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COASTAL COMMISSION ACTION TO PROVIDE NEW MALIBU BEACH ACCESS

San Diego, CA– The California Coastal Commission has resolved a 10-year dispute to open public accessways to and along Carbon Beach in Malibu. At the Commission’s meeting in San Diego last week, the Commission approved a settlement with Lisette Ackerberg to remove unpermitted development blocking two public access easements on her property. The public easement had been blocked by, among other things, a 9-foot-high wall, large boulders, and a fence.

As part of the settlement, Mrs. Ackerberg offered to construct a wheelchair accessible, paved pathway from Pacific Coast Highway to Carbon Beach. The new path will be completed by December, 2014. Mrs. Ackerberg also agreed to pay \$1.1 million to resolve all Coastal Act claims. Some of the funds will go to the easement holder, the Mountains Recreation and Conservation Authority (MRCA) to operate and maintain the accessway. The rest will be used to enhance and maintain public access elsewhere in Malibu, and to reimburse the Attorney General’s office for legal fees. The accessway provides public access from Pacific Coast Highway to the ocean, in a stretch of almost a mile where no other access points currently exist.

The Coastal Commission originally issued two permits for new development on the Ackerberg’s beach-front lots in Malibu in 1983 and 1985. The permits allowed construction of a house, pool, tennis court, and a 140-foot long seawall. As required by the permits, the property owners recorded two “offers to dedicate” public access easements across the property. One accessway across the edge of the property was intended to provide public access to get to the beach. The other easement across the full width of the beachfront side of the property from the mean high tide line to the seawall was to provide public access on the beach itself. The easement was “accepted” by a nonprofit in 2003, and therefore could have been opened up, but the accessway was never built, and rocks, fencing and landscaping that the property owner had placed in the accessway made it impossible for people to get to and use the beach, despite the permits and the Coastal Act.

The Coastal Commission and the landowner attempted to resolve the violations over the last decade, but Ackerberg sued the Commission to challenge the requirement of opening the easement. In August of 2012, the Court of Appeals upheld the Commission’s action and ruled that the land owner was legally obligated to clear the access easements for public use, and the California Supreme Court declined to review the matter. The Commission’s final action on the matter last week brings this lengthy legal dispute to a close.

"This is a tremendous resolution of a long-contested matter, and will provide public access to a wonderful recreational beach area that has previously been difficult to reach." said Charles Lester, the Coastal Commission's Executive Director. "We are very pleased that Mrs. Ackerberg agreed to this settlement, -- this is a great example of what the Coastal Act can achieve for the public through perseverance and by keeping our eyes on the vision of a coastline accessible to all Californians."

The Coastal Commission approved the settlement unanimously. "It's unfortunate that so much time, and so many resources had to be wasted over the last decade trying to get the public their rightful access to the beach," said Mary Shallenberger, Chair of the Commission. "But this is an outcome we can all feel proud of, and we are grateful to Mrs. Ackerberg for stepping forward and doing the right thing for the people of California." When opened, the new Carbon Beach path will provide a third accessway to a 1.5 mile stretch of sand halfway between the Zonker Harris Accessway and the Carbon Beach East Accessway. Both accessways resulted from earlier Coastal Commission permit conditions.

"My late husband, Norman Ackerberg, was a founder of Santa Monica Baykeeper and I, like him, have been a strong supporter of environmental causes," said Lisette Ackerberg. "Although the Commission and I disagreed for several years about the meaning of the terms of the permits governing my property, I am pleased that the matter has been resolved in a way that will enable me to play a role in providing for an accessway to Carbon Beach that will be compliant with the Americans with Disabilities Act, something of great importance to me and my late husband."