch Canker, that also adversely affect the health of the afflicted trees. Although Pine Pitch Canker is not consistently terminal and recovery is sometimes possible, particularly in mature trees, the real problem lies with infected trees which are weakened and become susceptible to bark beetle attacks. These attacks frequently result in mortality.

Whether afflicted by Pine Pitch Canker or some other infestation that presents similar symptoms, the trees in question are demonstrably prone to failure at this time. This situation is described by KA&ES in the Assessment Report on Page 3 as "The life expectancy of the remainder of the trees is likely to be less than ten years, although for many specimens the life expectancy is probably less than five years." Strong emphasis here should be on "likely" or "possibly," given the complexity and variability of factors that contribute to the life span of a particular individual.

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<sup>1</sup> Reference: Department of Environmental Science, Policy and Management, Division of Environmental Biology, University of California, Berkeley.

Noting that K&AES did not address the question of whether the area is suitable for "restoration" and replanting with pines resistant to Pine Pitch Canker, caution should also be used with statements regarding "resistant" Monterey Pines. Genetic resistance changes and over time new strains may develop in the pathogen population, and a tree that is resistant today may not be resistant next year. This is not to say, without further information, that resistant trees should not be planted. The point is there is simply no guarantee. The genetic resistance issue was confirmed by Mr. Don Owen, Chairman, Pine Pitch Canker Task Force, California Forest Pest Council (Telephone: (530) 224-2494).

### **Specific Tree Assessment**

Of major concern is the existing poor state of health and questionable stability of trees within the project area. Obviously they are in fact hazards and pose dangers to users and objects in the area. There are three components to the tree hazard assessment as follows:

**1. A tree with the potential to fail.**

*Pinus radiata* (Monterey Pine) produces known failure patterns that have been accepted in the tree care industry,<sup>2</sup> including branch loss associated with poor taper and/or excessive end weight, codominant stems fail and trunk failure and windthrow (Costello). There is no doubt that the project area contains trees with failure potential, and there is visible evidence that many have previously failed, as K&AES reported. This situation could be construed as notice of a hazardous environment or "reasonable foreseeability." Certainly, it is a situation that presents liability issues.

**2. An environment that may contribute to that failure.**

The presence of pine pitch canker symptoms alone (whether directly attributable to that disease or to other afflictions that present similar symptoms) is a significant contributor to failure. Pruning limbs for clearance from utility lines creates the possibility of tree weight imbalance that may encourage failure. Tree worker tools may not have been properly disinfected which can cause infection of healthy trees. Cattle grazing, pipeline corridors, and trails used for hiking, bike, motorcycle, and horseback riding compact soil and disturb root systems which may ultimately also contribute to failure. All of these factors are, or have been, in play at the subject site, as reported by K&AES, and observed or otherwise confirmed by this Reviewer

**3. A person or object that would be injured or damaged (i.e. the target).**

While there is not a heavy concentration of human targets in the area, the trails are regularly used by children, pets, neighbors and the general public who are susceptible to injury from falling trees. Fences, homes, the CCSD water tank facility, and existing overhead power lines are also considered targets. Of primary target concern are the high voltage power lines. There

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<sup>2</sup> Reference: "Evaluation of Hazard Trees In Urban Areas" by Nelda P. Matheny & Dr. James Clark.

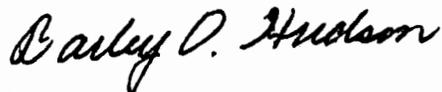
are trees within the project area with significant failure potential that are large and tall enough to damage the utility lines, as well as the existing tanks that are proposed for replacement. Damage to the overhead lines also poses a significant risk of fire. Within the past month, a falling pine at another location took out a fire hydrant, reportedly draining fire and emergency water storage at two different locations within Cambria.

While water and fire services apparently have limited ability to address such threats, electric utilities have a state mandate to do so preemptively. Section 4293 of the Public Resources Code reads in part....."Dead trees, old, decadent or rotten trees, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line which may contact the line from the side or may fall on the line *shall be felled, cut or trimmed* so as to remove such hazard<sup>3</sup>." (Emphasis added.)

