

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
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# Th 8.1 & 8.3

## ADDENDUM

December 14, 2010

TO: Coastal Commissioners and Interested Parties

FROM: Lisa Haage, Chief of Enforcement

SUBJECT: **ADDENDUM TO ITEMS Th 8.1 & 8.3 (Driftwood): COASTAL COMMISSION CONSENT CEASE AND DESIST ORDER NO. CCC-10-CD-01 AND CONSENT RESTORATION ORDER NO. CCC-10-RO-01 – FOR THE COMMISSION MEETING OF DECEMBER 16, 2010**

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Documents included in this addendum:

1. Commission staff's changes to the staff report for items Th 8.1 & 8.3.
2. November 30, 2010 letter from Sam Schuchat to Peter Douglas re: acceptance of offer to dedicate.
3. December 9, 2010 electronic mail message from Scott Thomas, VP of Sea and Sage Audubon, in support of staff recommendation.
4. December 10, 2010 letter from Betsy Bredau in support of staff recommendation.
5. December 10, 2010 letter from Robert Hamilton in support of staff recommendation.
6. December 11, 2010 electronic mail message from Patricia Barnes in support of staff recommendation.
7. December 11, 2010 electronic mail message from Robert Siebert in support of staff recommendation.
8. December 11, 2010 electronic mail message from Mike and Patty Sappingfield in support of staff recommendation.
9. December 12, 2010 electronic mail message from David Pearlman in support of staff recommendation.
10. December 12, 2010 electronic mail message from Christopher Koontz, in support of staff recommendation.
11. December 13, 2010 letter from James Lawson objecting to a statement in the staff report.

1. Commission staff hereby incorporates two new footnotes into its staff report and modifies the text in one other footnote, and modifies additional text as follows:

a. Footnote 1 is added to the Summary of Staff Recommendation (page 2, paragraph 1 of the Staff Report). The numbering for the existing footnotes, subsequent to the new footnote 1, are hereby amended to account for the new footnote (e.g.: existing footnote 1 will become footnote 2, and so forth). Footnote 1 will be appended to the following and is shown in ***bold, italic, and underlined font*** (existing text shown in normal font):

Staff recommends that the Commission approve Consent Cease and Desist Order No. CCC-10-CD-01 and Restoration Order CCC-10-RO-01 (“Consent Orders”), addressing the unpermitted removal of major vegetation (including coastal sage scrub and maritime chaparral plant species) and the results thereof; and the unpermitted placement and replacement of approximately 5,500 sandbags, sand/gravel berms, filter fabric over the berms, and plastic discharge pipes, in violation of the Coastal Act. The unpermitted development activities occurred on an approximately 6-acre portion of property treated by the Orange County Assessor’s Office as comprising all of one assessor’s parcel, identified with Assessor Parcel Number (“APN”) 656-191-40, and a portion of a second parcel, designated as APN 056-240-65, which two assessor’s parcels meet at the northern terminus of Driftwood Drive in the City of Laguna Beach, Orange County (Exhibit 6). For purposes of this matter, we refer to the entirety of both assessor’s parcels, as well as a third (APN 056-240-57), all three of which are owned by Driftwood Properties, LLC (“Respondent”), collectively as the “Subject Properties”.<sup>1</sup>

***<sup>1</sup> Nothing about these Consent Orders, or the implementation of these Consent Orders, including the transfer of the Subject Properties to the City of Laguna Beach or the State Coastal Conservancy, is an approval or ratification of the purported lot line adjustments (“LLAs”) that Respondent’s predecessor in interest recorded in 1995 in an attempt to convert the Subject Properties into a single parcel: City of Laguna Beach “LLA 95-01” or “LLA 95-04”. Those LLAs did not receive the requisite Coastal Act authorization and are the subject of a separate Notice of Violation (V-5-07-006). Authorization in these Consent Orders for the future conveyance of the Subject Properties to the City of Laguna Beach or the State Coastal Conservancy does not rely upon the unpermitted LLAs as creating the legal boundaries of the properties to be transferred. The future conveyance of the Subject Properties to the City of Laguna Beach or the State Coastal Conservancy relies on a separate provision of the Coastal Act that authorizes such transfers of property without a coastal development permit in very limited circumstances but which applies to this particular situation.***

b. Former footnote 3, now renumbered as footnote 4, attached to heading IV, on page 5, is modified as follows (existing text shown in normal font and new text shown in **bold, italic, and underlined font**):

These findings also hereby incorporate by reference Section I of the December 2, 2010 staff report (“Staff Report and Findings for Consent Cease and Desist and Restoration Orders”) in which these findings appear, **as that section was amended on December 14, 2010,** which section is entitled “Summary of Staff Recommendation.”

c. A new footnote 12 is added to the Section IV.D.4 of the Staff Report (page 15). Footnote 12 will be appended to the following and is shown in **bold, italic, and underlined font** (existing text shown in normal font):

All of the activities set forth in these Consent Orders are consistent with and, in fact, are designed to further Chapter 3 resource protection policies. The Commission is issuing these Consent Orders to facilitate the removal activities necessary to fully resolve the violations at issue in these proceedings and to mitigate the significant impacts to sensitive resources that occurred as a result of the violations. Respondent has agreed not only to remove the unpermitted development from the Subject Properties, but has also agreed to remove non-native plant species from the entire 6-acre area. In addition, through these Consent Orders, Respondent has agreed to: 1) execute and record an irrevocable offer to dedicate an Open Space Conservation and Public Access Easement over the approximately 75 acres of the Subject Properties,<sup>12</sup> 2) grant to the California State Coastal Conservancy a Preemptive Purchase Right over an additional 80 acres of Respondent’s property located adjacent to the Subject Properties, and 3) convey fee title to the Subject Properties to the City of Laguna Beach, subject to the protections of the Open Space Conservation and Public Access Easement, or, if the City is unwilling to accept title to this land subject to the terms, conditions and obligations of the OTD, to the California State Coastal Conservancy. In addition, Respondents agree to waive any and all rights created or reserved to them in the “Stipulated Dismissal Without Prejudice and Tolling Agreement; Order Thereon” filed on June 3, 2010, including the right to re-file the petition for writ of mandate and complaint referenced in that document, so that the dismissal of that case is now with prejudice and irrevocable.

<sup>12</sup> **The text of that offer to dedicate (“OTD”) was negotiated in advance and is attached to the Consent Orders. The property description in Exhibit A of that OTD includes three different formats for describing the same property, to maximize the likelihood that the OTD will be identified by title insurance companies in the future. However, consistent with footnote 1, the use of the second format, which refers to the purported lot line adjustments, is not intended to and in no way does ratify those purported lot line adjustments.**

d. Section IV.C of the Staff Report (page 8) is modified as follows (existing text shown in normal font, new text shown in ***bold, italic, and underlined font*** and deletions shown in ~~strikethrough~~):

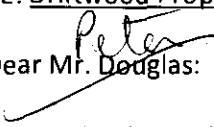
All unpermitted development undertaken on the property before 2004 ~~was performed by~~ ***is attributable to*** the Esslinger ~~Family~~ ***Trust***, which ***owned the Subject Properties from before the Coastal Act took effect until 2004 and which*** also ~~owned~~ ***owns the property where*** the Laguna Terrace Mobilehome Park ***is located*** (~~located~~ adjacent to the Subject Properties) ***until 1997***.



