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49th Day: Waived
Staff: Tiffany S. Tauber
Staff Report: October 30, 2008
Hearing Date: November 12, 2008
Commission Action:

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE & DE NOVO

LOCAL GOVERNMENT: Mendocino County

DECISION: Approval with Conditions

APPEAL NO.: **A-1-MEN-07-053**

APPLICANTS: Gene & Toni Sampson, Curt & Doris Billings, and Ursula McDaniel

AGENT: Curt Billings

PROJECT LOCATION: Approximately four miles north of Anchor Bay along the Iversen Road, Iversen Point Road, and Highway One road corridors, and at a parcel on the east side of Highway One, Mendocino County (APNs 142-010-32, 142-031-27, -26, -25, and -23) .

PROJECT DESCRIPTION: Develop the infrastructure for a Mutual Water Company to serve five residential lots, including four undeveloped bluff top lots in the Iversen Point subdivision on the west side of Highway One, and the subject well lot in the Iversen Landing subdivision on the east side of Highway One. The project includes (1) installation of approximately 2,850 linear feet of two-inch-diameter pipeline

within the road right-of-way beginning along Iversen Road, crossing underneath Highway One, and extending to the terminus of Iversen Point Road on the west side of Highway One, (2) conversion of the source test well to a production well, and (3) construction of a below-ground, 20,160 gallon reinforced concrete potable water storage facility with a 128-square-foot above-ground pump house and a 48-square-foot basement.

APPELLANT:

Group to Preserve Iversen Point; attn: John Carlson and Karen Russell

SUBSTANTIVE FILE
DOCUMENTS:

- (1) Mendocino County File No. CDP 3-2007;
- (2) CDP File No. 194-75 (Wonderlick);
- (3) CDP File No. 358-79/359-79 (Clawson & Vienna, Hietala);
- (4) Mendocino County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

1. Summary of Staff Recommendation: Substantial Issue

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified LCP.

The development approved by Mendocino County involves developing infrastructure for the establishment of a Mutual Water Company to serve five lots, including four Iversen Point bluff top lots on the west side of Highway One in the Iversen Point subdivision, and the subject well lot on the east side of Highway One. Specifically, the approved project includes (1) installation of approximately 2,850 linear feet of two-inch-diameter pipeline within the road right-of-way along Iversen Road extending to the terminus of Iversen Point Road, including crossing underneath Highway One, (2) conversion of the source test well to a production well, and (3) construction of a below-ground 20,160 gallon reinforced concrete potable water storage facility, a 128-square-foot above-ground pump house with a 48-square-foot basement. Three of the bluff top parcels that would be

served by the water supply infrastructure as approved by the County are located seaward beyond the western terminus of Iversen Point Road on an approximately 1.8-acre headland that is connected to the mainland by a narrow isthmus.

The 12-lot Iversen Point subdivision was created in 1970 prior to the passage of Proposition 20 and the Coastal Act. The Iversen Point Mutual Water Company was created at the time of the subdivision to provide potable water to the lots, including four of the five subject lots (the fifth is the well site on the east side of Highway One). By 1979, after the development of four homes within the Iversen Point subdivision, the Mutual Water Company was unable to maintain sufficient water supply for its shareholders. Following years of expressed concerns from property owners in the subdivision regarding the provision of water, the Division of Environmental Health (DEH) performed an inspection of the Iversen Point Mutual Water Company system in 1990 and found numerous deficiencies including safety and sanitation hazards, and deficiencies in both water quantity and quality. The DEH determined that the Iversen Point Mutual Water system could not support additional connections. Thus, the provision of adequate water has been an on-going constraint for new development in the subdivision. Currently, only four of the parcels in the Iversen Point subdivision are developed with single-family homes and the remaining eight parcels are undeveloped. The water supply infrastructure approved by the County is intended to partially meet the water needs that were originally to be met by the now defunct Iversen Point Mutual Water Company that was created in 1970.

The appellant's contentions, read together, raise one main contention that the approved project raises a substantial issue of conformance regarding the prevention of significant adverse cumulative impacts. The appellants contend that the water supply project would facilitate future residential development on the three headland parcels in a manner that would result in cumulative adverse impacts to coastal resources, including environmentally sensitive habitat areas, water quality, visual resources, and geologic hazards.

The installation of the water supply infrastructure without connection to future development does not have any inherent value, purpose, or function. Rather, the water pipeline is clearly intended to facilitate "*reasonable foreseeable probable future projects*," as defined by the LCP (i.e., residential development) on the five parcels authorized by the County to be served by the water pipeline, including the three westernmost parcels on the headland.

LUP Policy 3.9-1 requires that development be approved in a manner that prevents significant adverse cumulative impacts to coastal resources and requires reasonable foreseeable future projects to be considered in that analysis. The relatively small size of the parcels, combined with the geologic, visual, and ESHA setback requirements of the LCP, pose substantial constraints on the potential developable area of the headland. Additionally, the headland parcels are subject to substantial geologic hazards, including

bluff erosion, which has the potential for significant adverse cumulative impacts to adjacent ESHA and the biological productivity of coastal waters.

Based on past Commission actions on at least two of the three headland parcels, it is clear that development on the headland raises several issues with regard to the protection of coastal resources, and it is questionable whether any of the three headland parcels could be developed in a manner consistent with the LCP. The Commission twice previously denied a CDP for residential development on what is now APN 142-031-25, as well as previously denied a CDP for residential development on APN 142-031-26 based on an inconsistency of the residential development with Coastal Act policies regarding geologic hazards, the provision of adequate services, and visual impacts.

In addition, the County's approval of the water supply project explicitly authorizes the provision of water to serve the three parcels on the headland, which has the potential to create an expectation on the part of the property owners that future residential development on the three headland parcels may be approved once geologic, botanical, and other site development studies are performed. Furthermore, as the provision of sufficient quantity and quality of water has been a limiting factor for development of the residential parcels in the Iversen Point subdivision for many years, removal of this development limitation through approval of the water supply infrastructure has the potential to further increase the expectation of the property owners that the three headland parcels are suitable for residential development.

There is not a high degree of factual or legal support for the County's decision to approve the water supply infrastructure project as being consistent with LUP Policy 3.9-1 and the ESHA, geologic hazard, and visual protection policies of the LCP because the County failed to demonstrate that the water supply infrastructure would avoid significant adverse cumulative impacts to coastal resources.

Therefore, staff recommends that the Commission find that a substantial issue is raised as to whether the approved water supply infrastructure, taking into account the residential development on the headland the waterline would facilitate, is in conformance with the policy of the LCP requiring that all development be regulated to prevent any significant adverse effects, either individually *or cumulatively*, on coastal resources, including geologic hazards, water quality and environmentally sensitive habitat areas, and visual resources.

The motion to adopt the Staff Recommendation of Substantial Issue is found on page 8.

2. Summary of Staff Recommendation De Novo: Approval with Conditions

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the County's certified LCP.

Staff recommends that the Commission approve with conditions the coastal development permit for the proposed project. Staff believes that as conditioned, the proposed development would avoid any significant cumulative adverse impacts to coastal resources and would be consistent with the Mendocino County LCP and the public access and recreation policies of the Coastal Act.

As described above, the proposed project involves developing water supply infrastructure to serve five residential parcels, including four parcels in the Iversen Point subdivision. The applicant designed the water supply system based on service to five parcels because (1) state law defines a public water system as a system that serves a minimum of five and a maximum of fourteen connections (State Small Water System), and (2) Caltrans limits the placement of utilities within the Highway One road right-of-way to public, rather than private, utilities. As it is necessary for the pipeline alignment to cross Highway One to bring water from the source well on the east side of Highway One to the west side of the highway, the system is required to be a "public" water system in order to locate the pipeline within the Highway One right-of-way.

Furthermore, the number of water service connections proposed by the applicant is necessarily limited to no more than five based on the quantity of water available from the source well as determined by hydrological studies and supporting water usage reports prepared for the proposed project. Following review of the hydrological analyses, it was determined that the pump rate of the source well must be limited to 1 gallon per minute (gpm) over a 24-hour day (1,440 gpd) to avoid interference with existing neighboring wells. Commission staff geologist, Dr. Mark Johnsson, reviewed the hydrological analyses submitted by the applicant for the proposed project and concurs with the report's findings that the proposed rate of extraction (1 gpm) from the source well would not significantly adversely affect the well yields of neighboring wells, and that there is sufficient groundwater recharge and storage beneath the well site to supply the proposed project. The applicant proposes to install a ¾ inch, 35 gallon per minute "Recordall Cold Water Bronze Disc" pump meter in conjunction with a proposed pumping schedule to measure and limit the rate of groundwater extraction.

To ensure that the proposed development of water pipeline infrastructure from the subject source well would not result in significant adverse impacts to existing neighboring wells, staff recommends Special Condition No. 2 requiring that groundwater extraction from the well site be limited to 1 gallon per minute (1,440 gallons per day). In addition, Special Condition No. 2 requires the applicant to submit, within 90 days following completion of

the project, evidence that the Mendocino County Department of Health has verified that the well pump has been equipped with a time averaging controller capable of distributing the extraction allocation (1 gpm) over the 24 hour day and measuring total daily extraction volume.

Explicitly authorizing connection of the waterline to serve the three headland parcels as proposed by the applicant would be inconsistent with LUP Policy 3.9-1, if the future development facilitated by the waterline would result in potentially significant adverse cumulative impacts. LUP Policy 3.9-1 requires that the proposed water supply infrastructure must be regulated in a manner that ensures that the parcels that would be served by the waterline are developable, and that the future development facilitated by the proposed water pipeline would not result in significant adverse cumulative impacts to coastal resources.

While future residential development on the three headland parcels could result in potentially significant cumulative adverse impacts, it is likely that future residential development on at least four parcels located along the proposed water pipeline alignment could be developed consistent with the LCP in a manner that would not result in significant individual or cumulative adverse impacts. Although the applicant has, as part of the proposed CDP application, requested authorization for the waterline to serve five specific parcels, the applicant has also indicated to Commission staff that there may be up to 15 vacant or existing developed parcels along the proposed water pipeline alignment from the subject well site on the east side of Highway One to the terminus of Iversen Point Road that may eventually be in need of a new or alternate source of water. A parcel owner's interest in the Mutual Water Company can be transferred to owners of other parcels wishing to be served by the water company. Thus, if one or more of the five parcels proposed by the applicant to be served by the waterline are determined to be undevelopable, there are several other potential residential parcels in need of water service that could connect to the waterline.

Regardless of which parcel or parcels are served by the water pipeline on the west side of Highway One, the proposed pipeline alignment would not change. Potential feasible alignments from the source well on the east side of Highway One are limited by the existing location and configuration of the road right-of-ways where the pipeline would need to be installed. Lateral connections from the main waterline could be installed to any of the parcels located along the pipeline alignment. Additionally, the diameter of the pipeline would be the same whether the waterline was serving one parcel or a maximum of five parcels. As recommended to be conditioned as described above, the amount of groundwater extraction and rate of flow would be dictated by a well pump controller and thus, service capacity is not a function of the size of the pipeline.

Therefore, staff believes that it is possible to construct the proposed water supply infrastructure to meet the water supply needs of up to five residential parcels along the proposed alignment in a manner that would not result in individual or cumulative

significant adverse impacts to coastal resources only if a mechanism is in place to review the individual lateral connection to each of the five parcels at the time such connection is proposed. To ensure that analysis of the individual and cumulative impacts of residential development occurs prior to installing a lateral connection from the water pipeline, staff recommends Special Condition No. 1. Special Condition No. 1 limits the water pipeline infrastructure to serving no more than five residential parcels, including the source parcel that contains the well. The condition further requires that prior to connecting development on any parcel other than the source parcel that contains the well to the water system, the applicant shall submit for the review and written approval of the Executive Director a connection request that includes evidence demonstrating that (1) development on no more than four other parcels (including the source parcel) has already been granted the Executive Director's approval to connect to the water system, (2) the new or existing development to be served by the water system is authorized under a valid coastal development permit, or existing development pre-dates the requirements of the Coastal Act, and (3) the mutual water company has authorized the development proposed to be connected to the water system, and (4) for any connection request submitted more than five years after the Commission's approval of Coastal Development Permit No. A-1-MEN-07-053, a new hydrological report has been prepared that demonstrates that the well and water system continues to have adequate capacity to serve the proposed development in a manner that would prevent significant adverse impacts to existing neighboring wells and coastal resources.

To minimize potential significant adverse water quality impacts from erosion and sedimentation from ground disturbance associated with the proposed project, staff recommends Special Condition No. 3 which requires (1) the implementation of sediment control measures such as straw bales, coir rolls, or silt fencing be installed along the pipeline alignment prior to, and maintained throughout, the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment from being directed off-site; (2) removing any excess excavated material and other construction debris immediately upon completion of construction and disposing of such debris outside the coastal zone or within the coastal zone pursuant to a valid coastal development permit; (3) maintaining on-site vegetation to the maximum extent possible during construction activities; (4) containing all on-site stockpiles of soil and construction debris at all times; (5) limiting ground disturbing activities to the dry season between May 1 and October 15th, and (6) replanting all disturbed areas with native vegetation following project completion.

The applicant is not proposing to plant any exotic invasive plants as part of the proposed project. However, to ensure that any ESHA located near the site is not significantly degraded by any planting that would contain invasive exotic species, staff recommends Special Condition No. 3(F) that requires only native and/or non-invasive plant species be planted at the site.

Lastly, to ensure that the applicant obtains the necessary review and authorization from Caltrans for the proposed project, staff recommends Special Condition No. 4 that requires the applicant to submit a copy of the Encroachment Permit approved by Caltrans prior to issuance of the permit, or evidence that no permit is required.

As conditioned, staff recommends that the Commission find that the project is consistent with the certified Mendocino County LCP and the public access and recreation policies of the Coastal Act.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 9.

I. STAFF RECOMMENDATION, MOTION, AND RESOLUTION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

Motion:

I move that the Commission determine that Appeal No. A-1-MEN-07-053 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation:

Staff recommends a **NO** vote. Following the staff recommendation will result in the Commission conducting a de novo review of the application, and adoption of the following resolution and findings. Passage of this motion, via a yes vote, will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue:

The Commission hereby finds that Appeal No. A-1-MEN-07-053 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the proposed project with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. STAFF RECOMMENDATION, MOTION, AND RESOLUTION ON DE NOVO:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-07-053 subject to conditions.

Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on the grounds that the development as conditioned will be in conformity with the certified Mendocino County LCP and the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

PART ONE – SUBSTANTIAL ISSUE

STAFF NOTES:

1. Appeal Process

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within one hundred feet of a wetland or stream or three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area, such as a designated “special communities.”

Furthermore, developments approved by counties may be appealed if they are not designated the “principal permitted use” under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission because (1) it is located within 300 feet of the top of the seaward face of a coastal bluff; (2) the proposed development is not designated as a principally permitted use in the certified LCP, but is a conditional use in the rural residential zoning district, and (3) the approved development is located within a sensitive coastal resource area. Section 20.308.110(6) of the Mendocino County Zoning Code and Section 30116 of the Coastal Act define sensitive coastal resource areas as “those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity,” including, among other categories, “highly scenic areas.” The approved development is located within an area designated in the LCP on the certified land use map as a “highly scenic area,” and, as such, is appealable to the Commission.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

Unless it is determined that there is no substantial issue, the Commission will proceed to the de novo portion of the appeal hearing and review the merits of the proposed project. If the Commission were to conduct a de novo hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and recreation policies of the Coastal Act.

2. Filing of Appeal

The appellants filed a single appeal (Exhibit No. 5) to the Commission in a timely manner on December 26, 2007 within 10 working days of receipt of the County's Notice of Final Action (Exhibit No. 6) by the Commission on December 17, 2007.

3. 49-Day Waiver

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. On, January 15, 2007, prior to the 49th day after the filing of the appeal, the applicant submitted a signed 49-Day Waiver waiving the applicant's right to have a hearing set within 49 days from the date the appeal had been filed.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Appellants' Contentions

The Commission received one appeal of the County of Mendocino's decision to approve the development from the Group to Preserve Iversen Point, represented by John Carlson and Karen Russell. The project as approved by the County involves developing water supply infrastructure to establish a Mutual Water Company (Rough N Ready Mutual Water Company) to serve five undeveloped residential parcels, including four bluff top parcels in the Iversen Point subdivision on the west side of Highway One (APNs 142-031-27, -26, -25, and -23) and the subject well site parcel in the Iversen Landing subdivision on the east side of Highway One (APN 142-010-32). The project includes (1) installation of approximately 2,850 linear feet of two-inch-diameter pipeline within the road right-of-way along Iversen Road, crossing underneath Highway One, and extending to the terminus of Iversen Point Road, (2) conversion of the source test well to a production well, and (3) construction of a below-ground, 20,160 gallon reinforced concrete potable water storage facility, with a 128-square-foot above-ground pump house and 48-square-foot basement. The appellants' contentions are summarized below, and the full text of the contentions is included as Exhibit No. 8.

The appellant's allegations, read together, raise one main contention alleging that the approved project does not adequately address significant adverse cumulative impacts. LUP Policy 3.9-1 requires, in applicable part, that all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

Three of the bluff top parcels that would be served by the water supply infrastructure as approved by the County are located beyond the terminus of the Iversen Point Road cul de sac on an approximately 1.8-acre headland that is connected to the mainland by a narrow isthmus. The appellants contend that the water supply project would facilitate future residential development on the three headland parcels in a manner that would result in significant cumulative adverse impacts to coastal resources, including environmentally sensitive habitat areas, water quality, visual resources, and geologic hazards.

