

CALIFORNIA COASTAL COMMISSION

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Staff: Christine Chestnut-SF
Staff Report: December 1, 2006
Hearing Date: December 14, 2006

STAFF REPORT AND FINDINGS FOR CONSENT CEASE AND DESIST ORDER

ORDER NUMBER: CCC-06-CD-15

RELATED VIOLATION FILE: V-2-04-005

PROPERTY LOCATION: Property is located immediately south of the community of Dillon Beach in northwestern Marin County (including APNs 100-100-07, et al.)
(Exhibit 1)

DESCRIPTION OF PROPERTY: An approximately 940-acre property referred to as Lawson's Landing, consisting of coastal dunes, wetlands, and grasslands, bordered to the west by Bodega Bay and to the south by Tomales Bay

PROPERTY OWNERS: Merle and Icymae Lawson, Lawson Beach, Lawson Brothers, Lawson Brothers Partners/Nita R. Lawson

REPRESENTATIVE: Michael Lawson

PARTIES SUBJECT TO THIS CONSENT ORDER: Merle and Icymae Lawson, Lawson Beach, Lawson Brothers, Lawson Brothers Partners/Nita R. Lawson, Lawson Landing, Inc., Michael Lawson

VIOLATION DESCRIPTION: Unpermitted development, including but not limited to unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal

station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, a pier, and other items of development

SUBSTANTIVE FILE DOCUMENTS: 1. Cease and Desist Order File for CCC-06-CD-15
2. Exhibits 1 through 18

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 AND FINDINGS

Staff recommends that the Commission approve Consent Cease and Desist Order No. CCC-06-CD-15 ("Consent Order") to address unpermitted development on the Lawson's Landing property, located immediately south of the community of Dillon Beach, in an unincorporated area of northwest Marin County. The facility is a privately-owned trailer park, campground, and recreational facility located on property owned by Lawson's Landing, consisting of approximately 940-acres of beaches, coastal dunes, wetlands, and grasslands, identified by the Marin County Assessor's Office as thirty-nine separate parcels (APNs 100-100-07, et. al). Bodega Bay is located to the west of the property and Tomales Bay is located to the south. The western and southern property boundaries are separated from these bodies of water by stretches of public beach, which extend seaward from the mean high tide line.

The property is collectively owned by Merle and Icymae Lawson, Lawson Beach, Lawson Brothers, and Lawson Brothers Partners/Nita R. Lawson, each of whom separately owns one or more parcels that together comprise the property. The facilities on the property are run by Lawson's Landing, Inc. Michael Lawson is the designated contact and agent for service of documents for the property owners and Lawson's Landing, Inc. (henceforth, all parties subject to this Consent Order will be collectively referred to as "Lawson's Landing").

Staff worked closely with Lawson's Landing to reach an amicable resolution in this matter. On November 30, 2006, Lawson's Landing signed the proposed Consent Order, a copy of which is attached to this staff report on page 23. The proposed Consent Order reflects Lawson's Landing's agreement to work cooperatively with the Commission to address unpermitted development on the property through the County and Commission permit process.

Although the Commission has enforcement jurisdiction over the entire property, permit jurisdiction for the property remains split. A portion of the property is located on historic tidelands and public trust lands and is therefore within the Commission's retained permit jurisdiction. Development on this portion of the property requires a Commission-issued CDP, for any development that is not exempt from Coastal Act permitting requirements. The remaining portion of the property is within the County's jurisdiction, and development within

this portion requires a CDP from the County, unless exempt from LCP permitting requirements. There are no CDPs for development in either the County or Commission jurisdiction. None of the development at issue is exempt.

Although the County has been and continues to process the master plan/CDP/tidelands permit application, no final action on the application has been taken, and as a result, in order to help facilitate a timely resolution of this matter under the Coastal Act, pursuant to the latter portion of Coastal Act Section 30810(a)(2), after coordination with the County, Commission staff initiated enforcement proceedings with regards to violations on the entire property. Commission staff coordinated with the County, and discussed this approach with the County during October 6, 2006 and November 17 meetings, and confirmed in letters from Commission staff to the County dated October 6, 2006, October 23, 2006, and November 28, 2006.

Due to the dual permit jurisdiction applying to the property, the proposed Consent Order will direct Lawson's Landing to complete and otherwise participate in the Coastal Act permitting process for two separate pending CDP applications: one that was submitted to County staff in 1997 and one that was submitted to Commission permit staff on October 31, 2006. Each application shall pertain to the development located in the corresponding jurisdictional area. The goal of this enforcement action is to establish and ensure a reasonable process whereby the violations on the property are resolved in a timely, legal fashion. Accordingly, the proposed Consent Order provides a deadline for Lawson's Landing to fulfill its role in the resolution of the violations, and they have agreed to such cooperation and participation.

A variety of unpermitted development activities have occurred on the property, including but not limited to unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction or placement of 233 trailers, a campground with a 1,000 vehicle capacity, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a 35-buoy boat mooring facility, an 18-slip boat yard, twelve boats, a laundry facility, and a 221-foot long pier. These activities constitute development, as defined in Section 30106 of the Coastal Act and in Section 22.56.0301C of the Implementation Plan for the Marin County Local Coastal Program (LCP).¹ The property is regulated by Unit II of the Land Use Plan ("LUP), which the Commission certified on May 5, 1982. The development was undertaken without a Coastal Development Permit (CDP) from the Commission or Marin County ("the County"), which constitutes a violation of Coastal Act Section 30600 and Section 22.56.0401 of the LCP Implementation Plan.

Much of the development has occurred in sensitive coastal dune and wetland areas, which provide habitat for endangered and threatened species including the American peregrine falcon (*Falco peregrinus anatum*), California brown pelican (*Pelicanus occidentalis californicus*), western snowy plover (*Charadrius alexandrinus nivosus*), California red-legged frog (*Rana aurora aurora*), and Tidestrom's lupine (*Lupinus tidestromii*). Accordingly, unpermitted development in these environmentally sensitive areas impacts the areas and disrupts the habitats

¹ The LCP is made up of the Land Use Plan and the Implementation Plan.

that they support, which is inconsistent with Coastal Act Section 30240 and Policy 5 of LUP Chapter 2.

Unpermitted development in wetland areas also has the potential to have significant negative impacts on the biological productivity of the wetlands, which is inconsistent with Coastal Act Section 30231 and Policy 4 of LUP Chapter 2, and wastewater and polluted runoff from the increased impervious surfaces can impact the biological productivity of wetlands on the property and in surrounding areas as well as the biological productivity of nearby Bodega and Tomales Bays, which is inconsistent with Coastal Act Sections 30230 and 30231 and LUP Chapter 2. The unpermitted development has resulted in the fill of wetlands, in violation of Coastal Act Section 30233 and Policies 1-3 of the Diking, Filling, and Dredging subsection of LUP Chapter 3 and Natural Resources Policy 4 of LUP Unit II Chapter 2. Moreover, unpermitted development sited on top of coastal dunes impacts the coastal views enjoyed by members of the public, including those who are not utilizing the facilities on the property, which is inconsistent with Coastal Act Section 30251 and Policy 3a of the New Development and Land Use subsection of Chapter 4 of the LUP.

Staff recommends that the Commission approve Consent Cease and Desist Order No. CCC-06-CD-15 ("the Order," as described below) directing Lawson's Landing to: 1) cease from performing any further development activity on the property without first obtaining a CDP or other Coastal Act or LCP approval; 2) cease from maintaining any existing unpermitted development on the property, by completing CDP applications to Commission staff and the County by the date(s) specified in the Order, either to authorize removal of the unpermitted development or to authorize its existence after-the-fact; and 3) complete the permitting process in a timely manner and agree not to withdraw CDP applications once they are deemed complete.

