

**CALIFORNIA COASTAL COMMISSION**

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original staff report

# Th 6 & 7

## ADDENDUM

November 12, 2014

TO: Coastal Commissioners and Interested Parties

FROM: Lisa Haage, Chief of Enforcement

SUBJECT: ADDENDUM TO **ITEM NOS. TH 6 & 7** – CONSENT CEASE AND DESIST  
ORDER AMENDMENT NO. CCC-05-CD-10-A AND CONSENT  
RESTORATION ORDER AMENDMENT NO. CCC-05-RO-06-A  
(HARTMUT & JESSICA HYESIN NEVEN)  
FOR THE COMMISSION MEETING OF **November 13, 2014**

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### Document Received:

Document included in this addendum is a letter in support of the Consent Cease and Desist Order Amendment and Consent Restoration Order Amendment from Dr. Hartmut Neven dated November 12, 2014.

Hartmut Neven  
4107 Escondido Drive  
Malibu, CA 90265

Venice Beach, November 12, 2014

Dear Chair Kinsey and Commission,

My apologies that I will not be able to attend the California Coastal Commission hearing in Half Moon Bay tomorrow.

In lieu I want to send a letter of support expressing that I am glad we arrived at a restoration plan that will cure an environmental violation and restore a canyon in the Santa Monica mountains to its original beauty. I also agree to reversing the lot split and to combine the western and eastern portions of the land into a single lot. Even though I realize that combining the lots is not in my family's best financial interest I am fine with this since we bought this property to eventually build our new residence there and not for short term investment gains. In general you will find that we will be good stewards of this land and ensure it will continue to be a place where wildlife can thrive.

As you know I never had to deal with matters like this before. But I was impressed how professionally and expediently the California Coastal Commission handled the matter. I vividly recall that your staff was still working on this matter late on Friday evening and into the weekend when the deadline for this hearing was approaching. Thank you for this!

I very much hope your colleagues will concur with our agreement and approve.

With kind regards

A handwritten signature in dark ink, appearing to read 'Ht Ne', is written over the typed name.

Dr. Hartmut Neven

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# Th 6 & 7

Staff: Margaret Weber-SF  
Staff Report: 10/29/14  
Hearing Date: 11/13/14

## **STAFF REPORT: RECOMMENDATIONS AND FINDINGS FOR CONSENT AMENDMENT TO CONSENT CEASE AND DESIST ORDER AND CONSENT RESTORATION ORDER**

**Consent Cease and Desist Order Amendment No.:** CCC-05-CD-10-A

**Consent Restoration Order Amendment No.:** CCC-05-RO-06-A

**Related Violation File:** V-4-95-029

**Property Location:** 5656 Latigo Canyon Road, Malibu, Los Angeles County Assessor's Parcel Number ("APN") 4459-001-001, alternatively known as APN 4459-001-002 and APN 4459-001-003.

**Property Description:** 44-acre property located on Latigo Canyon Road, approximately one mile inland of Pacific Coast Highway in Malibu, Los Angeles County

**Property Owner/Person Subject to these Order Amendments:** Hartmut and Jessica Hyesin Neven, as Co-Trustees of the Neven Living Trust

**Violation Description:** Unpermitted development including, but not limited to: dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a U.S.G.S designated blue line stream, which had the effect of altering a stream; removal of major vegetation, including vegetation that made up an Environmentally Sensitive Habitat Area; grading and paving of a building pad; grading of two roads, one paved with asphalt and the other left

unpaved; and the subdivision of one lot (with one APN) into two lots (with two APNs).

**Substantive File Documents:**

1. Public Records contained in Cease and Desist and Restoration Order File Nos. CCC-05-CD-10, CCC-05-RO-06, CCC-05-CD-10-A and CCC-05-RO-06-A

2. CDP File No. 5-89-1000

3. Appendix A and Exhibits 1 through 9 of this staff report.

**CEQA Status:**

Exempt (CEQA Guidelines (CG) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308, and 15321)

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## **SUMMARY OF STAFF RECOMMENDATION**

### **A. OVERVIEW**

The Amendments at issue in this report (“Consent Amendments”) will amend Consent Cease and Desist Order No. CCC-05-CD-10 and Consent Restoration Order No. CCC-05-RO-06 (“Original Consent Orders”), which were issued by the California Coastal Commission (“Commission”) on November 17, 2005. Through these Consent Amendments, the current owners, Hartmut and Jessica Neven (hereinafter “Current Owners”) have agreed to assume the obligations of the Original Consent Orders and to resolve an additional Coastal Act violation that occurred after the Original Consent Orders were issued, but before the Current Owners bought the property. In addition, these Consent Amendments incorporate new, mutually acceptable language to the Original Consent Orders to update the obligations for the Current Owners and settle all Coastal Act violations of which the Commission is aware of on the property, which is located at 5656 Latigo Canyon Road, Malibu, Los Angeles County (“Property”).

The violations at issue in this matter include dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing two United States Geologic Survey designated blue-line streams (“blueline streams”), which had the effect of altering one of the streams; removal of major vegetation including vegetation that made up an Environmentally Sensitive Habitat Area (“ESHA”); grading and paving of a building pad; grading of two roads, one paved with asphalt and the other left unpaved; and the purported subdivision of one lot (with one APN) into two lots (with two APNs) (hereinafter collectively referred to as the “Unpermitted Development”). As discussed in more detail below, and as already found by the Commission in its findings for the Original Consent Orders, the Unpermitted Development is inconsistent with Coastal Act Sections 30231, 30236, 30240, 30251, and 30253.



## **B. DESCRIPTION OF PROPERTY**

The Property is an approximately 44-acre parcel located on Latigo Canyon Road in the Coastal Zone, approximately one mile inland of Pacific Coast Highway in Malibu, Los Angeles County. A steep canyon containing two blueline streams cross the Property. A building pad and the prior location of the residence (burned in a 2007 fire) are on the ridge top, above the canyon. The Property is vegetated with native chaparral, which the Commission previously determined in the adopted findings for the Original Consent Orders to be an environmentally sensitive habitat area (“ESHA”). Additionally, the City of Malibu Local Coastal Program (“the Malibu LCP”) also identifies the majority of the Property as ESHA (**Exhibit #7**).

## **C. HISTORY**

The unpermitted development addressed by the Original Consent Orders (everything listed above except the purported subdivision) was performed without a coastal development permit (“CDP”), in violation of the Coastal Act. Commission staff first learned about the Coastal Act violations in 1995 and notified the owner at the time, Forrest Freed, of the violations in July of that year. Sanford Horowitz purchased the Property from Mr. Freed in September of 2000, with the Coastal Act violations still in place and/or occurring on the Property, and with at least constructive knowledge of those violations, due to the fact that the Commission had recorded a Notice of Violation (“NOV”) against the Property and reflected in the chain of title<sup>1</sup>. On November 17, 2005, the Commission issued the Original Consent Orders (**Exhibit #1, pages 19-26 of 133**) directing Mr. Horowitz to, among other things, remove items of unpermitted development, restore areas impacted by the unpermitted development, and cease and desist from performing addition development without a CDP. The adopted findings supporting the issuance of the Original Consent Orders are attached as **Exhibit #1** and are hereby incorporated by reference into this staff report. After the Commission issued the Original Consent Orders in 2005, Commission staff attempted to work with Mr. Horowitz to comply with his obligations; however, he never submitted a restoration plan, nor did he undertake any of the actions that he agreed to as required by the Original Consent Orders. The Original Consent Orders required a restoration plan be submitted no later than April 16, 2006. Instead of complying with the Original Consent Orders, Mr. Horowitz undertook additional unpermitted development, consisting of the unpermitted subdivision of one lot (with one APN) into two lots (with two APNs). In November of 2007, the residence on the Property<sup>2</sup> burned down in a brush fire. Out of concern for Mr. Horowitz’s loss due to the fire, Commission staff provided Mr. Horowitz with a number of deadline extensions to provide additional time to address the reconstruction of his house, among other things, and to resolve the violations in concert with addressing the situation

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<sup>1</sup> On November 13, 1995, a NOV was recorded against the Property (**Exhibit #1 pages 44-46 of 133**). Subsequently after Mr. Horowitz purchased the Property but prior to issuance of the Original Consent Orders, a new NOV was recorded against the Property on September 20, 2005(**Exhibit #1 pages 97-101**). Both NOVs were recorded in compliance with the requirements of Section 30812 of the Coastal Act as a tool to provide notice to potential, future purchasers of the Property of the existence of violations, and both NOVs were in the chain of title when the Current Owners purchased the Property.

<sup>2</sup> The residence that existed on the Property at the time had been authorized by CDP No. 5-89-1000 (See **Exhibit #9**).

after the fire. As discussed in more detail below, unfortunately even after years of deadline extensions, Mr. Horowitz never complied with the Original Consent Orders. In December 2012, the bank, which held the lien arising out of Mr. Horowitz' loan, foreclosed on the Property, and in July 2013, the Current Owners purchased the Property. They purchased the Property with actual notice (via a telephone call with their agent on April 23, 2013 and memorialized by a letter the agent was copied on dated April 26, 2013 (**Exhibit #2**)) and constructive notice (by way of the recorded NOVs) of the Coastal Act violations on the Property.<sup>3</sup>

Since purchasing the Property, the Current Owners have worked closely and cooperatively with Commission staff to resolve all Coastal Act claims to reach this amicable resolution. They have agreed to assume the obligations of the Original Consent Orders and also address the new violation that occurred after the Original Consent Orders were issued, as well as take additional steps to ensure a successful restoration of the Property. Staff appreciates the Current Owners' work and efforts in coming to this conclusion. This amendment proceeding requires the Current Owners to unify the unpermitted division of land back to the single, legal lot and resolve all Coastal Act violations on the Property.

Commission staff recommends **approval** of these Consent Amendments since they would fully resolve all Coastal Act violations on the Property, including the unpermitted subdivision of the Property that occurred after the Original Consent Orders were issued in 2005.

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<sup>3</sup> The violations described in these notices did not include the unpermitted subdivision of the Property. Commission staff discovered this violation after the Nevens purchased the Property. Staff did notify Mr. Neven of this violation and Current Owners have agreed to resolve it through these Consent Amendments.

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## APPENDIX

Appendix A Consent Amendments, Original Orders, and Restoration Plan

## EXHIBITS

|           |   |
|-----------|---|
| Exhibit 1 | Adopted Findings for Consent Cease and Desist Order No. CCC-05-CD-10 and Consent Restoration Order No. CCC-05-RO-06, November 17, 2005. |
| Exhibit 2 | Letter to US Bank, April 26, 2013 and attached recorded NOVA.   |
| Exhibit 3 | Trustee Deed Upon Sale, recorded with Los Angeles County on April 3, 2013.  |
| Exhibit 4 | Trust Transfer Deed, recorded with Los Angeles County on May 18, 2007.  |
| Exhibit 5 | Legal Document and Map Analysis Memo, dated May 24, 2013 and follow-up Memo, dated October 21, 2014.                                    |
| Exhibit 6 | Grant Deed, recorded with Los Angeles County on July 31, 2013.  |
| Exhibit 7 | City of Malibu LCP ESHA Overlay Map 2: Zuma Beach to Escondido Beach.   |
| Exhibit 8 | Letter to Steve Kent, April 8, 2014.  |
| Exhibit 9 | Coastal Development Permit (“CDP”) 5-89-1000.   |

## **I. MOTION AND RESOLUTION**

### **Motion 1: Cease and Desist Order Amendment**

*I move that the Commission **issue** Consent Cease and Desist Order Amendment No. CCC-05-CD-10-A pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in the issuance of the Consent Cease and Desist Order Amendment. The motion passes only by an affirmative vote of a majority of Commissioners present.

### **Resolution to Issue Consent Cease and Desist Order Amendment:**

*The Commission hereby issues Consent Cease and Desist Order Amendment No. CCC-05-CD-10-A, as set forth below, to the parties identified therein as the Current Owners, and adopts the findings set forth below on grounds that: (1) development has occurred on property owned by the Current Owners without the requisite coastal development permit and inconsistent with a previously issued coastal development permit, in violation of the Coastal Act; and (2) changes to the Consent Cease and Desist Order effected by the Consent Cease and Desist Order Amendment do not alter any of the legal bases for, or findings of the Commission in support of, the issuance of the underlying Consent Cease and Desist Order, are necessary to ensure compliance with the Coastal Act, and are mutually agreeable to the parties.*

### **Motion 2: Restoration Order Amendment**

*I move that the Commission **issue** Consent Restoration Order Amendment No. CCC-05-RO-06-A pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in issuance of the Consent Restoration Order Amendment. The motion passes only by an affirmative vote of a majority of Commissioners present.

### **Resolution to Issue Restoration Order Amendment:**

*The Commission hereby issues Consent Restoration Order Amendment No. CCC-05-RO-06-A to the parties identified therein as the Current Owners, as set forth below, and adopts the findings set forth below on the grounds that: 1) development has occurred without a coastal development permit, 2) the development is inconsistent with the Coastal Act, and 3) the development is causing continuing resource damage. The proposed changes to the Consent Restoration Order effected by the Consent Restoration Order Amendment do not alter any of the legal bases for, or findings of the Commission in support of, the*

*issuance of the underlying Consent Restoration Order, are necessary to ensure compliance with the Coastal Act, and are mutually agreeable to the parties.*

## **II. JURISDICTION**

The property lies within the Coastal Zone, approximately one mile inland of Pacific Coast Highway in the City of Malibu. The Property is located within the City of Malibu's certified LCP jurisdiction, while the Commission retains appeal jurisdiction for the portions of the Property that are within 100 feet of two streams on the Property (one of which has been impacted by the unpermitted debris dumping). In this case, the Commission has jurisdiction over this matter in its entirety because, first, the violations involve development inconsistent with Commission-issued CDP No. 5-89-1000 (**Exhibit #9**); second, most of the violations involved development that, at the time it occurred, required a permit from the Commission, and none was obtained; and third, because the development was inconsistent with the Commission-issued CDP, it would also have required an amendment of the permit, which can only be issued by the Commission, whereas no CDP nor CDP amendment was ever issued for the development at issue. Thus, both prongs of Coastal Act Section 30810(a) conferring enforcement jurisdiction on the Commission are triggered. Finally, the Commission also has jurisdiction here because it is amending one of its own orders.

## **III. COMMISSION'S AUTHORITY**

The Commission can issue a Cease and Desist Order under Section 30810 of the Coastal Act in cases where it finds that the activity that is the subject of the order either required a permit from the Commission but has occurred either without the required CDP or occurred in violation of a previously granted CDP. The Commission can issue a Restoration Order under Section 30811 of the Coastal Act if it finds that development 1) has occurred without a CDP, 2) is inconsistent with the Coastal Act, and 3) is causing continuing resource damage. These criteria are met in this case, as was found by the Commission in its issuance of Consent Cease and Desist Order No. CCC-05-CD-10 and Consent Restoration Order No. CCC-05-RO-06, which are both being amended by this action, and as summarized briefly below. Additionally, as discussed in more detail below, the criteria for issuance of cease and desist and restoration orders to address the unpermitted subdivision of land that occurred after the Original Consent Orders were issued by the Commission have also been satisfied.

The Commission may, after public hearing, modify cease and desist orders and restoration orders that it has issued, under certain enumerated and limited circumstances. The requirements to qualify for and procedures for modifications of Commission cease and desist orders and Commission restoration orders are set forth in California Code of Regulations, Title 14 ("14 CCR"), Division 5.5, Sections 13188 and 13197, respectively, which provides for public hearings to be held on such modifications.

## IV. HEARING PROCEDURES

The procedures for a hearing on a Cease and Desist Order and Restoration Order are outlined in 14 CCR Section 13185 and 14 CCR Section 13195, respectively.

For a Cease and Desist Order and Restoration Order hearing, the Chair shall announce the matter and request that all parties, or their representatives present at the hearing, identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding, including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff shall then present the report and recommendation to the Commission, after which the alleged violator(s), or their representative(s), may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other persons who have indicated a desire to speak concerning the matter, after which time Staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in 14 CCR Sections 13195 and 13186, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner so chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order and Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of the motion above, per the Staff recommendation or as amended by the Commission, will result in issuance of the Cease and Desist Order and Restoration Order amendments.

## V. FINDINGS FOR CONSENT AMENDMENTS CCC-05-CD-10-A & CCC-05-RO-06-A<sup>4</sup>

Staff recommends the Commission adopt the following findings of fact in support of its action. The findings for the Original Consent Orders, are hereby incorporated by reference and included in this Staff Report, which are attached hereto as **Exhibit #1**. In that original action, the Commission found, *inter alia*, that development subject to this proceeding occurred without a coastal development permit, is inconsistent with the Coastal Act, and is causing continuing resource damage. Therefore, the Commission has found that the criteria for issuance of a cease and desist order and a restoration order under Section 30810 and 30811 of the Coastal Act have been met. For the reasons discussed below, the Commission hereby finds that the criteria for

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<sup>4</sup> These findings also hereby incorporate by reference the sections “Summary of Staff Report and Findings”, “Section II. Jurisdiction”, and “Section III. Commission Authority”, at the beginning of this October 29, 2014 staff report (“STAFF REPORT: Recommendations and Findings for Consent Amendment to Consent Cease and Desist and Consent Restoration Orders”) in which these findings appear.

issuance of a cease and desist order and a restoration order under Sections 30810 and 30811 of the Coastal Act to address the unpermitted subdivision<sup>5</sup> of one lot into two lots are also satisfied.

#### **A. DESCRIPTION OF UNPERMITTED DEVELOPMENT**

The violations that were addressed through the Original Consent Orders, and were found by the Commission to be unpermitted, inconsistent with a previously issued CDP, inconsistent with the Coastal Act, and causing continuing resource damage, include: dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing two “blue-line streams”, which had the effect of altering one of the streams; construction of two storage structures, which have now been removed; removal of major vegetation, including vegetation that made up an Environmentally Sensitive Habitat Area (“ESHA”); grading and paving of a building pad; and grading of two roads, one paved with asphalt and the other left unpaved. Additionally, after the Original Consent Orders were issued but prior to the Current Owners acquiring the Property, the owners at the time obtained Certificates of Compliance purporting to subdivide one lot into two lots, without a CDP. Collectively, the Unpermitted Development will be addressed through these Consent Amendments.

#### **B. HISTORY OF DEVELOPMENT AND COMMISSION ACTION ON PROPERTY SINCE CONSENT ORDERS WERE ISSUED**

On November 17, 2005, the Commission approved and issued the Original Consent Orders, directing a former owner of the Property and party to which the Original Consent Orders were issued, to, among other things, remove unpermitted items from the Property, restore areas of the Property impacted by the unpermitted development, and cease and desist from undertaking further unpermitted development. Commission staff subsequently attempted to work with Mr. Horowitz to comply with his obligations under the Original Consent Orders, which initially required the submittal of a restoration plan by April 16, 2006. A Restoration Plan consistent with the terms and conditions of the Original Consent Orders was never submitted despite staff granting two deadline extensions and a great deal of correspondence and conversations between staff and Mr. Horowitz’s agent, who continued to relay to staff that the Restoration Plan would be submitted to staff in the near future. Unfortunately, in the midst of this, the authorized residence on the Property was completely destroyed in a November of 2007 brush fire. In light of this, staff provided Mr. Horowitz a number of years and deadline extensions to deal with this situation; however, he never complied.

In December 2013, the bank that held the lien foreclosed on the Property. After the foreclosure but prior to the Current Owners’ purchase of the Property, Commission enforcement staff engaged in several phone conversations with the real estate agent representing the bank, as well as the real estate agent representing the Current Owners, and explained to the agents that unresolved Coastal Act violations remain on the Property, and further, that the terms of the Original Consent Orders run with the land and are the obligations of the current and any future

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<sup>5</sup> These findings may at times refer to the purported subdivision as the “existing” subdivision, the “unpermitted” subdivision, or the like. The Commission does not intend such references as a concession as to the effectiveness or legality of subject actions in effectuating a division of land.

owners of the Property. Commission staff provided this information in a letter to the bank (**Exhibit #2**), copied to both agents, and attached copies of the Original Consent Orders and the NOV, effectively providing all parties with notice of the unresolved Coastal Act violations on the Property, the Original Consent Orders, and all obligations associated therewith. After receiving this actual notice, the Current Owners purchased the Property in July 2013.

Upon reviewing the Trustee Deed Upon Sale (**Exhibit #3**) that was recorded in April 2013, which transferred ownership of the Property to US Bank<sup>6</sup>, Commission staff noticed a variation between the legal description of the Property relied upon in the April 2013 Trustee Deed Upon Sale and the Trust Transfer Deed (**Exhibit #4**) for the Property that was recorded in July 2007, transferring ownership of the Property from Sanford Horowitz to The Sanford Jay Horowitz and Marsha Marion Horowitz Revocable Living Trust. The variation between legal descriptions was analyzed by the Commission's GIS/Mapping Unit and they determined that a purported or de facto subdivision had occurred (**Exhibit #5**). Subdivisions are development as that term is defined by the Coastal Act, as well as the Malibu LCP, because splitting a single lot and parcel into two changes the density and/or intensity of use of land and because, by definition, the term development under the Coastal Act explicitly includes "subdivision... and any other division of land, including lot splits."<sup>7</sup> No CDP was issued for the subdivision by either the City of Malibu or the Coastal Commission and therefore such activity is unpermitted development and a violation of the Coastal Act. This new, unauthorized legal description of the Property, which treats the Property as consisting of two lots, is also used in the Grant Deed (**Exhibit #6**) that was recorded in July 2013 that transferred ownership of the Property from US Bank to the Current Owners.

Since purchasing the Property, Current Owners have worked closely and cooperatively with Commission staff to reach this amicable resolution that resolves all Coastal Act claims, including the unpermitted division of the Property that occurred after the Original Consent Orders were issued but before on the Current Owners purchased the Property. Staff appreciates the Current Owners' efforts in coming to this conclusion.

### **C. BASIS FOR ISSUANCE AND AMENDMENT TO CONSENT ORDERS**

#### **1. Statutory Provisions**

##### **a. Consent Cease and Desist Order**

The statutory authority for issuance of Cease and Desist Orders under the Coastal Act, including the proposed Consent Cease and Desist Order Amendment, is provided in Section 30810 of the Coastal Act. Amendments to such orders are specifically provided for in 14 CCR Section 13188(b), which sets forth the procedures for such amendments, which have been met here.

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<sup>6</sup> US Bank is the entity that foreclosed on the Property.

<sup>7</sup> See Section 30106 of the Coastal Act.



Section 30810 of the Coastal Act states, in part:

*(a) If the commission, after public hearing, determines that any person... 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... to cease and desist*

14 CCR Section 13188(b) states, in part:

*The commission, after public hearing, may... modify a cease and desist order that it has issued. A proceeding for such a purpose may be commenced by... the executive director...*

#### **b. Consent Restoration Order**

The statutory authority for issuance of Restoration Orders under the Coastal Act, including the proposed Consent Restoration Order Amendment, is provided in Section 30811 of the Coastal Act. Amendments to such orders are specifically provided for in 14 CCR Section 13197, which sets forth the procedures for such amendments, which have been met here.

Section 30811 of the Coastal Act, which states, in relevant part:

*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 [a] the development has occurred without a coastal development permit from the commission, local government, or port governing body, [b] the development is inconsistent with this division, and [c] the development is causing continuing resource damage.*

14 CCR Section 13197 states, in part:

*The commission, after public hearing, may... modify a restoration order that it has issued. A proceeding for such a purpose may be commenced by... the executive director...*

Here, the Executive Director, after reaching a settlement with the Current Owners, has determined that commencing such an amendment proceeding is appropriate and would save the State and the Current Owners time, resources, and costs by providing an amicable and efficient resolution of this matter. The Current Owners and the Executive Director seek Commission approval of the proposed Consent Amendments.

#### **Findings for the Original Violations:**

As described above, the Commission has already found that the grounds listed in Section 30810 and 30811 of the Coastal Act for the Commission to issue a Cease and Desist and Restoration Order have been met for all of the violations, with the exception of the division of land, which occurred after the Original Consent Orders were issued. The original findings of the

Commission with regard to the original violations are set forth in the Staff Report for that proceeding (see **Exhibit #1**), and those findings are hereby incorporated by reference.

Findings for the Unpermitted Division of Land:

The following paragraphs set forth the bases for the issuance of the proposed Consent Amendments pertaining to the issue of the unpermitted division of land, by providing substantial evidence that the division of land also meets all of the required grounds listed in Section 30810 and 30811 of the Coastal Act for the Commission to issue the Consent Amendments.

**1. FACTUAL SUPPORT FOR STATUTORY ELEMENTS**

**a. Development has occurred without a Coastal Development Permit**

The unpermitted division of land that occurred on the Property clearly meets the definition of “development” set forth in Section 30106 of the Coastal Act. Development is defined broadly under the Coastal Act, and includes, among many other actions, the “change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits” (emphasis added). Pursuant to Section 30600 of the Coastal Act, all non-exempt development in the Coastal Zone requires a CDP.

Section 30810 of the Coastal Act provides that the Commission has the authority to issue a cease and desist order for any activity that either lacked a required permit from the Commission or was inconsistent with a permit previously issued by the Commission. Notwithstanding, the unpermitted division of land will be analyzed under both the Coastal Act and the Malibu LCP as the unpermitted land division is not consistent with Sections 30106 and 30600 of the Coastal Act, as discussed above, in addition to Section 15.2 of the City of Malibu LCP.

Development is defined by Coastal Act Section 30106, and includes, among many other actions:

*...change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits...*

Coastal Act Section 30600 establishes when a CDP must be obtained:

*(a)...any person... wishing to perform or undertake any development in the coastal zone... shall obtain a coastal development permit.*

The unpermitted division of land is included under the definition of development and because no CDP was obtained to authorize the development, it is not consistent with the Coastal Act.

Malibu LCP Section 15.2 establishes the findings required for approval of land division as:

*A. A land division shall not be authorized unless it is approved in a coastal development permit.*

The Malibu LCP provision above is consistent with the Coastal Act, requiring that land divisions, such as the subdivision at issue, be authorized by a CDP. No exemption from the permit requirement applies here, and no CDP was approved to authorize the development at issue. Therefore, development has occurred without a CDP, which establishes the sole criterion for issuance of a cease and desist order pursuant to Section 30810 of the Coastal Act and the first of three elements for issuance of a Restoration Order pursuant to Section 30811 of the Coastal Act.

**b. The Unpermitted Development at Issue is not consistent with the Malibu LCP or the Coastal Act**

The unpermitted subdivision of property described herein is not consistent with Section 30240 (ESHA protection), Section 30231 (water quality), and Section 30251 (scenic and visual qualities) of the Coastal Act, in addition to the analogous sections of the Malibu LCP. The act of dividing one lot or parcel into two or more lots or parcels increases the development potential on each of those newly created lots. The Coastal Act and the Malibu LCP provide for limitations of this intensification of use, especially when such intensification impacts ESHA, water quality, and visual settings, among other things. In this case, there was an unpermitted division of one lot and one parcel into two lots and two parcels. Assuming these new lots and parcels were created legally, which they were not, there would be the potential for far greater development on the Property than in its current legal condition (one lot and one parcel).

**i. Protection of Environmentally Sensitive Habitat Areas**

Section 30240 of the Coastal Act states, in part, that

*“Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.”*

Both the Coastal Act (Section 30107.5) and the Malibu LCP (Section 3.1) define Environmentally Sensitive Habitat area (“ESHA”) as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” Section 3.12 of the Malibu LCP limits the development area in ESHA to 10,000 square feet or 25% of the parcel, whichever is less.

The Malibu LCP incorporates Section 30240 of the Coastal Act regarding ESHA and also includes several land use policies in its Local Implementation Plan that are designed to protect ESHA. Section 4.1 of the Malibu LCP states:

*The purpose of the environmentally sensitive habitat overlay zone or “ESHA” overlay zone is to protect and preserve areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. The environmentally sensitive habitat overlay zone shall extend not only over an ESHA area itself but shall also include buffers necessary to ensure continued protection of the habitat areas. Only uses dependent on the environmentally sensitive habitat areas and which do not result in significant disruption of habitat values shall be permitted in the ESHA overlay zone.*

The Property is predominately characterized by healthy, contiguous chaparral habitat. Chaparral is ESHA if it is not isolated or in small patches, but is part of a large, healthy native habitat area, as it is on the Property. The presence of ESHA on the Property is confirmed in The Malibu LCP ESHA Overlay Map 2: Zuma Beach to Escondido Beach (**Exhibit #7**). The map identifies a majority of the Property as ESHA and therefore, the habitat on the Property must be protected from any significant disruption consistent with the Coastal Act and Malibu LCP. Any division of land intensifies the use of such land and has the potential to lead to more development and in turn, more impacts to habitat.

As cited above, Section 3.12 of the Malibu LCP limits the development area in ESHA to 10,000 square feet or 25% of the parcel, whichever is less. The Malibu LCP has zoned the Property as a rural residential lot; this land use designation allows for developing the lot with one dwelling per 20 acres. Therefore, the Malibu LCP allows no more than 10,000 square feet of the Property to be developed with one dwelling. If the unpermitted subdivision of the Property remains unresolved, the Property will have a development area potentially twice the size as what is authorized for a single lot which will likely result in double the impact to ESHA on the Property, having the potential to degrade the quality and abundance of chaparral habitat on the Property. By requiring the Current Owners to recombine the Westerly portion of the Property and the Easterly portion of the Property into one lot and one parcel the development potential will return to its pre-violation condition. Thus, the unpermitted subdivision is not consistent with ESHA protection policies because it increases the development potential by creating an additional lot without a permit or any protective conditions thereon.

## **ii. Protection of Water Quality**

Coastal Act Section 30231 of the Coastal Act states, in part, that

*“the quality of coastal waters, [and] streams appropriate to maintain optimum populations of marine organisms...shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff [and] preventing depletion of ground water supplies and substantial interference with surface water flow.”*

The City of Malibu LCP incorporates Section 30231 of the Coastal Act and also includes land use policies in its Local Implementation Plan that are designed to protect water quality, including Section 17.1B of the Malibu LCP that states:

*All development should be designed to prevent the introduction of pollutants that may result in water quality impacts.*

The Coastal Act and Malibu LCP both recognize the importance of protecting the biological productivity of coastal waters and minimizing the adverse effects development may have on water quality. Similar to the ESHA analysis above, the illegal land division intensifies the use of the land and has the potential to lead to more impacts to coastal resources. A land division of the Property that has the potential to double the developable area for what is authorized for a single lot would likely lead to an increase in impacts to water quality. Expanding the developable area from 10,000 square feet to 20,000 square feet, for example, would have the potential to degrade the water quality by potentially doubling materials that could enter the two blueline streams on the Property, which both drain to the Pacific Ocean. Thus, the unpermitted subdivision is not consistent with water quality protection policies because it increases the development potential on the Property by creating an additional lot and in turn increasing the likelihood of materials entering the streams and resulting in a negative impact to water quality without a permit or any conditions thereon.

### **iii. Protection of Scenic and Visual Qualities**

Coastal Act Section 30251 states that:

*“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.”*

The Malibu LCP incorporates Section 30251 of the Coastal Act and also includes land use policies in its Local Implementation Plan that are designed to protect scenic, visual, and hillside resources including Section 6.1 of the LCP that states:

- 6.1 The purpose of the Scenic, Visual, and Hillside Resource Protection Ordinance is to enhance and protect the scenic and visual qualities of coastal and mountain areas within the City of Malibu as a resource of public importance in accordance with the policies of the City’s Local Coastal Plan (LCP) and the California Coastal Act. To implement the certified Land Use Plan (LUP), development standards, permit and application requirements, and other measures are provided *to ensure that*

*permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.* (emphasis added)

The Property is located on a ridge top and in a canyon vegetated predominantly with chaparral. The Property is highly visible from Pacific Coast Highway and Escondido Beach. Both the Coastal Act and Malibu LCP include protections of the scenic and visual qualities of coastal areas, and require development to be sited and designed to protect views to and along the ocean and scenic coastal areas and to enhance and protect the scenic and visual qualities of coastal and mountain areas within the City of Malibu “as a resource of public importance.” Again, similar to the above analysis regarding ESHA and water quality protection policies, the potential for more development as a result of the unpermitted subdivision would impact the scenic and visual qualities of this coastal and mountain area. The Property is visible from Pacific Coast Highway and Escondido Beach and the increased development potential would degrade the scenic and visual qualities of this coastal and mountain area. Therefore, the unpermitted subdivision of land is inconsistent with scenic and visual protection policies in the Coastal Act and Malibu LCP without a permit or any conditions thereon.

Therefore, the unpermitted subdivision of land is not consistent with the Coastal Act or the Malibu LCP, which satisfies the second of three prongs required for issuance of a Restoration Order pursuant to Section 30811 of the Coastal Act.

### **c. Unpermitted Development is Causing Continuing Resource Damage**

The unpermitted lot split is causing ‘continuing resource damage’, as those terms are defined by Section 13190 of the Commission’s regulations.

#### **i. Definition of Continuing Resource Damage**

Section 13190(a) of the Commission’s regulations defines the term ‘resource’ as it is used in Section 30811 of the Coastal Act as follows:

‘Resource’ means any resource that is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.

The term ‘damage’ in the context of Restoration Order proceedings is defined in Section 13190(b) as follows:

‘Damage’ means 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.

The term ‘continuing’ is defined by Section 13190(c) of the Commission’s regulations as follows:

‘Continuing’, when used to describe ‘resource damage’, means such damage, which continues to occur as of the date of issuance of the Restoration Order Amendment.

As described above, the unpermitted subdivision of land has the potential to cause adverse impacts to resources protected by the Coastal Act and Malibu LCP that continue to occur as of the date of this proceeding because the subdivision has yet to be rectified by unifying the Property. Therefore, damage to resources is “continuing” for purposes of Section 30811 of the Coastal Act. The damage caused by the unpermitted subdivision of land described above satisfies the regulatory definition of “continuing resource damage.” Therefore, the third and final criterion for issuance of a Restoration Order is satisfied.

#### **D. ORDERS ARE CONSISTENT WITH CHAPTER 3 OF THE COASTAL ACT**

The Consent Amendments attached to this staff report as **Appendix #1** are consistent with the resource protection policies found in Chapter 3 of the Coastal Act. The Consent Amendments require the Current Owners to, among other things, remove the physical items that were placed or were allowed to come to rest on the Property as a result of Unpermitted Development, and restore the areas of the Property impacted by the Unpermitted Development. Additionally, the Consent Amendments require the Current Owners to cease and desist from conducting any further unpermitted development on the Property. Finally, the Consent Amendments require the Current Owners to unify the two illegally created lots and parcels that resulted from the unpermitted division of land.

Therefore, the Consent Amendments are consistent with the Chapter 3 policies of the Coastal Act.

#### **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The Commission finds that issuance of these Consent Amendments to compel compliance with the Coastal Act are exempt from any applicable requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 et seq., and will not have significant adverse effects on the environment, within the meaning of CEQA. These Consent Amendments are exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines, which are also in 14 CCR.

**F. FINDINGS OF FACT**

1. Hartmut and Jessica Neven own the Property located at 5656 Latigo Canyon Road (APN 4459-001-001).
2. Original Consent Orders were issued to a prior owner of the Property, Sanford J. Horowitz, on November 17, 2005.
3. On November 17, 2005 the Commission found that unpermitted development occurred on the property, including but not limited to: dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing two “blue-line streams”, which had the effect of altering one of the streams; construction of two storage structures that have now been removed; removal of major vegetation including vegetation that made up an ESHA; grading and paving of a building pad; and grading of two roads, one paved with asphalt and the other left unpaved. The Commission further found that no exemption from the permit requirements of the Coastal Act or Malibu LCP applies, and no CDP was issued, for the above cited unpermitted development on the Property, and that this unpermitted development is inconsistent with Chapter 3 policies of the Coastal Act, including Sections 30231, 30236, 30240, 30251, and 30252 as well as the resource protection policies of the certified Local Coastal Program, Local Implementation Plan Sections 4, 6, 9, and 17. The Commission also found that this unpermitted development is causing continuous resource damage.
4. After the Original Consent Orders were issued but before Mr. Horowitz lost the Property through the bank foreclosure, Mr. Horowitz engaged in additional unpermitted development by performing an unpermitted subdivision of one lot into two. No exemption from the permit requirements of the Coastal Act or Malibu LCP applies, and no CDP was issued, for the unpermitted division of land on the Property. This unpermitted division of land is inconsistent with Chapter 3 policies of the Coastal Act, including Sections 30231, 30240, and 30251 as well as the resource protection policies of the certified Local Coastal Program, Local Implementation Plan Sections 4.1, 6.1, and 17.1B. Further, the unpermitted division of land is causing continuous resource damage.
5. Two Notices of Violation have been recorded against the Property.
6. The Current Owners agree that all jurisdictional and procedural requirements for issuance of and enforcement of these Consent Amendments have been met.
7. The Current Owners were provided actual notice of the Coastal Act violations on the Property through a letter to US Bank from Commission staff, dated April 26, 2013.
8. The Current Owners agreed through these Consent Amendments to assume the obligations of Original Consent Orders, in addition to agreeing to new terms and conditions to address the unpermitted subdivision and to add mutually acceptable language to the Original Consent Orders to address restoration of the site.



# **APPENDIX A**

- **Consent Amendments**
- **Original Orders**
- **Restoration Plan**

**CONSENT AMENDMENT TO CONSENT  
CEASE AND DESIST ORDER  
CCC-05-CD-10-A**

**AND**

**CONSENT AMENDMENT TO  
CONSENT RESTORATION ORDER  
CCC-05-RO-06-A**

**CONSENT AMENDMENT TO CONSENT CEASE AND DESIST ORDER NO. CCC-05-CD-10-A AND CONSENT AMENDMENT TO CONSENT RESTORATION ORDER NO. CCC-05-RO-06-A**

1. AMENDMENT

Pursuant to its authority under California Public Resources Code Sections 30810 and 30811, and California Code of Regulations, Title 14, Sections 13188(b) and 13197; the California Coastal Commission (hereinafter, the "Commission"), with the consent and agreement of the Current Owners<sup>1</sup> of the property listed in Section 2.1 below (hereinafter, the "Property"), Hartmut and Jessica Neven, (hereinafter, "Current Owners"), hereby amends Consent Cease and Desist Order No. CCC-05-CD-10 and Consent Restoration Order No. CCC-05-RO-06 (hereinafter, the "Original Orders"), which were issued by the Commission on November 17, 2005. Under these amendments (hereinafter, the(se) "Consent Amendments") the Current Owners have agreed to assume the obligations of the Original Orders. These Consent Amendments also modify and supplement the Original Orders by: (a) adding new, mutually acceptable language to (i) resolve all Coastal Act related issues, including resolving additional unpermitted development performed after the Original Orders were issued, but before the Current Owners purchased the Property, and (ii) settle all Coastal Act related claims; and (b) establishing new deadlines to settle all Coastal Act related claims.

2. DEFINITIONS

As used in these Consent Amendments, the following terms shall have the meanings indicated.<sup>2</sup>

- 2.1. Property – The capitalized term "Property" shall refer to the real property located at 5656 Latigo Canyon Road, Malibu, Los Angeles County; which is currently designated by the Los Angeles County Assessor's Office as Assessor's Parcel Numbers 4459-001-002 and 4459-001-003.
- 2.2. Westerly portion of the Property – The phrase "Westerly portion of the Property" shall refer to that portion of the Property purportedly created (or at least recognized) as a separate legal parcel by Los Angeles County's issuance of Certificate of Compliance Number 06-04, in May 2007, which Certificate of Compliance was recorded in the Office of the County Recorder for Los Angeles County as Instrument Number 20071218114, that portion of the Property now being identified by the Los Angeles County Assessor's office as Assessor's Parcel Number 4459-001-002.

<sup>1</sup> A Grant Deed was recorded on 11/22/2013 as Instrument No. 20131664636 transferring title to the property identified in Section 2.1 to Hartmut Neven and Jessica Hyesin Neven, as Co-Trustees (or to any successor Trustee, as Trustee) of the Neven Living Trust, dated November 14, 2013.

<sup>2</sup> Note that the Commission's use, in this document, of the Assessor's Office's current Assessor's Parcel Numbers is solely for convenience and does not, thereby, constitute agreement that the areas currently so designated constitute separate legal lots or parcels.

- 2.3. Easterly portion of the Property – The phrase “Easterly portion of the Property” shall refer to that portion of the Property purportedly created (or at least recognized) as a separate legal parcel by Los Angeles County’s issuance of Certificate of Compliance Number 06-05, in May 2007, which Certificate of Compliance was recorded in the Office of the County Recorder for Los Angeles County as Instrument Number 20071218113, that portion of the Property now being identified by the Los Angeles County Assessor’s office as Assessor’s Parcel Number 4459-001-003.

3. RESOLUTION OF LOT LEGALITY / LAND DIVISION ISSUE

The Commission directs the Current Owners to cease and desist from maintaining the existing subdivision of the Property, and directs and authorizes them to unify those previously divided lots<sup>3</sup>, by taking the following steps:

- 3.1. Cease and desist from any attempts to transfer either the Westerly portion of the Property or the Easterly portion of the Property into separate ownership or to transfer title to any or all of the Property in a document that identifies the Property as more than one lot.
- 3.2. Cease and desist from taking any actions that would result in the division of the Property, unless pursuant to the City of Malibu LCP and Coastal Act.
- 3.3. Combine the Westerly portion of the Property and the Easterly portion of the Property pursuant to the process listed in City of Malibu Local Implementation Program section 15.4, by taking the following steps:
- 3.3.1. Within thirty (30) days of issuance of these Consent Amendments, submit an application to the City of Malibu for a Coastal Development Permit (“CDP”) to recombine the Westerly portion of the Property and the Easterly portion of the Property, including all information and documentation necessary to file a “complete” application.
- 3.3.2. Within thirty (30) days of the City of Malibu granting “conditional approval” of the CDP application described in Section 3.3, submit all information and documentation in order to file a “complete” Request for Certificate of Compliance for Lot Merger application with the City of Malibu, in order to unify the Westerly portion of the Property and the Easterly portion of the Property.
- 3.3.3. Prior to submitting a complete application for a CDP and Certificate of Compliance application with the City of Malibu, Current Owners shall submit, for the review and approval of the Commission’s Executive Director, all documents that will be recorded to effectuate the merger to the Commission’s Executive

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<sup>3</sup> Note that the Commission’s references to the subdivision as “existing” and the lots as “divided” are solely for convenience and do not, thereby, concede that the subdivision is, in fact, effective.

Director for review and approval prior to submittal to the City of Malibu. If any further changes are required by the City of Malibu, resubmit the revised documents to the Commission's Executive Director for review and approval prior to recordation.

- 3.3.4. Within six (6) months of recordation of the Certificate of Compliance with the Los Angeles County Recorder's office, submit: (i) a certified copy of the recorded Certificate of Compliance; and (ii) an updated Assessor's Parcel Map from Los Angeles County Assessor's Office that reflects the unified lot and parcel, both effectively recombined through the recorded Certificate of Compliance. These documents shall be submitted to the Commission's Executive Director, care of Maggie Weber, at the address provided for in Section 7.0, below.
- 3.4. Six months after issuance of these Consent Amendments, if it is not yet the case that (i) the Certificate of Compliance for the merger has been recorded in the Office of the County Recorder, (ii) the Assessor's Parcel Map has been updated, and (iii) documentation of points (i) and (ii) has been provided to the Executive Director to his satisfaction; then the Current Owners shall provide an update to the Executive Director on the status of the process, for the Executive Director's evaluation. The Executive Director shall then determine whether to (a) provide additional time for the process described above and a deadline at which time the process in this paragraph shall be repeated or (b) require the recordation of a Declaration of Restrictions to recombine the Property. It is the Commission's intention to have the Executive Director make all reasonable efforts to bring the process outlined in Section 3, above, to fruition and to avoid the necessity of having Current Owners record a Declaration of Restrictions against the Property. In making the decision listed in the second sentence of this paragraph, the Executive Director will be guided by this objective and will only chose option (b) if he or she determines that there is no reasonable likelihood of the completing the Section 3 process in any reasonable amount of time. However if the Executive Director chooses option (b), Current Owners shall take the following steps:
- 3.4.1. Execute and record a deed restriction against the entire Property, in a form acceptable to the Executive Director, reflecting that (1) all portions of the Westerly portion of the Property and the Easterly portion of the Property shall henceforth be considered and treated as a single parcel of land for all purposes, including but not limited to sale, conveyance, lease, development, taxation or encumbrance, unless and until the land is subdivided consistent with all applicable laws, including the Coastal Act; and (2) the single parcel so described shall not be divided, and none of the subareas to which separate assessor's parcel numbers were assigned at the time of this permit approval shall be alienated from each other or from any portion of the unified parcel hereby recognized, unless and until such a legal subdivision occurs.
- 3.4.2. This action shall function to recombine and unify the Westerly portion of the Property and the Easterly portion of the Property for purposes of the Subdivision

Map Act. The deed restriction shall include a legal description and graphic depiction of the entire Property. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens, including tax liens, as well as encumbrances that the Executive Director determines may affect the enforceability of the restriction.

- 3.4.3. Within 90 days of recordation of the deed restriction, the Current Owners shall provide evidence to the Executive Director that the steps above were completed.

#### 4.0 ADDITIONAL REQUIREMENTS FOR RESTORATION

In addition to the requirements enumerated in the Original Orders, to which the Current Owners have agreed, the Current Owners shall include in the Restoration Plan the following:

##### 4.1. Map of Restoration Area

- 4.1.1. The Restoration Plan shall include a map of those areas subject to restoration activities. The Restoration Plan shall also state that prior to the initiation of any restoration or removal activities, the boundaries of the Restoration Area shall be physically delineated in the field, using temporary measures such as fencing, stakes, colored flags, or colored tape, consistent with Section A(b)(1) of the Original Orders. The Restoration Plan shall state further that all delineation materials shall be removed when no longer needed, but in no case beyond the monitoring period, and verification of such removal shall be provided in the annual monitoring report that corresponds to the reporting period during which the removal occurred.

##### 4.2. Removal Site Plan

- 4.2.1. The Removal Plan shall include a site plan showing the location and identity of all physical items that were placed or allowed to come to rest on the Property as a result of Unpermitted Development.

