

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100
OAKLAND, CA 94612-2530
ATSS 561-1015
TELEPHONE 415/464-1015
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May 31, 1990

Peter Douglas
Executive Director
California Coastal Commission
631 Howard Street
San Francisco, CA 94105

Dear Peter:

This letter is to follow up on our recent conversations with regard to access opportunities in the Escondido Beach area of Malibu, Los Angeles County, and in particular with regard to proposals offered to you by the BlackTor Corporation under App. Nos. 5-89-161 and 5-89-287 to satisfy the public access requirements of a coastal development permit.

My staff has previously advised you and members of your staff, in conversations and by letter (see enclosed letters dated August 26, 1988, and December 21, 1989), of the Coastal Conservancy's ownership of a vertical public access easement at 27900 Pacific Coast Highway (the "Chiate/Wildman easement") and of the existing impediments to developing and opening that accessway to public use. To put it quite simply, the Conservancy has no present authorization to develop the accessway, but neither has any determination been made to abandon, relinquish or forego the opportunity of its development and opening to public use. Among the impediments to development are the following: (1) the private property over which the easement lies has been developed with fencing, a driveway and landscaping which block the easement; these violations must be corrected before the easement can be developed or used; (2) the route traversed by the easement is difficult, making its development problematic and relatively expensive, though not, in our consultant's opinion, infeasible; and (3) even were these problems resolved, there is no entity currently available to manage and operate such access. Conservancy staff has been working to develop solutions to these problems on the subject easement and also on other dedicated easements in the Escondido Beach area (Mintz at 27420 Pacific Coast Highway (CDP# A-184-80) and Holiday House at 27398-27400 Pacific Coast Highway (CDP# P-77-2130)). Our review of existing and potential public access in Malibu has suggested a high priority need for public access in the Escondido Beach area, generally lying between Escondido Creek and Paradise Cove.

Other high priority areas identified for access in this general area, though not falling precisely within the geographical parameters described above, include the development of access at property owned by the Conservancy at Latigo Shores, adjacent to Dan Blocker State Beach, and on

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the site of the Adamson fee dedication at 24052 Malibu Road. Before these areas can be opened to public use, some development of access improvements and acceptance of management responsibility by an appropriate entity would also be required.

The Coastal Conservancy is thus very interested in any proposal made to you by this applicant to assist in the development and public use of access to Escondido Beach. It is our understanding that BlackTor is considering an offer of funding to pay for development of the Chiate/Wildman easement in lieu of the dedication of a similar easement on its property. For the reasons stated above, we cannot assure you of our ability to develop access at this location and open it to the public at any time in the near future. However, Conservancy staff would support a proposal that funds be dedicated for the purpose of providing public access to Escondido Beach using the Chiate/Wildman easement and/or other accessway(s) acceptable to the Conservancy and the Commission. Since plans to open these easements are still in the preliminary development stages, and since there is as yet no management entity in place, we would recommend that any such payment be made to an interest-bearing account or fund whose use is restricted to this purpose. The Conservancy could assist in holding these funds until needed for their intended purpose.

My staff has previously provided you with cost estimates for development of the Chiate/Wildman easement, totalling \$337,928. We do not anticipate that the costs of developing any of the other accessways described above would exceed this amount. We also estimate that the annual cost for operations and management of each of these easements would be in the range of \$12,000- \$50,000. Perhaps the most promising opportunity for use of any funds provided by BlackTor, in our view, would be to establish an endowment for the management of public access in this area. Interest earned on such an endowment could provide a funding source for ongoing costs of management, while maintenance of the principal would assure the long-term stability of the arrangement. We believe the availability of funding through such a mechanism would greatly aid us in overcoming one of the most daunting of the current impediments to public access - the lack of access management resources. We urge you to consider these possibilities in your discussions with the applicant, and offer our assistance if you wish to develop them further.

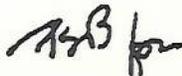
Very truly yours,

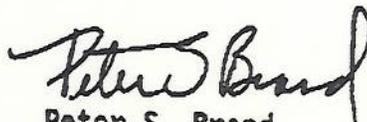
Peter Grenell
Executive Officer

John Bowers
August 25, 1988
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If we can provide any further information, please feel free to call.

Sincerely,


Marcia Grimm
Staff Counsel


Peter S. Brand
Project Manager

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December 21, 1989

Peter Douglas, Executive Director
California Coastal Commission
631 Howard Street
San Francisco, CA 94105

Re: Black Tor Corporation
Application Nos. 5-89-161; 5-89-287
LASC No. C 729 877

Dear Mr. Douglas:

I am writing to respond the letter of October 25, 1989, to Pam Emerson of the Coastal Commission's Long Beach office, from Marvin Burns, representing Black Tor Corporation in the above referenced matters. I only this week received a copy of the letter and am concerned that it does not correctly reflect the nature of my statements to Mr. Burns, or the position of the Coastal Conservancy regarding the Chiate-Wildman vertical access easement referred to in Mr. Burns' letter. I understand that a permit application by Black Tor will be before the Commission in January and, without wishing to hinder the efforts of Black Tor and the Commission to address the access issue, I feel it is important to set the record straight.

