

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



December 6, 2011

Th11a&b

ADDENDUM

To: Commissioners and Interested Parties

From: John Ainsworth, Deputy Director
Gary Timm, Coastal Program Manager
Charles Posner, Staff Analyst

Re: **Appeal No. A-5-PPL-11-028 and Coastal Development Permit Application 5-11-056 (Dolbinski & Chen), 370 Vance Street, Pacific Palisades, Los Angeles County.**

I. Supplemental Findings – Environmentally Sensitive Habitat Area (ESHA)

The following findings are added to the staff report:

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The City of Los Angeles, on August 30, 2010, issued Mitigated Negative Declaration No. ENV-2007-5585-MND-REC1 (the reconsideration of the Mitigated Negative Declaration previously-issued on September 29, 2008) for the proposed project. The City determined that the proposed project would have no significant adverse impact on the environment with the imposition of specific mitigation measures. The MND recognizes that the proposed project would result in the removal of vegetation from the project site and requires the implementation of specific mitigation measures to protect birds. The specific mitigation measures were imposed by the City by City Planning Case No. ZA-2007-5584 and are also imposed by this coastal development permit by Special Condition Two. The applicants are required to conduct weekly bird surveys if construction occurs during breeding season (February through August), and construction must be delayed if any protected native bird is found. The certified MND also includes additional specific mitigation measures necessary to reduce the proposed project's impacts to a level of insignificance.

Addendum
A-5-PPL-11-028/5-11-056
Page 2

While a City's MND determination can be used by the Commission to support its ESHA findings, the Commission also independently determines that the resources on the subject site do not rise to the level of ESHA. The Commission's staff ecologist, Jonna D. Engel, Ph.D., has reviewed the City of Los Angeles MND, site photos, aerial photos and Google Earth images of the project site. The photographic evidence is detailed enough to provide Dr. Engel with a perspective of the resources on the subject site (See pictures below). Dr. Engel found that, based on the photos, there is no evidence that the site supports any habitat that rises to the level of ESHA. The open space containing the Dolbinski parcel is itself a very small, extremely steep area, surrounded by development (roads and homes) – that is, the open space is highly fragmented – not connected to any significant (size-wise) near-by open space. The Dolbinski site is a steep slope that is physically and biologically compromised/disturbed; physically with surface erosion and biologically the site is fragmented and highly invaded by non-native species. Dr. Engel did not detect in the photos any evidence of what would be considered coastal bluff scrub or riparian habitat ESHA. Rustic creek at the bottom of the site is a concrete lined channel and the dominant tree type in the vicinity appears to be Eucalyptus. Other invasive non-natives include tree tobacco, acacia, ivy, and pampas grass. Scattered among the invasive non-natives there appear to be native species characteristic of coastal sage scrub and coastal bluff scrub habitats but in this location the habitat is very degraded. While it is possible that degraded habitat could rise to the level of ESHA, especially in the wetland habitat context, the subject site's paucity of native species surrounded by invasive species coupled with the lack of sensitive native species on the site results in a degraded habitat on the property that does not rise to the level of ESHA. Therefore, the proposed project will not adversely affect any environmentally sensitive habitat area and, as conditioned, conforms with the requirements of Section 30240.







II. Added Special Conditions

The following additional special conditions are being recommended in order to address the issues of slope stability during construction and the need to obtain City approval to use the public streets for construction staging.

SLOPE STABILITY DURING CONSTRUCTION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director an engineering report from a licensed professional engineer which considers the impact of the site development, slope clearing, placement and use of construction equipment on Vance Street and installation of caissons, and demonstrates, to the satisfaction of the Executive Director, that the site preparation, caisson installation and operation of proposed construction equipment on Vance Street can be completed in a manner that will not impose loads or other impact on the slope which would create an unstable slope condition. Such report shall contain recommendations as to sequence of the drilling and pouring of concrete for caissons, the selection of equipment, staging locations, and setbacks for equipment on Vance Street from the edge of the sloped portion of the subject site. The engineer shall make site inspections, as necessary, to ensure that these plans are being implemented and the applicants shall conform the project's construction to the recommendations of the engineer as required by Special Condition Three. Any substantial change in the proposed development approved by the Commission that may be required by the professional engineer consultants during construction of the project shall require an amendment to the permit or new coastal development permit.

PROJECT STAGING ON PUBLIC STREETS

By acceptance of this coastal development permit, the applicants agree to obtain all required permits from the City for the use of public streets for the staging of equipment, such as cranes and drill rigs, and for the storage of vehicles and construction materials.

The Commission finds that, as conditioned to ensure slope stability during construction and require the applicants to obtain City approval to use the public streets for construction staging, the project is consistent with Section 30253 of the Coastal Act.

III. Correction – Page Seventeen of the Staff Report

At the top of Page 17, the staff report indicates that there was flooding in 1994 due to the surficial slide of earth into the Rustic Canyon Flood Control Channel. Although there have been allegations of flooding on Rustic Road, staff has no evidence that any flooding occurred in the days immediately following the earthquake that occurred in January 1994. The earthquake was in January, but there was no rainfall sufficient to cause the channel to overtop its banks before LA County Flood Control District was able to clear the channel sufficiently for water to continue down the channel. A picture shows earth in the channel that had fallen from the adjacent property, and blue skies in the background.

IV. Exhibit – Request for Modification of Building Ordinances (City of Los Angeles)

On January 24, 2006, the City Department of Building and Safety approved the development with a waiver of the requirement that requires stabilization of the entire project site. See the attached Exhibit: "Request for Modification of Building Ordinances – File No. 13299". The City waived its policy to require that the entire project site be brought up to an FOS of 1.5 based on the finding that the proposed house can be constructed on an area of the site with a FOS of 1.5 and the project will not pose a hazard to adjacent properties.

V. Correspondence

Additional correspondence is being added to the staff report as an exhibit.

City of Los Angeles - Department of Building and Safety

- ☒ REQUEST FOR MODIFICATION OF BUILDING ORDINANCES (98.0403 L.A.M.C.)
- ☐ REQUEST FOR ALTERNATE MATERIAL OR METHOD OF CONSTRUCTION (17951d H. & S.C.)
- ☐ REQUEST FOR HARDSHIP EXEMPTION OR EQUIVALENT FACILITATION (19957 H. & S.C.)

For above requests, complete sections 1, 2, & 3 in duplicate by printing in ink or typing

READ BY

FILE NO.

13299

DISTRIBUTION PAGE 1 of 2

- ☒ Owner ☒ {wra} PkCk
- ☒ Petitioner ☒ {wra} Insp.
- ☐ Fire ☐ Bur.
- ☐ Health ☐

JOB ADDRESS 375 E. N. Rustic Road		LOT(S) 204	BLK
Owner Robert Dolbinshi		TRACT 1719	
Address 375 E. N. Rustic Road		District Office Metro	Type
Los Angeles		Plan Ck No. R1-1	Stories
Zip 90043		Zone	Occ
Daytime Phone (310) 450 1400 x 296		Permit No.	No. Units
Petitioner Robert Dolbinshi		Job Order No.	F.D.
Address 1122 Idaho Ave		Bureau/Division ENG / MCK	D.M. 123 B129 68
Santa Monica CA		Use of Bldg.	C.D.
Daytime Phone (310) 450 1400		Job Status	
		<input type="checkbox"/> YARD NOTICE (COM-784) RECEIVED FROM PETITIONER <input type="checkbox"/> POSTCARD (COM-3) NAME/ADDRESS COMPLETED BY PETITIONER <input type="checkbox"/> SIGN NOTICE RECEIVED FROM PETITIONER	

2 REQUEST: Submit plans if necessary to illustrate request. Additional sheets or data may be attached.

Provide 1.5 factor of safety to area directly beneath proposed single family residence, in lieu of providing the 1.5 factor of safety for the entire site.

Dept. Comment SLOPE WITH F.S. 1.5 TO REMAIN

Code Section: LAMC 7010.2

3 JUSTIFICATION/FINDINGS OF EQUIVALENCY:

Title 24-

See attached sheets

Petitioner's Signature *[Signature]* Position *OWNER* Date *12/12/05* Reviewed By *[Signature]* Date *01/24/06*

DEPARTMENT ACTION: In accordance with ☒ Sec. 98.0403 L.A.M.C. ☐ Sec. 17951d H. & S.C. ☐ Sec. 19957 H. & S.C.The Request is ☐ Granted (See attached letter) ☐ Denied (See reverse for appeal information)☐ Written concurrence from the (Fire) (Transportation) (Health) () Dept. is required.☒ Request (IS) (IS NOT) in conformity with the spirit and purpose of Code Section involved.☐ Condition (DOES) (DOES NOT) provide (EQUIVALENCY) (EQUIVALENT FACILITATION)Department Action by *[Signature]*Date *01/24/06*

Conditions Of Approval: (Reasons For Appeal in Case of Denial)

SEE PAGE 2 OF 2

Department of Building and Safety
LA 06-29 086627 12/13/05 04:31PM

BOARD APPLIC FEE \$100.00

(Cashier Use Only)

Carry Over Items \$066233 \$100.00

Fee Due \$100.00

Fee Verified *ARS*APPEAL OF DEPARTMENT ACTION TO BOARD OF BUILDING AND SAFETY
COMMISSIONERS/HANDICAPPED ACCESS APPEALS COMMISSION

(Signature, Statement of reasons for appeal and filing fees are required.)