1. Geologic Hazards and Bluff Erosion

The appellants contend that the water supply project would facilitate the development on the three headland parcels in a manner that would result in adverse cumulative geologic hazard impacts, including increased erosion and bluff instability, inconsistent with LUP Policies 3.4-1, 3.4-7, 3.4-12, and Coastal Zoning Code Sections 20.500.010, 20.015.015, and 20.500.020. These policies, in part, require that new development assure stability and structural integrity and neither create or contribute significantly to erosion or

geologic stability. The appellants contend that in its approval of the proposed project, the County failed to consider the cumulative geologic hazard impacts from the future bluff top development that the water pipeline would facilitate. Therefore, the appellants contend the County did not adequately analyze cumulative geologic stability and erosion issues. Thus, the appellants consider the approved project to be inconsistent with LUP Policy 3.9-1, and LUP Policies 3.4-1, 3.4-7, 3.4-12, and CZC Sections 20.500.010, 20.015.015, and 20.500.020.

2. Environmentally Sensitive Habitat Areas and Water Quality

The appellants also contend that the project as approved by the County would result in adverse cumulative impacts to water quality and environmentally sensitive habitat inconsistent with LUP Policies 3.1-7 and 3.1-25 and CZC Section 20.496.020. These policies require the protection of environmentally sensitive habitat areas (ESHA) and the biological productivity of coastal waters. The appellants contend that future development of the three headland parcels that the water pipeline would facilitate would be located adjacent to an area of Special Biological Importance, and an area of Special Biological Significance as defined by the Department of Fish and Game. The appellants assert that the future bluff top development served by the approved water pipeline would result in increased runoff and erosion, which would adversely impact adjacent ESHA, including kelp beds, sea lion rookery habitat, and sea bird nesting areas. The appellants contend that the County failed to consider the cumulative impacts to environmentally sensitive habitat areas from the future bluff top development that the water pipeline would facilitate to serve. Thus, the appellants consider the approved project to be inconsistent with LUP Policy 3.9-1, and LUP Policies 3.1-7 and 3.1-25 and CZC Section 20.496.020.

3. Visual Resources

The appellants further contend that the water supply project would facilitate the development of three headland parcels located in a designated “highly scenic area” in a manner that would result in adverse cumulative impacts to visual resources inconsistent with LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.015. These policies require new development to be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas, and require new development west of Highway One in designated highly scenic areas be subordinate to the natural setting. The appellants contend that the County failed to consider the cumulative impacts to visual resources from the future bluff top development that the water pipeline would facilitate. Thus, the appellants consider the approved project to be inconsistent with LUP Policy 3.9-1, and LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.015.

B. LOCAL GOVERNMENT ACTION

On May 3, 2007, the Mendocino County Planning Commission approved Coastal Development Use Permit No. 3-2007 (CDU). The project as approved by the County involves developing water supply infrastructure to establish a Mutual Water Company (Rough N Ready Mutual Water Company) to serve five undeveloped residential parcels, including four bluff top parcels in the Iversen Point subdivision on the west side of Highway One (APNs 142-031-27, -26, -25, and -23) and the subject well site parcel in the Iversen Landing subdivision on the east side of Highway One (APN 142-010-32). The project includes (1) installation of approximately 2,850 linear feet of two-inch-diameter pipeline within the road right-of-way along Iversen Road, crossing underneath Highway One, and extending to the terminus of Iversen Point Road, (2) conversion of the source test well to a production well, and (3) construction of a below-ground 20,160 gallon reinforced concrete potable water storage facility, with a 128-square-foot above-ground pump house and 48-square-foot basement.

The Planning Commission approved CDU 3-2007 with fourteen (14) special conditions, including several general procedural conditions. The special conditions most pertinent to the grounds of the appeal require (1) submittal of an erosion control plan, (2) installation of a well pump controller capable of distributing the extraction allocation over the 24 hour day and measuring total daily extraction volume, (3) obtaining necessary encroachment permits for work within the road corridor, (4) limitations on the timing of work within the roadway, and (5) implementation of measures to minimize construction-related spills and hazards. (See Exhibit No. 9.)

The Planning Commission's approval was appealed to the Board of Supervisors by the Group to Preserve Iversen Point. The Board heard the appeal on November 20, 2007 and upheld the Planning Commission's decision to approve CDU 3-2007. In its action on the appeal, the Board of Supervisors approved one additional special condition (Special Condition No. 15) to clarify the limitations of the development being authorized by CDU 3-2007. Special Condition No. 15 as approved by the County states:

"No development will occur on Iversen Point bluff top at this time. In conjunction with these lots, the analysis herein is specific only to allowance of potable water infrastructure within the road corridor, which was already assumed and approved in the 1970's when the parcels were created. The Planning Commission and applicants have acknowledged that approval of this application does not prejudge any future development on Iversen Point bluff top at this time. Such residential development would need to be analyzed when specific developments are proposed on the lots."

Following the Board's action on the local appeal, the County issued a Notice of Final Action, which was received by Commission staff on December 17, 2007 (Exhibit No. 9).

The appellants filed a single appeal (Exhibit No. 8) to the Commission in a timely manner on December 26, 2007 within 10 working days of receipt of the County's Notice of Final Action (Exhibit No. 9) by the Commission on December 17, 2007.

C. PROJECT SITE BACKGROUND - Previous Commission Actions

Two of the three parcels located on the headland seaward of the terminus of Iversen Point Road that would be served by the water supply infrastructure project as approved by the County have been the subject of prior CDP applications to the Commission, all of which resulted in permit denials as described below.

In 1975, the predecessor State Coastal Commission denied a CDP application on appeal under Proposition 20 (Appeal No. 194-75, Wonderlick) for a 2 ½ story single-family residence proposed on the parcel that is now APN 142-031-25. (See Exhibit No. 3.) The Commission's denial was based on findings that (1) the development would result in adverse visual impacts and, (2) due to the limited size and constraints of the site, the site could not accommodate an adequate septic system to serve the proposed residential development.

Additionally, in 1980, the Commission denied a combined CDP application for the construction of two, one-story, single-family residences, septic systems and driveways on two of the headland parcels, including the parcel described above (APN 142-031-25), and on the parcel that is now APN 142-031-26 (Appeal No. 358-79, Clawson & Vienna and Appeal No. 359-79, Hietala). The Commission's denial of the two residences was based again on visual impacts, as well as inadequate water supply, and geologic hazards.

D. PROJECT AND SITE DESCRIPTION

Site Description

The project area is located in southern Mendocino County, between Point Arena to the north and Anchor Bay to the south and encompasses land on both sides of Highway One in an area known as Iversen Point (see Exhibit Nos. 1 & 2). Iversen Point is a prominent geologic feature located on the west side of Highway One characterized by rocky near-shore islands and a mainland protrusion. A 1.8-acre headland extends seaward off of Iversen Point beyond the western terminus of Iversen Point Road and is connected to the rest of Iversen Point by an approximately 18-30-foot-wide isthmus. The bluffs of Iversen Point and the seaward headland are approximately 80-100 feet high and slope steeply on all sides to rocky beach below. The headland is relatively flat, vegetated with low-growing coastal bluff scrub vegetation, and void of trees or other topographic features. The west side of Highway One in the project area is designated by the County's LCP as "highly scenic" and affords sweeping views up and down the coast.

The rural residential neighborhood on the west side of Highway One is known as the Iversen Point subdivision and is accessed via Iversen Point Road, which terminates at a cul de sac near the western edge of the point. The 12-lot Iversen Point subdivision was created in 1970 prior to Proposition 20 and the Coastal Act. The Iversen Point Mutual Water Company was created at the time of the subdivision to provide potable water to the lots, including four of the five subject lots¹. Currently, four of the parcels in the Iversen Point subdivision are developed with single-family homes. The remaining eight parcels are undeveloped. The parcels are planned and zoned Rural Residential – five acre minimum with an alternate density of one acre minimum (RR-5 [RR-1]).

The project site also includes land east of Highway One within the Iverson Landing Subdivision, including the lot that the water source is located upon (APN 142-010-32) located approximately 0.35 miles east of Highway One and adjacent to the right-of-way of Iverson Road within which the water line would be buried. The source parcel is approximately 0.9-acres in size and is currently undeveloped. The site is vegetated with predominately brushy meadow adjacent to a small stand of redwoods. An approximately 16- square-foot wetland occurs in the northwest corner of the site. A seasonal spring is located on the adjacent parcel to the southwest. The land east of Highway One in this vicinity is not designated as highly scenic.

By 1979, after the development of four homes within the Iversen Point subdivision, the Mutual Water Company was struggling to maintain sufficient water supply for its shareholders. Following years of expressed concerns from property owners in the subdivision regarding the provision of water, the Division of Environmental Health (DEH) performed an inspection of the Iversen Point Mutual Water Company system in 1990 and found numerous deficiencies including safety and sanitation hazards, and deficiencies in both water quantity and quality. The DEH determined that the Iversen Point Mutual Water system could not support additional connections. Thus, the provision of adequate water has been an on-going constraint for new development in the subdivision.

The subject water supply system approved by the County and described below is proposed by the applicants to partially meet the water needs of the now defunct Iversen Point Mutual Water Company that was created in 1970.

Project Description

The project as approved by the County involves developing the infrastructure to pump groundwater, provide storage and treatment, and convey the water within buried pipelines to serve five undeveloped parcels, including four bluff top parcels in the Iversen Point subdivision on the west side of Highway One (APNs 142-031-27, -26, -25, and -23) and the subject well site parcel in the Iverson Landing subdivision on the east side of

¹ The fifth subject lot is the lot that the water source is located upon on the east side of Highway One in the Iverson Landing Subdivision.

Highway One (APN 142-010-32) . The project includes (1) installation of approximately 2,850 linear feet of two-inch-diameter pipeline within the road right-of-way along Iversen Road, crossing underneath Highway One, and extending to the terminus of Iversen Point Road, (2) conversion of the source test well to a production well, and (3) construction of a below-ground 20,160 gallon reinforced concrete potable water storage facility with a 128-square-foot above-ground pump house and 48-square-foot basement on the well source site located east of Highway One on APN 142-010-32. (See Exhibit Nos. 3-7).

The water pipeline would be installed by trenching on the well site east of Highway One, and by directional boring within the road and highway corridors. The water pipeline would extend from the well site on the east side of Highway One approximately 229 feet to Iversen Road and continue approximately 2,078 feet along the southeast Iversen Road corridor to Highway One. From there, the pipeline would extend for approximately 77 feet to cross below Highway One and would continue approximately 467 feet along the north corridor of Iversen Point Road to the cul de sac terminus. Where the water line crosses beneath Iversen Road and Highway One, the pipeline would run through a sleeve. Installation of the water pipe and sleeves would occur at a minimum depth of 30-36 inches. Along County road corridors, the pipe would be installed in a minimum of 500 to 900 foot lengths. Directional boring would require approximately 65 cubic yards of bore pit excavation. The pits would be backfilled with aggregate base rock and compacted to 95% in accordance with the County Department of Transportation standards. At each existing utility crossing, a four-square-foot hole would be bored prior to construction to the depth of the utility line to verify its location and to avoid a conflict with the proposed waterline. Exploratory borings, including hand-augured four-inch- diameter soil cores to a depth of three to five feet, are proposed to confirm the best depth for the bore-hole.

As approved by the County, the project is conditioned to ensure that groundwater pumping from the source well be limited to a rate of one gallon per minute or less based on the hydrological analysis prepared for the project to ensure that groundwater extraction does not significantly impact existing nearby wells. The applicant proposes the use of a ¾ inch, 35 gallon per minute “Recordall Cold Water Bronze Disc” pump meter in conjunction with a proposed pumping schedule to measure and limit the rate of groundwater extraction.

The approved development involves approximately 222 cubic yards of cut and approximately 51 cubic yards of fill associated with the underground installation of the pipeline, storage tank, and construction of a driveway from Iversen Road to access the well site. Approximately 171 cubic yards of excess fill from excavation and grading would be deposited on a nearby parcel that is the site of recently approved residential development approved by the County under CDP #19-2006 (APN 142-010-51).

The proposed development is considered a “Minor Impact Utility,” and is a conditional civic use in the Rural Residential District per CZC Section 20.376.015(B).

E. SUBSTANTIAL ISSUE ANALYSIS

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue with regard to appellants' contentions relating to significant adverse cumulative impacts on coastal resources, including geologic hazards, water quality and environmentally sensitive habitat areas, and visual resources.

1. Allegation Raising A Substantial Issue

a. Cumulative Impacts to Coastal Resources

The appellant's allegations read together, raise one main contention alleging the approved project's failure to adequately address significant adverse cumulative impacts, including environmentally sensitive habitat areas, water quality, visual resources, and geologic hazards. LUP Policy 3.9-1 requires, in applicable part, that all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

Three of the bluff top parcels that would be served by the water supply infrastructure as approved by the County are located seaward of the terminus of Iversen Point Road on an approximately 1.8-acre headland that is connected to the rest of Iversen Point by a narrow isthmus. The appellants contend that the water supply project would facilitate future residential development on the three headland parcels in a manner that would result in cumulative adverse impacts to coastal resources, including environmentally sensitive habitat areas, water quality, visual resources, and geologic hazards.

LCP Policies:

LUP Policy 3.9-1 states:

3.9-1 *An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:*

- *each community's desired amount and rate of growth.*
- *providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.*

In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant

adverse effects, either individually or cumulatively, on coastal resources. (emphasis added)

...

LUP Policy 3.4-1 states the following in applicable part:

The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami run-up, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report, prior to development to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site...

LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020(B) state that:

The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:

Setback (meters) = Structure life (years) x Retreat rate (meters/year)

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation. All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologist's report.

LUP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1) state that:

Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses.

Section 20.500.015(A) of the Coastal Zoning Code states in applicable part:

- (1) *Preliminary Investigation. The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.*
- (2) *Geologic Investigation and Report. In areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.*

Section 20.500.010 of the Coastal Zoning Code states that development shall:

- (1) *Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
- (2) *Assure structural integrity and stability; and*
- (3) *Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 20.500.020(B) of the Coastal Zoning Code states in applicable part:

- (1) *New structures shall be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years). New development shall be set back from the edge of bluffs a distance determined from information derived from the required geologic investigation and the setback formula as follows:*

Setback (meters) = structure life (75 years) x retreat rate (meters/year)

Note: The retreat rate shall be determined from historical observation (aerial photos) and/or from a complete geotechnical investigation.

...

- (3) *Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff..*

LUP Policy 3.1-25 states:

The Mendocino Coast is an area containing many types of marine resources of statewide significance. Marine resources shall be maintained, enhanced and, where feasible, restored; areas and species of special biologic or economic significance shall be given special protection; and the biologic productivity of coastal waters shall be sustained.

LUP Policy 3.1-7 states: (emphasis added)

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

- 1. It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
- 2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
- 3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

Coastal Zoning Code Section 20.496.020 “Environmentally Sensitive Habitat and other Resource Areas—Development Criteria” states (emphasis added):

*(A) **Buffer Areas.** A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

*(1) **Width.** The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area. Standards for determining the appropriate width of the buffer area are as follows: ...*

LUP Policy 3.5-1 states in part:

The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

LUP Policy 3.5-3 states in applicable part:

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as “highly scenic areas,” within which new development shall be subordinate to the character of its’ setting. Any new development permitted in these areas shall provide for protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Portions of the coastal zone within the Highway Scenic Area west of Highway 1 between the south boundary of the City of Point Arena and the Gualala River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.

In addition to other visual policy requirements, new development west of Highway One in designated ‘highly scenic areas’ is limited to one-story (above natural grade)

unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. ...New development should be subordinate to the natural setting and minimize reflective surfaces. ...

NOTE 1: The LUP Maps designate the area west of Highway One in the project vicinity as highly scenic.

NOTE 2: Coastal Zoning Ordinance 20.504.015(A) reiterates that this section of coastline is a “highly scenic area.”

Zoning Code Section 20.504.015(C)(1) states that:

Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Zoning Code Section 20.504.015(C)(2) states that:

In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.

Zoning Code Section 20.504.015(C)(3) states that:

New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

Discussion:

The project as approved by the County involves the construction of water supply infrastructure that would provide a source of potable water to five undeveloped parcels, including four parcels on the west side of Highway One and one parcel (the well site) on the east side of Highway One. Three of the four westerly parcels are located on an approximately 1.8-acre coastal headland located seaward of the western terminus of Iversen Point Road and connected to the rest of Iversen Point.

The appellants contend that the water supply project would facilitate the development of the three headland parcels in a manner that would result in significant adverse cumulative impacts to coastal resources. As cited above, LUP Policy 3.9-1 requires, in applicable part, that all development proposals shall be regulated to prevent any significant adverse effects, either individually *or cumulatively*, on coastal resources. The appellants assert

that in approving the water supply infrastructure project, the County failed to consider the cumulative impacts associated with the future development on the headland that the approved water supply project would facilitate, as required by LUP Policy 3.9-1. Specifically, the appellants contend that the project as approved by the County would lead to significant adverse cumulative impacts to the coastal bluff and adjacent environmentally sensitive habitat resulting from increased runoff and bluff erosion, as well as significant adverse cumulative impacts to the visual resources of the highly scenic area.

The project as approved by the County includes only the water supply infrastructure and does not include any residential development on any of the five subject parcels. In its findings for the approved project, the County specifically states that the County's analysis applies only to the proposed water supply infrastructure project, and that the County's approval does not include an analysis of the *"feasibility of residential development of the Iversen Point bluff top parcels at this time."* The County further states that, *"Such residential development would need to be analyzed when specific developments are proposed on the lots."*

Additionally, in its action on the local appeal, the County Board of Supervisors imposed Special Condition No. 15 to clarify the limits of the development authorized by CDU 3-2007. The condition states:

"No development will occur on Iversen Point bluff top at this time. In conjunction with these lots, the analysis herein is specific only to allowance of potable water infrastructure within the road corridor, which was already assumed and approved in the 1970's when the parcels were created. The Planning Commission and applicants have acknowledged that approval of this application does not prejudice any future development on Iversen Point bluff top at this time. Such residential development would need to be analyzed when specific developments are proposed on the lots."

