

CALIFORNIA COASTAL COMMISSION

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CALIFORNIA COASTAL COMMISSION

**ENFORCEMENT PROGRAM
ANNUAL REPORT**

2004



**California Coastal Commission
Enforcement Program
Annual Report
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THE ENFORCEMENT PROGRAM

In the early 1990s, the Legislature strengthened the enforcement provisions of the Coastal Act by giving the Commission the power to issue cease and desist and restoration orders, and increased the Act's penalty provisions significantly, reflecting the rise in land values and creating a disincentive to would-be violators of permit requirements. Cease and desist orders are generally used by the Commission to halt ongoing violations, to order removal of unpermitted development, and obtain compliance with requirements of the Coastal Act; restoration orders are generally used to bring about the removal of unpermitted development and/or restoration of damaged coastal resources. Cease and desist and restoration orders are perhaps the most important enforcement tools available to the Commission. These orders are quasi-adjudicative matters before the Commission, and have been quite effective in deterring and halting illegal development activities in the coastal zone.

District Enforcement Officers

San Diego Coast District

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The Commission's open violation caseload has increased significantly, creating a critical need for additional staff. The program was expanded in 2000, and the number of permanent enforcement staff positions was increased from five to 12. The enforcement program includes five district enforcement positions and three headquarters enforcement officers. The district officers strive to resolve violations without formal administrative action, and the headquarters enforcement officers prepare cease and desist orders and restoration orders and support litigation. The officers also work with local governments, attending task force meetings and coordinate strategies on cases that span permit jurisdictions. The Statewide Enforcement Program is led by the Chief of Enforcement, who is responsible for coordinating both district and headquarters staff.

Chief of Enforcement

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The mission of the Commission's enforcement program is to protect coastal resources by assuring that development is consistent with the Coastal Act, that all terms and conditions of coastal development permits (CDPs) are complied with, and to deter and address violations of the Coastal Act.

HEADQUARTERS ACTIVITIES

Overview: In addition to managing elevated casework, Headquarters' Enforcement staff, located in San Francisco, CA, coordinates with District offices to ensure that consistent standards of enforcement are applied statewide. During the 2004 calendar year, 13 cases were elevated to the Headquarters office for second-level enforcement, adding to the 163 cases pending on-going action. Of those, 116 cases were also pending at the Office of the Attorney General and may require litigation.

During 2004, the Commission issued 13 Cease and Desist Orders, involving:

- *Obstruction of public access*
- *Unpermitted private development on a sandy beach*
- *Unpermitted shoreline protective devices*
- *Debris disposal in sandy dunes*
- *Private encroachment on public land*
- *Unpermitted road grading in landslide*
- *Unpermitted land division and sale*
- *Removal of sensitive vegetation*

Four Restoration Orders, involving:

- *Removal of buried debris in sand dunes*
- *Restoration of public lands*
- *Restoration of removed vegetation*

Two Executive Director Cease and Desist Orders, involving:

- *Obstruction to public access*
- *Development in an open space easement*

Cease and Desist Orders and Restoration Orders issued included:

- An order was issued to a homeowners association to remove unpermitted development, which impeded public access to a popular beach in northern Ventura County. The development included the placement of "private property" signs, fencing, boulders, soil, drainage devices, and landscaping along the road adjacent to Old Highway 1 and on top of an existing revetment above the beach. Since the order was issued, the obstructions have been removed and public access to the beach is now restored (see photos below and next page).



May 2004 - Fencing blocking public access to beach.



May 2004 - boulders, landscaping and "private property" sign.



July 2004 - Fencing and signs removed. Access to beach is now open and available to the public.



July 2004 - Access to the beach now open to the public.



View of the unpermitted development on beach and bluff face in Corona Del Mar, Orange County.



Unpermitted shed and retaining walls.

