

SURFRIDER
FOUNDATION

April 2015 Agenda
Meeting of April 16, 2015
Agenda Item No. 8

April 10, 2015

California Coastal Commission
c/o Ms. Stephanie Rexing
Coastal Planner
VIA EMAIL Stephanie.Rexing@Coastal.ca.gov

**Re: Comments on Sharp Park Golf Course Infrastructure Improvement Project,
Coastal Development Permit Application No. 2-12-014**

Dear Honorable Commissioners:

Surfrider Foundation is a non-profit 501(c)(3) organization that is dedicated to the protection and enjoyment of oceans, waves and beaches through a powerful activist network. Towards this mission Surfrider Foundation engages in campaigns and programs on many issues, including coastal adaptation, coastal preservation, and beach access. We submit these comments to the California Coastal Commission ("Commission") regarding Coastal Development Permit ("CDP") Application No. 2-12-014, for the Sharp Park Golf Course Infrastructure Improvement Project ("Project"), on behalf of the Surfrider Foundation's San Francisco and San Mateo County Chapters,¹ and their over 1,200 members, many of whom live near and enjoy the natural coastal resources at Sharp Park Beach.

The San Francisco chapter has been very active in the campaign to Restore Sharp Park, and particularly engaged on coastal management issues, such as the future management of the seawall in this area. Sharp Park Beach is a special place for Surfrider Foundation members, who enjoy surfing, strolling, fishing, picnicking, and more at the beach, which is the only wide stretch of accessible beach for the northern Pacifica neighborhoods of Sharp Park, Manor, and Edgemar.

1. The Commission Must Deny the CDP Due to the Inevitability of Coastal Hazards Including Sea Level Rise and Coastal Erosion at the Project Site, and the Project's Anticipated Aggravation of Impacts.

¹ The Surfrider Foundation currently has 84 chapters located in the United States.

As the Staff Report for the City and County of San Francisco Recreation and Parks Department's ("Applicant") CDP application recognizes, the Coastal Act, Section 30253, requires that new development *minimize* risks to life and property in areas of high geologic, flood, and fire hazard, *assure* stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Meanwhile, the Commission's Draft Sea-Level Rise Policy Guidance ("Draft Guidance") provides "The strongest approach for minimizing hazards is to avoid new development within areas vulnerable to flooding, inundation, and erosion." (Draft Guidance, at 24.)²

As the Staff Report recognizes, flooding in the Project area is inevitable. The site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and their interaction. (Staff Report, at 11, 29.) Portions of the property, and the Project (including the retaining wall, steps, gate, and walkway improvement around the pumphouse) are located just inland from the Pacific Ocean in the mapped FEMA 100 year flood plain. (Id., at 29.) Furthermore, **as the Staff Report also concedes, aspects of the Project (e.g., the retaining wall, the steps, and the walkway) may denigrate the stability of natural landforms or contribute to erosion and actually *aggravate* flooding in the surrounding area, and there is inherent uncertainty as to hazards at the site, including those risks associated with sea level rise.** (Id.)

However, any "uncertainty" as to sea level rise is more a question of "when" than "if." As the Draft Guidance notes, the National Research Council predicts the sea-level to rise along this portion of the California coast anywhere from 1.56 to 11.76 inches by 2030, 4.68 inches to 24 inches by 2050, and 16.56 to 65.76 inches by 2100. (Draft Guidance, at 5.) Sea-level rise impacts coastal communities with the increased frequency, magnitude, and duration of flooding,³ shoreline erosion, and magnification of storm surge impacts.⁴ Thus, it's clear the Project area is at serious risk for coastal flooding and erosion from sea level

² While the Draft Guidance is still a draft, it provides "This guidance is rooted in certain fundamental guiding principles, many of which derive directly from the requirements of the Coastal Act. In this respect, *the principles are not new*, but rather generally reflect the policies and practices of the Commission *since its inception* in addressing coastal hazards and the other resource and development policies of the Act." (Id., at 5, *emphasis added*.) Thus, while a draft, these policies already exist and bind the Commission to comply with the Coastal Act to the maximum extent.

³ National Oceanic Atmospheric Association, Global Sea Level Rise Scenarios for the United States National Climate Assessment (December 6, 2012), at 3; available at: http://cpo.noaa.gov/sites/cpo/Reports/2012/NOAA_SLR_r3.pdf

⁴ See <http://www.epa.gov/climatechange/impacts-adaptation/coasts.html#ref6>, citing NRC (2010). *Adapting to the Impacts of Climate Change*. National Research Council. The National Academies Press, Washington, DC, USA.

rise and storm events, and the Project may in fact *aggravate* natural landform stability, erosion, and flooding in surrounding areas.

Further, since Coastal Act Section 30253 requires that new development (1) not create or contribute to erosion or geologic stability, and (2) not require the construction of protective devices that would alter natural landforms, the Staff Report is correct that the Project can not require additional future expansions of protective structures. (Coastal armoring, which itself creates and contributes to erosion and geologic instability, and the Commission's obligations with respect thereto, is explored further in the following section.)

And yet, despite Section 30253 and the recognized risks associated with the Project, the Staff Report recommends going ahead and permitting the Project's improvements, which will very likely contribute significantly to erosion and flooding. This does not "minimize" risk to life and property at Sharp Park, or "assure" stability and structural integrity of the area, and thus violates Coastal Act Section 30253's mandates.

Further, granting the CDP will only waste public resources, as coastal hazards will eventually hit the Project improvements almost certainly requiring (1) more than routine maintenance and repair, and thus, pursuant to Special Condition No. 7, (2) the removal of the Project improvements. Additionally, the Staff Report's assertion with respect to the "no project alternative" is erroneous. (Staff Report, at 31.) This alternative would not necessarily interfere with all recreational use; the Commission must not forget the *recreational uses provided by the beach itself*, the existence of which this Commission must protect, pursuant to the Coastal Act, Chapter 3, Article 3. (See, e.g., Coastal Act, Section 30220.) These uses include surfing, surf-fishing, swimming, strolling, picnicking, and simply relaxing at the beach.

