

CALIFORNIA COASTAL COMMISSION

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

**ADDENDUM****M15a**

DATE: July 6, 2007
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Addendum to Agenda Item M15a, Appeal of Executive Director Determination (Revell), for the Monday, July 9, 2007 Commission Hearing

The purpose of this addendum is to: (1) provide corrected location of public stairway for Thousand Steps beach; and (2) attach correspondence from the applicants' representative, Alan Block.

Note: ~~Strikethrough~~ indicates text to be deleted from the June 21, 2007 staff report and Underline indicates text to be added to the June 21, 2007.

1. The attached revised figure illustrating the location of Thousand Steps Beach shall be replaced in Exhibit 16 of the staff report.
2. The July 3, 2007 correspondence from the applicants' representative, Alan Block, in opposition to the staff recommendation shall be attached to the staff report as Exhibit 17, *Correspondence*.
3. The July 5, 2007 correspondence from Cynthia McClain-Hill, Strategic Counsel in opposition to the staff recommendation shall be appended to Exhibit 17.
4. The May 29, 2007 correspondence from Steve Hoye, Access For All in support of the staff recommendation shall be appended to Exhibit 17.

Public Stairs At Thousand Steps Beach, South Laguna



Map Source: RealQuest



Photo Source: California Coastal Records Project

ALAN ROBERT BLOCK
JUSTIN MICHAEL BLOCK

OF COUNSEL
MICHAEL N. FRIEDMAN

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ALAN ROBERT BLOCK
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andie@blocklaw.net

July 3, 2007

California Coastal Commission
Southern Central Coast Area Office
89 South California Street, Suite 200
Ventura, California 93001

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: Dispute Resolution No. A-22080-A2-EDD

Applicants; Graham and Brenda Revell
Property Address: 32340 Pacific Coast Highway, Malibu, CA

EDD Appeal Description: Appeal of the Executive Director's Determination to reject CDP Amendment Application A-220-80-A2, which sought to delete Special Condition No. 2 of the underlying permit as previously amended in order to eliminate the requirement that the applicant construct public accessway improvements along the shoreline, including two stairways necessary to provide public access along and over a headland bluff.

Dear Commissioners:

This office, along with Strategic Counsel, represent Mr. and Mrs. Graham Revell ("Applicants") with regard to the above challenge of the Executive Director's determination to reject their CDP amendment application to delete Special Condition No. 2 from the previous 1982 permit amendment approval.

As state in the Staff Report, dated June 21, 2007, the standard of review for the appeal of the Executive Director's rejection of an amendment application requires the Commission to overturn the Executive Director's determination if it finds that either 1) the proposed amendment request would not lesson or avoid the intended effect of an approved or conditionally approved permit, or 2) the applicants have presented newly discovered material information, that could not, with reasonable diligence, have been discovered and produced before the permit was granted.

Page 2

The following documents and photographs evidence that substantial evidence exists in the record to support a finding that 1) the proposed amendment request would not lessen or avoid the intended effect of an approved or conditionally approved permit, *and* that 2) the applicants have presented newly discovered material information, that could not, with reasonable diligence, have been discovered and produced before the permit was granted.

The documents and photographs attached are as follows:

Exhibit 1: Applicable pages of the South Coast Regional Coastal Commission Transcript for P-77-2107, dated January 5, 1978. Said transcript evidences that 1) the applicants wooden stairway existed as of January 1978, and 2) that public access around the headland was not available, even at low tide. Further that the transcript omits any reference to the presently existing sea caves which presently provide public access at all times except at high tide. A copy of the applicable pages of this transcript was previously submitted to the Commission's Ventura South Central Coast Area Office, as Exhibit 2 in correspondence forwarded to the Commission by Alan Block, dated April 29, 2005.

Exhibit 2: Photograph Nos. 1-7 were taken by Alan Block on June 13, 2007, at approximately 1:00 p.m. As evidenced in the Surfline Tide Prediction for Malibu Point, as taken from *zen.surfline.com*, the high and low tides as well as wave heights on June 13, 2007, reveal that low tide on June 13th was at approximately 3:00 p.m. with almost 3 ft. high waves. The tide and wave heights at 2:00 p.m. were slightly higher. Photograph Nos 1-7 evidence the following:

Photograph No. 1: That the applicants have removed the lawn and sprinkler system previously placed on the top of the headland by a former owner. Photograph No. 1 also evidences the most landward sea cave on the east side of headland.

Photograph No. 2: The beach and headland to the east of the applicants property.

Photograph No. 3: The location of large rocks seaward of the mean high tide line on the applicants property to the immediate east of the headland. The location of the rocks would make it impossible for a barge to bring in the excavator, crane and drilling equipment that Anacapa Construction, Inc., has indicated is necessary to construct the foundation of the proposed accessway improvements.

Photograph No. 4: The most landward sea cave on the east side of the property.

Photograph Nos. 5, 6, and 7: Public beach goers walking towards and through the most landward sea cave on the east side of the applicants property.

Exhibit 3: Survey taken by Peak Survey, Inc., at approximately 4:00 p.m. on June 28, 2007, evidencing the existence of the two sea caves on the property, the height of the entrances to both sea caves, and the location of the mean high tide line on both sides of the headland. Said survey delineates that the heights of the entrances to the most landward sea cave on the west and east sides of the headland are respectfully 4.5 ft. and 5 ft.; and the height of the west and east entrances to the most seaward sea cave to be respectfully 15.5 ft. and 8 ft. Surfline Tide Prediction for Malibu Point, as taken from *zen.surfline.com*, evidences the high and low tides as well as wave heights on June 28, 2007. Low tide on June 28th being at approximately 2:00 p.m. with almost 3 ft. waves. The tide and wave heights at 4:00 p.m. were higher.

Exhibit 4: Photographs Nos 8-18 were taken by Alan Block on June 29, 2007, at approximately 1:00 p.m. Surfline Tide Prediction for Malibu Point, as taken from *zen.surfline.com*, evidences the high and low tides as well as wave heights on June 29th. Said chart evidences that high tide on June 29th was at approximately 11:00 a.m. with approximately 3.5 ft. high waves. The tide and wave heights at 1:00 p.m. were slightly lower. Photograph Nos 8- 20 evidence the following:

Photograph No. 8: The approximate location of the mean high tide line at 1:00 p.m. on the west side of the headland. (This is not the wave rush up line, but merely the approximate location of the mean high tide line)

Photograph No. 9: The location of the stick in the sand delineates the approximate location of the mean high tide line at 11:00 a.m. on the west side of the headland. The photograph also depicts the applicants wooden stairway which is believed to have existed on the property since prior to Proposition 20 and which is referenced in the South Coast Regional Commission Transcript for CDP P-77-77-2107 on January 5, 1978. See Exhibit 1 above.

Photograph No. 10: The beach on the west side of the headland. The wave rush up lines can be determined by the debris on the beach.

Photograph No. 11: The entrance to the most landward sea cave on the west side of the headland. The gentleman standing in front of the sea cave entrance is 6 ft. 5 inches.

Photograph No. 12: Depicts Coastal Engineer David Weiss walking east through the most landward headland.

Photograph Nos. 13 and 14: Reveals respectfully the interior height of the most seaward sea cave looking east as well as members of the public standing inside.

Photograph No. 15: The east entrance of the most seaward sea cave.

Photograph No. 16: The height of the east side of the headland at approximately 30 ft. and the eastern entrance to the most landward sea cave on the property. Although the Staff Report states that the "Commission knew that the height of the headland was 30 ft. above the sand beach level in 1982", the 1987 approved plans for the accessway improvements provide for only 14 ft. high stairways.

Photograph No. 17: Rocks in the ocean on the eastern side of the headland.

Photograph No. 18: A view of the beach and wave rush up line on the eastern side of the applicants and adjacent neighbors property

Exhibit 5: Photographs Nos 19-21 were taken by Sinan Revell on October 23, 2006 at approximately 10:00 a.m. Surfline Tide Prediction for Malibu Point, as taken from *zen.surfline.com*, evidences that the high and low tides as well as wave heights on October 23rd. Said chart evidences that the photographs were taken at high tide with approximately 5.5 ft. high waves. Photograph Nos 19-21 evidence the following:

Photograph No. 19: The entire beach on the west side of the applicants property is under water. Said photograph evidences that at high tide both the beach, and proposed accessway improvements, would be unsafe and/or unusable at high tide.

California Coastal Commission
Re: Dispute Resolution No. A-22080-A2-EDD
July 3, 2007

Page 5

Photograph Nos. 20 and 21: The entire beach on the east side of the applicants property is under water. Said photographs evidence that at high tide both the beach, and proposed accessway improvements, would be unsafe and/or unusable at high tide.

Exhibit 6: June 26, 2007 letter from Anacapa Construction, Inc. to Alan Block. Said letter confirms Anacapa's opinion that in order to construct the foundations for the accessway improvements as required in Special Condition No. 2, that an excavator, crane, and drill rig must be barged onto the property, if possible.

In light of the above the applicants vigorously contend as follows:

- That at the time the Commission originally approved A-220-80 in 1982, and imposed Special Condition No. 2, that public access was not available to the public at any time around the headland, including at low tide.
- That no where in the original permit application and/or proceedings is there any discussion and/or reference of the now existing sea caves and the public access available through the sea caves at all times except at high tides.
- That at present the public is now denied access around the headland at high tide and will continue to be denied access around the headland at high tide, even if it is physically possible to construct the accessway improvements, because both the beach and proposed accessway improvements will be unsafe and/or unusable at high tide.
- That it will be necessary to barge in large construction equipment and that the barge will not be able to dock on the east side of the headland on the applicants beach because of the location of the large rocks seaward of the mean high tide line in front of the applicants property.

Because of these reasons, as well as those previously delineated in past correspondence and documents submitted to the Commission by this office and the applicants consultants, the applicants pray that the Commission overturn the Executive Director's determination refusing to accept the applicants amendment request to delete Special Condition No. 2.

California Coastal Commission
Re: Dispute Resolution No. A-22080-A2-EDD
July 3, 2007

Page 6

The applicants request that all of the enclosed documents and photographs be made apart of the Commission's record in this matter, as well as all documents previously submitted to the Commission by the applicants as part of their opposition to Cease and Desist Order No. CCC-05-CD-13 and Restoration Order No. CCC-05-RO-9 heard by the Commission on November 17, 2005.

Thank you for your anticipated courtesy and cooperation.

Respectfully Submitted,

**LAW OFFICES OF
ALAN ROBERT BLOCK**
A Professional Corporation


ALAN ROBERT BLOCK

ARB:ah
enclosures

cc: Graham Revell
Strategic Counsel

1 PERMIT APPLICATION NUMBER: P-10-20-77-2107
2 APPLICANT : John J. Benton
3 HEARING DATE : January 5, 1978 03128
4 LOCATION OF HEARING : Torrance City Council Chambers
5 3031 Torrance Boulevard
6 Torrance, California
7 REPORTED BY : Marilyn L. Mayer
8 TRANSCRIBED BY : Marilyn L. Mayer
9 DATE TRANSCRIBED : March 15, 1978
10

11 MR. MELVIN L. NUTTER, VICE CHAIRMAN, SOUTH COAST
12 REGIONAL COMMISSION: The next item is 2107, I believe.

13 MR. MELVIN J. CARPENTER, EXECUTIVE DIRECTOR, SOUTH
14 COAST REGIONAL COMMISSION: P-2107 is a request for a single-
15 family dwelling, servant's quarters, swimming pool and an unlit
16 tennis court, on Pacific Coast Highway, in Encinal Beach area.

17 I think the main point here is this is located in such
18 an area that there is sort of a jut coming out on the beach and
19 there are two beaches, so to speak, in this area. This is on an
20 exceedingly large parcel. A single-family on 5 acres, if I
21 remember correctly. The problems insured with it, they want to
22 have a fence around it or a wall. We looked at that and made
23 certain recommendations to the applicant. He could still have the
24 wall and have it reduced down to sort of what we call a hidden
25 wall, be down below the elevation of Pacific Coast Highway, there-
26 fore, not blocking any public view. There is an existing pathway
27 on one side of the property, that comes down already to this beach,
28 and would continue to open the beach up to the public, which then

1 here. And looking out across the parcel, it gently slopes down
2 toward the Pacific. These are the existing structures. One here
3 and one immediately adjacent to the site, across a small canyon
4 here.

C0130

5 This is looking out down toward the lot, turning to the
6 right. This is the property line. There is a grove of trees
7 along it, going down from Pacific Coast Highway, to the bluff top.
8 This is the canyon, immediately adjacent to Pacific Coast Highway,
9 which is here. This is the adjacent property here. There is this
10 canyon that extends down along the property line. This is the
11 existing trail going down to the beach, down the canyon, already
12 constructed, and in use.

13 This is the headland that divides the beach below the
14 bluff. It is a 125 foot bluff here and this headland divides the
15 beach. It is virtually impossible to go around this headland.
16 The trail comes down here and then immediately goes down this set
17 of stairs, right here, to this pocket beach, and this pocket beach
18 over here, would be cut off completely, from access. Even at low
19 tide, it appears that there is no possibility of getting around
20 this headland. I've been there 3 times and one time it was at low
21 tide and it would not be possible, without swimming, to get around
22 this headland, even at low tide.

