

CALIFORNIA COASTAL COMMISSION

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

W 7a**ADDENDUM**

DATE: October 11, 2010

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item 7a, Wednesday, October 13, 2010
Santa Monica Mountains Conservancy and Mountains Recreation and
Conservation Authority PUBLIC WORKS PLAN

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1. Ex parte communications have been received from Commissioners Wright, Blank, Stone, Wan, and Sanchez, attached as Exhibit 1 of this addendum.
 2. Donald Nierlich, L.A. County Coordinator for Coastwalk California, submitted a letter on October 6, 2010 in support of the proposed PWP and the staff recommendation. This letter is attached as Exhibit 2 of this addendum.
 3. David Brown, Conservation Chair of the Angeles Chapter of the Sierra Club, submitted a letter on October 7, 2010 in support of the proposed PWP and the staff recommendation. This letter is attached as Exhibit 3 of this addendum.
 4. Edith Morgan, a resident at 25377 Malibu Road, submitted a letter on October 11, 2010 in opposition to camping in the area. This letter is attached as Exhibit 4 of this addendum.
 5. The following background language shall be inserted at the end of Part A (Plan Background) of Section IV Findings and Declarations:

The Conservancy/MRCA submitted the proposed PWP and supporting documents to the Commission on August 26, 2010. On September 2, 2010, the Commission determined the PWP to be properly submitted and complete. Pursuant to California Code of Regulations Sections 13356 and 13357, public works plans must be scheduled for a public hearing and the Commission must take action within 60 days of a complete submittal. The 60th day after filing the complete submittal is November 1, 2010.

6. In order to correct an inadvertent typographical error in the paragraph entitled “Pedestrian Trail Bridges” on Page 133 within the ESHA/Water Quality section of the staff report, the following change shall be made (deletions shown in ~~strike through~~, additions shown in underline):

Pedestrian Trail Bridges

The Plan includes construction of ~~four~~ twelve (12) potential pedestrian trail bridges; one at Ramirez Canyon Creek along the trail alignment from Kanan Dume to Ramirez Canyon Park, three at Escondido Creek along trail alignment 4 in the northern portion of Escondido Canyon Park, four at Corral Creek along the Beach to Backbone Trail (one along trail alignment 11a, one along trail alignment 14, and two along trail alignment 15), and three ~~four~~ at Malibu Bluffs. Pedestrian bridges would span the creeks and would not involve encroachment into the creek area. No permanent obstructions would be placed within the creeks, and all vehicular bridges would be located above the 100-year flood plain. The Plan includes stone creek crossings intended to allow for creek passage by hikers, which would vary based on each particular creek crossing. The stones would be wedged, anchored, or otherwise embedded into the creek material to prevent slippage and to be stable for walking, and so as not to significantly alter the course of any stream or creek. As such, these pedestrian trail bridges included in the Plan are consistent with the Malibu LCP because they are minor in nature, provide public recreational access, and do not adversely impact stream habitat or riparian vegetation.

7. To clarify that the proposed Camp Host Site in the Corral Canyon Park camp parking area is a pre-fabricated Park Administration/Employee Quarters (as shown on project plans) with a maximum 2,000-gal. underground holding tank for gray water storage, the following changes shall be added to the Corral Canyon Park Parking/Drop Off Area section of Table 3 of Suggested Modification 53 of the staff report (~~Double strike through~~ indicates text deleted from Table 3 of Suggested Modification 53 of the staff report pursuant to this addendum and double underline indicates text added to Table 3 of Suggested Modification 53 of the staff report pursuant to this addendum):

Parking/Drop Off Area						
Parking/Driveway/Drop Off Area	34 (2 ADA); 15 existing	48 cy cut 6 cy fill	5,640 sf	at-grade	Penfield & Smith 25-26 & 28 of 63	
Restrooms	2	66 lf (retaining walls)	494 sf	12 ft		
Camp Host Site <u>Employee Residence</u>	1		600 sf	12 ft		
<u>Gray Water Underground Holding Tank</u>	<u>1</u> <u>Max. 2,000-gal.</u>					
Fire Truck Shed	1		675 sf	12 ft		
Fire Hydrant	1		6 sf	3 ft		
Pump Station/ Fire Connection	1 (2 tanks)		600 sf	12 ft		

8. To clarify that the proposed pre-fabricated Park Administration/Employee Quarters at Malibu Bluffs will also have a maximum 2,000-gal. underground holding tank for gray water storage, the following change shall be added to the Malibu Bluffs Parking Area 1 section of Table 3 of Suggested Modification 53 of the staff report (Double underline indicates text added to Table 3 of Suggested Modification 53 of the staff report pursuant to this addendum):

Parking Area 1 & Adjacent Area					
Parking/Driveway	26 (3 ADA)	378 cy cut 1,266 cy fill (total Site-wide, not incl. Camp Areas or Access Roads) 276 lf (retaining walls)	11,334 sf	at-grade	Penfield & Smith 29-31 of 63
Overflow Area/ Future Storage	1		696 sf	at-grade	
Fire Truck Shed	1		675 sf	12 ft	
Restrooms	1 single & 1 double		374 sf	12 ft	
Camp Host Site	1		600 sf	12 ft	
Employee Residences	2		1,200 sf	12 ft	
<u>Gray Water Underground Holding Tank</u>	<u>2</u> <u>Max. 2,000-gal.</u>				
Water Tank	1 10,000-gallon		201 sf	13 ft	
Fire Hydrant	1	6 sf	3 ft		

9. On October 7, 2010, staff received a letter from Vic Peterson, Community Development Director of the City of Malibu. This letter is attached as Exhibit 5 of this addendum. The City expresses opposition to the item being considered by the Commission at the October hearing for the following stated reasons.

- a. The City asserts that there has not been adequate time to review and respond to the staff recommendation. In response, Commission staff proposes that the following language be added to the Commission's findings in the staff report:

Pursuant to 14 CCR Section 13357(a)(2)-(3), Commission consultation with the affected local government must be initiated at least 10 working days prior to the first public hearing on a proposed PWP. Consistent with this regulation, Commission staff consulted with the City of Malibu and requested input on the PWP submittal on September 14, 2010, which is nearly 30 days before the first scheduled public hearing. The Commission staff report was then published on September 29, 2010 and available on-line for public viewing on September 30, 2010. Adequate notice was provided to all affected and interested parties via written notice and newspaper publication notice at least 10 days prior to the public hearing, consistent with 14 CCR Sections 13059 and 13063. In addition, pursuant to California Code of Regulations Sections 13356 and 13357, public works

plans must be scheduled for a public hearing within 60 days of filing of the plan. The 60th day after filing the plan is November 1, 2010.

- b. The City asserts that the staff report was not circulated for at least 30 days, as required by CEQA. In response, Commission staff proposes that the following language be added to the Commission's findings in the staff report:

An EIR was prepared for the proposed PWP, properly circulated as required by law, and certified by the co-lead agencies, the Santa Monica Mountains Conservancy and the Mountains Recreation and Conservation Authority. The Coastal Commission was a responsible agency, not a lead agency, in the EIR process. As a responsible agency, the Commission must rely on the lead agency's EIR and is not required to prepare and circulate an EIR pursuant to CEQA. And as discussed above, the California Code of Regulations require the Commission to consult with the affected local government, schedule public works plan applications for hearing within 60 days of filing, and provide notice. The Commission has followed the procedural requirements for circulation and notice consistent with our agencies specific regulations.

