

CONSENT CEASE AND DESIST ORDER CCC-11-CD-01 AND CONSENT RESTORATION ORDER CCC-11-RO-01

1.0 CONSENT CEASE AND DESIST ORDER CCC-11-CD-01

1.1 Pursuant to its authority under California Public Resources Code (“PRC”) section 30810, the California Coastal Commission (“Commission”) hereby authorizes and orders Natalie Soloway and all her successors, assigns, employees, agents, and anyone acting in concert with any of the foregoing (hereinafter collectively referred to as “Respondents”) to:

A. cease and desist from maintaining the products of any previous, or engaging in any future, development, as that term is defined in PRC section 30106, on the property identified in Section 6 below (“subject property”), unless authorized pursuant to the Coastal Act (PRC sections 30000-30900), which includes authorization through these Consent Orders;

B. remove, in accordance with the procedures set forth in Section 3.1, below, the products of all development, as that term is defined in PRC section 30106, on the subject property that required a coastal development permit (“CDP”) but for which no such permit was obtained (which products are hereinafter referred to as the “Unpermitted Development”), including, but not limited to, the following: the guest house, patio and retaining walls, septic tank and associated infrastructure, storage shed, and parking area; the concrete block and stone walls (“block walls”), dam, and sluice gate within Encinal Canyon Creek; and all other non-exempt block walls and foreign backfill materials, including those lining the driveway;

C. take all steps necessary to comply with the Coastal Act, including by obtaining in a timely fashion any other State or local approvals required in order to comply with the terms of these Consent Orders. Through the execution of Consent Cease and Desist Order No. CCC-11-CD-01, Respondents agree to comply with its terms and conditions.

2.0 CONSENT RESTORATION ORDER CCC-11-RO-01

2.1 Pursuant to its authority under PRC section 30811, the Commission hereby orders and authorizes Respondents to take the actions set forth below, including the measures necessary to restore and revegetate the areas that were damaged as a result of the unpermitted development activities, and additional on-site mitigation to compensate for habitat impacts resulting from placement of the Unpermitted Development, as described in Section 3.1, below. Through the execution of Consent Restoration Order CCC-11-RO-01, Respondents agree to comply with its terms and conditions. Respondents further agree to condition any contracts for work related to these Consent Orders upon an agreement that any and all employees, agents, and contractors; and any persons acting in concert with any of the foregoing, adhere to and comply with the terms and conditions set forth herein.

PROVISIONS COMMON TO BOTH ORDERS

3.0 TERMS AND CONDITIONS

3.1 Within 180 days of issuance of these Consent Orders, Respondents shall submit, for the review and approval of the Commission's Executive Director ("Executive Director"), a plan for returning the subject property to its pre-violation condition ("Restoration Plan"). The Restoration Plan shall address all of the Unpermitted Development specifically described in Section 7.1 and include the following elements and requirements ("Elements") describing the measures that will be taken by Respondents to achieve the following: (1) removal of all Unpermitted Development ("Removal Element"); (2) restoration of the site's pre-violation topography ("Remedial Grading Element"); (3) restoration of the site's pre-violation habitats and additional mitigation to address habitat impacts that occurred during the time the violations were in place ("Revegetation Element"); and (4) monitoring and contingency plans to ensure successful implementation of the restoration efforts ("Monitoring Element"). The Executive Director may require revisions to these and any other deliverables required under these Consent Orders, and the Respondents shall revise and resubmit any such deliverables by the deadline(s) established in the Executive Director's letter responding to the deliverable. The Restoration Plan shall include and discuss the following Elements:

A. General Terms and Conditions

1. The Restoration Plan shall outline all proposed development removal activities, in accordance with Section 3.1.B, below; all proposed remedial grading, in accordance with Section 3.1.C, below; and all proposed restoration and on-site mitigation, including all proposed revegetation activities, in accordance with Section 3.1.D below, on the subject property.

2. The Restoration Plan shall be prepared by a restoration ecologist or resource specialist ("Restoration Specialist") qualified to perform restoration of sycamore and coast live oak woodlands, and associated riparian habitats in the Santa Monica Mountains, or under conditions similar to those that exist on the subject property. Prior to the preparation of the Restoration Plan, Respondents shall submit for the Executive Director's review and approval the qualifications of the proposed Restoration Specialist, including a description of the proposed Restoration Specialist's educational background, training, and experience. To meet the qualification requirements for this project, the proposed Restoration Specialist must be a trained professional, with experience successfully completing restoration or revegetation of the habitats referenced above, using California native plant species, preferably in the Santa Monica Mountains region of Los Angeles County.

3. The Restoration Plan shall include a schedule/timeline of activities covered in the Plan, the procedures to be used, and identification of the parties who will be conducting the

restoration activities. The schedule/timeline of activities covered by the Restoration Plan shall be in accordance with the deadlines included in Sections 3.1.B.4, 3.1.C.3, 3.1.D.9, and 3.1.E.2, for the Removal Element, Remedial Grading Element, the Revegetation Element and the Monitoring Element, respectively.

4. The Restoration Plan shall include a detailed description of all equipment to be used. All tools utilized shall be hand tools unless the Restoration Specialist demonstrates to the satisfaction of the Executive Director that mechanized equipment is needed and will not significantly impact resources protected under the Coastal Act, including, but not limited to: geological stability, integrity of landforms, freedom from erosion, and the existing native vegetation. If the use of mechanized equipment is proposed, the Restoration Plan shall specify limitations on the hours of operation for all equipment and a contingency plan that addresses the following: (1) impacts from equipment use, including disruption of areas outside of those designated for restoration (see Section 3.1.A.7), and responses thereto; (2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and responses thereto; and (3) impacts to water quality due to the Unpermitted Development's close proximity to Encinal Canyon Creek. The Restoration Plan shall designate areas for staging of any construction equipment and materials, including receptacles and temporary stockpiles of graded materials, all of which shall be covered on a daily basis.

5. The Restoration Plan shall identify the location of the disposal site(s) for the disposal of all materials removed from the site and all waste generated during restoration activities pursuant to these Consent Orders. If a disposal site is located in the Coastal Zone and is not an existing sanitary landfill or construction waste reclamation facility, a coastal development permit is required for such disposal. All hazardous waste must be disposed of at a suitable licensed disposal facility.

6. The Restoration Plan shall specify the methods to be used during and after restoration to stabilize the soil, including the stream bank and adjacent slopes, and make it capable of supporting native vegetation. Such methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid, or similar materials. Any soil stabilizers identified for erosion control shall be compatible with native plant recruitment and establishment. The Restoration Plan shall specify the type and location of erosion control measures that will be installed on the subject property and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment. Such measures shall remain in place and be maintained at all times of the year for at least three years or until the plantings have become established, whichever occurs first, and then shall be removed or eliminated by Respondents. Verification of such removal shall be provided in the annual monitoring report for the reporting period during which the removal occurred.

7. The Restoration Plan shall contain a site plan identifying all areas on which the Restoration Plan is to be implemented, and upon which the restoration, including mitigation, will occur ("Restoration Area"). The Restoration Area shall include all areas

of the subject property impacted by the Unpermitted Development, including but not limited to: (1) the areas impacted by the block walls, dam, and sluice gate within Encinal Canyon Creek; (2) the areas impacted by all other non-exempt block walls and foreign backfill materials, including those lining the driveway; (3) the areas impacted by the guest house, patio and retaining walls, septic tank and associated infrastructure, storage shed, and parking area; (4) all areas where major vegetation removal has occurred; and (5) any areas on which the staging of restoration-related equipment is proposed. The site plan shall also depict the areas of the subject property on which mitigation will occur, including the locations of all eucalyptus trees that will be removed pursuant to Section 3.1.D.4.

B. Removal Element

1. The Restoration Plan shall include a Removal Element, describing the measures that will be taken to remove all Unpermitted Development, including, but not limited to, the following: the guest house, patio and retaining walls, septic tank and associated infrastructure, storage shed, and parking area; the block walls, dam, and sluice gate within Encinal Canyon Creek; all other non-exempt block walls and foreign backfill materials, including those lining the driveway.

2. The Removal Element shall include a site plan showing all development on the subject property, with labels calling out all Unpermitted Development to be removed from the subject property.

3. Removal activities shall not disturb areas outside the Restoration Area, or create a substantial risk of damage to the subject property and coastal resources thereon. Contingency measures for the restoration of areas incidentally disturbed by the removal activities shall be included within the Revegetation Element. These measures shall include the restoration of all areas from which the Unpermitted Development will be removed and any areas disturbed by those removal activities.

4. Respondents shall commence removal of the Unpermitted Development through implementation of the Removal Element of the Restoration Plan, no more than 15 days after approval of the Restoration Plan. Respondents shall complete removal of the Unpermitted Development within 30 days of commencing removal of the Unpermitted Development.

C. Remedial Grading Element

1. The Restoration Plan shall include a Remedial Grading Element that contains restorative grading plan and cross sections depicting pre- and post violation grades, drawn to scale with contours that clearly illustrate, as accurately as possible, the topography of the subject property before and after the unpermitted grading, and a

quantitative breakdown of grading amounts (cut/fill) necessary to restore the site's natural grade. The Remedial Grading Element shall identify the source and date of the data that were used in creating the depictions of pre- and post-disturbance topography. The Remedial Grading Element shall also demonstrate how the proposed remedial grading will restore the subject property to its original, pre-violation topography to the greatest extent possible consistent with maintaining the stability of the site and restoration of the habitat on the site. If the Restoration Specialist determines that alterations to the original topography are necessary to ensure a successful restoration of the subject property's habitats, the Remedial Grading Element shall also include this proposed topography and a narrative description that explains the justification for needing to alter the topography from the original, pre-violation grade.

2. The Remedial Grading Element will have as its goal to restore the subject property to its original topography, while minimizing the size of the area to be graded and the intensity of the impacts to coastal resources associated with any proposed remedial grading.

3. Respondents shall commence restoration of the subject property's topography by implementing the Remedial Grading Element of the Restoration Plan no more than 45 days after approval of the Restoration Plan. Respondents shall complete topographic restoration of the subject property within 15 days of commencing remedial grading.

D. Revegetation Element

1. The Restoration Plan shall include a Revegetation Element that outlines the measures necessary to revegetate all areas of the subject property from which native vegetation was disturbed or removed as a result of the unpermitted development activities; and the measures necessary to revegetate the areas from which the eucalyptus trees will be removed pursuant to Section 3.1.D.4. The Revegetation Element shall include detailed descriptions, including graphic representations, narrative reports, and photographic evidence as necessary, of the vegetation in the Restoration Area prior to any unpermitted development activities undertaken on the subject property, and the present state of Restoration Area. The Revegetation Element shall demonstrate that the Restoration Areas of the subject property will be revegetated using plant species endemic to and appropriate for the subject site, including coast live oak, walnut, sycamore, and associated riparian species.

