

January 6, 2010

SENT BY FACSIMILE AND EMAIL

Joseph Edmiston
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Ramirez Canyon Park
1510 Ramirez Canyon Road
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Governing Board
Mountains Recreation and Conservation Authority
Ramirez Canyon Park
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Ladies and Gentlemen,

I am writing regarding Joe Edmiston's letter of January 5 to Steve Hudson of the California Coastal Commission received by us yesterday, and the subsequent nighttime removal a few hours later of the pedestrian gate at Lot I of the Malibu Encinal Tract by MRCA Rangers, clearly under the instructions of Mr. Edmiston and the MRCA Governing Board ("MRCA Board") without notice to, or the approval or consent of, MEHOA, the California Coastal Conservancy, the City of Malibu, the Coastal Commission, or any other party with jurisdiction.

It is our position that the removal of the Lot I gate was an unauthorized attempt to implement a "project" in advance of environmental review as required by CEQA, as well as in advance of the processing of a Coastal Development Permit for that project, the application for which is presently pending before the City of Malibu (Malibu Coastal Development Permit Application No. 07-087). Moreover, as discussed in our letter to the Governing Board of even date herewith, the MRCA lacks authority to make any alterations or improvements to its Lechuza Beach interests in advance of the Coastal Conservancy's promulgation and adoption of a management plan for Lechuza Beach.

As evidenced by Mr. Edmiston's own words in his letter, there was no purpose in this unauthorized, wanton, intentional act other than to pressure MEHOA into agreeing with the incomplete, inappropriate and unlawful development permit the MRCA has pending with the City of Malibu. The record clearly shows that the City has many times advised the MRCA of the deficiencies in its application. In response, as Mr. Edmiston has said in his letter, "We hope that to the extent there is concern about the lack of a gate, such concern will translate

into cooperation from MEHOA and timely processing of our application by the city [sic] of Malibu.” This certainly has the ring of extortion and blackmail- hardly the example of a responsible public agency.

This irresponsible act flies in the face of the continuing restrictions imposed on the MRCA’s Lechuza Beach interests by the Coastal Conservancy. It has also created a highly hazardous public safety risk and liability for the MRCA as the Lot I pathway, it’s own property, is not marked or lighted, follows a steep set of stairs along the bluff face, has no useable handrails or protective railings to guard against a fall from the bluffs, has a severely uneven walking surface and many twists, turns and dangers on the way to the beach. There are no warnings or disclaimers posted. There is no way at night to secure adjacent private property and the beach itself from trespass, damage, invasion or harm to residents that now is much more likely due to the dark, secluded unpatrolled area. The MRCA we assume knows that the beach has eroded substantially resulting in frequent flooding of the entire beach during high tide, particularly at night in Winter. This creates a great risk to the public of drowning, being washed away or thrown against rocks by the tides and rough water. To even begin to mitigate these conditions, the MRCA will need to construct safety improvements that will require permits from the City and perhaps the Coastal Commission. Furthermore, the MRCA will need to patrol the area 24/7 to prevent injury and harm to users and to the very coastal resources that the MRCA claims it wants to preserve. All of these conditions were successfully handled before by a simple gate that had been there for years and had never been proved by anyone to be “unpermitted.”

On top of the inherent outrageousness of this conduct by the MRCA, it is our and MEHOA’s position that the acts that the MRCA have taken involving the Lot I gate, and otherwise in recent days, are completely unlawful and without any legal power or authority. The actions are not within the joint powers authority of the MRCA, violate the restrictions on its authority and are direct violations of the express conditions of the conveyance to the MRCA of all lots at Lechuza Beach reserved by the California Coastal Conservancy. To the extent that the intentional and clearly malicious acts of Mr. Edmiston and the MRCA Board have been taken without legal power or authority, they are the acts of each individual involved and each of those individuals may be personally responsible for all liability and other consequences resulting from the acts.

This is to advise the MRCA, Mr. Edmiston and each member of the MRCA Board that MEHOA and all members thereof will hold each of said parties fully liable and responsible for any and all claims, liability, damage, harm or any other adverse consequence arising from or connected to the actions of those parties in removing the Lot I gate and permitting nighttime access to Lechuza Beach through Lot I. Since MEHOA is a named insured on liability insurance policies issued to the MRCA and covering Lot I, we will advise MEHOA to notify the applicable insurers of the change in risk so that they can adjust the coverage accordingly.

We trust that the MRCA will take prompt action to restore the gate to Lot I and resume the previous gate locking schedule of 8am to sunset immediately.

Very truly yours,

Allan J. Abshez

CC: Steve Hudson, California Coastal Commission (“CCC”)
Peter Douglas, Executive Director, CCC
John Ainsworth, Deputy Director, CCC
N. Patrick Veasart, CCC
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