Regional Location Map

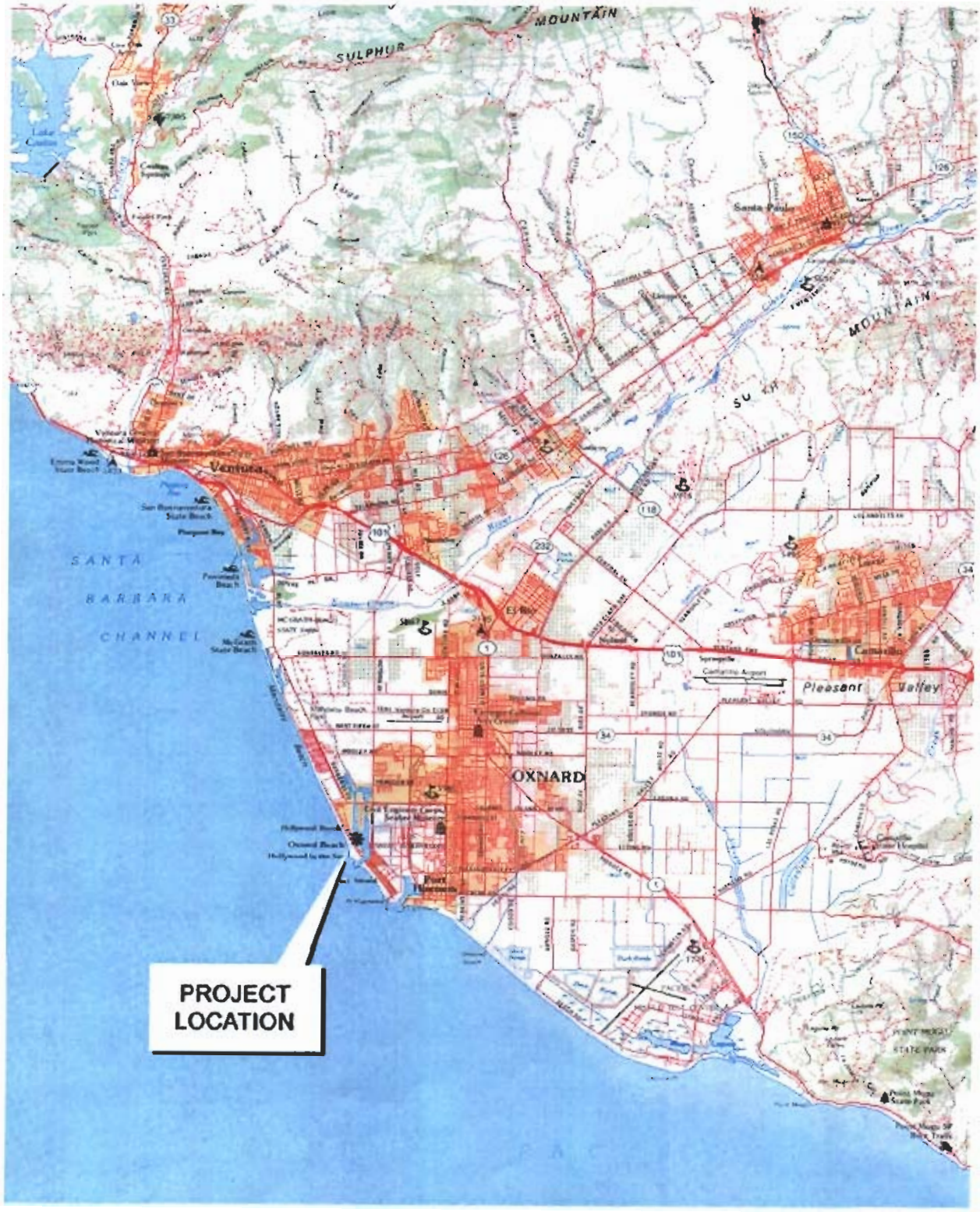

Exhibit 1
PWPA 1-04, NOID 1-05
Regional Location Map

Project Vicinity

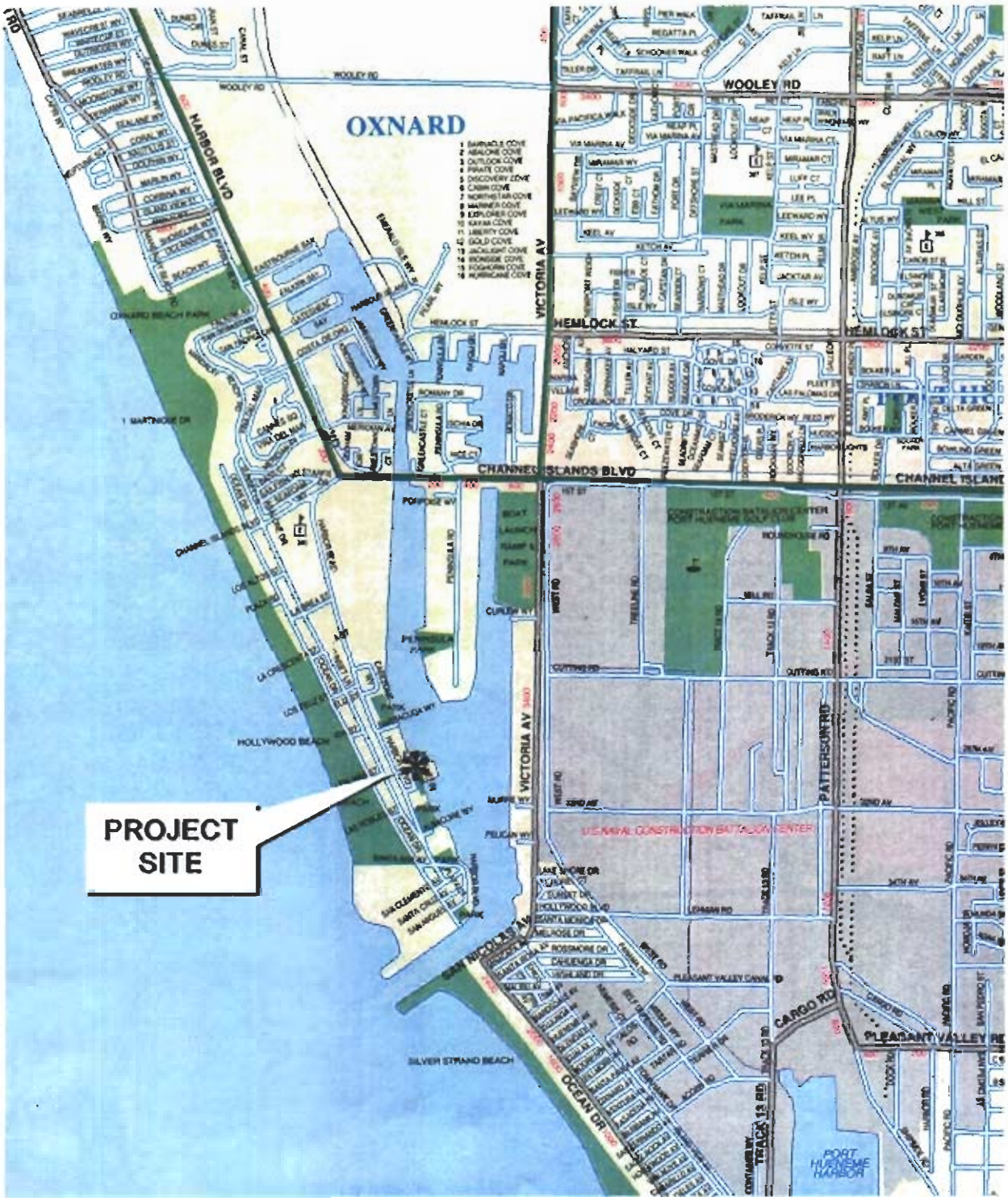

Exhibit 2
PWPA 1-04, NOID 1-05
Vicinity Map

CHANNEL ISLANDS HARBOR
Ventura County Harbor Department
3900 Pelican Way • Oxnard, CA 93035-4367

Lyn Krieger
Director

Telephone (805) 382-3001
FAX (805) 382-3015
www.channelislandsharbor.org

October 27, 2004

RECEIVED
OCT 28 2004
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Mr. Peter Douglas, Executive Director
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Attention. Mr. Gary Timm, District Manager

SUBJECT: TRANSMITTAL OF AMENDMENT TO THE CHANNEL ISLANDS PUBLIC WORKS PLAN TO ESTABLISH A BOATING INSTRUCTION AND SAFETY CENTER (BISC)

Dear Mr. Timm:

The County of Ventura is pleased to submit this focused amendment to the Channel Islands Harbor Public Works Plan (hereinafter "PWPA") in accordance with the agreement reached between the California Coastal Commission (hereinafter "CCC") and the County of Ventura, Board of Supervisors (hereinafter "Board"). We make this submittal in accordance with Coastal Act §30605 and Coastal Commission Regulations §§ 13370 and 13371.

The Board approved this PWPA on October 19, 2004, and directed the Harbor Department to forward such amendment to the California Coastal Commission for review and action in accordance with the Agreement.

The Board majority strongly supports this public use, which they believe is key to providing access to the Harbor and to the ocean for all residents of Ventura County, as well as the general public. Although controversy still attends this project, the Board of Supervisors remains strongly committed to this facility, as does the State Department of Boating and Waterways.

This PWPA is for the express and limited purpose of recognizing that the BISC is a permitted use in the PWP.

In compliance with Coastal commission Regulations §13353, the County has already submitted the entire Final EIR record to the Ventura office of the CCC, as well as

Exhibit 3
PWPA 1-04, NOID 1-05
PWPA Submittal Letter and Resolution

numerous large-scale maps and supplemental informational materials. In view of the fact that the prior Notice of Impending Development Application was considered complete with these materials, the County is only transmitting those materials which are specifically directed at the PWPA. These include:

1. A full copy of the Board of Supervisors hearing package, including a highlight/strikeout version of the PWP which is the subject of the Amendment, as well as clean version of the same document;
2. The Addendum pursuant to CEQA;
3. The final biological reports (also submitted to Dr. Dixon by mutual agreement);
4. A parking study over Labor Day weekend 2004 confirming that parking is underutilized in this area;
5. Signed resolution of the Board of Supervisors;
6. The agreement between the CCC and the County dated July 26, 2004; and
7. Recent correspondence to and from the Department of Boating and Waterways regarding the feasibility and desirability of a BISC on the east side.

We look forward to working with you on this important public project. Please do not hesitate to call on us for any assistance you may need.

Sincerely yours,

Lyn Krieger
Director

c: Board of Supervisors
County Counsel

A RESOLUTION OF THE VENTURA COUNTY BOARD OF SUPERVISORS APPROVING AN AMENDMENT TO THE CHANNEL ISLANDS HARBOR PUBLIC WORKS PLAN

WHEREAS, the Channel Island Harbor Public Works Plan was certified by the California Coastal Commission on September 19, 1986;

WHEREAS, the Ventura County Board of Supervisors now wishes to amend the Public Works Plan as set forth in Exhibit 4 to the Board;

WHEREAS, a legally noticed public hearing on this matter was held by the Board of Supervisors of Ventura County at Ventura, California, on October 19, 2004;

WHEREAS, the Board of Supervisors ("Board") considered all written and oral testimony on this matter, including County staff reports and recommendations;

WHEREAS, notice of the hearing has been provides as required by law; and.

WHEREAS, the matter was considered by the Ventura County Harbor Commission on September 29, 2004.

NOW, THEREFORE, BE IT RESOLVED, ORDERED, AND DETERMINED THAT the Board has reviewed and considered, and has approved and adopted the Addendum to EIR as set forth in Exhibit 2 to the Board, prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) and the CEQA Guidelines and found that no subsequent or supplemental EIR is necessary;

FURTHER BE IT RESOLVED, ORDERED, AND DETERMINED THAT the Board finds that the Public Works Plan as amended as set forth in Exhibit 4 to the Board is in conformity with the Local Coastal Plan of the City of Oxnard;

FURTHER BE IT RESOLVED, ORDERED, AND DETERMINED that the Board hereby also finds the adoption of the Public Works Plan amendment as set forth in Exhibit 4 to the Board to be in the public interest and consistent with the California Coastal Act and its policies and hereby adopts the Public Works Plan Amendments as set forth in Exhibit 4 to the Board.

FURTHER BE IT RESOLVED, ORDERED, AND DETERMINED that the Board finds that the Boating Instructional and Safety Center (BISC) project as approved by the Board on December 16, 2003, is consistent with the Public Works Plan amendment as set forth in Exhibit 4 to the Board and approved herein;

FURTHER BE IT RESOLVED, ORDERED, AND DETERMINED that the Board specifies the Clerk of the Board, 800 S. Victoria Avenue, Ventura, California, and the Harbor Department, 3900 Pelican Way, Oxnard, as the custodians and the location of the documents which constitute the record of proceedings upon which its decision is based; and

FINALLY, BE IT RESOLVED, ORDERED, AND DETERMINED that the Public Works Plan Amendment shall become effective and operative upon: 1) the adoption of this Resolution and 2) approval and certification by the California Coastal Commission.

Upon motion of Supervisor Long, seconded by Supervisor Mikels, duly carried, the foregoing Resolution was passed and adopted this 19th day of October, 2004.

COUNTY OF VENTURA CALIFORNIA

Chair, Board of Supervisors

ATTEST: JOHN F. JOHNSTON
Clerk of the Board of Supervisors
County of Ventura, State of California

By: C. Christina Valenzuela
Deputy Clerk of the Board

February 25, 2005

Mr. Gary Timm
CALIFORNIA COASTAL COMMISSION
South Central Coast Area Office
89 So. California Street, Suite 200
Ventura, CA 93001

SUBJECT: NOTICE OF IMPENDING DEVELOPMENT – BOATING INSTRUCTION AND SAFETY CENTER (CHANNEL ISLANDS HARBOR)

Dear Mr. Timm:

Pursuant to Public Resources Code §30606 and California Coastal Commission Regulations §§ 13358 and 13359, this letter is presented to provide Notice of Impending Development (NOID) for the proposed Boating Instruction and Safety Center (BISC) project located at Channel Islands Harbor. Such notice must be submitted prior to commencement of development by the public agency proposing a public works project pursuant to an adopted Public Works Plan. In this case, the certified Channel Islands Harbor Public Works Plan (PWP) is the PWP covering this project. This Notice provides a description of the proposed project as well as a showing of consistency with the PWP.

On December 16, 2003, the Ventura County Board of Supervisors certified the project EIR and approved the project, more specifically, Alternative 6.2B. Therefore, the project as originally proposed by the Board of Supervisors was rejected, and an environmentally superior alternative was adopted. A Public Works Plan Amendment was submitted in October, 2004 to specifically designate this project.

Project Description

The project approved by the Board of Supervisors is a State Capital Project on County-owned land. The project consists of the development of the Boating Instruction and Safety Center (BISC) on property located in Channel Islands Harbor, more specifically Project Alternative 6.2B as described in the EIR (Section 6.2). The project site is located on the west side of Channel Islands Harbor between Harbor Boulevard and the Harbor. Please see the enclosed Regional Location Map, Project Vicinity Map and Aerial Photograph.

Exhibit 4
PWPA 1-04, NOID 1-05
NOID Submittal Letter

The project as originally proposed eliminated a small number of nesting trees for Black-crowned night herons. To reduce biological resources impacts to less than significant levels, Project Alternative 6.2B was developed to re-orient the BISC building and avoid trees with nesting activity. The approved project site plan and elevations are enclosed and also are shown as Exhibits 49 and 50 in the EIR. This alternative was coordinated with the Department of Fish and Game, and was endorsed by the Harbor Department and the Harbor Commission prior to the Board's action.

The 0.84-acre project site proposes to accommodate approximately 26,000 sq. ft. of exterior space and approximately 24,000 sq. ft. of dock space, which includes a full ADA access ramp from the main building to the docking area. The facility would provide of a two-story, approximately 19,000 sq. ft. building and a one-story, 1,000 sq. ft. maintenance/storage building (square footages are approximate and may be slightly higher or lower upon completion of working drawings). The proposed center would be designed to provide training in sailing, rowing, kayaking, and canoeing for athletes, local public schools, California State University, Channel Islands (CSUCI), and the general public.

The County plans to lease the center to CSUCI to provide programs in marine biology, ecology, and oceanography. The BISC will provide facilities, staff, and equipment needed to teach sailing and aquatic skills and safety to youth and adults of Ventura County, and various college-level marine and oceanographic courses to California State University, Channel Islands students. The second floor "Teaching/Gathering Facility" would accommodate public and private functions. The Center would also include a Gathering Facility for limited events for a fee, in the same manner as other BISCs in the state operate.

The project is proposed to be funded through a mix of state and local funds. A contribution has been approved by the Department of Boating and Waterways to fund $4.2 million to go toward construction of the project. The remaining money to fund the BISC is to be raised by the County of Ventura.

Recognizing the existing limited public use of the site, the BISC is an effort by the County and the State Department of Boating and Waterways to increase public access to the water and insure that the amenities serving the general public are increased in the harbor.

Consistency with Public Works Plan

The Channel Islands Harbor Public Works Plan, including the Land Use Plan, was certified by the Coastal Commission on September 19, 1986, and has been the governing document for Harbor development since that time. A Public Works Plan Amendment has been submitted to the Coastal Commission and is being heard

concurrently with this project. The Public Works Plan Amendment is for the specific purpose of recognizing that the BISC is permitted at the site proposed.

In addition, Coastal Act §30605 makes clear that Coastal Commission review of the NOID (if the Public Works Plan Amendment is approved) is limited to imposing conditions consistent with Section 30607 and 30607.1. Section 30607.1 is restricted only to consideration of dike and fill impacts to wetlands. No wetlands exist on the project site; therefore, this section does not apply to the proposed project.

Notification

Pursuant to Coastal Act §30606, the Harbor Department is notifying, through provision of this letter, the Coastal Commission as well as other interested persons, organizations, and governmental agencies of the impending development. Under separate cover, a list has been provided of all persons and organizations receiving a copy of this letter, including all residents within 300 feet of the project.

Conclusion

In conclusion, we believe the approved project is in compliance with the certified PWP as well as consistent with the purpose of the Coastal Act by furthering educational opportunities for boating and marine instruction. Please let us know if any additional information or materials are needed to assist with your review.

Sincerely,

Lyn Krieger, Director
County of Ventura Harbor Department

Enclosures: Regional Location Map
Project Vicinity Map
Aerial Photograph
Approved Project Site Plan and Elevations (Alternative 6.2B)

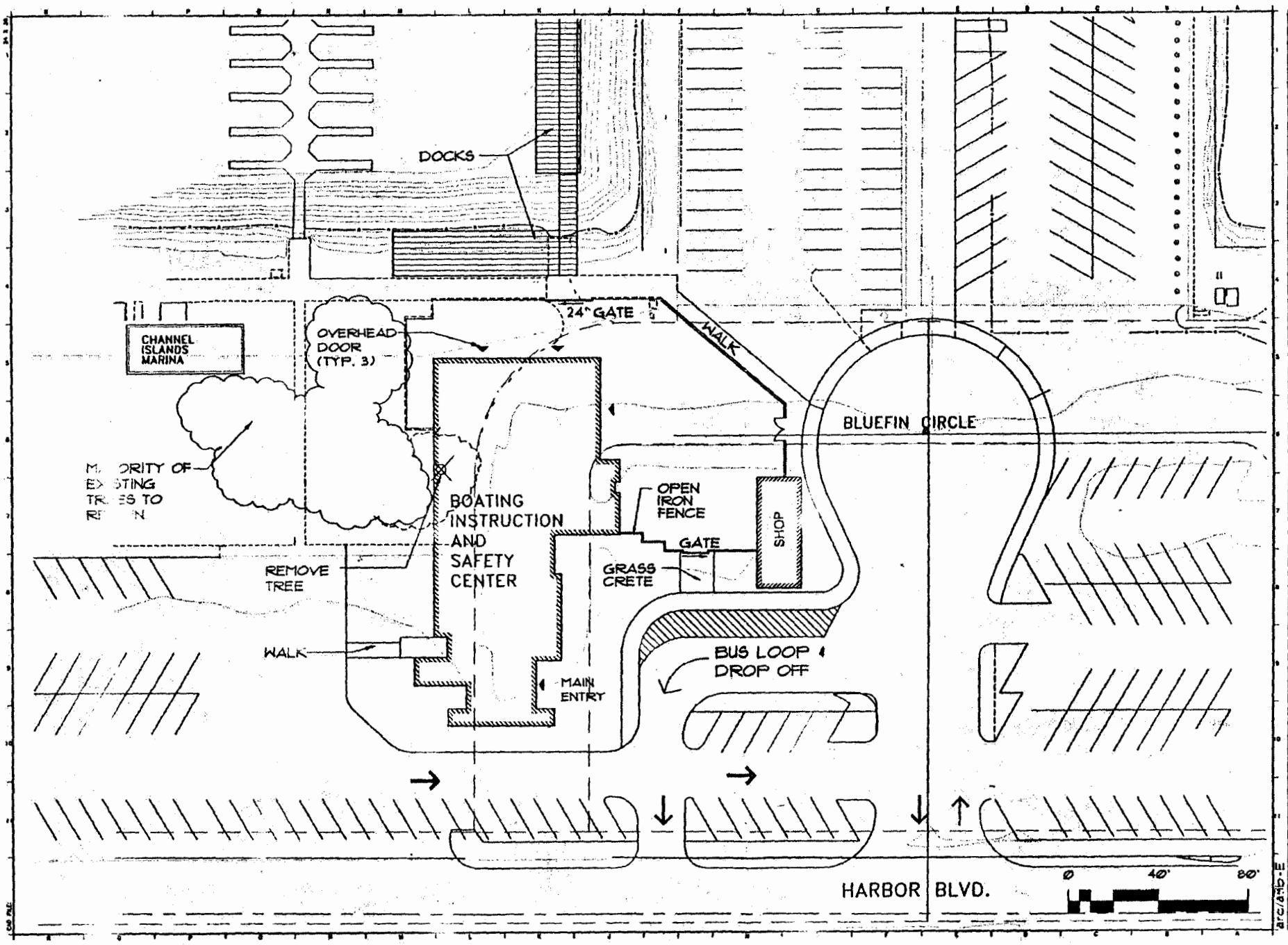

Exhibit 5
PWPA 1-04, NOID 1-05
Site Plan & Elevations

Division of the State Architect
ACCESS COMPLIANCE
App. No.: 02-103224
Reviewed by:
Date:

California State Fire Marshal
APPROVED
Approved of this plan does not authorize or approve any violation or deviation from applicable regulations. Final approval is subject to field inspection. Any set of approved plans shall be available on the project site at all times.
App.No.: 21-01-11-[illegible]
Reviewed by:
Date:

Issue

No.	Date	Description
1	[illegible]	50% PRELIMINARY PLANS
2	[illegible]	50% PRELIMINARY PLANS

Project
CHANNEL ISLAND BOATING INSTRUCTION AND SAFETY CENTER

OXNARD, CA.

Supervisor	Designed	Drawn	Checked
	CM	SBP	CM

File Date | Vault File Number

Sheet Title
SITE PLAN ALTERNATIVE (VARIATION)

Work Order: DBW 111675
Sheet Scale: 1"=40'-0"
Sheet Number: A1.1 a
of

arc/amb-E

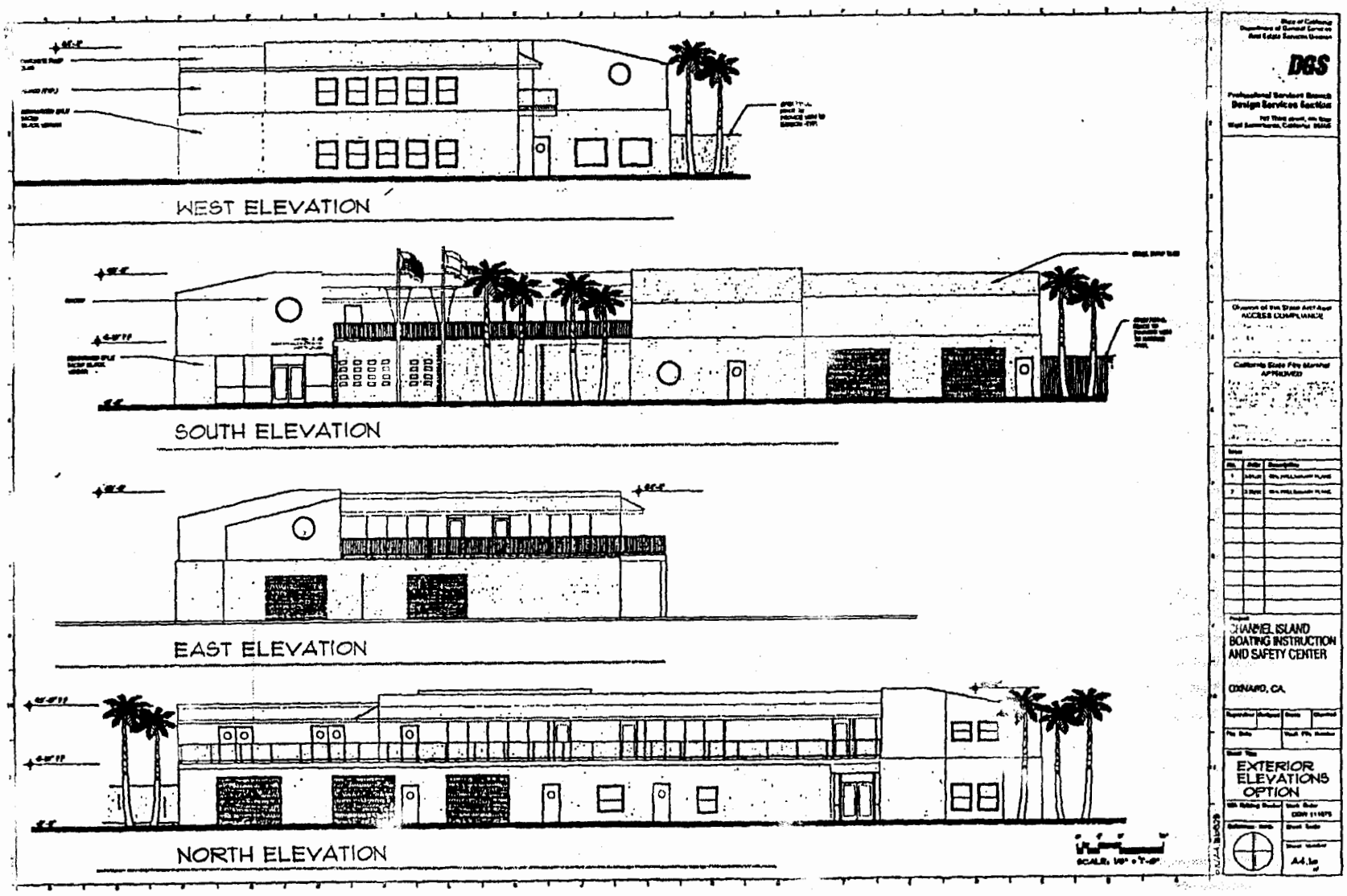

Exhibit 50 - Exterior Elevations (Variations A and B)

Development Services Administration
305 West Third Street • Oxnard, CA 93030 • (805) 385-7896 • Fax (805) 385-7833

RECEIVED
FEB 10 2005
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

February 4, 2005

Mr. Jack Ainsworth
Mr. Gary Timm
California Coastal Commission
89 S. California St.
Suite 200
Ventura, CA 93001

Dear Messrs. Ainsworth and Timm:

SUBJECT: Boating Instruction and Safety Center, Channel Islands Harbor; Determination of Consistency with the Oxnard Local Coastal Plan (LCP) Pursuant to Coastal Commission Regulations Sec. 13371

The City of Oxnard has been working cooperatively with the County of Ventura Harbor Department towards establishing a Boating Instruction and Safety Center ("BISC") in Channel Islands Harbor. We are aware that the County and your agency have agreed to process an amendment to the Public Works Plan, and that your regulations require consultation with our City regarding the consistency of the amendment with the City LCP. The purpose of this letter is to conform to CCR Sec. 13371 by explaining our determination of consistency.

Background

The Public Works Plan (PWP) for Channel Islands Harbor was approved prior to the Oxnard LCP, and takes precedence over the LCP. However, if and when an amendment to the PWP is proposed, the amendment must be evaluated to determine if it is in conformity with the Oxnard LCP. Both the PWP and the Oxnard LCP are older documents, and share the same historical context, being approved in the same general timeframe.

The City first considered the consistency question when we were approached by the County and its consultant during the preparation of the EIR for the BISC. That EIR was to evaluate this consistency question, and the County desired the City's input during the normal CEQA consultation process.

Exhibit 6
PWPA 1-04, NOID 1-05
City of Oxnard Correspondence

After carefully evaluating the BISC project against the Oxnard Certified LCP, the City prepared a letter concluding that the BISC "would appear to be consistent with the policies and ordinances". That letter, dated February 6, 2003, is attached for you reference.

Thereafter, the City reviewed the Draft EIR and its discussion of the Oxnard LCP. As the EIR accurately reflected the City's position, the City made no comment on the Draft EIR. The Board of Supervisor's selection of Project Alternative 6.B reduced impacts even further.

Present Position of the City of Oxnard

The City has been made aware that the County and the Coastal Commission have entered into an agreement whereby the PWP will be amended in a focused amendment aimed at making clear that the BISC is a permitted use under the PWP. The City believes that the LCP allows the BISC in any event; however, the City has no objection to a clarifying amendment to the PWP if that is the desire of the Coastal Commission and the County.

The Coastal Commission regulations provide a role for the City in that your agency is obligated to request that our City transmit its determination as to whether the Plan amendment is in conformity with the certified local coastal program. We are writing now to assist the County and the Commission in complying with this section of your regulations.

The City of Oxnard has determined that the BISC itself is consistent with the Oxnard Certified LCP. It naturally follows that an amendment, narrowly focused on establishing the BISC in the manner already approved by the Board Of Supervisors, would also be consistent. We have reviewed the County's Board of Supervisor's transmittal, including the amendment itself and the associated addendum, and we have determined that the amendment is in conformity with our certified LCP. No modifications to the PWP amendment are recommended by the City.

In terms of consistency, and because it has been asserted that the BISC is in fact not consistent with the Oxnard certified LCP, we offer the following substantiation of our position. First, in our February 6, 2003 letter we explain that the Oxnard Certified LCP emphasizes recreational boating, noting specifically that sailing schools are listed as conditionally permitted uses. Further policies stress the need to promote and protect water-related uses. We are not aware of any controversy concerning our determination of consistency when this project was being considered by the Board of Supervisors last year.

Present concerns seem to focus on three areas; that the harbor is "built out" and therefore the BISC cannot be established, that the BISC will be located in a "park", and that the BISC would interfere with protected view corridors. The following addresses those concerns:

Buildout of Harbor

The Oxnard LCP devotes five pages to the Channel Islands Harbor. A complete reading of these pages reveals to the reader that the concept of "buildout" is related to the harbor/water area itself, and not the landside development. The LCP notes that at the time of original preparation there were two studies related to enlarging the harbor and reducing congestion. The Inland Waterway issues had just arisen, and as your agency is aware, have recently been resolved. Therefore, the City's focus was on the size, number and character of the *waterside* facilities. Note the statement in the LCP, repeated from what was then the draft Public Works Plan:

"With the completion of already approved projects along the west channel, the harbor will be completely built out. The Property Administration Agency does not have plans for any major expansions or re-constructions of the harbor area." (Oxnard LCP, page III-21)

This passage follows a discussion of "Local Issues" wherein the City of Oxnard relates studies that were being considered at that time to expand the water portion of the harbor itself. The City wanted to be on record supporting the expansion of recreational boating opportunities (Oxnard LCP, page III-21). We also wanted to be a part of any future proposal to expand the harbor (Oxnard LCP, page III-22). Clearly, when read in context, the Oxnard Certified LCP not only does not "freeze" development as it existed at the time of original certification, it provides encouragement and regulations to maximize public access and recreational boating opportunities. (Oxnard Certified LCP policies 14, 116, 21, 24, and 25, pages III-22,23). There is no statement that no other structures or uses could be established in Channel Islands Harbor in the Oxnard LCP.

The decision of whether to amend the PWP is one to be made between the County and the Coastal Commission. However, it is the determination of the City of Oxnard that no amendment is necessary to its LCP to establish the BISC.

Use of the "Park"

The Oxnard Certified LCP, Policy 26 at page III-23, states:

"To ensure that lower cost recreational and visitor-serving harbor facilities are available to all income groups, picnic tables, public restrooms, pedestrian and bicycle accessways, pedestrian furniture, bicycle storage racks, small boat sailing, renting and berthing areas shall be provided. In addition, the harbor public park areas, which provide a lower cost recreational activity, shall be preserved for general public recreational use."

First, the public park areas insofar as the City is concerned are those shown on the Master Plan and referred to in the PWP, as explained in the BISC EIR. Secondly, the Oxnard LCP in no way prohibits the establishment of the BISC in a park, even if that characterization is given to the BISC site. Therefore, the City has determined that the BISC is consistent with its LCP.

Oxnard LCP Policy N calls for the preservation of parking to serve recreational boating, sport fishing and commercial fishing. The BISC is part of a recreational boating complex.

View Corridors

The Oxnard Certified LCP contains Policy 35 at page III-24, which is aimed at preserving the visual quality of the area.

Oxnard LCP Policy V calls for the maintenance of view corridors between the first main road and the water line. The LCP does not identify with precision where the view corridors are located. The BISC does interfere with two view corridors identified in the Channel Islands PWP, which allows elimination of the identified view corridors so long as 25% of the view corridors as identified remain.

Conclusion

It is our finding that this project is consistent with the Oxnard Certified LCP and advances Coastal Act objectives.

Please contact me if I can answer any questions.

Sincerely,

Matthew G. Winegar, AICP
Development Services Director

MGW:sae

cc: Edmund F. Sotelo, City Manager
Mayor and City Council

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

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

February 24, 2005

Raynor Tsuneyoshi, Director
Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, CA 95815-3888

Re: Proposed Boating Instruction and Safety Center for Channel Island Harbor, Ventura County

Dear Director Tsuneyoshi:

Coastal Commission staff has been provided copies of letters from the Department of Boating and Waterways concerning proposed construction of the Boating Instruction and Safety Center (BISC) in Channel Islands Harbor (December 1, 2003 from Mike Ammon to Lyn Krieger, October 15, 2004 to members of the Ventura County Board of Supervisors, and October 21, 2004 to Assemblyman Tony Strictland). These letters all indicate a preference for locating the BISC on the west side of the Harbor in the proposed location. In particular, safety concerns relative to wind direction was cited as one of many factors for your decision. Both the October 15 and 21 letters signed by you state "given the considerable safety concerns expressed by independent experts, we cannot recommend funding from the Department of Boating and Waterways for a BISC project on the harbor's east side."

As I'm sure you are aware the location of the BISC has become extremely controversial. The Coastal Commission has scheduled a public hearing on a proposed Public Works Plan Amendment for Channel Islands Harbor to specifically permit the BISC at the west side location for its March 16, 2005 meeting in Orange County. Because of the continuing controversy surrounding this project I am writing to ask whether the Department's position has changed in any form from that stated in the October 15 and 21, 2004 letters referenced above. Specifically, does the Department continue to prefer the Harbor west side location for the BISC and has the Department's position on funding changed?

Although we would prefer to receive a written response to this letter please feel free to call me if that is not possible. You may also reply by e-mail. My phone number and e-mail address are provided below. Thank you for your prompt response.

Sincerely,

Gary Timm

Gary Timm
District Manager
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA. 93001
805-585-1800
gtimm@coastal.ca.gov

cc. Jack Ainsworth
Lyn Krieger

Exhibit 7
PWPA 1-04, NOID 1-05
Dept. of Boating & Waterways Correspondence

STATE OF CALIFORNIA-THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *Governor*

DEPARTMENT OF BOATING AND WATERWAYS
2000 EVERGREEN STREET, SUITE 100
SACRAMENTO, CA 95815-3888
Tele: (916) 263-4326
Fax: (916) 263-0648
www.dbw.ca.gov

RECEIVED
SEP 24 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

September 20, 2007

Gary Timm
District Manager
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Subject: Channel Islands Boating Instruction and Safety Center

Dear Mr. Timm:

This letter is in response to your email to me dated September 19, 2007, in which you ask for updated clarification of the Department of Boating and Waterways' position on the proposed boating center project.

The Department remains supportive of constructing the BISC at the previously approved west side location. The west side site was selected by a panel of current or former BISC directors with over 100 years of combined experience in developing and safely managing boating instruction programs for youths, adults and special needs students. This panel of experts independently ascertained that, among the possible locations for a BISC in Channel Islands Harbor, the west side location was the safest location for the types of boating instruction contemplated at the proposed boating center and also ranked high on other site selection criteria.

We appreciate the opportunity to comment on this project and are available to answer any further questions you may have on this subject.

Sincerely,

David A. Johnson

for Raynor Tsuneyoshi
Director

Gary Timm

From: Ray Tsuneyoshi [RTSUNEYOSHI@dbw.ca.gov]
Sent: Monday, February 28, 2005 2:06 PM
To: gtimm@coastal.ca.gov
Cc: Lyn Krieger; David Johnson; Steve Watanabe
Subject: Your Letter of 2/24/05:BISC for Channel Islands Harbor, Ventura County

Gary Timm
District Manager
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Dear Mr. Timm,

To answer your two questions as succinctly as possible, "Specifically, does the Department continue to prefer the Harbor west side location for the BISC..." The answer is , yes. "has the Department's position on funding changed." The answer is, no.

I hope our response is clear. If not, please give me a call at 916 263 4326.

Sincerely

Raynor Tsuneyoshi
Director
Department of Boating and Waterways

STATE OF CALIFORNIA-THE RESOURCES AGENCY
Arnold Schwarzenegger, Governor
DEPARTMENT OF BOATING AND WATERWAYS
2000 Evergreen Street, Suite [illegible]
SACRAMENTO, CA 95815-3888
(916) 263-1331

December 1, 2003

Lyn Krieger, Director
Harbor Department
3900 Pelican Way, L#5200
Oxnard, CA 93035-4367

Subject: BISC Site Funding

Dear Ms. Krieger:

The purpose of this letter is to comment on the site selection for the Channel Islands Boating Safety Center, which is funded in large part by this Department. The Department has reviewed the presented alternatives, studied the comments by the four Center Directors, and visited the alternative project sites. Our position after careful study is that the only viable site is #2, the "Port Royal/CI Marina Central" location.

In light of the presented evidence it is the Department's position that it will be very unlikely that any other site will be acceptable.

Sincerely,

Mike Ammon

Mike Ammon
Contract Administrator
(916) 263-8163

RECEIVED
South Coast
FEB 4 2004
CO

STATE OF CALIFORNIA-THE RESOURCES AGENCY
ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF BOATING AND WATERWAYS
2000 Evergreen Street, Suite 100
SACRAMENTO, CA 95815-3888
Tele: (916) 263-4326
Fax: (916) 263-0648
www.dbw.ca.gov

October 15, 2004

Supervisor Steve Bennett
Supervisor Linda Parks
Supervisor Kathy Long
Supervisor Judy Mikels
Supervisor John Flynn
County of Ventura
800 S. Victoria Avenue
Ventura, CA 93009

Subject: Funding for the Proposed Channel Islands Boating Instruction and Safety Center

Dear Supervisor:

Chairman Steve Bennett recently wrote to the Department of Boating and Waterways asking for clarification of the Department's position on site selection as it relates to funding of the proposed Channel Islands Boating Safety Instruction Center (BISC).

As you are aware, Ventura County proposed, and the State accepted, a project adjacent to the Port Royal site within the Channel Islands Harbor.

This west harbor site was selected after careful consideration by a committee of experts, which included the director of the San Diego Aquatic Center, Glen Brandenburg. Many questions were raised during the site selection evaluation phase of the study regarding wind effect on boating safety.

We reviewed the reports submitted by experts retained by the County, experts in whom we have a great deal of confidence. We also conducted our own review and site inspections. To date, four current or former boating center directors in California have unanimously recommended the proposed west side site as the safest location.

Conversely, these same experts have counseled against a site on the east side for safety and operational reasons. The mission of the Department is to provide safe boating access to the California boating public. In regard to a boating center that will be offering boating and sailing instruction for youths and beginners, safety is a paramount concern.

For the current fiscal year, a total of $310,000 is appropriated from the Department's Harbors and Watercraft Revolving Fund for the development of working drawings at the west site.

Supervisors, County of Ventura
October 15, 2004
Page Two

Given the considerable safety concerns expressed by independent experts, we cannot recommend funding from the Department of Boating and Waterways for a BISC project on the harbor's east side.

Sincerely,

Raynor Tsuneyoshi
Director

RT:dj:ms

cc: Mr. David Johnson
Mr. Steve Watanabe
Ms. Lyn Krieger

STATE OF CALIFORNIA-THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF BOATING AND WATERWAYS
2000 Evergreen Street, Suite 100
SACRAMENTO, CA 95815-3888
Tele: (916) 263-4326
Fax: (916) 263-0648
www.dbw.ca.gov

October 21, 2004

-Faxed on 10/21/04-

The Honorable Tony Strickland
Assemblyman, Thirty-Seventh District
Westlake Corporate Centre
2659 Townsgate Road, Suite 236
Westlake Village, CA 91361

Post-it® Fax Note 7671	Date	# of pages ▶
To CAROL ABELLA	From Mike Ammon	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

Dear Assemblymember Strickland:

I am writing in response to your October 14, 2004, letter concerning the Channel Islands Boating Instruction and Safety Center. I assure you that the single most influential factor in our deliberations is safety. The west harbor site was selected after careful consideration by a committee of experts, which included the director of the San Diego Aquatic Center, Glen Brandenburg. Many questions were raised during the site selection evaluation phase of the study regarding wind effect on boating safety.

We reviewed the reports submitted by experts retained by the County, experts in whom we have a great deal of confidence. We also conducted our own review and site inspections. To date, four current or former boating center directors in California have unanimously recommended the proposed west side site as the safest location. In regard to a boating center that will be offering boating and sailing instruction for youths and beginners, safety is of paramount concern.

Following are answers to each of the specific questions you have raised:

1. **Question:** Is it true that site #2 is the *only* viable site in the harbor?

Answer: The site selection report for the Boating Instruction and Safety Center for the Channel Islands Harbor was completed in November 1999 and submitted to the Department of Boating and Waterways. Based on recommendations in the report, the "Port Royal/Channel Islands Marina Central" site was selected by the State of California as the preferred alternative.

Accordingly, funding for preliminary plans for a capital outlay, Boating Instruction and Safety Center in the amount of $319,000 was included in the State of California's 2001-02 Budget Act (Chapter 106, Statutes of 2001). This $319,000 line-item appropriation, initiated by the Administration and approved by the Legislature, was allocated for the "Port Royal" site.

On December 1, 2003, Mike Ammon, Contract Administrator, Department of Boating and Waterways, wrote a letter to Lyn Krieger, Director of the Ventura County Harbor Department, which stated, in part, that "the only viable site is #2, the 'Port Royal/CI Marina Central' location." Mr. Ammon's letter was made in response to an information request from the County of Ventura.

Mr. Ammon's statement was based on a variety of critical factors – site capability, locational criteria, financial issues, development criteria, and, equally important, State budgetary and funding issues. Site #2 is "the only viable site" in the sense that these project funds are not portable and have been earmarked for the Port Royal location. Moving the project to a new location will essentially require starting the budget process all over and ignoring the approximate $500,000 of state and county funds already spent on this project. Because the State of California is continuing to face difficult budgetary problems, there is no assurance that State funding for a new site would be available and approved in the future. Given the breadth of these factors, Mr. Ammon's statement is accurate.

2. **Question:** Was land traffic taken into consideration as one of the site selection criteria when analyzing the various sites in the harbor?

Answer: Although land traffic was not addressed in the original proposal, a 55-page traffic study was included in the EIR, which revealed no significant impacts.

3. **Question:** Is the wind direction the sole factor that makes the east side a safety concern for the Department?

Answer: The direction of the wind in relation to the proposed Boating Instruction and Safety Center is clearly significant for safety reasons, but this factor is just one of the many factors listed in the original proposal Site Selection Criteria (Please see page 12 of the "Proposed Boating Instruction and Safety Center, Channel Islands Harbor, Ventura County, California" proposal, dated November 1999.)

In addition, the EIR points out that if the east side were selected, a dock would have to be placed into the channel that would protrude 115 feet beyond the existing pierhead lines. The U.S. Coast Guard is on record opposing this concept for channel traffic safety reasons. It is also noteworthy that the east side site received one of the lowest ratings of the seven study areas, as listed on the Site Selection Criteria study, and was the only location marked down for safety reasons.

4. **Question:** Are there other BISCs in the state that are placed downwind? With these BISCs placed downwind, what are the overriding factors that determined placement?

Answer: We have not, to our knowledge, funded the construction of any BISC facilities in the state with wind conditions as unfavorable as those that would be found at a BISC located on the east side of Channel Islands Harbor.

Honorable Tony Strickland
October 21, 2004
Page Three

Question: If the county were to opt to place the BISC on the east side of the harbor, would the Department completely refuse to support the BISC?

Answer: Given the considerable safety concerns expressed by independent experts, we cannot recommend support from the Department of Boating and Waterways for a BISC project on the harbor's east side.

Lastly, we have enclosed an April 20, 2004, letter from Steve Bennett and Kathy I. Long, members of the Board of Supervisors for the County of Ventura, concerning the board's reasoning and decision-making for the boating center. Supervisors Bennett and Long make clear that the board majority concluded separately that the west side was superior based upon important reasons other than the Department's letter.

Like you, we are interested in assuring that the county's decision is based on receiving complete and accurate information from the Department of Boating and Waterways. Hopefully we have provided the clarification you were seeking. If you should have any further questions regarding our response, please contact me or David Johnson (916) 263-0780.

Sincerely,

for Raynor Tsuneyoshi
Director

RT:dj:ms

Enclosure

cc: Mr. Steve Watanabe
Mr. David Johnson

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Assembly
California Legislature

TONY STRICKLAND

ASSEMBLYMAN, THIRTY-SEVENTH DISTRICT

COMMITTEES:
VICE-CHAIRMAN
ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND INTERNET MEDIA
MEMBER
BANKING AND FINANCE
ELECTIONS, REDISTRICTING, AND CONSTITUTIONAL AMENDMENTS
GOVERNMENTAL ORGANIZATION
COMMISSION
STRUCTURAL CHALLENGES TO BUDGETING IN CALIFORNIA

October 14, 2004

Mr. Raynor Tsuneyoshi
Director
Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, CA 95815-3888

Dear Director Tsuneyoshi:

First, I want to thank Mike Ammon and David Johnson from your Department for assisting my office and helping to clarify some issues regarding the Channel Islands Boating Safety Center in Ventura County. I also appreciate their efforts in assisting the County of Ventura. However, it is precisely your department's assistance to the County that has caused me to write to you today.

In reference to the attached letter from Mr. Ammon sent to Lyn Krieger on December 1, 2003 regarding the Channel Islands Boating Safety Center, it was stated that it is the Department's position that "the only viable site is #2, the 'Port Royal/CI Marina Central' location." It has come to my attention that Mr. Ammon's description of site #2 as the "only viable" site may be inaccurate.

