

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
TDD (415) 597-5885



Th10.1 – 10.3

**CCC-24-CD-03, CCC-24-RO-03 & CCC-24-AP3-03
(HMBAP, LLC)**

EXHIBITS

- Exhibit 1: Region Map
- Exhibit 2: Map of Subject Area
- Exhibit 3: Views from the Subject Area
- Exhibit 4: Aerial Photo Prior to Unpermitted Development circa July 2019
- Exhibit 5: Aerial Photo of Unpermitted Development dated July 2, 2024
- Exhibit 6: Screenshot of June 16, 2024 CirclingtheNews.com Article Photos
- Exhibit 7: Photos of Unpermitted Development dated August 8, 2024
- Exhibit 8: Map and Photos of Proposed Land Protection and Dedication
- Exhibit 9: Email from Tony Russo, Crest Real Estate to CCC dated August 17, 2022
- Exhibit 10: Email from Benjamin Eshaghian, Crest Real Estate to CCC staff dated December 13, 2022
- Exhibit 11: Photo of one of the Field Notices of Violation posted August 8, 2024
- Exhibit 12: Notice of Violation dated August 13, 2024
- Exhibit 13: Notice of Intent to Commence Cease and Desist Order, Restoration Order, and Administrative Penalty Proceedings, dated October 22, 2024

Region Map



Topanga State Park



Paseo Miramar

Sunset Blvd

Topanga State Beach

Imagery Date: 4/16/2019 34°02'19.26" N 11

Map of Subject Area



Exhibit 2

Views from the Subject Area



Exhibit 3

Views from the Subject Area



Exhibit 3

Aerial Photo Prior to Unpermitted Development (circa July 2019)



Exhibit 4

Aerial Photo of
Unpermitted Development
dated July 2, 2024



Exhibit 5



Before

Part of the Paseo Miramar Road was covered with landslide material, it has been cleared (below).

Article Screenshot: CirclingtheNews.com



After

Exhibit 6

Unpermitted Grading (center) and
Unpermitted Soil Stockpiles (left)



Unpermitted Grading and Vegetation Removal



Exhibit 7

Unpermitted Grading, Vegetation Removal, Soil Stockpiles



Exhibit 7

Unpermitted Grading and Vegetation Removal



Exhibit 7

Unpermitted Grading and Vegetation Removal



Exhibit 7

Unpermitted Grading and Unpermitted Soil Stockpiles with no BMPs



Exhibit 7

Aerial Photo Map of Lot to be Protected
and Transferred to a Public Agency or
Non-Profit (Lot 19 on the right)



Photo of Lot to be Protected and
Transferred to a Public Agency or Non-Profit
(approximately to the right of the public right of way in the foreground)



Exhibit 8

View from above the public right of way (visible in foreground) looking towards the lot to be protected (mostly out of view), and view of Topanga State Park beyond the lot

