

2009 California Coastal Commission Conservation Voting Chart

Prepared by
Sierra Club, League for Coastal Protection, Surfrider Foundation,
California Coastkeeper Alliance & California Coastal Protection Network



The 2009 Conservation Voting Chart is dedicated to the memory of one of California Coast's most active environmentalists, Dr. Jan Vandersloot.

His unwaivering commitment to preserving and protecting our precious coastal resources will long be remembered by those who experienced his caring ways. Jan's successes in environmental activism is apparent up and down the coast. His dedication to preserving and protecting Bolsa Chica is indeed legendary. Jan cared about every inch of coastal bluff and ESHA remaining in highly-developed Corona del Mar and Newport Beach, and argued adamantly for its protection. In November 2009, his compelling testimony to increase the fine for the destruction of the Cabrillo Wetlands in Huntington Beach (Mills PCH LLC) resulted in a precedent-setting increase in violation fines all along the California coast.

Jan's son put it best...

"He had followed his heart as far as it could go, and in the process he had changed the world around him. He had brought his vision of heaven to earth, and the world was a better place for it."

Thank you, Jan! We'll never forget you.

2009 California Coastal Commission Conservation Voting Chart

The California State Legislature hereby finds and declares:

- (a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.
- (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

– California Coastal Act of 1976, California Public Resources Code Section 30001

Executive Summary

The California Coastal Commission (CCC) Conservation Voting Chart is a joint enterprise of the Sierra Club, the League for Coastal Protection (LCP), the Surfrider Foundation, the California Coastkeeper Alliance and the Coastal Protection Network (CPN). These voting charts have been prepared for the last 22 years.

The CCC voting chart for 2009 examines 25 separate votes. Votes analyzed were selected in consultation with coastal conservation activists based on their likely impact on coastal resources and their potential to set important statewide precedent. The CCC reviews approximately 1000 projects each year and approves the vast majority of them. This voting chart is designed to highlight only the most important votes, where the environmental stakes are high, including several major issues of concern to the California environmental community. For example, this year's chart includes the Oxnard peaker plant and the Carlsbad Poseidon desalination facility, as well as a precedent-setting enforcement issue in Huntington Beach.

The projects analyzed were selected based on the following non-exclusive factors: 1) the extent of impacts on coastal resources; 2) the potential to set important statewide precedent; 3) the amount of funding required for the project; and 4) whether the project proponent employed one or more lobbyists. In most instances, the cases analyzed in this report involved high economic value projects with significant environmental resource or public coastal access. Most cases also included one or more paid agents to lobby Commissioners to vote in favor of development. Direct lobbying between agents and Commissioners is required by law to be publicly disclosed and recorded as *ex-parte* communications, though most lobbying expenditures go unreported.¹

A description of the issues and resources affected by each vote, as well as a record of individual Commissioner's votes and those of their Alternates, appear in the following charts. These vote records have been compared with the official records kept by Coastal Commission staff.

However, any errors are the sole responsibility of the preparers.

For additional information regarding California coastal protection issues, visit

- <http://www.surfrider.org>
- <http://www.cacoastkeeper.org>
- <http://www.coastaladvocates.com>

¹ In 2005, AB 771, authored by Assemblywoman Lori Saldana (D-San Diego), would have dramatically improved recording requirements, including expenditures and public disclosure of lobbying contacts involving Coastal Commissioners. AB 771 passed the California Legislature in 2005 but was vetoed by Governor Schwarzenegger on October 7, 2005. To date, expenses incurred to influence Commissioners, for the most part, go unreported.

Background

A vote of the people in 1972 created the original Coastal Commission and the California Coastal Act of 1976 provided for its continuing operation as an independent state agency.² The mission of the Coastal Commission is to protect, conserve, restore, and enhance environmental and human resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations.³

The Commission itself is comprised of 12 voting members (and up to 12 alternate members) and three non-voting ex officio members. The Commissioners meet monthly in different coastal communities up and down the coast to deliberate the merits of proposed coastal development projects within the 1.5-million acre, 1,100-mile long California coastal zone.⁴

The independence, balance and integrity of the Commission depend upon the appointment process. All voting members are appointed by California's Governor, the Senate Rules Committee, and the State Assembly Speaker. Each appoints four Commissioners, two of whom are from the general public and two of whom are local elected officials. In order to ensure state-wide representation, each of the following geographical areas are designated to have one "local elected" voting member seat: San Diego, South, South Central, Central, North Central, and North Coast regions. Each Commissioner may also have an Alternate, subject to the approval of his or her appointing authority.

Until 2003, appointments were normally made shortly after an appointing authority either assumed office (as in the case of the Governor), or a legislator ascended to the leadership of the Senate or the Assembly, and all appointments served at the pleasure or will of their appointing authority. However, in 2003, the law concerning Commission appointments and terms was amended, and now all eight Legislative appointments (four appointed by the Speaker of the Assembly and four appointed by Senate Rules Committee under the leadership of the President Pro Tem of the State Senate) are considered "tenured" appointments. That is, once a Commissioner is appointed, he or she will sit on the Commission for a fixed four-year term and in general cannot be removed until the expiration of the full appointment term (or, in the case of local elected officials, until such time as they no longer serve as an elected official in their particular region). In contrast, the Governor's four appointments continue to serve "at will" and can be removed at any time.

In addition to the twelve voting Commission members, there are also three non-voting state agency members: Resources Agency; State Lands Commission; and Business, Transportation, and Housing Agency. With the exception of State Lands Commission, these ex-officio members of the Commission represent the views of the Governor and have in general merely lobbied for more intensive development, rather than coastal protection or other goals of the Coastal Act.

² See Cal. Pub. Res. Code §§ 30000 et seq.

Available online at <http://www.coastal.ca.gov/ccatc.html>.

³ More information regarding Coastal Commission members, staff, staff analysis and upcoming meetings and agendas found at <http://www.coastal.ca.gov>.

⁴ For a complete list of current members of the Coastal Commissioners, Alternate Commissioners and Non-voting Commissioners, and their appointment dates and terms, go to <http://www.coastal.ca.gov/roster.html>.