November 30, 2010

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

RE: Driftwood Property Offer to Dedicate (APNs 056-240-65, 056-240-57, and 656-191-40)

  
Dear Mr. Douglas:

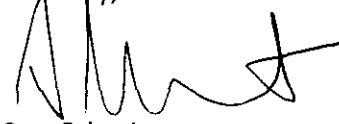
Having reviewed information provided by the Commission regarding the above-mentioned property in Laguna Beach, and having discussed the matter internally and with your staff and our local partners, the State Coastal Conservancy supports the goal of timely, permanent protection of the property's conservation and public access values.

We understand that the Commission and owner Driftwood Properties LLC have agreed to take steps towards the creation of a conservation easement on the property, fee title to which is anticipated to pass to the City of Laguna Beach, and that a third party able and willing to hold the easement remains to be identified.

In light of current circumstances and the need to act with dispatch, the Conservancy agrees to accept an offer to dedicate (OTD) an open space and public access easement over the property from Driftwood Properties LLC in the form attached as "Exhibit A". Conservancy legal and project staff will work with Commission staff to expedite the paperwork with the goal of accepting (recording) the OTD in early 2011, within the time frame established by the offer.

As authorized by state law and with your consent, the Conservancy may in the future elect to transfer the easement to another appropriate and preferably local entity with demonstrated commitment to our conservation goals and access to adequate management resources.

Sincerely,

  
Sam Schuchat  
Executive Officer

1330 Broadway, 13th Floor  
Oakland, California 94612-2512  
510-286-1015 Fax: 510-286-0470

**EXHIBIT A**

**RECORDING REQUESTED BY:**

**WHEN RECORDED RETURN TO:**

California Coastal Commission  
725 Front Street; Suite 300  
Santa Cruz, CA 95060-4508

Attn: Legal Division

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A.P.N. 056-240-65, 056-240-57 & 656-191-40

**IRREVOCABLE OFFER TO DEDICATE OPEN SPACE CONSERVATION  
AND PUBLIC ACCESS EASEMENT  
AND DECLARATION OF RESTRICTIONS**

THIS IRREVOCABLE OFFER TO DEDICATE AN OPEN SPACE CONSERVATION AND  
PUBLIC ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS (the “Offer”) is made  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Driftwood Properties, LLC (the “Grantor”);

I. WHEREAS, County records indicate that Grantor is the legal owner of a fee interest  
in certain real property located in the County of Orange, State of California, described and depicted in  
EXHIBIT A, attached hereto and incorporated herein by reference (the “Property”); and

II. WHEREAS, all of the Property is located within the coastal zone as defined in  
section 30103 of Division 20 of the California Public Resources Code (“PRC”), which Division is  
known as the “California Coastal Act of 1976”; and

III. WHEREAS, the California Coastal Act of 1976 (the “Act”) created the California  
Coastal Commission (the “Commission”) and requires that, with limited exceptions not applicable  
here, development, as defined by the Act (PRC § 30106), within the coastal zone requires a coastal

1 development permit (“CDP”) and that, to be approved by the Commission, such development must be  
2 consistent with the policies set forth in Chapter 3 of the Act; and

3 IV. WHEREAS, pursuant to Sections 30810 and 30811 of the Act, the Commission  
4 has the authority to respond to violations of the Act by issuing cease and desist orders and, if it finds  
5 that development has occurred without a coastal development permit, is inconsistent with Chapter 3 of  
6 the Act, and is causing continuing resource damage, by issuing restoration orders; and

7  
8 V. WHEREAS, the Commission has received evidence that development occurred on  
9 the Property without authorization by a CDP, in violation of the Act (“unpermitted development” or  
10 the “Violations”); and

11  
12 VI. WHEREAS, at least some of the said unpermitted development was inconsistent  
13 with the policies set forth in Chapter 3 of the Act; and

14 VII. WHEREAS, at least some of the said unpermitted development is causing, or may  
15 be causing, continuing resource damage in violation of the Act; and

16  
17 VIII. WHEREAS, in order to resolve the reported outstanding Violations on the  
18 Property, the Commission issued Notices of Intent to Record a Notice of Violation of the Coastal Act  
19 and to Commence Cease and Desist and Restoration Order Proceedings dated March 27, 2008, and  
20 Grantor and the Executive Director of the Commission (“ED”) entered into an agreement that, *inter*  
21 *alia*, required recordation of this Offer; and

22  
23 IX. WHEREAS, on December 16, 2010, the Commission, acting on behalf of the  
24 People of the State of California and pursuant to the Act, issued Consent Cease and Desist Order No.  
25 CCC-10-CD-01 and Consent Restoration Order No. CCC-10-RO-01 (the “Consent Orders”) and  
26 adopted the findings set forth in the Staff Recommendations and Findings pertaining thereto (copies of  
27 which are on file and available for review at the California Coastal Commission located at 45 Fremont

1 Street, Suite 2000, San Francisco, California 94105-2219) requiring, *inter alia*, that Grantor execute  
2 and record an offer to dedicate an Open Space Conservation and Public Access Easement and  
3 Declaration of Restrictions in the form of this document; and  
4

5 X. WHEREAS, the Property possesses natural resource, wildlife habitat, scenic, public  
6 access, and open space values (collectively, the “Protected Values”) of importance to the People of the  
7 State of California; and

8 XI. WHEREAS, the Protected Values, and the characteristics of the Property, its  
9 current use and state of improvement, are documented and described in a document entitled  
10 “Driftwood Removal Plan” dated November 29, 2010, included as Exhibit A to the Consent Orders  
11 (referred to herein as the “Baseline Report”), which describes and depicts the conditions on the  
12 Property as of the time the Consent Orders were issued and which prescribes the removal actions  
13 required by the Consent Orders to be completed by Grantor following the issuance of the Consent  
14 Orders; and  
15

16 XII. WHEREAS, the Consent Orders require, *inter alia*, that Grantor execute and  
17 record an offer to dedicate an Open Space Conservation and Public Access Easement and Declaration  
18 of Restrictions and agree to restrict development on and use of the Property so as to preserve the  
19 Protected Values on the Property; and  
20

21 XIII. WHEREAS, Grantor has agreed to comply with the terms and conditions of the  
22 Consent Orders by, among other things, executing and recording this Offer; and  
23

24 XIV. WHEREAS, Grantor desires to preserve and maintain the Property in its natural,  
25 scenic and open space condition; and

26 XV. WHEREAS, it is intended that this Offer is irrevocable and shall impose  
27 enforceable restrictions on the Property within the meaning of Article XIII, section 8 of the California



1 Constitution and that this Offer shall thereby qualify as an enforceable restriction under the provision  
2 of the California Revenue and Taxation Code, section 402.1.  
3

4  
5 NOW, THEREFORE, in order to comply with the Consent Orders and thereby resolve  
6 the Violations, in part, and in consideration of the mutual benefit and conditions set forth herein, the  
7 substantial public benefits for the protection of coastal resources to be derived, and the issuance of the  
8 Consent Orders to the Grantor by the Commission, thereby releasing the Grantor from certain  
9 liabilities for the Violations, Grantor hereby irrevocably offers to dedicate to the People of the State of  
10 California an easement over the Property, in gross and in perpetuity, for the purposes of open space  
11 and scenic preservation, habitat protection and resource conservation, and compatible public access  
12 (the "Easement") as follows:  
13

14 1. DESCRIPTION. The Easement offered hereby affects the real property  
15 described in Exhibit A, a parcel of land further identified as:  
16

17 Approximately 75 acres, currently (as of the date of issuance of the Consent Orders)  
18 designated by the Orange County Assessor's Office as Assessor Parcel Numbers 056-240-65,  
19 056-240-57, and 656-191-40, at the northern terminus of Driftwood Drive in the City of  
20 Laguna Beach, Orange County.  
21

