THE POWER OF STORY: HOW ORAL HISTORY CAN CONTRIBUTE
TO COASTAL CONSERVATION

A Project
Presented
to the Faculty of
California State University, Chico

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
in
Geography

by

© Sarah Christie 2012
Fall 2012
THE POWER OF STORY: HOW ORAL HISTORY CAN CONTRIBUTE
TO COASTAL CONSERVATION

A Project

by

Sarah Christie

Fall 2012

APPROVED BY THE DEAN OF GRADUATE STUDIES
AND VICE PROVOST FOR RESEARCH:

_________________________________
Eun K. Park, Ph.D.

APPROVED BY THE GRADUATE ADVISORY COMMITTEE:

______________________________                  _________________________________
Don Hankins, Ph.D.          Jacquelyn Chase, Ph.D., Chair
Graduate Coordinator

______________________________
LaDonna Knigge, Ph.D.
PUBLICATION RIGHTS

No portion of this project may be reprinted or reproduced in any manner unacceptable to the usual copyright restrictions without the written permission of the author.
DEDICATION

This paper is dedicated to Peter Douglas, the John Muir of the Coast. Without his vision, savvy, perseverance and passion, California’s golden shore would be a vastly different and diminished place. To honor his legacy, it is my hope that all who read this work will follow his lead and “Eschew Pusillanimity” whenever facing crisis or opportunity. Peter, your stories shaped my life. Telling them is my privilege.

~Sarah Christie

(Photo credit Laura Davick. Reproduced with permission.)
ACKNOWLEDGMENTS

This project would not have been possible without the support and assistance of my colleagues at the California Coastal Commission who helped to unearth long-forgotten files from the State Archives. In addition to providing me with bankers’ boxes full of material, they were always ready to answer questions as I pieced together threads of story from the reams of staff reports, memos, and legal briefs. Executive Secretary Jeff Staben in particular was invaluable in providing historical material from Peter Douglas’ personal files, some of which are cited in this paper, and others which provided context and perspective that would have been missing otherwise.

Robin Pressman, Program Manager for KRCB Public Radio in Santa Rosa, was a kind and patient mentor who tutored me through the entirely foreign and completely captivating process of radio production. Her ear for spoken prose and enthusiasm for this project transformed what was initially a personal pipedream into a full-fledged broadcast piece ready for NPR prime time. Mark Fuller, KRCB’s Audio Engineer is a wizard with a sound board for a wand.

Thanks also to Una Glass, Director of Coastwalk California. She encouraged me to pursue my idea of recording Peter Douglas’ stories, and offered them a permanent home on the Coastwalk website. I am honored that they are part of her larger vision, a “virtual tour” of the 1,100-mile California Coastal Trail.
Last but not least, California State University, Chico professors Dr. Jacque Chase and Dr. LaDona Knigge both helped shape this project for the better, and kept me from losing heart when the tides of fortune were on the ebb. I could not have asked for better advocates.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Publication Rights</th>
<th>iii</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dedication</td>
<td>iv</td>
</tr>
<tr>
<td>Acknowledgments</td>
<td>v</td>
</tr>
<tr>
<td>List of Figures</td>
<td>ix</td>
</tr>
<tr>
<td>Abstract</td>
<td>x</td>
</tr>
</tbody>
</table>

## CHAPTER

I. Introduction .............................................................. 1

II. Literature Review ..................................................... 6

   - The Coastal Act: the People’s Law ......................... 6
   - The History of Oral History .............................. 20
   - The Role of Story in Coastal Conservation ............. 28
   - Theoretical Limitations .................................. 35

III. Methodology ............................................................ 38

   - Introduction ....................................................... 38
   - Methodological Limitations ............................ 42

IV. Conclusion ................................................................. 49

References ................................................................................. 53

Appendices

A. The Stories ........................................................................ 60
B. Radio Scripts .................................................................... 119
Appendices

C. Interview Transcripts................................................................. 134
D. Selected Public Documents ...................................................... 172
# LIST OF FIGURES

<table>
<thead>
<tr>
<th>FIGURE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sacramento Bee Editorial on the Passage of the 1976 Coastal Act</td>
<td>7</td>
</tr>
<tr>
<td>3. Coastal Alliance Campaign Mailer, Quoting Dennis the Menace</td>
<td>12</td>
</tr>
<tr>
<td>4. LA Times Article, “Billboards Altered”</td>
<td>14</td>
</tr>
</tbody>
</table>
ABSTRACT

THE POWER OF STORY: HOW ORAL HISTORY CAN CONTRIBUTE TO COASTAL CONSERVATION

by

© Sarah Christie 2012

Master of Arts in Geography

California State University, Chico

Fall 2012

Through an overview of California’s coastal management program and an examination of oral history traditions and methods, this project makes the case that utilizing stories and storytelling to further the goals of public engagement can be an important component in the ongoing efforts to protect the coast and preserve public access.

Long-time former Coastal Commission Executive Director Peter Douglas coined the phrase, “The coast is never saved, it’s always being saved.” As the principal author of the 1976 Coastal Act, he participated in myriad coastal development battles in the decades that followed.

This project tells the stories of three of those battles through edited oral interviews with Douglas and other historic figures, supported by archival research. I
specifically focus on the Coastal Commission’s role in creating the public recrea-
tional trail along the shore of Monterey Bay, preserving the historic cottages at
Crystal Cove State Park, and forcing an all-white men’s social club in Santa Monica
to end discriminatory membership practices.

The stories take two forms: narrative prose and audio broadcast pieces. My
premise is that both public and private actors can benefit from a better understanding of
how a generation of dedicated planning practitioners and ordinary citizens stepped for-
ward to protect the California coast. The intent is to use these case studies to provide
tomorrow’s activists, coastal managers, planners and policy makers with models for fu-
ture coastal protection efforts.
CHAPTER I

INTRODUCTION

Californians love their coast. The state’s 1,100-mile shoreline is as much a part of California’s collective identity as it is an essential economic engine, generating a $43 billion coastal economy and supporting between 700,000 and 883,000 jobs (Kildow and Colgan 2005, 11; King 1999, 9). The total value of all economic activity in the state’s coastal counties in 2000 was $1.15 trillion, or 86 percent of the state’s total economic activity (Kildow and Cogan 2005, 1). Eighty percent of Californians live within 30 miles of the shore (Adams 1973, 1027; Griggs, Patsch, and Savoy 2005, 1). A 2003 poll by the Public Policy Institute indicates that 83% of Californians say that the condition of the coast and ocean is very important to them. The same poll reveals that Californians are almost twice as likely as Americans on the whole to visit the beach (Baldassare 2003).

In addition to its obvious defining geography, the coast also defines an important representative public space. It gathers and welcomes residents and visitors, wealthy and working classes, young and old, and diverse ethnicities in a uniquely inclusive way (Davidson and Entriken 2005, 18). Former State Librarian Kevin Starr has called the state’s beaches the “first shared public space” in California (quoted in Davidson and Entriken 2005, 8). In all of its facets, from the groomed urban sands of Santa Monica, to Big Sur’s rural coves, to the wilderness shores of Point Reyes,
California’s western edge functions as its *de facto* community commons, and has become symbolic of its public persona.

To bring the scarcity and fragility of this coastal commonality into stark relief, consider for a moment that if the shoreline was divided equally between each one of California’s 37 million residents, each person would have slightly less than 2 square inches apiece. Approximately ¼ inch of that would be sandy beach. The state’s 100 million annual visitors only compound the scarcity of this resource (Griggs, Patsch, and Savoy 2005, 3). As former California Coastal Commission Executive Director Peter Douglas has said, “It is precious, precious geography” (Douglas 2011).

Yet the future of California’s signature landscape is far from certain. Like environmental battles everywhere, the victories by conservationists are inherently temporary, while the defeats are permanent.¹ Despite regulatory controls on land use in the coastal zone, development pressures continue to mount as competition for this inherently limited land resource increases. Economic pressures, population growth, changing political attitudes, term limits and sea level rise are just some of the factors with the potential to alter the future of coastal conservation. It has become a truism that “the coast is never saved, it’s always being saved” (Peter Douglas quoted in Davidson and Entriken 2005, 10; Rogers 2011). Precisely how this iconic landscape will be preserved for future generations will be up to the next wave of urban planners, coastal managers and citizen activists.

My premise is that both public and private actors can benefit from a better understanding of how a generation of dedicated practitioners and ordinary citizens

---

¹ As observed by David Brower.
stepped forward to protect the California coast. Stories woven directly from oral histories provided by those who were deeply involved in the efforts can be a compelling and effective means of presenting such information. If “planning is the guidance of future action…in a world of intensely conflicting interests” (Forester 1989, 1), then California’s coastal protection stories can provide the guidance for developing models to meet coastal management and planning challenges. The stories of how California coastal managers, practitioners and activists have interpreted, applied and defended the state’s coastal protection policies can be a powerful tool and unique source of learning and experience to inform future decisions.

This project makes the case that utilizing stories of successful social movements to further the goals of those movements is one of oral history’s highest and best uses. The associated deliverable of this project is the beginning of a larger effort to document and share the stories of California’s coastal legacy, through both written and electronic mediums, using edited oral history interviews with historic figures who participated in some of California’s coastal protection battles. The term ‘coastal protection’ in the context of this project applies to conservation outcomes directly attributable to the application of the Coastal Act. Because I am staff to the Coastal Commission, (I have been employed as the Commission’s Legislative Director since 1999) my definition of ‘success’ is an outcome that is consistent with the Coastal Act’s resource protection policies embodied. Certainly, there are others who would disagree. Papers could be written from the perspective of property rights advocates who feel the Coastal Commission has harmed private property owners, or from environmental advocates who believe the Commission has not done enough to protect coastal resources.
But for the purposes of this project, I have chosen not to question the underlying principles of the law, but rather to highlight the ways in which it has been implemented over time.

The stories are told in narrative form from personal interviews supported by archival research and multi-media, both electronic and broadcast. The purpose is not simply to entertain the reader or pay homage to the protagonists. The objective is to inform and empower tomorrow’s coastal managers, planners and citizens with a model to protect California’s coastal legacy by carrying on a tradition of pro-active protection.

By demonstrating the art of the possible, these successful case studies can help provide the building blocks for tomorrow’s activists, coastal managers, planners and decision makers to make policy decisions that carry on the tradition of protecting California’s coastal legacy.

Part one of this project will focus on California’s current coastal management program (i.e. the Coastal Act and the Coastal Commission); how it was created; its basic framework; and some of its accomplishments. Part two will conduct an overview of oral history in theory and practice. Part three will make the case for using oral history to tell California’s coastal protection story, and how it might inspire future action.

The project involved recording and transcribing a series of oral history interviews with individuals who have played key roles in protecting California’s coast. Interviews were followed up by researching historic archives and literature. The stories themselves are edited from both oral interviews and archival research and appear in Appendix A. They are written in narrative style, to be read like chapters in a historical novel. The broadcast versions of the stories utilize digital audio clips from the interviews,
as well as narration and archival audio tape. They were produced in conjunction with KRCB Public Radio in Santa Rosa for broadcast on November 15, 2012, and are available online at the Public Radio Exchange (http://www.prx.org/pieces/87666) and as part of Coastwalk California’s “Virtual Tour of the Coastal Trail” podcast series (http://coastwalk.org/cw-podcasts/). The scripts for the radio/podcast shows are included as Appendix B. The full transcripts are included as Appendix C.

Taken together, this project is both an argument for, and the demonstration of, the power and the value of keeping California’s coastal protection legacy alive and relevant through the telling of its unique stories.
CHAPTER II

LITERATURE REVIEW

The Coastal Act: The People’s Law

The California Constitution contains within it a powerful idea that the public’s access to the shoreline is a fundamental right guaranteed and protected by the state (Summerlin 1996, 427). Article X, Section 4 of the California Constitution declares that this right cannot be restricted, and states,

. . . no individual, partnership, or corporation claiming or possessing the frontage of tidal lands of a harbor, bay, inlet, estuary or other navigable water in this state shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, and the Legislature shall enact such law as will give the most liberal construction to this provision so that access to the navigable waters of this state shall always be attainable to the people thereof . . . .

“Such law” was the California Coastal Protection Act (“Coastal Act”),\(^1\) enacted by the Legislature in 1976, and signed by Governor Jerry Brown after a last-minute marathon of political negotiations that saved the struggling bill in the final hour of the legislative session (Sacramento Bee 1976) (Figure 1). The Coastal Act includes policies that maximize public access to and along the coast, as well as recreational opportunities in the coastal zone. It also prohibits new development from interfering with the public’s historic right of access to the beaches and the sea (Kar 2007, 472).

\(^1\) *Public Resources Code* 32000 et seq.
Figure 1. Sacramento Bee editorial on the passage of the 1976 Coastal Act.

But the Coastal Act’s creation story, and the examples of how the law has been implemented in the more than thirty-five years since its passage, constitute a unique institutional history that continues to shape the geography of the state. In the 1960s and early 1970s, the modern environmental movement began transforming national politics. In January of 1970, President Nixon signed the National Environmental Policy Act, and the nation celebrated the first Earth Day a few months later (Duane 1999, 21). The years that followed brought several landmark environmental laws, including the Clean Air Act, Clear Water Act, and the Endangered Species Act. The least known of these is the Coastal Zone Management Act of 1972, giving coastal states authority over federal projects that could affect coastal resources.

Meanwhile, California was experiencing explosive growth and environmental degradation along its shoreline. Between 1950 and 1970, half of California’s sixteen coastal counties more than doubled in population. Los Angeles County increased 511%. Orange County grew by 557%, from a population of just over 216,000 to 1.4 million (Figure 2). Many Southern California coastal cities doubled, tripled, or quadrupled in size. Population in Huntington Beach swelled from 11,492 to 170,505 (California Department of Finance 2011). Land use decisions that enabled these rates of growth were entirely under the purview of local governments, with no statewide or regional planning mechanism to assess the cumulative effects on the coastal environment. But residents of coastal communities throughout the state were experiencing and witnessing an alarming transformation.

Exclusive residential developments were rapidly eliminating public access to great swaths of beach in places like Malibu and Sea Ranch on the Sonoma coast (Davis
Figure 2. Map of California population figures. Map credit—Ryan Ford.
Plans for a series of nuclear power plants along the coast and numerous freeway expansions were already in the works when the 1969 Santa Barbara oil spill riveted a horrified nation (Orsi 1996, 259). As California’s urban footprint expanded to support the growing appetite for coastal living, it threatened to transform the state’s iconic coastline into an enclave for those fortunate enough to live there, albeit punctuated by nuclear plants, industrial infrastructure and military installations (Adams 1973, 1021; Davis 1995, 9; Fisher 1985, 313; Orsi 1996, 259-261; Pogue and Lee 1999, 223).

In response to the rate and scale of numerous shorefront projects that were rapidly filling in the San Francisco bay, local activists successfully lobbied the Legislature for a law to regulate bay front development. Their pressure led to the passage of the McAteer-Petris Act in 1969, which created the Bay Conservation and Development Commission (BCDC). The law would serve as the blueprint for the statewide Coastal Act three years later (Adams 1973, 1021).

Some of the San Francisco activists behind the creation of BCDC decided to broaden their coalition and parlay their regional success into a statewide effort to pass a more comprehensive law protecting California’s unique coastal resources (Fisher 1985, 313; Orsi 1996, 259). When their efforts in Sacramento were thwarted by development interests three years in a row, they took the issue directly to the people.

On November 7, 1972, California voters made a clear and unequivocal statement about their commitment to coastal protection when they voted for Proposition 20, the California Coastal Zone Conservation Act of 1972, also known as the “Save Our Coast” initiative (Adams 1973, 1034; Fisher 1985, 314; Orsi 1996, 261). The initiative,
which passed by 55 percent, created strong policies protecting coastal habitats, scenic views, agriculture and public access. It also established a new state agency, the California Coastal Commission, to regulate new development in the coastal zone.

Proposition 20 was born out of public frustration with elected officials. Unable to get a series of coastal protection bills through the Legislature over the opposition of business interests, building trades and local governments in 1970, 1971 and 1972, coastal activists abandoned the legislative process in favor of the ballot initiative process (Adams 1973, 1030-1032; Fisher 1985; Orsi 1996, 259-260). A coalition that swelled to more than 700 environmental, civic and labor groups came together to form the Coastal Alliance, headed by veteran campaign consultant Janet Adams (Adams 1973, 1042). Their grassroots campaign capitalized on public momentum in favor of stronger environmental laws, relying entirely on volunteers to gather over 400,000 petition signatures and waging a dynamic, creative, inclusive campaign that was successful despite being outspent by a margin of four to one (Orsi 1996, 261; California Online Archive). “Where’s the Beach?” a quote from an evocative Dennis the Menace cartoon, became its rallying cry (Adams 1973, 1023; Fischer 1985, 313) (Figure 3).

The Coastal Alliance’s campaign was funded almost entirely with small donations, many of which were less than a dollar (Proposition 20, 1972). In contrast, the campaign to defeat the measure was funded primarily with large contributions from special interests. Private companies and utilities with a stake in coastal development contributed lavishly. Among them, Standard Oil, Pacific Gas and Electric Company and Southern Pacific Land Company donated $35,000, $30,000, and $25,000, respectively. Texaco, Mobile, Bechtel Corporation, General Electric, and Occidental Petroleum were
Where's the beach?

Ridiculous question? Regrettably, no!

In two hundred years the beach of California has shrunk from one thousand sixty two miles to two hundred miles available to the public.

By happenchance two hundred separate entities -- city, county, state and federal governments, agencies and commissions -- regulate the coast of California.

Each time a "special interest" sells a local government one more freeway, a power plant on a spectacular headland, a housing development on an eroding cliff, a non-water related industry, a super sewage outfall, another beach dies. The public interest is scorned.

This is an urgent plea to all Californians -- beachcombers, sunbathers, sailors, surfers, fishermen and sightseeing oldsters -- to join the California Coastal Alliance to create a Coastal Zone Commission that will have the power to stop the destruction of the remaining natural shore.

The California Coastal Alliance presents this initiative to "Save Our Coast"

CALIFORNIA COASTAL ALLIANCE
P.O. BOX 4161
WOODSIDE, CALIFORNIA 94062

Figure 3. Coastal Alliance campaign mailer, quoting Dennis the Menace.
also top donors (Adams 1973, 1036; Proposition 20, 1972). Total contributions totaling $1,154,759 helped fund television and radio commercials that flooded the public air waves (Proposition 20, 1972).

The Coastal Alliance filed a successful complaint with the Federal Communications Commission (FCC) citing the federal Fairness Doctrine, demanding equal air time to balance the opposition’s copious ad buys. The result was that radio and television stations agreed to run more pro-Prop 20 commercials and public service announcements for free, a coup for the cash-strapped campaign (Adams 1973, 1039). Additional media coverage exploded when Senate President pro-tem Jim Mills led a bicycle tour of the coast from San Francisco to San Diego, stopping for press conferences and public events in coastal communities along the route. But the media went into a frenzy when a coordinated SWAT team of coastal activists doubling as graffiti artists altered 100 of the opposition’s misleading billboards across the state in a single night. The billboards originally read “Don’t Lock Up the Beaches-Vote NO on Prop 20.” The activists changed “NO” to “YES,” prompting a lawsuit and a manhunt that sent one key activist into hiding until after the election (Fradkin 1972) (Figure 4). The cumulative effect of the media coverage and the campaign’s tactic was a resounding win on November 7, 1972, when Proposition 20 passed with 55 percent of the vote (Adams 1973).

It is significant that the language of Proposition 20 was far stronger than any of the failed legislative compromises that preceded it, prompting some of the law’s

---

2 The Fairness Doctrine, 47 U.S.C 315(a)(1962), required broadcast license holders “to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.” Congress repealed the Fairness Doctrine in 1987.
Prop. 20 Billboards Altered, Suit Charges: 'Yes' Markings Placed Over 'No' Signs on 100 Coastline Initiative Ads, Court Told

BY PHILIP FRADKIN
Times Staff Writer

More than 100 billboards calling for a "no" vote on the coast line initiative have been altered to urge a "yes" vote, the president of an outdoor advertising firm claimed Friday.

Brian Kennedy, president of Kennedy Outdoor Advertising Co. and Citizens Against the Coastal Initiative, filed suit in Superior Court alleging that the backers of Proposition 20 were responsible for the alterations.

Superior Judge Robert A. Winkle dismissed trespass charges against three of the named defendants and set Nov. 16 for a hearing for the fourth—Warren Chabot, a campaign worker for the California Coastal Alliance.

Fairness Rule

In a related development, the Federal Communications Commission warned the alliance, a major backer of the initiative, against making "false statements" regarding the commission's opinion on furnishing free advertising to the alliance.

The commission ruled Thursday that two television stations in the San Francisco Bay area—KTVU in Oakland and KRON in San Francisco—and KABC in Los Angeles had an obligation to provide some free advertising time to meet the requirements of the fairness doctrine.

The commission warned the alliance Friday that contrary to a telegram the alliance sent out to all television stations in the state following the ruling, the obligation was not on a one free ad to every paid ad in opposition to the measure. The commission left the number of ads up to the discretion of the stations.

The proposition would delay some developments along the coast for nearly four years while a state commission and six regional commissions formulated a plan for the area's best use.

Kennedy said in an interview that the billboards in Orange and Los Angeles counties were altered Monday and Tuesday nights and that a ladder was needed to reach some.

'Yes' Overlay

He said the "yes" overlay which matched the colors of the original advertisement on the billboard were all produced by the same silk screen method, thus indicating one group was responsible.

A 'YES' ON 'NO'.—One of billboards against coastline initiative that was altered to say "yes."

He added that six propositions and 25 candidates were using his bill boards but it was only the Proposi tion 20 billboards which had been altered. Most of the billboards are expected to be changed back to their original slogans by today.

The billboards that were altered read originally: "The Beach Belongs to You—Don't Lock It Up. Vote No on Proposition No. 20."

The judge set a hearing for Monday on charges by the Sierra Club that advertising being run in Riverside and San Bernardino newspapers claiming that the initiative would have jurisdiction over inland areas was "false and misleading."

Figure 4. L.A. Times Article, "Billboards Altered."

opponents to regret their earlier ‘success’ killing the various, weaker coastal bills in Sacramento (Adams 1973, 1033). Prop 20 contained some profound and powerful ideas, and set in motion an unprecedented collaborative planning effort, guided by the following policies:

The California coastal zone is a distinct and valuable natural resource belonging to all the people and existing as a delicately balanced ecosystem; the permanent protection of the remaining natural and scenic resources of the coastal zone is a paramount concern to present and future residents of the State and nation; in order to promote the public safety, health and welfare, and to protect public and private property, wildlife, marine fisheries and other ocean resources, and the natural environment, it is necessary to preserve the ecological balance of the coastal zone and prevent its further deterioration and destruction, and . . ..

It is the policy of the State to preserve, protect, and where possible, to restore the resources of the coastal zone for the enjoyment of the current and succeeding generations. (Proposition 20, 1972)

The measure temporarily created a state regulatory and planning agency, the California Coastal Commission, to review new development projects and issue coastal development permits (Fisher 1985, 314). Their standard for that review was the initiative’s strong policies protecting public access, scenic views and the coastal environment. As a result, numerous pending development plans and proposals could not go forward, while others were significantly downsized or modified (Fisher 1985, 314; Orsi 1996, 268).

The measure also charged the fledgling agency with simultaneously creating a comprehensive plan for long-term coastal protection from which the Legislature would craft a permanent coastal protection law (Fisher 1985, 314; Orsi 1996, 264). That plan was completed in 1975 after three years of what has been described as “one of the most ambitious experiments in participatory land use planning ever attempted” (Douglas and
Bodavitz, quoted by Orsi 1996, 266). The process involved 259 public hearings and hundreds more public workshops, attended by thousands of participants. The process hit a frenzied peak during one six-week period in which six thousand people attended 20 public hearings (Orsi 1996, 266). All the while, the Commission and its six regional commissions continued to conduct the new agency’s regulatory responsibilities, acting on more than 16,000 permit applications statewide (California Coastal 1975). When the 433-page plan was submitted on schedule to the Legislature on December 1, 1975, it had forged 162 policy recommendations from thousands of hours of public testimony (Starr 2009, 434). Referencing the diversity of opinion that went into its drafting, the framers acknowledged that

The Plan does not speak with one voice…nonetheless we believe it speaks for the people of California . . . to meet two principle objectives:
1. Protect the California coast as a great natural resource for the benefit of present and future generations.
2. Use the coast to meet human needs in a manner that protects the irreplaceable resources of coastal lands and waters. (CA Coastal Commission 1975, 3)

The Commission’s transmittal letter to the Legislature concluded by saying, “Now, the future of the California coast is in your hands” (1975, 3)

The Legislature responded by drafting and passing the Coastal Act which passed the Legislature in the last hour of session on August 23, 1976 (Orsi 1996, 271). In signing the law he helped to pass, Governor Jerry Brown said, “The beaches are for all the people. On a hot day you find millions of people at the beach, and it is the whole spectrum, from rich to poor” (Liebert 1976). The Coastal Act made the Coastal Commission a permanent state agency, and codified most of the policies contained in Prop 20 and many of the recommendations of the California Coastal Plan.
The following year, the Coastal Act received federal approval under the Coastal Zone Management Act conferring the authority to review federal activities including offshore oil drilling. National Oceanic and Atmospheric Association (NOAA) Administrator Robert Knecht, whose department was immediately and ultimately unsuccessfully sued by the American Petroleum Institute, approved California’s plan, and called it the nation’s “flagship” coastal management program (Orsi 1996, 279).

Although it has been beset with controversy since its inception (Fischer 1985), and chronically underfunded (Schwartz 2009), thirty-five years later the Coastal Act remains a strong, effective law, which confers broad authority to the Commission. The Commission has preserved thousand of acres of open space and miles of public trails (Ellison 2010). As a result, California has retained much of its historic rural character along the coast, from the cattle ranches of San Luis Obispo and Marin Counties to the flower fields and strawberry farms of Ventura and Monterey, to the row crops and forest lands of Santa Cruz and the windswept wilderness of the North Coast, despite intense development pressures. Although the state’s coastline contains some of the most expensive real estate in the country, California also has one of the nation’s most publicly accessible shorelines (Pogue and Lee 1999, 222). In addition to more than 20,000 acres of State Beach Parks, and numerous local and national coastal parks, the Commission has created an additional 231 public access ways across (mostly) private beachfront real estate, and 1,200 shorefront easements, required as a condition of new development (California Coastal Commission 2009). Many of these paths, stairways, trails and overlooks are found in exclusive communities such as Malibu, Santa Barbara, Palos

---

Verdes and Sea Ranch, where public access continues to be an ongoing struggle (Davidson and Entriken 2005, 11; Schwartz 2009).

Indeed, California’s coast would look, feel, and function very differently today if not for a generation of coastal managers, urban planners and citizen activists who engaged with the public to re-imagine its future, and in so doing, literally transformed its geographic destiny. Their legacy is evidenced in the coastal wetlands not filled, the sensitive habitats not destroyed, the agricultural lands not converted to residential subdivisions, the freeways and gated communities and industrial facilities not built. Essentially every section of coast enjoyed by the public today is the direct result of one or more battles fought and won on its behalf. The trails are walked, the waves are surfed, the vistas are open for all to enjoy, but the stories remain largely untold.

The Commission is not infallible, and the Coastal Act is not invincible. Clearly, coastal protection is far from static, nor is it guaranteed. It is a continually threatened goal that requires constant vigilance and perpetual engagement. In its 40-year history of coastal protection the Coastal Commission has earned some powerful enemies, from the Pacific Legal Foundation (PLF) to members of the U.S. Supreme Court. In 1987, Justice Antonin Scalia accused the Coastal Commission of “Out and out extortion” for requiring a property owner in Ventura County to provide a public access easement to the beach as a condition of new development (Orsi 1996, 11). That 5:4 decision radically redefined “takings” jurisprudence, placing the burden on regulatory agencies to prove a precise “nexus” between use of property and any condition placed thereon (Duane 1999, 285-287). The Pacific Legal Foundation, a Libertarian, anti-government, private-

---

property-rights legal advocacy firm that challenges environmental protection and anti-pollution laws, spends $500,000 a year on its “Coastal Land Rights” campaign, which supports two full-time attorneys focused on litigation and legislative advocacy. It conducts public outreach that includes community forums and a bi-weekly newsletter, all targeting the Coastal Commission (Ellison 2010; Pacific Legal Foundation 2008). In addition, the Commission has been in litigation and/or regulatory disputes with some of the West Coast’s cultural icons, including David Geffen, Barbara Streisand, Eli Broad, Cher, Linda Ronstadt, Clint Eastwood, Haim Saban, Richard Riordan, Sea World, Disneyland, and U2’s The Edge, among others.

The majority of these high-profile cases have been resolved in the Commission’s favor, enhancing the agency’s reputation as an organization that has avoided “client capture.” But the cumulative effect of such animosity at the highest levels of the state’s economic elite is not without consequence.

Adding to the political pressure generated by coordinated ideological attacks is the fact that more than eighty percent of Californians now live within an hour’s drive of the coast (Griggs, Patsch, and Savoy 2005, 1). Population in the fifteen coastal counties is projected to continue to outstrip the 43 inland counties for the next four decades (California Department of Finance 2007). As the economic stakes for coastal development rise, so does the competition between public and private interests for coastal resources (Summerlin 1996, 425). This is where stories can serve an important purpose, providing context as well as counter-perspective.
A History of Oral History

We are storytellers at our core. For as long as humans have been communicating, they have been incorporating stories into culture. Cultures lacking written language have traditionally passed their stories down in spoken form, such as the griot tradition of Africa (Sharpless 2007, 9). Oral traditions can consist of spoken stories, folktales, legends, songs, chants, and oratory (Thao 2006, 6). In the absence of written language, oral traditions can transmit important, specific knowledge, impart everyday experiences, express moral values, and maintain cultural continuity (Thao 2006). Some cultures, such as the Hmong from Laos, still consciously maintain their oral traditions, believing that “writing down the sacred knowledge is a form of forgetting the tradition because people no longer carry the knowledge with them in their heads” (Thao 2006, 3). For them, oral tradition is more than a way to convey information, it is essential to maintaining cultural integrity.

The term “oral history” is distinguished from cultural oral traditions because oral history is a subset of (not a substitute for) recorded history (Ritchie 2003, 13; Sharpless 2007, 9). What differentiates the two is that oral history involves interviewing human subjects and recording their narratives, in written or digital form (Ritchie 2003, 19). In other words, cultural oral traditions become oral histories when they are recorded by a third party, either by written transcript, audio recording or video. But oral history as a discipline can be applied to far more subject area just than cultural oral traditions.

Ritchie distills it this way: “Simply put, oral history collects memories and personal commentaries of historical significance through recorded interviews” (Ritchie 2003, 19). Oral history can also be understood as the systematic, deliberate pursuit of
first-hand accounts, related by individuals whose perspectives are frequently omitted from the official records. Their experiences illuminate events not otherwise captured through mainstream historical documentation of human events. Historians and journalists generally conduct these interviews with the intent to permanently preserve and make that information publicly available (Grele 2007, 37; Shopes 2007, 134-135, Charlton, Myers, and Sharpless 2007).

It has been said that “History is written by the victors.”\textsuperscript{5} Certainly, the earliest examples of oral history conform to this truism. Greek oral history dates back to the Fifth Century BC, when Thucydides interrogated survivors of the Peloponnesian wars and wrote down their stories, noting that, “different eye-witnesses give different accounts of the same events, seeking out of partiality for one side or the other or else from imperfect memories” (Ritchie 2003, 20). This is but one of many examples where the dominant culture seeks to understand the vanquished post-conquest.

As a precursor to the modern-day Western oral historians’ focus on folk traditions, Chinese historians of the Zhou dynasty collected and transcribed folk sayings from 1122 BC (Sharpless 2007, 9). Sixteenth Century Franciscan missionary Bernardino de Sahagun interrogated first peoples on Aztec lore, to assist with colonization as well as conversion (Ritchie 2003, 20; Sharpless 2007, 9).

The first major Twentieth Century oral history effort undertaken in the U.S. was a deeply populist outgrowth of the New Deal. The Federal Writers Project (FWP), conducted in the early 1930s by W.T. Crouch, was the largest undertaking of its kind at the time. The project collected first-person narratives from more than 10,000 Americans,

\textsuperscript{5} Attributed to Winston Churchill, but of unknown origin
many of them former slaves (Sharpless 2007, 10). The transcripts were intended to document the diversity of the American experience during the Great Depression era through life histories and personal accounts. These manuscripts are still publicly available in the Library of Congress, and only exist because Crouch had the foresight to recognize the importance of registering the words of people who were largely ignored or superficially represented by mainstream historians.

The modern oral history movement as an academic discipline is largely credited to Allan Nevins, a journalist and professor of American History at Columbia University in the mid-20th Century. He focused on interviewing the elite civic, business and political leaders of the day. Nevins recognized the value of combining academic scholarship with good journalism to expand the application of oral history and reinvigorate the discipline (Columbia University 2004; Ritchie 2003, 21). Although his project was contemporary with Crouch’s FWP work, Nevins’ approach differed from Crouch’s technique as well as from his subject, as he utilized the new tape recording technology, rather than relying solely on written transcripts. Thus, his interviews are the first truly “oral” representations of personal oral histories without the intervening presence of a transcriber. In 1948, Nevins established the Oral History Research Office at Columbia, the first academic institute of its kind (Sharpless 2007, 22). A decade later, UC Berkeley and UCLA launched their own oral history programs, and in 1961, the National Archives instigated formal oral history programs through the presidential libraries (Sharpless 2007, 13). The Oral History Association was founded in 1967, followed much later by the International Oral History Association in 1987 (Sharpless 2007, 22). Today,
oral history projects have been launched on every continent, and practitioners continue to refine the standards of the discipline (Sharpless 2007, 15-17).

The juxtaposition of Crouch’s and Nevins’ choice of subjects characterizes a classic debate concerning “elite versus non-elite” oral histories (Larson 2007, 102). Nevins’ work at Columbia, and indeed that of Columbia University for many years afterward, focused on “the great white men” of the age whose stories of power and success were seen as worthy of transcription before they passed on. Their wealth and status also provided ready funding for such projects, always an appealing component for public institutions of higher education (Sharpless 2007, 12).

Crouch, on the other hand, used the FWP to tell stories of society’s least powerful and most obviously disenfranchised: black former slaves living in the Jim Crow aftermath of emancipation. Both the elite and non-elite schools of oral history have their supporters and detractors. Detractors of non-elite history have dismissed this line of enquiry as “inherently uninteresting” and “a vast mass of trash” (O’Farrell and Tuchman, quoted by Larson 2007, 103). Historian Barbara Tuchman was particularly offended by the methodology, and feared its rising popularity. She referred to the tape recorder as “a monster with the appetite of a tapeworm,” and as a result of its proliferation, she lamented, “We are drowning ourselves in unneeded information” (Sharpless 2007, 20 quoting Tuchman 1984). Henige’s critique of non-elite oral history raised the notion that it threatened the integrity of the profession, saying,

In their attempt to enshrine the ordinary . . . those who practice oral history are really turning the role of the historian on its head. They are modern-day antiquarians, unable to distinguish the fascinating but unimportant aspects of the past from those that really mattered. (quoted by Larson 2007, 103)
Despite these controversies, oral history continued to gain credibility and application. As technology, social consciousness, and cultural awareness continued to evolve throughout the second half of the 20th Century, so did the practice and discipline of oral history. Access to recording technology made oral history increasingly accessible to historians and others, allowing it to quickly become the primary tool for capturing the stories and life histories of ordinary people. Nevins had been right about the power of the medium to appeal to a broader spectrum of the public, and make history more accessible and interesting to a general audience.

But it was the New Left historians, whose perspective was informed by the anti-establishment, anti-war ideals of the 1960s and 1970s, who believed that “history can be used to affect social change” (Schonberger 1974, 450). They recognized the opportunity for oral history to drive social change, and seized the opportunity to do so (Schonberger 1974).

*Foxfire*, a quarterly magazine founded in 1966 that is still in circulation today, began by gathering oral histories from residents in Southern Appalachian communities. Interviews conducted, transcribed and edited by high school students and their teachers preserved the lore of a vanishing culture, and gave rise to a whole movement of community-centered oral history (Larson 2007, 100). Popular author, journalist and radio talk show host Studs Terkel taped many of his radio interviews, and produced several published works form them, including, *Division Street: America* (1967), *Hard Times: an Oral History of the Great Depression* (1970), *Working* (1974) and *The Good War* (1984). Terkel’s work deviated from original transcription work in that he edited the manuscripts heavily to make them more readable for the public. This garnered him some disrepute.
among historians, but his work has been and continues to be popular with the public at large (DeBlasio et al. 2009, 197; Sharpless 2007, 21). This style of edited-oral-history-as-journalism has become a staple of National Public Radio programming.

In *Blended Voices*, Rebecca Jones (2004) discusses the role of the editor in preparing oral history interviews for popular consumption. She contends that the interview itself is just the starting point in a longer process of creating narrative. “When publishing for a general audience, extensive editing is necessary to create a document that is not only readable and accessible, but also conveys the flavor of the experiences” (Jones 2004, 2). Grele suggests that when crafting narrative from oral interviews, “The more complex story is usually reconstructed at a later time” precisely because spoken conversations rarely follow perfect chronological sequence (Grele 2007, 58).