##### 4.3. Revegetation Map

- 4.3.1. The Revegetation Plan shall include a map showing the type, size, and location of all plant materials that will be planted in the area subject to restoration activities, which includes, but is not limited to, all graded areas and areas impacted by the removal of major vegetation. The map shall also include the location of all non-native plants to be removed; the topography of all other landscape features on the site; the location of reference sites; and the location of photographic sites that will provide reliable photographic evidence of the site for annual monitoring reports, as described in Section A(c)(1) of the Original Orders.

##### 4.4. Plant Palette

- 4.4.1. Based on goals and objectives for revegetation, as established pursuant to

Sections A(a)(2) and A(a)(7) of the Original Orders, the revegetation plan shall identify these species that are to be planted ("plant palette") and provide the rationale for and describe the size and number of container plants and rate the method of seed application, if applicable. The Plant Palette shall indicate that plant propagules and seeds come from local, native stock of the Santa Monica Mountains.

#### 4.5. Restoration Plan Approval

4.5.1. By approval of these Consent Amendments, the Commission hereby approves the Current Owners' proposed Restoration Plans, including the exhibits thereto, all of which are attached hereto as Exhibit A of the Consent Amendments. If site conditions so warrant, amendments to the approved Restoration Plan may be made by mutual agreement of Current Owners and the Executive Director. Any amendment to the Restoration Plan proposed by the Current Owners or their successors shall be submitted for the review and approval of the Executive Director prior to undertaking any such work.

#### 5.0 MODIFICATION OF DEADLINES

5.1. The deadline established in the Original Orders, requiring Current Owners to commence actions in compliance with the Restoration Plan within 90 days of the approval by the Executive Director, shall be superseded with the following deadlines:

5.1.1. By May 15, 2015 "Commencement Date", the Current Owners shall commence restoration activities in compliance with the approved Restoration Plan. Prior to Commencement Date and consistent with the schedule in the Restoration Plan, the Current Owners shall begin ordering container plants and/or collecting native seeds, conduct sensitive plant survey, and flag the perimeter in preparation for restoration work.

5.1.2. Concurrent with, but no later than 30 days after commencement of restoration activities, the Current Owners shall commence implementation of interim erosion control measures consistent with Section A(e) of the Original Orders, requiring the Interim Erosion Control Plan

5.1.3. Section A(a)(1) of the Original Orders requiring the removal of unpermitted development, and Section A(a)(3) of the Original Orders requiring the eradication of non-natives, shall be completed no more than 60 days after the Commencement Date.

5.1.4. Section B(1) of the Original Orders, requiring the Current Owners to restore the topography of the Property shall be completed no later than 60 days after the Commencement Date.

5.1.5. Section B(2) of the Original Orders is superseded and replaced by Section 6.2 below, with regard to documenting restorative grading.

5.1.6. The revegetation activities required by Section C of the Original Orders shall be completed no later than November 1, 2015.

## 6.0 IMPLEMENTATION AND COMPLETION

6.1. Upon approval of the Restoration Plan by the Executive Director, the Current Owners shall fully implement each phase of the Restoration Plan consistent with all of its terms, and the terms set forth in the Original Orders and the Consent Amendments. The Current Owners shall complete implementation of each phase of the Restoration Plan within the schedule specified therein, and by deadlines included in Section 5.0, above. Current Owners shall complete all work described in the Restoration Plan by November 1, 2015. Notwithstanding the time deadlines set forth in Section 5.0 above, the Parties recognize that commencement and completion of the activities contemplated by that Section may need to be adjusted to account for possible delays that are beyond the Current Owners' control (for example, the City of Malibu's issuance of the grading permit(s) necessary to begin the restoration activities). As such, if the Current Owners demonstrate that they are working in good faith and making reasonable progress in the restoration, the Executive Director will extend this deadline or modify the approved schedule pursuant to Section 10.0 of the Original Orders, if compliance is delayed due to factors beyond the Current Owners' control, and as necessary to allow the restoration to be completed.

6.2. Within thirty (30) days of the completion of the work described pursuant to each phase (removal, restorative grading, revegetation, erosion control) of restoration, the Current Owners shall submit, according to the procedures set forth under Section 7.0 of the Consent Amendments, a written report, prepared by a qualified restoration ecologist and a qualified engineering geologist or licensed engineer, as described in Section A(d) of the Original Orders, for the review and approval of the Executive Director, documenting all restoration work performed on the Property pursuant to the Restoration Plan. This report shall include a summary of dates when work was performed and photographs taken from the pre-designated locations (selected pursuant to Section A(c)(1) of the Original Orders), documenting implementation of the respective components of the Restoration Plan, as well as photographs of the Property before the work commenced and after it was completed.

6.3. The Executive Director may require reasonable revisions to deliverables under these Consent Amendments, and the Current Owners 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.

7.0 All plans, reports, documents, photographs shall be submitted to:

California Coastal Commission  
Attn: Maggie Weber, Statewide Enforcement  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219  
(415) 904-5264  
Facsimile (415) 904-5400

*With a copy to:*  
California Coastal Commission  
Attn: Pat Veasart  
89 S. California Street, Suite 200  
Ventura, CA 93001  
(805) 585-1800  
Facsimile (805) 641-1732

## 8.0 NATURE OF ORDERS AND CONSENT

Through the execution of these Consent Amendments, the Current Owners agree to comply with the terms and conditions of the Original Orders and with the terms and conditions of these Consent Amendments. These Consent Amendments authorize and require the removal of unpermitted development and performance of restoration activities and recombination of an unpermitted division of the Property, among other things, as outlined in these Consent Amendments. Any development subject to Coastal Act permitting requirements that is not specifically authorized under these Consent Amendments, the Original Orders, or under the CDP No. 5-89-1000, requires a CDP. Nothing in these Consent Amendments guarantees or conveys any right to development other than the work expressly authorized by these Consent Amendments. Through the execution of these Consent Amendments, Current Owners agree to comply with these Consent Amendments including all terms and conditions within these Consent Amendments.

The Current Owners further agree to condition any contracts for work related to these Consent Amendments and the Original Orders upon an agreement that any and all employees, agents, and contractors, and any persons or entities acting in concert with any of the foregoing or with any of the other Current Owners, adhere to and comply with the terms and conditions set forth herein.

## 9.0 PERSONS SUBJECT TO THE CONSENT AMENDMENTS

Hartmut and Jessica Neven, all their employees, agents, and contractors, and any persons acting in concert with any of the foregoing are subject to all the requirements of the Consent Amendments, and agree to comply with all the requirements of these Consent Amendments, as well as the Original Orders.

## 10.0 IDENTIFICATION OF THE PROPERTY

The property that is subject of these Consent Amendments is described as follows:

Real property located at 5656 Latigo Canyon Road in the Coastal Zone, approximately one mile inland of Pacific Coast Highway in Malibu, Los Angeles County, currently described by the Los Angeles County Assessor's Office as Assessor's Parcel Numbers 4459-001-002 and 4459-001-003.

## 11.0 DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION



The unpermitted development that is the subject of these Consent Amendments includes, but is not limited to: 1) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blue line stream, which resulted in the alteration of the streambed; 2) construction of two storage structures; 3) removal of major vegetation, which resulted in the removal of Environmentally Sensitive Habitat; grading and paving of a building pad and two roads, one paved with asphalt and the other a graded into a dirt road; and the subdivision of one lot and one APN into two lots and two APNs.

#### 12.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these alleged Coastal Act violations under Public Resource Code Section 30810 and 30811. The Current Owners agree to and shall not contest the Commission's jurisdiction to issue or enforce these Consent Amendments at a public hearing or any other proceeding by or before the Commission, any other governmental agency, any administrative tribunal, or a court of law.

#### 13.0 EFFECTIVE DATE AND TERMS OF THE CONSENT AMENDMENTS AND RESTORATION PLAN

The effective date of these Consent Amendments is the day the Commission approves the Consent Amendments, including the Current Owners' Restoration Plan. The Consent Amendments shall remain in effect permanently unless and until rescinded by the Commission.

#### 14.0 FINDINGS

The Consent Amendments are issued on the basis of the findings adopted by the Commission on October 27, 2014 as set forth in the attached document entitled "Recommendations and Findings for Consent Amendments to Consent Cease and Desist and Restoration Orders," and the findings adopted by the Commission on November 17, 2005 for Consent Agreement and Cease and Desist Order CCC-05-CD-10 and Restoration Order CCC-05-RO-06. The activities authorized and required in these Consent Amendments are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act and the Malibu LCP. The Commission has authorized the activities required in these Consent Amendments as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

#### 15.0 SETTLEMENT OF CLAIMS

The Commission and the Current Owners agree that these Consent Amendments settle the Commission's monetary claims for relief for those violations of the Coastal Act alleged in Section 11.0 of the Consent Amendments (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 the Current Owners fail to comply with any term or condition of the Consent Amendments, the Commission may seek monetary or other claims for violation of these Consent Amendments. In addition, these Consent Amendments do not limit

the Commission from taking enforcement action due to Coastal Act violations at the Property or elsewhere, other than those specified herein.

**16.0 STIPULATED PENALTIES**


Failure to comply with any term or condition of these Consent Amendments, including any deadline contained in these Consent Amendments, unless the Executive Director grants an extension under Section 10.0 of the Original Orders, will constitute a violation of these Consent Amendments and shall result in the Current Owners being liable for stipulated penalties in the amount of \$1,000 per day per violation. The Current Owners shall pay stipulated penalties regardless of whether the Current Owners have subsequently complied. If the Current Owners violate these Consent Amendments, 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 for the violations addressed herein, including 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 these Consent Amendments and for the underlying Coastal Act violations described herein.

**17.0 CONTRACTUAL OBLIGATION**


These Consent Amendments constitute both administrative orders issued to the Current Owners personally and a contractual obligation between the Current Owners and the Commission, and therefore shall remain in effect until all terms are fulfilled, regardless of whether the Current Owners own or live at the Property.

IT IS SO STIPULATED AND AGREED:

On behalf of Current Owners:

  
\_\_\_\_\_  
Hartmut Neven  
On behalf of the Neven Living Trust

Oct 25, 2014  
Date

  
\_\_\_\_\_  
Jessica Neven  
On behalf of the Neven Family Trust

10/25/14  
Date

Executed in Half Moon Bay, CA on behalf of the California Coastal Commission:

\_\_\_\_\_  
Charles Lester, Executive Director  
California Coastal Commission

\_\_\_\_\_  
Date

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**CONSENT AGREEMENT AND CEASE AND DESIST ORDER CCC-05-CD-10 AND RESTORATION ORDER CCC-05-RO-06**

Commission staff notes that Mr. Sanford Horowitz bought the property that is subject to the proposed Orders many years after the violations took place, and that Mr. Horowitz was initially only aware of the violation regarding the debris. Mr. Horowitz did not perform any of the cited unpermitted development that is described below. Staff recognizes and appreciates the value of resolving this matter amicably and in a timely manner, and thanks Mr. Horowitz for his willingness to agree to the proposed Consent Orders.

**CONSENT CEASE AND DESIST ORDER CCC-05-CD-10**

Pursuant to its authority under PRC § 30810, the California Coastal Commission hereby authorizes and orders Sanford Horowitz, all his employees, agents, and contractors, and any persons acting in concert with any of the foregoing (hereinafter, "Respondents") to cease and desist from: 1) dumping of concrete, rebar, bricks, asphalt, plastics, metal materials or other materials into a canyon containing a blueline stream; unpermitted construction of two storage structures; removing major vegetation; grading and paving of a building pad and a paved road; and a packed earth pathway; and from conducting any other unpermitted development at the site which would require a Coastal Development Permit ("CDP"), and 2) maintaining on said property any unpermitted development including that referenced above or as otherwise referenced in Section IV.A of the staff report; and 3) conducting any future development in the future without first obtaining a CDP.

**CONSENT RESTORATION ORDER CCC-05-RO-06**

Pursuant to its authority under Public Resource Code §30811, the California Coastal Commission finds that the development is 1) unpermitted, 2) inconsistent with the Coastal Act, and 3) causing continuing resource damage, and hereby orders and authorizes Mr. Sanford Horowitz, his agents, contractors and employees, and any person(s) acting in concert with any of the foregoing (hereinafter, "Respondents") to restore the subject properties to the extent provided below. Accordingly, the persons subject to this order shall fully comply with the following conditions:

- A. Within 150 days of issuance of this Restoration Order, Respondents shall submit for the review and approval of the Executive Director of the Commission a Restoration, Revegetation and Monitoring Plan (hereinafter referred to as the "Restoration Plan"). The Executive Director may require revisions to this and any other deliverable required under these Orders. The Executive Director may extend this time for good cause.

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The Restoration Plan shall be prepared by a qualified restoration ecologist and a qualified engineering geologist or licensed engineer, as described in section (d), below and shall include the following:

- a) Goals and Performance Standards. Section A of the Restoration Plan shall present the following goals of the Restoration and Revegetation Project.
  1. Restoration of the property in the cited areas impacted by the unpermitted development to the condition that existed prior to the unpermitted development through removal of all unpermitted development, including debris (including but not limited to): concrete, rebar, bricks, asphalt, plastics and metal materials and storage structures, and restorative grading of the topography, including the canyon slope near the blue-line stream, paving and the location of the unpermitted building pad and the paved road and packed earth pathway. Restorative grading plans should include sections showing original and finished grades, and quantitative breakdown of grading amounts (cut/fill), drawn to scale with contours that clearly illustrate the original topography of the subject site prior to any grading disturbance. The restorative grading plans shall provide for the restoration of the property to the condition that existed prior to the unpermitted development to the maximum extent feasible. If Respondents believe the site cannot be completely restored to its pre-violation condition, they shall demonstrate to the Executive Director's satisfaction that the Restoration Plan proposes restoration to the maximum extent feasible. The location for any excavated debris and material to be removed from the site as a result of the restoration of the impacted areas shall be identified. If the dumpsite is located in the Coastal Zone and is not an existing sanitary landfill, a coastal development permit shall be required.
  2. Revegetation of all graded areas and areas impacted by the removal of major vegetation so that disturbed areas have a similar plant density, total cover and species composition as that typical of undisturbed chaparral vegetation in the surrounding area within 5 years from the initiation of revegetation activities.
  3. Eradication of non-native vegetation within the areas subject to revegetation and those areas that are identified as being subject to disturbance as a result of the restoration and revegetation activities.
  4. Minimization of the amount of artificial inputs such as watering or fertilizers that shall be used to support the revegetation of the impacted areas. The Restoration and Revegetation Project will not be successful until the revegetated areas meet the performance standards for at least three years without maintenance or remedial activities other than nonnative species removal.

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5. Stabilization of soils so that soil is not transported off the subject property or into the chaparral or riparian ESHA and so that slumping, gullyng, or other surficial instability does not occur.
  6. Section A of the Restoration Plan shall also include specific ecological and erosion control performance standards that relate logically to the restoration and revegetation goals. Where there is sufficient information to provide a strong scientific rationale, the performance standards shall be absolute (e.g., specified average height within a specified time for a plant species).
  7. Where absolute performance standards cannot reasonably be formulated, clear relative performance standards shall be specified. Relative standards are those that require a comparison of the restoration site with reference sites. The performance standards for the plant density, total cover and species composition shall be relative. In the case of relative performance standards, the rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant will be specified. Reference sites shall be located on adjacent areas vegetated with chaparral undisturbed by development or vegetation removal, within 2000 feet of the subject property with similar slope, aspect and soil moisture. If the comparison between the revegetation area and the reference sites requires a statistical test, the test will be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program shall relate logically to the performance standards and chosen methods of comparison. The sampling program shall be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of monitoring and sampling shall be specified for each parameter to be monitored. Sample sizes shall be specified and their rationale explained. Using the desired statistical power and an estimate of the appropriate sampling variability, the necessary sample size will be estimated for various alpha levels, including 0.05 and 0.10.
- b) Restoration and Revegetation Methodology. Section B of the Restoration Plan shall describe the methods to be used to stabilize the soils and revegetate the impacted areas. Section B shall be prepared in accordance with the following directions:
1. The plan shall be designed to minimize the size of the area and the intensity of the impacts from disturbances caused by the restoration of the impacted areas. Other than those areas subject to revegetation activities, the areas of the site and surrounding areas currently vegetated with chaparral shall not be disturbed by activities related to this restoration project. Prior to initiation of any activities resulting in physical alteration of the subject property, the disturbance boundary shall be physically delineated in the field using temporary measures such as stakes or colored tape.

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2. Specify that the restoration of the site shall be performed using hand tools wherever possible, unless it has been demonstrated to the satisfaction of the Executive Director that heavy equipment will not contribute significantly to impacts to resources protected by the Coastal Act, including, but not limited to geological instability, minimization of landform alteration, erosion and impacts to native vegetation and the stream.
3. The qualified geologic engineer and restoration ecologist shall specify the methods to be used after restoration to stabilize the soil 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 plan shall specify the erosion control measures that shall be installed on the project site prior to or concurrent with the initial grading operations and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment outside of the disturbed areas. The soil treatments shall include the use of mycorrhizal inoculations of the soil, unless it can be demonstrated to the satisfaction of the Executive Director that such treatment will not likely increase the survival of the plants to be used for revegetation.
4. Describe the methods for revegetation of the site. All plantings shall be the same species, or sub-species, if relevant, as those documented as being located in the reference sites. The planting density shall be at least 10% greater than that documented in the reference sites, in order to account for plant mortality. All plantings shall be performed using native plants that were propagated from plants as close as possible to the subject property, in order to preserve the genetic integrity of the flora in and adjacent to the revegetation area.
5. Describe the methods for detection and eradication of nonnative plant species on the site. Herbicides shall only be used if physical and biological control methods are documented in peer-reviewed literature as not being effective at controlling the specific nonnative species that are or become established in the revegetation area. If herbicides are to be used in the revegetation area, specify the target plant, type of herbicide, concentration, and the precautions that shall be taken to protect native plants and workers, consistent with all applicable laws and regulations.
6. Specify the measures that will be taken to identify and avoid impacts to sensitive species. Sensitive species are defined as: (a) species which are listed by state or federal agencies as threatened or endangered or which are

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designated as candidates for such listing; (b) California species of special concern; (c) fully protected or "special animal" species in California; and (d) plants considered rare, endangered, or of limited distribution by the California Native Plant Society.

- c) Monitoring and Maintenance. Section C of the Restoration Plan shall describe the monitoring and maintenance methodology and shall include the following provisions:

1. The Respondents shall submit, on an annual basis for a period of five years (no later than December 31<sup>st</sup> each year) a written report, for the review and approval of the Executive Director, prepared by a qualified restoration ecologist and qualified geologic engineer, evaluating compliance with the performance standards. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet the goals and performance standards specified in the Restoration Plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery at the site. Carry out the further recommendations and requirements for additional restoration activities that are authorized by Commission staff.
  2. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the restoration of the project site. If any such inputs are required beyond the first two years, then the monitoring program shall be extended by an amount of time equal to that time during which inputs were required after the first two years, so that the success and sustainability of the restoration of the project site are ensured.
  3. At the end of the five-year period, a final detailed report shall be submitted 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 approved performance standards, the applicant shall be required to submit a revised or supplemental plan to compensate for those portions of the original program that were not successful. The Executive Director will determine if the revised or supplemental restoration plan must be processed as a CDP, a new Restoration Order, or modification of Restoration Order CCC-05-RO-06.
- d) Appendix A shall include a description of the education, training and experience of the qualified engineering geologist or licensed engineer and restoration ecologist who shall prepare the Restoration Plan. A qualified restoration ecologist for this project shall be an ecologist, arborist, biologist or botanist who has experience successfully completing restoration or revegetation of chaparral habitats. If this

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qualified restoration ecologist does not have experience in creating the soil conditions necessary for successful revegetation of chaparral vegetation, a qualified soil scientist shall be consulted to assist in the development of the conditions related to soils in the Revegetation and Monitoring Plan. A qualified engineering geologist or licensed engineer for this project shall be a geologist or engineer who has experience evaluating and designing soil stabilization projects in the Santa Monica Mountains area.

- e) Submit interim erosion control plans for the review and approval of the Executive Director. The Interim Erosion Control Plan shall be prepared by a qualified restoration ecologist and shall include the following:

1. The Interim Erosion Control Plan shall demonstrate that:

- a. The following temporary erosion control measures shall be used: hay bales, straw wattles, silt fences.
- b. Erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and resources.

2. The Interim Erosion Control Plan shall include, at a minimum, the following components:

- a. A narrative report describing all temporary runoff and erosion control measures to be used and any permanent erosion control measures to be installed for permanent erosion control.
- b. A detailed site plan showing the location of all temporary erosion control measures.
- c. A schedule for installation and removal of temporary erosion control measures, in coordination with the long term restoration, revegetation and monitoring plan discussed below.

- B. Within 90 days of the approval by the Executive Director of the documents submitted under paragraph A, or within such additional time as the Executive Director may grant for good cause but commencing no later than March 9, 2007, Respondents shall begin the following actions, in compliance with the plans approved under paragraph A:

1. Restore the topography consistent with the Restoration, Revegetation and Monitoring Plan required by Part A of this order and as approved by the Executive Director.
2. Submit to the Executive Director a report documenting the restoration of the topography. This report shall include photographs that show the restored site. This report shall include a topographic plan that is prepared by a licensed surveyor, shows two-foot contours, and represents the topographic contours after removal of the development and grading to achieve restoration of the topography to the maximum extent possible, as described in paragraph A.

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- C. Within 30 days of the approval by the Executive Director of the documents submitted under paragraph B2 above, or within such additional time as the Executive Director may grant for good cause, revegetate the disturbed areas with native plants, following the specifications of the Restoration Plan approved by the Executive Director, pursuant to paragraph A above.
- D. In accordance with the required frequency and timing of monitoring reports set forth in the Restoration Plan, approved by the Executive Director pursuant to paragraph A above, submit to the Executive Director monitoring reports.
- E. After approval of the monitoring reports by the Executive Director, implement within such timeframe as the Executive Director may specify all measures specified by the Executive Director to ensure the health and stability of the restored areas, as required by the Restoration Plan.
- F. For the duration of the restoration project, including the monitoring period, all persons subject to this order shall allow the Executive Director of the Commission, and/or his/her designees to inspect the subject property to assess compliance with the Restoration Order, subject to twenty-four hours advance notice.

#### 1.0 COASTAL DEVELOPMENT PERMIT APPLICATION

Commission staff notes that Mr. Horowitz intends to submit a complete Coastal Development Permit Application to the City of Malibu, proposing a tennis court and a garage with a workshop that would be located on the existing, approved upper area that was graded for the original home approval where the single-family residence is located. As discussed previously with Mr. Horowitz, he is not precluded from proposing new development on the property, and it may be feasible to locate the proposed court on the upper portion of the property where the large development area has already been approved. Nothing in these Orders is intended in any way to preclude such an application or imply that additional development cannot be approved on the upper pad.

#### 2.0 PERSONS SUBJECT TO THE ORDER

Sanford J. Horowitz, all his employees, agents, and contractors, and any persons acting in concert with any of the foregoing.

#### 3.0 IDENTIFICATION OF THE PROPERTY

The property that is the subject of this cease and desist order is described as follows:

5656 Latigo Canyon Road, Malibu, Los Angeles County, APN 4456-001-001

#### 4.0 DESCRIPTION OF ALLEGED COASTAL ACT VIOLATION

Unpermitted development including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat; and grading and paving of a building pad and a paved road; and a packed earth pathway.

#### 5.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of this alleged Coastal Act violation pursuant to Public Resources Code Section 30810, and the Respondents have elected to not challenge the Commission's jurisdiction over this matter in the interest of settling and resolving it. Therefore, for the purposes of issuance and enforceability of this Consent Order, the Commission has jurisdiction to act as set forth in this Consent Order, and Respondents agree to not contest the Commission's jurisdiction to issue or enforce this Consent Order.

#### 6.0 WAIVER OF DEFENSES

In light of the intent of the parties to resolve these matters in settlement, Respondents have waived their right to contest the legal and factual basis and the terms and issuance of this Consent Order, including the allegations of Coastal Act violations contained in the Notice of Intent to issue a Cease and Desist Order and Restoration Order dated July 6, 2005. Specifically, Respondents waive their right to present defenses or evidence at a public hearing to contest the issuance of the Consent Order. Respondents are not contesting the Commission's jurisdiction and basis for the purposes of adoption, issuance and enforcement of this Consent Order. Respondents' waiver herein is limited to a hearing on the Commission's adoption, issuance and enforcement of this Consent Order and no other hearing or proceeding.

#### 7.0 EFFECTIVE DATE AND TERMS OF THE ORDER

The effective date of this order is November 17, 2005. This order shall remain in effect permanently unless and until rescinded by the Commission.

#### 8.0 FINDINGS

This order is issued on the basis of the findings adopted by the Commission on November 17, 2005, as set forth in the attached document entitled "Findings for Consent Agreement and Cease and Desist Order No. CCC-05-CD-10 and Restoration Order No. CCC-05-RO-06."

#### 9.0 COMPLIANCE OBLIGATION

9.1 Strict compliance with this Consent Order by all parties subject thereto 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, will constitute a violation of this Consent Order 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. If Respondents violate 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 30821.6, 30822 and 30820 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

Prior to the expiration of the deadlines established by this Consent Order, Respondents may request from the Executive Director an extension of the deadlines. Such a request shall be made in writing and directed to the Executive Director 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 this Consent Order, but cannot meet deadlines due to unforeseen circumstances beyond their control.

#### 11.0 SITE ACCESS

Respondents agree to provide access to the subject property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under this Consent Order. Nothing in this Consent Order 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 to view the areas where development is being performed pursuant to the requirements of the Consent Order for purposes including but not limited to 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 this Consent Order.

#### 12.0 GOVERNMENT LIABILITIES

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by respondents or their agents in carrying out activities pursuant to this Consent Order. Respondents acknowledge and agree (a) to assume the risks to the property that is the subject of this Consent Order and damage from such hazards in connection with carrying out activities pursuant to this Consent Order; and (b) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

### 13.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

Persons against whom the Commission issues a Cease and Desist and/or Restoration Order have the right pursuant to Section 30803(b) of the Coastal Act to seek a stay of the order. However, pursuant to the agreement of the parties as set forth in this Consent Order, Respondents agree to waive whatever right they may have to challenge the issuance and enforceability of this Consent Order in a court of law.

### 14.0 SETTLEMENT OF CLAIMS

The Commission and respondents agree that this Consent Order settles all monetary claims for relief for those violations of the Coastal Act alleged in the NOI occurring prior to the date of this Consent Order, (specifically including but not limited to claims for civil penalties, fines, or damages under the Coastal Act, including Sections 30805, 30820, and 30822), with the exception that, if Respondents fail 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. However, this Consent Order does not limit the Commission from taking enforcement action due to Coastal Act violations at the subject property other than those that are the subject of this order.

### 15.0 SUCCESSORS AND ASSIGNS

This Consent Order shall run with the land binding all successors in interest, future respondents of the property, interest and facility, heirs and assigns. Respondents shall provide notice to all successors, heirs and assigns of any remaining obligations under this Consent Order.

### 16.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 10.0, this Consent Order may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

### 17.0 GOVERNMENTAL JURISDICTION

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

### 18.0 LIMITATION OF AUTHORITY

18.1 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.

18.2 Correspondingly, Respondents have entered into this Consent Order and waived their right to contest the factual and legal basis for issuance of this Consent Order, and the

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

19.0 INTEGRATION

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.

20.0 STIPULATION

Respondents and their representatives attest that they have reviewed the terms of this Consent Order 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:

\_\_\_\_\_  
Sanford J. Horowitz

\_\_\_\_\_  
Date

Executed in Los Angeles on behalf of the California Coastal Commission:

\_\_\_\_\_  
Peter Douglas, Executive Director

\_\_\_\_\_  
Date

**Restoration, Revegetation, and Monitoring Plan**

**for 5656 Latigo Canyon Road, Malibu**

**APN 4456-001-001**

**in Compliance With:**

**Consent Agreement and**

**Cease and Desist Order CCC-05-CD-10**

**Restoration Order CCC-05-RO-06**

**October 27, 2014**

**Prepared By:** Edith Read, PhD  
E Read and Associates, Inc.  
Orange, CA (714) 366-8857

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## **1 PURPOSE**

California Coastal Commission ("CCC") Consent Cease and Desist Order CCC-05-CD-10 and Restoration Order CCC-05-RO-06 ("Orders") were issued for 5656 Latigo Canyon Road in Malibu following actions by a previous property owner dating back to approximately 30 years ago that were undertaken without a Coastal Development Permit. Figure 1 shows the property location and area within the property that is subject to the Orders. This document provides the following in compliance with the Orders:

1. A plan for removal of unpermitted development and remedial grading in the subject area;
2. A plan for soil stabilization, revegetation of impacted areas, and eradication of non-native vegetation.

## **2 REMOVAL AND REMEDIAL GRADING PLAN**

Figure 2 provides an overview and Appendix A provides detail of the removal and remedial grading plan. No hazardous material is present. Prior to removal and grading, and presence of equipment/workers, the perimeter of the site will be clearly marked with stakes and colored flagging. Erosion control devices will be installed prior to disturbance. No disturbance will be permitted outside of the marked area.

Prior to disturbance, the site will be inspected by a qualified biologist for invasive exotics such as fennel (*Foeniculum vulgare*) and for nesting birds/sensitive species (see Section 4). Due to the fact that new exotic plants might appear by the time of plan implementation, a map of their location(s) is not provided here but it is required that all invasive exotics be removed before equipment and workers are present on the site in order to avoid spread of propagules. The exotics will be removed by hand, with a systemic herbicide used only under the conditions described in Section 6.4. The list of species removed and removal methods will be documented by the biologist and provided to the Executive Director as part of the Removal Completion Report (Section 9).

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## 2.1 Removal

Unpermitted material to be removed consists of the paved access road to the site, two concrete pads and a pile of concrete debris that can be removed with heavy equipment staged on the pad prior to remedial grading. Small pieces of concrete rubble that fell into the drainage, but are now overgrown with native vegetation, will be removed if this can be done by hand without disturbing the vegetation. Mechanized equipment will not be used outside of the work perimeter shown in Figure 2.

Removal equipment is expected to consist of a large excavator and bulldozer necessary to demolish and remove the concrete material, a backhoe loader, and covered haul truck. The excavator will also be needed to reach and remove debris on the slope. The quantity of material to be removed on the site as a whole is estimated not to exceed three truckloads, i.e. about 27 cubic yards. The material will be hauled to a concrete recycler such as the following:

Hanson Aggregates  
24<sup>th</sup> St.  
Santa Monica, CA 310-828-7076

## 2.2 Remedial Grading

The existing unpermitted, unpaved trail below the pad will be used for access, after which the trail and removal area will be restored to natural contours (i.e. keyed to undisturbed slopes above and below the road) and revegetated. Figure 2 and Appendix A show the restored contours keyed to adjacent natural contours. As can be seen from the 2010 aerial photograph under the line drawing in Figure 2, disturbance of vegetation adjacent to the east side of the pad will be unavoidable in order to obtain enough soil to re-contour the pad and restore natural contours. It is estimated that most, if not all, of this vegetation is regrowth following the original clearing and disturbance, and the underlying soil consists of indigenous material that was pushed onto the slope during creation of the pad. The total area of remedial grading consists of about

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1.30 acres, of which 0.72 acre consists of regrown native vegetation. Cut and fill resulting from the remedial grading will be balanced on site, with an estimated 4,300 cubic yards of cut and 4,300 cubic yards of fill.

### **3 IMPLEMENTATION SCHEDULE**

Table 1 provides an implementation schedule. This schedule is based on numerous factors which include protection of habitat and sensitive species (Section 4), erosion control (Section 5), and the appropriate times to install plant material, irrigate, and monitor performance (Sections 6 and 7). Per requirements of the Orders, restoration activities shall begin no later than May 15, 2015, and pre-restoration tasks such as ordering plant material shall begin prior to this date upon approval of this Plan by the CCC.

### **4 HABITAT AND SENSITIVE SPECIES PROTECTION**

In May 2015 when restoration activities are scheduled to begin, nesting birds and/or sensitive species may be present/active in the native vegetation that has regrown in the remedial grading area. A previous biological study (TeraCor Resource Management, 2006) conducted in the springs of 2004 and 2005 across the entire 44-acre property detected the following special status plant species within sage scrub habitat, but it is not known if these species were found within the restoration area itself:

- Malibu baccharis (*Baccharis malibuensis*) – California Native Plant Society (CNPS) List 4 (a watch list– not threatened or endangered in California at this time);
- Plummer's mariposa lily (*Calochortus plummerae*) – CNPS List 4.

Malibu baccharis in particular was observed by TeraCor biologists “adjacent to disturbed areas.” A number of special status wildlife species, especially reptiles such as coastal whiptail (*Cnemidophorus tigris stejnegeri* – Species of Concern), could also occur in the restoration area and be active in summer and fall.

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In order to determine whether these and/or other sensitive species are present in vegetation that has regrown after the original disturbance, and implement salvage and protection measures if they are present, the following measures will be employed to protect sensitive species and habitat. If nesting birds or sensitive species are found, and implementation of protection measures will affect the schedule of completion, a request for time extension will be submitted to the Executive Director.

1. Vegetation in the restoration area, and 100 feet beyond this area, will be surveyed for nesting birds and special status wildlife within one week prior to the anticipated start date of disturbance. If active bird nests are found, noise and other disturbance will be avoided until the young have fledged. If special status wildlife species are found and, with the approval of the Executive Director, they will be relocated off site in the adjacent habitat. The Executive Director will be notified of any adjustments in the restoration schedule that are needed as a result of these findings.
2. Native vegetation in the restoration area will be surveyed in March, April, and early May 2015 for special status plant species. Seed material of common species, if available, will be salvaged during this time for use in restoration. If special status plants are observed, the Executive Director will be notified within 24 hours and an avoidance/mitigation plan will be provided. If the plants cannot be avoided, mitigation measures will likely consist of salvage and re-planting on the restoration site, unless the plant species found are Federal or State listed species. In either case, work will not proceed until the Executive Director approves the avoidance/mitigation plan.

## **5 EROSION CONTROL PLAN**

The Erosion Control Plan is in preparation by others and submitted under separate cover. But in summary, removal and remedial grading are scheduled to commence by May 15, 2015, outside of the rainy season when roads are dry and mud tracking by equipment is not an issue. While rain and runoff are not

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expected to be issues during the removal and grading period, a silt fence and straw rolls will still be installed on the east slope of the site prior to the work in order to clearly define the work perimeter and keep loose soil from entering the ephemeral streambed off site. Straw rolls will consist entirely of biodegradable material (e.g. no plastic netting). These materials will remain in place and be kept in good repair to prevent runoff into the creekbed during the rainy season until the new vegetation planted on the site has established, at which time (Year 5) they will be removed.

Additional soil stabilization will be provided by hydroseeding after container planting is completed. The hydroseed mix will include native seeds, tackifier, and clean mulch to help stabilize the soil until vegetation is established. Details of the hydroseed material are provided in Section 6 (Table 2).

## **6 REVEGETATION PLAN**

### **6.1 Personnel Qualifications**

Revegetation will be conducted only by a qualified biologist or restoration specialist with at least three years of experience with such projects in the Santa Monica Mountains, as documented in reports provided to the CCC. At least one of those projects shall have passed the five-year monitoring timeframe and be deemed successful by the CCC. Other projects, if used to demonstrate restoration experience, shall be shown to be on track to meet performance criteria.

### **6.2 Reference Sites, Restoration Site, and Plant Palette**

Based on comments on a previous version of this Plan by CCC staff, additional research was conducted to determine the species composition and layout most appropriate for the restoration site. This research initially consisted of a field investigation to estimate relative proportions of native species in existing adjacent vegetation that was not disturbed by the unpermitted development. However, due to high variability in this vegetation, additional research was

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conducted to elucidate the natural history of vegetation in the area. This research included a review of fire history and historical aerial photographs.

As illustrated in Figures 3 and 4, results of the investigation indicate that pre-violation vegetation on the site probably represented an ecotone between chaparral and coastal sage scrub. The site has burned nine times from 1935 to 2007. Currently, seven years after the most recent fire in 2007, vegetation best classified as greenbark ceanothus chaparral (*Ceanothus spinosus* Shrubland Alliance) in the current classification system for California (Sawyer et al., 2009) occurs above the northeast corner of the restoration site. A previous biological assessment (TeraCor, 2006) classified this area as "undifferentiated chaparral". In addition to greenbark ceanothus, a young California live oak (*Quercus agrifolia*), chaparral yucca (*Hesperoyucca whipplei*), chamise (*Adenostoma fasciculatum*), toyon (*Heteromeles arbutifolia*), and black sage (*Salvia mellifera*) are also present along with some coastal scrub species such as laurel sumac (*Malosma laurina*). Vegetation south and west of the restoration site is best classified as purple sage scrub (*Salvia leucophylla* Shrubland Alliance). Other species include California sagebrush (*Artemisia californica*) and deerweed (*Acmispon glaber*). The 2006 assessment classified this area as coastal sage scrub.

The next task was to estimate the probable pre-violation proportion of greenbark ceanothus chaparral vs. purple sage scrub on the restoration site. This was done based on vegetation density visible in a 1980 aerial photograph (Figure 3). This photograph was taken 10 years after a fire in 1970 and therefore comparable to the current 7-year recovery timeframe.

The conclusion from these analyses was that the revegetation plant palette and layout should consist of 33,000 square feet (0.76 acre) of purple sage scrub and 25,000 square feet (0.57 acre) of greenbark ceanothus chaparral. Figure 5 shows the restoration site and two reference sites along with photopoints to be used in monitoring. Visual estimation of relative abundances of species in the two reference sites, and the 2006 biological assessment, was used to develop

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the plant palette for the restoration site. The boundaries of the reference sites were selected to provide areas equivalent in size to the restoration site.

Vegetation on both reference sites has high native plant density (100 percent cover). Additionally, as monitoring of the restoration site proceeds over a 5-year time period, vegetation on the reference sites will also be changing and maturing in the absence of fire. Therefore it is not possible to achieve a planting density 10 percent greater than the reference sites as specified in the Orders. However, the combination of high-density planting and hydroseeding specified here is intended to achieve a realistic goal of at least 80 percent cover within a five-year monitoring timeframe.

Plant material will consist of one to five-gallon containers (depending on availability) and hydroseed. All material will have originated from the Santa Monica Mountains. If substitutions of one or more of these plant species or changes in quantities are necessary based on nursery availability at the time of planting, substitutions and/or additions must be native to the Santa Monica Mountains and made only in consultation with a qualified native plant specialist. No cultivars or varieties will be used.

The layout will consist of an average spacing of containers 8 to 10 feet on center in a natural-appearing pattern (i.e. not in rows), as shown on Figure 6. Some plants are aggregated together to more closely resemble patterns in the reference sites.

### **6.3 Site Preparation, Irrigation, and Planting Schedule**

Existing soils are suitable for native vegetation and will not require fertilizer or inoculant. Areas of compacted soil, if present after remedial grading is completed, will be decompacted by rototiller to a depth of at least six inches.

The plant material will require supplemental irrigation during at least the first two years in case natural rainfall is insufficient. Therefore a temporary overhead sprinkler system will be installed prior to planting in the late fall of 2015. Irrigation will be managed to avoid runoff and impacts to adjacent off-

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site vegetation. As shown in Table 1, this irrigation will be phased out in Year 3 before the winter season of 2018–2019. Assuming that all performance criteria are met, the irrigation system will be removed in Year 5 (2020). The goal will be for the restored site to be self-sustainable without supplemental irrigation for at least the final two years of the monitoring timeframe.

Container plants will be installed and irrigated first, followed by hydroseeding.

#### **6.4 Maintenance and Use of Herbicide**

The revegetated site will be maintained by qualified personnel who have at least three years of experience with native landscapes and familiarity with the flora of the Santa Monica Mountains. Maintenance tasks will include weeding and periodic inspections to ensure that irrigation is sufficient but not excessive. Maintenance will be conducted at least once per week for the first month after planting, followed by once monthly visits or as recommended by the monitoring biologist to ensure success.

Weeding shall be conducted by hand unless herbicide is required for eradication of highly invasive perennial species listed as a “Moderate” or “High” threat to habitats by the California Invasive Plant Council (Cal-IPC). Examples of such species reported from the property as a whole (TeraCor, 2006) include fennel (*Foeniculum vulgare*), Peruvian pepper tree (*Schinus molle*), castor bean (*Ricinus communis*), and myoporum (*Myoporum laetum*). Herbicide will be used on such species only as a last resort if they cannot be removed by hand or shovel. It is anticipated that a systemic glyphosate-based herbicide such as Roundup will be used to kill the root systems of the perennial plants and prevent them from re-sprouting. Repeat applications may be necessary to eradicate plant(s). Herbicide will be applied only by someone with a current license in the Landscape Maintenance category by the California Department of Pesticide Regulation. All label requirements and Federal/State regulations regarding herbicide application will be followed. These include, but are not necessarily limited to: avoiding application under windy or rainy conditions, avoiding drift

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away from target species, and limiting the amount of herbicide to only that necessary for control of the target species.

Maintenance logs will be kept and provided to the monitoring biologist for inclusion in the annual reports. These logs will include date(s) of maintenance inspections/weeding and any problems encountered that could affect restoration success. If herbicide is used, the logs will include documentation of target species, type of herbicide, application date, and quantity of herbicide applied.

## **7 PERFORMANCE CRITERIA**

### **7.1 Interim Performance Criteria**

#### **Year 1**

The site shall meet the following criteria within one year after planting:

1. Native cover at least 30% of that measured on the reference site. This includes the key dominant species for each community type: *Salvia leucophylla* for purple sage scrub, *Ceanothus spinosus* for greenbark ceanothus chaparral.
2. Species richness equal to or greater than at the time of planting/seeding. Existing natives and natives that colonize on their own may count toward this goal.
3. No invasive non-native species listed in the "Moderate" or "High" habitat threat categories by Cal-IPC shall be present.
4. Cover by other non-native plant species, such as annual grasses, shall not exceed cover found in the reference site.

#### **Year 2**

1. Native cover at least 40% of that measured on the reference site. This includes the key dominant species for each community type: *Salvia leucophylla* for purple sage scrub, *Ceanothus spinosus* for greenbark ceanothus chaparral.

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2. Species richness equal to or greater than at the time of planting/seeding. Existing natives and natives that colonize on their own may count toward this goal.
3. No invasive non-native species listed in the "Moderate" or "High" habitat threat categories by Cal-IPC shall be present.
4. Cover by other non-native plant species, such as annual grasses, shall not exceed cover found in the reference site.

#### Year 3

1. Native cover at least 55% of that measured on the reference site. 1. This includes the key dominant species for each community type: *Salvia leucophylla* for purple sage scrub, *Ceanothus spinosus* for greenbark ceanothus chaparral.
2. Species richness equal to or greater than at the time of planting/seeding. Existing natives and natives that colonize on their own may count toward this goal.
3. No invasive non-native species listed in the "Moderate" or "High" habitat threat categories by Cal-IPC shall be present.
4. Cover by other non-native plant species, such as annual grasses, shall not exceed cover found in the reference site.

#### Year 4

1. Native cover at least 70% of that measured on the reference site. 1. This includes the key dominant species for each community type: *Salvia leucophylla* for purple sage scrub, *Ceanothus spinosus* for greenbark ceanothus chaparral.
2. Species richness equal to or greater than at the time of planting/seeding. Existing natives and natives that colonize on their own may count toward this goal.
3. No invasive non-native species listed in the "Moderate" or "High" habitat threat categories by Cal-IPC shall be present.

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4. Cover by other non-native plant species, such as annual grasses, shall not exceed cover found in the reference site.
5. Criteria 1 through 4 are met without supplemental irrigation.

## **7.2 Year 5 (Final) Performance Criteria**

The site shall meet the following criteria within five years after planting:

1. Native cover at least 80% of that measured on the reference site. 1. This includes the key dominant species for each community type: *Salvia leucophylla* for purple sage scrub, *Ceanothus spinosus* for greenbark ceanothus chaparral.
2. Species richness equal to or greater than at the time of planting/seeding. Existing natives and natives that colonize on their own may count toward this goal.
3. Cover by other non-native plant species, such as annual grasses, shall not exceed cover found in the reference site.
4. Criteria 1 through 3 are met without supplemental irrigation.

## **8 REMEDIAL PLANTING/SEEDING**

Remedial planting/seeding shall be conducted if monitoring indicates that the restoration areas do not meet the interim performance criteria and are not on track to meet one or more of the 5-year performance goals. Care shall be taken to determine the cause(s) of poor performance and adjust planting methods/species accordingly.

## **9 COMPLETION REPORTS, MONITORING AND DOCUMENTATION**

The Orders require that documentation of completion of each restoration phase be submitted within 30 days of completion. Therefore based on the schedule shown in Table 1, three completion reports shall be prepared: 1) one report documenting completion of installation of erosion control devices; 2) one report documenting completion of removal and restorative grading; 3) one report documenting completion of revegetation.

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A licensed surveyor will survey the site after restorative grading is completed and produce a topographic map showing the new contours at two-foot intervals.

All biological monitoring shall be conducted by a biologist or restoration specialist with the following minimum qualifications documented in a resume and reports provided to the CCC:

- At least 3 years of experience with the native flora of the coastal Santa Monica Mountains;
- Education and at least 3 years of field experience with sampling design and statistical analysis of vegetation data.

## **9.1 Completion Reports**

Reports shall be prepared documenting completion of removal, remedial grading and planting/seeding. This report shall be submitted to the CCC Executive Director within 30 days following completion of all these activities, and shall be used as a baseline for evaluating performance over time. At minimum the reports shall have content as listed below.

1. Erosion Control Report: date(s) of installation of materials, materials used and locations.
2. Removal and Restorative Grading Report: date(s) of removal of unpermitted development and invasive exotics, date(s) of restorative grading, methods of work and materials disposal, quantities of materials removed and topographic map showing the restored contours at two-foot intervals.
3. Revegetation Report:
  - Photographs from the reference points shown in Figure 5, to be used throughout the five-year monitoring period, and sufficient to represent the entire restoration site;
  - Date(s) of planting and seeding;

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- Lists of installed/seeded material and quantities (i.e. number and sizes of containers, pounds of seed collected/applied);
- Other observations potentially relevant to future performance, such as rodent activity.