23 This is looking to the west up the pocket beach that the
24 trail exists now. In other words, from the previous picture
25 turning to the right, looking up, this is the front of -- part of
26 the front of the property, extending along this pocket beach up
27 here.

1 a far greater degree of traffic and if you look at the County's
2 method of constructing them, certainly in the past, I think you
3 will recognize that generally they like to utilize a concrete path
4 coming down the area. They will fence it on both sides with a
5 chain link fence in order to provide the security for that area
6 from the surrounding privately owned properties, and that will
7 continue down that ravine from one end of the highway, down to
8 the other end, at which point I don't know what kind of a proposal
9 would be made for the public to get from the top of the headland
10 to the bottom. For the people who live there, for whom it pro-
11 vides a very minimal amount of traffic, the stairway which goes
12 down to the beach constitutes little more than a ladder type of
13 stairway to reach from the top of the bluff down to the bottom and
14 is not much of a physical structure in and of itself. And I would
15 certainly, if the access condition were imposed, object, I would
16 think, on behalf of my client, to the construction by the County
17 or any other person who would maintain an accessway, to the
18 construction of some permanent type of a feature there that would
19 have a detracting effect from the ability of that headland to
20 provide a very beautiful visual location on the beach. But I think
21 the access to this area may well be provided for in a different
22 fashion, that is by having the access in the area that is going to
23 be acquired by the state, that is funded by the state, and for
24 whom the Department of Parks and Recreation is currently in
25 negotiation with the property owners for the acquisition of their
26 properties. And that's the area outlined in blue on this map,
27 which I have had passed out to you, and that is located within 700
28 feet of the property. And I think that 700 foot distance provides



Photograph No. 1



Photograph No. 2



Photograph No. 3



Photograph 4



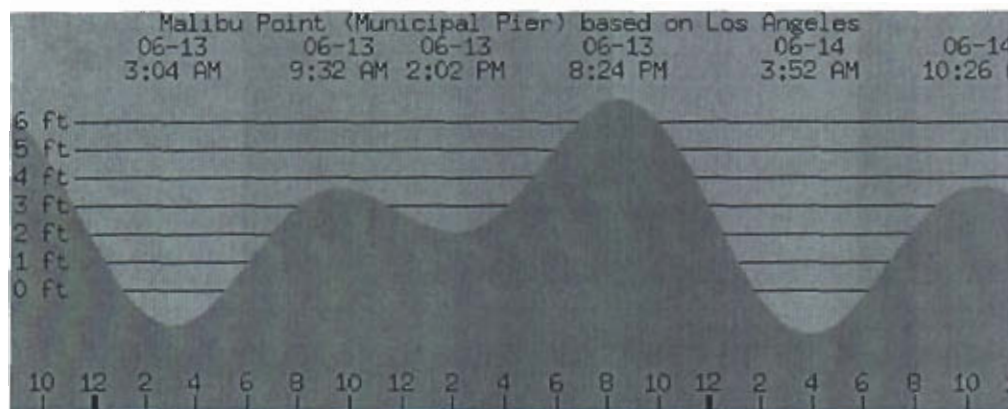
Photograph No. 5

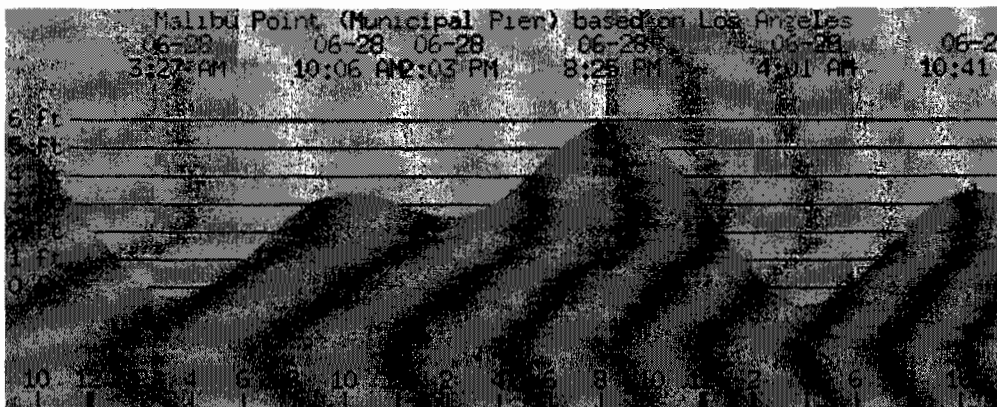


Photograph No. 6



Photograph No. 7

Surfline Tide Prediction For Malibu Point " 2007-6-13 00:00"[Make Another Prediction](#)

Surflin Tide Prediction For Malibu Point " 2007-6-28 00:00"[Make Another Prediction](#)[Print](#)



Photograph No. 8



Photograph No. 9



Photograph No. 10



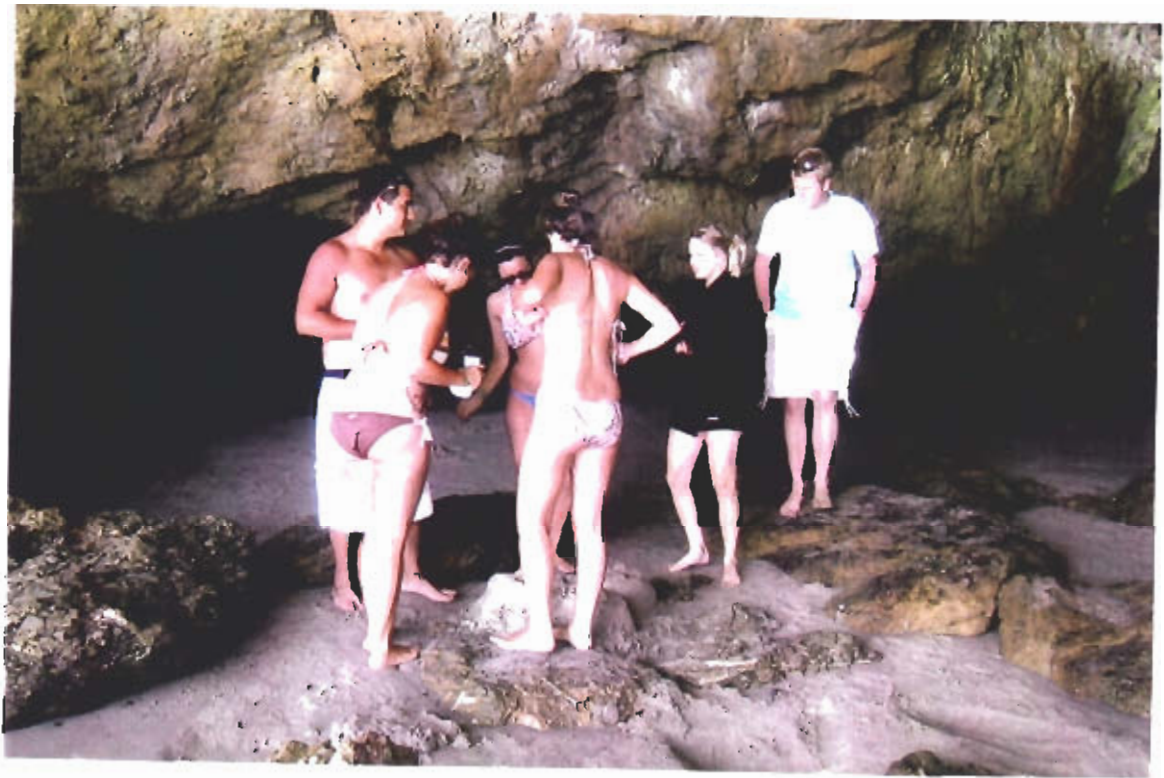
Photograph 11



Photograph 12



Photograph No. 13



Photograph No. 14



Photograph No. 15



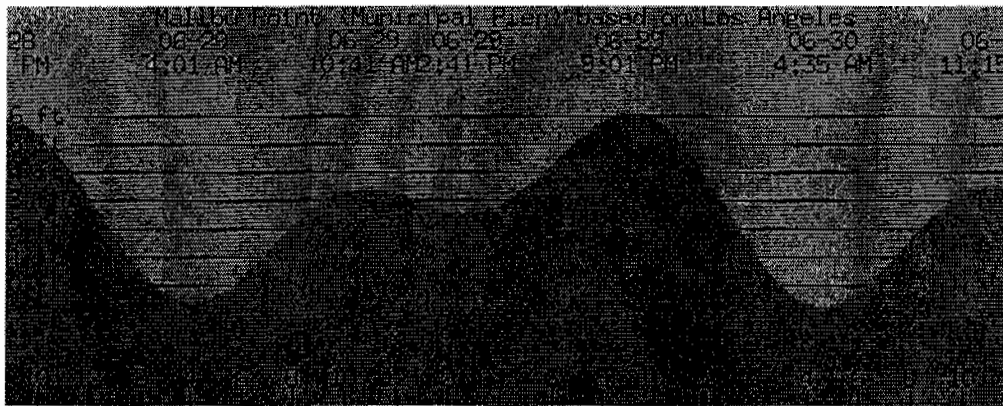
Photograph No. 16

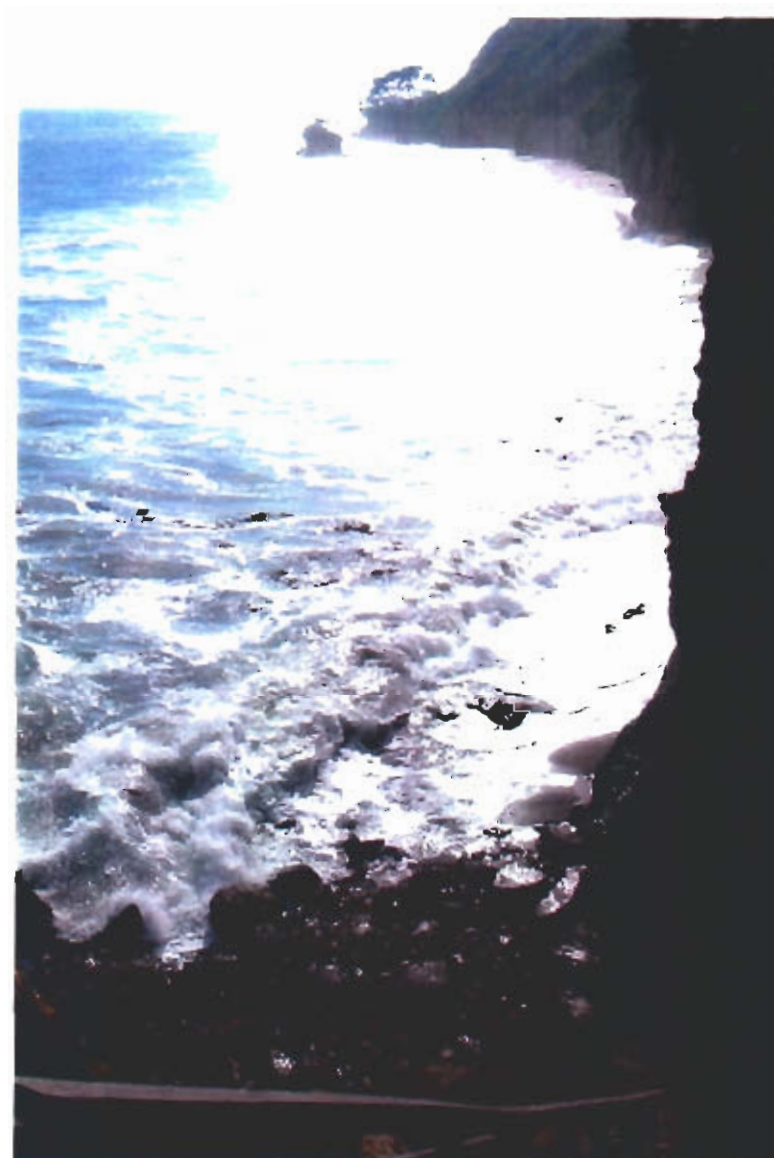


Photograph No. 17



Photograph No. 18

Surflife Tide Prediction For Malibu Point " 2007-6-29 00:00"[Make Another Prediction](#)



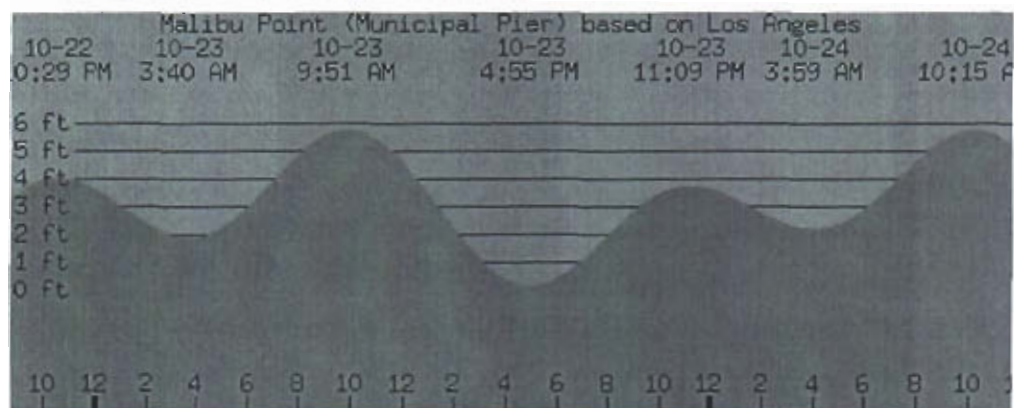
Photograph Nö. 19



Photograph No. 20



Photograph No. 21

Surflin Tide Prediction For Malibu Point " 2006-10-23 00:00"[Make Another Prediction](#)

Anacapa Construction, Inc.

