

Ramirez, Angelica

Public Comment - Closed Session

From: Lisa Weinberg <lweinberg@gaineslaw.com>
Sent: Monday, September 20, 2021 3:21 PM
To: Williams, Das; Hart, Gregg; Nelson, Bob; Lavagnino, Steve; Hartmann, Joan; sbcob
Cc: Pettit, Brian; Jana Zimmer
Subject: RE: Board of Supervisors Closed Session 9/20/2021 - Casa Blanca Beach Estates v. County
Attachments: Santa Claus Beach Memo Aug 10 2021.pdf



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Hon. Supervisors:

As you may know, I represent the Casa Blanca Beach Estates Owners' Association, of which Jana Zimmer's client is a member. We have been working together attempting to resolve the litigation and the administrative proceedings involving our clients.

I noted that Ms. Zimmer's email, below, included Dr. King's initial report regarding the valuation of the easement on the revetment, but not his supplemental report. A copy of the latter is attached for your review. It provides important expert information about the recreational value of the easement.

Best regards,

Lisa Weinberg

Lisa A. Weinberg, Esq.



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From: Jana Zimmer <zimmerccc@gmail.com>

Sent: Monday, September 20, 2021 2:47 PM

To: Williams, Das <dwilliams@countyofsb.org>; Gregg Hart <ghart@countyofsb.org>; bob.nelson@countyofsb.org; steve.lavagnino@countyofsb.org; Hartmann, Joan <jhartmann@countyofsb.org>; sbcob@co.santa-barbara.ca.us

Cc: Lisa Weinberg <lweinberg@gaineslaw.com>; Pettit, Brian <bpettit@co.santa-barbara.ca.us>

Subject: Board of Supervisors Closed Session 9/20/2021 - Casa Blanca Beach Estates v. County

Re: Closed session item: Casa Blanca Beach Estates v County of Santa Barbara and Coastal Commission

Dear Honorable Supervisors:

As you know I represent Love Lambs II,LLC, an individual homeowner in the 7 owner Casa Blanca subdivision. I have been attempting to resolve this dispute on behalf of my client in a fair and reasonable way since I was retained in late December of 2019. Since I first reviewed the record, I have maintained that there has been no permit violation, only a failed expectation/hope on the part of the 1990 County Planning Commission, which was not supported by Parks or Risk Management 30 years ago. Based on the facts as they were known and have evolved, the Board of Supervisors' decision in 1990 to reject the Offer to Dedicate an easement on the revetment was the correct one.

My client purchased her property in 2014, and fully renovated her home in reliance on final CDP and building permits from the County. She is factually, ethically, and legally innocent of any wrongdoing, but she has been facing threats of being held individually and collectively responsible for up to \$20,000,000 in penalties for 4 1/2 years for a permit violation that never occurred, and she has been subjected to illegal demands in direct violation of Section 30212(b)(2) and (3) of the Coastal Act, to consent to a new lateral easement directly in front of her living room, after she reconstructed her home in full compliance with a CDP that your Planning Department issued after the Zoning Administrator found that her property was in full compliance with the coastal zoning ordinance, and which was not appealed by any party.

Despite our firm belief that a court would find that no violation of permit conditions ever occurred, I have suggested both procedural and substantive solutions to resolve the case, including the payment of monies for public access programs through Wilderness Youth- with their support, and /or pursuit of appropriate study of sea level rise in the Carpinteria area through BEACON- with their support, and even to support the County's construction of access improvements on Santa Claus Lane, which I first suggested in January of 2020.

In January of 2017, the County joined the Commission staff in alleging a violation that we have demonstrated simply never occurred. The County joined the Commission staff in alleging that our clients must exhaust administrative remedies which the County and the Commission staff have **refused to provide for an entire year since we filed our Statements of Defense**. The County has have failed to clarify for Commission staff the terms of your own County permits, and that under the terms of those permits you understand that you cannot assert a legal right to require alternative mitigation for the unsafe walkway location that you have rejected time and again, since 1990.

We are very concerned that because of County staff turnover since the initiation of this case, the Board may not have a full understanding of why we have requested that you reassert your jurisdiction over the entire matter. We believe that if you have a full understanding of the facts and legal history, you will conclude that your duty to protect **your right to implement your own LCP**, to stand up for

your own constituents against false allegations of violation, and to protect your own County fisc from the inevitable damages claims that you will have to defend, must now prevail over any remaining desire to do the Commission staff's bidding.

