

INDEX TO ADMINISTRATIVE RECORD

Mancuso v. California State Coastal Conservancy
Los Angeles County Superior Court Action No. BS 040197

- Exhibit 1: Tentative Agenda for the Conservancy's May 16, 1996 public meeting (pp.001-003).
- Exhibit 2: general mailing list compiled by the Conservancy for use in accordance with Cal. Gov't Code section 11125(a) (004-010).
- Exhibit 3: Staff Recommendation for the Chiate/Wildman Easement Feasibility Analysis adopted by the Conservancy at its May 16, 1996 public meeting (011-020).
- Exhibit 4: transcript of the portion of the Conservancy's May 16, 1996 public meeting concerning the Chiate/Wildman Easement Feasibility Analysis (021-023).
- Exhibit 5: memorandum dated June 13, 1996 from Brenda Buxton, Staff Project Manager, to Elena Eger, Staff Counsel (024-025).
- Exhibit 6: correspondence dated January 17, 1995 from Brenda Buxton of the Conservancy to Susan McCabe (026).
- Exhibit 7: correspondence dated April 1, 1996 from Michael Fischer, Executive Officer of the Conservancy, to Jonathan Horne (027-030).
- Exhibit 8: correspondence dated February 14, 1996 from Michael Fischer, Executive Officer of the Conservancy, to Jonathan Horne (031-032).
- Exhibit 9: correspondence dated June 29, 1995 from Michael Fischer, Executive Officer of the Conservancy, to Jonathan Horne (033-34).
- Exhibit 10: correspondence dated October 3, 1994 from Michael Fischer, Executive Officer of the Conservancy, to Jonathan Horne (035-036).
- Exhibit 11: Memorandum of Understanding Concerning Real Property Transactions executed by the California State Department of General Services and the Conservancy pursuant to Cal. Pub. Res. Code section 31107.1 (037-047).
- Exhibit 12: document entitled "Construction of the Chiate/Wildman Beach Access Easement, Malibu CA" prepared by Brenda Buxton of the Conservancy to convey the scope of the proposed feasibility analysis to potential bid submitters interested in performing the feasibility analysis (048).



- Exhibit 13:** Standard Agreement executed by the Conservancy and Charles I. Rauw Consulting Engineers dated June 28, 1996 (049-056).
- Exhibit 14:** correspondence dated May 2, 1996 from Brenda Buxton to "Malibu Resident" (057).
- Exhibit 15:** correspondence dated May 15, 1996 from Allan Abshez of Irell & Manella LLP to Brenda Buxton (058-059).
- Exhibit 16:** correspondence dated May 22, 1996 from Michael Fischer to Allan Abshez (060-061).
- Exhibit 17:** correspondence dated June 6, 1996 from Allan Abshez to Michael Fischer (062-063).
- Exhibit 18:** correspondence dated June 13, 1996 from Allan Abshez to James Pierce of the Conservancy (064-065).
- Exhibit 19:** correspondence dated June 18, 1996 from James Pierce to Allan Abshez (066-068).
- Exhibit 20:** correspondence dated June 19, 1996 from Allan Abshez to James Pierce (069-070).
- Exhibit 21:** correspondence dated June 26, 1996 from Allan Abshez to James Pierce (071-073).

DATE: Thursday, May 15, 1996
TIME: 9:30 a.m.
LOCATION: City Council Chambers
1200 Carlsbad Village Drive
Carlsbad, California

- I. Roll Call
- II. Approval of Minutes
- III. Deputy Attorney General's Report
 - a. Litigation Summary
- IV. Executive Officer's Report
 - a. Legislative report.
 - b. CDFGA infrastructure grants.
 - c. LTMS implementation.
 - d. Public Information quarterly report.
 - e. Grant & Grant Advertising Policy.
 - f. Projects Completed update.

- V. Consideration and possible Conservancy approval of the Monterey Bay State Seashore Enhancement Plan and authorization to disburse funds to the Monterey Peninsula Regional Park District for acquisition of vacant property adjoining Monterey State Beach.
- VI. Consideration and possible Conservancy authorization to disburse funds to:
 - a. The Sonoma County Agricultural Preservation and Open Space District for acquisition of conservation easements north of Bodega Bay in Sonoma County;
 - b. The Sonoma Land Trust for acquisition of properties near the Estero Americano in Sonoma County; and
 - c. The Sonoma Land Trust for evaluation of possible property acquisitions between Bodega Bay and the Russian River in Sonoma County.
- VII. Consideration and possible Conservancy authorization to disburse funds for preparing preproject analysis, a wetland conservation bank plan, and an environmental assessment for the plan on a portion of the West Newport property in Orange County.
- VIII. Consideration and possible Conservancy approval of the Oro Loma Marsh Enhancement Plan in Alameda County, adoption of a CEQA negative declaration for the Plan, and authorization to disburse funds to the East Bay Regional Park District to implement the Plan.
- IX. Consideration and possible Conservancy authorization to accept funds from the North American Commission for Environmental Cooperation (CEC) to provide technical assistance to the CEC for preparation of a strategy plan for control of land-based sources of marine pollution within coastal watersheds of the southern California bight ecosystem.
- X. Consideration and possible Conservancy authorization to augment an existing grant to the Sonoma Land Trust for preparation of hydrologic, engineering, and biological studies of the Leonard Ranch of the Sonoma Baylands property in order to implement the Sonoma Baylands Enhancement Plan.
- XI. Consideration and possible Conservancy authorization to disburse funds to retain technical specialists to assist in the pre-project feasibility analysis and design of the Conservancy-held Chiate/Wildman access easement and the adjacent, unaccepted Offer-to-Dedicate for a parking easement.
- XII. Consideration and possible Conservancy approval of the Phase 2 Ballona Lagoon Enhancement Plan, adoption of a CEQA negative declaration, and authorization to transfer all public access and habitat protection easements held by the Conservancy to the City of Los Angeles.
- XIII. Consideration and possible Conservancy authorization to disburse funds to retain technical specialists to assist in the design and implementation of Conservancy projects.

XIV. Board Member Comments.

XV. Public Comment.

XVI. Closed session to discuss Joey Jacobs v. TPL et al., San Mateo County Superior Court No. 340634; State v. Union Oil, San Luis Obispo County Superior Court No. CV 075194; Pacifico Enviro Design et al. v. City of Huntington Beach et al., California Court of Appeal No. G 014922; Two Blankenship, Inc. v. State Coastal Conservancy et al., Los Angeles Superior Court No. BC101329; State of California, et al. v. BP America, Inc., Orange County Superior Court Case No. 646339; State of California, et al. v. Trans-Alaska Pipeline Liability Fund, United States District Court for the Central District of California, Case No. 92-0837. Session will be closed to the public pursuant to Government Code Section 11126(q).

XVII. Adjournment.

NB. Following or any time during the meeting, the Conservancy may recess or adjourn to closed session to consider possible and pending litigation, price and terms of real estate transactions and personnel matters. Session will be closed to the public pursuant to attorney-client privilege and statutory authorization under Government Code Section 11126(a), (i), (o) and (q).

On Wednesday, May 15, Conservancy members will tour sites around Batiquitos and San Dieguito Lagoons in San Diego County. Members of the public may attend, but must provide their own transportation.

For more information, contact Steve Horn at the Conservancy:

1330 Broadway, Suite 1100
Oakland, CA 94612

(510) 286-1015

Next Meeting: Thursday, June 20, 1996

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WILL ROBERTS	THE MOUNTAIN-COAST-ORIENTAL ENV	WESTERN REGION	115 NEW MANAGEMENT ST 5RD FLR	SAN FRANCISCO	CA			
	LOIS EMMEN	HARBOR MASTER	557 B AVE	CORCORADO	CA			
SCOTT & KEENE	P H COSTELLO	SHILOH STATION	65 GARLAND PLAZA	ANTIOCH	CA			
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	SEN. ACT., 104 DEPT., LIB 9136	S CA ASSOC OF GOVTS	700 E ST #301	SACRAMENTO	CA			
BETTY WERTMAN	DOUGLAS BRUSH	ENVIRONMENTAL AUDIT INC	100 HOME AVE STE 100-5	LA JOLLA	CA			
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MICHAEL S PAVANAKIS	COUNTY BOARD OF SUPERVISORS		330 W 20TH AVE	SAN MATEO	CA			
BOB LAMONT, SUPERVISOR			PO BOX 818	MARIN	CA	408-853-3750		
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	JIM BURNS		45 FREEMONT ST, SUITE 2000	SAN FRANCISCO	CA			
GORDON SMITH	48 WESTLAKE CONSERVANCY	OFFICE OF PARKS & REC.	19582 TESSLA DR	REDWOOD CITY	CA			
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	SYLVIA MELAMBERG		1400 HAWTHORNE TERR	BENICELY	CA			
	VIJAYAN ZACHARY MILLER		101 BROADWAY	OAKLAND	CA			
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	MARILYN CORAULTI		916 WILSON ST	SANTA ROSA	CA			
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	CITY OF COSTA MESA		PO BOX 1200	COSTA MESA	CA			
SIEVE JOHNSON	THE NATURE CONSERVANCY		201 MISSION ST 4TH FLR	SAN FRANCISCO	CA			
BRANDON ENERGY	INTEGRATED MARKETING SYSTEMS		444 CANTON DEL RIO STE 110	SAN DIEGO	CA			
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	COMMUNITY DEVELOPMENT DEPT		305 WEST 10TH ST	DUNBAR	CA			
	ERLY HOBBSMAN		110 PACIFIC AVE #211	SAN FRANCISCO	CA			
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	GOVERNMENT DOCUMENTS DEPT		UNIVERSITY OF CALIFORNIA	DAVIS	CA			
	ROBERT C KIRKWOOD		2221 WARELY ST	PALMDALE	CA			
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PLEASE RECYCLE AFTER USE

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LAB STUDIO					CA			
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			122 S EL CAMINO REAL #67	SAN CLEMENTE	CA	92671-0000		
			5 BAY DR	SOUTH LABRINA	CA	92691-0000		
			21922 VISO LN	MISION VISO	CA			
			18612 STEVEN DR	VENTURA	CA	92214-0000		
			PO BOX 99	VENTURA	CA	92302-0000		
			PO BOX 19	VENTURA	CA			
			PO BOX 8050	VENTURA	CA	93006-0000		
			250 N VENTURA RD	FORT HENCKE	CA	93041-0000		
			PO BOX 1000	SANTA BARBARA	CA	93101-0000		
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			1114 STATE ST STE 200	SANTA BARBARA	CA	93106-0000		
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			PO BOX 12206	SAN LUIS OBISPO	CA	93406-0000		
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			595 HARBOR ST	MORRO BAY	CA			
			1000 BELD ST	93580 BEACH	CA	93449-0000		
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GENERAL MAILING LIST (Zip Code)

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	LEONARD E. RUIZ	RALPH NUGELS	3099 HARCROSS RD	CA	94063-0000		
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	LEONARD E. RUIZ	CITY HALL	CIVIC CENTER	CA	94104-0000		
	LEONARD E. RUIZ	SAN FRANCISCO PUBLIC LIBRARY	311 CALIFORNIA ST #300	CA	94104-0000		
	LEONARD E. RUIZ	BAY AREA RIDGE TRAIL COUNCIL	45 BELDEN PL 3RD FLR	CA	94104-0000		
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	LEONARD E. RUIZ	JACOB HARARI	US ARMY CORPS OF ENGINEERS	CA	94104-0000		
	LEONARD E. RUIZ	GREENWELL ALLIANCE	116 NEW HARBORWAY #640	CA	94104-0000		
	LEONARD E. RUIZ	FREDMAN SOLTZMAN & CO	131 STEWART ST STE 500	CA	94104-0000		
	LEONARD E. RUIZ	TERRA TECH	180 HUNTER ST STE 200	CA	94104-0000		
	LEONARD E. RUIZ	MARVIN SILLION	100 HUNTER ST STE 200	CA	94104-0000		
	LEONARD E. RUIZ	ROBERT SABBATINI	MOBAY HILL RIDGE/DAILY PRACTICE BUILDER 221 MAIN ST BLDG 11R	CA	94109-0000		
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	LEONARD E. RUIZ	SEDMAY COOK & ASSOC	350 PACIFIC AVE 1ST FLR	CA	94114-0000		
	LEONARD E. RUIZ	PETER GREENELL	4340 24TH ST	CA	94114-0000		
	LEONARD E. RUIZ	ANDY LEVAY	567 16TH AVE	CA	94123-0000		
	LEONARD E. RUIZ	ANDY LEVAY	FIRST WAGON BLDG 201	CA	94123-0000		
	LEONARD E. RUIZ	ANDY LEVAY	PD BOX 10250	CA	94303-0000		
	LEONARD E. RUIZ	ANDY LEVAY	3923 E BAY SHORE RD	CA	94303-0000		
	LEONARD E. RUIZ	ANDY LEVAY	600 WASHINGTON ST	CA	94402-0000		
	LEONARD E. RUIZ	ANDY LEVAY	475 TENNESSEE LN	CA	94506-0000		
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	LEONARD E. RUIZ	ANDY LEVAY	PD BOX 315	CA	94510-0000		
	LEONARD E. RUIZ	ANDY LEVAY	CITY OF BENICIA	CA	94510-0000		
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PLEASE REPLY AFTER 11:30 AM

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COASTAL CONSERVANCY

**Project Summary
May 16, 1996**

CHIATE/WILDMAN EASEMENT FEASIBILITY ANALYSIS

File No. 88-046

Project Manager: Brenda Buxton and Lisa Ames

RECOMMENDED ACTION: Authorization to disburse funds to retain technical specialists to assist in the pre-project feasibility analysis and design of the Conservancy-held Chiate/Wildman access easement and the adjacent, unaccepted Offer-to-Dedicate a parking easement.

