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GSD

THOMAS BERG  
Agency Director

DATE: August 14, 1998

TO: Lin Koester  
Chief Administrative Officer

FROM: Thomas Berg *TuB*  
Director, Resource Management Agency

SUBJECT: RESPONSE TO 1997-1998 VENTURA COUNTY  
GRAND JURY FINAL REPORT

The following comments are in response to the recommendations directed to the Resource Management Agency (RMA) in the Grand Jury's Final Report.

**Grand Jury Recommendation:** *The Board of Supervisors should assign the beaches which it controls to a specific county department to add to its asset list.*

AFCA  
(2)

**RMA and Harbor Department Response:** We agree. We understand neither Hollywood Beach nor Silverstrand Beach are currently assigned to any County department. RMA does not manage any County beaches or any other County property. The Harbor Department provides beach maintenance, lifeguards, restroom maintenance, and some easement maintenance. We believe that both Hollywood Beach and Silverstrand Beach should be assigned to a single department, probably either Harbor or Public Works, based on a policy decision by the Board of Supervisors after a review of related policy issues.

**Grand Jury Recommendation:** *That an audit be made to identify these assets and assign jurisdictional responsibility.*

AFCA  
(2)

**RMA Response:** We agree. While the Grand Jury mentions only Hollywood Beach, the situation is the same for Silverstrand Beach and they should both be handled in one action. Once the beaches have been formally added to the asset list of the appropriate County agency, the private structures on the County beaches should be inventoried so the process can begin to have them properly



permitted under the County Zoning Ordinance and California Coastal Commission regulations.

**Grand Jury Recommendation:** *That EHD study and develop a program for rating/grading retail food establishments.*

AFCA  
(5)

**RMA Response:** This recommendation was addressed on June 25, 1998.

**Grand Jury Recommendation:** *Educate and inform the public about the implications of violating the Ventura County protected tree regulations..*

(C. MY)  
CSSD  
(3)

**RMA Response:** We agree with this recommendation and over the years since the Tree Protection Ordinance was first adopted RMA has issued press releases and contributed to news stories related to the trimming and removal of protected trees such as oaks. Continuing public education is necessary, however, as new people move to the County. In line with the Grand Jury's recommendation, a brochure explaining the regulations has been drafted and is about to be published. It will be distributed to libraries and local jurisdictions, as well as all known tree trimmers and other groups as they are identified. A press release will accompany its release. A certification process for tree trimmers is also being instituted which will directly reach the individuals and firms that conduct most of the tree trimming and removals. The certification process is intended to directly inform them of the regulations and the consequences for violating them.

**Grand Jury Recommendation:** *Where there is probable cause that innocent behavior resulted in a misdemeanor violation of an ordinance wherein penalty, fines or liens are imposed, the violator should be provided with the services of an ombudsman to help mitigate the violation. The service should be provided at no cost until the information is available in pamphlet form.*

CSSD  
(3)

**RMA Response:** We agree in part and disagree in part. Penalties, fines or liens have not been imposed to date on any individuals violating the County Tree Protection Ordinance, nor have any of these parties been prosecuted or taken to an administrative hearing as other Zoning violation cases have. Parties violating the ordinance have, however, been required to pay for staff time spent handling the violation and to mitigate the damage done.

Staff offers general advice on mitigation alternatives and therefore does act somewhat as an ombudsman. Nevertheless, a technical expert such as an arborist is often needed. Having the County absorb these costs on behalf of the property owner would be contrary to Board of Supervisors adopted policy, practice and ordinance which have placed the burden of enforcement costs on the violator and not the general taxpayers. If the recommendation were strictly followed, it would raise the question, why this practice should not be applied to every other violation of County Zoning Ordinance (or other regulations) where a person could claim they did not have knowledge of the regulations and there is no pamphlet to inform them.

It has been staff's experience that the public is very sensitive to any work on oak trees and ask about related regulations more often than many most other zoning regulations. RMA is moving quickly to have a public pamphlet available as well as other measures that will inform the public of the rules. Therefore, it believes it is following the spirit of the Grand Jury's recommendation.

**Grand Jury Recommendation:** *That the open pits at the SPM site be filled to the level specified in CUP-1942 as soon as possible.*

CSSD  
(5)

**RMA Response:** We agree. The Planning Division has been actively working with the Public Works Agency, SP Milling, and interested organizations such as the City of Oxnard and the United Water Conservation District (UWCD) to develop a final end use for the SP Milling excavation pits. As approved in 1979, the currently approved end use for the these pits specifies that a golf course be built at elevations which are approximately 15 feet below the current high groundwater table at the site. As this use is not feasible or desirable, an alternative use must be developed. This new use is expected to result in the same amount of fill being placed into the pits as specified in CUP 1942, although the distribution of the material may differ from that of a golf course. While no schedule for refill is possible at this time, progress toward a revised end use and reclamation contours is being made and we anticipate that the pits will be refilled as soon as possible.

**Grand Jury Recommendation:** *That CalMat be allowed to mine to a level of 22 feet below the historic high-ground watermark. The excess aggregate from this excavation could be used for filling the SPM site and provide UWCD a clean water storage site.*

CSSD  
(5)

**RMA Response:** We agree. On December 17, 1996, the Board of Supervisors approved CUP 4843 which allows CalMat Co. to mine the Ferro pit 22 feet below the high groundwater level, and back fill the pit two feet higher than its current elevation. However, the City of Oxnard and the Environmental Defense Center (EDC) sued Ventura County, arguing that the Environmental Impact Report did not adequately analyze the approved project. On June 12, 1998 Superior Court Judge Barbara Lane agreed with Oxnard and EDC and set aside the approval of CUP 4843. CalMat Co. and the County are currently deciding what their next step will be. However, RMA and Public Works still support approval of CUP 4843.

It should be noted that if CUP 4843 is ultimately approved and implemented, that it will not generate excess aggregate which could be used to fill the SP Milling pits. CalMat Co. would need to import sand to fill in the Ferro pit, and will not have surplus sand to make available to SP Milling.

**Grand Jury Recommendation:** *That the county facilitate arrangements to assure that Cal-Mat deed title of the site to UWCD when its mining operations are complete.*

CSS  
(5)

**RMA Response:** We agree. The Planning Division and the Public Works Agency have supported use of the CalMat Co. pits for water storage/recharge by the UWCD. We cooperated in the conversion of the CalMat Co. Noble excavation pit into the UWCD Noble Water Storage basin, we are working to allow UWCD to acquire the Rose Avenue pit for water storage, and we worked closely with the two parties in developing ways in which UWCD could use the CUP 4843 pit (i.e. the Ferro pit). We will continue to facilitate the acquisition of CalMat Co. excavation pits by the UWCD.

**Grand Jury Recommendation:** *That an independent testing laboratory, acceptable to all parties, be allowed access to the excavation sites for testing, inspections for possible water contamination and assurance of CUP compliance.*

CSS  
(5)

**RMA Response:** We agree. SP Milling has historically allowed interested parties such as the City of Oxnard, the UWCD and the Regional Water Quality Control Board (RWQCB) access to their site in order to sample the groundwater. As part of the conditions for CUP 4843, CalMat Co. was required to regularly test the groundwater in the Ferro pit; these results have been made available to Oxnard. Oxnard has been given access to the CalMat Co. site, and has taken their own water samples for testing. In addition, CalMat Co. has routinely cooperated with

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the UWCD regarding groundwater testing on their property. All testing has been done by reputable testing labs, and are agreeable to the interested parties. All test results have been made available to County staff. This cooperation between the aggregate operators, Oxnard, UWCD, RWQCB and the County is expected to continue.

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