- In March 2004 the Commission issued a Consent Cease and Desist Order regarding unpermitted grading and landform alteration of a coastal bluff and beach; unpermitted construction of a stairway, chain-link fence, retaining walls, concrete patio, storage shed and storage cabinets in Corona del Mar, Orange County. As provided for in the Order, the property owner paid a penalty, removed unpermitted development from the beach area, and submitted a CDP application seeking after-the-fact approval for the remaining unpermitted development on the bluff face and at the base of the bluff (see photos below and on next page).

- In September 2004, the Commission issued a restoration order to address the unpermitted construction of a debris basin, placement of thousands of cubic yards of fill, construction of a private golf area, and an extension of a private rear yard onto land deed restricted and dedicated for public open space, all of which were placed adjacent to state park land in the Santa Monica Mountains. The property owner agreed, through a consent order, to restore the site and pay a fine of \$30,000. The order required the removal of the debris basin, fill, golf area, fencing, and non-native landscaping and restoration of the area using restorative grading and replanting with native coastal sage scrub and chaparral (see photos).



Phase one of the unpermitted development.



Ongoing unpermitted development including thousands of cubic yard of fill, non-native landscaping and private golf area adjacent to state park land.



The unpermitted development has been removed and the initial stage of restorative grading with native species has begun.



Another restored area of the site.

- In June 2004 the Commission issued Cease and Desist and Restoration Orders regarding the unpermitted grading, solid waste disposal and removal of major vegetation at a site immediately bordering the mouth of the Eel River in Humboldt County. The solid waste disposal included rusted automobile parts, batteries, tanks containing unidentified liquids, household wastes, cow carcasses, and an old trailer. The Restoration Order required the removal of all unpermitted development and replanting of any impacted dune areas with native vegetation (see photos below).



View of the site being assessed. Some of the unpermitted solid waste disposal included a rusted car and its parts.



Another view of the unpermitted waste disposed at the mouth of Eel River. More car parts and a corroded trailer seen here.

- A Consent Cease and Desist Order addressed an unpermitted and unnecessary seawall placed on a rock ledge above the ocean in the Live Oak area of Santa Cruz County. The wall was not needed to protect the house, which is located significantly inland of the ledge. The Order required the violator to remove the seawall and landscape the area with native vegetation (see photos below).



May 2004 - Unpermitted sea wall in Santa Cruz.



October 2005 - Sea wall removed and replanting of native vegetation has begun.

- A Consent Cease and Desist Order and a Consent Restoration Order addressed the unpermitted removal of approximately 1,500 square feet of native coastal dune scrub vegetation, determined to be Environmentally Sensitive Habitat

(ESHA) on coastal bluffs in northern San Diego County. The Orders directed the violator to revegetate disturbed areas with locally appropriate native plant species, to manage and monitor the site until the vegetation is self-sustaining, and to submit annual reports to the Commission.

Executive Director Cease and Desist Orders:

- An Executive Director Cease and Desist Order (EDCDO) was issued to stop the unpermitted removal of approximately 1/4 acre of threatened, native Monterey pine forest that had been mapped as Environmentally Sensitive Habitat Area (ESHA) in the San Luis Obispo County LCP, and was also protected by a conservation easement. The easement was purchased with public funds and is held by The Nature Conservancy.

Effect of Orders

All of these orders were issued to protect vital policies of the Coastal Act, such as protecting habitat, water quality, public access, and the visual and scenic resources of the coast; preventing unpermitted development; and requiring compliance with permits issued by the Commission. Commission staff has obtained significant compliance with the orders, and many of the violations have been resolved. Many of these cases were resolved more quickly and with fewer resources expended than would have been required through the permitting process, or if litigation had commenced.

NORTHERN DISTRICTS

NORTH COAST

Overview: The North Coast District continues to open and investigate new cases in Del Norte, Humboldt and Mendocino counties. During this reporting period, the District opened 30 cases, elevated two cases, and resolved 10 cases, in addition to managing the 94 ongoing cases that are pending and may require formal enforcement action.

