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

W 6a

SECOND ADDENDUM

DATE: October 12, 2010

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item W6a, Application No. 4-07-098 (Malibu Lagoon), Wednesday, October 13, 2010

The purpose of this addendum is to attach public comment letters.

Attachments:

-Letter from the San Fernando Audubon Society to Commissioners, received October 12, 2010

-Letter from Kathleen Bullard to Commissioners, received October 12, 2010

Kathleen Bullard
559 36th Street
Manhattan Beach, CA 90266

October 5, 2010

Ms. Amber Tysor
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001-2801

Reference: Malibu Lagoon Restoration

Dear Ms. Tysor and California Coastal Commissioners:

There is a long history of "restoring" Malibu Lagoon and as the science and landscape architecture approach to restoration have evolved, so have the techniques used for "restoration," with varying degrees of success.

In 1995 through the Resource Conservation District of the Santa Monica Mountains, I was the Project Manager who oversaw the reconfiguration of the Malibu Lagoon "Bird Peninsula" and restoration of mudflat habitat for the benefit of increasing the population of tidewater gobies. At that time, we assembled a crew of people from college students through fisheries biologists to design and implement the plan. We hand-dug the existing plants and put them aside for eventual re-planting, sampled the lagoon for the elevation that was most favorable to species richness for mudflat habitat and used everyone for pre- and post-project tidewater goby monitoring. While we used bulldozers to remove the soil that was part of the peninsula, we were careful not to disturb any of the exiting substrate in the lagoon. By every measure, especially the increase in population of tidewater gobies, the project was a success.

I now understand there is yet another restoration of Malibu Lagoon about to take place. From what I understand, however, rather than take a gentle approach that primarily utilizes human labor and takes great care to keep what habitat is functioning effectively intact, this "restoration" takes a drastic approach to reconfiguration of the lagoon with heavy equipment.

I urge you to reconsider such an approach. Restoration is still as much an art as a science since ecosystems are complex and science and current technology do not have all the answers and results are far from guaranteed. "Do no harm" should be the first prerogative and drastic approaches, while seemingly fixing a number of issues all at once with short-term costs, may end up costing the species that rely on the lagoon more in the long run.

People have been discussing the issues at Malibu Lagoon and Surfrider Beach for decades and I know there is a level of frustration and desire to "do something." Nonetheless, I urge you to take a gentle, measured approach to anything at the lagoon and opt for an evolutionary methodology to restoration rather than a revolutionary one so that the unintended consequences of our actions may be minimized and easily corrected along the way.

Sincerely,

Kathleen Bullard

Kathleen Bullard

San Fernando Valley Audubon Society
Incorporated as California Audubon Society 1913
P.O. Box 7769 Van Nuys, CA 91409-7769

"For nature education and the conservation of wildlife"

October 11, 2010

California Coastal Commission
attn: Amber Tysor
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: Malibu Lagoon Phase II

At our General Board of Directors meeting in September 2010 the San Fernando Valley Audubon Society made and passed a motion to oppose Phase 2 of the Malibu Lagoon restoration project. Our primary concern is over what is certain to be at least 1 year (probably more) of devastating impacts to the birdlife with no assurance that the hoped for end result will be any better than the current conditions. We are also concerned that, even if the project meets all desired results, whether or not any benefits are realized, one single storm event could wipe out all of this work, and require additional human disturbances, and expenses, to bring it back to the newly manufactured condition.

The Malibu Lagoon ecosystem is still recovering and adapting to the last major man-made hydrological fix. It is still attracting new bird life every year. The natural systems are finally beginning to overshadow the impacts of that human engineered attempt at creating a wetlands habitat. Do not erase what nature has recently accomplished, with another attempt to improve upon the faulty template that we created with a new unproven template for nature to start all over with.

We recommend the "No Project Alternative". The removal of non-natives, and additional re-vegetation with native plants is desirable and can continue without approval of this project. The removal of 13,700 cubic yards of material from the Lagoon may, or may not, improve the hydrology sufficiently to clean the water to an arbitrarily determined desirable level. The only thing for certain is that (if this project goes forward) the open sore that we created will be re-opened, and remain open, for a little longer.

Sincerely,

Kris Ohlenkamp
Conservation Chair

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

W 6a

ADDENDUM

DATE: October 11, 2010

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item W6a, Application No. 4-07-098 (Malibu Lagoon), Wednesday, October 13, 2010

The purpose of this addendum is to modify Special Condition 9 (Herbicide Use), attach and respond to letters received from the public regarding this project and attach ex-parte communication disclosure forms.

Note: ~~Strikethrough~~ indicates text to be deleted from the September 29, 2010 staff report and underline indicates text to be added to the September 29, 2010 staff report.

1.) Herbicide use is no longer proposed. Special Condition 9 on Page 25 of the report shall be modified as follows:

9. Herbicide Use

~~Herbicides shall not be used in any open water areas on the project site. Herbicide use in upland areas shall be restricted to the use of Glyphosate Aquamaster™ (previously Rodeo™) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only. The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of vegetation removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. Native vegetation to be retained shall be clearly delineated on the project site with fencing or survey flags and protected. In the event that non-native or invasive vegetation to be removed or eradicated is located in close proximity to native riparian vegetation or surface water, the applicant shall either: (a) remove non-native or invasive vegetation by hand (Arundo donax shall be cut to a height of 6 inches or less, and the stumps painted with Glyphosate Roundup™ herbicide), or (b) utilize a plastic sheet/barrier to shield native vegetation or surface water from any potential overspray that may occur during use of herbicide. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain.~~

No herbicides shall be used during the proposed restoration project or during subsequent maintenance of revegetation plantings for the life of the project.

2.) The following change shall be made to page 3 of the staff report:

Special Condition (9) restricts ~~the type of herbicides used and requires procedures for application~~ herbicide use.

3.) The following change shall be made on page 65 of the staff report:

Furthermore, **Special Condition Nine (9)** restricts herbicide use**.** ~~requires that any herbicides, if necessary for revegetation, shall not be used in any open water areas on the project site. Herbicide use in upland areas shall be restricted to the use of Glyphosate Aquamaster™ (previously Rodeo™) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only~~.

4.) The following provides a brief response to public comment letters received by October 11, 2010:

Nearby residents and members of the Malibu Colony Homeowners Association (HOA) have raised concerns regarding the planting palette and the potential fire hazards due to the type of plants proposed. Specifically, the September 30, 2010 letter from Schmitz and Associates, on behalf of the Malibu Colony HOA, requests removal of two plant species from the planting palette within 200 ft. of the Colony, including California Sagebrush (*Artemisia Californica*) and Coyote Brush (*Baccharis pilularis consanguinea*). Coyote Brush is not proposed as part of the project plant palette. California Sagebrush is proposed in a small area and the applicant has agreed to remove this plant from the planting palette within 100 ft. of the Malibu Colony residential property boundaries.

The letter from the Law Offices of James Birkelund, on behalf of Wetlands Defense Fund and Coastal Law Enforcement Action Network (CLEAN), dated October 5, 2010, raises several issues about the project and staff report and recommendation. First, Wetlands Defense Fund and CLEAN assert that there has not been enough time for the public to analyze the most recent staff report for the project (Item W6a) and that the most recent staff report contains changes that “pose significant impacts to the environment.”

In response, the changes to the project explained in the September 29, 2010 staff report are not substantive and are only minor revisions to the project description and in response to public comment letters received by Malibu Colony residents and the City of Malibu. As explained in the September 29, 2010 staff report, the applicant has revised plans for the perimeter “Adamson House” wall to address residents’ drainage concerns and the applicant has revised the planting palette to include bioswales and modify plantings to address residents’ concerns over potential fire hazards due to the flammability of previously proposed plantings. Based on the City of Malibu’s concerns, a special condition was added to assure the prevention of the spread of the highly invasive New Zealand mudsnail (Special Condition

17) and additional bacteria water quality reporting requirement was added to Special Condition 5(a)(2)). The project description was modified to clearly reflect the acreages of habitat that are proposed for restoration. There have been no changes to the plans for restoration acreages, only the measurements have been re-calculated to accurately reflect the plans. The July 29, 2010 staff report stated that: "total available subtidal and intertidal habitat will increase by approximately 4 acres, or approximately 15%, during open lagoon mouth conditions. (FEIR, p.6-19)." The September 29, 2010 staff report was revised to state that, "the project will serve to increase marsh habitat within the limit of work by approximately 4 acres (from approximately 5.2 to 9.2 acres) and increasing available subtidal and intertidal habitat by about an acre or 11%. Both reports state the accurate habitat amount to be increased (4 acres). These small modifications to the staff report are only clarifications and additional special conditions and will not result in additional impacts to Malibu Lagoon.

Next, the October 5, 2010 letter written on behalf of the Wetlands Defense Fund and CLEAN letter raises an issue regarding the availability of documents at the Commission office. The letter states that, as of October 5, 2010, CLEAN was still awaiting access to the file for CDP P-79-5515 and that the file was not available for review on September 8, 2010 by Marcia Hanscom, Director of the Wetlands Defense Fund. When Ms. Hanscom came to the office to review the file for CDP application 4-07-098, no request was made to review the file for P-79-5515. This file has been in the Commission's Ventura Office and available for public review since 12/5/07 when it was requested from State archives. Further, the October 5, 2010 letter asserts that Mr. James Birkelund called the Ventura Office on September 30, 2010 and was told that the documents were located off site. Mr. Birkelund did not speak with the Coastal Program Analyst working on this project and did not receive accurate information, as this file has been available for the public to review in the Ventura Office since 2007. Subsequently, this file was reviewed by Ms. Hanscom on October 6, 2010.

Lastly, the October 5, 2010 letter, written on behalf of the Wetlands Defense Fund and CLEAN, raises issues regarding the EIR process and response to the November 7, 2005 Department of Fish and Game (DFG) comment letter. The Wetlands Defense Fund and CLEAN assert that the California Department of Fish and Game "raised specific issues that have not been addressed by the Coastal Commission Staff report or in the final EIR." The letter states that issues raised in the DFG letter include: "the importance of preserving rare plant and rare natural communities in Malibu Lagoon; the need for a thorough discussion of direct, indirect, and cumulative impacts that according to DFG would adversely affect biological resources; and the need for a range of alternatives to be considered, including alternative locations for the project."

In response, the November 7, 2005 letter commenting on the Notice of Preparation merely requested that additional information be provided in the EIR. The information requested from DFG was provided in the Final EIR. The Final EIR provided extensive biological resource studies and analysis and thoroughly discussed direct, indirect, and cumulative impacts expected to adversely affect biological resources and mitigation measures. Further, DFG issued a Streambed Alteration Agreement, Number #1600-2007-0316-RF on November 20, 2007 for the proposed Malibu Lagoon restoration project. At that time, DFG was aware of the Malibu Lagoon Project and the information provided in the March 2006 Final EIR for the Malibu Lagoon restoration project. Although the DFG approval was essentially a default approval, the November 20, 2007 letter states that the project may be completed without an

agreement, but that the project must be the same one, and conducted in the same manner as described in the notification. The Wetlands Defense Fund and CLEAN assert that the SAA waiver no longer applies because the project has changed significantly, raising the issue of project timing. However, the project description has only been slightly modified since the DFG notification was issued in 2007 and will not result in additional impacts. The work period has slightly changed since the 2007 Fish and Game review. In 2007, the work term was proposed to be outside of the least tern breeding season (breeding season is approximately early to mid-May through August/mid-September). However, the project was subsequently modified to avoid the rainy season and to avoid altering the natural breaching regime of the lagoon, thus minimizing impacts to other sensitive species including the tidewater goby and steelhead trout. Thus, the proposed work timeframe is June 1st through October 15$^{th.}$ Potential impacts to the least tern are explained on pages 56-58 of the September 29, 2010 staff report. The least tern is not expected to be adversely impacted during the proposed construction timeframe because little to no work will be conducted in the main lagoon channel that the California least tern uses for roosting habitat. Further, Section I, CEQA, on page 74 of the September 29, 2010 Coastal Commission staff report and recommendation explains that, as conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, as explained in the staff report, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of the Coastal Act to conform to CEQA.

Additionally, the City of Malibu letter, dated October 7, 2010, requests the following two changes to the project, including: (1) bacterial indicator monitoring during construction and (2) post-construction and avian surveys pre-construction and post-construction. Special Condition 5 requires post-construction monitoring reports that shall include bacterial monitoring results. Bacterial monitoring during construction is not required within the lagoon, but discharges to Surfrider Beach due to dewatering will be monitored for bacteria under the RWQCB permits for the project. Additionally, Special Conditions 1 and 7 of the September 29, 2010 staff report and recommendation require pre and post construction avian monitoring.

Further, several of the public comment letters raised specific issues about public access, and, in particular, the removal of the public accessway that currently exists through the lagoon to Surfrider Beach. This accessway, consisting of bridges through the lagoon, was constructed during the 1983 lagoon restoration project. Although this is the main accessway to the beach, another accessway around the lagoon also exists on the west side of the lagoon complex. The proposed project includes the removal of the direct access pathway and includes the enhancement of the accessway around the lagoon. The project will not reduce public access, but will provide an alternate walkway around the lagoon, consisting of a decomposed granite pathway at least 10 ft. wide, native plantings, and educational signage. Further, removing the current accessway through the lagoon will enable a complete restoration of the lagoon habitat by removing obstructions to water circulation due to the existing bridges and by reducing impacts to lagoon wildlife due to human disturbance.

Attachments:

1.) Letter from Schmitz and Associates, on behalf of the Malibu Colony HOA to Commission Staff, dated September 30, 2010
2.) Letter from James Birkelund, on behalf of Wetlands Defense Fund and CLEAN, to Commission Staff, dated October 5, 2010
3.) Letter from Debroah Bogen to Commission Staff, received October 6, 2010
4.) Letter from Hartmut S. Walter to Chair Neely, dated September 24, 2010
5.) Letter to Mary Ann Webster, Sierra Club, to Commission Staff, received October 6, 2010
6.) Letter from Ben Hamilton to Commissioners and Staff, received Oct. 5, 2010
7.) Letter from Patricia McPherson, Grassroots Coalition, to Commission Staff, dated October 5, 2010
8.) Letter from Ben Zuckerman and Elizabeth to Commissioners, dated October 5, 2010
9.) Letter from Julio Bermejo to Commission Staff, dated October 6, 2010
10.)Letter from Malibu Lagoon Museum to Commissioners, dated October 4, 2010
11.)Letter from Natural History Museum to Commissioners, dated October 1, 2010.
12.)Letter from Steve Dunn to Commissioners, dated October 5, 2010
13.)Letter from Wendi Werner to Commissioners, dated October 5, 2010
14.)Letter from Steve Hoye, Access for All, to Commission Staff, dated October 7, 2010
15.)Letter from Daniel Hillman, M.D., to Commission Staff, dated October 6, 2010
16.)Letter from Friends of the Historic Adamson House & Malibu Lagoon Museum to Commissioners, received October 6, 2010
17.)Letter from David Brown, Santa Monica Mountains Task Force/Sierra Club, to Commission Staff, received October 6, 2010
18.)Letter from Patt Healy to Commissioners, received October 7, 2010
19.)Letter from Drew Albenze and Nancy Hastings, Surfrider Foundation, dated October 6, 2010
20.)Letter from Marshall Thompson to Commissioners, received October 7, 2010
21.)Letter from Wellford Wilms to Commission Staff, dated October 5, 2010
22.)Fax of Ex-parte Commissioner Packet from Schmitz and Associates, received October 7, 2010 (14 pages)
23.)Letter from Lisa Fimiani, Friends of Ballona Wetlands to Commissioners, dated October 8, 2010
24.)Letter from the City of Malibu to Chair Neely and Commissioners, dated October 7, 2010
25.)Letter from Scott Pomerantz to Commission Staff, dated October 5, 2010
26.)Letter from Tara Lynch, Senior Staff Counsel, State Parks, to Commissioners dated October 6, 2010
27.)Letter from Craig Sap, Angeles District Superintendent, State Parks, to Commissioners dated October 11, 2010
28.)Letter from Alisa McCarter to Commission Staff, dated October 7, 2010
29.)Letter from Allessandra DeClario to Commission, dated October 6, 2010
30.)Letter from Garry George, Conservation Chair, Los Angeles Audubon Society, dated October 11, 2010
31.)Ex-Parte Communcations

Amber Tysor

From: Nicole Farnoush [nfarnoush@schmitzandassociates.net]
Sent: Thursday, September 30, 2010 1:32 PM
To: Amber Tysor
Subject: Re: CDP Application 4-07-098 - California Department of Parks and Recreation
Attachments: Lagoon Restoration Planting Plan.PDF; Fuel mod Plant list appendix 9 4 07.pdf; Highly Flammable Plants - State of Calif - The Resources Agency.pdf; Malibu Lagoon Restoration Plant Palette.PDF

Re: CDP Application 4-07-098
Applicant: California Department of Parks and Recreation

(Please note that I have also sent you the following letter, in addition to the attachments, via UPS to your office at the Coastal Commission in Ventura).

Dear Ms. Tysor,

I am contacting you on behalf of the Malibu Colony HOA regarding the California State Park's pending application for the Malibu Lagoon Restoration Project. Please note that the HOA is not opposing the project, but is requesting very specific modifications to be made. We would like to direct your attention to one of the HOA's requests for modification to the plan concerning the proposed plantings.

The current plan includes the planting of two certain plant species designated as "highly flammable" on both the Los Angeles County Fire Department and California States Resource Board lists of highly flammable and dangerous plants. These include Artemisia Californica, more commonly known as California Sagebrush, and Baccharis pilularis consanguinea, also known as Coyote Brush. The planting of these two plant species are proposed within 200 feet of the Colony (as illustrated in the attached exhibit) and thus, encroach into the fuel modification zone. Accordingly, we are simply asking that you modify the plant palette to exclude the two aforementioned plant species within 200 feet of the Colony.

Attached for your reference is a copy of the proposed Plant Palette which highlights the two plant species, The Los Angeles County Fire Department and California States Resource Board highly flammable and dangerous plants lists, and the Planting Plan Sheet which exhibits and highlights our areas of concerns.

Thank you for your time and attention on this matter. Should you have any questions or comments, please feel free to contact me via email at nfarnoush@schmitzandassociates.net or by phone at (818) 338-3636.

Sincerely,
Schmitz & Associates, Inc.

Nicole Farnoush I Associate Planner I **Schmitz & Associates, Inc.**
5234 Chesebro Road, Suite 200, Agoura Hills, CA 91301
V: (818) 338-3636 I F: (818) 338-3423

APPENDIX I
UNDESIRABLE PLANT LIST

TARGET PLANT SPECIES - Certain plants are considered to be undesirable in the landscape due to characteristics that make them highly flammable. These characteristics can be either physical or chemical. Physical properties would include large amounts of dead material retained within the plant, rough or peeling bark, and the production of copious amounts of litter. Chemical properties include the presence of volatile substances such as oils, resins, wax, and pitch. Certain native plants are notorious as species containing these volatile substances.

Plants with these characteristics should not be planted in fire hazard areas. Should these species already exist within these areas, they should be removed because of the potential threat they pose to structures. They are referred to as target species since their complete or partial removal is a critical part of hazard reduction. The following is a partial list of plants that should be avoided near structures.

UNDESIRABLE PLANT SPECIES (TARGET SPECIES)

Natives:
Adenostoma fasciculatum - Chamise
Adenostoma sparsifolium - Red shank
Artemisia californica - California Sagebrush
Eriogonum faciculatum - Common Buckwheat
Salvia sp. – Sage

Ornamentals:
Cortadera sp.- Pampas Grass
Cupressus sp. - Cypress
Eucalyptus sp. - Eucalyptus*
Jasminum humile – Italian Jasmine
Juniperus sp. – Juniper*
Pinus sp. – Pine
Plumbago auriculata – Cape Plumbago
Tecoma capensis – Cape Honeysuckle

* Except as permitted in the planting list

INVASIVE PLANT SPECIES - Other plants may be considered to be undesirable due to their ability to naturalize in wildland areas and become pests, because they are invasive in the landscape, or because they are an aggressive spreading or climbing species that out compete other plants. These types of plants should be avoided, especially in sensitive riparian or coastal areas where they may become established and compete with native vegetation. The following is a list of commonly used plant species that should not be planted due to their invasive nature. Applicants may be required to remove these plants where they occur. For a more complete list, visit the California Invasive Plant Council website at www.cal-ipc.org.

UNDESIRABLE PLANT SPECIES (INVASIVE SPECIES)

Arctotheca calendula – Capeweed
Atriplex semibaccata – Australian Saltbush
Carpobrotus chilensis – Sea Fig, Ice Plant
Carpobrotus edulis – Hottentot Fig
Cortadera sp. – Pampas Grass
Cytisus sp. – Broom
Elaegnus angustifolia – Russian Olive
Ficus carica – Edible Fig
Eucalyptus globulus – Blue Gum
Hedera canariensis – Algerian Ivy
Hedera helix – English Ivy
Myoporum laetum - Myoporum
Pennisetum setaceum – Fountain Grass – including all cultivars and varieties
Phoenix canariensis – Canary Island Date Palm
Plumbago auriculata – Cape Plumbago
Robinia pseudoacacia – Black Locust
Schinus molle – California Pepper Tree
Schinus teribinthifolius – Brazilian Pepper Tree
Tecoma capensis – Cape Honeysuckle
Vinca major – Periwinkle
Washingtonia robusta – Mexican Fan Palm

Plants should fit the location and situation. Large trees should not be planted under or near utility lines. Low branching and wide trees should not be planted near roads or driveways where they could interfere with emergency vehicles. Typically, trees should be planted no closer than a distance of one half of their expected mature width away from roads or driveways. Avoid using shallow rooted ground covers on steep slopes. Acceptable forms of Ice Plant, while an effective ground cover on flat surfaces, would be undesirable on a steep slope because its shallow rooted nature may cause it to slide off the slope if the root zone becomes saturated during a rain storm. This would expose the bare soil to erosion.

Care should be taken to avoid erosion problems created or enhanced by total vegetation removal. In areas where target species comprise the total vegetation, partial removal is recommended with replacement planting using desirable species as the long range goal.

APPENDIX II
DESIRABLE PLANT LIST

Desirable Qualities for Landscape Plants

1. Ability to store water in leaves or stems
2. Produces limited dead and fine material
3. Extensive root systems for controlling erosion
4. High levels of salt or other compounds within its tissues that can contribute to fire resistance
5. Ability to withstand drought.
6. Prostrate or prone in form.
7. Ability to withstand severe pruning.
8. Low levels of volatile oils or resins.
9. Ability to resprout after a fire.

PLANT LIST LEGEND

Geographical Area	Water Needs	Evergreen/Deciduous
C-Coastal	H-High	E-Evergreen
IV-Interior Valley	M-Moderate	D-Deciduous
D-Deserts	L-Low	E/D-Partly or
	VL -Very Low	Summer Deciduous

ZONE: A number on the list denotes the minimum distance allowed from any structure. Example: A,B-15 would indicate the plant should be planted no closer than 15 feet. Trees should typically be planted no closer than one half their expected mature spread away from roads or driveways.

A - Setback Zone – to 20 feet from structure.

B – Irrigated Zone – from Zone A up to 100 feet from structure.

C – Thinning Zone – thinned native vegetation up to 200 feet from structure.

Comment Code

1	Not for use in coastal areas.	13	Tends to be short lived.
2	Should not be used on steep slopes.	14	High fire resistance.
3	May be damaged by frost.	15	Dead fronds or leaves need to be removed to maintain fire safety.
4	Should be thinned bi-annually to remove dead or unwanted growth.	16	Tolerant of heavy pruning.
5	Good for erosion control.	17	Must be cut back after flowering.
6	Grows best in well drained soils.	18	May require partial shade in desert or valley areas.
7	Produces flowers or fruit that attracts birds and or butterflies.	19	Perennial
8	Adaptability can vary.	20	Tolerates saline soils.
9	Can be used as a lawn substitute.	21	Grows naturally in riparian areas.
10	Showy flowers.	22	Good tree for lawns.
11	Produces edible fruit.	23	Produces habitat or food for wildlife
12	Native or native cultivar.	X	May be invasive in some areas

The following plant list is provided as a suggested guideline, not exclusive, for Fuel Modification landscaping within Los Angeles County. Plants not listed (grasses, annuals etc.) may be used if approved with the Fuel Modification plan.

The desirable planting list is based on comments from numerous professionals and public agencies, Sunset Western Garden Book, Bob Perry's Landscape Plants for Western Regions, and the California Department of Water Resources study entitled, WUCOLS (Water Use Classification of Landscape Species). The plant list is arranged by plant type and includes categories for the acceptable Fuel Modification Zone, water needs, size, and appropriate geographical area for planting. A comment code is included to assist in plant selection and maintenance requirements.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION
5366 Highway 49 North
Mariposa, California 95338

This is in NO way a "complete" list of highly flammable plants and does not intend to represent itself as such. The plants contained on this list are a compilation from many sources from around the State.

HIGHLY FLAMMABLE PLANTS

TREES

Abies spp.	fir
Acacia spp.	acacia
Cedrus spp.	cedar
Chamaecyparis spp.	cypress, cedar
Cryptomaria japonica	cryptomeria
Cupressus sargentii	sargent cypress
Cupressus spp.	cypress
Cupressocyparis spp.	cypress
Eucalyptus cladocalyx	sugar gum
Eucalyptus globulus	blue gum
Eucalyptus rudis	flooded gum
Eucalyptus viminalis	manna gum
Juglans hindisii	black walnut
Larix spp.	larch
Laurus nobilis	CA bay tree
Lithocarpus densiflora	tan oak
Palms	palm
Picea spp.	spruce
Pinus attenuate	knobcone pine
Pinus coulteri	coulter pine
Pinus radiate	monterey pine
Pinus spp.	pine
Pseudotsuga menziesii	douglas fir
Schinus spp.	pepper tree
Tamarix spp.	tamarisk
Taxodium spp.	bald cypress
Taxus spp.	yew
Thuja spp.	arbor-vitae
Tsuga spp.	hemlock
Umbrellularia californica	CA laurel

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SHRUBS

Adenostoma fasciculatum	chamis, greasewood
Adenstoma sparsifolium	red shank
Arctostaphylos spp.	manzanita
Artemesia californica	CA sage brush
Artemisia caucasica	white sage brush
Artemisia spp.	sage
Atriplex spp.	saltbush
Baccharis piluiaris consanguinea	coyote brush
Castanopsis chysophylla	giant chinquapin
Ceanothus spp.	ceanothus
Cistus spp.	rock rose
Cotoneaster spp.	cotoneaster
Dodonaea viscosa	hopseed bush
Erigonum spp.	buckwheat
Genista spp.	broom
Hakea suaveolens	hakea
Heteromeles arbutifolia	toyon
Juniperus spp.	juniper
Pickeringia montana	chaparral pea
Quercus dumosa	scrub oak
Rhus ovata	sugar bush
Rhus spp.	sumac
Rosmarinus officinalis prostratus	prostrate rosemary
Salvia malifera	sage
Sparitium spp.	broom
Vaccinium malifera	huckleberry

GROUNDCOVERS

Baccharis spp.	coyote bush
Ceanothus spp.	ceanothus
Cotoneaster spp.	cotoneaster
Hedera conariensis	algerian ivy

This is in NO way a "complete" list of highly flammable plants and does not intend to represent itself as such. The plants contained on this list are a compilation from many sources from around the State.

ANNUALS, PERENNIALS, VINES

Bamboo spp.	bamboo
Chamaebatia foliolosa	mt. misery
Coterderia jubata	panpas grass
Cotaderia selloana	pampas grass
Cytisus monspessulanus	french broom
Cytisus scoparius	scotch broom
Cystisus ssp.	broom
Gelsemium sempervirens	carolina jessamine (toxic)
Lonicera japonica	japanese honeysuckle
Lotus scoparius	deerweed
Miscanthus spp.	grasses
Muehlenbergia spp.	deer grasses
Pennisetum setaceum	fountain grasses
Phormium tenax	new zealand flax
Salvia melilfera	black sage
Salvia spp.	sage
Ulex europea	gorse

PLANTING PROGRAM

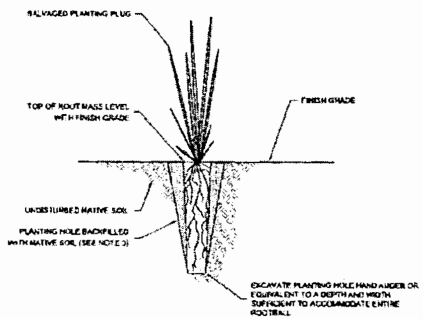
SYMBOL	PLANTING ZONE AND TIDAL RANGE	DETAIL REFERENCE	SPECIES NAME: BOTANICAL NAME	SPECIES NAME: COMMON NAME	CONTAINER PLANT: SIZE	CONTAINER PLANT: QUANTITY	SALVAGED PLUGS: QUANTITY
	LOW MARSH MTL-MHW (2.5'-4.5' NGVD)	1/D-3	JUNCUS BALTICUS	BALTIC RUSH			X
			JUNCUS MEXICANUS	TULE			X
			SCIRPUS ACUTUS	BULRUSH			X
			SCIRPUS CALIFORNICUS	MEXICAN RUSH			X
	MID-HIGH MARSH MHW-MHHW (4.5'-5' NGVD)	1/D-3, 2/D-4	BATIS MARITIMA	SALTWORT	DEEPOT	X	
			DISTICHLIS SPICATA	SALTGRASS			X
			FRANKENIA SALINA	ALKALAI HEATH			X
			JAUMEA CARNOSA	MARSH JAUMEA			X
			SALICORNIA VIRGINICA	PERENNIAL PICKLEWEED			X
	HIGH MARSH TRANSITIONAL MHHW-8' NGVD	1/D-3, 2/D-4	CORDYLANTHUS MARITIMUS	SALT MARSH BIRD'S BEAK	DEEPOT	X	
			DISTICHLIS SPICATA	SALTGRASS			X
			FRANKENIA SALINA	ALKALAI HEATH			X
			GRINDELIA ROBUSTA	GUM PLANT	DEEPOT	X	
			JAUMEA CARNOSA	MARSH JAUMEA			X
			LIMONIUM CALIFORNICUM	SEA LAVENDER	DEEPOT	X	
			MONANTHOSCHLOE LITTORALIS	SHOREGRASS			X
			SUAEDA ESTEROA	ESTUARY SEA BLITE	DEEPOT	X	
	COASTAL SCRUB > 8' NGVD	1/D-3, 2/D-4	ABRONIA UMBELLATA	PURPLE SAND VERBENA			X
			ARTEMISIA CALIFORNICA	CALIFORNIA SAGEBRUSH	DEEPOT	X	
			ATRIPLEX TRIANGULARIS	SPEARSCALE	DEEPOT	X	
			BACCHARIS PILULARIS	COYOTE BUSH	DEEPOT	X	
			BACCHARIS SALICIFOLIA	MULE FAT	DEEPOT	X	
			ISOMERIS ARBOREA	BLADDERPOD	DEEPOT	X	
			LEYMUS CONDENSATUS	GIANT WILDRYE			X
			LYCIUM CALIFORNICUM	CALIFORNIA BOX THORN	DEEPOT	X	
			MALOSMA LAURINA	LAUREL-LEAF SUMAC	DEEPOT	X	
			RHUS INTEGRIFOLIA	LEMONADEBERRY	DEEPOT	X	
	HORTICULTURAL	2/D-4	MALOSMA LAURINA	LAUREL-LEAF SUMAC	DEEPOT	X	
			PLATANUS RACEMOSA	WESTERN SYCAMORE	TREEPOT 4	X	
			RHUS INTEGRIFOLIA	LEMONADEBERRY	DEEPOT	X	
			SAMBUCAS MEXICANA	MEXICAN ELDERBERRY	TREEPOT 4	X	

NOTE:
1. QUANTITIES AND SPACING TO BE DETERMINED.

SEED MIX

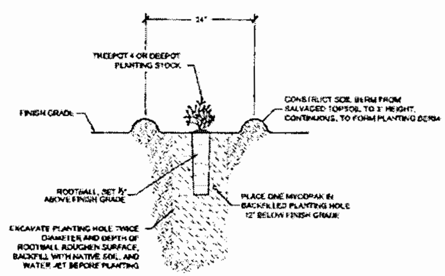
SYMBOL	PLANTING ZONE AND TIDAL RANGE	SPECIES NAME: BOTANICAL NAME	SPECIES NAME: COMMON NAME	APPLICATION RATE (PLS/ACRE)
	MID-HIGH MARSH MHW-MHHW (4.5'-5' NGVD)	SALICORNIA BIGELOVII	DWARF GLASSWORT	
		SALICORNIA SUBTERMINALIS	PARISH'S GLASSWORT	
	COASTAL SCRUB > 8' NGVD	CALYSTEGIA SOLDANELLA	BEACH MORNING GLORY	
		ERIOGONUM FASCICULATUM	CALIFORNIA BUCKWHEAT	
		LUPINUS LONGIFOLIUS	BUSH LUPINE	

NOTE:
1. APPLICATION RATE TO BE DETERMINED.



NOTES:
1. PLANTING HOLES FOR PLUGS SHALL BE DEEP ENOUGH TO ACCOMMODATE ROOTS WITHOUT BENDING ROOTS. PLANTING HOLE SHALL ONLY BE LARGE ENOUGH TO ACCOMMODATE ROOT MASS. DO NOT OVER-EXCAVATE.
2. INSTALL SALVAGED PLUG, BACKFILL PLANTING HOLE WITH NATIVE SOIL AND TAMP WITHOUT DAMAGING OR CRUSHING ROOTS OR PLANT.
3. ROCKS, TRASH OR DEBRIS FOUND IN EXCAVATED SOIL SHALL NOT BE USED TO BACKFILL THE PLANTING HOLE. BACKFILL SOIL SHALL MAKE GOOD CONTACT WITH THE ROOT MASS, LEAVING NO AIR POCKETS.
4. THOROUGHLY WATER IN EACH PLUG WITHIN 4 HOURS OF PLANT INSTALLATION.
5. REFER TO PLANTING SPECIFICATIONS FOR ADDITIONAL INFORMATION.

(1/P-5) SALVAGED PLUG PLANTING
SCALE: 1"=3"



NOTE:
1. REFER TO PLANTING SPECIFICATIONS FOR ADDITIONAL INFORMATION.

(2/P-5) CONTAINER PLANTING
SCALE: 1"=1'

CALIFORNIA STATE PARKS SINCE 1864
ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

DESIGNED: SS
DRAWN: JS/KT
CHECKED: SS
DATE: 10/05/07

REVISIONS | DATE

Jones & Stokes

PROJECT: 65% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT - PHASE 2

SHEET TITLE: PLANTING PROGRAM AND DETAILS

ADDRESS: MALIBU LAGOON STATE BEACH, 23405 PACIFIC COAST HIGHWAY, MALIBU, CA 90265

DRAWING NO. P-5

SHEET NO. 17 OF 24

EXHIBIT 15
CDP # 4-07-098 (Malibu Lagoon)
Plant Pallette

LAW OFFICES OF
JAMES BIRKELUND

840 CALIFORNIA STREET, SUITE 45
SAN FRANCISCO, CA 94108
TEL: 415-602-6223
JAMES@BIRKELUNDLAW.COM

Via Email and U.S. Mail

October 5, 2010

Ms. Amber Tysor, Coastal Program Analyst
California Coastal Commission
South Central Coast Area
89 South California St., Suite 200
Ventura, CA 93001
Email: atysor@coastal.ca.gov

Re: Request for 45-Day Extension on Hearing Date for Malibu Lagoon Restoration Plan (Item W6a; App. No. 4-07-098)

Dear Ms. Tysor:

On behalf of Wetlands Defense Fund and CLEAN (Coastal Law Enforcement Action Network), we write to express concerns regarding the public input process for the Wetlands Habitat Restoration and Enhancement Plan for Malibu Lagoon (the "Project") and to request a 45-day extension on the public hearing date for the Project. An extension is legally mandated due to changes in the most recent staff report and because the public is still awaiting access to portions of the administrative record.

Ensuring full public participation at this stage is further warranted because CLEAN previously raised concerns with the Project during the early stages of the California Environmental Quality Act ("CEQA") process; however, such concerns were never addressed.

Changes to Staff Report

Eleven days is grossly insufficient time for the public to analyze the most recent California Coastal Commission staff report for the Project (Item W6a). This report publicly appeared on the Commission's website the afternoon of Thursday, September 30, 2010, and the Commission hearing for the Project is presently scheduled on October 13, 2010. *This provides the public with only 11 full days to review the staff report.* We request that the Commission provide at least 45 days between the time this staff report was publicly released and any public hearing by the Commission.

Under the Coastal Act, the Commission is legally required to provide adequate time for members of the public to review and comment on staff reports that it has prepared. CEQA's 30-day timelines and safeguards relative to public review of environmental impact reports ("EIR") apply to the Commission's staff reports as well. Except for limited exceptions, the Commission must comply with CEQA, and the staff report serves as the functional equivalent of an EIR. *Sierra Club v. State Board of Forestry*, (1994) 7 Cal.4th 1215,1231; 14 Cal. Code of Reg. ("CEQA Guidelines") § 15250. The public review period for

a draft EIR (or staff report equivalent) may not be less than 30 days, and recirculation of an EIR (or staff report equivalent) is required when "significant new information" is added. Cal. Pub. Res. Code ("PRC") § 21091(a); CEQA Guidelines § 15088.5. The term "information" includes changes in the project as well as additional data or other information. CEQA Guidelines § 15088.5.

The new staff report encompasses both changes to the Project that pose significant impacts to the environment and new information that require time for public review. Although an earlier version of a staff report was released on or around July 29, 2010 (Item Th 19a), that report is outdated and has been replaced.

Our initial assessment of the new staff report indicates changes to the Project that include:

- Major drainage modifications to the Project with the inclusion of vegetated drainage swales up to 800 ft. long. *See* Staff Report, p. 37.
- Revised vegetation plans relative to channel slopes along the lagoon edge. *Id.*, p. 31.
- The addition of Special Condition number seventeen related to New Zealand Mud Snail Measures. *Id.*, p. 66.
- Revised acreages relative to marsh habitat and subtital and intertidal habitat that will be allegedly be increased by the Project. *Id.*, p. 64.

These modifications have the potential to significantly impact the environment at Malibu Lagoon. Drainage swales, for example, will alter the site hydrology, potentially introducing new pollutants from surrounding residences, and potentially threatening water quality impacts to wetlands. These modifications also potentially could impact flooding of adjacent properties, which could, in turn, bring additional debris and other runoff into the lagoon.

Additionally, the substantive file for the Project has been extensively supplemented. New studies, information, and analysis in the staff report include:

- A September 22, 2010 Memorandum Regarding the Malibu Lagoon Restoration and Enhancement Plan, Phase 2 Project, prepared by Jonna Engel, Ph. D;
- Drainage Calculations prepared by Steve Seville, P.E., ICF International, dated September 3, 2010;
- "Enumeration and speciation of enterococci found in marine and intertidal sediments and coastal water in southern California," by D.M. Fergosun, Moore, et. al, January 2005;
- "Multi-Tiered Approach Using Quantitative Polymerase Chain Reaction for Tracking Sources of Fecal Pollution to Santa Monica Bay, California," by Noble, Griffith, Blackwood, et. al., February 28, 2005;
- "Modeling the Dry-Weather Tidal Cycling of Fecal Indicator Bacteria in Surface Waters of an Intertidal Wetland," by Sanders, Arega, and Sutula, June 2005;

- "Final Report: Identification and Control of Non-Point Sources of Microbial Pollution in a Coastal Watershed," by Sanders, Grant, Horne, et. al., February 2006;

- "Fecal Indicator Bacteria Levels During Dry Weather from Southern California Reference Streams," by Tiefenthaler, Stein, and Lyon, January 2008;

- "Coastal groundwater dynamics off Santa Barbara, California: Combining geochemical tracers, electronic seepmeters, and electrical resistivity," by Swarzenski and Izbicki, United States Geological Survey, September 2009;

- "Sources of Fecal Indicator Bacteria in Urban Streams and Ocean Beaches, Santa Barbara, California," by Izbickie, Swarzenski, et. al., September 2009;

- Letter from Peter Martin, Program Chief, U.S. Geological Survey, California Water Science Center, to Mr. James Thorson, City Manager, City of Malibu, dated October 29, 2009;

- "Sources of Fecal Indicator Bacteria and Nutrients to Malibu Lagoon and Near-Shore Ocean Water, Malibu, California, by John Izbicki;

- PowerPoint Presentation: "Summary of 2009 UCLA Study in Malibu Lagoon," Ambrose, Jay, Thulsiraj, Estes;

- "Malibu Lagoon Bacteria Study- Synopsis with Preliminary Results," by Ambrose, Jay, Meyers, and Estes, University of California, Los Angeles, April 25, 2009; and

- "2009 Investigation of Spatial and Temporal Distribution of Human-specific *Bacteroidales* marker in Malibu Creek, Lagoon, and Surfrider Beach," by Ambrose, Jay, Thulsiraj, Estes, University of California, Los Angeles.

As things stand, the public will have only 11 days to review this new information. At a minimum, 45 days will be needed for our organization and other interested parties to adequately analyze the revised environmental documents. This time is necessary to fulfill the public review and proper decision-making process under the Coastal Act and CEQA.

Access to Documents

Despite the rapidly approaching hearing date of October 13th, Wetlands Defense Fund still does not have access to key information referenced in the staff report. Specifically, Wetlands Defense Fund is still awaiting access to Coastal Development Permit No. P-79-5515, referenced in both the July 29 staff report and the new staff report (*see* pp. 35 and 39, respectively). This permit was for the 1983 restoration of Malibu Lagoon. Such information is vital to understanding the existing conditions and configuration at Malibu Lagoon, how habitat values have changed over time, and the advisability of engaging in the large-scale grading of wetlands that threatens to undo prior restoration and habitat achievements.

Public Resources Code section 21092(b)(1) requires that an EIR (or staff report equivalent) must include "the address where copies of the proposed EIR and *all documents referenced therein* are available for review and readily accessible during the agency's normal working hours." The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the public review period

invalidates the entire process. *Ultramar v. South Coast Air Quality Man. Dist.*, 17 Cal.App.4th 689 (1993).

On September 8, 2010, Marcia Hanscom, Director of Wetlands Defense Fund, visited the Ventura Office of the Coastal Commission to review relevant documents; however, Coastal Development Permit No. P-79-5515 was not in the file. On September 30, 2010, Wetlands Defense Fund attorney James Birkelund requested the prior development permit by telephone and was advised by Commission staff that copies were not immediately available as the documents were located offsite and would take time to retrieve. This Project-related information is vital to our ability to make informed comments on the Project, and we request an extension of the hearing for this purpose as well. We were informed by Commission staff late last week that this information is now in the Ventura Commission office, and Ms. Hanscom plans to visit the office this week to review the file and hopefully any other information newly placed in the file. However, a full and complete analysis by experts Wetlands Defense Fund is relying on will not be possible without an extension of time for this review.

Concerns Still to be Addressed

CLEAN expressed severe concerns with the Project in written comments during the EIR scoping process. *See* Exhibit A (Wetlands Action Network/CLEAN letter, dated June 16, 2005, incorporated and set forth herein by reference in its entirety); *see also FEIR*, Appendix B. Issues raised in this letter include: (i) public participation concerns related to incorporating stakeholder input from the all voices within the environmental community, (ii) the importance of the Project adhering to initial recommendations from the Malibu Lagoon Task Force and Malibu Lagoon Watershed Committee, and (iii) substantive concerns related to project impacts to habitat values and examining alternatives to large-scale dredging of wetlands.

Despite having received this 11-page letter with a detailed, unambiguous list of concerns, the EIR wrongly asserted that "the scoping process did not reveal any areas of controversy surrounding the project." *EIR*, p. 2-7. The EIR utterly failed to address CLEAN's concerns. Ensuring adequate time for Wetlands Defense Fund, CLEAN and other members of the public to thoroughly review the newly released staff report is therefore of great importance in advance of the Commission rendering any decision on the Project.[1]

In addition, there is a letter in the EIR scoping comments from the California Department of Fish & Game ("DFG"), in which DFG raised specific issues that have not been addressed by the Coastal Commission staff report or in the final EIR. *See* Exhibit B (DFG letter, dated November 7, 2005, incorporated and set forth herein by reference in its entirety); *see also FEIR*, Appendix B. Issues raised in this letter include: the importance of preserving rare plant and rare natural communities in Malibu Lagoon; the need for a thorough discussion of direct, indirect, and cumulative impacts that according to DFG would adversely affect biological resources; and the need for a range of alternatives to be considered, including alternative locations for the project. DFG also set forth the legal requirements that the Project comply with (i) the Federal Migratory Bird Treaty Act, 50 C.F.R. §10.14, *et seq.*, (ii) Sections 3503, 3503.4, and 3513 of the California Fish and Game Code ("F&G Code") prohibiting the take of birds, and (iii) the California Endangered Species Act, Cal. F&G Code §§ 2500, *et seq. Id.*, pp. 2-3.

[1] CLEAN's public participation in the EIR process was further limited because Marcia Hanscom, its managing director, was told in person by Suzanne Goode at the California Department of Parks and Recreation that Phase II of the Project would not proceed. The organization also did not directly receive Notice of Availability of the draft EIR even though CLEAN participated and submitted comments in the scoping process.

The opinions of DFG – as the California state agency tasked with protecting our wildlife habitats – should be afforded great weight. DFG's comments, however, remain unaddressed. Unfortunately DFG's participation appeared limited due to staff constraints. As a result, DFG's concerns were not further pursued and the Project failed to obtain a Streambed Alteration Agreement ("SAA") from DFG, as is typically required for wetlands dredging. *See* DFG letter to Mark Abramson, dated November 2007 (waiving the need for a SAA due to staffing constraints); *see also* Cal. F&G Code §§ 16000, *et seq*. The Project has changed significantly since the DFG's 2007 letter (as but one example, changes occurred to the project's term and seasonal work period); and the SAA waiver therefore no longer applies. Addressing DFG's previously raised concerns and obtaining a SAA are now mandated before the Project can proceed.

***

Based on the foregoing, we request that the public hearing for the Project be rescheduled to allow at least 45 days to review the new staff report released on September 30, 2010. In fact, the staff report claims that the public will have 75 days to review the staff report, when in reality that 75 days refers to the review of a previous staff report, which is substantially altered and has been superseded. Additionally, we request that any rescheduled hearing be at an appropriate location to enable full participation by the interested parties and members of the public located in the Malibu area.

Thank you for considering our request. If you have any questions, please feel free to contact me.

Very truly yours,

James M. Birkelund

EXHIBIT A

Wetlands Action Network/CLEAN letter, dated June 16, 2005

Wetlands Action Network

protecting & restoring wetlands along the Pacific migratory pathways

PO Box 1145 • Malibu, CA 90265 (310) 821-9045

Coastal Law Enforcement Action Network (CLEAN)

enforcing laws protecting the California coast

322 Culver Blvd., Suite 317 • Playa del Rey, CA 90293 (310) 821-9045

June 16, 2005

California State Parks
Ms. Suzanne Goode, Resource Ecologist
California Coastal Conservancy
Mr. Sam Schuchat, Executive Director

re: Malibu Lagoon and restoration plans

Dear State Parks & Coastal Conservancy officials:

Thank you for the opportunity to comment on the process and proposed course of action recommended by contractors to the State of California for Malibu Lagoon.

As you know, our organizations have been vitally involved and interested in the Malibu Lagoon ecosystem for some time. We have one of the most extensive libraries of historical information on the ecology of Malibu Lagoon, and our advising biologist, Robert Roy van de Hoek has been one of the most consistent and persistent observers and analysts of this ecosystem during the past decade.

PREMATURE SELECTION OF PLAN

The first and foremost problem with the current plans is that a particular course of action (a specific project) has been selected by your contractors without knowing the current state of the ecosystem. This is a classic case of putting the cart before the horse. It appears that grant deadlines and grant workplans may be guiding the process, as opposed to having solid science leading the way.

No protocol surveys of birds, mammals, insects, reptiles or amphibians have been completed. No detailed, protocol surveys for plants has been completed either; only a "general" vegetation map is shown, ignoring the complexity and diversity of plant life and its ecological functions. In addition, inadequate fish surveys have been completed.

The amount of life that the plan would extinguish is not even known. In fact, it is not known which rare, threatened or endangered species in these categories are residing in which areas of the lagoon.

Therefore, it is completely premature to have selected a particular course of action without knowing first what is present and from there, deciding which species to manage for.

Aldo Leopold said:
Only those who know the most about it can appreciate how little we know about it. The last word in ignorance is the man who says of an animal or plant: "What good is it?" If the land mechanism as a whole is good, then every part is good, whether we understand it or not. If the biota, in the course of aeons, has built something we like but do not understand, then who but a fool would discard seemingly useless parts? To keep every cog and wheel is the first precaution of intelligent tinkering.
(emphasis added)

KILLING NATIVE PLANTS AND ANIMALS IS NOT GENUINE RESTORATION

The Draft Malibu Lagoon Restoration & Enhancement Plan states that one of the three categories of recommendations from the UCLA study was "restoration of existing wetlands habitat to enhance their ecological functioning."

Dredging much of Malibu Lagoon for a project that will not appreciably cleanse the pollutants from the lagoon and that will destroy existing, functioning habitat that has achieved an equilibrium over the past 20+ years is contrary to this stated goal. Many of the species living in Malibu Lagoon will be killed during heavy equipment dredging and removing of habitat.

The City of Los Angeles planned to dredge Grand Canal Lagoon in a similarly uninformed project. A lawsuit against the Coastal Commission for approval of that project stopped and prevented a great loss of life and habitat.

NEED TO DETERMINE WHICH SPECIES ARE BEING MANAGED FOR

It is imperative that, after the protocol species surveys are completed, a determination is made as to which species are the keystone species of Malibu Lagoon. i.e., which species are the priorities for management planning and what recovery goals have been determined? Of course, this can not be done without completed surveys of the species currently living year-round and visiting Malibu Lagoon during migration (an entire year of all seasons of surveying is important in order to capture this data.) Then a review of the historical literature and scientific analysis of all of these factors will assist in recommendations to stakeholders and ecologists who can make an informed decision as to what the needs of those species are.

There are also opportunities for re-introduction of some species which historically were at Malibu Lagoon, but have been since extirpated.

California Native Plant Society, Sierra Club and Wetlands Action Network are recipients, for example, of settlement funds and approval from the California Department of Fish & Game to re-establish at Malibu Lagoon, the once-thought to be extinct Ventura Marsh Milkvetch *(Astragulus pycnostachys lanosissimus.)* Whatever plan is selected needs to consider this species introduction and make certain that proper habitat for that species is not ruined in the proposed project implementation.

ECOLOGY & STAKEHOLDERS NEED TO DETERMINE COURSE OF ACTION

Genuine restoration of any coastal wetland ecosystem needs to be informed by the ecology of the system currently in place, as well as the historical conditions, taking into account major changes in the current regime.

Ecology needs to be the driving force, not engineering. Engineered solutions to waterways are an outgoing mode of discipline and certainly need to not be leading the charge in determining a course of action.

Then, once the ecology, both present and historical are studied, known and understood, the stakeholders, with a heavy dose of ecological processes guiding them, can help decide which species will be managed for and what, if any, restoration enhancements are needed above the current equilibrium of ecological processes that are currently in place at Malibu Lagoon after some 20+ years.

Perhaps the mis-guided efforts of those who chose the "final alternative" were mis-informed by the UCLA study that recommended the restoration goals, which were largely approved and conceived by stakeholders that were seriously lacking in biological and ecological data and historical knowledge of the Malibu Lagoon ecosystem when the study was undertaken. Wetlands Action Network was involved in this process, and, in fact, because these topics were not adequately addressed in the UCLA study, which primarily focused on water quality, it was our understanding that no

major restoration efforts were to be undertaken or even proposed for the lagoon until adequate protocol surveys were completed.

When the very first and only real opportunity for meaningful citizen and stakeholder input occurred in spring of 2004, there was clear consensus that no major machine-driven restoration would be taking place. The groups who gathered at Malibu City Hall that day determined that the only major activity that would require heavy machinery would be to tear up the existing sidewalks surrounding the lawn and the parking lot and move the parking lot closer to the street (Pacific Coast Highway.)

Otherwise, the major restoration efforts requested by the stakeholders included changing management practices on the sandy beach so as to encourage Snowy Plover nesting and possible Least Tern nesting, and removing non-native plants so that the wetland vegetation would be more appropriate to a coastal lagoon. This change in approximately 35% of the lagoon ecosystem vegetation would encourage more life consistent with coastal lagoon ecology, discourage homeless humans from living within inappropriate bushes and also discourage animals such as feral cats and raccoons from proliferating and, thus, causing un-due damage to bird and egg populations.

The products now being revealed as work products of the Technical Advisory Committee led by the State contractor, Heal the Bay, and the other state contractor Moffatt & Nichols Engineering, have departed in a major way and are a far cry from those recommend-

dations put forward by the citizens of Malibu and stakeholders of the Malibu Lagoon Task Force/Watershed Committee.

WATER QUALITY (which admittedly won't be helped much) AT THE EXPENSE OF HABITAT

There is quite a bit of focus in the reports on nutrients, sediments and water quality sampling. By the same token, there is a huge lack of biological understanding in the compilation of the report, which led to the inadequate informing of the recommendations.

While a few biological surveys are now being proposed after our voices had to be raised to a significant level to even be heard, they are severely lacking, as well as being proposed AFTER a course of action has ostensibly been selected. Again, this is backwards and not solid scientific decision-making.

Lacking, for instance, is any mention whatsoever of one of the most abundant types of species in any coastal wetland ~ insects ~ a crucial cog in the wheel of the lagoon ecosystem and vital to the determination as to what sort of restoration effort is desired.

In fact, there are definitely rare species of insects present at Malibu Lagoon, some of which could be severely impacted by the proposed plans.

Genuine restoration of Malibu Lagoon would take these species into account.

(There are several other categories of species curiously missing from the plan, as well. Insects are only one type.)

The importance of insects in a coastal wetland ecosystem is explained:

"Although these insects are an important ecological component, they are seldom considered in environmental impact reports even though insects are near the base of most food chains and interact with almost all life forms in natural land communities.

They are essential food sources for birds and other vertebrates. They control vegetation and population numbers of other animals, including rodents and injurious insect species; and most importantly, they pollinate flowering plants, thus insuring their reproduction.

However, insects receive little attention by urban planners and natural resource managers because of their small size, extreme difficulty in identifying most species and the incorrect assumption that they are biologically and ecologically insignificant."

~ Chris Nagano, Charles Hogue, Roy Snelling and Julian Donaghue; "The Insects and Related Terretrial Arthropods of Ballona" in Ralph Schreiber, Ed., *Biota of the Ballona Ecosystem*, 1981.

BETTER USE FOR PUBLIC MONEYS THAT WILL RESULT IN BETTER OUTCOME

In the "Final Alternatives Analysis, dated March, 2005," the Executive Summary includes the following statement:

"Solving the habitat and water quality problems at the lagoon is not entirely possible without major improvements to the quality and/or quantity of incoming surface water and groundwater."

This is a key statement that explains clearly why the focus for bond or other public moneys for restoration of Malibu Lagoon ought to be on obtaining more public land for restoration upstream from the Lagoon, specifically in the Civic Center/Cross Creek area, and pursuing other water quality enhancements that will improve both the quality and quantity of incoming surface water and groundwater.

On page 102 of the Final Alternatives Analysis the recommended alternative (alternative 1.5) construction cost estimate is $3.5 to 5.2 million. We would much rather see the bulk of this money go to purchase of more public land immediately upstream from the lagoon. There is a $25 million crucial parcel of land for sale by Mr. Jerry Perenchio, and if $1 million were to go for species surveys, nonnative plant removal, some limited plantings of more appropriate plants and moving the parking lot and adjacent sidewalks to minimize the impervious surface of the lagoon area, some $2.5 to 4.2 million would be available to go toward land purchase, which would add significantly to cleaning up pollutants in the lagoon.

California State Parks/California Coastal Conservancy
comments from Wetlands Action Network & CLEAN
re: Malibu Lagoon
June 16, 2005
page 10

PESTICIDES/HERBICIDES NEED TO BE ELIMINATED, NOT MINIMIZED

Recent studies showing the impacts of pesticides and herbicides on Salmon, frogs and other species inform us that we still do not understand what these poisons do to the life cycle upon which we humans depend.

The California Coastal Commission has begun to determine that pesticides and herbicides are not to be used at all in the coastal zone on restoration projects. This particular lagoon has been so impaired for so long that it is crucial to eliminate the use of these poisons in management practices there. It is entirely possible to remove all non-native weeds by hand, and it is preferable, as volunteers from the community begin to appreciate the lagoon more as they are encouraged to work on removal of this inappropriate vegetative growth.

In addition, conditions placed on a permit for a private golf course adjacent to Malibu Lagoon required that many pesticides and herbicides be eliminated from the management of that golf course turf. The owner of the golf course was reluctant to completely eliminate fungicides due to theongoing use of poisons at Malibu Lagoon. This public property needs to be an example to others in the area and not use these poisons.

ADDITIONAL COMMENTS ON PLANS

While there are numerous other comments that can and perhaps should be made in response to the recent reports on Malibu Lagoon proposed restoration plans, unless and until the above-detailed problems are fully and properly addressed, these comments would be akin to re-arranging the deck chairs on the Titanic.

The basic problems with the plans and premises for the proposed Malibu Lagoon "restoration" are great. Genuine restoration is what is called for. These plans will not accomplish that necessary goal.

With best regards,

Marcia Hanscom
Executive Director
Wetlands Action Network
Managing Director
Coastal Law Enforcement Action Network (CLEAN)

Robert Roy van de Hoek
Conservation Biologist

cc: California Senator Sheila Kuehl
California Assemblymember Fran Pavley
California Governor Arnold Schwarzenegger

EXHIBIT B

California Department of Fish and Game letter, dated November 7, 2005

State of California - The Resources Agency ARNOLD SCHWARZENEGGER, *Governor*

DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
South Coast Region
4949 Viewridge Avenue
San Diego, CA 92123
(858) 467-4201

November 7, 2005

Ms. Suzanne Goode
California Department of Recreation and Parks
1925 Las Virgenes Road
Calabasas, California 91302

Notice of Preparation of a Draft Environmental Impact Report for
Malibu Lagoon Restoration and Enhancement Plan
SCH# 20051011123, Los Angeles County

Dear Ms. Goode:

The Department of Fish and Game (Department) has reviewed the above-referenced Notice of Preparation (NOP), relative to impacts to biological resources. The proposed project consists of the restoration and enhancement of the ecological structure and function of Malibu Lagoon located at the terminus of the Malibu Creek Watershed in the City of Malibu.

To enable Department staff to adequately review and comment on the proposed project we recommend the following information, where applicable, be included in the Draft Environmental Impact Report:

1. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats.

   a. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities.

   b. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and U.S. Fish and Wildlife Service.

   c. Rare, threatened, and endangered species to be addressed should include all those which meet the California Environmental Quality Act (CEQA) definition (see CEQA Guidelines, Section 15380).

d. The Department's Wildlife Habitat Data Analysis Branch in Sacramento should be contacted at (916) 322-2493 to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Significant Ecological Areas (SEAs) or Environmentally Sensitive Habitats (ESHs) or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.

2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.

a. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.

b. Project impacts should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, adjacent natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas, should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic and outdoor artificial lighting.

c. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

d. Impacts to migratory wildlife affected by the project should be fully evaluated including proposals to removal/disturb native and ornamental landscaping and other nesting habitat for native birds. Impact evaluation may also include such elements as migratory butterfly roost sites and neo-tropical bird and waterfowl stop-over and staging sites. All migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory nongame birds as listed under the MBTA.

e. Impacts to all habitats from City or County required Fuel Modification Zones (FMZ). Areas slated as mitigation for loss of habitat shall not occur within the FMZ.

f. Proposed project activities (including disturbances to vegetation) should take place outside of the breeding bird season (February 1- September 1) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). If project activities cannot avoid the breeding bird season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department recommends a minimum 500-foot buffer for all active raptor nests).

3. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or

otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, Joshua tree woodlands, etc. should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.

a. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with offsite mitigation locations clearly identified.

b. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts.

c. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.

4. A California Endangered Species Act (CESA) Permit must be obtained, if the project has the potential to result in "take" of species of plants or animals listed under CESA, either during construction or over the life of the project. CESA Permits are issued to conserve, protect, enhance, and restore State-listed threatened or endangered species and their habitats. Early consultation is encouraged, as significant modification to the proposed project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, require that the Department issue a separate CEQA document for the issuance of a CESA permit unless the project CEQA document addresses all project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA permit. For these reasons, the following information is requested:

a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.

b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.

5. The Department opposes the elimination of watercourses (including concrete channels) and/or the canalization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. **The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of a drainage.**

a. The Department requires a Streambed Alteration Agreement (SAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant prior to any direct or indirect impact to a lake or stream bed, bank or channel or associated riparian resources. The Department's issuance of a SAA may be a project that is subject to CEQA. To facilitate our issuance of the Agreement when CEQA applies, the

Department as a responsible agency under CEQA may consider the local jurisdiction's (lead agency) document for the project. To minimize additional requirements by the Department under CEQA the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

Thank you for this opportunity to provide comment. Please contact Mr. Scott Harris, Wildlife Biologist, at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,

Morgan Wehtje
Environmental Scientist IV

cc: Ms. Morgan Wehtje, Camarillo
Mr. Scott Harris, Pasadena
Mr. Ronnie Glick, Thousand Oaks
Mr. Maurice Cardenas, Ojai
HCP-Chron
Department of Fish and Game

State Clearinghouse, Sacramento

SPH:sph

Malibu Lagoon Restoration Plan 2005

Dear California Coastal Commission,

I am writing to support the position of the Wetlands Defense Fund in support of considering a less damaging alternative to the proposed plans by the State-Affiliated Santa Monica Bay Restoration Foundation. I ask you to engage in Community-Involved Restoration not Bulldozer driven restoration. We want no glyphosate (poisons) to remove the nonnative plants. We want Jobs for youth, building strong muscles and learning about nature, no bulldozers for short-term jobs that will kill endangered fish, remove rare coastal lagoon habitats and eliminate a public access path.

This year there were many, many new bird sightings, and this lagoon is in an equilibrium state after 27 years of nature working to heal it. Let nature continue to heal the lagoon.

The Malibu Lagoon has an endangered fish called the Tidewater Goby and it is the habitat for numerous endangered and rare species of birds, butterflies, dragonflies, and plants like the beautiful Marsh Daisy, Tules, Saltmarsh Dodder and a charming Three-Bridges Trail to world famous Surfrider Beach.

Plus Malibu Lagoon is an area linked to Ballona Wetlands and many other coastal wetlands in southern California. For example, the Brown Pelican which roosts on the jetty off of the marina and Ballona, during the day goes to Malibu Lagoon to

fish. After breeding on Venice Beach, the California Least Tern parents and young travel to Malibu Lagoon to fish and to teach the young to fish. There are so many connections and so many reasons to consider an alternative to a plan that would Drain, bulldoze Dredge most of the habitat from the lagoon and rip out one of two existing public access trails.

This is a bond award somehow gone awry.

Sincerely, Deborah Bogen resident at the mouth of Santa Monica Canyon

UNIVERSITY OF CALIFORNIA, LOS ANGELES

UCLA

BERKELEY · DAVIS · IRVINE · LOS ANGELES · RIVERSIDE · SAN DIEGO · SAN FRANCISCO

SANTA BARBARA · SANTA CRUZ

DEPARTMENT OF GEOGRAPHY
1255 BUNCHE HALL
405 HILGARD AVENUE
LOS ANGELES, CALIFORNIA 90095-1524
(310) 825-1071 FAX (310) 206-5976

Copy

September 24, 2010

Ms. Bonny Neely
Chair, California Coastal Commission
Board of Supervisors
825 Fifth street, Room 111
Eureka, CA 95501

RE: ***Malibu Lagoon Restoration***

Please permit me to communicate in writing my assessment of the restoration needs for Malibu Lagoon (I will not be able to attend the upcoming October 2010 meeting of the California Coastal Commission due to travel).

I am a recently retired UCLA professor specializing in ecosystem analysis, endangered species conservation, biogeography, and conservation education. I have visited Malibu Lagoon since 1972. I have taken many students over the years to the lagoon as part of undergraduate and graduate field courses. I am also a keen wildlife photographer. Currently I possess digital photos of lagoon habitats and biota from more than 80 visits (25 from 2010) and have been preparing an educational book on its birdlife in recent months. I have attended one of the formal stakeholder meetings in the Malibu City Hall where alternative solutions for Malibu Lagoon were presented. I have also visited and -- in some cases -- researched other coastal wetlands and salt ponds in California, Texas and Europe.

Malibu Lagoon Has Changed

My perspective on the nature of Malibu Lagoon has shifted this year prompted by a dramatic change of this coastal ecosystem and its public use:

1. The level of users has sharply increased since the opening of the increased parking lot and picnic area. Visitors are surfers, sunbathers, tourists, school and surfing classes as well as occasional birders and photographers. During warm and sunny days, there have literally been hordes of people on the beach. The parking lot was full and closed at those times.
2. The winter storms deposited an unprecedented amount of relatively high and broad beach that has lasted all summer. For the first time, a large 'bird island' was created.

3. I cannot comment on water pollutants inside the lagoon; however, it seems as if the water clarity in the side channels has recently improved compared to previous years.
4. Bird species richness and bird numbers have been very high if not exceptional in 2010. 'Bird island' saw a first ever breeding attempt by several pairs of black skimmers in August.
5. In spite of the continuous presence of often large human groups along the beach, many bird species have adapted to this feature and learned to basically disregard the human factor. As a result, we can approach plovers, sandpipers, gulls, terns, cormorants, egrets and pelicans much closer than almost anywhere else. This offers a unique opportunity for nature education at all levels (kids, families, visitors, local beach neighbors).

A Unique Ecosystem

Seen as an ecosystem, Malibu Lagoon has no equals. It is an unusually tiny park with several fragments of freshwater creek, ocean beach, brackish pond, saltwater lagoon, willow/mulefat shrubland, saltmarsh pockets, and mudflats. It is not natural; rather it is human-constructed, impacted and used. But because it has natural drivers in the form of stormwater from Malibu Creek (winter) and wave and sediment action from the Pacific it changes by season and sometimes from year to year. Part of its appeal is its changing habitat mosaic and its liberal access to human visitors.

What Should Not Be Done

It would be unwise to try to permanently control this tiny wetland or to recreate a more natural saltmarsh ecosystem. Because of its unique natural and social attributes, there is really nothing wrong with the present park design and practice. In fact, it seems optimal. The existing access trail with its bridges is of exceptional value. No other plan will provide the close interface between people and wildlife that can be observed every day. The existing problems with water quality, water circulation, alien plants, etc. are largely of an external nature, i.e. they come into the lagoon system from the outside and should be solved before entering the lagoon.

The sudden natural emergence of a sandy island in the lagoon has eliminated any need for the artificial creation of such islands. The great abundance of shorebirds on this island has shown its great ecological value at no cost to the taxpayer.

I oppose the massive disturbance and destruction of the existing habitat mosaic as planned by the design alternatives that I have seen. The mere existence of precious bond money should not become the driving factor for dismantling a thriving ecosystem that has developed since the 1983 bulldozing of the former lagoon landscape.

What Should and Can Be Done

I am quite certain that a mere *one tenth* of the bond funds may be needed for minor improvements and management processes of the lagoon. At present, however, the State

Parks do not have a shining record with respect to even minor management issues of Malibu Lagoon. Charging $12 for daily parking has not resulted in (a) clean toilet facilities, (b) removal of a huge heap of decomposing and rotting garbage and weeds near the beach entrance, (c) the prompt removal of dead pelicans and cormorants in the winter (10-20 carcasses lying and floating around for weeks), and (d) the presence of a park/wildlife education officer during periods of peak use. It will be interesting to see if the construction/development sector of California State Parks can embrace a drastically downscaled improvement project for Malibu Lagoon.

I would certainly be available for advice and concrete recommendations following the rejection of the proposed restoration plan.

Sincerely,

Hartmut S. Walter
Professor Emeritus
Email: hswalter@gmail.com

To: Deanna Christensen, Coastal Commission

From: Mary Ann Webster, Conservation Chair, WLA Group, Sierra Club, Angeles Chapter

Re: Application No: 4-07-098 (CA Dept. Parks & Recreation).

Dear Ms. Christensen,

Our West Los Angeles Group, in accord with many prominent environmental organizations in Southern California, strongly supports the proposed Malibu Lagoon project of California State Parks. The project is being carried out in co-operation with the State Coastal Conservancy, and this second phase includes the restoration of the channels to increase hydrologic flow. There will be re-vegetation of native wetland plants and removal of non-natives. The bridges, which impede circulation, will be removed and a trail built around the perimeter. Experts, such as Dr. Walter Sakai, Professor of Biology at Santa Monica College, have assured us that the marshes will recover quite nicely and quite quickly from the dredging. We have discussed this project with park staff and especially with Suzanne Goode, State Park Ecologist for the Santa Monica Mountains, who has outlined the merits of this project for the protection and preservation of the endangered birds and fish that inhabitat the Lagoon.

Clearly, this project will restore wetland habitat, improve habitat areas and enhance water quality both now and in the future.

We urge the Commissioners to approve this project so it can go forward without delay.