To comport with the purpose and intent of the Coastal Act and Draft Guidance, the Commission must deny the CDP.

2. The Commission Must Deny the CDP, Due to the Project's ESHA Impacts.

Coastal Act Section 30240 provides that environmentally sensitive habitat areas (ESHA) *shall* be protected against any significant disruption of habitat values, and *only* uses dependent on those resources shall be allowed within those areas. "Coastal-dependent development or use" is defined in the Coastal Act as any development or use which *requires* a site on or adjacent to, the sea to be able to *function at all*. (Coastal Act, Section 30101.) Surfrider Foundation believes Staff Report erroneously analyzes coastal dependent uses for purposes of this Section. Instead of analyzing the individual Project components, the overall use for purposes of analysis is the golf course. Clearly, a golf course need not be sited on or adjacent to the sea in order to function. That alone precludes the Project from being located in ESHA. In any event, staff concludes that the Project is not a coastal dependent use, and further, staff concedes the Project will lead to significant habitat disruption. Surfrider Foundation agrees. Among its natural resources impacts to ESHA, the Project would have devastating impacts to the California Red Legged Frog and the San Francisco Garter Snake habitat and species in Sharp Park, which are threatened and

endangered, respectively, under the Federal Endangered Species Act. Therefore, as staff recognizes, issuing a CDP would plainly violate Coastal Act Section 30240.

To get around this, the Staff Report attempts to assert and then resolve a "conflict" through a Coastal Act Section 30007.5 analysis. However, this analysis fails. Namely, staff asserts a conflict between Coastal Act Sections 30240's mandates to (1) protect ESHA, and (2) restrict uses in the area to those which are dependent on the resources in the area; and Coastal Act Sections 30210, 30212, 30221, and 30223. However, conflicts do not exist.

True, and of critical importance, Coastal Act Section 30210 requires providing maximum beach access and recreational opportunities; however, the Commission can deny the CDP on the basis of Section 30240, and still provide maximum beach access and coastal recreational opportunities such as surfing, swimming, surf-fishing, picnicking, general beachgoing, etc. - all of the valuable benefits that come with having a natural and undeveloped beach. Similarly, Section 30213 requires lower cost visitor and recreational facilities be protected, encouraged, and where feasible, provided. Again, the Commission can deny the CDP and still protect the low cost recreational opportunities of surfing, swimming, surf-fishing, picnicking, and general beachgoing. Moreover, Section 30213 only requires providing facilities where feasible; and since the Project would have significant impacts to ESHA, that renders such provision infeasible in the circumstances. Section 30221 similarly requires protection of oceanfront land suitable for recreation unless, where, as here, the recreational needs that can be accommodated on the property are provided elsewhere in the area (e.g., TPC Harding Park and the Olympic Club golf courses to the north, and in Half Moon Bay to the south). Finally, Section 30223 requires that upland areas necessary to support coastal recreational uses be reserved for such uses, when feasible; again, where, as here, a Project will significantly disrupt ESHA, this is infeasible.

Finally, as Coastal Act Section 30007.5 provides, "the Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the *most* protective of significant coastal resources." (emphasis added). As set forth above, it is possible for the Commission to deny the CDP, pursuant to Coastal Act Section 30240, and in compliance with Sections 30210, 30213, 30221, and 30223. This approach is certainly the most protective of significant coastal resources, and further analysis under Section 30007.5 is unnecessary.

3. At a Minimum, the Commission Must Amend and Strengthen CDP Special Condition No. 7 to Explicitly Prohibit Any and All Coastal Armoring, and Require That a Policy of Managed Retreat be Implemented at the Property.

If the Commission nevertheless proceeds with granting the CDP, the Surfrider Foundation strongly urges the Commission to clarify Condition No. 7 to comport with Coastal Act mandates. As the Staff Report acknowledges, Coastal Act Section 30253 provides that new development shall: (1) minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (2) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or

surrounding area *or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Further, the Coastal Act requires that the Commission, in carrying out the mandate for maximum public access of Cal. Const. Art. 10, Section 4, *maximize public access* to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners. (Cal. Pub. Res. Code, §§ 30001.5(c), 30210.) Development must not interfere with public beach access. (Id., at § 30211.) The Commission must not forget its obligation to protect and maximize public access, and must not favor the Project's golf-recreation benefits at the expense of public beach access and the other coastal recreation benefits that come with having an accessible, sandy beach, such as surfing, surf-fishing, sun bathing, and general beach-going.

Additionally, Coastal Act Section 30250 requires that new development be located "where it will not have significant adverse effects, either individually or cumulatively, on coastal resources," and sited and designed to "minimize the alteration of natural land forms." (Cal. Pub. Res. Code, §§ 30250, 30251.)

The Commission's Draft Guidance echoes these requirements. See, e.g., Principles for Addressing Sea-Level Rise in the Coastal Zone: (4) "Avoid significant coastal hazard risks where feasible;" (9) "Provide for maximum protection of public beach and recreational resources in all coastal planning and regulatory decisions;" and (10) "Maximize natural shoreline values and processes and embrace green infrastructure and living shorelines; *avoid the perpetuation of shoreline armoring.*" (Draft Guidance, at 5-6.) The Draft Guidance on Coastal Development Permits also reiterates, "New development should *not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs*" and provides that projects should "avoid sea-level rise hazards if possible, and minimize hazard exposure if avoidance is infeasible." (Id., at 10.)

