STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, *Governor*

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October 3, 1994

Jonathan S. Horne, Esq.
309 Santa Monica Blvd. Suite 307
Santa Monica, California 94105

Re: Donahue Wildman
Wildman/Chiate Easement

Dear Mr. Horne:

I am writing to thank you for the August 4 tour of the Conservancy's access easement over your client's property to Escondido Beach, and to summarize my thoughts and intentions arising out of that visit and our meeting of last Friday.

First, it is my judgement that the easement, while difficult, is in fact buildable. Although I had suggested that you might retain the services of a neutral party to exhaustively search for alternative accessways and property owners willing to sell the necessary interests, a review of our files and discussions with staff members familiar with the area has convinced me that such a search is likely to be fruitless. (In fact, previous correspondence indicates that you reached the same conclusion yourself.)

While the alternate proposal at Paradise Cove which you outlined at our meeting last Friday is very attractive, we think the owners are unlikely to agree, so that, without discouraging any efforts you can make in that regard, I am not optimistic about the outcome. That being the case, I have directed our staff to move forward with plans to develop the accessway and open it for public use. We will, within the immediate near-term, take steps to survey the property and prepare the necessary construction plans.

This brings me to my second concern: that of private improvements to Mr. Wildman's property that impede use and development of the accessway. As you know, the Conservancy's staff has long regarded the existing driveway configuration and related fencing and landscaping as violating the provisions of the dedicated vertical and parking easements. We have worked with your client since at least April of 1986, when Sherman

Stacey proposed a realignment of both the driveway improvements and the easement in order to accomodate both uses, through an extensive series of negotiations from 1989 through early 1992 to obtain equivalent alternative access, to resolve this problem -- always with the understanding that **if and when the existing easement were developed, the private improvements would have to be relocated** to permit public use of the easement. Thus, while we acknowledge that the location of these improvements does not currently conflict with the use of our easements, we do expect that they will be removed prior to construction of the accessways.

When the Conservancy does authorize development of the accessways, we will of course give you advance notice of our plans and the anticipated date of construction, in order to provide a reasonable period of time to undertake the necessary relocations.

We are also agreeable to working with you to develop revised plans for the driveway, fencing, and accessways (such as those suggested by Mr. Stacey in 1986) to more sensitively accomodate both private and public uses, and I would welcome such a discussion at any time.

In any case, please be advised that we continue to regard development of the easements as feasible and removal of the existing obstructions as necessary to the exercise of our rights as an easement holder; we expect that they will be removed within the next six months or, at the latest, by the time we need to obtain access for our contractors and the public.

Again, I thank you for your time and welcome your assistance to resolve the easement violations in a manner acceptable to your client. Please feel free to contact Brenda Buxton or Marcia Grimm of my staff (both of whom, as you know, are familiar with the project) or myself if you wish to discuss these matters further.

Very truly yours,

Michael Fischer
Executive Officer

cc: Susie McCabe
Joseph T. Edmiston
Peter Douglas
Marcia Grimm
Brenda Buxton
Joan Cardellino