## 9.2 Annual Monitoring

Monitoring shall be conducted on the restoration site and reference site at least once per year in spring, with Year 1 beginning after completion of planting/seeding. Monitoring shall consist of the following:

- Quantitative measurements of plant cover, by species and community type, using plot-based sampling;
- Site-wide inventory of plant species occurrence (to detect uncommon species not present in the plots);
- Photographs from four permanent reference points on the reference site (Figure 3) and 12 permanent reference points on the restoration site (Figure4);
- Qualitative observations related to habitat quality (e.g. wildlife usage).

Monitoring shall employ a plot-based sampling design, using a statistical power analysis to ensure that the number and sizes of plots shall be sufficient to avoid a "Type II" error, i.e. avoid an erroneous conclusion that the planted/seeded areas meet the canopy cover criteria when in fact they do not. Statistical analysis will compare cover on the restoration site to cover on the reference site.

Due to the fact that the sampling design must be based on variance observed under field conditions, the number and sizes of plots cannot be pre-determined in the absence of field data. Therefore the sampling design shall be established as part of monitoring in Year 1 and repeated each year thereafter.

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### 9.3 Annual Reporting

Report content shall consist of the following, at minimum:

- Detailed descriptions of monitoring methods, including sampling design and rationale for the design based on statistical power analyses;
- Photographs from permanent reference points shown in Figure 5;
- Data tables and results of statistical comparisons to performance criteria, including results for the current monitoring year and all previous years;
- Recommendations for maintenance (e.g. weed removal) and remedial planting/seeding as appropriate.
- Copies of previous reports as appendices.

Each annual report shall be submitted to the CCC Executive Director no later than December 31 of the year in which monitoring is conducted.

The final (Year 5) report shall document removal of all irrigation, erosion control devices, flagging, stakes, and other markers from the site.

### 10 REFERENCES CITED

*Holland, R.F., 1986.* Preliminary descriptions of the terrestrial natural communities of California. Unpublished report. California Department of Fish and Game, Natural Heritage Division, Sacramento, CA.

*Sawyer, J.O., T. Keeler-Wolf, and J.M. Evens, 2009.* A Manual of California Vegetation. California Native Plant Society and California Department of Fish and Game, Sacramento, CA. Second Edition.

*TeraCor Resource Management, 2006.* General Biological Assessment for a Single-Family Home on a 44.0-Acre Parcel. Prepared for the California Coastal Commission and Drew Purvis, dated January 15, 2006.

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Figure 1. Site Location

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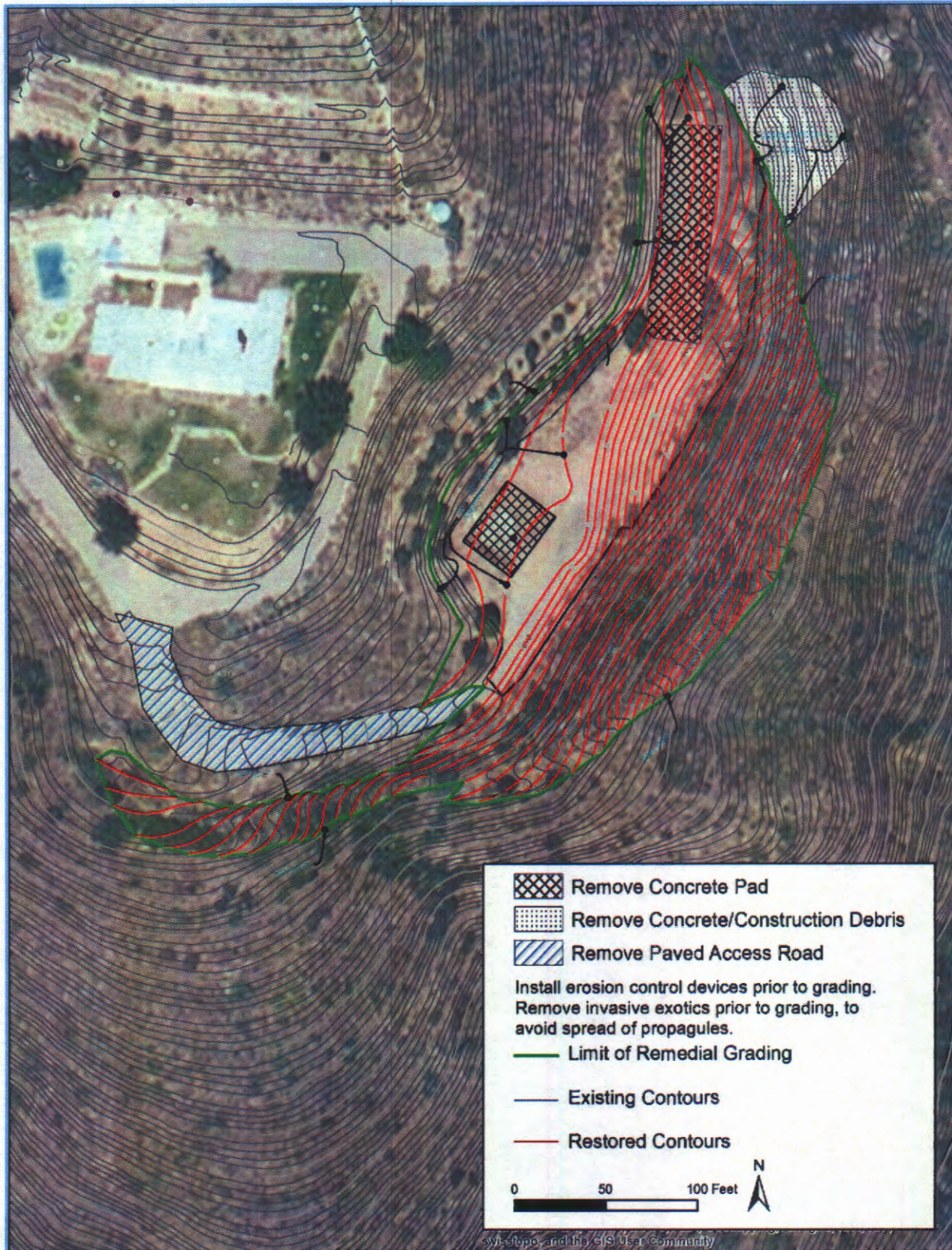


Figure 2. Removal and Remedial Grading Plan – Overview

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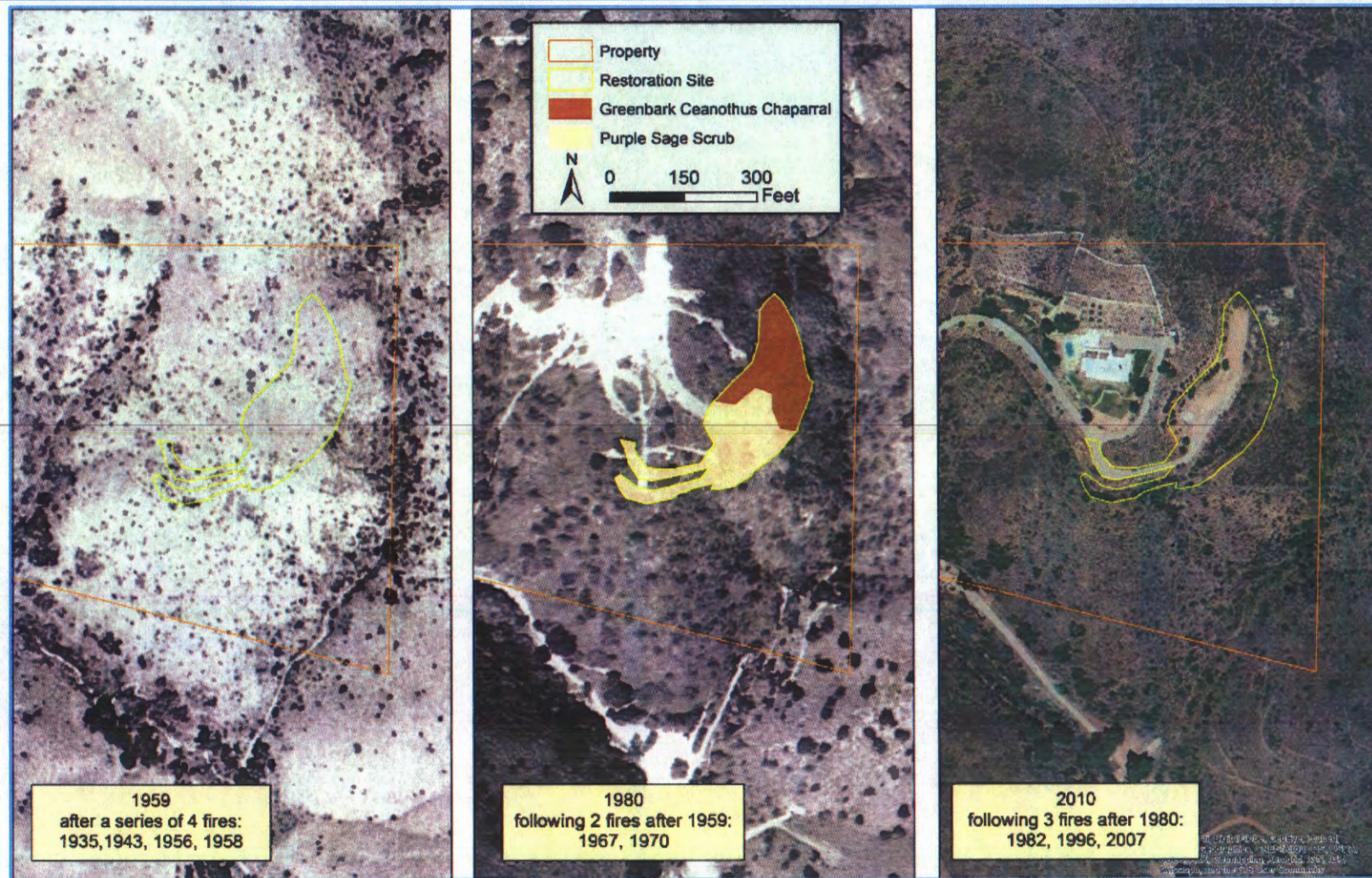
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Pre-violation vegetation types were inferred from a combination of visual signatures on the 1980 aerial photograph and field observations of adjacent vegetation in October, 2014. Both years are within similar vegetation recovery times following a fire – i.e. 10 years in the case of the 1980 photograph, 7 years in the case of the 2014 field observations. No fires in this area of Los Angeles County have been recorded after 2007. Note range in distribution patterns of evergreen shrubs, from aggregated to random.

Figure 3. Inferred Historical Vegetation





Above in foreground: View southwest toward reference vegetation for purple sage scrub (*Salvia leucophylla* Shrubland Alliance). According to Sawyer et al. (2009) this vegetation type is equivalent to the Venturan coastal sage scrub defined by previous classification systems (e.g. Holland, 1986).

Below: View northeast toward reference vegetation for greenbark ceanothus chaparral (*Ceanothus spinosus* Shrubland Alliance). This vegetation includes a young California live oak (*Quercus agrifolia* – arrow).



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Figure 4. Reference Site Photographs



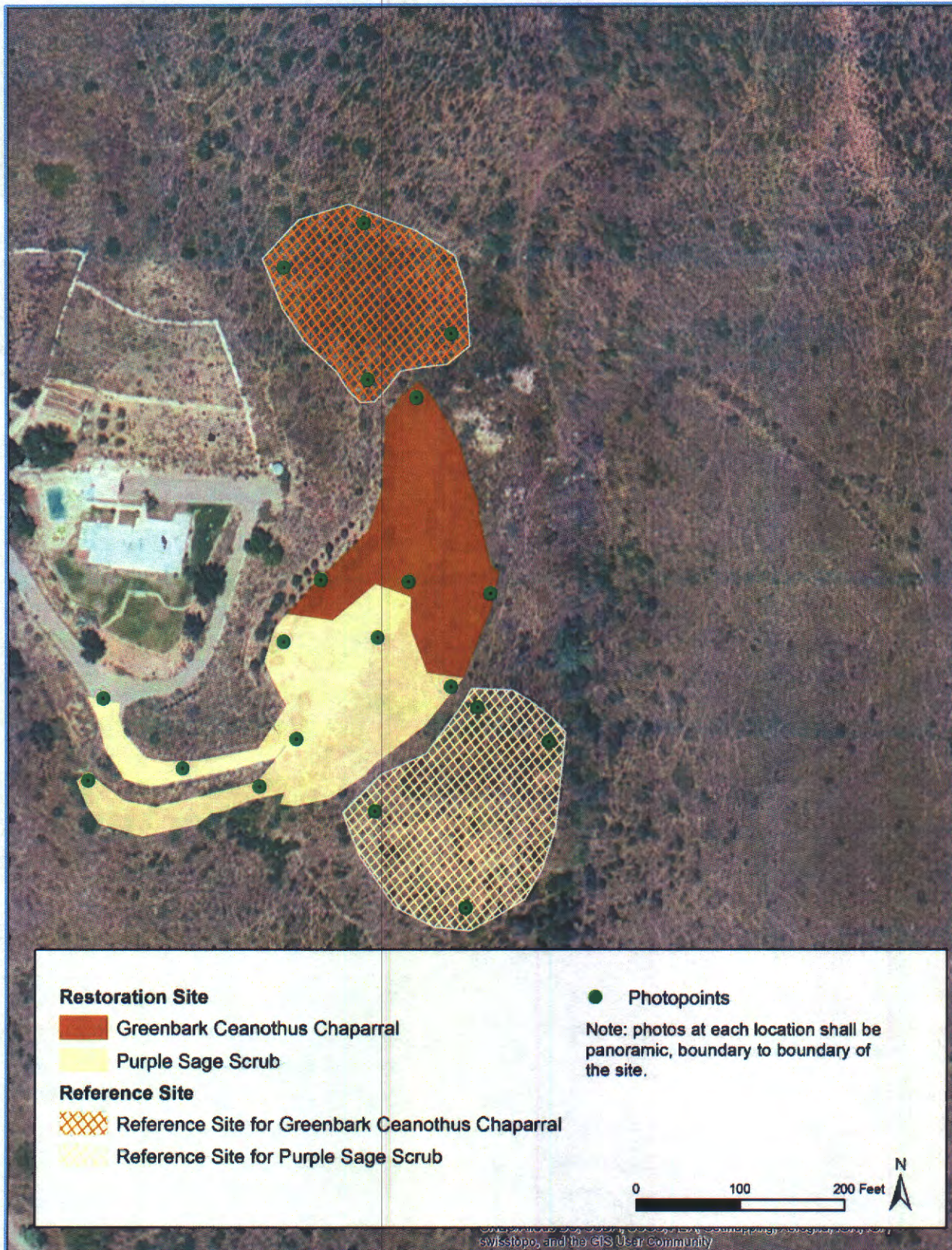


Figure 5. Restoration and Reference Sites with Photopoint Locations

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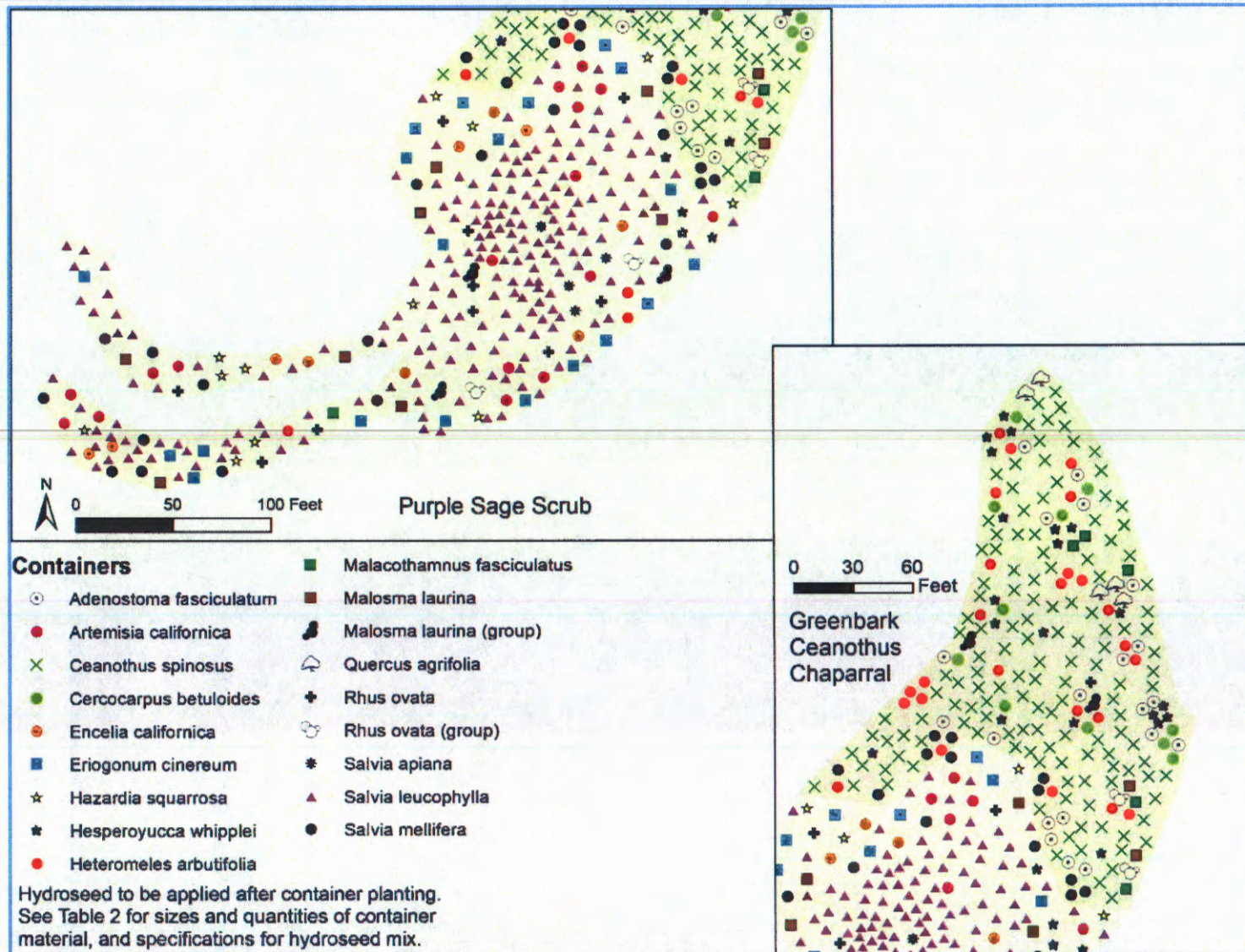


Figure 6. Plant Layout



Table 1. Implementation Schedule

| Date             | Task  | Restoration |      | Monitoring     |                |                |                |                |
|------------------|---|-------------|------|----------------|----------------|----------------|----------------|----------------|
|                  |   | 2014        | 2015 | Year 1<br>2016 | Year 2<br>2017 | Year 3<br>2018 | Year 4<br>2019 | Year 5<br>2020 |
| December         | Order plant materials; salvage and store seed of common species if seed is available  | X           |      |                |                |                |                |                |
| March            | Flag perimeter of restoration site  |             | X    |                |                |                |                |                |
|                  | Sensitive plant survey (day based on weather and phenology)                           |             | X    |                |                |                |                |                |
| April<br>May 1-8 | Sensitive plant survey (day based on weather and phenology)                           |             | X    |                |                |                |                |                |
|                  | Salvage and store seed of common species if seed is available                         |             | X    |                |                |                |                |                |
|                  | Salvage and store sensitive plant(s) if found*  |             | X    |                |                |                |                |                |
|                  | Survey for nesting birds and sensitive wildlife                                       |             | X    |                |                |                |                |                |
| May 15**         | Commence restoration: remove non-natives and begin removal of unpermitted development |             | X    |                |                |                |                |                |
| June 14          | Install erosion control materials no later than 30 days after commencing restoration  |             | X    |                |                |                |                |                |
|                  |   |             |      |                |                |                |                |                |
|                  |   |             |      |                |                |                |                |                |
|                  |   |             |      |                |                |                |                |                |

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Table 1 - Implementation Schedule (continued)

| Date                 | Task   | Restoration |      | Monitoring |      |      |      |      |
|----------------------|--|-------------|------|------------|------|------|------|------|
|                      |  | 2014        | 2015 | 2016       | 2017 | 2018 | 2019 | 2020 |
| July 14              | End removal and restorative grading no later than 60 days after May 15                                       |             | X    |            |      |      |      |      |
|                      | Submit completion report for installation of erosion control no later than 30 days after installation        |             | X    |            |      |      |      |      |
| July 15-<br>August 3 | Conduct topographic survey at 2-ft contour intervals to document restorative grading                         |             | X    |            |      |      |      |      |
| August 13            | Submit documentation of removal and completion of restorative grading no later than 30 days after completion |             | X    |            |      |      |      |      |
| October 19-<br>23    | Install temp. irrigation; decompact soil where needed; begin installation of plant material                  |             | X    |            |      |      |      |      |
| November 1           | Complete installation of plant material no later than this date; record layout, species, and quantities      |             | X    |            |      |      |      |      |
| November 30          | Submit documentation of revegetation no later than 30 days after completion                                  |             | X    |            |      |      |      |      |

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**Table 1 - Implementation Schedule (continued)**

| Date              | Task  | Restoration |      | Monitoring |      |      |      |      |
|-------------------|---|-------------|------|------------|------|------|------|------|
|                   |   | 2014        | 2015 | 2016       | 2017 | 2018 | 2019 | 2020 |
| November-December | Maintenance monitoring                                      |             | X    |            |      |      |      |      |
| January-December  | Maintenance monitoring                                      |             |      | X          | X    | X    | X    | X    |
| April             | Complete field work for performance monitoring              |             |      | X          | X    | X    | X    | X    |
| October           | Complete remedial planting, if needed, upon approval by CCC |             |      | X          | X    | X    | X    | X    |
|                   | Begin phase-out of irrigation                               |             |      |            |      | X    |      |      |
|                   | Complete phase-out of irrigation and remove system          |             |      |            |      |      |      | X    |
|                   | Remove all temporary erosion control devices                |             |      |            |      |      |      | X    |
|                   | Remove all flagging, stakes, and other site markers         |             |      |            |      |      |      | X    |
| December 31       | Submit annual monitoring report to CCC                      |             |      | X          | X    | X    | X    | X    |

\* State and Federally listed species would require consultation with the respective agencies. Such species are not expected to be found, but if present the CCC will be notified and a process established for consultation and developing an avoidance/mitigation plan.

\*\*Schedule assumes no delays due to nesting birds, sensitive species, or other factors beyond the property owner's control. Changes in schedule inconsistent with the Orders shall not be made without prior approval of the Executive Director.

## APPENDIX A

CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
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Table 2. Plant Palette for Revegetation

| Material  | Common Name               | Latin Name  | Quantity          |                               |            |
|---|---------------------------|---|-------------------|-------------------------------|------------|
|   |                           |   | Purple Sage Scrub | Greenbark Ceanothus Chaparral | Total      |
| Container   | Chamise                   | <i>Adenostoma fasciculatum</i>                            | 0                 | 20                            | 20         |
|   | California sagebrush      | <i>Artemisia californica</i>                              | 16                | 0                             | 16         |
|   | Greenbark ceanothus       | <i>Ceanothus spinosus</i>                                 | 0                 | 138                           | 138        |
|   | Mountain mahogany         | <i>Cercocarpus betuloides</i>                             | 0                 | 10                            | 10         |
|   | California bush sunflower | <i>Encelia californica</i>                                | 10                | 0                             | 10         |
|   | ashy-leaved buckwheat     | <i>Eriogonum cinereum</i>                                 | 20                | 0                             | 20         |
|   | saw-toothed goldenbush    | <i>Hazardia squarrosa</i>                                 | 11                | 0                             | 11         |
|   | Chaparral yucca           | <i>Hesperoyucca whipplei</i>                              | 4                 | 20                            | 24         |
|   | toyon                     | <i>Heteromeles arbutifolia</i>                            | 2                 | 25                            | 27         |
|   | chaparral mallow          | <i>Malacothamnus fasciculatus</i>                         | 0                 | 5                             | 5          |
|   | laurel sumac              | <i>Malosma laurina</i>                                    | 16                | 10                            | 26         |
|   | California live oak       | <i>Quercus agrifolia</i>                                  | 0                 | 5                             | 5          |
|   | sugarbush                 | <i>Rhus ovata</i>   | 16                | 7                             | 23         |
|   | white sage                | <i>Salvia apiana</i>                                      | 4                 | 0                             | 4          |
|   | purple sage               | <i>Salvia leucophylla</i>                                 | 215               | 0                             | 215        |
|   | black sage                | <i>Salvia mellifera</i>                                   | 16                | 10                            | 26         |
|   |                           | <b>Total</b>  | <b>330</b>        | <b>250</b>                    | <b>580</b> |
| Hydroseed (lbs)   | California sagebrush      | <i>Artemisia californica</i>                              | 5                 | 5*                            | 10         |
| Slurry shall include 100 lbs tackifier and 100 lbs clean cellulose fiber mulch. | Deerweed                  | <i>Acmispon glaber</i> (formerly <i>Lotus scoparius</i> ) | 5                 | 5*                            | 10         |
|   | California bush sunflower | <i>Encelia californica</i>                                | 3                 | 0                             | 3          |
|   | golden yarrow             | <i>Eriophyllum confertifolium</i>                         | 2                 | 0                             | 2          |
|   | California melic grass    | <i>Melica imperfecta</i>                                  | 5                 | 5*                            | 10         |
|   | foothill needlegrass      | <i>Stipa lepida</i>                                       | 5                 | 5*                            | 10         |
|   | purple needlegrass        | <i>Stipa pulchra</i>                                      | 5                 | 5*                            | 10         |
|   |                           | <b>Total</b>  | <b>30</b>         | <b>25</b>                     | <b>55</b>  |

\*For ground cover until chaparral plants are established.

**APPENDIX A**

CCC-05-CD-10-A &  
 CCC-05-RO-06-A  
 (HARTMUT & JESSICA NEVEN)  
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## **Appendix A. Remedial Grading Exhibit**





**VICINITY MAP**  
NOT TO SCALE

**LEGEND**

- BOUNDARY LINE
- PROPOSED BENCH
- INTER CONTOUR
- 680 INDEX CONTOUR
- DAYLIGHT LINE
- EX. INDEX CONTOUR
- EX. INTER CONTOUR
- EX. ASPHALT ROAD
- EX. DIRT PAD/CONC. PAD & ASPHALT ROAD TO BE REMOVED
- DEBRIS REMOVAL LIMITS

**ESTIMATED EARTHWORK QUANTITIES**

PROJECT SITE: CUT 4,300 CY; FILL 4,300 CY  
THE ABOVE QUANTITIES ARE APPROXIMATE IN PLACE VOLUMES CALCULATED FROM THE EXISTING GROUND TO THE PROPOSED FINISH GRADE OR SUBGRADE. EXISTING GROUND IS DEFINED BY THE CONTOURS ON THE PLAN. PROPOSED FINISH GRADE IS DEFINED AS THE DESIGN SURFACE ELEVATION OF EARTH TO BE CONSTRUCTED. THE EARTHWORK QUANTITIES ABOVE ARE FOR PLANNING PURPOSES ONLY.

# REMEDiation GRADING EXHIBIT FOR 5656 LATIGO CANYON



| <div><div><div>CIVI</div><div>Design<br/>Drafting<br/>Inc.</div></div><div>655 Piedra Drive, Unit C<br/>Malibu, California 90261<br/>Phone: 805-455-8822<br/>Fax: 805-455-8816<br/>email: CDD@civildesigndrafting.com</div></div> | <div>REVISIONS</div> <table><tr><th>NO.</th><th>REVISIONS</th><th>DATE</th></tr><tr><td>1</td><td>Ex</td><td>1/1/2010</td></tr><tr><td>2</td><td></td><td></td></tr><tr><td>3</td><td></td><td></td></tr><tr><td>4</td><td></td><td></td></tr><tr><td>5</td><td></td><td></td></tr><tr><td>6</td><td></td><td></td></tr><tr><td>7</td><td></td><td></td></tr><tr><td>8</td><td></td><td></td></tr><tr><td>9</td><td></td><td></td></tr><tr><td>10</td><td></td><td></td></tr></table> | NO.       | REVISIONS | DATE | 1 | Ex | 1/1/2010 | 2 |  |  | 3 |  |  | 4 |  |  | 5 |  |  | 6 |  |  | 7 |  |  | 8 |  |  | 9 |  |  | 10 |  |  | <div>5656 LATIGO CANYON<br/>REMEDITION GRADING EXHIBIT<br/>SCALE: 1" = 30'</div> | <div>EXHIBIT B</div> <table><tr><th>NO.</th><th>REVISIONS</th></tr><tr><td>1</td><td>Ex</td></tr><tr><td>2</td><td></td></tr><tr><td>3</td><td></td></tr><tr><td>4</td><td></td></tr><tr><td>5</td><td></td></tr><tr><td>6</td><td></td></tr><tr><td>7</td><td></td></tr><tr><td>8</td><td></td></tr><tr><td>9</td><td></td></tr><tr><td>10</td><td></td></tr></table> | NO. | REVISIONS | 1 | Ex | 2 |  | 3 |  | 4 |  | 5 |  | 6 |  | 7 |  | 8 |  | 9 |  | 10 |  | <div>CITY OF MALIBU<br/>REMEDITION GRADING EXHIBIT<br/>5656 LATIGO CANYON</div> |
|---|---|-----------|-----------|------|---|----|----------|---|--|--|---|--|--|---|--|--|---|--|--|---|--|--|---|--|--|---|--|--|---|--|--|----|--|--|--|--|-----|-----------|---|----|---|--|---|--|---|--|---|--|---|--|---|--|---|--|---|--|----|--|---|
|   | NO.   | REVISIONS | DATE      |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 1   | Ex  | 1/1/2010  |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 2   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 3   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 4   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 5   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 6   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 7   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 8   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 9   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 10  |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| NO.   | REVISIONS   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 1   | Ex  |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 2   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 3   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 4   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 5   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 6   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 7   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 8   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 9   |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |
| 10  |   |           |           |      |   |    |          |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |   |  |  |    |  |  |  |  |     |           |   |    |   |  |   |  |   |  |   |  |   |  |   |  |   |  |   |  |    |  |   |



# REMEDIATION GRADING PLAN FOR 5656 LATIGO CANYON



VICINITY MAP  
NOT TO SCALE

**PROJECT INFORMATION:**  
(General Information)  
Surfmount Volume: 4,000 (cuy) FW 4,000 (cuy)  
Over Excavation/Abandonment & Compaction: 0 (cuy)  
Moisture: 0 (cuy)  
Total Disturbed Area: 11,400 Sq. Ft. (1.2 Acres)  
Total Proposed Landscape Area: 81,900 Square Feet

**Property Information**  
Property Address: 5656 LATIGO CANYON

## GENERAL NOTES

- All grading and construction shall conform to the City of Malibu Building Codes and the State Model Water Efficiency Landscape Ordinance unless specifically noted on these plans.
- Any modifications or changes to approved grading plans must be approved by the Building Official.
- No grading shall be started without first notifying the Building Official. A pre-grading meeting at the site is required before the start of the grading with the following people present: Owner, grading contractor, design engineer, soils engineer, geologist, City Grading Inspector or their representative, and when required the architect or other jurisdictional agencies. Permission is also required for emergency pre-grading meeting. All grading and construction activities shall comply with City of Malibu building codes.
- The location and protection of all utilities is the responsibility of the Permittee.
- All aspects of material from the site must go to its permitted use approved by the Building Official or a local dumpsite. (except for acceptance of waste material by a landfill or other approved use and must be provided to the Building Official upon request).
- A copy of the grading permit and approved grading plans must be in the possession of a responsible person and available at the site at all times.
- Site boundaries, easements, drainage ditches, recorded use areas shall be located per construction mapping by Field Engineer or licensed surveyor. Prior to grading, as required by the Building Official, all property lines, easements, and recorded use areas shall be staked.

## GENERAL GEOTECHNICAL NOTES

- All work shall be in compliance with the recommendations included in the geotechnical consultant's reports and the approved grading plans and specifications.
- Grading operations must be conducted under periodic inspections by the geotechnical consultant.
- The Soil Engineer shall provide sufficient inspections during the preparation of the natural ground and the placement and compaction of the fill to be sufficient that the work is being performed in accordance with the plan and applicable Code requirements.

## FILL NOTES

- All fill shall be compacted to the following minimum relative compaction criteria:
  - 90 percent of maximum dry density within 40 feet below finish grade.
  - 85 percent of maximum dry density deeper than 40 feet below finish grade, unless a lower relative compaction (not less than 80 percent of maximum dry density) is justified by the geotechnical engineer.
 The relative compaction shall be determined by A.S.T.M. test compaction test D1557-B1 where applicable. Where not applicable, a test acceptable to the Building Official shall be used.
- Fill density shall be determined by a method acceptable to the Building Official. However, not less than 10% of the required density test, uniformly distributed, and shall be obtained by the Sand Cone Method.
- Sufficient tests of the fill shall be made to determine the relative compaction of the fill in accordance with the following minimum guidelines:
  - One test for each vertical fill.
  - One test for each 1,000 cubic yards of material placed.
  - One test at the location of the final fill slope for each building site (top) in each four-foot vertical lift or portion thereof.
  - One test in the vicinity of each building used for each four-foot vertical lift or portion thereof.
- Sufficient tests of fill shall be made to verify that the soil properties comply with the design requirements, as determined by the Soil Engineer including soil types, clear strength parameters and corresponding unit weights in accordance with the following guidelines:
  - Prior and subsequent to placement of the fill, shear tests shall be taken on each type of soil or soil mixture to be used for all fill slopes steeper than three (3) horizontal to one vertical.
  - Shear test results for the proposed fill material must meet or exceed the design values used in the geotechnical report to determine slope stability requirements. Otherwise, the slope must be reevaluated using the actual shear test values of the fill material that is placed.
  - Fill soils shall be free of deleterious materials.
- Fill shall not be placed with slippage of vegetation, removal of unstable soils, and installation of subdrain (if any) have been inspected and approved by the Soil Engineer. The Building Official may require a "Standard Test Method for moisture, unit weight, organic matter, plasticity and liquid limit" (ASTM D-2974-87) on any proposed material. Determined amounts of organic material shall not be permitted in the fill. Soil containing small amounts of roots may be allowed provided that the roots are in a quantity and distributed in a manner that will not be detrimental to the future use of the site and the soils engineer approves the use of such materials.
- Rock or other material greater than 12 inches in diameter shall not be placed in the fill unless recommended for such placement have been submitted by the Soil Engineer and approved in advance by the Building Official. Location, extent, and elevation of rock disposal areas must be shown on a "40-Bull" grading plan.
- Continuous inspection by the Soil Engineer, or a responsible representative, shall be provided during all fill placement and compaction operations where fill has a depth greater than 30 feet or slope surface steeper than 2:1.
- Continuous inspection by the Soil Engineer, or a responsible representative, shall be provided during all subdrain installation.
- All subdrain outlets are to be surveyed for line and elevation. Subdrain information must be shown on a "40-Bull" grading plan.
- Fill slopes in excess of 2:1 steepness shall not be constructed by the placement of soil at sufficient distance beyond the proposed finish slope to allow compaction equipment to be operated on the outer limits of the final slope surface. The excess fill is to be removed prior to completion of rough grading. Other construction procedures may be used when it is demonstrated to the satisfaction of the Building Official that the angle of slope, construction method and other factors will have equivalent effect.

## FUGITIVE DUST CONTROL NOTES

- No person shall cause or allow the emissions of fugitive dust from any active operation, open storage pile, or disturbed surface area such that:
  - The dust remains visible in the atmosphere beyond the property line of the submission source; or
  - The dust emission exceeds 30 percent opacity (as determined by the appropriate test method included in the rule 403 implementation handbook), if the dust emission is the result of movement of motorized vehicle.
- No person shall conduct active operations without utilizing the applicable dust emission control measures included in Table 1 of the rule to minimize fugitive dust emissions from each fugitive dust source prior to the active operation.
- No person shall cause or allow PM10 levels to exceed 80 micrograms per cubic meter when determined, by simultaneous sampling, as the difference between upwind and downwind samples collected on high volume particulate matter samplers or other U.S. EPA-approved equivalent method for PM10 monitoring. If sampling is conducted, samplers should be:
  - Operated, maintained, and calibrated in accordance with 40 code of federal regulations (CFR), part 50, appendix 1, or approved U.S. EPA published documents for U.S. EPA-approved equivalent methods for PM10.
  - Reasonably placed upwind and downwind of key activity areas and as close to the property line as feasible, such that other sources of fugitive dust between the sampler and the property line are minimized.
- No person shall allow trucks to exceed 25 feet or more in cumulative length from the point of origin from AC within operation, notwithstanding the preceding, all truck-out from an active operation shall be removed at the conclusion of each working or evening shift.
- After January 1, 2005, no person shall conduct an active operation with a disturbed surface area of five or more acres, or with a daily import or export of 100 cubic yards or more of bulk material without utilizing at least one of the measures listed in subparagraphs (2)(3)(4) of each vehicle against the site to a paved public road:
  - Install a wet scrubbing or washed ground (minimum size: one inch) maintained in a clean condition to a depth of at least 30 feet wide and at least 60 feet deep.
  - Place the surface extending at least 100 feet and at least 30 feet wide.
  - Install a wheel wash/detergent scrubbing device consisting of water sprayers (pale, pipes, or grates) at least 24 feet long and 10 feet wide to remove bulk material from tires and vehicle undercarriages before vehicle exit the site.
  - Install and utilize a wheel washing system to remove bulk material from tires and vehicle undercarriages before vehicle exit the site.
  - Any other control measures approved by the executive officers and the U.S. EPA as equivalent to the actions specified in subparagraphs (2)(3)(4) through (2)(3)(4)(C).

## ADDITIONAL ENGINEER'S NOTES:

- Contractor shall assume sole and complete responsibility for job site conditions during the course of construction of this project, including safety of all persons and property; that this requirement shall apply continuously and not be limited to normal working hours. Contractor shall select, install, and maintain the safety of the project and the engineer's responsibility shall be limited to the performance of work on this project except for liability arising from the sole negligence of the owner or the engineer.
- The existence and location of any underground utility or structure shown on these plans are obtained by a search of the available records. To the best of our knowledge, there are no existing utilities except for as shown on this map. The contractor is required to take precautionary measures to protect the utility lines shown and any other lines not shown or not shown on the drawing.
- The contractor is required to hand-draw the plans, the soils and/or geologic reports, and the site prior to commencing work.
- Specifications shall have precedence over drawings.
- The contractor shall notify Project Civil Engineer of any discrepancies in the plans before proceeding with construction.
- The soils and geological report prepared by.
- Any subsequent reports shall be considered a part of these plans and all recommendations thereof shall be complied with.
- Retaining walls shown on these plans (if any) are to be constructed by separate permit.
- The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or use of these plans. All changes to the plans must be in writing and must be approved by the engineer of these plans.
- Changes in not permitted to sheet over any manufactured slope except in approved devices. Concentrated drainage is not permitted to discharge into any graded slope. Runoff, watercourse, ditches, or other drainage shall be provided at the top of cut or fill slopes to prevent surface waters from overflowing onto and damaging the face of a slope. Berms used for slope protection shall not be less than 12 inches above the level of the pad and shall slope back at least 4 feet from top of slope.

## PERMANENTITY AGREEMENT

Any proposed work within a Private/Utility Easement of Access Easement requires permission before and/or covenants from easement holder. Permission from the easement holder may not be required if it can be shown the proposed construction work is consistent with the intended easement use. Copies of recorded easements shall be submitted for review. Grading plans must show boundaries, distances, (draw and curve data) for the entire easement. The following rule shall be added to the grading plan: The Civil Engineer and Surveyor of this project, I have identified the location of all easements which are depicted on these plans. I have reviewed the proposed easement documents and verified the proposed construction does not conflict or interfere with the intended easement use."

Civil Engineer/Land Surveyor (Stamp and Signature)

Date



DATE: 6-27-14

## ESTIMATED EARTHWORK QUANTITIES

PROJECT SITE: CUT 4,000 CUY, FILL 4,000 CUY  
THE ABOVE QUANTITIES ARE APPROXIMATE IN PLACE VOLUMES CALCULATED FROM THE EXISTING GROUND TO THE PROPOSED FINISH GRADE OR SUBGRADE. EXISTING GROUND IS DEFINED BY THE CONTOURS ON THE PLAN. PROPOSED FINISH GRADE IS DEFINED AS THE DESIGN FINISH ELEVATION OF EARTH TO BE CONSTRUCTED. THE EARTHWORK QUANTITIES ABOVE ARE FOR PLANNING PURPOSES ONLY.

UNDERGROUND SERVICE ALERT  
call TOLL FREE  
1-800-422-4333

GVI Design & Drafting inc.  
www.gvi.com

585 Petrol Drive, Unit C  
Malibu, California 90261  
Phone: 805-422-3677  
Fax: 805-422-4616

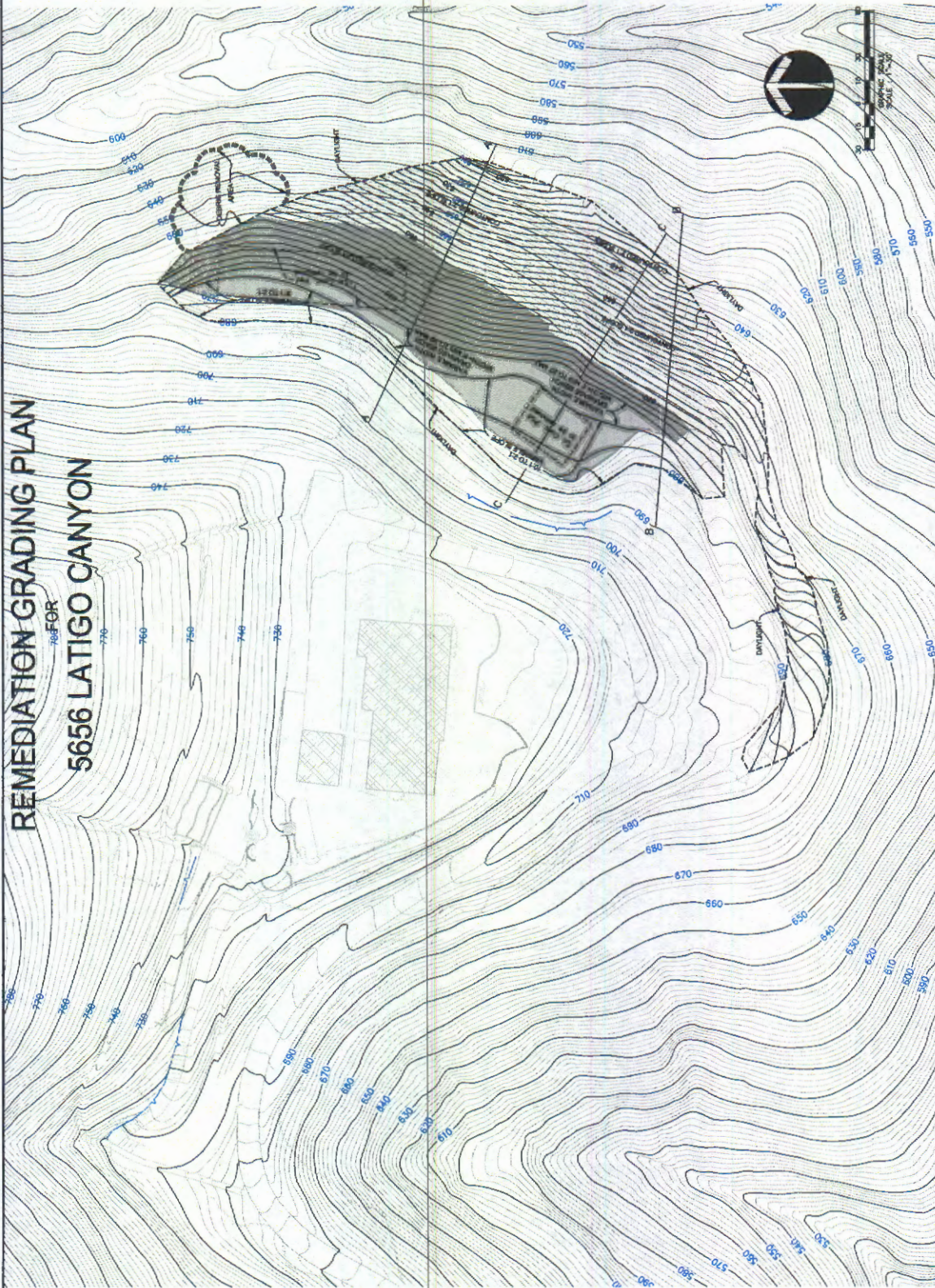
| NO. | DATE    | REVISION          |
|-----|---------|-------------------|
| 1   | 6/27/14 | ISSUED FOR PERMIT |
| 2   | 6/27/14 | REVISED DRAWING   |
| 3   | 6/27/14 | TRUE              |

|       |               |
|-------|---------------|
| NO. 1 | DATE: 6/27/14 |
| NO. 2 | DATE: 6/27/14 |
| NO. 3 | DATE: 6/27/14 |

|                       |               |
|-----------------------|---------------|
| CITY OF MALIBU        |               |
| REMEDIAL GRADING PLAN |               |
| 5656 LATIGO CANYON    |               |
| DATE: 6/27/14         | DATE: 6/27/14 |



# REMEDIAL GRADING PLAN FOR 5656 LATIGO CANYON

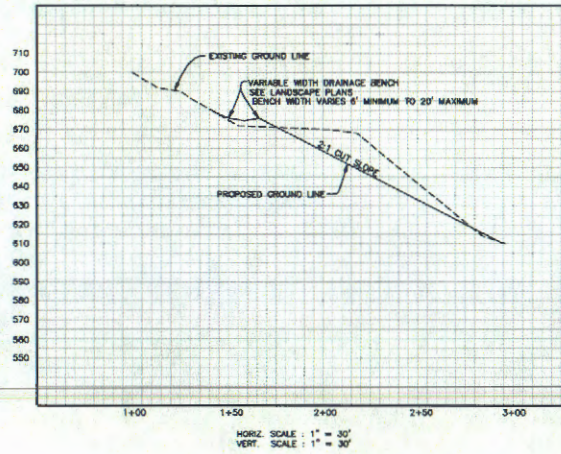


|  |  |   |  |
|--|--|---|--|
| CITY OF MALIBU<br>REMEDIATION GRADING PLAN<br>5656 LATIGO CANYON |  | DATE: 1/14/14<br>DRAWN BY: JAVIER RODRIGUEZ<br>CHECKED BY: JAVIER RODRIGUEZ |  |
| PROJECT NO.: 14-001<br>SHEET NO.: 1 OF 1                         |  | SCALE: 1" = 100'<br>NORTH ARROW   |  |

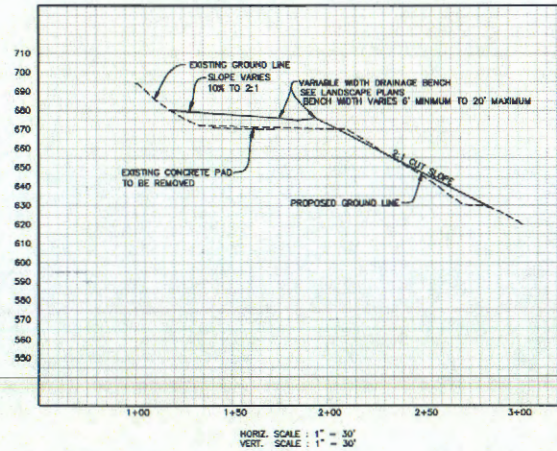


# REMEDATION GRADING PLAN

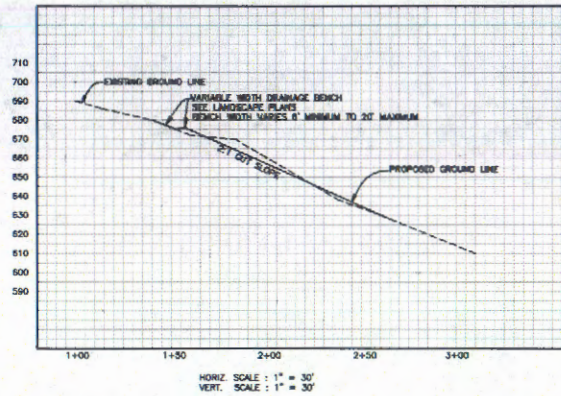
SECTION A - A



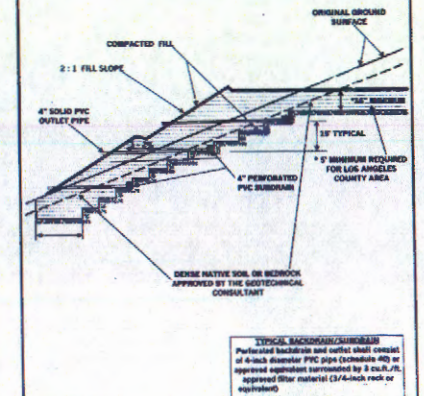
SECTION C - C



SECTION B - B



FILL SLOPE DETAIL



NOT TO SCALE

GOLD COAST  
GEOSERVICES, INC.