For the reasons explained herein below, **Condition No. 7 must be amended to explicitly prohibit any and all armoring of the beach, including but not limited to seawalls, riprap, rock revetment, etc., and to include language which clarifies that the subject property and all Project components are subject to a coastal adaptation policy such as managed retreat** in order to comply with the obligations of Cal. Pub. Res. Code Sections 30001.5, 30210, and 30253, and the Commission's own policies. The Coastal Commission must also revise Condition No. 7 to be clear that the Applicant cannot perform measures beyond ordinary repair and maintenance work on the existing earthen berm on the subject property (or unpermitted rock revetment, which, as explained in the following section, must be removed), and must be clear that adding or maintaining an unpermitted rock revetment (or "rock riprap"/boulders) to the property is *not* ordinary repair or maintenance. Condition No. 7, with these amendments, is not just good policy; it is legally required.

The Problem With Coastal Armoring

The natural coastal shoreline is dynamic, constantly changing in response to rain, wind, and waves. These natural forces erode inland and transport coastal sources of sand to the near shore area, nourishing the beach. Whereas beaches and dunes have historically changed or moved inland in the past, now, due to development along the fragile shorelines, humans have sought to halt these natural processes.⁵

Coastal armoring includes the use of stone, wood, or concrete structures to either armor the shoreline, fixing it in a permanent location (e.g., seawalls or bulkheads), or reduce wave energy (e.g. breakwaters or jetties). Coastal armoring is undertaken to protect inland structures, *not to protect the public beach*, and instead, armoring actually has devastating impacts on beaches. These impacts include that: (1) armoring eroding bluffs cuts off the natural supply of new sand to the beach, which thus speeds up the erosion process; (2) as sea level rises and the shoreline moves inward, the water will eventually meet the seawall (or other armoring structure), covering, and thus eliminating the beach; (3) seawalls are often placed on public beach property, which takes up public beach space, and can hinder or eliminate public access (e.g., a rock revetment may cover 30 to 40 feet of public beach space); (4) armoring takes away the natural beauty of the coast; and (5) local, state, or federal tax-payer money is often spent on staggeringly expensive armoring projects to protect private or unnecessary development.⁶ In 1999 dollars, which of course would be much higher today, the cost for revetments was up to \$2000.00 per foot, while sea walls were estimated at up to \$4,500.00 dollars per square foot.⁷ Further, research has shown that (1) structures intended to trap sand in one area, actually deprive downshore beaches of sand supply, thus, redirecting the problem rather than solving it; and (2) vertical seawalls tend to exacerbate erosion at adjacent unarmored beaches.⁸

Thus, essentially, coastal armoring alters natural landforms along the coast, leads to erosion and loss of sand, and thereby reduces and risks total loss of the public beach (which provide vital species habitat and coastal recreation opportunities), in contravention of the Commission's obligations to maximize natural shoreline values and public beach access. Any further coastal armoring at this property would be particularly grave, given that most of Pacifica's adjacent beaches have already been severely compromised by armoring. Any further armoring in connection with this Project could wipe out the very last wide stretch of beach between Mussel Rock and Mori Point, which spans several miles, and magnify the host of armoring-associated problems in the area. These cumulative

⁵ See, e.g., <http://coastalmanagement.noaa.gov/resources/docs/finalbeach.pdf>

⁶ See <http://www.beachapedia.org/Seawalls>; See also Orrin H. Pilkey and Howard L. Wright III, "Seawalls Versus Beaches," *Journal of Coastal Research* vol. 4, pp. 41-64, 57 (Autumn 1988); See also Meg Caldwell and Craig Holt Segall, *No Day at the Beach: Sea Level Rise, Ecosystem Loss, and Public Access Along the California Coast*, 34 *ECOLOGY L.Q.*, 533, 540.

⁷ See, Caldwell, *supra*, at 539.

⁸ See <http://coastalmanagement.noaa.gov/resources/docs/finalbeach.pdf>, at 2.

impacts on coastal resources preclude any additional coastal armoring in the area, under Coastal Act Section 30250.

Therefore, to abide by the Coastal Act and the Commission's own policies, the Commission must amend Special Condition No. 7 to ensure that no coastal armoring can occur at Sharp Park and that the property is subject to a natural coastal adaptation policy in perpetuity.

4. Surfrider Foundation Believes the Applicant is Presently Violating the Coastal Act by Allowing an Unpermitted Rock Revetment to Exist on the Property, Which Said Violation Must be Removed.

In addition to Applicant's existing violations on the property recognized in the Staff Report (p. 2, 36), the Surfrider Foundation believes that the Applicant is violating and has been violating the Coastal Act for several years, by constructing and maintaining a rock revetment on the property (which constitutes "development" under the Coastal Act), without a required Coastal Development Permit. Since 2012, the Surfrider Foundation has provided repeated notice to the Commission of said violation, and in 2013 and 2014, the Commission investigated and determined a violation existed, and notified the Applicant that it was required to remedy the violation.

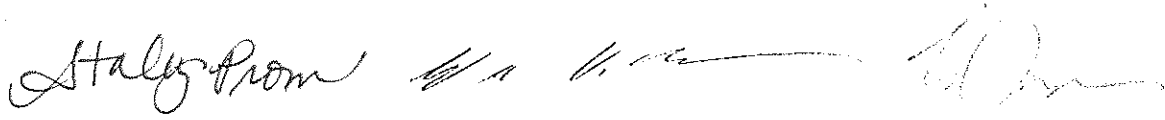
To Surfrider Foundation's knowledge, said violation has not been remedied, and the Commission has not taken enforcement action despite Applicant's clear violation, and repeated requests by Surfrider Foundation. As an *unpermitted* structural armoring device, the revetment constitutes an "additional substantive measure" for purposes of Condition No. 7, since it is not an existing permitted measure. The fact the structure already exists on the property, and therefore may not be a "future" expansion (as referenced in the Staff Report, p. 29) must be of no consequence, as to render otherwise would allow a violation to remain, despite the clear contravention of the Coastal Act spirit and intent, and particularly Section 30600(a) (a person "shall" obtain a CDP for any development in the coastal zone). The Commission must not allow it to exist on the property.