Cases Addressed:

- A case was resolved involving the unauthorized revocation of recorded access easements, in the town of Trinidad in Humboldt County. The Coastal Conservancy was preparing to accept the Offer to Dedicate, when it discovered that the property owners had recorded a Revocation of the Offer to Dedicate. After numerous contacts, Enforcement staff persuaded the property owner to comply with the permit by recording a rescission of the Revocation, which restored the public access provision. Since then, the Conservancy has accepted the Offer to Dedicate and this easement is now available for public use.
- A violation in Ferndale was resolved involving the unpermitted placement of a residential trailer and portable toilet that impacted the surrounding sensitive habitat and posed septic and wastewater issues. Enforcement staff worked with the property owners and has since confirmed that all unpermitted development had been removed (see photos on next column).



Unpermitted trailer in Ferndale, Humboldt County



Another view of the trailer and portable toilet, which was a source of sewage and water quality concerns.



View after trailer was removed from property

- A local contractor was removing vegetation and stockpiling debris on property adjacent to wetlands near Humboldt Bay, without the permission of the property owner, Humboldt State University. Enforcement staff contacted the university, who assisted staff in getting the materials removed and relocated to an approved disposal site. The site was cleaned prior to the commencement of the rainy season, which was a concern because of the composition of the debris disposed and its proximity to seasonal wetlands (see photos).



Removal of cement and debris.



Debris stockpile adjacent to seasonal wetlands and Humboldt Bay, Arcata, Humboldt County



View after the clean up and removal of the cement and debris.

- Enforcement staff discovered a violation concerned unpermitted riverbank development in late 2003. The property owner had removed native vegetation and installed sandbags along the bank of the Mad River in McKinleyville. After enforcement staff contacted the property owner, he agreed to remove the sandbags and submitted a CDP to restore the site to its previous condition. The Commission approved the restoration project, and restoration efforts have been successful in stabilizing the riverbank.
- The residents of Mendocino County reported a violation blocking an existing vertical access way to Belinda Point by the unpermitted installation of fencing, which was also a violation of a CDP. Enforcement staff contacted the property owner to resolve access. As a result, a half-mile vertical trail is now open, beginning with a walk through a cypress and eucalyptus forest, which opens to a spectacular ocean vista. The portions of the trail overlook two rocky coves, winding along the jagged cliffs until, terminating at Belinda Point (see photos next page).



Unpermitted fence was removed that once blocked vertical access to this path located at Belinda Point in Mendocino County.



Another view showing unimpeded access to Belinda Point from Highway One.

NORTH CENTRAL

Overview: North Central Coast District Enforcement staff has continued to investigate, process, and resolve violation cases in Sonoma, Marin, San Francisco, and San Mateo Counties. During 2004, District Enforcement staff opened 15 new cases and closed 21 cases, while continuing to investigate and take action on 62 pending cases.

Cases Addressed:

- Two Coastal Act violations concerned adjacent properties in the Seadrift subdivision in Marin County. Property owners cleared the sites of vegetation near a body of water without a coastal development permit. Enforcement and Water Quality staff visited the sites and made recommendations for stabilizing the site before the rainy season. Erosion and sediment control measures were reviewed and approved, and in 2004, a CDP was issued for development on the sites.
- Two Coastal Act violations arose regarding the lack of follow-up CDPs for emergency repairs to an existing riprap revetment along Shoreview Avenue in Pacifica, San Mateo County. The emergency permits required submittal of a CDP application for a follow-up permit within 60 days of issuance of the emergency permit; otherwise, the development would have to be removed within 120 days of the emergency permit. In these cases, no follow-up CDP was sought, nor was the development removed, resulting in Coastal Act violations. Enforcement staff assisted the property owners in participating in the after-the-fact permit process. All riprap along Shoreview Avenue is now permitted, and include conditions requiring the revetments to be maintained by the permittees for the life of the structure and periodic monitoring reports must be submitted (see photo next page).