FILL SLOPE  
DETAIL

DATE: 9-14  
FIGURE 2



385 Palmdale Drive, Unit C  
Moorestown, California 90271  
Phone: 909-522-2622  
Fax: 909-429-6016

REVISIONS:

| NO. | DATE     | DESCRIPTION       |
|-----|----------|-------------------|
| 1   | 10-13-14 | ISSUED FOR PERMIT |
| 2   |          |                   |
| 3   |          |                   |
| 4   |          |                   |
| 5   |          |                   |
| 6   |          |                   |
| 7   |          |                   |
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| 9   |          |                   |
| 10  |          |                   |

|             |      |
|-------------|------|
| DESIGNED BY | DATE |
| CHECKED BY  | DATE |
| REVIEWED BY | DATE |
| APPROVED BY | DATE |

CITY OF MALIBU

REMEDATION GRADING PLAN  
5656 LATIGO CANYON

## **EXHIBIT 1**

CCC-05-CD-10-A / CCC-05-RO-06-A

(HARTMUT & JESSICA NEVEN)

**(Addendum & Complete Staff Report with  
Exhibits – Sanford J. Horowitz)**

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



# Th 19&20

## ADDENDUM

November 16, 2005

TO: Coastal Commissioners and Interested Parties

FROM: Statewide Enforcement Staff

SUBJECT: ADDENDUM TO **ITEMS 19 AND 20**, COASTAL COMMISSION CEASE AND DESIST ORDER CCC-05-CD-10 AND RESTORATION ORDER CCC-05-RO-06 (HOROWITZ) FOR THE COMMISSION MEETING OF **NOVEMBER 17, 2005**

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Please Note:

Items 19 and 20 have just been “settled,” and will come to the Commission for a hearing on proposed “Consent Orders.” A signed copy of the Consent Agreement will be distributed to Commissioners the morning of November 17, 2005.

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



# Th19&20

Staff:  
Staff Report:  
Hearing Date:

SMR-SF  
October 28, 2005  
November 17, 2005

## **FINDINGS FOR CEASE AND DESIST ORDER CCC-05-CD-10 AND RESTORATION ORDER CCC-05-RO-06**

**CEASE AND DESIST AND  
RESTORATION ORDERS:**

CCC-05-CD-10 and CCC-05-RO-06

**RELATED VIOLATION FILE:**

V-4-95-029

**PROPERTY LOCATION:**

5656 Latigo Canyon Road, Malibu, CA.  
(APN 4459-001-001) (**Exhibits 1 and 2**)

**DESCRIPTION OF PROPERTY:**

42-acre parcel on Latigo Canyon Road, located  
approximately one mile inland of Pacific Coast  
Highway in Malibu, CA, Los Angeles County.

**PROPERTY OWNER:**

Sanford J. Horowitz

**VIOLATION DESCRIPTION:**

Unpermitted development including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat; and unpermitted grading and paving of a building pad and two roads, one paved and one packed earth.



- SUBSTANTIVE FILE DOCUMENTS:**
1. Public records contained in the Commission file regarding Violation No. V-4-95-029;
  2. Coastal Development Permit Nos. SF-80-7095 and 5-89-1008;
  3. Exhibits 1 through 15.

**CEQA STATUS:** Exempt (CEQA Guidelines (CG) §§ 15060(c)(2)), and Categorically Exempt (CG §§ 15061(b)(2), 15037, 15038, and 15321).

## **I. SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission approve Cease and Desist and Restoration Orders set forth below, to 1) direct Sanford Horowitz to cease and desist from performing unpermitted development on the subject property, and 2) require the restoration of the subject property. The unpermitted development includes but is not limited to dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat, including but not limited to removal of native chaparral; and unpermitted grading and paving of a building pad and two roads, one paved and one packed earth (**Exhibit 3a-3h site photos**). The unpermitted development is located down slope of an existing single-family residence on the property. The Commission approved a single-family residence in Administrative Coastal Development Permit ("CDP") No. 5-89-1000 (**Exhibit 4**). A January 24, 1977 aerial photo indicates that no development at all was located on the property prior to the effective date of the Coastal Act (**Exhibits 5a**). A May 10, 1986 aerial photo indicates that the approved driveway and upper building pad was present, as well as the additional unpermitted roads, lower building pad, and storage structures (**Exhibit 5b**).

The unpermitted development on the subject property was performed without a CDP and is a violation of the Coastal Act. The Commission first learned about the Coastal Act violations on the subject property in 1995 and notified the previous owner of the violations in July of that year. The Commission recorded a Notice of Violation Action ("NOVA") regarding the debris dumping against the property title in November 1995. The current owner of the property, Mr. Sanford Horowitz, bought the property in 2000 and was aware of Coastal Act violations on the property when he purchased it.

The subject property is a 42-acre parcel located on Latigo Canyon Road in the Coastal Zone, approximately one mile inland of Pacific Coast Highway in Malibu, California. The subject property is located within the City of Malibu's coastal permit jurisdiction, while the Commission retains appeal jurisdiction for the portions of the property that are within 100 feet of two streams on the property (one of the two streams has been impacted by the debris dumping). The unpermitted development is inconsistent with the certified Local Coastal Program ("LCP") and the Coastal Act.

In an April 21, 2005 letter to City of Malibu planning staff, Commission staff asked the City to notify Commission staff whether the City intended to pursue an enforcement action to resolve the Coastal Act violations located on the subject property that are within the City's LCP jurisdiction (**Exhibit 6**). Section 30810(a) of the Coastal Act provides that the Commission may issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests that the Commission assist with or take primary responsibility for enforcement or if the local government is notified of the violation and declines to act, or does not take action in a timely manner. In a telephone response in June 2005, City of Malibu staff indicated that the City would prefer that the Coastal Commission assume enforcement jurisdiction for the entire subject property and to order abatement of violations on the subject property. The proposed Orders before the Commission would prohibit unpermitted development at the site, and would require restoration of the affected areas under Section 30811 of the Coastal Act.

Under Section 30810 of the Coastal Act the Commission may issue a Cease and Desist Order if it finds that any person has undertaken or is threatening to undertake any activity which requires a permit from the Commission without such a permit. No permit was issued for the various development activities performed at the site.

Under Section 30811 of the Coastal Act, to order restoration, the Commission must find that development has occurred without a coastal development permit, is inconsistent with the Coastal Act and is causing continuing resource damage. As explained herein, the development is 1) unpermitted, 2) inconsistent with the Coastal Act, and 3) causing continuing resource damage, and that, therefore, the standards for a restoration order are satisfied.

## **II. HEARING PROCEDURES**

The procedures for a hearing on a proposed Cease and Desist Order are described in Section 13185, and procedures for a proposed Restoration Order are described in Section 13195, incorporating by reference Sections 13185 and 13186 of Title 14 of the California Code of Regulations (CCR).

For a Cease and Desist and Restoration Order hearing, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any other speaker. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR Section 13195, incorporating by reference Sections 13185, 13186, and 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist and Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the order.

### **III. MOTION/STAFF RECOMMENDATION OF APPROVAL/RESOLUTION**

Staff recommends that the Commission adopt the following two motions:

#### **1. A. MOTION:**

I move that the Commission issue Cease and Desist Order No. CCC-05-CD-10 pursuant to the staff recommendation.

#### **1. B. STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

#### **1. C. RESOLUTION TO ISSUE CEASE AND DESIST ORDER:**

The Commission hereby issues Cease and Desist Order No. CCC-05-CD-10, as set forth below, and adopts the findings set forth below on grounds that the development described in the order has occurred without a coastal development permit. Upon approval, the Commission authorizes and orders that the actions set forth in the Cease and Desist Order be taken.

#### **2. A. MOTION:**

I move that the Commission issue Restoration Order No. CCC-05-RO-06 pursuant to the staff recommendation.

#### **2. B. STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in issuance of the Restoration Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

## **2. C. RESOLUTION TO ISSUE RESTORATION ORDER:**

The Commission hereby issues Restoration Order number CCC-05-RO-06, set forth below, and adopts the findings set forth below on grounds that the development described in the order 1) has occurred without a coastal development permit, 2) is inconsistent with the Coastal Act, and 3) is causing continuing resource damage. Upon approval, the Commission authorizes and orders that the actions set forth in the restoration order be taken.

## **IV. FINDINGS FOR CEASE AND DESIST ORDER CCC-05-CD-10 and RETORATION ORDER CCC-05-CD-06**

Staff recommends the Commission adopt the following findings in support of its action.

### **A. Description of Unpermitted Development**

The development that is the subject of these Cease and Desist and Restoration Orders ("Orders") consists of: unpermitted development including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat, including but not limited to removal of native chaparral; and unpermitted grading and paving of a building pad and two roads, one paved and one packed earth (**Exhibit 3a-3h site photos**).

### **B. Background**

In letters dated July 18, 1995 and October 3, 1995, the Coastal Commission sent a notice of violation to Forrest Freed, the former owner of 5656 Latigo Canyon Rd., regarding the unpermitted dumping of materials in a canyon containing a blueline stream (**Exhibits 7 and 8**). On November 13, 1995 a Notice of Violation Action ("NOVA") was recorded against the subject property (**Exhibit 9**). In letters dated January 23, 1996 and May 28, 1996, Commission staff reminded Mr. Freed of missed deadlines for submittal of a CDP application for removal of unpermitted development. In a letter dated February 4, 1998, Commission staff set a new deadline of March 4, 1998 for submittal of a complete CDP application. On February 28, 2000, Mr. Freed submitted an incomplete CDP application (No. 4-00-051) to remove debris on the site. In a letter dated March 27, 2000, Commission staff described numerous items that were required to complete the application, and set a deadline of June 27, 2000 for their submittal (**Exhibit 10**).

The current owner of the property, Mr. Sanford Horowitz, bought the property on October 6, 2000, after the Notice of Violation that had been recorded in the chain of title for the property. Mr. Freed withdrew CDP Application No. 4-00-051 on November 2, 2000.

Commission staff met with Horowitz's representative, Mr. Gregory Bloomfield, on October 12, 2001 to discuss the permit history of the site. Mr. Bloomfield was informed by staff that in addition to the unpermitted dumping of materials in the canyon and stream, the grading of the lower pad, two roads and placement of two mobile homes and erection of two storage buildings also appeared to be unpermitted development. The two mobile homes have since been removed

from the property. Mr. Bloomfield asserted that aerial photos showed that the two roads were present in 1977. In fact, a January 24, 1977 aerial photograph of the subject property indicates that no graded roads, debris, buildings, or graded pads are visible on the site as of this date (**Exhibit 5a**). The Coastal Act's permit requirements became effective on January 1, 1977. During the October 2001 meeting, Commission staff advised Mr. Bloomfield that an application to retain the lower pad and structures on the pad would likely not be consistent with the Coastal Act because it did not appear to minimize landform alteration. Commission staff advised Mr. Bloomfield and Mr. Horowitz in November of 2001 that an application for a CDP must be submitted before any removal or restoration work could begin on the subject property.

The unpermitted development on the subject property, which is located in the Coastal Zone, was performed without a coastal development permit and is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires 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 coastal development permit.

In 2002, Horowitz submitted an application for a plot plan review to the City of Malibu, proposing a tennis court on the lower pad and new development on the upper pad (next to the permitted single-family residence). The submittal did not address resolution of the Coastal Act violations on the subject property, was not a CDP application and did not address the issue of unpermitted development under the Coastal Act. In an April 21, 2005 letter to City of Malibu planning staff, Commission staff asked the City to notify Commission staff whether the City intended to pursue an enforcement action to resolve the Coastal Act violations located on the subject property that are within the City's LCP jurisdiction (**Exhibit 6**). Section 30810(a) of the Coastal Act provides that the Commission may issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests that the Commission assist with or take primary responsibility for enforcement or if the local government is notified of the violation and declines to act, or does not take action in a timely manner. In a telephone response in June 2005, City of Malibu staff indicated that the City would prefer that the Coastal Commission take the lead in enforcement of the violations. In a letter dated July 12, 2005, the City of Malibu informed Mr. Horowitz that, because of lack of activity, the proposed project had been administratively withdrawn, effective as of July 7, 2005 (**Exhibit 11**).

On July 6, 2005, the Executive Director sent Mr. Horowitz a Notice of Intent (NOI) to Commence Cease and Desist and Restoration Order Proceedings, to seek an order compelling Mr. Horowitz to cease violating the Coastal Act and to restore the subject property (**Exhibit 12**). The NOI stated the basis for issuance of the proposed Cease and Desist and Restoration Orders, stated that the matter was tentatively being placed on the Commission's October 2005 hearing agenda, and provided the opportunity to respond to allegations in the NOI with a Statement of Defense form.

On August 10, 2005, Mr. Horowitz submitted a Statement of Defense in response to the NOI for the proposed Cease and Desist and Restoration Orders (**Exhibit 13**). The substance of the Statement of Defense, and the Commission's response, is outlined in subsequent sections below.

On August 5, 2005, the Executive Director issued a Notice of Intent to record a Notice of Violation of the Coastal Act (**Exhibit 14**). The NOI informed Mr. Horowitz that all unpermitted development on the subject property (i.e., the unpermitted construction of two storage structures; removal of major vegetation, grading and paving of a building pad and two roads, as well as the debris dumping that had been recorded in a previous NOVA), would be recorded in an updated NOVA unless Mr. Horowitz submitted a written objection to such recordation within 20 days of the issuance of the NOI (August 25, 2005). A written objection to the recordation of the updated NOVA was not received; therefore, the updated NOVA was recorded on September 20, 2005 (**Exhibit 15**).

On September 20, 2005, Commission staff conducted another site visit to the subject property to confirm current site conditions. Staff confirmed that while two mobile homes had been removed from the property, the rest of the cited unpermitted development was still present, including the debris, two storage structures on the lower pad and the two unpermitted roads (**Exhibits 3e-3h**).

On October 20, 2005, Commission staff met with Mr. Horowitz and his representative, Mr. Purvis, to discuss the possibility of an amicable resolution regarding the Coastal Act violations on the subject property. Staff discussed the unpermitted development on the subject property and its inconsistency with prior permits. CDP No. SF-80-7095 approved a building pad area of approximately 30,000 square feet. A one story, 3,734-square-foot single-family residence and 660-square-foot guesthouse above a two-car garage, approved in CDP No. 5-89-1000, sits on the approved pad. The cited unpermitted development, including the two roads and additional building pad, are located downslope of the approved development, and total approximately 20,000 square feet.

Mr. Horowitz and Mr. Purvis presented and discussed a 1975 aerial photograph of the property, which they asserted shows an unpaved road and areas of thin vegetation on the subject property. A 1986 aerial photo clearly shows two unpermitted roads that are the subject of the proposed orders (one of these roads was subsequently paved). However, these roads are not visible in the 1975 aerial photo (**Exhibit 3i and 3j**). A faint line segment near the bed of the blueline stream is visible in the 1975 aerial photo, but it appears to be a path or a rock outcropping rather than a road. The line does not appear to connect with the approved upper building pad area, and does not have the same size or appearance as features that are recognizable as unpaved roads in the same photograph.

Mr. Horowitz and Mr. Purvis also asserted that an area of thin vegetation in the 1975 photograph may indicate an absence of ESHA on the subject property. The Commission's staff biologist has examined the 1975 photograph, and remarked that there is no way to assess the vegetative character of areas in the aerial photo that appear to have less dense vegetation. The areas that appear to be less dense could be coastal sage scrub instead of chaparral, or simply chaparral with a more open character. There are many reasons that some areas have higher vegetative cover than others, and vegetative cover may be hard to determine from an aerial, since different vegetative layers (herbaceous, sub-shrub, etc.) will appear different. Commission staff has observed during site visits to the subject property that non-developed areas of the subject property clearly are ESHA (see **Exhibit 3h**).

Accordingly, the 1975 aerial photograph does not establish that the additional building pad or either of the unpermitted roads existed before January 1, 1977 (the effective date of the Coastal Act). Therefore, they are not exempt from the permit requirements of the Coastal Act.

As of the date of this staff report, no consent agreement has been reached, but Commission staff is continuing discussions with Mr. Horowitz to determine whether an amicable resolution of the Coastal Act violations on the property is possible.

**C. Basis for Issuance of Cease and Desist Order:**

The statutory authority for issuance of this Cease and Desist Order is found in Section 30810 of the Coastal Act, which states:

- (a) If the commission... determines that any person... 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 to cease and desist.*

*Section 30810 also provides that:*

- (b) The cease and desist order may be subject to such terms and conditions as the commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division.*

**D. Basis of Issuance of Restoration Order**

The statutory authority for issuance of this Restoration Order is provided for in §30811 of the Coastal Act, which states:

*In addition to any other authority to order restoration, the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan 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, local government, or port governing body, the development is inconsistent with this division, and the development is causing continuing resource damage.*

Commission staff has already verified that no permit was issued for this development. The following paragraphs provide evidence that the unpermitted development is also inconsistent with specified resource protection policies of the certified LCP and the Coastal Act and is causing continuing resource damage.

## **Unpermitted Development is Inconsistent with the LCP and the Coastal Act**

### *Water Quality*

Section 30231 of the Coastal Act states, in part, that

*"the quality of coastal waters, [and] streams appropriate to maintain optimum populations of marine organisms...shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff [and] preventing depletion of ground water supplies and substantial interference with surface water flow."*

### *Water Supply and Flood Control*

Section 30236 of the Coastal Act states that:

*"Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat."*

The 2002 City of Malibu Local Coastal Program ("LCP") incorporates Sections 30231 and 30236 of the Coastal Act and also includes several land use policies in its Local Implementation Plan that are designed to protect water quality and address stream protection and erosion control. These policies include:

17.1B All development should be designed to prevent the introduction of pollutants that may result in water quality impacts.

17.9A Alterations or disturbance of streams or natural drainage courses...shall be prohibited, except for: 1) necessary water supply projects where no feasible alternative exists; 2) flood protection for existing development where there is no other feasible alternative; and 3) the improvement of fish and wildlife habitat.

Grading and vegetation removal on the site has removed surface vegetation, ground cover, subsurface rootstock, and left areas of bare soil on the subject property. Dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blue-line stream has substantially altered the stream and negatively impacted the quality of coastal waters. These affected areas are highly susceptible to erosion and may contribute directly to the degradation of water quality in the surrounding coastal waters and streams through increased sediment input and the presence of materials that may be harmful to aquatic organisms and wildlife (asphalt and plastics). Therefore, based on these facts, the unpermitted development that is the subject of



these Orders is inconsistent with Sections 30231 and 30236 of the Coastal Act and with the certified LCP.

### *Environmentally Sensitive Habitat Areas*

Section 30240 of the Coastal Act states, in part, that

*“Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.”*

The 2002 City of Malibu LCP defines Environmentally Sensitive Habitat area (“ESHA”) as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” The LCP incorporates Section 30240 of the Coastal Act regarding ESHA and also includes several land use policies in its Local Implementation Plan that are designed to protect ESHA. These policies include:

- 4.1 The purpose of the environmentally sensitive habitat overlay zone or “ESHA” overlay zone is to protect and preserve areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. The environmentally sensitive habitat overlay zone shall extend not only over an ESHA area itself but shall also include buffers necessary to ensure continued protection of the habitat areas. Only uses dependent on the environmentally sensitive habitat areas and which do not result in significant disruption of habitat values shall be permitted in the ESHA overlay zone.
- 4.2 The ESHA overlay provisions shall apply to those areas designated environmentally sensitive habitat area on the Malibu LIP ESHA overlay map and those areas within 200 feet of designated ESHA. Additionally, those areas not mapped as ESHA, but found to be ESHA under the provisions of Section 4.3 of the Malibu LIP shall also be subject to these provisions.
- 4.3 A. Any area not designated on the ESHA Overlay Map that meets the “environmentally sensitive area” definition (Chapter 2 of the Malibu LIP) is ESHA and shall be accorded all the protection provided for ESHA in the LCP. The City shall determine the physical extent of habitat meeting the definition of “environmentally sensitive area” on the project site, based on the applicant’s site-specific biological study, as well as available independent evidence.

- 4.3 B. Unless there is site-specific evidence that establishes otherwise, the following habitat areas shall be considered to be ESHA:
1. Any habitat area that is rare or especially valuable from a local, regional, or statewide basis
  2. Any habitat area that contributes to the viability of plant or animal species that are designated or are candidates for listing as rare, threatened, or endangered under State or Federal law
  3. Any habitat area that contributes to the viability of species that are designated "fully protected" or "species of special concern" under State law or regulations.
  4. Any habitat area that contributes to the viability of species for which there is other compelling evidence of rarity, for example plant species eligible for state listing as demonstrated by their designation as "1b" (Rare or endangered in California and elsewhere) or designation as "2" (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society,
  5. Any designated Area of Special Biological Significance, or Marine Protected Area.
  6. Streams.

A natural drainage containing a blueline stream, which constitutes ESHA, has been directly impacted through the debris dumping, which has partially filled the canyon containing this drainage. The area surrounding the stream is dominated by healthy, contiguous chaparral habitat. Chaparral is ESHA if it is not isolated or in small patches, but is part of a large, healthy native habitat area. The unpermitted grading and vegetation clearance caused the direct removal and discouragement of the growth of watershed cover, including native chaparral on the subject property, which is also considered ESHA, resulting in a reduction in the amount and quality of the habitat and watershed cover in the area. Therefore, based on these facts, the unpermitted development that is the subject of these Orders is inconsistent with Section 30240 of the Coastal Act and with the certified LCP.

*Scenic and Visual Qualities; Minimization of Natural Landform Alteration*

Coastal Act Section 30251 states that:

*"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting."*

The 2002 City of Malibu LCP incorporates Section 30251 of the Coastal Act and also includes several land use policies in its Local Implementation Plan that are designed to protect scenic, visual, and hillside resources. These policies include:

6.1 The purpose of the Scenic, Visual, and Hillside Resource Protection Ordinance is to enhance and protect the scenic and visual qualities of coastal and mountain areas within the City of Malibu as a resource of public importance in accordance with the policies of the City's Local Coastal Plan (LCP) and the California Coastal Act. To implement the certified Land Use Plan (LUP), development standards, permit and application requirements, and other measures are provided *to ensure that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.* (emphasis added)

6.5A3 Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.

6.5A4 New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.

The unpermitted roads, pads, structures, and vegetation clearance on the subject property do not minimize landform alteration or disturbance to the natural drainage or native vegetation. Therefore, based on these facts, the unpermitted development that is the subject of these Orders is inconsistent with Section 30251 of the Coastal Act and with the certified LCP.

### *Geologic Stability*

Section 30253 of the Coastal Act states, in part, that

*"New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard, [and] (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area."*

The 2002 City of Malibu LCP incorporates Section 30253 of the Coastal Act and also includes several land use policies in its Local Implementation Plan that are designed to ensure geologic stability. These policies include:

9.1 The purpose and intent of this chapter is to implement the policies of the City's certified Local Coastal Program (LCP) Land Use Plan (LUP) to

insure that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. To implement the certified LUP, development standards, permit and application requirements, and other measures are provided *to ensure that permitted development is sited and designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, or in any way require the construction of protective devices that would substantially alter natural landforms along canyons, hillsides, bluffs and cliffs.* (emphasis added)

The grading of roads and removal of vegetation has left substantial areas of bare soils on steep slopes. Such areas will contribute significantly to erosion at the site. The unpermitted debris dumping has occurred on a steep slope. The unpermitted graded roads and pad, which have been cleared and graded on steep slopes and adjacent to the stream channel on the subject property, do not minimize landform alteration on the site, as is required by Section 30253. Therefore, based on these facts, the unpermitted development that is the subject of these Orders is inconsistent with Section 30253 of the Coastal Act and with the certified LCP.

### **Unpermitted Development is Causing Continuing Resource Damage**

The unpermitted development is causing continuing resource damage, as defined in Section 13190 of the Commission's regulations:

*'Continuing,' when used to describe 'resource damage,' means such damage which continues to occur as of the date of issuance of the Restoration Order.*

*'Resource' means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.*

*'Damage' means 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."*

Since the unpermitted development continues to exist at the subject property and, as described in detail in the sections above, is causing adverse impacts to resources protected by the Coastal Act that continue to occur as of the date of this proceeding, damage to resources is "continuing" for purposes of Section 30811 of the Coastal Act.

### **E. CEQA**

The Commission finds that the cease and desist activities and removal of the unpermitted development and restoration of the property to the conditions that existed prior to the unpermitted development, as required by these Cease and Desist and Restoration Orders, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the

meaning of CEQA. The Cease and Desist and Restoration Orders are categorically exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(3), 15061(b)(2), 15307, 15308 and 15321 of the CEQA Guidelines.

**F. Findings of Fact**

1. Mr. Sanford J. Horowitz owns the property at 5656 Latigo Canyon Road (APN 4459-001-001).
2. Unpermitted development, including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream; unpermitted construction of two storage structures; removal of major vegetation; and grading and paving of a building pad and two roads have occurred on the subject property.
3. No exemption from the permit requirements of the Coastal Act applies to the unpermitted development on the subject property.
4. No permit was issued for the cited development activities on the subject property.
5. The unpermitted development is a violation of the Coastal Act.
6. The unpermitted development is inconsistent with Chapter 3 policies of the Coastal Act, including Sections 30231, 30236, 30240, 30251 and 30252.
7. The unpermitted development is inconsistent with resource protection policies of the certified Local Coastal Program, Local Implementation Plan Sections 4, 6, 9 and 17.
8. The unpermitted development is causing continuing resource damage.
9. A Notice of Violation Action (NOVA) has been recorded against the subject property.

**G. Violators' Defenses and Commission Staff's Response**

On August 10, 2005, Drew D. Purvis submitted a Statement of Defense in response to the NOI for the Cease and Desist and Restoration Orders, on behalf of Sanford Horowitz (**Exhibit 13**). The following section describes the defenses contained in the Statement of Defense and sets forth the Commission's response to each defense.

**Owner's Defense:**

1. **"The current owner of the subject property (Mr. Sanford Horowitz) has not felt the need to retain legal council regarding this issue because it is his intent to comply fully to what he believes to be the current standing of this violation."**

**Commission's Response:**

Based on the defenses raised in more detail below, this statement appears to be referring to Mr. Horowitz's assertion that before he purchased the property he was only aware of the Coastal Act violation concerning the debris dumping into the canyon and blue line stream, that he was not aware of any other alleged violations on the property, and that he intends to resolve only that part of the alleged violation involving the debris dumping (i.e., he appears to be asserting that he is not responsible for resolving the alleged violations regarding the unpermitted grading of the lower pad, the unpermitted grading of two roads leading to the lower pad, and the unpermitted placement of sheds on the lower pad).

Even if Mr. Horowitz was not aware when he purchased the property that the lower pad, structures on the pad, and roads were constructed in violation of the Coastal Act, as the current property owner, Mr. Horowitz is responsible for resolving all Coastal Act violations on the subject property.

**Owner's Defense:**

2. **"I concur that unpermitted dumping of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials [has occurred] in canyon containing a blue line stream."**

**Commission's Response:**

Mr. Horowitz has acknowledged that when he purchased the subject property, he was aware of the violation regarding the debris dumping. Mr. Horowitz has indicated that he is willing to remove the materials from the canyon and stream, but he has not submitted a CDP application to obtain authorization to do so. This statement does not constitute a defense to issuance of the Orders.

**Owner's Defense:**

3. **"I do not concur with the allegations of unpermitted placement of two mobile homes, unpermitted construction of two storage sheds, and grading and paving of a building pad and two roads, one paved and one packed earth."**

**Commission's Response:**

Mr. Horowitz has stated that he only knew about the unpermitted debris dumping, and that he was not informed when he purchased the property about other alleged violations on the property (i.e., the unpermitted lower pad, the two unpermitted graded roads and the unpermitted sheds on the lower pad). As noted above, even if some of the unpermitted development on the subject property was performed or placed there by a previous owner, Mr. Horowitz is liable for actions of previous owners who may have conducted the unpermitted development. Mr. Horowitz is violating the Coastal Act by maintaining the unpermitted development on his property.

In addition, in (Leslie Salt Co. v. San Francisco Bay Conservation and Development Com. (1984) 153 Cal. App.3d 605, 622), the court held that:

*"whether the context be civil or criminal, liability and the duty to take affirmative action [to correct a condition of noncompliance with applicable legal requirements] flow not from the landowner's active responsibility for [that] condition of his land...or his knowledge of or intent to cause such [a condition] but rather, and quite simply, from his very possession and control of the land in question."*

Mr. Horowitz is also maintaining conditions that are causing harm to water quality and therefore constitute a public nuisance. Mr. Horowitz is liable for abatement of public nuisances on the subject property based on Civil Code 3483, which states:

*Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it.*

#### **Owner's Defense:**

4. **"I had no personal knowledge of any of the allegations [in #3 above]. When I purchased the resident [sic] the only issue that I was told about from the prior owner, his real estate agent, and the people who I met at the property from the Coastal Commission was this issue of illegal dumping of debris. The mobile homes, steel sheds, pads were never mentioned. Later Greg Bloomfield was told about the possibility of the road going down the canyon but we proved thru aerial photos that that road pre-dated the existence of the Coastal Commission."**

#### **Commission's Response:**

The aerial photos provided by Mr. Horowitz do not prove that the road pre-dated the Coastal Act. In fact, these aerial photos of the subject property clearly indicate the opposite. The Statement of Defense included two attached photos, one dated May 5, 1975, and one dated April 20, 1987 (**Exhibit 13 pages 7 and 9**). No development is visible on the subject property in the 1975 photo. In the 1987 photo, development is clearly visible. Commission staff examined a similar set of aerial photos dating from 1977 and 1986 (described below), which also indicate that no development was located on the subject property prior to the effective date of the Coastal Act.

In an aerial photo dated January 24, 1977, no development at all is visible on the subject property (**Exhibit 5a**). In an aerial photo dated May 10, 1986, development is clearly visible on the subject property. Visible development in this photo includes the permitted driveway and upper building pad (before the single family residence was constructed) as well as the unpermitted lower graded building pad, two unpermitted graded roads leading down to the unpermitted pad, and two unpermitted storage structures on the lower pad (**Exhibit 5b**). Development on the subject property clearly occurred after the permitting requirements of the Coastal Act went into

effect on January 1, 1977. None of the development on the subject property, whether permitted or unpermitted, occurred before January 1977.

As discussed above, even if some of the unpermitted development on the subject property was performed or placed there by a previous owner, Mr. Horowitz is liable for removal of the unpermitted development and restoration of the site.

**Owner's Defense:**

6. **"In regards to the unpermitted dumping of materials I have hired a team of technical and environmental consultants to study the existing condition and prepare recommendations for remediation of this condition. We intend to submit a comprehensive application before the end of the year. The two mobile homes were removed years ago."**

**Commission's Response:**

The Statement of Defense includes three attached proposals dated February 17, 2005, December 2, 2003, and February 20, 2005 (**Exhibit 13, pages 10-20 and 24-30**). The February 17, 2005 proposal outlines a scope of work "to prepare a biological assessment for a new home and associated improvements within/adjacent to designated environmentally significant habitat area, Horowitz property, Latigo Canyon Area, Malibu, CA." The December 2, 2003 proposal outlines a scope of work "to provide a preliminary geologic and soils engineering investigation of the subsurface earth materials on the subject property for the proposed garage/guesthouse, pottery studio, spa and driveway retaining walls and provide appropriate recommendations." The February 20, 2005 proposal outlines a scope of work "to perform a grading and drainage plan for planning purposes and a local stormwater management plan (SWPCPC and SUSMP) for review by the City of Malibu." These work scopes are for the preparation of reports that would be prepared in support of new proposed development on the subject property, which would be located on the upper approved pad where the existing single-family residence is located. None of the proposed development listed in these work scopes addresses resolution of the existing Coastal Act violations on the site through removal of existing unpermitted development or restoration of the site or even address the area where the violations are located.

The Statement of Defense also includes an attached agreement for landscape design services (**Exhibit 13, pages 21-23**), dated February 21, 2005. This agreement describes a scope of work for "new planting plan for all areas around existing and new residence along property access road and private driveway approach; hardscape and softscape design for pool area, hillside area behind proposed garage/guest house, tennis court area, conceal graded hillside embankment below tennis court per cities request; irrigation plan around surrounding proposed landscaped areas; identify areas requiring landscape for erosion control measures; redesign drainage system as required by City for property located in the coastal zone at 5656 Latigo Canyon Road in the City of Malibu, California." Similar to the scopes of work discussed above, this landscaping agreement appears to be linked to new proposed development that would be located on the upper approved pad where the existing single-family residence is located. The landscaping agreement does refer to "tennis court area," which on plans submitted to the City of Malibu is proposed for



the unpermitted lower pad area, and to "conceal graded hillside embankment below tennis court," which is the location of the unpermitted debris in the canyon. The lower pad is unpermitted, does not appear to be approvable under the Coastal Act because it does not minimize landform alteration, and to "conceal" the debris slope is not an appropriate resolution of the Coastal Act violation.

The work scopes do not propose any measures to resolve the Coastal Act violations on the subject property. Therefore, it is apparent that Mr. Horowitz has not "hired a team of technical and environmental consultants to study the existing condition and prepare recommendations for remediation of this condition." In fact, it appears Mr. Horowitz is proposing to retain the unpermitted lower pad, is proposing to place new development at this location, and is proposing to "conceal" the unpermitted debris instead of removing the debris and restoring the site. During a site visit on September 20, 2005, Commission staff confirmed that no mobile homes were present on the lower pad, and they are not subject to the proposed Orders.

Staff recommends that the Commission issue the following Cease and Desist and Restoration Orders:

**CEASE AND DESIST ORDER CCC-05-CD-10**

Pursuant to its authority under Public Resource Code §30810, the California Coastal Commission hereby finds that unpermitted development has occurred on the site in violation of the Coastal Act, and hereby orders and authorizes Mr. Sanford Horowitz, his agents, contractors and employees, and any person(s) acting in concert with any of the foregoing (hereinafter referred to as "Respondents") to cease and desist from: 1) dumping of concrete, rebar, bricks, asphalt, plastics, metal materials or other materials into a canyon containing a blueline stream; unpermitted construction of two storage structures; removing major vegetation; and grading and paving of a building pad and two roads and from conducting any other unpermitted development at the site which would require a CDP; 2) maintaining on said property any unpermitted development including that referenced above or as otherwise referenced in Section IV.A of this report; and 3) conducting any future development in the future without first obtaining a CDP.

**RESTORATION ORDER CCC-05-RO-06**

Pursuant to its authority under Public Resource Code §30811, the California Coastal Commission finds that the development is 1) unpermitted, 2) inconsistent with the Coastal Act, and 3) causing continuing resource damage, and hereby orders and authorizes Mr. Sanford Horowitz, his agents, contractors and employees, and any person(s) acting in concert with any of the foregoing (hereinafter, "Respondents") to restore the subject properties to the extent provided below. Accordingly, the persons subject to this order shall fully comply with the following conditions:

- A. Within 60 days of issuance of this Restoration Order, Respondents shall submit for the review and approval of the Executive Director of the Commission a Restoration, Revegetation and Monitoring Plan (hereinafter referred to as the "Restoration Plan"). The Executive Director may require revisions to this and any other deliverable required under these Orders. The Executive Director may extend this time for good cause.

The Restoration, Revegetation and Monitoring Plan (hereinafter referred to as the "Restoration Plan") shall be prepared by a qualified restoration ecologist and a qualified engineering geologist or licensed engineer, as described in section (d), below and shall include the following:

- a) Goals and Performance Standards. Section A of the Restoration Plan shall present the following goals of the Restoration and Revegetation Project.
1. Restoration of the property to the condition that existed prior to the unpermitted development through removal of all unpermitted development, including debris (including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials) and storage structures, and restorative grading of the topography in the areas impacted by the unpermitted development, including the canyon slope, paving and the location of the unpermitted building pad and the two unpermitted roads. Restorative grading plans should include sections showing original and finished grades, and quantitative

breakdown of grading amounts (cut/fill), drawn to scale with contours that clearly illustrate the original topography of the subject site prior to any grading disturbance. The restorative grading plans shall provide for the restoration of the property to the condition that existed prior to the unpermitted development to the maximum extent feasible. If Respondents believe the site cannot be completely restored to its pre-violation condition, they shall demonstrate to the Executive Director's satisfaction that the Restoration Plan proposes restoration to the maximum extent feasible. The location for any excavated debris and material to be removed from the site as a result of the restoration of the impacted areas shall be identified. If the dumpsite is located in the Coastal Zone and is not an existing sanitary landfill, a coastal development permit shall be required.

2. Revegetation of all graded areas and areas impacted by the removal of major vegetation so that disturbed areas have a similar plant density, total cover and species composition as that typical of undisturbed chaparral vegetation in the surrounding area within 5 years from the initiation of revegetation activities.
3. Eradication of non-native vegetation within the areas subject to revegetation and those areas that are identified as being subject to disturbance as a result of the restoration and revegetation activities.
4. Minimization of the amount of artificial inputs such as watering or fertilizers that shall be used to support the revegetation of the impacted areas. The Restoration and Revegetation Project will not be successful until the revegetated areas meet the performance standards for at least three years without maintenance or remedial activities other than nonnative species removal.
5. Stabilization of soils so that soil is not transported off the subject property or into the chaparral or riparian ESHA and so that slumping, gullying, or other surficial instability does not occur.
6. Section A of the Restoration Plan shall also include specific ecological and erosion control performance standards that relate logically to the restoration and revegetation goals. Where there is sufficient information to provide a strong scientific rationale, the performance standards shall be absolute (*e.g.*, specified average height within a specified time for a plant species).
7. Where absolute performance standards cannot reasonably be formulated, clear relative performance standards shall be specified. Relative standards are those that require a comparison of the restoration site with reference sites. The performance standards for the plant density, total cover and species composition shall be relative. In the case of relative performance standards, the rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant will be specified.

Reference sites shall be located on adjacent areas vegetated with chaparral undisturbed by development or vegetation removal, within 2000 feet of the subject property with similar slope, aspect and soil moisture. If the comparison between the revegetation area and the reference sites requires a statistical test, the test will be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program shall relate logically to the performance standards and chosen methods of comparison. The sampling program shall be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of monitoring and sampling shall be specified for each parameter to be monitored. Sample sizes shall be specified and their rationale explained. Using the desired statistical power and an estimate of the appropriate sampling variability, the necessary sample size will be estimated for various alpha levels, including 0.05 and 0.10.

- b) Restoration and Revegetation Methodology. Section B of the Restoration Plan shall describe the methods to be used to stabilize the soils and revegetate the impacted areas. Section B shall be prepared in accordance with the following directions:
1. The plan shall be designed to minimize the size of the area and the intensity of the impacts from disturbances caused by the restoration of the impacted areas. Other than those areas subject to revegetation activities, the areas of the site and surrounding areas currently vegetated with chaparral shall not be disturbed by activities related to this restoration project. Prior to initiation of any activities resulting in physical alteration of the subject property, the disturbance boundary shall be physically delineated in the field using temporary measures such as stakes or colored tape.
  2. Specify that the restoration of the site shall be performed using hand tools wherever possible, unless it has been demonstrated to the satisfaction of the Executive Director that heavy equipment will not contribute significantly to impacts to resources protected by the Coastal Act, including, but not limited to geological instability, minimization of landform alteration, erosion and impacts to native vegetation and the stream.
  3. The qualified geologic engineer and restoration ecologist shall specify the methods to be used after restoration to stabilize the soil 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 plan shall specify the erosion control measures that shall be installed on the project site

prior to or concurrent with the initial grading operations and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment outside of the disturbed areas. The soil treatments shall include the use of mycorrhizal inoculations of the soil, unless it can be demonstrated to the satisfaction of the Executive Director that such treatment will not likely increase the survival of the plants to be used for revegetation.

4. Describe the methods for revegetation of the site. All plantings shall be the same species, or sub-species, if relevant, as those documented as being located in the reference sites. The planting density shall be at least 10% greater than that documented in the reference sites, in order to account for plant mortality. All plantings shall be performed using native plants that were propagated from plants as close as possible to the subject property, in order to preserve the genetic integrity of the flora in and adjacent to the revegetation area.
  5. Describe the methods for detection and eradication of nonnative plant species on the site. Herbicides shall only be used if physical and biological control methods are documented in peer-reviewed literature as not being effective at controlling the specific nonnative species that are or become established in the revegetation area. If herbicides are to be used in the revegetation area, specify the target plant, type of herbicide, concentration, and the precautions that shall be taken to protect native plants and workers, consistent with all applicable laws and regulations.
  6. Specify the measures that will be taken to identify and avoid impacts to sensitive species. Sensitive species are defined as: (a) species which are listed by state or federal agencies as threatened or endangered or which are designated as candidates for such listing; (b) California species of special concern; (c) fully protected or "special animal" species in California; and (d) plants considered rare, endangered, or of limited distribution by the California Native Plant Society.
- c) Monitoring and Maintenance. Section C of the Restoration Plan shall describe the monitoring and maintenance methodology and shall include the following provisions:
1. The Respondents shall submit, on an annual basis for a period of five years (no later than December 31<sup>st</sup> each year) a written report, for the review and approval of the Executive Director, prepared by a qualified restoration ecologist and qualified geologic engineer, evaluating compliance with the performance standards. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet

the goals and performance standards specified in the Restoration Plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery at the site. Carry out the further recommendations and requirements for additional restoration activities that are authorized by Commission staff.

2. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the restoration of the project site. If any such inputs are required beyond the first two years, then the monitoring program shall be extended by an amount of time equal to that time during which inputs were required after the first two years, so that the success and sustainability of the restoration of the project site are ensured.
  3. At the end of the five-year period, a final detailed report shall be submitted 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 approved performance standards, the applicant shall be required to submit a revised or supplemental plan to compensate for those portions of the original program that were not successful. The Executive Director will determine if the revised or supplemental restoration plan must be processed as a CDP, a new Restoration Order, or modification of Restoration Order CCC-05-RO-06.
- d) Appendix A shall include a description of the education, training and experience of the qualified engineering geologist or licensed engineer and restoration ecologist who shall prepare the Restoration Plan. A qualified restoration ecologist for this project shall be an ecologist, arborist, biologist or botanist who has experience successfully completing restoration or revegetation of chaparral habitats. If this qualified restoration ecologist does not have experience in creating the soil conditions necessary for successful revegetation of chaparral vegetation, a qualified soil scientist shall be consulted to assist in the development of the conditions related to soils in the Revegetation and Monitoring Plan. A qualified engineering geologist or licensed engineer for this project shall be a geologist or engineer who has experience evaluating and designing soil stabilization projects in the Santa Monica Mountains area.
  - e) Submit interim erosion control plans for the review and approval of the Executive Director. The Interim Erosion Control Plan shall be prepared by a qualified restoration ecologist and shall include the following:
    - I. The Interim Erosion Control Plan shall demonstrate that:
      - a. The following temporary erosion control measures shall be used: hay bales, straw wattles, silt fences.

