

**CALIFORNIA COASTAL COMMISSION**

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# Th18.1 & 18.2

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Staff Report: October 27, 2017  
Hearing Date: November 9, 2017

**STAFF REPORT: Recommendations and Findings for Consent Cease and  
Desist Order No CCC-17-CD-03 and Consent Restoration Order  
No. CCC-17-RO-01**

**Cease and Desist Order No.:** CCC-17-CD-03

**Restoration Order No.:** CCC-17-RO-01

**Related Violation File:** V-4-11-005

**Property Owner and Persons/Entities Subject to These Consent Orders:**

California Mountain Gardens LLC, California Mountain Oaks LLC, HLM Parcel LLC, California Ocean Oaks LLC, Chase Parcels LLC, Preston Parcels LLC, California Ocean Gardens LLC, Remington Parcels LLC, Bixby Parcels, LLC, and Coastal Resources, LLC, which (directly or indirectly) own the Property.

**Location:** Those portions of the approximately 24,364 acre property now known as the Cojo Jalama Ranches (formerly known as the Bixby Ranch), located at 10000 Jalama Road, Santa Barbara County, which are within the land areas designated by the following Santa Barbara County Assessor’s Parcel Numbers: 083-260-002, 083-260-012, 083-360-017, 083-360-018, 083-360-019, 083-370-017, 083-370-018, 083-370-019, 083-370-020, 083-370-021, 083-370-022, 083-380-022, 083-380-026, 083-440-015, 083-440-016, 083-440-017, 083-440-018, 083-440-019, 083-450-034, 083-450-036, 083-450-037, 083-510-041, 083-510-059, 083-510-060, 083-510-063, 083-510-064, 083-510-065, 083-

October 27, 2017

530-037, 083-530-038, 083-540-013, 083-540-014, 083-540-015, 083-600-031, 083-600-034, 083-600-035, 083-600-036, 083-600-037, 083-610-019, 083-610-020, 083-250-023, 083-370-024, 083-510-026, 083-260-014, 083-260-015, 083-450-038 and 083-360-011, 083-450-030, 083-450-031, 083-360-021, 083-510-026, 083-260-013, 083-440-021, and 083-360-009<sup>1</sup>.

**Violation Description:**

Violations include: removal of major vegetation and the placement of solid material associated with the installation and maintenance of thirty seven water wells; grading and removal of major vegetation resulting from the development of roads; fill of a riparian area, placement of riprap, installation of a culvert, installation of a concrete spillway, and landform alteration associated with the redesign of three stock ponds; the placement of cut and fill materials and grading related to the construction of a road down a bluff face; and changes in the intensity of use of and major vegetation removal at the location of the former Cojo Marine Terminal, resulting from the “discing” of an area restored pursuant to a permit for decommissioning and restoration previously issued by Santa Barbara County.

**Substantive File Documents:**

1. Public documents in Cease and Desist Order file No. CCC-17-CD-03 and Restoration Order file No. CCC-17-RO-01
2. Appendix A, and Attachments A and B thereto, and Exhibits 1 through 34 of this staff report

**CEQA Status:**

Categorically Exempt (Cal. Pub. Resources Code § 21084 and Cal. Code Regs., tit. 14, §§ 15061(b)(2), 15307, 15308, and 15321)

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<sup>1</sup> The Assessor’s Parcel Numbers here enumerated reflect staff’s best understanding of the extant configuration of the Ranch; however, some evidence indicates that a person or persons who previously had an ownership interest in the Ranch may have processed paperwork, without the required permits, for lot line adjustments, combinations, etc. The documents attached to the Consent Orders as Attachments A and B reflect the location of the unpermitted development at issue and the work to be undertaken pursuant to the Consent Orders, regardless of any uncertainty regarding lot lines and numbering. Respondents are working with Santa Barbara County to rectify this situation.

## SUMMARY OF STAFF RECOMMENDATION

### A) OVERVIEW

This action addresses unpermitted development activities that were conducted across a large coastal property<sup>2</sup>, known as the Cojo and Jalama Ranches (hereinafter “the Ranch” or “Property”), in Santa Barbara County, which occupies an 11-mile swath of coastline on either side of Point Conception ([Exhibit 1](#)). The Ranch, which was formerly known as the Bixby Ranch, is made up of myriad parcels all of which are owned and managed by Bixby Parcels, LLC and Coastal Resources, LLC, respectively, and are held by a variety of LLCs<sup>3</sup> (collectively referred to herein as “Respondents”). Spanning over 24,000 acres of rural agricultural land, portions of the Ranch have been the site of cattle ranching and dry land farming for over a century and occupy an important position in the ecological and cultural heritage of California and the heritage of several California Native American tribes, as described more fully, below. By way of general introduction, this case represents a significant number of violations, spanning a very large geographic area. It also presents the Commission with an opportunity to resolve these issues amicably and in a creative way that provides some extraordinary public benefits, as will be discussed below.

Staff recommends that the Commission approve Consent Cease and Desist Order No. CCC-17-CD-03 and Restoration Order No. CCC-17-RO-01 (jointly, the “Consent Orders”) to address development undertaken or maintained by Respondents in violation of the Coastal Act and the Santa Barbara County (“County”) Local Coastal Program (“LCP”). As discussed further herein, the Consent Orders order and authorize Respondents to undertake a number of measures including: 1) removal of the physical items of unpermitted development, 2) restoration of areas impacted by the Unpermitted Development, defined below, 3) application to the County for a coastal development permit to retain limited, specified development, 4) implementation of a variety of habitat enhancement programs to compensate for temporal loss of ecosystem values, 5) payment of settlement monies, and 6) transfer of land to the County. The proposed Consent Orders are included as Appendix A of this staff report.

The unpermitted development at issue in this matter (hereinafter referred to as the “Unpermitted Development”) includes, but may not be limited to the following unpermitted actions: removal of major vegetation and the placement of solid material associated with the installation and maintenance of thirty seven water wells; grading and removal of major vegetation resulting from the placement of several miles of roads; fill of a riparian area, placement of riprap, installation of

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<sup>2</sup> The property subject to this enforcement action is identified by Santa Barbara County Assessor’s Parcel Numbers: 083-260-002, 083-260-012, 083-360-017, 083-360-018, 083-360-019, 083-370-017, 083-370-018, 083-370-019, 083-370-020, 083-370-021, 083-370-022, 083-380-022, 083-380-026, 083-440-015, 083-440-016, 083-440-017, 083-440-018, 083-440-019, 083-450-034, 083-450-036, 083-450-037, 083-510-041, 083-510-059, 083-510-060, 083-510-063, 083-510-064, 083-510-065, 083-530-037, 083-530-038, 083-540-013, 083-540-014, 083-540-015, 083-600-031, 083-600-034, 083-600-035, 083-600-036, 083-600-037, 083-610-019, 083-610-020, 083-250-023, 083-370-024, 083-510-026, 083-260-014, 083-260-015, 083-450-038 and 083-360-011, 083-450-030, 083-450-031, 083-360-021, 083-510-026, 083-260-013, 083-440-021, and 083-360-009.

<sup>3</sup> California Ocean Gardens LLC, California Mountain Gardens LLC, California Ocean Oaks LLC, California Ocean Oaks LLC, California Mountain Oaks LLC, Chase Parcels LLC, HLM Parcel LLC, Preston Parcels LLC, Remington Parcels LLC.

October 27, 2017

a culvert, installation of a concrete spillway, and landform alteration associated with the redesign of three stock ponds; the placement of cut and fill materials and grading related to the construction of a road down a bluff face; and changes in intensity of use of and major vegetation removal at the area formerly occupied by the Cojo Marine Terminal (“CMT”), resulting from the “discing” of a restoration area, all done without approval under the Coastal Act. Respondents purchased the Ranch from the Bixby family at the beginning of 2007, and commenced unpermitted activities on the property soon thereafter. In late 2010 and early 2011, Commission staff began receiving notification that unpermitted discing, including complete removal of all vegetation and the approximate upper twelve inches of soil, was being undertaken on the Ranch. After independently investigating and confirming these reports and coordinating with Santa Barbara County, Commission staff sent Respondents a notice of violation letter on July 11, 2011 ([Exhibit 23](#)). Since the July 2011 correspondence, Staff has met with Respondents and their counsel dozens of times for site inspections and meetings in an effort to better understand the nature of the Property and the extent of unpermitted development and impacts therefrom, and to advance discussions regarding potential mechanisms for amicable resolution of the Coastal Act violations. Across many months, continued investigations revealed the myriad additional violations on the Ranch noted above. In an attempt to resolve the whole set of issues arising at the Ranch, staff incorporated these violations into the ongoing discussions and endeavored to work with Respondents to craft a comprehensive negotiated resolution of this matter. Unfortunately, from that time until about the end of 2016, it became clear that the then-manager of the Ranch was not focused on a resolution of the matter. However, after an apparent change of management, in late 2016/early 2017, Respondents began working with Enforcement staff in a much more cooperative and collaborative effort to fully resolve all aspects of this matter.

In October of 2017, after many years of concerted efforts to reach an amicable settlement of the issues on the Ranch, and more specifically over the last six months, Respondents agreed to the terms of the proposed Consent Orders, attached to this Staff Report as Appendix A. Staff appreciates the willingness of Respondents to devote time and resources to working with staff to develop the proposed Consent Orders, which delineate a process and mechanism for efficiently and effectively remedying the Coastal Act violations on the Ranch.

## **B) DESCRIPTION OF PROPERTY**

The 24,364-acre property at issue in this matter is located in the predominately rural north-western reaches of Santa Barbara County and is comprised of the Cojo and Jalama Ranches, which are commonly owned and managed and have been for nearly a century. Founded by the Bixby family in the early 1900s, the Ranch is the site of historic cattle ranching and dry land farming dating back to the days of the Santa Barbara Presidio mission. Human habitation of the property prior to the formation of the Ranch dates back even further: Chumash settlements in bays and beaches along the coast in this region date back to nearly 7000 B.C., and one of the largest known Chumash villages in California is located on the Ranch property. In addition to the important cultural heritage associated with the presence of these significant settlements on the Ranch and surrounding areas, the geographic extent of the Ranch includes Point Conception, a site of great spiritual import considered by the Chumash to be the western gate to heaven. Unpermitted development addressed by this action includes activities undertaken immediately

October 27, 2017

within and adjacent to a historic Chumash settlement – the location of the particular site is not discussed herein to ensure preservation and protection to the extent possible.

In addition to the substantial cultural resources found on the property, the Ranch also plays host to impressive flora and faunal diversity, both on the ranch-land proper and in the immediately adjoining coastal waters. There are nearly 1,400 plant and animal species found on the property, 60 of which are considered rare or of special concern, and 24 of which are listed as threatened or endangered.<sup>4</sup> The Southwestern pond turtle (*Actinemys marmorata pallida*), which is a species of special concern, and the Gaviota tarplant (*Deinandra increscens ssp. villosa*), which is listed as endangered by both the State and federal governments, are two species that were and continue to be directly impacted by the Unpermitted Development.

A multitude of factors underlie the Ranch's rich biodiversity, including geographic location, history of development, and topography. Located 40 miles west of the City of Santa Barbara, and approximately 5 miles southwest of the City of Lompoc, the Ranch is situated between the Pacific Ocean to the west, the 100,000-acre Vandenberg Air Force Base to the north east, and Hollister Ranch to the south east ([Exhibit 2](#)). Consequently, large swaths of the land adjoining the Ranch have remained historically undeveloped; the largest anthropogenic disturbance in the region, beyond military infrastructure, being limited to cattle ranching and dry land farming. Similarly, extant development on the ranch itself is limited to a small number of ranch residences and outbuildings, as well as development associated with cattle ranching operations. A consequence of the relative dearth of development on the property and in the adjoining region is that a prolific variety of habitats and ecosystems have been afforded the space to continue to persist, in most part undisturbed and with an expansive ecosystem connectivity that is found in few other places in California.