2. The Revegetation Element shall identify the natural habitat types that are the model for the Restoration Areas and describe the desired relative abundance of particular species in each vegetation layer. This section of the Revegetation Element shall explicitly lay out the restoration goals and objectives for the revegetation. Based on these goals, the Revegetation Element shall identify the species that are to be planted (plant "palette"), provide a rationale for their inclusion, and describe the size and number of container plants and the rate and method of seed application. The Revegetation Element shall also

specify that any trees that die in the process or as a result of the implementation of the Restoration Plan shall be replaced onsite, in kind, and at a ratio of 3:1. The replacement trees shall be from 15 gallon containers and planted as close as is practicable to the previous location of the tree whose loss the new trees are intended to mitigate. The Revegetation Element shall indicate that plant propagules must come from local native stock. If plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars, and the Revegetation Element shall include specifications for preparation of nursery stock (e.g., container size & shape to develop proper root form, hardening techniques, watering regime, etc.). Technical details of planting methods (e.g., spacing, micorrhizal inoculation, etc.) shall also be included.

3. The Revegetation Element shall include a detailed description of the methods that will be utilized to restore the habitats on the subject property to the condition in which they existed prior to the unpermitted development activities. The Revegetation Element shall explain how the proposed approach will result in the successful reestablishment of coast live oak and sycamore woodlands, and associated riparian habitats, on the subject property with similar plant densities, total coverage and species compositions to those of their undisturbed analogues in the surrounding area, within five years from the initiation of revegetation activities. The Revegetation Element shall describe the methods that will be used to aerate the soil compacted by the Unpermitted Development. This section of the Revegetation Element shall include a detailed description of reference site(s) including rationale for selection, location, and species compositions, distributions, and densities. The reference sites shall be located as close as possible to the subject property, shall be similar in all relevant respects, and shall serve as the standard for measuring success of the restoration activities under these Consent Orders.

4. The Revegetation Element shall also include a raptor nesting habitat survey of the approximately 16 eucalyptus trees that Respondents agree will be removed from the eastern edge of the residence as a mitigation measure. Prior to commissioning the survey, Respondents shall submit for the review and approval of the Executive Director, the qualifications of the proposed surveyor. The methods and results of the nesting habitat survey shall also be subject to review and approval by the Executive Director. It shall be the case that, and the Revegetation Element shall state that, any trees identified during the survey as providing habitat, after verification by the Executive Director, shall not be removed from the subject property. The Revegetation Element shall further describe the measures necessary to remove the eucalyptus trees that do not provide such raptor-nesting habitat and therefore are to be removed, including their stumps and any root masses that could re-sprout. Finally, the Revegetation Element shall state that the areas from which the eucalyptus trees are removed shall be revegetated with native species, in accordance with all other revegetation provisions set forth herein. If any or all of the eucalyptus trees are determined to provide nesting habitat, and therefore not subject to removal, Respondents shall propose alternative mitigation measures (e.g., the hydroseeding of the lawn area to the east of the residence with native plants appropriate for west facing slopes in the Santa Monica Mountains, within and adjacent to a fuel

modification zone), subject to approval by the Executive Director, and include a description of their implementation in the Revegetation Element.

5. The Revegetation Element shall include a detailed explanation of the performance standards that will be utilized to determine the success of the restoration. The performance standards shall identify that “x” native species appropriate to the habitat should be present, each with at least “y” percent cover or with a density of at least “z” individuals per square meter. The description of restoration success analysis shall be described in sufficient detail to enable an independent specialist to duplicate it.

6. The Revegetation Element shall include a schedule for installation of plants and removal of invasive and/or non-native plants, including the rose garden and eucalyptus trees, the latter of which is to be removed pursuant to Section 3.1.D.4. Respondents shall not employ invasive plant species, which could supplant native plant species in the Restoration Areas. If the planting schedule requires planting to occur at a certain time of year beyond the deadlines set forth herein, the Executive Director may, at the written request of Respondents, extend the deadlines as set forth in Section 13.1 of these Consent Orders in order to achieve optimal growth of the vegetation. The Revegetation Element shall demonstrate that all non-native vegetation within the Revegetation Areas, in addition to non-native vegetation in those areas that are identified as being subject to disturbance as a result of the Unpermitted Development removal, remedial grading and revegetation activities, will be eradicated prior to any remedial grading and revegetation activities on the subject property. In addition, the Revegetation Element shall specify that continuing non-native and invasive species removal shall occur on a monthly basis during the rainy season (i.e., January through April) for the duration of the restoration monitoring period, pursuant to Section 3.1.E.

7. The Revegetation Element shall describe any proposed use of artificial inputs, such as irrigation, fertilizer or herbicides, including the full range of amounts of the inputs that may be utilized. The Element shall indicate that the minimum amount necessary to support the establishment of the plantings for successful restoration will be utilized. No permanent irrigation system is allowed in the Restoration Areas. Temporary above-ground irrigation to provide for the establishment of the plantings is allowed for a maximum of three years or until the plantings have become established, whichever occurs first. If, after the three-year time limit, the vegetation planted pursuant to the Revegetation Element has not become established, the Executive Director may, upon receipt of a written request from Respondents, allow for the continued use of the temporary irrigation system. The written request shall outline the need for and the duration of the proposed extension.

8. The Revegetation Element shall include a map depicting the type, size, and location of all plant materials that will be planted in the Restoration Areas; the location of all invasive and non-native plants to be removed from the subject property, including the rose garden and eucalyptus trees, the latter of which is addressed in Section 3.1.D.4; the location of reference sites; and the locations from which annual photographs of the

restoration will be taken to document the success of the plantings, and for inclusion in the annual monitoring reports, as described in Section 3.1.E.2.

9. Respondents shall commence revegetation by implementing the Revegetation Element no more than 30 days after approval of the Restoration Plan. Respondents shall complete non-native species removal and revegetation of the subject property within 45 days of implementation of the Revegetation Element.

E. Monitoring Element

1. The Restoration Plan shall include a Monitoring Element that describes the monitoring and maintenance methodology, including sampling procedures, sampling frequency, and contingency plans to address potential problems with restoration activities or unsuccessful revegetation of the Restoration Areas. The Monitoring Element shall specify that the Restoration Specialist shall conduct at least two site visits annually for the duration of the monitoring period set forth in Section 3.1.E.2, at intervals specified in the Restoration Plan, for the purposes of inspecting and maintaining, at a minimum, the following: all erosion control measures; non-native and invasive species eradication; trash and debris removal; and original and/or replacement plantings. Monitoring and maintenance activities shall be conducted in a way that does not impact the sensitive resources on the subject property or on adjacent properties. Any and all incidental impacts to sensitive species resulting from monitoring activities shall be addressed in the appropriate annual report required pursuant to Section 3.1.E.2, and shall be remedied by the Respondents to ensure successful restoration.

2. Respondents shall submit, for the review and approval of the Executive Director, on an annual basis and during the same one-month period each year (no later than December 31st of the first year), for five years from the date of the Restoration Plan implementation, according to the procedure set forth under Section 3.4, a written report, prepared by a qualified Restoration Specialist, evaluating compliance with the approved Restoration Plan. The annual reports shall include notes from the Restoration Specialist's periodic inspections and recommendations and requirements for additional restoration activities, as necessary, in order for the project to meet the objectives of the Restoration Plan. These reports shall also include photographs taken annually, at the same time of year, from the same pre-designated locations (as identified on the map submitted pursuant to Section 3.1.D.8) indicating the progress of recovery in the Restoration Areas. The locations from which the photographs are taken shall not change over the course of the monitoring period unless recommended changes are approved by the Executive Director.

3. If periodic inspections or the monitoring reports indicate that the restoration, or any portion thereof, is not in conformance with the Restoration Plan or has failed to meet the goals and/or performance standards specified in the Restoration Plan, Respondents shall submit a revised or supplemental Restoration Plan for review and approval by the Executive Director. The revised Restoration Plan shall be prepared by a qualified

Restoration Specialist and shall specify measures to correct those portions of the remediation that have failed or are not in conformance with the original approved Restoration Plan. The Executive Director will then determine whether the revised or supplemental restoration plan must be processed as a CDP, a new Restoration Order, or a modification of these Consent Orders, or if it can simply be reviewed in the same manner as the original proposed Restoration Plan. After the revised or supplemental Restoration Plan has been approved, the new actions listed in the revised plan, and any subsequent measures necessary to carry out the original approved Restoration Plan and still applicable, shall be undertaken by Respondents in coordination with the Executive Director until the goals of the Restoration Plan and these Restoration Plan provisions have been met. Following completion of the revised Restoration Plan's implementation, the duration of the monitoring period, as set forth in Section 3.1.E.2, shall be extended for at least a period of time equal to that during which the project remained out of compliance, but in no case less than two reporting periods.

4. At the end of the five-year monitoring period (or other duration, if the monitoring period is extended pursuant to Section 3.1.E.3), Respondents shall submit, according to the procedure set forth under Section 3.4, a final detailed report, prepared by a qualified Restoration Specialist, for the review and approval of the Executive Director. If this report indicates that the restoration project has, in part or in whole, been unsuccessful, based on the requirements and goals of the approved Restoration Plan and these Consent Orders, Respondents shall submit a revised or supplemental Restoration Plan, and take the appropriate next steps, in accordance with the requirements of Section 3.1.E.3 of these Consent Orders, and the monitoring program shall be revised accordingly.
- 3.2 Upon approval of the Restoration Plan (including the Removal, Remedial Grading, Revegetation, and Monitoring Elements) by the Executive Director, Respondents shall fully implement each phase of the Restoration Plan consistent with all of its terms and deadlines, and the terms and deadlines set forth herein, and agree that in the unlikely event of a conflict, the terms of these Consent Orders governs. Respondents shall complete implementation of each Element of the Restoration Plan within the schedule specified therein, and by the deadlines included in Sections 3.1.B.4, 3.1.C.3 and 3.1.D.9 of these Consent Orders. At a minimum, Respondents shall complete all work described in the Restoration Plan no later than 75 days after the Restoration Plan is approved. The Executive Director may extend this deadline or modify the approved schedule for good cause pursuant to the procedures set forth in Section 13.1 of these Consent Orders.
 - 3.3 Within 15 days of the completion of the work described in the Removal Element (Section 3.1.B), Remedial Grading Element (Section 3.1.C), and Revegetation Element (Section 3.1.D), Respondents shall submit, according to the procedure set forth under Section 3.4, a written report, prepared by a qualified Restoration Specialist, for the review and approval of the Executive Director, documenting all restoration work performed on the subject property. This report shall include a summary of dates when work was performed and photographs taken from the pre-designated locations (as identified on the map submitted pursuant to Section 3.1.D.8) documenting implementation of the respective

components of the Restoration Plan, as well as photographs of the subject property before the work commenced and after it was completed.

- 3.4 All plans, reports, photographs and any other materials required by these Consent Orders shall be sent to:

California Coastal Commission
Attn: Elijah Davidian
45 Fremont Street, Suite 2000
San Francisco, CA 94105

With a copy sent to:
California Coastal Commission
Attn: Heather Johnston
89 South California Street, Suite 200
Ventura, CA 93001

- 3.5 All work to be performed under these Consent Orders shall be done in compliance with all applicable laws. Nothing in these Consent Orders shall be interpreted as requiring Respondents to take any action in violation of any local requirements.