Because I want to assure the County of Ventura and its residents that your department did indeed provide accurate and complete information to the County, can you please take the time to address the following questions?

1. Is it true that site #2 is the *only* viable site in the harbor? It is my understanding that the Department uses a ranking system based on selection criteria and that several sites in the harbor can be considered viable. In fact in a conversation with my staff, Mr. Ammon mentioned that there are only a couple of sites that can be flatly rejected and that there are more sites that can be deemed viable.
2. Was land traffic taken into consideration as one of the site selection criteria when analyzing the various sites in the harbor?
3. Is the wind direction the sole factor that makes the east side a safety concern for the Department?
4. Are there other BISCs in the state that are placed downwind? With these BISCs placed downwind, what are the overriding factors that determined placement?

E-MAIL: Assemblymember.Strickland@assembly.ca.gov
WEB: http://www.assembly.ca.gov/strickland
Printed on Recycled Paper

5. If the County were to opt to place the BISC on the east side of the harbor, would the Department completely refuse to support the BISC?

Thank you in advance for you time. I am sure you share my desire to ensure that the County of Ventura did indeed receive complete and accurate counsel from your department.

If you should have any questions, please feel free to contact me or my Chief of Staff, Joel Angeles, in my District Office at (805) 230-9167.

Sincerely,

Tony Strickland
Assemblyman, 37th District

MAXIMUM NUMBER OF SPACES OCCUPIED OVER 3-DAY LABOR DAY PERIOD

Parking Lot	1000 Hrs	1300 Hrs	1600 Hrs	2000 Hrs	Total available spaces	Percent full during maximum demand
W-2	86	104	110	105	182	57%
W-3 [1]	7	17	19	69	149	46%
W-4 [1]	65	78	86	65	179	48%
W-5	59	116	98	55	171	68%
W-6 [2]	152	152	111	65	152	100%
Whale's Tail/ Port Royal	12	51	57	71	76	93%

[1] Lots closest to Boating Instruction and Safety Center

[2] The Farmer' Market was being held this weekend. W-6 is the supporting parking lot. The Farmers' Market is held on Sundays.

Exhibit 8
PWPA 1-04, NOID 1-05
Parking Survey

Gary Timm

From: Tom Wolfington [tcw@penfieldsmith.com]
Sent: Thursday, October 18, 2007 4:02 PM
To: Marilyn.Miller@ventura.org
Subject: BISC

Marilyn,

Attached are some exhibits related to the BISC from our 2004 archives. The following additional statistics were provided by email at the time:

Landscape area left of Bluefin for original = 10,047 sf Landscape area
left of Bluefin for option B = 13,277 sf

The BISC area is comprised of 11,110 sf of building space and 8,933 sf of paved area.

Only 1,714 sf building footprint overlays the current landscaped area.

Let me know if any hard copy prints are needed or if anything further is needed on this subject.

Thanks for your inquiry.

Tom Wolfington
Senior Engineer

Penfield & Smith
Tel 805-981-0706 ext. 111
Fax 805-981-0251
http://www.penfieldsmith.com

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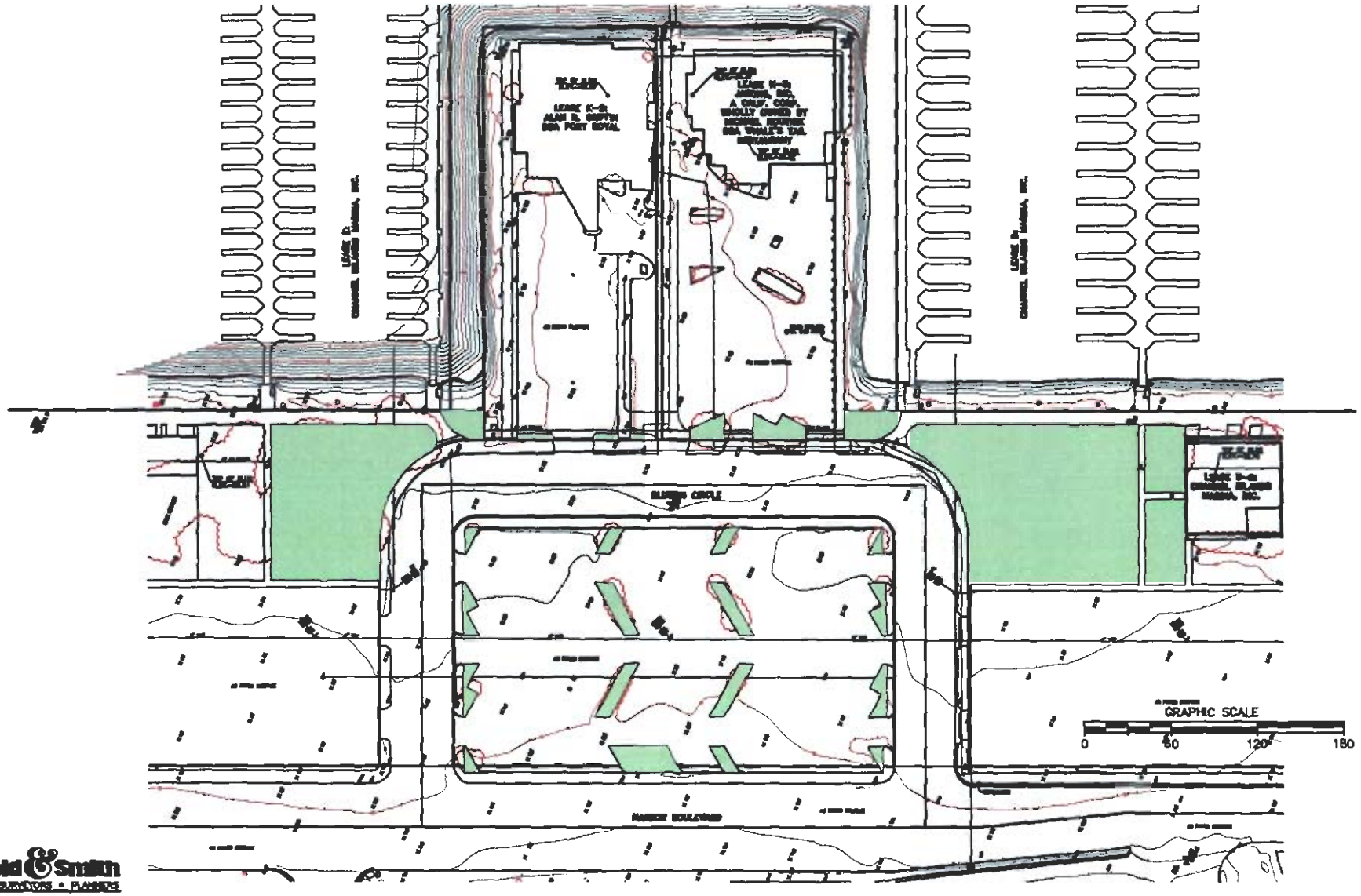
Exhibit 9
PWPA 1-04, NOID 1-05
BISC and Park Footprints

EXISTING 32,974 SF - LANDSCAPED AREA



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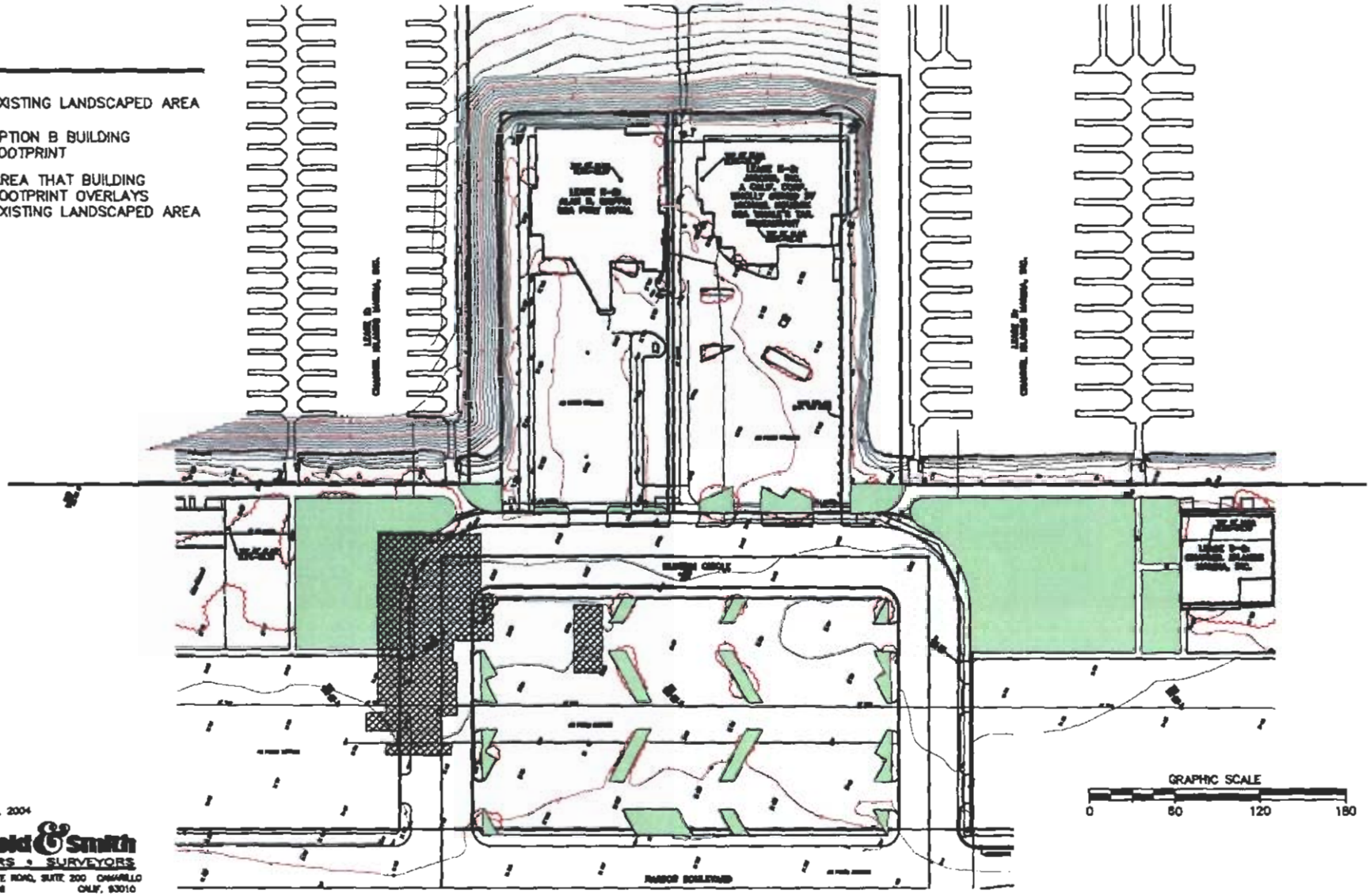
W.O.14050.05 9/21/04

EXISTING 32,974 SF - LANDSCAPED AREA

LEGEND

- EXISTING LANDSCAPED AREA
- OPTION B BUILDING FOOTPRINT
- AREA THAT BUILDING FOOTPRINT OVERLAYS EXISTING LANDSCAPED AREA



September 24, 2004

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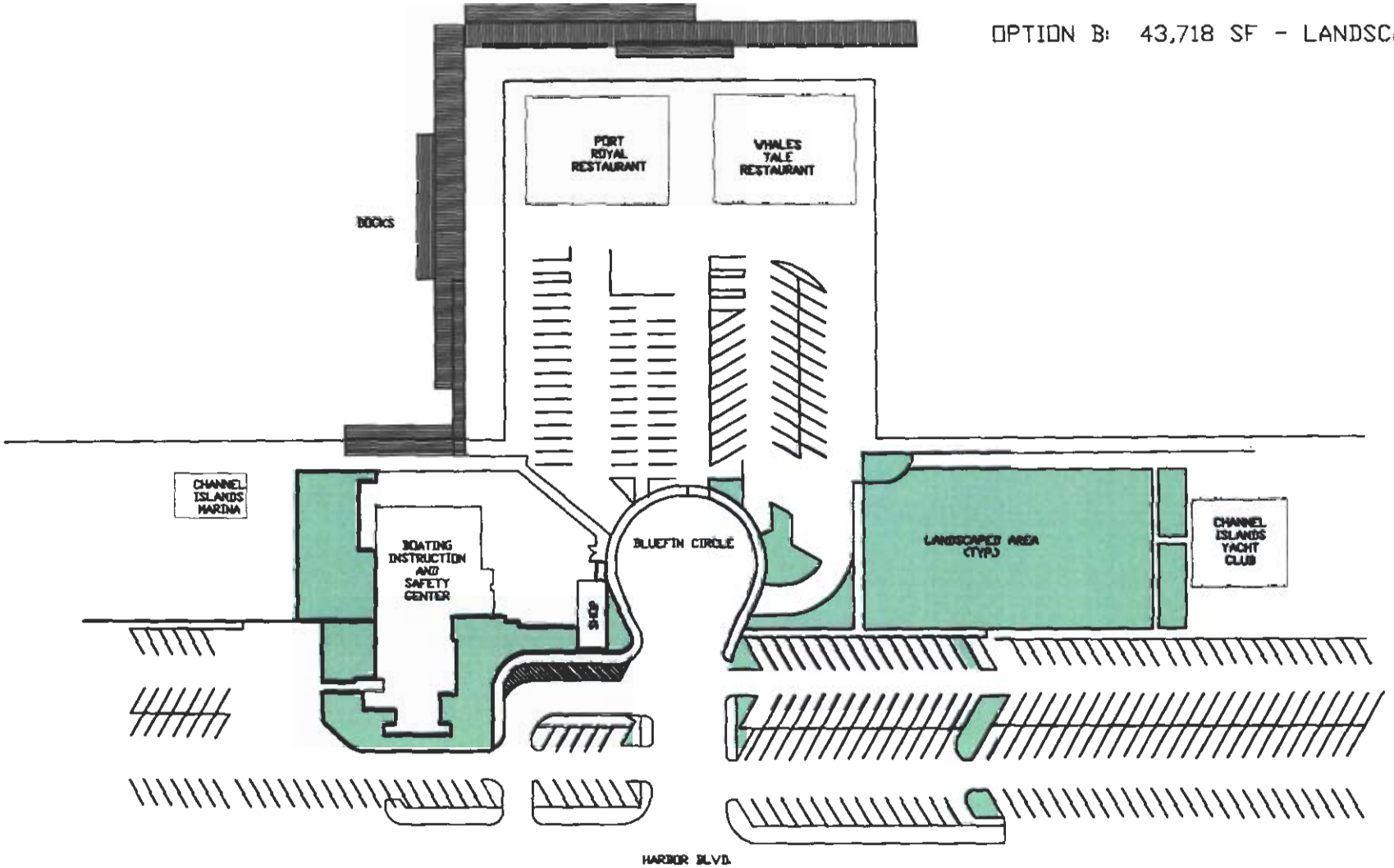
(805) 981-0704 CALIF. 93010

SHEET 1 OF 1 W.O. 14050.05

OPTION B: 43,718 SF - LANDSCAPED AREA



Penfield & Smith

W.O.14050.05 9/24/04

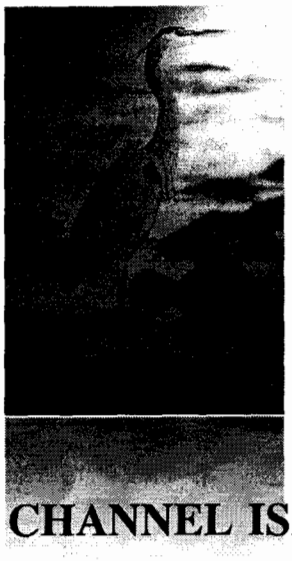
GRAPHIC SCALE

0 60 120 180

Close up of West-Side Landscaped Area

BISC Revised Site Plan B: Building perpendicular to water

Results in net increase of .25 acres of green space at turning basin



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14 January 2008

CHANNEL ISLANDS HARBOR HERONRY

NEST TREE DISTRIBUTION

The following table represents the annual distribution of nest trees for all tree species used by all nesting heron species during nest years 2003-2007. During the five-year study period, 43 individual trees were used for nesting; and altogether, 90 uses of those trees were counted. Black-crowned Night-Herons (BCNH) accounted for 63 of the 90 total tree-uses*, Great Blue Herons (GBH) 26, and Snowy Egret (SNEG) 1 (2004 only).

Herons nesting along the **PENINSULA** counted for 57 tree-uses (63 pct) over the five-year period, and the balance of 33 tree-uses (37 pct) occurred on the **WESTSIDE**. The largest annual tree-usage (and nesting effort) was made by BCNH on the Westside during the 2003 nesting period (BCNH used 16 Westside trees for nesting). Presently shown data do not reflect the actual number of nests used during any period. These nest effort data do exist and are reportable, per species.

Tree-use data are being analyzed to understand the annual patterns of new tree accession (NTA). NTA represents tree selection patterns of individuals or a population of animals (herons) that annually select nest trees from a larger field of suitable trees, and particularly when they adopt a previously unused tree for nesting, i.e., the population of nest trees increases over time by accession.

DEFINITION: USE means that one or more pairs of a species used the tree for nesting in a given year. Whether one or two GBH pairs nests in a tree, the event is a single use. The actual count of nests is not factored into this description of use.

Exhibit 10
PWPA 1-04, NOID 1-05
Heron Status Reports

CIH Nest Tree Distribution, 2003-2007

CIH AREA	2003		2004			2005		2006		2007		TOTALS
	BCNH	GBH	BCNH	GBH	SNEG	BCNH	GBH	BCNH	GBH	BCNH	GBH	
PENINSULA	12	1	11	1	0	6	1	5	7	5	8	57
WESTSIDE	16	3	4	3	1	3	1	0	1	1	0	33
TOTALS	28	4	15	4	1	9	2	5	8	6	8	90

Nest Tree Worksheet, 2003-2007

The following worksheet incorporates all basic tree-use data about CIH nesting herons during 2003-2007. Tree numbers correspond with trees marked on the **All Nest Map for 2003-2007** (attached). The 5 tree species are indicated by color-coded dots on the same map. Individual trees that are highlighted in yellow, below, have been used only once by herons. To date, this feature is more significant for trees used before 2007 as it indicates the trees to which herons did not return after the prior year. Future, or repeat use of trees used during 2007 only has not been determined (also, see All Nest Map).

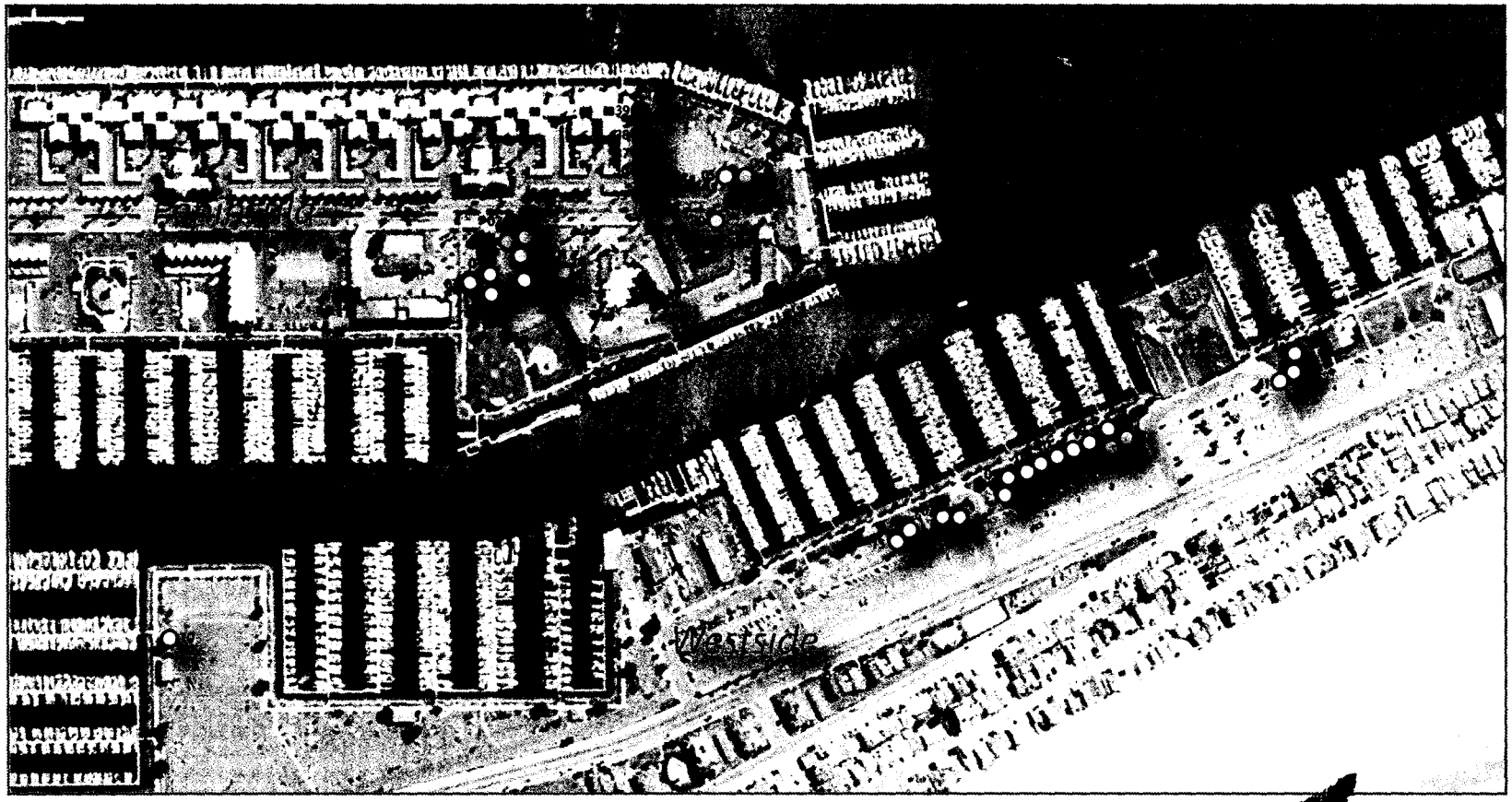
TREE #	TREE NAME	NEST YEAR	HERON SPECIES
1	Magnolia	2003	BCNH
1	Magnolia	2004	BCNH
1	Magnolia	2005	BCNH
2	Melaleuca	2006	BCNH
2	Melaleuca	2007	BCNH
3	Cypress	2003	BCNH
3	Cypress	2004	BCNH
4	Cypress	2003	BCNH
4	Cypress	2004	BCNH
5	Cypress	2007	BCNH
6	Cypress	2007	BCNH
7	Cypress	2003	BCNH
7	Cypress	2004	BCNH
7	Cypress	2005	BCNH
7	Cypress	2003	GBH
7	Cypress	2004	GBH

8	Cypress	2003	BCNH
8	Cypress	2004	BCNH
8	Cypress	2005	BCNH
8	Cypress	2003	GBH
8	Cypress	2004	GBH
8	Cypress	2006	GBH
8	Cypress	2004	SnEg
9	Cypress	2003	BCNH
9	Cypress	2004	BCNH
9	Cypress	2005	BCNH
9	Cypress	2003	GBH
9	Cypress	2004	GBH
9	Cypress	2005	GBH
10	Cypress	2007	BCNH
11	Pohutukawa	2003	BCNH
11	Pohutukawa	2004	BCNH
11	Pohutukawa	2005	BCNH
11	Pohutukawa	2006	BCNH
12	Pohutukawa	2003	BCNH
12	Pohutukawa	2004	BCNH
12	Pohutukawa	2005	BCNH
12	Pohutukawa	2006	BCNH
13	Pohutukawa	2003	BCNH
13	Pohutukawa	2004	BCNH
13	Pohutukawa	2005	BCNH
13	Pohutukawa	2006	BCNH
14	Pohutukawa	2003	BCNH
14	Pohutukawa	2004	BCNH
14	Pohutukawa	2005	BCNH
14	Pohutukawa	2006	BCNH
15	Pohutukawa	2003	BCNH
16	Pohutukawa	2003	BCNH
17	Pohutukawa	2003	BCNH
18	Pohutukawa	2003	BCNH
19	Pohutukawa	2003	BCNH
20	Pohutukawa	2003	BCNH
21	Pohutukawa	2003	BCNH

22	Pohutukawa	2003	BCNH
23	Pohutukawa	2003	BCNH
24	Pohutukawa	2003	BCNH
25	Pohutukawa	2003	BCNH
26	Mont Pine	2003	BCNH
26	Mont Pine	2004	BCNH
27	Mont Pine	2007	BCNH
28	Mont Pine	2003	BCNH
28	Mont Pine	2004	BCNH
29	Mont Pine	2003	BCNH
30	Mont Pine	2003	BCNH
30	Mont Pine	2007	BCNH
31	Mont Pine	2003	BCNH
31	Mont Pine	2004	BCNH
31	Mont Pine	2005	BCNH
31	Mont Pine	2003	GBH
31	Mont Pine	2004	GBH
31	Mont Pine	2005	GBH
31	Mont Pine	2006	GBH
31	Mont Pine	2007	GBH
32	Fan Palm	2006	GBH
33	Fan Palm	2006	GBH
33	Fan Palm	2007	GBH
34	Fan Palm	2006	GBH
34	Fan Palm	2007	GBH
35	Fan Palm	2006	GBH
36	Fan Palm	2007	GBH
37	Fan Palm	2006	GBH
37	Fan Palm	2007	GBH
38	Fan Palm	2007	GBH
39	Fan Palm	2006	GBH
39	Fan Palm	2007	GBH
40	Fan Palm	2007	GBH
41	Pohutukawa	2004	BCNH
42	Pohutukawa	2003	BCNH
43	Pohutukawa	2003	BCNH

End of collected tree-use data , 2003-2007

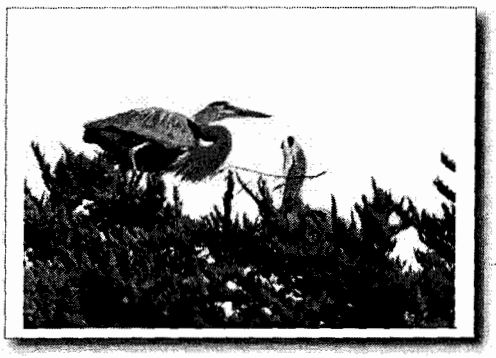
HERON NEST ATLAS *for* CHANNEL ISLANDS HARBOR HERONRY, 2003-2007



Nest Tree Species:
n = 43

- ○ Monterey Cypress
- ○ Monterey Pine
- ○ Pohutukawa (*New Zealand Christmas Tree*)
- ● Magnolia (01) & Melaleuca (02)
- ● Mexican Fan Palm

JB Froke PhD / 01.12.08



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CHANNEL ISLANDS HARBOR FIELD REPORT

DATE: 05 June 07

TO: Lyn Krieger
Ventura County Harbor Department

CC: Andi Culbertson
CAA Planning

SUBJECT: **COVERING PERIOD OF 27 April 2007 - 31 May 2007**

This report covers the known nesting status of all herons at Channel Islands Harbor as of 31 May 07, the date of my most recent onsite inspection. The previous report, submitted on 29 May 07 (and clarified and resubmitted on 31 May), gave the known status of the CIH colony as of 26 April 07. My next field inspection will be in mid-late June 07.

Both days were windy with gusts of approximately 15 knots springing up to 20 knots.

Black-crowned Night-Heron -

We now know that BCNH are nesting in the CIH environment, specifically on the Peninsula. I confirmed an active nest with young nestlings begging for food at 730 PM on 30 May 07. The nest is deep inside the super-dense foliage and needle matting of a 30 ft conical Monterey Cypress; the nest itself is approximately 10-12 ft off the ground and 2 ft off-center from the trunk facing E-SE. The tree is located at the entrance of the boat anchorage parking lot, near the *Lobster Tail* at the cul de sac end of Peninsula Road.

In addition to the confirmed nest (which also was detected and confirmed independently by Greg Ainsworth, Impact Sciences on the previous day, 29 May 07) I suspected two nests in two adjacent trees - one in a Monterey Pine next to and overhanging the street, and one in the companion cypress by the active nest tree. Ainsworth also suspects

nests in these trees, again by independent investigation (plus we have supported each other's suspicions with our shared evidence).

At minimum, there is one BCNH nest; and there may be others in specified trees in the same vicinity. Further, and in view of the late nest-start (late April) by the night-heron pair, plus the relative commonness of the type and physical characteristics of tree selected by the nesting pair, I believe there is a greater probability of finding new nests later this month.

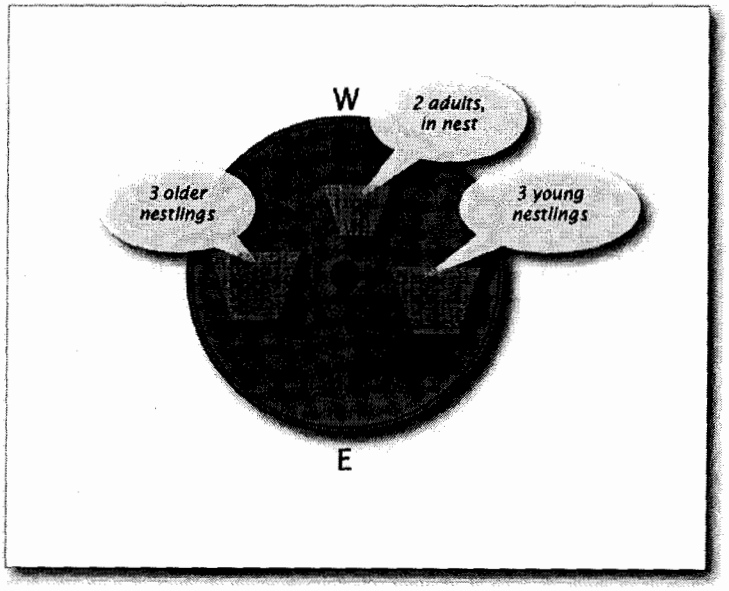
Great Blue Heron -

Westside. There were no nesting GBH on the Westside of CIH.

Peninsula/Peninsula Park. There were no nesting herons at Peninsula Park or its vicinity.

Peninsula/Casa Sirena. **Three (3) pairs of GBH** were nesting on the grounds of Casa Sirena, all of which were in the single Monterey Pine in the central portion of the (3-story) hotel complex (*the stairwell pine*). The Casa pair that had been nesting in the adjacent palm, 25 ft distant from the pine in the parking lot was not present, nor were any nestlings that could be positively identified with the palm nest. While the following observation was made there were six (6) juvenile GBH standing on the westward rooftop of the adjacent section of the hotel.

Momentary status of the three active nests in the Casa Stairwell Pine (*looking from above / plan view*):



Peninsula/Boat Lot. **Five (5) pairs of GBH** were nesting in as many palms on the north edge of the Boat Anchorage Parking Lot, along its border with the adjacent apartment complex. At the times of observation: Nest 01 = 1 aa; 02 = 2 older nn; 03 = no birds seen; 04 = 2 middle nn; 05 = begging chick sounds emanated and pair was observed feeding at least two nestlings therein.

Summary:

BCNH - *minimum 1 nest with young*
GBH -- *minimum 5 nests with young*

W 11a + 11b

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CHANNEL ISLANDS HARBOR FIELD REPORT

DATE: 05 March 2007

TO: Lyn Krieger
Ventura County Harbor Department

CC: Andi Culbertson
Culbertson Adams & Associates

Here is the early nesting season status of herons at Channel Islands Harbor as of 22 Feb 07, the date of my most recent onsite inspection.

Black-crowned Night-Heron - There are no BCNH pairs nesting or starting to nest in the harbor study area. My information consists of my own observations plus those of Greg Ainsworth with Impact Sciences: The agreement that Greg and I have is that we will mutually notify one another whenever we detect or suspect BCNH nesting or serious nesting behavior.

Great Blue Heron - There are at least 2 pairs of GBH nesting on the Peninsula, both are in a Monterey Pine on the grounds of Casa Sirena. When we were touring the area together earlier in February, we stopped and I showed you one of the birds in the nest tree that is snugged up against the three-story section of the hotel. Since then, the second pair has settled in to the tree making up the same 2-pair arrangement as last year.

On the 22nd, there were three individual birds, one each sitting on last year's nests in palms in the boaters' parking lot at the end of Peninsula Road. During my field day, there was a constant 20 knot wind and driving rain, and the entire time all three birds stayed hunkered down on the respective nests. That common and persistent behavior strongly suggested to me that the birds were committed to the palm sites for more than a place to wait out the rain and were already sitting on eggs if not hatchlings. It is possible that the mates of the visible birds were also on the nests, but flattened over the nest cup as the species will do over eggs and very young chicks in inclement weather.

In sum --

BCNH = 0 prs

GBH = 2 - 5 prs

FYI, I'll be back onsite next week for 4-6 hrs during 12-16 March 2007.

W 1/a + 1/b

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jbfroke@msn.com

03 May 2006

Gary Timm
CALIFORNIA COASTAL COMMISSION
89 South California Street, Suite 200
Ventura, California 93001

Re Channel Islands Harbor > Response to CCC Staff Report (Th16c-s-5-2006[1])

Dear Mr. Timm:

I am writing to address your recently released Staff Report that deals with proposed dock construction activities at Vintage Marina in Channel Islands Harbor. Having studied the heronry at Channel Islands Harbor continuously for a period of over 3 years, I am now well into my fourth year of surveys. My studies of the Channel Islands Harbor heronry, combined with my similar, but shorter (2 years and counting) observations at Marina del Rey, may well constitute one of the most thorough studies of heron nest placement in an urban waterfront setting available. I restrict my comments on the staff report to biological issues.

LIST OF EXHIBITS

1. In my view, it would be more appropriate to attach only Dr. John Kelly's April 2006 letter, and omit his letter from the 2005 BISC hearings (Item 12). Dr. Kelly, by personal statement to me in 2004, has acknowledged that he made only a quick visit to the BISC site in 2003. In addition, the BISC site is but a small portion of the area abutting the current marina project, and the data is over three years old. Moreover, Dr. Kelly's observations and recommendations are made on the basis of heron rookeries in Northern California in more remote and natural settings – a far cry from those of Channel Islands Marina. While all responsible biologists acknowledge the importance of sensitivity to the herons, responsible biologists must also distinguish the animals' interactions with their environment in urban from natural situations.

SUGGESTED MODIFICATIONS / Modification 9 / Construction of the Vintage Marina

2. First paragraph -- From this point forward, there are several references made to the grouping of "black-crowned night herons, great blue herons, green herons, and/or egrets," as in whether these taxa are nesting within the linear park on the west side of the harbor, and so on. Here, I would like to offer the following advice: First, if talking about species (the first three are species), it would be consistent and more helpful to identify which if not both local species of egret (not a species but a general term for a group of herons) is to be considered; although I presume both. Second, if meaning to encompass all present or potentially present species of Ardeids (members of the Heron Family), it would make more sense to simply refer to the combination as "any species of heron." Third and finally, your inclusion of the Green Heron is surprising: Whether the species nests anywhere near the Harbor (their typical habitat is not present), it is not a colonial nester and to my knowledge its status and welfare has not been put on alert by the Department of Fish and Game or any other responsible agency. I have not personally observed any Green Heron in this area in spite of more than 50 visits.

3. Same first paragraph – The Staff Report says that if nesting is determined <u>within the linear park or any construction site</u> during the nesting season [1 Feb – 15 Aug] that construction shall cease until the <u>end of the nesting season</u>, i.e., 15 August. Here, I have three concerns: First, the designation of "nesting anywhere in the linear park or any construction site" is overbroad and results in setbacks in some cases of over 1,500 feet (i.e. the distance from, say, the Great Blue Heron nest in the cypress tree at Channel Islands Park to the portion of Vintage Marina adjacent to the Bahia Cabrillo Marina). Second, it is possible and proven locally for nesting and fledging in a small colony to conclude before the end of the designated nesting season, e.g., by the middle of July. Third, if this scenario plays out, what would happen if heron nesting is still underway on and after 16 August?

In the first instance, the designation of "anywhere in the linear park" has no empirical basis or meaning. The designation is defined only by the physical territory of lawn mowers and not by the observable effects of distance, human activity and particularly the past three years of demonstrated nest site selection by herons at Channel Islands (plus two years each at Marina del Rey and Dana Point Harbor). <u>The rational answer is a measured setback; and I recommend 100 linear feet (measured from the base of nest tree to source of noise; the true-life slope distance of the triangle is actually greater)</u>.

Further, re-commencement of construction soon after fledging has been completed (for all active nests within the setback area) would mean that construction would be concluded earlier in the year, and thereby the apparatus and bother would be dismantled and removed from the habitat sooner. In the Staff Report, a CDFG staff biologist commented on the importance of the first foraging season for fledgling herons and the potential for disruption from human activities in the harbor. In this picture, removing construction disturbances as early as possible – while still avoiding disruption to nesting activities – would result in optimal benefits for fledglings that are actively learning to forage and fend for themselves in the marina environment.

In the third instance, re-commencing construction on an artificially set date (16 August) would be unwise, owing to possible threats to still-nesting adults and nest-dependent young (both nestlings and fledglings who are still returning to day-roost at the nest site), critical threats that would be removed by limiting construction during any year to areas outside of 100 ft from active nests, regardless of the calendar date.

SUMMARY OF RECOMMENDATIONS

- Limit construction to areas outside of 100 ft setback from active heron nests as established by expert personal observation; and
- Whatever conditions may otherwise apply, construction should be allowed to recommence when the last affected heron pair (including their nestlings) have completed their annual nesting activities and dependency, regardless of the calendar date.

4. Regarding my Letter-Report of 29 March 2006 – There were several incorrect re-phrasings and interpretations of my report that I wish to set straight for the record. First was a simple but poor choice of wording, as I was neither contentious nor had I contended anything in my report. Second and specifically, I did not say or mean that "herons will not arrive [in the nesting area] after mid-April." I did say, however, that "The latest it is reasonable to expect arriving new birds is mid-late April." I believe there is a big difference between the two statements, the second being the wiser.

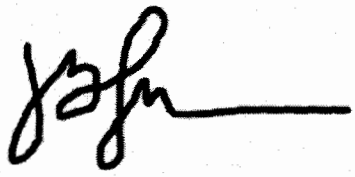
In the same sentence the Staff Report asserted that I *contended* that "setbacks from construction are adequate to protect heronries." I have read and re-read my report and cannot find such a statement on the subject. Further, barring details of a specific setback – as I did not mention any in my report – John Kelly and I have no disagreement on this subject.

Next, the Staff Report stated that I had *contended* that herons are tolerant of human activity or disturbance; and that John Kelly did not agree with me in that position. It is true that I have several times shared my data showing that herons, like numerous wildlife species in my 32-year urban research career, eventually develop a type of ecological and/or behavioral tolerance for human activity. One would have to read John Kelly's letter more carefully; but I do not think he argues this point of whether herons may adapt to the presence of people or physical structures associated with urban environments.

Lastly, I suggest that one more reading through John Kelly's and my own letters will reveal that he and I do not disagree on any of the fundamental matters of heron conservation. Any disagreement, *per se*, would be more to do with how each of each interprets herons and their circumstances at Channel Islands Harbor. Admittedly, it has been difficult to engage in a satisfactory scientific discourse with John Kelly on the subject of the herons at Channel Islands Harbor: He is from Marin County, works in a much different San Francisco Bay area heronry environment, and by his own admission has spent just a few minutes quickly glancing at the local harbor - once in 2003. In other words, too quickly to form an understanding of Channel Islands Harbor herons, the distinctive urban waterfront habitat that the birds have adopted, and any of the ecological relationships that exist among the herons at Channel Islands Harbor, Ventura Harbor, and Port Hueneme – the real hub of Black-crowned Night-Heron nesting activity.

In the final analysis, I suggest that the four years that I have spent studying the nesting distribution and colony dynamics of the Channel Islands Harbor herons and heronry – plus the past two doing the same at Marina del Rey ought to weigh-in more credibly than my colleague's very limited knowledge of herons and resources in this same geographic realm.

Thank you and best regards,



Jeff Froke

W 1/a + 1/6

JEFFREY B. FROKE, PH.D.
3158 BIRD ROCK ROAD / PEBBLE BEACH CA 93953
(831) 224-8595 / JBFROKE@MSN.COM

31 October 2005, revised

To: Andi Culbertson, Culbertson Adams & Associates

Re: Channel Islands Harbor Heronry / Channel Islands Marina Building

I understand that the County of Ventura has authorized me to proceed with and then publish the results of my ongoing studies (monitoring the colonies of the three nesting species) within the Channel Islands Heronry. To date, this authorization has provided for continuous monitoring and data throughout the nesting periods of 2003, 2004 and 2005.

Question: Presently there is a question about the status of nesting Black-crowned Night-Herons and there the possible use of trees in the vicinity of the existing Channel Islands Marina office building. Specifically, did they nest there in 2005; and when was the last time they nested there?

Answer: Black-crowned Night-Herons did not nest in the vicinity of the Channel Islands Marina office, or anywhere in the so-called BISC vicinity, during 2005. The closest nest (1) was in the area of Bluefin Circle, in a large cypress tree.

Background: Whereas there were +/- 39 Black-crowned Night Heron nests on the West Side (Harbor Boulevard) in 2003, that number diminished to five (5) in 2004, accounted for by a major shift of the colony to Port Hueneme; then that number ended up at one (1) in 2005.

The Port Hueneme colony, made up of over a hundred Black-crowned Night Herons and Snowy Egrets, is thriving and there is no reason to expect that it will not continue to do so in 2006. The habitat, including the make up (species composition and foliar density) of supportive trees is excellent and stable.

The tree base for the former colony site near the Channel Islands Marina office and future BISC could be improved, i.e., for use by nesting herons, essentially by reconfiguring the present composition and layout

of the standing trees. The Metrosideros (New Zealand Christmas Tree), because of their sturdy branches and stiffened foliage, are popular with Black-crowned Night-Herons; but the Myoporum, a soft and wispy tree that is equally as abundant as Metrosideros, is not used and as such is extraneous. In addition, the Myoporum are crowding and shading the Metrosideros to their detriment.

Indeed, if it were my doing as a manager, I would remove 2-3 Myoporum and replace them with Metrosideros and/or Monterey Pine for nest trees. That said, I would not worry about removing the large Metrosideros that grows right up to the building, even though Black-crowned Night-Herons nested in it in 2002 and 2003 (but not 2004 or 2005), as its value could be readily replaced in view of a bird species that has no nest site or nest tree fidelity and builds a new nest as quickly as it adopts an old one.

Respectfully,

Also, please refer to:

Froke, J.B., 2004. Synopsis of the Channel Islands Harbor Heronry, 2003-2004 (Black-crowned Night-Heron, Great Blue Heron & Snowy Egret @ Channel Islands Harbor, Port Hueneme & Ventura Harbor, Ventura County, California (October).

W 11a + 11b

Jeffrey B. Froke, Ph.D.
CALIFORNIA WILDLIFE ECOLOGY
3158 Bird Rock Road / Pebble Beach CA 93953

MEMORANDUM

Date: 3 June 2004

To: Andi Culbertson, Culbertson Adams & Associates

Re: Channel Islands Harbor - Heron Observations (30 April, 26 May 2004); and Confrontation with Trevor Smith (30 April 2004)

This report summarizes observations I made during a one day survey of the Channel Islands Harbor heronry on 30 April 2004. Results of a more brief inspection of the BISC site on 26 May also are included. The all-day survey in April covered the BISC site and its Harbor Blvd. vicinity (the west side portion of the heronry) plus all of the previously identified CIH heron nesting locations from 2003 (Peninsula Park, Casa Sirena, etc.). I also focused on the Port Hueneme colony, which I believe is directly related to or part of the CI Harbor heronry.

The full details of my findings are kept as my field notes; and I also have an extensive set of digital photographs documenting my 30 April survey.

Regarding the Herons:

As with last year at this time, the individual pairs of Black-crowned Night-Herons displayed a wide range of nesting stages or phases: some were just starting to nest while

others already had young ready to fledge. Some nest areas were burgeoning and boisterous, particularly parts of Port Hueneme, while other areas such as CI Marina, including the BISC site were very quiet.

Because this was just a one day inspection, it turned out that I was not able to determine whether the old (last year's) nests in the 'BISC trees' were or just appeared empty in April, and whether the apparent emptiness was because (1) birds had not started to nest in them, (2) had started to do so but then abandoned their effort, or (3) (least likely) had nested and completed their effort (either by fledging or failing young). A few of the nests certainly were empty because daylight could be seen throughout the stick structure.

With one exception -- that of a single adult BCNH quietly moving in the treetops near a nest -- there was no evidence of current or recent nesting effort in the BISC trees: no white wash, no recently added sticks to the nest platforms, and no eggshells. There were no nestling skeletons hanging in the tree branches, an indication of hard luck but proof of an attempt to nest.

The most striking difference in the 'greater harbor heronry' relative to 2003 was the dramatic increase in Black-crowned Night-Heron pairs nesting with the Snowy Egrets at Port Hueneme. Last year, I recall a total colony of about 24-25 nests, most of which were Snowy Egrets. This year, there were closer to 70 active nests, and roughly half of those were BCNHs. Although the majority of the nests are concentrated in fewer than 6 trees

in the original (2003) location, this year the colony is expanding physically to other parts of the residential and industrial neighborhood, as well.

The other change this year, meaning from what was observed during 2002-2003, is that BCNH in the harbor heronry also are nesting in eucalyptus trees. Heretofore, the birds had been recorded only in New Zealand Christmas Trees, Monterey Pine and Monterey Cypress Trees. If successful, taking on gum trees potentially would open up a broader ecological realm of opportunity for night-herons, as there are many growing in the close vicinity of water in the harbor environment.

I also made a quick stop at the BISC site on 26 May: At that time, I observed no change in the circumstance or status of BCNH there or its vicinity, except that the single adult seen near the marina office on 30 April was not present, or at least visible. No evidence of heron nesting (individuals, eggshells, whitewash, sounds, etc.) was discernable in trees immediately associated with the BISC during the brief inspection in May. The closest active pairs of BCNH that I found on 30 April and 26 May were (1) adjacent to the Yacht Club (one pair), and (2) one pair in with the pairs of GBH and single pair of Snowy Egrets the double cypress trees by Barracuda Circle.

Regarding Trevor Smith:

On April 30th, within minutes of stepping into the BISC footprint (about 930 AM), I was again confronted and hassled by Trevor Smith. I had been standing quietly under one of the BISC trees, looking up and listening for nesting herons. However, it was hard not to

be distracted by the voice of Trevor who was complaining vividly to a couple in front of the marina office about something to do with the marina and the harbor, etc. When that conversation ended, Trevor made a bee-line for me and immediately got in my face.

Trevor *said* to me, as if he were asking a question, "You're working for the County." I looked at him as though I did not hear him or wasn't quite paying attention. This time, he *asked* "Are you working for the County?"

I said, "I'm working." To that, he replied "You're working for the County."

