

CALIFORNIA COASTAL COMMISSION

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W10a**MEMORANDUM**

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DATE: July 12, 2011

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correspondence received.](#)

TO: Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
 Charles Lester, Senior Deputy Director
 Ruby Pap, North Central Coast District Supervisor

SUBJECT: Staff Report Addendum to Item W10a (Lawson's Landing)

This addendum to the Staff Report, dated July 1, 2011, has been prepared to: (1) provide clarification to the findings and conditions; (2) correct errors; and (3) respond to comments received from the Applicants and the public.

Recommended additions to the Staff are shown in **bold underline**. Recommended deletions are shown in bold ~~strikethrough~~.

Cover page:

PROPOSED DEVELOPMENT: Recreational and agricultural use of the approximately 960-acre Lawson's Landing property, including: 417 RV and tent spaces and ~~229~~ **233** year-round travel trailer spaces; day use parking; boating facilities, mooring, and launching; support facilities including store, offices, recreational center, employee housing, boat sales and repair, fuel service and storage; waste water/septic system; water tanks; and road improvements; 465 – acre Natural Resources Conservation Service (NRCS) conservation easement; and habitat restoration activities.

CONDITIONS, pages 7-39:

2. AUTHORIZED DEVELOPMENT AND FINAL REVISED PLANS

...

B. The following development and areas are authorized by this permit:

1. Area 1

Camp lots, access roads, and restrooms in Area 1, as generally shown on Adobe Associates Sheet 17 dated June 2011 (Exhibit 3 of this Staff Report), consistent with the following wetland and ESHA protection conditions:

- a. No development shall occur either: within 100 feet of wetlands as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report), and Adobe Associates Inc. Sheet 17 dated June 11 (exhibit 3); or alternatively, within 25 feet of the wetlands if the 25 foot wetland buffer includes within it construction of a sandy earthen berm planted with native central dune scrub vegetation ~~that is at least six feet high as measured from the level of the graded camping area.~~ The berm shall be constructed as high as feasible, while maintaining its stability within the 25-foot buffer, and the berm shall effectively isolating campsites from the wetland.

...

3. Area 3

...

g. No grading is permitted, unless required pursuant to subsection 'e' above or except for minor topographic alterations associated with the Stormwater management plan, associated with detention basins. Modifications to the existing drainage ditches to facilitate flow shall not increase the depth or width of the ditches, and shall be consistent with the hydrological assessment contained in Special Condition 4(A)(4)(d).

4. Area 4

f. No grading is permitted except for minor topographic alterations associated with the Stormwater management plan, associated with detention basins. Modifications to the existing drainage ditches to facilitate flow shall not increase the depth or width of the ditches, and shall be consistent with the hydrological assessment contained in Special Condition 4(A)(4)(d).

3. CAMPING MANAGEMENT AND OPERATIONS PLAN

A. **WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT**, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit a Camping Management and Operations Plan, for review and approval by the Executive Director that includes the measures below. **After January 15, 2012, no camping shall occur outside Areas 1 and 2 until the Camping Management Plan is approved by the Executive Director and implemented.**

4. SENSITIVE RESOURCE PROTECTION, RESTORATION, AND ENHANCEMENT

- ...
1. Consistent with the applicant's proposed project, as modified by the conditions of this permit, permanent protection through legal instruments reviewed and approved by the Executive Director of the approximate 465-acre wetland-dune system at Lawson's Landing as shown generally on Monk and Associates, Inc. Exhibit C. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011 as the "proposed conservation easement area" (exhibit 3 of this Staff Report), **comprising APNs 100-100-48 and 100-100-59.**

- ...
3. Removal of the following development and restoration of the previously developed areas to functioning wetland/upland/dune habitat as relevant, consistent with the approved PREP:

- ...
- c. Development located in the CRLF corridor connecting the breeding pond next to Area 5 and the entrance, with the breeding pond inland of Area 4, as shown in Exhibit 6, Figure 5 and Monk and Associates, Inc. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011 "Restoration Area C," and Adobe Associates Sheet 21, dated June 2011, except for the existing main access road, the well and water tank access road in Area 5, and other necessary utilities; **and any development located within the two CRLF corridors between Areas 6, 8, and the pond inland of Area 4, as shown on Exhibit 6, Figure 5 of this Staff Report, unless the Permittee demonstrates that the development is shown to be legally permitted.**

4. Wetlands/Dunes restoration and enhancement plan prepared by a restoration ecologist experienced with these habitat types that includes, at a minimum, the following:

- ...
5. Grazing Management Plan that identifies areas within the restoration area where grazing will **be** prohibited and where grazing may be allowed for purposes of habitat restoration, maintenance, and enhancement. The plan shall be prepared by or in consultation with a restoration ecologist familiar with wetlands and native grasses.

5. TRAVEL TRAILER VISITOR-SERVING USE REQUIRED.

A. PRIOR TO JANUARY 1, 2012, the Permittee shall submit, for the review and approval by the Executive Director, a Visitor-serving Travel Trailer Management Plan (VTTMP) for all travel trailers in Areas 1 and 2 that provides for the following requirements and governs the use of the travel trailers through April 30, 2017. The plan shall require the permittee, prior to January 1, 2017, to submit an amendment to this permit to govern the use of the travel trailers after April 30, 2017. The Plan shall address: (1) all travel trailers that exist in Areas 1 and 2 on the date of this approval; (2) all travel trailers that will be located in Areas 1 and 2 after the date of this approval; (3) the 20 newly proposed 100% visitor serving travel trailers that will be made

available for short term rental 365 days a year; and (4) the 16 trailers and 4 mobile homes that are proposed for year-round residential use, unless those trailers or mobile homes will be used solely for employee housing in accordance with special condition 8. The plan shall ensure that all leases for travel trailer use at Lawson's Landing are revised, consistent with all requirements of this condition, ~~and recorded against all of the property that is subject to this condition~~, as further specified below.

B. Use of the travel trailers is only authorized through April 30, 2017 and is restricted as follows:

1. All travel trailers that currently exist in Areas 1 and 2, or that may be located in Areas 1 and 2 after the date of this approval, shall be made available for short-term rental by the general public, consistent with all subsections below, for at least 270 days a year through a reservation system administered by the permittee. Use of each trailer by its current owner shall be limited to a maximum of 90 total days annually, and no more than 30 days between Memorial Day and Labor Day.
 - a. Unless prohibited by HCD requirements, any travel trailer existing on the property as of the date of this approval that is already subject to a 90 day stay limitation, shall be made available for short-term rental by the general public, consistent with ~~all subsections below~~ **the requirements of this condition**, for at least 270 days a year through a reservation system administered by the permittee within six months of approval of the VTTMP.
 - b. No later than May 1, 2014, any travel trailer existing on the property as of the date of this approval not already subject to a 90 day stay limitation shall be made available for short-term rental by the general public, consistent with ~~all subsections below~~ **the requirements of this condition**, for at least 270 days a year through a reservation system administered by the permittee.
 - c. Unless prohibited by HCD requirements, any travel trailer that may be placed in Area 2 after the date of this approval shall be made available for short-term rental by the general public, consistent with ~~all subsections below~~ **the requirements of this condition**, for at least 270 days a year through a reservation system administered by the permittee upon occupancy of the new trailer or within six months of approval of the VTTMP, whichever is later.
2. The 20 newly proposed 100% visitor-serving travel trailers shall be made available for short-term rental by the public 365 days a year, consistent with ~~all subsections below~~ **the requirements of this condition**, prior to occupancy and no later than January 1, 2012.
3. Unless the trailers or mobile homes will be used solely for employee housing in accordance with special condition 8, the 16 trailers and 4 mobile homes that are proposed for year-round residential use shall be made available for short-term rental by the general public for at least 270 days a year, consistent with ~~all subsections below~~

the requirements of this condition, through a reservation system administered by the permittee within six months of approval of the VTTMP.

4. Travel trailer leases shall be executed ~~and recorded against the property that is the subject of this permit~~ according to the following requirements:
 - a. Any travel trailer specified in subsection B(1)(a) that is not subject to a **recorded** lease by January 1, 2012, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2012 and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.
 - b. Any travel trailer specified in subsection B(1)(b) above that is not subject to a **recorded** lease by January 1, 2014, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2014 and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.
 - c. Any travel trailer specified in subsection B(1)(c) above that is not subject to a **recorded** lease, prior to occupancy or within six months of approval of the VTTMP, whichever is later, consistent with and containing all of the requirements of this condition, shall be removed and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.
 - d. Any travel trailer specified in subsection B(2) above that is not subject to a **recorded** lease by January 1, 2012, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2012 and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.
 - e. Any travel trailer specified in subsection B(3) above that is not subject to a **recorded** lease by January 1, 2012, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2012 and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.

- C. Recreational Vehicle Operations. The approved use of the travel trailers is subject to the following conditions/restrictions:

...

15. The owners of Lawson's Landing shall be required to submit, **PRIOR TO JANUARY 1, 2012**, for the review and written approval of the Executive Director of the Coastal Commission ("Executive Director"), a Declaration of Lease Restrictions between Lawson's Landing and the owner of each recreational vehicle with drain (Lease), which shall include:

- a. All the specific restrictions listed in Sections A and B ~~and subsections C(1) through C(14) above~~;
- b. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
- c. A statement that provisions of the Lease that reflect the requirements of Sections A and B and ~~subsections C(1) through C(14) above~~, cannot be changed without a coastal development permit amendment. However, minor changes that do not conflict with Sections A or B or ~~subsections C (1) through C (14) above~~ may be processed as an amendment to the coastal development permit, unless it is determined by the Executive Director that an amendment is not legally required. If there is a section of the Lease related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the Lease on amendments.
- d. The governing documents for each Recreational Vehicle with drain shall require the Recreational Vehicle Operator and each owner of a Recreational Vehicle with drain to fully cooperate with and to promptly produce any existing documents and records which the auditor required by subsections (21) and (22) may reasonably request.

~~16. The Lease described above shall be executed and recorded against the property comprising Lawson's Landing in compliance with the timing requirements specified in Section B above.~~

16. ~~17.~~ The owners of Lawson's Landing and the Recreational Vehicle Operator or any successors-in-interest shall maintain the legal ability to ensure compliance with the terms and conditions stated above at all times in perpetuity and shall be responsible in all respects for ensuring that all parties subject to these restrictions comply with the restrictions.

17. Each owner of an individual Recreational Vehicle with drain is jointly and severally liable with the owners of Lawson's Landing and Recreational Vehicle Operator for any and all violations of the terms and conditions imposed by the special conditions of the coastal development permit with respect to the use of that owner's recreational vehicle with drain. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.

...

20. The Recreational Vehicle Operator and any successor-in-interest Recreational Vehicle Operator shall monitor and record Recreational Vehicle occupancy and use by the general public and the owners of individual Recreational Vehicles with drains throughout each year. The monitoring and record keeping shall include specific accounting of owner usage for each individual Recreational Vehicle with drain. The records shall be sufficient to demonstrate compliance with the restrictions set forth in

Sections A and B and **subsections (C) (1) through (14) above**. The Recreational Vehicle Operator shall also maintain documentation of rates paid for Recreational Vehicle occupancy and of its advertising and marketing efforts. All such records shall be permanently maintained and shall be made available to the Executive Director and to any auditor required herein. Within 30 days of commencing operations of a Recreational Vehicle with drains, the Recreational Vehicle Operator shall submit notice to the Executive Director of commencement of Recreational Vehicle operations.

6. CAMPING MANAGEMENT AND OPERATIONS PLAN

A. WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit a Camping Management and Operations Plan, for review and approval by the Executive Director that includes the measures below. **After January 15, 2012, no camping shall occur outside Areas 1 and 2 until the Camping Management Plan is approved by the Executive Director.**

...

6. All vehicles shall be prohibited within saturated areas.

7. All vehicles shall be prohibited within 10 – feet from the base of the foredunes.

...

Page 25, condition 7:

7. CAMPING STAY LIMITATIONS

A. Overnight accommodations per individual party in the RV and tent sites shall be limited to a maximum of ~~10~~ **14** consecutive nights. Any repeat stays by the same party must not occur within a minimum of two days of the previous stay. Overnight accommodations per individual party shall not exceed 30 days per calendar year.

12. OTHER STATE AGENCY APPROVALS

WITHIN ~~60-DAYS~~ SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT,

Page 29, condition 14:

14. TRAFFIC MANAGEMENT PLAN

A. **WITHIN ~~60-DAYS~~ SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT**, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit a Traffic Management Plan to the Executive Director for review and approval. The Traffic Management Plan shall **establish standards and management practices to ensure**

safety and maintain LOS C or better on Dillon Beach roads that provide access to Lawson's Landing, including but not limited to the following: ~~measures to ensure that:~~

1. The use of on-site facilities by visitors to avoid off-site trips is encouraged, through educational programs to encourage walking and biking on/off site among other means;
 2. Maximum vehicle levels for campsites are managed to avoid congestion and park entry delays;
 3. The maximum allowable number of total daily camping-related vehicles shall be limited to the number of campground lots filled for the day (i.e. one vehicle per lot) pursuant to Special Condition no. 2. An RV towing a maximum of one passenger car or small truck shall count as a single vehicle. **A second vehicle may be allowed in up to 150 larger campsites, subject to subsection B(12), if those campsites are specifically identified on revised plans pursuant to Special Condition no. 2.**
 4. The maximum number of day use visitor vehicles shall not exceed 100, excluding the public parking spaces required by Special Condition 24.
 5. The Permittee shall erect signage at Tomales/Highway 1 indicating when the campground is full.
 6. **Implementation of required EIR traffic mitigation measures pursuant to Special Condition 13.**
 7. **A provision to conduct Applicant's proposed feasibility study and environmental review of the use of Sand Haul Road for primary ingress and egress to Lawson's Landing, as part of Marin County's coastal development permit review of the "Phase 2" Lawson's Landing Center, if such Phase 2 ever occurs, or through submission of an updated Traffic Management Plan to the Coastal Commission for review and approval no later than January 1, 2017, whichever occurs first. The plan shall include results and analysis from the required traffic monitoring and any new or revised traffic management measures to assure safe and adequate traffic flows on Dillon Beach roads that provide access to Lawson's Landing.**
- B. The Plan shall provide for on-going traffic study and adaptive management including, but not limited to:
1. Analysis of current/previous conditions;
 2. Improvement Plans;
 3. Construction-related traffic management;
 4. Inventory of all roadways including identification of: (1) which ones will continue to be used by the public; (2) which ones will continue to be used by employees only; (3) which ones will be closed to vehicular usage; and (4) which ones will be abandoned, along with plans for removal and restoration of areas proposed for abandonment.
 5. Establishment of criteria for determining traffic impacts (e.g., level-of-service, congestion/delay);
 6. Provide indices of congestion (stacking, wait times from a given point); and
 7. Identify maximum levels for: peak-time numbers of vehicles, congestion/delay.
 8. Enhanced reservation system;

9. Staggered arrivals;
 10. Reservation priority lane; and
 11. Traffic reduction incentives for campsite users, including non-peak day arrivals/departures, multiple-occupant versus single-occupant vehicles, in-camp trip reductions, and shuttle.
 12. **Offer a shuttle and rental/loaner bicycles for trips to offsite local Dillon Beach store**
 13. **Mechanisms for managing the number of reservations or vehicles allowed on-site if the monitoring program required in subsection C shows that traffic impacts consistently exceed the established criteria and indices of the plan. Such mechanism shall include limiting the number of allowable second vehicles on larger campsites during peak times.**
- C. The monitoring program shall include:
1. Traffic counts
 2. Peak time (holiday proximity, good weather) vs. off-peak operations;
 3. Field examinations: numbers, locations, frequency, by independent traffic counting firm (e.g., include Lawson's Landing Resort), number of observers;
 4. Duration of monitoring, including frequency before, during, after project phase completions and numbers and types of vehicles (inbound vs. outbound);
 5. Types of visitors: day use, overnight, longer-term, employee/owner, other; and
 6. Unusual vehicle activities, e.g., blocking entrances/exits, U-turns.
 7. **Analysis of whether the objectives established in the ongoing traffic study and adaptive management program are achieved, and proposed additional mitigation, if necessary.**
 8. ~~7.~~ A provision for submission of annual traffic monitoring reports to the Commission's **Executive Director** on an annual basis.
- D. The permittees shall undertake development in accordance with the approved traffic management plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

15. **DUNE TRAIL PLAN**

A. ~~WITHIN 60 DAYS~~ **SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT** or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit a dune trail plan for review and approval by the Executive Director, to consolidate the numerous informal foredune pathways from the camping area to the beach into a maximum of four ~~formalized~~ trails. **The dune trail plan shall be developed by a dunes ecologist and geomorphologist to minimize blow-outs that would affect camping areas and determine the locations of the trails, their orientation, the appropriate use of fencing and/or standard dune crosswalk structures, as used for**

active mobile dunes by the U.S. National Park Service. Consistent with EIR mitigation 4.6-2, † The Plan shall provide for the following:

- a. Federal and State rare and endangered plant species shall be avoided
- ~~b. Each pathway shall be located in naturally low elevation "passes" through the ridge, or other locations where erosion potential is lowest.~~
- ~~c. Paths shall be oriented in a southwesterly direction, so that strong winds do not create blowouts on the dune face~~
- ~~d. Paths shall be planned to follow topographically low routes, minimize sharp turns and avoid steep pitches~~
- e. All other informal trails shall be closed and restored
- ~~f. Designated pathways shall be fenced with minimal symbolic fencing to prevent off-trail pedestrian activities and bovine traffic. Fencing shall also be used to cordon off foredunes in high-use areas where recreational activities are not permitted.~~
- g. All fenced off areas shall be appropriately signed explaining dune protection
- h. All formalized trails shall be appropriately signed to direct people to the correct pathways

17. HAZARD RESPONSE PLAN

WITHIN ~~90 DAYS~~ SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT...

21. GENERIC DEED RESTRICTION

WITHIN ~~60 DAYS~~ SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT

28. DRAINAGE PLAN

A. WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit, for the review and approval of the Executive Director, a Drainage Plan signed by licensed engineer that, at a minimum, meets the following conditions:

1. Existing and proposed drainage for Areas 1, 2, 3 and 4, shall be drawn at the same scale as the site plan and detail plans, and show structures, drainage ditches, bioswales, water quality basins and other improvements that affect drainage.
2. The plan must indicate the direction, path, and method of water dispersal for existing and proposed drainage channels or facilities.
3. The drainage plan must indicate existing and proposed areas of impervious surfaces.
4. Flow line elevations where on-site drainage meets water quality management practices (e.g., water quality basins).

5. Water quality basin high water limits.
6. Overland escape location and elevation from water quality basin.
7. Total proposed water quality basin volume.
8. The Drainage plan shall ensure that modifications of the site drainage are limited to the minimum changes that are needed, to drain trailer pads and tent sites so that runoff flows to existing drainage ditches without ponding and so that the drainage ditches flow: (a) in Areas 1 and 2, either to Tomales Bay or to water quality management practices described in the Storm Water Management Plan; or (b) in Areas 3 and 4, to the water quality management practices described in the Storm Water Management Plan, with final discharge to the interior wetlands. **Modifications to the existing drainage ditches to facilitate flow shall not increase the depth or width of the ditches, and shall be consistent with the hydrological assessment contained in Special Condition 4(A)(4)(d). Changes to the drainage system must have no adverse impacts on coastal resources.** Pursuant to Special Condition 32, no grading is authorized in Areas 3, 4, 6, and 8.

B. The permittees shall undertake development in accordance with the approved drainage plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

29. GRADING PLAN

WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit, for the review and approval of the Executive Director, a Grading Plan signed by licensed engineer that, at a minimum, meets the following conditions:

- a. No grading is authorized in Areas 3, 4, 6 and 8 **except for minor topographic alterations associated with the Stormwater management plan, associated with detention basins.**
- b. ~~In Areas 1 and 2~~ **The** Grading Plan must indicate existing and proposed elevation contours where grading is proposed or where the existing slopes have an impact on site storm water management practices (e.g., bioswales or water quality basins).
- c. Existing contours shall be shown with dashed lines and proposed contours shall be shown with solid lines.
- d. The amount of proposed excavation and fill in cubic yards and the location of proposed deposition and borrow sites for each major element of the project must be indicated as well as the total area of disturbance proposed for the project and the limits of grading.

- e. The Grading Plan shall be drawn at the same scale as the site plan and detail plans.
- f. The Grading Plan shall ensure that grading is limited to the minimum area and minimum volumes needed to drain trailer pads and tent sites so that runoff flows to existing drainage ditches without ponding and so that the drainage ditches flow either to Tomales Bay or to water quality management practices described in the Storm Water Management Plan ~~Any grading of the site must have no adverse impacts on coastal resources.~~

B. The permittees shall undertake development in accordance with the approved grading plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

V. APPROVAL FINDINGS AND DECLARATIONS

D. PUBLIC ACCESS, RECREATION, AND LOWER-COST VISITOR SERVING FACILITIES

Add appellate court cite to 3rd paragraph on page 57

In addition, because much of the existing development has not been approved by a coastal development permit, the Commission is reviewing much of the project “after-the-fact” of its development. Where development was unpermitted, ESHA and wetland areas disrupted by the illegal development must still be considered ESHA and wetlands regardless of its current condition. (LT-WR, L.L.C. v. California Coastal Comm’n (2007) 152 Cal.App.4th 770, 60 Cal.Rptr.3d 417, 437.) This conclusion is consistent with the Commission’s practice of evaluating a site as if unpermitted development had not occurred. Any other approach would reward an applicant for violating the Coastal Act by allowing the applicant to claim there was no ESHA and wetland on site even though the resources had been removed without the benefit of the required coastal development permit.

Revise and supplement Page 65, first full paragraph:

For a lower cost oceanfront camping ~~coastal~~ experience with drive up tent and RV sites comparable to and within a half hour ~~to~~ of Lawson’s Landing, one must head north to Sonoma County. Approximately 15 miles north of Lawson’s Landing at the mouth of Bodega Harbor is Doran County Park, which offers 127 tent/RV sites, charging 22.00 per night. A couple miles further, on the west shore of Bodega Harbor is Westshore County Park, which has 47 tent/RV sites at the same cost.¹ While not located in a beach or harbor location, Bodega Bay RV Park does provide 72 RV/tent accommodations at 28.00 to 41.00 per night depending on hook up.² Also on Bodega Bay is Bodega Dunes State Beach Campground and Wright’s Beach

¹ <http://www.sonoma-county.org/parks/camping/index.htm>

² <http://www.bodegabayrvpark.com/>

campground, both a part of the Sonoma Coast State Beach system. These campgrounds offer a total of 125 sites for tents or RVs at 35.00 per night. Advance reservations are recommended at these parks in the peak season because they are very popular. **In addition, Bodega Bay has the Porto Bodega Marina and RV Park, offering 58 RV sites (no tent sites are available).** In total, these alternative coastal options located within ½ hour of Lawson's Landing, provide approximately **371 429** campsites.

Further north in Sonoma County there are other campgrounds, however they are located more than an hour's drive from Lawson's Landing, and few are located in an oceanfront environment like Lawson's Landing. Of those offering a coastal camping setting, Ocean Cove campground, located 43.2 miles away, contains 120 sites.³ Salt Point State Park, 44.6 miles away, contains 30 coastal campsites (Gerstle Cove) and 79 wooded sites east of highway 1 (Woodside).

Others offer more inland coastal campsites. Stillwater Cove County Regional Park, is 42.2 miles away and is located east of highway one. There is a trail offering access to the rocky cove, but the 23 campsites are inland. Another County regional park, Gualala Point Park, is located 83.8 miles from Lawson's Landing on the border of Mendocino County, and is also an inland camping experience, east of Highway 1 (adjacent to the Gualala River). This campground contains 24 campsites. According to the Sonoma County Regional Parks website, these parks are extremely popular and advance reservations are recommended.⁴ For example, phone calls made by Commission staff to the parks found that on the weekend of 7/9/11, the campsites were full. Lastly, Willow Creek Environmental Camp, part of the State Park system offers 11 primitive sites on a first come first serve basis. This campground will be closed on September 6, 2011 according to their website. Pomo Canyon campgrounds, located next door in a redwood grove has 20 campsites, however they are currently closed due to restoration activities and road closures.

In sum, adding the 150 alternative coastal waterfront campsites located more than an hour away from Lawson's Landing to the 429 coastal campsites within ½ hour of Lawson's Landing, brings the total to 579 campsites. Given this relatively small amount of alternative coastal waterfront campsites in the area, Lawson's Landing provides a needed oceanfront lower-cost visitor serving recreational facility where one can RV camp, tent camp and launch boats.

However, currently there are State Parks service reductions in this area. As of the writing of this report (**June July** 2011), due to service reductions, the Bodega Head East, Campbell Cove, Bodega Dunes, South Salmon, Schoolhouse Day Use area, Blind Beach, Russian Gulch, and Vista Point Day use area, parking lots and restrooms **are currently closed, and were also** closed between December 1, 2010 – June 30, 2011. Bodega Dunes Campground closed all but 20 campsites December 1, 2010 – June 30, 2011, **and is slated to close on September 5, 2011.** Willow Creek and Pomo Canyon Campgrounds were also closed December 1, 2010 – June 30, 2011. ⁵ **Pomo Canyon is currently still closed, and Willow Creek is slated to close on**

³ Personal communication with Ocean Cove Staff 707-847-3624

⁴ <http://www.sonoma-county.org/parks/camping/index.htm>

⁵ http://www.parks.ca.gov/?page_id=451

September 5, 2011.⁶ In the current fiscal year, the State budget includes a permanent cut of at least 20% of State Park's general fund support, 11 million dollars,⁷ and Governor Brown announced 70 closures statewide. This includes China Camp State Park and Samuel P. Taylor State Park in Marin County, leaving only two open State Parks in Marin County.⁸

Add to end of 5th Paragraph on page 66

Taking the data as a whole, it is clear that at certain times in Lawson's history, peak use has reached 1,000 vehicles. Taking a more conservative approach, at least 700 camping vehicles can reasonably be expected to occupy Lawson's Landing on peak weekends. Camping vehicles in this case can generally be equated to campsites, since RVs are the predominate use and are counted as 'camping vehicles.' Day users were counted separately in some cases and would only increase the vehicle count. **The Commission therefore finds that current peak demand for lower cost oceanfront visitor serving facilities is at the very least an accurate indicator of foreseeable future demand for lower cost oceanfront visitor serving public recreational facilities in the area as contemplated by Section 30221 of the Coastal Act.**

Add appellate court cite to end of 3rd paragraph on page 89

Because the existing development on the site has been determined to be unpermitted, as discussed above, the Commission must consider the application as though the development had not occurred and must regard the habitat on the site as though it had not previously been disturbed by this development occurring without the benefit of a coastal development permit. **(LT-WR, L.L.C. v. California Coastal Comm'n (2007) 152 Cal.App.4th 770, 60 Cal.Rptr. 3d 417, 437)**

Add to end of 2nd paragraph on page 95

As detailed in Subsection D, the proposed camping and boating recreational facility will provide oceanfront lower-cost visitor-serving overnight camping that has historically been available at Lawson's Landing. The demand for this lower cost public access and visitor serving recreational resource has been significant and growing for forty years. As discussed, there are few facilities in the region of Lawson's Landing that provide such lower-cost recreational opportunities, and certainly none that provide the unique experience to be found at this location at the head of Tomales Bay. The project will meet historic, current and future foreseeable demand for coastal-dependent water-oriented activities such as boating and fishing, as well as coastal recreation generally that cannot be provided at inland locations. If this level of lower-cost visitor camping and recreation is not approved at Lawson's Landing, the mandates of Coastal Act section 30213, 30220, 30221, 30224, and 30234.5 will not be met. **The Commission finds that by meeting the current peak demand for lower cost oceanfront visitor serving facilities, it is thereby attempting to meet the foreseeable future demand for such facilities in the area as contemplated by Section 30221 of the Coastal Act.**

⁶ http://www.parks.ca.gov/?page_id=451

⁷ <http://www.ebudget.ca.gov/StateAgencyBudgets/3000/3790/department.html#MPC>

⁸ [California Department of Parks and Recreation News Release May 13, 2011 "State Parks Announces Closures."](#)

F. CONFLICT RESOLUTION

Page 99 (iii) Alternative Configuration of Project Features, second paragraph

First, as analyzed previously, there are undeveloped locations in Area 1⁹, as shown on exhibit 40, that do not contain wetlands or dune scrub, and that do not otherwise constitute ESHA, or are sufficient distance away from red-legged frog breeding areas. These areas do provide substantial physical area for recreational visitor-serving development, outside of needed buffer areas for adjacent resources, including approximately 3 acres in Area 1. However, it is clear that this area is no where near enough to meet the historic, current and future foreseeable demand for lower-cost overnight accommodations and recreation at this location. As discussed in Subsection D, visitor demand at Lawson's has ranged from approximately 700– 1000 camping vehicles (at peak times), and with population growth and the current State Park closure threats, demand on facilities at Lawson's Landing will increase. The Applicants are currently proposing a total of 650 recreational sites (including 417 RV and tent sites, 20 visitor-serving travels, and 213 quasi-visitor-serving travel trailers) to meet the demand, concentrating them into a smaller area in recognition of the environmental limitations of the site. Even with the most compact design and configuration (as is currently proposed for the part of Areas 1 that is not ESHA), the existing demand could not be met in these areas. Only approximately 132 camping sites could be provided in this area. **Like Areas 7 and 8, except for the portions of the Area that have been permitted, Area 6 is legally considered ESHA. Also, Area 6 would could potentially only provide an additional 1.5 acres, or approximately 45 RV sites (at 1,400 square feet each). This acreage is small, and could not meet all or even a significant portion of the current or future foreseeable demand for lower cost oceanfront visitor serving facilities.** In short, neither the project objectives nor the mandates of Chapter 3 to provide lower-cost visitor-serving and water-oriented recreation would be met by this alternative.

Add the following at the top of page 100

... further below, clearly any of these potential alternatives would not be consistent with Coastal Act sections 30233 or 30240 and would impact the more pristine and previously undisturbed ESHA onsite. In sum, there are no feasible alternatives that would meet the project objectives and be consistent with Coastal Act sections 30233 or 30240. **In making this determination, the Commission has considered the entirety of the approximately 960 acre property. As indicated elsewhere in this report, 465 acres of the approximately 960 acre property is being placed in a conservation easement. This 465 acre conservation easement area comprises APN numbers 100-100-48 and 100-100-59. The total portion of the property comprising camping Areas 1-8, is approximately 57 acres. The remaining 438 acres of the 960 acre property is agricultural property located in APNs 100-100-48, 100-100-59, 100-220-06, 100-100-07, 100-230-51, 100-100-08, 100-100-21, and 100-100-22, and is currently zoned and utilized consistent with this use. As discussed herein, the alternatives considered**

⁹ 'Area 1' includes the area of land covered by the proposed visitor serving trailer sites 1 – 16 that are labeled as part of Area 2, but for all intents and purposes, are located in Area 1 as shown on Sheet 17 (exhibit 3).

by the Commission for purposes of conflict resolution specifically focus on the areas known as Camping Areas 1-8, rather than the remaining 438-acre agricultural portion of the property or the 465 acre conservation easement area. The Commission undertakes its assessment of alternatives in this manner for two reasons. First, section 30222 of the Coastal Act expressly prioritizes agricultural uses over visitor serving uses. Therefore, the alternatives considered by the Commission for purposes of conflict resolution do not consider placing the lower cost visitor serving facilities needed to meet the current and future foreseeable demand for such facilities in the remaining 438-acre agricultural portion of the approximately 960 acre property. Second, section 30240 expressly requires the protection of ESHA against significant disruption. Therefore, the alternatives considered by the Commission for purposes of conflict resolution do not consider placing the lower cost visitor serving facilities needed to meet current and foreseeable future demand for such facilities in the 465 acre portion of the approximately 960 acre property that will be permanently protected by conservation easement.

Page 103, second paragraph:

The appropriate balance described above differs from the Applicants proposal, **and Dr. Dixon's recommended habitat buffers¹⁰**, in a few ways.

In Area 2, the Applicants propose a 25-foot buffer between travel trailers and the wetland to the east, combined with the placement of an earthen berm to act as a sound barrier. **Although the Commission's Staff Ecologist generally recommends a 100-foot buffer between all wetlands and development. If development is to be authorized in Area 2 to meet the current and foreseeable future demand for lower cost oceanfront visitor serving facilities in the area, Dr. Dixon recommends that best management practices be instituted as necessary to prevent any polluted runoff from the developed area from entering the wetland, and that appropriate native riparian species be planted in the area, as generally indicated on Figure 25 of his memo, to screen the wetland and provide complementary native habitat. Dr. Dixon stated reduced wetland buffer would be sufficient to protect the habitat in this area if best management practices (BMPs) are employed to prevent polluted runoff from entering the wetland, and if riparian plant species are planted in the buffer area to screen the wetland and provide complimentary habitat.** An earthen berm is not appropriate in this area because of the topography and the close proximity to the wetlands, as opposed to Area 1 where the topography is more conducive to this sort of measure. Special condition 2 requires the buffer and native plantings described above. Special condition 28 - 30 requires the applicant to submit a drainage plan and stormwater management plan. Grading is not permitted unless shown to be necessary by the water quality management plan. Lastly, there is a ditch immediately adjacent and west of the western-most of these two rows of trailers (exhibit 6, Figure 8). This ditch minimally functions as natural habitat, and there is no buffer. The Commission's Staff Ecologist recommends that this ditch and its extension to the east should only be allowed to drain the trailer area and should not receive water from nearby wetlands. Special condition 2 incorporates this recommendation, and Special condition 4(A)(4) requires the Applicants to submit a hydrological assessment, prepared by a hydrologist, as part of a larger wetlands restoration plan; and Special Condition 28 requires the applicants to submit a drainage plan to address this issue.

¹⁰ 100-feet from wetlands and 50-feet from dune scrub and foredunes

On balance, the Commission finds that the measures described above are most protective of coastal resources, consistent with the Coastal Act.

Page 105, starting with second paragraph:

The Applicants propose the following resource protection measures for Area 3:

- A 25-foot buffer between camping areas and delineated wetlands to the north and east of the area.
- A linear strip of native vegetation enhancement planting areas between camping and wetlands.
- Re-grading of the area so that water flows to water quality treatment basins or in bioswales that have sand and vegetative filtration that redirect flows to adjacent wetlands rather than to Tomales Bay or the ocean.
- **No buffers are proposed for the foredunes or the dune scrub ESHA**

As discussed in the memo from the Commission's Staff Ecologist (exhibit 6), a 100-foot buffer from wetlands is necessary to protect wetlands from disturbance, and special condition 2 requires this buffer. Much of the proposed Area 3 is located 100-feet from wetlands except for some campsites and roads on the north side, therefore it is possible to achieve this buffer while still providing for camping demand in this area. The linear strip of native vegetation proposed as a buffer by the Applicants is not necessary or appropriate with the 100-foot buffer. **Although Dr. Dixon generally prescribes a 50-foot buffer between dune scrub/foredunes and development, if development is to be authorized within Area 3 to meet the current and foreseeable future demand for lower cost oceanfront visitor serving facilities in the area, Dr. Dixon recommends a reduced intensity of use in order to prevent the significant degradation of adjacent ESHA.¹¹ Further-Therefore,** due to the sensitivity of the relict foredunes in Area 3, and as recommended by the Staff Ecologist, this area shall be restricted to walk-in tent camping, as partially proposed by the Applicants in a previous submittal (October 2010), and parking shall be restricted to along the access road.

As currently proposed, RV camping and parking would be located within this sensitive dune area, however this is not the least environmentally damaging alternative. Re-grading of this area is prohibited. The perimeter road, except for the access road to the travel trailer area shall be abandoned and restored to dune habitat (as shown in Exhibit 6, figure 25). On balance, restricting this area to tent camping only, with parking along the road, and maintaining a 100-foot buffer from wetlands is the most protective of coastal resources, consistent with the Coastal Act.

Page 106, first full paragraph after the bullets:

The Commission's staff ecologist recommends a 100-foot buffer from all wetlands, a 50-foot buffer from dune scrub, a 300-foot buffer from CRLF breeding ponds, and a 300 foot wide CRLF migration corridor running to the southeast from the entrance breeding pond. In this case, varying the buffer, as proposed by the Applicants, is not necessary to protect the lower cost visitor serving recreational facility. By applying the recommended buffer widths, which are also consistent with the Marin LCP advisory policies, the Commission has determined that

¹¹ See Exhibit 6, page 14

approximately 11.88 acres would still be available for camping and associated facilities (e.g. wetlands).

