



July 3, 2025

Delivered via email

To: Karl Schwing
District Director, San Diego Coast
California Coastal Commission

Re: Th10a - Permit No. 6-16-0340-A3 (Moss, Carlsbad)

Honorable Commissioners,

The Surfrider Foundation is a nonprofit grassroots organization dedicated to the protection and enjoyment of our world's ocean, waves, and beaches through a powerful network. Thank you for the opportunity to comment on this CDP amendment. We were supportive of the Commission's decision to reject the applicant's proposed amendments during April 2024's dispute resolution hearing (6-16-0340-EDD), and are pleased to see progress towards a solution that brings the applicant's property closer to being in conformance with the California Coastal Act.

Surfrider supports staff's recommendation for approval with conditions. However, we would like to note our concerns with the staircase, and more importantly, the unpermitted rock revetment in front of this property. While the rock revetment is technically not part of this CDP amendment, we believe the applicants have been treated with too much lenience in this regard and would warn the Commission to not approve similar "get out of jail free" cards for illegal shoreline armoring in future CDP applications. We also urge the Commission to take stronger action to require removal of this existing, unpermitted revetment. The original CDP states the following re: enforcement options for the unpermitted rock revetment:

Commission enforcement staff will consider options to address this unpermitted development. In the interim, the applicant may submit revised plans pursuant to Special Condition No. 1 to remove the unpermitted rock and stairway, and such removal would be authorized by this CDP.

Options for enforcement include, but are not limited to, pursuing monetary penalties under Coastal Act Section 30821. In cases involving violation(s) of public access provisions of the Coastal Act, such as, as is the case here, where the placement of an

unpermitted rock revetment both impedes the public's ability to access the public beach and interferes with shoreline erosion that is beneficial for public access, Section 30821 authorizes the Commission to impose administrative civil penalties in an amount of up to \$11,250 per day for each violation.¹

Should similar situations arise in future CDPs, we would also ask the Commission to reject the type of reasoning that allowed for this revetment to remain in place at this property. This house, a *new development*, was permitted to be built without requiring the removal of existing, unpermitted rock revetment, in direct contradiction to both Section 30235 of the Coastal Act and Policy 4-1 of Carlsbad's LCP. Furthermore, the geotechnical report submitted by the applicant stated that the revetment was not necessary to protect the new home. Despite this, the original Staff Report stated that there was too much uncertainty around what the appropriate bluff setback would be to require removal of the revetment.

This strikes us as circular reasoning. The Coastal Act prohibits new structures from reliance on shoreline armoring. However, Commission staff were unable to determine an erosion rate to calculate a safe bluff setback distance, in part due to the presence of unpermitted armoring affecting the natural shoreline retreat rate. Therefore, the applicant was permitted to leave the unpermitted rock revetment in place with no repercussion? Surfrider asks the Commission to reevaluate this finding, as the original CDP did state that "a more exhaustive review" of the entire, multi-property revetment would be needed in the future.

Which brings us to the next justifications that Commission staff gave for allowing the unpermitted revetment to remain in place: that it may provide protection to the neighboring home, and that removal may cause rock from the neighboring property's revetment to dislodge and spill upon the beach. Regardless of whether the neighboring property's revetment remains unpermitted or received after-the-fact approval (CDP #F7529 or otherwise), we propose that removal of the unpermitted portion at 5015 Tierra del Oro could be required in coordination with the neighboring home. If the neighboring home's revetment is unpermitted, then it should be removed as well. If permitted, then they could then apply for any repair, maintenance, or augmentation they might require. This course of action was proposed, but not required, in the original CDP.

As a less desirable alternative,, the applicant (Moss) could also apply for an after-the-fact permit for this existing, unpermitted revetment. At least by doing that, mitigation could be applied for loss of beach space and sand from the bluff. Any of these options would be an improvement for coastal access, and the rule of law, over

¹ Page 32, Staff Report, Application No. 6-16-0340, 4/28/16

letting an unpermitted revetment remain in place indefinitely, with no consequences. This unpermitted revetment has remained unaddressed for 40 years. We urge the Commission to take action.