- b. Erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and resources.
  2. The Interim Erosion Control Plan shall include, at a minimum, the following components:
    - a. A narrative report describing all temporary runoff and erosion control measures to be used and any permanent erosion control measures to be installed for permanent erosion control.
    - b. A detailed site plan showing the location of all temporary erosion control measures.
    - c. A schedule for installation and removal of temporary erosion control measures, in coordination with the long term restoration, revegetation and monitoring plan discussed below.
- B. Within 30 days of the approval by the Executive Director of the documents submitted under paragraph A, or within such additional time as the Executive Director may grant for good cause, Respondents shall complete the following actions, in compliance with the plans approved under paragraph A:
  1. Restore the topography consistent with the Restoration, Revegetation and Monitoring Plan required by Part A of this order and as approved by the Executive Director.
  2. Submit to the Executive Director a report documenting the restoration of the topography. This report shall include photographs that show the restored site. This report shall include a topographic plan that is prepared by a licensed surveyor, shows two-foot contours, and represents the topographic contours after removal of the development and grading to achieve restoration of the topography to the maximum extent possible, as described in paragraph A.
- C. Within 15 days of the approval by the Executive Director of the documents submitted under paragraph B2 above, or within such additional time as the Executive Director may grant for good cause, revegetate the disturbed areas with native plants, following the specifications of the Restoration Plan approved by the Executive Director, pursuant to paragraph A above.
- D. In accordance with the required frequency and timing of monitoring reports set forth in the Restoration Plan, approved by the Executive Director pursuant to paragraph A above, submit to the Executive Director monitoring reports.
- E. After approval of the monitoring reports by the Executive Director, implement within such timeframe as the Executive Director may specify all measures specified by the Executive Director to ensure the health and stability of the restored areas, as required by the Restoration Plan.
- F. For the duration of the restoration project, including the monitoring period, all persons subject to this order shall allow the Executive Director of the Commission, and/or his/her

designees to inspect the subject property to assess compliance with the Restoration Order, subject to twenty-four hours advance notice.

### **Persons Subject to the Orders**

Mr. Sanford J. Horowitz, his agents, contractors and employees, and any person(s) acting in concert with any of the foregoing

### **Identification of the Property**

The property that is subject to these orders is located at 5656 Latigo Canyon Road in Los Angeles County (APN 4456-001-001).

### **Description of Unpermitted Development**

All unpermitted development including (but not limited to) dumping of concrete, rebar, bricks, asphalt, plastics and metal materials into a canyon containing a blueline stream, which constitutes unpermitted streambed alteration (filling); unpermitted construction of two storage structures; removal of major vegetation and disturbance of Environmentally Sensitive Habitat; and grading and paving of a building pad and two roads, one paved and one packed earth.

### **Effective Date and Terms of the Orders**

The effective date of these orders is November 17, 2005. The orders shall remain in effect permanently unless and until modified or rescinded by the Commission.

### **Findings**

These orders are issued on the basis of the findings adopted by the Commission on November 17, 2005, as set forth in the attached document entitled "FINDINGS FOR CEASE AND DESIST ORDER CCC-05-CD-10 and RESTORATION ORDER CCC-05-CD-06".

### **Compliance Obligation**

Strict compliance with the orders by all parties subject thereto is required. Failure to comply strictly with any term or condition of the orders, including any deadline contained in the orders, will constitute a violation of the orders and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists, in addition to any other penalties authorized under Sections 30820 and 30821.6. The Executive Director may extend deadlines for good cause.

### **Deadlines**

Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.



### **Appeal**

Pursuant to PRC § 300803(b), any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

### **Government Liability**

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Horowitz in carrying out activities required and authorized under this Cease and Desist Order, nor shall the State of California be held as a party to any contract entered into by Horowitz or his agents in carrying out activities pursuant to this Order.

### **Successors and Assigns**

The Cease and Desist and Restoration Orders shall run with the land, binding all successors in interest, future owners of the Subject Property, heirs and assigns of Horowitz. Notice shall be provided to all successors, heirs and assigns of any remaining obligations under these Orders.

### **No Limitation on Authority**

Except as expressly provided herein, nothing herein 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 Cease and Desist and Restoration Orders.

### **Access**

Respondents agree to 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 Orders. Nothing in these 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 to view the areas where development is being performed pursuant to the requirements of the Orders for purposes including but not limited to 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 Orders.

### **Governing Law**

These Orders shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California, which apply in all respects.

Executed in \_\_\_\_\_ on \_\_\_\_\_, on behalf  
of the California Coastal Commission.

By: \_\_\_\_\_ Peter Douglas, Executive Director

**Exhibits**

1. Site Location Map.
2. Parcel Map.
3. Site photos.
4. Administrative CDP 5-89-1000 approved site plan.
5. 1977 and 1986 aerial photos.
6. Letter dated April 21, 2005 from Commission to City of Malibu planning staff.
7. Letter dated July 18, 1995 from Commission to Forrest Freed, former property owner.
8. Letter dated October 3, 1995 from Commission to Forrest Freed, former property owner.
9. November 13, 1995 Notice of Violation Action (NOVA) recorded against the subject property.
10. Incomplete letter dated March 27, 2000 from Commission to Forrest Freed.
11. Letter dated July 12, 2005, from the City of Malibu to Sanford Horowitz.
12. Notice of Intent (NOI) letter dated July 6, 2005, from the Executive Director to Sanford Horowitz.
13. Statement of Defense dated August 10, 2005.
14. Notice of Intent (NOI) letter dated August 5, 2005, to record an updated Notice of Violation of the Coastal Act, from the Executive Director to Sanford Horowitz.
15. September 20, 2005 Notice of Violation of the Coastal Act (NOVA) reflecting updated description of Coastal Act violations recorded against the subject property.





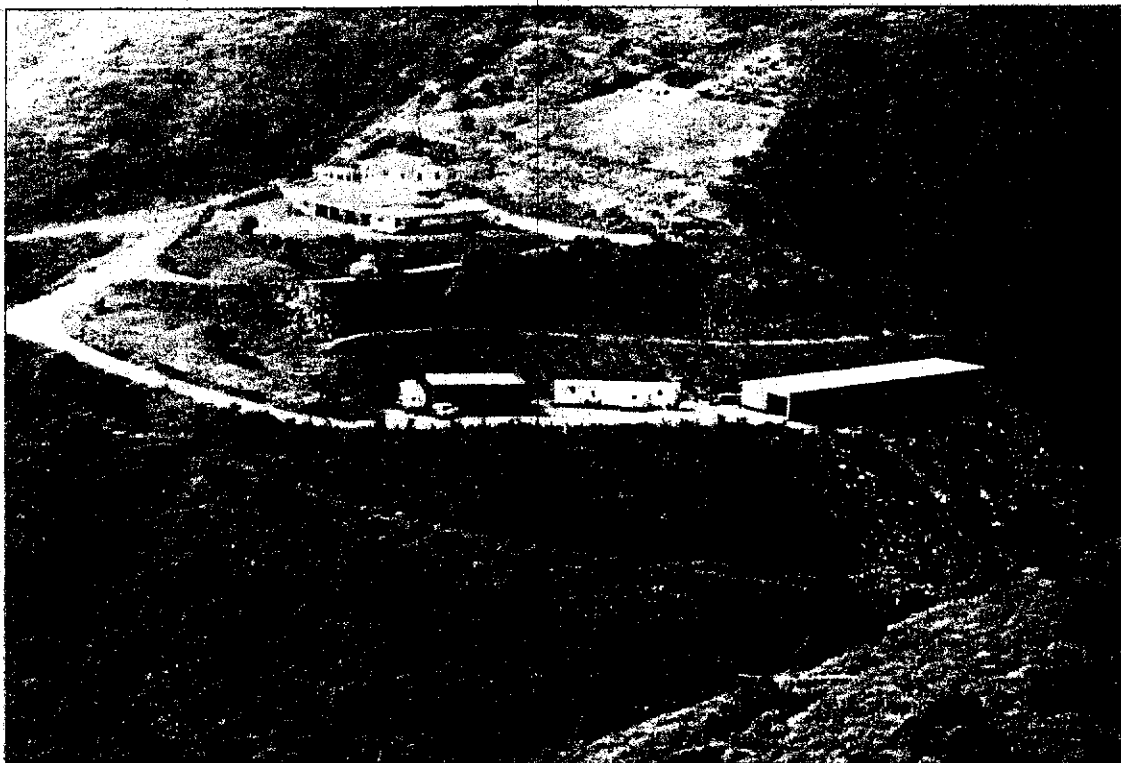


Exhibit 3a. 1995 site photo. Debris dumped in canyon is visible down slope of large shed.

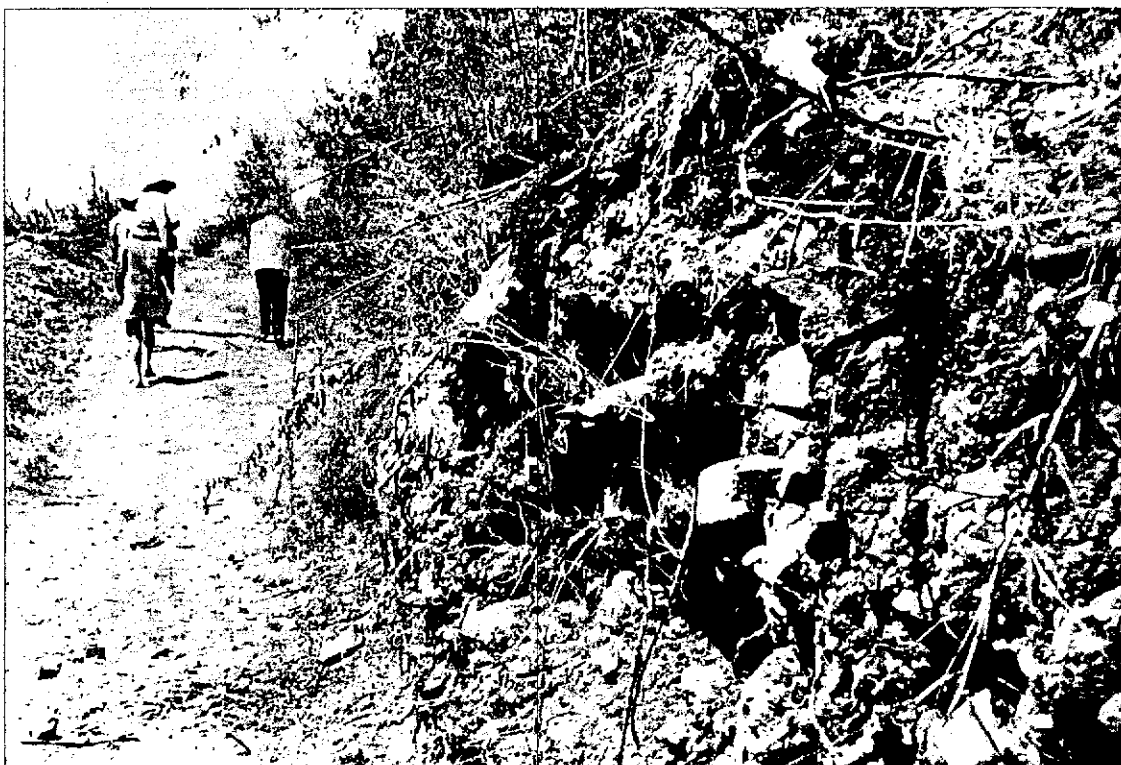


Exhibit 3b. 1999 site photo. Packed earth road extends into debris dumped in canyon.



Exhibit 3c. 1999 site photo. Packed earth road extending into dumped debris.



Exhibit 3d. 2000 site photo. Debris dumped into canyon and blueline stream.



Exhibit 3e. September 2005 site photo. Concrete debris with metal rebar.

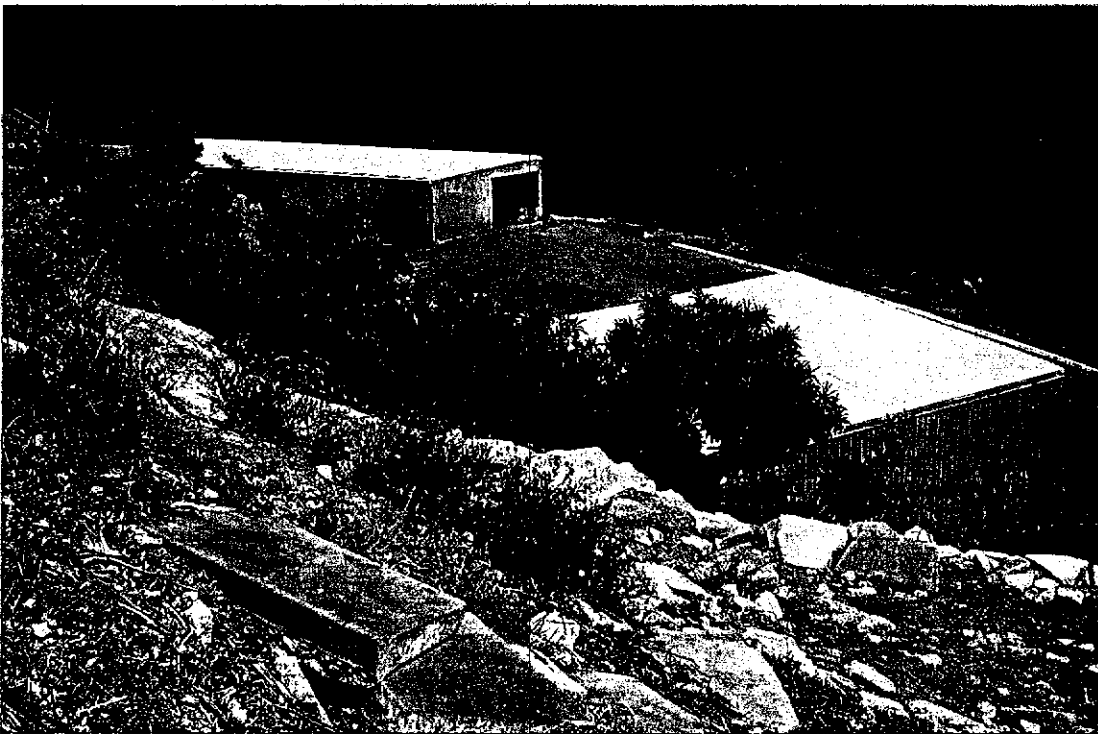


Exhibit 3f. September 2005 site photo. Debris on upper slope; looking down at unpermitted sheds and paved lower building pad.



Exhibit 3g. September 2005 site photo. Debris extending into canyon and stream.



Exhibit 3h. September 2005 site photo. Unpermitted pad, shed and debris.  
Undisturbed ESHA on subject property visible in background.





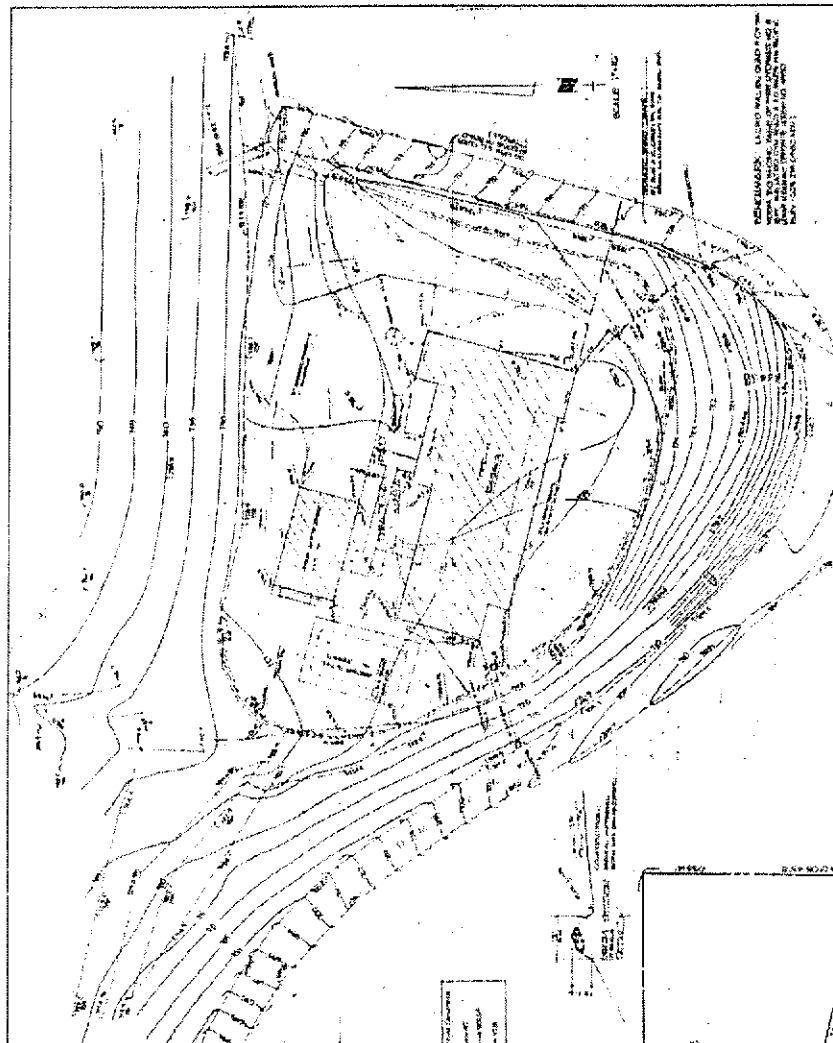
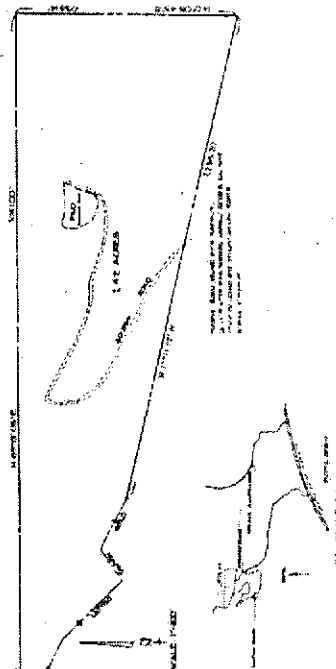
Exhibit 3i. May 5, 1975 aerial photo.



Exhibit 3j. May 10, 1986 aerial photo.

| LINE | DESCRIPTION     |
|------|-----------------|
| 1    | POST PAID       |
| 2    | PHONE SERVICE   |
| 3    | WATER SERVICE   |
| 4    | SEWER SERVICE   |
| 5    | WASTE FEE       |
| 6    | LANDFILL        |
| 7    | WASTE TREATMENT |
| 8    | WASTE TREATMENT |
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DISCOUNTED FOR  
FOREIGN REST FIELD

[illegible][illegible]

DATE OF BIRTH: 08-09-1967  
PLACE OF BIRTH: [illegible]  
CITY OF ORIGIN: NEW YORK

TOPOGRAPHY ~ SITE PLAN ~ GRADING DUDG. SITE PLAN  
 ~ DRAINAGE PLAN.  
 RECKER AND MIYAMOTO, INC.

|  |   |
|--|---|
| BECKER AND MIYAMOTO, INC.<br>LICENSED LAND SURVEYORS<br>2472 LINDA AVENUE LOS ANGELES CA 90031-0009<br>19157 | PREPARED BY<br>PREPARED FOR<br>DATE<br>SHEET NO. 11 |
|--|---|

**Administrative CDP 5-89-1000 approved site plan.**

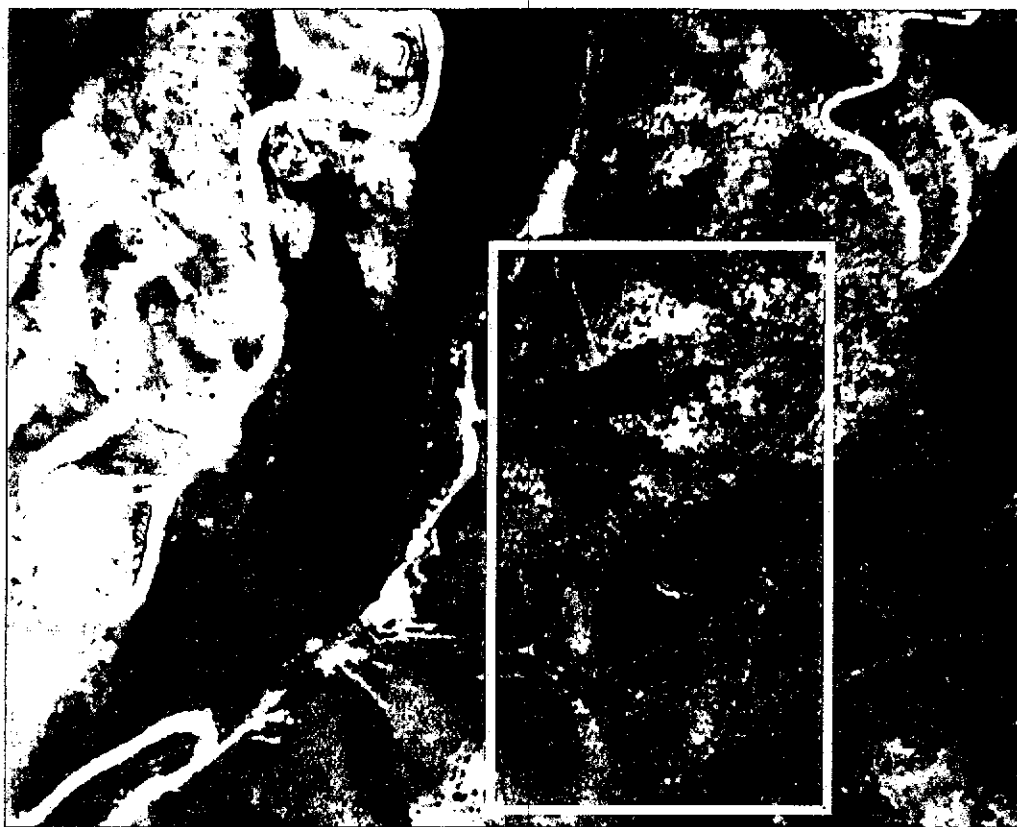


Exhibit 5a. January 24, 1977 aerial photo. No development visible on site (approximate site location is within the rectangle).



Exhibit 5b. May 10, 1986 aerial photo. Approved driveway and building pad are visible in center of site location; smaller rectangle indicates approximate location of unpermitted lower building pad, two roads, and storage structures.

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



April 21, 2005

Gail Sumpter, Public Services Manager  
Environmental and Community Development, Permit Services  
City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265

Re: California Coastal Commission Violation File No. V-4-95-029 (Horowitz): Request to the City of Malibu to pursue joint enforcement action of the unpermitted development at 5656 Latigo Canyon Road, Malibu (APN 4459-001-001).

Dear Ms. Sumpter:

The purpose of this letter is to coordinate with the City of Malibu in resolving the above referenced violation of the City's certified Local Coastal Program. The California Coastal Commission ("Commission") has confirmed that unpermitted development has occurred at the above referenced site located within the jurisdiction of the City of Malibu's certified Local Coastal Plan (LCP). The Commission opened this violation investigation prior to the certification of the City's LCP and has taken some initial enforcement action with respect to the situation at hand. The Commission would like to pursue additional enforcement action to resolve this Coastal Act violation, and obtain removal of unpermitted development as well as restoration of damaged or destroyed resources within both the Commission's retained coastal development permit jurisdiction and within the City of Malibu's coastal permit jurisdiction, on parcel APN 4459-001-001.

Coastal Act violations within the Commission's retained jurisdiction on this site include, but are not limited to the following: unpermitted dumping of materials in a canyon containing a blue-line stream.

Coastal Act violations within the City of Malibu's LCP jurisdiction on this site include, but are not limited to the following: unpermitted development consisting of placement of two mobile homes, construction of two large storage structures, and grading of a pad and two roads.

For your convenience, to provide some background on this violation case, enclosed are relevant documents from the Commission's violation file. Some or all of these materials are confidential and exempt from public disclosure under the Public Records Act (Government Code Section 6254(f)), which pertains to law enforcement investigatory files. Providing these materials to you does not waive their confidentiality. Section 6254.5(e) of the Government Code requires that an agency that receives confidential documents agree to treat the documents as confidential, in order for the documents to continue to be exempt from disclosure. If you do not agree to treat the

material as confidential and to limit further disclosure and use as required under Section 6254.5(e) of the Government Code, please return these materials to my attention. Section 6254.5(e) of the Government Code limits the use of such confidential information disclosed to a government agency, as follows: "[o]nly persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information."

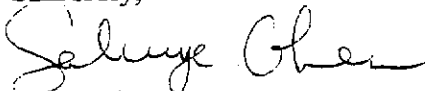
On November 13, 1995 the Executive Director of the Commission recorded a Notice of Violation of the California Act of 1976 against the subject property for a violation consisting of: "dumping of materials into a canyon which contains a blue-lined stream" without a coastal development permit as required by Sections 30106 and 30600(a) of the Coastal Act. At this time the property was owned by Forest Freed, who previously discussed the violation with Commission Staff, but failed to remove the unpermitted development and restore the site to pre-violation conditions. A new owner, Stanford Horowitz, purchased the property at 5656 Latigo Canyon Road in 2001. On October 12, 2001, Coastal Commission staff met with Mr. Horowitz's agent, Gregory Bloomfield, to discuss the permit history of the site and to examine aerial photographs of the unpermitted development. Mr. Bloomfield indicated that his client intended to submit an application for a Coastal Development Permit to resolve the violation. As of February 2005 no application has been submitted to the Coastal Commission to resolve the ongoing violation at 5656 Latigo Canyon Road. In addition, Coastal Commission staff has determined by aerial photographic evidence that the additional development consisting of placement of two mobile homes, construction of two large storage structures, and grading of a pad and two roads did not pre-date the Coastal Act and is therefore also considered to be unpermitted development at the property site.

While enforcement action by the Commission does not preclude the City from pursuing resolution of violations of LCP policies, the Commission may assume primary responsibility for enforcement of Coastal Act violations pursuant to Section 30810(a) of the Act. Section 30810(a) provides that the Commission may issue an order to enforce the requirements of certified local coastal program in the event that the local government requests the Commission to assist with or assume primary responsibility for issuing such order, or if the local government declines to act or fails to act in a timely manner to resolve the violation. As such, please notify me regarding whether the City intends to take separate enforcement action to resolve the above referenced violations that are located within the City's LCP jurisdiction or if the County would prefer the Commission to take the lead in enforcement of the violations as part of the Commission's existing enforcement action. If the County requests the Commission's assistance in this matter, the Commission will pursue further enforcement action which may include the issuance of a cease and desist and restoration order and/or a restoration order for all unpermitted development, including development within the County's LCP jurisdiction, that has occurred on site. If we do not receive a response from you by May 5, 2005, we will assume that the City declines to take enforcement action on this violation case at this time, and the Commission shall assume primary responsibility to resolve all Coastal Act violations on the above-mentioned properties.

Thank you very much for your cooperation. We look forward to working with your staff to resolve this matter. Should you have questions regarding this matter, or if you require additional

information, please contact me at 415-904-5396 on Thursdays, or in my absence, you may contact Nancy Cave at 415-904-5290.

Sincerely,



Sarah Cohen  
Enforcement Staff

Encl: copy of photograph of site  
copy of NOVA, Nov. 13, 1995  
copy of notice of violation letter to Forest Freed, July 18, 1995

Cc: Nancy Cave  
Sheila Ryan  
Pat Veasart  
Tom Sinclair



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142

CERTIFIED MAIL

July 18, 1995

Forest Freed  
5656 Latigo Canyon Road  
Malibu, CA 90265

Violation File Number: V-4-MAL-95-029

Property Address: 5656 Latigo Canyon Road, Malibu, Los Angeles County

Unpermitted Development: Dumping of materials into a canyon

Dear Mr. Freed:

Our office has confirmed that the above-referenced activity, the dumping of materials into a canyon on your property which contains a "blue lined stream", and which is located in the coastal zone, was undertaken without first obtaining a coastal development permit. 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 coastal development permit. "Development" is broadly defined by section 30106 of the Coastal Act to include:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of 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....

The dumping of materials into a canyon, which also contains a "blue lined stream", activity undertaken on your property constitutes "development" and therefore requires a coastal development permit.

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting



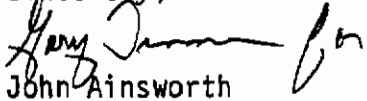
requirements. Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Coastal Act section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1000 nor more than \$15,000 for each day in which the violation persists.

As one step toward resolving the violation, please stop all unpermitted work on the property. Any additional work could be considered a knowing and intentional violation of the Coastal Act. Please submit a completed coastal development permit application for this activity, and any other development activities contemplated on this property in the near future, to this office by August 22, 1995. If we do not receive a coastal development permit application by August 22, 1995, we will refer this case to our Statewide Enforcement Unit in San Francisco for further legal action.

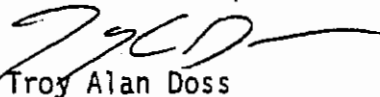
Please contact Troy Alan Doss at our office if you have any questions regarding this matter. Please refer to your file number when communicating with this office.

Thank you for your anticipated cooperation.

Sincerely, .



John Ainsworth  
Enforcement Supervisor



Troy Alan Doss  
Enforcement Officer

encl: CDP Application, Waiver of Legal Argument

TAD-VNT  
0803V

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142

CERTIFIED MAIL—SECOND NOTICE

October 3, 1995

Forest Freed  
5656 Latigo Canyon Road  
Malibu, CA 90265

Violation File Number: V-4-MAL-95-029

Property Address: 5656 Latigo Canyon Road, Malibu, Los Angeles County

Unpermitted Development: Dumping of materials into a canyon

Dear Mr. Freed:

Our office has confirmed that the above-referenced activity, the dumping of materials into a canyon on your property which contains a "blue lined stream", and which is located in the coastal zone, was undertaken without first obtaining a coastal development permit. 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 coastal development permit. "Development" is broadly defined by section 30106 of the Coastal Act to include:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of 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....

The dumping of materials into a canyon, which also contains a "blue lined stream", activity undertaken on your property constitutes "development" and therefore requires a coastal development permit.

Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting

requirements. Coastal Act sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil fines 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. Further, section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1000 nor more than \$15,000 for each day in which the violation persists.

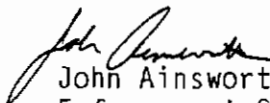
Our office informed you of the above referenced violation/enforcement action on July 18, 1995. On August 6, 1995, we spoke with you on the telephone and you requested an extension due to the fact that you were out of the country when our initial letter was sent to you. You were then given an extension until September 5, 1995. As you are now a month past this extended deadline you should be made aware that this case is now being prepared for referral to our Statewide Enforcement Unit in San Francisco for further legal action. If we do not have a complete application for a coastal development permit by October 31, 1995, we will refer this case.

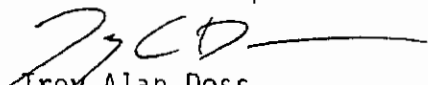
As one step toward resolving the violation, please stop all unpermitted work on the property. Any additional work could be considered a knowing and intentional violation of the Coastal Act. Once again, please submit a completed coastal development permit application for this activity, and any other development activities contemplated on this property in the near future, to this office by October 31, 1995. If we do not receive a coastal development permit application by October 31, 1995, we will refer this case to our Statewide Enforcement Unit in San Francisco for further legal action.

Please contact Troy Alan Doss at our office if you have any questions regarding this matter. Please refer to your file number when communicating with this office.

Thank you for your anticipated cooperation.

Sincerely,

  
John Ainsworth  
Enforcement Supervisor

  
Troy Alan Doss  
Enforcement Officer

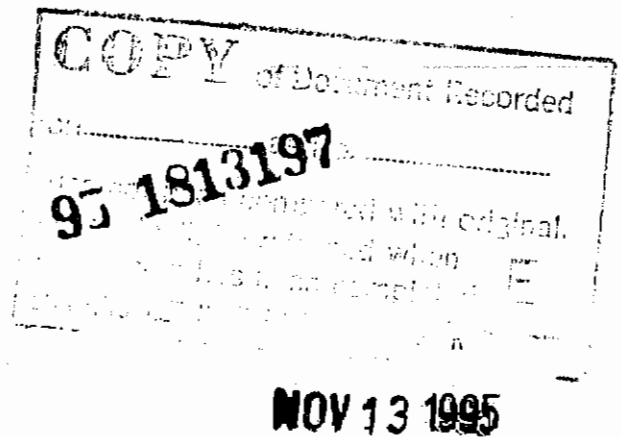
encl: CDP Application, Waiver of Legal Argument

TAD-VNT  
0862V

RECORDED AT THE REQUEST  
State of California  
California Coastal Commission

WHEN RECORDED mail to:  
CALIFORNIA COASTAL COMMISSION  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CALIFORNIA 94105-2219

STATE OF CALIFORNIA  
OFFICIAL BUSINESS: Document  
entitled to free recordation pursuant  
to Government Code section 6103



NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL  
ACT OF 1976  
(Public Resources Code Section 30000, et seq.)

I, James W. Burns, declare: .

1. I am the Chief Deputy Director of the California Coastal Commission.
2. Violations of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) are alleged to have occurred regarding a certain parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows: 5656 Latigo Canyon Road, Malibu, APN 4459-001-001 (hereinafter the "property").
3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owner of said real property is: Forrest Lloyd Freed.

5. The alleged violation of the Coastal Act consists of: dumping of materials into a canyon which contains a "blue lined stream" without a coastal development permit as required by Sections 30106 and 30600(a) of the Coastal Act.
6. The undersigned has determined that said development may be illegal unless and until a coastal development permit has been obtained from the California Coastal Commission.
7. Remedies available to the California Coastal Commission for the correction of this alleged violation affecting the possession, use, and enjoyment of said property include, but are not limited to: (1) injunctive relief pursuant to Section 30803 of the Coastal Act; (2) the issuance of (a) cease and desist order(s) pursuant to Sections 30809 and/or 30810 of the Coastal Act; (3) the issuance of (a) restoration order(s) pursuant to Section 30811 of the Coastal Act; and/or (4) the imposition of conditions, pursuant to Section 30607 of the Coastal Act, should the required coastal development permit be applied for.

Executed at San Francisco, California, on Oct. 16, 1995.

I declare under penalty of perjury that the foregoing is true and correct.

California Coastal Commission

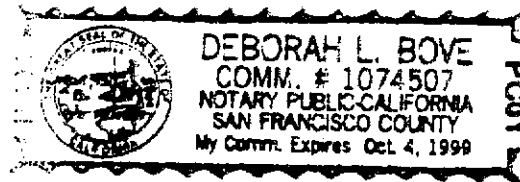
  
James W. Burns, Chief Deputy Director

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

On October 16, 1995 before me, Deborah L. Bove, A Notary Public,  
personally appeared James W. Burns; personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person whose name is subscribed to the within instrument and  
acknowledged to me that he executed the same in his authorized capacity, and that by his  
signature on the instrument the person, or the entity upon behalf of which the person acted,  
executed the instrument.

WITNESS my hand and official seal.

Signature Deborah L. Bove



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001  
(805) 641-0142



DATE: March 27, 2000

Forrest Freed  
5656 Latigo Canyon Rd.  
Malibu, CA 90265

RE: Application No. 4-00-051

Dear Mr./Ms. Freed:

Your Coastal Commission application is incomplete and cannot be filed or processed until the following items have been received. These items must be received in our office by June 27, 2000.

SEE ATTACHED PINK SHEET

If you have any questions regarding your application, please contact me at the address and phone number listed above.

Sincerely,

A handwritten signature in cursive script that reads "Julie Reveles".

JULIE REVELES  
Office Technician

cc: Envicom Corporation, Attn: Joseph Johns

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641 - 0142



4-00-051

(File No.)

Forrest Freed

(Applicant)

Envicom, % Joseph Johns

(Agent)

5656 Latigo Canyon Rd, Malibu

(Project Street and City)

Your coastal permit application has been reviewed and is incomplete. Before it can be accepted for filing, the information indicated below must be submitted.

- ✓ 1. Filing fee is \$600<sup>00</sup>. Payable by check or money order to the California Coastal Commission. Amount due \$600<sup>00</sup>.
2. Proof of the applicant's legal interest in the property. (A copy of any of the following will be acceptable: current tax bill, recorded deed, signed Offer-to-Purchase along with a receipt of deposit, signed final escrow document, or current policy of title insurance. Preliminary title reports will not be accepted.)
3. Assessor's parcel number as indicated on a property tax statement. The property legal description as contained in a Grant Deed is not the assessor's parcel number.
4. Assessor's parcel map(s) showing the applicant's property and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available from the County Assessor). Drawings or facsimiles are not acceptable.
- ✓ 5. Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same. The envelopes must be plain (i.e., no return address), and regular business size (9 1/2 x 4 1/8"). Include a first class postage stamp on each one. Metered envelopes are not acceptable. Mailing list must be on the format shown on page C-1 of the application packet.
- ✓ 6. Enclose appropriate map(s) indicating location of property in relation to the coastline. Thomas Brothers map, road map or area maps prepared by local governments may provide a suitable base map.



- ✓ 7. Cost valuation by city/county or contractor for the development.
- ✓ 8. Copies of required local approvals for the proposed project, including zoning variances, use permits, etc. Include minutes of any public hearing.
- ✓ 9. Verification of all other permits, permissions or approvals applied for or granted by public agencies (e.g., Dept. of Fish and Game, State Lands Commission, U.S. Army Corps of Engineers, U.S. Coast Guard).
- \_\_\_ 10. Where septic systems are proposed, percolation test prepared by a qualified sanitarian or soils engineer.
- \_\_\_ 11. County or City Health Department review of septic system.
- \_\_\_ 12. Where water wells are proposed, evidence of County or City review and approval.
- ✓ 13. 2 set(s) of project drawings including site plans, floor plans, and all elevations. Drawing must be to scale with dimensions shown. Trees to be removed must be marked on the site plan. All oak trees and riparian vegetation (canopy), streams and drainages, wetlands, easements, and public hiking and equestrian trails (including existing offers to dedicate trails) must be identified on the site plan. Plans must be approved by the planning department and stamped "Approval-in-Concept." We need 2 more set(s).
- ✓ 14. 2 set(s) of detailed grading and drainage plans with cross-sections and quantitative breakdown of grading amounts (cubic yards of cut and fill). Plans must be to scale and prepared by a registered engineer.
- ✓ 15. Two copies of a comprehensive, current (not more than 1 year old), site-specific geology and soils report (including maps) prepared in accordance with the Guidelines for Engineering Geologic Reports, prepared by the State Board of Registration for Geologists & Geophysicists (11/93). Copies of the guidelines are available from the Coastal Commission District Office.
- ✓ 16. A current (not more than 1 year old) City or County "Approved" Geologic Review Sheet.
- ✓ 17. "Approval-in-Concept" form <sup>\*</sup>completed by the planning department or other responsible department.
- ✓ 18. <sup>\*</sup> Page 10 of the application contains this form, enclosed. Current zoning for project site.
- ✓ 19. A reduced set of legible drawings to 8 1/2 x 11" in size. The reduced set shall include a site plan, grading plan, elevations and topography if required for submittal.

20. For projects which include demolition, two copies of a site plan and elevations or photographs of the structure to be demolished. Demolition must be included in the "Approval-in-Concept" project description.

21. Remodel projects must include percent of walls to be demolished (interior and exterior), and indicate walls to be demolished and retained on-site plans.

✓ 22. City or County Environmental Review Board Approval.

23. A copy of any Final Negative Declaration, Draft of Final Environmental Impact Report (FIR) or Final Environmental Impact Statement (FEES) prepared, for the project. Comments of all reviewing agencies and responses to comments must be included.

✓ 24. All projects in or adjacent to a Stream, Wetland, or possible Wetland - California Department of Fish and Game and U.S. Fish and Wildlife Service approvals.

25. Fire Department approved fuel (vegetation) modification plans.

26. Driveways, access roads, and turn-around areas - preliminary Fire Department Approval.

27. Preliminary approval from the Regional Water Quality Control Board. Single family dwellings and additions to existing structures are excluded.

28. An archaeological report developed by a qualified archaeologist regarding the presence and significance of archaeological and cultural resources.

#### THE APPLICATION FORM

✓ 1. The application must be signed by the applicant (original signature) and the applicant's representative, if representative is authorized to represent applicant.

2. If application is not signed by the applicant(s), a letter executed by the applicant(s) which authorizes the representative to act in his/her behalf and to bind the applicant(s) in all matters concerning his/her application or the authorization page of the application form must be completed by the applicant. *\*agent did not sign form or list name as representative, see attached*

✓ 3. Section 5 ~~in page 1~~ of the application must be completed. *\*see attached copy of application submitted*

*I have highlighted all sections that should be completed.*

## DEVELOPMENT ON A BEACH OR BLUFF

1. All projects on a beach require State Lands Commission determination of location of most landward property line. (State Lands Commission, 100 Howe Street, Suite 100, Sacramento, CA 95825-8202, phone (916) 574-1800. Please make reference to your Coastal Development Permit file number when contacting the State Lands Commission.
2. For projects on a coastal bluff or shoreline - a stringline map showing the existing, adjacent structures, decks and bulkheads in relation to the proposed development. The stringline is to be prepared in accordance with the Coastal Commission's Interpretive Guidelines.
3. For shoreline development and/or protective devices (seawalls, bulkheads, groins & rock blankets) - project plans with cross-sections prepared by a registered engineer. The project plans must show the project foot-print in relation to the applicant's property boundaries (include surveyed benchmarks), septic system, Mean High Tide Line (winter and summer), and the Wave Uprush Limit Line.
4. For shoreline protective devices a geotechnical report and wave uprush study prepared in accordance with the Commission guidelines. Copies of guidelines are available from the District Office.

## SUBDIVISION OF PROPERTY

1. Approved tentative tract/parcel maps with list of conditions and minutes for subdivisions and condominium projects. Maps must include location of proposed building sites (2 copies).
2. Comprehensive site specific geologic/soils report indicating that all lots are buildable. For Malibu/Santa Monica Mountains, must have a current (not more than one year old) Geologic Review Sheet from the city or county and two copies of a geologic and/or soils report.
3. Detailed grading and drainage plans with cross-sections showing all roads, building pads, and remedial grading with a quantitative break down of grading amounts.
4. Map showing all parcels and their sizes within a 1/4 mile radius of the property.
5. Percolation test results indicating lots are capable of accommodating a septic system.

## DEVELOPMENT IN SMALL LOT SUBDIVISIONS

1. Surveyed topography map and gross structural area calculations for Malibu/Santa Monica Mountains small lot subdivisions. See Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan-copies available from district office.
2. Statement of Water Service and Access Certificate for Building Permit signed by Los Angeles County Fire Department. If Fire Department requirements include road or water installation or modifications, submit plans stamped and approved by Los Angeles County Fire Department (not required for minor additions to single family dwellings).

### STAFF COMMENTS

Under certain circumstances, additional material, not previously indicated, may be required before an application can be deemed complete. The following additional material is required for the completion of this application:

- ① An alternatives analysis for the project (the goal of which was described as bringing "the area back to its original condition," establishing the possible methods of debris removal/site remediation, from the most comprehensive alternative which would result in the highest degree of removal, to the proposed method, or less aggressive alternative with less removal.
  - ② Address the level of removal and method selected with the basis for this selection from the alternatives available.
  - ③ Biological survey of the stream/riparian area and slopes, as these areas were prior to the debris disposal.
  - ④ Evidence of Coastal Commission approval of the trailers, shed/barn, and any other accessory structures on the site.
- FAILURE TO PROMPTLY SUBMIT THE INFORMATION REQUESTED ABOVE WILL RESULT IN THE DELAY OF YOUR PROJECT. PLEASE ADD ANY COMMENTS TO THE BACK OF THIS SHEET.

By:

Sabin T. Miller

Date:

March 27, 2000



# City of Malibu

23815 Stuart Ranch Rd. • Malibu, California • 90265-4816

(310) 456-2489 • fax (310) 456-7650

[www.ci.malibu.ca.us](http://www.ci.malibu.ca.us)

July 12, 2005

Sandy Horowitz  
5656 Latigo Canyon Road  
Malibu, CA 90265

Gregory Bloomfield  
3231 Ocean Park Boulevard  
Santa Monica, CA 90405

Re: **Plot Plan Review (PPR) 02-133**  
**5656 Latigo Canyon Road**  
**New Tennis Court**

To Whom It May Concern:

On August 14, 2002, an application for a new tennis court was submitted to the City of Malibu Planning Division for processing. On September 13, 2002, this office transmitted to you correspondence indicating that the subject application was incomplete. On January 13, 2005, this office transmitted to you a request to convert the application into a coastal development permit (CDP) or apply for a CDP exemption. According to the Planning Division's records, no other activity has occurred regarding this application since 2003.

Due to this lack of activity, this project has been administratively withdrawn, effective as of July 7, 2005. No fee refund is deemed appropriate.

If you have any questions regarding this matter, please call me at (310) 456-2489, extension 250 or email me at [jhart@ci.malibu.ca.us](mailto:jhart@ci.malibu.ca.us).

Sincerely,

Joshua Hart, AICP  
Senior Planner

cc: California Coastal Commission

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

Via Certified and Regular Mail

July 6, 2005

Sanford J. Horowitz  
5656 Latigo Canyon Rd.  
Malibu, CA 90265-2815

Subject: **Notice of Intent to Commence Cease and Desist Order and  
Restoration Order Proceedings**

Violation No.: V-4-95-029

Location: 5656 Latigo Canyon Rd., Malibu, CA.  
APN 4459-001-001

Violation Description: Unpermitted dumping of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one paved and one packed earth.

Dear Mr. Horowitz:

The purpose of this letter is to notify you of my intent, as Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist Order and Restoration Order for unpermitted development. The unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; major vegetation removal; and grading and paving of a building pad and two roads, one paved and one packed earth. This unpermitted development is located on property you own at 5656 Latigo Canyon Rd., Malibu, CA., APN 4459-001-001 ("subject property"). The subject property contains environmentally sensitive riparian habitat along the blueline stream.

Development is defined in section 30106 of the Coastal Act as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous,



liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations... (emphasis added)

The disposal of debris, removal of major vegetation, grading of pads and roads, and the placement and/or erection of buildings constitute development under the Coastal Act, and as such are subject to Coastal Act requirements, including the rules regarding permits.

The purpose of these enforcement proceedings is to resolve outstanding issues associated with the unpermitted development activities that have occurred at the subject property. Collectively, the Cease and Desist Order and Restoration Order will direct you to cease and desist from performing any unpermitted development and will compel the removal of unpermitted development and restoration of the areas impacted by the unpermitted development. The Cease and Desist Order and Restoration Order are discussed in more detail in the following sections of this letter.

### **History of the Violation Investigation**

On July 18, 1995 the Coastal Commission sent a notice of violation to Forrest Freed, former owner of 5656 Latigo Canyon Rd., for dumping of materials in a canyon containing a blue-line stream. On November 13, 1995 a Notice of Violation Action (NOVA) was recorded against the subject property. Mr. Freed verbally communicated with Commission staff in 1996 that he intended to remove the debris from the stream and to restore the site. Subsequent to that, Mr. Freed, without prior application for a Coastal Development Permit, had a road cleared to the stream, apparently to provide access for debris removal.

