

## EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: **Wed 18a Malibu Valley Farm.**

Date and time of receipt of communication: **June 4, 2008 @ 5:10-5:30 p.m.**

Location and type of communication: **phone**

Person(s) initiating communication: **Sean Doherty, Donegal Group**

Detailed substantive description of content of communication:

The applicant has concerns about Conditions 3 and 4 as proposed by the Coastal Staff.

The applicant contends that as part of the CDP for Malibu Valley Farms, Malibu Valley Farms offered to place an agricultural easement over a portion of the property. The condition proposed by Staff is for an open space easement and not an agricultural easement. As Staff is proposing, agriculture is not permitted. The applicants position is that the entire condition as proposed by Staff should be deleted and the agricultural easement language approved by the Commission be included in the permit.

The applicant provided a mark-up of the Staff Report with the changes to Conditions 3 and 4 that Malibu Valley Farms is willing to accept. (On file.) They believe these changes allow Staff the control they are looking for, while allowing Malibu Valley Farms to continue to graze their livestock.

(I reminded Sean the next time Malibu Farms holds a fundraiser for a fellow commissioner to send an invite so I can support them.)

6/4/2008  
Date

  
\_\_\_\_\_  
Signature of Commissioner

**From:** Sean Doherty [<mailto:dohertysean@mac.com>]  
**Sent:** Monday, June 09, 2008 11:24 AM  
**To:** Steve Blank  
**Subject:** motion for Malibu Valley Farms

Commissioner Blank,

Attached is the motion we will propose Wednesday on the Malibu Valley Farms issue. Commissioner Neely has agreed to make this motion on our behalf.

If you have any questions please do not hesitate to call me either at my office or on my cell phone. I will be in Santa Rose tomorrow by 3:30PM. We are staying at the Hyatt Vineyard Creek Hotel, phone # 1-707-284-1234, and would be happy to meet you for coffee to discuss further if you would like.

I look forward to seeing you on Wednesday.

Sean

Sean B. Doherty  
The Donegal Group  
921 11th Street, Suite 600  
Sacramento, CA 95814  
(916) 498-8386

**California Coastal Commission**  
**June 11, 2008 - Item W18a**  
**Application No.: 4-06-163**  
**Applicant: Malibu Valley Farms, Inc.**

**MOTION:** I move that the Commission adopt the revised findings in support of the Commission's action on July 9, 2007 concerning Coastal Development Permit No. 4-06-163 with the following revisions to Special Conditions of Approval Nos. 3 and 4.

**Special Condition No. 3**

**3. Indemnification by Applicant**

Liability for Costs and Attorneys Fees: By acceptance of this permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees ~~including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees~~ that the Coastal Commission may be required by a court to pay ~~that the Coastal Commission incurs~~ in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

**Special Condition No. 4**

**4. Agricultural Easement**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the Agricultural Easement Area as shown on Exhibit 29 except for:

1. Restoration, protection and enhancement of native habitat and/or sensitive resources;

2. Maintaining livestock and existing livestock fencing as shown on Exhibit 29;

AND

3. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit:

- Agricultural production activities as defined “activities that are directly related to the cultivation of agricultural products for sale. Agricultural products are limited to food and fiber in their raw unprocessed state, and ornamental plant material,”

- Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site.

- ~~Maintaining livestock~~

B. Prior to the issuance of the Coastal Development Permit, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, granting to a public agency or private association approved by the Executive Director an agricultural conservation easement over the “agricultural easement area” described above, for the purpose of preventing development or improvement of the land for purposes other than agricultural production or ~~restoration, protection, and enhancement of nature habitat and/or sensitive resources.~~ The recorded easement shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the agricultural easement area, as generally shown on Exhibit 29. ~~The recorded document shall reflect that no development shall occur within the agricultural easement area except as otherwise set forth in this permit condition.~~ The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**RECEIVED**

**JUN 06 2008**

**CALIFORNIA  
COASTAL COMMISSION**

**Date and time of communication:**

Wednesday, 6/4/08  
11:30 a.m./Phone Meeting

(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:**

Office Phone Call

(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

**Person(s) initiating communication:**

Sean Doherty

**Person(s) receiving communication:**

Commissioner Bonnie Neely

**Name or description of project:**

W18a. After-the-fact Permit Application Malibu Valley Farms, Inc. for after-the-fact approval of equestrian facility in the Santa Monica Mountains, Los Angeles, County

**Detailed substantive description of content of communication:**

(If communication included written material, attach a copy of the complete text of the written material.)