II. CEASE AND DESIST ORDER HEARING PROCEDURES

The procedures for a hearing on a proposed Cease and Desist Order are set forth in Section 13195 of the California Code of Regulations (CCR), Title 14, Division 5.5, Chapter 5, Subchapter 8.

For a Cease and Desist 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 party. 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 13185 and 13186 incorporating by reference section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions of 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 Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of the motion, per staff recommendation or as amended by the Commission, will result in issuance of the order.

III. STAFF RECOMMENDATION

A. Motion Re: Cease and Desist Order:

I move that the Commission issue Consent Cease and Desist Order No. CCC-06-CD-015 pursuant to the staff recommendation.

B. Recommendation of Approval:

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

C. Resolution to Issue Consent Cease and Desist Order:

The Commission hereby issues Consent Cease and Desist Order No. CCC-06-CD-15, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and in violation of the Coastal Act and County LCP, and the requirements of the Consent Order are necessary to ensure compliance with the Coastal Act and the County LCP.

IV. FINDINGS FOR CONSENT CEASE AND DESIST ORDER NO. CCC-06-CD-15

A. Property Description

The property, located immediately south of Dillon Beach in northwestern Marin County, consists of approximately 940 acres and is identified by the Marin County Assessor's Office as thirty-nine separate parcels (APNs 100-100-07, 100-100-08, 100-100-21, 100-100-22, 100-100-48, 100-100-49, 100-100-59, 100-201-01, 100-202-01, 100-202-02, 100-203-02, 100-100-203-03, 100-204-01, 100-204-02, 100-205-03, 100-206-01, 100-206-02, 100-207-02, 100-207-03, 100-208-01, 100-208-02, 100-211-01, 100-211-02, 100-212-01, 100-212-02, 100-213-01, 100-213-02, 100-214-01, 100-214-02, 100-215-01, 100-215-02, 100-216-01, 100-216-02, 100-217-01,

100-217-02, 100-218-01, 100-218-02, 100-220-06, and 100-230-03). The western boundary of the property abuts a public beach, which extends from the mean high tide line to the waters of Bodega Bay. The southern property boundary also abuts a public beach, which extends from the mean high tide line to the waters of Tomales Bay. Private property borders the subject site to the east and north.

The northern portion of the property is dominated by non-native grasslands and is utilized mostly for livestock grazing.² (**Exhibit 2**) A riparian woodland area extends east-west across this region. The Tomales Dunes complex, a rare combination of active and stable coastal dunes, extends along the eastern portion of the property, where grazing activities continue and two sand quarries, which are no longer operational, are located. The western portion of the property consists of coastal foredunes heavily vegetated with non-native European beachgrass (*Ammophila arenaria*) as well as active coastal dune, coastal dune scrub, and wet meadow habitats. The wet meadow area, where the majority of camping activities take place, contains dunes and dune slack wetlands, which are created when the surface of a dune is at or near the water table. West of the meadow is an area referred to as Sand Point. The boating facilities and travel trailers are located west of the meadow in Sand Point. Although visitors have access to most of the beach, dune, and wetland areas on the property, the majority of recreational activities on the property take place in the meadow and Sand Point areas. The southeast region of the property contains a salt marsh, vegetated with marsh grasses and Point Reyes bird's-beak, a special-status species.³ The salt marsh serves as a foraging ground for shorebirds, great blue herons (*Ardea herodias*), great egrets (*Ardea alba*), and savannah sparrows (*Passerculus sandwichensis*).

A portion of the property is located on historic tidelands and public trust lands and is therefore within the Commission's retained permit jurisdiction. Development on this portion of the property requires a Commission-issued CDP, unless exempt from Coastal Act permitting requirements.⁴ The remaining portion of the property is within the County's certified LCP jurisdiction, and development within this portion requires a CDP from the County, unless exempt from LCP permitting requirements.⁵ The development at issue is not exempt from Coastal Act or LCP permitting requirements. After expressing its willingness to the County to undertake enforcement action with respect to the violations on the property, Commission staff agreed to delay taking enforcement action pending the timely completion of the County environmental review and permit processes. The County continued to focus on processing the master plan/CDP/tidelands permit application, and accordingly, the County enforcement process was not able to proceed in a timely manner. As a result, pursuant to the latter portion of Coastal Act Section 30810(a)(2), Commission staff initiated enforcement proceedings with regards to

² See DEIR, Exhibit 4.13-1: Habitat Types Map for a diagram of all habitats on the property.

³ The Point Reyes bird's beak is referred to as a special-status species because it is listed as a federal species of special concern and is on California Native Plant Society's List 1B.

⁴ The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further Coastal Act section references are to that code unless otherwise indicated.

⁵ Although the County has primary permitting jurisdiction over the latter portion of the property, the Commission can review a final County action on a CDP application for development in that area on appeal, pursuant to Coastal Act Section 30603.

violations on the entire property, including the portion of the property within the County's certified LCP jurisdiction. Commission staff expressed this decision to the County during an October 6, 2006 meeting and confirmed the decision in letters from Commission staff to the County dated October 6, 2006 October 23, 2006, and November 28, 2006. **(Exhibit 3)**

Although the Commission has enforcement jurisdiction over the entire property, permit jurisdiction for the property remains split. Therefore, the proposed Consent Order will direct Lawson's Landing to complete separate permit applications for the County and for Commission permit staff, each addressing the development in the appropriate jurisdiction.

B. Violation History

The first development was placed on the property almost seventy years ago, apparently, as discussed below, without the permits or authorization that was required at that time. Since that time, both the amount of physical development that has been placed on the property and the intensity of use of the property have continually increased, and the uses of and development on the property substantially changed. The following section details the long history of attempts by the state and the County to regulate development on the property.

It is important to note that at no point in this long history was a CDP obtained for the cited development at issue in this matter. In addition, no evidence has been submitted to demonstrate that all necessary authorizations were obtained for development activities that were undertaken prior to the enactment of the Coastal Act. Annual permits to operate the facilities on the property were issued by the State Department of Housing and Community Development ("HCD") beginning in 1992, to enable Lawson's Landing to continue operations while applying for the necessary permits. However, HCD's permits do not satisfy the need for CDPs or address Coastal Act requirements which apply here, nor do they exempt the cited development from the County or Commission CDP process. No CDP has been obtained for any of the cited development on the property. The recommended Consent Order will finally set a reasonable schedule for Lawson's Landing to initiate and complete the County and the Commission permit processes, and ultimately, resolve the long-standing violations on the property.

The Lawson family purchased the property in the 1920's for the primary purpose of raising cattle. In 1937, the Lawson family constructed a boathouse and wharf in the Sand Point area for recreational use by the public. Throughout the 1940's, the property was used as a ranch with some informal public recreational use. In the mid-1950's, approximately fifteen travel trailers were placed in the Sand Point area. In 1961, the first permanent recreational vehicles and camping facilities appeared on the property. At that time, HCD informed Lawson's Landing that the unauthorized placement and use of trailers on the property violated State laws and that permits were necessary.⁶ HCD did not receive a permit application for the development, and,

⁶ In the Violation History section of this report, the term "Lawson's Landing" used in a sentence refers to the owners of the parcels that comprise Lawson's Landing at the particular time being discussed in the sentence.

consequently, no permit was obtained by Lawson's Landing. In December of 1965, HCD transferred jurisdiction of the trailer park to Marin County.