2009 California Coastal Commission Conservation Voting Chart

Key Findings

- ◆ For 2009, the average conservation score for the entire Commission increased dramatically to 66%, from 38% in 2008. This dramatic increase in the overall conservation score for the Commission is due to a number of possible reasons: **1)** March 2009 saw the Senate Rules Committee appointment of Supervisor Ross Mirkarimi (City/County San Francisco) followed later that year by the appointments of Oceanside City Council member Esther Sanchez and Supervisor Mark Stone (Santa Cruz County Board of Supervisors) in October. These new Commissioners have added three additional strong and consistent pro-coast voices that permit more debate and closer votes on major issues coming before the Commission; **2)** the economic downturn of the state has dramatically affected the numbers of major coastal development projects coming before the Commission where views and votes can differ appreciably (in 2007 when the downturn began four major development projects came to the CCC, 2008 saw a decline to three major development projects and 2009 saw only one major project coming to the CCC for approval in the 1000 or so projects that come each year). It could be said then there is less opportunity for division and dissent over major construction and development projects affecting the coast in these leaner times; and finally, **3)** the combination of new members with the reduction of major development projects for the Commission's workload due to our state's economic downturn has allowed greater coastal policy development opportunity for Commissioners and a willingness to work together collaboratively that major dissenting issues would not necessarily foster. It would be naïve to think this cooperative trend would continue if the state's economy turns around and major development projects return to the CCC for debate and approval.
- ◆ The 2009 conservation score of 66% represents the highest overall conservation voting percentage in the last 12 years. The downturn in the state's economy must be factored in as one of the reasons the overall conservation vote is as high as it is for 2009.
- ◆ Since 1987, the California Coastal Commission's voting scores have ranged from a low of 25% in the latter half of 1996 to a high of 76% in 1997. The average conservation voting score for the Coastal Commission over the past 22 years is now 50%.
- ◆ The overall Commission's conservation score for 2009 was 66%, a full 28% higher than 2008's overall score of 38%. The two highest individual conservation scores for 2009 (100% and 95%) belong respectively to two of our newest Commissioners (Mark Stone and Ross Mirkarimi).
- ◆ Of the appointing authorities, Senate Rules Committee Coastal Commissioners continued to outpace both gubernatorial and Assembly Speaker appointments for pro-coast votes.
- ◆ Governor Schwarzenegger's coastal appointments, who lagged severely in 2007 with just a 24% pro-coast conservation score, and a 29% in 2008, jumped ahead in 2009 with a 48% conservation score.
- ◆ Supervisor Mark Stone (Santa Cruz County) replaced twelve-year veteran Commissioner Dave Potter (Monterey County Supervisor) in October 2009 when Potter was not reappointed by Speaker of the House Karen Bass. Potter voted only 13 times in his last nine months as Commissioner while Commissioner Stone voted nine times in his first three months service. Potter's voting record was 28% for 2008, 13% for 2007, 33% for 2006 and 31% for 2005. Mark Stone had the only 100% conservation voting record his first three months in office -- highest in 2009 for any seated member of the Coastal Commission.
- ◆ Other predecessor comparisons are worth noting: in March 2009 Supervisor Ross Mirkarimi (City/County San Francisco) replaced Supervisor Mike Reilly (Sonoma County) whose publicly elected office ended after 11 years on the Commission. Commissioner Mirkarimi scored 95% for his first year in service to the Commission. Commissioner Reilly's score was 37% for 2008, 57% for 2007, 39% for 2006 and 59% for 2005. City Councilwoman Esther Sanchez (Oceanside) replaced Ben Hueso (San Diego City Council) as Speaker of the House appointment in October 2009. Her first year voting record was 75% while Hueso's record was 28% for 2008 and 53% for 2007.

- ◆ Another useful comparison is looking closely at full and alternate voting records to see how they match up. Generally speaking, Commissioners tend to choose alternates who are like-minded regarding protection of coastal resources. Commissioner Steve Kram (Los Angeles) has a voting score of 37%, is a Governor appointee and often is absent from hearings. His alternate Dr. Dan Secord (Santa Barbara) has a voting score for 2009 of 33%. Together they share the two lowest scores of last year.
- ◆ In a classic case of politics and development pressures over coastal resource protection, Poseidon Resources, a private ocean water desalination speculator with a markedly poor track record for completing projects on time and budget pushed its first project through the CCC in December 2009, with a 9 to 3 vote. Poseidon's Tampa Bay desalination plant was \$40 million over budget, five years late and to this day has not produced public drinking water assets promised. Poseidon certifies its Carlsbad plant will provide 50 million gallons of drinking water a day for San Diego County or 9% of the county's total drinking water needs. After several legitimate appeals, lawsuit challenges, even an effort to revoke the coastal development permit for the San Diego County plant co-located at a coastal generator (Encina Power Station), Commissioners overruled well-conceived staff reports illuminating well-documented concerns for marine life, greenhouse gas emissions, and cumulative long-term environmental impacts. EPA estimates once-through cooling destroys 312.9 million pounds of fish every year in our state at a cost to California fisheries of \$13.6 million annually. Even after declaring victory by scraping the ground surface of the Carlsbad site to declare the beginning of construction, the project began to come unraveled with private and public funding upheavals. More desalination plants on our coastline are planned in several coastal county communities (Cambria, Monterey, Marin, and Huntington Beach) and Poseidon's Carlsbad project sets a terrible precedent. Santa Barbara completed a desalination project in 1992 that proved costly and controversial, eventually was decommissioned and now sits idle.

Industrial-scale ocean desalination, a vastly new technology for the U.S., constitutes an expensive energy-intensive means to produce drinking water for coastal communities. It markedly undermines the intent and goals of our state's worthy Global Warming Solutions Act (AB 32) to reduce state greenhouse gas emissions to 1990 levels by 2020. Water management systems comprise 20% of our total energy expenditures in California where our state's population is projected to burgeon to 50 million residents by 2050. This new population density will place unheralded pressures on water and wastewater infrastructures and methodologies that are currently outdated, ill-conceived and failing. Coastal advocates are concerned desalination projects lock in outdated open seawater intake and brine discharge systems (using once-through cooling infrastructure and reverse osmosis) leading directly to significant marine mortality and coastal ecology damage. Desalination projects are dangerous and costly distractions from the development of a solid sustainable environmentally-dependent state water policy that prudently guides law makers, agencies and local jurisdictions into the next century. Desalination plants avert much-needed conservation of our state's rivers and wetlands, irreversibly harm imperiled groundwater resources and prevent effective adaptation to climate change and sea level rise pressures. Rate payers and taxpayers are unfairly burdened with the price of cost over-runs, unintended environmental consequences, harms to local coastal and marine resources and finally the ultimate societal price of delaying an effective sustainable water policy for the state of California. The Coastal Commission needs a carefully formulated water policy that protects coastal and marine resources for this and future generations that ensures we adapt successfully to climate change, sea level rise and population growth pressures that will intensify by 2100 for all human and natural communities in California. To do anything less is to fail the intent and spirit of the Coastal Act and the many resource protections it enshrines.

2009 California Coastal Commissioners Overall Ranking

Average Voting Score: **66%**

■ Public Member ■ Elected Members

When reviewing this Voting Chart, it is important to remember that some Commissioners have only served on the Commission for a relatively short time, while others have served for many years. For example, Commissioner Sara Wan is in her fourteenth year on the Commission while other Commissioners have served only a few months. Specific appointment dates for new Commissioners are addressed in the Key Findings. Of special note with respect to Commissioners that have served only a short period of time, we are always delighted with the first year's conservation voting score when it is high. Historically, it is often the strongest year for many newly appointed Commissioners. However, there is a consistent, disturbing and rather unique phenomenon that occurs that we refer to as the "second year tumble". Sadly, more often than not, once the Commissioners are consistently lobbied by paid lobbyists during their first year of being seated, there is a dramatic drop in their conservation voting score. We cannot underestimate the influence, exclusive access and pressure paid agents and lobbyists for project applicants have on all Commissioners but particularly newly seated ones. Commissioner Ross Mirkarimi decided not to take *ex-parte*s with either coastal advocates or paid lobbyists and enjoys the second highest conservation score for 2009 – 95%.

 1 Stone 100%	 2 Mirkarimi 95%
 3 Wan 83%	 4 Reilly 75%
 4 Sanchez 75%	 5 Shallenberger 71%
 6 Kruer 68%	 7 Bloom 67%
 8 Hueso 64%	 9 Burke 61%
 10 Clark 59%	 11 Blank 56%
 12 Neely 52%	 13 Achadjian 46%
 13 Potter 46%	 14 Kram 37%

Public Members

of the Commission include Steve Blank, Sara Wan, William Burke, Steven Kram, Mary Shallenberger and Patrick Kruer and are outlined in blue.