Mr. Gaines expressed two concerns with the findings:

- 1) The Indemnification condition indicates that fees will be paid to the Attorney General
- 2) Condition 4, the Ag Easement, would require that a permit be obtained for ag production or maintaining livestock within the easement.

**Date:** June 4, 2008

  
Bonnie Neely, 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 proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400

FRED GAINES  
SHERMAN L. STACEY  
LISA A. WEINBERG\*  
REBECCA A. THOMPSON  
NANGI SESSIONS-STACEY  
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June 5, 2008

**ORIGINAL VIA HAND DELIVERY**

**VIA FACSIMILE (805) 641-1732**

Pat Kruer, Chair  
California Coastal Commission  
45 Fremont Street, Suite 200  
San Francisco, CA 94105

W18a

Re: Malibu Valley Farms  
2200 Stokes Canyon Road, Los Angeles County  
Application No. 4-06-163  
Requested Revisions to Proposed Special Conditions Nos. 3 and 4

Dear Chairman Kruer and Honorable Commissioners:

This law office represents Malibu Valley Farms, Inc., applicant in the above-referenced matter and the current operator of the existing farm and equestrian facilities at the above-addressed site. The purpose of this correspondence is to request revisions to Staff's proposed Special Conditions of Approval Nos. 3 and 4<sup>1</sup>.

**Special Condition No. 4**

On July 9, 2007, the Commission approved Malibu Valley Farms' Coastal Development Permit application for the subject property. As part of the approval, the Commission accepted Malibu Valley Farms' offer to place an agricultural easement over 25 acres of the subject property. Exhibit 28 to the current Staff Report is a copy of Malibu Valley Farms' Proposed Conditions of Approval, and Exhibit 29 is a map of the Proposed Agricultural Easement area, as presented to the Commission in July 2007.

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<sup>1</sup>In addition, this correspondence will serve to supplement the substantial filings already submitted in the above-referenced matter, including but not limited to the Malibu Valley Farms, Inc. Application and all of the supporting documents, evidence and letters of support submitted in this matter, as well as in the previous related matters 4-02-131, 4-00-279-VRC, CCC-06-CD-14, and CCC-06-RO-07. This letter shall constitute Malibu Valley Farms' formal request that all such filings and documents, in all of the listed related cases, be made part of the administrative record in this matter, as confirmed by the inclusion of such related cases in the "Substantive File Documents" section of the Commission's Staff Report in this matter.

Patrick Kruer, Chair  
June 5, 2008  
Page 2

Proposed Special Condition No. 4 is suppose to be the condition which implements the volunteered Agricultural Easement. However, Staff has written the Agricultural Easement as an Open Space Easement that requires Malibu Valley Farms to obtain additional Coastal permits for any and all agricultural activities. This is clearly not what was offered by the Applicant nor approved by the Commission, both of whom intended that agricultural uses be allowed in the Agricultural Easement area.

While Malibu Valley Farms did not offer nor intend to limit agricultural uses in the Agricultural Easement area in any way, Malibu Valley Farms will agree to compromise language which makes clear that the existing fenced livestock area be used for the continued maintaining and grazing of livestock, including horses. To that end, the following revisions should be made to the language being proposed by the Staff:

**"4. Agricultural Easement**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the Agricultural Easement Area as shown on Exhibit 29 except for:

1. Restoration, protection and enhancement of native habitat and/or sensitive resources;
2. Maintaining livestock and existing livestock fencing as shown on Exhibit 29;

AND

3. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit:

- Agricultural production activities as defined "activities that are directly related to the cultivation of agricultural products for sale. Agricultural products are limited to food and fiber in their raw unprocessed state, and ornamental plant material,"
- Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site.