Commission enforcement staff simply refuses to engage on the merits of their allegations, and they have failed and refused – for almost a year- to grant our clients the administrative hearing that they, and you have claimed to the court must be exhausted before a court can decide the legal issues. Therefore, as you consider the substance of the CBBEOA's offer of settlement, please ask County Counsel to respond, to the following:

1. Having read the Statements of Defense, do you believe that a court would (a) find that a violation occurred, as a matter of law? (b) if so, *when* do you believe that any such violation occurred? (Didn't the CBBEOA comply precisely with the "joint" County and Commission demand to submit plans for the walkway depicted in 89 DPF 32 cz in 2017? And didn't the Coastal Commission staff refuse to process the very permit application that they had demanded because they knew the walkway would be unsafe for the public?)
2. Since the County rejected the Offer to Dedicate on public safety grounds in 1990, but accepted it 21 years later **without ever informing the homeowners**, and again affirmed in April of 2016 that it did *still* not want the walkway built, and represented that the County, not the homeowners would seek permits when they decided to pursue construction, didn't the County violate its own permit condition? Who should pay damages or penalties for that?
3. If you accept the facts, - which are not reasonably subject to dispute- why should your Board continue to support, let alone defer to the Coastal Commission staff's demands for penalties, or alternative access *at all*?

With regard to your consideration of the value of the alternative mitigation that the HOA has offered, my client engaged Dr. Phil King, the foremost expert on valuation of recreation to provide a scientific basis for the offer. The \$28,200 per year for 20 years is based directly on his reports, which I believe Ms. Weinberg has forwarded to County Counsel.

It is also important for the Board to understand that the HOA is in conversation, separately, with the State Lands Commission regarding their claim for rent for the revetment. Regardless of how the boundary issue is resolved, any payments to the County for alternative access must be eligible to be counted as public benefit for purposes of a new lease. This is the primary reason that the Coastal Commission staff's demands for "penalties" cannot be supported. Finally, please note that Coastal Commission staff summarily rejected consideration of a vertical access in July of 2020, which has since been determined to be legally infeasible.

We respectfully request that you please review all the facts and history of the case, and upon evaluating responses to the questions above, that you direct County Counsel to inform the Commission staff that:

- 1. The CBBEOA's terms of settlement of 9/17/2021 are acceptable to your Board; and**
- 2. The County is prepared to take the matter back to implement the settlement through a County Board of Supervisors public hearing at which you would consider quitclaim of the existing easement in exchange for the access benefits that the CBBEOA has offered; and**
- 3. Dismiss your 'Joint' Notice of Violation of January 5, 2017, with prejudice.**

Thank you.

Jana Zimmer, Attorney/
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Memo

August 10, 2021

To: Jana Zimmer, Attorney at Law
Lisa A. Weinberg, Esq.

From: Dr. Philip King
Sarah Jenkins

Re: Proposed Walkway between Santa Claus and Sandyland Beaches

Background

This memo is in response to the recent letters from the Coastal Commission staff in reference to the dispute over the walkway at Santa Claus Lane Beach. Frankly, I feel that the commission is missing the point of the matter here. The goal of this process should be the promotion of tangible public access. However, the Commission appears to be fixating on the walkway, to the detriment of public access. Commission staff misconstrues my memo of September 26, 2020 and makes several assumptions regarding my analysis which are completely incorrect. As stated in my memo, construction of a walkway in this location (in any version) would fail to preserve or provide meaningful public access and would therefore have little or no economic value. Most importantly, it fails to truly open Sandyland beach to the public. The limited utility of the walkway and significant liability concerns ensure that it would have little to no economic value.

Commission staff have referenced and misapplied the \$70,000 annual value that I identified for purposes of discussion as mid-range between \$28,000 and \$116,000 for a **safe walkway and** used that value to suggest that your clients should agree to pay up to \$3.7 million dollars to resolve the Commission staff's allegations. It appears that outside of applying that estimate, Commission staff disregarded the majority of the memo, thus wrongly applying an estimate of consumer surplus out of context and without considering the real utility of the walkway. Consumer surplus is *not* synonymous with coastal access.

Without weighing into the merits of either side's legal positions, it is important for me to point out that Commission staff misconstrues my September 26, 2020, opinion letter in at least four (4) respects:

1. The \$3.7 million dollars assumes 'mitigation' is or should be required for 47 years of remaining useful life of the homes without considering the reality of access at that point into the future.
2. Staff improperly demands *both* a payment of \$3.7 million dollars reflecting 47 years of value assuming no walkway is built, AND also demands that a walkway be built at some point during the 47 years, if it were approved by all relevant agencies with permit authority.