Trevor went on, more excitedly, really starting to rant and just 12-18 inches from my face: "Well, they've had their big trucks all over in here scaring the birds. And the new aggressive managers (of the marina) have spray painted the building as if the birds are supposed to come back. I don't know if they're gong to try to nest again or not. So, you're working for them."

I repeated to him in my original - flat - tone, "I'm working." To that, he took off and walked down to his boat.

Five minutes later, Trevor was back on the sidewalk by the marina - this time with his Sheltie - and talking in an even more animated way to another dog-walker, and older, taller grey-haired guy I have seen before with a big Golden Retriever. Trevor was yelling to the guy about me, telling him that "that guy over there -- works for the County -- he's a liar -- he says that the herons are a nuisance -- he says that they are

cosmopolitan....," etc. Trevor repeated announcing me as a 'liar' to this guy, so loudly that he could be heard from several hundred feet away.

A few minutes later, as the gentleman with the retriever moved on, Trevor began walking toward his house via the parking lot south of the marina office -- while I was still under the trees. However, he was still yelling and laughing by himself, or at me: "You're liar and you know it... liar, liar! You are a liar and you are going to be exposed for it... liar, liar!"

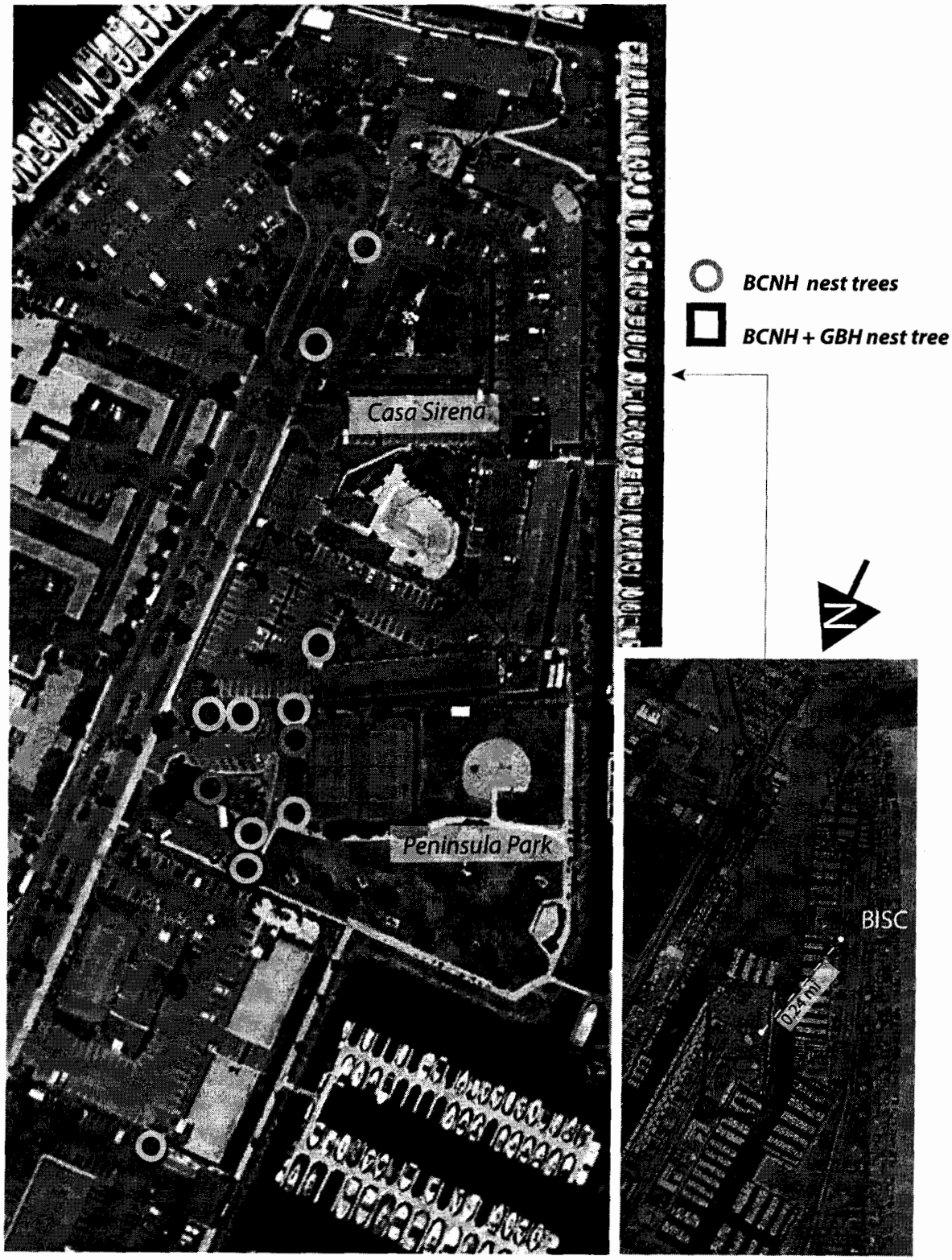
Even though I know better than to interact with someone behaving like Trevor had been, he bugged me; so as he passed by I said to him, "Trevor, you are so full of it." Not sure he heard me the first time, I said it again. To which he repeated before leaving, "Liar, liar."

This concludes my report.

-- Jeff

Channel Islands Harbor Heronry *2003-2004*

Figure E Overview of the Peninsula heron colony, Channel Islands Harbor, Ventura County, California (2003-2004). Nesting herons in 2004 included approximately 22 pairs of Black-crowned Night-Herons and 3 pairs of Great Blue Herons.



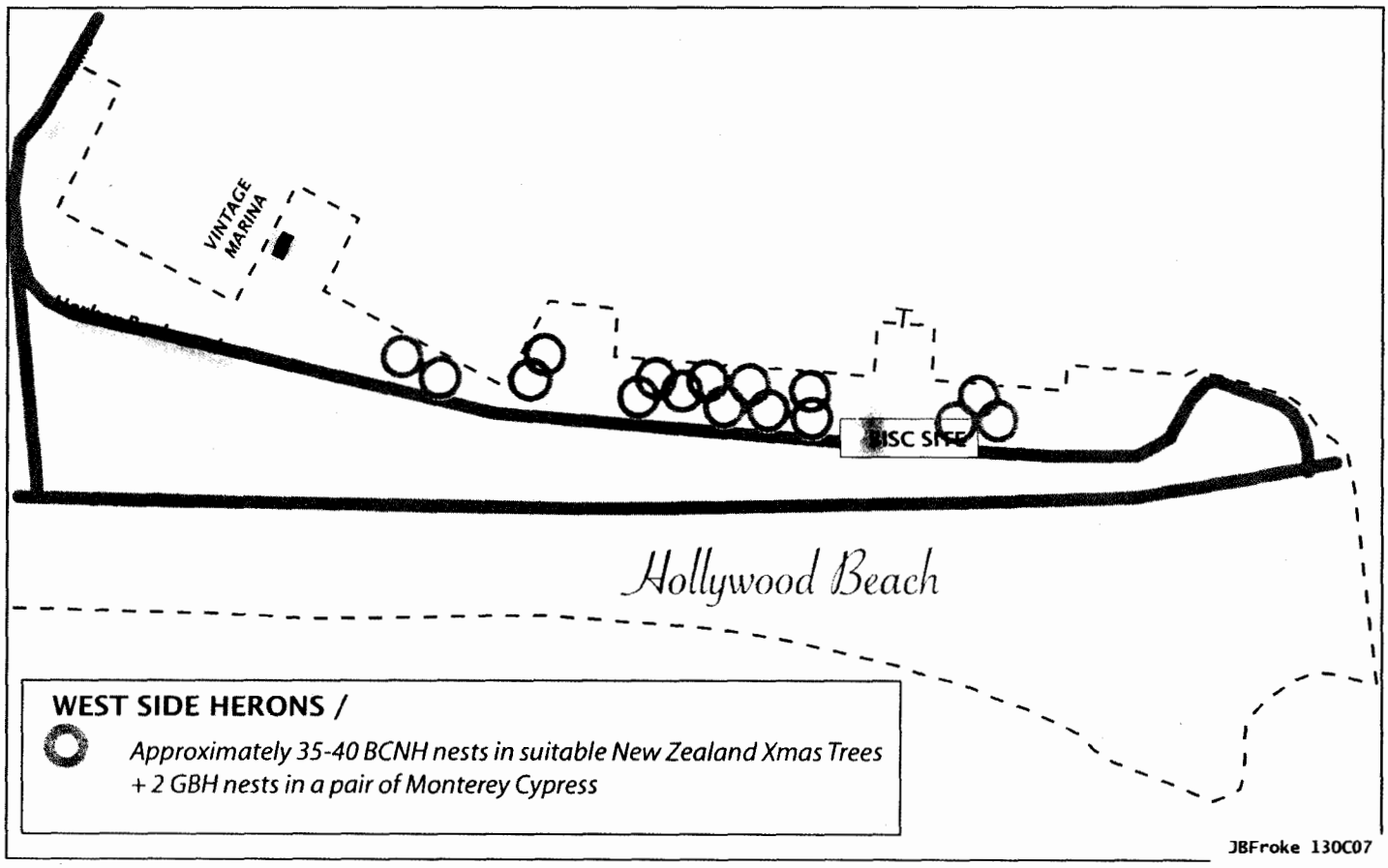
Heron Nest Trees, CHANNEL ISLANDS HARBOR, Ventura Co., California (2003-2005)

This map shows all trees in the CIH study area that were confirmed as used by nesting herons during 2003, 2004 and 2005. Tree species are New Zealand Christmas Trees (METEXC), Monterey Pine (PINRAD), Monterey Cypress (CUPMAC), and a Magnolia (MAGNOLIA). Heron species are Black-crowned Night-Heron (BCNH), Snowy Egret (SnEg), and Great Blue Heron (GBH). Heron studies will continue throughout 2006.

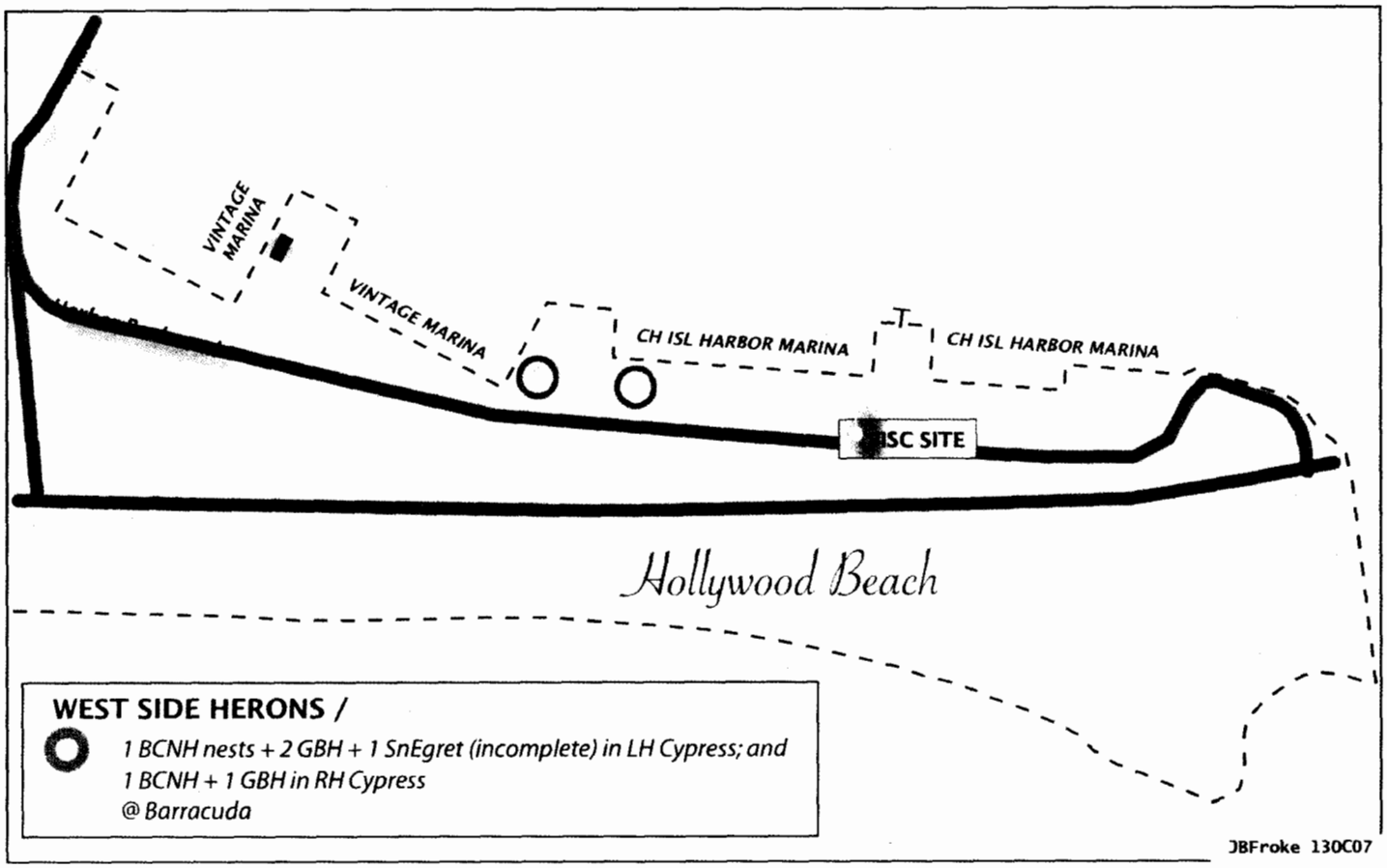
Note: Black-crowned Night-Herons, which were most numerous @ CIH in 2003 (39 nesting pairs on the West Side), have since declined in numbers: 5 pairs in 2004, then a single pair in 2005. Simultaneously, BCNH numbers have grown to match Snowy Egrets' at Port Hueneme (approx. 100 pairs total); and approximately 17 pairs of Great Blue Herons nested at Ventura Harbor during 2005.

JB Froke, Mar 06

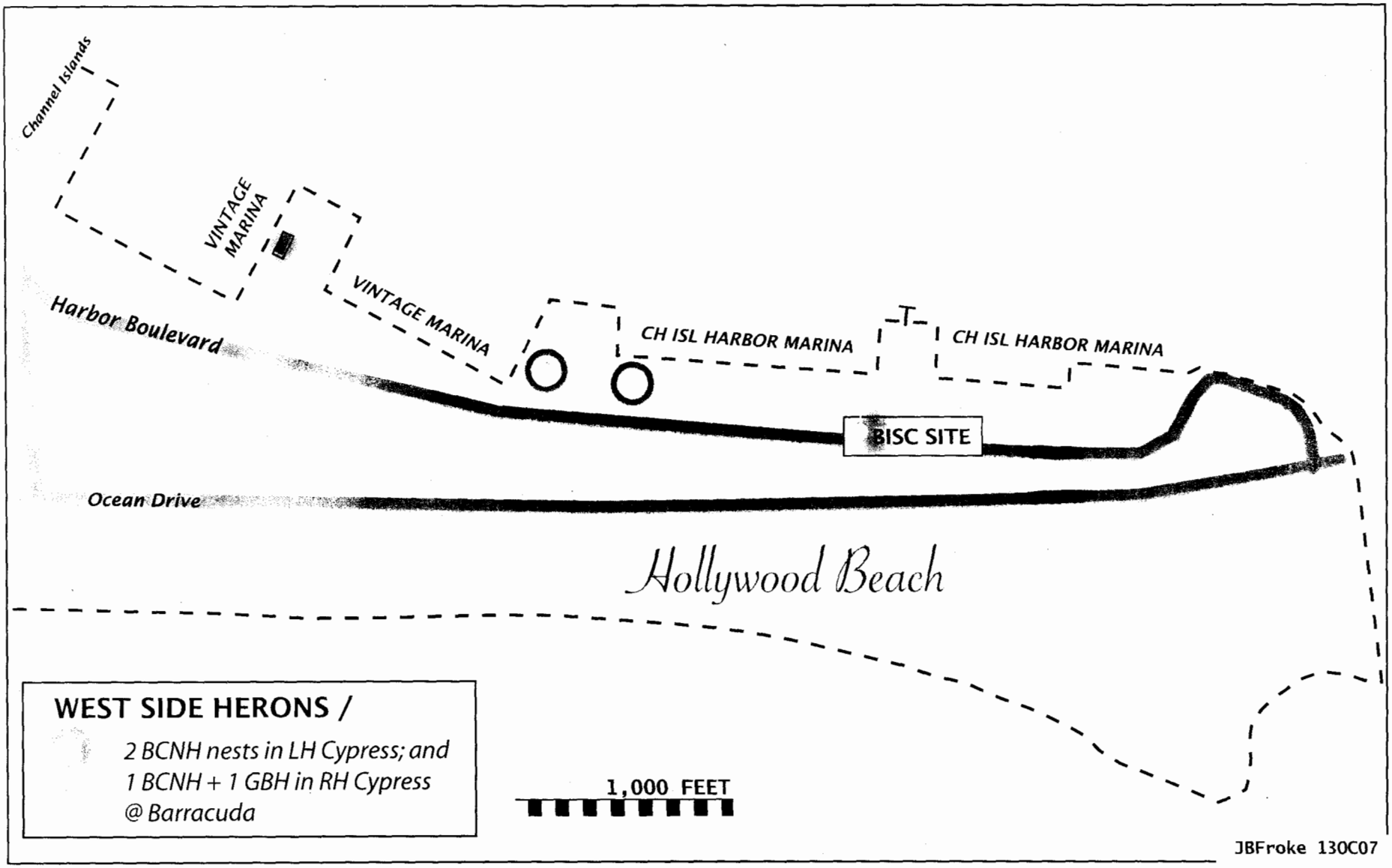
Total Confirmed Heron Nest Trees / WEST SIDE STUDY AREA of Channel Islands Harbor / 2003-2007



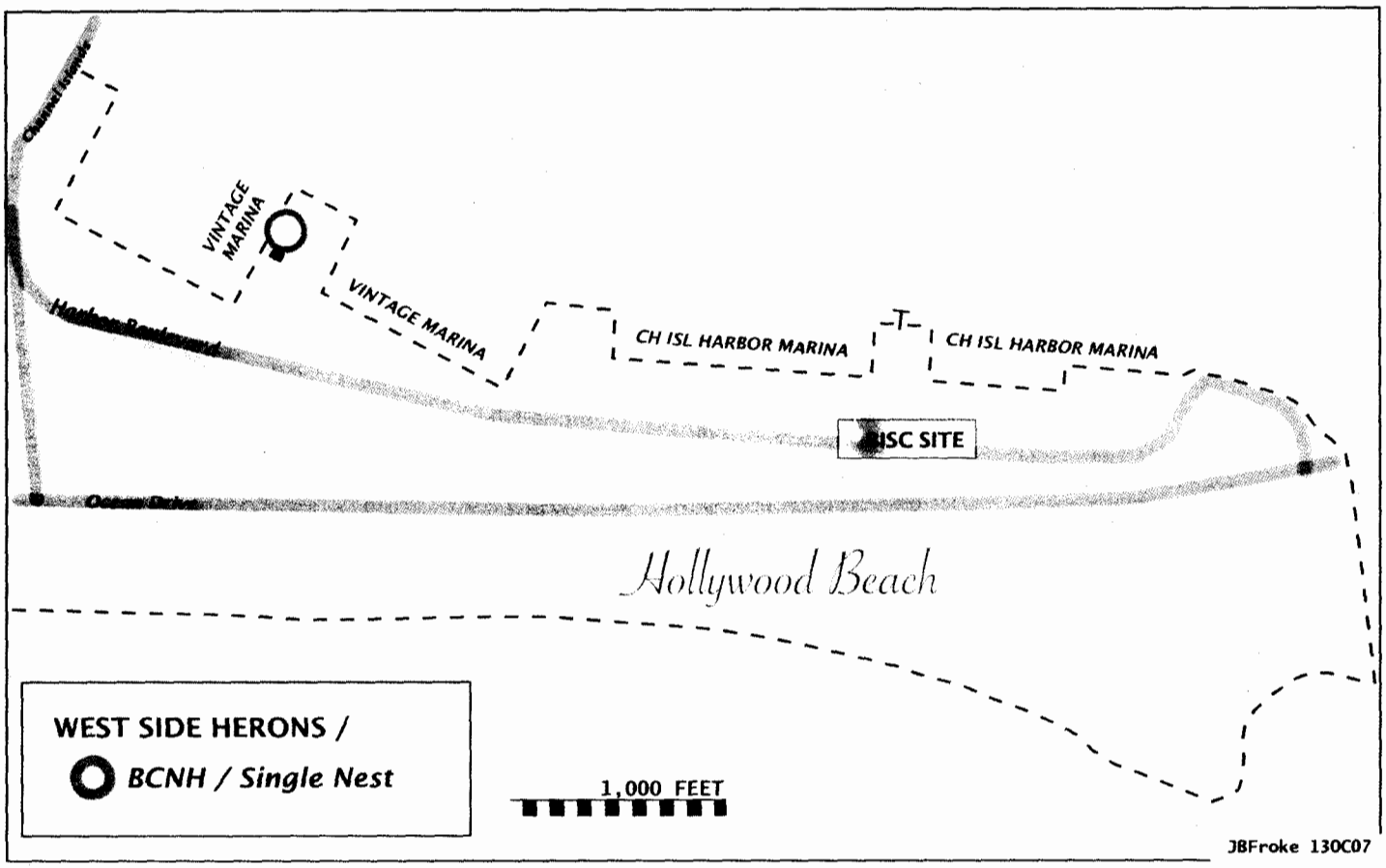
Total Confirmed Heron Nest Trees / WEST SIDE STUDY AREA of Channel Islands Harbor / 2003-2007



Total Confirmed Heron Nest Trees / WEST SIDE STUDY AREA of Channel Islands Harbor / 2003-2007



Total Confirmed Heron Nest Trees / WEST SIDE STUDY AREA of Channel Islands Harbor / 2003-2007



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12 November 2007

California Coastal Commission
c/o Gary Timm, District Director
89 S. California Street, Suite 200
Ventura, California 93001

RE: Proposed Boating Instruction and Safety Center (BISC).and protection of the heronry at Channel Islands Harbor

Dear Commissioners:

I would like to comment on continuing concerns for the protection of the heron and egret colony site at Channel Islands Harbor. I have commented previously on this issue, in letters to the California Coastal Commission (9 March 2005 and 7 April 2006) and the Ventura County Harbor Department (25 June 2003 and 9 December 2003). In these letters, I outlined published scientific findings regarding the protection of heronries. My comments are further supported by my continuing scientific work on herons and egrets, conducted at all known heronries in the San Francisco Bay area since 1990. Please refer to my recent Annotated Atlas and Implications for the Conservation of Heron and Egret Nesting Colonies in the San Francisco Bay Area [available online: www.egret.org/atlas.html]. In addition, I have recently written a scientific analysis on the status, trends, and conservation of San Francisco Bay area heronries, currently in press in the international journal *Waterbirds*.

I would like to emphasize two points regarding the protection of nesting herons and egrets at Channel Islands Harbor. First, I have continuing concerns about appropriate buffer distances between BISC construction areas and nesting trees. In my opinion, the proposed buffer distances may not be large enough to protect nesting herons. My previous comments explain these concerns in considerable detail.

Second, following the work by Coastal Commission biologist Jonna Engels in Marina del Rey, I encourage the Commission to consider establishing Environmentally Sensitive Habitat Areas (ESHA) that would protect non-native trees and other vegetation needed to provide suitable nesting substrate for herons or egrets at Channel Islands Harbor. Although heron and egret nest abundances fluctuate considerably across years as birds

Exhibit 11
PWPA 1-04, NOID 1-05
Audubon Canyon Ranch letters

move among local heronries, establishing such protections would help to ensure the long-term use of this area by herons and egrets. To substantiate an ESHA at Channel Islands Harbor, and to clarify recent confusion regarding nest abundances and the historic use of particular nesting trees, a thorough study of current and historical use of nesting areas should be conducted by Coastal Commission staff.

I appreciate the Commission's concern for the protection of heron and egret nesting habitat. My comments are offered independently and I have no affiliation with other individuals or groups that have commented on this issue. Thank you again for this opportunity to comment.

Sincerely,

John P. Kelly

John P. Kelly, PhD
Director, Conservation Science

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7 April 2006

California Coastal Commission
c/o Gary Timm, District Director
89 S. California Street, Suite 200
Ventura, California 93001

RE: Proposed construction of docks in Channel Islands Harbor Basins D and E

Dear Commissioners:

I would like to comment on the potential for adverse environmental effects on nesting herons by construction of the proposed replacement marina adjacent to the future Boating Instruction and Safety Center (BISC) in the Channel Islands Harbor. Since 1990, I have conducted scientific studies of herons and egrets at all known heronries in the San Francisco Bay area. These comments follow from my previous letters to the Ventura County Harbor Department (25 June 2003, 9 December 2003) and the California Coastal Commission (9 March 2005) regarding the BISC and protection of the heronry in the Channel Islands Harbor.

In particular, I would like to emphasize my support of several points provided by Dr. Jeffrey Froke in his 3 March 2006 report to the Ventura County Harbor Department on protection of the heronry. I strongly agree with Dr. Froke that a conservative approach with special consideration for the protection of the nesting birds is "essential" to assure that the heronry will not be adversely affected by the proposed construction activities. In addition, his comments on the importance of (1) involving a qualified heron ecologist to monitor the birds and (2) prohibiting construction noise, loud music, human activity, and pets near nesting areas are well-supported by published studies on disturbance threats to heronries.

However, some aspects of the report need closer attention to align the planned protection of the heronry with current knowledge on the nesting ecology of herons and egrets. Specifically, my comments below address five important points.

(continued)

First, the statement in Dr. Froke's report that the "latest it is reasonable to expect arriving new [Black-crowned Night-Herons] is mid-late April" is not true. The timing of nest initiations by Black-crowned Night-Herons is highly variable and unpredictable. This point has been demonstrated clearly at Alcatraz Island, where nest initiations from 1990-2002 extended from March 11th to July 24th with half of all new nests initiated after April 27th (Hothem and Hatch 2005, Waterbirds 27: 112-125). Such prolonged periods of nest initiation are also evident at other heronries throughout the San Francisco Bay area. In addition, colony disturbance by humans has been shown to discourage the settlement of late-nesting night-herons (Tremblay and Ellison 1979, Auk 96: 364-369). Therefore, construction activities or repeated intrusions by humans anytime during the nesting season might prohibit the use of suitable nesting sites in the heronry, even if a qualified observer confirms that those sites are not being used. Therefore, the appropriate approach to managing construction activities near the heronry is to limit construction activities to the seasonal period when the birds are not nesting.

Second, the particular locations of active nests in a particular year should not be used to delineate the boundaries of a heronry. The reason for this hinges on the intraseasonal dynamics of nest initiations. Not only are new nests possible throughout most of the breeding season, but the locations of new nests normally shift both within and between breeding seasons. Therefore, the colony site is best defined as the area that includes all nest sites shown to be suitable by current or previous use. It is risky and inaccurate to assume that the habitat conditions worthy of protection necessarily shift around as birds build their nests in different locations. This is an important point, because the correct boundary of heronry must be determined to evaluate the proximity of potential disturbance.

Third, the assertion in Dr. Froke's report that arguments in support of using setbacks to protect heronries lack data is not true. Although the available data are insufficient to prescribe precisely the appropriate setback distances for particular sites, scientific studies based on field experiments and disturbance reports strongly support the use of buffer zones to protect heronries (Hafner 2000, Heron nest site conservation, *in* Kushlan and Hafner, eds., Heron Conservation. Academic Press). The distinguishing difference between Dr. Froke's interpretation and the recommended use of setbacks is this point: Dr. Froke indicated correctly that these birds often nest in close proximity to human activity and may tolerate such activity if it is predictable or repetitive, *but tolerance to existing conditions has no bearing on the potential for disturbance.* The proximity of nesting herons to humans and structures is most likely based on habitat conditions assessed by the birds when they select suitable places to nest—it does not indicate a tolerance to unusual disturbance resulting from *changes* in the extent, timing, or intensity of human activity. Zones of potential disturbance exist around all heronries—even in urbanized settings—and should be considered in conservation planning.

(continued)

Fourth, published data do not imply that these birds are in any way "attracted" to areas of human activity, as suggested in the Dr. Froke's report. To my knowledge, there is no scientific evidence of any selectivity or preference for urbanized settings. (Evidence of attraction or avoidance requires a comparison of sites that are used vs. suitable alternative sites that are not used.) Instead, existing evidence indicates that although herons and egrets may nest in urbanized areas, they avoid using sites with increased human activity. For example, work by Watts and Bradshaw (1994, Colonial Waterbirds 17:184-186) indicated that herons in Chesapeake Bay select colony sites that are farther from human structures and in areas with less intensive human development than available alternative sites in the area. Similarly, herons in coastal Maine tend to occupy heronries that are farther than available alternative colony sites from towns (Gibbs et al. 1987, Auk 104: 38-47). Katherine Parsons reported an increasing dependence by Snowy Egrets on the safety of islands in urbanized estuaries (Parsons and Master 2000, *in* Poole and Gill, Birds of North America, No. 489). The most likely reason that herons and egrets use remnant habitat near humans, such as the nesting area at Channel Islands Harbor, is that they need safe places to nest in close proximity to critical feeding areas.

Finally, the possible effects of increased turbidity associated with dock construction on the foraging needs of nesting herons and egrets should be carefully considered. At least one study has found that increased turbidity causes a significant decline in foraging success and suggested its use in deterring fish-eating colonial waterbirds from fish farms (Cezilly 1992, Colonial Waterbirds 15: 249-252).

I hope these comments are helpful in developing the conservative approach recommended by Dr. Froke's report. Thank you again for this opportunity to comment on the heronry at Channel Islands Harbor.

Sincerely,

John P. Kelly

John P. Kelly, PhD
Director, Conservation Science

CC: Ms Lyn Krieger, Director, Ventura County Harbor Department.

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9 March 2005

California Coastal Commission
c/o Gary Timm, District Director
89 S. California Street, Suite 200
Ventura, California 93001

RE: Boating Instruction and Safety Center (BISC) project, PWA-MAJ-1-04

Dear Commissioners:

I would like to clarify some points of discussion related to my previous letters to the Ventura County Harbor Department (25 June 2003 and 8 December 2003) and the assessment of proposed modifications to the Boating Instruction and Safety Center (BISC) project.

First, zones of disturbance around heron nesting colonies exist even in urbanized settings. The difficulty in determining the appropriate minimum buffer distance in areas where herons nest near human activity does not reduce the value of avoiding disturbance zones. Disturbance studies to date invariably recognize not only that the sensitivities of nesting herons and egrets vary considerably among nesting sites and times of year, but more importantly, that at each colony site there is an increasing likelihood of disturbance with declining distance to human activity. In areas where human disturbance cannot be completely avoided, incorporating the maximum feasible buffer zone may be critical in protecting heronries by reducing the frequency or intensity of disturbance. Heinz Hafner, a leading scientist in the field of heron and egret ecology, has indicated that buffer zones remain critical factors in colony site management even at sites where birds tolerate humans at close distances (Hafner 2000; pp. 210-212 in Heron Conservation, Academic Press). Although scientific recommendations of 100-200 m buffer areas around wading bird colonies have apparently been considered unrealistic in the proposed plans for the BISC, I urge you to consider establishing the maximum feasible buffer area between the nesting herons and areas planned for increased human activity.

I greatly appreciate Dr. Froke's 2003-2004 assessments of the heronries at Channel Islands Harbor, Port Hueneme, and Ventura Harbor. However, readers should not use the results, which document a shift in nest locations between two seasons, to speculate about trends in nesting abundance or use of nest trees. Such year-to-year changes are common and often fail to reflect any underlying trend or pattern. Dr. Froke's report also indicates, importantly, that the trees near the BISC site provide potentially suitable nesting sites, even if unused in a given year. It is reasonable to assume that such sites remain suitable and that their availability may be critical in urbanized environments, by accommodating shifts of nest locations in colonies that persist as dynamic, dispersed aggregations. Similarly, there is a likely risk in assuming that reduced or intermittent use of particular nest trees reflects reduced importance to the colony.

I share Dr. Froke's suspicion that many of the nesting Black-crowned Night-Herons moved from the Channel Islands Harbor in 2003 to Port Hueneme in 2004. Such movements are common in this species and can be stimulated by changes in feeding conditions (degraded locally or improved elsewhere), nesting habitat conditions, or the intensity, timing, or frequency of disturbance events. Some changes in nest locations probably reflect normal annual variation. As above, I emphasize that in the absence of additional information, the shift in nest locations in 2004 is unlikely to indicate longer-term differences in the suitability of nest sites or colony sites.

Please also note that the dispersed configuration of the heronry at Channel Islands Harbor does not in itself protect birds that nest close to the BISC site. The California Department of Fish and Game Code prohibits take of individual nests, regardless of any larger-scale effects on the heronry.

Finally, although some responders on this issue have reported "habituation" to human activity by nesting herons at Channel Islands Harbor, there is no evidence of habituation, which requires a change in individual behavior over time. Even if habituation was known to have occurred, the capacity of the herons for further habituation is unknown. A simpler and therefore more likely explanation for the presence of nesting herons and egrets in the Channel Islands Harbor is that herons, like other birds, select nest sites each year based on their ecological requirements and the suitability of local conditions. Consistent with this idea, frequently observed changes in their use of nest sites and colony sites suggest a sensitivity to changes in the surrounding area.

Thank you for your appreciation of the heronry and for this opportunity to comment.

Sincerely,

John P. Kelly

John P. Kelly, PhD
Research Director

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December 17, 2007

California Coastal Commission
South Central Coast District Office
Attn: Gary Timm, District Manager
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re Proposed Channel Islands Harbor Public Works Plan Major Amendment 1-04; & Notice of Impending Development 1-05 for Boating and Instruction Safety Center (BISC)

Dear Mr. Timm:

Angel Law represents Habitat for Hollywood Beach (HHB) in the administrative proceedings before the California Coastal Commission (Commission) in the above-captioned matter. As you are aware, Angel Law also has been representing HBB in the litigation that successfully challenged the Commission's approvals on March 16, 2005, of (1) the Channel Islands Harbor Public Works Plan (PWP) amendment no. 1-04, and (2) the related notice of impending development (NOID) no. 1-05. Both approvals were for the Boating and Instruction Safety Center (BISC) project, proposed by the County of Ventura (county) on the west side of Channel Islands Harbor, right next to a black-crowned night heron rookery, on public parkland heavily used for passive open space recreational

Exhibit 12
PWPA 1-04, NOID 1-05
Frank Angel letters

purposes. The PWP amendment and NOID are now being resubmitted for a new decision by the Commission.

HHB is not opposed to a Boating and Instruction Safety Center in the Channel Islands Harbor. For the reasons more extensively discussed in our related submittals (and in our previous submittals, preceding the Commission's original decision in March of 2005), however, HHB continues to strongly object to the proposed BISC site. HHB therefore urges the Commission to now enforce its mandates under the California Environmental Quality Act (CEQA) and its own regulatory program, and to deny the BISC project as presently proposed.

Following up on an earlier discussion we had after the Commission's first hearing on remand from the Superior Court, I was to provide you the legal authority supporting HHB's position that in-depth alternatives review and alternatives selection, as required by CEQA (see Pub. Resources Code, § 21080.5, subd. (d) (2) (A)), and the Commission's regulatory program, may *not* be avoided or restricted based on claims that existing contractual commitments render infeasible otherwise reasonable alternative sites.

Preliminarily, we note that the county has made such a claim only with respect to the currently non-performing Port Royal restaurant lease. The site of the Port Royal restaurant is a feasible alternative location for the BISC on the west side of Channel Islands Harbor.[1] Importantly, no such claim has even been made for the preferred east side BISC site, the Cisco parcel and parcel Q, which offer 900 linear feet of east channel frontage (of a total 1,200 feet, with 300 feet used by commercial sports fishing boats). There is no existing lease affecting the Cisco parcel. In fact, just two months ago, on October 16, 2007, Ms. Lyn Krieger, the county harbor department director, in an appearance before the Oxnard city council, made to update the city council on development projects in Channel Islands Harbor, confirmed that the county is "interested in input for what kinds of uses the public is interested in there [i.e., the Cisco site] ...." (<http:// oxnard.granicus.com/ViewPublisher.php?view_id=3> [October 16, 2007 agenda archive video; agenda item Q1].)[2]

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[1] The leaseholder wants out of the lease.

[2] Parcel Q is available as well. While part of it is leased short-term for private dry boat storage, as you have quite properly advised the harbor department, this use is in violation of the public visitor-serving boating access land uses and view corridor designations applicable to this parcel under the PWP.

This being said, contracts entered into, or even expenses incurred, prior to review of a project cannot be used to avoid the scrutiny envisioned by CEQA. In *Kings County Farm Bureau* v. *City of Hanford* (1990) 221 Cal.App.3d 692, the Court of Appeal specifically rejected an agency's argument that prior contractual commitments and substantial investments in a given project proposal precluded review of an environmentally superior alternative. (*Id.* at 735-737.)[3] In *Kings County*, the lead agency rejected evaluation of a natural gas alternative to a proposed coal-fired cogeneration plant, on the ground that if the project proponent were to convert to natural gas, it would be unable to meet a long-term commitment to sell electricity under a power sales agreement already entered into with a third party. (*Id.* at 708, 735-736.) The Court held:

> "Since CEQA charges the agency, not the applicant, with the task of determining whether alternatives are feasible, the circumstances that led the applicant in the planning stage to select the project for which approval is sought and to reject alternatives cannot be determinative of their feasibility."

(*Id.* at 736; see *Laurel Heights Improvement Assn.* v. *Regents of University of California* (1988) 47 Cal.3d 376, 425 ("We shall not countenance any attempt to reject an alternative on the ground that [the site selected by the project proponent, the University of California, for the relocation of a biomedical research facility] has already been purchased or that activities there have already commenced").)

You may remember that these legal principles also led the Second District Court of Appeal to set aside the Commission's approval in 1998, of a coastal development permit for the (now defunct) Soka expansion project in the Santa Monica Mountains. (*Sierra Club* v. *California Coastal Com.* (Feb. 27, 2003, B138627) [nonpub. opn.] 2003 Cal. App. Unpub. Lexis 1883.) In that case, it was the Commission's failure to recognize the existence of a feasible alternative location for the proposed university

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[3] In the case of the BISC, it is undisputed that from an environmental perspective, the Port Royal and the east side alternative sites are substantially superior to the site proposed by the county. No black-crowned night heron tree habitat will be impacted on the east side; and the Port Royal site is at substantially greater distance from the adversely impacted tree habitat than the BISC site the county proposes. Moreover, neither the east side nor the Port Royal site will cause removal of any existing passive parkland uses. Given those circumstances, re-approval of the BISC at its present location violates CEQA. (See Pub. Resources Code, § 21080.5, subd. (d)(2)(A).)

expansion (Soka's Orange County campus property) that was of concern to the Court. Rejecting the Commission's deference to the County of Los Angeles' EIR alternatives review, the Court emphasized, in light of the Commission's independent duty to protect and implement the goals and policies of the California Coastal Act of 1976, that it would have been particularly relevant to consider the expansion of Soka's Orange County campus, rather than its campus in the Santa Monica Mountains which was located in an environmentally more sensitive area. The Court noted, among other things, that such an alternative would have protected "existing coastal zone natural resources," and "would also have impacted the Commission's consideration of Public Resources Code section 30250, which requires that new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it." (2003 Cal. App. Unpub. Lexis 1883, at *22-23.) So it is here -- especially in the case of the Cisco and Port Royal sites, which are *re*development sites, i.e., sites that do not cause incremental harm to existing coastal zone natural resources. (See also fn. 3, *supra*.)

Please make sure a copy of this letter is attached as an exhibit to the District Office's staff report for the Commission. Also, please feel free to call if you have any questions.

Thank you very much for your assistance.

Very truly yours,

ANGEL LAW

Frank P. Angel

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October 1, 2007

California Coastal Commission
South Central Coast District Office
Attn: Gary Timm, District Manager
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: Wednesday, October 10, 2007 Agenda Items 11a & 11b – Staff Report for Boating and Instruction Safety Center (BISC)

Dear Mr. Timm:

Angel Law represents Habitat for Hollywood Beach (HHB) in the administrative proceedings before the California Coastal Commission (Commission) in the above-captioned matter. As you are aware, Angel Law also is representing HBB in the litigation challenging the Commission's approvals on March 16, 2005, of (1) the Channel Islands Harbor Public Works Plan (PWP) amendment no. 1-04, and (2) the related notice of impending development (NOID) no. 1-05. Both approvals were for the Boating and Instruction Safety Center (BISC) project, proposed by the County of Ventura on the west side of Channel Islands Harbor, right next to a black-crowned night heron rookery, on public parkland open space.

The PWP amendment and NOID are now being resubmitted for a new decision by the Commission, based on a staff report that purports to comply with the judgment entered in favor of HBB, which, among other things, found that the Commission had failed to provide environmental

disclosure and analyses of alternatives to the BISC project, and of project-related cumulative impacts, as required by the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Commission's own regulatory program. The Superior Court thus ordered the Commission to conduct new environmental CEQA review in compliance with the Court's detailed statement of decision filed October 16, 2006, CEQA and the CEQA Guidelines (should the County of Ventura still intend to proceed with the project). The judgment and statement of decision call attention to the Commission's discretion to approve an alternative to the BISC as proposed, including the East side alternative.

The new staff report, comprised of 149 pages (including exhibits), is dated September 27, 2007. It was neither publicly released nor otherwise available prior to Thursday, September 27, 2007. Assuming it was circulated for public review not later than September 27, that leaves only *13 days* of public review prior to the scheduled October 10, 2007 Commission hearing on the project. Once again, thus, the staff report is not being circulated the minimum 30-day period mandated by CEQA -- which serves to ensure proper public participation and comment, as well as written responses from staff.[1]

At this time, therefore, HBB requests that this matter be continued, so as to enforce the public's rights under CEQA to have a meaningful opportunity to prepare proper comments, and the Commission's own duty under CEQA to consider both such comments and staff's written responses. These environmental process requirements should not be shrugged off. Compliance will avoid another substantial CEQA violation by the Commission. These procedures are intended to help "to shape and inform" the Commission's exercise of its discretion (*Mountain Lion Foundation* v. *Fish & Game Com.* (1996) 16 Cal.4th 105, 122); and to "sharpen [its] understanding of the significant points raised in opposition to" the BISC project. (*Id.* at 123.) They go hand in hand with the Commission's separate duty under the California Coastal Act of 1976, to secure "maximum opportunities" for public participation in matters such as the PWP amendment at issue. (Pub. Resources Code, § 30503; see *id.*, §, 30006.)

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[1] A detailed explanation of the legal basis for the minimum 30-day public review period we request is set forth on pages 3-4, *post*.

Before explaining the 30-day requirement for public review, please note that we already raised this issue before the Court in the pending litigation. The Court found it could not decide the issue in the challenge to the March 16, 2005 decisions, because HHB had not raised the issue before the Commission on March 16, 2005, when it held its first de novo hearing on the project. (Statement of decision at 12.) Therefore, we now do raise this important CEQA process issue by this letter. We further hasten to point out that the Court reasoned that our request for a 30-day comment period "has merit." (*Id.*) This strongly suggests that should the Commission go forward with the October 10, 2007 hearing, thereby violating the 30-day CEQA-mandated public comment period, its decision will again be vulnerable to the Court's writ.

Legal Discussion Explaining 30-Day Public Comment Period Requirement

CEQA requires the Commission to make its written documentation "available for a reasonable time for review and comment by other public agencies and the general public." (§ 21080.5, subd. (d)(3)(B); see *id.*, subd. (d)(2)(F).) The Commission's regulations likewise require that staff reports be distributed "within a reasonable time to assure adequate notification prior to the scheduled public hearing. (Cal. Code Regs., tit. 14, § 13059.) Here, at best, the Commission circulated the staff report recommending re-approval of the PWP amendment and the BISC NOID, 13 days prior to the October 10, 2007 hearing. The staff report's findings include discussion of serious coastal issues raised by the project, and attempt to deal with curing the omissions concerning alternatives and cumulative impacts review.

The 13-day public review period provided by the Commission falls short of CEQA's public review periods for environmental impact reports (EIRs), and even for negative declarations. Like the staff reports of other agencies with regulatory programs that the Secretary for Resources has exempted from the requirement to prepare an EIR, the Commission's staff report serves as its CEQA disclosure document. This means it is considered the "functional equivalent" of an EIR. (*Mountain Lion Foundation*, 16 Cal.4th 105, 113-114; see Pub. Resources Code, § 21080.5, subds (a), (b) & (c).)

Under CEQA provisions from which the Commission's regulatory program specifically is not exempt, the public review period for a draft EIR may not be less than 30 days, and for a negative declaration, not less than 20 days. (See § 21091, subds. (a), (b); see also CEQA Guidelines, §§ 15205,

15206, subd. (b)(4)(C).)[2] The 30-day public review time period requirement for EIRs thus dictates the public review time period requirement for the Commission's staff reports. (See *Ultramar, Inc.* v. *South Coast Air Quality Management Dist.* (1993) 17 Cal.App.4th 689, 698-700.) Holding that section 21091, subdivision (a)'s requirement of a 30-day review period for draft EIRs applies to EIR functional equivalents, *Ultramar, Inc.* states:

> "The fact that this section refers to EIR's, rather than EA's [environmental assessments of a certified regulatory agency], is of no consequence."

(*Id.* at 699.) In *Ultramar, Inc.*, the South Coast Air Quality Management District (SCAQMD) circulated its written documentation for a proposed regulation more than 30 days. However, this initial distribution was missing a portion of the documentation. The SCAQMD subsequently distributed the missing pages a few days less than 30 days before a scheduled public hearing. (*Id.* at 697.) The *Ultramar, Inc.* court upheld the trial court's determination that the SCAQMD's failure to circulate a complete copy of its written documentation for at least 30 days constituted a prejudicial abuse of discretion under CEQA. (*Id.* at 698-704.)

Here, the Commission provides the public with even less time to review its staff report than the SCAQMD did in *Ultramar, Inc.* In *Ultramar, Inc.*, the SCAQMD released most of its environmental documentation to the public *at least 30 days before* the hearing. However, the *Ultramar, Inc.* court still held that the comment period was inadequate because the balance of the SCAQMD's written documentation was distributed to the public less than 30 days before the hearing. (17 Cal.App.4th 689, 697.) Here, the entire 149-page long staff report is available a mere 13 days before the hearing. Because CEQA's requirements for public circulation and review of EIRs are applicable to the written documentation prepared pursuant to section 21080.5, i.e., Commission staff reports, the Commission must circulate its staff report for at least 30 days. As *Ultramar, Inc.* teaches, the Commission's failure to comply with this standard is a prejudicial failure to proceed in the manner required by CEQA.

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[2] The Commission is exempt only from CEQA's EIR preparation requirement and statutes of limitations (§ 21167). (See § 21080.5, subd. (c).) It "must comply with *all* of CEQA's other requirements. [Citations.]" (*Mountain Lion Foundation*, 16 Cal.4th 105, 114, emphasis added.) These include, among other things, the 30-day circulation requirement for EIRs, contained in Public Resources Code section 21091.