It is clear from the County's findings that no residential development or other form of development other than the water supply infrastructure is authorized by the County's approval of CDU 3-2007. However, as discussed further below, the County's LCP requires that development be approved in a manner that prevents significant adverse cumulative impacts to coastal resources and requires reasonable foreseeable future projects to be considered in that analysis. In addition, the County's approval of the water supply project explicitly authorizes the provision of water to serve the three parcels on the headland, which has the potential to create an expectation on the part of the property owners that future residential development on the three headland parcels may be approved once geologic, botanical, and other site development studies are performed. Additionally, as the provision of sufficient quantity and quality of water has been a limiting factor for development of the residential parcels in the Iversen Point subdivision

for many years, removal of this development limitation through approval of the water supply infrastructure has the potential to further increase the expectation of the property owners that the three headland parcels are suitable for residential development.

Based on past Commission actions on at least two of the three headland parcels, it is clear that development on the headland raises several issues with regard to the protection of coastal resources, and it is questionable whether any of the three headland parcels could be developed in a manner consistent with the LCP. As discussed in Finding C. above, the Commission twice previously denied a CDP for residential development on what is now APN 142-031-25, as well as previously denied a CDP for residential development on APN 142-031-26 based on an inconsistency of the residential development with Coastal Act policies regarding geologic hazards, the provision of adequate services, and visual impacts.

In its approval of the water supply infrastructure project, the County deferred the analysis of impacts associated with the future development that the water line would facilitate and did not establish sufficient evidence to find that the project as approved would avoid significant adverse cumulative impacts on coastal resources as required by LUP Policy 3.9-1. The County's LCP defines "cumulative impacts" as:

"two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonable foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."

The installation of the water supply infrastructure without connection to future development does not have any inherent value, purpose, or function. Rather, the water pipeline is clearly intended to facilitate "*reasonable foreseeable probable future projects*," (i.e., residential development) on the five parcels authorized by the County to be served by the water pipeline, including the three westernmost parcels on the headland. As discussed below, substantial issues are raised as to whether the reasonable, probable, foreseeable future development of residences on the headland parcels that the water line would facilitate could be developed in a manner that would prevent individual and cumulative adverse impacts to coastal resources, particularly with regard to geologic hazards, the protection of visual resources in the highly scenic area west of Highway One, and the protection of environmentally sensitive habitat.

Geologic Hazards

The headland landform located seaward of the western terminus of Iversen Point Road is approximately 80-100 feet high and slopes steeply on all sides to a rocky beach below. As noted previously, the headland is connected to the rest of Iversen Point by an approximately 30-foot-wide isthmus. The headland is the most prominent seaward feature of Iversen Point and as a result, is subject to significant wave action. The characteristics of the three parcels on the headland seaward of Iversen Point pose greater geologic hazard risks and constraints to future proposed development than most other residential parcels along the Mendocino coast due, in part, to required access over the isthmus, and the limited size of the parcels.

Each of the three parcels on the headland is only 0.6 acres in size (including the bluff faces), which is comparatively much smaller than most residential parcels outside of developed areas of the Mendocino coast. LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020(B) require that development be set back a sufficient distance from the edges of bluffs to ensure its safety from bluff erosion and cliff retreat during the economic life span (75 years) of the development. Given the relatively small size of the three parcels, the access constraint of the narrow isthmus, and the requirement for a sufficient geologic setback from the bluff edges, the potential developable area of the parcels is extremely limited. In its previous denial of proposed residential development on what is now APN 142-031-25 (Appeal No. 194-75, Wonderlick), the Commission found that due to the topography of the lot, required bluff setbacks, and right-of-way for the access road and utilities to the other two parcels, only 0.2 acres of the parcel would be potentially buildable. The Commission's denial of the residential development was based, in part, on the fact that the limited size of the site was unable to support an approvable septic system design while providing the required bluff edge setback. Similar limitations can be assumed for the other two headland parcels, which are of the same size and proximity to the bluff edge. Additional setbacks required by the LCP for the protection of environmentally sensitive habitat potentially present at the site, and for the protection of visual resources, when combined with the required bluff edge setback, pose further constraints on potential developable area of the headland.

Subsequent applications for residential development on two of the headland parcels (what are now APN 142-031-25 and APN 142-031-26) were again denied by the Commission, in part, on the basis of the project's inconsistency with the geologic hazard policies of the Coastal Act and the inability to demonstrate that the proposed development would assure stability and structural integrity and not in any way require the construction of shoreline protective devices. The previously proposed development included construction of a 12-foot-wide driveway across the 30-foot-wide isthmus. Although geologic information prepared for the previously proposed development suggested that the accessway could be constructed with certain protective measures, the Commission concluded that it was not possible to state in unequivocal terms that the isthmus would remain stable based on

concerns regarding eroding slopes and evidence of seacaves forming along zones of weakness. The Commission noted that should failure of the isthmus occur, construction of a rock revetment at the area of wave attack, or construction of reinforced concrete pilings to buttress the top portion of the isthmus could minimize potential instability. However, the Commission found that because Coastal Act Section 30253 only allows the construction of such protective devices to protect *existing* structures, the proposed development would be inconsistent with the provisions of Coastal Act Section 30253 requiring that new development assure stability and structural integrity and not in any way require the construction of shoreline protective devices. The standard of review for any future proposed development on the headland would be the Mendocino County LCP, which, as cited above, incorporates the requirements of Coastal Act Section 30253. Thus, as the narrow isthmus is the only point of access to the headland parcels, any future proposed development would raise similar issues regarding consistency of the proposed development with geologic hazard policies.

There is not a high degree of factual or legal support for the County's decision to approve the project as being consistent with LUP Policy 3.9-1 and the geologic hazard policies of the LCP because the County failed to demonstrate that the approved water supply infrastructure would prevent significant adverse cumulative impacts related to geologic hazards. LUP Policy 3.4-1 requires a geologic investigation and report for development in areas of known or potential geologic hazards, such as shoreline and bluff top lots. In its review of the proposed water supply infrastructure project, no geologic investigation or report was prepared to enable the County to evaluate the cumulative impact of geologic hazards from the reasonable foreseeable probable future development of residences on the headland. Thus, there is no information in the record to demonstrate that, contrary to previous CDP denials by the Commission, future residential development on any of the three headland parcels that the water pipeline would facilitate could be developed in a manner that would not create or contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along the coastal bluff as required by LUP Policies 3.4-1, 3.4-7, 3.4-12, and CZC Sections 20.500.010, 20.015.015, and 20.500.020. Furthermore, as previous geologic information prepared for proposed development on the site over 25 years ago suggested serious geologic hazard risks, there is a high likelihood that such risks, including erosion and bluff instability, have only increased over time.

Thus, given the evidence that future development on the headland parcels would be subject to substantial risks related to geologic hazards, the Commission finds that a substantial issue is raised as to whether the approved water line, taking into account the residential development on the headland the water line would facilitate, would prevent significant cumulative impacts from geologic hazards as required by LUP Policy 3.9-1.

Visual Resources

The headland landform located seaward of the western terminus of Iversen Point Road is essentially flat and is vegetated with low-growing coastal bluff scrub vegetation. The headland is void of any trees. Iversen Point and the headland located seaward of the point are the most prominent landform features in the area. Views of the headland are afforded from several locations along Highway One. Iversen Point, including the project area on the west side of Highway One, is designated “highly scenic” in the County’s LCP.

The water supply infrastructure project approved by the County would facilitate future development on the three headland parcels. Due to the prominence and exposure of the headland, the highly scenic nature of the area, and the relatively small size of the parcels, development on the headland poses a greater potential for significant adverse cumulative impacts to coastal views than development in other residential locations of Mendocino County.

The potential for such adverse visual impacts was, in part, the basis for the Commission’s previous denials of proposed residential development on two of the three headland parcels.

In its previous denial of proposed residential development on what is now APN 142-031-25 (Appeal No. 194-75, Wonderlick), the Commission found that the proposed residence would “*intrude upon the view from any coastal viewing point to the north and south for a distance of about 2 miles.*” The findings state that, “*Given the flat topography of the point, the lack of vegetation, and the existence of 3 small parcels on the headland, any development would have to be extremely carefully designed to minimize its intrusion into this very scenic area.*” Thus, the Commission found that the proposed residential development as sited and designed would not be consistent with the objective of Public Resources Code Section 27302(a) requiring the “...maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.” The Commission’s findings go on to state, “*To meet this standard (if it can be met at all, given the problems of the site), would require a complete redesign with significant excavation and berms to establish a very low profile and make the development appear from the distance as if it were the top of the headland itself.*”

Subsequent applications for proposed construction of two residences on two of the headland parcels (what are now APN 142-031-25 and APN 142-031-26) were again denied by the Commission, in part, based on the project’s inability to protect coastal views and be compatible with the character of the surrounding area and protect coastal views as required by the provisions of Coastal Act Section 30251 (Appeal No. 358-79, Clawson & Vienna and Appeal No. 359-79, Hietala). The Commission found that due to

the visibility of the proposed development from various public vantage points along Highway One, and the fact that no existing residential development exists as far seaward as the residences proposed on the headland, the proposed residences *“as well as the inevitable development on the third parcel, would not be compatible with the character of the surrounding area or protect coastal views in a manner provided by Section 30251 of the Coastal Act.”*

Visual impacts of any particular development are largely dependent on the specific size, height, design, and materials of a proposed structure, as well as the siting of the development relative to the characteristics and features of its setting. While the specific siting and design of the headland development that would be facilitated by the approved water line has not yet been determined, it is clear from the nature of the site and from the Commission’s past findings denying residential development on the headland, that any development on the headland has a greater likelihood of resulting in cumulative adverse impacts to visual resources than development in most other residential areas. The flat topography, lack of screening vegetation, and general prominence of the headland make it difficult, if not impossible, to site and design development in a manner that would protect views to and along the ocean and be visually compatible with the character of surrounding areas, and be subordinate to the natural setting as required by LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.015.

There is not a high degree of factual or legal support for the County’s decision to approve the project as being consistent with LUP Policy 3.9-1 and the visual resource protection policies of the LCP because the County failed to demonstrate that the approved waterline, taking into account residential development the water line would facilitate, would prevent significant adverse cumulative visual impacts. In the County’s review of the proposed water supply infrastructure project, no visual impact analysis was prepared to evaluate the significant adverse cumulative impacts to visual resources from the reasonable foreseeable probable future development of residences on the headland. Thus, there is no information in the record to demonstrate that future residential development on any of the three headland parcels that the water pipeline would facilitate could be developed in a manner that would protect views to and along the ocean, be visually compatible with the character of surrounding areas, and be subordinate to the natural setting as required by LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.015.

Therefore, the Commission finds that a substantial issue is raised as to whether the approved water line, and the residential development on the headland the water line would facilitate, would prevent significant cumulative impacts on visual resources as required by LUP Policy 3.9-1.

Environmentally Sensitive Habitat Areas

As noted by the appellants, the headland parcels are located adjacent to potential environmentally sensitive habitat areas (ESHA). In the County’s review of the proposed

water supply infrastructure project, no biological investigation or report was prepared to enable the County to evaluate the cumulative impact to ESHA from reasonable foreseeable probable future development of residences on the headland. Thus, there is insufficient information to determine whether any of the three headland parcels could be developed in a manner that would provide a sufficient buffer area to protect environmentally sensitive habitat from significant degradation resulting from future development, and whether marine resources and the biologic productivity of coastal waters would be protected and sustained as required by LUP Policy 3.1-25 and LUP Policy 3.1-7 and CZC Section 20.496.020.

Included in the record is a botanical survey performed for the Iversen Point bluff top parcel (APN 142-031-23) located just east of the three headland parcels, which would also be served by the approved water pipeline. The survey identified the presence of two rare plant species, including Blasdale's bent grass and Short-leaved evax. The botanical survey does not address the three parcels on the headland. However, based on the proximity of the headland parcels to the identified rare plants, and the less disturbed nature of the headland, there is a high likelihood that rare plants, and/or other types of ESHA, may occur on the headland as well.

There is not a high degree of factual or legal support for the County's decision to approve the project as being consistent with LUP Policy 3.9-1 and the ESHA protection policies of the LCP because the County failed to demonstrate that the water supply infrastructure, taking into account the development that it would facilitate, would provide a sufficient buffer area to protect environmentally sensitive habitat from significant degradation resulting from future development, and whether marine resources and the biologic productivity of coastal waters would be protected and sustained as required by LUP Policy 3.1-25 and LUP Policy 3.1-7 and CZC Section 20.496.020.

Therefore, the Commission finds that a substantial issue is raised as to whether the approved water line, taking into account the residential development on the headland the water line would facilitate, would prevent significant adverse cumulative impacts to environmentally sensitive habitat areas as required by LUP Policy 3.9-1.

Conclusion of Part One: Substantial Issue

The County's LCP requires that development be approved in a manner that prevents significant adverse cumulative impacts to coastal resources and requires reasonable foreseeable future projects to be considered in that analysis. In addition, as discussed above, the County's approval of the water supply project explicitly authorizes the provision of water to serve the three parcels on the headland, which has the potential to create an expectation on the part of the property owners that future residential development on the three headland parcels may be approved once geologic, botanical, and other site development studies are performed. Additionally, as the provision of sufficient quantity and quality of water has been a limiting factor for development of the

residential parcels in the Iversen Point subdivision for many years, removal of this development limitation through approval of the water supply infrastructure has the potential to further increase the expectation of the property owners that the three headland parcels are suitable for residential development. The relatively small size of the parcels, combined with the geologic, visual, and ESHA setback requirements of the LCP, pose substantial constraints on the potential developable area of the headland.

Additionally, as discussed above, the headland parcels are subject to substantial geologic hazards, including bluff erosion, which has the potential for significant adverse cumulative impacts to adjacent ESHA and the biological productivity of coastal waters. Therefore, the Commission finds that, as discussed above, the project as approved by the County raises a substantial issue with respect to the conformance of the approved project with the policy of the LCP requiring that all development be regulated to prevent any significant adverse effects, either individually *or cumulatively*, on coastal resources, including geologic hazards, water quality and environmentally sensitive habitat areas, and visual resources.

PART TWO-DE NOVO ACTION ON APPEAL

Staff Notes:

1. Procedure

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program and includes area between the first through public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with Mendocino County's certified Local Coastal Program (LCP) and the public access and public recreation policies of the Coastal Act. Testimony may be taken from all interested persons at the *de novo* hearing.

2. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings above into its findings on the de novo review of the project.

II. STANDARD CONDITIONS: See attached Attachment A.

III. SPECIAL CONDITIONS:

1. Water Pipeline Service Limitations

The water system infrastructure authorized by Coastal Development Permit No. A-1-MEN-07-053 shall serve no more than five residential parcels. Prior to connecting development on any parcel other than the source parcel that contains the well to the water system, the permittee shall submit for the review and written approval of the Executive Director a connection request that includes evidence demonstrating that (1) development on no more than four other parcels (including the source parcel) has already been granted the Executive Director's approval to connect to the water system, (2) the new or existing development to be served by the water system is authorized under a valid coastal development permit, or existing development pre-dates the requirements of the Coastal Act, and (3) the mutual water company has authorized the development proposed to be connected to the water system, and (4) for any connection request submitted more than

five years after the Commission's approval of Coastal Development Permit No. A-1-MEN-07-053, a new hydrological report has been prepared that demonstrates that the well and water system continues to have adequate capacity to serve the proposed development in a manner that would prevent significant adverse impacts to existing neighboring wells and coastal resources.

2. Well Pumping Limitation

Groundwater extraction from the well site shall be limited to a maximum of 1 gallon per minute (1,440 gallons per day). **Within 90 days following completion of the project**, the applicant shall submit evidence that the Mendocino County Department of Environmental Health has verified that the well pump has been equipped with a time averaging controller capable of distributing the extraction allocation (1gpm/1,440 gpd) over the 24-hour day and measuring total daily extraction volume.

3. Best Management Practices and Construction Responsibilities

The permittee shall comply with the following construction-related requirements:

- A. Straw bales, coir rolls, or silt fencing structures shall be installed along the pipeline alignment prior to, and maintained throughout, the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment from being directed off-site;
- B. Any and all excess excavated material resulting from construction activities shall be removed and disposed of at a disposal site outside the coastal zone or placed within the coastal zone pursuant to a valid coastal development permit;
- C. On-site vegetation shall be maintained to the maximum extent possible during construction activities;
- D. All on-site stockpiles of excavated soil and other construction debris shall be contained at all times to prevent polluted water runoff;
- E. All ground-disturbing activity shall be limited to the dry season between May 1 and October 15th.
- F. All disturbed areas shall be replanted immediately following project completion with native vegetation obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California

Exotic Pest Plant Council, or by the State of California shall be planted at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted at the site of the proposed development.

4. Caltrans Encroachment Permit

PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit to the Executive Director a copy of the final, approved Encroachment Permit issued by Caltrans required to construct the proposed project, or evidence that no permit is required. The applicant shall inform the Executive Director of any changes to the project required by Caltrans. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

5. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. FINDINGS AND DECLARATIONS

1. Project and Site Description

Finding III(D) of Part I, the Substantial Issue portion of this report, regarding the site and project description is hereby incorporated by reference.

2. Cumulative Impacts to Coastal Resources

LCP Policies:

LUP Policy 3.9-1 states:

3.9-1 *An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:*

- *each community's desired amount and rate of growth.*

- *providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.*

In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. (emphasis added)

...