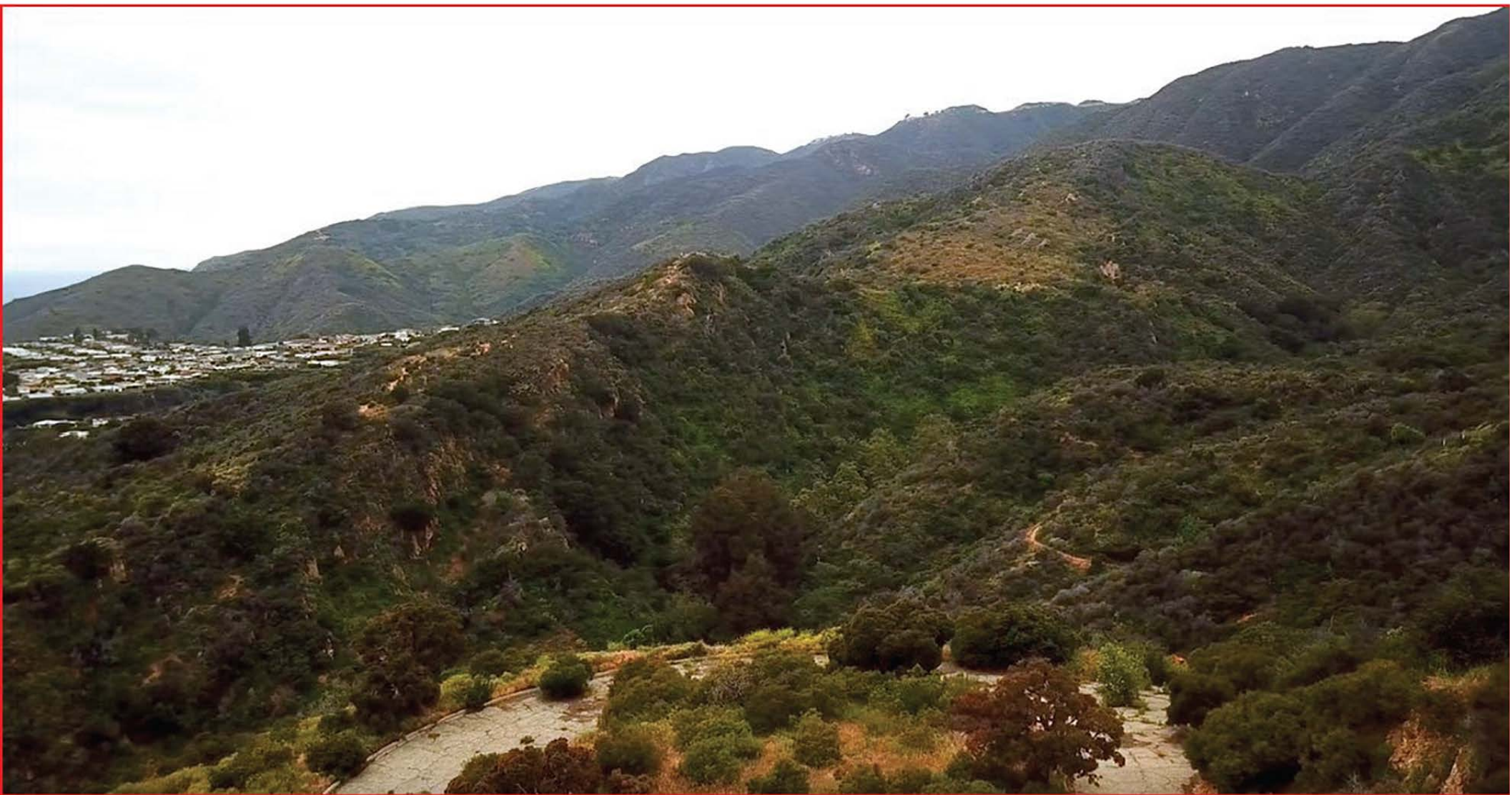


Exhibit 8

From: Tony Russo <tony@crestrealestate.com>

Sent: Wednesday, August 17, 2022 5:53 PM

To: Benjamin Eshaghian <ben@crestrealestate.com>; bridget.gonzalez@lacity.org <bridget.gonzalez@lacity.org>; Stevens, Eric@Coastal <eric.stevens@coastal.ca.gov>; lauren.rhodes@lacity.org <lauren.rhodes@lacity.org>; Norman Mundy <norman.mundy@lacity.org>; Vaughn, Shannon@Coastal <Shannon.Vaughn@coastal.ca.gov>; Steven Somers <steven@crestrealestate.com>

Subject: Multi-Zone CDP | 620-727 Paseo Miramar @ Fri, Aug 12, 2022 2:00pm – 3:00pm (GMT-07)

Hello all,

Thank you for allowing us to join the discussion Friday. This was extremely helpful for us to understand the requirements and feasibility of this roadway improvement.

- This process will begin as a CDP through the Bureau of Engineering and will then go through Coastal Commission review as portions of the roadway are in the dual jurisdiction zone
- The initial study to incorporate among other things including biological review and cultural resources assessment. Note that coastal has requested that potential development on the vacant lots needed to be incorporated as part of an environmental review and to review ESHA impacts.
- For both CDPs, the city will need to be the co-applicant. Norman from Bureau of Engineering indicated that he will research the feasibility of this requirement.
- Norman has indicated that he will reach out to city planning to consult regarding this project and potential considerations needed for the proposed roadway improvement.
- The Coastal Commission has indicated that a Tribal Resource Assessment, Visual Impact Analysis, and an Alternatives Analysis (including considerations regarding public good, other feasible roadways and public safety) will be required

Crest would be happy to be included in further discussions regarding this proposed roadway development after additional review is completed

Thanks,

Tony Russo | Director, Discretionary Entitlements Division



(408) 655-0998
11150 W Olympic Blvd, Suite 700
Los Angeles, CA 90064

Tony@CrestRealEstate.com

"Trusted through our Knowledge, Hard Work & Dedication"

From: Benjamin Eshaghian <ben@crestrealestate.com>
Sent: Tuesday, December 13, 2022 2:29 PM
To: Amitay, Shahar@Coastal <shahar.amitay@coastal.ca.gov>
Cc: Bridget Gonzalez <engtmp211@engsvcs.onmicrosoft.com>; Norman Mundy <302923@engcloudla.org>; Lauren Rhodes <398038@engcloudla.org>; Vaughn, Shannon@Coastal <Shannon.Vaughn@coastal.ca.gov>; tony@crestrealestate.com; Stevens, Eric@Coastal <eric.stevens@coastal.ca.gov>; Steven Somers <steven@crestrealestate.com>; Alex Whitehead <Alex@CrestRealEstate.com>; Juliet Oh <Juliet.oh@lacity.org>
Subject: Re: Multi-Zone Project | 620-727 Paseo Miramar

Hello All,

We would like to request another call regarding this project to improve the roadway between 620-727 Paseo Miramar. We'd like to discuss project updates and to discuss further how the environmental review and processing of the CDP will progress. We additionally would like to understand if City Planning should be included in further discussions regarding this proposed roadway development as it was previously indicated they would like any impacts of the proposed development to include the potential development of the lots abutting the improved roadway. Please let us know of your availability this week or next to arrange for a call.

Best,

Benjamin Eshaghian, Esq.



(310) 994-6657 office
11150 W. Olympic Blvd., Suite 700
Los Angeles, CA 90064
Ben@CrestRealEstate.com
www.CrestRealEstate.com

"Trusted through our Knowledge, Hard Work & Dedication"

Exhibit 10



NOTICE OF VIOLATION

DO NOT REMOVE THIS CARD

Date: August 8, 2024 Time: 7am

Location: 646-720 Paseo Miramar, Pacific Palisades

THE CALIFORNIA COASTAL COMMISSION has inspected this property and has reason to believe that the following activity either constitutes development, as defined by the California Coastal Act (Section 30106 of the California Public Resources Code), and requires a coastal development permit in order to proceed; or it violates the conditions of a previously issued permit:

Grading, removal of major vegetation.

Please be advised that if you do not **STOP ALL WORK** on this project immediately, you may be subject to civil penalties up to \$15,000 per day for a knowing and intentional violation of the Coastal Act in addition to other penalties which may already apply.

In addition, Section 30812 of the California Public Resources Code authorizes the Executive Director of the Coastal Commission to record a Notice of Violation against this property.

Please contact Enforcement Staff Counsel Andrew Willis at the California Coastal Commission immediately at:

California Coastal Commission
South Coast District Office
301 E. Ocean Blvd. #300
Long Beach, CA 90802
(562) 590-5071

Andrew.Willis@Coastal.CA.GOV

A handwritten signature in blue ink, appearing to read "Andrew Willis".

ENFORCEMENT STAFF COUNSEL

CALIFORNIA COASTAL COMMISSION

455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
TDD (415) 597-5885

**VIA CERTIFIED AND REGULAR MAIL**

August 13, 2024

HMBAP LLC
Attn: Ryan Kavanaugh
6320 Canoga Ave #1300
Woodland Hills, CA 91367-2600

Violation File Number: V-5-24-0128

Property Location: Paseo Miramar (owned by the City of Los Angeles); Assessor's Parcel Numbers ("APN's") 4416-019-029, 4416-019-030, 4416-022-042, 4416-022-043, 4416-022-044, and 4416-022-045 owned by HMBAP LLC; APN 4416-019-028 owned by Villa Miramar, LLC, and APN 4416-027-904 (Topanga State Park).

Unpermitted Development¹: 1) Grading; 2) obstructing public access to a public road and trail via construction within the public road and trail, storage of heavy equipment and soil within the road and trail, and harassment of members of the public; 3) major vegetation removal in a environmentally sensitive habitat area, 4) alteration of natural landforms, 5) placement of soil and rock stockpiles; and 6) storage of heavy machinery.