Sincerely

Mary Ann Webster

Fax Cover
Date 10/5/2010 12:17 PM
Total Pages 3 INC. Cover

TO:
California Coastal Commission attn: Amber Tysor
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

FROM:

Ben F. Hamilton 10/05/2010
Consumer Safety Officer, Retired, National Seafood Inspection Program
USDC NOAA NMFS WIB
7968 Mc Connell Ave.
Los Angeles, CA 90045 310-641-1469

Cell: 310-592-7409
ben.hamilton@sbcglobal.net

benhamilton@anecoscape.com

Ben F. Hamilton 10/05/2010
Consumer Safety Officer, Retired, National Seafood Inspection Program
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Regarding Dredging and improvement activities Malibu Lagoon and Creek, and Malibu Lagoon and Surfrider Beach State Park, Malibu California.

Costal Commission Members and Stakeholders:

Please uphold no take requirements for endangered species and species at risk at Malibu Lagoon.

I have been a stakeholder and acquainted with the site in question since a few years following my birth, in 1946. Many years later, 1961, I moved to Malibu where I had been surfing since about 1958. In high school, I studied biology, and that study has continued to this day. I took many biology class filed trips to the Malibu area, particularly the beach by the Movie Colony, known as Malibu's, "Third Point" where the habitat was once nearly pristine and more than 70 species could be keyed out in about 2 hours by a class of 20 at low tide. I sometimes conducted small tours of friends among the rocks from Third to First Point at Malibu.

Eventually, only a few years following the construction and operation of Tapia Las Virgenes Water Reclamation Facility, the vibrant colors of the creatures began to fade, along with their diversity and numbers. Now, with 20 - 30 students a class will be hard pressed to find 15 species in the surf zone. The degradation took less than 10 years to be very apparent.

I studied ecology and marine biology as an undergraduate and graduate student at University of Redlands, and later at Occidental College. My love of the area is strong despite the horrible way it has been treated by Malibu denizens and visitors.

Among the tasks I have been lucky to be associated with was the computer processing of the bird and fish data for the Army Corps of Engineers funded project at USC, called the Los Angeles Harbor Environmental Project. Part of that project was bird data collected by the Pacific Coast Highway bridge over Malibu Creek and Lagoon. Other parts of the huge data files I helped analyze were fish and benthic data taken in part at a stations off of Malibu, in Santa Monica Bay. The fish data was owned by Dr. John Stephens, Ph.D. at

Occidental College and his graduate students as well as by the Funding Agency, the Army Corps of Engineers and Los Angeles Harbor Environmental Project at USC. John is often called "Mr. Goby".

One could say that I have been associated with Malibu in a way that few others can claim.

At the lagoon, I have enjoyed many great sights and have enjoyed access that few others can claim. I was also one of the hidden knights behind several successful legal actions that put forth public benefit as well as those stakeholders that few represent, the creatures of the lagoon and near shore ecology as more important than development.

One compromise made following successful legal action was the one not to seek legal criminal action against the owner and developer of the 10 acre golf course next to the lagoon in exchange for his agreement to deed that to State Parks and Recreation. I favored his deed to State Parks and Recreation, but not his holding on to that until both he and his wife are deceased. Obviously, I did not agree to all of what was done.

At Malibu, and in other situations in life, I have learned not to leave to chance what should be determined in detail.

The lagoon should be expanded into the golf course and the Coastal Commission should seek legal action to cause detailed investigation into whether it was ever used (illegally) to the purpose of leech fields or septic systems with or without permit for the Malibu Movie Colony, its roads, or homes.

If this is the case, that property should be seized by the State of California and its use allowed for expansion of the Lagoon for bird sanctuary and habitat for marine life.

Malibu lost marine hatchery habitat due to road construction, the "lagoon" that was located where Ralph's Market is now situated. That marine habitat needs to be replaced. I doubt that a lagoon, no matter how carefully constructed will do the job, but I applaud any efforts to make it so, as long as no critical species are lost. Protect Steelhead and the Tide Water Goby.

Benjamin F. Hamilton,
Member, Malibu Surfing Association,
Member, Surfrider Foundation, Malibu Chapter
Past member of the Santa Monica Mountains Task Force,
And the Malibu Creek and Lagoon Task Force
Proponent of Steelhead and Tidewater Goby, as endangered species in Southern California,
Member of the Board of Directors, United Anglers of Southern California
Founder: AnEcoScape, Creative Content for Entertainment and Multi-media.
Please visit: www.AnEcoScape.com

TO: California Coastal Commission October 5, 2010
attn: Amber Tysor
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

FROM: Grassroots Coalition, Patricia McPherson
Patricia McPherson1@verizon.net
310 397 5779
3749 Greenwood Ave.
Los Angeles, CA 90066

RE: WEDNESDAY, October 13, 2010

a. Application No. 4-07-098 (California Dept. of Parks and Recreation, Malibu) Application of California Dept. of Parks and Recreation to restore and enhance Malibu Lagoon to improve function of lagoon ecosystem by recontouring lagoon configuration, slopes and drainages to increase hydrologic flow (51,200 cu.yds. cut, 37,500 cu.yds. fill, and 13,700 cu.yds. export), habitat restoration plan to replant native species and remove non-native species, construct public access trail around lagoon, construct interpretive public educational amenities, and implement long-term monitoring plan, Malibu Lagoon State Beach, City of Malibu, Los Angeles County. (AT-V)

"The greatest value of restoration may be its ability to transform, through education and inspiration, the human beings who inhabit and shape the land."

Pg. 45 DIGGING IN, California Coastal Commission

The Coastal Commission's first duty is to protect the integrity of this wetland (Malibu lagoon) ecosystem. To that end, a do-no-harm approach to any "restoration" attempt is a primary goal. Anything less is typically doomed from a start that was intentioned to provide not only a status quo of the ecosystem but also "enhancement" of that ecosystem.

LESSONS LEARNED (But often forgotten)
Case in point- bulldozers have, in the past, been shown to have caused serious and sometimes irreparable harm to ecosystems and their inhabitants:

(1) San Diego's Tijuana Estuary;
(2) (2) Ballona Lagoon Marine Preserve.

(1) Grassroots Coalition's videotaped interview of Joy Zedler and her involvement with San Diego's Tijuana Estuary provided a first hand account of how bulldozers wreaked

havoc upon the Estuary's ecosystem—eg. how the bulldozer excavation of soils destroyed microbial activity that was crucial to the survival rate of newly planted native species.
Premier wetland ecologist Dr. Joy Zedler discussed with us how so much was lost due to the heavy handed, heavy equipment and bulldozer approach to "restoration and enhancement" utilized at first at the estuary. After the devastating learning experience, a careful and mindful "INCH BY INCH" restoration approach was alternatively adopted by the restoration scientists and volunteers at the estuary and continues today—proving itself to be the beneficial restoration process.

(3) Ballona Lagoon Marine Preserve was similarly butchered by well- intentioned but havoc-wreaking bulldozers. It takes just a moment's time of bulldozer activity to cause irreparable damage. As a founding member of Ballona Lagoon Marine Preserve, I observed and videotaped, first hand the heavy equipment and bulldozer destruction that occurred to the bottom and banks of the lagoon that serve as a nursery tidal habitat and remnant dune habitat. Native plants (placed by volunteers years earlier) that had begun to thrive along portions of the embankment were utterly destroyed as the embankment was erroneously removed. The nursery floor of the lagoon was erroneously bulldozed out and there has not been a sighting in the embankment sands of the legless lizard since the heavy handed assault took place.
There is just too much unacceptable room for error when the Zedler approach to restoration or enhancement is not applied.

There is a willing public that stands to gain much stewardship investment of heart and caring and learning. The Coastal Commission theoretically supports and publishes books as guides to community- based habitat restoration---DIGGING IN. Malibu is a prime location for implementation of such activities and any lack of implementation of this type of enhancement and or restoration would be contrary to the principles cited within the Coastal Commission tenets cited in DIGGING IN.

Grassroots Coalition appreciatively also supports the do-no-harm positions taken by long time environmental activist and wetland protectionist - Marcia Hanscom
Director, Wetlands Defense Fund
Managing Director, CLEAN
&
Co-Director, Ballona Institute.

Grassroots Coalition believes that the following measures have not been clearly or reasonably evaluated by the Coastal Commission regarding Malibu Lagoon and requests full consideration of the experimental nature of the permits being considered by the

C.Commission and the full potential(s) of harm to the current ecosystem also be considered.
Use of "available funding" for heavy equipment and/or bulldozing is not valid reasoning for utilizing such an approach. It is simply money exchanging human hands, not shown to be in the best interests of the ecology of the lagoon.

REVIEW OF PROPOSED PERMITTING

Section 15252. Substitute Document.
(a) The document used as a substitute for an EIR or negative declaration in a certified program shall include at least the following items:

(1) A description of the proposed activity, and

(2) Either:

(A) Alternatives to the activity and mitigation measures to avoid or reduce any significant or potentially significant effects that the project might have on the environment, or

(B) A statement that the agency's review of the project showed that the project would not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. This statement shall be supported by a checklist or other documentation to show the possible effects that the agency examined in reaching this conclusion.

(b) The notice of the decision on the proposed activity shall be filed with the

Grassroots Coalition requests that the Coastal Commission not approve permitting for heavy equipment and bulldozing to occur for the "tidal flow enhancements" that have been proposed. Alternative means that provide for first a do-no-harm approach should be utilized and reconsideration of configuration and soils excavation should occur. By utilizing such a heavy handed approach- as this permit would engender- there is NO EMPOWERING of the public to become stewards of our coast and ocean to take environmentally positive action. There is no public- participation in hands-on-habitat restoration as a way for the public to be involved in helping to protect our coast- as prescribed by the Coastal Commission itself in DIGGING IN.

Thank you for your consideration of this email and letter comment.
On Oct. 5, 2010, Grassroots Coalition phoned the Coastal Commission and was explicitly instructed that GC could email this comment letter to staff as shown on this mail.

Sincerely,
Grassroots Coalition, Patricia McPherson
PatriciaMcPherson1@verizon.net
310 397 5779

California Coastal Commission
89 S. California St.
Ventura, CA 93001

Oct. 5, 2010

Attn: Amber Tysor

Dear Coastal Commissioners:

We are writing in regard to the proposed bulldozer dredging of Malibu Lagoon. We believe that this would be a harmful mistake and request that the Commission instead find a less damaging method to restore the region. We should avoid sledgehammer methods that employ bulldozers and poisons and find other less destructive ways to achieve the ends we all want. We suggest that the Commission involve and work with concerned members of the community with experience in the L.A. area coastal region ecology to find a better path. Perhaps a path can be found that will include the long-term involvement of youth who will become educated in ways to protect nature and the coast.

Sincerely,

Ben Zuckerman

Elizabeth Schwartz

Elizabeth Schwartz
740 Westholme Ave
Los Angeles, CA 90024
310-8259338

Fax

To:	California Coastal Commission Attn: Amber Tysor	**From:**	Julio J. Bermejo
Fax:	(805) 641-1732	**Pages:**	Cover only
Phone:	(805) 585-1800	**Date:**	Oct. 6, 2010
Re:	Malibu Lagoon project	**cc:**	

☒ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Dear members of the California Coastal Commission:

I urge you to **reject Application No. 4-07-098**, Item 6a on the agenda for your Oct. 13, 2010, meeting.

Further, I urge you to **reject the proposed project** for which a permit is being sought. Rather, the commission and the applicant should explore and pursue alternatives that would not require the destruction of the very resources that the public has been told are the focus of this so-called restoration and enhancement project nor destroy important public access to nature and recreation.

I visited Malibu Lagoon on Oct. 2, 2010, and saw hundreds of birds and numerous varieties, including cormorants, pelicans, egrets, coots, terns, geese and mallards. I also saw mammals, reptiles and insects. That the lagoon supports so much life and such a great variety strongly suggests that the proposed project would be an outrage to nature and a waste of scarce public dollars.

Thank you.

Sincerely,

Julio J. Bermejo

Julio J. Bermejo
5619 Angelus Ave.
San Gabriel CA 91776
(626) 417-6263

MALIBU LAGOON MUSEUM

23200 PACIFIC COAST HIGHWAY, MALIBU, CALIFORNIA 90265 - MAILING ADDRESS: P.O. BOX 291, MALIBU, CALIFORNIA 90265
(310) 456-8432

October 4, 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

RE: Application No. 4-07-098 Malibu Lagoon Restoration Project

Dear Coastal Commissioners,

Since 1982, the volunteer docents of the Malibu Lagoon Museum and Adamson House, Malibu, have provided public tours of the historic house and its surroundings.

Our garden tours include the Malibu Lagoon, which is essentially in the "front yard" of Malibu Lagoon State Beach and the Adamson House.

On a regular basis, we also provide tours for hundreds of children, many of whom are from the inner city (Los Angeles) and have never seen the beach. They are transported to and from the site on buses funded by our Museum Association. These docent-led tours include the Malibu Lagoon, with emphasis on the flora and fauna of the wetlands.

We are convinced that this project will greatly improve the lagoon and bring back many of the birds which have left due to the deteriorated condition of the lagoon. This will enhance the experience of our many visitors, improve the education of the children who visit, and greatly benefit the preservation of our historic house and grounds.

The Docent Council of the Adamson House/Malibu Lagoon State Beach, composed of the volunteers who chair the programs which provide thousands of hours of service to lagoon and park visitors yearly, unanimously endorses the Malibu Lagoon Restoration Project. We hope the Coastal Commission will approve the permit application so that the project may be completed as proposed.

Sincerely,

Harvey D. Kern
Chair, Docent Council

Natural History
of Los Angeles County

900 Exposition Boulevard • Los Angeles, CA 90007

1 October 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

RE: APPLICATION NO. 4-07-098
Malibu Lagoon Restoration Project

Dear Coastal Commissioners:

I am writing in support of the Malibu Lagoon Restoration Project and to urge the Coastal Commission to approve this project. As an ornithologist with the Natural History Museum, and an avid birdwatcher with field notes from Malibu Lagoon dating back to the early 1970s, I am aware of the importance of the estuarine, beach, intertidal, riparian and adjacent upland habitat values of this ecological treasure. Furthermore, the proximity of the lagoon to millions of southern California residents and hundreds of thousands of schoolchildren has magnified its importance because of its value for nature study, passive recreation and education. I was honored to have been asked to serve on the Malibu Lagoon Task Force to help develop restoration priorities and plans and feel that the resulting plans largely address the concerns of the bird conservationists.

I am aware that some in the conservation and birdwatching communities have expressed concern with the present restoration plans. I suspect that in some cases the concern has to do with the disruption to the lagoon's habitats during the restoration work and for a period thereafter until the new hydrological and trophic processes have taken hold. Ironically, the current lagoon conditions, perceived by many as being close to optimal for birds, only came about because of a similar period of renovation and reconstruction (and associated disruption) in 1983; all would agree that those efforts were worthwhile. I believe that the current restoration plans will further improve Malibu Lagoon as bird habitat and, importantly, as a hub of bird study and education programs, for several reasons.

The restoration plan has been designed to improve tidal flow and hydrology in the lagoon to promote higher diversity and density of aquatic invertebrates and fish; such a result will inevitably benefit bird populations year round. In its current state, the lagoon offers less productive habitat for birds, particularly in its western arms, because of issues with low dissolved oxygen, lack of water movement, and generally stagnant conditions. The current beach access path allows for excellent bird viewing, but is also the main pathway taken to the beach by surfers and other recreationists; some bird species adapt readily to relatively high volumes of human foot traffic, but others avoid the areas near the pathways, effectively reducing the footprint of the lagoon that can be occupied by these species. By routing foot traffic around the periphery of the lagoon, while still allowing for a dead-end viewing pathway in one part of the lagoon, birds will experience less disturbance from humans and will be able to occupy a greater part of the lagoon area. Much of the lagoon area is occupied by upland plants not typical of a coastal lagoon. While terrestrial birds certainly use these vegetation associations, the restoration plan will increase the amount of salt marsh and tidal habitat – rare habitats indeed in Los Angeles County. There will still be considerable upland habitat around the periphery of the lagoon (and, of course, upstream along Malibu Creek), so overall bird diversity in the lagoon will not be reduced.

Having emphasized my support for the project, I do believe there are areas for improvement, primarily reflecting my belief that portions of the lagoon could be "overbuilt." The main path to the beach will pass close to houses near the southwestern part of the lagoon, and this has apparently necessitated plans for a wall to be constructed. Such hardscape would seem incompatible with the goal of allowing maximal movement of terrestrial species between the lagoon edge and upland habitats. Plans to use this wall for interpretive signage to "illuminate the rich history" of the area seem insensitive to the overall goal of protecting and enhancing the natural values of the lagoon. I hope that planners are open to the possibility of a structure that is more permeable to wildlife and which does not crowd this small area with interpretive signage that is better placed indoors.

It is critically important that the lagoon provide unvegetated sandbars and shoals allowing loafing and foraging for seabirds, wading birds, and shorebirds; ideally, some shoals would persist even in summer high water conditions and create at least the possibility of a predator-free nesting island for terns, skimmers or plovers (I note that Black Skimmers made a nesting attempt at Malibu Lagoon in August 2010). It is unclear from the current plans how we can be assured that such features will exist in the renovated lagoon, but given that the main body of the lagoon will not undergo extensive renovation, it seems likely that existing shoals and islands will continue to exist, though their exact configuration will constantly change. Final planning for the lagoon should emphasize the importance of these shoals, sandbars, unvegetated islands, and mudflats.

A minor concern is that most of the main lagoon observation stations (except the "Watershed Overlook") allow visitors to look mainly to the east (where lighting is very poor in the morning) or south (where lighting is relatively poor at all times of day). Final plans for the siting and grading of these viewpoints should take into account the optimization of lighting for viewing and photography.

I cite these concerns because I feel that details of the restoration plan can still benefit from minor adjustments and, ultimately, adaptive management. This does not diminish my support for the overall restoration plan and the revitalization of ecological processes in the lagoon that will result.

Sincerely,

Kimball L. Garrett
Ornithology Collections Manager
213-763-3368
kgarrett@nhm.org

October 5, 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

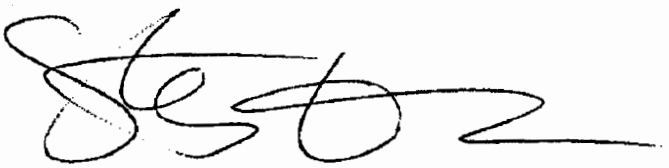
Re: Application No. 4-07-098 Malibu Lagoon Restoration Project

Dear Coastal Commissioner,

I have resided in Malibu for thirty-five years. I have surfed here since 1962. I ask you to reconsider the aggressive manner in which the proposed wetland restoration project is being considered. I believe that there is a more ecological way in which the estuary can be restored to its natural state. I ask you to delay this project, and look at a less invasive and environmentally destructive manner in which this project can go forward.

Respectfully,

Steven Dunn



October 5, 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

Re: Application No. 4-07-098 Malibu Lagoon Restoration Project

Dear Coastal Commissioner,

I am a twenty year resident of the city of Malibu. In light of the recent news of the Lagoon Restoration Proposal, I ask you to please consider a less invasive and less damaging alternative to the proposed plans by the State-affiliated Santa Monica Bay Restoration. I have done extensive research on this, I ask that you delay the project and reconsider until more experts in this field can join together to discuss other options.

Respectfully,
Wendi Werner
310-456-5965
wernerdesign@verizon.net

W. Werner

ACCESS ALL

OPENING UP THE CALIFORNIA COAST

FAX

To: Amber Tysor, California Coastal Commission

Re: Item W6a, October meeting

From: Steve Hoye, Access for All

FAX# (805) 641-1732

PO Box 1704 Topanga, CA 90290 Tel: 310.455.4224

ACCESS ALL
OPENING UP THE CALIFORNIA COAST

October 7, 2010

Item W6a

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

Dear Ms. Tysor,

It was with dismay and disappointment that I read the public access proposals in Item W6a. I also thought that the current and proposed access provisions for this site were unclear in your report.

Let's get our facts straight. There are currently two access paths from the parking lot to Surfrider Beach. They are, firstly, the accessway straight over the three bridges and through the wetlands. Let's call that the Three Bridges path. And there is a second path along the western edge of the project. Let's call that the Periphery path.

The Three Bridges is by far the most popular path, and has been for many years. I estimate that at least 75% of the public use that path to access the beach, including many surfers wearing wetsuits and carrying surfboards, parents with children and strollers, and families with older folks on Saturdays and Sundays. It is also a beautiful route, and very popular for that reason too. It has very little grade and is easy to walk. This plan would eliminate that path entirely.

The Periphery path, which this plan proposes to upgrade, is far less popular. It is the "long way around", and little used for that reason. This plan would make this the sole route to the beach.

Access for All is a 501(c)(3) nonprofit dedicated to improving coastal access in Southern California. We currently hold 35 easements and accessways, the majority in the City of Malibu. For 10 years we have been struggling, sometimes with our friends as in this case, to improve access for the people of California.

This project would result in a net loss of public access to Surfrider Beach of 50%, hardly the "maximizing of public access" called for in the Coastal Act and the California Constitution. I urge Commission staff and Commissioners to reconsider.

Sincerely,

Steve Hoye
Executive Director

PO Box 1704 Topanga, CA 90290 Tel: 310.455.4224

Daniel D. Hillman, M.D.
DIPLOMATE AMERICAN BOARD OF ORTHOPAEDIC SURGERY
FELLOW AMERICAN ACADEMY OF ORTHOPAEDIC SURGEONS, RET.

P.O. BOX 2005
MALIBU, CALIFORNIA 90265
(310) 456-3371 FAX (310) 456-3372

FACSIMILE COVER SHEET

TO:	**California Coastal Commission**
FROM:	**Mike Jones**
FAX #:	**(415) 904-5400**
DATE:	**October 6, 2010**
PAGES:	**1 + cover**
SUBJECT:	**Malibu Lagoon – Item #6A**
MESSAGE:	

Please see my attached letter of this date

Daniel D. Hillman, M.D.

DIPLOMATE AMERICAN BOARD OF ORTHOPAEDIC SURGERY
FELLOW AMERICAN ACADEMY OF ORTHOPAEDIC SURGEONS, RET.

Item #6A

October 6, 2010

California Coastal Commission
Via Fax (415) 904-5400

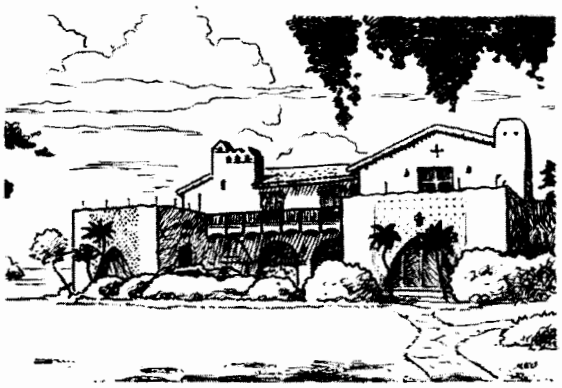
Malibu Lagoon is a uniquely visitor-serving area, attracting more than 1.5 million visitors including thousands of low-income school children who lack access to wildlife and clean ocean air. The existing network of well-tended pathways and attractive bridges provides convenient and intimate access to a remarkable collection of plants, birds, fish and world-famous Surfrider Beach. More information is available at www.SaveMalibuLagoon.com including a compelling video.

Much of the negotiations and progress of this project have taken place without sufficient public knowledge or participation. The California Costal Commission meets October 13th and this is to request that the CCC postpone this item for at least six months until appropriate open public forums have had adequate opportunity and time to examine and discuss the project design and implementation plan and engage its originators.

Sincerely yours,

Daniel D. Hillman, M.D.
DDH/mj

P.O. BOX 2005, MALIBU, CALIFORNIA 90265 (310) 456-3371 FAX (310) 456-3372



Friends of the Historic Adamson House & Malibu Lagoon Museum

23200 Pacific Coast Highway, Malibu, California, 90265
Mailing Address: P.O. Box 291, Malibu, California, 90265
(310) 456-8432

September 29, 2010

California Coastal Commission
South Central Coast Area
89 South California Street Suite 200
Ventura , CA. 93001

Attn: Amber Tysor

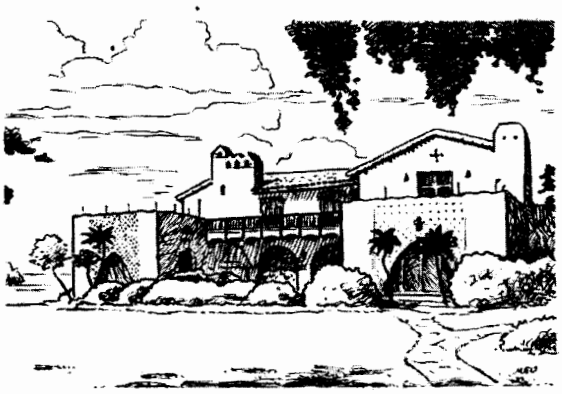
Subject: Malibu Lagoon Restoration Project- Application No. 4-07-098

Dear Coastal Commissioners:

The Malibu Lagoon Interpretive Association (DBA- Malibu Lagoon Museum) has been working with California State Parks for over twenty eight years to interpretive the natural and cultural history of the Malibu Lagoon. The proposed Lagoon Restoration Project represents a significant opportunity to enhance the interpretive efforts at this unique park.

If implemented, the project will provide the public with substantial interpretive improvements including: new educational displays that relate to the important themes of the Lagoon including: Chumash History, Surfing, and the unique natural history of the lagoon. A new walking path will allow park visitors to view many areas around the lagoon. A kelp inspired shade structure provides practical utility while interpreting the inshore kelp forest. A topographic model of the watershed will help visitors better understand the relationship between the overall watershed and the lagoon.

The Malibu Lagoon Interpretive Association regards the Lagoon as a living classroom. During the past year the Association has provided "education through exploration" to approximately 1100 elementary school students from the urban areas of Los Angeles County. We feel that the implementation of this project will enhance our ability to teach our students about the importance of Coastal Wetlands and the stewardship that is required to protect these unique areas.



Friends of the Historic Adamson House & Malibu Lagoon Museum

23200 Pacific Coast Highway, Malibu, California, 90265
Mailing Address: P.O. Box 291, Malibu, California, 90265
(310) 456-8432

We understand that during the construction phase the Lagoon will be temporarily impacted. In reviewing the benefits of this project we feel the long term gains will exceed any short term impacts. The project has been designed to improve the health of the Lagoon and restore the natural processes that have been impacted by past development. This restoration will help our docents explain the natural processes that occur in the Lagoon.

Our Board unanimously supports the Malibu Lagoon Restoration Project. We urge the Coastal Commission to approve the permit application and allow this project to be implemented as proposed.

Sincerely,

Deborah Miller

Deborah Miller
President, Malibu Lagoon State Beach Interpretive Association

santa monica mountains
task force/sierra club
angeles chapter

5860 Belbert Circle, Calabasas. CA 91302

To: Deanna Christensen

From : David M. Brown

Re: Application No: 4-07-098 (California Department of Parks and Recreation)

Dear Ms. Christensen,

The Santa Monica Mountains Task Force is a subcommittee of the Conservation Committee of the Angeles Chapter of the Sierra Club with special responsibility for reviewing developments affecting the Santa Monica Mountains and their magnificent Malibu coastline.

We are very familiar with Malibu Creek and Lagoon and the project as described in the staff report. We have also discussed the project with state park staff.

Malibu Lagoon is about the only quasi-natural coastal lagoon still accessible to the ten million people of Los Angeles County. As such it has especially important educational and recreational value to schoolchildren and birdwatchers from throughout the region. As mentioned in the staff report, it supports populations of the endangered Tidewater Goby and the endangered Southern Steelhead - which is able to migrate upstream as far as the Rindge Dam 2.5 miles upstream.

The Santa Monica Mountains Task Force supports the proposed restoration and enhancement of the Lagoon, and the re-contouring of channels to improve circulation – both to improve habitat and to protect the health of beach users.. We are not happy about the proposed wall, but understand it is probably necessary to keep trespassing residents and their pets from disturbing wildlife.

Sincerely,

David M. Brown, Conservation Chair

Honorable Members of the Coastal Commission:

Please postpone your decision on the Malibu Lagoon Restoration Project to give members of the public time to study and intelligently weight in on this matter. The Coastal Act provides for public participation and the project until a few days ago excaped the public's radar.

I personally respect the individuals on both sides of this issue and I and others would like the time to study the issue at greater length so that I/we can fully understand this project and meaningfully participate .

Thank you for considering my thoughts on this important matter.

Patt Healy

403 San Vicente Blvd.

Santa Monica, CA 90402

SURFRIDER FOUNDATION WEST LOS ANGELES / MALIBU CHAPTER

Attn: Amber Tysor
California Coastal Commission
South Central Coast Area Office
89 South California St. Suite 200
Ventura, CA 93001
Submitted via email: atysor@coastal.ca.gov

October 6, 2010

Re: Agenda item 6a; Application No. 4-07-098 Malibu Lagoon Habitat Restoration and Enhancement Program (California State Department of Parks and Recreation, Malibu)

On behalf of the Surfrider Foundation, a non-profit environmental organization with over 50,000 members world wide dedicated to the protection of the world's oceans, waves and beaches, we are writing to support the Malibu Lagoon habitat restoration and enhancement program and support the project.

Members of the West Los Angeles/Malibu (WLAM) Chapter have been part of the Stakeholder driven process since 1997, starting with the Malibu Lagoon Task Force and followed by a year-long professional facilitation process that determined the restoration of Malibu Lagoon was highest priority short term restoration goal in the lower watershed. Following the facilitated process Surfrider and most members of the Malibu Lagoon Task Force joined the Lagoon Restoration Working Group (LRWG) to provide input on the lagoon design 2003-2005. The WLAM Chapter submitted written comments on lagoon design in 2004.

A representative from Surfrider Foundation's Global staff provided input on interpretive design as it relates to surf culture, including matching the wall along the back of the property to the existing wall at Surfrider Beach and the Adamson House property, suggestions for the content of interpretive design, best location to place the outfall of the dewatering and filtration operation to protect surfers.

We believe this is good project; that State Parks and the project team took great care to ensure that water quality from manmade sources would be eliminated through the new rain garden parking lot and rain garden treating the Colony runoff, there is safe and adequate access to the beach, and will improve water quality at Surfrider Beach. With 95% of Southern California's wetlands lost, we believe this is an opportunity to restore critical wetland habitat and improve water quality at Surfrider Beach.

Sincerely,

Drew Albenze
Chair
West LA/Malibu Chapter
chair@surfriderwlam.org

Nancy Hastings
Southern CA Field Coordinator
Surfrider Foundation
nhastings@surfrider.org

October 5, 2010

California Coastal Commission
attn: Amber Tysor
89 South California Street, Suite 200
Ventura, CA 93001-2801

Dear Commissioners,

I am a Malibu resident since 1997. On October 13th you California Coastal Commissioners will decide the fate of a massive dredging project that will drain and bulldoze the beautiful Malibu Lagoon. Please do not vote for this dreadful plan. This highly mechanized project will kill or permanently displace nearly every living plant, bug, bird, fish, worm, crab or microbe in Malibu Lagoon. The existing three bridges and pathway will be ripped out, never to be replaced. The 1.5 million children, beachgoers, surfers, seniors, visitors, families, bird-watchers and wheelchair users will be forced to use the much longer, less ADA-accessible perimeter route. The lagoon will be a barren, lifeless fishbowl with little public access to wildlife as it now offers in abundance. How can any rational person call this a good thing?

A far better, less expensive, less-disruptive community-based approach would follow these seven steps:

1. *Remove inappropriate (non-natives that do not provide shelter or food for wildlife) plants by hand with community groups*

2. *Plant native plants along the walking trails which are appropriate to lagoon wetland, transition and upland areas*

3. *Create and install educational signage*

4. *Plant native shallow water wetland, transition and upland plants in the areas where there formerly was a parking lot and grass lawn*

5. *Plant government-recognized endangered and rare plant species at Malibu Lagoon - plants which once occurred on the LA County coast. Examples include: Salt Marsh Bird's Beak and Ventura Marsh Milkvetch*

6. *Plant more reed beds, i.e., tules, sedges and cattails - plants which soak up pollutants and help clean the water naturally*

7. *Placing baby bald eagles and osprey on newly constructed platforms, caring for and monitoring them as they grow; these are two bird species which historically nested at Malibu Lagoon*

Commissioners, you alone can put the brakes on this Franken-project designed to line the pockets of engineering companies and misguided environmental organizations. Save Malibu lagoon!

Thank you,

Marshall Thompson
5782 Calpine Drive, Malibu, CA 90265 310-403-2507 mt@prvideo.tv

California Coastal Commission
Attn: Amber Tysor
89 South California Street, Suite 200
Ventura, CA 93001-2801

October 5, 2010

Dear Ms. Tysor:

I'm writing to add my voice to the growing number who are asking the Coast Commission to hold back on its plans to bulldoze Malibu Lagoon and engage the public to search for a partnership with the Commission to restore the lagoon in an environmentally healing way.

Thank you for your consideration.

Sincerely,

Wellford W. Wilms
2740 Marquette Drive
Topanga, CA 90290

Malibu Lagoon Restoration

Presented By: Schmitz & Associates

On Behalf of: The Malibu Colony Association

Reference Material

Malibu Lagoon Restoration

CCC Hearing – October 13th (San Diego)
Coastal Analyst: Amber Tysor

PROJECT DESCRIPTION: Implementation of a Wetland Habitat Restoration and Enhancement Program for Malibu Lagoon to improve the function of the lagoon ecosystem by recontouring/reconfiguring the lagoon, slopes and drainages to increase hydrologic flow involving grading; revegetation with native wetland and upland plant species and removal of non-native plant species; construction of a public access trail around lagoon with new interpretive public informational/educational improvements; and implementation of a long-term lagoon monitoring plan.

Colony Concerns:

1. Elimination of Rear Gate Access
The HOA is proposing that the plan be modified to incorporate a design using offset wall and gates with minimal visual impacts.

2. Elimination of Existing Drainage
The HOA is requesting that drainage plans addressing the Colony's drainage be incorporated into the design of the wall.

3. Introduction of Flammable Plants
The HOA requests that these plant species be eliminated from the plan, or maintained at least 200-feet away from the residences, outside of the fuel modification zone.

4. Removal of Existing Bridge
The HOA requests that the bridge be maintained for public access to the beach.

MALIBU COLONY HOA – AREA OF CONCERNS

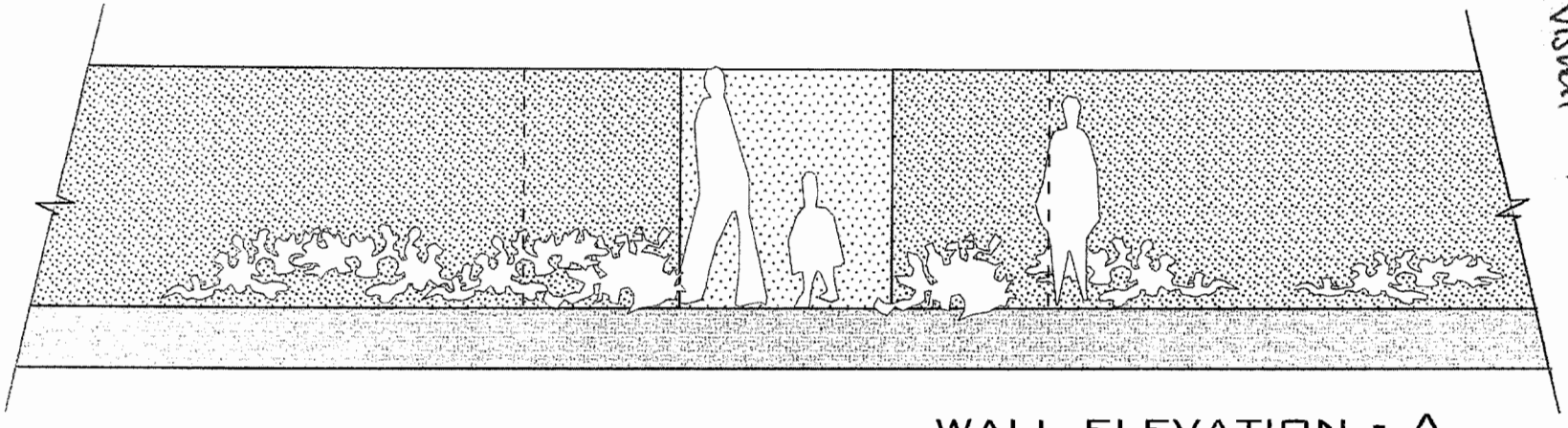
ELIMINATION OF REAR GATE ACCESS

Concerns:

Current Plan involves walling off all residences that back up to the lagoon.
The proposed wall will deprive the property owners abutting the Malibu Lagoon of an escape mechanism in case of fire or tsunami conditions. Rear emergency access has existed for these properties for 60 years.

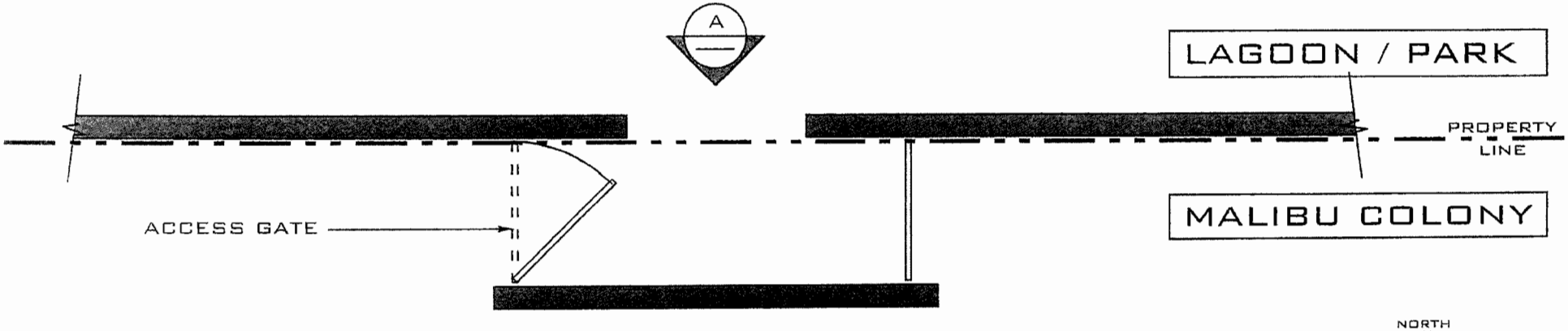
Proposal:

The HOA is proposing that the plan be modified to incorporate a design using offset wall and gates with minimal visual impacts.



Concept of offset wall to allow for gates/min. visual impact

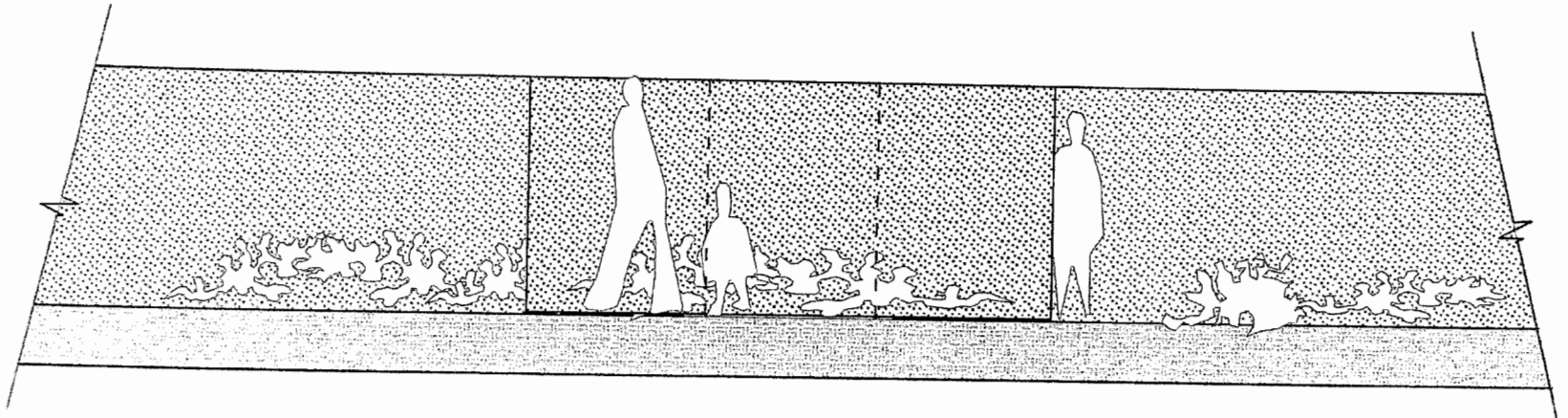
WALL ELEVATION - A
(FROM LAGOON LOOKING SOUTH)



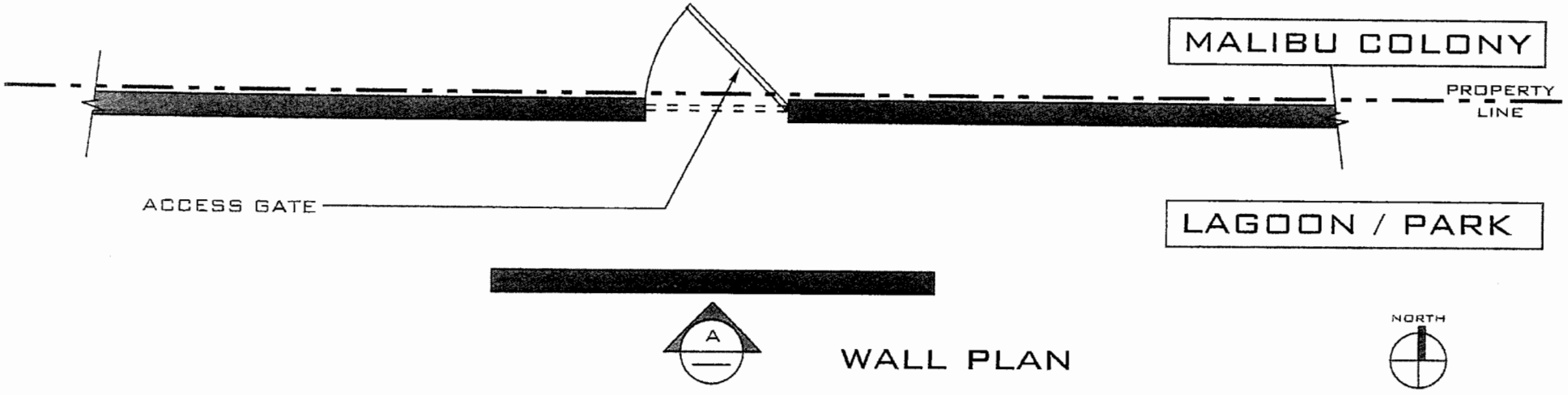
WALL PLAN

DOMICILE DESIGN INC.
DARREN G. DOMINGUE, AIA ARCHITECT
CALIFORNIA LICENSE C 24691
1201 GRANT STREET, SANTA MONICA, CA 90405
PHONE: 310.452.9703 • FAX: 310.452.9803

SCHEMATIC WALL EXHIBIT A



WALL ELEVATION - A
(FROM LAGOON LOOKING SOUTH)



WALL PLAN

DOMICILE DESIGN INC.
DARREN G. DOMINGUE, AIA ARCHITECT
CALIFORNIA LICENSE C 24691
1201 GRANT STREET, SANTA MONICA, CA 90405
PHONE: 310.452.9703 • FAX: 310.452.9803

SCHEMATIC WALL EXHIBIT B

ELIMINATION OF EXISTING DRAINAGE

Concerns:

Current plan includes the closing of drainage from The Colony. The proposed concrete wall blocks existing drainage from the Colony and the homes that has existed for these properties for 60 years.

Proposal:

The HOA is requesting that drainage plans addressing the Colony's drainage be incorporated into the design of the wall.

FLAMMABLE PLANTS INCLUDED IN PROPOSED PLANTING PLAN

Colony Concerns:

The current landscape plan includes two species designated on both the Los Angeles County Fire Department and California States Resource Board lists of highly flammable and dangerous plants, within the 200-foot fuel modification zone of Colony residences. These include Artemisia Californica, more commonly known as California Sagebrush, and Baccharis pilularis consanguinea, also known as Coyote Brush.

Proposal:

The HOA requests that these plant species be eliminated from the plan, or maintained at least 200-feet away from the residences, outside of the fuel modification zone.

PLANTING PROGRAM

SYMBOL	PLANTING ZONE AND TIDAL RANGE	DETAIL REFERENCE	SPECIES NAME		CONTAINER PLANT		SALVAGED PLUGS
			BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY	QUANTITY
	LOW MARSH MTL-MHW (3.5'-4.5' NGVD)	1/L-2	JUNCUS BALTICUS	BALTIC RUSH			X
			JUNCUS MEXICANUS	TULE			X
			SCIRPUS ACUTUS	BULRUSH			X
			SCIRPUS CALIFORNICUS	MEXICAN RUSH			X
	MID-HIGH MARSH MHW-MHHW (4.5'-5' NGVD)	1/L-2	BATIS MARITIMA	SALTWORT	DEEPOT	X	
			DISTICHLIS SPICATA	SALTGRASS			X
			FRANKENIA SALINA	ALKALAI HEATH			X
		2/L-2	JAUMEA CARNOSA	MARSH JAUMEA			X
			SALICORNIA VIRGINICA	PERENNIAL PICKLEWEED			X
	HIGH MARSH TRANSITIONAL MHHW-9' NGVD	1/L-2	CONDYLANTHUS MARITIMUS	SALT MARSH BIRD'S BEAK	DEEPOT	X	
			DISTICHLIS SPICATA	SALTGRASS			X
			FRANKENIA SALINA	ALKALAI HEATH			X
		2/L-2	GRINDELIA ROBUSTA	GUM PLANT	DEEPOT	X	
			JAUMEA CARNOSA	MARSH JAUMEA			X
			LIMONIUM CALIFORNICUM	SEA LAVENDER	DEEPOT	X	
			MONANTHOCHLOE LITTORALIS	SHOREGRASS			X
			SUAEDA ESTERIA	ESTUARY SEA BLITE	DEEPOT	X	
	COASTAL SCRUB >9' NGVD	1/L-2	ABRONIA UMBELLATA	PURPLE SAND VERBENA			X
			ARTEMISIA CALIFORNICA	CALIFORNIA SAGEBRUSH	DEEPOT	X	
			ATRIPLEX TRIANGULARIS	SPEARSCALE	DEEPOT	X	
			BACCHARIS PILULARIS	COYOTE BUSH	DEEPOT	X	
			BACCHARIS SALICIFOLIA	MULE FAT	DEEPOT	X	
		3/L-2	ISOMERIS ARBOREA	BLADDERPOD	DEEPOT	X	
			LEYMUS CONDENSATUS	GIANT WILDRYE			X
			LYCIUM CALIFORNICUM	CALIFORNIA BOX THORN	DEEPOT	X	
			MALOSMA LAURINA	LAUREL-LEAF SUMAC	DEEPOT	X	
			RHUS INTEGRIFOLIA	LEMONADEBERRY	DEEPOT	X	
	HORTICULTURAL	1/L-2	MALOSMA LAURINA	LAUREL-LEAF SUMAC	DEEPOT	X	
			PLATANUS RACEMOSA	WESTERN SYCAMORE	TREEPOT 4	X	
			RHUS INTEGRIFOLIA	LEMONADEBERRY	DEEPOT	X	
			BERBERIS MEXICANA	MEXICAN ELDERBERRY	TREEPOT 4	X	

Plant Palette

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FORESTRY
AND FIRE PROTECTION
5366 Highway 49 North
Mariposa, California 95338

This is in NO way a "complete" list of highly flammable plants and does not intend to represent itself as such. The plants contained on this list are a compilation from many sources from around the State.

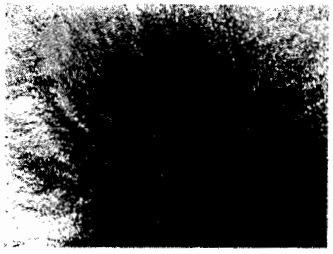
HIGHLY FLAMMABLE PLANTS

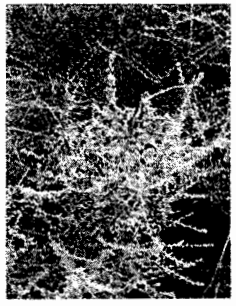
SHRUBS

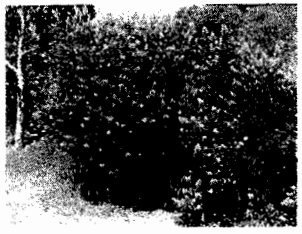
Adenostoma fasciculatum	chamis, greasewood
Adenstoma sparsifolium	red shank
Arctostaphylos spp.	manzanita
Artemesia californica	CA sage brush
Artemisia caucasica	white sage brush
Artemisia spp.	sage
Atriplex spp.	saltbush
Baccharis pilularis consanguinea	coyote brush
Castanopsis chrysophylla	giant chinquapin
Ceanothus spp.	ceanothus
Cistus spp.	rock rose
Cotoneaster spp.	cotoneaster
Dodonaea viscosa	hopseed bush
Eriogonum spp.	buckwheat
Genista spp.	broom
Hakea suaveolens	hakea
Heteromeles arbutifolia	toyon
Juniperus spp.	juniper
Pickeringia montana	chaparral pea
Quercus dumosa	scrub oak
Rhus ovata	sugar bush
Rhus spp.	sumac
Rosmarinus officinalis prostratus	prostrate rosemary
Salvia malifera	sage
Sparitium spp.	broom
Vaccinium malifera	huckleberry

GROUNDCOVERS

Baccharis spp.	coyote bush
Ceanothus spp.	ceanothus
Cotoneaster spp.	cotoneaster
Hedera conariensis	algerian ivy







SPECIES NAME	
BOTANICAL NAME	COMMON NAME
JUNCUS BALTICUS	BALTIC RUSH
JUNCUS MEXICANUS	TULE
SCIRPUS ACUTUS	BULRUSH
SCIRPUS CALIFORNICUS	MEXICAN RUSH
BATIS MARITIMA	SALTWORT
DISTICHLIS SPICATA	SALTGRASS
FRANKENIA SALINA	ALKALAI HEATH
JAUMEA CARNOSA	MARSH JAUMEA
SALICORNIA VIRGINICA	PERENNIAL PICKLEWEED
CORDYLANTHUS MARITIMUS	SALT MARSH BIRD'S BEAK
DISTICHLIS SPICATA	SALTGRASS
FRANKENIA SALINA	ALKALAI HEATH
GRINDELIA ROBUSTA	GUM PLANT
JAUMEA CARNOSA	MARSH JAUMEA
LIMONIUM CALIFORNICUM	SEA LAVENDER
MONANTHOCHLOE LITTORALIS	SHOREGRASS
SUAEDA ESTERIA	ESTUARY SEA BLITE
ABRONIA UMBELLATA	PURPLE SAND VERBENA
ARTEMISIA CALIFORNICA	CALIFORNIA SAGEBRUSH
ATRIPLEX TRIANGULARIS	SPEARSCALE
BACCHARIS PILULARIS	COYOTE BUSH
BACCHARIS SALICIFOLIA	MULE FAT
ISOMERIS ARBOREA	BLADDERPOD
LEYMUS CONDENSATUS	GIANT WILDRYE
LYCIUM CALIFORNICUM	CALIFORNIA BOX THORN
MALOSMA LAURINA	LAUREL-LEAF SUMAC
RHUS INTEGRIFOLIA	LEMONADEBERRY
MALOSMA LAURINA	LAUREL-LEAF SUMAC
PLATANUS RACEMOSA	WESTERN SYCAMORE
RHUS INTEGRIFOLIA	LEMONADEBERRY
SAMBUCUS MEXICANA	MEXICAN ELDERBERRY

September 24, 2010
(Via UPS & Email)

letter sent to Jonna Engel re: plant palette (coastal biologist)

California Coastal Commission
South Central Coast Area
89 S California St # 200
Ventura, CA 93001-2899

Attn: Jonna Engel

Re: CDP Application 4-07-098
Applicant: California Department of Parks and Recreation

Dear Ms. Engel,

I am contacting you on behalf of the Malibu Colony HOA regarding the California State Park's pending application for the Malibu Lagoon Restoration Project. Please note that the HOA is not opposing the project, but is requesting very specific modifications to be made. We would like to direct your attention to one of the HOA's requests for modification to the plan concerning the proposed plantings.

The current plan includes the planting of two certain plant species designated as "highly flammable" on both the Los Angeles County Fire Department and California States Resource Board lists of highly flammable and dangerous plants. These include Artemisia Californica, more commonly known as California Sagebrush, and Baccharis pilularis consanguinea, also known as Coyote Brush. The planting of these two plant species are proposed within 200 feet of the Colony (as illustrated in the attached exhibit) and thus, encroach into the fuel modification zone. Accordingly, we are simply asking that you modify the plant palette to exclude the two aforementioned plant species within 200 feet of the Colony.

Attached for your reference is a copy of the proposed Plant Palette which highlights the two plant species, The Los Angeles County Fire Department and California States Resource Board highly flammable and dangerous plants lists, and the Planting Plan Sheet which exhibits and highlights our areas of concerns.

Thank you for your time and attention on this matter. Should you have any questions or comments, please feel free to contact me via email at nfarnoush@schmitzandassociates.net or by phone at (818) 338-3636.

Sincerely,
Schmitz & Associates, Inc.

Nicole Farnoush
Associate Planner

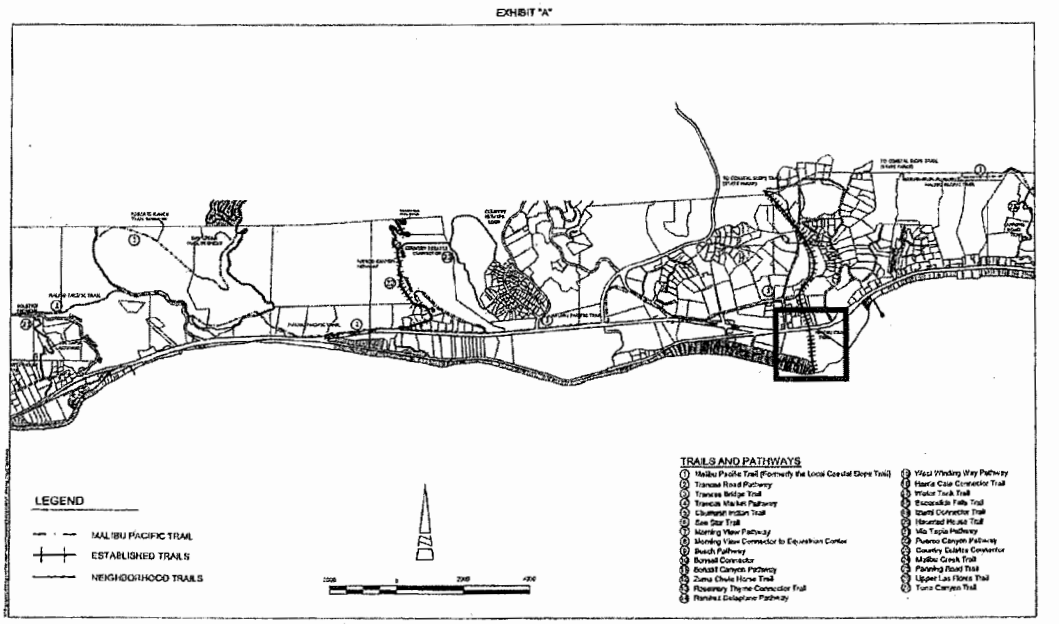
ELIMINATION OF EXISTING PUBLIC BRIDGE ACCESS

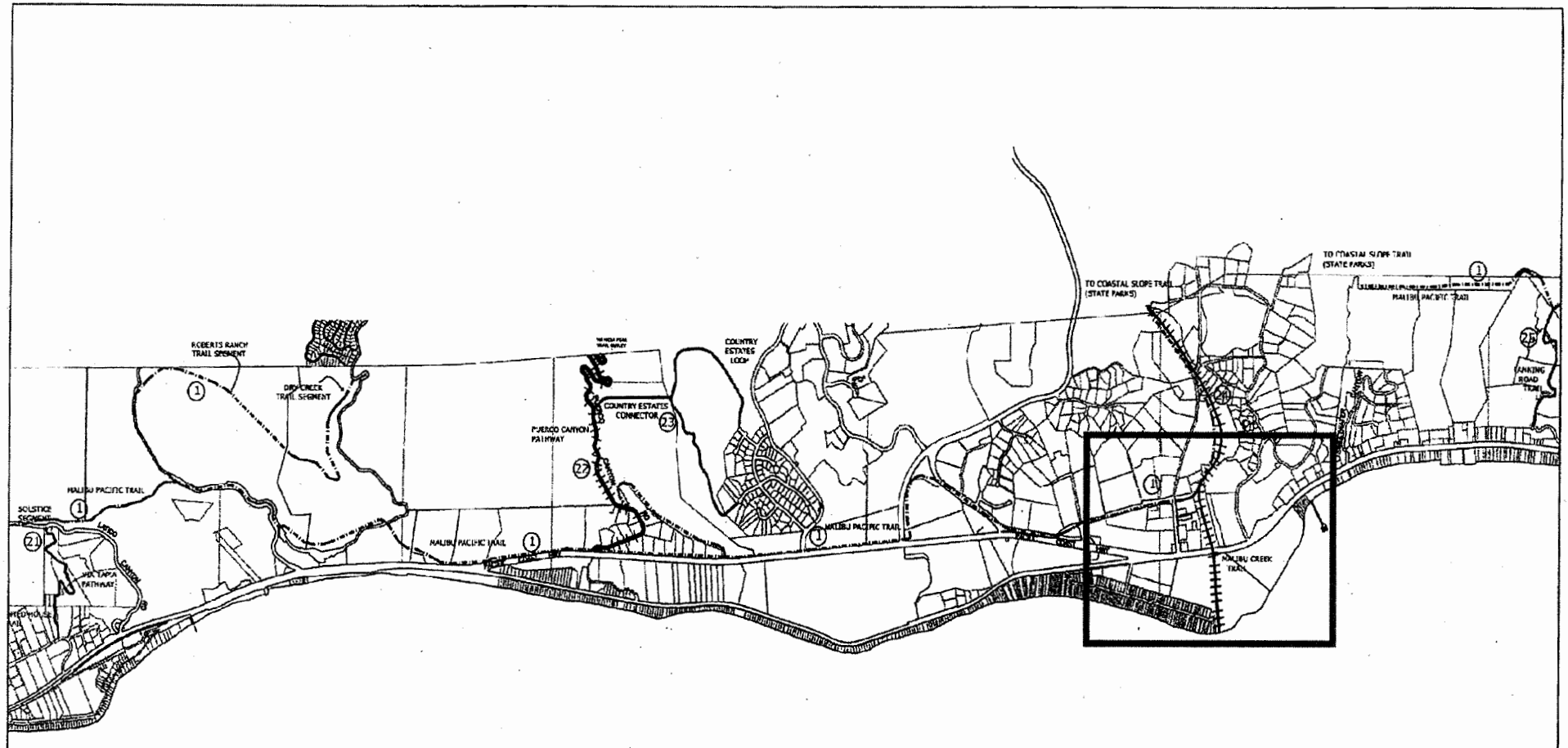
Concerns:

The proposed plan calls for elimination of the bridge, affecting public access to Surfrider Beach. Elimination of the bridge triples the length of access for the general public to the beach unnecessarily. The current access is efficient and provides direct and scenic access from the parking lot to the beach. Currently, people can access the bridge from crossing under PCH. Accordingly, it allows tens of thousands of people convenient coastal access which is consistent with LCP and Coastal Act Polices. Additionally, it removes the current access from the Malibu Creek Trail where it crosses under PCH.

Proposal:

The HOA requests that the bridge be maintained for public access to the beach.





LEGEND

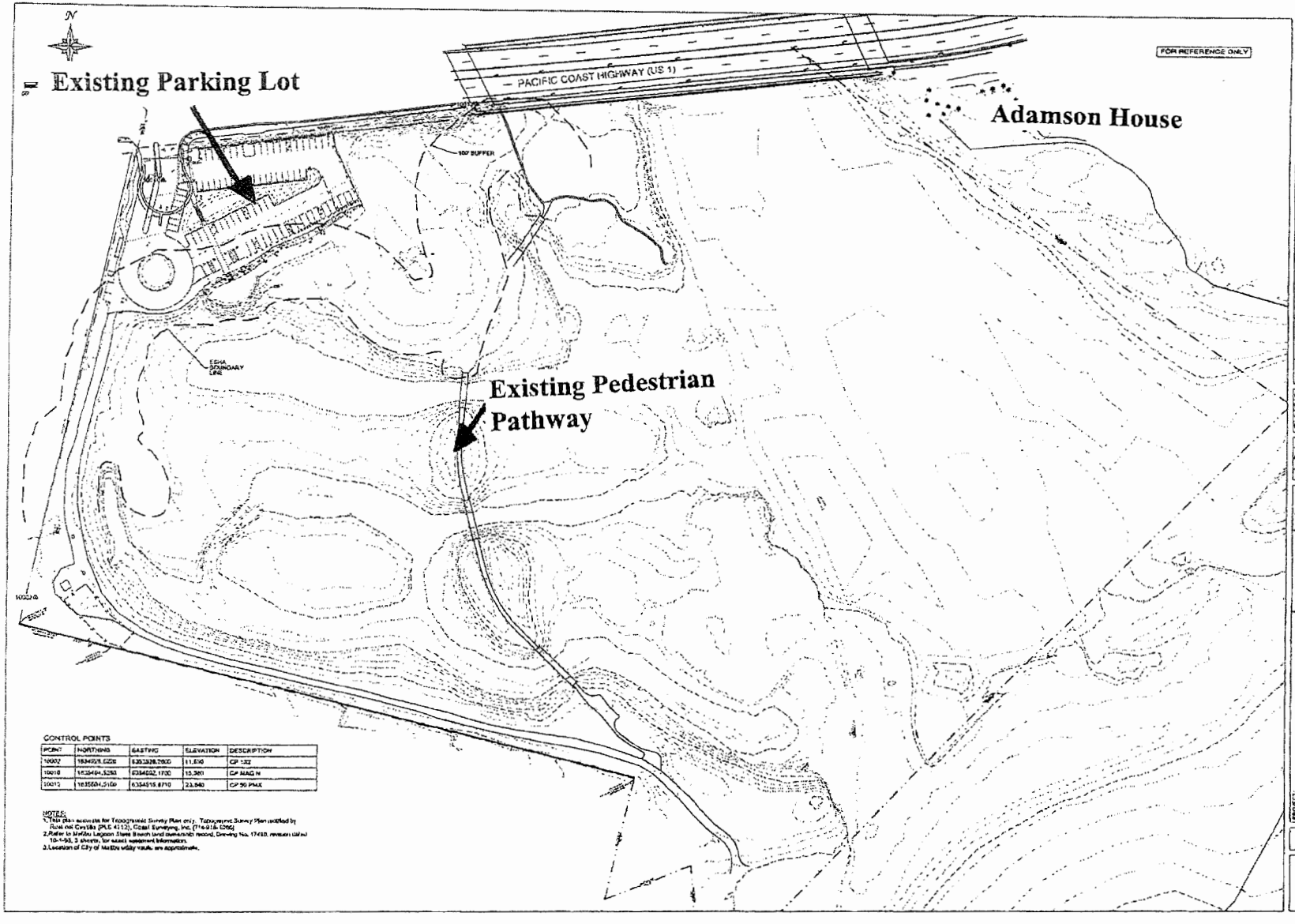
- MALIBU PACIFIC TRAIL
- ESTABLISHED TRAILS
- NEIGHBORHOOD TRAILS

2000 0 2000 4000

TRAILS AND PATHWAYS

1. Malibu Pacific Trail (Formerly the Local Coastal Slope Trail)
2. Trancas Road Pathway
3. Trancas Bridge Trail
4. Trancas Market Pathway
5. Chumash Indian Trail
6. Sea Star Trail
7. Morning View Pathway
8. Morning View Connector to Equestrian Center
9. Busch Pathway
10. Bonsall Connector
11. Bonsall Canyon Pathway
12. Zuma Chute Horse Trail
13. Rosemary Thyme Connector Trail
14. Ramirez Delaplane Pathway
15. West Winding Way Pathway
16. Harris Cate Connector Trail
17. Water Tank Trail
18. Escondido Falls Trail
19. Izumi Connector Trail
20. Haunted House Trail
21. Via Tapia Pathway
22. Puerco Canyon Pathway
23. Country Estates Connector
24. Malibu Creek Trail
25. Fanning Road Trail
26. Upper Las Flores Trail
27. Tuna Canyon Trail

MALIBU TRAILS SYSTEM



CALIFORNIA STATE PARKS SINCE 1864

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

DESIGNED: SG
DRAWN: JS/KT
CHECKED: SS
DATE: 10/03/07

REVISIONS
DATE

Jones & Stokes

PROJECT: 65% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

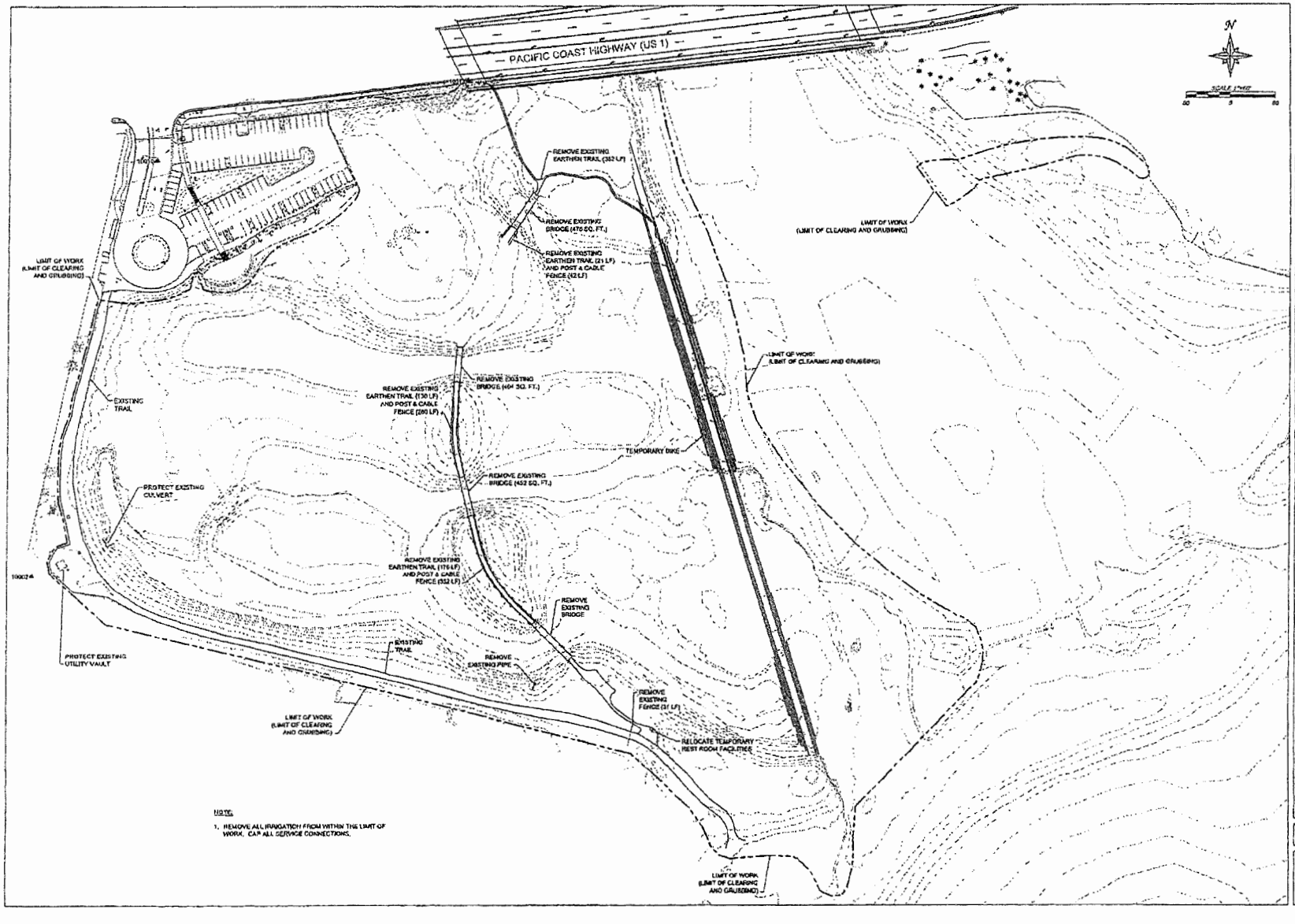
SHEET TITLE: TOPOGRAPHIC SURVEY (FOR REFERENCE ONLY)

ADDRESS: MALIBU LAGOON STATE BEACH
23200 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. T-4

SHEET NO. 4 OF 24

EXHIBIT 3
CDP #4-07-098 (Malibu Lagoon)



CALIFORNIA STATE PARKS
SINCE 1864

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE PARKS APPROVAL

Approval of this plan does not authorize or represent any omission of compliance from applicable regulations. Final approval is subject to field inspection. One set of approved plans shall be available on the project site at all times.