Beyond this, we do need the full 30-day circulation period CEQA affords us, in order to prepare adequate comment on the staff report prepared on remand from the Court. Our review, including review by our experts, followed by preparation both of written comments (all the more necessary in light of the strict time limitations on speakers at Commission hearings, and ex parte communications from the County of Ventura's lobbyist, Ms. Andy Culbertson), and of testimony before the Commission, cannot possibly be accomplished in 13 days. Also, personally, I have a previously scheduled trip out-of-state from today to October 7.

Please make sure a copy of this letter is included in the District Office's addendum for all Commissioners for the Wednesday, October 10, 2007, agenda.

Thank you very much for your assistance.

Very truly yours,

ANGEL LAW

Frank P. Angel

The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

RECEIVED
JAN 16 2008
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Gary Timm, Assistant Director
Amber Tysor, Coastal Program Planner
California Coastal Commission
89 So. California Street, Suite 200
Ventura, CA. 93001

January 15, 2008

Re: Channel Islands Harbor
Public Works Plan
1. BISC, Amend 1-04
2. Waterside Amend 3

REQUEST TO POSTPONE ACTION PENDING MARINA DEL REY FINDINGS

Dear Mr. Timm and Ms. Tysor:

On January 10, 2008, the Coastal Commission unanimously approved fundamental policy positions regarding protection of avian species and comprehensive disclosure of future development plans. The policies were developed in the Marina Del Rey LCP Periodic Review. These policies are directly relevant to development of the Channel Islands Harbor by Ventura County.

At the conclusion of the seismic Commission action on January 10th, Executive Director Douglas stated staff would need to develop new findings. Pending the approval of these findings, action should be postponed on both of the above the referred Ventura County proposals. In both instances, no new Commission action is needed for postponement. The BISC amendment was continued to an indefinite time at a Commission hearing on October 10, 2007. Action on the "Waterside" Amendment was extended up to a year by Commission action in November.

Approved Marina Del Rey finding will inform staff recommendations on many aspects of the Ventura County harbor development plans. Two key areas of Ventura proposals affected are:

1. **Protection of Avian Species.**
   The Commission adopted a policy that in a densely developed urban landscape, even non-native trees used by avian species can be recognized as an Environmentally Sensitive Habitat Area (ESHA). Staff suggested that ESHA might be found for trees in a more natural and less urban land use area but not in one like Marina Del Rey. For a setting like Marina Del Rey, staff suggested crafting new protections for "sensitive biological resources." Under staff's concept, avian species might be relocated to separate nesting areas with buffers and set back and that might employ special roosts or other devices to encourage nesting. Either approach necessitates a whole site specific biological protection assessment. Under either the policy adopted by the Commission or the one recommended by staff, protection of avian species in Channel Islands Harbor must be rethought. There has been no on site study by the Commission's biologists; avian observations done by consultants working for the County have been only partially provided to the Commission; there is no tree trimming policy; there is no policy for buffers; there is no pro-active County policy to preserve or protect this resource. Assumptions were made in the staff report for the October BISC hearing that are scientifically unsupported including that part of a nesting grove can be removed without consequences and that a distance of ten feet from a nesting tree is adequate "buffer". The policy adopted by the Commission requires a more rigorous and scientific framework. Please see our attached letter of October 16, 2007 further on these needs.

Exhibit 13
PWPA 1-04, NOID 1-05
The Beacon Foundation letters

2. Comprehensive Disclosure of Development Plans

Channel Islands Harbor is far less urbanized than Marina Del Rey. In the proposed third, "waterside" Amendment to the certified Public Works Plan, the County is seeking to excise development restrictions to facilitate extensive new development. The PWP requires preservation of open space in the Harbor that existed at the time the PWP was certified. Existing structures may be redeveloped but only within strict expansion limitations. New structures require a PWP amendment.

The County practice has been to submit development plans parcel by parcel without any comprehensive disclosure of development plans. For more than four years it has promised that a comprehensive PWP amendment proposal is in the works but it has yet to offer one. The "waterside" Amendment proposal is an expanded piecemeal approach. It purports to deal just with the water areas and the County promises to follow it with another Amendment that will deal comprehensively with the land areas. There is no rational way to divide development standards for the water from those for the land. They are interdependent and changes in rules for one affects rules for the other. We have filed extensive comments objecting to broad PWP changes proposed in the so called "waterside" amendment. Among these proposed changes is the attempt to excise entirely the concept that the Harbor is built out and that new development on land or water require a PWP Amendment.

The policy adopted by the Commission that Los Angeles County should follow an overall comprehensive approach rather than a piecemeal one for marina development should be applied to Ventura County and the Channel Islands Harbor. Piecemeal pursuit of Coastal Commission project approval is bad planning and contrary to sound management of the asset and to consideration of cumulative impacts that affect compliance with the Coastal Act. Further consideration of the "waterside" amendment should await finalization and staff guidance by the Marina Del Rey findings.

CONCLUSION

The policies adopted by a unanimous Commission on January 10th have enormous relevance to consideration of Harbor development elsewhere. The policies adopted in evaluating the Marina Del Rey LCP Periodic Review are recommendations to Los Angeles County. They do not initially direct County action. However, it is expected the policies will mold Commission consideration of future development proposals brought to the Commission by Los Angeles County.

In the context of the Channel Islands Harbor, the Commission policies have greater practical effect. These policies can be applied to guide staff recommendations and Commission decision making on actual project proposals. To apply these policies, there needs to be a clear record provided by the findings. Until the findings are written and certified it is inappropriate to proceed with either pending Ventura County PWP amendment.

Lee Quaintance

Encl.
CC: Peter Douglas

The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

Gary Timm, Assistant Director
Amber Tysor, Coastal Program Planner
California Coastal Commission
89 So. California Street, Suite 200
Ventura, CA. 93001

January 16, 2008

Re: Channel Islands Harbor
Public Works Plan Amendment
BISC -- Avian Expert and ESHA

Dear Mr. Timm and Ms. Tysor:

The only independent avian expert to examine heron issues in the Channel Islands Harbor is Dr. John P. Kelly, Director of Conservation Science of the Audubon Canyon Ranch. As a public service and without compensation Dr. Kelly has provided three opinion letters to the Commission. Consideration of his comments and recommendation is vital to fashioning requirements for protection of this biological resource.

Please provide the Commissioners with the three attached letters to the Commission of March 9, 2005, April 7, 2006 and November 12, 2007. The letters are interrelated and need to be read together.

It is noteworthy that the November 12th letter indicates that he has followed the work of Commission biologist, Jonna Engles in Marina Del Rey and that he recommends establishing: "... Environmentally Sensitive Habitat Areas (ESHA) that would protect non-native trees and other vegetation needed to provide suitable nesting substrate for herons or egrets at Channel Islands Harbor. " Dr. Kelly emphasizes the need for a thorough study to design needed protections.

Sincerely,

Lee Quaintance
Secretary

Encls.

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JAN 16 2008
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SOUTH CENTRAL COAST DISTRICT

The Beacon Foundation

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3844 W Channel Islands Blvd
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RECEIVED
OCT 17 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Peter Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

October 16, 2007

Re: BISC – Channel Islands Harbort
Review by Commission Biologist

Dear Director Douglas:

New information and issues regarding the Channel Islands Harbor heron rookery were presented in testimony and in factual inquiries by Commissioner Wan at the October 10, 2007 hearing. Commission biologist involvement is essential for objective analysis. We ask you to task the Commission's biologist to review these issues:

1. **Assessment of Species Present.** Commissioner Wan noted a County claim that no Black Crowned Night Heron (BCNH) are nesting in the Harbor. That County position is repeated by Commission staff in its September 27, 2007 report (page 22). Your staff relied on the three reports the County provided authored by its consulting biologist. **The County allowed CCC staff and the Commission to rely on outdated information it knew to be wrong.** At The October 10th hearing we submitted a June 5, 2007 report by the County consulting biologist, copy attached, that states: "We now know that BCNH are nesting in the CIH [Channel Islands Harbor] environment" Although withheld from those preparing the BISC staff report, the County submitted the June 5, 2007 report to a CCC file for an unrelated harbor project and that is how we found it.

2. **Review of All Reports By the County Consulting Biologists.** For more than four years, County consulting biologist, Jeffrey Froke, has done regular (apparently quarterly) field observation reports on heron in the Harbor. For about a year, another biologist, Greg Ainsworth of Impact Sciences, has also been observing the heron. Both of these consultations are required by Coastal Commission conditions in its respective approval of the BISC and the Vintage Marina redevelopment project. **Despite the fact that these reports are required by the Commission, it appears only a few of Dr. Froke's reports and none by Impact Sciences have been provided to the Commission.** Without this data and analysis of it by a Commission biologist, there is no objective basis for Commission decision making or for disclosure and public participation in the decision making process.

3. **Consideration of Additional Safeguards.** Commissioner Wan stated a need for staff to review and report back to the Commission on certain additional safeguards for heron and for species nesting on Hollywood Beach. Regarding the heron, Mrs. Wan described the need to assure that the crown foliage of nesting trees not be pruned away and to assure that music and event noise are effectively controlled. She expressed a need to control harm to beach nesting via an effective docent program.

Sincerely,

Vickie Finan, President
CC: Sara Wan
Gary Timm

The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

October 18, 2007

Re: BISC – Channel Islands Harbor
Low Balling Park Replacement

Gary Timm
District Manager
California Coastal Commission
89 S. California Street, Suite 200
Ventura, CA 93001

Dear Mr. Timm:

Commissioner Sara Wan asked at the October 10, 2007 hearing for more input from Commission staff regarding park taken by the BISC project. She noted a dispute exists on how much is taken and that this needs to be resolved. She also asked for an accurate diagram of the replacement.

Attached is a diagram we provided at the February 19, 2004 Commission hearing. It details the taking by the BISC project of more than 4,000 square feet of existing public park. At this hearing (transcript page 66), the County consultant, Andi Culbertson, testified:

> "There was a comment made that 4000-square feet is occupied at the park. That is false. I have measured it, and I have had an engineer measure it, and the lawn areas is generously estimated at 800-square feet...."

A later County submission shows it is her figure that is false. An EIR amendment approved by the Board of Supervisors on October 19, 2004 and submitted to the Commission states the County "retained a civil engineer to review the drawing ..." and determined that: "The turf area actually occupied by the building shown on Exhibit 49 is approximately 1500 – 1700 square feet."

The admission of error is itself a model of evasion. It says the "turf" area "**occupied by the building**" is 1500 – 1700 square feet. That accords with our diagram showing the building foot print on the park as "1700+ sq. ft." The County re-calculation leaves out the additional 2300+ sq. ft of park occupied by the exterior fenced compound that surrounds the facility as shown on the County diagram. **The exterior fenced off park area is removed from public use just as much as the area occupied by the building foot print.** 4000+ square feet is lost to the project.

It appears Commission staff is accepting the County 1700 sq. ft. figure without independent calculation or examination of the above stated facts. We ask you to re-visit this important factual issue. Your proposed Modification 8 calls for the County to replace at least the full amount of park it is taking. **To allow the County to use the 1700 sq. ft. lowball figure understates the taking by more than half and undermines the integrity of Modification 8.**

Sincerely,

Lee Quaintance
Secretary

Encl.

RECEIVED
OCT 18 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

THE BEACON FOUNDATION
PMB 352
3844 W Channel Islands Blvd.
Oxnard, CA 93035

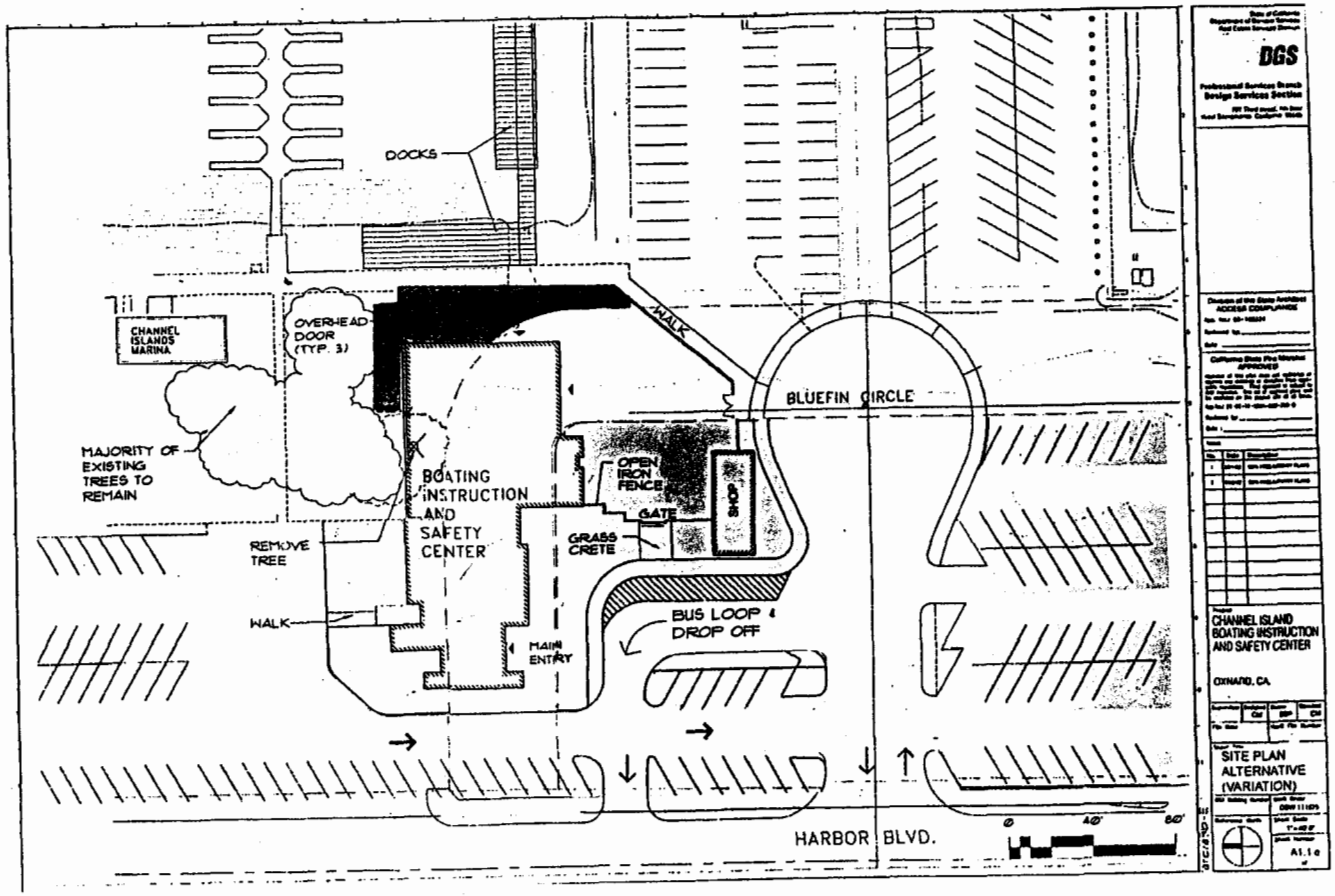
TAKING OF PUBLIC PARK AND PARKING

2,300+ sq. ft. of existing park taken by fenced compound.

1,700+ sq. ft. of existing park taken by building foot print.

15,000+ sq. ft. of existing parking area taken by building footprint and compound.

100 0f the 118 parking places to be permanently posted as : "BISC use only"



- This project diagram is attached to the Notice of Impending Development as "the approved project site plan." The County claims it "only occupies approximately 800 square feet of turf." The area of existing park taken by the project is actually more than 4000 sq. ft..

- The CCC Staff Report relied on the false County data stating: "approximately 800 sq. ft. of designated park area will be displaced by the BISC."

- Condition 5 is based on the false data. This taking requires a PWP amendment. In a Notice process, Condition 5 needs to be rewritten to state:

<u>Revised Condition 5:</u> The project may not take designated park area and must not displace public parking access to designated park area.

The Beacon Foundation

PMB 352
3844 W Channel Islands Blvd
Oxnard, CA 93035

RECEIVED
OCT 12 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

October 12, 2007

Gary Timm
District Manager
California Coastal Commission
89 S. California Street, Suite 200
Ventura, CA 93001

Re: BISC – Channel Islands Harbor

Dear Gary,

I am hand delivering today to your office the attached e-mail that responds to the questions you asked me in your e-mail of yesterday. When I tried to transmit my response this morning it was bounced back with an auto message that you are out of the office and will not be checking e-mails until October 15, 2007. Also enclosed is our e-mail exchange of yesterday.

In view of the stated intention to bring this matter back at the November commission meeting, we are distressed you will not receive the new information you request from us until next week. This contributes to our process concern that staff is allowing the County to jam it on time and thus make a thorough analysis impossible.

We ask that the matter be continued beyond the November date until staff has an opportunity to analyze testimony and other input from the October 10, 2007 hearing and to request, receive and analyze additional data necessary for the Commission to discharge its obligation for a new functional equivalent CEQA analysis.

Sincerely,

Lee Quaintance
Secretary

Cc: Peter Douglas

Enclosures

Lee Quaintance

From: "Lee Quaintance" <LeeQuaintance@msn.com>
To: "Gary Timm" <gtimm@coastal.ca.gov>
Sent: Friday, October 12, 2007 9:23 AM
Subject: Your 10/11 inquiry regarding certain alternatives

Gary -- Your inquiry asks for "a specific location" for two alternatives referenced in my testimony to the Commission on October 10, 2007. Your inquiry concerned alternative 2 -- the adjusted east side site and alternative 3 the site with buffer. I don't have a "house number address" for you for either of these and it would be improper to eliminate them from consideration on such a basic. Both proposals have locations clear to everyone involved.

As to Alternative 2, it is clear from the transcript excerpt of the October 14, 2004 BOS meeting previously provided that Supervisor Parks was proposing an alternative that would be (transcript at Page 111)
an "adjustment" of the County proposal. It would be sensitive to environmental impacts on the heron rookery, park land and viewsheds and thus an environmentally superior site. She describes her alternative (transcript page 109) as one that "...move[s] this building away from the park, if we can -- and -- and in such move it away from the herons and if we can make it one story instead of the two-story building because it affects viewsheds." Again (transcript page 110) she propose: "we look at a --- the smaller one-story building outside of the park area and away from the heron."

In recounting her discussion of this alternative with the Department of Waterways, Supervisor Parks testifies (transcript page 110) "... it is possible a smaller project would be funded by them if its in that same location."

WEST

It is clear from the transcript and from my conversation with Supervisor Parks at the time that her alternative would place the facility on the ~~east~~ side of the Harbor in the same area as the County proposal but would move it a distance off the dedicated park. The exact number of feet in the adjustment would, of course, be part of the alternative analysis as would other aspects including building height and size. As stated in the letter of March 14, 2005 to the Commission from our counsel, John Buse: "The County ... did not evaluate this alternative, nor did it present it to the Commission as a means of further reducing the project's impacts on heron." The County failed to analyze this alternative or reveal it to the Commission because it did not want to consider or reveal any alternatives to its chosen site.

CCC staff must not be complicit in the County avoiding its responsibility to evaluate this alternative on a claim they don't know where it would be located. It is also inappropriate for staff to allow the County to shift the obligation for evaluating alternatives to the public.

Alternative 3, the buffer, is easy to locate. It is a site that provides a buffer for nesting trees. As recited in your September 27, 2005 staff report the preferred location is only 10 feet from a nesting tree. Dr. Kelly in letters in the record indicated an adequate buffer would necessarily be more than that and mentioned
97 meters as an ideal. The location of this alternative is some distance up to 97 meters that would provide a buffer for the heron. An unbiased review of alternatives would look at possibilities that would maintain
a buffer for the heron. One version of this alternative that should be evaluated would be, like Alternative 2, an "alteration" to the "preferred" site to build in a meaningful buffer. Additional iterations include consideration of buffer as it pertains to other alternatives such as Ciscos.

Alternative 1 -- the Port Royal restaurant site. Let me take this response to your e-mail inquiry as an opportunity to provide additional facts regarding the Port Royal restaurant site alternative. As I stated in

my October 10, 2007 testimony, the County has given you false information regarding prior consideration of the restaurant site. The oral County representation underlying your one paragraph dismissal of this alternative (September 27, 2007 staff report page 35) is untrue. The County never considered the restaurant site prior to identifying it as a viable alternative in March of this year. You will find the misrepresented "preliminary site selection" study in Volume 2 of the DEIR -- the technical appendix. If you have any problem finding it, I will be happy to provide a copy. This study dated November 1999 specifically excluded any land site having a lease encumbrance. It states at page 4 "The proposed facility would be sited on Harbor property that is not being leased to any private or commercial entity." If you will review pages 14 thru 16 you will see that
no consideration was given at all to the Port Royal restaurant or the Whales Tail Restaurant. On page 15 there are photos showing that the land side portion at the so called "Port Royal site" was the heron rookery park that has always been the preferred site. Please take another look at my letter of October 1, 2007 on
the issue of feasibility of a site under lease. Existence of a lease does not alone make a site infeasible under the Coastal Act (Sec 30108).

Your e-mail of yesterday says "Simply saying that the current lessee at the Port Royal site wants out of the lease is not good enough." There is much more than that --- As shown in Dr. Ziv's October 10 testimony presentation this lease has on at least three recent dates been on the Board of Supervisors agenda for closed session negotiations with named prospective new tenants. You should ask the County for full disclosure of these negotiations and other direct Harbor department negotiations regarding this lease. And what is certainly "not enough" is to continue to accept undocumented oral representations from the Harbor Department on this.

Lee Quaintance

From: "Gary Timm" <gtimm@coastal.ca.gov>
To: "Lee Quaintance" <LeeQuaintance@msn.com>
Cc: "Lyn Krieger" <Lyn.Krieger@ventura.org>; "Marilyn Miller" <Marilyn.Miller@ventura.org>
Sent: Thursday, October 11, 2007 3:59 PM
Subject: RE: BISC Alternatives/ Cumulative Impacts and Process

Lee,

Would you please provide me a specific location for your referenced alternatives 2 & 3 in your attached document and as well as reasons that explain why these sites/alternatives are feasible. Also, if you have any specific details or information as to why the Port Royal or Cisco's sites are feasible alternatives please provide that information as well. Simply saying that the current lessee at the Port Royal site wants out of the lease is not good enough. Also, I will ask the County to respond to your points. Thank you.

Gary Timm
District Manager
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA. 93001
805-585-1800

-----Original Message-----
From: Lee Quaintance [mailto:LeeQuaintance@msn.com]
Sent: Thursday, October 11, 2007 2:07 PM
To: Gary Timm
Subject: BISC Alternatives/ Cumulative Impacts and Process

We have fundamental process concerns about the announcement at the BISC hearing yesterday That the matter will be brought back in one month. It is impossible for staff to issue a timely staff report that adequate analyses and responds to testimony given and written submissions provided.

This one month turn around was announced by Harbor Director Lyn Krieger. She began her rebuttal remarks by saying: "Since we will be back next month ...." That was the FIRST mention of a one month turn around by anyone. It was stated as a firm fact and not a mere possibility.

The Krieger remark shows a commitment to the County for a one month turn around WITHOUT REGARD TO THE TESTIMONY given on October 10th. It was a done deal and it didn't matter what additional or new things came up in testimony. Staff committed in advance to cobble together in a month a revised staff report. This advance arrangement prejudices the thoroughness of the staff review process in which you are now engaged.

For your ease of reference I am enclosing a copy of my testimony on alternatives and cumulative impacts.
I made some deletions due to time considerations but the points were the same.

In addition to the deficiencies of analysis enumerated in my testimony, I want to bring to your attention another unanalyzed cumulative impact documented in a slide you presented to the Commission. This is the
slide depicting with red shaded dock expansion plans already submitted to the Commission that will further encroach on the main channel slated for use by BISC. The cumulative effects of these multiple

narrowings of the main channel needs review as do the impacts from additional narrowing by the Marine Emporium dock and docks on the opposite shore that have already been approved by the Commission.

As you know, the only study the County ever submitted regarding congestion (as pointed out by the Court in the Habitat decision) was the effects of some 500 new slips in the north harbor on the Harbor entrance. Never considered was the impact on the turning basin slated for project use by BISC beginning students. The cumulative impact of all these things on the turning basin requires review.
This is also pertinent to consideration of alternatives.

The Beacon Foundation

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3844 W Channel Islands Blvd
Oxnard, CA 93035

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SEP 21 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Gary Timm
District Manager
California Coastal Commission
89 S. California Street, Suite 200
Ventura, CA 03001

September 20, 2007

Re: BISC – Channel Islands Harbor
Item 11a, b – 10/10/07

Dear Director Timm:

We are concerned that Commission staff is initiating Coastal Commission re-review of the Boating Instruction and Safety Center (BISC) project without requiring the County of Ventura to provide adequate or timely environmental documentation and without adequate public notice.

This staff re-review initiative follows abandonment two week ago by the Commission and Ventura County of their respective appeals of the Habitat for Hollywood Beach case (CIV 233653). The ruling in that case nullified the March 16, 2005 Commission approval of the BISC project.

Proceeding with a new hearing, a "second bite at the apple," on the existing record profoundly misunderstands the court decision and deprives the Commission of the ability to discharge its obligation for an environmental review functionally equivalent to a CEQA review.

1. Misunderstanding the Habitat decision

The thoughtful 21 page decision of Judge Chalfant, directed the Commission to set aside its approval of the BISC. To proceed with the project, the Court required (page 21) the Commission to:

> "**... prepare a new functional equivalent of an EIR** addressing the alternatives analysis and cumulative impacts issues." [emphasis added]

The Court decision does not require the Commission to do the environmental studies that are necessary to support its functional equivalent of an EIR. The Court requires that the Commission rely on adequate environmental documentation to support its analysis. As noted in the decision (page 5) the Commission's functional equivalent of an EIR:

> "... must be supported with 'reference to specific scientific and empirical evidence.'" [case citation omitted]

The Commission lacks the staff and resources to do the environmental documents necessary to support such a review. In normal practice, Commission staff requires the applicant to provide the underpinning analytical material. It has not done so here. We understand from you, that the County has neither been asked to nor has it on its own initiative provided any environmental review documents to support a rehearing on this project. Further, there is no indication that the County has filed any document seeking this re-review or that any determination has been made by the Executive Director that the existing file is adequate to allow Commission action.

2. Holding the Bag For The County.

It appears Commission staff will rely in its re-review Report on an EIR certified by the County on December 13, 2003 – nearly four years ago and relevant materials, if any, submitted by the County in advance of Commission approval of the project on March 16, 2005. This exercise is deficient on its face. Changed circumstances make new empirical environmental reviews necessary and, more important, there simply is no data in the prior record on key deficiencies noted by the Court.

Proceeding on the current inadequate record fulfills the myth broadcast by the County that the adverse decision in the Habitat case was solely the fault of Commission staff. Its often repeated refrain is that the record had everything needed to support the Commission decision but that vital pieces of County submissions were left out by Commission staff error. As addressed below, this self serving myth is just that and untrue.

3. New Review Required By The Habitat Decision.

The County myth of Commission staff failure is expressed by Harbor Director, Lyn Krieger, in her Report to the Ventura County Harbor Commission dated November 10, 2006. She states (page 2):

> "In short, the County does not need to redo or repeat any work. Challenges to the EIR itself were unsuccessful. The only area found lacking by Judge Chalfant was a portion of the staff report from the Coastal Commission staff to the Coastal Commission."

In fact, the Court did not validate the adequacy of the County EIR or other County materials in the record. Judge Chalfant's states (page 18):

> "... the Court makes no findings as to whether the County's EIR, PWP amendment application, and NOID application contain the necessary supporting materials for the Commission's alternatives analysis."

The Court also did not validate adequacy of County submissions on cumulative impacts.

The Court focused on gaps in documentation of the Commission's approval action. The Court did not determine whether subjects were overlooked of just not supported in the record. A careful review shows that on key issues the required scientific and empirical support is lacking from County submissions. As to some issues, supporting data cannot possibly be found in the pre-decision record because impacts result from post decision events and actions.

a. The Alternative Sites

The Court decision notes (page 15) " The staff report contains no description or analysis of alternatives to the project." Further (page 15) :

> "... a mere conclusion that there are no feasible alternatives without further explanation is simply inadequate. The reader has no opportunity to compare the problems involved with the proposed project with difficulties involved with the alternative."

The EIR contains cursory dismissal of alternative sites that does not permit the comparison required of the decision maker. One of the alternatives not analyzed in County submission at all is the Port Royal restaurant parcel . Subsequent to the October 16, 2006 Habitat decision, The County recognized this site as an alternative. There is no way for Commission staff to adequately review this site based on the pre-March 16, 2005 record.

Another alternative not adequately reviewed is known as the Cisco sport fishing site on the east side of the Harbor. Subsequent to the County BISC EIR certification, this site came (and today remains) under the direct control of the County due to expiration of the lease. The argument raised by the County at an earlier time that this site was not a "viable" alternative because it was under lease became moot. There have also been subsequent changes to the docks at this site that may enhance its suitability. This site cannot be adequately reviewed on the pre-March 16, 2005 record.

b. Cumulative Impacts.

The Court found the staff report does not include analysis of the cumulative impacts of redevelopment of a marina adjacent to the BISC project and the cumulative effects of two new massive housing projects in the north Harbor. Again the Court does not determine whether or not the record before the Commission contains adequate environmental analysis upon which staff could rely. We know from review that adequate environmental review materials on the cumulative effects of these projects is not to be found in the pre March 16, 2005 record. Further, many additional projects in the Harbor have been approved by the County that have cumulative impacts on the BISC project. These include the Marine Emporium project and reconstruction of slips on the east side of the Harbor Main Channel. Both of these projects, as approved by the Commission, entail narrowing of the existing main Harbor channel and present boat congestion and other potential cumulative impacts on the BISC project. In addition, in March of 2007 the County approved and submitted to the Commission a massive waterside amendment to the Certified Public Works Plan (PWP) with significant potential cumulative impacts on the BISC project. None of these post March 16, 2005 projects can possibly be analyzed based on the stale record from two and half years ago.

3. Conclusion.

Commission staff must not hold the bag for deficiencies in the environmental record provided to it by the County of Ventura. Responsibility for doing the necessary and additional environmental review documentation must be placed squarely on the applicant or it will not be done at all.

The appropriate action is to postpone presentation of this Item pending an application by the County Board of Supervisors. Any submission should be deemed incomplete until it includes adequate environmental review in areas of concern identified by the Court and until it includes environmental review of the impacts on the BISC project of post March 16, 2005 developments.

The Beacon Foundation is a nonprofit environmental organization focused on coastal Ventura County. For fourteen years we have sought to educate and advocate for coastal resources.

Sincerely,

Lee Quaintance, Secretary

The Beacon Foundation

PMB
3844 W Channel Island
Oxnard, CA 93035

Gary Timm
District Manager
California Coastal Commission
89 S. California Street, Suite 200
Ventura, CA 93001

RECEIVED
OCT 01 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

October 1, 2007

Re: BISC – Channel Island Harbor

Dear Director Timm:

The 149 page staff report first became available on Friday afternoon, September 28, 2007. The twelve days remaining before the scheduled hearing is inadequate for public and Commission review of this controversial project and we hereby request that it be continued or postponed.

We also request that an Addendum staff report include an important record that has been omitted. This is the attached letter of March 15, 2005 from our counsel, John Buse. The Buse letter discusses the Commission's obligations regarding cumulative impacts and alternatives.

The staff report is a re-tread of the original with only five pages of new material at the end --- none of which come from the applicant, the County of Ventura. The scant new County information in the staff report text is undocumented. Staff repeats comments the County apparently relayed orally.

The Court in the Habitat case found that any re review of this project would require the Commission to (page 21): "... prepare a new functional equivalent of an EIR addressing the alternatives analysis and cumulative impact issues." The Court specified that the Commission's functional analysis (page 5): "... must be supported with 'reference to specific scientific and empirical evidence'" [case citation omitted]. The staff report fails to provide such support.

Presented below are some of the specific inadequacies in the analysis of alternatives.

Site selection for this project was a pre-determined outcome. The County never seriously considered alternatives. The site was selected prior to any environmental review. On **June 28, 2001** the County announced via the attached invitation, the unveiling of the "future site" of the BISC. Faced with public outcry, the County cancelled the event but only until "...a new date [that] will be set as soon as we can clear calendars."

More than six years have passed and the County has still failed to analyze feasible alternatives. Outlined below are three unanalyzed sites on the west side. There are also feasible east side sites that have not been adequately analyzed. This discussion focuses on west side sites because the County and the Department of Boating and Waterways claim the west side is safest.

- Port Royal Restaurant Site. The County owns this waterfront parcel now occupied by its tenant, Port Royal restaurant. Subsequent to the October 16, 2006 decision in the Habitat case. the County, **for the first time,** recognized the Port Royal site as a **feasible** alternative. It was not considered in the EIR or elsewhere prior to that time. The staff report (page 35) indicates the County concluded this site is not feasible [illegible] "because the restaurant on the site is still in operation and has 7 years remaining on its lease."

This undocumented conclusion is inadequate on its face. The Coastal Act (Pub. Res. Code Sec 30108) specifies: "'feasible' means capable of being accomplished in a successful manner within a reasonable time frame, taking into account economic, environmental, social, and technological factors."

The act also recognizes a rule of reason. That should weigh in consideration of the fact that a parcel actually owned by the project applicant may be subject to its greater control.

Without a real analysis, this site cannot properly be deemed not feasible solely because it is currently under lease. The site would be used for the BISC administrative building. A reasonable construction time frame (given a present lack of cost estimates or funding for this project) has not yet been determined. Such an analysis would be part of a true alternatives analysis. Also pertinent is that this parcel immediately adjoins the area proposed for the BISC docks. A "reasonable" delay in constructing the administrative building would not necessarily delay construction of dock facilities and commencement of project activities.

Another subject requiring disclosure and analysis is the effort, common knowledge in the community, by the tenant to sell its leasehold. In April 2003, the County Grand Jury recommended the County reacquire the Port Royal lease due to the poor performance of this restaurant. Continuation of this restaurant as a going concern has long been tenuous with reason to believe it will relinquish the site long before the present leasehold expires.

- Smaller West Side Facility Moved Off Parkland. Another alternative never considered by the County, was presented by a member of the Board of Supervisors at a Board meeting on October 19, 2004. An excerpt from the transcript of that meeting is provided as an attachment to the John Buse letter of March 14, 2005. Therein, Supervisor Parks suggested keeping the BISC on the County preferred west side but in a "... smaller one-story building outside of the park area and away from the heron." She reported discussing this alternative with the Department of Boating and Waterways and that it deemed funding possible for her suggested alternative project. This alternative has never been analyzed.

- Westside Facility with Set Back For Heron Nesting Trees. The Habitat decision specifically identified (page 16) that a building "...including a 97 meter setback to protect the black-crowned night heron..." is an alternative presented to the Commission and not adequately analyzed. It has still never been seriously considered. The September 27, 2007 re-submittal staff report states (page 22) "The project will extend to within 10 feet of the nearest nesting tree." Thus, the County would provide no buffer despite testimony in the record that this protection is necessary. As the Court emphasizes "mitigations" are no substitute for analysis of "alternatives." This alternative requires serious analysis.

The Beacon Foundation is a non-profit environmental organization focused on protecting the coastal resources of Ventura County.

Lee Quaintance
Secretary

CHANNEL ISLANDS HARBOR FOUNDATION
3900 Pelican Way, Oxnard, California 93035 • Phone (805) 382-3001, Fax (805) 382-3015

You are cordially invited
to the unveiling of
the sign designating
the future site of
the long awaited
Boating Instruction and Safety Center.

When: June 28, 2001 at 10:30 a.m.

Where: Adjacent to the Port Royal Restaurant
on the west side of the Harbor

CHANNEL ISLANDS HARBOR FOUNDATION

3900 Pelican Way, Oxnard, California 93035 • Phone (805) 382-3001, Fax (805) 382-3015

IMPORTANT NOTICE

We apologize for causing any inconveniences, but the long awaited unveiling of the sign designating the site of our new Boating Instruction and Safety Center will have to be delayed just a little longer, due to scheduling conflicts.

We will advise you of the new date as soon as we can clear calendars.

Thank you for your understanding!

LAW OFFICE OF JOHN T. BUSE
5656 SOUTH DORCHESTER AVENUE NO. 3
CHICAGO, IL 60637
(312) 237-1443

March 14, 2005

Meg Caldwell, Chair
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

WED 14d and 14.5

[complete document has been provided to Commission staff]

RE: Proposed Major Amendment (1-04) to the Channel Islands Harbor Public Works Plan and Notice of Impending Development for Boating Instruction and Safety Center

Dear Chair Caldwell and Commissioners:

The following comments regarding the proposed Public Works Plan ("PWP") Amendment and Notice of Impending Development for the Channel Islands Harbor Boating Instruction and Safety Center ("BISC") project are submitted on behalf of The Beacon Foundation.

In general, the staff recommendations regarding the BISC project are excellent and reflect many of the concerns stated by the Commission in February and June 2004. We wish, however, to call your attention to several significant legal obstacles that remain for the approvals related to the BISC. In particular, the Commission is unable to meet its obligations under the California Environmental Quality Act ("CEQA") because project applicant Ventura County has not provided sufficient information regarding cumulative impacts and feasible alternatives that would further reduce the project's significant environmental impacts.

CEQA Findings

The Commission reviews the BISC project pursuant to its CEQA certified regulatory program. Accordingly, the Commission must adopt findings that the BISC project, including the PWP Amendment, is in compliance with CEQA and that there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impact. Thus, the Commission's review must disclose fully any potentially significant environmental consequences of the project, including cumulative impacts. In addition, the Commission cannot adopt the required CEQA findings if there are other feasible mitigation measures or alternatives that would substantially reduce the BISC project's impacts. Because Ventura County has not adequately disclosed potential cumulative impacts and has failed to adopt feasible mitigation measures and alternatives that would lessen the project's biological and visual impacts, the Commission will be unable to make the required CEQA findings to approve the PWP Amendment and Notice of Impending Development for the BISC.

Cumulative Impacts

Whether CEQA is implemented through the preparation of an environmental impact report ("EIR") or through a certified regulatory program such as the Commission's, its fundamental purpose is to alert decision makers and members of the public to potential environmental concerns before a project is approved. An EIR is supposed to be "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." County of Inyo v. Yorty (1973) 32 Cal. App. 3d 795, 810. In preparing the functional equivalent of an EIR, the Commission must meet the same objective.

Among other things, CEQA requires disclosure of a project's cumulative impacts in an EIR or its equivalent.

> "Cumulative impacts" refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.
>
> (a) The individual effects may be changes resulting from a single project or a number of separate projects.
>
> (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

CEQA Guidelines § 15355. Thus, a CEQA document must disclose the other past, present, and reasonably foreseeable future projects that may contribute to the cumulative impacts of the project under review.

The Beacon Foundation is currently challenging the cumulative impact analysis contained in Ventura County's EIR and EIR Addendum for the BISC project. Among other things, we have argued that the County's CEQA documents failed to disclose other pending and proposed development activity in Channel Islands Harbor that would contribute to the project's cumulative impacts. Now, however, Ventura County has compounded this defective analysis by failing to disclose as part of the PWP Amendment application another closely related project – Permit Application 4-04-097 for expansion of Vintage Marina. This project will also involve construction activity in close proximity to trees occupied by nesting herons and a reduction in the number of recreational boating slips in Channel Islands Harbor. Commission staff has recommended further conditions to reduce the BISC project's impacts on herons and recreational boating, but has been unable to evaluate the additional incremental impacts that may result in light of the Vintage Marina project because the County's PWP Amendment application makes no mention of the Vintage project, which was submitted to the Commission in a separate

application. The County's failure to disclose the Vintage Marina project thus deprives the Commission, as the ultimate decision maker, of an opportunity to consider the BISC project's cumulative impacts to fulfill its CEQA obligations.

It is not sufficient that the Commission will have an opportunity to consider the Vintage Marina project in due course, as we anticipate the County will argue. Rather, CEQA requires that the cumulative impacts of the BISC project be evaluated now, before the PWP Amendment is approved. The County's failure to disclose the Vintage Marina project as part of the PWP Amendment application also frustrates the requirement of the Commission's regulations that the PWP amendment must contain "the proposed timetable for precise definition of all projects included in the plan and any phasing of development activity contemplated." 14 Cal. Code Regs. § 13353(3). In applying to amend the Channel Islands Harbor PWP, Ventura County did not provide any timetable for future development within the harbor or list of future projects.

Biological Impacts

The staff recommendations address the BISC project's potential impacts on nesting herons by prohibiting construction activity during the nesting season of the black-crowned night herons located on and adjacent to the project site. The staff report acknowledges that Dr. John Kelly had recommended a setback of nearly 200 meters to avoid heron disturbance, but concludes that such a setback is neither possible nor necessary. Dr. Kelly, by letter dated March 9, 2005, has now elaborated his concern about potential impacts on herons, citing a study indicating that "buffer zones remain critical factors in colony site management even at sites where birds tolerate humans at close distances." Thus, even in locations such as Channel Islands Harbor where herons tolerate proximity to humans and structures, a buffer is important for avoiding impacts to herons. Where a 100- to 200-meter setback is not feasible, Dr. Kelly recommends "establishing the maximum feasible buffer area between the nesting herons and areas planned for increased human activity."

As submitted by Ventura County, the BISC project would provide no more than a 10-foot setback from existing heron nesting trees. There is no indication that the County considered establishing the maximum feasible buffer, or determined what constituted such a buffer. Prior to the County's approval of the PWP Amendment, The Beacon Foundation and others suggested a modified site plan/reduced-scale alternative that would provide an approximately 50-meter buffer, satisfy the County's insistence that the BISC be located on the west side of Channel Islands Harbor, meet the basic objectives of the project, and, not inconsequentially, avoid obstruction of a protected view corridor. The Department of Boating and Waterways, whose objections to siting the BISC on the east side of the harbor are used as the basis for the County's contention that the east side alternative is infeasible, has also indicated that it could fund a reduced scale BISC project on the west side (see statement of Supervisor Linda Parks in attached excerpt from transcript of October 19, 2004 Board of Supervisors hearing, pp. 108-111). The County, however, did not evaluate this alternative, nor did it present it to the Commission as a means of further reducing the project's impacts on herons.

Because Dr. Kelly has raised the possibility that the BISC project may have a significant impact on herons even if the construction timing conditions recommended by Commission staff are implemented, and because there are feasible alternatives that would further reduce this impact, the County's failure to evaluate the reduced-scale west side alternative leaves the Commission unable to make the required finding under CEQA that there are no feasible mitigation measures or alternatives that would substantially reduce the project's impacts.

Visual Resources – View Corridors

The Commission staff recommendations acknowledge that the BISC project will obstruct a view corridor designated in the existing PWP, and that the PWP Amendment does not address this impact. Staff concludes, however, that this impact is not significant "[g]iven the largely undeveloped nature of the west side of the Harbor." Staff further recommends that no new development in the harbor within a designated view corridor should be approved without a PWP Amendment. This analysis implicitly acknowledges that the BISC project will result in a significant impact on view corridors by blocking a designated corridor inconsistent with the policies of the existing PWP and the City of Oxnard's LCP.

The reduced-scale west side alternative would also reduce the project's visual impacts by reducing the height and/or bulk of the BISC building. Accordingly, consideration of this alternative would also permit the Commission to make the required CEQA findings for visual impacts.

Conclusion

For these reasons, Ventura County must submit additional information about other closely related pending projects in Channel Islands Harbor, including the Vintage Marina project, provide a complete analysis of the BISC project's cumulative impacts, and evaluate feasible alternatives, including a reduced-scale west side alternative, that could reduce or avoid the project's remaining biological and visual impacts.

Thank you for your consideration of these comments.

Sincerely,

John T. Buse
Attorney for The Beacon Foundation

1 Ventura County will be the first and primary
2 consideration? That's what I think this really comes
3 down to and will have implications for a long time to
4 come.
5 That's where I am. I really appreciate
6 the -- the input. I have great respect for people that
7 try to work the -- work the open process that we have
8 and respectfully disagree with -- with some people's
9 opinions and -- and obviously agree with others.
10 I will certainly be supporting the westside
11 site and the -- the Public Works Plan amendment as we
12 have it at this point.
13 SUPERVISOR LONG: I'd ask to move the recommended
14 actions.
15 SUPERVISOR MIKELS: Second.
16 SUPERVISOR BENNETT: Moved and seconded and the
17 recommended action.
18 SUPERVISOR PARKS: Comment.
19 SUPERVISOR BENNETT: Supervisor Parks.
20 SUPERVISOR PARKS: When this came before us
21 previously I abstained because we got at the last
22 eleventh hour a notice of Boating and Waterways that
23 they will only fund it on the west side. And I thought
24 that kind of circumvented the entire CEQA process,
25 didn't give us an opportunity to look at alternative

1 sites. I just -- it -- it was to me a might as well
2 not have even done an environmental document or
3 alternative studies or anything. So I -- I felt that
4 it wasn't the right process. And that's what gave me
5 concern.
6 Regarding the safety east side/west side, it
7 really at this point is rather moot because we have a
8 definitive letter saying that we will not have funding
9 unless we put it on the west side.
10 I don't think this is a -- a full-out NIMBY
11 issue. I think that you look at the aerial, and you'll
12 see that there are very little areas left in the harbor
13 that have trees and aren't asphalted over. And that's
14 why you have a heron rookery there. I think it is a
15 park. And for -- whether our staff or not agrees, in
16 some documents that the County has it does call it a
17 park. So that gives me concern.
18 I could support the motion if we can move
19 this building away from the park, if we can -- and --
20 and in such move it away from the herons and if we can
21 make it one story instead of the two-story building
22 because it affects viewsheds. Otherwise I -- I
23 couldn't support this because I do think there are
24 absolutely legitimate concerns.
25 I talked with Boating and Waterways. We all

1 get our opportunity with them. I felt sorry for them.
2 They've been lobbied by so much. But they indicated to
3 me that it is possible that a smaller project would be
4 funded by them if it's in that same location. So I --
5 I think that would be a compromise that we could
6 reach. I think it would address a substantial portion
7 of the issues that we have before us.
8 Regarding safety, I don't -- you know, to me
9 I think it -- there is a safety issue because it's a
10 busy part of the harbor for novice sailors to go in and
11 there's probably a legitimate issue regarding the
12 wind. So to me it's a throw-up. But I -- I do think
13 that we have an ability to make this a better project,
14 make it something that the community could appreciate,
15 still carry out the functions to which the Boating
16 Center was to -- was to bring to our community.
17 And so I would just like to put that out
18 there, that we look at a -- the smaller one-story
19 building outside of the park area and away from the
20 herons.
21 I also have to say that it will avoid
22 litigation. And I -- while we don't want to be under
23 the threat and make our decisions based on that, I
24 think that is -- I think we are going down that path
25 unnecessarily because I think we can make some

1 adjustments to avoid it and still carry out the
2 function that we're looking for.
3 One last note. When I talked to Boating and
4 Waterways, they did indicate that the County's $2
5 million will go for an aquarium and a computer lab.
6 And I haven't heard that one before, you know, that the
7 Boating and Waterways is putting in their funds and
8 that's what the County wanted out of it. But that --
9 that I haven't heard.
10 And I would think that if you take the top
11 off the building, which is the banquets, classroom, you
12 can still have all the functions of a boating program
13 and the -- and still meet the -- the needs and criteria
14 of Boating and Waterways.
15 Otherwise I can't support the motion.
16 SUPERVISOR BENNETT: Supervisor Flynn.
17 SUPERVISOR FLYNN: Right. I can't support the
18 motion either, but I'd certainly be willing to look at
19 what I hear is -- is a different project, at least a
20 reduced project, as long as the community is involved.
21 But let me address one of the issues that we
22 bring up when we talk about the community and when we
23 talk about a regional facility. The Camarillo Airport
24 and the Oxnard Airport are really controlled by the
25 local communities, even though they're a regional

To:	California Coastal Commission
From:	Jonathan Ziv, President, Habitat for Hollywood Beach
Regarding:	OPPOSE—Channel Islands Harbor Public Works Plan Amendment No. 1-04 (Boating Instruction and Safety Center) and Channel Islands Harbor Public Works Plan Notice of Impending Development 1-05. - OPPOSE

Dear Commissioners and Staff:

The enclosed photos, statements, videos, reports, and data support denial of the proposed Public Works Plan Amendment (PWPA) and Notice of Impending Development (NOID) to construct a Boating Instruction and Safety Center (BISC) within an existing public parkland, view corridor, and heron rookery along Channel Islands Harbor, Ventura County, California. The information enclosed should help staff and commissioners understand and conclude that alternative locations exist that are superior to the proposed project site in avoiding immitigable impacts to the environment and that such alternative sites are viable to accommodate the needs and functions of the proposed project and its uses. If environmental impacts or conflicts with the PWP or Coastal Act cannot be adequately mitigated at the project location and viable alternative sites exist within close proximity to the proposed site that do not similarly impact the environment or violate the Coastal Act, the project must not be approved and the applicant must subsequently relocate the project to an acceptable location or abandon the project.