After assuming regulatory control, the County sent Lawson's Landing a violation letter, citing unpermitted development and unpermitted uses that did not conform to the zoning designations assigned to the property, including 125-150 recreational vehicles, four cement block restrooms, a water supply system for the recreational vehicles, a general store, a snack bar, 20-30 sheds, and boat dock facilities. This letter was followed by a second violation notice, specifically addressing the trailer park, and a letter from Marin County Counsel requesting that Lawson's Landing take action to resolve the violations on the property within ten days of receipt of the letter to avoid legal action by the County. In response, Lawson's Landing submitted master plan and zoning amendment applications.

In 1970, Lawson's Landing submitted revised master plan and zoning applications to address the County's sewage disposal and Williamson Act concerns.⁷ Although the County Planning Commission conditionally approved the master plan, Lawson's Landing appealed the plan's conditions to the County Board of Supervisors. The Board of Supervisors required Lawson's Landing to redesign the project that was the subject of the master plan application, in order to incorporate what the Board felt were necessary facility upgrades.

In 1975, Lawson's Landing submitted another master plan application to the County, seeking authorization for a 521-site travel trailer park, 42 campsites, an office and store, a boat storage building, and a centralized sewage treatment facility. The County certified a final environmental impact report ('77 EIR) for a 231-site trailer park, 42 campsites, the office and store, a fishing pier, boat launching facility, and a seawall. The '77 EIR stated that recreational use of the property required a Use Permit and Master Plan from the County. In addition, the '77 EIR stated that septic systems on the property had potentially caused groundwater and surface water contamination. In response to the '77 EIR comments regarding septic systems on the property, Lawson's Landing submitted a revised master plan application in 1979, but subsequently withdrew the application in order to wait for the County to secure certification of its LCP and adopt the Dillon Beach Community Plan, so that the master plan application would address any additional regulations or recommendations set forth in the new documents. The County LCP was certified in 1982 and the Dillon Beach Community Plan was adopted by the County Board of Supervisors in 1988 and approved by the Commission as an amendment to the certified LCP in 1989.

⁷ The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, enables local governments and private landowners to enter into contracts that restrict the use of the landowners private property in exchange for tax benefits based on the decreased market value of the land resulting from the development and use restrictions. In March of 1966, the County and the property owner entered into a Williamson Act contract called a Land Conservation Agreements (LCA) for the majority of the parcels that comprise the property, preserving that portion of the property for agricultural use. In order to complete a CDP application for development located on any parcel subject to an LCA, Lawson's Landing should submit information that the development is allowed under the LCA.

In 1991, Lawson's Landing submitted another master plan application to the County. The County determined that the application was incomplete and required Lawson's Landing to provide additional information on traffic, biological resources, and sewage disposal. Over the next seven years, seven additional submittals, comprised either of revised master plan applications or supplemental materials, were made. Finally, in 1998, the County deemed the application, which purports to be a combination master plan, CDP, and tidelands permit application, complete. A draft environmental impact report was prepared on July 15, 2005 ("DEIR") and circulated to the public for comment. As of the date of this Commission action, the County has not certified a final EIR and, more importantly, the combination master plan/CDP/tidelands permit has not been approved. Furthermore, any CDP issued by the County will pertain solely to the portion of the property that lies within the County's jurisdiction. A CDP is required by the Commission for any of the cited development located on the remaining portion of the property, which is within the Commission's retained permit jurisdiction. No Commission CDP has been issued.

C. Commission Enforcement Action

For several years, concerned members of the public have expressed to the Commission and staff their concerns about resource impacts resulting from the development on the property.⁸ In response to these concerns, Commission staff initiated a comprehensive investigation of potential Coastal Act violations on the property, and based on that investigation, determined that no approval of any kind had been obtained authorizing the existing development on the property. Commission staff then spoke with County staff on several occasions to determine the status of the ongoing Lawson's Landing master plan/CDP/tidelands permit process. In July 2005, the County circulated a Draft Environmental Impact Report (DEIR) for public review. Shortly thereafter, in September 2005, Commission staff wrote a letter to Marin County, providing comments on the DEIR, noting that the Coastal Act promotes development of public recreational and low cost visitor serving facilities such as those located on the property, but that the Coastal Act also requires that such development protect wetlands and other environmentally sensitive habitat areas and conform to all other applicable requirements of the Coastal Act and the LCP. No final EIR has been certified and no master plan/CDP/tidelands permit has been issued authorizing any of the development on the property.

At the Commission meeting in December 2005, in response to continuing public comment concerning impacts to sensitive resources on the property and surrounding areas, and to the length of time that the outstanding violations have continued unabated at Lawson's Landing, the Executive Director informed the Commission that Commission staff would take a more active role in resolving these issues, and he directed Commission enforcement staff to send Lawson's Landing a Notice of Violation letter, directing them to apply for CDPs for after-the-fact authorization for the unpermitted development on the site.

⁸ Letters to Commission enforcement staff and samples of the letters that were been submitted to the Commission prior to the initiation of enforcement action in this matter are attached as **Exhibits 4-5**.

In February 2006, Commission staff met with Lawson's Landing and its legal representatives to discuss resolution of the Coastal Act violations on the property. At that time, Lawson's Landing requested that Commission staff wait until the Marin County Master Plan/permitting process was completed before proceeding with Commission enforcement or permit action. However, due to the long history of unpermitted development and associated impacts to valuable and sensitive coastal resources, and given the fact that the master plan/CDP/tidelands permit application was submitted in 1997 and had not yet resulted in a permit for any of the development on the property, Commission staff determined that enforcement action was necessary to ensure resolution of the long-standing violations. In addition, the DEIR does not evaluate the existing unpermitted development on the site. Thus, the proposed Order will ensure that all unpermitted development on the site is addressed, either through a CDP application or any appropriate alternative method, and that all violations of the Coastal Act and LCP are ultimately resolved within a reasonable time period.

On February 21, 2006, Commission enforcement staff sent a Notice of Violation letter to Lawson's Landing (**Exhibit 6**). The letter formally notified Lawson's Landing that Coastal Act violations existed on the property, it set forth potential enforcement remedies including cease and desist and restoration orders and recordation of a notice of violation on the property, and it provided a May 1, 2006 deadline for submittal of a complete CDP application.

On March 2, 2006, Commission staff met with County staff, to coordinate resolution efforts, and decided that additional biological resources documents delineating wetlands and identifying ESHA were required in order to have the information necessary to make a decision regarding potential after-the-fact approval of the development through a CDP. The County agreed to speak with Lawson's Landing about options for preparation of these additional materials. In a letter to the County dated April 12, 2006, a copy of which was sent to Lawson's Landing, Commission staff agreed to temporarily suspend formal enforcement action, pending the timely submittal of the additional biological information and timely completion of the County's environmental review and local permitting process (**Exhibit 7**). Subsequently, a deadline of July 12, 2006 was established for Lawson's Landing to submit the additional materials.

During a June 29, 2006 meeting with Lawson's Landing, their biologist, representatives from the County, and the Commission's staff biologist, Commission staff agreed to extend the July 12, 2006 deadline to August 31, 2006. On August 29, 2006, Commission staff received a letter from Lawson's Landing's biologist stating that she would not be able to submit the biological information before September 15, 2006. On September 15, 2006, Commission staff received another letter from another Lawson's Landing biologist, changing the submittal date again, this time to September 22, 2006. Commission staff did not receive requests for these additional extensions, and consequently, Commission staff did not approve them. The final deadline authorized by Commission staff was August 31, 2006. In any event, as of the date of this report, Lawson's Landing has not submitted the required information.