3. The value suggested by staff assumes that the walkway could or would ever be legally open. However, that can only occur if a nonprofit or other agency, acceptable to the County, accepts liability for maintenance as well as liability for any injury to third parties, which as pointed out in my previous memo, is a significant potential issue at this site.
4. The \$3.7 million dollars assumes an annual value of \$70,000 which, I explain below, is far too high for this location, based on the facts as they have emerged and been further clarified.

Discussion

What a walkway in the recorded easement would create, as I explained last September, is neither a trail nor a path, but an unsafe, narrow pedestrian “bridge” over the existing 15’ high legal rock revetment coupled with the easement connecting the two beaches via a short (450’) path from the western boundary of the Casa Blanca property to in front of the homes, where it would continue at lower elevation to the boundary with the Sandyland homes to the east. This bridge would be located only a few feet above the existing beach and would be vulnerable to tidal action upon construction. It would allow regular visitors to Santa Claus Beach (or residents of the homes fronting Sandyland) to walk between the beaches somewhat more frequently than is currently possible. This bridge or “trail” will *not* create additional coastal access; that is, it is not expected to increase the number of visitors to the coast, nor would it assist with the critical issue of access for all. The public does not have good access to Santa Claus Beach, and this “bridge” does not remedy that, as there are severe parking deficiencies along Santa Claus Lane. Even after the County’s approved Santa Claus Lane Streetscape project, not expected until 2026, parking in this area will remain severely constrained, such that an individual seeking only to spend an hour or less walking on the beach is likely to go to other local beaches where parking is more readily available.

Consequently, this project, as it has been since the County accepted an offer to dedicate an easement in 2011, would create only a small amount of additional “consumer surplus” in the form of a walkway on top of boulders, where walkers would have one more option during medium tides, as they walk along the beach. Please note that as these walkers who would use it *already have access to the coast*, the project would (at best) enable them to walk a bit further. It does not improve access, but merely provides additional benefit, in terms of additional nonmarket value, to those that already have it.

The Coastal Commission has a mandate to promote “maximum” public access. Mr. Willis in fact emphasized this point in his March 12, 2021, letter, claiming “we are concerned only with the provision of adequate public access.” As an economist, I’m writing in an attempt to explain how this walkway and the “path” it would create fail to provide any increased access for the beachgoing public. The

Commission staff's focus on constructing a replacement or substitute walkway at the site of the original easement does not in fact, promote "maximum" public access, or any additional access to the general public beyond those who already live very near to the coast. Furthermore, I believe Commission staff have an opportunity here to meaningfully promote public access well within their legal rights and in a way that is most efficient. In order to further that effort, in my previous correspondence I provided a range of potential annual values for a *safe* path, to provide a solid economic foundation for the Commission staff to negotiate alternative mitigation to dispose of the current dispute. That is to say, bring the most public benefit (increased visitation) at the lowest cost.

In their reading of my September 26 letter, the Commission staff seems to have misinterpreted my analysis. Below I have set forth a more detailed explanation of our previous analysis and how the estimates are intended, and indeed able, to be used.

1. **Mitigation fee:** The estimate of \$70,000 was never intended or discussed as a method for determining a penalty or enforcement fee. Rather, \$70,000 is a *high* estimate of the value to the public of a *safe* footpath over the revetment, which could serve as a representative mitigation fee **in-lieu of constructing the walkway**. This fee is **not** in addition to the walkway's construction.

Were any walkway constructed and the HOA still assessed a fee or penalty, the Commission would be double charging the HOA for benefits the walkway could (potentially) create¹. Were the walkway built, there would be no need to mitigate for access, as that access would be provided by the constructed walkway.

At most, in-lieu payments could be justified for the period from 2017 to the construction of a walkway, were that the chosen settlement. However, the Commission staff not only incorrectly applied the concept of in-lieu mitigation, but also opted to use the *average* value of the walkway despite the fact that in this situation, the low end of the range is more appropriate, as explained below. Using the low-end value, \$28,200/year over 47 years – the number representing 'alternative mitigation' would be \$1,325,400 in place of constructing the walkway.