Elected Members

consist of six elected officials representing their specific coastal district on the Commission. Elected Members of the Commission include Bonnie Neely (North Coast), Mike Reilly/Ross Mirkarimi (North Central Coast), Dave Potter/Mark Stone (Central Coast), Khatchik Achadjian (South Central Coast), Larry Clark/Richard Bloom (South Coast), and Ben Hueso/Esther Sanchez (San Diego Coast) and are outlined in purple.

EUREKA Neely

SONOMA Reilly

SACRAMENTO Shallenberger

SAN FRANCISCO Mirkarimi

SAN MATEO Blank

SANTA CRUZ Stone

MONTEREY Potter

SAN LUIS OBISPO Achadjian

MALIBU Wan

SANTA MONICA Bloom

LOS ANGELES Burke & Kram

RANCHO PALOS VERDES Clark

OCEANSIDE Sanchez

LA JOLLA Kruer

SAN DIEGO Hueso

2009 California Coastal Commissioners Ranking Comparisons

PUBLIC MEMBERS • Average Voting Score: **63%**

 1 Wan 83%	 2 Shallenberger 71%
 3 Kruer 68%	 4 Burke 61%
 5 Blank 56%	 6 Kram 37%

ELECTED MEMBERS • Average Voting Score: **68%**

 1 Stone 100%	 2 Mirkarimi 95%
 3 Reilly 75%	 3 Sanchez 75%
 4 Bloom 67%	 5 Hueso 64%
 6 Clark 59%	 7 Neely 52%
 8 Achadjian 46%	 8 Potter 46%

MEMBER RANKINGS & STATISTICS BY STATE GOVERNMENT APPOINTING AUTHORITY

Average Voting Score: **66%**

Governor Appointments	48%	Senate Appointments	75%	Assembly Appointments	69%
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OVERALL RANKING	COMMISSIONER	TOTAL NUMBER OF VOTES CAST	PRO-COAST VOTES	ABSENCES	PERCENTAGE
13	Achadjian	24	11	0	46%
11	Blank	25	14	0	56%
7	Bloom	3	2	0	67%
9	Burke	18	11	5	61%
10	Clark	17	10	5	59%
8	Hueso	11	7	4	64%
14	Kram	19	7	6	37%
6	Kruer	19	13	6	68%
2	Mirkarimi	19	18	2	95%
12	Neely	25	13	0	52%
13	Potter	13	6	2	46%
4	Reilly	4	3	0	75%
4	Sanchez	8	6	1	75%
5	Shallenberger	24	17	1	71%
1	Stone	9	9	0	100%
3	Wan	24	20	1	83%
				Average	66%

1987 - 2009 California Coastal Commission Conservation Voting Scores

Environmentalists began tracking the Coastal Commission's conservation voting record in 1987. 1996 is split into two halves to show the precipitous fall in pro-environmental votes in the latter half of 1996 caused by the Assembly's transition from a Democratic majority to a Republican majority headed by Speaker Curt Pringle. The highest overall conservation voting score for the commission was in 1997 when the overall conservation voting score stood at 76%, related, in part, to Democrats retaking majority of the Assembly. Since 1997, the scores, on average, have declined with 2008 representing the lowest score this decade. 2009 has seen a marked improvement, but as discussed at length in the Key Findings this improvement is very likely linked to the down economy and less impactful projects.

Year	Governor Appointments	Senate Appointments	Assembly Appointments	Commission
1987	26%	71%	64%	66%
1988/89	74%	63%	50%	60%
1990/91	19%	89%	55%	58%
1992	30%	83%	59%	53%
1993	32%	65%	38%	34%
1994	31%	68%	43%	38%
1995	35%	79%	42%	50%
Jan-May 1996	21%	85%	31%	41%
June-Dec 1996	20%	87%	6%	25%
1997	42%	78%	87%	76%
1998	24%	66%	66%	44%
1999	54%	72%	62%	64%
2000	42%	59%	46%	50%
2001	28%	56%	35%	41%
2002	44%	64%	44%	50%
2003	45%	65%	45%	52%
2004	Davis: 47%	58%	38%	46%
	Schwarzenegger: 29%			
2005	45.5%	74%	55%	60%
2006	35%	54%	42%	43%
2007	24%	72%	35%	44%
2008	29%	53%	31%	38%
2009	48%	75%	69%	66%

2006 - 2009 California Coastal Commissioners Overall Ranking Comparisons

GOVERNOR APPOINTMENTS

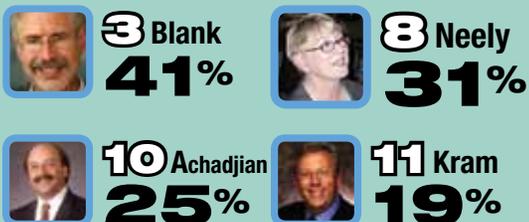
2006



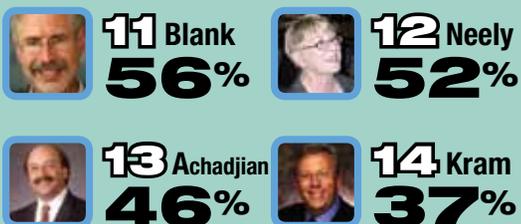
2007



2008

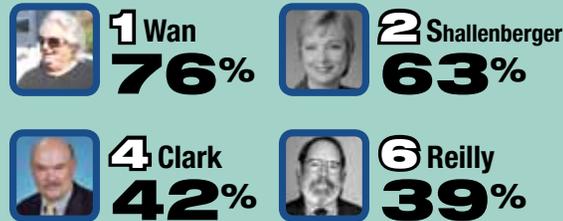


2009



SENATE APPOINTMENTS

2006



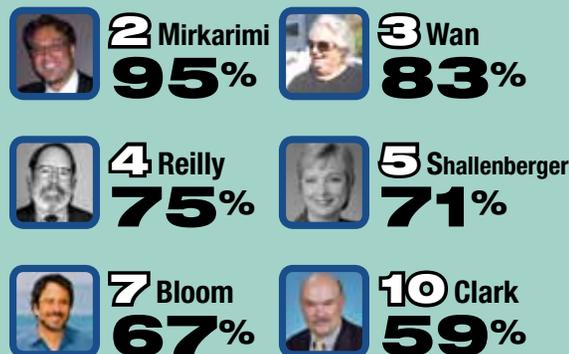
2007



2008



2009



ASSEMBLY APPOINTMENTS

2006



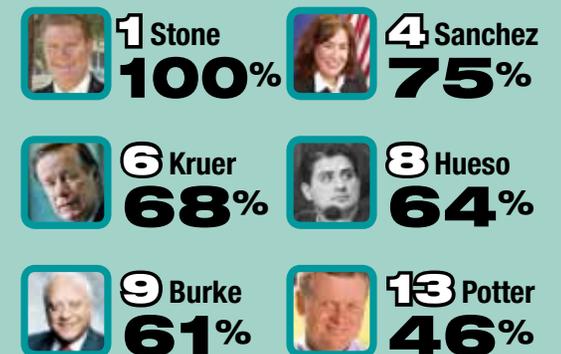
2007



2008



2009



2006 - 2009 California Coastal Commission Appointing Authorities Comparison

2009 GOVERNOR SCHWARTZENEGGER APPOINTMENTS

Average Voting Score: **48%**



1 Blank
56%



2 Neely
52%



3 Achadjian
46%



4 Kram
37%

2006 - 2009 APPOINTING AUTHORITIES COMPARISON

2006

■ Governor Schwarzenegger **35%**
■ Senate Rules Committee **54%**
■ Assembly Leader **42%**
 Average Voting Score: **43%**