During a June 7, 2006 meeting with Lawson's Landing, Commission staff again indicated its desire to receive a CDP application as soon as possible and reiterated that formal enforcement proceedings would be initiated if a complete CDP application was not submitted in a timely

manner. On July 12, 2006, after no application was received, Commission enforcement staff sent a second Notice of Violation letter, reiterating the Commission's concerns about the location of unpermitted development in or in close proximity to sensitive wetland and dune habitat and establishing a new, September 1, 2006 deadline for submittal of a complete CDP application for all unpermitted development within the Coastal Commission's coastal permit jurisdiction (**Exhibit 8**). In an August 2, 2006 letter to Commission staff, Lawson's Landing asserted that Commission staff had agreed to accept an application by October 31, 2006. This assertion was incorrect. The final, extended deadline authorized by Commission staff was September 1, 2006. Lawson's Landing failed to submit a complete application by that date, but did submit an application on October 31, 2006.

Despite these delays, the application is incomplete. The Executive Director issued a Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings and to Record a Notice of Violation of the Coastal Act on October 13, 2006 to ensure completion of the applications and to move the County and Commission permitting processes toward completion. (**Exhibit 9**). Accordingly, the proposed Consent Order sets a deadline for its completion as well as for the completion of the County master plan/CDP/tidelands permit application. Lawson's Landing has continually expressed their willingness to resolve the violations on the property as has worked with Commission staff to reach an efficient and amicable resolution. The proposed Consent Order allows Lawson's Landing to pursue resolution, while setting a reasonable time period within which to complete it.

On November 30, 2006, Michael Lawson, in his capacity as representative for Lawson's Landing, signed Consent Order No. CCC-06-CD-15, a copy of which is contained in this report on page 23. Commission staff recommends that the Commission issue the proposed Consent Order to allow Lawson's Landing and Commission staff to continue working together toward resolution of the this matter.

D. Description of Unpermitted Development

Unpermitted development located on the property includes unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, and a pier (**Exhibit 10**).⁹ No CDP has been obtained for this development and the development is not exempt from the permitting process. Furthermore, no vested right has been established with regards to any of the development.

E. Basis for Issuance of Cease and Desist Order

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

⁹ See DEIR, Exhibit 3-4: "Project Site Facilities and Services in the Master Plan, for a diagram showing location of certain facilities on the property.

(a) If the commission, after public hearing, 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. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances:

(1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.

(2) The commission requests and the local government or port governing body declines to act, or does not take action in a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.

...

(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.

The activities conducted on the property constitute development as defined in Coastal Act Section 30106 and a project as defined in Section 22.56.0301C of the LCP Implementation Plan and therefore require a Coastal Development Permit under Coastal Act Section 30600 and Section 22.56.0401 of the LCP Implementation Plan.¹⁰ Pursuant to Coastal Act Section 30810(a)(2), the Commission has enforcement authority and may ultimately issue the proposed Order with respect to the entire property, including the portion of the property located within the County's certified LCP jurisdiction. Pursuant to the authority provided to the Commission under Section 30810(b), the Order sets deadlines for the completion of Commission and County actions on CDPs for the cited development in an effort to move forward towards resolution of all of the violations on the property.

In addition to being unpermitted, the cited development is inconsistent with the policies of Chapter 3 of the Coastal Act. Although a showing of Chapter 3 inconsistency is not required for issuance of a cease and desist order, Section 2 is provided below to emphasize both the value of the resources affected by the unpermitted development and the need for enforcement action to compel resolution of the violations at issue.

¹⁰ The LCP Implementation Plan is codified in Title 221 (interim) of the Marin County Code. The LCP uses the term "project" instead of development, and Policy 22.56.0301C provides a definition for "project" that is analogous to the definition of "development" in Coastal Act Section 30106. Pursuant to Section 22.56.0701 of the LCP Implementation Plan, the deputy zoning administrator, environmental protection committee, planning commission, or board of supervisors may approve a CDP, depending upon the nature of the project. None of these parties has approved a CDP for development on the property.

1. Development Requiring a CDP Occurred on the Property

Under the definition of “development” in the Coastal Act and “project” in the LCP, it is clear that the activities on the property trigger regulation under both the Coastal Act and LCP. Development is defined in Coastal Act Section 30106 as:

“... 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... (emphasis added)

In the certified LCP, items of development are referred to as projects. Section 22.56.0301C of the LCP Implementation Plan provides a definition for “project” that is equivalent to the definition for “development” provided above.

The unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction of a trailer park, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, sheds, garages, parking lots, a boatyard, and other items of development clearly constitute development under Section 30160 and a project under Section 22.56.0301C of the LCP Implementation Plan.

Once development has been identified, Section 30600(a) provides:

(a) Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any development in the coastal zone... shall obtain a coastal development permit.

Section 22.56.0401 of the LCP Implementation Plan has similar language. Thus, the development on the property requires authorization in the form of County and Commission CDPs pursuant to Coastal Act Section 30600(a) and Section 22.56.0401 of the LCP Implementation Plan. No CDP has been obtained from the County or the Commission to authorize the development and the development is not exempt from permitting requirements. In addition, no vested right to any item of development on the property has been formally claimed, much less established. Therefore, all of the cited development on the property constitutes unpermitted development and the Commission has the authority to issue the proposed Order to address this unpermitted development under Coastal Act Section 30810.

2. The Unpermitted Development is Inconsistent with the Policies of Chapter 3 of the Coastal Act and Corresponding LCP Policies¹¹

As noted above, although all that the statute requires for the Commission to issue a cease and desist order under Coastal Act Section 30810 is a finding that unpermitted development activities have been undertaken on the property, the inconsistency of this unpermitted development with the resource protection policies in Chapter 3 of the Coastal Act and the related LCP policies underscores the need to proceed with enforcement action to effectively and efficiently resolve the violations on the property. Although this section includes references to specific LCP policies for the portion of the development within the County's permitting jurisdiction, staff notes that consistency with Coastal Act Chapter 3 policies is also required under the LCP, pursuant to Section 22.561.0231 of the LCP Implementation Plan, which states that "[d]evelopment of all projects in the coastal zone of Marin County shall be generally consistent with the Coastal Act of 1976." Thus, the Chapter 3 policies cited herein apply throughout the property.

a. Protection of Marine Resources and Maintenance of Biological Diversity

i. Coastal Act

Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 states:

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

The western property boundary is located inland from Bodega Bay and the southern property boundary is located approximately almost immediately adjacent to Tomales Bay. Runoff from the northern portion of the site drains into Dillon Creek and Bodega Bay. Runoff from the rest

¹¹ The policies detailed in this section are found in Unit II of the LUP, which pertains to northern Marin County, including the Lawson's Landing property.

of the property drains into Tomales Bay. Both Bodega Bay and Tomales Bay are coastal waters that support commercial fishing and shellfish industries. In addition, Tomales Bay is listed as an impaired water body on the 2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments for failing to meet water quality standards due to high levels of mercury. Consequently, ongoing pollution from the intense, unregulated use of the property can affect the health of the marine environment in nearby waters and the local businesses that depend on the environment, not to mention the health of the consumers of fish and shellfish harvested from the area.

Development placed on top of coastal dunes and wetland areas on the property has increased the amount of impervious surfaces on the property, which inevitably results in increased runoff.¹² Heavy vehicle traffic contributes to polluted runoff (1,000 vehicles are allowed per day for overnight campers, an additional 200 vehicles per day are allowed for day-use visitors, and additional vehicles are allowed if owned by residents occupying any of the 233 onsite trailers) by introducing copper, zinc, and oil, among other contaminants. Pollution from inadequate, unregulated septic systems is another likely source of water pollution that increases as use of the property intensifies.¹³

Boating activities constitute another source of contamination. Vehicle exhaust and the lack of sufficient pump stations and restrooms for those mooring their boats on the property contribute to water pollution. In fact, in 1998, improper disposal of human waste by a local boater was determined to be the cause of a viral outbreak that affected 171 people who consumed oysters harvested from Tomales Bay.¹⁴

In addition to contamination from surface runoff, groundwater contamination is also a concern. The water table is high in the Sand Point and meadow areas in the southern portion of the property, the very portion of the property where recreational use, and therefore use of vehicles and inadequate septic systems, are concentrated. Two fuel storage units are also located in the southern portion of the property. In addition to creating a fire hazard, fuel leaks could contribute to groundwater contamination.¹⁵

ii. LCP

¹² See "Stormwater Strategies: Community Responses to Runoff Pollution", NRDC report (1999), at <http://www.nrdc.org/water/pollution/storm/stoinx.asp> (last visited November 30, 2006).