As technology, social consciousness, and cultural awareness continued to evolve throughout the second half of the 20th Century, so too did the practice and discipline of oral history. Advances in recording technology made oral history increasingly accessible to historians and others, allowing it to quickly become the primary tool for capturing the stories and life histories of ordinary people. The ubiquitous rise of the household television presented yet another platform for New Left historians. *Roots: The Saga of an American Family*, (1976) a Pulitzer Prize-winning biography by Alex Haley was made into a television miniseries that brought the black experience into white households across America and broke industry records for viewership (Sharpless 2007, 18). Much of Haley’s research for the project was grounded in the work of oral historians, and opened up new research possibilities for family history (Larson 2007, 101).
But editing and publishing oral histories can be fraught with ethical and political pitfalls, as evidenced by the controversy surrounding *I, Rigoberta Menchu*, an autobiographical account edited by anthropologist Elisabeth Burgos-Debray (1984). Menchu related 24 hours of testimony over an eight-day period in 1983 (Burgos-Debray 1984, xv). Her story detailed Guatemalan torture, rape, and genocide in which many of her family members were murdered by government death squads. Through the lens of Menchu’s personal experience, the book helped to focus international attention on the atrocities committed during the Guatemalan civil war by the U.S.-backed Guatemalan armed forces. Menchu was subsequently awarded the 1992 Nobel Peace Prize.

More than a decade later, anthropologist David Stoll published an analysis of her account, *Rigoberta Menchu and the Story of all Poor Guatemalans* (1999 Westview Press), revealing what he claimed were numerous factual errors in the book. Stoll concluded that Menchu had offered a romanticized account of the violence that took place in her village in order to create sympathy for guerilla fighters, denounced Menchu as a “Marxist terrorist” and called her Nobel Peace Prize “one of the greatest hoaxes of the 20th Century” (quoted by Grandin 2010, 3).

The controversy fueled extensive arguments in the media and academia over whether the Nobel Prize should be revoked. Defenders and colleagues responded by publishing articles in both women’s defense, contradicting Stoll’s conclusions and illuminating oral history’s contextual nuance. The ensuing public scrutiny illustrates the ongoing debate about elite versus non-elite oral history, and raises inherent questions about perspective, bias, and motivation of both oral and traditional historians. It also
exposes the fact that recorded interviews are not necessarily completely accurate, fully factual accounts.

Oral history is still evolving as technology continues to shape and propel the discipline. The globalization of information through the internet, digital recording devices, audio and video editing software and web-based communication networks provides nearly limitless opportunity for gathering, presenting, storing and sharing historically important information in a rapidly changing world. Multimedia tools create the possibility for planners, researchers and activists to discover new information and even transform their own learning process (Sandercock and Attili 2010, 25-26).

Multimedia applications can also provide planning practitioners and urban researchers with new opportunities “to discover new realities, to expand the horizons of qualitative and quantitative research, and to represent the city in multidimensional and polyphonic ways” (Sandercock and Attili 2010, 26).

Oral history has also created specialized niches for practitioners as private consultants. Nevins’ “great white men” school of oral history still has adherents today in the form of “corporate oral history” (Ritchie 2003, 44). While corporations are generally reluctant to work with academic institutions because they prefer to keep their archived material private, corporate historians frequently offer their services as oral-historians-for-hire. Given the insular culture of most major corporations, gaining access to the records and/or individuals that can truly contextualize the institutional history of a corporation can be challenging. But without access to original research material and individuals with alternate perspectives, corporate oral history can easily veer into an elaborate form of public relations (Ritchie 2003, 45).
Public agencies and local governments are also recognizing the value of oral history to capture their institutional memory, and translate a lifetime of public record documentation into useful narrative. The Smithsonian, NASA, the National Park Service and the New York Transit Authority are just a few of the institutions that have undertaken oral history projects of their own organizations. Recollections of retired staff members can be particularly revealing, as they can provide context and meaning to otherwise opaque public documents, and offer observations of political appointees or meetings conducted behind the scenes without fear of reprisal (Ritchie 2003, 42).

The Role of Story in Coastal Conservation

But the question remains, what role does oral history and storytelling play in the future of coastal conservation, planning and management? Does California’s coastal protection history belong in the category of the elites or non-elites? How might story inform or influence actions and public decisions that affect coastal resources? Can planners and policy makers look to storytelling and oral history to provide decision-making conservation tools otherwise unavailable through more traditional means, such as computer models, data analysis and scientific research? How can citizens use story as advocacy? Can stories bring transparency to the often complex process of planning, development and litigation?

As we have seen, the protective policies of the Coastal Act are strong, but they are not invincible. Nor is the Coastal Commission itself infallible. Like any political appointees, Commissioners can be influenced by paid lobbyists, money, and political pressure. All of their decisions are ultimately subject to judicial review, which means that
courts, not Coastal Commissioners, are the final arbiters of how to interpret and implement the State’s coastal protection laws. Available land for development on the coast is limited, economic stakes are high, and the development proponents are often well funded and well connected. Coastal land use decisions are thus likely to become increasingly contentious. The state’s economic downturn has led to the planned closure of seventy state parks, many of which may be off-limits indefinitely or transferred to private entities to manage through revenue generation (California State Parks Foundation 2011). Efforts to monetize and privatize previously public coastal lands can now be added to the traditional pressures surrounding private development patterns that exclude the public or diminish public coastal resources.

Storytelling as a catalyst for public engagement and a component of progressive planning theory is not a new concept. The relationship between oral history narratives and urban planning began with John Friedmann’s questioning of the limits of scientific knowledge as it applies to the social sciences. In his 1973 critique of modernist planning’s Enlightenment foundations, Friedmann questioned the limits of privileged, technical or science-based planning methods, and advanced a new approach drawing on local knowledge and experience. He called this “mutual learning” or “transactive planning” (Sandercock and Attili 2010, 25). This approach has since been adapted and advanced by a host of planning scholars who have explored its direct application to urban planning, as well as ways in which storytelling can catalyze civic engagement, build community, and enhance public discourse (see Bell and Morse 2007; Eckstein and Throgmorton 2003; Forester 1989; Sandercock and Attili 2010; Soja 2003). Leonie Sandercock has written that story telling can provide a range of valuable tools for
practitioners. In *Out of the closet: The Importance of Stories and Storytelling in Planning Practice* she discusses the benefits of incorporating story into urban planning:

> I believe that a better understanding of the role of stories can make us more effective as planning practitioners…Story and story telling are at work in conflict resolution, in community development, in participatory action research, in resource management, in transportation planning . . . and so on. (Sandercock 2003, 12)

Eckstein and Throgmorton highlight the importance of storytelling in relationship to sustainability and environmental protection:

> The best stories, most often those that produce a will to change, are those that disrupt habits of thought. Progress toward sustainability requires making space for stories that draw attention to a place’s ecological footprint . . . and to developing a shared sense of moral purpose at a regional scale. (2003, 5)

Planning practitioners who seek to protect and enhance California’s coastal protection traditions as well can benefit from the applied practice of oral history and storytelling, if it is used as a tool to explain the value of protecting the public interest. Traditionally, power has been the primary force in shaping, telling, and suppressing stories (Charlton, Myers, and Sharpless 2007; Forester 1989; Sandercock and Attili 2010). From the perspective of the planning professional, this typically means that the official narrative is dominated by development and real estate interests, as these are the forces that predictably hold sway over planning departments and constitute the paying clientele for planning firms. Taken to an extreme, in the absence of any alternative narrative, this can excessively narrow the space of public debate or even engender hostility toward alternatives. If we are to assume that the public is better served by a more inclusive dialogue about public policy, then a recognition and acceptance of the role of storytelling is essential. Rather than dismissing stories as anecdotal, frivolous, or isolated incidents, conservation-minded practitioners can value and encourage storytelling in the
workplace as part of the public dialogue. This can benefit the public planning process by broadening the horizon of discourse. The substantive application of story can also inform their daily work, for purposes such as conflict resolution, resource management, and data or policy analysis (Sandercock 2003, 12).

Moreover, story telling is the “natural language of persuasion” (Peter Marris, quoted by Sandercock 2003, 19). According to Tucker (2011), “we are, at our core, storytelling beings and dream loving animals . . .. We live in a time deeply in need of stories to guide us forward.” Stories are “wily and powerful” (Eckstein and Throgmorton 2003, 14). They can be “powerful agents or aids in the service of change” (Sandercock 2003, 18). A story well told can integrate the facts of what happened and how it happened with why it happened, and examine the broader implications. Stories can impart the morality of a participatory action, and connect its results with policy outcomes (Sandercock 2003, 19-20). From the time of its populist inception, storytelling has been used as a catalyst for public engagement. Indeed, utilizing stories of successful social movements to further the goals of those movements can be seen as one of oral history’s highest uses. Eckstein and Throgmorton have specifically applied this to the arena of sustainability and environmental protection.

Story telling is central to discursive democracy . . .. In a perfect world, it would anchor participation and representation and turn attention relentlessly to the need to protect the environment . . .. Carefully told and carefully heard, stories do have the potential to act as a bridge between engrained habits and new futures, but their ability to act as transformative agents depends on disciplined scrutiny of their forms and uses. (2003, 5, 13)

This use of narrative was graphically demonstrated in 2003, when California Coastal Commissioner Sara Wan and her husband defiantly spread their blanket on a
piece of sandy Malibu beach, sat down with a picnic basket, and proceeded to eat their fried chicken. They were almost immediately confronted by County Sheriff’s deputies who informed them that they were illegally lunching on private property (Weiss 2003). What ensued was a colorful civics lesson from the 64-year-old activist, citing specific sections of state law protecting the public’s right of beach access with such authority that the deputies left chagrined (Davidson and Entriken 2005, 2-3). She not only explained the law, but brandished a sheaf of documents—public easements that had been recorded in front of specific Malibu properties, providing public access above the mean high tide line. Wan had knowledge of these easements due to her service as a Coastal Commissioner. Because she had the foresight to invite a Los Angeles Times reporter and photographer to join her that day, her picnic tutorial became a front page story (Weiss 2003). From there, the encounter was amplified by coverage in several other statewide and local papers.

This story invoked an almost immediate, unanticipated act of creative public performance art doubling as democracy school. Inspired by Wan’s beach sit, a group of guerilla performance artists and activists created the L.A. Urban Rangers to publicize her point. Clad as old-time park rangers, complete with khakis, bandannas and Smokey Bear hats, they started organizing free “Malibu Public Beach Safaris,” bringing inner-city residents to the coast to exercise their rights as citizens to walk on Malibu’s tony beaches (Los Angeles Urban Rangers 2003). Using the same Coastal Commission data brandished by Wan that day, they published maps and trail guides showing the location of easements and public access points, posted “YES-Parking” signs, and sponsored public easement
potlucks as part of the safari experience. Their website invites participants to sign up for a safari via the following notice:

Although California’s constitution guarantees public access to the state’s beaches up to the mean high-tide line, this right is often thwarted by property owners with misleading signs, illegal fences, and intimidating security guards. The Los Angeles Urban Rangers have stepped into this breach with their Guide and Owners Manual: publications that delineate public and private areas, rights-of-way and access points. The Los Angeles Urban Rangers, founded in 2003, offer regular safaris to visit Malibu beaches throughout the Los Angeles region. (Los Angeles Urban Rangers 2003)

Thus, the Urban Rangers translated the arcane information held by Wan into a useful tool for citizens wanting to exercise their public rights of beach access. This is but one example of how stories can be powerful agents in service of change. It also illustrates how the activist spirit that gave rise to the Coastal Act is still an important part of maintaining the law’s integrity.

In Peter Douglas’ remarks on the occasion of his retirement in September, 2011 (Douglas served for 26 years as the Coastal Commission’s Executive Director, having co-authored both the Coastal Act and Proposition 20), he summarized what he felt to be the Commission’s greatest accomplishments. In addition to a long list of places saved, Douglas included in those accomplishments the “empowerment of citizen activists,” thwarting Governor Deukmejian’s attempts to abolish the Commission, and forcing the integration of private, all-white male membership clubs in coastal cities (Douglas 2011). Douglas recognized from the inception of the movement that activism from within the agency, as well as citizen involvement from the outside, was crucial to coastal protection and always would be.
In his essay, “Tales of a Geographer-Planner,” Edward Soja outlines what he calls “story telling in a nutshell” (2003, 207-224). In it, he enumerates the diverse elements and benefits of story telling as:

- Part of a grand tradition of oral history
- A means of defining community
- An effective teaching tool for planners
- Like case studies in business or law school
- A powerful alternative to scientific analysis
- A kind of professional psychotherapy
- A form of communicative action
- A compelling notion of planning theory
- A reflection on planning practice
- A way of constructing the future
- A means of persuasion
- A way of manipulating time and place
- The very act of plan-making and plotting. (Soja 2003, 211)

Soja’s twelve tenets of storytelling provide numerous opportunities for leveraging, interpreting, and telling California’s coastal protection story. The coast can be seen as a means of defining a community, whether that be a geographical designation or a community of interest and values. Individual stories can be used and applied like case studies. And collectively, they unquestionably contribute to the “grand tradition of storytelling.”

Implicit in stories of social action are the alternative narratives of what might have happened in absence of that action, and hence the importance of engagement. As Sandercock (2003) notes, “To discover that some other neighborhood or social movement in your city or county has won some similar battle can be inspiring and galvanizing . . . conveying a message of hope in the face of incredible odds” (Sandercock 2003, 18).
Through stories of civic engagement it is possible to see how “Story, sustainability and democracy mutually construct one another and American cities . . . . These categories best serve urban theory and practice if the reader understands them as integrated” (Eckstein and Throgmorton 2003, 81). This was certainly the case in the example of Sara Wan’s defiant beach sit, opening up Malibu’s beaches in ways not specifically anticipated. That case study demonstrates the link between story (as told by the LA Times), sustainability, (as evidenced by the application of social justice through public access), and democracy (through the practice of civic engagement and inclusive actions). It has direct applicability to the teaching of and by planners. Coastal case studies can be evocative and inspiring, as evidenced by the Sara Wan story, which translated into a form of communicative action. And to the extent that they are used as a means of persuasion to ultimately influence policy outcomes, telling the coastal story in all of its myriad forms is a positive way to directly construct the future.

Theoretical Limitations

This is not to suggest that story telling in planning practice is a panacea for power inequality, lack of transparency, or conflicting ideologies. The communicative turn is always vulnerable to hijacking by interests with greater economic standing, better public relations resources, or simply superior staying power and the financial ability to endure long, grueling planning processes. As Fainstein (2000) notes, “[T]he different perceptions of interest held by those in different structural positions are not resolved simply through the exchange of ideas” (457). In the paradigm of communicative planning theory, “a planner’s primary function is to listen to people’s stories and assist in forging a
consensus among differing viewpoints” (Fainstein 2000, 454). Her critique points out not only that this model still has the potential to produce unjust results, but conversely that traditional bureaucratic models of decision-making have the potential to result in positive outcomes. Simply changing the ways that narrative feeds into a planning decision will not transform the process if that narrative is misdirected or distorted, or if biased interests are allowed to dominate.

Conversely, State actors have proven capable of creating just policy outcomes from highly insular processes, as evidenced by New Deal programs in the United States, and numerous European social agendas. Even though these were related to social movements, those constituencies were not ‘at the table’ during the actual policy formation in the way that we have now come to accept as the communicative planning model. While outcomes such as these are admittedly not the norm (and one could argue are not even achievable in today’s political environment), it is important to acknowledge that individuals operating within public agencies, more or less insulated from stakeholder input, still have the ability to act in the public interest, particularly when their decisions are informed and supported by progressive constituencies and/or oppositional social movements (Fainstein 2000, 457).

This critical stance on communication as empowerment does not deny that stories can be an effective way to cut through the technical and often incomprehensible jargon of public policy to make the process human, real, and compelling. When I speak of the need to tell California’s coastal protection stories to educate, inform and empower planners and coastal managers, I am actually seeking to advance a new coastal mythology in the form of successful case studies that illustrate the art of the possible in coastal
management. I do not claim to be unbiased or totally objective, but I will use stories to show, to the best of my knowledge as a result of my research, what happened in each case.

The three stories that follow have several commonalities. One is that they all involve the Coastal Commission protecting public access to public lands. Another is that public access was threatened in some way not only by private development proposals, but also by one or more public agencies willing to sanction the loss of public lands to benefit a private actor. A third commonality is that each outcome had a public constituency. But the most significant commonality in this context is that each case study involved one or more individuals who, in their capacity as public-sector coastal managers/urban planners, decided on their own initiative to uphold public values over private values. In so doing, they encountered controversy, legal challenges, and intra-agency conflicts. But their initial instinct was to confront power and choose the more difficult policy path, and their fortitude carried them through the ensuing controversy. This is what leadership looks like.

In her critique of communicative planning, Fainstein (2000) notes the often fundamental incompatibility of competing ideologies or interests. When common ground cannot be found as part of the communicative planning process, the false merging of the two perspectives can doom the ultimate outcome to failure at worst, ineffectiveness at best. It is this dynamic that I seek to remedy in the telling of California’s coastal stories. By illustrating that bold actions can lead to just outcomes, I hope to encourage more of both.
CHAPTER III

METHODOLOGY

Introduction

Most of the numerous interviews conducted for the oral history component of this project were recorded on a digital recording device (Zoom H2 Handy Recorder). One subject (Les Strnad) was interviewed initially over the phone using written notes, and subsequently recorded on location in Monterey, California. Two subjects (Linus Masouredis and David Lehrer) were interviewed by phone only using written notes. Another subject, Peter Douglas, was interviewed and recorded in multiple locations between August, 2011 and March 2012. The remaining subjects were interviewed in person throughout the fall of 2012. All interviews were subsequently transcribed verbatim into Word documents for ease of future editing (Appendix C).

Depending entirely on personal interviews to fully describe any historic event has its limits. Subjects can forget or misremember important details, particularly the names of people and places (Norrick 2005, 20). Written transcripts of those interviews can be meandering and difficult to interpret, or reflect the transcriber’s bias. Audio transcripts provide research benefits, but are not generally cohesive enough for popular consumption in their entirety (Jones 2004). To be historically credible, researchers should augment their interviews with additional material whenever possible, rather than depend upon live subjects as single sources (Ritchie 2003, 119)
Oral historians concur that the credibility of any oral history project is greatly enhanced by the inclusion of other types of research. Larson goes so far as to say “there is almost complete consensus that scholars should, at some point, conduct extensive research into the subject they are studying” (2007, 117). Morrissy discusses the “fragility of memory,” and concludes “Oral history is best done in conjunction with traditional archival research” (2007, 165).

By virtue of the fact that I am employed by the California Coastal Commission, I had first-hand knowledge of much of the agency’s institutional history. This background allowed me to narrow my focus to particularly salient examples out of thousands of potential case studies. It also enhanced my ability to request archival material, select interview subjects, and craft questions designed to fully illuminate the stories. In particular, I had unprecedented personal access to former Executive Director Peter Douglas for interview purposes from the time of his retirement to the week before his death on April 2012. As discussed earlier, Mr. Douglas was instrumental in the creation and implementation of California’s coastal management program for more than forty years. The importance of his participation in this project cannot be overstated.

Research preparation prior to the interviews was an essential component in formulating the interview questions beforehand, as well as filling in the informational gaps afterwards. To that end, I was fortunate to have access to the California Coastal Commission’s archived permit and litigation files, which had fortunately not been destroyed, despite their advanced age. Reading through the staff reports, legal briefs, correspondence and news clippings allowed me to piece together the chronology of events, find the story thread, and highlight issues of particular interest and/or areas in
need of clarification during the interviews. Familiarity gained by working with the files in the course of this research also allowed me to go back to specific documents post-interview, to fact-check and create contextual background. Audio tape recordings of Coastal Commission hearings were invaluable in capturing the drama and political context of the Commission’s actions.

Notes from this archival research and the transcribed interviews were then compared and edited to create a coherent and historically supported narrative of events. In cases of conflicting information between the oral interviews and file material, I conducted further research and/or post-interview queries with the subjects in an attempt to definitively resolve the conflict.

For the radio broadcast/podcast portion of this project, I worked directly with the experienced broadcast professionals at KRCB Public Radio in Santa Rosa. For this stage, I first reviewed the written transcripts and highlighted the specific audio portions of interest, and noted the corresponding time markers from the digital recording. From this, KRCB sound engineers were able to create a digital rough cut of the interview segments, arranged in chronological order. These were then rearranged in an order that most clearly portrayed the arc of the story, called a “string out.” To transform the string out into a draft production script, I wrote the narrative bridges between the interview segments to streamline the story and fill informational gaps.

Once the scripts were complete, I worked with KRCB staff to smooth out the speakers’ verbal ticks, record the narrative bridges, combine the tracks, and add the music and sound effects. Station Manager Robin Pressman was selected as the narrator. The
result is three 10-20 minute broadcast pieces, edited from a total of 10 hours of raw interview material.

Telling the three stories in narrative prose allowed for more description and detail than was feasible in the radio format. For the prose portion of this project I relied more heavily on the written record (primarily archived public documents) and used interview quotes to bring color and human interest to the narrative. This process was the inverse of writing the radio production scripts, which are drawn primarily from the spoken words of the subject, with additional information added where needed to provide continuity for the listener.

Transforming an oral interview into a compelling narrative, whether as a written manuscript or a production script for a broadcast piece, requires editing. Award-winning historical accounts such as Laura Hildenbrand’s non-fiction best-seller “Seabiscuit”; the historical biography “Selkirk’s Island” by Diana Souhami; and the groundbreaking classic “In True Blood” by Truman Capote, rely heavily on a combination of historical research, interview, and interpretive license. It is the writer’s creative craft that pulls the components together into a dramatic and entertaining tale. The necessity and limits of this type of effort is examined in “Blended voices: Crafting a narrative from oral history interviews” (Jones 2004). The author describes the process as “the joint construction of a narrative by both the narrator and the writer/oral historian in which a public text is created from a one-to-one conversation…In written form, reproducing speech exactly as it is spoken can be a barrier to communication rather than facilitating it” (Jones 2004, 1, 17). Thus, editing of the three stories that follow is
intended to enhance communication with the audience by emphasizing the essential events (Appendix A).

Methodological Limitations

While all information contained in these three stories is accurate, it cannot be considered exhaustive. Many people not included in the stories played crucial roles but have not been interviewed. In particular, local government officials and elected representatives played a critical role in the acquisition of the rail line, as did the State Coastal Conservancy and numerous local activists. The primary citizen actor, Edgar Haber, has passed away. Including the stories of all these people within the overarching narrative would require a project of far greater scope. However, subsequent chapters or alternate versions may well yield additional, important information from individuals not included here.

Likewise, the story of the Jonathan Club would have benefitted from an interview with at least one of the Club’s attorneys. Because the Jonathan Club unsuccessfully appealed the case all the way to the U.S. Supreme Court, and was forced to revise its membership policies as a result, its perspective on the process is undoubtedly different from the perspective of those on the prevailing side who were interviewed for the story. Time constraints and the complexity and scope of the case precluded me from conducting any additional interviews.

I quickly encountered some difficulties in pursuing dual-functions for the audio portion of this project. Collecting oral histories for the sake of research is in some ways at odds with conducting interviews with an end goal of creating a broadcast product.
for popular consumption and entertainment. While all subjects were colorful and charismatic storytellers in an informal setting, their tone, manner, vocabulary and affectation changed noticeably when the recording device was introduced. The presence of the digital recorder generally flattened and formalized their spoken delivery. It was almost as if the device transported them back to “planner-speak.” Activist Laura Davick went into great detail about the lengthy public process involved in drafting a plan for Crystal Cove, and was less focused on the earlier struggles to block the development of an exclusive resort hotel which is the more dramatic phase of the story. Peter Douglas omitted much of the colorful descriptions and political maneuvers included in an earlier, non-recorded interview on the history of the Monterey Bike Path, while Les Strnad expanded the telling to include a tutorial on coastal management, the history of railroad development in California, and a comparative analysis of Europe and North America’s transportation systems. The story of the actual bike trail was almost an afterthought in that context. Fortunately, his earlier interview was recorded with written notes that captured more relevant detail.

This dynamic created somewhat of a quandary for me as an interviewer. As an academic oral historian, the appropriate method of interviewing is to allow the narrator to access his or her recollections freely, and ask follow up questions for clarification or to elicit deeper memories. To be credible, an interviewer should not display an agenda or be attempting to manipulate the speaker’s narrative.

However, when producing a broadcast product intended for wide general appeal, it is the job of the interviewer to incite or inspire an interview that will hold the listeners’ attention. It is also critical to get subjects to speak in full, complete sentences,
which they frequently do not do. In this context, evocative interview tactics, coaching or prompting, ‘do-overs’ and narrative interruptions can be seen as not just acceptable but a professional necessity.

Several times throughout the interview process, I found myself attempting to strike a balance between academic researcher and popular journalist. On the one hand, I was cognizant that allowing a subject to ramble or stray off topic had the potential to yield rich, textured information deeply relevant to the broader issues of urban planning and coastal management. On the other hand, I was aware that allowing a narrative to meander too far afield could risk losing the essential thread of the story and jeopardize my ability to produce a useful broadcast piece. Over time, I believe I gradually improved on my ability to nudge the subject back to the topic at hand and illicit useful testimony without interrupting or compromising the memory process. But I had the distinct impression that retired planners are somewhat like the old city fire horses that would break from their stalls at the sound of the fire bell. Put these people in front of a microphone and they automatically assume their familiar role as a planning practitioner addressing their Commission or Board, using passive voice, inscrutable phrasing and acronyms and omitting colorful descriptions.

I also found that recollections did not always align perfectly with the written record. One instance of this was a former Coastal Commission staffer’s vivid memory of writing a “cease and desist” letter to Southern Pacific after verifying that they were removing the railroad tracks at Del Monte Beach without a permit. He recalls typing the single page document on the typewriter in his office after returning from the site visit. The file did contain a one-page written communication from him to Southern Pacific, but
it was dated August 30, 1978, a year before the railroad actually removed the tracks. The letter informs Southern Pacific that they will need to obtain a permit before removing any tracks (Appendix D). The letter contains an application form for the company’s convenience. Clearly Southern Pacific had not yet commenced removal. Moreover, the Commission did not receive cease and desist authority until ten years later.¹

This discrepancy was resolved through a subsequent interview with Peter Douglas on 12/05/11. Douglas confirmed that the Commission routinely wrote cease and desist letters for years before they had statutory authority to do so, saying, “The difference is, they could just blow us off and we couldn’t do anything about it without going to court.” He distinguishes this from the current, formal, cease and desist “orders” which are enforceable by the Commission and carry the weight of law. Douglas confirmed that it would not have been unusual in 1979 for a Commission staffer to write a cease and desist letter putting a third party on notice that undertaking a particular activity without a permit would violate the Coastal Act. While this explains the individual’s memory of writing the “cease and desist” letter, his recollection of sending it after the work had already started is in question. He may have written the letter, but it may have been missing from the file. It may be that the work started soon afterwards, and the two events were transposed in his memory. Or he may have been recalling a strong letter sent on the Commission’s behalf by staff counsel John Bremner, which did assert that a Coastal Act violation was in process and daily fines could accrue (Appendix D). In any case, court documents clearly confirm that a section of track was, indeed, removed by Southern Pacific without a permit, so the greater fact is not in dispute.

While both subjects expressed confidence and certainty over the Commission’s federal authority in the matter, internal documents in the file indicate that initially the Commission recognized the inherent legal ambiguity around that question. In fact, in an 11/17/11 interview with Deputy Attorney General Linus Masouredis who litigated *Southern Pacific*, he confessed his own surprise at having won the case, and attributed the decision to litigate to “Peter Douglas’ inevitable stretching of the law to its maximum extent” (Masouredis 2011). Neither detail however, subtracts from the meta-narrative of the Commission’s role in the outcome.

Another example of a flawed memory was Peter Douglas’ recollection of the closed session discussion of the Jonathan Club that took place at a 1985 Coastal Commission hearing. This interview was recorded one week before his death, and while his condition was fragile, his mind was still sharp. He went into great detail about the conversation among commissioners and staff that took place in closed session, outside of the public hearing. But when I listened to the tape of the hearing, it became obvious that the discussion he recalled took place during open session. Neither of the other subjects interviewed for this story recalled a closed session meeting on the matter, and a subsequent review of the agenda confirmed that no closed session had taken place on that day. This was a fortuitous discovery, as I was able to incorporate some of the historic audio recordings of the deliberations into the radio broadcast. It would not have been possible to reproduce tapes of a closed session.

Conversely, both Douglas and Cave recalled vividly that Deputy Attorney General Anthony Summers was initially opposed to the idea of using the Coastal Act as leverage to force the Jonathan Club to integrate. In fact, it was Summers’ refusal to
support such a recommendation that prompted Douglas to go around him and speak directly to Commissioners. But Summers himself did not recall it that way. While he did not refute his former colleagues, he said his recollection was simply that he wasn’t sure whether or not the Commission had proper legal authority, and when he learned that Commissioners were going to be asking about it in the hearing, he did the necessary research and concluded that it was an open question. Because Cave and Douglas had identical and detailed memories of the sequence of events, and Summers was more vague, I chose to represent the majority view.

With the reams of material and hours of interviews that went into this project, I was constantly faced with decisions about what to include and what to take out. Making these decisions was a purely qualitative exercise. There was a constant tension between including enough information to maintain the essential thread of the stories, and being mindful not to overwhelm the reader with too much information or complicated procedural of interest only to practitioners. I do not claim to have always succeeded in striking this balance. Readers who are professionally familiar with the subject area (land use attorneys in particular) may feel that I have over-simplified or omitted certain facts or processes. Lay persons may still find the stories too complex, or filled with what seems like arcane legalese despite my best effort to make the plots and characters accessible. I can only say that I was guided by my instinct for what seemed interesting, dramatic, and illustrative of the overall themes of citizen engagement and bold policy choices.

As technology advances, it also raises new questions about issues related to the gathering and sharing of oral history. Issues such as how best to archive digital interviews, what constitutes informed consent, how information might be used or
disseminated in ways other than originally intended, and the need for legal liability release forms all require additional attention for both interviewers and narrators embarking on oral history projects of greater than personal scope (Eckstein and Throgmorton 2003).
CHAPTER IV

CONCLUSION

I selected the three stories for this project out of more than a dozen recordings I conducted with Peter Douglas during the last year of his life. I selected them for three reasons. First, they were the stories I found to be most interesting and most likely to have broad popular appeal. Second, they all involved public engagement. But what I did not realize until the project was nearly done, was that in all three of the stories, the Coastal Act was used to protect an important stretch of coast, not just from developers but also from a public agency. Each case involved either a state or federal agency taking an action that would have had a significant negative impact on public access, but was later overturned by the Coastal Commission in some way. The Monterey story involved the federal Interstate Commerce Commission. In Crystal Cove, it was the State Department of Parks and Recreation. And in the Jonathan Club story, it was the State Lands Commission. This revelation underscored just the strength and scope of the Coastal Act, as well as the Coastal Commission’s unique role as a State bureaucracy, and what an important a role it plays within the public planning process.

Case in point: David Lehrer, the Anti-Defamation League attorney who ‘started’ the public discussion about the Jonathan Club, is the first to admit that the legal theory did not originate with him. “It was a great idea,” said Lehrer. “I wish I could say it was my idea, but it wasn’t. A Commissioner came to me and told me about the pending
matter, and when he told me it was on state land, I said ‘You got ‘em’ ” (Lehrer 2012). The inability to build relationships and networks at such clubs put whole classes of people at a significant disadvantage. This was brought home to him ten years earlier when a Jewish Vice President of ARCO came to him and said he had hit a “glass ceiling” (Lehrer 2012) within the company because he refused to attend at clubs that refused to have him as a member. “This really changed things,” said Lehrer (Lehrer 2012).

Twenty-seven years later, Lehrer says the Jonathan Club is still one of his favorite cases, because at that time, segregated social clubs were significantly responsible for holding back women and minorities from advancing in business and politics (Lehrer 2012). But Lehrer did not realize until our interview that it was actually Peter Douglas who had seeded the idea with the Commissioner.

At 7:00 p.m. on November 15, 2012, National Public Radio (NPR) affiliate KRCB in Santa Rosa broadcast the radio versions of the foregoing stories. The stories were also made available to other NPR stations throughout California through the Public Radio Exchange website, http://www.prx.org/pieces/87666, both as an hour-long program or as shorter, individual broadcast pieces. The series will be available as a podcast at KRCB’s website, www.krcb.org, and there is a possibility of future collaborations to produce more of the Peter Douglas recordings. These stories are also available on www.coastwalk.org, as part of Coastwalk’s “Virtual Tour of the California Coastal Trail.” Coastwalk’s goal is to educate trail users about the coastal environment and the importance of citizen engagement.

When oral histories render personal stories that create compelling narratives, they have the capacity to evoke a sense of commonality. Commonality can instill a sense
of shared history and responsibility for a place, a community or a shared set of values. A sense of shared responsibility is a basic requirement for collective or individual engagement, as it creates the necessary public space for civic action. Hence, personal stories are the catalyst that creates the public space for participatory democracy. Without stories, events lose their context, history lacks significance and citizens are less empowered. Stories can transform the future from the one of dreary inevitability to one that is more fully accessible for re-imagining.

California’s coastal protection story is a rich, diverse, multi-faceted, ongoing opus that has literally and figuratively transformed the entire state. Lessons learned from these stories can be both broadly and specifically applicable to future planning efforts. Telling these stories to a more general audience can contribute to sustained civic engagement and commitment to coastal conservation in the face of mounting economic pressures. Like good stories anywhere, they are worth telling in their own right. Telling them in the context of providing assistance to citizens, planners and decision-makers can contribute to the continuing legacy.

For current and future generations of coastal managers, the stories of how California practitioners have historically interpreted, applied and defended the state’s coastal protection policies can be a powerful tool, providing a unique source of learning and experience to inform future decisions. Ideally, stories of how California has achieved success in coastal preservation can serve as inspiration to policy makers, a beacon of hope for activists and a guidepost for future planners when facing challenges and opportunities in coastal conservation, planning and management. The back story of the Monterey Peninsula Recreational Trail is a good place to start.
Let the telling begin…

(See Appendix A to read the stories. Podcasts also archived at the Meriam Library, Special Collections).
REFERENCES


Les Strnad was working at his desk one August morning in 1979 when his phone rang. As Supervisor of Regulation for the newly created California Coastal Commission, Strnad’s days rarely followed a predictable path, and they certainly were never boring. One day he might find himself protecting sea otter habitat from commercial kelp harvesters, and the next day considering the marine impacts of a proposed nuclear power plant. He had started working for the Commission as an intern in 1973, immediately following the passage of Proposition 20, the Coastal Initiative, which created and funded the California Coastal Commission. Prop 20 had tasked the fledgling state agency with the job of creating a plan for statewide coastal protection in just four years. Along with an energetic and enthusiastic group of young planners, he had helped write that plan, and in 1976 watched with exhilaration as the Legislature translated it into the California Coastal Protection Act of 1976, making the Commission a permanent state agency with broad powers to protect coastal resources and public access. The Coastal Act had passed by a slim margin in the waning hours of the Legislative session, thanks in large part to his boss, the Commission’s Chief Deputy, Peter Douglas.

Now the agency was up and running, testing its new legal authority to control development on some of the planet’s most valuable real estate. Douglas, who had worked closely with the activists who organized the grassroots campaign for Proposition
20 before writing the bill that would become the Coastal Act, was already establishing a reputation for pushing the law to its limits to protect coastal resources.

One of Les’ primary duties was to work with local governments along the Central Coast from Santa Barbara to Santa Cruz, helping them understand their new role under the Coastal Act to develop Local Coastal Plans (LCPs) that would implement the statewide policies of the Act at the local level.

He was not your average state bureaucrat. With a background in marine biology and urban planning, he saw his role as helping to translate good science into good land use policy. He sometimes got the feeling that local planners wondered what planet he was from as he pushed them to take a stronger management role in marine and coastal protection. But he was also an affable guy, skilled at conflict resolution. As a result, he had formed collegial relationships with the city staffers.

So he wasn’t surprised to find the Monterey City Public Works Director on the other end of the phone that day. But he was surprised at the reason for the call.

“Hey Les, did you guys give Southern Pacific a permit to rip out the tracks down here? Because one of my guys tells me they are down here behind Wharf Number Two, pulling out the rails.”

Les had issued no such permit. But because railroads were under federal jurisdiction, he would not necessarily have been the one to review any such proposal. The Congress had passed federal Coastal Zone Management Act (CZMA) in 1972, the same year that California voters passed Proposition 20. The CZMA granted coastal states unique new authority over federal activities along their coastlines, if states adopted comprehensive management programs to protect public access and coastal resources.
This was a notable departure from the federal pre-emption doctrine, which usually placed the federal government in a superior position to states in matters pertaining to regulation. But as part of the coastal protection movement sweeping the country in that election year, President Nixon had signed the landmark bill.

California’s management program was approved under the CZMA in 1978. Justifiably alarmed about their offshore oil interests in federal waters, the American Petroleum Institute had immediately filed suit in an attempt to block California’s new authority. But the industry’s lawsuit did not prevail. California was about to become the first state in the nation to test the extent of the new federal law.