Copies of communications between Surfrider Foundation and the Commission, and the Commission and Applicant, are attached hereto as Exhibit "A," and incorporated herein by this reference. Surfrider Foundation reasserts all arguments in its communications with respect to the seawall violations by this reference.

5. Conclusion

On behalf of the Surfrider Foundation's San Francisco and San Mateo County chapters, we appreciate your attention to the very serious threats that the proposed Project poses to beach access – *and the very existence of a public beach* – as well as the critical natural resources, including threatened and endangered species, at Sharp Park. We respectfully urge the Commission to fully comply with its Coastal Act obligations, and its own Draft Sea-Wall Policy Guidance, and deny the CDP.

Sincerely,

Three handwritten signatures in cursive script are arranged horizontally. The first signature on the left is 'Staley Prom', the middle one is 'Bill McLaughlin', and the one on the right is 'Edmundo Larenas'.

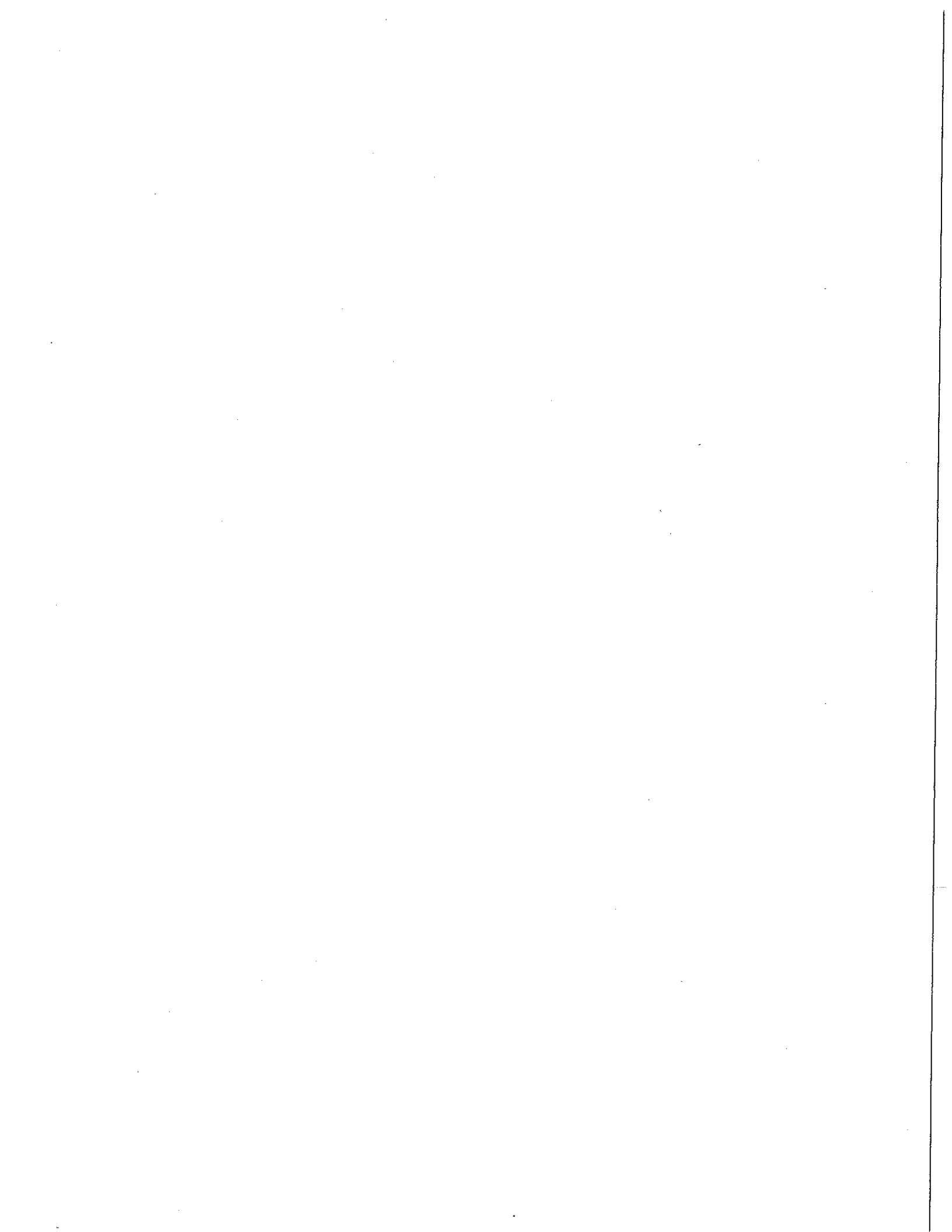
Staley Prom, Esq.
Legal Associate
Surfrider Foundation

Bill McLaughlin
San Francisco Chapter Member
Surfrider Foundation

Edmundo Larenas
San Mateo Cty. Chapter Member
Surfrider Foundation

EXHIBIT A

Correspondence re seawall, between Surfrider Foundation and Commission, and
Commission and Applicant.





March 3, 2013

Joanne Ginsberg
Enforcement Analyst
California Coastal Commission
VIA EMAIL jo.ginsberg@coastal.ca.gov

Re: Seawall Renovation at Sharp Park

Dear Ms. Ginsberg:

Surfrider Foundation is a non-profit 501 (c) (3) organization that is dedicated to the protection and enjoyment of oceans, waves and beaches through a powerful activists network. Surfrider Foundation San Francisco Chapter has been actively involved in the campaign to Restore Sharp Park. The Chapter has been especially engaged on coastal management issues, such as the future management of the seawall and the seawall's effect on coastal resources in this area.