→ Maintaining livestock

B. Prior to the issuance of the Coastal Development Permit, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, granting to a public agency or private association approved by the Executive Director an agricultural conservation easement over the "agricultural easement area" described above, for the purpose of preventing development or

Patrick Kruer, Chair  
June 5, 2008  
Page 3

improvement of the land for purposes other than agricultural production or ~~restoration, protection, and enhancement of nature habitat and/or sensitive resources.~~ The recorded easement shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the agricultural easement area, as generally shown on Exhibit 29. ~~The recorded document shall reflect that no development shall occur within the agricultural easement area except as otherwise set forth in this permit condition.~~ The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

### **Special Condition No. 3**

With regard to Proposed Special Condition No. 3, the Applicant is willing to indemnify the Commission against an adverse fee award, but strongly objects to any requirement that the Applicant be required to pay attorneys' fees "charged by the Office of the Attorney General." There is absolutely no legal basis for such a requirement, particularly as it is written which would allow for a potential "blank check" for any amount the Attorney General might claim as its charge.

Eliminating that requirement Special Condition No. 3 would then read:

#### **3. Indemnification by Applicant**

"Liability for Costs and Attorneys Fees: By acceptance of this permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees ~~including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.~~"

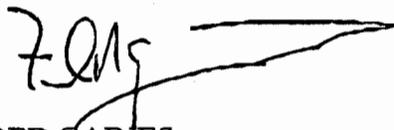
With the revisions as set forth above, the Applicant would accept the Conditions of Approval as set forth in the Staff Report.

Patrick Kruer, Chair  
June 5, 2008  
Page 4

Thank you for your consideration of this matter. As always, please do not hesitate to contact me at any time with any questions or comments you may have.

Sincerely,

GAINES & STACEY LLP

By   
FRED GAINES

cc: All Coastal Commission Members  
Peter Douglas, Executive Director

# Insert Name and Address as Letterhead

Donna Northrop  
31579 Lindero Cyn Rd #2  
Westlake Village, CA 91361

June 6, 2008

**VIA FAX: (805) 641-1732**

California Coastal Commission  
89 South California Street, Suite 200  
Ventura, CA 93001-2801

**RE: Malibu Valley Farms**  
**File Number: 4-06-163**  
**Hearing Date: June 11, 2008**  
**Item No.: 18(a)**

Commissioners Achadjian, Blank, Burke, Secord, Neely, Potter and Kruer:

I am writing this letter to express my concern with Condition 4 of the Revised Findings proposed by Staff on the permit issued by the Commission to Malibu Valley Farms last July. Staff calls the condition an "Agricultural Easement" but then goes on to only allow native and sensitive habitat and existing fencing. Agricultural uses are not even permitted! The existing livestock fencing is in place so that livestock can graze in that area (and keeps the livestock out of the creek) but now Staff thinks the livestock fencing should only be used to fence in the grass and weeds. Staff did not write the condition the way it was approved and is trying to turn the agricultural easement you approved into an open space easement!

Agriculture is protected in this state, even in the Coastal Zone, and both the Coastal Act itself and the California Civil Code protect agriculture. Not only is Staff not protecting agriculture, but they are actually prohibiting it in an agricultural area. By writing the condition in this manner, Staff is directly attacking the agricultural community.

Last July, you protected Malibu Valley Farms and now you must protect agricultural rights. Thank you for your approval of the farm last year and thank you in advance for making sure that agricultural rights are protected.

Sincerely,



Donna Northrop

cc: Malibu Valley Farms (via fax: (818) 880-5414)

# *Equestrian Trails, Inc.* ®



ORGANIZED 1944

13741 Foothill Boulevard, Suite 100  
Sylmar, California 91342  
(818) 362-6819 Fax (818) 362-9443  
eti@linkline.com

June 9, 2008

California Coastal Commission  
89 South California Street, Suite 200  
Ventura, CA 93001-2801

RE: Malibu Valley Farms  
File Number: 4-06-163  
Hearing Date: June 11, 2008  
Item No.: 18(a)

Commissioners Achadjian, Blank, Burke, Secord, Neely, Potter and Kruer:

Equestrian Trails Inc. is opposed to your proposed action. The agricultural community is a critical part of the State's economy and must not be ignored. Agriculture is protected in this state, even in the Coastal Zone. The Coastal Act itself and the California Civil Code protect agriculture. Not only is Staff not protecting agriculture, but they are actually prohibiting it in an agricultural area. By writing the condition in this manner, Staff is directly attacking the agricultural community. Your Staff did not write the condition the way it was approved. It would appear that this is trying to turn the agricultural easement you approved into an open space easement.

an open space easement.