Reviewed by: Date:

DPR ADA 22 COMPLIANCE REVIEW/ ACCESSIBILITY SECTION

CERTIFICATION #:

Reviewed by: Date:

ACCESSIBILITY COMPLIANCE AND STAMP FOR MARKING SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

DESIGNED:	SS
DRAWN:	JS/KT
CHECKED:	SS
DATE:	10/05/07

REVISIONS

	DATE

Jones & Stokes

PROJECT: 65% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE: SITE PREPARATION - DEMOLITION PLAN

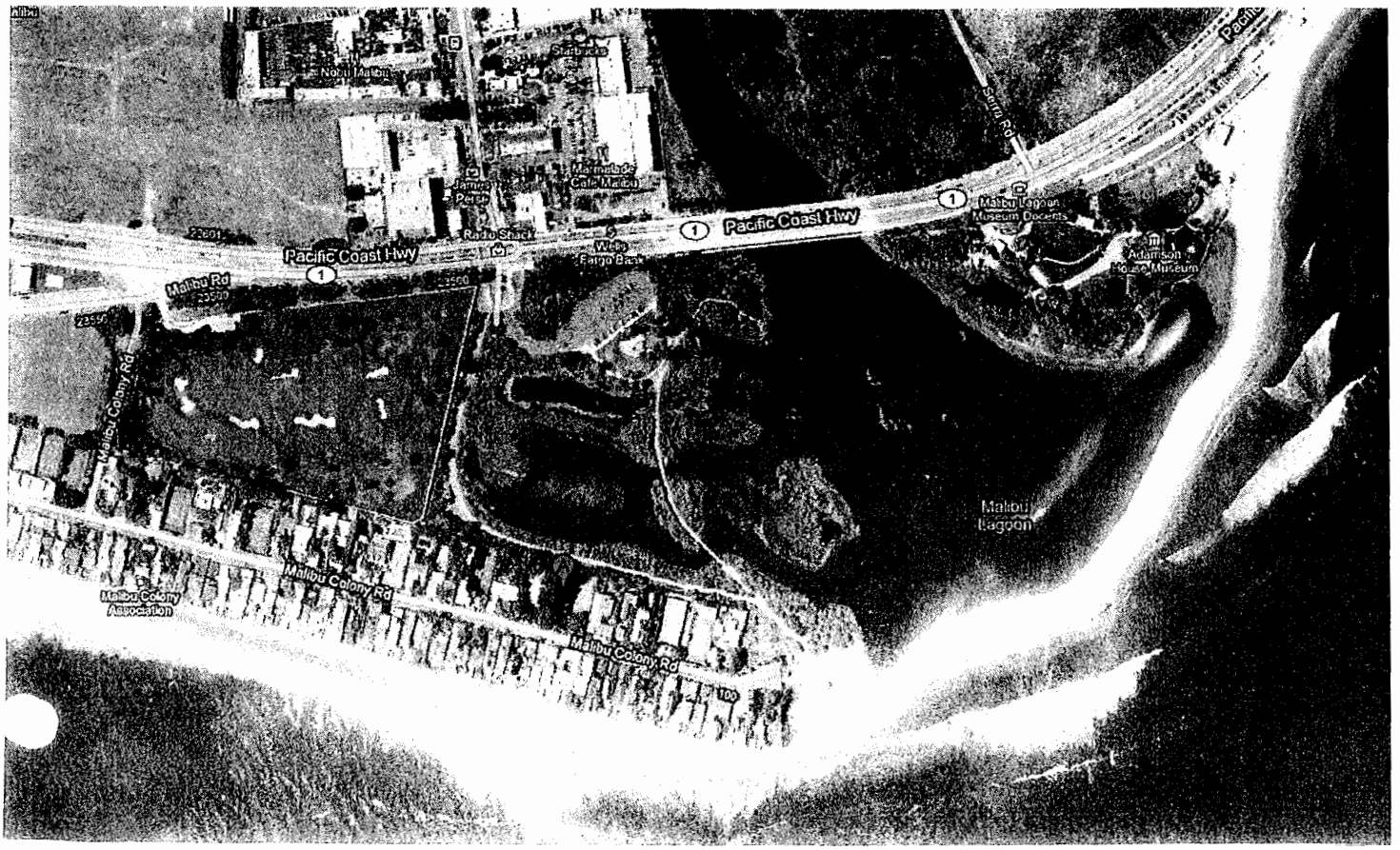
ADDRESS: MALIBU LAGOON STATE BEACH
23200 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. SP-2

SHEET NO. 6 OF 24

EXHIBIT 5
CDP #4-07-098 (Malibu Lagoon)
Trail Demolition Plan


Malibu Colony Rd
Malibu Colony Rd


Malibu
Starbucks
Nobu Malibu
Marmalade Cafe Malibu
Pacific Coast Hwy
Malibu Lagoon Museum Docents
Pacific Coast Hwy
Malibu Rd
Malibu Colony Rd
Malibu Lagoon
Malibu Colony Association
Malibu Colony Rd
Malibu Colony Rd

Friends of Ballona Wetlands
www.ballonafriends.org

October 8, 2010

Ms. Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

Dear Coastal Commissioners:

Subject: W6a; Application No. 4-07-098 Malibu Lagoon Habitat Restoration and Enhancement Program (California State Department of Parks and Recreation and Santa Monica Bay Restoration Commission)

Friends of Ballona Wetlands (FBW) staff and board have reviewed the Staff Report for the subject coastal permit and support staff's recommendations including all Special Conditions.

Although FBW does not typically comment on projects outside of the Ballona Creek watershed, approval of this particular project has broader policy implications for the eventual Ballona Wetlands restoration project and other tidal wetland restorations in California. We therefore felt it necessary for our organization to formally register its support for the proposed project.

The California Department of Parks and Recreation proposes to restore and enhance Malibu Lagoon to improve function of the lagoon ecosystem by recontouring the lagoon slopes and drainages to increase hydrologic flow and essentially change the geometry of the landscape. A relatively large amount of mechanized excavation and grading will accomplish these goals (relative to the overall lagoon acreage). About 51,000 cubic yards of soil will be cut, 37,000 cubic yards will be filled, and 14,000 cubic yards exported during excavation and grading. Tidal wetlands habitat will be restored on the recontoured landscape by replanting of native species and removal of non-native species. In addition, public access will be facilitated by construction of a trail around the lagoon, interpretive public educational amenities and implementation of a long-term monitoring plan. Numerous Special Conditions are included in the proposed Coastal Development Permit, which will minimize impact to existing

211 Culver Blvd., Suite K, Playa del Rey, CA 90293
ph: 310.306.5994 fax: 310.306.0031 e: info@ballonafriends.org

resources to the extent feasible, monitor construction compliance and project performance, and require remediation, if needed, to ensure success.

Friends of Ballona Wetlands supports this project for two overriding policy reasons. First, just as we advocate for the coming Ballona Wetlands restoration project, FBW supports a comprehensive restoration at the Malibu Lagoon. This means major earthmoving will be required using mechanized equipment. The impacts from this approach to existing habitat are temporary and must be endured in order to restore proper hydrology and tidal function, and to recover the wetland habitat values that have been lost due to surrounding development impacts over the decades and to incomplete and unsuccessful prior restoration efforts. The long term benefits from enhanced habitat and biological function far outweigh the temporary impacts from this approach. Any lesser restoration effort will not achieve the objectives of the project. Assertions that successful restoration of habitat values at Malibu Lagoon can be accomplished by doing nothing, or by minimal adjustments using only manual labor and hand tools, are baseless and lack any credible scientific merit. Malibu Lagoon and its complex environmental issues have been studied over many decades by reputable scientists. We are satisfied that all potential environmental impacts have been thoroughly evaluated, and it is time to move forward.

Large-scale mechanized recontouring of the land has been the rule, not the exception, at a number of successful tidal wetland restorations in southern California. Among these are Batiquitos Lagoon, Bolsa Chica Wetlands, Carpinteria Marsh, San Dieguito Lagoon, San Elijo Ecological Reserve, and Tijuana Estuary. These successful projects are testimony to the overriding benefits of excavation and grading to restore tidal hydrology and balance various wetland habitat proportions through careful landscape elevation gradation, where development has altered the natural tidal dynamic. Temporary impacts to degraded existing wetland and upland habitats are easily minimized by temporal construction restrictions and salvaging of native vegetation where feasible, both of which are required by the Staff's proposed Special Conditions. The aforementioned projects, all approved by the Coastal Commission, have proven that wetland flora and fauna recover relatively quickly when proper tidal hydrology is ensured by effective design.

Second, FBW supports well-regulated public access at Malibu Lagoon, as well as at any other "high traffic" wetlands area, provided that sensitive resources are fully protected. The absence of well-regulated public access has potential to result in haphazard "social trails" that damage sensitive habitat and may impact nesting birds and other sensitive species. Established trails with

signage and fencing, when placed appropriately and adequately patrolled, can help protect sensitive habitat and enhance public education and awareness of the protected resources. Special Condition 10 of the proposed CDP requires the project proponent to develop and obtain separate approval of such access.

Southern California has lost approximately 95% of its historic coastal wetlands. The Malibu Lagoon restoration project is one of the few historic opportunities to restore critical tidal wetland habitat in the Santa Monica Bay. It will also help to greatly improve water quality at Surfrider Beach, which regularly scores low based on bacterial indicators. The Malibu Lagoon restoration plan was completed five years ago and navigated the California Environmental Quality Act ("CEQA") process, complying with all CEQA requirements. California's budget crisis has been the only cause for delay in this restoration effort. Thankfully, funding is now in place to move the project forward. Restoring Malibu Lagoon is one of the highest priorities under the Santa Monica Bay Restoration Plan. FBW joins with Heal the Bay, the advocacy group instrumental in preparing the restoration plan, in urging the Coastal Commission to approve the Malibu Lagoon restoration program.

Friends of Ballona Wetlands (www.ballonafriends.org) is a non-profit 501(c)(3) membership organization with more than 6,500 individuals participating in our education and restoration programs each year. We represent the single largest group of stakeholders participating in the Coastal Conservancy's Ballona Wetlands Restoration Project. FBW has been dedicated to protecting and restoring the Ballona Wetlands for over 32 years with the help of more than 65,000 volunteers, and was instrumental in protecting the Ballona Wetlands from development through designation of the wetlands as a State Ecological Reserve.

If you have any questions, please feel free to call me at (310) 306-5994.

Sincerely,

Lisa Fimiani

Lisa Fimiani
Executive Director
Friends of Ballona Wetlands

cc: Coastal Commissioners
Dr. Jonna Engel, CCC, Ventura

City of Malibu

23815 Stuart Ranch Road ♦ Malibu, California ♦ 90265-4861
Phone (310) 456-2489 ♦ Fax (310) 317-0950 ♦ www.ci.malibu.ca.us

October 7, 2010

Chair Bonnie Neely
And Members of the California Coastal Commission
Attn: Ms. Amber Tysor
89 South California St., Suite 200
Ventura, CA 93001

RE: Comments on Agenda Item W6a Application No. 4-07-098 Malibu Lagoon State Park

Dear Chair Neely and Members of the Commission:

On August 6, 2010, the City of Malibu sent comments and reference documents in support of the Malibu Lagoon Restoration Project ("project"). The letter expressed our heightened concerns related to potential water quality impacts from the restoration process. Since that time, City staff have met with representatives of the project about these concerns and modifications have been made to the water quality monitoring and mitigation plans, which are definitely helpful. The City greatly appreciates the collegial working relationship with State Parks and the Coastal Conservancy, and we appreciate the improvements to the documents, especially the addition of protocols on preventing spread of the New Zealand Mudsnail.

The current proposed project is the result of over 20 years of a comprehensive and varied public stakeholder process with a consensus approach. The City's understanding is that the project would reconfigure the existing lagoon to improve hydrologic function, remove non-native species, restore native wetland and upland plant species, and construct a public educational interpretive trail, with these factors culminating in improved habitat for wildlife. Based on the expertise and information provided to the City by the agencies involved, the City is again voicing its support of the project and the Commission's issuance of a permit to complete this project.

However, the City of Malibu still has strong concerns regarding the project's potential adverse impact on water quality. We suggest that certain conditions on the project are necessary to protect water quality and minimize the adverse impacts of the project on sensitive coastal resources. The City has spent enormous amounts of public funds on reducing pollutants from entering into Malibu Creek, the Lagoon and Surfrider by constructing a state-of-the-art stormwater treatment facility in 2006 and, only last week, completing the Legacy Park stormwater improvement project that directs stormwater and urban runoff from the surrounding 330 acres into a treatment system. Through these projects, the City has eliminated bacteria from entering the creek from existing sources. We proudly note that, due to significant work by the City, Surfrider Beach was not listed in the top 10 "Beach Bummer" list from Heal the Bay in 2010. The City wants to continue this clean water

momentum. We have developed and believe two specific areas need to be enhanced by additional permit conditions on the Lagoon Restoration project. They are as follows:

1. Bacterial indicator monitoring during construction and post-construction
2. Avian surveys pre-construction and post-construction

In addition, as assurance that the project permitee will take its obligations to water quality seriously, please impose a condition requiring the permitee to indemnify the City and any other affected NPDES co-permittee for any impairments to water quality caused by or contributed to as a result of the project.

Bacterial indicator monitoring during construction and post-construction

The CCC staff response to the City's August comments related to water quality did not adequately address the potential for significant water quality impacts from the increase in tidal flushing, sediment disturbance and the increase in expected bird population. Based on research by and communications with the United States Geological Survey (USGS) and other experts, the City fully anticipates that during and after the physical changes to the Lagoon, a much higher frequency of fecal indicator bacteria exceedances will be observed. Therefore, the City is requesting the following language be added as conditions on the project:

1) For the 60 days prior to the beginning of construction, the State shall perform weekly monitoring of the Lagoon and ocean wavewash immediately adjacent to the project (2 locations for each) in order to help define existing water quality.
2) No later than 60 days prior to beginning construction, the State shall have a full construction water quality monitoring plan that shall be approved by the Regional Water Quality Control Board (RWCQB) and the City of Malibu. Said plan shall require and include frequency of testing, list of constituents to be tested and location of sampling.
3) During construction, water quality testing shall be performed at least twice per week in accordance with the City and RWQCB approved plan.
4) For a period of one (1) year after construction, the State shall continue to perform water quality testing in the Lagoon and at the ocean wavewash immediately adjacent to the project on a weekly basis and at the same locations as identified in No. 1 above.
5) Water quality testing during construction and post construction shall include human-specific bacteriodales testing on a monthly basis in the Lagoon and ocean wavewash immediately adjacent to the project and at the same locations as identified in No. 1 above.
6) The State shall also perform water quality monitoring in accordance with the *Malibu Lagoon Restoration and Enhancement Plan*, June 15, 2005. This shall include all nine (9) site locations as recommended by the report. (Currently the applicant has dropped site #9 in the monitoring plan on the East side of the Lagoon. The City requests that this site be restored in the QAPP and PAEP for two reasons: there is proposed dredging and deepening of the channel, and testing has shown that there is an abundant FIB in the sediment at this location.)

7) Water quality testing shall include all three (3) fecal indicator bacteria (total and fecal coliform, and enterococcus) at all nine (9) sampling locations within the Lagoon project area. In addition, a sample site(s) must be added to be closely associated with the discharge point of any dewatering.
8) The approved monitoring plan shall be included in the contractor's specifications as the minimum sampling required.
9) Results of all monitoring shall be made available to the public
10) The State shall indemnify the City of Malibu and any other affected NPDES co-permittee for any impairments to water quality caused by or contributed to as a result of the project.

The pre-project water quality sampling is sorely lacking in bacteria analysis. The City of Malibu would like to offer extensive recent sampling results available from the July 2009 and April 2010 fieldwork of USGS, as well as the sampling results of UCLA over a 9-month period in 2009, to help establish a baseline. This baseline should be included in the QAPP and PAEP. The sampling results will be sent upon request.

Avian survey pre-construction and post-construction

Waterfowl are important to the Malibu Lagoon ecosystem and influence both bacteria and nutrients levels. The approved Malibu Creek and Lagoon Bacteria TMDL included a condition requiring, "The California Department of Parks and Recreation shall provide the Regional Board Executive Officer, a report quantifying the bacteria loading from birds to the Malibu Lagoon." Although the study was to be completed by 2008 for regulatory purposes, it is now especially vital for overall understanding of this project's water quality effects that this study be completed. Therefore, the City offers the following conditions with regard to the avian survey:

1) A pre-construction bird survey shall be completed a minimum of 60 days prior to the beginning of construction. The bird survey shall provide estimates of existing avian fecal loading. Said survey shall be reviewed and approved by the RWQCB and shall be submitted to the City for review and comment prior to submittal to the RWQCB.
2) A post-construction bird survey shall be completed within one (1) year after completion of the project. The bird survey shall provide existing and proposed bird population estimates and potential fecal loading amounts. Said report shall be reviewed and approved the Regional Water Quality Board and shall be submitted to the City for review and comment.

Birds of Malibu Lagoon: Final Report, 2006, which the applicant is relying on, did provide a very limited pre-project avian survey that may help form the basis of the required survey by the RWQCB. However, more detailed survey work, as requested above, is absolutely necessary. Accounting for natural sources of fecal indicator bacteria and, in particular, avian sources, is a critical issue for all of the parties listed as responsible in the Malibu Creek and Lagoon Bacteria TMDL. Therefore, we respectfully request that this requirement be included in the conditions of this permit.

Overall, we welcome the prospect to improve the habitat in Malibu Lagoon, as long as the price to water quality is not too great. The stated goals of the project seem complementary to the City's efforts to restore and protect valuable coastal habitat.

Thank you for the opportunity to comment and for your consideration of these comments. If there are any questions, please feel free to contact Ms. Jennifer Voccola, Sr. Environmental Programs Coordinator, at (310) 456-2489 extension 275 or jvoccola@ci.malibu.ca.us.

Sincerely,

Jim Thorsen
City Manager

cc: Mayor Wagner and Honorable Members of the Malibu City Council
Christi Hogin, City Attorney
Robert L. Brager, Public Works Director
Jennifer Voccola, Sr. Environmental Programs Coordinator

Scott Pomerantz
1 Northstar St., Unit 103
Marina del Rey, CA 90292
(310) 923-8058

October 5, 2010

California Coastal Commission
attn: Amber Tysor
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: Malibu Lagoon

Dear Ms. Tysor:

I am writing to you concerning my deep concern for the preservation of the Malibu Lagoon. Proposed plans that would destroy existing wetlands habitat should be rejected.

Our coastal wetlands are precious. Each remaining wetlands area serves as an important lifeline for many rare bird species. Among others, the California Least Tern uses the Malibu Lagoon as a fishing area and place to teach its young how to fish. In fact, the Least Tern travels to my neighborhood near the Ballona Wetlands and is a joy to observe. Destroying habitat at the Malibu Lagoon would threaten the viability of the Least Tern – and other birds – in our area because it would take away yet another safe haven.

Fortunately, alternatives exist. The Santa Monica Bay Restoration Foundation has made proposals that would do far less damage. Community-involved restoration – instead of bulldozers – could achieve the same ends without damaging a rare ecosystem.

Thank you for your consideration of the above, and I hope that the Malibu Lagoon can be preserved in its current state.

Very truly yours,

Scott Pomerantz, Esq.

October 6, 2010

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

Dear Honorable Members of the Commission:

Coastal Development Permit Application 4-07-098
Malibu Lagoon Wetland Habitat Restoration and Enhancement
Malibu Lagoon State Beach, City of Malibu, Los Angeles County – Perimeter Wall

This letter is submitted on behalf of Applicant, State of California, Department of Parks and Recreation ("State Parks"), in response to the California Coastal Commission Staff Report for the above-mentioned Application. In particular, this letter addresses assertions raised by some residents of the Malibu Colony regarding loss of emergency ingress/egress to public park land for adjacent private property owners due to construction of the Perimeter Wall.

The Perimeter Wall will be a 6 foot high concrete masonry wall that will extend approximately 864 feet along the southern boundary of the western lagoon complex of Malibu Lagoon State Beach. The Perimeter Wall will be adjacent to approximately 14 private residences within the Malibu Colony community. Currently, along this portion of boundary between Malibu Lagoon State Beach and the private residences there are fences and walls of varying designs, materials, and height. Some, but not all, of these fences and walls have gates for the private residence owners to access Malibu Lagoon State Beach.

Some members of the Malibu Colony have asserted that construction of the Perimeter Wall will cause loss of emergency fire ingress/egress to public park land for adjacent private property owners.

There is no building or other code that requires the Perimeter Wall to include gates to provide adjacent property owners emergency ingress/egress to public park lands. Furthermore, there is no statutory or other duty that requires State Parks to provide adjacent property owners emergency ingress/egress to public park land via gates in the Perimeter Wall. Accordingly, State Parks has no duty to provide emergency fire or other disaster ingress/egress to adjacent private property owners to Malibu Lagoon State Beach via gates in the Perimeter Wall.

If you have any questions regarding the matters stated herein, please call me at (916) 653-8744. Thank you for your consideration of this Application.

Sincerely,

Tara E. Lynch
Senior Staff Counsel

cc: Craig Sap, Acting Superintendent, Angeles District, State Parks
Suzy Lahitte, Project Manager, Northern Service Center, State Parks

State of California • The Resources Agency
Arnold Schwarzenegger, *Governor*

DEPARTMENT OF PARKS AND RECREATION • P.O. Box 942896 • Sacramento, CA 94296-0001
Ruth Coleman, *Director*

Angeles District
1925 Las Virgenes
Calabasas, CA. 91302

October 11, 2010

ATTN: Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

Coastal Development Permit Application 4-07-098 – Malibu Lagoon Wetland Habitat Restoration and Enhancement – Malibu Lagoon State Beach, City of Malibu, Los Angeles County – Perimeter Wall

Dear Honorable Members of the Commission:

The intent of this letter is to provide a response to assertions raised by some residents of the Malibu Colony community regarding the loss of emergency ingress/egress they believe may occur as a result of construction of the perimeter wall, which is proposed as part of the Malibu Lagoon Wetland Habitat Restoration and Enhancement Project. This letter also provides clarification why the perimeter wall is vital to the State of California, Department of Parks and Recreation's ("State Parks") ongoing management of the Malibu Lagoon.

The proposed perimeter wall is a 6-foot high, 864-foot long, concrete masonry wall located along the southern boundary of the western lagoon complex of Malibu Lagoon State Beach, and adjacent to approximately 14 private residences within the Malibu Colony community. Currently, there are fences and walls of varying materials and dimensions along this section of the boundary between Malibu Lagoon State Beach and the private residences. Many of these fences and structures include gates that the residents use for private access to Malibu Lagoon State Beach.

State Parks is not required by statute, code, or other duty to provide private access or emergency ingress/egress for adjacent private residents through or onto state lands. In fact, such access and ingress/egress causes significant negative impacts to State Parks' property and resources, resulting in significant staff time and funding to respond and ameliorate resource impacts. As summarized in the attached spreadsheet, recent significant negative impacts to State Parks' property have included: construction of walls, stairways and other structures on state lands; discharge of unpermitted storm/irrigation flows into state lands and regulated waterways; use of public lands for private uses such as gardens, private access and irrigation; and encroachment of invasive landscape weeds.

Construction of the proposed wall will not only curtail these resources conflicts, but will additionally provide increased fire protection and privacy for adjacent residents. The wall also improves the aesthetics of the lagoon by replacing a mismatch of wall and fence types with a structure that visually ties in with the existing historic wall associated with the Adamson House. Accordingly, the proposed wall is a vital element for restoration of the Malibu Lagoon, and improves the management of Malibu Lagoon State Beach as a whole.

Sincerely,

Craig Sap
Acting Angeles District Superintendent

Attachments: Summary of Malibu Colony Neighborhood Encroachments
9/17/2010 CDPR Citation

REPORT CONTINUATION/SUPPLEMENTARY PAGE

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

☐ PUBLIC SAFETY REPORT ☐ VESSEL ACCIDENT REPORT ☐ TRAFFIC COLLISION ☑ CRIME REPORT	DATE OF ORIGINAL INCIDENT #REF! — #REF!	TIME OCCURRED #REF! — #REF!	EVENT NUMBER #REF!	PAGE 3 of ##
	DISTRICT NAME #REF!			
	PARK UNIT NAME #REF!			PARK UNIT NO. #REF!

Summary: On 09/17/10, a property encroachment was noted at Malibu Lagoon State Park, with stairs and a drainpipe extending onto park property from an adjacent parcel at 23401 Malibu Colony Drive, 90265. The drainpipe emptys directly into Malibu Lagoon.

Narrative: On 09/17/10, at approximately 1430hrs, I conducted a uniformed foot patrol at Malibu Lagoon State Park, having received from the resources staff a report of an encroachment.

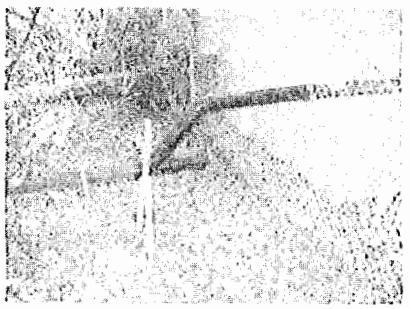
The area checked was the rear of the properties extending along the beach West of the park, located within the Malibu Colony, a gated community. There is a service road from the parking lot to the beach that parallels the property line, with an area of the lagoon located on the opposite side of the road.

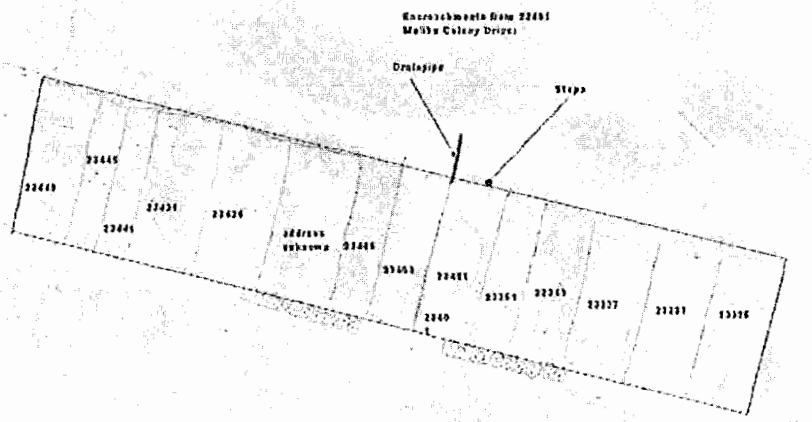
I walked the fenceline starting from the last property on the North side of the street within the gated community, 23325 Malibu Colony Drive. I found a concrete stoop with wooden steps, and an ABS drainpipe about of 4" to 6" diameter originating from the parcel at 23401 Malibu Colony Drive, and encroaching onto the property of Malibu Lagoon State Park.

The drainpipe is buried under the service road, with the outlet draining into the lagoon. Erosion at the outlet indicates that the pipe has been used.

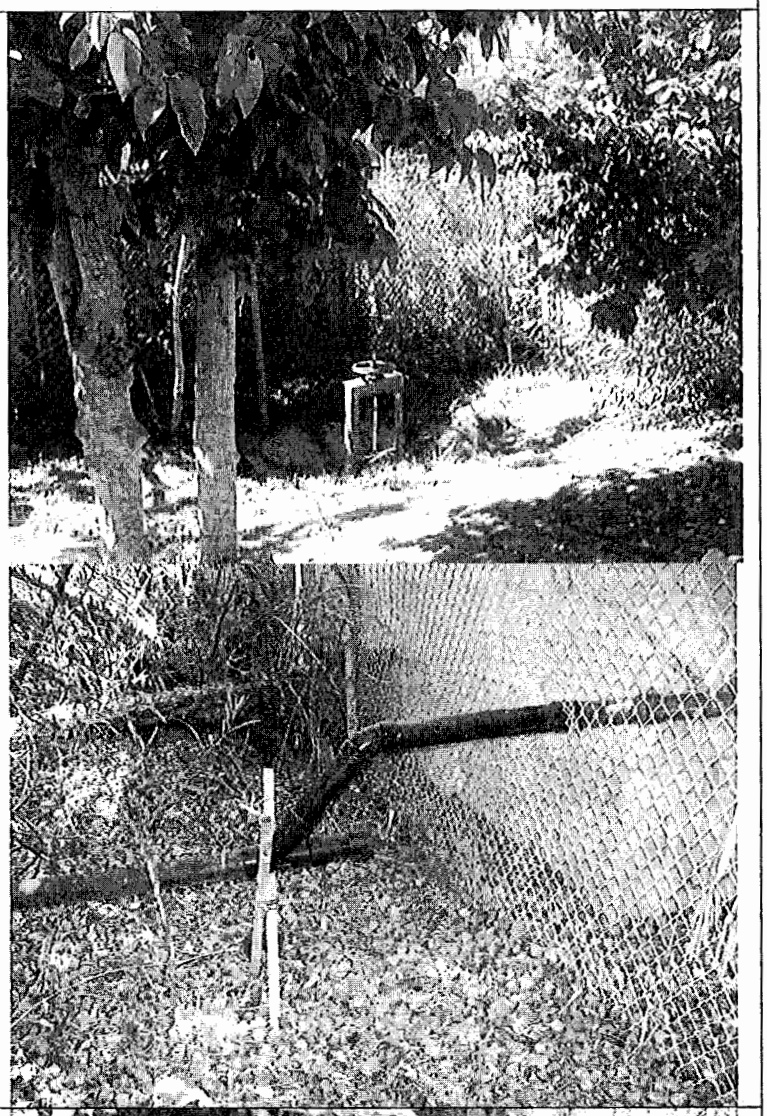
I found no other significant encroachments along that section of the park boundary.

Photographs:

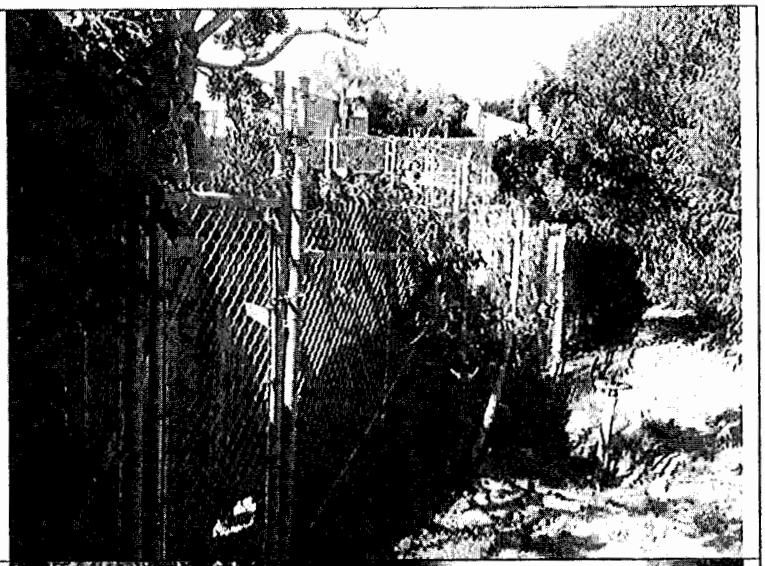




REPORTING EMPLOYEE'S SIGNATURE	BADGE NO.	MO. DAY YR	SUPERVISOR'S SIGNATURE	BADGE NO.	MO. DAY YR.
	R-1145	9/17/2010			

Malibu Colony Neighborhood Encroachments		
Unapproved Encroachments	**Date**	**Documentation (Photos Taken 9/23/2010)**
Drainage pipe construction and unchecked drainage into Malibu Lagoon	9/17/2010 CDPR crime report attached	
Stairway accessing State Park property.	9/17/2010 CDPR Crime report, attached	

Unpermitted heavy equipment access and vegetation damage during private wall construction	~2008. Citation written/ went to court.	
Gardening on State Park property. Garden has since been removed. Photo shows location of encroachment.	~2009	
Trimming vegetation. "Lollipopped" trees on State Park property.	2010	

Private access gates into State Park property. Construction debris	Ongoing	
Construction debris, watering on State Park property.	~2008	
Active private watering of State Park property.	9/23/2010	
Invasive weeds expanding into native habitats (morning glory, myoporum, etc.)	Ongoing	(no photo)

October 7, 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California St., #200
Ventura, CA 93001

VIA FASCIMILE: 805.641.1732

RE: Application No. 4-07-098 Malibu Lagoon Restoration Project

Dear Ms. Tysor:

As a long-time resident of Malibu, I'm very concerned about the new Lagoon Restoration Proposal. After doing hours of research and reading on the subject, I'm convinced that a less invasive alternative would be in everyone's best interest. I urge the Coastal Commission to reconsider.

Best regards,

Alisa McCarter
310.456.9960

Alessandra DeClario, Ph.D.
P.O. Box 2534
Malibu, CA. 90265

October 6, 2010

California Coastal Commission
FAX: (415) 904-5400

Re: Proposal for Malibu Lagoon

Dear Commission,

I have looked over some of the plans for what is called the "restoration" of Malibu Lagoon. As an environmentalist, I became quite alarmed. The Lagoon is full of environmentally sensitive plants and animals. This plan basically will just bulldoze away live creatures that depend upon the Lagoon for their habitat. Beautiful paths and bridges that blend perfectly with the area will be destroyed. (This brings to mind the "restoration" done in Topanga that destroyed the bridges that were habitat to bats – the bats never returned. Hence, creating an environmental imbalance).

I strongly oppose going forward with any project for the Malibu Lagoon until there is more investigation. There are just too many people that still need to be educated about and need to review this proposal. Furthermore, this type of project is perfect for community participation. Currently the controversial Legacy Park was opened in Malibu. The Malibu Lagoon can be a similar project inviting community input.

This matter will be up for vote on October 13th. I encourage the Commission to please postpone this item until at least spring.

Thank you for your consideration.

Sincerely,

Alessandra DeClario, Ph.D.

LOS ANGELES AUDUBON SOCIETY
7377 Santa Monica Boulevard, West Hollywood, California 90046-6694
Tel: (323) 876-0202, (888) 522-7428 Fax: (323) 876-7609
Website: www.LAAudubon.org E-mail: LAAS@LAAudubon.org

October 11, 2010

California Coastal Commission
Attn: Jack Ainsworth
South Coast Deputy Director (Los Angeles County)
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416
(562) 590-5071
FAX (562) 590-5084

RE: a. Application No. 4-07-098 (California Dept. of Parks and Recreation, Malibu) Application of California Dept. of Parks and Recreation to restore and enhance Malibu Lagoon

Dear Mr. Ainsworth:

Los Angeles Audubon is a California non-profit 501(c)(3) corporation established in 1910. The mission of Los Angeles Audubon is to promote the enjoyment and protection of birds and other wildlife through recreation, education, conservation and restoration.

We work closely with California State Parks and Los Angeles County Beaches & Harbors in Malibu Lagoon on our conservation program for federally threatened Western Snowy plover *(Charadrius alexandrinus nivosus)* and federally endangered California Least Tern *(Sternula antillarum browni)* on Los Angeles County beaches, now in its fourth year.

We have reviewed the Plan for the project, the DEIR, the FEIR, and the Coastal Commission staff report regarding the impacts of the proposed project on avian species which use the project site. Our scientific advisor, Kimball Garrett of the Los Angeles County Museum of Natural History, participated in the plan for the Lagoon. The Malibu Lagoon site hosts a diversity of species of birds especially in the winter, some of which are sensitive, threatened or endangered, and the site is a favorite recreational site for many of our members who are bird watchers.

We urge the Coastal Commission to approve this project. It is our opinion that the long term benefits of the project as stated in the project application will increase and enhance habitat for the species of birds that use the project site, and outweigh the temporary disturbance of construction. Although our members will also be temporarily disturbed by the decreased opportunities for bird watching at the lagoon during construction, and the viewing areas after construction may be less desirable than the current viewing areas, it is our opinion that the project has adequately considered and provided for access and recreational opportunities for bird watchers, and that California State Parks will continue to work with Los Angeles Audubon and other Audubon chapters in Los Angeles County to maximize and improve those opportunities while avoiding disturbance to species of birds.

It is our opinion that Coastal Commission staff has adequately identified the sensitive species of birds to be monitored, and it is our hope that the special conditions recommended by staff for monitoring those species during construction will be adopted by the Commission. We would recommend that Black Skimmer *(Rynchops niger)* be highlighted in the list of sensitive species to be monitored during nesting season following a recent verified nesting record of that species reported by our members.

We also note that in the final Malibu Lagoon Restoration and Enhancement Plan in Specific Lagoon Performance Criterion (p. 68) it states that "abundance and diversity of fish and wetland avian species shall not decrease following restoration. Although a short-term decrease may be expected due to construction related impacts, fish and avian species should be at commensurate pre-restoration levels within 3 years of restoration activities. If these goals are not attained, targeted studies should be performed to determine why goals are not being met and devise adaptive management solutions to achieve goals."

Our greater concern is for the impacts on birds in the lagoon, especially federally threatened Western snowy plover, of human activities and unenforced violation of laws, especially leash laws. Dogs off-leash are one of the greatest threats to birds that roost and nest on the beach, and it is our hope that the Commission might encourage California State Parks and Los Angeles County Beaches & Harbors to increase enforcement and education of beachgoers of currently existing laws requiring dogs to be on leash, and laws regarding harassment of wildlife when on the beach at Malibu Lagoon.

Thank you for this opportunity to comment on the proposed project.

Garry George
Conservation Chair

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc.:	Application No. 4-07-098 (California Dept. of Parks and Recreation, Malibu)
Date and time of receipt of communication:	see attached e-mail
Location of communication:	Offices of the Board of Supervisors, Santa Cruz, CA
Type of communication:	E-mail
Person(s) initiating communication:	see attached
Person(s) receiving communication:	Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

See attached e-mail

Date: 10/4/10 Signature of Commissioner: Mark Stone

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 within 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 meting, 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.

Mark Stone

From:	Tara Nicole Mulski [tara.mulski@gmail.com]
Sent:	Saturday, October 02, 2010 5:22 PM
To:	richard@bloomlaw.net; esanchezccc@aol.com; pkruer@monarchgroup.com; Mark Stone; U.S. Senator Barbara Boxer; Assemblymember.Brownley@assembly.ca.gov
Subject:	Oppose the Malibu Lagoon Restoration & Enhancement Project

Greetings,

I am writing to you about my great concern regarding the changes proposed by the Malibu Lagoon Restoration & Enhancement Project. This plan should be rejected, or tabled, until a suitable alternative plan can be proposed and approved by voters, and I strongly encourage you to support the withdrawal of the current application!

I also request that community members play an important role in decisions that effect our public parks and wetlands, and invitations should be issued, with proper notice and published in local newspapers, inviting the public to participate in the decision-making process.

The Malibu Lagoon is designated an Environmentally Sensitive Habitat Area, in the Malibu Local Coastal Program, and any excavation work conducted at the lagoon should be done quietly, by hand, and with respect for wildlife. If any lagoon alteration is to be done, the plan should be wildlife-friendly, and should not utilize any bulldozers, man-made structures or materials.

Heavy construction equipment is not appropriate for this project!

Bulldozers should be completely ruled our of any project to improve the Malibu Lagoon environment. Funding for poisons and bulldozers shoiuld be cut from the project budget, and the funding should be reassisgned to fund organizational outreach, which will enlist volunteers, commuity groups, environmental and nature groups, to remove non-native plants and replacing them, and has been successful in the past.

Additionally, the three wooden walkway bridges, scheduled to be removed should remain in place, as should the picnic tables located at the beach and at the parking lot, rather than relocated areas where they disrupt wildlife through their proximity. No concrete walls or rip-rap should be used because it is a non-natural substance, which will disrupt the ecosystem and wildlife.

California water bond monies should not be used to turn a natural habitat into an engineered and artificial evironment. Changes to be created by the
Malibu Lagoon Restoration & Enhancement Project, using heavy construction equipment for invasive excavation, will further imperil endangered species and migratory birds, which are on the federal Endangered Species List; such as: the Snowy Plover bird, the Tidewater Goby fish, and the California Least Tern bird.

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc.:	Application No. 4-07-098 (California Dept. of Parks and Recreation, Malibu)
Date and time of receipt of communication:	10/1/10, 3:00 p.m.
Location of communication:	Offices of the Board of Supervisors, Santa Cruz, CA
Type of communication:	In-person Meeting
Person(s) initiating communication:	Marcia Hanscom Roy van de Hoek James Birkelund
Person(s) receiving communication:	Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

They are representing the Wetlands Defense Fund. They said that they have not seen a restoration that changes the ecology and removes ESHA to this extent. They said that the justification for the project is water quality at Surfrider Beach but that the project seems to ignore habitat issues in favor of water quality. It is a functioning ecosystem, so they question why all of the proposed engineering instead of restoration. Water quality issues should be addresses upstream where the pollution is happening. They said that the lagoon needs to be closed 7 months of the year so that it will remain a fresh water system instead of the salt water system that is contemplated here. The large pool as proposed will reduce the shoreline habitat that helps make the system work. The US Fish & Wildlife Service has expressed concerns because of impacts on the tidewater goby. National Marine Fisheries has expressed concerns because of the salmonids. The timing of the project will threaten the goby which would have to be re-introduced a second time. If the project were to happen in the winter it would threaten the salmonid populations. They feel that a superior alternative would be to leave the lagoon as it is and re-introduce some plant species that used to be prevalent in this area. The old parking lot, about 2 acres, could be restored and that would accomplish the goals of this project. They also note that the plan would eliminate one of the two existing walking paths through the lagoon area.

Date: 10/1/10 Signature of Commissioner: Mark Stone

California Coastal Commission
Ex Parte Declaration

Subject: Application No. 4-07-098 (California Dept. of Parks and Recreation, Malibu) W6D

Project Description: Application of California Dept. of Parks and Recreation to restore and enhance Malibu Lagoon to improve function of lagoon ecosystem by recontouring lagoon configuration, slopes and drainages to increase hydrologic flow (51,200 cu.yds. cut, 37,500 cu.yds. fill, and 13,700 cu.yds. export), habitat restoration plan to replant native species and remove non-native species, construct public access trail around lagoon, construct interpretive public educational amenities, and implement long-term monitoring plan, Malibu Lagoon State Beach, City of Malibu, Los Angeles County. (AT-V)

Agent: Donald W. Schmitz, II of Schmitz & Associates, Inc. for Malibu Colony Homeowners Association.

Project Site/Property Address: Malibu Lagoon, Malibu.

On Tuesday, October 5, 2010, I, Commissioner Steve Kram, had ex parte communications with Donald W. Schmitz, II, an authorized agent of the Malibu Colony Homeowners Association, regarding the above-referenced project.

- Mr. Schmitz advised me that the Malibu Colony Homeowners Association had specific concerns with the Malibu Lagoon Restoration project.
- Mr. Schmitz discussed with me how the existing drainage from the Malibu Colony would be cut-off by the proposed wall.
- Mr. Schmitz discussed with me how certain plant species in the planting plan are listed by the County and the State as highly flammable and dangerous.
- Mr. Schmitz discussed with me how rear emergency access to Malibu Colony residences would be eliminated by construction of the proposed wall.
- Mr. Schmitz discussed with me that bridges currently being used for access to Surfrider Beach would be eliminated.
- We reviewed the Malibu Trails system Map No 3, Exhibit 3 and Exhibit 5 from the staff report, and aerial photos.
- We reviewed the 09.24.10 letter sent to Jonna Engel at California Coastal Commission, by Nicole Farnoush of Schmitz & Associates, Inc.

Commissioner Steve Kram

10/5/10
Date

W6a

California Coastal Commission
Ex Parte Declaration

Subject: Application No. 4-07-098 (California Dept. of Parks and Recreation, Malibu)

Project Description: Application of California Dept. of Parks and Recreation to restore and enhance Malibu Lagoon to improve function of lagoon ecosystem by recontouring lagoon configuration, slopes and drainages to increase hydrologic flow (51,200 cu.yds. cut, 37,500 cu.yds. fill, and 13,700 cu.yds. export), habitat restoration plan to replant native species and remove non-native species, construct public access trail around lagoon, construct interpretive public educational amenities, and implement long-term monitoring plan, Malibu Lagoon State Beach, City of Malibu, Los Angeles County. (AT-V)

Agent: Donald W. Schmitz, II of Schmitz & Associates, Inc. for Malibu Colony Homeowners Association.

Project Site/Property Address: Malibu Lagoon, Malibu.

On Monday, October 4, 2010, I, Commissioner Sharon Wright, had ex parte communications with Donald W. Schmitz, II, an authorized agent of the Malibu Colony Homeowners Association, regarding the above-referenced project.

- Mr. Schmitz advised me that the Malibu Colony Homeowners Association had specific concerns with the Malibu Lagoon Restoration project.
- Mr. Schmitz discussed with me how the existing drainage from the Malibu Colony would be cut-off by the proposed wall.
- Mr. Schmitz discussed with me how certain plant species in the planting plan are listed by the County and the State as highly flammable and dangerous.
- Mr. Schmitz discussed with me how rear emergency access to Malibu Colony residences would be eliminated by construction of the proposed wall.
- Mr. Schmitz discussed with me that bridges currently being used for access to Surfrider Beach would be eliminated.
- We reviewed the Malibu Trails system Map No 3, Exhibit 3 and Exhibit 5 from the staff report, and aerial photos.
- We reviewed the 09.24.10 letter sent to Jonna Engel at California Coastal Commission, by Nicole Farnoush of Schmitz & Associates, Inc.

Commissioner Sharon Wright

10/4/10
Date

FORM FOR DISCLOSURE OF EX-PARTE COMMUNICATIONS

Name or description of the project::	4-07-008 (Parks and Recreation, Malibu)
Time/Date of communication:	10/5/10, 1pm
Location of communication:	22350 Carbon Mesa Rd, Malibu
Person(s) initiating communication:	Shelly Luce, Mark Abramson
Person(s) receiving communication:	Sara Wan
Type of communication:	phone call

Discussed the background- said multiple groups involved in the planning and the public was invited
Said that the major reasons for this involve improvement of water quality, habitat enhancement and improving public access
Discussed the fire issue- said that this would improve the current fire conditions, there will be a bio swale along the wall, then the path and then the wetlands. The biggest fire danger is from the plantings inside the yards of the colony homes.
There are two pipes that carry run-off from the Colony that will be directed into the bio swale.
There is no basis for requesting private gates be allowed into park property
Concerned about two conditions:
1- requirement for constant monitoring on site at all times. I said I did not know if that was a standard condition or not and they should speak with staff to find out if it was
2- the required bird surveys include areas that are on private property so they cannot do them unless the property owner allows it.

Date: 10/7/2010

Commissioner's Signature

ITEM W6a EX PARTE COMMUNICATIONS

Name or description of project: California Dept. of Parks and Recreation, Malibu
Date and time of receipt of communication: Sept 14, 2010 at 6:45 pm
Type/Location of communication: In person, Hotel Carter, Eureka, CA
Persons in attendance: Marcia Hanscom, Roy Van de Hoek
Person receiving communication: Steve Blank

Detailed substantive description of the content of communication:
I received a briefing from Marcia Hanscom and Roy Van de Hoek. They were concerned about the potential ecological damage the proposed Malibu Lagoon Restoration would cause.

As I understood their description of the restoration project, it would uproot, poison and kill most if not all of the wildlife in the lagoon. It would remove public access and replacing with substantially less access. I said if there were threatened avian species they should contact their local Audubon Chapter or State organization.

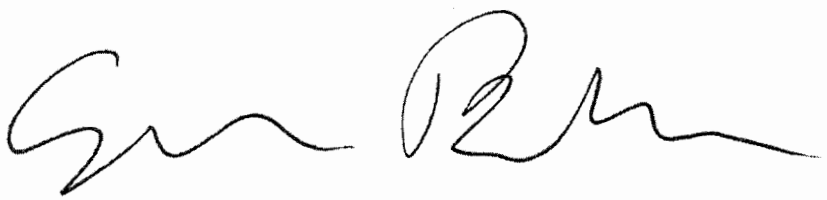
The content of their arguments can be found at their website **http://web.me.com/annsdoneen/savemalibulagoon/The_project_that_kills_wildlife.html**

I asked if this had anything to do with the homeowners objecting to the new fence that would separate them from their existing lagoon access and they said no.

They handed me a poster of the wildlife in the lagoon which they said was publically available.

Date: 20 September 2010

Signature of Commissioner:



FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc.:	W.6a Application No. 4-07-098 (California Department of Parks and Recreation, Malibu)
Date and time of receipt of communication:	10/6/10, 3:00 pm
Location of communication:	Office of the Board of Supervisors, Santa Cruz, CA
Type of communication:	Telephone Conference
Person(s) initiating communication:	Don Schmitz
Person(s) receiving communication:	Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Mr. Schmitz told me that he represents the Malibu Colony Homeowners Association and that they have some concerns with the project, namely that a rear access would be eliminated by the construction of the proposed wall and that the bridges that allow access to Surfrider beach would be eliminated. Access to the park has been enjoyed by the homeowners for seventy years and they do not want to lose it. They are also concerned about losing emergency access to the park. He provided some materials that also have been provided to staff that illustrate these concerns. He said that he will support the project if these issues are addressed. The access is the primary issue for the homeowners.

Date: 10/6/10 Signature of Commissioner: Mark Stone

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 within 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 meting, 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.

FORM FOR DISCLOSURE OF EX-PARTE COMMUNICATIONS

Name or description of the project: Agenda Item **W.6.a. Application No. 4-07-098 (California Dept. of Parks and Recreation, Malibu)**

Time/Date of communication: October 7, 2010, 4:00 pm

Location of communication: Oceanside City Hall

Person(s) initiating communication: Dave Grubb, speaking for Heal The Bay and Los Angeles Audubon.

Person(s) receiving communication: Esther Sanchez

Type of communication: Meeting

The Malibu Lagoon restoration project is a historic opportunity to restore critical wetland habitat in the Santa Monica Bay. It will also help to greatly improve water quality at chronically polluted Surfrider Beach.

The proposed Malibu Lagoon restoration and enhancement plan is based on over a decade of comprehensive planning. The primary objectives of the plan are to improve water quality through increased circulation and enhance lagoon habitat for birds, fish and invertebrates.

It is necessary to reconfigure the sediments to stimulate tidal flow and circulation. The current configuration is not based on historic lagoon boundaries, so preservation of a historic wetland is not of concern.

Date: October 7, 2010

Esther Sanchez

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

Filed:	2/1/10
180th Day:	07/31/10
270th Day:	10/29/10
Staff:	A. Tysor
Staff Report:	9/29/10
Hearing Date:	10/13/10

Item W6a

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-07-098

APPLICANT: California Department of Parks and Recreation

AGENTS: Mark Abramson, Santa Monica Bay Restoration Foundation

PROJECT LOCATION: Malibu Lagoon State Beach, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Implementation of a Wetland Habitat Restoration and Enhancement Plan for Malibu Lagoon to improve the function of the lagoon ecosystem by recontouring/reconfiguring the lagoon slopes and channels to increase hydrologic flow involving 88,700 cu. yds. of grading (51,200 cu yds. excavation and 37,500 cu. yds. fill); revegetation with native wetland and upland plant species and removal of non-native plant species; construction of a public access trail around lagoon with new interpretive public informational/educational improvements; and implementation of a long-term lagoon monitoring plan.

MOTION & RESOLUTION: Page 10

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project **with seventeen (17) special conditions** regarding: (1) Construction, Timing, and Sensitive Species Surveys, (2) Erosion Control Plans, (3) Timing, Operations, and Maintenance Responsibilities, (4) Final Dewatering Plan, (5) Final Hydrological Monitoring Plan (6) Habitat (Plant Communities) Vegetation, Restoration Monitoring and Reporting Plan, (7) Final Aquatic Vegetation, Benthos, Fish and Avian Monitoring Plan, (8) Plans Conforming to Engineer's Recommendations, (9) Herbicide Use, (10) Final Public Access Program, (11) Required Approvals, (12) Assumption of Risk, (13) Discharge Requirements, (14) Mitigation Measures, (15) Archaeological Resource Monitoring, (16) Removal of Excavated Material, and (17) New Zealand Mud Snail Measures.

The proposed project is for the implementation of a comprehensive restoration and enhancement plan for Malibu Lagoon. The project includes dewatering the western 12 acre portion of the lagoon and recontouring slopes and channels within the western portion of the lagoon, including 51,200 cu. yds. fill, and 13,700 cu. yds. export of phased grading to improve circulation, increase tidal flow, and enhance habitat diversity. No

excavation or recontouring will occur within the main channel of the lagoon. The project includes implementation of a restoration and planting plan to remove non-native plant species and revegetate all disturbed areas with an appropriate mix of native plant species, including low marsh, mid-high marsh, high marsh transitional, and coastal scrub plantings. A north-south oriented temporary berm is proposed in order to temporarily separate the western lagoon area where restoration will occur from the main portion of Malibu Lagoon in order to allow dewatering of the restoration area. A small area adjacent to the Adamson House is proposed to be deepened and replanted. All excavated material will be temporarily stockpiled in designated areas on site, including the parking lot and appropriate erosion control measures are proposed to ensure that uncontrolled runoff does not occur and that there is no potential increase in sedimentation of the lagoon. The project includes detailed plans for management of erosion during construction, a habitat planting plan, a public access, education, and interpretation plan, and a detailed long-term monitoring program for habitat (flora and fauna), water quality during both open and closed lagoon mouth conditions, sediment quality, and lagoon topography/bathymetry.

The project raises several issues relating to the disruption of the current lagoon habitat. Although the restoration project may have short term construction-related impacts, the restoration activities are intended to enhance the long-term value and function of the Malibu Lagoon ecosystem. As explained in Section IV.B. of this report, Site History and Past Commission Action, Malibu Lagoon was reconfigured as part of a restoration effort approved by the Commission in 1979. The proposed restoration project is expected to correct problems created by the previous lagoon restoration effort, including problems with inadequate circulation, habitat function, and water quality. Several special conditions are recommended to ensure that the proposed restoration effort is successful and will comply with Coastal Act policies. **Special Condition (1)** requires an environmental resources specialist to be present during all construction, grading, excavation, vegetation eradication and removal, hauling, and maintenance activities and requires sensitive species surveys and protective measures to assure that construction impacts will not harm (avian and terrestrial) sensitive species. **Special Condition Four (4)** requires a final dewatering plan to assure the proper protection and relocation techniques for tidewater goby, steelhead, and other important aquatic species during dewatering operations. To protect water quality during construction, **Special Conditions (2), (3), and (16)** require that proper construction measures and adequate erosion control measures are implemented. **Special Condition (8)** assures that the applicant will comply with the recommendations contained in all engineering and hydrological reports submitted for the project and **Special Conditions (11)**, **(13)**, and **(14)** require the applicant to obtain and comply with other permits, including any conditions and mitigation measures, issued by other state and federal agencies. To assure appropriate long-term monitoring of the restoration project, **Special Condition (5), Special Condition (6)** and **Special Condition (7)** require the applicant to conduct bi-annual monitoring and submit annual monitoring reports (for at least 5 years) regarding: hydrology, plant community revegetation, aquatic vegetation, benthos, fish, and avian species. If the monitoring reports do not indicate improvement of water circulation, water quality, or indicate impacts to sensitive species, the applicant is

required to submit a revised or supplemental plan, certified by a registered engineer and a qualified Resource Specialist, that specifies additional or supplemental measures to modify the portions of the original plan that have failed or are not in conformance with the approved plan. **Special Condition (9)** requires restricts the type of herbicides used and requires procedures for application Archeological resources exist on the site and **Special Condition (15)** requires the applicant to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all restoration activities which occur within or adjacent to the archaeological sites and to document work and to halt work if necessary. Further, **Special Condition (10)** requires the applicant to develop and implement a public access program to ensure that the public has maximum access to the State Park during construction.

Comment Letters

The Commission received approximately thirty letters from interested parties in response to its July 29, 2010 staff report for this project, which was originally scheduled for the August Commission hearing agenda, but postponed to be heard at the October 2010 Commission hearing. Letters of support for the staff recommendation were received from the United States Environmental Protection Agency, Santa Monica Baykeeper, Santa Monica Bay Restoration Commission, Santa Monica Mountains Conservancy, California Regional Water Quality Control Board, Resource Conservation District of the Santa Monica Mountains, California Trout, Assembly Member Julie Brownley and State Senator Fran Pavley, the National Park Service, Heal the Bay, and Malibu Surfing Association. (**Exhibit 24**)

Letters were also received from several residents of the Malibu Colony community asserting that the proposed project raises the following issues: (1) potential drainage problems on private property due to the design of the new boundary wall (also herein referred to as the "Adamson House" wall) proposed to be located on State Parks property along the shared property line at the southern edge of the western portion of the lagoon between the Malibu Colony residential community and the public accessway, (2) loss of private access gates to public park land from the adjacent residential properties due to construction of new wall along shared property line boundary, (3) loss of emergency fire ingress/egress to public park land for adjacent private property owners due to construction of the new wall along shared property line boundary, and (4) potential increase in fire hazard to adjacent private property owners due the proposed revegetation within Malibu Lagoon. (**Exhibit 24)** A letter was also received from a homeowner in Malibu Colony concerning a private drainage pipe draining into the lagoon. This letter is addressed in the Water Quality Section, below. (**Exhibit 24**)

In response to Malibu Colony residents' concerns of potential surface flow drainage problems on private property that may result due to the design of the Adamson House wall, the applicant has modified the originally proposed project to address residents' concerns. The applicant originally proposed a solid masonry wall in this area, but has modified the design of the proposed wall to add openings along the bottom of the wall that will allow stormwater runoff and surface drainage to pass through. These openings

will allow for a 50% open condition at grade between masonry piers, adequate to handle loads from a 50 year storm event. Drainage from the property line through the wall will be diverted to a series of vegetated drainage swales (approx. 800 ft. long, with width varying between 6 to 10 ft.) running parallel to the wall face on the north side.

Additionally, the applicant has responded to Malibu Colony residents' concerns that revegetation of the lagoon may increase fire danger by re-designing the project to only include native "low-flammability" plant species, ensuring that no plant species will be used for revegetation on site that are listed by the County of Los Angeles Fire Department Fuel Modification Unit as "undesirable" for fuel modification purposes, The existing site contains tall, dense stands of ornamental trees and shrubs, non-native salt bush, and mixed scrub. The proposed planting plan includes removing these highly flammable species and planting less flammable native species. Further, the applicant has modified the project, in response to the adjacent private property owner's concerns, to now include drainage swales along the perimeter of the Adamson House wall, planted with low ground cover type wetland and upland plants to collect surface drainage and stormwater flows. Thus, in response to comments received by the adjacent private property owners, the project has been revised to reduce the fire risk (compared to current site conditions with the existing vegetation) and to meet all Los Angeles County Fire Department fuel modification standards. Further, as noted above, Malibu Colony residents raised concerns that the proposed boundary wall will eliminate emergency fire ingress/egress to public park land that currently exists. However, although some residences do have a private access gate, many do not have a private access gate to State Parks property for an emergency escape route. In addition, no evidence has been provided to Commission staff that the Fire Department requires private access gates for emergency fire access to or through Malibu Lagoon, either for escape routes or for ingress/egress to respond to a fire or emergency situation. Further, the private residential gates do not provide public access to or from the State Park for members of the public.

The City of Malibu submitted a letter raising several concerns with the July 29, 2010 staff report and recommendation. The City's letter asserts that the proposed wetland restoration project may result in potential increases in bacteria and nutrients in the water which could result in impacts to water quality at Surfrider Beach. The City also asserts that the applicant should be required to monitor bacteria levels within the lagoon including Total Coliform, Fecal Coliform and Enterococcus. The City requests that the water quality monitoring plan include all constituents subject to the Total Maximum Daily Load ("TMDL") requirements. Further, the City relayed concerns related to the lagoon restoration design, revegetation plan design, invasive species, impacts to Malibu Colony drainage due to the design of the Adamson House wall, and dewatering impacts. (**Exhibit 24**) Approximately ten studies related to lagoon water quality were attached to the City's letter. (**Exhibit 24**)

As indicated above, the applicant has addressed the issue of the Malibu Colony drainage concerns by modifying the originally proposed project to redesign the Adamson House wall. Regarding invasive species, the applicant has clarified the project

description by including specific measures that will be taken to reduce the spread of the New Zealand mud snail. Additionally, as noted in the City's letter, the City had not yet reviewed any approvals or other evidence that the Regional Water Quality Control Board had reviewed the proposed restoration project. However, the Regional Water Quality Control Board has since submitted a letter to the Commission, dated August 6, 2010, in support of the proposed project, and it is the Regional Water Quality Control Board that is responsible for implementing TMDL requirements, regulated under the Federal Clean Water Act.

The City has raised concerns over degradation of water quality due to lagoon design, revegetation, and construction impacts. The City has expressed concerns that revegetation of Malibu Lagoon may increase bacteria produced from the natural decaying process due to an increased amount of vegetation and more bank surface area. The City's letter also states that "[i]t is noted that improved circulation and increased tidal flow, a goal of the project, will decrease contact time with lagoon capable of removing some bacteria." The Commission notes that one of the main goals of this project is to improve water quality in the lagoon by increasing circulation and tidal flushing through the reconfiguration of the lagoon channel. Moreover, the proposed reconfiguration is expected to reduce fine sediment accumulation, which in turn will allow water flow to increase, resulting in less stagnant water. Revegetation of the lagoon is expected to enhance overall habitat quality and is not expected to adversely impact water quality. Although there may be inadvertent short term impacts to water quality during construction due to increased turbidity and disturbance of fine sediments, overall water quality is expected to improve as a result of the project over the long term, as discussed throughout this report. All dewatering will include filtration, decontamination, and testing before discharge to the Pacific Ocean, pursuant to the Regional Water Quality Control Board approvals. Specifically, California Regional Water Quality Control Board, NPDES Permit No. CAG994004, Order No. R4-2008-0032, and Monitoring and Reporting Program No. Cl-9573, dated March 9, 2010, list specific discharge limits for several constituents, including Fecal Coliform (*see* P.50-51 of this report). Also, staff notes that **Special Condition Five (5)** requires the applicant to submit a final hydrological monitoring plan, including success criteria and supplemental measures to take if water quality in the lagoon has not improved, as shown by measuring a variety of parameters, some of which include measuring nutrients in sediment samples and nutrients in surface water and bottom water. The applicant has agreed to compile monitoring data for bacteria levels and provide the results as part of the applicant's annual monitoring reports, required by **Special Condition Five 5.** Bacteria levels are currently monitored by the City of Los Angeles Bureau of Sanitation, Environmental Monitoring Division, at three sites within the lagoon and by Las Virgenes Municipal Water District at one site near the Pacific Coast Highway bridge. The applicant is required to incorporate this bacteria data into the monitoring reports required by **Special Condition Five (5).**

Additionally, the Wetlands Defense Fund (**Exhibit 24**), along with approximately 15 other form letters from residents of the Malibu Colony community (**Exhibit 24**) were submitted to the commission to request additional time to comment and review the July

29, 2010 staff report and recommendation. In part in response to those requests, the Commission postponed the hearing on this matter from its August meeting to this October meeting, providing the public approximately 75 days to review the staff recommendation.

PROCEDURAL NOTE: PROJECT JURISDICTION AND CONSOLIDATED REVIEW

The proposed project includes components that are located within the City of Malibu's Local Coastal Program (LCP) jurisdiction as well as components within the retained jurisdiction of the Coastal Commission. The City of Malibu would typically have jurisdiction over the onshore portions of the project within its LCP jurisdiction. However, Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application, when its criteria are satisfied, for both aspects of a proposed project that would otherwise require a coastal development permit from both a local government with a certified local coastal program and the Commission.

The standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3(a) shall follow Chapter 3 of the Coastal Act (commencing with Section 30200), with the appropriate local coastal program used as guidance.

The proposed development is the restoration of Malibu Lagoon and its upland public park facilities and public amenities. Although the portions of the project involving wetland restoration are located within the Commission retained coastal development permit jurisdiction, the construction and replacement of the upland components of the project cross the boundary of the Commission's retained jurisdiction into areas where the City of Malibu's LCP is effective. Typically, development located within a certified area requires a coastal development permit from the certified local government. However, in this case, the project work that would occur within the Commission's original jurisdiction, including reconfiguration of the 12-acre western portion of the lagoon, is physically integrated with the activities that would occur outside the area of retained jurisdiction (i.e. in the City's permit jurisdiction).

Pursuant to Section 30601.3(a)(2), the applicant, appropriate local government, and the Commission may agree to consolidate a permit action for a project that spans local and state jurisdictions. In this case, the City of Malibu, in a letter to Commission staff dated October 25, 2007, requested that the Commission assume jurisdiction over all activities associated with the proposed project. The applicant both consented to, and facilitated this consolidated jurisdictional process. Further, public participation is not substantially impaired by the consolidated review in this case because the other portions of the project were reviewed by the City of Malibu in a public hearing process and the subject portion of the project was made known at the time. Additionally, an Environmental Impact Report was prepared for this project. Further, the subject application will be noticed and heard consistent with the Coastal Commission's public hearing process, which facilitates both written and oral comment.

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EXHIBITS:

Exhibit 7. Grading Plan Sheet 1
Exhibit 8. Grading Plan Sheet 2
Exhibit 9. Grading Plan Sheet 3
Exhibit 10. Grading Plan Sheet 4
Exhibit 11. Planting Plan Sheet 1
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Exhibit 13. Planting Plan Sheet 3
Exhibit 14. Planting Plan Sheet 4
Exhibit 15. Plant Palette Sheet 1
Exhibit 16. Plant Palette Sheet 2
Exhibit 17. Plant Palette Sheet 2
Exhibit 18. Public Access and Interpretive Map
Exhibit 19. Sampling Location Map
Exhibit.20. Dr. Engel Memorandum
Exhibit 21. City of Malibu Permit Consolidation Agreement
Exhibit 22. Applicant Consolidation Agreement
Exhibit 23. Ex-Parte Communication Disclosures
Exhibit 24. Comment Letters
City of Malibu Comment Letter
City of Malibu Comment Letter Continued

LOCAL APPROVALS RECEIVED: City of Malibu Coastal Development Permit No. 07-021 for relocation of existing parking lot (Phase I of Malibu Lagoon restoration project), approved June 19, 2007, Final Action July 24, 2007; Letters of agreement from City of Malibu and project applicant for a consolidated CDP review, dated October 25, 2007.

AGENCY REVIEWS AND APPROVALS: California Regional Water Quality Control Board, Los Angeles Region, General NPDES Permit No. CAG994004, Order No. R4-2008-0032 and Monitoring and Reporting Program No. Cl-9573, Discharges of Groundwater from Construction and Project Dewatering to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties, March 9, 2010; California Regional Water Quality Control Board, Los Angeles Region, Water Quality Certification for Proposed Malibu Lagoon Restoration Project, Malibu Lagoon, City of Malibu, Los Angeles (File No. 07-133);United States Fish and Wildlife Service Biological Opinion for the Malibu Lagoon Restoration and Enhancement Project (CON-1-8-08-F-4), dated August 26, 2009; United States Fish and Wildlife Service letter to Daniel P. Swenson, Chief, U.S. Army Corps of Engineers, Biological Opinion Amendment, dated January 8, 2010; National Marine Fisheries Service, Endangered Species Act Section 7 Informal Consultation Letter, dated August 18, 2008 to US Army Corps of Engineers; California Department Fish & Game, Streambed Alteration Agreement (Default Approval), No. 1600-2007-0316-R5, dated November 20, 2007; United States Army Corps of Engineers Provisional Permit No. SPL-2007-01016-MAS, dated December 14, 2009.

SUBSTANTIVE FILE DOCUMENTS: Malibu Lagoon Restoration Feasibility Study – Final Alternatives Analysis, prepared by Moffatt & Nichol, in association with Heal the Bay, dated March 2005; Malibu Lagoon Restoration and Enhancement Plan, Project Assessment and Evaluation Plan, prepared by California State Coastal Conservancy, dated July 29, 2005; Malibu Lagoon Restoration and Enhancement Plan, Project Monitoring Plan, prepared by California State Coastal Conservancy, dated July 29, 2005; Malibu Lagoon Restoration and

Impact Report (SCH #2005101123), prepared by Jones & Stokes, dated March 2006;Jurisdictional Delineation for Malibu Lagoon Restoration and Enhancement Project, prepared by Jones & Stokes, dated July 2007; Enhanced Environmental Monitoring Program at Malibu Lagoon and Malibu Creek, Prepared by R. Ambrose, I. Suffet, and S. Que Hee, dated March 23, 1995; Malibu Lagoon: A Baseline Ecological Survey, Prepared by Sean Manion and Jean Dillingham, dated 1989; Floristic Survey of Malibu Lagoon State Beach, prepared by Carl Wishner of Envicom Corp., dated July, 2005; Breeding Bird Survey Results, prepared by Daniel Cooper, Cooper Ecological Monitoring Inc., dated August 24, 2005; Birds of Malibu Lagoon, Final Report 2006, prepared by Daniel Cooper, Cooper Ecological Monitoring Inc., dated August 8, 2006; Malibu Lagoon Fish Survey Results, Prepared by Rosi Dagit (SMMRCD) and Dr. Camm Swift (Entrix Inc.), dated July 20, 2005; Amphibian, Reptile, and Terrestrial Invertebrate Survey Results, prepared by Frank Hovore & Associates, dated August 28, 2005; Small Mammal Trapping Survey, prepared by Natural Resources Assessment, Inc., dated October 6, 2005;The Tidewater Goby: Reintroduction of an isolated fish species into Malibu Lagoon-A Watershed Perspective, prepared by Sean Manion, dated June 1993; Study of Potential Water Quality Impacts on Malibu Creek and Lagoon from On-site Septic Systems, prepared by URS Greiner Woodward Clyde, prepared for City of Malibu, dated June 1999; Sediments as a Non-Point Source of Nutrients to Malibu Lagoon, prepared by M. Sutula, K. Kramer and J. Cable, dated November 1, 2004; Drainage Calculations prepared by Steve Seville, P.E., ICF International, dated September 3, 2010.;"Enumeration and speciation of enterococci found in marine and intertidal sediments and coastal water in southern California," by D.M. Fergosun, Moore, et. al, January 2005; "Multi-Tiered Approach Using Quantitative Polymerase Chain Reaction for Tracking Sources of Fecal Pollution to Santa Monica Bay, California," by Noble, Griffith, Blackwood, et. al., February 28, 2005; "Modeling the Dry-Weather Tidal Cycling of Fecal Indicator Bacteria in Surface Waters of an Intertidal Wetland," by Sanders, Arega, and Sutula, June 2005; "Final Report: Identification and Control of Non-Point Sources of Microbial Pollution in a Coastal Watershed," by Sanders, Grant, Horne, et. al., February 2006; "Fecal Indicator Bacteria Levels During Dry Weather from Southern California Reference Streams," by Tiefenthaler, Stein, and Lyon, January 2008; "Coastal groundwater dynamics off Santa Barbara, California: Combining geochemical tracers, electronic seepmeters, and electrical resistivity," by Swarzenski and Izbicki, United States Geological Survey, September 2009; "Sources of Fecal Indicator Bacteria in Urban Streams and Ocean Beaches, Santa Barbara, California," by Izbickie, Swarzenski, et. al., September 2009; Letter from Peter Martin, Program Chief, U.S. Geological Survey, California Water Science Center, to Mr. James Thorson, City Manager, City of Malibu, dated October 29, 2009; "Sources of Fecal Indicator Bacteria and Nutrients to Malibu Lagoon and Near-Shore Ocean Water, Malibu, California, by John Izbicki; PowerPoint Presentation: "Summary of 2009 UCLA Study in Malibu Lagoon," Ambrose, Jay, Thulsiraj, Estes; "Malibu Lagoon Bacteria Study- Synopsis with Preliminary Results," by Ambrose, Jay, Meyers, and Estes, University of California, Los Angeles, April 25, 2009; "2009 Investigation of Spatial and Temporal Distribution of Human-specific *Bacteroidales* marker in Malibu Creek, Lagoon, and Surfrider Beach," by Ambrose, Jay, Thulsiraj, Estes, University of California, Los Angeles; The September 22, 2010 Memorandum Regarding the Malibu Lagoon Restoration and Enhancement Plan, Phase 2 Project, prepared by Jonna Engel, Ph. D.

I. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-07-098 pursuant to the staff recommendation.***

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and the policies of the certified Local Coastal Program for the City of Malibu. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Construction Timing and Sensitive Species Surveys

For any construction activities, the applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, "environmental resources specialist") to conduct sensitive species surveys (including birds and other terrestrial species) and monitor project operations associated with all construction activities:

At least 30 calendar days prior to commencement of any construction activities, the applicant shall submit the name and qualifications of the environmental resources specialist, for the review and approval of the Executive Director. The applicant shall have the environmental resources specialist ensure that all project construction and operations are carried out consistent with the following:

A. The environmental resources specialist shall conduct surveys 30 calendar days prior to the listed activities to detect any active sensitive species, reproductive behavior, and active nests within 500 feet of the project site. Follow-up surveys must be conducted 3 calendar days prior to the initiation of construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.

B. In the event that any sensitive species are present in the project area but do not exhibit reproductive behavior and are not within the estimated breeding/reproductive cycle of the subject species, the qualified biologist shall either: (1) initiate a salvage and relocation program prior to any excavation/maintenance activities to move sensitive species by hand to safe locations elsewhere along the project reach or (2) as appropriate, implement a resource avoidance program with sufficient buffer areas to ensure adverse impacts to such resources are avoided. The applicant shall also immediately notify the Executive Director of the presence of such species and which of the above actions are being taken. If the presence of any such sensitive species requires review by the United States Fish and Wildlife Service and/or the California Department of Fish and Game, then no development activities shall be allowed or continue until any such review and authorizations to proceed are received, subject to the approval of the Executive Director.

C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor or heron is found, the applicant shall notify the appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action specific to each incident. The applicant shall notify the California Coastal Commission in writing by facsimile or e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.

D. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor or heron is found within 300 feet of construction activities (500 feet for raptors), the applicant shall retain the services of an environmental resources specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resources specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site. If construction noise exceeds a peak level of 65 dB at the nest(s) site, sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 300 ft. (500 ft. for raptors) of the nesting trees/areas shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

E. The environmental resources specialist shall be present during all construction, grading, excavation, vegetation eradication and removal, hauling, and maintenance activities within the lagoon. The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicants shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit or a new coastal development permit

2. Erosion Control Plans

Prior to issuance of a coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, two (2) sets of erosion control plans to reduce erosion for all disturbed portions of the project area. The subject plan shall be prepared by a qualified engineer. The erosion control plan shall be reviewed and approved by the consulting engineer to ensure that the plans are in conformance with the consultants' recommendations. The erosion control plan shall incorporate the following criteria:

1. The plan shall delineate the areas to be disturbed by grading or construction activities, including staging and stockpile areas. Areas to remain undisturbed shall be clearly delineated on the project site with fencing or survey flags.

2. The plan shall specify that should grading take place during the rainy season (November 1 – March 31), with Executive Director approval in accordance with **Special Condition Two (2)**, the applicants shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible.
3. Erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
4. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
5. All excavated material shall be contained within the designated access and stockpile sites. Stockpile sites shall be located as far as possible from the lagoon. During dewatering, the stockpile site(s) shall be lined with silt fencing to prevent any silt from entering the creeks/channels/wetlands.
6. The plan shall include measures to minimize the area of bare soil exposed at one time (phased grading).

The applicants shall undertake development in accordance with the final erosion control plans approved by the Executive Director. No proposed changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. The applicants shall be fully responsible for advising construction personnel of the requirements of the Erosion Control Plan. Throughout the construction period, the applicants shall conduct regular inspections of the condition and operational status of all structural BMPs required by the approved Erosion Control Plan. The applicants shall repair or replace failed or inadequate BMPs expeditiously.

3. <u>Timing, Operations, and Maintenance Responsibilities</u>

A. It shall be the applicant's responsibility to assure that the following occurs concurrent with, and after completion of, all project operations:

a. All project activities involving the wetlands, including dewatering, dredging, and planting restoration activities, shall occur only during the period from June 1st through October 15. Construction for the public access and interpretive elements outside of wetland areas shall occur between June 1st and December 31st. The Executive Director may grant additional time for good cause.

b. All project activities, with the exception of monitoring, shall occur Monday through Friday, excluding state holidays. No work shall occur on Saturday or Sunday. The Executive Director may authorize work outside of this time frame for good cause.

c. Staging areas shall be used only during active construction operations and will not be used to store materials or equipment between operations, should construction operations cease for a period of 14 days or more.

d. The applicant shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to implement the project.

e. Construction equipment shall not be cleaned on the temporary lagoon berm or in the public parking lots/public trails (outside of the staging areas).

f. Construction debris and sediment shall be properly contained and secured on site with BMPs to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking.

g. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.

h. The applicant shall be responsible for removing all unsuitable material or debris within the area of placement should the material be found to be unsuitable for any reason, at any time, when unsuitable material/debris can reasonably be associated with the placement material. Debris shall be disposed at a debris disposal site outside of the coastal zone or at a location within the coastal zone authorized to receive such material.

i. All upland areas disturbed as a result of this project shall be planted and maintained for habitat restoration purposes as soon as possible after disturbance has occurred.

4. <u>Final Dewatering Plan</u>

Prior to issuance of the coastal development permit**,** the applicant shall submit, for the review and approval of the Executive Director, a Final Revised Dewatering Plan.

A. The Final Dewatering Plan shall delete all references to a one-time mechanical breach of the lagoon, and

B. The Final Dewatering Plan shall incorporate a tidewater goby, southern steelhead, and other sensitive aquatic species dewatering protection plan including the following requirements:

The applicant shall retain the services of a qualified biologist or environmental resource specialist with experience handling tidewater gobies, southern steelhead, or other sensitive aquatic species and with experience in the application of standard survey, capture, and handling methods for tidewater gobies, steelhead, and other sensitive aquatic species. At least 30 days prior to commencement of any onset of work, the applicant shall submit the name and qualifications of the qualified biologist or environmental resources specialist, for the review and approval of the Executive Director. The applicant will exclude tidewater gobies, southern steelhead, and other sensitive aquatic species from the restoration construction area by following the actions required by US Fish and Wildlife Service (FWS) approval dated Aug 26, 2009 and the National Marine Fisheries Service (NMFS) approval dated Aug 18, 2008, including the following:

i.) The qualified biologist or environmental resource specialist retained by the applicant shall conduct a training session for all construction personnel prior to the onset of work. The training shall include a description of the tidewater goby, southern steelhead, and other sensitive aquatic species, their habitats; the specific measures that are being implemented to protect sensitive aquatic species during construction; and the project limits.

ii.) The qualified biologist or environmental resource specialist and a crew working under his/her direction shall clear all fish, including tidewater gobies and southern steelhead, from the area to be dewatered prior to construction. The capture, handling, exclusion, and relocation activities identified by the qualified biologist will be completed no earlier than 48 hours before construction begins to minimize the probability that listed species will recolonize the affected areas.

iii.) The qualified biologist or environmental resource specialist and a crew working under his/her direction shall inspect the dewatered

areas and construction site regularly to detect whether any tidewater gobies, southern steelhead or other fish are passing through the berm and/or cofferdam and investigate whether sensitive aquatic species protection measures are being implemented.

iv.) The qualified biologist or environmental resource specialist and a crew working under his/her direction shall be present when the berms and/or cofferdams are removed and the construction area refilled with water to relocate any fish present in the construction area before completion of removal operations and to ensure successful reintroduction of aquatic habitat in the construction area.

v.) Following construction, the qualified biologist or environmental resource specialist shall complete post-construction surveys for tidewater gobies, southern steelhead, and other sensitive aquatic species.

vi.) The qualified biologist or environmental resource specialist shall prepare a post-project monitoring report documenting the efforts to protect the tidewater goby, southern steelhead, and other sensitive aquatic species and the results. In the event that monitoring shows a significant decrease in tidewater goby, southern steelhead, or other sensitive aquatic species that cannot be readily explained by natural factors or is clearly linked to the restoration, the qualified biologist, in consultation with the USFWS and other experts, shall recommend a course of action to address the problem.

C. The applicant shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

5. <u>Final Hydrological Monitoring Plan</u>

A. ***Prior to issuance of the Coastal Development Permit***, the applicant shall submit, for the review and approval of the Executive Director, a Final Hydrological Monitoring Plan, prepared by a qualified hydrologic engineer. The final plan shall incorporate all provisions of the *Malibu Lagoon Restoration & Enhancement Plan* prepared by Moffat & Nichol, dated June 17, 2005, the *Project Monitoring Plan* and the *Project Assessment and Evaluation Plan* prepared by the California State Coastal Conservancy, dated July 29, 2005, and the *Quality Assurance Project Plan* prepared by 2nd Nature, dated February 6, 2006, except that it shall be consistent with the following provisions:

1. Sampling Locations Map

Prior to issuance of the coastal development permit, the applicant shall provide revised full-size plans, prepared by a licensed surveyor or engineer, clearly delineating the eight (8) proposed Sampling locations, as generally shown on

Exhibit 19. The plans shall be of adequate scale to clearly delineate the precise location of each of the sites and shall have a key identifying clearly what parameters will be measured at each location.

2. Monitoring and Reporting Requirements

The Final Monitoring Plan shall be revised to require that all monitoring be conducted bi-annually for a period of 5 years after initial construction. Post-project monitoring should take place in a functionally equivalent location and as close as possible to the pre-project monitoring sites. In addition, the Plan shall also provide that the applicant shall conduct monitoring to provide an annual assessment of changes in bathymetry/physical conditions, sediment sampling, water quality sampling and surface and bottom water nutrient sampling, consistent with the following provisions:

a. *Cross-Sections/Physical Conditions Monitoring*

i.) The 4 identified transect lines/cross-sections shall be surveyed on a bi-annual basis each spring (during open lagoon conditions, approximately April) and fall season (prior to the wet season, approximately September) at approximately the same time each year for a period of 5 years after initial construction. The points of each transect shall be at a permanently marked location that can be identified by Baseline Survey Markers and GPS coordinates. Cross-sections shall be obtained by attaching survey tape to the monuments and recording channel depth and water elevation at equal increments across each cross section to collect at least 20 data points. The date, time and tidal conditions for all measurements shall be recorded. Estimates of sediment volume scour or deposition shall be provided.

b. *Sediment Analysis*

i.) A total of at least 22 surface sediment samples (20 samples plus 1 triplicate at the top 0-2 cm) shall be collected bi-annually (end of April and end of September) at the 4 cross-section locations identified in the Sampling Locations Map (**Exhibit 19**).

ii.) A minimum of 5 sediment samples shall be collected at each transect following the protocol outlined in the Quality Assurance Project Plan, dated February 6, 2006. Sediment samples will be collected from 5 locations equally spaced along the transect including each side of the wetted perimeter edge. The wetted perimeter and the second and fourth samples will be composited. The third sample will be collected from the deepest part of the channel thalweg and analyzed separately.

iii.) All samples shall be analyzed for grain size distribution in order to obtain the following grain size distribution:

a. Greater than sand: >2.0mm
b. Sand: .05 to 2.0 mm in diameter

c. Silt: .002 to 0.5 mm in diameter
d. Clay: less than .02 mm in diameter
e. Average size (d50) um

iv.) All sediment samples shall be analyzed for nutrients, including total organic carbon, total nitrogen, and total phosphorous concentrations. Sediment samples will be collected from 5 locations equally spaced along the transect including each side of the wetted perimeter edge. The wetted perimeter and the second and fourth samples will be composited. The third sample will be collected from the deepest part of the channel thalweg and analyzed separately.

c. *Water Sampling:*

i.) At least 3 multi-parameter water quality data loggers (YSI 600 XLM) shall be used to collect data from April through the first storm of the rainy season (October or November) at the sites noted in the Sampling Location Map (Exhibit 19) to monitor water depth, dissolved oxygen (% and mg/L), temperature, salinity, conductivity, pH, and oxygen reduction potential (ORP) on 30-minute interval.

ii.) Vertical profiles of water quality parameters (including dissolved oxygen, water temperature, conductivity, salinity, and pH) shall be performed using a YSI 85 (or equivalent) hand-held water quality instrument. Vertical profiles shall be conducted bi-annually at 0.5 ft. intervals at 6 sites shown on the Sampling Location Map and shall be conducted at the same time of day for each monitoring event. The testing protocol shall follow the procedures outlined in the Quality Assurance Project Plan, dated February 6, 2006.

d. *Surface and Bottom Water Nutrient Sampling*:

i.) Bi-annual surface water (1 ft. below surface) and bottom water samples shall be located at the 6 sites shown on the Sampling Location Map (**Exhibit 19**).

ii.) Surface water samples shall be analyzed for dissolved nitrate as nitrogen, nitrite (NO3-N and NO2), ammonia as nitrogen (NH3-N), total Keldjahl nitrogen (TKN), soluble reactive phosphorous (SRP), and total phosphorous (TP), and % cover of macroalgae, and cover and biomass of submerged aquatic vegetation. The surface water sampling shall also provide a dataset to evaluate the concentrations of total and biological available fractions of nutrients required for primary production;

iii.) Bottom water samples shall be evaluated for nitrate-nitrogen, total nitrogen, SRP, TKN, and TP.

e. Reporting Requirements:

i.) The applicant shall submit an annual monitoring report, for the review and approval of the Executive Director, for a period of 5 years after

initial construction is complete. The monitoring report shall be submitted on annual basis and shall include all survey data and a written report prepared by a qualified expert indicating the results of each of the parameters listed above, including cross-sectional data, sediment sampling, water quality sampling and surface and bottom water nutrient sampling.

ii.) The monitoring report shall include conclusions regarding the level of success of the project, a detailed analysis of any change in cross-sections/physical conditions, sediment quality, and water quality. More specifically, the report shall include, but not be limited to, the following:

- Water quality change and sediment comparisons at each sampling location for each survey period, using the initial pre-project conditions as the baseline.
- If feasible, utilization of aerial photographs to provide information to address lagoon circulation and sediment aggradation/degradation dynamics.
- Conclusions regarding the level of success and any adverse effects, including any observed impacts to water quality and sediment quality and size.
- The data collected in the restored areas shall be compared to the pre-restoration conditions at functionally similar sites.
- The annual precipitation totals, timing, and magnitude of peak stream flows and estimates of annual peak reoccurrence intervals.
- The report shall include a brief history of all previous years' monitoring results to track changes in cross-sectional data, sediment, and water quality conditions.
- The report shall include sampling results for fecal indicator bacteria within the lagoon and shall explain how the sampling results compare to water quality bacteria standards and whether any exceedences in bacteria have occurred.

B. Success Criteria and Supplemental Measures

1. The Final Monitoring Plan shall incorporate specific indicators/success criteria that will be used to determine whether the restored lagoon shows improvements in water circulation and tidal flushing, including but not limited to the following:

a. Grain size distribution (percent sand in the sample and/or of the median grain size, D_{50}) at each sampling location should increase from the baseline monitoring conditions. Adaptive management shall be implemented if:

i.) any one site fails the grain size criteria, above, for 6 consecutive samplings for a period of 3 consecutive years,

ii.) the average of any transect shows decreased grain size and increased nutrient sequestering over 3 consecutive years as compared to the baseline monitoring in similar locations.

b. Water quality monitoring indicates persistent stratification of lagoon waters (salinity differences) and depressed bottom water dissolved oxygen (DO) and oxygen-reduction potential (ORP) values during closed lagoon conditions, measured by any of the following:

i.) at locations within the western channel persistent DO levels below 1.5 mg/l for a sustained period of more than 12 hours a day over two closed lagoon periods of more than 60 days or consistently low dissolved oxygen levels below 1.0 mg/l that occur for more than 6 hours a day over the course of 30 days during closed conditions.

c. The average of any transect shows decreased grain size and increased nutrient sequestering of Nitrogen (N) and Phosphorous (P) over 3 consecutive years.

d. Continual occurrence of sandbar formation/sedimentation (sandbar in area that isolates the western arms from the main channel) (3 times over a 6 year period) during open lagoon conditions

2. If the monitoring reports indicate that circulation within the lagoon has not improved or has failed to meet the requirements specified above in B.1. , the applicant, or successors in interest, shall submit to the Executive Director, within 180 days of the date of the relevant monitoring report, a revised or supplemental plan, certified by a registered engineer and a qualified Resource Specialist, that specifies additional or supplemental measures to modify those portions of the original plan that have failed or are not in conformance with the original approved lagoon restoration plan. The Executive Director may grant additional time for good cause. The revised or supplemental project plan shall describe all supplemental actions in detail, including: timing of work, staging areas, equipment to be used and exact restoration/grading areas (with full-size plans) and shall include all relevant monitoring reports required pursuant to all special conditions to ensure that the operations are in substantial conformance with the resource protection and public access conditions of this permit. All supplemental actions and work shall be in accordance with all conditions of this coastal development permit, including other agency approvals. The Executive shall determine whether implementation of the revised or supplemental plan is consistent with the terms and provisions of the Commission's approval of CDP 4-07-098 or whether the plan will require an amendment to this permit. This revised or supplemental plan shall be implemented by the applicant within 180 days after the plan is approved by the Executive Director, unless the Executive Director either: (1) grants additional time for good cause or (2) determines that an amendment is required. If the Executive Director determines that the revised or supplemental plan requires an amendment to this permit, then the applicant shall

submit a complete application for an amendment to this permit within 180 days after such determination.

C. The applicant shall undertake development and monitoring in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. <u>Plant Communities Restoration, Monitoring, and Reporting Plan</u>

The applicant shall retain the services of a qualified environmental resource specialist(s) with no less than 2 years of wetland/upland restoration experience to prepare a final wetland/upland habitat restoration/enhancement plan, monitoring program, and reporting plan. The applicant shall submit the name and qualifications of the environmental resources specialist(s) for the review and approval of the Executive Director. The environmental resource specialist(s) shall base the habitat restoration/enhancement plan, monitoring program, and reporting plan on the habitat plan and monitoring program laid out in the *Malibu Lagoon Restoration & Enhancement Plan*, prepared by Moffatt & Nichol dated June 17, 2005, the *Project Monitoring Plan*, *Project Assessment and Evaluation Plan* prepared by the California State Coastal Conservancy, dated July 29, 2005, and the *Quality Assurance Project Plan*, dated February 6, and the *Malibu Lagoon State Beach Restoration and Enhancement – Phase 2: 95% Submittal Restoration Plans* prepared by ICF International dated January 29, 2010, except as modified by the Special Conditions herein. The final wetland/upland habitat restoration/enhancement plan, monitoring program, and reporting plan shall provide for the following:

A. Final Wetland/Upland Habitat Restoration/Enhancement Plant that includes the following:

1. A baseline assessment of vegetation and habitats on site including detailed descriptions of existing conditions on site prior to any restoration/enhancement activities authorized by this coastal permit and photographs taken from pre-designated sites annotated to a copy of the site plans. The habitat restoration/enhancement plan shall delineate existing coastal wetland/upland/disturbed habitat types and show the distribution and abundance of any sensitive species.

2. Provision for collection and maintenance of all native wetland and upland plant species that would be disturbed by the habitat restoration/enhancement project activities for future planting. Native wetland/upland seeds shall also be collected in anticipation of future plantings. The habitat restoration/enhancement plan shall provide a description of the methodology of how any existing wetland/upland plants/cuttings/seeds will be collected, stored, and used for re-vegetation of the site.

3. Sufficient technical detail on the habitat restoration/enhancement design including, at a minimum, a map of the proposed habitats, a planting program including a description of planned site preparation, method and location of exotic species removal, timing of planting, and elevations on the baseline map, and maintenance timing and techniques.

4. Plant palette for all habitats to be restored/enhanced (including numbers of individual species), location of individual plants in respective habitats, and plant installation plan (use of seed mix, cuttings, containers and planting methodology). The plant palette shall consist exclusively of native plants appropriate to the respective habitats. All plant material shall be native to the region: grown from seeds or vegetative materials obtained from the site or from appropriate nearby coastal wetland/upland locations so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the re-vegetation requirements.

5. Provisions for on-going wetland/upland habitat maintenance for a five year monitoring period after replanting is completed. At a minimum, semi-annual maintenance and/or management activities shall include, as necessary, debris removal, periodic weeding of invasive and non-native vegetation and re-vegetation consistent with the approved restoration plan.

B. A monitoring program shall be implemented to monitor the habitat restoration/enhancement project for compliance with the specified guidelines and performance standards and shall provide the following:

1. Goals of the habitat restoration/enhancement project.

2. List of the habitats, and attributes thereof, to be monitored.

3. Methods for monitoring each attribute including monitoring frequency and the location of monitoring stations.

4. Success criteria/performance standards as laid out in the for the *Malibu Lagoon Restoration & Enhancement Plan*, prepared by Moffatt & Nichol dated June 17, 2005 and the *Malibu Lagoon State Beach Restoration and Enhancement – Phase 2: 95% Submittal Restoration Plans* prepared by ICF International dated January 29, 2010 where restored/enhanced wetland habitats (low marsh, mid marsh, high marsh) and upland habitats (coastal scrub) should attain 50% total percent cover of native species within three years and 90% total cover within five years. The monitoring plan shall provide corroboration for the 90% total cover value (final habitat cover value) based on the published literature for the respective habitats. Should the published literature deviate from this percent cover objective, the final habitat value

must be adjusted accordingly. There shall be 5% non-natives in the restored/enhanced wetland habitats at the end of five years and no more than 10% non-natives in the upland habitat at the end of five years.

5. Description of how the resulting data will be analyzed and how the level of performance will be determined.

6. Identification of how the need for remediation or alteration of the habitat restoration/enhancement project will be assessed.

7. Explicit timetable for the monitoring program including data collection, data analysis, and data reporting.

C. A reporting plan for providing information on the status of the habitat restoration/enhancement project and monitoring program that includes the following:

1. Initial Monitoring Report: The applicant shall submit, upon completion of the initial habitat restoration/enhancement, a written report prepared by the environmental resources specialist, for the review and approval of the Executive Director, documenting the completion of the initial restoration/enhancement work. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) documenting the completion of the initial restoration/enhancement work.

2. Interim Monitoring Reports: After initial restoration/enhancement activities are completed, the applicant shall submit, for the review and approval of the Executive Director, on an annual basis for a period of five (5) years, a written monitoring report prepared by the environmental resources specialist (s) indicating the progress and relative success or failure of the restoration/enhancement. This report shall also include further recommendations and requirements for additional restoration/enhancement activities in order for the project to meet the success criteria and performance standards. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites. Each report shall be cumulative and shall summarize all previous results. (duplication of requirements in the previous paragraph above) Each report shall also include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the habitat restoration/enhancement in relation to the interim performance standards and final success criteria.

3. Final Report: A final detailed report on the habitat restoration/enhancement shall be submitted by the applicant for the review and approval of the Executive Director. If this report indicates that the habitat restoration/enhancement has, in part, or in whole, been unsuccessful, based on the success criteria and performance standards specified in the monitoring program, the applicant shall submit within 90 days a revised or supplemental habitat restoration/enhancement

plan to compensate for those portions of the original plan which did not meet the approved success criteria and performance standards. The Executive shall determine whether implementation of the revised or supplemental plan is consistent with the terms and provisions of the Commission's approval of CDP 4-07-098 or whether the plan will require an amendment to this permit. This revised or supplemental plan shall be implemented by the applicant within 90 days after the plan is approved by the Executive Director, unless the Executive Director either: (1) grants additional time for good cause or (2) determines that an amendment is required. If the Executive Director determines that the revised or supplemental plan requires an amendment to this permit, then the applicant, shall submit a complete application for an amendment to this permit within 90 days after such determination.

D. California Rapid Assessment Plan: If feasible, the applicant shall perform a CRAM (California Rapid Assessment Method) wetland survey prior to initiation of the proposed Phase 2 restoration project and every other year following completion of the proposed restoration project through year 5 of the project. CRAM should be conducted simultaneously with quantitative interim monitoring surveys. CRAM survey results shall be uploaded to "project tracker", the open-source, web-based database designed to provide wetland status and trend data to state and federal information systems.

7. <u>Final Benthic Invertebrate, Fish, Avian and Algal Monitoring and Reporting Plan</u>

The applicant shall retain the services of a qualified biologist or environmental resource specialist(s) with no less than 2 years of aquatic and terrestrial species monitoring experience to prepare a final benthic invertebrate, fish, avian, and algal monitoring program and reporting plan. The applicant shall submit the name and qualifications of the environmental resources specialist(s) for the review and approval of the Executive Director. The environmental resource specialist(s) shall base the final plan on the monitoring program for submerged aquatic vegetation and macroalgae, infaunal and epifaunal benthic invertebrates, fish, and birds laid out in the *Malibu Lagoon Restoration and Enhancement Plan* prepared by Moffat and Nichols, dated June 17, 2005, the *Project Monitoring Plan*, and the *Project Assessment and Evaluation Plan*, prepared by the California State Coastal Conservancy, dated July 29, 2005, the *Quality Assurance Project Plan*, prepared by 2nd Nature, dated February 6, 2006. The applicant shall also comply with the monitoring program and reporting plan requirements outlined above in Special Condition 6, sections B and C, substituting "Final Aquatic Vegetation, Benthos, Fish, and Birds" for "Final Habitat Restoration/Enhancement", except as modified here regarding success criteria:

The abundance and diversity of infaunal and epifaunal benthic invertebrates, fish, and birds shall not decrease following restoration. Although a short-term decrease may be expected due to construction related impacts, infaunal and epifaunal benthic invertebrates, fish, and birds should be at commensurate pre-restoration levels within

three years of restoration activities and should be at or above pre-restoration levels after five years.

The occurrence of algal blooms that form floating algal mats shall not increase following restoration. The formation of floating algal mats should be at or below pre-restoration levels within three years of restoration activities and should be below pre-restoration levels after five years. If these criteria are not attained, targeted studies should be performed to determine why criteria are not being met and devise adaptive management solutions to achieve goals.

8. Plans Conforming to Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all engineering and hydrological reports prepared by Moffat and Nichol, referenced as Substantive File Documents. These recommendations shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

9. Herbicide Use

Herbicides shall not be used in any open water areas on the project site. Herbicide use in upland areas shall be restricted to the use of Glyphosate Aquamaster™ (previously Rodeo™) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only. The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of vegetation removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. Native vegetation to be retained shall be clearly delineated on the project site with fencing or survey flags and protected. In the event that non-native or invasive vegetation to be removed or eradicated is located in close proximity to native riparian vegetation or surface water, the applicant shall either: (a) remove non-native or invasive vegetation by hand (Arundo donax shall be cut to a height of 6 inches or less, and the stumps painted with Glyphosate Roundup™ herbicide), or (b) utilize a plastic sheet/barrier to shield native vegetation or surface water from any potential overspray that may occur during use of herbicide. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain.

10. Final Public Access Program

A. ***Prior to commencement of development***, the applicant shall submit, for the review and approval of the Executive Director, a Final Public Access Program that describes the methods (including signs, fencing, posting of security guards, etc.) by which safe public access to or around construction areas and/or staging areas shall be maintained during all project operations. The plan shall also include signs directing the public to alternative parking areas for the duration of construction and staging. Where public paths will be closed during active operations, a person(s) shall be on-site to detour traffic or adequate fencing and signage shall be used. The applicant shall maintain public access pursuant to the approved version of the report. Any proposed changes to the approved program shall be reported to the Executive Director. No change to the program shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

B. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces (on and off-street) that are required at each receiver site for the staging of equipment, machinery and employee parking shall be used. At each site, the number of public parking spaces utilized shall be the minimum necessary to implement the project.

C. The applicant shall post each construction site with a notice indicating the expected dates of construction and/or trail or public access closures (if temporarily necessary).

11. Required Approvals

By acceptance of this permit, the applicant agrees to obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project (including the National Marine Fisheries Service, California Department of Fish and Game, California State Lands Commission, Regional Water Quality Control Board, and the U.S. Army Corps of Engineers).

12. Assumption of Risk

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement.

B***. Prior to issuance of the Coastal Development Permit***, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

13. Discharge Requirements

A. This Coastal Development Permit incorporates all of the waste discharge requirements, limitations and other requirements and provisions contained in California Regional Water Quality Control Board, Los Angeles Region National Pollutant Discharge Elimination System (NPDES) Permit No. CAG994004 and Monitoring and Reporting Program No. Cl-9573.

B. If project monitoring indicates that either discharge prohibitions or effluent limitations have failed to meet any of the standards specified in the NPDES Permit, the applicant shall immediately notify the Executive Director. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission-approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

14. Mitigation Measures

All mitigation measures required in the Malibu Lagoon Restoration and Enhancement Plan Final Environmental Impact Report SCH #2005101123 applicable to the proposed project are hereby incorporated by reference as special conditions of the subject permit unless specifically modified by any additional special conditions set forth herein.

15. Archaeological Resources and Monitoring

By acceptance of this permit, the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading and vegetation clearance activities that occur within or adjacent to recorded archaeological sites in the project area. Specifically, all ground-disturbing activities adjacent to recorded sites shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, all work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist and the native American consultant consistent with CEQA guidelines.

16. Removal of Excavated Material

Prior to commencement of development, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal

site does not have a coastal permit, such a permit will be required prior to the disposal of material.

17. <u>New Zealand Mud Snail</u>

The applicant shall implement the following measures to prevent the introduction and spread of the exotic New Zealand mud snail:

A. All vehicles (including wheels and undercarriages), equipment, protective gear (e.g., waders, boots) and tools shall be pressure washed and steam cleaned prior to entering the work area. The applicant shall keep documentation that all vehicles, equipment, protective gear and tools have been cleaned prior to commencing project work.

B. During project construction, pressure washing and steam cleaning shall take place at a wash station located within the staging area. The applicant shall keep records of descriptions of wash station inspection and maintenance requirements, anticipated frequency of inspections, measures to control off-site soil or runoff outside of the wash station, and documentation logs of inspection and maintenance activities. All rinse water shall be collected and disposed of where it will not be reintroduced into the lagoon or watershed.

C. The applicant/contractor shall keep a written daily log of all vehicle/equipment/tool washing that states the date, time, location, type of equipment washed, methods used, and staff present, and includes the signature of a responsible staff member. The logs shall be available for inspection at any time.

D. All vehicles, equipment, and tools used during project construction shall be pressure washed and steam cleaned, and allowed to thoroughly dry (without soil contact) in the sun for a minimum of 72 hours before being moved off site.

E. The applicant shall assure that a chest freezer, equipped with a padlock, onsite to sterilize boots, waders, and other equipment is provided. All boots and waders used during construction shall remain onsite during the duration of the construction period. Upon completion of construction, boots and waders shall be frozen for a minimum of 48 hours. The boots and waders shall be placed in plastic bags labeled with the date and time that they were placed in the freezer. A log documenting sterilization of boots and waders shall be kept and shall be available for inspection at any time.

F. All sandbags, silt fencing, and other materials that come into contact with water and/or soil shall be allowed to thoroughly dry (without soil contact) in the sun for a minimum of 72 hours before being moved off site.

G. All trucks transporting construction debris and/or excavated soil to disposal sites shall be covered.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The applicant is proposing to implement the Malibu Lagoon Restoration and Enhancement Plan to improve the function of the lagoon ecosystem by recontouring/reconfiguring the lagoon slopes and channels to increase hydrologic flow involving 88,700 cu. yds. of grading (51,200 cu yds. excavation and 37,500 cu. yds. fill); revegetation with native wetland and upland plant species and removal of non-native plant species; construction of a public access trail around lagoon with new interpretive public informational/educational improvements; and implementation of a long-term lagoon monitoring plan. The applicant is proposing a work window of June 1st to October 15th in order to avoid potential impacts to sensitive bird and fish species during nesting and spawning seasons. (**Exhibits 1-10**)

Project Purpose:

The goal of the proposed restoration project is to increase circulation of water in the lagoon during both open mouth and closed mouth conditions in order to improve water quality and decrease eutrophication, and to restore the lagoon habitat by re-establishing suitable soil conditions and native plant species and removing non-native species. The applicant also proposes to evaluate, record, and analyze existing and changing ecological conditions of the lagoon using physical, chemical, and biological parameters to measure restoration success. The water quality of the lagoon is poor due to inflow of nutrient and pollutant rich water resulting from urban runoff and storm drainage, urban encroachment, leaking septic systems, limited water circulation, and other factors. In addition, the quality of the wetland and upland habitat area on site has also been degraded by many historic developments on site, impacts from adjacent development, and invasion by non-native plant species. Although the project will involve some short-term impacts to wetland and upland habitat on site, this project is expected to result in a substantial increase in the long-term habitat value and of these same sensitive habitat areas.

Commission Jurisdiction and Permit Consolidation:

The proposed project includes components that are located within the City of Malibu's Local Coastal Program (LCP) jurisdiction as well as components within the retained jurisdiction of the Coastal Commission. The City of Malibu would typically have jurisdiction over the onshore portions of the project within its LCP jurisdiction. However, Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application, when its criteria are satisfied, for both aspects of a proposed project that would otherwise require a coastal development permit from both a local government with a certified local coastal program and the Commission. In this case, the City of Malibu, in a letter to Commission staff dated October 25, 2007, requested that the Commission assume jurisdiction over all activities associated with the proposed project. (**Exhibits 21** and **22**)

Therefore, the standard of review for the project is the Chapter 3 policies of the Coastal Act with the policies of the City of Malibu's Local Coastal Program serving as guidance, as noted above. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act and the City's LCP.

Detailed Description of Project Components:

The proposed project includes several different components, which are described in detail as follows:

1. Lagoon Reconfiguration

Main Lagoon Channel
The main channel will remain substantially as it exists now. The western edge of the main lagoon at the interface with the western portion of the lagoon will be reconfigured in the form of a naturalized slope to provide a degree of separation between the main lagoon and western portion of the lagoon. The main lagoon channel will be temporarily separated from the western portion of the lagoon by a temporary berm, as described below. However, no work is proposed within the main channel itself.

Western Lagoon Complex
The 12 acre western tidal channel network and channel slopes (as shown on **Exhibit 3**) will be re-contoured to improve circulation and water quality. The existing channels will be reconfigured into a dendritic network with a single main channel to promote tidal circulation and reduce deposition of fine sediments by concentrating hydraulic energy throughout the entire channel length. The existing channels are relatively narrow and will be substantially widened as a result of the project, to approximately 20 to 60 feet in width (at mean tide level) and contoured to create broad shallow slopes to support a greater diversity of vegetation, and increase circulation within the water column and exposure of intertidal areas during open conditions (**Exhibits 4-18**). Additionally, the reconfigured channel beds will be excavated to a depth at or below mean sea level (msl) to promote full tidal exchange, and the beds of the second order channels will be sloped to provide a positive hydraulic gradient toward the main channel to increase flushing, and reduce deposition of fine sediments. The channel configuration also allows for potential future expansion of the project on the western side of the site (the golf

course property). The removal of approximately 13,700 cubic yards of sediment from the lagoon to be exported to an appropriate off-site disposal location is proposed in order to increase tidal prism, improve circulation, reduce algal growth and improve overall conditions for aquatic species. All grading and excavation of the western lagoon area will be separated from surface connections to the existing lagoon by earthen berms, as described below and as shown on Exhibits 4-6. Groundwater that may accumulate in the excavated areas will be pumped through a filtration system, described below, and will be tested before discharge to Santa Monica Bay in order to meet RWQCB standards. The reduction in fine sediments and the resulting coarser substrate is proposed in order to improve habitat for aquatic species such as tidewater goby and reduce nutrient sequestration associated with fine sediments. Salvaged native living trees will be removed from other areas of the site are proposed to be replanted on the channel slopes and along the lagoon edge to create localized scour in specific areas (i.e., the backchannel on the eastern side of the lagoon), focus stream flows towards the main channel, reinforce channel slopes for erosion control, and provide roosting habitat for avian species and cover for tidewater goby and steelhead trout.

After the reconfiguration, under open lagoon mouth conditions, the new channel network will be fully inundated during a normal tidal cycle. Native vegetation planted along the re-contoured channel slopes will be inundated at varying frequencies and durations based on elevation. Under closed conditions, the majority of the site will be inundated, and in the highest observed condition all but the top few feet (above 9' NAVD 88) of the proposed islands will be under water. The reduced size and altered orientation of the lagoon islands in the western portion of the lagoon are proposed to increase fetch and to promote wind-driven circulation under closed lagoon mouth conditions. Because of the increased fetch, it is expected that the currents driven by summer winds will more effectively reduce stagnation and increase oxygen availability in the lower depths of the lagoon through improved horizontal mixing.

Eastern Channel

The existing boathouse channel adjacent to the Adamson House on the eastern side of the lagoon is proposed to be deepened and re-contoured due to sedimentation that has naturally occurred. This will re-create mudflat habitat and promote additional water circulation. The work on the eastern side of the lagoon will utilize hand crews and low tide windows. Dewatering will not be necessary for work on the eastern side of the main lagoon channel. Additionally, salvaged native trees are proposed to be placed on the channel slope and along the lagoon edge on the eastern side of the main channel to create localized scour in specific areas (i.e., the backchannel on the eastern side of the lagoon), to focus stream flows towards the main channel, to reinforce channel slopes, and to provide roosting habitat for avian species and cover for tidewater goby and steelhead trout.

2. Dewatering Plan

The 12 acres on the western side of the lagoon ("western lagoon complex") will be included in the grading operation and will require dewatering. A small portion of the

eastern side of the lagoon will be hand excavated during low tide and will not require dewatering. All grading operations in the western lagoon complex will occur after the project site is dewatered to allow for construction inspection, species relocation, and to avoid turbidity. All construction is proposed to occur in dry areas only.

The applicant evaluated the alternative of working from the shore, but excavation equipment working from the shore would not have the adequate mechanical reach to complete the required grading in the center of the western lagoon area. Dry jetties were also considered to allow equipment access, but this method was rejected because this method would require the import of additional temporary jetty material and extend the overall construction window. Therefore, the applicant has proposed grading directly in the western lagoon complex after dewatering.

To dewater the western lagoon complex and provide a physical barrier to the main lagoon, a temporary earthen berm/ dike is proposed to be constructed. The temporary berm will connect one shore to the other to isolate the main lagoon from the project area. The berm will be installed either when the lagoon mouth is closed and water will be pumped out while the dike is constructed (expected during the dry summer months) or when the lagoon mouth is naturally in an open lagoon condition during the low tide where the lagoon has been naturally breached and there is little or no water in the lagoon. It is likely that the lagoon mouth will be in a closed condition when work for the project occurs during the proposed timeframe, between June 1st and October 15th, because this the dry season when flow inputs from Malibu Creek are at their lowest. However, it is possible that the lagoon mouth could be in a naturally open condition.

Dewatering and Placement of Temporary Interior Berm

The temporary interior dike/berm will need to be constructed in a wet environment. The western lagoon complex is proposed to be pumped to lower and hold the water surface to an elevation of 3 feet to expose the temporary berm foundation material. Prior to dewatering, fish biologists will conduct sweeps to clear the construction area and relocate aquatic species prior to placement of geotextile or fill material, as further described below. Material will be placed in 6 inch lifts and compacted to minimize seepage for the duration of construction. Material will be added repeatedly as the dike settles and is compressed. The soil will be confined to a geotextile so sediment will not escape. A turbidity curtain is proposed to be installed and maintained during construction and operation of the dike. The construction window for the temporary berm is approximately 12 to 16 hours. Dewatering will maintain the barrier beach and is not proposed to contribute to a potential breach of the lagoon mouth.

The applicant expects that temporary pumps will need to run 24 hours a day for approximately 1 week at a flow rate of up to 25 cfs (11,250 gpm) to achieve elevation 3 ft. in the lagoon. The temporary pumping rate will vary based on the Malibu Creek flows and the rate at which seepage will enter the lagoon during pumping operations. Pumping rates will exceed the creek surface flow rates and groundwater inflows. The applicant expects these flows to be approximately 6 cubic feet per second (cfs) (3.5 cfs

average creek flow in addition to 2.5 cfs groundwater inflow). Although the actual pumping may only take 3 days, the applicant proposes a one week timeframe estimate to allow for management of intake fish screens and potential shutdowns for debris removal and maintenance.

Filtration is proposed to capture 100% of the target contaminants, including but not limited to: nutrients, bacteria, sediment, and metals. Pumped water will be filtered and tested before discharge to Santa Monica Bay in order to meet RWQCB standards, described below. Pre-filtration would be accomplished using flow-through over and under design weir tanks (e.g. "Baker tanks"). Secondary filtration would be conducted using a two-step process with bag filtration followed by particulate filtration to remove solids from the flow stream. The final treatment will be accomplished using carbon and resin vessels for collecting remaining contaminants and removing bacteria and nutrients. All used filter media and sediment will be disposed of at an approved landfill outside of the coastal zone.

All pumping operations will be tested and monitored to ensure that water quality standards for the Santa Monica Bay are met during construction operations. The California Regional Water Quality Control Board ("Regional Water Board") has approved dewatering discharges into the Pacific Ocean under the General National Pollutant Discharge Elimination System ("NPDES permit") and Waste Discharge Requirements. (NPDES No. CAG994004, CI-9573, March 9, 2010). The NPDES permit authorizes California Department of Parks and Recreation to discharge up to 1.3 million gallons per day (MGD) of treated water into the Santa Monica Bay and the permit provides discharge limitations for specific constituents, including: total suspended solids, turbidity, biological oxygen demand (BOD), oil and grease, settleable solids, sulfides, phenols, residual chlorine, copper, and fecal coliform. The Regional Water Board's approval also requires the applicant to comply with a monitoring and reporting program (CI-9573). Several sampling "tap" locations are proposed so that the treatment efficiency may be monitored. Treatments "taps" are proposed to be located prior to any pre-filtration, in between each treatment phase, and prior to discharge at the permitted outfall location. The treatment filtration system is designed to maintain flow and discharge back to the construction area if test results indicate treatment is not adequate. Any exceedence of water quality levels as described in the permit will require immediate reduction of flow rate and re-routing of flows back to the construction area, and potentially shut down of dewatering operations until the treatment process can meet the permitted discharge thresholds.

Western Lagoon Complex Dewatering

Once the lagoon is lowered and the temporary interior berm/dike is constructed, pumping operations will be moved to the construction side of the lagoon (12 acres) and pumping rates will be greatly reduced and only required to manage the groundwater inflow to maintain a dry working area. The applicant has provided detailed data (*See* Substantive File Documents. Jan. 2009 Dewatering Plan) regarding flow rates into the lagoon. As each channel element is constructed, it is expected that excavation would

intercept the groundwater table and daylight seepage into the work area. Typical channel elements are 400 feet in length (800 feet, both sides) and the exposed seepage height on the bank would be 4 feet on average. A total of 3200 square feet would contribute at a rate of 0.000769 ft/sec generating an expected dewatering flow rate of approximately 2.5 cfs (1125 gpm). Pumping operations will be moved back to the main lagoon and rates increased to 25 cfs again to help equalize water levels during the temporary interior dike removal.

Dewatering Species Protections

Several aquatic species occupy the lagoon and need to be protected during the construction operations. Aquatic species relocation is required by the US Fish and Wildlife Service and by the National Marine Fisheries Service, as well as by Special Condition Four (4) of this permit, including pre-construction and post-construction monitoring, and pre-construction capturing, exclusion, and relocation. During the pumping periods, tidewater goby and steelhead juveniles will be of specific concern. Pumps will require isolation to avoid contact with these species. Individual pump intake screens or screen intake galleries are proposed to meet the maximum screen opening and approach velocity criteria.

Re-watering the Western Lagoon Complex

To re-water the western lagoon, the main lagoon elevation will be pumped to the filtration tanks in order to lower the lagoon to an elevation of 3 feet. The temporary interior berm can then be removed, reducing the top elevation of the berm from 10 feet to 5 feet to provide a low stable working surface for heavy equipment (e.g. hydraulic excavator). At the location of the connecting channel excavation, the dike would be lowered an additional 1 foot over a width of 100 feet, centered on the proposed channel alignment. This would create a small spillway toward the dry construction area. The pumping area would then be reduced to regulate the flow into the western lagoon until an elevation of 3 ft. is achieved. The spillway would be observed to ensure that erosion does not occur during this operation. It may become necessary to pump water into the western lagoon area to avoid spillway erosion hazards. When an elevation of 3 feet is achieved in the western lagoon, pumping rates in the main lagoon would be restored to maintain its elevation of 3 ft.

When the western lagoon re-contouring and grading is complete, grading for the main channel that will connect the western lagoon to the main lagoon will be conducted. The temporary dike located at the mouth of the main channel will be removed to finished grade over approximately a length of 150 ft.. After the western lagoon is open to the tidal cycle, water surface elevations are expected to naturally equalize. A fish biologist would perform fish rescues within the area of the turbidity curtain prior to excavation of the last channel segment and final removal of the temporary dike. The removal of the dike would occur in wet conditions until final grade is achieved. Turbidity curtains would remain in place for at least 24 hours following excavation operations to allow some clarity to return. Working from both banks, the remaining footprint of the temporary

interior dike would be excavated to achieve the final construction grades. The turbidity curtains would then be removed and water allowed to flow freely between the main lagoon and the western portion of the lagoon. Pumping operations will cease and the lagoon will be allowed to flood to a pre-project "closed" condition.

3. Habitat Restoration and Revegetation Plan

The proposed revegetation plan includes the initial planting and reestablishment of native vegetation within the lagoon and its surrounding upland areas, as well as ongoing maintenance and management activities to ensure that the restoration objectives are achieved. Vegetation restoration activities include appropriately designed slopes/elevations and sediment types, topsoil and sediment salvage and management, restoration planting and natural establishment, maintaining unvegetated habitat areas, minimizing habitat loss from seasonal inundation, and long-term habitat maintenance. The applicant has submitted a planting program, including salt panne, low marsh, mid-high marsh, high marsh transitional, and coastal scrub habitats. (**Exhibits 11-17**)

4. Public Access Trail and Public Interpretive Amenities

The applicant proposes to improve the existing path around the perimeter of the lagoon and proposes to develop educational and interpretive improvements and other public amenities along the perimeter of the lagoon restoration area (**Exhibits 4** and **18**). These educational/interpretive elements will include pathways, various forms of educational and viewing platforms, a bird watching blind, a shade canopy, interpretive displays of the topography and function of the lagoon and watershed and outdoor seating elements. (**Exhibit 18**)

Shade Canopy

A steel shade canopy is proposed to be located adjacent to the parking area at the location of the existing interpretive node to partially shade the semicircular concrete seating. The canopy design is an abstract design of a kelp forest. The shade structure will consist of a horizontal surface of approximately 900 sq. ft. of .5 inch steel plate in the abstract design of a kelp forest and supported by 12 ft. tall, 6 in. diameter steel pipe columns. The width, height, and placement of the columns will preserve the integrity of the view of the lagoon from the parking area. The surface below the shade canopy is decomposed granite.

Watershed Fountain

A 6 ft. by 8 ft. topographic model of the Malibu Creek watershed will be located at the south end of the current parking access roundabout. The metal casting will be supported by a solid, stone surfaced base to a height about two feet above grade. A tubular metal pipe will be located a few inches from the edge of the model at railing height and surround most of the watershed model. The pipe will be perforated in order to emit a spray of water when a valve is opened (visitor operated), so that the water mist will fall on the topography, collect in the basin, and drain to the lowest point of the model

(the lagoon), and then spill into a trench drain corresponding to the shoreline and then track to a drainage swale, mimicking the function of the watershed. The paths leading to and from the watershed fountain will be decomposed granite throughout, except for the immediate area surrounding the fountain, which will consist of concrete pavers and sloped to drain. The concrete paver area will be approximately 250 sq. ft.

Summer Clock and Winter Platform

To the south of the watershed display, three paths diverge and extend to the south. A 10 ft.-wide road with 5 ft. in width of decomposed granite will be constructed at the westernmost path to allow access for lifeguard use, State Parks, and rescue operations. This access road will be blocked by a steel access gate and used as the express route for emergency access.

The middle and easternmost pathways are part of an interpretive route. The middle path is separated from the access road by an earthen berm. A small seating area will be built into the east face of the berm with decomposed granite and lengths of benches cut from tree logs reclaimed from the previous interpretive area onsite. The middle path is at an elevation of 10 ft. and above the level of the lagoon, which peaks at 9 ft. before the berm is breached. The middle path also provides a view during the summer season when the lagoon is closed from tidal influence of the east path, also known as the "Summer Clock." The Summer Clock is a very gradually sloping, 180 ft.-long path designed to provide access to the edge of the tidal marsh during open lagoon conditions and to show the daily rising of the lagoon during the summer season, as the dry season flows slowly fill the lagoon. The increase in lagoon elevation will be evident because the water will advance a foot along the path for every three-tenths of an inch of surface elevation change.

During the winter season, when the lagoon is open to tidal influence, the path will provide access to the winter platform, at an approximately 7 ft. elevation, equal to or above the highest seasonal tides. A circular set of terraces will be located adjacent to the platform with edging designed to separate and show the species of vegetation common to the low, middle, and high elevation marsh communities. The platform and marsh terraces will be cut into a steeply sloping bank. A second sloping path (1:20) will provide a means of ingress and egress to and from the south.

These paths will be surfaced with removable precast concrete pavers and suspended on short piers to allow for subsiding tides and draining lagoon flows and silts to drain through and beneath the paths and platform. The total area of the concrete pavers and 4 ft. wide paths is 1,600 sq. ft. The short section of the summer clock ramp (from 9 ft. to 10 ft. in elevation) that slopes at 1:12 will have level landings and steel handrails for compliance with ADA requirements.

Bird Watching Blind

A public bird watching blind will be constructed south of the Summer Clock where a path leading from the main access road and walking path to a slightly elevated area located opposite one of the proposed lagoon islands. The blind will consist of vertical

arcing steel supports at 4 ft. on center along the perimeter of the viewing area. Light stainless steel cables will span in a 16 inch diagonal grid between the vertical elements, creating a frame against which native mulefat stalks will be planted and trained against the form in order to create the appearance of a natural vegetative barrier. The mulefat stalks will be tied against the cable form in various ways to provide opening in the vegetation for viewing the lagoon. The supporting structure will vary from about 4 ft. to a maximum of 12 ft. in height, roughly corresponding to the height of mature mulefat plantings, and will be approximately 88 ft. in length.

Picnic Area

Four concrete picnic tables will be located in a decomposed granite surfaced area, with berms covered with planted live oaks and associated understory plant species, and drainage swales containing sycamore trees, as shown the planting plan. (**Exhibits 12-17**)

Perimeter "Adamson House" Wall

A six ft.-high concrete masonry wall will be constructed the length of the southern boundary of the western lagoon complex, adjacent to the various fencing and wall types of different heights that currently exist. The wall will serve as a buffer between the public park and the residential neighborhood located immediately to the south. The wall is proposed to be approximately 880 ft. long and is designed to match the perimeter of the historic Adamson House with embedded tile and rock elements. A decomposed granite path will be constructed along the wall and will meander through the area. In response to the applicant's discussions with several concerned residents of Malibu Colony regarding drainage concerns, the applicant has modified the design of the proposed wall to add several openings along the bottom of the wall to facilitate stormwater drainage flows by allowing for a 50% open condition at grade between masonry piers. This will be accomplished by creating 8" by 8" openings at 16" on center along the length of the wall, with the bottom of the masonry opening just below grade so that a minimum 4" vertical clearance from grade to the wall above, and 8" of clear width is maintained. Drainage from the property line through the wall will be diverted to a series of vegetated drainage swales (approx. 800 ft. long, with width varying between 6 to 10 ft.) running parallel to the wall face on the north side. The swales will also collect surface water runoff, as well as runoff from two stormwater discharges from the Malibu Colony. The drainage swales will link east to west, ultimately reaching two larger swales at the southeast corner of the property where they will enter a filter and drain system. The project engineers estimated peak flows from Malibu Colony to quantify the potential for surface sheet drainage and determined the new wall design and swale to be adequate for a 50 year storm event. (ICF International Memorandum, dated September 3, 2010, *see* Substantive File Documents)

Watershed Overlook

A 600 sq. ft. decomposed granite overlook platform will be constructed to provide a view up the canyon to the north. The platform will be mostly located at grade except for 20 ft. of one side of the platform. The northeast corner of the platform will be constructed to extend over the grade below to a maximum height of approximately 3 ft. and supported

by a concrete slab that is molded to form a concrete bench at the east end of the platform. The two exposed and elevated lengths of the platform will have a perimeter railing system consisting of steel stanchions and horizontal stainless steel cables, the top surface of which will be concrete cast within a steel angle with impressions of natural elements cast into the top to match the theme established by the existing concrete seating near the parking area.

Observation Platform (East of Parking Area)
The observation deck will consist of a semi-circular decomposed granite surface edged by an elevated radial patterned composite deck varying in width from 4 feet to 7 feet with a total deck area of 380 sq. ft. The decomposed granite will be constructed flush with the decking surface. The deck will be approximately 2 ft. to 3 ft. above grade. The railing system for the deck will consist of steel stanchions and horizontal stainless steel cable, the top surface of which will be concrete cast within a steel angle with impressions of natural elements cast to match the other concrete elements of the project.

5. Project Monitoring

The applicant has proposed a long-term program to monitor the physical conditions (i.e. bathymetry, sediment samples, grain size), water quality, and biological conditions (marsh vegetation, fish, benthos, aquatic vegetation, and birds) of the restored lagoon over a five year period. The project proposal includes semi-annual physical condition monitoring and water quality monitoring, and frequent biological assessments. The monitoring is proposed for five years after the project is complete. From 2006 to 2008, the applicant conducted baseline monitoring, including sediment testing, grain size analysis, and water quality analyses. Water quality has been monitored continuously at three locations within the lagoon complex since 2006. Additionally, at least two years of data has been collected as a baseline for aquatic species, and for bathymetry (transects).

B. PROJECT LOCATION AND BACKGROUND

Malibu Lagoon covers a 31 acre area located at the terminus of the Malibu Creek Watershed, which is the second largest watershed that drains into Santa Monica Bay. The tidally influenced area covers approximately 24 acres. The lagoon drains into the Santa Monica Bay at Surfrider Beach in the City of Malibu. Malibu Lagoon State Beach is managed and operated by the California Department of Parks and Recreation (“State Parks”). It is bordered to the north by the Pacific Coast Highway (PCH), to the west by a gated residential community (“The Colony”), “and to the south by a finger of the Malibu Colony (south of the western portion) and the Pacific Ocean (south of the main lagoon). The lagoon is ecologically significant because it is one of the last remaining wetlands within Santa Monica Bay and hosts a variety of avian and aquatic species of statewide and regional significance. The lagoon waters seasonally fluctuate between a freshwater, brackish water, and saltwater environment depending on the flow regime in Malibu Creek, the height of the beach barrier, and the diurnal tides of the ocean. The current

lagoon configuration does not provide an adequate and fully functional lagoon habitat regime that historically naturally existed at this site mainly because of poor circulation. The proposed project will re-contour the 12 acre western portion of the lagoon to restore tidal complexity, improve the hydraulic circulation and enhance aquatic habitat structure and diversity.

The lagoon mouth is either open or closed depending on the height of the barrier beach. When the lagoon mouth is open, the hydraulics are dominated by freshwater creek flows during flood events and during low tides, and by the inflow of saltwater during high tides. When the lagoon mouth is open, the lagoon can drain to an elevation of 0 ft. and match the lowest daily tide. During a majority of the season when the mouth is open (winter season), the barrier beach is naturally maintained at an elevation of 3 ft. Tides enter the lagoon twice a day and flood the project area to an average elevation of 6 ft., with the extreme high tides reaching approximately 8 ft. When the lagoon mouth is closed, the lagoon stores water flowing from Malibu Creek, runoff from PCH, runoff from the adjacent neighborhood, groundwater seepage, and maintains an elevation of approximately 9 ft. above mean high tide. Water quality in the lagoon during the closed condition is generally poor and exceeds water quality standards set by the Regional Water Quality Control Board for the Santa Monica Bay.

Site History and Past Commission Action

Malibu Lagoon has been significantly altered from its original condition. The existing 31 acre lagoon contains only a small portion of its historic reach. In 1929, the California Department of Transportation used the site as a dumping ground during construction of the Pacific Coast Highway. Since that time, urban development has surrounded the lagoon, including an adjacent housing development (Malibu Colony) and construction of the Pacific Coast Highway bridge to the north through the lagoon. Further, a large portion of the lagoon was filled in during the 1940's and 1950's and baseball fields were constructed.

Coastal Development Permit No. P-79-5515 was approved by the Commission on August 13, 1979 for a "General Development Plan for Malibu Lagoon Beach" granted to the California Department of Parks and Recreation. The CDP authorized 60,000 cu. yds. of excavation of sediment material for the purpose of marsh restoration of which 50,000 cu. yds. of the excavated material disposed of offsite at Malibu Creek State Park, approximately 6 miles away. The project included creation/restoration of approximately 7 acres of area (the "western lagoon complex") that was historically part of the lagoon but filled in by the California Department of Transportation in 1969 and preceding years as a result of highway construction. The restoration included 3.5 acres of permanent lagoon, 6 acres of tidal marsh, and 3.5 acres of upper marsh. Additionally, a 50-car parking lot adjacent to the marsh area, chemical restroom facilities, a perimeter road, and an elevated walkway over the marsh were also approved. This CDP approval was challenged by the Malibu Little League who received a Superior Court order temporarily suspending the permit and requiring the Commission to review the Executive Director's determination of compliance with a condition that State Parks

provide assistance to the Little League organization (who had used the property since 1970) to find an alternative site for ball fields. A permit extension was subsequently approved by the Commission on August 25, 1982, whereupon the CDP was reissued as CDP No. 5-81-135E and the lagoon restoration took place in 1983.

In 1986, the Commission approved additional development at the site, including a 1,000 ft. walkway, viewing deck, two stairways, ramp, and underground utilities. (CDP No. 5-86-143) Various other projects have been approved at Malibu Lagoon State Beach by the Commission, including restoring 0.60 acres of wetland and creating salt marsh and dune habitat (CDP No. 5-87-689), breaching the sand berm at the mouth of the lagoon as a one-time emergency measure to remediate flooding (CDP No. 4-95-242-G), installing temporary symbolic fencing for the threatened snowy plover (CDP No. 4-08-015-W and 4-08-085-W), and redirecting the mouth of the Malibu Creek using a tractor to close the channel in order to direct the flow upcoast as a one-time emergency measure to remediate flooding (CDP 4-06-051-G). Another partial restoration project within the lagoon occurred in 1996, pursuant to the Commission approval of Coastal Development Permit 5-90-1066. This restoration project was implemented by the California Department of Transportation (CalTrans) and coordinated by State Parks and the Resource Conservation District of the Santa Monica Mountains. The restoration was implemented as mitigation for impacts to Malibu Lagoon from construction during the PCH Bridge Replacement Project. That restoration program included a tidewater goby habitat enhancement project and a revegetation program.

In the late 1990's, the California Coastal Conservancy funded a study by the University of California, Los Angeles to identify restoration goals for the Malibu Lagoon task force. This led to the preparation of the Malibu Lagoon Restoration Feasibility Study and Final Alternatives Analysis (*see* Substantive File Documents). In 2005, the California Department of Parks and Recreation completed the Malibu Lagoon Restoration Feasibility Study and Final Alternatives Analysis to assess further restoration of Malibu Lagoon. This effort involved coordination meetings between the California Department of Parks and Recreation (State Parks), the California State Coastal Conservancy, Heal the Bay, the Lagoon Restoration Working Group, and the Malibu Lagoon Technical Advisory Committee to determine the most ecologically beneficial restoration design with the least amount of harmful impacts to the lagoon ecosystem, focusing on long-term habitat and water quality benefits. A Final Environmental Impact Report was completed for this project dated March 2006. Subsequently, the applicant has obtained preliminary permit approvals for the project from the Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), and the Army Corps of Engineers (Corps) and permit approvals from the Regional Water Quality Control Board (RWQCB).

The State Coastal Conservancy secured funding from the State Water Resources Control Board to complete "Phase I" of the Malibu Lagoon Restoration and Enhancement Plan, the parking lot relocation, which was completed in 2008. The City of Malibu approved a Coastal Development Permit Application by the California Department of Parks and Recreation (CDP NO. 07-012) for "Phase I" of the Malibu Lagoon Restoration and Enhancement Plan in 2007 to relocate the parking lot for

Malibu Lagoon State Beach. The City of Malibu simultaneously approved Variance No. 07-024 allowing the parking facilities to be located within the front yard setback and within a public open space. The City's CDP authorized the relocation and redesign of the previously existing parking to allow for additional habitat to be restored in "Phase 2" of the Malibu Lagoon Restoration and Enhancement Plan, the currently proposed project. The new parking lot includes permeable pavement, landscaping, and a stormwater treatment system to treat runoff before it flows to the lagoon. The CDP also authorized a public use area adjacent to the parking lot with various forms of seating, the relocation of the vehicular entryway and pedestrian pathway (the primary pedestrian and vehicle entryway from Pacific Coast Highway), and a new pedestrian footpath and bridge allowing entry to Surfrider Beach approximately 300 ft. to the southeast.

C. DIKING, FILLING, AND DREDGING OF COASTAL WATERS

The proposed project is located within Malibu Lagoon, a wetland area. Wetlands are defined in Section 30121 of the Coastal Act as follows:

'Wetland' means lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 30233 of the Coastal Act allows filling of coastal waters (or wetlands) only where feasible mitigation measures have been provided to minimize adverse environmental effects, and for only the following seven uses listed in Section 30233(a) of the Coastal Act:

> ***(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.***
> ***(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.***
> ***(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.***
> ***(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.***
> ***(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.***
> ***(6) Restoration purposes.***
> ***(7) Nature study, aquaculture, or similar resource dependent activities.***

As previously described above, the proposed development includes the restoration and enhancement of Malibu Lagoon to improve the long-term function of the lagoon ecosystem by recontouring/reconfiguring the lagoon, slopes and channels to increase hydrologic flow. The project involves approximately 51,200 cu yds. of excavation and 37,500 cu. yds. fill for the purpose of wetland and habitat restoration. Approximately 13,700 cu. yds. of excavated sediment material will be exported from the project site to an appropriate disposal location. The project also includes implementation of a habitat restoration plan to replant native wetland and upland plant species and remove non-

native plant species, construct an public access trail around lagoon with interpretive public educational/interpretive exhibits and improvements, and implement a long-term monitoring plan to monitor physical processes, biological changes, and vegetation restoration of the lagoon over a 5-year period to ensure the success of the restoration efforts.

Section 30233(a) limits dredging and fill activities in wetlands to seven allowable uses, including restoration. In this case, all proposed dredging/grading within wetland areas is for the purpose of restoration of the lagoon ecosystem. Moreover, the proposed grading is necessary to improve the circulation of the lagoon in order to increase water movement, water quality, and the long-term biological productivity of coastal waters. The project includes an extensive revegetation plan to remove non-native plant species and plant appropriate native wetland and upland plant species. Thus, the proposed grading (including all excavation and fill) is clearly an allowable use within a wetland pursuant to Section 30233(a)(6).

Section 30233 allows grading in a wetland only where there is no feasible less environmentally damaging alternative to the proposed project. Alternatives to the project as proposed must be considered prior to finding that a project satisfies this provision of Section 30233. As noted above, the purpose of the proposed project is restoration and enhancement of the Malibu Lagoon. The Final Environmental Impact Report (FEIR) SCH No. 2005101123 found that although the proposed project will, in the long-term, significantly improve the wetland and upland habitat on site and increase the biological productivity of coastal waters, the proposed project may result in potential short-term impacts to sensitive species during initial construction/restoration operations. Specifically, recontouring of the lagoon banks and slopes would occur in areas where sensitive fish species are located. In order to avoid such impacts or minimize them to the maximum extent feasible, the applicant proposes to temporarily relocate the tidewater gobies, steelhead, and all other aquatic species from the construction areas to the main lagoon channel. The applicant proposes to accomplish this by seining the work area to collect the gobies and other species, releasing them behind a blocking net, constructing a berm to create a complete barrier across the estuary, and then dewatering the construction area with screened pumps. Moreover, all work involving the gobies and other sensitive species would be conducted by qualified biologists authorized by the U.S. Fish and Wildlife Service (USFWS) approval. Additionally, in order to ensure that the applicant's proposed best management practices are adequately implemented, **Special Condition (4)** requires the applicant to submit a Final Dewatering Plan, for the review and approval of the Executive Director. The plan must incorporate all USFWS requirements into the plan for species removal and relocation, and the special condition also requires pre-construction surveys, construction personnel training, biological supervision of species removal and relocation, post-construction surveys, and post-project monitoring reports. In addition, these plans must be approved by the project engineers, consistent with their recommendations in the engineering and hydrological reports prepared for this project, as described in **Special Condition Eight (8)**.

As noted above, grading and recontouring the lagoon is integral to the proposed project's main objective to expand lagoon capacity, enhance circulation, and restore habitat. Any project alternative including excavation of the estuary banks would require dewatering of the estuary and grading and its attendant impacts on tidewater gobies and other aquatic and terrestrial species. The "no project" alternative would avoid short-term impacts to sensitive aquatic and terrestrial species from grading, dewatering, and construction noise. However, the "no project" alternative would not meet any of the goals of the proposed project, including the long-term improvement of both water quality and enhancement of wetland and upland habitat areas on site. Failure to implement the proposed project would result in the continuation of the degraded condition of the lagoon and its surrounding upland habitat areas and would not resolve the current problems on site, including poor circulation, eutrophication, sedimentation, poor water quality, lack of species diversity, and diminished quality of aquatic and riparian habitat. Overall, the proposed project is expected to have long-term beneficial impacts on the tidewater goby population and populations of other sensitive species with minimal short-term impacts from recontouring and revegetating the lagoon. The project includes removal of non-native species and implementation of a detailed restoration program using locally sourced native plantings. Discussion of the long-term benefits of this project are discussed in the September 22, 2010 memorandum prepared by the Commission's Ecologist, Dr. Jonna Engel (hereinafter "Dr. Engel Memorandum"), which is incorporated as if set forth in full herein. Thus, the Commission finds that there is no less environmentally damaging alternative.

Section 30233 requires that adequate mitigation measures to minimize adverse impacts of the proposed project on habitat values shall be provided. The applicant has incorporated numerous mitigation measures in the proposal, including erosion control measures, revegetation of the lagoon banks with emergent wetland and riparian vegetation (**Exhibit 6**), and the proposed dewatering and aquatic species protection plan described above. **Special Condition Fourteen (14)** incorporates, by reference, all of the mitigation measures listed in Final Environmental Impact Report SCH No. 2005101123, as special conditions of the subject permit. Additionally, **Special Conditions Six (6) and Seven (7)** require additional monitoring and reporting relating to the success of lagoon physical hydrology, revegetation, aquatic, and terrestrial species and also require corrective action if results indicate that the lagoon is not functioning as expected and success criteria is not met. Therefore, the Commission finds that, as conditioned, the project will provide adequate mitigation measures to minimize adverse impacts on habitat values and no net loss of wetland area or function will occur as a result, as required by the third test of Section 30233.

Due to the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with §30233 of the Coastal Act and with all relevant policies of the adopted City of Malibu Local Coastal Program.

D. WATER QUALITY

The Malibu LCP incorporates Section 30231 of the Coastal Act, which states:

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

Further, the following LUP water quality policies are applicable:

3.100 New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.

3.102 Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.

3.110 New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.

3.111 New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.

3.125 Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.

3.126 Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.

3.127 OSTSs shall be sited away from areas that have poorly or excessively drained soils, shallow water tables or high seasonal water tables that are within floodplains or where effluent cannot be adequately treated before it reaches streams or the ocean.