Signature of Owner or Applicant submitting notarized declaration (LADBS COMM-832) - Bd. Res. 832

X _____ Position _____ Date _____

Print Name _____

Project Address: 375 E.N. Rustic Road

File #13299

1. Prior to the issuance of any permit, the owners shall file a notarized affidavit with the Office of the Los Angeles County Recorder attesting to their knowledge that the slope has a factor of safety less than Code requirements and that they agree to assume responsibility for all necessary maintenance and repair. (Note: The completed AFFIDAVIT G7 form must be approved by the Grading Division of the Department prior to being recorded.) (7016.5)
2. No structures shall be constructed beyond (downslope from) the perimeter of the proposed residence.

10107062006-3252

December 12, 2005

Request:

- Provide a 1.5 safety factor for the area directly beneath the proposed single family residence at 375 E. N. Rustic Canyon Road, Los Angeles, CA, in lieu of providing the 1.5 safety factor for the entire site.

Justifications / Findings for Equivalency:

- The structural system below the single family residence will provide a 1.5 factor of safety for the width of the residence with the exception of the two side yards and the sloping area below the residence. (See Attachment "A").
- No additional structures will be constructed beyond the perimeter of the proposed residence due to the limitations imposed by the LA City Zoning Code. (See Attachment "B").
- There are no habitable structures directly below the property. The nearest public street below the property (Rustic Canyon Road) is located an additional 30' beyond the property line and is separated from the property by a LA County flood control channel. (See Attachment "C").
- The City of LA has allowed modifications for similar properties. (See 668 Paseo del Mar, San Pedro area, 2002).

10107062006.7252



Geotechnical
Engineering

Geology

Hydrogeology

Earthquake
Engineering

Materials Testing
& Inspection

Forensic Services

November 26, 2011

GDC Project No.: L-982

Commissioners
California Coastal Commission
South Coast Regional Office
200 Oceangate, Suite 1000
Long Beach, CA 90802

RECEIVED
South Coast Region

NOV 28 2011

CALIFORNIA
COASTAL COMMISSION

Reference: Application No. 5-11-056
Appeal No. A-5-PPL-11-028
370 Vance Street
Pacific Palisades

Dear Commissioner,

Since 2009, I have issued numerous reports regarding the safety of this project, stressing the need for answers to questions as to construction staging methodology, among others.¹ In my opinion, the construction as planned presents a reasonable probability of significant harm to workers, area residents and properties near the site.

1.0 Staff Report dated November 18, 2011

1.1. Slope stability

The Staff's report dated 11/18/11, correctly indicates that assessing the stability of slopes against landsliding is undertaken through a quantitative procedure known as a "slope stability analysis" in which the Factor of Safety (FOS) of the slope is determined. On page 17 it the Staff's report also indicates that:

"A FOS value below 1.0 is theoretically impossible, as the slope would have failed already. A value of 1.0 indicates that failure is imminent. Factors of Safety at increasing values above 1.0 lend increasing confidence in the stability of the slope. The industry-standard for new development is a FOS of 1.5, and many local grading ordinances in California and elsewhere require that artificial slopes meet this factor of safety."

Below, is a recent calculation by the applicant's engineer that shows how close to "imminent" failure (FOS=1.0) the existing slope is:

¹ See our Initial Report dated April 22, 2009, and the updates dated September 29, 2010, April 15, 2011, September 9, 2011 and October 24, 2011.

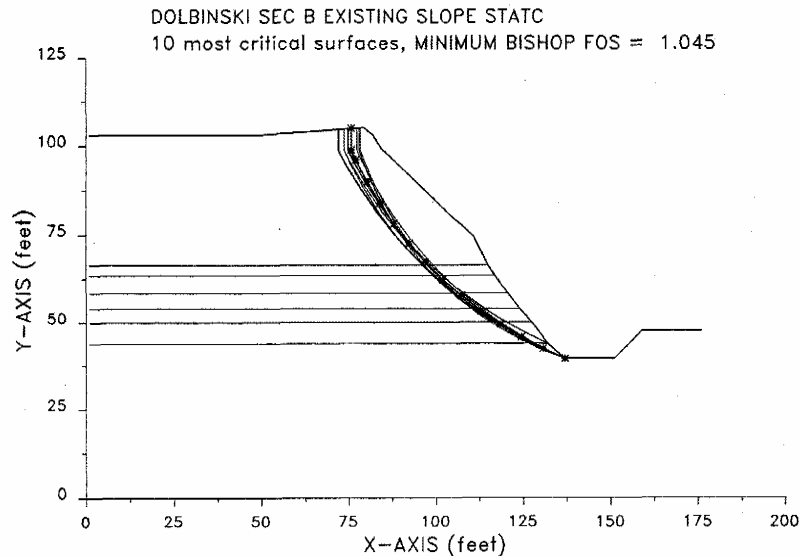


Fig. 1: Slope Stability calculation by Grover-Hollingworth dated November 14, 2011

The above figure, clearly shows what has been obvious to me for a long time, i.e., that the steep slope at the Site has a very minor margin of safety². Hence, the slope is very vulnerable to failure and has a reasonable probability of failure.

Please also note that the calculation above does not include the weight of the drilling equipment nor the weight of any stockpiled soil and equipment on the Vance right-of-way (Fig. 2). Weight from a surcharge would, of course, drop the margin of safety further. Based on the undated written report of applicant's contractor, Mr. Robert Holcomb, the weight of the proposed drilling rig (CAT 315) alone is over 20 tons. Hence, for the stage shown in Fig.2, imminent failure is a major concern during construction, at least up to the time when the concrete of the upper row of caissons has reached adequate strength.

For later stages of construction there is insufficient available data by the applicant's geotechnical engineer to determine the safety of the slope. It is standard for Geotechnical Engineers to evaluate the FOS at important construction stages and to verify that the FOS exceeds 1.25.



² Margin of safety (MOS): what is above the minimum required to insure safety, since $FOS = 1$ is failure, the margin of safety may be defined as $MOS = FOS - 1$

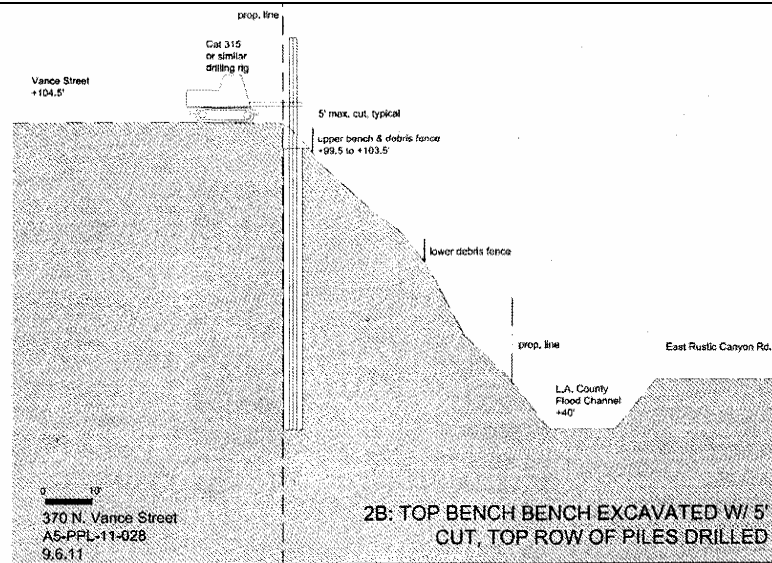
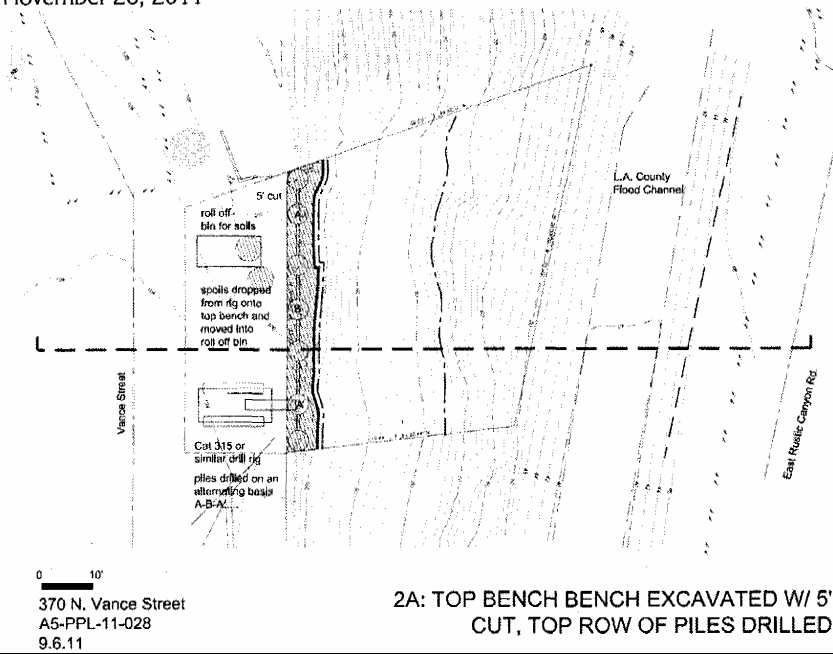