However, the generally recommended ~~This~~ buffer width does vary with regards to the manmade ditches **and the foredunes west of the road.** ~~As recommended by the Staff Ecologist~~ **If development is to be authorized within ESHA to meet the current and foreseeable future demand for lower cost oceanfront visitor serving facilities, Dr. Dixon opines that** 25-foot buffers are adequate to protect the ditches during the wet months, and this may be reduced to 10-feet during the dry summer. Special condition 2 requires these setbacks as described above. **Regarding the foredunes west of the road, the Staff Ecologist also opines that the foredunes in this area are high and generally steep, and this inhering physical separation reduces the impact of adjacent recreational activities on the ecological functions of the foredunes. Physical or symbolic fencing should be established to prevent access to the dunes except at designated locations and to keep vehicles at least 10 feet from the base of the dunes. Special condition 2 and 6 requires this fencing and vehicle restrictions.** As in Area 3, the linear strip of native vegetation is not necessary as a buffer in this case because the recommended setbacks would be employed. Planting this vegetation would introduce habitat that is patchily present in dune swale wetlands in less manipulated dune fields, but making it a major part of the vegetation is not ecologically justified in this case. On balance, the measures described above are the most protective of coastal resources, consistent with the Coastal Act.

Page 108, 3rd full paragraph:

Regarding wetlands, LUP Unit II Natural Resources policy 4(d) requires a 100-foot buffer strip along the periphery of wetlands and shall be wider. The Commission has maintained this buffer requirement, where possible, except where to maintain it would result in a loss of ~~protection of~~ lower cost visitor serving facilities **needed to meet current and foreseeable future demand for such facilities in the area.** As described above Special Condition 2, requires a 100-foot buffer from all wetlands in Area 4, and a 300-foot buffer from the CRLF breeding ponds. The camping in Area 3 would be located 100-feet away from the wetland to the east, and the low-impact tent camping would also be located 100-feet away. In Areas 1 ~~and 2, the sites have become so degraded over time, that~~ the Commission's staff ecologist has found it **appropriate acceptable** to reduce the buffer to 25-feet from the wetland ~~and~~ **with the incorporation of** a sandy berm ~~in area 1.~~ **In Area 2, the Staff Ecologist has recommended and that** native plantings in area 2 ~~to~~ **would** provide additional protection, blocking humans, noise, pets, and light from the wetland **and best management practices would minimize the effects of development on the wetland.** ~~This~~ **These alternative mitigation requirements** provides a functional equivalent to the 100-foot buffer in this unique case where to deny development in these locations would result in a loss of lower cost visitor serving campsites **needed to meet current and foreseeable future demand for such facilities in the area.**

H. ADEQUACY OF SERVICES

1. Wastewater Capacity

Page 128, 3rd paragraph:

Based on the numerous studies conducted by Questa on soils, percolation, depth to groundwater, and wastewater demand, it appears that the proposed leachfield and spray field provides adequate wastewater disposal to serve the proposed development ~~for 3-5 years~~ **on an ongoing basis** consistent with Coastal Act policy 30250. However, as stated above, the designs are still considered subject to Regional Board review.

3. Transportation/Circulation

Page 133, last paragraph:

The results showed that on days when maximum capacity is reached, the trip generation of Lawson's Landing would potentially decrease from 1,598 vehicle trips under the historic maximum level to 934 vehicle trips under the reduced level analyzed, a reduction of 40 percent.¹² However, the conclusions of the Fehr and Peers 2009 study do not take into account the fact that there is usually more than one vehicle per camping party. **As conditioned, the 233 travel trailers would be converted to visitor serving uses; using the Fehr and Peers trip generation rate for camping (1.15), the number of trips would increase from 47 trips on arrival/departure days (assumes a 0.20 trip generation rate because many of the sites are not occupied year round) to approximately 268 trips (assuming a 100% occupancy rate).** The Commission finds, however, that the roadways at peak periods have still been shown to operate at LOS C or better, although the LOS does not appear to capture the vehicle platoon phenomenon that occurs at peak arrival/departure times due to slow traveling RVs and narrow streets, turning vehicles, and vehicle/pedestrian conflicts; **nor does the current LOS at peak times reflect a future scenario of converting the trailers to visitor serving units.**

Page 134, starting with paragraph 2:

As described above, while comparisons are helpful to provide a 'reality check' with traffic data, the Commission must analyze the proposal as if the illegal development has not yet occurred. Therefore, pursuant to Coastal Act Section 30250, it must analyze whether roadway capacity is adequate to accommodate the traffic generated by the proposed project. The proposed project as of June 2011 is 417 camp lots (with no limitation on vehicles), 268 day use permits, and 233 travel trailers. This is an increase from the March 2011 project description and October 2010 project descriptions, which proposed a maximum 100 day use permits. While existing traffic counts show the roadways to be LOS C or better, the LOS standard does not accurately reflect the 'vehicle platoon' effect described in the EIR and the community plan, and documented by Dillon Beach community members with photographs. Further, the traffic projections and trip generation rates discussed in the Fehr and Peers traffic studies equated the number of campsites to the number of vehicles. Further, limiting the number of vehicles associated with the campsites to one vehicle per campsite, **and only allowing a second vehicle on the larger campsites (approximately 150) if specifically delineated,** would minimize traffic, and be in line with the assumptions made in the Applicant's traffic studies. In addition, limiting the allowable day use

¹² The EIR did not consider the impacts of the existing unpermitted camping operations at Lawson's Landing as potential impacts to be mitigated because it considered those existing conditions to be the environmental baseline. However, the Commission must examine the impacts of all newly proposed development that has never before permitted by the Commission because such development exists without the benefit of the necessary CDP.

permits to 100, consistent with what was previously proposed and analyzed by the Applicants, would assist with limiting congestion. Therefore, the Commission imposes Special Condition 14, which limits the total allowable campsite vehicles to the number of allowable camp sites in Special condition 2. The number of day use vehicles shall be limited to 100. The limitations contained in Special Condition 14 are consistent with what the County required in its merits review process, **except for the allowance of a second vehicle on the larger campsites.**

Allowance of a second vehicle for campsites is a typical practice for State and Regional park campgrounds. Allowing this to occur at Lawson's Landing would prevent campers from parking in Dillon Beach, which is already quite overcrowded, and walking in to Lawson's Landing to join their camping party.

There is also significant concern in the Dillon Beach community about traffic queue's at the entrance to the Landing backing up into the community and affecting traffic circulation. Although the EIR mitigations are designed to help the situation, the EIR did not fully analyze the impacts of all the newly proposed and unpermitted development at Lawson's Landing because it considered the existing development to be an environment baseline even if it had not been legally permitted. If traffic from the proposed development is not adequately monitored and mitigated, there will also be impacts on vehicular public access to Dillon Beach. Therefore the Commission imposes a traffic management and monitoring condition (special condition 14) to ensure that traffic impacts to the Dillon Beach community and public access impacts are reduced and traffic safety is enhanced. The condition includes a monitoring and adaptive management component, with submission of annual reports to the Commission to ensure that traffic goals are achieved. **Special Condition 14 also has a traffic management, monitoring, and adaptive management component that includes traffic reduction incentives for campers, and on-going adjustment in allowable vehicles if ongoing traffic studies show that objectives are not being met from time to time. For example, subsection (B) (12) of the condition requires the plan to include mechanisms for managing the number of reservations or vehicles allowed on-site if the on-going traffic study and monitoring program shows that traffic impacts exceed the criteria and indices in the Plan. One such mechanism shall include, but is not limited to, limiting the number of allowable second vehicles on larger campsites during peak times.**

More fundamental, the condition requires that the applicant include a provision to conduct the proposed analysis of the use of Sand Haul Road as an access alternative, either through the County's review of the "Phase 2" Lawson's Landing Center permit review, if such Phase ever occurs, or through submission of an updated traffic management plan in conjunction with the required monitoring reports, no later than January 1, 2017, whichever comes first. Through this mechanism there will thus be an opportunity to revisit and address any unacceptable on-going traffic impacts in and around Dillon Beach.

Overall, as conditioned the traffic volumes associated with recreational use of Lawson's Landing should not exceed historic volumes and would likely constitute a reduction over certain observed peak weekend volumes, such as the Labor Day weekend counts of the Fehr and Peer study. Even assuming that all of the travel trailers have a trip generation rate equal to the camping rate established by Fehr and Peers (1.15), and assuming each of the "second vehicles" allowed for each campsite also has this trip generation rate, the total

trip generation for the project as conditioned would be 1120 trips or roughly equivalent to existing peak conditions.¹³

Due to the fact that: **(1) Current traffic studies indicate that Dillon Beach roadways operate at LOS C or better at peak times,** (~~1~~2) the Applicants would be implementing several traffic calming mitigation measures as stipulated in the EIR, including the use of Sand Haul Road as an emergency vehicle access, **and** (~~2~~3) Special Condition 14 requires a Traffic Management and Monitoring Condition and further limitations on vehicles to address vehicle queue impacts on the Dillon Beach circulation system, **including provisions to address the potential use of Sand Haul Road as an alternative access,** and (~~3~~4) Special Condition 14 limits the amount of day use and campsite vehicles to **approximately** that which has already been adequately analyzed, the Commission finds that the proposed development, in terms of transportation/circulation, is consistent with Coastal Act Section 30250.

Add new section: O. Liability For Costs and Attorney Fees at end of staff report on page 156.

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications.¹⁴ **Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes Special Condition 20 requiring reimbursement for any costs and attorneys fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit.**

¹³ **Assumes 800 camping vehicles (650 + 150) at 1.15 trips and 100 day use vehicles at 2 trips, equaling 1120 trips.**

¹⁴ **See also California Code of Regulations Title 14 Section 13055(g).**

DRAFT MEMORANDUM

To: Michael Lawson, *Lawson's Landing*
From: Tim Youmans, Jesse Walker, and Matt Johnson
Subject: Lawson's Landing Economic Analysis; EPS #18596
Date: April 1, 2009

The Economics of Land Use



Economic & Planning Systems, Inc., (EPS) has been working with the planning team for the Lawson's Landing Resort Plan (Project) in Marin County (County) to evaluate the impact on the financial wellbeing of the Project under several scenarios. EPS produced its most recent analysis in November of 2008, and since then, the Project has been approved by the County under an alternative land use plan, and is positioned to be reviewed by the California Coastal Commission (CCC) later this year.

This memorandum describes an updated economic analysis that EPS has performed under revised land use alternatives using the most recent fee and income assumptions, as provided by the Lawson's Landing team.

Land Use Alternatives

The land use assumptions for the five scenarios analyzed are summarized in **Table 1**. As shown, Scenario 1 analyzes the current operation which includes 1,000 Tent/ RV Visitor Units, 200 allowable Day Use Passes, and 205 Semi-Permanent Trailer Rentals. Scenario 2 is the proposed Master Plan, which encompasses 600 Tent/ RV Visitor Units, allows 100 Day Use Passes, and preserves the 205 Semi-Permanent Trailer Rental sites. Scenario 3 is the County-approved Master Plan, which includes only 370 Tent/ RV Visitor Units and 193 Semi-Permanent Trailer Rentals. Scenario 4 is similar to Scenario 3, except that it assumes that all Semi-Permanent Trailer Rental sites are removed. Finally, Scenario 5 is similar to Scenario 4, except that it assumes that the land vacated by the Semi-Permanent Trailer Rental sites would accommodate up to 150 additional Tent/ RV Visitor Units, therefore allowing a total of 520 Tent/ RV Visitor Units in this scenario.

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P:\18000\18596 Lawson's Landing Economic Feasibility Analysis\EPS Correspondence\18596 Memo 4 Update.doc

Net Income Analysis

Net Operating Income

Table 2 summarizes the estimated net income which would occur under each of these five scenarios. Camping Revenue estimates are based on three separate calculations: one for Tent/RV Visitor Units, one for Day Use passes, and one for Semi-Permanent Trailer Rentals. These calculations are shown in **Tables 3, 4, and 5**, respectively. **Table 2** also includes a line item for "Misc. Visitor-Serving Revenue," which is calculated based on a percentage of Camping Revenue. The percentage factor used in this estimate is derived from a reconciliation of the Lawson's Landing Income Statement for 2008 and is shown in **Table 6**. A detailed breakdown of the major items which comprise Visitor Serving Revenue is shown in **Table 7**.

The estimated operating cost under each scenario shown in **Table 2** is broken into Variable Expenses and Fixed Expenses. Fixed Expenses—such as insurance, utilities, portable rentals, fees, and employee salaries—are assumed to be constant under each scenario and are based on actual 2008 expenditures. EPS has assumed that Merchandise for Resale would be a variable expense, which is calculated as a percentage of Camping Revenue according to the factor shown in **Table 6**.

Net Income after Capital and Entitlement Costs

Table 2 also calculates net income including the cost of Capital Expenses which would be incurred if the Project were to move forward as currently planned, as well as the costs of professional fees which have been incurred in order to entitle the Project.

A detailed itemization of the Capital Expenses is shown in **Table 8**. These costs were amortized over a 20-year period, assuming an 8% interest rate. The total Entitlement Costs are itemized in **Table 9**, and are shown on an annual basis by amortizing them over a 10-year period, at an interest rate of 8 percent.

Calculation of Tent/ RV Visitor Units Revenue

At over \$1.0 million annually in 2008, Tent/ RV Visitor Unit fee income is the largest revenue source, and is severely impacted by the removal of campsites in the various scenarios. EPS analyzed the revenue that would be lost as a result of removing campsites by multiplying the estimated number of lost visitor days under each scenario by the current fee rate of \$25 per night.

Since the campground only reaches its maximum capacity on a sporadic basis—typically during the weekends of the high season—simply eliminating the revenue that would correspond to each lost campsite is not a viable methodology. Instead, EPS carefully evaluated the instances in which the campground reached maximum capacity based on visitor totals in 2007 and 2008, and predicted the instances that maximum capacity would be reached if a certain number campsites were removed, according to the land uses figures for each scenario.

EPS used the average number of days that would reach maximum capacity under reduced unit totals in order to estimate the total visitor fee revenue lost under each scenario (as summarized in **Table 10**). EPS conducted this analysis by establishing a capacity threshold for each scenario. The capacity thresholds for each scenario are summarized below:

- **Scenario 1—1,000 Maximum Visitors.** Maximum capacity is assumed to occur on weeks with more than 2,200 visitors (1,000 units times two weekend days, plus a 200 weekday visitor "cushion").
- **Scenario 2—600 Maximum Visitors.** Maximum capacity is assumed to occur on weeks with more than 1,400 weekly visitors (600 units times two weekend days, plus a 200 weekday visitor "cushion").
- **Scenario 3—370 Maximum Visitors.** Maximum capacity is assumed to occur on weeks with more than 940 weekly visitors (370 units times two weekend days, plus a 200 weekday visitor "cushion").
- **Scenario 4—370 Maximum Visitors.** Maximum capacity is assumed to occur on weeks with more than 940 weekly visitors (370 units times two weekend days, plus a 200 weekday visitor "cushion").
- **Scenario 5—520 Maximum Visitors.** Maximum capacity is assumed to occur on weeks with more than 1,240 weekly visitors (520 units times two weekend days, plus a 200 weekday visitor "cushion").

Tables 11 and **12** show the weekly visitor totals at the 1,000-campsite resort in 2007 and 2008. As an illustrative example of the calculation methodology used, Lawson's Landing saw over 1,400 weekly visitors in 2007 during seven weeks of the year, as shown in **Table 11**. If Lawson's Landing only had 600 sites available, these seven instances would constitute "sold out" weeks. Therefore, an estimated 14 weekend days would have reached a 600-unit maximum capacity in 2007.

In order to be conservative, EPS assumed that 75 percent of these lost visitor days would translate to lost revenue. This adjusted number of daily rentals lost at maximum capacity was then multiplied by the number of estimated days at maximum capacity under each scenario. As shown in **Table 3**, Scenario 2 would result in an annual loss of \$112,000 in Tent/ RV Fee Revenue, as compared to Scenario 1. Scenario 3 and 4 would result in an annual loss of \$330,000, and Scenario 5 would result in an annual loss of \$171,000.

EPS conducted similar revenue analyses for Day Use fee revenue and Semi-Permanent Trailer Lease revenue, as shown in **Tables 4** and **5**, respectively.

Pricing Sensitivity Analysis

Because significant losses are estimated to occur under each alternative scenario evaluated in this analysis, EPS has assessed the fee rate increases that would be required to reach levels of return similar to those observed in current operations (Scenario 1). The fees that would be required to reach this level of return are shown in **Table 13**.

As shown in **Table 13**, it would be necessary to charge much higher rates in order to arrive at a reasonable rate of return of 10%, under **Scenarios 3 through 5**. The required fee rates between \$46 and \$65 per night are two- to three- times as much as are currently charged at similar campgrounds in Northern California, and would not be accepted in today's marketplace.

As a comparison, **Table 14** shows the range of peak and non-peak fee rates of developed, drive-in campsites at all California State Parks. As shown, the peak nightly fee for comparable campsites throughout California range from \$10 to \$25, and are \$22 on average. An examination of similar private campsites in Northern California yield similar results, and are generally between \$30 and \$50 at the maximum, depending on the time of year, the number of nights stayed, and the amenities chosen, as shown in **Table 15**.

Overall Conclusions

This analysis has evaluated the revenue-generation potential of several development alternatives associated with the Lawson's Landing project, as compared to their 2008 operations. As shown in **Table 2**, while a reasonable 10% return on cost can be achieved by current operations, all of the alternative scenarios analyzed would result in significant reductions in profitability, and are in fact likely to be unsustainable over the long-term.

Although Scenario 2, the proposed Master Plan, shows a worse revenue picture than 2008 operations, the profit potential is reasonable as compared to the alternatives, and may be economically viable if certain cost-cutting measures and/ or revenue generation methods can be achieved. With estimated returns of -21%, -53%, and -46% respectively, Scenarios 3, 4, and 5 do not appear to be economically viable alternatives.

Additional Considerations

- All revenue and cost calculations are based on Lawson's Landing's current fee structure, 2007 and 2008 annual visitor tallies, and the Lawson's Landing 2008 Income Statement.
- The assumptions used to estimate the annual entitlement cost and capital costs shown in this analysis were provided by Lawson's Landing.
- Please note that any impact from a hotel, larger general store, or other operations at the 15,000-square-foot Landing Center is not included in this analysis.

DRAFT

Table 1
Lawson's Landing Economic Feasibility Analysis
Summary of Land Use Assumptions

Item	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Description	2008 Operations	Proposed Master Plan	PC-Approved Master Plan	Removal of Leased Trailer Sites	Conversion of Trailer Sites to Tent/RV Sites
Tent/RV Visitor Units	1,000	600	370	370	520
Day Use Passes	200	100	200	200	200
Semi-Permanent Trailer Rentals [1]	205	205	193	0	0

"land_use"

[1] Does not include trailers used for employee housing.

**Table 2
Lawson's Landing Economic Feasibility Analysis
Summary of Net Income**

Item	Source/ Assumption	Scenario 1 2008 Operations	Scenario 2 Proposed Master Plan	Scenario 3 County-Approved Master Plan	Scenario 4 Removal of Semi- Permanent Trailer Sites	Scenario 5 Conversion of Trailer Sites to Tent/RV Sites
Net Income From Operations						
Camping Revenue						
Camper/RV Sites	Table 3	\$1,373,383	\$1,260,883	\$1,042,633	\$1,042,633	\$1,202,383
Day-Use	Table 4	\$57,896	\$46,347	\$57,896	\$57,896	\$57,896
Semi-Permanent Trailer Rentals	Table 5	\$885,803	\$861,000	\$810,600	\$0	\$0
Subtotal Camping Revenue		\$2,317,082	\$2,168,200	\$1,911,129	\$1,100,529	\$1,260,279
Misc. Visitor-Serving Revenue	27% of Camping Revenue [1]	\$637,047	\$596,114	\$525,437	\$302,574	\$346,495
Total Revenue		\$2,954,129	\$2,764,314	\$2,436,566	\$1,403,103	\$1,606,774
Operational Cost						
Variable Expenses	15% of Camping Revenue [1]	(\$347,957)	(\$325,599)	(\$286,995)	(\$165,267)	(\$189,256)
Fixed Expenses	Table 6	(\$1,998,236)	(\$1,998,236)	(\$1,998,236)	(\$1,998,236)	(\$1,998,236)
Subtotal Operational Cost		(\$2,346,193)	(\$2,323,835)	(\$2,285,231)	(\$2,163,503)	(\$2,187,493)
Net Revenue from Operations		\$607,936	\$440,479	\$151,335	(\$760,400)	(\$580,719)
Return on Cost from Operations		26%	19%	7%	-35%	-27%
Net Income After Entitlement and Debt Service						
Total Revenue		\$2,954,129	\$2,764,314	\$2,436,566	\$1,403,103	\$1,606,774
Total Operational Cost		(\$2,346,193)	(\$2,323,835)	(\$2,285,231)	(\$2,163,503)	(\$2,187,493)
Other Costs						
Capital Expense Debt Service	Table 8	\$0	(\$467,647)	(\$467,647)	(\$467,647)	(\$467,647)
Entitlement Expenses [2]	Table 9	(\$338,303)	(\$338,303)	(\$338,303)	(\$338,303)	(\$338,303)
Total Other Costs		(\$338,303)	(\$805,950)	(\$805,950)	(\$805,950)	(\$805,950)
Total Cost		(\$2,684,496)	(\$3,129,785)	(\$3,091,181)	(\$2,969,453)	(\$2,993,443)
Net Income After Entitlement and Debt Service		\$269,633	(\$365,471)	(\$654,615)	(\$1,566,350)	(\$1,386,669)
Return on Cost		10%	-12%	-21%	-53%	-46%

*summary

[1] EPS has calculated that approximately 27% of Camping Revenue is from miscellaneous visitor-serving revenue sources. This percentage is used to project the amount of Visitor Serving revenue which would be generated under each Scenario, based on the amount of Camping Revenue generated. For the detailed calculation, see Table 6.

[2] For Scenario 1, entitlement expenses have been adjusted to equal the total entitlement cost amortized over ten years, not the actual amount spent in 2008.

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Table 3
Lawson's Landing Economic Feasibility Analysis
Calculation of Tent/ RV Fee Revenue Lost by Scenario

Item	Scenario 1 2008 Operations	Scenario 2 Proposed Master Plan	Scenario 3 County-Approved Master Plan	Scenario 4 Removal of Semi- Permanent Trailer Sites	Scenario 5 Conversion of Trailer Sites to Tent/RV Sites
Tent/RV Visitor Units	1,000	600	370	370	520
Total Decrease From Scenario 1	n/a	400	630	630	480
Adjusted Daily Rentals Lost [1]	n/a	300	473	473	360
Peak Visitor Days at Maximum Capacity [2]	1	15	28	28	19
Lost Visitor Days per Year	n/a	(4,500)	(13,230)	(13,230)	(6,840)
Total Visitor Days per Year [3]	54,935	50,435	41,705	41,705	48,095
Fee Rate [4]	\$25	\$25	\$25	\$25	\$25
Total Annual Fee Revenue	\$1,373,383	\$1,260,883	\$1,042,633	\$1,042,633	\$1,202,383
Lost Fee Revenue From Scenario 1	n/a	(\$112,500)	(\$330,750)	(\$330,750)	(\$171,000)

[1] To be conservative, this analysis assumes that 75% of daily rentals will be lost because of capacity on full days.
 [2] Daily rentals are only lost on days when maximum capacity is reached. EPS has estimated the number of days lost per year as a result of capacity based on review of weekly visitors from provided by Lawson's Landing. See Tables 10 through 12.
 [3] For Scenario 1, this amount is estimated based on the total fee revenue collected divided by the average fee rate.
 [4] Assumes \$25 average daily fee rate.

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**Table 4
Lawson's Landing Economic Feasibility Analysis
Day Use Revenue Calculations**

Item	Scenario 1 2008 Operations	Scenario 2 Proposed Master Plan	Scenario 3 County-Approved Master Plan	Scenario 4 Removal of Semi- Permanent Trailer Sites	Scenario 5 Conversion of Trailer Sites to Tent/RV Sites
Day Use Units	200	100	200	200	200
Estimated Annual Visitors [1]	8,271	n/a	n/a	n/a	n/a
Percentage Annual Reduction [2]	0%	-20%	0%	0%	0%
"Lost" Visitor Days	0	(1,654)	0	0	0
Adjusted Visitor Days	8,271	6,617	8,271	8,271	8,271
Fee per Visitor	\$7	\$7	\$7	\$7	\$7
Annual Fee Revenue	\$57,896	\$46,317	\$57,896	\$57,896	\$57,896
Fee Revenue Lost from Scenario 1	n/a	(\$11,579)	\$0	\$0	\$0

[1] Estimated by EPS based on Day Use Revenue and fee rates.

[2] Rough estimate - reductions only occur on peak days.

"day_use"

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Table 5
Lawson's Landing Economic Feasibility Analysis
Annual Semi-Permanent Trailer Rental Revenues

Item	Scenario 1 2008 Operations	Scenario 2 Proposed Master Plan	Scenario 3 County-Approved Master Plan	Scenario 4 Removal of Semi- Permanent Trailer Sites	Scenario 5 Conversion of Trailer Sites to Tent/RV Sites
Semi-Permanent Trailer Units	205	205	193	0	0
Monthly Lease Rate [1]	\$350	\$350	\$350	\$350	\$350
Monthly Lease Revenue	\$73,817	\$71,750	\$67,550	\$0	\$0
Annual Lease Revenue	\$885,803	\$861,000	\$810,600	\$0	\$0
Lost Fee Revenue from Scenario 1	n/a	(\$24,803)	(\$75,203)	(\$885,803)	(\$885,803)

[1] Although the monthly lease rate has increased recently, this analysis uses the 2008 rate of \$350 in order to be consistent with Scenario 1.

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Table 6
Lawson's Landing Economic Feasibility Analysis
Income Statement Reconciliation

Item	2008 Amount [1]
Revenue	
Campsites	\$1,373,383
Permanent Trailer Rent	\$885,803
Day Use	\$57,869
Subtotal Camping Revenue	\$2,317,056
Misc. Visitor-Serving Revenue [2]	\$637,040
Total Revenue	\$2,954,096
Misc. Visitor-Serving Revenue as a % of Camping Revenue	27%
Cost	
Fixed Expenses	
Fixed Cost of Sales [3]	\$1,366,191
Total Other Expenses	\$632,045
Subtotal Fixed Expenses	\$1,998,236
Variable Expenses	
Merchandise for Resale	\$347,953
Subtotal Variable Expenses	\$347,953
Total Cost	\$2,346,189
Variable Cost as a % of Camping Revenue	15%
	<i>"Income"</i>

[1] From Lawson's Landing Income Statement for 2008.

[2] Miscellaneous Revenue includes many categories which provide relatively small individual revenue streams. For a detailed breakdown of the largest components of Misc. Visitor Serving Revenue, see Table 7.

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**Table 7
Lawson's Landing Economic Feasibility Analysis
Summary of Miscellaneous Visitor-Serving Revenue**

Item	2008 Amount	% of Total Revenue
Visitor-Serving Revenue		
Part Sales	\$60,319	2.0%
Wood	\$39,757	1.3%
Gasoline	\$51,732	1.8%
Bait	\$28,729	1.0%
Miscellaneous	\$37,590	1.3%
Tackle	\$58,591	2.0%
Propane Sales	\$56,401	1.9%
Garbage, Outside Collection	\$26,260	0.9%
Boat Launch	\$38,430	1.3%
Candy	\$31,929	1.1%
Labor	\$25,901	0.9%
Dept. of Fish & Game	\$46,522	1.6%
Other Misc. Visitor-Serving Revenue [1]	\$134,878	4.6%
Total Visitor-Serving Revenue	\$637,040	21.6%

"misc"

[1] Other Misc. Visitor-Serving Revenue includes several small items that each comprise significantly less than 1% of total revenue.

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Table 8
Lawson's Landing Economic Feasibility Analysis
Estimated Capital Improvement Costs

Item	Value
Cost	
New Septic System	\$2,224,100
New Store and Office	\$1,225,000
New Boat Repair Shop	\$450,000
New Fuel Station	\$200,000
New Toilet and Shower Buildings	\$500,000
Reconstructed Entry Kiosk	\$60,000
Total Improvement Cost	\$4,659,100
Annual Cost if Amortized Over 20 Years [2]	\$467,647

"capital"

[1] Assumes monthly compounding and an 8% interest rate.

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**Table 9
Lawson's Landing Economic Feasibility Analysis
Estimated Professional Fees to Entitle Lawson's Landing**

Item	Value
Cost	
2003	\$70,526
2004	\$116,156
2005	\$115,205
2006	\$209,845
2007	\$696,411
2008	\$715,477
2009 (est.) [1]	\$300,000
2010 (est.) [1]	\$100,000
Total Entitlement Cost	\$2,323,621
Annual Cost if Amortized Over 10 Years [2]	\$338,303

"entitlement"

- [1] Conservative estimates by EPS and Lawson's Landing.
[2] Assumes monthly compounding and an 8% interest rate.

Table 10
Lawson's Landing Economic Feasibility Analysis
Summary of Maximum Capacity Calculation

Item	2007	2008	Average (rounded)
<u>Scenario 1: 1,000 Campsites</u>			
Number of Weeks Above 2,200-Visitor Threshold [1]	1	0	0.5
Annual Peak Weekend Days at Capacity	2	0	1.0
<u>Scenario 2: 600 Campsites</u>			
Number of Weeks Above 1,400-Visitor Threshold [2]	7	8	8.0
Annual Peak Weekend Days at Capacity	14	16	15.0
<u>Scenario 3: 370 Campsites</u>			
Number of Weeks Above 940-Visitor Threshold [3]	14	14	14.0
Annual Peak Weekend Days at Capacity	28	28	28.0
<u>Scenario 4: 370 Campsites</u>			
Number of Weeks Above 940-Visitor Threshold [4]	14	14	14.0
Annual Peak Weekend Days at Capacity	28	28	28.0
<u>Scenario 5: 520 Campsites</u>			
Number of Weeks Above 1,240-Visitor Threshold [5]	9	10	10.0
Annual Peak Weekend Days at Capacity	18	20	19.0

"capacity"

- [1] The maximum capacity threshold for Scenario 1 was derived as follows:
 $1,000 \text{ total units} * 2 \text{ weekend days} + 200 \text{ weekday visitors} = 2,200$
- [2] The maximum capacity threshold for Scenario 2 was derived as follows:
 $600 \text{ total units} * 2 \text{ weekend days} + 200 \text{ weekday visitors} = 1,400$
- [3] The maximum capacity threshold for Scenario 3 was derived as follows:
 $370 \text{ total units} * 2 \text{ weekend days} + 200 \text{ weekday visitors} = 940$
- [4] The maximum capacity threshold for Scenario 4 was derived as follows:
 $370 \text{ total units} * 2 \text{ weekend days} + 200 \text{ weekday visitors} = 940$
- [5] The maximum capacity threshold for Scenario 5 was derived as follows:
 $520 \text{ total units} * 2 \text{ weekend days} + 200 \text{ weekday visitors} = 1,240$

Table 11
Lawson's Landing Economic Feasibility Analysis
Weekly Visitor Totals, 2007

Week	Weekly RV Visitors	Weekly Tent Visitors	Total Camping [1]	Number of Sold Out Weeks				
				Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
				Exceeds 2,200 Unit Threshold [2]	Exceeds 1,400 Unit Threshold [2]	Exceeds 940 Unit Threshold [2]	Exceeds 940 Unit Threshold [2]	Exceeds 1,240 Unit Threshold [2]
1/1-1/7	76	27	103					
1/8-1/15	69	11	80					
1/16-1/21	97	22	119					
1/22-1/28	88	25	113					
1/29-2/4	89	7	96					
2/5-2/11	40	6	46					
2/12-2/18	1,036	220	1,256			X	X	X
2/19-2/25	122	40	162					
2/26-3/4	92	30	122					
3/5-3/12	224	100	324					
3/13-3/18	304	87	391					
3/19-3/24	331	197	528					
3/25-3/31	369	203	572					
4/1-4/7	746	402	1,148			X	X	
4/8-4/14	273	139	412					
4/15-4/21	414	174	588					
4/22-4/28	333	277	610					
4/29-5/5	282	226	508					
5/6-5/12	173	117	290					
5/13-5/18	623	427	1,050			X	X	
5/19-5/27	1,185	1,224	2,409	X	X	X	X	X
5/28-6/2	180	326	506					
6/3-6/9	239	299	538					
6/10-6/16	869	42	911					
6/17-6/23	519	489	1,008			X	X	
6/24-6/30	570	643	1,213			X	X	
7/1-7/7	536	658	1,194			X	X	
7/8-7/14	N/A	N/A	0					
7/15-7/21	924	1,023	1,947		X	X	X	X
7/22-7/28	900	986	1,886		X	X	X	X
7/29-8/4	792	1,088	1,880		X	X	X	X
8/5-8/11	881	998	1,879		X	X	X	X
8/12-8/18	583	712	1,295			X	X	X
8/19-8/24	371	330	701					
8/25-9/2	661	744	1,405		X	X	X	X
9/3-9/8	543	378	921					
9/9-9/15	372	371	743					
9/16-9/22	294	252	546					
9/23-9/29	340	258	598					
9/30-10/6	525	282	807					
10/7-10/13	606	248	854					
10/14-10/20	420	182	602					
10/21-10/27	325	138	463					
10/28-11/3	325	210	535					
11/4-11/10	572	197	769					
11/11-11/17	475	167	642					
11/18-11/24	932	519	1,451		X	X	X	X
11/25-12/1	138	60	198					
12/2-12/7	40	5	45					
12/8-12/15	43	27	70					
12/16-12/22	22	10	32					
12/23-12/29	438	66	504					
Total	21,401	15,669	37,070	1	7	14	14	9

*visitors_2007"

[1] Lawson's Landing's current overall capacity is 1,000 at any given time. The weekly visitor total shown include nightly turnover, and are therefore often greater than the 1,000 campsite capacity. These figures do not include weekly or monthly visitors.

[2] The capacity thresholds used in this analysis assume that approximately 200 rentals occur during the mid-week and that maximum capacity is reached whenever visitor totals are greater than 200 more than the actual number of Tent/ RV Visitor Units presumed under each scenario.

Table 12
Lawson's Landing Economic Feasibility Analysis
Weekly Visitor Totals, 2008

Week	Weekly RV Visitors	Weekly Tent Visitors	Total Camping [1]	Number of Sold Out Weeks				
				Scenario 1 Exceeds 2,200 Unit Threshold [2]	Scenario 2 Exceeds 1,400 Unit Threshold [2]	Scenario 3 Exceeds 940 Unit Threshold [2]	Scenario 4 Exceeds 940 Unit Threshold [2]	Scenario 5 Exceeds 1,240 Unit Threshold [2]
12/30-1/5	67	52	119					
1/6-1/12	22	9	31					
1/13-1/19	220	36	256					
1/20-1/26	23	11	34					
1/27-2/2	23	9	32					
2/3-2/9	163	38	201					
2/10-2/16	1,006	272	1,278			X	X	X
2/17-2/23	78	62	140					
2/24-3/1	126	69	195					
3/2-3/8	151	81	232					
3/9-3/15	228	62	290					
3/16-3/22	589	297	886					
3/23-3/29	379	283	662					
3/30-4/5	127	133	260					
4/6-4/12	383	245	628					
4/13-4/19	231	139	370					
4/20-4/26	417	271	688					
4/27-5/3	292	216	508					
5/4-5/10	422	328	750					
5/11-5/17	254	219	473					
5/18-5/25	444	660	1,104			X	X	
5/26-5/31	200	235	435					
6/1-6/7	374	396	770					
6/8-6/14	365	489	854					
6/15-6/21	426	526	952			X	X	
6/22-6/27	523	516	1,039			X	X	
6/28-7/5	533	1,030	1,563		X	X	X	X
7/6-7/12	775	903	1,678		X	X	X	X
7/13-7/19	855	942	1,797		X	X	X	X
7/20-7/26	706	951	1,657		X	X	X	X
7/27-8/2	766	972	1,738		X	X	X	X
8/3-8/9	731	923	1,654		X	X	X	X
8/10-8/16	618	767	1,385			X	X	X
8/17-8/22	395	419	814					
8/23-8/31	715	883	1,598		X	X	X	X
9/1-9/6	491	385	876					
9/7-9/13	482	398	880					
9/14-9/20	456	345	801					
9/21-9/27	378	309	687					
9/28-10/4	435	239	674					
10/5-10/11	612	453	1,065			X	X	
10/12-10/18	452	358	810					
10/19-10/25	N/A	N/A	0					
10/26-11/1	151	52	203					
11/2-11/8	490	140	630					
11/9-11/15	368	167	535					
11/16-11/21	306	87	393					
11/22-11/29	1,103	598	1,701		X	X	X	X
11/30-12/6	98	69	167					
12/7-12/13	39	12	51					
12/14-12/20	2	6	8					
12/21-12/27	60	3	63					
Total	19,550	17,065	36,615	0	8	14	14	10

visitors_2008

- [1] Lawson's Landing's current overall capacity is 1,000 at any given time. The weekly visitor total shown include nightly turnover, and are therefore often greater than the 1,000 campsite capacity. These figures do not include weekly or monthly visitors.
- [2] The capacity thresholds used in this analysis assume that approximately 200 rentals occur during the mid-week and that maximum capacity is reached whenever visitor totals are greater than 200 more than the actual number of Tent/ RV Visitor Units presumed under each scenario.