LUP Definition of “cumulative impacts” states as follows:

- (Q) *“Cumulative Impacts” refers to two (2) or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.*
- (1) *The individual effects may be changes resulting from a single project or a number of separate projects.*
- (2) *The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonable foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.* (emphasis added)

Discussion:

a. Well Extraction Limitations

The 12-lot Iversen Point subdivision was created in 1970 prior to the passage of Proposition 20 and the Coastal Act. The Iversen Point Mutual Water Company was created at the time of the subdivision to provide potable water to the lots, including four of the five subject lots². By 1979, after the development of four homes within the Iversen Point subdivision, the Mutual Water Company was unable to maintain sufficient water supply for its shareholders. Following years of expressed concerns from property owners in the subdivision regarding the provision of water, the Division of Environmental Health (DEH) performed an inspection of the Iversen Point Mutual Water Company system in 1990 and found numerous deficiencies including safety and sanitation hazards, and deficiencies in both water quantity and quality. The DEH

² The fifth subject lot is the lot that the water source is located on the east side of Highway One in the Iversen Landing Subdivision.

determined that the Iversen Point Mutual Water system could not support additional connections. Thus, the provision of adequate water has been an on-going constraint for new development in the subdivision. Currently, only four of the parcels in the Iversen Point subdivision are developed with single-family homes and the remaining eight parcels are undeveloped. The development of water supply infrastructure is proposed by the applicants to partially meet the water needs that were originally to be met by the now defunct Iversen Point Mutual Water Company that was created in 1970.

The proposed project involves developing water supply infrastructure to serve five residential parcels, including four parcels in the Iversen Point subdivision. The applicant designed the water supply system based on service to five parcels because (1) state law defines a public water system as a system that serves a minimum of five and a maximum of fourteen connections (State Small Water System), and (2) Caltrans limits the placement of utilities within the Highway One road right-of-way to public, rather than private, utilities. As it is necessary for the pipeline alignment to cross Highway One to bring water from the source well on the east side of Highway One to the west side of the highway, the system is required to be a “public” water system in order to locate the pipeline within the Highway One right-of-way.

Furthermore, the number of water service connections proposed by the applicant is necessarily limited to no more than five based on the quantity of water available from the source well as determined by hydrological studies and supporting water usage reports prepared for the proposed project. A hydrological analysis was prepared consistent with the Mendocino County Coastal Groundwater Development Guidelines (July 1989) by Lawrence & Associates entitled, “*Proof-of-Water Testing and Hydrological Study for the Property Located at 46550 Iversen Road Mendocino County, California,*” and dated February 12, 2003. The study involved (1) a 72-hour constant discharge aquifer test to evaluate interference and well yield, (2) a recovery test until the static water level returned to 80% of the pretest level, (3) analysis of the aquifer test data, and (4) identification of neighboring wells.

Interference is the decrease in water level in a well caused by the pumping of a neighboring well. The Mendocino County Coastal Groundwater Development Guidelines state that a project using groundwater cannot cause interference of more than 10% of the existing drawdown at neighboring wells or reduction of well yield to less than 90% of maximum-day demand. Following review of the hydrological study by the Mendocino County Division of Environmental Health (DEH), and a supplemental hydrological analysis dated November 22, 2003, it was determined that the pump rate of the source well must be limited to 1 gallon per minute (gpm) over a 24-hour day (1,440 gpd) to avoid interference with existing neighboring wells. This pump rate, in addition to the proposed 20,160 gallon storage tank, was determined by DEH to be consistent with state and County requirements for a State Small Water System. In a letter dated January 29, 2004, DEH stated, “...the Mendocino County Water Agency hydrogeologist has concurred that, if the pumping rate on the project well does not exceed 1gpm..., then the

project conforms to the Mendocino Coastal Groundwater Development Guidelines” (i.e. less than significant interference).

Commission staff geologist, Dr. Mark Johnsson, reviewed the hydrological analyses submitted by the applicant for the proposed project and concurs with the report's findings that the proposed rate of extraction (1 gpm) from the source well would not significantly adversely affect the well yields of neighboring wells, and that there is sufficient groundwater recharge and storage beneath the well site to supply the proposed project.

A further letter from DEH dated March 7, 2007 states, “*Critical to this project is the restriction of groundwater extraction to a maximum of 1 gallon per minute to preclude off-site impacts as determined by the Hydrological Study conducted by Lawrence and Associates dated February 2003 and approved by the County Water Agency Geo-Hydrologist.*” In its comments, DEH suggested equipping the well pump with a time averaging pump controller capable of distributing the extraction allocation over the 24 hour day and measuring total daily extraction volume. Accordingly, the applicant proposes to install a ¾ inch, 35 gallon per minute “Recordall Cold Water Bronze Disc” pump meter in conjunction with a proposed pumping schedule to measure and limit the rate of groundwater extraction.

To ensure that the proposed development of water pipeline infrastructure from the subject source well would not result in significant adverse impacts to existing neighboring wells, the Commission attaches Special Condition No. 2 requiring that groundwater extraction from the well site be limited to 1 gallon per minute (1,440 gallons per day). In addition, Special Condition No. 2 requires that within 90 days following completion of the project, the applicant shall submit evidence that the Mendocino County Department of Health has verified that the well pump has been equipped with a time averaging controller capable of distributing the extraction allocation (1 gpm) over the 24 hour day and measuring total daily extraction volume. Furthermore, Special Condition No. 1, as discussed further below, requires that the water pipeline serve no more than five parcels to ensure that groundwater extraction does not exceed the determined allocation limits.

Therefore, the Commission finds that the proposed project, as conditioned, would not result in significant adverse individual or cumulative impacts to neighboring wells.

b. Cumulative Impacts to Coastal Resources from Future Residential Development

As cited above, LUP Policy 3.9-1 requires, in applicable part, that development be approved in a manner that prevents significant adverse cumulative impacts to coastal resources. “Cumulative impacts” is defined by the LCP, in applicable part, as “*the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonable foreseeable probable future projects.*”

The proposed water supply project would provide water to serve five specific parcels, including four parcels on the west side of Highway One and one parcel (the well site) on the east side of Highway One. Three of the four westerly parcels are located on an approximately 1.8-acre coastal headland located seaward of the western terminus of Iversen Point Road and connected to the rest of Iversen Point by a narrow isthmus. The proposed project includes only the water supply infrastructure and does not include any residential development on any of the five subject parcels at this time. The installation of the water supply infrastructure without connection to future development does not have any inherent value, purpose, or function. Rather, the water pipeline is clearly intended to facilitate “*reasonable foreseeable probable future projects*,” (i.e., residential development) on the five parcels proposed to be served by the water pipeline, including the three westernmost parcels on the headland. Construction and installation of the water pipeline itself, as conditioned by the Commission, would not result in significant adverse impacts to coastal resources. However, according to LUP Policy 3.9-1, the *reasonable foreseeable probable future* residential development that the waterline would facilitate must be taken into account in evaluating the cumulative impacts of the proposed project.

As discussed in detail in Finding III.E.(1)(a) of the Substantial Issue portion of the staff report above, there is a question as to whether the reasonable, probable, foreseeable future development of residences on the headland parcels that the waterline would facilitate could be undertaken in a manner that would avoid significant adverse cumulative impacts to coastal resources. Based on past Commission actions on at least two of the three headland parcels, it is clear that development on the headland raises several issues with regard to the protection of coastal resources, and it is questionable whether any of the three parcels could be developed in a manner consistent with the LCP. The Commission twice previously denied a CDP for residential development on what is now APN 142-031-25, and previously denied a CDP for residential development on APN 142-031-26 based on an inconsistency of the residential development with Coastal Act policies regarding geologic hazards, the provision of adequate services, and visual impacts. The relatively small size of the headland parcels, combined with the geologic, visual, and ESHA setback requirements of the LCP, pose substantial constraints on the potential developable area of the headland. Additionally, the headland parcels are subject to substantial geologic hazards, including bluff erosion, which has the potential for significant adverse cumulative impacts to adjacent ESHA and the biological productivity of coastal waters.

Moreover, approval of the water supply project as proposed to explicitly provide water to serve the three parcels on the headland, has the potential to create an expectation on the part of the property owners that future residential development on the three headland parcels may be approved once geologic, botanical, and other site development studies are performed. Additionally, as the provision of sufficient quantity and quality of water has been a limiting factor for development of the residential parcels in the Iversen Point subdivision for many years, removal of this development limitation through approval of

the water supply infrastructure as proposed has the potential to further increase the expectation of the property owners that the three headland parcels are suitable for residential development.

The Commission finds that explicitly authorizing connection of the waterline to serve the three headland parcels as proposed by the applicant would be inconsistent with LUP Policy 3.9-1, if the future development facilitated by the waterline would result in potentially significant adverse cumulative impacts. The Commission finds that LUP Policy 3.9-1 requires that the proposed water pipeline must be regulated in a manner that ensures that the parcels that would be served by the waterline are developable, and that the future development facilitated by the proposed water pipeline would not result in significant adverse cumulative impacts to coastal resources.

While the Commission finds that future residential development on the three headland parcels could result in potentially significant cumulative adverse impacts, it is likely that future residential development on at least four parcels located along the proposed water pipeline alignment could be developed consistent with the LCP in a manner that would not result in significant individual or cumulative adverse impacts. Although the applicant has, as part of the proposed CDP application, requested authorization for the waterline to serve five specific parcels, the applicant has also indicated to Commission staff that there may be up to 15 vacant or existing developed parcels along the proposed water pipeline alignment from the subject well site on the east side of Highway One to the terminus of Iversen Point Road that may eventually be in need of a new or alternate source of water (see Exhibit No. 3). A parcel owner's interest in the Mutual Water Company can be transferred to owners of other parcels wishing to be served by the water company. Thus, if one or more of the five parcels proposed by the applicant to be served by the waterline are determined to be undevelopable, there are several other potential residential parcels in need of water service that could connect to the waterline. For example, residential development on the subject well site parcel, or other vacant parcels along the proposed waterline alignment on the east side of Highway One would not likely raise significant issues of consistency with the LCP, as the area comprises a densely developed residential neighborhood, and is not located in a designated highly scenic area. Additionally, some existing residential developments located along the proposed water pipeline alignment that are currently served by on-site wells are facing the need to find an alternative, or supplemental source of water due to inadequate quantity and quality of well water at several locations. Such already existing developed residential parcels could likely connect to the waterline without resulting in potentially significant individual or cumulative adverse impacts.

Regardless of which parcel or parcels are served by the water pipeline on the west side of Highway One, the proposed pipeline alignment would not change. Potential feasible alignments from the source well on the east side of Highway One are limited by the existing location and configuration of the road right-of-ways where the pipeline would need to be installed. Lateral connections from the main waterline could be installed to

any of the parcels located along the pipeline alignment. Additionally, the diameter of the pipeline would be the same whether the waterline was serving one parcel or a maximum of five parcels. As described in subsection (a) above, the amount of groundwater extraction and rate of flow would be dictated by a well pump controller and thus, service capacity is not a function of the size of the pipeline.

Therefore, the Commission finds that it is possible to construct the proposed water supply infrastructure to meet the water supply needs of up to five residential parcels along the proposed alignment in a manner that would not result in individual or cumulative significant adverse impacts to coastal resources only if a mechanism is in place to review the individual lateral connection to each of the five parcels at the time such connection is proposed. To ensure that analysis of the individual and cumulative impacts of residential development occurs prior to installing a lateral connection from the water pipeline, the Commission attaches Special Condition No. 1. Special Condition No. 1 limits the water pipeline infrastructure to serving no more than five residential parcels, including the source parcel that contains the well. The condition further requires that prior to connecting development on any parcel other than the source parcel that contains the well to the water system, the permittee shall submit for the review and written approval of the Executive Director a connection request that includes evidence demonstrating that (1) development on no more than four other parcels (including the source parcel) has already been granted the Executive Director's approval to connect to the water system, (2) the new or existing development to be served by the water system is authorized under a valid coastal development permit, or existing development pre-dates the requirements of the Coastal Act, and (3) the mutual water company has authorized the development proposed to be connected to the water system, and (4) for any connection request submitted more than five years after the Commission's approval of Coastal Development Permit No. A-1-MEN-07-053, a new hydrological report has been prepared that demonstrates that the well and water system continues to have adequate capacity to serve the proposed development in a manner that would prevent significant adverse impacts to existing neighboring wells and coastal resources.

The Commission finds that only as conditioned to limit groundwater extraction to 1 gallon per minute and impose a mechanism to review individual lateral connections to each of the five parcels at the time such connection is proposed, would the project be consistent with LUP Policy 3.9-1 requiring that all development be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

3. Environmentally Sensitive Habitat Areas (ESHA)

Summary of LCP Policies

LUP Policy 3.1-7 in applicable part states:

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development...

...

Section 20.496.020 of the Coastal Zoning Ordinance states in applicable part:

ESHA- Development Criteria

- (A) *Buffer areas. A buffer shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas. ...*

Discussion:

LUP Policy 3.1-7 and CZC Section 20.496.020 require that buffers be established to protect environmentally sensitive habitat areas (ESHA) from significant degradation resulting from development, and that development be compatible with the continuance of such habitat areas.

A biological survey report was prepared for the proposed project by Shane Green of Redwood Coast Associates entitled “*Biological Survey and Assessment of Proposed Developments at 46550 Iversen Road (APN 142-010-32) and Along an Associated Waterline Route, Mendocino County, CA,*” October 19, 2004. According to the report, the biological survey was conducted in areas that may be impacted, either directly or indirectly, by the proposed development to determine the presence of environmentally sensitive plants, animals, and habitats. This initial biological survey identified an area of riparian and hydrophytic vegetation located on the proposed well site on the east side of Highway One and recommended that a wetland delineation be performed.

Accordingly, a wetland delineation and report entitled, “*Delineation of Potential Jurisdictional Wetlands Under Section 404 of the Clean Water Act and ESHA Analysis for Well Use, 46550 Iversen Road, Gualala, Mendocino County, California,*” was prepared by William Maslach and dated May 2006. The delineation identified an approximately 16-square-foot area of wetland vegetation in the northwest corner of the subject well site. The wetland vegetation extends onto the subject well site from a seasonal spring located on the adjacent parcel to the west. The existing test well is

located approximately 46 feet from the edge of the wetland vegetation. However, all of the development proposed to be located on the well site, including the proposed storage tank and pump house, would be sited 100 feet from the edge of the wetland vegetation consistent with LUP Policy 3.1-7 and CZC Section 20.496.020 requiring a 100-foot-wide buffer from environmentally sensitive habitat areas.

A hydrology study was conducted by a certified hydrologist to evaluate the potential impacts of usage of the well on the nearby spring. The hydrological report, entitled "*Evaluation of Groundwater Pumping Impacts on Nearby Spring, APN 142-010-32, Iversen Road, Gualala, California,*" prepared by Lawrence & Associates and dated May 9, 2006 concluded that based on (1) water level results from the aquifer testing, (2) geologic evidence from well borings and soil profiles, and (3) water quality results, "*...the water discharging from the spring is not hydraulically connected to the groundwater from the aquifer from which the site well pumps...*" Supporting evidence included no visible change in the spring level during the aquifer test, and water quality results showed very different water quality types for the spring compared to the well water, thus indicating they are not from the same source. Therefore, groundwater extraction from the proposed source well would not result in significant adverse impacts to the spring and associated wetland habitat located on the parcel adjacent to the subject well site.

Two special status plant species, including Blasdale's bent grass and Short-leaved evax were found on one of the five parcels that the water pipeline is proposed to serve located just east of the three headland parcels (APN 142-031-23). However, none of the development associated with the proposed water pipeline infrastructure under the subject CDP application would be located closer than 100 feet to these sensitive plant populations. Further ESHA analysis of APN 142-031-23 would be required as part of a CDP application for any proposed future development on this parcel. The Commission notes that botanical surveys for the three headland parcels were not included as part of the subject CDP application at this time, as the proposed development of the water pipeline infrastructure would be located over 150 feet from the nearest parcel boundary of the headland parcels. Thorough botanical and other ESHA surveys would similarly be required as part of any CDP application for future proposed development on any of the headland parcels.

The Commission finds that ESHA located near the project area could be adversely affected if non-native, invasive plant species were introduced as a result of the proposed project, such as via erosion control planting. Introduced invasive exotic plant species could physically spread into nearby ESHA and displace native vegetation, thereby disrupting the values and functions of the ESHAs. The seeds of exotic invasive plants could also be spread to nearby ESHA by wind dispersal or by birds and other wildlife. The applicant is not proposing to plant any exotic invasive plants as part of the proposed project. However, to ensure that any ESHA located near the site is not significantly degraded by any planting that would contain invasive exotic species, the Commission

attaches Special Condition No. 3(F) that requires only native and/or non-invasive plant species be planted at the site.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area. Therefore, the Commission finds that the project as conditioned is consistent with the ESHA protection policies of the LCP.

4. Water Quality

Summary of LCP Provisions

LUP Policy 3.1-25 states:

The Mendocino Coast is an area containing many types of marine resources of statewide significance. Marine resources shall be maintained, enhanced and, where feasible, restored; areas and species of special biologic or economic significance shall be given special protection; and the biologic productivity of coastal waters shall be sustained.

Coastal Zoning Code Section 20.492.020(B) incorporates sedimentation standards and states in part:

- (B) To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
- (C) Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.*

Discussion:

The proposed project involves approximately 222 cubic yards of cut and approximately 51± cubic yards of fill associated with the underground installation of the pipeline, storage tank, and construction of a driveway from Iversen Road to access the well site. Approximately 171 cubic yards of excess fill from excavation and grading would be deposited on parcel APN 142-010-51, in the vicinity of a residential development needing fill, recently permitted by Mendocino County CDP No. 19-2006.