In short this report will provide to Commission and staff:

- Six current reports and statements from seven boating instruction program directors supporting alternative sites as being viable or preferable to the project site
- Reports on cumulative impacts to boater safety and harbor congestion, both elements of the existing PWP, showing recent construction of new residential dockside slips north of the project have increased large power boat traffic in the direct vicinity of the proposed project imperiling novice sailing students.
- Video, digital photo, web, and discussion of evidence contradicting testimony at the October 2007 CCC hearing that the proposed project will increase coastal access to ethnically diverse elements of the local population and substantiate taking of present low cost visitor serving parkland and picnic sites as well as public view corridors.
- Video evidence that present sailing programs safely dock on downwind docks in Channel Islands Harbor and that new sailing programs on the west side near the proposed project are experiencing close proximity and near-collision situations with large power vessels entering and leaving the adjacent main west navigation channel.
- Data showing that existing leases, master plan, and funding do not preclude alternate sites from consideration.

Exhibit 14
PWPA 1-04, NOID 1-05
Habitat for Hollywood Beach Correspondnce

- Data demonstrating that BISC conditions and modifications to protect the contiguous heron nesting and breeding trees from construction impacts are infeasible: Video and email data demonstrating that Ventura County has expressed in writing to Commission staff that it considers NOID and PWPA conditions and modifications designed to mitigate construction noise impacts to heron breeding and nesting as "advisory" only. The video and email data demonstrates that the county ignored Commission instructions to curtail noise impacts to the heronry and would not follow construction conditions it adopted by resolution of the Board of Supervisors. The video shows construction crews violating noise conditions during nesting season. The video and email data also demonstrates that construction equipment was positioned and operated directly beneath breeding and nesting sites while the County's email communication to the Commission staff denied this.

ALTERNATE SITES AND CUMULATIVE IMPACTS MUST BE ASSESSED

There are many alternative sites in Channel Islands Harbor where sailing instruction is presently taught or potentially could be taught. Many of those sites were actually displayed to the Commission, public, and staff by the Harbor Director at the October 2007 Commission meeting, and those shown in the PowerPoint were on a lee or downwind shore. But the two main alternative project sites dealt with in this report are the Port Royal Restaurant directly adjacent to the proposed BISC project location on the West side of Channel Islands Harbor and sites on the East side of Channel Islands Harbor south of the Old Public Launch Ramp and north of the Fuel Docks. This is the combined area of the former CISCO parcel and Parcel Q containing the existing public park, recreational boat slips, and parking lot that services the park and former public launch ramp.

Commission staff has been directed by the Superior Court of Los Angeles to adequately assess alternatives to the proposed project and also the cumulative impacts of other projects in the harbor as they affect the proposed project's impacts.

ALTERNATIVE SITES—BOATER SAFETY AND BOAT TRAFFIC CONGESTION

This report contains statements or reports by seven former and current executive or program directors of Boating and Sailing instruction facilities in Ventura and Orange Counties. The entire reports are listed in Appendices 1 through 6. Two of the reports are from 2005 and were entered into the BISC record prior to the previous overturned approval of this project by the Commission in March 2005. The other four reports are from this year. All six reports and especially the four from this year assess the project site

and alternative sites in light of current impacts from cumulative effects of nearby projects. The credentials of these boating experts are notable. Three of the reports are from employees of the City of Ventura. They are the adult and youth executive directors of the Leo Robbins Sailing Center in Ventura Harbor conducted by the City of Ventura as well as their on the water program director and chief instructor. They and their center were voted the top sailing program in the nation for 2006 by US Sailing, the main sailing organization in the country. Their sailing center has operated for over 30 years on a downwind shore location and dealing with prevailing winds very similar to that of the east side of Channel Islands Harbor. They have graduated over 15, 000 sailors from their program and actively recruit ethnically diverse young sailors from the City of Ventura's neighborhoods and provide reduced fee programs to these youth. The City's fees for all their programs are about one half to one third what similar programs cost in Channel Islands Harbor. Supporting documents from the websites of these programs support this data.

The other three reports are authored by four Orange County current and former BISC directors. They are from Orange Coast College Sailing School, one of the nation's largest, and from Dana Point Youth and Group, the BISC that provides for the County of Orange's youth sailing programs. Both facilities have downwind docks. Dana Point Youth and Group alone has graduated over 30,000 sailors in their programs.

Each of the six reports differs in its conclusions, but all the reports find either one or both of the alternative project sites at either the Port Royal or east side of Channel Islands Harbor to be viable or preferable in terms of operation and boater safety to the project site.

- The Avery/Prioleau report validates the viability of east side sites. The Port Royal alternative was not available in 2005.
- The Keith report favored the east side sites over the proposed project site. The Port Royal site was not available in 2005.
- The Bowen report and YouTube video testimony favors east side sites over west side sites due to danger of congestion and collision and injury at the project site and cites the Ventura Harbor's downwind site and long-term success and lack of accidents as indicative of east site viability.

Click on the link below, right click on it, or paste it into your web browser to view the Bowen video testimony:

http://www.youtube.com/watch?v=5oyp5totCP4

- The Prophet report favors upwind sites on the west but finds the Port Royal alternative site to be superior to the project site.
- The Brooks report is similar to the Keith and Bowen reports in opposing west side sites and finding east sites superior in safety.
- The Wenzel report cites traffic congestion on the west shore and ease of use of leeward docks in endorsing the east sites as preferable.

The six reports in summary yield helpful current data relevant to analysis of cumulative impacts and alternative sites. The cumulative impacts are from the hundreds of additional boats coming from developments to the north. The reports all conclude that alternative sites exist that are viable as BISC sites from a safety aspect.

CUMULATIVE IMPACTS TO BOATING SAFETY AND CONGESTION

In 2003, when the County of Ventura conducted the Environmental Impact Report (EIR) for the BISC, the boating safety experts hired by the county could not assess the conditions currently existing in the harbor today. Hundreds of new homes built north of the project in Seabridge and Westport residential developments have added hundreds of docks and hundreds of additional boats that must pass by the project location adjacent to the main west navigation channel. The boat count data in appendix 10 that was included in the EIR record for the BISC showed through two separate studies that boat traffic volume at the proposed BISC site was, in 2003, three times the volume at east side sites. While new studies since that time have not been conducted, the addition of hundreds of boats that only access the west main channel to reach the ocean could only increase the traffic volume at the project site. The 2003 EIR never contradicted the boat count data or conclusion that traffic is much higher at the west side than the east side of the harbor. The EIR instead acknowledged this but alleged that such increased traffic was still not a safety concern. A boat congestion study in the 2003 EIR done prior to the residential and boat dock additions in the northern harbor utilized old boat count data from the harbor mouth only and based its conclusions on anecdotal and subjective criteria comparing relative congestion levels of Channel Islands Harbor to Newport Harbor and Marina Del Rey rather that relevant factual data specific to the project site.

At the time that the EIR reports were prepared the dock facilities that now exist on the east side of the harbor were missing and only a rocky shoreline was present to report. New docks and gangways lining the east side were constructed shortly after the EIR was approved completely changing and improving the safety situation there and the 2005 BISC director reports and the 2007 reports included in this study are the only reports in the commission's BISC record that assess these changed conditions. Additionally, the PWPA for the waterside of Channel Islands Harbor, approved by the County this year, and awaiting approval by the Commission further improves the safety situation on the east side by allowing parcels contiguous with the proposed alternative sites to nearly double the lengths of their dock pier heads, completely nullifying the single fatal flaw to east side sites viability noted in the 2003 EIR, namely the supposed inability to mitigate downwind docking due to short pier head length. These same increases to pier head length that improve the condition on the east degrade the safety situation on the west side by constricting the main channel and decreasing the area occupied simultaneously by both novice sailors in small sabots and large sailing and power boats. In any case, the most current six expert reports favor in the majority the east side site's viability and conclude, in light of the Ventura City, Orange Coast College, and Dana Point facilities all

operating on downwind shores, that adequate conditions exist now on the east side to accommodate safe operation of a BISC facility there.

EVIDENCE CONTRADICTS OCTOBER COMMISSION MEETING TESTIMONY REGARDING BISC SUBSTANTIALLY INCREASING AFFORDABLE COASTAL ACCESS TO DIVERSE POPULATION OF VENTURA COUNTY AND INFEASIBILITY OF DOWNWIND DOCKING

While the enclosed YouTube video of Pacific Corinthian Youth Foundation student sailors effortlessly docking downwind on the east side during breezy prevailing northwest winds whistling into the video microphone belies the testimony at the October 2007 BISC hearing that such docking is difficult or impossible, the new pier head extensions that will be approved with the waterside PWPA will ensure even more ease of docking on the east shore.

Click on the below link, right click on it, or paste it to your web browser to view the PCYF students effortlessly docking on the east side windward docks near Site 7:

http://www.youtube.com/watch?v=8M0JrnnYVds

The enclosed website data, photos, and video of the exiting sailing program at Channel Islands harbor does not support the testimony at the October 2007 BISC hearing that the program serves the population of the county and in particular the Greater Oxnard area. This data is included in Appendix 7. All videos and photos both in the field and on the website of existing sailing programs in Channel Islands Harbor show virtually no ethnic diversity of young sailors in the program. The fees charged historically by Pacific Corinthian Youth Sailing Foundation are substantially higher that those charged by the programs in City of Ventura or County of Orange. PCYC charges over $300 per session while the county and municipal programs charge a bit over $100 for their sessions. Although PCYF's website states that scholarships are available, there is no link to an explanation or application for those seeking financial assistance. The data enclosed shows that the population of Greater Oxnard is 75 percent non-Anglo, yet PCYF's program, outreach, and fees apparently do not encourage or allow a similar level of participation in ocean access to this population. City of Ventura's program on the other hand, proactively recruits ethnically diverse young sailors from the largely Hispanic population of the Avenue neighborhood of Ventura and the Leo Robbins Center conducts special summer programs especially for these youth. No such program is evident anywhere in PCYF's program as shown on its website. October 2007 testimony of PCYF staff, , and PCYC staff and members urging support for the project site centered on the yacht club's need for space occupied by the PCYF program. The problem with the sailing program taking up space for new members' boats at the yacht club is understandable, but that is not an

adequate reason for approving the proposed project site in light of substantial environmental and coastal act impacts and the substantial safety concerns as reported by the enclosed six expert reports. Evidence that there is a sailing program in Channel Islands Harbor that serves the majority of the local population is lacking. Converting free and low cost seaside visitor serving park and picnic acreage that has successfully served the local population for decades and converting this acreage to usage by high fee sailing programs utilized primarily by an affluent and largely white segment of the population is not justified when other programs in the county are doing a better job of serving the local population.

CONSTRUCTION MITIGATIONS OF HERON BREEDING AND NESTING IMPACTS AT THE PROPOSED SITE ARE INFEASIBLE

The effects of the proposed project on the environment of the park and its migratory bird population are highly controversial and they have been covered at length and in depth during all hearings on the BISC before the county and the Commission. Construction impacts to the heron rookery, as shown in video of this year's Channel Islands Harbor Marina construction cannot be mitigated as the management of the harbor views the commission's protective requirements as advisory as stated in her written communications to commission staff. Thus all construction mitigations previously or currently suggested by commission staff to lessen BISC construction impacts to the rookery and heron nesting must be assumed will be ignored. Why would history not repeat itself when the harbor management has been so clear in its interpretation of construction mitigations of the marina, contrary to Commission and Commission staff intent? Recollection of video evidence contradicting Commission staff's hopes that the County would adopt without resolution the previous stringent BISC construction modifications at the November 2005 Commission meeting should remind staff of the county's intent. At that meeting the Commission, after viewing the video concluded that the county did not intend to adopt the Commission's conditions and, after meeting in closed session, emerged to force the county to adopt the modifications by resolution or lose the BISC approval. They reluctantly did that, but at the first instance of actually following through with similar conditions on the marina, they have made it very clear that the County of Ventura follows its own rules, and considers the Commission directives to be nonbinding. In light of clear cut alternative sites or not, the evidence is conclusive given past events that construction impacts to the nesting trees within a very short distance from the BISC construction will not be successfully mitigated by language contained in the PWPA or NOID and such modifications cannot substitute for consideration of alternate sites and denial of the project in its present location.

Environmental impacts are definite and predictable but mitigations to attempt to lessen the impacts are discretionary and dependent on all party's consensus on implementation. Clearly the future likelihood of county implementation of Commission staff recommended construction mitigations are questionable given the county's clear viewpoint about its perception of discretion in following Commission conditions and modifications. The BISC construction mitigations would undoubtedly delay construction

of the BISC and increase costs to the county. The State costs of the BISC are static and capped, and all overruns would be at the county's cost. Given the county's ignoring this year of the Channel Islands Harbor Marina noise control conditions and timetable of construction and its written declaration that Commission rules are advisory only, the only conclusion that a reasonably intelligent individual must conclude is that there really is no way to mitigate the proposed projects' adverse and possibly final and fatal impact to the black crowned night heron rookery near the proposed building. It is too late to reverse the damage wrought this year by the county harbor management's ignoring of Commission directives, but it is not too late to avoid cumulative impacts to the rookery by approving the present proposed project following the destruction of this year's heron nesting activity by the previous adjacent project.

ALTERNATE SITES-ECONOMIC VIABILITY AND PRIOR LEASES

Mark Bacin, executive director of the Ventura County Maritime Museum indicated to me that you could confirm with him public knowledge of his non-profit's letter of intent to lease the Port Royal as a new location for their museum and take over the existing seven year lease after the county rejected an offer by Zaya Younan to take over the restaurant lease and inject at least $500,000 into restaurant improvements. Mr. Bacin can be reached at the Museum at 805-984-6260.

Mr. Bacin disclosed that the Museum will be paying only $150, 000 to take over the existing seven year lease and take possession of the building. Unlike the restaurant that pays a percentage of gross revenues to the county in addition to base rent, the museum will not be generating percentage rent.

If the county is rejecting commercial use of the Port Royal parcel in favor of any nonprofit, including the Museum, it is not reasonable to maintain that the site could not be used as the BISC location and the site should be considered as an alternative by your staff.

The data I included that was presented to the Commission in October regarding closed session discussion of terms and price for the lease transfer to Mr. Younan and the above data regarding the Museum is hard evidence that the present lease is at an end as far as the owner and county are concerned. The letter to Habitat for Hollywood Beach by County Council conveying the Board of Supervisors' offer to HHB to agree to the Commission's analysis of the Port Royal as a BISC alternative site also very much supports it's inclusion as an alternative BISC site in a revised staff report and conclusion as well as Harbor Director Krieger's surprise admission at the October Commission hearing in the Commission's online video record that the Port Royal has always been her personal favorite location for the BISC.

I have enclosed a short YouTube video of Lyn Krieger testifying a few weeks ago on October 16, 2007 before the Oxnard City Council that the county has no plans for the CISCO's parcel and is open to development ideas for that site. There is no long term lease on either Site 7 (Parcel Q) or CISCO's and with the YouTube video of Director Krieger's report to the Council you have evidence that CISCOS is also a very viable alternative site to the proposed BISC.

Click on the link below, right click it, or paste it into your web browser to view the video:

http://www.youtube.com/watch?v=D1Beig-uF4Y

Attorney Frank Angel's attached letter citing case law indicating that prior contracts and leases are not despositive of an alternative to the project should be useful to Commission staff in determining the viability of the Port Royal and East side sites as alternates.

Unfortunately, despite letters from local legislators during the March, 2005 BISC hearing, urging the Commission to consider east side alternate sites (see letters in the BISC record from Assemblymembers Audra Strickland and Fran Pavley supporting consideration of east side alternate sites) and the legislature's rejection of Boating and Waterways' request to fund BISC construction for the last two years, Commission staff continues to base consideration of east sites on Boating and Waterways staff communications regarding their reliance on obsolete 2003 safety studies in their determination of funding east side sites. In fact, it is the legislature that determines if and where funding will occur ultimately as was seen by Boating and Waterways' unsuccessful BISC construction funding requests and the legislature would expect that Commission staff will evaluate alternate sites and cumulative impacts as per the courts' ruling and use CEQA and Coastal Act adherence as the standards by which alternate sites are weighed against the proposed project location. The question of funding the project is easily manipulated by project proponents and vested interests. Such practices have been roundly criticized by local legislators in written complaints to the Governor's office and Department of Resources and resulted in the Department modifying their position somewhat. Regardless, reliance on such criteria in rejecting alternatives in this CEQA process would not likely pass judicial muster.

As a final note regarding funding, in a September 27, 2007 article in the Humboldt State University news magazine, "Humboldt State Now", a dedication ceremony for the new Humboldt Bay Aquatic Center and BISC was held on September 26, 2007. This 16,000 square foot two story BISC on the windward side of the Eureka waterfront cost the Department of Boating and Waterways $4.5 million and Mike Ammon, Contract Administrator with the California Department of Boating and Waterways is quoted in the article, "This (the Humboldt Bay Aquatic Center) will be the last of the big efforts like this. We just don't have this kind of funding anymore".

With the state's Department of Finance identifying the Channel Islands BISC being over 25% over budget several years ago at $7.5 million for an empty building and not counting the Blue Fin Circle street overhaul costs, it is unimaginable what the real costs for building the BISC have skyrocketed to if and when it is actually constructed several years from now. With Mr. Ammon's telling statement in Humboldt a couple of months ago, the huge projected state budget deficit, and DBW's failure to get the state legislature to bite on its request for BISC construction funding during the last two fiscal years, Commission staff should not feel pressured by the Department's four year old story of pushing Commission and county staff decisions with threats of withholding funding for east side sites. It should be pointed out that the west side upwind Port Royal alternate is not subject to this funding threat.

The real reason the BISC is not yet built is unwise decisions regarding identifying and dealing with the very real impacts of this project location on the environment, existing low cost or free public coastal access, and the public safety. Until this happens CEQA will not be satisfied and the project cannot be funded. Commission staff is requested to do what the courts, CEQA, and the Coastal Act require and leave speculation regarding funding out of the equation. With so many BISCs located on downwind sites in the state, including Ventura's, Orange Coast College's, Dana Point Youth and Group, and this latest and, according to Mr. Ammon, last trophy BISC in Eureka, it is highly unlikely with the mounting number of credentialed BISC experts testifying to the viability and superior safety of BISC alternate sites that DBW will never fund a BISC at these locations based on wind direction alone.

APPENDIX 1- REPORT FROM JOHN KEITH- FORMER DIRECTOR OF SAILING PROGRAMS DANA POINT YOUTH AND GROUP, COUNTY OF ORANGE

Overview:

This Boating Instruction and Safety Center Site Report evaluates the merits and downfalls of the proposed **East site** vs. the **West site.** The purpose is to represent an opinion based on my experience related to all the parameters for designing and building an Aquatic Center on the waterfront.

1. **Safety:** Observation of class area is my first concern. The West site appears to be visually blocked by large trees, two restaurants and a totally occupied marina. Ability to move boats is essential. The proposed long dock at the West site creates a logjam situation and hampers safety boat response. West site drawings show there is not enough space to allow sailing between the proposed dock and the marina adjacent.

   In contrast, the East site docks are perfectly configured with multiple gangways and many fingers of docks to allow easy ingress and egress of vessel traffic.

   A major safety concern is our novice sailors learning in the public waterways. We wish to make them water wise and good members of the boating community. The West site is located on the high traffic lanes of the harbor. The majority of marina slips are next to the West site and all the residential slips access their homes and docks through the West side of the harbor. This creates a hazard by placing the novice boaters in the path of the most traffic, which is not a pleasant experience for either faction. The East site is far less trafficked and is located next to a quiet open area perfect for boating instruction.

Winds were cited in the initial report, with the West being the preferred site. However the prevailing light winds of the harbor are not much of a factor when we consider that the heavier Santa Ana winds that can unexpectedly impact the site actually make the West site the leeward dock. This shows that the West site will actually be more hazardous in the windy conditions.

2. **Function:** Initial conversations with sailing directors would usually elicit a preference for docks to windward of the sailing area. This is not always true in real life. At the Dana Point Youth and Group facility, my initial design was for windward docks primarily to be used by our staff with the leeward docks added later as finances permitted. At the DPYG site, it is noted that all of our dingy instructors use the leeward docks for instruction, which includes embarkation and retrieval. This is due to a number of factors: (1) The safety of having less boater traffic near the leeward dock area; (2) the wind is more consistent; and (3) the need to teach leeward docking to our students. Also keep in mind that with a leeward dock, the boats will always drift back to you.

Page 2

The wind shadow from two restaurants on West site is a major negative factor regarding dock placement on the West site. Multiple docks and gangways on East site provide for multiple launches/retrievals and will allow several instructors to teach in groups at the same time or allow different boats to be used at the same time. Multiple docks at the East site allow for extensive storage of boats in the water while large land area provides the same for dry storage. Gangways now available at the East site, without angles as proposed at the West site, allow easy, safe launches of rowing shells and other longer boats. When planning a boating center, multiple functioning docks are very important.

The existing launch ramp in the East site provides many functional opportunities for this site. Launching and retrieving boats is an important plus. Many of our small boats accumulate a fair amount of water. At DPYG we are always hauling them onto the adjacent beach to drain. At the East site, we have the perfect answer to water laden boats. Rowing shells would also benefit from a boat launch configuration. The West site would need a crane to support a boating program. The initial report did not address the launching and retrieving of boats sufficiently.

The East site location near the kiddy beach would allow beach launch wind surfer instruction.

3. **Environmental:** The East site is away from nesting and other sensitive areas. It will not require the removal or replacement of vegetation while the proposed construction at the West site will.

4. **Fiscal:** As with many projects, there are limited funds available. Docks are in and functional on East site. Use of the East site will immediately free up money for the remainder of the program site.

   The West site needs docks built and will impact both the neighboring marina and restaurants. Parking in the West area is going to impact homeowners, park goers and restaurant visitors as there is no additional parking created for that location. In fact, the major reconfiguration of the West parking lot is not only expensive but will remove public parking spaces. The East location has plenty of parking on site, and will not affect under-utilized surrounding areas. Site prep will be much less for the East location and parking is already available

Page 3

Conclusion: There has been a lot of concern about the windward versus leeward docking configuration for the proposed boating center. My study and evaluation shows that the leeward docking of the East site is not only safer, but is the far better site when environmental and fiscal issues are considered. In addition, the East site also provides better expansion opportunities for the future, and continues to be the best choice for the boating center in my opinion.

I thank you for your time and efforts on this project and eagerly look forward to the BISC being added to the boating community in Channel Islands Harbor.

Respectfully submitted,

John C. Keith
Saddleback Community College
Advanced Technology and Applied Sciences.
28000 Marguerite Parkway
Mission Viejo, CA 92692-3635

Professional Background:

Member of the Dana Point Harbor Advisory Board

The board planned and supervised the design and completion of the Dana Point Youth and Group facility. I was instrumental in the design and configuration of the docks.

Professor of Marine Sciences, Saddleback Community College

31 years of teaching sailing and other marine sciences at the collegiate level. I designed and ran the sailing program at the Dana Point Youth and Group facility for the Saddleback College, California State University Fullerton, Chaffee College and the local Orange County high schools.

Member of the Dana Point Youth and Group Facility Advisory Committee

We advised the County of Orange staff on various matters in the administration of the boating site. The County runs the site as a county park and has no boating instruction experience.

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Education:

MS Marine Science, California State University, Fullerton
California State teaching credential, University of California, Irvine
BS Chemistry, San Diego State University

APPENDIX 2- REPORT FROM BRAD AVERY AND KAREN PRIOLEAU-DIRECTOR AND INSTRUCTION COORDINATOR FOR THE ORANGE COAST COLLEGE SCHOOL OF SEAMANSHIP, ONE OF THE NATION'S LARGEST

Channel Islands Harbor

Boating Instruction and Safety Center

Alternate Site Study Report

submitted by

Brad Avery and Karen Prioleau

To Channel Islands Beach

Community Service District

March 10, 2005

Henley Alliance
1505 Sylvia Lane
Newport Beach, CA, 92660
(949) 548- 880

Boating Instruction and Safety Center Alternate Site Study and Comparison

This report is a study of the alternate site under consideration for a Boating Instruction and Safety Center to be built in Channel Islands Harbor. This study is done with the understanding that this site will be used primarily for teaching sailing and basic safe boating skills to children. This does not preclude the site being used for adult education or for other uses.

The study will include consideration of canoeing, kayaking, rowing, and jet-skiing in addition to sailing. Surfing and scuba will not be considered, as they are not boating sports and we have no experience in these areas. There will be some comparisons with the primary proposed site for the Boating Instruction and Safety Center.

This study is a preliminary study only. The authors have no motivation in the development of any site in the area. In this study the West Side Site refers to the site along Harbor Blvd on the peninsula. The East Side Site refers to the property at the CISCO building and the adjacent property leading north toward the old launch ramp. There will be some comparisons between the two sites with the understanding that the West Side Site has gone through considerable planning. The East Side Site has not had the equivalent amount of study.

Sailing Program:
Buoy reports from the East Channel Islands Buoy, National Weather Service, and the Department of Meteorology, University of Utah were analyzed for this report. Anecdotal evidence from several people in the harbor confirmed that the offshore buoy will see a decrease in wind-strength before the inner harbor does. Winds were reported to average less in the harbor in the morning and greater in the afternoon than the weather service readings. There was not enough time to analyze the data from the Harbor Department wind readings, which would be the best source of this data as they are kept manually. Since local conditions can cause these differences between these readings, the stronger wind numbers were used.

Winds are predominantly from the West or West Northwest at roughly 280 degrees True, suggested to be approximately 70% of the time. A typical wind pattern is 10 – 12k by 10am, 12 – 14k by 2pm, and 15 – 18k by 5pm. These estimates are deliberately high. Calm mornings with winds 5k or less are not uncommon with the wind gradually building throughout the day. Approximately 25% of the time the wind is from other directions. Winds from the southwest at 10k throughout the day are not unusual. In the summer months the wind dies at night.

From October to February there are often strong Easterly winds. While the East Side Site would be more sheltered from these conditions, no site is immune and in these conditions it is unwise for any boating activity to take place.

Neither site is without problems for running a sailing program.

Overall, the new dock configuration as shown on the West Side Site plan is a good one. This location does have a considerable wind shadow over the immediate area in the prevailing winds due to the restaurants and the higher elevation of the land that they sit on. Leaving the site on windy days students will have to contend with very little wind near the dock and strong winds immediately outside that area. This is certainly feasible.

The second area of concern is the entrance to the North Channel located just north of the West Side Site launching area. It is noted to be the busiest area in the harbor. At this site, the channel narrows and there is less room for maneuvering around beginning students. This is not as large a problem during the weekdays as it is on the weekends. Traffic congestion would increase during the summer, peaking on summer weekends. This could become a considerable problem as additional slips are built up-channel.

The East Side Site is situated on a lee shore. Unfavorable winds are a certainty in the boating world and all programs have to deal with this situation at some time during the year. Below are factors, which should be considered on the East Side Site (and in most instances, the West Side Site) to accommodate the prevailing wind.

1) Qualified Instructors with aids – While this sounds obvious, it is not always done. A qualified instructor will be able to assess the daily situation and decide the safest way to run the class. Aids in a boat can assist a child with the beginning process of using the tiller and mainsheet control. This will be especially helpful in avoiding traffic or mastering docking skills. Instructors can also tow students to the center of the channel or to a windward dock if conditions are exceptionally difficult. This is common practice in Hawaii where the Kona Winds cause havoc in many harbors.
2) Dock configurations which allow for ample room to slow and dock a small boat. (See notes at the end of this report.) This can be accomplished within the existing pier heads on the East Site. If the pier heads were to be extended with the approval of the Army Corps of Engineers on the East Side Site, this site would be made more 'user friendly'.

3) Boats with simple rigs – no shrouds. This enables a sail to luff any time the sail is released. If the main sheet is long enough, the sail can be luffed ahead of the boat even on a run.
4) Concerns regarding boats ending up on the rocks in front of the East Side Site appear to be based on a site evaluation when the docks were not in place. There is a dock paralleling the shoreline that would prevent this from happening.

Canoe/Kayak: When learning in a boat such as a canoe or kayak, the ideal learning environment is one completely neutral to wind and current. In the absence of this, it is best to instruct beginners to paddle upstream or upwind. As they tire the downwind return trip is easily accomplished. If a student is incapable of paddling upwind in the conditions, it is prudent to know that as the student departs.

Crew or Olympic-style Rowing: At the West Side when the boathouse is rotated 90 degrees, it will be necessary to have enough room on the side of the building to rotate a 65' crew shell to get it into the boat bay. The present configuration shows some obstructions in the way. Either site could have sufficient dock space for this activity.

Jet Skiing: Other states require Safe Boating Courses before a minor may operate a jet ski. Some states are requiring a boating course for all power driven vessels. Either site would be able to incorporate a practical course in the operation of jet skiing from its location. The proximity to the harbor entrance and lack of residential buildings (whose occupants may object to the noise) slightly favors the East Side Site.

Site view: In this regard the East Side Site is superior to the West Side. Activity on the docks and in the channel would be easily visible from the site. The offices in the building should be aligned to make the most of this asset for safety reasons. The existing design for a center could be used in either location.

Parking:
Both sites will need Coastal Commission approval because of the scope of the project. It is our understanding that the East Side Site location will not have to alter its present zoning as 'visitor serving, harbor access'. The West Side Site will have to have a zoning change in addition to the Coastal Commission approval.

The East Side Site could be utilized without any improvements to the street or parking. There is ample parking at the site with an area for potential parking presently being used for boat storage. Victoria Boulevard is designed for easy in and out access to the site. That is not to say that the area should not be revitalized. Bike and walking paths and repaving should be added in the future along with other upgrades.

View corridor: At this time there is no concern about obstructing views on the East Side Site with buildings. However, if this site is chosen, the building should be placed so that the view is minimally invasive. The West Side Site plan has rotated the building 90 degrees to minimize its impact on the view corridor.

Site Use and Zoning:

The potential usage for a site at either location could include:

- Youth courses during the weekdays in the summer.
- Adult courses run during the weekends in the summer.
- Youth courses during the weekends Sept – May.
- Weekday evenings during Sept – May could be used for adult education such as US Power Squadron Navigation.
- Colleges and local schools could utilize the Boating Center during the weekdays Sept – May.
- Special Activities such as rowing and sailing regattas and rental of the facility for social functions.

This site has the potential to be in use at certain times of the year seven days/week. Many of these courses could help support the center.

The impact on an existing residential area should not be over looked. Having the site amongst homes may limit the ability of the site to increase capacity and will control its potential growth.

It is our understanding that the zoning regulations for the East Side Site are more conducive to the types of activities that will allow rental of the facility for revenue generating events. A zoning change would need to be made on the West Side to include these types of revenue enhancing activities. In consideration to the residents of the West Side Site, restrictions on amplified noise and the time of operation, especially on weekends will need to be addressed if these changes are made.

It is our understanding that there will be parking and road work improvements necessary to accommodate the West Side Site. If there is any consideration for the center to expand, it will be considerably limited by this factor. While the impact would be minimal, there is no access to the West Side Site when the bridge to the peninsula is closed for the annual holiday parades and other events.

Beach Access: If beach activities are to be part of a Boating Center then these considerations should be noted.

There are two sheltered beaches in the harbor, just south of the proposed East Side Site. These sites are accessible by boat to the West Side and by foot or boat from the East Side. Ocean beach access is available at Silver Strand Beach. This site is unrestricted and there are restrooms (presently temporary) and a lifeguard station. This site is a surf beach.

The West Side Site beach access is available at the Hollywood Beach area. This site has both surf and an area that is sheltered from breaking waves. It is a nesting site for Snowy Plovers and is restricted in access from March – September. California Least Turns, which are also protected, were recently seen on this beach. Presently there are no public facilities.

Dock configurations:

We have not made any suggestions regarding the docks on the West Side Site. The renderings are suitable.

The docks on the East Side Site will need to be altered from their present configuration. An upwind stopping area of 50' in length appears to be achievable within the distance from the ramp to the pier head, taking into account the width of the docks. This is sufficient for sabots and similar small sailboats. A new perpendicular (North/South) length of 100' (or more) could be added allowing for stopping on a beam reach in a boat with an unstayed mast such as a sabot. The depth of the water is sufficient as well.

Rough estimates on dock costs were received from Peter Swift of SwiftSlip, Inc. Removal of concrete docks is $7-$8/sq ft. This would need to be done to allow for sufficient room to create an area for docking small sailing vessels. These new docks (and existing docks) could also be used for launching of canoes and kayaks. Rowing shells need to be launched from a low-lying shallow dock. Sailboats and jet skis can also be stored on these lower docks.

Cost for extending concrete docks at a perpendicular angle: $60/sq ft. Composite material was recommended and the cost is less at approximately $40/sq ft. Pilings are added every 30' at a cost of $4000/piling. Some of the existing pilings may be able to be used.

Current is not a factor in the dock configuration. Storm surge has been reported in the harbor on the south, east and west sides of the harbor. We do not have data on this, however there are several existing docks used by fishing boats at this location. We also understand that there is a proposal to place a tall ship just south of the East Side Site.

Conclusion:

Both sites have positive and negative features. The East Side Site appears to be superior in the aspects of building, zoning, and parking with limited impact on a residential area. The existing docks will need to be reconfigured. This cannot be overlooked if this location is to be used.

The West Side Site appears to have superior dockside access, but the facility will be constricted in growth and the overview of water activities from the land facility is

negligible. This is a consideration from overseeing programs and viewing special events such as regattas. The West Side Site will need to have parking, street routing, and existing docks reconfigured (as shown in the existing plan).

The perfect facility would combine the West Side Site upwind docks with the open land, facility view and parking found at the East Site. While considerable work has been done on analyzing the West Side site, the East Site should not be discounted due to its downwind location. The negative effects on a leeward facility can be minimized. There are many successful programs that run under this constraint. If the West Site does not receive Coastal Commission Approval or rezoning, the East Side Site should be considered.

This report is intended as an objective overview of the East and West Side Sites for a Boating Center. Our findings find that either site is viable. This report should not be construed as an endorsement or condemnation of either location.

For the past 11 years Brad Avery has been the Director of the Orange Coast College School of Sailing and Seamanship. The school has one of the nation's largest public boating education programs, annually enrolling 5,000 people of all ages in classes, seminars, and voyages. He holds a MA in Public Administration, a USCG Masters License and a California Community College Service Credential.

Karen Prioleau is an Instructor Trainer for US SAILING, and on the National Faculty which is responsible for developing course curriculums and standards. She was the Instruction Coordinator for the Orange Coast College School of Sailing and Seamanship from 1992 – 2001, responsible for all classes (both on the water and classroom) offered by the school. She holds a USCG Masters License (oceans).

APPENDIX 3- REPORT FROM DAVE BOWEN-DIRECTOR OF SAILING, LEO ROBBINS SAILING CENTER, CITY OF VENTURA, -RECIPIENT OF 2007 U.S. SAILING ASSOC. SAILING DIRECTOR OF THE YEAR

December 16, 2007

In Consideration of Public Safety and the Development of a
Boating Instruction Safety Center (BISC) on the West side of Channel Islands Harbor.

From: Captain David E. Bowen
Director of Sailing and Kayaking "The Leo Robbins Community Sailing and Kayaking Center". City of Ventura ca. Community Services Department.

My relationship with Channel Island Marina goes back to the early 1970's as a private Boat owner and as crew on various Power and Sailing vessels. I have also participated in the Commercial Fishing fleet based in the Harbor. As a Certified Small Boat Sailing Instructor I have given Sailing lessons in Channel Islands Harbor.

I will address two aspects of safety as they apply to the proposed location of the BISC at the West end of the Marina adjacent to the Port Royal Restaurant off Harbor Blvd.

Boat traffic: Any Birds-Eye view of the Harbor shows the vast majority of Marina's Private and Commercial Boat slips lie along the West Fairway extending from the Harbor entrance to Mandalay Bay where there are many privately owned Docks and Boats. With the newly constructed Seabridge community there are an additional 120 plus Docks, note these are Docks. There are many more individual Boat slips per Dock. It is easy to see how the additional Boat traffic and congestion along the West fairway will be of concern to any public or private training facility so near an area where Boat traffic is funneling to the Sea. To place a Boating facility (proposed BISC Westerly sight) were novice Boaters/Sailors are trying to master the basic skills of control in the flow of the majority of the Marinas traffic is fool-hearty and without concern for Boating safety. Please note there is no way to assess an existing Boaters skill, knowledge, attention and caution. It is my personal on the water experience that this area can be of high traffic and limited visibility to Boats approaching the Fairway from adjacent Docks that run ninety degrees to the main fairway. Also there is concern regarding the wind shadow at the proposed BISC Westerly (upwind) sight. This fact has been addressed before but I will add. This can be a tricky situation when making a head to wind landing for an inexperienced small Sailboat operator. It can cause the Sailor to loose the wind and they're control when approaching the Dock.

Location of the BISC in regards to the westerly prevailing winds:
Some discussion has been made as to weather landings and takeoff in small Sailing Boats benefit by either a upwind or down wind configuration (preferred configuration). In either case there are advantages and disadvantages, to preclude one from the other is not reasonable. In either case it is the skill and knowledge of the Teaching staff that is most important. Students need have a clear understanding of the principles of Sailing and what the local conditions warrant. All novice Sailors should be closely supervised.
The "Leo Robbins Community Sailing Center City of Ventura" has been in continous operation since 1972. We are on a location downwind from the prevailing Westerly Sea Breeze. This would be equivalent to the Eastside location proposed for the BISC. In the 35 years our community Sailing Center has been in operation over 15,000 Sailors and Kayakers Youth and Adult have been introduced to our sport in a safe environment.

I have over 45 years of Boating experience; Power and Sailing,
I hold a 100-ton U.S.C.G. Masters License with Sailing endorsement,
I am a United States Sailing Association and American Sailing Association certified Instructor.
I have been teaching Sailing professionally for ten years.
I am the Director of the "Leo Robbins Community Sailing and Kayaking Center" in the City of Ventura, Ca.
I was awarded the United States Sailing Association Community Sailing Director of the year 2007, a National Award
I was a Technical Instructor and Manager for a major Telecommunication Corporation for twenty-nine years.

Respectfully,

David E. Bowen

APPENDIX 4- REPORT FROM DAWN BROOKS-SAILING AND KEELBOAT INSTRUCTION COORDINATOR LEO ROBBINS SAILING CENTER, CITY OF VENTURA

To California Coastal Commission,

I am a sailor, racer, kayaker, a professional sailing instructor and kayak guide with twenty years experience teaching the public in a variety of watersport activities and environments. I am writing in regard to the Boating Instruction and Safety Center planned for Channel Islands Harbor , Ventura County. A boating center is a valuable and necessary facility for public education and recreation. In consideration of the locations being openly discussed for the center between the east side on Victoria ave and the west side on Harbor blvd , the safety issues are absolutely the most important factor to public well being. The East side of the harbor is the safer choice. The three main safety concerns on the west side are the prevailing onshore ,west, winds, the high rate of boat traffic including commercial fishing and private boaters traveling along the west channel, and the inexperience of new students. The East side location is preferred by boaters, instructors, and the local community. Thank you for your considerations.

Dawn Brooks
U.S. Sailing Instructor
A.S.A. Keelboat Instructor
Leo Robbins Sailing Center , Ventura
Channel Islands Kayak Center Lead Guide

APPENDIX 5- REPORT FROM DEAN PROPHET-DIRECTOR OF YOUTH SAILING, LEO ROBBINS SAILING CENTER, CITY OF VENTURA

December, 15, 2007

California Coastal Commission,

My name is Dean Prophet, I am the Youth Sailing Director for the Leo Robbins Sailing Center of Ventura. If a location on the West side of Channel Islands Harbor (Windward Side) is to be used for the new proposed sailing center I would like the powers involved to consider using the Port Royal Restaurant as their operating base. This location allows a great view of the area where the students will be sailing, right on the water front. Visibility is a major concern when there are 20 – 30 students on the water at one time. If the Port Royal is use, the grass areas where the new building is proposed will not be developed and can be used for summer camp sailors during their breaks from sailing instruction.

Thank-you for allowing me to express my opinion.

Sincerely,
Dean Prophet

Youth Sailing Director
Leo Robbins Sailing Center
City of Ventura

APPENDIX 6- REPORT FROM DIANE WENZEL-EXECUTIVE DIRECTOR OF WESTWINDS SAILING PROGRAM AT DANA POINT YOUTH AND GROUP

P.O. Box 62
San Juan Capistrano, CA 92693
Phone: (949) 492-3035
Fax: (949) 492-3021
www.westwindsailing.com
Diane@westwindsailing.com

December 16, 2007

20 years ago I established Westwind Sailing as a public access, community sailing school operating at the Dana Point Youth & Group Facility in Dana Point Harbor. My school teaches recreational small boat sailing courses for approximately 1500 children and adults annually.

As Executive Director, I evaluate my program and make adjustments that ensure student safety and success and create an environment which promotes learning. We have found that it is critical to protect our novice boaters by keeping them safely away from boater traffic in our busy harbor. We have taught close to 30,000 students at our facility and never had a serious injury or incident. In addition, our sailing facility is equipped with leeward docks which have never been an obstacle in fulfilling our goals.

There are pros and cons in both windward and leeward dock configurations. With safety and common sense in the forefront, it is very simple to develop successful curricula utilizing leeward docks.

It is my professional opinion that a small boat instructional boating facility operating in a safe and uncrowded waterway, as presented with the East side option for the BISC center

in the Channel Islands Harbor, will have a much greater impact on safety than the trivial concerns posed by a leeward dock.

Sincerely,

Diane J. Wenzel

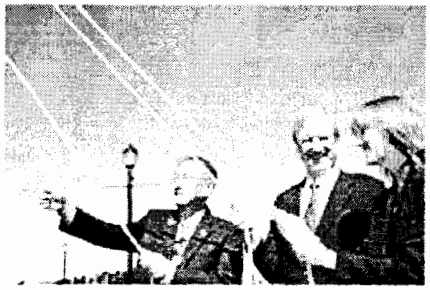
Executive Director/ Westwind Sailing
Associate Professor – Marine Science Technology/ Saddleback College
USCG Master Captain
US Sailing/ Delegate to the Board of Directors, Instructor Trainer, and board member of the Community Sailing Council

APPENDIX 7- DEPARTMENT OF BOATING AND WATERWAYS BISC FUNDING COMMENTS FROM HUMBOLDT STATE UNIVERSITY ARTICLE

Humboldt Bay Aquatic Center Dedicated

Perfect fall weather dawns for the long-anticipated dedication of the Humboldt Bay Aquatic Center along Eureka's waterfront. A large white sail covers the Center's new signage and is hoisted to much fanfare marking the official dedication of the building on Wednesday, September 26th.

It's located near the Adorni Center at 921 Waterfront Drive. This is a moment years in the making.



Ray Tsuneyoshi (Director of California Boating and Waterways), President Richmond, Virginia Bass (mayor of Eureka) expose the new sign for the dedication of the Humboldt Bay Aquatic Center. Photo credit: HSU Marketing and Communications.

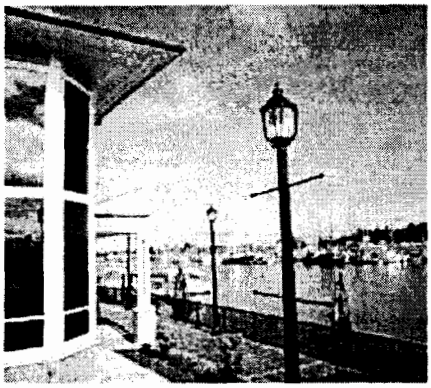
"My crew team has been rowing past this site for many seasons and we've dreamed of this moment," an excited crew team coach Robin Meiggs explains. "We watched it as a mud lot, we watched as the building started to take shape. We are now working out of a shed beside the Bay that doesn't have running water or electricity. Creating the new Humboldt Bay Aquatic Center as a home for the HSU women's crew team is a dream realized." The team will be moving in once the 200 foot dock is constructed next year, but there will be many others who will benefit from this light blue building by the Bay in the meantime.

With its waterfront boardwalk, modern classrooms and views of the Woodley Island fishing and sailing fleet, the Humboldt Bay Aquatic Center is among the most attractive new additions to the Old Town Eureka cityscape. Completed in the spring of 2007, the $4.5 million building fulfills a long-awaited vision: to link the HSU campus with Humboldt Bay, the region's most prized natural asset.

"It's a big addition to the Eureka waterfront, and as this develops there will be a lot of new programs available to HSU students and the local community," says Center Activities director Dave Nakamura, who oversees the new aquatic center.

Nakamura is now awaiting permits to build the 200-foot-long floating dock that, when completed in 2008, will allow students and members of the community to launch kayaks and a variety of boats onto the bay. Once the dock is built, the center will hold boating safety classes and

instructional courses for water sports. The safety courses will be designed for what area residents can do on the water.



The Humboldt Bay Aquatic Center. Photo credit: HSU Marketing and Communications.

"There's a lot of paddling up here and that will be taught on the bay. Small sailboat instruction will take place, too," Mike Ammon, Contract Administrator with the California Department of Boating and Waterways says. "What this building means for the North Coast is better water safety. All aspects of boating will be taught." The building also includes modern locker rooms and a workout facility for the crew teams.