Furthermore, the Santa Ynez mountain range running east on the Property from Point Conception inland functions as a divide between two areas of the Ranch, which, according to a 2004 federal study, are “two of the most biologically diverse eco-regions in the world and have some of the highest concentrations of globally important, rare species in the country.”<sup>5</sup> The variety of habitats and ecosystems contained within the Ranch include coastal sage scrub, native grasslands and coastal prairie, oak and riparian woodlands, foredune, chaparral, and Bishop pine.

### **C) PROPOSED RESOLUTION**

Violations of the Coastal Act and Santa Barbara County LCP have occurred on the Property as listed above; a map depicting the general locations of the unpermitted development at issue in this action is attached as [Exhibit 3](#).

Through the Consent Orders, Respondents have agreed to apply to Santa Barbara County for after-the-fact authorization to retain some or all of the water wells, to remove any wells for which such authorization is either not sought or is denied, and to restore areas impacted by the aforementioned wells. Additionally, the proposed Consent Orders would require Respondents to fully restore all remaining areas impacted by unpermitted development, undertake two separate

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<sup>4</sup> Mitigated Negative Declaration 02-ND-02, Unocal Cojo Decommissioning Project 98-DP-42 (March 2002).

<sup>5</sup> *Gaviota Coast Feasibility Study and Environmental Assessment*, National Park Service (February 2004).

mitigation projects totaling approximately five hundred acres: 200 acres of oak tree planting, and 300 acres of ice plant removal from coastal prairie, to address interim loss of habitat for the duration of the existence of the Unpermitted Development. Areas subject to mitigation and restoration are depicted in [Attachment A to Appendix A](#).

Further, Respondents have agreed, through the Consent Orders, to transfer approximately 36 acres of coastal property located between Jalama Beach Park and just beyond a topographical feature known as “the Crack”, as generally shown on [Exhibit 4](#), to Santa Barbara County Parks.<sup>6</sup> As discussed in greater length in Section V.C.3., the County holds vertical and lateral access easements across a stretch of coast that spans nearly 2.3 miles of coast, which has heretofore been surrounded by private property – as shown on [Exhibit 5](#). The property proposed to be transferred is an essential acquisition in its own right and also provides a valuable stepping stone towards opening these longheld easements. Finally, in conjunction with the suite of aforementioned projects, Respondents have agreed to address civil liabilities through the Consent Orders through the payment of \$500,000 to the Commission’s Violation Remediation Account.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION</b> .....	8
<b>II. JURISDICTION</b> .....	9
<b>III. COMMISSION’S AUTHORITY</b> .....	10
<b>IV. HEARING PROCEDURES</b> .....	11
<b>V. FINDINGS AND DECLARATIONS</b> .....	12
A. DESCRIPTION OF PROPERTY.....	12
B. DESCRIPTION OF COASTAL ACT VIOLATION.....	14
C. HISTORY OF DEVELOPMENT AND DEVELOPMENT CONSTRAINTS.....	15
1. COUNTY ZONING AND WILLIAMSON ACT CONTRACTS.....	15
2. VANDENBERG AIR FORCE BASE EASEMENTS.....	15
3. GERBER FEE PARCELS.....	16
4. UNOCAL LEASE, DEVELOPMENT, AND DECOMMISSIONING.....	17
D. NON-COMMISSION ENFORCEMENT ACTIVITIES.....	19
E. COMMISSION ENFORCEMENT.....	20
F. BASIS FOR ISSUANCE OF ORDERS.....	22
1. CEASE AND DESIST ORDER.....	22
2. RESTORATION ORDER.....	22
A. DEVELOPMENT WITHOUT A PERMIT.....	23
B. DEVELOPMENT INCONSISTENT WITH COASTAL ACT.....	23
C. CONTINUING RESOURCE DAMAGE.....	36
D. ORDERS CONSISTENT WITH CHAPTER 3 POLICIES.....	37
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT.....	38
H. SUMMARY OF FINDINGS OF FACT.....	39

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<sup>6</sup> Mechanisms in the Consent Orders allow for this approximately 36 acres to be transferred to another public agency or non-profit organization under very limited circumstances.

**APPENDICES**

Appendix A                    Consent Cease and Desist and Restoration Orders (including Attachments A and B, incorporated by reference and appended below)

**EXHIBITS**

Exhibit 1.....Property Location  
Exhibit 2.....Adjacent Development and Use  
Exhibit 3.....Locations of Unpermitted Development  
Exhibit 4.....Area to be Dedicated to Santa Barbara County Parks  
Exhibit 5.....Gerber Fee Parcels in Relation to Jalama County Beach Park  
Exhibit 6.....Correspondence from Santa Barbara County Dated April 25, 2011 and June 1, 2011  
Exhibit 7.....March 29, 2011 Commission Correspondence to Santa Barbara County  
Exhibit 8.....Aerial Photograph with Unpermitted Well Overlay  
Exhibit 9.....Photograph of one of the Unpermitted Water Wells April 26, 2013  
Exhibit 10.....Aerial Photograph with Unpermitted Road Overlay  
Exhibit 11.....Photograph of One of the Unpermitted Roads April 26, 2013  
Exhibit 12.....Aerial Photograph of Unpermitted Development at Jalichichi Stock Ponds  
Exhibit 13.....Photograph of Unpermitted Discing at Cojo Marine Terminal February 1, 2011  
Exhibit 14.....Aerial Photograph of Unpermitted Grading on Coastal Bluff  
Exhibit 15 .....2015-2016 Santa Barbara County Williamson Act Properties  
Exhibit 16.....Revised Findings A-4-STB-94-91  
Exhibit 17.....Gerber Fee OTD July 15, 1985  
Exhibit 18.....Gerber Fee COA September 4, 1985  
Exhibit 19.....Aerial Photograph of Cojo Marine Terminal 1972  
Exhibit 20.....Santa Barbara County CDP No. 03CDP-00000-00089  
Exhibit 21.....Commission Correspondence to Respondents dated August 24, 2017  
Exhibit 22.....October 24, 2008 Correspondence from Santa Barbara County to Respondents  
Exhibit 23.....Commission Correspondence to Respondents Dated July 11, 2011  
Exhibit 24.....Correspondence from Respondents to Commission Dated September 22, 2011  
Exhibit 25.....Commission Correspondence to Respondents Dated September 28, 2011  
Exhibit 26.....Commission Correspondence to Respondents Dated November 21, 2011

- Exhibit 27.....Correspondence from Respondents to Commission Dated January 31, 2012
- Exhibit 28.....Commission Notice of Intent Letter Dated May 1, 2012
- Exhibit 29.....Commission Correspondence to Respondents Dated March 11, 2013
- Exhibit 30.....Commission Correspondence to Respondents Dated May 16, 2013
- Exhibit 31.....Commission Supplementary Notice of Intent Letter Dated June 28, 2013
- Exhibit 32.....Commission Correspondence to Respondents dated April 15, 2016
- Exhibit 33.....Commission Correspondence to Respondents dated May 17, 2016
- Exhibit 34.....Commission Correspondence to Respondents dated January 13, 2017

## I. MOTIONS AND RESOLUTIONS

### **Motion 1:**

*I move that the Commission **issue** Consent Cease and Desist Order No. CCC-17-CD-03 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. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Consent Cease and Desist Order:

*The Commission hereby issues Consent Cease and Desist Order No. CCC-17-CD-03, as set forth below, and adopts the findings set forth below on grounds that development, conducted and/or maintained by Respondents, has occurred on property owned and operated by Respondents without a coastal development permit, in violation of the Santa Barbara County LCP and the Coastal Act, and that the requirements of the Consent Order are necessary to ensure compliance with the Coastal Act.*

### **Motion 2:**

*I move that the Commission **issue** Consent Restoration Order No. CCC-17-RO-01 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. The motion passes only by an affirmative vote of a majority of Commissioners present.

**Resolution to Issue Consent Restoration Order:**

*The Commission hereby issues Consent Restoration Order No. CCC-17-RO-01, as set forth below, and adopts the findings set forth below on the grounds that 1) development has occurred on the Property without a coastal development permit, 2) the development is inconsistent with the Santa Barbara County LCP and the Coastal Act, and 3) the development is causing continuing resource damage.*

**II. JURISDICTION**

Santa Barbara County's Local Coastal Program ("LCP") was adopted by the Board of Supervisors on January 7, 1980 and was partially certified by the Commission on March 17, 1981. After an LCP is certified by the Commission, review authority over new development within the coastal zone rests with the locality; development appealable to the Commission is defined in Section 35-58 of the LCP (and Section 30603 of the Coastal Act) to include development approved by the County between the sea and the first public road paralleling the sea. As the first public road in the area of the Ranch that parallels the sea is Interstate 101, which is located several miles inland; the entirety of the Coastal Zone on the Ranch is within the Commission's appeals jurisdiction.

Once the Commission has certified a locality's LCP, the locality has inherent authority, via its police power, to take enforcement actions for violations of its LCP. The Commission also retains enforcement authority including under Coastal Action section 30811 and in the specific circumstances enumerated in Coastal Act Sections 30810(a) to address violations of the LCP. Pursuant to Section 30810(a) of the Coastal Act, the Commission can issue a cease and desist order to address an LCP/Coastal Act violation within a certified area if 1) the local government requests the Commission assume enforcement responsibility; 2) the Commission requests that the local government take action and the local government declines to act or does not take action in a timely manner; or 3) if the local government is the party violating the LCP/Coastal Act.

On March 29, 2011, Commission staff notified the County that discing undertaken on the Ranch, specifically at CMT, was development requiring a permit, the development had been undertaken without a permit, and such development was inconsistent with the LCP and the Coastal Act. Staff additionally noted that the episodic grading of an access road down a coastal bluff was also a violation of the LCP and Coastal Act, and asked that both of these issues be addressed by the County. In letters to Respondents dated April 25, 2011 and June 1, 2011 ([Exhibit 6](#)), the County indicated that it had not found the work on the Property to be violations of the LCP but that future work in the identified areas would likely require authorization by the County. In the course of further investigation of these violations, Commission staff became aware of a number of additional violations on the Ranch, including the installation of water wells, the grading of roads, and the fill of riparian areas and the redesign of stockponds. The County agreed that these additional violations could be most efficiently resolved by incorporating them into the Commission's ongoing enforcement action and so have all of the violations resolved in one action ([Exhibit 7](#)). The Commission thus has jurisdiction to issue a cease and desist order to address these violations pursuant to Sections 30810(a)(1) and 30810(a)(2).

October 27, 2017

Meanwhile, Commission jurisdiction to issue a restoration order in a certified area is not similarly constrained to specified circumstances. Pursuant to Section 30811 of the Coastal Act, the Commission may issue a restoration order to address unpermitted development anywhere in the Coastal Zone, provided that the development at issue is causing continuing resource damage, as discussed below. The Commission thus has jurisdiction to issue a restoration order to remedy the violations at issue herein pursuant to Section 30811 of the Coastal Act.

### **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 has occurred either without a required CDP or 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 all met in this case, as summarized briefly here, and discussed in more detail in Section V, below.

The unpermitted activity that has occurred on the Ranch clearly meets the definition of “development” set forth in Section 30106 of the Coastal Act. The term “development” is defined in the same broad manner in both the LCP and Coastal Act to include, among many other actions, the “placement of any solid material or structure; grading, removing, dredging, mining, or extraction of any materials; ...change in the density or intensity of use of land;...construction, reconstruction, demolition or alteration of the size of any structure...; and the removal or harvesting of major vegetation ....” All non-exempt development in the Coastal Zone requires a CDP; no exemption from the permit requirement applies here. The development was undertaken without a CDP and is furthermore: 1) inconsistent with the policies in Chapter 3 of the Coastal Act, including Section 30231 (protecting the biological productivity of coastal waters), Section 30233 (minimizing fill of wetlands), Section 30236 (limiting alterations of rivers and streams), Section 30240 (protecting environmentally sensitive habitat areas), Section 30244 (protecting cultural resources), Section 30250 (limiting the location of new development), and Section 30253 (minimizing adverse impacts of new development), which require protection of coastal resources within the Coastal Zone (as well as analogous and similar sections of the LCP); and 2) causing continuing resource damage, as discussed more fully in Section V, below.