Southern Pacific Railroad’s use of the old Del Monte line around Monterey Bay dated back to 1879, but had been declining for the last decade. What had once been vital infrastructure for moving timber, freight, sand, gravel and people during California’s early years was now only used a few times a month. The Del Monte Express had ceased passenger service to San Francisco in 1971.¹ Increasing traffic and high-end residential development had led to the 1977 closure of the sand mine at Lake Majella near Pebble Beach. Combined with the rise of the interstate freeway system, California’s changing economic landscape had rendered the old right-of-way commercially obsolete. Southern Pacific claimed it was losing $100,000 per year on the line. The fact that the spectacular, seven-mile long strip of ocean front real estate from Seaside to Asilomar would be ideal for development was not lost on the Railroad’s real estate branch, Southern Pacific Land.

The fact that the Coastal Act might hinder their plans wasn’t lost on them either.

¹ “Bring Back the Del Monte Express” Big Sur Gazette, July, 1979. Koeppel, G.
Southern Pacific Land Company had been one of the largest contributors ($25,000) to the “No on Prop 20” campaign (Adams 1973, 1036).

But before the railroad could develop the land, it first had to formally “abandon” it as a transportation corridor. This required the approval of the Interstate Commerce Commission (ICC), which first had to make a finding that the line served no other public purpose.

Yet the railroad still had a fan base. Edgar Haber, a Carmel Valley businessman, was an indefatigable champion of the old Del Monte Line. He had fought the cessation of passenger service to San Francisco, presciently arguing that volatile gas prices and the cost of freeway expansion made rail service a better public investment than highways. He was not about to let the trains go gently into that good night. He rallied support from the press, local businesses and elected officials, even convincing his state Senator and Assembly member to introduce bills to keep the line operating. Public support was overwhelming. The city of Monterey and the Monterey Peninsula Park District had approached Southern Pacific years earlier about purchasing the land for a public recreational trail, as well as restoring local passenger service, but the cities had not been able to raise enough money (Coastal Commission internal memo, Hudson).

Despite the public’s interest in Southern Pacific’s plans to abandon the line, nobody noticed the small notice that ran in the local paper over the Christmas holidays, in tiny type font, announcing the request. The flyer posted at the abandoned train depot went unread. On December 29, 1978, between Christmas and New Years Eve, the company had requested permission from the ICC to abandon service on the seaside right-of-way, clearing the way for private sale and future development of the land. Receiving no
petitions in opposition and with nobody stepping forward to propose an alternative public use, the ICC quietly granted the abandonment on February 26, 1979 (Figure A1).

The cities and residents of the Monterey Peninsula were not amused when they learned what had happened. The Regional Park District, the County Board of Supervisors, the cities of Pacific Grove, Monterey and Seaside and the California Department of Parks and Recreation had all expressed an interest in preserving the right of way for multi-modal transportation and public recreation. Because of the minimal noticing, none of these entities were aware of the meeting, and thus, had not been able to participate at the ICC. Worse, they would not be able to weigh in later in the process, as they had no authority over the railroad. However, the Coastal Commission just might.

It isn’t clear how or when the Coastal Commission first became aware of the ICC’s decision, and made the connection to its new federal authority in the CZMA. The court documents just say “The Coastal Commission only learned by chance of the abandonment after the ICC had acted” (Coastal Commission, Points and Authorities, 4). But once it did, the Commission wasted no time in asserting its newfound jurisdiction. On June 21, 1979, Coastal Commission staff counsel John Bremner sent the following letter to the Chairman of the ICC:

A. Daniel O’Neal, Chairman, Interstate Commerce Commission  
Washington. D.C. 20423

RE: Abandonment Application No. AB-12 (Sub. No. 58)

Dear Sir,

I am writing in regard to the above referenced railroad abandonment application. Notice of this abandonment proceeding, and your commission’s decision has only just reached the Coastal Commission. We believe that this abandonment proceeding deals with an activity – the abandonment of the Southern Pacific
Figure A1. Map submitted by Southern Pacific Railroad as part of its application to abandon 6.7 miles of shoreline right-of-way on Monterey Bay.
Transportation Company’s right of way in Monterey County – which is the type of activity which is likely to have a significant effect on the coastal zone. Pursuant to Section 307(c) of the Coastal Zone Management Act, and implementing regulations adopted pursuant to the Act, particularly 15 CFR 930.54, we are therefore notifying your agency that we believe this abandonment requires review by the Coastal Commission for consistency with the California Coastal Management Program. Pursuant to 15 CFR 930.54 (b), following this notification, your agency may not issue the license until the requirements of Subpart D of the 15 CFR 930 et seq. are met. The essence of Subpart D is that the application for abandonment be amended to include a consistency certification which shall be reviewed by the Coastal Commission pursuant to the requirements of Subpart D.

If a consistency certification is not received within a reasonable period following this notice, the Commission will be forced to seek judicial review. Please feel free to call if you have any questions concerning this notice (Emphasis added).

Sincerely,
John Bremner, Legal Counsel

What ensued was a series of letters between the Commission, the ICC, Southern Pacific and the National Oceanic and Atmospheric Association (NOAA) which oversees the Coastal Commission’s federal program. NOAA concluded that the Commission did indeed have the authority under the CZMA to review the ICC abandonment action. Not surprisingly, Southern Pacific sided with the ICC in its opinion that the Interstate Commerce Act pre-empted the CZMA, and thus the whole process was exempt from state review. Local governments and elected officials weighed in, asking the ICC to re-open the proceedings. The ICC’s response was terse and curt: the decision was final, the abandonment was irrevocable. Particularly galling to locals was the ICC’s statement that “…no financially responsible person made an offer of financial assistance which would have caused the (ICC) to stay the effective date of the certificate in this case” (Coastal Commission, Exhibit 11). Tensions were escalating all around, and a stand-off seemed inevitable.
Then on August 30, Les Strnad learned that Southern Pacific was actually removing tracks and rails. It was an overt act of defiance that escalated the situation dramatically. Strnad went down to Working Wharf No. 2 to verify the activity and to notify workers that they needed a permit to take out the tracks. But the workers were not deterred. So Strnad went back to his office and wrote a letter to Southern Pacific’s Vice President of Operations, informing them that removing tracks without a permit was a violation of the Coastal Act, and enclosing a permit application for convenience. Although not explicitly called out in the letter, fines for violating the Coastal Act can penalties of up to $5,000 per day.

Two days later, Les’ phone rang again. This time it was his boss, Chief Deputy Peter Douglas, calling from San Francisco.

“Les, what the hell did you do?” Douglas wanted to know. “I just got a call from the Chief Counsel of Southern Pacific. He says we are telling them to stop work pulling out their tracks in Monterey. He’s mad as hell. What’s this all about?” He used a few other choice words that Strnad was not accustomed to hearing from his normally cool-headed boss.

Strnad had checked with his immediate supervisor, Ed Brown, before sending the letter, but nobody had run it by Douglas. Brown was the Regional Director, and the office often took action without consulting headquarters in San Francisco. Now the agency’s second in command, Douglas had actually co-written Prop 20 while working as a Legislative Aide to Assemblymember Alan Sieroty (D-Beverly Hills) in 1971. After the initiative passed, Douglas wrote the language for the bill that became the Coastal Act, and staffed it on its tumultuous passage through the Legislature. After Governor Jerry
Brown signed it into law, Douglas went to work as the Commission’s Chief Deputy. He was a wily and determined defender of the coast, who handled all the political work in Sacramento and ran interference for many of the controversial projects. Strnad knew Douglas would back him up when he learned the details, but right now his boss’ blood pressure was still elevated from the blasting he’d received from the railroad’s attorney.

“The abandonment was a federal action and we should have reviewed it,” explained Strnad. “But they also need a permit from us to take out the tracks. This is our chance. We have to assert jurisdiction.”

So Douglas invited Strnad to join him and the Commission’s Chief Counsel, Bill Boyd, in a meeting at Southern Pacific’s headquarters at One Market Plaza in San Francisco, not far from the Commission’s home office. Strnad recalls the meeting vividly.

“So the three of us walk into this conference room, and there’s this table that looks like King Arthur’s table. It probably took a whole redwood tree to build it. One side has a row of empty chairs, and the other side has a row of chairs full of slicks in suits with notepads. Behind that row is another row of slicks sitting against the wall. These are the note-takers. And at the head of the table is the guy who is obviously in charge.

“We said good morning, took our three seats, and Peter made a comment about coming to answer their questions. Then the guy at head of table says, ‘I want to know what the hell this letter means and who the hell you think you are to try to stop us from working on our own property’” (Strnad 2012).

Douglas turned to Strnad. “Les, do you want to answer that?”
So Strnad patiently explained to the roomful of railroad attorneys that the CZMA grants the State of California the right to review federal activities, including railway abandonments, to ensure that the redevelopment plans are consistent with the Coastal Act. In addition, Southern Pacific would need to get coastal development permits from the Commission for the physical removal of the tracks and anything they planned to build along the right of way.

“They were writing furiously,” Strnad said of the attorneys. “And the guy at the end of the table, you could see his jugular vein start to expand. You could tell he wasn’t used to people coming into his office and telling him things. He was used to people coming and asking him things. Then he slams his hand down hard on the table and says, ‘I want to make something perfectly clear to you bureaucrats. We are not in the railroad business. Southern Pacific is in the real estate business. And we have the right to abandon that line.’ But we didn’t back down, and at the end of the meeting, one of the attorneys said they would be getting back to us” (Strnad 2012).

What followed was approximately a year of legal correspondence. The Coastal Commission, the Attorney General and NOAA all agreed that the abandonment had not been properly consummated, because the Coastal Commission had not been notified and consulted as required by the CZMA. Furthermore, Southern Pacific needed a permit from the Coastal Commission to remove the tracks. All three parties urged the ICC to re-open the case so that it might be properly conducted.

But Southern Pacific and the ICC were far from convinced. In an October 29, 1979 letter to the Coastal Commission, ICC Chairman Daniel O’Neal wrote:
The certificate of public convenience and necessity authorizing abandonment was effective on May 11, 1979, 41 days prior to the date of your previous letter. Had the Coastal Commission requested intervention in the proceeding prior to the effective date of the certificate, your position would have been taken into consideration in arriving at a decision. However, there is no means whereby the Coastal Commission can become a party to the proceeding after the action of the Commission is administratively final.

The Interstate Commerce Commission has provided as much public notice of this proceeding as it is obligated by law to provide. The Commission is not obligated to provide notice in addition to or different from the notice provisions of the Interstate Commerce Act, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976 (10/24/79 Letter from ICC to Coastal Commission).

On October 15, 1980, the railroad filed a lawsuit in District Court, in an attempt to avoid liability for violating the CZMA and the Coastal Act. The railroad was challenging the Commission’s authority over their activities under the Coastal Zone Management Act, asserting that any jurisdiction the Commission might have had was pre-empted by provisions of the Interstate Commerce Act. In any case, they stated, the Commission had “waived its rights by failing to exercise them in a timely manner.”

The Coastal Commission cross complained, asking the court to cure the defect in the I.C.C. approval of the abandonment by ordering Southern Pacific to apply for a coastal development permit. Mary Hudson, legal counsel for the Commission worked on the case with Deputy Attorney General Linus Masouredis. Their key argument on behalf of the state was this:

What is involved in this case is not rail operations and interstate commerce but structural demolition and regulation of land uses. Southern Pacific wants to rip up six miles of track and demolish the rail right-of-way to preclude any future transportational use of this land and irreversibly commit the land to other uses. And Southern Pacific wants the ICC, an agency with no interest, expertise or concern with local land use planning and regulation, to have exclusive authority to “regulate” this irreversible land alteration – which really means there will be no regulation at all. The reason is not hard to see. This is
extraordinarily well-situated land running right by the shoreline…Southern Pacific wants to open up motel and commercial development on the land. It wants to get out of the rail business…The irony of this case is that a railroad, wanting to get into non railroad business, is arguing its land development should be exclusively federally regulated as “interstate commerce” by a federal agency caring and knowing nothing about local land use planning (Coastal Commission, Points and Authorities, 3).

On August 11, 1981, the District Court held that the Coastal Commission did indeed have authority under the CZMA to review the right of way abandonment, as well as the authority to require a permit for demolition (So. Pacific Transportation v. CCC, 520 F. Supp. 800 (1981) ). Judge Marilyn Hall Patel also dismissed the railroad’s argument that the statute of limitations had run on the Commission’s right to review, writing, “As the Coastal Commission did not receive actual notice, it cannot be deemed to have waived its right to review Southern Pacific’s abandonment permit” (Coastal Commission, Amended Judgment, 13).

However, the judge also denied the Commission’s request to invalidate the ICC’s ruling and force Southern Pacific to apply for a coastal development permit, saying only the Court of Appeals had the authority to do so. As a result, both parties appealed to the Ninth Circuit Court of Appeals.²

Meanwhile, the State Coastal Conservancy had been negotiating behind the scenes with Southern Pacific to purchase the disputed real estate, and had set aside funds for Monterey, Seaside and the Monterey Peninsula Regional Park District (MPRPD) to purchase the right-of-way. Earlier attempts by the MPRPD to purchase just the Monterey portion of the corridor for $1.5 million fell far short of Southern Pacific’s $5 million

---

appraisal, which didn’t include the City of Seaside section, nor value of the tracks and rail.

Using the judge’s ruling for leverage, the Coastal Conservancy was able to negotiate a more favorable price of $4.67 million for the entire 6.7 mile section, including the tracks and rails. Southern Pacific agreed to sell at a reduced cost, but only if the Coastal Commission agreed to drop its appeal. The Conservancy and the cities persuaded the Commission that the deal was at risk of collapsing if the project remained in litigation. The Commission agreed, and in June of 1982, the Commission and Southern Pacific both dismissed their appeals on the condition that the main line tracks remain in place for possible future rail service, and the State Coastal Conservancy have first right of refusal (Coastal Commission, Stipulation for Voluntary Dismissal of Appeals).

Ending the litigation in this way saved both parties the direct costs associated with the appeal, but more importantly for Southern Pacific, it eliminated the risk of an adverse decision by the Ninth Circuit being used more broadly as precedent under the CZMA.

The purchase was completed with funding from the Conservancy, Monterey County Transportation Commission, Caltrans Bikeway Account, and the City of Monterey. Four years later, the Coastal Commission issued a coastal development permit to the city of Monterey for a Class III bike and hike path, complete with landscaping, bike racks, picnic tables, lighting and signs. The project enjoyed the support of Senator Henry Mello, Assemblyman Sam Farr, the Monterey Chamber of Commerce and the Monterey Business Association. Les Strnad signed off on the project as Chief of Permits,
and by that time Peter Douglas was the Commission’s Executive Director, bringing the contentious, high stakes episode to full-circle closure.

Today, the multi-modal Monterey Peninsula Recreational Trail is one of the most recognizable features of Monterey Bay. Millions of visitors from around California, the country and the world come to visit Cannery Row and the Monterey Aquarium, golf at Pebble Beach, or go whale watching in the Monterey Bay National Marine Sanctuary. In doing so, they almost invariably experience some part of the trail, whether by foot, bicycle, skate or surrey. Every view of the Bay, whether from a picnic at Lover’s Point or a scenic pullout in Pacific Grove, involves a segment of the trail, as it runs between the first public road and the sea (Figure A2a and b).

The trail links interpretive sites with historic points of interest and provides connectivity between intensely utilized regional visitor-serving uses and commercial tourist attractions. The initial 6.7-mile segment is now part of a sixteen-mile continuous trail from Asilomar State Park, through the cities of Monterey, Seaside and Marina, through Fort Ord Dunes State Park all the way to Castroville (Figure A3).

While one can only speculate as to how this area would look today if Southern Pacific had been allowed to continue with its abandonment and redevelopment plans, it is safe to say that the geography of the region is currently defined by what you don’t see—the private condominiums not restricting public access, the commercial development not built, the hotels, high-rise or otherwise, not blocking breathtaking views of the Bay, from the rocky shoreline to the Santa Cruz Mountains.

None of the commemorative signage along the trail’s length makes any mention of the Coastal Commission’s involvement in the trail’s creation (Figure A4).
(a) Recreational use of the trail, City of Monterey.

(b) A natural stretch of the trail in Pacific Grove.

Figure A2. Monterey Recreational Trail, City of Monterey. (Photo Credit Sarah Christie)
Figure A3. Current map of Monterey Bay Recreational Trail.
CRYSTAL COVE STATE PARK:
The Power of Visionary Planning

When someone says “I grew up at the beach,” they generally mean they spent a lot of time there as a kid. Maybe their house was within walking or biking distance. They may have even had an ocean view. But when Laura Davick says she grew up at the beach, she means it, literally. In 1960, the year after Davick was born, her parents bought a tiny, hand-built, 31-year-old cottage on the beach at Crystal Cove in Orange County (Steen, Davick and Braselle 2005, 44). When she was old enough to walk down the front steps, she was standing on sand. Her front yard was tide pools. Beyond that, dolphins and
surf breaks. In most neighborhoods, kids have to look both ways before crossing the street. Davick had to look out for riptides.

Most nights, she preferred to sleep outside on the porch where she could hear the waves and frogs singing in nearby Los Trancos Creek, a habit she maintained for more than 40 years. She’d often wake before dawn to saddle her horse, and spend the day riding on the beach, galloping through the surf on the firm, wet sand. “I don’t think there could be a better place to grow up than Crystal Cove,” sighs Davick (Davick 2012).

The cove had a special meaning for the Davick family. Laura’s parents, Bob and Peggy, camped there in tents with their families as kids. They met on the beach in 1940 as teenagers, and fell in love. So when the opportunity to purchase a cottage for $2,000 came along shortly after Davick was born, the young couple jumped at the chance. It would remain in the family for 41 years.

The cottages were originally built by squatters in the 1920s and 1930s, often using salvaged and re-purposed materials, and furnished with castoffs (Steen, Davick and Braselle 2005, 55). Some of the earliest structures used teak lumber from the Esther Buhne, a 287-foot schooner that wrecked on Balboa Point in 1927. Several hatch covers that washed ashore were combined with driftwood to build the so-called Yacht Club—more of a sculptural art installation than actual Clubhouse. Sometimes material was scavenged from other construction sites, like windows from the Riverside Hotel and bathroom fixtures from the Hotel Del Coronado. Builders of the 46 structures never bothered to get permission from the landowner, the Irvine Company. During the height of the Depression, the Irvines largely ignored the situation. But late in 1939, the company sent the “owners” a letter, offering them a choice: Move their cottages by
January 1, 1940, or sign leases in 10-year increments and forgo all ownership rights 
(Steen, Davick and Braselle 2005, 61).

With no legal claim to the land, most residents chose to stay, but no more 
cottages were built from that time forward. If you were in, you were in. And while much 
of the country was struggling to find food and shelter, life at the Cove was idyllic. There 
were no phones, televisions, or, until the mid-1930s electricity, but fish and abalone were 
plentiful. Days were filled with body-surfing, surf-fishing, sailing and volleyball (Figure 
A5).

Figure A5. Vintage postcard of Crystal Cove, circa 1940. (Laura Davick collection. 
Reproduced with permission.)

Over the decades, traditions emerged: old time rock n’ roll parties, communal 
babysitting. A sign on the old store read: “Crystal Cove Standard Time. Please turn your
clocks back to 1930” (Steen, Davick and Braselle 2005, 104). The Martini Flag was hoisted and saluted to mark the start of Happy Hour which might be followed by grunion hunts, beach bonfires or a luau, complete with hula dancing and ukulele music. “Every night was Saturday night, and Saturday night was New Years Eve,” said long-time resident Stella Hiatt.

“Coveites” as they called themselves (Steen, Davick and Braselle 2005, 61) cherished their private enclave and grew into a tight-knit community. A locked gate was erected at the turnoff to the Cove. Signs that read, “No trespassing,” “you ARE trespassing” and “Free Towing” kept non-residents off the secluded beach (Steen, Davick and Braselle 2005, 94). Not even the passage of Proposition 20 in 1972, or the signing of the Coastal Act in 1976 threatened the private status of the beach community. Although the Coastal Act declared that new development could not block public access to the beach, the cottages at Crystal Cove predated the law and were exempt from the requirement. Unless and until someone applied for a permit to build new structures at the Cove (an unlikely scenario, as none of the structures had permits to begin with) the Coastal Commission was powerless to require public access.

But California’s new coastal protection laws also indicated an overarching public sentiment: Californians wanted their beaches preserved, not developed. With post-war urban sprawl overtaking much of Orange County, Coveites couldn’t ignore the mounting pressure of the development boom all around them. They had no property rights beyond their short-term leases, and with a prohibition against repairs and remodels, Coveites were increasingly vulnerable. The Coastal Act would ultimately prove to be a double-
edged sword: forcing fundamental changes to the community while at the same time providing a bulwark against its complete destruction.

By the late 1970s, there was trouble in Paradise. The Irvine Company had already sold off several of its coastal parcels over the years, and many feared that Crystal Cove would be next. Founder James Irvine had always envisioned the area as a national park, and in 1931 had attempted to strike a deal for the entire stretch of coastline from Corona del Mar to Crystal Cove (Steen, Davick and Braselle 2005, 59). He never consummated the deal, but in 1973, the Irvine Company offered to sell nearly 2,000 acres of coastal property, including Crystal Cove, to the State Department of Parks and Recreation.³ Years of negotiations and litigation ensued,⁴ during which time Cove residents successfully petitioned (over the objections of the Irvine Company) to include Crystal Cove in the National Register of Historic Places, as an insurance policy against demolition. But in 1979, just as Davick was turning 20, State Parks finally purchased the property for $32.6 million, a record sum at the time (Steen, Davick and Braselle 2005, 108). The Cove had finally been sold, along with 3.2 miles of coastline and 2,400 acres of backcountry just inland of Highway One (Figure A6).

Overnight, the Coveites’ private village became a public park. The gates came down, and the “No Trespassing” signs were replaced with the State’s signature public access plaques: white footprints and a wave on a brown background. Coveites now had

³ This may have been in direct response to the passage of Proposition 20, which made coastal development much more difficult. Many large landowners of the period sought to sell their land to the state, ultimately leading to the creation of the Coastal Conservancy, as state agency whose mission is to purchase and protect coastal properties for preservation and public use. (Interview with author, Peter Douglas, Peter and Bill Kier, 2011)

⁴ The deal was delayed when two Irvine family members successfully sued the Irvine Company on the grounds that the original sale price of $7.5 million was too low (Steen, Davick and Braselle 104).
to share the beach with the public, and conform to State Parks’ rules. “No bonfires, no horses, no dogs off leash” (Steen, Davick and Braselle 2005, 116). The Yacht Club was deemed a safety hazard and dismantled. But most significantly, the cottage dwellers
realized that their days as Cove residents were coming to an end. The first eviction notices arrived the same year.

Coveites lawyered up. Because of their National Historic designation, the cottages could not be demolished, despite their advancing dilapidation. In the meantime, the litigation kept the eviction notices in abeyance. For twenty years, Coveites were able to negotiate a series of lease extensions with the state, in return for giving up relocation assistance when the final day of reckoning came (Steen, Davick and Braselle 2005, 119). Unable to sell their leases, cottage owners passed them down to family members, maintaining the community’s continuity. After her parents died, Davick moved in full time. She scattered their ashes offshore. Living in the little blue cottage was a way for Davick to keep their memory alive.

By the mid-1990s, the tenants were hanging on with month-to-month State leases (Vardon 2001). So when the men in suits and inappropriate shoes showed up at the Cove in 1999, poking around and asking questions, residents were alarmed. Their inquiries revealed that five years earlier, in April of 1996, State Parks had signed an exclusive, 60-year contract with Post Ranch Inn developer Michael Freed to convert the cottages at Crystal Cove State Park into a high-end luxury resort. In a twisted spirit of public-private partnership, Governor Wilson had agreed to allow the developer to rent rooms at the 76-unit resort for $375-$700 per night in a publicly-owned state park, in return for cutting the state in for a share of the revenue. Coveites were shocked. The deal had been struck behind closed doors without notice, no public process, no public review (Ibid.). Not only would the historic charm and character of Crystal Cove be lost forever, the general public would be priced out of such an expensive facility, setting a “dangerous precedent
for funding cash-strapped state parks by turning them into for-profit enterprises” (Steen, Davick and Braselle 2005, 128). This “Disneyfication” of the Cove angered both residents and open-space advocates, uniting them behind a common cause.

But Davick was conflicted. As one of the spectacularly fortunate few to call Crystal Cove home, she had grown up as part of a tight-knit community that had fought for years to save their way of life. But she also understood that private residences were at odds with the purpose of a State Park. She had to make a choice: join her neighbors in one, last, futile law suit to try and eke out a few more years at the Cove, or take proactive steps to protect the historic structures and prevent them from being supplanted by an exclusive luxury resort. While she understood the sentiments of neighbors who wanted to remain as long as possible, she felt strongly that it was time to close that golden chapter, and focus on how to preserve Crystal Cove for the benefit and enjoyment of future generations. So after learning about the resort deal in 1999, she formed a non-profit organization, the Alliance to Rescue Crystal Cove, and went to work. But still, she felt the neighborhood tension every day.

“I really knew our time was up,” Davick explained. “It was a new era, there was no way the state was going to let us continue on. And so my vision really shifted. Although I was still a resident, I recused myself from any of the litigation, and I let it be known that this was not about saving my cottage [for me] it was about saving all the cottages [for the public]…But for all the families that were there it was a very difficult time, because they had those cottages in their families for generations…And it was a very difficult time for me personally, because some of the people who lived there felt
that, you know, I should have been on the other side… [but] I had a different vision for what Crystal Cove could be” (Davick 2012).

As the spokesperson for the Alliance, Davick began to spread the word about the state’s secret deal with the resort developer, and what a high-end hotel in a state park would mean for the community and the rest of the state. Careful to always refer to it as “our” state park, she spoke to civic and environmental organizations, artist groups, and public boards and commissions, from the California Coastal Commission to the Laguna Beach City Council. “Anywhere they would let me talk about Crystal Cove, I would go,” she said. “People were always interested in knowing what was happening down at the Cove, so I felt like I had an audience. And they were also surprised by the fact that this contract existed, and that they weren’t aware of it. So there was lots to talk about” (Davick 2012).

As word spread, Davick’s PR campaign gathered steam. With groups such as the Sierra Club, the Nature Conservancy and Natural Resources Defense Council (Steen, Davick and Braselle 2005, 132) joining the fight against the resort, news coverage increased. Newspapers like the Los Angeles Times and Orange County Register covered the story as it unfolded, with headlines like “Ritzy Resort or Rustic Retreat?” (Mehta 2000) and “A Rival Plan for Crystal Cove” (Vardon 2001). The articles framed the Alliance’s concerns with building a $35-million dollar luxury resort in a popular state park, and gave them a platform to excoriate the State for signing a deal with a developer behind closed doors.

Still, it was an uphill battle. State Parks was not backing down. Davick threw herself into her new mission, but was under no illusions. “We were so close to losing it,
and in fact we had lost it,” she recalled. “The contract was signed, this was a done deal. This was not just some plan that was being discussed” (Davick 2012). But she kept the pressure on. As public opinion galvanized, Davick and the other groups organized beach rallies, circulated petitions and launched letter-writing campaigns (Figure A7)

Feeling the public pressure, State Parks Director Rusty Areias scheduled a public meeting in Newport Beach to pitch the plan and introduce San Francisco-based developer, Michael Freed to the community. Constrained by Freed’s legal contract with the state (which had been negotiated by Areias’ predecessor), Areias felt he had no
option other than to convince detractors that the resort would preserve much of Crystal Cove’s ambiance, and be a tasteful amenity that would still allow some public access.

The meeting was scheduled for January 18, 2001, at the Lincoln Elementary School.

But the Department proved no match for the opponents. Davick, who didn’t really know what an activist was two years earlier, had become both a top-notch organizer and tactician. She ran newspaper ads publicizing the meeting and circulated flyers asking, “Do We Need Another Resort?” (Figure A8). Two days before the meeting, she and her supporters held a pre-emptive press conference unveiling her alternative proposal for saving Crystal Cove: “The Crystal Cove Center for the Arts and Environment” (Vardon 2001). Managed by a non-profit organization, she envisioned a public educational facility where scientists could study marine ecosystems and water quality and children could learn about the ocean and California history. Lending support and gravitas to Davick’s vision was iconic philanthropist/heiress Joan Irvine-Smith, whose great-grandfather had envisioned the area as a National Park 100 years ago. “We must keep the park for the people,” said Smith at the press conference. “I would love to see it kept as it is, the spirit of what it is” (Vardon 2001; Daily Pilot 2001).

The press ate it up, running pictures of Irvine-Smith in her straw hat and bandana standing under a hand-painted banner that read “No Resort.” News articles and TV reporters highlighted the public meeting to discuss the fate of Crystal Cove the following day.

“It was absolutely perfect timing,” said Davick. “Joan wanted to get involved, and she had been following the story and offered her support…” (Davick 2012).
Figure A8. January 18, 2001 Public meeting announcement, circulated by the Alliance to Rescue Crystal Cove. (Laura Davick collection. Reproduced with permission.)
As fate would have it, Irvine-Smith and Freed, both real estate barons in their own right, ran into each other two days later in the Lincoln School parking lot, just before the meeting. Their exchange was cordial, but pointed. “It took me eight years to get Post Ranch Inn approved,” said Freed. “I’m a very patient man.” Irvine-Smith replied that she had spent more than 30 years in litigation with the Irvine Company, saying, “I’m really patient too” (Mehta 2001).

Then they both walked into the maelstrom. Environmental groups with differing visions for Crystal Cove’s future had agreed to put aside their differences and unite behind the single goal of killing the luxury resort plan. Between 600-800 people had turned out to oppose it, many wearing “Save The Cove” T-shirts. Banners and signs saying “No Resort” were everywhere. Volunteers were handing out stickers and collecting names for future organizing efforts. For Davick, it was the culmination of months of effort. “It was great,” she said, recalling the evening. “It was probably one of the best meetings I’ve ever attended. It was just a wonderful demonstration of the community pulling together to say, ‘Not on our watch, not at Crystal Cove’” (Davick 2012).

State Parks Director Rusty Areias opened the meeting with introductions and an overview of the project’s history, followed by a power point presentation showing conceptual plans for the resort. Because the cottages were listed on the National Historic Register, they couldn’t be demolished. But they were badly in need of repair. Freed’s project would remodel and modernize them. Some would be expanded to include a second story, others split into duplexes or triplexes to create more rooms. The site plan included a 100-seat restaurant, valet parking, three swimming pools and a gym (Steen,
Davick and Braselle 2005, 128). But when Freed himself stepped up to the lectern to provide details, he was shouted down by a raucous crowd chanting “No Resort” and shouts of “Put it in Riverside!” (Clinton 2001, Mehta 2001). Criticizing the “back room deal” and urging Areias to take a strong message back to Sacramento, more than 30 speakers railed against the resort proposal. After the meeting, a dejected Freed said, “I’ve never been at a public meeting where they won’t let me speak” (Mehta 2001). Areias was chagrined. “You can’t go through a meeting like this and not have it affect your thinking,” he said (Clinton, 1/20/01). So complete was the drubbing that a Los Angeles Times editorial declared it “…a battle that was lost from the day it was announced” (2/11/01).

Davick was elated. “I knew that from that point forward, as I pulled out of the parking lot, that that plan was dead. It was not going forward. I could just tell it was like the wind had shifted” (Davick 2012).

After the January 18 meeting, Freed, too, had clearly seen the writing on the wall. So he called Coastal Commission Executive Director Peter Douglas for advice shortly after the meeting. Freed had a reputation for developing environmentally-themed hotels in the coastal zone, and the regulator and the developer respected one another.

Ironically, the cottages at Crystal Cove that people fought so hard to save could never be built on the coast of California today. Some are directly on the sand. Others are perched on the edge of the bluff. It’s precisely the type of development that the Coastal Act was created to prevent. And yet, Davick found an avid supporter in Coastal Commission Executive Director, Peter Douglas. Unbeknownst to Davick, he did more
than just share her public vision for Crystal Cove. He played a key role behind the scenes in convincing the would-be developers to drop their plans for a high-end resort.

Douglas recalls that Freed wanted an honest assessment of his chances of getting the development approved by the Coastal Commission. Douglas was polite, but blunt. “It would have been a colossal give away of a public resource,” recalls Douglas. “So (I) told them they couldn’t do it…I made it very clear to them that if they wanted to go that way they’d have to go through me. And I was going to fight this thing to the end because it needed to be open to the public” (Douglas 2012).

Less than a month after the meeting at Lincoln School, parks officials announced plans to buy out Freed’s contract. “It helped that their boss, Governor Gray Davis, had been elected after the plan was approved; the resort was now cast as a cynical idea from a previous administration” (Steen, Davick and Braselle 2005, 135). In March, two months after the fateful meeting at the elementary school, the State Coastal Conservancy approved $2 million in bond funds to retire the developer’s rights. Freed, the patient developer, pocketed the money and walked away from the project. By April 2001, the state was back to the drawing board in terms of what to do with its dilapidated and deteriorating park.

But Freed wasn’t the only one walking away. Eviction notices to Cove residents were mailed out the same month. Water quality problems associated with leaking septic systems and urban runoff into Los Trancos Creek had prompted the Santa Ana Regional Water Quality Control Board to issue a cease-and-desist order to State Parks. Officials claimed that in order to make mandated upgrades, the cottages had to be vacated. California State Parks spokesman Roy Stearns explained, “People will have to leave.
They’ve been here 21 years, in publicly owned cabins on publicly owned land, at a rate that is one-fifth of the market rate” (Winker 2001).

Bereft residents negotiated an extension that allowed them to stay through the Fourth of July, but everyone realized the 80-year idyll had finally come to a close. Along with one last blow-out beach barbecue and volleyball tournament with extended families, friends and former residents, Coveites staged a commemorative “paddle out.” A ritual usually reserved to honor the passing of a fellow surfer, this one marked the end of an era. Roses were scattered on the water, tears were shed, goodbyes said (Steen, Davick and Braselle 2005, 135). Laura spent her last night at the Cove the way she had spent so many before: sleeping on the porch, listening to the frogs in the creek and the waves on the beach.

Shifting her focus from stopping the resort to planning for the future, Davick changed her organization’s name to the Crystal Cove Alliance. State Parks held a series of meetings to gather public input on what to do with the cottages. Opinions ranged from converting them all to a low-cost travelers’ hostel, to classrooms for kids, to a scientific research facility, to tearing them all down and restoring the native habitat. Davick advocated for plan with some of each. In the end, the plan for Crystal Cove reflected a blend of several visions.

Phase One, completed in June, 2006, included the restoration of 22 cottages for affordable overnight rentals, dorm-style lodges, a café, classrooms and administration offices at a cost of $12 million. (Figure A9).

Phase 2, completed in 2011, includes critical infrastructure and the restoration of seven more cottages at a total of $7 million, raised entirely by the Crystal Cove Alliance.
It includes an artist retreat, space for visiting researchers, and a “museum” where people can pick up a 1940s telephone and listen to Davick’s recordings of former residents recalling the glory days of Crystal Cove. It’s decorated with vintage bathing suits, long boards and framed posters of all the movies filmed at the Cove. A marine research facility is used by visiting scientists and schoolchildren on field trips. Volunteers steward the tide pools, educating visitors and protecting the intertidal marine life that is thriving once again (Figure A10).

The Crystal Cove Alliance is now in the process of raising $20 million to fund the final phase of the project, restoring the seventeen remaining cottages on the north end
of the beach, which will more than double the number of cottages in the overnight rental program (Davick 2012) (Figure A11)

The non-profit organization that Davick founded now holds the contract (a bid it won in an open public process) to manage Crystal Cove State Park Historic District, including the overnight rentals, restaurant concession and gift shop, and shares a percentage of its income with State Parks, as was originally intended in the resort contract with Freed. But unlike the resort, the balance of the profits gets re-invested into the park, supporting maintenance and future improvements. Davick’s once-unlikely dream has become a model for public-private partnerships throughout the State Parks system. And Laura Davick has found her calling. Instead of living at Crystal Cove, she
now goes to work there every day. She took on the role of furnishing the restored cottages with period-appropriate furniture, art and appliances. In the process, she’s become a mid-century Martha Stewart, buying old quilts and kitchen utensils and vintage furniture from thrift stores and garage sales. A few of the resettled families donated original items to be placed back in their old cottages. The result feels like the residents still live there, and have just invited you over for the weekend. Seeing the families and couples of all ages enjoying her former home more than compensates for relinquishing it. With an occupancy rate of over 98%, Crystal Cove has become a “California phenomenon, the quintessential beach experience.” Davick calls a stroll through the little village an “attitude adjuster” (Davick, 2012), stating:
“I think if I had seen the magnitude of how much work this was going to be, I may have chose another path,” she laughed. “But I now have this huge sense of purpose in my life” (Figure A12.)

Figure A12. Crystal Cove cottage. (Photo by J. Christopher Launi, courtesy of Crystal Cove Alliance. Reproduced with permission.)
THE JONATHAN CLUB

Public Access meets Affirmative Action

It is safe to assume that the drafters of the Coastal Act never envisioned their law being used to force the integration of an all-white men’s social club on the beach. But that’s exactly what happened in 1985 when the Jonathan Club, one of Los Angeles’ “oldest, richest and some say, most restrictive clubs” (Hanania and Stambler 1986, 130) applied for a coastal development permit to remodel their clubhouse and expand their parking lot and paddle tennis courts onto a stretch of Santa Monica beach. In the agency’s most creative and far-reaching application of the Coastal Act’s public access policies, the Coastal Commission forced the club to adopt a non-discrimination membership policy--over the club’s strenuous objections. It was a startling and unorthodox move that was litigated all the way to the U.S. Supreme Court. And it would never have happened if the Coastal Commission’s own attorneys had had their way. Fortunately, Coastal Commission Executive Director Peter Douglas, a lawyer himself, knew how to operate beyond the limitations of legal advice.