P. O. Box 6206, Malibu, CA 90264 805-552-0309 phone 805-532-2088 fax

Alan Robert Block
1901 Avenue of the Stars, Suite 470
Los Angeles, CA 90067

June 26, 2007

Dear Alan:

Here are some answers to your questions.

1. What equipment is necessary to build the stairways? An excavator, a crane, a drill rig, concrete pumping equipment, hand tools and scaffolding.
2. What equipment can get down to the beach that won't have to be barged in? Hand tools, concrete pumping hose, scaffolding parts
3. What equipment must be barged in? A crane, an excavator, and a drill rig
4. How much money will it take to have the equipment barged in? Between \$110,000.00 - \$200,000.00
5. Where will they most likely barge the equipment in from? Most likely, the equipment will be barged in from the Long Beach area.
6. How long will it take to barge the equipment in? Two days
7. How long in all likelihood will the barge be on the beach? This is somewhat of an unknown. Preferably, the barge would move the equipment in and leave until it has to be picked up, however this would necessitate building a temporary platform at the land side of the beach to keep the surf from crashing up on the equipment during high tide. If the barge were parked, it would require two operators and a tug everyday and would most likely run the barge expense well over the \$200,000.00 number.
8. How long will it take to unload the equipment from the barge? One day

Sincerely,



Lucian Warren



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July 5, 2007

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Commissioner Patrick Kruer
Chairman, California Coastal Commission
c/o The Monarch Group
7727 Herschel Avenue
La Jolla, CA 92037

**Re: Application No. A-220-80-A2-EDD [32340 Pacific Coast Highway,
Malibu] Appeal of Executive Director's Rejection of Amendment
Application**

Dear Commissioner Kruer,

This office, along with the Law Offices of Alan Robert Block, represents Graeme and Brenda Revell with regard to the above referenced matter. Due to significantly changed circumstances to the subject property, we respectfully request that the Commission overturn the Executive Director's rejection of Coastal Development Permit Amendment Application A-220-80-A2. The reasons for this request are more fully detailed below.

BACKGROUND SUMMARY

1. The Initial Permit.

On January 16, 1978, the South Coast Regional Commission approved a permit for the development of a single-family residence, detached 2-car garage, swimming pool and unlit tennis court on the subject property, with special conditions providing for lateral and vertical public access.

In 1980, the Commission approved CDP Amendment A-220-80 with three special conditions regarding public access, construction of access way improvements and submittal of revised plans. In its approval of the Amendment, the Commission found that

“the proposed deletion of the previous requirement to offer to dedicate a vertical public access way could only be found consistent with the Chapter 3 policies of the Coastal Act because two other access ways had opened nearby and because the applicant was proposing to expand the lateral public access easement...” (emphasis added.)

To: Patrick Kruer

Re: Application No. A-220-80-A2-EDD [32340 Pacific Coast Highway, Malibu]

Appeal of Executive Director's Rejection of Amendment Application

July 5, 2007

Page 2 of 6

2. At The Time The Lateral Access Condition Was Approved, There Was No Other Access Along The Beach.

The plans for the construction of the improvements to facilitate public access, as required by the permit, were submitted to the Commission and approved by the Executive Director in 1986. Significantly, at the time the lateral access condition was approved, the record established that the *headland completely blocked pedestrian access along the beach at this site thereby restricting passage between El Matador and El Pescador beaches.*¹

The prior owner recorded an offer to dedicate (OTD), pursuant to the existing permit, on June 2, 1982.² State Lands Commission accepted the easement on July 1, 2002. The residence and other improvements were constructed in 1987 by the original property owner, however no stairway providing lateral public access was constructed at the site. The easement was transferred from State Lands Commission to *Access for All* on January 5, 2006.

3. The Revells Purchased The Property In 2004. In 2005, The Commission Issued A Cease And Desist Order.

Graeme and Brenda Revell purchased the subject property in 2004. On November 17, 2005, nearly 20 years after the initial issuance of the permit and construction of the improvements the Commission issued a Cease and Desist Order CCC-05-CD-13 and Restoration Order CCC-05-RO-09 directing the Revells to: 1) cease and desist from construction and/or maintenance of unpermitted development, 2) remove all unpermitted development from the property, 3) restore areas of the property that have been negatively impacted by unpermitted development to the condition they were in before Coastal Act violations occurred and 4) allow public use of the easement and construct the public access improvements up and over the headland in compliance with the terms and conditions of the existing permit and the accepted offer to dedicate that was recorded pursuant to the permit. The orders require the Revells to submit a Removal Plan (for the removal of all unpermitted development), a Restoration Plan (requiring the removal of all non-natives on the Headlands) and an Accessway Improvement Plan.

¹ In the transcripts of the January 1978 hearing on Application P-10-20-77-2107, Mr. Karl Hinderer, staff planner for the South Coast Regional Commission stated that "it is virtually impossible to go around this headland...Even at low tide, it appears that there is no possibility of getting around this headland. I have been there 3 times and one time at low tide and it would not be possible, without swimming, to get around this headland, even at low tide". See p. 3. The record reflects no change in the conditions of the headlands at the 1980 hearing.

² An amended OTD was later recorded on January 8, 1987 to correct an inadequate legal description of the easement.

To: Patrick Krueer

Re: Application No. A-220-80-A2-EDD [32340 Pacific Coast Highway, Malibu]

Appeal of Executive Director's Rejection of Amendment Application

July 5, 2007

Page 3 of 6

4. The Revells Are Working On Complying With All Elements Of The Orders.

The Revells have removed the landscaped lawn and have also submitted a Restoration Plan for Commission review. The Revells are seeking relief from the requirements of this condition to construct a stairway over the headland to provide enhanced lateral access via the instant Permit Amendment application. The request is based on a combination of factors which include 1) a significant change in circumstances on the ground which has resulted in consistent and reliable lateral public access around the headland and 2) the prospects for bringing in necessary construction equipment to build a public access stairway are extremely burdensome, if not impossible. The substantive basis for the requested Permit Amendment and request for the Commission to overturn the Executive Director's determination in response thereto is more fully outlined below.

1. The Requested Proposed Amendment Will Not Lessen Or Avoid The Intended Effect Of The Conditionally Approved Permit.

The Commission's 1980 approval of CDP Amendment A-220-80 allowing for the deletion of the previous requirement of an offer to dedicate a vertical public access way was found consistent with the Chapter 3 policies of the Coastal Act because 1) two other access ways had opened nearby and 2) the applicant was proposing to expand the lateral public access easement and actually construct stairs which at that time would have been the only way for the public to actually move from one of the pocket beaches at the base of the headland to the other on foot.³

The latter rationale no longer applies today. Due to significant changes in the contours and elevation of the beach, pedestrians regularly traverse from one side of the headland to the other on foot either by circling around it or taking advantage of sea caves which have become exposed overtime.⁴ The cave entrances on the west side of the headland measure 4.5 feet and 15.5 feet, respectively and 8 feet and 5 feet, respectively on the opposite side of the headland.⁵

A. The Sea Caves Provide Access At The Times The Beach Is In Use.

While the staff notes that the access provided by the sea caves is not universally available, it must also be noted that the very narrow beaches for which access is being

³ Staff contends that the finding was also predicated on enhanced access to "views" created for the public by virtue of their ability to reach the top of the headland. However, since the views of the ocean achieved at the top of the headland cannot be distinguished from the views available to a member of the public standing on the beach on either side of the headland it is difficult to support such a contention.

⁴ See, photos of individuals walking through the headland utilizing the caves attached as Exhibit 1.

⁵ See, Peak Survey of headland dimensions attached as Exhibit 2.

To: Patrick Kruer

Re: Application No. A-220-80-A2-EDD [32340 Pacific Coast Highway, Malibu]

Appeal of Executive Director's Rejection of Amendment Application

July 5, 2007

Page 4 of 6

provided are also not always in use. Indeed, at the point that the tide becomes too high to permit meaningful access around the headland, meaningful use of the beach is also compromised. This is evidenced by the significant narrowing of the available sand resulting from the combination of wave action and the fact that there is a very limited amount of usable area at the base of the bluff.⁶ In short, during low and medium tide, when the beaches are actually used by the public, lateral access exists which fully achieves the intended objective of the conditionally approved permit.

B. The Stairs Will Only Create A Negligible Increase In Access.

Any additional access provided by the stairs during high tide, when the caves could not be used, would serve little purpose as the tide will also significantly constrain the amount of beach available for the public use and therefore decrease the likelihood that members of the public would be seeking access. Moreover, access over the headland during these periods would only allow someone interested in walking down the narrow strip of the remaining beach to travel a few hundred feet to the next formation which is also only passable at low or medium tide. Finally, there would be extended periods of time when the stairs themselves would not be accessible due to wave up rush patterns at that location.

2. Changes In The Topography Of The Beach Now Make It Nearly Impossible To Bring In The Necessary Construction Equipment.

A. Construction At This Site Is Nearly Impossible And If Possible, It Is Prohibitively Expensive.

The changes in the elevation and topography of the beach, which have resulted in the creation of access around the headland, have also made it very difficult and perhaps impossible to bring the necessary construction equipment onto the site. Currently there is a wide rock-bed strip on the east side of the headland covering the entire expanse of the Revells' property. The Revells have been advised that the rocks may preclude the landing of any barge containing the type of construction equipment necessary to build public access stairs on this site.⁷ The Revells were instructed to provide a cost estimate on the assumption that the problem posed by the rocks could be overcome. They were advised that the cost of construction of the stairs would exceed \$1.2 million, owing in no small part to access issues exacerbated by this change in circumstances.⁸

⁶ See, photos depicting the limited space available for visitors on beach during high tides attached as Exhibit 3.

⁷ See, Report of Donald Kowalewsky dated December 13, 2005 at p. 2. Report attached as Exhibit 4.

⁸ See, photos illustrating the problems with accessing the site to begin construction because of the large rocks in the water and on the beach attached as Exhibit 5 and cost estimates from Anacapa Construction and Bedrock Engineering attached as Exhibit 6.

To: Patrick Kruer

Re: Application No. A-220-80-A2-EDD [32340 Pacific Coast Highway, Malibu]

Appeal of Executive Director's Rejection of Amendment Application

July 5, 2007

Page 5 of 6

B. The Revells Are Guiltless Parties Who Should Not Be Forced To Bear This Burden.

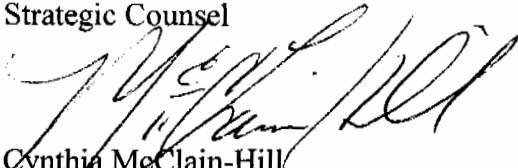
It is disingenuous of the staff to assert that the existence of the house should in no way be considered as a logistical barrier to gaining access to the beach from the top of the bluff. The Revells were not involved in proposing or accepting the initial condition, did not build the house and had no role in the initial violations on the site.

To the contrary, they sought to determine what, if any, additional obligations they might inherit prior to purchasing the property only to be advised by staff that the file was lost. Since purchasing the property they have made no effort to frustrate access along the easement on the beach, removed the bulk of the unpermitted development, obtained and filed a restoration plan and are now simply seeking to find a constructive way of addressing a Permit Condition that is unnecessary, overly burdensome and for all intents and purposes impossible to comply with.⁹

3. Conclusion.

In light of the foregoing, we request that the Commission overturn the Executive Director's rejection of the amendment application because the proposed amendment does not lessen or avoid the intended effect of the approved or conditionally approved permit. Additionally, we request that the Commission find that the applicant has presented newly discovered material information that could not, with reasonable diligence, have been discovered and produced at the time the permit was granted.

Sincerely,
Strategic Counsel



Cynthia McClain-Hill
Enclosures

cc: California Coastal Commissioners

Peter Douglas, Executive Director

John Ainsworth, Deputy Director, South Central Coast District Office

⁹ Obviously, it is possible to bring in equipment by some means if money were no object. For instance, it could be brought in by helicopter or by crane from a remote location where a barge could land. However, the Commission must take into account the feasibility of its conditions and must meet the standard of reasonableness spelled out in *Sierra Club v. California Coastal Commission* (1993) 12 Cal App 4th 602, 609, in this regard.