LOCATION: 27900-10 Pacific Coast Highway, Malibu, Los Angeles County (Exhibit A)

PROGRAM CATEGORY: Public Access and Dedications and Donations

ESTIMATED COST: up to \$38,500

PROJECT SUMMARY: If this authorization is approved, staff will be able to further analyze construction feasibility of a Conservancy-held vertical access easement and its accompanying Offer-to-Dedicate a parking easement (currently not yet accepted by the Conservancy or any other entity) at Escondido Beach, Malibu. Before staff can evaluate the relative merit of any alternatives to the Chiate/Wildman site or return to the Conservancy with a recommendation to construct the Chiate/Wildman access easement, staff needs to answer the following questions about the Chiate/Wildman vertical and parking easements: are the easements buildable; if they are, how would they be built; and how much will they cost to construct? The feasibility analysis will answer these questions by evaluating site conditions and constraints, considering various design alternatives, and estimating construction costs. Staff expects this work to cost no more than \$38,500.

The feasibility analysis will present staff with an accurate cost estimate which is needed in order to determine if the Chiate/Wildman easement can be built with the specifically designated funds (known as the "Black Tor" funds), which the Conservancy holds in a special deposit account. (The currently available cost estimate is six years old and does not include geotechnical information which is critical for formulating a reasonably accurate cost estimate.) In addition, staff needs to examine the design alternatives of the feasibility analysis in order to assess the environmental impacts created by an access construction project at the Chiate/Wildman site.

COASTAL CONSERVANCY

**Staff Recommendation
May 16, 1996**

CHIATE/WILDMAN EASEMENT FEASIBILITY ANALYSIS

File No. 88-046

Project Manager: Brenda Buxton and Lisa Ames

STAFF

RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution, pursuant to Sections 31400, 31400.3, 31404 and 31405 of the Public Resources Code:

"The Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed thirty-eight thousand five hundred dollars (\$38,500) to retain technical specialists to assist staff in the construction feasibility analysis and design of the Chiate/Wildman vertical easement and access parking."

Staff further recommends that the Conservancy adopt the following finding:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that the proposed project is consistent with the purposes and criteria set forth in Division 21 of the Public Resources Code, specifically, in Sections 31400, 31400.3, 31404 and 31405; with the Conservancy's Access Standards and Program Criteria; and with Coastal Act policies and objectives."

STAFF DISCUSSION:

Project Description: If this authorization is approved, staff will be able to use the expertise of engineers and site design consultants to further analyze construction feasibility of a Conservancy-held vertical access easement and its accompanying Offer-to-Dedicate an easement for parking, not yet accepted by the Conservancy, at Escondido Beach, Malibu. The feasibility study will answer the following questions: are the easements buildable; if they are, how would we build it; and how much will construction cost? The study will do this by evaluating site conditions and constraints, considering various design alternatives, and estimating construction costs. The feasibility analysis is expected to cost no more than \$38,500.

Until this feasibility study is completed, staff will not be able to accurately evaluate the costs and impacts associated with constructing the access improvements to the Chiate/Wildman vertical and parking easements. This lack of information makes

an exchange for an alternative accessway would be the subject of a future staff recommendation. In the meantime, the staff will continue to diligently pursue the preparatory work precedent to construction of the access improvements at the easement currently held by the Conservancy.

Project Financing: The feasibility study would be funded by a special deposit account, set aside pursuant to a Coastal Commission permit condition for the purpose of building the Chiate/Wildman easements. Approximately \$412,000 remains in the account, \$3,200 having been spent on the topographical survey of the vertical easement. One of the key parts of the construction feasibility study is the cost estimate which will inform the Conservancy whether or not it can construct the Chiate/Wildman easements for the amount available in the special deposit account.

Site Description: The Chiate/Wildman vertical easement (27900-10 Pacific Coast Highway) runs through an existing gate, driveway, and tennis court, past two houses, and then along the walls of a steep ravine. The improvements in the vertical easement were made without Conservancy authorization and would be removed at the property owner's expense. The Offer-to-Dedicate parking easement is over the eastern 25 feet of the property. Staff estimates that the Offer-to-Dedicate for a parking easement (currently not accepted by the Conservancy), if developed, would only hold about eight cars due to various constraints, such as an overlapping CalTrans easement, a ravine, and the necessity to allow the fee owner access to his property. This issue will be examined in more detail in the feasibility analysis. The topography of the parking and vertical easements will likely make construction of the easements challenging. This underscores the importance of thoroughly investigating construction feasibility before recommending construction.

Project History: The Conservancy accepted the vertical easement in 1982 and, although the Conservancy authorized the acceptance of an accompanying Offer-to-Dedicate a parking easement, acceptance was not completed due to unauthorized improvements in the easement area that would need to be relocated before the parking area could be constructed.

In 1990, as a result of a Coastal Commission permit action, the Conservancy received funds specifically designated to construct the Chiate/Wildman vertical easement or an alternative approved by the Commission's Executive Director and the Conservancy's Executive Officer. Approximately \$412,000 is available for construction of the Chiate/Wildman easement.

Over the last six years, the property owners have presented beach access alternatives to the Conservancy in exchange for extinguishing the Chiate/Wildman vertical easement and Offer-to-Dedicate a parking easement. An "in-lieu" cash settlement was rejected because it may not have mitigated the impacts of development due to the difficulties the Conservancy would likely have in

locating a willing seller of public beach access easements. Staff also turned down other alternatives such as a parking area on the inland side of Pacific Coast Highway, and more recently, a parking area on a steep slope at the junction of Malibu Cove Colony Drive and Pacific Coast Highway because of site constraints (no safe highway crossing, geological instability, etc.) and neighborhood opposition.

Last summer, a proposal to exchange the Chiate/Wildman easement with an alternative easement and the opening of two other vertical access easements were the subject of some controversy in the local community. Staff received numerous letters regarding the potential exchange which were attached as exhibits to the September 20, 1995 staff recommendation. To summarize, some local residents objected to the concept of trading accessways and argued that the property owners should be forced to comply with their permit conditions (*i.e.*, allowing the construction of the vertical and parking); others pointed out that the Chiate/Wildman easement was directly across from their homes and would be their primary beach access, and finally, many, particularly those on Malibu Cove Colony Drive, opposed the specific alternative discussed at that time: a 13-car parking lot on a steep sloping lot. That alternative since has been abandoned due to the infeasibility of constructing parking on an unstable slope.

**CONSISTENCY WITH
CONSERVANCY'S
ENABLING LEGISLATION:**

The proposed authorization is recommended pursuant to Chapter 9 of Division 21 of the Public Resources Code.

Public Resources Code Section 31400 states that the Conservancy should have a "principal role in the implementation of a system of public accessways" to guarantee the public's right to access and enjoyment of the coast. The first step in implementing the Chiate/Wildman accessway, one part of a system of accessways to the Malibu coast, is to complete a feasibility analysis.

Under Public Resources Code 31400.3, the Conservancy may provide such assistance as is required to aid in the establishment of a system of public accessways. This feasibility analysis is necessary before the Conservancy can establish the public access improvements to the Chiate/Wildman easement.

Section 31404 allows the Conservancy to take title to properties for public access but does not require the Conservancy to open such properties to public use if "the benefits of public use would be outweighed by the costs of development and maintenance." This feasibility study will enable Conservancy staff to make this evaluation by estimating the costs of access development.

Section 31405 states that the Conservancy may collect fees for the purpose of providing public access and use such funds for

development of coastal accessways. The Conservancy has received funds specifically designated for the development of access improvements at the Chiate/Wildman easement and will use a portion of these funds for the feasibility analysis. The construction feasibility analysis is necessary if the Conservancy is to develop the Chiate/Wildman accessway for public use.

**CONSISTENCY WITH
CONSERVANCY'S
PROGRAM GUIDELINES:**

The project is consistent with the Conservancy's Access Program Guidelines in the following respects:

Urgency: Locating an operation and management entity to take responsibilities for new accessways in Malibu has been quite difficult. The MRCA's offer to operate and maintain the Chiate/Wildman easement represents an unique opportunity that should be taken advantage of as soon as possible. However, the Conservancy needs to first evaluate if and how it would construct the necessary physical improvements to the easement (the purpose of the feasibility analysis) and then, actually build the improvements before the MRCA can assume management responsibilities.

Consistency with Coastal Access Standards: The Conservancy's coastal access standards set forth various criteria for the development of coastal accessways, such as the accessways should safely accommodate public use, minimize the alteration of natural land forms, provide site amenities, etc. One of the purposes of this feasibility study is to determine how to construct the Chiate/Wildman accessway in a manner consistent with the Coastal Access Standards.

Cost-Effectiveness: This feasibility analysis will determine the most cost-effective way to construct the improvements at the Chiate/Wildman easement.

Local Coastal Program Consistency: Malibu does not have a certified Local Coastal Program at this time. The approved County Land Use Plan, a document used to guide coastal planning until the LCP is certified, recognizes Escondido Beach as a priority access area and calls for accessways at every 2,000 feet along the coast. Construction of the Chiate/Wildman vertical easement is consistent with the LUP because the easement is approximately 2,000 feet from either of the nearest accessways: the privately-owned Paradise Cove beach and the Seacliff accessway at 27420-28 Pacific Coast Highway. This feasibility analysis is part of the usual pre-project evaluation undertaken by the Conservancy before developing an accessway.

**CONSISTENCY WITH
COASTAL ACT:**

This feasibility study is consistent with the policies and goals of the Coastal Act. Section 30210 of the Coastal Act states that "maximum access . . . shall be provided for all the people." Construction of the Chiate/Wildman accessway improvements

would be consistent with this section since the Conservancy would be utilizing Offers-to-Dedicate Public Access to provide the maximum access possible to the Escondido Beach area. Because Offers-to-Dedicate were required by the Coastal Commission as conditions of permitted development, the construction of these vertical and parking easements would implement specific findings of the Commission regarding the need for public access at this location. The feasibility study will assist the Conservancy in determining if and how it can fulfill this goal of maximizing access by constructing the Chiate/Wildman accessway.

**COMPLIANCE
WITH CEQA:**

The proposed use of environmental professional services for feasibility studies involves only basic data collection, research, and resource evaluation. These activities will not result in a serious or major disturbance to an environmental resource and, thus, are categorically exempt from CEQA review pursuant to 14 California Code of Regulations Section 15306.

In addition, the proposed authorization is statutorily exempt from CEQA pursuant to 14 California Code of Regulations, Section 15262, which provides an exemption for feasibility and planning studies for possible future actions not yet approved. Construction of the Chiate/Wildman easement or the authorization of an easement exchange will be subject to CEQA review when presented to the Conservancy for approval.

EXHIBIT B

STATE COASTAL CONSERVANCY

**Project Summary
September 20, 1995**

MALIBU ACCESS: ESCONDIDO BEACH

**File No.: 95-010
Project Manger: Brenda Buxton**

RECOMMENDED ACTION: Authorization to (1) accept two vertical access easements, two lateral access easements, and one parking easement, (2) enter into a 20-year interagency agreement with the Mountains Recreation and Conservation Authority (MRCA) to operate and maintain three vertical access easements and two parking easements, and (3) disburse \$82,000 to the Mountains Recreation and Conservation Authority for operation and management.

LOCATION: 27398-400, 27420-28, 27450, and 27900-10 Pacific Coast Highway, Escondido Beach, Malibu, Los Angeles County

PROGRAM CATEGORY: Public Access

COST ESTIMATE: Coastal Commission Malibu Beach Access Fund: \$82,000

PROJECT SUMMARY: If approved, this project would open up three new accessways along Escondido Beach in Malibu and require no Conservancy bond funds.