22 2. PURPOSE. This Offer and the Easement created by its acceptance are for the  
23 purpose of conserving and protecting the Protected Values forever, and assuring that inconsistent uses  
24 of the Property will be prevented and corrected.  
25

26 3. DURATION, ACCEPTANCE AND TRANSFERABILITY. This Offer shall  
27 be binding upon Grantor and its heirs, assigns, or successors in interest as owners of the Property for a  
period of ninety days from the date of recordation of this Offer. This Offer, and any subsequent

1 transfers of the Easement created by the original acceptance of this Offer, may be accepted by a  
2 political subdivision of the State of California (“State”), a public entity, or a private association  
3 qualified to hold conservation easements in accordance with Sections 815 through 816 of the  
4 California Civil Code and approved by the ED (hereafter referred to as the “Grantee”). If a private  
5 association other than the Laguna Canyon Foundation proposes to accept this Offer and Grantor is still  
6 the fee title owner of the Property at the time, the private association must be acceptable not only to  
7 the ED but also to Grantor. The original acceptance of this Offer shall be effectuated by recordation  
8 by the Grantee of an acceptance of this Offer in the form attached hereto as Exhibit C, and subsequent  
9 Grantees shall record substantively similar acceptances. Upon such recordation of acceptance, this  
10 Offer and terms, conditions, and restrictions shall have the effect of a grant of open space conservation  
11 easement in gross and perpetuity over the Property that shall run with the land in perpetuity and be  
12 binding on the Grantor and its heirs, assigns, and successors in interest as owners of the Property.  
13 After acceptance, this Easement may be transferred to and held by any political subdivision of the  
14 State, a public entity, or a private association qualified to hold conservation easements under Sections  
15 815 through 816 of the California Civil Code and acceptable to the ED. Acceptance of the Offer is  
16 subject to a covenant that runs with the land, providing that no Grantee may abandon the Easement  
17 until such time as that party effectively transfers the Easement to another entity that qualifies as a  
18 Grantee of the Easement under the criteria hereinabove stated.

22  
23 4. BASELINE DATA. The Baseline Report contains an inventory of the  
24 Property’s relevant features and conditions, its improvements and its natural resources (the “Baseline  
25 Data”). A copy of the Baseline Report is on file and available for review at the California Coastal  
26 Commission located at 45 Fremont Street, Suite 2000, San Francisco, California 94105-2219. Grantor  
27 represents that the Baseline Report accurately represents the condition of the Property at the date of

1 recordation of this Offer. Grantee shall use the Baseline Report to monitor the future uses of the  
2 Property, the condition of it, and practices on it. The Commission, Grantor, and Grantee further agree  
3 that, in the event a controversy arises with respect to the condition of the Property or the Protected  
4 Values, these parties shall not be foreclosed from utilizing any other relevant document, survey, or  
5 report to assist in the resolution of the controversy.  
6

7           5.     DECLARATION OF RESTRICTIONS. Grantor, for itself and for its heirs,  
8 assigns, and successors in interest, covenants and agrees not to perform or, while holding title to the  
9 property, allow others to perform, any acts inconsistent with the terms and conditions of this Offer, on  
10 or affecting the Property. Any use or activity that would diminish or impair the Protected Values of  
11 the Property is prohibited, except as provided for by the terms and conditions of this Offer. This Offer  
12 authorizes Grantee to enforce the terms, conditions, and restrictions of this Offer in the manner  
13 described herein. Nothing in this Offer relieves Grantor, or its heirs, assigns, and successors in  
14 interest, of any obligation or restriction on the use of the Property imposed by law.  
15  
16

17                 Restrictions and prohibitions on the use of the Property include, but are not limited to  
18 the following:

19                     a. The division, subdivision, de facto subdivision, or partition of the Property,  
20 including transfer of development rights, whether by physical, legal, or any other process. Grantor  
21 grants all development rights to the Grantee, except as specifically provided in this Offer, that were  
22 previously, are now, or later will be, allocated to, implied, reserved, appurtenant to, or inherent in the  
23 Property; and Grantor agrees that these rights are released, terminated, and extinguished, and may not  
24 be used on or transferred to any portion of the Property as it now or later may be bounded or  
25 described, or to any other property adjacent or otherwise, or used for the purpose of calculating  
26  
27

1 permissible lot yield of the Property or of any other property. The creation of the Easement through  
2 acceptance of this Offer shall not create any development rights.

3                   b. Grantor's use or authorization to use any portion of the Property for  
4 mitigation (in other words, to compensate for adverse changes to the environment elsewhere).

5                   c. Development, as that term is more generally defined in the Act (PRC section  
6 30106, attached hereto as EXHIBIT B and incorporated herein by reference), including, but not  
7 limited to, removal of native vegetation or any other vegetation constituting "major vegetation" as that  
8 phrase is used in PRC section 30106, grading, paving, planting of non-native vegetation, tilling, or  
9 installation of structures such as signs, fences, buildings, permanent irrigation devices, etc., grazing or  
10 agricultural activities within the Easement Area with the exception, subject to applicable government  
11 regulatory requirements, including those of the Act, of the following, and then only if approved or  
12 specified in the Consent Orders, as approved and/or authorized by the ED under applicable law, or as  
13 approved and/or authorized by the Commission under applicable law:  
14

15                   1) Development associated with habitat restoration including: a) removal  
16 of non-native plant species as specified in the Consent Orders; b) removal of unpermitted development  
17 and any other development to be removed as specified in the Consent Orders; c) planting of native  
18 plant species; d) temporary above ground irrigation to provide for the establishment of native plant  
19 species for a maximum of three years after planting begins or until the revegetation has become  
20 established, whichever occurs first;  
21

22                   2) Necessary vegetation trimming, thinning or removal for fuel  
23 modification purposes, only as authorized by the ED or the Commission;  
24  
25  
26  
27

1 3) Development associated with relocation, removal and/or placement of  
2 existing above-ground utility lines below the ground surface, with no addition to or expansion of  
3 utility capacity, for the sole purpose of protecting or improving sensitive habitat; and  
4

5 4) Development associated with maintenance or improvement to the  
6 existing, historically used pedestrian trail (as depicted in Figure 11, at page 41 of the Baseline Report),  
7 consistent with the Protected Values, including installation of appropriate signage and other  
8 appropriate markers indicating any allowable public access. The Easement shall allow public  
9 pedestrian use of the existing pedestrian trail but shall not allow off-highway vehicle use.  
10

11 d. The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel or  
12 any other mineral substance, using any method that disturbs the surface of the land;

13 e. Paving, or otherwise covering with concrete, asphalt, or any other paving  
14 material any portion of the Property presently unpaved, or construction of any road for access or other  
15 purposes;

16 f. The dumping or accumulation of any kind of trash, refuse, vehicle bodies or  
17 parts, or hazardous waste on the Property;

18 g. Installation of commercial signs (including billboards).