- c. The City asserts that the proposed employee housing at Malibu Bluffs and Corral Canyon Park are considered single-family residences with associated wastewater treatment systems that have not been adequately analyzed and are not an allowed use in the Malibu Parks Public Access Enhancement Plan Overlay and the Public Open Space zone of the Malibu LCP. In response, Commission staff proposes that the following language be added to the Commission's findings in the staff report:

Park Administration/Employee Quarters buildings are proposed at the two primary camping sites, Corral Canyon Park and Malibu Bluffs Property, to station and to provide over-night accommodations for MRCA rangers and/or wildland fire-trained specialists who would be patrolling and supervising the parks when camping is permitted. The buildings are modestly sized and minimally equipped. The building at Corral Canyon Park is proposed to be a maximum of 600 sq. ft. The two buildings at Malibu Bluffs are proposed to be a maximum of 400 sq. ft. each. The Park Administration/Employee Quarters would have simple amenities, including a sink and shower. Gray water generated from the sink and shower would be captured in an on-site underground holding tank (2,000-gal maximum capacity) that would be periodically pumped and taken off-site. Self-contained vault restrooms for ranger/employee use are proposed adjacent to the employee quarters buildings. The self-contained restrooms would also be regularly pumped and taken off-site. As such, the proposed Park Administration/Employee Quarters buildings are not designed, sized, or used for single-family residential use and are not associated with a septic

treatment system. The buildings have been sited and designed to avoid adverse impacts to coastal resources. In addition, Malibu LCP Policy 5.71 states that ranger/maintenance supervisor housing and administrative personnel facilities related to public parkland operation and maintenance are considered support facilities that are permitted in the Malibu Parks Public Access Enhancement Overlay. The Corral Canyon Park and Malibu Bluffs Conservancy Property are situated within the Malibu Parks Public Access Enhancement Overlay where the type of housing proposed is allowed.

- d. The City asserts that the proposed campsites and employee housing at Malibu Bluffs have not been clustered to the maximum extent feasible in order to minimize impacts to ESHA. Less development at this park would be less environmentally damaging. In addition, the City asserts that a determination has not been made regarding whether the disturbed vegetation areas at Malibu Bluffs where development is proposed was legally or illegally removed or degraded. Areas that were illegally degraded should be afforded ESHA protections. In response, Commission staff proposes that the following language be added to the Commission's findings in the staff report:

Of all of the parkland included in the public works plan area, proposed campsites have been clustered into two primary areas—Corral Canyon Park and Malibu Bluffs. Camping was not proposed at Escondido Canyon Park or Latigo Trailhead property. At Malibu Bluffs, the Plan includes a total of 35 campsites situated within four areas. The park property is of a size that is capable of accommodating the proposed type and level of park use. Proposed improvements have been sited and designed to locate new facilities within previously disturbed and level areas of the property to the maximum extent feasible. Only 0.07 acre of ESHA will be impacted by the proposed improvements. Consistent with relevant ESHA and water quality protection policies of the Malibu LCP, the proposed improvements that will minimally impact ESHA are considered resource dependent uses and allowed in ESHA. And the proposed resource dependent improvements have been sited and clustered to minimize disturbance into sensitive habitat areas to the maximum extent feasible. Further clustering or a reduction in improvements would not result in any significant reduction in impacts. In addition, there is no evidence that the disturbed areas of the Malibu Bluffs property were disturbed/degraded illegally. In reviewing the Draft EIR and the proposed PWP, Commission staff had reviewed aerial photographs from 1972 to present of the Malibu Bluffs property and found that the areas mapped as disturbed/non-ESHA in the EIR were within the areas of vegetation disturbance evident in the aerial photos beginning with 1972 (prior to the effective date of the Coastal Act), and through to the present.

- e. The City of Malibu comments that the PWP's proposed notification procedure is inconsistent with coastal development permit noticing requirements. It further stated that the NOID process should be modified to require notice be provided to the City of Malibu as soon as the NOID is provided to the Commission and that neighboring property owners be noticed consistent with LCP requirements for coastal development permits.

Section 30606 of the Coastal Act establishes the noticing requirements for PWP notices of impending development. Section 30606 states that:

Prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, or state university or college or private university, shall notify the commission and other interested persons, organizations, and governmental agencies of the impending development and provide data to show that it is consistent with the certified public works plan or long-range development plan. No development shall take place within 30 working days after the notice.

This requirement is discussed in Section 2.4.1 of the proposed PWP. Further, Section 4.1.1 of the proposed PWP details the NOID procedures and Section 4.1.3 provides requirements for NOID sites to be posted to provide notice of the impending development. While these NOID procedures require that the SMMC/MRCA submit to the Commission a mailing list identifying the agencies and people to whom a copy of the NOID was provided, as well as require that notices be posted within a certain time frame, there is no specific requirement regarding the timing of notices or to whom notice must be provided.

The following discussion and Suggested Modification 54 should be inserted in the Procedures (D.7) section of the Commission findings:

In order to ensure that the noticing requirement for NOIDs is clear, the Commission recommends Suggested Modification No. 54 to add specific language in Section 4.1.1 of the PWP. In this instance, it is clear that the applicable local government agency would be interested in impending development so this is suggested as part of the modification. Other interested individuals or groups will vary with the location and type of development. To ensure that a person, organization, or government agency is notified, they should communicate their interest with the SMMC/MRCA and request that they be notified.

Suggested Modification 54

4.1.1 NOID Content and Procedures

Prior to commencement of any development included in the PWP, the Conservancy/MRCA shall notify the Commission and other interested

persons, organizations, and governmental agencies (including, but not limited to, the local government where the project is located) of the impending development. No development shall take place within 30 working days after the notice.

A NOID for any PWP project shall be clearly titled as such and shall, at a minimum, include the following information regarding the development project authorization:

...

10. Commission staff received a letter from the Santa Monica Mountains Conservancy in response to the City of Malibu letter discussed above. This letter is attached as Exhibit 6 of this addendum.
11. Lastly, staff recommends that the following clarifying language be added to the CEQA section (F) of the staff report, as follows (additions shown in underline):

Pursuant to Public Resources Code Section 21067 and Sections 15050 and 15051 of Title 14 of the California Code of Regulations, the Santa Monica Mountains Conservancy/Mountains Recreation and Conservation Authority is the lead agency for CEQA purposes, as it is the public agency with principal responsibility for carrying out the Malibu Parks Public Access Enhancement Public Works Plan. As the lead agency under CEQA, the Santa Monica Mountains Conservancy/Mountains Recreation and Conservation Authority certified an EIR for this plan in August 2010 and approved as the PWP, the Environmentally Superior Alternative, which was the Modified Redesign Alternative.

As an agency with a certified regulatory program under CEQA section 21080.5, the Commission must consider alternatives and mitigation measures that would substantially lessen any significant adverse environmental effects that the proposal would otherwise have on the environment. Sections 13371 and 13356(b)(2) of Title 14 of the California Code of Regulations require that the Commission not approve or adopt a PWPA unless it can find that: "...there are no feasible alternatives, or feasible mitigation measures, ...available which would substantially lessen any significant adverse impact that the development... may have on the environment".

The Commission has considered the Final EIR for the PWP as prepared by the Lead Agency. The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings 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. For the reasons discussed in this report, the PWP, if modified as suggested, is consistent with Coastal Act requirements. As modified, the PWP will not have any significant environmental effects. Change or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR. There are no other feasible alternatives or mitigation measures available that would further lessen any significant adverse effect that the approval would have on the environment. The Commission has suggested modifications to the PWP to include such feasible measures as will reduce the environmental impacts of new development. As discussed above, the Commission's suggested modifications bring the PWP into conformity with the Coastal Act, if amended in accordance with the suggested modifications. The Commission further finds that the PWP, if modified as suggested herein, is consistent with CEQA.

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ITEM W7a

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project:

Malibu Parks Public Access Enhancement Public Works Plan. Public hearing and action on a Public Works Plan submitted by Santa Monica Mountains Conservancy (SMMC) and Mountains Recreation and Conservation Authority (MRCA) for public access and recreation facilities between and within public park land (Ramirez Canyon Park, Escondido Canyon Park, Latigo Trailhead Property, Corral Canyon Park and Malibu Bluffs Conservancy Property) in the Malibu-Santa Monica Mountains area of City of Malibu and unincorporated Los Angeles County.

Date and time of receipt of communication:

September 30, 2010 at 9:30 am

Location of communication:

Phone

Type of communication:

Conference call

Person(s) in attendance at time of communication:

Joe Edmiston, Susan McCabe, Anne Blenker

Person(s) receiving communication:

Sharon Wright

Detailed substantive description of the content of communication:

(Attach a copy of the complete text of any written material received.)