2007

■ Governor Schwarzenegger **24%**
■ Senate Rules Committee **72%**
■ Assembly Leader **35%**
 Average Voting Score: **44%**

2008

■ Governor Schwarzenegger **29%**
■ Senate Rules Committee **53%**
■ Assembly Leader **31%**
 Average Voting Score: **38%**

2009

■ Governor Schwarzenegger **48%**
■ Senate Rules Committee **75%**
■ Assembly Leader **69%**
 Average Voting Score: **64%**

2009 SENATE RULES COMMITTEE APPOINTMENTS

Average Voting Score: **75%**



1 Mirkarimi
95%



2 Wan
83%



3 Reilly
75%



4 Shallenberger
71%



5 Bloom
67%



6 Clark
59%

2009 ASSEMBLY LEADER APPOINTMENTS

Average Voting Score: **69%**



1 Stone
100%



2 Sanchez
75%



3 Kruer
68%



4 Hueso
64%



5 Burke
61%



6 Potter
46%

Selected 2009 California Coastal Commission Hearing Agenda Items

January

AGENDA ITEM W18a

Ventura County Channel Islands Harbor Public Works Plan Notice of Impending Development No. 1-08 (Bahia Marina Dock Expansion and Replacement). Public hearing and action on notice of impending development by Channel Islands Harbor to replace 84 existing slips with 91 new slips in sizes ranging from 38 ft. to 131 ft. and replace associated gangways and abutments along west side of harbor at 4200 S. Harbor Boulevard, Oxnard, Ventura County. [APPROVED]

The County proposed boat slip redevelopment without adding a public walkway as required by the certified Public Works Plan. The County exploited a loophole it created years earlier when it split the landside leasehold from the waterside leasehold. Despite a refuted County claim that a public walkway already existed, staff and the Commission majority unfortunately accepted the County assertion that this project was waterside only and did not trigger its public walkway obligation.

Agenda Item W18a	Ventura County, Bahia Marina Dock Expansion & Replacement
Achadjian	-
Blank	-
Burke	-
Clark	-
Hueso	-
Kram <i>via Secord</i>	-
Kruer	-
Neely	-
Potter	-
Reilly	-
Shallenberger	-
Wan	-
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

NOTE: When reviewing the voting charts please keep in mind that Lowental is an alternate for Clark, Gonzalez for Hueso, Secord for Kram and Liberman for Kruer. A vote by an alternate will be indicated "via [alternate name]" in the name column. All votes of alternates are attributed to the primary Commissioner for vote scoring purposes.

AGENDA ITEM Th13a

Appeal No. A-6-PSD-08-4 (Lane Field Developers, San Diego) Appeal by Commissioners Shallenberger & Kruer, Ian Trowbridge & UNITE HERE Local 30 from decision of Port of San Diego granting permit with conditions to Lane Field San Diego Developers, LLC to construct 2 hotels (205 ft.-high & 275 ft.-high) with 800 rooms total, approximately 80,000 sq.ft. of retail uses, restaurants, public spaces and underground parking for 1,330 vehicles, and development of an off-site hostel and public shuttle program, at site north of Broadway Street between Pacific Highway and Harbor Drive, Port District, San Diego, San Diego County. [APPROVED WITH CONDITIONS]

The Commission voted unanimously to add special conditions to the permit that would assure mitigation for impacts to coastal access. The conditions included operation of a bayfront shuttle service during the summer to mitigate for loss of public parking, and construction of a hostel in the coastal zone to provide low-cost accommodations.

Agenda Item Th13a	Lane Field San Diego Hotels Development
Achadjian	+
Blank	+
Burke	+
Clark	+
Hueso	+
Kram <i>via Secord</i>	+
Kruer	+
Neely	+
Potter	+
Reilly	+
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

February

AGENDA ITEM W8a-b

a. Appeal No. A-4-VNT-08-057 (Lifeguard Tower and Restroom, County of Ventura) Appeal by Graham and Bella Galliford, Arnie and Sherri Friedman, Chester and Jane Haines, and Bob Jurik from the decision of County of Ventura granting a permit to the Ventura County Harbor Department to construct a 1,700 sq. ft., maximum 33-ft. in height, lifeguard tower and public restroom building on Silver Strand Beach, west of the intersection of San Nicolas Avenue and Ocean Drive, County of Ventura. [SUBSTANTIAL ISSUE FOUND, de novo Hearing TO CONTINUE]

b. Appeal No. A-4-VNT-08-100 (Lifeguard Tower and Restroom, County of Ventura) Appeal by Graham and Bella Galliford, Arnie and Sherri Friedman, and Chester and Jane Haines from the decision of the County of Ventura granting an amendment to a permit allowing the Ventura County Harbor Department to construct a 1,700 sq. ft., maximum 33-ft. in height, lifeguard tower and public restroom building on Silver Strand Beach, as amended to prohibit construction of future shoreline protective device(s) to protect the proposed structure, located west of the intersection of San Nicolas Avenue and Ocean Drive, County of Ventura.

[SUBSTANTIAL ISSUE FOUND, de novo Hearing TO CONTINUE]

Unanimous finding of substantial issue regarding a lifeguard tower at Channel Islands Harbor. The hearing was continued from September 2008 when the Commission gave explicit guidance to the County on issues to be addressed. The County gave incomplete and evasive answers on the issues of armoring, flood zone location and loss of public views.

Agenda Item W8a-b	Ventura County, Lifeguard Tower & Restroom
Achadjian	+
Blank	+
Burke	+
Clark	+
Hueso <i>via Gonzalez</i>	+
Kram	+
Kruer	+
Neely	+
Potter	+
Reilly	+
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM F9a-e

F9a – e Laguna Beach Lifeguard towers (multiple towers – one appeal) a – e. Appeal Nos. A-5-LGB-08-47 – 51 (City of Laguna Beach Dept of Marine Safety, Laguna Beach) De Novo Portion of Appeal by Sandra Siani from decision of City of Laguna Beach granting permit with conditions to replace temporary, seasonal lifeguard tower on sandy beach with a permanent lifeguard tower supported on 36-in. caisson, at Picnic Beach (Myrtle Street), Bird Rock Beach, Sleepy Hollow Beach, Thalia Street Beach, Oak Street Beach Laguna Beach, Orange County. [APPROVED WITH MODIFICATIONS]

The Commission voted unanimously to approve temporary, seasonal lifeguard towers on several sensitive beaches in the city of Laguna Beach versus approving the coastal resource-harming and destructive permanent towers the city manager and marine safety department were proposing.