The proposed trenching and excavation involves ground disturbance and vegetation removal that would result in the potential for sediment to be entrained in surface runoff

and potentially be deposited off-site. Sediments entrained in runoff can result in adverse water quality impacts such as increased turbidity and can result in potential adverse impacts to coastal waters and off-site environmentally sensitive habitat areas.

LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters and Section 20.492.020 of the Mendocino County Coastal Zoning Code sets forth sedimentation standards to minimize sedimentation of off-site areas. Specifically, CZC Section 20.492.020(B) requires that the maximum amount of vegetation existing on the development site shall be maintained to prevent sedimentation of off-site areas, and where vegetation is necessarily removed during construction, native vegetation shall be replanted afterwards to help control sedimentation.

To minimize potential significant adverse water quality impacts from erosion and sedimentation from ground disturbance associated with the proposed project, the Commission attaches Special Condition No. 3 which requires (1) the implementation of sediment control measures such as straw bales, coir rolls, or silt fencing be installed along the pipeline alignment prior to, and maintained throughout, the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment from being directed off-site; (2) removing any excess excavated material and other construction debris immediately upon completion of construction and disposing of such debris outside the coastal zone or within the coastal zone pursuant to a valid coastal development permit; (3) maintaining on-site vegetation to the maximum extent possible during construction activities; (4) containing all on-site stockpiles of soil and construction debris at all times; (5) limiting ground disturbing activities to the dry season between May 1 and October 15th, and (6) replanting all disturbed areas with native vegetation following project completion.

Therefore, the Commission finds that as conditioned, the proposed development is consistent with LUP Policy 3.1-25 and CZC Section 20.492.020, as (1) erosion and sedimentation will be controlled and minimized, and (2) the biological productivity of coastal waters will be sustained.

5. Visual Resources

Summary of LCP Policies

Section 30251 of the Coastal Act has been specifically incorporated into LUP Policy 3.5-1 of the Mendocino LCP and states in part:

The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with

the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

LUP Policy 3.5-3 states in applicable part:

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as “highly scenic areas,” within which new development shall be subordinate to the character of its’ setting. Any new development permitted in these areas shall provide for protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the South boundary of the City of Point Arena and the Gualala River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.

In addition to other visual policy requirements, new development west of Highway One in designated ‘highly scenic areas’ is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. ...New development should be subordinate to the natural setting and minimize reflective surfaces. ...

NOTE 1: The LUP Maps designate the area west of Highway One in the project vicinity as highly scenic.

NOTE 2: Coastal Zoning Ordinance 20.504.015(A) reiterates that this section of coastline is a “highly scenic area.”

Zoning Code Section 20.504.015(C)(1) states that:

Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Discussion:

Policy 3.5-1 of the County’s LUP provides for the protection of the scenic and visual qualities of the coast, requiring permitted development to be sited and designed to protect views to and along the ocean, to minimize the alteration of natural landforms, and to be visually compatible with the character of surrounding areas. The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Policy 3.5-3 states that new development west of

Highway One in designated “highly scenic areas” should be subordinate to the natural setting. The County’s Zoning Ordinance reiterates these policies. Specifically, Coastal Zoning Ordinance Section 20.504.015(C)(1) requires that new development in highly scenic areas protect coastal views from public areas including roads and trails. Section 20.504.015(C)(2) of the Zoning Code requires an 18-foot height limit for parcels located west of Highway One in designated highly scenic areas, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Coastal Zoning Ordinance Section 20.504.015(C)(3) requires that new development be subordinate to the natural setting and minimize reflective surfaces and requires that in highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

As described above, the proposed project involves development on both the east and west sides of Highway One in the Iversen Point area. The west side of Highway One in the vicinity of the proposed project is designated “highly scenic” in the Mendocino County LUP. All proposed development located within the designated highly scenic area on the west side of Highway One would be located below ground and thus, would not block any views to or along the coast, or introduce any visible reflective surfaces or building materials into the landscape. The only above-ground element of the proposed project involves construction of a 128-square-foot pump house on the east side of Highway One in a densely developed residential area that is not designated as highly scenic and does not afford any views to or along the coast. Additionally, the proposed project would not involve alteration of natural landforms.

Although there may be temporary visual impacts associated with the project from the use of heavy equipment along the project alignment and from soil and vegetation disturbance during construction of the proposed project, the proposed water pipeline infrastructure and associated water storage tank and pump house would not result in a permanent change to the visual character of the area in a manner that would result in significant adverse impacts to coastal views.

Therefore, the Commission finds that as conditioned, the proposed project is consistent with Policies 3.5-1 and 3.5-3 of the LUP and with Section 20.504.015(C) of the Zoning Code, as the amended development would (1) be sited and designed to protect coastal views from public areas, (2) be visually compatible with the character of surrounding areas, (3) be subordinate to the character of its setting, and (4) minimize alteration of natural landforms.

6. Public Access

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited

exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that 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. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214 of the Coastal Act, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on public access.

Although portions of the proposed project are located between the first public road and the sea, the project would not adversely affect public access. Temporary disruption along Highway One at its intersection with Iversen Point Road within the project area would occur during the proposed directional drilling of the water pipeline below the highway. However, such disruption would be of limited extent and duration and would not result in a complete closure of the highway to through traffic along the Mendocino coast. It is likely that traffic would be slowed and limited to one lane through the project area at Iversen Point only for several days during project construction.

There are no trails that provide shoreline access within the vicinity of the project that would be affected by the proposed project. Furthermore, the proposed project would not create any new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

7. Caltrans Encroachment Permit

To ensure that the applicant obtains the necessary review and authorization from Caltrans for the proposed project, Special Condition No. 4 requires the applicant to submit a copy of the Encroachment Permit approved by Caltrans prior to issuance of the permit, or evidence that no permit is required. The applicant shall inform the Executive Director of any changes to the project required by Caltrans and any such changes shall not be incorporated into the project until

the applicant obtains a Commission amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

8. California Environmental Quality Act

Mendocino County is the lead agency for purposes of CEQA review. The County prepared a Negative Declaration for the proposed project in conformity with CEQA requirements.

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Mitigation measures that will minimize or avoid all significant adverse environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

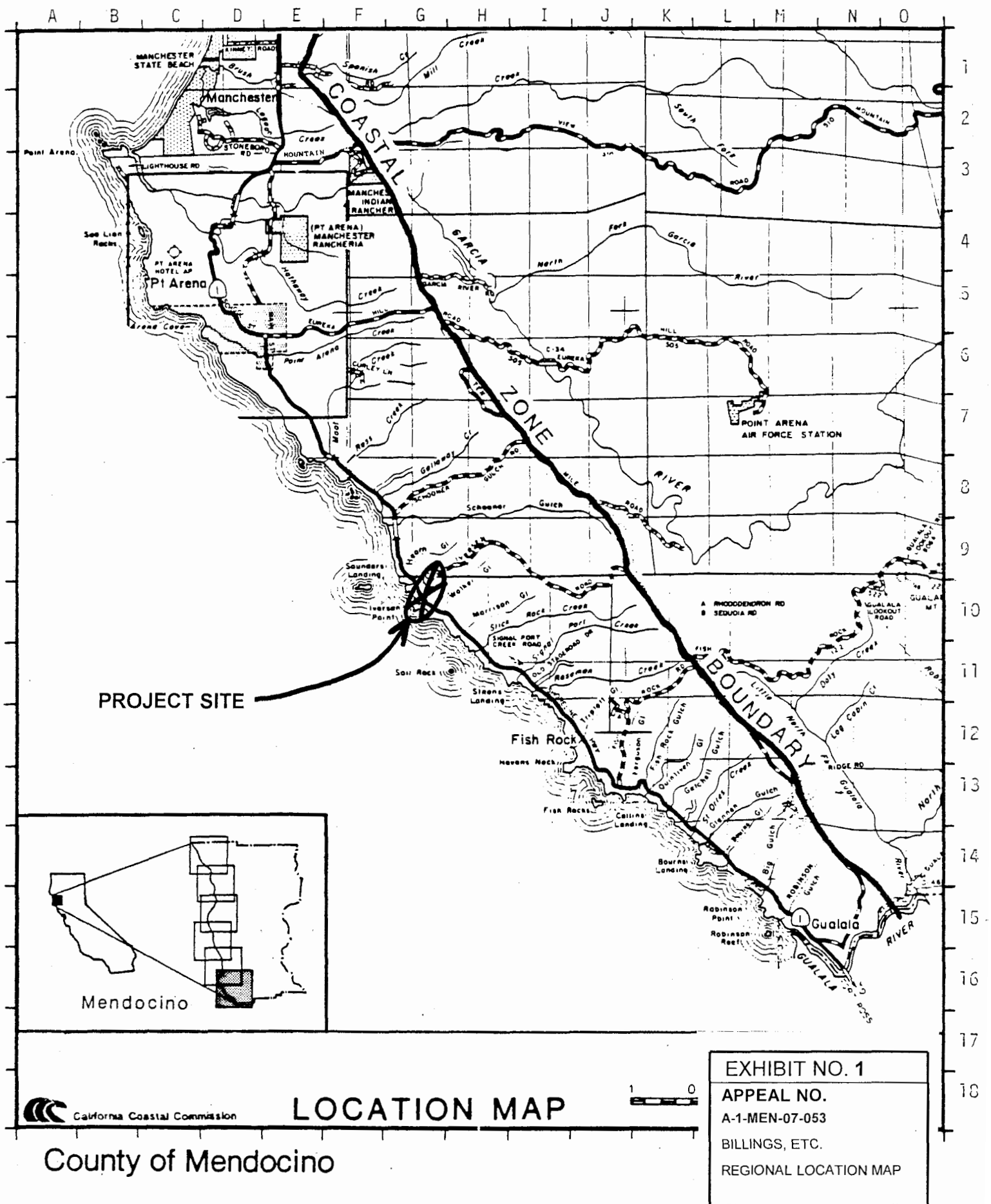
Exhibits:

1. Regional Map
2. Vicinity Map
3. Project Site/Service Area Map
4. Well Site Plan
5. Water Pipeline Construction Plan
6. Pumphouse Plan Grading Plan
7. Grading Plan
8. Appeal
9. Notice of Local Final Action

ATTACHMENT A

Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



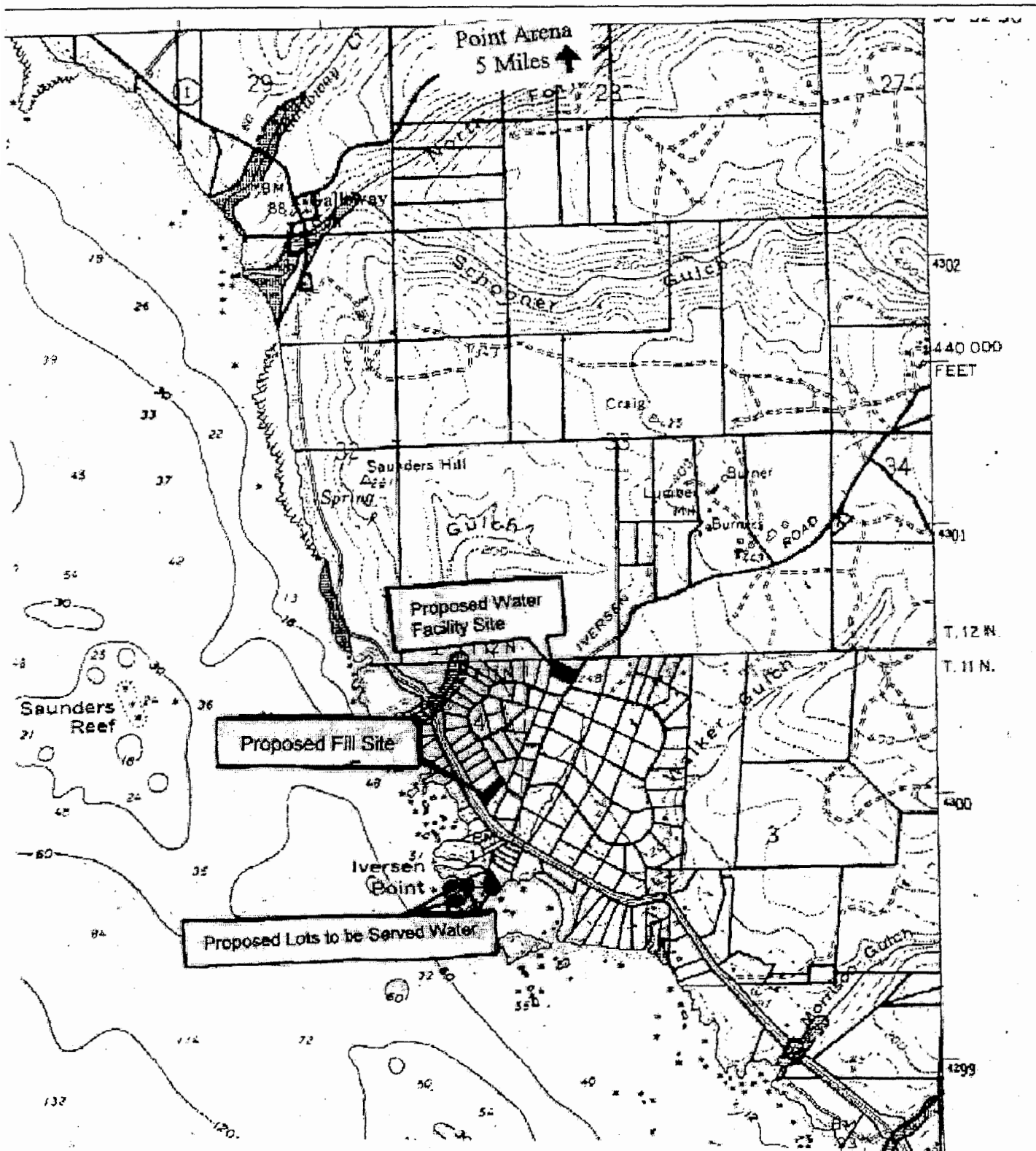


EXHIBIT NO. 2

APPEAL NO.

A-1-MEN-07-053

BILLINGS, ETC.

VICINITY MAP



**46550 IVERSEN ROAD
PRODUCTION WELL LOT
AND SERVICE CONNECTION**

**IVERSEN ROAD
PROPOSED
WATERLINE**

APN
142-010-32

TRACT 115

TRACT 34

TRACT 58

IVERSEN LN.

IVERSEN ROAD
CR 503

IVERSEN DR.

**IVERSEN
POINT RD.
PROPOSED
WATERLINE**

IVERSEN POINT RD
CR 503B

HIGHWAY ONE

APN
142-031-27

APN
142-031-26

APN
142-031-25

APN
142-031-23

PACIFIC
OCEAN

TRACT 34

EXHIBIT NO. 3

APPEAL NO.

A-1-MEN-07-053

BILLINGS, ETC.

PROJECT SITE / SERVICE
AREA MAP

**IVERSEN POINT
SERVICE AREA
AND LOTS**

**ROUGH AND READY
MUTUAL WATER SYSTEM
SITE / SERVICE AREA MAP**

EXHIBIT "B"

EXHIBIT NO. 4

APPEAL NO.

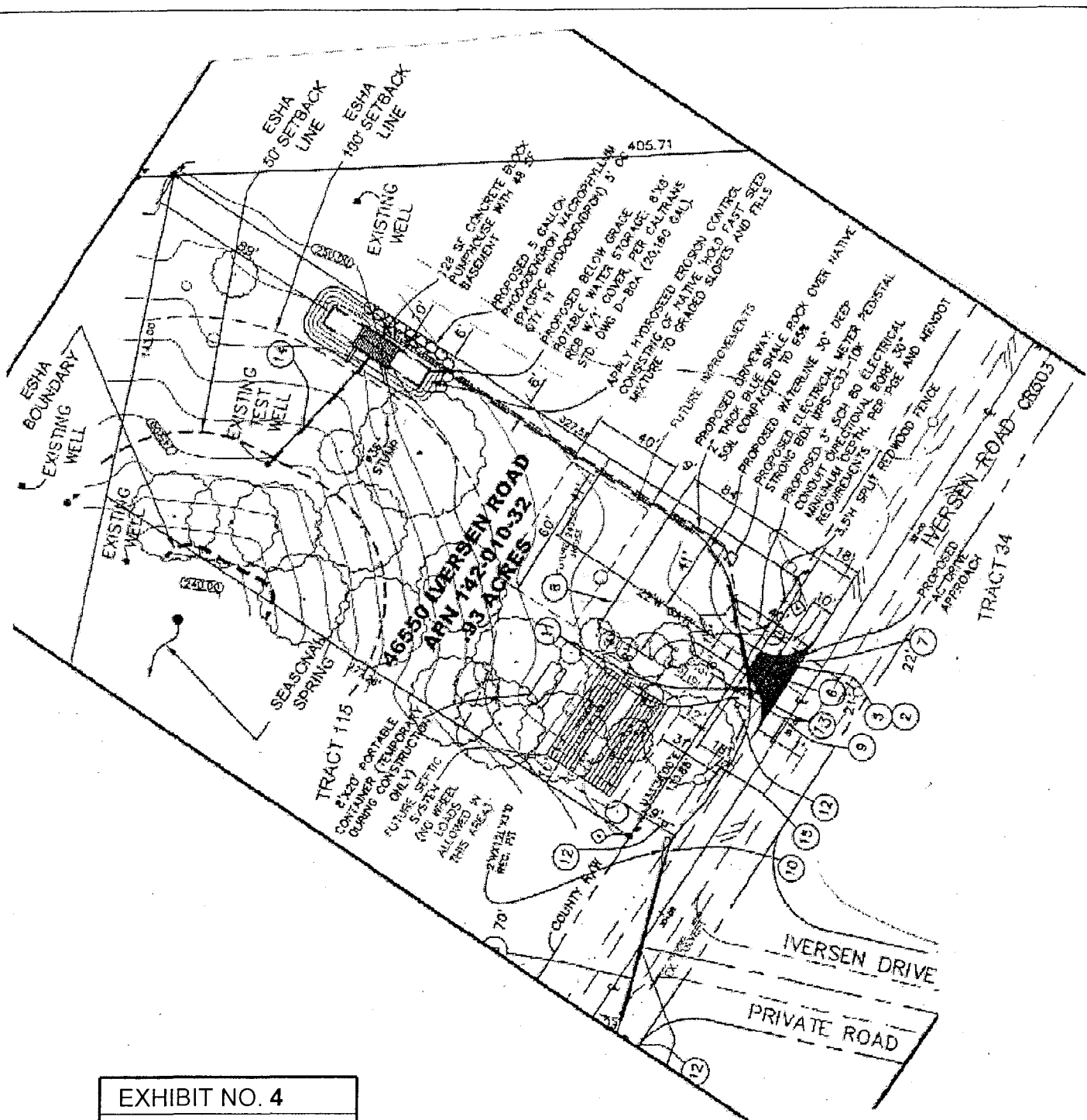
A-1-MEN-07-053

BILLINGS, ETC.