To: Patrick Kruer

Re: Application No. A-220-80-A2-EDD [32340 Pacific Coast Highway, Malibu]

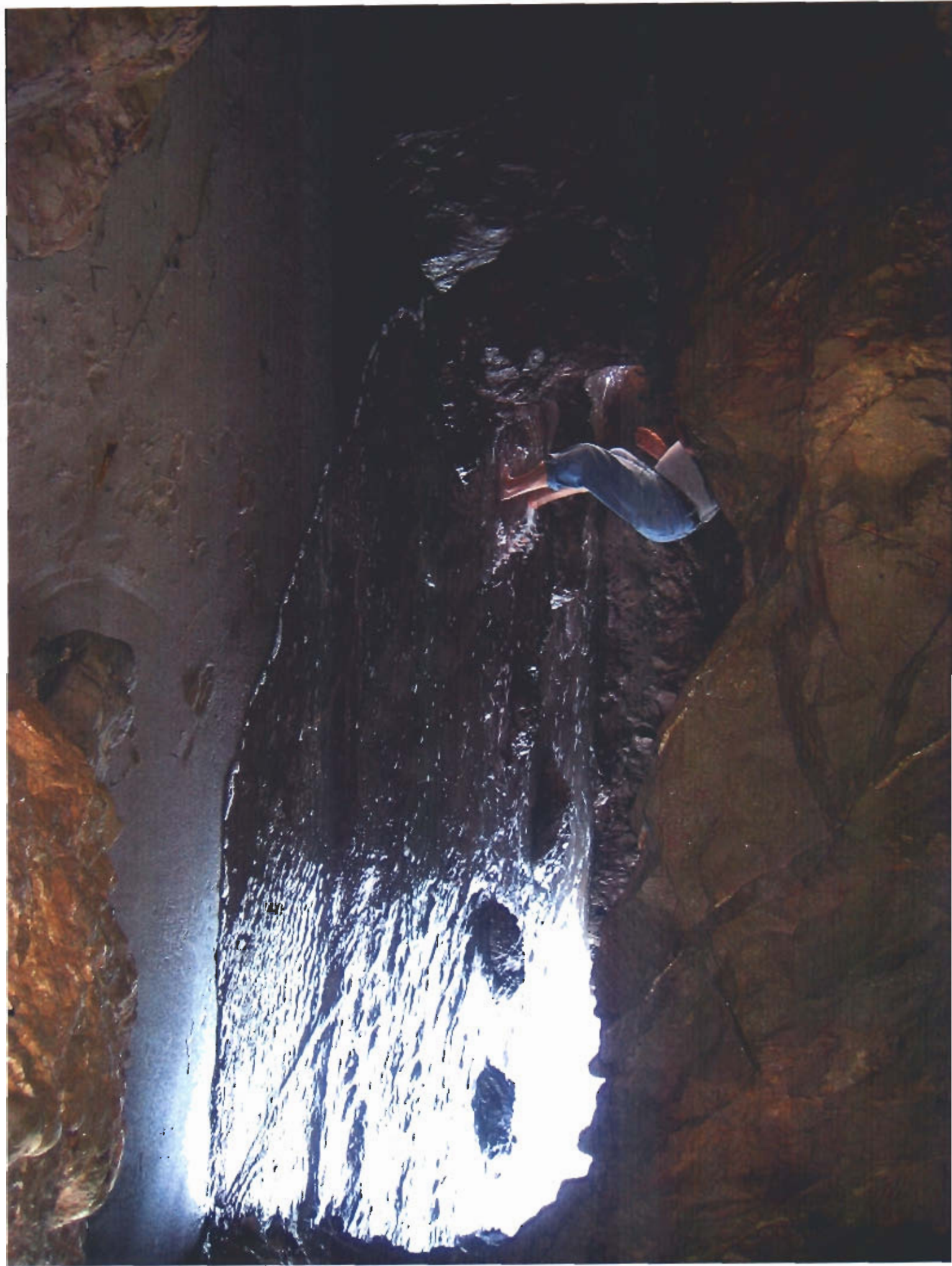
Appeal of Executive Director's Rejection of Amendment Application

July 5, 2007

Page 6 of 6

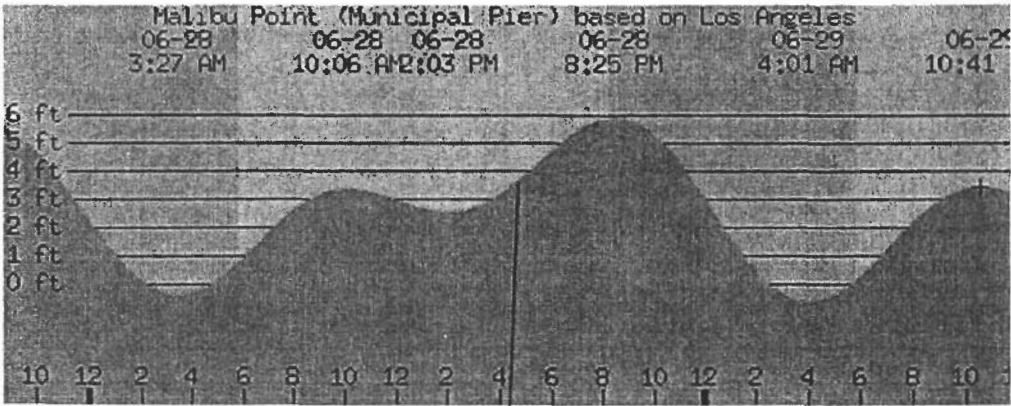
Graeme and Brenda Revell

Alan Robert Block, Esq.





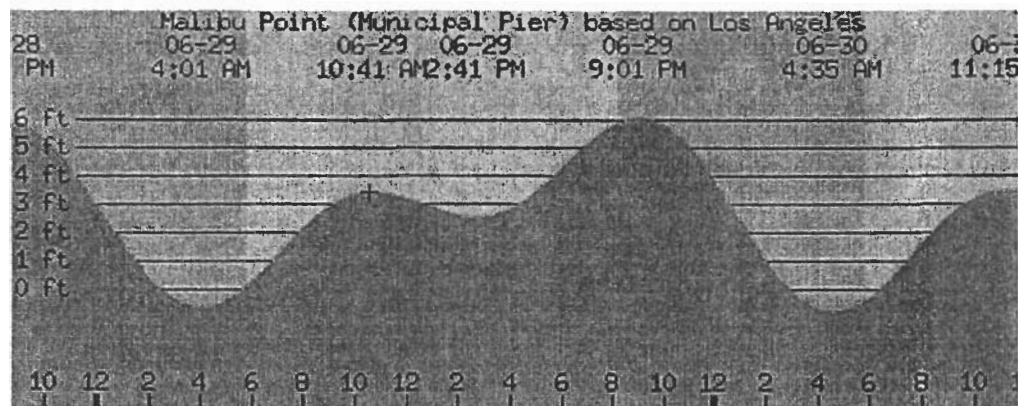
Surflin Tide Prediction For Malibu Point " 2007-6-28 00:00"



Make Another Prediction

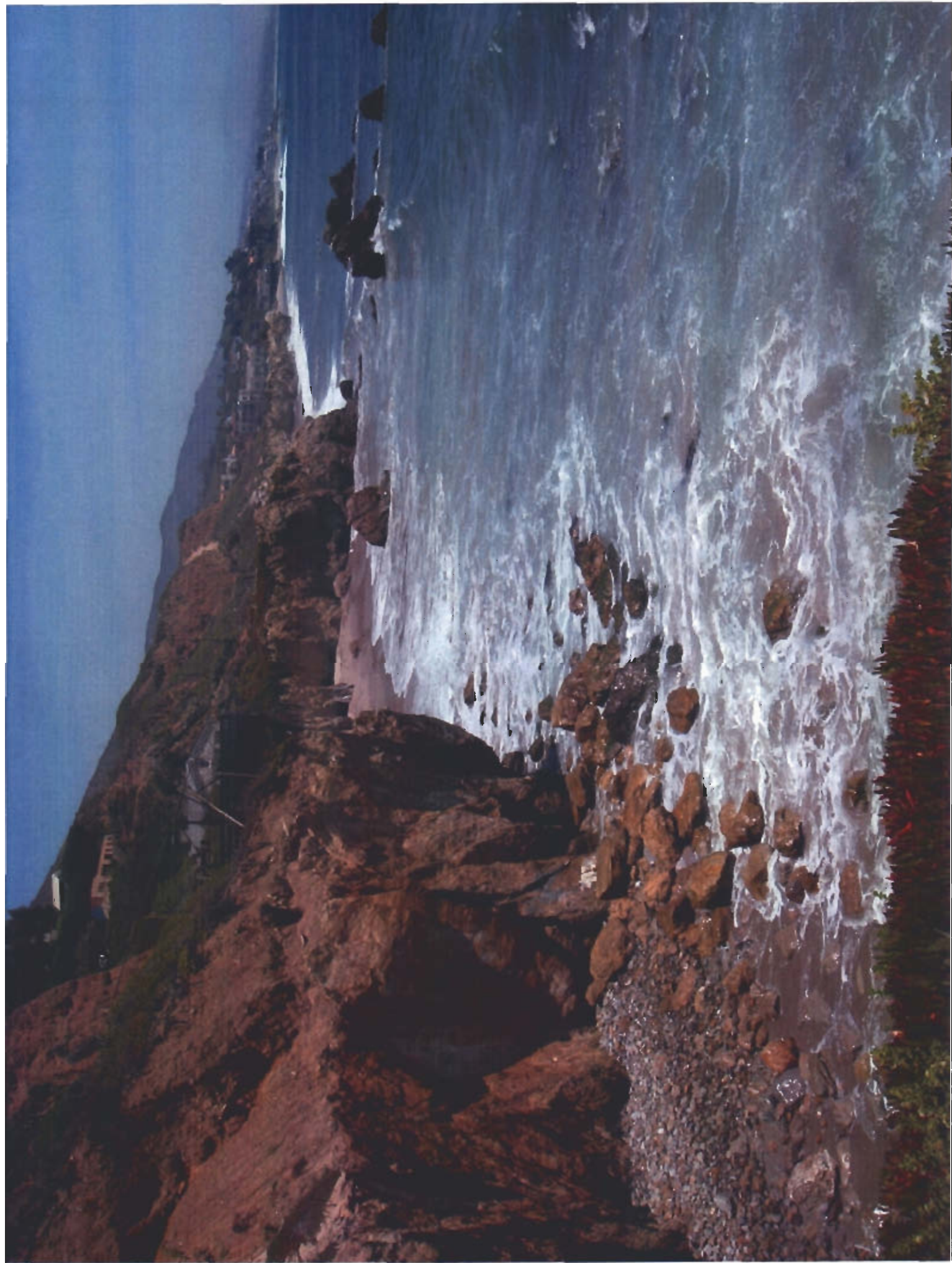
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Surflines Tide Prediction For Malibu Point " 2007-6-29 00:00"



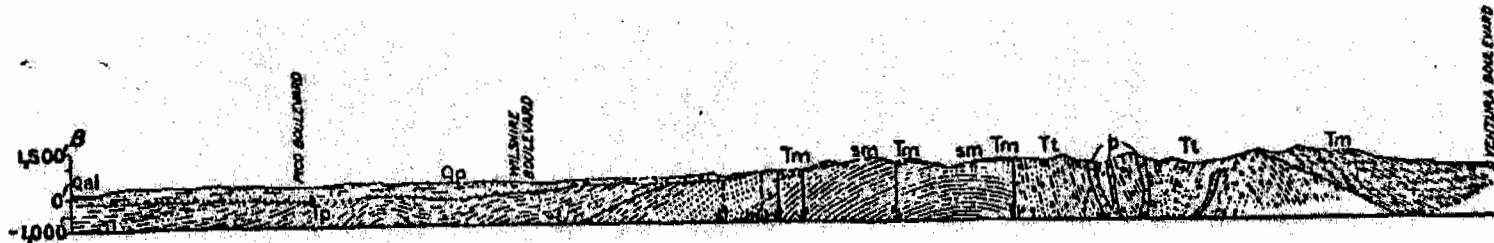
Make Another Prediction

Print









Donald B. Kowalewsky
ENVIRONMENTAL &
ENGINEERING GEOLOGY

December, 13, 2005

Job # 05626F7.002

The Law Offices of Alan Robert Block
 1901 Avenue of the Stars, Suite 470
 Los Angeles, California, 90067

Subject: Discussion regarding geologic characteristics of a coastal bluff and promontory and its relationship to proposed access stairway at 32340 Pacific Coast Highway, Malibu.

It is my understanding that the California Coastal Commission is requiring construction of two stairways, one on either side of a headland or promontory that projects at nearly right angles from the seacliff across the beach into the ocean during high tide. I have examined and photographed the coastline in the vicinity of the promontory to determine the feasibility of constructing the stairways, and to evaluate the methodology of constructing the stairways. It is important to consider the effect of such construction on bluff stability, wave action, and shoreline erosion. From an engineering standpoint the longevity of the stairs should be considered since during a portion of many high tides, the stairs will be subject to wave action and saltwater corrosion.

Geologically the local coastline is an emergent coast with a prominent seacliff (Photo 1) that parallels the coastline. This seacliff was created by wave erosion of bedrock and surficial erosion by water runoff and gravity of the marine and non-marine terrace deposits overlying the bedrock. Bedrock along this portion of the coast is a cemented sandstone that is part of the San Onofre breccia member of the Trancas Formation. Bedrock has been extensively fractured and faulted with most fractures becoming re-cemented over time. **Bedrock fracturing has resulted in a variability in its resistance to erosion by wave action.** Consequently, a shoreline has developed with unique topographic features including sea caves, headlands, sea arches, stacks, and various other rock outcrops (Photos 2 and 3). Commonly, where very resistant rock has been faulted, wave erosion attacks the rocks along the less resistant fault zone. **Erosion along the faults is the dominant reason why the sea caves and sea arches have developed.** One of the most prominent eroded sea stacks occurs at El Matador beach where a combination of sea arches developed a land form locally referred to as "Elephant Rock" (Photo 4). It is the variation in land forms that makes this specific coastline attractive to many visitors and residents.