The Unpermitted Development is within and adjacent to riparian, coastal sage scrub, dune, grassland, and/or oak woodland and southern maritime chaparral ecosystems, and has altered and adversely impacted the resources associated with these sensitive habitat-types, including by removing endangered Gaviota tarplant and increasing erosion of sensitive coastal bluffs. Such impacts meet the definition of “damage” provided in Section 13190(b) of Title 14 of the California Code of Regulations (“14 CCR”). If the Unpermitted Development, is allowed to remain unrestored and unmitigated, further adverse impacts are expected to result (including the temporal continuation of the existing impacts) to resources protected under Chapter 3 of the Coastal Act.

October 27, 2017

The Unpermitted Development and the impacts therefrom remain on the Ranch. The continued presence of the Unpermitted Development, as described below, will exacerbate and/or prolong the adverse impacts to riparian, bluff, grassland, coastal sage scrub, endangered Gaviota tarplant, and oak woodland habitat, among other habitat types, and the water quality and biological productivity of this area. The continued presence of the unpermitted development on the Ranch is causing continuing resource damage, as defined in 14 CCR Section 13190. Thus, the Commission has the authority to issue both a Cease and Desist Order and a Restoration Order in this matter.

#### **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.

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 interested persons, 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.

## **V. FINDINGS FOR CONSENT CEASE AND DESIST ORDER NO. CCC-17-RO-03 AND CONSENT RESTORATION ORDER CCC-17-RO-01<sup>7</sup>**

### **A. DESCRIPTION OF PROPERTY**

#### **1. OWNERSHIP**

In early January of 2007, Respondents purchased the Ranch. Since this initial purchase, ownership of the individual parcels across the Ranch (at issue in this enforcement action) have subsequently been transferred through or to California Ocean Gardens LLC, California Mountain Gardens LLC, HLM Parcel LLC, Preston Parcels LLC, Remington Parcels LLC, California Mountain Oaks LLC, California Ocean Oaks LLC, Chase Parcels LLC, Bixby Parcels LLC, and Coastal Resources LLC. Although these parcels have been transferred to the various above-enumerated LLCs since the 2007 purchase, the property remains under the control and management of the original purchasing entity.

Despite having been under common ownership for over a century prior to the 2007 sale, the approximately 24,364-acre Ranch, is technically comprised of two sub-units: Jalama Ranch to the north and Cojo Ranch to the south - hence the lasting sobriquet “Cojo Jalama Ranches”. The 15,813-acre Jalama Ranch contains the historic Rancho San Julian; the ranch established in the late 1700s to raise cattle for the missionaries and converts at the Santa Barbara Presidio Mission. Formed from a portion of the San Julian Ranch in 1914, and bought by Fred H. Bixby (“Bixby”) in 1939, portions of the Jalama Ranch have been used for cattle ranching and dry-land farming for over 150 years. Immediately south of Jalama Ranch is the 8,580 acre Cojo Ranch, which was acquired, in part, by Bixby in 1913, and which alone contains nine miles of coastline.

#### **2. LAND CHARACTERISTICS AND SURROUNDING PROPERTY**

Topographically, the dominant features on the Ranch are the Santa Ynez Mountains and the San Julian Ridge. North of the San Julian Ridge is the Jalama Valley, which is typified by a semi-arid Mediterranean climate wherein the weather is typically warmer and more subject to inland fog than the portion of the property south of the ridge, which is characterized by a cooler, sunnier, and windier Maritime climate.

Immediately south of Cojo Ranch is the 23.5-acre Jalama County Beach Park to the west at the terminus of Jalama Road. Jalama County Park was donated to the County of Santa Barbara in 1943 and is a very popular destination for surfing, camping, and general recreation. To the east of the Jalama Beach Park is a federally owned and United States Coast Guard-operated<sup>8</sup>, thirty-

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<sup>7</sup> These findings also hereby incorporate by reference the Summary at the beginning of the October 26, 2017 staff report (“Staff Report: Recommendations and Findings for Consent Cease and Desist Order No. CCC-17-CD-03 and Restoration Order No. CCC-17-RO-01”) in which these findings appear, which section is entitled “Summary of Staff Recommendation.”

<sup>8</sup> At the time of the writing of this staff report, it is staff’s understanding that the U.S. Coast Guard is in the process of transferring this piece of land to the U.S. Air Force.

acre parcel of land on the immediate promontory of Point Conception. A historic lighthouse, first activated in 1856, is situated on this parcel and is still in use.

### 3. HUMAN HABITATION AND BIOGEOGRAPHY

Human activity on the Ranch actually dates back over 9,000 years; evidence from carbon dating of nearby sites indicates Paleo-Indian habitation from approximately 6950 B.C. Originally called Humqaq (*the raven comes*), Point Conception is considered the “western gate” of the continent and is a sacred site to the Chumash as the place where souls of the dead depart from earth for Shimilaqsha, the realm of the dead. The Santa Barbara coast became fairly heavily populated during the Late Period (900-1542 A.D.), and by the time of European contact in 1542, several Chumash villages had been established at the mouths of the major watersheds on the Ranch.<sup>9</sup> Over 1,000 archaeological and historic sites have been documented on the Gaviota Coast, and due to the limited amount of development along the Gaviota Coast, and on the Ranch in particular, many Chumash sites in the area have retained a high degree of integrity.

The Ranch as a whole occupies an area of biogeographic transition wherein species occupying the southernmost and northernmost reaches of their respective ranges coexist. This biogeographic overlap, and attendant richness of species diversity, is attributable to a variety of factors, including the fact that the topography and bathymetry of this area are uniquely transitional: onshore on the Ranch the east-west oriented transverse ranges of Southern California transition to north-west, and offshore the coastline similarly transitions to north-south from the more east-west orientation found down-coast. This reorientation of the coastline occurs at Point Conception, where the cold oceanic currents carried along the coast from Alaska encounter the calmer, warmer waters of the Santa Barbara Channel, forming a highly productive and diverse offshore biota.

The onshore extent of the Ranch is similarly rich in terms of biodiversity; the Ranch is home to over six species of plants either listed or considered for listing by the State/Federal governments as rare or endangered. These plant species of interest include the Lompoc yerba santa (*Eriodictyon capitatum* Eastw.), designated as rare by the State and endangered by the Federal government; the Refugio manzanita (*Arcctostaphylos refugioensis*), which is endemic to Santa Barbara County, and the Gaviota tarplant (*Deinandra increscens* ssp. *villosa*), which is designated as endangered by both the State and Federal governments, and which, as described below, was directly impacted by the Unpermitted Development. Furthermore, there are at least seven major plant communities found on the Ranch: oak woodland throughout the property; southern Bishop Pine forest in the central portion of the Ranch; chaparral throughout upland areas; riparian habitat along drainage courses; non-native grasslands through much of the grazed portions of the property; coastal sage scrub in upland portions of drainage courses; and native grasslands in limited patches throughout the Ranch.

Beyond the unique topographic, and attendant climatological, features of the Ranch, an additional factor contributing to the high biodiversity of this area is the fact that the vast majority

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<sup>9</sup> Santa Barbara Museum of Natural History, <http://www.sbnature.org/research/anthro/chumash/index.htm> (accessed September 10, 2013).

October 27, 2017

of land on the Ranch has never been developed, or has been used exclusively for cattle ranching. Thus, commensurate with the floral diversity is an abundance of special interest vertebrate species on the Ranch, including: two species of (State-designated) special concern, the Southwestern pond turtle (*Actinemys marmorata pallida*), and the American badger (*Taxidea taxus*); the endangered (Federal-designated) California red-legged frog (*Rana draytonii*); and the threatened (State-designated) Grasshopper sparrow (*Ammodramus savannarum*). Significantly, the Santa Ynez Mountains on the Ranch provide these species, and a myriad other organisms, a wildlife migration corridor affording wildlife on the Ranch, including remaining apex predators in the area (black bear, bobcats, coyotes, and mountain lions) a relatively undeveloped link between a variety of habitats and ecosystems and beach areas.

The biological richness, importance of the location to the tradition and culture of the Chumash people, and the onsite historic ranching operations thus uniquely position the Ranch to occupy both a significant locus in California state heritage from both a cultural and ecological perspective.

## B. DESCRIPTION OF COASTAL ACT VIOLATION

Violations of the Coastal Act and Santa Barbara County LCP on the Property include the removal of major vegetation, and grading associated with the installation and maintenance of thirty-five wells and maintenance of two additional unpermitted water wells ([Exhibit 8](#)). Further unpermitted development affiliated with the construction/maintenance of the thirty-seven wells includes the installation of pumps, cattle fencing, pipes, and other appurtenant development, as well as the undertaking of short-term flow testing ([Exhibit 9](#)).

Respondents additionally undertook unpermitted road development on the property, including grading and removal of major vegetation to variously develop several miles of new roads or reconstruct un-maintained, “grown-over” roads across the property ([Exhibits 10 and 11](#)). Some of these unpermitted roads were allegedly constructed to provide more navigable bypass across portions of the Ranch, and others were installed to provide access to areas for the development or maintenance of unpermitted development, including some of the unpermitted wells. Regardless of the alleged necessity of the roads, construction of new roads, and grading and creation of roads that had not been maintained is development under the Coastal Act and County LCP that required a CDP.

Unpermitted grading, placement of fill, and removal of major vegetation was also performed in the process of redeveloping a series of three stockponds on the property (hereinafter referred to as “Jalichichi Stock Ponds” or “Stock Ponds”). Prior to the unpermitted development, the Jalichichi Stock Ponds had fallen into a state of disrepair after not having been maintained for a number of years, resulting in a combination of sediment buildup inside the ponds and the natural breach of retaining barriers and culverts. In an apparent attempt to address these issues, unpermitted activity at the Jalichichi Stock Ponds additionally included the fill of riparian habitat, placement of riprap, installation of culverts, grading of a new pond, and installation of a concrete spillway ([Exhibit 12](#)), all located within ESHA.

Further Coastal Act violations on the Ranch arise from the removal of major vegetation, including endangered Gaviota tarplant, and the change in intensity of use of the land at the CMT resulting from the discing of an area previously restored pursuant to Santa Barbara County CDP No. 03CDP-00000-00089 ([Exhibit 13](#)). As discussed below, the CMT was required to be restored with a mix of coastal sage scrub, Gaviota tarplant, and native and non-native grasses. After discing the area, Respondents planted a pasture seed mix of all non-native grasses, thus dramatically changing the habitat composition of the area from that of a more endemic plant species make-up to completely non-native, and in some cases invasive, plant species make-up.

Lastly, in an effort to reconstruct a vehicular access to a beach, Respondents undertook the placement of cut and fill materials and grading on and down a coastal bluff face ([Exhibit 14](#)). This unpermitted development was performed through and adjacent to a sensitive dune habitat area, among other things.

## C. HISTORY OF DEVELOPMENT AND DEVELOPMENT CONSTRAINTS

### 1. **County Zoning and Williamson Act Contracts**

The Ranch is designated AG-II-320 pursuant to the County Coastal Zoning Ordinance (“CZO”), which applies to rural agricultural land and requires that the minimum lot area of such lands be 320 acres. However, while the Ranch parcels may be subdivided into parcels of 320 acres or more (consistent with State and local regulations), as the Ranch is non-prime agricultural land in excess of 2,000 acres, by definition the County LCP limits the instances in which such subdivisions may be made. Specifically, LCP Policy 8-10 provides that in order to so subdivide such a property, the owner must record an agricultural easement in perpetuity over the subdivided land. Further, LCP Policy 8-4 dictates that prior to such a subdivision, a finding must be made, based upon specific criterion, that the easement lands will be viable agricultural parcels.

Relatedly, until 2015, approximately 19,000 acres of the Ranch parcels were subject to agricultural preserve contracts with the County under the California Land Conservation Act, commonly known as the Williamson Act. Williamson Act contracts restrict landowners to specified agriculture or open space use in exchange for reduced tax assessments, and have an automatically renewing term of ten-years until such time as an owner gives the contracting locality Notice of Intent of Non-Renewal. Notice of Non-Renewal was given to the County for all contracts effective January 1, 2005; contracts were thus allowed to expire January 1, 2015, allowing the property owner to potentially pursue proposals for non-agricultural related development across the Ranch. As of June of 2017, just over 1,000 acres of the Ranch had been re-enrolled in the Williamson Act ([Exhibit 15](#)).