### **Conclusion**

Generally, Kelley & Associates Environmental Sciences, Inc., produced a well-written, comprehensive, and accurate characterization of the Pine Knolls Water Tank Replacement Project. Although the presence of Pine Pitch Canker has not been substantiated through testing, the symptoms evidence disease, poor health, and stress, whether caused by Pine Pitch Canker or another affliction with similar symptoms. An objective evaluation of current tree conditions and health problems concludes that the affected trees should be removed, whether or not the area is needed for water tank expansion. Failure to remove these trees that are known to be hazards would serve no apparent resource value, and can only serve to unnecessarily exacerbate the threat to human life and property, with attendant liability problems.

Signed:



Bailey O. Hudson, Urban Forestry Consultant  
1032 East Orange Street  
Santa Maria CA 903454

Attachments:

Bailey O. Hudson, Urban Forestry Consultant - Resume

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<sup>3</sup> Note: "Hazard" in terms of a hazard tree is defined as the combination of a failure of a tree (or tree part) with the presence of an adjacent target. Reference: "Evaluation of Hazard Trees In Urban Areas" by Nelda P. Matheny & Dr. James Clark.

## RESUME

**BAILEY O. HUDSON**  
**1032 EAST ORANGE STREET**  
**SANTA MARIA, CALIFORNIA 93454**  
**Email: unceuchudson@utech.net**

**Phone: 805.349.0081**

**Fax: 805.349.9933**

### EMPLOYMENT HISTORY

#### **Bailey O. Hudson Horticultural/Urban Forestry Consulting**

**March 1997 - Present**

*Research, Expert Witness Testimony/Tree-Related Litigation, Tree Worker Safety and Management Audits, Lecturer, Tree Management Plans and Tree Evaluation, Landscape Plancheck, Inspection and Consultation Services*

#### **ACRT Environmental Specialists**

**January 1996 to February 1997**

**Senior Urban Forester (Part Time)**

**Sales and Training**

#### **City of Santa Maria**

**1960 to 1995 (Retired)**

**Positions Held: Tree Trimmer, Leadman, Crew Foreman,**

**City Arborist, Park Supervisor and Park Superintendent**

**Municipal Arboriculture and Park Management**

#### **Davey Tree Surgery Company**

**1951 - 1960**

**Positions Held: Tree Trimmer and Crew Foreman**

**Utility and Commercial Arboriculture**

### PROFESSIONAL AFFILIATIONS

- National Management Association
- International Society of Arboriculture
- Society of Municipal Arborists
- California Urban Forests Council
- Santa Maria Valley Beautiful
- Friends of Waller Park, Santa Barbara County
- Street Tree Seminar, Inc.
- Arboricultural Research and Education Academy
- Santa Maria Valley Chamber of Commerce
- Santa Maria Natural History Museum
- Santa Maria Pioneer Association

**COMMITTEES/ COUNCILS/BOARDS OF DIRECTORS - CURRENT ACTIVITY**

**Local**

- Board of Directors Member/Goals & Objectives Committee Chairman, Friends of Waller Park
- City Council Appointed Committee Member, All America City Committee
- Chamber of Commerce – Governmental Affairs and Transportation Committees
- Board of Directors Member/Santa Maria Valley Beautiful
- Tree Committee Chairman, Santa Maria Valley Beautiful
- Board of Directors Member/Santa Maria Natural History Museum
- Board of Directors Member/Santa Maria Pioneer Association

**State**

- Advisor, California Urban Forests Council

**International**

- Immediate Past-President, International Society of Arboriculture
- Chairman, Past Presidents Committee, International Society of Arboriculture