I received a briefing from the project representatives in which they provided background and described the regulatory process to date. They explained how the proposed Public Works Plan (PWP) is intended to serve as the facilities plan for the Malibu Parks Public Access Enhancement Plan Overlay District, which the Commission approved unanimously in June 2009 through the LCPA override process. They described the proposed PWP and explained specific projects contemplated in the plan. The representatives then explained how after approval of the PWP, the SMMC would issue a Notice of Impending Development (NOID) for each project that could be further reviewed by the Commission. CAL FIRE (or its representative) and/or the Los Angeles County Fire Department would also be required to sign off on each project. At the time of our briefing, the staff report had not been released yet.

Date: 10/4/10

Signature of Commissioner:

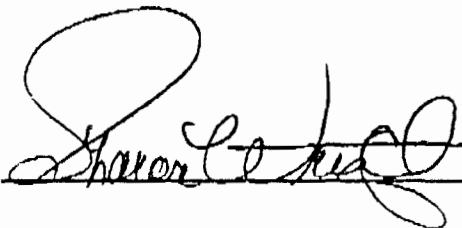


Exhibit 1
SMMC/MRCA PWP
Addendum
Ex Parte Communications

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

Name or description of project, LCP, etc.: W.7a Malibu Parks Public Access
Enhancement Public Works Plan

Date and time of receipt of communication: 10/6/10, 1:00 pm

Location of communication: Office of the Board of Supervisors,
Santa Cruz, CA

Type of communication: Telephone Conference

Person(s) initiating communication: Donna Andrews
Joe Edmiston
Edgar Gutierrez

Person(s) receiving communication: Mark Stone

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

They gave me a brief history of the project before the Commission, that the LCPA was approved in June 2009 and talked about the MOU with the City of Malibu that they went back on. The issue of the city and the residents is the potential for fire coming from the campgrounds. They explained the measure that they are taking to prevent fires from campers including the fact that this is probably the first flame-free campground in the US. The PWP that is before the Commission is much like what was presented at the LCPA hearing and they are in 100% agreement with the staff recommendation. They also said that there may be a request to continue this item from the city but they feel that this item has had plenty of public input and to stall it now is not necessary.

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 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.

ITEM W7a EX PARTE COMMUNICATIONS

Name or description of project: Malibu Parks Public Access Enhancement Public Works Plan

Date and time of receipt of communication: Sept 28, 2010 at 3:30 pm

Type/Location of communication: telephone

Persons in attendance: Susan McCabe

Person receiving communication: Steve Blank


Detailed substantive description of the content of communication:

Susan she explained the proposed Public Works Plan is the facilities plan for the Malibu Parks Public Access Enhancement Plan District, which we approved in June 2009 in the LCPA override meeting.

She described the proposed Public Works Plan and explained specific projects Santa Monica Mountains Conservancy contemplated in the plan. After approval of the Public Works Plan, the Santa Monica Mountains Conservancy would issue a Notice of Impending Development for each project that could be further reviewed by the Commission. CAL FIRE (or its representative) and/or the Los Angeles County Fire Department would also be required to sign off on each project. At the time of our briefing, the staff report had not been released yet.

Date: 30 September 2010

Signature of Commissioner:



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COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project:: Malibu PWP
Time/Date of communication: 10/6/10, 4:15 pm
Location of communication: 22350 Carbon Mesa Rd, Malibu
Person(s) initiating communication: Donna Andrews
Person(s) receiving communication: Sara Wan
Type of communication: phone call

Asked me if I had seen the City's staff report on this? I said I had not. I asked what were their issues

She said

- 1- The impacts of the housing for staff had not been fully addressed in the EIR
- 2- The development permit for the fire shelters- it should require a CDP
- 3- impacts of the campsites on ESHA

We discussed the responses to these

- 1- The EIR is now irrelevant but the housing but it was fully dealt with. This a direct result of their demand that there be 24/7 on-site supervision. That isn't possible without housing
- 2- They are well aware that this is a PWP and therefore the appropriate process is a NOID
- 3- Campsites in ESHA are specifically allowed in the LCP. Also interesting coming from this City since they fought so hard against anything being called ESHA.

We agreed that there was no reason for a continuance.

Date: 10/6/2010



Commissioner's Signature

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CALIFORNIA
COASTAL COMMISSION
SOUTHERN COAST DISTRICT

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: **Agenda Item W.7.a. Malibu Parks Public Access Enhancement Public Works Plan**

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

Location of communication: Oceanside City Hall

Person(s) initiating communication: Dave Grubb, speaking for Fran Gibson.

Person(s) receiving communication: Esther Sanchez

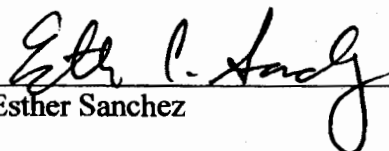
Type of communication: Meeting

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SOUTH CENTRAL COAST DISTRICT

- 1) Follow staff recommendation, deny PWP as submitted and approve with suggested modifications.
- 2) Emergency fire shelters should be deleted because of ESHA fuel mod concerns (200 feet brush clearance) and lack of supporting fire science standards for such (they exist nowhere in U.S. and may in fact be more dangerous than safe).
Camping wildfires historically very rare in California: 1.6% all reported fires between 1878 and 2008 caused by camping (0.5% for county for same period).
- 3) PWP adds 157 new parking spaces, 54 camp areas while protecting ESHA and adds connecting trail corridors.
- 4) Assures completion of Coastal Slope Trail connecting ultimately with the Beach and Backbone Trail.
- 5) Will be a major public benefit to coastal access and recreational use for visitors from diverse backgrounds to LA and Ventura Counties.

Date: October 7, 2010



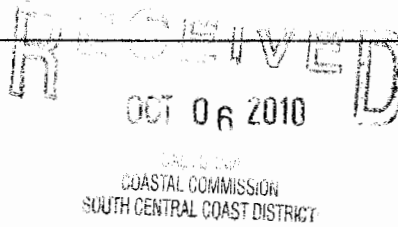
Esther Sanchez

COASTWALK *California*

Los Angeles County

510 Palisades Ave
Santa Monica CA, 90402
310-394-2799
cct@coastwalk.org

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



RE: Item No. 7a for Wednesday, October 13, 2010
The Malibu Parks Public Access Enhancement Public Works Plan

Dear Commissioners:

This letter is to indicate our strongest support for the Santa Monica Mountains Conservancy's plans to build campgrounds and trails in the Malibu area of the Conservancy's land in the Santa Monica Mountains NRA. We see these camps particularly as important in supporting hikers and bikers who wish to walk or ride portions of, or all of the California Coastal Trail, and as well in providing access to public lands in areas where access has grown increasingly difficult.

Coastwalk has organized two "whole-coast" walks – from Oregon to Mexico along the California coast – in 1996 and 2003. And aside from camping at Leo Carrillo State Park at the Ventura-L.A. county line, the walkers had no use of public campgrounds in Los Angeles County – which includes 20-plus miles of Malibu parkland and coastline. This is to say that adequate resources for hikers and campers are just not there, in spite of the remarkable, wild beauty of the coastal mountains and shoreline.

Locally, the Coastwalk organizations for L.A and Ventura Counties has organized regular monthly public day hikes since 1995, most of which have been in the Malibu foothills or on the beach, as well as multi-day hikes generally twice or even 3-times a year since 1993. Our goals are to educate the public about our great coastline and to enjoy and protect its virtues. But for the most part, we are held to repeating most of the same events each year; the number of coastal trails and trailheads being limited.

The new camps and trails will provide additional access to the trail system, create new routes, and provide opportunities for multi-day hikes both for Coastwalk, as well as a growing number of individuals and groups from the Southern California area and beyond. It may be added that the coastal zone of the Conservancy's Malibu holdings is of *unique recreational value* because of its esthetics, special ecology, and favorable weather.

Sincerely yours,

A handwritten signature in cursive script that reads "Donald Nierlich".

Donald Nierlich
L.A. County Coordinator

<p>Exhibit 2 SMMC/MRCA PWP Addendum Donald Nierlich Letter</p>

October 6, 2010

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OCT 07 2010

CALIFORNIA
COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT

To: Deanna Christensen, Coastal Program Analyst
Re: Agenda Item W7a - Malibu Public Works Access Plan

Dear Ms. Christensen,

The Santa Monica Mountains Task Force is a subcommittee of the Angeles Chapter of the Sierra Club with jurisdiction over land use issues in Malibu and the Santa Monica Mountains. We strongly support the Santa Monica Mountains Conservancy's Malibu Public Works Access Plan, a plan that makes accessible to the wider public several park units along the Malibu coastline.