Aerial photo showing permitted Shoreview Avenue revetment.

CENTRAL COAST

Overview: The Central Coast District Officer devotes most enforcement time to resolving Coastal Act enforcement issues in LCP-certified areas in Santa Cruz, Monterey and San Luis Obispo Counties. This involves a great deal of coordination with local governments and fewer direct actions brought by the Commission itself. During 2004, Central Coast District enforcement staff opened 46 cases, elevated two cases, and resolved 62 cases in addition to managing 195 pending cases.

Cases Addressed:

- Central Coast Enforcement staff resolved a long, outstanding violation concerning an unfulfilled 1980 permit condition requiring the owners of a mobile home park in the City and County of Santa Cruz to provide a public access trail through the mobile home park to the shoreline and to post public access signs. Instead of complying with the permit conditions to provide access, owners of the mobile home park had

posted “No Public Access” signs and were denying the public access to the shoreline. In addition, they had not recorded the public access easement as required by the permit condition. In resolving the violations at the site, the property owners allowed extensive public access through the mobile home park, which resulted in a more comprehensive public access program than required under the permit. Signs reading, “Public/Coastal Access (Sunrise to Sunset); Respect Private Property,” were posted, the access dedications were recorded, and the permit conditions were fulfilled.

- A violation arose concerning a demolition of a residence in Carmel By-the-Sea, Monterey County. The permit had specifically identified this house as a part of the historic community, and provided for a remodel similar to the character of the original home. The new development did not reflect historic qualities. The property owner settled the violation in-lieu of having the case elevated to Headquarters and litigation and paid a \$20,000 penalty. These funds have been placed in the Violation Remediation Account to be used for coastal resource improvements. She also preserved and reused as much of the demolished structure as possible, consistent with California Coastal Commission permit action.

SOUTHERN DISTRICTS

SOUTH CENTRAL COAST DISTRICT (VENTURA)

Overview: South Central Coast District enforcement staff has continued to process, investigate, and resolve a significant number of violation cases in Santa Barbara, Ventura, and L.A. Counties. During 2004, District Enforcement staff opened 36 new cases and closed and resolved 16 cases. Enforcement staff also continued to participate in and the Santa Monica Mountains Enforcement Task Force, an intergovernmental organization composed of members from local, state, and federal governmental agencies who meet monthly for the purpose of coordinating investigation and resolution of enforcement cases.

Cases Addressed:

- The unpermitted installation of a chain-link fence across the beach near the mouth of Las Flores Creek, in the Carbon Beach area of Malibu, blocked the public's ability to walk along the beach, except during very low tides. At the direction of enforcement staff, the violator removed the unpermitted fencing and restored public access (see photos following).



Unpermitted fence at Las Flores Creek.



Unpermitted fence in process of removal.

- A case was resolved that involved unpermitted grading and vegetation clearance on a steep canyon slope in the Santa Monica Mountains in Los Angeles County. The violation occurred on the violator's property as well as on an adjacent undeveloped parcel of land owned by the National Park Service. Enforcement staff directed the violator to regrade and revegetate the site to an approximation of its previous condition. The violator eventually submitted an application for a coastal permit and as of this time, the unpermitted development has been removed and the slopes in the ravine are currently being revegetated (see photos below and next page).



Unpermitted development in the Santa Monica Mountains.



Removal of the unpermitted development; revegetation is actively in progress.



Photograph showing removal of sign and public access to location restored.

- A large unpermitted freestanding “Private Beach – No Trespassing” sign was installed in the Point Dume area of Malibu, LA County, by a homeowners association. The public had historically used the beach as a popular destination. Enforcement staff issued a notice of violation that directed the homeowner’s association to remove the sign. The homeowner association initially refused and submitted a request for a Vested Rights Determination for the sign, which the Commission ultimately denied. At the direction of Enforcement staff, the homeowner’s association removed the sign, and the public’s ability to walk along the beach has been restored (see photos following).