Despite the existence of well-known beaches, such as Zuma and Topanga, many miles of the Malibu coast are inaccessible to the public. Along some sections of the coast, development precludes beach access, while in other areas the beaches suffer from extensive erosion, leaving little space for public access between houses and the ocean. This lack of coastal access could be ameliorated by the acceptance and opening of Malibu's 12 vertical Offers-to-Dedicate (OTDs), but to date, most vertical OTDs are unaccepted and closed due to the lack of a management entity capable of operating and maintaining them. The Los Angeles County Department of Beaches and Harbors and the State Department of Parks and Recreation are unwilling to operate smaller, non-revenue-generating accessways such as these. The City of Malibu currently is writing its Local Coastal Plan and has not yet developed any access policies. The City has not assumed operation and maintenance responsibilities for any dedicated accessways at this time.

The Coastal Conservancy has been working to open up key access points along the Malibu coast since 1979. Escondido Beach has long been a priority because it is a wide sandy beach with public access available only at the extreme ends of the mile-long beach: the privately-owned Paradise Cove (with a \$15 fee for day-use parking) at the western end of the beach and Los Angeles

County's Escondido Creek accessway at the eastern end (Exhibit A). In addition, this beach has three dedicated vertical accessways that, if opened, would provide public access; two are unaccepted, but constructed, and one has been accepted by the Conservancy, but not yet constructed. Until now, the Conservancy has been unable to open up these important beach access points due to the lack of a management agency.

Recently, however, the Mountains Recreation and Conservation Authority (MRCA) has offered to assume responsibility for operation and maintenance of the accessways on Escondido Beach. MRCA is a joint powers agency consisting of the Santa Monica Mountains Conservancy and the Conejo Recreation and Park District. The MRCA operates rural and urban parks in the Malibu area and the San Fernando Valley and has construction and maintenance crews as well as rangers on its staff. The MRCA prefers to focus on Escondido Beach easements since it maintains facilities along the nearby Escondido Falls trail. At this time, the MRCA lacks the resources to take on management responsibilities for other accessways in Malibu. Additionally, the MRCA is not willing to accept the OTDs. For this reason, Conservancy staff recommends that the Conservancy accept the outstanding OTDs, enter into a 20-year interagency agreement with the MRCA for their management, and disburse \$82,000 to the MRCA for at least the first five years of operation and maintenance costs.

The local community has several concerns regarding management and pedestrian safety which the staff of the Conservancy and the MRCA have attempted to address. In order to allay some of the concerns about privacy and safety, Conservancy and MRCA staff have designed a maintenance program that will include locking the gates at night, regular inspections of the stairs, ranger services available on an on-call basis, and weekly trash pick up. Local residents are also concerned about the possibility of beachgoers parking on the inland side of Pacific Coast Highway and crossing this busy highway. However, as is discussed in the project description, there is extensive oceanside parking adjacent to or near the accessways which will minimize the necessity to cross the highway.

In the past, the Conservancy has sought to increase and improve access by assisting with the costs of acquisition of property and/or construction of stairs, trails, and other facilities. At Escondido Beach, acquisition and construction costs are not an issue. The accessways are already dedicated for public use; two of the accessways are built; and the third accessway, owned by the Conservancy, could be constructed with funds set aside for this purpose in a designated account. Furthermore, the Coastal Commission's Malibu Beach Access Fund could be used to cover the expenses of an operation and maintenance entity. In Malibu, the main obstacle to creating new access has been the lack of a management agency, not the lack of funds or property interests. The Conservancy can best carry out its mandate to implement a system of public coastal accessways by enabling a local entity, in this case the MRCA, to assume management responsibilities.

\$420,000, I THINK, IN A RESERVE ACCOUNT WHICH THE COASTAL COMMISSION CREATED WHEN THEY APPROVED SO CALLED "BLACK TOR" PROJECT. AND I BELIEVE THAT IT IS NOW TIME . . .

(end of tape side--break in transcription)

. . . MEETING. THOSE FOLKS WHO WERE IN FAVOR OF ACCESS WERE IN THE MINORITY. MOST OF THE FOLKS BASICALLY SAID THAT THERE'S PLENTY OF ACCESS IN MALIBU, BUT THOSE WHO WERE IN FAVOR OF INCREASED ACCESS BASICALLY SAID, "A DEAL IS A DEAL, THIS IS A FIFTEEN YEAR OLD DEAL." THE EASEMENT HAS BEEN OWNED--THE HOMEOWNERS BUILT AFTER THE EASEMENT WAS CONVEYED TO THE COASTAL CONSERVANCY, THEY KNEW WHAT THEY WERE BUYING. AND THERE'S A CONDOMINIUM PROJECT ACROSS THE HIGHWAY OF THOSE 100 UNITS. THEY ARE STILL AWARE OF POTENTIAL AVAILABILITY OF THIS TRAIL IMMEDIATELY ACROSS THE HIGHWAY AND THERE EAGER FOR IT TO BE BUILT, SO THERE IS A CONSTITUENCY IN FAVOR OF BUILDING THIS TRAIL. AND SO THE RESOLUTION BEFORE YOU WOULD AUTHORIZE US TO TAKE THE NEXT STEP AND TO HIRE THE GEOLOGY AND LANDSCAPE ARCHITECTURE AND DESIGNER SKILLS NECESSARY FOR US TO COST OUT THIS PROJECT AND DECIDE WHETHER OR NOT WE CAN AFFORD TO PROCEED WITH IT.

(Penny Allen):

AND I THINK IT'S TIME. I'LL MAKE THE MOTION TO VOTE ON IT.

MOVED BY MRS. ALLEN SECONDED BY MRS. AZEVEDO.

ROLE CALL

(Sandra Covington):

MRS. AZEVEDO

(Mrs. Azevedo):

I

(Sandra Covington):

MR. BURNS

(Mr. Burns):

I

(Sandra Covington):
MR. KIRKWOOD

(Mr. Kirkwood):

I

(Sandra Covington):

CHAIR MRS. ALLEN

(Penny Allen):

I

*** * ***

Confidential Memorandum
Attorney-Client Privilege

June 13, 1996

To: Elena Eger
From: Brenda Buxton *mb*
cc: Lisa Ames

Re: My response to issues in Abshez's letter of June 6, 1996

I. Notice

I have already responded to this issue in Michael Fischer's letter of May 22, 1996. To summarize, we have given notice to his agent on several occasions. General notice was given in Fischer's letter of April 1, 1996 (cc'd to McCabe). More specifically, on May 9, 1996 I faxed a copy of staff recommendation describing proposed action and date of meeting to Ms. McCabe. Unfortunately, I did not keep the fax receipt. (OK, I won't make that mistake again.)

Please note that most of the correspondence regarding this easement has been to Jonathan Horne since he has been the lead negotiator. Last page of letters indicate that Ms. McCabe was sent copies.

Neither Ms. McCabe or any other representative of Mancuso's has ever verbally or in writing requested to be noticed about the feasibility study or any other SCC actions regarding the easement. All notice provided to property owners has been voluntarily supplied by the Conservancy.

What's all this "may result in a significant deprivation of his property rights" stuff anyway?

II. Stop work

My recommendation is not to stop work on the feasibility study for the following reasons:

1. we provided more than adequate notice
2. Mancuso can still present his information on safety etc., etc., etc. if he wants and we have invited him to do so.

In fact, I think we should up the ante and let Mancuso know 1) the dates we will be on the property to conduct the feasibility study and that we expect unimpeded access and, 2) Mancuso has 60 days [or whatever] to remove the obstructions in the easement.

EXHIBIT 5

024

Confidential Memo to Elena Eger
Attorney-Client Privilege
June 13, 1996
Page Two

III. Damage to property

What is he talking about? This is ridiculous. The only time we have been on his property is to survey or inspect our easement.

IV. McCabe as Mancuso representative

Ms. McCabe has acted as Mancuso's agent for over two years. Abshez's allegation that "Ms. McCabe also confirmed... she has not informed the Conservancy that she is representing Mr. Mancuso" is ridiculous. While Ms. McCabe has never provided written notice that she was Mancuso's representative, she is a well-known agent for various coastal property owners and we never had any reason to doubt her claims that she represented Mancuso. Here's a brief summary of our interactions with McCabe: *(in addition to written correspondence)*

early 1994 (Michael would know dates)

Ms. McCabe contacts Michael Fischer regarding Chiate/Wildman easement. She states she is representing Mr. Mancuso. She along with Jonathan Horne (Wildman's representative) provides Michael with a tour of property and easement.

September 1994

Ms. McCabe and Mr. Horne provide Joan Cardellino, Access Program Manager, and Brenda Buxton, Project Manager with tour of easement. Ms. McCabe clarifies she is just "working for" Mancuso as opposed to also working for Wildman.

December 1995

Ms. McCabe and Mr. Horne attend meeting at Conservancy's offices to present a Paradise Cove trail as a possible alternative to the Chiate/Wildman easement.

February 1995

Brenda Buxton and Steven Horn (Conservancy's Deputy E. O.) have several conversations with Ms. McCabe about upcoming public hearing re: exchange of Chiate/Wildman easement for the alternative at Paradise Cove.

March 1995

Mr. Horne and Ms. McCabe attend public hearing.

Ms. McCabe calls Ms. Buxton after March 5, 1996 public meeting to inquire about Conservancy's response to meeting.

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100

OAKLAND, CA 94612-2530

ATSS 541-1015

TELEPHONE (510) 286-1015

FAX (510) 286-0470



January 17, 1995

Ms. Susan McCabe
Rose and Kindel
915 L St., Suite 1210
Sacramento, CA 95814

Dear Susan:

Enclosed you will find a copy of the survey of the Chiate(Mancuso)/Wildman easement prepared by Charles Rauw last November. The easement held by the Conservancy is the "Modified Public Beach Access Easement" on the survey. Unless I hear from you in the next two weeks, I will assume that you and your client agree that this is an accurate interpretation of exhibit C of the Offer-to-Dedicate, Recordation No. 83-1259943 (originally no. 81-1259943, amended to include notary acknowledgment).

Sincerely,

A handwritten signature in cursive script that reads "Brenda Buxton".

Brenda Buxton
Project Manager

EXHIBIT 6

026

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100
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FAX 510/286-0470



April 1, 1996

Mr. Jonathan Horne
309 Santa Monica Blvd., Suite 307
Santa Monica CA 90401

Dear Jonathan:

This letter outlines various issues raised at the March 5, 1996 public meeting in Malibu and in the "Option and Purchase/Sale Agreement" document we received February 28, 1996. Before the Conservancy proceeds with the proposed easement exchange, these concerns would need to be addressed. Resolution of these issues is necessary to meet our condition that at a minimum the exchange offers the State the same rights and privileges that it has under the Chiate/Wildman easement. Until we are assured that it does, we will be continuing with the construction feasibility study for the Chiate/Wildman easement. Brenda Buxton will be contacting you shortly to arrange a convenient time for access to Wildman's and Mancuso's properties.

The concerns that we have identified as are follows, in order of importance:

1. Covenants, Conditions, and Restrictions:

Please provide in writing more information for your statement that the single-family development restrictions discovered in the title search will not hinder the Conservancy's ability to develop the property for public access purposes.

2. Use of Black Tor permit funds.

Several years have passed since issuance of the Black Tor permit. Therefore, there may be issues with respect to that permit which must be addressed by the Coastal Commission in order for funds to be applicable to the alternative accessway. As you know, one of the major advantages of the alternative accessway is that it would likely be less expensive to build, enabling us to use left-over funds for operation and maintenance. In order for one of the key attractions of the alternative to apply, you must work with Coastal Commission staff to discuss and resolve any issues through appropriate Commission process. I recommend that you discuss the appropriate steps with the Coastal Commission.

EXHIBIT 7

027

Mr. Jonathan Horne
April 1, 1996
Page Two

3. CCC Approval

In light of the various environmental concerns that have been raised, we believe that the best way to proceed with this project (if the above concerns are addressed) is for you to secure your Coastal Commission permit amendment before seeking approval from the Conservancy. As you know, the Coastal Commission will undertake an extensive environmental review based on the project's consistency with the Coastal Act. The Conservancy would like to see this analysis before proceeding with the exchange. Please contact Commission staff for more information on the permit amendment process.

4. Option/Purchase Agreement

Below are the various problems we have with the current draft of the proposed Option/Purchase Agreement:

a. Description of trail to beach:

The Conservancy must have more flexibility in determining what the final alignment of the trail will be. Instead of being given one of two options, we would like to identify the general area where the final alignment will go. For example, this general area could be described as "within fifteen feet of trail option A or B". We would finalize the trail location at a later date.

The acknowledgment on p. 2 that the alternative easements may need to be revised is not a sufficient guarantee for our purposes.

b. Easement terms:

As described on pp. 1 and 2, the easement "shall provide that the Owner will not interfere with public recreational use of the beach...". This is not satisfactory easement language. The proposed easement should grant the same rights and privileges as those in the Offer-to-Dedicate. Key words to include would be "an easement in gross and perpetuity".

c. Escrow instructions:

We would like to see the escrow instructions and we would have to approve them before proceeding.