Using 47 years is also likely unjustified. While 47 years is purported to be the expected remaining useful life of the homes behind the revetment, it is far longer than the expected useful life of a walkway built as conditioned by the County in 1990. Such a walkway would likely have a 10 to 20-year useful life, reducing the appropriate alternative mitigation value to \$28,200 x 10 years, or \$282,000. (Any

¹ As stated in my previous analysis, I do not believe these benefits would actually be created even if a walkway were constructed, as it would be unsafe for the public and could not be opened. This discussion is meant to illustrate that the Commission is double counting in their use of the estimated recreation value as a penalty for the useful life of the revetment.

replacement of the walkway after that ten-year lifespan would be the responsibility of the County, or whatever entity has maintenance and liability responsibility, not the HOA.) Thus, the \$1,325,400 mitigation valuation is an overestimate, and the actual value is likely significantly less.

Additionally, the mitigation is for a loss of services over time, yet the mitigation suggested by the commission is a lump sum with no consideration of the fact that the present value of a stream of payments over time will be less than the sum of the payments (for any positive discount rate). The owners should have the option of determining whether to pay monthly, or annually, or in a lump sum, particularly if the agreed amount represents a sum to be donated to a local environmental justice organization, and/or to BEACON for future studies, as the owners have suggested.

2. **Social Utility:** More importantly, the Coastal Commission staff claims to be concerned with public access and yet fails to acknowledge that the walkway fails to provide any meaningful increase in access to beach recreation. The staff ignores the fact that, even with this project, Sandyland Beach remains inaccessible to the public even with a walkway, through no fault of the CBBEOA. The revetment which allegedly impairs access has been present, legally, and without conditions, since at least 1964. There is not now, nor has there been, at any time since 1990 any dry sandy beach in front of the Casa Blanca revetment. The access constraints, discussed in detail in my previous memo², at the site³ are such it's unlikely anyone would visit Sandyland Beach for full use (i.e. sunbathing, picnics, going in the water)⁴. Rather, constructing the walkway essentially results in an extension of visitors', and primarily residents of the beach front homes, existing path along the water via a bridge over the revetment (on the surface of the rocks), which is accessible to the public only via the unsafe (for now) railroad crossing at Santa Claus main beach ¼ mile to the west. Providing this connection results in minimal additional consumer surplus *and no improvement in public access*. Even with a walkway, there is no vertical access from any public road to Sandyland beach.

3. **"A Bridge to Nowhere":** Any value of a walkway in front of the Casa Blanca homes, even to walkers, is predicated on their ability to access the walkway. Even with Dr. Ewing's proposed elevated walkway⁵ there would still be extensive periods of the day where the tide currently inundates the beach adjacent to the existing revetment at the west and at the east end of the Casa Blanca property, at the point

² See Dr. King's September 26, 2020, letter.

³ See September 26, 2020, letter pg. 11

⁴ Christensen, Jon., and Phillip King. 2017. *Access for All: A New Generations Challenges on the California Coast*. (January). Retrieved from <https://www.ioes.ucla.edu/coastal-access/>; "Who's Counting: An Analysis of Beach Attendance Estimates in Southern California," w. A. McGregor, *Ocean and Coastal Management*, March 2012, Pages 17–25.

⁵ See Dr. Lesley Ewing's Feb. 22, 2021 memo.

between Santa Claus and Sandyland, resulting in a lack of dry sand adjacent to the revetment and making it unsafe/impractical to access⁶. Dr. Ewing's analysis of the infeasibility of constructing a walkway on the revetment is fine, but largely irrelevant. It ignores the challenge of accessing the revetment from either side and the impact of tides and rising seas on the adjacent beaches. It also ignores the reality that the costs of the proposed structure almost certainly far outweigh any potential benefit, given the projected use. Commission staff have themselves estimated the cost of an elevated walkway on caissons for the length of the recorded easement at Casa Blanca plus a stairway at \$15,000,000. In contrast, I have estimated that at most a walkway connecting Santa Claus and Sandyland beaches, useable only for walking and only at low or medium tide, would realistically provide approximately \$28,000 per year in beach recreation value, were it open to public use. Thus, the cost of constructing such a walkway (to say nothing of the costs to maintain and insure it) would so far exceed the public value of the walkway that it cannot be economically justified.