Agenda Item F9a-e	City of Laguna Beach, Lifeguard Towers
Achadjian	+
Blank	+
Burke	ABSENT
Clark	+
Hueso	ABSENT
Kram	ABSENT
Kruer <i>via Liberman</i>	+
Neely	+
Potter	+
Reilly	+
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

March

AGENDA ITEM W19a

Application No. 6-08-62 (Blackburn, Solana Beach) Application of Ron Blackburn to construct 369 sq. ft. addition to 1,414 sq. ft. single-story home on 3,750 sq. ft. blufftop lot, at 205 Pacific Avenue, Solana Beach, San Diego County. [DENIED]

The Commission voted unanimously to deny a permit for an addition to an existing home that would have required driving casings deep into the unstable bluffs on a high risk site. Allowing an addition to a structure that is already at risk would have violated Coastal Act policies.

Agenda Item W19a	Solana Beach, Blackburn Residence Addition
Achadjian	+
Blank	+
Burke	+
Clark	+
Hueso	+
Kram <i>via Secord</i>	+
Kruer	+
Mirkarimi	ABSENT
Neely	+
Potter	+
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

April

AGENDA ITEM Th15a

Application No. E-08-020 (West Basin Municipal Water District, Los Angeles Co.) Application of West Basin Municipal Water District to construct and operate test desalination facility, including pipes, screens, and pumps within an existing power plant intake structure and test facility adjacent to Redondo Beach Generating Station, all within an area of Commission's retained jurisdiction in Redondo Beach, Los Angeles County.

[APPROVED WITH CONDITIONS]

Despite the known impacts to coastal resources created by desalination facilities, the Commission approved yet another "test" facility that could ultimately result in a permanent facility.



Agenda Item Th15a	Los Angeles Co, West Basin Municipal Water District
Achadjian	-
Blank	-
Burke	-
Clark	-
Hueso	-
Kram <i>via Secord</i>	-
Kruer	ABSENT
Mirkarimi	+
Neely	-
Potter	-
Shallenberger	-
Wan	+
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

April

AGENDA ITEM Th15b

Appeal No. A-4-OXN-07-096 (Southern California Edison, Oxnard) Appeal by Southern California Edison from decision of City of Oxnard denying permit to construct and operate a 45 megawatt “peaker” power plant, at 251 N. Harbor Blvd., Oxnard, Ventura County.
[APPROVED WITH CONDITIONS]



At a Coastal Commission regular meeting specially located in Oxnard to accommodate concerns of the low-income population affected by the project, the Commission approved de novo an appeal of a local decision by City of Oxnard to not approve the first electric power plant in the Coastal Zone in decades. The substantial issue approval of this appeal was in September 2007 on the grounds that language in the Oxnard LCP was inadequate to deny Southern California Edison a CDP to construct the new peaker power plant adjacent to an existing Reliant Energy power plant at Mandalay Beach. The Commission was advised by staff that the Coastal Act was not subject to consideration of Environmental Justice (EJ) issues and could not base its ruling on EJ policy that must be considered by other State and Federal agencies in their deliberations.

Agenda Item Th15b	Oxnard, SCE Peaker Power Plant
Achadjian	-
Blank	-
Burke	-
Clark	-
Hueso	+
Kram <i>via Secord</i>	-
Kruer	ABSENT
Mirkarimi	+
Neely	-
Potter	-
Shallenberger <i>via Caldwell</i>	+
Wan	+
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

May

AGENDA ITEM W17.5a

Permit No. 6-09-016 EDD (Moss, Carlsbad) Public hearing on dispute over proposed retaining walls and grading to take place seaward of the identified bluff edge inconsistent with Special Condition #1 associated with project to demolish 2,100 sq. ft. home and construct 6,755 sq. ft. home including 2,366 sq. ft. basement, infinity edge swimming pool, spa and patio on a 13,650 sq. ft. blufftop lot, at 5015 Tierra del Oro, Carlsbad, San Diego County.
[DENIED]

The Commission denied this dispute resolution that would have allowed the applicant the ability to grade a coastal bluff for the construction of extravagant accessory improvements seaward of the established bluff edge.

Agenda Item W17.5a	Carlsbad, Moss Residence
Achadjian	-
Blank	+
Burke	+
Clark	+
Hueso	+
Kram	-
Kruer	+
Mirkarimi <i>via Gurney</i>	+
Neely	+
Potter	+
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

June

AGENDA ITEM W6a

Appeal No. A-3-SLO-08-018 (State Parks ODSVRA, San Luis Obispo Co.)
 Appeal by Christie Camphorst, Kelly Devaney, and Nell Langford of San Luis Obispo County decision granting permit with conditions to the California Dept. of Parks and Recreation for replacement of 1 existing restroom building and install 5 new restroom buildings within the Oceano Dunes State Vehicular Recreation Area (ODSVRA) in the Oceano area of San Luis Obispo County.
[SUBSTANTIAL ISSUE FOUND, de novo Hearing TO CONTINUE]

This tie vote that went against staff recommendation did allow for substantial issue to be found on this contentious issue that would have represented piecemeal development with impacts to coastal resources. This issue was dubbed by several Commissioners as a “giant grab” of Coastal Commission jurisdiction.

Agenda Item W6a	State Parks, San Luis Obispo County
Achadjian	<i>ABSTAIN</i>
Blank	-
Burke	+
Clark	-
Hueso	-
Kram	<i>ABSENT</i>
Kruer	+
Mirkarimi	+
Neely	-
Potter	-
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM W16c

City of Santa Barbara LCP Amendment No. MAJ-3-08 (Coast Village Road – Olive Mill Road Rezone). Public hearing and action on City of Santa Barbara request to amend its LCP Implementation Plan by amending the Zoning Ordinance and map to change the zoning of one lot from Two-Family Residential and Coastal Overlay Zone (R-2/S-D-3) to General Commerce and Coastal Overlay Zone (C-1/S-D-3) located at 1298 Coast Village Road, City of Santa Barbara, Santa Barbara County.
[APPROVED]

Commission majority approved this rezoning to allow for a project that was much too large and intensive for the area and would set a precedent for the entire area. Concerns included impacts on views due to height increase and bulk and lack of setbacks.

Agenda Item W16c	City of Santa Barbara, LCP Amendment
Achadjian	-
Blank	-
Burke	+
Clark	-
Hueso	<i>ABSENT</i>
Kram <i>via Secord</i>	-
Kruer	+
Mirkarimi	+
Neely	-
Potter	-
Shallenberger	-
Wan	+
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

July

AGENDA ITEM W8b

Application No. 4-08-006 (Santa Barbara County, Goleta Beach) Application of Santa Barbara County to construct 500 ft. long, 20 ft. wide, permeable pile sand retention system and addition to Goleta Beach Pier consisting of 250 – 330 timber or composite fiberglass piles (18” – 20” in diameter) and timber decking; seasonal installation of approximately 1,200 ft. long, 3-5 ft. high winter sand berm for 5 years; remove approximately 1,500 linear ft. of rock rip rap at upcoast end of park; repair approximately 650 linear ft. of revetment at downcoast end of park, dredge approximately 500,000 cu. yds. of sand material from offshore location and place dredged material on beach immediately upcoast of pier for initial beach nourishment; and implement Adaptive Management and Monitoring Program involving periodic adjustments to permeable pile sand retention system and offshore dredging/beach nourishment on as-needed basis not to exceed 100,000 cu.yds. of material/year, at 5986 Sandspit Road, Santa Barbara County. [DENIED]

Commission overturned its staff’s recommendation and denied Santa Barbara County’s proposed groin project at Goleta Beach. The groin project would have trapped sand at Goleta Beach, but in doing so would have prevented sand from reaching beaches to the east of Goleta causing erosion and damage to beach habitats.