19 h. Interference with the public's use of the above-referenced trail or any actions  
20 inconsistent with such use, including, without limitation, developing or improving the Property in a  
21 manner inconsistent with the public's use or enjoyment thereof.  
22

23 6. WATER RIGHTS. Grantor shall not transfer, encumber, lease, sell, or  
24 otherwise separate water or water rights from title to the Property itself. All water diverted from  
25 natural flow shall be retained on the Property and used only for the benefit of the Protected Values.  
26

27 7. SPECIFIC RIGHTS OF THE GRANTEE. To accomplish the purpose of this  
Offer and the Easement created by its acceptance (the "Purpose"), as defined in Section 2, above, the

1 following rights and interests, without limitation, except as indicated below, are granted to the  
2 Grantee:

3 a. To identify, preserve and protect in perpetuity the Protected Values on the  
4 Property;  
5

6 b. To enter upon, inspect, observe, and study the Property for the purposes of  
7 (1) identifying the current condition of, uses and practices on the Property, and the baseline condition  
8 of the Property; and (2) monitoring the uses and practices to determine whether they are consistent  
9 with the Easement. Entry shall be permitted consistent with Section 9, below, and shall be made in a  
10 manner that will not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.  
11

12 c. To prevent any activity on or use of the Property that is inconsistent with the  
13 Purpose of the Easement, and to require the restoration of such areas or features of the Property that  
14 may be damaged by any inconsistent condition, activity or use;  
15

16 d. To improve, and allow the public use of, an existing, historically used  
17 access trail (as depicted in Figure 11, at page 41 of the Baseline Report), consistent with the Protected  
18 Values, provided that any Coastal Act authorization for the development required by law is first  
19 obtained;  
20

21 e. To erect and maintain signs or other appropriate markers indicating any  
22 allowable public access, provided any Coastal Act authorization required by law is first obtained.

23 8. TRANSFERABILITY. Grantee may transfer to a political subdivision of the  
24 State, public agency, or private association qualified to hold conservation easements under Sections  
25 815 through 816 of the California Civil Code and approved by the ED the Easement created by  
26 acceptance of this Offer. In addition, the Easement is subject to a covenant that runs with the land  
27 providing that Grantee may not abandon the Easement but, if Grantee wishes to relinquish its control,

1 Grantee must instead transfer the Easement to another qualified political subdivision of the State,  
2 public entity or private association qualified to hold conservation easements under Sections 815  
3 through 816 of the California Civil Code and approved by the ED.  
4

5 9. RIGHT OF ENTRY. The fee title owner of the Property at any given time  
6 (“Owner”) shall provide access to the Property at all reasonable times to Grantee, the Commission,  
7 any successors and assigns of each, and any agency having jurisdiction to ascertain whether the  
8 prohibitions and use restrictions set forth above are being observed under the Easement created by  
9 acceptance of this Offer. Nothing in the Easement is intended to limit in any way the right of entry or  
10 inspection that any agency may otherwise have by operation of any law. The Commission may enter  
11 and move freely about the Property for purposes including, but not limited to, ensuring compliance  
12 with the terms of the Easement.  
13

14 10. MONITORING. Grantee shall uphold the Purpose of the Easement created by  
15 acceptance of this Offer. Grantee’s responsibilities include, but are not limited to, annual monitoring,  
16 such additional monitoring as circumstances may require, record keeping, and enforcement, for the  
17 purpose of preserving the Protected Values in perpetuity. Grantee has the right to enter upon, inspect,  
18 observe and evaluate the Property, consistent with Section 9, above, to identify the current condition  
19 of, and uses and practices on the Property, and to monitor the use and practices regarding the Property  
20 to determine whether they are consistent with the Easement. Commission staff may accompany  
21 Grantee during annual monitoring.  
22  
23

24 Grantee shall report in writing to the Commission by June 30 annually after the annual  
25 monitoring visit, describing the method of monitoring, condition of the Property (with reference to the  
26 Baseline Report), stating whether any violations were found during the period, describing any  
27

corrective actions taken, the resolution of any violation, and any transfer of interest in the Property.  
Failure to do so shall not impair the validity of the Easement or limit its enforceability in any way.

11. BENEFIT AND BURDEN. The Easement created by acceptance of this Offer shall run with and burden the Property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land, and shall be effective limitations on the use and enjoyment of the Property from the date of recordation of this Offer, and shall, during their respective terms of ownership, bind the Owner in perpetuity.

12. REMEDIES. Any act, conveyance, contract, or authorization by the Grantor, whether written or oral, that uses or would cause to be used, or would permit use of the Property contrary to the terms of the Easement created by acceptance of this Offer will be deemed a violation and a breach hereof. Grantor, Grantee, and any heirs, successors and assigns of each, may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Easement and their respective interests in the Property.

Grantee shall have the right to prevent and correct violations of the terms of the Easement. If the Grantee finds what it believes is a violation, it may at its discretion take appropriate legal action to ensure compliance with the terms, conditions, covenants and Purpose of the Easement, and shall have the right to correct violations and prevent the threat of violations. Except when an ongoing or imminent violation could diminish or impair the Protected Values, Grantee shall give the Owner written notice of the violation and fifteen days to correct it before filing any legal action.

If a court with jurisdiction determines that a violation may exist or has occurred, Grantee may obtain an injunction, specific performance, or any other appropriate equitable or legal remedy. A court may also issue an injunction requiring the Owner to restore the Property to its condition prior to the violation. In any case where a court finds that a violation has occurred, the



1 Owner shall reimburse Grantee for all its expenses incurred in stopping and correcting the violation,  
2 including but not limited to reasonable attorney's fees. Grantee's remedies under this section shall be  
3 cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.  
4

5 Without limiting the Owner's liability therefor, Grantee shall apply damages recovered  
6 to the cost of undertaking any corrective action on the Property. Should the restoration of lost values  
7 be impossible or impractical for whatever reason, Grantee shall apply any and all damages recovered  
8 to furthering Grantee's mission, with primary emphasis on conservation easement acquisition and  
9 enforcement in the vicinity of the Property.  
10

11 If Grantee fails to enforce any term, condition, covenant or restriction of the Easement  
12 as determined by the ED, the ED shall have the right to enforce this Easement after giving notice to  
13 the Owner and Grantee and providing a reasonable opportunity under the circumstances for Grantee to  
14 enforce the Easement. If the ED determines that the Grantee has failed to enforce any of the terms,  
15 conditions, covenants or restrictions of the Easement, the ED shall be entitled to exercise the right to  
16 enter the Property, including right of immediate entry where the ED determines that immediate entry  
17 is required to prevent, terminate or mitigate a violation of the Easement.  
18

19 Grantee's failure or refusal to exercise any rights under the Easement in response to the  
20 Owner's breach of any term herein shall not constitute a waiver or forfeiture of Grantee's right to  
21 enforce any term, condition, covenant or Purpose of the Easement or any other term.  
22

23 13. CONDEMNATION. If condemnation of the Property or the Easement created by  
24 acceptance of this Offer is threatened or initiated, the Owner and Grantee shall promptly inform each  
25 other and the Commission in writing. If the Property or the Easement is taken, in whole or in part, by  
26 exercise of the power of eminent domain by any public, corporate, or other authority, the parties shall  
27 join in appropriate actions at the time of the taking to recover the full value of the taking and all

1 incidental or direct damages resulting from the taking. Any proceeds shall be divided in accordance  
2 with the proportionate value of the Owner's and Grantee's respective interests at the time of the  
3 taking, it being expressly agreed that the Easement constitutes a compensable property right. Grantee  
4 shall be entitled to compensation in accordance with applicable law for the value of the Easement  
5 taken, and the Owner shall be entitled to compensation in accordance with applicable law for the value  
6 of the underlying fee taken. Grantee shall apply any and all proceeds recovered to furthering the  
7 Grantee's mission, with primary emphasis on conservation easement acquisition and enforcement in  
8 the vicinity of the Property.  
9

10  
11 14. TAXES AND ASSESSMENTS. The Owner shall pay or cause to be paid all  
12 real property taxes and assessments levied or assessed against the Property during Owner's respective  
13 terms of ownership. Furthermore, the easement and restrictions shall be deemed to constitute a  
14 servitude upon and burden to the Property within the meaning of section 3712(d) of the California  
15 Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.  
16