- A case was resolved involving adverse impacts to public access by the placement of hundreds of tons boulders in the tidal zone of the sandy beach adjacent to a vertical public accessway in the City of Malibu. The unpermitted placement of the boulders in the surf zone resulted in an approximately 16 ft. high structure that occupied approximately 4,000 sq. ft. of the sandy beach. Because the rock occupied all of the sandy beach area between the existing residential development on site and the ocean, all pedestrian access along the sandy beach was completely blocked, except during very low tides. At the direction of Enforcement staff, the violator removed all rock from the surf zone, and the public’s ability to walk along the shoreline has now been restored.



Unpermitted sign prohibiting public access.

- A violation occurred involving impacts to environmentally sensitive habitat in the Santa Monica Mountains, LA County, as a result of the unpermitted construction of more than two miles of roads, grading, and the removal of sensitive chaparral vegetation and oak trees on several large,

contiguous, undeveloped parcels of land (including both private and public land). In 2004, the Coastal Commission prevailed in the Los Angeles Superior Court case *Communications Relay Corporation v. California Coastal Commission*, which was filed against the Commission in response to the previous issuance of Cease and Desist and Restoration Orders. In follow-up to the Court's decision, the violator has submitted a restoration plan to restore and revegetate the disturbed areas to their pre-violation condition. Staff continues to work with the violator to ensure that restoration of the site is successfully implemented.

property owner stopped all work on the residence and submitted an application to remove the portion of the residence that encroached into the wetland buffer area. All portions of the encroachment have since been removed (see photo).



Development on wetland buffer. Encroachment has since been removed.

SOUTH COAST DISTRICT **(LONG BEACH)**

Overview: Enforcement staff has continued to process, investigate, and resolve a significant number of violation cases in the South Coast District, which includes various cities in L.A. County including the City of Los Angeles as well as Orange County. During this reporting period alone, Enforcement staff opened 27 new cases and closed and resolved 23 cases. A new District Officer was hired in November 2004.

Cases Addressed:

- A violation arose involving adverse impacts to sensitive habitat and water quality resources from the construction of a residence, which encroached into a designated wetland protection buffer area of Ballona Lagoon. Ballona Lagoon is an integral part of the larger Venice Canals wetlands system, which contains habitat and foraging grounds for endangered shorebirds, fish, and invertebrate species. At the direction of Enforcement staff, the

- A case was resolved involving adverse impacts to public access from the unpermitted installation of private residential landscaping, fences, and patios along a two-block long public right-of-way owned by the City of Los Angeles. The violation involved 21 properties encroaching on a public boardwalk system that extends along the Santa Monica Bay. This boardwalk is a very popular coastal access route, used heavily by the public for walking, biking, etc. A restoration order was previously issued by the Commission as a result of an enforcement action to remove the unpermitted development. Since then, all unpermitted encroachments have been removed and the path is now open and connects this segment to the existing boardwalk. This segment was blocked by the unpermitted development for over 20 years and now is accessible to the public (see photos next page).



Some of the landscaping encroachments creating adverse impacts on public access.



Encroachments removed and public path created.



Public having to go around private encroachments.



This public path has been connected to the existing boardwalk.



Landscaping removal and public access being restored.



Another view of the path now open for the public.

- Enforcement staff resolved a case involving blocked access to a public access easement and bluff top park with coastal views at Emerald Bay in Laguna Beach, Orange County. The path was created in connection with a subdivision project. Conditions in the developer’s permit required the construction of a public access walkway from Coast Highway to a bluff-top view park. Although the public access way was constructed, it was not kept open for public use, and in fact was locked by the property owner. Commission staff with City of Laguna Beach coordinated enforcement efforts. An agreement to clear the access way was reached and the path is now open for public use (see photos).



Access impeded at public walkway to beach.



Walkway with signage indicating access now open to the public.