On February 2, 2000, Mr. Freed submitted an application for CDP 4-00-051 to remove debris on the site. The subject property was sold to you on October 6, 2000, with the Notice of Violation in place and recorded in the chain of title. The application for a CDP (4-00-051) was withdrawn on November 2, 2000.

Commission staff met with your representative, Gregory Bloomfield, on October 12, 2001 to discuss the permit history of the site. Mr. Bloomfield was informed by staff that in addition to the unpermitted dumping of materials in the canyon and stream, the grading of a lower pad, two roads and placement of two mobile homes and erection of two storage buildings also appeared to be unpermitted development. A 1977 aerial photograph of the subject property indicates that no debris, buildings, graded roads, or graded pads were visible on the site in 1977. Thus, the cited development was placed after the Coastal Act's permit requirements became effective (February 1977). Commission staff advised Mr. Bloomfield and you in November of 2001 that an



application for a CDP must be submitted before any removal or restoration work could begin on the subject property.

The unpermitted development on the subject property, which is located in the coastal zone, was performed without a coastal development permit and is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires 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 coastal development permit. A coastal development permit was neither applied for, nor obtained, for any of the unpermitted development on the subject property.

In 2002, you submitted an application to the City of Malibu proposing development on the subject property. As of June 14, 2005 this application remains incomplete. In an April 21, 2005 letter to City of Malibu planning staff, Commission staff asked the City to notify Commission staff whether the City intended to pursue an enforcement action to resolve the Coastal Act violations located on the subject property that are within the City's LCP jurisdiction. Section 30810(a) of the Coastal Act provides that the Commission may issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests that the Commission assist with or take primary responsibility for enforcement. In a telephone response in June 2005, City of Malibu staff indicated that the City would prefer that the Coastal Commission take the lead in enforcement of the violations as part of the Commission's existing enforcement action.

#### 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 the following:

*(a) 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.*

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings because unpermitted development has occurred at the subject property. This unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; major vegetation removal; and grading and paving of a building pad and two roads, one paved and one packed earth. The Cease and Desist Order would order you to desist from any further unpermitted dumping or removal of debris, grading, or other unpermitted development on your property.

Based on Section 30810(b) of the Coastal act, the Cease and Desist Order may also be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including immediate removal of any development or material. Staff will

recommend that the Cease and Desist Order include terms requiring additional site investigations to ensure removal of all unpermitted development on the subject property, with a schedule for removing the unpermitted development.

### **Restoration Order**

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

*In addition to any other authority to order restoration, the commission, a local government that is implementing a certified local coastal program, or a port governing body that is implementing a certified port master plan 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, local government, or port governing body, the development is inconsistent with this division, and the development is causing continuing resource damage.*

Commission staff has determined that the specified activity meets the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development consisting unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; clearance of major vegetation; and grading and paving of a building pad and two roads, one paved and one packed earth has occurred on the subject property.
- 2) This development is inconsistent with the resource protection policies of the Coastal Act. The debris on the subject property, which is located in a sensitive riparian area, the graded pad and roads, and major vegetation removal in the area leading to the debris site constitute a disturbance and negative impact to the quality of the environmentally sensitive riparian habitat, as well as to the quality of coastal waters contained in the blueline stream (Section 30231). Grading of roads and building pads, and erection and/or placement of structures resulted in major vegetation removal and disturbance to the natural habitat (Section 30240). The debris and areas where the debris was dumped remains unvegetated and is visually apparent on aerial photographs. Additionally, the unpermitted buildings and graded pad and roads are readily apparent from nearby roads. The unpermitted development has not minimized the alteration of natural landforms and has degraded the scenic and visual qualities of this coastal area (Section 30521).
- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted environmentally sensitive riparian habitat. Such impacts meet the definition of damage provided in Section 13190(b): *"any degradation of 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*". The unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one paved and one packed earth.

Debris on the canyon slope and in the blueline stream on the property includes but may not be limited to: concrete, rebar, bricks, asphalt, plastics and metal. The graded roads, graded pad, mobile homes and storage structures continue to be present and maintained. Unpermitted development continues to exist at the subject property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence a Cease and Desist and Restoration Order proceeding before the Commission in order to restore the subject property to the condition it was in before the unpermitted development occurred. Restoration will require removal of all unpermitted development on the subject property and restorative grading and revegetation of the impacted slope and riparian areas.

The procedures for the issuance of Cease and Desist and Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

*Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred*

Accordingly, any Cease and Desist and Restoration Order that the Commission may issue will have as its purpose the restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described above.

### **Additional Procedures**

In addition to the procedures for proposing and issuing enforcement orders that are discussed in this letter, Section 30812 of the Coastal Act allows the Executive Director, after providing notice and opportunity for a hearing, to record a Notice of Violation of the Coastal Act against your property. The Commission staff will send you a subsequent notice if it intends to proceed with recordation of a new Notice of Violation in this matter, revising and superceding the previous Notice still in effect on the property.

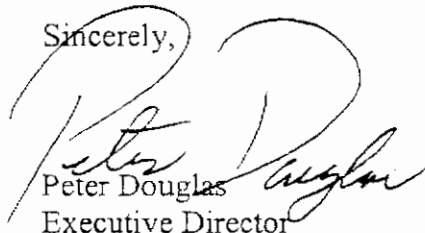
Please be advised that Coastal Act Sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. 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 for each day in which the 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.

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. The Statement of Defense form must be returned to the Commission's San Francisco office, directed to the attention of Brian Graziani, no later than July 26, 2005.

The Commission staff is tentatively scheduling the hearing for the Cease and Desist Order and Restoration Order during the Commission meeting that is scheduled for September 2005 in Eureka, CA. If you have any questions regarding this letter or the enforcement case, please contact Brian Graziani at 415-904-2335, or send correspondence to his attention at the address listed on the letterhead.

Sincerely,



Peter Douglas  
Executive Director

Cc without encl: Lisa Haage, Chief of Enforcement  
Sandy Goldberg, Staff Counsel  
Pat Veesart, Southern California Enforcement Supervisor  
Brian Graziani, Headquarters Enforcement Officer  
Gail Sumpter, Public Services Manager, City of Malibu  
Josh Hart, Senior Planner, City of Malibu

Encl: Statement of Defense form for Cease and Desist Order and Restoration Order



planning & development, inc.

## Confidential fax

**To:** Mr. Brian Graziani,  
California Coastal Commission

**From:** Drew D. Purvis  
CEO / President



**Fax:** (415) 904-5235

**Pages:** 32 (including cover)

**Phone:** (415) 904-2335

**Date:** 8/10/2005

**Re:** Statement of Defense

**CC:**

Coastal Violation No. V-4-95-029

☐ Urgent    ☒ Please Review    ☐ Comment Appreciated    ☒ Per Request    ☐ Hard Copy

US Mail

### Comments:

Please phone if you do not receive all 32 pages, or if you have any questions. Thank you thus far for your cordial consideration concerning this matter.





planning & development, inc.

August 10, 2005

Mr. Brian Graziani  
California Coastal Commission  
45 Fremont Street, Suite 200  
San Francisco, CA 94105

Re: Notice of Intent to Issue a Cease and Desist Order regarding Coastal Violation No.  
V-4-95-029 (Mr. Forrest Freed) located at APN: 4459-001-001

Dear Mr. Graziani:

The current owner of the subject property (Mr. Sanford Horowitz) has not felt the need to retain legal council regarding this issue because it is his intent to comply fully to what he believes to be the current standing of this violation. Mr. Horowitz has hired my firm to manage his consultant team in an effort to efficiently provide reports, plans and recommendations for remediation of the recorded violation.

Respectfully submitted,

Drew D. Purvis  
CEO / President

cc: Mr. Sanford Horowitz

Enclosures:

Statement of Defense Form  
Aerial Photos of the Subject Property (1975, 1987)  
Technical and Environmental Consultant Contracts  
Notice of Violation Recorded on 13 November 1995

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

**STATEMENT OF DEFENSE FORM**

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE COMPLETING THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by either a cease and desist order and restoration order issued by the Executive Director or a notice of intent to initiate cease and desist order and restoration order proceedings before the Coastal Commission. This document indicates that you are or may be responsible for, or in some way involved in, either a violation of the Coastal Act or a permit issued by the Commission. This form asks you to provide details about the (possible) violation, the responsible parties, the time and place the violation that (may have) occurred, and other pertinent information about the (possible) violation.

This form also provides you the opportunity to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. You must also enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You must complete the form (please use additional pages if necessary) and return it no later than **August 2, 2005** to the Commission's enforcement staff at the following address:

Brian Graziani  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

If you have any questions, please contact Brian Graziani at 415-904-2335.

1. **Facts or allegations contained in the notice of intent that you admit (with specific reference to the paragraph number in the notice of intent):**

*I agree that "unpermitted dumping of materials, including but not limited to: concrete, rebar, bricks asphalt, plastics and metal materials in canyon containing a blue stream."*

2. Facts or allegations contained in the notice of intent that you deny (with specific reference to paragraph number in the notice of intent):

I do not concur with the allegations of unpermitted placement of two mobile homes, unpermitted construction of two storage sheds; unpermitted and grading and paving of a building pad and two roads, one paved and one packed earth.

3. Facts or allegations contained in the notice of intent of which you have no personal knowledge (with specific reference to paragraph number in the notice of intent):

I had no personal knowledge of any of the allegations in #2.

4. Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can:

When I purchased the residence the only issue that I was told about from the prior owner, his real estate agent, and the people who I met at the property, <sup>from the coastal commission</sup> was this issue of illegal dumping of debris. The mobile homes, steel sheds, pads were never mentioned. Later Greg Bloodfield was told about the possibility of the road going down the canyon but we passed thru ~~that~~ area and photo that that road pre-dates the existence of the coastal commission.

5. Any other information, statement, etc. that you want to offer or make:

~~For~~ In regards to the "Unpermitted dumping of materials" I have hired a team of technical and environmental consultants to study the existing condition and prepare recommendations for remediation of this condition. We intend to submit a comprehensive application before the end of the year. The two mobile homes were removed years ago.

6. Documents, exhibits, declarations under penalty of perjury or other materials that you have attached to this form to support your answers or that you want to be made part of the administrative record for this enforcement proceeding (Please list in chronological order by date, author, and title, and enclose a copy with this completed form):

attached

DATE OF PHOTOGRAPHY: 5-5-75  
GEOGRAPHIC LOCATION: Malibu, CA  
NEG. #: 160 W.O. # 01-1346  
SCALE OF ORIGINAL PHOTOGRAPHY: 1" = 3000' (+/-)  
SCALE OF THIS ENLARGEMENT: 1" = 400' (+/-)

*This photograph was taken in the normal course of business for I.K. CURTIS SERVICES, INC.  
This photograph has not been altered in any way other than normal photographic enlarging. It is  
a true and factual representation of the scene.*

**I.K. CURTIS SERVICES, INC.**  
2901 EMPIRE AVENUE  
BURBANK, CA 91504

Ph. (818) 842-5127 Fax (818) 842-7235



Copyright, © 1993 I.K. Curtis Services, Inc. Do not duplicate without written permission.

Jesse





Exhibit 13  
CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 7 of 32

DATE OF PHOTOGRAPHY: 4-20-87  
GEOGRAPHIC LOCATION: Malibu, CA  
NEG. #: 239 W.O. #: 01-1346  
SCALE OF ORIGINAL PHOTOGRAPHY: 1" = 3000' (+/-)  
SCALE OF THIS ENLARGEMENT: 1" = 3000' (+/-)

*This photograph was taken in the normal course of business for I.K. CURTIS SERVICES, INC.  
This photograph has not been altered in any way other than normal photographic enlarging. It is  
a true and factual representation of the scene.*

**I.K. CURTIS SERVICES, INC.**  
2901 EMPIRE AVENUE  
BURBANK, CA 91504  
Ph. (818) 842-5127 Fax (818) 842-7235





17 February 2005

Skye Purvis  
DP PLANNING AND DEVELOPMENT  
31211 Pacific Coast Highway  
Malibu, California 90265

RE: SCHEDULE 1 REVISED: PROPOSAL TO PREPARE A BIOLOGICAL ASSESSMENT FOR A NEW HOME AND ASSOCIATED IMPROVEMENTS WITHIN/ADJACENT TO DESIGNATED ENVIRONMENTALLY SIGNIFICANT HABITAT AREA, HOROWITZ PROPERTY, LATIGO CANYON AREA, MALIBU, CA

Dear Skye:

Please consider this letter proposal our revised Scope of Work and Not-to-Exceed Services Agreement for the project referenced above. This proposal is to assist you in achieving compliance with City of Malibu and, as and if necessary, California Coastal Commission development permit processing. TERACOR is familiar with the conditions of the project area, and based on this familiarity, we propose the following Scope of Work.

Because the proposed home is located near to or within a Coastal Commission designated Environmentally Sensitive Habitat Area (ESHA) (i.e., native chaparral and scrub habitats, ravines, and streambeds), your client will need a full Biological Assessment for the property to determine the location of the ESHA, potential impacts and mitigation measures.

#### Scope of Work - Conduct a Biological Assessment

##### Task One - Assemble Baseline Information

In accordance current City of Malibu processing requirements under the Coastal Commission-mandated Local Coastal Program (LCP) and Local Implementation Plan (LIP) and/or similar land use controls in effect subsequent to initiating work on the project, TERACOR will assemble an overview of the biological resources present immediately adjacent to and on the site in question. We already performed an inventory of floral and faunal species, both observed and determined likely to be present; one subsequent update survey will be necessary in 2005. We will review available aerial and ground photography of the property to assess conditions of the property. Based on this information, we will construct a biological resource profile of the property, including overall resource value, suitability to support rare species based on habitat conditions, extent of prior and historic disturbances, degrees of weed invasion, presence of non-native or ornamental vegetation, and other conditions which would clarify the condition of the site.

TERACOR will query the *California Natural Diversity Database* to determine the range of sensitive

species known to occur in the general area. We will also review available reports prepared for area projects which describe the flora and fauna which reasonably can be expected to be present. We will assess the probability of those species to occur on the project site.

#### **Task Two - Prepare a Biological Assessment/Constraints Analysis**

In order to provide an objective framework for project evaluation, TERACOR will prepare a biological assessment/Constraints Analysis of the entire site. The assessment will include the underlying and adjacent vegetation community, and any sensitive elements found or believed potentially present. No focused surveys for specific flora or fauna will be conducted. The assessment will obviously be predictive in scope and investigative methodology. Determinations of habitats and species presence will be predicated on overall habitat suitability, degree of disturbance, adjacency to larger habitat blocks, and similar criteria. The report will be prepared in a manner considered suitable for presentation to both the City of Malibu and if necessary, the California Coastal Commission.

Vegetation mapping will be prepared on topographic information you provide or on a 2001 aerial photograph of the property which we have in our database. Location information and photographs of the site's biological resources, as well as interpretive information will be contained within the body of the assessment.

#### **Task Three - Prepare a Mitigation Measures Section for the Report**

We anticipate the need to provide Mitigation Measures to off-set 1) historic disturbances, and 2) perceived impacts which may occur as a result of the proposed project. There should be adequate opportunities to enhance disturbed areas of the property and utilize native vegetation, or similar measures, to off-set the impacts associated with the proposed home and associated improvements. We will develop these measures in close consultation with you and your client, Mr. and Mrs. Horowitz.

#### **Task Four - Coordination, Consultations and Support**

TERACOR will provide the necessary level of support to you and your representatives, in order to effectively move the development plan through the review process. As you know, we reviewed the project site in some detail with you and your client in 2003 and 2004 in order to assess the requisite scope of work necessary to move the project through the regulatory process. As you know, it is very difficult to predict the amount of time necessary in this regard, therefore, we have proposed another coordination meeting on-site in early 2005 with you and your client to focus our efforts efficiently and comprehensively, one meeting (or equivalent telephone conversations) at the conclusion of the fieldwork and Biological Assessment (BA) preparation, one Environmental Review Board (ERB) meeting for the Principal of the firm to attend, as well as two hours of general coordination in the future with you and the City Biologist, or others as necessary. Only time actually allocated and used will be invoiced. Please coordinate early with TERACOR if our presence is necessary at other development meetings.



## Cost Estimate

TERACOR will complete those tasks for review by you for a "not-to-exceed" fee. We are at this time suggesting a cap of time spent by TERACOR for all proposed tasks under the Scope of Work, based on our 2005 Fee Schedule. We will not exceed any cap unless we have obtained written direction from you to do so, based on a clear need for additional or revised work. TERACOR will correct any clear omissions or errors to the draft report at no cost. Subjective revisions requested of the BA (i.e., political considerations, client preferences, City Biologist opinions, etc.) will be made on a time and materials basis. Except for any omissions or clear errors on the part of TERACOR, all consultations and revisions performed after completion of the first draft work product following your review would be performed on a time and materials basis, in accordance with the Fee Schedule in effect at that time. If additional work is necessary, we will communicate in writing the anticipated time and cost necessary and proceed. Only time actually spent on the project will be billed, so if we have allocated more time than is actually necessary, those costs will not be billed. If time is needed in one Task and not another, the budget will shift accordingly.

TERACOR already performed two days of field investigations on the property in Spring 2004. We believe we can conduct one additional day as an update to map the vegetation communities present on-site and inventory any annual plants which were not present during our 2004 surveys, at no additional cost.

TERACOR requires submission of a 50% retainer to initiate work, less the invoice already paid. Our May 2004 invoice (\$2,071.00) should be credited against the retainer, for a total retainer amount of \$2,519.00. All travel time for our Malibu work is calculated from our Santa Monica office. Work is invoiced against the retainer and billing is monthly thereafter, and is due upon receipt.

## Fee Proposal for Biological Assessment

### Task 1 - Assemble Baseline Environmental Information

|  |                       |        |
|--|-----------------------|--------|
| Principal - Field Assessment/Mapping/travel          | 10 hours @ \$200/hour | \$2000 |
| Biologist - Field Assess/Mapping/species list/travel | 8 hours @ \$85/hour   | \$680  |
| Environmental Specialist/Analyst/Mapping/travel      | 20 hours @ \$70/hour  | \$1400 |
| Field Technician - Assemble existing info, etc.      | 10 hours @ \$50/hour  | \$500  |

### Task 2 - Prepare a Biological Assessment

|  |                      |        |
|--|----------------------|--------|
| Principal - Prepare Text, Mapping, Review staff work | 5 hours @ \$200/hour | \$1000 |
| Environmental Specialist/Analyst                     | 28 hours @ \$70/hour | \$1960 |
| Graphics/Cartography/Mapping                         | 6 hours @ \$75/hour  | \$450  |
| Word Processing/Administrative Support               | 4 hours @ \$35/hour  | \$140  |

### Task 3 - Prepare Proposed Mitigation Measures

|                                  |                        |       |
|----------------------------------|------------------------|-------|
| Principal                        | 1.5 hours @ \$200/hour | \$300 |
| Environmental Specialist/Analyst | 5 hours @ \$70/hour    | \$350 |

Skye Purvis, DP Planning and Development  
17 February 2005

|  |                   |
|--|-------------------|
| Direct Costs - Mapping, Photography, Mileage, Graphic Reproduction, etc. | \$400             |
| <b>TOTAL</b>   | <b>\$9,180.00</b> |

Task 4 - OPTIONAL/AS REQUESTED - Coordination, Consultations and Support (meet with representatives and/or client on-site, ERB attendance, telephone conversations, etc.)

|  |                       |        |
|--|-----------------------|--------|
| Principal - Meetings, letter preparation, coordination | 10 hours @ \$200/hour | \$1000 |
|--|-----------------------|--------|

We have prepared this Scope of Work and Cost Estimate based on the information provided to us and on a review of the property in 2003. As you may know, working with local agencies and/or the Coastal Commission is somewhat unpredictable. Unforeseen events, previously-unauthorized development projects or grading on-site, delays by others, new information or revised project design, and changes in agency staffing and policies can result in significant processing delays. If additional time is necessary to perform unanticipated tasks or analyses, we will advise you immediately and supplement this proposal with a revised schedule and scope of work and obtain your written authorization before proceeding further.

Please note that all work will be considered confidential for review and consideration by your client prior to its release. TERACOR will duly consider your requests on appropriate wording and determinations in order to increase the accuracy and objectivity of the document. This report will be available for submission to the City no later than eight (8) weeks of the receipt of the retainer and signed authorization to proceed.

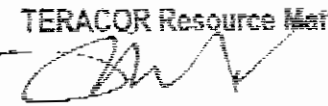
This proposal remains in effect for a period of sixty (60) days, and then will expire if not executed by 18 April 2004. If you and your client are in agreement with our proposal, please indicate by signing both original copies of this Schedule and return one executed copy to our office in Temecula, along with a \$2,519 retainer.

Before we can make substantial progress on the report, we will need 1) first generation grading and building plans, fire clearance zone plans, and topographic mapping of your property, and a complete description of all work planned. If you have any background biological information or other information about your property which may also be on file with the City or Coastal Commission, please provide a copy of that as well, particularly as that information relates to existing violations on the property.

Thank you very much again for your interest in TERACOR Resource Management, and we hope to assist you with your project. Please call me at 909 694 8000 or in Santa Monica at 310 451 7343 if you have any questions or matters to discuss.

Sincerely,

TERACOR Resource Management

  
Samuel Reed  
Principal

Skye Purvis, DP Planning and Development  
17 February 2005

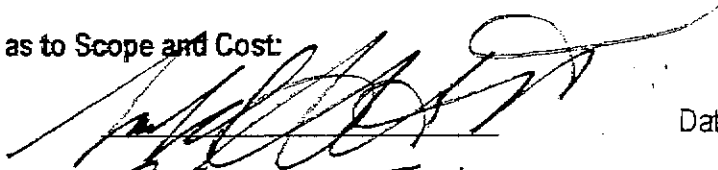
Thank you very much again for your interest in TERACOR Resource Management, and we hope to assist you with your project. Please call me at 909 694 8000 or in Santa Monica at 310 451 7343 if you have any questions or matters to discuss:

Sincerely,

**TERACOR Resource Management**

Samuel Reed  
Principal

Agreed as to Scope and Cost:



Date: 2/21/05

Print Name:

SANFORD J. HOROWITZ

H:\Archived Files\Latigo Canyon - Horowitz\Proposal\Schedule 1 Revised Latigo Horowitz.wpd



# *GeoConcepts, Inc.*

*Geology • Geotechnical Engineering*

14401 Gilmore St. #200  
Van Nuys, CA 91401  
Office (818) 994-8895  
Fax (818) 994-8599

December 2, 2003

Proposal Ref. 4433

Mr. Sandy Horowitz  
5656 Latigo Canyon Road  
Malibu, California 90265

SUBJECT:

PROPOSAL

Preliminary Geologic and Soils Engineering Investigation  
Garage/Guesthouse, Spa, Studio & Retaining Walls  
5656 Latigo Canyon Road  
Malibu, California

Dear Mr. Horowitz:

Pursuant to your request, this proposal has been prepared to provide a preliminary geologic and soils engineering investigation of the subsurface earth materials on the subject property for the proposed garage/guesthouse, pottery studio, spa and driveway retaining walls and provide appropriate recommendations.

The geologic and soils engineering investigation will include reconnaissance mapping, subsurface investigation by logging test pits, seismic trench and boring, description of geologic materials, collecting representative earth samples for laboratory testing, determination of geologic structure and compilation of data in a formal report. Our proposal is outlined in the scope of the investigation, cost and completion schedule.

## Scope of Investigation

Mapping and Subsurface Investigation: Perform geologic mapping of surface exposures. Perform subsurface investigation by drilling one boring and excavating between 4 and 6 test pits with hand laborers and one seismic trench with a backhoe. Explorations will be geologically logged to evaluate the three dimensional geometry of the underlying structure and to obtain earth samples for laboratory testing.

Analyses: Geologic and soil engineering evaluation of data and findings with regard to the proposed project. This evaluation will include, but is not limited to, a discussion on geologic structure, faulting, seismicity and recommendations for site preparation, foundation design and drainage control.

Report: Compile data, findings, conclusions and recommendations in a geologic and soils engineering report suitable for submission to your design consultants.

The City of Malibu requires an excavation permit and application fee. GeoConcepts, Inc. shall submit the application, prepare the plot map, submit the Dig Alert Number and pay the application fee for Three Hundred Dollars (\$300.00). The City of Malibu review process may also request an archeology report and charge additional fees, which is beyond the scope of this contract and our investigation.

The total cost for the proposed service is Five Thousand Dollars (\$5000.00) plus Three Thousand Dollars (\$3000.00) for drilling equipment, backhoe and hand laborers. A retainer in the amount of Four Thousand Dollars (\$4000.00) is required to initiate this investigation with the balance due upon presentation of our report in our office. As an alternative, you may mail the balance due and we will send the report to you.

This investigation is anticipated to be completed within three to four weeks after the fieldwork. Professional opinions will be based upon conditions revealed at exploration locations and reconnaissance of surrounding terrain.

To facilitate the investigation and governmental review process, we should be provided with a topographic survey map prior to our fieldwork. Also, we should review a copy of the preliminary plan of the proposed project.

Approval of plans and reports and the issuing of permits rest with the controlling agencies. Therefore, GeoConcepts, Inc. cannot guarantee that additional information or analysis will not be required by the governing agencies. If additional work is requested or required, these services will be billed on a time and material basis.

Meetings, Plan Reviews and Site Observations requested or required will be billed at our prevailing hourly rates, see Professional Fee Schedule.

If the contract documents are acceptable, GeoConcepts, Inc. can begin work upon receiving a copy of the signed Agreement and retainer. Please sign, date and return the Agreement to this office and a fully executed copy will be returned to you. We would, of course, have to approve any requested changes before proceeding.

Respectfully submitted,  
GeoConcepts, Inc.

Robert Sousa  
President  
RLS:

Attachments: Agreement  
Professional Fee Schedule

Distribution: (1) Addressee  
(1) Planning & Development



December 3, 2003  
 Proposal Ref. 4433

Page 3

# AGREEMENT

The undersigned hereby retains GeoConcepts, Inc. (GCI) to perform a preliminary geologic and geotechnical investigation on the subject site per the terms of this agreement.

Client: Sandy Horowitz Phone: (310) 457-8125  
5656 Latigo Canyon Road, Malibu, CA FAX: (?) ?

2. Project Address: 5656 Latigo Canyon Road, Malibu, CA

3. Scope of Investigation: proposal dated: December 3, 2003 Pr. 4433

|   |                    |
|---|--------------------|
| 4. Geology and Soils Fee: <u>Five Thousand Dollars</u>              | <u>(\$5000.00)</u> |
| Exploration and /Excavation Permit Fee: <u>Thirty Three Dollars</u> | <u>(\$3300.00)</u> |
| Total Fee: <u>Eighty Three Hundred Dollars</u>                      | <u>(\$8300.00)</u> |
| Retainer Fee: <u>Four Thousand Dollars</u>                          | <u>(\$4000.00)</u> |

**RIGHT OF ENTRY & PERFORMANCE:** Right of entry is hereby granted to the job site for GCI to perform the proposed site studies and subsurface investigation. Client assumes full responsibility that boundary surveys and property dimensions and descriptions are correct. GCI will take reasonable precautions to protect the environment during the fieldwork. GCI shall be held harmless and indemnified from liability, claims and damages to all underground utilities, pipes and structures not disclosed prior to the commencement of work. Fees and scheduling are subject to change if unusual or unforeseen elements develop, subject to client's prior consent. As the identification of geologic conditions and the prediction of future or concealed conditions is an inexact endeavor, professional opinions will be based upon conditions revealed at exploration locations only. No warranty, express or implied, of any type, including merchantability of fitness, is made or intended in connection with the work to be performed.

## LIMITATION OF LIABILITY:

To the fullest extent permitted by law, the total liability, in aggregate, of GCI and its officers, associates, agents, and consultants to the client and anyone claiming by, through, or under the client, for any and all injuries, claims, losses, expenses, liability, or damages, including attorneys' and experts fees and all other costs arising out of or in any way related to GCI services, the project, or that agreement from any theory of cause of action, including but not limited to other costs, negligence, strict liability, breach of contract or warranty of GCI, officers or associates shall not exceed the total compensation received by the consultant under this agreement or \$(25,000), whichever is greater. Client has been advised of the relative risks of a project of this type and is hereby advised of its ability to increase the limitation of liability limit for additional fee.

## INDEMNIFICATION:

GCI agrees to perform its services consistent with the applicable standard of care. The client agrees to indemnify and hold harmless GCI, officers and associates against all injuries, claims, losses, expenses, liabilities or damages, including all reasonable attorneys and expert fees and all other costs arising out of or in any way related to the acts, errors, or omissions of third parties including, but not limited to the owner, inspectors, contractor, subcontractor and designers connected with the project excepting only the sole negligence or willful misconduct of GCI.

## CERTIFICATE OF MERIT:

As a condition precedent for filing a claim against GCI, client shall first provide GCI with a written certification executed by an independent professional currently practicing in the same discipline as GCI and with geological and/or geotechnical licenses in the State of California. This certificate shall set forth in detail the basis for the claim and the alleged failure to perform pursuant to the standard feature and shall be provided to GCI not less than thirty calendar days prior to the presentation of any claim.

## BILLING:

Payment is due on receipt of invoice. A service charge of 1.5% per month will be added to any invoice unpaid by client after 30 days. GCI has the right to stop work if payment is not made when due. In the event GCI must institute action under this Agreement to enforce its terms, it shall be entitled to all attorney's and expert fees and costs incurred therein. Venue shall be in Los Angeles County.

## MEDIATION/ARBITRATION:

In the event of any dispute under this Agreement or relating to the services provided by GCI, the parties agree to jurisdiction in Small Claims Court if the dispute is \$5,000 or less.

With regard to any dispute having a value in excess of \$5,000, the parties agree to mediate before a mutually agreeable mediator prior to

resorting to arbitration or litigation. The parties agree to mediate within thirty days of notice of a dispute having a value in excess of \$5,000.

Should the mediation be unsuccessful, the parties agree to submit any dispute having a value of less than \$50,000 to the Los Angeles office of the American Arbitration Association pursuant to the AAA's rule concerning construction industry disputes.

In the event there is any dispute regarding a matter having a value in excess of \$50,000, the parties agree that the dispute will be litigated before the appropriate Superior Court having jurisdiction over the dispute in Los Angeles County, California.

**SITE OBSERVATIONS:**

Site observations by GCI are not for the purpose of observing the contractor's or owner's means, methods, sequence, techniques or procedures; nor for the performing, supervising or conducting any portions of the work or related safety procedures or precautions. These responsibilities are solely the contractors' or owners'.

**INSTRUMENTS OF SERVICE:**

All reports, plans, field data and notes, including documents on structure design, are instruments of service and shall remain the property of GCI who shall retain all common law, statutory law, and other rights including any and all applicable copyright.

**EXCLUSIONS FROM SCOPE OF SERVICES:**

Unless set forth specifically in the proposal, GCI's services shall not include any environmental assessment or investigation of the presence or absence of hazardous or toxic metal in the soil, surface water, groundwater or air at or around the site. Further, services do not include the determination of elevation control, rough or final grades; lateral limits of removal and recompacted fill blankets used for building sites; the type of equipment used for excavation and placement of compacted backfill; methodology or sequence of grading operations; determination of graded cut and fill slope gradients; determination of the placement or need for slope terrace drains, brow drains, and slope irrigation and related systems; or the review of structural calculations.

**VERBAL APPROVAL:**

Client hereby authorizes GCI to take verbal direction from any owner representative and/or owner architect, structural engineer, contractor, subcontractor or City inspector to perform appropriate services requested in the field by any of the above. Any request for additional services pursuant to this clause will be performed by GCI on a time and material basis pursuant to the attached schedule and Client will be invoiced appropriately. Client agrees to pay for these additional services based upon the verbal request to perform these services as outlined in this paragraph.

**PREVAILING PARTY CLAUSE:**

In the event of a dispute between the parties, the prevailing party shall be entitled to its reasonable attorneys' fees and expert fees as well as any other costs that may be appropriately awarded to the prevailing party pursuant to the Code of Civil Procedure.

**ENTIRE AGREEMENT:**

This Agreement represents the entire and integrated agreement between the parties and supercedes all prior negotiations, representations, or agreements, either written or oral.

I/we have read and understand the services described above, and agree to the conditions and terms of this contract.

---

CLIENT OR AUTHORIZED AGENT

Date

GEOCONCEPTS, INC.

Date



# GeoConcepts, Inc.

*Geology • Geotechnical Engineering*

14401 Gilmore St. #200  
Van Nuys, CA 91401  
Office (818) 994-8895  
Fax (818) 994-8599

## 2003 PROFESSIONAL FEE SCHEDULE

### HOURLY PROFESSIONAL FEES

#### Technical Personnel

|                            |             |
|----------------------------|-------------|
| Office Services.....       | \$ 45.00/hr |
| Technical Illustrator..... | \$ 50.00/hr |
| CAD Drafting .....         | \$ 80.00/hr |

#### Professional Personnel

|   |             |
|---|-------------|
| Field Technician (2hr. min.).....                         | \$ 65.00/hr |
| Senior Field Technician (2hr. min.).....                  | \$ 75.00/hr |
| Deputy Grading Inspector (2hr. min.).....                 | \$ 75.00/hr |
| Laboratory Technician.....                                | \$ 55.00/hr |
| Staff Geologist/Engineer.....                             | \$ 75.00/hr |
| Project Geologist/Engineer.....                           | \$ 95.00/hr |
| Principal Geologist/Engineer.....                         | \$135.00/hr |
| Expert Witness or Deposition (4hr. min.).....             | \$270.00/hr |
| Expert Witness-Stand-By Time (4hr. min.) .....            | \$135.00/hr |
| Review and/or Signing Plans, minimum per submission ..... | \$100.00    |

### OTHER FEES

|  |               |
|--|---------------|
| Company owned transportation and mileage ..... | No Charge     |
| Computing and communication equipment .....    | No Charge     |
| Company owned field equipment.....             | No Charge     |
| Outside Service .....                          | Cost Plus 15% |
| Report Reproduction                            |               |
| Subcontracted exploration expenses             |               |
| Drilling, Backhoe, Laborers, etc.              |               |

### BASIS FOR CHARGES

A minimum charge of two hours will be made per site observation as requested or required by the Building Department, including grading, footing excavations and pile borings. Site observations include travel time portal-to-portal from our office. Show-up time is a minimum of two (2) hours.

Billing will be at the above rates for actual time spent. Overtime for hourly charges will be billed at the above rates times 1.5. Overtime is in excess of 8 hour/day, Saturdays, double time for Sundays or holidays. All fees are applicable for this year and rates may be modified the following year.

December 3, 2003  
Proposal Ref. 4433

Page 4

resorting to arbitration or litigation. The parties agree to mediate within thirty days of notice of a dispute having a value in excess of \$5,000.

Should the mediation be unsuccessful, the parties agree to submit any dispute having a value of less than \$50,000 to the Los Angeles office of the American Arbitration Association pursuant to the AAA's rule concerning construction industry disputes.

In the event there is any dispute regarding a matter having a value in excess of \$50,000, the parties agree that the dispute will be litigated before the appropriate Superior Court having jurisdiction over the dispute in Los Angeles County, California.

**SITE OBSERVATIONS:**

Site observations by GCI are not for the purpose of observing the contractor's or owner's means, methods, sequence, techniques or procedures; nor for the performing, supervising or conducting any portions of the work or related safety procedures or precautions. These responsibilities are solely the contractor's or owner's.

**INSTRUMENTS OF SERVICE:**

All reports, plans, field data and notes, including documents on structure design, are instruments of service and shall remain the property of GCI who shall retain all common law, statutory law, and other rights including any and all applicable copyright.

**EXCLUSIONS FROM SCOPE OF SERVICES:**

Unless set forth specifically in the proposal, GCI's services shall not include any environmental assessment or investigation of the presence or absence of hazardous or toxic metal in the soil, surface water, groundwater or air at or around the site. Further, services do not include the determination of elevation control, rough or final grades; lateral limits of removal and recompacted fill blankets used for building sites; the type of equipment used for excavation and placement of compacted backfill; methodology or sequence of grading operations; determination of graded cut and fill slope gradients; determination of the placement or need for slope terrace drains, brow drains, and slope irrigation and related systems; or the review of structural calculations.

**VERBAL APPROVAL:**

Client hereby authorizes GCI to take verbal direction from any owner representative and/or owner architect, structural engineer, contractor, subcontractor or City inspector to perform appropriate services requested in the field by any of the above. Any request for additional services pursuant to this clause will be performed by GCI on a time and material basis pursuant to the attached schedule and Client will be invoiced appropriately. Client agrees to pay for these additional services based upon the verbal request to perform these services as outlined in this paragraph.

**PREVAILING PARTY CLAUSE:**

In the event of a dispute between the parties, the prevailing party shall be entitled to its reasonable attorneys' fees and expert fees as well as any other costs that may be appropriately awarded to the prevailing party pursuant to the Code of Civil Procedure.

**ENTIRE AGREEMENT:**

This Agreement represents the entire and integrated agreement between the parties and supercedes all prior negotiations, representations, or agreements, either written or oral.

I/we have read and understand the services described above, and agree to the conditions and terms of this contract.

CLIENT OR AUTHORIZED AGENT

Date

GEOCONCEPTS, INC.

Date

## AGREEMENT FOR LANDSCAPE DESIGN SERVICES

This agreement is entered into by and between **dp planning & development, inc.** ("dp") and **Mr. & Mrs. Sanford Horowitz** ("Client") as of the date it is signed by both parties. dp shall provide the services described herein and Client shall pay for such services, on the terms and conditions set forth herein.

### I. SCOPE OF PROJECT

dp shall provide detailed landscape design services to the Client related to Lnew planting plan for all ares around existing and new residence along property acces road and private driveway approach; hardscape and softscape design for pool area, hillside area behind purposed garage/guest house, tennis court area, conceal graded hillside embankment below tennis court per cities request; irrigation plan around surrounding purposed landscaped areas; identify areas requiring landscape for erosion control measures; redesign drainage system as required by City for property located in the coastal zone at **5656 Latigo Canyon Road** in the City of Malibu, California "the project."

- A. Detailed Landscape Plan
  - 1. Existing Inventory and New Planting/Tree Plan
- B. Other Technical Plans included with this Scope of Work
  - 1. Planting/Tree Details/Notes
  - 2. Planting Schedule
  - 3. Hardscape Plan and Notes
  - 4. Fuel Modification Plan and Notes
  - 5. Schematic Irrigation Plan and Notes
  - 6. Landscape and Pathway Lighting Plan
  - 7. Garden and Retaining Walls and Terraces
  - 8. Details and Sections
  - 9. Demolition Plan

### II. STRATEGIC DEVELOPMENT PLANS

dp shall use reasonable efforts to complete the services described herein in a timely fashion. Client acknowledges that there is no guarantee of success or financial viability for Client's project, that dp makes no express or implied warranty, and that payment of fees for dp's efforts shall not depend on any particular approval of Client's project or on any approval or construction of Client's project. dp shall not be liable for any damages resulting from the action or inaction of any governmental agency regarding the project or for any delay in the project.

### III. FEES

Client shall pay dp for services rendered as follows:



|                    |   |
|--------------------|---|
| Total Project Cost | \$9,000.00  |
| Deposit            | \$4,500.00 due before commencement of work                        |
| Balance            | \$4,500.00 due upon completion of city "submittal-ready" plan set |

Fee Includes:

Detailed design work, concepts and technical plans; initial client consultation; 3 additional client meeting/project team meetings; coordination with other consultants (surveyor, civil engineer, architect, biologist) etc.; revisions required by the City of Malibu and other regulatory agencies; all meetings and coordination with the City of Malibu and other regulatory agencies; minor change requests will be accommodated; however, substantial changes in design or additional project scope will require an addendum to this agreement

Client shall pay dp for costs as follows:

\$ 0.10 cents per copy, color and oversized copies at actual cost.

Client shall pay all other costs and fees (such as fees for applications) associated with the project at the rate charged to dp, adjusted as set forth below.

If Client does not pay for dp's services and costs when due, dp may suspend all work on the project until payment in full has been made.

In the event that either party initiates litigation to enforce this agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs as fixed by the court.

IV. DEPOSIT

Client shall deposit with dp the amount of **\$4,500.00** as a deposit. dp shall bill for balance upon completion of city "submittal-ready" plan set.

V. INDEMNITY

Client shall indemnify defend and hold dp harmless from any and all liability claims, damages, costs, expenses, attorneys fees and other charges incurred by or threatened against dp on account of any services rendered by dp pursuant to this agreement, except for those arising from the willful misconduct of dp.

VI. TERMINATION

Any party to this agreement may terminate the agreement by written notice to the other, which shall be effective: (a) as to dp upon actual receipt of such written notice; and (b) as to Client, upon deposit into the U.S. mail, addressed as set forth below, certified, return receipt requested and postage prepaid. Upon termination, Client shall pay all fees and costs incurred through termination, and dp shall deliver Client's files to Client upon request. dp shall have no duty to retain or maintain Client's files longer than 30 days after termination.

VII. LIEN FOR SERVICES

Client hereby creates a security interest and lien in favor of dp against the project for the amount of all incurred and unpaid services and costs, which may be enforced by dp against the project in a manner and at times identical to those provided by law for enforcement of mechanic's liens (California Civil Code §3110 *et seq.*) or in any other manner provided by law or in equity. This remedy shall be in addition to any other remedy at law or equity which Consultant may have.

IX. ASSIGNMENT

This agreement shall be binding upon and inure to the benefit of the parties only, and it may not be assigned by any party without the written consent of the other, and any such assignment without consent shall be voidable at the election of the non-assigning party.

In Witness Whereof, the parties hereto have entered into this Agreement as of the last date set forth below.

Dated: FEB. 21, 2005

dp planning and development, inc.  
"dp"

by

  
Drew D. Purvis, CEO/President

Dated: 2/21/05

"Client"

by





## RJR ENGINEERING GROUP

*Civil Engineering / Land Planning • Hydrology / Hydraulics • Geotechnical Engineering / Geology • Water Resources / Environmental Engineering*

February 20, 2005

P.N. 05-1378C

MR& MRS. SANFORD HOROWITZ  
dp Planning and Development  
31211 Pacific Coast Highway  
Malibu, California 90265

Subject: **PROPOSAL FOR CIVIL ENGINEERING SERVICES  
5656 LATIGO CANYON  
MALIBU, CALIFORNIA**

Dear Mr. & Mrs. Horowitz:

RJR Engineering Group (RJR) is pleased to present this proposal for you (herein referred to as "Client") performing civil engineering services for your property as reference above for the development of a single family residence. The intent of this proposal is to perform a grading and drainage plan for planning purposes and a local stormwater management plan (SWPCPC and SUSMP) for review by the City of Malibu.

We proposed to provide the engineering scope of work as outlined in Exhibit "A". The scope of work is based upon our previous experience with the County. Exhibit "B" presents an itemized breakdown of costs. Exhibit "C" provides general exclusions from this agreement.

### **1.0. Project Summary**

The following understandings and assumptions form the basis for this proposal:

- A. A preliminary schematic site plan which illustrates the development of the single family residence.
- B. The property is a 44 acres site located in the City of Malibu, California. This proposal assumes it is the Client's intent to construct one custom single-family residential structure, with a garage and access driveway, yard, and associated structures.
- C. These plans are for submittal to the City Planning and Grading Departments.

Principals:

James O'Tousa, R.G., C.E.G.  
Robert W. Anderson, N.S.P.E., R.C.E.

Exhibit 13

CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 24 of 32



- D. This proposal is based on the adopted ordinances, standards and policies for the City of Malibu.
- E. We understand that a new survey and boundaries will be prepared by Mario Quiros Surveying. It is understood that topographic map provided will be suitable for the engineered plans. RJR will field check the topography map to evaluate its accuracy and will advise the Client of its findings. However, RJR shall not be responsible for the accuracy of the topographic map prepared by others. It is necessary that the survey be provided in an electronic format with the all the line and points with the elevations.

## **2.0. Fee Schedule**

All fees are based on the attached fee schedule at the hourly rate. All work outlined in Exhibit A will be performed on a "Time and Materials" and will not exceed the estimates presented in Exhibit B.

The above quoted fee does not include work not outlined in the above scope of work, nor surveying. However, the above quoted prices will not be exceeded without prior written approval. Additional work and significant design changes will be billed at our typical hourly rate presented above. All blueprinting and reproduction costs will be billed separately at a rate of:

- a. \$0.10 per square foot for all blueprints;
- b. \$1.00 per square foot for Cadd plots;
- c. \$0.10 per page of reproduction

All outside reproduction and other services will be billed to the Client at cost if paid within 30 days of the date in invoices. Any invoices in excess of 30 days will require an additional 1.5 percent interest.

## **Schedule**

RJR estimates the grading and drainage plan will take approximately 4 to 6 weeks from the time we receive the electronic survey.

## **Staffing**

The following key persons will be directly assigned to the design and over-sight of the project:



Principal Engineer:

Mr. Robert W. Anderson, RCE 58383

Project Engineer:

Mr. Jeff Van Fleet

This proposal is valid only if accepted within 30 days of the date submitted. Should the proposed scope of work and terms meet with your approval, please sign a copy of the Standard Agreement, and return to RJR with a retaining of \$5,000 to RJR as authorization to proceed. The initiation of the contract will be based on the date of receipt of the full agreement and retainer by RJR. We will subsequently provide you a copy of the executed contract.

We appreciate the opportunity to provide this proposal for your project. If you have any questions, or if we can be of further assistance on this or other projects, please do not hesitate to give us a call at (805) 650-5125.

Sincerely,

RJR ENGINEERING GROUP

Robert W. Anderson, N.S.P.E., P.E.  
Principal Engineer/Partner

Enc.: Professional Fee Schedule

Standard Agreement Number 05-1378C, dated February 20, 2005

OWNER

2/21/05





**EXHIBIT A**  
Request for Proposal – Civil Engineering  
Scope of Work – Grading & Drainage Plan

---

All work will be performed in accordance with the City of Malibu requirements for grading and drainage. RJR proposes the following scope of work:

**Task 1:** Research County records pertaining to existing facilities and information;

**Task 2:** Prepare a preliminary grading and drainage feasibility plan at a 1' = 40' or larger for the proposed residential improvements in accordance with the general requirements City Grading based on the preliminary architectural site plans.