According to the October 2, 2012 Biological Opinion of the U.S. Fish and Wildlife Service regarding Formal Endangered Species Consultation on the Sharp Park Safety, Infrastructure Improvement, and Habitat Enhancement Project in San Mateo County, California:

"During and following completion of the Project, the SFRPD shall maintain and keep in good repair the sea wall road, which provides the only vehicle access for maintenance activities as described above. Maintenance of the roadway on the sea wall is expected to include filling ruts in the surface with aggregate or comparable materials and repairing drainage issues by outsloping the roadbed. The SFRPD does not anticipate hardening or further armoring of the sides of the sea wall." (at p.CCSF100655, emphasis added)

Surfrider Foundation and the public at large have been under the impression that no major construction, including expansion or further armoring, would take place on the Sharp Park seawall. However, due to the renovation of the seawall on February 23 through February 25, 2013, it appears as though the City authorized the expansion of the seawall outside of and in addition to the original building envelop. The local newspaper reported that 75 tons of "chert" rock was used on the seawall, and the attached pictures show what appear to be new armoring at the site. This type of work exceeds any reasonable definition of "maintenance". "Maintenance" excludes new work or changes in the original extent or fill of design. It appears that new boulders were placed on the beach-side of the seawall at Sharp Park where none had been previously located. This type of beach armoring requires a permit procedure with formal agency evaluation, as well as public notice and comment period.

The Surfrider Foundation asks for the California Coastal Commission to do a full investigation of this issue to determine if unpermitted development did occur on this site. If so, we ask that the Coastal Commission require a permit for such work and afford the public their right to comment on this important issue.

Sincerely,

/s/

Angela T. Howe, Esq.

Legal Director

Surfrider Foundation

encl

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
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WEB: WWW.COASTAL.CA.GOV



March 5, 2013

Steve Castile
Golf and Turf Manager
McLaren Lodge-Golden Gate Park
501 Stanyan Street
San Francisco, CA 94117

Subject: Repairs to the Seawall at Sharp Park Golf Course, Pacifica, CA

Dear Mr. Castile:

Thank you for taking the time to meet with us yesterday to view the subject project site. The repairs to the revetment that began recently include use of mechanized construction equipment to place rip-rap and other materials at the project site. We have reviewed our permit requirements in light of the development that has occurred, and have determined that it is not exempt from the Coastal Act's requirement to obtain a Coastal Development Permit (CDP). Therefore, the repairs are unpermitted development constituting a Coastal Act violation, and an after-the-fact coastal development permit must be obtained to cover the work that has already occurred. Further, any additional work will require CDP authorization. Please submit a CDP application for authorization of the work that has already occurred, as well as any additional work that is proposed. Please submit the application to my attention at the address listed above at your earliest convenience, but no later than March 11, 2013.

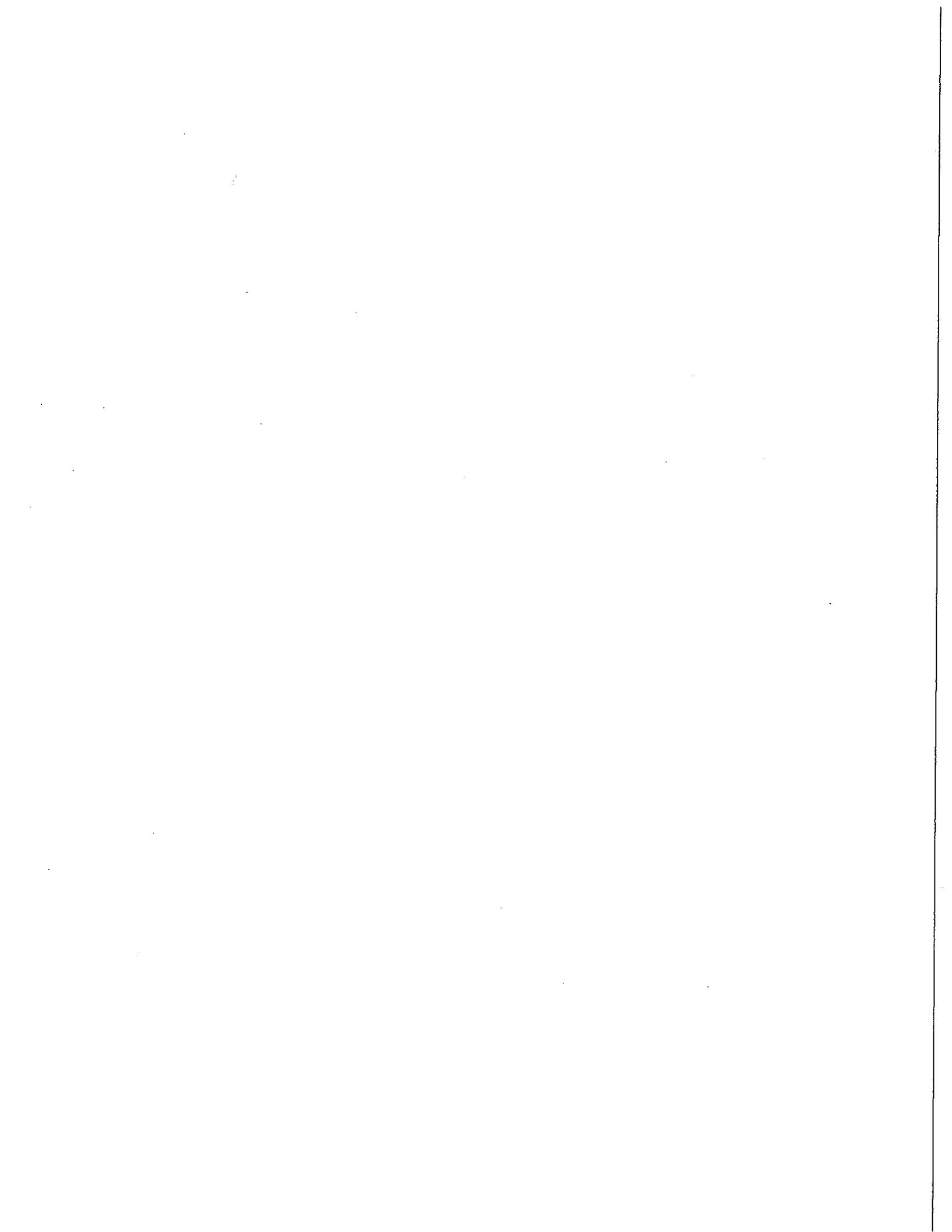
If you have any questions or would like to discuss this matter further, please do not hesitate to contact me at 415-597-5894, or at the address given above.