¹³ See DEIR, p.4.4-1:

[T]here is concern that the existing septic systems could result in deteriorating groundwater quality. ... Marin County has expressed a concern that the septic tanks and associated leachlines are inadequate by County standards.

¹⁴ See DEIR, p.4.5-2.

¹⁵ There are also two additional fuel storage units located near the Gatehouse, in the northwestern portion of the property. Although the water table is not abnormally high in this area, fuel leaks can contribute to polluted surface runoff.

The Natural Resources Section of Chapter 2 of the LUP specifies Tomales Bay as an important marine resource to be protected as a habitat for a diverse range of marine plants, fish, invertebrates, birds, and occasionally mammals, and as the site of recreational and commercial fishing and shellfish harvesting. The LUP goes on to discuss threats to water quality in Tomales Bay, specifically citing contaminated runoff from “widespread use of septic systems along the shore and in the watershed”. The LUP notes that many septic systems at Lawson's Landing are old and the use of them is unregulated. In addition, leachfields, such as the unpermitted one currently operating at the property, can erode and the filtration potential of the field can decrease, impacting water quality.

In addition to the site specific discussion in Chapter 2, LUP Chapter 3 generally addresses the effects of diking, filling, and dredging of wetlands on water quality. As stated below in Section IV.E.2.b.ii, these actions must protect the water quality functioning of the wetland area they affect.

b. Limitations on the Filling of Wetlands

i. Coastal Act

Coastal Act Section 30233(a) states:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to...

The section then goes on to list the eight circumstances under which, provided that the other criteria set forth in the subsection are satisfied, diking, filling, or dredging can occur. Subsection (c) also requires that any such activities “maintain or enhance the functional capacity of the wetland or estuary.” Fill is broadly defined under the Coastal Act to include “earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.”

The main meadow area in the southern portion of the property, where heavy recreational day-use and overnight camping take place, contains extensive wetland areas (**Exhibit 11**). Wetlands in this and in other areas have been filled and unpermitted development has been placed on top of the fill to facilitate recreational activities. The unpermitted fill of wetlands at issue in this matter does not represent the least environmentally damaging alternative for placement of development on the property. No CDP has been issued, and feasible mitigation measures have not been explored and are not in place. Moreover, the unpermitted development in the wetlands at issue does not meet the Coastal Act Section 30233 criteria for allowable fill. Finally, the wetland areas that have been filled to support unpermitted development on the property no longer function as wetlands. Thus, the fill activities are inconsistent with this resource protection policy.

ii. LCP

The Diking, Filling, and Dredging subsection of LUP Chapter 3, Chapter 2 Natural Resources Policies, and Section 22.56.1301G.5 of the LCP Implementation Plan reiterates the criteria set forth in Coastal Act Section 30233 for allowable diking, filling, or dredging activities. Therefore, the analysis above regarding fill of wetlands that has occurred on the property is inconsistent with the LCP as well.

c. Protection of Environmentally Sensitive Habitat Areas

i. Coastal Act

Coastal Act Section 30107.5 defines environmentally sensitive habitat areas as follows:

"Environmentally sensitive area" means 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.

Coastal Act Section 30240 states the Coastal Act Chapter 3 policy regarding protection of environmentally sensitive habitat areas as follows:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The property contains extensive coastal dune and wetland areas. **(Exhibit 12)** Development has occurred in these areas, resulting in the loss of the landforms and the ecosystems that they support. Coastal dunes have been graded to create roads and building pads for trailers and other structures. Wetland areas have been filled in order to create more developable area. As stated above, fill does not only denote placement of dirt on submerged areas such as wetlands, but refers to the placement of any substance or material, including the unpermitted development at issue.

Coastal dunes in California are rare and especially susceptible to degradation from increased development such as that which has occurred on the property. The dunes support an equally rare and threatened natural community that has adapted to survive in dynamic dune systems. Endangered Tidestrom's lupine (*Lupinus tidestromii*) has been observed growing in dunes on the property, the Pacific sand scarab beetle (*Lischanthe ursine*), a federal "species of special concern," lives in the foredunes on the property, and an endangered Peregrine falcon (*Falco*

peregrinus) has been observed hunting in the active back dunes.¹⁶ Dunes also protect inland areas from wind and wave impacts. The dunes on site are part of the Tomales Dunes complex, which extends from north of the property in the community of Dillon Beach to the Sand Point area in the southern portion of the property. The composition of the Tomales Dunes complex is a unique combination of young, active dunes and old, stable, vegetated dunes. The dunes represent the largest continuous area of native coastal scrub-vegetated paleodunes in California north of Monterey.¹⁷

Unpermitted development on the property located on or immediately adjacent to dunes can impact the dunes and the environmentally sensitive ecosystem the dunes support. In addition, the unpermitted development not only has the potential to significantly disrupt the dunes on the property, but can also result in fragmentation of the dune complex, thereby impacting a much larger area of dunes. Therefore, unpermitted development in and around the dunes on the property is inconsistent with Coastal Act Section 30240(a).

The complex also contains a high proportion of dune slack areas that support coastal wetlands. As stated previously, dune slack wetlands are wetlands created when the surface of a lower elevation, or trough, of a dune is at or near the water table. Healthy wetland ecosystems are a habitat for a diverse array of plant and animal species and provide valuable water quality functions. California's wetlands are valuable yet scarce resources that are easily impacted by human activities.

The DEIR includes a wetlands delineation prepared by the Army Corps of Engineers. (**Exhibit 13**) This delineation only addresses functional seasonal and tidal wetland areas that are not currently affected by development. Moreover, the delineation only addresses areas that are considered wetlands pursuant to Section 404 of the Clean Water Act. 33 U.S.C. §1344. Areas that legally constitute wetlands under the Coastal Act but not the Clean Water Act definition are not included. Commission staff requested a Coastal Act wetlands delineation from Lawson's Landing. Although the deadline set for Lawson's Landing to submit the delineation was August 31, 2006, as of the date of this report, Commission staff has not received it. As part of the Consent agreement, Lawson's Landing has agreed to submit the wetlands delineation and any additional information required to complete the County and Commission applications. Even the Army Corps of Engineers concluded that significant portions of the property are wetlands. Moreover, Commission staff notes that the Coastal Act definition of wetlands is much more inclusive. Although Commission staff cannot yet determine precisely how much of the property constitutes wetlands as defined under the Coastal Act, clearly the amount will be more than the amount reflected in the Army Corps of Engineers delineation.

The construction or placement of unpermitted development in or immediately adjacent to wetland areas on the property can potentially result in loss of wetlands and can also potentially cause significant impacts to wetland functioning and to the ecosystem that the wetlands support, which is inconsistent with Coastal Act Section 30240. In addition, unpermitted development can

¹⁶ See DEIR, Appendices A and B of Volume II: Technical Appendices.