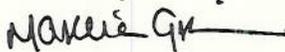
As Commission records will reflect, and members of your staff are aware, dedication of the Chiate-Wildman easements were required as conditions of a coastal development permit for the subdivision of property into the existing Wildman and Chiate parcels. In 1982, the Coastal Conservancy authorized the acceptance of both the vertical easement described in Mr. Burns' letter, and a twenty-five foot parking easement adjacent to Pacific Coast Highway on the Wildman parcel. After the State's Certificate of Acceptance was recorded on the vertical easement, Conservancy staff became aware of violations of both easements (fencing, landscaping and related improvements) that make the present use of these easements for their intended purposes physically impossible. Further action to complete acceptance of the parking easement, and plans for developing either or both, were held up pending a resolution of the violation. Conservancy staff has been involved in ongoing discussions with representatives of the Wildmans (most recently, Mr. Jonathan Horne) concerning the possibility for resolving these issues through relocation of the easements for some time now. In telephone conversations with me, Mr. Burns was advised of these efforts.

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However, at no time has any determination been made, either by the Coastal Conservancy or by myself, that the easements will not be enforced or developed. Our staff encouraged Mr. Burns to speak with Mr. Horne and to propose alternatives to the existing accessway, including those specific items described in Mr. Burns' letter, indicating that we would be willing to consider a proposal developed by them which would provide public access to the beach at an alternative location that was at least equivalent to the existing easement. I advised Mr. Burns that the decision to accept any such access improvement in settlement of the dispute between Black Tor and the Commission rests solely with the Commission. However, so long as the violations of the Chiate-Wildman easements remain unresolved, we cannot assure you of our ability to use any funds contributed by Black Tor to open those easements for public use in the immediate near term.

Conservancy staff remains willing to work with the Commission and interested landowners in developing access to this beach, either along the existing trail alignment or in an acceptable alternative location. Unfortunately, as Mr. Burns' letter attests, there do not appear to be any immediately viable alternatives to the Chiate-Wildman easements, development of which may be difficult because of (1) the need for the Wildmans to resolve violations of the easement by relocating improvements to their private home; and (2) the current lack of design engineering at the ocean end of the trail. The Conservancy has not taken any action as of this time to develop the accessway, but neither has any determination been made to abandon, relinquish or forego enforcement of the easements.

Sincerely,



Marcia Grimm
Staff Counsel

cc: Bill Allyaud
Marvin Burns
Jonathan Horne

CALIFORNIA STATE COASTAL CONSERVANCY

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July 21, 1987

Jonathan Horne
1299 Ocean Avenue Suite 213
Santa Monica, California 90401

Re: Donahue Wildman property
27900 Pacific Coast Highway

Dear Mr. Horne:

Per your request, I am enclosing documentation relevant to actions by the Coastal Conservancy to accept public access easements offered on the above referenced property. As you know, the Conservancy accepted the vertical easement by Certificate of Acceptance recorded April 5, 1983; formal acceptance of the easement for parking purposes has been delayed pending resolution of the issue raised by physical obstructions of the easement area (fencing, landscaping) on the property. (The lateral access referred to in the June 11, 1982 Project Synopsis is, I believe, the subject of a deed restriction recorded by the prior owners and thus would not be further acted upon by the Conservancy.)

In addition to the June 11, 1982 resolution and accompanying Project Synopsis for the project (which would have been provided to the landowner, along with an agenda at least ten days prior to the date of the Conservancy meeting), I have enclosed a copy of the "GUIDELINES AND CRITERIA FOR CONSERVANCY ACCEPTANCE OF DEDICATIONS AND DONATIONS OF LESS-THAN-FEE INTERESTS IN REAL PROPERTY", adopted by the Conservancy on January 4, 1979; and Revised Coastal Access Standards as adopted on December 2, 1981 by the California Coastal Commission and on December 9, 1981 by the Conservancy. The Coastal Access Standards provide general guidelines for the location and development of public accessways that were in effect at the time the Conservancy authorized acceptance of the easements on Mr. Wildman's property. More detailed design recommendations for the development of accessways were included in the CASE report mentioned in paragraph 3; unfortunately, this report is no longer available. I have enclosed instead a copy of its 1987 successor, Public Beaches: An Owners' Manual, by Thomas H. Mikkelsen and Donald B. Neuwirth.

I hope this information will be helpful to you in your efforts to establish the likelihood that the Conservancy, having accepted the vertical easement, would develop it for public use. In that regard, you should be aware that staff notes in our files indicate that Conservancy representatives did walk the property and discuss the possible construction of a stairway to the beach with Mr. Chiate, the