4.0 REVISIONS OF DELIVERABLES

- 4.1 The Executive Director may require revisions to deliverables required under these Consent Orders, and the Respondents shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director, by the deadline established by the modification request from the Executive Director. The Executive Director may extend the deadline for submittals upon a written request and a showing of good cause, pursuant to Section 13.1 of these Consent Orders.

5.0 PERSONS SUBJECT TO THESE ORDERS

- 5.1 Natalie Soloway, all her successors, assigns, employees, agents, and contractors, and any persons acting in concert with any of the foregoing are jointly and severally subject to all the requirements of these Consent Orders, and agree to undertake the work required herein.

6.0 IDENTIFICATION OF THE PROPERTY

- 6.1 The property that is the subject of these cease and desist and restoration orders is described as follows:

3525 Encinal Canyon Road, Malibu, Los Angeles County [APN 4472-028-028].

7.0 DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION

- 7.1 Violations, in the form of Unpermitted Development, to be addressed by these Consent Orders include the channelization of a blue-line stream (Encinal Canyon Creek); construction of concrete block and stone walls within and adjacent to the stream channel;

installation of a dam and sluice gate in the stream channel; grading and placement of fill within and adjacent to the stream channel; construction of a guest house, patio, septic tank, storage shed, and parking area in very close proximity to the stream channel; and removal of major vegetation in an environmentally sensitive habitat area.

8.0 COMMISSION JURISDICTION

8.1 The Commission has jurisdiction over resolution of this alleged Coastal Act violation pursuant to Public Resources Code (“PRC”) Section 30810 and 30811. Respondents agree not to contest the Commission’s jurisdiction to issue or enforce these Consent Orders.

9.0 NONSUBMISSION OF STATEMENT OF DEFENSE

9.1 In light of the intent of the parties to resolve these matters in settlement, Respondents have not submitted a “Statement of Defense” form as provided for in Section 13181 and 13191 of Title 14 of the California Code of Regulations and have agreed not to contest the legal and factual bases, the terms, or the issuance of these Consent Orders, including the allegations of Coastal Act violations contained in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and to Record a Notice of Violation, dated October 25, 2010. Specifically, Respondents have agreed not to contest the issuance or enforcement of these Consent Orders at a public hearing or any other proceeding.

10.0 EFFECTIVE DATE AND TERMS OF THE ORDERS

10.1 The effective date of these Consent Orders is the date these Consent Orders are issued by the Commission. These Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.

11.0 FINDINGS

11.1 These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled “**STAFF REPORT AND FINDINGS FOR CONSENT CEASE AND DESIST AND CONSENT RESTORATION ORDERS.**” The activities authorized and required in these Consent Orders are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act. The Commission has authorized the activities required in these Consent Orders as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

12.0 SETTLEMENT/COMPLIANCE OBLIGATION

12.1 In light of the intent of the parties to resolve these matters in settlement, Respondents have agreed to pay a monetary settlement in the amount of \$20,000. The settlement monies shall be deposited in the Violation Remediation Account of the California Coastal

Conservancy Fund (see Public Resources Code Section 30823). Respondents shall pay the settlement amount in three separate installments, in accordance with the following schedule: Payment #1 in the amount of \$5,000 on or before December 31, 2011, Payment #2 in the amount of \$7,500 on or before December 31, 2012, and Payment #3 in the amount of \$7,500 on or before December 31, 2013. Alternatively, in the event that Natalie Soloway sells, quits claim, or otherwise transfer the property before the last payment is due, then within 30 days from the date of such transfer of the subject property, Natalie Soloway shall pay the balance of the settlement amount in full. The settlement payments shall be submitted to the Commission's San Francisco Office, at the address provided in Section 3.4, to the attention of Elijah Davidian of the Commission, payable to the account designated under the Coastal Act.

12.2 Strict compliance with these Consent Orders by all parties subject thereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive Director grants an extension under 13.1, will constitute a violation of these Consent Orders and shall result in Respondents being liable for stipulated penalties in the amount of \$500 per day per violation. Respondents shall pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties regardless of whether Respondents have subsequently complied. If Respondents violate these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30820, 30821.6, and 30822 as a result of the lack of compliance with the Consent Orders and for the underlying Coastal Act violations as described herein.

13.0 DEADLINES

13.1 Prior to the expiration of the deadlines established by these Consent Orders, Respondents may request from the Executive Director an extension of the deadlines. Such a request shall be made in writing, 10 days in advance of the deadline, and directed to the Executive Director, care of Elijah Davidian, in the San Francisco office of the Commission. The Executive Director shall grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Respondents have diligently worked to comply with their obligations under these Consent Orders, but cannot meet deadlines due to unforeseen circumstances beyond their control.

14.0 SITE ACCESS

14.1 Respondents shall provide access to the subject property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under these Consent Orders. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the subject property on which the violations are located, and on adjacent areas of the property

for purposes, including, but not limited to: viewing the areas where development is being performed pursuant to the requirements of these Consent Orders; inspecting records, operating logs, and contracts relating to the site; and overseeing, inspecting and reviewing the progress of respondents in carrying out the terms of these Consent Orders.

15.0 GOVERNMENT LIABILITIES

15.1 Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to these Consent Orders, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to these Consent Orders.

16.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

16.1 In light of the desire to settle this matter via these Consent Orders and avoid litigation, pursuant to the agreement of the parties as set forth in these Consent Orders, Respondents hereby agree not to seek a stay pursuant to PRC section 30803(b) or to challenge the issuance and enforceability of these Consent Orders in a court of law or equity.

17.0 SETTLEMENT OF CLAIMS

17.1 The Commission and Respondents agree that these Consent Orders settle the Commission's monetary claims for relief from Respondents for those violations of the Coastal Act alleged in the Notice of Intent letter dated October 25, 2010 ("NOI"), occurring prior to the date of these Consent Orders, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under Public Resources Code Sections 30805, 30820, and 30822), with the exception that, if Respondents fail to comply with any term or condition of these Consent Orders, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of these Consent Orders. In addition, these Consent Orders do not limit the Commission from taking enforcement action due to Coastal Act violations at the subject property beyond those that are the subject of the NOI.

18.0 SUCCESSORS AND ASSIGNS

18.1 These Consent Orders shall run with the land, binding Respondents, including Natalie Soloway's successors in interest, heirs, assigns, and future owners of the subject property. Respondents agree that they shall provide notice to all successors, assigns, and potential purchasers of the subject property of any remaining obligations under these Consent Orders.

19.0 MODIFICATIONS AND AMENDMENTS

19.1 Except as provided in Section 13.1, and other minor non-substantive modifications, subject to agreement between the Executive Director and Respondents, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in Sections 13188(b) and Section 13197 of the Commission's administrative regulations.

20.0 GOVERNMENTAL JURISDICTION

20.1 These Consent Orders shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

21.0 LIMITATION OF AUTHORITY

21.1 Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders.

21.2 Correspondingly, Respondents have entered into these Consent Orders and waived their right to contest the factual and legal bases for issuance of these Consent Orders, and the enforcement thereof according to its terms. Respondents have agreed not to contest the Commission's jurisdiction to issue and enforce these Consent Orders.

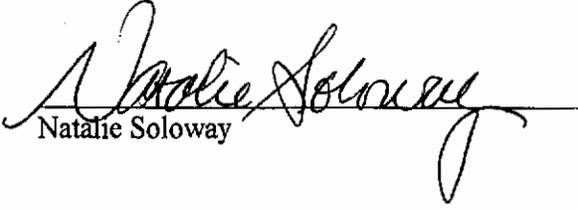
22.0 INTEGRATION

22.1 These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in these Consent Orders.

23.0 STIPULATION

23.1 Respondents and their representatives attest that they have reviewed the terms of these Consent Orders and understand that their consent is final and stipulate to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:
On behalf of Respondents:


Natalie Soloway

1/5/11
Date

Executed in _____ on behalf of the California Coastal Commission:

Peter Douglas, Executive Director

Date

Appendix A.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 15 of 15

CONSENT CEASE AND DESIST ORDER No. CCC-11-CD-02

1.0 CONSENT CEASE AND DESIST ORDER CCC-11-CD-02

1.1 Pursuant to its authority under California Public Resources Code (“PRC”) section 30810, the California Coastal Commission (“Commission”) hereby orders Gareth Davies: (1) to cease and desist from maintaining or undertaking any future development, as that term is defined in PRC section 30106, on any property within the Coastal Zone¹ unless authorized pursuant to the Coastal Act (PRC sections 30000-30900); and (2) not to interfere with implementation of Commission Cease and Desist Order No. CCC-11-CD-01 and Commission Restoration Order No. CCC-11-RO-01 for the property identified in Section 3 below.

2.0 PERSON SUBJECT TO THE ORDER

2.1 Gareth Davies is the person subject to the requirements of Consent Cease and Desist Order No. CCC-11-CD-02 (“Consent Order”). Accordingly, through the execution of this Consent Order, Mr. Davies agrees to comply with the terms and conditions set forth herein.

3.0 IDENTIFICATION OF THE PROPERTY

3.1 The property that is the subject of related Commission Cease and Desist Order No. CCC-11-CD-01 and Restoration Order No. CCC-11-RO-01, and to which the specific prohibition in section 1.1(2) of this Consent Cease and Desist Order applies, is described as follows:

3525 Encinal Canyon Road, Malibu, Los Angeles County [APN 4472-028-028].

4.0 DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION

4.1 The violations of the Coastal Act that formed the basis for this Consent Cease and Desist Order consist of development, as defined in PRC section 30106, performed by Mr. Davies on the property identified in Section 3, above, that required a coastal development permit (“CDP”), but for which no such permit was obtained, and include: channelization of a blue-line stream (Encinal Canyon Creek); installation of a dam and sluice gate in the stream channel; grading and placement of fill within and adjacent to the stream channel; construction of concrete rock walls within and adjacent to the stream channel; construction of a barn on concrete slab in very close proximity to the stream channel; and removal of major vegetation in an environmentally sensitive habitat area.

¹ The Coastal Zone is defined in PRC section 30103.

5.0 COMMISSION JURISDICTION

5.1 The Commission has jurisdiction over resolution of this Coastal Act violation pursuant to Public Resources Code (“PRC”) Section 30810. Mr. Davies agrees not to contest the Commission’s jurisdiction to issue or enforce this Consent Order.

6.0 NONSUBMISSION OF STATEMENT OF DEFENSE

6.1 In light of the intent of the parties to resolve these matters in settlement, Mr. Davies has elected not to submit a “Statement of Defense” form as provided for in Section 13181 and 13191 of Title 14 of the California Code of Regulations and has agreed not to contest the legal and factual bases, the terms, or the issuance of this Consent Order, including the allegations of Coastal Act violations contained in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings, dated December 17, 2010. Specifically, Mr. Davies has agreed not to contest the issuance or enforcement of this Consent Order at a public hearing or any other proceeding.