27101 Old Chimney Road
 Malibu, California 90265

☎ (310) 457-2456
 Fax: (310) 457-4721

The proposed access stairway may enhance access (see comments below) to a limited portion of the beach during high tide, but will at the same time detract from the reason why a person visits the area. Construction of the stairway, will require installation of several concrete caissons through the beach sand extending into the underlying bedrock a minimum of 10 feet. Excavations to construct the caissons will require heavy duty drilling equipment on the beach during low to medium tides. Because this type of rock is locally very hard, drilling will be difficult and any one bore hole may not be completed between high tides. Consequently, sand must be excavated and stored as a barrier to wave action so that drilling can continue, and the reinforcing steel placed and concrete poured before the boring is filled with sea water. The rock debris from the drilling must either be removed, or be allowed to erode with future wave action. (My preferred choice, since this rock will break down to add to the beach sand supply). It should be noted that access to this beach by heavy duty drilling rigs is very difficult and may necessitate a barge. I do not know what the *actual conditions of the immediate near shore sea floor*, however, observation suggests that numerous shallow rock exist that may prevent a barge from reaching the shoreline (Photo 5). Needless to say, the logistics of drilling caissons on the beach at this location is questionable. Where an cliff stairway was created at El Matador beach, access for equipment was relatively easy from the east where residential construction at beach level exists.

Although, construction will clearly require at least temporary beach modification, it must be understood that construction of four concrete caissons will change the erosion pattern due to wave action, at least locally. The individual caissons will periodically deflect, reflect, and otherwise change the flow pattern of waves flowing across the beach. Although not as significant as a sea wall, the caissons will modify wave erosion, ultimately resulting in a loss of sand due to the reflected wave energy. In addition, deflected wave energy may increase the rate of erosion of the seacliff and promontory. Because this promontory has an extensive network of eroded sea arches (Photo 6), increased erosion rates will modify the natural coastline.

The accompanying photographs clearly indicate that the promontory under discussion is not the only impairment to free access to the coastline westerly from El Matador beach. In fact, a more severe promontory located to the east (Photos 7 and 8) limits access to the pocket cove between the two promontories such that a person walking the beach could not reach the proposed stairway during any time frame when the proposed stairway would be necessary for continued access to the western beaches. Similarly, a person walking eastward could not reach El Matador beach during high tide even with construction of the proposed stairs.

Perhaps more significant is the physical condition of the subject promontory. This promontory is a good example of a complex sea arch with multiple access ways (Photos 9 and 10). Although the erosion of this promontory appears to be a series of sea caves, the caves are interconnected in such

a manner that they are technically sea arches. Photographs clearly demonstrate that the sea arches are through passages from one side to the other (Photos 11 and 12) without the necessity of going around the promontory. In fact, two different passageways are accessible with one requiring crawling while the other allows one to walk standing upright (Photo 13). Because the arches are available for access, with the possible exception of very high tides, I question the need for vertical stairways on either side of the promontory, when these stairs will never be used by the public. If one is walking on the beach, would not that person prefer to walk through a sea arch rather than up a stair with 20 to 30 foot of vertical relief, only to descend another 20 to 30 foot (vertical) stair. During the highest tides when the arches would be periodically filled with wave runup, a person who could theoretically use the stairs, could not reach the stairs from El Matador beach and a person who used the stairs from the west would only be able to walk a few hundred additional feet before being forced to turn around.

Perhaps better solution would be to open the arches to make them more accessible during even high tide. (This is obviously offered in jest, since such tunneling work could result in collapse of the arch roof).