### 2. **Vandenberg Air Force Base Easements**

Immediately to the north of the Ranch is the nearly 100,000-acre Vandenberg Air Force Base (“Vandenberg”); its Western Space and Missile Center is the only base in the United States from which satellites are launched into polar orbit. On December 24, 1992, the United States Air Force paid the then-owners approximately \$22 million dollars to acquire restrictive easements

October 27, 2017

and evacuation agreements across portions of the Ranch to minimize the potential for safety issues to arise from proximity of an active launch facility to any future development on the Ranch.

The Vandenberg easements on the Ranch fall into two distinct categories: Zero Development Areas and Low Development Areas. While residential development is completely precluded within Zero Development Areas, a variety of non-residential uses are explicitly allowed, including agriculture, desalination facilities, golf courses, wind farming, camping, and mineral development. The easements mandate that all uses in the Zero Development Areas be evacuated during launches.

In addition to all enumerated uses allowed within the Zero Development Areas, uses authorized by the easements within Low Development Areas explicitly include golf clubhouses, stables, and residential development. A very limited number of units could potentially be built across the entire Low Development Area (which spans both the Cojo and Jalama Ranches) would be consistent with the easements.<sup>10</sup> These units are in addition to the seven extant single-family units (four on the Jalama Ranch and three on the Cojo Ranch), and four guesthouses (one on the Jalama Ranch and three on the Cojo Ranch) located within the Low Development Area, which were all built in the early 1900s. While guesthouses must be evacuated during launches, occupants of the potential single-family residences would not necessarily be required to vacate in this Low Development Area.

Such “allowable” uses within the Zero Development and Low Development Areas do not convey any development right under the County LCP or Coastal Act, but are actually additional restrictions of use of land recorded against the property through a recorded easement. Any proposal for development on the Ranch must be consistent with the County LCP and/or Coastal Act.

### 3. Gerber Fee Parcels

On January 17, 1985 The Sierra Club and Get Oil Out filed an appeal of the approval by Santa Barbara County of two permit actions involving a suite of on and off-shore oil-related projects proposed by Chevron. After a finding of Substantial Issue, the appeal (A-4-STB-84-91) was heard by the Commission and CDPs were approved on April 4, 1985 and revised findings were issued in June 1985 ([Exhibit 16](#)). The Commission’s approval was made subject to a number of conditions, including affirming several of the County’s provisions for public access. One such condition was N-4, which states:

*“ Prior to Final Development Plan approval, Chevron shall enter into a binding agreement with the Resource Management Department to provide vertical and lateral access across Chevron’s Gerber Fee property near Pt. Conception. The specific routes and implementation procedures will be determined subsequent to this permit approval as part of a coastal access study plan developed by County in consultation with appropriate*

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<sup>10</sup> While such residential development fits within the legal confines of the easements, these terms do not give an explicit legal right to actually undertake such development. All State and federal laws still apply to any such development proposal.

October 27, 2017

*agencies, affected property owners, Native Americans, and other [sic] as appropriate, to connect Jalama Beach and Gaviota State Park.”*

The so-called “Gerber Fee” parcels refer to 10 parcels that at the time were owned by Chevron and are also identified by Santa Barbara County Assessor’s Parcel Numbers 083-600-012, 083-600-009, 083-600-008, 083-600-007, 083-600-006, 083-600-005, 083-600-004, 083-600-003, 083-600-002, 083-600-001. The Commission’s hearing included a long inquiry into the sufficiency of this condition – the Gerber Fee parcels were inaccessible for being surrounded by private land (a condition which persists to this day). Ultimately, the Commission found it sufficient when applied in conjunction with two additional conditions – not here applicable – appended by the Commission.

Therefore, on July 15, 1985, Chevron made an irrevocable offer to dedicate public access easements to the County of Santa Barbara ([Exhibit 17](#)). This offer was accepted by the County on September 4, 1985 ([Exhibit 18](#)); easements were thus created across the 2.3 miles long Gerber Fee parcels on the Ranch. As mentioned above, while these parcels have been and continue to be inaccessible, Santa Barbara County has remained prepared for the eventuality that they at some point are rendered available for public use – including by engaging in a feasibility study in 2000 to ascertain potential locations for trails within the parcels and difficulties associated therewith. The approximately 36 acres of land proposed for dedication to the County pursuant to this Consent Order provides for the increased potential of connecting with the Gerber Fee parcels ([Exhibit 5](#)).

#### **4. Unocal Lease, Development, and Decommissioning**

In the early 1960s, to accommodate development of an offshore oil tract, Phillips Petroleum Company constructed the Cojo Marine Terminal on the Ranch through a lease agreement with the former owner, Bixby. The onshore portion of the CMT occupied approximately 5.9 acres of a south-facing coastal terrace on the Ranch, and was comprised of a 55,000-barrel crude oil storage tank, a paved loop access road, and various steel structures and appurtenant piping and electrical equipment. A loading line ran east from the CMT crude oil storage tank through the adjacent bluff face down to the intertidal zone and terminated offshore; thus allowing oil temporarily stored at CMT to be transported onto tankers ([Exhibit 19](#)).

In 1967, Standard Oil Company of California leased property to Union Oil Company of California (“Unocal”). Unocal constructed a production facility at Government Point, located northwest of the CMT on the Ranch, in the early 1970s to facilitate production from oil wells located at the Point Conception Well Site. The Santa Barbara Planning Commission authorized the issuance of an Industrial Lease on December 20, 1973, allowing Unocal to use the existing offshore loading facility to transport oil production from the Government Point facility to the CMT and onto oil tankers via an offshore loading line. Recovered oil from the Point Conception Well Site was transported from the Government Point Production Facility to the CMT via two; approximately 11,000-foot long, 4-inch pipes. Unocal’s lease was later assigned to Chevron, the successor in interest to Standard Oil of California. Unocal subsequently entered into a second lease with Bixby in 1986; collectively, the two leases authorized Unocal to perform specified oil and gas production related activities both on the Ranch itself and in the adjacent coastal waters.

October 27, 2017

The last barge loading crude oil at the CMT occurred in 1987; in 1992, Unocal notified the County of its intent to place the facility in caretaker status, signaling a condition in which oil and hazardous materials are removed from equipment and the facility is non-operational. On September 9, 2003, the County issued CDP No. 03CDP-00000-00089 (“2003 CDP”) to Unocal for the decommissioning of the onshore facility and offshore loading lines located on the Ranch and adjacent coastal waters ([Exhibit 20](#)), and this CDP was not appealed to the Commission. Unocal was required to remove the development in accordance with Mitigated Negative Declaration 02-ND-02 (“MND”), which had been adopted by the County of Santa Barbara on April 1, 2002.

The 2003 CDP required that the then-owner, Bixby Ranch place a ‘buyer beware’ notification on the deeds to the property where the pipeline corridor exists indicating that an oil/gas pipeline is abandoned on the parcels. This condition ensured that any future purchaser was on notice of the historic oil production use of the property, the 2003 CDP, and its attendant restoration requirements, and any development remaining on the property therefrom, including such elements as the pipeline on the coastal bluff that was required to be abandoned in situ.

#### Cojo Marine Terminal Decommissioning

The 2003 CDP required Unocal to flush and clean all loading lines; remove all piping and utilities; dismantle and remove the storage tank and structures; demolish and remove all foundations, asphalt, and roads; and re-contour and re-vegetate the site. As discussed more fulsomely in Section V(F)(b), below, because endangered<sup>11</sup> Gaviota tarplant (“Tarplant”) was found at the CMT site, Unocal was required to undertake special precautions and mitigation measures as part of the decommissioning and restoration activities on the CMT. These measures included, among other things, the removal and preservation of the top six inches of topsoil (wherein the bulk of the Tarplant seed bank resides) prior to decommissioning; after the demolition and removal of structures, and the re-grading of areas impacted by those activities, the topsoil was then to be returned to the site.

Pursuant to the 2003 CDP, revegetation of the CMT was to be undertaken to accomplish the dual goals of restoring native habitat and affording opportunities for grazing; the stated planned utilization of the (then) property owners.<sup>12</sup> The MND specifically indicated that, “[o]nce the sites are restored, they would be utilized as grazing lands consistent with the surrounding land uses. The project would result in a net gain of grazing land of approximately 12 acres and would have a beneficial impact to agricultural resources.”<sup>13</sup> Because Tarplant is low-lying and easily susceptible to over-topping and shading by surrounding vegetation, low-intensity grazing is generally considered by ecologists to be not-inconsistent with the proliferation of Tarplant; in fact the Commission has in past-action<sup>14</sup> allowed the use of light-grazing as a tool in an adaptive management action to facilitate Tarplant propagation. Demolition, removal, and re-grading were subsequently undertaken, and the CMT was restored with an approved mix of coastal sage scrub habitat, Tarplant, and native and non-native grasses. In January 2008, Padre and Associates Inc.,

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<sup>11</sup> Gaviota tarplant is listed as endangered by both the State of California and the Federal government.

<sup>12</sup> MND, §1.3.3.2.2, pp 11.

<sup>13</sup> *Ibid* at 34.

<sup>14</sup> <http://documents.coastal.ca.gov/reports/2011/12/Th22a-12-2011.pdf>.

October 27, 2017

the firm hired by Unocal for the design, implementation, and monitoring of the restoration, made the determination that the restoration of the CMT had been successful. The County of Santa Barbara Energy Division Restoration subsequently concurred and deemed the restoration in the area complete.

### Percos

While the majority of the length of the two pipelines connecting the Government Point Production Facility to the CMT were below grade, a 500-foot segment of free-spanning pipeline paralleled the railroad tracks across the Wood Canyon drainage at Percos Beach (“Percos”). Percos is the location where the USGS blue-line Wood Canyon stream converges with several of its tributaries and discharges into the Pacific Ocean through a large concrete culvert under the Union Pacific Railroad tracks.

Pursuant to the 2003 CDP, the free-spanning pipeline was to be removed completely. However, because of the sensitive habitat and features of the Wood Canyon drainage, the below-grade sections of pipe in this area were to be removed to the extent possible using internal pipe cutters and then abandoned in situ.<sup>15</sup> While the County determined in January 2008 that Unocal had fulfilled the requisite removal and restoration activities at Percos, Unocal is required to continue to monitor (and address, where and when appropriate) the abandoned pipelines for a period of twenty-five years and remove any portion of pipe that becomes exposed.

## D. ENFORCEMENT ACTIVITIES BY NON-COMMISSION ENTITIES

Since Respondent’s 2007 purchase of the Ranch, both Santa Barbara County and the California Regional Water Quality Control Board have found that work undertaken by Respondents on the Ranch had been performed without requisite authorization from their respective agencies. Though these violations occurred on the same property (on the Ranch as a whole, not on the same APN as any of the violations at issue in this present action), involved similar types of work, and occurred during the same time as some of the Coastal Act violations at issue in this enforcement action, they are distinct violations that were resolved by the County and are therefore not part of this action.

On October 24, 2008, after an investigation, Santa Barbara County formally notified Respondents that a zoning violation had occurred on the Ranches, specifically on APN 083-440-022, involving removal of major vegetation and grading in sensitive habitats within and adjacent to Jalama Creek. In their letter, Santa Barbara County informed Respondents that development is defined within the Coastal Zone to include the ‘removal of major vegetation’, and that major vegetation is defined within the Santa Barbara County Coastal Plan as “[t]he removal of native vegetation, brush, trees or orchards involving a total of one-half acre of land or more.” Further, this letter indicated “...that grading which exceeds 50 cubic yards cut/fill or has the potential to create a significant environmental impact requires zoning permit approval” ([Exhibit 22](#)).

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<sup>15</sup> *Ibid* at 20.

October 27, 2017

This notification was preceded by correspondence from the California Regional Water Quality Control Board (“Water Board”) regarding the same land disturbance and vegetation removal activities. The Water Board letter indicated that large, previously vegetated areas of coastal chaparral in a riparian corridor, and near oak woodlands, had been graded, and that several large areas along Jalama Creek had been significantly graded and cleared of vegetation.