17 15. MAINTENANCE.  
18 Neither Grantee nor any of its successors, successors-in-interest, or assigns shall be obligated to  
19 maintain, improve, or otherwise expend any funds in connection with the Property or any interest or  
20 the Easement created by this Offer, but Grantee may elect to expend such funds as may be or become  
21 available to it for the purposes of restoring and/or enhancing wildlife habitat and plant communities  
22 native to this segment of coastline, and/or for the purposes of maintaining or improving existing public  
23 pedestrian trails.  
24

25 16. TRANSFER OF PROPERTY INTEREST.  
26 Any time the Property itself, or any interest in it, is transferred by the Owner to any third party, the  
27 Owner shall notify Grantee in writing (with copies to the Commission) at least thirty days prior to the

1 transfer of title to the Property or interest, and the document of conveyance shall expressly incorporate  
2 by reference this Offer, or, once created, the Easement. Any document conveying a lease of the  
3 Property shall expressly incorporate by reference this Offer, or, once created, the Easement. Failure of  
4 the Owner to do so shall not impair the validity of the Offer or Easement, or limit their enforceability  
5 in any way.  
6

7 17. AMENDMENT OR TERMINATION OF EASEMENT.

8 This Offer and the Easement created by acceptance of the Offer may be amended or terminated only  
9 with the written consent of Grantee and the ED. Any amendment shall be consistent with the purpose  
10 of the Offer and the Easement, respectively. No amendment shall diminish or affect the perpetual  
11 duration or the purpose of the Easement, or the status or rights of Grantee under the terms of the  
12 Easement. The Offer, the Easement and any amendment to them shall be recorded in the Official  
13 Records of Orange County. Recorded copies of any amendments to this Offer or the Easement shall  
14 be provided to and retained by the Commission.  
15  
16

17 18. LIABILITY AND INDEMNIFICATION.

18 This Offer is made and shall be accepted upon the express condition that Grantee and the State, and  
19 their respective successors, successors-in-interest, assigns, agencies, departments, officers, agents, and  
20 employees are to be free from all liability and claim for damages by reason of any injury to any person  
21 or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging,  
22 including Grantor, from any cause or causes whatsoever, except matters arising out of the sole  
23 negligence of Grantee and any successors and assigns, while in, upon, or in any way connected with  
24 the Property; Grantor, during Grantor's period of ownership, and Grantor's successors in interest as to  
25 their respective periods of ownership, hereby covenanting and agreeing to indemnify and hold  
26 harmless Grantee, the State of California, and their respective successors, successors-in-interest,  
27

1 assigns, agencies, departments, officers, agents and employees from all liability, loss, costs, and  
2 obligations on account of or arising out of such injuries or losses however occurring, or alleged to  
3 have occurred, during the respective period(s) of ownership. Grantee and any successors, successors-  
4 in-interest, and assigns, shall have no right of control over, nor duties and responsibilities with respect  
5 to the Property that would subject Grantee and any successors and assigns to any liability occurring on  
6 the land by virtue of the fact that the right of Grantee and any successors, successors-in-interest, and  
7 assigns to enter the land is strictly limited to preventing uses inconsistent with the interest granted and  
8 does not include the right to enter the land for the purposes of correcting any dangerous condition as  
9 defined by California Government Code § 830.  
10

11  
12 19. GRANTOR'S ENVIRONMENTAL WARRANTY. Without limiting the  
13 preceding paragraph, Grantor warrants that it has no actual knowledge of the presence of or a release  
14 or threatened release of hazardous substances or wastes on the Property and hereby promises to defend  
15 and indemnify Grantee and the Commission against all litigation, claims, demands, penalties and  
16 damages, including reasonable attorneys' fees, arising from or connected with the presence or any  
17 release of hazardous waste on the Property or violation of federal, state or local environmental laws  
18 pertaining to the Property, occurring, or alleged to have occurred, during the Grantor's period of  
19 ownership, and with Grantor's successors in interest to so defend and indemnify with respect to such  
20 releases occurring, or alleged to have occurred, within their respective periods of ownership.  
21

22  
23 Notwithstanding any other provision herein to the contrary, and without limitation, the  
24 Grantor and Grantee do not intend this Offer or the Easement created by its acceptance to be construed  
25 such that it creates in or gives Grantee or the Commission:

26 a. The obligations or liability of an "owner" or "operator" as those words are  
27 defined and used in environmental laws, as defined below, including, without limitation, the

1 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42  
2 USC section 9601 et seq.; “CERCLA”).

3 b. The obligations or liability of a person described in CERCLA at 42 USC  
4 section 9607 (a)(3) or (4).

5 c. The obligations of a responsible person under any applicable Environmental  
6 Laws, as defined below.

7 d. The right to investigate and remediate any Hazardous Materials, as defined  
8 below, associated with the Property.

9 e. Any control over the Owner’s ability to investigate, remove, remediate, or  
10 otherwise clean up any Hazardous Materials associated with the Property.

11 The term “Hazardous Materials” includes, without limitation, (a) material that is  
12 flammable, explosive, or radioactive; (b) petroleum products; and (c) hazardous materials, hazardous  
13 wastes, hazardous or toxic substances, or related materials defined in the CERCLA (42 USC section  
14 9601 et seq.), the Hazardous Materials Transportation Act (49 USC section 5101, et seq.), the  
15 Hazardous Waste Control Law (California Health and Safety Code section 25100 et seq.), the  
16 Hazardous Substance Account Act (California Health and Safety Code section 25300 et seq.), and in  
17 the regulations adopted and publications promulgated pursuant to them, or any other applicable  
18 federal, state, or local laws, ordinances, rules, or regulations now in effect or enacted after this date.

19 The term “Environmental Laws” includes, without limitation, any federal, state or local or  
20 administrative agency statute, regulation, rule, ordinance, order or requirement relating to pollution,  
21 protection of human health, the environment or Hazardous Materials.

22 20. GRANTOR’S TITLE WARRANTY. Grantor represents and warrants that  
23 Grantor owns the entire fee simple interest in the Property, including the entire mineral estate, and  
24  
25  
26  
27

1 hereby promises to defend this Offer and the Easement created by its acceptance against all claims that  
2 may be made against them, except for claims arising out of the prior easements of record, any  
3 unrecorded mining claims and any reservation of mineral rights reserved in the original Federal Patent  
4 by which the Property passed into private ownership. Other than accrued but unpaid current real  
5 property taxes, there are no financial liens or financial encumbrances existing as of the date of the  
6 execution of this Offer to the best of Grantor's knowledge, information and belief  
7

8           21.     SUBSEQUENT EASEMENTS. The grant of any easements, other interests in  
9 land, or use restrictions that might diminish or impair the Protected Values or open space character of  
10 the Property is prohibited. Grantee's written approval shall be obtained at least thirty days in advance  
11 of executing any proposed easement or use restriction on the Property, and such subsequent easements  
12 and use restrictions shall make reference to this Offer or the subsequent Easement, respectively, and  
13 be subordinate to them. Grantee shall promptly notify the Commission if Grantee approves any  
14 subsequent easement or use restriction. Grantee shall disapprove any proposed subsequent easement or  
15 use restriction which appears to diminish or impair the Protected Values.  
16  
17

18           22.     INTERPRETATION. This Offer and the Easement created by its acceptance  
19 shall be interpreted under the laws of the State, resolving any ambiguities and questions of the validity  
20 of specific provisions so as to give maximum effect to its conservation purposes and the Protected  
21 Values.  
22

23           23.     NOTICES. Any notices to the Grantor or the Commission required by this  
24 Offer and the Easement created by its acceptance shall be in writing and shall be personally delivered  
25 or sent by first class mail, to the following addresses, unless an entity has notified the others of a  
26 change of address:  
27

To Grantor:

Driftwood Properties, LLC  
Attn: Richard F. Ross  
2398 East Camelback Road, Ste 1100  
Phoenix, AZ 85016-9016

With a copy to:

Driftwood Properties, LLC  
Attn: Alex Hill  
3838 Camino Del Rio North, Suite 162  
San Diego, CA 92108

To the Commission:

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

24. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, obligations and reservations contained in this Offer shall be binding upon and inure to the benefit of Grantor, Grantee, and successors and assigns of each, whether voluntary or involuntary.