Donald B. Kowalewsky
Certified Engineering Geologist 1025

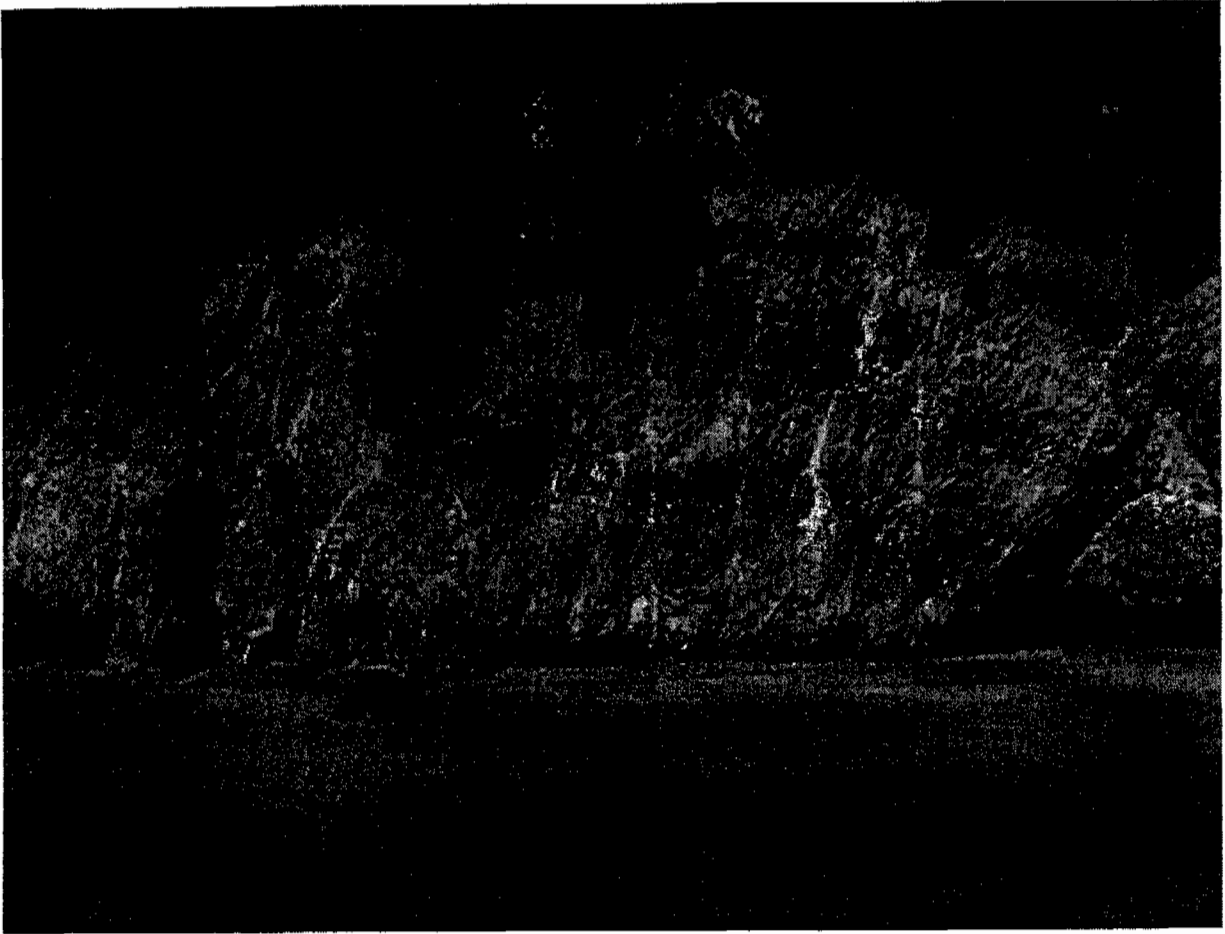


PHOTO 1: SEA CLIFF

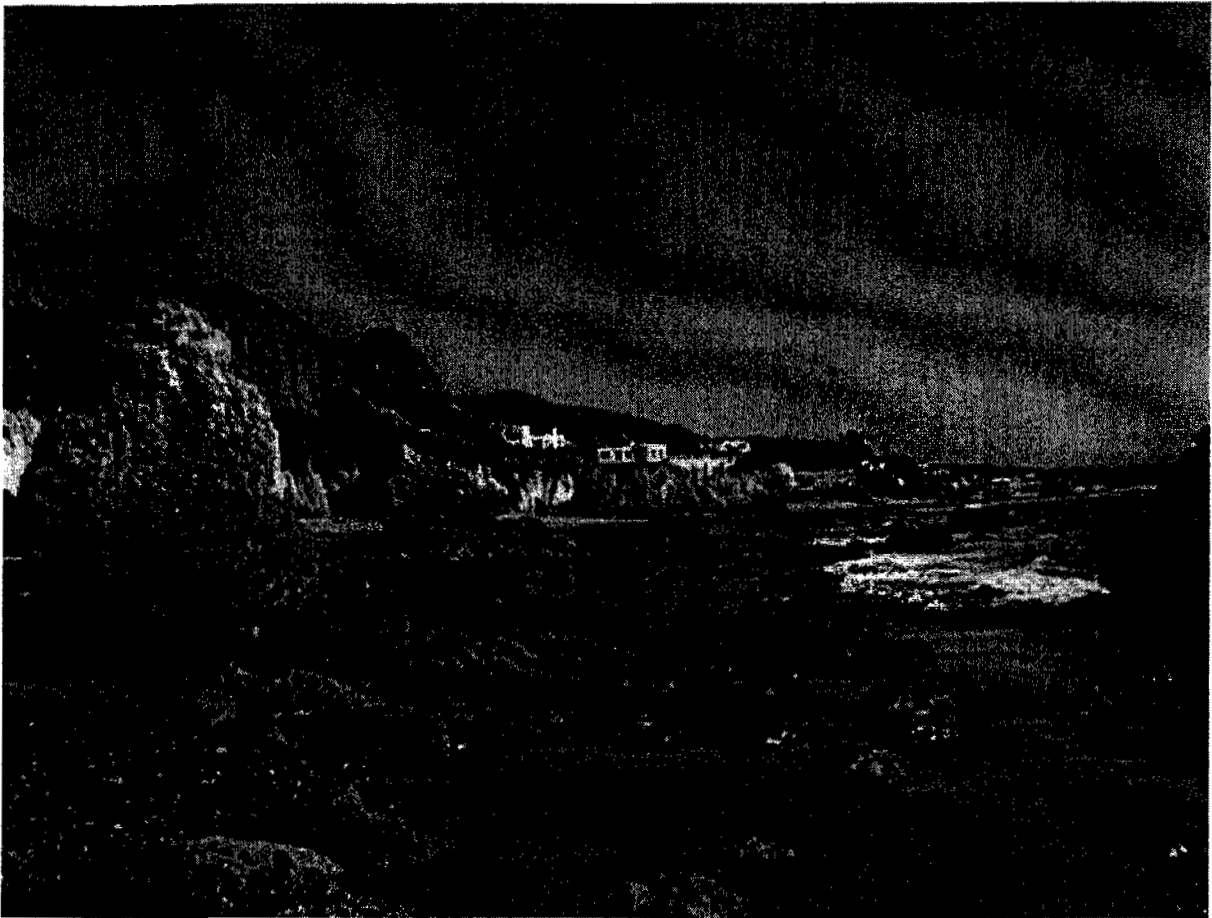


PHOTO 2. TOPOGRAPHIC FEATURES OF BEACH: STACKS, EROSION REMNANTS

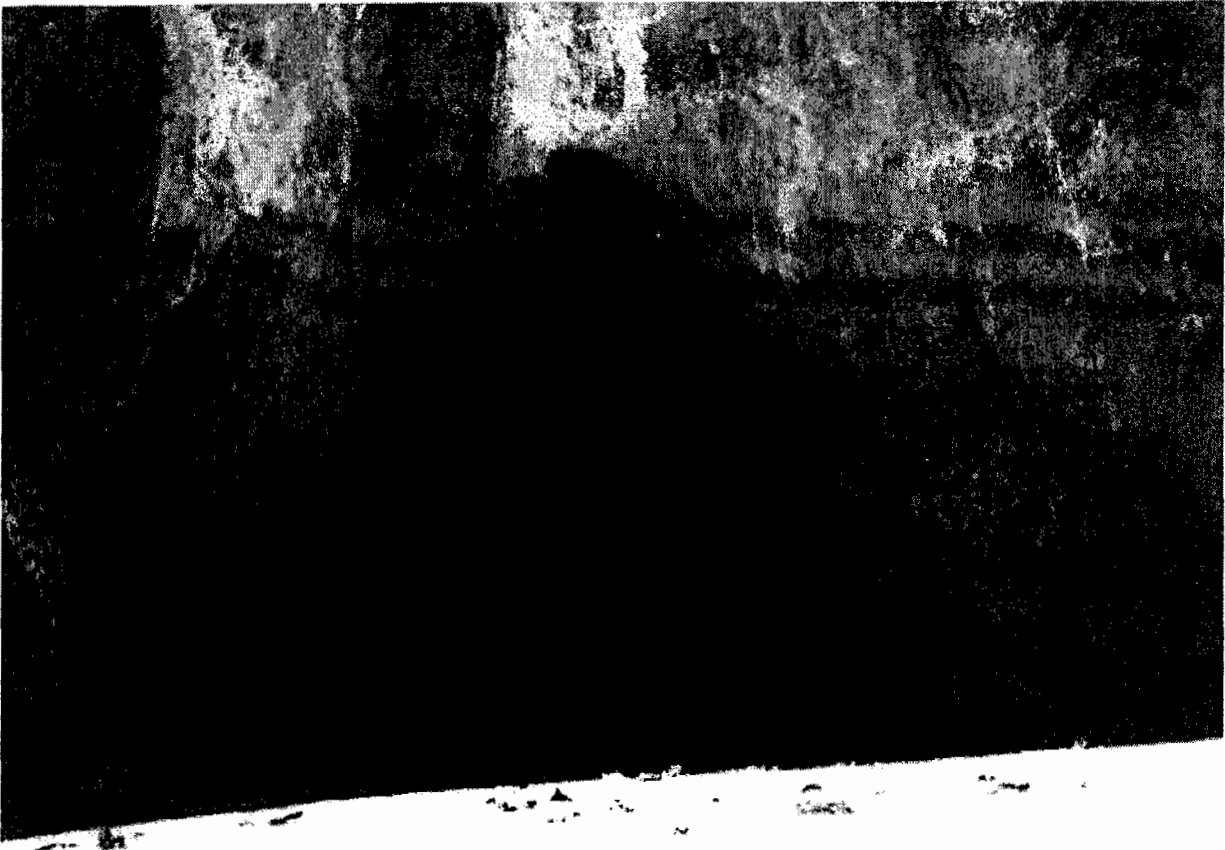


PHOTO 3. TOPOGRAPHIC FEATURES: SEA CAVE

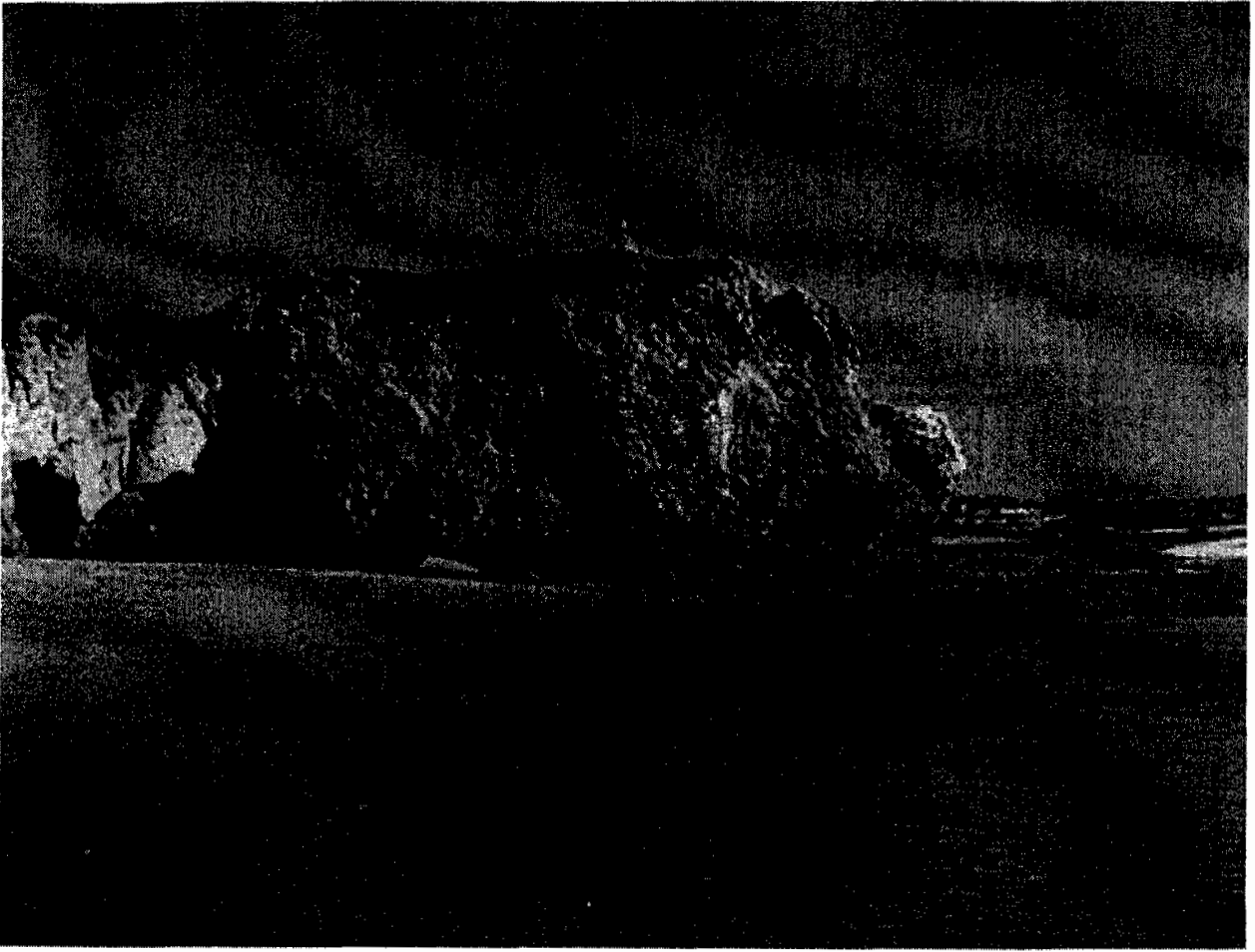


PHOTO 4. ELEPHANT ROCK

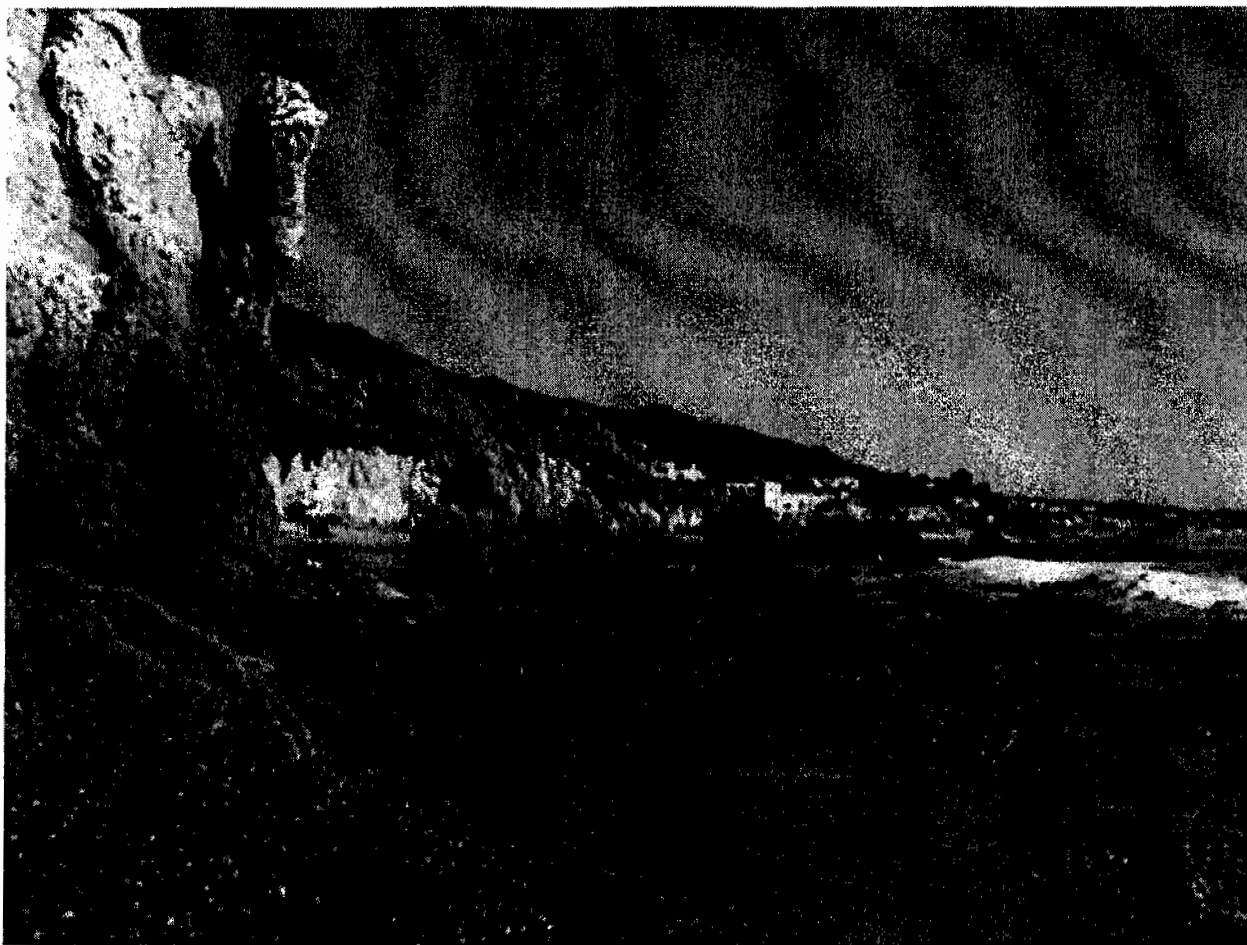


PHOTO 5. NEAR-SHORE ROCKS CREATING IMPEDIMENT TO EQUIPMENT AND BARGE ACCESS

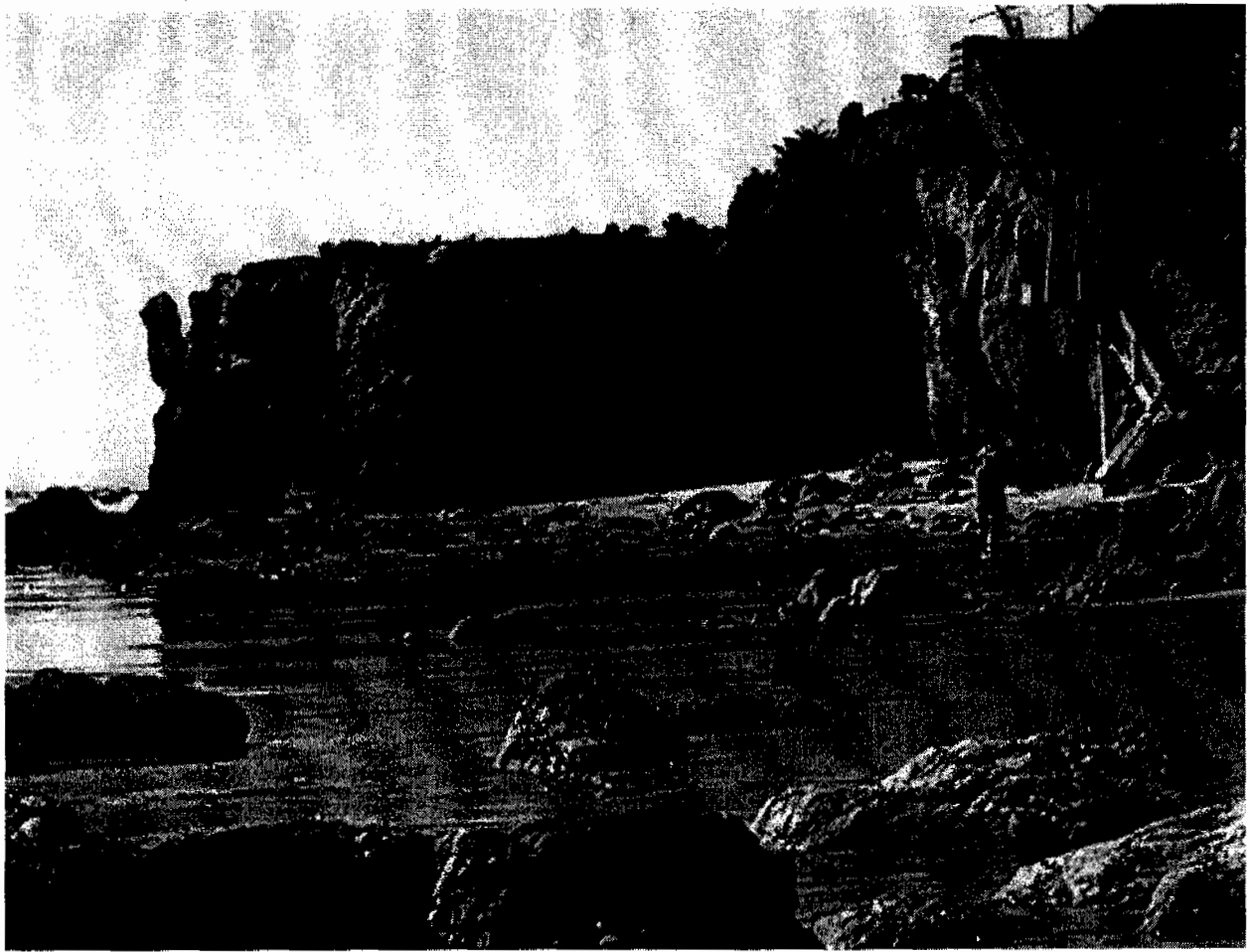


PHOTO 6. SEA ARCHES IN PROMONTORY.