This area is a particularly scenic section of the coast where mountains rise directly out of the sea, intersected by deep, rugged canyons. Unfortunately, the public has historically been excluded from beaches and uplands here by affluent residents and a variety of local government and private strategies.

The Public Works Access Plan seeks to remedy this historical exclusion of the public through establishment of major trails with spectacular views of the ocean and the establishment of two campgrounds at Corral Canyon Park and Malibu Bluffs. Both of these campgrounds are within easy walking distance of regular public bus service (MTA bus line 434 along Pacific Coast Highway, which originates in downtown Los Angeles). The Corral Canyon campground is a short, easy walk from county-owned Corral Beach, while the Malibu Bluffs campground is a short hike from beach access ways along Malibu Road.

Malibu residents have continually opposed the Public Works Access Plan, raising the specter of the Corral Canyon Fire, which was caused, not by campers at an organized campground but, rather, by intoxicated partiers in a remote cave.

A public campground has existed in Malibu Creek State Park less than five miles northeast of Lower Corral Canyon and Malibu Bluffs for over 30 years. Even without the safeguards the Conservancy proposes to provide, no fires have ever originated from this campground or from other state-managed campgrounds at nearby Leo Carrillo SP or Point Mugu SP.

Pages 60 to 64 of the staff report describe the fire safety measures proposed in the Malibu Public Works Access Plan. These include, 1) fuel modification, 2) a no campfire, "cold camping" policy coupled with warning signs and heavy penalties, enforced by a wildfire-trained "camp host" at each campground, 3) water lines and 10,000 gallon water tanks in both campgrounds, 4) fire protection apparatus available on site.

Exhibit 3
SMMC/MRCA PWP
Addendum
David Brown Letter

As an additional fire safety measure Ramirez Canyon, Escondido Canyon, Corral Canyon Park, and Malibu Bluffs Park will be closed to all recreational use during “red flag” fire hazard weather, with heavy penalties for violators.

The Plan (page 23) also proposes to remove unpermitted private encroachments on Ramirez Canyon Road to achieve the road width and clearance required by the County Fire Department.

The Staff Report also emphasizes the importance of protecting ESHA in and adjacent to campgrounds and recreation facilities developed under the Plan.

Campsites are to be located in previously disturbed areas after being evaluated by a biologist and are to be set back from the top of the bank of any stream. Signage should have an educational or interpretive component related to the natural resources of the Santa Monica Mountains.

The Santa Monica Mountain Task Force of the Sierra Club urges the Commission to approve the Malibu Parks Access Plan.

Sincerely,

David M. Brown

Conservation Chair,

Santa Monica Mountains Task Force,

Angeles Chapter, Sierra Club

Oct 5, 2010

California Coastal Commission
Dear Sir,

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OCT 11 2010

Poor Ramirez. That community will be ruined in order to have funds raised at public events.

However, I live at 25377 Malibu Road since 2006. I have been thru 3 fires and am completely astonished a camping area would be placed in such proven dangerous areas. I am surprised how one commission states malibu has too many toilets and wants us to go to sewer which will insure private property will be destroyed. Then another commission wants us to have more toilets for campers. If both commissions have their way, in a few years these campers will be looking at high rise complexes as I will certainly sell at the right price as will everyone eventually. To ensure the beauty of Malibu is to leave us alone and visit.

Sincerely,

Edith Morgan

310 456-8828

25377 Malibu Rd

Malibu, Ca 90265

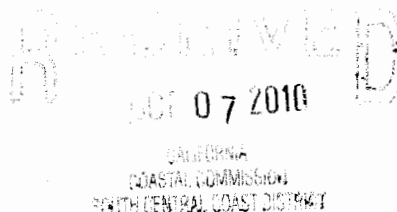
Exhibit 4
SMMC/MRCA PWP
Addendum
Edith Morgan Letter



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 7, 2010



California Coastal Commission
South Central Coast Area
Attn: John Ainsworth
89 South California Street
Ventura, CA 93001

Re: Malibu Parks Public Access Enhancement Plan – Public Works Plan (PWP)

Dear Mr. Ainsworth:

The City objects to the hearing of this item before the California Coastal Commission (CCC) at the October 13, 2010 date for the following reasons: 1) there has been inadequate notice and opportunity to respond; 2) the California Environmental Quality Act (CEQA) document was not properly circulated; 3) there are inaccuracies and inconsistencies in the PWP; 4) the project alternative is not the least environmentally damaging; and 5) the Notice of Impending Development fails to properly provide notice to affected property owners.

Inadequate Notice and Opportunity to Respond

In February 2010, the Santa Monica Mountains Conservancy/Mountains Recreation Conservation Authority (SMMC/MRCA) circulated a draft environmental impact report (DEIR) studying the impacts of the proposed PWP. On March 22, 2010, the City submitted a letter of comments and concerns regarding the proposed facilities development and uses within the Plan Area. The City's primary concerns related to overnight camping and the potential for accidental fires as well as the impacts of developing permanent campgrounds in environmentally sensitive habitat (ESHA).

On August 18, 2010, the Final EIR (FEIR) was published just five days prior to the August 23, 2010 SMMC hearing which allowed very little time to read or comment on the 800+ page document.

On August 23, 2010, the SMMC adopted Resolution No. 10-41 certifying the FEIR and authorized submittal of the PWP to the CCC. The PWP forwarded to the CCC proposed a Modified Redesign Alternative (MRA) scope of work. The MRA reflected changes to previously proposed project not studied in the Draft EIR.

On September 14, 2010, CCC staff emailed City staff a letter (dated September 13, 2010) which informed the City of the Conservancy's August 26, 2010 PWP submittal. The letter states that on September 2, 2010, CCC staff determined the PWP to be "properly submitted and complete" and

Exhibit 5
SMMC/MRCA PWP
Addendum
City of Malibu Letter

that the PWP was tentatively scheduled for the October 2010 CCC hearing in Oceanside. The letter requested the City's formal input and recommendations with respect to the impact of the proposed PWP on the City's coastal zone and certified Local Coastal Program (LCP) by September 23, 2010 (6 business days).

On September 15, 2010, City staff contacted CCC staff and explained that the City would be unable to comply with this deadline because it did not allow adequate time to schedule the item for City Council review as the letter arrived just after a Council Meeting (September 13) and that the September 23, 2010 deadline was before the next City Council meeting on September 27, 2010. Subsequently, the City once again requested a one month postponement of the PWP hearing to allow adequate time for review as well as provide a closer hearing location for the area residents since the November meeting is scheduled for Los Angeles County. On September 21, 2010, Commission staff informed City staff via email that direction had been given to have the PWP heard at the October, 2010 CCC meeting in Oceanside. Subsequently, there has not been adequate time for consultation between the City and Coastal staff.

On September 30, 2010, the Coastal Commission staff report was posted online and made available to the public. The report consists of 175 pages of new analysis with 50 suggested modifications to the PWP. In addition, to the text there are 19 exhibits. This information has not been available to the public for a reasonable review period and the City and public have been unfairly prejudiced as a result.

CEQA Document Not Properly Circulated for Review

The purpose of CEQA is to foster informed decision making and public participation. Under the Commission's certified regulatory program, the Commission's staff report is intended to be the "functional equivalent" of an environmental impact report. CEQA requires an environmental impact report to be circulated for a minimum 30-day period. The Commission failed to comply with CEQA's minimum requirements for public review, thereby subverting CEQA's core purpose. (Ultramar, *supra*, 17. Cal.App.4th at 701-02, 703-704).

Inaccuracies and Inconsistencies in the PWP and the Overlay

The proposed PWP is not consistent with the City of Malibu LCP and the EIR prepared for the subject PWP failed to adequately consider potentially significant impacts to ESHA. Specifically, 1) the impacts associated with new development are not disclosed or studied in the Draft EIR related to the construction of permanent employee housing (new single-family residences and associated onsite wastewater treatment systems) at both Corral Canyon Park and the SMMC Bluffs property; and 2) the EIR does not accurately disclose the amount of ESHA disturbance for the 35 campsites at the SMMC Bluffs Property.