"We've had great a relationship with HSU and they've done a terrific job of teaching boater safety over the years. It's HSU's track record that sold us on going ahead and giving this pretty big grant to build this building," says Ammon. "This will be the last of the big efforts like this. We just don't have this kind of funding anymore."

The $4.5 million allocation for the building comes from the California Department of Boating and Waterways. The City of Eureka is also a partner in this project. The City supported it by leasing the land and the installation of support infrastructure, including access roads and sidewalks. The Center is integrated not only with the Adorni Center, but also with recently developed areas of the boardwalk such as the new small boat basin, the Wharfinger Building and other projects currently in development.

David Tyson, Eureka City Manager, is pleased it's come to fruition. "It helps to improve the Eureka Waterfront. It's a very solid partnership. I'm glad HSU has a presence in Eureka now."

The Humboldt County Convention and Visitors Bureau sees economic development implications for the Aquatic Center. "As we position Eureka as a "Victorian Seaport" the interface and access to Humboldt Bay is critical for our product development," explains Tony Smithers, Executive Director of the Humboldt County Convention and Visitors Bureau in Eureka. "Any development that replaces blighted industrial is welcome; the fact that the Aquatic Center is open to the Bay and embraces it, rather than just backing up to it, is perfect. Tieing in with the waterfront trail is also significant—just a little piece is needed before it will stretch from C Street to the Bridge!"

Officials on hand for the dedication ceremony include HSU President Rollin Richmond, Eureka Mayor Virginia Bass and Boating and Waterways Director Raynor Tsuneyoshi.

Currently, the building's classrooms and conference facilities are being used for extended education classes and are available for rent to community groups and businesses. The classrooms feature large windows with views of the bay. "It's a nice, serene learning environment," says building supervisor Ben Duhem during a tour of the facility.

But, nobody is probably more enthused each morning about the now dedicated Humboldt Bay Aquatic Center than Coach Meiggs and her crew team. "It's quiet on the bay when we're there. As we glide past, you can't help but look over and smile knowing this will be our new home. It's incredibly exciting for the team."

APPENDIX 8-DATA CONTRADICTING TESTIMONY AT OCTOBER 2007 CCC MEETING THAT THE BISC WILL EXPAND COASTAL ACCESS TO THE DIVERSE ETHNIC POPULATION OF VENTURA COUNTY OR OXNARD AND JUSTIFY REMOVAL OF EXISTING NO COST WATERSIDE VISITOR SERVING PARKLAND AND PICNIC AREAS AND IMPACTS TO WILDLIFE AND PUBLIC VIEW CORRIDORS OF THE EXISTING PWP.

Population and Ethnicity data show whites to be a small minority in the area:

From City of Oxnard Planning Department Online Data:

The City does not have comparable data from other sources and relies on the Census Bureau and DOF data

Population By Race/Ethnicity - Census 2000

Race	Persons	Percentage
Total Population - As of 2000	172,887	
[redacted]		
White	35,049	20.6
Hispanic	112,807	66.2
Black	6,446	3.8
American Indian	2,143	1.3
Asian	12,581	7.4
Pacific Islander	698	0.4
Other	182	0.4
Two or More Races	2,981	0.7

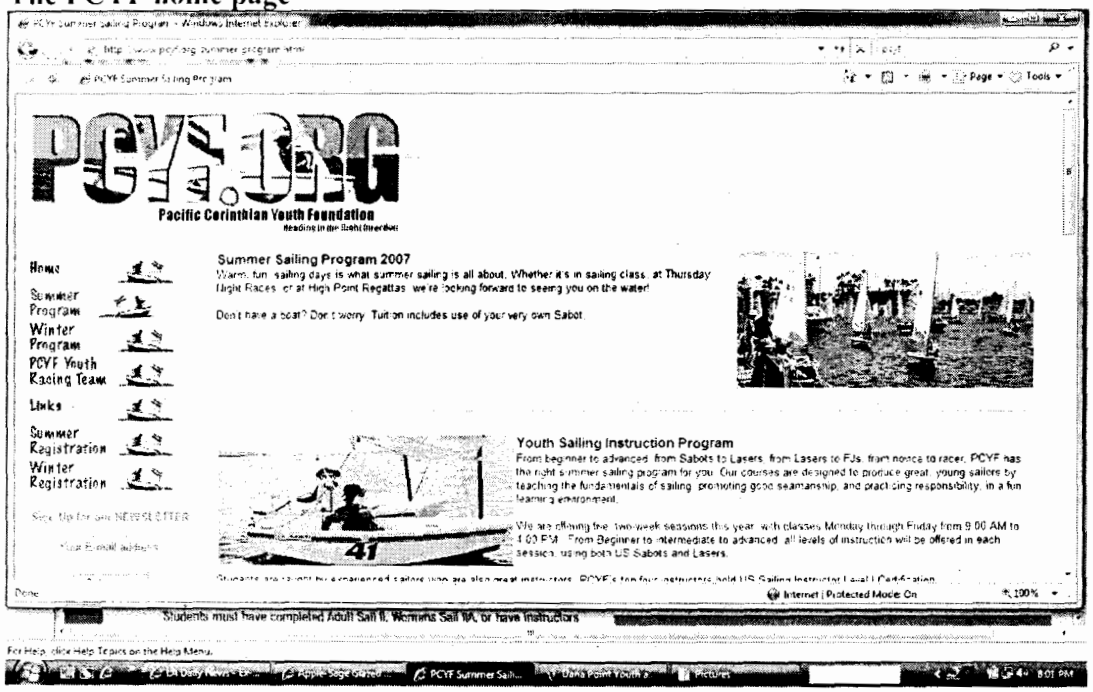
The [2006 General Plan Update Background Report] includes a chapter on Demographics.

70.4

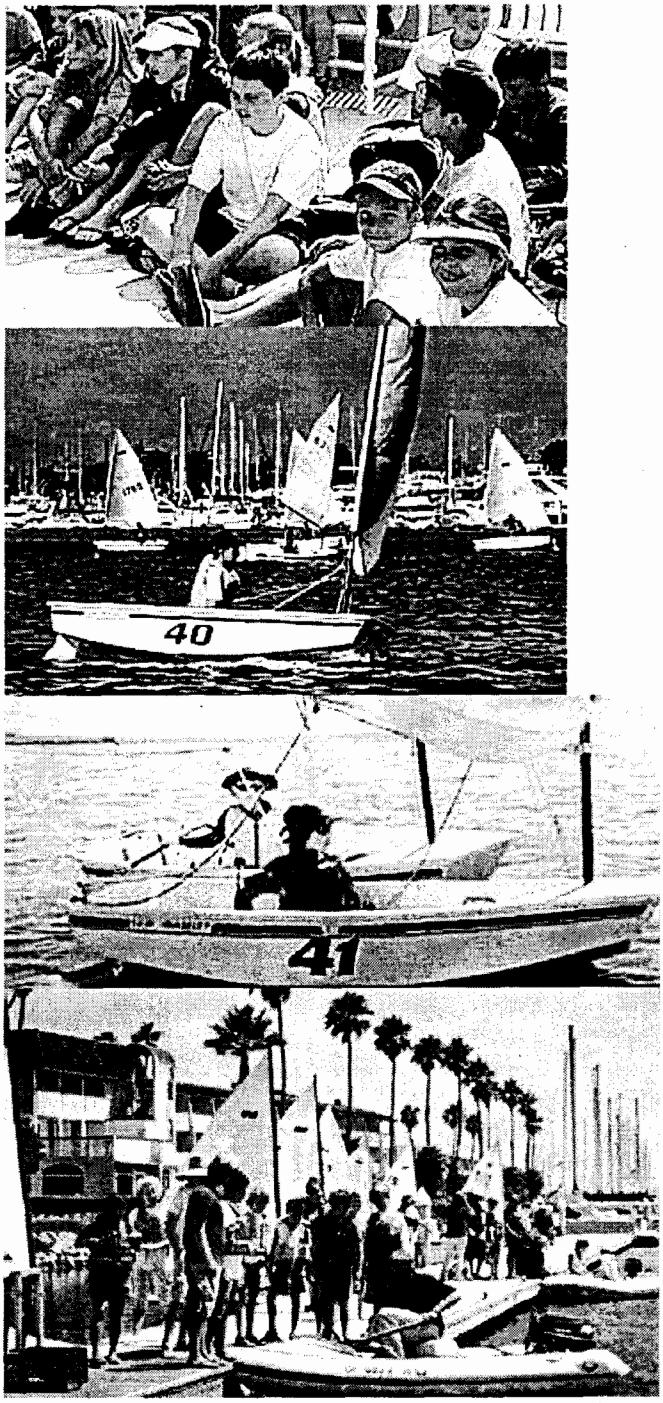
For further information:
Planning Division
Phone: (805) 385-7858
Fax: (805) 385-7417

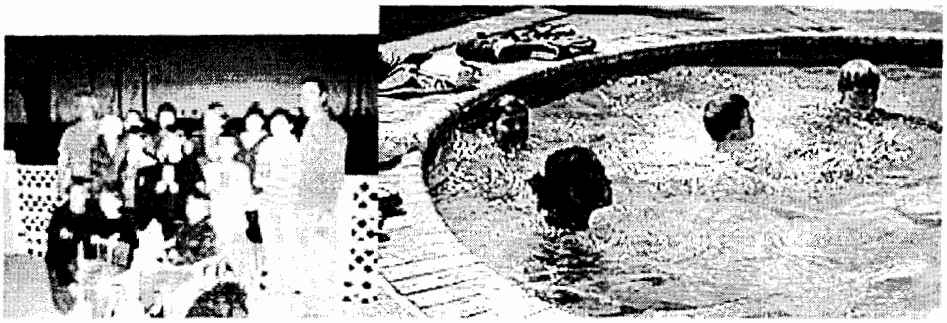
Last Updated: Oct 24 2007

The PCYF home page

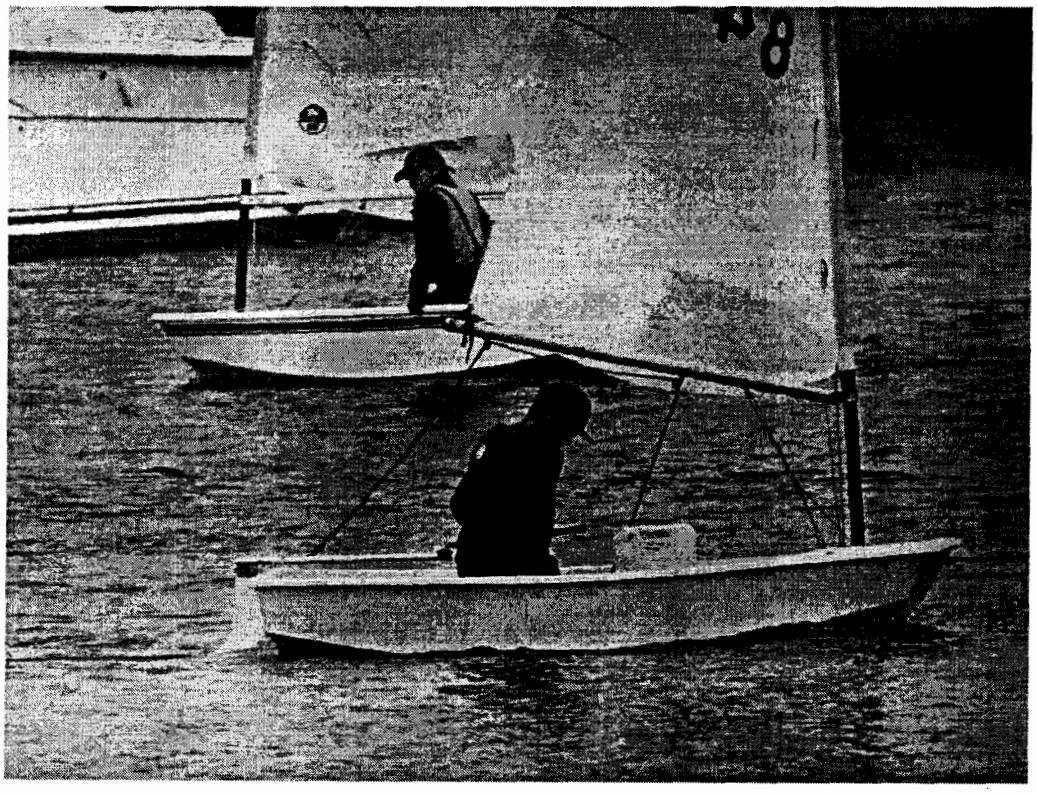


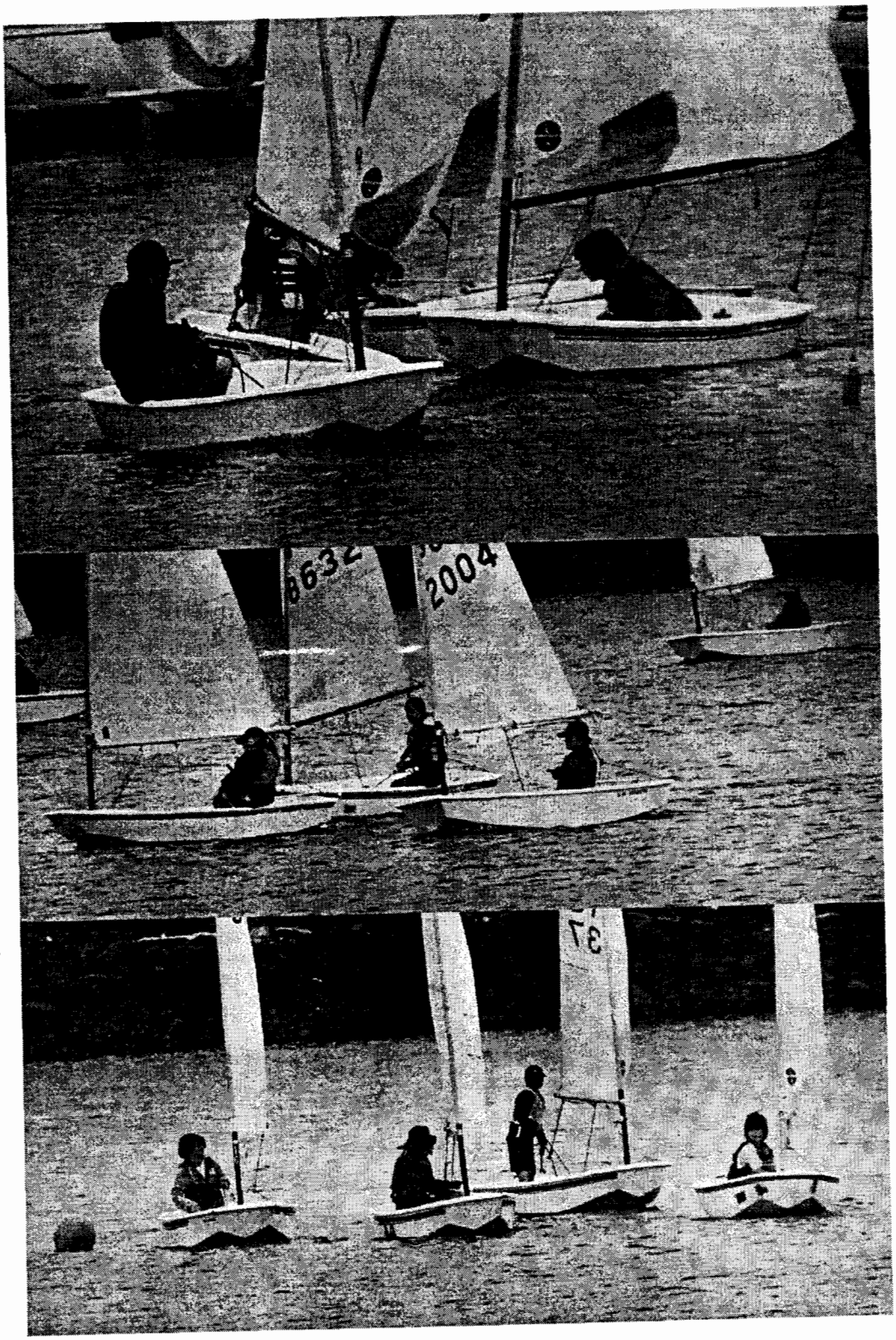
Pictures of students on the PCYF site do not reflect ethnic diversity or virtually any representation of the majority of county youth as shown on the SCAG and City of Oxnard ethnicity data.





Digital photos of PCYF students sailing in Channel Islands Harbor on November 4, 2007 demonstrate the same lack of ethnic diversity:

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Sailing program fees charged by PCYF are far higher than those charged at other sailing programs and may contribute to lack of ethnic diversity:

2007 Summer Sailing Program Dates

Session 1	June 11 to June 22
Session 2 (No class Wednesday, July 4th.)	June 25 to July 6
Session 3	July 9 to July 20
Session 4	July 23 to Aug 3
Session 5	Aug 6 to Aug 17

2007 Summer Sailing Program Fees

Program Fee **$350 ***

*Includes sailboat charter and T-shirt

Enrollment Specials:

Early Enrollment Discount for Session1:

Enroll for Session 1 by May 15th and pay only $290!

Sign up for multiple sessions and receive a $25 discount on each additional session!

Scholarships Available!

There is no link to online information or an application for the scholarships that would encourage low income students to apply.

Comparing PCYF fees to other Southern California youth sailing programs shows a wide disparity: City of Ventura charges $105 versus $350 at PCYF

Skip Navigation Links

CITY OF VENTURA INTERNET REGISTRATION

Start | Activities | My Basket | My Account | Help Desk

eRecreation : Activities : Course Details

Basic Sailing - 18747

Ages: 12 Yrs. and over

Fees:
- Class $105.00

Description:
Follows US Sailing format. 16 hours of instruction in beautiful protected Ventura Harbor. Students sail Catalina Capri 14.2 Sailboats. Course covers: Sailing theory, terminology, safety, knots, right of way, and docking. Lots of FUN, and Lots of Sailing. Meet at Marina Park Dock. Instructor: Al Cattand and Sailing Staff Follows US Sailing format. 16 hours of instruction in beautiful protected Ventura Harbor. Students sail Catalina Capri 14.2 Sailboats. Course covers: Sailing theory, terminology, safety, knots, right of way, and docking. Lots of FUN, and Lots of Sailing. Meet at Marina Park Dock.

Registration Date: 07-30-2007 12:00AM

Course	Days	Dates & Times	Facility	Sessions	Spaces	Basket
18747	Sat	01-05-2008 - 01-26-2008 9:00AM - 1:00PM	Sailing Dock Marina Park	4	10	ADD

To register for this course click on the Add button to add to your basket.

Dana Point Youth and Group in affluent Orange County also charges far less than PCYF for their youth sailing program, $120 versus $350:

http://www.ocparks.com/uploadgraphics/0008406391-03.pdf - Windows Internet Explorer

SAILING INSTRUCTION

Teen Thru Adult Sailing III

This program was developed for advanced intermediate sailors who want to learn and practice new skills, increase boat performance and start racing in our 14' Capris. If you're serious about sailing and looking for a challenge, this is the course for you. Students must be **"water safe"** and have obtained a **"successful completion"** card from Adult or Teen Sail II or Women's Sailing IIB to join. An $8.00 supply fee is payable to instructor the first day of class. Instructor: Westwind Sailing

FEE: $155.00
AGES: 13 years - adult

DATES	DAYS	TIMES
TEEN-ADULT CLASSES		
Oct. 13 – Nov. 3	Sat.	1:30 pm - 5:00 pm

Blue Water Intermediate Sailing

Venture beyond the breakwater and sail with us on a 28' keelboat. Learn basic navigation, practical tips, sail trim, rules and docking. Bring a jacket and lunch. Students must have completed Adult Sail II, Womens Sail IIA, or have instructors consent to enroll. Students must be **"water safe"**. A $30.00 supply/charter fee is payable to instructor the first day of class. Instructor: Westwind Sailing.

Jr. Sailors Seaside Adventure ☆ All Levels

Each day holds a new adventure as we explore different Jr. Sailors activities. Sail, kayak, swim, paddleboard, play boating games and row, or *Focus strictly on sailing and advance your sailing skill level if you have had previous Westwind Jr. Sailors courses. Pre-registration is required and bring a snack (no glass containers) sunscreen, towel, change of clothes and a second pair of shoes daily. Students must be **"water safe"**. An $8.00 supply fee is payable to instructor the first day of class. Westwind T-shirts may be bought from instructor for an additional $10.00. **No class Nov. 24.** Instructor: Westwind Sailing

FEE: $120.00
AGES: 6 – 12 years

DATES	DAYS	TIMES
Oct. 6 – Oct. 27	Sat.	8:30 am – 12:00 pm
Nov. 3 – Dec. 1	Sat.	8:30 am – 12:00 pm

WATER SAFE REQUIREMENTS

Unknown Zone | Protected Mode: On

For Help, click Help Topics on the Help Menu.

APPENDIX 9-VINTAGE MARINA 2007 CONSTRUCTION NOISE VIOLATIONS AND EMAILS FROM COUNTY INDICATING THAT THEY CONSIDER NOISE MODIFICATIONS AND CONDITIONS TO BE "ADVISORY" ONLY

This video still was copied from a digital video taken during pre-nesting season in late January 2007 showing heavy equipment operating directly below trees containing Black Crowned Night Heron nests and where Adult BCNH were seen roosting during breeding season.

To view the YouTube video of this construction violation, click on the link below, right click on it, or paste it into your web browser:

http://www.youtube.com/watch?v=xNz2iyhdGOI

The County in this email denies that the events pictured in the video and video occurred:

What does Lyn Krieger, source of CCC staff's latest heron nesting data say about marina construction impacts to the heronry by county-supervised crews this last nesting season?

I am writing in response to your e-mail, below. It came with no attachments, but I don't believe they are necessary for this basic response. Please forward them now for our file.

I just returned (9:40 am) from a construction team meeting at Channel Islands Harbor Marina. **The biologist was** present and said there is not even pre-breeding behavior occurring, not in Channel Islands nor anywhere in Ventura or LA Counties. He was telling us that generally hummingbirds are first, and are a sign to start watching the herons, but even they have not started nesting yet. We can get this information confirmed by the biologist who, as I said above, was just on site as of minutes ago. There have been no nests in these trees for the past two years, at a minimum, so if you are seeing any nests, they are probably old. Herons are present, and were present this morning. At this point they do not seem to be disturbed by the construction activity or all of the people who are standing under the trees to check on them, sometimes with their dogs.

The "heavy" equipment, to my knowledge, was never directly under the trees, since there is no work going on in that location. Heavy work is occuring along the waterfront sidewalk. I was on site two times yesterday, and again this morning. The Harbormaster has been there daily. In other words, there is no equipment working under the potential nesting trees, and has not been. The equipment had to move through the park area to get to the work zone, but that was some time ago.

As to the February 1 date, I understand that to be advisory, since it is the pre-nesting and nesting behavior that will control, just as the date will go beyond August if bird activity continues later than the arbitrary date. In any case, nothing new should be required on this construction site, since we started the noise monitoring and biological monitoring earlier than was required, which was to be February 1.

Please let me know if you have questions.

Lyn

>>> "Gary Timm" <gtimm@coastal.ca.gov> 1/31/2007 9:15 AM >>>
Hello all

RE: Harrassment of Herons at Channel Islands Harbor

Gary Timm [gtimm@coastal.ca.gov]

To: jzivdds@pacbell.net; Linda Parks; John Flynn; Al Sanders; Trevor Smith; Marilyn Miller; Lyn Krieger; Pat Veesart; John Ainsworth

Gary

-----Original Message-----
From: Marilyn Miller [mailto:Marilyn.Miller@ventura.org]
Sent: Thursday, January 25, 2007 5:44 PM
To: Gary Timm; Lyn Krieger
Cc: mac@aculbertsonlaw.com; John Ainsworth; Pat Veesart; trevor.smith@earthlink.net
Subject: Re: Heron Activity in CIH

Gary, our biologist has already responded to this concern. He has been onsite on a regular basis, and is specifically looking for nesting behavior. He has stated there are herons roosting in the area but no nesting is occurring. He has investigated the construction activity and instructed the workers to remain as far away from the trees as possible. There is no construction going on under the trees.

Marilyn

Marilyn K. Miller, AICP
Director, Harbor Planning & Redevelopment
Channel Islands Harbor
County of Ventura Harbor Department
3900 Pelican Way, 1#5200
Oxnard CA 93035-4367
805 382-3005
805 382-3015 fax
marilyn.miller@ventura.org

On the last day of pre-nesting season Commission staff reminded the County that construction modifications regarding noise were to take effect the following day. The County responded that it considered the construction mitigations to be "advisory":

...As to the February 1 date, I understand that to be advisory, since it is the pre-nesting and nesting behavior that will control, just as the date will go beyond August if bird activity continues later than the arbitrary date. In any case, nothing new should be required on this construction site, since we started the noise monitoring and biological monitoring earlier than was required, which was to be February 1.

Please let me know if you have questions.

Lyn

>>> "Gary Timm" <gtimm@coastal.ca.gov> 1/31/2007 9:15 AM >>>

... I am assuming that all construction equipment has been moved away from the heron trees. Tomorrow is February 1 and additional noise and biological monitoring requirements and restrictions of special condition 2 apply through August 15.

Following the start of nesting season on February 1, 2007, Director Krieger made good on her consideration of protective and binding CCC noise modifications and conditions as being advisory. She ignored them completely during nesting season by allowing pile driving that greatly exceeded the 65 decibel limit to occur throughout the nesting season and authorized or ignored the construction of illegal fenced construction yards beneath heron nesting trees in the park adjacent to the Channel Islands Harbor Marina and BISC site.

Digital video recorded the pile driving along with contemporaneous decibel monitoring by a professional calibrated decibel meter. Pile driving produced decibel levels in the 80's. Construction sounds are to be capped at 65 decibels during nesting season according to the conditions and modification adopted by resolution of the Ventura County Board of Supervisors.

To view a YouTube video of the pile driving that occurred during nesting season 2007 and the illegal construction yards under the nesting trees near the BISC site click on the link below, right click it, or paste the link into your web browser:

http://www.youtube.com/watch?v=o9zhB1s-Xz4

APPENDIX 10- BOAT COUNT DATA

Regarding Boating Instruction and Sailing Center PWPA December 9, 2007

Dear Gary,

In your analysis of boating congestion at the proposed BISC project site, I am confident hat you will want to include data that was submitted into and included in the County's EIR record. Two independent studies of boat traffic at the project site were recorded and submitted into the EIR, one performed by me and the other by Ken Grim, a member of the Coast Guard Auxiliary at Channel Islands Harbor. When I locate Mr. Grimm's data I will forward it to you for inclusion in your record and to convey the data and findings to the Commission. I have included the raw data that made up my report within this email text below and also as excel spreadsheet files attached.

The conclusions of both the Ziv and Grimm studies was that in 2001 and 2002 there was approximately three times the volume of boat traffic at the west side BISC project site as there was present at the east side alternate sites. The EIR consultant for the county responded to the two reports but never rebutted the data and, in fact, admitted in response to comments in the draft EIR that the west side location in fact had more traffic but that it did not affect safety. To date no other studies or hard data on boat counts at the BISC project site have been performed other than the 2001,2 separate Ziv and Grimm studies in the EIR. A county-commissioned congestion study included in the BISC EIR included reference to boat count data taken many years previous at the ocean entrance to Channel Islands Harbor many hundreds of feet south of the BISC site and also included anecdotal and subjective analysis and conclusions by a county consultant regarding the relative congestion of Channel Islands Harbor and other larger harbors in Southern California.

As the court has directed that Commission analysis of alternative sites and cumulative impacts must be more than simply citing the County EIR and must afford your Commission decision-makers the data they need to reach an informed conclusion, I hope that this data is useful in your staff analysis and findings. It is important to note that the substantial dredging and opening of hundreds of additional boat slips in the northern back bay sections of Channel Islands Harbor in the City of Oxnard since 2003 has intuitively increased the traffic on the west side. Those hundreds of additional slips can only be accessed through the west main channel directly adjacent to the proposed west side BISC project site. East side alternate sites are relatively unaffected by increased boat traffic up the west main channel on the opposite side of the harbor.

Comments from BISC directors about the deleterious safety and congestion effects of the increased west side traffic were included in the 2005 Avery/Prioleau and the John Keith reports submitted into the BISC record by the Channel Islands Beach Community Services District.

Additional comments and reports from other BISC directors regarding the unsafe congestion situation at the proposed BISC project site are being gathered and will be submitted to you under separate cover soon.

As you are aware safety and boat traffic and congestion are key elements of the existing Channel Islands Harbor Public Works Plan and the PWP requires that any future development in the harbor must address this critical safety issue.

The Commission since 2005 has been privy to substantial new data and changed circumstances subsequent to the 2003 BISC EIR approval by the County of Ventura. Again, as directed by the Superior Court judge, Commission staff must independently present, discuss, and analyze pertinent data relative to CEQA and the Coastal Act such that the Commission can make an informed decision. I hope that bringing to your attention evidence-based data from the EIR relevant to today's safety and congestion situation exacerbated by cumulative effects of nearby projects approved since the 2003 EIR will be helpful in your diligent analysis of those impacts and alternatives to the proposed project.

Respectfully,

Jonathan Ziv
President,
Habitat for Hollywood Beach
818-421-3988

Channel Islands Harbor Turning Basin Boat Traffic Counts

Date Count Taken:01-21-2002

Time of Day	Location in Basin (East/West)	Boat Type	Boat Size(Feet)	Direction of Travel
1:12 PM	E	Power	37	N
1:13 PM	W	Sail	25	S
1:16 PM	W	Power	30	N
1:22 PM	W	Power	12	S
1:23 PM	W	Power	15	N
1:23 PM	W	Power	27	N
1:24 PM	W	Sail	25	N
1:25 PM	E	Sail	25	N
1:26 PM	W	Power	12	S
1:26 PM	E	Power	20	S
1:27 PM	W	Power	35	N
1:30 PM	W	Kayak	8	S
1:33 PM	W	Power	12	S
1:35 PM	E	Power	45	N
1:37 PM	W	Power	60	S
1:37 PM	W	Power	35	N
1:38 PM	W	Power	12	S
1:39 PM	E	Power	20	N
1:39 PM	W	Power	25	N
1:40 PM	W	Sail	25	N
1:40 PM	W	Power	12	N

1:41 PM	W	Sail	40	N
1:45 PM	W	Sail	27	N
1:45 PM	E	Kayak	10	S
1:51 PM	W	Power	8	S
1:51 PM	W	Power	25	S
1:52 PM	W	Inflatable/Power	8	N
1:52 PM	E	Inflatable/Power	8	N
1:54 PM	E	Sail	25	N
1:54 PM	W	Kayak	8	N
1:55 PM	W	Power	12	N
1:57 PM	W	Inflatable/Power	8	N
1:58 PM	W	Sail	40	S
1:59 PM	W	Sail	37	S
1:59 PM	W	Power	37	N
2:00 PM	W	Sail	25	S
2:00 PM	W	Kayak	8	N
2:01 AM	E	Power	15	S
2:01 PM	E	Sail	20	S
2:02 PM	E	Power	25	S
2:02 PM	W	Power	40	S

Page 2: 01-21-2002

Time of Day	Location in Basin (East/West)	Boat Type	Boat Size(Feet)	Boat Direction of Travel
2:04 PM	W	Power	15	S
2:04 PM	E	Power	15	S
2:05 PM	W	Sail	40	N
2:07 PM	W	Sail	45	S
2:09 PM	E	Power	50	N
2:10 PM	W	Power	35	N
2:10 PM	W	Power	8	S

Channel Islands Harbor Turning Basin Boat Traffic Counts

Date Count Taken:12/15/2001

Time of Day	Location in Basin (East/West)	Boat Type	Boat Size(Feet)	Boat Direction of Travel
12:35 PM	E	Harbor Hopper	20	N
12:47 PM	E	Power	35	N
1:03 PM	E	Sail	20	N
1:23 PM	E	Sail	20	N
1:23 AM	E	Power	15	N
12:45 PM	E	Inflat/Power	6	S
1:10 PM	E	Sail	25	S
1:16 PM	E	Sail	25	S
1:20 PM	E	Kayak	8	S
12:53 PM	W	Power	45	N
12:55 PM	W	Sail	30	N
12:57 PM	W	Power	27	N
12:58 PM	W	Inflat/Power	6	N
1:00 PM	W	Power	10	N
1:04 PM	W	Sail	27	N
1:05 PM	W	Harbor Hopper	20	N
1:06 PM	W	Power	20	N

1:19 PM	W	Power	15	N	
1:22 PM	W	Sail	25	N	
1:23 PM	W	Sail	22	N	
1:25 AM	W	Power	10	N	
1:27 AM	W	Sail	20	N	
12:30 PM	W	Sail	32	S	
12:42 PM	W	Power	15	S	
12:42 PM	W	Inflat/Power		8	S
12:52 PM	W	Inflat/Power		6	S
1:05 PM	W	Sail	21	S	
1:11 PM	W	Power	21	S	
1:18 PM	W	Sail	20	S	
1:21 PM	W	Sail	21	S	

Channel Islands Harbor Turning Basin Boat Traffic Counts

Date Count Taken:01/11/2002

Time of Day	Location in Basin (East/West)	Boat Type	Boat Size(Feet)	Direction of Travel
12:55 PM	W	Power	28	N
12:58 PM	W	Power	8	N
12:59 PM	W	Kayak	7	N
1:00 PM	E	Power	20	S
1:07 PM	E	Sail	25	S
1:11 PM	E	Power	60	S
1:15 PM	W	Power	38	N
1:20 PM	W	Sail	21	N
1:21 PM	W	Power	8	S
1:22 PM	E	Power	15	N
1:25 PM	E	Power	20	N
1:30 PM	W	Power	45	S
1:32 PM	E	Power	17	N
1:35 PM	W	Power	15	S
1:40 PM	W	Power	40	S
1:41 PM	W	Power	35	S
1:46 PM	W	Power	40	N
1:49 PM	W	Power	20	N
1:51 PM	W	Power	15	N
1:54 PM	W	Power	18	N
1:55 PM	W	Kayak	7	S
1:01PM	W	Power	21	N
1:31PM	W	Power	12	N

ANGEL LAW LAW OFFICES OF FRANK P. ANGEL

2601 OCEAN PARK BOULEVARD, SUITE 205
SANTA MONICA, CA 90405-5269
TEL: (310) 314-6433
FAX: (310) 314-6434

December 17, 2007

California Coastal Commission
South Central Coast District Office
Attn: Gary Timm, District Manager
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re Proposed Channel Islands Harbor Public Works Plan Major Amendment 1-04; & Notice of Impending Development 1-05 for Boating and Instruction Safety Center (BISC)

Dear Mr. Timm:

Angel Law represents Habitat for Hollywood Beach (HHB) in the administrative proceedings before the California Coastal Commission (Commission) in the above-captioned matter. As you are aware, Angel Law also has been representing HBB in the litigation that successfully challenged the Commission's approvals on March 16, 2005, of (1) the Channel Islands Harbor Public Works Plan (PWP) amendment no. 1-04, and (2) the related notice of impending development (NOID) no. 1-05. Both approvals were for the Boating and Instruction Safety Center (BISC) project, proposed by the County of Ventura (county) on the west side of Channel Islands Harbor, right next to a black-crowned night heron rookery, on public parkland heavily used for passive open space recreational

purposes. The PWP amendment and NOID are now being resubmitted for a new decision by the Commission.

HHB is not opposed to a Boating and Instruction Safety Center in the Channel Islands Harbor. For the reasons more extensively discussed in our related submittals (and in our previous submittals, preceding the Commission's original decision in March of 2005), however, HHB continues to strongly object to the proposed BISC site. HHB therefore urges the Commission to now enforce its mandates under the California Environmental Quality Act (CEQA) and its own regulatory program, and to deny the BISC project as presently proposed.

Following up on an earlier discussion we had after the Commission's first hearing on remand from the Superior Court, I was to provide you the legal authority supporting HHB's position that in-depth alternatives review and alternatives selection, as required by CEQA (see Pub. Resources Code, § 21080.5, subd. (d) (2) (A)), and the Commission's regulatory program, may *not* be avoided or restricted based on claims that existing contractual commitments render infeasible otherwise reasonable alternative sites.

Preliminarily, we note that the county has made such a claim only with respect to the currently non-performing Port Royal restaurant lease. The site of the Port Royal restaurant is a feasible alternative location for the BISC on the west side of Channel Islands Harbor.[1] Importantly, no such claim has even been made for the preferred east side BISC site, the Cisco parcel and parcel Q, which offer 900 linear feet of east channel frontage (of a total 1,200 feet, with 300 feet used by commercial sports fishing boats). There is no existing lease affecting the Cisco parcel. In fact, just two months ago, on October 16, 2007, Ms. Lyn Krieger, the county harbor department director, in an appearance before the Oxnard city council, made to update the city council on development projects in Channel Islands Harbor, confirmed that the county is "interested in input for what kinds of uses the public is interested in there [i.e., the Cisco site] ...." (<http:// oxnard.granicus.com/ViewPublisher.php?view_id=3> [October 16, 2007 agenda archive video; agenda item Q1].)[2]

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[1] The leaseholder wants out of the lease.

[2] Parcel Q is available as well. While part of it is leased short-term for private dry boat storage, as you have quite properly advised the harbor department, this use is in violation of the public visitor-serving boating access land uses and view corridor designations applicable to this parcel under the PWP.

This being said, contracts entered into, or even expenses incurred, prior to review of a project cannot be used to avoid the scrutiny envisioned by CEQA. In *Kings County Farm Bureau* v. *City of Hanford* (1990) 221 Cal.App.3d 692, the Court of Appeal specifically rejected an agency's argument that prior contractual commitments and substantial investments in a given project proposal precluded review of an environmentally superior alternative. (*Id.* at 735-737.)[3] In *Kings County*, the lead agency rejected evaluation of a natural gas alternative to a proposed coal-fired cogeneration plant, on the ground that if the project proponent were to convert to natural gas, it would be unable to meet a long-term commitment to sell electricity under a power sales agreement already entered into with a third party. (*Id.* at 708, 735-736.) The Court held:

> "Since CEQA charges the agency, not the applicant, with the task of determining whether alternatives are feasible, the circumstances that led the applicant in the planning stage to select the project for which approval is sought and to reject alternatives cannot be determinative of their feasibility."

(*Id.* at 736; see *Laurel Heights Improvement Assn.* v. *Regents of University of California* (1988) 47 Cal.3d 376, 425 ("We shall not countenance any attempt to reject an alternative on the ground that [the site selected by the project proponent, the University of California, for the relocation of a biomedical research facility] has already been purchased or that activities there have already commenced").)

You may remember that these legal principles also led the Second District Court of Appeal to set aside the Commission's approval in 1998, of a coastal development permit for the (now defunct) Soka expansion project in the Santa Monica Mountains. (*Sierra Club* v. *California Coastal Com.* (Feb. 27, 2003, B138627) [nonpub. opn.] 2003 Cal. App. Unpub. Lexis 1883.) In that case, it was the Commission's failure to recognize the existence of a feasible alternative location for the proposed university

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[3] In the case of the BISC, it is undisputed that from an environmental perspective, the Port Royal and the east side alternative sites are substantially superior to the site proposed by the county. No black-crowned night heron tree habitat will be impacted on the east side; and the Port Royal site is at substantially greater distance from the adversely impacted tree habitat than the BISC site the county proposes. Moreover, neither the east side nor the Port Royal site will cause removal of any existing passive parkland uses. Given those circumstances, re-approval of the BISC at its present location violates CEQA. (See Pub. Resources Code, § 21080.5, subd. (d)(2)(A).)

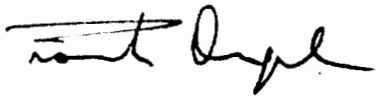
expansion (Soka's Orange County campus property) that was of concern to the Court. Rejecting the Commission's deference to the County of Los Angeles' EIR alternatives review, the Court emphasized, in light of the Commission's independent duty to protect and implement the goals and policies of the California Coastal Act of 1976, that it would have been particularly relevant to consider the expansion of Soka's Orange County campus, rather than its campus in the Santa Monica Mountains which was located in an environmentally more sensitive area. The Court noted, among other things, that such an alternative would have protected "existing coastal zone natural resources," and "would also have impacted the Commission's consideration of Public Resources Code section 30250, which requires that new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it." (2003 Cal. App. Unpub. Lexis 1883, at *22-23.) So it is here -- especially in the case of the Cisco and Port Royal sites, which are *re*development sites, i.e., sites that do not cause incremental harm to existing coastal zone natural resources. (See also fn. 3, *supra*.)

Please make sure a copy of this letter is attached as an exhibit to the District Office's staff report for the Commission. Also, please feel free to call if you have any questions.

Thank you very much for your assistance.

Very truly yours,

ANGEL LAW



Frank P. Angel

Gary Timm

From: Dr. Jonathan Ziv [jzivdds@pacbell.net]
Sent: Wednesday, October 17, 2007 11:40 PM
To: Gary Timm
Cc: 'Lee Quaintance'; 'Frank Angel'
Subject: Port Royal Alternative

Dear Gary,

Attached is a .PDF conversion of part of the PowerPoint presentation I showed to the Commission on October 10, 2007. The slides I showed deal with the Port Royal restaurant as an alternative site for the BISC. Included in the slides are excerpts from Ventura County Board of Supervisors' meetings for 2007 showing closed session lease negotiations for the subject parcel on three occasions with multiple parties. I also disclose conversations with Dept. of Boating and Waterways officials relative to the Port Royal alternate site.

I spoke to Steve Watanabe, acting boating division chief for California Dept. of Boating and Waterways, recently. We spoke by phone on Tuesday, October 16th. He had not heard yet from you or anybody else regarding the Port Royal as an alternative site on the west side of CI Harbor. I would be concerned if such research was not a part of amended findings regarding alternatives. He again affirmed that the department would be amenable to the Port Royal as an alternative site and was, again, in favor of the site over the current site due to its closer proximity to the water and probable lower construction/remodel costs to accommodate BISC activities. He also confirmed that none of the money expended on preliminary design for the BISC prior to CCC staff recommending a 90 degree rotation and lowering of the height was applicable to any future design, including the currently proposed project. He indicated that work on any new location would be " from scratch" and that his department would be starting from zero regardless of BISC location. He also confirmed that no construction funding authorization from the legislature for the BISC was authorized in either 2006-7 or 2007-8 state budgets. There is currently no funding authorized for the BISC other than some remaining working drawing funding authorized several years ago that could be applied to a Port Royal remodel.

I urged him to speak with you and he said he would be happy to discuss the BISC with you. I called your office within a minute of hanging up with him and left your secretary his phone number in Sacramento. I hope that you have/will speak to him regarding the department's position on this viable BISC alternative site. His phone number is (916) 263-8147. The Port Royal site is on the west side of the harbor and thus, according to Mr. Watanabe, complies with the opinions of the BISC experts who commented in the County's BISC EIR in favor of west side sites for the BISC in terms of wind and docking safety.(Despite CIBCSD-commissioned 2005 BISC expert reports in the record, DBAW continues to base its preference on the west side of the harbor based on these 2003

Exhibit 15
PWPA 1-04, NOID 1-05
Dr. Jonathan Ziv Correspondence

reports, but that is their position and the Port Royal site qualifies as a west side site in their view.)

I believe that Mr. Angel has spoken to you regarding his supplying you with case law regarding existing leases not being despositive of an alternative site per CEQA. I will check with him to see how his progress on this research is going and make sure you get this information ASAP. For discussion only:, a seven year remaining term on the Port Royal lease is hardly a reason for rejection of this site for consideration. The county could buy out the lessee's remaining term, or they could lease back from the lessee until the lease runs out. Alternatively, Mrs. Krieger's contention at the October 10th CCC hearing, that safe BISC sailing experience has been proven on the west side by having PCYC and CSUCI sailors using the public docks waterside of the Port Royal for several months also proves another fact: BISC sailing activities have been going on at that site now for months without the use of an adjacent edifice. The temporary BISC trailer on the park has a rusted lock, neither electricity nor any other utilities, and has not been used whatsoever. Thus, another option for the CCC is to reject the preferred site in favor of the Port Royal as the environmentally superior alternative, let the county use the existing BISC dock facility for the remaining seven year term of the lease and then eventually take over the lease and building to augment the ongoing successful sailing program being run from the adjoining Port Royal docks.

In light of the above alternative options the county and Boating and Waterways have available to them relative to the existing lease, a reasonable person with average intelligence would have to conclude that alternatives exist for the BISC being located within a public PWP protected park, within a Dept. of Fish and Game recognized rare heron nesting area, displacing protected view corridor, and displacing without replacement visitor serving and recreational boating parking, The alternatives are all grossly less environmentally damaging than the proposed project location, and mitigation measures for the project site cannot possibly equal the reduction in impacts afforded by the alternative sites. All this is true even if the case law that Mr. Angel is to provide you completely make the existing lease on the Port Royal a moot issue.

I hope that your analysis of alternatives will consider my comments in the upcoming findings.

Thanks, Gary.

Jon Ziv

Staff Findings that a long term lease exists on the parcel do not reflect that the lease is for sale:

The following excerpts from Ventura County Board of Supervisors closed session agendas illustrate recent and active interest on the part of the lessee to give up the lease and the county to negotiate same:

41. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code, § 54956.8)**

PROPERTY: Fisherman's Wharf, Parcel V, 2711 South Victoria Avenue, Oxnard, CA 93035
COUNTY NEGOTIATOR: Lyn Krieger, Director, Harbor Department
NEGOTIATING PARTIES: EMC Financial Corporation – Edward Czuker
UNDER NEGOTIATION: Price and Terms of Lease

PROPERTY: Parcel K-2, 3900 Bluefin Circle, Oxnard, CA 93035
COUNTY NEGOTIATOR: Lyn Krieger, Director, Harbor Department
NEGOTIATING PARTY: Ventura County Maritime Museum – Robert Hatch
UNDER NEGOTIATION: Price and Terms of Lease

PROPERTY: Parcel K-2, 3900 Bluefin Circle, Oxnard, CA 93035
COUNTY NEGOTIATOR: Lyn Krieger, Director, Harbor Department
NEGOTIATING PARTY: Ventura County Maritime Museum – Robert Hatch
UNDER NEGOTIATION: Price and Terms of Lease

And again, on July 10 of this year:

PROPERTY: Port Royal Restaurant, 3900 Bluefin Circle, Oxnard, CA 93035, Parcel K-2
COUNTY NEGOTIATOR: Lyn Krieger, Director, Harbor Department
NEGOTIATING PARTY: Alan Griffin and Zaya Younan
UNDER NEGOTIATION: Price and Terms of Lease

BEFORE THE VENTURA COUNTY IHSS PUBLIC AUTHORITY BOARD:

27. **CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code, § 54957.6)**

COUNTY DESIGNATED REPRESENTATIVES: Marty Robinson, John K. Nicoll
EMPLOYEE ORGANIZATION: Service Employees International Union, Local 998

AGENDA **-6-** **July 10, 2007**

This property is obviously up for sale to multiple buyers and the lease is in play. The county could acquire the lease for the purpose of providing an alternative BISC location as easily as any of these prospective purchasers.

And the Clincher….!!