- A case was resolved concerning the unpermitted installation of an advertising billboard in the Venice area of the City of Los Angeles. In response to Enforcement’s second notice of violation, the sign-owner submitted an application for a CDP requesting after-the-fact approval for the billboard. Finding that the billboard would result in adverse impacts to public views, the City subsequently denied the application. The violator appealed the City’s denial to the Commission. The Commission upheld the City’s decision. Subsequently, the violator filed a lawsuit against the Commission. However, in November of 2004, the violator agreed to drop the lawsuit and remove the billboard in its entirety (see photos).



Ad blocking public views to beach.



Billboard removed and views restored.

SAN DIEGO

Overview: During this reporting period, San Diego Enforcement staff opened 29 new cases and resolved 23 cases, while continuing to investigate and take actions to resolve many other violation cases located in San Diego County.

Cases Addressed::

- A violation involved an unpermitted fence in the City of Solana Beach. Property owners claimed that the fence was pre-existing and exempt from permits. However, the fence appeared to be made of all new wood, and did not appear in historical photos. The fence was within 5 feet of the edge of the bluff and not in compliance with Coastal Act policies. The fence was removed, restoring scenic views of the coastline bluff (see photos).



Unpermitted fence alongside property line.

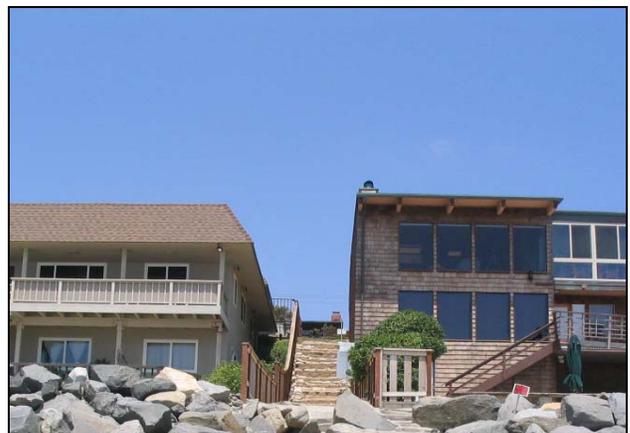


View after removal of the fence.

- The San Diego District Enforcement staff worked closely with the City of Oceanside to resolve a violation involving a property owner who failed to open and make available a vertical public access pathway, as required by a previously issued coastal development permit. Enforcement staff wrote a Notice of Violation directing the property owner to cooperate with the City and open the access path. Enforcement staff and the City Attorney monitored the situation, and in the Summer of 2004, the property owners created the vertical public access path in compliance with the provisions of their CDP (see photos).



View of location before vertical access to the beach was made.



Pathway created and public access now available (center of picture).

- San Diego enforcement and planning staff worked together on a violation case addressed in the 2003 Annual Report involving unpermitted structures in an open space easement in the Agua Hedionda area of San Diego County. Previous permits required an adequate buffer between the new development and a lagoon. The violation impacted sensitive wetlands habitat. Enforcement staff monitored the case closely to ensure prompt condition compliance, which included removal of the unpermitted development within the open space easement area. All unpermitted development has now been removed (see photos).



Photo showing unpermitted structures in an open space easement.



Unpermitted development removed and lagoon buffer now sufficient.

ENERGY AND OCEAN RESOURCES

Overview: Energy's Enforcement staff continues to investigate, process, and resolve violation cases. Energy cases can occur anywhere in the State's 1100-mile coastal zone. During this period, Enforcement opened 15 new cases, elevated one case, and resolved one case in addition to pursuing action on 20 ongoing violation cases.

Cases Addressed:

- A violation concerning oil spills at an existing energy facility at locations in or near the Bolsa Chica wetlands in Orange County took place in the summer of 2000. Some of the oil spill clean up was done without a coastal development permit. Due to the collaborative efforts by the Commission's Energy and Ocean Resources Division and the Enforcement staff, an after-the-fact coastal development permit was obtained in 2004 that authorized and ensured wetland restoration efforts in the spill location.