Dear Mr. Kavanaugh,

It has come to the attention of California Coastal Commission ("Commission") enforcement staff that since at least February of 2023, you and your contractors have been performing development including grading undeveloped land and improving a road adjacent to and within Topanga State Park without any Coastal Act authorization. This included driving heavy machinery through undeveloped land that includes environmentally sensitive habitat area and grading the hillsides, obstructing public access to a public road and trail via undertaking construction within the public road and

¹ Please note that the description herein of the violation at issue is not necessarily a complete list of all development or activity on the subject property that is in violation of the Coastal Act, and/or that may be of concern to the Commission. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other development or activity on the subject property as indicative of Commission acceptance of, or acquiescence in, any such development or activity.

trail (Paseo Miramar) and storing heavy machinery there, along with harassing members of the public using the road and trail, as well as removing vegetation, and stockpiling soil, rock, and other materials. In addition to the unpermitted development that took place on the public road, some of the unpermitted development occurred on other land you do not own, and that is actually within Topanga State Park. As such, due to the environmental harms and public access impacts of your unpermitted construction, we are writing to request that you contact us by no later than **close of business on August 23, 2024** to confirm (1) that you have removed any heavy machinery from the subject properties, (2) that you will cease all future unpermitted development, including harassment of members of the public using a public road and trail, and (3) that you will talk with us regarding potential amicable resolutions to resolve these Coastal Act violations.

Background

The Coastal Act was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,260-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission is the state agency created by, and charged with administering, the Coastal Act of 1976. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore sensitive habitats; protect natural landforms; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the coast.

Recently, Commission staff received reports from the public about the unpermitted development described above, including reports of unpermitted activities described above taking place in environmentally sensitive habitat area, including using excavators, bobcats, large trucks, and other heavy machinery to undertake grading and other activities on the properties at issue.

In addition, Commission staff also has now obtained videos from February of 2023 that show you and your hired contractors honking at, harassing, and otherwise intimidating members of the public attempting to use a road owned by the City of Los Angeles (Paseo Miramar) that also has a history of public use as a trail. It is clear in the videos that the goal of the actions you were taking was to facilitate the undertaking of unpermitted development in and around the road and trail, activities which also obstruct public access to the road and trail.

Further, according to a July 23, 2024 City of Los Angeles Department of Public Works, Bureau of Engineering memorandum, much of the unpermitted development has taken place atop a major historic landslide, and has potentially destabilized those landslide materials that still remain, as well as potentially other areas as well. As you may know, the reason that much of Paseo Miramar has been historically unusable by cars is

because of this major landslide that buried much of the road area in the 1940s.

On August 8, 2024, Commission enforcement staff visited the site and posted a physical Notice of Violation sign to notify you that unpermitted development has taken place and request that you immediately cease all unpermitted activities, and to contact the California Coastal Commission to resolve the situation. As of this date, no such contact has been received.

Grading and Major Vegetation Removal is in Violation of the Coastal Act

The unpermitted grading, major vegetation removal, and other unpermitted development described above constitutes a violation of the Coastal Act. Section 30600 of the Coastal Act provides that any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit, barring certain exceptions which are inapplicable here. "Development" is broadly defined under Section 30106 of the Coastal Act as follows:

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

(Emphasis added.)

In this case, the grading and major vegetation removal was clearly development under the Coastal Act, as was the change in intensity of use when you began obstructing public access to a public road and trail physically via heavy machinery, as well as via harassment and intimidation. All of the activities described above constitute development under the Coastal Act, and therefore requires authorization by a CDP. We have reviewed our records, and we have not found a CDP from the Commission or City that authorizes the development described herein. All development undertaken in the Coastal Zone without a valid CDP, which is not otherwise exempt², constitutes a

² The development at issue is not exempt, and does not fall within Categorical Exclusion E-79-8, including because the development took place on lots within 100 feet of a state park (Topanga State Park),

violation of the Coastal Act.

Public Access Violations

In addition to being unpermitted, the development on the public road and trail on Paseo Miramar is inconsistent with provisions of the Coastal Act which aim to protect public access to the coast, including the following:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

As explained above, you have undertaken activities with heavy machinery that physically obstructed public access to Paseo Miramar, as you have also undertaken activities that have harassed and intimidated members of the public from using the road and trail. Therefore, this unpermitted development is in violation of Coastal Act policies which aim to safeguard public access.

Coastal Act Section 30821 authorizes the Commission to administratively impose penalties for violations of the public access provisions of the Coastal Act, such as those described herein. Pursuant to that section, the Commission may impose administrative civil penalties in an amount of up to \$11,250 per day for up to five years, for each violation.

Impact to Environmentally Sensitive Habitat Area

In addition, the grading, earth removal, and vegetation removal activities have negatively impacted native habitat, including coastal sage scrub and chaparral that constitutes environmentally sensitive habitat area.

The Coastal Act affords great protection to environmentally sensitive habitat areas within the Coastal Zone. Environmentally sensitive habitat areas are defined in Coastal Act Section 30107.5, as follows:

because the lots are the first row of lots on the edge of a canyon (Los Leones Canyon), and because the work was not done as part of a permitted single family residence.

Section 30240:

"Environmentally sensitive area" means 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.

Some of the unpermitted development also took place in Topanga State Park, which is known for its environmentally sensitive habitat area, including coastal sage scrub, chaparral, and wetlands. In addition, the area of graded land will cause erosion which will cause loose soil to flow down into the environmentally sensitive habitat area in the state park. Further, should the unpermitted development cause a landslide, this would further impact sensitive habitat.

Impacts to Wetlands

In addition, the unpermitted development also appears to have negatively impacted mapped wetlands in the National Wetland Inventory via deposition of fill in a riparian area. The Coastal Act also greatly protects wetlands.

Section 30233

(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...

Section 30233 only allows for fill of wetlands for very limited purposes and where there is no other feasible option. Here, it does not appear that filling wetlands is necessary for any of those purposes.

Biological Productivity and Water Quality

The unpermitted development also negatively impacted biological productivity and water quality. The Coastal Act protects biological productivity and water quality and the Commission regularly requires a host of measures to ensure that optimum water quality is maintained.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of

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

The large amount of grading and ground disturbance with few or no BMPs will cause erosion and sediment runoff to go into the watershed, including into wetlands in nearby Topanga State Park. This will be greatly exacerbated if nothing is done prior to the onset of the rainy season in November.