25. CONSTRUCTION OF VALIDITY. If any provision of this instrument is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

26. REPRESENTATION OF SIGNATORIES. The signatories below represent that they have full authority to bind their respective entities.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_, California.

**DRIFTWOOD PROPERTIES, LLC** (Grantor)  
a Delaware limited liability company

By: Laguna Beach Holdings LLC,

1 a Delaware limited liability company,  
2 Its: Sole Member

3 By: Ohana Laguna LLC,  
4 a Delaware limited liability company  
5 Its: Manager

6 By: \_\_\_\_\_  
7 Alex Hill  
8 Its: Vice President

9 \*\*\* NOTARY ACKNOWLEDGMENT(S) ON NEXT PAGE(S) \*\*\*  
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1 STATE OF CALIFORNIA

2 COUNTY OF \_\_\_\_\_

3 On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
4 personally appeared \_\_\_\_\_, who proved to me on the basis of  
5 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and  
6 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and  
7 that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the  
8 person(s) acted, executed the instrument.

9 I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
10 paragraph is true and correct.

11  
12 WITNESS my hand and official seal.

13  
14 Signature \_\_\_\_\_ (Seal)

15  
16 STATE OF CALIFORNIA

17 COUNTY OF \_\_\_\_\_

18 On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
19 personally appeared \_\_\_\_\_, who proved to me on the basis of  
20 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and  
21 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and  
22 that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the  
23 person(s) acted, executed the instrument.

24 I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
25 paragraph is true and correct.

26  
27 WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

This is to certify that the Irrevocable Offer to Dedicate Open Space Conservation Easement set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it issued Cease and Desist Order No. CCC-10-CD-01 and Restoration Order No.CCC-10-RO-01 on December 16, 2010 and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_

CALIFORNIA COASTAL COMMISSION

\_\_\_\_\_  
Print Name and Capacity of Above

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

On \_\_\_\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

1 EXHIBIT A

2  
3 LEGAL DESCRIPTION OF THE PROPERTY  
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**EXHIBIT A**

That certain parcel of land situated in the City of Laguna Beach, County of Orange, State of California, being that portion of Fractional Section 31, Township 7 South, Range 8 West of the San Bernardino Meridian, according to the official plat of said land filed in the District Land Office May 19, 1873, described as follows:

BEGINNING at the most westerly corner of Lot 8 of Tract No. 2067 as shown on a map thereof filed In Book 68, Pages 37 through 39 of Miscellaneous Maps in the Office of the County Recorder of said Orange County, said most westerly corner being the southwesterly terminus of that certain course shown on said map as having a bearing and distance of "North 40° 11' 48" East 130.00 feet"; thence along the northwesterly northerly and northeasterly lines of said tract through the following courses: along said course North 40° 11' 43" East 130.00 feet; thence South 79° 02' 45" East 157.88 feet; thence South 37° 30' 02" East 112.00 feet; thence South 07° 29' 46" East 222.89 feet; thence South 85° 50' 00" East 173.25 feet; thence South 04° 10' 00" West 65.92 feet; thence South 85° 50' 00" East 140.00 feet; thence South 09° 38' 45" East 92.20 feet; thence South 34° 02' 52" East 115.07 feet; thence South 03° 28' 00" East 95.92 feet; thence North 86° 32' 00" East 102.75 feet to the northeasterly corner of Lot 28 of said tract; thence leaving said northerly line, along the easterly prolongation of the northerly line of said Lot 28 North 86° 32' 00" East 50.00 feet to the northwesterly corner of Parcel 1 as shown on a map thereof filed In Book 80, Page 42 of Record of Surveys in said Office of the Orange County Recorder, said corner also being the southwesterly corner of the land described In Parcel A In a Grant Deed to South Coast County Water District of Orange County, California recorded October 11, 1971 in Book 9838, Page 779 of Official Records in said Office of the Orange County Recorder; thence along the westerly, northerly and easterly lines of said land through the following courses: North 03° 28' 00" West 135.00 feet; thence North 63° 02' 00" East 81.00 feet; thence South 78° 43' 00" East 69.00 feet; thence South 31° 12' 00" East 57.72 feet; thence South 06° 48' 00" West 100.25 feet to the northeasterly corner of Parcel 2 of said record of survey, said corner also being the most northerly corner of Tract No. 8296 as shown on a map thereof filed in Book 349, Pages 48 through 50 of Miscellaneous Maps in said Office of the Orange County Recorder; thence leaving said easterly line, along the northeasterly line of said tract South 49° 13' 17" East 948.10 feet to the west line of the east one-half of the east one-half of said Fractional Section 31; thence along said west line North 00° 27' 51" East 3254.75 feet to the southeast corner of Lot 8 of said Fractional Section 31; thence along the south line of said lot North 89° 37' 53" West 1370.88 feet to the southwest corner of said lot; thence along the west line of the east one-half of said Fractional Section 31 South 00° 16' 58" West 1178.05 feet to the easterly prolongation of the southerly line of Block M of Arch Beach Heights as shown on a map thereof filed in Book 8, Page 65 of Miscellaneous Maps in said Office of the Orange County Recorder; thence North 43° 05' 00" East 515.25 feet; thence North 09° 45' 00" East 377.51 feet; thence North 87° 45' 00" East 458.00 feet; thence South 05° 15' 00" West 612.00 feet; thence South 43° 35' 00" West 930.00 feet to the beginning of a tangent curve concave northwesterly and having a radius of 350.00 feet; thence along said curve southwesterly 129.85 feet through a central