Unlike dogs and cats, horses are not companion animals. Historically, horses served as agriculture: they pulled to plow for crops, worked the cattle and helped settle the West. They should not be separated from agriculture now.

Sincerely,

A handwritten signature in black ink that reads "Lynn Brown". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

LYNN BROWN  
National Trail Coordinator

*Please visit our website: [etinational.com](http://etinational.com) for Corral activities & information*  
A NON-PROFIT ORGANIZATION Dedicated to Equine Legislation, Good Horsemanship, the Acquisition and Preservation of Trails



P.O. Box 245  
Agoura Hills, CA 91376  
Phone: 818.991.1236  
Fax: 818.889.4540  
www.gotorec.org

June 6, 2008

California Coastal Commission  
89 S. California St. #200  
Ventura, CA 93001-2801  
VIA FAX: 805-641-1732

Re: Malibu Valley Farms  
File # 4-06-163  
Hearing Date: June 11, 2008  
Item # 18(a)

Commissioners Achadjian, Blank, Burke, Secord, Neely, Potter, and Kruer:

It is apparent that your staff is not protecting agriculture as it is supposed to do according to the Coastal Act and the California Civil Code.

In fact, staff is trying to prohibit agriculture in an agricultural area. Further, they are attempting to make native and sensitive habitat like grass and weeds inside a livestock fenced area as the model for agriculture. How ludicrous is that?

You will undoubtedly see through their improper tactics and ensure that the agricultural community remains an important part of the State's economy. Protecting agricultural rights is one of the mandates that I am sure you will uphold as Coastal Commissioners.

Thank you in advance for your protection of everyone's agricultural rights, and thank you again for your protection of Malibu Valley Farms last year.

Sincerely,

A handwritten signature in cursive script that reads "Ruth L. Gerson".

Ruth L. Gerson  
President

Cc: Malibu Valley Farms fax: 818-880-5414

RECEIVED  
JUN - 9 2008

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

David M. Brown  
5860 Belbert Circle  
Calabasas, CA 91302

**COMMENTS ON DRAFT FINDINGS, APPLICATION NO. 4-06-163  
(MALIBU VALLEY FARMS, APPROVED JULY 9, 2007)**

- p. 7 – The Approved project includes new construction of “four 2,660 sq ft covered pipe barns”. Staff couldn’t tell me what a “covered pipe barn” is, but the Commission approved over 10,000 sq ft of these structures.
- p. 21- About 20 lines were added to the original staff report at the bottom of 21 and the top of page 22 (underlined). These lines quote the 1986 Malibu LUP as saying that “... variations from (LUP development standards will be considered on an individual basis according to their environmental effects as determined by the County Environmental Review Board.” The County ERB reviewed an application to relocate and remove various structures associated with the existing (unpermitted) equestrian facility on January 27, 2003. The ERB found the project consistent with the LUP ... The ERB did not find that increased setbacks were necessary in order to protect the riparian canopy and stream ... the ERB approved the (stream) crossings, finding they were consistent with the LUP’s resource protection policies ... “

Over a year ago I obtained a copy of the very brief minutes of the ERB’s January 27, 2003 meeting. They refer only to approval of the relocation and removal of structures on site. There is no reference to any discussion or recommendation by the ERB regarding increased setbacks or stream crossings, nor is there any evidence in the 2003 ERB minutes that the ERB gave its approval to the project that was before the Commission in Application 4-06-163 over four years later. Therefore, what is the basis for the reference to “setbacks” and stream crossings on pages 21-22 of the Staff Report?

According to an ERB member, who was present at the 2003 meeting, the ERB did not approve or even take any action on the entire project because they were led to believe it was not within their purview because it had supposedly been “grandfathered”. Thus, they discussed only the impacts of relocating the buildings, and did not make a recommendation on the entire project. (Subsequent to that hearing, the Commission, in 4-00-279-VRC ruled that the project did not pre-date the Coastal Act, and, therefore, was not vested.)