As stated earlier, the FEIR was published just five days prior to the August 23, 2010 SMMC hearing. Nonetheless, on August 20, 2010 the City provided a comment letter regarding the new permanent employee housing at Corral and Bluffs that was not disclosed or studied in the DEIR. The permanent employee housing consists of small single-family residences with onsite wastewater

treatment systems. These uses were not considered in the DEIR or in the CCC adopted Overlay. The Overlay considered ranger/maintenance supervisor housing to be accommodated in temporary trailers. While it may be beneficial for park supervision or more comfortable for employees, the placement of new single-family residences has not been studied, nor is it a permitted use within an Open Space zone.

The environmental consultant's response to the City's concern was that since the area of placement of the new ranger housing is "grassland" and previously disturbed it doesn't meet ESHA criteria. In addition, the consultant reasoned that since the area was previously considered for a fire shelter, a permanent residence does not constitute a more intense use; and, therefore is not a greater impact to ESHA. There is no evidentiary basis for that conclusion in the record. Moreover, 35 campsites spread into four areas (two large clusters) are not clustered to the maximum extent feasible in order to result in the least amount of permanent impact to ESHA (see Figure MRA-17). It does not appear that the proposed design can be found to support the California Code of Regulations required least environmentally damaging alternative finding:

(3) if significant adverse impacts have been identified, reasonable alternatives have been examined, and mitigation measures have been included that substantially lessen any significant adverse environmental impact so that there is no feasible less environmentally damaging way to meet the public need. If the development will have no significant adverse environmental impact, findings shall be included which support that conclusion.

The amount of fuel modification and landform alteration required to develop 35 camp sites at the SMMC-owned Bluffs Park will permanently alter an area the SMMC has for years claimed to be an environmentally sensitive wildlife corridor habitat¹. Clearly, a less environmentally damaging alternative would include fewer campsites, further clustering of campsites, fewer bridges, and less permanent infrastructure (electrical lines, water lines, even cable television is proposed).

MRA Not Environmentally Superior Alternative

Section 15126.6 (e) (2) of the CEQA Guidelines requires that an Environmentally Superior Alternative be identified among the selected alternatives (excluding the No Project alternative). The MRA has been selected as the environmentally superior alternative. The MRA's inclusion of 35 campsites at Bluff's and the associated impacts of development (massive landform alteration for grading, infrastructure, installation of utilities) is not consistent with balance of resources required by the Coastal Act. The Coastal Act must be liberally construed to accomplish its purpose, and any

¹February 9, 2009 letter from the SMMC to the City of Malibu commenting on the DEIR for the AZ Winter Mesa Towing Site Subdivision pointing out the connectivity to the Conservancy owned Malibu Bluffs open space and its potential to impact the wildlife movement, raptor habitat and the coastal bluff vegetation community. October 28, 2008 letter from SMMC to the City of Malibu commenting on the Draft EIR for the adjacent Crummer Site Subdivision at 24120 Pacific Coast Highway, commenting on the unique and rare assemblage of coastal sage scrub, chaparral and coastal bluff vegetation as well as the site's important habitat connectivity. September 6, 2001 letter from SMMC to the City of Malibu commenting on the EIR for Tentative Tract Map No. 52487 and stressing the ecological value of the habitat system on the Malibu Bluffs State Park property.

conflict between Chapter 3 policies should be resolved in a manner which on balance is more protective of significant coastal resources.

The following is a summary of the number of campsites in each alternative scenario for the five parks within the PWP area. In each scenario, the Bluffs site is targeted for extensive development.

NUMBER OF CAMPSITES PER PARK						
	Ramirez	Escondido	Latigo	Corral	Bluffs	Total
Original Proposal	5	13	5	16	32	71
2002 LCP Alternative	1	4	0	11	33	49
Redesign Alternative	3	4	3	11	33	54
Adopted PWP (MRA)	2	0	0	17	35	54

The PWP consistently refers to the Bluffs site as “non-ESHA” areas and as being “previously disturbed or developed”. Coastal Commission Staff report, page 131 states that “Proposed improvements at Malibu Bluffs have been sited and designed to locate new facilities within previously disturbed and level areas of the property to the maximum extent feasible.” When was the Bluff’s site legally developed or disturbed since any landform alteration would have required a coastal development permit?

PWP, Section 3.1.2 Low Impact Campsites, Page 11

Camp Implementation Measure 4: *Campsites shall be located to take advantage of the unique and diverse resources of Ramirez Canyon Park, Corral Canyon Park, and the Conservancy owned Malibu Bluffs, and to facilitate disabled access where possible. To the maximum extent feasible, campsites shall be located in previously disturbed areas (where the habitat has not been illegally removed or degraded) to minimize impacts to ESHA and other coastal resources.*

When will the determination be made as to whether or not the habitat at the Bluffs has been illegally removed or degraded? In the past, Coastal staff and the SMMC/MRCA via comment letters, have considered development requests in similar areas to have been illegally degraded and demanded these areas be considered ESHA, especially since they are surrounded by ESHA. However, these similarly “disturbed” areas, now proposed to be developed with “resource dependent uses” are no longer afforded the value associated to the surrounding ESHA.

The 35 campsites proposed on the Bluffs site require developing every flat area within the canyon. In order to traverse through the canyon to get to these flat areas, suspension bridges as long as 80 feet in length are proposed. This extensive use of the site will result in the permanent loss of ESHA on the site just last year considered a wildlife corridor by the MRCA².

² February 9, 2009 letter from the SMMC states: “the importance of this area for its wildlife movement value, coastal bluff vegetation, and raptor habitat, and pointed out its proximity and connectivity to the Conservancy-owned Malibu Bluffs open space. In that letter, we also recommended that a conservation easement be offered over a portion of the

Notice of Impending Development

The proposed Notice of Impending Development (NOID) procedure allows the California Coastal Commission (CCC) to issue development permits for the Plan area without adequate input from affected local jurisdictions. In fact, the proposed notification procedure appears to be inconsistent with current coastal development permit noticing requirements afforded affected property owners.

City of Malibu's Local Coastal Program Local Implementation Plan Section 13.12.1, 3 provides notice, within 10 days of application submittal or at least 7 days prior to a hearing, to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed. Yet, the PWP NOID process fails to provide any notice to adjacent property owners of impending development. Furthermore, the PWP process does not require the City to be notified when an application is submitted to the CCC.

The NOID process should be amended to include the following:

- The City of Malibu should be notified as soon as an application is submitted to CCC; and
- Neighboring property owners should be noticed consistent with LCP requirements for coastal development permits set forth in LIP Section 3.12.

Lastly, given the enormous amount of documents related to the PWP and deficient time to review, the inaccuracies identified above can only represent a sample of what could be anticipated given a reasonable time for public review. This seems reason enough to allow a continuance and to afford the public adequate due process.

Respectfully submitted,



Vic Peterson
Community Development Director

cc: Jim Thorsen, City Manager
Christi Hogin, City Attorney
Joyce Parker-Bozylinski, AICP, Planning Division Manager

Crummer Site, along the eastern property boundary (adjacent to the Towing Site) and southern property boundary. An adjoining conservation easement over the Towing Site western boundary would help ensure this habitat connection along the bluffs, to the Conservancy-owned Malibu Bluffs open space.

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October 11, 2010

California Coastal Commission
South Central Coast Area
Attn: John Ainsworth
89 South California Street
Ventura, California 93001

**Malibu Parks Public Access Enhancement Plan – Public Works Plan (PWP)
Response to City of Malibu Letter (dated October 7, 2010)
Hearing Date October 13, 2010 (Agenda Item W7a)**

Dear Mr. Ainsworth:

We have reviewed the City of Malibu's letter (dated October 7, 2010) with respect to the Malibu Parks Public Access Enhancement Plan – Public Works Plan (PWP) and respectfully offer the following responses to that letter for review and consideration by the California Coastal Commission on October 13, 2010.