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Table 13
Lawson's Landing Economic Feasibility Analysis
Fee Rate Sensitivity Analysis

Item	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Estimated Values [1]					
Total Estimated Revenue	\$2,954,129	\$2,764,314	\$2,436,566	\$1,403,103	\$1,606,774
Total Estimated Expenses [2]	(\$2,684,496)	(\$3,129,785)	(\$3,091,181)	(\$2,969,453)	(\$2,993,443)
Net Revenue	\$269,633	(\$365,471)	(\$654,615)	(\$1,566,350)	(\$1,386,669)
Return on Cost	10%	-12%	-21%	-53%	-46%
Sensitivity Analysis					
Modified Campsite Fee Rate [3]	\$25	\$37	\$46	\$65	\$57
Resulting Revenue	\$2,954,129	\$3,535,935	\$3,553,169	\$3,529,966	\$3,538,304
Estimated Expenses [2]	(\$2,684,496)	(\$3,220,672)	(\$3,222,702)	(\$3,219,969)	(\$3,220,951)
Modified Return on Cost	10%	10%	10%	10%	10%

sensitivity

[1] See Table 2.

[2] Includes entitlement costs and capital costs.

[3] Campsite Fees were increased to levels which would result in adequate revenue to allow a 10% return on cost.

Table 14
Lawson's Landing Economic Feasibility Analysis
State of California Drive-In/Developed Campground Fees; 2009

Campground	Location	Season Rate	
		Peak	Non-Peak
Borrego Palm Canyon	Anza-Borrego Desert SP	\$20	\$15
Bullfrog Pond	Austin Creek SRA	\$15	\$15
Benbow Lake	Benbow Lake SRA	\$20	\$20
Big Basin Drive-In (RVs/Tents)	Big Basin Redwoods SP	\$25	\$25
Big Basin Accessible	Big Basin Redwoods SP	\$25	\$25
Bothe-Napa Valley	Bothe-Napa Valley SP	\$25	\$25
Brannan Island	Brannan Island SRA	\$20	\$15
Butano Drive-In	Butano SP	\$25	\$25
Oak Hollow	Calaveras Big Trees SP	\$25	\$20
North Grove	Calaveras Big Trees SP	\$25	\$20
San Miguel (Inland)	Carpinteria SB	\$25	\$20
Anacapa/Santa Cruz-35	Carpinteria SB	\$25	\$20
Anacapa/Santa Cruz-28	Carpinteria SB	\$25	\$20
Castle Crags	Castle Crags SP	\$20	\$15
Castle Rock	Castle Rock SP	\$25	\$25
Caswell Memorial	Caswell Memorial SP	\$20	\$15
Lower & Upper Bayview	Clear Lake SP	\$20	\$15
Cole Creek	Clear Lake SP	\$20	\$15
Kelsey Creek	Clear Lake SP	\$20	\$15
Family	Colusa-Sacramento River SRA	\$15	\$12
Colusa-Sacramento River	Colusa-Sacramento River SRA	\$15	\$12
Paso Picacho	Cuyamaca Rancho SP	\$20	\$15
Green Valley	Cuyamaca Rancho SP	\$20	\$15
D.L. Bliss	D.L. Bliss SP	\$25	\$20
Mill Creek	Del Norte Coast Redwoods SP	\$20	\$20
Doheny Island	Doheny SB	\$25	\$20
Donner Memorial	Donner Memorial SP	\$25	\$20
El Capitan	El Capitan SB	\$25	\$20
Del Mar	El Capitan SB	\$25	\$20
Eagle Pointe	Emerald Bay SP	\$25	\$20
Beals Point	Folsom Lake SRA	\$20	\$15
Peninsula	Folsom Lake SRA	\$20	\$15
Reef Campground	Fort Ross SHP	\$15	\$15
Gaviota	Gaviota SP	\$25	\$20
Grizzly Creek Redwoods	Grizzly Creek Redwoods SP	\$20	\$20
Grover Hot Springs	Grover Hot Springs SP	\$25	\$20
Half Moon Bay	Half Moon Bay SB	\$25	\$25
Hendy Woods	Hendy Woods SP	\$25	\$20
Henry Cowell Redwoods	Henry Cowell Redwoods SP	\$25	\$25
Hollister Hills	Hollister Hills SVRA	\$10	\$10
Burlington	Humboldt Redwoods SP	\$20	\$20
Hidden Springs	Humboldt Redwoods SP	\$20	\$20
Cuneo Creek Family Horse Camp	Humboldt Redwoods SP	\$20	\$20
Albee Creek	Humboldt Redwoods SP	\$20	\$20
Indian Grinding Rock/Chawse	Indian Grinding Rock/Chawse SHP	\$20	\$15
Loafer Creek	Lake Oroville SRA	\$18	\$13
Luiseno	Lake Perris SRA	\$25	\$20
Canyon	Leo Carrillo SP	\$25	\$20
Limekiln	Limekiln SP	\$25	\$20
MacKerricher	MacKerricher SP	\$25	\$20
Malibu Creek	Malibu Creek SP	\$25	\$20
Manresa	Manresa SB	\$25	\$25
McArthur-Burney Falls Memorial	McArthur-Burney Falls Memorial	\$20	\$15
McConnell	McConnell SRA	\$20	\$15
McGrath	McGrath SB	\$25	\$20
Millerton Lake	Millerton Lake SRA	\$25	\$20
Morro Bay	Morro Bay SP	\$25	\$20
Morro Strand	Morro Strand SB	\$25	\$20
Live Oak Campground	Mount Diablo SP	\$20	\$15
Juniper Campground	Mount Diablo SP	\$20	\$15

**Table 14
Lawson's Landing Economic Feasibility Analysis
State of California Drive-In/Developed Campground Fees; 2009**

Campground	Location	Season Rate	
		Peak	Non-Peak
Idyllwild	Mount San Jacinto SP	\$20	\$15
New Brighton	New Brighton SB	\$25	\$25
Doan Valley	Palomar Mountain SP	\$20	\$15
Penn Creek	Patrick's Point SP	\$20	\$20
Agate	Patrick's Point SP	\$20	\$20
Abalone	Patrick's Point SP	\$20	\$20
Pfeiffer Big Sur	Pfeiffer Big Sur SP	\$25	\$20
Pismo-Oceano Campground	Pismo SB	\$25	\$20
Pismo-North Beach Campground	Pismo SB	\$25	\$20
North Beach	Pismo SB	\$25	\$20
Plumas-Eureka	Plumas-Eureka SP	\$20	\$20
Big Sycamore Canyon	Point Mugu SP	\$20	\$20
Portola (RV Tent)	Portola Redwoods SP	\$25	\$25
Elk Prairie	Prairie Creek Redwoods SP	\$20	\$20
Gold Bluffs Beach	Prairie Creek Redwoods SP	\$15	\$15
Ricardo Campground	Red Rock Canyon SP	\$12	\$12
Refugio	Refugio SB	\$25	\$20
Huckleberry & Madrone	Richardson Grove SP	\$20	\$20
Oak Flat	Richardson Grove SP	\$20	\$20
Russian Gulch	Russian Gulch SP	\$25	\$20
Joshua Tree	Saddleback Butte SP	\$12	\$12
Gerstle Cove	Salt Point SP	\$25	\$25
Woodside	Salt Point SP	\$25	\$25
Headquarters	Salton Sea SRA	\$17	\$12
Samuel P. Taylor	Samuel P. Taylor SP	\$25	\$20
San Clemente	San Clemente SB	\$25	\$20
San Luis Creek	San Luis Reservoir SRA	\$25	\$20
Basalt	San Luis Reservoir SRA	\$20	\$15
San Mateo	San Onofre SB	\$25	\$20
Bluffs	San Onofre SB	\$25	\$20
San Simeon Creek	San Simeon SP	\$25	\$20
Silver Strand (Inland)	Silver Strand	\$25	\$20
Mesa	Silverwood Lake SRA	\$25	\$20
Needle Rock Barn	Sinkyone Wilderness SP	\$20	\$20
Wright's Beach	Sonoma Coast SB	\$25	\$25
Bodega Dunes	Sonoma Coast SB	\$25	\$25
South Carlsbad Inland	South Carlsbad SB	\$25	\$20
Hickey & Rock Creek	Standish-Hickey SRA	\$20	\$20
Redwood	Standish-Hickey SRA	\$20	\$20
Sugar Pine Point	Sugar Pine Point SP	\$25	\$20
Sugarloaf Ridge	Sugar Loaf Ridge SP	\$20	\$20
Sunset	Sunset SB	\$25	\$25
Lakeside	Tatoe SRA	\$25	\$20
Turlock Lake	Turlock Lake SRA	\$20	\$15
Van Damme	Van Damme SP	\$20	\$20
Woodson Bridge	Woodson Bridge SRA	\$14	\$11
Average		\$22	\$19

"camping_costs"

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**Table 15
Lawson's Landing Economic Feasibility Analysis
Comparable Private Campground Fee Rates**

Campground	Nightly Rate
Bodega Bay RV Park	
Dry Camp (No Hookups)	\$28
Hookups Sites	\$40
Olema Ranch Campground [1]	
Tent Site	\$39
RV Site	\$53

"private_fees"

[1] Rates are for peak weekend days.

DRAFT MEMORANDUM

To: Michael Lawson, Lawson's Landing
From: Tim Youmans and Jesse Walker
Subject: Lawson's Landing Economic Analysis; EPS #18596
Date: August 2, 2010

The Economics of Land Use



Economic & Planning Systems, Inc., (EPS) has been working with the planning team for the Lawson's Landing Resort Plan (Project) in Marin County (County) to evaluate the impact on the financial well-being of the Project under several scenarios. EPS produced its initial analysis in November 2008, which was updated several times, most recently in April 2010. The Project has been approved by the County under an alternative land use plan and is under review by the California Coastal Commission (CCC).

This memorandum describes an updated economic analysis that EPS has performed under revised land use alternatives using the most recent fee and income assumptions, as provided by the Lawson's Landing team. The underlying data and assumptions remain largely unchanged since the April 2010 analysis; however, there are two significant updates to the analysis.

First, EPS has included three different funding and cost alternatives. These three alternatives differ in their assumptions concerning potential grant funding revenue and road construction costs. Grant funding may be made available to the Project owners from the United States Fish and Wildlife Service (US FWS) and from the California Department of Transportation (Caltrans). Also, the economic feasibility of construction costs for one-way access-road improvement on Sand Haul Road needed to be analyzed.

The second significant change in this revised analysis is the change in land use scenarios. The land use scenarios currently being considered are described below.

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Land Use Scenarios

The land use assumptions for the 11 scenarios being analyzed are summarized in **Table 1**. All scenarios allow 200 Day-Use Passes but differ in the number of Tent/RV Visitor Units and Semi-Permanent Trailer Rentals. A short description of each scenario is included below:

- Scenario 1 analyzes the 2008 operations, which included 1,000 Tent/RV Visitor Units, 200 allowable Day-Use Passes, and 205 Semi-Permanent Trailer Rentals.
- Scenario 2 is the County-approved Master Plan, which includes only 370 Tent/RV Visitor Units and 193 Semi-Permanent Trailer Rentals.
- Scenario 3 is similar to Scenario 3, except that it assumes that all Semi-Permanent Trailer Rental sites are removed.
- Scenario 4 assumes a 25-foot wetland buffer throughout, which results in 631 Tent/RV Visitor Units. Scenario 4 includes 205 Semi-Permanent Trailer Rentals.
- Scenario 5 assumes a 50-foot wetland buffer, which results in 475 Tent/RV Visitor Units. Scenario 5 includes 205 Semi-Permanent Trailer Rentals.
- Scenario 6 assumes a 100-foot wetland buffer, which results in 283 Tent/RV Visitor Units. Scenario 6 includes 205 Semi-Permanent Trailer Rentals.
- Scenario 7 includes 673 Tent/RV Visitor Units and 205 Semi-Permanent Trailer Rentals.
- Scenario 8 includes 673 Tent/RV Visitor Units but only 150 Semi-Permanent Trailer Rentals.
- Scenario 9 includes 593 Tent/RV Visitor Units and 205 Semi-Permanent Trailer Rentals and assumes a 25-foot buffer between the foredunes and camping area.
- Scenario 10 includes 773 Tent/RV Visitor Units and no Semi-Permanent Trailer Rentals.
- Scenario 11 includes 823 Tent/RV Visitor Units and no Semi-Permanent Trailer Rentals.

Funding and Cost Alternatives

According to Project representatives, the property is being considered for a grant of \$1,500,000 from the US FWS and CCC and \$1,836,000 in mitigation easement funding from Caltrans. After endowments for maintenance in perpetuity, capital gains, fees, etc., this US FWS amount is reduced to \$851,627 and the Caltrans amount is reduced to \$968,354. Because the Project's owners control approximately 45 percent of the entire property that is subject to the potential grant and easement funding, it is assumed that a maximum of 45 percent of that funding would be made available for Lawson's Landing improvements, resulting in a total of \$383,232 from the US FWS and \$435,759 from Caltrans. The Caltrans funding is less certain than the US FWS grant. In addition, the Project is required to fund various capital improvements, which may or may not include road construction on Sand Haul Road to improve one-way access. Given the uncertainty of the Caltrans funding and road construction costs, EPS has evaluated the 11 land use scenarios under three different funding and cost alternatives described below.

- **Funding Alternative 1** includes 45 percent of the US FWS grant but no Caltrans easement funding and assumes no road construction costs.
- **Funding Alternative 2** includes 45 percent of the funding from both US FWS and Caltrans and assumes no road construction costs.
- **Funding Alternative 3** includes 45 percent of the funding from both US FWS and Caltrans and assumes road construction costs of \$2.6 million.

Net Income Analysis

The estimated net income and return on cost that would occur under each of the 11 land use scenarios for each of the three funding alternatives are summarized in **Tables 2A, 2B, and 2C**. The tables summarize the financing analysis in two ways:

- Net Income from Operations.
- Net Income from Operations adjusted for Grant Funding, Debt Service for Capital Improvements, and Entitlement Costs.

Net Income from Operations

The net income and return on cost from operations is shown in the **top portion of the three tables**. This top portion is identical for each funding alternative because it does not yet account for capital costs and grant funding. All land use scenarios except Scenarios 4, 13, and 14 have positive returns on cost from operations, ranging from 24 percent to 41 percent. Scenarios 4, 13, and 14 all assume the removal of all semi-permanent trailer sites, resulting in negative returns for each of these scenarios.

Net Income from Operations Adjusted for Grant and Other Funding, Debt Service for Capital Improvements, and Entitlement Expense

The net income for each land use scenario adjusted for grant funding, debt service for capital improvements, and entitlement expenses is shown on **the bottom portion of the three tables**. This analysis calculates net income, including the cost of Capital Expenses, which would be incurred if the Project were to move forward as currently planned, as well as the costs of professional fees that have been incurred to entitle the Project.

Funding Alternative 1 shown in **Table 2A** assumes US FWS grant funding only and does not include any road construction costs. Exclusion of road costs helps profitability, but the loss of Caltrans easement funding reduces profitability. Land Use Scenario 1 (which reflects the current operations) has an estimated 4-percent return on costs, while Land Use Scenarios 4, 7, and 9 are close to breakeven, with returns of 2 percent, 2 percent, and 1 percent, respectively. All other land use scenarios have negative returns.

Funding Alternative 2 shown in **Table 2B** assumes that the Project will receive both US FWS grant funding and Caltrans easement funding. Further, it does not include any road construction costs. The combination of increased funding without road costs results in higher net income and return on costs. Returns are improved by approximately 1 percent. Land Use Scenario 1 has a

positive 5-percent return on costs, while Land Use Scenarios, 4, 7, and 9 have returns of 3 percent, 4 percent, and 2 percent, respectively. All other land use scenarios have negative returns.

Funding Alternative 3 shown in **Table 2C** assumes that the Project will receive both US FWS grant funding and Caltrans easement funding and includes \$2.6 million in road construction costs. The funding will be consumed in septic and other improvements, so with road construction, the debt service for capital expenses is higher than under the other two funding alternatives, which do not assume any road construction costs. Funding Alternative 3 results in negative returns on cost for all land use scenarios, ranging from -3 percent to -48 percent. Returns are approximately 6 to 7 percent less than the returns for Funding Alternative 1.

In general, the inclusion of road costs represents the greatest hindrance to profitability. While the receipt of Caltrans easement funding in addition to US FWS grant funding helps to increase net income, the funding does little to offset the road costs because it will be consumed in septic and other improvements. No land use scenario shows a positive net income or return on cost if road costs are included.

Revenue and Operating Cost Components

The revenue components in **Tables 2A, 2B, and 2C** flow from several sources, including Camping Revenue and Miscellaneous Visitor-Serving Revenue:

- Camping Revenue estimates are based on three separate calculations: one for Tent/RV Visitor Units, one for Day-Use passes, and one for Semi-Permanent Trailer Rentals. These calculations are shown in **Tables 3, 4, and 5**, respectively.
- Miscellaneous Visitor-Serving Revenue is calculated based on a percentage of Camping Revenue. The percentage factor used in this estimate is derived from a reconciliation of the Lawson's Landing Income Statement for 2008 and is shown in **Table 6**. A detailed breakdown of the major items comprising Visitor-Serving Revenue is shown in **Table 7**.

The estimated operating cost is broken into Variable Expenses and Fixed Expenses. Fixed Expenses—such as insurance, utilities, portable rentals, fees, and employee salaries—are assumed to be constant under each land use scenario and are based on actual 2008 expenditures. EPS has assumed that Merchandise for Resale would be a variable expense, which is calculated as a percentage of Camping Revenue according to the average factor shown in **Table 6**.

Funding, Capital Expenditures, and Entitlement Costs

A detailed itemization of the capital expenses and offsetting funding for each of the three funding alternatives is shown in **Tables 8A, 8B, and 8C**. Funding differs in the inclusion or exclusion of Caltrans mitigation easement funding. Possible US FWS and Caltrans funding is detailed in **Table 9**. The capital costs differ among the alternatives only in the inclusion or exclusion of the roadway improvements cost. The net improvement costs, after accounting for the US FWS grant and Caltrans funding, were amortized over a 20-year period, assuming an 8-percent interest rate. The total entitlement costs are itemized in **Table 10** and are shown on an annual basis by amortizing them over a 10-year period at an interest rate of 8 percent.

Calculation of Tent/RV Visitor Units Revenue

At more than \$1.0 million annually in 2008, Tent/RV Visitor Unit (campsite) fee income is the largest revenue source and is severely impacted by the removal of campsites in the various scenarios. EPS analyzed the revenue that would be lost as a result of removing campsites by multiplying the estimated number of lost visitor days under each scenario by the current average fee rate of \$27.68 per night (calculated in **Table 3**).

Table 3 provided an estimate of the lost revenue for each Land Use Scenario compared to current operations. The lost revenue is tied to the reduction in available campsites and the resulting loss in potential visitor days compared to current levels of demand.

Because the campground only reaches its maximum capacity on a sporadic basis—typically during the weekends of the high season—simply eliminating the revenue that would correspond to each lost campsite is not a viable methodology. Instead, EPS carefully evaluated the instances in which the campground might have reached maximum capacity, based on visitor totals in 2007 and 2008, and estimated the instances that maximum capacity would have been exceeded if a certain number of campsites were removed according to the permitted camp sites for each scenario. The estimated lost visitor days are shown in **Tables 11** and **12** for 2007 and 2008.

EPS conducted this analysis by establishing a capacity threshold for each scenario using the following steps:

1. Determine daily capacity thresholds for the scenario.
2. Assume that 200 visitors would occur during midweek for all scenarios.
3. Multiply the campsite capacity by 2 to arrive at weekend capacity.
4. Add the 200 weekday visitors to the weekend total to arrive at an estimated weekly capacity.
5. Compare the weekly counts on **Tables 11** and **12** with the estimated weekly capacity and determine the number of actual visitors that would have exceeded the estimated capacity for each land use scenario to determine the lost visitor days shown on **Tables 11** and **12**.
6. Average the results from 2007 and 2008 to arrive at estimated lost visitor days per year for each land use scenario. **Table 13** shows the calculation of average lost visitor days.
7. Calculate the lost revenue shown in **Table 3** by multiplying the lost visitor days by average daily rental rate of \$27.68 per campsite. As shown in **Table 3**, annual losses range from approximately \$11,000 for Land Use Scenario 11, which has the greatest number of campsites to approximately \$288,000 for Land Use scenario 9, which has the least number of campsites.

Pricing Sensitivity Analysis

Because significant losses are estimated to occur under each alternative land use scenario evaluated in this analysis, EPS has assessed the campsite fee increases that would be required to reach a 10-percent level of return. The fees that would be required to reach this level of return

under each of the 11 land use scenarios for each of the three funding alternatives are detailed in **Tables 14A, 14B, and 14C** and summarized below:

Funding Alternative	Current Average Daily Campsite Fee	Required Average Daily Campsite Fee
Funding Alternative 1	\$27.68	\$31.49 - \$64.70
Funding Alternative 2	\$27.68	\$30.52 - \$63.56
Funding Alternative 3	\$27.68	\$36.30 - \$70.37

The campsite fees required for Funding Alternative 1 are slightly higher than those for Funding Alternative 2 because Funding Alternative 2 includes Caltrans easement funding that is not included for Funding Alternative 1. Funding Alternative 3 has the highest rates because it includes \$2.6 million in additional road costs. As noted previously, even though this scenario includes funding from both Caltrans and US FWS, this funding is insufficient to offset the increased road costs.

In each Funding Alternative, the fees required for a 10-percent return on costs vary by Land Use Scenario. The land use scenarios that include the removal of the semi-permanent trailer sites require the highest fees because these sites provide the only regular, ongoing source of fees. Across all funding alternatives and land use scenarios, the fees required to achieve a 10-percent return are approximately 1.1 times to 2.5 times greater than the current average daily campsite fee. For purposes of achieving a 10-percent return, it was assumed that the campsite fees could be increased without a loss in visitor days. It is probable, however, that fewer campers would pay the increased fees, reservations would drop, and the necessary revenue for a 10-percent return would not be generated.

As a comparison to other campgrounds in Northern California, **Table 15** shows the range of peak and non-peak fee rates of developed, drive-in campsites at all California State Parks. As shown, the peak nightly fee for comparable campsites throughout California ranges from \$10 to \$25 and is \$22 on average. An examination of similar private campsites in Northern California yield similar results and are generally between \$30 and \$50 at the maximum with more amenities, such as electrical hookup, laundries, recreation, exercise facilities, etc., depending on the time of year, the number of nights stayed, and the amenities available, as shown in **Table 16**.

Additional Considerations

- All revenue and cost calculations are based on Lawson's Landing's current fee structure, 2007 and 2008 annual visitor tallies, and the Lawson's Landing 2008 Income Statement.
- The assumptions used to estimate the annual entitlement cost and capital costs shown in this analysis were provided by Lawson's Landing.
- Please note that any impact from a hotel or other operations at the 15,000-square-foot Landing Center is not included in this analysis.

DRAFT

**Table 1
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Summary of Land Use Assumptions**

Item	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	Scenario 7	Scenario 8	Scenario 9	Scenario 10	Scenario 11
Description	2008 Operations	PC-Approved Master Plan	Removal of Leased Trailer Sites	25-Foot Buffer 631 Tent/RV Units	50-Foot Buffer 475 Tent/RV Units	100-Foot Buffer 283 Tent/RV Units	673 Tent/RV Units 205 Trailers	673 Tent/RV Units 150 Trailers	593 Tent/RV Units 205 Trailers	773 Tent/RV Units 0 Trailers	823 Tent/RV Units 0 Trailers
Tent/RV Visitor Units	1,000	370	370	631	475	283	673	673	593	773	823
Day Use Passes	200	200	200	200	200	200	200	200	200	200	200
Semi-Permanent Trailer Rentals [1]	205	193	0	205	205	205	205	150	205	0	0

"land_use"

[1] Does not include trailers used for employee housing.

Table 2A
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Detailed Summary of Net Income - Funding Alternative 1

US-FWS and CA Coastal Conservancy Grant
No Caltrans Easement Funding
No Roadway Cost

Item	Scenario 1 2009 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 25-Foot Buffer 631 Tent/RV Units	Scenario 5 50-Foot Buffer 475 Tent/RV Units	Scenario 6 100-Foot Buffer 283 Tent/RV Units	Scenario 7 673 Tent/RV Units 205 Trailers	Scenario 8 673 Tent/RV Units 159 Trailers	Scenario 9 593 Tent/RV Units 205 Trailers	Scenario 10 773 Tent/RV Units 0 Trailers	Scenario 11 823 Tent/RV Units 0 Trailers
Net Income											
Camping Revenue											
Camping/RV Sites	Table 3	\$1,166,884	\$1,166,884	\$1,312,762	\$1,238,854	\$1,085,779	\$1,327,986	\$1,327,986	\$1,237,814	\$1,355,114	\$1,362,587
Day Use	Table 4	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896
Semi-Permanent Trailer Rentals	Table 5	\$984,000	\$926,400	\$0	\$984,000	\$984,000	\$984,000	\$984,000	\$984,000	\$0	\$0
Subtotal Camping Revenue		\$2,415,279	\$2,151,180	\$2,353,658	\$2,280,750	\$2,127,675	\$2,369,882	\$2,105,882	\$2,339,710	\$1,413,010	\$1,420,483
Misc. Visitor-Serving Revenue	33% of Camp. Rev. [1]	\$789,019	\$702,743	\$763,215	\$745,071	\$695,065	\$774,189	\$687,946	\$764,332	\$461,599	\$464,041
Total Revenue		\$3,204,298	\$2,853,924	\$3,123,873	\$3,025,821	\$2,822,740	\$3,144,071	\$2,793,828	\$3,104,042	\$1,874,609	\$1,884,524
Operational Cost											
Variable Expenses	16% of Camp. Rev. [2]	(\$383,273)	(\$341,364)	(\$373,653)	(\$381,925)	(\$337,634)	(\$376,069)	(\$334,176)	(\$371,281)	(\$224,226)	(\$225,412)
Fixed Expenses	Table 6	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)
Subtotal Operational Cost		(\$2,269,897)	(\$2,227,988)	(\$2,260,277)	(\$2,248,549)	(\$2,224,258)	(\$2,262,693)	(\$2,220,800)	(\$2,257,905)	(\$2,110,850)	(\$2,112,036)
Net Revenue from Operations (Prior to Entitlement and Debt Service)		\$934,401	\$625,936	\$863,596	\$777,272	\$598,482	\$881,378	\$573,028	\$846,137	(\$236,241)	(\$227,512)
Return on Cost from Operations		41%	28%	38%	35%	27%	39%	26%	37%	-11%	-11%
Net Income After Entitlement and Debt Service											
Total Revenue		\$3,204,298	\$2,853,924	\$3,123,873	\$3,025,821	\$2,822,740	\$3,144,071	\$2,793,828	\$3,104,042	\$1,874,609	\$1,884,524
Total Operational Cost		(\$2,269,897)	(\$2,227,988)	(\$2,260,277)	(\$2,248,549)	(\$2,224,258)	(\$2,262,693)	(\$2,220,800)	(\$2,257,905)	(\$2,110,850)	(\$2,112,036)
Other Costs											
Capital Expense Debt Service [3]	Table 8A	(\$429,000)	(\$429,000)	(\$429,000)	(\$429,000)	(\$429,000)	(\$429,000)	(\$429,000)	(\$429,000)	(\$429,000)	(\$429,000)
Entitlement Expenses [4]	Table 10	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)
Total Other Costs		(\$815,000)	(\$815,000)	(\$815,000)	(\$815,000)	(\$815,000)	(\$815,000)	(\$815,000)	(\$815,000)	(\$815,000)	(\$815,000)
Total Cost		(\$3,084,897)	(\$3,042,988)	(\$3,075,277)	(\$3,063,549)	(\$3,039,258)	(\$3,077,693)	(\$3,035,800)	(\$3,072,905)	(\$2,925,850)	(\$2,927,036)
Net Income After Entitlement and Debt Service		\$119,401	(\$189,054)	\$49,596	(\$37,278)	(\$216,518)	\$66,378	(\$241,972)	\$31,137	(\$1,051,241)	(\$1,042,512)
Return on Cost		4%	-6%	2%	-1%	-7%	2%	-8%	1%	-36%	-36%

[1] EPS has calculated that approximately 33% of Camping Revenue is from miscellaneous visitor-serving revenue sources. This percentage is used to project the amount of Visitor-Serving revenue which would be generated under each Scenario, based on the amount of Camping Revenue generated. For the detailed calculation of this figure, see Table 6.
 [2] EPS has calculated that variable expenses are approximately 16% of Camping Revenue. This percentage is used to project the amount of variable expenses which would be incurred under each Scenario. For the detailed calculation of this figure, see Table 6.
 [3] Debt services required to fund capital expenses net of grant and other funding revenue. See Table 8A.
 For Scenario 1, debt service for capital expenses have been modified to be on par with other scenarios. In other words, the amount shown is not the actual amount expended for debt service but instead is the amount that would be required in order to fund proposed improvements.
 [4] For Scenario 1, entitlement expenses have been adjusted to equal the total entitlement cost amortized over ten years, not the actual amount spent in 2008.

Table 2B
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Detailed Summary of Net Income - Funding Alternative 2

US-FWS and CA Coastal Conservancy Grant
Caltrans Easement Funding
No Roadway Cost

Item	Scenario 1 2008 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 25-Foot Buffer 631 Tent/RV Units	Scenario 5 50-Foot Buffer 475 Tent/RV Units	Scenario 6 100-Foot Buffer 283 Tent/RV Units	Scenario 7 673 Tent/RV Units 205 Trailers	Scenario 8 573 Tent/RV Units 159 Trailers	Scenario 9 593 Tent/RV Units 205 Trailers	Scenario 10 773 Tent/RV Units 0 Trailers	Scenario 11 823 Tent/RV Units 0 Trailers
Net Income											
Camping Revenue											
Camper/RV Sites	\$1,373,383	\$1,166,884	\$1,166,884	\$1,312,762	\$1,238,854	\$1,086,779	\$1,327,986	\$1,327,986	\$1,297,814	\$1,355,114	\$1,362,887
Day Use	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896
Semi-Permanent Trailer Rentals	\$984,000	\$926,400	\$0	\$984,000	\$984,000	\$984,000	\$984,000	\$720,000	\$984,000	\$0	\$0
Subtotal Camping Revenue	\$2,415,279	\$2,151,180	\$1,224,780	\$2,354,658	\$2,280,750	\$2,127,675	\$2,369,882	\$2,105,882	\$2,339,710	\$1,413,010	\$1,420,483
Misc. Visitor-Serving Revenue	\$789,019	\$702,743	\$400,109	\$769,215	\$745,071	\$695,065	\$774,189	\$687,946	\$764,332	\$461,589	\$464,041
Total Revenue	\$3,204,298	\$2,853,924	\$1,624,889	\$3,123,873	\$3,025,821	\$2,822,740	\$3,144,071	\$2,793,828	\$3,104,042	\$1,874,609	\$1,884,524
Operational Cost											
Variable Expenses	(\$383,273)	(\$341,364)	(\$194,356)	(\$373,653)	(\$361,925)	(\$337,634)	(\$376,069)	(\$334,176)	(\$371,281)	(\$224,226)	(\$225,412)
Fixed Expenses	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)	(\$1,886,624)
Subtotal Operational Cost	(\$2,269,897)	(\$2,227,988)	(\$2,080,981)	(\$2,260,277)	(\$2,248,549)	(\$2,224,258)	(\$2,262,693)	(\$2,220,800)	(\$2,257,905)	(\$2,110,850)	(\$2,112,036)
Net Revenue from Operations (Prior to Entitlement and Debt Service)	\$934,401	\$625,936	(\$456,092)	\$863,596	\$777,272	\$598,482	\$881,378	\$573,028	\$846,137	(\$236,241)	(\$227,512)
Return on Cost from Operations	41%	28%	-22%	38%	35%	27%	39%	26%	37%	-11%	-11%
Net Income After Entitlement and Debt Service											
Total Revenue	\$3,204,298	\$2,853,924	\$1,624,889	\$3,123,873	\$3,025,821	\$2,822,740	\$3,144,071	\$2,793,828	\$3,104,042	\$1,874,609	\$1,884,524
Total Operational Cost	(\$2,269,897)	(\$2,227,988)	(\$2,080,981)	(\$2,260,277)	(\$2,248,549)	(\$2,224,258)	(\$2,262,693)	(\$2,220,800)	(\$2,257,905)	(\$2,110,850)	(\$2,112,036)
Other Costs											
Capital Expense Debt Service [3]	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)	(\$385,000)
Entitlement Expenses [4]	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)	(\$386,000)
Total Other Costs	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)	(\$771,000)
Total Cost	(\$3,040,897)	(\$2,998,988)	(\$2,851,981)	(\$3,031,277)	(\$3,019,549)	(\$2,995,258)	(\$3,033,693)	(\$2,991,800)	(\$3,028,905)	(\$2,881,850)	(\$2,883,036)
Net Income After Entitlement and Debt Service Return on Cost	\$163,401	(\$145,064)	(\$1,227,092)	\$92,596	\$6,272	(\$172,518)	\$110,378	(\$197,972)	\$75,137	(\$1,007,241)	(\$998,512)
Return on Cost	5%	-5%	-43%	3%	0%	-6%	4%	-7%	2%	-35%	-35%

Summary

[1] EPS has calculated that approximately 33% of Camping Revenue is from miscellaneous visitor-serving revenue sources. This percentage is used to project the amount of Visitor Serving revenue which would be generated under each Scenario, based on the amount of Camping Revenue generated. For the detailed calculation of this figure, see Table 6.
 [2] EPS has calculated that variable expenses are approximately 16% of Camping Revenue. This percentage is used to project the amount of variable expenses which would be incurred under each Scenario. For the detailed calculation of this figure, see Table 6.
 [3] Debt services required to fund capital expenses net of grant and other funding revenue. See Table 8B.
 For Scenario 1, debt service for capital expenses have been modified to be on par with other scenarios. In other words, the amount shown is not the actual amount expended for debt services but instead is the amount that would be required in order to fund proposed improvements.
 [4] For Scenario 1, entitlement expenses have been adjusted to equal the total entitlement cost amortized over ten years, not the actual amount spent in 2008.

Table 3
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Calculation of Tent/ RV Fee Revenue Lost by Scenario

Item	Scenario 1 2008 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 25-Foot Buffer 631 Tent/RV Units	Scenario 5 50-Foot Buffer 475 Tent/RV Units	Scenario 6 100-Foot Buffer 283 Tent/RV Units	Scenario 7 673 Tent/RV Units 205 Trailers	Scenario 8 673 Tent/RV Units 150 Trailers	Scenario 9 593 Tent/RV Units 205 Trailers	Scenario 10 773 Tent/RV Units 0 Trailers	Scenario 11 823 Tent/RV Units 0 Trailers
Tent/RV Visitor Units	1,000	370	370	631	475	283	673	673	593	773	823
Lost Visitor Days per Year [1]	n/a	(7,460)	(7,490)	(2,190)	(4,860)	(10,390)	(1,640)	(1,640)	(2,730)	(860)	(390)
Total Visitor Days per Year [2]	49,615	42,155	42,155	47,425	44,755	39,225	47,975	47,975	46,885	48,955	49,225
Average Fee Rate [3]	\$27.68	\$27.68	\$27.68	\$27.68	\$27.68	\$27.68	\$27.68	\$27.68	\$27.68	\$27.68	\$27.68
Total Annual Fee Revenue [4]	\$1,373,383	\$1,166,884	\$1,166,884	\$1,312,762	\$1,238,854	\$1,085,779	\$1,327,986	\$1,327,986	\$1,297,814	\$1,355,114	\$1,362,587
Lost Fee Revenue From Scenario 1 [5]	n/a	(\$206,499)	(\$206,499)	(\$60,621)	(\$134,529)	(\$287,604)	(\$45,397)	(\$45,397)	(\$75,569)	(\$18,269)	(\$10,796)

[1] Daily rentals are only lost on days when maximum capacity is reached. EPS has estimated the number of days lost per year as a result of capacity based on review of weekly visitors provided by Lawson's Landing. See Tables 11 through 13.