Agenda Item W8b	Santa Barbara County, Goleta Beach Berm & Pier
Achadjian	-
Blank	+
Burke	+
Clark	ABSENT
Hueso	+
Kram	ABSENT
Kruer	+
Mirkarimi	+
Neely	+
Potter	+
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM W9a

Application No. 4-06-163 (Malibu Valley Farms, Inc., Santa Monica Mountains, Los Angeles Co.) Malibu Valley Farms, Inc. granted permit with conditions for after-the-fact approval of equestrian facility used for horse breeding, raising, training, stabling, exercising, boarding and rehabilitation, including as-built riding arenas, fencing, dirt access road with 2 at-grade crossings through Stokes Creek, corrals, paddock, mare motel, shelters, covered pipe barns, tack rooms, barn, manure storage areas, and parking lot. The project also includes addition of vegetative swales, bioretention basin with riprap pad, and 0.5-ac. riparian restoration, and removal of various pipe and covered corrals, cross-tie areas, storage containers, and tack rooms, located at 2200 Stokes Canyon Road, Santa Monica Mountains, Los Angeles County. [APPROVED]

This contentious enforcement issue turned “after-the-fact” permitting issue, was a major environmental disappointment on multiple fronts that concluded with the approval of an illegal horse ranch. Following a legal victory invalidating prior approval, Commission staff was directed to pursue revised findings rather than a public hearing.

Agenda Item W9a	Malibu, Malibu Valley Farms
Achadjian	-
Blank	+
Burke	-
Clark	ABSENT
Hueso	ABSENT
Kram <i>via Secord</i>	-
Kruer	-
Mirkarimi	ABSENT
Neely	-
Potter	-
Shallenberger	ABSENT
Wan	ABSENT
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

July

AGENDA ITEM W11

Commission Cease & Desist Order No. CCC-09-CD-01 (Ackerberg, Malibu, Los Angeles Co.) Public hearing and Commission action on proposed Cease and Desist Order directing Lisette Ackerberg, trustee of the Ackerberg Trust and owner of property to: 1) cease from engaging in further unpermitted development activities, including maintaining existing unpermitted development; 2) remove unpermitted development consisting of rock rip-rap, a wall, concrete slab and generator, fence, railing, planter, and landscaping from areas covered by lateral and vertical public access easements on the property; and 3) comply with conditions of existing permits and vertical and lateral public access easements, which provide for unobstructed public access over areas of the property covered by those easements, located at 22500 and 22466 Pacific Coast Highway, Malibu, Los Angeles County. [APPROVED]

AGENDA ITEM W12

Notice of Violation No. CCC-09-NOV-01 (Ackerberg, Malibu, Los Angeles Co.) Public hearing and Commission action identifying unpermitted development by Lisette Ackerberg, trustee of the Ackerberg Trust and property owner, on property located at 22500 and 22466 Pacific Coast Highway, Malibu, Los Angeles County. [APPROVED]

The Commission voted unanimously to issue a Cease and Desist Order based on multiple Coastal Act violations that included unpermitted development and violations of two CDPs which required vertical and lateral public access easements to mitigate loss of coastal access and visual resources. Ackerberg sued the CCC following the hearing and the lawsuit is still in process.

Agenda Item W11&12	Malibu, Ackerberg Residence Cease/Desist & NOV
Achadjian	+
Blank	+
Burke	ABSTAIN
Clark	+
Hueso	+
Kram <i>via Secord</i>	+
Kruer	ABSENT
Mirkarimi	+
Neely	+
Potter	ABSENT
Shallenberger	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM Th11a

City of Redondo Beach RDB-MAJ-2-08 (Area 2 Certification). Public hearing and action on request by the City of Redondo Beach to amend its certified Land Use Plan and Implementation Plan in order to certify the remaining uncertified area (Area 2) of the Redondo Beach Coastal Zone. Area 2 consists of the power generating plant area located west of Catalina Ave, and the harbor and pier areas of the City. The City also requests the elimination of the current geographic segmentation of the Coastal Zone in conjunction with these amendments. The City proposes to remove the various, and conflicting development standards that exist for Area 2 between the certified LUP, Harbor/Civic Center Specific Plan and the existing zoning regulations. The amendment request includes a development cap of 400,000 square feet of floor area for new development within the entire Harbor/Pier area, changes the zoning designations for the Harbor/Pier area from Waterfront to Coastal Commercial 1 - Coastal Commercial 5 with specific development standards for each of the new zones and addresses specific requirements for limited use overnight visitor accommodations. [APPROVED WITH MODIFICATIONS]

With the exception of one Commissioner, the Commission approved this development in the downtown/pier area "Heart of the City" without compliance with Measure DD, which amended City Charter Section XVII to require a public vote for all major allowable land use changes.

Agenda Item Th11a	City of Redondo Beach, Area 2 Certification
Achadjian	-
Blank	-
Burke	-
Clark	-
Hueso	-
Kram <i>via Secord</i>	-
Kruer	-
Mirkarimi	+
Neely	-
Potter	-
Shallenberger	-
Wan	-
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

August

AGENDA ITEM Th14e

Application No. 4-09-13 (Mariposa Land Company, City of Malibu) Application of Mariposa Land Company for permanent placement of rock rip-rap revetment along approximately 500-ft. section of the west bank of lower Malibu Creek, in follow-up to Emergency Coastal Development Permit No. 4-98-024-G. The proposed project also includes revegetation of the revetment site, at 3728 Cross Creek Road, City of Malibu, Los Angeles County.

[APPROVED WITH CONDITIONS]

Applicant asked for permanent placement of the 10-year old “emergency” seawall, which stood as an un-engineered 500-foot long rock revetment on lower Malibu creek that greatly impaired water quality, and also failed to protect ESHA, endangered steelhead trout, tidewater goby and critical bird habitat in Malibu Lagoon and Surfrider Beach. The Commission supported staff recommendation for a new wall with vegetation. In a 7 – 1 vote, the Commission approved an environmentally inferior solution to this longstanding problem despite lengthy testimony from Heal the Bay, Surfrider Foundation and Sierra Club Coastal Programs who requested full support of a bio-engineered soft solution to improve the greatly impaired water quality and protect habitat.



Agenda Item Th14e	Malibu, Mariposa Land Co. Malibu Creek Revetment
Achadjian	-
Blank	-
Burke	ABSTAIN
Clark	ABSENT
Hueso	SEAT VACANT
Kram <i>via Secord</i>	-
Kruer	-
Mirkarimi	+
Neely	-
Potter	SEAT VACANT
Shallenberger	-
Wan	-
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM F13a

Application No. 5-09-106 (Richard J. Livoni Second Family Limited Partnership, Newport Beach) Application of Richard J. Livoni Second Family Limited Partnership to remove unpermitted retaining walls and beach access stairway from bluff face, regrade lower bluff to natural contours, extend lower deck, add new caisson-supported deck with enclosed bathroom and spa equipment room, and construct new at grade pathway from new deck to beach. Grading will consist of 163 cu.yds. of cut, 10 cu.yds. of fill, and 153 cu.yds. of export to location outside of Coastal Zone. Native landscaping is also proposed, at 3335 Ocean Blvd., Newport Beach, Orange County.