Adequate Noticing and Opportunity to Respond

The City complains that it had inadequate notice and opportunity to respond to the Final EIR (FEIR). In fact, the City had ample opportunity and the Conservancy/MRCA satisfied all time requirements under CEQA.

As noted, in February 2010, the SMMC/MRCA circulated the DEIR for 45 days. On February 22, 2010, the SMMC/MRCA held a joint hearing to receive oral comments on the DEIR.

On March 22, 2010, the City submitted a 25-page letter providing comments on the DEIR. CEQA Guideline section 15088 requires that written responses be provided to all public agency comments on a DEIR at least 10 days before certification of the EIR.

On August 12, 2010, consistent with the requirements of CEQA Guidelines section 15088, the Conservancy/MRCA provided extensive written comments to the City's letter

Exhibit 6
SMMC/MRCA PWP
Addendum
Santa Monica Mountains
Conservancy Letter in
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and oral and written comments from City officials 10 days before certification of the EIR.

In addition, on August 18, 2010, at the request of the City of Malibu, a representative of the Conservancy/MRCA appeared at a City-sponsored public workshop in the City Council chambers, to discuss how public comments (including comments from the City) received during the circulation of the Draft EIR helped to further refine the original Redesign Alternative evaluated in the DEIR into the Modified Redesign Alternative (MRA).

In response to the publication of the Final EIR (FEIR), the Conservancy/MRCA received a written comment letter from the City of Malibu on the FEIR on August 19, 2010. Although there is no provision in the CEQA Guidelines requiring that responses be provided to letters on the FEIR, in continuation of the Conservancy/MRCA's efforts to be as responsive as possible to comments and concerns regarding the project and EIR, written responses to the City's August 19th letter were made available in advance of the public hearing on the FEIR.

On August 23, 2010, it should be noted that although CEQA does not require a further public hearing prior to certification of an EIR, the Conservancy/MRCA conducted a public hearing and received additional testimony on the EIR and PWP. The City appeared and testified at the hearing; the City's Mayor provided comments as a member of the Santa Monica Mountains Conservancy Advisory Committee. After consideration of the information contained in the FEIR, including all of the comments and responses, the Conservancy/MRCA Boards approved the environmentally superior, Modified Redesign Alternative version of the PWP.

On September 23, 2010, in advance of the Commission's hearing on the PWP scheduled for October 13, 2010, City Staff prepared a detailed, 35-page staff report to the City Council summarizing the key aspects of the PWP and the changes made and presented it to the Council on September 27, 2010.

With respect to the City's ability to timely review the CCC Staff's fifty Suggested Modifications, the majority of the Suggested Modifications to the PWP are non-substantive in nature and can be generally classified as being done for editorial, clarification, or procedural purposes and are not designed to address any Coastal Act or LCP inconsistencies. These recommended modifications include:

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Editorial

- To remove references to the City of Malibu certified LCP and/or the Malibu Parks Public Access and Enhancement Plan Overlay. These references were found to be “inappropriate because the PWP should be the stand-alone planning document for the proposed public works projects within the plan area. Editorial changes are therefore contained in Suggested Modifications 1-15, 17, 19-21, 32, 34, 35 and 36. (page 162). Suggested Modifications 16 and 18 (page 136). In total, twenty-one (21) of the fifty-three (53) Suggested Modifications are limited to minor text revisions to clarify the PWP is a stand-alone planning document (Suggested Modifications #1-8, 9-15, 17, 19-20, 34-36). These text revisions consist primarily of striking reference to the Coastal Act and City of Malibu LCP in the PWP’s Policies and Implementation Measures.
- To consolidate two separate PWP implementation measures into a comprehensive measure. Suggested Modification 22 (page 136)
- To omit reference to grading permit issuance as this is not applicable in the Plan area. Suggested Modification 23 (page 136)
- To remove an ESHA implementation measure that is beyond the scope of the PWP. Suggested Modification 29 (page 141)
- To delete Table 2 and make minor corrections to the other tables. Suggested Modification 53 (page 163).
- To make the minor corrections and clarifications to the PWP contained in the SMMC/MRCA letter to the Commission dated September 22, 2010. Suggested Modifications 31, 33, 38, 40, 42, 43, 45, 51 and 53 (page 163)

Clarification

- To clarify that widening, not “repair and maintenance” may be included as part of the Plan for the Arizona stream crossing. Suggested Modification 25, 39, 52 (page 120).

Procedural

- To ensure that Ramirez Canyon Park uses and improvements are phased as proposed and unpermitted aspects of the uses (Phase 1) and improvements (historic Ramirez Creek modification) are resolved in a timely manner through NOIDs. Suggested Modification 37. (page 151)

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- To more fully incorporate the detailed restoration or protection plans, or other relevant documents included in the FEIR which CCC review has found to be adequate and appropriate into the adopted PWP
- To ensure that the Biological Concept Mitigation/Restoration Plan (Dudek, July 2010 – Appendix MRA-11 of the FEIR) that has been prepared to serve as the Plan's biological restoration program framework is included in the PWP and implemented, including Ramirez Creek restoration components. Suggested Modifications 22, 24, 44, and 50 (page 119, 137).
- To ensure that the Native Tree Protection Plan (Appendix MRA-10 of the FEIR) is appropriately incorporated into the PWP as an implementation measure. Suggested Modification 26 (page 135, 140) and 27 and (page 141)
- To add a requirement to the Water Quality Implementation measures that that additional permeable materials in parking lot areas would be utilized where feasible and consistent with site-specific geotechnical recommendations. Suggested Modification 30 (page 142). (This is consistent with the detailed description of the MRA contained in Appendix MRA-1 of the FEIR at page MRA-13).
- To add the biological resource maps included in FEIR Appendix MRA-8. Suggested Modification 49. (page 163)
- To replace Appendix A with the PWP concept Plan Set and Appendix B with the Biological Concept Mitigation/Restoration Plan. Suggested Modification 50. (page 163)

There are only two inconsistency findings within the CCC staff report that are addressed through six (6) suggested modifications, which are summarized below:

- The optional fire shelters are the only physical component of the plan found to be inconsistent with the Coastal Act and Malibu LCP. According to the Staff Report: "Given the lack of evidence and precedents, the fire shelters are not considered a crucial component of fire protection planning for the proposed park and trail improvements." (page 112, 135) CCC Staff Report therefore contains Suggested Modifications 41, 52 and 53 to remove the optional fire shelters (page 112-113, 130, 135, 157), finding: "At this time there is no legitimate basis or justification for determining that fire shelters are necessary support facilities for the proposed campground and public trails to assure these facilities are safe from fire hazards.

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- The removal of ESHA for the associated fuel modification, as well as the impact on scenic resources can not be justified in this case.” (page 112, 133)
- The CCC Staff Report found that there were elements of the described procedures contained in the procedures chapter of the PWP which are inconsistent with requirements of the Coastal Act and the California Code of Regulations and provided Suggested Modifications to correct the language: (1) Suggested Modification 46 regarding procedures for development that is exempt from NOID requirements; (2) Suggested Modification 47 regarding procedures for PWP amendments; and (3) Suggested Modification 48 regarding procedures for emergency authorizations. (page 161-162)

Thus, the only physical components of the PWP which were found to be inconsistent with the Coastal Act or LCP are the optional fire shelters and they were found to be inconsistent because the CCC staff found that they weren't necessary to achieve acceptable fire safety.

As demonstrated above, the PWP submitted to the CCC on August 26, 2010, which was the subject of approximately twelve months of environmental review and several years of legal scrutiny, remains largely intact as a result of CCC staff's review. The City has had ample time to become familiar with the PWP. The CCC staff report and modifications suggested therein by CCC staff are easily comprehensible. The time allowed for the CCC staff report's review by the City of Malibu (and the public) in advance of the CCC hearing on October 13 has been more than adequate.

In short, there is no merit to the argument that the City had inadequate notice and opportunity to respond.