[2] For Scenario 1, this is the actual amount of visitors in 2008. All other scenarios estimated as Scenario 1 visitor days per year less lost visitor days per year for the scenario.

[3] Average fee rate = Scenario 1 2008 total annual fee revenue / 2008 total visitor days per year.

[4] Scenario 1 campsite revenue is the actual amount in 2008.

[5] Lost fee revenue = lost visitor days per year * average fee rate.

Table 4
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Day Use Revenue Calculations

Item	Scenario 1 2006 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 25-Foot Buffer 631 Tent/RV Units	Scenario 5 50-Foot Buffer 475 Tent/RV Units	Scenario 6 100-Foot Buffer 283 Tent/RV Units	Scenario 7 673 Tent/RV Units 205 Trailers	Scenario 8 673 Tent/RV Units 150 Trailers	Scenario 9 593 Tent/RV Units 205 Trailers	Scenario 10 773 Tent/RV Units 0 Trailers	Scenario 11 823 Tent/RV Units 0 Trailers
Day Use Units	200	200	200	200	200	200	200	200	200	200	200
Estimated Annual Visitors [1]	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271
Percentage Annual Reduction [2]	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
"Lost" Visitor Days	0	0	0	0	0	0	0	0	0	0	0
Adjusted Visitor Days	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271	8,271
Fee per Visitor	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00	\$7.00
Annual Fee Revenue	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896	\$57,896
Fee Revenue Lost from Scenario 1	n/a	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

[1] Estimated by EPS based on Day Use Revenue and fee rates.
[2] Reductions shown are a rough estimate, and only occur on peak days.

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Table 5
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Annual Semi-Permanent Trailer Rental Revenues

Item	Scenario 1 2008 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 25-Foot Buffer 631 Tent/RV Units	Scenario 5 50-Foot Buffer 473 Tent/RV Units	Scenario 6 100-Foot Buffer 283 Tent/RV Units	Scenario 7 673 Tent/RV Units 205 Trailers	Scenario 8 673 Tent/RV Units 150 Trailers	Scenario 9 593 Tent/RV Units 205 Trailers	Scenario 10 773 Tent/RV Units 0 Trailers	Scenario 11 623 Tent/RV Units 0 Trailers
Semi-Permanent Trailer Units	205	193	0	205	205	205	205	150	205	0	0
Monthly Lease Rate [1]	\$400	\$400	\$400	\$400	\$400	\$400	\$400	\$400	\$400	\$400	\$400
Monthly Lease Revenue	\$82,000	\$77,200	\$0	\$82,000	\$82,000	\$82,000	\$82,000	\$60,000	\$82,000	\$0	\$0
Annual Lease Revenue	\$984,000	\$926,400	\$0	\$984,000	\$984,000	\$984,000	\$984,000	\$720,000	\$984,000	\$0	\$0
Change in Revenue from Scenario 1	n/a	(\$57,600)	(\$984,000)	\$0	\$0	\$0	\$0	(\$264,000)	\$0	(\$964,000)	(\$984,000)

Trailer

[1] The monthly lease rate for trailer rentals has recently increased from \$360 per month (in 2008) to \$400 per month. The lease revenue shown in 2008 is what would have been generated at the updated rate.

Table 6
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Income Statement Reconciliation

Item	2007 Amount	2008 Amount	2009 Amount	Average 2007 - 2009
Revenue				
Campsites	\$1,308,089	\$1,373,383	\$1,183,714	\$1,288,395
Permanent Trailer Rent	\$839,405	\$885,803	\$922,437	\$882,548
Day Use	\$54,583	\$57,869	\$68,842	\$60,431
Subtotal Camping Revenue	\$2,202,077	\$2,317,056	\$2,174,993	\$2,231,375
Misc. Visitor-Serving Revenue [1]	\$873,508	\$637,040	\$676,276	\$728,941
Total Revenue	\$3,075,585	\$2,954,096	\$2,851,269	\$2,960,317
Misc. Visitor-Serving Revenue as a % of Camping Revenue	40%	27%	31%	33%
Cost				
Fixed Expenses				
Fixed Cost of Sales	\$1,451,831	\$1,366,191	\$1,336,305	\$1,384,776
Total Other Expenses	\$499,672	\$632,045	\$373,829	\$501,849
Subtotal Fixed Expenses	\$1,951,503	\$1,998,236	\$1,710,134	\$1,886,624
Variable Expenses				
Merchandise for Resale	\$434,798	\$347,953	\$279,518	\$354,090
Subtotal Variable Expenses	\$434,798	\$347,953	\$279,518	\$354,090
Total Cost	\$2,386,301	\$2,346,189	\$1,989,652	\$2,240,714
Variable Cost as a % of Camping Revenue	20%	15%	13%	16%

"Income"

Sources: Lawson's Landing Income Statements, 2007 through 2009.

[1] Miscellaneous Revenue includes many categories which provide relatively small individual revenue streams. For a detailed breakdown of the largest components of Misc. Visitor Serving Revenue, see Table 7.

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Table 7
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Summary of Miscellaneous Visitor-Serving Revenue

Item	2007 Amount	2008 Amount	2009 Amount	Total 2007 - 2009	% of Total Revenue
Total Revenue	\$3,075,585	\$2,954,096	\$2,851,269	\$8,880,950	100.0%
Misc. Visitor-Serving Revenue					
Part Sales	\$153,961	\$60,319	\$69,900	\$284,180	3.2%
Wood	\$27,090	\$39,757	\$31,554	\$98,401	1.1%
Gasoline	\$63,519	\$51,732	\$4,886	\$120,137	1.4%
Bait	\$31,773	\$28,729	\$23,724	\$84,226	0.9%
Miscellaneous	\$22,572	\$37,590	\$23,798	\$83,960	0.9%
Tackle	\$67,599	\$58,591	\$64,000	\$190,190	2.1%
Propane Sales	\$58,508	\$56,401	\$47,714	\$162,623	1.8%
Garbage, Outside Collection	\$4,271	\$26,260	\$12,909	\$43,440	0.5%
Boat Launch	\$59,703	\$38,430	\$39,931	\$138,064	1.6%
Candy	\$32,729	\$31,929	\$26,232	\$90,890	1.0%
Labor	\$36,989	\$25,901	\$22,637	\$85,527	1.0%
Dept. of Fish & Game	\$46,335	\$46,522	\$49,499	\$142,356	1.6%
Other Misc. Visitor-Serving Revenue [1]	\$268,459	\$134,878	\$259,492	\$662,829	7.5%
Total Misc. Visitor-Serving Revenue	\$873,508	\$637,040	\$676,276	\$2,186,824	24.6%

^amisc

[1] Other Misc. Visitor-Serving Revenue includes several small items that each comprise significantly less than 1% of total revenue.

Table 8A
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Estimated Capital Improvement Costs - Funding Alternative 1

US-FWS and CA Coastal
Conservancy Grant
No Caltrans Easement Funding
No Roadway Cost

Item	Value
Cost	
New Septic System	\$2,224,100
New Store and Office	\$1,225,000
New Roadway Improvements	\$0
New Boat Repair Shop	\$450,000
New Fuel Station	\$200,000
New Toilet and Shower Buildings	\$500,000
Reconstructed Entry Kiosk	\$60,000
Total Improvement Cost	\$4,659,100
Less Grant and Other Funding [1]	
US Fish & Wildlife Service Grant	(\$383,232)
Caltrans Easement Funding	\$0
Total Grant Funding	(\$383,232)
Net Improvement Cost	\$4,275,868
Annual Cost if Amortized Over 20 Years (rounded) [2]	\$429,000

"capital"

[1] See Table 9.

[2] Assumes monthly compounding and an 8% interest rate.

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US-FWS and CA Coastal
Conservancy Grant
Caltrans Easement Funding
No Roadway Cost

Table 8B
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Estimated Capital Improvement Costs - Funding Alternative 2

Item	Value
Cost	
New Septic System	\$2,224,100
New Store and Office	\$1,225,000
New Roadway Improvements	\$0
New Boat Repair Shop	\$450,000
New Fuel Station	\$200,000
New Toilet and Shower Buildings	\$500,000
Reconstructed Entry Kiosk	\$60,000
Total Improvement Cost	\$4,659,100
Less Grant and Other Funding [1]	
US Fish & Wildlife Service Grant	(\$383,232)
Caltrans Easement Funding	(\$435,759)
Total Grant Funding	(\$818,991)
Net Improvement Cost	\$3,840,109
Annual Cost if Amortized Over 20 Years (rounded) [2]	\$385,000

"capital"

[1] See Table 9.

[2] Assumes monthly compounding and an 8% interest rate.

Table 8C
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Estimated Capital Improvement Costs - Funding Alternative 3

US-FWS and CA Coastal
Conservancy Grant
Caltrans Easement Funding
\$2.6 Million Roadway Cost

Item	Value
Cost	
New Septic System	\$2,224,100
New Store and Office	\$1,225,000
New Roadway Improvements	\$2,600,000
New Boat Repair Shop	\$450,000
New Fuel Station	\$200,000
New Toilet and Shower Buildings	\$500,000
Reconstructed Entry Kiosk	\$60,000
Total Improvement Cost	\$7,259,100
Less Grant and Other Funding [1]	
US Fish & Wildlife Service Grant	(\$383,232)
Caltrans Easement Funding	(\$435,759)
Total Grant Funding	(\$818,991)
Net Improvement Cost	\$6,440,109
Annual Cost if Amortized Over 20 Years (rounded) [2]	\$646,000

"capital"

[1] See Table 9.

[2] Assumes monthly compounding and an 8% interest rate.

**Table 9
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Potential Funding Sources**

Funding Source	Amount	Net Amount Available for Lawson's Landing Improvements
<i>Percent Available for Lawson's Landing</i>		<i>45%</i>
US Fish & Wildlife Service and CA Coastal Conservancy Grant	\$1,500,000	
Less maintenance endowment, fees, etc.	(\$648,373)	
Net Grant Amount	\$851,627	\$383,232
Caltrans Mitigation Easement Funding	\$1,836,000	
Less maintenance endowment, fees, etc.	(\$867,646)	
Net Caltrans Mitigation Easement Funding	\$968,354	\$435,759
Total Available Funding	\$1,819,981	\$818,991
		<i>"grant"</i>

Table 10
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Estimated Professional Fees to Entitle Lawson's Landing

Item	Value
Cost	
2003	\$70,526
2004	\$116,156
2005	\$115,205
2006	\$209,845
2007	\$696,411
2008	\$715,477
2009	\$625,632
2010 (est.) [1]	\$100,000
Total Entitlement Cost	\$2,649,253
Annual Cost if Amortized Over 10 Years (rounded) [2]	\$386,000

"entitlement"

- [1] Conservative estimates by EPS and Lawson's Landing.
[2] Assumes monthly compounding and an 8% interest rate.

Table 12
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Weekly Visitor Totals, 2008

Week	Weekly RV Visitors	Weekly Tent Visitors	Total Camping [1]	Number of Sold Out Weeks										Scenario 10 Exceeds 1,746 Unit Threshold [2]	Scenario 11 Exceeds 1,846 Unit Threshold [2]		
				Scenario 1 Exceeds 2,200 Unit Threshold [2]	Scenario 2 Exceeds 940 Unit Threshold [2]	Scenario 3 Exceeds 940 Unit Threshold [2]	Scenario 4 Exceeds 1,452 Unit Threshold [2]	Scenario 5 Exceeds 1,150 Unit Threshold [2]	Scenario 6 Exceeds 766 Unit Threshold [2]	Scenario 7 Exceeds 1,546 Unit Threshold [2]	Scenario 8 Exceeds 1,546 Unit Threshold [2]	Scenario 9 Exceeds 1,386 Unit Threshold [2]	Scenario 10 Exceeds 1,746 Unit Threshold [2]				
12/30-1/5	67	52	119														
1/6-1/12	22	9	31														
1/13-1/19	220	36	256														
1/20-1/26	23	11	34														
1/27-2/2	23	9	32														
2/3-2/9	163	38	201														
2/10-2/16	1,006	272	1,278		338	338											
2/17-2/23	78	62	140					128		512							
2/24-3/1	126	69	195														
3/2-3/8	151	81	232														
3/9-3/15	228	62	290														
3/16-3/22	589	297	886							120							
3/23-3/29	379	283	662														
3/30-4/5	127	133	260														
4/6-4/12	383	245	628														
4/13-4/19	231	139	370														
4/20-4/26	417	271	688														
4/27-5/3	292	216	508														
5/4-5/10	422	328	750														
5/11-5/17	254	219	473														
5/18-5/25	444	660	1,104		164	164											
5/26-5/31	200	235	435														
6/1-6/7	374	386	770														
6/8-6/14	365	489	854														
6/15-6/21	426	526	952														
6/22-6/27	523	516	1,039														
6/28-7/5	533	1,030	1,563														
7/6-7/12	775	903	1,678														
7/13-7/19	855	942	1,797														
7/20-7/26	706	951	1,657														
7/27-8/2	766	972	1,738														
8/3-8/9	731	923	1,654														
8/10-8/16	618	767	1,385														
8/17-8/22	395	419	814														
8/23-8/31	715	883	1,598														
9/1-9/6	491	385	876														
9/7-9/13	482	398	880														
9/14-9/20	456	345	801														
9/21-9/27	378	309	687														
9/28-10/4	435	239	674														
10/5-10/11	612	453	1,065														
10/12-10/18	452	358	810		125	125											
10/19-10/25	N/A	N/A	0														
10/26-11/1	151	52	203														
11/2-11/8	490	140	630														
11/9-11/15	368	167	535														
11/16-11/21	306	87	393														
11/22-11/29	1,103	598	1,701		761	761											
11/30-12/6	98	69	167														
12/7-12/13	39	12	51														
12/14-12/20	2	6	8														
12/21-12/27	60	3	63														
Total	19,550	17,065	36,615	0	7,049	7,049	1,690	4,549	10,048	1,018	1,018	1,018	1,018	2,298	51	0	0

[1] Lawson's Landing's current overall capacity is 1,000 at any given time. The weekly visitor total shown include nightly turnover, and are therefore often greater than the 1,000 campsite capacity. These figures do not include weekly or monthly visitors.
 [2] The capacity thresholds used in this analysis assume that approximately 200 rentals occur during the mid-week and that maximum capacity is reached whenever visitor totals are greater than 200 more than the actual number of Tent/RV Visitor Units presumed under each scenario.

Table 13
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Summary of Lost RV/Tent Visitor Days per Year

Item	Value	2007	2008	Average (rounded)
<u>Scenario 1: 1,000 Campsites</u>				
Daily Capacity	1,000			
Weekly Capacity Threshold [1]	2,200			
Lost Visitor Days When at Maximum Capacity		209	0	100.0
<u>Scenario 2: 370 Campsites</u>				
Daily Capacity	370			
Weekly Capacity Threshold [1]	940			
Lost Visitor Days When at Maximum Capacity		7,861	7,049	7,460
<u>Scenario 3: 370 Campsites</u>				
Daily Capacity	370			
Weekly Capacity Threshold [1]	940			
Lost Visitor Days When at Maximum Capacity		7,861	7,049	7,460
<u>Scenario 4: 631 Campsites</u>				
Daily Capacity	631			
Weekly Capacity Threshold [1]	1,462			
Lost Visitor Days When at Maximum Capacity		2,691	1,690	2,190
<u>Scenario 5: 475 Campsites</u>				
Daily Capacity	475			
Weekly Capacity Threshold [1]	1,150			
Lost Visitor Days When at Maximum Capacity		5,165	4,549	4,860
<u>Scenario 6: 283 Campsites</u>				
Daily Capacity	283			
Weekly Capacity Threshold [1]	766			
Lost Visitor Days When at Maximum Capacity		10,729	10,048	10,390
<u>Scenario 7: 673 Campsites</u>				
Daily Capacity	673			
Weekly Capacity Threshold [1]	1,546			
Lost Visitor Days When at Maximum Capacity		2,271	1,018	1,640
<u>Scenario 8: 673 Campsites</u>				
Daily Capacity	673			
Weekly Capacity Threshold [1]	1,546			
Lost Visitor Days When at Maximum Capacity		2,271	1,018	1,640
<u>Scenario 9: 593 Campsites</u>				
Daily Capacity	593			
Weekly Capacity Threshold [1]	1,386			
Lost Visitor Days When at Maximum Capacity		3,155	2,298	2,730
<u>Scenario 10: 773 Campsites</u>				
Daily Capacity	773			
Weekly Capacity Threshold [1]	1,746			
Lost Visitor Days When at Maximum Capacity		1,271	51	660
<u>Scenario 11: 823 Campsites</u>				
Daily Capacity	823			
Weekly Capacity Threshold [1]	1,846			
Lost Visitor Days When at Maximum Capacity		771	0	390

"capacity"

[1] Weekly capacity thresholds were calculating by counting two weekend days at maximum capacity, plus an assumed average of 200 weekday visitors.

Table 14A
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Fee Rate Sensitivity Analysis - Funding Alternative 1

US-FWS and CA Coastal Conservancy Grant
No Caltrans Easement Funding
No Roadway Cost

Item	Scenario 1 2008 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 25-Foot Buffer 531 TenRV Units	Scenario 5 50-Foot Buffer 475 TenRV Units	Scenario 6 100-Foot Buffer 283 TenRV Units	Scenario 7 673 TenRV Units 205 Trailers	Scenario 8 673 TenRV Units 150 Trailers	Scenario 9 593 TenRV Units 205 Trailers	Scenario 10 773 TenRV Units 0 Trailers	Scenario 11 823 TenRV Units 0 Trailers
Estimated Values [1]											
Total Estimated Revenue	\$3,204,288	\$2,853,924	\$1,624,889	\$3,123,873	\$3,025,821	\$2,822,740	\$3,144,071	\$2,793,828	\$3,104,042	\$1,874,609	\$1,894,524
Total Estimated Expenses [2]	(\$3,084,897)	(\$3,042,988)	(\$2,895,981)	(\$3,075,277)	(\$3,063,549)	(\$3,039,258)	(\$3,077,893)	(\$3,035,800)	(\$3,072,905)	(\$2,925,850)	(\$2,927,036)
Return on Cost	4%	-6%	-44%	2%	-1%	-7%	2%	-8%	1%	-36%	-36%
Sensitivity Analysis											
Camping/RV Visitor Days per Year	49,615	42,155	42,155	47,425	44,755	39,225	47,975	47,975	46,885	48,955	49,225
Revenue Needed for Ten Percent Return	\$3,383,387	\$3,347,287	\$3,185,579	\$3,382,805	\$3,369,904	\$3,343,184	\$3,385,463	\$3,339,380	\$3,380,196	\$3,218,435	\$3,219,740
Camping/RV Sites [3]	\$1,582,472	\$1,660,248	\$2,727,574	\$1,571,694	\$1,582,937	\$1,606,223	\$1,569,378	\$1,873,538	\$1,573,968	\$2,698,940	\$2,697,803
Other [3]	\$1,830,915	\$1,687,039	\$458,005	\$1,811,111	\$1,786,967	\$1,736,961	\$1,816,085	\$1,465,842	\$1,806,228	\$519,495	\$521,937
Current Camping/RV Site Rate	\$28.78	\$39.38	\$64.70	\$33.14	\$35.37	\$40.95	\$32.71	\$39.05	\$33.57	\$55.13	\$54.81
Modified Camping/RV Site Rate [4]	\$31.49	(\$3,042,988)	(\$2,895,981)	(\$3,075,277)	(\$3,063,549)	(\$3,039,258)	(\$3,077,893)	(\$3,035,800)	(\$3,072,905)	(\$2,925,850)	(\$2,927,036)
Estimated Expenses	(\$3,084,897)	(\$3,042,988)	(\$2,895,981)	(\$3,075,277)	(\$3,063,549)	(\$3,039,258)	(\$3,077,893)	(\$3,035,800)	(\$3,072,905)	(\$2,925,850)	(\$2,927,036)
Modified Return on Cost	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%

[1] See Table 2A.
 [2] Includes entitlement costs and capital costs.
 [3] Campsite fees were increased to levels which would result in a 10% return. All other revenue and all expenses were held constant.
 [4] Camping/RV rate required to receive 10% return on cost.

Table 14B
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Fee Rate Sensitivity Analysis - Funding Alternative 2

US-FWS and CA Coastal Conservancy Grant
Caltrans Easement Funding
No Roadway Cost

Item	Scenario 1 2006 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 25-Foot Buffer 631 Tent/RV Units	Scenario 5 50-Foot Buffer 475 Tent/RV Units	Scenario 6 100-Foot Buffer 283 Tent/RV Units	Scenario 7 673 Tent/RV Units 205 Trailers	Scenario 8 673 Tent/RV Units 150 Trailers	Scenario 9 593 Tent/RV Units 205 Trailers	Scenario 10 773 Tent/RV Units 0 Trailers	Scenario 11 923 Tent/RV Units 0 Trailers
Estimated Values [1]											
Total Estimated Revenue	\$3,204,298	\$2,863,924	\$1,624,989	\$3,123,873	\$3,025,621	\$2,822,740	\$3,144,071	\$2,793,828	\$3,104,042	\$1,874,609	\$1,894,524
Total Estimated Expenses [2]	(\$3,040,897)	(\$2,998,988)	(\$2,851,981)	(\$3,031,277)	(\$3,019,549)	(\$2,995,268)	(\$3,033,683)	(\$2,991,800)	(\$3,028,905)	(\$2,881,850)	(\$2,883,036)
Return on Cost	5%	-6%	-43%	3%	0%	-6%	4%	-7%	2%	-	-35%
Sensitivity Analysis											
Camping/RV Visitor Days per Year	49,615	42,155	42,165	47,425	44,755	39,225	47,975	47,975	46,855	48,955	49,225
Revenue Needed for Ten Percent Return	\$3,344,987	\$3,298,887	\$3,137,179	\$3,334,405	\$3,321,504	\$3,294,784	\$3,337,063	\$3,290,980	\$3,331,796	\$3,170,035	\$3,171,340
Camping/RV Sites [3]	\$1,514,072	\$1,511,848	\$2,679,174	\$1,623,294	\$1,534,637	\$1,557,823	\$1,520,978	\$1,525,138	\$1,525,568	\$2,560,940	\$2,649,403
Other [3]	\$1,830,915	\$1,687,039	\$458,005	\$1,811,111	\$1,786,967	\$1,736,961	\$1,816,085	\$1,465,842	\$1,806,228	\$519,495	\$521,937
Current Camping/RV Site Rate	\$26.78										
Modified Camping/RV Site Rate [4]	\$30.52	\$38.24	\$63.56	\$32.12	\$34.29	\$39.72	\$31.70	\$38.04	\$32.54	\$64.14	\$53.82
Estimated Expenses	(\$3,040,897)	(\$2,998,988)	(\$2,851,981)	(\$3,031,277)	(\$3,019,549)	(\$2,995,268)	(\$3,033,683)	(\$2,991,800)	(\$3,028,905)	(\$2,881,850)	(\$2,883,036)
Modified Return on Cost	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%

[1] See Table 2B.
 [2] Includes entitlement costs and capital costs.
 [3] Campsite fees were increased to levels which would result in a 10% return. All other revenue and all expenses were held constant.
 [4] Camping/RV rate required to receive 10% return on cost.

Table 14C
Lawson's Landing Economic Feasibility Analysis - 2010 Update
Fee Rate Sensitivity Analysis - Funding Alternative 3

US-FWS and CA Coastal Conservancy Grant
Caltrans Easement Funding
\$2.6 Million Roadway Cost

Item	Scenario 1 2008 Operations	Scenario 2 County-Approved Master Plan	Scenario 3 Removal of Semi- Permanent Trailer Sites	Scenario 4 35-Foot Buffer 631 Tent/RV Units	Scenario 5 50-Foot Buffer 475 Tent/RV Units	Scenario 6 100-Foot Buffer 283 Tent/RV Units	Scenario 7 673 Tent/RV Units 205 Trailers	Scenario 8 673 Tent/RV Units 150 Trailers	Scenario 9 593 Tent/RV Units 205 Trailers	Scenario 10 773 Tent/RV Units 0 Trailers	Scenario 11 823 Tent/RV Units 0 Trailers
Estimated Values [1]											
Total Estimated Revenue	\$3,204,288	\$2,853,924	\$1,524,899	\$3,123,873	\$3,025,821	\$2,822,740	\$3,144,071	\$2,793,828	\$3,104,042	\$1,874,609	\$1,884,524
Total Estimated Expenses [2]	(\$3,301,897)	(\$3,259,988)	(\$3,112,981)	(\$3,292,277)	(\$3,280,549)	(\$3,256,258)	(\$3,294,693)	(\$3,252,800)	(\$3,289,905)	(\$3,142,850)	(\$3,144,036)
Return on Cost	-3%	-12%	-48%	-5%	-8%	-13%	-5%	-14%	-6%	-40%	-40%
Sensitivity Analysis											
Camping/RV Visitor Days per Year	49,615	42,155	42,155	47,425	44,755	39,225	47,975	47,975	46,885	48,955	49,225
Revenue Needed for Ten Percent Return	\$3,632,087	\$3,585,987	\$3,424,279	\$3,621,505	\$3,606,604	\$3,581,884	\$3,624,163	\$3,578,080	\$3,618,896	\$3,457,135	\$3,458,440
Camping/RV Sites [3]	\$1,801,172	\$1,886,948	\$2,966,274	\$1,810,394	\$1,921,637	\$1,844,923	\$1,808,078	\$2,112,238	\$1,812,668	\$2,937,640	\$2,936,503
Other [3]	\$1,830,915	\$1,687,039	\$458,005	\$1,811,111	\$1,786,967	\$1,736,961	\$1,816,085	\$1,465,842	\$1,806,228	\$519,495	\$521,937
Current Camping/RV Site Rate	\$26.78		\$70.37	\$38.17	\$40.70	\$47.03	\$37.69	\$44.03	\$38.66	\$60.01	\$59.65
Modified Camping/RV Site Rate [4]	\$36.30	\$45.05									
Estimated Expenses	(\$3,301,897)	(\$3,259,988)	(\$3,112,981)	(\$3,292,277)	(\$3,280,549)	(\$3,256,258)	(\$3,294,693)	(\$3,252,800)	(\$3,289,905)	(\$3,142,850)	(\$3,144,036)
Modified Return on Cost	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%

[1] See Table 2C.
 [2] Includes entitlement costs and capital costs.
 [3] Campsite fees were increased to levels which would result in a 10% return. All other revenue and all expenses were held constant.
 [4] Camping/RV rate required to receive 10% return on cost.

**Table 15
Lawson's Landing Economic Feasibility Analysis
State of California Drive-In/Developed Campground Fees; 2009**

Campground	Location	Season Rate	
		Peak	Non-Peak
Borrego Palm Canyon	Anza-Borrego Desert SP	\$20	\$15
Bullfrog Pond	Austin Creek SRA	\$15	\$15
Benbow Lake	Benbow Lake SRA	\$20	\$20
Big Basin Drive-In (RVs/Tents)	Big Basin Redwoods SP	\$25	\$25
Big Basin Accessible	Big Basin Redwoods SP	\$25	\$25
Bothe-Napa Valley	Bothe-Napa Valley SP	\$25	\$25
Brannan Island	Brannan Island SRA	\$20	\$15
Butano Drive-In	Butano SP	\$25	\$25
Oak Hollow	Calaveras Big Trees SP	\$25	\$20
North Grove	Calaveras Big Trees SP	\$25	\$20
San Miguel (Inland)	Carpinteria SB	\$25	\$20
Anacapa/Santa Cruz-35	Carpinteria SB	\$25	\$20
Anacapa/Santa Cruz-28	Carpinteria SB	\$25	\$20
Castle Crags	Castle Crags SP	\$20	\$15
Castle Rock	Castle Rock SP	\$25	\$25
Caswell Memorial	Caswell Memorial SP	\$20	\$15
Lower & Upper Bayview	Clear Lake SP	\$20	\$15
Cole Creek	Clear Lake SP	\$20	\$15
Kelsey Creek	Clear Lake SP	\$20	\$15
Family	Colusa-Sacramento River SRA	\$15	\$12
Colusa-Sacramento River	Colusa-Sacramento River SRA	\$15	\$12
Paso Picacho	Cuyamaca Rancho SP	\$20	\$15
Green Valley	Cuyamaca Rancho SP	\$20	\$15
D.L. Bliss	D.L. Bliss SP	\$25	\$20
Mill Creek	Del Norte Coast Redwoods SP	\$20	\$20
Doheny Island	Doheny SB	\$25	\$20
Donner Memorial	Donner Memorial SP	\$25	\$20
El Capitan	El Capitan SB	\$25	\$20
Del Mar	El Capitan SB	\$25	\$20
Eagle Pointe	Emerald Bay SP	\$25	\$20
Beals Point	Folsom Lake SRA	\$20	\$15
Peninsula	Folsom Lake SRA	\$20	\$15
Reef Campground	Fort Ross SHP	\$15	\$15
Gaviota	Gaviota SP	\$25	\$20
Grizzly Creek Redwoods	Grizzly Creek Redwoods SP	\$20	\$20
Grover Hot Springs	Grover Hot Springs SP	\$25	\$20
Half Moon Bay	Half Moon Bay SB	\$25	\$25
Hendy Woods	Hendy Woods SP	\$25	\$20
Henry Cowell Redwoods	Henry Cowell Redwoods SP	\$25	\$25
Hollister Hills	Hollister Hills SVRA	\$10	\$10
Burlington	Humboldt Redwoods SP	\$20	\$20
Hidden Springs	Humboldt Redwoods SP	\$20	\$20
Cuneo Creek Family Horse Camp	Humboldt Redwoods SP	\$20	\$20
Albee Creek	Humboldt Redwoods SP	\$20	\$20
Indian Grinding Rock/Chawse	Indian Grinding Rock/Chawse SHP	\$20	\$15
Loafer Creek	Lake Oroville SRA	\$18	\$13
Luiseno	Lake Perris SRA	\$25	\$20
Canyon	Leo Carrillo SP	\$25	\$20
Limekiln	Limekiln SP	\$25	\$20
MacKerricher	MacKerricher SP	\$25	\$20
Malibu Creek	Malibu Creek SP	\$25	\$20
Manresa	Manresa SB	\$25	\$25
McArthur-Burney Falls Memorial	McArthur-Burney Falls Memorial	\$20	\$15
McConnell	McConnell SRA	\$20	\$15
McGrath	McGrath SB	\$25	\$20
Millerton Lake	Millerton Lake SRA	\$25	\$20
Morro Bay	Morro Bay SP	\$25	\$20
Morro Strand	Morro Strand SB	\$25	\$20
Live Oak Campground	Mount Diablo SP	\$20	\$15
Juniper Campground	Mount Diablo SP	\$20	\$15

Table 15
Lawson's Landing Economic Feasibility Analysis
State of California Drive-In/Developed Campground Fees; 2009

Campground	Location	Season Rate	
		Peak	Non-Peak
Idyllwild	Mount San Jacinto SP	\$20	\$15
New Brighton	New Brighton SB	\$25	\$25
Doan Valley	Palomar Mountain SP	\$20	\$15
Penn Creek	Patrick's Point SP	\$20	\$20
Agate	Patrick's Point SP	\$20	\$20
Abalone	Patrick's Point SP	\$20	\$20
Pfeiffer Big Sur	Pfeiffer Big Sur SP	\$25	\$20
Pismo-Oceano Campground	Pismo SB	\$25	\$20
Pismo-North Beach Campground	Pismo SB	\$25	\$20
North Beach	Pismo SB	\$25	\$20
Plumas-Eureka	Plumas-Eureka SP	\$20	\$20
Big Sycamore Canyon	Point Mugu SP	\$20	\$20
Portola (RV Tent)	Portola Redwoods SP	\$25	\$25
Elk Prairie	Prairie Creek Redwoods SP	\$20	\$20
Gold Bluffs Beach	Prairie Creek Redwoods SP	\$15	\$15
Ricardo Campground	Red Rock Canyon SP	\$12	\$12
Refugio	Refugio SB	\$25	\$20
Huckleberry & Madrone	Richardson Grove SP	\$20	\$20
Oak Flat	Richardson Grove SP	\$20	\$20
Russian Gulch	Russian Gulch SP	\$25	\$20
Joshua Tree	Saddleback Butte SP	\$12	\$12
Gerstle Cove	Salt Point SP	\$25	\$25
Woodside	Salt Point SP	\$25	\$25
Headquarters	Salton Sea SRA	\$17	\$12
Samuel P. Taylor	Samuel P. Taylor SP	\$25	\$20
San Clemente	San Clemente SB	\$25	\$20
San Luis Creek	San Luis Reservoir SRA	\$25	\$20
Basalt	San Luis Reservoir SRA	\$20	\$15
San Mateo	San Onofre SB	\$25	\$20
Bluffs	San Onofre SB	\$25	\$20
San Simeon Creek	San Simeon SP	\$25	\$20
Silver Strand (Inland)	Silver Strand	\$25	\$20
Mesa	Silverwood Lake SRA	\$25	\$20
Needle Rock Barn	Sinkyone Wilderness SP	\$20	\$20
Wright's Beach	Sonoma Coast SB	\$25	\$25
Bodega Dunes	Sonoma Coast SB	\$25	\$25
South Carlsbad Inland	South Carlsbad SB	\$25	\$20
Hickey & Rock Creek	Standish-Hickey SRA	\$20	\$20
Redwood	Standish-Hickey SRA	\$20	\$20
Sugar Pine Point	Sugar Pine Point SP	\$25	\$20
Sugarloaf Ridge	Sugar Loaf Ridge SP	\$20	\$20
Sunset	Sunset SB	\$25	\$25
Lakeside	Tahoe SRA	\$25	\$20
Turlock Lake	Turlock Lake SRA	\$20	\$15
Van Damme	Van Damme SP	\$20	\$20
Woodson Bridge	Woodson Bridge SRA	\$14	\$11
Average		\$22	\$19

"camping_costs"

Table 16
Lawson's Landing Economic Feasibility Analysis
Comparable Private Campground Fee Rates

Campground	Nightly Rate
Bodega Bay RV Park	
Dry Camp (No Hookups)	\$28
Hookups Sites	\$40
Olema Ranch Campground [1]	
Tent Site	\$39
RV Site	\$53

"private_fees"

[1] Rates are for peak weekend days.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 08/09/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV090747

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PETITIONER: ALLIANCE OF
PERMANENT TRAILERS, ET AL

and

RESPONDENT: COUNTY OF MARIN, ET
AL

NATURE OF PROCEEDINGS: PETITION – TO CONFIRM ARBITRATOR’S AWARD
[PETR] ALLIANCE OF PERMANENT TRAILERS

RULING

THE PETITION TO CONFIRM ARBITRATION AWARD IS GRANTED. ENVIRONMENTAL ACTION COMMITTEE OF WEST MARIN (“EAC”) HAS NOT SHOWN THAT “[T]HE ARBITRATORS EXCEEDED THEIR POWERS AND THE AWARD CANNOT BE CORRECTED WITHOUT AFFECTING THE MERITS OF THE DECISION UPON THE CONTROVERSY SUBMITTED.” (CODE CIV. PROC., § 1286.2, SUBD. (a)(4).)

EAC CITES NO AUTHORITY IN SUPPORT OF ITS ARGUMENT THAT THE PARTIES CANNOT AGREE TO HAVE AN ARBITRATOR DECIDE A MATTER “CONFIDED TO THE COURTS.” IN FACT, “THE GENERAL STATUTORY PROVISIONS GOVERNING ARBITRATION PERMIT PARTIES TO CONFER SUBJECT MATTER JURISDICTION ON ARBITRATORS OVER AN ISSUE BY AGREEMENT...” (*GLASSMAN V. MCNAB* (2003) 112 CAL.APP.4TH 1593, 1601.)