Fig. 2: Drilling upper piles stage from "Site Grading and Concrete Pile Construction Sequence" by Robert G. Holcomb II

1.2. Review of my prior statements in the Staff's report

In the Staff's report, I was sorry to see that certain words that I used in my Reports and during my Commission presentation on October 5, 2011, such as "challenging," "difficult," "vulnerable", were used out of context, and that the Staff opined that I "did not present any conclusive facts that there is a reasonable probability that the project will cause slope failure and actual significant harm to the neighborhood or community."³

In geotechnical reports, it is not often that one finds such irreconcilable words as "conclusive", "actual," and "reasonable probability" in the same sentence. Instead, we use Factors of Safety to assess that a project has a reasonable probability of success or failure. For new construction, as quoted in my last report:

"Historically, the most commonly required factors of safety in southern California have been 1.5 for static long-term slope stability and 1.25 for static short-term (during construction) stability."⁴

For the proposed development:

- Temporary Factors of Safety have not been produced by the applicant's engineer for the proposed construction stages (a minimum value of 1.25 is considered standard).
- A long-term Factor of Safety of 1.5 is not provided for the entire Site.
- There is no logical reason to lower the required FOS on the portion of the development located immediately above a flood control channel. The potential consequences of a blocked channel are obvious and Photo 1 shows a failure that blocked the channel below the Site in 1994.

³ As stated on pages 4 & 20 (and perhaps elsewhere),

⁴ From page 56 of "Recommended Procedures for Implementation of DMG Special Publication 117 Guideline for Analyzing and Mitigating Landslide Hazards in California,"



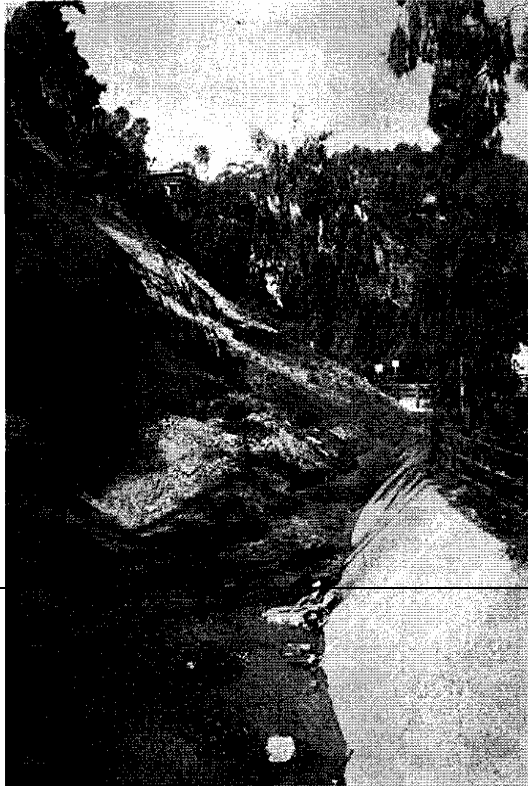


Photo 1

2.0 Construction Methodology

As indicated in section 1.2, we have not yet received engineering analyses demonstrating whether this project could be built safely. These analyses are generally performed by the geotechnical engineers of record and consist of FOS calculations of construction stages that verify the temporary FOS exceeds 1.25.

The email in Attachment A suggests that stability analyses of the construction sequence, of the type which we have been seeking for almost 3 years, were requested by the Staff after the October 5, 2011 Hearing, but were still not yet completed by the applicant's engineer as of November 16, 2011. Hence, we cannot determine how the contractor could safely conduct operations such as drilling and excavation into this steep and very vulnerable hillside (Fig. 1).

3.0 Other Issues

Other issues affecting the probability of slope failure and damage, (previously raised in my October 24, 2011 Report together with my suggested, unadopted CDP conditions), include:

- Assuming that an appropriate permit is obtained from the City, the proposed construction will be conducted from a flat area that is only about 1,100 feet² at the top.
- Why geotechnical debris fences consistent with the risks of this project are not preferred over "light" chain-link fences (consisting of only 2-inch steel pipes, spaced at 8-feet and embedded about 3 feet).

4.0 Geotechnical Opinions

There are ample facts expressed in my prior reports, and here, to support my opinion that there is a reasonable probability that during construction the proposed project will increase rather than minimize risks to life and property and will not assure stability as required by Coastal Act Sec. 30253. I have expressed this conclusion in many prior Reports.

In my October 24, 2011 Report to the Staff (with suggested, but unadopted conditions to decrease the risk of damage), I said that "Further, it remains our opinion that as currently proposed the construction on the subject site creates a hazard to the persons and property on East Rustic Road because of the geotechnical conditions of the Site."



Group Delta Consultants, Inc.
November 26, 2011

L-982

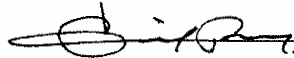
Furthermore, I have consistently expressed my difficulty envisioning how this project could be safely constructed.

5.0 Credentials and Role

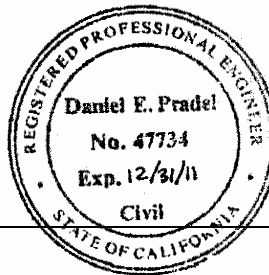
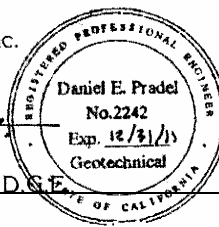
I have a Doctorate in Civil Engineering, and I am a UCLA Professor where I have taught slope stability at the graduate and undergraduate level. I take my professional responsibilities seriously, I respect the views of my fellow professionals, and I do not loosely issue opinions. As I have stated in previous reports, I was neither retained to define how this project could be completed safely, or blocked, but rather to assess its safety to area residents based on the applicants' development plans.

Sincerely,

Group Delta Consultants, Inc.



Dr. Daniel Pradel, P.E., G.E., D.S.E.
Principal Engineer



Group Delta Consultants, Inc.
November 26, 2011

L-982

Attachment A



Chuck Posner

From: Stacey, Sherman [sstacey@gaineslaw.com]
Sent: Wednesday, November 16, 2011 1:34 PM
To: Chuck Posner; Gary Timm
Cc: bdolbinski@verizon.net
Subject: A-5-PPL-11-028.5-11-056 (Dolbinski & Chen)

Chuck:

There is not sufficient time for Hollingsworth to complete the analysis which you request. It requires him to evaluate the potential loads and distribution of loads, calculate factors of safety for such loads under the conditions which would prevail during various steps in the construction process. There is a general idea how to go about it but not the kind of data and analysis which would support it. Generally, this is something which the City requires as a part of the grading permit and is rarely (never in my experience) required for Coastal review. However, we are not adverse to providing it but it would need to be a post-permit submission for review and approval of the executive director. We would propose the following special condition. Again, as we expressed at the meeting, I am not certain that the geotechnical engineer is the proper person rather than a civil or soils engineer. Therefore, I have not designated this as a report solely from a geotechnical engineer although Hollingsworth thinks that it is something that he can do. If Lesley has any questions, she can call Dolbinski or me.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director a engineering report from a licensed professional engineer which considers the impact of the placement and use of construction equipment on the top of the slope and demonstrates, to the satisfaction of the Executive Director, that the operation of proposed construction equipment at the top of the slope can be completed in a manner that will not impose loads or other impact on the slope which would create an unstable slope condition. Such report shall contain recommendations as to sequence of the drilling and pouring of concrete for caissons, the selection of equipment, and setbacks for equipment from the top of slope. The applicants shall conform the construction to the recommendations of the engineer as required by Special Condition No. 3. If you have any other changes to the Special Conditions which you intend to include in the recommendation, could you send me a draft of the changes so that I can try to avoid any problems or the need for an addendum if we should agree on some future language change. As you are aware, the Special Conditions in the October hearing staff report were acceptable.