Regards,

Stephanie Rexing
Coastal Program Analyst

cc: Lisa Wayne, San Francisco Recreation and Parks
Jo Ginsberg, North Central Coast District Enforcement





CALIFORNIA COASTAL COMMISSION

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SENT BY CERTIFIED AND REGULAR MAIL
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March 11, 2013

Steve Castile
San Francisco Recreation & Parks
McClaren Lodge
Golden Gate Park
501 Stanyan Street
San Francisco, CA 94117

RE: **Alleged Coastal Act Violation No. V-2-13-002 (Sharp Park Golf Course)**, consisting of unpermitted repairs to the existing seawall

Dear Mr. Castile:

Thank you for meeting with Stephanie Rexing and me on March 4, 2013 at the Sharp Park Golf Course seawall in Pacifica. As noted in the letter Ms. Rexing sent you dated March 5, 2013, Commission staff has determined that the repair work that has taken place on the seawall constitutes development under the definition in the Coastal Act and is therefore not exempt from Coastal Act requirements.

1. Alleged Coastal Act Violation.

As you know, the California Coastal Act (Coastal Act) was enacted by the California Legislature in 1976 to provide protection of California's 1,100-mile coastline. The Coastal Act protects this coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission (Commission) is the State agency created by and charged with administering the Coastal Act of 1976. The Commission carries out Coastal Act mandates by seeking to protect sensitive habitats, natural landforms, and scenic landscapes. Our goals include providing maximum public access to and along the coast, and to neither create nor contribute significantly to erosion, geological instability, or destruction of natural land forms along bluffs and cliffs.

The Coastal Act broadly defines development in Section 30106, in part as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act...change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973... (Emphasis added)

As such, the repair work at the subject property, which includes the placement of unpermitted rock riprap on the site ("placement or erection of any solid material or structure," "reconstruction...of any structure") and the grading of the material on top of the seawall ("grading, removing...or extraction of any materials") constitutes development under the Coastal Act. Section 30600(a) of the Act requires that any person wishing to perform or undertake development in the coastal zone must first obtain a coastal development permit (CDP), in addition to any other permit required by law, before carrying out any development. Any development activity conducted in the State's defined coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act. Thus, the repair work, which includes the placement of rock riprap, is considered to be unpermitted development, constituting a Coastal Act violation.

2. Enforcement Remedies.

The Commission enforcement staff prefers to work cooperatively with alleged violators to resolve Coastal Act violations administratively. We are confident that we can resolve this matter without resorting to formal action. However, it is my obligation to inform you that, should this alleged violation remain unresolved, the Coastal Act contains a number of enforcement remedies for violations, including, but not limited to, issuance of Cease and Desist Orders, issuance of Restoration Orders, and the ability to initiate court action to collect civil liability in an amount not less than \$500 and not more than \$30,000 for each instance of development, pursuant to Coastal Act Sections 30809, 30810, 30811, and 30820 (a). Additionally, section 30820 (b) provides that additional civil liability may be imposed for violations which were undertaken knowingly and intentionally in an amount not less than \$1,000 and not more than \$15,000 for each day in which the violation persists. Any development that occurs after being notified by Commission staff of the need for a CDP for such development may be considered to be undertaken with knowledge of CDP requirements and intentionally undertaken in spite of that knowledge. Finally, pursuant to Section 30812, the Executive Director, after giving notice and allowing for a public hearing if requested, may record a Notice of Violation on the property where an unresolved violation exists.

Mr. Steve Castile
Page No. 3

3. Resolution of Alleged Coastal Act Violation.

To resolve the outstanding alleged Coastal Act violation on the subject site, please submit to Ms. Rexing of our North Central District planning staff a complete CDP application seeking after-the-fact authorization for the seawall repair work that has already taken place at the subject property. As you know, Ms. Rexing set a deadline of March 11, 2013 for this submittal. The CDP application should also include a request for any additional repair work you wish to do at the subject site. If you have any questions about completion of your CDP application, please contact Ms. Rexing at 415-597-5894. If you have any questions regarding enforcement, please contact me at 415-904-5269.