7.0 EFFECTIVE DATE AND TERMS OF THE ORDER

7.1 The effective date of this Consent Order is the date this Consent Order is issued by the Commission. This Consent Order shall remain in effect permanently unless and until rescinded by the Commission.

8.0 FINDINGS

8.1 This Consent Order is issued on the basis of the findings adopted by the Commission, as set forth in the document entitled “**STAFF REPORT AND FINDINGS FOR CONSENT CEASE AND DESIST AND CONSENT RESTORATION ORDERS.**”

9.0 SETTLEMENT/COMPLIANCE OBLIGATION

9.1 In light of the intent of the parties to resolve these matters in settlement, Mr. Davies has agreed to pay a monetary settlement in the amount of \$60,000. The settlement monies shall be deposited in the Violation Remediation Account of the California Coastal Conservancy Fund (see Public Resources Code Section 30823), or into such other public account as authorized by applicable California law at the time of the payment, and as designated by the Executive Director. Mr. Davies shall pay the settlement amount in full, on or before March 11, 2011. The settlement payment shall be made payable to the California Coastal Commission and submitted to the Commission’s headquarters office, located at **45 Fremont Street, Suite 2000, San Francisco, California 94105**, to the attention of Elijah Davidian of the Commission’s Enforcement Division; with a copy of the cover letter submitted to the Commission’s South Coast District Office, located at **200 Oceanside, 10th Floor, Long Beach, California 90802**, to the attention of Aaron McLendon of the Commission’s Enforcement Division.

9.2 Strict compliance with this Consent Order is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained in this Consent Order, unless the Executive Director grants an extension under Section 10.1, will constitute a violation of this Consent Order and shall result in Mr. Davies being liable for stipulated penalties in the amount of \$500 per day per violation. Mr. Davies shall pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties regardless of whether Mr. Davies has subsequently complied. If Mr. Davies violates this Consent Order, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30820, 30821.6, and 30822 as a result of the lack of compliance with the Consent Order and for the underlying Coastal Act violations as described herein.

10.0 DEADLINES

10.1 Prior to the expiration of the deadlines established by this Consent Order, Mr. Davies may request from the Executive Director an extension of the deadlines. Such a request shall be made in writing, 10 days in advance of the deadline, and directed to the Executive Director, care of Elijah Davidian of the Commission's Enforcement Division, in the San Francisco office of the Commission. The Executive Director shall grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Mr. Davies has diligently worked to comply with his obligations under this Consent Order, but cannot meet deadlines due to unforeseen circumstances beyond his control.

11.0 GOVERNMENT LIABILITIES

11.1 Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Mr. Davies in carrying out activities pursuant to this Consent Order, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Mr. Davies or his agents in carrying out activities pursuant to this Consent Order.

12.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

12.1 In light of the desire to settle this matter via this Consent Order and avoid litigation, pursuant to the agreement of the parties as set forth in this Consent Order, Mr. Davies hereby agrees not to seek a stay pursuant to PRC section 30803(b) or to challenge the issuance and enforceability of this Consent Order in a court of law or equity.

13.0 SETTLEMENT OF CLAIMS

13.1 The Commission and Mr. Davies agree that this Consent Order settles the Commission's monetary claims for relief from Mr. Davies for those violations of the Coastal Act alleged in the Notice of Intent letter dated December 17, 2010 ("NOI"), occurring prior to the date of this Consent Order, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under Public Resources Code Sections 30805, 30820, and 30822), with the exception that, if Mr. Davies fails to comply with any term or condition of this Consent Order, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of this Consent Order. In addition, this Consent Order does not limit the Commission from taking enforcement action due to Coastal Act violations beyond those that are the subject of the NOI or this action.

14.0 CONTRACTUAL OBLIGATION

14.1 This Consent Order constitutes both an administrative order issued to Mr. Davies personally and a contractual obligation between Mr. Davies and the Commission, and therefore shall remain in effect until all terms are fulfilled, regardless of whether Mr. Davies has a financial interest in the property identified in Section 3, above, or any other property within the Coastal Zone.

15.0 MODIFICATIONS AND AMENDMENTS

15.1 Except as provided in Section 10.1, and other minor, non-substantive modifications, subject to agreement between the Executive Director and Mr. Davies, this Consent Order may be amended or modified only in accordance with the standards and procedures set forth in Sections 13188(b) and Section 13197 of the Commission's administrative regulations.

16.0 GOVERNMENTAL JURISDICTION

16.1 This Consent Order shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

17.0 LIMITATION OF AUTHORITY

17.1 Except as expressly provided herein, nothing in this Consent Order shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this Consent Order.

17.2 Correspondingly, Mr. Davies has entered into this Consent Order and waived his right to contest the factual and legal bases for issuance of this Consent Order, and the

Davies Consent Cease and Desist Order
CCC-11-CD-02
Page 5 of 5

enforcement thereof according to its terms. Mr. Davies has agreed not to contest the Commission's jurisdiction to issue and enforce this Consent Order.

18.0 INTEGRATION

18.1 This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this Consent Order.

19.0 STIPULATION

19.1 Mr. Davies attests that he has reviewed the terms of this Consent Order and understands that his consent is final and stipulates to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:



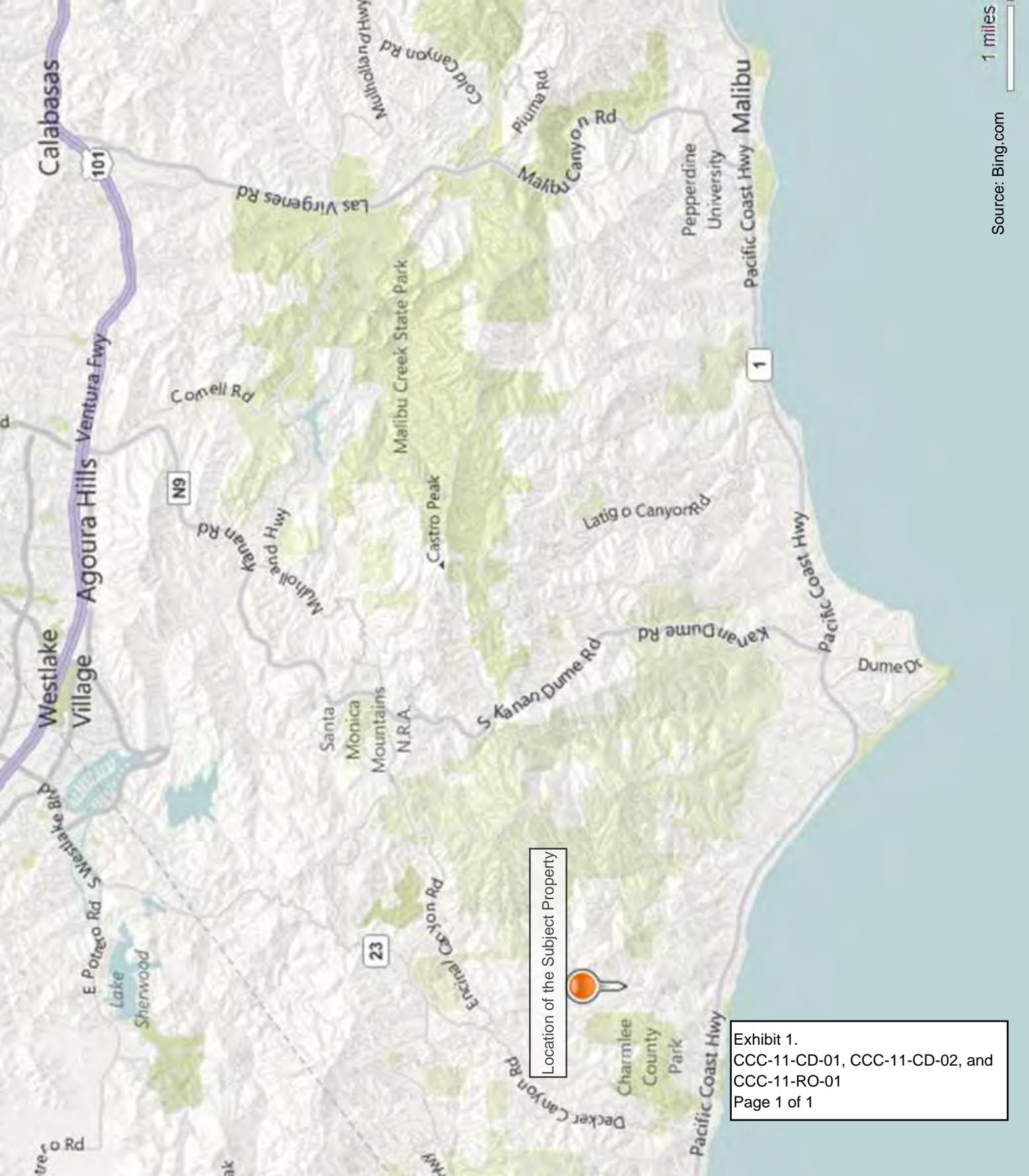
Gareth Davies

1-20-2011
Date

Executed in _____ on behalf of the California Coastal Commission:

Peter Douglas, Executive Director

Date



Location of the Subject Property

Exhibit 1.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 1 of 1



Legend

Base Layers

- LOS ANGELES COUNTY
- OTHER COUNTY
- PACIFIC OCEAN
- UNINCORPORATED AREAS
- UNINCORPORATED WATERS
- HYDRO - PERMANENT
- HYDRO - INTERMITTENT
- HYDRO - DRY
- HYDRO - LINE
- FREIGHTWAYS
- NATURAL BARRIERS
- UNDESIGNED
- SUPERVISORIAL DISTRICT
- TRANSIT - RAILROAD
- TRANSIT - RAPID TRANSIT
- TRANSIT - UNDERGROUND
- SUBDIVISION ACTIVITY - APPROVED
- SUBDIVISION ACTIVITY - PENDING
- SUBDIVISION ACTIVITY - RECORDED
- ARE (ASSESSOR MAP BOOK) GRID
- SEA (SIGNIFICANT ECOLOGICAL AREA)
- SEA (LOCAL STANDARD DISTRICT)
- VERY HIGH FIRE HAZARD SEVERITY
- EQD (EQUINE DISTRICT)
- THE THOMAS GUIDE - PAGE GRID
- THE THOMAS GUIDE - PARCELS GRID
- SOILING INDEX, MAP GRID
- ZONING MAP GRID
- TOWNSHIP & RANGE GRID
- USFS QUAD SHEET GRID

Zoning

- ZONE R-1
- ZONE R-2
- ZONE B-1
- ZONE B-2
- ZONE C-1
- ZONE C-2
- ZONE O-1
- ZONE O-2
- ZONE O-3
- ZONE O-4
- ZONE O-5
- ZONE O-6
- ZONE O-7
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- ZONE M-100

LOS ANGELES REGION
LARJOC
 Imagery Acquisition Consortium

LEGEND MAY NOT CONTAIN ALL LAYERS REPRESENTED IN THE NRP.