Sherman L. Stacey
Gaines & Stacey, LLP
1111 Bayside Drive, #280
Corona del Mar, CA 92625
Tel: 949-640-8999
Fax: 949-640-8330



Jeanne Chen - Robert Dolbinski
1122 Idaho Avenue
Santa Monica, CA 90403

December 1, 2011

Chuck Posner
California Coastal Commission
200 OceanGate - 10th Floor
Long Beach, CA 90802

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South Coast Region

DEC - 2 2011

CALIFORNIA
COASTAL COMMISSION

Re: A-5-PPL-11-028 / 5-11-056 - Pradel / Group Delta Letter dated 11.26.2011

Chuck:

We have reviewed Pradel's letter dated November 26, 2011 and do not believe it contains information that has not been presented earlier. We believe that the Staff report and analysis contained in the soils reports prepared by Grover-Hollingsworth and approved by the City and County and most importantly, your own staff geologist Mark Johnsson, address the concerns regarding Slope Stability, Factor of Safety of 1.5 for the Entire Site and Construction Methodology:

Slope Stability:

Slope stability issues raised have been addressed by our Geotechnical Engineer and in the latest staff report, on pages 17 through 21.

Per Coastal Staff Report, page 19:

"The Commission staff geologist, Dr. Mark Johnsson and the Commission's staff engineer, Lesley Ewing, have reviewed and analyzed the geotechnical reports and the proposed project and agree that the reports conform to the industry standards and that proposed foundation design is adequate to provide the requisite geologic FOS.....in fact, the Commission staff concurs with the applicants' assertions that the proposed project will actually improve the stability of the slope and thus the stability of Vance Street, the public street on top of the slope."

Factor of Safety for 1.5 for the Entire Site:

Per Coastal Staff Report, page 19:

"The Commission's staff geologist, Dr. Mark Johnsson, states that it is not protective of coastal resources to require that the entire site be brought up to FOS of 1.5 as the appellants and opponents are asking. Therefore, the Commission concurs with the City's decision not to require that the lower part of the slope be brought up to a FOS of 1.5."

Construction Methodology:

Regarding construction methodology, we have provided a construction sequencing plan (exhibit 10 in the staff report) that provides greater detail than what is commonly required for a residential hillside project. The grading work will take place during the dry season, so the slope will not be subject to saturated soil conditions. We are working with an experienced grading contractor with an excellent safety record, who will abide by the recommendations contained in the approved soils report and with the conditions contained in the Staff report.

Per Coastal Staff Report, page 20-21:

"The applicants have provided substantial evidence to support staff's conclusion that the proposed project will not cause actual significant harm to the entire community or neighborhood. The applicants have submitted plans and reports from their consulted experts, which support a conclusion that the proposed project will not cause geologic hazards on the site"

Please contact me if you have any additional questions.

Regards,

A handwritten signature in black ink, appearing to read 'R. Dolbinski', with a stylized flourish at the end.

Robert Dolbinski

Cc: Sherman Stacey, Gaines & Stacey, LLP
Bob Hollingsworth, Grover-Hollingsworth

Chuck Posner

From: Jaimie Korody [jkorody@eclip.com]
Sent: Tuesday, November 29, 2011 1:48 PM
To: Chuck Posner
Subject: Fwd: Case A-5-PPL-11-028: Environmental Issues
Importance: High
Attachments: Vance_Env.pdf; ATT240131.htm

Hi Chuck,

At the request of Jonna Engel, I am forwarding you a letter which I sent her concerning Case A-5-PPL-11-028. Please let me know if you have any questions.

Jaimie Korody

+1 310 459 7790 | jkorody@eclip.com

Begin forwarded message:

From: Jaimie Korody <jkorody@eclip.com>
Date: November 26, 2011 4:13:43 PM PST
To: jengel@coastal.ca.gov
Cc: "Scott P. Harris" <SPHARRIS@dfg.ca.gov>
Bcc: Jaimie Korody <jkorody@eclip.com>
Subject: Case A-5-PPL-11-028: Environmental Issues

Dear Jonna,

I am contacting you at the suggestion of Travis Longcore regarding Case A-5-PPL-11-028, an application to build a single family home into a nearly vertical slope on the last remaining open hillside in Santa Monica Canyon. The proposed site is a 1.5' x 50' flat parcel on Vance Street and 75' 68-78 degree hillside facing E. Rustic Rd. The Vance/E. Rustic Rd. hillside is composed of 5 empty, heavily vegetated lots and abuts Rustic Canyon Channel, which serves as a riparian corridor between the Santa Monica Mountains SEA-11 with the Pacific Ocean. I live directly across from the hillside at 350 E. Rustic Rd.

At the October meeting, several commissioners raised serious concerns about the safety of this project and its potential impact on both the project site and remaining undeveloped hillside to the south. They voted unanimously to continue the case until the December meeting.

After consulting with Travis, he believes that the proposed development site, in addition to the Vance/E. Rustic hillside in its entirety may contain federal and state protected natural habitats. He urged me to contact you directly to consider this matter. It is Travis' recommendation that, at a minimum, the commission should impose special conditions requiring extensive surveys and mitigation measures for protected birds, reptiles, mammals, or plants within the Vance/E. Rustic hillside

11/29/2011

23

before issuing a CDP.

In its approval of the application, the City of L.A. granted an MND which it termed "an appropriate environmental clearance under CEQA". However, to our knowledge, the City never notified the trustee agencies (CA Fish & Game and US Fish & Wildlife), as required by CEQA. Thus, no site surveys have been conducted to determine the existence of protected species and the developer has no enforceable obligation to do so.

On 18 Nov, the Commission Staff issued a report recommending approval of this application at the 8 Dec meeting in San Francisco. Nevertheless, this report contains no reference to the existence of, nor potential impact on sensitive habitat on the building site or surrounding hillside, or special conditions for their protection. Thus, our assumption is that the Coastal staff accepted the City of L.A. MND for environmental clearance without further review.

Now that new information about both the existence of a possible threatened sensitive habitat and the city's lack of proper scrutiny as required by CEQA has come to light, I respectfully request that you look into this matter. Santa Monica Canyon residents believe that one of the last undeveloped coastal habitats in our urban area deserves protection.

I have attached a partial list of these resources who migrate to/from and nest within the E. Rustic/Vance hillside. Thanks in advance for your attention to this urgent matter.

Sincerely,

Jaimie Korody
Home: (310) 459-7790
Mobile: (310) 488-7890

11/29/2011

Rustic Canyon Biological Resources

(Survey courtesy of Harry J. Jerison, Ph.D., Professor Emeritus, Biological Sciences, UCLA)

(Partial list)

Barn-Owl, Common, *Tyto alba*

Red-tailed Hawk, *Buteo jamaicensi*

Ruby-throated Hummingbird, *Archilochus colubri*

Peregrine Falcon, *Falco peregrinus*

Asiatic Sparrow Hawk, *Accipiter gularis*

Black Phoebe, *Sayornis nigricans*

American Crow, *Corvus brachyrhynchos*

Baltimore Oriole (=Northern), *Icterus galbul*

Baird's Sandpiper, *Calidris bairdii*

Kildeer, *Charadrius vociferus*

Bushtit, *Psaltiriparus minimus*

Protected Native Vegetation

(Partial list)

Coastal Bluff Scrub

Coast Live Oak, *Quercus agrifolia*

Mammals living on/in hillside

(Partial list)

Raccoons

Opposums

Rodents

Feral cats

Wildlife using the Rustic Cyn Creek corridor connecting ESHA-11 to Pacific Ocean

(Partial list)

Coyotes

Frogs

Ducks

Jeanne Chen - Robert Dolbinski
1122 Idaho Avenue
Santa Monica, CA 90403

November 30, 2011

Chuck Posner
California Coastal Commission
200 OceanGate - 10th Floor
Long Beach, CA 90802

Re: A-5-PPL-11-028 / 5-11-056

Chuck:

We have reviewed the letter submitted by Jamie Korody dated 11.29.2011, contending that the site contains "possible threatened sensitive habitat". There is no evidence that this site contains any sensitive habitat or listed species. The site is adjacent to only two other undeveloped sites, all of which are totally surrounded by development. Even if there were habitat on the property, which there is none, it would not rise to the level of ESHA since it is clearly isolated. Any such habitat would be fragmented.

The survey has a number of obvious deficiencies:

- The "survey" is not specific to the property but to Rustic Canyon in general.
- It does not provide any listing of when the survey was done nor how it was done.
- The "survey" is completely non-specific and not scientifically credible.
- How many of these species are resident or nesting?

While it is not clear how this survey was done, it is obvious that it is inaccurate. For instance, the Japanese Sparrowhawk breeds in China, Japan, Korea and Siberia and winters in Indonesia and the Philippines. It is not known to exist in the wild in the United States or anywhere in either North or South America. How then is it on the list of birds occurring in Rustic Canyon? Either the person who conducted the survey misidentified the bird or the Sparrowhawk, if actually observed, was an escapee and should be considered an invasive species. Its listing calls into question the credibility of the survey. We also question the presence of other species such as Baird's Sandpiper. Baird's Sandpiper is a migrant which generally prefers sandy shores and mudflats, which is hardly a description of the project site.

Regarding the "partial list" of native vegetation, this survey is not specific to the property. Existing vegetation is primarily ruderal, not native. The vegetation is not dense, as described in the letter, further reducing its ability to support wildlife.