**OFFICES HELD**

- 2002-2003: President, International Society of Arboriculture
- 1999-2000: President, Santa Maria Valley Beautiful
- 1985-1986: President, California Urban Forests Council
- 1981-1982: President, Western Chapter International Society of Arboriculture
- 1972-1973: President, City of Santa Maria Management Employees Association
- 1967-1968: President, Santa Maria Miscellaneous City Employees Association

**AWARDS/CERTIFICATES**

- 2004: Professional Of The Year, Southwest Trees & Turf
- 2003: Robert F. Grogan Public Service Award
- 2001: Certificate of Appreciation, Student Society of Arboriculture
- 1995: Certificate of Appreciation, Cal Poly Natural Resource Management Department
- 1995: Distinguished Forester Award - Municipal Arborists and Urban Foresters Society
- 1994: Forestry Award - California Association of Resource Conservation Districts
- 1979: Award of Achievement - Western Chapter International Society of Arboriculture
- 1978: Old Timers 40-Foot Rope Climb Champion - California Tree Trimmers Jamboree
- 1975: Supervisor of the Year - City of Santa Maria

**MAJOR PUBLICATIONS**

- 2003: Arborist News  
"Is There Sex Discrimination In The Urban Tree Population?"
- 2002: Arborist News  
"The Challenges of Leadership"
- 1995: Arbor Age Magazine  
"When Safe Is Too Safe, It May Become Unsafe"
- 1993: Arborist News  
"Urban Forestry In Transition"
- 1991: Proceedings / National Urban Forests Conference  
"The Manager's View"
- 1990: Arbor Age Magazine  
"Urban Forestry Planning for the Future"
- 1989: A Technical Guide to Community and Urban Forestry  
Authored Section IV - "Maintenance of Mature Trees"
- 1987: Arbor Age Magazine  
"The Consulting Arborist Versus the Urban Forester"
- 1986: Proceedings / California Urban Forests Conference  
"Resolving Crisis Management Through the Fiscal Budget Process"
- 1985: Proceedings / National Urban Forestry Conference  
"Tree Ordinances from A to Z"
- 1985: Journal Of Arboriculture  
"Should Urban Forestry Be Defined?"
- 1984: Public Works Magazine  
"Computerized Urban Forest Management"
- 1984: Study Guide for the Arborist and Tree Worker  
Authored Section - "Tree Work Safety"
- 1983: Arbor Age Magazine  
"Go Climb A Rope"
- 1983: Journal Of Arboriculture  
"Private Sector Business Analogies Applied In Urban Forestry"
- 1981: Proceedings / Second California Symposium On Urban Forestry  
"The Costs Of Crisis Versus Programmed Tree Maintenance"

- 1981: California Parks and Recreation Magazine  
"Certification ... a Parkie Perspective"
- 1980: Arbor Age Magazine  
"Maintaining Trees While Maintaining Safety"
- 1979: California Parks and Recreation Magazine  
"The Problem With Community Recreation Is ..."
- 1975 California Parks and Recreation Magazine  
"Who's Responsibility?"

### INVITED WORKSHOPS AND COMMITTEES - 1990 TO 2002

- 2002: Research Summit - Assessment of Research Needs In Urban Forestry  
Chicago, Illinois
- 1993: Workshop On Urban Tree Selection and Hydrocarbon Emissions  
UCLA, Los Angeles, CA
- 1991: Research Summit - Assessment of Research Needs In Urban Forestry  
Washington, D. C.

### ACCOMPLISHMENTS AND CONTRIBUTIONS

- Cofounder, Tree Trimmers Jamboree
- Introduced and Developed "Time Is Money" Approach to Fiscal Budgeting, City of Santa Maria
- Developed Tree Pit Planting System to Reduce Curb and Sidewalk Damage
- Identified Cost Differentials in Crisis and Programmed Urban Tree Management
- Introduced Concept of Pollution Emission Reduction Credits for Publicly Owned and Managed Vegetation – *Continuing Research*
- Revised City of Santa Maria Street Tree Ordinance to Include Urban Ecosystem Values
- Introduced the Concept of the Urban Forest as a Biogenic Public Utility - *Continuing Research*
- Introduced Time Standards Program for Park Maintenance, City of Santa Maria
- Developed Daily Operation Report System for Parks and Street Tree Maintenance