Moving on to the applicant's pre-Coastal Act private access stairway, our question is whether the previous, unpermitted work - or any previous work - is also being counted towards the 50% redevelopment threshold? Special Condition 16 requires the applicant to "to clearly label on the plans the percentage of repair and maintenance proposed," while Special Condition 20 requires as-built plans to be submitted in order to help the Commission "track cumulative changes to the staircase over time."

The original CDP Staff Report states that the bottom of the private staircase was likely "removed and rebuilt on the expanded revetment" when the additional, unpermitted rock was added to the existing, pre-coastal revetment. The report concludes that "the private stairway located on top of the existing revetment is also unpermitted and is prohibited by the City of Carlsbad's LCP." This CDP Amendment reiterates these findings and confirms that "some development has been conducted on the bottom and top portion of this staircase." If these previous repairs have not yet been counted towards the cumulative redevelopment of the staircase, then they must be added.

Thank you for the opportunity to comment. While we are supportive of the Staff Report's recommendations, we hope you can answer our additional questions and address our remaining concerns. We have also included our April 5, 2024 comment letter on the dispute resolution hearing so that it is part of this record as well.

Sincerely,

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April 5, 2024

Delivered via email

To: Karl Schwing
District Director, San Diego Coast
California Coastal Commission

Re: F15a - Permit No. 6-16-0340-EDD (Moss, Carlsbad)

Honorable Commissioners,

The Surfrider Foundation is a nonprofit grassroots organization dedicated to the protection and enjoyment of our world's ocean, waves, and beaches through a powerful network. Thank you for the opportunity to comment on this dispute resolution hearing. We concur with Staff's recommendation and urge you to UPHOLD the Executive Director's determination to reject the proposed amendment to CDP 6-16-0340.

After reading the Staff Report and Exhibits, the original CDP approved in 2016, *and* surveying the public beach in front of the property in question, Surfrider agrees with both the Executive Director and San Diego Coast District Staff that the applicant completed unpermitted development in violation of Special Condition #3 of their CDP. Furthermore, the unpermitted grading and installation of retaining walls *seaward of the identified bluff edge* are in clear violation of Carlsbad's certified LCP and Chapter 3 of the Coastal Act, as detailed in the Staff Report for this item.

Surfrider is thankful for the Staff's detailed and thoughtful analysis of the Coastal Act violations carried out by the applicant. These violations, the resulting stop order issued by the City, and the subsequent request for after-the-fact authorization follows a pattern that we are very familiar with seeing in San Diego County, if not along the entire California coast. This pattern is likely as old as the Coastal Act itself: a beachfront or blufftop homeowner agrees to the special conditions in their CDP, subsequently violates those conditions and is caught red-handed, then denies the violations *while at the same time* requesting a CDP amendment and/or after-the-fact approval for them.

In this particular case and as detailed by Staff, additional Coastal Act violations exist at

this property, including unpermitted private staircase construction and unpermitted addition of riprap on the public beach, both of which were installed without a CDP. As defenders of public beaches and public beach access, Surfrider is especially offended by unpermitted coastal armoring on the public beach that has been allowed to remain, unaddressed, for 40 years.

In conclusion, we urge the Commission to reject this CDP amendment. Granting after-the-fact approval to unpermitted development that stands in stark violation of the applicant's CDP - not to mention Carlsbad's LCP and Chapter 3 of the Coastal Act - would amount to rewarding the applicant for illegal behavior. Such an action would send a dangerous message to coastal homeowners across the state, who would then be motivated to engage in similar illegal shenanigans under the assumption that the conditions in their CDPs aren't worth the paper they're printed on. To avoid such a precedent, please do not give an inch. This is clearly a case for the Enforcement Division.

Thank you for the opportunity to comment on this item, and thank you for your invaluable work in protecting our coast for all to enjoy.

Sincerely,

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