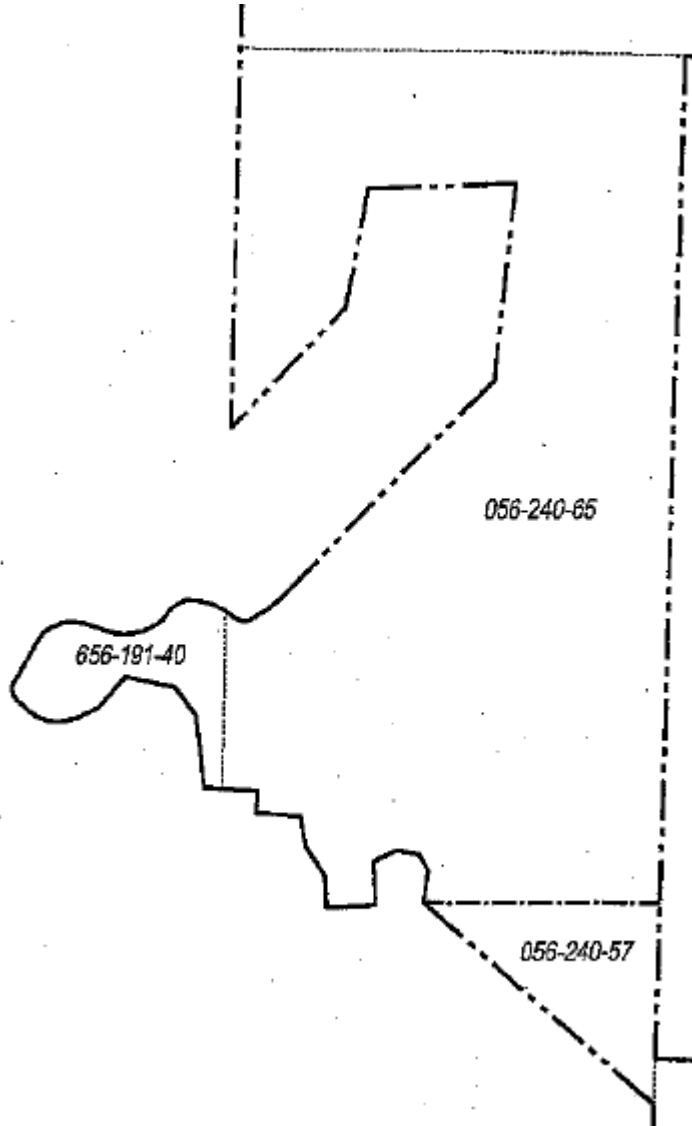
1 angle of 21° 15' 27" to a point of compound curvature with a curve concave northerly  
2 and having a radius of 45.00 feet, a radial line of said curves from said point  
3 bears North 25° 09' 33" West; thence along said curve westerly 50.15 feet through a  
4 central angle of 63° 51' 00" to a point of reverse curvature with a curve concave  
5 southerly and having a radius of 250.00 feet, a radial line of said curve from said  
6 point bears South 38° 41' 27" West; thence along said curve northwesterly 139.89 feet  
7 through a central angle of 32° 03' 39" to a point of compound curvature with a curve  
8 concave southeasterly and having a radius of 80.00 feet; a radial line of said  
9 curve from said point bears South 06° 37' 48" West; thence along said curve westerly  
10 87.64 feet through a central angle of 62° 46' 00" to a point of reverse curvature  
11 with a curve concave northerly and having a radius of 170.00 feet, a radial line  
12 of said curve from said point bears North 56° 08' 12" West; thence along said curve  
13 southwesterly 218.48 feet through a central angle of 73° 38' 12" ; thence tangent  
14 from said curve North 72° 30' 00" West 78.00 feet to the beginning of a tangent curve  
15 concave southerly and having a radius of 125.00 feet; thence along said curve westerly  
16 170.90 feet through a central angle of 78° 20' 00"; thence tangent from said curve  
17 South 29° 10' 00" West 144.00 feet to the beginning of a tangent curve concave  
18 easterly and having a radius of 45.00 feet; thence along said curve southwesterly  
19 and southerly 61.31 feet through a central angle of 78° 04' 00"; thence tangent from  
20 said curve South 48° 54' 00" East 44.00 feet to the beginning of a tangent curve  
21 concave northerly and having a radius of 150.00 feet; thence along said curve  
22 southeasterly and easterly 203.25 feet through a central angle of 77° 38' 15" to a  
23 point of reverse curvature with a curve concave southeasterly and having a radius  
24 of 90.00 feet, a radial line of said curve from said point bears  
25 South 36° 32' 15" East; thence along said curve northeasterly 35.81 feet through a  
26 central angle of 22° 47' 41" to the POINT OF BEGINNING.

17 CONTAINING: 74.81 Acres, more or less.

18 The above described land also being Parcel 3 as depicted in Exhibit "B" attached to Lot Line  
19 Adjustment LL 95-01 recorded November 22, 1995 as Instrument No. 95-520276 in the Official  
20 Records of Orange County, California

21 Also known as Assessors Parcel Numbers 656-191-40; 056-240-65 and 056-240-57  
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The Following Diagram of the Property is for Illustrative Purposes only.



**EXHIBIT B**

PUBLIC RESOURCES CODE § 30106

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"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.



**EXHIBIT C**

**FORM OF ACCEPTANCE**

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1 RECORDING REQUESTED BY AND  
2 WHEN RECORDED MAIL TO:

EXHIBIT C  
PERMIT NO:

3 CALIFORNIA COASTAL COMMISSION  
4 45 FREMONT STREET, 20TH FLOOR  
5 SAN FRANCISCO, CA 94105

ACCEPTANCE CERTIFICATE  
PAGE ONE (1) OF TWO (2)

6 CERTIFICATE OF ACCEPTANCE

7 This is to certify that the interest in real property conveyed by the Offer to Dedicate dated  
8 \_\_\_\_\_, executed by \_\_\_\_\_,  
9 and recorded on \_\_\_\_\_ as Instrument Number \_\_\_\_\_,  
10 attached hereto as Exhibit A and incorporated herein by reference, is hereby accepted by  
11 \_\_\_\_\_, a public agency/private association on  
12 \_\_\_\_\_, pursuant to authority conferred by resolution of the  
13 \_\_\_\_\_ adopted on \_\_\_\_\_, and the  
14 grantee consents to recordation thereof by its duly authorized officer.

15 By: \_\_\_\_\_

16 For: \_\_\_\_\_

17 STATE OF CALIFORNIA

18 COUNTY OF \_\_\_\_\_

19 On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public,  
20 personally appeared \_\_\_\_\_, who proved to me on the basis of  
21 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and  
22 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and  
23 that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the  
24 person(s) acted, executed the instrument.

25 I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
26 paragraph is true and correct.

27 WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION

OF ACCEPTANCE OF OFFER TO DEDICATE

This is to certify that \_\_\_\_\_ is a public agency/private association acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Offer to Dedicate executed by \_\_\_\_\_ on \_\_\_\_\_, and recorded on \_\_\_\_\_, in the office of the County Recorder of \_\_\_\_\_ County as Instrument Number \_\_\_\_\_.

Dated: \_\_\_\_\_

California Coastal Commission

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

Hobo Aliso Ridge

---

December 9, 2010

Aaron McClendon  
California Coastal Commission

Subject – Support for Staff Recommendations CCC-10-CD-1 and CCC-10-RO-01

Dear Aaron,

Sea and Sage Audubon Society supports Staff recommendation to Cease and Desist unpermitted development at Hobo and Aliso Ridge and to require restoration of the property as described on the CCC Calendar.

If we can be of any assistance please contact. Thanks you for your persistence and attention to this issue.

Sincerely,  
Scott Thomas

Vice President,  
Sea and Sage Audubon Society  
949 293-2915

**Addendum Item 3: CCC-10-CD-01 & CCC-10-RO-01** (December 9, 2010 electronic mail message from Scott Thomas, VP of Sea and Sage Audubon, in support of staff recommendation)



December 10, 2010

Re: Consent Restoration Order No. CCC 10-RO-01 (Driftwood Properties LLC – Laguna Beach, Orange County)

Dear Commissioners and Staff of the California Coastal Commission:

As a founding member of the Sierra Club's Save Hobo Aliso Task Force, I wish to express my deepest gratitude to Staff and the Commissioners for their devoted work in preserving our little bit of unspoiled California coast. The restoration and dedication of this prominent hillside would never have been accomplished at the local level, but through Staff's diligent and comprehensive work, we now have this priceless treasure in perpetuity.

I must especially thank Peter Douglas and Aaron McClendon. Both have the integrity and leadership to give us citizens a voice amongst the crowd of developers, weak local elected officials and local staff who just could not or would not see the value of this property to the public. Peter and Aaron epitomize what good governing and public service are all about. Every Californian and visitor to the California coast benefits from not just this action, but from all the great work of Mr. Douglas & Mr. McClendon.