[APPROVED WITH CONDITIONS]

Unanimous vote to approve the continued destruction of the Newport Beach coastal bluffs. Before his untimely death in November, Dr. Jan Vandersloot battled often alone to try and save the last remaining coastal bluffs of Newport Beach.



Agenda Item F13a	Newport Beach, Livoni Family Limited Partnership
Achadjian	-
Blank	-
Burke	ABSENT
Clark	ABSENT
Hueso	SEAT VACANT
Kram <i>via Secord</i>	-
Kruer	ABSENT
Mirkarimi	-
Neely	-
Potter	SEAT VACANT
Shallenberger	-
Wan	-
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

October *(No conservation agenda items for September)*

AGENDA ITEM W12c

Permit No. A-3-CAP-99-023-A1 (Swan and Green Valley Corporation, Capitola). Request by Richard and Nancy Swan and the Green Valley Corporation to amend permit to eliminate the existing condition prohibiting future shoreline armoring (that applies to the Green Valley Corporation property) and to construct approximately 115-ft. section of contoured concrete seawall fronting that Green Valley Corporation property and adjacent to existing seawall on adjacent property (on Swan property) on beach and bluffs fronting 4840 and 4850 Cliff Drive in Capitola, Santa Cruz County.

[APPROVED WITH CONDITIONS]

The Commission approved the temporary fill of the sea cave on the Swan property, which required a CDP amendment for the Green Valley Corp. property to allow the “one time” fill, with the condition that the owners of the Swan property must come back in six months with a long-term plan to realign the bluff and eliminate the need for the sea cave fill on the Green Valley property in the long-term. So, although the Commission did allow for a CDP amendment to facilitate temporary one-time armoring to extend onto the property, the CDP prohibition on future armoring is still intact and no armoring will exist on the Green Valley Corp. property in the long-term. At the hearing, the Commission did signal that it would not be amenable to do these CDP amendments in the future.

Agenda Item W12c	Capitola, Swan & Green Corp., Seawall
Achadjian	+
Blank	+
Burke	+
Clark	+
Kram	ABSENT
Kruer	+
Mirkarimi	+
Neely	+
Sanchez	+
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM W21a

CC-056-09 (City of San Diego Secondary Treatment Waiver, San Diego) Re-submitted Consistency Certification by City of San Diego for secondary treatment waiver (i.e., Environmental Protection Agency (EPA) Reissuance, under Section 301(h) of the Clean Water Act, of a modified National Pollutant Discharge Elimination System (NPDES) Permit) for Point Loma Wastewater Treatment Plant Discharges offshore of San Diego, San Diego County. **[APPROVED]**

After a vote by the Commission in August of 2009 to deny a Consistency Certification for one of the nation’s last and largest waiver-holders, the issue was brought back for reconsideration just two months later. This issue split the environmental community, with the San Diego environmental community supporting a consistency finding after reaching a cooperative agreement with the City to undertake studies aimed at reclaiming wastewater as a way to reduce or even eliminate sewage discharges to the ocean, while many state and national organizations without local chapters stood opposed based on environmental impacts from the discharge and the problematic precedent another waiver would provide. The goal of reclaiming wastewater, rather than just improving treatment standards, is laudable. However, the swiftness of this re-hearing sent the message to the regulated community that if at first you don’t succeed, just try again; it also may have reduced pressure on the City to find real solutions to its sewage problem that a denial would have provided. The certification was approved, even in the face of hours of compelling testimony and thoughtful environmental comments from multiple Commissioners.

Agenda Item W21a	City of San Diego, Secondary Treatment Waiver
Achadjian	-
Blank	-
Burke	-
Clark	-
Kram	-
Kruer	-
Mirkarimi	+
Neely	-
Sanchez	-
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

October

AGENDA ITEM Th12a

Permit No. 4-99-276-A3 (Santa Monica-Malibu Unified School District, Malibu)
Request by Santa Monica-Malibu Unified School District to amend permit to eliminate Special Condition No. 6 (Athletic Field Lighting Restriction) to allow operation of temporary light standards on football field for maximum of 16 nights per football season (September-December) at Malibu High School, 30215 Morning View Drive, Malibu, Los Angeles County. [DENIED]

An embarrassing day for the City of Malibu and its school district as proponents of the high school lighting attempted to argue natural resources value with Commissioner and Malibu resident, Sara Wan. The City of Malibu continues to amend its LCP in order to accommodate this lighting well into 2010.



Agenda Item Th12a	Santa Monica, Malibu School District Sports Field Lighting
Achadjian	+
Blank	+
Burke	+
Clark	+
Kram	ABSENT
Kruer	+
Mirkarimi	+
Neely	+
Sanchez	+
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

November

AGENDA ITEM W12.5

Commission Cease and Desist Order Consent Amendment No. CCC-09-CD-03-A and Restoration Order Consent Amendment No. CCC-09-RO-02-A (Mills PCH, LLC – Huntington Beach, Orange County). Public hearing and Commission action on proposed consent amendments to previously issued Cease and Desist Order and Restoration Orders, to supplement existing Orders to address Commission monetary claims (provisions of the original orders remain in place); directed to Mills PCH, LLC; property located at 21622 Pacific Coast Highway, Huntington Beach, Orange County Assessor's Parcel No. 114-150-86.

[APPROVED WITH MODIFICATIONS]

Commission staff recommends settlement without removal of all the fill and a payment of \$125,000 fine. Commissioner Kruer opined that this puny fine is nothing and doesn't send the right message to developers. Most of the Commissioners agreed with this messaging point and Commissioner Kruer asks how the \$125,000 was chosen since there should be a quantitative method for assessing penalties. Commissioner Wan asks about process to alter or modify Consent Order and Commission Counsel advises they can deny, ask applicant on record to increase the penalty or take a break and have staff negotiate with applicant. Following the break, applicant's agent agreed to remove remainder of gravel, but project principal cannot be reached due to overseas travel. Applicant's agent agreed to a one-day delay so that he may negotiate higher penalty. The following day the fine was doubled to \$250,000. A precedent-setting penalty that changed all the ground rules for enforcement action.



Agenda Item W12.5	Huntington Beach, Mills PCH LLC Cease & Desist
Achadjian	+
Blank	+
Burke	+
Clark <i>via Lowenthal</i>	+
Kram	+
Kruer	+
Mirkarimi	+
Neely	+
Sanchez	+
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
- = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

November

AGENDA ITEM W15a

Appeal No. A-1-MEN-07-28 (Jackson-Grube Family, Inc., Mendocino Co.) Appeal by (1) Molly Warner & Britt Bailey, (2) Commissioners Kruer & Wan, (3) Mendocino Group Sierra Club, Friends of the Ten Mile, (4) Margery S. Cahn Trust & Whiting Family Revocable Trust from decision of County of Mendocino granting permit with conditions to Jackson-Grube Family, Inc. to build a 7-unit inn in 2 phases. Roads and underground utilities are also proposed, located at 31502 North Highway One, Fort Bragg, Mendocino County. [DENIED]

Staff recommended approval of the project with conditions that would allow the applicant to increase the intensity of use of a highly scenic area and build an inn that did not strictly comply with local zoning for Inns and Bed & Breakfasts. Appellants sought a smaller development with a lower intensity of use. The Commission denied the project, and then denied reconsideration at a subsequent public hearing. Jackson-Grube then sued the Commission. The Commission reported at its public hearing on May 12, 2010 that a settlement had been reached. The terms of the settlement were not revealed at that hearing.