PHOTO 7. PROMONTORY TO EAST, LOOKING WEST (SEE PHOTO 8 FOR CLARITY)

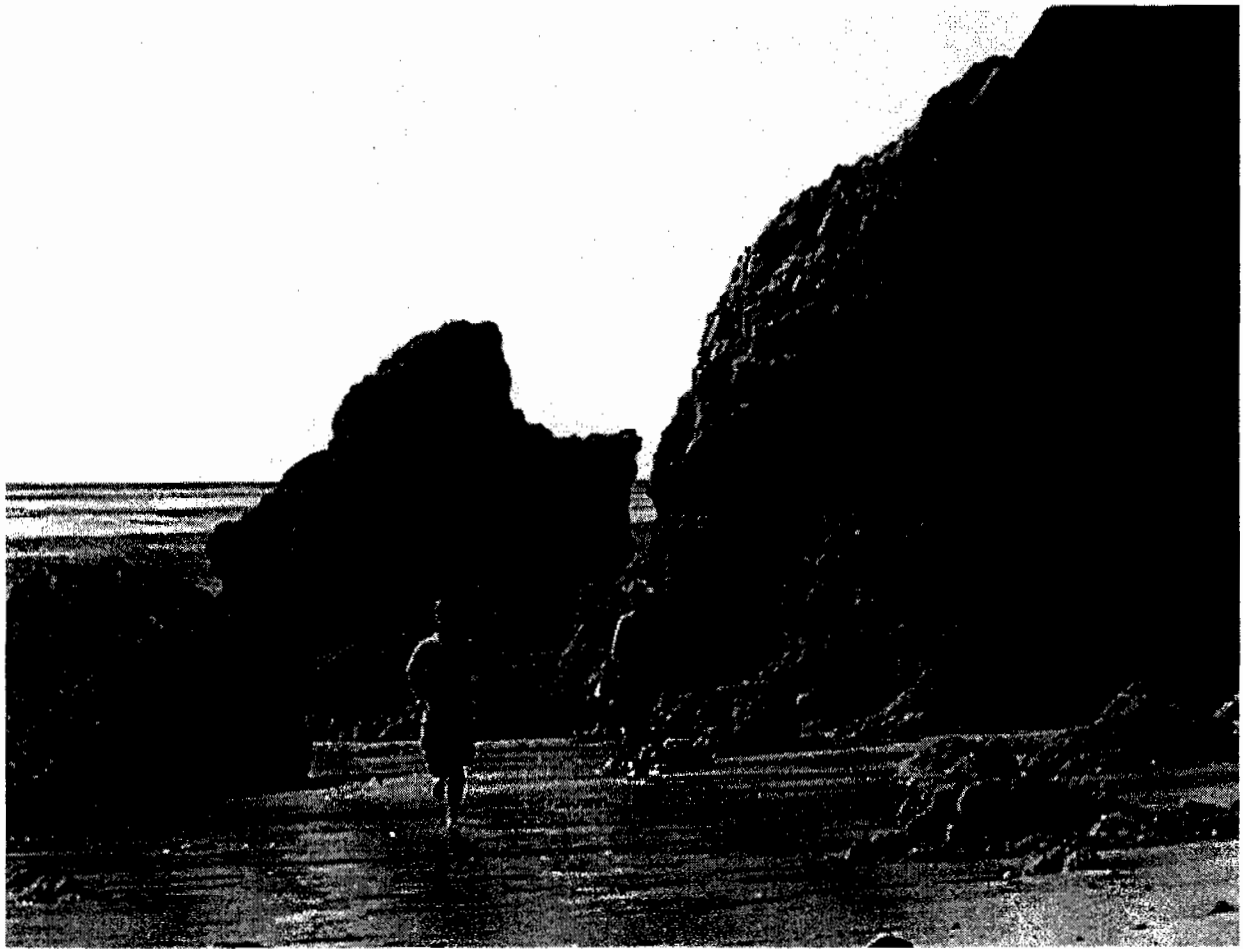


PHOTO 8. PROMONTORY TO EAST. EVEN IN LOW TIDE WALKING IS IN WET SAND BETWEEN WAVES.

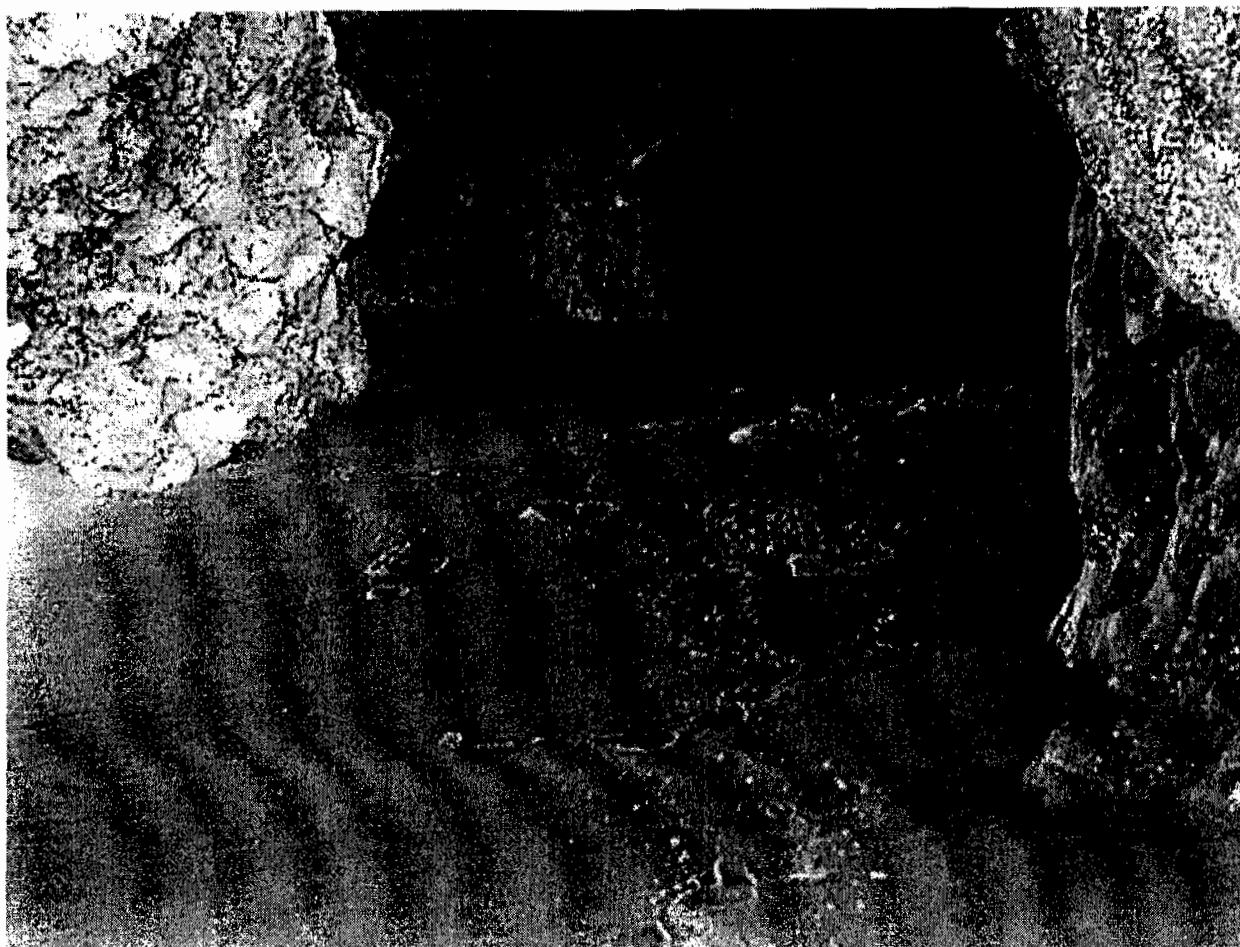


PHOTO 9. COMPLEX ARCHES IN PROMONTORY. NOTE FOOTPRINTS FROM WALKING PERSON.

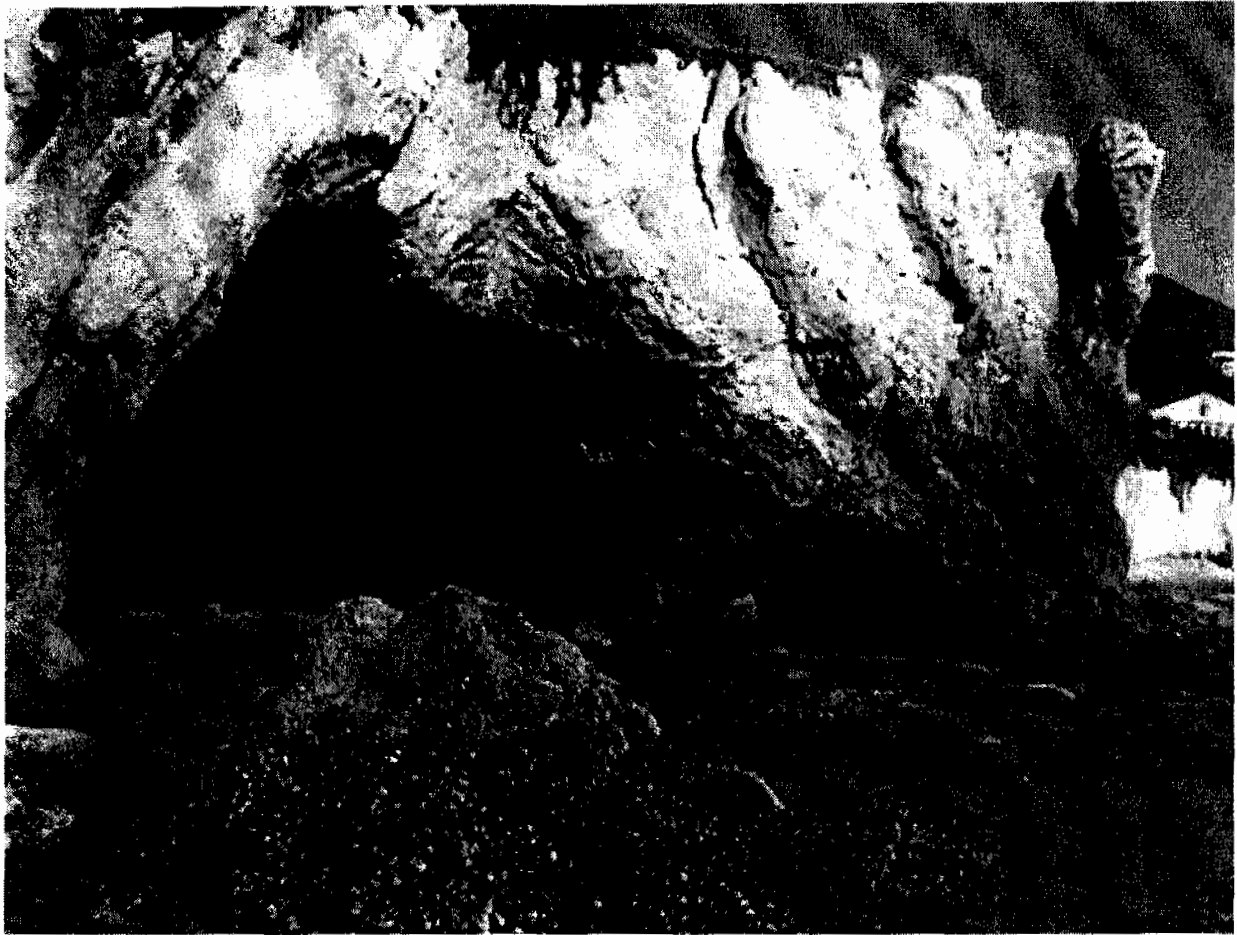


PHOTO 10. COMPLEX SEA ARCHES. LEFT ARCH APPEARS AS A SEA CAVE BUT HAS A RIGHT HAND BEND THAT OPENS TO EAST. DAYLIGHT VISIBLE THROUGH RIGHT ARCH.



PHOTO 11. PERSON WALKING THROUGH ARCH. NOTE DISTINCTIVE OUTCROPPING AT UPPER SEAWARD SIDE OF THIS HEADLAND THAN VERIFIES WHICH HEADLAND IS BEING VIEWED.