3.131 The construction of private sewage treatment systems shall be permitted only in full compliance with the building and plumbing codes and the requirements of the LA RWQCB. A coastal development permit shall not be approved unless the private sewage treatment system for the project is sized and designed to serve the proposed development and will not result in adverse individual or cumulative impacts to water quality for the life of the project.

3.141 Applications for a coastal development permit for OSTS installation and expansion, where groundwater, nearby surface drainages and slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OSTS on groundwater level, quality of nearby surface drainages, and slope stability. Where it is shown that the OSTS will negatively impact groundwater, nearby surface waters, or slope stability, the OSTS shall not be allowed.

The Commission recognizes that new development has the potential to adversely impact coastal water quality and aquatic resources because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new uses cause increases in runoff, erosion, and sedimentation, reductions in groundwater recharge and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems.

In this case, the proposed development is the restoration and enhancement of Malibu Lagoon, a degraded lagoon ecosystem that is currently characterized by poor water quality conditions due in part to inflow of nutrient and pollutant rich water from Malibu Creek including urban runoff, storm drainage, and groundwater inputs. Currently, the water quality in the lagoon fails to meet Regional Water Quality Control Board standards for concentrations of various constituents and pollutants. The proposed reconfiguration of the lagoon and hydrological system is expected to improve circulation and result in improved water quality. However, the temporary dewatering of the 12 acre western lagoon complex may result in potential short-term adverse impacts to water quality in other portions of the lagoon and to Santa Monica Bay due to increased disturbance during construction. As explained below, the discharges from dewatering the western portion of the lagoon are regulated by the California Regional Water Quality Control Board and will be treated according to the standards outlined in the approved National Pollutant Discharge Elimination System Permit ("NPDES Permit"). Moreover, although the proposed restoration activities may result in some short-term construction impacts to water quality, the proposed project is expected, in the long-term, to significantly improve the circulation of the lagoon in order to increase water movement, water quality, and the long-term biological productivity of coastal waters. Dr. Engel's September 22, 2010 memorandum evaluates various technical studies of Malibu Lagoon and explains how the impaired water quality has negatively impacted the marine ecosystem. According to the studies evaluated in the memorandum, sediment samples obtained in the western channels of the lagoon contained very fine particles that were high in organic matter, reflecting poor circulation. Releases of the stored nutrients within the fine sediments trigger growth of primary producers, creating hypoxic water conditions, which in turn

may contribute to the low infaunal and epifaunal invertebrate diversity found in the lagoon. Lagoon water quality is discussed in detail below.

1. Hydrologic Connectivity of Malibu Lagoon

Malibu Lagoon is influenced by streamflow inputs, tides, and wave action. In the rainy winter season, streamflows in Malibu Creek are higher. As noted above, Malibu Creek inputs in the lagoon include flows from surface water runoff, discharges from Tapia Wastewater Treatment Plan, and seepage from groundwater. Malibu Creek has the potential to discharge large storm flows that generally occur in the late fall and winter months and these flows can contribute to the lagoon mouth opening. The Las Virgenes Municipal Water District Tapia Water Reclamation Plant (LVMWD) is permitted to discharge only during the rainy season, from November 15th through April 15th. LVMWD is permitted to discharge in the summer months only during a rain event or when flows are measured below 2.5 cubic feet per second (cfs). When flows are measured below 2.5 cfs, LVMWD is required to discharge approximately 1cfs until those flows daylight at Serra Retreat Bridge which triggers a stoppage of this regulated discharge. These flows are required by the RWQCB to augment naturally occurring flow in order to protect steelhead trout. By the time these flows reach the lagoon, as little as 1.2 cfs will typically pass through the lagoon as surface flow. The mean daily flows from the creek were calculated from data collected between 1931 to 2009 from June to October and measured to be approximately 3.5 cfs.

During the spring months and drier summer months, the force of the streamflow decreases, the lagoon mouth may close. When the mouth is closed, poor circulation and warmer temperatures leads to eutrophication, which in turn degrades water quality and aquatic habitat. Increases in dry season runoff in Malibu Creek watershed could impact lagoon water levels which could cause a breach in the summer of the closed lagoon. Additionally, summer breaching has occurred in the past informally by local beachgoers or others.

2. Lagoon Water Quality

A key objective of the proposed project is to improve water quality in the lagoon by increasing circulation of water in the lagoon. Water quality in the lagoon when the lagoon is closed is generally poor since creek flows, local runoff, and seepage from poorly functioning residential and commercial septic systems is collected and held by the lagoon. The water quality objectives for nutrients, including nitrate and phosphate, are regularly exceeded.

a. TMDL Water Quality Targets

Malibu Lagoon and Malibu Creek are listed as impaired water bodies under Section 303(d) of the Clean Water Act. Malibu Lagoon is listed as impaired by enteric viruses, eutrophication, high coliform counts, and pH. Malibu Creek is listed as impaired by high

coliform counts, nutrients (algae), and scum/unnatural foam. TMDL's to address nutrients and bacteria impairment within the Malibu Creek Watershed, including the lagoon, were adopted by the Los Angeles Region of the California Regional Water Quality Control Board in 2003.

(i) TMDL for Nutrients in the Malibu Creek Watershed

The numeric targets for nitrogen and phosphorus in the Malibu Creek watershed established are provided in Table 1, below. These targets were established to reduce nutrient loading in the watershed to achieve the beneficial uses for the waterbodies, and consider seasonal variations in nutrient concentrations. The RWQCB has eliminated winter limits as data has shown that algal and nutrient impairments exist in both winter and summer.

Table 1. TMDL Targets for Nutrients

Summer (April 15 to November 15)		Winter (November 16 to April 14)
Total Nitrogen (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
1.0	0.1	8.0

Existing Water Quality Conditions- Nutrients

Previous studies have shown that excessive inputs of nutrients (nitrogen and phosphorus) into the lagoon from the surrounding watershed can result in nuisance algal blooms, objectionable odors, low dissolved oxygen concentrations, and fish kills. The primary sources of nitrogen to the lagoon include septic systems, surface runoff, and sediment release. The primary sources of phosphorus to the lagoon include septic systems, upland systems, surface runoff, and sediment release.

Average lagoon values recorded by Ambrose and Orme (2000) during the summer months were 1.39 mg/l for nitrogen and 0.49 mg/l for phosphorus. The average winter concentrations measured by Ambrose and Orme were 4.0 mg/l for nitrogen and 0.63 mg/l for phosphorus. Water quality sampling conducted by the LVMWD in the lagoon (station HtB-20) between April and September 2003, reported a combined nitrate-N plus nitrite-N concentration of from 0.10 to 2.5 mg/l and ammonia-N from 0.005 to 0.1 mg/l. Additional surface water quality sampling was conducted by the Malibu Creek Preservation Company LLC in the Lagoon west of the Malibu Creek Plaza from February 2003 to December 2003. Samples collected from this location in February, October, November, and December of 2003 reported total N concentrations ranging from 1 mg/l to 4 mg/l.

Sampling in groundwater monitoring wells conducted by Stone (2004) reported mean total nitrogen concentrations for the 3 monitoring wells located along the southern (C-1 and C-2) and northwestern shoreline (P-7) of the lagoon ranging from 0.80 mg/l to 6.47 mg/l. Maximum and minimum total nitrogen concentrations reported at these locations are provided in Table 2, below.

Table 2. Total Nitrogen Concentrations

Well ID	# of Samples	Minimum Total N (mg/l)	Mean Total N (mg/l)	Maximum Total N (mg/l)
C-1	12	3.2	6.47	10.62
C-2	12	0.55	1.01	1.93
P-7	12	0.18	0.80	1.65

(ii.) TMDL for Bacteria/Coliform in the Malibu Creek Watershed

The numeric targets for bacteria in the Malibu Creek watershed established by the U.S. Environmental Protection Agency (EPA) are provided in Table 2, below. These targets were established to protect water contact recreational use in the watershed.

Table 3. TMDL Targets for Coliform

Parameter	Geometric Mean	Single Sample
Total	1,000	10,000 or 1,000 *if* FC/TC >1.0
Fecal	200	400
Enterococcus	35	104

Existing Water Quality Conditions- Bacteria

The bacteria TMDL for the Malibu Creek watershed estimate that 158,000 billion counts of fecal coliform are present in the lagoon, annually. Bacteria are transported into the lagoon from the surrounding watershed through wastewater treatment discharges into Malibu Creek, and leaching from septic systems located in the immediate vicinity of the lagoon.

Surface water quality sampling conducted by the Malibu Creek Preservation Company, LLC in the Lagoon west of the Malibu Creek Plaza from February 2003 to December 2003 reported Enterococcus counts ranging from 52 MPN/100 ml to greater than 2,419.2 MPN/100 ml. The highest counts occurred in June, July, and August.

Sampling in groundwater monitoring wells conducted by Stone (2004) reported mean total coliform concentrations for the 3 monitoring wells located along the southern (C-1 and C-2) and northwestern shoreline (P-7) of the lagoon ranging from 8 MPN/100 ml to

57 MPN/100 ml. Maximum and minimum total coliform concentrations reported at these locations are provided in the Table 4, below.

Table 4. Total Coliform Concentrations

	# of Samples	Minimum Total Coliform (MPN/100 ml)	Mean Total Coliform (MPN/100 ml)	Maximum Total Coliform (MPN/100 ml)
C-1	12	ND	8	22
C-2	12	ND	14	50
P-7	12	ND	57	1600

Mean fecal coliform levels ranged from 3 MPN/100 ml to 9 MPN/100 ml, and mean Enterococcus concentrations ranged from 31 MPN/100 ml to 38 MPN/100 ml at these locations. Maximum and minimum fecal coliform and Enterococcus concentrations reported at these locations are provided in Table 5 and Table 6, below.

Table 5. Fecal Coliform Concentrations

Well ID	# of Samples	Minimum Fecal Coliform (MPN/100 ml)	Mean Fecal Coliform (MPN/100 ml)	Maximum Fecal Coliform (MPN/100 ml)
C-1	12	ND	3	6
C-2	12	ND	7	8
P-7	12	ND	9	50

Table 6. Enterococcus Concentrations

Well ID	# of Samples	Minimum Enterococcus (MPN/100 ml)	Mean Enterococcus (MPN/100 ml)	Maximum Enterococcus (MPN/100 ml)
C-1	12	ND	31	649
C-2	12	ND	32	2419
P-7	12	ND	38	722

3. Circulation Improvements

Currently, the channels of the western lagoon are configured to receive storm flows, but are mostly sheltered from scouring by tides or streamflows due to the lack of hydraulic connectivity with the main lagoon area. The proposed project includes creating a new

deepened channel along the southern edge of the western lagoon complex. This channel would serve as the single main exit and entrance for water conveyed in and out of the west lagoon complex. Under open conditions, the tidal circulation would be expected to improve due to increases in flows around the western arms. Under closed conditions, the new channel in the western portion of the lagoon would allow for increased wind-generated wave and water movement. Upstream sources of pollutants, including nitrogen and phosphorous, would still impact water quality in the lagoon. However, the proposed project is expected to reduce eutrophic conditions due to better circulation and result in overall improved water quality. Additionally, the new configuration is expected to direct storm delivered sediments more directly to the ocean and reduce the amount of fine sediments retained within the lagoon.

4. Lagoon Dewatering for Construction

The 12 acres on the western side of the lagoon will be subject to the proposed grading operation and will require dewatering in order to allow restoration/construction activities to occur. All grading operations in the western lagoon complex will occur after the project site is dewatered to allow for construction inspection, species relocation, and to avoid turbidity. All construction and heavy equipment operation is proposed to occur in dry (dewatered) areas only.

Hydrologic connectivity is a key factor in determining the quantity of water expected to be encountered during dewatering operations. The potential flow rates are variable and range between 10 ft/day and 123 ft/day. The mean flow rate between these two numbers is 2.5 cfs (66.5 ft/day) and is presented by the applicant as the basis for the dewatering calculations. Dewatering is proposed to be minimized by using a phased grading approach and the entire west area will not be open to dewatering activities all at one time. As each channel element is constructed, each side of the excavation is expected to intercept the groundwater table and daylight seepage into the work area. Typical channel elements are 400 ft. in length (800 ft. both sides) and the exposed seepage height on the back would be 4 ft. on average. This estimated flow rate will be verified by excavating test pits along the perimeter of the lagoon prior to construction.

Containment Filtration for Dewatering

Pre-filtration of the water to be transferred out of the site is proposed to be accomplished using flow through over and under design weir tanks (“Baker tanks”). Secondary filtration is proposed using a two step process with bag filtration followed by particulate filtration to remove all solids from the stream flow. The final treatment system prior to discharge of the lagoon water/effluent is proposed to be achieved using carbon and resin vessels for collection of the remaining contaminants, and for disinfection, further explained below. **Special Condition Sixteen (16)** requires that all used filter media, sediment, and other debris collected will be disposed of outside of the Coastal Zone.

The California Regional Water Quality Control Board ("Regional Water Board") has approved dewatering discharges into the Pacific Ocean under the General National Pollutant Discharge Elimination System ("NPDES permit") and Waste Discharge Requirements for Malibu Lagoon State Park. (NPDES No. CAG994004, CI-9573, March 9, 2010). This NPDES permit authorizes California Department of Parks and Recreation to discharge up to 1.3 million gallons per day (MGD) of treated water into the Santa Monica Bay. Water extracted from the site will be treated by passing through activated carbon vessels to remove organic contaminants, chlorinated to destroy pathogen bacteria, and treated by passing through ion exchange resin vessels to remove heavy metals prior to discharge. The NPDES permit provides discharge limitations for specific constituents, including: total suspended solids, turbidity, biological oxygen demand (BOD), oil and grease, settleable solids, sulfides, phenols, residual chlorine, copper, and fecal coliform.

Effluent Discharge Limitations

Constituent	**Units**	**Daily Maximum**	**Monthly Average**
Total suspended solids	mg/L	150	50
Turbidity	NTU	150	50
BOD_5 20°C	mg/L	30	20
Oil and Grease	mg/L	15	10
Settleable solids	mg/L	0.3	0.1
Sulfides	mg/L	1.0	N/A
Phenols	mg/L	1.0	N/A
Residual Chlorine	mg/L	0.1	N/A
Copper	µg/l	5.8	2.9
		Long mean (based on a minimum of at least 4 samples for any 30-day period)	10 percent of total samples during any 30-day period
Fecal Coliform	#/100 ml	200	400

The Regional Water Board's approval also requires the applicant to comply with a monitoring and reporting program (CI-9573). The monitoring and reporting program ("MRP") includes general monitoring provisions (e.g. analytical methods for each pollutant, sample collection requirements), monitoring locations, toxicity testing and reporting, monitoring periods and reporting schedules. **Special Condition Thirteen (13)** incorporates all of the waste discharge requirements into this coastal development permit. **Special Condition Thirteen (13)** also requires the applicant to immediately notify the Executive Director if monitoring indicates any violations of the NPDES permit.

Any proposed changes to the plan will require a Coastal Commission approved CDP amendment unless the Executive Director determines that no amendment is required.

The beach and marine environment could also be temporarily impacted as a result of the implementation of project activities by unintentionally introducing sediment, debris, or chemicals with hazardous properties during construction activities. To ensure that construction material, debris, or other waste associated with project activities does not enter the water, the Commission finds **Special Condition Three (3)** is necessary to define the applicant's responsibility to ensure proper disposal of solid debris and material unsuitable for placement into the marine environment. As provided under **Special Condition Three (3)**, it is the applicant's responsibility to ensure that the no construction materials, debris or other waste is placed or stored where it could be subject to wave erosion and dispersion. Furthermore, **Special Condition Three (3)** assigns responsibility to the applicant that any and all construction debris and trash shall be properly contained and removed from construction areas within 24 hours. Further, construction equipment shall not be cleaned on the beach or in the beach parking lot outside of the staging areas. Additionally, **Special Condition Two (2)** requires the applicant to submit erosion control plans to reduce erosion for all disturbed portions of the project area, including grading activities. **Special Condition Two (2)** specifies that erosion control measures shall be implemented prior to and concurrent with grading operations and that all sediment shall be retained onsite. Additionally, should grading or other work cease for a period of 30 days, the site shall be stabilized with geotextiles or mats, sand bag barriers, silt fencing, temporary sediment basins or swales. **Special Condition Two (2)** requires measures to minimize the area of bare soil exposed at any one time, including phased grading.

Several letters were received in response to the July 29, 2010 staff report for this item relating to water quality. The Regional Water Quality Control Board submitted a letter to the Commission, dated August 6, 2010, (**Exhibit 24**) in support of this restoration project urging the Coastal Commission to approve this project. Also, a letter was submitted to Commission staff by Ralph W. Kiewit, Jr., received on August 4, 2010 (**Exhibit 24**), stating that he believes he has a prescriptive easement under adverse possession common law for a pipeline draining into the lagoon. Mr. Kiewit's letter states that he installed a corrugated iron pipeline to drain stormwater from his property and his neighbor's property into the Malibu Lagoon approximately 20 years ago. The Commission is not authorized to assess a claim of adverse possession in this case, which would properly be assessed by a court of law. Further, Commission records indicate no Coastal Development Permit or application was ever submitted or issued for the installation of the pipe by Mr. Kiewit. This drainage pipe is partially located on State Parks property and after-the-fact approval of the pipe was not included by State Parks as part of the subject application. Commission enforcement staff will evaluate further action to address this unpermitted private residential pipeline draining into Malibu Lagoon. Drainage into the lagoon via any point source, including a pipeline draining into the lagoon from the adjacent residential area, could have adverse impacts to water quality in the lagoon.

Lastly, City of Malibu submitted a letter to the Chair and Coastal Commissioners, received on August 9, 2010 (**Exhibit 24**), raising concerns of the projects potential detrimental impacts to water quality, among other issues. The City's letter asserts that the proposed wetland restoration project may result in potential increases in bacteria and nutrients in the water that may impact water quality at Surfrider Beach. The City also asserts that the applicant should be required to monitor bacteria levels within the lagoon including Total Coliform, Fecal Coliform and Enterococcus. The City requests that the water quality monitoring plan include all constituents subject to the Total Maximum Daily Load ("TMDL") requirements. Further, the City relayed concerns related to the lagoon restoration design, revegetation plan design, invasive species, impacts to Malibu Colony drainage due to the design of the Adamson House perimeter wall, and dewatering impacts. Approximately ten studies related to lagoon water quality were attached to the City's letter. (**Exhibit 24**)

As noted in the City's letter, the City had not yet reviewed any approvals or other evidence that the Regional Water Quality Control Board had reviewed the proposed restoration project. However, the Regional Water Quality Control Board has since submitted a letter to the Commission, dated August 6, 2010, in support of the proposed project, and it is the Regional Water Quality Control Board that is responsible for implementing TMDL requirements, regulated under the Federal Clean Water Act.

The City has raised concerns over degradation of water quality due to lagoon design, revegetation, and construction impacts. More specifically, the City has expressed concerns that revegetation of Malibu Lagoon may increase bacteria produced from the natural decaying process due to an increased amount of vegetation and more bank surface area. The City's letter also states that "[i]t is noted that improved circulation and increased tidal flow, a goal of the project, will decrease contact time with lagoon capable of removing some bacteria." The Commission notes that one of the main goals of this project is to improve water quality in the lagoon by increasing circulation and tidal flushing through the reconfiguration of the lagoon channel. Moreover, the proposed reconfiguration is expected to reduce fine sediment accumulation, which in turn will allow water flow to increase, resulting in less stagnant water. Revegetation of the lagoon is expected to enhance overall habitat quality and is not expected to adversely impact water quality. Although there may be inadvertent short term impacts to water quality during construction due to increased turbidity and disturbance of areas of the lagoon with fine sediments and high contaminant levels, overall water quality is expected to improve as a result of the project over the long term, as discussed throughout this report. All dewatering will include filtration, decontamination, and testing before discharge to the Pacific Ocean, pursuant to the Regional Water Quality Control Board approvals. Specifically, California Regional Water Quality Control Board, NPDES Permit No. CAG994004, Order No. R4-2008-0032, and Monitoring and Reporting Program No. Cl-9573, dated March 9, 2010, list specific discharge limits for several constituents, including Fecal Coliform (*see* P.50-51 of this report). Also, staff notes that **Special Condition Five (5)** requires the applicant to submit a final hydrological monitoring plan, including success criteria and supplemental measures to take if water quality in the lagoon has not improved, as shown by measuring a variety of parameters,

some of which include measuring nutrients in sediment samples and nutrients in surface water and bottom water. The applicant has agreed to compile monitoring data for bacteria levels and provide the results as part of the applicant's annual monitoring reports, required by **Special Condition Five (5).** Bacteria levels are currently monitored by the City of Los Angeles Bureau of Sanitation, Environmental Monitoring Division, at three sites within the lagoon and by Las Virgenes Municipal Water District at one site near the Pacific Coast Highway Bridge. The applicant is required to incorporate this bacteria data into the monitoring reports required by **Special Condition Five (5).**

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act and with all relevant policies of the adopted City of Malibu Local Coastal Program.

E. ENVIRONMENTALLY SENSITIVE HABITAT AND MARINE RESOURCES

Section **30230** of the Coastal Act states:

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

Section **30231** of the Coastal Act states that:

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

Section **30236** of the Coastal Act states:

> ***Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (l) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.***

Section **30240** of the Coastal Acts states:

> ***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.***
>
> ***(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.***

In addition, the City of Malibu certified LUP contains policies that protect the environmentally sensitive habitat areas of the City. LUP Policy 3.8 states that Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. The LUP policies also establish the protection of areas adjacent to ESHA through the provision of buffers. Natural vegetation buffer areas must be provided around ESHA that are of sufficient size to prevent impacts that would significantly degrade these areas. Development, including fuel modification, shall not be permitted within required buffer areas.

LUP Policy 3.23 states the following:

> ***Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.***

Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained. Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30236 allows for alterations to streambeds when required for flood control projects where no other less damaging alternative is feasible and when necessary to protect public safety or existing development. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas shall be protected and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources.

The Malibu Lagoon is a 31-acre shallow water embayment occurring at the terminus of Malibu Creek Watershed, the second largest watershed draining into the Santa Monica Bay. This lagoon contains important biological resources and provides habitats for several important plant and animal species. Although in a degraded condition due to poor water quality and invasive non-native plants, Malibu Lagoon is an environmentally sensitive habitat area (ESHA) and provides habitat for several sensitive aquatic and avian species, described in detail below. These species may potentially be located, at times, within or near the project area and could be adversely impacted from temporary construction impacts. Additionally, salt marsh vegetation is found at the site and

constitutes important habitat for several coastal floral and faunal species. According to the March 2006 Final Environmental Impact Report, lagoon habitats do not support many mammal or reptile species because most of the available scrub habitat is very dense at ground level and the coastal salt marsh is almost entirely covered with jaumea with little ground exposed. However, some common mammals that are known to occur include the mule deer, Audubon's rabbit, coyote, black rat, deer mouse, and the meadow mouse. According to the March 2006 Final Environmental Impact Report, construction impacts to biological resources, include:

(1) the removal or disturbance of southern willow scrub vegetation, atriplex scrub vegetation, baccharis scrub, mulefat scrub, Venturan coastal sage scrub, mixed scrub, southern coastal salt marsh, brackish marsh, coastal and valley freshwater marsh;
(2) potential impacts to mudflat, sand beach/sandbar, open water, common wildlife species found to occur in the project area, California black walnut, wandering skipper, and southern steelhead trout
(3) potentially significant impacts to tidewater goby, California brown pelican, western snowy plover, Heermann's Gull, elegant tern, and California least tern.

1. Sensitive Bird Species

The 2006 FEIR reports that past studies of Malibu Lagoon have identified 200 species of birds at the lagoon. Several species of aquatic birds have been observed in the lagoon including gadwall, mallard, common yellowthroat, song sparrow, black phoebe, pied-billed grebe, black-necked stilt, black-crowned night heron, great egret, great blue heron, snowy egret, and green heron. (FEIR, p.6-11) Upland bird species including the California towhee, Anna's hummingbird, bushtit, northern mockingbird, morning dove, American crow, western scrub-jay, and house finch have been observed in upland habitats surrounding the lagoon, which consists primarily of Venturan coastal sage scrub and mixed scrub habitats. Five sensitive bird species were recorded during 2005 breeding surveys, including savannah sparrow, California brown pelican, western snowy plover, Heermann's gull, elegant tern, and California least tern. These birds are considered "sensitive" because they are protected by state and/or federal endangered species acts, because they are recognized as threatened by the International Union for Conservation of Nature and Natural Resources (IUCN), or because they are being considered for listing as California Bird Species of Special Concern. (FEIR, p. 6-16, citing Cooper Ecological Monitoring, Inc. 2005).

Endangered California Least Tern

The California least tern (*Sterna antillarum browni*) ("least tern" or "tern"), listed as one of three subspecies of least tern in the United States, was listed as federally endangered in 1970 and listed on the California endangered species list in 1971. Although critical habitat has not been designated for the California least tern, it is a fully protected species under California law. The California least tern was historically concentrated in three southern California Counties, Los Angeles, Orange, and San Diego. At the time of listing, only 600 breeding pairs were identified, but the population

was documented at approximately 7,100 pairs in 2005 (USFWS Biological Opinion 2009). Large nesting colonies have been discontinuous and are spread out along beaches at the mouths of larger estuaries. The Santa Margarita River mouth in San Diego County generally hosts the largest number of California least terns among all locations. The breeding season typically begins in April. Terns typically nest in colonies on relatively open beaches kept free of vegetation by natural scouring from tidal action. Nesting areas are relatively flat sandy beaches in close proximity to foraging habitat and are relatively secluded from disturbance and predation. Near-shore ocean waters and shallow estuaries serve as foraging habitat.

Repeated disturbance of breeding sites can have significant effects on California least tern reproductive success and can cause nest failure, re-nesting, and site abandonment. For example, the least tern colony at Ormond Beach, Ventura County was repeatedly disturbed by paragliders and ultralight aircraft. During a four year period, all nesting attempts at Ormond Beach failed and the site was abandoned. (USFWS 2009 Biological Opinion, p.10, citing C. Dellith pers. obs. 2006)

The California least tern is a common summer resident of Malibu lagoon. Spring migrants arrive and move through the area in late April. California least terns that forage at the lagoon arrive in early to mid-May, and all summer foraging, roosting, and migrating California least terns leave the area by late August to mid-September. California least terns forage over Malibu lagoon and the ocean immediately offshore during their season migrations and during breeding. (USFWS 2009 Biological Opinion). A large concentration of least terns (up to 42) were documented at Malibu Lagoon on July 13 and 14, 2005, roosting along the southern shore and foraging in the main body of the lagoon and feeding in the west basin of the lagoon. It was documented by the 2005 Cooper Study that, on both days, a total of 14 hatch-year California least terns were present with adults, many of which were banded. These banded terns and the adults were presumed to be from a colony near Terminal Island in Los Angeles Harbor, where several hundred California least terns were monitored and banded during the spring of 2005. (Cooper 2005)

The Fish and Wildlife Service has determined that the proposed project would adversely affect a small number of California least terns in the project area. (USFWS 2009 Biological Opinion CON 1-8-08-F-4) Foraging and roosting least terns would be disturbed by the presence of project workers, noise from equipment and other project activities. The breeding season for the California least tern typically begins in April, with eggs laid in the first part of May and hatching in early June. State Parks has proposed a work timeframe of June 1st through October 15th, during which the California least tern foraging may be disturbed in the lagoon. No direct impacts to breeding sites on the beach are proposed. However, the Fish and Wildlife Service has determined that the foraging may be impacted due to the temporary dewatering of the lagoon and by diverting lagoon flow, thereby decreasing the foraging area or killing some of its prey. However, the USFWS expects that the individuals displaced by the actions will find ample foraging opportunities nearby.

Roosting sites of the least terns could be disturbed during the restoration activities. Chronic Disturbance to non-breeding birds can affect body condition, metabolic rate, habitat use, and subsequent reproductive success due to reduced lipid reserves. However, the USFWS has determined that the adverse effects of being flushed from roost sites will be minimal and that no California least terns are likely to be killed or injured during this work. Additionally, according to the Final Environmental Impact Report (FEIR) for the project, no work will be done in the main lagoon channel that the California least tern uses for roosting habitat, including the snags and high sand bar (FEIR, p. 6-35) and that the protected islands will enhance habitat. The FEIR also states that post-project acreages of suitable habitat for the least tern would be similar, if not identical, to pre-project acreages and did not require mitigation.

California Brown Pelican

California brown pelicans (*Pelecanus occidentalis)* are present at Malibu Lagoon year round. This species does not nest on the California mainland, but uses Malibu Lagoon for post-breeding dispersal and day and night roosting. Foraging areas are offshore of Malibu Beach. Up to 210 California brown pelicans have been observed at Malibu Lagoon, generally roosting along the sand spit separating the lagoon from the ocean or on the island in the middle of the lagoon exposed by low tide. (USFWS 2009 Biological Opinion, *citing* Cooper 2005).

The proposed project will result in the temporary loss of roosting habitat from some of the project area, which could adversely affect the species. Roosting sites are essential for the survival of California brown pelicans. California brown pelicans typically have a strong traditional use of night roosts, although changes in roost site availability in southern California have resulted in use of some sites on a temporary basis.

According to the USFWS Biological Opinion, working in the vicinity of any roosting sites in Malibu Lagoon could result in California brown pelicans expending excess energy to search for new roost sites, increasing susceptibility to predation and disease (citing Strong and Jaques 2003). The proposed project could result in the incidental flushing of brown pelicans from roosting sites prior to restoration activities. However, the USFWS has evaluated protective measures proposed by the applicant and have determined that no brown pelicans are likely to be killed or injured during the work and that opportunities for California brown pelicans to roost will remain in and around portions of the Malibu Lagoon. Additionally, according to the Final Environmental Impact Report (FEIR) for the project, no work will be done in the main lagoon channel that the Brown Pelican uses for roosting habitat, including the snags and high sand bar (FEIR, p. 6-33).

Western Snowy Plover

The Western Snowy Plover (*Charadtrius alexandrinus nivosus*) is a CDFG Species of Special Concern and a federally threatened species. Two western snowy plovers were present briefly along the southern edge of Malibu lagoon on June 14, 2005. However they were flushed by pedestrians and did not return. This bird species uses Malibu Lagoon as a major wintering site, but does not nest on the nearby beach. (FEIR p. 6-16) Additionally, according to the USFWS, snowy plovers are not known to breed within the

study area and no restoration or enhancement activities will occur along the coastal portion of the project area and no habitat will be affected by the proposed project. (USFWS Biological Opinion 2009).

Heermann's Gull

The Heermann's Gull (*Larus heermanni*) is listed as near-threatened on the UUCN Red List. Up to 70 individuals were counted during the 2005 survey of the Lagoon. These birds do not nest within the project reach, but can be found roosting on the sand spit or beach. Their nesting extends from early winter into spring. (FEIR, p.6-17)

Elegant Tern

The Elegant Tern (*Sterna elegans*) is a CDFG species of special concern. Their nesting season extends from early winter into spring. They are numerous at Malibu Lagoon, but during the 2005 survey only a handful were observed. This species does not nest within the project area. (FEIR, p.6-17)

Effects of Noise on Bird Species

The Commission notes that the proposed project may result in potential adverse effects to sensitive avian species due to unintentional disturbance from construction equipment and activity, including grading and noise. In particular, the effects of construction noise upon birds are not well known; however, significant noise levels may impact birds in a number of ways. Continuous noise above the ambient environment or single or multiple loud impulse noises may produce changes in bird foraging and reproductive behavior; mask signals birds use to communicate; mask biological signals impairing detection of sounds of predators and/or prey; decrease hearing sensitivity temporarily or permanently; and/or increase stress and alter reproductive and other hormone levels.[1] Dooling and Popper prepared a review report in 2007 for Caltrans titled, "The Effects of Highway Noise on Birds".[2] This report reviews the literature for studies that evaluate the impacts of traffic and construction noise on birds. They list three classes of potential effects of noise on birds: (1) physiological and behavioral effects; (2) damage to hearing from acoustic over-exposure; and (3) masking of important bioacoustic and communication signals all of which may also lead to dynamic behavioral and population effects.

Much of the information regarding impacts of noise on birds has been extrapolated from studies involving the influence of noise on humans and other mammals. A relatively small number of studies have focused directly on impacts of noise on birds and those studies have been performed on a limited number of bird species; to date no studies of noise impacts have been performed on wading bird species. Dooling and Popper (2007) state that, "Generally, humans have better auditory sensitivity (lower auditory thresholds) both in quiet and in noise than does the typical bird." Mammals in general

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[1] Longcore, T. & C. Rich. 2001. A Review of the Ecological Effects of Road Reconfiguration and Expansion on Coastal Wetland Ecosystems. The Urban Wildlands Group

[2] Dooling, R.J. & A.N. Popper. 2007. The Effects of Highway Noise on Birds. Prepared for: The California Department of Transportation, Division of Analysis. Prepared by: Environmental BioAcoustics LLC, Rockville, MD

have much greater auditory sensitivity than birds. Birds are more resistant to both temporary and permanent hearing loss or to hearing damage from acoustic overexposure than are humans and other mammals that have been tested.[3]

Sixty decibels (60 dB) is a widely used threshold for projects involving heavy equipment in areas supporting sensitive bird species. This threshold criterion is used by many agencies and consultants as the noise threshold, above which, birds may be adversely impacted. While this decibel range appears to be widely accepted and employed for projects involving potential noise impacts upon birds, its use is without well founded scientific justification.[4] Noise levels in quiet outdoor rural areas range from 40 to 45 dB(A)[5] and from 50-55 dB(A) in quiet suburban areas.[6] The 60 dB criterion stems from taking average ambient environment noise measurements and determining at what noise level, beyond that measured in the natural environment, would one expect to see adverse effects on avian vocal communication.[7] While this criterion is valuable as a starting point for it is conservative and protective, ambient environment noise levels must also be analyzed and figured into the decibel thresholds applied to projects on a case by case basis. Rural areas will have much lower exposure to significant ambient noise compared to urban areas. And while all projects have specific and unique circumstances, those with the potential to adversely impact sensitive bird species due to increased noise levels must minimize those noise impacts to the maximum extent possible.

Dooling and Popper, in their 2007 report, present a table with guidelines for potential noise effects on birds at relative distances from the source based on a synthesis of the available literature. Hearing damage can potentially result from single impulses at or above 140 dB(A) or multiple impulses at or above 125 dB(A) when birds are close to the source. At greater distances from the noise source, where noise levels fall below 110 dB(A), birds may experience a temporary loss of hearing (known as a temporary threshold shift) from continuous noise above 93 dB(A). Masking may occur at decibels above and below 93 dB(A) depending on ambient noise levels. At even greater distances from the noise source, where the noise is still above ambient levels, masking may occur. Dooling and Popper suggest that noise levels below 50 to 60 dB(A) are unlikely to cause masking.

Although 60 dB is the noise threshold widely used for projects involving heavy equipment in areas supporting sensitive bird species, this criterion is not always warranted or attainable. Threshold noise values must be considered on a case by case basis. The setting of the proposed work is a popular public park that experiences heavy

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[3] Op. Cit. Dooling & Popper 2007

[4] James, R.A. 2006. California innovation with highway noise and bird issues. In: Proceedings of the 2005 International Conference on Ecology and Transportation, Eds. Irwin CL, Garrett P, McDermott KP. Center for Transportation and the Environment, North Carolina State University, Raleigh, NC: p. 569.

[5] dB(A) – a weighted decibel average

[6] Ouis, D. 2001. Annoyance from road traffic noise: a review. Journal of Environmental Psychology. Vol. 21, pgs. 101-120.

[7] Op. Cit. Dooling & Popper 2007

use patterns by beachgoers, noise from vehicle traffic and parking, and associated noise from the adjacent highway (Highway 1). In previous coastal development permit actions involving development in similar areas, including CDP 5-08-242 (County of Los Angeles Department of Public Works) and CDP 4-07-116 (Caltrans), the Commission has typically found that 65 dB is an appropriate threshold noise levels at construction sites in order to minimize impacts to adjacent to environmentally sensitive habitat areas. Further, given Dooling and Popper's 2007 review findings that, while masking may occur below 93 dB, it is noise above this level that presents real problems for birds. In addition, given the fact that birds, like humans, are known to compensate in a number of behavioral and physical ways to ambient noise[8]; Commission staff have determined that 65 db is an appropriate noise threshold to apply to this project given the sensitive lagoon habitat. Therefore, to ensure that the applicant's proposed monitoring program is adequately implemented in a manner that will ensure that impacts to wildlife are avoided or minimized to the maximum extent feasible, **Special Condition One (1)** requires the applicant to retain the services of a qualified biologist or environmental resource specialist to conduct sensitive bird species surveys and monitor project operations associated with construction activities that will take place between February 15th and September 1st (the proposed project timeframe is June 1st to October 15th).

Special Condition One (1) also requires bird surveys to be conducted 30 calendar days prior to the listed activities to detect any active bird nests in all trees within 500 feet of the project site and requires a follow-up survey to be conducted 3 calendar days prior to the initiation of construction. Further, nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor or heron is found within 300 ft. of construction activities (500 ft. for raptors), the applicant is required to retain the services of an environmental resources specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The environmental resources specialist is required to monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site. If construction noise exceeds a peak level of 65 dB at the nest(s) site**,** sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels below the above referenced threshold, construction within 300 ft. of the nesting trees/areas (500 ft. for raptors) shall cease and may not recommence until either new sound mitigation can be employed or nesting is complete. Additionally**, Special Condition One (1)** requires the applicant to notify the appropriate State and Federal Agencies within 24 hours, including the Coastal Commission, and take action to mitigate any further disturbance specific to each agencies' requirements.

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[8] Op. Cit. Dooling & Popper 2007

2. Sensitive Aquatic Species

Steelhead

Malibu Lagoon is within the endangered Southern California Distinct Population Segment (DPS) of steelhead (*Oncorhynchus mykiss*) and is designated critical habitat for the species. Southern steelhead are anadromous (migrating from freshwater to the ocean as juveniles and returning to freshwater as an adult to spawn). Spawning occurs from December through June when higher winter stream flows occur.

The 2006 Final Environmental Impact Report states that patterns of steelhead presence and reproduction in Malibu Creek have been studied since the 1980's and are known to occur upstream within Malibu Creek. However, no steelhead adults or smolts were documented by the 2005 fish surveys in the lagoon. It should be noted that from July 2006 to October 2006, all fish in the upper watershed of Malibu Creek, including steelhead, died from unknown causes. In March 2007, only two fish were found in Malibu Creek and subsequently in 2008 several steelhead were observed, indicating a repopulation by this species (June 30, 2008 US Army Corps approval letter, *citing* Dagit and Abramson 2007).

The Army Corps of Engineers and the National Marine Fisheries Service determined that the project is not likely to affect steelhead or critical habitat for this species because: the project takes place outside of the steelhead migration window, siltation fences and an earthen berm will prevent steelhead from entering the construction zone and will prevent sedimentation and turbidity, the project is not expected to alter the natural breaching regime of the lagoon or interfere with adult and juvenile steelhead migration, aquatic habitat will be augmented, and any vegetation removed will be replaced, and best management practices are proposed (sediment control measures). (*See* USFWS letter, dated August 18, 2008, Agency Approvals).

Tidewater Goby and Tidewater Goby Critical Habitat

The tidewater goby (*Eucyclogobius newberryi*) is a federally endangered species and CDFG Species of Special Concern that was historically known to occur within the lagoon. However, according to the March 2006 FEIR, studies conducted between the late 1960's and the early 1990's indicated that this species had been absent from the project area since 1970. The species was re-introduced to this area in 1991 and the areas on the west side of the lagoon both upstream and downstream of the Pacific Coast Highway bridge consistently host gobies year round, with size classes and densities varying seasonally year round. (FEIR, p.6-15).

According to the USFWS Biological Opinion Amendment, dated January 8, 2010, tidewater gobies exhibit some general, but highly variable trends in seasonable population abundance and can be quite high during fall periods. The USFWS "believes that encountering high densities of tidewater gobies could occur at almost any time of

the year and that with the appropriate protective measures in place, adverse affects to tidewater gobies should be minimized regardless of project timing." (USFWS Biological Opinion Amendment, dated January 8, 2010).

The applicant is proposing to exclude tidewater gobies and other sensitive aquatic species from the project construction area (the western lagoon complex) through incorporating several protective measures required by the Fish and Wildlife Service and the Los Angeles District Army Corps of Engineers including: (1) pre-construction surveys of the project area conducted by a qualified biologist to determine if listed or proposed species are present, (2) when listed species are present and it is determined that they could be injured or killed by construction activities, a qualified biologist will identify methods for capture, handling, exclusion, and relocation of individuals that could be affected, (3) the project biologist will conduct, monitor, and supervise all capture, handling, exclusion, and relocation activities, (4) ensure sufficient personnel for safe and efficient collection of listed species, (5) Electrofishing may be implemented when all other standard fish capture methods would be ineffective; the project biologist must have appropriate training and experience in electrofishing techniques, (6) individual organisms will be relocated to the shortest distance possible to habitat unaffected by construction activities, (7) within occupied habitat, capture, handling, exclusion and relocation activities will be completed no earlier than 48 hours before construction begins to minimize the probability that listed species will recolonize the affected areas, (8) within temporarily drained stream channel areas, salvage activities will be initiated before or at the same time as stream area draining and completed within a time frame necessary to avoid injury and mortality of listed species, (9) a biologist will continuously monitor in-water activities (e.g. placement of cofferdams, dewatering of isolated areas) for the purpose of removing and relocating any listed species that were not detected or could not be removed and relocated prior to construction, (10) the project biologist will be present at the work site until all listed species have been removed and relocated, and (11) the project biologist will maintain detailed records of the species, numbers, life stages, and size classes of listed species observed, collected, relocated, injured, and killed, and the date and time of each activity or observation.

Additionally, **Special Condition Four (4)**, Final Dewatering Plan, requires the applicant to incorporate all tidewater goby, southern steelhead, and other sensitive aquatic species dewatering requirements outlined in the agency approvals into a Final Dewatering Plan. Special Condition Four also lists additional special requirements for protection of aquatic species during dewatering including: requiring the applicant to hire a qualified biologist, training sessions for all construction personnel prior to the onset of work, requiring qualified biologist to inspect the dewatered areas and construction site regularly to detect whether any tidewater gobies, southern steelhead or other fish are passing through the berm and/or cofferdam and investigate whether sensitive aquatic species protection measures are being implemented; requiring the qualified biologist to be present when the berms and/or cofferdams are removed and the construction area refilled with water to relocate any fish present in the construction area before completion of removal operations and to ensure successful reintroduction of aquatic habitat in the construction area; post-construction surveys for tidewater gobies, southern steelhead,

and other sensitive aquatic species; and a post-project monitoring report documenting the efforts to protect the tidewater goby, southern steelhead, and other sensitive aquatic species and the results.

3. Lagoon Vegetation

The habitat conditions within Malibu Lagoon are primarily a result of elevation and hydrology. Seventeen vegetation communities and habitats were mapped at the lagoon in a 2004 study. The diversity of vegetation is a result of several past restoration efforts. The vegetation communities include: southern willow scrub, atriplex scrub, baccharis scrub, mule fat scrub, Ventura coastal sage scrub, mixed scrub, southern coastal salt marsh, coastal and valley freshwater marsh, brackish marsh, southern sycamore alder riparian woodland, disturbed coastal dunes, non-native grassland, mudflat, sand beach/sandbar, open water and undeveloped land. (FEIR, p. 6-3) The project includes a proposal to salvage and transplant as much of the native vegetation as possible; however, much of the existing vegetation is proposed to be removed and the lagoon will be replanted with local native species. Although native vegetation will be removed, it will be replaced with more appropriate native vegetation communities appropriate to the site that will establish highly valuable functioning ecosystem in the long-term. In total, the project will serve to increase marsh habitat within the limit of work by approximately 4 acres (from approximately 5.2 to 9.2 acres) and increasing available subtidal and intertidal habitat by about an acre or 11%.

The proposed revegetation plan includes the initial planting and establishment of habitats within the lagoon, as well as ongoing maintenance and management activities to ensure that the restoration habitat objectives are achieved. Dr. Engel's September 22, 2010 memorandum explains that results from plant surveys within the lagoon reveal significantly impaired plant communities with a paucity of native estuarine species and large numbers of non-native species and indicates that restoration is necessary to restore the lagoon habitat. Vegetation restoration activities include appropriately designed slopes/elevations and sediment types, topsoil and sediment salvage and management, restoration planting and natural establishment, maintaining unvegetated habitat areas, minimizing habitat loss from seasonal inundation, and long-term habitat maintenance elevations. The applicant has submitted a planting program, including salt panne, low marsh, mid-high marsh, high marsh transitional, and coastal scrub habitats. In order to ensure that the applicant's proposal to revegetate all areas of the site that will be disturbed as a result of the restoration/construction activities is adequately implemented, **Special Condition Six (6)** requires that, prior to issuance of the coastal development permit, the applicant shall submit a final Plant Community Restoration, Monitoring, and Reporting Plan with specifications regarding vegetation plantings, a specific monitoring protocol with performance criteria, and reporting plan to provide detailed information about the status of the habitat restoration plan to be submitted to the Executive Director. **Special Condition Six (6)** requires the applicant to implement a monitoring program for a period of five years after the completion of initial planting in order to ensure the success of the restoration efforts. The applicant shall submit, upon completion of the initial habitat restoration/enhancement, a written report prepared by the environmental resources specialist, for the review and approval of the Executive

Director, documenting the completion of the initial restoration/enhancement work. After initial restoration/enhancement activities are completed, the applicant shall submit, for the review and approval of the Executive Director, on an annual basis for a period of five (5) years, a written monitoring report prepared by the environmental resources specialist(s) indicating the progress and relative success or failure of the restoration/enhancement. This report shall also include further recommendations and requirements for additional restoration/enhancement activities, if necessary, in order for the project to meet the success criteria and performance standards.

Moreover, **Special Condition Six (6)** requires a final detailed report on the habitat restoration/enhancement be submitted by the applicant for the review and approval of the Executive Director. If this report indicates that the habitat restoration/enhancement has, in part, or in whole, been unsuccessful, based on the success criteria and performance standards specified in the monitoring program, the applicant shall submit within 90 days a revised or supplemental habitat restoration/enhancement plan to compensate for those portions of the original plan which did not meet the approved success criteria and performance standards. The Executive shall determine whether implementation of the revised or supplemental plan is consistent with the terms and provisions of the Commission's approval of CDP 4-07-098 or whether the plan will require an amendment to this permit. This revised or supplemental plan shall be implemented by the applicant within 90 days after the plan is approved by the Executive Director, unless the Executive Director either: (1) grants additional time for good cause or (2) determines that an amendment is required. If the Executive Director determines that the revised or supplemental plan requires an amendment to this permit, then the applicant, shall submit a complete application for an amendment to this permit within 90 days after such determination.

Additionally, the adjacent riparian, wetland, and marine environment could be adversely impacted as a result of the implementation of project activities by unintentionally introducing sediment, debris, or chemicals with hazardous properties. To ensure that construction material, debris, or other waste associated with project activities does not enter the water or sensitive lagoon habitat, **Special Condition Two (2)** requires the applicant to submit final erosion control plans. Additionally**, Special Condition Three (3)** is necessary to define the applicant's responsibility ensure proper erosion control and implement construction best management practices, including disposal of solid debris and construction material unsuitable for placement into the marine environment. As provided under **Special Condition Three (3),** it is the applicant's responsibility to ensure that no construction materials, debris or other waste is placed or stored where it could be subject to erosion and dispersion. Special Condition Three (3) assigns responsibility to the applicant that any and all construction debris, sediment, or trash shall be properly contained and removed from construction areas within 24 hours. Furthermore, **Special Condition Nine (9)** requires that any herbicides, if necessary for revegetation, shall not be used in any open water areas on the project site. Herbicide use in upland areas shall be restricted to the use of Glyphosate Aquamaster^{TM} (previously Rodeo^{TM}) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only.

Moreover, to ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alternation and wetland fill, inconsistent with Section 30240 of the Coastal Act, the Commission finds it necessary to require the applicant to dispose of all excess excavated material at an appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition Sixteen (16)**. In addition, **Special Condition Eleven (11)** requires the applicant obtain all other necessary State or Federal permits, including the USFWS, NMFS, Fish and Game, and Regional Water Quality Control Board, that may be necessary for all aspects of the proposed project because the proposed project includes work within streams, wetland areas, and tidally influenced areas. The project has already obtained the approvals listed in Agency Approvals and Reviews, on page 8 of this staff report.

Finally, **Special Condition Seventeen (17)** requires the applicant to implement measures to assure that the invasive aquatic species, the New Zealand mud snail, is not spread as a result of this project. Surveys conducted in Spring 2006 found the invasive New Zealand mud snail (*Potamopyrgus atipodarum)* in the Malibu Creek watershed. The tiny snails reproduce rapidly and can achieve densities of up to 500,000 organisms per square meter. Because of their massive density and quantity, the New Zealand mud snail can out-compete and reduce the number of native aquatic invertebrates that the watershed's fish and amphibians rely on for food. This reduction in aquatic invertebrate food supply can disrupt the entire food web with dramatic consequences. **Special Condition Seventeen (17)** requires the applicant to: pressure wash and steam clean all vehicles (including wheels and undercarriages), equipment, protective gear (e.g., waders, boots) and tools prior to and after use. Pressure washing and steam cleaning will take place at a wash site that will be inspected and maintained and will incorporate measures to control off-site soil or runoff outside of the wash station. Documentation logs of inspection and maintenance activities will be kept. Further, all rinse water will be collected and disposed of in a sanitary sewer or in another manner approved by the State's Representative. A chest freezer, equipped with a padlock, will be kept onsite to sterilize boots, waders, and other equipment. All boots and waders used during construction will remain onsite during the duration of the construction period. Upon completion of construction, boots and waders will be frozen for a minimum of 48 hour and will be placed in plastic bags, labeled with the date and time that they were placed in the freezer, and noted in a log book. All sandbags, silt fencing, and other materials that come into contact with water and/or soil will be allowed to thoroughly dry (without soil contact) in the sun for a minimum of 72 hours before being moved off site. Lastly, all trucks transporting construction debris and/or excavated soil to disposal sites will be covered.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30236, and 30240 of the Coastal Act.

F. HAZARDS AND SHORELINE PROCESSES

Section **30253** of the Coastal Act, which is incorporated as part of the Malibu LCP, states in part that new development shall:

> ***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
>
> ***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs***

In addition, the following LCP policies are applicable in this case:

> ***4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.***
>
> ***4.5 Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.***
>
> ***4.10 New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams***.
>
> ***6.29 Cut and fill slopes and other areas disturbed by construction activities shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:***
>
> - ***Plantings shall be of native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.***
> - ***Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.***
> - ***Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.***
> - ***Lawn shall not be located on any geologically sensitive area such as coastal blufftop.***
> - ***Landscaping or revegetation shall provide 90 percent coverage within five years. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.***

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. The purpose of the proposed project is to restore and enhance Malibu Lagoon. The proposed project

includes extensive dredging and earthwork in order to recontour the lagoon and create appropriate channels and elevations for the purpose of wetland restoration. Ultimately, the project is expected to increase lagoon capacity. The project includes 51,200 cu. yds. of excavation and 37,500 cu. yds. fill with 13,700 cu. yds. export. This includes earthwork necessary to create the temporary berm that will be constructed to separate the western lagoon complex from the main lagoon channel. Some of this material will be temporarily stockpiled adjacent to the lagoon in the existing parking lot area. The Commission notes that excavated materials that are placed in stockpiles are subject to increased erosion and potential adverse effects to adjacent streams and wetland areas from sedimentation and increased turbidity. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. Therefore, in order to ensure that dredged material will not be permanently stockpiled on site and that erosion and resedimentation of the streams on site are minimized during any temporary stockpiling activities, **Special Condition Three (3**) also requires that any stockpiled materials shall be located as far from the stream or wetland areas on site as feasible. Temporary erosion control measures (such as sand bag barriers, silt fencing; swales, etc.) shall be implemented in the event that temporary stockpiling of material is required. These temporary erosion control measures shall be monitored and maintained until all stockpiled fill has been removed from the project site. Permanent stockpiling of material on site shall not be allowed. Additionally, **Special Condition Two (2)** requires the applicant to submit final erosion control plans.

In addition, the Commission notes that the proposed development is located in a tidally influenced lagoon habitat subject to potential hazards from flooding. As such, the Commission notes that evidence exists that the project site is subject to potential risks due to erosion, and flooding. The Coastal Act recognizes that certain types of development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the unforeseen possibility of erosion and flooding, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Twelve (12)** requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Several letters were received from residents of the adjacent Malibu Colony community related to fire hazards. The residents have raised concerns about a potential increase in fire hazard due the proposed revegetation within Malibu Lagoon. (**Exhibit 24)** The applicant has responded to Malibu Colony residents' concerns that revegetation of the lagoon may increase fire danger by re-designing the project to only include native "low-flammability" plant species, ensuring that no plant species will be used for revegetation

on site that are listed by the County of Los Angeles Fire Department Fuel Modification Unit as "undesirable" for fuel modification purposes, The existing site contains tall, dense stands of ornamental trees and shrubs, non-native salt bush, and mixed scrub. The proposed planting plan includes removing these highly flammable species and planting less flammable native species. Further, the applicant has modified the project, in response to the adjacent private property owner's concerns, to now include drainage swales along the perimeter of the Adamson House wall, planted with low ground cover type wetland and upland plants to collect surface drainage and stormwater flows. Thus, in response to comments received by the adjacent private property owners, the project has been revised to reduce the fire risk (compared to current site conditions with the existing vegetation) and to meet all Los Angeles County Fire Department fuel modification standards.

Further, as noted above, Malibu Colony residents raised concerns that the proposed boundary wall will eliminate emergency fire ingress/egress to public park land that currently exists. However, although some residences do have a private access gate, many do not have a private access gate to State Parks property for an emergency escape route. In addition, no evidence has been provided to Commission staff that the Fire Department requires private access gates for emergency fire access to or through Malibu Lagoon, either for escape routes or for ingress/egress to respond to a fire or emergency situation. Further, the private residential gates do not provide public access to or from the State Park for members of the public.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253 and with all relevant policies of the adopted City of Malibu Local Coastal Program.

G. PUBLIC ACCESS AND VISUAL RESOURCES

Coastal Act Section **30210** states that:

> ***In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.***

Coastal Act Section **30214** states:

> ***(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:***
>
> ***(1) Topographic and geologic site characteristics.***
>
> ***(2) The capacity of the site to sustain use and at what level of intensity.***

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

In addition, the City of Malibu certified LUP contains policies that protect public access:

Policy 2.23 states the following:

No new structures or reconstruction shall be permitted on a bluff face, except for stairways or accessways to provide public access to the shoreline or beach or routine repair and maintenance or to replace a structure destroyed by natural disaster.

Section 30251 of the Coastal Act, which is incorporated as part of the Malibu LCP, requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

In addition, the following LCP visual resource policies are applicable in this case:

6.1 The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.

6.2 Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are

views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.

6.4 Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.

6.5 New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

6.6 Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.

6.13 New development in areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape. The use of highly reflective materials shall be prohibited.

6.15 Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public viewing areas.

6.23 Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.

Coastal Act section 30210 mandates that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Coastal Act 30214 requires that specific site characteristics, including the fragility of natural resources, be taken into account when evaluating the time, place, and manner of public access. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The proposed project will be located adjacent to and within public recreational areas including Malibu Lagoon State Beach and adjacent to Surfrider Beach. This area is a popular area for recreational uses, including nature walks, surfing, sunbathing, birdwatching, picnicking and other coastal activities. A major part of the proposed project includes several public access, educational/interpretative improvements. The existing primary accessway built to connect the previously existing parking lot and landward area to the beach is a boardwalk with a series of bridges bisecting the lagoon. This path will be removed in order to allow lagoon habitat and tidal circulation to be restored. There is currently a lesser used pathway that arcs from the new parking lot around the perimeter of the western lagoon to the beach. This path will be improved and will serve as the primary beach access way. This pathway will be located outside of the restored lagoon area and will not require any construction within the lagoon or placement of any hard structures in the lagoon. A perimeter wall is proposed along the southern boundary adjacent to the existing location of several fences, including private gates, separating the lagoon from the Malibu Colony residential area. The 6 ft. tall, and approximately 880 ft. long masonry wall will extend the length of the southern boundary of the State Park property. It is designed to match the perimeter wall of the historic Adamson House located just to the east of Malibu Lagoon State Beach.

Additionally, the proposed restoration activities will result in some potential temporary disruption to the public's ability to use the area, including the temporary closure of the public beach access trail during demolition and relocation and potentially portions of the public parking lot during construction. In addition, the Commission notes that the restoration activities are proposed during the summer and fall months when visitor-use of Malibu Lagoon State Beach is high. However, the timing of operations, from June 1st to October 15th, is necessary in order to allow work to occur with the least biological and hydrological impacts while the lagoon mouth is closed, including avoiding steelhead migrating season as noted above. In order to minimize these temporary impacts to public access, the applicant proposes to maintain beach access on site during construction via an alternate route around the lagoon. The parking lot is expected to be partially open during construction; however, signage will direct the public to alternative parking locations along the street nearby. Therefore, to ensure that maximum access is maintained for the public in the project area consistent with Coastal Act Section 30210, **Special Condition One (1)** requires that all dewatering, grading, and restoration, including any restrictions on public access, be prohibited on any part of the lagoon in the project area on Saturdays and Sundays, thereby removing the potential for construction-related disturbances to conflict with weekend visitor activities. In this way, scheduling operations outside of peak recreational times will serve to minimize potential impacts on public access.

Furthermore, to ensure the safety of recreational users of the project site and to ensure that the interruption to public access of the project site is minimized, the Commission requires the applicant to submit a public access plan, pursuant to **Special Condition Ten (10),** to the Executive Director for review and approval. **Special Condition Ten (10)** requires a description of the methods (including signs, fencing, posting or security guards, etc.) by which safe public access to and around the receiver site shall be

maintained during and after restoration activities. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces that are occupied for the staging of equipment, machinery and employee parking shall be used. Additionally, excavated material will be temporarily stockpiled in designated areas. Stockpiled materials may be temporarily visible from several public viewing areas including Pacific Coast Highway, but will not result in any significant adverse impacts to public views.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, and 30251 of the Coastal Act and with all relevant policies of the adopted City of Malibu Local Coastal Program.

H. ARCHAEOLOGICAL RESOURCES

Coastal Act Section 30244 of the Coastal Act states that:

> ***Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.***

In addition, the following Malibu LCP archeological resource policies are applicable:

> ***5.60 New development shall protect and preserve archaeological, historical and paleontological resources from destruction, and shall avoid and minimize impacts to such resources.***
>
> ***5.61 Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.***
>
> ***5.62 The City should coordinate with appropriate agencies, such as the UCLA Archaeological Center, to identify archaeologically sensitive areas. Such information should be kept confidential to protect archaeological resources.***
>
> ***5.63 Coastal Development Permits for new development within archaeologically sensitive areas shall be conditioned upon the implementation of the appropriate mitigation measures.***
>
> ***5.64 New development on sites identified as archaeologically sensitive shall include on-site monitoring of all grading, excavation and site preparation that involve earth moving operations by a qualified archaeologist(s) and appropriate Native American consultant(s).***

Additionally, Chapter 11 of the City of Malibu's Implementation Plan requires that a Cultural Resource Review be conducted for all projects prior to the issuance of a planning approval or development permit to assure that archaeological/cultural resources are protected.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The Coastal Act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures. Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction.

Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

Malibu Lagoon is located within the historic territory of Chumash Native Americans. A historic Chumash village, *Humaliwo*, was located beyond the northeastern side of the lagoon on a small rise overlooking the lagoon at the present site of the Adamson House (a historic residence on the National Register of Historic Places and listed as California Historical Landmark No.966). (FEIR, p.7-3) Various cultural remains have been documented at this site including an extensive shell midden, glass and shell beads, fish and whale effigies, as well as more than 200 human burial grounds. The village is documented as archeological site CA-LAN-264, which dates back at least 3,000 years. (FEIR, p. 7-4) The project area was mapped in relation to the known boundaries of CA-LAN-264 and the archeological site lies immediately east of the main lagoon channel, adjacent to the Adamson House boat house. In order to minimize the potential for adverse effects to cultural resources that could be buried in lagoon sediment adjacent to the site, the proposed restoration activities will be conducted only using hand tools in this area. However, the Commission notes that potential adverse effects to those resources may still occur due to inadvertent disturbance during dredging activity. To ensure that impacts to archaeological resources are minimized, **Special Condition Fifteen (15)** requires that if project activities are undertaken within an area known to have archaeological resources, the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all restoration activities which occur within or adjacent to the archaeological sites in the project area. The restoration operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, work in the area will be stopped and appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist and the native American consultant consistent with CEQA guidelines.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30244 of the Coastal Act.

I. CEQA

Sections 13096(a) and 13057(c) of the Commission's administrative regulations require Commission approval of a Coastal Development Permit application to include findings supporting the conclusion that the approval of the application, as conditioned by any conditions of approval, is consistent with any applicable requirements of the California

Environmental Quality Act (CEQA), Cal. Pub. Res. Code ("PRC") §§ 21000 *et seq.*, including specific findings evaluating the conformity of the development with the requirements of PRC section 21080.5(d)(2)(A). Section 21080.5(d)(2)(A) prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings regarding the project's consistency with the Coastal Act and the City of Malibu LCP at this point as if set forth here in full. Those findings identify the following potentially substantial adverse impacts that the proposed project could have on the environment: impacts to sensitive aquatic and terrestrial species, including avian species, lagoon vegetation, water quality, flooding hazards, erosion, public access, and archeological resources. As discussed in detail above, for each such impact, project alternatives and mitigation measures have been considered and incorporated into the project to substantially lessen any significant adverse effect.

Five types of mitigation measures include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures and/or alternatives required as part of this coastal development permit include the avoidance of impacts to ESHA and sensitive biological resources through timing and operational constraints, grading and construction monitoring, and biological monitoring (see Sections IV.C and IV.E, on pages 41 to 66, above), and include the avoidance of impacts to water quality through hydrological monitoring and following Regional Water Quality Control Board requirements (see Section IV.D on pages 44 to 55, above.) Mitigation measures and/or alternatives required as part of this coastal development permit to avoid erosional hazards include requirements for erosion control plans and project management requirements and are discussed in Section IV.F (on pages 67 to 70). Mitigation measures and/or alternatives required to minimize adverse impacts to public access include restrictions on the timing of the project and a requirement for a public access plan including signage and fencing, as discussed in Section IV.G (on pages 70 to 73). Finally, mitigation measures and/or alternatives are required to minimize impacts to archeological resources, including monitoring by an archeologist and a Native American consultant during all ground-disturbing activities adjacent to recorded archeological sites, as discussed in Section IV.H (pages 73 to 74).

As noted above, the project was also evaluated in the Malibu Lagoon Restoration and Enhancement Plan Final Environmental Impact Report (EIR), SCH# 2005101123, adopted by the California Department of Parks and Recreation, dated March 2006. All of the mitigation measures required in the EIR have been considered and incorporated as conditions of this project approval.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of the Coastal Act to conform to CEQA.

Finally, these findings also address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Those comments and the Commission's responses are summarized on pages 3-6, in the "Comment Letters" section of the Summary of Staff Report, which section is adopted as part of the Commission's findings and incorporated at this point as if set forth here in full, and are also included within Section IV.C through F of this report. One procedural issue was raised as well. The Wetlands Defense Fund, along with approximately 15 other form letters from residents of the Malibu Colony community (**Exhibit 24**) were submitted to the commission to request additional time to comment and review the July 29, 2010 staff report and recommendation. In part in response to those requests, the Commission postponed the hearing on this matter from its August meeting to this October meeting, providing the public approximately 75 days to review the staff recommendation.