AS TO EAC’S PRIMARY JURISDICTION ARGUMENT, THE ARBITRATOR’S AWARD DOES NOT CHANGE THE FACT THAT REAL PARTIES IN INTEREST AND, PRESUMABLY, PETITIONERS (AS “[A]NY PERSON CLAIMING A VESTED RIGHT IN A DEVELOPMENT”) MUST COMPLY WITH THE VESTED RIGHTS CLAIM PROCEDURE. THE EFFECT OF THE ARBITRATOR’S AWARD ON ANY EFFORT TO OBTAIN A VESTED RIGHTS DETERMINATION IS APPROPRIATELY LEFT TO THE COASTAL COMMISSION TO DECIDE. SUCH ISSUE IS BEYOND THE SCOPE OF THE PROCEEDINGS PRESENTLY BEFORE THE COURT.

AS TO EAC'S LACK OF STANDING ARGUMENT, THE ARBITRATOR DETERMINED THAT PETITIONERS HAD STANDING. EVEN IF THE ARBITRATOR WAS WRONG, THIS IS NOT A PROPER BASIS FOR CHALLENGING THE AWARD. (*MONCHARSH V. HEILY & BLASE* (1992) 3 CAL.4TH 1, 11.)

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7
8
9
10

ALLIANCE OF PERMANENT)
TRAILERS, et al.)

Petitioners/Plaintiffs,)

vs.)

COUNTY OF MARIN, BOARD)
OF SUPERVISORS OF THE)
COUNTY OF MARIN and DOES)
I through X, inclusive,)

Respondents/Defendants.)

_____)
NANCY L. VOGLER, et al.)

_____)
Real Parties in Interest.)

11
12

ARBITRATOR'S AWARD

1 This is an unusual arbitration proceeding in which I have been
2 given very little context for my decision. I have not seen the
3 settlement agreement that led the parties to pose the sole question they
4 have asked me to decide. Nor has the purpose for which my award
5 will be used been made clear. However, my analysis is that the law
6 favors settlement and agreements to arbitrate. So, while I do not know
7 how this Award will be used, I conclude it appropriate, as to the
8 parties to this arbitration, to proceed through the presentation of
9 evidence to reach an Award.

10 This arbitration has been conducted pursuant to a written
11 Arbitration Agreement, a copy of which is attached as Ex. A. The
12 parties to the arbitration are the Petitioners in the underlying litigation
13 in the Marin Superior Court, CIV 090747 (“the Litigation”), the
14 County of Marin and the Board of Supervisors of the County of
15 Marin. Petitioners are the Alliance of Permanent Trailers (“APT”), an
16 unincorporated association of trailer owners who rent space at
17 Lawson's Landing in Marin County to park their trailers, and three of
18 its members. A list of the names of the individual Petitioners in the
19 underlying litigation is attached as Ex. B.

20 Pursuant to a representation by counsel for Petitioners, the three

1 individual Petitioners (the "Litigation Committee") were elected
2 by the members of APT and given written authorization to make legal
3 decisions on behalf of all the members, including the execution of the
4 Arbitration Agreement.

5

6 QUESTION PRESENTED FOR DECISION

7 Notwithstanding the broad language of the Arbitration Agreement, counsel
8 have assured me of their agreement that I am presented with only one question:
9 Did 150 legal non-conforming spaces for trailer use exist on Larson's Landing in
10 1965?

11 Given that my assignment is to answer this agreed upon single question
12 that I am to decide, I am not prepared to address and do not address in this Award
13 other questions presented in the arbitration, such as (1) the location of the 150
14 spaces (which the Arbitration Agreement does not authorize me to decide in any
15 event); (2) the government's power to apply various laws to these 150 spaces
16 (which, again the Arbitration Agreement does not authorize me to decide); and
17 (3) the definition of "space".

18 I have been asked to provide a "reasoned" decision. While I shall give the
19 parties a reasoned decision, based on my interpretation of the language used in
20 the Arbitration Agreement, I conclude that this award is governed by *Moncarsh*

1 v. *Heily & Blasé*, 3 Cal.4th 1 (1992). If the parties had wanted to have this
2 arbitration governed by some rule other than *Moncarsh*, they could have so
3 provided. They did not.

4 All sides have confirmed to me that I am not in the position where I am
5 reviewing administrative action. This one issue is presented to me *de novo*.

6
7 THE RECORD UPON WHICH THIS AWARD WAS BASED

8 This Award is based on the following Record. If something is not listed
9 below, it is not in the record:

10 a. The three-volume Administrative Record.

11 b. The pleadings in the trial court on the EAC motion to intervene,
12 which pleadings were admitted for the limited purpose only of determining
13 whether EAC should be allowed to be heard in this Arbitration. E-mails from
14 Mr. Silver, with copies to counsel, on this motion to intervene. Neither those
15 pleadings, nor any attached declaration, nor anything else produced on the EAC
16 issue was considered in reaching the merits of this arbitration.

17 c. The APT Opening Brief, including the Excerpts from the Record.

18 d. The County's Brief and the attached declaration.

19 e. The APT Reply brief.

20 f. A short brief by Real Party in Interest stating that it is neutral.

1 Apparently, although RPI signed the Arbitration Agreement, RPI is bound by an
2 order of the Coastal Commission not to participate in this matter.

3 Not part of this record and not relied upon by me are anything not listed
4 above; anything that is unwritten, including anything said in a telephone
5 conference unless reduced to a writing and listed above; arguments of counsel
6 and citations by counsel of case and statutory law not found in the briefs; and all
7 e-mails between counsel for the parties and myself.

8
9 PRELIMINARY RULINGS

10 1. Given the authority granted by the APT members to the Litigation
11 Committee, I conclude that all the individual tenants in the original pleadings are
12 bound by this Award.

13 2. I am troubled by the representation that RPI is constrained an Order
14 of the Coastal Commission. See Ex. C Because of how RPI is constrained, it
15 occurred to me to limit the impact of this award on RPI. The County objected to
16 any such limitation. I ultimately conclude that, RPI having signed the Arbitration
17 Agreement, RPI is bound by this Award.

18 3. EAC, represented by attorney Larry Silver, sought to intervene in
19 this arbitration. I have concluded that EAC will not be heard in this arbitration,
20 as amicus or otherwise, on any issue, including my jurisdiction. I found no

1 unambiguous instruction in the trial court proceedings to the contrary.
2 Moreover, the trial court instructed that EAC be given notice of any motion to
3 confirm this award. These factors, together with the Arbitration Agreement, lead
4 me to exercise my discretion not to allow EAC to intervene.

5 4. I also conclude that APT and the individual tenant members have
6 standing to press this claim. While the real property interest of APT and the APT
7 members is not the same as the RPI, the APT members are not transitory tenants
8 who are there for a day and gone. They have been using the property for their
9 trailers for some time and have a reasonable expectation of continuing use, unless
10 it is determined that the use is unlawful.

11 5. It is my opinion that this award should not be entitled to normal
12 collateral estoppel rules governing claims presented or that could be presented.
13 By that I mean, rules that bind parties as to all issues that could have been
14 litigated have no place when considering the impact of this Award. This Award
15 should only have impact as to the one issue addressed in the Award.

16

17 AWARD SOUGHT BY THE PARTIES.

18 At my request, each party provided a statement of what they would like to
19 see in the "action" part of the award.

20 APT wrote as follows:

1 "Based on the evidence adduced herein, the Arbitrator finds that a
2 legal right to a vested nonconforming use as to 150 recreational vehicle lots
3 exists at Lawson's Landing upon which certain individual members of APT
4 have leasehold interests to place personal property, including, but not limited
5 to, recreational vehicles such as motor homes, travel trailers, truck campers, or
6 camping trailers designed for human habitation for recreation or seasonal use.
7 These 150 lots are determined herein to be legally vested nonconforming and
8 exempt from conditions unrelated to health and safety standards. These 150
9 lots are delineated on the "Map of Lawson's Landing," which is attached
10 hereto as Exhibit A and incorporated herein."
11

12 The County's submission is as follows:

13 "Based upon the evidence, authority and argument presented herein,
14 the Arbitrator finds that as of January 25, 1966 the establishment of a
15 recreational vehicle park in the unincorporated part of Marin County --and any
16 lots constituting that use- required both a use permit from Marin County as
17 well as permits to construct and operate from the State of California as the
18 "enforcement agency" under the Mobilehomes Parks Act. The Real Party in
19 Interest herein had none of these permits. Therefore none of the recreational
20 vehicle sites constitute legal nonconforming use. Neither the doctrines of
21 estoppel nor laches change this conclusion.
22

23 Alternatively, if the Arbitrator finds some number of the recreational
24 vehicle lots do constitute a legal nonconforming use, and further finds a basis
25 for addressing Petitioner's claim with respect to the condition on the use of the
26 vehicles themselves:
27

28 Based upon the evidence, authority and argument presented herein,
29 the Arbitrator finds that as of January 25, 1966, recreational vehicle lots
30 constitute a legal nonconforming use. However, that finding does not
31 invalidate a subsequently enacted regulation limiting the time any particular
32 recreational vehicle can occupy a site in any given year where those
33 recreational vehicles are owned by persons other than the underlying property
34 owner, and have only month-to-month leasehold interests at the time the
35 regulation is established."
36

37 I considered the draft "action" supplied by both sides. I then reconfirmed
38 with counsel that the agreement counsel reached was limited to my addressing

1 only one limited question: In 1965 were there 150 (or some other number) of
2 legal non-conforming trailer spaces at Lawson Landing. I have therefore
3 declined to provide an action Award or reach any issue beyond that one issue,
4 because other issues were not given to me in the agreement reached by counsel.

5

6 FACTS

7 Notwithstanding certain objections, all evidence in the record has been
8 accepted by me into evidence. Allowing the evidence in, however, does not
9 resolve the role it plays in my analysis. In particular, I have given little or no
10 weight to a recollection by one party of what another party said many years ago,
11 unless it is accompanied by undisputable evidence of unambiguous action.

12 a. Facts alleged by APT

13 I reprint here the facts alleged by APT in its Opening Brief, except as to
14 testimony for which I have given no weight. I have used “***” to indicate where
15 I deleted such testimony. The bold type in brackets indicates my explanation for
16 the deletion or other commentary. The footnotes are APT’s.

17 “The 960-acre ocean and bay front Property, located in
18 unincorporated Marin County at the confluence of Tomales Bay and the
19 Pacific Ocean, was acquired by the Lawson family in the 1920s, and
20 ownership has remained in the Lawson family ever since. (AR, at p. 384.)
21 Ranching and public recreational activities were present on the Property when

1 it was acquired by the Lawsons. (AR, at p. 308.) Public recreation operations
2 began in the early 1900s with construction of a boathouse and pier. (*Ibid.*)
3 The Lawson family maintained the Property for the enjoyment of the public
4 and it has been utilized for that purpose, as well as ranching, ever since.

5 In the 1930s and 1940s, public recreational use of the Property
6 increased and informal campsites were established in a meadow area. (AR, at
7 p. 309, 442.) During World War II, the Army took over the Property for
8 military use. (AR, at p. 192.) After the War, in the late 1940s, the County
9 road leading to the Property was finally extended down to the beach and bay.
10 (AR, at p. 192-193.)

11 After installation of the road allowing convenient access to the
12 beach, bay and pier, public use of the Property substantially increased. In the
13 1950s, the public began to bring recreation trailers to Lawson's Landing so
14 that they could enjoy the comfort of a home setting while participating in
15 coastal recreational activities such as beachcombing, clam digging, camping,
16 boating and fishing in a striking, scenic setting. (AR, at p. 385.) Several of
17 these trailers remained on the Property on a permanent basis beginning in or
18 about 1959. (AR, at pp. 385, 442, 629, 706.)

19 After the Lawson family realized there was a demand for a
20 recreational trailer park where families could leave their trailers year-round,
21 Merle Lawson, the Lawson family's representative at the time, contacted the
22 Marin County Planning Department to apply for a permit for establishment of
23 a recreational trailer park. (AR, at p. 629, 706.) ***** **[I am not**
24 **prepared to put any weight on Mr. Lawson's testimony that he was told**
25 **over 50 years ago by someone at the County that the County had no**
26 **jurisdiction and that he had to go to the State. I do accept that starting**
27 **at this time Mr. Lawson began working with the State. I also have seen**

1 no evidence that during this time Mr. Lawson was working with the
2 County. Where I see some ambiguity is whether he was told that the
3 County had no jurisdiction.]

4 Mr. Lawson continued to work with Mr. Graham until about
5 November of 1965. (*Ibid.*) At that time, Mr. Lawson was instructed by the
6 new State Housing Inspector, Mr. Graham's successor, to ask the County for a
7 use permit.¹ (*Ibid.*) **[I am accepting this testimony because it is consistent**
8 **with the actions of Mr. Lawson and the change of law at that time.]** At
9 that time, approximately 150 trailers were parked at Lawson's Landing. (AR,
10 at pp. 002-005, 007, 118, 630.) On December 14, 1965, at the request of the
11 County,² the State Division of Housing transferred jurisdiction of trailer parks
12 in the County to the County. (AR , at p. 116, 117.) Three weeks later, the
13 Board adopted Ordinance 1492, which rezoned interim "Zone D" districts, the
14 district assigned to the Property, to A-2 districts (Limited Agricultural). (AR,
15 at p. 443.) Permitted and conditionally permitted uses in A-2 districts did not
16 include trailer parks and campgrounds that were possible under the prior,
17 Zone D district. (*Ibid.*) However, the recreational trailer park at Lawson's
18 Landing was already established and operating.

19 On January 22, 1968, the County Planning Commission (hereafter
20 "Commission") approved the Petition for Rezoning. The Staff Report states
21 that the 'change of zone will not affect the [Ag Preserve] Agreement, but
22 ...the RCR plan approval is restricted to the existing trailer and boating
23 facility development because any additional development would be a violation

¹/ All records pertaining to the years the State was administering the Property under State law were destroyed by HCD in 1994, and are otherwise missing from the County's records. (AR, at pp. 385, 414, 723, 733, 737, 749.)

²/The 1961 Mobilehomes and Mobilehomes Park Act provided a provision for which localities could assume enforcement authority upon written notice to the State. (AR, at p. 103.)

1 of the Ag Agreement.' (AR, at p. 128.) The Board subsequently approved the
2 Petition for Rezoning on February 20, 1968. (AR, at pp. 131-132.)

3 On August 21, 1970, County Counsel delivered an "Inter-
4 Office Memorandum" to the Planning Director which states in pertinent part:

5 There are no definite facts available to indicate when the trailer park
6 use first occurred in this area. However, it would appear that there was such
7 use prior to the adoption of the zoning ordinance. ... There is obviously
8 nothing the County could do as to the legal non-conforming use (other than
9 health and building standards) except for the leverage which the County can
10 exert over the approval of the illegal non-conforming uses and of the general
11 plan...since the Board of Supervisors would have the ultimate decision on
12 amending the Agricultural Preserve Agreement (which is a condition to the
13 effectiveness of the use permit), it would appear that a considerable amount of
14 ultimate power resides in the Board of Supervisors. It may well be that legal
15 action by Mr. Lawson would resolve these issues in its favor. However, until
16 this point is pushed by Mr. Lawson, I would think it preferable if the Planning
17 Commission acted in accord with the direction of the Board of Supervisors.
18

19 Therefore, at this stage, I would suggest that the Planning
20 Commission require the submission of a master plan...It may well be that
21 Lawson will be able to prove the status of a portion of this existing
22 development as a legal non-conforming use and insist that this be allowed to
23 continue subject to meeting health and building code standards. In this case,
24 only the remaining area would be subject to master plan approval. However,
25 with the power to not approve the overall master plan, the Commission should
26 be able to encourage some improvement in even the legal non-conforming use
27 portion.
28

29 (AR, at pp. 152-154.) *****[I am not prepared to put
30 any weight on Mr. Lawson's recollection that "County staff" told him
31 that the County did not have jurisdiction". Without any indication of
32 who said it and in what context, or any corroboration, this is just too
33 vague and unreliable a memory.]

1
2 **[As far as I can see in the record, the County remained**
3 **uninvolved with the Property during the period the State had**
4 **jurisdiction.]**

5 In July 1961, the Legislature repealed the Act and enacted a new
6 Mobilehomes and Mobilehomes Park Act (“Mobilehomes Park Act”) to
7 regulate the construction and operation of mobilehome parks in California.
8 The Mobilehomes Park Act specified that State law superseded any local
9 mobilehome ordinances and provided that cities and counties could assume
10 responsibility to enforce the law if they desired. (AR, at p. 103.) On
11 December 14, 1965, the County formally assumed enforcement of
12 mobilehome parks. (AR, at p. 117.) One month later, the County adopted
13 Ordinance 1492, which rezoned the Property to a district that entirely
14 prohibited trailer parks. (AR, at p. 443.)”

15
16
17 b. County’s objections to APT’s Assertion of Facts

18 The County made two major objections to the factual presentation by APT.
19 First is Petitioners’ use of the uncorroborated declaration and letter of an
20 interested party to establish that the County led the declarant to believe the
21 County had no jurisdiction over camping or park trailers at Lawson’s Landing.
22 (AR 629, 706; see also Petitioners’ brief at page 3.)

23 The second involves Mr. Lawson’s 1970 letter and new declaration
24 regarding his development efforts. (AR 155-157 and 628-639). The County

1 believes that the cumulative effect of new and continuously changing laws on the
2 Lawson's Landing project are at the core of Mr. Lawson's "dismay" and indeed
3 the dismay of his successors at the Landing as well as innumerable other
4 developers throughout California. I think both of these objections are well
5 founded, though I have used them to affect the weight that I give the evidence,
6 rather than to strike certain evidence. I have reflected my agreement with the
7 County's objections in my analysis.

8

9 LAW

10 a. Laches and Estoppel

11 APT has argued at some length that the legal doctrines of laches and
12 estoppel should be used to resolve this case. I reject those arguments for the
13 reasons discussed below.

14 There are three elements to application of laches against a governmental
15 entity: (1) unreasonable delay; (2) acquiescence or prejudice; and (3) a showing
16 of injustice to the private litigant which outweighs any effect on the public
17 interest. (*City of Long Beach v. Mansell*, 3 Cal.App.3d at pp. 496 - 497.) The
18 elements of equitable estoppel, in turn, are: (1) the party to be estopped must be
19 apprised of the facts; (2) he must intend that his conduct shall be acted upon, or
20 must so act that the party asserting the estoppel had a right to believe it was so

1 intended; (3) the other party must be ignorant of the true state of facts; and (4)
2 that party must rely upon the conduct to his injury. (*Mansell*, 3 Cal.3d at at 489.)

3 In the land use area, courts and arbitrators must be careful to avoid
4 applying either doctrine to recognize a legal right that will greatly restrict
5 government. All property owners are subject to regulation. If a court or arbitrator
6 singles out one property owner for protection then the government plan may
7 founder. In addition, it is my view that it is not right or fair to use laches or
8 estoppel against a government entity when the property owner's evidence is a
9 recollection of something that occurred years ago and for which there is no
10 contemporaneous, corroborative writing. If one is seeking to create a vested
11 right, one should have something in writing. Otherwise, all property will become
12 subject to the vagaries of people's recollections.

13 b. The County's "vehicle" argument

14 The County asserts that APT is really not arguing about "spaces" but about
15 the trailer uses, which, so the County argues, inevitably entangles us in the law
16 regulating trailers. I do not agree. My analysis is that these tenants are seeking
17 to protect from impairment by the County spaces for which they have current
18 leases. While they do not own the spaces, they do have some cognizable
19 property rights because they each have a written lease. It is through that written
20 lease, derivatively from RPI, that APT seeks relief. Certainly nothing in this

1 Award is designed in any way to have any impact on state or local law that
2 regulates what it means to have a legal trailer. I note, for example, that in other
3 contexts the parties seem to be struggling over the question of how many days
4 someone can use these spaces. That issue is not before me and I am not
5 addressing it.

6 c. Legal non-conforming use

7 The main argument made by APT is that RPI has a legal non-
8 conforming right to 150 spaces that was vested in 1965 and that APT and its
9 members have some rights because of RPI's rights.

10 A legal non-conforming use is one that existed lawfully before a zoning
11 restriction became effective and that is not in conformity with the zoning
12 restriction. (*Hansen Brothers Enterprises v. Bd. of Supervisors* (1996) 12 Cal.
13 4th 533, 540.) The rights of the users of property as those existed at the time of
14 the adoption of a zoning ordinance are protected. (*McCaslin v. City of Monterey*
15 *Park* (1958) 163, Cal.App.2d 339, 347.)

16 While the rights of a property owner to rely on the doctrine of a "legal non-
17 conforming" use are well established, no one has shown me a case where a court
18 has addressed the question of whether that doctrine can be relied upon by a
19 tenant. I conclude that APT and the individuals who hold leases have a property
20 right that is sufficiently valuable to be entitled to protection under the legal

1 nonconforming doctrine. There is no case to the contrary and the rationale of the
2 “legal nonconforming” case law supports such a view. At the base of the “legal
3 nonconforming” cases there is a recognition that while government has great
4 flexibility to regulate land uses, once there are investment-backed decisions by
5 landowners or investors or, in this case, tenants, those investment-backed
6 decisions create vested rights that cannot be taken without compensation.

7 Certainly a property owner is the archetype of such rights. But I conclude
8 so too, derivatively, is a tenant. These are not transitory occupants who are there
9 for a few days. These tenants invest money and their time in acquiring trailers,
10 bringing them to these locations and then using them. Certainly the tenants’
11 rights cannot be greater than those of the land owner. That is, if the land owner
12 has no vested right, the tenant could not have a vested right. But, if I find that the
13 RPI had some “legal non-conforming uses”, I conclude that the tenants also can
14 have rights that can be protected under the doctrine of a “legal nonconforming”
15 use.

16 REASONED ANALYSIS OF APT’S ARGUMENT

17 1. In 1939, California enacted the Auto Camp Act, Section
18 18300 of which made it unlawful for any person to construct an auto
19 camp without a permit from the Division of Immigration and
20 Housing. The Act did not confer any authority to local jurisdictions to

1 regulate auto/trailer camps (until amended in 1947). The
2 Act articulated specific development standards for auto/trailer camps.
3 These standards related to plumbing, sanitation, and camp site
4 dimensions (including the number of lots). Additionally, the Act
5 specified construction standards for buildings in the auto/trailer
6 camps. The Act included specifications for windows, partitions, and
7 other features to ensure structural integrity and public safety. In this
8 respect, the Act regulated the same public health and safety issues
9 otherwise found in a local building code.

10 2. As explained in more detail below, I conclude that the
11 State so occupied that area of health and safety regulation at this time
12 that, except for the underlying power to zone the land, there was no
13 role left for the County at that time as to health and safety regulations.
14 In 1940, the County enacted a zoning ordinance which conditionally
15 allowed trailer parks in the zone where Lawson's Landing is located.
16 Therefore, the Lawson's Landing trailer park was allowed under the
17 County zoning, but the zoning ordinance required Lawson Landing to
18 obtain a conditional use permit ("CUP"). However, the CUP
19 requirements were effectively a mere overlap of the pre-existing 1939
20 state law.

1 It is central to my analysis to focus on what is here being
2 regulated. This is not a hospital, an entity that even in the 1960s was
3 an immersed in regulations issued by all sorts of jurisdictions. This is
4 a relatively small trailer camp used mostly by families for short
5 vacations. In 1939 there were limited health and safety concerns
6 about trailer parks. But, beyond those limited concerns, Government
7 did not have the types of environmental concerns that we see today.
8 At that time, on the heels of the Great Depression, Government at all
9 levels was trying to be sure that some minimal housing was available
10 for those looking for work. I therefore see the limited reach of the
11 1939 Act as extending fully over the health and safety issues that were
12 of interest at that time and preempting the County CUP authority.
13 The record is consistent with this conclusion. For years, Mr. Lawson
14 worked exclusively with the State. Active County involvement really
15 begins only after 1965.

16 We know that once a conflict with state law is found to exist,
17 the ordinance is void. (*Building Industry Association of Northern*
18 *California v. City of Livermore*, 45 Cal.App.4th 719 at p.724 (1996).
19 The County points to an Attorney General Opinion to support the
20 argument that the State Act did not pre-empt the County ordinance:

1 The attorney general stated that the “the State has not
2 taken over the entire field covering the regulation of
3 trailer camps in unincorporated areas.” As part of the
4 analysis the AG notes: “It is not logical that the state
5 would intend by the Trailer Act to cover exclusively
6 those matter already within the jurisdiction of a county
7 planning commission under ‘The Planning Act’ of
8 1929.” (2 Ops.Cal.Atty.Gen. 437, 439).
9

10 I do not read the AG opinion to be the answer to the question. The
11 AG is recognizing that the County retains zoning authority (which
12 was exercised in this matter), but nothing in that opinion suggests that
13 the AG sees a regulatory scheme where both the State and County
14 regulation of health and safety exist.
15

16 This leaves the very interesting question of what happens if a
17 pre-existing local law becomes void because of a State enactment that
18 occupies the field and then, at a later date, the State withdraws from
19 the field. Is the prior local law that had been made void
20 spontaneously resurrected? I have not found any controlling law on
21 this issue. My conclusion is that the concept of spontaneous
22 resurrection is not a good legal concept. If laws were here today, gone
23 tomorrow and then here today, with no real notice to the citizens, our
24 legal system would be even more difficult to understand. It seems to
25 me that the right rule should be that, once a law is void, it must be re-

1 enacted by some act of local government for it to be effective again.

2 The County asserts that the California Supreme Court rejected
3 that position in *Travis v. County of Santa Cruz* (2004) 33 Cal.4th 757,
4 775:

5 “Finally, plaintiffs suggest that preemption by state law renders
6 a local ordinance not only unenforceable but also ‘null and
7 void,’ and that consequently in this case ‘there is no applicable
8 limitations period because there is essentially no ordinance.
9 Plaintiff’s claims would thus be timely whenever brought.
10 Plaintiffs cite no authority for this approach, and we have
11 discovered none. Nor does it appeal as a matter of logic. A
12 preempted ordinance, while it may lack any legal effect or
13 force, does not cease to exist....”

14
15 I do not see *Travis* as providing an answer to the question of
16 spontaneous resurrection. Yes, a County law that has been voided by
17 a State enactment may continue to exist, perhaps in a metaphysical
18 sense, but should there not be some due process to give persons notice
19 that it has been resurrected? More importantly, in this case, the
20 evidence is overwhelming that until 1965, the County was keeping out
21 of this issue. Perhaps, the County was without authority (because the
22 authority vested only in the State) or perhaps there was some other
23 reason. But, what we do know is that Mr. Lawson was working with
24 the State until the County became active in 1965. Therefore, we have
25 as an aid to interpretation the acts of the County in this case.

1 3. Therefore, in the early 1940s, there was a 1939 State law
2 and there was a 1940 County Zoning law that included a CUP, but,
3 the State law overlapped and preempted the County CUP. The
4 County retained zoning authority over the land, but if the land were
5 zoned to allow for a trailer park, one had to go to the State authorities
6 to obtain a permit. One did not have to get a CUP from the County at
7 that time because State law preempted the CUP.

8 4. The State law in effect at the time Mr. Lawson sought a
9 permit from the County in 1959/60 was the 1939 Act, as amended by
10 the 1947 Amendment. The State permit requirement was not a land
11 use approval but a permit related to health and safety. Mr. Lawson
12 worked to comply with the State requirements from 1960-1965. (AR
13 629-630, 645-646.) The permit requirement in the 1929 Act, as
14 amended in 1939 and 1947, Section 18301, provides:

15
16 In the case of a new...trailer camp, the application shall
17 be accompanied by:

18
19 (a) A description of the grounds upon which the
20 camp is to be constructed.

21 (b) Plans and specification of the proposed
22 construction.

23 (c) A description of the water supply, ground
24 drainage, and method of sewage disposal.

25 (d) A fee of twenty-five dollars. (AR 069)
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Section 18303 provides:

Within ten days after the application, descriptions, plans and specifications, and required fee, if any, are filed and paid, the Division of Immigration and Housing shall inspect the grounds upon which the applicant proposes to do the work for which he seeks a permit. The division shall thereafter issue a permit to the applicant if, in its opinion:

- (a) The grounds are satisfactory for the work proposed.
- (b) The descriptions and plans and specifications filed indicate that the work proposed will meet the requirements of this part. (AR 069)

5. Mr. Lawson declared that he worked with the State Housing Inspector, Edward Graham, for the next several years to plan and permit the trailer park. (AR 629-630.) Mr. Lawson states Mr. Graham inspected the property on a regular basis. (AR 630.) Mr. Lawson states Mr. Graham instructed him on how to plan the trailer park, including where to lay "water lines" and how to "delineate spaces for trailer parking." (Ibid.) I note that I am accepting this testimony because it is supported by the actions. We can see that the trailer park had bathrooms, laid out spaces and the like. It is not just what Mr. Lawson says someone says. It is what Mr. Lawson reports that he did, confirmed by physical evidence of what was done and there is no evidence to the contrary. I do note that Mr. Lawson at no

1 point swears that he obtained a State permit. Nor has any State Permit
2 been produced. I address this lacuna below.

3 Additionally, the State law included a definition of nuisance, as
4 well as penalties for noncompliance with the state law. Section 18104
5 provides:

6 In an auto camp, "nuisance" includes any of the
7 following:

- 8
- 9 (a) any public nuisance known at common law or in
10 equity jurisprudence..
 - 11 (b) Whatever is dangerous to human life or is detrimental
12 to health.
 - 13 (c) The overcrowding of any room with occupants.
 - 14 (d) Insufficient ventilation or illumination of any room.
 - 15 (e) Inadequate or insanitary sewage or plumbing
16 facilities.
 - 17 (f) Uncleanliness.
 - 18 (g) Whatever renders air, food, or drink unwholesome, or
19 detrimental to the health of human beings. (AR 067-
20 068.)

21
22 Section 18201 provides:

23
24 The operator...of a trailer camp...shall abate any nuisance
25 in the camp within five days...after he has been given
26 written notice by the division to remove the nuisance. If
27 he fails to do so within that time, the district attorney in
28 the county in which the camp is located shall bring a civil
29 action to abate the nuisance...(emphasis added) (AR 068.)
30

31 If the trailer park constituted a nuisance, violated the
32 law, or was not in compliance with the requirements of the Act, the

1 State division of housing under the Act could have taken steps to
2 abate such nuisance. There is no evidence that exists
3 that demonstrates that the State determined that the use was a
4 "nuisance" or violated the Act, or that the State took any action
5 consistent with such finding.

6 6. In 1961 the State enacted a new law that allowed local
7 jurisdictions to legislate in the "trailer park" area of law and
8 add ordinances requiring standards and conditions not in conflict with
9 State law. The 1961 Act also required compliance with all valid local
10 planning requirements. But, as noted above, Marin County had no
11 valid local requirement at that time because the previously enacted
12 County ordinance had been pre-empted by State law and was
13 therefore void. There is no case law directly on point as to whether a
14 "voided" ordinance may be "revived" by a subsequent change in law
15 by a legislative body. However, in *Leshar Communications, Inc. v.*
16 *City of Walnut Creek*, 52 Cal.3d 531, 544-545 (1990), which involved
17 principles of state preemption, the California Supreme Court stated as
18 follows:

19 "A zoning ordinance that conflicts with a general plan is
20 invalid at the time it is passed. (*deBottari v. City Council*, 171
21 Cal.App.3d 1204, 1212, *Sierra Club v. Board of Supervisors*,

1 126 Cal.App.3d 698, 704,.) The court does not invalidate the
2 ordinance. It does no more than determine the existence of the
3 conflict. It is the preemptive effect of the controlling state
4 statute, the Planning and Zoning Law, which invalidates the
5 ordinance. A void statute or ordinance cannot be given effect.
6 This self-evident proposition is necessary if a governmental
7 entity and its citizens are to know how to govern their affairs.
8 Thus, persons who seek to develop their land are entitled to
9 know what the applicable law is at the time they apply for a
10 building permit. City officials must be able to act pursuant to
11 the law, and courts must be able to ascertain a law's validity
12 and to enforce it. The validity of the ordinance under which
13 permits are granted, or pursuant to which development is
14 regulated, may not turn on possible future action by the
15 legislative body or electorate. An amendment to an invalid
16 statute may itself constitute a valid enactment operative from
17 its effective date (see *Brown v. Superior Court* (1982) 33
18 Cal.3d 242, 252, 188 Cal.Rptr. 425, 655 P.2d 1260; *County of*
19 *Los Angeles v. Jones* (1936) 6 Cal.2d 695, 708, 59 P.2d 489),
20 but neither such amendment nor an amendment of the general
21 plan revives an invalid zoning ordinance. (Cf. Gov.Code, §
22 9611; *Corning Hospital Dist. v. Superior Court* (1962) 57
23 Cal.2d 488, 494, 20 Cal.Rptr. 621, 370 P.2d 325 [revival after
24 temporary suspension of law].)" (emphasis added)
25

26 Thus, the County's void 1940 conditional use permit
27 requirement was not revived by the subsequent 1961 Act passed by
28 the State. On December 14, 1965, the County asked for
29 authority from the State by passing a resolution and sending a letter to
30 the State that it was going to regulate trailer camps. (see AR 116 and
31 117.) That is the procedure the County chose to use.

1 7. This brings my analysis to one of the tougher questions.

2 Mr. Lawson has no state permit. Nor does he testify that he had one.

3 What the evidence shows is the following:

4 a. Lawson was working with the state for over 10 years.

5 b. The State requirements were pretty minimal...not what
6 you would see today. You needed some toilets, some slop
7 sink, some basic standards of cleanliness.

8 c. There is no evidence of the State taking any code
9 enforcement action against Lawson.

10 d. When the law changed in 1965, the state pointed Lawson
11 to the County.

12 e. In 1994, the State destroyed records pertaining to this
13 property. I draw no negative inference from this
14 destruction, but the fact is that the State had no record of a
15 permit.

16 f. We see in the Excerpts from the Administrative Record,
17 submitted by APT with its brief, at page, 443 that the state
18 was working with the property owner on a play to conform
19 to the state requirements.

20 8. The State thus sent Mr. Lawson back to the County to get

21 a use permit. But the County did not issue a use permit. Instead, the

22 County repealed the previous zoning ordinance and rezoned the

23 property to a zone that entirely prohibited trailer parks, thus rendering

24 it impossible for Mr. Lawson to obtain a State permit.

25 Section 18300 of the 1939 Auto Camp Act made it

26 unlawful for any person to construct an auto camp without a permit

27 from the Division of Immigration and Housing. The Act did

28 not confer any authority to local jurisdictions to regulate auto/trailer

1 camps (until 1947). As to the provisions of the 1939 Act (the 1939
2 Act is operative because the County adopted the provision regarding
3 trailer camps in 1940 and did not re-legislate as to trailer camps until
4 at least 1966), the Act articulated specific development standards for
5 auto/trailer camps. These standards related to plumbing, sanitation,
6 and camp site dimensions (including and number of lots).
7 Additionally, the Act specified construction standards for buildings in
8 the auto/trailer camps. The Act included specifications for windows,
9 partitions, and other features to ensure structural integrity and public
10 safety. In this respect, the 1939 Act regulated the same public health
11 and safety issues otherwise found in a local building code. To that
12 extent, the conditional use permit requirement in the 1940 Ordinance
13 was void. The County has not pointed to any section of the
14 1940 Code or any other planning or building regulations that the
15 Lawson's should have satisfied (the 1966 AG Opinion relied upon by
16 the County cites the 1961 Act).

17 9. The remaining issue is whether Lawson complied with
18 the state permit requirement of the 1939 Act. APT argues that it has
19 shown substantial compliance by Lawson. Substantial compliance
20 means "actual compliance in respect to the substance essential to

1 every reasonable objective of the statute.” Assembly v. Deukmejian,
2 30 Cal. 3d 638. 649 (1982). Unfortunately, the State destroyed the
3 files pertaining to the property in 1994. We do see from that record in
4 this case that for 5 years Mr. Lawson was working with the State. In
5 addition, there is no evidence that the State issued any regulatory
6 sanctions or orders. Moreover, the State requirements at the time
7 were minimal. This in my mind is the critical element. The
8 regulatory scheme was vastly simpler in 1965 than the regulatory
9 scheme of today. Given what we know and given what we can see
10 today on the ground, there is enough to prove that Mr. Lawson was in
11 substantial compliance.