Referring to mammals such as raccoons, opossums, rodents and feral cats as somehow deserving of mention to show that the site contains habitat is ludicrous; these species are not protected and do not require special consideration.

Finally, "wildlife using Rustic Canyon Creek corridor" lists species in a totally non-specific way. Almost certainly coyotes use the channel as do the unspecified species of frogs and ducks, but this is a concrete lined channel, and hardly qualifies as a riparian corridor.

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There is simply no basis to require that we expend resources conducting surveys of an area that contains mostly ruderal vegetation and few if any species of wildlife other than an occasional visitor from a commonly occurring species. The Korody letter is an attempt to create questions about habitat where there are none.

Most importantly, as stated in the City of Los Angeles, Mitigated Negative Declaration, dated August 30, 2010:

- The Property contains no riparian habitat, nor is identified as containing any other sensitive natural community.
- The property contains no wetlands.
- The project proposes to remove one significant non-protected tree. The tree to be removed is a 6" dia. Australian Blackwood (*Acacia Melanoxylan*) which is on the California Invasive Plant Council's invasive species list and should be removed.
- One 6-inch diameter tree may be impacted by construction activities.
- The property is not within an adopted habitat or natural community conservation plan area.

The City of Los Angeles' Mitigated Negative Declaration reviewed these issues in 2008 and 2010. A summary of the related items contained in the MND follows:

IV. BIOLOGICAL RESOURCES.... pg. 14

-
- b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? **No Impact.**
 - d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? **No Impact.**
 - f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? **No Impact.**

Page 19:...the overall project impact(s) on the environment (after mitigation) **will NOT:**

- Substantially degrade environmental quality
- Substantially reduce fish or wildlife habitat.
- Cause a fish or wildlife habitat to drop below self-sustaining levels.
- Threaten to eliminate a plant or animal community.
- Reduce number, or restrict range of a rare, threatened, or endangered species.
- Eliminate important examples of major periods of California history or prehistory.
- Achieve short term goals to the disadvantage of long term goals.
- Result in environmental effects that are individually limited but cumulatively considerable.
- Result in environmental effects that will cause substantial adverse effects on human beings.


*From Appendix A of the Mitigated Negative Declaration, 8.30.2010, Environmental Impacts
Explanation Table: pg. 21-22*

IV. BIOLOGICAL RESOURCES

- The Property contains no riparian habitat, nor is identified as containing any other sensitive natural community.
- The property contains no wetlands.
- The property is located within an established and large built-out residential community. Though the project results in the development of a vacant lot, the property does not contain any significant wildlife nursery resource, nor contains or provides access to a significant wildlife corridor.
- The project proposes to remove one significant non-protected tree. One 6-inch diameter tree may be impacted by construction activities.
- The property is not within an adopted habitat or natural community conservation plan area.

Please call with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'R. Dolbinski', with a long horizontal stroke extending to the right.

Robert Dolbinski

**FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS**

DLBINSKI & CLARK
A-S-PL-11-28
5-11-56

Name or description of project, LPC, etc.: Rustic Canyon - W21640
Date and time of receipt of communication: Friday, 9/30 at 10:01 AM
Location of communication: 3000 Olympic Blvd, Santa Monica, CA
Type of communication (letter, facsimile, etc.): Email
Person(s) initiating communication: Laurie David
Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)
Forwarded opinion article printed in Palasdjian Post.

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OCT 17 2011

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COASTAL COMMISSION

10/3/11
Date

[Signature]
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: 5-11-056 (Dolbinski & Chen)
Date and time of receipt of communication: Wednesday, 10/26 at 2:00 PM
Location of communication: 3000 Olympic Blvd, Santa Monica, CA
Type of communication (letter, facsimile, etc.): Meeting
Person(s) initiating communication: Sherman Stacey

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

Mr Stacey said he's been
gathering info from staff &
other commissioners to present
a more detailed case for the
house. They have the opponents
engineer report & will address
specific issues at Dec. meeting.

10/26/11
Date

[Signature]
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Rustic Canyon Th 11a & b

Date and time of receipt of communication: Tuesday, 11/22 at 2:00 PM

Location of communication: 3000 Olympic Blvd, Santa Monica, CA

Type of communication (letter, facsimile, etc.): Meeting

Person(s) initiating communication: Jeanne Chen / Bob Doblinski

Detailed substantive description of content of communication:

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

*Applicants went thru their paper
point which they will present at
the Dec. meeting. They asked if
I had any suggestions. I told
them that the staff report was
very strong & hopefully they
would be OK this time. I suggested
that they present rather than orally
since they are so knowledgeable.*

11/22/11
Date

Bocha
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: Application No. 5-11-056
Appeal No. A-5-PPL-11-028

Date and time of receipt of communication: November 21, 2011 – 10:00 am

Location of communication: 800 S. Victoria Ave., Ventura

Type of communication (letter, facsimile, etc.): Meeting

Person(s) initiating communication: Sherman Stacey

Detailed substantive description of content of communication:

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

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Stacey met with me along with the applicants Robert Dolbinski and Jeanne Chen. Stacey stated that the matter would return to the Commission in December and that the Staff had issued a revised recommendation to approve reviewing the opponents points made at the last hearing and responding to each one. The Special Conditions were acceptable to the applicant. I looked at a computer presentation of pictures of the area and other hillside homes. Chen explained the improvements to the factor of safety and the reduction of risk to the downslope homes which were a significant distance from the slope. Stacey emphasized that Mark Johnsson had reviewed the October geologic information and remained with his conclusion that the site would be stable and that it was unnecessary to have the portions of the site on which the structure was not supported brought up to 1.5 factor of safety. Chen identified the part of the LA Municipal Code exempting construction projects from the Chatauqua weight limit and several other homes under construction on Chatauqua. Chen also showed that other routes were available. Chen explained that the crack reported in Vance Street had been analyzed in 2009. The conclusion was that the house would support the street even in a more significant earthquake event. The City and Johnsson had agreed. Chen reviewed quickly a list of City, County and Coastal Commission Staff approvals for the project.

Date

Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS

Date and time of communication: 11/22

Location of communication: my office - email
(If communication was sent by mail or
facsimile, indicate the means of transmission.)

Identity of person(s) initiating communication: Neighbors of project -
see attached remarks

Identity of person(s) receiving communication: D. Bochen

Name or description of project: Appeal - 370 Vance Street

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

2 opposing & 1 supporting email →
sent to all commissioners.

11/22/11
Date

[Signature]
Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director **within** seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, **complete** this form, provide the information **orally** on the record of the proceeding **and** provide the Executive Director with a copy of any written material that was part of the communication.

APPENDIX 2

Tuesday, November 22, 2011 9:32:03 AM PT

Subject: RE: Case A-5-PPL-11-028
Date: Tuesday, November 22, 2011 9:28:21 AM PT
From: David Tractenberg
To: Dayna Bochco

Dayna-

Your email was sent around this morning on a Santa Monica Canyon message board. They seem very intent on stopping this project and I personally believe it's a good idea. If most of these people had their way we would never be allowed to build anything other than a one-story Spanish style house. I believe the canyon needs to be dragged into this century. You may be getting a lot of angry emails today though from the other side.....

-David

David Tractenberg

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From: Dayna Bochco [mailto:dayna.bochco@bochcomedia.com]
Sent: Tuesday, November 22, 2011 9:20 AM
To: David Tractenberg
Subject: Re: Case A-5-PPL-11-028

I'm just curious as to where you got my email address? And thanks for the input.

From: David Tractenberg <david@tractionpr.net>
Date: Tue, 22 Nov 2011 12:16:00 -0500
To: "cposner@coastal.ca.gov" <cposner@coastal.ca.gov>, Mary Shallenberger <mkshallenberger@gmail.com>, Steve Kinsey <skinsey@co.marin.ca.us>, Wendy Mitchell <wendy@katzmitchell.com>, "bbrennan@ci.ventura.ca.us" <bbrennan@ci.ventura.ca.us>, Esther Sanchez <esanchezccc@aol.com>, "mark.stone@co.santa-cruz.ca.us" <mark.stone@co.santa-cruz.ca.us>, Richard Bloom <richard@bloomlaw.net>, Jana Zimmer <zimmerccc@gmail.com>, Dayna Bochco <Dayna.Bochco@BochcoMedia.com>, Steve Blank <sblank@kandsranch.com>, "mmclureccc@co.del-norte.ca.us" <mmclureccc@co.del-norte.ca.us>
Subject: Case A-5-PPL-11-028

Hello-

I am a resident of the canyon and I fully support this building. I believe it will help in raising the appeal of the area.