Exhibit 2.
 CCC-11-CD-01, CCC-11-CD-02, and
 CCC-11-RO-01
 Page 1 of 1





Diagram of Unpermitted Development at 3525 Encinal Canyon Road, Los Angeles County*

(see details on following page)

1.	Dam and sluice gate within stream channel
2.	Concrete block walls within stream channel
3.	Concrete block walls adjacent to stream channel
4.	Guest house (former barn) and patio adjacent to stream channel
5.	Storage shed
6.	Parking area
*This is not intended to serve as an exhaustive representation of the unpermitted development on the subject property.	



1. Dam and sluice gate within stream channel



2. Concrete block walls within stream channel



3. Concrete block walls adjacent to stream channel



4. Guest house (former barn) and patio adjacent to stream channel



5. Storage shed



6. Parking area



Unpermitted stone barn, during conversation to guest house, ca. 1988.

Exhibit 4.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 1 of 2



**Unpermitted stone barn, after conversion to guest house,
ca. 2008.**

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF Malibu, COUNTY OF Los Angeles, STATE OF CALIFORNIA DESCRIBED AS 3525 Encina Canyon Rd. THIS STATEMENT IS A DISCLOSURE OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF May 10, 1988. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other forms require disclosure, depending upon the details of the particular real estate transaction (for example, special study zone and purchase-money liens on residential property). Substituted Disclosures: The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

1. Transferor's Transfer Disclosure Statement

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S). IF ANY, THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller is, is not, occupying the property

A. The subject property has the items checked below (read across):

- Range
- Dishwasher
- Washer/Dryer Hookups
- Burglar Alarms
- TV Antennas
- Central Heating
- Wall Window Air Conditioning
- Septic Tank
- Patio/Decking
- Sauna
- Security Gate(s)
- Attached Garage
- Pool/Spa Heater
- Gas Water Heater
- Gas Water Supply
- City Gas Supply
- Utility
- Exhaust Fans in Kitchen
- Exhaust Fans in Living Room
- Gas Stove
- Radiator
- Type 2, 3, 4, 5
- Oven
- Trash Compactor
- Window Screens
- Smoke Detectors
- Satellite Dish
- Evaporator Coils
- Sprinklers
- Sump Pump
- Built-in Barbecue
- Pool
- Hot Tub
- Spa
- Number of Remodels Controls
- Carpet
- Electric
- Private Utility
- Other

your (Seller's) knowledge, any of the above that are not in operating condition? Yes No If yes, item describe (if necessary) 2, 3, 4, 5

Are there any significant defects/malfunctions in any of the following? Yes No If yes, check below

- Floors
- Exterior Walls
- Insulation
- Roofs
- Windows
- Doors
- Foundation
- Stairs
- Walls/Fences
- Electrical Systems
- Plumbing/Sewers/Septics
- Other Structural Components

checked, explain (Attach additional sheets if necessary):
Buyer's initials FF Seller's initials ES Page 1 of 2 Pages

Subject Property Address 3525 Encina Canyon Rd.

C. Are you (Seller) aware of any of the following:

- 1. Features of the property shared in common with adjoining lot owners, such as walls, fences, and driveways which use or responsibility for maintenance may have an effect on the subject property. Yes No
- 2. Any encroachments, easements or similar matters that may affect your interest in the subject property. Yes No
- 3. Room additions, structural modifications, or other alterations or repairs made without necessary permits. Yes No
- 4. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes. Yes No
- 5. Landfill (compacted or otherwise) on the property or any portion thereof. Yes No
- 6. Any settling from any cause, or slippage, sliding, or other soil problems. Yes No
- 7. Flooding, drainage or grading problems. Yes No
- 8. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides. Yes No
- 9. Any zoning violations, non-conforming uses, violations of "setback" requirements. Yes No
- 10. Neighborhood noise problems or other nuisances. Yes No
- 11. CCAR's or other deed restrictions or obligations. Yes No
- 12. Homeowners' Association which has any authority over the subject property. Yes No
- 13. Any "common area" facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others. Yes No
- 14. Any notices of abatement or citations against the property. Yes No
- 15. Any lawsuits against the seller threatening to or affecting the real property. Yes No

If the answer to any of these is yes, explain (Attach additional sheets if necessary):

1. Encroach on Fire Road from (2nd) yard.

2. Encroach on Fire Road from (2nd) yard.

3. Share dual driveway easement.

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller. Garth Davies Date 5/12/88

Seller Garth Davies

III AGENT'S INSPECTION DISCLOSURE

(To be completed only if the seller is represented by an agent in this transaction.) THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING: Suggest that buyer have their own home inspection and gallery report

Agent (Broker Representing Seller) Fred Sands, Realtors By Paul Ashton Date 5/10/88

IV AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than the agent above.) THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING: Property appears to be in excellent condition

Agent (Broker obtaining the Offer) Fred Sands By Paul Ashton Date May 15, 1988

V BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE INSPECTIONS DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller Garth Davies Date 5/12/88 Buyer Markus Abney Date May 15, 1988

Seller Garth Davies Date 5/10/88 Buyer Paul Ashton Date 5/10/88

Agent (Broker obtaining this Offer) Fred Sands, Realtors By Paul Ashton Date 5/10/88

Agent (Broker obtaining this Offer) Fred Sands, Realtors By Markus Abney Date 5/13/88

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

This form is designed to comply with the statute and which includes the use of the word "may" is not intended to create a warranty or a contract. It is intended to provide a disclosure of information only. It is not intended to be used as a substitute for a professional inspection or other services. It is not intended to be used as a substitute for a professional inspection or other services. It is not intended to be used as a substitute for a professional inspection or other services.

CALIFORNIA COASTAL COMMISSION

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

**NOTICE OF INTENT TO COMMENCE CEASE AND DESIST AND RESTORATION
ORDER PROCEEDINGS, AND TO RECORD A NOTICE OF VIOLATION**

Via Facsimile, Regular, and Certified Mail
(Certified Mail No. 70071490000087989487)

October 25, 2010

Ms. Natalie Soloway
31533 Victoria Point Road
Malibu, CA 90265-2638

Violation File Number: V-4-09-024 (Soloway)

Property location: 3525 Encinal Canyon Road, Los Angeles County
APN 4472-028-028

Unpermitted Development: Channelization of a blue-line stream (Encinal Canyon
Creek); installation of a dam and sluice gate in the
stream channel; grading and placement of fill within
and adjacent to the stream channel; construction of
concrete rock walls within and adjacent to the stream
channel; construction of a guest house, patio, septic
tank, storage shed, and parking area in very close
proximity to the stream channel; and removal of major
vegetation in an environmentally sensitive habitat
area (ESHA).

Dear Ms. Soloway,

This letter follows up your October 19th and 20th telephone conversations with Mr. Elijah Davidian of my enforcement staff, regarding unpermitted development on your property located at 3525 Encinal Canyon Road, in Los Angeles County. We are very encouraged by your stated willingness to take the steps necessary to bring your property into compliance with the Coastal Act and are happy to work with you to achieve that end. This letter provides some background on the Commission and its function, addresses the specific unpermitted development at issue on your property, and describes our proposed course of action for resolving these violations.

By way of background, the California Coastal Act¹ was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the State agency created by, and charged with administering, the Coastal Act. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore sensitive habitats such as native oak woodlands, chaparral, and riparian stream corridors; protect natural landforms; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea.

The Coastal Act also provides for the certification of Local Coastal Programs, which triggers the delegation of Coastal Development Permit (CDP) review authority to local governments within the Coastal Zone, provided they meet certain requirements. The County of Los Angeles has completed some of those requirements, namely through obtaining certification of its Coastal Land Use Plan (LUP) for the Santa Monica Mountains/Malibu region. However, because not all of those requirements have been met, development review authority for the portion of Los Angeles County that encompasses your property remains with the Commission. Nonetheless, staff does periodically consult the LUP for guidance in situations such as these.

The Santa Monica Mountains, where your property is located, comprise the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem in coastal southern California. California's coastal sage scrub, chaparral, oak woodlands, and associated riparian areas have analogues in just a few areas of the world with similar climate. Throughout the world, this ecosystem with its specially adapted vegetation and wildlife has suffered severe loss and degradation from human development. Worldwide, only 18 percent of the Mediterranean community type remains undisturbed. However, within the Santa Monica Mountains, this ecosystem is remarkably intact, despite the fact that it is closely surrounded by some 17 million people. Therefore, the Commission has found that the Mediterranean ecosystem in the Santa Monica Mountains, and especially riparian areas occurring therein, is rare and particularly valuable because of its relatively pristine character, physical complexity, and resultant biological diversity.

Environmentally sensitive habitat areas (ESHA), including certain plant and animal life and their habitats, are afforded special protection under the Coastal Act and the LUP, "because of their special nature or role in an ecosystem and [ability to] ... be easily disturbed or degraded by human activities and developments" (see Coastal Act Section 30107.5). Only certain types of development are permissible in ESHA: For example, under Section 30240 of the Coastal Act, only resource-dependent uses are permitted within ESHAs. Similarly, Policy 68 of the LUP repeats the above referenced Coastal Act

¹ The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

section, and actually specifies that “[r]esidential use shall not be considered a resource-dependent use.” In addition, Policy 75 of the Land Use Plan, referencing Section 30236 of the Coastal Act, limits streambed alterations to specific types of projects, none of which appears to be applicable to your property. The development at issue appears to have occurred within and adjacent to ESHA, not only causing detrimental impacts to those areas, but also preventing their recovery. For these reasons, the development at issue is not only unpermitted, it is also inconsistent with various resource protection policies of the Coastal Act and LUP.

Development without a Permit

Commission staff has confirmed that a substantial amount of development has occurred on your property, without prior approval from the Coastal Commission. The unpermitted development at issue on your property includes, but may not be limited to the following: (1) channelization of a blue-line stream (Encinal Canyon Creek); (2) installation of a dam and sluice gate in the stream channel; (3) grading and placement of fill within and adjacent to the stream channel; (4) construction of concrete rock walls within and adjacent to the stream channel; (5) construction of a guest house, patio, septic tank, storage shed, and parking area in very close proximity to the stream channel; and (6) removal of major vegetation in an environmentally sensitive habitat area (ESHA).

Pursuant to section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. “Development” is defined by section 30106 of the Coastal Act as:

“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 any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the 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 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 harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....(emphasis added)

The unpermitted development that is the subject of this letter constitutes “development” as that term is defined under the Coastal Act and, therefore, requires a coastal development permit (CDP). Any development activity conducted in the Coastal Zone without a valid CDP, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

During your conversations with Mr. Davidian on October 19th and 20th, you explained that some of the development at issue was in place at the time you purchased the

property in 1988. Specifically, you stated that the rock walls within and adjacent to the stream channel, the sluice gate, and a "goat shed" and foundation (in the present location of the guest house), were constructed by previous owners, and you offered to provide photographic documentation to that effect. You also informed Mr. Davidian that, at the time of purchase, you were aware that some or all of the development at issue had been constructed without permits, and you referenced sale disclosure documents indicating such. You have also offered to provide Commission staff with copies of those documents.