Mr. Jonathan Horne
April 1, 1996
Page Three

d. Condemnation:

The easement must be permanent, regardless of future land use changes. We cannot agree to Section 11 B.

e. Owner's use of property:

The State cannot agree to the clause (p. 10) "the prospective holder of the easements to the Property shall agree not to oppose any aspect of the redevelopment of Owner's property provided...".

f. Owner's right to relocate easement:

The State cannot agree to the condition described on p. 11 as follows: "the State...shall be subject to the right of Owner, at its cost, to relocate portions of the Property or to construct or reconstruct any improvements...as may be necessary or convenient for the development of Owner's adjoining properties." Such relocation, while quite possibly acceptable, would have to be at the Conservancy's discretion.

g. Construction access:

The right of the State to access outside of the easement area for construction purposes is not specified.

h. Existing trail:

What rights/responsibilities does the property owner want to retain over that portion of the easement that is on the existing trail? What are our rights/responsibilities? This whole issue of "joint ownership" needs to be examined.

i. Title report:

We need to review the title report for the property.

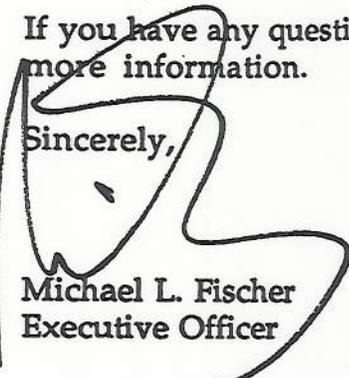
As you are aware, all speakers at the public meeting and all letters received by the Conservancy have been opposed to the project. While the Conservancy is aware that access projects in Malibu are controversial, the complete lack of public support makes it difficult for the Conservancy or the Commission to

Mr. Jonathan Horne
April 1, 1996
Page Four

proceed with the alternative easement. We expect that you will address this issue effectively as you bring the matter to the Commission for their consideration.

If you have any questions, please contact Brenda Buxton at 510-286-0753 for more information.

Sincerely,



Michael L. Fischer
Executive Officer

cc: Susan McCabe, Rose and Kendel
Peter Douglas, California Coastal Commission
Joseph T. Edmiston, Santa Monica Mountains Conservancy

CALIFORNIA STATE COASTAL CONSERVANCY

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February 14, 1996

Mr. Jonathan Horne
309 Santa Monica Blvd., Suite 306
Santa Monica CA 90401

Dear Jonathan:

I am writing to inform you that the Coastal Conservancy staff is prepared to recommend for the Conservancy's consideration and possible approval at its March 21, 1996 meeting the Paradise Cove alternative to the Chiate/Wildman easement to our Board.

However, before we go to the Conservancy, we will hold a public meeting in Malibu (early March) for public comment on this alternative. You and Susan McCabe should be prepared to participate in this meeting. We have also asked that staff from the Coastal Commission, MRCA, and the City of Malibu be present for this meeting. If significant public objection or new information is presented at this local meeting, we will remove this item from the Conservancy's March agenda and reschedule it when appropriate.

Our agreement to proceed for Conservancy approval is subject to several conditions:

1. The alternative easement and extinguishment of the Chiate/Wildman easement must be approved by the Coastal Commission. If you do not have Commission approval before we present this item to the Conservancy, any approval will be conditioned on Commission approval.
2. The alternative easement must include more lateral beach access than the ten-feet provided by the proposed vertical easement. One suggestion would be the area from the creek to the rock outcropping. These two points are desirable boundaries because they are visible to all who visit the beach.
3. We would like to finalize the exact location of the ten-foot vertical and the parking area after we have had the opportunity to walk the site with a trail builder and a landscape architect. At this time, we do not expect any significant deviations from the alignment you have proposed.

EXHIBIT 8

031

Mr. Jonathan Horne
February 14, 1996
Page Two

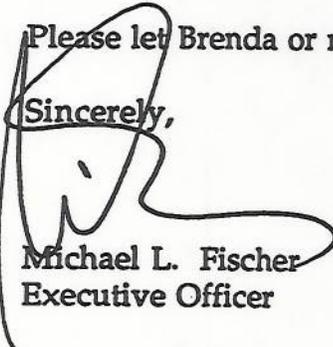
4. Prior to our staff recommendation, we will need to review all documents pertaining to your purchase of the easement, including easement language, terms, and conditions, without the financial details, as we discussed at our meeting in December.

5. The MRCA or another appropriate agency must agree to construct, operate, and maintain the parking and vertical easements. While this is not your responsibility to secure this agreement, we want to let you know that we can't go forward until we have secured the construction and maintenance of the accessway. We expect that the MRCA will agree to construct and maintain these easements.

We have temporarily delayed the feasibility study currently underway on the Chiate/Wildman easement, pending the successful resolution of this issue through the alternative easement. However, if this project does not go forward, we expect to resume our feasibility study and proceed to construction.

Please let Brenda or me know if these conditions are agreeable to you.

Sincerely,



Michael L. Fischer
Executive Officer

cc: Susan McCabe, Rose and Kindel
Jack Ainsworth, California Coastal Commission

CALIFORNIA STATE COASTAL CONSERVANCY

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June 29, 1995

Mr. Jonathan Horne
309 Santa Monica Blvd., Suite 306
Santa Monica, CA 90401

Dear Jonathan:

I understand from Brenda Buxton that you have begun a construction feasibility study of the 13 car parking lot near the intersection of Malibu Cove Colony Drive and Pacific Coast Highway. Before you proceed any further, I would like to clarify the terms under which the Conservancy would consider extinguishing the Mancuso/Wildman easement.

While we do believe the parking area is a way to increase public access to Escondido Beach and might well be a suitable alternative to the Mancuso/Wildman easement, we are willing to seek our Board's approval for exchanging the Mancuso/Wildman easement for the parking lot **only** if the following conditions are met within the next three months:

1. You submit the feasibility study for Conservancy review and approval.
2. You provide evidence of ownership of the site or, at the very least, an option to purchase the site.
3. You provide detailed cost estimates and commit to all of the direct and indirect costs, as well as the administration efforts required, to construct the project.
4. You secure Coastal Commission approval for the exchange and the use of funds previously dedicated for construction of the Mancuso/Wildman easement.

Once these conditions were met, we would seek the approval of our Board for the exchange. The proposal we would take to our Board would require you to assure construction of the parking area, including securing permits, designing the facilities (subject to our approval), supervising construction, and funding construction. We are willing to work with you on the permit applications but

EXHIBIT 9

033

Mr. Jonathan Horne
June 29, 1995
Page Two

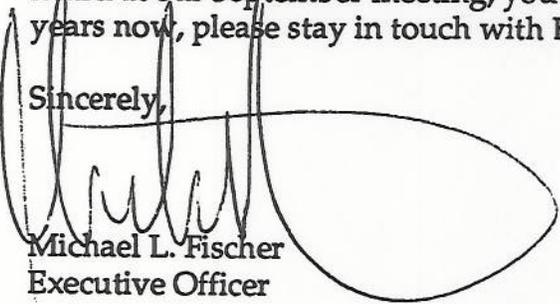
you will be responsible for the permit and extinguishment of the Mancuso/Wildman easement would be contingent upon permit approval for the alternative project. We would also expect this to be done within a reasonable amount of time, such as one to two years.

You have told Brenda Buxton of our staff that constructing parking lots is beyond the expertise of your client and for this reason you do not want to construct the parking lot. However, I hope you understand our position; we simply do not have the staff resources necessary to accomplish such an effort. Furthermore, we are not going to agree to extinguish the Mancuso/Wildman easement unless we are guaranteed something significantly better and there is no guarantee until the parking lot is built. As we have stated before, we will only consider a "turn-key" arrangement with no risk to us.

If these terms are not acceptable to you, please let me know.

In the meantime, we are proceeding with our topographical mapping and construction feasibility analysis of the Mancuso/Wildman easement. As you know, we will seek our Board's approval to enter into an agreement with MRCA for the operation and maintenance of the Mancuso/Wildman easement and other vertical accessways to Escondido Beach. (This item was re-scheduled and will be heard at our September meeting; you will be notified.) As you have for several years now, please stay in touch with Brenda Buxton. Thanks.

Sincerely,



Michael L. Fischer
Executive Officer

cc: Susan McCabe

CALIFORNIA STATE COASTAL CONSERVANCY

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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

EXHIBIT 10

035

Jonathan S. Horne
Page two

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.

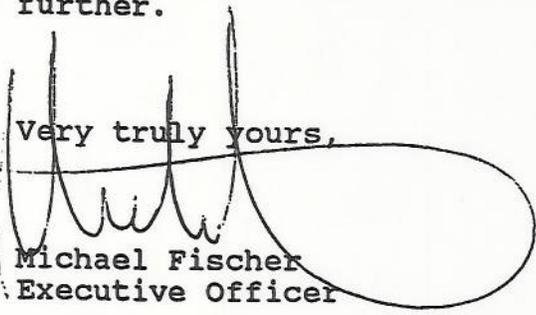
When the Conservancy does authorize development of the accessways, we will of course give you advance notice of our plans and the anticipated date of construction, in order to provide a reasonable period of time to undertake the necessary relocations.

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

MEMORANDUM OF UNDERSTANDING

CONCERNING
REAL PROPERTY TRANSACTIONS

WHEREAS, the State Coastal Conservancy (the "Conservancy") is an agency of the State of California, established under Division 21 of the Public Resources Code (commencing with Section 31000) with responsibility for implementing a program of agricultural protection, area restoration, and resource enhancement in the coastal zone within policies and guidelines established under the California Coastal Act of 1976, Public Resources Sections 30000 et seq. (the "Coastal Act"); and

WHEREAS, pursuant to Public Resources Code Section 31104.1, the Conservancy serves as a repository for lands whose reservation is required to meet the policies and objectives of the Coastal Act or a certified local coastal plan or program, and may accept dedication of fee title, easements, development rights, or other interests in lands; and

WHEREAS, pursuant to Public Resources Code Section 31104, the Conservancy may accept gifts and donations from public and private sources; and

WHEREAS, Public Resources Code Section 31105 authorizes the Conservancy to acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850), Division 3, Title 2 of the Government Code), real property or any interests therein for all of the purposes specified in Division 21 of the Public Resources Code; and

WHEREAS, pursuant to Government Code Sections 11011 et seq., the Department of General Services (both the Department of General Services and the Director of General Services are referred to herein as the "Department") is responsible for disposing of certain proprietary state lands that are determined to be excess, but Government Code Section 11011 exempts lands under the jurisdiction of the Conservancy from these provisions; and

WHEREAS, Public Resources Code Section 31107 provides that, notwithstanding any other provision of law, the Director of General Services shall, when so requested by the Conservancy, lease, rent, sell, exchange or otherwise transfer any real property interest acquired pursuant to Division 21, pursuant to an implementation plan approved by the Conservancy; and

WHEREAS, Government Code Section 11005 provides that contracts for the acquisition or hiring of real property in fee or any lesser interest, entered into by the state, must be approved by the Department; and that gifts to the state of real property in fee or any lesser interest must be approved by the Director of Finance; and

WHEREAS, Government Code Section 11005.2 provides that every conveyance or agreement whereby an interest of the state in any real property is conveyed or leased must be approved by the Department; and

WHEREAS, the Department serves as staff to the State Public Works Board in carrying out the provisions of the Property Acquisition Law, and staff to the Department of Finance in regard to the approval of gifts of interests in real property to the state; and

WHEREAS, Public Resources Code Section 31107.1 directs the Department and the Conservancy to jointly develop and implement appropriate procedures to ensure that land acquisition, leasing, options to purchase, land disposal, and other property transactions undertaken in accordance with Division 21 of the Public Resources Code are carried out efficiently and equitably and with proper notice to the public;

NOW, THEREFORE, the Department and the Conservancy agree as follows:

1. Acquisition of Real Property. In acquiring real property pursuant to the Property Acquisition Law, the Department and the Conservancy shall proceed as follows:

(a) The Department, in consultation with the Administrative Secretary of the State Public Works Board (the "Board"), shall obtain a tentative annual schedule of the Board meetings, and forward it to the Conservancy promptly after publication. The Conservancy shall provide the Department with notice, at least five weeks in advance of the relevant Board meeting, of its intention to schedule an acquisition for Board action, pending authorization of the acquisition by the Conservancy's Board. The notice shall include a copy of the Conservancy Staff Recommendation for the acquisition. The Department shall, upon request of the Conservancy, notify the Conservancy of a cutoff date which shall be the last day on which documents must be received by the Department from all agencies in order for acquisitions to be scheduled for the next meeting of the Board. If the date of a Board meeting is changed from that designated in the tentative schedule, the Department shall notify the Conservancy of the change sufficiently in advance of the then applicable cutoff date to enable the Conservancy to prepare and submit acquisition documents on the cutoff date. If the Conservancy submits the documents specified in subparagraph 1(b) no later than the established cutoff date, the Department shall schedule the acquisition for presentation to the Board at its next meeting.