For years, the City of Santa Monica had been in a dispute with Jonathan Club over private/public property boundaries on a popular stretch of sandy beach. The club, established in 1928, had built its ocean-front facility on what it believed was its own private property. But property lines are notoriously difficult to pinpoint on shifting sands, and later surveys showed that it was, in fact, located partially on state-owned tidelands under the City’s control.

After decades of disagreement, the Jonathan Club settled its boundary dispute with the City in January of 1984, and obtained a state lease from the State Lands
Commission for land under the existing building as well as some additional sandy beach for planned expansion (Hanania and Stambler 1986; Coastal Commission Staff Report Application 5-85-76, 1985).

The City had initially objected to the club’s expansion plans, following allegations that the Jonathan Club’s membership policies discriminated on the basis of gender, race and religion. News reports that the Club refused to allow an African-American member of the Air Force Academy Cadet Choir to sing inside the facility, told prospective members that “blacks and Jews were not welcome,” and required applicants to fill out questionnaires with questions about their “descent,” had prompted City councilwoman Cheryl Rhoden to vow that the city would not give “one grain of sand” to the Jonathan Club unless it changed its membership policy (Hanania and Stambler 1986, 134) (Figure A13a).

Concerned about the prospects of litigation, the City finally settled with the Club, and the State Lands Commission issued a 25-year lease on four parcels of state-owned beach to the Club, adjacent to the clubhouse. The last remaining hurdle was for the Club to apply for a coastal development permit from the Coastal Commission.

The project5 was assigned to Nancy Cave, Coastal Commission staff analyst in San Francisco. She had serious concerns about allowing the club to expand their existing footprint on the sandy beach (Cave 2012). She questioned whether allowing a private club to develop on public land was consistent with Coastal Act policies protecting public access and promoting recreational uses. But most of all, as a self-described feminist, she was disturbed by the club’s membership policies excluding women and minorities.

5 CCC Application No. 5-85-76
Figure A13. Jonathan Club, Santa Monica (a) 1972 and (b) 2010. (Copyright © 2002-2004 Kenneth & Gabrielle Adelman - Adelman@Adelman.COM. Reproduced with permission.)
“Many of us were opposed to giving up any sandy beach whatsoever,” recalls Cave. “We were looking at these clear impacts to public access, this clear loss of public beach and trying to decide whether or not we could recommend approval . . . . And the only way we could see it being consistent with the law . . . was to be assured by the club that no one was prevented from being members here” (Cave 2012).

So she discussed the proposed project with her boss, Peter Douglas, the Coastal Commission’s Executive Director. Douglas, himself a Jew with a strong sense of justice, immediately agreed with Cave. Although he wasn’t overly concerned about the physical development proposed by the Jonathan Club—he reasoned that Santa Monica beach is so broad the impacts to the public trust would be minimal—he felt that excluding members of the public from joining a private club located on public property based on gender, ethnicity and religion was morally reprehensible as well as unconstitutional (Douglas 2012).

But rather than denying the application, Douglas wanted to find a way to use the Coastal Act to force the club to change its ways. His reputation for pushing the legal envelope when it came to applying the Coastal Act was already well established. If the Fourteenth amendment of the United States Constitution prohibits the State from discriminating on the basis of race or religion, and the state allowed a private club operating on state-owned land to discriminate, isn’t that a violation of the Constitution?

It was a novel idea.

Most lawyers don’t like novel ideas.

Anthony Summers, the Deputy Attorney General assigned to represent the Commission certainly didn’t. Although Summers was also Jewish, and privately
offended by the Club’s membership policy, he was a consummate professional who believed his personal opinions weren’t relevant when it came to legal matters. His first responsibility was to advise the Coastal Commission on the application of the law. “It was certainly not my job to advocate how the Commission should vote on any particular matter,” explained Summers. “My role was to tell them what the law was…or what I thought a court was most likely to do…but not to argue with them or try to convince them to do one thing or another. And while I had to sit back and try to be very, very objective, Peter didn’t have that limitation” (Summers 2012).

In this case, his initial advice was unambiguous. “At first blush, discrimination in membership of a private club is pretty far removed from whether a coastal development permit [is required]” said Summers (Summers 2012). He pointed out that the Coastal Act was clearly never intended to be used in this way. He told Douglas and Cave if the Commission got sued, they’d lose. And if they lost, they ran the risk of getting a bad court decision that could potentially weaken other aspects of the Coastal Act. Summers and the Commission’s staff attorneys thought it was a foolish idea, and dangerous to boot (Cave and Douglas 2012).

The Coastal Act’s public access policies are built on Article X of the California Constitution which says:

no individual, partnership, or corporation claiming or possessing the frontage of tidal lands of a harbor, bay, inlet, estuary or other navigable water in this state shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, and the Legislature shall enact such law as will give the most liberal construction to this provision so that access to the navigable waters of this state shall always be attainable to the people thereof . . . .
The Legislature enacted “such law” when it passed the Coastal Act in 1976. The specific sections Douglas and Cave were focused on were Sections 30210 and 30211, which read:

**Section 30210 Access; recreational opportunities; posting**

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided *for all the people* consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse (emphasis added).

**Section 30211 Development not to interfere with access**

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

To Douglas’ way of thinking, applying these policies to the Jonathan Club was simply following the Constitutional and Coastal Act mandates to afford the most liberal construction to those policies. He and Cave had a heated debate with Summers and the other staff attorneys who felt Douglas and Cave were overreaching. The more Douglas advocated, the more they dug in their heels.

“I couldn’t believe some of these attorneys who otherwise are very smart [and] ethical, arguing with a straight face why [the Jonathan Club] should be able to discriminate on who gets to come and use public property,” said Douglas “It was outrageous.” His feeling was that if a court was going to strike down the decision, at least the Commission would have done the right thing. (Douglas 2012).

But Summers made it clear that if staff recommended abolishing the Jonathan Club’s membership practices, he would have to advise the Commission publicly to
disregard the recommendation. He could not, in good conscience, allow the staff to advise the agency to take an action he saw as legally indefensible.

Douglas knew he was outflanked. Exposing a rift between the Commission staff and the Attorney General’s office in a public hearing would be a debacle that would undermine his credibility. So he backed down and deferred to Summers and the other lawyers. Douglas dropped the idea, and instructed Cave to do the same. Or so it seemed.

While a dejected Nancy Cave was writing up her staff report and recommendation, Douglas had one more card to play. He had honed a keen sense for situational politics and tactical strategy during his years in Sacramento, and understood how to navigate around roadblocks: in this case, his own attorneys. Unbeknownst to them, Douglas was working on a behind-the-scenes strategy. Knowing that if the Commissioners decided ‘on their own’ to address the club’s membership policies, the Attorney General would be duty-bound to defend their decision in court. He understood that Summers wouldn’t want to say anything in the public hearing that might compromise future litigation, because attorneys hate to lose. So while Cave and Summers thought he had capitulated, he was actually just plotting a different course.

“I got overridden by the staff because they felt so strongly about it,” said Douglas. “I didn’t think it would be seemly to have a public debate of staff making one recommendation, and the Attorney General coming in and making another recommendation. I thought that would undermine credibility of the staff. It just...it would look awkward. So I decided as I had done before that I would talk to several commissioners. Let them bring it up. [Because] when a question comes from a
commissioner it does dramatically change the dynamic of the discussion” (Douglas 2012).

When Douglas told a few key Commissioners about the Jonathan Club’s policies, they were incensed, and agreed with him that the Commission was obligated to uphold “a higher law.” Douglas offered his opinion that the Commission would be within its authority under the Coastal Act and the U.S. Constitution to require them to desegregate. They readily agreed to advance the idea in the upcoming meeting (Douglas 2012).

On July 25, 1985, the Commission held its monthly public meeting on San Diego’s Shelter Island. After Nancy Cave gave her presentation and recommendation to approve the project, David Lehrer, counsel to the Anti Defamation League got up to speak. Lehrer was also representing the National Association for the Advancement of Colored People (NAACP), the National Organization of Women (NOW), the Mexican-American Legal Defense and Education Fund (MALDEF) and several other social justice groups. He urged the Commission to use its authority to force the club to end its history of discrimination. He concluded his passionate remarks by saying, “The issue of discrimination in the admission policies of social clubs is one that touches us all. The fact that any institution continues to restrict admission on the basis of race, religion, ethnicity and sex, is troubling enough. However, when those institutions are also the loci of economic opportunity and power in our community, the sin is compounded…We think it is obligatory for this Commission to take positive steps to assure that non-discrimination, which is forbidden by those who do business with the State, who operate in the State’s facilities, and on the State lands, ought to apply to the Jonathan Club, as it does to other
Commissioner Marshall Grossman, a Jewish trial attorney specializing in class action cases, saw his opening. He called The Jonathan Club’s representative, Robert Philibosian, up to the podium, and began grilling him on the nature of the club’s membership policies. Philibosian refused to give Grossman a straight answer, repeating several times, “That issue is not before the Commission” (Transcript of Proceedings 1985, 15).

Grossman doubled down. With Philibosian still standing uncomfortably at the podium, he pulled out a 1981 article from Los Angeles Magazine, and read a revealing quote from a Jonathan Club member:

. . . and what about the thing with the blacks? God, if you think about it, everything is working in their favor. One day the Clubs will probably have to take them. Some ‘cockamamie’ law will probably mandate it. (Transcript of Proceedings 1985, 15)

The Jonathan Club representatives didn’t know what hit them. After months of negotiating with Coastal Commission staff for a favorable recommendation, and building several amenities into the project—such as beach restoration, a public shuttle, and a new public accessway along the edge of their property—they undoubtedly thought their permit would get approved with little controversy. To Grossman’s repeated questions about their membership policies, their attorney’s could only respond with an unsatisfactory, “That issue is not within the purview of the Coastal Act, and therefore is not before this Commission” (Transcript of Proceedings 1985, 16).
“And the more they argued, the more serene I got,” recalls Douglas. “The more I smiled and the more I thought inside, “You’re never going to override the Constitution, you’re never going to supersede what we all know is the right thing to do” (Douglas 2012).

Anthony Summers can’t now recall who it was that tipped him off ahead of time that Commissioners would be discussing the Club’s membership policies. It may have been his lifelong friend, Coastal Commissioner Marshall Grossman. He may have read about it in the local paper (Ballenger 1985). But however he got his advance notice he was grateful for it, “because it was always very helpful to know in advance if a complicated legal question was going to come up” (Summers 2012). Knowing he would have to back up his advice to the Commission with actual case law, he decided to spend some time in the law library researching federal cases that might apply to the situation. His research revealed a surprising fact. Three federal cases, while not precisely on point, raised the possibility that the Commission might be able to address the issue. After reading them, he was no longer convinced that the Commission would be overreaching if they required the Jonathan Club to open its membership. Two of the cases supported the State’s obligation to uphold the Fourteenth Amendment and affirmatively prohibit discrimination by private parties. The third case found that a State-issued permit alone (specifically, a liquor license) was not sufficient to invoke the Fourteenth Amendment. In other words, Summers now felt he could argue the question either way, depending on what the Commission wanted to do.

---

Now, faced with a Commission that was clearly leaning toward forcing the Jonathan Club to desegregate, he pivoted away from his original legal advice just as Douglas had predicted. When Commissioners asked him for clarification, Tony Summers carefully articulated his new legal theory:

> . . . under the US Constitution, a purely private organization . . . can discriminate. But if the involvement of the government in the operations of the private entity is sufficiently strong, then you get to where any kind of discrimination becomes State action, so the state could be blamed if they didn’t take appropriate steps to prevent that sort of discrimination. And so we then had the question well, what if they do discriminate and the Coastal Commission has issued a permit to allow them to use all this public land as part of their private club and perhaps they are excluding certain members of the public from membership, is that going to involve the Coastal Commission in being responsible for that discrimination? And . . . I concluded that the courts were more likely to say the…Commission did have a sufficient basis for putting a condition on its permit saying, in essence, you shall not discriminate. (Summers 2012)

In other words, because the proposed development, and by definition, its associated discrimination, was taking place on public land, not just private property, the Commission had the ability and perhaps even the obligation to address the club’s membership policy. With its newly issued leases from the State Lands Commission, there was no question that the Club was already operating partially on public land, even as it sought to expand onto additional public beach area.

For its part, the Jonathan Club never admitted that it discriminated against women and minorities. But because its representatives refused to answer the question directly, Commissioners assumed the worst. Commissioner David Malcolm made a motion to require the Jonathan Club to sign a statement of non-discrimination in order to get its permit. This touched off a debate among commissioners over whether or not it was proper for the Coastal Commission to engage in what one commissioner called
“social management” (Transcript of Proceedings 1985, 43). Commissioner Wright stressed that discrimination in any form disturbed him, but he felt it was an inappropriate issue for the Coastal Commission to address.

“I do not feel that this is the forum in which the determination of open or closed membership, or whether or not there are discriminatory practices in the membership that violate the Constitution, are to be made,” said Wright. “That was not part of the Coastal Act. The Coastal Act deals with natural resources, and the management of natural resources . . .”(Transcript of Proceedings 35).

Commissioner Steve MacElvaine was similarly skeptical, saying “I do not feel comfortable that the California Coastal Act gives us the purview of looking at admission policies within organizations” (Transcript of Proceedings 38). He and other Commissioners were wary of taking such an action without explicit statutory authority in the Coastal Act, which, of course, did not exist.

Other commissioners countered, citing their own personal histories of discrimination, (a black woman, an Asian, a Native American and at least two Jews were serving on the Commission at the time). Commissioner Michael Wornum said he didn’t know about “legal niceties,” but it seemed “patently obvious” to him that the Commission, as part of its mandate to protect public access, should put an end to the Club’s discriminatory practices. But Commissioner Grossman made the decisive argument:

Many of you are not members of minority groups, and you don’t know the feeling of walking by an institution and knowing it is really a symbol, a vestige of racism, of social discrimination. While racism and social discrimination is not the same as genocide, they are the seeds of genocide. It is in clubs like this, which are lily-white, all male bastions, free of the impure
except for a chosen few, where prejudice is passed on from generation to
generation. The kids grow up being served by blacks, being served and
babysat by Hispanics, having their food cooked by Asians, but yet knowing
that these people may not join as members, as they inherit memberships of
their parents. The Jonathan Club can discriminate if it wants, but not at my
expense. It cannot take public, sandy beach and public parking lots and
convert them to its own use at my expense and discriminate against my kids.
Public access means access for everybody. (Transcript of Proceedings 48-50)

In the end, the Commission adopted the new condition on a vote of 9:3, and the
Jonathan Club got its permit. They were free to build their parking lot and tennis courts
on the beach, as long as they opened up their membership. The language of the new
condition read:

Prior to transmittal of the permit, the club has to deliver to the Executive
Director a statement that the club will not discriminate on the basis of race,
sex or religion. Certification of the membership policy shall remain in effect
for the life of this project. (Coastal Commission Adopted Findings 1985, 3 )

Jonathan Club officials “howled in outrage” (Hanania and Stambler 1986,132).
No one was surprised that they sued. But before they did, they requested the Commission
reconsider their action the following month at their August meeting. When
Commissioners denied the request, the Club served notice on Peter Douglas, Anthony
Summers and Coastal Commission Chair Mel Nutter personally (Kobrin 1985). It was a
dramatic and unusual flourish, designed to demonstrate the depth of their animosity.

Now obligated to defend the Commission, Summers went into high gear. “Once
the Commission did what it did, Tony became a pit bull,” said Douglas. “And he’s a
great attorney. And he fought this thing excellently…He was terrific” (Douglas 2012).

On behalf of State Attorney General John Van de Kamp, Summers immediately
invited the organizations that had originally objected to the Club’s membership practices
to join the case as interveners (Van de Kamp 1985). Eager to assist, the Anti Defamation
League (ADL), the Center for Law in the Public Interest, the Women Lawyers Association of Los Angeles (WLALA) and the Los Angeles National Organization for Women (LA NOW) filed briefs in support. In their cover letter, the attorneys for LA NOW asserted that “one of N.O.W.’s highest national priorities is to eliminate private club discrimination against women” (Woocher and Hall, Amici Curiae Brief 1985, 2).

Their primary argument asserted that “the Equal Protection Clauses of the federal and state constitutions prohibit unlawful discrimination by the Jonathan Club in the use of State-owned lands” (Woocher and Hall, Amici Curiae Brief 1985, 2). Under their interpretation of the law, the Commission had not just the authority to impose a non-discrimination condition on the club, it had the obligation to do so. Therefore, “to prevent Federal Equal Protection constitutional violations, the Coastal Commission must ensure that the Jonathan Club will not unlawfully discriminate before issuing the club a development permit” (Woocher and Hall, Amici Curiae Brief. 1985, 3).

David Lehrer, who initially testified before the Commission, wrote ADL’s brief. In it, he analyzed the apparent “conflict between the individual’s constitutionally protected freedom of association, and the constitutional ban on state-sponsored discrimination in the Equal Protection clause of the Fourteenth Amendment” (Lehrer and Rosenthal 1985, Amicus Curiae Brief, 8). Citing eighteen different cases, including the three that Summers initially relied on, he concluded, “The membership condition does not unconstitutionally abridge the rights of the Jonathan Club as an owner of private property…Should the California courts forbid the Commission from placing its membership condition on the Club’s private development permit, they will effectively be forcing the Commission into a position of complicity with the Jonathan Club’s
discriminatory policy. Surely, in such a situation, the freedom of association must give way to the protections of the Fourteenth Amendment. Both briefs also included extensive arguments that the Coastal Act, and specifically the Public Access policies in Section 30210, provided the responsibility for the Commission to prohibit private discrimination on public lands.

Writing for the State, Anthony Summers relied primarily on the three cases he had researched before the hearing, and focused on rebutting the Jonathan Club’s assertions that the Commission had no jurisdiction in the matter. The Club’s contention was that the Commission had no legal basis for its action, that it was pre-empted by the earlier action of the State Lands Commission, that the proposed development would not “take” any public beach, and that Jonathan Club was denied due process because it had not been forewarned that the issue would be raised in the hearing (Shiner and Kobrin 1985). While Summers framed his response in terms of constitutional issues addressed in case law, and the Coastal Act generally, it is interesting to note the absence of any direct reference to the Coastal Act’s public access policies, specifically Section 30210 (Summers and Taylor 1988).

On October 21, 1985, Los Angeles Superior Court Judge Norman R. Dowds issued his opinion.

It seems to me under the circumstances that the use of the property does involve State action, and that the Fourteenth Amendment does apply . . . . The next question is whether the Coastal Commission has the authority to impose a nondiscrimination condition, and I believe that it does under Section 30210 of the [Coastal Act]…which requires that maximum access shall be provided for all people consistent with public safety codes and the rights of public property
The Jonathan Club was faced with a decision: live with the Court’s decision and allow women and minorities as members, abandon their development plans and retain their exclusivity, or appeal the lower court’s ruling. They chose to appeal. Peter Douglas was amazed.

“They were furious,” recalls Douglas. “They were really dogs. They were adamant. And they were angry. I could not believe how strongly they felt about this policy. And they just said publicly, ‘We are going to take this as far as we can, this is wrong, this a denial of our rights.” And we just said well, you’re welcome to it” (Douglas 2012).

On January 14, 1988, the 2nd District Court of Appeal issued its 29-page, unanimous decision in the Jonathan Club case, upholding the lower court’s ruling, and expanding on its legal underpinnings. The three appellate court justices concluded, “Faced with the possibility of invidious discrimination on public property here, which the Club refused to deny, the Commission properly avoided placing the state’s ‘power, property and prestige’ behind the Club’s reputed membership policy” (California Court of Appeals 1988). In its decision, the court relied on the Fourteenth Amendment of the United States Constitution which bars discrimination on the basis of race and color by a State Authority, and explicitly found that the Coastal Act authorized the imposition of the membership condition as one aspect of maximizing public access to state beach lands.

---


for all segments of the public. Most importantly, the Court ordered the decision Certified for Publication, meaning that its legal principles were significant enough to be relied on for future cases.

Undeterred, the Jonathan Club petitioned the California Supreme Court for review. The Supreme Court declined to hear the case, letting the appellate court decision stand, but they took the unusual step of ordering it de-published (Memorandum, 1988. Summers to Douglas, May 6). This was a blow to Summers and the organizations that had joined the litigation. It meant that while the ruling would still apply to the Jonathan Club, it could not be more broadly applied to future cases involving other social clubs. Why would the Court refuse to hear such a ground-breaking case, yet order the decision de-published? Anthony Summers has a theory:

I recall that around that time . . . it turned out that some members of the Supreme Court were members of a private club that may well have been discriminatory in its membership practices, the Bohemian Club up in the Bay area. And so if I had to guess . . . I think that the fact that there was a controversy as to whether it was appropriate for members of the judiciary to belong to private clubs that discriminated . . . . (Summers 2012)

Still convinced their civil liberties had been abridged, the Jonathan Club sought relief from the highest court in the land. In the Spring of 1988, the Jonathan Club submitted its petition to the United States Supreme Court, repeating all of the arguments that had failed to convince the California courts, and making some new arguments as well. More aggrieved than ever, the Club’s attorneys were now asserting that the Coastal Act itself (Sections 30001.5 and 30210) was unconstitutional.

The Attorney General’s office asked the Supreme Court to dismiss the case, pointing out that “[a]ppeals from state court judgments are subject to dismissal when
they are based upon nonfederal grounds” and that the Jonathan Club was not entitled to raise new issues (Summers and Taylor 1988). Although the motion was short-only 13 pages-Summers made his point convincingly. On October 11, 1988, he received a one-sentence letter from the Clerk of the United States Supreme Court. It read:

Dear Mr. Summers:
The Court today entered the following order in the above entitled case: The appeal is dismissed for want of a substantial federal question.
Very truly yours,
Joseph F. Spaniol, Jr. Clerk

And just like that, with a single, decisive sentence, the fight to integrate the Jonathan Club came to an end. The Club dropped its discriminatory membership practices, remodeled its clubhouse and built its paddle tennis courts (Figure A13b).

Years later, the Coastal Commission even held a public meeting at the facility. Peter Douglas recalls that the President of the Club at that time was an Asian Jew. Several Club members attended the meeting, including women, African Americans and Hispanics, and testified that they would not have been able to join if not for the Commission’s action. And although the case was de-published, Douglas points out that other private social clubs “saw the writing on the wall” and changed their policies voluntarily, including the Olympic Club in San Francisco and the Ingmar Club in Eureka (Douglas 2012). According to David Lehrer, the case led directly to the desegregation of the California Club, an elite Los Angeles social club that was even more recalcitrant about its membership polices than the Jonathan Club (Lehrer 2012). A week before his death, Douglas ruminated on the Coastal Commission’s accomplishment.

“I’m terribly proud of the Commission having done the right thing,” said Douglas. “I’m glad we avoided a public fight…among staff about the condition. So it all
turned out, in the end, very, very well. And the precedent of this condition has rippled throughout the United States. So another victory for the people that I feel good about” (Douglas 2012).

As of this writing, the status of the Bohemian Club’s membership policies remains unknown.

###

REFERENCES FOR MONTEREY BIKE PATH STORY

California Coastal Commission, Archived Files:
Litigation File. S. Pacific Transportation Co. L-280
- U.S. Court of Appeals for the 9th Circuit: Stipulation for Voluntary Dismissal of Appeals. 6/24/82
- Answer to Complaint for Declaratory Judgment and Compulsory Counterclaim. 11/10/80 80-3916.
- Memorandum of Points and Authorities of the Coastal Commission’s Motion for Summary Judgment. 3/6/81. Civil No. 80-3916 MHP. With particular reliance on:

  Exhibit 1: 6/21/79 Letter from Coastal Commission staff counsel John Bremner to Southern Pacific.
  
  Exhibit 3: 8/30/79 Letter from Les Strnad to Southern Pacific
  
  Exhibit 5: 9/28/79 Letter from Peter Douglas to Southern Pacific
  
  Exhibit 11: 10/24/79 Letter from ICC to Coastal Commission
  
  Exhibit 15: 11/26/79 Letter from Southern Pacific Land Company to Gary Tate, General Manager, Monterey Peninsula Regional Park District
  
  Exhibit 20: 7/31/80 Letter from Southern Pacific Company to Monterey Mayor, Gerald Frey.
California Coastal Commission Archives, Audio Tape, 07/25/85
• Southern Pacific Abandonment Application
• ICC Abandonment Order
• History of Interest in SP Rail Line, Monterey (sub file)
• Panetta’s and Mello’s History of Interest (sub file)
• 9/27/29 Letter from Edgar Haber to Fred Farr
• 10/29/79 Letter from NOAA to John Bremner
• 11/13/79 Letter from Rep. Panetta to ICC
• 3/3/80 Letter from Jeffry Wetmore to Edgar Haber

Coastal Development Permit File 3-86-98 City of Monterey Class III bike/Hike Trails With particular reliance on:
• Coastal Development Permit N. 3-86-98
• 7/31/86 Letter from Fred Cohen to Reed Holderman, State Coastal Conservancy
• State Coastal Conservancy Staff Report. 4/17/86. File No. 85-082
• City of Monterey Ordinance No. 2458. 6/2/82. “Ordinance Authorizing Purchase of Certain Property from the Southern Pacific Transportation Company Commonly Known as the Southern Pacific Right of Way.”
• Sale and Purchase Agreement between Southern Pacific, City of Monterey, and Seaside. 6/17/82.

California Coastal Commission, Internal Memos:


REFERENCES FOR CRYSTAL COVE STORY


“Saying No Was the Easy Part” February 11, 2001 Los Angeles Times, editorial

REFERENCES FOR JONATHAN CLUB STORY


California Coastal Commission, Archived Files:

- Declaration of Roy Gorman, Chief Staff Counsel, Sept. 9, 1985.
APPENDIX B
ADD PD INTRO: What you see is this trail....MUSIC

ROBIN: You're listening to Stories of the Coast: a virtual tour of the California Coastal Trail. I'm your host, Robin Pressman.

UNA: And I'm Una Glass...

ROBIN: In this episode, we travel to the shores of the Monterey Bay, to hear the story of a spectacular section of the California Coastal Trail. This public hike and bike path runs for 16 miles along the shoreline from Asilomar State Park in Pacific Grove, through the heart of historic Cannery Row and Del Monte Beach, linking the cities of Monterey, Seaside, and Marina, through Fort Ord Dunes State Park all the way Castroville. Although this is one of the most popular destinations on the Central Coast, few visitors know how close it came to being developed into a strip of high-rise hotels and private condominiums along the water's edge in 1978. But thanks to a brand new state agency that had just been created by California voters, that development never materialized. Let's meet the man who wrote the law that saved the coast. (WAVES)

PETER: My name's Peter Douglas, I'm the former Executive Director of the California Coastal Commission, I've been involved in coastal protection for 41 years. (PAUSE,WAVES) We are now standing at the Fishermans Wharf in Monterey on the Multi use bike path that is probably one of the most highly used public recreational corridors in the state. And nobody knows the history, nobody knows the back story of how much it took and how close we actually came to losing it. And if it hadn't been for this citizen activist and the coastal commission the public would have been denied the opportunity to utilize this fantastic recreational corridor. So people would not have been able to walk around the bay on this path as they do today because it was a corridor owned by Southern Pacific who in the 70s wanted to abandon the right of way and sell the land for development and that I think would have been unconscionable.

ROBIN: The railroad had been used for nearly 100 years to haul timber to SF after the earthquake, to ship sardines from Cannery Row during the war, and sand from the Asilomar Dunes to make glass. But by 1978 the trains ran only a few times a month, and SP had other, more profitable plans for the land under the tracks. Les Strnad was the first Coastal Commission staffer to learn what those plans were. (PAUSE)

LES: I get a phone call from one of my friends from the city of Monterey from Public Works that SP railroad personnel were removing rails at the old historic railroad station property here in the Monterey Peninsula. And indeed what we found was that SP crews with their big machines were in the process of removing the spur lines off the major line. And we talked to some of the workers and asked them what they were doing and they said we're removing the rails were abandoning this line. I asked where their notice was posted and they said inside the railroad station. Well of course at this time there was no railroad transit going on except for freight trains and sand trains so who's going to go inside of a railroad station? (PAUSE,MUSIC) And I said, "And how was I supposed to be informed?" (PAUSE) Well who are you? And I said well I'm in charge of the permit division for the Coastal Commission. And I said they ignored the Coastal Act. They ignored our agency. (SLIGHT PAUSE) Well, we're removing rails. (PAUSE)

ROBIN: So Strnad went back to his office, pulled out his typewriter and got to work. (Pause, TYPEWRITER CLACKING)

LES: It has to be the most powerful letter I ever wrote in my life. Because I wrote a cease and desist letter. And it was about a paragraph long. It said you are hereby ordered to stop removing rails. And I sent it off to SP HQ in SF. It was about 2 days later I get a phone call. "Les, what in the hell did you do?" (PAUSE, MUSIC)

ROBIN: That phone call had come from Strnad's boss, Peter Douglas, who had just talked to a very unhappy rail road representative. Later in the week, Douglas and Strnad met with SP Executives face to face.
LES: So we get to SP and we're escorted into a conf room. And this is the kind of conference room that they probably had to cut down a redwood tree to make the table. (PAUSE) One side of the table was lined with attorneys. And at the head of the table was this gentleman with his hands folded. And he said we have received your letter and we find it quite interesting that SP is being asked to cease and desist the removal of rails. We're abandoning that rail line. And the gentleman said I want to make one thing perfectly clear. He said SP is not in the transportation business. We are in the real estate business. And I looked at Peter, and he looked at me, and Peter spoke and said, "well, there's provisions of state and federal law that we don't think you've complied with." And again, they looked at us like we were bubbleheads you know, "what do you mean? that's our land and we'll do what we want with it, and we want to develop it." I said that still doesn't answer the question of failure to notify the Coastal Commission, and we have authority over you. (PAUSE) You could see his jugular veins start expanding on his neck. All of a sudden I think he realized that this wasn't going to be a smooth sail. And Mr. expanding jugular vein said well, I see no purpose in continuing this meeting. From there it's history.

ROBIN: With so many attorneys involved, there was no shortage of opinion regarding what to do next. The Coastal Commission's lawyers and the Rail Road's legal team exchanged lots of letters over the following months. The Commission got the Attorney General involved. Southern Pacific got the Interstate Commerce Commission to back them up. Eventually, it all wound up in court. It was the first legal test of the Coastal Commission's new federal authority. Peter Douglas got the outcome he wanted.

PETER: So as a result, of the Coastal Commission stepping into this, SP filed suit and wanted to prevent the Coastal Commission from asserting its jurisdiction and being involved, saying that this whole field of rail road abandonment was preempted by the federal government. Well they lost. And the SP folks in thinking about their appeal to the 9th Circuit saw the hand writing on the wall and decided to cut their losses.

ROBIN: Working with the cities and local advocacy groups, the Coastal Commission negotiated a settlement with the railroad. Southern Pacific agreed to drop their appeal and sell the land to a coalition of Bayfront cities for much less than the appraised value. The cities in turn agreed to pave over the tracks but leave them in place for possible future rail use.

PETER: The local governments as it turns out had been trying to acquire this right of way for several years, but SP just wanted to sell it for development. They set the price so high that it made it prohibitive. Local governments were not in a position to pay what SP wanted. Muuuuch reduced value.

And as a result the corridor was made into a recreational corridor for pedestrians for bicyclists for anyone who wants to be outside and have this wonderful seaside corridor around Monterey Bay. So it became a great success story very popular and I am really grateful for the Coastal Commission that it was there and stepped in. (and made a difference).

(MUSIC)

This program was produced by KRCB Public Radio Station in Santa Rosa, Coastwalk California, and California State University Chico Masters Student Sarah Christie. Our theme music, “Glacia” was written and performed by Micky Hart. For more information, please visit Coastwalk.org. I’m Robin Pressman for Coastwalk, saving the coast, one step at a time. (Glacia music)
Crystal Cove

“SAVING CRYSTAL COVE” SCRIPT
10/3/12

Intro music “Glacia”…

LD: (13:24) I think the experience that people love most about coming to Crystal Cove now is that it’s very simple. It’s very, very, very simple. (13:37) (13:46) There is nothing fancy about it. (16:01) when you drive down that little road that takes you into Crystal Cove and you leave behind Fashion Island and the Newport Villas and the gated communities, and you come to Crystal Cove you are stepping back in time.

Robin: You’re listening to “Stories of the Coast: a virtual tour of the California Coastal Trail” I’m your host, Robin Pressman.

Una: I’m Una Glass, Executive Director of Coastwalk California. Coastwalk offers this podcast series to share the beauty, history and science of the California coast.

Alternate Intro for radio:

You’re listening to “Always Being Saved: Stories of the Coast.” I’m your host, Robin Pressman.

Una: And I’m Una Glass, Executive Director of Coastwalk California. Coastwalk offers this series to celebrate the 40th anniversary of Proposition 20, by highlighting stories of how the California Coastal Act has protected our public beaches and trails. Because the coast is never saved, it’s always being saved.

Robin: In this episode, we take a trip to Crystal Cove State Park in Orange County. This historic beachfront community of hand-built cottages was originally built by squatters in the 1930’s on land owned by the Irvine Company. It survived as a private enclave for dozens of families until State Parks bought the land in 1979. Residents were allowed to remain for another 15 years, but in 1995, the state signed a secret deal with a hotel developer to convert the cottages into an exclusive, luxury resort. But thanks to the vision of one former resident who organized statewide support for preserving and restoring the cottages, Crystal Cove survives today as the last example of authentic early California beach culture. More importantly, it is affordable, and fully open to the public. This is a story about one woman who fought to protect her home---even when she knew it would never be her home again.

LD: (0:19) My name is Laura Davick, I’m the founder of the Crystal Cove Alliance, and I grew up at Crystal Cove, my family’s been there since 1937, and my parents fell in love there, and they acquired Cottage #2 when I was a year old, so I’ve virtually been there for the past 53 years. (0:38) (2:18) I don’t think there could be a better place to grow up than Crystal Cove. (2:22) (0:45) I often slept on the front patio at night, so getting up in the morning I’d run down to the beach, and go down to the tidepools…’I’d get up very, very early before the sun came up, and I’d run up the hill and get my horse, and throw the saddle on and bring her down to the beach and ride up and down that beach, it was really, really an amazing experience. (1:21)

Robin--Although the Cove was originally part of the historic Irvine Ranch, it was Hollywood that first discovered Crystal Cove. With its broad, sandy beach and tranquil bay, it made the perfect setting for early silent films, and movies like The Sea Wolf, Treasure Island and Beaches.

LD: (2:48)...there were lots of films that were made there during the teens and twenties, this was before the cottages were there. the reason that Crystal Cove was so desirable was that they could create a south seas feeling without ever leaving
California. And then some of the film sets were left up, one or two evolved into a cottage, and then families started coming
down and erecting these 1-room cabins on the beach. you have to remember back then, Pacific Coast Highway didn’t go in
until 1927 so that is really what opened up people coming into that area. (6:27) And this was all unbeknownst to the Irvine
Co, so as these squatters continued building these cottages, soon there were 46 of them, dotting the coastline there, and
so the Irvine Co sent out this letter saying if you would like to move your cottage you may, but if you do not from this point
forward we’re going to be charging you a land lease to remain here. So if you were in you were in at that point, you had a
lease. It wasn’t a long-term lease, but those were the families that were the fortunate ones that were able to live at Crystal
Cove. (4:05)

Robin—For the next several decades, the families that made up the Crystal Cove community enjoyed an idyllic,
carefree, yet exclusive lifestyle. The geography of the cove as well as the gate across the road ensured total
privacy for the residents. Behind the gates, Cove culture included luau parties, fireworks displays, bonfires,
grunion hunts and saluting the “martini flag” hoisted at 4:00 on Saturdays to mark the official start of Happy
Hour. Coveites built a “Yacht Club” out of hatch covers and driftwood, and even printed up mock
“membership” cards. Residents created unique personas for their eclectic cottages, which they christened with
names like “Whistle Stop,” “Pearl Harbor” and “The Tiltin’ Hilton.”

LD: (4:11) There were never any property lines at Crystal Cove, and so people just built where they wanted to. And there
was no permission, no permitting, no cities to go thru, no…nothing like that. So these cottages truly, just evolved over a
period of years. (4:32)

(4:40)…the way they were constructed, often times using materials that were found other places, sometimes things that
washed up on the beach, were used there was a large wooden schooner that washed ashore in 1927, and some of the
wood off of that schooner was used on the North Beach cottages, there is one cottage that has things from the Del
Coronado Hotel, and windows from an old railroad, and so it’s just an eclectic source of materials. (5:28)

Robin—But in 1979, the Irvine Company sold the property to the state. In an attempt to preserve their unique
community, residents had the foresight to get Crystal Cove included on the National Register of Historic Places
a few months before the property changed hands. The designation protected the structures, but when the beach
beneath the cottages became public property, the residents’ days there were numbered.