In response to the violations of state and local laws resulting from this unpermitted grading and vegetation removal, Water Board staff, and staff from U.S. Fish and Wildlife Service, DFG, Santa Barbara County, U.S. Army Corps of Engineers, National Resources Conservation Service and Althouse and Meade, Inc. (Respondent’s environmental consultants) conducted a training on October 2, 2008 for Respondents and Respondent’s staff, in which Respondent’s staff and staff from the aforementioned governmental agencies visited disturbed sites on the ranch, and discussed applicable regulations and plans for remediation.

#### E. COMMISSION ENFORCEMENT

Commission staff began receiving complaints from members of the public in December 2010 and January 2011, alleging that unpermitted grading and development activities were occurring on the Ranch.

After investigating these complaints and coordinating with Santa Barbara County, Commission staff sent a notice of violation letter on July 11, 2011 to the property owners indicating that the alleged activities were undertaken without requisite permits, and in violation of the Santa Barbara County LCP and the Coastal Act ([Exhibit 23](#)).

Commission staff received a letter from Steven Amerikaner, representing the Ranch owners at this time, on September 23, 2011 ([Exhibit 24](#)), in advance of a meeting with staff on September 28, 2011, responding to the notice of violation. Commission staff provided a response to this communication in a letter hand-delivered at a meeting on September 28, 2011 ([Exhibit 25](#)). Following this meeting, a site inspection was made by Commission staff on November 9, 2011, to view the unpermitted development that had occurred at Percos Beach access road and the unpermitted discing of the CMT restoration area. Subsequent to this site visit, staff sent a letter to Mr. Steinberg, a then agent of the Ranch owners, and Mr. Amerikaner discussing possible next steps to be taken by the Ranch to resolve the violations and requesting the list of species planted on the CMT, and the dates grading was undertaken, and an identification of the corresponding amounts of fill placed at Percos Beach ([Exhibit 26](#)).

Staff then met with Eva Turenchalk, another agent of the Ranch owners at that time, and Mark Massara, counsel representing Respondents, on January 10, 2012, to discuss the nature of the Unpermitted Development and potential mechanisms for resolution. A letter followed this meeting from Mr. Massara reaffirming the desire to resolve this case amicably ([Exhibit 27](#)). Staff again met with Mr. Massara on March 30, 2012 to continue the conversation of how to most efficiently and effectively resolve the matter. Following this meeting, a Notice of Intent to Commence Cease and Desist and Restoration Order proceedings was sent on May 1, 2012 ([Exhibit 28](#)); after which staff began regularly meeting with counsel for the Ranch and discussing formal resolution. After a myriad of meetings, including, among numerous telephone

October 27, 2017

conversations, in person meetings on May 4, 2012, July 26, 2012, and August 28, 2012, staff transmitted proposed Consent Cease and Desist and Restoration Orders on October 26, 2012 for their review.

After the proposed consent documents were sent to Respondents, staff continued to meet with and correspond with counsel, including a number of written communications, dated March 11, 2013 ([Exhibit 29](#)) and May 16, 2013 ([Exhibit 30](#)) wherein staff expressed frustration at the continual delays in receiving deliverables upon which critical elements of settlement discussions were predicated. As these discussions and further investigation coupled to reveal additional information regarding a number of the violations, a supplemental Notice of Intent to Commence Cease and Desist and Restoration Order and Record a Notice of Violation was sent on June 28, 2013 ([Exhibit 31](#)), to ensure Respondents were sufficiently apprised of the particular bounds of the violations and locations being discussed. After several additional months of meetings, including on August 14, 2013 and September 9, 2013, and working with the Ranch's counsel to craft a proposed resolution of the Coastal Act violations, staff was ultimately unable to arrive at a mutually acceptable settlement of this matter.

During the pendency of these negotiations and various meetings, Commission staff experienced profound difficulty in attempting to work with Respondents ([Exhibits 32 & 33](#)); it appeared that requested scientific documents were being re-written such that they were not consistent with the directions and input by Commission staff. This was one of a myriad of unfortunate approaches that caused very significant delays in resolving this matter, including; applying for and then failing to complete an application for the 37 unpermitted wells with the County despite being given a detailed list of pending deficiencies in 2012, explicitly forbidding resource specialists from communicating with Commission staff, and not disseminating Commission staff communications to intended recipients within their organization. By 2014, it appeared that Respondents' intent was to pursue a large-scale development scheme on the Ranch while simultaneously interacting with staff in a manner that consumed enormous amounts of Commission resources. This period was marked by voluminous correspondence ([Exhibits 34 & 21](#)) and regular meetings with counsel but no appreciable progress.

Ultimately, it was not until around the beginning of 2017, around the time when a new management entity became involved and, it appeared, that the make-up of the ownership interest in the Ranch changed slightly, that actual progress on an amicable resolution began. Though the overarching entity remains the same, the tone and dialogue had changed completely since this time, more specifically between February and June 2017. Since this time, Commission staff has benefitted from constant, forthright communication with Respondents and their team of experts. Commission staff appreciates this sea change and, though years have been dedicated to this process, is grateful for the expeditiousness with which Respondents have worked during their tenure to help craft these Consent Orders.

F. BASIS FOR ISSUANCE OF ORDERS

“Development” is defined by Section 30106 of the Coastal Act and Section 35-58 of the Santa Barbara County CZO as set forth below:

*“Development” means...the placement or erection of any solid material or structure...grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use land, ...change in the intensity of use of water, or access thereto;...and the removal or harvest of major vegetation other than for agricultural purposes....*

**1. STATUTORY PROVISIONS**

A. CEASE AND DESIST ORDER

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

*(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....under any of the following circumstances:*

*(1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.*

*(2) The commission requests and the local government or port governing body declines to act, or does not take action in a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.*

*(3) The local government or port governing body is a party to the violation.*

*(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...*

B. RESTORATION ORDER

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

October 27, 2017

*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.*

The following paragraphs set forth the basis for the issuance of the Consent Cease and Desist and Restoration Orders by providing substantial evidence that the development meets all of the required grounds listed in Section 30810 and 30811 for the Commission to issue a Cease and Desist and Restoration Order.

## **2. APPLICATION TO FACTS**

### **A. DEVELOPMENT WITHOUT A PERMIT**

As has been discussed throughout this report, and specifically in Sections III, V.B., and V.D., above, the activities at issue in this matter constitute ‘development’ as defined in the Coastal Act and are therefore subject to permitting requirements. Wells were bored which required the placement of material on the surface of the property, involved grading in several instances that can impact groundwater available to native vegetation and wildlife. Roads were created by grading and removal of major vegetation. A new road was created down a coastal bluff by grading and removal of major vegetation. Stock ponds were completely re-formed and created by grading, dredging, removing material, placing concrete and other materials, and removing major vegetation. Finally, the restoration area at CMT was disced with the express purpose of removing major vegetation and changing the intensity of use of the property. Commission staff has verified that the aforementioned development was conducted without the requisite Coastal Act authorization; the standard for issuance of a cease and desist order pursuant to Section 30810 has thus been met. In addition, and as enumerated immediately below, various elements of unpermitted development are inconsistent with resource protection policies of Chapter 3 of the Coastal Act and are causing continuing impacts to resources such that the requirements for issuance of a restoration order pursuant to Section 30811 have been met.

### **B. DEVELOPMENT INCONSISTENT WITH COASTAL ACT**

The Development described herein raises a number of concerns with respect to resource protection policies enumerated under the Coastal Act, including Section 30230 (maintenance of marine resources), Section 30231 (protection of biological productivity of coastal waters and water quality), Section 30244 (preservation of archaeological resources), Section 30233 (restrictions on fill of wetlands), Section 30230 (protection of marine resources), Section 30235 (limitations on shoreline altering development), Section 30240 (protection of ESHA), and Section 3353 (minimization of adverse impacts of development). Not only does the Unpermitted Development enumerated herein raise these concerns, but since they are wholly unpermitted, Santa Barbara County and the Commission have been denied the opportunity to analyze the activities in sufficient detail and, assuming that a proposal was to be made for such development,

October 27, 2017

to consider and impose conditions in order to eliminate or minimize inconsistencies with the Coastal Act and LCP.

Chapter 3 of the Coastal Act contains Coastal Resource and Management Policies; the standards that local plans must meet in order to be certified by the State as well as the rubric by which proposed development in the Coastal Zone is evaluated. As such, though enumerated distinctly, the policies listed in the certified Santa Barbara County LUP necessarily mirror those of Chapter 3 of the Coastal Act. Further, Policy 1-1 of the LUP states, “[t]he County shall adopt the policies of the Coastal Act (PRC Sections 30210 through 30263) as the guiding policies of the land use plan.” The Santa Barbara County LCP is comprised of two elements: broader policies and goals are enumerated in the Land Use Plan (“LUP”), while the Coastal Zoning Ordinance (“CZO”) contains the specific standards and regulations designed to implement the LUP. For completeness and ease of reference the LUP, CZO, and Chapter 3 of the Coastal Act are cited below; cited ‘provisions’ are referential to the LUP and CZO while ‘sections’ refer to Chapter 3 of the Coastal Act.

### **Cultural Resources**

As mentioned obliquely above; one or more of the areas impacted by the Unpermitted Development resulted in impacts to documented Chumash cultural sites. In order to ensure protection of the sites, Commission staff will not explicate the impacts with specificity nor herein indicate the locations of these sites. Note however that impacts to cultural resources have been taken into consideration in developing the Consent Orders, and the work to be performed under the Consent Orders has been coordinated with Chumash representatives.

Section 30244 of the Coastal Act provides:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

In like manner Provision 35-65 of the CZO mandates:

1. *When developments are proposed for lots where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.*
2. *When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate mitigation shall be required. Mitigation shall be designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.*
3. *Native Americans shall be consulted when development proposals are submitted which impact significant archaeological or cultural sites.*

October 27, 2017

The Coastal Act and Santa Barbara County LCP collectively require avoidance of, tribal consultation on, and mitigation of impacts when development is to be undertaken within culturally sensitive areas. In past actions on this property, Santa Barbara County has found that impacts to cultural resources were highly likely and has required stringent steps be taken so as to avoid such resources. It is therefore likely that, had the County been given the opportunity to review proposed development in this area, any such permit would likely have contained a suite of elements designed to avoid and mitigate impacts to the sensitive resources, as well as mandating the presence of a cultural monitor to ensure that any work within documented archeological sites was undertaken in an appropriate manner. The County and the Commission were thus deprived of the opportunity to ensure that the cultural legacy on this property was handled with integrity deserved and mandated by the LCP and Section 30244 of the Coastal Act.

### **Coastal Bluff Road**

Unpermitted activities on the coastal bluff include grading and the placement of cut and fill material down a coastal bluff face, across foredune habitat, and onto a beach to provide vehicular access to the beach ([Exhibit14](#)). Attendant with this development was the removal, direct and indirect, of bluff and foredune vegetation, likely including flora of the sand verbena-beach bursage series, which has been documented to occur in the area.<sup>16</sup> This plant community is dominated by Sand verbena (*Abronia maritima*) and beach bursage (*Ambrosia chamissonis*), and is considered by California Department of Fish and Wildlife (“CDFW”) as rare and a high priority for inventory within the California Natural Diversity Database. Sand Verbena is classified by the California Native Plant Society (CNPS) as a plant of limited distribution (Watch List—List 4). The unpermitted activities on the coastal bluff resulted in the removal of vegetation, in all probability including native dune species. This activity likely contributed to additional loss of native species by increasing erosion across the denuded bluff face, thereby making it difficult for new propagules to gain purchase and establish in the area.

Section 30240 of the Coastal Act provides, in relevant part:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent upon those resources shall be allowed within those areas....*

Similarly, Provision 35-97.18 of the CZO provides development standards for native plant communities:

*Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff...endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.*

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<sup>16</sup> MND, §4.4, pp 57.