WELL SITE PLAN

SITE PLAN - WATER FACILITY

NO SCALE



WATER PIPELINE CONSTRUCTION PLAN



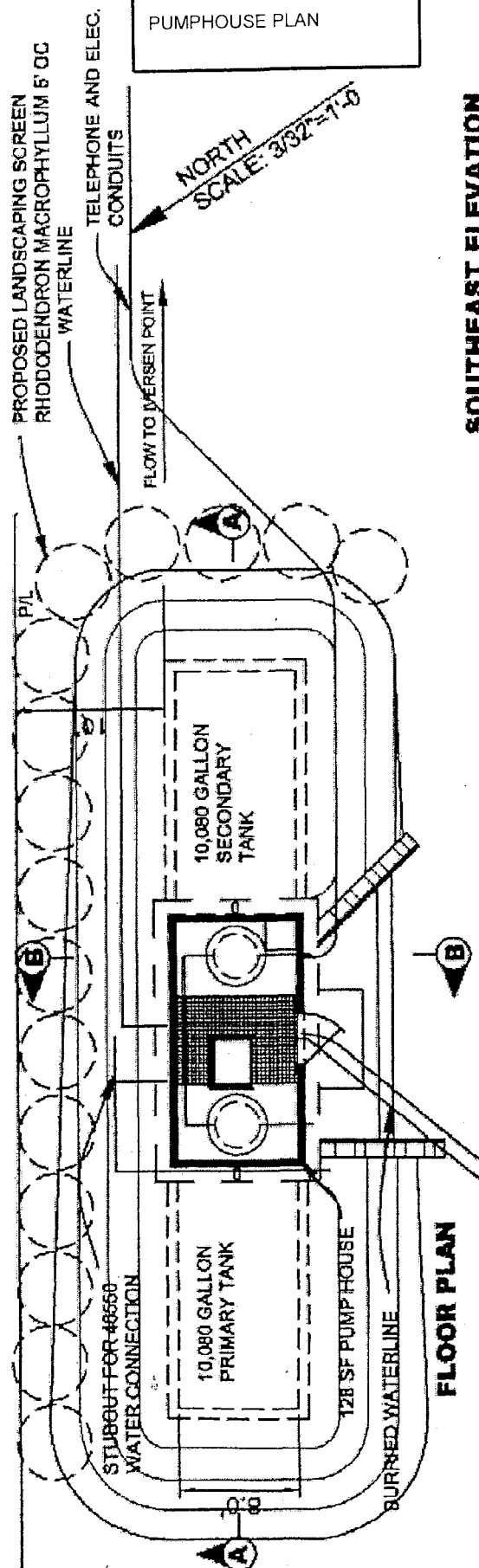
EXHIBIT NO. 6

APPEAL NO.

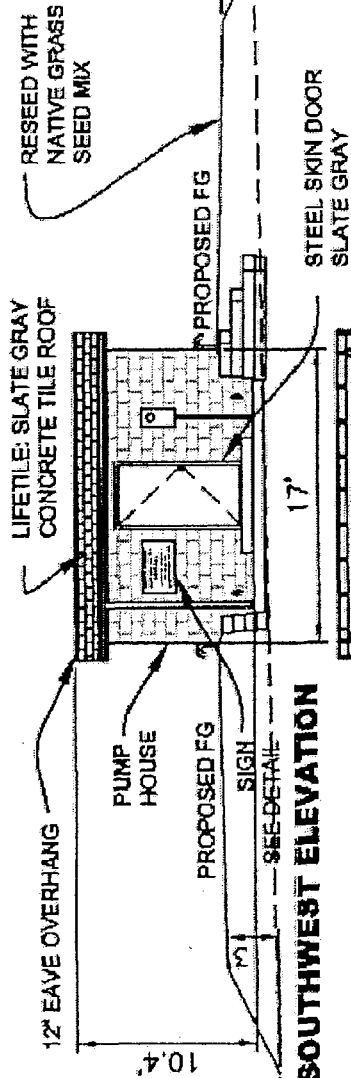
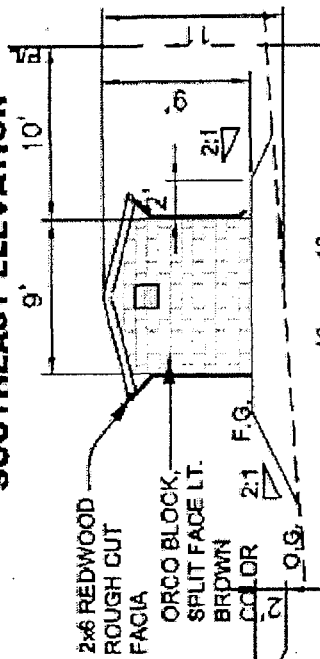
A-1-MEN-07-053

BILLINGS, ETC.

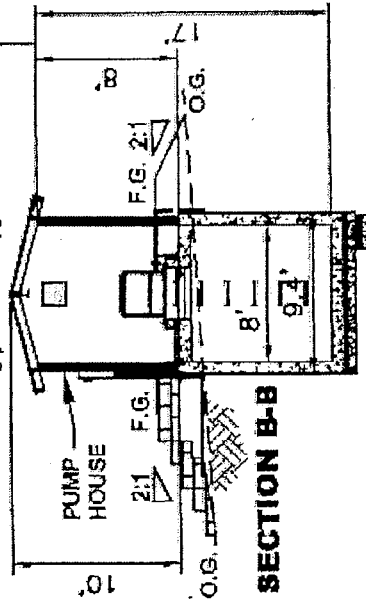
PUMPHOUSE PLAN



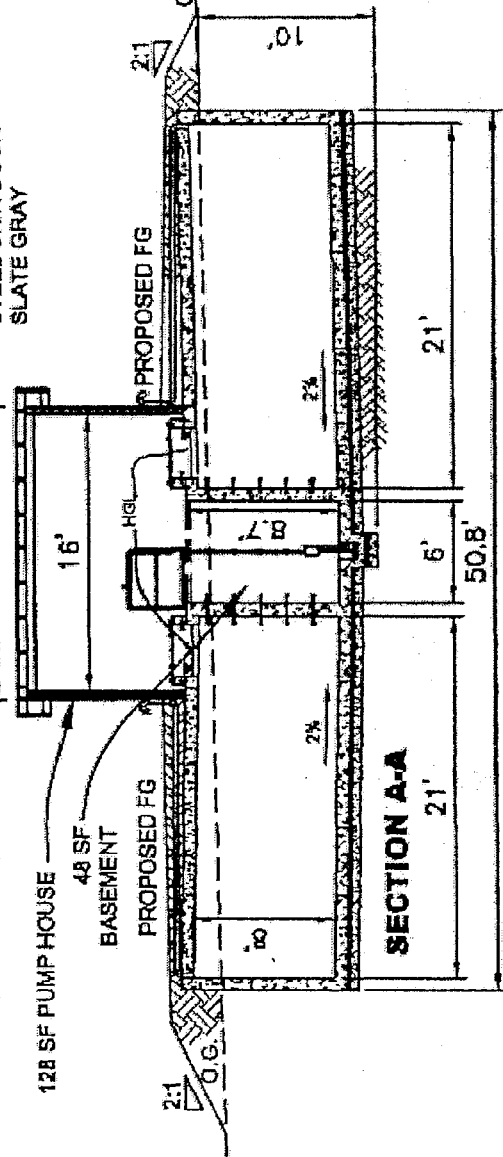
SOUTHEAST ELEVATION



SOUTHWEST ELEVATION



SECTION B-B



SECTION A-A

128 SF CONG. BLOCK PUMPHOUSE, 48 SF BASEMENT AND 20,160 GALLON CONG. WATER STORAGE TANK - PLAN AND ELEVATION VIEWS
48550 IVERSEN ROAD
ROUGH AND READY MUTUAL WATER COMPANY

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Group to Preserve Iversen Point, John Carlson / Karen Russell

Mailing Address: 1711 Moreland Dr.

City: Alameda

Zip Code: 94501

Phone: (510) 366-5958

RECEIVED

SECTION II. Decision Being Appealed

DEC 27 2007

CALIFORNIA
COASTAL COMMISSION

1. Name of local/port government:

Mendocino County

2. Brief description of development being appealed: CDU 3-2007

Establishment of a mutual water company to serve 5 lots (4 of which are west of Highway 1, on the seaward side, on Iversen Pt. Rd.) The development includes the conversion of an existing well to a production well and conveyance of the water down Iversen Rd extending to the terminus on Iversen Pt. Rd.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

In the coastal zone, east of Highway 1, in the Iversen Subdivision 4+1/2 miles north of Anchor Bay, on the west side Iversen Rd, 2100+ feet north of its intersection with Highway 1 @ 46550 Iversen Rd.

4. Description of decision being appealed (check one.):

(APN 142-010-32-05.)

- ☒ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-07-053

DATE FILED: 12/27/07

DISTRICT: North Coast

EXHIBIT NO. 8

APPEAL NO.

A-1-MEN-07-053

BILLINGS, ETC.

APPEAL (DATED 12/27/07)
(1 of 6)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision:

November 20, 2007

7. Local government's file number (if any):

CDU 3 - 2007**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Curt Billings
 5830 Zapata Place
 Alta Loma, CA 91737

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Sharon Williams

samsew@sbcglobal.net

(6) Bill and Susan Wenks
 1333 Cunningham Rd.
 Sebastopol, CA
 95472

(2) John Carlson

carlsonala@sbcglobal.net

(7) Polly Dakin
 dakin@mcn.org

(3) Jeff Watts

mendoman@hughes.net

(8) David Shaw

46300 Iversen Dr.

Gualala, CA 95445 - 1718

(4)

Don Blumenthal

donkb@mcn.org

(9) Peter Riemuller
 Friends of Schooner Gulch
 Box 4
 Pt. Arena, CA 95468

(5) Sally McDonnell

sally.McDonnell@sf.frb.org

(10) Karen Russell

karemal@mindspring.com

2086

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

(Please see the attached pages.)

Appeal from Coastal Permit Decision of Local Govt.

4 of 6

Re: Case # CDU 3-2007

As concerned citizens and homeowners on Iversen Pt. Road and Iversen Road we have several issues regarding the passage of CDU 3-2007 and would like to appeal the approval of this use permit. This appeal supercedes all previous appeals. All previous appeals from this group are withdrawn.

First and foremost there is an inextricable association with approval of this plan for water use and the development on Iversen Point. This is a highly scenic area along the coast visible from various vantage points along the coastline.

This use permit and the inevitable development are not consistent with the local coastal policy. It clearly has substantial issues of conformance with the local coastal program. Approval of the plan would constitute a terrible precedent as related to the precious and irrevocably lost coastal resources used.

Thus we are appealing the decision because CDP 3-2007 involves development within 300 feet of the seaward face of a coastal bluff, which is within a sensitive coastal resource area, and also in close proximity to both an area of Special Biological Importance, and an area of Special Biological Significance as defined by the California Dept of Fish and Game. It is our contention that the County Planning Commission and Supervisors failed to fully conform to the Mendocino LCP as they did not take into account 1) the environmental impact of allowing development in this area, and 2) The long term impact of allowing the movement of valuable water resources from one development to another area of potential development.

1. Environmental Impact: Allowing water to be piped to virtually the bluff's edge, sets the stage for increased residential development and will increase the potential for erosion, and also will have the long-term effect of increasing the likelihood of increased run off into Biologically Significant areas (Saunders Kelp Bed, Sea Lion Rookery, and Cormorant nesting areas).

The MLPA for the North Coast considers this area to be so sensitive that they are considering banning fishing, abalone diving, and perhaps even walking along the beach and kayaking. Yet the Supervisors didn't focus on potential environmental impacts, overlooking the impact of running ½ mile of water pipe, where any accident would suddenly create the potential for major run off and erosion issues. In our opinion this overlooks the importance of Section 30231 of the Coastal Act which deals with run off.

The permit involves laying a water line down Iversen Road terminating on Iversen Point. The permit bringing the water pipes down the road clearly falls under Coastal Commission Review as it involves development in the coastal area as defined by Coastal Act 30106 where construction of a "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line." In the original permit and appeal, the impact of those water pipes, and the disruption at the coastal edge caused by construction was virtually ignored by the County as the permit is "just for water pipes" not for residential structures. However we would ask the Coastal Commission to view even the

4 of 6

construction of a water pipe as a) a precursor to more and more disruptive development (a fact even the Planning Commission was very direct in acknowledging by telling the Applicants that no guarantees were offered on the future development rights they may seek) and 2) a development that is significant enough on its own merits to warrant a thorough environmental review.

Iversen Point is an environmentally sensitive habitat area: There is a Harbor Seal Rookery in the Cove below the Point and Cormorant Breeding Grounds and nesting areas exist on the sides of Iversen Point Bluff. It also falls right at the edge of the Saunders Kelp Bed. Any and all development in this area needs to be thoroughly vetted in terms of impact to our natural resources and potential disruption to our wildlife. We believe this area may fall under Section 30240.

Long term Impact of Moving Water. The "Mendocino County Coastal Groundwater Study" prepared in 1982 identified areas of sufficient, marginal and critical water resources on the coast. Coastal Groundwater Development Guidelines were adopted in 1989 which establish requirements for investigation for groundwater development depending upon proposed project type, location and lot size. The requirements for proof of water and hydrological studies are intended to ensure that development is consistent with the limitations of the local water supply.

Development on Iversen Point is NOT consistent with the limitations of the local water supply. Even the Planning Commission said the Applicants position had some merit and that small water systems are to be discouraged if they are developed to support density increases. The whole purpose of this permit is to move the water supply that was created for the Iversen Landing tract (an area that is only 50% built out) down to Iversen Point (an area that has insufficient water resources to support additional development). This decision merits thorough review.

Common sense says that since the County Commission is pessimistic about the likelihood that future development will be approved, and since development of lots on the seaward side of Iversen Point have consistently been denied by the Coastal Commission, that this permit not be approved at this time. It requires further environmental review, it requires great care around the impact to biological resources, it requires a consistent policy around the relocation of water supplies, and it should require that the water if and when it is moved, actually have a definite destination where the water will be utilized.

We thank you in advance for your review and consideration of these points and your ongoing work to protect and preserve the coast.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on File

Signature on File

Signature of Appellant(s) or Authorized Agent

Date:

December 24, 2007

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date:



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
501 LOW GAP ROAD • ROOM 1440 • UKIAH • CALIFORNIA • 95482

RAYMOND HALL, DIRECTOR
Telephone 707-463-4281
FAX 707-463-5709
pbs@co.mendocino.ca.us
www.co.mendocino.ca.us/planning

December 12, 2007

RECEIVED
DEC 17 2007
CALIFORNIA
COASTAL COMMISSION

NOTICE OF FINAL ACTION

Action has been completed by the County of Mendocino on the below described project located within the Coastal Zone.

CASE#: CDU 3-2007

OWNER: GENE & TONI SAMPSON/CURT & DORIS BILLINGS/URSULA MCDANIEL

AGENT: CURT BILLINGS

REQUEST: Establish a Mutual Water Company to serve five lots – APNs 142-031-27, 142-031-26, 142-031-25, 142-031-23 and subject lot 142-010-32. Includes construction of below-ground 20, 160± gallon reinforced concrete potable water storage facility, and 128± sq. foot above-ground pumphouse with a 48± sq. foot basement. Conversion of existing test well to production well, excavation, grading for gravel driveway, construction of AC drive approach, installation of underground utility conduits on site and within the public right of ways along Iversen Road, extending to the terminus of Iversen Point Road, including crossing State Highway One, signing, landscaping, trench repair, traffic control, and temporary storage container.

APPEALABLE AREA: Yes

LOCATION: In the Coastal Zone, east of Highway 1, in the Iversen Subdivision 4± miles north of Anchor Bay, on the west side of Iversen road, 2100± feet north of its intersection with Highway 1 at 46550 Iversen Road (APN 142-010-32-05).

PROJECT COORDINATOR: TERESA BEDDOE

ACTION TAKEN:

The Planning Commission, on May 3, 2007, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was appealed to the Mendocino County Board of Supervisors and the Planning Commissions decision upheld at the November 20, 2007 meeting. See attached minutes in support of this decision.

This project is appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

Attachments

cc: Coastal Commission
Assessor

EXHIBIT NO. 9

APPEAL NO.

A-1-MEN-07-053

BILLINGS, ETC.