Agenda Item W15a	Mendocino County, Jackson-Grube Family, Inc., Ft. Bragg
Achadjian	-
Blank	-
Burke	<i>ABSENT</i>
Clark	<i>ABSENT</i>
Kram	-
Kruer	+
Mirkarimi	+
Neely	-
Sanchez	+
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM Th13a

Application No. 4-08-022 (Elliott, Los Angeles Co.) Application of Tom Elliott to construct 2-story, 28-ft. high, 4,413 sq.ft. single-family home with 1,129 sq.ft. attached garage, swimming pool, septic system, 300-ft. long driveway with hammerhead turnaround, retaining walls, perimeter fencing, and 2,560 cu.yds. of grading (1,293 cu.yds. cut, 1,267 cu.yds. fill) at 1522 Decker Canyon Road, Santa Monica Mountains, Los Angeles County. [DENIED]

The precedent surrounding this item is a neighboring planned structure could require adjacent landowners to clear ESHA to meet fire safety standards. ESHA impacts were avoidable by re-siting the house, but the applicant refused. Commission action ensures avoidable impacts to ESHA are prevented on adjacent property of a project/development that requires ESHA removal on neighboring property because of siting issues in applicant's project. The Commission determined there were siting alternatives on subject property that would not require neighbor to remove ESHA and compromise habitat values to meet the siting decisions of their adjacent owner.

Agenda Item Th13a	Los Angeles County, Elliott Residence, Santa Monica
Achadjian	+
Blank	+
Burke	+
Clark <i>via Lowenthal</i>	+
Kram	+
Kruer	+
Mirkarimi	+
Neely	+
Sanchez	+
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

December



AGENDA ITEM Th9a

Revocation Request No. R-E-06-013 (Poseidon Resources, Carlsbad) Request by Surfrider Foundation, San Diego Coastkeeper, and Coastal Environmental Rights Foundation to revoke permit E-06-013 granted to Poseidon Resources to construct and operate a 50 million gallon per day seawater desalination facility at site of Encina Power Plant, adjacent to Agua Hedionda Lagoon, in City of Carlsbad, San Diego County. [DENIED]

The Poseidon-Carlsbad ocean desalination Coastal Development Permit (CDP) had numerous conditions, including a Marine Life Mitigation Plan to compensate for marine life mortality associated with the desalination facility's seawater intake. It was discovered during the review of their intake permit application before the Regional Water Quality Control Board the Applicant had intentionally provided inaccurate information that resulted in an under-estimate of marine life mortality. Consequently the Coastal Commission had previously approved an inadequate Marine Life Mitigation Plan. The Revocation Request cited evidence that the Applicant had intentionally supplied this inaccurate information and had the Applicant supplied accurate information it would have resulted in a different condition in the CDP. One of the more experienced Commissioners claimed that she had never seen a more clear case for revocation of a permit. Nonetheless, the Commission denied the revocation request based on their conclusion that the environmental groups failed to fully prove the Applicant "intentionally" misled the Commission.

Agenda Item Th9a	Carlsbad, Poseidon Desalination Facility
Achadjian	-
Blank	-
Bloom	-
Burke	-
Kram <i>via Secord</i>	-
Kruer	-
Mirkarimi	+
Neely	-
Sanchez	-
Shallenberger	-
Stone	+
Wan	+
VOTE OUTCOME	-

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

Selected 2009 California Coastal Commission Hearing Agenda Items

December

AGENDA ITEM Th18a-b

San Mateo County LCP Amendment No. SMC-MAJ-1-07 (Midcoast Update). Public hearing and action on request by San Mateo County to update its land use plan (LUP) and implementation plan (IP) for the urban Midcoast area (El Granada, Miramar, Moss Beach, Montara, Princeton-by-the-Sea).

[APPROVED WITH MODIFICATIONS]

b. San Mateo County LCP Amendment No. SMC-MAJ-1-04-A (Midcoast Design Standards). Public hearing and action on request by County of San Mateo to amend the LUP and IP to establish new design standards for single-family and duplex development in the urban Midcoast (El Granada, Miramar, Moss Beach and Montara).

[APPROVED WITH MODIFICATIONS]

The urban Midcoast area of San Mateo County is comprised of the unincorporated communities of El Granada, Princeton, Miramar, Moss Beach, and Montara, and is located just north of Half Moon Bay. Cumulative impacts of new development in both Half Moon Bay and the urban Midcoast communities have raised significant issues of adequacy of the infrastructure (roads, sewer, water,) to serve buildout without adversely impacting coastal resources and affecting public access to and along the shore. After a 10-year process, the LCP Update was certified by the Commission with 72 Suggested Modifications, over the County objections to several essential modifications, including: limiting the annual rate of growth, prohibition of new private wells in areas served by public water systems, traffic/transportation mitigation and phasing of expansion of roads and water supply.

Agenda Item Th18a-b	San Mateo County, Amend LCP: El Granada, Miramar, Moss Beach & Montara
Achadjian	+
Blank	+
Bloom	+
Burke	ABSENT
Kram	+
Kruer	ABSENT
Mirkarimi	+
Neely	+
Sanchez	+
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

AGENDA ITEM F8a

Application No. A-3-SNC-98-114 (SNG Development Co., Monterey Co.) Application of SNG Development Co. (on remand from court decision) to construct approximately 360,000 sq.ft. mixed-use residential and visitor serving development (Monterey Bay Shores Resort) requiring 695,000 cu.yds. of grading (and 418,000 cu.yds. of sand disposal) in sand dunes seaward of Highway One, Sand City, Monterey County. [DENIED]

The Monterey Bay Shores Resort is a mixed use development proposed to be located in Seaside on the west side of Highway 1 in the sand dunes. The project was resurrected from the late 1990s. In its former life, it was a 495 unit hotel/condo/residential development. It was denied by the Coastal Commission in 2000, and subsequently a lawsuit was filed that argued the Commission could not base its decision on the presence of ESHA, as the Sand City LCP did not identify the area as ESHA (even though the area is ESHA). Unfortunately, the applicant won that suit and the court ordered the Commission to re-hear the application. The newly proposed project consisted of 341 hotel/condo/residential units and was to be built "into the dunes." Even with the downsizing, this resort would have been one of the largest resorts ever built in the California Coastal Zone and would be located directly atop of some of the rarest, most environmentally sensitive coastal sand dunes left in the world. Furthermore, the project lacked adequate water supply, did not avoid or minimize coastal hazards over its lifetime, would have blocked and otherwise impaired significant public views, would not have protected dune landforms and natural resources, did not maximize public access and would have exacerbated Highway 1 traffic problems.

Agenda Item F8a	Monterey County, SNG Development Monterey Bay Shores Resort
Achadjian	+
Blank	+
Bloom	+
Burke	ABSENT
Kram	ABSENT
Kruer	ABSENT
Mirkarimi	+
Neely	+
Sanchez	ABSENT
Shallenberger	+
Stone	+
Wan	+
VOTE OUTCOME	+

+ = Positive Vote for Coastal Conservation
 - = Negative Vote for Coastal Conservation

2009 California Coastal Commission Conservation Voting Chart

For More Information, Contact

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