(b) When seeking Board authorization for the acquisition of interests in real property pursuant to the Property Acquisition Law, the Conservancy shall provide the following documentation to the Department:

(i) Three original copies of a Property Acquisition Agreement executed by the seller and approved on behalf of the Conservancy;

(ii) A properly executed and acknowledged Grant Deed for the property to be acquired;

(iii) Proposed Escrow Instructions and Warrant Request;

(iv) A Certificate of Visual Inspection;

(v) A preliminary title report on the property to be acquired;

(vi) A Certificate of Just Compensation and Statement of Owner;

(vii) A copy of any environmental documentation required by the California Environmental Quality Act, or an explanation of why no such documentation is required;

(viii) A copy of the minutes and resolution of the Conservancy authorizing the acquisition, accompanying staff recommendation, and other relevant documentation; and

(ix) A completed Settlement Summary (OREDS Form 108), describing the terms and conditions of acquisition; a full description of title exceptions which the State is taking subject to, with a justification for accepting such exceptions; and a copy of any documents creating liens or encumbrances that adversely affect the State's interest in the property; if the State is taking subject to same.

(c) The Department shall notify the Conservancy, within ten (10) working days of receiving the documentation specified above, of any documents or information needed to present the acquisition to the Board that is missing from the documentation submitted, and of any issues or problems arising from the proposed terms of acquisition. If the Conservancy provides the needed documents or information and/or explains or rectifies problems or issues raised by the Department no later than five (5) working days prior to the Board meeting for which the acquisition is scheduled, then the acquisition shall be presented to the Board at that meeting.

(d) The Conservancy shall provide the Department with four (4) copies of the policy of title insurance and one (1) copy of the final approved closing statement as soon as possible after correct copies are received by the Conservancy. Upon receipt of the title policy, the Department shall add the property to the state real property index and file original documents in the State Archives. The Department shall promptly provide the Conservancy with a copy of the recorded deed and reference to the state real property index number for the Conservancy's files.

2. Acceptance of Gifts or Dedications of Property Interests.

(a) In accepting gifts or dedications of interests in real property pursuant to Public Resources Code Sections 31104 and 31104.1, and in acquiring any interest in real property which is not subject to the Property Acquisition Law, the Conservancy shall provide to the Department the following documentation:

(i) The instrument granting or dedicating the property interest to the State, in form adequate for recording, which shall include a complete and accurate legal description;

(ii) A Certificate of Acceptance, in form substantially complying with the provisions of Government Code Section 27281, duly executed and acknowledged on behalf of the Conservancy;

(iii) A copy of the minutes of a Conservancy board meeting containing the resolution authorizing acceptance of the interest in property, accompanying staff recommendation, and other relevant documentation;

(iv) A preliminary title report for the property, along with copies of documents creating liens or encumbrances that might adversely affect the interest being acquired; subordination agreements or other instruments subordinating such liens or encumbrances to the interest being acquired, or an explanation of why the State should take subject to such liens or encumbrances, if any;

(v) A copy of all environmental documentation required by the California Environmental Quality Act, or an explanation of why no such documentation is required; and

(vi) A map or plat of the property interest to be acquired.

(b) The Department shall approve or disapprove conveyances and agreements accepting the interests in property (other than gifts) not later than sixty (60) days after receiving all of the documents specified in subparagraph 2(a). -If the Department disapproves any such conveyance or agreement, it shall specify in writing the statutory or legal basis for its disapproval. The Department shall approve the conveyance or agreement immediately if the Conservancy takes corrective measures necessary to rectify statutory or legal problems specified by the Department; if the Conservancy is unable to do so, it shall provide the Department with an explanation of why this is so, and may offer alternative solutions. The Department agrees to give prompt, good faith consideration to any such explanation or alternative solution offered by the Conservancy.

(c) The Department shall submit to the Department of Finance for consideration for approval conveyances and/or agreements accepting gifts of interests in property not later than sixty (60) days after receiving all of the documents specified in subparagraph 2(a), or shall specify in writing the statutory or legal basis for its disapproval. The Department shall submit the conveyance or agreement to the Department of Finance immediately if the Conservancy takes corrective measures necessary to rectify statutory or legal problems specified by the Department; if the Conservancy is unable to do so, it shall provide the Department with an explanation of why this is so, and may offer alternative solutions. If agreement cannot be reached as to acceptable changes, the Department and the Conservancy shall submit the issue to the Department of Finance for resolution.

(d) During the 60-day period specified in subparagraphs (b) and (c) above, the Department may recommend changes or corrections to documents submitted by the Conservancy, or may request further information or additional supporting data regarding the proposed conveyance or agreement. The Conservancy shall respond promptly to any such inquiries, and shall incorporate all reasonable changes or corrections recommended by the Department, unless either (i) to do so would be inconsistent with the Conservancy's statutory responsibilities or with the authorizations and directives of the Conservancy board; or (ii) other parties to the conveyance or agreement are unable or unwilling to make the requested changes.

(e) Upon approval by the Department of a standard form of easement, offered for dedication under provisions of the California Coastal Act for the purposes of public access and/or preservation of coastal resources, Conservancy acceptance of such easements shall be exempt from Department approval as provided in Section 1378 of the State Administrative Manual.

(f) The Conservancy shall within sixty (60) days of receiving any approved agreement which is not to be recorded, and within sixty (60) days of recording of any approved conveyance or agreement, return the original executed document to the Department. Upon receipt, the Department shall add the property to the state real property index and file original documents in the State Archives. The Department shall provide the Conservancy with a reference to the state real property index number for the Conservancy's files.

3. Property Disposition Procedures. When the Conservancy deems it necessary to dispose of interests in real property acquired under Division 21 of the Public Resources Code, the Department and the Conservancy shall follow the Property Disposition Procedures which are attached hereto as Exhibit A and incorporated herein by reference. Prior to publishing a Request for Offers as provided in the Property Disposition Procedures, the Conservancy shall submit its proposed Request for Offers and advertising plan to the Department for review and comment. The Department shall offer its comments to a proposed Request for Offer no later than sixty (60) days after receiving the Conservancy's proposed Request for Offers and advertising plan. The Department shall approve the conveyance of property or any interest therein, or any contract to convey interests in such property, provided the contract or conveyance is consistent with the requirements of the Property Disposition Procedures and other applicable provisions of law, no later than sixty (60) days after the Conservancy has requested such conveyance.

4. Extensions and Reductions of Time Periods in Particular Instances. The Conservancy acknowledges that there may be instances in which the Department is unable to complete its review of real estate transactions within the time periods specified in this Memorandum of Understanding, and the Department acknowledges that there may be instances in which Conservancy transactions must be completed in shorter periods of time than are provided for in this Memorandum of Understanding. In any instance in which the Department finds that it will not be able to complete its review within the time period specified herein, the Department shall promptly notify the Conservancy and specify the period of time required to complete its review. The Department agrees to make good faith efforts to complete the review as expeditiously as possible.

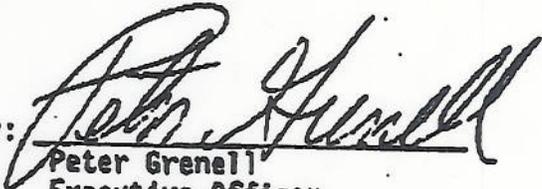
In any instance in which a Conservancy transaction must be completed within a time period less than that specified herein, the Conservancy shall provide the Department with notice and information concerning the transaction and its time constraints at the earliest possible opportunity, and the Department shall make best efforts to cooperate with the Conservancy and complete the transaction review within the earlier period of time specified.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the last named date below.

DEPARTMENT OF GENERAL SERVICES

STATE COASTAL CONSERVANCY

By: 
William G. Anthony
Director

By: 
Peter Grenell
Executive Officer

Date: 8/28/90

Date: 9/4/90

EXHIBIT A

PROPERTY DISPOSITION PROCEDURES

The following procedures shall be followed when the State Coastal Conservancy (Conservancy) deems it necessary to dispose of interests in real property.

Preparation of Property Disposition Plan

1. Prior to requesting the Director of General Services (both the Director of General Services and the Department of General Services are referred to herein as the "Department") to dispose of property, the Conservancy shall adopt a Property Disposition Plan, which shall consist of, or be an element of, an implementation plan adopted pursuant to Public Resources Code Section 31107. The Property Disposition Plan shall include:

- A. A finding that the property disposition is necessary to implement a plan approved by the Conservancy in accordance with Division 21 of the Public Resources Code or to meet any other provisions of that division; and
- B. A detailed statement of the specific terms of the property disposition, including the terms of sale or transfer; the specified transferee, if any, or selection criteria for acceptance of offers; the time period within which the disposition must be completed; and such other information as is deemed appropriate by the Conservancy.

Publication of a Request for Offer

1. The Conservancy shall publish a Request for Offer (RFO) that has been approved by the Department. If so directed by the Conservancy Board, the Conservancy may instead request that the Department publish the RFO and market the property; in that event, the Department shall publish an RFO that has been approved by the Executive Officer of the Conservancy. RFO's shall conform to the terms of transfer specified in the Property Disposition Plan and, in addition, to the following criteria:

- A. Contents -- The RFO shall contain the following items:
 - i. A description of the real property or interest in real property (herein referred to as the "property") to be disposed of;
 - ii. A statement of the authority under which the property was acquired;
 - iii. A statement of the Conservancy's specific purposes for disposing of the property;
 - iv. A statement that the property is being sold "as is" without

- v. A general statement of the conditions under which an offer will be entertained including minimum sales price, refundable earnest money requirement, and other items as may be appropriate;
- vi. A statement of the date by which offers must be received by the Conservancy. Such date may be no sooner than thirty days from the date of first publication;
- vii. A statement of the date, time and place that sealed offers will be publicly opened by the Executive Officer of the Conservancy or his designee;
- viii. A statement of the address to which offers are to be submitted;
- ix. A statement that offers will be reviewed and that one will be selected at a properly noticed meeting of the Conservancy;
- x. A statement that the Conservancy reserves the right to reject all offers submitted, and to conduct an oral auction following the opening of offers;
- xi. A statement that acceptance of any offer is subject to approval by the Director of General Services.

B. Frequency and Location of Publication - The RFO shall be published once a week for two consecutive weeks in a newspaper of general circulation published in the following locations:

- i. The county in which the property is located;
- ii. The general geographic region in which the property is located;
- iii. The major metropolitan centers of the state, when appropriate.

C. Mailing -- The RFO shall be mailed to any other potential offerors who have expressed their interest in the property in writing to the Conservancy.

D. Posting -- Notice of the sale and contact for additional information shall also be posted on the property.

Offers

- 1. Completed responses to an RFO (offers) shall be accompanied by earnest money payment if required and shall contain the following:
 - A. An offer to purchase the property, specifying price, terms, and all other pertinent purchase details;
 - B. If the sale is not to be by cash, a statement of the financial qualifications of the offeror, including appropriate references;
 - C. If for an agricultural preservation program, a statement describing the farming or other relevant agricultural experience of the offeror; or, where the Property Disposition Plan calls

for offerors to demonstrate other specified qualifications required to meet the Conservancy's objectives in disposing of the property, a statement of the relevant qualifications of the offeror;

- D. A statement of the identity, mailing address, and telephone number of the offeror.

Selection of Offeror and Notification of Offerors

1. The Conservancy shall make the selection of an offer at a properly noticed board meeting, affording the public adequate opportunity to comment on the selection. The selection shall be based on the Conservancy's determination of which offer will best serve the needs of Division 21 of the Public Resources Code which necessitate the disposition.
2. As soon as possible after such selection is made, but in no event more than seven days thereafter, the Conservancy shall notify all offerors of which offer was chosen.

Disposition to Specified Transferees

1. Where the Conservancy authorizes the acquisition of property as a part of an approved project which identifies a specific transferee as a necessary element for the project, the provisions of this paragraph shall apply..
2. Determination by the Conservancy that the project requires a specified transferee and the selection of such a transferee shall be made at a properly noticed meeting of the Conservancy board. The determination and selection shall be based upon the specified transferee's unique ability to achieve the project goals. Such uniqueness may be based on the transferee's extraordinary professional skills or knowledge, on the transferee's ability to convey other property essential to the completion of the project or on other criteria which clearly distinguish as unique the specified transferee's ability to achieve the project goals from that of other potential transferees.
3. Transfer of property to a specified transferee shall be made pursuant to an agreement with the Director of General Services satisfactory to the Executive Officer of the Conservancy, which obligates the specified transferee to fulfill the project goals.
4. The provisions of this section apply equally to projects in which the Conservancy designates a specified transferee subsequent to its authorization for the acquisition of the property.