LD: (7:11) In 1979 State Parks purchased the property. At that point, it started to change. It was originally this small little
community where there was a gate, it was very private, and people didn’t dare to come in because they just didn’t feel that
they were welcome there. Then the gates came down, and it became open to the public, and then the rules started, and
there were no more riding horses on the beach, and no more fire rings or fires on the beach, and then fireworks were
against the rules and regs, so slowly it changed. And during that time we continued living there, But nonetheless, our time
was clearly up. We as residents were under more and more pressure to move. (11:58)

Robin—The Yacht Club was torn down, alcohol was banned, and the proud Martini Flag waved no more. Residents worked out a series of agreements with the State that allowed them to stay in their cottages
temporarily, while sharing the beach with the public. In return, they gave up any future relocation assistance. In
this way, they were able to remain for another 15 years. But in 1995, they started hearing about a new luxury
resort that would change the face of Crystal Cove forever. Five years earlier, behind closed doors, State Parks
had signed a 60-year contract with a hotel developer to transform the cottages into a luxury resort. Nobody
knew about the deal until men in suits started showing up at the Cove. When suspicious residents asked them
what was going on, they were shocked at the answer.

LD: (9:36) The plan consisted of converting the 46 cottages into 73 units, putting in three swimming pools, a 100-seat
restaurant, valet parking, and I assure you, it never would have been the same. But the primary concern was that the room
rates were going to be $375-$700 per night. So clearly creating a very private, and very commercialized enterprise. It was a
dangerous precedent for the State Parks system to give away park land like that.
Robin: Laura Davick started organizing public workshops to educate the community about the resort plan. She spoke at City Council meetings, Coastal Commission hearings, and at the Parks and Recreation Commission: anywhere and everywhere they would let her talk about Crystal Cove, she would go.

LD: (15:28) People were always interested in knowing what was happening down at Crystal Cove, so I felt like I had an audience. And they were also surprised by the fact that this contract existed, and that they weren’t aware of it… (10:57) It was unknown to the community what the resort plan was going to entail, and that we were so close to losing it, and in fact it had been lost. The contract was signed, this was a done deal. This was not just some plan that was being discussed. (11:14) …So there was lots to talk about. And there were other environmental organizations that were involved and were passionate about doing similar work. Everyone had a different vision for Crystal Cove. But we decided that in order to be really united and be strong we just really needed to fight the resort. And so, that’s what we all sort of coalesced around was getting that resort stopped. (21:45)

Robin—But Davick soon learned that the power of “no” only goes so far. In the process of fighting the resort, she discovered the inherent power of positive message: In this case, a better vision for Crystal Cove’s future.

LD: (12:16) I had a different vision for what CC could be, and first I felt that if it were going to be open to the public it needed to be affordable, but I also felt that because Crystal Cove was so unique that it really shouldn’t just be converted into a hotel, that it should become a world class facility that included some very exciting and important educational venues. (12:41) (12:57) I had amassed this huge collection of historic information as well as photographs, oral histories and so in my mind, those stories needed to be told, and that information needed to be a part of what people would experience when they came to Crystal Cove. Rather than some varnished version of what the cottages were like.

Robin—But some of Davick’s neighbors didn’t share her vision. They formed a homeowner’s association and sued State Parks in an attempt to keep their homes. Davick saw it as a lost cause, and publicly recused herself from the lawsuit. Instead, she founded a nonprofit organization, the Alliance to Rescue Crystal Cove, and continued her crusade.

LD: (8:42) When I formed the organization I realized that Crystal Cove was about to be lost. I was still living there, but I really knew our time was up. It was a new era, there was no way that the state was going to allow us to continue on. And so my vision shifted. Although I was still a resident, I let it be known to everyone that this was not about saving my cottage, it was about saving all the cottages, and it was about creating the next Crystal Cove. So for me it was much different. But for all the families that were there it was a very difficult time. Because cottages they had had in their families for generation after generation and it was a very difficult time personally for me at that time, because some of the people who lived there felt that I was you know. I should have been on the other side. But nonetheless, our time was clearly up, and I wanted to make sure that Crystal Cove was going to remain authentic (10:05)

Robin—But vision and a nickel will get you a gumball. The State of California had signed a legally binding contract with the developer to build a resort. Unwinding that deal seemed far-fetched, at best. Park staffers had their marching orders from Sacramento. So the State decided to host a public meeting to sell the plan to the community. But they underestimated their audience.

LD: (19:23) The real turning point for Crystal Cove was on January 8, of 2001, at Lincoln Elementary School, and I’ll never will forget that evening. It was great. It was probably one of the best meetings I’ve ever attended. There were about 800 people there, in the room, and State Parks had come down with the resort developer to present this resort plan to the community. And there were tables out in front that said “No Resort” and people were holding signs, and it was just a wonderful demonstration of a community pulling together to really say, “not on our watch, not at Crystal Cove. This plan is not wanted.” And so I remember State Parks getting up and trying to do an overview power point presentation about the plan, and then when the resort developer tried, and I underscore “tried” to get up and talk about his plan, no one would listen. And then we had a series of people giving public comments, probably about 30-40 people stood up and talked about why this was such a bad idea. And so from that point forward, I knew as I pulled out of the parking lot, that that plan was dead. It was not going forward. I could just tell it was just like the wind had shifted. (20:52)
Robin—Ironically, the cottages at Crystal Cove that people fought so hard to save could never be built on the coast of California today. Some are directly on the sand. Others are perched on the edge of the bluff. It’s precisely the type of development that the Coastal Act was created to prevent. And yet, Davick found an avid supporter in Coastal Commission Executive Director, Peter Douglas. Unbeknownst to Davick, he did more than just share her public vision for Crystal Cove. He played a key role behind the scenes in convincing the would-be developers to drop their plans for a high-end resort.

PD: (1:37) It would have been a colossal give away of public resource. So we told them they couldn’t do it. They’d have to change the Coastal Act and get the plans changed and we were going to vigorously fight that. I made it very clear to them that if they wanted to go that way they’d have to go through me. And I was going to fight this thing to the end because it needed to be open to the public. It’s a crown jewel on the coast. (4:34) They knew how serious we were and they didn’t want a public fight because they would lose that public fight. The public was clearly on our side. So they cut their losses and said OK if we can’t have it our way give us some money, buy us out and we’ll get out of your hair. (5:02)

(Interlude)

LD: (0:11) About a week after the Infamous January 8 meeting, I received a call from the Coastal Conservancy, and they explained that they might have $2 million dollars to provide to State Parks to buy out the developer’s contract. The meeting was down at Laguna and everyone, all the folks that were involved in trying to stop this were there, and their Board unanimously approved providing $2 million dollars to terminate the developer’s rights. So at that point we were kind of back to square one. The developer was gone, the resort contract was gone, and it was time to try to figure out what to do with the cottages at Crystal Cove. The cottages were still being lived in at that point, the residents were still there. We ended up leaving that year. This would have been around February of ’01, and the residents moved out in July.

Robin—With cottages finally vacant, the process of planning for Crystal Cove’s future began. Suggestions ran the gamut from tearing all the cottages down, to converting them all to overnight rentals. Davick’s vision included some overnight rentals, but also a marine research facility, classrooms and an artist-in-residence program. She envisioned a museum where visitors could immerse themselves in the cove’s culture and history, and listen to her recordings of former residents, telling stories about the old days. Ultimately, her vision prevailed.

LD: (3:24) I really felt that if people were coming to Crystal Cove whether it be for an hour, overnight, or a week, that they should be able to become really submerged in all of the many things that make Crystal Cove so unique. So, thru that planning process, the plan that evolved (3:40) (3:46) was approved by the Park and Rec Commission and also the Coastal Commission in 2003. (4:17) And so then we had this great plan and there was no money. And so the Alliance to Rescue Crystal Cove which I had formed in 1999, now transitioned into the Crystal Cove Alliance, and their focus shifted from “rescue” to “restoration” (4:38)

Robin—Proposition 40 came to the rescue, with $9.2 million in state bond funds which paid for the restoration of the first 22 cottages. The Alliance raised another $6.7 million in private donations for Phase 2, the research and education facilities, as well as significant infrastructure. Now the restored cottages are almost always fully booked, and there is a popular restaurant where the old Soda Fountain used to be. All of it is managed by The Crystal Cove Alliance in cooperation with State Parks, a unique operating agreement that is becoming a model for management elsewhere in the State Park system.

LD: So now having Phase 2 behind us, we have simply one remaining phase, and that’s the North Beach area—17 cottages on the North Beach, estimated at approximately $20 million. And we are currently focused on that. (7:03) That will more than double the amount of rentals that we have now. (7:17) (7:54) They’re in pretty bad shape, but they have recently been evaluated and I’m told they are in better condition than some of the Phase 2 area that we just finished. But needless to say, it’s a huge project. (8:09)

(Interlude)
PD - There is no question that if I look at the California coast and all the places where activists made a difference, Crystal Cove stands right at the top of the list. People like Laura Davick, Susan Jordan and others who just got in the way of the bulldozers and said, “We’re not going to let you come thru here, This is the people’s asset.” And now when you see what they’ve done to restore that historic treasure it’s just amazing. I’ve been down there now so many times and there are people walking around from Ohio, Middle America with their jaws hanging down. And that just warms my heart. So hats off to the activists.

LD: (10:26) As far as being an activist, I didn’t even really know what an activist was. But I will tell you that when you are passionate about something and protecting something, there is no ends that you will go to to make sure that something is protected. And I think back on how I felt about those 46 cottages and how I still feel, and I kind of feel like a mother with her kittens, you know it’s like I’m very, very protective about what happens down there. (10:57)

Robin---It was an education Davick wasn’t looking for, but one she doesn’t regret.

LD: (11:41)This is what I learned. I learned that you never ever take NO for an answer. Because I can’t tell you how many times people said no to me. But you just have to keep pushing forward. And there’s the old saying you can’t eat the whole elephant all at once, so you just have to eat it one bite at a time. And so every little step was a victory. And now, looking back over the past 14 years or whatever it’s been, I think if I had seen the magnitude of how much work this was going to be, I may have maybe chose another path. But I now have this huge sense of purpose in my life, and I have this huge challenge to complete this project, and to see it to the end. And all these great activists that have gotten involved, and people in our organization, and our Board of Directors, and so now we have this huge group of passion that has come from this. (13:00)

(Interlude)

Robin—Now, instead of living at Crystal Cove, Davick goes to work there every day, in a bluff-top cottage that has been converted into an office. She has furnished all of the cottages with a mixture of original items donated by former owners, and period pieces from garage sales and thrift stores. But her memories of growing up on the beach are never far from her mind.

LD: (25:49) That experience as a child I am quite sure is what motivates a lot of us to choose the paths we choose as adults. And I can only tell you that being at Crystal Cove and that experience I had as a child inspired me to try <<and become an activist and someone that wanted>> to preserve Crystal Cove. (26:18) (26:57) Because the coast is never saved, it’s always being saved. And the same thing for state parks—parks are never saved, they’re always being saved. Just because it’s in a state park, doesn’t mean it’s safe. (27:15)

(Music Glacia)

Robin: This program was produced by KRCB Public Radio Station in Santa Rosa, Coastwalk California, and California State University Chico Masters Student Sarah Christie. Our theme music, “Glacia” was written and performed by Micky Hart. For more information, please visit Coastwalk.org I’m Robin Pressman for Coastwalk, saving the coast, one step at a time.
Intro music “Glacia”…

PD: I think the Jonathan Club is one of those stellar examples of what a good law, applied by good people can do.

NC: (20:31) the Coastal Act is an amazing document, and even after 40 years there are ways that we are using this law to address situations that I think no one anticipated at the time of drafting. (20:43)

Standard Intro:

Robin: You’re listening to “Stories of the Coast: a virtual tour of the California Coastal Trail” I’m your host, Robin Pressman.

Una: I’m Una Glass, Executive Director of Coastwalk California. Coastwalk offers this podcast series to share the beauty, history and science of the California coast.

Alternate Intro for radio:

You’re listening to “Stories of the Coast.” I’m your host, Robin Pressman.

Una: And I’m Una Glass, Executive Director of Coastwalk California. Coastwalk offers this series to celebrate the 40th anniversary of Proposition 20, by highlighting stories of how the California Coastal Act has protected our public beaches and trails. Because the coast is never saved, it’s always being saved.

Robin: It’s safe to assume that the authors of the Coastal Act never envisioned the law being used to end discrimination at an exclusive, all white, men’s social club. But that’s exactly what happened in 1985 in a case that went all the way to the U.S. Supreme Court. In this episode, we travel to Santa Monica Beach in Los Angeles, to take a look at one of the Coastal Commission’s most unusual accomplishments, and consider the deeper meaning of “public access.” Here’s former Coastal Commission Director, Peter Douglas.

(Sound of Waves)

PD—(0:34) The Jonathan Club was a private club that was formed on the beach in Santa Monica-- the most popular beach in the state. The rub is that it was on public property. And there were decades of arguments and fights and litigation about how much of this is really on public land. And it finally came to a head when the Jonathan Club wanted to expand. And I couldn’t believe when I saw they wanted to expand onto (public property) (1:45)

ROBIN-But it wasn’t just the fact that the Jonathan Club wanted to build their paddle tennis courts and a parking lot for their private use on a public beach. Allegations that the Club excluded women and minorities had circulated for years. Reports that they told prospective members that “blacks and Jews were not welcome,” and refused to allow the Air Force Academy Choir to perform at the facility because some of the singers were African-American, had prompted former City councilwoman Cheryl Rhoden to vow that the city would not give “one grain of sand” to the Jonathan Club unless it changed its membership policy. But in 1984, the State Lands Commission agreed to lease the Jonathan Club some state-owned beach for its expansion. All they needed was a permit from the Coastal Commission. And that’s when things got interesting.
My name is Nancy Cave, I work for the California Coastal Commission, and I was the staff member assigned to the Jonathan Club permit request in the 1980s.

Santa Monica state beach is the most popular beach in the state of California and it was at that time, and the Commission had great concerns over losing available space for the public.

Many of us were opposed to giving up any sandy beach whatsoever. And the only way we could see it being consistent with the law from the staff level was to be assured by the club that no one was prevented from being members here.

I felt very strongly that we should be opening up the membership of this club. I can tell you that as a woman, I was very offended by this club’s policies.

We did an onsite meeting in Santa Monica and I went with two other women from the Commission, and when we arrived at the club they tried to have us go in a women’s entrance. I of course walked right through the front door and I was acting like I didn’t see them gesturing toward the side door by the kitchen. And we had our meeting in the main dining room and not in the side dining room where I could see women sitting.

Offensive membership practices are one thing. Whether the Coastal Commission could do anything about it was another. Both Cave and Douglas wanted to find a way to leverage the Club’s permit to bring an end their historic discrimination. The State Coastal Act protects public access, sensitive habitat, agriculture and scenic views. The law gives the Commission broad authority over development, but could it be used to end discrimination at a private club? It was a bold and radical idea, and not without risk. If the Commission got sued, and lost, the decision could weaken other policies in the Coastal Act. Douglas and his staff thought it was worth a chance. The next step was to get their legal team on board. But when they met with State lawyers to discuss the idea, he knew faced an uphill battle.

It was our legal representatives from the Attorney General’s office that were concerned about the precedent and what this might do. And they were concerned that we would lose in a court action. I honestly believe that.

But my position was there’s a greater law. And that law is the Constitution of the United States.

ROBIN — Offensive membership practices are one thing. Whether the Coastal Commission could do anything about it was another. Both Cave and Douglas wanted to find a way to leverage the Club’s permit to bring an end their historic discrimination. The State Coastal Act protects public access, sensitive habitat, agriculture and scenic views. The law gives the Commission broad authority over development, but could it be used to end discrimination at a private club? It was a bold and radical idea, and not without risk. If the Commission got sued, and lost, the decision could weaken other policies in the Coastal Act. Douglas and his staff thought it was worth a chance. The next step was to get their legal team on board. But when they met with State lawyers to discuss the idea, he knew faced an uphill battle.

It was our legal representatives from the Attorney General’s office that were concerned about the precedent and what this might do. And they were concerned that we would lose in a court action. I honestly believe that.

But my position was there’s a greater law. And that law is the Constitution of the United States. And I couldn’t believe some of these attorneys who otherwise are very smart, ethical, arguing with a straight face why they (the Jonathan Club) should be able to discriminate on who gets to come and use public property. It was outrageous.

ROBIN — Douglas had a legal theory. He wanted to use the Constitution’s Equal Protection Clause to leverage the Coastal Act definition of “public access” to force a change in the club’s membership policies. Deputy Attorney General Anthony Summers explains why he was skeptical.

The question with discrimination is almost always, is there state activity involved? Private individuals can discriminate if they want to. If you have a private club, and you want to exclude people on the basis if race or religion you can do that. And at first blush of course it seems as though discrimination in membership of a private club is pretty far removed from whether a coastal development permit should be used.

Douglas argued with Summers and his staff, but the lawyers dug in their heels. If challenged in court, they feared the Commission would lose. And lawyers hate to lose.

At the Commission, it was certainly not my job to advocate how the Commission should vote on any particular matter. Peter Douglas had that role and he reveled in it, he did a wonderful job. My role was to tell them what the law was to the extent that it was clear, or what I thought a court was most likely to do in the areas where it wasn’t clear.
And I said well, if we lose, it’s the court that made that decision and we were not a party to it.

ROBIN- The more they argued the more adamant the lawyers became. Regardless of its emotional appeal, Summers was convinced the idea would never stand up in court.

(pause) Douglas could see it was a self-fulfilling prophesy. If the Attorney General’s office didn’t back him up, and told the Commission they didn’t support the recommendation, there was no way the Commission would side with him and vote for it. So in spite of his strong convictions, Douglas backed away from the idea. Or at least, that’s how it seemed. In fact, he was just plotting another course.

PD—(6:03) I didn’t think it would be seemly to have a public debate of staff making one recommendation, and the Attorney General coming in and making another recommendation. I thought that would undermine credibility of the staff. It just ..it would look awkward. So I decided as I had done before that I would talk to several commissioners behind the scenes. Let them bring it up. Behind the scenes. When a question comes from a commissioner it does dramatically change the dynamic of the discussion. And I knew there were several who would bring it up. Then we would have to join the argument, publicly.

ROBIN- So while a dejected Nancy Cave prepared to approve the development, her boss was working behind the scenes, contacting key Commissioners and priming them to press the issue. On the day of the hearing, Cave thought the Jonathan Club would get their tennis courts. What happened next caught her completely off guard…

(Sound Effect: a Gavel banging 3 times)

The only member of the public who showed up to testify that day was David Lehrer, counsel to the Anti-Defamation League. But he was representing a who’s who of social justice organizations

DAVID LEHRER(p 9)—Mr. Chairman, Madam ViceChair, Honorable Commissioners, I am David Lehrer the Western States Counsel of the Anti Defamation League of the Banai Brith. I’m testifying on behalf of the Asian Pacific American Legal Center, the Community Relations Council of the Jewish Federation Council of Greater Los Angeles, the Los Angeles Chapter of the National Association for the Advancement of Colored People…(slowly fade out, Robin begins as voice over).

ROBIN-Lehrer urged the Commission to do what he felt the Sate Lands Commission should have done—end the Club’s discriminatory membership policies in return for their ability to use state property (DL in background)

DL(p 10) —The issue of discrimination in the admission policies of social clubs is one that touches us all. The fact that any institution continues to restrict admission on the basis of race, religion, ethnicity, and sex, is troubling enough. There is however, a very different problem presented by the discriminatory policies of institutions, at which important political, economic and social decisions are made on a daily basis. When the corporate and the political elite meet for lunch or dinner at a downtown club, and there is a long standing policy to exclude most visible minorities—women and Jews—from membership in that institution, a message is sent out to the community at large, that minorities and women are somehow not fit, not equal to those who are making decisions of moment. It is an anachronism which is ripe for change. It is particularly appropriate that the Coastal Commission consider the issue of social club discrimination as it deliberates on the application of the Jonathan Club.

ROBIN—when questioned, the Club’s representatives refused to disclose their membership policy, telling the Commission they had no right to ask, because they had no legal jurisdiction over the issue.
Commissioner Marshall Grossman tried to get some answers from the Jonathan Club’s lawyer, Robert Philobosian.

GROSSMAN (p 14-17)—Does the Jonathan Club discriminate in its admission policies? Based upon race, religion and sex?
--Respectfully Mr. Grossman, that issue is not before this Commission, and frankly, I don’t know the answer.
--You are not a member, I guess?
--No Sir, I am not.
--And, are there any members here with you?
--Yes, there is.
--Could you enquire of them whether or not the Club does, in fact, discriminate against Blacks, for example? Or women?
--Mr. Grossman, That issue has not been raised previously, and I’m sure the reason it has not been raised is simply because of what I said earlier, that the issue is not within the purview of the Coastal Act, and is therefore not before this Commission.
--Mr. Lehrer suggested a provision in the permit, or some equivalent where the Club would affirm publicly, for example, that it does not discriminate against women, or blacks, or other minorities. Would the Club have a problem with such a condition?
--Once again, Mr. Grossman, I must repeat myself, at the risk of taking more time of the Commission members, that the issue is simply not before this body, and the issue is not within the purview of the Coastal Commission.

So Commissioner Marshall Grossman pulled out a 1981 article from Los Angeles Magazine, which included interviews with Jonathan Club members.

MG (p 17)—It says, “Too much is made about this thing with Jews. A few of them are in now. And what about the thing with Blacks? God, if you think about it, everything is working in the Black’s favor. One day the Clubs will probably have to take them. Some cockamamie law will probably mandate it. I wouldn’t be surprised if it happens before the turn of the century. And then it goes on to state, “That will be a little late for Tom Bradley. After having traditionally granted memberships to many of his predecessors, the Jonathan club declined to bestow a similar honor upon the City’s first black mayor.

ROBIN-The Club’s representatives were caught off guard. (pause) So were several of the Commissioners. Except for the few who Peter Douglas had tipped off, none of them had ever considered using the Coastal Act in this way. In their confusion, they looked to the Deputy Attorney General for clarification. As Douglas predicted, Anthony Summers had revised his initial opinion.

TS-(0:37) at some point I was told that the issue was going to come up during the public hearing. And I was pleased that I had advance notice. This was not the kind of question that I would have had sufficient, detailed understanding of the Supreme Court cases and the applicable law if I hadn’t had the opportunity to get into the library and look at those cases. (11:38)

ROBIN—Just as Douglas predicted, the dynamic of the meeting, as well as Summers’ extensive legal research before the meeting, had an affect on the advice he gave. Knowing that he would have to defend the Commission in court whatever it did, Summers didn’t want to hurt his own case. So when asked whether the Commission had the legal authority to place a condition on the Jonathan Club’s permit that would require them to end their discriminatory membership policies, here’s what he told them:

TS3—(p 22 #2) Your question is whether it is any of the Commission’s business under the Coastal Act. Mr. Philibosian has indicated that it is not...(p22 #1)I don’t know how the courts will ultimately rule, but there is, I believe, a substantial possibility that the California courts would determine that the existence of
the lease is sufficient involvement of the government with the Jonathan Club that it is prohibited from having discriminatory admission policies...(TS3 p22)

There is a setting aside of public land for a private organization for a long term. The Coastal Act does enable you to consider questions of public access. If the setting aside of land to a private organization for a long term will result in not only the limiting of that land to the use of members, but further will limit it to a particular segment of the society and will eliminate other segments based on race or sex, religion or national origin, I think it is a legitimate concern under the Coastal Act, if this Commission so chooses, to impose conditions that would assure that the membership—the access to that area which is set off for private use, is done so on the standards that are open to everybody.(p23)

ROBIN—Summers gave the Commission a choice—they had plausible justification to force the Club to open its membership, but he couldn’t guarantee it would stand up in court. The decision was up to them. None of the Commissioners wanted to defend discrimination, but some had concerns the Commission would be overreaching if it went after the club’s membership policies. Some thought it was “social management.” Others didn’t want to risk a lawsuit.

Commissioner Marshall Grossman delivered the pivotal argument.

GROSSMAN (p41)—Many of you are not members of minority groups, and you don’t know the feeling of walking by an institution and knowing it is really a symbol, a vestige of racism, of social discrimination. While racism and social discrimination is not the same as genocide, they are the seeds of genocide. It is in clubs like this, which are lily-white, all male bastions, free of the impure except for a chosen few, where prejudice is passed on from generation to generation. The kids grow up being served by blacks, being served and babysat by Hispanics, having their food cooked by Asians, but yet knowing that these people may not join as members, as they inherit memberships of their parents. The Jonathan Club can discriminate if it wants, but not at my expense. It cannot take public, sandy beach and public parking lots and convert them to its own use at my expense and discriminate against my kids. Public access means access for everybody.

PD2-(0:26) it was really dynamic, exciting because there were very strong feelings and the majority of the commissioners agreed that we should be adding a provision that prohibits discrimination. Very simple. (1:32)

ROBIN—Not surprisingly, the Jonathan Club sued. The didn’t deny that they excluded minorities. They argued that the Commission lacked legal authority to address the issue. Summers argued the case.

(27:10) …Once the Commission did what it did, Tony became a pit bull. And he’s a great attorney. And he fought this thing excellently. (27:34) He was terrific.

ROBIN—Apparently the court thought so too. In October, 1985, Judge Norman Dowds found that the Commission did have the authority to impose the condition, in part because the Coastal Act requires that maximum access shall be provided for all people. (long pause. Waves?) The Jonathan Club appealed. Anthony Summers next argued the case before the Court of Appeals. Not only did the judges agree with the lower court, they strengthened the decision, finding that the public access policies of the Coastal Act as well as the Equal Protection Clause of the Constitution gave the Commission clear authority to end the club’s discrimination. But they went one step further. Anthony Summers:

TS-(16:37) I was particularly pleased that the court of appeal ordered its decision published because court of appeal decisions don’t have to be published and unless the court orders them published, they aren’t.(16:51)

ROBIN-The significance of a published decision is that it doesn’t just apply narrowly to the case at hand, it becomes, in effect, the law of the land. The decision to publish the Jonathan Club case put all private clubs
on notice. From the Club’s perspective, things had gone from bad to worse. Rather than comply with the court’s ruling, they appealed to the California Supreme Court.

PD-(14:48) The Jonathon Club appealed. They were furious. They were adamant and I could not believe how strongly they felt about this policy. And they were angry, and they just said publicly we are going to take this as far as we can, this is wrong, this a denial of our rights, and we just said well, you’re welcome to it. (15:48)

ROBIN-The state’s highest court declined to hear the Jonathan Club case, letting the earlier ruling stand. But then they did something very unusual.

TS-(17:16) The one thing that did surprise and very much disappoint me was when the California Supreme Court chose not to hear the case, but they ordered the opinion not to be published, they “decertified” it in legalese. They said, “don’t publish the case.”(17:48).

TS-(19:07) The effect of de-publishing is that that decision cannot be cited in any other case. And so it’s not a precedent. If another case comes along six months later, a year later you more or less have to start all over again from scratch. And even if you’re in court you’re not allow to cite those non-published decisions. (19:42)

ROBIN—Why would the Supreme Court de-publish such a ground-breaking case? Anthony Summers has a theory.

TS-(20:18) I recall that around that time there was a certain amount of controversy going on because it turned out that some members of the Supreme Court were members of a private club that may well have been discriminatory in its membership practices, the Bohemian Club up in the Bay area. And so if I had to guess, and of course I have no way of documenting or proving this, but I think that the Supreme Court just didn’t want to be in the position of having to rule on the merits of the Jonathan Club case. (21:21)

ROBIN—The Jonathan Club had one last chance—the U.S. Supreme Court. They now argued that the Coastal Act itself was unconstitutional, not just that the Commission had over-reached. Anthony Summers, writing for the California State Attorney General Jon VanDeKamp, asked the Court to either dismiss the case or affirm the lower court’s ruling. On October 11, 1988, he received the following letter.

PD-(20:20) Dear Mr. Summers, The court today entered the following order in the above entitled case. The appeal is dismissed for want of a substantial federal question. Very truly yours. Oct 11, 1988, Supreme Court of the United States. This is a pretty profound document, short but sweet. (21:13)

ROBIN—Even though it had been de-published, the Jonathan Club decision had the desired effect.

and (22:40) in fact we had a meeting several years ago at the Jonathan Club and the president of the Jonathan Club was an Asian Jew and he made the point. He said I wouldnt be a member of this club if it hadn’t been for the Coastal Commission. And there were a number of people in the audience, blacks, Latinos, who said and we wouldn’t be able to be members. (23:14)

ROBIN—Looking back at the Jonathan Club decision, it’s hard to imagine that the agency charged with protecting the coast would go so far out on a limb and deal with the issue of racial and gender discrimination. It would have been so much easier to just give them their permit. But the Coastal Commission is not your average state agency. And Peter Douglas, who died in April of 2012, was not your typical bureaucrat.

TS-(27:42) Peter of course he didn’t have to hide his personal views as I did. He was always an advocate for what he considered to be the appropriate public policies, not just in the Coastal Act
but in the larger sense. It was always interesting to see him do battle with people he disagreed with. (28:39) So I thought my personal opinions were not relevant, but now, many years later, I don’t mind telling you that from a policy standpoint I think they made a terrific decision. I think it was the right decision to make. (14:20)

NC-(16:57) Sitting at the hearing and watching the commission debate the issue and hearing public members speak and then having the deputy Attorney General tell the commission that he now felt that we had a legal basis for requiring this condition, I was overjoyed. I honestly can tell you my work on this case is one of the things I’m most proud of in my 40 year career here. (17:40)
—(26:00) I think the Jonathan Club is one of those stellar examples of what a good law, applied by good people can do. And it’s not just a good law and good people, it’s the interpretation of that law and when we have a provision in our law that says it should be liberally construed to better achieve its objectives, this is the best example of that. (26:41)
PD (29:00) Because discrimination still takes place. And it shouldn’t. Especially not in public spaces, public lands, anything that involves public resources.

ROBIN-This program was produced by KRCB Public Radio Station in Santa Rosa, Coastwalk California, and California State University Chico Masters Student Sarah Christie. Our theme music, “Glacia” was written and performed by Micky Hart. For more information, please visit Coastwalk.org. I’m Robin Pressman for Coastwalk, saving the coast, one step at a time. (Bubbly music)
Interview Transcripts

Peter Douglas—Monterey Bike Path

PD on Monterey Bay Bike Trail
Recorded by Sarah Christie
Crescent City, 09/08/11

PETER DOUGLAS-My name is Peter Douglas, I am the former Executive Director of the California Coastal Commission. I’ve been involved in coastal protection for 41 years, and I was very involved in this particular project because it threatened a very precious stretch of the California Coast.

SARAH CHRISTIE-Where are we?

PD-We are now standing at Fisherman’s Wharf in Monterey, looking at a path, a public use path, that is probably the most heavily used path for bicyclists, for pedestrians, strollers, roller-bladers: anybody who likes to get outside and just walk or move along a spectacular scenic trail is on this trail or has used it. This trail was the Rail Road right of way of the Southern Pacific Railroad when they were hauling sand out of Pebble Beach Del Monte forest around the peninsula.

SC- Where did the tracks run?

PD-So the rail road tracks run around the arc of the bay from Pacific Grove to Del Monte Forest side to, I believe it was Seaside, certainly past Sand City, and I don’t know how much further up the coast, maybe it went all the way up to Devenport, I don’t know. But in the 70s the Southern Pacific decided it didn’t want the tracks any more and it went to abandon the tracks. And all they had to do under federal procedures was go to the Interstate Commerce Commission and eliminate their license for or abandon their license for this right of way which would then have entitled them to sell the property. And there were a lot of parties interested in buying this spectacular ribbon of coast side land as you, as one can imagine. So when the Coastal Commission found out that this is what they planned to do, and they didn’t need approval from local governments, the Coastal Commission stepped in and said, “Oh but you need approval from the Coastal Commission.” And that’s under a federal law that requires approval from the Coastal Commission for any federal activity that could affect the coast. And we said this will definitely affect the coast and you have to come for approval. The railroad said, “No we don’t” and they proceeded to file a lawsuit in federal court to try to circumvent the jurisdiction of the Coastal Commission. They lost in court. And as it was clear that they were going to lose they folded up their tent and went home by selling the right of way for basically a nominal amount to a Joint Power Agency of local governments that then ended up purchasing the entire right of way. The end result was that you don’t today see narrow, skinny houses on this old right of way which would have been built ‘cause it is precious, precious geography. And you don’t see any commercial. What you see is an open public use strip that enables people to go all the way around the Bay from Pacific Grove to Monterey and beyond, on this trail, which has become probably the most popular multi-use trail, I would say probably, certainly in California. And it’s but for the Coastal Commission that this trail would not have been here. It would have been private property, it would have been blocked off to public access but now its open to the public. It is so heavily used that we have to be grateful for the fact that the Coastal Act came into effect just in time to prevent this precious strip of coastal land from being converted and lost to the public interest.
SC-So why doesn’t the CC get more credit for victories like this?

PD-The Coastal Commission doesn’t get credit for these kind of actions because there’s no announcement there’s no press release, there’s no sign there’s no proclamation, it’s just done because it’s the right thing to do and it’s what the law requires. So what happens is that this story, like so many stories on the California coast, is an untold story. It’s an incomplete story and the back story to this story is that in fact had it not been for the Coastal Commission this trail wouldn’t be here. So it would be nice if the Coastal Commission were recognized as being the responsible party for achieving this wonderful result, and its something that I think needs to be worked on. I think these stories, these back stories, need to be told.

Peter Douglas Interview re: Monterey Bike Path
Conducted by Sarah Christie @ Wind Wolves Preserve
October 27, 2011

PETER DOUGLAS-What would you like me to talk about?

SARAH CHRISTIE-The Monterey Bike Path.

PD-Well, here we are in Monterey on the multi use bike path that is probably one of the most highly used public recreational corridors in the, uh, in the state. And the history of this uh, corridor is quite interesting because it was a corridor owned by Southern Pacific who in the 70s, well late 60s early 70s. or mid-70s, wanted to abandon the right of way which uh is a 7 mile stretch from Asilomar to, ah to, Seaside that had been used to haul sand. Um And they wanted to abandon it and sell the land for development. (cough) And fortunately there were people who really objected to that and especially one activist who was an a rail road enthusiast, Ed Haber, who kept up the pressure for intervention by the Coastal Commission because local government had no authority and because this is something regulated by the Interstate Commerce Commission and the Coastal Commission had just secured its newfound authority under the federal Coastal Zone Management Act to review federal actions for consistency with the California Coastal Act. So the Coastal Commission had the authority to look at this proposed abandonment and require a review by the Commission and Ed Haber was the one who really pushed it, brought it to the attention of the Coastal Commission, and elevated its visibility, (cough) which again shows uh kind of uh as a side note shows the importance of citizen activism. But as a result the Coastal Commission did get involved and the local governments as it turns out had been trying to acquire this right of way for several years but Southern Pacific, ah, set the price so high that it made it prohibitive for local governments. and So as a result, ah, local governments were not in a position to um pay what Southern Pacific wanted for the Right of way. So as a result of the Coastal Commission then getting, stepping in to this, Southern Pacific uh filed suit and wanted to prevent the Coastal Commission from um asserting its jurisdiction and being involved saying that this whole field of Rail Road abandonment uh was pre-empted by the federal government. Well they lost in court in the federal district court which said that the federal Coastal Zone Management Act specifically allows review by the Coastal Commission of federal agency actions that could affect the coast and this would be an action by the ICC that clearly would affect the coast so as a result the Coastal Commission has this jurisdiction. I think the, um, the Southern Pacific folks in thinking about their appeal to the 9th Circuit um saw the hand writing on the wall and decided to cut their losses and sell the right of way to a joint powers agreement of local governments for a much reduced uh price compared to what they had been originally asking to a price that local governments could afford. And they got the money together and they purchased it. And as a result those uh rails were covered up the, uh, corridor was made into a recreational corridor for pedestrians, for bicyclists, for anyone who wants to be outside and have this wonderful corridor along the seaside around Monterey Bay. So it became a great success story, very popular, um and nobody knows the history, nobody knows the back story of how much it took and how close we actually came to losing it and if it hadn’t been for this citizen activist and, and the federal uh change in law, uh which the Coastal Commission got the authority to exercise in 1978 I believe it was, um it really would have gone forward and the public would have been denied the opportunity uh to utilize this
fantastic recreational corridor. So it’s a great success story with an untold back story that I think I’ve now illuminated a bit.

SC- What did SP want to do with that corridor?

PD-To my knowledge they just wanted to sell it for development. Whether it was residential or other development, but they figured it was wide enough that you could do something with it that would give them a higher profit.

SC-So what would Monterey bay look like today if the CC hadn’t intervened?

PD-Oh I think that first of all you would have lost that opportunity uh and that incredible recreational facility that now exists. So people would not have been able to walk around the Bay on this uh path as they do today. And I have no idea what would have been built in there—what would have been permitted to be built on the corridor. But it certainly would have been much denser, it would be uh views would be blocked it would change the whole character of the shoreline.

SC-OK, you gotta help me out here, because in the past when you’ve told this story you’ve said how there’d be high rise luxury hotels and condominiums all around the Bay.

PD-I did?

SC-Yeah.

PD-I didn’t say that.

SC-Laughing. Yes you did

PD-Well, I didn’t mean it.

SC-You’ve compared it to, like Palm Beach in Florida.

PD-Miami?

SC-Miami

PD-No, that’s the coast of California, not this stretch of Monterey Bay

SC-You’ve said what the bay would look like if it was ringed with high rise condominiums

PD-OK, Well I’m sorry. I don’t think that would have happened, I think that, I mean, developers are very clever and if you have separate parcels you have to be allowed to do something with it under US law, and they probably would have found a way to uh, develop some narrow, taller structures since they don’t have a lot of space for a footprint uh, they would go up so I would suspect that we would have seen attempts to kind of build in a way that would have walled off a lot of the uh coastal views from, uh the higher areas inland and would have been very I think destructive of the very character of Monterey and the beautiful setting of the Bay.