According to statements you made during your conversation with Mr. Davidian, after purchasing the property, you undertook a number of additions to the goat shed, with the intent of converting it into a guest house. Among the developments you cited were the addition of windows, doors, and various interior and exterior improvements; expansion of the footprint to accommodate a bathroom; installation of a septic holding tank that drains into the septic system for the existing approved residence; placement of an exterior storage shed; and the extension and expansion of the driveway servicing the permitted residence, providing access to the guest house and parking for two cars side by side (approximately 40ft. x 40ft.). Finally, you stated that while the guest house had been used as a rental unit between the dates of approximately 1989 and 1998, you have recently submitted an application to the County Environmental Review Board for a permit to demolish the guest house. Commission staff confirmed the latter with County staff on October 20, 2010.

Notice of Violation

As Mr. Davidian explained during the October 19 telephone conversation, like the benefit of Coastal Development Permits, Coastal Act violations run with the land. The Coastal Act contains a provision for notifying potential future purchasers of the existence of a Coastal Act violation on the property. Pursuant to Section 30812, after providing notice and the opportunity for a hearing, the Executive Director of the Commission may record a Notice of Violation against the title to the property. During your October 19th and 20th conversations with Mr. Davidian, he informed you of my intent to record a Notice of Violation on the title to your property. According to Mr. Davidian, in response to those notices, you said that you would not object to such recordation.

However, should you choose to object to the recording of a Notice of Violation and wish to present evidence to the Coastal Commission at a public hearing on the issue of whether a violation has occurred, you must specifically object, in writing, within 20 days of the postmarked mailing of this notification. **The objection should be sent to Elijah Davidian at the Commission's headquarters office (the address is provided in the letterhead), no later than November 15, 2010.** Please include the evidence you wish to present to the Coastal Commission in your written response and identify any issues you would like us to consider. If you decide not to object within 20 days of my mailing of this notification, I shall record the Notice of Violation in the Los Angeles County

recorder's office as provided for under Section 30812(b) of the Coastal Act. The Notice of Violation will become part of the chain of title of the subject property and will be subject to review by potential buyers. Once the violations are resolved, the Notice of Violation will be rescinded.

Cease and Desist Order

As Mr. Davidian explained during your recent conversations, the violations at issue would be most expeditiously resolved through Consent Cease and Desist and Restoration Orders, which would outline the terms of the development removal and restoration of the site. The standards for the Commission's issuance of a Cease and Desist Order are discussed here. The standards for the Commission's issuance of a Restoration Order are presented in the section that follows.

Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.

Section 30810(b) of the Coastal Act states that the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act – including the requirement for removal of any unpermitted development or material.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. As noted previously, "development" is defined by Section 30106 of the Coastal Act. The activities at issue here clearly constitute "development" within the meaning of the above-quoted definition and therefore are subject to the permit requirement of section 30600(a).

A CDP was not issued to authorize the subject unpermitted development. For these reasons, the criteria of Section 30810(a) of the Coastal Act have been met. Therefore, I am issuing this Notice of Intent to commence Cease and Desist Order proceedings. The procedures for the issuance of Cease and Desist Orders are described in Sections 13180 through 13188 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

The unpermitted development at issue in this matter includes, but may not be limited to, the following: (1) channelization of a blue-line stream (Encinal Canyon Creek); (2) installation of a dam and sluice gate in the stream channel; (3) grading and placement

of fill within and adjacent to the stream channel; (4) construction of concrete rock walls within and adjacent to the stream channel; (5) construction of a guest house, patio, septic tank, storage shed, and a parking area in very close proximity to the stream channel; and (6) removal of major vegetation in an environmentally sensitive habitat area (ESHA). The proposed Cease and Desist Order will direct you to (1) cease and desist from maintaining any development on the subject property not authorized pursuant to the Coastal Act; (2) cease and desist from engaging in any further development on the subject properties unless authorized pursuant to the Coastal Act; remove all unpermitted development from the property at issue; and (3) take all steps necessary to comply with the Coastal Act.

Restoration Order

Due to the sensitive nature of the ecosystem in which the development occurred, and the impacts resulting therefrom, restoration of the impacted areas will be part of any proposed resolution. Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site as follows:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission...the development is inconsistent with this division, and the development is causing continuing resource damage.

The specified unpermitted activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Development has occurred on the property without a permit from the Commission, in violation of Section 30600(a) of the Coastal Act;
- 2) Development is inconsistent with numerous provisions of the Coastal Act, including Section 30231 (protection of biological productivity and water quality); Section 30240 (protection of environmentally sensitive habitat); Section 30253 (minimization of adverse impacts); and Section 30236 (water supply and flood control);
- 3) The unpermitted development is causing "continuing resource damage," as defined by Section 13190 of the Commission's regulations. The unpermitted development has at a minimum: (1) caused substantial interference of surface water flow; (2) failed to maintain natural riparian buffers areas to protect riparian habitats; (3) failed to minimize alteration of natural streams; failed to maintain the biological productivity of coastal waters; (4) destroyed native vegetation communities in an environmentally sensitive habitat area; and (5) contributed to the destruction of the riparian corridor traversing the site. Such impacts meet the definition of damage provided in Section 13190(b), which includes "any

degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.” In addition, the resource damage from the development is continuing, in that the impacts from the unpermitted development continue to occur at the property.

For the reasons stated above, I have decided it is necessary to commence a Restoration Order proceeding before the Commission. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission’s regulations, which are codified in Title 14 of the California Code of Regulations. The proposed Restoration Orders would provide for removal of the unpermitted development and to return the site to its pre-violation condition.

Civil Liability

I understand that you have also discussed the issue of civil liability with Mr. Davidian and the potential to resolve this via a settlement. However, for your reference, if needed, Coastal Act Sections 30803 and 30805 also authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties, respectively, in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000 per violation. Further, Section 30820(b) states that, in addition to any other penalties, any person who “knowingly and intentionally” performs any development in violation of the Coastal Act can be subject to a civil penalty of up to \$15,000 per violation for each day in which each violation persists. Additional penalties of up to \$6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act.

As Mr. Davidian explained during your October 20th telephone conversation, the most expeditious way of resolving this matter would likely be through a Consent Cease and Desist Order and a Consent Restoration Order (“Consent Orders”). Consent Orders are like a settlement agreement and would outline the terms and conditions of removal of the unpermitted development and restoration of the property. Such an approach would help to resolve the violations at issue without the need for contested enforcement order proceedings before the Commission or litigation, and would also allow you to resolve your civil liability outside of litigation. My staff is in the process of preparing draft Consent Orders and we intend to have a version completed and for your review in the coming weeks.

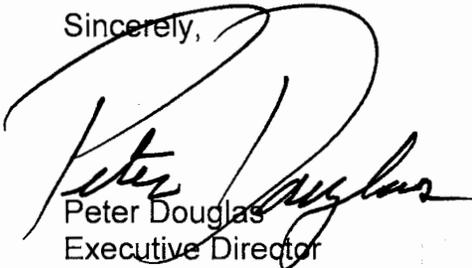
In accordance with Sections 13181(a) and 13191(a) of the Commission’s regulations, you have the opportunity to respond to the Commission staff’s allegations as set forth in this Notice of Intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form.

Commission's regulations provide 20 days for your completion and submission of the Statement of Defense form, or November 15, 2010. However, should this matter be resolved via a settlement agreement, a statement of defense form would not be necessary. In any case, and in the interim, staff would be happy to accept any information you wish to share regarding this matter.

Commission staff has tentatively scheduled the hearing for the proposed Cease and Desist and Restoration Orders (and for the proposed Notice of Violation, should you additionally request, in writing, a hearing on this issue) for the December 15-17, 2010 Commission meeting in San Francisco.

As my staff has explained, we would much prefer to work cooperatively with you to resolve the above-mentioned Coastal Act violations expeditiously, and without the need for a contested enforcement hearing and/or litigation, and we are happy to do what we can to help make this happen. Of course, any such resolution will also require your immediate attention and proactive efforts to take all steps necessary to comply with the Coastal Act. Should you have questions regarding this letter or the pending enforcement case, please feel free to contact Elijah Davidian at (415) 904-5292.

Sincerely,



Peter Douglas
Executive Director

Enclosure: Statement of Defense Form

Cc without encl.: Lisa Haage, Chief of Enforcement
Elijah Davidian, Statewide Enforcement Analyst
Alex Helperin, Enforcement Staff Counsel
Steve Hudson, South Central Coast District Manager

CALIFORNIA COASTAL COMMISSION

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

**NOTICE OF INTENT TO COMMENCE CEASE AND DESIST
AND RESTORATION ORDER PROCEEDINGS**

Via Regular and Certified Mail
(Certified Mail No. 70092820000053048622)

December 17, 2010

Mr. Gareth Davies
5605 Fairhaven Ave.
Woodland Hills, CA 91367

Violation File Number: V-4-09-024

Property location: 3525 Encinal Canyon Road, Los Angeles County
APN 4472-028-028

Unpermitted Development: Channelization of a blue-line stream (Encinal Canyon
Creek); installation of a dam and sluice gate in the
stream channel; grading and placement of fill within
and adjacent to the stream channel; construction of
concrete rock walls within and adjacent to the stream
channel; construction of a barn on concrete slab in
very close proximity to the stream channel; and
removal of major vegetation in an environmentally
sensitive habitat area (ESHA).

Dear Mr. Davies,

This letter follows up your December 7, 2010 telephone conversations with Mr. Elijah Davidian of my enforcement staff, regarding unpermitted development on property located at 3525 Encinal Canyon Road, in Los Angeles County ("subject property"). He has been unable to reach you since then, but we are very interested in working with you to resolve this matter; hence we are sending this letter, which both presents some background and suggests mechanisms for addressing the situation. While we understand that you no longer own the subject property, you have been identified as a party responsible for undertaking the unpermitted development described above. This letter provides some background on the California Coastal Commission and its function, addresses the specific unpermitted development at issue, and describes our proposed course of action for resolving this matter.

By way of background, the California Coastal Act¹ was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the State agency created by, and charged with administering, the Coastal Act. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore sensitive habitats such as native oak woodlands, chaparral, and riparian stream corridors; protect natural landforms; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea.

The Coastal Act also provides for the certification of Local Coastal Programs, which triggers the delegation of Coastal Development Permit (CDP) review authority to local governments within the Coastal Zone, provided they meet certain requirements. The County of Los Angeles has completed some of those requirements, namely through obtaining certification of its Coastal Land Use Plan (LUP) for the Santa Monica Mountains/Malibu region. However, because not all of those requirements have been met, development review authority for the portion of Los Angeles County that encompasses the subject property remains with the Commission. Nonetheless, staff does periodically consult the LUP for guidance in situations such as these.