Unpermitted Impacts to Geological Stability

The grading and other activities undertaken by the heavy machinery have also potentially destabilized an area of historic landslides, where a future landslide could happen again.

The Coastal Act protects geological stability and is meant to ensure that hazardous areas are adequately studied and that appropriate measures are taken to minimize hazards. This is described in Section 30253, below:

Section 30253:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The unpermitted development here did not minimize risks to life and property in an area of high geologic and flood and fire hazard, and did not assure stability and structural integrity, and instead created a situation that will likely result in high erosion and potential landslides when the winter rains come.

An Amicable Resolution is Preferred

As explained above, we are deeply concerned that the unpermitted development at your properties has caused – and is continuing to cause – harm to coastal resources, including public access, environmentally sensitive habitat area, and geologic stability. Nonetheless, it is our hope that we can resolve this matter amicably, and that by informing you of the harms caused by these activities we may prevent future violations of the Coastal Act.

Further, Section 30809 states that if the Executive Director of the Commission

determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, or is inconsistent with any permit previously issued by the Commission the Executive Director may issue an order directing that person to cease and desist (“EDCDO”). Section 30810 states that the Coastal Commission may also issue a cease and desist order, and Section 30811 authorizes the Commission to issue a restoration order where it finds that development inconsistent with the Coastal Act has occurred without a CDP, and that the development is causing continuing resource damage.

Additionally, under Section 30812, where the Executive Director determines, based on substantial evidence, that real property has been developed in violation of the Coastal Act, the Executive Director may initiate proceedings to record a Notice of Violation of the Coastal Act (“NOVA”) against that property. If, following a notification of intent to record a NOVA and the opportunity for an objection and hearing before the Commission, a NOVA is recorded, it shall serve as notice of the violation to all successors in interest in that property.

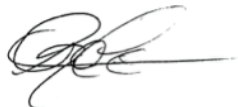
Furthermore, Section 30820(a) provides that any person who violates any provision of the Coastal Act may be civilly liable for a penalty not to exceed \$30,000. Where a party intentionally and knowingly performs or undertakes the development in violation of the Coastal Act, the party may additionally be liable for their violation in an amount no less than \$1,000 and not more than \$15,000, per day for each day in which the violation persists. As you have now been informed that the unpermitted development described above is a violation of the Coastal Act, any such subsequent unpermitted development on, or associated with, your properties may constitute a knowing and intentional violation.

Under Section 30821.3, the legislature has empowered the Commission to assess administrative penalties for violations of any provision of the Coastal Act other than public access, which are covered by Section 30821, as discussed above. Such penalties may accrue in an amount of up to \$11,250 per day for a period of up to five years, for each violation.

Please contact enforcement staff by email at Robert.Moddelmog@coastal.ca.gov with a copy to Southern California Enforcement Supervisor Staff Counsel at Andrew.Willis@coastal.ca.gov , as well as Headquarters Enforcement Supervisor Counsel Justin Buhr at Justin.Buhr@coastal.ca.gov , **by no later than close of business on August 23, 2024**, to confirm (1) that you have removed any heavy machinery from the subject properties, (2) that you will cease all future unpermitted development, including harassment of members of the public using a public road and trail, and (3) that you will talk with us regarding potential amicable resolutions to resolve these Coastal Act violations, as described above, which will likely involve Commission authorization to restore the areas impacted by the unpermitted development, mitigate for all resource impacts, and address the Commission’s claims for monetary penalties for these violations. We look forward to hearing from you soon. Thank you in advance

for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Modellmog', with a long horizontal flourish extending to the right.

Rob Modellmog
Headquarters Enforcement Counsel

cc: Andrew Willis, Southern California Enforcement Supervisor Counsel, CCC
Justin Buhr, Headquarters Enforcement Supervisor Counsel, CCC
Lisa Haage, Chief of Enforcement, CCC

CALIFORNIA COASTAL COMMISSION

455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
TDD (415) 597-5885

**VIA ELECTRONIC, REGULAR, AND CERTIFIED MAIL**

October 22, 2024

HMBAP, LLC
Attn: Ryan Kavanaugh
2121 Avenue of the Stars, Suite 2450
Los Angeles, CA 90067
rk@proxima.media

HMBAP, LLC
Attn: Lisa Ferguson
6320 Canoga Ave #1300
Woodland Hills, CA 91367-2600

Allen Matkins
Attn: Spencer Kallick
1901 Avenue of the Stars, Suite 1800
Los Angeles, CA 90067-6019
skallick@allenmatkins.com

Subject: **Notice of Intent to Commence Cease and Desist Order, Restoration Order, and Administrative Penalty Proceedings; and Notice of Intent to Record a Notice of Violation of the Coastal Act**

Violation No.: V-5-24-0128

Location: Pacific Palisades, City of Los Angeles, Los Angeles County, including Paseo Miramar (public right of way owned by the City of Los Angeles); Assessor's Parcel Numbers ("APNs") 4416-019-029, 4416-019-030, 4416-022-042, 4416-022-043, 4416-022-044, and 4416-022-045 owned by HMBAP LLC; APN 4416-019-028 owned by Villa Miramar, LLC; and APN 4416-027-904 (Topanga State Park).

Violation Description: Unpermitted development undertaken by HMBAP, LLC including, but not limited to, 1) grading to create a roadway, flat areas, and altered slopes; 2) major vegetation removal in an environmentally sensitive habitat area; 3) dumping excavated soil into Topanga State Park; 4) altering natural landforms, including by excavating the toe of a slope with a history of landslides; 5) obstructing public access to a

publicly owned right of way and trail via active construction, including with large excavators, dump trucks, and other heavy equipment; 6) obstructing public access via storage of heavy equipment and soil and rock stockpiles within the publicly owned right of way and trail, as well as on the other parcels listed above; and 7) obstruction of public access via harassment of members of the public using the publicly owned right of way and trail including by honking at them, pushing soil towards them, and otherwise threatening them with heavy equipment.