### NUMEROUS ORAL PRESENTATIONS

10a

**DAVID B. KELLEY**  
**Consulting Plant and Soil Scientist**

**DAVID B. KELLEY**  
**PROFESSIONAL QUALIFICATIONS**  
**AS AN ARBORIST AND TREE EXPERT**

David B. Kelley has served as a consulting arborist and educator/researcher on arboricultural issues for over 25 years. He regularly presents seminars and workshops to tree-care and natural resources professionals, and provides on-going pro-bono advice to non-profit and public resource groups across the state. He is a long-time member of the International Society of Arboriculture, the Western Chapter of the ISA, California Re-Leaf, the Society for Ecological Restoration, and many associated agricultural and horticultural professional societies. He has published several papers on tree and soil issues.

**Education**

Mr. Kelley has been academically involved in studying the biology of trees and other woody plants since the early 1970's, and has been an active researcher on the biology and management of trees and other woody species for over thirty years. (See selected publications at end of this statement.) His work has included academic investigations and, in later years, *ad hoc* research with colleagues from universities and other institutions.

B.S., ZOOLOGY — Texas Tech University  
M.S., BOTANY — Texas Tech University  
Ph. Cand., Plant Physiology/Soil Science — University of California, Davis

**Professional Training and Presentations**

Mr. Kelley became a Certified Arborist in 1988 (Western Chapter, International Society of Arboriculture WC-0401) after several years of membership in and training through the I.S.A. In the course of that professional training, he received special training in the evaluation and assessment of hazardous trees, working with Dr. Richard Harris, Dr. Larry Costello, Nelda Matheny, Joe McNeil, John Britton, and other well known arborists in California and the western US. He has presented numerous seminars on trees, tree failure, soil and tree relationships, and care and management of trees and tree crops to the ISA, various agricultural and arboricultural organizations and classes, and to university classes and professional tree care working groups and workshops. Among other presentations, he has been invited to present seminars and workshops to the ISA, the Western Chapter of ISA, the American Society of Consulting Arborists, the Professional Tree Care Association of San Diego, California Tree Failure Report Program, Hood River Hazard Tree Workshop, the Symposium on Strategies to Reduce Infrastructure Damage by Tree Roots, and many other meetings or workshops.

For the last 20 years, he has regularly taught classes and workshops on agricultural tree care and ecological restoration for University Extension of the University of California, California Department of Transportation, Society for Ecological Restoration, Society of Wetlands Scientists, and other professional groups or agencies. He organizes and leads field trips and workshops for several of the same groups, and is frequently asked to provide training and educational services to these and other groups.

**Professional Consulting**

As a consulting plant and soil scientist for over 25 years, Mr. Kelley's expertise on tree-related issues has been sought by a wide spectrum of clients. These include public agencies, universities, attorneys, and many private sector clients. This work has included tree value assessments, tree failures and litigation, assessment of planting conditions, assessment of tree health and management, tree surveys, problem analysis, water quality issues and effects on trees, tree ordinance evaluations, planting and restoration issues, and many other topics.

**Kelley & Associates Environmental Sciences, Inc.**  
Consultation in Earth, Environmental, and Agricultural Sciences  
216 F Street #51 • Davis, CA 95616-4515  
Tel: 530-753-1232 • Fax: 530-753-2935 • E-mail: <dbkelley@jps.net>

**David B. Kelley**  
**Consulting Plant and Soil Scientist**

TH10a

Pine Knolls Water Tank  
Cambria Community Services District  
Cambria, California  
Tree Survey Field Notes—Construction Zone  
Surveyed & Recorded by David B. Kelley  
Day 1 — 03 April 2005

**Legend:**

**Condition:** 1 = Good; 2 = Moderate; 3 = Poor; PC = Pitch Canker Symptoms

**Species:** CLO = Coast Live Oak (*Quercus agrifolia*)

Pira = Monterey Pine (*Pinus radiata*)