**Comments, page two**

- p. 23 – New language refers to “Special Condition No. Four (4)”, which refers to ten acres of woodland, chaparral, and grassland which was confirmed by staff biologist Dixon as meeting the definition of ESHA. The applicant is offering to record an offer to dedicate an “agricultural easement” over this ESHA portion of the property. It is not clear what “agricultural” uses would be permitted in this ESHA, but Section 30240(a) requires that ESHA “*shall be protected against any disruption of habitat values, and only uses dependent on such resources shall be allowed in such areas.*”**

**Did the Commission include any special conditions limiting development of the ten acre “agriculture easement” ESHA to uses compatible with Section 30240(a)? Absent such special conditions, how can the Commission find as it does on page 23 of the Draft Findings, that “the proposed project is consistent with Section 30240 of the Coastal Act?”**

- p. 28 – This page discusses “potential siting alternatives off-site ... that appear to contain suitable areas for low-intensity equestrian facility use and are not located adjacent to a stream course.” (with attendant issues of lack of conformity with Sections 30240 and 30231). These properties, also owned by Brian Boudreau, the applicant, are described in the Staff Report as, “... level and can provide a 100’ setback from the riparian canopy ...” and containing “ ... a flat strip of land that appears suitable for low-intensity equestrian-related facilities ...”. The Staff Report goes on to conclude, “... there appear to be ample opportunities in the immediate vicinity for development along the lines of what is currently proposed.”**

**Yet, in spite of the positive statements about these alternative sites and the testimony in the record and in the Staff Report with regard to public health, water quality, and habitat impacts on seven miles of public parkland and beach downstream, the Staff Report dismisses the above statements about alternative sites by claiming, without substantiating evidence, that “... requiring relocation of the facility to these alternative sites would significantly disrupt and constrain the benefits it provides in terms of recreation access and fire safety.” (The alternative sites are on paved roads a few hundred feet from the proposed facility.)**

**Comments, page three**

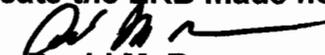
**p. 30 – 31 – These pages contain four paragraphs documenting the impacts of “horse wastes” on “ ... the biological productivity and the quality of coastal waters ... , reduce optimum population of aquatic organisms, and can have adverse effects on human health”. Stokes Creek is described as being on the “State of California’s list of impaired water bodies”.**

**Yet, the Staff Report contains no evidence that the Commission either addressed or attempted to mitigate the special health problems posed by the extensive public use and corresponding public contact with runoff containing “horse wastes” from this site. As pointed out in that letter, Stokes, Las Virgenes, and Malibu Creek carry already impaired runoff from the project site into and through seven miles of state parks and beaches and private camps where children have continuous direct contact with this already “impaired” water. (For details, refer to our June 2, 2007, correspondence in the record.**

**p. 31 – According to the staff report “ ... the applicant has not provided information regarding the maximum number of horses it proposes to maintain on the site,” nor does the Staff Report contain any limits on the number of horses that may be maintained on the project site. Given the potential public health impacts noted in the Staff Report, is this an oversight or has the Commission elected not to impose any such limits?**

**p.32 – The Staff report describes 1400 linear feet of vegetative swales that will “treat runoff from the site prior to discharge”, but technical details of this “treatment” and associated conditions are lacking. There will be a “retention basin ... designed to capture runoff from only a small portion of the site (0.1 acres)”, but it is not clear whether this refers to the size of the retention basin or the area from which it will “capture runoff”. It is also not clear how the project will handle additional runoff from the remaining acreage and prevent it from carrying “horse wastes” from the site into the heavily used public parklands immediately downstream. Is there any evidence in the record that the Commission considered this and discussed ways to mitigate it?**

**p.34 – The Staff Report in the first paragraph states that the ERB found the project “ ... consistent with the LUP ... in its January, 2003 recommendation. However, as indicated on page one, the minutes of that meeting and an ERB member indicate the ERB made no such finding and recommendation.**

  
**David M. Brown**



## BOARD OF SUPERVISORS COUNTY OF LOS ANGELES

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500 WEST TEMPLE STREET / LOS ANGELES, CALIFORNIA 90012  
PHONE (213) 974-3333 / FAX (213) 625-7360  
zev@bos.lacounty.gov / http://zev.lacounty.gov