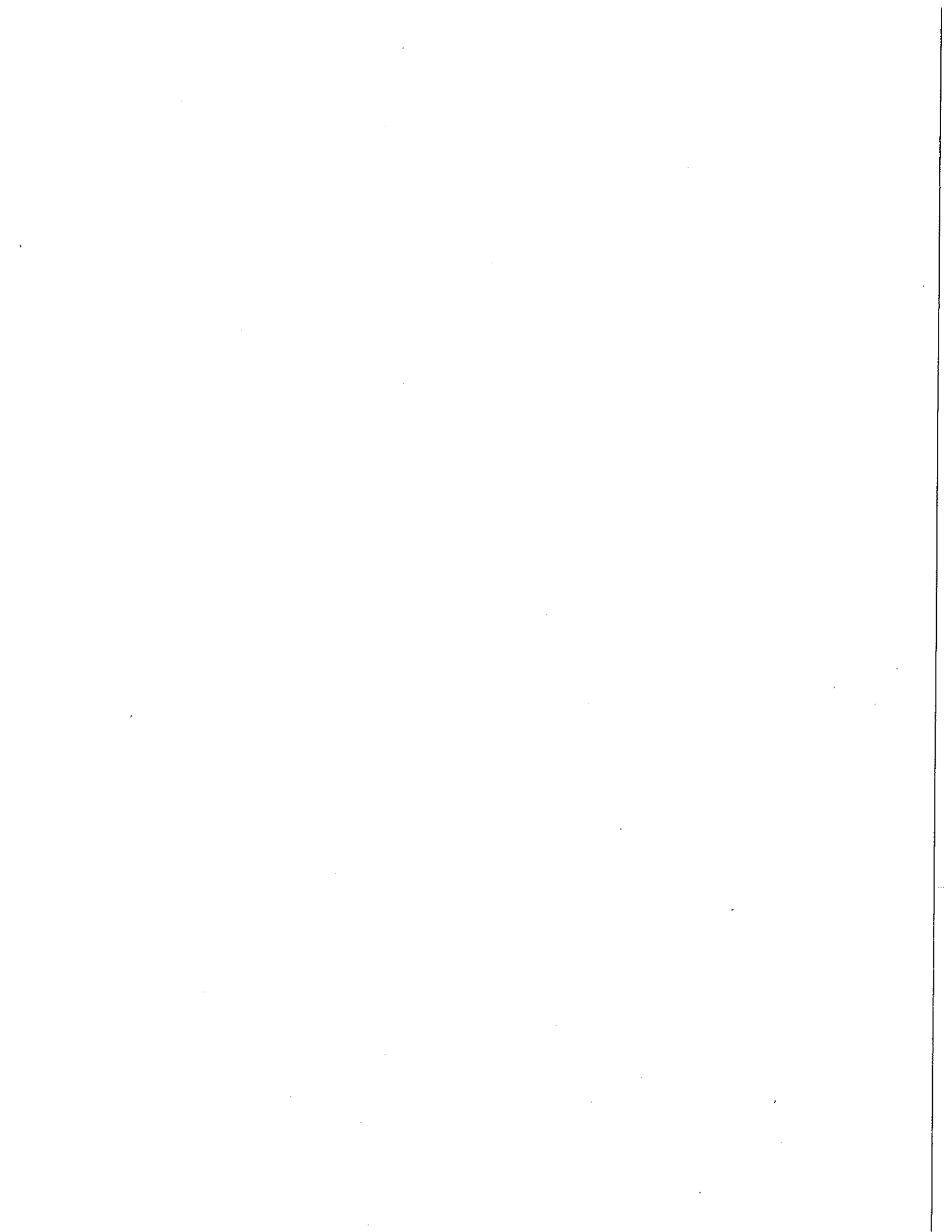
Thank you for your cooperation.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Nancy Cave, CCC, Northern California Enforcement Supervisor
Madeline Cavalieri, CCC, North Central District Manager
Stephanie Rexing, CCC, North Central District Planner
Lisa Wayne, SFRPD





March 12, 2013

Jo Ginsburg
Enforcement Analyst
California Coastal Commission
VIA EMAIL jo.ginsberg@coastal.ca.gov

Dan Carl
District Director
California Coastal Commission
VIA EMAIL dan.carl@coastal.ca.gov

Re: Follow Up on Seawall Renovation at Sharp Park

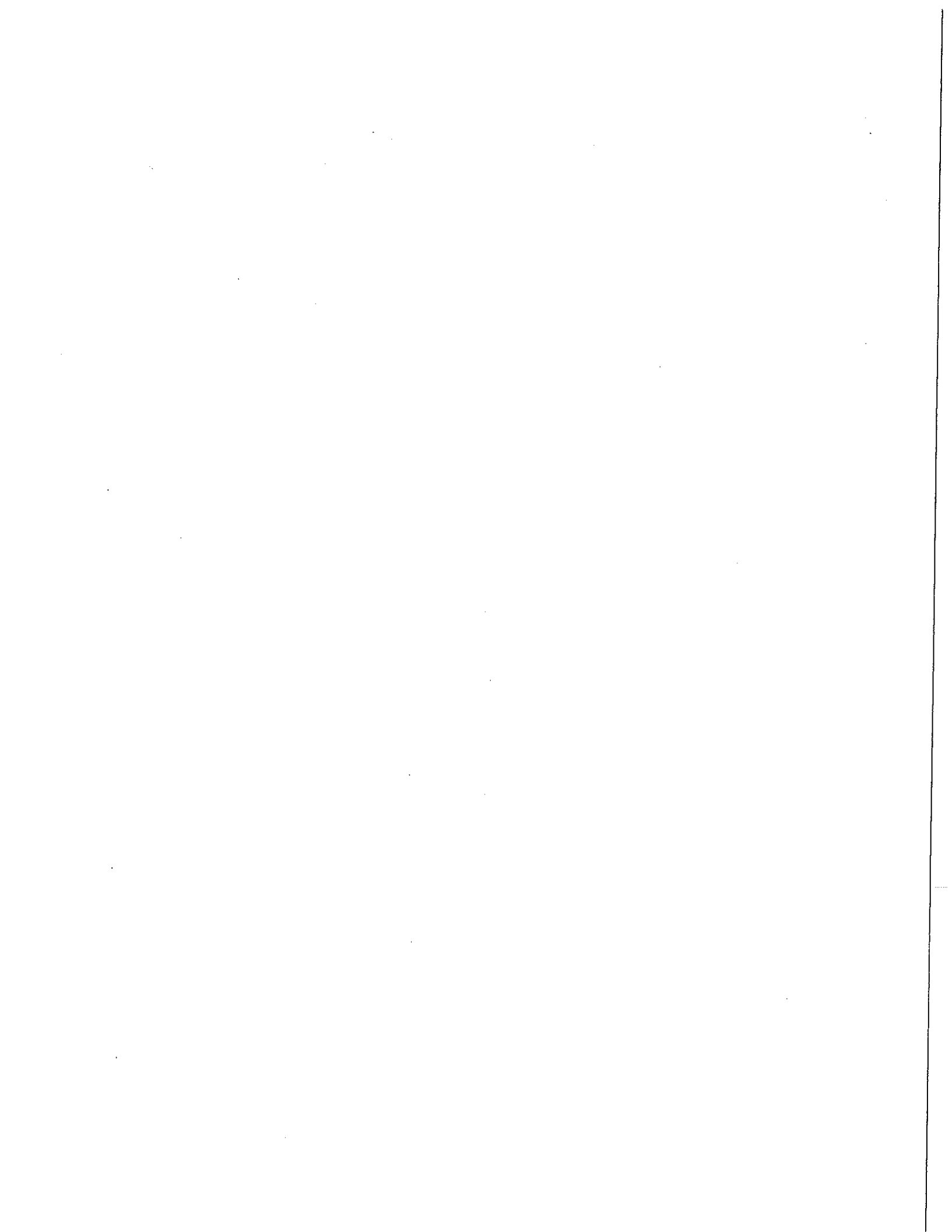
Dear Ms. Gingsburg and Mr. Carl:

I am writing this letter in follow up to Surfrider Foundation's March 3, 2013 letter to you regarding the status of the Seawall Renovation and required permitting at Sharp Park. As you know, there was seemingly substantial construction and addition to the seawall in late February. Surfrider Foundation and the public at large have been under the impression that no major construction, including expansion or further armoring, would take place on the Sharp Park seawall.

In response to our March 3, 2013 letter requesting that the California Coastal Commission investigate this issue to determine if unpermitted development did occur on this site and, if so, to require a permit for such; your office replied that you were actively looking into the matter and hoped to conclude in the near term. We ask that you make a decision on the potential permitting of the matter as soon as possible and also share a timeline for future actions related to the case. We await official notification of the decision and a determination on any unauthorized activities.

Thank you for your assistance in this matter.

Sincerely,
/s/
Angela T. Howe, Esq.
Legal Director
Surfrider Foundation





April 16, 2013

Stephanie Rexing
Coastal Planner
California Coastal Commission
VIA EMAIL stephanie.rexing@coastal.ca.gov

Jo Ginsberg
Enforcement Analyst
California Coastal Commission
VIA EMAIL jo.ginsberg@coastal.ca.gov

Re: Seawall Renovation at Sharp Park and After-the-Fact Permit Application

Dear Ms. Rexing and Ms. Ginsberg:

Surfrider Foundation submits this current letter in continued correspondence regarding the status of the seawall renovation and required permitting at Sharp Park. Surfrider Foundation is a grassroots, environmental non-profit dedicated to the protection and enjoyment of our oceans, waves and beaches. Surfrider Foundation San Francisco Chapter has been actively involved in the campaign to Restore Sharp Park. The Chapter has been especially engaged on coastal management issues, such as the future management of the seawall and the seawall's effect on coastal resources in this area. Surfrider Foundation is very concerned with the unpermitted management practices and seawall armoring that are likely harmful to the coastal environment at Sharp Park.

Sharp Park is a 417-acre stretch of coastal land in Pacifica, abutting the Pacific Ocean and part of the Golden Gate National Recreation Area ("GGNRA"). Sharp Park is home to a diverse coastal ecosystem, providing habitat for several threatened and endangered species. The current seawall was likely built up as berm construction in response to the El Nino storms of 1982. Maintenance and major construction added to the seawall affect not only the endangered species habitat but also the natural flood-protection features. A peer-reviewed scientific study illustrated that restoration of the natural lagoon and wetlands at Sharp Park will provide the most public benefit as a fiscally-responsible option that will protect against sea level rise and storm surge events and will ultimately protect endangered species.¹ The existing levee was likely built in the late 1980s and originally permitted based on unsupported assertions that there was already a berm in

¹ ESA-PWA, "Conceptual Ecosystem Restoration Plan and Feasibility Assessment: Laguna Salada,

place on the site.²

Not only were the seawall permits not requested properly by the San Francisco Recreation and Parks Department (“SFRPD”) in a timely manner, the SFRPD also has failed to do a comprehensive review of the project. Evaluation of this seawall permit should include ample public notice before any permits are granted. To Surfrider’s knowledge, there have been no seawall engineering design efforts or long-term planning for the seawall. The California Coastal Commission (“CCC”) should require SFRPD to provide the construction and permit chronology of the berm, using (a) SFRPD records, (b) aerial photographs, (c) photographs of alleged seawall damage, and (d) other public records. The CCC should also conduct its own file review of permits, violations and after the fact permits associated with the coastal seawall, specifically relating to seawall original fill design and strategic design efforts, if any. For instance, CCC should require support for the SFRPD contention that the large rock placement in six erosion zones are located within the existing footprint of the seawall.

Because the seawall we have today was never fully anticipated or reviewed under CEQA, the recent renovation of the seawall opens the door for full environmental review that never took place. Due to this lack of project information and analysis in the first instance, we recommend and ask that the California Coastal Commission undertake a comprehensive review of the coastal seawall project. The CCC should investigate the new construction and future plans for this seawall and whether it conforms with the mandates of the California Coastal Act. The CCC should also ensure that there is investigation of project alternatives, including analysis of environmentally superior alternatives.

We ask that you share any new public information on the matter with us as soon as possible and also share a timeline for future actions related to the case, including an official determination on the after-the-fact permit.

Thank you for your assistance in this matter.

Sincerely,

/s/

Angela T. Howe, Esq.
Legal Director
Surfrider Foundation

Cc: Dan Carl
District Director
California Coastal Commission
VIA EMAIL dan.carl@coastal.ca.gov

² *Id.* at Section 4.3.2, paragraph 2 (at p. 15).