12

13

14

15 AWARD

16

17

18 As of 1965, there were 150 spaces for trailers at Lawson
19 Landing that were legal non-conforming uses.

20

21

22 Dated:

23

24

25

26

27

Palmer Brown Madden
Arbitrator

1

2

1 Palmer Brown Madden
2 ADR Services
3 300 Danville Blvd., #543
4 Alamo, CA 94507
5 925.838.8593
6 pbm@netvista.net
7
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10

ALLIANCE OF PERMANENT)
TRAILERS, et al.)

Petitioners/Plaintiffs,)

vs.)

COUNTY OF MARIN, BOARD)
OF SUPERVISORS OF THE)
COUNTY OF MARIN and DOES)
I through X, inclusive,)

Respondents/Defendants.)

NANCY L. VOGLER, et al.)

Real Parties in Interest.)

ARBITRATOR'S AWARD

11
12

1 This is an unusual arbitration proceeding in which I have been
2 given very little context for my decision. I have not seen the
3 settlement agreement that led the parties to pose the sole question they
4 have asked me to decide. Nor has the purpose for which my award
5 will be used been made clear. However, my analysis is that the law
6 favors settlement and agreements to arbitrate. So, while I do not know
7 how this Award will be used, I conclude it appropriate, as to the
8 parties to this arbitration, to proceed through the presentation of
9 evidence to reach an Award.

10 This arbitration has been conducted pursuant to a written
11 Arbitration Agreement, a copy of which is attached as Ex. A. The
12 parties to the arbitration are the Petitioners in the underlying litigation
13 in the Marin Superior Court, CIV 090747 (“the Litigation”), the
14 County of Marin and the Board of Supervisors of the County of
15 Marin. Petitioners are the Alliance of Permanent Trailers (“APT”), an
16 unincorporated association of trailer owners who rent space at
17 Lawson's Landing in Marin County to park their trailers, and three of
18 its members. A list of the names of the individual Petitioners in the
19 underlying litigation is attached as Ex. B.

20 Pursuant to a representation by counsel for Petitioners, the three

1 individual Petitioners (the "Litigation Committee") were elected
2 by the members of APT and given written authorization to make legal
3 decisions on behalf of all the members, including the execution of the
4 Arbitration Agreement.

5

6 QUESTION PRESENTED FOR DECISION

7 Notwithstanding the broad language of the Arbitration Agreement, counsel
8 have assured me of their agreement that I am presented with only one question:
9 Did 150 legal non-conforming spaces for trailer use exist on Larson's Landing in
10 1965?

11 Given that my assignment is to answer this agreed upon single question
12 that I am to decide, I am not prepared to address and do not address in this Award
13 other questions presented in the arbitration, such as (1) the location of the 150
14 spaces (which the Arbitration Agreement does not authorize me to decide in any
15 event); (2) the government's power to apply various laws to these 150 spaces
16 (which, again the Arbitration Agreement does not authorize me to decide); and
17 (3) the definition of "space".

18 I have been asked to provide a "reasoned" decision. While I shall give the
19 parties a reasoned decision, based on my interpretation of the language used in
20 the Arbitration Agreement, I conclude that this award is governed by *Moncarsh*

1 v. *Heily & Blasé*, 3 Cal.4th 1 (1992). If the parties had wanted to have this
2 arbitration governed by some rule other than *Moncarsh*, they could have so
3 provided. They did not.

4 All sides have confirmed to me that I am not in the position where I am
5 reviewing administrative action. This one issue is presented to me *de novo*.

6
7 THE RECORD UPON WHICH THIS AWARD WAS BASED

8 This Award is based on the following Record. If something is not listed
9 below, it is not in the record:

10 a. The three-volume Administrative Record.

11 b. The pleadings in the trial court on the EAC motion to intervene,
12 which pleadings were admitted for the limited purpose only of determining
13 whether EAC should be allowed to be heard in this Arbitration. E-mails from
14 Mr. Silver, with copies to counsel, on this motion to intervene. Neither those
15 pleadings, nor any attached declaration, nor anything else produced on the EAC
16 issue was considered in reaching the merits of this arbitration.

17 c. The APT Opening Brief, including the Excerpts from the Record.

18 d. The County's Brief and the attached declaration.

19 e. The APT Reply brief.

20 f. A short brief by Real Party in Interest stating that it is neutral.

1 Apparently, although RPI signed the Arbitration Agreement, RPI is bound by an
2 order of the Coastal Commission not to participate in this matter.

3 Not part of this record and not relied upon by me are anything not listed
4 above; anything that is unwritten, including anything said in a telephone
5 conference unless reduced to a writing and listed above; arguments of counsel
6 and citations by counsel of case and statutory law not found in the briefs; and all
7 e-mails between counsel for the parties and myself.

8

9 PRELIMINARY RULINGS

10 1. Given the authority granted by the APT members to the Litigation
11 Committee, I conclude that all the individual tenants in the original pleadings are
12 bound by this Award.

13 2. I am troubled by the representation that RPI is constrained an Order
14 of the Coastal Commission. See Ex. C Because of how RPI is constrained, it
15 occurred to me to limit the impact of this award on RPI. The County objected to
16 any such limitation. I ultimately conclude that, RPI having signed the Arbitration
17 Agreement, RPI is bound by this Award.

18 3. EAC, represented by attorney Larry Silver, sought to intervene in
19 this arbitration. I have concluded that EAC will not be heard in this arbitration,
20 as amicus or otherwise, on any issue, including my jurisdiction. I found no

1 unambiguous instruction in the trial court proceedings to the contrary.
2 Moreover, the trial court instructed that EAC be given notice of any motion to
3 confirm this award. These factors, together with the Arbitration Agreement, lead
4 me to exercise my discretion not to allow EAC to intervene.

5 4. I also conclude that APT and the individual tenant members have
6 standing to press this claim. While the real property interest of APT and the APT
7 members is not the same as the RPI, the APT members are not transitory tenants
8 who are there for a day and gone. They have been using the property for their
9 trailers for some time and have a reasonable expectation of continuing use, unless
10 it is determined that the use is unlawful.

11 5. It is my opinion that this award should not be entitled to normal
12 collateral estoppel rules governing claims presented or that could be presented.
13 By that I mean, rules that bind parties as to all issues that could have been
14 litigated have no place when considering the impact of this Award. This Award
15 should only have impact as to the one issue addressed in the Award.

16

17 AWARD SOUGHT BY THE PARTIES.

18 At my request, each party provided a statement of what they would like to
19 see in the "action" part of the award.

20 APT wrote as follows:

1 “Based on the evidence adduced herein, the Arbitrator finds that a
2 legal right to a vested nonconforming use as to 150 recreational vehicle lots
3 exists at Lawson's Landing upon which certain individual members of APT
4 have leasehold interests to place personal property, including, but not limited
5 to, recreational vehicles such as motor homes, travel trailers, truck campers, or
6 camping trailers designed for human habitation for recreation or seasonal use.
7 These 150 lots are determined herein to be legally vested nonconforming and
8 exempt from conditions unrelated to health and safety standards. These 150
9 lots are delineated on the "Map of Lawson's Landing," which is attached
10 hereto as Exhibit A and incorporated herein.”
11

12 The County's submission is as follows:

13 “Based upon the evidence, authority and argument presented herein,
14 the Arbitrator finds that as of January 25, 1966 the establishment of a
15 recreational vehicle park in the unincorporated part of Marin County –and any
16 lots constituting that use- required both a use permit from Marin County as
17 well as permits to construct and operate from the State of California as the
18 “enforcement agency” under the Mobilehomes Parks Act. The Real Party in
19 Interest herein had none of these permits. Therefore none of the recreational
20 vehicle sites constitute legal nonconforming use. Neither the doctrines of
21 estoppel nor laches change this conclusion.
22

23 Alternatively, if the Arbitrator finds some number of the recreational
24 vehicle lots do constitute a legal nonconforming use, and further finds a basis
25 for addressing Petitioner's claim with respect to the condition on the use of the
26 vehicles themselves:
27

28 Based upon the evidence, authority and argument presented herein,
29 the Arbitrator finds that as of January 25, 1966, recreational vehicle lots
30 constitute a legal nonconforming use. However, that finding does not
31 invalidate a subsequently enacted regulation limiting the time any particular
32 recreational vehicle can occupy a site in any given year where those
33 recreational vehicles are owned by persons other than the underlying property
34 owner, and have only month-to-month leasehold interests at the time the
35 regulation is established.”
36

37 I considered the draft “action” supplied by both sides. I then reconfirmed
38 with counsel that the agreement counsel reached was limited to my addressing

1 only one limited question: In 1965 were there 150 (or some other number) of
2 legal non-conforming trailer spaces at Lawson Landing. I have therefore
3 declined to provide an action Award or reach any issue beyond that one issue,
4 because other issues were not given to me in the agreement reached by counsel.

5

6 FACTS

7 Notwithstanding certain objections, all evidence in the record has been
8 accepted by me into evidence. Allowing the evidence in, however, does not
9 resolve the role it plays in my analysis. In particular, I have given little or no
10 weight to a recollection by one party of what another party said many years ago,
11 unless it is accompanied by undisputable evidence of unambiguous action.

12 a. Facts alleged by APT

13 I reprint here the facts alleged by APT in its Opening Brief, except as to
14 testimony for which I have given no weight. I have used “****” to indicate where
15 I deleted such testimony. The bold type in brackets indicates my explanation for
16 the deletion or other commentary. The footnotes are APT’s.

17 “The 960-acre ocean and bay front Property, located in
18 unincorporated Marin County at the confluence of Tomales Bay and the
19 Pacific Ocean, was acquired by the Lawson family in the 1920s, and
20 ownership has remained in the Lawson family ever since. (AR, at p. 384.)
21 Ranching and public recreational activities were present on the Property when

1 it was acquired by the Lawsons. (AR, at p. 308.) Public recreation operations
2 began in the early 1900s with construction of a boathouse and pier. (*Ibid.*)
3 The Lawson family maintained the Property for the enjoyment of the public
4 and it has been utilized for that purpose, as well as ranching, ever since.

5 In the 1930s and 1940s, public recreational use of the Property
6 increased and informal campsites were established in a meadow area. (AR, at
7 p. 309, 442.) During World War II, the Army took over the Property for
8 military use. (AR, at p. 192.) After the War, in the late 1940s, the County
9 road leading to the Property was finally extended down to the beach and bay.
10 (AR, at p. 192-193.)

11 After installation of the road allowing convenient access to the
12 beach, bay and pier, public use of the Property substantially increased. In the
13 1950s, the public began to bring recreation trailers to Lawson's Landing so
14 that they could enjoy the comfort of a home setting while participating in
15 coastal recreational activities such as beachcombing, clam digging, camping,
16 boating and fishing in a striking, scenic setting. (AR, at p. 385.) Several of
17 these trailers remained on the Property on a permanent basis beginning in or
18 about 1959. (AR, at pp. 385, 442, 629, 706.)

19 After the Lawson family realized there was a demand for a
20 recreational trailer park where families could leave their trailers year-round,
21 Merle Lawson, the Lawson family's representative at the time, contacted the
22 Marin County Planning Department to apply for a permit for establishment of
23 a recreational trailer park. (AR, at p. 629, 706.) ******* [I am not**
24 **prepared to put any weight on Mr. Lawson's testimony that he was told**
25 **over 50 years ago by someone at the County that the County had no**
26 **jurisdiction and that he had to go to the State. I do accept that starting**
27 **at this time Mr. Lawson began working with the State. I also have seen**

1 no evidence that during this time Mr. Lawson was working with the
2 County. Where I see some ambiguity is whether he was told that the
3 County had no jurisdiction.]

4 Mr. Lawson continued to work with Mr. Graham until about
5 November of 1965. (*Ibid.*) At that time, Mr. Lawson was instructed by the
6 new State Housing Inspector, Mr. Graham's successor, to ask the County for a
7 use permit.¹ (*Ibid.*) [I am accepting this testimony because it is consistent
8 with the actions of Mr. Lawson and the change of law at that time.] At
9 that time, approximately 150 trailers were parked at Lawson's Landing. (AR,
10 at pp. 002-005, 007, 118, 630.) On December 14, 1965, at the request of the
11 County,² the State Division of Housing transferred jurisdiction of trailer parks
12 in the County to the County. (AR , at p. 116, 117.) Three weeks later, the
13 Board adopted Ordinance 1492, which rezoned interim "Zone D" districts, the
14 district assigned to the Property, to A-2 districts (Limited Agricultural). (AR,
15 at p. 443.) Permitted and conditionally permitted uses in A-2 districts did not
16 include trailer parks and campgrounds that were possible under the prior,
17 Zone D district. (*Ibid.*) However, the recreational trailer park at Lawson's
18 Landing was already established and operating.

19 On January 22, 1968, the County Planning Commission (hereafter
20 "Commission") approved the Petition for Rezoning. The Staff Report states
21 that the 'change of zone will not affect the [Ag Preserve] Agreement, but
22 ...the RCR plan approval is restricted to the existing trailer and boating
23 facility development because any additional development would be a violation

¹ All records pertaining to the years the State was administering the Property under State law were destroyed by HCD in 1994, and are otherwise missing from the County's records. (AR, at pp. 385, 414, 723, 733, 737, 749.)

²The 1961 Mobilehomes and Mobilehomes Park Act provided a provision for which localities could assume enforcement authority upon written notice to the State. (AR, at p. 103.)

1 of the Ag Agreement.’ (AR, at p. 128.) The Board subsequently approved the
2 Petition for Rezoning on February 20, 1968. (AR, at pp. 131-132.)

3 On August 21, 1970, County Counsel delivered an “Inter-
4 Office Memorandum” to the Planning Director which states in pertinent part:

5 There are no definite facts available to indicate when the trailer park
6 use first occurred in this area. However, it would appear that there was such
7 use prior to the adoption of the zoning ordinance. ... There is obviously
8 nothing the County could do as to the legal non-conforming use (other than
9 health and building standards) except for the leverage which the County can
10 exert over the approval of the illegal non-conforming uses and of the general
11 plan...since the Board of Supervisors would have the ultimate decision on
12 amending the Agricultural Preserve Agreement (which is a condition to the
13 effectiveness of the use permit), it would appear that a considerable amount of
14 ultimate power resides in the Board of Supervisors. It may well be that legal
15 action by Mr. Lawson would resolve these issues in its favor. However, until
16 this point is pushed by Mr. Lawson, I would think it preferable if the Planning
17 Commission acted in accord with the direction of the Board of Supervisors.

18
19 Therefore, at this stage, I would suggest that the Planning
20 Commission require the submission of a master plan...It may well be that
21 Lawson will be able to prove the status of a portion of this existing
22 development as a legal non-conforming use and insist that this be allowed to
23 continue subject to meeting health and building code standards. In this case,
24 only the remaining area would be subject to master plan approval. However,
25 with the power to not approve the overall master plan, the Commission should
26 be able to encourage some improvement in even the legal non-conforming use
27 portion.

28
29 (AR, at pp. 152-154.) *****[I am not prepared to put
30 any weight on Mr. Lawson’s recollection that “County staff” told him
31 that the County did not have jurisdiction”. Without any indication of
32 who said it and in what context, or any corroboration, this is just too
33 vague and unreliable a memory.]

1
2 [As far as I can see in the record, the County remained
3 uninvolved with the Property during the period the State had
4 jurisdiction.]

5 In July 1961, the Legislature repealed the Act and enacted a new
6 Mobilehomes and Mobilehomes Park Act ("Mobilehomes Park Act") to
7 regulate the construction and operation of mobilehome parks in California.
8 The Mobilehomes Park Act specified that State law superseded any local
9 mobilehome ordinances and provided that cities and counties could assume
10 responsibility to enforce the law if they desired. (AR, at p. 103.) On
11 December 14, 1965, the County formally assumed enforcement of
12 mobilehome parks. (AR, at p. 117.) One month later, the County adopted
13 Ordinance 1492, which rezoned the Property to a district that entirely
14 prohibited trailer parks. (AR, at p. 443.)"
15

16
17 b. County's objections to APT's Assertion of Facts

18 The County made two major objections to the factual presentation by APT.
19 First is Petitioners' use of the uncorroborated declaration and letter of an
20 interested party to establish that the County led the declarant to believe the
21 County had no jurisdiction over camping or park trailers at Lawson's Landing.
22 (AR 629, 706; see also Petitioners' brief at page 3.)

23 The second involves Mr. Lawson's 1970 letter and new declaration
24 regarding his development efforts. (AR 155-157 and 628-639). The County

1 believes that the cumulative effect of new and continuously changing laws on the
2 Lawson's Landing project are at the core of Mr. Lawson's "dismay" and indeed
3 the dismay of his successors at the Landing as well as innumerable other
4 developers throughout California. I think both of these objections are well
5 founded, though I have used them to affect the weight that I give the evidence,
6 rather than to strike certain evidence. I have reflected my agreement with the
7 County's objections in my analysis.

8

9 LAW

10 a. Laches and Estoppel

11 APT has argued at some length that the legal doctrines of laches and
12 estoppel should be used to resolve this case. I reject those arguments for the
13 reasons discussed below.

14 There are three elements to application of laches against a governmental
15 entity: (1) unreasonable delay; (2) acquiescence or prejudice; and (3) a showing
16 of injustice to the private litigant which outweighs any effect on the public
17 interest. (*City of Long Beach v. Mansell*, 3 Cal.App.3d at pp. 496 - 497.) The
18 elements of equitable estoppel, in turn, are: (1) the party to be estopped must be
19 apprised of the facts; (2) he must intend that his conduct shall be acted upon, or
20 must so act that the party asserting the estoppel had a right to believe it was so

1 intended; (3) the other party must be ignorant of the true state of facts; and (4)
2 that party must rely upon the conduct to his injury. (*Mansell*, 3 Cal.3d at at 489.)

3 In the land use area, courts and arbitrators must be careful to avoid
4 applying either doctrine to recognize a legal right that will greatly restrict
5 government. All property owners are subject to regulation. If a court or arbitrator
6 singles out one property owner for protection then the government plan may
7 founder. In addition, it is my view that it is not right or fair to use laches or
8 estoppel against a government entity when the property owner's evidence is a
9 recollection of something that occurred years ago and for which there is no
10 contemporaneous, corroborative writing. If one is seeking to create a vested
11 right, one should have something in writing. Otherwise, all property will become
12 subject to the vagaries of people's recollections.

13 b. The County's "vehicle" argument

14 The County asserts that APT is really not arguing about "spaces" but about
15 the trailer uses, which, so the County argues, inevitably entangles us in the law
16 regulating trailers. I do not agree. My analysis is that these tenants are seeking
17 to protect from impairment by the County spaces for which they have current
18 leases. While they do not own the spaces, they do have some cognizable
19 property rights because they each have a written lease. It is through that written
20 lease, derivatively from RPI, that APT seeks relief. Certainly nothing in this

1 Award is designed in any way to have any impact on state or local law that
2 regulates what it means to have a legal trailer. I note, for example, that in other
3 contexts the parties seem to be struggling over the question of how many days
4 someone can use these spaces. That issue is not before me and I am not
5 addressing it.

6 c. Legal non-conforming use

7 The main argument made by APT is that RPI has a legal non-
8 conforming right to 150 spaces that was vested in 1965 and that APT and its
9 members have some rights because of RPI's rights.

10 A legal non-conforming use is one that existed lawfully before a zoning
11 restriction became effective and that is not in conformity with the zoning
12 restriction. (*Hansen Brothers Enterprises v. Bd. of Supervisors* (1996) 12 Cal.
13 4th 533, 540.) The rights of the users of property as those existed at the time of
14 the adoption of a zoning ordinance are protected. (*McCaslin v. City of Monterey*
15 *Park* (1958) 163, Cal.App.2d 339, 347.)

16 While the rights of a property owner to rely on the doctrine of a "legal non-
17 conforming" use are well established, no one has shown me a case where a court
18 has addressed the question of whether that doctrine can be relied upon by a
19 tenant. I conclude that APT and the individuals who hold leases have a property
20 right that is sufficiently valuable to be entitled to protection under the legal

1 nonconforming doctrine. There is no case to the contrary and the rationale of the
2 “legal nonconforming” case law supports such a view. At the base of the “legal
3 nonconforming” cases there is a recognition that while government has great
4 flexibility to regulate land uses, once there are investment-backed decisions by
5 landowners or investors or, in this case, tenants, those investment-backed
6 decisions create vested rights that cannot be taken without compensation.

7 Certainly a property owner is the archetype of such rights. But I conclude
8 so too, derivatively, is a tenant. These are not transitory occupants who are there
9 for a few days. These tenants invest money and their time in acquiring trailers,
10 bringing them to these locations and then using them. Certainly the tenants’
11 rights cannot be greater than those of the land owner. That is, if the land owner
12 has no vested right, the tenant could not have a vested right. But, if I find that the
13 RPI had some “legal non-conforming uses”, I conclude that the tenants also can
14 have rights that can be protected under the doctrine of a “legal nonconforming”
15 use.

16 REASONED ANALYSIS OF APT’S ARGUMENT

17 1. In 1939, California enacted the Auto Camp Act, Section
18 18300 of which made it unlawful for any person to construct an auto
19 camp without a permit from the Division of Immigration and
20 Housing. The Act did not confer any authority to local jurisdictions to

1 regulate auto/trailer camps (until amended in 1947). The
2 Act articulated specific development standards for auto/trailer camps.
3 These standards related to plumbing, sanitation, and camp site
4 dimensions (including the number of lots). Additionally, the Act
5 specified construction standards for buildings in the auto/trailer
6 camps. The Act included specifications for windows, partitions, and
7 other features to ensure structural integrity and public safety. In this
8 respect, the Act regulated the same public health and safety issues
9 otherwise found in a local building code.

10 2. As explained in more detail below, I conclude that the
11 State so occupied that area of health and safety regulation at this time
12 that, except for the underlying power to zone the land, there was no
13 role left for the County at that time as to health and safety regulations.
14 In 1940, the County enacted a zoning ordinance which conditionally
15 allowed trailer parks in the zone where Lawson's Landing is located.
16 Therefore, the Lawson's Landing trailer park was allowed under the
17 County zoning, but the zoning ordinance required Lawson Landing to
18 obtain a conditional use permit ("CUP"). However, the CUP
19 requirements were effectively a mere overlap of the pre-existing 1939
20 state law.

1 It is central to my analysis to focus on what is here being
2 regulated. This is not a hospital, an entity that even in the 1960s was
3 an immersed in regulations issued by all sorts of jurisdictions. This is
4 a relatively small trailer camp used mostly by families for short
5 vacations. In 1939 there were limited health and safety concerns
6 about trailer parks. But, beyond those limited concerns, Government
7 did not have the types of environmental concerns that we see today.
8 At that time, on the heels of the Great Depression, Government at all
9 levels was trying to be sure that some minimal housing was available
10 for those looking for work. I therefore see the limited reach of the
11 1939 Act as extending fully over the health and safety issues that were
12 of interest at that time and preempting the County CUP authority.
13 The record is consistent with this conclusion. For years, Mr. Lawson
14 worked exclusively with the State. Active County involvement really
15 begins only after 1965.

16 We know that once a conflict with state law is found to exist,
17 the ordinance is void. (*Building Industry Association of Northern*
18 *California v. City of Livermore*, 45 Cal.App.4th 719 at p.724 (1996).
19 The County points to an Attorney General Opinion to support the
20 argument that the State Act did not pre-empt the County ordinance:

1 The attorney general stated that the “the State has not
2 taken over the entire field covering the regulation of
3 trailer camps in unincorporated areas.” As part of the
4 analysis the AG notes: “It is not logical that the state
5 would intend by the Trailer Act to cover exclusively
6 those matter already within the jurisdiction of a county
7 planning commission under ‘The Planning Act’ of
8 1929.” (2 Ops.Cal.Atty.Gen. 437, 439).
9

10 I do not read the AG opinion to be the answer to the question. The
11 AG is recognizing that the County retains zoning authority (which
12 was exercised in this matter), but nothing in that opinion suggests that
13 the AG sees a regulatory scheme where both the State and County
14 regulation of health and safety exist.

15
16 This leaves the very interesting question of what happens if a
17 pre-existing local law becomes void because of a State enactment that
18 occupies the field and then, at a later date, the State withdraws from
19 the field. Is the prior local law that had been made void
20 spontaneously resurrected? I have not found any controlling law on
21 this issue. My conclusion is that the concept of spontaneous
22 resurrection is not a good legal concept. If laws were here today, gone
23 tomorrow and then here today, with no real notice to the citizens, our
24 legal system would be even more difficult to understand. It seems to
25 me that the right rule should be that, once a law is void, it must be re-

1 enacted by some act of local government for it to be effective again.

2 The County asserts that the California Supreme Court rejected
3 that position in *Travis v. County of Santa Cruz* (2004) 33 Cal.4th 757,
4 775:

5 “Finally, plaintiffs suggest that preemption by state law renders
6 a local ordinance not only unenforceable but also ‘null and
7 void,’ and that consequently in this case ‘there is no applicable
8 limitations period because there is essentially no ordinance.
9 Plaintiff’s claims would thus be timely whenever brought.
10 Plaintiffs cite no authority for this approach, and we have
11 discovered none. Nor does it appeal as a matter of logic. A
12 preempted ordinance, while it may lack any legal effect or
13 force, does not cease to exist....”

14
15 I do not see *Travis* as providing an answer to the question of
16 spontaneous resurrection. Yes, a County law that has been voided by
17 a State enactment may continue to exist, perhaps in a metaphysical
18 sense, but should there not be some due process to give persons notice
19 that it has been resurrected? More importantly, in this case, the
20 evidence is overwhelming that until 1965, the County was keeping out
21 of this issue. Perhaps, the County was without authority (because the
22 authority vested only in the State) or perhaps there was some other
23 reason. But, what we do know is that Mr. Lawson was working with
24 the State until the County became active in 1965. Therefore, we have
25 as an aid to interpretation the acts of the County in this case.

1 3. Therefore, in the early 1940s, there was a 1939 State law
2 and there was a 1940 County Zoning law that included a CUP, but,
3 the State law overlapped and preempted the County CUP. The
4 County retained zoning authority over the land, but if the land were
5 zoned to allow for a trailer park, one had to go to the State authorities
6 to obtain a permit. One did not have to get a CUP from the County at
7 that time because State law preempted the CUP.

8 4. The State law in effect at the time Mr. Lawson sought a
9 permit from the County in 1959/60 was the 1939 Act, as amended by
10 the 1947 Amendment. The State permit requirement was not a land
11 use approval but a permit related to health and safety. Mr. Lawson
12 worked to comply with the State requirements from 1960-1965. (AR
13 629-630, 645-646.) The permit requirement in the 1929 Act, as
14 amended in 1939 and 1947, Section 18301, provides:

15
16 In the case of a new...trailer camp, the application shall
17 be accompanied by:

18
19 (a) A description of the grounds upon which the
20 camp is to be constructed.

21 (b) Plans and specification of the proposed
22 construction.

23 (c) A description of the water supply, ground
24 drainage, and method of sewage disposal.

25 (d) A fee of twenty-five dollars. (AR 069)
26

1 Section 18303 provides:
2

3 Within ten days after the application, descriptions,
4 plans and specifications, and required fee, if any,
5 are filed and paid, the Division of Immigration and
6 Housing shall inspect the grounds upon which the
7 applicant proposes to do the work for which he
8 seeks a permit. The division shall thereafter issue
9 a permit to the applicant if, in its opinion:

10 (a) The grounds are satisfactory for the
11 work proposed.

12 (b) The descriptions and plans and
13 specifications filed indicate that the work
14 proposed will meet the requirements of this
15 part. (AR 069)
16

17 5. Mr. Lawson declared that he worked with the State Housing
18 Inspector, Edward Graham, for the next several years to plan and
19 permit the trailer park. (AR 629-630.) Mr. Lawson states Mr.
20 Graham inspected the property on a regular basis. (AR 630.) Mr.
21 Lawson states Mr. Graham instructed him on how to plan the trailer
22 park, including where to lay "water lines" and how to "delineate
23 spaces for trailer parking." (Ibid.) I note that I am accepting this
24 testimony because it is supported by the actions. We can see that the
25 trailer park had bathrooms, laid out spaces and the like. It is not just
26 what Mr. Lawson says someone says. It is what Mr. Lawson reports
27 that he did, confirmed by physical evidence of what was done and
28 there is no evidence to the contrary. I do note that Mr. Lawson at no

1 point swears that he obtained a State permit. Nor has any State Permit
2 been produced. I address this lacuna below.

3 Additionally, the State law included a definition of nuisance, as
4 well as penalties for noncompliance with the state law. Section 18104
5 provides:

6 In an auto camp, "nuisance" includes any of the
7 following:

8
9 (a) any public nuisance known at common law or in
10 equity jurisprudence..

11 (b) Whatever is dangerous to human life or is detrimental
12 to health.

13 (c) The overcrowding of any room with occupants.

14 (d) Insufficient ventilation or illumination of any room.

15 (e) Inadequate or insanitary sewage or plumbing
16 facilities.

17 (f) Uncleanliness.

18 (g) Whatever renders air, food, or drink unwholesome, or
19 detrimental to the health of human beings. (AR 067-
20 068.)

21
22 Section 18201 provides:

23
24 The operator...of a trailer camp...shall abate any nuisance
25 in the camp within five days...after he has been given
26 written notice by the division to remove the nuisance. If
27 he fails to do so within that time, the district attorney in
28 the county in which the camp is located shall bring a civil
29 action to abate the nuisance...(emphasis added) (AR 068.)
30

31 If the trailer park constituted a nuisance, violated the
32 law, or was not in compliance with the requirements of the Act, the

1 State division of housing under the Act could have taken steps to
2 abate such nuisance. There is no evidence that exists
3 that demonstrates that the State determined that the use was a
4 "nuisance" or violated the Act, or that the State took any action
5 consistent with such finding.

6 6. In 1961 the State enacted a new law that allowed local
7 jurisdictions to legislate in the "trailer park" area of law and
8 add ordinances requiring standards and conditions not in conflict with
9 State law. The 1961 Act also required compliance with all valid local
10 planning requirements. But, as noted above, Marin County had no
11 valid local requirement at that time because the previously enacted
12 County ordinance had been pre-empted by State law and was
13 therefore void. There is no case law directly on point as to whether a
14 "voided" ordinance may be "revived" by a subsequent change in law
15 by a legislative body. However, in *Leshar Communications, Inc. v.*
16 *City of Walnut Creek*, 52 Cal.3d 531, 544-545 (1990), which involved
17 principles of state preemption, the California Supreme Court stated as
18 follows:

19 "A zoning ordinance that conflicts with a general plan is
20 invalid at the time it is passed. (*deBottari v. City Council*, 171
21 Cal.App.3d 1204, 1212, *Sierra Club v. Board of Supervisors*,

1 126 Cal.App.3d 698, 704,.) The court does not invalidate the
2 ordinance. It does no more than determine the existence of the
3 conflict. It is the preemptive effect of the controlling state
4 statute, the Planning and Zoning Law, which invalidates the
5 ordinance. A void statute or ordinance cannot be given effect.
6 This self-evident proposition is necessary if a governmental
7 entity and its citizens are to know how to govern their affairs.
8 Thus, persons who seek to develop their land are entitled to
9 know what the applicable law is at the time they apply for a
10 building permit. City officials must be able to act pursuant to
11 the law, and courts must be able to ascertain a law's validity
12 and to enforce it. The validity of the ordinance under which
13 permits are granted, or pursuant to which development is
14 regulated, may not turn on possible future action by the
15 legislative body or electorate. An amendment to an invalid
16 statute may itself constitute a valid enactment operative from
17 its effective date (see *Brown v. Superior Court* (1982) 33
18 Cal.3d 242, 252, 188 Cal.Rptr. 425, 655 P.2d 1260; *County of*
19 *Los Angeles v. Jones* (1936) 6 Cal.2d 695, 708, 59 P.2d 489),
20 but neither such amendment nor an amendment of the general
21 plan revives an invalid zoning ordinance. (Cf. Gov.Code, §
22 9611; *Corning Hospital Dist. v. Superior Court* (1962) 57
23 Cal.2d 488, 494, 20 Cal.Rptr. 621, 370 P.2d 325 [revival after
24 temporary suspension of law].)" (emphasis added)

25
26 Thus, the County's void 1940 conditional use permit
27 requirement was not revived by the subsequent 1961 Act passed by
28 the State. On December 14, 1965, the County asked for
29 authority from the State by passing a resolution and sending a letter to
30 the State that it was going to regulate trailer camps. (see AR 116 and
31 117.) That is the procedure the County chose to use.

1 7. This brings my analysis to one of the tougher questions.

2 Mr. Lawson has no state permit. Nor does he testify that he had one.

3 What the evidence shows is the following:

4 a. Lawson was working with the state for over 10 years.

5 b. The State requirements were pretty minimal...not what
6 you would see today. You needed some toilets, some slop
7 sink, some basic standards of cleanliness.

8 c. There is no evidence of the State taking any code
9 enforcement action against Lawson.

10 d. When the law changed in 1965, the state pointed Lawson
11 to the County.

12 e. In 1994, the State destroyed records pertaining to this
13 property. I draw no negative inference from this
14 destruction, but the fact is that the State had no record of a
15 permit.

16 f. We see in the Excerpts from the Administrative Record,
17 submitted by APT with its brief, at page, 443 that the state
18 was working with the property owner on a play to conform
19 to the state requirements.

20 8. The State thus sent Mr. Lawson back to the County to get

21 a use permit. But the County did not issue a use permit. Instead, the

22 County repealed the previous zoning ordinance and rezoned the

23 property to a zone that entirely prohibited trailer parks, thus rendering

24 it impossible for Mr. Lawson to obtain a State permit.

25 Section 18300 of the 1939 Auto Camp Act made it

26 unlawful for any person to construct an auto camp without a permit

27 from the Division of Immigration and Housing. The Act did

28 not confer any authority to local jurisdictions to regulate auto/trailer

1 camps (until 1947). As to the provisions of the 1939 Act (the 1939
2 Act is operative because the County adopted the provision regarding
3 trailer camps in 1940 and did not re-legislate as to trailer camps until
4 at least 1966), the Act articulated specific development standards for
5 auto/trailer camps. These standards related to plumbing, sanitation,
6 and camp site dimensions (including and number of lots).
7 Additionally, the Act specified construction standards for buildings in
8 the auto/trailer camps. The Act included specifications for windows,
9 partitions, and other features to ensure structural integrity and public
10 safety. In this respect, the 1939 Act regulated the same public health
11 and safety issues otherwise found in a local building code. To that
12 extent, the conditional use permit requirement in the 1940 Ordinance
13 was void. The County has not pointed to any section of the
14 1940 Code or any other planning or building regulations that the
15 Lawson's should have satisfied (the 1966 AG Opinion relied upon by
16 the County cites the 1961 Act).

17 9. The remaining issue is whether Lawson complied with
18 the state permit requirement of the 1939 Act. APT argues that it has
19 shown substantial compliance by Lawson. Substantial compliance
20 means "actual compliance in respect to the substance essential to

1 every reasonable objective of the statute.” Assembly v. Deukmejian,
2 30 Cal. 3d 638. 649 (1982). Unfortunately, the State destroyed the
3 files pertaining to the property in 1994. We do see from that record in
4 this case that for 5 years Mr. Lawson was working with the State. In
5 addition, there is no evidence that the State issued any regulatory
6 sanctions or orders. Moreover, the State requirements at the time
7 were minimal. This in my mind is the critical element. The
8 regulatory scheme was vastly simpler in 1965 than the regulatory
9 scheme of today. Given what we know and given what we can see
10 today on the ground, there is enough to prove that Mr. Lawson was in
11 substantial compliance.

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15 AWARD

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18 As of 1965, there were 150 spaces for trailers at Lawson
19 Landing that were legal non-conforming uses.