The grading plan shall be at a scale of 1" = 20' and will indicate pad elevations, rough site grades and elevations, slopes, walls, and detailed location of drainage devices. This includes preparation of separate title sheet with a vicinity map, general notes, legend and summary of earthwork quantities.

We will need a copy of a recent title report and legal descriptions describing all easements. All plans will be prepared on Autocad 2005 and Land Development Design Program. However, all drawings, sections and details are considered the intellectual property and copyrighted by RJR, and unauthorized use or reproduction are prohibited, with all rights are expressly reserved. RJR will not provide electronic copies of details, standard sheets or details. RJR reserves the sole right to refuse distribution the electronic files.

We also request that any other available information such as plans, previous reports, and any other information pertaining to the site be forwarded to be forwarded to RJR for review at the start of the project;

This plan assumes no widening to the existing streets, or utility improvements are required.

**Task 3:** Prepare hydraulic calculations for the on-site pad drainage, as necessary, for the proposed pad in accordance with the City specifications';

**Task 4:** Prepare projects notes, cross sections and details as they pertain to the preliminary grading and drainage plan;

**Task 5:** Prepare an earthwork estimate from the RJR Grading Plan using information available fro the first soils reports and subsequent soils letters provided by the Client. All



information set forth therein shall be reviewed and understood by RJR and the Client. All earthwork quantities shall be indicated on the grading plans.

**Task 6:** The State Regional Control Board and the California Coastal Commission now requires that a Storm Water Management Plan (SWPCP/SUSMP) be prepared as a part of the design package following the State and County requirements for the National Pollution Discharge program. The design requires "Best Practice Measure" be implemented into the plan with notes and details. In addition, methods will include on-site detention; mitigation of non-point source pollution, an appropriate filtering system, and temporary and permanent erosion control be designed for the project.

Since the site consists of an area less than 1 acre of grading, a NOI and SWPPP report will not be required at this time.



## EXHIBIT B

### Cost Estimate – Preliminary Grading & Drainage Plan

All work will be performed in accordance with the City of Malibu requirements. RJR proposes the following scope of work:

|  |                    |
|--|--------------------|
| <u>Task 1 – County Research &amp; Reconnaissance:</u>        | \$ 500             |
| <u>Task 2 - Preliminary Grading &amp; Drainage Plan:</u>     | \$10,000           |
| <u>Task 3 – Drainage Calculations for the Building Site:</u> | \$ 3,000           |
| <u>Task 5 – Earthwork Estimates:</u>                         | \$ 1,500           |
| <u>Task 6 - Storm Water Management Plan/SWPCP:</u>           | \$ 3,000           |
| <u>Task 7 – Reproduction:</u>                                | T&M                |
| <u>Task 8 – Processing and Meetings:</u>                     | T & M              |
| <u>Task 9 – PC Corrections &amp; Design Changes:</u>         | T & M              |
| Total Fees:  | <u>\$18,000.00</u> |



## EXHIBIT C

### Specific Exclusions to the Scope of Work

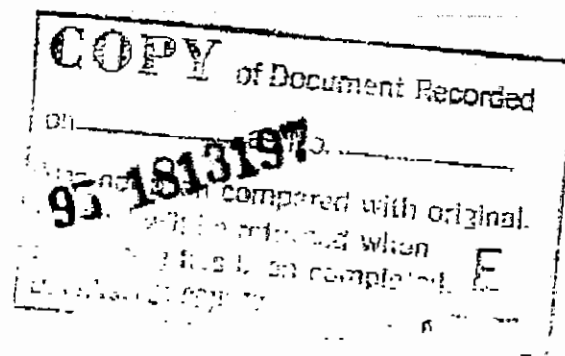
The following services are expressly excluded from the Scope of Work in Exhibit B:

1. Perspective drawings, renderings, scale models of mock-ups or samples except as specifically noted in the Scope of Work.
2. Presentations and preparation of documents and exhibits for hearings, community groups or review committees.
3. Dry utilities and laterals which is to be done by Client's contractor representative. This includes design of electrical systems, telephone facilities, and/or underground cable television systems.
4. Title reports and title services which are to be provided by the Client's title company.
5. Obtaining permission from off site property owners for grading or improvement work outside of the Client's ownership.
6. Acting as an expert witness.
7. The design of earthwork disposal and borrow plans and related earthwork calculations outside of the boundary of the development.
8. Designs or calculations related geologic remedial work or site mitigation that was not explicitly stated in the scope of work.
9. The structural engineering of any of the required improvements including retaining walls except as related for conventional cantilever walls included in this scope of work; it is understood that RJR shall use standard designs approved and made available by the City of Malibu, County of Los Angeles, or special designs prepared by others.
10. Revisions of plans necessitated because of Client or Client's consultants changes to the design criteria. This shall include any review comments made by the client deemed not relevant, excessive or not pertinent to work performed by RJR.
11. Changes that are inconsistent with written approvals or instructions previously given; or, are required by the enactment or revision of codes, laws, or regulations subsequent to RJR's preparation of documents, maps, or improvement plans.
12. Bid forms and documents, including construction cost estimates.
13. Any requirements for stream improvements, wetlands mitigation, etc. not expressly stated in the scope of work.
14. No Field, Boundary or Construction Surveying. It is understood that topographic mapping suitable for engineered plans will be provided by the Client. RJR will field check the topography map to evaluate its accuracy and will advise the Client of its findings. However, RJR shall not be responsible for the accuracy of the topographic map prepared by others.
15. The Client will provide the services, as required, of a soils and geology firm, title company, building architect, utility consultant, traffic consultant, landscape architect, biology (and other environmental consultants) and other specialized consultants. Any specialized structures for the water system such as pressure reducing stations, etc., for the water system or lift stations for the sewer will be either standard plans acceptable to the various agencies, or will be designed by others as "shop drawings". RJR will provide civil engineering services only.
16. No off-site storm drain or other improvement plans. This includes temporary shoring and other specialty plans not considered part of standard civil engineering drawings.
17. It is understood that the Client will furnish any environmental documentation and studies that may be required by the City of Malibu, County of Los Angeles, State of California and other agencies.
18. The Client shall pay all fees, bonds, etc., required by the approving agencies including, school districts, water districts, and other jurisdictional agencies.
19. Printing and reproduction cost.
20. Preparations of documents and exhibits for Planning or Council Meetings.
21. Improvements, beyond a rough grade pad, for the recreation area.
22. Landscape and irrigation plans and related specifications.
23. All other discussions or exclusions previously discussed or not typically included in civil engineering services provided for custom residential developments.

RECORDED AT THE REQUEST  
State of California  
California Coastal Commission

WHEN RECORDED mail to:  
CALIFORNIA COASTAL COMMISSION  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CALIFORNIA 94105-2219

STATE OF CALIFORNIA  
OFFICIAL BUSINESS: Document  
entitled to free recordation pursuant  
to Government Code section 6103



NOV 13 1995

NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL  
ACT OF 1976  
(Public Resources Code Section 30000, et seq.)

I, James W. Burns, declare:

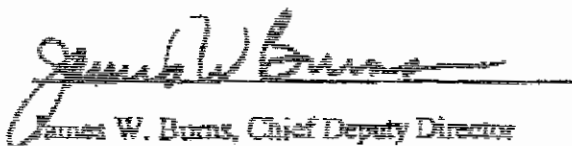
1. I am the Chief Deputy Director of the California Coastal Commission.
2. Violations of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) are alleged to have occurred regarding a certain parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows: 5656 Latigo Canyon Road, Malibu, APN 4459-001-001 (hereinafter the "property").
3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owner of said real property is: Forrest Lloyd Freed.

5. The alleged violation of the Coastal Act consists of: dumping of materials into a canyon which contains a "blue lined stream" without a coastal development permit as required by Sections 30106 and 30600(a) of the Coastal Act.
6. The undersigned has determined that said development may be illegal unless and until a coastal development permit has been obtained from the California Coastal Commission.
7. Remedies available to the California Coastal Commission for the correction of this alleged violation affecting the possession, use, and enjoyment of said property include, but are not limited to: (1) injunctive relief pursuant to Section 30803 of the Coastal Act; (2) the issuance of (a) cease and desist order(s) pursuant to Sections 30809 and/or 30810 of the Coastal Act; (3) the issuance of (a) restoration order(s) pursuant to Section 30811 of the Coastal Act; and/or (4) the imposition of conditions, pursuant to Section 30607 of the Coastal Act, should the required coastal development permit be applied for.

Executed at San Francisco, California, on Oct. 16, 1995

I declare under penalty of perjury that the foregoing is true and correct.

California Coastal Commission

  
James W. Burns, Chief Deputy Director

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO



## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



## VIA REGULAR AND CERTIFIED MAIL

7004 1160 0001 3918 8603

August 5, 2005

Sanford Horowitz  
P.O. Box 6262  
Malibu, CA 90264

Drew Pervis  
DP Planning and Development  
31211 Pacific Coast Highway  
Malibu, CA 90265

Subject: Notification of Intent to Record a Notice of Violation of  
the Coastal Act

Violation No.: V-4-95-029

Location: 5656 Latigo Canyon Rd., Malibu, CA.  
APN 4459-001-001

Violation Description: Unpermitted dumping of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes; unpermitted construction of two storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one paved and one packed earth.

Dear Mr. Horowitz:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to record a Notice of Violation for development in violation of the Coastal Act on property that you own at 5656 Latigo Canyon Road, Malibu, Los Angeles County.

The unpermitted development consists of unpermitted dumping of materials including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing a blueline stream; unpermitted placement of two mobile homes;

unpermitted construction of two storage structures; major vegetation removal; and grading and paving of a building pad and two roads, one paved and one packed earth. The subject property contains environmentally sensitive riparian habitat along the blueline stream.

Development is defined in section 30106 of the Coastal Act as follows:

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

The disposal of debris, removal of major vegetation, grading of pad and roads, and the placement and/or erection of buildings constitute development under the Coastal Act, and as such are subject to Coastal Act requirements, including the rules regarding permits.

In our attempts to resolve this violation informally, we previously notified you of the Coastal Act violations on the subject property. You acquired the subject property on October 6, 2000, with a Notice of Violation of the Coastal Act (Document No. 95-1813197) in place and recorded in the chain of title. Commission staff met with your representative, Gregory Bloomfield, on October 12, 2001, to discuss the history of the site. Mr. Bloomfield was informed by Commission staff that in addition to the unpermitted dumping of materials in the canyon and stream identified in the 1995 Notice of Violation, the grading of a lower pad, two roads, placement of two mobile homes and erection of two storage buildings also appeared to be unpermitted development that is present at the site. A 1977 aerial photograph of the subject property indicates that no debris, buildings, graded roads, or graded pad were visible on the site in 1977. Thus, the cited development was placed after the Coastal Act's permit requirements became effective (January 1977). Commission staff advised Mr. Bloomfield and you in November of 2001 that an application for a coastal development permit ("CDP") must be submitted before any removal or restoration work could begin on the subject property.

On August 14, 2002, you submitted an application to the City of Malibu proposing development of a new tennis court on the subject property<sup>1</sup>. Shortly thereafter, the Planning Division of the City of Malibu responded, notifying you that the application was incomplete. On January 13, 2005 the City of Malibu requested that you convert the application for development into an application for a CDP or that you apply for a CDP exemption. Subsequently, this application was administratively withdrawn by the City of Malibu on July 7, 2005, due to the incomplete nature of the application and lack of activity to complete the application.

The unpermitted development on the subject property, which is located in the coastal zone, was performed without a CDP and is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires 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. A CDP was neither applied for, nor obtained, for any of the unpermitted development on the subject property.

Commission staff spoke with your current representative, Drew Pervis, on July 14, 2005. Mr. Pervis stated an intent to work cooperatively with the Commission towards an administrative resolution of the Coastal Act violations existing on the subject property. We appreciate this stated intent to cooperate, but note that you have not yet submitted a permit application seeking authorization for removal of the unpermitted development and restoration of the site, or otherwise resolved this violation.

Due to the length of time that this violation has existed and the nature of the violation that exists on the subject property, I am issuing this Notice of Intent to record a Notice of Violation. The purpose of my intent to record this Notice of Violation is to update an already existing recorded Notice of Violation for the subject property. The Notice of Violation will record the additional unpermitted development on the subject property including, but not limited to, unpermitted placement of two mobile homes, unpermitted construction of two storage structures, removal of major vegetation, and grading and paving of a building pad and two roads, one paved and one packed earth. The recorded Notice of Violation is for informational purposes only and is not a defect, lien, or encumbrance on the property. Within thirty days after the final resolution of this violation, I shall mail a clearance letter to you and shall record a notice of rescission in the Los Angeles County recorder's office. The notice of rescission will have the same effect of a withdrawal or expungement.

---

<sup>1</sup> This application was not for purposes of removal or restoration work to resolve the Coastal Act violation on the subject property pursuant to the prior communication between Commission staff and Mr. Bloomfield in November of 2001.

### Notice of Violation

The Commission's authority to record a Notice of Violation is set forth in Section 30812 of the Coastal Act, which states the following:

*(a) Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.*

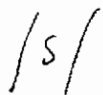
I am issuing this Notice of Intent to record a Notice of Violation because development has occurred in violation of the Coastal Act at the subject property.

If you object to the recordation of a Notice of Violation in this matter and wish to present evidence to the Commission at a public hearing on the issue of whether a violation has occurred, you must respond, in writing, within 20 days of the postmarked mailing of the notification. If, within 20 days of mailing of the notification, you fail to inform Commission staff of an objection to recording a Notice of Violation, I shall record the Notice of Violation in the Los Angeles County recorder's office as provided for under Section 30812 of the Coastal Act. If you would like to avoid a hearing, you need only to not object to the recordation of the Notice of Violation.

**If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether a violation has occurred, you must respond in writing, to the attention of Brian Graziani, no later than August 25, 2005.** Please include the evidence you wish to present to the Commission in your written response and identify any issues you would like us to consider.

If you have any questions regarding this letter or the enforcement case, please call Brian Graziani at (415) 904-2335, or send correspondence to his attention at the address listed on the letterhead.

Sincerely,



Peter Douglas  
Executive Director

8/5/05

Page 5

cc: Lisa Haage, Chief of Enforcement  
 Sandy Goldberg, Staff Counsel  
 Drew Pervis, representative for Mr. Horowitz

| U.S. Postal Service <sup>TM</sup><br>CERTIFIED MAIL <sup>TM</sup> RECEIPT<br>(Domestic Mail Only; No Insurance Coverage Provided)   |  | SENDER: COMPLETE THIS SECTION  |  | COMPLETE THIS SECTION ON DELIVERY   |  |
|---|--|--|--|---|--|
| For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>  |  | <p>1. Article Addressed to:</p> <p>Sanford Horowitz<br/>           P.O. Box 6262<br/>           Malibu, CA 90264</p> |  | <p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery<br/>           Marsha M. Horowitz 8-8-05</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No<br/>           If YES, enter delivery address below:</p> |  |
| <p>Official US</p> <p>Postage \$ .60</p> <p>Certified Fee \$ 2.30</p> <p>Return Receipt Fee (Endorsement Required) \$ 1.75</p> <p>Restricted Delivery Fee (Endorsement Required) \$</p> <p>Total Postage &amp; Fees \$ 4.65</p> |  | <p>2. Article Number (Transfer from service)</p> <p>7004 1160 0001 3918 8603</p>                                     |  | <p>Exhibit 14<br/>           CCC-05-CD-10 and CCC-05-RO-06<br/>           (Horowitz) Page 5 of 5</p>  |  |
| <p>Sent To Sanford Horowitz</p> <p>Street, Apt. No., or PO Box No. P.O. Box 6262</p> <p>City, State, ZIP+4 Malibu, CA 90264</p>   |  |  |  |   |  |

05 2267642

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA

11:21 AM SEP 20 2005

TITLE(S) : \_\_\_\_\_



FEE

D.T.T.

FREE PP

4

CODE  
20

CODE  
19

CODE  
9

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

THIS FORM IS NOT TO BE DUPLICATED

Exhibit 15

CCC-05-CD-10 and CCC-05-RO-06  
(Horowitz) Page 1 of 5



RECORDING REQUESTED BY:  
California Coastal Commission

ORIGINAL

05 2267642

WHEN RECORDED MAIL TO:

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105  
Attention: Sheila Ryan

[Exempt from recording fee pursuant to Gov. Code § 27383]

DOCUMENT TITLE:

NOTICE OF VIOLATION OF THE COASTAL ACT

Re: Assessor's Parcel No. 4459-001-001

Property Owner:

Sanford J. Horowitz

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION  
Attention: Sheila Ryan  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

STATE OF CALIFORNIA OFFICIAL BUSINESS  
Document entitled to free recordation  
Pursuant to Government Code §27383

NOTICE OF VIOLATION OF THE COASTAL ACT  
(Public Resources Code Section 30812)

On behalf of Peter Douglas, I, Lisa Haage, declare:

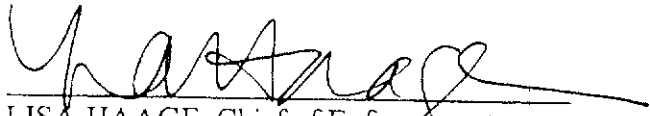
1. Peter Douglas is the Executive Director of the California Coastal Commission. Section 30812 of the Coastal Act provides for the Executive Director to record Notices of Violation of the Coastal Act. Peter Douglas, Executive Director, has specifically delegated this authority to me to act on his behalf.
2. A violation of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) has occurred involving the parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows:

A single 43.56-acre parcel located at 5656 Latigo Canyon Road, Malibu, Los Angeles County  
(Assessor's Parcel Number 4459-001-001)

3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owner of said real property is: Sanford J. Horowitz.
5. The violation of the Coastal Act (Violation File No. V-4-95-029) consists of the following unpermitted development: unpermitted disposal of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing and from which runoff drains into a blueline stream; unpermitted placement of mobile homes; unpermitted construction of storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one of which is paved and one of which consists of packed earth.
6. The requirements set forth in Section 30812 for notice and recordation of this Notice of Violation have been complied with. Recording this notice is authorized under Section 30812 of the California Public Resources Code.
7. The Executive Director notified Sanford Horowitz of his intent to record a Notice of Violation in this matter in a letter dated August 5, 2005.
8. As of this date, the Commission has not received a written objection to the recordation of the Notice of Violation. Therefore, on behalf of the Executive Director, I am recording the Notice of Violation as provided for under Section 30812 of the California Coastal Act.

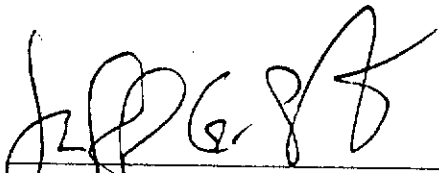
Executed in San Francisco, California, on 16 Sept 2005.

I declare under penalty of perjury that the foregoing is true and correct.

  
LISA HAAGE, Chief of Enforcement

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

On this 16 day of September, in the year 2005, before me the undersigned  
Notary Public, personally appeared Lisa Haage, personally known to me (or proved to me on the  
basis of satisfactory evidence) to be the person who executed this instrument on behalf of the  
Executive Director of the California Coastal Commission and acknowledged to me that the  
California Coastal Commission executed it.

  
Notary Public in and for said State and County



## **EXHIBITS 2 – 9**

CCC-05-CD-10-A / CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**VIA CERTIFIED MAIL AND FACSIMILE**

April 26, 2013

Select Portfolio  
Attn: Mike Sanders  
3815 South West Temple  
Salt Lake City, UT 84115

US Bank  
Attn: Corporate Trust Department  
60 Livingston Avenue  
St. Paul, MN 55017

Re: 5656 Latigo Canyon Road, Malibu, California 90265 (TS No. 20090010200055)

Select Portfolio and US Bank,

This letter is to confirm our April 22, 2013 telephone conversations regarding your Grantee status for property located at 5656 Latigo Canyon Road in Malibu, CA (lot 4459 block 001 tract 001 and identified as Los Angeles County Assessor Parcel Numbers 4459-001-002 and 4459-001-003, with an alternative Assessor Parcel Number of 4459-001-001) ("the property"), and to provide you with additional information related to the ongoing Coastal Act violations on the property.

The California Coastal Commission ("Commission") is a State agency charged with regulating development and managing resources along California's coastline. The property lies within the City of Malibu, which has a certified Local Coastal Program (LCP). In this case, the Commission has enforcement jurisdiction in this matter pursuant to Section 30810(a)(1) of the Coastal Act, which provides that the Commission may issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests that the Commission assist with or take primary responsibility for issuance of an order. In June 2005, the City of Malibu requested that the Commission take the primary responsibility to issue an order to address the violations on the property. In addition, the Commission has jurisdiction here because it is enforcing one of its own orders, as discussed below.

In September of 2005, in accordance with PRC Section 30812, the Executive Director of the Commission recorded a Notice of Violation ("NOVA") against the property APN 4459-001-001, which is a mechanism to provide potential, future purchasers notice of the Coastal Act violations on the property. This document will show up in a search of the title for the property, but, for your convenience, I am enclosing a copy of that NOVA for your records. In accordance with PRC Section 30812(f), once the violations are resolved, the Executive Director will cause to be recorded a notice of rescission.

The Commission found at its November 2005 hearing, that unpermitted development occurred on the property, that the unpermitted development is inconsistent with the Coastal Act, and the development is causing continuing resource damage. At that hearing, the Commission issued Cease and Desist Order No. CCC-05-CD-10 and Restoration Order No CCC-05-RO-10 ("Orders") (enclosed with this letter). The unpermitted development at issue includes, but may not be limited to: dumping concrete, rebar, bricks, asphalt, plastic and metal materials into a canyon containing a blue line stream, removing major



vegetation and disturbance of an Environmentally Sensitive Habitat Area, and grading and paving a building pad and two roads. In 2005, two unpermitted storage structures had been placed on the property; however, those items of development have since been removed. The Orders required the property owner to, among other things, remove the unpermitted development, restore the natural topography of the property, revegetate the disturbed areas with native plant species propagated from plants as close as possible to the property, stabilize the soils, and monitor the success of all such restoration. Unfortunately, Mr. Horowitz, the owner of the property at the time the Commission issued the Orders, never complied with the Orders and all of the unpermitted development, with the exception of the two storage structures noted above, remains on the property.

I have enclosed the recorded NOVA on the property that you may have already found through a search of a title for the property, as well as a copy of the fully executed Cease and Desist and Restoration Orders. We note that the responsibility to resolve the violations under the Coastal Act, as well as to comply with the terms of the Orders run with the land and are the obligations of the current and any future property owner. This letter constitutes additional notice that unresolved Coastal Act violations remain on the property. These violations run with the land and until the violations are resolved, all liabilities under the Coastal Act, including civil liabilities pursuant to Chapter 9 of the Coastal Act, remain. Accordingly, any future owner of the property will be legally responsible for resolving the violations cited herein and in the recorded NOVA. Commission staff will continue to pursue resolution of this matter with the present owners of the property and hope to do so amicably and without the need for a further proceeding. However, should Select Portfolio and US Bank remain the fee title owner of the property, Commission staff would hope to receive its full cooperation in working towards a proactive and swift resolution of the issues described herein.

We appreciate your time and attention to the issues cited herein and would be happy to discuss this matter further. If you have any questions, please do not hesitate to contact me at (415) 904-5264.

Sincerely,

*Maggie Weber*

Maggie Weber  
Statewide Enforcement Analyst

CC: Lisa Haage, Chief of Enforcement (w/o encl.)  
Pat Veesart, Southern California Enforcement Supervisor (w/o encl.)  
Aaron McLendon, Statewide Enforcement Supervisor (w/o encl.)  
Alex Helperin, Senior Staff Counsel (w/o encl.)  
Guity Parsi (w/ encl.)  
Paul Grisanti (w/ encl.)

Encl: NOVA  
Orders

This page is part of your document - DO NOT DISCARD

05 2267642

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA

11:21 AM SEP 20 2005

TITLE(S) : \_\_\_\_\_



FEE

D.T.T.

FREE PP

CODE  
20

CODE  
19

CODE  
9

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black Ink.

Number of AIN's Shown

THIS FORM IS NOT TO BE DUPLICATED

Exhibit 2  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 3 of 7

RECORDING REQUESTED BY:  
California Coastal Commission

ORIGINAL

05 2267642

WHEN RECORDED MAIL TO:

California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105  
Attention: Sheila Ryan

[Exempt from recording fee pursuant to Gov. Code § 27383]

DOCUMENT TITLE:

NOTICE OF VIOLATION OF THE COASTAL ACT

Re: Assessor's Parcel No. 4459-001-001

Property Owner:

Sanford J. Horowitz

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

**CALIFORNIA COASTAL COMMISSION**

Attention: Sheila Ryan  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**STATE OF CALIFORNIA OFFICIAL BUSINESS**

Document entitled to free recordation  
Pursuant to Government Code §27383

**NOTICE OF VIOLATION OF THE COASTAL ACT  
(Public Resources Code Section 30812)**

On behalf of Peter Douglas, I, Lisa Haage, declare:

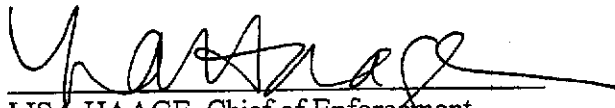
1. Peter Douglas is the Executive Director of the California Coastal Commission. Section 30812 of the Coastal Act provides for the Executive Director to record Notices of Violation of the Coastal Act. Peter Douglas, Executive Director, has specifically delegated this authority to me to act on his behalf.
2. A violation of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) has occurred involving the parcel of real property situated in the County of Los Angeles, State of California, more particularly described as follows:

**A single 43.56-acre parcel located at 5656 Latigo Canyon Road, Malibu, Los Angeles County  
(Assessor's Parcel Number 4459-001-001)**

3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owner of said real property is: Sanford J. Horowitz.
5. The violation of the Coastal Act (Violation File No. V-4-95-029) consists of the following unpermitted development: unpermitted disposal of materials, including but not limited to: concrete, rebar, bricks, asphalt, plastics and metal materials in a canyon containing and from which runoff drains into a blueline stream; unpermitted placement of mobile homes; unpermitted construction of storage structures; removal of major vegetation; and grading and paving of a building pad and two roads, one of which is paved and one of which consists of packed earth.
6. The requirements set forth in Section 30812 for notice and recordation of this Notice of Violation have been complied with. Recording this notice is authorized under Section 30812 of the California Public Resources Code.
7. The Executive Director notified Sanford Horowitz of his intent to record a Notice of Violation in this matter in a letter dated August 5, 2005.
8. As of this date, the Commission has not received a written objection to the recordation of the Notice of Violation. Therefore, on behalf of the Executive Director, I am recording the Notice of Violation as provided for under Section 30812 of the California Coastal Act.

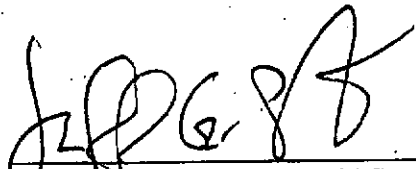
Executed in San Francisco, California, on 16 Sept 2005.

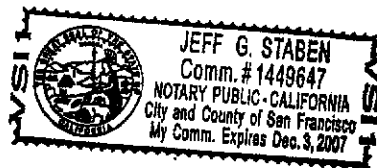
I declare under penalty of perjury that the foregoing is true and correct.

  
LISA HAAGE, Chief of Enforcement

STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

On this 16 day of September, in the year 2005, before me the undersigned  
Notary Public, personally appeared Lisa Haage, personally known to me (or proved to me on the  
basis of satisfactory evidence) to be the person who executed this instrument on behalf of the  
Executive Director of the California Coastal Commission and acknowledged to me that the  
California Coastal Commission executed it.

  
Notary Public in and for said State and County





This page is part of your document - DO NOT DISCARD



**20130498876**



Pages:  
0006

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

04/03/13 AT 08:00AM

|        |       |
|--------|-------|
| FEES:  | 27.00 |
| TAXES: | 0.00  |
| OTHER: | 0.00  |
| PAID:  | 27.00 |



LEADSHEET



201304030220004

00007499096



004766315

SEQ:  
16

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

T10

F44 (Rev. 3)

Exhibit 3  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 1 of 5

Recording requested by:  
NDEx West, L.L.C.  
15000 Surveyor Boulevard, Suite 500  
Addison, Texas 75001-9013

When Recorded Mail to and Mail Tax Statement to:  
U.S. BANK NATIONAL ASSOCIATION et al  
c/o SELECT PORTFOLIO SERVICING, INC. et al  
3815 SOUTHWEST TEMPLE  
SALT LAKE CITY, UT 84115

APN #: 4459-001-002 AND 4459-001-003  
Property Address:  
5656 LATIGO CANYON ROAD  
MALIBU, CALIFORNIA 90265



TDUS20090010200055



Space above this line for Recorder's use only

Trustee Sale No. : 20090010200055

Title Order No.: 914538

### TRUSTEE'S DEED UPON SALE

The undersigned grantor declares:

- 1) The Grantee herein WAS the foreclosing beneficiary
- 2) The amount of the unpaid debt together with cost was **\$1,813,444.28**
- 3) The amount paid by the grantee at the trustee sale was **\$1,813,444.28**
- 4) The documentary transfer tax is **Ø**
- 5) Said property is in the city of **MALIBU**

NDEx West, L.L.C., as the duly appointed Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without covenant or warranty, express or implied, to:

**U.S. BANK NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO BANK OF AMERICA N.A.  
(SUCCESSOR BY MERGER TO LASALLE BANK N.A.), AS TRUSTEE, ON BEHALF OF THE  
HOLDERS OF THE ZUNI MORTGAGE LOAN TRUST 2006-OA1 MORTGAGE LOAN  
PASS-THROUGH CERTIFICATES, SERIES 2006-OA1**

(herein called Grantee), all of its right, title and interest in and to that certain property situated in the County of Los Angeles, State of California, described as follows:

SEE EXHIBIT "A"

#### RECITALS:

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated 05/11/2006 and executed by **SANFORD J HOROWITZ** Trustor(s), and Recorded on 05/24/2006 as Instrument No. 061138977 of official records of Los Angeles County, California, and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the Office of the Recorder of said County, and such default still existed at the time of sale.

All requirements of law regarding the mailing of copies of notices or the publication of a copy of the Notice of Default or the personal delivery of the copy of the Notice of Default and the posting and publication of copies of the Notice of a Sale have been complied with.

MAIL TAX STATEMENTS AS DIRECTED ABOVE

160

Order # 914538

Exhibit "A"

TSH# 20090010200055

3

**The land referred to in this Guarantee is situated in the City of Malibu, State of California, County of Los Angeles, and is described as follows:**

**PARCEL 1:**

A PARCEL OF LAND IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ OF PATENTS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE CENTER LINE OF LATIGO CANYON ROAD, 60 00 FEET WIDE, DESCRIBED IN FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGE 326, OFFICIAL RECORDS OF SAID COUNTY AS "NORTH 61 DEGREES 18' 20" WEST 185 17 FEET", THENCE IN A GENERAL NORTHWESTERLY DIRECTION ALONG SAID CENTERLINE, TO THE NORTHERLY LINE OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SHOWN ON COUNTY SURVEYOR'S MAP 8815 FILED IN THE OFFICE OF THE COUNTY ENGINEER OF SAID COUNTY, THENCE ALONG SAID NORTHERLY LINE NORTH 89 DEGREES 1' 5" EAST 3047 00 FEET, THENCE SOUTH 0 DEGREES 5' 45" WEST 1033 14 FEET TO A LINE BEARING NORTH 77 DEGREES 11' 14" WEST WHICH PASSES THROUGH THE POINT OF BEGINNING, THENCE NORTH 77 DEGREES 11' 14" WEST 2255 19 FEET TO THE POINT OF BEGINNING

EXCEPT THEREFROM THAT PORTION OF SAID LAND WITHIN LOT 7 OF MAP OF THE LAND OF MATTHEW KELLER IN THE RANCHO TOPANGA MALIBU SEQUIT, RECORDED AS MAP NO 534, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

EXCEPTING THEREFROM THOSE PORTION OF LATIGO CANYON ROAD AS RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS

AS DESCRIBED IN CITY OF MALIBU CERTIFICATE OF COMPLIANCE NO. 06-05, RECORDED MAY 18, 2007 AS INSTRUMENT NO. 20071218113 OF OFFICIAL RECORDS.

**PARCEL 2:**

A PARCEL OF LAND IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ OF PATENTS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE CENTER LINE OF LATIGO CANYON ROAD, 60 00 FEET WIDE, DESCRIBED IN FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGE 326, OFFICIAL RECORDS OF SAID COUNTY AS "NORTH 61 DEGREES 18' 20" WEST 185 17 FEET", THENCE IN A GENERAL NORTHWESTERLY DIRECTION ALONG SAID CENTERLINE, TO THE NORTHERLY LINE OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SHOWN ON COUNTY SURVEYOR'S MAP 8815 FILED IN THE OFFICE OF THE COUNTY ENGINEER OF SAID COUNTY, THENCE ALONG SAID NORTHERLY LINE NORTH 89 DEGREES 1' 5" EAST 3047 00 FEET, THENCE SOUTH 0 DEGREES 5' 45" WEST 1033 14 FEET TO A LINE BEARING NORTH 77 DEGREES 11' 14" WEST WHICH PASSES THROUGH THE POINT OF BEGINNING, THENCE NORTH 77 DEGREES 11' 14" WEST 2255 19 FEET TO THE POINT OF BEGINNING

Order # 914538

Exhibit "A"

TS# : 20090010200055

4

EXCEPT THEREFROM THAT PORTION OF SAID LAND WITHIN LOT 6 OF MAP OF THE LAND OF MATTHEW KELLER IN THE RANCHO TOPANGA MALIBU SEQUIT, RECORDED AS MAP NO 534, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

EXCEPTING THEREFROM THOSE PORTION OF LATIGO CANYON ROAD AS RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS

AS DESCRIBED IN CITY OF MALIBU CERTIFICATE OF COMPLIANCE NO. 06-04, RECORDED MAY 18, 2007 AS INSTRUMENT NO. 20071218114 OF OFFICIAL RECORDS.

PARCEL 3:

AN EASEMENT FOR ROAD PURPOSES TO BE USED IN COMMON WITH OTHERS OVER THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDING WITHIN A STRIP OF LAND 30 FEET WIDE, THE SOUTHWESTERLY LINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF LATIGO CANYON ROAD, 60 FEET IN WIDTH DESCRIBED IN THE EASEMENT FOR PUBLIC ROAD PURPOSES TO THE COUNTY OF LOS ANGELES, IN THE FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS, OF SAID COUNTY, SAID POINT OF BEGINNING BEING THE SOUTHEASTERLY END OF THAT CERTAIN COURSE DESCRIBED IN THE ABOVE MENTIONED EASEMENT AS NORTH 61° 18' 20" WEST 185.17 FEET; THENCE SOUTH 77° 11' 14" EAST 1069.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 34° 27' 0" EAST 694.72 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 35 FEET; THENCE SOUTHWESTERLY HAVING A RADIUS OF 35 FEET; THENCE SOUTHERLY ALONG SAID CURVE, A DISTANCE OF 28.94 FEET; THENCE TANGENT SOUTH 12° 56' 0" WEST 29.07 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 115.00 FEET; THENCE, SOUTHERLY ALONG THE ARC OF SAID CURVE 34.00 FEET; THENCE TANGENT SOUTH 4° 0' 30" EAST 12.98 FEET TO THE BEGINNING OF TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 115.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 47.95 FEET; THENCE TANGENT SOUTH 27° 53' 50" EAST 26.10 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 515.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 29.36 FEET; THENCE TANGENT SOUTH 31° 9' 50" EAST 72.86 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 185.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 21.40 FEET; THENCE TANGENT SOUTH 24° 32' 0" EAST 68.15 FEET TO THE BEGINNING OF A TANGENT CURVE SOUTHWESTERLY AND HAVING A RADIUS OF 185.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 25.39 FEET THENCE TANGENT SOUTH 16° 40' 10" EAST 50.76 FEET TO THE SOUTHERLY LINE OF LAND AS DESCRIBED IN DEED TO JOSEPH DE BELL RECORDED ON MARCH 3, 1950, AS INSTRUMENT NO. 459 IN BOOK 32633, PAGE 82 OF OFFICIAL RECORDS.

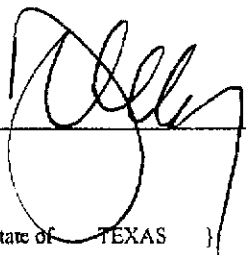
SAID STRIP OF LAND TO TERMINATE SOUTHERLY IN SAID SOUTHERLY LINE OF SAID LAND OF DE BELL AND TERMINATE NORTHERLY IN THE EASTERLY PROLONGATION OF THAT CERTAIN COURSE HEREINABOVE DESCRIBED AS HAVING A BEARING AND LENGTH OF SOUTH 77° 11' 14" EAST 1069.12 FEET.

APN: 4459-001-002 & 4459-001-003

Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its powers under said Deed of Trust, sold the herein described property at public auction on 12/28/2012. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid being 1,813,444.28 in lawful money of the United States, or by credit bid if the Grantee was the beneficiary of said Deed of Trust at the Time of said Trustee's Sale.

DATED: 04/01/2013

NDEx West, L.L.C., as Trustee

  
\_\_\_\_\_  
State of TEXAS }  
County of DALLAS }

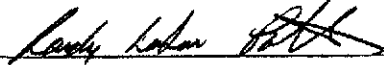
**Ric Juarez**

4/1/2013

DATED

On 4/1/2013 before me, **Randy LaDon Potts** Notary Public, personally appeared **Ric Juarez** who is known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature:  (Seal)

My commission expires: \_\_\_\_\_



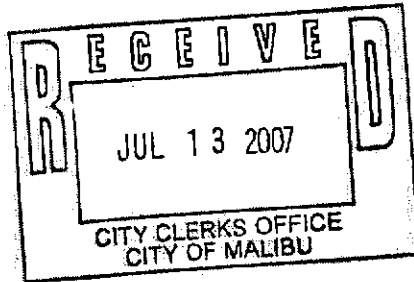
C of C 06-04  
1

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20071218114

Pages:  
0005



Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

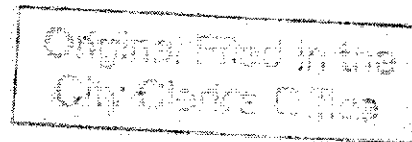
|              |                |
|--------------|----------------|
| Fees:        | \$18.00        |
| Taxes:       | \$0.00         |
| Other:       | \$15.00        |
| <b>Paid:</b> | <b>\$33.00</b> |

05/18/07 AT 11:00AM

0000691915

200705180930022

Counter



TITLE(S) : \_\_\_\_\_



Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

ES21957

THIS FORM IS NOT TO BE DUPLICATED

Exhibit 4  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 1 of 12

CA:PW



05/18/07



20071218114

S

RECORDED AT THE REQUEST OF:

City of Malibu

UPON RECORDATION MAIL ONE COPY TO:

City Clerk  
City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265

CITY OF MALIBU  
CERTIFICATE OF COMPLIANCE NO. 06-04

REQUEST FOR CERTIFICATE OF COMPLIANCE

I/We the undersigned owner(s) of record (and/or vendee(s) pursuant to a contract of sale) in the following described property within the City of Malibu, County of Los Angeles, hereby REQUEST the City of Malibu to determine if said property described below complies with the provisions of the Subdivision Map Act (Sec. 86410 et seq., Government Code, State of California) and Article X of the Municipal Code, City of Malibu (Subdivision)

By:

(Signature)

(Signature)

SANFORD J. HOROWITZ

Name (typed or printed)

Name (typed or printed)

Date

Date

LEGAL DESCRIPTION

Per Exhibit "A" attached hereto and made a part hereof.

Exhibit 4  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 2 of 12

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of LOS ANGELES

SS.

On MAY 7, 2007  
Date

before me,

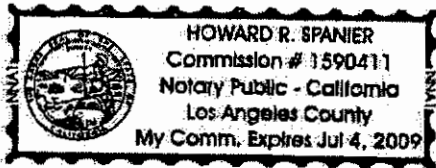
HOWARD R. SPANIER, NOTARY PUBLIC  
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

SANFORD J. HOLLOWITZ  
Name(s) of Signer(s)

☐ personally known to me

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



WITNESS my hand and official seal.

Place Notary Seal Above

Howard R. Spanier  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: Certificate of Compliance

Document Date: 5/7/07 Number of Pages: 1

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- ☒ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

4

**CITY OF MALIBU  
CERTIFICATE OF COMPLIANCE NO. 06-04**

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

A PARCEL OF LAND IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ. OF PATENTS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE CENTER LINE OF LATIGO CANYON ROAD, 60.00 FEET WIDE, DESCRIBED IN FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGE 326, OFFICIAL RECORDS OF SAID COUNTY AS "NORTH 61 DEGREES 18' 20" WEST 185.17 FEET"; THENCE IN A GENERAL NORTHWESTERLY DIRECTION ALONG SAID CENTERLINE, TO THE NORTHERLY LINE OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SHOWN ON COUNTY SURVEYOR'S MAP 8815 FILED IN THE OFFICE OF THE COUNTY ENGINEER OF SAID COUNTY; THENCE ALONG SAID NORTHERLY LINE NORTH 89 DEGREES 1' 5" EAST 3047.00 FEET; THENCE SOUTH 0 DEGREES 5' 45" WEST 1033.14 FEET TO A LINE BEARING NORTH 77 DEGREES 11' 14" WEST WHICH PASSES THROUGH THE POINT OF BEGINNING; THENCE NORTH 77 DEGREES 11' 14" WEST 2255.19 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION OF SAID LAND WITHIN LOT 6 OF MAP OF THE LAND OF MATTHEW KELLER IN THE RANCHO TOPANGA MALIBU SEQUIT, RECORDED AS MAP NO. 534, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

EXCEPTING THEREFROM THOSE PORTION OF LATIGO CANYON ROAD AS RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS.

APN: 4459-001-001 Ptn

5

**CITY OF MALIBU  
DETERMINATION OF COMPLIANCE  
CERTIFICATE OF COMPLIANCE NO. 06-04**

The City of Malibu, County of Los Angeles, State of California, hereby certifies that as of the date of this Certificate, the above-described property is in compliance with the provisions of the Subdivision Map Act (Government Code Section 66410, et seq.) and local ordinances, enacted pursuant thereto. This Certificate does not constitute a permit to develop said property, and compliance with other provisions of law relating to land use and construction of improvements may be required prior to issuance of any such permit.

The subject property may therefore be sold, financed, leased or transferred in accordance with all applicable provisions of said Act and Ordinances. This determination does not guarantee that the subject property has legal access or meets current design and improvement standards for subdivided parcels. Prospective purchasers should check site conditions and applicable development codes to determine whether the property is suitable for their intended use.

Prior to authorization to build on this property, the applicant will be required to conform to City and County building regulations. Such regulations include, but are not limited to, programs for appropriate sanitary sewage disposal and water supply for domestic use and fire suppression.

Geologic, soils, and drainage conditions on the subject project may limit development or necessitate that remedial measures be taken in order to obtain a building permit.

**CITY OF MALIBU**

Dated: 5-16-07 By: Claudio Sanchez, Deputy City Engineer  
R.C.E. No. 056090, Expires 12/31/08

Dated: 4-17-07 By: David Knell, City Surveyor  
PLS 5301, Expires 12/31/07



Pursuant to Civil Code Section 1181

State of California )  
County of Los Angeles ) SS.

On May 16, 2007, before me, Lisa Pope, City Clerk for the City of Malibu, personally appeared Claudio Sanchez, Deputy City Engineer for the City of Malibu, Department of Public Works, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument, the entity upon behalf of which he acted, executed the instrument.

I WITNESS my hand and official seal.

Lisa Pope  
Lisa Pope, City Clerk

OCT 23 2002

FIRST AMER

C.

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE INSURANCE CO.

WHEN RECORDED MAIL TO:

SANFORD J. HOROWITZ  
5656 LATIGO CANYON ROAD  
MALIBU, CA 90265

ORDER NO.: 1350281

SPACE ABOVE THIS LINE FOR RECORDING USE

A.P.N.: 4459-001-001

Escrow No.:

### INTERSPOUSAL TRANSFER GRANT DEED

(Excluded from reappraisal under California Constitution Act 13 A 1 et seq.)

#### DOCUMENTARY TRANSFER TAX SNONE

"This is an interspousal transfer and not a change in ownership under SS 63 of the Revenue and Taxation code and Grantor(s) has(have) checked the applicable exclusion from reappraisal."

- ☐ From Joint Tenancy to Community Property  
☐ From One Spouse to Both Spouses  
☒ From One Spouse to the Other Spouse  
☐ From Both Spouses to the Other Spouse  
☐ Other:

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, GRANTOR  
MARSHA M. HOROWITZ, SPOUSE OF THE GRANTEE HEREIN

hereby GRANT(S) to  
SANFORD J. HOROWITZ, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY

the following described property in the City of MALIBU, County of LOS ANGELES, State of California;  
SEE ATTACHED EXHIBIT "A"

"This conveyance establishes sole and separate property of a spouse, R&T 11911."

"It is the express intent of the Grantor, being the spouse of the Grantee to convey all right, title and interest of the Grantor, community or otherwise, in and to the herein described property to the Grantee as his sole and separate property."

Dated: SEPTEMBER 25, 2002

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On

10/17/02

Witnessed

Appeared

San J. Horowitz

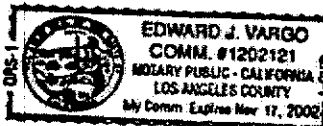
Marsha M. Horowitz

personally

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the Within instrument and acknowledged to me that he/she/they executed the Same in his/her/their authorized capacity(ies), and that by his/her/their Signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and seal this 10th day of October, 2002.

Signature:



02 2493950

OCT 23 2002

FIRST AMER

C

Exhibit A

PARCEL 1:

A PARCEL OF LAND, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ. OF PATENTS, OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE CENTER LINE OF LATIGO CANYON ROAD 60.00 FEET WIDE, DESCRIBED IN FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGE 326, OFFICIAL RECORDS OF SAID COUNTY AS "NORTH 61 DEGREES 18' 20" WEST 185.17 FEET"; THENCE IN A GENERAL NORTHWESTERLY DIRECTION ALONG SAID CENTER LINE, TO THE NORTHERLY LINE OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SHOWN ON COUNTY SURVEYOR'S MAP 8815 OF FILED IN THE OFFICE OF THE COUNTY ENGINEER OF SAID COUNTY; THENCE ALONG SAID NORTHERLY LINE NORTH 89 DEGREES 1' 5" EAST 3047.00 FEET; THENCE SOUTH 0 DEGREES 5' 45" WEST 1033.14 FEET TO A LINE BEARING NORTH 77 DEGREES 11' 14" WEST WHICH PASSES THROUGH THE POINT OF BEGINNING; THENCE NORTH 77 DEGREES 11' 14" WEST 2255.19 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THOSE PORTION OF LATIGO CANYON ROAD AS RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS.