Tree #	Diam.	Species	Comments	Condition
1	4"	CLO	Under larger CLO; Under power lines	3
2	4" & 5"	CLO	(2 trunks, split @ 12" above ground level); Pruned & maintained	3
3	5.5"	Pira	Topped; Pruned under lines	PC; 3
4	4"	CLO	Split trunk; on property line	2
5	8"	CLO		1
6	17"	Pira	Uprooted; Dead/Fallen	PC; Dead
7	18"	Pira	Stump	Dead/Cut PC
8	7"	CLO	Old pruning cuts; Decay stubs	2
9	14"	Pira	Snag	Dead Snag PC
10	3"	CLO		2
11	11"	Pira	Snag (not on map)	Dead snag
12	9"	CLO	Leaning	1
13	3"	CLO		2
14	17"	Pira	Dead leaves	PC+; 3-
15	8"	Pira		PC+; 3-
16	6"	Pira		PC; 3
17	17"	Pira		PC; 3
18	5"	CLO		1
19	13"	Pira	Dead branches	PC; 3
20	5"	Pira	Snag	Dead
21	11"	Pira	Asymmetrical	PC; 3
22	6"	CLO	Asymmetrical; Dead branches	2+
23	8"	CLO	Split at 5'	2+
24	11"	Pira		PC; 2
25	14"	Pira		PC; 2
26	4" & 8"	CLO	13" @ ground level; Split; 2 trunks: 4" (dead) & 8"	2 + dead
27	8"	Pira		PC; 2
28	14"	Pira	Dead/Fallen	PC; Dead
29	4"	Pira	Dead; Standing	PC; Dead
30	4"	Pira	Young; asymmetric; no indication of PC	2-
31	10"	Pira		PC; 3-
32	6"	CLO	50% dead	2-

**David B. Kelley**  
**Consulting Plant and Soil Scientist**

Tree #	Diam.	Species	Comments	Tree Condition
33	8"	<i>Pira</i>	Standing; High hazard	PC; Dead
34	6"	<i>Pira</i>	Asymmetrical/leaning/under canopy; weak PC	2-
35	1"	CLO	In lee of pines; stunted	2
36	2"	CLO	Under pines; Stunted	2
37	9"	CLO	Dead limbs	2-
38	7"	CLO	Dead limbs	2
39	8"	CLO	Dead limbs	2+
40	13"	CLO	13" at ground level; 2 trunks: 8" & 6"; Dead limbs	2+
41	8"	CLO	Dead stub; Leaning	2
42	7"	CLO	Dead branches	2-
43	13"	<i>Pira</i>	Stump; Felled	PC; Dead
44	5"	CLO	Leaning; Shaded; Re-sprouting	2-
45	10"	CLO	2 trunks: 5" & 6"; Re-sprouting	2
46	5"	CLO	Re-sprouting	2+
47	2"	CLO	Small; Shaded; Re-sprouting	2-
48	9"	CLO	Leaning; Dead branches; Re-sprouting	2-
49	6"	CLO	Shaded; Dead branches; Re-sprouting	2-
50	7"	CLO	Re-sprouting	2-
51	7"	CLO	Re-sprouting	2-
52	7"	CLO	Re-sprouting	2-
118	7"	CLO	Split trunk; Shaded; Re-sprout, under powerlines	2-
53	8"	CLO	Shaded; Dead branches; Pruned; Re-sprouting	2-
54	7"	<i>Pira</i>	Pruned under lines	PC; 1-
55	7"	<i>Pira</i>	Split: 5" & 5"; Pruned under lines	PC; 1-
56	>13"	<i>Pira</i>	Stump	PC Dead
57	10"	<i>Pira</i>	Dead; Standing	PC Dead
58	11"	<i>Pira</i>	Dead; Standing	PC Dead
59	7"	CLO		2+
60	6"	CLO		2+
61	15"	<i>Pira</i>	Broken top; Split trunk	PC; 1-
62	13"	<i>Pira</i>		PC; 2
63	3"	CLO	Shaded	2
64	4"	CLO	Shaded	2+
65	3"	CLO	Growing along dead pine; Dead branches	2+
66	10"	<i>Pira</i>		PC; 2
67	8"	<i>Pira</i>	Dead	PC Dead
68	19"	<i>Pira</i>	Topped	PC; 2
69	19"	<i>Pira</i>	Hazard	PC; 2
70	10"	<i>Pira</i>		PC; 1