20

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22 Dated:

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26

27

Palmer Brown Madden
Arbitrator

1

2

CALIFORNIA COASTAL COMMISSION

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SI Hearing Date: 1/7/09
 Filed: 10/21/10
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 Staff: R. Pap
 Staff Report: 7/1/11
 Hearing Date: 7/13/11

**STAFF REPORT
 CONSOLIDATED COASTAL DEVELOPMENT PERMIT**

APPEAL NO.: **A-2-MAR-08-028**
APPLICATION NO.: **2-06-018**

APPLICANT: **Lawson's Landing, Inc.**

LOCAL GOVERNMENT: **Marin County**

LOCAL ACTION: **Approved with Conditions**

PROJECT LOCATION: 137 Marine View Drive, Dillon Beach (Marin County)
 (APNs 100-100-07, 100-100-08, 100-100-10, 100-100-21, 100-100-49, 100-100-58, 100-100-59, 100-201-01, 100-201-02, 100-202-01, 100-202-02, 100-203-01, 100-203-02, 100-203-03, 100-204-01, 100-204-02, 100-205-03, 100-206-02, 100-207-03, 100-208-01, 100-208-02, 100-211-01, 100-211-02, 100-212-01, 100-212-02, 100-213-01, 100-213-02, 100-214-01, 100-214-02, 100-215-01, 100-215-02, 100-216-01, 100-216-02, 100-217-01, 100-217-02, 100-218-01, 100-218-02, 100-220-06, 100-230-03, 100-100-22, 100-206-01, 100-100-48)

PROPOSED DEVELOPMENT: Recreational and agricultural use of the approximately 960-acre Lawson's Landing property, including: 417 RV and tent spaces and 229 year-round travel trailer spaces; day use parking; boating facilities, mooring, and launching; support facilities including store, offices, recreational center, employee housing, boat sales and repair, fuel service and storage; waste water/septic system; water tanks; and road improvements; 465 – acre Natural Resources Conservation Service (NRCS) conservation easement; and habitat restoration activities.

APPELLANTS: Commissioners Sara Wan and Mike Reilly; Environmental Action Committee of West Marin, Marin Audubon Society, Sierra Club-Marine Group, Alliance of Permanent Trailers.

RECOMMENDATION: **Approve with conditions**

I. EXECUTIVE SUMMARY

Lawson's Landing is a 75-acre campground located in the Tomales Dunes Complex, at the mouth of Tomales Bay, in Dillon Beach. The campground has a long history of unpermitted development, beginning in the 1960s and expanding over the years to up to 1,000 camping vehicles at peak times, 200 day use vehicles, and 233 permanent travel trailers on the site. Though unpermitted, the campground has provided significant and important lower cost visitor serving camping and recreational opportunities to large numbers of the public for many years. The certified LCP provides guidance that Lawson's Landing be retained as a public recreational area, and states that it has the potential for expansion, but that any such expansion must be based on a plan that takes into account environmental constraints.

Lawson's Landing is also incredibly rich in natural resources. Though no longer pristine, the Tomales Dunes Complex consists of coastal foredunes, central dune scrub, bare sands, and deflation plains, including dune-slack wetlands and uplands that together constitute rare habitat that performs the important ecosystem function of supporting a rare plant community, rare plant and animal species, including the Federally Threatened California red-legged frog and western snowy plover; the complex is also easily disturbed by human activities. Therefore, all of the existing habitat areas of the dune complex at Lawson's Landing, including the foredunes, central dune scrub, bare sands, and deflation plains, including the dune-slack wetlands and uplands, must be considered Environmentally Sensitive Habitat Area under the Coastal Act.

The Commission has been coordinating closely with the County of Marin and the Applicants to bring Lawson's Landing into compliance with the Coastal Act and the Marin County LCP. Lawson's Landing spans both the Commission's original jurisdiction and the County's certified LCP jurisdiction. In December 2006 the Commission approved a Consent Cease and Desist Order with the Lawson's Landing property owners that recognized that there was significant unpermitted development at Lawson's Landing that required a coastal development permit, including unpermitted grading, fill of wetlands, and the construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, and a pier.¹ In following years the County processed and approved a coastal development permit for its jurisdiction, and that was subsequently appealed to the Commission. The Commission now has jurisdiction over the entire proposed project, and the County, the Applicant, and the Executive Director have agreed to consolidate the coastal development permit pursuant to Section 30601.3 of the Coastal Act; thus, the standard of review for the project is the Coastal Act.

Because most of the existing development on the site has been determined to be unpermitted, the Commission must consider the application as though the development had not occurred and must regard the coastal resources, including any habitat on the site, as though it had not previously

¹ California Coastal Commission, CCC-06-CD-15.

been disturbed by this development occurring without the benefit of a coastal development permit. Also, since this is an after-the-fact (ATF) permit, the Applicants have proposed some new uses and to either retain, remove, or relocate existing uses on the site. The current proposal is for recreational use of the property, including 417 RV and tent lots, 233 year-round trailer lots, day use parking, boating facilities, mooring, and launching; support facilities including store, offices, recreational center, employee housing, boat sales and repair, fuel service and storage; wastewater/septic system; water tanks; road improvements; all on approximately 43 acres of the property (exhibit 3 and 4). The proposal also includes a conservation easement on approximately 465 acres and a restoration and enhancement plan.

Lawson's Landing is a significant and important coastal recreational and overnight visitor-serving resource for the citizens of California. The proposed camping and boating recreational facility will provide maximum public access and lower cost visitor serving and recreational opportunities, including coastal-dependent water-oriented activities such as boating and fishing consistent with the requirements of Sections 30221, 30213, 30220, 30224, and 30234 of the Coastal Act. Approving the development would provide needed lower cost camping and recreation, and support water-oriented boating, fishing and other activities in a location where public access has been historically significant, consistent with these sections. Lawson's Landing provides extremely important lower cost visitor serving access and recreation opportunities, particularly for Californian's from inland locations that do not have a regular opportunity to enjoy coastal access and recreation; it is currently one of the few facilities that provides such resources for residents of northern and central California. Without the project, camping, boating, and other recreational opportunities would no longer be available at this key location at the mouth of Tomales Bay.

Although the project would provide needed lower cost public access and water-oriented recreation, the proposed camping areas also are located in an environmentally sensitive habitat area that includes both terrestrial dune habitats and wetlands. Coastal Act section 30233 limits the fill of wetlands to certain uses that do not include most of the proposed project. In addition, Coastal Act 30240 limits development in sensitive habitat areas to resource dependent activities that do not include intensive camping or other recreational developments. Therefore, the project is inconsistent with these Coastal Act sections.

Denying the project because of its inconsistency with sections 30233 and 30240 would avoid the fill of wetlands and impacts to sensitive habitat. However, staff is recommending that to not approve the project would result in a failure to provide needed lower cost access and recreational facilities, including coastal-dependent boating and fishing, that would be inconsistent with the mandates of Sections 30210, 30213, 30220, 30224, and 30234. Therefore, the proposed project presents a conflict between sections 30210, 30213, 30220, 30224 and 30234 of the Coastal Act on the one hand and sections 30233 and 30240 of the Coastal Act on the other hand. Because of this conflict, it is appropriate for the Commission to invoke the conflict resolution policies of section 30007.5 of the Coastal Act.

Staff is further recommending that because the proposed camping and water-oriented recreation improvements at Lawson's Landing will provide needed lower cost visitor serving public access

and recreation including coastal-dependent water oriented activities of extremely high statewide significance that is mandated by the Coastal Act, the impacts on public coastal access and recreation from not constructing the project if it were denied would not strike a balance that is most protective of important coastal resources. Therefore, staff is recommending that the Commission approve the project with conditions that will result in a project that both provides significant public access and recreation at Lawson's Landing that will meet current and future demand for this resource (approximately 650 sites over 33.5 acres), and that maximizes protection of the vast majority of surrounding wetlands and habitat resources. This includes protection of an approximate 465 acre area proposed for a conservation easement by the Applicant, proposed remediation of wetlands and dune habitats outside the recommended camping areas, protection of California red-legged frog breeding ponds and movement corridors, wetlands restoration, grazing management for habitat enhancement, invasive species management and native plant habitat plantings, water quality measures, wetland and dune habitat buffers, and dune trails management.

Of particular note, **Special Condition No. 2** restricts the recreational camping and travel trailer facilities to defined areas in Areas 1 – 4 of the property, prescribing specific wetland and ESHA buffers and other measures to protect these resources. **Special Condition No. 4** incorporates and revises the Applicants' proposed Sensitive Resource Protection, Restoration, and Enhancement Plan, which will permanently protect 465 acres in a conservation easement, and restore and enhance sensitive habitats and wetlands onsite. **Special Condition Nos. 9 and 10** require that the proposed wastewater treatment and disposal system is constructed, and the existing septic systems abandoned, within 3 to 5 years. If this does not occur, all uses that depend on the existing septic systems must cease.

In regards to the approximately 213 existing unpermitted travel trailers in Area 2, staff recommends that the Commission adopt conditions requiring any residential uses to be transitioned to visitor-serving rentals. The Applicants proposal to add 20 trailers of their own to rent out to the general public that would be available for visitor serving recreational uses, is consistent with Coastal Act Sections 30221 and 30222. The remainder of the year-round 213 travel trailers currently are used residentially, which is inconsistent with Coastal Act Sections 30221 and 30222 because the use of private lands suitable for public recreational visitor serving facilities has priority over private residential uses on oceanfront land, and present and future foreseeable demand for public recreational facilities is not adequately provided for in the area. These private residential uses are occupying oceanfront areas that would otherwise be available for lower cost visitor serving and recreational facilities. The Applicants have indicated their willingness to transition the trailers, to a limited extent, from a residential to a visitor serving function, however special conditions are still needed to ensure that the trailers truly function as a visitor serving use within defined time limitations and restrictions.

In this particular case, the proposed retention of the travel trailers can be found consistent with the Coastal Act only as long as the use is primarily visitor-serving and strict conditions are placed on the operation of the travel trailers to ensure the travel trailers primarily function as public visitor serving overnight accommodations. Therefore, staff recommends that the Commission adopt **Special Condition No. 5**, which restricts the trailer owners' use and

occupancy so that the units will function as visitor units rather than residences or vacation homes. The conditions limit the time period of authorization of the travel trailers and require a CDP amendment supported by audit and occupancy monitoring information, to allow continued use of the travel trailers after 2017. The conditions also seek to reduce the possibility of non-compliance by requiring that owners and potential purchasers be given notice of the restrictions and legal responsibilities. Lastly, the conditions establish record keeping, reporting and auditing requirements that will assist the Commission with identifying violations and enforcing restrictions.

As conditioned as generally described above, and in more detail in this report, staff recommends that the Commission find that the proposed development on balance is the most protective of coastal resources, consistent with the Coastal Act.

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EXHIBITS:

1. Regional Map
2. Vicinity Map
3. Project Plans
4. Proposed Development Chart
5. Revised Project Description Letter
6. Memo from John Dixon, Ph.D., Staff Ecologist
7. Camping Photo (Labor Day Weekend)
8. Lawson's Landing Camping Rates
9. Lawson's Demographic Map
10. 1952 Aerial Photo (USGS)
11. 1965 Aerial Photo (USGS)
12. 1970 Aerial Photo (USGS)
13. 1972 Oblique Photo (CA Coastal Records)
14. 1975 Aerial
15. 1978 Aerial (USGS)
16. 1979 Oblique Photo (CA Coastal Records)
17. 1986 Aerial Photo (USGS)
18. Area 3 Proposed October 2010
19. Approximate developable areas
20. USFWS Snowy Plover Cooperative Agreement
21. Planting Pallets
22. Existing Septic Systems
23. STEP system
24. Irrigation Water Demand Summary
25. Proposed Residential Trailers
26. Road Network
27. Sand Haul Road
28. Geomorphic Features
29. Liquefaction
30. Lowland Area
31. San Andreas Fault
32. San Andreas Fault
33. Main and Secondary Fault Zones
34. Tsunami Evacuation
35. EHS Letter
36. EIR Mitigation Measures
37. Tsunami Inundation Line (CalEMA)
38. Lawson Judgment 1977
39. 1975 ACOE letter
40. Approximate Judgment Authorization
41. Draft Grazing Plan
42. Leachfield Test Location Map

Click on the link at left
to go to the exhibits.

II. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution. The motion passes only by an affirmative vote of a majority of the Commissioners present. Staff recommends a **yes** vote.

MOTION:

I move that the Commission approve Coastal Development Permit No. A-2-MAR-08-028/2-06-018 pursuant to the staff recommendation.

RESOLUTION:

The Commission hereby **APPROVES, as conditioned**, a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

III. 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
3. **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.
4. **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.

IV. SPECIAL CONDITIONS

1. **PERMIT EXPIRATION AND CONDITION COMPLIANCE**

This coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the

institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

2. AUTHORIZED DEVELOPMENT AND FINAL REVISED PLANS

A. **WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT**, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit, for the review and approval of the Executive Director, revised final plans substantially in conformance with the plans dated June 2011 (for Areas 1,2, and 4) and October 2010 (for Area 3), indicating the final layout of all authorized development including but not limited to RV, tent, and trailer lots, roads, parking, utilities and other infrastructure. The plans shall be prepared by a certified engineer and shall be prepared using a formal metes and bounds legal description and corresponding graphic depiction of all property subject to this permit, as well as all buffer, development, restoration, enhancement and non-developable areas of the property subject to this condition. The plans shall be modified as necessary to conform with the special conditions of this permit, including as described in this condition. The plans shall include and use the identification and depiction of wetlands and other environmentally sensitive habitat areas contained within the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report), to determine the location of required development buffers.

B. The following development and areas are authorized by this permit:

1. Area 1

Camp lots, access roads, and restrooms in Area 1, as generally shown on Adobe Associates Sheet 17 dated June 2011 (Exhibit 3 of this Staff Report), consistent with the following wetland and ESHA protection conditions:

- a. No development shall occur either: within 100 feet of wetlands as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report), and Adobe Associates Inc. Sheet 17 dated June 11 (exhibit 3); or alternatively, within 25 feet of the wetlands if the 25 foot wetland buffer includes within it construction of a sandy earthen berm planted with native central dune scrub vegetation that is at least six feet high as measured from the level of the graded camping area;
- b. Native riparian plants shall be planted along and immediately adjacent to the edge of the wetland to provide additional visual screen;
- c. No development shall occur within 50 feet of the central dune scrub ESHA as shown on Exhibit 6 of this staff report, Figure 4; and Adobe Associates Inc. Sheet 17 dated June 2011 (exhibit 3).
- d. Fencing that physically excludes people and pets or symbolic fencing, and informational signs shall be constructed around all wetlands and ESHA to prevent intrusion of people and domestic animals into the habitat areas. To ensure that the fencing is visually compatible with the area, a fencing materials and a monitoring plan shall be submitted, for review and approval by the executive director, concurrent with the Final Revised Plans in Section

2(A) of this condition. The plan shall include proposed fencing materials and signage that are made of natural materials and colors that blend with the environment. The monitoring plan shall include weekly monitoring and performance criteria to determine if the fencing is effective at keeping visitors and pets out of the wetland and ESHA areas, and provide a mechanism to install alternative fencing if the initial fencing is ineffective.

- e. Water quality infiltration basin located between camp lots 13 and 14, and other basins within camping area, as necessary pursuant to the Drainage Plan required by Special Condition 28 or the Stormwater Management Plan required by Special Condition 29.
- f. Restoration of eastern 'tail' graded area, including the area currently proposed as a 'water quality infiltration basin' and access road, as generally depicted on Adobe Associates Sheet 17, dated June 2011, to dune habitat, pursuant to Special Condition 4.

2. Area 2

213 existing travel trailers (subject to Special Condition 5), 20 new visitor-serving travel trailers owned by the Applicants, camping lots, restrooms, parking areas, boat storage/staging, boat house, and employee units (subject to Special Condition 9), and access roads as generally shown on Adobe Associates Sheet 18, dated June 2011 (Exhibit 3 of the Staff Report), consistent with the following wetland and ESHA protection conditions:

- a. No development shall occur either within 100 feet of the wetlands to the east as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report); or alternatively, within 25 feet of the wetlands, as proposed by the Applicant, if the 25 foot wetland buffer includes plantings of native riparian species, as generally depicted on Exhibit 6 (memo from John Dixon, Staff Ecologist), Figure 25 to screen the wetlands from activities within the developed area. A sandy berm shall not be constructed in Area 2.
- b. There shall be a 35-foot buffer between development and the wetland to the north of Trailer Rows J, K, and L, as proposed by the Applicant, and as shown on Adobe Associates Sheet 18, dated June 2011 (Exhibit 3 of this Staff Report). As proposed by the Applicant, all travel trailers within the wetland or the 35-foot buffer shall be removed.
- c. Fencing that physically excludes people and pets or symbolic fencing, and informational signs shall be constructed around all wetlands and ESHA to prevent intrusion of people and domestic animals into the habitat areas. To ensure that the fencing is visually compatible with the area, a fencing materials and a monitoring plan shall be submitted, for review and approval by the executive director, concurrent with the Final Revised Plans in Section 2(A) of this condition. The plan shall include proposed fencing materials and signage that are made of natural materials and colors that blend with the environment. The monitoring plan shall include weekly monitoring and

performance criteria to determine if the fencing is effective at keeping visitors and pets out of the wetland and ESHA areas, and provide a mechanism to install alternative fencing if the initial fencing is ineffective.

- d. The ditch located adjacent to trailer spaces 70 – 85, as shown on Exhibit 6, Figure 4, and its extension to the east shall only drain the existing developed area and shall receive no water from nearby wetlands.
- e. Water quality infiltration basin within camping as necessary pursuant to the Drainage Plan required by Special Condition 28 or the Stormwater Management Plan required by Special Condition 29.

3. Area 3

Camp lots, roads, restrooms, and parking areas in Area 3 as generally shown on Adobe Associates Sheet 19, dated October 2010 (exhibit 18 to this Staff Report), consistent with the following wetland and ESHA protection conditions:

- a. As shown on Adobe Associates Sheet 19, dated October 2010, walk-in tent camping only is authorized between the dune scrub vegetation that comprises the relict patch of foredune as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report); and labeled Ammophila Dominated Area on Adobe Associates Sheet 19, dated October 2010) (exhibit 18).
- b. Parking shall be restricted to along the western main access road.
- c. No development or other uses, including camping, parking, recreational activities, etc. shall occur within 100-feet of wetlands, as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report). These wetlands are also depicted in detail on Adobe Associates Sheet 19, dated October 2010.
- d. Fencing that physically excludes people and pets or symbolic fencing, and informational signs shall be constructed around all wetlands and ESHA to prevent intrusion of people and domestic animals into the habitat areas. To ensure that the fencing is visually compatible with the area, a fencing materials and a monitoring plan shall be submitted, for review and approval by the executive director, concurrent with the Final Revised Plans in Section 2(A) of this condition. The plan shall include proposed fencing materials and signage that are made of natural materials and colors that blend with the environment. The monitoring plan shall include weekly monitoring and performance criteria to determine if the fencing is effective at keeping visitors and pets out of the wetland and ESHA areas, and provide a mechanism to install alternative fencing if the initial fencing is ineffective.
- e. The perimeter road shall be abandoned, except for the southern connector to the Area 2 trailers, as shown on Figure 25 of the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report).

- f. Restoration of abandoned perimeter road, as shown on Figure 25 of the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report) pursuant to Special Condition 4.
 - g. No grading is permitted, unless required pursuant to subsection 'e' above.
4. Area 4
Camping, roads, restrooms, and parking in Area 4, as generally shown on Adobe Associates Sheet 20 dated June 2011 (exhibit 3 of this Staff Report), consistent with the following ESHA protection conditions:
- a. Except for the main access road and CRLF habitat enhancement measures proposed and authorized pursuant to Special Condition 4, a 300-foot buffer shall be provided between all development and other land uses and the California Red Legged Frog breeding pond to the north as depicted in Figure 5 of the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report).
 - b. A 100-foot buffer between development and wetlands as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report); These wetlands are also depicted in detail on Adobe Associates Sheet 20, dated June 2011.
 - c. No development shall occur within 25 feet of the ditches as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report) except that development may occur within 10 feet of the ditches between Memorial Day weekend and Labor Day weekend if preceded by at least a two week period of minimal rainfall.
 - d. A 50-foot buffer between development and dune scrub ESHA, as identified and depicted in the June 23, 2011 memo from John Dixon, Staff Ecologist to Ruby Pap, Coastal Commission staff, regarding Lawson's Landing (exhibit 6 of this Staff Report) and Adobe Associates Sheet 20, dated June 2011, shall be provided.
 - e. Fencing that physically excludes people and pets or symbolic fencing, and informational signs shall be constructed around all wetlands and ESHA to prevent intrusion of people and domestic animals into the habitat areas. To ensure that the fencing is visually compatible with the area, a fencing materials and a monitoring plan shall be submitted, for review and approval by the executive director, concurrent with the Final Revised Plans in Section 2(A) of this condition. The plan shall include proposed fencing materials and signage that are made of natural materials and colors that blend with the environment. The monitoring plan shall include weekly monitoring and performance criteria to determine if the fencing is effective at keeping visitors and pets out of the wetland and ESHA areas, and provide a mechanism to install alternative fencing if the initial fencing is ineffective.
 - f. No grading is permitted.
5. Area 5

- a. Well and water tank access-road as shown on Adobe Associates Sheet 21, dated June 2011 (exhibit 3 of this Staff Report).
- b. Restoration to native dune scrub vegetation, pursuant to special condition 4.
- c. Removal of culvert underneath main access road and replacement with pipe arch, as shown in Adobe Associates 'Area 5 culvert replacement and well berm exhibit,' (exhibit 3 of this Staff Report).
- d. The proposed well and tank berm is not authorized. The Applicants may apply for a CDP Amendment for this development. Such amendment application shall include a detailed explanation of the use of the berm as well as all information necessary to determine its impacts on wetlands and dune scrub ESHA.
- e. Fencing that physically excludes people and pets or symbolic fencing, and informational signs shall be constructed around all wetlands and ESHA to prevent intrusion of people and domestic animals into the habitat areas. To ensure that the fencing is visually compatible with the area, a fencing materials and a monitoring plan shall be submitted, for review and approval by the executive director, concurrent with the Final Revised Plans in Section 2(A) of this condition. The plan shall include proposed fencing materials and signage that are made of natural materials and colors that blend with the environment. The monitoring plan shall include weekly monitoring and performance criteria to determine if the fencing is effective at keeping visitors and pets out of the wetland and ESHA areas, and provide a mechanism to install alternative fencing if the initial fencing is ineffective.

6. Area 6

- a. Relocation of boat and boat trailer storage, boat repairs and sales, fuel bunker, and fuel service to within existing buildings and developed areas only.
- b. No additional development is authorized, including but not limited to paving and graveling, unless: (1) development is proposed in legally developed areas; (2) the Applicants provide evidence that such previous development was authorized; (3) an Amendment to this coastal development permit is approved.

7. Area 8

- a. No development is authorized, including but not limited to staging and storage unless: (1) development is proposed in already legally developed areas; (2) the Applicants present evidence that such previous development was authorized; (3) an Amendment to this coastal development permit is approved.

8. Proposed Conservation Easement Area Outside Areas 1-8 (Exhibit 3 of this Staff Report, Monk and Associates Exhibit C , dated June 3, 2011)

- a. Restoration activities authorized pursuant to Special Condition 4
- b. Monitoring and other scientific information gathering necessary to implementation of the proposed conservation easement.
- c. Grazing consistent with Special Condition 4.

C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No

changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. CAMPING MANAGEMENT AND OPERATIONS PLAN

A. WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit a Camping Management and Operations Plan, for review and approval by the Executive Director that includes the measures below. **After January 15, 2012, no camping shall occur outside Areas 1 and 2 until the Camping Management Plan is approved by the Executive Director.**

1. A formal reservation system that requires filling the camping lots pursuant to the proposed temporal management scheme, except as modified by Special Condition 2.
2. All tent, RV, and trailer lots shall be clearly defined by permanent corner markers and identified by letters or numbers consistent with Special Occupancy Parks Act (SOPA) regulations.
3. All night time lighting shall be limited to the minimum necessary for public safety, and shielded and cast downward and shall avoid glare in wetlands and ESHA, consistent with Special Condition 16.
4. All utility lines shall be placed underground.
5. All pets shall be kept on leash at all times.

B. All camping and other development shall occur in conformance with the approved final Camping Management Plan. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. SENSITIVE RESOURCE PROTECTION, RESTORATION, AND ENHANCEMENT

A. WITHIN 6 MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the Permittees shall submit to the Executive Director of the Commission for review and approval a final Tomales Wetlands-Dune Complex Protection, Restoration, and Enhancement Plan (PREP) substantially in conformance with the Monk and Associates, Inc. Exhibit C. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011 (exhibit 3 of this Staff Report), except that it shall be modified and provide for, at a minimum, the following:

1. Consistent with the applicant's proposed project, as modified by the conditions of this permit, permanent protection through legal instruments reviewed and approved by the Executive Director of the approximate 465-acre wetland-dune system at Lawson's

Landing as shown generally on Monk and Associates, Inc. Exhibit C. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011 as the "proposed conservation easement area" (exhibit 3 of this Staff Report). The recorded documents shall irrevocably offer to dedicate to a public agency or private association approved by the Executive Director an open space and conservation easement for the purpose of resource protection and habitat conservation. Such easement shall be located in the "proposed conservation easement area" generally depicted on the Monk and Associates Inc. Exhibit C. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011 (exhibit 3 of this Staff Report). The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area. A licensed surveyor shall map the area subject to this condition using a formal metes and bounds legal description and corresponding graphic depiction. The recorded document shall also reflect that development in the easement area is restricted as proposed and as further set forth in this permit condition. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

2. New development as defined in PRC 30106 will be prohibited in the easement area as shown on the Monk and Associates, Inc. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011 (exhibit 3 of this Staff Report) except for the following:
 - a. Restoration and Enhancement activities proposed in the PREP submitted to and approved by the Executive Director as authorized by this condition and consistent with the other terms and conditions of this permit.
 - b. Resource-dependent development or development allowed pursuant to PRC 30233 if approved through an amendment to this coastal development permit.
 - c. Grazing authorized pursuant to the grazing management plan for the purposes of habitat restoration.

3. Removal of the following development and restoration of the previously developed areas to functioning wetland/upland/dune habitat as relevant, consistent with the approved PREP:
 - a. Connecting roads inland of Areas 1-3 as shown on Monk and Associates, Inc. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011, "Restoration Area B" (exhibit 3 of this Staff Report). All fill and surfacing materials, and any culverts or materials bridging existing ditches shall be removed. This area shall be restored to wetland functions and values compatible with the surrounding wetland environment, pursuant to Section 4 below.
 - b. Graded area of Area 1 as shown on Monk and Associates, Inc. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011, "Restoration Area A" and Adobe Associates Sheet 17, dated June 2011 (exhibit 3 of this

- Staff Report). The entire graded land area underneath proposed Restoration Area A, the proposed water quality infiltration basin, and the proposed access road and parking area just above RV sites 25 – 30, as shown on Sheet 17, shall be restored to dune habitat vegetated with central dune scrub species.
- c. Development located in the CRLF corridor connecting the breeding pond next to Area 5 and the entrance, with the breeding pond inland of Area 4, as shown in Exhibit 6, Figure 5 and Monk and Associates, Inc. Resource Protection, Restoration and Enhancement Plan dated June 3, 2011 “Restoration Area C,” and Adobe Associates Sheet 21, dated June 2011, except for the existing main access road, the well and water tank access road in Area 5, and other necessary utilities.
 - d. Any development in areas previously used for camping but not authorized by the Coastal Commission, including Area 5 and all other areas within the ‘existing (prior) limits of camping line on Monk and Associates Sheet 2, dated October 15, 2010, and restricted buffers pursuant to Special Condition 2.
4. Wetlands/Dunes restoration and enhancement plan prepared by a restoration ecologist experienced with these habitat types that includes, at a minimum, the following:
- a. Engineered Plans for “Restoration Area A” consistent with Section 3(b) of this condition; Restoration A shall be modified to include the entire area above RV lots 25 – 30.
 - b. Engineered Plans for “Restoration Area B” consistent with Section 3(a) of this condition; Restoration Area B shall be modified, such that the area is restored to wetland habitat, not riparian habitat.
 - c. Engineered Plans for “Restoration Area C” consistent with Section 3(c) of this condition; Restoration Area C shall be modified such that the planting palette shall include native central dune scrub vegetation.
 - d. Hydrological Assessment, prepared by a hydrologist with experience in wetland restoration, in consultation with a wetlands restoration ecologist, that identifies measures to increase inundation and soil saturation within the Tomales wetlands/dune complex, including removal of existing drainage ditches and prevention of drainage of wetland areas to the ocean;
 - e. Invasive Species Removal Plan that includes an initial assessment of the type, extent and general location of invasive species within the proposed conservation easement area, measures to prevent the spread of invasive species, including treatment and removal and managed grazing as appropriate, and a monitoring program consistent with section 6 below, to measure Plan success.
 - f. Planting of native species of local stock appropriate to the restoration area to enhance habitat values, such as butterfly habitat. Non-native and/or invasive plant species shall be prohibited. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a ‘noxious weed’ by the State of California or the

- U.S. Federal Government shall be planted or allowed to naturalize or persist in the restoration and enhancement area.
- g. Removal of the perimeter road around Area 3 and restoration of the habitat to its pre-disturbed condition, as generally shown on Exhibit 6, Figure 25.
 - h. Other measures, as appropriate, to enhance habitat for CRLF and snowy plover. If major alterations to habitat are included, such as the proposed open-water riparian corridor in the southern dune slack wetland, a scientific review panel made of up regional experts, including academics and consulting practitioners, shall be convened to assess the plan and make technical recommendations. Those recommendations shall be included in the Restoration and Enhancement Plan.
 - i. The plans shall be prepared by a certified engineer and shall be prepared using a formal metes and bounds legal description and corresponding graphic depiction of all property subject to this permit, as well as all buffer, development, restoration, enhancement and non-developable areas of the property subject to this condition.
5. Grazing Management Plan that identifies areas within the restoration area where grazing will prohibited and where grazing may be allowed for purposes of habitat restoration, maintenance, and enhancement. The plan shall be prepared by or in consultation with a restoration ecologist familiar with wetlands and native grasses.
6. The goal of the PREP shall be to enhance and restore the Tomales Wetlands/Dune complex to a self-sustaining natural habitat state adequately buffered from adjacent development. The PREP shall be prepared by a restoration ecologist, and will take into account the specific conditions of the site (including soil, exposure, water flows, temperature, moisture, wind, etc.), as well as restoration and enhancement goals. At a minimum, the plan will provide for the following:
- a. A baseline assessment, including photographs, of the current physical and ecological condition of the restoration and enhancement area.
 - b. A description of the goals and measurable success criteria of the plan, including, at a minimum, the requirement that success be determined after a period of at least three years wherein the site has been subject to no remediation or maintenance activities other than weeding, and that this condition be maintained in perpetuity to the maximum extent feasible.
 - c. Monitoring and maintenance provisions including a schedule of the proposed monitoring and maintenance activities to ensure that success criteria are achieved.
 - d. Provision for submission of bi-annual reports of monitoring results to the Executive Director, beginning the first year after completion of the restoration effort and concluding once success criteria have been achieved. Each report will document the condition of the site area with photographs taken from the same fixed points in the same directions, shall describe the progress towards reaching the success criteria of the plan, and shall make recommendations, if any, on changes necessary to achieve success.

7. Adherence to the protection measures for snowy plovers identified by the USFWS.

B. The Permittee shall undertake development in accordance with the approved PREP. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. TRAVEL TRAILER VISITOR-SERVING USE REQUIRED.

A. PRIOR TO JANUARY 1, 2012, the Permittee shall submit, for the review and approval by the Executive Director, a Visitor-serving Travel Trailer Management Plan (VTTMP) for all travel trailers in Areas 1 and 2 that provides for the following requirements and governs the use of the travel trailers through April 30, 2017. The plan shall require the permittee, prior to January 1, 2017, to submit an amendment to this permit to govern the use of the travel trailers after April 30, 2017. The Plan shall address: (1) all travel trailers that exist in Areas 1 and 2 on the date of this approval; (2) all travel trailers that will be located in Areas 1 and 2 after the date of this approval; (3) the 20 newly proposed 100% visitor serving travel trailers that will be made available for short term rental 365 days a year; and (4) the 16 trailers and 4 mobile homes that are proposed for year-round residential use, unless those trailers or mobile homes will be used solely for employee housing in accordance with special condition 8. The plan shall ensure that all leases for travel trailer use at Lawson's Landing are revised, consistent with all requirements of this condition, and recorded against all of the property that is subject to this condition, as further specified below.

B. Use of the travel trailers is only authorized through April 30, 2017 and is restricted as follows:

1. All travel trailers that currently exist in Areas 1 and 2, or that may be located in Areas 1 and 2 after the date of this approval, shall be made available for short-term rental by the general public, consistent with all subsections below, for at least 270 days a year through a reservation system administered by the permittee. Use of each trailer by its current owner shall be limited to a maximum of 90 total days annually, and no more than 30 days between Memorial Day and Labor Day.
 - a. Unless prohibited by HCD requirements, any travel trailer existing on the property as of the date of this approval that is already subject to a 90 day stay limitation, shall be made available for short-term rental by the general public, consistent with all subsections below, for at least 270 days a year through a reservation system administered by the permittee within six months of approval of the VTTMP.
 - b. No later than May 1, 2014, any travel trailer existing on the property as of the date of this approval not already subject to a 90 day stay limitation shall be made available for short-term rental by the general public, consistent with all subsections

below, for at least 270 days a year through a reservation system administered by the permittee.

- c. Unless prohibited by HCD requirements, any travel trailer that may be placed in Area 2 after the date of this approval shall be made available for short-term rental by the general public, consistent with all subsections below, for at least 270 days a year through a reservation system administered by the permittee upon occupancy of the new trailer or within six months of approval of the VTTMP, whichever is later.
2. The 20 newly proposed 100% visitor-serving travel trailers shall be made available for short-term rental by the public 365 days a year, consistent with all subsections below, prior to occupancy and no later than January 1, 2012.
 3. Unless the trailers or mobile homes will be used solely for employee housing in accordance with special condition 8, the 16 trailers and 4 mobile homes that are proposed for year-round residential use shall be made available for short-term rental by the general public for at least 270 days a year, consistent with all subsections below, through a reservation system administered by the permittee within six months of approval of the VTTMP.
 4. Travel trailer leases shall be executed and recorded against the property that is the subject of this permit according to the following requirements:
 - a. Any travel trailer specified in subsection B(1)(a) that is not subject to a recorded lease by January 1, 2012, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2012 and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.
 - b. Any travel trailer specified in subsection B(1)(b) above that is not subject to a recorded lease by January 1, 2014, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2014 and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.
 - c. Any travel trailer specified in subsection B(1)(c) above that is not subject to a recorded lease, prior to occupancy or within six months of approval of the VTTMP, whichever is later, consistent with and containing all of the requirements of this condition, shall be removed and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.
 - d. Any travel trailer specified in subsection B(2) above that is not subject to a recorded lease by January 1, 2012, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2012 and the space made

available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.

- e. Any travel trailer specified in subsection B(3) above that is not subject to a recorded lease by January 1, 2012, consistent with and containing all of the requirements of this condition, shall be removed no later than March 1, 2012 and the space made available as either a traditional RV camping site or as a travel trailer site consistent with the requirements of this condition.

C. Recreational Vehicle Operations. The approved use of the travel trailers is subject to the following conditions/restrictions:

1. Definitions applicable to this Section:

- a. Recreational Vehicle is defined as the recreational vehicles with and without drains that are the subject of this coastal development permit. The primary function of the Recreational Vehicle is to provide overnight transient visitor accommodations on a daily basis year round, providing both general public availability and limited owner occupancy.
- b. A recreational vehicle with drain is defined as any travel trailer located in Camping Areas 1 & 2 that will be made available to the general public for recreational vehicle rental and which is subject to individual ownership with limited owner occupancy. For purposes of this condition, a recreational vehicle with drain shall include any trailer existing on the property on the date of this approval that is not solely used for employee housing.
- c. Recreational Vehicle Operator is defined as the entity that operates both the traditional recreational vehicle without drains at Lawson's Landing, and that manages the Recreational Vehicles with drains as provided herein.
- d. Recreational Vehicle Owner is defined as the fee owner or owners of the recreational vehicles with drains.
- e. Lawson's Landing is defined as the fee owner of the land on which the recreational vehicles with and without drains are located, comprising the following APNs: 100-100-07, 100-100-08, 100-100-10, 100-100-21, 100-100-49, 100-100-58, 100-100-59, 100-201-01, 100-201-02, 100-202-01, 100-202-02, 100-203-01, 100-203-02, 100-203-03, 100-204-01, 100-204-02, 100-205-03, 100-206-02, 100-207-03, 100-208-01, 100-208-02, 100-211-01, 100-211-02, 100-212-01, 100-212-02, 100-213-01, 100-213-02, 100-214-01, 100-214-02, 100-215-01, 100-215-02, 100-216-01, 100-216-02, 100-217-01, 100-217-02, 100-218-01, 100-218-02, 100-220-06, 100-230-03, 100-100-22, 100-206-01, 100-100-48. The term Lawson's Landing in a sentence refers to the owners of the identified APNs that comprise Lawson's Landing at the particular time being discussed.