¹⁷ See DEIR, p. 4.13-1.

constitute fill as defined in the Coastal Act and therefore, placement of the unpermitted development in wetland areas is also inconsistent with Coastal Act Section 30233.

ii. LCP

The Natural Resources subsection of Chapter 2 of the LUP specifically designates the coastal dunes in Sand Point in the southwestern region of the property as environmentally sensitive habitat.¹⁸ The subsection goes on to state that "heavy recreational use in dune areas ... can adversely impact dune stability and should be regulated to prevent this occurrence." Unpermitted development on the property has taken place in the sand dunes and has increased the recreational use in those areas by providing access roads, trailers, campgrounds, and other facilities. The development activities were not regulated or conditioned to protect the dune habitat and are therefore inconsistent with the LUP.

Policy 2 of the Natural Resources subsection of Chapter 2 of the LUP reiterates the strict limitations on diking, filling, and dredging activities that can occur in wetlands. The policy also requires the establishment of a 100-foot buffer around wetland areas and specifically requires that any CDP application on any parcel located adjacent to Tomales Bay contain supplemental biological information that identifies the wetlands on the property and the location of the 100-foot buffers. Parcels in the southern portion of the Sand Point region of the property are adjacent to Tomales Bay. There are obviously no buffers around the wetland areas that were filled, and Lawson's Landing has not identified buffers around the wetland areas that are identified in the Army Corps of Engineers' wetland delineation. In fact, the wetland delineation shows unpermitted roads located immediately adjacent to wetland areas and unpermitted trailers located immediately adjacent to the unpermitted roads. (See **Exhibit 13**) These activities are clearly inconsistent with the wetlands protection policies of the LCP.

Lawson's Landing was required to submit information identifying wetlands on those parcels under Policy 2. Commission staff and County staff determined that a wetlands delineation for the entire property was required to process CDPs for development on the property and requested this information in April of 2006. As of the date of this report, Lawson's Landing has not submitted the information. However, as part of the proposed Consent Order, Lawson's Landing has agreed to submit this information in a timely manner.

d. Protection of Scenic and Visual Qualities

i. Coastal Act

Coastal Act Section 30251 states:

¹⁸ Unless otherwise specified, any citation to Chapter 2 of the Marin LCP refers to the first subsection of Chapter 2 of Unit II of the LCP, titled "Natural Resources". Although wetlands are specifically addressed in Policy 4 of this section of the LCP, Policy 5 defines environmentally sensitive habitats as "habitats of rare or endangered species and unique plant communities." The wetlands at issue in this matter clearly fall within this definition, as well as the Coastal Act definition of ESHA set forth in Section 30107.5.

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 landforms....

The western and southern boundaries of the property abut stretches of public beach that extend from the mean high tide line to the waters of Bodega Bay and Tomales Bay respectively. Members of the public, including those who are and are not utilizing the facilities on the property, can access and enjoy the public beach adjacent to the property. Beachgoers' views of this coastal area are impacted by unpermitted development sited on top of dunes on the property. This development has altered the landforms that the dunes comprise and has done so in a way that is not visually compatible with the character of the surrounding coastal environment, which is inconsistent with Coastal Act Section 30251.

ii. LCP

The New Development/Land Use subsection of LUP Ch. 4 expands on the reasons for the protection of scenic resources required under Coastal Act Section 30251 as follows:

Visual resources, including beaches, wetlands, and other natural as well as manmade features, are vulnerable to degradation through improper location of development, blockage of coastal views, alteration of natural landforms by poor cutting, grading, and filling practices...The primary concern of the Coastal Act is to protect views to scenic resources from public roads, beaches, trails, and vista points. (emphasis added)

The subsection goes on to identify Tomales Bay and surrounding areas as particularly scenic. The subsection states that development in these areas, including along the shoreline of Tomales Bay, "has the potential for significant adverse visual impacts unless very carefully sited and designed." Accordingly, Policy 3a of the New Development/Land Use subsection of LUP Ch. 4, addresses visual impacts as follows:

The height, scale, and design of new structures shall be compatible with the character of the surrounding natural or built environment. Structures shall be designed to follow the natural contour of the landscape and sited so as not to obstruct significant views as seen from public viewing places.

The trailers and other structures built in the foredune area immediately adjacent to the public beach do not follow the natural contour of the landscape and obstruct the view of the natural dune system from the beach. The unpermitted development on the property interrupts the continuance of the relatively undeveloped surrounding land, which is inconsistent with LCP visual resource protection policies.

F. California Environmental Quality Act (CEQA)

The Commission finds that the issuance of CCC-06-CD-15 to compel compliance with the Coastal Act and LCP is exempt from any applicable requirements of the California Environmental Quality Act of 1970 (CEQA) and will not have any significant adverse effects on the environment, within the meaning of CEQA. The Order is exempt from the requirements for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2), 15061(b)(2), 15037, 15038, and 15321 of the CEQA Guidelines.

G. Summary of Findings

1. The property is located in northwestern Marin County, immediately south of the community of Dillon Beach.
2. Lawson's Landing is identified by the Marin County Assessor's Office as 39 separate parcels, each owned by one or more of the following persons or entities: Merle and Icymae Lawson, Lawson Beach, Lawson Brothers, Lawson Brother Partners/Nita Lawson. Michael Lawson is the contact and agent for service of documents for all of the property owners.
3. The facilities on the property are operated by Lawson's Landing, LLC, of which Michael Lawson is the representative and agent for service of documents.
4. Unpermitted development activities, including unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction or placement of development items, have been undertaken on the property. Currently, the result of the unpermitted development on the property includes but is not limited to the presence, on the property, of the following: 233 trailers, a campground with a 1,000-vehicle capacity, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a 35-buoy boat mooring facility, a 18-slip boat yard, twelve boats, a laundry facility, and a 221-foot long pier.
5. The activities that were undertaken on the property constitute "development" as that term is defined in Coastal Act Section 30106 and a "project" (or multiple "projects"), which is the LCP equivalent to development as defined in Section 22.56.0301C of the LCP Implementation Plan.
6. Development activities conducted prior to the enactment of the Coastal Act did not receive the necessary authorization that was required by existing State and/or local law at the time that the activities were undertaken.
7. No CDP was obtained from Marin County or the Coastal Commission to authorize the development at issue in this matter. No permit exemptions apply to these activities. No vested right has been obtained for any of the development. Marin County has not determined that legal non-conforming uses exist on the property.
8. The property contains environmentally sensitive coastal dune and wetland areas. Unpermitted development, including but not limited to that specified in Finding #4 above, was placed in or immediately adjacent to the dunes and wetlands.

9. On February 21, 2006, Coastal Commission staff sent a Notice of Violation letter to Nancy Vogler, in her capacity as representative and agent for service of process for Lawson's Landing, Inc. and property owners. The Notice of Violation cited the Coastal Act violations on the property and directed Lawson's Landing to submit a CDP application to staff, addressing all of the unpermitted development within the Coastal Commission's jurisdiction, on or before May 1, 2006.
10. On July 12, 2006, Coastal Commission enforcement staff sent another Notice of Violation to Nancy Vogler, in her capacity as representative for Lawson's Landing, Inc. and the property owners, again requesting a CDP application for the development located in the Coastal Commission's jurisdiction and providing a September 1, 2006 submittal deadline.
11. On October 13, 2006, the Executive Director of the Coastal Commission issued a Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings and to Record a Notice of Violation ("CDO NOI"), addressing the unpermitted development on the property and explaining that the proposed Cease and Desist Order would direct Lawson's Landing to submit and/or complete CDP applications for the development on the property.
12. On October 31, 2006, Lawson's Landing submitted a CDP application to Coastal Commission permit staff. Lawson's Landing withdrew this Statement of Defense on November 30, 2006.
13. Lawson's Landing submitted both a Statement of Defense in response to the October 13, 2006 Notice of Intent and a timely, written objection to the recordation of a Notice of Violation on November 3, 2006.
14. All of the unpermitted development listed in the CDO NOI and addressed in this report remains on the property as of the date of this report.
15. Coastal Act Section 30810 authorizes the Coastal Commission to issue a cease and desist order after holding a public hearing.
16. Under Coastal Act Section 30810(a)(2), the Coastal Commission has the authority to take this enforcement action with respect to the portion of the property within Marin County's certified LCP jurisdiction, and to pursuant to Coastal Act Sections 30810 and 30810(a)(2) issue this Order to compel submission and completion of CDPs to both the Coastal Commission and Marin County.