PARCEL 2:

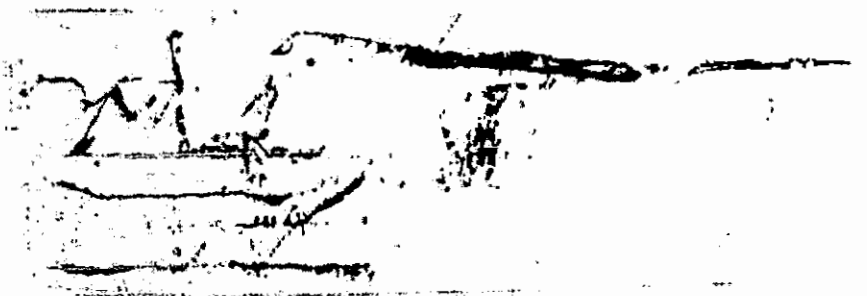
AN EASEMENT FOR ROAD PURPOSES TO BE USED IN COMMON WITH OTHERS OVER THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDING WITHIN A STRIP OF LAND 30 FEET WIDE, THE SOUTHWESTERLY LINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF LATIGO CANYON ROAD, 60 FEET IN WIDTH DESCRIBED IN THE EASEMENT FOR PUBLIC ROAD PURPOSES TO THE COUNTY OF LOS ANGELES, IN THE FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS, OF SAID COUNTY, SAID POINT OF BEGINNING BEING THE SOUTHEASTERLY END OF THAT CERTAIN COURSE DESCRIBED IN THE ABOVE MENTIONED EASEMENT AS NORTH 61 DEGREES 18' 20" WEST 185.17 FEET; THENCE SOUTH 77 DEGREES 11' 14" EAST 1069.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 34 DEGREES 27' 0" EAST 694.72 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 35 FEET; THENCE SOUTHERLY ALONG SAID CURVE, A DISTANCE OF 28.94 FEET THENCE TANGENT SOUTH 12 DEGREES 56' 0" WEST 29.07 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 115.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 47.95 FEET; THENCE TANGENT SOUTH 27 DEGREES 53' 50" EAST 26.10 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 515.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 29.36 FEET; THENCE TANGENT SOUTH 31 DEGREES 09' 50" EAST 72.86 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 185.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 25.39 FEET; THENCE TANGENT SOUTH 16 DEGREES 40' 10" EAST 50.76 FEET TO THE SOUTHERLY LINE OF LAND AS DESCRIBED IN DEED TO JOSEPH DE BELL RECORDED ON MARCH 22, 1950, AS INSTRUMENT NO. 459 IN BOOK 32633, PAGE 82, OFFICIAL RECORDS.

SAID STRIP OF LAND TO TERMINATE SOUTHERLY IN SAID SOUTHERLY LINE OF SAID LAND OF DE BELL AND TERMINATE NORTHERLY IN THE EASTERLY PROLONGATION OF THAT CERTAIN COURSE HEREIN ABOVE DESCRIBED AS HAVING A BEARING AND LENGTH OF 77 DEGREES 11' 14" EAST 1069.12 FEET.

SAID LAND IS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 12, 1979, AS INSTRUMENT NO. 79-1394895.

02 2493950





Customer Service Request

APN 4459-001-001

PAYMENTS AS OF 02/06/2007

TRA 10853 - CITY OF MALIBU - 88  
Legal LOT/SECT 7 LAND OF MATTHEW KELLER IN THE RANCHO TOPANGA MALIBU SEQUIT L  
OT EX OF ST COM AT SE TERMINUS OF A COURSE IN C/L OF LATIGO CANYON RD P  
Situs 5656 LATIGO CANYON RD MALIBU CA 90265  
Mail 80 W JERICHO TPKE SYOSSET NY 11791  
Acquisition Date 10/23/2002  
Assessed Owner HOROWITZ, SANFORD J

| Assessed              | Values    | Taxes           | 1st Half   | 2nd Half  |
|-----------------------|-----------|-----------------|------------|-----------|
| Land                  | 496,187   | Status          | ** PAID ** | OPEN      |
| Improvements          | 551,320   | Payment Date    | 12/10/2006 |           |
| Homeowner's Exemption | (7,000)   | Total Tax       |            | 14,147.91 |
|                       |           | Tax Install     | 7,073.96   | 7,073.95  |
|                       |           | Penalty         | 707.40     | 717.40    |
|                       |           | Balance Due     | .00        | 7,073.95  |
| Net                   | 1,040,607 | Total Taxes Due |            | 7,073.95  |

Special Assessments Included In Tax Amounts

| Acct.  | Type             | Description                     | Amount   |
|--------|------------------|---------------------------------|----------|
| 375.81 | WB MWD STDBY CHG | WEST BASIN MWD STANDBY CHG      | 1,044.72 |
| 049.01 | WATER STNDBY CHG | WATER STANDBY CHRG DIST 29      | 809.94   |
| 030.71 | FLOOD CONTROL    | L.A. COUNTY FLOOD CONTROL       | 433.64   |
| 931.71 | SCHOOL ASMNT     | SANTA MONICA/MALIBU USD         | 225.00   |
| 931.70 | SCHOOL ASMT      | SANTA MONICA/MALIBU UNIF S.D.   | 116.88   |
| 001.70 | TRAUMA/EMERG     | LA COUNTY TRAUMA/EMERGENCY SVCS | 112.98   |
| 036.92 | LA-CO PARK DIST  | LA CO PARK DISTRICT             | 98.69    |
| 007.44 | CO FIRE DEPT     | LA COUNTY FIRE DEPT             | 49.93    |
| 061.11 | MOSQUITO ABATE   | L.A. CNTY WEST MOSQ ABATE       | 13.58    |
|        |                  | Total Of Special Assessments    | 2,905.36 |

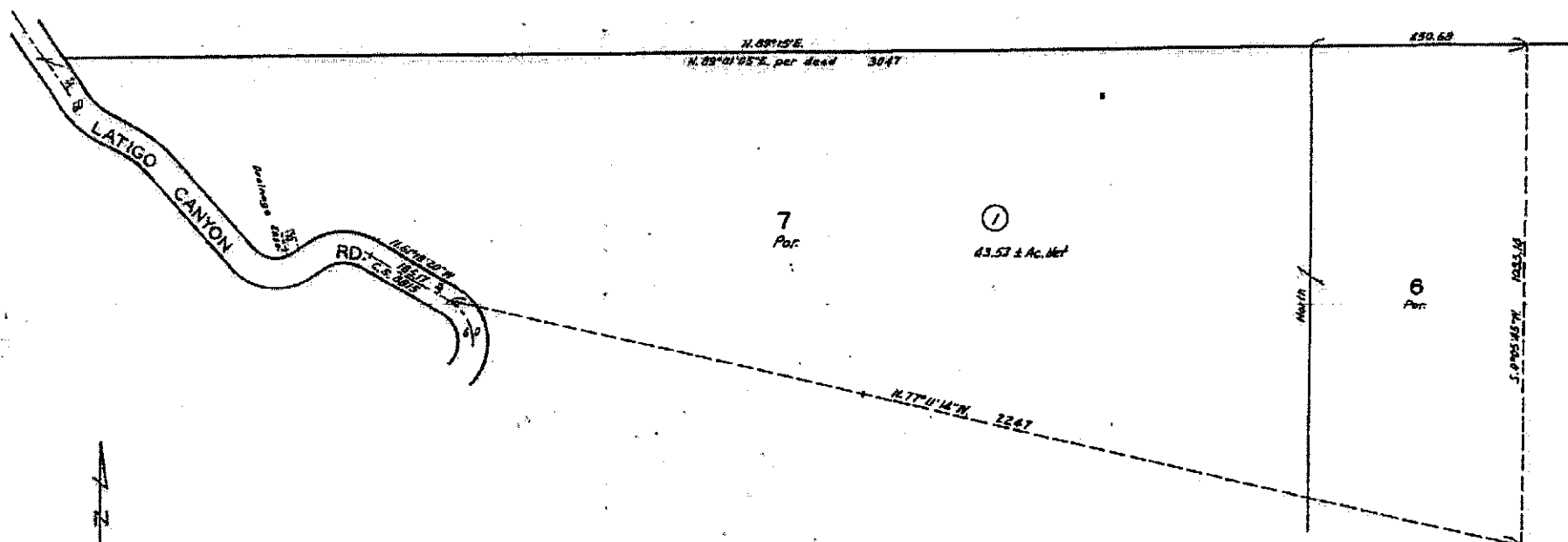
| REGION # | USE CODE | Additional Property Information | SQ.FT | YR-BLT |
|----------|----------|---------------------------------|-------|--------|
| 07       | 0101     | ZONE<br>LCA25                   | 3,766 | 1991   |

End Of Report

4459 | 1  
SCALE 1" = 200'

1992

2-11-85  
91078  
718546  
REVIS



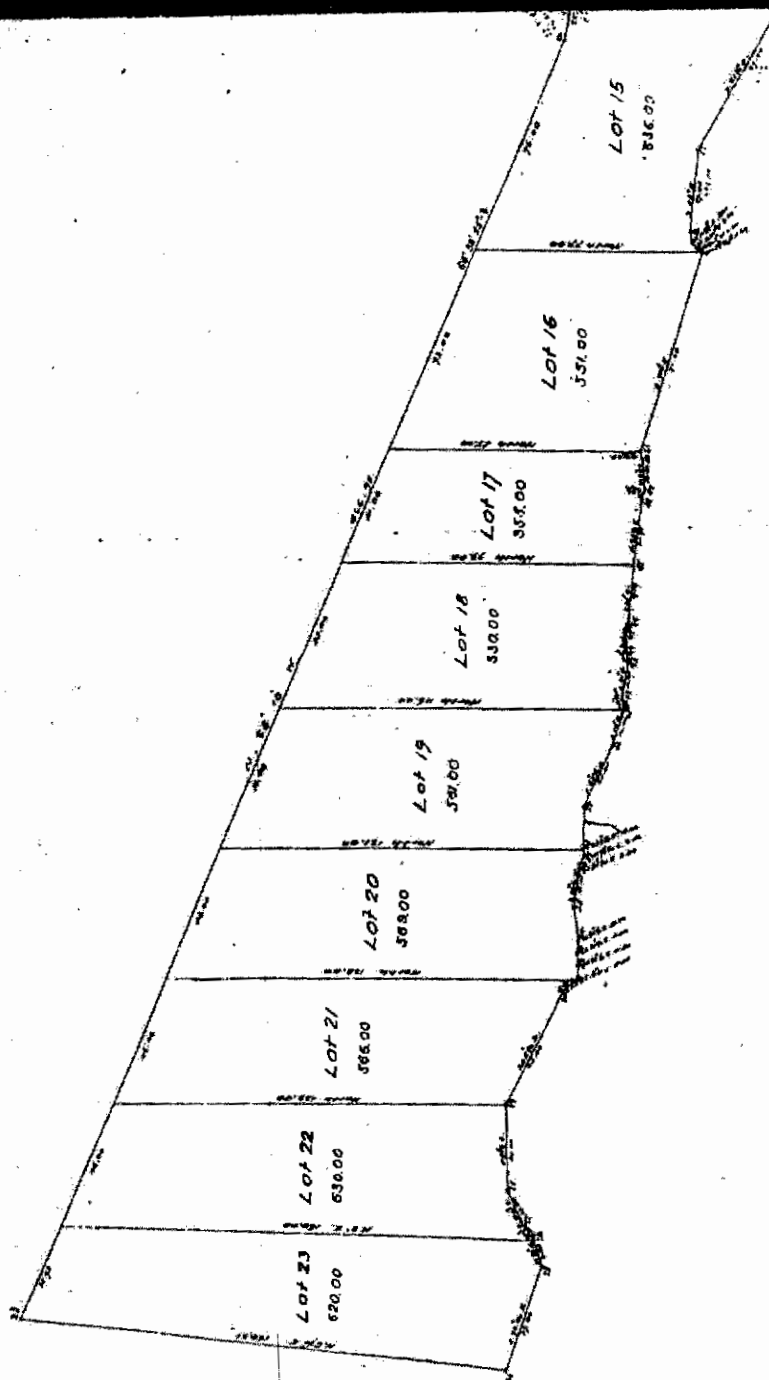
LAND OF MATTHEW KELLER  
IN THE RANCHO TOPANGA MALIBU SEQUIT  
R.F. 534

CODE  
10853

FOR PREV. ASSMT. SEE: 482-236

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

Exhibit 4  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 9 of 12



Map of  
 or the  
**Matthew Keller**  
 1315 7th Ave  
 Rancho Dominguito, Matru Segat  
 County of Los Angeles, California  
 Begun by A.T. Scherer, Secy  
 July 24, 1929  
 Book 14 of 1929 4230 ch.

R.F. 534  
 A11 OF A13

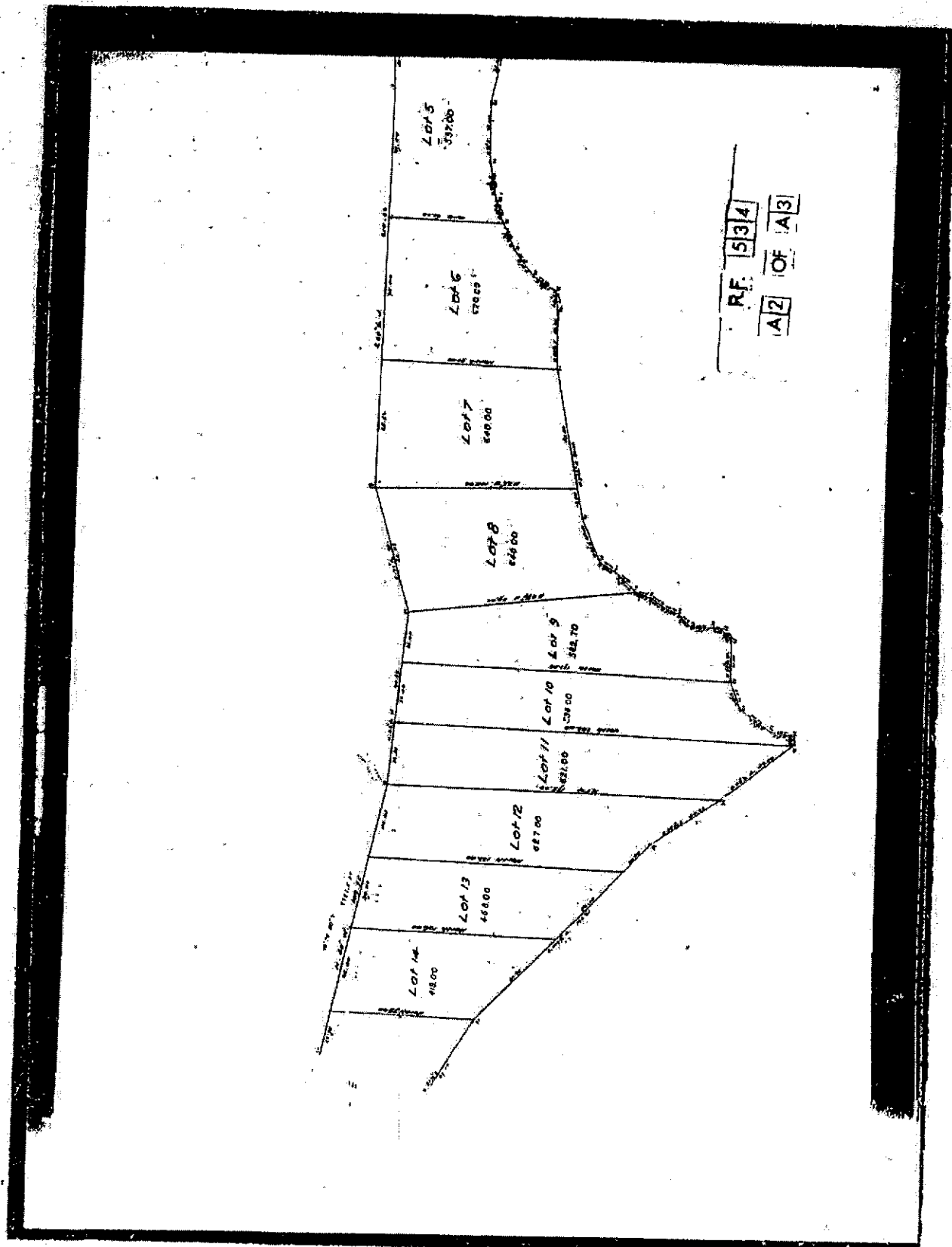
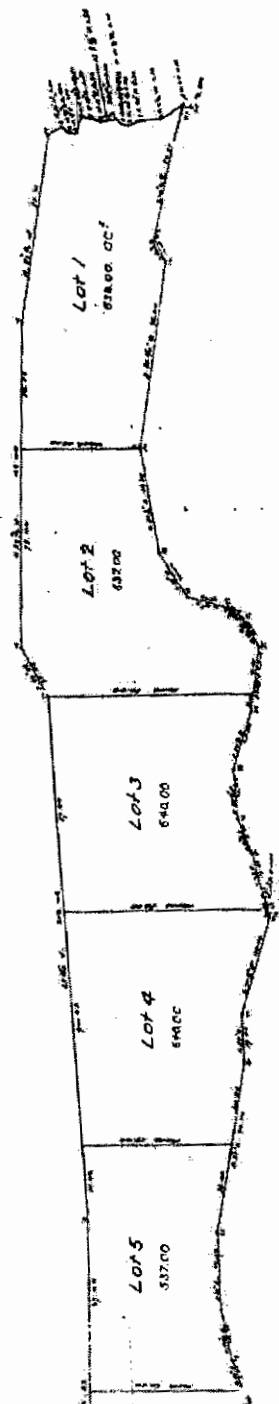


Exhibit 4  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 11 of 12



RECORDERS FILED MAP NO. 334  
*Filed and Map Properly  
 as to Name July 29th 1906  
 Harry C. ...*

R.F. 534  
 A3 OF A3

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**Memorandum**

Date: May 24, 2013  
To: Maggie Webber, Statewide Enforcement Program  
From: Darryl Rance, GIS/Mapping Program  
Cc: Jon Van Coops, GIS/Mapping Program Manager  
Subject: Legal Document and Map Analysis for Restoration Order CCC-05-RO-06

Per your work request, I have reviewed the various deeds, maps and legal documents associated with the unpermitted de facto subdivision of Los Angeles County APN 4459-001-001. It appears that the additional parcel was created by deed of trust dated May 11, 2006\*. Certificates of Compliance were issued for the resultant parcels on May 18, 2007. See below:

**Location:** 5656 Latigo Canyon Road, Malibu, CA  
**APN:** 4459-001-001  
**Alternative APNs:** 4459-001-002 & 003  
**Alleged Violation:** De facto subdivision  
**Vehicle:** Deed of Trust (5-11-2006)\*  
**Instrument Number:** 06 1138977 (Deed of Trust)\*\*  
**Certificates of Compliance:** May 18, 2007  
**Instrument Numbers:** 20071218113\*\* & 20071218113\*\*

\*A possibility exists that additional Instruments are involved in the unpermitted subdivision. The subject deed of trust must be analyzed to make this determination.

\*\*We do not have these documents. We can either request that the new owner provide these documents or copies are available at the Los Angeles County Recorder's Office. The fee for a certified copy of a document is \$6 for the first page and \$3 for each additional page per document. Payment for mail requests can be made by check or money order payable to the Registrar-Recorder/County Clerk. Requests are processed in 5 working-days from the date the request is received. The document can also be requested online but this requires a credit card. [http://rrcc.lacounty.gov/Recorder/Real\\_Estate\\_etc.cfm](http://rrcc.lacounty.gov/Recorder/Real_Estate_etc.cfm).

The documents can also be obtained in person with cash, check or credit card at:  
Los Angeles County Recorder's Office  
12400 Imperial Hwy  
Norwalk, CA  
(562) 462-2125

Please feel free to call me with any questions at (415) 904-5335.

Exhibit 5  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 1 of 2



**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**Memorandum**

Date: October 21, 2014  
To: Maggie Weber, Statewide Enforcement Program  
From: Darryl Rance, GIS/Mapping Program  
Subject: Legal Document and Map Analysis for Restoration Order CCC-05-RO-06  
Los Angeles County APN 4459-001-001 (4459-001-002 & 003)

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This is a follow-up to a Memorandum that I prepared on May 24, 2013. Since that time, I have been able to review all of the various deeds, maps and legal documents associated with the unpermitted subdivision of Los Angeles County APN 4459-001-001. Based on the information provided and available in our office, it appears that an additional parcel was created by Deed of Trust 06 1138977, dated May 11, 2006, in which the legal description identifies the single parcel as two separate parcels. On May 18, 2007, Los Angeles County Department of Regional Planning issued Certificates of Compliance Nos. 200712118113 and 200712118114 which recognize the subject property as two separate parcels for purposes of the Subdivision Maps Act. I find no record of Coastal Development Permit authorization for this subdivision. Please see summary below:

Location: 5656 Latigo Canyon Road, Malibu, Ca  
APN: 4459-001-001  
Alternative APNs: 4459-001-002 & 003  
Alleged Violation: Unpermitted Subdivision  
Vehicle: Deed of Trust  
Instrument Number: 06 1138977, May 11, 2006  
Certificates of Compliance: Los Angeles Department of Regional Planning, May 18, 2007  
Instrument Numbers: 200712118113 & 200712118114

This page is part of your document - DO NOT DISCARD



**20131127233**



Pages:  
0006

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

07/31/13 AT 08:00AM

|        |          |
|--------|----------|
| FEES:  | 31.00    |
| TAXES: | 1,760.00 |
| OTHER: | 0.00     |
| PAID:  | 1,791.00 |



LEADSHEET



201307310140012

00008096245



005672715

SEQ:  
10

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

T35

E330013

Exhibit 6  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 1 of 6

RECORDING REQUESTED BY:  
LSI Title Company, Inc.

Escrow No.: 17873LJ  
Title No.: 130003435

WHEN RECORDED MAIL DOCUMENT  
AND TAX STATEMENT TO:  
Hartmut Neven and Jessica Neven  
4107 Escondido Drive  
Malibu, CA 90265



Parcel No.: 4459-001-002 & 4459-001-003

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

The undersigned grantor(s) declare(s)  
Documentary transfer tax is \$1,760.00

- ☒ Computed on full value of property conveyed, or  
☐ Computed on full value less value of liens or encumbrances remaining at time of sale,  
☒ City of Malibu.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, U.S. Bank National Association, as successor trustee to Bank of America N.A. (successor by merger to LaSalle Bank N.A.), as Trustee, on behalf of the holders of the Zuni Mortgage Loan Trust 2006-OA1 Mortgage Loan Pass-Through Certificates, Series 2006-OA1 hereby GRANT(S) to Hartmut Neven and Jessica Neven husband and wife as joint tenants

the following described real property in the City of Malibu, County of Los Angeles, State of California:

Legal description attached hereto and made a part hereof marked Exhibit "One"

DATED: April 16, 2013

U.S. Bank National Association, as successor trustee to Bank of America N.A. (successor by merger to LaSalle Bank N.A.), as Trustee, on behalf of the holders of the Zuni Mortgage Loan Trust 2006-OA1 Mortgage Loan Pass-Through Certificates, Series 2006-OA1

BY:

PATRICK PITTMAN, DOC. CONTROL OFFICER  
Select Portfolio Servicing, Inc. as Attorney in Fact

Mail Tax Statements to same address as above

GRANT DEED

Exhibit 6  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 2 of 6

State of ~~California~~  
County of

3  
Utah  
Salt Lake

On May 11, 2013 before me, T. VanderLinden, Notary Public,  
personally appeared

**PATRICK PITTMAN, DOC. CONTROL OFFICER**

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

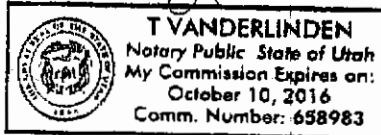
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

Witness my hand and official seal.

Signature

T. VanderLinden

(Seal)



GRANT DEED

Exhibit 6  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 3 of 6

EXHIBIT "ONE"

PARCEL 1:

A PARCEL OF LAND IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ OF PATENTS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE CENTER LINE OF LATIGO CANYON ROAD, 80 00 FEET WIDE, DESCRIBED IN FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGE 326, OFFICIAL RECORDS OF SAID COUNTY AS "NORTH 81 DEGREES 18' 20" WEST 185 17 FEET", THENCE IN A GENERAL NORTHWESTERLY DIRECTION ALONG SAID CENTERLINE, TO THE NORTHERLY LINE OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SHOWN ON COUNTY SURVEYOR'S MAP 8815 FILED IN THE OFFICE OF THE COUNTY ENGINEER OF SAID COUNTY, THENCE ALONG SAID NORTHERLY LINE NORTH 89 DEGREES 1' 5" EAST 3047 00 FEET, THENCE SOUTH 0 DEGREES 5' 45" WEST 1033 14 FEET TO A LINE BEARING NORTH 77 DEGREES 11' 14" WEST WHICH PASSES THROUGH THE POINT OF BEGINNING, THENCE NORTH 77 DEGREES 11' 14" WEST 2256 18 FEET TO THE POINT OF BEGINNING

EXCEPT THEREFROM THAT PORTION OF SAID LAND WITHIN LOT 7 OF MAP OF THE LAND OF MATTHEW KELLER IN THE RANCHO TOPANGA MALIBU SEQUIT, RECORDED AS MAP NO 534, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

EXCEPTING THEREFROM THOSE PORTIONS OF LATIGO CANYON ROAD AS RECORDED IN BOOK 9489, PAGE 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS

AS DESCRIBED IN CITY OF MALIBU CERTIFICATE OF COMPLIANCE NO. 06-05, RECORDED MAY 18, 2007 AS INSTRUMENT NO. 20071218113 OF OFFICIAL RECORDS.

ALSO EXCEPTING ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS OF EVERY DESCRIPTION LYING OR FLOWING 500 FEET OR MORE BENEATH THE SURFACE OF THE ABOVE DESCRIBED LAND, IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT GRANTOR HAS NO RIGHT OF ENTRY OVER THE SURFACE OF SAID LAND, AS RESERVED BY ELSAM CO. A CALIFORNIA CORPORATION IN DEED RECORDED NOVEMBER 13, 1968 AS INSTRUMENT NO. 1308.

PARCEL 2:

A PARCEL OF LAND IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ OF PATENTS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE CENTER LINE OF LATIGO CANYON ROAD, 60 00 FEET WIDE, DESCRIBED IN FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGE 326, OFFICIAL RECORDS OF SAID COUNTY AS "NORTH 81 DEGREES 18' 20" WEST 185 17 FEET", THENCE IN A GENERAL NORTHWESTERLY DIRECTION ALONG SAID CENTERLINE, TO THE NORTHERLY LINE OF THE RANCHO TOPANGA MALIBU SEQUIT, AS SHOWN ON COUNTY SURVEYOR'S MAP 8815 FILED IN THE OFFICE OF THE COUNTY ENGINEER OF SAID COUNTY, THENCE ALONG SAID

5

NORTHERLY LINE NORTH 89 DEGREES 1' 5" EAST 3047.00 FEET, THENCE SOUTH 0 DEGREES 5' 45" WEST 1033.14 FEET TO A LINE BEARING NORTH 77 DEGREES 11' 14" WEST WHICH PASSES THROUGH THE POINT OF BEGINNING, THENCE NORTH 77 DEGREES 11' 14" WEST 2255.19 FEET TO THE POINT OF BEGINNING

EXCEPT THEREFROM THAT PORTION OF SAID LAND WITHIN LOT 6 OF MAP OF THE LAND OF MATTHEW KELLER IN THE RANCHO TOPANGA MALIBU SEQUIT, RECORDED AS MAP NO 534, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

EXCEPTING THEREFROM THOSE PORTION OF LATIGO CANYON ROAD AS RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS

AS DESCRIBED IN CITY OF MALIBU CERTIFICATE OF COMPLIANCE NO. 06-04, RECORDED MAY 18, 2007 AS INSTRUMENT NO. 20071218114 OF OFFICIAL RECORDS.

ALSO EXCEPTING ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS OF EVERY DESCRIPTION LYING OR FLOWING 500 FEET OR MORE BENEATH THE SURFACE OF THE ABOVE DESCRIBED LAND, IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT GRANTOR HAS NO RIGHT OF ENTRY OVER THE SURFACE OF SAID LAND, AS RESERVED BY ELSAM CO. A CALIFORNIA CORPORATION IN DEED RECORDED NOVEMBER 13, 1968 AS INSTRUMENT NO. 1308.

PARCEL 3:

AN EASEMENT FOR ROAD PURPOSES TO BE USED IN COMMON WITH OTHERS OVER THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGES 407 ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDING WITHIN A STRIP OF LAND 30 FEET WIDE, THE SOUTHWESTERLY LINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF LATIGO CANYON ROAD, 60 FEET IN WIDTH DESCRIBED IN THE EASEMENT FOR PUBLIC ROAD PURPOSES TO THE COUNTY OF LOS ANGELES, IN THE FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 9489, PAGES 326 TO 329 INCLUSIVE OF OFFICIAL RECORDS, OF SAID COUNTY, SAID POINT OF BEGINNING BEING THE SOUTHEASTERLY END OF THAT CERTAIN COURSE DESCRIBED IN THE ABOVE MENTIONED EASEMENT AS NORTH 61° 18' 20" WEST 185.17 FEET; THENCE SOUTH 77° 11' 14" EAST 1069.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 34° 27' 0" EAST 694.72 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 35 FEET; THENCE SOUTHWESTERLY HAVING A RADIUS OF 35 FEET; THENCE SOUTHERLY ALONG SAID CURVE, A DISTANCE OF 28.94 FEET; THENCE TANGENT SOUTH 12° 56' 0" WEST 29.07 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 115.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 34.00 FEET; THENCE TANGENT SOUTH 4° 0' 30" EAST 12.98 FEET TO THE BEGINNING OF TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 115.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 47.95 FEET; THENCE TANGENT SOUTH 27° 53' 50" EAST 26.10 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 515.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 29.36 FEET; THENCE TANGENT SOUTH 31° 9' 50" EAST 72.86 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 185.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 21.40 FEET; THENCE TANGENT SOUTH 24° 32' 0" EAST 68.15 FEET TO THE BEGINNING OF A TANGENT CURVE SOUTHWESTERLY AND HAVING A RADIUS OF 185.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 25.39 FEET THENCE TANGENT SOUTH 18° 40' 10" EAST 50.76 FEET TO THE SOUTHERLY LINE OF LAND AS DESCRIBED IN DEED TO JOSEPH DE BELL RECORDED ON MARCH 3, 1950, AS INSTRUMENT NO. 459 IN BOOK 32833, PAGE 82 OF OFFICIAL RECORDS.



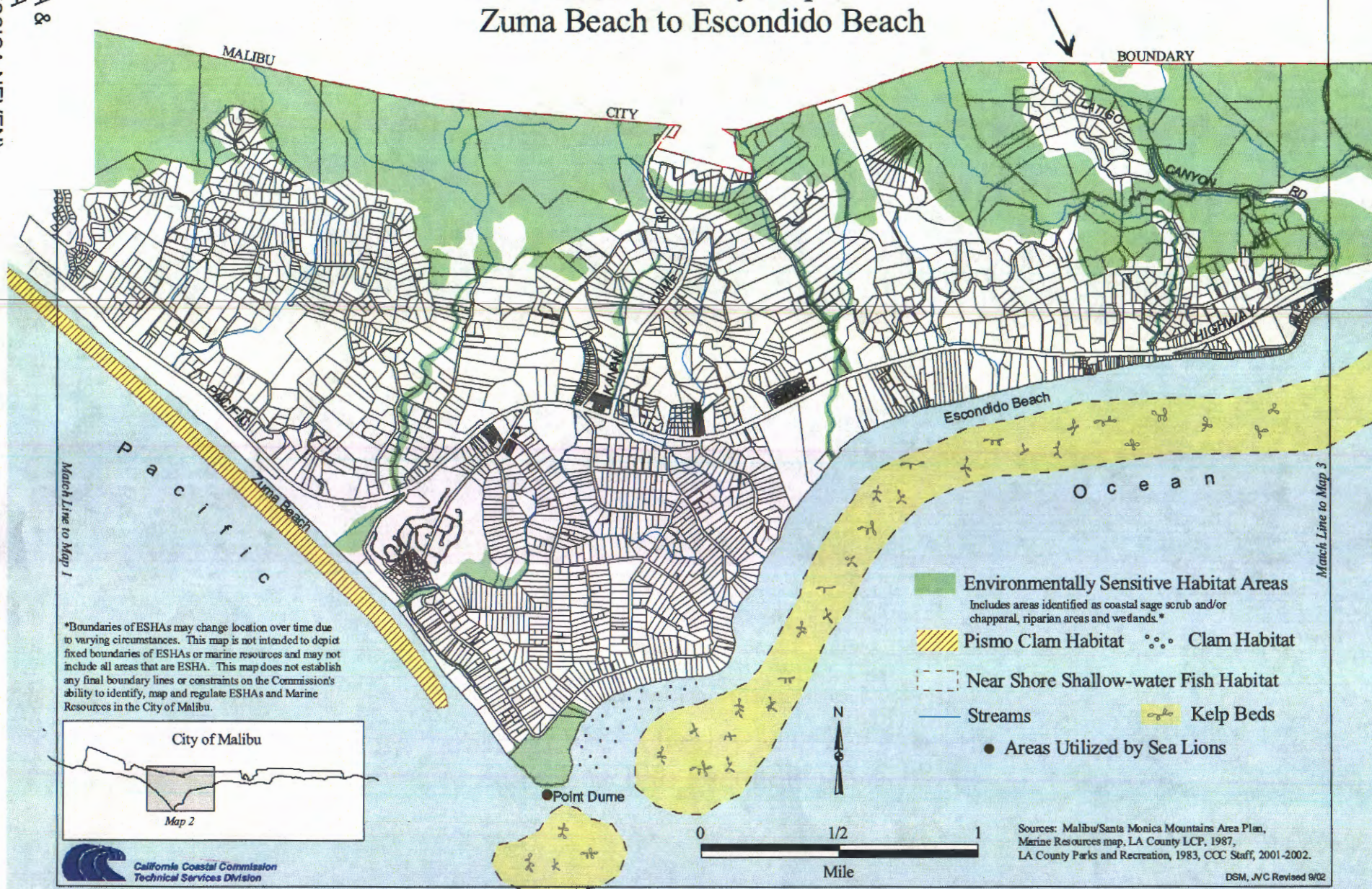
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SAID STRIP OF LAND TO TERMINATE SOUTHERLY IN SAID SOUTHERLY LINE OF SAID LAND  
OF DE BELL AND TERMINATE NORTHERLY IN THE EASTERLY PROLONGATION OF THAT  
CERTAIN COURSE HEREINABOVE DESCRIBED AS HAVING A BEARING AND LENGTH OF  
SOUTH 77° 11' 14" EAST 1069.12 FEET.



Local Coastal Program - City of Malibu  
**ESHA Overlay Map 2:  
 Zuma Beach to Escondido Beach**

Exhibit 7  
 CCC-05-CD-10-A &  
 CCC-05-RO-06-A  
 (HARTMUT & JESSICA NEVEN)  
 Page 1 of 1





**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**Via Regular and Electronic Mail**

April 8, 2014

Steven Kent, AIA  
21826 Castlewood Drive  
Malibu, CA 90265

Re: 5656 Latigo Canyon Road, Malibu, California 90265 (Hartmut and Jessica Neven)

Dear Mr. Kent,

This letter serves to confirm our telephone conversation on April 1, 2014, regarding property located at 5656 Latigo Canyon Road in Malibu ("the Property") that is subject to a Commission enforcement action resulting from unpermitted development that persists on the Property and continues to affect coastal resources protected by the Coastal Act. The Property is a designated Environmentally Sensitive Habitat Area ("ESHA") containing a canyon with two blue line streams; one of the streams has been substantially altered by the unpermitted development which has also negatively impacted the quality of coastal waters. Commission staff is pleased by the enthusiasm expressed by you and Hartmut and Jessica Neven to protect the coastal resources on the Property and address all of the unpermitted development, including the unpermitted lot split that occurred in 2007, two years after the Commission issued the Orders.

During our April 1 conversation, you confirmed your role as the agent representing Mr. and Mrs. Neven, owners of the Property, in resolving the Coastal Act violations and complying with the terms of Cease and Desist Order No. CCC-05-CD-10 and Restoration Order No. CCC-05-RO-06 ("the Orders"). Although the Orders were issued to a prior owner of the Property, the unpermitted development on the site, which constitutes Coastal Act violations, persists on the Property, and until the violations are resolved, all liabilities under the Coastal Act, including liabilities pursuant to Chapter 9 of the Coastal Act, remain. Accordingly, subsequent owners of the Property such as Mr. and Mrs. Neven are legally responsible for resolving the violations described below. Commission staff's goal is to resolve this matter consensually and quickly by amending the Orders to comprehensively address Mr. and Mrs. Neven's obligation to address the unpermitted development described below.

The Coastal Act violations subject to the Orders, and which persist on the Property, include the following instances of unpermitted development: dumping concrete, rebar, bricks, asphalt, plastic and metal materials into a canyon containing a blue line stream, removing major vegetation and disturbance of ESHA, and grading and paving a building pad and two roads. During our April 1 conversation we also discussed the necessity of amending the Orders to include all Coastal Act violations on the Property. Namely, the unpermitted lot split occurred after the Orders were issued in 2005, and, thus, resolution of the lot split violation is not

Exhibit 8  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 1 of 2

Mr. Steve Kent (V-4-95-029)

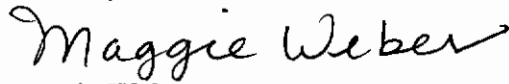
April 8, 2014

Page 2 of 2

contemplated within the Orders. Again, our goal is to resolve this situation amicably and as quickly as possible so that all parties can move forward.

Attached to this letter are four documents to assist you in becoming familiar with the history of this enforcement action: (i) letter to Select Portfolio and US Bank dated April 26, 2013 (cc'd to Mr. and Mrs. Nevens' representative, Paul Grisanti); (ii) the Orders; (iii) Findings for Consent Agreement and Cease and Desist Order No. CCC-05-CD-10 and Restoration Order No. CCC-05-RO-06 ("Findings"); and (iv) the Notice of Violation. Commission staff thank you for your cooperation in working together to resolve the Coastal Act violations on the Property. If you have any questions concerning the content of this letter, please contact me at 415.904.5264. I look forward to working with you.

Sincerely,



Maggie Weber

Statewide Enforcement Analyst

CC: Hartmut and Jessica Neven (w/o enclosures)  
Lisa Haage, Chief of Enforcement (w/o enclosures)  
Pat Veesart, Southern California Enforcement Supervisor (w/o enclosures)  
Aaron McLendon, Statewide Enforcement Supervisor (w/o enclosures)

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
245 WEST BROADWAY, SUITE 380  
LONG BEACH, CA 90802  
(213) 590-5071

Th 4c  
Page 1 of 6  
Permit Application No. 5-89-1000/AJP  
Date January 12, 1990

ADMINISTRATIVE PERMITAPPLICANT: Forrest Lloyd FreedAGENT: Tom Odatey

PROJECT DESCRIPTION: Construction of a 3,734 sq. ft. single-family residence and a 660 sq. ft. guest house above a two-car garage, driveway and septic system on a 42 acre site. Grading for the building pad was performed under a previous Coastal Development permit.

PROJECT LOCATION: 5656 Latigo Canyon Road, Malibu, Los Angeles County.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any Special Conditions, are discussed on subsequent pages.

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

9:00 a.m. - Thursday, February 15, 1990 (415) 433-6600  
Holiday Inn - Financial District, 750 Kearny Street, San Francisco

IMPORTANT - Before you may proceed with development, the following must occur:  
For this permit to become effective you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.

PETER DOUGLAS  
Executive Director

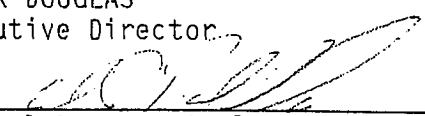
by:   
Coastal Program Analyst

Exhibit 9  
CCC-05-CD-10-A &  
CCC-05-RO-06-A  
(HARTMUT & JESSICA NEVEN)  
Page 1 of 6

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):A. Project Description

The applicant proposes to construct a 3,734 sq. ft., 1 story, single family residence with a 660 sq. ft. guesthouse above a two car garage, driveway, and septic system on a 42 acre site. Less than 50 cu. yds. of grading will be conducted under this permit. Grading was performed under a previous permit.

In 1980 the Commission approved the development of a 6,000 sq. ft., one-story single-family residence with approximately 900 cu. yds. of grading for the proposed building pad (80-7095). A dirt access road leading to the proposed building site was existing, therefore, only minor grading was necessary for the road. The currently proposed single-family residence will be located on the existing building pad.

The property is located on Latigo Canyon Road in Malibu, approximately 1 mile from Pacific Coast Highway. The Land Use designation of the site is Residential 3 (1 du/10 ac), Residential 5 (1du/2 ac) and Mountain land (1du/20 ac). The subject property is not within an Environmentally Sensitive Resource Area.

#### B. Geologic Hazards

Section 30253 of the Coastal Act states in part that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The engineering geologic report prepared for the applicant by Harley Tucker Inc, on March 7, 1989, states that a landslide was mapped westerly of the graded pad area. The existing paved access driveway is located within the lower boundaries of the landslide.

The report states that the landslide appears to be contributed to the presence of water seeping along the steeply dipping joint surfaces, whereby the water acting as a lubricant, reduced the shear strength of the shale and, combined with the additional weight of the water, increased the driving forces that eventually resulted in a bedding plane-type failure. The Geologist states that based on studies of aerial photographs of the site, the slide does not appear to have moved since the earliest photographs were taken in 1928. Furthermore, removal of a portion of the upper part of the slide has served to enhance the overall stability of the slide mass. The geologist and soils engineer state that the site is suitable from a soils and engineering geologic standpoint for construction of a single-family residence and that the property will be safe from landslide, settlement or slippage provided that the recommendations made in the geologic report and soils report are incorporated into the plans and implemented. Recommendations include foundations, drainage, and septic system. The report further concludes that the completed work will not adversely affect adjacent properties. The Executive Director determines, therefore, that only as conditioned to incorporate all recommendations by the consulting Geologist will the proposed project be consistent with Section 30253 of the Coastal Act.

The Coastal Act recognizes that new development, such as the proposed residence, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.



The Commission finds that due to the unforeseen possibility of landslides and erosion, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, the Commission is requiring the applicant to waive any claim of liability on the part of the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, when executed and recorded on the property deed, will show that the applicant is aware of and appreciated the nature of the hazards which exist on the site, and which may adversely affect the stability of safety of the proposed development.

### C. Cumulative Impacts

Section 30250(a) of the Coastal Act states in Part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The Commission has found, in numerous past actions, that second units or guesthouses can intensify the use of a site and impact public services such as water, sewage, electricity and roads. In addition, the certified Malibu/Santa Monica Mountain LUP contains the following policy regarding second units:

P271 In any single family residential category, the maximum additional residential development above and beyond the principal unit shall be one guesthouse or other second unit with an interior floor space not to exceed 750 gross square feet, not counting garage space.

This policy is consistent with past permit decisions in Malibu in which the Commission has generally restricted the size of second units to 750 square feet. The Commission has found that, given the small size of allowable second units and the fact that they are likely to be occupied by one person, or at the most two persons, such units will have less impact on limited highway capacity and other public services than typical single-family residences.

In this situation the proposed guesthouse measures 660 sq. ft. and does not exceed 750 gross square feet, however, when a guest house is proposed the Commission has found that it is necessary to require the applicant to record a Future Improvements deed restriction which requires that any additions or improvements on the site in the future must obtain a coastal permit. This requirement assures that the guesthouse will not exceed 750 sq. ft. unless a permit is obtained in advance. In this particular case a Future Improvements deed restriction has already been recorded as a condition of Coastal Development Permit #80-7095. The Executive Director determines, therefore, that the project as proposed is consistent with Section 30251 of the Coastal Act and Policy 271 of the certified LUP.

#### D. Water Quality

The proposed development includes the installation of an on-site septic system to provide sewage disposal. The Commission recognizes that the potential build-out of lots in small lot subdivisions, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

A favorable percolation test was performed on the subject property which indicates that the percolation rate is sufficient to serve a four bedroom dwelling on the site. A geologic report prepared for the proposed development indicates that the site is suitable for the septic system and there should be no short or long term negative effects of on-site sewage disposal. The Executive Director determines, therefore, that only as conditioned to incorporate all recommendations by the consulting Geologist will the proposed project be consistent with Section 30231 of the Coastal Act and all relevant policies of the LUP.

#### E. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

On December 11, 1986, the Commission certified the Land Use Plan portion of the Malibu/Santa Monica Mountains LCP. The Certified LUP contains policies to guide the types, locations and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding cumulative impacts, geologic hazards, and septic system standards. As conditioned, the proposed development will not create adverse impacts and is consistent with the policies contained in the LUP. Therefore, the Executive Director determines that approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program implementation program for Malibu and the Santa Monica Mountains which is consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

SPECIAL CONDITIONS:1. Applicant's Assumption of Risk.

Prior to authorization to proceed with development, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from landslides and from erosion and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

2. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Investigation Report prepared by Tucker INC., (3/7/89), and in the Soils Report prepared by SWN Soiltech Consultants, INC., (3/18/89) regarding the proposed development shall be incorporated into all final design and construction including foundations, septic system, and drainage and all plans must be reviewed and approved by the consultant prior to commencement of development. Prior to authorization to proceed with development, the applicant shall submit evidence to the Executive Director of the consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

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Applicant's Signature

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Date of Signing

After you have signed and returned the duplicate copy of this Administrative Permit, you will be receiving the legal forms to complete (with instructions) from the San Francisco Office. When you receive the documents if you have questions, please call the Legal Department at (415) 543-8555.