Dear Mr. Kavanaugh:

I am directing this notice to Ryan Kavanaugh, one of the owners of HMBAP, LLC, and Spencer Kallick, counsel for Ryan Kavanaugh and HMBAP, LLC. California Coastal Commission (“Commission”) staff appreciates your actions thus far to halt undertaking unpermitted work at the properties listed above, and for talking with the Commission’s enforcement staff on August 22, 2024, September 23, 2024 and October 16, 2024. We would like to work with you to resolve these issues amicably and remain willing and ready to discuss options that would involve agreeing to a consensual resolution of the Coastal Act violations on the Property, such as entering into a Consent Cease and Desist Order, Consent Restoration Order, and Consent Administrative Penalties (collectively, “Consent Orders”). Prior to bringing an order to the Commission (be it Consent Orders or unilateral enforcement order), the Commission’s regulations provide for notification of the initiation of formal proceedings. In accordance with those regulations, this letter notifies you of my intent, as the Executive Director of the Commission, to commence formal enforcement proceedings to address the Coastal Act violations noted above by bringing a proposal to the Commission for the issuance of a Cease and Desist Order, Restoration Order, and the assessment of Administrative Penalties.

The intent of this letter is to provide formal notice of our intent to resolve these issues through the order process, which in no way precludes a consensual resolution. My staff remains ready and willing to work with you towards a mutually acceptable outcome. We would prefer to reach an agreement, but if that proves impossible, we would be forced to bring this to a unilateral, contested hearing, as is explained below. In the meantime, as is also explained below, exposure to the potential for the assessment of penalties for the Coastal Act violations run with the land and continues to accrue by operation of law. We believe that moving quickly to resolve this situation is in the interest of all parties.

However, please note that should we be unable to reach an amicable resolution in a timely manner, this letter also lays the foundation for Commission staff to initiate a hearing before the Commission, during which proposed unilateral Orders, including an assessment of administrative penalties, would be brought to the Commission for consideration. The penalties would be brought against HMBAP, LLC and Ryan Kavanaugh.

Exhibit 13

The purpose of these enforcement proceedings is to address unpermitted development on a public right of way owned by the City of Los Angeles, on land owned by HMBAP, LLC and Ryan Kavanaugh, within Topanga State Park, and on land owned by Villa Miramar, LLC. Through these proceedings, we propose to address these matters through the issuance of Cease and Desist and Restoration Orders, as well as the assessment of Administrative Penalties, that collectively will direct HMBAP, LLC and Mr. Kavanaugh to, among other things: 1) cease from performing any additional unpermitted development activities (development not authorized pursuant to, or determined to be exempt from, the Coastal Act) or maintaining existing unpermitted development, 2) remove physical items of unpermitted development according to an approved removal plan, 3) restore the impacted area pursuant to an approved restoration plan, 4) mitigate for the temporal losses of public access and losses of habitat caused by the unpermitted development, and 5) pay administrative penalties for the loss of and damage to coastal resources, including environmentally sensitive habitat areas and public access.

Background

In 1927, Los Angeles County Tract Map 10175 dedicated a public right of way called Paseo Miramar to the City of Los Angeles (“the City”). A road was constructed on this public right of way, but in 1944, the first of many large landslides impacted the public right of way. Eventually, the City closed approximately 400 yards of the road to vehicles and extended Resolano Drive to connect the upper and lower portions of Paseo Miramar, bypassing the closed area. By the 1960s, what remained of the paved road within the 400-yard closed area was largely covered by vegetation and soil, but the public still used the right of way as a trail to enjoy the views of the ocean and what would soon become Topanga State Park. On January 1, 1977, the Coastal Act took effect, and any development within or adjacent to the public right of way, including the properties listed above, thus required a Coastal Development Permit (“CDP”) from the Commission¹.

In the early 1980s, additional large landslides impacted the public right of way. On October 13, 1992, the Commission approved a CDP to construct a new paved road partly within and partly adjacent to the public right of way, and to construct several houses. That same day, the Commission issued a Notice of Intent to issue the CDP upon fulfillment of the conditions imposed by the CDP. However, the documents required by the CDP conditions were never recorded, among other conditions not fulfilled, and so the CDP was not issued and has thus expired.

On April 7, 2008, HMBAP, LLC and Ryan Kavanaugh bought APNs 4416-019-029,

¹ On December 26, 1979, the Commission approved Categorical Exclusion Order No. E-79-8 for certain areas of Pacific Palisades in the City of Los Angeles. However, the categorical exclusion was limited to only a few categories of development, and did not exempt the first row of lots on the edge of canyons or within 100 feet of a state park. The categorical exclusion also did not exempt grading, construction or expansion of roadways or utilities, or any other public works projects.

4416-019-030, 4416-022-042, 4416-022-043, 4416-022-044, and 4416-022-045, as well as two other adjacent parcels not at issue, APNs 4416-022-046 and 4416-022-047 (“815 Paseo Miramar”).²

On August 12, 2022, Ryan Kavanaugh and HMBAP, LLC’s representatives spoke with the Commission’s South Coast planning staff about their desire to develop a road within the public right of way in order to provide vehicular access to undeveloped lots adjacent the road, which would potentially be developed as part of the project. Following the call, on August 17, 2022, one of those representatives, Tony Russo, emailed Commission staff, stating:

Hello all,

Thank you for allowing us to join the discussion Friday. This was extremely helpful for us to understand the requirements and feasibility of this roadway improvement.

- **This process will begin as a CDP through the Bureau of Engineering and will then go through Coastal Commission review as portions of the roadway are in the dual jurisdiction zone**
- **The initial study to incorporate among other things including biological review and cultural resources assessment. Note that coastal has requested that potential development on the vacant lots needed to be incorporated as part of an environmental review and to review ESHA impacts.**
- **For both CDPs, the city will need to be the co-applicant. Norman from Bureau of Engineering indicated that he will research the feasibility of this requirement.**
- **Norman has indicated that he will reach out to city planning to consult regarding this project and potential considerations needed for the proposed roadway improvement.**
- **The Coastal Commission has indicated that a Tribal Resource Assessment, Visual Impact Analysis, and an Alternatives Analysis (including considerations regarding public good, other feasible roadways and public safety) will be required**

....

Following this email, on December 13, 2022, Benjamin Eshaghian, another representative of HMBAP, LLC and Ryan Kavanaugh, emailed Commission planning staff, stating:

² On November 1, 2010, HMBAP, LLC and Ryan Kavanaugh obtained a local CDP from the City to demolish a house at 815 Paseo Miramar, and the house was accordingly demolished. HMBAP, LLC and Ryan Kavanaugh then subsequently sought a separate CDP to construct a new house there, which the City approved on August 22, 2015. After the house was built, 815 Paseo Miramar was sold to a new owner.