NOTICE OF LOCAL FINAL
ACTION (1 of 16)

STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT

#CDU 3-2007

May 3, 2007

Page PC-1

OWNERS: GENE & TONI SAMPSON
CURT & DORIS BILLINGS
RON & URSULA MCDANIEL
5830 ZAPATA PL.
ALTA LOMA, CA 91737

APPLICANT/AGENT: CURT BILLINGS
5830 ZAPATA PL.
ALTA LOMA, CA 91737

REQUEST: Establish a Mutual Water Company to serve five lots; four Iversen Point bluff top lots (APNs 142-031-27, 142-031-26, 142-031-25, 142-031-23) and the subject well site lot (APN 142-010-32). Includes construction of below-ground 20,160± gallon reinforced concrete potable water storage facility, and 128± sq. foot above-ground pump house with a 48± sq. foot basement. The facility would be located on the well site lot (APN 142-010-32), and would have a maximum average height of 10± feet above grade. Conversion of existing test well to production well, excavation, grading for gravel driveway, construction of A/C drive approach, installation of underground utility conduits on site and within the public right of ways along Iversen Road, extending to the terminus of Iversen Point Road, including crossing State Highway One. Fill disposal from excavation is proposed at 46860 Iversen Lane (APN 142-010-51).

LOCATION: In the Coastal Zone, east of Highway 1, in the Iversen Subdivision 4± miles north of Anchor Bay, on the west side of Iversen Road (CR 503), 2100± feet north of its intersection with Highway 1 at 46550 Iversen Road (APN 142-010-32), and along Iversen Road, Iversen Point Road and Highway 1 corridors.

TOTAL ACREAGE: 1.85± Acres (2 lots, each approx. .925 acres)

GENERAL PLAN: Rural Residential- 5 acre minimum (RR-5 [RR-1])

ZONING: Rural Residential- 5 acre minimum : Rural Residential (RR: L-5 [RR])

EXISTING USES: Undeveloped

ADJACENT ZONING: North: Rural Residential- 5 acre minimum (RR-5 [RR-1])
East: Rural Residential- 5 acre minimum (RR-5 [RR-2])
South: Rural Residential- 5 acre minimum (RR-5 [RR-1])
West: Rural Residential- 5 acre minimum (RR-5 [RR-1])

SURROUNDING LAND USES: Residential

SURROUNDING LOT SIZES: North: 0.87± Acres
West: 0.98± Acres
South: 0.97± Acres
East: 3.43± Acres

SUPERVISORY DISTRICT: 5

CA COASTAL RECORDS PROJECT: Image 200504011

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OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA:

Categorical Exclusion (CE) 72-02 was approved for a test well on the subject proposed water facility site (APN 142-010-32). This well would provide the water source for the mutual system.

Coastal Development Permit (CDP) 19-2006 was approved for the construction of a 2,426 sq. foot single-family residence above a 2,590 sq. foot basement and attached garage for a total structural size of 5,016 sq. feet, with a maximum average height of 26 feet above finished grade, on the subject proposed fill site APN 142-010-51).

PROJECT HISTORY: The subject State Small Water System, known hereafter as the Rough and Ready Mutual Water System, is being proposed to partially meet the water needs of the now defunct water system (Iversen Point Mutual Water Company) that was created in 1970. The Iversen Point Mutual Water Company was created to serve eleven lots, including four of the five subject lots¹.

As outlined in his letter dated October 31, 1990, Neal Mettler of the Division of Environmental Health (DEH) clarifies:

The current system supplies water to only four (4) parcels in the subdivision. State law defines a public water system as a system which serves five (5) or more connections. Since the current number of connections is less than the minimum number, the system is not now on the county inventory of small public water systems (Mendocino County is responsible for the regulation of public water systems below 200 connections).

Therefore the four off site parcels are no longer considered part of the Iversen Point Mutual Water Company; as such a company is not currently recognized by DEH. Mr. Mettler's October 1990 letter further provides clarification regarding the four off-site parcels to be served:

When the Iversen Point Subdivision was made, the lots were sized to allow on-site septic, but not on-site water. The subdivision requirements specified that a public water system would provide water to the parcels.

In 1979, a full-time resident being served by the water company requested a moratorium from the California Coastal Commission on further building upon lots to be served by the Iversen Point Mutual Water Company, due to an insufficient water supply. In her letter dated July 14, 1979, Virginia Thompson of parcel 142-031-20 writes:

...At this time, there are three houses built and seven vacant lots. We are the only full time residents. The other two houses are week-enders. For the fourth time in six months we have no water, and have not had for two weeks.

The water system consists of 3 wells, 2 of which are not working. There is an 19,000 gallon storage tank, which is so low that the pump cannot pressurize the system to get water to the houses.

The Division of Environmental Health performed an inspection in 1990 and noted that an additional water source is needed. DEH also noted other deficiencies of the system not in conformance with State requirements for public water systems. Deficiencies listed in their inspection report letter dated October 30, 1990 included safety and sanitation hazards, and deficiencies in both water quantity and quality.

In 1991, Don Hughes, owner of Iversen Point parcel 142-031-28, purchased the parcel northeast of the intersection of Iversen Road and Highway 1 (APN 142-032-04), developed two wells and a 10,000 gallon water storage tank, and installed a waterline under Highway 1, along the County easement to his Iversen Point property.

On June 27, 1996, DEH sent a letter to property owners stating that their office would not object to water storage tanks being placed on the existing lots, and having potable water trucked in. Numerous letters of objection were written in response from both property owners and the Coastal Commission. In a letter dated November 12, 1996,

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¹ The fifth subject lot is the lot that the water source is located upon.

DEH put a hold on approval of having water trucked in until a new policy review has been completed and approved.

PROJECT DESCRIPTION: The applicant proposes to construct and establish a Mutual Water Company to serve five undeveloped lots, including the subject lot located approximately 2,100 feet north of Highway 1, and four bluff top lots located across Highway 1. Construction includes an underground 20,160±-gallon water storage facility, and 128± sq. foot above ground pump house with a 48± sq. foot basement. The water facility building would have a maximum average height of 10± feet above grade. The applicant would convert an existing test well located on APN 142-010-32 to a production well. Excavation would be needed to develop the underground water facility. Driveway development would occur to provide access to the site from Iversen Road. Driveway development would include compaction and graveling, with A/C overlay per Department of Transportation requirements. Excess fill from excavation and grading would be deposited on parcel APN 142-010-51, in the vicinity of a residential development needing fill, recently permitted per CDP 19-2006. The applicant would install underground water pipe from the service site, down along Iversen Road, crossing Highway 1 and to the end of Iversen Point Road. The conduits would be installed by trenching on-site and directional boring within the road and highway corridors. Temporary traffic control would be needed while work is being performed. Traffic control would include one-lane closure in the daytime only, and would have flagmen controlling traffic. Landscaping would buffer the on-site facility. A temporary storage container would be needed for construction.

No development would occur on the Iversen Point bluff top parcels at this time. In conjunction with these lots, the analysis herein is specific only to allowance of potable water infrastructure within the road corridor, which was already assumed and approved in the 1970s when the parcels were created. Planning staff is in no way analyzing the feasibility of residential development of the Iversen Point bluff top parcels at this time. Such residential development would need to be analyzed when specific developments are proposed on the lots.

GUALALA MUNICIPAL ADVISORY COUNCIL: At the regularly scheduled meeting held February 1, 2007, GMAC reviewed the subject project, and voted unanimously (7-0) that the project be approved as presented.

ENVIRONMENTAL REVIEW: In completing the Environmental Review Checklist the following areas of potential environmental concern are noted:

Earth: Grading and soil disturbance would occur from the following: 1. Construction of a driveway approach², 2. Installation of the below ground water storage tank, and 3. Placement of underground water lines to run from the facility, down Iversen Road, across the highway, and down to the terminus of Iversen Point Road.

Driveway: The applicant plans to grade a gravel driveway off Iversen Road for access to the storage facility. The applicant proposes nine cubic yards of cut for the drive approach, that would become compacted driveway fill, resulting in no net cut or fill excess. The driveway approach would include installation of an 18-inch diameter culvert to allow water runoff in the vicinity of the Iversen Road cut bank.

Water Storage Facility: The applicant proposes 142± cubic yards of excavation for the proposed below ground water storage tank. The tank would be covered with 42± cubic yards of fill, resulting in a net of 100± cubic yards of export.

Water Lines: The applicant proposes constructing approximately 2,851± linear feet of directionally bored water pipe; from the proposed facility 229± feet to Iversen Road, and then continue to bore the waterline 2,078± feet down along the southeast Iversen Road corridor to Highway 1. Directional boring 77± feet in length, would occur across Highway 1, and the water line would continue to be bored 467± feet along the north corridor of Iversen Point Road to the cul de sac terminus. Where the water line crosses the Iversen Road and Highway 1, the water pipe would run through a sleeve. Installation of the water pipe and sleeves would occur at a minimum depth of 30± inches, and 36± inches where it crosses Highway 1. Along County road corridors, the pipe would be installed in a minimum of 500 to 900 foot lengths. Directional boring along Iversen Road, Iversen Point Road and across Highway 1 would require 65± cubic yards of bore pit development. The pits would be backfilled with aggregate base rock and compacted to 95% in accordance with the County Department of Transportation standards. Each existing utility crossed would be potholed at the beginning of construction with a four sq. foot hole to the depth of

² To provide vehicular access to the subject site for construction and maintenance of the water facility.

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the utility line, in order to verify its location and to avoid a conflict with the proposed waterline. Exploratory borings are additionally proposed, including hand-augured four-inch diameter soil cores to a depth of three to five feet, in order to confirm the best depth for the bore-hole.

As outlined below, the project would involve a total of 222± cubic yards of cut, and 51± cubic yards of fill. Approximately 171 cubic yards of excess fill would result from the project. This fill would be deposited at 46860 Iversen Lane. The applicant/agent is co-owner of the parcel located at 46860 Iversen Lane, where a residence and associated development were approved per Coastal Development Permit (CDP) 19-2006 in November of 2006³. The area of proposed disposal is located more than 100 feet from any Environmentally Sensitive Habitat Areas, and would contribute to the 200 cubic yards of fill needed for residential development, per the cut and fill plan submitted in association with CDP 19-2006 (see Exhibit F).

Table 1. Cut and fill estimates in cubic yards.

46550 Sitework:		Earthwork			Notes
		Cut	Fill	Export	
1	Water Storage	142	42	100	The balance of the cut and fill will be export to 46860 Iversen Lane
2	386 SF of 2 inch AC Drive Approach over 6" AB and 2272 SF of 2 inch gravel driveway at 46550 Iversen Road	9	9	0	The export from the driveway excavation becomes fill for the gravel driveway subgrade when it is compacted to 95% for the top 12 inches

Waterline:		Cut	Fill	Export	Notes
3	Bore pit development	65	0	65	Exported to 46860 Iversen Lane
4	2851' LF of 3" dia. bore from the water storage facility to Iversen Pt. less 77' for Hwy One crossing = 2774 LF	5	0	5	Tailings from boring operation will become export to 46860 Iversen Lane.
5	6" sch 40 (6.625" O.D.) steel sleeve - 77' LG	0.7		0.7	Exported to 46860 Iversen Lane

Total of all earthwork: 222 51

Balance: 171 CY (Exported to 46860 Iversen Lane)

Regarding erosion control, Section 20.492.015 of the MCCZC states in pertinent part:

(A) *The erosion rate shall not exceed the natural or existing level before development.*

(B) *Existing vegetation shall be maintained on the construction site to the maximum extent feasible. Trees shall be protected from damage by proper grading techniques.*

(C) *Areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily.*

Recommended Condition Number 1 is included to require that an erosion control plan that complies with the MCCZC be submitted prior to the issuance of the grading permit. As conditioned, the project would not have significant impacts on earth resources.

The project site is not located on a coastal bluff and is situated approximately 1/8 mile east of Highway One. The proposed development would be located on slopes which are less than 20% and the development does not

³ While the Coastal Permit has been approved, issuance is pending upon the submission of California licensed architect or engineer approved drainage and erosion plans, per Special Condition Number 1 of the Staff Report for CDP 19-2006.

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present any issues relative to erosion and/or slope failure. There are no known faults, landslides or other geologic hazards in close proximity to the proposed development.

Water: The water facility structure would be mostly underground, with a 128 sq. foot aboveground structure. As the aboveground portion of the structure would be small in size, and would be located in a flat area, impacts to drainage patterns, absorption rates and surface runoff would be minimal. Gravel driveway development would minimally impact absorption rates as the proposed 95% compaction would minimally reduce absorption rates and minimally increase surface runoff. Underground water pipe installation would not have any long-term impacts to absorption rates, drainage patterns or the rate or amount of surface runoff.

The project is not located in any flood zones and would have no impact on the course of flow of floodwaters.

The project is reliant upon groundwater extraction. As the extraction will be limited to an average rate of one gallon per minute, with proposed measures the project is not expected to result in significant impacts to groundwater resources.

The project was referred to the Division of Environmental Health (DEH), the County Water Agency and the Regional Water Quality Board for compliance with agency water requirements. In his letter to the applicant dated January 29 2004, Scott Miller of DEH concludes that he is satisfied that the proposed "project will have no adverse off-site impacts and is in a position to issue a permit for a State Small Water System upon receipt of an acceptable application and payment of the necessary fees." Kirk Ford of DEH states in his January 29, 2007 memo:

After reviewing your construction plans for "Rough N Ready Mutual Water Company" State Small Water System, located in Iversen Point, Point Arena, I found them to be complete, and in compliance with section 64211 of the California Code of Regulations.

An operational permit for the aforementioned water system will be issued upon successful construction and installation of the system, as per the plans submitted. Once the permit is issued, an inspection by this office will be scheduled to ensure compliance with health regulations.

In his February 13, 2007 email, Dennis Slota of the Mendocino County Water Agency (MCWA) states that "since the project has prior approval and the standards concerning State Small Water Systems were only recently revised, Water Agency staff considers the revisions to the Hydrological Study complete."

The project would have an incremental but insignificant impact on groundwater resources. As discussed above, the applicant would be required to ensure that groundwater pumping is limited to a rate of one gallon per minute or less so that extraction does not significantly impact existing nearby wells. The applicant proposes the use of a ¾ inch 35 gallon per minute "Recordall Cold Water Bronze Disc" pump meter in conjunction with a proposed pumping schedule to meet the requirement. The proposal has been found acceptable by the Division of Environmental Health, the agency that would issue the State Small Water System permit. Recommended Condition Number 2 is included to comply with DEH requirements.

The project area is not subject to flooding, and is not located in a tsunami hazard zone. The project would not result in exposure to people or property to water related hazards such as flooding or tsunamis.

Plant Life:

The project would require minimal vegetation removal for the facility and associated development. The proposed water facility location is comprised of the Introduced Perennial Grassland⁴ plant community (Green 2004). Removal would consist primarily of non-native grasses in this location. Waterline development would require minimal vegetation removal along the shallow drainage ditches adjacent to Iversen Road and Iversen Point Road. Removal would consist primarily of common native and non-native plants and grasses. The proposed fill site, 46860 Iversen Lane (APN 142-010-51) is also predominated by common non-native grasses (Maslach 2005).

⁴ California Department of Fish and Game Natural Diversity Database Element Code CTT42200CA, State and Global Ranking S4/G4 – apparently secure; uncommon but not rare.

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Coastal Act policies provide for the protection of natural resources, including plant communities. Special provisions pertain to areas considered Environmentally Sensitive Habitat Areas (ESHAs). ESHAs are defined in Section 20.308.035(F) of the Mendocino County Coastal Zoning Code (MCCZC) as follows (emphasis added):

"Environmentally Sensitive Habitat Area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals.

Special Plant Habitat is defined in Section 3.1, Habitats and Natural Resources, of the Coastal Element as follows:

Special Plant Habitat. The approximate location of rare, or endangered or threatened plant species identified by the California Department of Fish and Game, the U. S. Fish and Wildlife Service or as designated by the California Native Plant Society is found in the Inventory of Rare and Endangered Vascular Plants of California (1984). "Rare" is defined to mean a plant that is of limited distribution; or that occurs in such small numbers that it is seldom reported; or that occurs only in very few highly restricted populations. "Endangered" is defined to mean a plant threatened with extinction and not likely to survive unless some protective measures are taken.

Section 20.496.020 of the MCCZC outlines development criteria for ESHAs and requires a minimum buffer as follows:

(A) Buffer Areas. A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.

(1) Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.

No protected plant communities were found within 100 feet of the project area. The project would have a minimal, insignificant impact on plant diversity and populations.

Botanical surveys have occurred in all proposed development areas, including the lot where the water facility is proposed (APN 142-010-32), the areas within the County (CR 503 and CR 503B) and State (Highway 1) road corridors where directional boring is proposed to install water lines, and the lot upon which leftover fill material is to be placed (APN 142-010-51).

As outlined above, Section 20.308.035(F) of the MCCZC indicates that rare and endangered plants are protected as ESHAs. Therefore the minimum 100-foot buffer requirement set forth in Section 20.496.020 applies. As outlined in the botanical survey report for 47121 Iversen Point Road, populations of rare plants *Blasdale's bent grass (Agrostis blasdalei)* and short-leaved evax (*Hesperrevax sparsiflora* ssp. *brevifolia*) are located on that parcel (Green 2004). Project components (including proposed driveway approach development and waterline installation within 100 feet of the rare plants) have been deleted from the proposed project in order to allow for a 100-foot protective buffer to the rare plants. The project would not impact any unique, rare or endangered species of plants.

A Coastal Act jurisdictional wetland was found 100 feet south of the proposed water facility development site (Maslach 2006). Coastal Wetlands are unique communities of plants that provide important wildlife habitat and

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are protected by Coastal Act policies. As outlined above, Section 20.308.035(F) of the MCCZC indicates that wetlands are protected as ESHAs. Therefore the minimum 100-foot buffer requirement set forth in Section 20.496.020 applies. As shown on the site plan (see Exhibit C) the project has been sited to provide the required minimum 100-foot buffer area to the wetland. The wetland appears to be hydrologically connected with a spring occurring within the wetland area. A hydrological study was conducted by Lawrence and Associates in 2006, which establishes that no hydrological connection exists between the subject well and the spring, and therefore there would be no impacts to the wetland resulting from use of the well (Lawrence & Associates 2006).