# David B. Kelley

Consulting Plant and Soil Scientist

Cambria, California

Perimeter Tree Survey Field Notes

Surveyed & Recorded by David B. Kelley

Day 2 — 04 April 2005

**Legend:**

**Species:** CLO = Coast Live Oak (*Quercus agrifolia*)

Pira = Pine Tree (*Pinus radiata*)

**Condition:** 1 = Good; 2 = Moderate; 3 = Poor; PC = Pitch Canker Symptoms

**Anticipated Impacts to Roots:** 1 = Major; 2 = Moderate; 3 = Minor; 4 = None

Tree #	Diam.	Species	Comments	Tree Condition	Impacts
71	6"	CLO	Broken; Shaded; Split trunk - 6" stub	2-	3
72	4" & 5"	CLO	Split trunk; Broken branches	2-	3
73	11"	Pira		PC; 3	3
74	5"	CLO	Shaded	2	3
75	18"	Pira	Dead (root failure); Fallen	PC Dead	4
76	4"	Pira	Small sapling	Minor PC; 1	1
77	9"	CLO	Split trunk: 4" & 8"	2+	3
78	4"	Pira	Sapling	PC; 1-	4
79	14"	Pira	Poor condition	PC; 3	1
80	7"	Pira		PC; 3	4
81	2"	Pira		PC; 3	4
82	2"	CLO	Shaded	2	4
83	5"	CLO	Leaning; Poor condition	2-	4
84	6"	CLO	Shaded	2	4
85	3"	CLO	Shaded	2+	3
86	3"	CLO	Shaded	2+	4
87	3"	CLO	Shaded	2+	4
88	4"	CLO	Shaded	2+	
89		Pira		PC; 3	4
90	7"	Pira	Spindly	PC; 3	3
91	8"	CLO	Spare foliage	2+	4
92	4"	CLO	Felled oak bole; Asymmetrical; Broken	2-	3
93	6"	CLO	Felled oak bole; Asymmetrical; Broken	2-	3
94	18"	Pira		PC; 3	4
95	7"	Pira	Young	PC; 2	4
96	7"	CLO	Felled oak bole	2-	4
97	5" & 7"	CLO	Felled oak bole; Broken/split at ground level	1	4
98	9"	CLO		1	4
99	11"	CLO	Split trunk; Asymmetrical; Shaded	2-	4
100	6"	Pira	Dead; Standing	PC Dead	4
101	13"	Pira	Poor condition	PC; 3-	2
102	8"	CLO	Felled oak bole; Poor condition; Dead branches; Asymmetrical	2-	4
103	4"	CLO	Felled oak bole; Dead	Dead 3	4
104	6"	CLO	Felled oak bole; Poor condition; Leaning; Broken	3+	4
105	6"	Pira	Young; Poor condition	PC; 3	4
106	6"	Pira	Young, Poor condition	PC; 3	4
107	10" & 11"	CLO	Felled oak bole; Pruned; Dead branches; 10" & 11"	2	3

TH 10a

## B. Special Conditions

~~1. Revised Project Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall show the following:~~

~~a) New tank construction providing up to 934,000 1.1 million gallons of water storage located entirely within the existing 11,000 square foot Pine Knolls tank site (APN 013-301-018). Encroachment off of the existing 11,000 square foot Pine Knolls tank site (APN 013-301-018) shall not exceed 5 feet and only if necessary for temporary construction and maintenance activities and if approved by the Executive Director.~~

