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December 7, 2021

*VIA ELECTRONIC MAIL*

ITEM NO. 12a

Board of Directors  
Capistrano Bay Community Services District  
35000 Beach Road  
Capistrano Beach, CA 92624  
Attn: Donal S. Russell, General Manager  
Email: [drussell@capobay.org](mailto:drussell@capobay.org)

Re: Capistrano Bay Community Services District (the “**District**”)

Dear Members of the Board:

As you know, this firm represents the Coalition to Protect Capistrano Beach (the “**Coalition**”). The Coalition believes that the District’s Board members (the “**Board**”) can take action to protect the Beach Road Community from continuing shoreline erosion.

Working with Local Partners

As we have noted in the Coalition’s past correspondences to the Board, the Board should be reaching out to stakeholders at the local, state and federal level to try to gain their support and cooperation in the District’s efforts to take action to protect the Beach Road community.

As a reminder, below is a list of the stakeholders the Coalition has identified in previous correspondences to the Board:

1. Southern California Regional Rail Authority (“**Metrolink**”)
2. Amtrak
3. Orange County Transportation Authority (“**OCTA**”)
4. California Department of Transportation
5. U.S. Military
6. Orange County Flood Control District
7. County of Orange
8. City of Dana Point

As noted in prior correspondences to the Board, the Coalition believes that OCTA and Metrolink are natural partners for the Board to reach out to for purposes of finding common ground to protect the Beach Road community. In the Coalition’s letter to the Board dated March 10, 2021, the Coalition specifically noted that

the Board should be supportive of OCTA and Metrolink projects in the vicinity including the Serra Siding Project. The Coalition was pleased to see that the District reversed its initial opposition to the Serra Siding Project. Given the recent threats to rail tracks in San Clemente, OCTA and Metrolink are obvious partners for the District and the Beach Road community in their efforts to combat shoreline erosion. The railroad is located just east of the District and Metro Link, OCTA, and Amtrak have a vested interest in protecting their rail line operations from coastal erosion. The Pacific Coast Highway is a vital part of the transportation network in Southern California and is located just east of the District as well – Cal Trans has a vested interest in protecting this asset.

Accordingly, some combination of the above-referenced governmental agencies will eventually be forced to construct a large barrier to protect the railroad line and Pacific Coast Highway from the rising sea levels - that would be an expensive construction project financed by California taxpayers. As such, the Coalition believes that the Board needs to propose an alternative scenario to the California Coastal Commission (“CCC”) whereby the District and the Beach Road private property owners could construct and implement barriers, sand nourishment programs or other coastal protective devices that protect not only the Beach Road homes but also the vital public infrastructure projects located immediately adjacent to the District. This would result in the private property owners along Beach Road subsidizing the protection of the railroad and PCH and the vital governmental, economic and public interests that they serve. In exchange, the Coalition believes it is reasonable for the Beach Road residents to also be permitted to protect their own homes.

As the Coalition has stressed repeatedly in prior correspondences to the Board, obtaining the support and cooperation of regional partners like OCTA and Metrolink will only help the District in its negotiations with the CCC. The Serra Siding Project and the recent threats to rail tracks in San Clemente provide the perfect opportunity for the Board to open a constructive dialogue with OCTA, Metrolink and Cal-Trans regarding shoreline protection along Beach Road – the Coalition urges the Board to take advantage of this opportunity.

#### Alteration of the Natural Current

In addition to working with the regional partners noted above, the Coalition also believes that the Board should be examining the effect that certain alterations along the coast may have on coastal erosion in the Beach Road Community. The Board should examine the Dana Point Harbor, the San Onofre reef project and other projects along the coast. These projects may have affected the natural current in the vicinity of the District, thereby increasing the erosion in the Beach Road Community. The Coalition urges the Board to investigate this issue.

#### Latent Powers

The Coalition is pleased to see that the Board is working to obtain the approval of its exercise of the latent power of flood protection from the Orange County Local Agency Formation Commission (LAFCO).

Thank you for paying attention to the Coalition’s requests, and for the renewed focus on shoreline protection. Again, the Coalition is appreciative of the Board’s consideration of these issues and looks forward to working with the Board and the District on a path forward on the issue of shoreline protection.

Sincerely,



Alexander W. Schwada  
of Schwada Law, P.C.