I am so proud to be a Californian and so honored to have known these individuals.

Sincerely,

Betsy Bredau  
1258 Brangwyn Way  
Laguna Beach, CA 92651  
(949) 494-2258



## HAMILTON BIOLOGICAL

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December 10, 2010

Aaron McClendon  
California Coastal Commission  
200 Oceangate  
Long Beach, CA 90802-4316

**SUBJECT: DRIFTWOOD PROPERTIES, CONSENT CEASE AND DESIST ORDER,  
CONSENT RESTORATION ORDER**

Dear Mr. McClendon,

As one of the biologists who has worked to identify and evaluate the biological resources on the Hobo-Aliso Ridge project in recent years, I am writing to express my support for staff's recommendation to (a) cease and desist unpermitted development in this area, and (b) to require restoration of the Environmentally Sensitive Habitat Area that exists on this important property. I appreciate the hard work that you, Dr. John Dixon, your fellow staffers, and the Commissioners have put in this project over a period of several years. If I can do anything to assist you, please feel free to call me at 562-477-2181 or send e-mail to [robb@hamiltonbiological.com](mailto:robb@hamiltonbiological.com).

Sincerely,

Robert A. Hamilton  
President, Hamilton Biological, Inc.  
<http://hamiltonbiological.com>

Dear Mr. Clendon,

This note is written expressing my support for the proposed Consent Cease and Desist Order which will require Driftwood Properties to cease conducting additional improper and and unpermitted development to occur on Parcel Nos. 056-240-65, 056-240-57, and 656-191-40, located at northern terminus of Driftwood Drive. The effort being made to protect this very sensitive area with a conservation easement and an order to restore vegetation that has been devastated by the unpermitted development which has hitherto occurred is highly commendable. I would like to thank you for placing first and foremost in your consciousness a concern for both the public welfare as well as for the welfare of so many precious forms of life that rely upon this environmentally sensitive area for their sustenance.

Patricia Barnes  
10736 Lynn Circle  
Cypress, CA 90630

*Patricia Barnes*   
*Chairperson*  
*Orange County Group Executive Committee*  
*Sierra Club, Angeles Chapter*

**Addendum Item 6: CCC-10-CD-01 & CCC-10-RO-01** (December 11, 2010 electronic mail message from Patricia Barnes in support of staff recommendation)

Dear Mr. Aaron McClendon:

I wish to thank you and all others at the Coastal Commission who recognized the issues at Hobo-aliso ridge. I have visited the area only twice, but my memories are of an attractive natural habitat with an assortment of scars which we hoped could be removed. Now we know that restoration is not only possible, but at hand.

Your hard work translates into land saved—an all too rare happening these days.

Thanks again.

Sincerely,

Robert Siebert

**Addendum Item 7: CCC-10-CD-01 & CCC-10-RO-01** (December 11, 2010 electronic mail message from Robert Siebert in support of staff recommendation)



We ask for approval of the staff recommendations in **Consent Cease and Desist Order No. CCC-10-CD-01 (Driftwood Properties, LLC –Laguna Beach, [Orange Co.](#))** and **Consent Restoration Order No. CCC-10-RO-01 (Driftwood Properties, LLC –Laguna Beach, [Orange Co.](#))**

For far too long Driftwood Properties have ignored the law and good common sense in its unauthorized destruction of endangered coastal plants in the Laguna Beach environs. We agree with the staff that they must cease and desist these actions and restore the area as it was before. Only the Coastal Commission is in a position to make it right!

We thank the staff for their excellent work and hope the Commission sees their way to approve it.

Thank you for this opportunity to make our concerns known.

Mike and Patty Sappingfield

**Addendum Item 8: CCC-10-CD-01 & CCC-10-RO-01 (December 11, 2010 electronic mail message from Mike and Patty Sappingfield in support of staff recommendation)**

Thank you, Mr. McClendon, for the forthright staff recommendation supporting the preservation of Hobo Aliso Ridge ESHA. I have walked the trail along the ridge dozens of times, and always hoped it would be preserved. Standing against abusive moneyed interests always takes courage.

David Perlman  
Former Chair,  
Orange County Conservation Committee  
Angeles Chapter, Sierra Club

**Addendum Item 9: CCC-10-CD-01 & CCC-10-RO-01** (December 12, 2010 electronic mail message from David Pearlman in support of staff recommendation)

Attn: Aaron McClendon

Re: Hobo-Aliso Cease and Desist Order and Restoration Order (Th 8.1, 8.3)

I am writing in support of the proposed resolution for Hobo-Aliso Ridge in Laguna Beach. As the entire Commission is aware, the story of Hobo-Aliso ridge, the habitat and water-quality damage, and the procedural back and forth is both long and troubling. The great news however is that this order will restore and forever protect this critical habitat. By closing the long history of this site, the resolution would also provide closure to the property owner and allow them to pursue their interest on other properties that are more appropriate for development.

From the Threatened Crownbeard to four separate watercourses to the general destruction of habitat, the long pattern of violations on this property is simply not acceptable. Staff should be credited with crafting this beneficial settlement and I look forward to the Commission's full adoption. After over twelve years of following and assisting as I can in protecting this piece of property, I look forward to knowing that it will forever be protected.

Thank you,

Christopher Koontz  
cikoontz@gmail.com  
1234 Wilshire Blvd #226  
Los Angeles, CA 90017

**Addendum Item 10: CCC-10-CD-01  
& CCC-10-RO-01** (December 12,  
2010 electronic mail message from  
Christopher Koontz, in support of  
staff recommendation)



# LAGUNA TERRACE PARK

December 13, 2010

Aaron McLendon  
California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105-2219

Re: Items Th 8.1 & 8.3, December 16, 2010

Laguna Terrace Park LLC is the owner of certain property in Laguna Beach, California, adjacent to the Subject Properties, as defined in the December 2, 2010 staff report to the Commissioners for Items Th 8.1 & 8.3. The Consent Order under consideration makes several false statements including the following:

"All unpermitted development undertaken on the property before 2004 was performed by the Esslinger family, which also owns the Laguna Terrace Mobilehome Park (located adjacent to the Subject Properties)."

This statement is false. First, it implies that Laguna Terrace Park LLC undertook unpermitted development on the Subject Properties, and second, it implies that Laguna Terrace Park LLC once owned the Subject Properties. Both of these implications are completely false. Laguna Terrace Park LLC purchased its property from the Esslinger Family Trust in 1997. This is easily verified through any public records search at the County of Orange.

It is also false in that no Esslinger family member has ever owned Laguna Terrace Park, nor is it now owned by any Esslinger family member. It is owned by Laguna Terrace Park LLC, and has been since 1997. Accordingly, the Laguna Terrace Mobilehome Park, and the property that it occupies, are not owned by the "Esslinger family."

Laguna Terrace Park LLC only owns one property, the mobilehome park property and has never owned the Subject Properties, much less undertook unpermitted

development on them. No one involved with Laguna Terrace Park LLC was ever a beneficiary, owner, or director of the Esslinger Family Trust which owned the Subject Properties prior to the current owner.

Ironically, Laguna Terrace Park LLC has been in extensive litigation with Esslinger family members and the Esslinger Family Trust since approximately 2004, coincidentally the same year that the Esslinger Family Trust sold the Subject Properties to the current owner.

Please correct this incorrect statement in the staff report, and make the Commissioners aware of the correction.

A handwritten signature in blue ink, appearing to read 'J. M. Lawson', with a stylized flourish at the end.

James M. Lawson  
Laguna Terrace Park LLC