The Santa Monica Mountains, where the subject property is located, comprise the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem in coastal southern California. California's coastal sage scrub, chaparral, oak woodlands, and associated riparian areas have analogues in just a few areas of the world with similar climate. Throughout the world, this ecosystem with its specially adapted vegetation and wildlife has suffered severe loss and degradation from human development. Worldwide, only 18 percent of the Mediterranean community type remains undisturbed. However, within the Santa Monica Mountains, this ecosystem is remarkably intact, despite the fact that it is closely surrounded by some 17 million people. Therefore, the Commission has found that the Mediterranean ecosystem in the Santa Monica Mountains, and especially riparian areas occurring therein, is rare and particularly valuable because of its relatively pristine character, physical complexity, and resultant biological diversity.

Environmentally sensitive habitat areas (ESHA), including certain plant and animal life and their habitats, are afforded special protection under the Coastal Act and the LUP, "because of their special nature or role in an ecosystem and [ability to] ... be easily disturbed or degraded by human activities and developments" (see Coastal Act Section 30107.5). Only certain types of development are permissible in ESHA. For example, under Section 30240, only resource-dependent uses are permitted within ESHAs. Policy 68 of the LUP repeats the above referenced Coastal Act section and actually specifies

¹ The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise

that “[r]esidential use shall not be considered a resource-dependent use.” In addition, LUP Policy 75, referencing Section 30236 of the Coastal Act, limits streambed alterations to specific types of projects, none of which appears to have been involved at the subject property. The development at issue appears to have occurred within and adjacent to ESHA, not only causing detrimental impacts to those areas, but also preventing their recovery. For these reasons, the development at issue is not only unpermitted (as discussed more fully below), it is also inconsistent with various resource protection policies of the Coastal Act and LUP.

Development without a Permit

Commission staff has confirmed that development has occurred on the subject property, without prior approval from the Coastal Commission. During the course of its investigation, Commission staff obtained evidence indicating that a substantial amount of the unpermitted development at issue was undertaken by you, or at your direction, during the time that you owned the property between 1984 and 1988. The unpermitted development at issue and for which you may be liable, on the subject property includes, but may not be limited to, the following: (1) channelization of a blue-line stream (Encinal Canyon Creek); (2) installation of a dam and sluice gate in the stream channel; (3) grading and placement of fill within and adjacent to the stream channel; (4) construction of concrete rock walls within and adjacent to the stream channel; (5) construction of a barn on concrete slab foundation in very close proximity to the stream channel; and (6) removal of major vegetation in an environmentally sensitive habitat area (ESHA).

Pursuant to section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. “Development” is defined by section 30106 as:

“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 any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the 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 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 harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....(emphasis added)

The activities that are the subject of this letter constitute “development” as that term is defined under the Coastal Act and do not qualify for an exemption under the Coastal Act. These activities therefore require a coastal development permit (CDP). Any non-exempt development activity conducted in the Coastal Zone without a valid CDP, or which does not substantially conform to a previously issued permit, constitutes a

violation of the Coastal Act. Commission staff was unable to identify any record of a permit authorizing the development described herein, and no exemption applies. Therefore, it appears that the development at issue was undertaken in violation of the Coastal Act.

The Commission can issue Cease and Desist Orders to any person who undertakes development in violation of the Coastal Act. If the development lacked the necessary CDP, is inconsistent with the Coastal Act, and is causing continuing resource damage, the Commission can also issue a Restoration Order to the responsible party. Such orders may include measures necessary to bring the property at issue into compliance with the Coastal Act, including removal of the unpermitted development, restoration of the impacted area, and compensatory mitigation for impacts to coastal resources caused by the unpermitted development. In addition, any person who violates the Coastal Act may be subject to civil penalties in accordance with the relevant provisions of the Coastal Act, as described more fully in the following sections.

Cease and Desist Order

As noted above, one of the options available to the Commission for resolving violations of the Coastal Act is to issue a Cease and Desist Order. The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states, in relevant part, the following:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.

Section 30810(b) of the Coastal Act states that the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act – including the requirement for removal of any unpermitted development or material.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. As noted previously, "development" is defined by Section 30106 of the Coastal Act. The activities at issue here clearly constitute "development" within the meaning of the above-quoted definition and therefore are subject to the permit requirement of section 30600(a).

A CDP was not issued to authorize the subject unpermitted development. For these reasons, the criteria of Section 30810(a) of the Coastal Act have been met. Therefore, I am issuing this Notice of Intent to commence Cease and Desist Order proceedings. The procedures for the issuance of Cease and Desist Orders are described in Sections

13180 through 13188 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

The unpermitted development at issue, and for which you may be liable, on the subject property includes, but may not be limited to, the following: (1) channelization of a blue-line stream (Encinal Canyon Creek); (2) installation of a dam and sluice gate in the stream channel; (3) grading and placement of fill within and adjacent to the stream channel; (4) construction of concrete rock walls within and adjacent to the stream channel; (5) construction of a barn on slab foundation in very close proximity to the stream channel; and (6) removal of major vegetation in an environmentally sensitive habitat area (ESHA). The Cease and Desist Order would direct you to take all steps necessary to bring the property into compliance with the Coastal Act, including by working with the present property owner (through financial or other means) to facilitate removal the unpermitted development and return the site to the condition it was in prior to placement of the unpermitted development.

Restoration Order

Due to the sensitive nature of the ecosystem in which the development occurred, and the impacts resulting therefrom, restoration of the impacted areas will be part of any proposed resolution. Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site as follows:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission...the development is inconsistent with this division, and the development is causing continuing resource damage.

The specified unpermitted activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Development has occurred on the property without a permit from the Commission, in violation of Section 30600(a) of the Coastal Act;
- 2) The unpermitted development is inconsistent with numerous provisions of the Coastal Act, including Section 30231 (protection of biological productivity and water quality); Section 30236 (limiting alterations of rivers and streams); Section 30240 (protection of environmentally sensitive habitat); and Section 30253 (minimization of adverse impacts);
- 3) The unpermitted development is causing "continuing resource damage," as defined by Section 13190 of the Commission's regulations. The unpermitted development has, at a minimum: (1) fundamentally altered the stream's morphology; (2) destroyed in-stream and adjacent upland vegetation; (3) induced

in-stream and upland habitat fragmentation; (4) provided conditions favorable for the establishment of non-native and invasive species; (5) and generally disturbed and/or displaced all flora and fauna dependent upon that portion of the riparian corridor. Such impacts meet the definition of damage provided in Section 13190(b), which includes, "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." In addition, the resource damage from the development is continuing, in that the impacts from the unpermitted development continue to occur at the property.

For the reasons stated above, I have decided it is necessary to commence a Restoration Order proceeding before the Commission. The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations. The Restoration Order would direct you to work with the present property owner, including through financial or other contributions, to remove the unpermitted development and return the site to the condition it was in prior to placement of the unpermitted development.

Civil Liability

The Coastal Act Sections 30803 and 30805 also authorize the Coastal Commission (or any other person) to initiate litigation to seek injunctive relief and an award of civil penalties, respectively, in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000 per violation. Further, Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of up to \$15,000 per violation for each day in which each violation persists. Additional penalties of up to \$6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act.

Preferred Path to Resolution

The most expeditious way of resolving this matter would likely be through a Consent Cease and Desist Order and a Consent Restoration Order ("Consent Orders"). Consent Orders are like a settlement agreement and would outline the terms and conditions of removal of the unpermitted development and restoration of the property. Such an approach would help to resolve the violations at issue without the need for contested enforcement order proceedings before the Commission, or litigation; and would also allow you to resolve your civil liability outside of litigation. We have already been

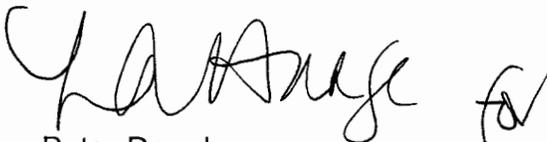
working with the current owner of the subject property, Ms. Natalie Soloway, to this end, and she appears open to a single, collaborative, comprehensive settlement agreement.

In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this Notice of Intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form. **Consistent with the Commission's regulations, we are providing you 20 days to complete and submit the Statement of Defense form, i.e., until January 6, 2011.** However, should this matter be resolved via a settlement agreement, a statement of defense form would not be necessary. In any case, and in the interim, staff would be happy to accept any information you wish to share regarding this matter.

Commission staff has tentatively scheduled the hearing on the proposed Cease and Desist and Restoration Orders for the January 14-15, 2011 Commission meeting in Huntington Beach.

As my staff has explained, we would much prefer to work cooperatively with you to resolve the above-mentioned Coastal Act violations expeditiously, and without the need for a contested enforcement hearing and/or litigation, and we are happy to do what we can to help make this happen. Of course, any such resolution will also require your immediate attention and proactive efforts to work with Commission staff. Should you have questions regarding this letter or the pending enforcement case, please feel free to contact Elijah Davidian at (415) 904-5292.

Sincerely,



Peter Douglas
Executive Director

Enclosure: Statement of Defense Form

Cc without encl.: Lisa Haage, Chief of Enforcement
Elijah Davidian, Statewide Enforcement Analyst
Alex Helperin, Enforcement Staff Counsel
Steve Hudson, South Central Coast District Manager



Exhibit 7.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 1 of 2



Exhibit 7.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 2 of 2



Exhibit 8.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 1 of 2



Exhibit 8.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 2 of 2



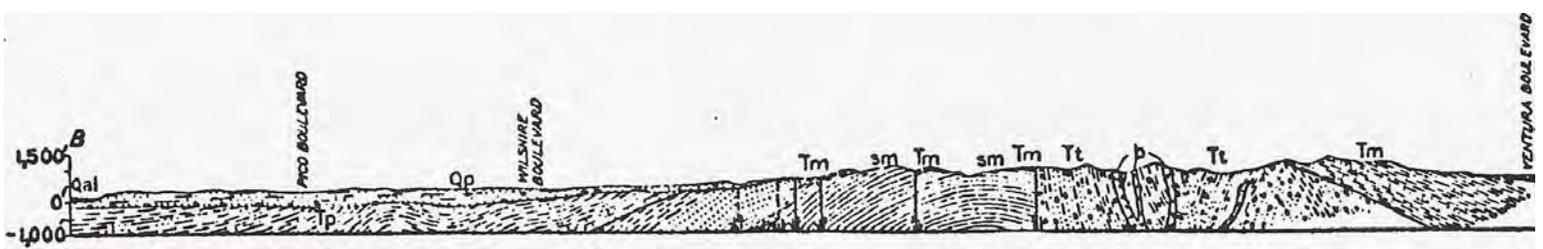
Looking south, riparian woodland prior to creation of ornamental rose garden.



Looking north, riparian woodland after creation of ornamental rose garden.



Exhibit 10.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
Page 1 of 1



Donald B. Kowalewsky
ENVIRONMENTAL &
ENGINEERING GEOLOGY

November 15, 2010

Job # 05626G4.001

Natalie Soloway
c/o Coldwell Banker
23676 Malibu Road
Malibu, California 90265

SUBJECT: Engineering Geologic evaluation of concrete and stone retaining walls along Encinal Creek in the vicinity of 3525 Encinal Canyon Road, Malibu, California.