SC-Well, certainly the Southern Pacific Railroad didn’t want to hang on to the ROW in order to build a public walkway and bike trail. That’s not what they wanted to do. So if they didn’t want to do that, what would have happened if those parcels had been either developed by Southern Pacific or sold off to other private entities that then sought to develop? I mean the Coastal Commission can’t tell people that they can’t develop their private property, correct?
PD-Not necessarily. It depends on the circumstances. But I think in this case it would have been hard to say you cant dev on these parcels had if SP had prevailed with their development so there would have been develop and that’s what I just said about going up, building up.

SC-I’m trying to get you to paint a picture, because when you say “structures going up” that doesn’t really visual image of a structure, that could be a garden shed

PD-Well I said a wall. They could have conceivably pushed the developers, the people who bought the land for development and profit since its such a spectacular coast side setting could have developed or tried to develop, um, commercial and residential development that would have walled off this stretch of of coast , And that I think would have been unconscionable. And I’m really grateful for the Coastal Commission uh that it was there and stepped in and made a difference and prevented that from happening so we have what we have and now you have a better story of what really happened.

Thanks!
Interview with Peter Douglas
Subject: Crystal Cove
Larkspur, CA.
March 21, 2012

SARAH CHRISTIE-So Peter, Crystal Cove is now on the most popular state park in the entire system. It books for 6 months on the 2 days of each year that it opens for reservations. But Crystal Cove could have looked very differently than it does today. Can you tell me what the Coastal Commission and the Coastal Act and what you did to protect Crystal Cove?

PETER DOUGLAS-Crystal Cove was one of these icons where Hollywood came down and set up these sets and people knew that the rich and famous would come down to their little exclusive filming area and they loved it. And they thought after the cameras stopped rolling this should be made into an exclusive private club. And we said, no

SC-Well it was a resort hotel, right? They wanted to build a hotel.

PD-An expensive, exclusive hotel. And they had a few amenities thrown in for the public: a bench here, a bench there, a little trail. But it would have been a colossal give away of public resource. So we told them they couldn’t do it. They’d have to change the Coastal Act and get the plans changed we were going to vigorously fight that. And it never really got to the Commission because I made it very clear to them that if they wanted to go that way they’d have to go through me. And I was going to fight this thing to the end because it needed to be open to the public. It’s a crown jewel on the coast and if Daniel Boone and Davey Crockett and the Terminator and Mickey Mouse couldn’t get their way, this little hotel resort certainly wasn’t going to blow a hole in the “open to the public” policy of the Coastal Act. So they backed off and they saw the handwriting on the wall and said OK I guess we can’t do it. So they sold back their interests and now all those cottages are being refurbished. And the occupancy rate is over 98%. It’s spectacular what’s been happening. The restoration is just incredible. Anybody who has a chance to go to Crystal Cove, spend the night, eat at the Beachcomber Restaurant take in a little bit of Hollywood nostalgia, historic ambiance, there’s no better place on the California coast to do that than there. And I feel very proud of the fact that the Commission was instrumental in leveraging that result. So, another victory for the people.

SC-That was kind of, I won’t say it’s unusual because it did happen a lot, but it happened out of the public eye. It wasn’t a big fight at a Coastal Commission meeting, it wasn’t a big controversial law suit, there wasn’t a detailed staff report for the public to read through, this was just all negotiations taking place behind the scenes between the players who wanted to develop and you.

PD-Well that’s correct but they knew how serious we were and they didn’t want a public fight because they would lose that public fight. The public was clearly on our side. Opinion polls showed it so they cut their losses and said OK if we can’t have it our way give us some money, buy us out and we’ll get out of your hair.

SC-Do you remember, was that the developer who did the Post Ranch Inn?

PD—I think so, same one. And they were good people, they really didn’t want to rip off the public, but the end result would have been that they would have.

SC-Just because that was their business model, right? That was the kind of resort development that they knew how to do.
PD—right. And it would have been exclusive, and you would have walked in there and you would have wanted to walk out to the restaurant or wherever and waiters and prompters would come over and say, “excuse me sir, excuse me ma’m, but are you a guest here?” And if you weren’t, out you went. Which wasn’t such a bad thing because there was a beautiful pool but you get the message.

SC—Any idea what those hotel rooms would have rented for?

PD—O my god, in the hundreds of dollars, in the hundreds. I mean they have some of them right now that go for over $1600 a night. The hotel room rates could have gone up to well over $1,000 a night. But now that it’s a state park and we have controls on those prices, you can get a really nice multi-bed room for under $160 dollars. It’s quite, quite a gift or an asset and that’s why the occupancy rate is so high.

SC-And do you want to say a word about the activists who fought to save that stretch of coast?

PD-There is no question that if I look at the California coast and all the places where activists made a difference to save the coast even from ourselves, Crystal Cove stands right at the top of the list. People like Laura Davick, Susan Jordan and some others who just got in the way of the bulldozers and the sewer and said, “We’re not going to let you come thru here, This is the peoples asset.” And you see what they’ve done to restore that historic treasure it’s just amazing. I’ve been down there now so many times and there are people walking around from Ohio, Middle America with their jaws hanging down. “Oh, so this is where Blue Lagoon was filmed, this is where so and so fell in love with so and so. And gosh it’s so realistic” And that just warms my heart. So hats off to the activists, again, a manifestation of the peoples law in action effectively.
“Ides are coming”

SARAH CHRISTIE-So this is March 14, 2012, this is an interview with Peter Douglas, former Executive Director of the California Coastal Commission. And the topic of today’s interview is the Coastal Commission’s involvement in the Jonathan Club in Santa Monica California. So Peter, just remind me, what was the Jonathon Club and what did they want to do?

PD—Well I think the Jonathon Club is one of the most exciting success stories of the Coastal Commission. The Jonathan Club was a private club that was formed on the beach in Santa Monica-- the most popular beach in the state, for its members to have a swimming pool and tennis courts and, you know, all those things that clubs have; bars, a little restaurant… The rub is that it was on public property. And there were decades of arguments and fights and litigation about how much of this is really on public land. And it finally came to a head when the Jonathan Club wanted to expand. And I couldn’t believe when I saw they wanted to expand onto public property, public beach property and tried to find out whether or not what their practices were for membership.

SC—So in 1985, they came to the CCC because they needed a permit to do this development, right?

PD—That’s correct.

SC—And so in addition to your concerns about who owned the beach— because they had leased some of it, right? They did legitimately have some legitimate leases, right?

PD—Right.

SC--And so what were your concerns over their development proposal?

PD—Well, we weren’t really that concerned about the development proposal. And the reason was that it’s such a very wide beach there that we felt they could have their expansion consistent with the public interest too and the Coastal Act as long as they paid a fair price for the lease of that land which they hadn’t been doing. So the resource impacts weren’t really a concern to us. What was a concern to me was that it was exclusive. That it was discriminatory because I knew they did not allow blacks, Jews, women, to be members of the club like so many men’s clubs around the county.

SC- And what’s the problem with that? I mean, if people want to have a club and they just want white guys as their members. I mean, you could have a book club and just have white guys in your book club. What’s the problem with having an exclusive men’s club like that?

PD—Well I don’t want to get into all the legal nuances of what might be a problem with something like that. But generally if it’s done on private property, not on public land, it’s not the state’s business. Unless there are consequences that spill over into the public square. So in this case it was public land. And the state was being asked to put a good housekeeping seal of approval on an expansion of this exclusive use on public land. And I felt very strongly that that was wrong. And had to argue against my own staff—some of them, and especially the attorneys and the Attorney General’s office, who argued that we didn’t have any jurisdiction.

SC-Because in the Coastal Act, there’s no hook in the Coastal Act which is the law that your agency implements.
PD—That’s right. But my position was there’s a greater law. The greater law is the Constitution of the United States and the policies that were being firmly ingrained or were being firmly ingrained into our culture and legal culture that you don’t discriminate against people based on their race, religion, sexual orientation, color of their skin. And here the Jonathan Club appeared to be doing exactly that—on public land. And I felt it was wrong for the Coastal Commission to sanction that.

SC—But you got over ridden, initially.

PD—Got overridden by the staff because they felt so strongly about it that I didn’t think it would be seemly to have a public debate of staff making one recommendation, and the Attorney General coming in and making another recommendation. I thought that would undermine credibility of the staff. It just ..it would look awkward. So I decided as I had done before that I would talk to several commissioners. Let them bring it up. (7:12)

SC—You talked to them privately?

PD—Privately, oh yeah, and all this was happening behind the scenes. Talked to them privately and I knew there were several who would bring it up, and then we would have to join the argument publicly. But we didn’t start out by saying, ‘this is what policy staff recommends, we disagree with legal staff…” but because the question was asked by commissioners, it came to that.

SC—And it changes, when the question is coming form a commissioner it changes the political dynamic of the public discussion.

PD—very much so. When a question comes from a commissioner it does dramatically change the dynamic of the discussion. So what happened here as I recall was we got into this argument and because it was going to be in court we went into closed session to discuss litigation. And that was really fun. The AG made their argument why we had no authority to do it. I made the argument that we are subject to a higher law and it would be unconscionable for the Commission to sanction, not only exclusive use—and we were prepared to okay exclusive use—of public land. But we were not prepared to approve exclusive use of public land that excluded whole categories of people illegally. So it got into a very heated debate.

SC—Were there any women or Jews or people of color on the Commission at the time?

PD- Yes there were. There were women there were Jews, I don’t remember whether we had an African American, but we had a Latino and everybody knew that this was wrong….Anyway, it got to the point that they kept making their argument, the attorneys, the AGs, and I finally said look, if the Commission agrees with me, and approves this subject to this condition, will you defend it in court? And the answer was of course, of course we’ll defend it. But we’re just telling you, we think you’ll lose. And I said well, if we lose, it’s the court that made that decision and we were not a party to it, and I feel good about that. And most of the commissioners …As I was saying, in closed session it was very exciting, very animated. And I remember we had one commissioner, Marshall Grossman, and he said this publicly too—and he’s a great trial attorney he made this impassioned plea about how wrong it would be to sanction this exclusive use of the beach, and then impose exclusive constraints on exclusive use, and he persuaded a number of commissioners most of the commissioners, and most of them, even the one who voted against the recommendation,

SC—That was Steve Maclvain

PD—agreed that it was wrong. But his position was we don’t have a legal basis for it. Which to me was a betrayal of public trust. A betrayal of the public oath that commissioners took to uphold the constitution of the United States. But I gotta say it was one of the most dynamic, exciting, closed sessions I’ve been to. And it was really substantive and we came back out and I answered the question and said staff is changing
its recommendation and is including that condition. The AG just said you know were we stand and the commission voted. And it was approved and of course the Commission was challenged…

SC—But wait, before you get into that, So just to walk people through it, what happens at a commission meeting when you change your recommendation and the Coastal Commission find differently you have to come back at a later meeting with revised findings to support the commission’ action. And what happened with the Jonathan Club is that when you came back with your revised findings and new condition, the attorneys for the Jonathan Club served the Commission at the hearing that day. The Commission took its action and they immediately got notices, they got served by the Jonathan Club.

PD—Right

SC—So it went to hearing, to trial, in the Superior Court. And what did the Superior Court find?

PD—According to this, the brief that we filed, with the US Supreme Court, (14:48) the Superior Court upheld the commission. The Jonathon Club appealed. They were furious. They were really dogs. They were adamant and I could not believe how strongly they felt about this policy. And they were angry, and they just said publicly we are going to take this as far as we can, this is wrong, this a denial of our rights, and we just said well, you’re welcome to it. It’s the right thing to do.

SC—And what did the appellate court do?

PD— The appellate court agreed with the lower court and agreed with the Coastal Commission.

SC—And there was an amicus brief filed in this one too.

PD—There were several I think. The one by the National Organization of Women I think the ACLU, they filed stellar briefs. I mean this was a very, very symbolic but meaningful case. And when it started to hit the press, which it did, right away, the question kept coming up, what does this have to do with the Coastal Act? And our answer was very simple—everybody wants to use the beach and if we start allowing exclusive use of a beach area for exclusive people or categories of people, not only will people be denied their right of access to their land, they will be denied that access based on unconstitutional discriminatory policies.

SC—And your argument did make the point that we did have jurisdiction under the Coastal Act and the courts agreed with the Commission. The coastal access policies of the Coastal Act as well as the state constitution, isn’t that correct?

PD—That’s right, but that wasn’t that significant because we had found that public access policies of the Coastal Act weren’t negatively affected by this relatively small area.

SC—But they were affected if membership if there was discrimination in the membership. That was the hook.

PD— The effect and the reason that public access was affected was because if we had sanctioned this, approved it, then the area that would be added to the Jonathan Club lease would be available only for non-Jews, non-blacks, for exclusive classes of people and not the general public. So if I wanted to go in as a Jew, and join the Jonathan Club because I wanted to be able to sun bathe on the beach which I own, even though it’s leased, without having kids and dogs running all over me I couldn’t do it because their bylaws precluded me from being a member. So it was a matter of principle it was a matter of first impression, we’d never done this before, but I felt and the commissioners felt that this was going to set an incredible precedent a positive precedent and it did.
SC—Because the appellate court upheld the superior court, and then it went to the California Supreme court refused to hear the case

PD—(19:46) The Supreme Court upheld the Commission, the appellate court upheld the commission, the Federal Courts upheld the Commission and the US Supreme Court turned it down. They declined to hear it. So it became a law.

SC— Peter I’m going to hand you something to jog your memory. This is actually the letter that was sent to the California Attorney General from the clerk of the Supreme Court of the United States telling them of the Supreme Court’s decision. So do you want to read that out loud? It’s not a very long letter, after such a long fight.

PD—Are we going to have time to read all this? Dear Mr. Summers he was the deputy Attorney General on this case) The court today entered the following order in the above entitled case. The appeal is dismissed for want of a substantial federal question. Very truly yours. Oct 11, 1988, Supreme Court of the United States. This is a pretty profound document, short but sweet. Which answered the question.

SC—And so obviously we prevailed on the Jonathan Club. Was there any wider effect of this case?

PD—Yes, there was because there were a number of other private, exclusive clubs along the coast that had similar policies. The Olympic Club in San Francisco, the Ingmar Club, in Eureka and they all then had to change their policies. Reluctantly they did. We didn’t have to go to court to fight them even though they tried to distinguish and avoid it.

SC—So the reason I wanted to talk to you about this story today Peter, is because to the extent that people think about the Coastal Commission and the Coastal Act and what it’s done for the state of California, they generally think of coastal access that would otherwise not about trails and accessways they would not be able to enjoy, they think about beautiful views that haven’t been spoiled, wild areas that haven’t been developed but I don’t think that they think about the Coastal Act in terms of social justice and human rights.

PD—No they don’t, and (22:40) in fact we had a meeting several years ago at the Jonathan Club and the president of the Jonathan Club was an Asian Jew and he made the point. He said I wouldn’t be a member of this club if it hadn’t been for the Coastal Commission. And there were a number of people in the audience, blacks, Latinos, who said and we wouldn’t be able to be members. (23:14) They were all upper-middle class people but who would have been denied access. So then there is only one other case that we haven’t prevailed on yet, and that’s because that fucking sell out John Burton broke our arm and told us if you do this your budget is going to get hacked. And so we haven’t been able to do that.

SC—And what case is that?

PD—That’s in Pebble Beach, it’s the club that’s near the water’s edge but its moved away. It’s not right… it’s on the water but it’s not one of those famous Pebble Beach clubs. But they had to put in a sea wall and I said fine, but membership policies. They went ballistic. They had friends in high places. I remember coming into the meeting in Carmel, John Burton actually was there as I recall, and said, “do you want your fucking budget?” and I said, “of course we do” he said, “then you better drop this stupid ass condition right here, right now. I said, “But John,” and he said, “did you hear me?” And I said, “OK, I’ll look into it”. He said, “you gotta do more than that.” So I went back to the club. looked at the facts and said, hey, if you lift the wall up about 6 feet, set it back and make it six feet higher it will be beyond the mean high tide line and it will be out of state jurisdiction. So that’s what they did and we couldn’t impose the condition. And John Burton delivered for his friends. Totally, totally contrary to his philosophical and moral standing. So ever since then, I’ve had more respect for John Burton then I ever…—Just kidding!

SC—Well, that’s one of those, “you gotta do what you gotta do” stories, and that applies equally, I think, to both you and John Burton.
PD—That’s right

SC—Fascinating Peter. Anything else, any final thoughts about the Jonathan Club or the arc of your career and what this means?

PD—I think the Jonathan Club is one of those stellar examples of what a good law, applied by good people can do. And it’s not just a good law and good people, it’s the interpretation of that law and when we have a provision in our law that says it should be liberally construed to better achieve its objectives, this is the best example of that. (26:41)

SC—You know, your final thoughts reminded me of one more question I had and that is, the Attorney General was obviously reluctant to make this recommendation at the beginning, but once the Commission had taken this action, how was your relationship with the Attorney General on this case?

PD—I think it’s important to understand that John Vandekamp who was the Attorney General agreed with me. It was his deputy Tony Summers who felt very strongly, and Tony was a Jew, that we didn’t have jurisdiction. Once the Commission did what it did, Tony became a pit bull. And he’s a great attorney. And he fought this thing excellently. And at his retirement which I attended, he mentioned about 3 cases that were the highlights of his career, and the Jonathan Club was one of them. And he came up afterward and he thanked me for that. He said, “I knew you were right, and I was really furious at them, I was really furious at the Jonathan Club for taking this position but I felt I had an obligation to advise the Commission that we didn’t have a basis for this. But I’m glad I was wrong, I’m glad that you and the Commission didn’t agree.” So it was one of those cases where we saved him from himself but it was one of those cases where he did a remarkable job. And I just loved it when he said one of the highlights of his career, I jumped up and clapped, because a lot of people hadn’t heard of it.

SC—Well a lot of people will hear about it now Peter.

PD—Well it’s worth hearing about, because discrimination still takes place. And it shouldn’t. Especially not in public spaces, public lands, anything that involves public resources. So with that, I think I’m going to retire and drink a little coffee.

SC—Interview with Peter Douglas re: Jonathan Club #2
Follow up interview, Larkspur, CA
March 21, 2012

SC—Well Peter, take it from here

PD—Well, when we came out of the closed session with the Commission where we discussed this issue, it was really dynamic, exciting because there were very strong feelings and the majority of the commissioners agreed with me and the staff that we should be changing our condition and should be adding a provision that prohibits discrimination. So we came back out and made a very simple change that the Jonathan Club is subject to a special condition that states non-discrimination as their policy. So we had a condition that said “prior to transmittal of the permit, the club has to deliver to the Executive Director a statement that the club will not discriminate on the basis of race, sex or religion. Very simple. Certification of the membership policy shall remain in effect for the life of this project. It’s a very simple condition, comes right out of the Constitution overriding any other state statute or policy. The Commission went for it, I think there was one dissenting vote, and that’s the way it went thru the courts. And I’m terribly proud of the Commission having done the right thing, I’m glad we avoided a public fight, argument among staff about the condition. So it all turned out, in the end, very, very well. And the precedent of this condition has rippled throughout the United States. So another victory for the people that I feel good about.
SC-That’s a wonderful outcome Peter.

PD-I thought it was terrific.

SC-Thank you for your perseverance on that. Not that I will ever be a member of the Jonathan Club.

PD0-Well you might, you know, who knows, you might become Jewish, it’s just one of those things, it’s the right thing to do. And I couldn’t believe some of these attorneys who otherwise are very smart, ethical, arguing with a straight face why they should be able to discriminate on who gets to come and use public property. It was outrageous. And the more they argued, the more serene I got, the more I smiled and the more I thought inside, “you’re never going to get this condition, you’re never going to override this constitution, you’re never going to supersede what we all know is the right thing to do. That’s what happened I feel really good about that.

SC-As you should Peter. Thank you.
LES STRNAD—I’d like to premise any comments of work that I did when I was with the commission and of course I started with the Commission in 1973 right after Prop 20 passed. And of course Prop 20 dealt with coastal access as a primary concern, between Northern and Southern California a great deal of access to our shoreline had been lost. When I was working on my undergraduate degree Part of my background is that I originally started as a scientist wanting to go into marine biology water quality to clean up ocean resources. But along the way with some great leadership, people convinced me that I should be involved in geo politics, the translation between science and good policy. And I actually obtained a degree in geo political planning with a background in 3 areas of science. And the urbanization and urban sprawl throughout the US and throughout the world. And one of those elements dealt with mass transportation. Part of my studies included an analysis of the loss of rail road corridors and transit in so cal. If you have ever seen the move China Town about water and about where water comes from to supply Southern California, they probably could do a similar movie about why we ended up with 5 and 8 lane freeways and all the transportation corridors are gone. So living in Northern California and assigned to the Central District which at that time ran from San Francisco to SLO County. Any pre-existing rail system, whether it was used for freight or transportation became an important element because most of rails that were developed in the1800s ran from the interior to the shoreline someplace and then ran along the shoreline to move freight and move people. Most of the rail roads that were developed in the Monterey Bay region which is a very extensive region were used for transportation of timber during the early 1900s to help rebuild SF after the quake. I got involved with the various groups and one of the things people didn’t want to see was the rail lines removed like in so cal. So we paid special attn to that in our coastal zone management work.

Rails provided connectivity between all kinds of resources. Around the Monterey Bay region the Southern Pacific rail line ran from Davenport...in Southern Santa Cruz County all along the shore thru every community and every village: Santa Cruz, Capitola, Soquel, Southern Monterey, the city of Watsonville, through the Elkhorn Slough, down thru Castroville and around thru Ft Ord, thru the communities of Marina, thru Sand City, thru Seaside all within ¼ mile of shoreline and then to the city of Monterey along the waterfront all the way to Asilomar where the finest sand today part of Pebble Beach Resort development to transport sand. So it served dual functions bringing people from SF to Monterey. Eventually became a very significant rail line for moving material. During the war years it moved sardines out of Canner Row because it was a supply of fish for the war effort.

So we were protective in concept of that rail line. It didn’t matter how it was being used as much as the line itself. If you look at a Triple A map of California, you’ll also see a unique feature. That rail line touches 90% of the public state beach parks from Davenport all the way to Monterey. In Ft. Ord now 7.5 miles of rail line which are state park goods and, that rail line ran right through the military installation and had spurs off it to deliver military goods and soldiers during the war years. So it wasn’t an insignificant transportation link. And while freeways developed and highway improvements continued in late 60s and 70s, the rail road was considered a parallel system. At the time I was working for the Coastal Commission in the late 70s I was in charge of water resource management, as well as being in charge of development review... Part of my work also involved meeting with local jurisdictions directors of public works, city planners, because we were a new breed in California, having been developed as a model from BCDC to save SF Bay, A lot of people even today don’t understand what coastal management is about. It isn’t about things, CZM is actually about what you don’t see, and not what you see. It was designed to limit urban sprawl and protect agricultural lands and open space areas and limit urbanization and concentrate development into areas that allowed for development to continue without urban sprawl. And the best examples of urban sprawl are in Southern California. You fly to Southern California and once you leave
Santa Barbara from the air you can't tell a jurisdictional boundary. You fly north out of SB along the coast and you see communities, you see open space you see agricultural lands you see ranches you see protected national forests you see all kinds of different types of development but nothing like urban sprawl. That's tied to types of corridors… One of the most important tenets of the original Coastal Act was the protection of access. Most people construe access as being able to walk to the mean high tide line along the beach. And of course you can do that from water. But there are also vertical access ways to get you from the roads from trails, to the shore. There had been no resource inventory of those aspects of the State of California until the Coastal Act came along. So in the early days we developed the Coastal Plan prior to 1975 and we did that inventory. We went out and physically saw where surfers reached the beach, where bikers went, where hikers went and lo and behold we found one of the easiest ways to get to places across land was a railroad right of way. …I contacted groups, old railroad people wanting to save not only the rails but equipment because one day it was envisioned that those rail lines would become important, whether it was the 20th century or the 21st century. And in coastal zone management you don’t do the planning for a 10 or 20-year period, you do it for generations out…At the time of the 70s we were in a rapid development phase. People that owned land, even agricultural land saw their land valuable for future hotels and condos and subdivisions and new communities. And we had to look at the land first, can the land absorb it, are there resources to protect, are there limitations? Do you have enough water, do you have enough sewage capacity to accommodate the development? Do you have enough transportation? Can you put in another freeway? Is the freeway system adequate? When we looked at the Central Coast we also looked at what fed the coastal zone and the Coastal Zone was 1,000 yards plus and it varied along the shoreline, and we found that the transportation system had a long standing history not only for rail road but for lighter rails, trolleys…

SARAH CHRISTIE—Take us forward to the day you got the phone call.

LS- I get a phone call from friends that I had developed in the City of Monterey, Public Works that the old historic rail road station property here on the Monterey Peninsula, that Southern Pacific RR personnel were removing rails. And it’s only about a 35 minute drive from the office so … I went down…and indeed what we found was that SP crews with their big machines were in the process of removing the spur lines off the major line. We talked to some of the workers and asked them what they were doing and they said well, we’re removing the rails, we’re abandoning this railroad line. SP had gone thru some of the Fed process for abandonment that we were aware of later, however they ignored the Coastal Act, they ignored our agency. So I asked where their notice was posted and they said inside the RR station. And I said who else did you notify that you were doing this work? And they said we don’t have to it’s posted in the RR station. Of course at this time there was no rail road transit going on except for freight trains and sand trains, so who is going to go inside of a RR station? And we’ll visit that today. And I said how was I supposed to be informed? And they said who are you? And I said I’m in charge of the permit division and the consistency division for the Coastal Commission. Well, we’re removing rails. It has to be the most powerful letter I ever wrote in my life. I wrote a cease and desist letter. It was about a paragraph long. It said failure to notice… you are hereby ordered to stop removing rails and sent it off to SP headquarters in SF. It was early the week and you sent those letters certified, It was about 2 days later, my dear friend Peter Douglas, I get a phone call, this is the kind of phone call you need early in the morning. Peter asked me Les, what in the hell did you do? What are you Talking about? He said I just got a call from Southern Pacific legal counsel asking for our presence at a meeting this Friday and I want you there. I said OK. He said what did you do? I said all I did was give them a cease and desist for removing the rail they didn’t comply with the law…Its just a simple letter, they can apply…

We get to SP and we are escorted into a conference room, and this is the kind of conference room that they probably had to cut down a redwood tree to make the table. It was like going to the theatre in this big board room. When the doors opened up, One side of the table was lined with what I call suits, attorneys could tell they were all attorneys. And behind them, sitting against the wall was a series of chairs of note-takers…At the head of the table was this gentleman. And the greeting was fairly cordial said thank you for coming to visit us, we have a few things to say to you. We were seated on the other side of the table with this army on the other side. And this gentleman spoke quite sternly, and said we have received your letter….We found it
quite interesting that SP is being asked to cease and desist removal of rails. We’re abandoning that rail line. And Peter spoke and said there are provisions of federal and state law that you haven’t complied with… the gentleman said I want to make something perfectly clear…SP is not in the transportation business. We are in the real estate business. And I looked at Peter, he looked at me, and I said. it’s very nice that they don’t want the rail lines, but those rail corridors have a very significant value to access in the coastal zone, and before you can abandon the rail road right of way and start breaking it up like in So Cal…a determination has to be made under…the coastal act…You could see his jugular vein start expanding on his neck. He realized this wasn’t going to be a smooth sail. One of their attorneys started talking, indicated they had gone thru the federal ICC process and noted where they wanted to abandon and I said that still doesn’t answer the question of failure to notify the Coastal Commission and we have authority over you….and the room went silent, and we sat there politely, and the other side of attorneys everybody was writing, the front row was writing and their note takers were writing and Mr. Jugular said I see no point in continuing this meeting. From there it’s history…They said no, our land is commercial land and we want to develop it. We said, well if it’s allowed to be abandoned and you win that decision, so be it, but you still have to go through a coastal permit process. They looked at us like we were bubbleheads. What do you mean? That’s our land, were going do what we want with it…We worked with community support groups we worked with Ed Haber, a long time supporter of preserving that rail system.

SC—What was the public opinion like?

LS-I’d say that the majority of people and businesses near the rail lines were quite happy there wasn’t going to be used for rails any more. The trains were noisy, they blocked traffic crossings, you’re not talking about a rail system out of the City of Oakland. You’re talking about something that was used maybe one, two three times a day to move sand out of Asilomar, to move cement out of Davenport. There was a great deal of support from the business community, and the hike and bike community…

SC-How has this affected the community character of the Bay?

LS-It goes to major visitor serving destination areas….Get your AAA map out. Look. Here’s your rail road corridor. Look what it does. It goes to the boardwalk in Santa Cruz. It goes up to one of the best campgrounds in San Lorenzo Valley. It goes to one of the largest visitor destinations in the state of California, Cannery Row. Goes thru Elkhorn Slough, a National Estuarine Reserve. Huh, there’s something there, isn’t there give people an opportunity to see the larger concept that they could pursue.

###

SITE #1

LS-OK, we’re out at the site that the notice occurred by Southern Pacific notifying people that they were going to abandon the rail line in Monterey Peninsula, we’re standing at the foot of working wharf #2 next to the Del Monte Beach House. Looking directly south you can see the hike and bike trail continuing across the access road to Wharf Number 1, and to the left behind fence is the old A-frame wooden building which is the Monterey RR Station…where they had the abandonment notice posted inside…where they were going to remove the rail system. Immediately in front of us you are looking across Mon Bay, you see off in the distance a mountain range, that’s the Santa Cruz Mountain Range, about 2 O’clock you’ll see smokestack of the power plant and Moss Landing continuing to your right you see a large sand dune complex, those are the dunes of the old Fort Ord which is now a state park, 7 /12 mile stretch of shoreline where the hike and bike trail continues thru that facility. The system now is about 26 miles long, it goes all the way to the city of Marina free of traffic and cars, you can use this system, park in Marina, and ride all the way to Monterey Peninsula. Directly behind us where the boat storage area is and general parking is an open area that used to be materials and storage for SP and a spur rail line for rail cars. This is where the original work was actually taking place It wasn’t on the main line but a line that connected to it when they were up here pulling the rails out. It was at this point that the city of Mo contacted us and said were not
sure what they are doing but it looks like they are removing the rail system. And when we came down to investigate that’s exactly what was going on….Northeast that heads toward the city of Seaside and Sand City, and in between there, this is actually called Del Monte Beach, Del Monte Beach State Park and connects to the State Park at old Fort Ord. In the other direction it swings around the bay thru Monterey Harbor and heads to Cannery Row. This trail is built on the old rail line all the way to Asilomar which will be the end of the line which will be our last stop, and that’s where the sand mining operation used to be.

SITE #2
Our second stop is a very significant one we’re at the intersection of Cannery Row and Reeside. The entrance to Cannery Row. We’re standing adjacent to San Carlos City Beach, and we are standing on the recreation trail which is the old rail road right of way. And this is a good visualization of how little the grade changed for the installation of this trail system. What we wanted to do was preserve the rail bed that was developed originally for the rail system so that some day the asphalt and concrete if necessary could be removed and a multi-modal transport could put on this recreational trail. What most people see here is hikers, bikers, pedal pushers for families, there’s bike rental shops all up and down Cannery Row. And this is the first real example of lateral and vertical access, which was a basic tenet of the Coastal Act. The parking, the small San Carlos Beach adjacent to the breakwater that protects Monterey Harbor, the Coast Guard facility at the end of the parking lot. And on weekends you almost have to get here between 6 and 7:30 in the morning because this is the number one scuba diving training beach in all of Central California. Originally there was to be a hotel on this site. And under the significant leadership of the former city manager, John Dunn, he was a visionary, and he convinced the city of Monterey that Del Monte Avenue should be opened up for views to the Bay and that areas that were used so extensively by scuba divers should be enhanced made more public, more usable, and that’s what you’ll see at this first stop. The parking, accommodating people that use the trail, people that use the beach, people that go out on the breakwater and look at the sea lions and the harbor seals, can look all the way down Cannery Row as it exists today. Landmarks for this location are Enterprise Cannery on the inland side of Cannery Row and Reeside, and the Monterey Bay Inn, run today as a major visitor destination as you enter Cannery Row. Views across this area is actually why Monterey Bay was misnamed in 1905 by a Spaniard, because he came around Point Pinos into the Monterey Harbor in the fog, and his diary proclaims that when he came out of his cabin and on deck his crew had dropped anchor he could see this area where you are standing and the sand dunes of old Ft Ord and he thought he was in a bay and he named it after his uncle Monterrey Bay. When in actuality when he woke up in the morning he realized his mistake. This is a recorded piece of history in the diary, its available in the museum of the city of Monterey and today most people that live in this area don’t even know that they don’t live on a bay but on a bite—a basic indentation on the California Coastline.

Site #3
We left the city of Monterey at Cannery Row and we’re about ½ a mile into the city of Pacific Grove along the shoreline. And we’ve made this stop at Monterey and Ocean View Ave between 11th and Monterey and the point I wanted to make here is while Pacific Grove’s trail doesn’t follow all the way thru on the rail line, the city of Pacific Grove has historically been known for the pocket areas of greenbelt between Ocean View Avenue, the ocean numerous pullouts to look at the birds and whales that swim along this shoreline, and the rec trail is immediately adjacent to the shoreline. There’s a lot of available public parking to these areas. People use these areas for picnicking and viewing but again it’s a different type of vertical access, there’s no real developed stairways like along Cannery Row to the trail, you have these greenbelts between the road and the sea, and this decomposed granite paths that intersect the rec trail which again is hike and bike and full right of way of the old rail line. Once you cross the lateral system of the hike and bike trail, there’s numerous areas to sit on benches, to go down to little pocket beaches, otters have been known to
come up and look at people while they are picnicking down on the granite coves all along the shoreline. It’s a very extensive shoreline, a very beautiful shoreline.

Site #4
We just walked across the lawn area between 11th avenue, Monterey and ocean view after parking our car walked down to the trail system along the shoreline, down a wooden stairway and as we turn around and look we can see the numerous benchs that have been set up for people by the city of Pacific Grove, for people to view the waves and the wildlife. If anyone were trying to figure out whether they are in Pacific Grove or Monterey, you can actually tell that by the type of trail that’s built. In Pacific Grove, you’ll notice that its asphalt over the old rail bed, and when we were walking along Cannery Row it was a cement base over the old rail bed, still providing stairways between the businesses along Cannery Row. Pacific Grove tends to give you a more natural feeling, wooden fences along the cliff face, cypress trees both sides and the recreation trail, while paved, leads to little pathways that provides another trail system along the cliff face. When you’re standing on this side of the bay you are looking across the bay at Santa Cruz, looking back at the sand dunes of the old Ft Ord Complex to your right, and at 2 O’clock you’ll see the Moss Landing Power Plant smokestacks at Elkhorn Slough Estuarine Reserve. This is an area that many people come to kayak in the kelp beds, to see sea otters it’s a great fishing area, a great sailing area. And calm water because you are behind the point of Pt Pinos as the trail works its way to Pacific Grove by the light house.

Site #5
Were standing at Lovers Point Beach which is the formal end of the developed recreational trail on the old Southern Pacific Rail Road. It stops at this point for bicyclers and hikers due to a mobile home park which you can see right across the street which has a locked gate across the old right of way. However, that doesn’t stop the continuous pathway along the shoreline, and the ability for bikers to move onto Ocean View Avenue and ride along the coastline, interact with the shore line trail that PG has developed, you can visualize this area, its located all tourist maps, this was a very popular area in the late 1800 and early 1900s, people access this area with kayaks and scuba gear, many people actually swim here. But it is the formal stopping point of the rec trail as its developed on the old rail bed.. Once you get around to Pt. Pinos and PG and move toward Pebble Beach, the bike trail continues, not along the RR, because the RR stopped at Asilomar Dunes where the sand mining operation was. But you can ride your bikes and hike into Pebble Beach and continue along the shoreline roads and the beaches all the way over to Carmel on the other side of the point.

Site #6
After we left Lovers Point Beach Area, we mentioned that you can continue on along the shoreline along the shoreline pathway, pocket beaches, pullout areas, picnic areas, and bicycles are guided toward the bike paths along the coastal highway. This works its way along the entire point of PG, passing Pt. Pinos, the golf course, the historic light house, weaving its way around the coastline which is mostly state park now with a developed trail, along the shore going down to tide pools and beaches, ending at Asilomar Conference Grounds which is on state park property. Across the street from Asilomar is the actual right of way of the SP RR which has a pedestrian pathway that the people in PG use extensively to move back and forth in the community and down to the shoreline and down to the state park trail system at Asilomar. While it is not formally developed as in Cannery Row and all the way to Lovers Point with a paved, even surface, the right of way is still here, no directional signing will lead you to it, but it is listed in the California Access Guide, produced by the CC. When the rails crossed the road by Asilomar, and Hwy 68, they went into the old quarry for sand mining, and that was the formal end of the rail system. However, Pebble Beach Company has continued the concept of the Recreation Trail where you can ride your bikes and hike into Pebble Beach, and not pay, and use the hiking trail system and the bicycle system all along the shorefront along Pebble Beach down to Carmel. And in Carmel the coastal trail continues, numerous pocket beaches in the city of Carmel, until you get down to the Carmel River State Beach where the trail system more or less formally stops. Someday the Coastal Trail will run from Oregon to Mexico along the shoreline. Piece by
piece its being developed. How long it will take is really unknown, but as you’ve seen and as you’ve heard, this system is one of the highest used recreation visitor destination, off road trail systems in the state of California.