**ZEV YAROSLAVSKY**

SUPERVISOR, THIRD DISTRICT

June 9, 2008

California Coastal Commission  
South Central Coast Area Office  
89 South California St., Suite 200  
Ventura, CA 93001  
Via FAX (805) 641-1732

**Re: Agenda Item W 18a: Findings for Coastal Commission Permit 4-06-163  
(Malibu Valley Farms) – originally approved July 9, 2007.**

Dear Coastal Commissioners:

On July 9, 2007, your staff presented clear and convincing evidence that illustrated precisely why the Malibu Valley Farms Coastal Development Permit should be denied by your honorable body. While I understand that the Commission has already indicated its intent to approve this permit, as the local elected official representing the community in which the facility is located, I want to make clear my absolute opposition to the Commission's approval of this Permit. Additionally, I strenuously object to the fact that the Commission decided to schedule this action at a location that makes it next to impossible for those most harmed by the Commission's action to testify in person at the time you will make your final decision on this matter.

Beyond these larger objections, the revised findings utterly fail to justify the Commission's action to approve the Malibu Valley Farms Coastal Development Permit given the facility's obvious environmental flaws. As a result of this failure, the Commission's action threatens to set a dangerous precedent that this Commission will randomly set aside critical environmental and water quality protection measures. Such an action would not only damage irreplaceable natural resources, but it would also inevitably lead to frustration on the part of well-meaning applicants and responsible equestrians who are simply trying to comply with the Coastal Commission's regulations. This Commission must not set such a precedent. You should therefore, at minimum, clarify the findings to explain whether Malibu Valley Farms represents a unique case that does not set a precedent for how the Commission plans to protect the rest of the Coastal Zone's environmental resources in the future or whether this is a new policy direction that the public needs to be aware of.

Second, the Revised Findings incorrectly cite the County Environmental Review Board's (ERB) decision of January 27, 2003 as justification for the Commission's violation of the Coastal Act and the policies contained within the certified Malibu-Santa Monica Mountains Land Use Plan (LUP). Specifically, as described on Page 21 of the Revised Findings, the ERB reviewed an application "to relocate and remove various structures associated with an *existing (emphasis added)* equestrian facility." Because the ERB was asked to consider only a much smaller

Coastal Commissioners  
June 9, 2008  
Page Two

subset of the overall project that is under consideration today, the ERB's 2003 approval does not constitute the legal justification necessary to waive the standards contained in Table 1 of the LUP. The Revised Findings' claims to the contrary cannot therefore be justified. Moreover, the ERB's action occurred more than three years before the Commission determined that Malibu Valley Farms does not have vested rights under the Coastal Act, as the applicant implied in his application to the ERB. In light of these two factual errors, the Commission cannot justify approving this Coastal Development Permit. You should therefore reject the Revised Findings and instead direct the applicant to re-apply to the ERB with a more accurate and complete project description.

Third, in direct violation of CEQA, the Revised Findings fail to provide adequate justification as to why the draft permit conditions do not require the applicant to utilize environmentally preferable alternatives and additional mitigation measures that the Commission's original staff report identified as feasible. To be clear, the Revised Findings' mere implication that some of the following mitigation measures could inconvenience the applicant does not constitute a CEQA-mandated finding of infeasibility, and does not justify the Commission's failure to impose these mitigation measures. Moreover, the Revised Finding's unsupported assertion that some of the alternative mitigation measures currently proposed by the applicant are equivalent to the mitigation measures originally proposed by staff is directly contradicted by the vast amount of evidence contained in the original staff report.

In particular:

- The original staff report noted that bridge crossings could be used instead of the at-grade in-stream crossings that are currently being proposed. This feasible mitigation measure is not being required by the current set of draft conditions and constitutes another violation of the certified LUP (Policy 78).
- The original staff report noted that many of the facilities could be relocated further from Stokes Creek in order to minimize the water quality and riparian habitat damage that this facility currently causes. This feasible mitigation measure is not being required by the current set of draft conditions.
- The original staff report noted as a general matter that the impacts of equestrian facilities can be mitigated through reduced intensity of use. Not only does the current set of draft conditions fail to require such a mitigation measure, this permit fails to set any limit on the number of horses allowed on this facility. In fact, it only offers a rough estimate of the number of horses that might be kept at the site based on a Draft Environmental Impact Report for a different project (Malibu Valley Inn) that was never certified and not subjected to public scrutiny.
- The original staff report noted that bioengineering could be used as an environmentally preferable alternative to rip-rap where it is necessary to stabilize a streambank. This feasible mitigation measure is also not being required by the current set of draft conditions.