- The County and the State have already previously this year jointly offered in writing to evaluate the Port Royal as an alternative site for the BISC….

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE

RONALD REAGAN BUILDING
300 SOUTH SPRING STREET, SUITE 1702
LOS ANGELES, CA 90013

Public: (213) 897-2000
Telephone: (213) 897-2706
Facsimile: (213) 897-2801
E-Mail: terry.fujimoto@doj.ca.gov

March 19, 2007

Sent by Facsimile Transmission and Regular Mail: 310.314.6434

Law Offices of Frank P. Angel
3250 Ocean Park Boulevard, Suite 300
Santa Monica, CA 90405-3219

RE: Habitat for Hollywood Beach v. California Coastal Commission et al.
Ventura County Superior Court Case No. CIV 233653

Dear Mr. Angel:

This letter is a joint response of the County of Ventura and the California Coastal Commission to your letter of March 9, 2007. In return for the withdrawal or dismissal of the attorney fees motion, the Commission and County agree to increase their settlement offer from $100,000 to $125,000 and to dismiss the appeals. Payment of the Commission's share, $60,000, is contingent upon the Legislature authorizing a supplemental budget appropriation in that amount. In the unlikely event the Legislature refuses the request, the Commission agrees that petitioner may renew its fee motion within a reasonable period of time following the Legislature's action. Once the Legislature approves the supplemental appropriation, both the County and Commission will file dismissals of the appeals at that time.

The County's portion of the payment, $65,000, will be due and payable into an escrow account for the sole benefit of Habitat for Hollywood Beach within two weeks following execution of the settlement agreement in this matter. Release of such funds from the escrow account are contingent upon Habitat's compliance with the terms and conditions set forth below regarding the Harbor Public Works Plan Amendment and Notice of Impending Development for the proposed Boating Instruction and Safety Center (BISC) on remand before the Commission.

The Commission on remand agrees that it will evaluate the Port Royal Restaurant site as an alternative to the proposed project location on the condition that Habitat for Hollywood Beach: (1) publicly supports the Port Royal Restaurant site as its preferred site for the BISC; (2) seeks and obtains the public support of other interested parties, including but not limited to, the Beacon Foundation, Environmental Defense Center, and the Sierra Club, in the Port Royal location for the BISC; (3) executes a written, express waiver of any right under the Coastal Act or CEQA to challenge the Commission's decision on the BISC project on remand; and (4) passage of 60 days time without lawsuit from interested parties following Commission's decision

location for the BISC; (3) executes a written, express waiver of any right under the Coastal Act or CEQA to challenge the Commission's decision on the BISC project on remand; and (4) passage of 60 days time without lawsuit from interested parties following Commission's decision on the BISC project on remand. We caution that the Commission's acceptance of this condition does not bind it to make any specific findings regarding the feasibility or non-feasibility of the Port Royal Restaurant site alternative or otherwise limit the Commission's discretion.

In short we have made every effort to respond to your concerns. First, we have increased our settlement offer. Second, the Commission has agreed to consider the Port Royal Restaurant site as an alternative to the proposed project. Finally, the County and Commission agree that the County's share of the settlement is not dependent on the Legislature approving a supplemental budget appropriation to cover the Commission's share of the costs.

We make this offer with the understanding that the proposal is confidential and is not admissible as evidence with respect to any future proceedings in this matter. (Evid. Code, § 1152.) We await your reply.

Sincerely,

TERRY T. FUJIMOTO
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

ROBERT N. KWONG
Assistant County Counsel

cc: G.R. Overton
C. Pederson, CCC-SF

Dear Mr. Angel:

This letter is a joint response of the County of Ventura and the California Coastal Commission to your letter of March 9, 2007. In return for the withdrawal or dismissal of the attorney fees motion, the Commission and County agree to increase their settlement offer from $100,000 to $125,000 and to dismiss the appeals. Payment of the Commission's share, $60,000,

The County's portion of the payment, $65,000, will be due and payable into an escrow account for the sole benefit of Habitat for Hollywood Beach within two weeks following execution of the settlement agreement in this matter. Release of such funds from the escrow account are contingent upon Habitat's compliance with the terms and conditions set forth below regarding the Harbor Public Works Plan Amendment and Notice of Impending Development for the proposed Boating Instruction and Safety Center (BISC) on remand before the Commission.

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The Port Royal Site MUST be Considered as a Viable Alternative for the BISC on the West Side

The Beacon Foundation October 2, 2007 letter reminds the CCC that VC Supervisor Linda Parks received positive response from Dept. of Boating and Waterways to alternate off-park west side sites in 2003.

Boating and Waterways Prefers a Lower Cost, Safer West Side Site

In multiple phone conversations this year with Steve Watanabe, acting Boating Division Chief, he, in detail, explained to me that he personally favored the Port Royal Site over the park site due to costs and direct location on the water. He said he inherited the current site from his predecessor, Don Waltz, and does not favor funding a two story BISC.

Mr. Watanabe has not shared his views only with me:

Mr. Watanabe has also shared his views regarding the Port Royal with Supervisor John Flynn while meeting in Sacramento with Mr. Flynn.

Sierra Club Los Padres Chapter Santa Barbara and Ventura Counties

Arguello Group Conejo Group Santa Barbara Group Sespe Group

Alan Sanders
Conservation Chair
232 N. Third St.
Port Hueneme Ca. 93041
805-488-7988
alancatdaddyal@aol.com

RECEIVED
OCT 0 9 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

October 09,2007

Peter Douglas, Director
California Coastal Commission
45 Freemont St, Suite 200
San Francisco, Ca 94105-2219

RE: Wednesday, October 10, 2007 Agenda Items 11a & 11b; Staff Report for Boating Instruction and Safety Center (BISC)

Dear Mr. Douglas:

The Sierra Club has not been given legal notice of the above referenced item nor of any other action to be taken by Ventura County or any other agency. Therefore, any action by the commission or any other agency without adequate notice violates guidelines for public notification outlined in the California Public Resources Codes. The Sierra Club hereby objects to the hearing of the agenda items because neither the Club nor its members received proper notification.

Furthermore, The Club has not received the staff report nor any other documents on the Revised BISC Project and is therefore denied an opportunity to make any meaningful comments.

The Club only knows of the planned actions by the Commission because of notification that was given to us by other members of the public. However, the addresses and names of many other interested parties are not generally known to The Club or the people who notified us. These interested parties may not have received any notice of the planned actions.

The Los Padres Chapter has attended hearings on the BISC in Ventura County for several years. Our comments were aimed primarily at helping the County to learn of sensitive habitats and endangered species that were using Hollywood Beach and areas surrounding the harbor. We provided testimony at the Commission's hearings on March 16, 2005, that resulted in approvals of the Channel Islands Harbor Public Works Plan (PWP) amendment no. 1-04, and the related Notice of Impending Development (NOID) no. 1-05. Specifically, our comments called for additional changes in the conditions so that language would be created to protect affected Environmentally Sensitive Habitat Areas (ESHAs) at Hollywood Beach and at the harbor.

Several new developments regarding habitat uses in both places require further environmental review. For example, since the original letter from the US Fish and Wildlife Service (USFWS) was used to argue that no listed species would nest on Hollywood Beach this

Exhibit 16
PWPA 1-04, NOID 1-05
Sierra Club letter

occurred every year. USFWS subsequently wrote a permit to take both California least terns and western snowy plovers on Hollywood Beach for the US Army Corps of Engineers, and such take did occur. Unfortunately, because the Commission has not resolved the ESHA issues there was no attempt to mitigate the losses of endangered and threatened species at Hollywood Beach.

The PWP amendment and NOID are now being revised and resubmitted for a new decision by the Commission without any prior notification from the project applicant or by the Commission. This new project has not been noticed in any way by Ventura County. There have been no indications as to how this project will comply with either the California Environmental Quality Act or with the Coastal Act.

The public must be notified that this project has been revised. The environmental documents then must be revised and recirculated so that the public has an opportunity to learn what is happening and to make meaningful comments.

The Club recommends that the Commission votes to deny the revised BISC project.

Sincerely,

Alan Sanders

Alan Sanders
Conservation Chair
Sierra Club, Los Padres Chapter

CHANNEL ISLANDS BEACH
COMMUNITY SERVICES DISTRICT

Board of Directors:

MARCIA MARCUS, President
KEITH MOORE, Vice-President
SUSAN KOESTERER, Director
JONATHAN ZIV, Director
ELLEN SPIEGEL, Director

JARED BOUCHARD
General Manager

353 Santa Monica Drive • Channel Islands Beach, CA 93035-4473 • (805) 985-6021 • FAX (805) 985-7156
A PUBLIC ENTITY SERVING CHANNEL ISLANDS BEACHES AND HARBOR / CHANNELISLANDSBEACHCSD.COM

January 22, 2008

RECEIVED
JAN 22 2008
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Gary Timm, District Manager
California Coastal Commission
89 California Street
Ventura, CA 93001

RE: Resubmission of the Channel Islands Harbor Boating Instruction Safety Center (BISC)

Dear Mr. Timm,

The Channel Islands Beach Community Services District has been an active participant in the Channel Islands Boating Instruction Safety Center review process since its initiation in 2001. The District Board held multiple, well attended, public meetings on the BISC. In response to the public concerns conveyed at those meetings the Board provided the attached submissions representing the concerns of the District constituency. The community and the District Board have maintained support for a BISC within the Channel Islands Harbor throughout the process. The "preferred" location and the impacts associated with the site continue to be a source of public concern. In addition to the loss of view corridors, parkland, bird rookeries and low cost public access to the Harbor the District has concerns with the impacts this project will have on the provisions of water service we are obligated to provide.

As the water purveyor to the Channel Islands Harbor our review of the preferred site indicates there are potential major impacts to the provision of water service within the Channel Islands Harbor. The BISC EIR Geotechnical Engineering Study (appendix H) dated January 10, 2002 identifies significant structural integrity liabilities associated with water percolation or infiltration due to the unstable soil conditions contained in the project vicinity. The study states page 12- "All underground plumbing fixtures should be absolutely leak free. As part of the maintenance program, utility lines should be checked for leaks for early detection of water infiltrating the soils that could cause detrimental soil movements".

These findings are cause for concern to the District as it is impossible for any water purveyor to ensure a leak free system at all times and currently an 8" water main is located directly under the preferred site. Given the soil conditions, significant adverse impacts of a water leak and the close proximity of the existing water main the District will demand the water main and any other District facilities, including water service

Exhibit 17
PWPA 1-04, NOID 1-05
Channel Islands Beach Community Services District letters

connections, be relocated to an area outside of the zone for potential impact (impact zone is not identified in the EIR technical appendices). When considering the impacts of a major water line relocation, fire flows, establishing right of ways, potential habitat loss or disruption, CEQA review, permitting, the potential need for relocating of adjacent water service connections and the cumulative impacts of other development or redevelopment in the vicinity must be considered. The District has previously disclosed this issue prior to and during the EIR review process. The attached letter dated July 7, 2003 page 3 discusses additional issues related to liquefaction potential amongst other geotechnical concerns related to the preferred site.

The need for adequate review of the cumulative impacts of this project and it's direct impact on provisions of water service are more evident today than 6 to 7years ago when the review process began. It is difficult for the District to provide proper planning of water service and main locations of projects currently under way, given the potential future impacts this site will have on those decisions. The current Notice of Impending Development for "Remodel of Existing Restroom and Office Buildings including Small Expansion of Footprint Areas Along the Westside of the Channel Islands Harbor" is directly adjacent to the preferred BISC site and it to, will more than likely require a water main relocation. With each modification or change in alignment of our water system we must reevaluate our flow capabilities for fire protection and water deliveries on a whole. The piece meal approach to modifying our water system is neither proper nor wise planning. This kind of approach will cost all involved unnecessary expense and duplication of work and resources.

The District would like to reiterate its continued support for a BISC in the Channel Islands Harbor and our position that the project is better suited in one the alternative site locations. Please consider these and the attached historical comments in your review and preparation of the BISC resubmission.

The District is also requesting the Coastal Commission delay the hearing on the BISC until its April meeting in nearby Santa Barbara, offering local residents an opportunity to attend the hearing.

Should you have any questions or wish to discuss this matter further, I am available at your convenience.

Sincerely,

Jared Bouchard
General Manager

CC: CIBCSD Board of Directors

Attachments: Letters Dated

1. February 7, 2003
2. July 7, 2003
3. November 20, 2003
4. February 5, 2004
5. October 18, 2004
6. October 8, 2007

L-4

February 7, 2003 HAND DELIVERED

Lyn Krieger, Harbor Director
County of Ventura, Channel Islands Harbor
3900 Pelican Way
Oxnard, CA 93035-4367

SUBJECT: Notice of Preparation (NOP) Environmental Impact Report
Boating Instruction & Safety Center (BISC)

Dear Lyn,

The Channel Islands Beach Community Services District (CIBCSD) is an Independent Special District organized pursuant to Community Services District Law of the State of California, as amended, with authority under Government Code, Section 61000 *et. Seq.* The District's major utility operations include the provision of water, sewer, trash and Community Services to the subdivisions of Silver Strand Beach, Hollywood-by-the Sea and Hollywood Beach. The District also provides water services to the Channel Islands Harbor and sewer services to the City of Oxnard in the Harbor area.

We are presenting the following comments on the NOP for the EIR relating to the proposed BISC in the Channel Islands Harbor for inclusion in the Draft EIR by your Planning Consultants, Culbertson, Adams & Associates.

ISSUES/COMMENTS:

- **Contract for Services-** The contract between the County of Ventura and Culbertson, Adams & Associates, dated November 12, 2002, requires the contractor to complete two separate but related tasks. First, the County is requesting that a 'focused EIR' for the BISC be prepared. Second, the contract calls for the contractor to prepare amendments for the County Public Works Plan for the Harbor Department and prepare the related EIR.

  It would appear that the orders of work in the contract are in reverse order. Will the BISC be evaluated using the provisions of the existing 1986 Harbor Public Works Plan or the proposed 1998 Plan which the contractor has specific knowledge is in the process of being significantly changed? Will cumulative impacts, preservation of park/open space, view corridors, low cost public access to the Harbor and project alternatives be evaluated upon the

1986 Public Works Plan or the proposed 1998 Plan? How will the decision-makers make a determination of CEQA compliance if the Harbor and consultant are currently aware that the 1986 Public Works Plan is out dated and already in the process of being significantly amended?

Additionally, is there a conflict of interest if the consultant prepares the proposed amendments (outlined in the conceptually approved 1998 Plan) to the Public Works Plan and then is charged with the task of evaluating the environmental impacts and compliance of their own work?

The District suggests that the Amendments to the Public Works Plan and related EIR should be completed first, then the EIR on the BISC should be evaluated on a current and approved Harbor Public Works Plan, rather the current outdated PWP.

- The NOP as presented lists four areas of "Potentially Significant Impact" based on the provided Project Description. These potentially significant impacts according to the NOP are aesthetics, biological resources, Land Use/Planning * (* Only due to public controversy) and Transportation.

  Aesthetics (Section I)-NOP states have a substantial effect on scenic vista? Answer-Potentially Significant unless mitigation incorporated. This response on the Environmental Checklist is incorrect. The 'Potentially Significant Impact' should be the response as the primary location will literally remove the scenic vista affecting thousands of visitors on Harbor Boulevard, hundreds of existing residents living in the community and thousands of boaters and live- aboards who use the Channel Islands Harbor. How does one mitigate the adverse effects of erecting a 19,000-sq. ft. two-story building (box) on existing view corridors, open space, parkland and low cost Harbor activities?

  It was pointed out at the 'Scoping' meeting that a view corridor off of Victoria was converted into a dry storage facility removing public parking and blocking access to another Harbor Park. This practice must stop until a new Harbor Master Plan is approved.

  The rational in the NOP argues that trees and mature landscaping already obstructs views in this view corridor proposed for the BISC. The rational is faulty, as these trees are narrow high palms or other high full growth trees. To any observer these trees enhance the view of the Harbor from the center stripe on Harbor Boulevard and Sunset Lane (resident and visitor vehicles) and from the park grounds (resident and Harbor visitors walking, jogging ot picnicking) adjacent to the Harbor. These view corridors are not impacted, as the NOP

narrative states; the mature trees and other landscape vegetation have enhanced the Harbor views.

Biological Resources (Section IV)-NOP grades this impact as "Potentially Significant Impact". We concur with this finding. The size, structure and proposed activities at the BISC will certainly significantly impact the biological resources in the Harbor. We are all aware of the Heron Rookeries where at least two species of Heron use the existing trees and landscaping to 'nest and rest' during most of each year.

Land Use and Planning (Section IX)-NOP grade is a qualified impact 'only due to public controversy'. However, section IX, page 9 of 13, of the Environmental Checklist for CEQA compliance grades the impact as 'less than significant'. The District believes this NOP grade minimizes the public controversy as well as the perceived and real conflicts with the proposed BISC location and the current Harbor PWP. The existing Harbor PWP identifies open space locations, view corridors, parkland and low cost public access areas for the Harbor. The proposed preferred BISC location would destroy these protected features of the Harbor PWP. We believe this NOP grade should be 'Potentially Significant Impact'.

We also believe that this issue, like many others, points out the difficulty of evaluating the BISC proposal with an out dated PWP. The existing 1986 plan, adopted with a great deal of public input and involvement, places high importance on open space, parkland, view corridors and low cost public Harbor access. The proposed 1998 Master Plan update, which is being prepared now, identifies little to none of these features.

- **Transportation/Traffic (Section XV, page 11 of 13)**-NOP grades this effect as 'Potentially Significant'. The District does concur with this finding; however, we do not believe the vehicle traffic is the only 'potentially significant impact'. We believe boater traffic congestion relating to this project and others already approved will cause 'significant impacts' to vessel traffic in the Harbor. Oxnard's approvals of the West Port and Seabridge developments and the proposed 1998 Master Plan Amendments, which will, with the BISC, add significant vessel traffic to the Harbor, the turning basin and Harbor entrance. The vessel traffic impacts are not adequately addressed in the BISC NOP. Note: If the traffic section was not considered for 'vessel traffic' then this issue should have been addressed in the Recreation Section XIV.)

Refer to Attachment I to review the correspondence between the County Harbor director and the City of Oxnard Planning staff concerning the proposed West Port and Seabridge Harbor Developments. The correspondence on May 18, 1999 concerns the boating adverse impacts of the West Port Development (Tentative Parcel Map 5196) on the Channel Islands Harbor and Harbor entrance (paragraph # 7, page 2). In a letter dated April 18, 2002 on the Supplemental EIR for West Port, the Harbor Director again describes the need to expand the Harbor entrance as a result of the increased boating traffic caused by this development (paragraph 6, page 2). In spite of the Harbor Directors efforts to have this significant issue addressed the West Port Development was approved and is currently under construction with all originally planned boating slips included.

On November 29, 1999, the Harbor Director wrote again to the City regarding a new proposed development known as Seabridge (Tentative Subdivision Map 5196) and her concerns relating to "boat congestion and safety". Please refer to paragraphs 26, 27, 28, 29, (pages 7 & 8) and 30, 31, 32, 33 and 34 (pages 9 & 10) for the concerns expressed concerning "boat congestion and safety" caused by the continued expansion and development of the Harbor's inland waterways. The issues expressed in this correspondence are substantive and must be considered by the BISC EIR preparer in the context of the BISC contributions to boating congestion and safety given its project goals and preferred location (turning basin and Harbor entrance).

- **Population/Housing (Section XII)**-NOP grades this element as 'less than significant'. The District disagrees with this finding in that boat docks with live-aboards will be displaced as a result of the BISC Project. In addition to the existing live-aboards that will be displaced, the adverse impacts to the remaining residences on the docks can be significant due to the boating activities at the BISC and the entertainment and social activities in the 'gathering center'. Noise, lights and traffic and people congestion at the BISC and 'gathering center' can adversely impact these remaining residents.

  These issues should have been considered in the NOP and a grade of 'Potentially Significant Impacts' should have been made.

- **Public Services (Section XIII)**-NOP grade is 'Less than significant'. The narrative justification does not consider the real cumulative impacts resulting from all the current and future development in the Harbor. The new Harbor Master Plan, West Port and Seabridge developments have already been discussed earlier. The real vessel traffic congestion and safety issues have been described in detail in the Harbor Director's communications with the

Oxnard Planning Department. It is reasonable to expect that with the increased boating congestion and safety issues that the addition of the BISC activities at this location (turning basin and Harbor entrance) will result in increased service levels for the Harbor Patrol, U.S. Coast Guard, Fire Departments and police agencies. This vessel congestion can also lead to increased emergency response times and other difficulties such as pollution issues for response agencies. The NOP should have identified this issue as 'Potentially Significant'.

- **Mandatory Findings of Significance (Section XVII)**-The BISC grading on the Environmental Checklist Section XVII is incorrect. We have discussed the impacts on biological resources earlier in this submittal. It is our opinion that part A of this section should be a 'Potentially Significant Impact'. Please refer to the earlier section. Part B states "*Does the project have impacts that are individually limited but cumulatively considerable'?* (Emphasis added) *("Cumulatively considerable" means that the incremental effects of other current projects and the effects of probable future projects).*

  As we have stated earlier, there are significant projects occurring and proposed in the Harbor that with this project, at its preferred location, that require the EIR preparer to analyze and consider. In addition to the proposed BISC, there is West Port and SeaBridge Developments, which expand the Harbor and significantly add boater and vehicle traffic in and around the Harbor. This has not been reviewed or considered in the BISC NOP.

  Additionally, there remains the issue of the new Harbor Master Plan that is currently being prepared. We have stated earlier that this process should occur first so the BISC can be reviewed in light of current County Harbor plans. Or does the consultant take the proposed 1998 Harbor Master Plan and review the cumulative impacts of the BISC as the new proposed Master Plan describes? Either way, the BISC EIR cannot ignore the new real and proposed development/land use plans for the Harbor.

- **Economic Impacts**-A few residents and boaters complained that the Banquet Center designed on the second floor would directly compete with existing private Banquet Facilities already existing in the Harbor. There was considerable dissatisfaction with the concept of government-subsidized facility specifically designed to compete with preexisting private operators.

  Additional financial concern is the fact that the County of Ventura has pledged up to $2,000,000.00 in matching funds for the project. Given the statewide budget crises and our own local budget short falls is it a good

decision to continue with the present plan and commit to this significant expense? We recommend the Board of Supervisors review this commitment in light of the current budget shortfalls and consider a BISC that is scaled down at a new more suitable location.

In summary, the BISC NOP is inadequate. Many adverse impacts of the BISC activities, structure and location are either not adequately addressed or the narrative justification is inaccurate or specious. It appears that the BISC NOP was prepared with the same strategy that the aborted Mitigated Negative Declaration was prepared. That is, construct the BISC NOP project description and environmental assumptions to support a predetermined outcome.

The District supports a reasonably sized BISC in the Harbor at an appropriate location that truly avoids and/or mitigates the real adverse environmental impacts of the present proposal given its size and preferred location. Locations on the West Side of the Harbor are arbitrarily out side the scope of real consideration because of the desired prevailing wind argument of the NOP. Testimony from experienced boaters, boating instructors and citizens researching locations of other sailing instruction centers have made it clear that with proper dock design the BISC can be successfully constructed and operated at numerous other locations in the Harbor. The only obstacle to a full an objective environmental review of these locations is the NOP Project Descriptions, assumptions and arguments that defy logic and reasonableness.

It is the District is hopeful that the Ventura County Board of Supervisors will take responsibility and direct that an open and fair evaluation of the BISC alternatives in the Harbor be conducted. Unfortunately, the BISC NOP is as flawed as the Mitigated Negative Declaration process was, and without appropriate intervention is headed for the same outcome. Only this time the public cost will be far greater.

We hope these comments and suggestions will contribute to a successful BISC in the Channel Islands Harbor. Should you have questions or require further information, please to not hesitate to contact our office.

Sincerely,

Bill Higgins
General Manager

C: Board of Directors
Board of Supervisors

California Coastal Commission
Department of Boating and Waterways

Attachment I-County concerns related to 'Vessel Congestion & Safety'

July 7, 2003 HAND DELIVERED

Lyn Krieger, Harbor Director
County of Ventura, Channel Islands Harbor
3900 Pelican Way
Oxnard, CA 93035-4367

SUBJECT: District Comments-BISC DEIR

Dear Lyn,

The Channel Islands Beach Community Services District (CIBCSD) is an Independent Special District organized pursuant to Community Services District Law of the State of California, as amended, with authority under Government Code, Section 61000 *et. Seq.* The District's major utility operations include the provision of water, sewer, trash and Community Services to the subdivisions of Silver Strand Beach, Hollywood-by-the Sea and Hollywood Beach. The District also provides water services to the Channel Islands Harbor and sewer services to the City of Oxnard in the Harbor area.

We are presenting the following comments on Proposed Boating Instruction and Safety Center (BISC) Draft Environmental Impact Report (DEIR), dated May 14, 2003, as prepared by the Planning Consultants, Culbertson, Adams & Associates.

Before offering our agency's specific comments on the BISC DEIR, we would like to make the following observations.

- On Tuesday, June 24, 2003, the Ventura County Board of Supervisors took this matter up for discussion (Agenda Item # 59) and review. The final outcome of the meeting was a decision by the Board that the BISC DEIR was not sufficient in its present form and directed that an amendment to the document was necessary. The amendment will be a new addendum to the BISC DEIR that more adequately evaluates the potential BISC site locations on the East Side of the Harbor. The Board of Supervisors also provided an additional week for public comment.

  To date, this agency has not received any official notice regarding the new due date for the close of public comment. It is also not possible for this agency to evaluate the BISC DEIR, as the document is incomplete without the new addendum and study of the alternative East Side locations. Public requests to extend the public comment period for a period of at least 30 days were denied.

We offer the following comments on the BISC DEIR as issued on May 14, 2003.

- The 45 day public comment period on this large, complicated and technical document is an insufficient amount of time for this agency and the general public to give adequate review and study in order to provide informed thorough comments to the decision making body. The BISC DEIR does not properly evaluate the alternative sites while offering 'extensive and controversial mitigations' to justify the preferred park site on the West Side of the Harbor. Please refer to our communication to the Board of Supervisors dated June 9, 2003 (attached).

- The BISC DEIR does not adequately evaluate the cumulative impacts of boating traffic in the West Channel, the turning basin or the Harbor entrance. Such an evaluation must include impacts of the proposed project as well as cumulative impacts of existing and known future impacts to these waterways. Additional cumulative impacts include boat traffic originating from Mandalay Bay, SeaBridge Development, the West Port Development and modifications to the Channel Islands Marina. Please refer to our comments on this project in our letter dated February 7, 2003 (attached).

  While this February 7th letter was printed in the BISC DEIR (Volume 2-Technical Appendices) the attachments were omitted. These attachments address the real concerns about adverse impacts to boating traffic as described by the Ventura County Harbor Department concerning the now approved Seabridge and West Port Developments. These attachments should be included in the EIR for this project so the public and the decision makers may review all of the relevant information prior to final certification of the DEIR. Additionally, the preparers of the BISC DEIR completely discards these issues by stating that these issues are addressed in the Seabridge and West Port EIR's. We believe this is not an adequate response as it relates to the proposed BISC and either specific mitigations should be included or a finding of 'Potentially Significant Impact" must be made.

- In our February 7, 2003 submittal we also address Aesthetics, Biological Resources, Population and Housing, Public Services and Economic Impacts. The responses, mitigations and findings in the BISC DEIR are inadequate and are merely designed to promulgate a predetermined outcome for the BISC 'preferred location'.

- BISC DEIR (Volume 1), Section 5.4, Geology and Soils & Appendix H (Volume 2) Geological Assessment-It appears that the Environmental Checklist for CEQA Compliance finding of 'Less than Significant Impact' is inconsistent with the Environmental Settings and Mitigations Measures Section of the DEIR.

Specifically, Section 5.4.5 Level of Significance after Mitigation states " All project impacts are reduced to a level of significance by implementation of mitigation measures".

Section 5.4.4 Mitigation Measures lists mitigations MM20 through MM26. Mitigation MM24 states that 'Prior to the initiation of project grading, all existing utilities shall be located and abandoned and removed, rerouted or protected'. It is unclear what this mitigation measure means.

The Geotechnical Engineering Study (appendix H, pages 8 through 12), dated January 10, 2002, states that 'The Results of our field exploration and laboratory testing programs indicate that the subject site meets all the above-mentioned conditions for being susceptible for liquefaction'... page 8- 'Liquefaction related or liquefaction phenomena include lateral spreading, ground oscillation, flow failure, reduction of bearing strength, ground fissuring and sand boils'...page 12- 'All underground plumbing fixtures should be absolutely leak free. As part of the maintenance program, utility lines should be checked for leaks for early detection of water infiltrating the soils that could cause detrimental soil movements'...page 12-' Drainage systems should be well maintained, and care should be taken to not over or under irrigate the site. Landscape watering should be held to a minimum while maintaining uniformly moist condition without allowing the soil to dry out. During extreme hot and dry periods, adequate watering may be necessary to keep soil from separating or pulling back from the foundations. Cracks in paved surfaces should be sealed to limit infiltration of surface waters'.

These Geotechnical findings are of great concern to this District. It appears that water, both surface run off and underground, is a real threat to this facility. As a water purveyor we are very concerned about liability issues. Given the findings in this report if the Harbor Department proceeds with this project we will seek indemnification or 'hold harmless agreement' from the County of Ventura. No water purveyor can guarantee a total leak free system at all times. We recommend either a drastic redesign of the facility (smaller) or that a different more suitable location is found.

Additionally, on page 11 of the Geotechnical Engineering Study reads, "The risk of damage to the proposed structure due to a large earthquake cannot be totally eliminated, and obtaining appropriate insurance as a mitigation measure is strongly recommended". No such mitigation measure can be found in the BISC DEIR. We question whether such insurance is available, particularly given the vulnerabilities of this facility at this location as detailed in the Geotechnical Engineering Study.

- The Geotechnical Engineering Study qualifies its conclusions and recommendations with the statement on page 8, 'The scope of this Geotechnical study did not include environmental issues or soil corrosively". We believe that these components should have been included since the study purpose was for a CEQA environmental compliance review.

In Summary, the Channel Islands Community Services District has provided comments and suggestions at each step of Boating Instruction and Safety Centers (BISC) review process. Based on overwhelming public sentiment and our own investigation of the project we believe that the 'preferred site' is wrong for the Harbor, wrong for this community, wrong for boating students and wrong for the residents of Ventura County. This proposed project is not consistent with the County's Public Works Plan for the Harbor or the City of Oxnard's approved Local Coastal Plan (LCP) which includes the Channel Islands Harbor.

The record on this project will demonstrate that all of the studies and environmental review processes have been managed by Harbor staff to achieve a predetermined outcome. Evidence of the point of decision by the Harbor on this site is found in the invitation mailed out by the Channel Islands Harbor Foundation for individuals to attend a special ceremony held on June 28, 2001. The Invitation reads, *"You are cordially invited to the unveiling of the sign designating the future site of the long awaited Boating Instruction and Safety Center. When: June 28, 2001 at 10:30 a.m. Where: Adjacent to the Port Royal Restaurant on the west side of the Harbor.*

It appears that the person(s) who selected this site for the BISC, prior to any Environmental consideration, has made sure that the BISC Mitigated Negative Declaration and the BISC DIER arrived at the same decision three years later. We urge the Board of Supervisors to take action to save this valuable project and direct the appropriate County Department to identify viable site for the BISC location that is consistent with the adopted Public Works Plan and avoids the extreme public controversy that the current process has created.

Thank you in advance of your consideration.

Sincerely,

Bill Higgins
General Manager

C: CIBCSD, Board of Directors

Attachments: District Correspondence Re: BISC, dated June 9 & February 7, 2003
(w/ attachments)

November 20, 2003 HAND DELIVERED

Lyn Krieger, Harbor Director
County of Ventura, Channel Islands Harbor
3900 Pelican Way
Oxnard, CA 93035-4367

SUBJECT: District Comments-Responses to Comments (RTC) for the BISC DEIR dated November 7, 2003

Dear Lyn,

The following comments represent the position of the Channel Islands Beach CSD (CIBCSD) Board of Directors relating to the Response to Comments (RTC) on the BISC DEIR dated November 7, 2003. The District Board has presented six comment letters, dated May 19, June 9, July 7, July 9, February 7 and October 28, 2003. Culbertson, Adams & Associates, Inc prepared the RTC. The District does not believe that the preparer of the RTC was factually responsive to our issues raised in these six communications on the BISC DEIR. We are satisfied that are positions are stated on the record.

After review of the findings in the BISC DEIR, the Draft Recirculated EIR (Selected Sections) and the RTC it appears that the CEQA review has identified three acceptable alternative sites for the Boating Instruction & Safety Center in the Channel Islands Harbor. These sites include:

- Site # 2 (Alternative design 6.2B-West Side of Harbor)
- Site # 7 (Old Boat Launch Ramp-East Side of Harbor)
- Cisco's Site-East Side of the Harbor.

According to the DEIR preparer, each of these sites are environmentally acceptable with specific mitigations. While the District Board does not agree with the EIR preparer's findings and recommendations for site # 2 (Design 6.2B), we believe the additional review of East Side locations, ordered by the Ventura County Board of Supervisors, has identified two additional environmentally acceptable locations for the BISC in the Channel Islands Harbor. Each of these sites, in addition to meeting the CEQA requirements, enjoys overwhelming public support.

It has been stated in the public testimony that the Cisco's location, already under County ownership, may not require a Harbor Public Works Plan amendment. If this is true, then the ERRC can assist the Board of Supervisors in protecting the time sensitive deadlines with the State funding agencies by including these east side locations in your findings and

recommendations to the Board.

In the District's letter dated July 7, 2003, we raised certain specific concerns relative to the Geological Assessment (Appendix H-BICS DEIR) relative to site # 2 (Harbor Preferred Site). While we do not believe the RTC adequately addresses our concerns relative to the recommendations made by the preparer of the Geological Assessment we wish to restate our concerns relative to the reconfigured position of the BISC (Design 6.2B).

While the maps intended to depict this reconfiguration (Exhibits 48 and 49, Pages 287 and 288) are without dimensions it appears that by turning the proposed BISC 90 degrees the foot print of the building foundation will require a relocation of the water main in that area. The DEIR Section 5.4.4 Mitigation Measures lists mitigations MM20 through MM26. Mitigation MM24 states that 'Prior to the initiation of project grading, all existing utilities shall be located and abandoned and removed, rerouted or protected'. (District letter RE: BISC DEIR dated July 7, 2003, page 3) We now believe that alternative design 6.2B will require the relocation of the District's water main at this location.

Having stated this for the record, the District Board strongly urges the members of the Ventura County ERRC, if the BISC DEIR is to be recommended for certification, that your body recommend three alternative sites as meeting CEQA compliance requirements. The District further recommends that the sites be listed in priority order as follows:

- Cisco's Site-East Side of the Harbor. (Least mitigations, public support and possibly no PWP Amendment)
- Site # 7 (Old Boat Launch Ramp-East Side of Harbor)-(Less mitigations, public support and possible PWP Amendment)
- Site # 2 (Alternative design 6.2B-West Side of Harbor)-(Extensive/Costly mitigations, no public support/extreme public opposition, possible non-compliance with the adopted PWP and possible Coastal Commission Denial)

On behalf of the Board of Directors of the Channel Islands CSD, we thank the ERRC Committee members for the opportunity to provide these comments and recommendations.

Sincerely,

Bill Higgins
General Manager

C: Board of Supervisors

February 5, 2004

Gary Timm, District Manager
California Coastal Commission
89 California Street
Ventura, CA 93001

SUBJECT: Notice of Impending Development (NOID) for Channel Islands Harbor Boating Instruction & Safety Center (BISC)

Dear Mr. Timm,

On behalf of the Channel Islands Beach Community Services District (CIBCSD) Board of Directors, I am writing to inform you of our District's position on the proposed NOID referenced above and dated January 21, 2004.

The Channel Islands Beach Community Services District (CIBCSD) is an Independent Special District organized pursuant to Community Services District Law of the State of California, as amended, with authority under Government Code, Section 61000 *et. Seq.* The District's major utility operations include the provision of water, sewer, trash and Community Services to the subdivisions of Silver Strand Beach, Hollywood-by-the Sea and Hollywood Beach. The District also provides water services to the Channel Islands Harbor and sewer services to the City of Oxnard in the Harbor area.

Over the past two years our District Board has held numerous public meetings on the BISC Project and has participated in all of the public hearings relating to the preparation of the BISC Mitigated Negative Declaration and ultimately the BISC Environmental Impact Report (EIR). Our Board of Directors and staff is very familiar with the BISC project as are hundreds of local residents.

The CIBCSD Board of Directors has always been supportive of a Boating Instruction & Safety Center in the Channel Islands Harbor. However, the location for the facility has caused extreme public controversy because of the loss of view corridors, parkland, bird rookeries, recreational boating slips and low cost public access to the harbor. It is our view, that the site selected as described in the NOID was predetermined by the County Harbor Department. We believe the EIR and site selection process was flawed and that this determination will be sustained in courts.

The District Board of Directors strongly feels that this project is not eligible for Coastal Commission approval using the NOID process because the BISC is not described in the adopted Public Works Plan (PWP) for the Channel Islands Harbor in its proposed location. This project, as described in the NOID, can only be approved by the Commission through the successful preparation of a Public Works Plan Amendment by the County of Ventura.

The BISC Project, as proposed, will also violate Section 30234 of the Coastal Act, as it requires the removal of existing recreational boating slips located on F dock in the Channel Islands Harbor. No additional slips to replace those lost because of this project location are planned with the project. Some of the F dock slips provide low cost affordable housing for live-aboards currently in residence at the location. No mention of these negative impacts, which contradicts the Coastal Act, is made in the NOID.

Additionally, the County of Ventura has already retained an environmental consulting firm to prepare a new Public Works Plan for the Channel Islands Harbor. This contract calls for preparation of an EIR that meets CEQA requirements. The new draft Public Works Plan was due to be released to the public some months ago. Since the current BISC Project is not described or was it anticipated in the 1986 approved Public Works Plan it would appear that the Coastal Commission would be prudent to either require a specific PWP Amendment for the BISC or require that the BISC Project be included in the new Harbor PWP that is due for public release at this time.

Finally, we ask that you give special consideration to the submittals on this project of the Environmental Defense Center and The Beacon Foundation. Thank you for your consideration of these comments. I am available to discuss our positions at your convenience.

Sincerely,

Bill Higgins
General Manager

C: CIBCSD Board of Directors

October 18, 2004

The Honorable John K. Flynn
Supervisor Fifth District
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

HAND DELIVERED

Subject: Comments on the Channel Islands Harbor Public Works Plan Amendment

Dear Supervisor Flynn and Members of the Board of Supervisors,

At a special Community Forum held October 16, 2004 the Channel Islands Beach Community Services District Board of Directors voted unanimously, to comment on Item 33 scheduled for consideration at the County Board of Supervisors meeting October 19, 2004.

As you are aware, the Channel Islands Beach Community Services District and the Channel Islands Beach community, in general, have been ardent supporters of a Boating Instruction and Safety Center for the Channel Islands Harbor. Our concerns and protestations have been directed at the process implemented by the County's Harbor Department to site the proposed facility.

As the only local government agency representing only the residents and landowners of the Channel Islands Beach Community we have been consistently disappointed that our agency has not been pro-actively consulted during the 6 years of the project process. We have, however, had to aggressively seek information on the progress of the project to allow timely comment at each stage of project consideration.

While the purported goal of the Amendment is to simply add the Boating Instruction and Safety Center to the County's Local Coastal Plan, it additionally doubles the footage on the east side of the Harbor for Commercial Sport Fishing usage (precluding future consideration of the community favored site of the Boating Instruction and Safety Center), significantly reduces view corridor protections, eliminates the finding from the 1986 plan that the Harbor is "built out,' and changes the existing use definition of the proposed Boating Instruction and Safety Center site from public park to turf. The currently proposed Public Works Plan Amendment to the Channel Islands Harbor is simply another attempt to circumvent the local public consensus regarding the project.

Increasing the Commercial Sport Fishing usage are of the Harbor at a time of dramatic reduction in commercial sport fishing seems disingenuous when it will also have the effect of eliminating the local communities choice for the Boating Instruction and Safety Center site.

Differentiating between the 'Basins' and Harbor as has not been done in the past. This new distinction seems to lead to the conclusion that the Harbor is in for more development proposals. Since this is a change from the 1986 Plan findings, the growth inducing impacts should be addressed in the EIR. Also by making this differentiation, the protected view corridors of the Harbor may be reduced. The aesthetic impact of this reduction on the entire Harbor area should be considered in the EIR.

Finally, changing the description of the existing usage of the proposed Boating Instruction and Safety Center site from Public Park to turf is inconsistent with the historic analysis. The EIR should be amended to include an adequate analysis of the impacts of the proposed site on recreational activities. The limited visits by the consultant does not seem adequate to develop a realistic picture of the existing use and the impacts on the lost park area.

The Channel Islands Beach Community Services District respectfully, requests that you and the other Supervisors reject this further imposition of an improperly processed community project and Direct your staff to consider the most appropriate location for the Boating Instruction and Safety Center, the original Site 7 on the east side of the Harbor. At a minimum, the EIR should be revised to include accurate and adequate analysis of the proposed scope of the Boating Instruction and Safety Center project.

Sincerely,

Ellen Spiegel
Vice-President
Channel Islands Beach Community Services District

Attachments:

October 8, 2007 **Item W11 a & b**

California Coastal Commission
Patrick Kruer, Chairman and Members

Subject: Channel Islands Beach Community Services District (CIBCSD) comments for the October 10, 2007 Hearing on **Items W 11 a & b of the California Coastal Commission Agenda**, to be included in the record.

Dear Chairman Kruer and Members:

The Channel Islands Beach Community Services District (CIBCSD) is an Independent Special District formed under California Government Code *61000* and incorporated in 1982. The core functions of the CIBCSD as defined by LAFCO are to provide water, collection and transport of wastewater, solid waste collection and provide a public forum for residents and property owners in the District to hear and discuss local issues.

The District has been an active participant in the public review process associated with the Boating Instruction Safety Center and any revisions to the Channel Islands Harbor PWP. Both written and verbal testimony has been submitted by the District at previous CCC hearings on the BISC and the necessary PWP amendments. The District wishes to express our concerns with the "process" or lack of process for adequate public review of the current resubmission on the BISC and PWP. As recently as September 17, 2007 at a Special Board Meeting of the CIBCSD Channel Islands Harbor Director, Lyn Krieger stated that she was unaware of the hearing date nor did she believe Coastal Commission staff would be bringing this back in October. The CCC staffs report covering the BISC resubmission was made available to the public September 28' 2007 with a public hearing scheduled for October 10, 2007, providing only a 12 day window of opportunity for public review and comment. For unknown reasons the hearing and accompanying documentation scheduled for October 10, 2007 were not noticed by the CCC to the District nor the public at large. Furthermore, it is our understanding that the recent judgment, in the lawsuit against the California Coastal Commission (CCC), reversed the CCC's approval of the BISC. The judgment cited that a new study of alternative sites is required and that cumulative impacts were to be included in the requirements for the County of Ventura to resubmit the proposal to the CCC. If this review has been done per the order of the court it hardly seems reasonable to only allow a 12 day window of review for the public to fully digest and comment on what can be technically involved evaluations on the part of CCC staff.

Given the brief comment period, lack of notice as required and lack of time for proper review the Channel Islands Beach Board of Directors respectfully request a continuance regarding the CCC's discussion of this matter and are officially requesting that any and all future discussions of the CCC of this matter be duly noticed to this Agency.

Sincerely,

Marcia Marcus,
Board President

CHANNEL ISLANDS BEACH
COMMUNITY SERVICES DISTRICT

Board of Directors:

MARCIA MARCUS, President
JONATHAN ZIV, Vice-President
SUSAN KOESTERER, Director
KEITH MOORE, Director
ELLEN SPIEGEL, Director

JARED BOUCHARD
General Manager

353 Santa Monica Drive • Channel Islands Beach, CA 93035-4473 • (805) 985-6021 • FAX (805) 985-7156
A PUBLIC ENTITY SERVING CHANNEL ISLANDS BEACHES AND HARBOR / CHANNELISLANDSBEACHCSD.COM

October 8, 2007 **Item W11 a & b**

California Coastal Commission
Patrick Kruer, Chairman and Members

Subject: Channel Islands Beach Community Services District (CIBCSD) comments for the October 10, 2007 Hearing on **Items W 11 a & b of the California Coastal Commission Agenda**, to be included in the record.

Dear Chairman Kruer and Members:

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The District has been an active participant in the public review process associated with the Boating Instruction Safety Center and any revisions to the Channel Islands Harbor PWP. Both written and verbal testimony has been submitted by the District at previous CCC hearings on the BISC and the necessary PWP amendments. The District wishes to express our concerns with the "process" or lack of process for adequate public review of the current resubmission on the BISC and PWP. As recently as September 17, 2007 at a Special Board Meeting of the CIBCSD Channel Islands Harbor Director, Lyn Krieger stated that she was unaware of the hearing date nor did she believe Coastal Commission staff would be bringing this back in October. The CCC staffs report covering the BISC resubmission was made available to the public September 28, 2007 with a public hearing scheduled for October 10, 2007, providing only a 12 day window of opportunity for public review and comment. For unknown reasons the hearing and accompanying documentation scheduled for October 10, 2007 were not noticed by the CCC to the District nor the public at large. Furthermore, it is our understanding that the recent judgment, in the lawsuit against the California Coastal Commission (CCC), reversed the CCC's approval of the BISC. The judgment cited that a new study of alternative sites is required and that cumulative impacts were to be included in the requirements for the County of Ventura to resubmit the proposal to the CCC. If this review has been done per the order of the court it hardly seems reasonable to only allow a 12 day window of review for the public to fully digest and comment on what can be technically involved evaluations on the part of CCC staff.

Given the brief comment period, lack of notice as required and lack of time for proper review the Channel Islands Beach Board of Directors respectfully request a continuance regarding the CCC's discussion of this matter and are officially requesting that any and all future discussions of the CCC of this matter be duly noticed to this Agency.

Sincerely,

Marcia Marcus

Marcia Marcus,
Board President

RECEIVED
OCT 1 0 2007
CALIFORNIA
COASTAL COMMISSION

Gary Timm

From: prestonohpres@aol.com
Sent: Wednesday, January 16, 2008 8:29 AM
To: Gary Timm
Subject: Channel Island Harbor BISC project

Gary, I request that the CCC meeting for the BISC be tabled until the meeting in Santa Barbara. It is unlikely that many of the interested parties can or will travel to San Diego for the next scheduled meeting. We are in the Santa Barbara area much more than San Diego and it would seem reasonable and prudent to hold the hearing on the BISC in Santa Barbara instead. Thank you. Preston Davis

---

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Exhibit 18
PWPA 1-04, NOID 1-05
Misc. Letters

Gary Timm

From: Arthur Marcotte [windycottage@roadrunner.com]
Sent: Tuesday, January 15, 2008 10:49 AM
To: Gary Timm
Subject: Coastal Commission Hearing

Dear Gary,

I am writing to request that the scheduled hearing regarding the BISC in Ventura County be postponed to the following Coastal Commission meeting in Santa Barbara.