Thank you,
David

Page 1 of 2

Tuesday, November 22, 2011 10:58:54 AM PT

Subject: Case A-5-PPL-11-028

Date: Tuesday, November 22, 2011 10:52:26 AM PT

From: Aisha Ayers

To: cposner@coastal.ca.gov, mkshallenberger@gmail.com, skinsey@co.marin.ca.us, wendy@katzmitchell.com, bbrennan@ci.ventura.ca.us, esanchezccc@aol.com, mark.stone@co.santa-cruz.ca.us, richard@bloomlaw.net, zimmerccc@gmail.com, dayna.bochco@bochcomedia.com, sblank@kandsranch.com, mmclureccc@co.del-norte.ca.us

Hello,

I am a resident at 407 West Rustic Road, only two parcels North of the proposed development on the edge of Vance. I object to the construction project on this particular hillside because of the instability of the land and the potential loss of open space in the neighborhood.

When I turn onto East Rustic Road from West Channel, there is a charming sense of entering the country. That is why I treasure my neighborhood so much. I can't imagine a house overhanging the creek on the proposed site. It just doesn't seem right.

I am dreading the long construction as I'm sure the site will require very large caissons, but more than that, the site seen from above or below seems positively unbuildable and I hope you conclude that it should not be built.

Thank you,

Diana Aisha Ayers
407 West Rustic Road
Santa Monica, CA
90402

35

Page 1 of 1

Subject: Case A-5-PPL-11-028

Date: Monday, November 21, 2011 10:04:37 PM PT

From: HBdratch@aol.com

To: cposner@coastal.ca.gov, mkshallenberger@gmail.com, skinsey@co.marin.ca.us, wendy@katzmitchell.com, bbrennan@ci.ventura.ca.us, esanchezccc@aol.com, mark.stone@co.santa-cruz.ca.us, richard@bloomlaw.net, zimmerccc@gmail.com, dayna.bochco@bochcomedia.com, sblank@kandsranch.com, mmclureccc@co.del-norte.ca.us

Dear Coastal Commissioners,

I have lived in Rustic Canyon since 1985. I am writing to express my strong opposition to the Dobinski Chin development. During my many years here I have seen serious flash floods and sharp earthquakes. During one of these jolts nearly every masonry chimney in this canyon toppled over, including my own. The hillside on which the planned house is located not a wise location for any house. I have carefully read the information on both sides of the controversy, and have reviewed documents submitted by the technical people and by concerned neighbors. It is my firm conviction that the steep slope on which the construction is proposed is unstable and inappropriate for the proposed project. It has eroded considerably during the last quarter century, and the hillside is unlikely to be made more stable by the proposed structure. As presently conceived, the building seems to protrude out over a nearly vertical slope. That canyon wall has remained in its untrammelled condition since the days when the Chumash Indians had their encampments along the stream below, followed by the decades when the Rancho de Boca de Santa Monica was cared for by the Marquez family. I strongly urge you to respect this heritage and preserve the harmony inherent in this lovely little valley. The Coastal Commission is entrusted by the people of California to preserve, protect, and defend the sanctity of our coastal region for generations to come. This trust does not include approving oversized, poorly conceived, and inappropriate housing for people of wealth and influence in the coastal zone. Thank you in advance for doing the right thing and rejecting this application. Please vote NO on this ill-conceived idea.

Sincerely,

Howard Dratch,
329 Sycamore Road
Santa Monica Ca. 90402
310 459 9540
email:hbdtratch@aol.com

David S. Jackson
344 E. Rustic Road
Santa Monica, CA 90402, USA
☎ 310.454.8643
getjackson@msn.com

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**CALIFORNIA
COASTAL COMMISSION**

OPPOSITION

November 29, 2011

California Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, CA 90802-1146

Permit number 5-11-056 and Appeal A-5-PPL-11-028

Dear Commissioners:

In reference to the Project at 370 Vance Street, Pacific Palisades, CA:

For 21 years I have lived within a block of the proposed project. The cliff that Robert Dolbinski and Jeanne Chen hope to build on is directly across from my house. After sifting through the material on the Coastal Commission website, it seems to me that the argument against building this house comes down to whether it will be safe for the community. The question of Factor of Safety has been argued back and forth and while I'm not an engineer, I did see a huge slab of this cliff fall into the creek during the 1994 earthquake. I watch crows pick for grubs on the hillside and see a constant trickle of rock slide down the hill. My kids have stood at the top of the hill on Vance Street, but never too close to the edge because any sane person wouldn't let their kid near that bluff. It's not rock, it's dirt, loose and crumbling.

If you think that the construction they propose will make the entire hillside more stable, then I guess you'd have to approve the project. If you think that during construction the extra activity and vibration will cause more hillside to slide into the creek or onto Rustic Road below, then I imagine you'd oppose the project. I'm pretty sure that if you walked the property above and below you'd say there's no way a house built here will make the hillside more stable. The road above, Vance Street, is closer to the edge than when I moved here years ago. Every rainy season chunks fall into the creek. Once a concrete footing from a long-abandoned home slid down the hill in slow motion, taking weeks to finally rest 50 feet below.

I don't want to see this project create a mess in our creek during construction, though I believe that if the house manages to be completed, it will probably stand

strongly after being anchored deep into the earth. But I'm sure that the rest of the cliff, 300 or so feet downstream, will be weakened and compromised. What do the applicants propose to do about that?

I understand the pressure you feel to not expose the Coastal Commission to a question of Unlawful Taking, but please be protective of those who live below, downstream, and who deserve a safe neighborhood.

Yours truly,

David Jackson

Chuck Posner

From: Chris Casady [ccasa@me.com]
Sent: Monday, November 28, 2011 8:43 PM
To: Chuck Posner; mkshallenberger@gmail.com; skinsey@co.marin.ca.us;
wendy@katzmitchell.com; bbrennan@ci.ventura.ca.us; esanchezccc@aol.com;
mark.stone@co.santa-cruz.ca.us; richard@bloomlaw.net; zimmerccc@gmail.com;
dayna.bochco@bochcomedia.com; sblank@kandsranch.com; mmclureccc@co.del-
norte.ca.us
Subject: development of Vance/E. Rustic Rd. hillside

There is no question that the Vance Street bluff is unstable. Before you can get finished caissons in place the bluff is going to give way, once those 6 ton trucks get up there, mark my words. To indemnify yourselves of all future legal action is irresponsible. There's been cracks in the road after earthquakes and slides into the channel already.

Show some sanity and stop this vain project from going forward, for safety reasons, but more for the quality of life of the area. This god-awful home will be a visual blight to the area and It'll be a "green light" for more like it, right next to it, leading to a density that's inappropriate for our rustic community, a loss of wordless beauty. Enough is enough.

I've lived in the canyon 55 years. I've seen a lot. This is too much.

please consider seriously,

Chris Casady
734 Brooktree Rd.

Chuck Posner

From: Mayorbehr@aol.com

Sent: Tuesday, November 22, 2011 6:47 PM

To: Chuck Posner; mkshallenberger@gmail.com; skinsey@co.marin.ca.us; wendy@katzmitchell.com; bbrennan@ci.ventura.ca.us; esanchezccc@aol.com; mark.stone@co.santa-cruz.ca.us; richard@bloomlaw.net; zimmerccc@gmail.com; dayna.bochco@bochcomedia.com; sblank@kandsranch.com; mmccloreccc@co.del-norte.ca.us

Subject: Case A-5-PPL-11-028

I declare myself as a conscientious objector to this insanity. War. Why, why, why would you put our community in such jeopardy to later find out....oops~ the hill failed due to deliberate earth movement ~ and for what?....to basically speculate on a house, a precarious lot, impacting homes below it caused by hill failure, located in a known slide area, on the Aleuvian Shelf that was created by massive earthquakes?

Yikes..I say

Patti Behr

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11/23/2011

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CALIFORNIA
COASTAL COMMISSION

1 December 2011

Dear Commissioners,

My name is Tony Korody and I live at 350 E Rustic Rd, across from Rustic Canyon Creek and four homes south of the proposed Dobinski/Chen development. I have several concerns I would like to bring to your attention and I will be as brief as possible. I hope to further explore my concerns during the San Francisco hearing on December 8.

Liability

If this project is approved, both the City of Los Angeles and the Coastal Commission will be indemnified of all possible and future liabilities. However, at the October hearing, Commissioner Sanchez mentioned the multi-million dollar settlement that the City of Oceanside ultimately had to pay the homeowners of a failed hillside development. It wouldn't surprise me in the least if the original builder(s) had indemnified the City of Oceanside, but lawyers always go after the deepest pockets around, which in this case was a government agency. Thus the indemnity was possibly meaningless.

This project is dangerous to build, an ecological travesty and potentially incredibly devastating to our homes across from the site. I assume that all of the contractors, trades etc., have liability insurance, at least enough to protect themselves.

If completed, I have no doubt that the home will stabilize the hill directly under its footprint. It will take years for the required groundcover to grow in and provide any type of stability to the 70-degree slope. I doubt anyone has studied what the effects of embedding such a building will do to the rest of the hillside, which is classified as a liquefaction and earthquake hazard zone.