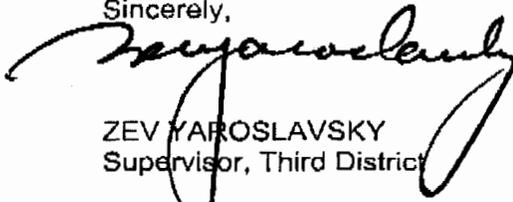
In closing, the Revised Findings and conditions as currently drafted could lead many people to the false conclusion that equestrian facilities, recreational uses, and protecting the

Coastal Commissioners  
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environmental are mutually exclusive goals. On the contrary, the Commission should reject the Revised Findings and conditions and instead insist that Malibu Valley Farms be redesigned so that it demonstrates that public recreation and protecting the environment can and should be mutually achievable priorities in the Santa Monica Mountains National Recreation Area. Importantly, the factual errors and policy goals listed above provide ample reason for the Commission to reopen the hearing on this Coastal Development Permit and take a second, closer look at the facts surrounding this important decision.

I strongly urge you to reject these Revised Findings and take that second look.

Sincerely,



ZEV YAROSLAVSKY  
Supervisor, Third District

ZY: bsr

# Coastal Law Enforcement Action Network CLEAN

*enforcing laws protecting the California Coast*

*a project of the International Humanities Center*

June 9, 2008

The Honorable Patrick Krueger, Chair, California Coastal Commission  
& Honorable Coastal Commissioners - c/o

Jack Ainsworth, Deputy Director  
South Central Coast District Office  
California Coastal Commission

Sent via email and hard copy via mail

89 South California Street, Suite 200 □ Ventura, CA 93001-2801 □ ~ (805) 585-1800 □ FAX (805) 641-1732

**Re: CDP 4-06-163 ~ Malibu Valley Farms**

Dear Chair Krueger & Commissioners:

As the Commission is aware, our organization has filed a Verified Petition for Writ of Mandate challenging the decision of the Commission in this matter. We submit this letter in order to ensure we remain an "aggrieved person" under Public Resources Code section 30801 both for purposes of challenging the Commission's grant of the Coastal Development Permit as well as its issuance of the Findings, both which we believe were taken in the absence of "substantial evidence" to support the Commission decision.

While we did not agree with the Commission's determination on this matter for after the fact approval of a Coastal Development Permit, we wish to comment on the revised findings, some of which we do not believe accurately reflect the decision made by the Commission.

Pg. 18, par. 1 – Why is the word "generally" added? There was no discussion and no substantial evidence given by the Commissioners who approved this CDP as to how "oak woodlands and savanna" [sic] have suddenly changed status from ESHA to only "generally" meeting "the definition of ESHA.

Pg. 27, par. 4 – the addition that begins "In this case, through implementation of...the proposed development will not result in significant adverse impacts, either individual or cumulative, to the oak trees on site...." There was no discussion and no substantial evidence given by the Commissioners who approved this CDP as to whether or not the oak trees would be harmed.

Pg. 37 – Visual Resources – the Commissioners made no mention of the scenic views and how this project would "preserve scenic views" or that it is "compatible with its surroundings" – with no substantial evidence on the record supporting this contention that the findings now erroneously reflect.

**322 Culver Blvd., Suite 317 ~ Playa del Rey, California 90293**  
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Pg. 40 – There was nothing substantial the Commissioners placed on the record in terms of the elimination of the section on alternatives.

Pages 41-42 – There was nothing substantial or even mentioned by the Commissioners in terms of the CEQA compliance or feasible mitigation measures required under the Commission's CEQA analysis requirements.

Thank you for entering this letter into the administrative record of this matter.

With best regards,

Marcia Hanscom  
Managing Director

Cc: David Weinsoff, Esq.  
Tim Nardell, Esq.