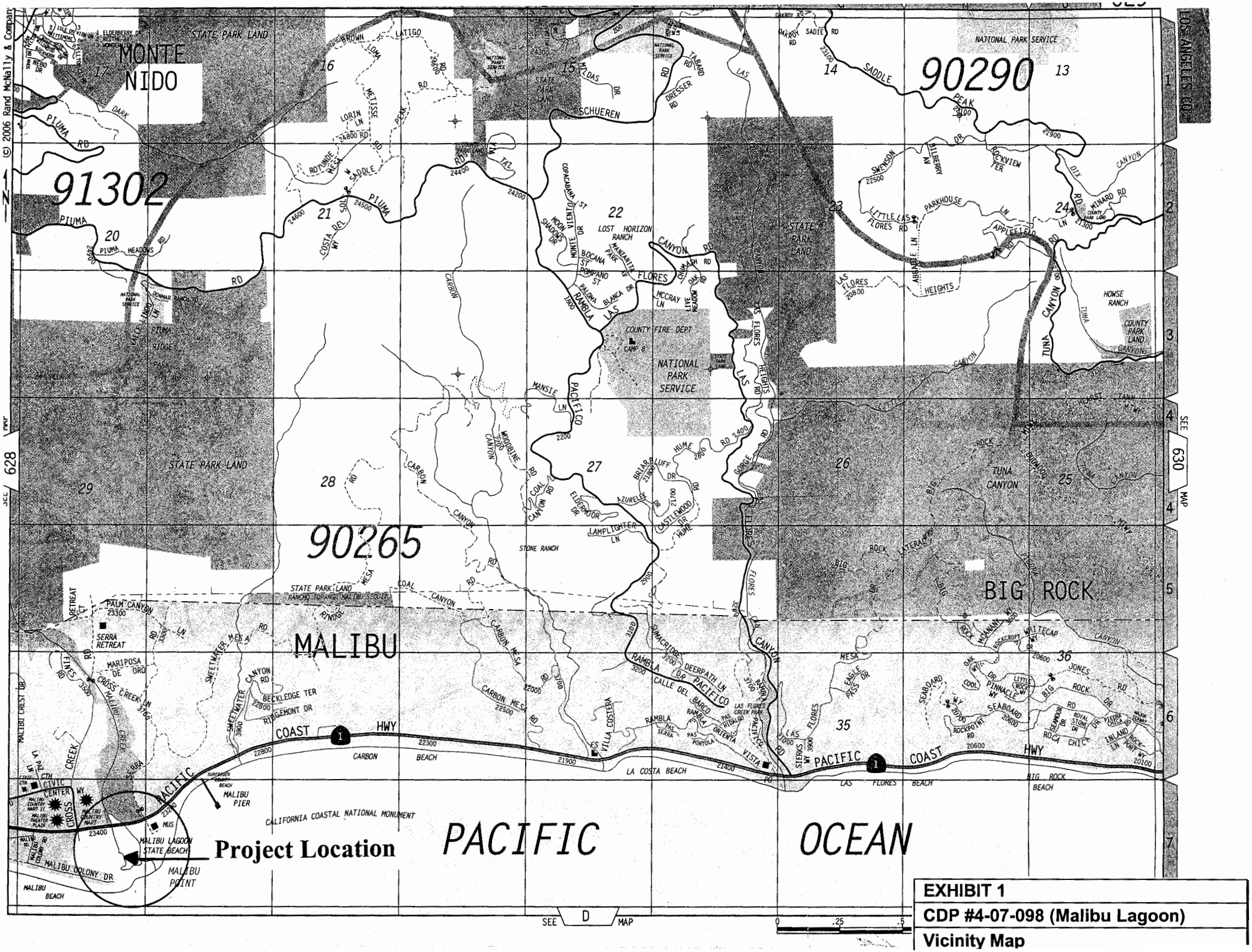
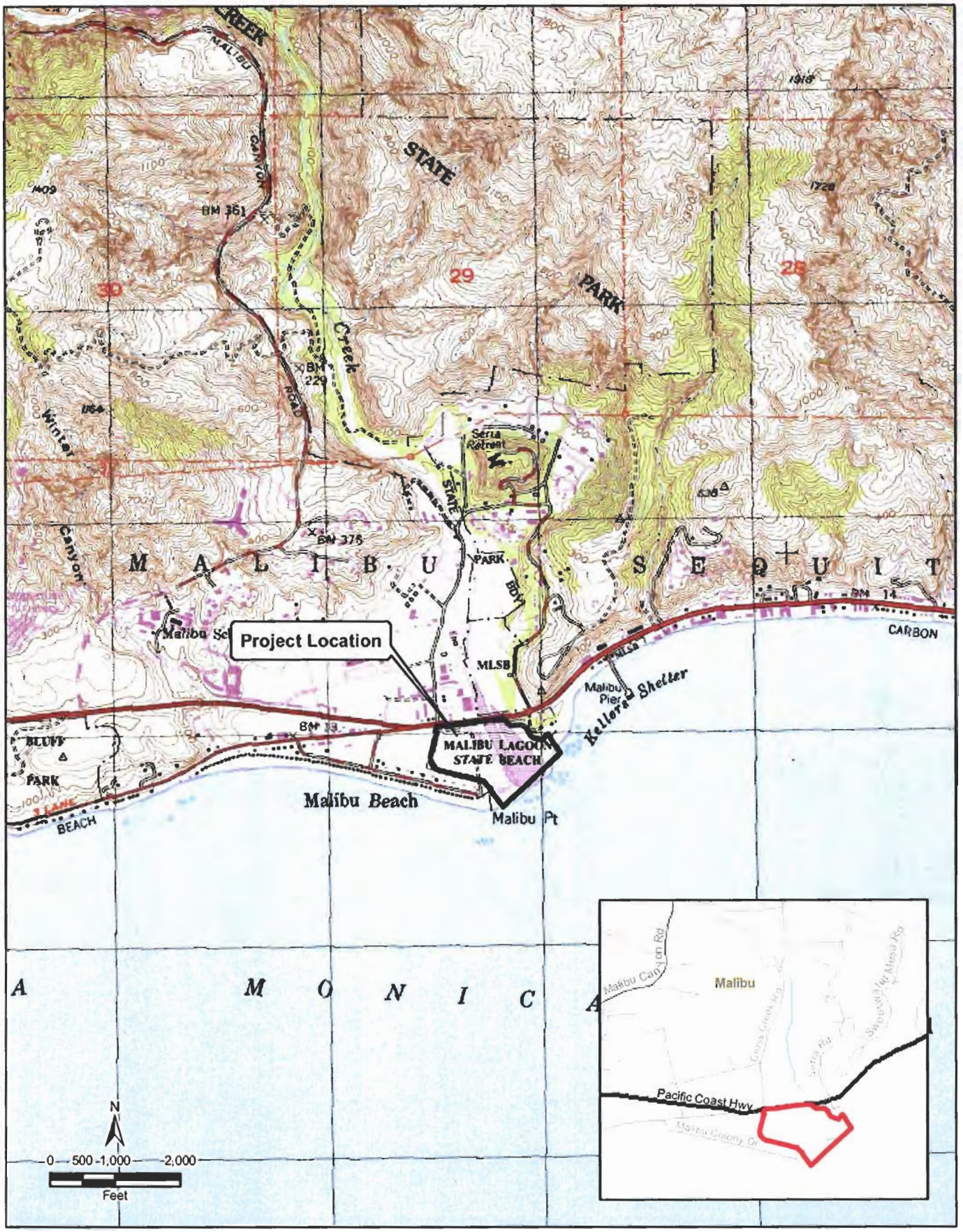


EXHIBIT 1

CDP #4-07-098 (Malibu Lagoon)

Vicinity Map



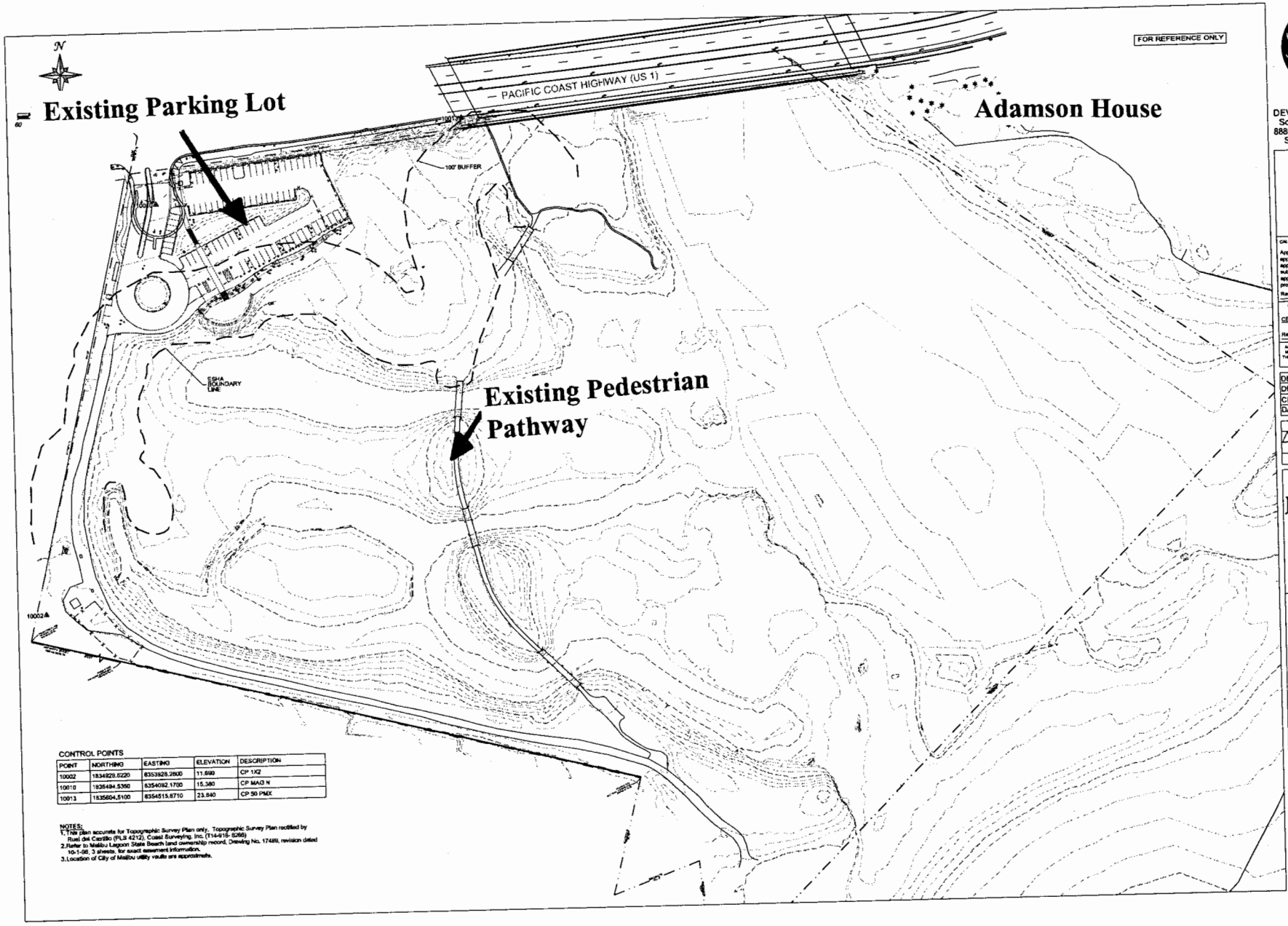
SOURCE: USGS 7.5' Quad., California: Malibu (1982)

Figure 1
Project Location

Jones & Stokes

Malibu Lagoon Restoratio

EXHIBIT 2
CDP #4-07-098 (Malibu Lagoon)
Project Location Map



CALIFORNIA STATE PARKS SINCE 1864

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL - APPROVED
Approval of this plan does not authorize or approve any omission of deviation from applicable regulations. Final approval is subject to field inspection. One set of approved plans shall be available on the project site at all times.
Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION
CERTIFICATION #
Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTH-HERN SERVICE CENTER

DESIGNED:	SS
DRAWN:	JS/KT
CHECKED:	SS
DATE:	10/05/07

REVISIONS
DATE

Jones & Stokes
2600 V Street, Sacramento, CA 95818

PROJECT: 65% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

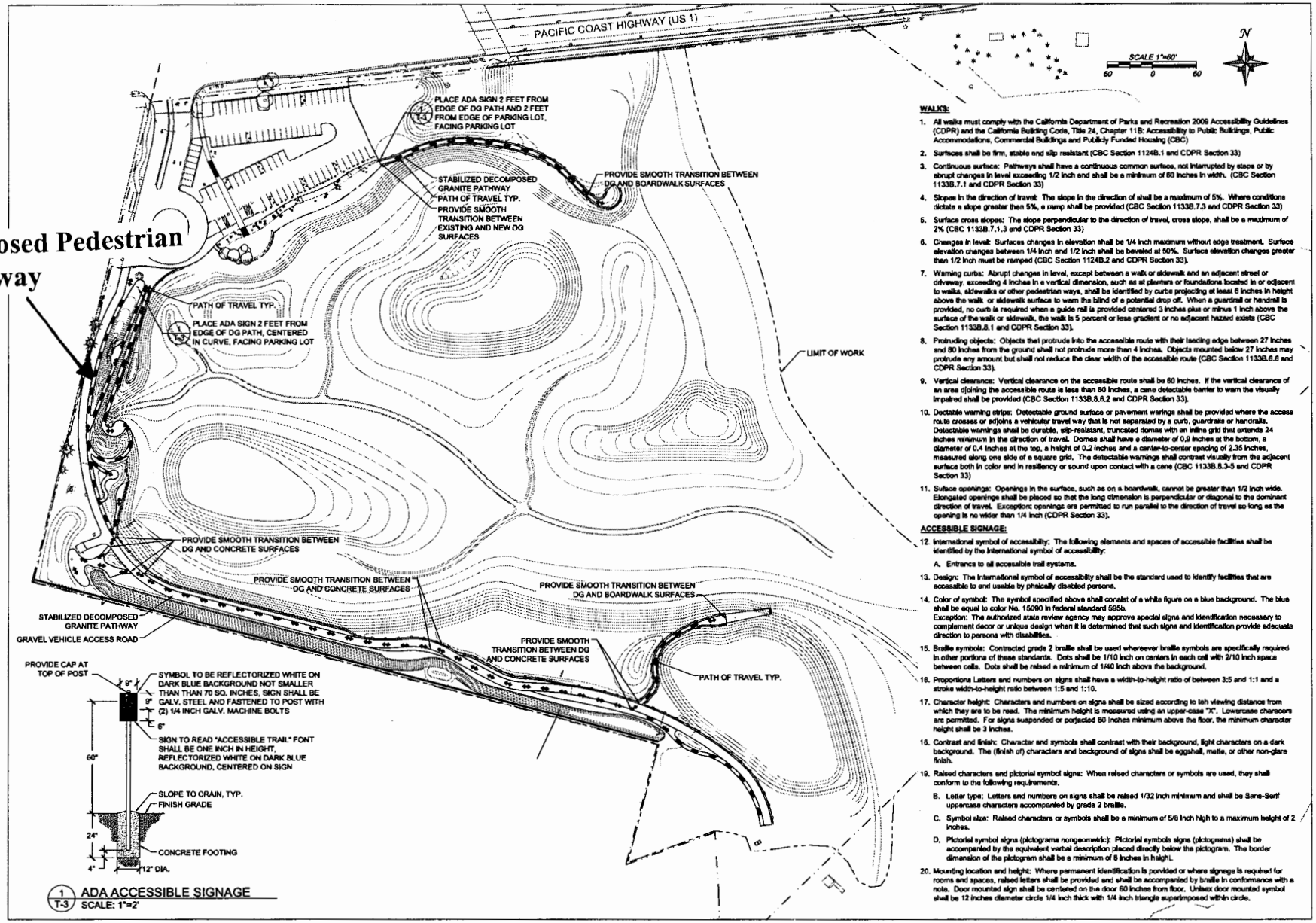
SHEET TITLE: TOPOGRAPHIC SURVEY (FOR REFERENCE ONLY)

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. T-4

SHEET NO. 4 OF 24

EXHIBIT 3
CDP #4-07-098 (Malibu Lagoon)
Existing Site



WALKS:

1. All walks must comply with the California Department of Parks and Recreation 2009 Accessibility Guidelines (CDPR) and the California Building Code, Title 24, Chapter 11B: Accessibility to Public Buildings, Public Accommodations, Commercial Buildings and Publicly Funded Housing (CBC)
2. Surfaces shall be firm, stable and slip resistant (CBC Section 1124B.1 and CDPR Section 33)
3. Continuous surface: Pathways shall have a continuous common surface, not interrupted by steps or by abrupt changes in level exceeding 1/2 inch and shall be a minimum of 60 inches in width. (CBC Section 1133B.7.1 and CDPR Section 33)
4. Slopes in the direction of travel: The slope in the direction of shall be a maximum of 5%. Where conditions dictate a slope greater then 5%, a ramp shall be provided (CBC Section 1133B.7.3 and CDPR Section 33)
5. Surface cross slopes: The slope perpendicular to the direction of travel, cross slope, shall be a maximum of 2% (CBC 1133B.7.1.3 and CDPR Section 33)
6. Changes in level: Surfaces changes in elevation shall be 1/4 inch maximum without edge treatment. Surface elevation changes between 1/4 inch and 1/2 inch shall be beveled at 50%. Surface elevation changes greater than 1/2 inch must be ramped (CBC Section 1124B.2 and CDPR Section 33).
7. Warning curbs: Abrupt changes in level, except between a walk or sidewalk and an adjacent street or driveway, exceeding 4 inches in a vertical dimension, such as at planters or foundations located in or adjacent to walks, sidewalks or other pedestrian ways, shall be identified by curbs projecting at least 6 inches in height above the walk or sidewalk surface to warn the blind of a potential drop off. When a guardrail or handrail is provided, no curb is required when a guide rail is provided centered 3 inches plus or minus 1 inch above the surface of the walk or sidewalk, the walk is 5 percent or less gradient or no adjacent hazard exists (CBC Section 1133B.8.1 and CDPR Section 33).
8. Protruding objects: Objects that protrude into the accessible route with their leading edge between 27 inches and 80 inches from the ground shall not protrude more than 4 inches. Objects mounted below 27 inches may protrude any amount but shall not reduce the clear width of the accessible route (CBC Section 1133B.6.6 and CDPR Section 33).
9. Vertical clearance: Vertical clearance on the accessible route shall be 80 inches. If the vertical clearance of an area djoining the accessible route is less than 80 inches, a cane detectable barrier to warn the visually impaired shall be provided (CBC Section 1133B.8.8.2 and CDPR Section 33).
10. Dectable warning strips: Detectable ground surface or pavement warings shall be provided where the access route crosses or adjoins a vehicular travel way that is not separated by a curb, guardrails or handrails. Detectable warnings shall be durable, slip-resistant, truncated domes with an inline grid that extends 24 inches minimum in the direction of travel. Domes shall have a diameter of 0.9 inches at the bottom, a diameter of 0.4 inches at the top, a height of 0.2 inches and a center-to-center spacing of 2.35 inches, measured along one side of a square grid. The detectable warnings shall contrast visually from the adjacent surface both in color and in resiliency or sound upon contact with a cane (CBC 1133B.8.3-5 and CDPR Section 33)
11. Suface openings: Openings in the surface, such as on a boardwalk, cannot be greater than 1/2 inch wide. Elongated openings shall be placed so that the long dimension is perpendicular or diagonal to the dominant direction of travel. Exception: openings are permitted to run parallel to the direction of travel so long as the opening is no wider than 1/4 inch (CDPR Section 33).

ACCESSIBLE SIGNAGE:

12. International symbol of accessibility: The following elements and spaces of accessible facilities shall be identified by the International symbol of accessibility:
    A. Entrance to all accessible trail systems.
13. Design: The International symbol of accessibility shall be the standard used to identify facilities that are accessible to and usable by phisically disabled persons.
14. Color of symbol: The symbol specified above shall consist of a white figure on a blue background. The blue shall be equal to color No. 15090 in federal standard 595b.
    Exception: The authorized state review agency may approve special signs and identification necessary to complement decor or unique design when it is determined that such signs and identification provide adequate direction to persons with disabilities.
15. Braille symbols: Contracted grade 2 braille shall be used whereever braille symbols are specifically required in other portions of these standards. Dots shall be 1/10 inch on centers in each cell with 2/10 inch space between cells. Dots shall be raised a minimum of 1/40 inch above the background.
16. Proportions Letters and numbers on signs shall have a width-to-height ratio of between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10.
17. Character height: Characters and numbers on signs shall be sized according to teh viewing distance from which they are to be read. The minimum height is measured using an upper-case "X". Lowercase characers are permitted. For signs suspended or porjected 80 inches minimum above the floor, the minimum character height shall be 3 inches.
18. Contrast and finish: Character and symbols shall contrast with their background, light characters on a dark background. The (finish of) characters and background of signs shall be eggshell, matte, or other non-glare finish.
19. Raised characters and pictorial symbol signs: When raised characters or symbols are used, they shall conform to the following requirements.
    B. Letter type: Letters and numbers on signs shall be raised 1/32 inch minimum and shall be Sans-Serif uppercase characters accompanied by grade 2 braille.
    C. Symbol size: Raised characters or symbols shall be a minimum of 5/8 inch high to a maximum height of 2 inches.
    D. Pictorial symbol signs (pictograms nongeometric): Pictorial symbols signs (pictograms) shall be accompanied by the equivalent verbal description placed directly below the pictogram. The border dimension of the pictogram shall be a minimum of 6 inches in height.
20. Mounting location and height: Where permanent identification is porvided or where signage is required for rooms and spaces, raised letters shall be provided and shall be accompanied by braille in conformance with a note. Door mounted sign shall be centered on the door 60 inches from floor. Unisex door mounted symbol shall be 12 inches diameter circle 1/4 inch thick with 1/4 inch triangle superimposed within circle.

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8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL- APPROVED

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Reviewed by Date

CDPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

DESIGNED:	SS
DRAWN:	AA/KT/PW
CHECKED:	SS/KM
DATE:	09/14/10

REVISIONS

	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8864

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

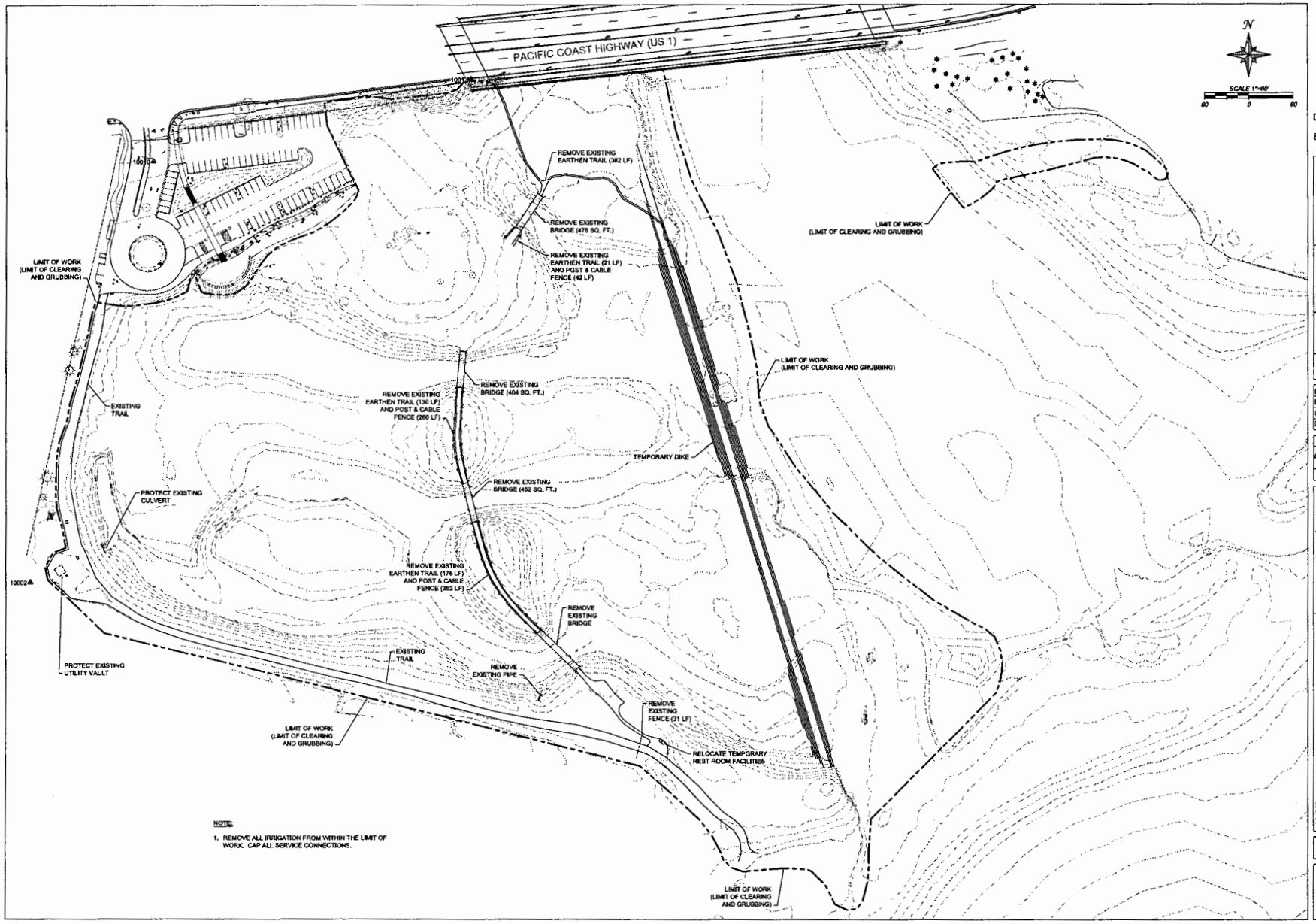
SHEET TITLE: ACCESSIBILITY COMPLIANCE

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. T-3

SHEET NO. 3 OF 48

EXHIBIT 4
CDP #4-07-098 (Malibu Lagoon)
Site Plan



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ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

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Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

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DESIGNED:	SS
DRAWN:	JS/KT
CHECKED:	SS
DATE:	10/05/07

REVISIONS	
	DATE

Jones & Stokes
3900 V Street, Sacramento, CA 95818

PROJECT: 65% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

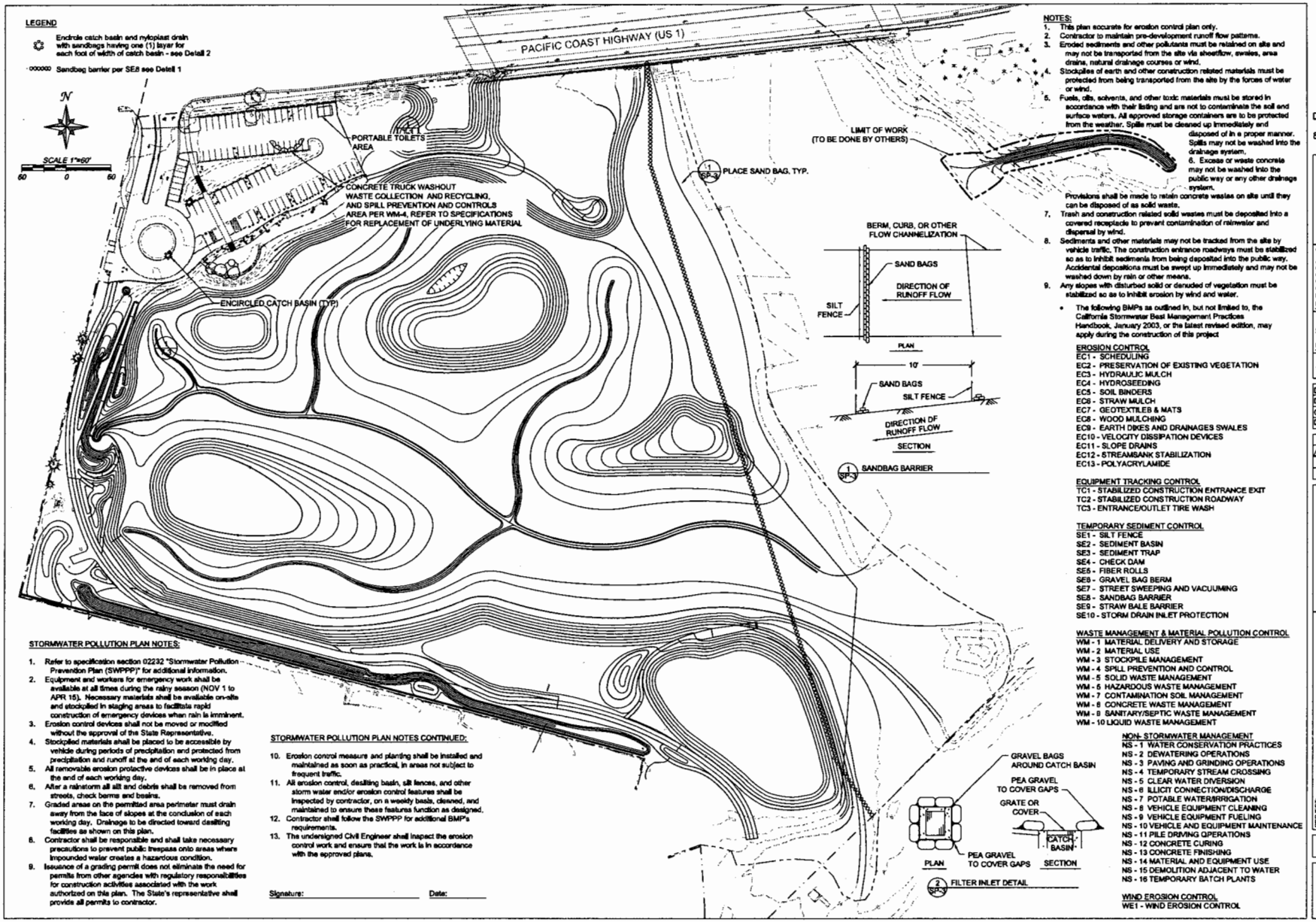
SHEET TITLE: SITE PREPARATION - DEMOLITION PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
23200 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. SP-2

SHEET NO. 6 OF 24

EXHIBIT 5
CDP #4-07-098 (Malibu Lagoon)
Trail Demolition Plan



NOTES:

1. This plan accurate for erosion control plan only.
2. Contractor to maintain pre-development runoff flow patterns.
3. Eroded sediments and other pollutants must be retained on site and may not be transported from the site via sheetflow, swales, area drains, natural drainage courses or wind.
4. Stockpiles of earth and other construction related materials must be protected from being transported from the site by the forces of water or wind.
5. Fuels, oils, solvents, and other toxic materials must be stored in accordance with their listing and are not to contaminate the soil and surface waters. All approved storage containers are to be protected from the weather. Spills must be cleaned up immediately and disposed of in e proper manner. Spills may not be washed into the drainage system.
6. Excess or waste concrete may not be washed into the public way or any other drainage system.

Provisions shall be made to retain concrete wastes on site until they can be disposed of as solid waste.

7. Trash and construction related solid wastes must be deposited into a covered receptacle to prevent contamination of rainwater and dispersal by wind.
8. Sediments and other materials may not be tracked from the site by vehicle traffic. The construction entrance roadways must be stabilized so as to inhibit sediments from being deposited into the public way. Accidental depositions must be swept up immediately and may not be washed down by rain or other means.
9. Any slopes with disturbed solid or denuded of vegetation must be stabilized so as to inhibit erosion by wind and water.

- The following BMPs as outlined in, but not limited to, the California Stormwater Best Management Practices Handbook, January 2003, or the latest revised edition, may apply during the construction of this project

EROSION CONTROL
EC1 - SCHEDULING
EC2 - PRESERVATION OF EXISTING VEGETATION
EC3 - HYDRAULIC MULCH
EC4 - HYDROSEEDING
EC5 - SOIL BINDERS
EC6 - STRAW MULCH
EC7 - GEOTEXTILES & MATS
EC8 - WOOD MULCHING
EC9 - EARTH DIKES AND DRAINAGES SWALES
EC10 - VELOCITY DISSIPATION DEVICES
EC11 - SLOPE DRAINS
EC12 - STREAMSANK STABILIZATION
EC13 - POLYACRYLAMIDE

EQUIPMENT TRACKING CONTROL
TC1 - STABILIZED CONSTRUCTION ENTRANCE EXIT
TC2 - STABILIZED CONSTRUCTION ROADWAY
TC3 - ENTRANCE/OUTLET TIRE WASH

TEMPORARY SEDIMENT CONTROL
SE1 - SILT FENCE
SE2 - SEDIMENT BASIN
SE3 - SEDIMENT TRAP
SE4 - CHECK DAM
SE5 - FIBER ROLLS
SE6 - GRAVEL BAG BERM
SE7 - STREET SWEEPING AND VACUUMING
SE8 - SANDBAG BARRIER
SE9 - STRAW BALE BARRIER
SE10 - STORM DRAIN INLET PROTECTION

WASTE MANAGEMENT & MATERIAL POLLUTION CONTROL
WM - 1 MATERIAL DELIVERY AND STORAGE
WM - 2 MATERIAL USE
WM - 3 STOCKPILE MANAGEMENT
WM - 4 SPILL PREVENTION AND CONTROL
WM - 5 SOLID WASTE MANAGEMENT
WM - 6 HAZARDOUS WASTE MANAGEMENT
WM - 7 CONTAMINATION SOIL MANAGEMENT
WM - 8 CONCRETE WASTE MANAGEMENT
WM - 8 SANITARY/SEPTIC WASTE MANAGEMENT
WM - 10 LIQUID WASTE MANAGEMENT

NON- STORMWATER MANAGEMENT
NS - 1 WATER CONSERVATION PRACTICES
NS - 2 DEWATERING OPERATIONS
NS - 3 PAVING AND GRINDING OPERATIONS
NS - 4 TEMPORARY STREAM CROSSING
NS - 5 CLEAR WATER DIVERSION
NS - 6 ILLICIT CONNECTION/DISCHARGE
NS - 7 POTABLE WATER/IRRIGATION
NS - 8 VEHICLE EQUIPMENT CLEANING
NS - 9 VEHICLE EQUIPMENT FUELING
NS - 10 VEHICLE AND EQUIPMENT MAINTENANCE
NS - 11 PILE DRIVING QPERATIONS
NS - 12 CONCRETE CURING
NS - 13 CONCRETE FINISHING
NS - 14 MATERIAL AND EQUIPMENT USE
NS - 15 DEMOLITION ADJACENT TO WATER
NS - 16 TEMPORARY BATCH PLANTS

WIND EROSION CONTROL
WE1 - WIND EROSION CONTROL

STORMWATER POLLUTION PLAN NOTES:

1. Refer to specification section 02232 "Stormwater Pollution Prevention Plan (SWPPP)" for additional information.
2. Equipment and workers for emergency work shall be available at all times during the rainy season (NOV 1 to APR 15). Necessary materials shall be available on-site and stockpiled in staging areas to facilitate rapid construction of emergency devices when rain is imminent.
3. Erosion control devices shall not be moved or modified without the approval of the State Representative.
4. Stockpiled materials shall be placed to be accessible by vehicle during periods of precipitation and protected from precipitation and runoff at the end of each working day.
5. All removable erosion protective devices shall be in place at the end of each working day.
6. After a rainstorm all silt and debris shall be removed from streets, check berms and basins.
7. Graded areas on the permitted area perimeter must drain away from the face of slopes at the conclusion of each working day. Drainage to be directed toward desilting facilities as shown on this plan.
8. Contractor shall be responsible and shall take necessary precautions to prevent public trespass onto areas where impounded water creates a hazardous condition.
9. Issuance of a grading permit does not eliminate the need for permits from other agencies with regulatory responsibilities for construction activities associated with the work authorized on this plan. The State's representative shall provide all permits to contractor.

STORMWATER POLLUTION PLAN NOTES CONTINUED:

10. Erosion control measure and planting shall be installed and maintained as soon as practical, in areas not subject to frequent traffic.
11. All erosion control, desilting basin, silt fences, and other storm water and/or erosion control features shall be inspected by contractor, on a weekly basis, cleaned, and maintained to ensure these features function as designed.
12. Contractor shall follow the SWPPP for additional BMP's requirements.
13. The undersigned Civil Engineer shall inspect the erosion control work and ensure that the work is in accordance with the approved plans.

Signature: _____ Date: _____

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Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

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Approval of this plan does not authorize or approve any violation of statutes from applicable regulations. Final approval is subject to field inspection. One set of approved plans shall be available on the project site at all times.

Reviewed by _____ Date _____

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by _____ Date _____

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED CHECKSHEETS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

DESIGNED:	SS
DRAWN:	AAKT/PW
CHECKED:	SS/KM
DATE:	09/14/10

REVISIONS

	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE: SITE PREPARATION - EROSION CONTROL PLAN

ADDRESS: MALIBU LAGOON STATE BEACH 23400 PACIFIC COAST HIGHWAY MALIBU, CA 90265

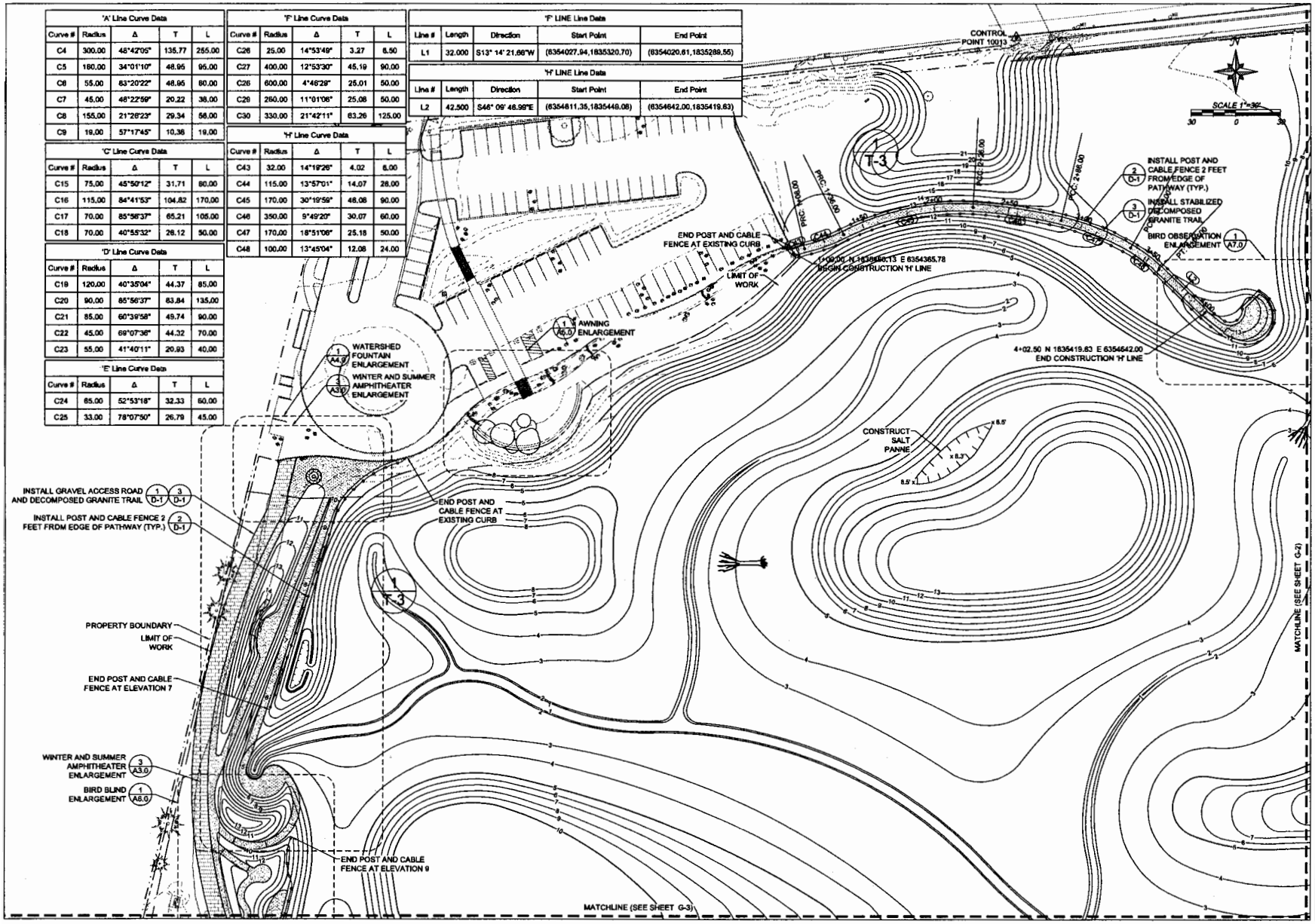
DRAWING NO. SP-3

SHEET NO. 7 OF 48

EXHIBIT 6

CDP #4-07-098 (Malibu Lagoon)

Erosion Control Plan



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San Diego, CA. 92108

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Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL ISSUED CONDITIONS ARE ONLY AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

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DRAWN: AA/KT/PW
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DATE: 09/14/10

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DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

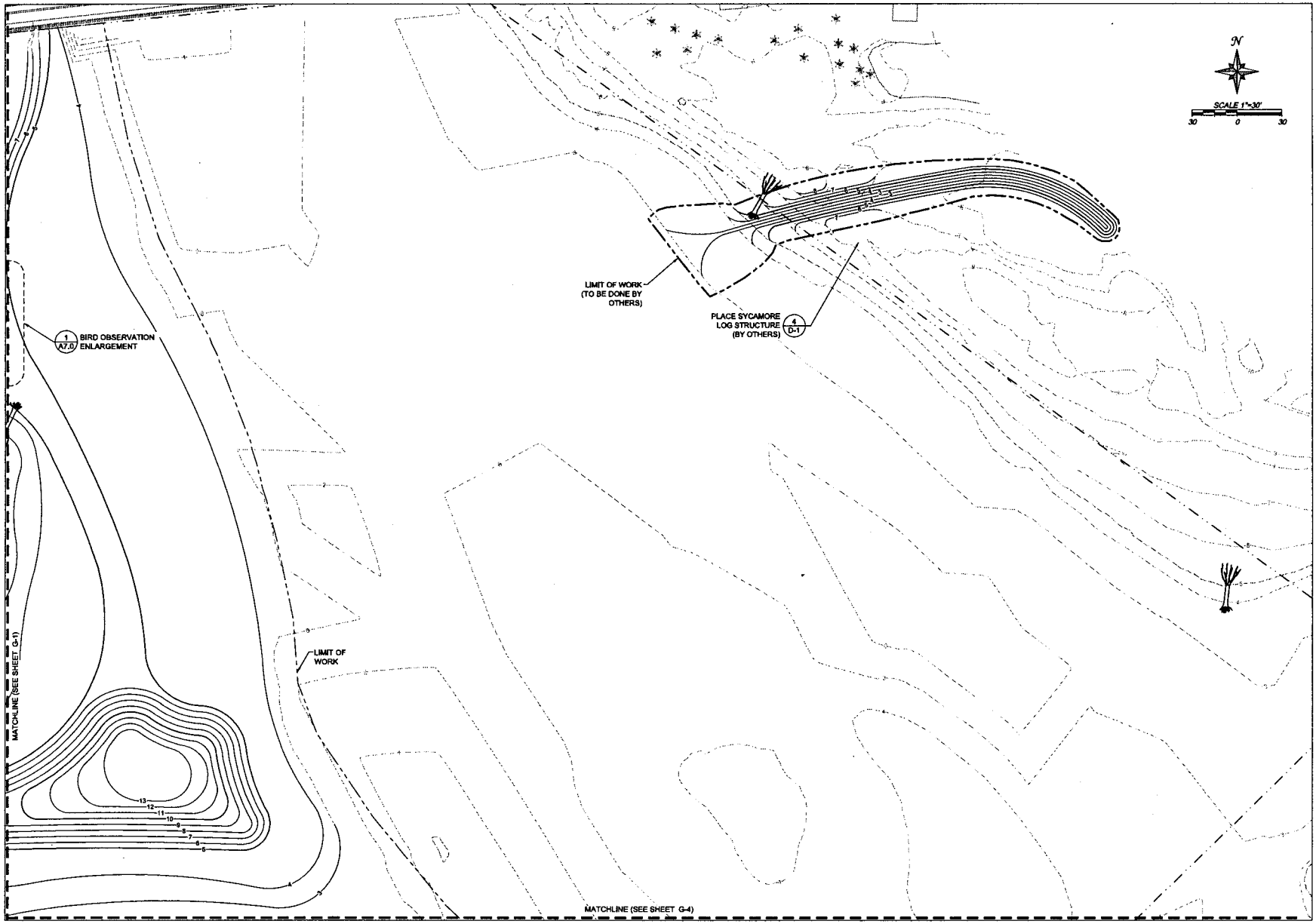
SHEET TITLE: GRADING PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. G-1

SHEET NO. 8 OF 48

EXHIBIT 7
CDP #4-07-098 (Malibu Lagoon)
Grading Plan Sheet 1



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8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL - APPROVED

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Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED DRAWINGS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

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ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

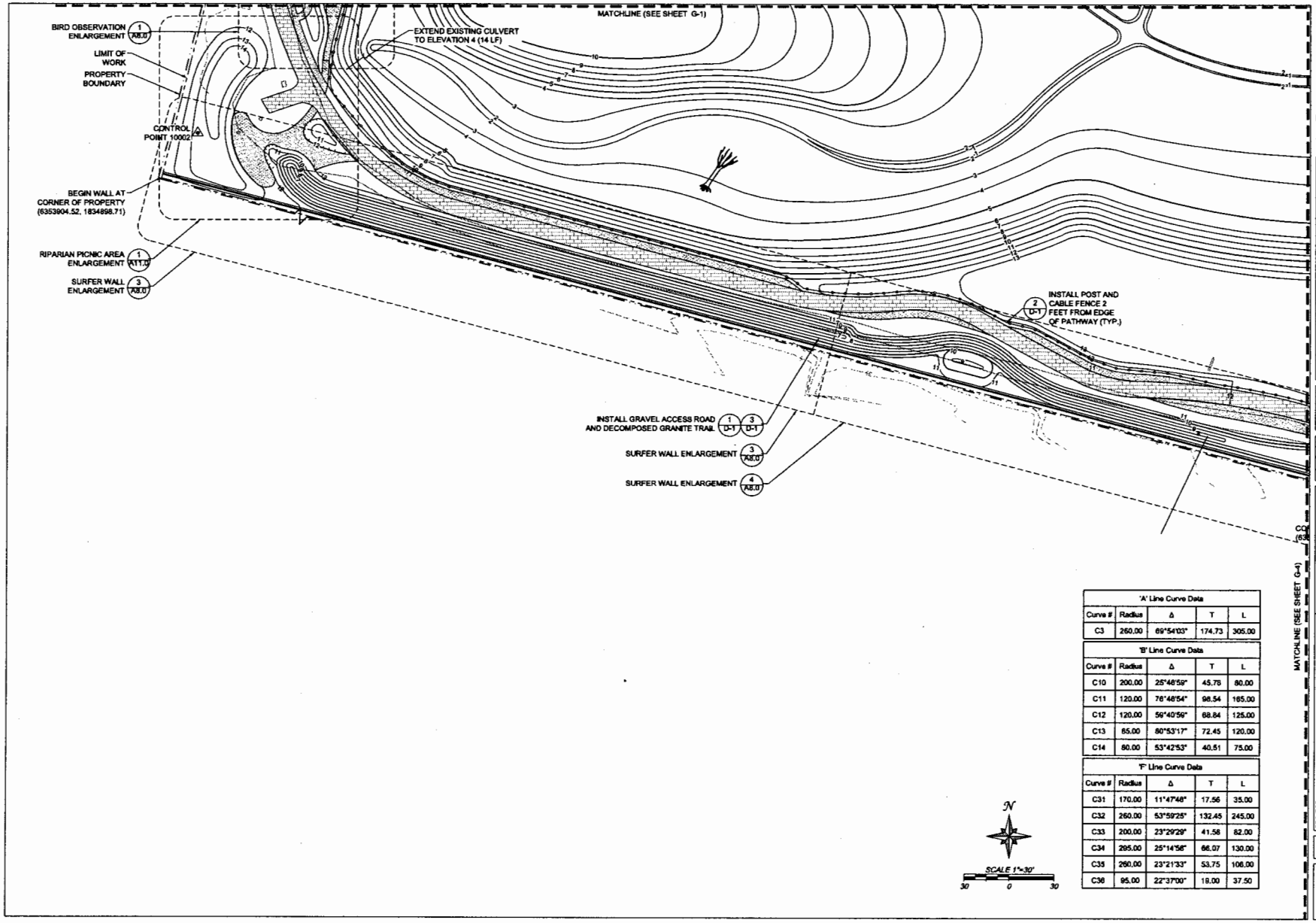
SHEET TITLE: GRADING PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
MALIBU LAGOON / COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. G-2

SHEET NO. 9 OF 48

EXHIBIT 8
CDP #4-07-098 (Malibu Lagoon)
Grading Plan Sheet 2



'A' Line Curve Data				
Curve #	Radius	Δ	T	L
C3	260.00	69°54'03"	174.73	305.00

'B' Line Curve Data				
Curve #	Radius	Δ	T	L
C10	200.00	25°46'59"	45.78	80.00
C11	120.00	78°46'54"	98.54	165.00
C12	120.00	59°40'59"	68.84	125.00
C13	85.00	80°53'17"	72.45	120.00
C14	80.00	53°42'53"	40.51	75.00

'F' Line Curve Data				
Curve #	Radius	Δ	T	L
C31	170.00	11°47'48"	17.56	35.00
C32	260.00	53°59'25"	132.45	245.00
C33	200.00	23°29'29"	41.58	82.00
C34	295.00	25°14'56"	66.07	130.00
C35	260.00	23°21'33"	53.75	106.00
C36	95.00	22°37'00"	19.00	37.50

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL- APPROVED

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DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

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CHECKED:	SS/KM
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REVISIONS

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ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE: GRADING PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

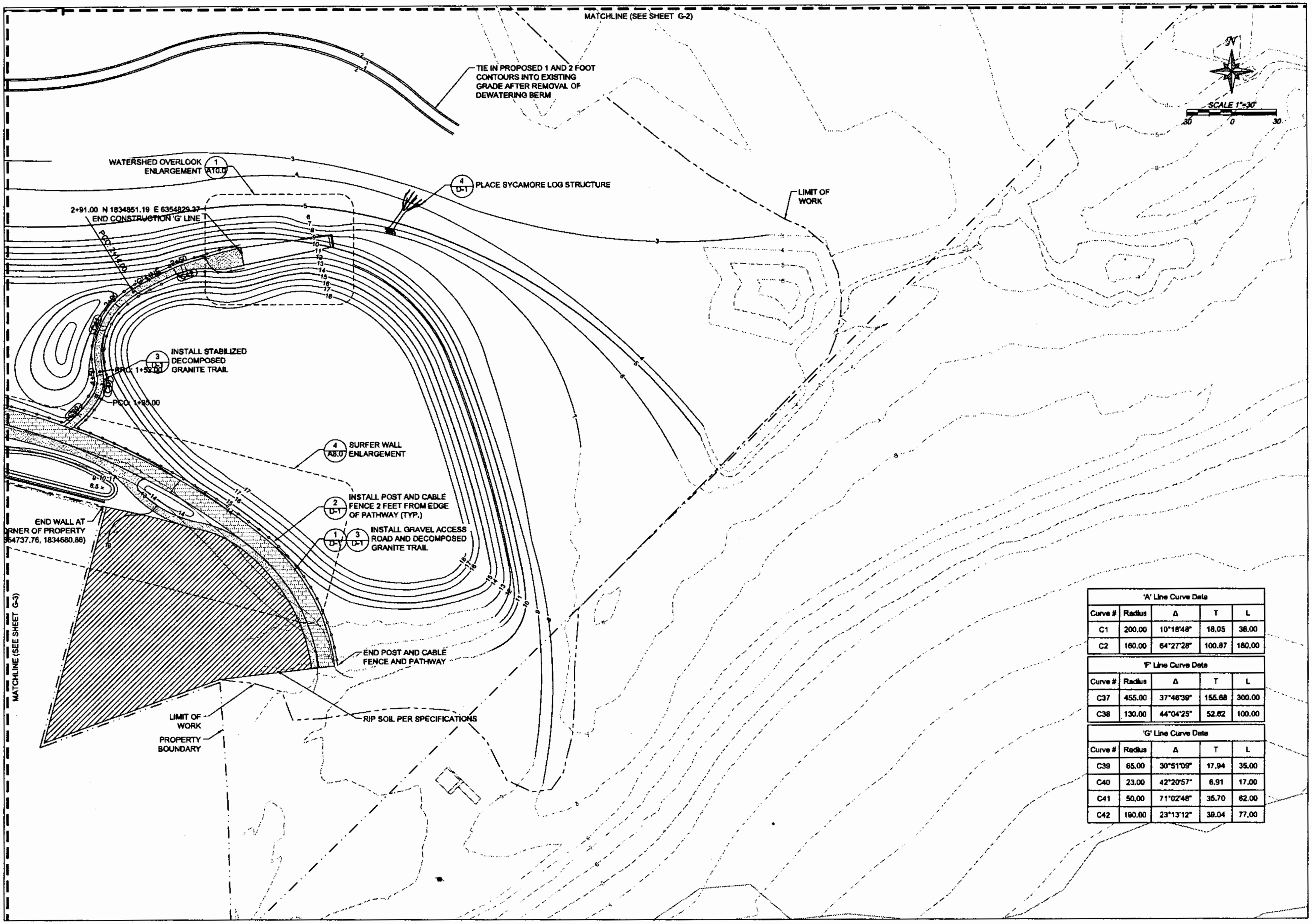
DRAWING NO. G-3

SHEET NO. 10 OF 48

EXHIBIT 9

CDP #4-07-098 (Malibu Lagoon)

Grading Plan Sheet 3



'A' Line Curve Data

Curve #	Radius	Δ	T	L
C1	200.00	10°18'48"	18.05	36.00
C2	160.00	64°27'28"	100.87	180.00

'F' Line Curve Data

Curve #	Radius	Δ	T	L
C37	455.00	37°46'39"	155.68	300.00
C38	130.00	44°04'25"	52.62	100.00

'G' Line Curve Data

Curve #	Radius	Δ	T	L
C39	65.00	30°51'09"	17.94	35.00
C40	23.00	42°20'57"	8.91	17.00
C41	50.00	71°02'48"	35.70	62.00
C42	180.00	23°13'12"	38.04	77.00

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Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

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DATE: 09/14/10

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9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT:
95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE:
GRADING PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

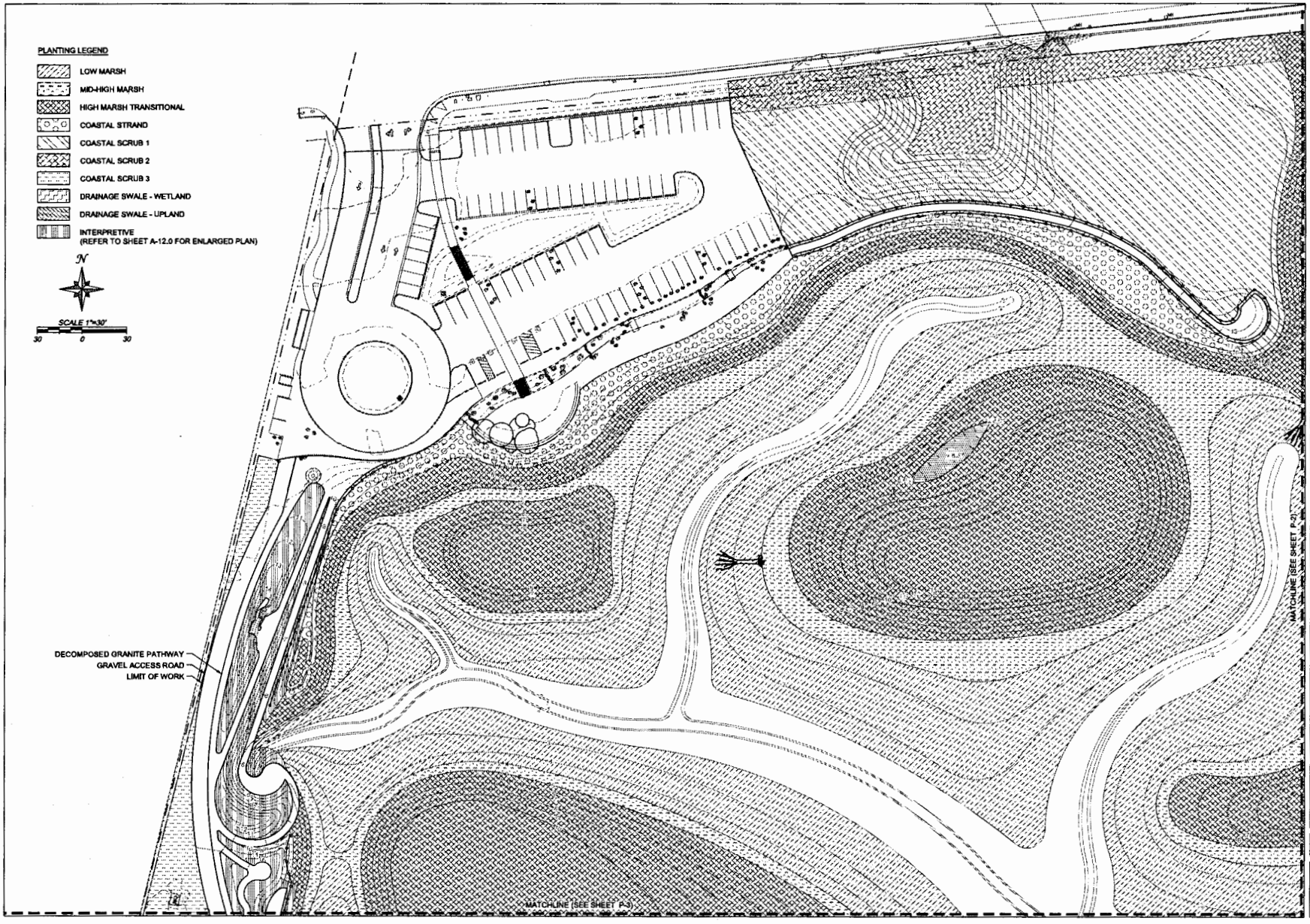
DRAWING NO.
G-4

SHEET NO.
11
OF
48

EXHIBIT 10

CDP # 4-07-098 (Malibu Lagoon)

Grading Plan Sheet 4



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Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL - APPROVED

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Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW
ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

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DESIGNED:	SS
DRAWN:	AA/KT/PW
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DATE:	09/14/10

REVISIONS	DATE
1	

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

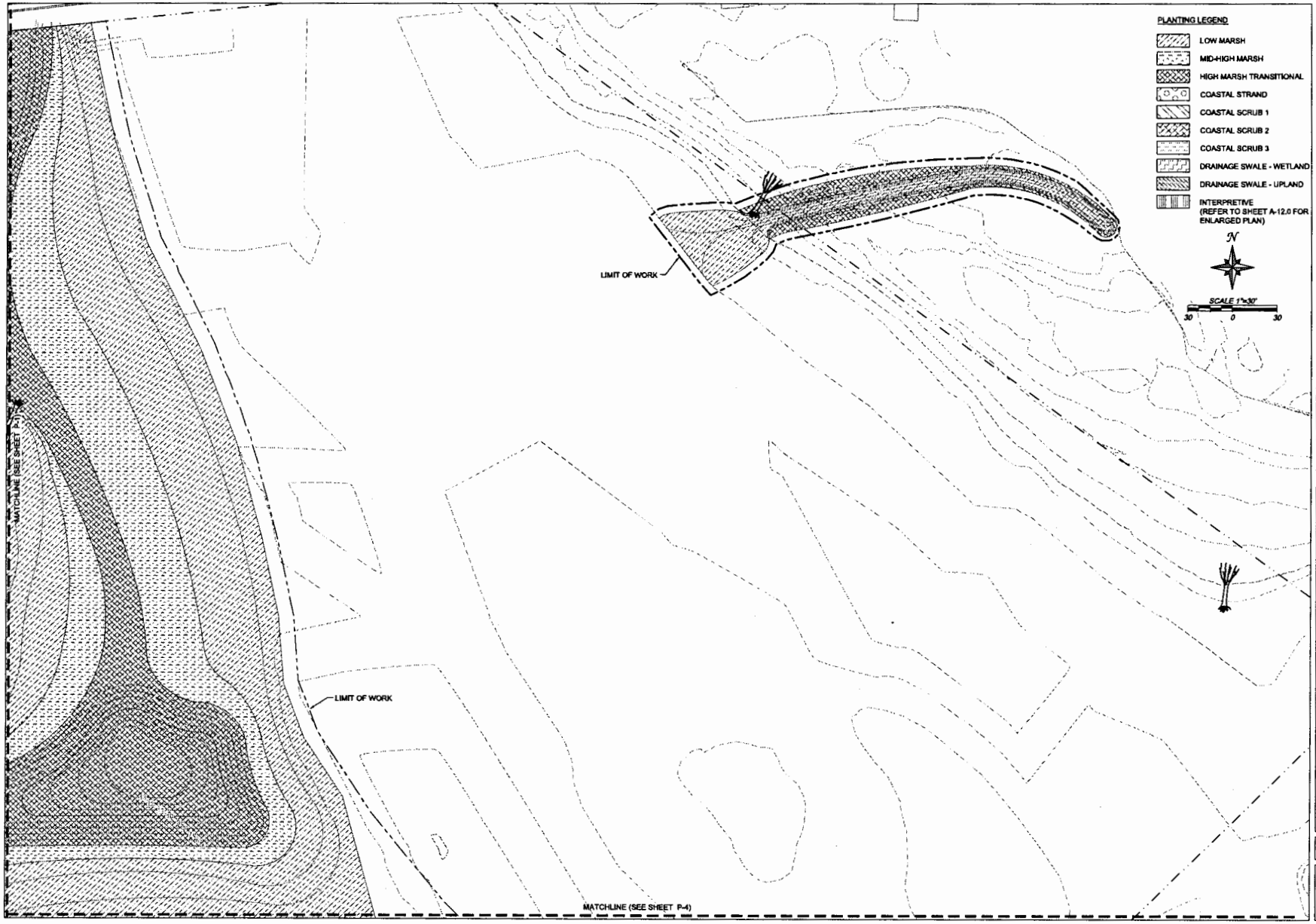
SHEET TITLE: PLANTING PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. P-1

SHEET NO. 12 OF 48

EXHIBIT 11
CDP # 4-07-098 (Malibu Lagoon)
Planting Plan Sheet 1



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San Diego, CA. 92108

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CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED DRAWINGS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTH COAST SERVICE CENTER

DESIGNED:	SS
DRAWN:	AA/KT/PW
CHECKED:	SS/KM
DATE:	09/14/10

REVISIONS	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

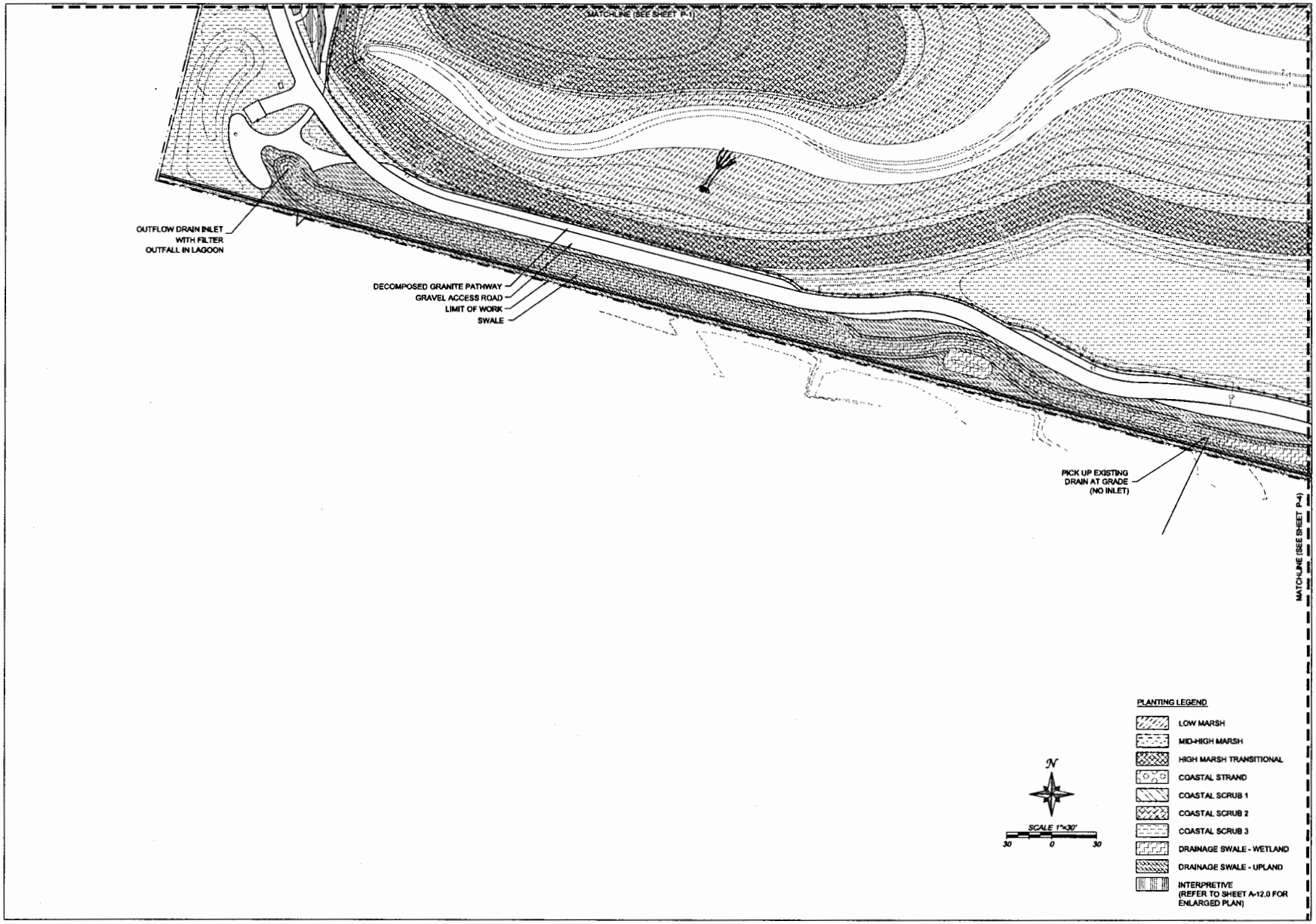
SHEET TITLE: PLANTING PALN

ADDRESS: MALIBU LAGOON STATE BEACH
23600 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. P-2

SHEET NO. 13 OF 48

EXHIBIT 12
CDP #4-07-098 (Malibu Lagoon)
Planting Plan Sheet 2



CALIFORNIA STATE PARKS SINCE 1864

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL- APPROVED

Approval of this plan does not authorize or approve any omission of deviation from applicable regulations. Final approval is subject to field inspection. One set of approved plans shall be available on the project site at all times.

Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION NORTHERN SERVICE CENTER

DESIGNED:	SS
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DATE:	09/14/10

REVISIONS	
	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE: PLANTING PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. P-3

SHEET NO. 14 OF 48

EXHIBIT 13
CDP #4-07-098 (Malibu Lagoon)
Planting Plan Sheet 3

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL APPROVED

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Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL APPROVED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

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DATE:	06/14/10

REVISIONS

	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE: PLANTING PLAN

ADDRESS: MALIBU LAGOON STATE BEACH
23443 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. P-4

SHEET NO. 15 OF 48

EXHIBIT 14
CDP # 4-07-098 (Malibu Lagoon)
Planting Plan Sheet 4

RESTORATION PLANTING PROGRAM

SYMBOL	PLANTING ZONE AND TIDAL RANGE	DETAIL	SPECIES NAME		AVERAGE PLANT SPACING (FEET ON CENTER)	PERCENTAGE OF PLANT PALETTE	CONTAINER PLANT	
			BOTANICAL NAME	COMMON NAME			SIZE	QUANTITY
	LOW MARSH MTL-MHW (2.5'-4.5' NAVD)	2/P-6	*JUNCUS ACUTUS*	SPIKE RUSH	3' O.C.	10	TREEBAND	2231
			JUNCUS BALTICUS	BALTIC RUSH	3' O.C.	10	TREEBAND	2231
			JUNCUS MEXICANUS	MEXICAN RUSH	3' O.C.	25	TREEBAND	5577
			SCHOENOPLECTUS (SCIRPUS) ACUTUS	HARDSTEM BULRUSH	3' O.C.	10	TREEBAND	2231
			SCHOENOPLECTUS (SCIRPUS) CALIFORNICUS	TULE	3' O.C.	30	TREEBAND	6692
			SCHOENOPLECTUS (SCIRPUS) MARITIMUS	ALKALAI BULRUSH	3' O.C.	10	TREEBAND	2231
			TYPHA DOMINGENSIS	SOUTHERN CATTAIL	3' O.C.	5	TREEBAND	1115
	MID-HIGH MARSH MHW-MHW (4.5'-5' NAVD)	2/P-6	*BATIS MARITIMA*	SALTWORT	3' O.C.	10	TREEBAND	714
			CUSCUTA SALINA	MARSH DODDER	3' O.C.	5	TREEBAND	357
			DISTICHLIS SPICATA	SALTGRASS	3' O.C.	15	TREEBAND	1071
			FRANKENIA SALINA	ALKALAI HEATH	3' O.C.	15	TREEBAND	1071
			JAUMEA CARNOSA	MARSH JAUMEA	3' O.C.	10	TREEBAND	714
			SARCOCORNIA PACIFICA (SALICORNIA VIRGINICA)	PERENNIAL PICKLEWEED	3' O.C.	20	TREEBANO	1428
			SALICORNIA BIGELOVII	DWARF GLASSWORT	3' O.C.	10	TREEBAND	714
			SUAEDA ESTEROA	ESTUARY SEA BLITE	3' O.C.	10	TREEBAND	714
			TRIGLOCHIN CONCINNUM	ARROW-GRASS	3' O.C.	5	TREEBAND	357
	HIGH MARSH TRANSITIONAL MHW (5' -9' NAVD)	2/P-6	*ARTHORCNEMUM (SALICORNIA) SUBTERMINALIS*	PARISH'S GLASSWORT	3' O.C.	5	TREEBAND	866
			CRESSA TRUXILLENSIS	ALKALAI WEED	3' O.C.	5	TREEBAND	866
			DISTICHLIS SPICATA	SALTGRASS	3' O.C.	20	TREEBAND	3465
			EUTHAMIA OCCIDENTALIS	WESTERN GOLDENROD	3' O.C.	5	TREEBAND	866
			FRANKENIA SALINA	ALKALAI HEATH	3' O.C.	10	TREEBAND	1733
			GRINDELIA ROBUSTA	GUM PLANT	3' O.C.	10	TREEBAND	1733
			JAUMEA CARNOSA	MARSH JAUMEA	3' O.C.	10	TREEBAND	1733
			LIMONIUM CALIFORNICUM	WESTERN MARSH ROSEMARY	3' O.C.	5	TREEBAND	866
			MONANTHOSCHLOE LITTORALIS	SHOREGRASS	3' O.C.	10	TREEBAND	1733
			SPERGULARIA MACROTHECA	LARGE FLOWERED SAND SPURRY	3' O.C.	5	TREEBAND	866
			SUAEDA ESTEROA	ESTUARY SEA BLITE	3' O.C.	10	TREEBAND	1733
			SYMPHYOTRICHUM SUBULATUM	MARSH ASTER	3' O.C.	5	TREEBAND	866
	COASTAL STRAND ABOVE CLOSED CONDITION (> 9' NAVD)	1/P-6	*ABRONIA UMBELLATA*	PURPLE SAND VERBENA	3' O.C., PLACE IN CLUSTERS OF 3	10	TREEBAND	153
			CALYSTEGIA MACROSTEGIA	MORNING GLORY	3' O.C., PLACE IN CLUSTERS OF 3	10	TREEBAND	153
			CALYSTEGIA SOLDANELLA	BEACH MORNING GLORY	3' O.C., PLACE IN CLUSTERS OF 3	10	TREEBAND	153
			ERICAMERIA ERICOIDES	MOCK HEATHER	3' O.C.	10	DEEPOT 40	154
			ERIOGONUM FASCICULATUM	CALIFORNIA BUCKWHEAT	3' O.C.	15	DEEPOT 40	232
			ERIOGONUM PARVIFOLIUM	CLIFF BUCKWHEAT	3' O.C.	10	DEEPOT 40	154
			ISOCOMA MENZIESII	COAST GOLDEN BUSH	3' O.C.	10	DEEPOT 40	154
			LUPINUS CHAMISSONIS	DUNE LUPINE	3' O.C.	15	DEEPOT 40	232
			SUAEDA TAXIFOLIA	WOLLY SEA-BLITE	3' O.C.	10	DEEPOT 40	154
	COASTAL SCRUB 1 ABOVE CLOSED CONDITION (> 9' NAVD)	1/P-6	*ABRONIA UMBELLATA*	PURPLE SAND VERBENA	3' O.C., PLACE IN CLUSTERS OF 3	5	TREEBAND	531
			ARTEMISIA CALIFORNICA	CALIFORNIA SAGEBRUSH	8' O.C.	10	DEEPOT 40	149
			ATRIPLEX LENTIFORMIS	QUAIL BUSH	8' O.C.	5	DEEPOT 40	75
			ATRIPLEX TRIANGULARIS	SPEARSCALE	8' O.C.	5	DEEPOT 40	75
			CALYSTEGIA MACROSTEGIA	MORNING GLORY	3' O.C., PLACE IN CLUSTERS OF 3	5	TREEBAND	531
			CALYSTEGIA SOLDANELLA	BEACH MORNING GLORY	3' O.C., PLACE IN CLUSTERS OF 3	5	TREEBAND	531
			COREOPSIS GIGANTEA	GIANT COREOPSIS	8' O.C.	5	DEEPOT 40	75
			ERICAMERIA ERICOIDES	MOCK HEATHER	3' O.C.	5	DEEPOT 40	530
			ERIOGONUM FASCICULATUM	CALIFORNIA BUCKWHEAT	3' O.C.	5	DEEPOT 40	530
			ERIOGONUM PARVIFOLIUM	CLIFF BUCKWHEAT	3' O.C.	5	DEEPOT 40	530
			ISOCOMA MENZIESII	COAST GOLDEN BUSH	3' O.C.	5	DEEPOT 40	530
			ISOMERIS ARBOREA	BLADDERPOD	8' O.C.	10	DEEPOT 40	149
			LUPINUS CHAMISSONIS	DUNE LUPINE	3' O.C.	5	DEEPOT 40	530
			LYCIUM CALIFORNICUM	CALIFORNIA BOX THORN	8' O.C.	5	DEEPOT 40	75
			MALOSMA LAURINA	LAUREL-LEAF SUMAC	8' O.C.	5	DEEPOT 40	75
			RHUS INTEGRIFOLIA	LEMONADEBERRY	8' O.C.	10	DEEPOT 40	149
			SALVIA APIANA	WHITE SAGE	8' O.C.	5	DEEPOT 40	75

RESTORATION PLANTING PROGRAM CONTINUED

SYMBOL	PLANTING ZONE AND TIDAL RANGE	DETAIL	SPECIES NAME		AVERAGE PLANT SPACING (FEET ON CENTER)	PERCENTAGE OF PLANT PALETTE	CONTAINER PLANT	
			BOTANICAL NAME	COMMON NAME			SIZE	QUANTITY
	COASTAL SCRUB 2 ABOVE CLOSED CONDITION (> 9' NAVD)	1/P-6	*ARTEMISIA CALIFORNICA*	CALIFORNIA SAGEBRUSH	8' O.C.	15	DEEPOT 40	24
			ENCELIA CALIFORNICA	CALIFORNIA ENCELIA	8' O.C.	10	DEEPOT 40	16
			ISOMERIS ARBOREA	BLADDERPOD	8' O.C.	10	DEEPOT 40	16
			LYCIUM CALIFORNICUM	CALIFORNIA BOX THORN	8' O.C.	10	DEEPOT 40	16
			MALOSMA LAURINA	LAUREL-LEAF SUMAC	8' O.C.	10	DEEPOT 40	16
			RHUS INTEGRIFOLIA	LEMONADEBERRY	8' O.C.	15	DEEPOT 40	24
			SALVIA APIANA	WHITE SAGE	8' O.C.	10	DEEPOT 40	16
			SALVIA LEUCOPHYLLA	PURPLE SAGE	8' O.C.	10	DEEPOT 40	16
			SALVIA MELLIFERA	BLACK SAGE	8' O.C.	10	DEEPOT 40	16
	COASTAL SCRUB 3 ABOVE CLOSED CONDITION (> 9' NAVD)	1/P-6	*ATRIPLEX LENTIFORMIS*	QUAIL BUSH	8' O.C.	5	DEEPOT 40	64
			ATRIPLEX TRIANGULARIS	SPEARSCALE	8' O.C.	5	DEEPOT 40	64
			CALYSTEGIA MACROSTEGIA	MORNING GLORY	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEPOT	228
			CALYSTEGIA SOLDANELLA	BEACH MORNING GLORY	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEPOT	228
			CAMMISSONIA BISTORTA	CALIFORNIA SUN CUP	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEPOT	228
			CAMMISSONIA CHEIRANTHIFOLIA	DUNE PRIMROSE	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEPOT	228
			DISTICHLIS SPICATA	SALTGRASS	3' O.C., PLACE IN CLUSTERS OF 3	5	TREEPOT	459
			ERICAMERIA ERICOIDES	MOCK HEATHER	3' O.C.	5	DEEPOT 40	458
			ERIOGONUM PARVIFOLIUM	CLIFF BUCKWHEAT	3' O.C.	5	DEEPOT 40	458
			FRANKENIA SALINA	ALKALAI HEATH	3' O.C., PLACE IN CLUSTERS OF 3	5	TREEPOT	459
			ISOCOMA MENZIESII	COAST GOLDEN BUSH	3' O.C.	5	DEEPOT 40	458
			ISOMERIS ARBOREA	BLADDERPOD	8' O.C.	10	DEEPOT 40	129
			LIMONIUM CALIFORNICUM	WESTERN MARSH ROSEMARY	3' O.C.	5	TREEBAND	458
			LOTUS SCOPARIUS	DEERWEED	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEBAND	228
			LUPINUS CHAMISSONIS	DUNE LUPINE	3' O.C.	2.5	DEEPOT 40	229
			LYCIUM CALIFORNICUM	CALIFORNIA BOX THORN	8' O.C.	5	DEEPOT 40	64
			MALACOTHRIX SAXATILIS	CLIFF ASTER	3' O.C., PLACE IN CLUSTERS OF 3	5	TREEBAND	459
			OENOTHERIA ELATA VAR. HOOKERI	HOOKER'S EVENING PRIMROSE	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEBAND	228
			RHUS INTEGRIFOLIA	LEMONADEBERRY	8' O.C.	5	DEEPOT 40	64
			RHUS OVATA	SUGAR BUSH	8' O.C.	5	DEEPOT 40	64
			SAMBUCUS MEXICANUS	ELDERBERRY	10' O.C.	2.5	DEEPOT 40	21
			SILENE LACINIATA	CARDINAL CATCH FLY	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEBANO	228
			SPERGULARIA MACROTHECA	LARGE-FLOWERED SAND SPURRY	3' O.C., PLACE IN CLUSTERS OF 3	2.5	TREEBAND	228

NOTES:

1. DO NOT COMPACT AREAS TO BE PLANTED BEYOND 85% RELATIVE DENSITY.
2. TREEBAND CONTAINER VOLUME SHALL BE 20 CUBIC INCHES.
3. DEEPOT 40 CONTAINER VOLUME SHALL BE 40 CUBIC INCHES.