We would like to request another call regarding this project to improve the roadway between 620-727 Paseo Miramar. We'd like to discuss project updates and to discuss further how the environmental review and processing of the CDP will progress. We additionally would like to understand if City Planning should be included in further discussions regarding this proposed roadway development as it was previously indicated they would like any impacts of the proposed development to include the potential development of the lots abutting the improved roadway. Please let us know of your availability this week or next to arrange for a call.

Following this email, Commission staff did not receive any further communication from HMBAP, LLC and Ryan Kavanaugh's representatives. The emails quoted above show that their representatives were aware of the requirement to obtain the necessary CDPs from both the City and the Commission to construct a road in the public right of way and undertake any other related improvements.³ Instead, HMBAP, LLC and Ryan Kavanaugh began undertaking construction of a road without any CDP, among other unpermitted development, as is detailed below.

Violation History

Beginning on February 1, 2023, less than two months after HMBAP, LLC's and Ryan Kavanaugh's representatives emailed Commission staff regarding working with Commission staff and City staff on a CDP application to construct a road within the public right of way, their private contractors removed a City-installed vehicle barrier at the south end of the public right of way and began grading within the right of way, all without a CDP. They also brought in two excavators and began excavating the toe of the slope in that area, also without a CDP. HMBAP, LLC and Ryan Kavanaugh's employees also undertook some unpermitted major vegetation removal at the north end of the public right of way. On February 6, 2023, members of the public stood in front of the construction vehicles in an attempt to stop the furtherance of the unpermitted development. Mr. Kavanaugh responded by asserting that they were merely performing brush clearance and that the work was permitted, and by repeatedly honking at them from a luxury sport utility vehicle parked only a few feet away. He then began honking at them using the much louder horn of a dump truck, also located immediately adjacent to the members of the public. After the members of the public alerted the City to the unpermitted development activities, representatives of HMBAP, LLC and Ryan Kavanaugh stated that they would return the next day on February 7, 2023, to show the

³ The City of Los Angeles does not have a certified Local Coastal Program (LCP). However, pursuant to Coastal Act Section 30600(b) and Sections 13300-13325 of Title 14 of the California Code of Regulations, the City of Los Angeles elected to issue local CDPs in the coastal zone under a Local Government CDP Program, which the Commission certified in 1978. Within the areas specified in Coastal Act Section 30601, which is known in the City of Los Angeles CDP Program as the "Dual Permit Jurisdiction area," the Coastal Act requires that any development which receives a local CDP also obtain a second (or "dual") CDP from the Coastal Commission. The Commission's standard of review for any proposed development in the Dual Permit Jurisdiction area is the Chapter 3 policies of the Coastal Act.

public their permits. Ryan Kavanaugh and HMBAP, LLC and their representatives did not return the next day, and instead discontinued their work for the remainder of the year.

Then, in early 2024, HMBAP, LLC and Ryan Kavanaugh's representatives began emailing the City's Bureau of Street Services, a separate entity under the Department of Public Works, stating that they wanted to "clear" the public right of way of mud and brush. On May 8, 2024, City's Bureau of Street Services issued a temporary permit with Receipt No. 2024014990 to "maintain materials or equipment" in the public right of way, "for removing mudslide only." One of the permit conditions stated that a 5-foot wide pedestrian right of way must be maintained at all times. HMBAP, LLC and Ryan Kavanaugh subsequently undertook months of active grading, excavation, major vegetation removal, and public access blockage both within and adjacent to the public right of way. They brought in excavators and dump trucks and graded a new roadway within the public right of way without any CDP, including by dangerously excavating the toe of the landslide-prone slope, and by dumping excavated soil into the adjacent Topanga State Park, as well as into environmentally sensitive habitat area on and adjacent to both the public right of way and the privately owned parcels. HMBAP, LLC and Ryan Kavanaugh also altered the slopes adjacent to the public right of way and graded large flat areas on the private parcels they own, again without a CDP. In addition, they undertook unpermitted major vegetation removal, including removal of some trees, across most of the public right of way and much of the privately owned parcel area, including in environmentally sensitive habitat areas. They also stockpiled soil and rocks in large piles in various locations across the parcels and the public right of way, including one that was ten feet high and eighty feet wide. They did not implement water quality Best Management Practices ("BMPs") to avoid erosion and runoff into the wetlands and riparian area of the adjacent Topanga State Park, thus creating outsized adverse impacts to coastal resources in this area.

In addition to not obtaining the required CDPs from the City and the Commission, HMBAP, LLC and Ryan Kavanaugh also failed to obtain other required local permits for their work from the City. After members of the public complained to the City, on June 13, 2024, the City issued an order to comply to Ryan Kavanaugh, which stated that Mr. Kavanaugh was in violation of the City's municipal code and required Mr. Kavanaugh to stop undertaking work without the required grading permits. They did not stop work though, and instead continued work through July 10, 2024. On July 23, the City's Bureau of Engineering issued a memorandum that stated, in part:

Based on the observed recent work at the site it appears that what was done was not within the scope of a 'Material or Equipment' permit and would more appropriately be under a 'Excavation' or B-Permit (with BOSS and BOE) as well as grading and stockpile permit with LADBS.

No signs of any 'mudslide' were observed during the site visit. While it is possible that 'mudslide' material may have been excavated and relocated to the stockpile noted in Figure 2, the overall site topography and geology seen

do not typically generate mudslides. If the permit did intend to reference the 'Landslide' material onsite for 'removal', such activity carries inherent risk for initiating or triggering further movement of the landslide mass during such excavation or in the potential mobilization of any loose material left onsite after such removals. These risks can also occur in any areas of nonlandslide material where lateral support has been removed. As such, this type of work would normally be done under the direct oversight of a competent professional such as an Engineering Geologist or Geotechnical Engineer certified with the State of California.

Enforcement History

After members of the public spoke in public comment at the Commission's August hearing regarding these violations, on August 8, 2024, Commission enforcement staff posted a field Notice of Violation at the site, and on August 13, 2024, the Commission sent a written Notice of Violation to HMBAP, LLC and Ryan Kavanaugh that confirmed the information from the field Notice of Violation. On August 22, 2024, Commission enforcement staff spoke with Ryan Kavanaugh and representatives of him and HMBAP, LLC.