Coordination with Project Sponsor Selection Procedures

Where disposition of property is an integral component of project sponsor selection, the Conservancy procedures for each function may be combined. In such an event, the RFO under the project sponsor selection procedures may be the same as the RFO under these procedures, and the notice, publication, hearing, selection, and other procedures may be similarly unified.

Limitation of Applicability of Procedures

These Property disposition Procedures are not designed for disposition of Conservancy property to governmental agencies. In the event of transfer of property to another agency of the state, transfer shall be accomplished according to the ordinary procedures for a transfer of jurisdiction and control of state proprietary lands. In the case of disposition of property to local governmental agencies, terms of transfer may be established by the Conservancy and the local government, in accordance with Public Resources Code Section 31354, or other applicable provisions of Division 21 of the Public Resources Code. In the case of disposition of property to the United States Government, disposition shall be pursuant to the terms of an agreement mutually satisfactory to the Director of General Services, the Conservancy and the United States Government. In all cases, however, the Conservancy must adopt an appropriate Property Disposition Plan. When determined by the Conservancy to be appropriate, property may be disposed of to governmental agencies as specified transferees under these procedures.

Construction of the Chiate/Wildman Beach Access Easement, Malibu CA

Project Description

The Coastal Conservancy owns a ten-foot wide public access easement at 27900-10 Pacific Coast Highway, Malibu. The easement currently is not available for public use. This easement was generated by a Coastal Commission permit for a subdivision. The easement runs from the PCH shoulder, through a driveway, past two houses, down a short bluff, along the edge of a ravine, and down a cliff face to the beach. A survey and other descriptive information is enclosed. The easement of concern is the "modified beach easement" on the survey.

The project is to construct any necessary improvements so that the easement may be used by the public. Due to the topography of the site, the easement will not be wheelchair accessible. Construction is expected to involve: 1) removal of barricades including wrought iron fencing, shrubs and trees, concrete curbs and gutters; 2) grading and paving (material to be decided) of relatively flat areas; 3) installation of stairs, decks, and other structures to negotiate slopes; and 4) installation of fencing and landscaping to screen easement from property owners.

The construction contractor may not be able to mobilize outside of the ten-foot wide easement. This needs to be taken into consideration when designing the improvements and estimating construction costs.

The easement, once constructed, will be operated and maintained by the Mountains Recreation and Conservation Authority, which maintains other parks and beach accessways in the area.

Work Products:

I. Construction feasibility investigation

- a. Assessment of site conditions (e.g. soil stability, obstacles to be removed, etc.)
- b. Preliminary Design (in consultation with other involved parties)
- c. Construction cost estimates
- d. Other analysis to be determined by permit requirements or CEQA.

If Conservancy elects to proceed with project, the next tasks would be:

II. Construction

- a. Final design
- b. Bid package/specifications
- c. Construction supervision

Construction may be completed by a private contractor, the Mountains Recreation and Conservation Authority, the California Conservation Corps, or all three.

EXHIBIT | 2

048

STANDARD AGREEMENT

STD. 2 (REV.5-91)

APPROVED BY THE
ATTORNEY GENERAL

CONTRACT NUMBER 95-029	AM. NO.
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	

THIS AGREEMENT, made and entered into this 28 day of April, 19 96, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Executive Officer	AGENCY State Coastal Conservancy	, hereafter called the State, and
CONTRACTOR'S NAME Charles I. Rauw Consulting Engineers		, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: (Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)

SCOPE OF AGREEMENT

Charles I. Rauw, Consulting Engineers ("the contractor") shall provide environmental, architectural, engineering, land-surveying, and geotechnical engineering services and shall perform tasks for the State Coastal Conservancy ("the Conservancy") as follows:

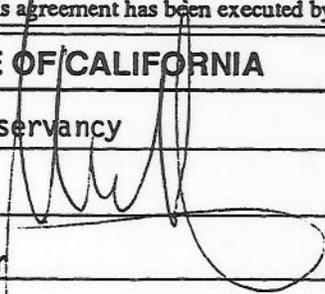
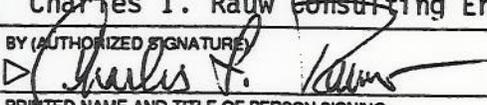
1. Conduct a topographic survey of the parking lot easement and adjacent features.
2. Assess geologic and geotechnical conditions, including drainage, bluff erosion and slumping, existing grades, and general features, including obstacles and obstructions to construction of the parking and vertical easements. Prepare a brief report summarizing how these conditions and features would impact construction of vertical and parking easements.

(Continued on the following pages)

CONTINUED ON _____ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		CONTRACTOR	
AGENCY State Coastal Conservancy	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.) Charles I. Rauw Consulting Engineers		
BY (AUTHORIZED SIGNATURE) 	BY (AUTHORIZED SIGNATURE) 		
PRINTED NAME OF PERSON SIGNING Michael L. Fischer	PRINTED NAME AND TITLE OF PERSON SIGNING Charles I. Rauw		
TITLE Executive Officer	ADDRESS 1505 Ortega Drive, Martinez, CA 94553		

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 38,500.00	PROGRAM/CATEGORY (CODE AND TITLE) Other Local Assistance		FUND TITLE Special Deposit Fund	
	(OPTIONAL USE) Chiate/Wildman Feasibility Study			
	ITEM 3760-607-942067	CHAPTER	STATUTE 1945	FISCAL YEAR 45/46
	OBJECT OF EXPENDITURE (CODE AND TITLE) Access			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$	I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.S.A. NO.	B.R. NO.
TOTAL AMOUNT ENCUMBERED TO DATE \$ 38,500.00	SIGNATURE OF ACCOUNTING OFFICER 		DATE 6-28-96	

Department of General Services
Use Only
Certify that this contract/agreement is exempt from Department of General Services approval



EXHIBIT 13

CONTRACTOR
 STATE AGENCY
 DEPT. OF GEN. SER.
 CONTROLLER

SCOPE OF AGREEMENT (Continued)

Vertical and parking easements are described in the Irrevocable Offers to Dedicate recorded January 26, 1983 as No. 83-108579 and No. 83-108580 respectively in the Official Records in the Office of the Recorder of Los Angeles County.

3. In consultation with the Conservancy and any parties designated by the Conservancy, evaluate alternative concepts for parking and vertical easement development. Concepts for easement development shall integrate the parking and vertical easement into one public access facility. Present alternatives to the Conservancy.
4. Prepare a preliminary design of the alternative preferred by the Conservancy using an Autocad format and showing plan and section views of easements. Also prepare a report summarizing design, assumptions, and recommendations. Provide the Conservancy with a vellum copy, suitable for making blueprint reproductions, of the preliminary design.
5. Develop a probable construction cost of preliminary design that considers limited equipment access to the site. Estimate shall include specific line items of construction with unit and/or lump-sum prices and quantities as appropriate as well as a design and construction contingency.

The contractor shall perform all services in close consultation with Conservancy staff.

All materials and work products produced by the contractor as a result of this agreement shall become the property of the Conservancy.

TERM OF AGREEMENT AND EARLY TERMINATION

This agreement shall take effect when signed by both parties.

The term of this agreement is from its effective date through April 30, 1997. However, all work shall be completed by January 31, 1997 (the completion date").

During this term, either party may terminate this agreement for any reason by providing thirty days written notice to the other party. Upon termination, the contractor shall take whatever measures are necessary to prevent further costs to the Conservancy under this agreement. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the contractor in the performance of this agreement up to the date of notice to terminate, but only up to the unpaid balance of total funds authorized under this agreement.

COSTS AND DISBURSEMENTS

The total amount of funds disbursed under this agreement shall not exceed thirty-five thousand dollars (\$35,000). Disbursements shall be made to the contractor on the basis of services rendered and costs incurred to date, less ten percent, upon satisfactory progress in accordance with schedules, budgets, and other provisions of this agreement, and upon submission of an invoice, which shall be submitted no more frequently than monthly but no less frequently than quarterly. Disbursement of the ten percent withheld shall be made upon completion of all tasks to the satisfaction of the Conservancy.

Services shall be billed at no more than the standard billing rate for the following personnel of contractor and its subcontractors:

Charles I. Rauw, Consulting Engineers

Principal Engineer	\$115/hr
Geotechnical Engineer	\$125/hr
Structural Engineer	\$ 95/hr
Landscape Architect	\$ 80/hr
Staff Engineer/Designer	\$ 70/hr
Drafting/Technician	\$ 60/hr
Clerical	\$ 45/hr

Hyden Associates, Landscape Architects

Principal Landscape Architect	\$ 70/hr
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Robertson Geotechnical Inc.

Principal Geologist	\$200/hr
Registered Geologist	\$125/hr
Field Geologist-Engineer	\$ 98/hr
Staff Geologist	\$ 82/hr
Engineer Technician	\$ 68/hr
Draftperson	\$ 59/hr

Expenses will be reimbursed as follows:

The contractor shall be reimbursed for necessary travel expenses, when documented by appropriate receipts, at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations. The contractor's headquarters for purposes of computing such expenses is 1505 Ortega Drive, Martinez, CA 94553. All travel other than automobile travel within the Counties of Contra Costa, Alameda, and Los Angeles, must be approved in advance by the

COSTS AND DISBURSEMENTS (Continued)

Executive Officer of the Conservancy ("the Executive Officer").

All other out-of-pocket expenses shall be reimbursed at cost.

Overhead on subcontractors shall be reimbursed at 15%.

Each invoice shall include the contractor's name and address, the number of this agreement, the contractor's authorized signature, the date of submission, the amount of the invoice, a brief description of the services rendered and work products completed, and an itemized description of all work done for which disbursement is requested, including time, materials and expenses incurred. The contractor shall submit the final invoice within thirty days after the completion date provided in the "TERM OF AGREEMENT AND EARLY TERMINATION" section, above.

DISCLOSURE OF FINANCIAL INTEREST

The contractor shall complete and return all financial disclosure forms within ten days of receipt from the Conservancy, including those disclosure forms received at the termination of the contract.

FUNDING AUTHORIZATION

The signature of the Executive Officer on the first page of this agreement certifies that at its May 16, 1996 meeting the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit A. This agreement is executed pursuant to that authorization.

Standard Provisions

EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS

The contractor shall expend funds in the manner described in the approved project budget. The allocation of funds among the items in the project budget may vary by as much as ten percent without approval by the Executive Officer. Any difference of more than ten percent must be approved in writing by the Executive Officer. The Conservancy may withhold payment for changes in particular budget items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. The total amount of this contract may not be increased except by amendment to this agreement. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

LIABILITY

The contractor waives all claims and recourse against the Conservancy, including the right to contribution for any loss or damage arising from, growing out of or in any way connected with or incident to this contract, except claims arising from the active negligence of the Conservancy, its officers, agents, and employees.

The contractor shall indemnify, hold harmless, and defend the Conservancy, its officers, agents, and employees, against any and all claims, demands, damages, costs, expenses, or liability arising out of this agreement, to the extent caused by the contractor's acts, errors, or omissions constituting negligence, gross negligence, or intentional misconduct in the performance of professional services under this agreement.

NONDISCRIMINATION

During the performance of this agreement, the contractor and its subcontractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age or denial of family-leave care. The contractor and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. The contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations (California Code of Regulations, Title 2, Section 7285.0 et seq.). The regulations of the Fair Employment and Housing Commission regarding contractor Nondiscrimination and Compliance

NONDISCRIMINATION (Continued)

(Chapter 5 of Division 4 of Title 2 of the California Code of Regulations), are incorporated into this agreement. The contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This nondiscrimination clause shall be included in all subcontracts entered into by the contractor to perform work provided for under this agreement.

INDEPENDENT CONTRACTOR STATUS

The contractor shall maintain its status as an independent contractor as defined in Section 3353 of the California Labor Code. To this end, the contractor shall be under the control of the State, acting through its agent, the Conservancy, but only as to the results of its work and not as to the means by which the results are accomplished.

NATIONAL LABOR RELATIONS BOARD

By signing this agreement, the contractor states under penalty of perjury that, during the two-year period immediately preceding the date of the agreement, no more than one final unappealable finding of contempt of court has been issued against the contractor for failure to comply with an order of the National Labor Relations Board.

SETTLEMENT OF DISPUTES

If any dispute arises out of this agreement, the contractor shall file a "Notice of Dispute" with the Executive Officer within ten days of discovery of the problem. Within ten days of such notification, the Executive Officer shall meet with the contractor and designated Conservancy staff members for the purpose of resolving the dispute. If the Executive Officer is unable to resolve the dispute to the contractor's satisfaction, the contractor may proceed under Government Code Sections 900 et seq. with any claims against the Conservancy arising out of this agreement.