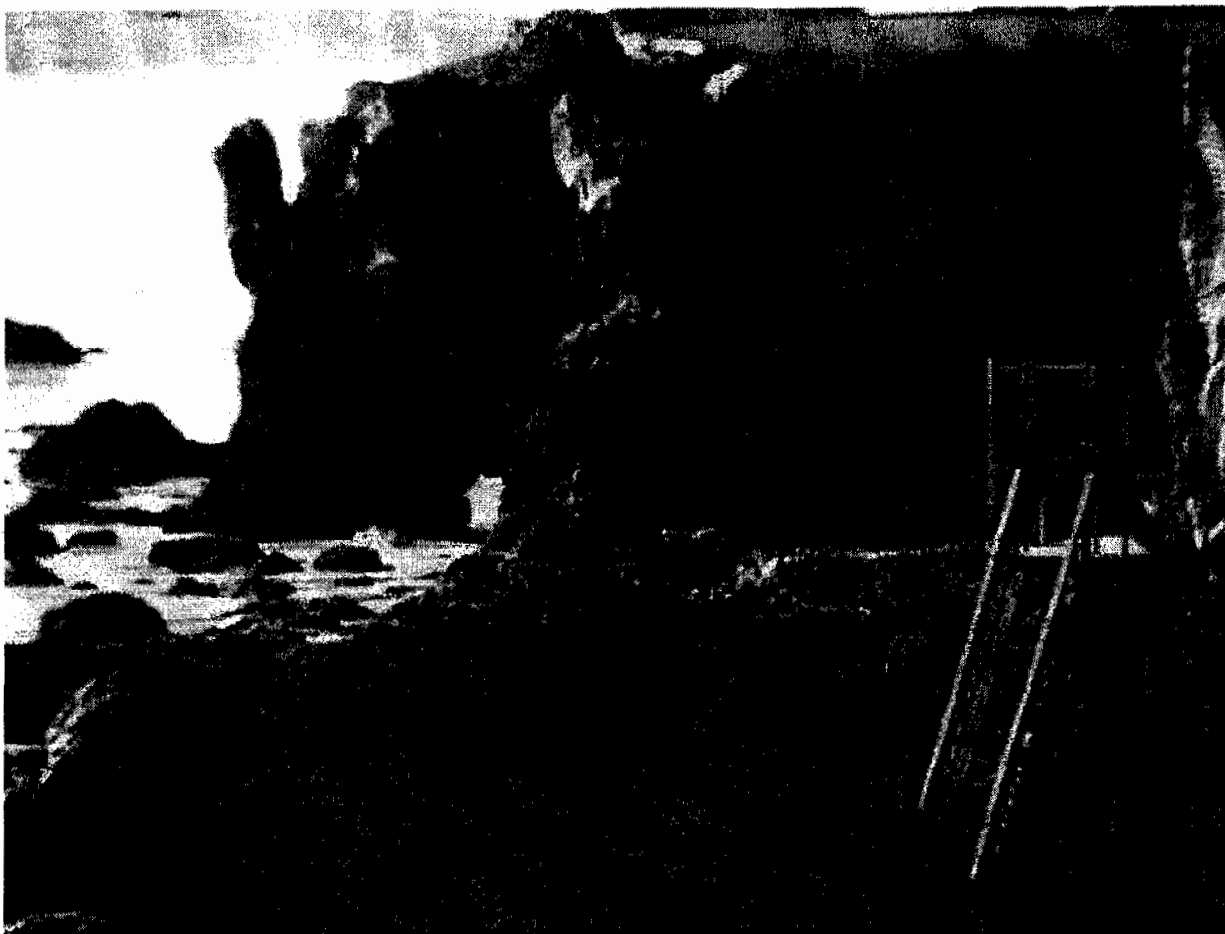


PHOTO 12. DISTINCTIVE PROMONTORY WITH BOTH SEA ARCHES VISIBLE. SEAWARD ARCH IS CLEARLY VISIBLE AS A THROUGH OPENING (WALKABLE) THE LANDWARD ARCH APPEARS AS A SEA CAVE BUT IS IN FACT THE OPENING TO THE ARCH VIEWED IN PHOTO # 10. IN THE FOREGROUND IS THE PROMONTORY THAT PRECLUDES HIGH TIDE ACCESS FROM THE EAST.



PHOTO 13. TWO ARCHES WITH DAYLIGHT VISIBLE THROUGH BOTH. LANDWARD ARCH HAS APPARENT PINHOLE LIGHT BUT IS IN FACT EASILY CRAWLED WITH A STOOPED POSTURE. NOTE THAT THE MYTILUS CALIFORNIANUS (SEA MUSCLES) INDICATE THE AREA THAT IS COMMONLY UNDER WATER DURING MEDIUM TIDE. THE LANDWARD SEA ARCH IS ABOVE THE AREA COVERED BY MUSCLES.



Anacapa Construction, Inc.

P. O. Box 6206, Malibu, CA 90264 805-552-0309 phone 805-532-2088 fax

Mr. Graham Revell
c/o Mr. Alan Block, Esq.
1901 Avenue of the Stars
Suite 470
Los Angeles, CA 90067

May 8, 2007

RE: Estimate for two stair towers

Dear Alan;

You have requested an estimate to construct two stair towers at the east and west sides of the promontory on the beach at 32340 Pacific Coast Highway, Malibu. We have received the report prepared by Donald Kowalewsky dated Dec. 13, 2005 and the more recent report by David Weiss dated April 15, 2007, and have prepared our estimate to construct these towers loosely based on their reports. Following are some of the logistical and design parameters that we have used to prepare our estimate.

1. We will be able to access both sides of the promontory with drilling equipment. This may be possible, if at all, only by barge and this may not be possible due to the large rocks on the beach and just off the beach in the ocean. Also, an easement or license may have to be acquired from the neighbor to the east due to the existence of rocks in the east side of the Revell properties.
2. The stair towers will each require at least 4-30" diameter pilings drilled at least 10' into bedrock.
3. The pilings will be connected by a structural slab which will be designed to protrude above the beach sand at the time of year when the sand level is highest, but some sort of concrete stairs will have to continue down so as to provide stairs to the beach when the beach is at its lowest level. The alternative to this would be to have the structural slab at the lowest level with the galvanized steel stair tower above that level but this would entail that the steel stair tower was under sand for a substantial portion of the year. Such a design would probably be unfeasible because it would subject the stair tower to rapid corrosion.
4. The stairs would be designed as a hot dip galvanized stair tower, either square or rectangular with the exception of the bottom section which would be concrete as described in #3 above.
5. At the top of the stair tower there would have to be a cantelvered landing extending into the soil or rock at the top elevation of the promontory, in

order to ensure the safety of the pedestrian users of the tower. This landing would have to be provided with railings.

6. There would have to be some sort of guard rails on the top elevation of the promontory connecting one stair tower to another.
7. The stair towers could be designed similar to the one at the public access to the beach just east of 27420 P.C.H.
8. All rebar used in the concrete construction will be epoxy coated and concrete compressive strength will be 5000 psi or greater.
9. The galvanized steel stair towers might have to be delivered and erected by a barge mounted crane, since a crane could not be driven in and parked close enough to the site to deliver and erect the components. As stated in #1 above, there is no guarantee that even this approach will work.
10. An alternative to the stair tower approach would be to construct a straight run of stairs extending out from the promontory on each side. These staircases would extend out no less than 44 feet from the sides of the promontory, would require additional caissons for intermediate support and would cost the same or more than stair towers. In our opinion they would also be far less desirable from an aesthetic standpoint.

Anacapa Construction, Inc. proposes to build two stair towers including the foundations for these towers and associated landings, railings, and guardrails as outlined in 1-9 above for an estimated price of \$1,248,000. Until designs are drawn and the logistical problems are solved, there is no guarantee that this project can be done for this price.

Sincerely,

LS/

Lucian Warren

BEDROCK ENGINEERING
8241 Gladys Avenue
Huntington Beach, CA 92646
(714) 375-0877

June 4, 2007

To: Alan Robert Block, Esq.

From: Bedrock Engineering
Mark Wilson P.E.

Location: 32340 Pacific Coast Highway
Stairways to Beach

I have received the package of documents pertaining to the proposed stairways to the beach at 32340 Pacific Coast Highway, sent to me from your office. The package contained 5 documents as follows: 1.) Report from Bedrock Engineering, dated April 13, 2005, 2.) Cost Estimate from Bedrock Engineering, dated December 2, 2005, 3.) Report from Donald B. Kowalewsky, dated December 13, 2005, 4.) Report from David C. Weiss Structural Engineer & Associates, Inc., dated April 15, 2007 and 5.) Cost Estimate from Anacapa Construction, Inc. Dated May 8 and May 31, 2007. You have asked me to review the enclosed documents and to comment/review my original Cost Estimate, given the additional information expressed in the documents provided by Kowalewsky, Weiss and Anacapa Construction.

The Report prepared by Donald B. Kowalewsky, dated December 13, 2005, stated that any stair foundation element would need to be embedded at least 10 feet into existing bedrock, and the Report from David C. Weiss Structural Engineer & Associates, Inc., dated April 15, 2007, estimated that bedrock would be encountered at approx. 8 to 12 feet below the existing sand level at the base of the cliff. The Cost Estimate from Bedrock Engineering, dated December 13, 2005, assumed that the stair foundation elements (caissons) could be excavated with pneumatic hand tools during low tide, without the use of drilling equipment. Material excavated would be hauled to the top of slope for disposal at a land fill. In the Report from David C. Weiss Structural Engineer & Associates, Inc., dated April 15, 2007, he states that it is not possible to dig the holes for the caissons by hand due to the depth below grade, and that drilling equipment and stair elements would need to be barged to the site, and a protective sand berm be constructed around the drilling equipment/barge. David Weiss also recommends that a steel stair tower be considered, in lieu of the straight stair concept that was recommended in the Cost Estimate prepared by Bedrock Engineering (Note: The stair plan prepared by Bedrock Engineering showing the straight long stair concept, is consistent with the Approved Accessway Stair Improvements Plans, per Permit #A 220-80, and approved by the California Coastal Commission on August 15, 1986). The stair tower concept uses twice as many caissons for the stair tower supports as the Bedrock Engineering's straight stair concept, thus would cost more to construct. David Weiss choose the stair tower concept since it was more compact and visually less obtrusive than the straight long stair concept. The stair tower was proposed to be constructed of steel, hot dipped

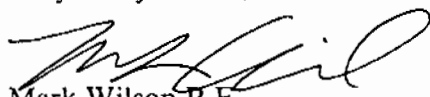
galvanized and coated with epoxy paint, where as the Bedrock Engineering straight stair concept, the stairs were to be constructed of aluminum in pieces at an offsite location, trucked to the bluff above and carried by hand to the construction site. Both reports prepared by David Weiss and Bedrock Engineering assumed that the concrete could be pumped from the top of the slope to the beach below, using a cement truck, cement pump and hoses.

The Cost Estimate from Anacapa Construction, Inc. Dated May 8 and May 31, 2007, follows the engineering guidelines outlined in the Report by David C. Weiss Structural Engineer & Associates, Inc., dated April 15, 2007, which includes barging in drilling equipment and using a steel stair tower. Anacapa Construction estimates a price of \$1,248,000 to construct two stair towers at the site, with a cost breakdown dated May 31, 2007 included in the estimate.

The Cost Estimate prepared by Bedrock Engineering, dated December 13, 2005, was preliminary, and was prepared prior to the reports prepared by Donald B. Kowalewsky and David C. Weiss Structural Engineer & Associates, Inc. These two reports added new information about the project that was not available at the time that the Cost Estimate by Bedrock Engineering was prepared. The Cost Estimate by Bedrock Engineering stated that a final Cost Estimate be obtained during the bidding process from contractors, we also cautioned all parties that the Bedrock Engineering stair plans and cost estimate were based on incomplete information and that additional information would be necessary for us to fine tune the design and bid out the construction of the stairways. In conclusion, based upon the documents received from your office, the conceptual stair plan/cost estimate prepared by Bedrock Engineering is inadequate and would need to be updated/verified by additional contractor's estimate of cost. This type of construction, with barging in equipment and working in the surf zone is beyond my engineering expertise, and I suggest that David C. Weiss Structural Engineer & Associates, Inc., be retained to prepare a final engineering design of the stairway to the beach.

If you have any questions, please feel free to call me.

Very Truly Yours,



Mark Wilson P.E.
R.C. E. 47989





OPENING UP THE CALIFORNIA COAST

RECEIVED
MAY 31 2007

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

May 29, 2007

California Coastal Commission
45 Fremont St.
Suite 2000
San Francisco, CA 94105

Re: **Application No. A-220-80-A2-EDD**
Access For All stairway easement
32340 Pacific Coast Highway, Malibu, CA 90265

Honorable Commissioners:

We write in strong support of the Executive Director's rejection of the CDP amendment application for this property.

This lateral easement was accepted by Access For All in December, 2005 with the clear understanding that these stairways would be built according to the terms of the original permit. This easement connects two public beaches by means of these stairways and the view from the top of this promontory is simply breathtaking. The public deserves to share in that experience.

If the original homeowner, Mr. Benton, had complied with the terms of his permit, for which he undoubtedly received the benefit, the public could have been enjoying this experience for the past 25 years. Instead, Mr. Benton erected his own barbwire-protected private stairway in flagrant scorn of his original bargain. That structure should now be removed and his bargain fulfilled.

Access For All stands ready, willing, and able to operate, monitor, and maintain this easement, including these stairways, according to the terms of our management plan of December 1, 2005. We actually look forward to it.

If the stairs are properly stabilized down into the bedrock, as they would have been in 1983, and solidly constructed for the public to use safely, as they would have been in 1983, and built to withstand the marine environment, as they would have been in 1983, we are confident that management of this site will be possible. Should damage to these structures subsequently occur due to storm or tidal damage, Access For All is committed to solving those problems. But having the stairways initially constructed in the spirit and intention of the original permit will very much facilitate that job.



Commissioners, nothing has changed on this site except the will of the permittee and his successors to follow through on their end of the original bargain. This experience will be of major value to the California public. They have certainly been deprived of it for far too long.

Sincerely,

A handwritten signature in black ink that reads "Steve Hoyer". The signature is written in a cursive, flowing style.

Steve Hoyer
Executive Director