October 27, 2017

2. *When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation....*

Section 30240 of the Coastal Act protects environmentally sensitive habitat (“ESHA”) areas, and Provision 35-97.18 of the CZO provides development standards for locations containing native vegetation. In past actions, the Commission has regularly defined areas of dune habitat and those containing rare or endangered plant species as ESHA; the habitat on the coastal bluff degraded by this unpermitted development would therefore likely be considered ESHA. In light of the resources found in this area, requirements of the Coastal Act and LCP require that, at a minimum, impacts to the sensitive foredune habitat are avoided and, when such development activity is found to be a resource dependent use pursuant to Section 30240(a) minimized; the County and Commission were deprived of the opportunity to review and condition the development so as to ensure consistency with these standards, and direct impacts to a sensitive native plant community resulted - inconsistent with the County LCP and the Coastal Act.

The loss of species heterogeneity resulting from the removal of native bluff and foredune vegetation results in a reduction of the biodiversity essential to both efficient resource cycling and the capacity of an ecosystem to adapt to environmental change. Biological productivity is protected by Section 30231 of the Coastal Act, which provides:

*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 and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of streams.*

As Respondent’s activities have resulted in a loss of biodiversity and species richness in the area, by direct (physical removal) and indirect (denuding soils resulting in erosion of substrate and consequent unsuitability for revegetation) impacts to native plant communities, including through erosion and sedimentation impacts discussed below, the unpermitted development is inconsistent with Section 30231 of the Coastal Act. Further, Coastal Act Section 30230 states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

The bluff and foredune area impacted by caused by the unpermitted activities is already subject to episodic erosion events from wave action and precipitation runoff; the grading and removal of

native vegetation from this location has likely resulted in an unnatural intensification of these erosive processes. Erosion leads to increased suspension of sand and silt in the water column, which can increase turbidity (the cloudiness of a fluid caused by individual particles). Increased turbidity can decrease available light in the water column and result in decreased rates of primary production. Primary production (the synthesis of organic matter from carbon dioxide) is primarily accomplished via photosynthesis and forms the basis of terrestrial and aquatic food webs. The rate of primary production decreases with diminishing light levels: as erosion near water bodies increase, the amount of particulates suspended in the water column increases, which results in an increase in turbidity and a decrease in primary productivity – an effect of which is carried up through the higher strata of the food chain.

In addition, organic matter contained within the sand and sediments can be introduced into the water column. Large-scale increase of organic matter within a water column causes an increase in dissolved nutrient concentrations and result in increased algal blooms (eutrophication). The presence of suspended organic matter can result in elevated rates of organic decomposition. The decreased photosynthesis caused by turbidity-related light reductions combined with the increased organic decomposition can result in anoxic water conditions and the diminished fitness or death of species reliant upon the dissolved oxygen. The unpermitted road construction at Percos is thus likely to have resulted in diminished biological productivity and ecosystem fitness in the onshore bluff and dune vegetation communities, the outflowing waters of Wood Canyon, and nearshore waters inconsistent with Sections 30231 and 30230 of the Coastal Act.

The sedimentation and other ecosystem impacts to the Wood Canyon drainage from the unpermitted development are of particular concern from a resource-protection standpoint for a number of reasons, including the fact that the drainage is a wetland with year-round surface water. Southwestern pond turtles (*Clemmys marmorata pallida*), a species of special concern in California, have been observed basking within the pool area located directly north of the Wood Canyon Union Pacific Railroad culvert.<sup>17</sup> Additionally, California red-legged frogs (*Rana aurora draytonii*), a federally designated endangered species, are also known to inhabit the Wood Canyon drainage. These sensitive species rely on the presence of year-round surface water and are susceptible to decline from a variety of threats, including from increased sedimentation and loss of riparian vegetation. As discussed above, elevated sediment levels can alter primary productivity in a water column. Additionally, the sediment can fill interstitial spaces in streambed materials with fine particulates, which can impede water flow, reduce dissolved oxygen levels, and restrict waste removal.<sup>18</sup> The unpermitted development at issue here has likely resulted in loss of riparian vegetation within the Wood Canyon drainage as a result of the increased sediment loading from accelerated erosion; loss of riparian vegetation results in increased water temperatures, which decreases habitat suitability for red-legged frogs and Southwestern pond turtles, and encourages reproduction of non-native warm water amphibians and fishes that can outcompete native species for available nutrients and resources. As amphibians and reptiles are poikilothermic - regulation of their body temperature depends upon external sources - they are particularly sensitive to temperature fluctuations in their surrounding environment, and can tolerate only a narrow range of variation therein. Increased water

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<sup>17</sup> MND, §4.2, pp 47.

<sup>18</sup> Chapman, D.W. 1988. *Critical review of variables used to define effects of fines in redds of large salmonids*. Trans. Amer. Fish Soc. 117:1-21.

October 27, 2017

temperatures can thus impact their body temperatures, activity cycles, egg laying, and even ability to metamorphose. Loss of streamside vegetation also reduces habitat for insects and small mammals, which are important dietary components for aquatic and riparian associated species, including the red-legged frog.<sup>19</sup>

In addition to its significance as habitat for special-status amphibians and reptiles, Wood Canyon is also likely a critical wildlife migration corridor. The Union Pacific Railroad berm and tracks immediately parallel the coast along the length of the Ranch; small culverts nearly a century old provide egress to coastal waters for smaller streams and tributaries across the Ranch. Large culverts have been installed in the larger drainages, including Wood Canyon, allowing wildlife access to beach areas. Since regional and local wildlife movement is typically concentrated near topographic features that allow convenient passage, including drainages, wildlife movement is likely to be concentrated along areas that include this canyon. Maintaining the integrity of the habitat in the Wood Canyon wetland and sea-ward dunes and beach is therefore critical to preserving the important ecosystem functions and habitat value afforded by this complex.

In addition to the biological productivity and water quality concerns implicated by the unpermitted development at this location, the vegetation removal and grading is also inconsistent the Santa Barbara County LCP.

Similarly, Provision 3-6 of the LUP states:

*Development and activity of any kind beyond the required blufftop setback shall be constructed to ensure that all surface and subsurface drainage shall not contribute to the erosion of the bluff itself.*

More specifically, Provision 35-67 of the CZO states, in relevant part:

...

3. *Within the required blufftop setback, drought-tolerant vegetation shall be maintained...Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and percolating water.*
4. *Development and activity of any kind beyond the required blufftop setback shall be constructed to ensure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself.*
5. *No development shall be permitted on the bluff face....*

As the unpermitted development involved the placement of fill, grading, and removal of vegetation across a bluff face and onto a beach and left the area exposed and unvegetated, it is

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<sup>19</sup> Cordone, A.J. and D.W. Kelley. 1961. *The influence of inorganic sediment on the aquatic life of streams.* California Fish and Game 47(2):189-228.

October 27, 2017

likely that this work unnaturally accelerated erosive processes. Both the Coastal Act and LCP are highly restrictive in terms of what development could be permitted on a coastal bluff and beach and preclude the permitting of this type of activity in such a location, as it is not among the enumerated exceptions to the general prohibition of beach and bluff-face development.

Furthermore, the activity undertaken is inconsistent with the shoreline protection policies of the Coastal Act and LCP as Respondents failed to adhere to setbacks or mitigate for the activities that precipitated erosion; as evidenced by photographs taken during site inspections where erosion rivulets are visible across the face of the coastal bluff.

Restoration work to be undertaken pursuant to the Consent Orders will include abandonment of the road terminus, and stabilization of the bluff using a suite of techniques including the revegetation of the upper loci of the road to prevent future use, in addition to other restorative measures. The intended result of this restoration work is that this bluff face will eventually return to a native and functioning ecosystem; natural elements including wind and waves will continue to influence the site in a manner as unadulterated by anthropogenic disturbance as possible.

### **Inland Roads**

Respondents performed unpermitted grading, landform alteration, and vegetation removal to establish new roads and/or re-create abandoned roads on the Ranch ([Exhibit 10](#)). These roads traverse a variety of sensitive habitat types, including pristine oak woodlands and riparian areas that contain some of the most sensitive habitats along this stretch of the California coast. A number of the sixteen unpermitted roads or road segments were graded to provide access to the above-mentioned unpermitted wells, and Respondents have indicated that others were developed to provide more manageable access in areas where extant roads were difficult to navigate.

Section 30253 of the Coastal Act mandates 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 bluff and cliffs.*

As no permits were sought or obtained for this work, the County and the Commission were deprived of the opportunity to review the development to ensure that the roads were graded in a manner consistent with Section 30253 of the Coastal Act. In fact, some of the unpermitted roads, including that shown in [Exhibit 11](#), were constructed on steep slopes and raise concerns regarding erosive actions and geologic stability and consistency with Section 30253 of the Coastal Act.

Furthermore, the extensive vegetation removal, grading, and landform alteration performed requisite to construct these unpermitted roads raise similar resource concerns as the wells,

October 27, 2017

including reduction in sensitive habitat, biological productivity, and water quality resulting from vegetation removal and increased runoff. As discussed above, the removal of major vegetation in areas of sensitive habitat, such as the oak woodlands and riparian areas through which some of the unpermitted roads at issue traverse, results in impacts to ESHA, inconsistent with Section 30240 of the Coastal Act. Further, even outside of areas containing ESHA, the removal of major vegetation removes photosynthetic organisms from the ecosystem and thus diminishes the primary productivity and resource cycling therein, inconsistent with Section 30230 of the Coastal Act. Finally, when unmitigated, the erosion generated from the landform alteration and vegetation removal has the potential to result in increased turbidity of coastal waters, and the reduction of primary productivity through the decreased biomass on land and diminished light availability for photosynthesis in the water, violative of the protective policies enumerated in Section 30231 of the Coastal Act and the County LCP.

### **Jalichichi Stock Ponds**

As shown in [Exhibit 12](#), Respondents undertook a substantial amount of unpermitted development in an area of the Ranch (where three of the ponds most heavily graded during the unpermitted development are located) that does not appear to have ever been a working stock pond prior to the unpermitted development. This work included the placement of fill within and adjacent to wetlands; removal of major vegetation, including sensitive riparian habitat; landform alteration and placement of fill associated with the installation of a large concrete spillway; placement of riprap; fill of a stream course and grading to create one of the three ponds, and landform alteration, all of which was undertaken in and immediately around wetlands. Coastal Act Section 30233 states in part:

- (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following....*

Moreover, Section 30236 of the Coastal Act provides:

*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.*

As none of the enumerated exceptions to the general preclusion of fill of wetlands is applicable here, this development is inconsistent with Section 30233 of the Coastal Act, and as no permit was obtained for the work, the County and the Commission were deprived the opportunity to condition any approval on mitigation as would be required pursuant to Section 30236 of the Coastal Act. Wetlands are afforded protection by the Coastal Act and the Commission for the myriad essential ecosystem services they provide, including the collection of flood waters, the

October 27, 2017

filtration and storage of water, and the provision of habitat they afford for a variety of species. Wetlands control flooding by absorbing excess water and allowing it to gradually seep into the soil, thus moderating impacts of flood and drought conditions. As discussed above, the unique situation of the Ranch geographically in a biogeographic transition zone results in a high level of biodiversity on site. Inland waterways, such as the location of the Jalichichi stock ponds, are critical habitat for freshwater fish, amphibians and reptiles; as they are entirely reliant upon available freshwater, loss or degradation of this habitat results in direct impacts to these species. Further, of additional import to sustaining this diversity on the Ranch is the connectivity between inland waterways and coastal beaches allowing for migration of larger mammals between a variety of linked habitats. Reduction in habitat value through unpermitted development within and adjacent to the stock ponds thus has the potential to directly impact both aquatic-reliant species, and those mammals that utilize the resources of the stock ponds during migration.

Provision 35-97.19 of the CZO states:

1. *The minimum buffer strip for streams in rural areas, as defined by the Coastal Land Use Plan, shall be presumptively 100 feet.... Riparian vegetation shall be protected and shall be included in the bluffer....*

...