In the event of an earthquake, the Dolbinski/Chen house may indeed stand, assuming it is not a big quake like Japan, 8.0 or Chile, 9.0. At which point, the entire hillside would likely collapse into the creek causing massive flooding and damaging 15 or 20 homes to the south. If it is a big quake, 7.8 or more, the house will probably come down, too. **Who is liable?** To avoid a payout, the insurance companies will likely claim it is a man-made disaster and the developers will claim it is an act of God. The lawyers will fight it out and the deepest pockets - government agencies - will pay. I think that we can agree that government agencies are ill equipped to assume liability in these economic times.

I am not privy to the finances of Dobinski/Chen. Are they prepared to pay damages to dozens of homeowners for some catastrophic event either tomorrow or fifty years in the future? As a taxpayer, considering today's economy and the state's finances, I believe it is the Commission's responsibility to ensure that the state isn't burdened with one more lawsuit.

As a condition of issuing a CDP, I don't think it is unreasonable to require the developers to establish an escrow account, the amount to be determined by experts and actuaries,

funded however they choose, to realistically assume all future liabilities for at least the next fifty years.

In my opinion, this should be a requirement of all current and future CDP's which indemnify the Commission. Otherwise, it strikes me that indemnification is meaningless.

Rainy Season

According to the Staff report, construction must stop during the rainy season, which according to them, begins November 1. We were all in Huntington Beach on October 5 during a daylong rainstorm. Rustic Creek was racing about 6' high when we arrived home at 9:00PM. This was after just a few hours of rain. If the hillside had been excavated, dirt would have cascaded into the creek, possibly damming it up, causing it to overflow. The next morning there was about a foot of dirt dribbling down the embankment, which is normal erosion for that intensity storm. I believe it would be prudent to require the contractors to be prepared for rain as early as mid-September and to prepare the site for possible rain the day before based on weather predictions.

Project Completion

Too many neighborhoods suffer the blight of uncompleted houses and buildings. Unfortunately it has become not that unusual for a developer, regardless of good intentions, to run out of money due to unforeseen circumstances. Excavating flat pads on a near vertical hillside and then drilling many very deep holes into unstable soil is fraught with both geological and financial peril.

During construction several years ago, the neighbor just a few feet to the north of the Dobinski/Chen site was very surprised, as was her geologist, when they hit water forty feet down. At that point, her project had to be revised to respond to this unforeseen geological condition. Experts on both sides of this matter have conducted studies and filed numerous and conflicting reports. The fact is, nature loves to surprise us.

My very real concern is about, if for some reason, Dobinski/Chen walk away from the project, or just put it on hold for a few months or even years. This would leave a scarred and weakened hillside and a lot of homeowners down below in great danger.

Surety bonds and escrow accounts are a few of the financial tools that are available to ensure there is enough money to complete this project. I urge you to consider the long-term financial ramifications of this dangerous project, and impose strong, yet realistic, conditions to address them, before you issue a CDP. Once again, in my opinion, this should be a requirement of all current and future CDP's and not just something unique to the Dobinski/Chen project.

Thank you for your time and consideration.

Respectfully,

Tony Korody



Collen Management, Inc.

November 29, 2011

Commissioners
CA Coastal Commission
200 Oceangate, Suite 1000
Long Beach CA 90802

Re: CDP Application No. 5-11-056
Appeal No. A-5-PPL-11-028

Dear Commissioners,

I am familiar with what I find to be the ill-conceived development reference above.

I was raised in Oceanside, California and lived in California for over 30 years before moving to Colorado where I now reside. I have owned property in Rustic Canyon and know of its unique characteristics and community character.

Much of my professional life has been devoted to real estate activities (including those in California), particularly involving the use of so-called "problem" properties. I am fully aware of the damage and costs that can result from bad land use decisions, and the irrevocable effect of changing the character of unique communities.

I have read many of the reports involving the above matter. Not only is the extremely steep location of the proposed vacant hillside on which the site is proposed inappropriate for an experiment in land development (which could lead to instability of adjacent sites and disastrous consequences to area property owners), but clearly it will change the character of the unique Rustic Canyon/Santa Monica Canyon communities.

I urge you not to approve a CDP for this project given the unique property and public safety concerns, during construction and the construction plans as proposed.

Your consideration in this regard is deeply appreciated.

Sincerely,

Barry L. Collen
Collen Management, Inc.

2751 Iris Avenue
Boulder, Colorado 80304-2433
Phone: (303) 546-9500
Fax: (303) 546-6647

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South Coast Region

DEC - 5 2011

CALIFORNIA
COASTAL COMMISSION



State of California - The Natural Resources Agency
 DEPARTMENT OF FISH AND GAME
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
<http://www.dfg.ca.gov>

EDMUND G. BROWN JR., ~~Commissioner~~
 CHARLTON H. BONHAM, Director



December 5, 2011

Ms. Linn Wyatt
 Los Angeles City Planning Department
 200 North Spring Street, room 763
 Los Angeles, CA 90012

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CALIFORNIA
 COASTAL COMMISSION

**Subject: 370 North Vance Street (375 NE Rustic Road) Project ENV-2007-MND-REC01
 Case ZA-2007-5584-CDP-MEL**

Dear Ms. Wyatt:

The Department of Fish and Game (Department) has reviewed a Draft Initial Study that was approved by the City of Los Angeles (City) for the construction of a three story single-family home on a 3,170 square-foot vacant hillside lot located at 370 Vance Street in the community of Brentwood, Los Angeles City. The project will include exporting 700 cubic yards of dirt. According to the Draft Mitigated Negative Declaration (DMND) for the project, the project site is a vacant lot on a hillside and is surrounded by residential homes within a mostly built out area.

The Department understands that the project has been approved by the City, the Lead Agency under the California Environmental Quality Act (CEQA) and is now being considered for a coastal zone permit by the California Coastal Commission.

The California Wildlife Action Plan, a recent Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. Please let Department staff know if you would like a copy of the California Wildlife Action Plan to review.

We prepared the following statements and comments pursuant to our authority as Trustee Agency with jurisdiction over natural resources affected by the project under CEQA (CEQA Section 15386) and Responsible Agency (Section 15381) over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA) (Fish and Game Code Section 2050 *et seq.*) and Fish and Game Code Section 1600 *et seq.* regarding impacts to streams and lakes.

Project Impacts to Biological Resources

1. Project Description and Circulation – The DMND states, "The property contains no riparian habitat or is identified as containing any other sensitive natural community. The property is located within an established and largely built-out residential community. Though the project results in the development of a vacant lot, the property does not contain any significant wildlife nursery, resource, or contains or provides access to a significant wildlife corridor."

Conserving California's Wildlife Since 1870

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- a. Based upon a local citizen organization's concern regarding potential project impacts to Rustic Creek, biological, and botanical resources, the Department was notified of the proposed project on November 22, 2011 and was forwarded the DMND by this group on November 26, 2011 upon Department request. The Department does not have a record of receiving the DMND from the Lead Agency during the public comment period or that the DMND was circulated by the State Clearinghouse (SCH) and assigned a SCH number.

The Department believes CEQA requires a Lead Agency to submit CEQA documents to the SCH when a state agency is a Responsible or Trustee Agency (CEQA Guidelines §15205(b)(2)). As stated above, the Department is a Trustee Agency with respect to this project, and, therefore, the DMND should have been submitted by the City to the SCH. Documents circulated by the SCH generally allow the Department more time for adequate review. We are therefore requesting the City of Los Angeles submit all future documents to the SCH whenever the Department is a Trustee or Responsible Agency.

- b. The Department has concluded that the project impact assessment, avoidance, and mitigation measures described within the DMND appear to be generic in nature and for the most part lack adequate detail to support justification for a mitigated negative declaration for the project. The Initial Study does not provide the Department with enough information to assess habitat values and project impacts to biological resources on the site in order to concur with the Lead Agency's conclusion of less than significant impacts with proposed mitigation measures under CEQA. As part of the CEQA review and project approval process it should be standard practice for lead agencies to explain how each less than significant impact conclusion was derived for biological resources. The Lead Agency should require project proponents to employ the services of professional biological consultants to: assess biological constraints that a proposed project may have; perform a literature search for special status species and plant communities and any other information regarding biological value on and adjacent to the project site; conduct a reconnaissance level biological survey of the site; and as warranted, perform a focused biological survey for special status species. Providing information on the biological resources, impacts to these resources, and proposed avoidance and mitigation measures along with the Initial Study to the Department and reviewing public during the CEQA public comment period, gives the Department a better understanding of the project as a whole. This information then allows the Department to submit recommended measures to the Lead Agency to assist in the avoidance of significant adverse impacts to biological resources under CEQA and offer specific mitigation measures to reduce significant impacts.
2. Recommended Additional Information - Should the City initiate further project approvals and/or CEQA review and invite Department consultation, we recommend the following information, where applicable, be included in the project review process and submitted to the Department to enable Department staff to adequately review and comment on the biological impacts of the project.
 - a. A complete, recent assessment of flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats including:

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- i. A thorough recent assessment of rare plants and rare natural communities, following the Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities. (See Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities at: <http://www.dfg.ca.gov/habcon/plant/>).
- ii. A complete, recent assessment of sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use within the project area must also be addressed. Recent, focused, species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.
- b. When addressing endangered, rare, and threatened species, should include all those species which meet the related definition under the CEQA Guidelines. (See Cal. Code Regs., tit. 14, § 15380.)
- c. The Department's Biogeographic Data Branch in Sacramento should be contacted at (916) 322-2493 (www.dfg.ca.gov/biogeodata) to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Also, any Significant Ecological Areas or Environmentally Sensitive Habitats or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area must be addressed.
- d. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. This discussion should focus on maximizing avoidance, and minimizing impacts.
- e. CEQA Guidelines, Section 15125(a), direct that knowledge of the regional setting is critical to an assessment of environmental impacts and that special emphasis should be placed on resources that are rare or unique to the region.
- f. Project impacts including deposition of soil and debris should also be analyzed relative to their effects on off-site habitats and populations. Specifically, this should include nearby public lands, open space, natural habitats, and riparian ecosystems. Impacts to and maintenance of wildlife corridor/movement areas, including access to undisturbed habitat in adjacent areas are of concern to the Department and should be fully evaluated and provided. The analysis should also include a discussion of the potential for impacts resulting from such effects as increased vehicle traffic, outdoor artificial lighting, noise and vibration and pest management.
- g. A cumulative effects analysis should be developed as described under CEQA Guidelines, Section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- h. Impacts to migratory wildlife affected by the project should be fully evaluated including proposals to remove/disturb native and ornamental landscaping and

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

- l. Proposed project activities (including but not limited to, staging and disturbances to native and non-native vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from March 1 to August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If project activities cannot avoid the avian breeding season, nest surveys should be conducted and active nests should be avoided and provided with a minimum buffer as determined by a biological monitor (the Department generally recommends a minimum 300-foot nest avoidance buffer (or 500 feet for all active raptor nests).
 - j. Proposed impacts to all habitats from City or County required Fuel Modification Zones (FMZ) should be analyzed. Areas slated as mitigation for loss of habitat shall not occur within the FMZ.
 - k. A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or otherwise minimize impacts to sensitive biological resources including wetlands/riparian habitats, alluvial scrub, coastal sage scrub, should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.
 - i. Mitigation measures for project impacts to sensitive plants, animals, and habitats should emphasize evaluation and selection of alternatives which avoid or otherwise minimize project impacts. Compensation for unavoidable impacts through acquisition and protection of high quality habitat elsewhere should be addressed with off-site mitigation locations clearly identified.
 - m. The Department considers Rare Natural Communities as threatened habitats having both regional and local significance. Thus, these communities should be fully avoided and otherwise protected from project-related impacts (Attachment).
 - n. The Department generally does not support the use of relocation, salvage, and transplantation as mitigation for impacts to rare, threatened, or endangered species. Department studies have shown that these efforts are experimental in nature and largely unsuccessful.
3. State Threatened or Endangered Species - An Incidental Take Permit (ITP) from the Department may be required if the project, project construction, or any project-related activity during the life of the project will result in "take" as defined by the Fish and Game Code of any species protected by CESA. (Fish & G. Code, §§86, 2080, 2081, subd. (b), (c).) Early consultation with the Department regarding potential permitting obligations under CESA with respect to the project is encouraged. (Cal. Code Regs., tit. 14, § 783.2, subd. (b).) It is imperative with these potential permitting obligations that the draft

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environmental document prepared by the Lead Agency includes a thorough and robust analysis of the potentially significant impacts to endangered, rare, and threatened species, and their habitat, that may occur as a result of the proposed project. For any such potentially significant impacts, the Lead Agency should also analyze and describe specific, potentially feasible mitigation measures to avoid or substantially lessen any such impacts as required by CEQA and, if an ITP is necessary, as required by the subdivisions (b) and (c). The failure to include this analysis in the environmental document could preclude the Department from relying on the Lead Agency's analysis to issue an ITP without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project. (See, e.g., Cal. Code Regs., tit. 14, § 15096, subd. (f). For these reasons, the following information is requested:

- a. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA Permit.
 - b. A Department-approved Mitigation Agreement and Mitigation Plan are required for plants listed as rare under the Native Plant Protection Act.
4. Riparian Resources - The Department opposes the elimination of watercourses (including concrete channels, blue line streams and other watercourses not designated as blue line streams on USGS maps) and/or the channelization of natural and manmade drainages or conversion to subsurface drains. All wetlands and watercourses, whether intermittent, ephemeral, or perennial, must be retained and provided with substantial setbacks which preserve the riparian and aquatic habitat values and maintain their value to on-site and off-site wildlife populations. The Department recommends a minimum natural buffer of 100 feet from the outside edge of the riparian zone on each side of drainage.
-
- a. The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) or a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of an LSA Agreement is a project subject to CEQA. To facilitate issuance of an LSA Agreement, if necessary, the environmental document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. Again, the failure to include this analysis in the environmental document could preclude the Department from relying on the Lead Agency's analysis to issue an LSA Agreement without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the project.

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The Department would be happy to meet with the Lead Agency to discuss this project and the Department's role in the review process under CEQA. Please contact Mr. Scott Harris, Environmental Scientist, at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,



Edmund Pert
Regional Manager
South Coast Region

Attachment

cc: Department of Fish and Game
Ms. Leslie MacNair, Laguna Hills
Ms. Terri Dickerson, Laguna Niguel
Ms. Kelly Schmoker, Pasadena
Mr. Scott Harris, Pasadena

Charles R. Posner
California Coastal Commission
200 Oceangate, Tenth Floor
Long Beach, CA 90802

Friends of Our Environment
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380 East Rustic Road
Santa Monica, CA 90402

**Sensitivity of Top Priority Rare Natural
Communities in Southern California**

Sensitivity rankings are determined by the Department of Fish and Game, California Natural Diversity Data Base and based on either number of known occurrences (locations) and/or amount of habitat remaining (acreage). The three rankings used for these top priority rare natural communities are as follows:

- S1.# Fewer than 6 known locations and/or on fewer than 2,000 acres of habitat remaining.
- S2.# Occurs in 6-20 known locations and/or 2,000-10,000 acres of habitat remaining.
- S3.# Occurs in 21-100-known locations and/or 10,000-50,000 acres of habitat remaining.

The number to the right of the decimal point after the ranking refers to the degree of threat posed to that natural community regardless of the ranking. For example:

S1.1 = very threatened
 S2.2 = threatened
 S3.3 = no current threats known

Sensitivity Rankings (February 1992)

<u>Rank</u>	<u>Community Name</u>
S1.1	Mojave Riparian Forest Sonoran Cottonwood Willow Riparian Mesquite Bosque Elephant Tree Woodland Crucifixion Thorn Woodland Allthorn Woodland Arizonan Woodland Southern California Walnut Forest Mainland Cherry Forest Southern Bishop Pine Forest Torrey Pine Forest Desert Mountain White Fir Forest Southern Dune Scrub Southern Coastal Bluff Scrub Maritime Succulent Scrub Riversidean Alluvial Fan Sage Scrub Southern Maritime Chaparral Valley Needlegrass Grassland Great Basin Grassland Mojave Desert Grassland Pebble Plains Southern Sedge Bog Cismontane Alkali Marsh

- S1.2 Southern Foredunes
Mono Pumice Flat
Southern Interior Basalt Flow Vernal Pool
- S2.1 Venturan Coastal Sage Scrub
Diegan Coastal Sage Scrub
Riversidean Upland Coastal Sage Scrub
Riversidean Desert Sage Scrub
Sagebrush Steppe
Desert Sink Scrub
Mafic Southern Mixed Chaparral
San Diego Mesa Hardpan Vernal Pool
San Diego Mesa Claypan Vernal Pool
Alkali Meadow
Southern Coastal Salt Marsh
Coastal Brackish Marsh
Transmontane Alkali Marsh
Coastal and Valley Freshwater Marsh
Southern Arroyo Willow Riparian Forest
Southern Willow Scrub
Modoc-Great Basin Cottonwood Willow Riparian
Modoc-Great Basin Riparian Scrub
Mojave Desert Wash Scrub
Engelmann Oak Woodland
Open Engelmann Oak Woodland
Closed Engelmann Oak Woodland
~~Island Oak Woodland~~
California Walnut Woodland
Island Ironwood Forest
Island Cherry Forest
Southern Interior Cypress Forest
Bigcone Spruce-Canyon Oak Forest
- S2.2 Active Coastal Dunes
Active Desert Dunes
Stabilized and Partially Stabilized Desert Dunes
Stabilized and Partially Stabilized Desert Sandfield
Mojave Mixed Steppe
Transmontane Freshwater Marsh
Coulter Pine Forest
Southern California Fellfield
White Mountains Fellfield
- S2.3 Bristlecone Pine Forest
Limber Pine Forest