The undersigned engineering geologist has been familiar with this portion of Encinal Canyon since the early 1970's when I performed an extensive engineering geologic evaluation of Charmlee Ranch and subsequently when I performed another engineering geologic evaluation for the County of Los Angeles as part of the development of Charmlee Park in the early 1980's. Between August 1980 and mid 1983, I was the District Geologist for Los Angeles County responsible for inspecting and reviewing all development within the Santa Monica Mountains.

In the course of my duties as described above, I became familiar with Encinal Canyon and more specifically with the subject property. At no time do I recall seeing this property when there were no retaining walls along the creek. Those walls were constructed to prevent stream bank erosion, possibly in conjunction with the original construction on this property. Alternatively, they may have been constructed prior to 1952 when a ranch road followed the stream canyon bottom. That road is clearly visible on 1952 stereo paired aerial photographs (Figure 1) and on the U.S. Geological Survey topographic map of the Point Dume Quadrangle (Figure 2).

Earlier this month, I revisited the property to determine if the retaining walls within and along the stream could be safely removed. The following are several observations I made at that time.

1. It is apparent that the walls have been there for a considerable time frame based on the large Sycamore trees that have grown over portions of the walls.
2. The walls have been covered by rounded cobbles and boulders. These rocks were clearly imported because there is no local source of granite and gneissic boulders. The boulders actually

27101 Old Chimney Road
Malibu, California 90265

Exhibit 11.
CCC-11-CD-01, CCC-11-CD-02, and
CCC-11-RO-01
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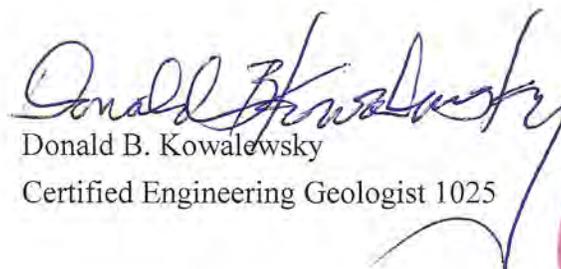
reduce the potential for wall deterioration by creating an erosive barrier to protect the concrete block from which the wall was made.

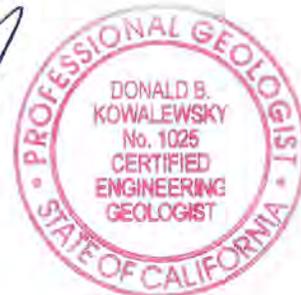
3. The stream bank on the west side is a very steep slope with several oak trees precariously situated on that slope.
4. A concrete weir exists in the middle of the stream channel. I have seen this type of system in several other places in the general vicinity. I believe they were constructed to create temporary stock watering ponds when this area was a ranch. The existing system has no boards or barriers to inhibit stream flow.

Based on my observations, the retaining wall system has existed for an extended time frame. Removal of the wall at this time will result in extensive stream bank erosion and failure of the adjacent slopes. Wall removal and slope failure will result in loss of both Oak and Sycamore trees that are located in close proximity to the stream course.

The weir could be removed provided its removal does not result in wall failure. There is no practical need for the weir at this time.

I recommend that you do what ever is needed to maintain the existing retaining walls.


Donald B. Kowalewsky
Certified Engineering Geologist 1025



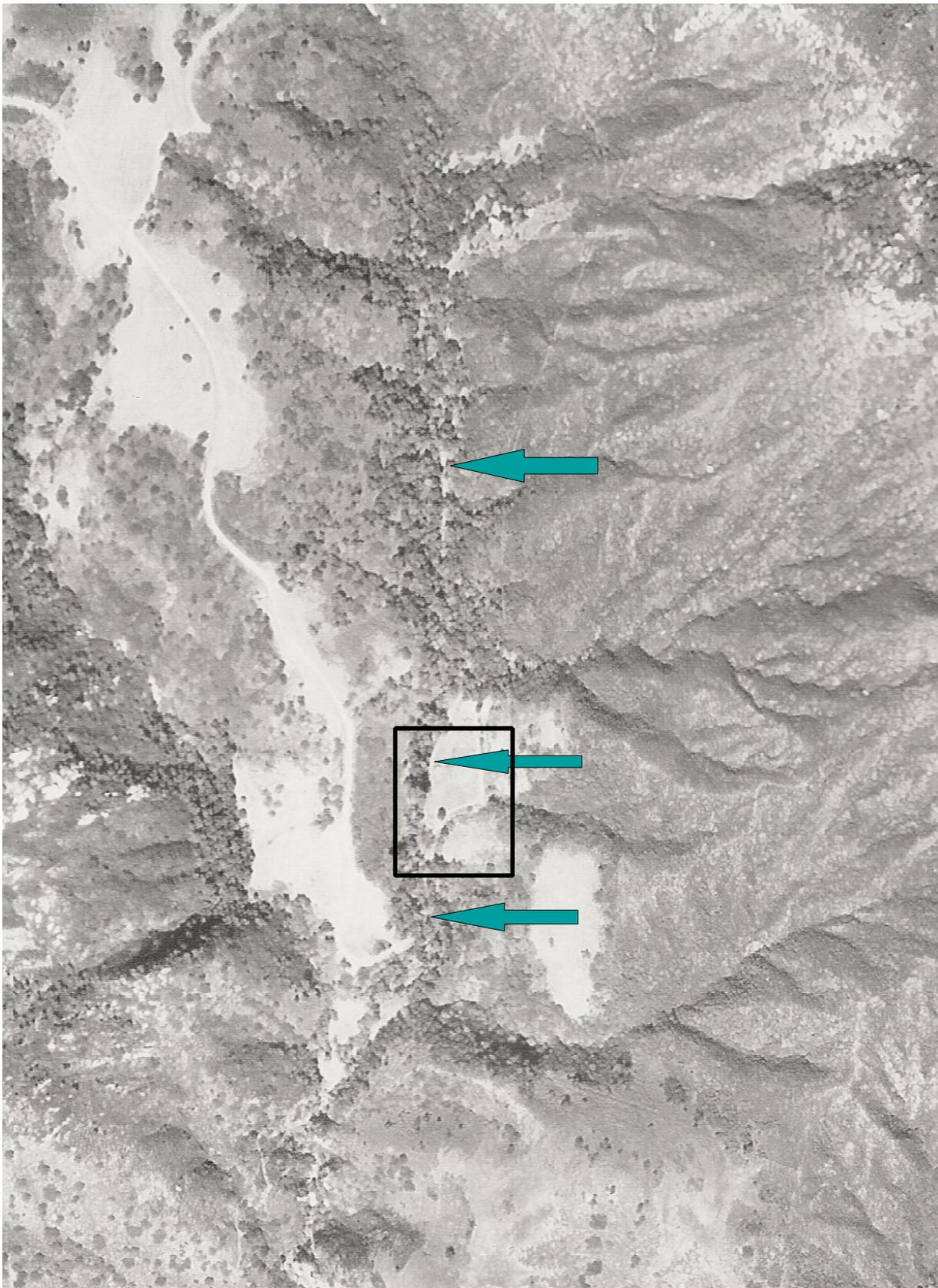


FIGURE 1. Aerial photo, 11/3/52 (AXJ-1K-23) Road shown by arrows.
Subject property in rectangle.

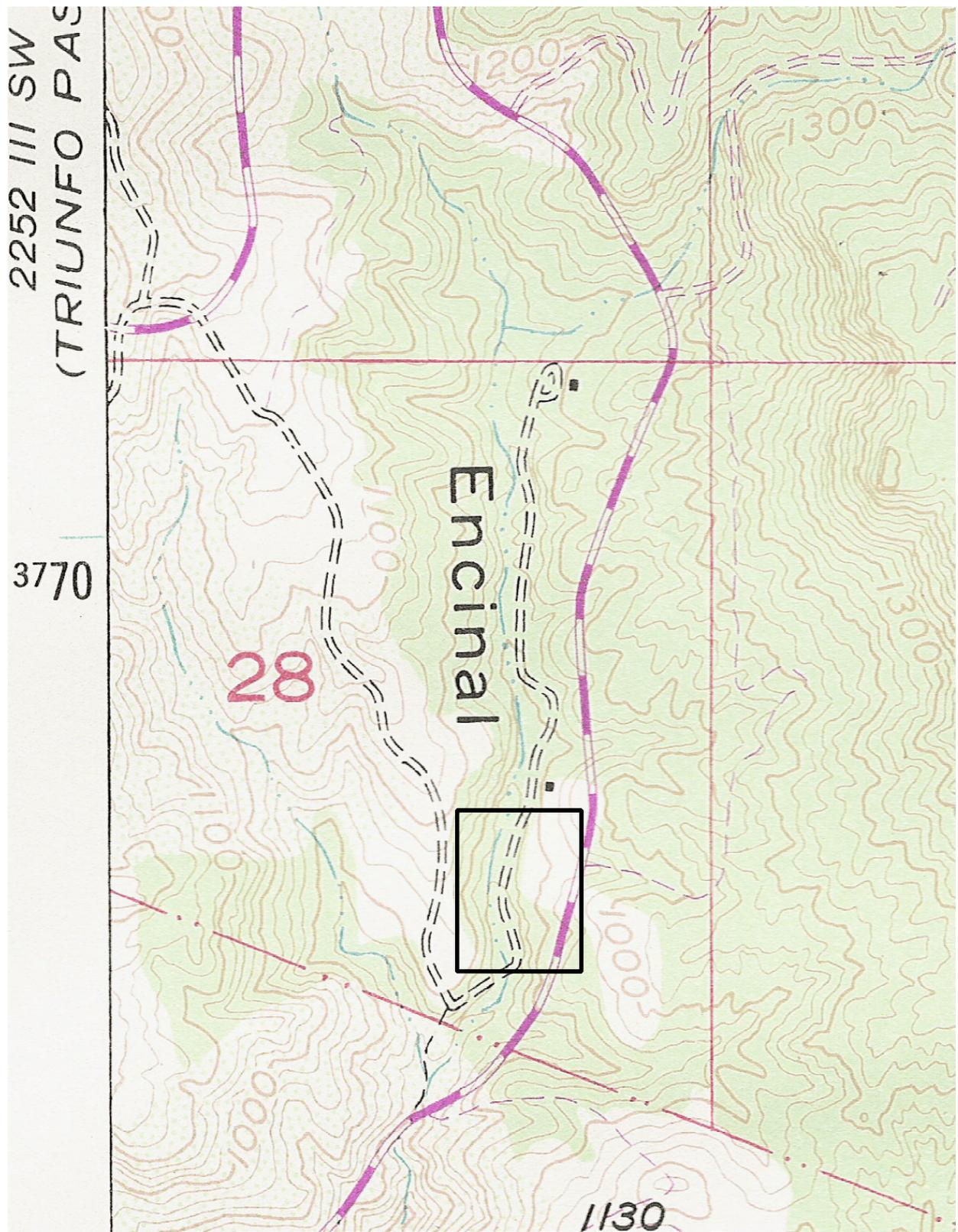


FIGURE 2. U.S. Geological Survey topographic map, Point Dume Quadrangle based on 1947 aerial photographs.