4. *All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in paragraph 2 of this Section, above. When such activities require removal of riparian plant species, revegetation with local native plants shall be required except where undesirable for flood control purposes.*

5. *All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.*

6. *Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of stream in the Coastal Zone shall be permitted unless consistent with the provisions of Public Resources Code Section 30236 of the Coastal Act.*

In like manner, and as discussed above, Section 30231 affords protections for the biological productivity and quality of coastal waters, including streams and wetlands. Provision 35-97.19 and Section 30231 collectively require the preservation of wetlands and riparian vegetation. As the unpermitted development undertaken by Respondents at the Jalichichi stock ponds resulted in the removal of native vegetation and the substantial physical alteration of wetlands, these activities are inconsistent with the Coastal Act and LCP.

Maintaining a robustly functioning riparian habitat is particularly important in this area of the Ranch as livestock grazing can cause nutrient loading problems due to urination and animal

waste in areas where cattle are concentrated near the water.<sup>20</sup> Intact vegetation prevents sediment and waste from directly eroding into water bodies and traps silt, waste, and pollutants. Riparian vegetation also absorbs some of the excess nutrients and helps cycle them through the trophic levels of the ecosystem; helping prevent eutrophication of the water body. Wetlands typically retain 80 to 90 percent of sediments and 70 to 90 percent of nitrogen,<sup>21</sup> one of the main pollutants introduced by cattle waste. Changes to the natural landscape, including the removal of vegetation and the introduction of hard substrate, reduce the effectiveness of the ecological services provided by wetlands. Hard substrates, such as the unpermitted riprap, culverts, and spillway installed by Respondents, increase the velocity and intensity of runoff and physically preclude the growth of native vegetation. This diminishes the ability of wetlands to provide essential ecosystem services and can cause an increased transport of waste to downstream locales, including coastal waterways.

In addition to being highly productive ecosystems, wetlands afford critical habitat for high number of amphibian, reptilian, fish, and bird species. Southwestern pond turtles, a species of special concern, were observed in the Jalichichi stock ponds. While primarily aquatic, these turtles utilize upland habitat for egg laying; disturbance of the wetland and adjacent habitat therefore has the potential for long-term species impacts to this already imperiled reptile. Riparian areas are considered ESHA and are thus afforded protection under Section 30240 of the Coastal Act. As the unpermitted development within and adjacent to the ponds directly resulted in the removal of native riparian vegetation, and thus likely resulted in deleterious impacts to sensitive fish, amphibian, and reptilian species reliant upon the habitat and ecosystem services afforded by that vegetation, this activity is inconsistent with Section 30240 of the Coastal Act.

Pursuant to the proposed Consent Orders, Respondents will remove all unpermitted hard substrate, including the culverts, spillway, and riprap, and will undertake a large-scale restoration program to reestablish both the agricultural and ecological function of the two stock ponds. The stream course will be reestablished and native plants appropriate for this location will be planted. This remediation work will involve remedial grading to restore the topography requisite to achieve a functioning wetland, as well as revegetation with a complement of appropriate native wetland, riparian, and oak woodland species.

### **Cojo Marine Terminal**

Finally, Respondents removed all vegetation and approximately 12 inches of the upper layer of soil when they “disced” the 5.9-acre area at the Cojo Marine Terminal that had been previously restored pursuant to the Santa Barbara County CDP when it authorized the decommissioning of Unocal’s oil production facility. Restoration of this site had included removal of the structures and roads, retention and replacement of the upper layer of topsoil wherein the Gaviota tarplant seed bank resides, and revegetation of the site with a combination of coastal sage scrub and native and non-native grasses. This vegetation suite was utilized to accomplish the dual goal of preserving Gaviota tarplant and native coastal habitat, as well as providing forage for cattle grazing.

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<sup>20</sup> Doran et al. 1981.

<sup>21</sup> CES – Ecosystem Services Fact Sheets: Water Purification. The Ecological Society of America. <http://www.esa.org/ecoservices/comm/body.comm.fact.wate.html>. September 1, 2013.

October 27, 2017

After discing the site, Respondents planted a mix of non-native grass seeds comprised of: Fawn Tall Fescue (*Festuca arundinacea*), Forage Harvest Orchardgrass (*Dactylis glomerata*), Sierra Perennial Ryegrass (*Lolium multiflorum* / *Festuca perennis*), and Gritts Annual Ryegrass (*Lolium rigidum*), all of which are non-native grasses, and two of which are listed by the California Invasive Plant Council (“Cal-IPC”) as invasive species.

Tall fescue is a perennial grass non-native to California that has become an invasive species and noxious weed in native California grasslands and habitats, such as the California coastal prairie plant community. The Cal-IPC describes tall fescue as having statewide moderate ecological impacts on physical processes, plant and animal communities, and vegetation structure. Classified as a ‘cover crop,’ one of the deleterious impacts of the fescue is that, when it dies, its leaves fall to the ground and create a nearly impenetrable thatch that drastically reduces light transmittance to adjacent and underlying seeds. Lack of light typically results in depressed germination rates for native species, and, when seeds do germinate, they often run out of stored energy for growth before building the necessary structural capacity to break through the cover crop mulch layer. Similarly, orchardgrass is an aggressive perennial grass that is drought resistant and can overrun grasslands, while annual ryegrass is grown for silage and also as a cover crop, and is noted for having the potential to become an invasive species in native habitats.

Thus, whereas the CMT had previously been restored to an area that afforded the opportunity for both cattle grazing and the proliferation of native grasses, coastal sage scrub, and Gaviota tarplant, Respondent’s unpermitted discing and planting removed the native seed bank and supplanted this habitat with a monoculture of aggressive non-native grasses. This change in use and habitat structure is inconsistent with the resource protection policies of the Coastal Act given that Gaviota tarplant is a low-lying endangered plant species that is particularly susceptible to being overtopped and outcompeted by taller vegetation.

Gaviota tarplant is a yellow-flowered annual plant that was listed as endangered by the State of California in 1990, and by the Federal Government on March 20, 2000. A relatively low-lying member of the sunflower family, tarplant reaches a height of only 30 to 90 centimeters and blooms from June through September. As an annual plant, the physical above-ground expression of tarplant fluctuates from year-to-year depending on various factors including the magnitude and condition of the seedbank, rainfall, temperature, and soil conditions.<sup>22</sup>

Tarplant has a highly localized distribution in western Santa Barbara County, where it is typically associated with grasslands comprised of native needlegrass (*Nassella spp.*), non-native wild oats (*Avena spp.*), ripgut brome (*Bromus diandrus*), and other grasses and herbaceous vegetation.

As discussed above, Section 30240 of the Coastal Act affords protection to areas containing “environmentally sensitive habitat” and Provision 35-97.18 of the CZO enumerates development standards for native plant communities. Provision 35-58 of the LUP defines ESHA in the same manner as the Coastal Act, as:

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<sup>22</sup> 67 FR 67968 (2002).

October 27, 2017

*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.*

Habitat where rare and endangered species are found is commonly designated as ESHA in Commission actions. Areas impacted by the unpermitted activities are within the federally-designated Conception-Gaviota critical habitat unit for the tarplant; a unit found to be essential because it encompasses multiple populations that occur on marine terraces supporting coastal grasslands, as well as intervening suitable habitat that is important for the expansion of existing populations, and the maintenance of connectivity for pollinators and dispersal between these populations.

Maintaining habitat richness among tarplant populations is essential to species propagation; tarplant is strongly self-incompatible, meaning that self-fertilization is impossible and insects are necessary for the transfer of pollen. Tarplant relies on pollination by flies, bees, and butterflies between plants to produce viable seeds. Seeds produced by tarplant are only about 2mm in length and are enveloped by achenes (or small fruit bodies) but lack the long set of awns (a bristle-like appendage) that assist in wind dispersal among many sunflower family members. Consequently, tarplant rely on sticky bracts for dispersal; these specialized leaves cling to the achenes and adhere to animal fur and feathers.

The self-incompatibility and reliance on faunal dispersal renders tarplant vulnerable to loss of genetic variation within and between populations. Preserving habitat within a population and the surrounding area is essential to maintain the plant-animal interactions on which movement of pollen and seeds depend. For example, groups of flowering plants that are isolated from native plant communities can have diminished abundance and species richness of pollinators. A decrease in abundance and species richness of pollinators due to habitat isolation can directly reduce seed set in self-incompatible species such as tarplant.<sup>23</sup>

Isolation of small populations from one another can lead to loss of genetic variation due to genetic drift, or changes in allelic frequencies (proportion of a particular gene variant within a population) and composition, and increased inbreeding. This loss of genetic variation can lead to a loss of adaptability to change and a reduction in the fitness of individual plants. Respondent's unpermitted discing and planting thus results in a loss of endangered plant species and habitat fitness, in contravention of Section 30240 of the Coastal Act, and Provision 35-97 of the LCP.

Provision 35-67 of the LUP provides that:

4. *Development and activity of any kind beyond the required blufftop setback shall be constructed to insure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself.*

Sections 30230 and 30231 of the Coastal Act protect biological productivity and water quality. As visible in [Exhibit 13](#), eroded head-cuts formed along the seaward periphery of the bluff at

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<sup>23</sup> 65 FR 1488 (2000).

October 27, 2017

CMT, likely as a result of the bluff-top being left denuded of vegetation during the rainy season after Respondent's unpermitted landform alteration. As discussed above, reduction in vegetation and increased sedimentation from erosion result in the depression of levels of primary productivity levels both on land and in the nearshore waters. The unpermitted change in intensity of use at the CMT is thus inconsistent with Provision 35-97, and Section 30230 and 30231 of the Coastal Act. In the intervening time since the unpermitted development has taken place, erosive headcuts have formed or been exacerbated on the bluff as a result of the denuding of the vegetative covering.

Work to be undertaken pursuant to proposed Consent Orders includes revegetation of the site with coastal sage scrub and native grasses to allow for the perpetuation of Gaviota tarplant in the area.

### **Wells**

As discussed above, Section 30231 of the Coastal Act provides for the protection of biological productivity and water quality in coastal waters, streams, wetlands etc. Since purchasing the property in 2007, Respondents installed thirty-five wells without coastal development permits, and have maintained two additional unpermitted wells installed by the previous property owner. As evidenced in [Exhibit 8](#), these wells are scattered across the property, and are situated in a variety of habitat types, including chaparral, oak woodland, grassland, and riparian habitat, all of which are considered to be ESHA. Work associated with the installation of the wells includes the placement of an approximately many hundred foot-deep casings for each well, the surface well structure, and a wood fence to preclude livestock access to the well, in addition to the construction of roads to reach some of the locations ([Exhibit 9](#)).

Installation of some of the wells involved a substantial amount of vegetation removal both for the physical footprint of the well structure as well as points of ingress and egress to access the wells. Because the primary productivity of an ecosystem is determined by the quantity of photosynthetic organisms in conjunction with their respective rates of photosynthesis, removal of major vegetation, such as that undertaken to install the 37 wells and attendant accesses, results in a reduction in primary productivity and depression of nutrient cycling. No permit was obtained for this work, and the vegetation removal causes a diminution of habitat value, which is expected to result in a commensurate lessening of biological productivity in contravention of Section 30231 of the Coastal Act. Furthermore, as a number of the wells are located proximate or within riparian and oak woodland habitat, the removal of major vegetation necessary to install the wells would additionally necessarily involve impacts to ESHA, inconsistent with Section 30240 of the Coastal Act. As discussed above, Section 30240 of the Coastal Act precludes impacts to ESHA with limited exceptions not here applicable. The ESHA impacted here are afforded protection under the Coastal Act; impacts to, and direct removal of vegetation from these habitat suites from development of the unpermitted wells is inconsistent with the resource protection policies enumerated in the Coastal Act.

In addition to the immediate surficial impacts that the drilling and maintenance of thirty-seven wells has on the habitat and biological productivity, the installation of the wells additionally has the potential to deleteriously impact water quality and the quantity of water available for habitat

October 27, 2017

and ecosystem cycling. Moreover, though Respondents allege that only a few of the wells are currently ‘in production,’ these are unmitigated and unstudied. Clearly the potential depletion of groundwater and surface water that could result from the addition of even one or two wells, let alone thirty-seven, is inconsistent with resource protection policies of the Coastal Act and LCP. As a proportion of surface water comes from groundwater seepage, excessive groundwater pumping can lower the water table and lead to a reduction of water levels in streams and wetlands. This can result in net loss of riparian vegetation and wildlife habitat, both of which impact biological productivity and water quality contrary to Section 30231 of the Coastal Act.