The applicant proposes to plant approximately 11 pacific rhododendron (*Rhododendron macrophyllum*) individuals to visually buffer the proposed water facility structure. *Rhododendron macrophyllum* is native to the County and is not an invasive plant. The plants would not result in a detrimental barrier to the migration or movement of animals. The proposed planting would have an insignificant impact.

Animal Life:

Iversen Point is a designated area of special biological importance due to present seabird rookeries. As outlined in the biological survey, no seabird rookery habitat exists within the project area (Green 2004). The project will not impact the number of unique, rare or endangered animals. A small amount of natural habitat will be lost as a result of the proposed project as discussed above under Plant Life. However, the area proposed for this development does not provide unique or rare habitat for animals. The total area affected is not significant when considered in relation to the surrounding vicinity.

Light and Glare:

The project does not include any exterior lighting or any glare producing infrastructure. No light or glare impacts would occur.

Land Use:

The parcels are classified on the Coastal Plan Map as Rural Residential Five Acres Minimum with an alternate density of One Acre Minimum (RR-5 [RR-1]). The parcels are similarly zoned; RR:L-5 [RR]. The proposed development is best described as a "Minor Impact Utility," and is a conditional civic use in the Rural Residential District, as listed in Section 20.376.015(B) of the MCCZC, and consistent with the Rural Residential land use classification.

The required yard setbacks for a parcel in an RR zone are 20 feet from front and rear property lines, and 6 feet from side property lines. A corridor preservation setback of 25 feet applies along Iversen Road, resulting in a front yard setback of either 45 feet from the road corridor centerline or 20 feet from the property line, whichever is greater. As shown on the Site Plan, the structures comply with setbacks required by the County Zoning Code.

The structural development site (APN 142-010-32) is not within a designated highly scenic area, therefore the height limit is 28 feet above average finished grade. The proposed 10±-foot height of the water facility complies with the height limit.

Maximum lot coverage for a lot less than 2 acres in size in an RR zone is 20%. Lot coverage is the percentage of the gross lot area covered by structures, including roads. The lot upon which development is proposed (APN 142-010-32) is approximately 0.93 acres, or 40,511 square feet. The Site Plan shows approximately 128 square feet of coverage, or less than 1%. The project complies with lot coverage limits.

The proposed use is compatible with the zoned residential use of the area. The water facility would exclusively serve residential developments, and would not hinder residential development in any way. The project would not result in substantial alteration of present or planned use of the given area.

Transportation/Circulation:

The project would contribute incrementally to traffic on local and regional roadways. The cumulative effects of traffic resulting from development of a residence on this site were considered when the Coastal Element land use

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designations were assigned. No adverse impacts would occur. The project would not result in substantial additional vehicular movement.

The project includes the installation of underground water pipes along the road corridor and crossing Iversen Road (CR 503), within the road corridor and crossing Highway 1, and along the road corridor of Iversen Point Road (CR 503 B). Requests for comment were sent out to the California Department of Transportation (Caltrans) and the County Department of Transportation (DoT) for project conformance with their regulations.

Regarding the portion of the project proposed to cross Highway 1 near its intersection with Iversen Road and Iversen Point Road, Caltrans submitted comments, summarized as follows:

- Any piping installed across State Highway 1 shall be bored underground from right of way line to right of way line, with all portions of piping under the roadway sleeved.
- Any work within the State right of way, including traffic control activities, will require an approved encroachment permit.

As discussed above in the Earth section and shown on the site plan (see Exhibit D), the applicant plans to bore the piping underground from right of way line to right of way line, and portions under Iversen Road and Highway 1 are to be sleeved. Recommended Condition Number 8 is included to require that all necessary permits are secured, including the encroachment permit required by Caltrans.

Regarding the portion of the project proposed along Iversen Road and Iversen Point Road, the Mendocino County Department of Transportation (DoT) submitted comments, summarized below as follows:

- It is recommended that conduits be installed with direction boring equipment to minimize impacts to the existing roadway and drainages.
- Construction of a private driveway approach, as outlined in the following condition of approval, is recommended:
 - Prior to commencement of construction activities for the parcel located at 46550 Iversen Road (CR 503), applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation and construct appropriate improvements to protect the County road during the construction phase of the project. Prior to final occupancy, applicant shall complete, to the satisfaction of the Department of Transportation, a standard private driveway approach onto Iversen Road (CR 503), to a minimum width of ten (10) feet, area to be improved fifteen (15) feet from the edge of the County Road, to be surfaced with asphalt concrete.
- In order to minimize impacts of utility conduit installation, the following condition is recommended:
 - All construction shall be performed in accordance with improvement plans prepared by a Registered Civil Engineer and approved by the Mendocino County Department of Transportation.

Recommended Condition Number 3 is included to comply with DoT requirements.

The project would require temporary lane closure for Iversen Road, Iversen Point Road, and Highway 1. All work would be done during the day and would only affect one lane of travel. One flagman-controlled through lane would be maintained during the day and all lanes would be open at night. Any pits or holes would have steel plates securely fixed in place should the holes be left open all night. Lane closures would have flagmen controlling traffic and would follow the authorizing agency (DoT and Caltrans) permit requirements and the Caltrans WATCH and MUTCD manuals. As proposed, the project would not have substantial temporary impacts on transportation. Recommended Condition Number 4 is included to ensure the proposed procedures.

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Public Services:

The property is in an area with a very high fire hazard severity rating as determined by the California Department of Forestry and Fire Protection, and is in a State Responsibility Area for fire safety review. Recommended conditions of approval from CDF (CDF 439-06) recommending compliance with CDF address, driveway and emergency water supply standards were received with the application. Recommended Condition Number 5 is included to achieve compliance with the fire safe standards recommended by the Department of Forestry. The project would have an insignificant effect upon government services, and would not result in the need for new or altered government services.

The proposed project qualifies as a State Small Water System and would be overseen by the Division of Environmental Health. The project would have an insignificant effect upon public services, and would not result in the need for new or altered government services.

Human Health:

The project requires a State Small Water System permit from the Division of Environmental Health (DEH). DEH is therefore the permitting agency in charge of ensuring that the system does not pose health hazards to humans. Proposed measures to ensure human health safety include safe locating and installation of infrastructure and water treatment, including ozone treatment and filtration and water circulation. The project is not expected to result in the creation of health hazards or potential health hazards to humans.

The project includes the use of machinery requiring gasoline and oil. Bentonite drilling fluid, which is normally used for drilling projects, would be needed. Bentonite drilling fluid is typically composed of 97% water and 3% bentonite, a naturally occurring non-toxic clay mineral. Hydrofractures, referred to as "frac-outs," may occur, where drilling fluid can reach the surface when the fluid follows a vertical fracture and drilling pressure is sufficient. Therefore, Best Management Practices (BMPs) for frac-outs are included with the following spillage avoidance measures:

- All equipment will be inspected for leaks prior to the start of construction, and regularly inspected thereafter until equipment is removed from the project area.
- The contractor will prepare an emergency spill prevention and response plan prior to the start of construction and maintain a spill kit on-site during project construction. The plan will include a map that delineates construction staging areas, where refueling, lubrication, and maintenance of equipment may occur. The plan will include a frac-out prevention plan as outlined below. In the event of any spill or release of any chemical in any physical form at the project site during construction, the contractor will immediately notify the project manager.
- In order to prevent frac-out, the contractor will visually monitor the area above the drilling bit at all times for signs of frac-out and will ensure borehole pressure levels are constantly monitored. The contractor will monitor and quantify any impacts resulting from frac-outs, and any spill will be immediately cleaned-up and the site restored to its pre-spill condition. The contractor will provide a list of cleanup equipment that will be maintained on-site, and will designate an onsite person who will have the responsibility for implementing the BMP's and spill prevention plan in the case of a frac-out.
- Equipment will be cleaned and repaired (other than emergency repairs) offsite. All contaminated water, sledge, spill residue, or other hazardous compounds will be disposed of off-site at a lawfully permitted or authorized destination.

Recommended Condition Number 6 is included to require the proposed spillage avoidance measures as a condition of approval.

Aesthetics:

The subject parcel a structure is proposed (APN 142-010-32) is not located in a designated highly scenic area according to the Coastal Plan Map. However, analysis of aesthetic issues relating to appearance and views to

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and along the ocean are required for all development in the coastal zone. The importance of aesthetics is evidenced by policies in the County's Coastal Element which apply to all areas in the coastal zone regardless of location in a designated highly scenic area.

Coastal Plan Policy 3.5-1 of the Mendocino County Coastal Element states in pertinent part:

The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed 128 sq. foot above ground portion of the pump house would have a maximum average height of 10 feet above finished grade. Exterior materials include slate gray concrete tile roofing, and light brown "orco block" brick exterior walls. The building would be visually buffered on the east and south sides with proposed landscaping in the form of *Rhododendron macrophyllum* bushes. The structure would not impact public views to or along the ocean, and would be visually compatible with the character of the surrounding area.

Underground water pipes would be installed from the subject parcel to and along Iversen Road for a length of 2100 feet, under the Highway, and to the end of Iversen Point Road, which is located in a Highly Scenic Area. All development within the Highly Scenic Area would be underground and would therefore have no visual impact.

Public Access & Recreation:

The project site is located east of Highway 1 and is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the site. The project would not have a negative affect on public access or recreation.

The California Coastal Commission commented as follows:

...based on visit to the site (47121 Iversen Point Road) by Commission staff on January 22, 2007, a clearly discernable footpath traverses the site toward the bluff edge. During its review of any proposed development on this parcel, the County should request information necessary to determine whether substantial evidence of public prescriptive rights of access may have accrued over the property.

The subject parcel would be served by the proposed water system, however no development is proposed on this parcel at this time. Public access should be reviewed in conjunction with proposed development.

Cultural Resources:

The site was surveyed by Thad Van Buren, who summarized in his survey report dated October 20, 2006, that no sites were identified. The survey was accepted at the County Archaeological Commission hearing held February 14, 2007. Nonetheless, the applicant is advised by Condition Number 10 of the County's "discovery clause" which establishes procedures to follow should archaeological materials be unearthed during project construction.

There are no known historic or prehistoric structures in the vicinity. The project would not impact any prehistoric or historic structures.

ENVIRONMENTAL RECOMMENDATION:

No significant environmental impacts are anticipated which cannot be adequately mitigated, therefore, a Negative Declaration is recommended.

GENERAL PLAN CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan.

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RECOMMENDED MOTION:

General Plan Consistency Finding: As discussed under pertinent sections of this report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project which can not be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

Project Findings: The Planning Commission, making the above findings, approves #CDU 3-2007, subject to the conditions of approval recommended by staff.

RECOMMENDED CONDITIONS:

- ** 1. Prior to the issuance of the grading permit, the applicant shall submit for the approval of the Coastal Permit Administrator, an erosion control plan to address the revegetation and stabilization of disturbed earth associated with the project.
2. The applicant shall, to the satisfaction of the Division of Environmental Health, equip the well pump with a time averaging pump controller capable of distributing the extraction allocation over the 24 hour day and measuring total daily extraction volume.
- ** 3. Prior to commencement of construction activities for the parcel located at 46550 Iversen Road (CR 503), applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation and construct appropriate improvements to protect the County road during the construction phase of the project. Prior to final occupancy, applicant shall complete, to the satisfaction of the Department of Transportation, a standard private driveway approach onto Iversen Road (CR 503), to a minimum width of ten (10) feet, area to be improved fifteen (15) feet from the edge of the County Road, to be surfaced with asphalt concrete. All construction within the County road right of way shall be performed in accordance with improvement plans prepared

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by a Registered Civil Engineer and approved by the Mendocino County Department of Transportation.

- ** 4. All work within County and State road right of ways shall be done during the day and shall affect only one lane of travel. One flagman-controlled through lane shall be maintained during the day and all lanes shall be open at night. Any pits or holes shall have steel plates securely fixed in place should the holes be left open all night. Lane closures shall have flagmen controlling traffic and shall follow the authorizing agency (DoT and Caltrans) permit requirements and the Caltrans WATCH and MUTCD manuals.
5. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
- ** 6. The following measures shall be taken to avoid and address spillage:
- a. All equipment shall be inspected for leaks prior to the start of construction, and regularly inspected thereafter until equipment is removed from the project area.
 - b. The contractor shall prepare an emergency spill prevention and response plan prior to the start of construction and maintain a spill kit on-site during project construction. The plan shall include a map that delineates construction staging areas, where refueling, lubrication, and maintenance of equipment may occur. The plan shall include a frac-out prevention plan as outlined below. In the event of any spill or release of any chemical in any physical form at the project site during construction, the contractor shall immediately notify the project manager.
 - c. In order to prevent frac-out, the contractor shall visually monitor the area above the drilling bit at all times for signs of frac-out and shall ensure borehole pressure levels are constantly monitored. The contractor shall monitor and quantify any impacts resulting from frac-outs, and any spill shall be immediately cleaned-up and the site restored to its pre-spill condition. The contractor shall provide a list of cleanup equipment that will be maintained on-site, and shall designate an onsite person who will have the responsibility for implementing the BMP's and spill prevention plan in the case of a frac-out.
 - d. Equipment shall be cleaned and repaired (other than emergency repairs) offsite. All contaminated water, sledge, spill residue, or other hazardous compounds shall be disposed of off-site at a lawfully permitted or authorized destination.
7. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$1,850.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to May 18, 2007. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
8. This permit shall become effective after all applicable appeal periods have expired, or appeal processes have been exhausted, and after any fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Department of Planning and Building Services. Failure of the applicant to make use of this permit within 2 years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.

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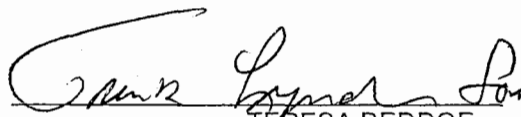
To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

9. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
10. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Planning Commission.
11. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
12. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

13. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
14. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

3/29/07
DATE


TERESA BEDDOE
PLANNER I

TRB:at
March 29, 2007

Negative Declaration
Appeal Fee - \$840.00
Appeal Period - 10 days

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** Indicates conditions relating to Environmental Considerations - deletion of these conditions may effect the issuance of a Negative Declaration.

ATTACHMENTS:

Exhibit A: Location Map
Exhibit B: Vicinity Map
Exhibit C: Site Plan - Water Facility
Exhibit D: Site Plan - Conduit Development
Exhibit E: Floor Plan & Elevations - Water Facility
Exhibit F: Grading Plan - Fill Location

SUMMARY OF COMMENTS:

Planning – Ukiah – Arch Commission	Survey accepted.
Department of Transportation	Directional boring required. Standard private drive encroachment needed, construction shall be performed in accordance with improvement plans prepared by a Registered Civil Engineer and approved by the Mendocino County Department of Transportation.
Environmental Health – Fort Bragg	Applicant will need to apply for a permit with the Division of Environmental Health for a State Small Water System. Please see attached letter dated 1-29-04. Special Condition recommended (see Recommended Condition Number 2).
Building Inspection – Fort Bragg	No comment.
Assessor	No response.
County Water Agency (MCWA)	Project limited to pumping at a rate of 1 GPM, to avoid impact to neighboring wells, A system to assure verification of that pumping rate will need to be established, as outlined in the January 29, 2004 memo from Environmental Health.
Caltrans	Any water piping installed across State Highway 1 shall be bored underground from right of way line to right of way line, with all portions of piping under the roadway sleeved; Any work within the State right of way, including traffic control activities, will require an approved encroachment permit.
Coastal Commission	According to information included in the referral packet, it appears that all development associated with the proposed water storage and distribution facilities on APN 142-010-32 have been sited in a manner that provides a 100-foot buffer from wetland and riparian ESHA as required by the LCP.
RWQCB	No response.
US Fish and Wildlife	No ground disturbing activities on APNs 142-031-27, 142-031-26 and 142-031-25 until the status of <i>Viola adunca</i> is addressed.
Dept. of Fish and Game	No comment.
Gualala MAC	Voted unanimously for approval.

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Friends of Schooner Gulch

Recommends that the project not be approved until the matter of developing the "island lots at the end of Iversen Point Road be settled. Concerns include the small size of the lots, visibility in a Highly Scenic Area, and lack of approvable road access across the isthmus that connects them to the mainland.

WORKS CITED:

- Green, Shayne 2004. *Biological Survey and Assessment of Proposed Developments at 46550 Iversen Road (APN 142-010-32) and Along an Associated Waterline Route, Mendocino County, CA.* Redwood Coast Associates, Arcata, CA.
- Green, Shayne 2004. *Biological Survey and Assessment of Proposed Developments at 47121 Iversen Road (APN 142-010-23) and Along an Associated Waterline Route, Mendocino County, CA.* Redwood Coast Associates, Arcata, CA.
- Lampley, Bonnie 2006. *Evaluation of Groundwater Pumping Impacts on Nearly Spring, APN 142-010-32, Iversen Road, Gualala, California,* Lawrence & Associates, Redding, CA.
- Maslach, William 2005. *Botanical Survey and ESHA Assessment for A.P.# 142-010-51, Gualala, California, Mendocino County.* Geobotanical, Fort Bragg, CA
- Maslach, William 2006. *Delineation of Potential Jurisdictional Wetlands under Section 404 of the Clean Water Act and ESHA Analysis for Well Use, 46550 Iversen Road, Gualala, Mendocino County, California.* Geobotanical, Fort Bragg, CA.