Mr. Kavanaugh stated that he was not aware that any CDP was required for the work that he had undertaken, even though his representatives had confirmed this very requirement in emails to Commission staff less than two years before. On September 18, 2024, HMBAP, LLC and Mr. Kavanaugh's attorney, Spencer Kallick, wrote to Commission enforcement staff and asserted that "Throughout the process leading up to and after the permit was issued, Owner sought to clearly confirm that the issued permit was sufficient for the proposed work, and [the City of Los Angeles Department of] Public Works consistently confirmed this to be the case," (brackets added). This was not correct, however, as Kavanaugh and HMBAP, LLC's representatives had already confirmed with Commission planning staff and the City Bureau of Engineering that a CDP, as well as additional authorizations from the Bureau of Engineering, were required for the work.

Commission enforcement staff spoke with Mr. Kavanaugh and his and HMBAP, LLC's representatives again on September 23, 2024. They restated that they were not aware that a CDP was required to construct a roadway within the public right of way, even though these same representatives had stated in writing to the Commission's planning staff that they were aware that a CDP would be required for roadway development and any other related improvements, as noted above.

During this call, Ryan Kavanaugh and HMBAP, LLC argued that they needed to construct a road in order to allow passage of multiple large excavators and dump trucks, which they argued that they needed for required "brush clearance," without providing any support for their claims. Ryan Kavanaugh stated that four acres was too large to clear without large mechanized equipment, even though Commission staff pointed out that brush on similar properties are typically cleared with hand tools such as weed

whackers, or even goats. In addition, the Los Angeles municipal code does not require grading of areas subject to brush clearance requirements, but only clearance of hazardous types of brush, and large construction vehicles are not able to narrowly remove some types of vegetation and not others. Moreover, Ryan Kavanaugh and HMBAP, LLC did not provide any evidence that they were required by the fire department to clear four acres of brush, and it appears that even if they were required to clear an area 200 feet away from nearby structures, and not merely the typical 100 feet, this would only require approximately one acre of brush clearance.

Public Access

Maximizing public access to and along the coast and maximizing public recreational opportunities in the coastal zone are some of the highest priorities for the Commission and are specifically protected in Chapter 3 of the Coastal Act, as well as stated as a basic goal for the Act (§ 30001.5(c)).

Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30223 states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The violations negatively impact public access to the public right of way by blocking it with storage of large excavators and other construction equipment, as well as stockpiles of soil and rock. In addition, the violations also caused negative impacts to public access while Mr. Kavanaugh was aggressively honking at members of the public from a luxury sport utility vehicle and a dump truck at extremely close range, and while large excavators and other construction equipment were actively using the public right of way. These violations of the Coastal Act are and were impacting public access, inconsistent with the Coastal Act provisions on public access, including Sections 30210 and 30211.

Environmental Justice Impacts

For persons from disadvantaged communities that cannot afford to buy or rent expensive hillside property, the public right of way provides a low-cost pedestrian trail to enjoy excellent views of Topanga State Park and the ocean. The obstruction of public access to the public right of way therefore has and had a disproportionate impact on these communities and thereby caused environmental justice impacts.

Other Coastal Resource Impacts

Environmentally sensitive habitat area and wetlands are protected under both the Coastal Act and the LCP.

Coastal Act section 30240 states:

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

Coastal Act section 30233 provides that filling of wetlands may be permitted only in narrow circumstances, none of which are applicable here:

- (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...**

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be

visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

Section 30253 states:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The violations described above continue to negatively impact the important habitat within the area in and around the public right of way. This area includes rare chaparral habitat that qualifies as environmentally sensitive habitat area, and a waterway that is mapped on the National Wetlands Inventory runs through it and adjacent to it. The public right of way itself also includes environmentally sensitive habitat area. In addition, the unpermitted development took place directly adjacent to Topanga State Park, a very important refuge for chaparral and sensitive plant and animal species. Some of the unpermitted development even consisted of dumping directly within the important habitat of Topanga State Park. Further, because no BMPs were used, a very large amount of erosion and sediment flow will occur in the rainy season unless BMPs are installed, which will cause further impacts to environmentally sensitive habitat area and Topanga State Park. Also, the unpermitted development is visible from Topanga State Park and therefore causing negative impacts to visual resources. Further, the unpermitted development destabilized an area of historic landslides and did not minimize risks to life and property.

Cease and Desist Order Authority

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

If the commission, after public hearing, determines that any person ... has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person ... to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program...under any of the following circumstances:

(1) The local government ... 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 ... declines to act, or does not take action in a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. As stated above, Categorical Exclusion Order No. E-79-8 was limited to only a few categories of development, and did not exempt the first row of lots on the edge of canyons or within 100 feet of a state park. The categorical exclusion also did not exempt grading, construction or expansion of roadways or utilities, or any other public works projects.

As also stated above, portions of the public roadway and some of the parcels are within the dual permit jurisdiction zone, where two CDPs are required, one from the City and one from the Commission. Thus, the work at issue required a permit from the Commission, and of course, none was secured, so section 30810 authorizes the issuance of a cease and desist order. In addition, although the work was all part of one integrated project, because some of it occurred outside the dual permit area, and even though the City does not have an LCP, the Commission still did contact the City on October 21, 2024, and the City declined to act.

Therefore, the criteria for issuance of a cease and desist order under Section 30810(a) of the Coastal Act are satisfied.

Development is defined in Coastal Act section 30106 as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, ...construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes...

The various instances of unpermitted development at issue here include: 1) grading to create a roadway, flat areas, and altered slopes; 2) major vegetation removal in an environmentally sensitive habitat area; 3) dumping excavated soil into Topanga State Park; 4) altering natural landforms, including by excavating the toe of a slope with a history of landslides; 5) obstructing public access to a publicly owned right of way and trail via active construction, including with large excavators, dump trucks, and other heavy equipment; 6) obstructing public access via storage of heavy equipment and soil and rock stockpiles within the publicly owned right of way and trail, as well as on the other parcels listed above; and 7) obstruction of public access via harassment of members of the public using the publicly owned right of way and trail including by

honking at them, pushing soil towards them, and otherwise threatening them with heavy equipment, clearly constitute “development” within the meaning of the above-quoted definition and therefore are subject to the permit requirements of Sections 30600(b) and 30601.