4. **Safety & Liability:** In their reading of my previous memo, Commission staff ignores the fact that the \$70,000 figure that they have asserted as a representation of annual value was a higher-range analysis of value for a **safe** walkway, and that any estimate of consumer surplus is predicated on the walkway being safe enough to be opened to the public. Both the County and Commission staff have themselves determined that the specific walkway considered by the County in 1990 would be unsafe, **and therefore without any value.**

The precarious exposure of any structure on/over the revetment and the lack of vertical access on the Sandyland side, I maintain, create a situation where any walkway is likely to lead to serious liability concerns. Not only might visitors become seriously injured on the exposed walkway, but they could become trapped on the Sandyland side, with no safe exit from the beach except via trespass over private property or at risk of injury braving the walkway across the point. With the current tide patterns, even without a storm, there are times during which the dry sandy beach adjacent to the-revetment is inundated and would be unsafe to cross. With current sea level rise projections, these instances will likely increase to a point where the revetment (and proposed walkway) would remain without any dry sandy beach by which to access it⁷. Walkers who used the walkway to cross the revetment could find themselves on the Sandyland side with no exit from the beach, unable to safely return to Santa Claus beach or access the road behind the private homes. Such a situation could, as explained in my previous memo, result in \$7 million or more in damages, per incident, utterly negating the value of the walkway.

⁶ See Mark Lloyd's comments in the September 26, 2020, letter pg. 6.

⁷ This can be seen in the USGS Coastal Storm Modeling System (CosMos) available at <https://data.pointblue.org/apps/ocof/cms/index.php?page=flood-map>.

In Mr. Willis' April 16, 2021 letter, he included a note about the applicability of Section 30212 of the California Coastal Act that is particularly problematic when it comes to public safety at this site. He claimed that Section 30212, which requires a public agency or nonprofit to assume obligations for maintenance and liability for all public access easements before they can be opened to the public, "applies to accessways on private land. The walkway within the easement area would be located in state tidelands, and thus, Section 30212 would not apply." He also stated that the "Association will need to obtain a lease from the State Lands Commission... for any portion of the walkway and the underlying revetment, located on sovereign land." I have been advised that Mr. Willis' statement is based on a *draft* position of the State Lands Commission staff as to the current location of the tidelands boundary, and that CBBEOA's expert has submitted evidence that the entire revetment is on private property, not state tidelands. Thus, liability would have to be assumed by a public agency or nonprofit for the access way, which is unlikely. Therefore, the walkway would not be opened and would provide no value.

What's problematic about Mr. Willis' assertion is that the Commission staff appears to support the *private* construction of a *public* walkway on *public* land, per their understanding of the situation. As I understand this, Commission staff are suggesting that a private entity (the Association) construct a public walkway, on what they claim is public land, and yet the public law regarding the safety and liability of that walkway need not apply. Furthermore, to have CBBEOA assume what could amount to tens of millions of dollars in liability would far outweigh any claimed obligation to mitigate for any alleged obstruction of public access. Regardless of the uncertainty of the legal positions, from an economics perspective, the Commission would be requiring CBBEOA to assume an uninsurable risk. The economic risk of requiring an inherently dangerous walkway to be built would be grossly disproportionate to the extremely low value of the ability to walk along the revetment above the beach.

Methods

In an effort to aid the Commission in fully understanding my analysis of the recreational value of the proposed walkway, I am providing additional detail below to elaborate on and explain my methods.

1. First, I analyzed the location of the proposed walkway and the accessibility to determine how many *additional* hours a day people would be able to walk past the point, factoring in the tide conditions. Utilizing drone footage and the tide tables for the area, I determined that the proposed walkway would offer additional access *potentially* during medium tides. Expert

estimates suggest at most 50% of the time, the walkway would be beneficial⁸. Factoring in (a) the route is already accessible some of the time, (b) people will most likely only travel on it during the day, and (c) the walkway would not always be accessible at higher tides, this results in only 3 additional hours of access per day with the proposed walkway .