CEQA Document Properly Circulated for Review

The City also complains that the Commission was required under CEQA to circulate its staff report for a minimum 30-day period, citing *Ultramar v. South Coast Air Quality District* (1983) 17 Cal.App.3d 701-704. The short answer is that by its citation to *Ultramar*, the City is relying on Public Resources Code section 21091, which provides

that the public review period for a draft EIR circulated by a lead agency may not be less than 30 days. In acting on a PWP, however, the Commission is acting as a responsible agency, not a lead agency. Section 21091 is not applicable to the Commission. The lead agency in this case, the SMMC/MRCA, did circulate the draft EIR for 45 days.

PWP and Overlay are Accurate and Consistent

Park Administration/ Employee Quarters are Permissible Under the LCP Overlay

The LCP permits various recreational uses and support facilities in the Open Space zone and the certified Overlay includes additional policies and development standards that further specify the types of recreational improvements, uses and limitations allowed on these parklands subject to the Overlay.

The Overlay explicitly defines ranger/ maintenance supervisor housing as a permitted use for the parklands subject to the Overlay (LUP Policy 5.71), and further specifies that residency for a Camp Host, staff maintenance person or Ranger shall be provided at existing park properties in conjunction with developing the proposed camp area improvements (LIP Policy 3.4.2.D.11.b). The LCP does not dictate what form the residency for a Camp Host, staff maintenance person or Ranger should take.

The City contends that placement of new "single-family residences" (ranger quarters) at the park sites is not a permitted use within the Open Space Zone, and that the Overlay considered ranger/maintenance supervisor housing to be accommodated in temporary trailers. It should be noted that the city prefers to reference the proposed camp host trailers as "RV sites" and the proposed ranger's quarters as "single family residences" and argues that RV parks and single family residences are not permitted in the Open Space zone. It's true that RV parks and single family residences are not permitted in the Open Space zone (LIP Table B Permitted Uses); these uses are also not proposed under the Plan.

The Plan includes camp host trailers provided in individual RV sites, not RV parks, used exclusively by camp hosts intended to serve the proposed Plan uses, and Park Administration/ Employee Quarters ("rangers quarters"), not single family residences, which are small, 600 s.f. structures used exclusively by rangers and park employees intended to serve the proposed Plan area and uses. The ranger quarters are clearly distinguishable from single family residences in size, amenities, and intent. Contrary to

the City's assertions, the rangers quarters will NOT be served by on-site wastewater treatment system (OWTS) at either Malibu Bluffs or Corral Canyon. The quarters are limited to 600 s.f., are served by self-contained restrooms, and are intended to support and serve the proposed Plan area and uses.

The self-contained restrooms located within or adjacent to the rangers quarters will be connected to wastewater holding tanks that would be either be the same size (1,500 gallons), or 500 gallons greater (2,000 gallons) than the tanks associated with the self-contained restrooms proposed to serve campers and other visitors of the parks. The underground holding tank(s) will be located either in the same general footprint of the nearest restroom facility and equipped with a water-tight lid and all necessary inlet and outlet assemblies. The holding tank will be serviced/pumped at the same time as the other park self-contained restrooms, which will be approximately once per month. The underground holding tanks will be double-lined (to prevent leaks) and are located over 150 feet away from all creeks, which is in excess of the requirements of the State Water Resources Control Board for cesspools, where release of wastewater to the environment is permitted, which would NOT be the case for the underground holding tanks. It should be noted further that the proposed PWP (see Section 4.5) provides the Public Works Plan Funding, Operations and Maintenance Plan, which includes MRCA's proposed Coastal Campgrounds Maintenance & Management Plan and Coastal Trails Maintenance Supplemental Plan. The proposed management and maintenance plans provide for regular maintenance and periodic repairs of park and trail improvements utilizing existing agency maintenance and repair databases and incorporation of site-specific management tools. As discussed within the FEIR, the rangers quarters underground holding tanks would be regularly inspected, serviced, and maintained and will have no greater environmental impact than the other proposed self-contained restroom facilities.

The design and intent of the proposed ranger quarters are consistent with the certified Overlay, and also reflect numerous Commission actions to limit the size of secondary structures in Malibu to 900 s.f. to ensure such structures are not used as a typical single family residences and thereby minimize demands on coastal resources and community infrastructure (California Coastal Commission Staff Report, City of Malibu Local Coastal Program, Item Th3a, August 29, 2002).

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Impacts Associated with the Park Administration/ Employee Quarters were Adequately Evaluated in the EIR

The City inaccurately indicates in its letter that the proposed permanent habitable structures at Corral Canyon Park and Malibu Bluffs Conservancy Property would require significant removal and thinning of ESHA and references letters prepared by the Conservancy which speak to separate properties. Contrary to statements in the City letter, the impacts associated with overnight accommodations for camp hosts and/or park rangers were evaluated within the DEIR. The DEIR had overnight camphosts locations designated at each park where camping was proposed.

The Redesign Alternative contained within the DEIR contemplated a permanent camp host structure in the parking area behind the Corral Fish Market, with a required 100-ft. fuel modification buffer (Appendix D-3, Sheet 26). The Redesign Alternative for Malibu Bluffs contained within the DEIR contemplated two fire shelters in the overflow parking area at Parking Lot 1, which also required a 100-ft fuel modification buffer. At each of these locations, under the Modified Redesign Alternative (the PWP submitted for Commission's consideration), these structures would be replaced by Park Administration/ Employee Quarters, which would require the same Fire Protection Plan (FPP) fuel modification, and would therefore, result in similar impacts to vegetation.

As a result of communications with LACFD, the 100 ft fuel modification buffer for fire shelters and permanent habitable structures was recommended to be increased by 100 ft for a total vegetation buffer of 200 ft. It should be noted that this increase in fuel modification buffer at the Malibu Bluffs Conservancy Property (associated with the Park Administration/ Employee Quarters) would result in impacts to California annual grassland and ruderal vegetation, both of which are considered non-sensitive vegetation types and are not considered ESHA (see FEIR, Appendix MRA-8, Figure BIO-5j).

The full biological impacts of the implementation of the MRA (including the recommended 200 ft. fuel modification) are described with FEIR, Section 15, pages 15-56 and 15-57. FEIR, Volume IV, Section 15, Table 15-57 provides a comparative analysis of ESHA impacts between the Proposed Plan and the MRA and indicates that ESHA impacts would be reduced by 0.33 acres under the MRA when compared to the Proposed Plan. Within FEIR, Volume IV, Section 14, Table 3.4-6 provides a breakdown of ESHA impacts under the MRA specific to the Malibu Bluffs Conservancy Property by non-trail improvement types.

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At Corral Canyon Park, the policy consistency analysis contained in Section 4.0, Consistency with Plans and Policies, of the DEIR for the Proposed Plan indicates that implementation of the proposed project would result in minor impacts to sensitive habitats resulting from development at Corral Canyon Park that does not constitute a resource-dependent use, and which is therefore prohibited in environmentally sensitive habitat areas as defined by Section 30240 of the Coastal Act and City of Malibu Local Coastal Program Policies 3.8, 3.9, and 5.69. These improvements and associated impacts include fuel modification requirements for the Corral Canyon Park camp host and fire truck shed improvement area. As a result, the proposed Plan improvements for Corral Canyon Park would potentially conflict with policies addressing protection of environmentally sensitive habitat areas adopted for the purpose of avoiding or mitigating an environmental effect, resulting in a significant and unavoidable impact.

The Modified Redesign Alternative, however, includes redesigned park and recreation improvements and a detailed policy consistency analysis for the Modified Redesign Alternative-Public Works Plan, which is included in Appendix MRA-4 of the FEIR, and which incorporates additional analysis based on comments received on the DEIR and the redesigned scope of improvements. Similar to the proposed project, the Modified Redesign Alternative impacts to native vegetation areas would result from fuel modification requirements for Park Administration/ Employee Quarters, and fire truck shed improvements. As identified in the policy consistency analysis for the Modified Redesign Alternative-Public Works Plan, fuel modification associated with employee/camp host quarters and fire truck shed improvements at Corral Canyon Park would be limited to areas already subject to fuel modification requirements associated with the adjacent restaurant and RV facility. City of Malibu Land Use Plan 3.1, ESHA Designation, specifically exempts areas subject to fuel modification activities as follows: "Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA."