~~b) Access road the minimum width necessary to provide emergency access to and across the site.~~

~~c) Replacement of approximately 200 linear ft. of buried 10 inch asbestos cement waterline and valves with 14 inch concrete coated welded steel cement lined waterline and valves on Manor Way.~~

1. Scope of Permit. Consistent with the plans and location approved with conditions by San Luis Obispo County (DRC2004-0009), this permit authorizes:

a) The demolition and removal of two existing water tanks on APN 013-301-018.

b) The construction of two new 550,000 water tanks and associated perimeter access on APN 013-111-005 prior to demolition of existing tanks and on APN 013-301-018 only following demolition of existing tanks.

c) Relocating an existing control panel and undergrounding overhead electric service on APN 013-301-018.

d) Replacement of approximately 200-linear ft. of buried 10-inch asbestos cement waterline and valves with 14-inch concrete welded steel cement-lined waterline and valves on Manor Way.

e) Site excavation on APN 013-301-018 and APN 013-111-005.

f) Improvement of an existing emergency access road on APN 013-301-018.

1 OF 2

TH 10a

g) Installation of site fencing and landscape screening on APN 013-301-018 and APN 013-111-005.a) The demolition and removal of two existing water tanks on APN 013-301-018.

3. County Conditions of Approval. ~~Except for County conditions of approval 1, 2, 13, 14, 16, 17, 18, 19, and 20, a~~All conditions of San Luis Obispo County's approval of the project become conditions of this permit. All conditions of San Luis Obispo County's approval pursuant to planning authority other than the Coastal Act continue to apply.

4. Offer to Dedicate. In addition to the other mitigation measures imposed by San Luis Obispo County, CCSD shall provide written evidence of its offer to convey a conservation easement over 12,000 square feet of CCSD pine forest adjacent to the Covell Ranch to the Nature Conservancy or other bona fide land conservation organization, to offset the 9,000 square feet removed from conservation easement to facilitate this project.

5. Moratorium. Consistent with its resolution of adoption, the Cambria Community Services District shall not use the additional water storage capacity approved in this permit as the factual basis, or any other basis, for lifting the water moratorium enacted by the District pursuant to Water Code Section 350.

TH 10a

June 8, 2005

To: Tammy Rudock, General Manager  
From: Arther R. Montandon, District Counsel  
Subject: Condemnation Procedure

You have asked for an outline of the procedure that the CCSD has to go through to possess real property as soon as legally possible through condemnation. The CCSD is required to follow a strict statutory procedure to acquire real property by eminent domain. Here are the required steps:

1. The property has to be identified and the approval of the Board obtained to expend public funds.
2. A parcel has to be identified or a survey of a part of a parcel has to be completed. (1-3 months).
3. A title report, called a "litigation guarantee" is obtained to identify the property owners. (1-2 months).
4. Environmental review has to be completed. The Board holds a noticed public hearing to approve a negative declaration or an EIR. (Depending upon the level of review it can take 8-18 months to complete).
5. The property has to be appraised and a full appraisal report prepared. (6-9 months). This process must include an invitation to the property owner to give input into the appraisal.
6. Authority is obtained from the Board to make an offer to purchase.
7. The CCSD offers in writing at least the full-appraised value.
8. The property owner is given a reasonable amount of time to respond and negotiate.
9. The litigation guarantee is updated to uncover any changes in ownership. (1 month).
10. If negotiations fail the CCSD must provide 15 days notice of a public hearing to adopt a "Resolution of Necessity" and hold the hearing. (1 month).
11. The condemnation complaint is filed in court and served on the property owners. (1 month).
12. To construct the project the CCSD must possess the real property. To possess the property the CCSD must obtain a court order of possession. (1-4 months depending if the property is occupied).

Some of the time frames can overlap. If all goes well the process will take a minimum of 18 months. If there are problems of legal challenges to the procedure it can take 2-3 years.