2. I determined, based on drone footage, expected walkers past the revetment per hour at the *most popular times* (11.75 walkers per-hour observed⁹). This leads to a conclusion that in an expected 3 additional hours per day, 35.25 additional users per day (11.75 peak-day walkers x 3 hours) would use a walkway, at most. On other days, such as in winter or on weekdays, the number of users would likely be significantly less.
3. I estimated the annual increase in non-market value given the total number of expected trips. We first used the State Lands Commission estimate of annual attendance at Santa Claus Beach (150,000) to determine the average number of visitors on a busy summer day. Past studies of coastal recreation show that busy summer days constitute approximately 1% of annual attendance, or 1,500 visitors. We then determined that those who would walk past the point on the average busy day (35.25 in a day, according to drone footage and tide patterns to access the walkway) constitute 2% of all visitors to the beach. Then I calculated that 2% of the 150,000 annual visitors is 3,525 annual visitors who would walk past the point. Spread out over a full year, this **averages less than 10 visitors per day who might use such a walkway**. Importantly, these are not *additional visitors*, but those already able to access Santa Claus (or Sandyland) beach, who might gain additional value (consumer surplus) from additional connectivity between the two beaches.
4. I derived a value per trip on the beach path/walkway based on past empirical analyses of the non-market value of walking trails. It's important to note that while this project connects the two beaches in what might be considered a "trail" from the western end of Santa Claus to the eastern end of Sandyland, the walkway as proposed is not, in itself, a trail. Without an exact situation to compare to, I caution that the analyses my estimates are based on are of longer, more extensive trails and trail projects, and therefore this short segment likely would result in the low-end value, and probably less.
5. We then applied the per trip value from (4) to this estimate. 3,525 annual visits x \$8 per trip = \$28,200 is the annual non-market value of a safe and functional walkway. It is more than

⁸ It's worth noting that in her letter on the topic, Lesley Ewing argued for different ranges of accessibility that were still limited.

⁹ This is the same observation as the September report, with 23.5 walkers observed in a two-hour period of drone footage just converted to a per hour figure for ease of explanation.

likely that this walkway's value is at or below this \$28,200, however, due to (a) the existence of substitutes, (b) access issues at the site, (c) short duration, and (d) lack of exit on the Sandyland end of the beach.

6. To reiterate, this is not an analysis of a punitive fee for the HOA. Rather, it demonstrates the low utility of any walkway over the revetment due to limited demand, limited utility for coastal recreation, lack of safe access, lack of legal vertical access from Santa Claus Lane, and the lack of vertical access to Sandyland.

The Issue of Substitutes: In my September memo, it appears I did not adequately explain why the lower value more accurately captures the value of the walkway. The estimates of consumer surplus for trails come from in-depth studies of visitor patterns using a travel cost model¹⁰. As discussed above, all the trails studied are more extensive than what is proposed at Santa Claus beach. This trail is most similar to the trails with the lowest value: it would see few non-local visitors, it is far shorter than the more valuable trails, it is not multi-use (the walkway would be only for walking), it would provide additional access for only approximately 3 hours per day, and it is extremely unlikely that non-local residents would travel to the area specifically to walk the length of the beach.¹¹ Compared to the comprehensive value of even a poorly attended Southern California beach, the value of this beach path as proposed is quite low (at most \$116,325 per year but, in my analysis, most likely to be \$28,200 per year or less).

Additionally, there are safer alternatives nearby, with better access. Those wishing to walk along the water could visit Carpinteria, which offers a safer, longer walk, and easier parking. The multi-use path the county is working on as an extension of the California Coastal Trail will provide an alternative for those wanting to walk or jog a longer distance in the area. With these considerations, the Commission should at *most* use the \$28,200 value, as the real annual consumer surplus generated by the trail is even lower. Crucially, the Commission staff need to understand that this value is *not* the value of additional coastal access, but of consumer surplus generated from the ability to walk from the western end of Santa

¹⁰ Siderelis, C., & Moore, R. (1995). Outdoor Recreation Net Benefits of Rail-Trails. *Journal of Leisure Research*, 27(4). pg. 355. Betz, C. J., Bergstrom, J. C., & Bowker, J. M. (2003). A Contingent Trip Model for Estimating Rail-trail Demand. *Journal of Environmental Planning and Management*, 46(1), 79-96. doi:10.1080/713676704. Moore, R., Gitelson, R., and Graefe, A. (1994). The Economic Impacts of Rail-Trails. *Journal of Parks and Recreation Administration*, 12(2)

¹¹ Siderelis, C., & Moore, R. (1995). Outdoor Recreation Net Benefits of Rail-Trails. *Journal of Leisure Research*, 27(4). pg. 355. Betz, C. J., Bergstrom, J. C., & Bowker, J. M. (2003). A Contingent Trip Model for Estimating Rail-trail Demand. *Journal of Environmental Planning and Management*, 46(1), 79-96. doi:10.1080/713676704. Moore, R., Gitelson, R., and Graefe, A. (1994). The Economic Impacts of Rail-Trails. *Journal of Parks and Recreation Administration*, 12(2)

Claus to the eastern end of Sandyland a few more hours per day. In the context of “maximum coastal access,” it is essentially valueless.