Restoration Order Authority

The Commission’s authority to issue Restoration Orders is set forth in Section 30811 of the Coastal Act, which states, in part:

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

Pursuant to Section 13191 of the Commission’s regulations, I have determined that the activities specified in this letter meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) “Development,” as that term is defined by section 30106 of the Coastal Act, has occurred on the Properties without a CDP from the Commission.
- 2) This unpermitted development is inconsistent with the resource protection policies of the Coastal Act, including, but not necessarily limited to the following:
 - a. Section 30240 (requiring protection of environmentally sensitive habitat areas or ESHA),
 - b. Sections 30210 and 30212 (requiring the provision of public access)
 - c. Section 30233 (requiring protection of wetlands)
 - d. Section 30231 (requiring protection of biological productivity and water quality)
 - e. Section 30251 (requiring protection of visual resources)
 - f. Section 30253 (requiring minimization of risk to life and property, and requiring protection of geological stability and natural landforms)
- 3) The unpermitted development remains in place and therefore continues to cause resource damage, which is defined by Section 13190 of the Commission’s regulations as: “any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.” The unpermitted development continues to exist, and therefore, it continues to cause damage to resources and prevent the Coastal Act resources that were displaced from re-establishing, and it also continues to cause degradation and reduction in quality of surrounding resources as compared to their condition before the unpermitted development occurred.

The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

Administrative Civil Penalties, Civil Liability, and Exemplary Damages

Under Sections 30821 and 30821.3 of the Coastal Act, in cases involving violations of the Coastal Act, the Commission is authorized to impose administrative civil penalties by a majority vote of the Commissioners present at a public hearing. In this case, as described above, the violations include storage of large construction equipment and soil stockpiles within a public right of way, as well as harassment of members of the public within the right of way, and therefore meet the criteria of Section 30821. In addition, there are multiple alleged violations of the environmentally sensitive habitat area and wetlands provisions of the Coastal Act; and therefore, the criteria of Section 30821.3 have also been satisfied. The penalties imposed for violations of Sections 30821 and 30821.3 may be in an amount up to \$11,250 for each day that each violation has persisted or is persisting, for up to five (5) years. If a person fails to pay an administrative penalty imposed by the Commission, Sections 30821(e) and 30821.3(e) authorize the Commission to record a lien on that person's property in the amount of the assessed penalty. Such liens are specifically statutorily designated as being of equal in force, effect, and priority to a judgment lien.

The Coastal Act also includes a number of other penalty provisions that may still be applicable as well. Section 30820(a)(1) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each instance of development that is in violation of the Coastal Act. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development. Civil liability under Section 30820(b) shall be imposed in an amount not less than \$1,000 per day and not more than \$15,000 per day, for each violation and for each day in which each violation persists. Section 30821.6 also provides that a violation of a Cease and Desist Order of the Commission can result in civil liabilities of up to \$6,000 for each day in which each violation persists. Lastly, Section 30822 provides for additional exemplary damages for intentional and knowing violations of the Coastal Act or a Commission Cease and Desist Order.

Notice of Violation

The Commission's authority to record a Notice of Violation is set forth in Section 30812 of the Coastal Act, which states the following:

(a) Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this

division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.

In our letter dated August 13, 2024, in accordance with Coastal Act Section 30812(g), Commission staff notified you of the potential for the recordation of a Notice of Violation against the privately owned parcels. I am issuing this notice of intent to record a Notice of Violation because development was conducted on those parcels and within the public right of way in violation of the Coastal Act.

If the property owner objects to the recordation of a Notice of Violation in this matter and wishes to present evidence to the Coastal Commission at a public hearing on the issue of whether a violation has occurred, the property owner must specifically object, in writing, within 20 days of the postmarked mailing of this notification. The objection should be sent to the attention of Rob Modellmog in the Commission's San Francisco office at the address listed on the letterhead. Please include the evidence you wish to present to the Coastal Commission in your written response and identify any issues you would like us to consider. However, in situations where respondents have worked with Commission staff to craft mutually acceptable consent orders, such recordations can be incorporated into the agreement, making such a formal objection unnecessary.

Response Procedure

In accordance with Sections 30281 and 30821.3(b) and Sections 13181(a) and 13191 of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order and Administrative Penalty proceedings by completing the enclosed statement of defense ("SOD") form. The SOD form would be directed to the attention of Rob Modellmog, at the address listed on the letterhead with a copy transmitted by email to his email noted below, not later than **November 12, 2024**. However, should this matter be resolved via Consent Orders, an SOD form would not be necessary. In any case and in the interim, Commission staff would be happy to accept any information you wish to share regarding this matter and staff can extend deadlines for submittal of the SOD form to specifically allow additional time to discuss terms of a Consent Order and to resolve this matter amicably. Commission staff currently intends to schedule the hearings for the Cease and Desist Order, Restoration Order, and Administrative Penalties for the Commission's December hearing.


Resolution

My staff would like to work with you to resolve these issues amicably through the Consent Order process. A benefit of Consent Orders that you should consider is that in a Consent Order proceeding, Commission staff will be presenting and recommending

approval of an agreement between you and staff rather than addressing the violations through a contested hearing. Alternatively, if we are not able to reach a consensual resolution, Commission staff will need to proceed with a unilateral order at the next available hearing. Again, should we settle this matter, you do not need to expend the time and resources to fill out and return the SOD form mentioned above in this letter.

We hope that you will work with us amicably on this, however, we are prepared to proceed unilaterally if necessary. If you have any questions regarding this letter or the enforcement case, please email Rob Modellmog at Robert.Moddelmog@coastal.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Huckelbridge". The signature is written in a cursive style with a long horizontal stroke at the end.

Dr. Kate Huckelbridge
Executive Director

cc:

Lisa Haage, Chief of Enforcement
Aaron McLendon, Deputy Director of Enforcement
Alex Helperin, Assistant General Counsel
Justin Buhr, Headquarters Enforcement Supervisor Counsel
Rob Modellmog, Headquarters Enforcement Counsel

Eric Noreen, City of Los Angeles Bureau of Engineering
Oscar Gutierrez, City of Los Angeles Bureau of Engineering
Lisa Webber, City of Los Angeles Deputy Director of Planning

Enclosures:

Statement of Defense Form for Cease and Desist Order, Restoration Order, and
Administrative Penalties