RESTORATION SEED MIX

PLANTING ZONE	SPECIES NAME		APPLICATION RATE (PLS/ACRE)
	BOTANICAL NAME	COMMON NAME	
ALL COASTAL STRAND AND SCRUB ZONES	*ABRONIA UMBELLATA*	PURPLE SAND VERBENA	1
	CALYSTEGIA SOLDANELLA	BEACH MORNING GLORY	4
	ERIOGONUM FASCICULATUM	CALIFORNIA BUCKWHEAT	4
	HELIANTHUS ANNUUS	CALIFORNIA SUNFLOWER	2
	LEYMUS CONDENSATUS	GIANT WILDRYE	8
	LUPINUS LONGIFOLIUS	BUSH LUPINE	2

NOTE:

1. DO NOT COMPACT AREAS TO BE PLANTED BEYOND 85% RELATIVE DENSITY.

CALIFORNIA STATE PARKS SINCE 1864

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL- APPROVED

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Reviewed by _____ Date _____

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by _____ Date _____

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

DESIGNED:	SS
DRAWN:	AA/KT/PW
CHECKED:	SS/KM
DATE:	09/14/10

REVISIONS

	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE: RESTORATION PLANTING PROGRAM AND SEED MIX

ADDRESS: MALIBU LAGOON STATE BEACH
23200 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. P-5

SHEET NO. 16 OF 48

EXHIBIT 15
CDP # 4-07-098 (Malibu Lagoon)
Plant Palette 1

RESTORATION PLANTING PROGRAM CONTINUED

	DRAINAGE SWALE - WETLAND ABOVE CLOSED CONDITION (>9' NAVD)	2/P-7	ANEMOPSIS CALIFORNICA	YERBA MANSA	3' O.C.	3	TREEBAND	24
			CAREX PRAEGRACILIS	FIELD SEDGE	2' O.C.	10	TREEBAND	183
			CRESSA TRUXILLENSIS	ALKALAI WEED	3' O.C.	5	TREEBAND	41
			CYPERUS ERAGROSTIS	TALL FLATSEDGE	3' O.C.	6	TREEBAND	48
			ELEOCHARIS MACROSTACHYA	CREEPING SPIKE RUSH	2' O.C.	7	TREEBAND	128
			HORDEUM DEPRESSUM	ALKALAI BARLEY	3' O.C.	5	TREEBAND	41
			JUNCUS ACUTUS	SPINY RUSH	3' O.C.	5	TREEBAND	41
			JUNCUS BALTICUS	WIRE RUSH	3' O.C.	6	TREEBAND	49
			JUNCUS BUFONIUS VAR. OCCIDENTALIS	TOAD RUSH	3' O.C.	7	TREEBAND	57
			JUNCUS MEXICANUS	MEXICAN RUSH	3' O.C.	20	TREEBAND	163
			JUNCUS PATENS	COMMON RUSH	3' O.C.	20	TREEBAND	163
			JUNCUS TEXTILIS	BASKET RUSH	3' O.C.	6	TREEBAND	48
	DRAINAGE SWALE- UPLAND ABOVE CLOSED CONDITION (>9' NAVD)	1/P-7	ARTEMISIA DOUGLASIANA	MUGWORT	3' O.C.	8	TREEBAND	140
			BACCHARIS DOUGLASII	SALT MARSH BACCHARIS	3' O.C.	7	TREEBAND	122
			BACCHARIS SALICIFOLIA	MULEFAT	3' O.C.	5	DEEPOT 40	87
			DISTICHLIS SPICATA	SALT GRASS	3' O.C., PLACE IN CLUSTERS OF 3	9	TREEBAND	157
			FRANKENIA SALINA	ALKALAI HEATH	3' O.C., PLACE IN CLUSTERS OF 3	8	TREEBAND	140
			ISOCOMA MENZIESII	COAST GOLDEN BRUSH	3' O.C.	7	DEEPOT 40	122
			ISOMERIS ARBOREA	BLADDERPOD	6' O.C.	6	DEEPOT 40	14
			LEYMUS CONDENSATUS	GIANT WILD RYE	3' O.C.	5	TREEBAND	87
			LOTUS SCOPARIUS	DEERWEED	3' O.C., PLACE IN CLUSTERS OF 3	8	TREEBAND	140
			NASELLA LEPIDA	FOOTHILL NEEDLEGRASS	2' O.C., PLACE IN CLUSTERS OF 3	12	TREEBAND	210
			NASELLA PULCHRA	PURPLE NEEDLEGRASS	2' O.C., PLACE IN CLUSTERS OF 3	12	TREEBAND	210
			RHUS INTEGRIFOLIA	LEMONADEBERRY	8' O.C.	6	DEEPOT 40	14
			SAMBUCUS MEXICANA	BLUE ELDERBERRY	12' O.C.	7	DEEPOT 40	8

NOTES:

1. DO NOT COMPACT AREAS TO BE PLANTED BEYOND 85% RELATIVE DENSITY.
2. TREEBAND CONTAINER VOLUME SHALL BE 20 CUBIC INCHES.
3. DEEPOT 40 CONTAINER VOLUME SHALL BE 40 CUBIC INCHES.

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL - APPROVED

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DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL ISSUES CRITERIA IS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SURFACE CENTER

DESIGNED:	SS
DRAWN:	AA/KT/PW
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DATE:	09/14/10

REVISIONS	
	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.5064

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT - PHASE 2

SHEET TITLE: RESTORATION PLANTING PROGRAM AND SEED MIX

ADDRESS: MALIBU LAGOON STATE BEACH
23400 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. P-6

SHEET NO. 17 OF 48

EXHIBIT 16
CDP # 4-07-098 (Malibu Lagoon)
Plant Palette 2

INTERPRETIVE PLANTING PROGRAM

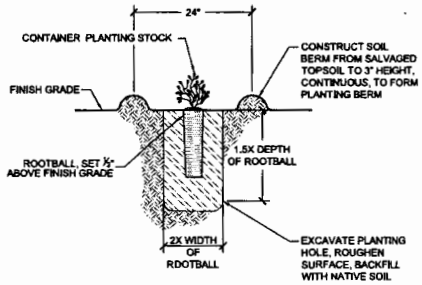
SYMBOL	PLANTING ZONE	DETAIL	SPECIES NAME		AVERAGE PLANT SPACING (FEET ON CENTER)	CONTAINER PLANT	
			BOTANICAL NAME	COMMON NAME		SIZE	QUANTITY
	SUMMER AMPHITHEATER TALL VEG	1/P-7	*ISOMERIS ARBOREA*	BLADDERPOD	4' O.C.	DEEPOT 40	8
			RHUS INTEGRIFOLIA	LEMONADEBERRY	6' O.C.	DEEPOT 40	8
	SUMMER AMPHITHEATER BERM		*ERIOGONUM PARVIFOLIUM*	CLIFF BUCKWHEAT	1.5' O.C.	DEEPOT 40	13
	HIGH MARSH TRANSITIONAL WEST BAND 1		*DISTICHLIS SPICATA*	SALTGRASS	1' O.C.	TREEBAND	130
	HIGH MARSH TRANSITIONAL WEST BAND 2		*JAUMEA CARNOSA*	MARSH JAUMEA	1' O.C.	TREEBAND	205
	HIGH MARSH TRANSITIONAL WEST BAND 3		*FRANKENIA SALINA*	ALKALAI HEATH	1' O.C.	TREEBAND	280
	HIGH MARSH TRANSITIONAL EAST BAND 1		*SARCOCORNIA PACIFICA (SALICORNIA VIRGINICA)*	PERENNIAL PICKLEWEED	1' O.C.	TREEBAND	35
	HIGH MARSH TRANSITIONAL EAST BAND 2		*SUAEDA ESTEROA*	ESTUARY SEA BLITE	1' O.C.	TREEBAND	80
	HIGH MARSH TRANSITIONAL EAST BAND 3	2/P-7	*MONANTHOCHLOE LITTORALIS*	SHOREGRASS	1' O.C.	TREEBAND	130
	LOW MARSH TRANSITIONAL MONOCULTURE WEST		*SCHOENOPLECTUS (SCIRPUS) MARITIMUS*	ALKALAI BULRUSH	1.5' O.C.	TREEBAND	18
	LOW MARSH TRANSITIONAL MONOCULTURE EAST		*JUNCUS ACUTUS*	SPIKE RUSH	1.5' O.C.	TREEBAND	20
	MID MARSH TRANSITIONAL MONOCULTURE WEST		*SARCOCORNIA PACIFICA (SALICORNIA VIRGINICA)*	PERENNIAL PICKLEWEED	1' O.C.	TREEBAND	50
	MID MARSH TRANSITIONAL MONOCULTURE EAST		*BATIS MARITIMA*	SALTWORT	1' O.C.	TREEBAND	45
	HIGH MARSH TRANSITIONAL MONOCULTURE		*LIMONIUM CALIFORNICUM*	WESTERN MARSH ROSEMARY	1' O.C.	TREEBAND	12
	UPPER WINTER PLATFORM AMPHITHEATER BERM, BARRIER SHRUBS, AND LOW VEGETATION AREA	1/P-7	*ERIOGONUM PARVIFOLIUM*	CLIFF BUCKWHEAT	1.5' O.C.	DEEPOT 40	910
	WILLOW TOPIARY		*SALIX EXIGUA*	SANDBAR WILLOW	5' O.C.	DEEPOT 40	185
	BIRDER SCREEN	2/P-7	*JUNCUS BALTICUS*	BALTIC RUSH	3' O.C.	TREEBAND	25
	RIPARIAN PICNIC AREA	3/P-7	PLATANUS RACEMOSA	CALIFORNIA SYCAMORE	LAYOUT PER PLAN	15 GAL	3
						24" BOX	3
			QUERCUS AGRIFOLIA	COAST LIVE OAK		15 GAL	5
						24" BOX	1

NOTES:

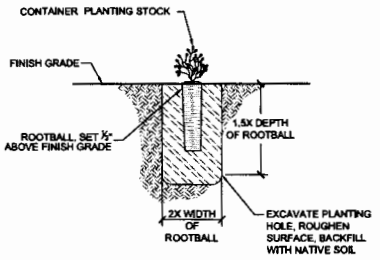
1. REFER TO SHEET A-12.0 FOR PLANTING PLAN
2. DO NOT COMPACT AREAS TO BE PLANTED BEYOND 85% RELATIVE DENSITY.
3. TREEBAND CONTAINER VOLUME SHALL BE 20 CUBIC INCHES.
4. DEEPOT 40 CONTAINER VOLUME SHALL BE 40 CUBIC INCHES.

GENERAL PLANTING NOTES

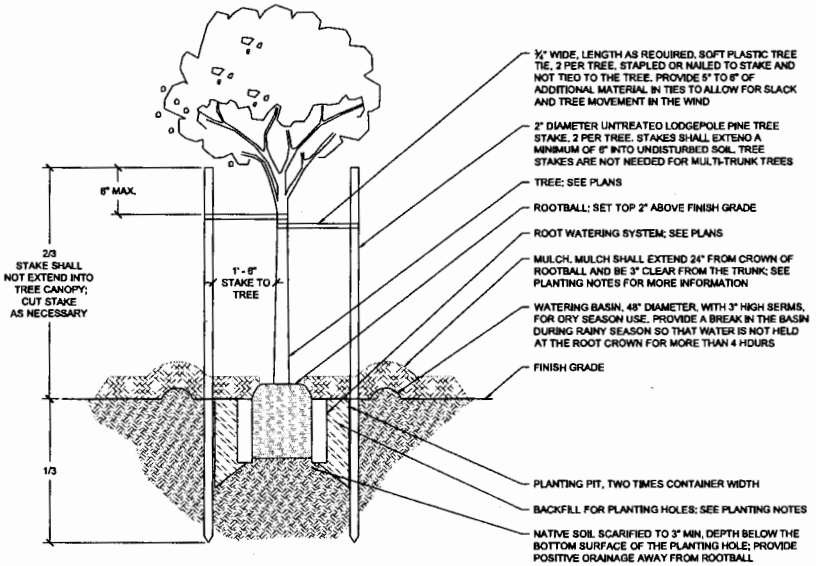
1. SEE TECHNICAL SPECIFICATIONS AND GENERAL NOTES FOR ADDITIONAL INFORMATION TO CONSIDER IN PLANTING INSTALLATION INCLUDING INFRASTRUCTURE AND UTILITIES PROTECTION AND REPAIR INFORMATION.
2. THE CONTRACTOR SHALL INSTALL ALL PLANTS SHOWN DIAGRAMMATICALLY ON THE DRAWINGS.
3. WHERE IRRIGATION SYSTEMS ARE INSTALLED, THEY SHALL BE IN PLACE, FULLY OPERATIONAL, AND APPROVED BY STATE'S REPRESENTATIVE PRIOR TO PLANTING AND SEEDING.
4. PROTECT ALL EXISTING PLANT MATERIAL TO REMAIN, INCLUDING ANY INDICATED TREES. THE CONTRACTOR SHALL REPLACE, AT NO COST TO OWNER, PLANT MATERIAL INDICATED AS EXISTING ON PLANS THAT IS DAMAGED OR ALLOWED TO DIE AS A RESULT OF THE NEGLIGENCE OF THE CONTRACTOR.
5. PLACE PLANTS NO CLOSER THAN 12" TO SPRINKLER HEAD.
6. TREES SHALL NOT BE PLANTED WITHIN 5 FEET OF A WATER MAIN AS MEASURED FROM THE EDGE OF THE TRUNK.
7. THE CONTRACTOR SHALL ENSURE PLANTING PITS HAVE POSITIVE DRAINAGE PRIOR TO PLANTING. PLANTING HOLES SHALL BE FILLED WITH WATER AND ALLOWED TO DRAIN COMPLETELY A MAXIMUM OF 24 HOURS BEFORE PLANTING CONTAINER PLANTS.
8. PLANTING AND SEEDING SHALL ONLY OCCUR WHEN ENVIRONMENTAL CONDITIONS ARE FAVORABLE FOR SUCH ACTIVITIES, BASED ON STANDARD HORTICULTURAL PRACTICES. PLANTING OR SEEDING SHALL NOT TAKE PLACE IF TEMPERATURES ARE UNSEASONABLY HIGH OR IF THE SITE IS EXCESSIVELY WET OR MUDDY.
9. CONTAINER PLANTS SHALL BE PLANTED PER DETAIL(S), AND SHALL BE WATERED IN THOROUGHLY IMMEDIATELY AFTER BEING PLANTED.
10. SEEDING SHALL OCCUR ONLY AFTER THE STATE'S REPRESENTATIVE HAS OBSERVED AND APPROVED THAT THE SITE HAS BEEN PROPERLY PREPARED.



1 P-7 CONTAINER PLANTING - WITH WATERING BASIN
SCALE: 1"=1'



2 P-7 CONTAINER PLANTING - NO WATERING BASIN
SCALE: 1"=1'



NOTES:

1. LEAVE THE SMALL BRANCHES ON THE TREE, REMOVE THEM IF THE BRANCH LOCATION IS NOT SUITABLE FOR PERMANENT BRANCHES, 1" OR GREATER IN DIAMETER. DO NOT TOP THE TREE.
2. REMOVE ALL NURSERY STAKES

3 P-7 15 GALLON AND 24' BOX TREE PLANTING
SCALE: 1"=1'

ACQUISITION & DEVELOPMENT DIVISION
Southern Service Center
8885 Rio San Diego Dr. # 270
San Diego, CA. 92108

CALIFORNIA STATE FIRE MARSHAL- APPROVED

Approval of this plan does not authorize or approve any omission of deviation from applicable regulations. Final approval is subject to field inspection. One set of approved plans shall be available on the project site at all times.

Reviewed by Date

DPR ACCESS COMPLIANCE REVIEW ACCESSIBILITY SECTION

CERTIFICATION #

Reviewed by Date

ACCESSIBILITY COMPLIANCE AND STATE FIRE MARSHAL SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS AND RECREATION, NORTHERN SERVICE CENTER

DESIGNED:	SS
DRAWN:	AA/KT/PW
CHECKED:	SS/KM
DATE:	09/14/10

REVISIONS

	DATE

ICF INTERNATIONAL
9775 BUSINESSPARK AVENUE
SUITE 200
SAN DIEGO, CA 92131
858.578.8964

PROJECT: 95% SUBMITTAL - NOT FOR CONSTRUCTION
MALIBU LAGOON STATE BEACH
RESTORATION & ENHANCEMENT- PHASE 2

SHEET TITLE: INTERPRETIVE PLANTING PROGRAM, GENERAL PLANTING NOTES & DETAILS

ADDRESS: MALIBU LAGOON STATE BEACH
23200 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DRAWING NO. P-7

SHEET NO. 18 OF 48

EXHIBIT 17
CDP # 4-07-098 (Malibu Lagoon)
Plant Palette 3

MALIBU LAGOON INTERPRETIVE MAP

THE STORY BEGINS HERE

(1) Shade Canopy
- A steel shade canopy designed to provide shade cover in the existing semicircular seating and teaching area.

(2) Watershed Fountain
- A topographic model of the Malibu Creek Watershed with a visitor-operated water mister mimics the function of the watershed.

PRIMARY INTERPRETIVE AREA

(3) Summer Clock & Winter Platform
- A path gradually sloping down to a platform at the water's edge. During the summer months when the lagoon is closed, water rises up along the path as the lagoon slowly fills (summer clock). During the winter months when the lagoon is open, visitors can access the viewing platform (winter platform). Adjacent to the winter platform is a set of circular demonstration terraces that exhibit vegetation species native to low, middle and high marsh communities.

(4) Bird Blind
- A sheltered bird blind provides a space for birders and students to view birds in the lagoon without disturbing the birds.

(5) Picnic Area
- A riparian forested picnic area provides a natural space for visitors to eat and rest.

(6) Adamson House Wall
- A wall reflecting the aesthetic design of the Adamson House wall acts as an interpretive surface to illuminate the rich cultural history of the site.

(8) Observation Platform
- A viewing platform offering a view of the lagoon and bird watching opportunities.

3 PATHS:

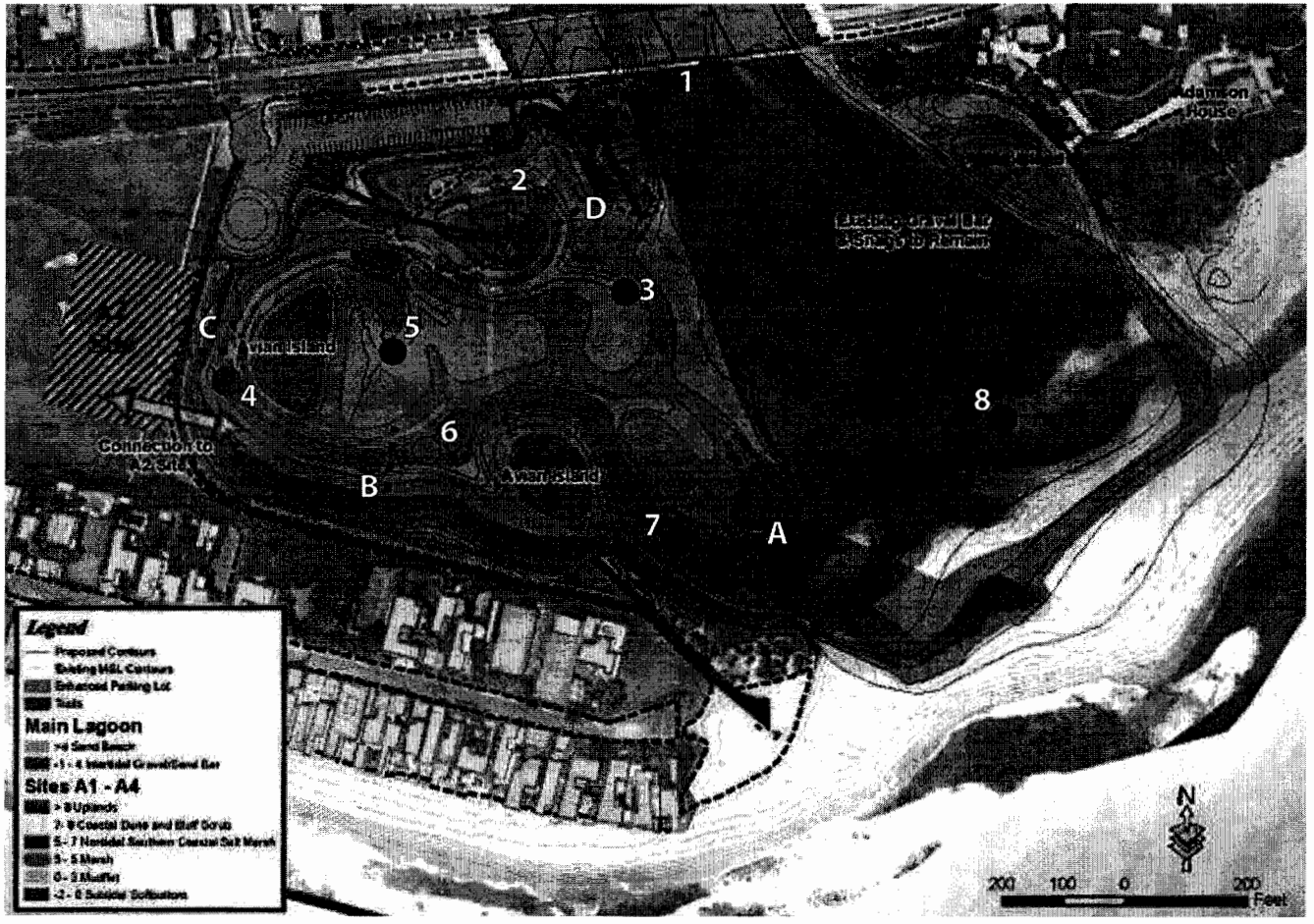
Birder Stalk
Teacher's Path
Surfer PassThru

Teacher's Path:

(1) Plankton Station w/ microscope
Fish anatomy w/ the fish wagon
(2) Intro to Watershed
(3) Water Level
(4) Birding w/ binocuars & walk
(7) Watershed View

(7) Watershed Overlook
- A viewing platform offering a vista toward the Santa Monica Mountains and the Malibu Creek Watershed.

EXHIBIT 18
CDP #4-07-098 (Malibu Lagoon)
Public Access and Interpretive Plan



MONITORING LOCATION LEGEND

Cross-section Monitoring, Velocity Measurements, Sediment Sampling	Vertical Profiles, Surface and Bottom Water Nutrients, Surface Chlorophyll
YSI 600XLM Continuous Monitoring	SAV/Percent Algal Cover Monitoring, Benthic Invertebrate Sampling

Malibu Lagoon Restoration Monitoring Project
RESTORED CONDITONS MONITORING LOCATIONS (adapted from Malibu Lagoon Restoration and Enhance

EXHIBIT 19
CDP # 4-07-098 (Malibu Lagoon)
Sampling Location Map (Approx. Location of Monitoring Sites)

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

MEMORANDUM

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Amber Tysor
Coastal Program Analyst

SUBJECT: Malibu Lagoon Restoration and Enhancement Plan, Phase 2

DATE: September 22, 2010

Documents Reviewed:

Moffatt & Nichol in Association with Heal the Bay. March 2005. Malibu Lagoon Restoration Feasibility Study Final Alternatives Analysis. Prepared for Coastal Conservancy and California Department of State Parks and Recreation.

Moffatt & Nichol in Association with Heal the Bay. June 2005. Malibu Lagoon Restoration and Enhancement Plan. Prepared for Coastal Conservancy and California Department of State Parks and Recreation.

Jones & Stokes. March 2006. Malibu Lagoon Restoration and Enhancement Plan Final EIR. Prepared for Coastal Conservancy and California Department of State Parks and Recreation.

Jones & Stokes. July 2007. Jurisdictional Delineation for Malibu Lagoon Restoration and Enhancement Project in the City of Malibu, Los Angeles County, California. Prepared for: Resource Conservation District of the Santa Monica Mountains.

ICF International. January 2010. 95% Submittal – Not for construction. Malibu Lagoon State Beach. Restoration and Enhancement – Phase 2.

California State Parks and the California State Coastal Conservancy have undertaken an ambitious two phase restoration and enhancement project for Malibu Lagoon which is part of Malibu Creek State Beach. Phase 1 of the project was completed in May 2008 and involved moving the lagoon and beach visitor parking lot to the western side of the park and replacing it with a permeable parking area imbedded with a number of features to insure that parking lot runoff and water from outside sources is filtered before entering the lagoon. This design also employed an approach that incorporates the filtration capabilities of native riparian vegetation in a pragmatic and aesthetically

EXHIBIT 20
CDP #4-07-098 (Malibu Lagoon)
Dr. Engel Memorandum (9 pages)

pleasing way. The new parking lot was designed with features to enhance visitor experience and is a splendid success and provides a great model for the design of similar future projects.

California State Parks and the California State Coastal Conservancy have completed research and planning for phase 2 of the Malibu Lagoon restoration and enhancement project and have submitted a coastal development permit application for this phase of the project. As part of the phase 2 project review, Barbara Carey, CCC South Central Coast Manager and I visited Malibu Lagoon on April 22, 2010 for a tour of the existing lagoon and a presentation of the planned restoration by Mark Abramson, Santa Monica Bay Restoration Commission; Kara Kemmler, California State Coastal Conservancy; Suzanne Goode, California State Parks; and several project consultants. In addition to the site visit I have reviewed the documents associated with this project including the "Malibu Lagoon Restoration and Enhancement Plan Final EIR" and the "Malibu Lagoon Restoration and Enhancement Plan"[1].

California has lost a greater percentage of its wetlands (91%) than any other state[2]. In the southern region, which comprises Santa Barbara, Ventura, Los Angeles, Orange and San Diego Counties, tidal wetland loss is estimated at 75 percent[3]. Southern California has a long history of human occupation and the coast is the most heavily populated. The California coastline has been subjected to incredible development pressure and coastal wetlands, especially tidal wetlands, have been lost or greatly altered under this pressure. Wetlands serve as vital components of regional hydrologic systems; they filter and transform pollutants from watershed runoff, help control floods, moderate sediment delivery, promote groundwater recharge, protect shorelines from erosion, provide habitat for resident plant and animal assemblages, provide food chain support for both aquatic and terrestrial ecosystems, and are stopover grounds for migrating waterfowl and shorebirds. Losses of coastal wetlands in southern California, as well as the degraded state of those remaining, have greatly reduced these natural functions in the landscape.

The Malibu Creek Watershed is the second largest watershed terminating in Santa Monica Bay. Malibu Creek flows into the seasonably open shallow 31-acre Malibu Lagoon, which also receives tidal waters through an inlet at Surfrider Beach. The lagoon lies within the footprint of the Pacific Flyway and is an important stop-over location for migrating birds. Once part of a much larger coastal lagoon ecosystem, Malibu Lagoon has been significantly diminished and altered by urban development. The first significant impacts were construction of the Rindge Railroad in 1908 and the

[1] See citations under "Documents Reviewed".

[2] Dahl, T.E. 1990. Wetlands losses in the United States 1780's to 1980"s. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. 21.

[3] Hymanson, Z.P. & H. Kingma–Rymek. 1995. Procedural Guidance for Evaluating Wetland Mitigation Projects in California's Coastal Zone. California Coastal Commission. (http://www.coastal.ca.gov/weteval/wetitle.html)

Roosevelt Highway (now Pacific Coast Highway) in 1929. Construction of the Pacific Coast Highway Bridge in the late-1940's bisected the lagoon and reduced its surface area. Beginning in the 1940's and 1950's, the low-lying areas near the mouth of Malibu Creek were filled for commercial and residential development and by the 1970's they were completely filled and covered by two baseball fields. Urbanization in the Malibu Creek Watershed has increased the volume of water transported into the lagoon, particularly in the dry season, and urban pollution has impaired the water quality through inputs of nutrients, sediments, and chemical pollutants. The City of Malibu is continuing to undertake projects within the watershed to address and improve water quality in Malibu Creek and Lagoon.

Over the last 30 years several restoration efforts have been undertaken on the site. In 1983, California State Parks excavated three distinct channels (identified as A, B, and C) in the western portion of the lagoon, re-vegetated the channels and adjacent areas, and built boardwalks for public access. In 1996, the California Department of Transportation funded a restoration plan to mitigate for impacts incurred during the Malibu Lagoon Pacific Coast Highway Bridge Replacement Project. This restoration project was conducted by California State Parks and the Resource Conservation District of the Santa Monica Mountains and included tidewater goby habitat enhancement, riparian habitat restoration, and extensive removal of non-native species.

While these restoration efforts have improved ecological and recreation values somewhat, the natural system is still significantly physically and biologically degraded due to past human activities. Physical degradation includes a dysfunctional channel configuration (three dead-end channels perpendicular to the larger lagoon water body) which has resulted in poor circulation, anoxic sediments, and impaired water quality. Biological degradation includes fragmented plant communities highly invaded by non-natives and low biodiversity.

Currently the bed elevations of the western channels are perched above mean sea level and hence can only be inundated about 50% of the time. Their perpendicular orientation to tidal currents in the main lagoon, shallow depths, narrow channel widths, and pinch points associated with bridges and boardwalks, all restrict tidal circulation and promote deposition of fine sediments in the channel bottoms. Sediment samples obtained in the western channels consist primarily of very fine particles and high organic content reflecting poor circulation and limited to no tidal flushing[4,5]. Releases of stored nutrients from fine sediments trigger growth of primary producers during dry weather periods creating hypoxic surface water conditions[6]. Water that is high in nutrients and

[4] Sutula, M., K. Kamer & J. Cable. 2004. Sediments as a non-point source of nutrients to Malibu Lagoon California (USA). Southern California Coastal Water Research Project Technical Report 441.

[5] Manion, B.S. & J.H. Dillingham. 1989. Malibu Lagoon. A Baseline Ecology Survey. Performed for Los Angeles County Department of Beaches and Harbors and California Department of Parks and Recreation. Grant # 4-400-7171.

[6] Sutula et al. (2004) op. cit.

low in salinity stagnates at the ends of the three dead-end channels where sediments are deposited and anoxic "dead zones" develop and persist. Several researchers have suggested that these conditions contribute to the low infaunal and epifaunal invertebrate diversity found in Malibu Lagoon[7,8]. Partly because their orientation is perpendicular to the tidal currents in the main lagoon, the western channels are not fully inundated during a normal tidal cycle.

A baseline ecological study performed by Manion & Dillingham (1989) for Los Angeles County Department of Beaches and Harbors and California State Parks surveyed a number of biological parameters including plant species richness and plant community structure, invertebrate infauna and eipifauna species richness, and fishes and bird species richness[9]. Results from plant surveys reveal significantly impaired plant communities with a paucity of native estuarine species and large numbers of non-native species. In addition, there are many native species, including Channel Island endemics, that are out of place in the Malibu Lagoon ecosystem but were inappropriately prescribed in the 1983 California State Parks restoration plans. The botanical inventory found 133 species of vascular plants in Malibu Lagoon. Of these 5.3% were native to estuarine habitats, 29.7% were native non-estuarine species planted as part of a landscaping effort, and an astounding 65% were non-native and invasive introduced species.

Manion & Dillingham (1989) state that "the majority of species found are naturalized exotics and other native plants normally not found in estuaries. Malibu Lagoon has a very small number of estuarine species in comparison with those found in other Southern California salt marshes." Regarding the abundance of naturalized exotics and non-estuarine natives, Manion & Dillingham (1989) state "this opportunistic growth has produced an ecosystem with little resemblance to less disturbed, zonated Southern California coastal wetlands." Figure 3.7 from the study compares native estuarine species richness across eight southern California coastal wetlands[10]. Malibu Lagoon had the lowest species richness with only 7 native species present. Ballona Lagoon was close with only 8 native species. Point Mugu Lagoon and Tijuana Estuary had the highest richness with all 18 characteristic species present. Manion & Dillingham (1989) also state that "Distribution of vegetation follows some unusual patterns as a result of high levels of disturbance. Starting at the higher elevations, species common to more upland habitats (roadsides, coastal scrub, cultivated areas, disturbed coastal habitats) dominate. Shrubs such as *Atriplex* (sp.) and *Baccharis glutinosa* are common. These

[7] Manion & Dillingham (1989) op. cit.
[8] Ambrose, R.F., I.H. Suffet & S.S. Que Hee. 1995. Enhanced environmental monitoring program at Malibu Lagoon and Malibu Creek. Report to: Las Virgenes Municipal Water District, Calabasas, CA. 113 pp.
[9] Manion & Dillingham (1989) op. cit.
[10] From a total of 18 marsh species that are characteristic of healthy, functioning Southern California marsh habitats.

plants are associated with exotic grasses and dry soils. The dominant vegetation for these areas consists of the grasses."

Manion & Dillingham (1989) also found low benthic infaunal and epifaunal invertebrate richness and diversity in Malibu Lagoon[11]: "Repeated sampling at 5 locations in Malibu Lagoon revealed an infauna limited to two species of invertebrates; a spionid polychaete, *Polydora nuchalis* and a tellinid clam, *Tagelus califonianus*." The study noted that *Polydora nuchalis* was common while the jack-knife clam was less common and more patchy. Both species prefer muddy organic sediments and disappear from more sandy areas. The infaunal surveys occurred five years after the 1983 restoration and Manion & Dillingham (1989) state that "the more usual development of a more diverse benthic infauna has yet to occur." Epifaunal invertebrate species richness was also very low and Manion & Dillingham (1989) state "It is important to continue studies of the mud crab, for it appears to be thriving in the Lagoon, where only a few other species of invertebrates have colonized five years after restoration."

In 1995, Ambrose, Suffet, and Que Hee, conducted an extensive survey at Malibu Lagoon which found that *Polydora nuchalis* represented 72% of the total numbers of individuals of the 17 species of benthic invertebrates collected and was also the most frequently collected infaunal organism at every sampling location[12]. They found that two large motile species, the mud-flat crab, *Hemigrapsus oregonenesis* and the introduced oriental shrimp, *Palaemon macrodactulus*, were common. While Ambrose et al. (1995) identified 17 benthic species, they noted that a number of taxa were severely underrepresented including bivalves (one species) and polychaete worms (two families). They concluded that "The observations of macrobenthic organisms in this study suggest that Malibu Lagoon ranks poorly at this trophic level when compared to less disturbed southern California estuaries." Ambrose and Orme (2000) identified *Polydora nuchalis* as a negative indicator species for Malibu Lagoon because it is an opportunistic species known to rapidly colonize and dominate benthic communities during or following disturbances such as nutrient additions and subsequent eutrophication, oil spills, and discharge of sewage or industrial waters.

Like Manion & Dillingham (1989), Ambrose et al. (1995) identified thirteen species of fish in Malibu Lagoon, including the federally endangered tidewater goby, *Eucyclogobius newberryi*. Consistent with Manion & Dillingham's work they also found that three species (California killifish, *Fundulus parvipinnis*; topsmelt, *Atherinops affinis;* mosquitofish, *Gambusia affinis*) made up two-thirds of the total catch. Ambrose et al. (1995) caught and released a total of 118 tidewater gobies during their surveys and while this represented only 1.4% of the total fish catch, the tidewater goby was the fourth most frequently collected fish species. Ambrose et al. (1995) state that "With 13 species of fish, Malibu Lagoon falls on the low end of fish species richness in southern

[11] Manion & Dillingham (1989) op. cit.
[12] Ambrose et al. (1995) op. cit.

California coastal wetlands. Malibu Lagoon's species richness is low relative to some other southern California wetland systems, particularly large estuaries with uninterrupted tidal flushing, but is comparable to other southern California estuaries with similar hydrology"[13]. During a one day fish survey in 2005 a total of eight species of fish were captured in Malibu Lagoon[14]. Tidewater goby and smelt (*Atherinops sp.*) were the most numerous with a total of 473 and 244 caught respectively. A review of fish studies at Malibu Lagoon show that at total of 33 fish species have been identified at Malibu Lagoon at one time or another over a span approximately 20 years[15].

A number of studies have examined the status of bird species at Malibu Lagoon. Manion & Dillingham (1989) observed the most bird species in the lagoon between October and March and the fewest bird species between May and August. They attributed this pattern to migration times along the Pacific Flyway. Ambrose et al. (1995) surveyed birds over a 10 month period from July 1993 to April 1994. They reported that "During this time period, 107 bird species were observed (68 species of waterbirds and 39 species of landbirds). A grand total of 27,700 individuals were recorded during the censusing period." Ambrose et al. (1995) found that aquatic species were typically more abundant than terrestrial species but that for both groups the species composition changed throughout the year; abundance and species composition was highly variable. Ambrose et al. (1995) partly attribute the high numbers and diversity of birds to the diversity of habitat types at Malibu Lagoon. They also attribute bird abundance and diversity to the fact that "Malibu Lagoon represents one of only a few remaining coastal wetlands in southern California and one of only two remaining estuaries in all of Los Angeles County." Ambrose et al. (1995) conclude that although Malibu Lagoon has been disturbed by humans it still attracts a disproportionate number of bird species for its size and that it is likely of great importance to migrating shorebirds and waterfowl because of its location along the Pacific Flyway.

Cooper conducted breeding and quarterly bird surveys in Malibu Lagoon during 2005 and 2006[16,17]. In 2005 he recorded a total of 54 species, 16 of which he believed had bred or attempted to do so. Combining all surveys over two years, Cooper reports that he detected 127 species "with roughly 75 species seen on the January, April, and October surveys, and 48 on the July surveys." Cooper found that only a small number of species (26) were recorded on every survey period and that his observations

[13] Same conclusion made in: Ambrose, R.F. & D.J. Meffert. 1999. Fish-assemblage dynamics in Malibu Lagoon, a small, hydrologically altered estuary in southern California. Wetlands. 19 (2): 327-340.

[14] Dagit, R. (RCDSMM) & C. Swift (Entrix, Inc.). July 2005. Malibu Lagoon Fish Survey. Prepared for California State Coastal Conservancy.

[15] Ibid.

[16] Cooper, D (Cooper Ecological Monitoring). 2005. 2005 Breeding Bird Survey, Malibu Lagoon State Park, Malibu California. Prepared for Resource Conservation District of the Santa Monica Mountains.

[17] Cooper, D (Cooper Ecological Monitoring). 2006. Birds of Malibu Lagoon: Final Report. Malibu Lagoon State Park, Malibu California. Prepared for Resource Conservation District of the Santa Monica Mountains.

illustrate the dynamic nature of migration in the area. Cooper reports that the lagoon acts as a concentration area for certain bird species that occur in high numbers and that for other species that may not occur in high numbers, the lagoon is the only habitat in the area. Cooper observed a wide diversity of birds including terrestrial, shore, and waterfowl species. Malibu Lagoon clearly represents extremely important habitat for a wide array of bird species. Ambrose et al. (1995) state that "With respect to plants, invertebrates and fish, Malibu probably ranks in the middle or lower end of the range of wetland quality in southern California. It ranks much higher for birds, being an important stopover on the Pacific Flyway as well as supporting a diversity of species year-round."

There are numerous environmental problems associated with the current lagoon configuration and past development and restoration activities including:

- Loss of ecosystem function due to poor circulation, sedimentation, and eutrophication,
- Loss of upland, salt-marsh, and lagoon habitat due to historic fill, urbanization of the surrounding areas, and inappropriate landscaping,
- Proliferation of non-native and invasive plants and animals; elevated freshwater and nutrients have facilitated invasion of exotics
- Impoverished native benthic invertebrate communities likely due to altered hydrology, and,
- Reduced native fish populations.

Opportunities for tidal wetland restoration are extremely limited in southern California and the overall goal of the phase 2 Malibu Lagoon restoration is to enhance and expand the lagoon's tidal wetlands and associated habitats; to restore Malibu Lagoon to a healthy and functional seasonally closed tidal lagoon ecosystem. Specific restoration goals include:

- Increase tidal circulation and flushing to improve water quality under open and closed lagoon conditions.
- Restore a diverse mosaic of coastal salt-marsh and transitional upland habitats.
- Increase and enhance aquatic habitat for benthic invertebrates and native fish including the federally endangered tidewater goby (increase sediment grain size) and the federally threatened steelhead (higher water quality within the lagoon).
- Increase native foraging, nesting, and roosting habitat for resident and migratory shore birds and waterfowl.
- Provide education/interpretive opportunities while minimizing disturbance to habitat and wildlife.

Phase 2 will change the lagoon configuration, improve slopes and drainages, restore and enhance native coastal salt-marsh plant communities, remove non-native vegetation, and enhance the visitor and recreational experience. This phase of the project will involve temporary dike installation, temporary dewatering, and

reconfiguration and re-contouring activities using earthmoving equipment. In order to accomplish the desired ecosystem restoration it is necessary to dredge and remove a significant amount of fill and sediment. The majority of the grading activities will occur in the western portion of the lagoon complex. The main channel of Malibu Creek will remain the same except that the lagoon-channel interface will be reconfigured to form a more natural slope.

Considerable time and effort has been directed at determining the best design for restoring lagoon circulation, water quality, and habitats in order to realize the restoration goals. Based on the results of the "Malibu Lagoon Restoration Feasibility Study Final Alternatives Analysis"[18], the Lagoon Technical Advisory Committee[19], State Parks, and the State Coastal Conservancy have recommended implementation of Alternative 1.5, the Modified Restore and Enhance Alternative, as identified in the Malibu Lagoon Restoration and Enhancement Plan Environmental Impact Report. After reviewing the documents listed above, including the "Malibu Lagoon Restoration Feasibility Study Final Alternatives Analysis", I concur with the recommendation to implement the proposed project.

The proposed design for the western portion of the lagoon consists of a single main channel with a system of dendritic (sinuous) side channels. The single channel is designed with the opening close to the beach and angled to enhance water circulation and to promote maximum tidal circulation during open conditions and maximize wind driven circulation during closed conditions. The lagoon tidal prism will be increased with the proposed project design and elevation at the channel entrance is the deepest area and the back channels are the shallowest so that water will be encouraged to run out as the tide drops and fill in as the tide rises. An existing boathouse channel located on the grounds of the Adamson House will be deepened and re-contoured with hand tools to restore functional hydrology and native wetland vegetation.

The project includes plans for restoring the lagoon plant communities to a healthier, high-functioning native coastal salt-marsh ecosystem with low-marsh, mid-marsh, high-marsh, and transitional coastal scrub habitats with appropriate native plant species in the respective habitats[20]. The areal extent of tidal wetland and tidal wetland (salt-marsh) plant communities will be increased and the areal extent of coastal scrub habitat will be reduced. Although the disturbed coastal scrub habitat around Malibu

[18] Moffatt & Nichol in Association with Heal the Bay. March 2005. Malibu Lagoon Restoration Feasibility Study Final Alternatives Analysis. Prepared for Coastal Conservancy and California Department of State Parks and Recreation.

[19] The Lagoon Technical Advisory Committee consists of the following individuals: Richard F. Ambrose, UCLA; Andy Brooks, UCSB; John Callaway, University of San Francisco; Kimball Garrett, Los Angeles County Natural History Museum; Robert Gearheart, Humboldt State University; Martha Sutula, Southern California Coastal Water Research Project

[20] ICF International. January 2010. 95% Submittal – Not for construction. Malibu Lagoon State Beach. Restoration and Enhancement – Phase 2.

Lagoon provides important resource values, it is even more important to restore and increase tidal wetland resources because of their rarity in southern California. Special care must be taken when planting the transitional coastal scrub habitat; the plant palette should emphasize small stature herbaceous species interspersed with a small number of larger shrubs such as lemonade berry and laurel sumac. To eliminate any fire concerns these larger shrubs must not be planted along the south side of the lagoon bordering the Malibu Colony neighborhood. The final planting plan and plant palette must be reviewed and approved by the California Coastal Commission Executive Director.

Tidal wetlands have been so diminished is southern California that we need to take every opportunity to maximize their extent and function. Malibu Lagoon is the second largest wetland in the Santa Monica Bay Watershed and the Southern California Wetlands Recovery Project (SCWRP) has identified Malibu Lagoon as an impaired coastal lagoon ecosystem that requires restoration. The SCWRP Board of Governors vetted and approved phase 2 of the Malibu Lagoon restoration and enhancement project and listed it on the SCWRP work plan[21]. The California State Park and California State Coastal Conservancy Phase 2 Malibu Lagoon Restoration and Enhancement Plan has been thoroughly researched and designed, and while implementation of the plan will result in significant short term impacts, I believe that restoration and enhancement of Malibu Lagoon will ultimately result in substantially greater long term improvements to the natural functioning and biodiversity of this seasonally closed tidal lagoon ecosystem.

[21] Southern California Wetlands Recovery Project Work Plan Project Descriptions. SCWRP website: http://www.scwrp.org/pdfs/2010-Work-Plan-Project-Descriptions-Final-Web-Version-June-2010.pdf.

City of Malibu

23815 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.ci.malibu.ca.us

October 25, 2007

Ms. Barbara J. Carey
California Coastal Commission
89 South California Street, Suite 200
Ventura CA 93001

Re: California Coastal Commission CDP No. 4-07-098 – Application by California Department of Parks and Recreation for Phase 2 of Malibu Lagoon Restoration, filed August 10, 2007

Dear Ms. Carey:

It appears that the above-referenced project includes development which would require coastal development permits from both the City of Malibu and the Coastal Commission. The City is in agreement that the project is appropriate for a consolidated coastal development permit review to be conducted by the Coastal Commission, pursuant to Section 30601.3(a) of the Coastal Act, and hereby consents to the consolidated permit action.

Please let me know if there are questions or additional information is needed.

Sincerely,

Stacey Rice, PhD, AICP
Acting Planning Manager

RESOURCE CONSERVATION DISTRICT
OF THE
SANTA MONICA MOUNTAINS

P.O BOX 638 AGOURA HILLS, CALIFORNIA 91376-0638
(818) 597-8627 FAX (818) 597-8630

DANIEL C. PREECE
District Manager

Deanna Christensen
California Coastal Commission
South Central Coast Area
89 S. California Street, Ste. 200
Ventura, CA 93001-2801

RE: Consolidation of Coastal Development Permit Review File No. 4-07-098 Malibu Lagoon Restoration

The Malibu Lagoon restoration project File No. 4-07-098 includes a small area of the project site that is under the jurisdiction of the City of Malibu while the majority of the project site falls within the jurisdiction of the California Coastal Commission. The proposed Malibu Lagoon Restoration Project includes restoration activities that would require a Coastal Development Permit (CDP) from the City of Malibu and the California Coastal Commission. The project team believes that a thorough review of the entire project site will best protect the sensitive resources and make for the best possible restoration project. The Project Team agrees that consolidating the review into a single CDP to be processed by the California Coastal Commission would be the best course of action.

Sincerely,

Mark Abramson
Malibu Lagoon Project Manager

EXHIBIT 22
CDP # 4-07-098 (Malibu Lagoon)
Applicant Consolidation Agreement

FORM FOR DISCLOSURE OF EX-PARTE COMMUNICATIONS

Name or description of the project::	Malibu Lagoon Restoration
Time/Date of communication:	6/30/2010, 1 pm
Location of communication:	22350 Carbon Mesa Rd, Malibu
Person(s) initiating communication:	Shelly Luce, Mark Abramson
Person(s) receiving communication:	Sara Wan
Type of communication:	meeting

Expect this to be on in August.
Phase I- parking lot is in
Phase II- water quality is main issue. - history back to the '83 initial restoration when they moved the ball fields- resulted in some problems- one of the goals is to increase tidal flushing
EIR was certified in '96- Colony homeowners concerns about the design- they don't want people behind their homes
There will be a path, 2 bird decks, observation decks, picnic tables and a bird blind
will have a masonry wall at read end- 6 ft. Now the homeowners have access through their gates out onto State Park Property- they use this area as their own- throw their trash there, let their dogs out and have planted this as their own gardens- now claim need gates in wall for fire- but should not allow- they have adequate access for escape- main road goes in front of their homes and easy distance to the beach. Fire is always possible but not likely to jump PCH.
There are also 2 pipes form the Colony to the lagoon- there are no permits for them- one of which was recently installed. They claim that State Parks gave them permission but the only permission was in 1997 from a flap gate and nothing from the Coastal Commission.

Date: 7/3/2010

Sara J Wan

Commissioner's Signature

EXHIBIT 23
CDP # 4-07-098 (Malibu Lagoon)
Ex-Parte Comminication Disclosures (10 pages)

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Malibu Lagoon Restoration

Date and time of receipt of communication: July 22, 2010 3:00pm

Location of communication: ~~same~~ Clements, Calif

Type of communication (letter, facsimile, etc.): conference call with GoToMeeting

Person(s) initiating communication: Mark Abramson & Shelby Luce

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

see attached

July 28, 2010
Date

Mary K Shallenberger
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.

This conference call was set up through "Go To Meeting" which enabled the three of us to be looking at the images on Mark's computer. (It was very cool). The images were aerial pictures of the site, graphics of the proposed restoration plan and of the gates from the adjacent land owners on to the project site. Mark said all of these pictures would be in their presentation at the commission hearing and that he would forward all of them to Amber, Coastal Commission staff.

Mark and Shelley gave me a brief summary of the history of the Lagoon and explained why the previous restoration (1983) with three separate channels and "pinch points" at each of the boardwalk bridges had resulted in the lagoon not having enough flushing, scouring and mixing to result in real restoration. They explained a great deal has been learned about lagoon restoration since 1983. They showed graphics of the proposed restoration plan and explained why it will result in a biologically healthier lagoon.

They then focused on three issues of controversy with the neighboring home owners.

1) They showed me pictures of several rather shabby gates that connect the public land with the home owners' back yards. The project proposal is to have a solid wall along the property line, similar to the wall that runs between the home owners' back yards and the Perenchio golf course (which will eventually be part of the lagoon). They told me the home owners want to retain these gates as a route of escape in the case of fire.
2) Currently, there are drainage pipes taking run off from the private properties into the Lagoon. They said they are working out a way to connect these pipes to a single pipe that will run along the road and filter the water before it is dumped into the Lagoon. They thought this issue would be resolved to the home owners' satisfaction before the hearing.
3) The home owners are objecting to a solid wall between the private property and the lagoon because they are worried about fire danger from the vegetation along the lagoon property. Mark asserted that the fire danger would be greatly reduced from today because there would be less vegetation than there is today and it would be native and less prone to fire. The aerial pictures showed extensive large trees and vegetation on the home owner's side of the property line.

In response to my question about what other objections to the project did they anticipate we would hear at the public hearing, they said they thought the Wetlands Action would testify that they were opposed to anything being done to alter the lagoon configuration.

From: Sara Wan [mailto:lwan22350@aol.com]
Sent: Thursday, August 05, 2010 1:06 PM
To: Vanessa Miller
Subject: FW: Agenda

Ex-parte

From: Sara Wan [mailto:lwan22350@aol.com]
Sent: Thursday, August 05, 2010 1:05 PM
To: 'Mark Abramson'
Subject: RE: Agenda

Thanks for the answers to my questions.

1- Can we insert Herons in 1C and elsewhere?
2- Does the noise level exceed 65db at the locations of concern from PCH? What is the ambient noise level?

Sara

From: Mark Abramson [mailto:mabramson@santamonicabay.org]
Sent: Thursday, August 05, 2010 12:06 PM
To: Shelley Luce
Cc: lwan22350@aol.com
Subject: RE: Agenda

From: Sara Wan [mailto:lwan22350@aol.com]
Sent: Thursday, August 05, 2010 11:51 AM
To: 'John Ainsworth'
Cc: Shelley Luce
Subject: Agenda

Item Th 19a, Malibu Lagoon
I have some specific concerns
Conditions:
1C- Only applies to listed species or species of special concern or raptors. This does not include herons and it should since they are most likely to be found here. Should add "or any species of raptor *or heron* is found"
1D- 85db is too high. In most instances, except one, we have limited it to 65db. The only reason we wound up with 85db in MDR is that I wasn't at the hearing and Mary asked for a limit but didn't know what was an acceptable level. The fact that there is not "well founded scientific justification" is because there haven't been a lot of studies. We should be taking the precautionary approach and not go above the 60 db level, certainly not above 65db. FYI the Dooling and Popper study is dealing with hearing damage and masking. Our concern here should be for flushing and behavioral effects and that is at lower levels then masking. Hey Sara we had requested that they change the language for 65 db to 65 db or 5db above existing ambient background (5 db being a detectable change in amplification) I would

suggest that the 85 never be exceeded as an upper threshold. Are only concern was near PCH or along the Colony ambient noise could exceed that threshold.

Additionally, the work is being limited to June-October, I presume to do it at lowest water levels, but this results in impacts to Least Terns. The statement that they will find other foraging areas ignores the fact that there aren't many others in the area. That's why Terns from elsewhere come here to forage even though they don't nest here. I have concerns about the timing and would hope that work could be done in none Tern season using berms to deal with the water. No work is occurring on the main lagoon or the barrier beach berm which are the area that the terns use. We are using these dates because they are the most protective of all the species we could not totally eliminate potential impacts to tern without impacting other species essentially something would be affected year round and we can't construct in the winter. This time frame was the most protective we could come up with.

Sara

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Malibu Lagoon

Date and time of receipt of communication: 9/17/10 @ 7:58am

Location of communication: La Jolla, Ca.

Type of communication (letter, facsimile, etc.): email

Person(s) initiating communication: Robert Pousman

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

" See attached email "

9/20/10
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.

Pat Kruer

From: Robert Pousman [frostitude@yahoo.com]
Sent: Friday, September 17, 2010 7:58 AM
To: richard@bloomlaw.net; esanchezccc@aol.com; Pat Kruer; mark.stone@co.santa-cruz.ca.us
Subject: Save Malibu Lagoon

This writing is to state my opposition to the planned re-engineering of the Malibu Lagoon.

Personally after reading the phases planned for this project I don't see how it can be anything but destructive.

I would hope you would reconsider allowing this to be funded and move forward. To use bull dozers in such an environmentally sensitive area is so short sighted as well.
I also understand that state funds would pay for this. That is a misappropriation of resources and community efforts as well as other volunteer work should be used if any work is to go forward.

Without taking more of you time I would hope that you would reject this plan and use efforts on more important environmental issues at hand.

Sincerely,
Robert Pousman
20612 PCH
Malibu, 90265
310.774.6472

FORM FOR DISCLOSURE OF EX-PARTE COMMUNICATIONS

Name or description of the project::	Malibu Lagoon Restoration
Time/Date of communication:	9/23/10, 11am
Location of communication:	22350 Carbon Mesa Rd, Malibu
Person(s) initiating communication:	Keely Brosnan
Person(s) receiving communication:	Sara Wan
Type of communication:	phone call

Keely called and said she had heard from many people that they were very upset with an opposed to the Malibu Lagoon restoration plan. She wanted to know what I thought about it. I said it was a very good plan. That the current habitat was very degraded and this will correct that. She said people were concerned that all of the wildlife would be killed by either the bull dozers or the poisons. I said they were taking steps to avoid that and that I didn't know how much or if they were using poisons but I would find out and let her know

Date: 9/23/2010

Sara J Wan

Commissioner's Signature

From: Sara Wan
Sent: Thursday, September 23, 2010 12:34 PM
To: 'Keely Brosnan'
Subject: RE: MALIBU LAGOON

Keely,
Thanks. I opened up the flyer on this. Number one- says that this is a "healthy marshlands" which will be turned into a rock-defined channel. To begin with this is not a healthy marshland and it will not be turned into a "rock-defined" channel. The lagoon is highly degraded. I have pasted below the summary of the project from the August staff report on this. I also pasted in what it says about herbicide use. If people feel this is still too much herbicide use then they should argue against its use altogether and see what can be done to require hand removal of the invasive plants. However, certain plants, such as Arundo simply can't be removed without the use of a herbicide. If you cut it down and then pull out the roots, no matter how fully you do that, it will come back.

Sara

The proposed project is for the implementation of a comprehensive restoration and enhancement program for Malibu Lagoon. The project includes dewatering the western 12 acre portion of the lagoon and recontouring slopes and drainages within the western portion of the lagoon, including 51,200 cu ydfill, and 13,700 cu. yds. export of phased

grading to improve circulation and increase tidal flow. No excavation or recontouring will occur within the main channel of the lagoon. The project includes implementation of a restoration and planting plan to remove non-native plant species and revegetation of all disturbed areas with an appropriate mix of native plant species, including low marsh, mid-high marsh, high marsh transitional, and coastal scrub plantings. A north-south oriented temporary berm is proposed in order to temporarily separate the western lagoon area where restoration will occur from the main portion of Malibu Lagoon in order to allow dewatering of the restoration area. A small area adjacent to the Adamson House is proposed to be deepened and replanted. All excavated material will be temporarily stockpiled in designated areas on site, including the parking lot and appropriate erosion control measures are proposed to ensure that uncontrolled runoff does not occur and that there is no potential increase in sedimentation of the lagoon. The project includes detailed plans for management of erosion during construction, a habitat planting plan, a public access, education, and interpretation plan, and a detailed long-term monitoring program for habitat (flora and fauna), water quality during both open and closed lagoon mouth conditions, sediment quality, and lagoon topography/bathymetry.
The project raises several issues relating to the disruption of the current lagoon habitat. Although the restoration project may have short term construction-related impacts, the restoration activities are intended to enhance the long-term value and function of the Malibu Lagoon ecosystem. Several special conditions are recommended to ensure that

the proposed restoration effort is successful. **Special Condition (1)** requires an environmental resources specialist to be present during all construction, grading, excavation, vegetation eradication and removal, hauling, and maintenance activities and requires sensitive species surveys and protective measures to assure that construction impacts will not harm (avian and terrestrial). **Special Condition Four (4)** requires a final dewatering plan to assure the proper protection and relocation techniques for tidewater goby, steelhead, and other important aquatic species during dewatering operations. To protect water quality during construction, **Special Conditions (2), (3), (8) and (16)** require that proper construction measures and adequate erosion control measures are implemented. To assure appropriate long-term monitoring of the restoration project, **Special Condition (6)** and **Special Condition (7)** require the applicant to conduct bi-annual monitoring and submit annual monitoring reports (for at least 5 years) regarding: hydrology, plant community revegetation, aquatic vegetation, benthos, fish, and avian species. If the monitoring reports do not indicate improvement of water circulation, water quality, or indicate impacts to sensitive species, the applicant is required to submit a revised or supplemental plan, certified by a registered engineer and a qualified Resource Specialist, that specifies additional or supplemental measures to modify the portions of the original plan that have failed or are not in conformance with the approved plan. Archeological resources exist on the site and **Special Condition (16)** requires the applicant to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all restoration activities which occur within or adjacent to the archaeological sites and to document work and to halt work if necessary. Further, **Special Condition (10)** requires the applicant to develop and implement a public access program to ensure that the public has maximum access to the State Park during construction.

Here is what is said about herbicide use

Herbicide Use
Herbicides shall not be used in any open water areas on the project site. Herbicide use in upland areas shall be restricted to the use of Glyphosate Aquamaster™ (previously Rodeo™) herbicide for the elimination of non-native and invasive vegetation for purposes of habitat restoration only. The environmental resource specialist shall conduct a survey of the project site each day prior to commencement of vegetation removal and eradication activity involving the use of herbicide to determine whether any native vegetation is present. Native vegetation shall be clearly delineated on the project site with fencing or survey flags and protected. In the event that non-native or invasive vegetation to be removed or eradicated is located in close proximity to native riparian vegetation or surface water, the applicant shall either: (a) remove non-native or invasive vegetation by hand (Arundo donax shall be cut to a height of 6 inches or less, and the stumps painted with Glyphosate Roundup™ herbicide), or (b) utilize a plastic sheet/barrier to shield native vegetation or surface water from any potential overspray that may occur during use of herbicide. In no instance shall herbicide application occur if wind speeds on site are greater than 5 mph or 48 hours prior to predicted rain. In the event that rain does occur, herbicide application shall not resume again until 72 hours after rain.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

RE: Application NO. 4-07-098 Malibu Lagoon Restoration Project

Dear Coastal Commissioners:

We encourage the Coastal Commission to approve the California State Park application for a Coastal Development Permit to support the restoration of Malibu Lagoon.

Malibu Lagoon is on the state's Clean Water Act 303(d) list of impaired waterbodies for benthic invertebrates, shellfish harvesting advisory, nutrients, eutrophication, pH, swimming restrictions, and viruses. Compared with other Southern California coastal estuaries, Malibu Lagoon suffers from chronically low species richness and low diversity of benthic invertebrates, bivalves, crustaceans, and fish. The Lagoon consistently has eutrophication and excessive algae problems. We are developing three analyses of the Malibu watershed, known as Total Maximum Daily Loads (TMDLs), including one focused on benthic community effects in the Lagoon. As part of a Consent Decree between EPA and local environmental groups, EPA will complete TMDLs for Malibu Lagoon and Creek by 2012. We believe the restoration project is an important effort and will directly address the impairments in the Malibu watershed.

We have reviewed the restoration project goals and believe the current and proposed actions should lead to a successful restoration effort. The restoration project in Malibu Lagoon is critical to addressing the impaired benthic macroinvertebrate community, its habitat, and water quality problems associated with excess nutrients, sediments and algae. We understand the restoration efforts will lead to increased flushing and circulation within the Lagoon, reduction of invasive species, improvement and expansion of the native habitat, and the capture and infiltration of runoff from surrounding developed areas before it reaches the lagoon. All of these actions will lead to protection of the critical beneficial uses in Malibu Lagoon. We are aware the first phase of restoration has been completed, which resulted in the replacement of the existing asphalt parking lot with a permeable, low impact development (LID) parking lot that infiltrates the first 3.2" rainstorm; initial results show this modification significantly reduced polluted runoff to the wetlands. We strongly support Green Infrastructure and LID efforts to address water quality problems.

Sincerely yours,

Alexis Strauss
Director, Water Division

23 Sept. 2010

EXHIBIT 24
CDP # 4-07-098 (Malibu Lagoon)
Comment Letters

Heal the Bay

1444 9th Street
Santa Monica CA 90401
tel 310-451-1500
fax 310-496-1902
info@healthebay.org
www.healthebay.org

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

Re: Agenda item Th19a; Application No. 4-07-098 Malibu Lagoon Habitat Restoration and Enhancement Program (California State Department of Parks and Recreation and Santa Monica Bay Restoration Commission)

On behalf of Heal the Bay, a non-profit environmental organization with over 13,000 members dedicated to making the Santa Monica Bay and southern California coastal waters and watersheds safe and healthy for people and local ecosystems, we have reviewed the staff report for the Malibu Lagoon habitat restoration and enhancement program and strongly support the project. We urge the Commission to approve the application so that restoration efforts may soon begin in Malibu Lagoon.

Heal the Bay is dedicated to enhancing the natural resources throughout the Malibu Creek Watershed. With 25 years of coastal protection and water quality experience and success, we obviously care deeply about the Malibu Creek Watershed and Santa Monica Bay. Our Stream Team program has conducted water chemistry monitoring and restoration activities throughout the watershed for over a decade. Our restoration efforts have involved stream barrier removals on Malibu Creek to improve riparian and in-stream habitat, including the removal of an Arizona Crossing in Sierra Retreat and a Texas Crossing in Malibu Creek State Park. We have also conducted regular volunteer-based restoration events for over six years, removing invasive plant species and replacing them with native plants.

Malibu Lagoon has historically suffered from poor water quality and degraded habitat

Malibu Lagoon is a shallow water embayment occurring at the terminus of the Malibu Creek Watershed. It is one of the few remaining tidal lagoons in southern California and is critical habitat for the federally-endangered tidewater goby[1] and southern steelhead trout.[2] Malibu Lagoon is also home to a diversity of shorebirds and is a major stop over on the Pacific Flyway for migratory birds.[3] Malibu Lagoon empties

[1] Federal Register, Volume 73, Number 21 50 CFR, Part 17; Department of the Interior, Fish and Wildlife Service. "Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Tidewater Goby (Eucyclogobius newberryi); Final Rule." January 31, 2008.
[2] Federal Register, Vol. 70, Number 170, 50 CFR Part 226; Department of Commerce, National Oceanic and Atmospheric Administration. "Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and Steelhead in California; Final Rule." September 2, 2005.
[3] Moffatt & Nichol, "Final Malibu Lagoon Restoration and Enhancement Plan," prepared for the California State Coastal Conservancy and California State Department of Parks and Recreation. June 17, 2005.

1444 9th Street tel 310-451-1500 info@healthebay.org
Santa Monica CA 90401 fax 310-498-1902 www.healthebay.org

Heal the Bay

into the Pacific Ocean at Surfrider Beach, a world-renowned surfing and recreational destination that attracts millions of visitors annually.