Site #6 Cont’d

If anyone is interested in truly hiking the old railroad right of way, you can pick up the southern end of the system at Crocker and Sunset in Pacific Grove, which is adjacent to Asilomar Conference Grounds and across the street from the Fish Wife Restaurant. Its marked by a wonderful fire hydrant. No signage, but you can’t miss the trail.
Laura Davick—Crystal Cove

Interview with Laura Davick
Crystal Cove State Park
August 26, 2012

August 26, at Laura’s house

LAURA DAVICK—My name is Laura Davick, I’m the founder of the Crystal Cove Alliance, and I grew up at Crystal Cove, my family’s been there since 1937, and my parents fell in love there, and they acquired Cottage #2 when I was a year old, so I’ve literally been there for the past 53 years.

SARAH CHRISTIE—So that was your backyard

LD—You know, I often slept on the front patio at night, so getting up in the morning I’d run down to the beach, and go down to the tide pools, and it was just the best back yard any child ever had growing up. Had a horse, and I used to keep my horse up at the Irvine Equestrian Center, so often mornings I’d get up very, very early before the sun came up, and I’d run up the hill and get my horse, and throw the saddle on and bring her down to the beach and ride up and down that beach, it was really, really an amazing experience.

SC—What was the community like back then?

LD—When I was growing up at Crystal Cove, most of the people were coming down for the weekends, and there weren’t a lot of full time residents there, there weren’t very many children there either, but people came from all over, and usually by Friday usually everyone had arrived at the Cove and everyone was bbq-ing and cooking and just having a time in just a very short amount, when you look back at the history of Crystal Cove and you look back 40 years ago, things were so different then. There was really no TV’s, we had no TV, we had no phones down there, so we were out on the beach just playing games and living it up on the sand.

SC—Sounds like growing up almost in a desert island.

LD—I don’t think there could be a better place to grow up than Crystal Cove.

SC—Talk about the early history.

LD—It was originally part of the Irvine Ranch, but really it was the film companies that first discovered Crystal Cove. Warner Brothers and other film companies would come down. They’d come down to create various films at the beach there and the reason that Crystal Cove was so desirable was that they could create a south Seas feeling right at Crystal Cove without ever leaving California. So there were lots of films that were made there during the teens and twenties, this was before the cottages were there. And then some of the film sets were left up, one or two evolved into a cottage, and then families started coming down and erecting these 1-room cabins on the beach. And this was all unbeknownst to the Irvine Co, so as these squatters continued building these cottages, soon there were 46 of them, dotting the coastline there, and so the Irvine Co sent out this letter that said, if you would like to move your cottage you may, but if you do not from this point forward we’re going to be charging you a land lease to remain here. So if you were in, you were in at that point, you had a lease. It wasn’t a long-term lease, but those were the families that were the fortunate ones that were able to live at Crystal Cove.

SC—And back then you didn’t need a permit, right, to build on the beach?

LD—It’s funny, there were never any property lines at Crystal Cove, and so people just built where they wanted to. And there was no permission, no permitting, no cities to go thru, nothing like that. So these cottages truly, just evolved over a period of years.
SC—they sort of sprouted like sea anemones on the cliff

LD—In precarious places they were built, and they were never intended to last for 100 years, or 200 years. And so the construction, the way they were constructed, often times using materials that were found other places, sometimes things that washed up on the beach, were used there was a large wooden schooner that washed ashore in 1927, and some of the wood off of that schooner was used on the North Beach cottages, so thru my interviews that I’ve done on the book of the history of Crystal Cove, there is one cottage that has things from the Del Coronado Hotel, and windows from an old rail road, and so its just an eclectic source of materials.

SC—Was it sort of an artist colony?

LD—There were artists there, it was never really an artists colony per se, but there were always artists coming to Crystal Cove. For the last 100 years it’s been a place where the plein-aire artists love to come and capture Crystal Cove. A lot of the really well-known artists like William Wendt, and Jack Wilkinson Smith and Frank Cupria and some of the early masters painted at Crystal Cove and we have lots of their work now to look back on.

SC—sounds like kind of a Bohemian community

LD—There were people from all walks of life. It seems like there were a lot of people from the Pasadena area. I think someone up there probably got the word out and all these folks came from Pasadena, but you have to remember back then, Pacific Coast Highway didn’t go in unit 1927. So it was in 1927 that PCH opened and so that is really what opened up people coming into that area. And I interviewed one fellow who was one of the early managers there, and he shared with me that his father had hired the Mexican laborers to come in and actually dig the road to Crystal Cove. So up through the teens, it was really not accessible at all.

SC—That was kind of amazing that the Irvine Company responded by saying we’re going to lease you the land instead of just telling them to get off. That period lasted until the land was sold to State Parks. Do you want to talk a little bit about that transaction and how that changed the community?

LD—Well, in 1979 is when State Parks bought the property, but months before that it was listed on the National Register of Historic Places. So there were two women who were primarily responsible for that effort; it was Christine Shirley and Martha Padve. And so once they were successful in getting that listed, and there was some push back on that because some people didn’t really feel that it was historic enough perhaps. I believe it was the Irvine Company. And so moving forward, State Parks purchased the land in 1979, so at that point, it started to change. It was originally this small little community where there was a gate, it was very private, and people didn’t dare to come in because they just didn’t feel that they were welcome there. So then the gates came down, and it became available for the public to come in, and open to the public, and so then the rules started, and there were no more riding horses on the beach, and no more fire rings or fires on the beach, and then fireworks were against the rules, so slowly it changed. And during that time we continued living there, and we were just grateful to be able to remain there. But then it was probably about 1995 when we started hearing about this new luxury resort contract, that was moving forward.

SC—Talk about that

LD—So in 1995, State Parks entered into a contract, a 60-year contract, with a private developer, to create a luxury resort there. And it’s my understanding that at the time, State Parks didn’t have the funds to be able to restore the cottages, they knew that they wanted to get the residents out, so this seemed like a perfect solution, I would think. So a developer was granted a 60-year contract, and by now it was about in its fifth year, and the plan consisted of converting the 46 cottages into 73 units, putting in three swimming pools, a 100-seat restaurant, valet parking, and I assure you, it never would have been the same. But the primary concern was that the room rates were going to be $375-$700 per night. So clearly creating a very private, and very commercialized enterprise there. And so it was a dangerous precedent for the State Parks system to give away park land like that. Clearly, if you are going to let a developer come in and make improvements for 60 years,
that was just the beginning. I’m sure it would have continued on. And so having grown up there, I was very much against it, so I formed a non-profit 501 c3 org in 1999, to try and raise awareness of what we were about to lose, because really no one knew what was going on. There was this contract that was signed behind closed doors, and that was really very much the situation. It was unknown to the community in terms of what the resort plan was going to entail, and that we were so close to losing it, and in fact we had lost it. The contract was signed, this was a done deal. This was not just some plan that was being discussed. So at that point, what I tried to do, after the contract had been finalized with the developer, we as residents were under more and more pressure to move. And even the residents were unaware of what the plan included, but they knew it was coming. So I started to dig into and find out and learn more about it. And more than anything I think I started doing some research on what Crystal Cove could be, and I had a different vision for what CC could be, and first I thought that if it were going to be open to the public it needed to be affordable, but I also felt that because Crystal Cove was so unique that it really shouldn’t just be converted into a hotel, that it should become a world class facility that included some very exciting and important educational venues. We have a marine research facility now, that allows us to better understand the environment and educate people about how fragile the environment is down there. Its one of the areas of Special Biological Significance along the coast of California and as a result of the work I did on water quality I just felt that we needed to do everything we could to keep Crystal Cove pristine, and the waters there pristine. And so I went before a variety of different audiences, talking to them about what could be, so as the resort plan was emerging, simultaneous to that.

SC—And your vision was basically to maintain it the way it was, basically to restore it.

LD—It was to restore it and keep it as authentic as possible. And it was about that time that I was also working on the book about Crystal Cove, so I was doing all the interviews, of all the former residents, and going back to the early days of Crystal Cove in the 20’s 30’s and 40’s, and so I had amassed this huge collection of historic information as well as photographs, oral histories and so in my mind, those stories needed to be told, and that information needed to be a part of what people would experience when they came to Crystal Cove. Rather than some varnished version of what the cottages were like. And being as that I had grown up there and lived there all my life, I had great access to talk to all the original residents, whereas I don’t think that would have been the case for a resort developer to be able to get that kind of information. But at any rate, so, started having little workshops down in Laguna, went to City Hall, went to the City Council meetings, attended Park and Red Commission hearings, Coastal Commission hearings, and anywhere where they would let me talk about Crystal Cove I would go.

SC-How were you received when you would talk to a civic organization or an environmental organization?

LD—I was, People were always interested in what was going on at Crystal Cove, so I felt like I had an audience. And they were also surprised by the fact that this contract existed, and that they weren’t aware of it. So there was lots to talk about. And there were other environmental organizations that were involved and were passionate about doing similar work. And so then, I received a call on December 29, about a week before the big public meeting that was scheduled by State Parks, from Joan Irvine Smith, the grand daughter of James Irvine who was the land owner. Joan wanted to get involved, and she had been following the story and offered her support to get involved and join this effort which was perfect timing, absolutely perfect timing. I remember the early meeting sitting down with Michael Freed, and the group, that would be Rusty Arias, the Director of State Parks, and State Parks legal team, Michal Freed and Miles Williams at the Post Ranch Inn, through all these meetings I kept explaining to them that this needed to be run by a non-profit organization and at one point Michael Freed said, “OK fine, we’ll give you a year. You raise all the money, we’ll support that.” Which was clearly an effort that never would have been successful, some $35 million that was estimated at that point.

SC-And what was State Parks’ response to your alternate vision?

LD-State Parks’ response on the local level was that they were told to implement this program, and they were told to make it happen. So the local level folks that I was working with weren’t necessarily supportive of it, but they had received a directive from Sacramento that this is going to be the plan. So working with State Parks, I always approached it in a very positive way, I simply explained that there could be a better plan for Crystal
Cove. I’ve always had a great relationship with State Parks, it was never contentious, it was sitting down at the table and talking about what could be.

The real turning point for Crystal Cove was on January 8, 2001, at Lincoln Elementary School, and I never will forget that evening. There were about 800 people there, in the room, and State Parks had come down with the resort developer to present this resort plan to the community. And there were tables out in front that said “No Resort” and people were holding signs, and it was just a wonderful demonstration of a community pulling together to really say, “not on our watch, not at Crystal Cove. This plan is not wanted.” And so I remember State Parks getting up and trying to do an overview power point presentation about the plan, and then when the resort developer tried, and I underscore tried to get up and talk about his plan, no one would listen. And then we had a series of people giving public comment, about 30-40 people stood up and talked about why this was such a bad idea. And so from that point forward, I knew that from that point forward, as I pulled out of the parking lot, that that plan was dead. It was not going forward. I could just tell it was like the wind had shifted.

SC—Raucous crowd there in Laguna.

LD-It was really great. It was one of the best meetings I’ve ever attended. And so then there were a whole series of environmental organizations that had gotten engaged, and I recall a meeting that we held, and we all got together and had lunch out at the Oaks, Joan invited everyone to come out to the Oaks where her horse farm is, and everyone had a different vision for Crystal Cove. But we decided that in order to be united and be strong we just really needed to fight the resort. And so, that’s what we all sort of coalesced around was getting that resort stopped. So then a few days later, I think it was about a week later, I received a phone call from the Coastal Conservancy. I was still at Crystal Cover then, in my cottage, Susan Jordan was there, and I think Joan Irvine Smith was there, on that particular day as well, and the call came in and it was basically we believe we have some money to terminate the developer’s rights (Phone rings, go to next File)

August 26, Laura’s House, cont’d.

SC-We are picking up where we left off with Laura Davick—same day same place same topic—she gets a call from the Coastal Conservancy:

LD-About a week after the Infamous January 8 meeting, I received a call from the Coastal Conservancy, and they explained that they might have $2 million dollars to provide to State Parks to terminate the developer’s rights. Shortly thereafter, their Board would meet and vote on whether or not they would be able to provide these funds. I remember the meeting was down at Laguna and everyone, all the folks that were involved in trying to stop this were there, and their Board unanimously approved providing $2 million dollars to terminate the developer’s rights. Another huge day. To buy out the developer’s contract. So Coastal Conservancy provided $2 million dollars to buy out the developer’s contract. So at that point we were kind of back to square one if you will. The developer was gone, the resort contract was gone, and it was then time to try to figure out what to do with the cottages at Crystal Cove.

SC-What condition were the cottages in at that point?

LD- Well, the cottages were still being lived in at that point, the residents were still there. We ended up leaving that year. This would have been around February of 2001, and the residents moved out in July. So they were still being taken care of and cared for. But nonetheless because of the conditions imposed by State Parks, no work was allowed to be done on the cottages. So any work or repairs was done in the evening or kind of not in a very public manner and I’ll leave it at that. So anyway, the plan process for CC was a very interesting one. State Parks now had to go completely to the opposite end of the spectrum, make sure that everyone had an opportunity to be heard, because that was really the flaw of not having a public review process to begin with. So the planning process started, it seems to me there were about 7 or 8
organizations that participated in that effort, it was all about trying to find the right mix for Crystal Cove. Everyone wanted to see every cottage used for overnight rentals. There were a few groups that would have just as soon seen the cottages removed from Crystal Cove. And so my vision for Crystal Cove was really one that also included also a series of educational venues. I felt that Crystal Cove was so unique and so special that it really deserved to become a world class destination. And so I did a lot of research on various aspects, whether it be an environmental center, a marine research facility, cultural center, and I really felt that if people were coming to Crystal Cove whether it be for an hour, overnight or a week, that they should be able to become really submerged in all of the many things that make Crystal Cove so unique and so special. So, thru that planning process, the plan that evolved is called the Preservation and Public Use Plan. We call it the “PPUP” and the PPUP was approved by the Park and Rec Comm and also the Coastal Commission in 2003. so that provided basically, as we call it, the Bible for Crystal Cove to move forward on. If it’s not in the PPUP, doesn’t happen. Thru that process we also had the opportunity to work with State Parks and further develop our relationship and develop a sense of trust and a sense of sharing the same vision now for the next Crystal Cove. And so then we had this great plan and there was no money. And so we became involved in the Alliance to Rescue Crystal Cove which I had formed in 1999, now transitioned into the Crystal Cove Alliance, and their focus shifted from “rescue” to “restoration” if you will. So at that point we got in Prop 40, and we tried to get Gov Davis involved and engaged in the project, and subsequently $9.2 million in state funds came from the park bond. There was also some funding from Coastal Commission mitigation funding which had grown over the years which had started at $60,000 and had grown up to $280,000 so those funds were used for the first phase of restoration. That was 22 of the 46 cottages. During that time I worked with State Parks in sharing a lot of my historic archives and photographs and our organization expanded and we then decided as an organization to bid on the RFP to manage the overnight rentals and the food service. So we built our Board and brought in the expertise needed from finance to food service and we put together the best proposal we could and we were subsequently awarded the contract. That contract is a 20 year contract, we have approximately 20 years left at this time, and we basically manage all the overnight rentals as well as the food service thru our sub concession with Ruby’s restaurant Group.

SC-So Phase 1 and Phase 2 have been completed.

LD—Let me mention Phase 2 because that was a huge undertaking. The cottages were opened on June 26 of 2006, and from that point forward we began looking at how we could complete the next phase, which was Phase 2, project a series of cottages and significant infrastructure. It was roughly estimated at about 7 million dollars. So Crystal Cove Alliance raised $6.7 million dollars, privately, and we funded the complete Phase 2 rest. So now having Phase 2 behind us, we have simply one remaining phase, and that’s the North Beach area—17 cottages on the North Beach, estimated at approximately $20 million. And we are currently focused on that.

SC-And those 20 cottages will be used for?

LD-Actually 17 cottages, 17 cottages on the North Beach will all go into the overnight rental program, so that will more than double the amount of rentals that we have now. It’s a very challenging project, its not only are there 17 cottages, but of the $20 million dollars that’s needed, approximately $8 million of that is infrastructure. So that requires all the utilities, retaining walls, a new boardwalk to access the area, and then the restoration of those 17 cottages which have been vacant for the past 11 years. Since 2001.

SC- And they are pretty dilapidated.

LD-Yes, they are. They’re in pretty bad shape, but I am told they have recently been evaluated and I’m told they are in better condition than some of the Phase 2 area that we just finished. But needless to say, it’s a huge project. Anyway we are very, very focused on that.

SC-Now, during that period of time that you were still living at the cove, and you were trying to figure out how to preserve it, there was some disagreement in the community there were people that just wanted to
stay. They wanted to put their efforts into lawsuits and fighting the state and remaining there on the property. But that wasn’t what your focus was. Can you talk a little bit about the difference in philosophy and why you went the way you went?

LD- Well, when I formed the organization I realize that Crystal Cove was about to be lost. I was still living there, and there were efforts by the residents assn, which we had formed, but I really knew our time was up. It was a new era, there was no way that the state was going to allow us to continue on. And so my vision really shifted. Although I was still a resident, I recused myself from the litigation I sent a letter to state parks and I let it be known to everyone that this was not about saving my cottage, it was about saving all the cottages, and it was about creating the next Crystal Cove. So for me it was much different. But for all the families that were there it was a very difficult time. Because cottages they had had in their families for generation after generation and it was a very difficult time personally for me at that time, because some of the people who lived there felt that I was you know. I should have been on the other side. But nonetheless, our time was clearly up, and I wanted to make sure that CC was going to remain authentic and a place we could all look back and say this is the authentic CC.

SC-Did you ever think you’d be an activist?

LD-You now I my background I have kind of an entrepreneurial sense. As far as being an activist, I didn’t even know what an activist was. But I will tell you that when you are passionate about something and protecting something, there is no ends that you will go to to make sure that something is protected. And I think back on how I felt about those 46 cottages and how I still feel, and I kind of feel like a mother with her kittens, you know its like I’m very, very protective about what happens down there. I will say that I think when my early days of working on the water quality efforts at Crystal Cove and trying to get the runoff stopped, I think that what really got that’s what really engaged me, and got me even more passionate about protecting CC.

SC-Because you could see that you could make a change.

LD-Exactly. I felt that I could change the future of Crystal Cove if I felt that. This is what I learned. I learned that you never ever take NO for an answer. People always ask me, they contact me and they’ll say we’re trying to preserve something somewhere, and do you have any advice for us? And I often say, never take NO for an answer. Because I can’t tell you how many times people said no to me. But you just have to keep pushing forward. And there’s the old saying you can’t eat the whole elephant all at once, so you just have to eat it one bite at a time. And so every little step was a victory. And now, looking back over the past 14 years or whatever it’s been, I think if I had seen the magnitude of how much work this was going to be, I may have maybe chose another path. But nonetheless it’s something that I now have this huge sense of purpose in my life, and I have this huge challenge to complete this project, and to see it to the end. And now along the way we have all these great activists that have gotten involved, and people in our organization, and people on our Board of Directors, and so now we have this huge group of passion that has come from this. So we’re doing some amazing things down there.

SC-And how do you think people experience of CC is different as a result of the work you and others have done, as opposed to the resort plan?

LD-I think the experience that people love most about coming to Crystal Cove now is that it’s very simple. It’s very, very, very simple. I took someone in one of the cottages the other day and they said, “It’s just so simple!” And that’s exactly what it is. There is nothing fancy about it. But it screams, “authentic.” There’s still no TV, still no telephones. We have these journals in each of the cottages in the rentals, and the first night we opened I ran down to Barnes and Noble and purchased 17 of these journals and we had a little party that night and I handed them out to everyone and I said we are starting a new tradition of capturing everyone’s memories and experiences here. So when you read those journals, the thing that you hear over and over again is that this has been the best experience for my fam. We as a family have spent quality time together, my son and my husband sat and talked or played ball on the beach or something. It’s just removed
enough from the parking lot to where when you are CC you are in this special little world all your own. So the quality time you spend with family and friends is so much more meaningful there. Compared to what it would have been like as a resort and the exclusive factor that would have been built into that. And having seen the renderings of the resort, I can only tell you that it never would have been the same. When you are paying $375 to $700 a night, and those were 2001 prices, whose to say what it would have been at this point. But I can only tell you it wouldn’t have been the families of people from our community and the families of people living in California that are now having the time of their life there because they can afford it. And not only the cottages, but we have the dorm style lodges that offer up a whole other form of affordability for people so the rates there are somewhere between $30 and $90. So it is truly an experience that everyone can share.

SC-And the experience is like stepping back thru time, right?

LD-when you drive down that little road that takes you into Crystal Cove and you leave behind Fashion Island and the Newport Villas up above, and Pelican Hill Resort and the gated communities and you come to Crystal Cove you are stepping back in time, back to a simpler time a lot less stress, and I guarantee you when you walk thru CC it’s an attitude adjuster. It just changes your day. And people come there and they are just so surprised this exists. And they can’t quite figure out where they are, but they know they’ve just stepped back in time.

SC-and what does that do to people?

LD-I think it renews their spirit, it’s like going on vacation, but never having to leave California. It’s like the feeling you get when you are rested and recharged, and reinvigorated from a long vacation, and you can have that experience just by taking a walk thru Crystal Cove and walking down that beach, there’s 3.2 miles of coastline that is all yours, just sitting there, waiting for you, every day. And just like it was hundreds of years ago, it’s that same feeling. When you are at the Cove, looking out at the ocean, it’s the same view that the Native Americans that used to live there, had. And then you turn around and you look up the hill, you can see like, this sea or urbanization that’s enveloped the park. So this park now, is now more important than it’s ever been, for families to be able to come down and enjoy.

SC-It’s kind of a stronghold. So paint us a picture.

LD-So, if you can just imagine yourself coming down this little road, and as you drive in, you’ll first come in you’ll see this line of dark green garages, and then things start to slow down opening up. And then you start seeing little cottages here and there you’ll see the visitors center on the left and then you’ll see the Beachcomber restaurant, and then you continue in and you’ll see the little turquoise cottage on the beach, and you come out onto the beach and you look around and you see these little tiny cottages, different colors, kind of eclectic, if you will, and they’re just perched on these little bluffs right above the beach. And you think, O my gosh, where am I? and they dot along this little part of the cove and up the hill and down the beach and it’s a place for children to come and explore, and now we have areas that are furnished that are open to the public to come enjoy, and education programs and all kinds of things for the community to get involved with, and as I said recently its just kind of the tip of the iceberg. People think of the cottages and the beachcomber, but they really don’t know what’s still to come. And the plan is still evolving. And that plan that we developed back in 2001 is what people are going to be seeing. And they are still in for a lot of great surprises.

SC-It’s kind of ironic that this are that is so special and so revered and people are fighting so hard to protect is the kind of development that would never be allowed today. You could never build where these structures are build in California in 2012.

LD-They are so precariously close to the ocean. That experience of spending the night at Crystal Cove, I have to tell you, people say, I just live up the hill. And I have to smile and say you should still have this experience even though you live up the hill because this is an experience that is unlike any other. Because
of the very thin single wall construction and the close proximity to the ocean, at night, Crystal Cove takes on this whole other feeling. For example if you cross the bridge where the frogs are at night, it’s like a frog orchestra. It is I absolutely love it. I always tell people walk across the bridge at night and you can hear the frogs and they’re just singing. But anyway CC is just a magical experience, listening to the waves break and your right there. It is definitely the closest experience you could have to being on a boat…. 

It’s kind become this California phenomenon, the quintessential California experience…So Crystal Cove has become kind of this California phenomenon if you will. The overnight rentals are so popular. On the first of every month, 8 in the morning, 7 months in advance, 1 month’s worth of cottage rentals becomes available, and I have tell you, within minutes, they’re gone. And our occupancy rate has been 98% since day one. People say, well, it’s probably easier to get a cottage during the spring or the fall, and its really not. They’re just so popular. It’s kind of like winning the lottery. And people come down there and they’re like, “I’ve got one, I’ve got one” and “which one’s yours?” and where are you staying, and they’re just having the time of their life. When you think about what’s important in Orange County and what’s worth…When you think about preservation in Orange County, you might think of the mission in SanJuan Capistrano, but clearly Crystal Cove is one of the places that everyone thinks of and is worthy of preservation. So now it’s really our job to engage the community at a higher level and help us to complete the final restoration at CC and to let them know that this is really their park, and this is a place for them to come and be a part of this legacy of Crystal Cove. And to get this project completed and to be able to sustain it, because it really is one of California’s greatest assets.

SC—Kids growing up in such a different way, different time. Young people can literally experience how life used to be.

LD-That experience as a child I am quite sure is what motivates a lot of us to choose the paths we choose as adults. And I can only tell you that being at Crystal Cove and that experience I had as a child inspired me to try and become an activist and someone that wanted to preserve Crystal Cove. We are trying to engage a lot of children to become more engaged in marine science. What we call SNAPs-Science and Nature in the Park, trying to get kids down to CC to share with them some of the research that is being done by about 12 different universities we are working with, and get them out in the ocean so that they too will become passionate and stewards of the future.

Because the coast is never saved, it’s always being saved. And the same thing for state parks—parks are never saved, they’re always being saved. And I love that quote from Peter D, but truly, just because it’s in a state park, doesn’t mean it’s safe. Bingo.
NANCY CAVE—My name is Nancy Cave, I work for Coastal Commission, and I was the staff member assigned to the Jonathan Club permit request in the 1980s.

SARAH CHRISTIE—And can you just briefly describe what the Jonathan Club was proposing in that permit request?

NC—In the 1980s, the Jonathan Club, an existing beach club, located in Santa Monica, proposed to expand its private use, utilizing leased public land in order to expand private use onto sandy beach. Because their expansion was development, they needed a permit from the Coastal for this expansion.

SC—And so what was the primary issue between the Coastal Commission and the Jonathan Club with respect to the litigation that followed?

NC—The primary issues between the Jonathan Club and the Coastal Commission which ultimately ended up in litigation after the Commission made the decision, was the use of sandy beach by the public and the proposal to take that public use, eliminate that public use, and make it private and only usable for the club. Santa Monica state beach is the most popular beach in the state of California and it was at that time, and the Commission had great concerns over losing available space for the public and giving that space to a limited grouping of the public. So the issue for the commission was how do we assure that we have maximized public for all the people of California in allowing this private club to expand its boundaries onto public beach?

SC—And the Coastal Commission actually recommended approval but with some conditions, but I understand that there was some disagreement—before we get there, it wasn’t just that it was a private club, it had to do with the club’s membership policies too. Do you want to remind us what those were?

NC—This particular permit application by this particular private club had other issues involved in processing it. This private club at the time was exclusive to only white males in society. Women, members of other races and ethnicities or religious beliefs were not allowed to be members. And this club expanding onto a public beach right next to one of the largest urban centers in the state obviously this issue became an issue in front of the Commission as well.

SC—Now there is nothing in the Coastal Act that talks about race or religion or anything, how was it that the Coastal Commission was able to leverage the Coastal Act to force the Jonathan Club to open its doors?

NC—Well the Coastal Act… one might wonder how the Commission was able to deal with this issue of limited use by a white male private club, and its proposal to expand onto a wide, sandy public beach used by everyone in society, however the Coastal Act does include strong policies about public access being available, maximum public access for all of the people and cites back to the California Constitution, and the California Constitution states that no one, I’m paraphrasing, but that no-one shall be permitted to exclude the right of way of water to any segment of society, and the Coastal Act public access policies cite back to that section of the Constitution and because this expansion was not limited to private land, it was actually going onto public land, the commission felt very strongly that they had the right to examine the policies for membership of this club so they could assure its consistency with the California Constitution and with the relevant public access policies of the Coastal Act.
Now when you took this case to the Coastal Commission when you took this application to the commission, your recommendation originally didn’t include a condition for them to open up their membership. Because there had been some disagreement amongst the staff prior to the hearing. Can you talk about what those disagreements were and what side you were on?

When I was assigned the Jonathan Club application we were looking at these clear impacts to public access, this clear loss of public beach and trying to decide whether or not we could recommend approval—if we could recommend approval what conditions would we attach to this project to make it consistent with the public access mandates of the Coastal Act. The Jonathan Club had signed an agreement with the state of California State Lands Commission and city of Santa Monica establishing a boundary, and many people argued at the time that that limited the state in making additional requests for mitigation. However, we were not a party to this agreement and that was only on ownership on setting that line. What the Jonathan Club was trying to do in this application was to expand over that line into public land by using leases with the state. Many of us were opposed to giving up any sandy beach whatsoever. And the only way we could see it being consistent with the law from the staff level was to be assured by the club that no one was prevented from being members here. And this would involve us looking at their bylaws and their membership policies. And we had never had such a condition on a permit and there was internal concern and disagreement and debate over whether or not this type of condition would be found to be a legal requirement if this case was litigated after the commission made its decision.

What did you think?

I felt very strongly that we should be opening up the membership of this club. I can tell you that when I worked on this case, as a woman, I was very offended by this club’s policies, this club’s practices. In fact, we did an onsite meeting in Santa Monica and I went with two other women from the Commission, and when we arrived at the club they tried to have us go in a women’s entrance. I of course walked right through the front door and I probably was acting like I didn’t see them gesturing toward the side door by the kitchen. And we had our meeting in the main dining room and not in the side dining room where I could see women sitting.

Wow. And so can you paraphrase what the arguments were on the other side of this. Why people were arguing that we should not make membership a condition of this permit?

I think with respect to the disagreement among staff, and mostly Commission staff agreed with this recommendation. It was our legal representatives from the Attorney General’s office that were concerned about the precedent and what this might do. And their concern - they were concerned that we would lose the strong language we had in public access in prior decisions as well as application of the law. And their concern was to protect those access policies from weakening in a court action. I honestly believe that.

So they thought we were over-reaching

Yes. The disagreement involved, some staff felt there wasn’t justification under the Coastal Act to require membership polices being made available for our review. Other staff felt there was. Certainly in my experience at the time and since then, this was the first time we had done something like this.

And so it sounds like the dissenters prevailed, initially, in that when you took this to the commission it did not have the membership condition in it. So can you talk a little bit about how that came to pass.

In preparing the staff report- a written staff recommendation for the commission to act on, it is fully vetted by commission legal staff and also issues are discussed with the AG’s office, and ultimately the decision was made not to attach this condition on the project approval. The Jonathan Club had also suggested some very attractive mitigation packages which they argued compensated for the impact to public access. They were proposing to restore beach, they were going to run a public shuttle, things like that. However, those of us that believed that we should be allowing all of the public to use this were
concerned about losing this public beach that was heavily used and we could increase that usage. At the
time there were 15,000 people going into Santa Monica beach on an annual basis at least, and that’s only
gone up. So unfortunately I was on the losing side and we ultimately did not include this in the staff report
that was public and taken to the commission, however, what happened at the hearing changed that and I can
give you more details on that if you’d like.

SC—so what happened at the hearing?

NC—well it’s a public hearing, and what happens at any public hearing then and now is that the staff gives
its recommendation and there is an open, then the applicant if they’re in agreement responds to it and then
the commission opens it up for public comment. And as I recall there was a speaker from the anti-
defamation league that got up to the mike and talked about how this club discriminates against members
of other ethnicities, religious beliefs and sex and asked the commission to consider that issue. I believe the
Commission asked the applicant to respond to that issue and that then provoked a very long and animated
discussion among the Commission about the club policies and the use of public beach the expansion of a
private club and the right of the public to be a member of this club so they could continue to use these
public beaches. And quite honestly it was the most interesting hearing I’ve ever sat thru.

SC—And what stands out in your memory?

NC—What I recall of that hearing was a very passionate speech by then-commissioner Grossman who cited
his ethnicity and religious beliefs and commented about the fact that then mayor Bradley who was then
mayor of Los Angeles would not be appropriate for this club. The mayor of LA where we were having this
hearing could not even be a member of this club and that he could not be a member of this club, nor could
his children or his grandchildren, and that then provoked several other commissioners talking about their
ethnicity or their genders or their religious beliefs, to the point where there was an amending motion made
by, I believe, Commissioner Grossman, to include a condition that required the Jonathan Club to
demonstrate, by giving the Commission its membership policies that it did not exclude all members of the
public from its facilities.

SC—What was the name, was it Michael Grossman African American?

NC—Marsall. Marshall Grossman was Jewish.

SC—And then there was an African American woman on there, but I didn’t catch her name on the tape.

NC—I can’t remember, Mc Neal? There were other women on the commission, a Jewish American, women,
one commissioner cited that he was a Native American, it was a just an absolutely fascinating hearing.

SC—Did that just sort of happen spontaneously, do you think? Or was there something else going on there?

NC—As a Commission employee for almost 40 years, I don’t believe this discussion was just something
that just happened because somebody from the Anti-Defamation League stood up and spoke. I honestly
believe the Commissioners had talked about this perhaps, or members of the Commission had talked about
this, and perhaps others had talked directly to commissioners about this. Perhaps somebody from ADL had
talked to them, because it was a bit orchestrated it seems, and in retrospect I’m convinced there was some
discussion or plotting if you will to add this condition at the time of the hearing.

SC—And so how did you feel going into the hearing in terms of making this recommendation that you
don’t have your heart and soul in, as opposed to how it turned out?

NC—One thing when this hearing started I was very conflicted as an analyst because of course I had wanted
a condition on the permit that allowed us to assure the public that anyone could be a member of this club
since the club was going to be taking public beach. Obviously I lost that in the recommendation phase but I
lost that fight. Obviously I was conflicted because I felt we had not gone far enough on this recommendation and that the law allowed us to make this requirement. Sitting at the hearing and watching the commission debate the issue and hearing public members speak and then having the deputy AG who had previously told me that he was concerned about our legal justification for this condition tell the commission that he now felt that we had a legal basis for requiring this condition based on the fact that they were going be taking public land from the public. I was overjoyed. I honestly can tell you my work on this case is one of the things I’m most proud of in my 40 year career here.

SC That’s terrific. Anything else that stands out?

NC—The one thing I can take away from this hearing that I was overjoyed with is that the membership policies were opened up after this hearing. Very soon after the commission’s hearing, Mayor Bradley was offered a membership, they took on some women members. And to me that was just an incredible achievement, since I’m not necessarily someone who studied environmental studies in college, but I am somebody that cares very deeply about equity and fairness, that to me was just such a wonderful result and to be held up in court afterwards was also vindication that I had been right in the beginning when I had wanted this to be on as a recommendation.

SC—It’s a really creative and unique use of the Coastal Act. I think it’s probably fair to say that the drafters of the Coastal Act were putting this together, nobody anticipated it specifically would be used in this way.

NC—I do believe that when the Coastal Act was originally drafted and adopted by the state it was not anticipated that we would be opening up membership in a white male club as a result of this law. However, it was a wonderful result. And I do believe the people of LA and Santa Monica all applauded us for this, perhaps excepting out the members at the time of the Jonathan Club. But I think even the Jonathan Club even embraced the wisdom of it now.

SC—after they sued the Coastal Commission all the way up to the Supreme Court.

NC- After they sued the Coastal Commission all the way up to the Supreme Court. And just as a side note, I actually got married after the commission held this hearing. We were preparing the record for the litigation and we had to ask for a delay, and the chief counsel had to sign a declaration saying the person most knowledgeable wasn’t available, she’s in Mexico, so my wedding is a part of the off the court record, which I thought was kind of entertaining. I honestly, the Coastal Act is an amazing document, and even after 40 years there are ways in which we are using this law to address situations that I think no one anticipated at the time of drafting. Another example is the Gualala fireworks case where we protecting species over disbursal-you can cut this all out-- from fireworks. That’s another-- Who woulda thought? One of the things that I was told when I started working as an analyst in 1980 was, ‘oh everything’s already been interpreted in the Act, every issue has already come up, there’s probably not an issue that will come up. Well that has not been the case, and this one is a prime example of that. That maximizing public access for all of the people shall be provided in new development. And I really believe in that section of the Coastal Act and this case just exemplifies that.

SC—the thing that really surprises me, looking into this case, was the fact that it was 1985, that is really recent. I was shocked, I had graduated from high school and left California. I was a fully functioning adult by 1985, and it never occurred to me that there were still all-white male social clubs that discriminated against minorities in 1985. That was shocking to me how recent this history is. And the idea that we would use a section of the Public Resources Code to end discriminatory social club practices was something I had never envisioned, such a creative use of that law to do something that quite honestly should have been done decades ago. But apparently we didn’t have a legal handle on it until 1985.

NC—It’s pretty amazing that in 1985 well, one could be shocked that in 1985 you had a white male club that was excluding women as well as members of other ethnicities and religions, however, I’m an early feminist, and one thing I’ve learned in being a feminist is, you’re always fighting that battle. My daughter
who is now 26, I’m 60, she’s talking about the third wave of feminism, and new battles that they’re fighting, but really they’re repeats of old battles which is can be discouraging, on the other hand I see young feminists like that and I’m not discouraged, I’m really calmed and excited because it’s carrying on, its not like that disappeared those issues from the 60s and 70s have not gone away, and we have new, young warriors carrying these issues to the hilt again. I honestly was shocked at the club’s attitude I think it really bothered them, although they would never say so, that the commission Executive Director assigned as the analyst team negotiating with the club, three women. One that was African American, one that was Jewish American, and one that was a labor unionist. To this day I know that this drove the club representatives crazy. But which kind of made it easy for me dealing with something that I was disgusted by.

SC—Very interesting. Anything else?