Pursuant to the proposed Consent Orders, Respondents may apply to the County to retain the wells being addressed in this action, and will remove any wells (and restore impacted areas caused by the placement and/or presence of the wells) that they do not apply for or for which the County denies authorization, or for which, on appeal, the Commission denies authorization. This will ensure that the County is afforded the opportunity to evaluate the need for, and impacts associated with, the wells, and to require any appropriate mitigation to ensure consistency with the Coastal Act and LCP.

### **C. CONTINUING RESOURCE DAMAGE**

The Unpermitted Development is causing ‘continuing resource damage’, as those terms are defined by 14 CCR Section 13190.

14 CCR Section 13190(a) 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 14 CCR 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.

In this case, the resources affected include cultural resources; the habitat and ecosystem functions provided by the impacted dune and riparian habitat areas, coastal sage scrub, grasslands, chaparral, and oak woodland habitat; the biological productivity and water quality of coastal waterways; and the integrity of existing waterways and shoreline processes. The damage includes, among other things, the degradation and removal of endangered Gaviota tarplant, dune vegetation, coastal sage scrub, native grasses, oak woodland, chaparral, and riparian habitat, including ESHA, which is caused by the Unpermitted Development; the loss of cultural resources by direct physical disturbance; the degradation of water quality and biological

productivity; and the alteration of waterways and shoreline processes, as described in Section V, above.

The term ‘continuing’ is defined by 14 CCR Section 13190(c) 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.

As of this time, the unpermitted development that is the subject of these proceedings and the results thereof remain on the Ranch. As described above, the Unpermitted Development results in impacts to coastal resource. The grading and fill of riparian areas and dunes/bluffs; removal of native habitat, including an endangered plant species; the installation of non-native vegetation, roads, wells, and other structures can continue to impact coastal resources, both by continuing to prevent native ecosystems from existing or functioning and thereby disrupting the biological productivity of those areas, and by continuing to result in increased erosion and attendant introduction of sedimentary pollution into waterways.

As described above, the Unpermitted Development is causing damage to resources protected by the Coastal Act that continue to occur as of the date of this proceeding, and therefore damage to resources is ‘continuing’ for purposes of Section 30811 of the Coastal Act. The damage caused by the unpermitted development, which is described in the above paragraphs, satisfies the regulatory definition of ‘continuing resource damage.’ The third and final criterion for issuance of a Restoration Order is therefore satisfied.

#### **D. SUMMARY OF THE CONSENT ORDER PROVISIONS AND CONSISTENCY WITH CHAPTER 3 POLICIES**

##### **1. Summary of Provisions**

Among other things, the proposed Consent Orders require Respondents to remove the physical items of unpermitted development from the Ranch and restore the Ranch using myriad site-specific restoration techniques, including restorative grading and planting of native vegetation. Additionally, through the proposed Consent Orders Respondents have agreed to undertake two separate mitigation projects totaling approximately five hundred acres; 200 acres of oak tree planting, and 300 acres of ice plant removal, among other things, from coastal prairie.

Respondents have also agreed to apply to Santa Barbara County for after-the-fact authorization to retain the 37 water wells, and to remove any wells for which such authorization is not sought or is denied, either by the County or on appeal to the Commission, if relevant, and restore those areas where wells once existed. Further, Respondents have agreed to address civil liabilities through the Consent Orders through the payment of \$500,000 to the Commission’s Violation Remediation Account.

Finally, Respondents have agreed, through the Consent Orders, to transfer approximately 36 acres of coastal property located between Jalama Beach Park and just beyond a topographical feature known as “the Crack”, as shown on [Exhibit 4](#), to Santa Barbara County Parks. This will

October 27, 2017

more than double the size of the existing, very popular Jalama County Beach Park, allowing the County to enhance public access and recreational opportunities further downcoast of the existing park, and potentially opening up access to several miles of the California coast that has been heretofore inaccessible to the public.

## 2. Orders are Consistent with Chapter 3

The proposed Consent Orders, attached to this staff report as [Appendix A](#), are consistent with the resource protection policies found in the County LCP and Chapter 3 of the Coastal Act.

Failure to revegetate areas impacted by unpermitted development has the potential to lead to invasion of non-native plant species, thus decreasing biological diversity and productivity of the various impacted habitat-types, inconsistent with the resource protection policies of the Coastal Act. The fundamental objectives of the various restorative grading and revegetation projects mandated by the Consent Orders include the protection of cultural resources, restoration and improvement of water quality, biological productivity, shoreline processes, and ESHA; therefore, the activities required and authorized by the Consent Orders are consistent with Sections 30231, 30233, 30236, 30240, and 30244. Further, by restoring native vegetation, implementation of the Consent Orders will increase the size of ESHA on the Ranch and restore riparian ecosystem functions. Implementation of the Consent Orders will also protect natural shoreline processes by restorative efforts and revegetation, to address anthropogenically-exacerbated erosion of a beach/bluff-face. Further, the work will improve water quality and biological resources by removing non-native vegetation and physical development, thereby allowing for greater biological diversity and increased ecosystem resource cycling. The Consent Orders are thus consistent with the Chapter 3 policies of the Coastal Act.

## G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Commission finds that issuance of these Orders, to compel the removal of the physical items of Unpermitted Development and the restoration of the Property, as well as the implementation of these Orders, are exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 *et seq.*, for the following reasons. First, the CEQA statute provides for the identification of “classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from [CEQA].” *Id.* at § 21084. The CEQA Guidelines (which, like the Commission’s regulations, are codified in 14 CCR) provide the list of such projects, which are known as “categorical exemptions,” in Article 19 (14 CCR §§ 15300 *et seq.*). Because this is an enforcement action designed to protect, restore, and enhance natural resources and the environment, and because the Commission’s process, as demonstrated above, involves ensuring that the environment is protected throughout the process, three of those exemptions apply here: (1) the one covering actions to assure the restoration or enhancement of natural resources where the regulatory process involves procedures for protection of the environment (14 CCR § 15307); (2) the one covering actions to assure the restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment (14 CCR § 15308); and (3) the one covering enforcement actions by regulatory agencies (14 CCR § 15321).

October 27, 2017

Secondly, although the CEQA Guidelines provide for exceptions to the application of these categorical exemptions (14 CCR § 15300.2), the Commission finds that none of those exceptions applies here. Section 15300.2(c), in particular, states that:

*A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*

CEQA defines the phrase “significant effect on the environment” (in Section 21068) to mean “a substantial, or potentially substantial, adverse change in the environment.” The Consent Orders are designed to protect and enhance the environment, and they contain provisions to ensure, and to allow the Executive Director to ensure, that they are implemented in a manner that will protect the environment. Thus, this action will not have any significant effect on the environment, within the meaning of CEQA, and the exception to the categorical exemptions listed in 14 CCR section 15300.2(c) does not apply. An independent but equally sufficient reason why that exception in section 15300.2(c) does not apply is that this case does not involve any “unusual circumstances” within the meaning of that section, in that it has no significant feature that would distinguish it from other activities in the exempt classes listed above. This case is a typical Commission enforcement action to protect and restore the environment and natural resources.

In sum, given the nature of this matter as an enforcement action to protect and restore natural resources and the environment, and since there is no reasonable possibility that it will result in any significant adverse change in the environment, it is categorically exempt from CEQA.

#### H. SUMMARY OF FINDINGS OF FACT

1. California Ocean Gardens LLC, California Mountain Gardens LLC, California Ocean Oaks LLC, California Mountain Oaks LLC, Chase Parcels LLC, HLM Parcel LLC, Preston Parcels LLC, Remington Parcels LLC, Bixby Parcels LLC, and Coastal Resources LLC (collectively “Respondents”), are the owners of approximately 24,364 acres of rural rangeland located within the Coastal Zone (as defined in the Coastal Act) at 10000 Jalama Ranch Road, Santa Barbara County; also identified by the Santa Barbara County Assessor’s Office as APNs 083-260-002, 083-260-012, 083-360-017, 083-360-018, 083-360-019, 083-370-017, 083-370-018, 083-370-019, 083-370-020, 083-370-021, 083-370-022, 083-380-022, 083-380-026, 083-440-015, 083-440-016, 083-440-017, 083-440-018, 083-440-019, 083-450-034, 083-450-036, 083-450-037, 083-510-041, 083-510-059, 083-510-060, 083-510-063, 083-510-064, 083-510-065, 083-530-037, 083-530-038, 083-540-013, 083-540-014, 083-540-015, 083-600-031, 083-600-034, 083-600-035, 083-600-036, 083-600-037, 083-610-019, 083-610-020, 083-250-023, 083-370-024, 083-510-026, 083-260-014, 083-260-015, 083-450-038 and 083-360-011, 083-450-030, 083-450-031, 083-360-021, 083-510-026, 083-260-013, 083-440-021, and 083-360-009 (collectively “Subject Property”).
2. George Rizk and Collin J. Beecroft have the authority to sign for and contractually bind all entities mentioned in Finding #1, above.
3. Respondents are the owners of the above-referenced properties and knowingly undertook “development”, as defined by Coastal Act Section 30106, without a coastal development

October 27, 2017

permit, and in violation of a previously issued coastal development permit, on the subject property. Unpermitted Development undertaken by Respondents on the Property includes removal of major vegetation and the placement of solid material associated with the installation and maintenance of thirty seven water wells; grading and removal of major vegetation resulting from the development of roads; fill of a riparian area, placement of riprap, installation of a culvert, installation of a concrete spillway, and landform alteration associated with the redesign of three stock ponds; the placement of cut and fill materials and grading related to the construction of a road down a bluff face; and changes in the intensity of use of and major vegetation removal at the location of the former Cojo Marine Terminal, resulting from the “discing” of an area restored pursuant to a permit for decommissioning and restoration previously issued by Santa Barbara County.

4. The Unpermitted Development described in Finding #3 occurred in the Coastal Zone in Santa Barbara County, which has a certified LCP. The Commission has jurisdiction to enforce the LCP and Coastal Act on the Subject Property pursuant to Sections 30810(a) and 30811 of the Coastal Act as Santa Barbara County declined to take enforcement action on two components of the unpermitted development and then requested that Commission staff take the lead in the enforcement of these violations by including the remaining elements in the ongoing enforcement then being undertaken.
5. The Unpermitted Development is inconsistent with Sections 30230, 30231, 30233, 30236, 30240, 30244, and 30253 of the Coastal Act.
6. The unpermitted development described in Finding #3 above is causing “continuing resource damage” within the meaning of Coastal Act Section 30811 and Title 14, California Code of Regulations, Section 13190.
7. Coastal Act Section 30810 authorizes the Commission to issue a cease and desist order under specified conditions, and, as is demonstrated by the prior findings, all elements of that section have been met herein.
8. Coastal Act Section 30811 authorizes the Commission to issue a restoration order under specified conditions, and, as is demonstrated by the prior findings, all elements of that section have been met herein.
9. The work to be performed under these Consent Orders, if completed in compliance with these Consent Orders and the plans required therein, will be consistent with Chapter 3 of the Coastal Act.
10. Respondents received notice of the intent to commence cease and desist and restoration order proceedings in compliance with Sections 13181 and 13191 of the Commission’s administrative regulations on May 1, 2012, followed by a supplementary notice on June 28, 2013.
11. Respondents agreed, through the execution of the Consent Orders, to not submit a Statement of Defense form as provided for in 14 CCR Section 13181 and 13191.
12. On October 27, 2017, George Rizk and Collin J. Beecroft, the authorized signatories for Respondents, signed Consent Cease and Desist Order No. CCC-17-CD-03 and Consent Restoration Order No. CCC-17-RO-01, a copy of which is attached to this staff report as [Appendix A](#).
13. Impacts to coastal resources resulting from the unpermitted development described in Finding #3 will continue until the requirements of these Consent Orders are carried out.