H. Violator's Defenses and Commission Response

Lawson's Landing submitted a Statement of Defense ("SOD") in response to the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings, dated October 13, 2006. A consent agreement was subsequently reached in this case to amicably resolve the violations at issue, and through that consent agreement, Lawson's formally withdrew its defenses. Therefore,

although the SOD and Commission staff's recommendations for Commission responses to the defenses raised in SOD remain part of the Commission Administrative Record and the Cease and Desist Order file, for this matter, these documents have not been physically attached to this report.

Staff recommends that the Commission issue the following Consent Cease and Desist Order:

CONSENT CEASE AND DESIST ORDER
No. CCC-06-CD-15 (LAWSON'S LANDING)

1.0 General

Pursuant to its authority under Public Resource Code section 30810, the California Coastal Commission ("Commission") hereby orders Merle and Icymae Lawson, Lawson Beach, Lawson Brothers, Lawson Brothers Partners/Nita R. Lawson, Lawson's Landing, Inc. (hereinafter collectively referred to as "Respondents") and any person acting in concert with any of the foregoing to comply with the following terms and conditions, and they agree to undertake the following pursuant to this Consent Order and in the interests of resolving and settling this matter:

2.0 Further Unpermitted Development

Respondents agree that they shall cease and desist from performing any further development activity at the property, as identified in Section 5.0 below that requires a Coastal Development Permit without first obtaining a Coastal Development Permit. Nothing in this Consent Order prohibits Lawson's Landing from continuing its current operational activities, provided the activities are not expanded and the intensity of uses on the property are not increased.

3.0 Completion of Coastal Development Permit (CDP) Applications

3.1 Commission CDP

- 3.1.1 Within 120 days from the issuance date of this Consent Order or within such additional time as the Executive Director may grant for good cause, Respondents shall submit all materials that are required to complete Coastal Development Permit (CDP) application No. 2-06-018, which are listed in Attachment A of this Order, to the Commission's North Central District Office. The application shall address all existing unpermitted development, as pertains to Coastal Act laws and regulations, identified in Section 6.0 on the portion of the property identified in Section 5.0 that is located within the Commission's permitting jurisdiction. If Respondents believe that one or more items of development listed in Section 6.0 do not exist on the property, Respondents shall submit evidence supporting the claim(s) to Commission permit staff. If the Commission staff determines that the claim is correct, the Consent Order shall not apply to that portion of development.

- 3.1.2 Respondents shall not withdraw the application submitted under Section 3.1.1 and shall allow the application to proceed through the Commission permitting process according to applicable laws.
- 3.1.3 Within thirty days of the date of issuance of this Order, Respondents shall submit to the County copies of information previously provided to Commission staff under this Consent Order but not also provided to the County. Future submittals to the Commission under this Order shall be submitted concurrently to the County.
- 3.1.4 If the Executive Director determines that additional information is required to complete CDP application No. 2-06-018, the Executive Director shall send a written request for the information to the Respondents, which will set forth the additional materials required and provide a reasonable deadline for submittal. Respondents shall submit the required materials by the deadline specified in the request letter.
- 3.1.5 Respondents shall fully participate and cooperate in the Commission permitting process, provide timely responses, and work to move the process along as quickly as possible, including responding to requests for information.
- 3.1.6 Based on the understanding that Lawson's Landing will fully cooperate and the County CDP process will be completed within a reasonable amount of time, if possible, it is the intent of the Commission to process the Commission CDP after the County has taken action on the CDP currently before it, conditioned upon Lawson's Landing taking any procedural steps necessary to accommodate this sequence of events.

3.2 County CDP

- 3.2.1 Within sixty days from the issuance date of this Consent Order or within such additional time as the Executive Director may grant for good cause, Respondents shall submit the materials requested by the Commission in Commission staff's April 12, 2006 letter and as set forth below, in reference to the Master Plan/CDP/Tidelands Permit application (State Clearinghouse No. 2000092067), which shall address all existing unpermitted development identified in Section 6.0 on the portion of the property identified in Section 5.0 that is located within the County's jurisdiction,. The information required includes:

- A. Wetlands delineation, identifying and mapping all Coastal Act wetlands on the site.

B. Updated environmentally sensitive habitat area (ESHA) surveys, identifying and mapping all ESHAs on the site.

C. Updated vegetation mapping.

3.2.2 If the Executive Director, in consultation with the County, determines that additional information is required to consider, evaluate and bring to hearing CDP application No. 2-06-018, the Executive Director shall send a written request for the information to the Respondents, which will set forth the additional materials required and provide a reasonable deadline for submittal. Respondents shall submit the required information by the deadline specified in the request letter.

3.2.3 Respondents shall fully participate and cooperate in the County permitting process, provide timely responses, and work to move the process along as quickly as possible, including responding to requests for information.

3.3 Respondents shall attend status conferences with Commission permit staff and County staff monthly to discuss the progress of the CDP applications and to determine if additional materials or actions are necessary. Commission permit staff may report on progress in this matter to the Commission as appropriate. If these processes do not result in timely progress toward resolution, the Commission shall consider exercising its enforcement authorities to address the situation.

3.4 Respondents shall comply with requests from the County or Commission permit staff, which are made in order to complete the CDP applications, within the timeframe provided.

3.5 Respondents shall comply fully with the terms and conditions of any coastal development permit that the Commission or the County may grant in response to the applications referenced in Sections 3.1 and 3.2 above.

4.0 Persons Subject to the Order

Persons subject to this Consent Order are Respondents, their agents, contractors and employees, and any persons acting in concert with any of the foregoing. Michael J. Lawson is the representative and agent for service of documents for Respondents.

5.0 Identification of the Property

The property that is subject this Consent Order is described as follows:

Approximately 940-acre property, referred to as Lawson's Landing, located in northwestern Marin County immediately south of the community of Dillon Beach (APNs 100-100-07, 100-100-08, 100-100-21, 100-100-22, 100-100-48, 100-100-49, 100-100-59, 100-201-01, 100-202-

01, 100-202-02, 100-203-02, 100-100-203-03, 100-204-01, 100-204-02, 100-205-03, 100-206-01, 100-206-02, 100-207-02, 100-207-03, 100-208-01, 100-208-02, 100-211-01, 100-211-02, 100-212-01, 100-212-02, 100-213-01, 100-213-02, 100-214-01, 100-214-02, 100-215-01, 100-215-02, 100-216-01, 100-216-02, 100-217-01, 100-217-02, 100-218-01, 100-218-02, 100-220-06, 100-230-03).

6.0 Description of Unpermitted Development

Notwithstanding any permits from other state and local agencies that the Respondents may have, the following development located on the property constitutes unpermitted development as pertains to Coastal Act laws and regulations: unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction and/or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, a pier, and other items of development.