NC—No. I honestly can’t think of anything else. I appreciate you taking the time to find out the story.

SC—It’s a great story. It’s a wonderful history. And I think it’s something that everyone in this agency can be proud of.

NC—I know Peter Douglas was very, very proud of this, and was very pleased that we were able to get this condition on the recommendation and then to be upheld in the court as well was very satisfying to him, and I know it was very satisfying to staff. Especially those three women that worked on this a lot, it was incredibly satisfying to us.

SC—And ironically, Tony Summers, the Deputy AG who defended this case, who originally thought it shouldn’t be part of the staff recommendation when he retired he cited this as one of his three most memorable cases of his career. So he came around 180 degrees and argued it brilliantly.

NC—I know that Tony Summers who was the Deputy AG that I worked with at the time, his concern over including this in the recommendation at the time was founded in us being upheld and not losing or weakening the Coastal Act public access provisions. I happen to know that Tony is Jewish. I happen to know he was offended by these policies, and I think he was as pleased as staff when the Commission made the amending motion and it passed, I believe unanimously and that having the pleasure to defend that action in court. I honest can understand Tony saying this is one of his most memorable cases.
SARAH CHRISTIE—This is October 9, 2012 interview with Tony Summers, retired Deputy Attorney General in his home in San Diego talking about the Jonathan Club. So Tony, your initial advice to the Coastal Commission was that forcing the Jonathan Club to accept a non discriminatory membership policy was beyond the authority of the Commission. Can you outline the basis for that?

TONY SUMMERS— I’m not sure that I remember giving that initial advice. I know that at some point I was told, I learned, and I can’t tell you precisely how, that the issue was going to come up during the public hearing. And at first blush of course it seems as though discrimination in membership of a private club is pretty far removed from whether a coastal development permit should be used. But at some point I was told that the issue was going to come up and I had the opportunity to do a little bit of legal research and I found that although there was never a time when anyone could say there is no doubt about this, there was basically 2 lines of cases that had gone to the US Supreme Court one dealing with a restaurant on a facility that was rented from a public agency that ran a parking garage I guess it was, it was the Wilmington parking authority. And that restaurant discriminated against blacks, refused to serve them, and the case went all the way to the US Supreme Court which decided that it was not legal that because the restaurant was renting space from a government agency there was sufficient state involvement that the state could not discriminate. On the other hand there was another case that went to the US Supreme Court that dealt with a private club that had a liquor license, and it also discriminated. That was the Moose Lodge case. And in that instance the US Supreme Court said well its just a private club that there is always some degree of state involvement in granting a permit for people to do things that was not sufficient to convert the actions of a private entity into some sort of state action. So then the question became well, in the instance of the Jonathan Club which wanted to lease a portion of property owned by the state and use it in conjunction with its private facility, was the Jonathan Club more in a position like Moose Lodge, or was it more in a position like the Wilmington parking authority case. And at some point after reading the cases that it really appeared that it was closer to the Parking Authority case, because of the use of the public land as opposed to merely the issuance of a permit to do something within the purely private confines of the club.

SC—And this case turned on the US Constitution, not the Coastal Act, correct?

TS—Absolutely. The question with discrimination is always is there state activity involved. Private individuals can discriminate if they want to. If you have a private club, if you have a private organization, and you want to exclude people on the basis if race or religion you can do that. Business can’t because we have some laws in California that prohibit businesses from discriminating. We have a lot of laws at both the state and federal level that if you have public accommodation and public services you aren’t allowed to discriminate. But under the US Constitution a purely private organization if it truly is purely private, can discriminate. But if the governmental involvement is sufficiently strong, I should say, if the involvement of the government in the operations of the private entity is sufficiently strong, then you get to where any kind of discrimination becomes state action so that the state could be blamed if they didn’t take appropriate steps to prevent that sort of discrimination. So that was the situation that was coming up in the context of an application of a coastal permit the issue was going to be there the Jonathan Club was refusing to say whether they discriminated in their membership policies or not. They basically said it’s none of your business, we’re a private organization. So there was no evidence as I recall that they actually did discriminate the commission simply didn’t know and the Jonathan Club refused to give them an answer. And so we then had the question well, what if they do discriminate and the Coastal Commission has issued a permit to allow them to use all this public land as part of their private club and perhaps they are excluding certain members of the public, from membership, is that going to involve the Coastal Commission in being responsible for that discrimination? And there’s a very good
chance, there seemed to be a very good chance that the Commission could be responsible. And so at some point I concluded that the courts were more likely to say the case was more like the Wilmington Parking Authority case therefore the Commission did have a sufficient basis for putting a condition on its permit saying, in essence, you shall not discriminate. And you have to certify in some way, I’ve forgotten the details, but they wanted the Jonathan Club to prove that they did not discriminate as a condition of getting the permit.

SC-And to what extent did the public access policies of the Coastal Act support the legal hook to take this on?

TS-Well the Jonathan Club had two facilities. One was downtown Los Angeles, the other was on the beach in Santa Monica. And Santa Monica beach had been a source of ongoing legal disputes for many, many years. Beach front property there are always problems deciding where the line is between private ownership and public ownership. Classic cases are up in Malibu where the disputes just go on for years. And I cold give you some of the technical background how you decide where the line is and its very complicated legally and even when you get a full explanation of theoretical basis of where the line is, trying to find that on the ground is a whole other problem. So in SM it was com by the fact that there was a harbor, a breakwater, just north of the pier, and that had caused an artificial increase in the build up of sand in Santa Monica beach and that just complicates the matter even further in deciding where is the dividing line between the state and private ownership. But ultimately it was a settlement there was an agreement between the Jonathan Club and the state, I guess the State Lands Commission so they decided where the line was. But then when the Jonathan Club wanted to expand its facilities in order to meet its ob to provide parking it needed to use some of the land that now, because of that agreement, it had to use land that everybody knew belonged to the state. So here they were going to use a portion of property on the beach for their exclusive private use. And of course that alone raises all kinds of questions under the Coastal Act which tried to preserve the right of the public to access to the beach. So any time a private organization wants exclusive use of beach front property and especially if its going to involve any property owned by the public, yes, there is a direct imp of the Coastal Act. So to justify what, on the face of it would seem contrary to the Coastal Act’s requirements of maintain public access, I thin the C was obligated to be very careful to make sure that they were not going to allow the exclusive use of this publicly owned land in a way that would be detrimental to any segment of society.

SC-Sure. Now you said that at some point you learned that the question was going to come up during the hearing. So you weren’t surprised when it came up. But did you know that Peter had actually talked to Commissioners in advance and sort of primed them? And did he do that sort of thing often?

TS-Well I can’t tell you, well, Peter spoke to Commissioners quite a lot, as far as I know. And I think I did know in this case that he had spoken to at a very minimum, Marshall Grossman, who was a member of the Commission at that time. I of course was very pleased to know that the question was going to be coming up. I was pleased that I had advance notice. This was not the kind of question that I would have had sufficient, detailed understanding of the Supreme Court cases and the applicable law if I hadn’t had the opportunity to get into the library and look at those cases. So I knew the question was coming up. I knew that Marshall Grossman was prepared to raise the issue and to raise the legal issues, so I know I was going to have to address them, and of course its all done in public in public meeting so I always felt that I had to be prepared because if I gave advice that I could back up with citation to cases and statutes, I knew there would be plenty of people, not just representing the applicant or an environmental group but plenty of other lawyers in the audience who would be quite happy to take issue with me if I didn’t have a well-grounded basis for whatever advice I gave. I’m not saying I never gave bad advice, I’m sure that I did. I can even remember one or two instances that I won’t tell you about, but it was always very helpful to know in advance if a complicated legal question was going to come up.

SC-So this was new ground in terms of the Coastal Act. Were you apprehensive or relieved when the Commission voted for the condition?

TS-Well I would say both. I thought that from a policy standpoint, I mean, first of all my personal opinions I tried to keep out of anything that I did with the Coastal Commission. I was a very traditional lawyer, I had to represent the Commission in court however they decided on the case, as long as they had a tenable, ethical,
had no legal basis for what they did. Had they refused to impose a condition like this and somebody else had sued, I’m
sure I would have been representing the Commission in that instance. I can tell you that with San Onofre nuclear
power plant, it went through the Commission twice-Units two and three at San Onofre, and the first time there was
denied the permit an there was a lawsuit brought by the Utility, and I defended the Commission on remand the
Commission issued the permit and there was a lawsuit brought by the environmental organizations and I defended the
Coastal Commission. So I thought my personal opinions were not relevant, but now, many years later, I don’t mind
telling you that from a policy standpoint I think they made a terrific decision. I think it was the right decision to
make. Was I apprehensive? Sure, because now I knew I was going to have to go to court and it’s always extremely
unsettling to take a position and then have to go and defend it because courts are unpredictable. You don’t know
which court is the matter is going to get assigned to, you don’t know what the predilections of any particular judge are going to be. I was pretty conf that I had given reasonable legal advice but I can’t tell you I would have issued any guarantees or predictions that we
would win the case.

SC-So were you surprised when the trial court ruled in the Commission’s favor?

TS-Well, I’m never surprised at anything courts do because I’ve seen them do so many crazy things over the
years, but the other thing is that when you are representing an agency in litigation or an individual in litigation
you kind of have to convince yourself that you’re right. So, If you win, you’ll certainly not be surprised, and I
don’t think I was surprised. I was pleased, because there was pretty good comprehensive decision by the trial
court and of course it ultimately went to the court of appeal as well.

SC-And what was your reaction when the court of appeals upheld the lower court?

TS-Well, of course I was pleased, partly because just from an ego standpoint they were putting their OK on the
legal advice that I had given the Commission that the Commission followed, so of course I felt good about that.
But beyond that, the court of appeal wrote a fairly lengthy decision. I think it was Justice Arley Woods as I
recall. And it was lengthy and it was articulate, and it upheld everything the Commission had done and tracked
the same kind of analysis that I had gone through, and it cited the same cases that I had cited in our brief. And it
was our interpretation as opposed to the Jonathan Club’s interpretation of the cases that were upheld by the
court. So yes, I was quite pleased. And I was particularly pleased that the court of appeal ordered its decision
published because court of appeal decisions don’t have to be published and unless the court orders them
published, they aren’t.

SC-And so, did you anticipate that the Jonathan Club would take this all the way to the Supreme Court?

TS-Well, they thought it was a pretty important issue, and I certainly wasn’t surprised they had invested a great
deal of time and effort and I’m sure money in maintaining their legal position, so I was not surprised when they
went further with it. I think that the one thing that did surprise and very much disappoint me was that when the
California Supreme Court chose not to hear the case, but they ordered the opinion not to be published, the
“decertified” it in legalese. It had been certified for publication by the Court of Appeal, and that’s the one thing
that the Supreme Court changed, they said, “don’t publish the case.”

SC-So who did that, the California Supreme Court or the US Supreme Court?

TS-California Supreme Court. It was California law.

SC-So the US Supreme Court they weren’t the ones that said de-publish? That was the California Supreme
Court?

TS-That’s a peculiarity of California law, that the Court of Appeal decisions are published if the Court of
Appeals says they should be published, but the State Supreme court has the power to change that in either
direction. Sometimes the Court of appeal will say “we are not publishing this decision” and the Supreme Court
can order it published. Or vice-versa. In this case, in this instance, they chose to order non-publication. That’s not something that the US Supreme Court would get involved with. It’s not a federal issue.

SC-Is that unusual for the California Supreme Court to refuse to hear a case but order it to be de-published?

TS-I can’t tell you how frequently it happened, it happened from time to time. If you’re in the position the Coastal Commission was in its kind of frustrating because you’d like not only to have the favorable decision, you’d like to be able to cite it in the future. You’d like to establish a precedent. The act of de-publishing a decision refusing to certify it for publication is that that decision is even though that decision, and I still have a copy of that decision sitting here on the coffee table in front of me cannot be cited in any other case. And so it’s not a precedent. If another case comes along six months later a year later you more or less have to start all over again from scratch. And even if you’re in court you’re not allow to cite that non-published decision.

SC-Why do you think they did that?

TS-Well, there we have to get into the realm of speculation because I don’t know what goes on in the minds of the Supreme Court justices. Sometimes they might decertify an opinion because they think the decision wasn’t incorrect but just not important enough to hear the whole case. I don’t think that would have been the situation here. It’s a well-reasoned opinion, and it was a matter of public concern, I recall that around that time <<there was a certain amount of controversy going on because>> it turned out that some members of the Supreme Court were members of a private club that may well have been discriminatory in its membership practices, the Bohemian Club up in the Bay area. And so if I had to guess, and of course I have no way of documenting or proving this, but I think that the fact that there was an issue and there was a controversy as to whether it was appropriate for members of the judiciary to belong to private clubs that discriminated. <<even if the clubs had the right to discriminate, was it appropriate for members of the judiciary to belong to that that controversy and the Jonathan Club was>> such that the Supreme Court just didn’t want to be in the position of having to rule on the merits of the Jonathan Club case while this other issue was being bandied about in the San Francisco newspapers. Again, that’s speculation on my part.

SC-But it’s fascinating speculation.

TS-Well, it’s an interesting coincidence of timing isn’t it?

SC-Now Peter has said that even though this case was de-published there were several clubs around the state and elsewhere that sort of saw the writing on the wall and went ahead and revised their membership policies voluntarily as a result of this decision. Do you have any recollection of that?

TS-I certainly don’t know. I dealt with the legal q that arose. If other organizations chose to avoid the legal issues by changing their membership policies I probably wouldn’t have even heard about that.

SC-Is there anything else about the case that stands out in your mind, or that we haven’t covered that you think needs to be discussed?

TS-Well I remember that the hearing itself was pretty animated and interesting. From a purely personal perspective I remember that the Jonathan Club, the principle attorney for the Jonathan Club was named John Shiner, and he was always very polite, very gentlemanly. There was another attorney from that law firm who also appeared at the Commission named Robert Philobosian, and Mr. Philobosian had been in the AG office and held quite a high position. I think he had been head of the criminal division. And I remember going to one of the meetings and he came up to me and greeted me and said how nice it was to see me and so on, and to tell you the truth I don’t think I ever met him when he was with the Attorney Generals office. So that kind of stuck in my mind, you know. Hey I never saw you when you worked there and now you’re coming over and going out of your way to greet me this way, I thought that was a little strange. But the hearing was quite animated and I kind of which I had a t of it be it was a nice case from a lawyer’s standpoint, it was a nice case to be involved with. I still have the opinion and I still have the brief. I don’t have the transcripts, and it would have been a nice souvenir to have a copy of the transcript.
SC-Well, I can get you a copy of the tapes.

TS-OK, that’s fine. I don’t remember how long the hearing was, I assume about a half hour or so.

SC-Well you know that actually brings something up. When I first talked to Peter about this, his recollection was that under the threat of litigation that during the hearing the Commission went into closed session to discuss this, but Nancy didn’t remember it that way, and there is no report out of closed session at the beginning of the item, and there’s not break in the discussion of the item where they convened a closed session, so do you recall a closed session in this case?

TS-I don’t. And I also don’t remember specifically the state of the open meeting act at that time. Certainly at some time the Open Meeting Act started requiring that there be advance notice on the agenda of closed sessions. Whether the law required that at that time I don’t know. I don’t think that it always did, at some point it was introduced. I don’t recall a closed session, but gee, it’s a long time ago. I’m not saying there wasn’t one. I’m just saying I don’t remember one.

SC-I’m leaning toward thinking it was Peter mis-remembering because everything he said that took place in closed session actually was part of the public discussion.

TS-I can remember, I think I can remember, when I was told about the issue coming up that I had a chance to do some research, and then again before the actual hearing I remember talking to Peter and discussing how the issue might be raised. I don’t think there were any commissioners involved in that discussion with us, but gee, I’m not sure. I don’t think so.

SC-Anything else you want to add?

TS-Not that I can think of? Anything else you want to ask.

SC-I think this has been fascinating. I really appreciate you taking the time to talk about this and its been a fascinating task for me to get into the ins and outs of this case.

TS-It was, another reason it was interesting to me was that Marshall Grossman who was very articulate attorney who had been involved in some major class action cases, but he was also an old friend of mine dating back to high school days. You knew Marshall as well, didn’t you dear? (wife Judy answers yes). We had been involved in Synagogue youth group, so I had known Marshall years before either of us even went to law school. And then he went on to become a member of the Coastal Commission and I went to the Attorney General’s office and being the lawyer for the Commission at the time that this came up. He was certainly, if not the most active one of the most active commissioners in pushing this issue and in raising questions about it. So that was another thing that made it kind of a fascinating thing to be involved with because of having known Marshall all that time, and of course it was very clear where he was coming from. And then Peter of course he didn’t have to hide his personal views as I did. He didn’t have to be dispassionate, he could advocate to the Commission, and did on a regular basis. He had been involved with the Coastal Act since the time he had worked for the Legislature and been involved with it when it was first being drafted and first enacted back in 1972. And so he was always an advocate for what he considered to be the appropriate public policies, not just in the Coastal Act but in the larger sense and so he had a different role. And while I had to sit back and try to be very, very objective, Peter didn’t have that limitation. It was always interesting to see him do battle with people who didn’t agree with his views, whether they were on the environmentalist side of thing or the developers side of things. But he was always very articulate at all the meetings and was not hesitant at all about pushing his views and the views of staff and occasionally even having some disputes with commissioners, members of the Commission about it. It was a very interesting assignment and this was certainly this was one of the most interesting cases I dealt with for the Commission.

SC-That’s great Tony. We’ll call it there, I think.
SARAH CHRISTIE—This is a follow up question with Tony Summers about the difference between his role and Peter’s role.

TONY SUMMERS-Well at the Commission it was certainly not my job to advocate how the Commission should vote on any particular matter. Peter Douglas had that role and he reveled in it, he did a wonderful job, and he saw that as his function and I’m sure the Commission recognized that that was his function even when they didn’t agree with him. My role was to tell them what the law was to the extent that it was clear or what I thought a court was most likely to do in the areas where it wasn’t clear but not to argue with them or try to convince them to do one thing or another especially if the law wasn’t completely clear. However, once the Commission acted, then my role changes my job then became to def the Commission and became its advocate and once the Commission decided and the Jonathan Club decides to file an action to litigate the validity of what the Commission did, my strongest possible thing that I could legally do to advocate in favor of upholding the decision of the Commission and that’s what I tried to do.

SC-Perfect.
Selected Public Documents

Proposition 20, vote totals by county, 1972

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALAMEDA</td>
<td>273,450</td>
<td>165,260</td>
</tr>
<tr>
<td></td>
<td>62.3</td>
<td>37.7</td>
</tr>
<tr>
<td>ALPINE</td>
<td>335</td>
<td>199</td>
</tr>
<tr>
<td></td>
<td>62.7</td>
<td>37.3</td>
</tr>
<tr>
<td>AMADOR</td>
<td>3,128</td>
<td>2,990</td>
</tr>
<tr>
<td></td>
<td>51.1</td>
<td>48.9</td>
</tr>
<tr>
<td>BUTTE</td>
<td>22,661</td>
<td>24,040</td>
</tr>
<tr>
<td></td>
<td>48.9</td>
<td>51.5</td>
</tr>
<tr>
<td>CALAVERAS</td>
<td>2,672</td>
<td>3,662</td>
</tr>
<tr>
<td></td>
<td>42.2</td>
<td>57.8</td>
</tr>
<tr>
<td>COLUSA</td>
<td>1,940</td>
<td>2,355</td>
</tr>
<tr>
<td></td>
<td>45.2</td>
<td>54.8</td>
</tr>
<tr>
<td>CONTRA COSTA</td>
<td>147,426</td>
<td>98,302</td>
</tr>
<tr>
<td></td>
<td>60.0</td>
<td>40.0</td>
</tr>
<tr>
<td>DEL NORTE</td>
<td>912</td>
<td>4,309</td>
</tr>
<tr>
<td></td>
<td>17.5</td>
<td>82.5</td>
</tr>
<tr>
<td>EL DORADO</td>
<td>10,698</td>
<td>9,141</td>
</tr>
<tr>
<td></td>
<td>53.9</td>
<td>46.1</td>
</tr>
<tr>
<td>FRESNO</td>
<td>76,350</td>
<td>71,629</td>
</tr>
<tr>
<td></td>
<td>51.6</td>
<td>48.4</td>
</tr>
<tr>
<td>GLENN</td>
<td>2,652</td>
<td>4,517</td>
</tr>
<tr>
<td></td>
<td>37.0</td>
<td>63.0</td>
</tr>
<tr>
<td>HUMBOLDT</td>
<td>15,832</td>
<td>28,369</td>
</tr>
<tr>
<td></td>
<td>35.8</td>
<td>64.2</td>
</tr>
<tr>
<td>IMPERIAL</td>
<td>8,660</td>
<td>11,745</td>
</tr>
<tr>
<td></td>
<td>42.4</td>
<td>57.6</td>
</tr>
<tr>
<td>INYO</td>
<td>2,833</td>
<td>3571</td>
</tr>
<tr>
<td></td>
<td>44.2</td>
<td>55.8</td>
</tr>
<tr>
<td>KERN</td>
<td>37,397</td>
<td>75,351</td>
</tr>
<tr>
<td></td>
<td>33.2</td>
<td>66.8</td>
</tr>
<tr>
<td>KINGS</td>
<td>7,459</td>
<td>9,654</td>
</tr>
<tr>
<td></td>
<td>43.6</td>
<td>56.4</td>
</tr>
<tr>
<td>LAKE</td>
<td>4,858</td>
<td>6,157</td>
</tr>
<tr>
<td></td>
<td>44.1</td>
<td>55.9</td>
</tr>
<tr>
<td>LASSEN</td>
<td>3,593</td>
<td>3,007</td>
</tr>
<tr>
<td></td>
<td>54.4</td>
<td>45.6</td>
</tr>
<tr>
<td>COUNTY</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>---------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>LOS ANGELES</td>
<td>1,441,280</td>
<td>1,162,034</td>
</tr>
<tr>
<td></td>
<td>55.4</td>
<td>44.6</td>
</tr>
<tr>
<td>MADERA</td>
<td>5,933</td>
<td>7,509</td>
</tr>
<tr>
<td></td>
<td>44.1</td>
<td>55.9</td>
</tr>
<tr>
<td>MARIN</td>
<td>61,800</td>
<td>37,292</td>
</tr>
<tr>
<td></td>
<td>62.4</td>
<td>37.6</td>
</tr>
<tr>
<td>MARIPOSA</td>
<td>1,669</td>
<td>1,649</td>
</tr>
<tr>
<td></td>
<td>50.3</td>
<td>49.7</td>
</tr>
<tr>
<td>MENDOCINO</td>
<td>7,415</td>
<td>13,621</td>
</tr>
<tr>
<td></td>
<td>35.2</td>
<td>64.8</td>
</tr>
<tr>
<td>MERCED</td>
<td>13,677</td>
<td>15,480</td>
</tr>
<tr>
<td></td>
<td>46.9</td>
<td>53.1</td>
</tr>
<tr>
<td>MODOC</td>
<td>1,135</td>
<td>1,989</td>
</tr>
<tr>
<td></td>
<td>36.3</td>
<td>63.7</td>
</tr>
<tr>
<td>MONO</td>
<td>1,318</td>
<td>1,337</td>
</tr>
<tr>
<td></td>
<td>49.6</td>
<td>50.4</td>
</tr>
<tr>
<td>MONTEREY</td>
<td>44,843</td>
<td>33,396</td>
</tr>
<tr>
<td></td>
<td>57.3</td>
<td>42.7</td>
</tr>
<tr>
<td>NAPA</td>
<td>21,840</td>
<td>15,626</td>
</tr>
<tr>
<td></td>
<td>58.3</td>
<td>41.7</td>
</tr>
<tr>
<td>NEVADA</td>
<td>6,925</td>
<td>6,802</td>
</tr>
<tr>
<td></td>
<td>50.4</td>
<td>49.6</td>
</tr>
<tr>
<td>ORANGE</td>
<td>316,066</td>
<td>312,123</td>
</tr>
<tr>
<td></td>
<td>50.3</td>
<td>49.7</td>
</tr>
<tr>
<td>PLACER</td>
<td>20,033</td>
<td>15,012</td>
</tr>
<tr>
<td></td>
<td>57.2</td>
<td>42.8</td>
</tr>
<tr>
<td>PLUMAS</td>
<td>2,981</td>
<td>2,814</td>
</tr>
<tr>
<td></td>
<td>51.4</td>
<td>48.6</td>
</tr>
<tr>
<td>RIVERSIDE</td>
<td>87,402</td>
<td>80,489</td>
</tr>
<tr>
<td></td>
<td>52.1</td>
<td>47.9</td>
</tr>
<tr>
<td>SACRAMENTO</td>
<td>175,368</td>
<td>99,570</td>
</tr>
<tr>
<td></td>
<td>63.8</td>
<td>36.2</td>
</tr>
<tr>
<td>SAN BENITO</td>
<td>3,042</td>
<td>3,257</td>
</tr>
<tr>
<td></td>
<td>48.3</td>
<td>51.7</td>
</tr>
<tr>
<td>SAN BERNADINO</td>
<td>125,612</td>
<td>104,052</td>
</tr>
<tr>
<td></td>
<td>54.7</td>
<td>45.3</td>
</tr>
<tr>
<td>COUNTY</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>------------------</td>
<td>---------</td>
<td>--------</td>
</tr>
<tr>
<td>SAN DIEGO</td>
<td>297,328</td>
<td>272,645</td>
</tr>
<tr>
<td></td>
<td>52.2</td>
<td>47.8</td>
</tr>
<tr>
<td>SAN FRANCISCO</td>
<td>164,773</td>
<td>105,611</td>
</tr>
<tr>
<td></td>
<td>60.9</td>
<td>39.1</td>
</tr>
<tr>
<td>SAN JOAQUIN</td>
<td>48,137</td>
<td>53,005</td>
</tr>
<tr>
<td></td>
<td>47.6</td>
<td>52.4</td>
</tr>
<tr>
<td>SAN LUIS OBISPO</td>
<td>25,852</td>
<td>22,893</td>
</tr>
<tr>
<td></td>
<td>53.0</td>
<td>47.0</td>
</tr>
<tr>
<td>SAN MATEO</td>
<td>135,949</td>
<td>106,396</td>
</tr>
<tr>
<td></td>
<td>56.1</td>
<td>43.9</td>
</tr>
<tr>
<td>SANTA BARBARA</td>
<td>72,603</td>
<td>44,627</td>
</tr>
<tr>
<td></td>
<td>61.9</td>
<td>38.1</td>
</tr>
<tr>
<td>SANTA CLARA</td>
<td>272,149</td>
<td>167,370</td>
</tr>
<tr>
<td></td>
<td>61.9</td>
<td>38.1</td>
</tr>
<tr>
<td>SANTA CRUZ</td>
<td>39,755</td>
<td>27,736</td>
</tr>
<tr>
<td></td>
<td>58.9</td>
<td>41.1</td>
</tr>
<tr>
<td>SHASTA</td>
<td>15,764</td>
<td>19,191</td>
</tr>
<tr>
<td></td>
<td>45.1</td>
<td>54.9</td>
</tr>
<tr>
<td>SIERRA</td>
<td>585</td>
<td>559</td>
</tr>
<tr>
<td></td>
<td>51.1</td>
<td>48.9</td>
</tr>
<tr>
<td>SISKIYOU</td>
<td>5,996</td>
<td>7,252</td>
</tr>
<tr>
<td></td>
<td>45.3</td>
<td>54.7</td>
</tr>
<tr>
<td>SOLANO</td>
<td>28,723</td>
<td>26,193</td>
</tr>
<tr>
<td></td>
<td>52.3</td>
<td>47.7</td>
</tr>
<tr>
<td>SONOMA</td>
<td>55,235</td>
<td>45,485</td>
</tr>
<tr>
<td></td>
<td>54.8</td>
<td>45.2</td>
</tr>
<tr>
<td>STANISLAUS</td>
<td>42,635</td>
<td>28,259</td>
</tr>
<tr>
<td></td>
<td>60.1</td>
<td>39.9</td>
</tr>
<tr>
<td>SUTTER</td>
<td>6,732</td>
<td>8,406</td>
</tr>
<tr>
<td></td>
<td>44.5</td>
<td>55.5</td>
</tr>
<tr>
<td>TEHAMA</td>
<td>4,843</td>
<td>6,850</td>
</tr>
<tr>
<td></td>
<td>41.4</td>
<td>58.6</td>
</tr>
<tr>
<td>TRINITY</td>
<td>1,236</td>
<td>2,059</td>
</tr>
<tr>
<td></td>
<td>37.5</td>
<td>62.5</td>
</tr>
<tr>
<td>TULARE</td>
<td>22,285</td>
<td>33,491</td>
</tr>
<tr>
<td></td>
<td>40.0</td>
<td>60.0</td>
</tr>
<tr>
<td>COUNTY</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>----------</td>
<td>---------</td>
<td>--------</td>
</tr>
<tr>
<td>TUOLUMNE</td>
<td>4,510</td>
<td>5,572</td>
</tr>
<tr>
<td></td>
<td>44.7</td>
<td>55.3</td>
</tr>
<tr>
<td>VENTURA</td>
<td>72,922</td>
<td>71,577</td>
</tr>
<tr>
<td></td>
<td>50.5</td>
<td>49.5</td>
</tr>
<tr>
<td>YOLO</td>
<td>29,098</td>
<td>12,224</td>
</tr>
<tr>
<td></td>
<td>70.4</td>
<td>29.6</td>
</tr>
<tr>
<td>YUBA</td>
<td>3,828</td>
<td>6,069</td>
</tr>
<tr>
<td></td>
<td>38.7</td>
<td>61.3</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4,312,133</td>
<td>3,511,780</td>
</tr>
<tr>
<td></td>
<td>55.1</td>
<td>44.9</td>
</tr>
</tbody>
</table>
December 1, 1975

TO GOVERNOR EDMUND G. BROWN JR.,
THE MEMBERS OF THE CALIFORNIA LEGISLATURE, AND
THE PEOPLE OF CALIFORNIA

This report transmits to you the California Coastal Plan mandated by the Coastal Initiative (Proposition 20) in 1972.

The Coastal Plan has evolved through countless hours of public hearings, public review of draft proposals, and informational meetings—public participation in resource planning on a scale unmatched in California.

Because this Plan takes into account the wide range of often-conflicting views expressed to us, because the Plan was written by 84 Commissioners on six Regional Commissions and one State Commission, and because we ourselves reflect a broad spectrum of ideas about the coast, the Plan does not speak with a single voice. All of us subscribe to some recommendations more strongly than to others, and all of us share the frustrations inevitable in being not the sole author but the contributing authors of the Plan.

Nonetheless, we submit to you a Plan that we believe speaks for the people of California, a Plan that can guide us in dealing with an uncertain future, a balanced Plan designed to meet two principle objectives:

1. Protect the California coast as a great natural resource for the benefit of present and future generations.

2. Use the coast to meet human needs in a manner that protects the irreplaceable resources of coastal lands and waters.

The Coastal Plan is being delivered on time. We had an extremely limited time within which to prepare it, and a limited amount of money, considering the complexity of our assignment. We recognize that, because this is a long-range Plan, designed to serve California for many years, some of our recommendations cannot be put into effect immediately. And we recognize that there will inevitably be some conflicts among our policy recommendations; difficult choices will have to be made, for example, where a coastal area is ideally suited for recreation but can
be degraded by overuse. Thus, we strongly emphasize the need for a continuing California coastal agency to make the sometimes-difficult decisions necessary to insure that the policies of the Plan are put into effect over the next several years.

In addition to preparing the Plan, the Regional and State Coastal Commissions have acted on more than 10,000 permit applications since early 1973. The permit procedure in the Coastal Initiative was designed to insure that improper development did not defeat the Plan before it could be completed. We have, however, approved a very high percentage of the permit applications; where necessary, we have required conditions to insure appropriate density of development, protection of ocean views, and, of great importance, increased public access to the oceanfront in appropriate areas.

To meet the deadlines in the Coastal Initiative, the workload for us has been enormous. The Commissioners, all of whom serve part-time, have put in long hours of meeting and preparation time. Commission and staff members have worked nights, weekends, and holidays to meet deadlines. I know of few governmental agencies where so much work has been done for the taxpayer's dollar.

Now, the future of the California coast is in your hands; under present law, the Coastal Commissions will go out of existence on December 31, 1976. We stand ready to help in any way we can as you consider the Coastal Plan, and its proposals for the conservation and wise use of the California coast.

Sincerely,

M. B. Lane
Chairman
June 21, 1979, Letter from Coastal Commission Legal Counsel John Bremner to Interstate Commerce Commission

June 21, 1979

EXHIBIT I

A. Daniel O’Neal
Chairman
Interstate Commerce Commission
Washington, D.C. 20423

Dear Sir,

I am writing in regard to the above referenced railroad abandonment application. Notice of this abandonment proceeding, and your commission’s decision has only just reached the Coastal Commission. We believe that this abandonment proceeding deals with an activity—the abandonment of the Southern Pacific Transportation Company’s right of way in Monterey County— which is likely to have a significant effect on the coastal zone. Pursuant to Section 307(c) of the Coastal Zone Management Act, and implementing regulations adopted pursuant to the Act, particularly 15 CFR 920.34, we are therefore notifying your agency that we believe this abandonment requires review by the Coastal Commission for consistency with the California Coastal Management Program. Pursuant to 15 CFR 950.51(b), following this notification, your agency may not issue the license until the requirements of Subpart D of 15 CFR 920 et seq. are met. The essence of Subpart D is that the application for abandonment be amended to include a consistency certification which shall be reviewed by the Coastal Commission pursuant to the requirements of Subpart D.

If a consistency certification is not received within a reasonable period following this notice, the Commission will be forced to seek judicial review.

Please feel free to call if you have any questions concerning this notice.

Sincerely,

John Bremner
Legal Counsel

cc: Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce
Southern Pacific Transportation Company
Central Coast Regional Coastal Commission
August 30, 1979, Letter from Les Strnad to Southern Pacific Transportation Co.

August 30, 1979

Mr. DeMoss
Vice President - Operations
Southern Pacific Transportation Co.
1 Market Street
San Francisco, Ca. 94111

Re: Removal of rails, Seaside/Monterey, Ca.

Dear Mr. DeMoss:

We have just been informed by the City of Monterey of your intention, within the next two weeks, of removing fixed rails from your abandoned right-of-way between Seaside and the Monterey Pier. Apparently, no local permits are required for this action.

Sections 30600 and 30106 of the California Coastal Act of 1976 require that you obtain a permit from the Central Coast Regional Commission before undertaking any development within the coastal zone, such as "construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility." The removal of fixed railroad equipment from the right-of-way constitutes a development under this section, and you are therefore advised of the necessity of obtaining a Coastal Permit. Enclosed is a permit application form for your use. In order to issue a permit, the Commission must find both that the development is consistent with the policies of Chapter 3 of the Coastal Act, and that it will not prejudice the ability of the local governments within which the development is to occur to prepare a local Coastal Program (plan) conforming to those same policies.

The Coastal Permit process can be expected to take at least three weeks; more if objections are received and/or public hearings are necessary. Please do not hesitate to call (408-426-7390) if you have any questions. We would further suggest that you refrain from contracting for the proposed work to be done at any time prior to the issuance of a Coastal Permit.

Thank you for your prompt attention.

Sincerely,

Les Strnad
Permit Coordinator

cc: John Brenner
    Butch Cope
    Gael Douglas

LS/VM/cm

EXHIBIT 3
September 28, 1979, Letter from Coastal Commission Executive Director Peter Douglas to Southern Pacific Transportation Co.

State of California, Edmund G. Brown Jr., Governor
California Coastal Commission
631 Howard Street, 4th floor
San Francisco, California 94105
(415) 543-8555

September 28, 1979

A.D. DeMoss
Vice President, Operations
Southern Pacific Transportation Company
One Market Plaza
San Francisco, CA 94105

Dear Mr. DeMoss:

I am writing to express our concern over Southern Pacific's plans to carry out the abandonment of the Seaside - Lake Majella branch, ICC Docket No. AR - 12 (Sub-No. 56F), in Monterey County. In the context of the Coastal Commission's mandate under state and federal law, I am also concerned about your company's refusal to submit either a consistency certification request for the ICC abandonment permit or an application for a coastal permit for the removal of the tracks pursuant to the abandonment.

Mr. Bremer, of our legal staff, has discussed this matter with Mr. Weber and Mr. Laakso, of your executive and legal staffs, and has been informed that Southern Pacific intends to go ahead with the abandonment, notwithstanding the fact those actions are, in our opinion, in conflict with the California Coastal Act and the federal Coastal Zone Management Act. I respectfully suggest that it would benefit all of us if the Coastal Commission and Southern Pacific attempt to resolve these issues through discussion and negotiation. On behalf of the Coastal Commission, I would appreciate the opportunity to give it a try. To that end, I would like to request a meeting with you to discuss the California Coastal Act policies which are involved in this proposed abandonment. In addition, I want to express our sincere request that Southern Pacific not proceed with removal of the rails or take any other action which would alter the status quo until we have had an opportunity to discuss these issues.

I would appreciate a response at your earliest convenience.

Sincerely,

Peter Douglas
Deputy Director

cc: Dan O'Neal, Interstate Commerce Commission
    Alan Stein, Business and Transportation Agency
    Adriana Giannurco, Department of Transportation
    Joseph Rodovitz, Public Utilities Commission
    Ed Brown, Central Coast Regional Commission