The 110-square mile Malibu Creek watershed is the second largest watershed in Santa Monica Bay. Many of the waterbodies throughout the Santa Monica Mountains suffer high levels of bacteria and nutrients, as well as excessive algal growth. In December 2004, the Los Angeles Regional Water Quality Control Board passed a bacteria Total Maximum Daily Load ("TMDL") for the Malibu Creek Watershed, and the US Environmental Protection Agency approved a nutrient TMDL for the Malibu Creek Watershed in March 2003. The Santa Monica Bay Beaches bacteria TMDL's summer dry weather compliance deadline was in July 2006; however Surfrider Beach has experienced numerous violations since the deadline.[4]

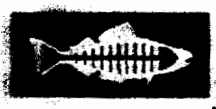
As the receiving water for the creeks and streams throughout the Malibu Creek watershed, Malibu Lagoon is highly degraded due to the inflow of nutrient and bacteria polluted water, sedimentation, encroachment of development, and other stressors throughout the watershed. These problems are exacerbated by poor circulation within the Lagoon's boundaries.

Malibu Lagoon suffers from high levels of algal growth in the form of floating and mat algae (see photos in Attachment A). Excessive algal biomass can alter habitat and cause extremely low levels of dissolved oxygen. The excessive algal growth in Malibu Lagoon is likely linked to nutrient loading, and the low levels of dissolved oxygen may have significant impacts on the aquatic life. A 2005 study found extremely low levels of pre-dawn dissolved oxygen in the Malibu Lagoon (average DO of 1.15 ± 0.12 mg/l SE), significantly below Basin Plan thresholds.[5] Similar levels (DO < 1mg/l) have been found in subsequent, ongoing, monitoring efforts. Low dissolved oxygen levels may have contributed to reported fish die offs in the area in recent years.

Malibu Lagoon also suffers very low species richness and low diversity of benthic invertebrates, bivalves, crustaceans, and fish, compared to other southern California coastal estuaries.[6] In addition to its aforementioned water quality impairments, Malibu Lagoon was listed on the California 303(d) list of impaired waterbodies for benthic community effects in 2006. The Lagoon also suffers from exotic and invasive vegetation that crowd out valuable wetland species.

---

[4] Heal the Bay Beach Report Card data for Surfrider Beach, available at: www.healthebay.org/brc.
[5] Briscoe *et. al.*, Southern California Coastal Water Research Project, Pre-dawn Dissolved Oxygen Levels in the Malibu Creek Watershed, 2005
[6] Moffatt & Nichol, "Final Malibu Lagoon Restoration and Enhancement Plan," prepared for the California State Coastal Conservancy and California State Department of Parks and Recreation. June 17, 2005.



[illegible] 20th Street tel 310-451-1500 info@healthebay.org
Santa Monica CA 90401 fax 310-496-1902 www.healthebay.org

Heal the Bay.

It is imperative that a Comprehensive Restoration Effort to Water Quality and Habitat Improvement be Implemented

The Coastal Commission is charged under Coastal Act Section 30231 to maintain, and where feasible restore, the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health. The proposed Malibu Lagoon restoration plan is expected to increase the species richness and diversity of benthic invertebrates, crustaceans, fish, and vegetation to levels comparable to other similarly-sized southern California estuaries. The plan is designed to improve tidal influence and circulation by adapting three existing poorly functioning tidal channels into a single meandering tidal channel, typical of southern California coastal estuaries. The increased tidal flow and circulation will improve dissolved oxygen levels in the Lagoon. Increased flow will also decrease sedimentation and nutrient deposition, thereby improving habitat for fish, shellfish and other invertebrates that live in the Lagoon.

Malibu Lagoon has suffered a history of habitat disturbance. It was previously used as a dump site for fill material by Cal Trans and others in the 1950s and 60s. By the late 1970s the site was completely filled and housed two baseball fields.[7]

Recent restoration efforts have occurred in the Lagoon, although none have been comprehensive. In 1983 the State Department of Parks and Recreation removed baseball fields that existed on filled areas of historic wetland, created three dead-end tidal channels, and planted salt marsh and other vegetation. Since then, wetland restoration science has advanced, and numerous studies have identified problems at the semi-restored Lagoon.[8]

The proposed Malibu Lagoon restoration plan is based on over a decade of comprehensive planning. The primary objectives of the plan are to improve water quality through increased circulation and enhance lagoon habitat for birds, fish and invertebrates. The goals and design of the restoration plan grew out of a long-term multi-stakeholder process that included a diverse group of local residents, agencies and environmental groups, including California State Parks and Recreation, the California State Coastal Conservancy, wetland restoration scientists, esteemed wetlands experts, and Heal the Bay. The stakeholders determined that restoring wetland habitats at Malibu Lagoon was their highest priority short-term project. The restoration design was led by a panel of renowned wetland experts. Heal the Bay participated in the development of the final Malibu Lagoon Restoration Plan, which was peer reviewed and completed in June 2005.[9] In April 2008, the first phase of the restoration plan was completed, which converted an old paved parking lot to a smaller permeable parking lot (that captures, treats and infiltrates runoff through bioswales) and restored the surrounding grounds with native

[7] *Id.*
[8] *Id.*
[9] *Id.*

1444 9th Street tel 310-451-1500 info@healthebay.org
Santa Monica CA 90401 fax 310-496-1902 www.healthebay.org

Heal the Bay

vegetation. Now it is essential that the next phase, as detailed in the proposed project, move forward without further delay.

Sediment reconfiguration is necessary to achieve the goals of the restoration project

As previously mentioned, one of the goals of the Malibu Lagoon restoration project is to enhance water circulation through the elimination of narrow dead-end channels and the creation of a single, bigger channel. Therefore, it is necessary to reconfigure the sediments to stimulate tidal flow and circulation. The current configuration is not based on historic lagoon boundaries, so preservation of a historic wetland is not of concern. Instead, it is critical that the proposed restoration plan be implemented to improve tidal flow and circulation throughout the lagoon.

Special condition 7 needs to be revised to reflect the intent of the restoration project

One of the primary goals of the proposed project is to decrease nutrients and algal growth in the Malibu Lagoon. High concentrations of nutrients and algae are a major problem in the Lagoon, as reflected by the Malibu Creek Watershed nutrient TMDL and listing of Malibu Lagoon to on the 2006 California 303(d) list of impaired waterbodies list for eutrophic conditions.

The staff report current states under special condition 7 that,

> "The abundance and diversity of submerged aquatic vegetation and ***macroalgae***, infaunal and epifaunal benthic invertebrates, fish, and birds shall not decrease following restoration. Although a short-term decrease may be expected due to construction related impacts, submerged aquatic vegetation and ***macroalgae***, infaunal and epifaunal benthic invertebrates, fish, and birds should be at commensurate pre-restoration levels within three years of restoration activities and should be at or above pre-restoration levels after five years." [emphasis added]

The staff report also calls for targeted studies examining why these goals are not being met if the abundance and diversity of these parameters decreases post restoration.[10] Although we agree that the restoration activities should not cause a net decrease in native vegetation or fauna, the intent of the restoration effort is to improve water quality and reduce algal growth through the improvement of tidal flow and circulation. This restoration effort may also be paired with future efforts to remove invasive species, such as New Zealand Mudsnails and Crayfish. As currently written, special condition 7 could be interpreted to prohibit such activities. We recommend special condition be revised to remove reference to macroalgae, and specify that it only applies to native flora and fauna.

[10] Coastal Commission Staff Report filed February 1, 2010 on Application No. 4-07-098, pg 21; available at: http://documents.coastal.ca.gov/reports/2010/8/Th19a-8-2010.pdf.

Heal the Bay

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www.healthebay.org

Conclusion

Southern California has lost approximately 95% of its historic coastal wetlands.[11] The Malibu Lagoon restoration project is a historic opportunity to restore critical wetland habitat in the Santa Monica Bay. It will also help to greatly improve water quality at chronically polluted Surfrider Beach. The Malibu Lagoon restoration plan was completed five years ago. Subsequently, the plan went through the California Environmental Quality Act ("CEQA") process and complies with all CEQA requirements. California's budget crisis has been the only cause for delayed implementation of the Malibu Lagoon restoration effort. Thankfully, funding is now in place to move forward with the project. Restoring Malibu Lagoon is one of the highest priorities under the Santa Monica Bay Restoration Plan. Heal the Bay strongly urges the Coastal Commission to approve the Malibu Lagoon restoration program, so the state can move forward with this critical and long-overdue project.

Sincerely,

Sarah Abramson Sikich, MESM
Coastal Resources Director

Mark Gold, D.Env
President

[11] Moffatt & Nichol, "Final Malibu Lagoon Restoration and Enhancement Plan," prepared for the California State Coastal Conservancy and California State Department of Parks and Recreation. June 17, 2005.

Heal the Bay

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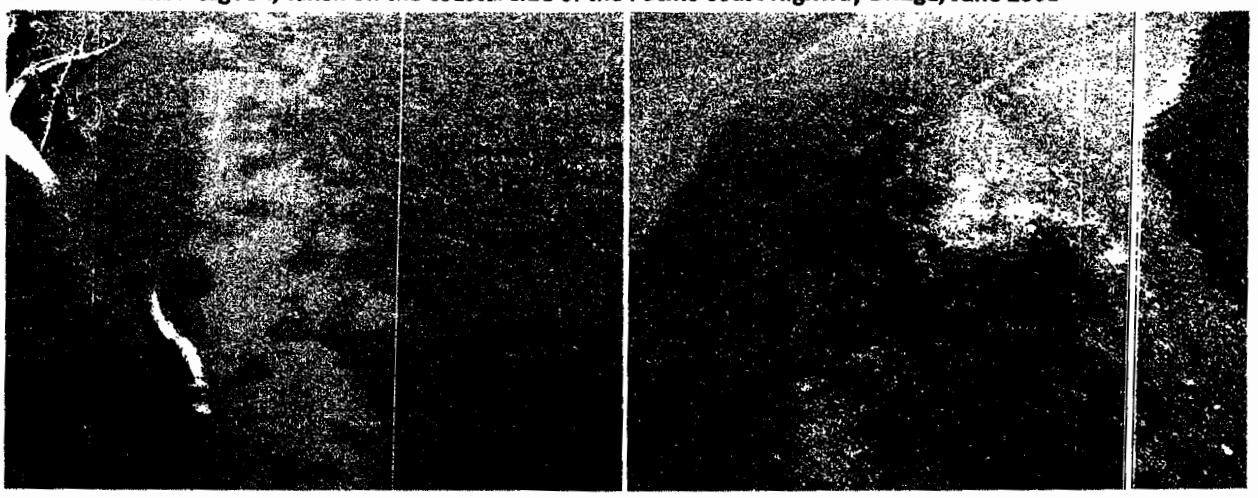
Attachment A

Exhibit 1: Lower Malibu Creek and Lagoon, taken from inland the Pacific Coast Highway Bridge, June 2009

Exhibit 2: Malibu Lagoon, taken on the coastal side of the Pacific Coast Highway Bridge, June 2008



SANTA MONICA BAYKEEPER

August 4, 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California St., Suite 200
Ventura, CA 93001
Re: **Application No. 4-07-098** *Malibu Lagoon Restoration Project*

Dear Coastal Commissioners:

Santa Monica Baykeeper urges the Coastal Commission to issue a Coastal Development Permit and strongly supports the Malibu Lagoon Restoration Project. Malibu Lagoon is one of the most important coastal wetland resources of Santa Monica Bay and the Santa Monica Mountains. Malibu Lagoon is a sensitive habitat area that is characterized by poor water quality and impaired habitat conditions due to prior modifications, urban encroachment, and watershed influences. Anthropogenic activities have significantly altered the physical configuration of Malibu Lagoon. The existing lagoon is only a very small portion of its historic area. Urban encroachment has occurred on all sides, thus reducing both wetland habitat and water quality. The design and goals of the lagoon restoration plan were created by the Malibu Lagoon Task Force consisting of 85 members that included local home owners associations, state and local political representatives, and environmental organizations. It was recommended that restoring the lagoon was the highest short term restoration priority for the watershed in 2001.

Santa Monica Baykeeper managed and provided oversight of the Malibu Lagoon Restoration during the construction of the Low Impact Development (LID) parking lot that was completed in April 2008. The rain garden parking lot captures, treats, and infiltrates on site a 3.2 inch storm over a 24 hour period. Almost two acres of wetland habitat were regained by relocating and reducing the total size of the parking lot, while accommodating more parking.

The existing lagoon configuration prohibits the lagoon from functioning properly. During the original 1983 restoration conducted by the State Department of Parks and Recreation, three tidal channels were created in the western lagoon and inappropriate vegetation was planted, which reduces the ecological integrity of the lagoon system. Since this restoration, science has advanced and additional problems associated with the lagoon configuration have been identified. These tidal channels are perpendicular to the main channel resulting in deposition of fine sediments and organic matter due to the low tidal influence and circulation. The boardwalk that bisects the lagoon allowing pedestrians beach access includes three bridges that span the three western tidal channels. These tidal channels are reduced in width creating "pinch points" under the boardwalk that further reduces tidal influence and circulation.

The proposed restoration plan will benefit Malibu Lagoon by increasing salt marsh habitat by recapturing approximately two acres of area where the previous asphalt parking lot was demolished. Restoring native vegetation at the site, removing the inappropriate plant species and expanding the salt marsh habitat will also significantly reduce fire danger to adjacent properties. Furthermore, the removal of the foot bridge "pinch points" that currently restrict the tidal flow into the three western channels and the reconfiguration of the lagoon

120 Broadway, Suite 105 • Santa Monica • CA | 310•305•9645 | Fax 310•305•7985 | www.smbaykeeper.org

to a single meandering channel will greatly improve circulation in the lagoon and better scour fine sediments and organic matter out to the ocean. The existing access path along the perimeter of the project site will be most protective of the sensitive flora and fauna that use the Lagoon while safely accommodating beach access to both pedestrians and emergency vehicles. This path will also include several interpretive features and teaching areas designed to educate visitors about the flora and fauna of coastal estuaries, the Malibu Creek watershed and pollution issues, the unique cultural resources of Malibu Lagoon, and will provide wonderful opportunities for bird watching.

Santa Monica Baykeeper urges the Commission to approve the permit application and to strongly support the Malibu Lagoon Restoration Plan.

Sincerely,

Liz Crosson
Executive Director/Baykeeper
Santa Monica Baykeeper
liz@smbaykeeper.org

bay restoration commission

STEWARDS OF SANTA MONICA BAY

santa monica bay restoration commission ✒ 320 west 4th street, ste 200; los angeles, california 90013
213/576-6615 phone ✒ 213/576-6646 fax ✒ santamonicabay.org

July 30, 2010

AMBER TYSOR
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001

RE. **APPLICATION NO.:** 4-07-098 *Malibu Lagoon Restoration Project*

Dear Coastal Commissioners:

The Santa Monica Bay Restoration Commission (SMBRC) urges the Coastal Commission to issue a Coastal Development Permit and strongly support the Malibu Lagoon Restoration Project. The lagoon restoration plan is based on a comprehensive planning effort that began in 1989. The goals and design of the lagoon restoration plan grew out of a stakeholder process that included a diverse group of local residents, agencies and environmental groups. The stakeholders determined that restoring wetland habitats at Malibu Lagoon was their highest priority short-term project. The State Coastal Conservancy and the SMBRC then worked to secure funding for this stakeholder-driven project.

The lagoon restoration design was led by a panel of renowned wetland experts. The implementation of the lagoon restoration plan will improve habitat and water quality for a variety of species, including the federally-endangered tidewater goby and steelhead trout. The 110-square mile Malibu Creek watershed is the second largest watershed in Santa Monica Bay and drains into Malibu Lagoon. Malibu Lagoon outlets into the Pacific Ocean at the world-famous Surfrider Beach, visited by more than 1.5 million people annually. Malibu Lagoon is one of the few remaining coastal wetlands in southern California and is critical habitat for the federally-endangered tidewater goby and southern steelhead trout. Malibu Lagoon is also a major stop over on the Pacific Flyway for migratory birds.

The SMBRC has been an active financial supporter of restoration actions and water quality improvement projects in the Malibu Creek watershed since our inception in 1988. Additionally, SMBRC has participated in or funded myriad scientific research projects in the Malibu Creek watershed, with the goal of enhancing habitat and water quality. As a result of our expertise and working experience in the Malibu Creek system, the SMBRC's Bay Restoration Plan (2008) calls for restoration of Malibu Lagoon (Objective number 7.2), and includes several objectives related to improving water quality and habitat in the Malibu Creek watershed and lagoon.

An early restoration project in the western portion of Malibu Lagoon was conducted by the State Department of Parks and Recreation (DPR) in 1983. This project removed baseball fields that existed on filled areas of historic wetland, created three dead-end tidal channels, and planted salt marsh and other vegetation. Since then, wetland restoration science has advanced, and numerous studies have identified problems at the semi-restored Lagoon. Specifically, the Lagoon suffers very low species richness and low diversity of benthic invertebrates, bivalves (clams and mussels), crustaceans (crabs), and fish, compared to other southern California coastal estuaries. Malibu Lagoon also suffers from high algae levels and eutrophication, which results in critically low levels of dissolved oxygen in the Lagoon. Malibu Lagoon is on the state's 303d list of impaired waterbodies for benthic

bay restoration commission

STEWARDS OF SANTA MONICA BAY

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invertebrates, nutrients and eutrophication. Low dissolved oxygen levels have led to a number of reported fish die offs. The Lagoon also suffers from exotic and invasive vegetation that crowd out valuable wetland species.

The proposed Malibu Lagoon Restoration Plan will dramatically improve tidal influence and circulation by adapting three existing poorly functioning tidal channels into a single meandering tidal channel, of the type that is typical of southern California coastal estuaries. The increased tidal inundation, flushing, and circulation will improve dissolved oxygen levels. Improved tidal flushing will also allow more effective flushing of fine sediments, and thereby improve habitat for shellfish and other invertebrates that live on the bottom of the lagoon. The lagoon restoration is expected to increase the species richness and diversity of benthic invertebrates, crustaceans, fish, and vegetation to levels comparable to other similarly-sized southern California estuaries.

The restoration will also lower the existing topography, and enhance access for visitors to the lagoon. The enhanced public access will incorporate a series of unique interpretive elements that will enrich the visitor experience. Interpretive elements allow visitors to interact with and learn about tidal lagoons, local flora and fauna, and cultural resources. Specific elements have been created to enhance the numerous educational programs that already utilize the Lagoon, such as natural bird blinds, designed by birdwatchers. Surfing is an important recreational use of Malibu Surfrider Beach and has also been incorporated into the interpretive plan.

The Santa Monica Bay Restoration Commission supports implementation of the restoration and enhancement plan to improve circulation and increase the lagoon's ability to flush fine sediments. The combination of these improvements will increase and dramatically enhance Malibu Lagoon's habitat for fish and other species.

I urge you to approve the permit application and to strongly support the Malibu Lagoon Restoration Plan.

Sincerely,

Shelley Luce, D.Env.
Executive Director

Amber Tysor

From: michael blum [michael.blum@gmail.com]
Sent: Wednesday, August 04, 2010 3:13 PM
To: Amber Tysor
Cc: mabramson@santamonicabay.org
Subject: Malibu Lagoon Restoration Project :: APPROVE

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Ste. 200
Ventura, California 93001

SENT VIA EMAIL

RE: MALIBU LAGOON RESTORATION PROJECT : APPROVE

Dear Ms. Tysor.

The Malibu Surfing Association (MSA) was formed in 1961 by members of the Malibu community as one of California's first surfing clubs. Today, the MSA is an all-volunteer, nonprofit organization dedicated to the fellowship of surfing and to the stewardship of Malibu Surfrider Beach.
We are a primary user group of the Surfrfider Beach and Malibu Lagoon areas. We speak on behalf of our members whose views represent the surfing community and the 1.5M annual visitors to Malibu Surfrider Beach.

The MSA urges the Coastal Commission to both issue a Coastal Development Permit and support the Malibu Lagoon Restoration Project.
The Lagoon Restoration Plan is based on a comprehensive planning effort that began more than 20 years ago; growing out of a stakeholder-driven process that included a diverse group of local residents, agencies and environmental groups. Through that process, stakeholders determined that restoring wetland habitat at Malibu Lagoon was their highest priority, short-term project.

Third Point is one of the premier high-performance surfing breaks in Malibu, located proximate to the Malibu Lagoon's western end.
Recreational surfers represent the largest user group of the Third Point beach and it has been home to three generations of professional surfers coming from the Malibu area. Because of its natural beauty, relative isolation, and high-quality wave, it has also been used as a site for elite-level surfing competitions. Earlier this year, Third Point hosted one of the six, Surfing America Prime events -- a competition series used to determine the 18 and Under USA international surfing team. That Surfing America would produce their only LA-area event at Third Point underscores its importance to the surfing community.

During the Malibu Lagoon Restoration Project planning, MSA has been consulted on the plans to modify pedestrian access to Third Point through enhancements to the Lagoon's perimeter access road. Throughout these discussions, easy access to Third Point by beach visitors and recreational surfers, in addition to the protection of ocean water quality during construction, has always been considered. MSA believes the Restoration Project balances the requirements of beachgoer's and surfer's access to Third Point, protection of flora and fauna, privacy for nearby homeowners, and access for emergency and maintenance vehicles.

We urge you to approve the permit application and to support the Malibu Lagoon Restoration Project. Please contact me at 818.564.4217 with any questions.

Sincerely,

Michael Blum
President, Malibu Surfing Association

STATE OF CALIFORNIA–THE NATURAL RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

SANTA MONICA MOUNTAINS CONSERVANCY
RAMIREZ CANYON PARK
5750 RAMIREZ CANYON ROAD
MALIBU, CALIFORNIA 90265
PHONE (310) 589-3200
FAX (310) 589-3207
WWW.SMMC.CA.GOV

Via Email

August 5, 2010

California Coastal Commission
c/o Ms. Amber Tysor
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

Application No. 4-07-098, Malibu Lagoon Restoration Project

Dear Commissioners:

The Santa Monica Mountains Conservancy staff supports the Malibu Lagoon Restoration Project, subject of Application No. 4-07-098 which will be before you at your upcoming meeting. Malibu Lagoon receives all the runoff from the 110-square mile Malibu Creek Watershed, the second-largest watershed of Santa Monica Bay. The Lagoon has been the subject of decades of environmental concern and study. The proposed project is the culmination of multi-agency efforts to restore natural functions and greatly improve habitat and water quality, while enhancing the public's right to enjoy and appreciate this rare coastal resource.

The Conservancy and other federal, state, and local park agencies own and manage thousands of acres of natural open space parkland in the Malibu Creek Watershed, including Palo Comado Canyon, Cheeseboro Canyon, Upper Las Virgenes Canyon Open Space Preserve (former Ahmanson Ranch), Zev Yaroslavsky Las Virgenes Highlands Park, Las Virgenes View Park, King Gillette Ranch, and Malibu Creek State Park. Malibu Lagoon is a unit of the California State Park system. Watershed protection, resource protection, water quality objectives, public access, and habitat enhancement are key values that are managed by the park agencies. Restoration of Malibu Lagoon will contribute to overall parkland and habitat values throughout the Malibu Creek Watershed.

The restoration project will improve tidal influence and circulation and greatly increase flushing of fine sediments, essential for optimizing the lagoon's ecological function.

A greater diversity and abundance of fish, bird, invertebrate, and plant species is an expected result of the restoration project, including increased protection and viability for the federally-endangered southern steelhead trout and tidewater goby.

The restoration project elements designed to enhance access for visitors to the state-owned lagoon are also essential benefits of the plan. Because the existing boardwalk system has the effect of impeding tidal action, it will be removed. The existing perimeter access road will instead be improved as the superior park pathway, with environmental interpretive features and opportunities for educational programming, while still maintaining emergency vehicle access.

We join the Santa Monica Bay Restoration Commission in urging your approval of the Malibu Lagoon Restoration permit application.

Sincerely,

RORIE SKEI
Chief Deputy Director

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

August 6, 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

RE: APPLICATION NO. 4-07-098 *Malibu Lagoon Restoration Project*

Dear Coastal Commissioners:

The Los Angeles Regional Water Quality Control Board (LARWQCB) staff urges the Coastal Commission to approve the California State Park's application for a Coastal Development Permit for the restoration of Malibu Lagoon.

Along with the State Water Quality Control Board and the Santa Monica Bay Restoration Commission, the LARWQCB has been an active supporter of Malibu Lagoon restoration. To date, we have committed almost $4 million in state bond funding to the California Coastal Conservancy and California State Parks towards the implementation of the Malibu Lagoon Restoration and Enhancement Plan. Additionally, we have participated in or funded multiple scientific research projects in the Malibu Creek watershed with the goal of enhancing water quality and restoring critical habitat.

Compared to other southern California coastal estuaries, Malibu Lagoon has very low species richness and diversity. The lagoon also has high levels of algae, and eutrophication has resulted in a number of fish kills. Additionally, exotic and invasive vegetation have displaced important native wetland species. The lagoon is on the State's 303d list of impaired water bodies for benthic community effects, pH, eutrophic conditions, a shellfish harvesting advisory, swimming restrictions, and viruses.

The lagoon restoration will improve habitat and water quality for a variety of species, including the federally-endangered tidewater goby and steelhead trout.

LARWQCB staff urges the Coastal Commission to approve California State Park's Coastal Development Permit application referenced above, and to support the restoration of Malibu Lagoon.

Sincerely,

Chief Deputy Executive Officer
for

Samuel Unger, P.E.
Interim Executive Officer

RESOURCE
CONSERVATION DISTRICT
OF THE
SANTA MONICA MOUNTAINS

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30000 Mulholland Highway, Agoura Hills, CA 91301
Mail: PO Box 638, Agoura Hills, CA 91376-0638

3 August 2010

Amber Taylor
California Coastal Commission
South Central Coast Area
89 S. California Street, Suite 200
Ventura, CA 93001

RE: APPLICATION No: 4-07-098 Malibu Lagoon Restoration Project

Dear Commissioners

The Resource Conservation District of the Santa Monica Mountains (RCDSMM) appreciates the opportunity to urge the Coastal Commission to issue a development permit and support the Malibu Lagoon Restoration Project. The RCDSMM has provided leadership in the Malibu Creek Watershed planning process and extensive grant funding and management since the early 1990's. Our effort to facilitate the comprehensive planning efforts in the watershed has resulted in several phases of restoration of Malibu Lagoon. Restoring a hydrologically functional lagoon has faced numerous challenges over the years, but the plan under consideration attempts to utilize the best coastal restoration sciences available to achieve the goal.

Malibu Lagoon is unique in many ways. Due to its size and location, restoring Malibu lagoon and watershed is on the forefront of redefining and repairing the relationship between coastal development and coastal resources. Despite numerous problems related to development, such as water quality impairments, constriction of natural creek patterns and introduction of invasive aquatic species, Malibu Creek still manages to support a recovering population of endangered Tidewater gobies and remnant population of southern steelhead trout.

The proposed Malibu Lagoon Restoration project addresses critical issues that have limited the ecological function of the lagoon since restoration began in 1984. By re-directing trails around the perimeter of the lagoon, it is possible to develop a more functional tidal influence, which has numerous benefits for many species. The present configuration with the trails meandering through marginally functional channels has resulted in a depauperate benthic invertebrate community, limited foraging for shorebirds that rely on mudflats and compounded water quality problems.

The proposed trail alignment provides public access that will create opportunities for visitors to interact with and learn more about the functional patterns of a typical southern California

estuary system. Interpretive elements that immerse the visitor in the ecological, cultural and social elements of the lagoon and watershed will provide the opportunity for greater understanding of how these systems integrate human and natural processes.

The restoration planning process has evolved with extensive input from a wide variety of stakeholders over the years. The inclusive efforts of watershed planning are designed to develop a consensus approach to solving problems. The Malibu Lagoon Restoration Project reflects a long effort to identify, respond to and integrate both community and ecological concerns in a respectful and functional way.

The RCDSMM is grateful for the opportunity to have had a leadership role in the overall watershed planning process and looks forward to continued efforts to coordinate the long-term sustainability of Malibu Creek and Lagoon.

Respectfully submitted,

Clark Stevens, AIA
Executive Officer

CALIFORNIA TROUT

KEEPER OF THE STREAMS

5 August 2010

Amber Tysor
California Coastal Commission
South Central Coast Area
89 South California Street, Ste. 200
Ventura, California 93001

SENT VIA EMAIL

RE: APPLICATION NO: 4-07-098 Malibu Lagoon Restoration Project.
Applicant: California State Parks

Dear Members of the Coastal Commission,

The purpose of this letter is offer California Trout's (CalTrout) support for the the Malibu Lagoon Restoration Project (Project) and to urge the Coastal Commission to approve the Coastal Development Permit for this Project. Since 1971, CalTrout has been the only statewide organization solely committed to the recovery of California's wild trout, steelhead, and salmon waters. Under increasing threat from dramatic population growth and the effects of global climate change, the rivers, streams, estuaries & lagoons cold, that sustain our fish and enable our state's economy to thrive, require coordinated and strategic conservation efforts to endure.

The Malibu Lagoon Restoration Plan is based on a comprehensive planning effort that began more than 20 years ago; growing out of a stakeholder-driven process that included a diverse group of local residents, agencies and environmental groups, including Cal Trout. Through that process, stakeholders determined that restoring wetland habitat at Malibu Lagoon was their highest priority, short-term project.

The Malibu Lagoon and Malibu Creek watershed is designated as critical habitat for the federally listed endangered Southern California steelhead trout. The proposed restoration project will enhance circulation and increase chronically depressed dissolved oxygen levels in the Lagoon. These persistently low levels of dissolved oxygen negatively impact all fish species that use the Lagoon, including the SoCal steelhead trout. Steelhead trout are especially susceptible to depressed levels of dissolved oxygen and increased water temperatures. Additionally, during the Lagoon restoration large woody debris will be installed at several locations to provide cover for steelhead trout and other fish species. The improved flushing and circulation that will result from this project will also help to lower water temperatures. Water temperatures under existing conditions often reach or exceed the upper limits of what is considered safe for steelhead.

4592 Santa Monica Avenue, San Diego, CA 92107
Phone: (619)269-9207 **E-mail:** nknite@caltrout.org **Web:** www.caltrout.org

The new interpretive elements along the enhanced Lagoon's perimeter access road will educate visitors about how Coastal estuaries function, local flora and fauna, and cultural and archeological resources. Part of the interpretive elements will include educational information about southern steelhead trout. The project proponents have worked closely with NOAA fisheries and other resource management agencies to protect water quality and fish species during construction. We believe the restoration promotes public access, protects native flora and fauna, enhances water quality, and improves habitat for multiple species, including the endangered Southern California steelhead.

We urge you to approve the permit application and to support the Malibu Lagoon Restoration Project. Please contact me at 619-269-9207 with any questions.

Sincerely,

Nica Katherine Knite

Nica Katherine Knite
Southern California Regional Manager

California Trout
Southern California Office
4592 Santa Monica Avenue
San Diego, CA 92107
nknite@caltrout.org

COMMITTEES
BUDGET
BUDGET, SUBCOMMITTEE No. 2 ON EDUCATION FINANCE
EDUCATION
JUDICIARY
NATURAL RESOURCES
COMMISSION ON THE STATUS OF WOMEN
SANTA MONICA BAY RESTORATION COMMISSION
SANTA MONICA MOUNTAINS CONSERVANCY

Assembly
California Legislature

JULIA BROWNLEY
ASSEMBLYMEMBER, FORTY-FIRST DISTRICT
CHAIR, ASSEMBLY COMMITTEE ON EDUCATION

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DISTRICT OFFICE
6355 TOPANGA CANYON BLVD.
SUITE 205
WOODLAND HILLS, CA 91367-2108
(818) 596-4141
(310) 395-3414
(805) 644-4141
FAX (818) 596-4150

August 6, 2010

Amber Tyson
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: Item 19a – Malibu Lagoon Restoration, SUPPORT

Dear Coastal Commissioners:

As the Assemblywoman and State Senator, respectively, representing the City of Malibu, we strongly support the Malibu Lagoon Restoration Project and respectfully urge you to issue the required Coastal Development Permit for this important project.

We are very proud to have the Santa Monica Mountains National Recreation Area in our districts. The Malibu Creek watershed which drains to the Pacific Ocean has enormous environmental importance and challenges, including the need for improved habitat and water quality for a wide variety of species that inhabit the Lagoon, including the Federally-endangered tidewater goby and steelhead trout. The Malibu Lagoon is one of the few remaining coastal wetlands in southern California, and also a magnificent place of recreation for countless visitors every year, including at world-famous Surfrider Beach. Unfortunately, the Lagoon remains on the state's 303d list of impaired waterbodies, with severe impacts on benthic invertebrates, low levels of dissolved oxygen, and other water quality problems which the proposed Restoration Plan will dramatically improve.

Thank you for what we hope will be adoption of the staff's recommendation to approve the project. Please don't hesitate to call on either of us to discuss this very important project.

Sincerely,

JULIA BROWNLEY
Assemblywoman, 41st District

FRAN PAVLEY
State Senator, 23rd District

United States Department of the Interior

NATIONAL PARK SERVICE
Santa Monica Mountains National Recreation Area
401 West Hillcrest Drive
Thousand Oaks, California 91360-4207

In reply refer to:
L76 / 134-90

August 11, 2010

Amber Tysor, California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

Re: Application No. 4-07-098, Malibu Lagoon Restoration Project

Dear Ms. Tysor:

The National Park Service has reviewed the staff report for implementation of a Wetland Habitat Restoration and Enhancement Program for Malibu Lagoon. The project would reconfigure the existing lagoon to improve hydrologic performance, remove non-native species and restore native wetland and upland plant species, and construct a public interpretative trail. The National Park Service appreciates the opportunity to participate in the public review process for the proposed project. We fully support the proposed project, which we find to be consistent with our management objectives for Santa Monica Mountains National Recreation Area.

Overall, the project represents a comprehensive and improved design over the previous restoration effort. The relocation of public access to the perimeter of the lagoon site will improve the hydrology of the lagoon and provide more suitable habitat. Currently, flows are restricted by the narrowness of the channel underneath the trail bridge crossings. Also, removal of the bridges will allow wind to naturally circulate the lagoon water. Relocation and removal improves habitat conditions on the islets within the lagoon by providing seclusion and protection for wildlife, especially birds.

Thank you for the opportunity to comment. If you have questions, please call Melanie Beck, Outdoor Recreation Planner, at (805) 370-2346.

Sincerely,

Meghan Kirsh

for Woody Smeck
Superintendent

cc: Joe Edmiston, Executive Director, Santa Monica Mountains Conservancy
Ron Schafer, Superintendent, Angeles District, State Department of Parks and Recreation
Clark Stevens, Executive Officer, Resource Conservation District of the Santa Monica Mountains

Coastal Law Enforcement Network
A biodiversity project of the
International Humanities Center
enforcing laws protecting the
California coast

322 Culver Boulevard Suite 317
Playa del Rey, CA 90293
p: (310) 821-9045
f: (310) 448-1219

CLEAN

TH19A

Wetlands
Defense
Fund

The Honorable Bonnie Neely, Chair **August 3, 2010**
& Honorable Commissioners, California Coastal Commission
& Jack Ainsworth, Deputy Director, California Coastal Commission
89 South California Street, Ste. 200
Ventura, CA 93001 *delivered via facsimile & mailed August 3, 2010*

Re: Application# 4-07-098
Malibu Lagoon Wetland Habitat Restoration & Enhancement Project –

Dear Commission Chair Neely, Coastal Commissioners & Mr. Ainsworth:

On behalf of Coastal Law Enforcement Action Network (CLEAN) and Wetlands Defense Fund, we ask that you delay this item from being heard at the San Luis Obispo hearing due to the Los Angeles Superior Court's recurring opinions that the Coastal Commission is not complying with CEQA (the California Environmental Quality Act) when it has not posted staff reports that allow the public a 30-day time period for review.

According to several recent legal cases brought against the California Coastal Commission in Los Angeles Superior Court, the Court has ruled that the Coastal

Commission must provide 30 days notice to the public for review of permit approvals such as there. The staff report for this item was not circulated to the public with the required 30 days notice, having been posted on the Coastal Commission's website on July 30, 2010 for a hearing scheduled for August 13, 2010.

Here is a citation from one of the relevant cases: November 30, 2009 decision. *Littlejohn v. California Coastal Commission*

> "Public Resources Code section 21091(1) states that the 'public review period for a draft environmental impact report may not be less than 30 days.' The Coastal Commission is not exempt from section 21091, which is part of chapter 2.6 and regulatory programs certified under section 21080.5 in pertinent part are exempt only from Chapters 3 and 4. This regulatory program exemption also must be narrowly construed. See Ultramar, Inc. v. South Coast Air Quality Management District (1993) 17 Cal.App.4th 689, 699; City of Coronado, 69 Cal.App.3d 570, 581."
>
> "In sum, the Coastal Commission is governed by section 21091's requirement for a 30-day review period for its staff report, the functional equivalent of an EIR."

In alignment with this ruling and others that the Los Angeles Superior Court has issued related to Coastal Commission legal challenges, we also believe this circulation of the staff report must include review by all relevant agencies, as CEQA requires, including the United States Fish & Wildlife Service, the California Department of Fish & Game, National Marine Fisheries Service and others.

In addition, the volume of information presented in the staff report, combined with seeming contradictions on the Environmental Impact Report, which we only received a copy of recently, make it impossible to provide meaningful comments and recommendations related to the restoration of this important coastal resource, which is designated as Environmentally Sensitive Habitat Area (ESHA) in the Malibu Local Coastal Program (LCP.)

Finally, while we are seeking the minimum of 30 days time required by law for proper circulation of this staff report, we are mindful that the next possible hearing date is scheduled for September in Eureka, many hundreds of miles away from Malibu and its surrounding county area of Los Angeles.

Therefore, we ask that you convene the public hearing on this important topic at the next hearing which is scheduled for Los Angeles or Orange County, so that the many members of the public, who are extremely interested in this lagoon and its resources and public access to the lagoon and Malibu's adjacent Surfrider Beach, will not be caused a hardship in having to travel to such a distant locale as Eureka. We understand that the next possible Los Angeles/Orange County hearing date is November, so the item can still be considered before the end of this calendar year.

Thank you for your time and consideration of the important issues discussed above.

With best regards,

/s/ *Marcia Hanscom*

Marcia Hanscom
Managing Director, **Coastal Law Enforcement Action Network ~ CLEAN**
Director, **Wetlands Defense Fund**

RALPH W. KIEWIT, JR.

21334 MALIBU COLONY DRIVE
MALIBU, CA 90265

Item Th 19a
@ SLO 8/12/10

AUGUST 2, 2010

CALIFORNIA COASTAL COMMISSION STAFF
ATTN: MR. JACK AINSWORTH
C/O AMBER TYSOR, COASTAL PROGRAM ANALYST

WITH RESPECT FOR THE COASTAL COMMISSION MEMBERS, I ASK CONSIDERATION OF THESE STATEMENTS AND THAT THE STAFF MAKE THESE AVAILABLE.

1. PROBABLY 20 YEARS AGO I INSTALLED A CORRUGATED IRON PIPELINE TO DRAIN STORM WATER FROM MINE AND NEIGHBOR'S PROPERTIES INTO THE LAGOON. I BELIEVE THIS WAS BEFORE STATE PARKS EVEN OWNED THE PROPERTY, AND THAT I HAVE A PRESCRIPTIVE EASEMENT UNDER ADVERSE POSSESSION COMMON LAW.

2. STATE PARKS PARTIALLY HONORED THIS BY A WRITTEN PERMIT TO ENTER IN NOVEMBER 1997 WHICH AUTHORIZED INSTALLING AN INSIDE "LINER" AND INSTALLATION OF A TOP "GATE VALVE". ANY REMOVAL WOULD SERIOUSLY DAMAGE OUR PROPERTIES.

3. COMMISSIONER SARA WAN STATED TO THE STAFF THAT I HAD NO PERMIT TO ENTER (SEE ATTACHED COPY OF PERMIT). SHE FURTHER STATED THAT WILD FIRE DAMAGE TO OUR PROPERTIES WOULD PROBABLY STOP AT THE PACIFIC COAST HIGHWAY, YET EVERY WILD FIRE (AND I HAVE BEEN THROUGH FOUR) CROSSED THE PACIFIC COAST HIGHWAY AND BURNED RIGHT TO OUR PROPERTY LINE AND WERE ONLY STOPPED THERE BY FIRE ENGINE TRUCKS AND CREWS, USING THE EXISTING ROAD.

Ralph W Kiewit, Jr
RALPH W. KIEWIT, JR.

Date: November 5, 1997

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION
PERMIT TO ENTER

Permission is hereby granted to: Ralph W. Kiewit, Jr., 114 Malibu Colony, Malibu, California 90265, (310) 456-8965, hereinafter referred to as PERMITTEE, to enter Malibu Lagoon State Beach, for the purpose of installing and maintaining a gate value on an existing drainage pipe, and installing an inside "liner" in existing drainage pipe.

The rights and privileges hereby granted to PERMITTEE at the option of PERMITTEE, may be exercised by any authorized agent or contractor of PERMITTEE.

By acceptance of this Permit to Enter, it is expressly understood and agreed by and between the parties that PERMITTEE agrees to indemnify and hold the undersigned and STATE harmless against any and all loss, damage and/or liability which may be suffered or incurred by STATE and against any and all claims, demands and causes of action that may be brought against STATE caused by, or arising out of, or in any way connected with the use and/or occupancy of said further agrees to assume full responsibility for any and all damages caused by PERMITTEE'S operation under this Permit and PERMITTEE shall, at its option, either repair or pay for such damages.

PERMITTEE shall adhere to the following conditions:

1. No grading, digging or any other type of soil manipulation is allowed., except for existing digging to allow replacement of corrugated existing pipe to receive gate valve. (Approximate 8 Ft. section at entry end.)

Sincerely,

Date 11-6-97

Daniel C. Preece, District Superintendent
Angeles District
State of California
Department of Parks and Recreation

ACCEPTED:

Date November 5, 1997

Ralph W. Kiewit, Jr.

TOTAL P.02

RECEIVED
AUG 04 2010
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

RECEIVED
NOV 5 1997
UNITCO MGMT. CO.

FAX TRANSMISSION

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION
ANGELES DISTRICT

November 5, 1997

TO: Ralph W. Kiewit, Jr. 818-[redacted] 501-3127

FROM: RICHARD ROZZELLE, ASSOCIATE LAND AGENT
CALIFORNIA DEPARTMENT OF PARKS AND RECREATION
(818) 880-0362
(818) 880-6165 FAX

NUMBER OF PAGES (Including Cover Sheet): 2

MESSAGE: Superintendent Guiney asked me to process the attached permit for your "gate valve". Please review and sign the document. If you can then fax it to my office, I will have it completed and returned to you as soon as possible. Thank you for your cooperation.

10/5 Millie: Please conform to attached – I sign & you fax return,

STEVE LITTLEJOHN
PO BOX 176
MALIBU, CA 90265
310-457-5431

8/3/10

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001-2801

Via facsimile: (805) 641-1732 and Regular US Mail

Re: Rescheduling of item TH 19a scheduled to be heard in San Luis Obispo on August 12, 2010.

Dear Ms. Neely and Ms. Ainsworth:

I wanted to thank Jack Ainsworth for the time it took to meet with a group of us a couple of weeks ago about the Malibu Lagoon Restoration Project. As we mentioned, this is one of the major wetland areas in all of the Southern California area and as such you need as much input from all the diverse groups that will be affected by this project. My understanding of the Coastal Act and CEQA requirements is the staff report needed to be posted a full 30 calendar days prior to the hearing date. As it was posted only 15 days prior to the hearing, we are requesting that you remove this item from the current hearing date to one that would be most appropriate here in Southern California – which would be in November here in Southern California or in San Clemente in the month of October. At minimum, it should be held in Eureka in September. However, considering the vast importance of this item, the proper venue is Southern California at the November hearing.

In reviewing the 87 page staff report and the 455 page EIR (that was prepared in 2005), it is evident that the staff is writing about construction aspects not covered by the EIR. Not to mention this item is a huge undertaking that cannot be digested in a mere 15 calendar days from the posting of the staff report. It has also been noted back in 2005 the nearby homeowners did not receive a written notice required for all landowners within a 500' radius that an EIR was being prepared for this project. Thus this EIR is lacking the very

important input from the homeowners that have drainage, access, and emergency fire escape issues.

The EIR itself seems to lack the proper analysis of the most feasible and least environmentally damaging project for all involved. As I understand it, this in itself is a violation of CEQA. The project seems to ignore the fact that this is a spectacular and established ecosystem which will be obliterated by bulldozers and seems more driven by the use of bond funds than common sense. For example, there is barely a mention that the wooden bridges that cross the lagoon which affords a magnificent viewing location for the public and the shortest path for the beachgoers and surfers that are lugging heavy items to the beach will be eliminated! Did anyone stand there and ask the public what they wanted? Did anyone ask the Audubon Society if they don't care if this vantage point of the lagoon will be lost forever? Do you realize that with hardly a mention in these 2 major reports, these bridges, which are one of only two access ways and the shortest way to the beach as well, are being eliminated? I also understand that the consulting firms used didn't have biologists or the right biologists involved and proper and complete wildlife surveys are lacking. How can that be?

On the 2nd to the last page of the staff report is an ex-parte communication from Sara Wan which I will use as an example of why the public and nearby residents needs a full 30 days to respond to this staff report. Simply, the staff themselves will need to be educated. Mrs. Wan wrote the Malibu Colony residents have access gates to the park land which are used to "throw their trash, let dogs out, etc." Yet there is not one shred of evidence of such activities being caused by the Colony residents. She goes on to say that a wildfire would likely never jump the PCH. I was there for the wildfire in 1970 that burned down 50 homes in the Cross Creek area just to the north of the Malibu Colony and I must tell you it is terrifying to watch what happens. It is so hot, windy, and dry, the cinders fly for miles in the 85 mph plus winds in temperatures well over 100 degrees and end up starting fires on anything combustible where they land and stick – it could be a fence post, dead ice plant, you name it, it starts to go up in flames creating more flying cinders. I personally put out fires on my neighbor's fences. Why the Colony didn't burn down that day was a miracle. The amount of deadwood that exists in the park land right now is enough to start a fire large enough to burn the whole Colony down in these conditions. She goes on to state there is adequate fire escape right now. I ask Sara, what if you are there and the house on the left and right of you are up in flames being fanned by 85 mph winds and the houses across the street are also engulfed in flames, where is this adequate fire escape now? Have you ever been in a fire storm? Next she shows a lack of understanding of the drainage problems that exist in the area. She only mentions that the Parks did grant Ralph Kiewit (a resident since 1957) a permit to have a drain pipe installed so his property and that of his neighbor, Carl Deutsch, don't flood out, but the Coastal Commission didn't grant a permit, therefore the drain must be removed. Why is there no integration of the Colony's drainage problems with this project? Surely something can be done to solve this drainage problem and tie it into the drain system that services the Malibu Colony Plaza and the Malibu Road other than to callously remove the only drain that the residents have. What happens when the El Nino storms hit and the Colony floods out (I have personally seen 18" of sea water on Malibu Colony Drive

during these storms)? My point being, there are so many important things which need to be developed and integrated here, such a huge item cannot be rammed though within a 15 day posting time. I don't think the public is able to respond to the staff report in this short of a response period. I know the residents of the Colony cannot either.

Another item which should be looked into: On Sunday 8/1/10 I went for a walk around the lagoon and I noticed where the posting of this item ended up. It was on the chain link fence on the exit side of the driveway from the parking lot. It was facing PCH. I don't think anyone could possibly notice this posting. From what I understand, it is required that you post in a "conspicuous location". How about moving it to where the parking attendant's booth is (post on the entrance side) so everyone driving in will see it? As not all the people entering the park do so by car, so I would think on an item of this importance, you would also post on both the trails to the beach and add a line about the bridge being removed forever. I assume you want the public to know about the renovation plans?

I am cutting and pasting the ruling to this letter that was written on November 30, 2009 by Superior Court Judge James C. Chalfaut in regards to the need for a full 30 days for the public to digest and respond to a staff report. I believe his ruling strongly applies to item TH 19a as well. Please read his decision below. In addition, I am attaching the permission granted by the parks to Ralph Kiewit for the drain pipe.

Sincerely,

Steve Littlejohn

1. <u>30 Day Public Review Period</u>

The Coastal Commission's regulations provide for the orderly evaluation of proposed developments, and requires distribution of the notice of hearing on an application at least 10 calendar days prior to the hearing. 14 CCR §13059. The regulations also require distribution of the staff report within a "reasonable time to assure adequate notification prior to the scheduled public hearing." 14 CCR §13063(a). Notice includes a description of the development, its location and a "statement that the staff report will be distributed as set forth in section 13059." 14 CCR §13063(a)(2) and (6). The regulations further provide that staff reports shall be distributed "within a reasonable time to assure adequate notification prior to the scheduled public hearing." 14 CCR §13059.

The Coastal Commission released the staff report on June 25, 2008, 15 days prior to the July 10,2008 public hearing on the project. AR 1636. This exceeded the 10-day notice requirement in the Coastal Commission's regulations and complied with the Coastal Commission's consistent practice of 36 years under the Coastal Act.

Public Resources Code section 21091(a) states that the "public review period for a draft environmental impact report may not be less than 30 days." The Coastal Commission is not exempt from section 21091, which is part of chapter 2.6 and regulatory programs certified under section 21080.5 in pertinent part are exempt only from Chapters 3 and 4. This regulatory program exemption also must be narrowly construed. *See* Ultramar, Inc. v. South Coast Air Quality Management District, (1993) 17 Cal.App.4th 689, 699; City of Coronado, 69 Cal.App.3d 570, 581.

The Coastal Commission makes the following argument that section 21091 is inapplicable to its certified regulatory program.

Section 21080.5(c) allows state agencies with environmental responsibilities to use their own procedures for reviewing proposed projects in lieu of' an EIR. Certification of a regulatory program requires a state agency to comply with criteria contained in section 21080.5(d). Strother v.California Coastal Commission, (2009) 173 Cal.App.4th 873, 878. In turn, section 21080.5(d)(2)(B) requires, in part, that the agency's rules and regulations include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation. Section 21080.5 also provides its own time limitation for review and comment on the agency's "plan or other written documentation:" it must be "available for a reasonable time for review and comment by other public agencies and the general public." Pub. Res. Code §21080.5(d)(3); Sierra Club v. State Board of Forestry, (1994) 7 Cal.4th1215, 1230. The Coastal Commission's notice for public review of its staff report was in compliance with its regulations, and in the context of a certified regulatory program "compliance with applicable statutes and regulations constitutes CEQA compliance." Californians for Alternatives to Toxics v. California Dept. of Pesticide Regulation, (2006) 136 Cal.App.4th 1049, 1067.

The Coastal Commission further argues that section 21091's 30 day public notice period does not apply because section 21091 is expressly limited to public review periods for a "draft environmental impact report" or a "negative declaration." Pub. Res. Code §21091(a)and(b). Thus, section 21091 is inapplicable to the Coastal Commission's regulatory program, which does not involve preparation of a "draft environmental impact report" or "negative declaration." Additionally, section 21080.5 has its own provision requiring a "reasonable" time for public review and comment, not a 30-day period. Pub. Res. Code §21080.5(d)(3). Had the Legislature intended section 21091 to apply to a certified regulatory program or trump the specific notice and review period provided in section 21080.5, it would have said so. Moreover, to the extent that the provisions conflict, section 21080.5 is more specific than the general review period in section 21091.

Finally, the Coastal Commission argues that "CEQA specifically recognizes that there may be inconsistencies or conflicts between its provisions and the Coastal Act and provides that in such a situation the Coastal Act controls." La Costa Beach Homeowners Assoc. v. California Coastal Commission, *supra*, 101 Cal.App.4th at 820; Pub. Res. Code §21174. No other entity with a certified regulatory program is so favored by the Legislature. Under Section 21174, the time limits set in the Coastal Commission's regulations control in the event of any conflict.

The problem with all of the Coastal Commission's arguments is that they are foreclosed by Ultramar, Inc. v. South Coast Air Quality Management District, ("Ultramar") (1993) 17 Cal.App.4th 689, 699. In Ultramar, the court held that the South Coast Air Quality Management District ("SCAQMD"), a section 21080.5 certified regulatory agency, was bound by section 21091's 30 day review period for its environmental assessment, the functional equivalent to an EIR. The court stated that "[t]he fact that [section 21091] section refers to EIR's, rather than [environmental assessments of a certified regulatory agency], is of no consequence." Id. at 699.

In Joy Road Area Forest and Watershed Assn. v. California Dept of Forestry (2006) 142 Cal.App.4th 656, the Department of Forestry, a certified regulatory agency, made similar arguments to those made by the Coastal Commission. Forestry had made numerous and significant changes to its initial timber harvest plan ("THP") without new notice and recirculation. The department argued that its regulatory program was excused under section 21080.5 from any CEQA provision concerning the "EIR process," that a THP is not an EIR, and that the timing for EIRs does not apply to a THP. The court swiftly rejected this argument by construing CEQA's references to EIR to mean THPs. The department also argued that its governing statute had different methodology of providing notice than CEQA. The court found that this difference had no bearing on the need for notice when significant new information is added to a THP. Id. at 669. Finally, the department argued that since its governing statute specifically addressed public inspection and review of a THP, it took precedence over CEQA. The court failed to see how there was a conflict. Indeed, it found that the two statutes supplement each other and should be harmonized. Id. at 669-70. Therefore, the department was not excused from complying with CEQA's substantive notice and recirculation requirements. Ibid.

Ultramar is on point and controls this case, and Joy Road further supports that conclusion. As the Coastal Commission argues, Ultramar is a case where the agency's own regulations required a 30 day review of staff reports. Moreover, Joy Road did not involve the application of section 21091 or a certified regulatory program that includes specific time limits for distribution of staff reports. But these factual distinctions have no bearing on Ultramar's express holding, which is that a certified regulatory program must comply with section 21091. The court did so on based on the fundamental analysis that a certified regulatory program is exempt only from Chapters 3 and 4 and section 21167 of CEQA. Since section 21091 is part of chapter 2.5, the SCAQMD was not exempt. The court noted that an interpretation of section 21080.5 which permits shortening of the 30 day public comment period would thwart CEQA's legislative intent. 17 Cal.App.4th at 700. The Ultramar court did not rely on SCAQMD's own regulations for this conclusion about section 21091. 17 Cal.App.4th at 702-03. *See* Joy Road, 142 Cal.App.4th at 671-72 (discussing Ultramar's holding).

Ultramar mandates that section 21091's 30 day public comment period apply to the Coastal Commission's staff report. This leaves only the Coastal Commission's argument that another CEQA provision (section 21174) provides that conflicts between the Coastal Act and CEQA must be reconciled in favor of the Coastal Act. Thus, the Coastal Act "trumps" CEQA where there is a conflict, and this provides a basis for distinguishing Ultramar and Joy Road because no similar provision favored the agencies in those cases.

The Coastal Commission points to no inconsistency between the notice provisions in section 21174 and the Coastal Act. Instead, it merely argues that there is an inconsistency

between its *regulations* and CEQA. But CEQA trumps, and need not defer to, the Coastal Commission's regulations. Additionally, there is no inconsistency between the Coastal Commission's 10 day notice and section 21091 30 day notice. Just as with CEQA and the governing forestry statute in Joy Road, the Coastal Act and CEQA are supplemental statutes which must be harmonized, if possible. The is no inconsistency in layering CEQA's 30 day notice requirement over the Coastal Commission's 10 day *minimum* notice requirement.

In sum, the Coastal Commission is governed by section 21091's requirement for a 30 day review period for its staff report, the functional equivalent of an EIR. It did not provide 30 days for public comment. Pub. Res. Code section 21168.5 provides that an agency decision may be set aside only if there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency did not proceed in a manner required by law. Ibid. Although lack of adequate notice usually requires prejudice in other contexts, and there is no evidence that Littlejohn or any other member of the public was prejudiced by the 10 day period for comment on the staff report, full compliance with the letter of CEQA is essential to its public purpose and a failure to provide the full 30 day period by itself warrants setting aside the Coastal Commission's decision. *See* Ultramar, *supra*, 17 Cal.App.4th at 701-02, 703-04. *See also* Gilroy Citizens for Responsible Planning v. City of Gilroy, (2006) 140 Cal.App.4th 911, 922.[5]

Date: November 5, 1997

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION
PERMIT TO ENTER

Permission is hereby granted to: Ralph W. Kiewit, Jr., 114 Malibu Colony, Malibu, California 90265, (310) 456-8565, hereinafter referred to as PERMITTEE, to enter Malibu Lagoon State Beach; for the purpose of installing and maintaining a gate value on an existing drainage pipe, and installing an inside "liner" in existing drainage pipe.

The rights and privileges hereby granted to PERMITTEE at the option of PERMITTEE, may be exercised by any authorized agent or contractor of PERMITTEE.

By acceptance of this Permit to Enter, it is expressly understood and agreed by and between the parties that PERMITTEE agrees to indemnify and hold the undersigned and STATE harmless against any and all loss, damage and/or liability which may be suffered or incurred by STATE and against any and all claims, demands and causes of action that may be brought against STATE caused by, or arising out of, or in any way connected with the use and/or occupancy of said further agrees to assume full responsibility for any and all damages caused by PERMITTEE'S operation under this Permit and PERMITTEE shall, at its option, either repair or pay for such damages.

PERMITTEE shall adhere to the following conditions:

1. No grading, digging or any other type of soil manipulation is allowed., except for existing digging to allow replacement of corrugated existing pipe to receive gate valve. (Approximate 8 Ft. section at entry end.)

Sincerely,

[signature] Date 11-6-97

Daniel C. Preece, District Superintendent
Angeles District
State of California
Department of Parks and Recreation

ACCEPTED:

[signature] Date November 5, 1997

Ralph W. Kiewit, Jr.

RALPH W. KIEWIT, JR.

SUITE 710
15233 VENTURA BOULEVARD
SHERMAN OAKS, CALIFORNIA 91403-2201
TELEPHONE 818 990-4500
FACSIMILE 818 501-3127

November 3, 1997

Via Facsimile - 310 589-1522

Mr. Russell G. Guiney
Malibu Sector Superintendent
State of California
Department of Parks and Recreation
Angeles District/Malibu Sector
39996 Pacific Coast Highway
Malibu, CA 90265

Re: 12 Inch Corrugated Metal Drain Pipe into Malibu Lagoon

Dear Russ:

You will recall your prompt assistance to us when my flap valve (installed as a result of meetings between you, I and Rick Morgan, Malibu City Engineer) was jammed open by debris and the Lagoon waters backed into the east section of the Malibu Colony. There was a lot of environmental opposition to the breaching of the beach and drainage of the Lagoon although it was certainly necessary.

To prevent future occurrences I and my neighbor decided to install a gate valve at the entry end. Although both the entry and discharge portions of that pipe are on State land, I'm certain that it enjoys a Prescriptive Easement as it was there long before the Lagoon was developed in its present state.

True, we were going to install the gate valve without paper work permission as we were sure you would approve this double safety device to prevent future Lagoon water back ups into the Colony. As luck would have it, last week just as we were starting to prepare for installation of the gate valve the construction work was stopped by a group of "volunteer State Environmentalists" (as I understand it) who wanted the work stopped, said the State ought to pay for the work if it were necessary and prevented us from completing the work while the Lagoon was naturally breached. We thought the entry end hidden in the trees outside my property fence would not be observed and the job easily completed.

I am the R.M.O. as President for Unitco Realty and Construction Company, Inc. which holds an active State of California "B" Contractors License. I enclose copy of my Family Trust Asset Statement total as of September 30, 1997. As Trustee of my Family Revocable Trust I will indemnify the State of California and its Department of Parks and Recreation against claims for damages resulting from the construction work in the installation of the gate valve on my Prescriptive Easement 12 inch corrugated metal drain line.

I would like your approval to complete this gate valve installation under the above conditions, it being in the best interests of the State, the Environmentalists and the Malibu Colony east end property owners.

I will be at home early Tuesday morning, November 4, 1997 working with glass men on my house at 114 Malibu Colony. If you should want to visit the site please call at 310 456-8565 and try to get there before 10:00 A.M.

With best regards.

Sincerely yours,

RALPH W. KIEWIT, JR., Trustee of
Ralph W. Kiewit, Jr. Family
Revocable Trust of 1991

RWK:mc

Attachments

CC By FAX: Mr. Carl Deutsch - 310 453-6467
Steve Littlejohn Construction - 310 456-2978

RALPH W. KIEWIT, JR.

SUITE 710
15233 VENTURA BOULEVARD
SHERMAN OAKS, CALIFORNIA 91403-2201
TELEPHONE 818 990-4500
FACSIMILE 818 501-3127

June 18, 1997

Via Facsimile 310 589-1522

Mr. Russell G. Guiney
Malibu Sector Superintendent
State of California
Department of Parks and Recreation
Angeles District/Malibu Sector
39996 Pacific Coast Highway
Malibu, CA 90265

Re: Malibu Lagoon

Dear Mr. Guiney:

Confirming today's telephone conversation, the Malibu Lagoon high level is backing into the Colony east end drainage pipes (flap valve inoperative due to debris in the Lagoon) and inundating my home property carport, driveway, rear yard and septic system (23331 Malibu Colony Drive, Malibu, CA).

My immediate neighbor Carl Deutsch is suffering water damage in that the lagoon water is inundating his tennis court and surrounding yard.

We request immediate help from any source to make sure the Lagoon is drained to the Ocean at the earliest possible moment. **We are suffering property damage and this emergency situation grows by the hour.**

Sincerely yours,

RALPH W. KIEWIT, JR.

RWK:mc

cc by FAX: Carl Deutsch 310 453-6467

453-0055

CARL DEUTSCH
2444 WILSHIRE BOULEVARD - ROOM 600
SANTA MONICA, CALIFORNIA 90403

18 June 1997

Mr. Russell G. Guiney
Malibu Sector Superintendent
STATE OF CALIFORNIA
Deparmtent of Parks and Recreation
Angeles District/Malibu Sector
39996 Pacific Coast Highway
Malibu, CA 90265

FAX: (310) 589-1522

RE: EMERGENCY SITUATION / MALIBU LAGOON

Dear Mr. Guiney:

My tennis court property and surrounding yard area located at 23337 Malibu Colony Road, along with neighboring property belonging to Mr. Ralph Kiewit, is being inundated by water that is backing up from the Lagoon.

It appears that debris in the Lagoon is clogging the drainage pipes.

We appeal to you for assistance on an immediate basis.

Thank you, in advance, for any help you can provide.

Very truly yours,

Carl Deutsch

Carl Deutsch

cc: R. Kiewit FAX: (818) 501-3127

Toni Littlejohn
23425 Malibu Colony Drive
Malibu, CA 90265

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

Dear Ms. Neely and Mr. Ainsworth:

I am very concerned about the proposed changes to the Malibu Lagoon, a major coastal resource in Los Angels County and the extremely short notice concerning this project. Since the law (CEQA - California Environmental Quality Act) requires that the public have 30 days to review the staff report, and the posting for the August hearing does not meet that requirement, I strongly urge you to postpone the currently scheduled August hearing on Malibu Lagoon.

We feel the Commission should schedule this item at the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Respectfully,

Toni Littlejohn
Daughter of Malibu Colony resident William Littlejohn

GEOFFREY M. NATHANSON

August 6, 2010

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001- 2801

Re: Rescheduling of Item TH 19a to be heard in San Luis Obispo on August 12, 2010

Dear Ms Neely:

I am a 49 year resident of Malibu, and I live within 200 yards of the Malibu Lagoon. I am very concerned about the future of this beautiful nature preserve and some of the major changes proposed in the Malibu Lagoon Restoration Project as they appear today. Of concern also is the impact that the proposed project will have on the security, safety and privacy enjoyed by my family and my neighbors in the adjacent Malibu Colony.

I received notice of this proposed hearing before the Commission on August 12 only a few days ago. It was dated July 30, 2010. It is my understanding that by tradition and perhaps by statute notice of a hearing before the Commission should have been originated 30 days prior to a scheduled hearing which obviously was not the case in this matter. I am requesting therefore that the hearing be rescheduled for a later date and preferably at a location here in Southern California. This will give the public additional time to study the proposal, meet with its proponents, and discuss the concerns I have mentioned above.

Thank you for your consideration

Geoffrey Nathanson

84 Malibu Colony Malibu CA 90265 (310) 456-0338 fax (310) 456-0671 hnagin@verizon.net

MICHAEL E. TENNENBAUM

August 10, 2010

Via Facsimile 805-641-1732

The Honorable Bonnie Neely
Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801

Dear Ms. Neely and Mr. Ainsworth,

I have resided at this location for 33 years and am very distressed at the fire hazard that exists by reason of the illegal plants growing near my house on Malibu Lagoon property. We are not permitted such plants in the fire zone and these should be removed immediately. I am advised that your Lagoon project will add additional illegal plants and contribute to the fire hazard. The responsible persons should certify that is not the case and should become personally responsible if they violate that certificate.

I understand that the storm drainage from Malibu Colony to the Lagoon will be eliminated as part of the Lagoon project. I believe that we are grandfathered in that right and a flood hazard to our homes that have been here for almost 100 years is untenable. Kindly advise how you propose to deal with the Malibu storm drainage as part of this project.

Sincerely,

Michael E. Tennenbaum

MET:sjk

118 MALIBU COLONY ROAD, MALIBU, CALIFORNIA 90265
310-566-1001 PHONE 310-899-4950 FAX
MICHAEL@TENNENBAUMCAPITAL.COM

William Littlejohn
23425 Malibu Colony Drive
Malibu, CA 90265

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

Dear Ms. Neely and Mr. Ainsworth:

I am very concerned about the proposed changes to the Malibu Lagoon, a major coastal resource in Los Angels County and the extremely short notice concerning this project. Since the law (CEQA - California Environmental Quality Act) requires that the public have 30 days to review the staff report, and the posting for the August hearing does not meet that requirement, I strongly urge you to postpone the currently scheduled August hearing on Malibu Lagoon.

The Commission should reschedule this item for the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Sincerely,

William Littlejohn

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

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We feel the Commission should schedule this item at the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Respectfully,

Judith Israel

JUDITH ISRAEL
23349 MALIBU COLONY RD
MALIBU 90265

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
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Thank you very much for your attention to this matter.

Respectfully,

Carl & Roberta Deutsch

#112 MALIBU COLONY

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
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FAX (805) 641-1732

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We feel the Commission should schedule this item at the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Respectfully,

Paul W Kuintz OWNER 23334 MALIBU COLONY DR. CA 90265

23331 MALIBU COLONY DR. CA 90265

August 9 -2010

To:
California Coastal Commission
The Honorable Bonnie Neely, Chair
John Ainsworth, Deputy Director
Fax:805-641-1732

From: V. Donnovan Field
108A Malibu Colony Drive
Malibu, Ca 90265 –Fax 310-456-9971

Re: Extremely short notice regarding Malibu Lagoon proposed major project. The law requires that we have 30 days to review the report and the posting for the August hearing does not meet that requirement. We did not have this.

This project will have a major ecological effect – actually removing all wildlife and plants and diverting water patterns which have been established for years.

The law requires we have proper notice. The August hearing does not meet that requirement.
Please as the California Coastal Commission, schedule this project discussion at the next Los Angeles County/Orange County hearing slated for November.

Any attention you can give this matter will be appreciated. It is important to everyone to do things properly. Thank you.

V. Donnovan Field

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

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We feel the Commission should schedule this item at the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Respectfully,

Andrea Jose
107 Malibu Colony
Malibu Ca 90265

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

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We feel the Commission should schedule this item at the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Respectfully,

Elizabeth B. Gallen

Phillip Roman and Company
Corporate Mergers & Acquisitions
Established 1946

8-9-10

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

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We feel the Commission should schedule this item at the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Respectfully,

5670 Wilshire Boulevard, Suite 2420 Los Angeles, California 90036
Telephone: 323-935-3500 Facsimile: 323-935-3520

Malibu Colony Association
23554 W. Malibu Road
P.O. Box 928
Malibu, CA 90265
P: 310.456.2021
F: 310.456.2951
Email: malibucolony@earthlink.net

August 9, 2010

Via Facsimile and Mail

The Honorable Bonnie Neely, Chair
& Honorable Commissioners, California Coastal Commission
& Jack Ainsworth, Deputy Director, California Coastal Commission
89 South California Street, Ste. 200
Ventura, CA 93001

Re: Application# 4-07-098
Malibu Lagoon Wetland Habitat Restoration & Enhancement Project

Dear Commission Chair Neely, Coastal Commissioners & Mr. Ainsworth:

As you are aware, the Staff Report issued by the California Coastal Commission regarding the Malibu Lagoon has just become public on July 30. With a hearing date of August 12, 2010 at the Coastal Commission to decide the fate of this report, there is not sufficient time for neighbors, such as homeowners in the Malibu Colony, to analyze and provide meaningful input. The Malibu Lagoon is so important to our residents and community, we respectfully request that the hearing be postponed for at least 30 days to provide ample time for review and comment. We also request that the Commission should consider a hearing date in the Los Angeles area (rather than Eureka) so that more of our residents are able to attend and provide their input.

Please let us know as soon as possible of your decision in this important matter.

Very truly yours,

R. Reiner

Richard F. Reiner
President
Malibu Colony Association

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
(805) 585-1800
FAX (805) 641-1732

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We feel the Commission should schedule this item at the next Los Angeles County/Orange County hearing - which is slated for November.

Thank you very much for your attention to this matter.

Respectfully,

Clayo and Irwin Kuttler

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
c/o Jack Ainsworth, Deputy Director
89 South California Street, Suite 200
Ventura, CA 93001-2801
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Thank you very much for your attention to this matter.

Respectfully,

Carolyn Dicks

Greg Daugherty

#Malibu Colony

The Honorable Bonnie Neely, Chair, California Coastal Commission
& Honorable Coastal Commission
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Thank you very much for your attention to this matter.

Respectfully,

Susan Dalgen
23438 Malibu Colony Road
Malibu Ca 90265