CONTRACTOR IDENTIFICATION AND EVALUATION

Within thirty days of completion of all work described in the "Scope of Agreement," the contractor shall be evaluated by Conservancy staff. The evaluation shall be kept with records of this agreement at the Conservancy's

CONTRACTOR IDENTIFICATION AND EVALUATION (Continued)

offices. If negative, a copy shall be sent (as required by law) to the Department of General Services, Legal Office. The evaluation shall be made available to the contractor upon request.

AUDITS/ACCOUNTING/RECORDS

The contractor shall maintain standard financial accounts, documents, and records relating to the agreement. The contractor shall retain these documents for three years following the date of final disbursement by the Conservancy under this agreement, regardless of the termination date. The documents shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during this period. The contractor may use any accounting system which follows the guidelines of "Generally Accepted Accounting Practices" published by the American Institute of Certified Public Accountants.

Additionally, the Conservancy or its delegate may review, obtain, and copy all records retaining to performance of the contract. The contractor shall provide the Conservancy or its delegate with any relevant information requested and shall permit the Conservancy or its delegate access to its premises, upon reasonable notice, during normal business hours for the purposes of interviewing employees and inspecting and copying books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Public Contract Code Section 10115 et seq. and Title 14, California Code of Regulations, Section 13870 et seq. The contractor shall maintain these records for a period of three years after final payment under the contract.

EXECUTIVE OFFICER'S DESIGNEE

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the contractor of the designation in writing.

AMENDMENT

This agreement may be modified only upon written agreement of the parties; provided, however, that the completion date may be modified by written letter of contractor countersigned by the Executive Officer and such modification shall have the same force and effect as if included in the text of this agreement.

ASSIGNMENT, SUBCONTRACTING AND DELEGATION

The contractor has been selected to provide the services and perform the tasks of this agreement because of its unique skills and experience. Except as expressly provided in this agreement, the contractor shall not assign, subcontract or delegate any of the services and tasks to be performed, without written authorization by the Executive Officer.

TIMELINESS

Time is of the essence in this agreement.

LOCUS

This agreement is deemed entered into in the County of Alameda.

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100

OAKLAND, CA 94612-2530

ATSS 541-1018

TELEPHONE (510) 288-1018

FAX (510) 288-0470



May 2, 1996

Subject: Feasibility Study for Escondido Beach Access Development

Dear Malibu Resident:

On Thursday, May 16, 1996 the Coastal Conservancy will consider funding a study to examine the feasibility of developing a public access route from Pacific Coast Highway to Escondido Beach. The potential access route is along a publicly held easement known as the "Chiate/Wildman easement" at 27900-10 Pacific Coast Highway. The study would be a part of the Coastal Conservancy's ongoing investigation of developing the easement for public use.

If funding is authorized, the Coastal Conservancy will employ technical experts to evaluate site conditions and constraints, consider design alternatives, and estimate construction costs. The study would also examine the feasibility of constructing a small adjacent parking lot. Please be aware that at the May 16 meeting the Coastal Conservancy will be considering authorization of a feasibility study only, and not actual construction of public access facilities.

The Coastal Conservancy's meeting will be held in Carlsbad, California, in the city council chambers, 1200 Carlsbad Village Drive, beginning at 9:30 a.m. If you would like to comment on this issue, but cannot attend the meeting, please mail or fax comments to my attention at the above address or number. All written comments received before the date of the meeting will be presented to the Coastal Conservancy's governing board.

Sincerely,

Brenda Burton
Project Manager

EXHIBIT | 4

057

IRELL & MANELLA LLP

A REGISTERED LIMITED LIABILITY LAW PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

333 SOUTH HOPE STREET, SUITE 3300
LOS ANGELES, CALIFORNIA 90071-3042
TELEPHONE (213) 620-1888
FACSIMILE (213) 229-0918

1800 AVENUE OF THE STARS, SUITE 900
LOS ANGELES, CALIFORNIA 90067-4276

TELEPHONE (310) 277-1010

CABLE ADDRESS IRELLA LSA

FACSIMILE (310) 203-7188

840 NEWPORT CENTER DRIVE SUITE 900
NEWPORT BEACH, CALIFORNIA 92660-0324
TELEPHONE (714) 760-0881
FACSIMILE (714) 760-5200

WRITER'S DIRECT DIAL NUMBER

May 15, 1996

VIA FACSIMILE AND U.S. MAIL

Ms. Brenda Buxton
Project Manager
California State Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, California 94612

Re: Feasibility Study for Escondido Beach Access
Development

Dear Ms. Buxton:

We are writing on behalf of our client, Frank Mancuso, who is the owner of a portion of the fee ownership underlying the "Chiate/Wildman easement" (the "Easement"). Yesterday we learned that the Conservancy's May 16th agenda includes an action item pertaining to the Easement. Mr. Mancuso received no personal notice regarding such item as required by law. Accordingly, we are writing to object to the Conservancy's consideration of any action regarding the Easement at its May 16th meeting.

In addition to the fact that Mr. Mancuso has not been provided with personal notice regarding the May 16th meeting, Mr. Mancuso wishes to be able to present to the Conservancy specific public safety, engineering, environmental, and legal issues associated with the Easement, which should be considered by the Conservancy prior to the Conservancy taking any action or expending any public funds in connection with the Easement. By virtue of the lack of notice, Mr. Mancuso is unable to submit these comments in time for the Conservancy's May 16th meeting.

EXHIBIT 15

Ms. Brenda Buxton
May 15, 1996
Page 2

For all of the foregoing reasons, we respectfully request that such item be removed from the Conservancy's May 16th agenda until Mr. Mancuso is afforded proper notice and can make provision to attend or submit comments to the Conservancy.

Very truly yours,



Allan J. Abshez

cc: Mr. Frank Mancuso

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100
OAKLAND, CA 94612-2530
ATSS 541-1015
TELEPHONE (510) 286-1015
FAX (510) 286-0470



May 22, 1996

Mr. Allan Abshez
Irell and Manella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067-4276

Dear Mr. Abshez:

I am responding to your letter of May 15, 1996 to Brenda Buxton regarding the feasibility study for the Chiate/Wildman easement. The staff recommendation for this feasibility study was approved by the Conservancy at the May 16, 1996 meeting and a copy of the recommendation is attached.

Our mailing list for issues regarding the Chiate/Wildman easement, including this feasibility study, has Ms. Susan McCabe as Mr. Mancuso's representative. In my attached letter of April 1, 1996, I informed Ms. McCabe and other representatives that the Conservancy would be continuing its feasibility study of the easement. In addition, Ms. Buxton faxed a copy of the staff recommendation for the feasibility study to Ms. McCabe at the Rose and Kindle office in Sacramento on May 9, 1996.

We would appreciate a letter from Mr. Mancuso clarifying who is his representative and where he would like us to direct future notices or discussions regarding this easement.

As you will see in the attached staff recommendation, the Conservancy is taking no action regarding the construction of this easement. We will be hiring technical experts to evaluate the easement's construction feasibility. Construction of the Chiate/Wildman easement would require a separate authorization by the Conservancy.

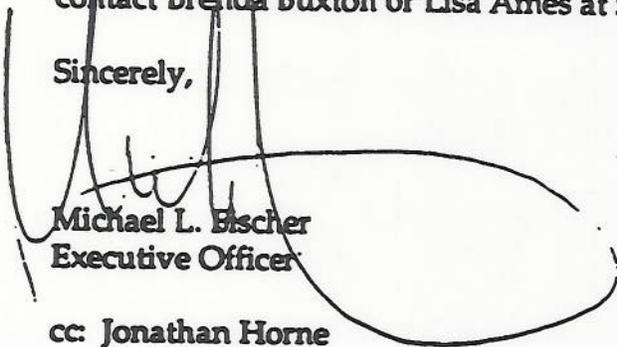
EXHIBIT 16

060

Mr. Allan Abshez
May 22, 1996
Page Two

If you have additional information regarding the easement, you are welcome to submit it to us. This information will be taken into consideration when evaluating the feasibility of building this easement. For further details, please contact Brenda Buxton or Lisa Ames at 510-286-1015.

Sincerely,



Michael L. Bischer
Executive Officer

cc: Jonathan Horne
Susan McCabe

Enclosures

IRELL & MANELLA LLP

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WRITER'S DIRECT DIAL NUMBER

June 6, 1996.

Mr. Michael L. Fischer
Executive Officer
California State Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, California 94612-2530

Re: Feasibility Study for Escondido Beach Access

Dear Mr. Fischer:

We are in receipt of your letter of May 22, 1996. As you will recall, our April 15, 1996 letter requested that the Conservancy refrain from taking any action on April 16 in connection with staff's recommendation regarding the proposed Escondido Beach Access. The basis of our request was that our client had not been provided with legally required notice and the opportunity to be heard regarding matters which may result in a significant deprivation of his property rights. Horn v. County of Ventura, 24 Cal. 3d 605 (1979).

Due to the Conservancy's lack of notice, Mr. Mancuso was prevented from presenting specific public safety, engineering, environmental, and legal issues associated with what is commonly known as the Chiate/Wildman easement, as well as matters concerning the entry of Conservancy contractors and vendors onto his property, which should have been considered by the Conservancy prior to any action pertaining to the scoping and authorization of the proposed study. Prior entries by the Conservancy's agents have damaged areas of Mr. Mancuso's property which are outside of the easement area.

Although your letter does not state whether the Conservancy complied with our reasonable request, its plain implication is that the Conservancy acted despite our request in derogation of our client's due process rights. We would appreciate being advised immediately if the Conservancy did not take any action.

Mr. Michael L. Fischer
June 6, 1996
Page 2

We hope that the Conservancy is willing to recognize its constitutional responsibilities to provide reasonable notice and hearing to directly affected property owners, and that we will be able to avoid costly unproductive litigation. Accordingly, we are requesting that the Conservancy immediately stop the work which your letter implied was authorized on April 16 until a duly noticed hearing has taken place. We would appreciate your written response to this request so that we can determine how to appropriately proceed.

None of the items described in your May 22nd letter indicates that the Conservancy sought or attempted any direct mail notice to Mr. Mancuso, who is the fee owner of a portion of the property affected by the easement, as required by law. For your information, Ms. McCabe does not represent Mr. Mancuso. In addition, Ms. McCabe also confirmed to me by telephone that she has not informed the Conservancy that she is representing Mr. Mancuso. In your letter of May 22nd you referenced and included Conservancy correspondence dated April 1, 1996. Such correspondence is addressed to Mr. Jonathan Horne, who does not represent Mr. Mancuso. In addition, such letter makes no mention of the April 16th action item.

Finally, in accordance with the Public Records Act, we are requesting a complete copy of the administrative record pertaining to the Chiate/Wildman easement. We will, of course, reimburse the Conservancy for the cost of copying the record.

Once again, we would appreciate receiving immediate written advice as to the Conservancy's position and whether the Conservancy is willing to voluntarily stop the work authorized on April 16th so that we can determine how to appropriately proceed.

Very truly yours,


Allan J. Abshez

cc: Mr. Frank Mancuso

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WRITER'S DIRECT DIAL NUMBER

June 13, 1996

VIA FACSIMILE AND U.S. MAIL

James Pierce, Esq.
California State Coastal Conservancy
1330 Broadway
Suite 1100
Oakland, California 94612

Re: Chiate/Wildman Easement

Dear Mr. Pierce:

This letter confirms our telephone conversation of this afternoon. You informed me that a decision had not yet been reached regarding our June 6 letter request that actions arising from the Conservancy Board's May 16 meeting regarding the Chiate/Wildman Easement be suspended until Mr. Mancuso had been afforded a duly noticed opportunity to be heard regarding the same. You indicated that the Conservancy would provide a written response to our request on Monday or Tuesday of next week.

As indicated in both our letters of May 15 and June 6, Mr. Mancuso received no personal notice of the May 16 action regarding the Easement, notwithstanding the fact that such item significantly impacts Mr. Mancuso's property rights, and among other things, contemplates entry onto his property by third party vendors. I indicated my concern that Mr. Mancuso should be afforded a duly noticed opportunity to be heard before the Conservancy Board's May 16 action acquires irreversible momentum, and stressed the importance of a response so as to enable Mr. Mancuso to determine whether it will be necessary to pursue formal legal redress.

Because of the problems which have arisen from the lack of personal notice to Mr. Mancuso and other area property owners, I inquired whether the Conservancy had adopted any

James Pierce, Esq.
June 13, 1996
Page 2

notice procedures as mandated by Section 31107.1 of the Public Resources Code. You indicated that you were not aware that the Conservancy had adopted any procedures pursuant to Section 31107.1, or any other notice procedures.