As a resident of Channel Islands Beach, I would appreciate the opportunity to attend and that attendance is a hardship when the hearing is held in San Diego.

Thank you,

Arthur and Holly Marcotte
3621 Ocean Dr.
Channel Islands Beach, CA
93035

Gary Timm

From: Tom and Amy Land [landahoy@adelphia.net]

Sent: Tuesday, January 15, 2008 7:47 AM

To: Gary Timm

Subject: Channel Islands Harbor

Dear Gary,

I would like to ask you to reschedule your hearing on the BISC until April. Many of us in Ventura County would like to attend and Santa Barbara is a much closer venue for us. Also, I think this will give you and your staff a chance to look at our Heron Rookery more closely in consideration of declaring it ESHA.

I thank you, and our community thanks you.
Sincerely,
Tom Land
3444 Ocean Dr, Oxnard, CA
805 985 1871

MEMBERS OF THE BOARD
LINDA PARKS
Chair

STEVE BENNETT
KATHY I. LONG
PETER C. FOY
JOHN K. FLYNN

JOHN K. FLYNN
SUPERVISOR, FIFTH DISTRICT
(805) 487-6331
FAX NO. (805) 487-7692
E-Mail: john.flynn@ventura.org

BOARD OF SUPERVISORS
COUNTY OF VENTURA

800 SOUTH VICTORIA AVENUE, L#5239, VENTURA, CALIFORNIA 93009 (Mailing Address)
2900 SOUTH SAVIERS ROAD, 2nd FLOOR, OXNARD, CALIFORNIA 93033 (Location Address)

October 8, 2007

California Coastal Commission
Deputy Director John Ainsworth
Chairman Patrick Kruer
Coastal Commissioners
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

RE: W11a & 11b (BISC)

Dear Deputy Director Ainsworth, Chairman Kruer and Coastal Commissioners:

I have represented the Channel Islands Harbor area of Ventura County for more than thirty years. I am also a former member of the California Coastal Commission.

The re-submittal of the BISC project to the Commission has not been publicly considered by the County Board of Supervisors. Had it been, there would have been an opportunity for public discussion and participation.

As it was the Coastal Commission staff report was made public Friday September 28, a scant 11 days before it was to be heard by the Commission on October 10.

The re-submittal staff report lacks adequate consideration of several alternative sites including the Cisco site on the east side of the harbor.

I suggest that the Commission postpone consideration of this item and that the Commission call for further analysis of alternatives and the opportunity for more public participation and input in the matter.

Sincerely,

JOHN K. FLYNN
Member, Board of Supervisors

Recycled Paper

LA HERMANDAD
HANK LACAYO YOUTH & FAMILY CENTER
520 West 5th Street, Suite D
Oxnard, Calif. 93030
(805) 483-4620 *** Fax (805) 483-4625

RECEIVED
OCT 1 0 2007
CALIFORNIA
COASTAL COMMISSION

October 9, 2007

Dear Costal Commission,

I have recently been informed of the voting on the Boating Instruction Safety Center. We feel the information regarding this vote has not been dispersed to us or the public in an acceptable amount of time.

We would recommend that the vote be delayed to another date that allows the public to make a well informed decision. The placement of this building is important and will affect the community; therefore we ask that the affected community have its deserved voice in the matter.

Thank you for your time and understanding.

Sincerely,

Alicia Flores

Alicia Flores
La Hermandad

Gloria Roman and William "Bill" Terry
250 Pleasant Valley Rd. #47
Oxnard, Ca. 93033
805-488-0422
10/09/07

RECEIVED
OCT 1 0 2007
CALIFORNIA
COASTAL COMMISSION

Honorable Coastal Commissioners

We ask that the Commission denies certification of the Channel Islands Harbor Public Works Plan Amendment 1-04 and adopts the findings stated below on the grounds that The Amendment does not conform with the certified Local Coastal Program for the City of Oxnard. Certification of the Amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or feasible mitigation measures or alternatives that would substantially lessen the significant adverse effects that the approval of the Amendment] would have on the environment.

This is a case of **Environmental Justices**, the City of Oxnard has a disproportional Population that is below the Poverty Line, in that group are a disproportional number of people of Color.

The City of Oxnard has a low ratio of park space, and taking existing Park Space that we use for Family Outings and build a facility that in fact will exclude us is morally wrong.
If a privileged few would insist on building this facility, you should put it on the East side of the Channel and leave the Public Park, beside the Channel for us and the rest of the Public.

Hopefully Yours

Gloria Roman

William "Bill" Terry

California Coastal Commission
89 S. California St., 2nd Floor
Ventura, CA. 93001

RECEIVED
OCT 0 4 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

October 2, 2007

Dear Coastal Commission,

I am writing in regards to (1) Proposed Major Amendment (1-04) to the Channel Islands Harbor Public Works Plan and (2) Notice to Impending Development (1-05), Pursuant to the Channel Islands Harbor certified Public Works Plan (PWP) as amended by the proposed PWP amendment 1-04 referenced above.

In the past the commission has done an excellent job preserving and protecting the California Coast. I have complete faith that everyone staff member who works for the commission is there because they genuinely care about the coastal habitat and want to help make it possible for the average person or family to enjoy its' beauty in the many years to come.

The above items concern me for several reasons but I just want to mention my top three concerns.

Concern 1: Yes, the harbor is old and things need replaces but it seems like the average boater will be pushed out to make room for huge high-end clientele.

Concern 2: There are native birds who habitat in the area. Has a bird expert on the staff studied the harbor and reported on the effects this project will have on the coastal habitat?

Concern 3: Has any new study or documentation been found since the commission was sued by the Habitat for Hollywood Beach?

Please care and possibly grant a continuance so that accurate and current information can be gathered before making a decision.

Thank you,

Patricia Einstein

Patricia Einstein
2014 Long Cove Dr
Oxnard, CA. 93036

W 11a + 11b

Gary Timm

From: STEPHEN CORVI [stephencorvi@msn.com]

Sent: Tuesday, September 18, 2007 11:14 PM

To: Gary Timm

Cc: Jonathan Ziv

Do not take our last bit of green belt, the heron rookery and why do we need a 20,000 sq foot building with so much empty space in our harbor. The idiot that is running the harbor has done enough damage. She needs to go.
stephen corvi
3461 ocean dr
oxnard, ca

W 1/a + 1/b

Gary Timm

From: Christopher Connolly [cdc4460@yahoo.com]
Sent: Wednesday, September 19, 2007 7:12 AM
To: Gary Timm
Subject: RE: Channel Islands Marina (BISC)

Hi Gary,

After driving around the Channel Islands Marina it sure makes sense to **locate the BISC on the East side of the harbor!**

The location should be the best location....not another example of poor planning.

Sincerely,

Chris Connolly

Luggage? GPS? Comic books?
Check out fitting gifts for grads at Yahoo! Search.

W 11a + 11b

Gary Timm

From: Debra Shay [debra.shay@gmail.com]
Sent: Wednesday, September 19, 2007 9:00 AM
To: Gary Timm
Subject: BISC

Dear Mr Timm:

We are very discouraged and outraged that the County of Ventura would apparently apply enough pressure to the Coastal Commission to try to reapprove the BISC on the West side of the Channel Islands Harbor. The meeting for this review has been called in short notice it appears someone is trying to slip something by the residents of the Channel Islands Harbor and others who do not want the BISC on the West Side.

We have enormous concerns and knowledge about the environmental impact as we live across the street from where the BISC is to be built . We have watched the County illegally cut the trees where the heron rookery resides, spray the areas and use other methods to rid the herons of this site. Of course when we called the county they would come out to view in a day or two and nothing visibly was going on.

We also have huge concerns about the impacts to coastal access this project represents. We strongly ask for your support in requiring the County of Ventura to have new studies of alternatives, cumulative impacts researched.

Thank you

Debra and Jon Shay
3425 Sunset Lane
Oxnard, CA 93035
805-984-1960

W 11a + 11b

Gary Timm

From: Mann, Jackie [jmann@amgen.com]
Sent: Wednesday, September 19, 2007 9:59 AM
To: Gary Timm
Cc: Jonathan Ziv
Subject: the boating center

Mr. Gary Timm, please don't allow the boating center to be built on the west side of the Channel Island Harbor. Right now the spot is a lovely peaceful place with grass and trees. Help us not to lose that.

Please, whatever you can do will be very appreciated.

Jackie Mann
Amgen Global Safety
805-313-8608 office
805-479-6313 cell

W 11a + 11b

Gary Timm

From: Poulson, Peter B. @ Ventura [Peter.Poulson@cbre.com]

Sent: Wednesday, September 19, 2007 10:00 AM

To: Gary Timm

Subject: BISC

It is hard to conceive the arrogance that it takes to defy the will of the taxpayer and try once again to cram the BiSC down our throats with no hearings,no EIR and no common sense.The west side location is dangerous to the supposed students and a hazard to navigation for those passing by.Plus,very limited parkland will be removed and replaced with another oversized county eyesore despite other vacant buildings in the harbor.Please represent the people and not those living off the taxpayer.Thank you for your consideration.

Peter B. Poulson | Senior Vice President
CB Richard Ellis | Industrial Properties
771 E. Daily Drive, Suite 300 | Camarillo, CA 93010
T 805 465 1635 | F 805 465 1665
peter.poulson@cbre.com| Ventura

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W 11a+11b

Gary Timm

From: Lauraine Effress [sparerib@roadrunner.com]
Sent: Wednesday, September 19, 2007 10:03 AM
To: Gary Timm
Subject: Stunned

Dear Mr. Timm:

I MUST ASSUME that what I am hearing about how the Coastal Commission and the County of Ventura's plan to address the judge's order on the Habitat for Hollywood Beach suit on the BISC in Channel Islands Harbor is incorrect. What I am hearing is that the Coastal Commission plans to allow the county to address the judge's finding that the EIR was deficient in how it addressed cumulative impacts and alternative locations by merely changing some language. THIS CANNOT BE CORRECT. This would not only be a miscarriage of justice after a long and expensive (for the taxpayer and the donors) legal proceeding, but a travesty from the highly regarded Coastal Commission.

When this process for the BISC began, Seabridge on Victoria Ave was only in the planning stages. Westport and White Sails were already well into construction. These three developments are complete, almost fully occupied and the new marina is complete as well. The slips are in place and soon the boats will be there as well. Who knows how many boats this will add, what size they will be or how long it will take to fill all the slips. Northshore at Mandalay Bay, in the planning stages for the last 10 years, is also well underway. Grading and removal of oil waste have been in progress for many months.

Councilman Tim Flynn of the Oxnard City Council has helped draft a traffic initiative for the city of Oxnard to appear on the June ballot. This initiative specifically addresses the additional traffic in Oxnard as a result of the above-named developments and many others. Gonzales Rd. and Victoria Ave, both of which are roads that were cited in the BISC EIR as recipients of additional traffic for cars and other vehicles headed for the BISC are two of the roads most impacted by the additional developments. Fifth St. between Victoria aVe. and Ventura Rd. is another road likely to carry BISC traffic from downtown Oxnard. A new development is going up there as I write on top of a very large tract that was erected between between Fifth and Wooley behind Patterson Rd. Many of BISC-directed vehicles will be vans, buses from organizations such as the Boys and Girls clubs or trailer hitches carrying boats. The intersection of Channel Islands Blvd. and Victoria Ave. is now below a D level. Two additional traffic lights have been added to Victoria to accommodate Seabridge. A large commercial shopping center with a new Vons is is proving a magnet as noted above. Another plaza with additional stores is about is 1/3 built.

I was gathering signatures for above referenced traffic initiative last weekend and

was besieged with people asking, "where do I sign?" The people of Oxnard are furious at the amount of additional traffic all these developments have generated and yet the Coastal Commission, if what I heard is true, seems to be in a state of denial. You can corroborate what I have told you about this traffic initiative by calling the office of Councilman Tim Flynn. In addition, asking the shoppers at the new Vons if they were from Oxnard yielded some interesting information. Many of the shoppers were from Ventura and told me this supermarket is better than the ones in Ventura and so they come over here--something none of us anticipated. Port Hueneme is has also expanded putting additional pressure on Victoria Ave. and Silver STrand Beach. One would have to be blind and deaf not to see the congestion that these large developments have added to the local streets. We also now have two large, new marine stores, one in the expanded portion of the Ralph's shopping center on Channel Islands Blvd. just east of Victoria and one that replaced the old Vons on Channel Islands Blvd. near Victoria Ave. These stores would likely not have opened to compete with the chandleries we already have in the harbor if they did not anticipate that the number of boats and sailors to be accommodated would not yield their businesses sufficient revenue. Perhaps they know something you do not. Perhaps they would share their market research. This would be an interesting addition to our information on the likely number of boats in the Channel Islands Harbor in the coming year(s.)

The Channel Islands Harbor is about to experience boat congestion analogous to the street congestion we are seeing. Please take some time to drive around and see what has been built since we started this BISC process. How can the Coastal Commission even consider not requiring the CUMULATIVE IMPACTS of these boats on the channels and the cumulative impacts of the additional traffic as the subject of additional studies?

This is no longer a maybe. The developments have arrived. More are in the planning stages. The Coastal Commission MUST TAKE THIS INTO CONSIDERATION. Thank you, Lauraine Effress, 2831 Harbor Blvd, Oxnard, CA 93035. (805-985-6472)

9/19/2007

W 11a + 11b

Gary Timm

From: Alan Paul [allegrasail@yahoo.com]
Sent: Wednesday, September 19, 2007 11:27 AM
To: Gary Timm
Subject: Channel Island Harbor Boating Facility

Dear Mr. Timm,

I am very disappointed to hear that the Boating instruction facility (BISC) seems to be plowing forward in spite of a court order requesting a more balanced investigation of the siting possibilities. In my view the presently proposed west side location is highly objectionable for the following reasons:

1. The location forces novice boaters to cross the path of the vast majority of fishing, tour, and pleasure boats in the marina. Most of the boats are upward of 35 feet and have somewhat limited maneuverability in the narrow channel. The seabridge and Westport housing developments have recently added a huge number of new boat slips which are not yet fully completed or occupied. All of these new boats will enter and exit directly in front of and downwind of the proposed facility. I believe this is a very unsafe location for a boat instruction facility.

2. I am a long time sailor and see no logic in placing the facility at the windward side of the marina. Novice sailors will need to tack several times in a narrow side channel to return to the boating facility or will need to land at the end of a dock far removed from the facility and potential assistance of staff. Loss of control (or a paddle) will send the boats directly into the heavy boat traffic.

3. The proposed location utilizes important open park space. The park is heavily utilized by families on holidays and during events such as car shows. Most of those users are not residents of the harbor area, but come from all of Oxnard and Ventura County. As a resident of the Hollywood Beach area, I place high value on the opportunity for everyone in the county to experience the waterfront location without organizational membership and without cost. The loss of that park space will be regretted. The use of open park space should be the last resort, not the first.

4. I understand that there are many factors in the selection of a site, but there are several sites which, I believe, require more examination. The east side of the harbor is poorly developed and virtually unapproachable by the public. Prevailing wind, boat traffic, and automobile traffic all favor the east side. Also, the adjacency to the Harbor Patrol and Coast Guard could add greatly to safety and instructional opportunities. The boating facility could add some attraction to that side as part of a new waterfront activity area away from the heavy boat traffic of the west side.There are several other sites that also appear to be much more appropriate for the use than the west side park and should be fully examined.

I ask that you do what you can to assure a more thorough and objective assessment of the potential sites.

Alan Paul
2825 S. Harbor Blvd.
Oxnard, CA
93035

(805)985-2301

Need a vacation? Get great deals to amazing places on Yahoo! Travel.

9/19/2007

W 11a + 11b

Gary Timm

From: frank glaser [frobione@yahoo.com]
Sent: Wednesday, September 19, 2007 12:18 PM
To: Gary Timm
Subject: Channel Islands Harbor BISC

Dear Mr. Timm: Next month the Coastal Commission will once again consider the approval of the BISC on the West Side of the Channel Islands Harbor. If this project is built at the current proposed location, without the complete investigation and consideration of originally proposed alternate locations, it will be a sad day indeed for local residents, and others that will be adversely affected. WE STRONGLY SOLICIT YOUR SUPPORT OF THE LOCAL COMMUNITY IN REQUESTING THE COMPLETE INVESTIGATION OF ALTERNATE SITES ON THE EAST SIDE OF THE HARBOR. Thank you very much.

Sincerely,

Frank and Tobi Glaser
3445 Sunset Lane
Oxnard, California 93035
(818) 640-9185

Check out the hottest 2008 models today at Yahoo! Autos.

W 1/a+1/b

Gary Timm

From: Donna Poulson [rhopoulson@yahoo.com]
Sent: Wednesday, September 19, 2007 3:53 PM
To: Gary Timm
Subject: BISC Impact

Dear Mr. Timm,
I am a concerned resident of the Channel Islands Harbor area. I urge you not to approve Ventura County's shocking new push to locate the Boating Center in the west side park area of the harbor. Alternative sites have not been studied and environmental impacts have not been researched in this ultra short time frame.

As a recreational boater myself, I can tell you that the impact of this west side location will be a hazard to all boaters, big and small, and a life threatening accident waiting to happen!! A large number of novice boaters will be let loose at the harbor's intersection of the two main channels, which will be a recipe for disaster.

Our community deserves your protection from an ill advised and overzealous County that seeks to implement their original plan by any means, whether it may be ruthless or unscrupulous.

Thank you,
Donna Poulson

Building a website is a piece of cake.
Yahoo! Small Business gives you all the tools to get online.

W 11a + 11b

Gary Timm

From: Les Spiegel, CPA [olezlie@verizon.net]
Sent: Wednesday, September 19, 2007 4:01 PM
To: Gary Timm
Subject: Chanel Islands Harbor BISC

Dear Mr. Timm:

I have been made aware that the Coastal Commission will again take up the question of the construction of the BISC at our C.I. Harbor. When Ms. Kreiger, of the Harbor Department, was asked if the application would be essentially the same as the original application she indicated that there would be little if any changes. She assured the questioner that the application would show little difference from the original and that went for the location as well as the lack of concern as to other developments that are planned for our harbor.

This flies in the face of logic and the legal settlement that was just completed. Both the County and the Commission ceased their appeals of the verdict and the Judge's ruling is now set in stone. As a taxpayer I would hope that smarter minds would now be allowed into the discussions. We need people who realize that the actions that both the County and Commission had previously followed should no longer be part of the "playbook". However, it appears that Ms. Kreiger does not understand the simple two letter word "NO".

Perhaps she is aware of facts that have been discussed secretly in some smoky backroom and which have never been permitted to see the light of day. Needless to say, I'm not privy to such knowledge.

Please help prevent this new application and Commission review from becoming another "Groundhog Day" experience. Help the parties to this application renewal forge a new direction. Let us not replay the same hand and expect a different result. I believer it was Einstein who defined insanity as doing the same act over and over again, continuing to expect a different outcome. That seems to be the road the Ventura County Board of Supervisors and the Harbor Department Director are on.

Please start over and include all the "facts" that are known and give consideration to the newly completed and pending developments that are

currently on the drawing boards. There may or not be a better location than the one the Ms. Kreiger continues to press for. However, until all possibilities are considered, the best choice can never be known.

Thank you for your time,

Les Spiegel
Channel Islands Beach
(805) 985-1938

W11a+11b

Gary Timm

From: pjarcher@Beckman.com
Sent: Thursday, September 20, 2007 9:35 AM
To: Gary Timm
Cc: Jonathan Ziv
Subject: BISC at Channel Islands Harbor

Dear Gary Timm,

I am contacting you regarding the location of the proposed boating center in the Channel Islands Harbor. I am an avid sailor and a resident in the harbor, and I am in support of having a boating center in the harbor, but I strongly oppose the proposed site for the BISC for the following reasons:

1. One of the most beautiful, peaceful places in Channel Islands Harbor is located at the proposed site and will be destroyed if the BISC is placed there. There are many blighted areas on the eastside of the harbor that could serve appropriately and would help to rejuvenate the harbor on the eastside.

2. The BISC would be better located on the eastside of the harbor on the main road into the harbor, Victoria Ave., and would give easier access to visitors and minimize traffic impact on the local neighborhoods. It would also give better access to business establishments on Victoria Ave. for boating and other needs. There is huge variety of business establishments on the Victoria Ave. eastside of the harbor including West Marine, Boater's World, Anacapa Marine, Vons, Ralphs, restaurants, fastfood, etc... that would be available and easily accessed from the eastside. On the westside there is only a handful of limited business establishments.

3. The proposed location is on the westside of the harbor where the heaviest boat traffic occurs placing the novice sailors in the pathway of this traffic. The eastside location has more open space and is out of the main traffic corridor in and out of the harbor to the marinas and to the rear of the harbor where the waterfront neighborhoods are located.

4. I believe that the current proposed site has been made by a select group of a few outside people to benefit narrow business interests without consideration or concern about the total effect on the harbor and surrounding community and residents.

5. Some say that the westside is a better learning site for sailors etc... I strongly disagree. As an experienced sailor, I believe the eastside location provides novice boaters with an ideal learning environment.

I hope that the CCC rejects the westside loacation and chooses an eastside location for the proposed BISC. If necessary, I am available, along with other residents of my community, to further discuss this project with the CCC if you are interested in hearing from us. Please visit the harbor and I can give you a tour to show you what I have discussed above.

Sincerely -

Phil Archer
2014 Ravoli Drive
Oxnard, CA 93035
1-805-844-6012
pjarcher@beckman.com

The server made the following annotations

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Proposed Major Amendment 1-04

BISC and Dock Space

Received at Commission Meeting
OCT 10 2007
From:

Information for the CCC
October 10, 2007

Willard

Prepared by:
Milan Svitek

Milan Svitek

Background

Professional Affiliation: Member of the American Institute of Certified Planners

Working Experience: **City and Regional planning – 19 years (Prague)**
GIS Manager for LA County – 20 years (Los Angeles)
Traffic Commissioner – 4 years (Thousand Oaks)

Boating Experience: **Water sports including sailing – 55 years**
Evaluation of 10 years of the Harbor Department Management

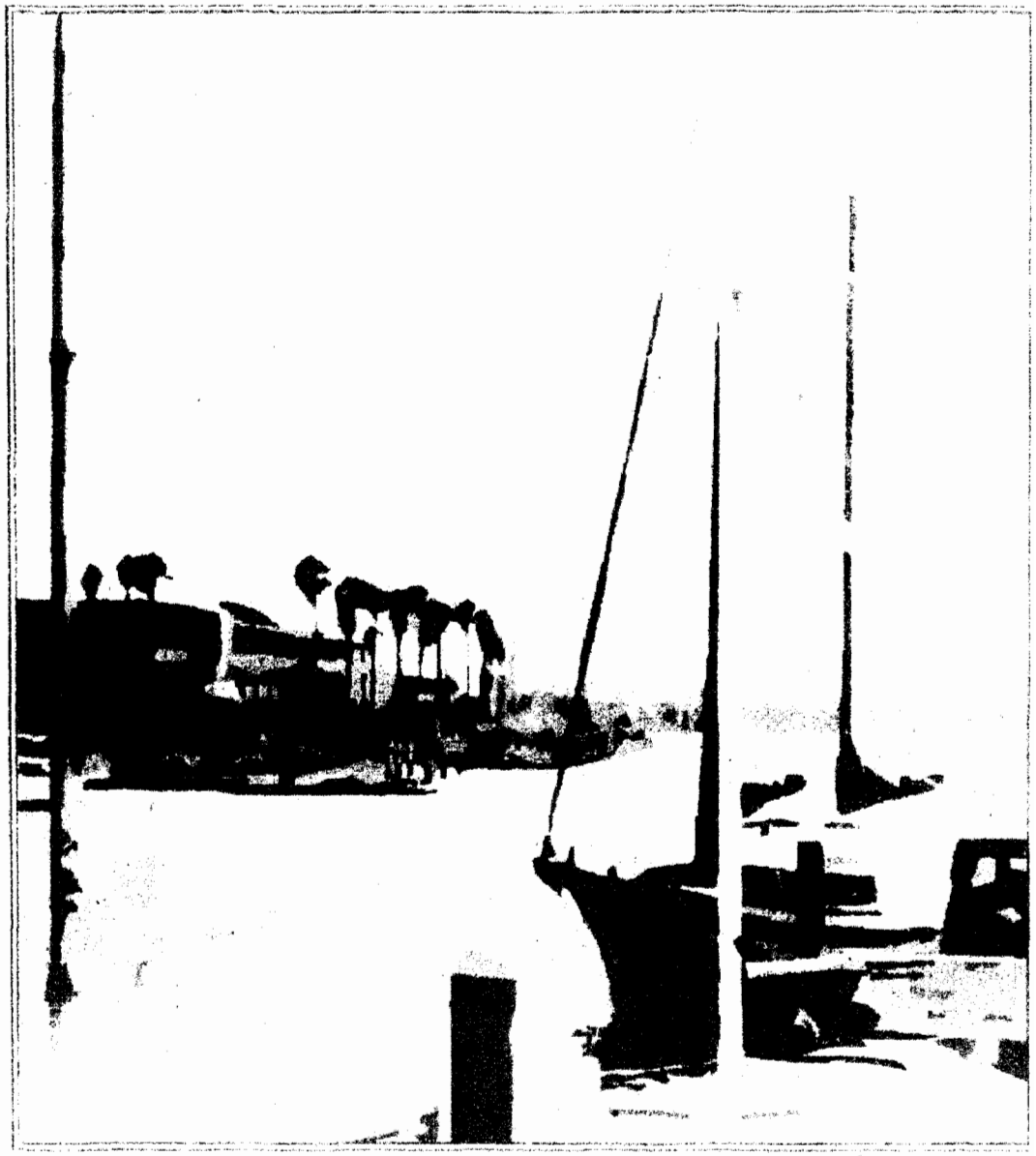
Education:

Ph.D. Geographical Information System (GIS) – 1982

M.Sc. Urban and Regional Planning – 1963

B.Sc. Civil Engineering – Constructional Management – 1962

PROPOSED BOATING INSTRUCTION AND SAFETY CENTER
CHANNEL ISLANDS HARBOR, VENTURA COUNTY, CALIFORNIA



Illustrative

State of California · Department of Boating and Waterways
Capital Outlay Section

TABLE 1.4

INITIAL FACILITY PROGRAMMING

BUILDING RELATED REQUIREMENTS

AQUATIC FACILITIES

Administrative Office	550
Active Aquatic Storage	1,076
Equipment Checkout Counter	156
Lobby / Reception Area	500
Maintenance Shop Space	1,225
Mechanical / Electrical / Janitorial	800
Miscellaneous Interior Circulation	1,600
Miscellaneous Storage Facilities	417
Public Showers / Restrooms	1,510
Shell Storage	1,872
Staff Restroom	250
Staff Workroom	168
Multipurpose Room	4,068
Computer Lab / Video Training Room	1,584
Storage / Equip. Room	330
Kitchen / Servery	374
Vending Area	98
Wet Tank / Aquarium Room	538
TOTAL PROPOSED INTERIOR BUILDING	17,156

WATERFRONT FACILITY REQUIREMENTS

Ramp System	1,200
Standard Floating Dock	10,000
Low Profile Floating Dock	800
Submerged Ramp / Dock	12,500
TOTAL WATERFRONT FACILITY SIZE	24,500

Proposed Boating Instruction and Safety Center

Channel Islands Harbor PWP Amendment 1-04 &
Notice of Impending Development 1-05

Therefore, this revised report conforms to the command of the court by separately addressing alternatives and cumulative impacts. The analysis relies on the County's EIR and also on new information that has become available since the original approval.

The amendment to the Public Works Plan (PWP) is proposed to allow for the construction of the Boating Instruction and Safety Center (BISC) on property owned by the County of Ventura located on the west side of the Channel Islands Harbor. The County Harbor Department has also submitted the corresponding Notice of Impending Development (NOID) to provide for construction of the proposed project upon certification of the PWP amendment. The project includes approximately 25,000 sq. ft. of exterior space, 24,500 sq. ft. of dock space, a two-story 19,000 sq. ft. building, and a one-story 1,200 sq. ft. maintenance/storage building.

24,000 sq. ft. of dock space in 2007

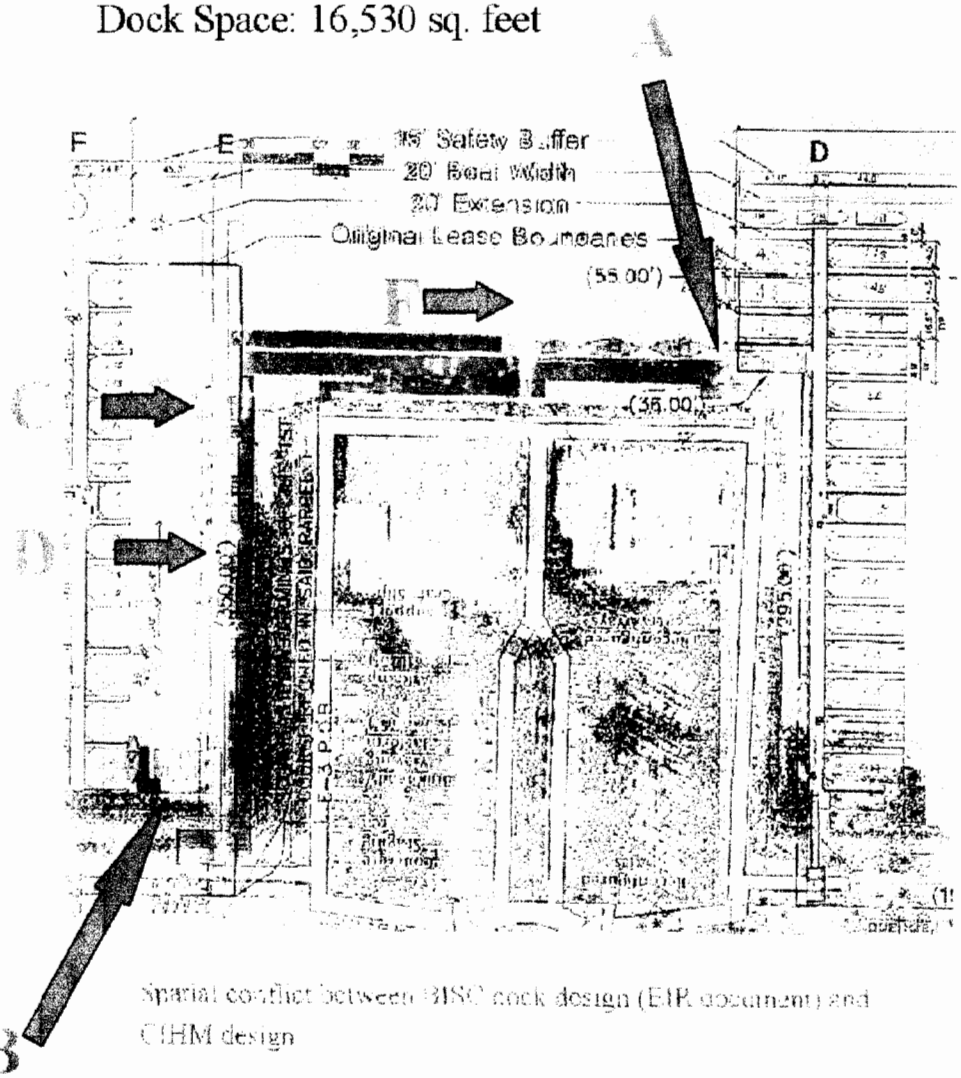
Two-story 19,000 sq. ft. building in 2007

Initial Facility Programming in 1999:

Total proposed interior building: 17,156 sq. ft.

Total proposed facility size: 24,500 sq. ft.

Exhibit 7 - Proposed BISC Aerial Site Plan
Overlay with CIHM Slip Layout
Dock Space: 16,530 sq. feet



Spatial conflict between BISC dock design (EIR document) and CIHM design

This original dock space design was not implemented due to conflicts with the CIHM and the public dock
Deficit 8,000 sq. feet

BISC - Modified Dock Design 2003

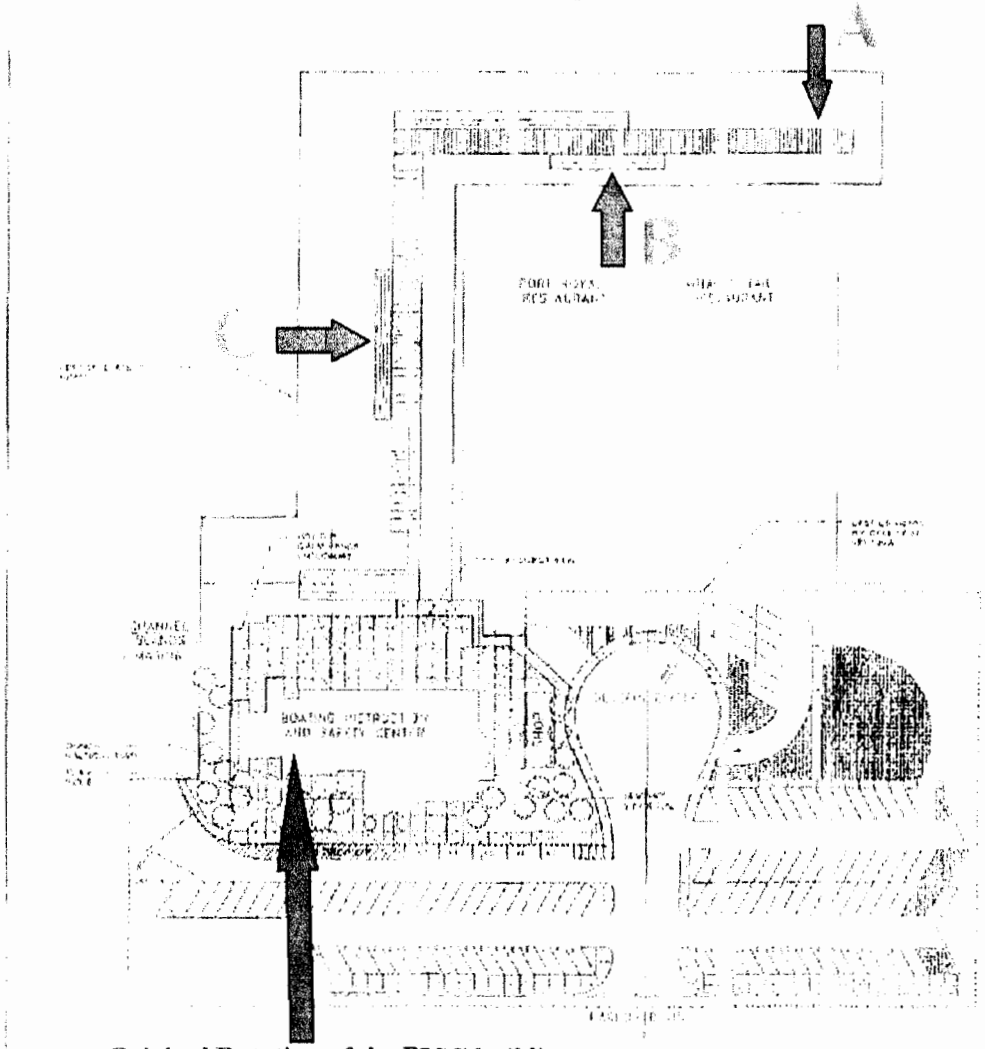


Exhibit 6 - Proposed BISC Site Plan

BISC - Final Dock Design with CHM Layout - 2004

1 - 640 sq. ft. - Ramp

2 - 1,600 sq. ft. - Small Craft Launch Area #1

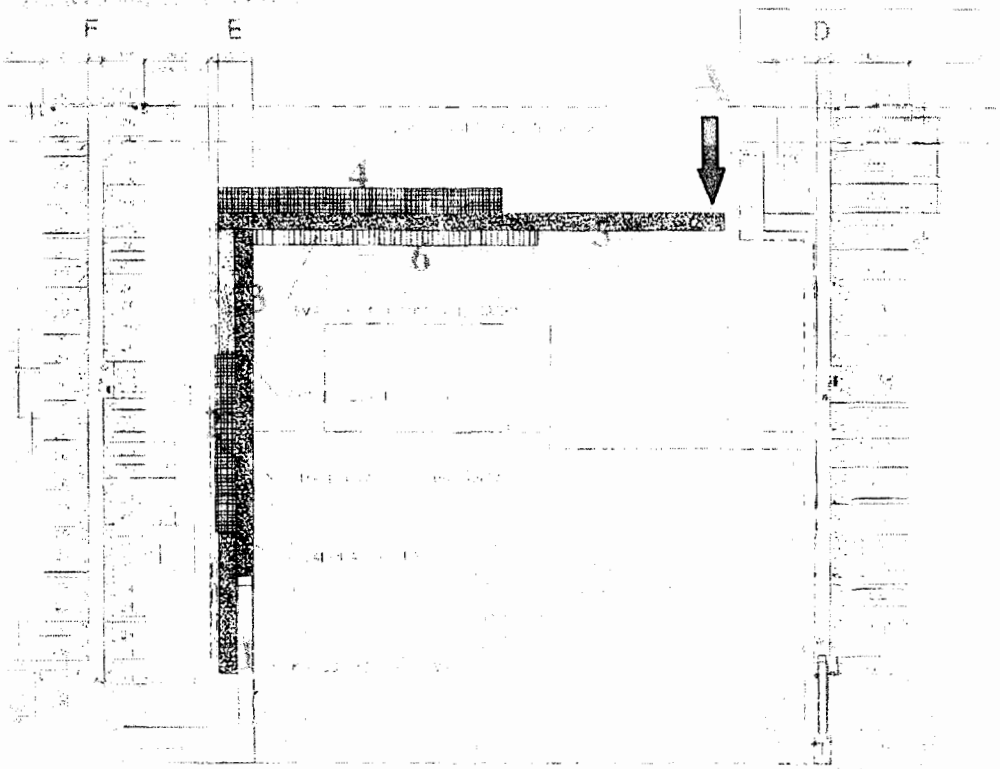
3 - 1,560 sq. ft. - Conc. Floating Dock #1

4 - 1,640 sq. ft. - Small Craft Launch Area #2

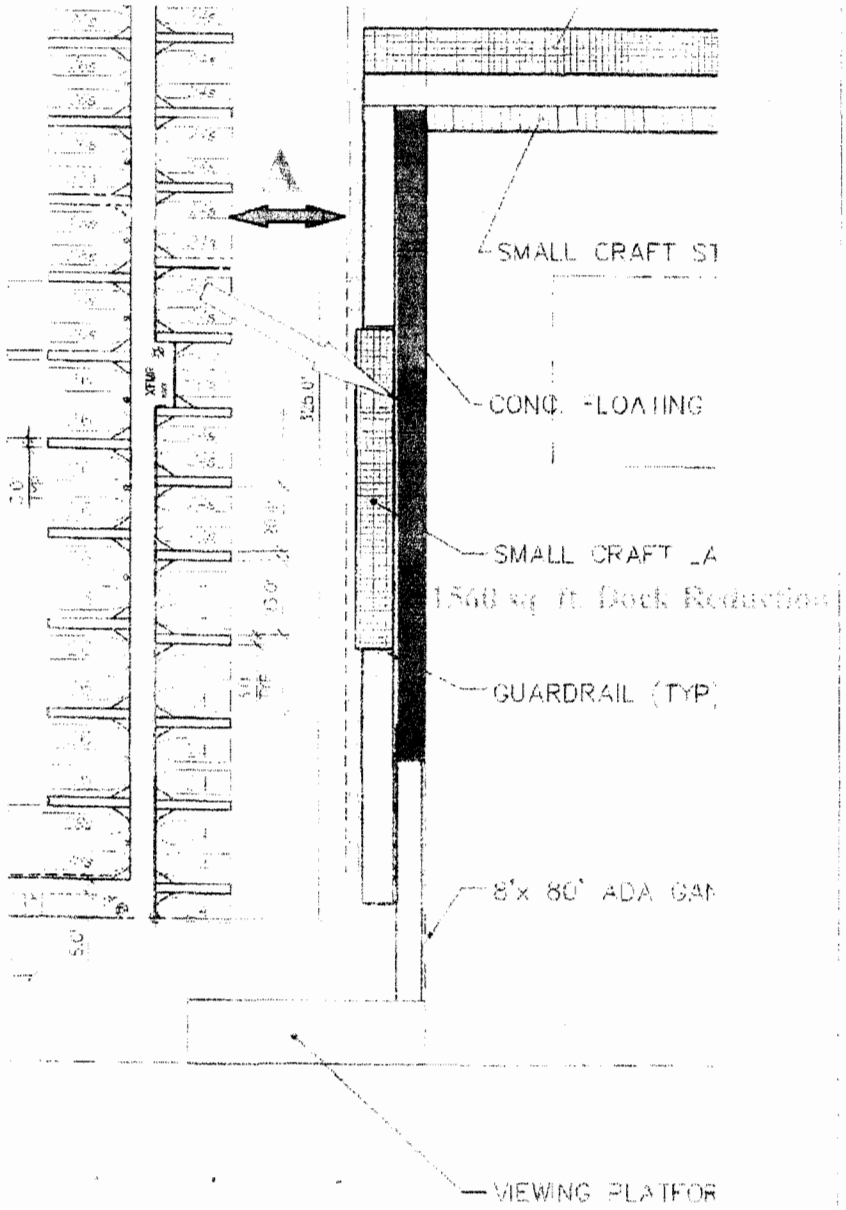
5 - 1,560 sq. ft. - Conc. Floating Dock #2

6 - 1,320 sq. ft. - Small Craft Storage Room

[illegible] sq. ft. - [illegible]



BISC - Final Dock Design with CIHM Layout - 2004



Demolition of the public dock and insufficient water depth for BISC dock.

Conclusion

- Current design allows only 7,400 sq. feet of dock space to be built
- This is only 31% of the official proposed dock space (24,000 sq. ft.)
- Additional dock space of 3,210 sq. ft could be obtained if:
  a supporting wall will be built (over $300k)
  and a public ramp will be eliminated (successful water taxi program)
- Maximum amount of dock space for BISC which could be built represents only 44% of the official proposed dock space (24,000 sq. ft)
- Applicant systematically provided to CCC incorrect information about one of the essential parameters of BISC
- Proposed site does not provide adequate dock space for BISC and should be eliminated as potential option

RECEIVED
OCT 26 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATION

Date and time of communication: September 20, 2007

(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

Location of communication: e-mail – to Eureka, CA
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication: Lee Quaintance, Secretary
The Beacon Foundation
Oxnard, CA 93035

Person(s) receiving communication: Bonnie Neely

Name or description of project: BISC – Channel Islands Harbor
CCC Agenda Item 11a, b – 10/10/07

Detailed substantive description of content of communication:
(If communication included written material, attach a copy of the complete test of the written material.)

See Attached

10-1-07
Date

Signature of Commissioner, Bonnie Neely

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Exhibit 19
PWPA 1-04, NOID 1-05
Ex Parte Communications

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Channel Islands Harbor Public Works Plan Amendment No. 1-04

Date and time of receipt of communication: Thursday, October 4, 2007

Location of communication: San Diego City Council

Type of communication (letter, facsimile, etc.): meeting

Person(s) initiating communication: Dave Grubb

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Met with Dave Grubb & Robin Everett of Sierra Club on Oct. 4th. They stated that alternative uses are available that would not be as environmentally damaging and would not take park land. They urge denial.

Thursday, October 4, 2007
Date

Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

RECEIVED
OCT 26 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RECEIVED
OCT 26 2007
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATION

Date and time of communication: September 28th, 2007 – 2:00 pm
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

Location of communication: By Phone - Eureka, CA
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication: Jean Roundtree - 805 637-3037
Oxnard Environmentalist

Person(s) receiving communication: Bonnie Neely

Name or description of project: Channel Island Center, Oxnard
(Agenda Item 11A & B, B.I.S.C.)

Detailed substantive description of content of communication:(If communication included written material, attach a copy of the complete test of the written material.)

Jean is concerned that CCC is being asked to make a decision based on out-of-date information - the EIR was completed in 2003. She presented background info on the 2005 lawsuit (Habitat for Hollywood Beach) in which Judge Chalfont directed the CCC to set aside BISC approval and "prepare a new functional equivalent of an EIR addressing the alternatives analysis and cumulative impact issues." Jean is concerned that the structure in Harbor has been altered. Vintage Marina has moved their launching docks out further. This has narrowed the channel by 20 – 40 feet. Concerns were also expressed regarding

1) safety issues for kids learning to sail
2) no approval from Board of Supervisors
3) she supports BISC – but not this rush to judgment
4) other viable alternatives were ignored or not considered because of leases – these sites are safer for kids.

September 28th, 2007
Date

Bonnie Neely
Signature of Commissioner, Bonnie Neely

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

RECEIVED
NOV 19 2007
CALIFORNIA
COASTAL COMMISSION

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of communication: 11-19-07 4:10 PM

Location of communication: S.L.O. County Gov Center (Telephone)
(If communication was sent by mail or facsimile, indicate the means of transmission.)

Identity of person(s) initiating communication: SUPERVISOR JOHN FLYNN

Identity of person(s) receiving communication: Commissioner ACHADJIAN

Name or description of project: CHANNEL ISLAND HARBOR

Description of content of communication:
(If communication included written material, attach a copy of the complete text of the written material.)

SUPERVISOR FLYNN MADE HIS CASE AS WHY THE [illegible] SHOULD BE LOCATED ON THE EAST SIDE. SAFETY - [illegible] LAND - [illegible] ATTRACTIVE TO LOCATION [illegible]

POSSIBLE COMPROMISE IF LOCATED ON WEST SIDE TO USE THE SITE OF AN EXISTING RESTAURANT THAT IS READY TO [illegible]

11-19-07
Date

[signature]
Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

APPENDIX 2

Channel Islands Harbor Lessees

Promoting Harbor Business, Recreation & Education

RECEIVED
JAN 23 2008
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

January 23, 2008

Commissioners
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

Item 5. b. and Item 6, February 8, 2008, California Coastal Commission Agenda

Dear Commissioners:

On behalf of the Lessees of Channel Islands Harbor, I am writing regarding a significant Harbor project on the California Coastal Commission agenda on February 8th. These projects include the second portion of the hearing that you began in October 2007 on the Public Works Plan Amendment and Notice of Impending Development (NOID) for the Boating Instruction and Safety Center (BISC).

The Lessees unanimously take the position that the BISC is the single most important project the County can undertake on behalf of the public. While we as Lessees can serve the boating public, the County can provide a great service by providing low-cost boating, especially to young people, and boating safety training to our customers. We strongly support this project, and urge your continuing support.

Thank you so much for your consideration.

Sincerely yours,

Randy Short
President

The Channel Islands Harbor Lessees is a non-profit enterprise committed to promoting the Channel Islands Harbor as one of Southern California's premier waterfront destinations through prudent development of its infrastructure, balanced creation of resource opportunities, and preservation of its environmental integrity

3600 So. Harbor Blvd. - Channel Islands Harbor - Oxnard, CA 93035
Telephone - 805.984.3371

Executive Committee: F. Steven Buenger, President
Michael Koutnik - Brian Dunn - Michael Fairchild - Wes Whitman - Randy Short