The “Elevated” Walkway: Dr. Ewing has stated that “an elevated walkway could be designed and installed to provide safe access within the identified easement.” Regardless of whether such a structure *could* be designed, it is not clear that it could be legally or safely built. However, it is clear that the cost of construction would be grossly out of proportion with any loss to the public allegedly caused by the continued lawful presence of the revetment and the development. Dr. Ewing also agrees that “risks during a major storm could require some access management” which, even if legally required in the future, would impose further costs to either the HOA or the state without significant economic benefit in terms of continued public use of the walkway.

There would also be considerable environmental costs associated with construction of an elevated walkway supported by caisson supports, especially if “certain portions of the revetment might need to be disassembled” to construct it¹². Additionally, in the April 16 letter, the Commission cites environmental degradation as a factor in their rejection of the HOA’s proposal but does not provide any consideration of the environmental impact of their proposed alternative. In my 25 years of experience, not only are the construction costs of these projects significant, but the detriment to the environment from the projects is often undervalued¹³. Negative impacts of the imagined elevated walkway are likely to be significant due to the structural requirements.

Even without considering the costs to the environment from the disturbance, the construction costs alone, which the commission staff estimates to be around \$15 million, outweigh even the *highest* possible value of the trail/walkway creation. Furthermore, the ambiguity of the liability, as discussed above, poses a problem.

¹² For more detail on the environmental impacts of these projects see “Valuing Beach Ecosystems in an Age of Retreat,” w. C. Nelsen, J. Dugan, D. Hubbard, K. Martin, R. Battalio, *Shore and Beach*, v. 86, No. 4, Fall 2018, pp. 45-59.; “Beach Sustainability Assessment: The Development and Utility of an Interdisciplinary Approach to Sandy Beach Monitoring.” W Kiki Patsch, Philip King, Dan R. Reineman, Sarah Jenkins, Clare Steele, Emily Gaston, Sean Anderson *Journal of Coastal Research* 2021; doi: <https://doi.org/10.2112/JCOASTRES-D-20-00174.1>”; A Holistic Framework for Evaluating Adaptation Approaches to Coastal Hazards and Sea Level Rise: A Case Study from Imperial Beach, California." W. Revell, David, Phil King, Jeff Giliam, Juliano Calil, Sarah Jenkins, Chris Helmer, Jim Nakagawa, Alex Snyder, Joe Ellis, and Matt Jamieson. *Water* 13.9 (2021): 1324.

¹³ “Valuing Beach Ecosystems in an Age of Retreat,” W. C. Nelsen, J. Dugan, D. Hubbard, K. Martin, R. Battalio, *Shore and Beach*, v. 86, No. 4, Fall 2018, pp. 45-59.

Conclusion: In conclusion, the California Coastal Commission can and should do more to promote meaningful improvements in access on the California coast. I have worked with the Coastal Commission and others on this issue for several years¹⁴. In this instance, however, I believe that the Commission fails to see the bigger picture and appears to be fixated on this “bridge to nowhere.”

The real issue at Santa Claus Lane is not the fact that people—primarily local and affluent—cannot walk from Santa Claus Lane Beach to Sandyland Beach during moderate to high tides, it is the fact that there is limited access at Santa Claus Beach and *no public access* to Sandyland beach. The proposed walkway—even an elevated walkway—does nothing to remedy that situation. It does not provide access the public can safely and easily use.

I have worked on the economics of beaches and coastal access for over 25 years. The vast majority of my work has been for State or local government, with the intention of improving access and understanding the public demand for coastal recreation. I take very few cases where I disagree with the Commission staff’s approach. However, I believe the commission staff’s approach to resolving this case is fundamentally flawed. Instead of attempting to exact an expensive, unsafe, physical walkway over a rock revetment, which will only slightly enhance access for people who already have it, the Commission staff should focus on improving public access to the coast. The first challenge for many Californians is to get *to* the beach, and this project doesn’t help them get there.

¹⁴ From 2002 to the present, I have worked on Local Coastal Programs and similar analyses for the cities of Manhattan Beach, Carpinteria, Imperial Beach, Goleta, Pacifica, Oceanside, Newport Beach as well as Ventura County, the California EPA, the Coastal Conservancy, the California State Resources Agency, the Coastal Sediment Management Working group and many others.