Although fuel modification associated with the employee/camp host quarters and fire truck shed will result in encroachment into native vegetation areas, these affected areas are already subject to current fuel modification activities and are therefore not considered ESHA under the Malibu LCP. As such, the Modified Redesign Alternative would not conflict with Section 30240 of the Coastal Act or City of Malibu Local Coastal Program Policies 3.8, 3.9, and 5.69. In addition, as the proposed Park Administration/ Employee Quarters and fire truck shed improvements consist of

improvements to an existing and disturbed development footprint (an existing, paved parking area) and are located and designed so as not to impact ESHA, and because there are no other alternative locations which could accommodate the improvements, with implementation of appropriate mitigation measures identified in the FEIR, the Park Administration/ Employee Quarters and fire truck shed improvements are consistent with applicable LCP policies relative to ESHA buffers (policies 3.23- 3.30).

With respect to references to the AZ Winter Mesa and Crummer projects, the Conservancy/ MRCA acknowledge that there is ESHA on the Malibu Bluffs property, as mapped by Dudek biologists (see FEIR Appendix MRCA-8, Figure BIO-5j), but as established above, ESHA would not be impacted by placement of Park Administration/ Employee Quarters (including fuel modification buffers) at Malibu Bluffs.

Contrary to statements in the City letter, implementation of 35 campsites and the two (2) Park Administration/ Employee Quarters at Malibu Bluffs associated with the MRA project will have no significant adverse impacts (Class I) on ESHA. The vast majority of vegetation at Malibu Bluffs which would be impacted is comprised of non-ESHA grasslands. Fuel modification would potentially require disturbance to very limited areas of ESHA, which would be fully mitigated at 3:1 basis consistent with the adopted Concept Restoration Plan. Further, given the limited impacts associated with the implementation of the proposed low-impact camping and trails, and given that significant portions (67.4 acres or 83% of the 81.0-acre site) of the Malibu Bluffs property will continue to remain in undeveloped open space; as discussed in the EIR, any impacts to wildlife movement and/or raptor habitat would be less than significant.

The FEIR (Volumes I-IV) provides comprehensive descriptions and analyses of the original project as well as several plan alternatives; supporting technical reports, plans, and related documentation are located within the EIR appendices. The FEIR, coupled with the comprehensive Commission staff report for the project, provide the public and decision-makers with the critical information, analysis, and commentary necessary in order to foster informed decision-making.

Therefore, it must be concluded that placement of camping and Park Administration/ Employee Quarters at Malibu Bluffs and Corral Canyon would not necessitate significant additional removal and thinning of vegetation within ESHA when compared to that which would be required for either the Proposed Plan or the Redesign Alternative, both of which were evaluated in the EIR. Based upon the discussion above

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and the information contained within the DEIR and FEIR, no further environmental analysis of the PWP's permanent employee housing or campsites is required.

The MRA is the Environmentally Superior Alternative

As demonstrated through the project plans and EIR analysis (including visual simulations), and contrary to the City's assertions, the inclusion of 35 campsites at Malibu Bluffs will not constitute a massive landform alteration nor will the amount of development proposed be inconsistent the balance of on-site resources. In fact, the approximate total footprint of the 35 campsites (with a 20-ft vegetation buffer) at Malibu Bluffs will be approximately 2.0% (1.7 acre) of the entire 81.0-acre site.

The certified EIR identified the Conservancy/ MRCA's selection of the MRA as the Environmentally Superior Alternative; the Conservancy/ MRCA's adopted the MRA based upon a substantial series of findings. The City has not sought to contest the certified EIR within the time limits prescribed by CEQA. Given the size, topography, location, and conditions of resources at the Bluffs site, it is well-suited to accommodate the proposed recreational amenities, particularly when compared to that of the other four park sites.

The environmental baseline of the Malibu Bluffs site is well-documented within the certified Final EIR, which the City of Malibu has not contested within the time limits prescribed by CEQA. To our knowledge, no violations of City and/or Coastal Act policies have ever been issued by the City of Malibu or the Commission with respect to the Malibu Bluffs property. The site was historically grazed, has been exposed to fire, and has several existing trails which currently crisscross the property. In support of Dudek's conclusions, Dudek reviewed aerial photography of the Malibu Bluffs site prior to implementation of the Federal Coastal Zone Management Act or the State Coastal Act. The attached graphic shows Dudek's more recent mapping of California grassland (CGL) overlaid on an aerial from 1972. When compared to more recent aerial photography (see FEIR) of the Malibu Bluffs site, it appears that CGL was much more prevalent in 1972 than today, and would serve to support the conclusion that much of the site has been subject to previous disturbance from what was likely legal grazing of the site prior to implementation of the CZMA or Coastal Act.

The PWP contains recreational and resource management policies that will ensure that the recreational use of the site will limit impacts to sensitive resources and that sensitive

resources to be preserved will be protected. As well-documented within the Final EIR, the use of the Bluffs site will not result in a significant loss to ESHA nor will wildlife movement be hindered.

Notice of Impending Development

The City indicates the PWP NOID notification procedure appears to be inconsistent with current coastal development permit noticing requirements of the Malibu LCP (LIP 13.12.1), and that the PWP process does not require the City to be notified when an application is submitted to the CCC.

The Malibu LCP is not the standard of review for PWP projects implemented pursuant to NOID procedures and no coastal development permit is required for projects implemented pursuant to a certified PWP. The proposed PWP includes detailed procedures for posting the site for any NOID proposal to provide notice to adjacent property owners and interested parties. In addition, Section 30606 of the Coastal Act requires a public agency proposing a PWP project to provide a NOID to the Coastal Commission, other interested parties, organizations and governmental agencies.

Consistent with these requirements, the NOID procedures included in Section 4.1.2 of the PWP require that the following data and information be submitted to the Commission with all NOIDs:

- The results, including supporting documentation, of consultation with persons and agencies interested in, with jurisdiction over, and/or affected by the proposed development, including consultations with federal and state resource agencies (such as the United States Fish and Wildlife Service, California Department of Fish and Game, Regional Water Quality Control Board, etc.), and including consultations/agreements required pursuant to Chapter 3. (Chapter 4, Section 4.1.2.5.)
- Findings, including that the proposed development has been submitted to the affected local jurisdiction and any comments received by the jurisdiction have been reviewed and considered. (Chapter 4, Section 4.1.2.9.c.)

The City requests consultation with the CCC on any jurisdictional determination.

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Amendments to the PWP fall under the exclusive jurisdiction of the Commission. Consultation with the City on all PWP amendments is already required under Section 4.2 of the PWP which states:

"Authorization for development that has been deemed consistent with the PWP by the Conservancy/MRCA and the Commission may be subsequently amended as necessary according to the procedures set forth in California Code of Regulations, Title 14 Section 13365 Amendment of Public Works Plan." California Code of Regulations Title 14 Sections 13365-13371 require, in part, that:

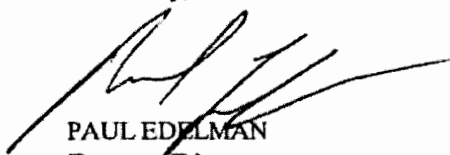
- Prior to submission of an application for an amendment to a certified public works plan, the applicant shall demonstrate that a public hearing at the local level has been held on the proposed amendment within a reasonable time prior to submission of the amendment application to the Commission.
- The Executive Director shall notify the Commission, the applicant, and any persons who participated in the Commission hearings for review of the public works plan, and any other persons known to or thought to be interested in the proposed public works plan amendment of the acceptance of the amendment application.

Conclusion

The City has had ample opportunity to review the PWP as evidenced by its lengthy letter submissions and staff reports that it has produced throughout the PWP processing. The City has not convincingly demonstrated any inaccuracies or inadequacies with the PWP or its environmental review. We appreciate the efforts of the Commission's Staff in bringing forth an objective and fair Staff Report on the PWP. We look forward to the Commission's support of the PWP which will serve as the blueprint to allow for enhanced coastal access and amenities to Californians of all means and abilities.

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Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Edelman', with a long horizontal flourish extending to the right.

PAUL EDELMAN
Deputy Director
Natural Resources and Planning

*Attachment: 1972 Aerial Imagery of Malibu Bluffs Site
(with Dudek 2009 California Grassland Mapping Overlay)*



Approximate location of Dudek mapped CGL