Finally, I inquired as to the status of our June 6 Public Records Act request. I was informed that we would shortly be provided with an estimate of the cost of copying the record. We would like to receive the record as promptly as possible so that we may adequately prepare for a hearing before the Conservancy Board (assuming the Conservancy is willing to accommodate our reasonable request).

Please do not hesitate to contact me if you have any comments or questions.

Very truly yours,


Allan J. Abshez

cc: Mr. Frank Mancuso



Coastal Conservancy

June 18, 1996

Via Facsimile & U.S. Mail
310/203-7199

Mr. Alan Abshez
Irell & Manella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067-4276

**RE: Feasibility Study for Escondido Beach Access/Mancuso
Property**

Dear Mr. Abshez:

This is in response to your letter of June 6, 1996 to Michael Fisher, and letters of June 13, 1996 to me and to Charles Rauw of Charles I. Rauw Consulting Engineers. Your correspondence alleges that your client Frank Mancuso's procedural due process rights have been violated, in that you contend Mr. Mancuso was not afforded notice or an opportunity to be heard with respect to the Conservancy's May 16, 1996 board meeting and authorization of the above-referenced feasibility study. Your correspondence also requests that the Conservancy refrain from taking any action in furtherance of the feasibility study authorized by the Conservancy Board on May 16, 1996.

It is our opinion that Ms. Susan McCabe repeatedly, both actually and constructively, represented to the Conservancy that she was Mr. Mancuso's agent. Ms. McCabe contacted Mr. Fisher in early 1994 and stated that she represented Mr. Mancuso concerning the Chiate/Wildman easement. Indeed, at this time she, along with Jonathan Horne, Mr. Wildman's representative, provided Mr. Fisher with a tour of the subject real property. Also, in September of 1994 Ms. McCabe and Mr. Horne toured the property with Conservancy staff Joan Cardellino and Brenda Buxton. In December of 1995 Ms. McCabe and Mr. Horne attended a meeting at the Conservancy's offices where they proposed an access alternative to the Chiate/Wildman easement. Further, in February 1996 Ms. Buxton and Steve Horn, Deputy Executive Officer of the Conservancy, had several conversations with Ms. McCabe concerning the Chiate/Wildman easement. The following month, Ms. McCabe attended a public meeting concerning the easement, and also telephoned Ms. Buxton subsequent to the meeting to discuss the proposed alternative

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510-286-1015 Fax: 510-286-0470

Mr. Alan Abshez
June 18, 1996
Page 2

easement. Ms. McCabe has also received correspondence from the Conservancy on this matter, yet never notified the Conservancy that she was not Mr. Mancuso's agent.

Ms. McCabe's repeated contact with the Conservancy and attendance at meetings concerning the easement constitutes her repeated representation that she was acting as Mr. Mancuso's agent in this matter. Accordingly, the Conservancy reasonably believed Ms. McCabe to be acting as such. The Conservancy regrets any misunderstanding between Mr. Mancuso and Ms. McCabe as to her agency status, but was not duty bound to establish the exact nature of the relationship between these individuals.

Ms. McCabe's agent status notwithstanding, neither Mr. Mancuso or your firm ever requested to receive notice from the Conservancy with respect to the May 16, 1996 meeting, as required by law. Notice of the May 16, 1996 meeting was provided to all persons who requested, in writing (in accordance with California Government Code Section 11125(a)),¹ to be notified of the meeting. Furthermore, as a courtesy, Ms. Buxton provided Ms. McCabe with a facsimile of the staff recommendation describing the proposed feasibility study in early May 1996.

The Conservancy regrets Mr. Mancuso's election (perhaps unintended) to forego his opportunity to be heard at the May 16, 1996 meeting. However, the Conservancy asserts it did nothing wrong concerning its duty to provide proper notice of the meeting. Notwithstanding, as I mentioned during our telephone conversation of June 13, 1996, the Conservancy invites Mr. Mancuso to raise his concerns to the Conservancy in writing. The Conservancy also receives oral comments from the public at each of its meetings; the next two Conservancy meetings will be held June 20, 1996 in Sacramento and August 15, 1996 in San Francisco.

Your correspondence also states that Mr. Mancuso's property has been damaged by Conservancy agents. Assuming any such damage did occur, please elaborate on this statement if the extent of the damage warrants your taking the time to do so.

With respect to your June 6, 1996 Public Records Request Act inquiry, we have four filefolders, each approximately 3 1/2 inches thick. We suggest that you review the files for relevance and applicability prior to copying. Please let me know how you would

¹ Your June 13, 1996 correspondence references Cal. Public Resources Code Section 31107.1 with respect to the Conservancy's notice procedures. Section 31107.1 pertains to "property transactions," that is acquisitions, exchanges, etc. The Conservancy's action on the Chiate/Wildman easement does not constitute a transaction as the Conservancy already owns the easement.

Mr. Alan Abshez
June 18, 1996
Page 3

like to handle the inspection and production of the documents.

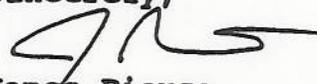
As for your letter to Mr. Rauw, be aware that neither you or Mr. Mancuso have any authority to impede Mr. Rauw or Charles I. Rauw Consulting Engineers from the performance of any contractual obligation they may have concerning the feasibility study. Furthermore, you, on behalf of Mr. Mancuso, are instructed and requested to direct any communications to the Conservancy or its agents concerning this issue through this office until otherwise instructed. Any further unauthorized conduct will be considered tortious interference with the Conservancy's business relationship(s).

At this time, the Conservancy will continue working on the previously approved feasibility study. However, you have the Conservancy's assurance that no entry onto Mr. Mancuso's property will occur without his permission. Indeed, Mr. Mancuso currently blocks access to the Conservancy's easement from Highway One, and maintains structures which encroach upon the Conservancy's easement. These issues require resolution, which will hopefully be accomplished through negotiation rather than litigation. Any necessary entry onto Mr. Mancuso's property prior to resolution of these issues for purposes of the feasibility study will be described in writing and permission for entry will be sought.

The Conservancy urges you and your client to realize that work on feasibility studies, as opposed to actual construction, can be conducted largely off-site. Further realize that one potential outcome of a feasibility study is a lack of feasibility. Finally, realize that the concerns referenced in your correspondence can and should be raised at the time actual construction is considered for authorization. In short, your request for cessation of the study and threat of litigation lack merit and wisdom in that they are not ripe for judicial intervention, nor has Mr. Mancuso exhausted his administrative remedies. Keep in mind the prohibition on the filing of frivolous actions embodied in Code of Civil Procedure Section 128.5.

The Conservancy looks forward to hearing, addressing and resolving the issues referenced in your correspondence and in this letter. Please contact me with any questions.

Sincerely,



James Pierce
Staff Counsel

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WRITER'S DIRECT DIAL NUMBER

June 19, 1996

VIA FACSIMILE AND U.S. MAIL

Mr. James Pierce
 Staff Counsel
 Coastal Conservancy
 1330 Broadway, 11th Floor
 Oakland, California 94612-2530

Re: Chiate/Wildman Easement

Dear Mr. Pierce:

We are in receipt of your letter of June 18, 1996. As we discussed during our telephone conversation this afternoon, we are requesting that our request to suspend activity pending correction of the Conservancy's due process error be presented to the Board at its meeting in Sacramento tomorrow.

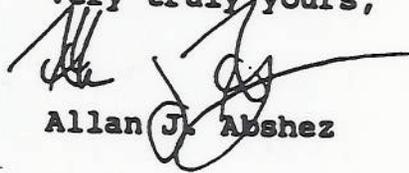
We do not believe it is appropriate for staff to unilaterally deny Mr. Mancuso's request as indicated by your letter, and to fail to even present our request to the Board, which after all is the responsible decision-making entity in the present instance.

Your letter acknowledges that the Conservancy did not provide Mr. Mancuso, one of the two owners whose properties are encumbered by the easement, with any actual notice of the Conservancy's May 16 agenda item. It is our understanding that the other property owner concerned did receive actual notice. Decisions regarding the easement directly and materially effect Mr. Mancuso's property rights. As I explained during our conversation, we fail to understand how a short delay to afford Mr. Mancuso notice and an opportunity to be heard (as he should have originally been provided) could in any way injure or prejudice the Conservancy's interests.

Mr. James Pierce
June 19, 1996
Page 2

As we discussed, we will be responding separately to the other issues raised in your June 18 letter. We look forward to the Conservancy Board's response to our request.

Very truly yours,



Allan J. Abshez

VIA FACSIMILE AND U.S. MAIL

cc: Mr. Frank Mancuso
Mr. Michael Fischer
Ms. Brenda Buxton

Staff
California State Coastal Conservancy
1320 Broadway, 11th Floor
Oakland, California 94612-2530

Re: Chiata/Wildman Easement

Dear Mr. Pierce:

I received your phone call message of June 24, 1996, in which you informed us that staff did not present to the Conservancy Board Mr. Mancuso's request for notice and opportunity to be heard regarding the proposed study to open the Chiata/Wildman Easement. In our view, by withholding Mr. Mancuso's request from the Board, the staff of the Conservancy has denied Mr. Mancuso any administrative remedy he may have had, or has rendered the same futile. Staff's action also reinforces the serious concerns presented in our previous correspondence to the Conservancy.

We wish to respond to several of the points raised in your June 18, 1996 letter, specifically:

1. Your letter admits no actual notice was ever given to Mr. Mancuso. Whatever the Conservancy's misimpression about Mr. McCabe, there is no excuse for the Conservancy not providing mailed notice to the RECORDING CLERK on whose property a portion of the easement concerned lies.

2. Your letter also suggests that the Conservancy has not adopted procedures for notice as required by Public Resources Code Section 31107.1. The lack of such procedures is the source of the problem which has occurred in the present instance.

Mr. James Pierce
June 26, 1996
Page 2

Your interpretation that the Conservancy has no notice obligations under Section 31107.1 is conveniently self-serving given the lack of notice which has occurred, and the Conservancy's apparent failure to implement Section 31107.1.¹ Moreover, your unduly narrow interpretation of Section 31107.1 is neither consistent with the broad definition of the word "transaction," nor the language of Section 31107.1, which emphasizes not only proper -- but equitable -- notice to the public. Simply put, given the fact that the study will provide critical information to guide the Conservancy's decision-making process regarding the easement, there is no excuse for denying directly affected property owners, like Mr. Mancuso, the opportunity to provide input regarding the study's proper scope.

3. Your suggestion that Mr. Mancuso raise his concerns in comments at a later time is not sufficient to remedy the Conservancy's errors. Mr. Mancuso and other area property owners should have been afforded an opportunity to be heard and to provide input regarding the proper scope of the feasibility study and the environmental and other factors that should be included before the study was authorized.² Instead, the Conservancy limited the scope of the study apparently to construction issues only, and authorized a limited budget tailored to such scope. These limitations effectively preclude the study from providing a full consideration of the factors which concern Mr. Mancuso.

4. Your remarks concerning our June 13, 1996 letter to Rauw Consulting Engineers are inappropriate. Our letter to Rauw

¹ We are at a loss to understand the Conservancy's purported reliance on Government Code Section 11125(a) to excuse the Conservancy's lack of notice to Mr. Mancuso. Obviously, in order to request notice of future activities, an affected owner must have had at least initial notice; here, no such notice occurred.

² These factors include, but are not limited to, traffic hazards and traffic congestion impacts; the lack of safe and sufficient parking; the cost and feasibility of providing such basic services as police, lifeguard, emergency communications and sanitary facilities; the cost and feasibility of mitigating adverse impacts to coastal bluffs, the beach, and sensitive vegetation and animal species; as well as impacts to surrounding and private property values.

Mr. James Pierce
June 26, 1996
Page 3

placed it on notice that no arrangements had been made by the Conservancy for entry to our client's property; a fact which your June 18 letter concedes. Nothing about our letter in any way impedes the Conservancy's business relationship with Rauw; nor is Rauw your client. Mr. Mancuso reserves the right to communicate with Rauw regarding any matter which effects his property interest.

Please do not hesitate to contact me if you have any questions or comments.

Very truly yours,



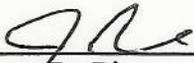
Allan J. Abshez

cc: Mr. Frank Mancuso

I, James L. Pierce, certify that I serve as Staff Counsel to the California State Coastal Conservancy, and am the custodian of records for the Conservancy's files pertaining to the Chiate/Wildman Easement and the litigation entitled Mancuso v. California State Coastal Conservancy, et al., Los Angeles County Superior Court Action No. BS 040197; that the foregoing documents are true and correct copies from the Conservancy's files pertaining to the Chiate/Wildman Easement and Mancuso v. California State Coastal Conservancy, et al.

Executed at Oakland, California.

Dated: October 16, 1996



James L. Pierce, Staff Counsel
California State Coastal Conservancy