7.0 Commission Jurisdiction and Authority to Act

A portion of the property lies within an unincorporated area of Marin County, which is subject to certified Marin County Local Coastal Program permitting requirements. The remaining portion of the property is located within the Commission's retained permit jurisdiction and is subject to Coastal Act permitting requirements. *The Commission has undertaken enforcement action with respect to the portion of the property located within the County's certified LCP jurisdiction pursuant to Coastal Act Section 30810(a)(2), which reads:*

(2) The commission requests and the local government or port governing body...does not take action in a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.

The Commission issues this Consent Order pursuant to its authority under Coastal Act Section 30810.

8.0 Waiver of Defenses

Respondents have waived their rights to contest the legal and factual basis for this Consent Order and the terms and issuance of this Consent Order. Specifically, Respondents waive their right to present defenses or evidence to contest the issuance or enforcement of the Consent Order at a public hearing or any other proceeding and agree not to contest the Commission's jurisdiction to issue and enforce this Consent Order. The parties agree that all of the necessary elements for issuance of an order under Coastal Act Section 30810 have been met. Except as provided herein, Respondents are not waiving any legal rights, positions, or defenses, by entering into this Consent Order, and Respondents retain the right to assert their legal rights, positions, and defenses in any other proceeding before the Commission, any other governmental agency, any administrative tribunal, or the court of law.

In the context of the issuance and enforcement of this Consent Order, although Respondents submitted a Statement of Defense ("SOD") in response to Commission staff's October 13, 2006 Notice of Intent to issue a Cease and Desist Order and Restoration Order, in furtherance of Respondents' desire to resolve these matters in settlement, Respondents now hereby retract and withdraw all of their affirmative defenses, denials, responses to alleged facts, independent allegations, and items of evidence submitted in, or in conjunction with, their SOD.

9.0 Effective Date and Terms of the Consent Order

The effective date of the Consent Order is the date of approval by the Commission. The Consent Order shall remain in effect permanently unless and until modified or rescinded by the Commission.

10.0 Submittal of Documents

According to the terms and conditions of this Consent Order, all documents submitted pursuant to this Consent Order must be sent to:

California Coastal Commission
Attn: Ruby Pap
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219.

Marin County Community Development Agency
Attn: Ben Berto
3501 Civic Center Drive, Rm. 308
San Rafael, CA 94903-4157

11.0 Findings

The Consent Order is issued on the basis of the findings adopted by the Commission at the December 2005 hearing, as set forth in the attached document entitled: Staff Report and Findings for Consent Cease and Desist Order as well as the testimony and any additional evidence presented at the hearing. The activities authorized and required in this Consent Order are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act and the resource protection policies of the certified Marin County Local Coastal Program.

12.0 Compliance Obligation

Strict compliance with the Consent Order by all parties subject thereto is required. Failure to comply strictly with any term or condition of the Consent Order including any deadline contained in the Consent Order, unless the Executive Director grants an extension under Provision 12.0, will constitute a violation of this Order and may result in the imposition of civil penalties, under Coastal Act Section 30821.6, of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which the violation persists, in addition to any other penalties authorized under Chapter 9 of the Coastal Act, including exemplary damages under Section 30822. If Respondents violate this Consent Order, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to

Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Order and for the underlying Coastal Act violations as described herein.

13.0 Extension of Deadlines

The Executive Director may extend deadlines for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least ten days prior to expiration of the subject deadline. The Executive Director shall grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Respondents have diligently worked to comply with their obligations under this Consent Order, but cannot meet deadlines due to unforeseen circumstances beyond their control.

14.0 Site 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 this Consent Order. Nothing in this Consent Order 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 Consent Order 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 this Consent Order.

15.0 Modifications and Amendments to this Consent Order

Except as provided in Section 12.0 of this order, this Consent Order may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

16.0 Waiver of the Right to Appeal and Seek Stay

Persons against whom the Commission issues a Cease and Desist and/or Restoration Order have the right pursuant to Section 30803(b) of the Coastal Act to seek a stay of the order. However, pursuant to the agreement of the parties as set forth in this Consent Order, Respondents agree to waive whatever right they may have to seek a stay or to challenge the issuance and enforceability of this Consent Order in a court of law.

17.0 Government Liability

The State of California, the Commission and its employees shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to this Consent Order, nor shall the State of California, the Commission or its

employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Consent Order.

18.0 Settlement of Claims

- 18.1 The Commission and Respondents agree that this Consent Order settles their monetary claims for relief for those violations of the Coastal Act specifically resolved through the commitments contained in this Consent Order, and occurring prior to the date of this Consent Order, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including Sections 30805, 30820, and 30822), with the exception that, if Respondents fail to comply with any term or condition of this Consent Order, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of this Consent Order. This Consent Order does not limit the Commission from taking enforcement action to enforce this Consent Order or due to Coastal Act violations at the subject property not resolved herein, provided however, future commission actions regarding matters beyond this Consent Order would constitute new actions, for which notice and the opportunity for submittal of a Statement of Defense under Chapter 9 of the Coastal Act would be provided.
- 18.2 Strict compliance with this Consent Order by all parties subject thereto is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained in this Consent Order, unless the Executive Director grants an extension under 13.0, will constitute a violation of this Consent Order and shall result in Respondents being liable for stipulated penalties in the amount of **\$200** per day per violation. Respondents shall pay stipulated penalties within fifteen days of receipt of written demand by the Commission for such penalties regardless of whether Respondents have subsequently complied. If Respondents violate this Consent Order, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Order and for the underlying Coastal Act violations as described herein.

19.0 Successors and Assigns

This Consent Order shall run with the land binding Respondent and all successors in interest, heirs, assigns, and future owners of the property. Respondents shall provide notice to all successors, assigns, and potential purchasers of the property of any remaining obligations under this Consent Order.

20.0 Governmental Jurisdiction

This Consent Order shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California.

21.0 Scope of Order

This agreement is designed to assist in establishing a process for resolving the situation as it currently exists in a timely fashion. It does not provide a final resolution as to the disposition of the development at the site. 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 this Consent Order.

22.0 Representative Authority

The signatory below attests that he/she has the authority to represent and bind in this agreement the various owners and entities comprising Lawson's Landing.

23.0 Integration

This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this Consent Order.

24.0 Stipulation

Respondents and their representatives attest that they have reviewed the terms of this Consent Order and understand that their consent is final and stipulate to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:

On behalf of Respondents:

Michael J. Lawson, Representative for Respondents

Date

Executed in San Francisco on behalf of the California Coastal Commission:

Peter Douglas, Executive Director

Date

**CCC-06-CD-15
Exhibit List**

Click on the link at left to
go to the exhibits.

Exhibit Number	Description
1.	Site Map and Location.
2.	Habitat Types Map, Exhibit 4.13-1 of DEIR, Marin County, 2005.
3.	Letters to the County from Commission staff dated October 6, 2006, October 23, 2006, and November 28, 2006; letter to Commission from County dated November 30, 2006.
4.	Samples of letters sent from members of the public to the Commission regarding the Lawson's Landing facilities, sent prior to the commencement of this enforcement action.
5.	Letters sent from members of the public to the Commission regarding Lawson's Landing facilities, sent after the commencement of this enforcement action.
6.	Notice of Violation letter sent from Commission staff to Lawson's Landing, dated February 21, 2006.
7.	Letter from Commission staff to Marin County, dated April 12, 2006.
8.	Notice of Violation letter sent from Commission staff to Lawson's Landing, July 12, 2006.
9.	Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings and to Record a Notice of Violation of the Coastal Act, issued to Lawson's Landing from the Executive Director on October 13, 2006.
10.	Photographs showing unpermitted development on the property.
11.	Aerial photograph showing main meadow area and associated recreational activities.
12.	Photographs showing dunes and wetlands on the property.
13.	Army Corps of Engineers wetland delineation, Exhibit 4.13-2 of DEIR, Marin County, 2005.