2. No more than the lesser of: (i) the maximum number of recreational vehicles with and without drains approved by HCD or (ii) the maximum number of Recreational Vehicles allowed by Special Condition 2B of this coastal development permit (233) may be configured as Recreational Vehicles within Lawson's Landing.
3. The property owners of Lawson's Landing shall retain control through ownership, lease, easements, or other legal means, of all recreational vehicles with drains.
4. The property owners of Lawson's Landing shall have an on-site Recreational Vehicle Operator to manage booking of all recreational vehicles (both traditional recreational vehicle without drains and recreational vehicle with drains). Whenever any individually owned Recreational Vehicle with drain is not occupied by its owner(s), that recreational vehicle shall be available for recreational vehicle rental by the general public through the Recreational Vehicle Operator or through the owner directly, on the same basis.
 - a. As used in this Section, the term "to book" or "booking" shall mean the confirmation of a reservation request for use of a Recreational Vehicle with drain by either the owner of the recreational vehicle with drain, the owner's permitted user or by a member of the public, and the entry of such confirmation in the Recreational Vehicle Operator's reservation data base.
 - b. Each owner of a Recreational Vehicle with drain shall have the right, in his or her sole discretion, to engage either the Recreational Vehicle Operator or a rental agent of his or her choice to serve as the rental agent for his or her guestroom/unit, or to rent his or her guestroom/unit directly, but any engagement of a rental agent other than the Recreational Vehicle Operator shall be on a non-exclusive basis. The Recreational Vehicle Operator shall have the right and obligation to offer for public rental all time periods not reserved by an owner of a Recreational Vehicle with drain for his or her personal use, or for the use of an owner's permitted user, or reserved for use by a public renter procured by an owner or by an owner's rental agent who is not the Recreational Vehicle Operator. Whether or not the Recreational Vehicle Operator is selected as an owner's exclusive rental agent, the Recreational Vehicle Operator shall manage the booking and the reservation of all Recreational Vehicle with drains. All owners of Recreational Vehicles with drains and their rental agents, must comply with the following restrictions:
 - i. Owners of Recreational Vehicles with drains shall not discourage rental of their recreational vehicles or create disincentives meant to discourage rental of their recreational vehicles;
 - ii. As more fully described in subsection C(18), below, owners of Recreational Vehicles with drains shall report and certify the rental rate and terms of any rental of the owner's guestroom/unit made independently of the Recreational Vehicle Operator, and the Recreational Vehicle Operator shall book all reservations of recreational vehicles with drains in the Recreational Vehicle Operator's

reservation database, a service for which the Recreational Vehicle Operator may charge the owner of the Recreational Vehicles with drain a reasonable fee;

5. Based on its own rentals and also those certified by those owners who have reported rentals made by them directly or by another rental agent they have selected, the Recreational Vehicle Operator shall maintain records of usage for all recreational vehicles with drains and the rental terms of such usage, and shall be responsible for reporting Transient Occupancy Taxes for all recreational vehicles with drains, services for which the Recreational Vehicle Operator may charge the owner of the Recreational Vehicle with drain a reasonable fee.
6. The Recreational Vehicle Operator shall market all recreational vehicles with drains to the general public. Owners of individually owned Recreational Vehicle with drains may also independently market their recreational vehicles with drains, but all booking of reservations shall be made by and through the Recreational Vehicle Operator.
7. The Recreational Vehicle Operator shall manage all Recreational Vehicles with drains as part of the recreational vehicle inventory of the facility as a whole (i.e. Lawson's Landing), which management will include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing guestrooms/units for use by guests/owners, a service for which the Recreational Vehicle Operator may charge the owner of a recreational vehicle with drain a reasonable fee.
8. If the Recreational Vehicle Operator is not serving as the exclusive rental agent for an individually owned Recreational Vehicle with drain, then the Recreational Vehicle Operator shall nevertheless have the right, working through the individually owned vehicles' owners or their designated agents, to book any unoccupied recreational vehicles with drains to fulfill public demand. The owner or an owner's rental agent may not withhold recreational vehicles with drains from use, unless they have already been reserved for use by the owner, consistent with the owner's maximum use right, as set forth in subsection (12), below. In all circumstances, the Recreational Vehicle Operator shall have full access to the vehicle's reservation and booking schedule so that the Recreational Vehicle Operator can fulfill its booking and management obligations hereunder.
9. All vehicles' keys shall be controlled by the Recreational Vehicle Operator to control the use of the individually owned Recreational Vehicles with drains.
10. The Recreational Vehicle Operator shall maintain records of usage by owners and guests and rates charged for all Recreational Vehicles.
11. Except as otherwise specified in subsection B(2) above, each individually owned Recreational Vehicle with drain shall be used by its owner(s) (no matter how many owners there are) or their guests for not more than 90 days per calendar year and no more than 30 days between Memorial Day and Labor Day.

12. The occupancy limitations identified in subsection (11) above, shall be unaffected by multiple owners of an individually owned Recreational Vehicle with drain or the sale of a vehicle to a new owner during the calendar year, meaning that all such owners of any given vehicle shall be collectively subject to the occupancy restriction as if they were a single, continuous owner.
13. Except for the removal of a Recreational Vehicle with drain so as to make the space available as a traditional RV camping site or as another recreational vehicle with drain consistent with the requirements of this permit, no portion of a Recreational Vehicle with drain may be converted to full-time occupancy or other use that differs from the Recreational Vehicle with drains approved herein without Commission approval of an amendment to this coastal development permit.
14. The Recreational Vehicle Operator and individual owners of Recreational Vehicles with drains shall make good faith efforts to maximize the occupancy rate of each recreational vehicle with drain.
15. The owners of Lawson's Landing shall be required to submit, **PRIOR TO JANUARY 1, 2012**, for the review and written approval of the Executive Director of the Coastal Commission ("Executive Director"), a Declaration of Lease Restrictions between Lawson's Landing and the owner of each recreational vehicle with drain (Lease), which shall include:
 - a. All the specific restrictions listed in Sections A and B and subsections C(1) through C(14) above;
 - b. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
 - c. A statement that provisions of the Lease that reflect the requirements of Sections A and B and subsections C(1) through C(14) above, cannot be changed without a coastal development permit amendment. However, minor changes that do not conflict with Sections A or B or subsections C (1) through C (14) above may be processed as an amendment to the coastal development permit, unless it is determined by the Executive Director that an amendment is not legally required. If there is a section of the Lease related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the Lease on amendments.
 - d. The governing documents for each Recreational Vehicle with drain shall require the Recreational Vehicle Operator and each owner of a Recreational Vehicle with drain to fully cooperate with and to promptly produce any existing documents and records which the auditor required by subsections (21) and (22) may reasonably request.

16. The Lease described above shall be executed and recorded against the property comprising Lawson's Landing in compliance with the timing requirements specified in Section B above.
17. The owners of Lawson's Landing and the Recreational Vehicle Operator or any successors-in-interest shall maintain the legal ability to ensure compliance with the terms and conditions stated above at all times in perpetuity and shall be responsible in all respects for ensuring that all parties subject to these restrictions comply with the restrictions. Each owner of an individual Recreational Vehicle with drain is jointly and severally liable with the owners of Lawson's Landing and Recreational Vehicle Operator for any and all violations of the terms and conditions imposed by the special conditions of the coastal development permit with respect to the use of that owner's recreational vehicle with drain. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.
18. All documents related to the marketing and sale of the recreational vehicles with drains, including marketing materials, sales contracts, deeds, Leases and similar documents, shall notify buyers of the following:
 - a. Each owner of any individual Recreational Vehicle with drain is jointly and severally liable with the owners of Lawson's Landing and Recreational Vehicle Operator for any violations of the terms and conditions of the coastal development permit with respect to the use of that owner's recreational vehicles with drains; and
 - b. Except as otherwise specified in subsection B (2) above, the occupancy of a Recreational Vehicle with drain by its owner(s) and their guests is restricted to 90 days per calendar year with a maximum of 30 days of use between Memorial Day and Labor Day, and when not in use by the owner, the recreational vehicles with drains shall be made available for rental by the Recreational Vehicle Operator to the general public pursuant to the terms of the coastal development permit and that the coastal development permit contains additional restrictions on use and occupancy; and
 - c. Each owner of a Recreational Vehicle with drain who does not retain the Recreational Vehicle Operator as his or her rental agent shall be obligated by the governing documents of the Recreational Vehicle with drain to truthfully report to the Recreational Vehicle Operator (and to certify each such report) on an annual basis each effort, if any, he or she has made to rent his or her recreational vehicles with drains to a member of the public, and the terms and conditions of any such offer, and the terms and conditions of each rental offer which has been accepted by a member of the public.
19. Except as otherwise specified in subsection B (2) above, the Owners of Lawson's Landing and any successor-in-interest Owners, and each future individual owner of a

Recreational Vehicle with drain shall obtain, prior to the sale of individual Recreational Vehicles with drains, a written acknowledgement from the buyer that occupancy by the owner is limited to 90 days per calendar year with a maximum of 30 days of use between Memorial Day and Labor Day, that the recreational vehicles with drains must be available for rental to the general public when not occupied by the owner, and that there are further restrictions on use and occupancy in the coastal development permit and the Lease.

20. The Recreational Vehicle Operator and any successor-in-interest Recreational Vehicle Operator shall monitor and record Recreational Vehicle occupancy and use by the general public and the owners of individual Recreational Vehicles with drains throughout each year. The monitoring and record keeping shall include specific accounting of owner usage for each individual Recreational Vehicle with drain. The records shall be sufficient to demonstrate compliance with the restrictions set forth in Sections A and B and subsections (C) (1) through (14) above. The Recreational Vehicle Operator shall also maintain documentation of rates paid for Recreational Vehicle occupancy and of its advertising and marketing efforts. All such records shall be permanently maintained and shall be made available to the Executive Director and to any auditor required herein. Within 30 days of commencing operations of a Recreational Vehicle with drains, the Recreational Vehicle Operator shall submit notice to the Executive Director of commencement of Recreational Vehicle operations.
21. Within 120 days of the end of the first calendar year of Recreational Vehicle operations, the Recreational Vehicle Operator shall retain an independent auditing company, approved by the Executive Director to perform an audit to evaluate compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the Recreational Vehicle Operator. The Recreational Vehicle Operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the Executive Director, within six months after the conclusion of the first year of Recreational Vehicle operations.
22. Within 120 days of the end of each succeeding calendar year, the Recreational Vehicle Operator shall submit a report regarding compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the Recreational Vehicles with drains to the Executive Director. The audit required after the first year of operations and all subsequent reports shall evaluate compliance by the Recreational Vehicle Operator and owners of individual Recreational Vehicles with drains during the prior one-year period. The expense of any such audit shall be payable by the owner of Lawson's Landing who may charge the owners of recreational vehicles with drains a reasonable fee.

23. Within 120 days of the end of each calendar year of recreational Vehicle operations, the independent auditing company retained by the Recreational Vehicle Operator and approved by the Executive Director pursuant to the provisions of subsection (21), shall prepare and submit to the Executive Director a report evaluating the occupancy rates of each Recreational Vehicle with drains for the preceding year period of operations. At a minimum the report shall include: (1) an analysis of peak period, monthly and annual occupancy rates for each individual RV with drain; (2) identification and analysis of peak period, monthly and annual occupancy rates for campgrounds in Marin and Sonoma County, including RV and tent camping at Lawson's Landing; (3) a comparison of the occupancy rates for the RVs with drains with the occupancy rates for campgrounds in Marin and Sonoma County, by peak period, month and annually; and (4) identification of those individual RVs with drains that have not maintained an average occupancy rate at or above the average occupancy rate of campgrounds in Marin and Sonoma County, taking into account the restrictions on use by individual owners of the Recreational Vehicles with drains. The expense of such audit shall be payable by the owner of Lawson's Landing who may charge the owners of the recreational vehicles with drains a reasonable fee.
24. No later than January 1, 2017, the owners of Lawson's Landing shall submit an amendment to this coastal development permit to govern the use of all recreational vehicles with drains after April 30, 2017.
25. If the owners of Lawson's Landing and the Recreational Vehicle Operator are or at any point become separate entities, the owners of Lawson's Landing and the Recreational Vehicle Operator shall be jointly and severally responsible for ensuring compliance with the requirements identified above, and for reporting material non-compliance to the Executive Director. If the owners of Lawson's Landing and Recreational Vehicle Operator are or become separate entities, they shall be jointly and severally liable for violations of the terms and conditions (restrictions) identified above.

6. TRAVEL TRAILER COMPLIANCE WITH HCD STANDARDS

PRIOR TO JANUARY 1, 2012, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit evidence, for the review and approval of the Executive Director, that all accessory structures (i.e. permanent buildings, garages, cabanas, or storage buildings) have been removed from all of the trailer lots in Area 2 and that all trailers meet California HCD Special Occupancy Park standards, including that the trailers are mobile (i.e. have wheels, vehicle axles and their assemblies, and tow hitch) and have a vehicle license. Evidence shall include photographs and copies of each vehicle license. The Commission reserves the right to enter the property to inspect and ensure compliance with this condition.

7. CAMPING STAY LIMITATIONS

- A. Overnight accommodations per individual party in the RV and tent sites shall be limited

to a maximum of 10 consecutive nights. Any repeat stays by the same party must not occur within a minimum of two days of the previous stay. Overnight accommodations per individual party shall not exceed 30 days per calendar year.

B. Except for the on-site campground host or campground facilities manager, approved employee housing pursuant to Special Condition 8, and the recreational vehicles with drains subject to the provisions of Special Condition 5 and 6, all overnight accommodations at Lawson's Landing shall be exclusively available to the general public for transient occupancy. The establishment or conversion of overnight accommodations to a private or member's only use, or the implementation of any program to allow extended and exclusive use or occupancy of the facilities by an individual or limited group or segment of the public is prohibited.

8. EMPLOYEE HOUSING PLAN

WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit an employee housing plan for review and approval of the executive director, for those employees necessary for on-site support of the recreational/commercial use of the property. The Plan shall identify the number and type of employees and which trailers or mobile homes are proposed for employee housing. Evidence of employee use of all trailers and mobile homes shall be provided. Such required evidence may include Lawson's Landing pay stubs, hiring letters, and/or signed job duty statements. Any mobile home or travel trailer not shown to be necessary or used for employee housing shall be converted to visitor serving uses in accordance with special condition no. 5 or the space made available for general visitor use, unless previously authorized as a residential unit through a coastal development permit.

9. WASTEWATER TREATMENT AND DISPOSAL SYSTEM

A. The Permittee shall construct the new wastewater treatment and disposal system, as generally depicted on Adobe Associates Sheets 2, 3 and 8, dated October 2010 (exhibit 3 of this Staff Report) and Questa Figure 1 "Test Location Map Lawson's Landing" (exhibit 42 of this Staff Report), and Questa Sheet 1 of 1 "Sand Point Proposed STEP Sewer Schematic Plan", dated 4/4/2008, and Questa Figure 1 "Typical STEP Unit Non Traffic Area" (exhibit 23 of this Staff Report) **within three years of permit approval (by July 13, 2014)**. The Executive Director may extend this deadline to July 13, 2016 for good cause.

B. **BY JULY 13, 2012**, or within such additional time the Executive Director may grant for good cause, the permittee shall submit a Coastal Development Permit Amendment Application for the new wastewater treatment and disposal system and abandonment of the 167 individual septic systems. The Application shall include the final plans for the wastewater treatment and disposal system as approved by the Regional Water Quality Control Board and the Marin County Environmental Health Services. Consistent with the provisions of Special Condition 2, the wastewater treatment and disposal system shall be located outside a 100-foot buffer area from all wetlands, outside a 50-foot buffer area for all central dune scrub ESHA, and 300-feet from

California Red Legged Frog breeding ponds. The wastewater treatment and disposal system may not block public access to the coast nor significantly obstruct public views to the coast from significant public vantage points, and shall be of adequate capacity to process and dispose of all wastewater generated by the development.

C. The 167 individual septic systems in Area 2 shall be abandoned within 60 days of construction of the new wastewater treatment and disposal system. Upon conclusion of the abandonment/removal process, the Permittee shall submit evidence from Marin County Environmental Health Services or the Regional Water Quality Control Board, that such removal/abandonment has been completed in accordance with current regulations.

D. If the wastewater treatment and disposal system has not been constructed within three years, or within additional time the Executive Director may grant for good cause, the Applicant shall cease all uses, including the travel trailers, that depend on the 167 septic systems, until such time that the Applicant has applied, and the Commission has approved, an amendment to this Coastal Development Permit to construct an alternative wastewater disposal system to support such uses.

10. ONGOING INSPECTION OF EXISTING SEPTIC SYSTEMS

A. **WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT**, or within such additional time as the Executive Director may grant for good cause, the Applicant shall submit a Septic System Inspection Plan, prepared by a certified engineer, for review and approval by the Executive Director. The Plan shall provide for on-going inspections of the interim system as required by Marin County Environmental Health Services (EHS) and completion of corrective actions as required by the County. These inspections should include the biannual (twice a year) monitoring of C7 and K2 leachfields as well as verification of regular septic tank pumping, as required by Marin County EHS staff in a letter dated January 25, 2010 (exhibit 35 of this Staff Report). In addition, the eight (8) systems identified as marginal by the previous testing shall undergo additional hydraulic testing, including dye testing, within one year of permit approval. If the testing indicates that the systems are still marginal then corrective action shall be taken or those systems shall be properly abandoned in a manner approved by Marin County EHS.

B. If the applicant requests that the Executive Director grant an extension of the use of the current system beyond the three years for good cause (as allowed by Special Condition 11), that request shall be supported by the results of a comprehensive inspection of the current system and proposal to conduct corrective actions needed to protect coastal waters. The design of this comprehensive inspection shall be submitted to the Executive Director for review and written approval at least two months before commencement of inspection.

C. The Permittee shall conduct development in accordance with the approved final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment

to this coastal development permit unless the Executive Director determines that no amendment is legally required.

11. UTILITIES AND FACILITIES PLAN

A. **PRIOR TO CONSTRUCTION AND NO LATER THAN JULY 13, 2012**, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit, for review and approval of the Executive Director, a final detailed graphic facilities plan, prepared by a certified engineer, for the restrooms, showers, dump stations, water tanks, and utility lines. Such plan shall be in substantial conformance with the Project Plans attached to this staff report as Exhibit 3, and shall provide for the following:

1. All facilities shall be located outside the wetlands, ESHA and buffers.
2. All facilities shall be clustered next to camp lots and travel trailers;
3. All facilities shall be colored in earthtones and designed to blend with the surrounding landscape
4. All utilities shall be placed underground, under existing roads, to the maximum extent feasible, except when to do so would impact any wetlands or ESHA identified in Special Condition 2.

B. The Permittee shall undertake all development in accordance with the approved final plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

12. OTHER STATE AGENCY APPROVALS

WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the Permittee shall provide to the Executive Director a copy of a permit issued by: (a) the State Lands Commission; (b) the Regional Water Quality Control Board; and (c) the Housing Community and Development Commission, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the State Lands Commission; (b) the Regional Water Quality Control Board; and (c) the Housing Community and Development Commission, 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.

13. EIR MITIGATION MEASURES

All the Final Environmental Impact Report (EIR) mitigation measures (exhibit 36 of this Staff Report) are hereby incorporated as conditions of this permit, excepting those that conflict with the more stringent conditions of this permit, including but not limited to, 4.13-2 (Impacts on

Special-Status Plants), 4.13-3 (Impacts to Wetlands), and 4.13 -4 (Impacts to special Status Wildlife). To the extent that the required mitigation measures require plan review by Marin County, the Applicant shall concurrently submit these plans to the Executive Director for review and approval.

14. TRAFFIC MANAGEMENT PLAN

A. WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit a Traffic Management Plan to the Executive Director for review and approval. The Traffic Management Plan shall include measures to ensure that:

1. The use of on-site facilities by visitors to avoid off-site trips is encouraged, through educational programs to encourage walking and biking on/off site among other means;
2. Maximum vehicle levels for campsites are managed to avoid congestion and park entry delays;
3. The maximum allowable number of total daily camping-related vehicles shall be limited to the number of campground lots filled for the day (i.e. one vehicle per lot) pursuant to Special Condition no. 2. An RV towing a maximum of one passenger car or small truck shall count as a single vehicle.
4. The maximum number of day use visitor vehicles shall not exceed 100, excluding the public parking spaces required by Special Condition 24.
5. The Permittee shall erect signage at Tomales/Highway 1 indicating when the campground is full.

B. The Plan shall provide for on-going traffic study and adaptive management including, but not limited to:

1. Analysis of current/previous conditions;
2. Improvement Plans;
3. Construction-related traffic management;
4. Inventory of all roadways including identification of: (1) which ones will continue to be used by the public; (2) which ones will continue to be used by employees only; (3) which ones will be closed to vehicular usage; and (4) which ones will be abandoned, along with plans for removal and restoration of areas proposed for abandonment.
5. Establishment of criteria for determining traffic impacts (e.g., level-of-service, congestion/delay);
6. Provide indices of congestion (stacking, wait times from a given point); and
7. Identify maximum levels for: peak-time numbers of vehicles, congestion/delay.
8. Enhanced reservation system;
9. Staggered arrivals;
10. Reservation priority lane; and

11. Traffic reduction incentives for campsite users, including non-peak day arrivals/departures, multiple-occupant versus single-occupant vehicles, in-camp trip reductions, and shuttle.
- C. The monitoring program shall include:
1. Traffic counts
 2. Peak time (holiday proximity, good weather) vs. off-peak operations;
 3. Field examinations: numbers, locations, frequency, by independent traffic counting firm (e.g., include Lawson's Landing Resort), number of observers;
 4. Duration of monitoring, including frequency before, during, after project phase completions and numbers and types of vehicles (inbound vs. outbound);
 5. Types of visitors: day use, overnight, longer-term, employee/owner, other; and
 6. Unusual vehicle activities, e.g., blocking entrances/exits, U-turns.
 7. A provision for submission of annual traffic monitoring reports to the Commission on an annual basis
- D. The permittees shall undertake development in accordance with the approved traffic management plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

15. DUNE TRAIL PLAN

A. **WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT**, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit a dune trail plan for review and approval by the Executive Director, to consolidate the numerous informal foredune pathways from the camping area to the beach into a maximum of four formalized trails. Consistent with EIR mitigation 4.6-2, the Plan shall provide for the following:

- a. Federal and State rare and endangered plant species shall be avoided
- b. Each pathway shall be located in naturally low elevation "passes" through the ridge, or other locations where erosion potential is lowest.
- c. Paths shall be oriented in a southwesterly direction, so that strong winds do not create blowouts on the dune face
- d. Paths shall be planned to follow topographically low routes, minimize sharp turns and avoid steep pitches
- e. All other informal trails shall be closed and restored
- f. Designated pathways shall be fenced with minimal symbolic fencing to prevent off-trail pedestrian activities and bovine traffic. Fencing shall also be used to cordon off foredunes in high-use areas where recreational activities are not permitted.
- g. All fenced off areas shall be appropriately signed explaining dune protection
- h. All formalized trails shall be appropriately signed to direct people to the correct pathways

B. The Permittee shall undertake all development in accordance with the approved final plan. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

16. LIGHTING PLAN

A. **WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT**, or within such additional time as the Executive Director may grant for good cause, prior to construction/delineation of campsites and new facilities, the applicant shall submit, for the review and written approval of the Executive Director, a lighting plan prepared by a qualified electrical engineer for the entire campground that is the minimum necessary to provide safe ingress and egress and consistent with the following standards:

1. No more than the minimum Department of Housing and Community Development (HCD) required park lighting is achieved for safe ingress and egress.
2. Roadway and walkway lighting shall be no more than 2 feet in height and the minimum amount necessary to achieve HCD R.V. park lighting standards;
3. Toilet, shower, recreation room, and laundry building exterior entrance lighting shall be the minimum height necessary to achieve HCD park lighting standards; and
4. Lamps shall be low voltage and low lumens; and
5. Fixtures shall be full cut off, shielded, and downcast; and not permitted to shine on any adjacent environmentally sensitive habitat area (ESHA)
6. The revised lighting plan shall include a full analysis and explanation of the calculations used to determine that the proposed park lighting, as applicable, is the minimum amount needed to ensure consistency with the minimum HCD standard for special occupancy park lighting.

B. The permittees shall undertake development in accordance with the approved lighting plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

17. HAZARD RESPONSE PLAN

A. **WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT**, or within such additional time as the Executive Director may

grant for good cause, the Permittee shall submit a hazard response plan for review and approval by the Executive Director, for earthquake, flood and tsunami hazards. The Plan shall include:

1. Measures to eliminate or minimize floating debris, including trailers and vehicles, due to flooding or a tsunami including, but not limited to:
 - a. Relocation of trailers and vehicles when there is sufficient advance warning time of a flood event to safely evacuate the site (a minimum of 8 hours of daylight shall be assumed necessary for safe evacuation unless the applicant can demonstrate that evacuation can occur more rapidly),
 - b. Tie-downs for all trailers and recreational vehicles to prevent vehicles from becoming floating debris for events when there is not sufficient warning time to safely evacuate the site,
 - c. Removal of all travel trailer appurtenances,
 - d. Securing or removal of any movable equipment and appurtenances (e.g. chairs, benches, picnic tables, trash receptacles, maintenance equipment) that could become entrained in surging storm water; and
 - e. Removal of all other appurtenances that cannot be secured with tie-downs
2. Measures to eliminate or minimize the introduction of hazardous materials, toxic chemicals and floating debris into the groundwater and nearby surface waters;
3. Measures to shut down and pump out the sewer line(s) along the portion of the utility that could be subject to wave hazards and erosion to prevent the discharge of waste in the event of utility leakage or breakage;
4. Measures to shut down any other utilities that could become a hazard if such utility becomes damaged or breaks;
5. Tsunami evacuation plans, coordinated with the Marin County OES that include, a tsunami siren warning system; mapped emergency evacuation routes for all areas of the campground; identification of pedestrian accessible tsunami shelter areas or locations of high elevation, emergency evacuation informational signs for visitors (in the major languages used by the visitors); and identification of a contact person with responsibility for keeping the elements of the tsunami preparedness plan up-to-date.
6. Regular training and safety drills practicing the elements of the hazard preparedness plan on at least an annual basis.

B. The permittees shall undertake development in accordance with the approved hazards plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

18. NO FUTURE SHORELINE PROTECTIVE DEVICE

A. By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal

Development Permit No. 2-06-018 including, but not limited to, (travel trailers, RVs, camp lots, boathouse, boat staging, restrooms, parking areas, boat and other storage, roads) in Area 2, west of the existing seawall, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. In such event, the above structures shall either be removed or relocated within the approved development footprint. By acceptance of this Permit, the applicant hereby waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

B. By acceptance of this Permit, the applicant further agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including (travel trailers, RVs, camp lots, boathouse, boat staging, restrooms, parking areas, boat and other storage, roads), if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

19. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY AGREEMENT

By acceptance of this permit, the permittees acknowledge and agree (i) that the site may be subject to hazards from tsunamis, flooding, waves, storm waves, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the applicants and the properties that are the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

20. LIABILITY FOR COSTS AND ATTORNEYS FEES.

The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

21. GENERIC DEED RESTRICTION

WITHIN 60-DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

22. LANDSCAPING PLAN

A. WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the Permittee shall submit a landscaping plan designed by a certified Landscape Architect, for review and approval by the Executive Director. The Plan shall be designed to blend the campground development in Areas 1 – 4 with the surroundings, such that the development's appearance is softened when viewed from public vantage points, including but not limited to, Dillon Beach Road and Point Reyes National Seashore. The Plan shall include landscape and irrigation parameters that shall identify all plant materials (size, species, quantity), all irrigation systems, and all proposed maintenance. All plant materials shall be native and grown from local propagules to protect genetic integrity of natural populations, be complimentary with the mix of native habitats in the project vicinity, prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. The native habitat shall generally be considered coastal dune scrub; however riparian plantings may be acceptable if compatible with the habitat and not planted in a linear ribbon, as proposed. The landscape plans shall also be designed to protect and enhance native plant communities on and adjacent to the site, including required restoration and enhancement areas, and to provide a transitional buffer between native habitat areas and authorized development. Landscaping (at maturity) shall also be capable of partial/mottled screening and softening the appearance of new development as seen from public vantage points as much as possible. All landscaped areas on the project site shall be continuously maintained by the Permittee; all plant material shall be continuously maintained in a litter-free, weed-free, and healthy growing condition.

B. The permittees shall undertake development in accordance with the approved landscaping plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved

amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

23. FUTURE DEVELOPMENT RESTRICTION

This permit is only for the development described in coastal development permit No. 2-06-018/A-2-MAR-08-028. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land such as a proposal to convert camping spaces to higher cost visitor serving facilities shall require an amendment to Permit No. 2-06-018/A-2-MAR-08-028 from the California Coastal Commission.

24. FREE PUBLIC ACCESS PARKING

No fewer than five (5) free public parking spaces shall be provided, reserved, and maintained in an open and useable condition for free public use in or adjacent to Area 6 outside the entry gate on the property. Use of the free parking spaces and coastal and campground access conveyed therein by members of the public shall be on a first-come, first-served basis, and shall be for day-use only (no after dark or overnight use), with appropriate signage that alerts the public of the parking.

25. DEVELOPMENT NOT TO INTERFERE WITH ACCESS

The Permittee shall not restrict non-overnight stay related foot or bicycle access by members of the general public (i.e. non-Lawson's Landing campers or day users) to Dillon Beach through the Lawson's Landing property.

26. DAY USE FACILITIES

Day use facilities and parking within Lawson's Landing shall be retained throughout the life of the project. Any future development to modify or convert the day use areas will require an amendment to this permit.

27. OTHER SPECIAL CONDITIONS OF THE COUNTY

Except as provided by this coastal development permit, this permit has no effect on local conditions imposed by the Marin County pursuant to an authority other than the Coastal Act.

28. DRAINAGE PLAN

A. WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the permittee

shall submit, for the review and approval of the Executive Director, a Drainage Plan signed by licensed engineer that, at a minimum, meets the following conditions:

1. Existing and proposed drainage for Areas 1, 2, 3 and 4, shall be drawn at the same scale as the site plan and detail plans, and show structures, drainage ditches, bioswales, water quality basins and other improvements that affect drainage.
2. The plan must indicate the direction, path, and method of water dispersal for existing and proposed drainage channels or facilities.
3. The drainage plan must indicate existing and proposed areas of impervious surfaces.
4. Flow line elevations where on-site drainage meets water quality management practices (e.g., water quality basins).
5. Water quality basin high water limits.
6. Overland escape location and elevation from water quality basin.
7. Total proposed water quality basin volume.
8. The Drainage plan shall ensure that modifications of the site drainage are limited to the minimum changes that are needed, to drain trailer pads and tent sites so that runoff flows to existing drainage ditches without ponding and so that the drainage ditches flow: (a) in Areas 1 and 2, either to Tomales Bay or to water quality management practices described in the Storm Water Management Plan; or (b) in Areas 3 and 4, to the water quality management practices described in the Storm Water Management Plan, with final discharge to the interior wetlands. Changes to the drainage system must have no adverse impacts on coastal resources. Pursuant to Special Condition 32, no grading is authorized in Areas 3, 4, 6, and 8.

B. The permittees shall undertake development in accordance with the approved drainage plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

29. GRADING PLAN

WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit, for the review and approval of the Executive Director, a Grading Plan signed by licensed engineer that, at a minimum, meets the following conditions:

- a. No grading is authorized in Areas 3, 4, 6 and 8

- b. In Areas 1 and 2 the Grading Plan must indicate existing and proposed elevation contours where grading is proposed or where the existing slopes have an impact on site storm water management practices (e.g., bioswales or water quality basins).
- c. Existing contours shall be shown with dashed lines and proposed contours shall be shown with solid lines.
- d. The amount of proposed excavation and fill in cubic yards and the location of proposed deposition and borrow sites for each major element of the project must be indicated as well as the total area of disturbance proposed for the project and the limits of grading.
- e. The Grading Plan shall be drawn at the same scale as the site plan and detail plans.
- f. The Grading Plan shall ensure that grading is limited to the minimum area and minimum volumes needed to drain trailer pads and tent sites so that runoff flows to existing drainage ditches without ponding and so that the drainage ditches flow either to Tomales Bay or to water quality management practices described in the Storm Water Management Plan. Any grading of the site must have no adverse impacts on coastal resources.

B. The permittees shall undertake development in accordance with the approved grading plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

30. STORMWATER MANAGEMENT PLAN

A. WITHIN SIX MONTHS OF COMMISSION APPROVAL OF THIS PERMIT, or within such additional time as the Executive Director may grant for good cause, the permittee shall submit, for the review and approval of the Executive Director a Storm Water Management Plan (SWMP) signed by licensed engineer that, at a minimum, meets the following conditions:

1. Describe the post-construction storm water system for the site.
2. Include an exhibit that provides the following information:
 - a. Existing natural hydrologic features (depressions, watercourses, relatively undisturbed areas) and significant natural resources.
 - b. Soil types and depth to groundwater.
 - c. Existing and proposed site drainage network and connections to drainage off-site.
 - d. Proposed locations and sizes of infiltration, treatment, or flow-control facilities.
3. Include the following:

- a. Estimates of the 85th percentile storm event precipitation for both the 24 hour storm and the 1 hour storm.
 - b. Narrative analysis or description of site features and conditions that constrain, or provide opportunities for, stormwater control.
 - c. Narrative description of site design characteristics that protect natural resources.
 - d. Narrative description and/or tabulation of site design characteristics, building features, and pavement selections that reduce imperviousness of the site.
 - e. Tabulation of proposed pervious and impervious area, showing self-treating areas, self-retaining areas, areas draining to self-retaining areas, and areas tributary to each bioretention facility.
 - f. General maintenance requirements for treatment control BMPs.
4. Provide the design details of any proposed storm water management practices including any bioswales or bioretention area improvements. .
 5. Include a list of source control management practices that are appropriate to tent and trailer campers for the protection of water quality. For example, appropriate waste containers and guidance to campers to place all food wastes, cooking greases and charcoal in appropriate waste containers would be important to protect water quality at this location.
 6. The Storm Water Management Plan shall ensure that the completed project will include source control and treatment control BMPs appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by site activities to the maximum extent practicable.
- B. The permittees shall undertake development in accordance with the approved stormwater management plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

V. APPROVAL FINDINGS AND DECLARATIONS

A. PROJECT SETTING AND DESCRIPTION

1. Project Location and Site Description

The Lawson's Landing property is located immediately south of the community of Dillon Beach in Marin County, and is bounded by Tomales Bay on the south and Bodega Bay to the west. Access to the property is provided from Dillon Beach Road, Beach Avenue, and Cliff Street (see Exhibit 1). The property spans both the Coastal Commission's original permit jurisdiction and the County's LCP jurisdiction (see below for procedural context).

The approximately 960 acre property consists of a combination of coastal sandspit, mobile sand dunes, dune scrub, wetlands, grasslands, hillside coastal scrub, and pasture lands, upon which campground recreation, agricultural, and residential uses are currently located. Property elevation ranges from sea level on the west and south edges of the property, rising in the interior to a maximum of approximately 340 feet to the northeast corner ridgeline area. Sugar Loaf Hill, a sandstone promontory overlain by sand, is a prominent physiographic feature on the site. Dillon Creek is the primary drainage course on the site, running westerly through its upper portions roughly parallel to Dillon Beach Road. A number of smaller drainages run approximately southeasterly down the property, collect in a large low-lying meadow area, and either infiltrate into the sand substrate or pass through to Brazil Cove on Tomales Bay (Exhibit 3).

2. Project Background

The Applicant purchased the subject property for a single purchase price of \$10, as indicated in a 1942 grant deed from the California Eucalyptus Corporation to Howard S Lawson and Walter F. Lawson. Merle Lawson stated in a recent court document that his "family acquired the property in the 1920s for the purpose of raising cattle, and ownership has remained in our family ever since."² Thus, the subject property has been held in unified ownership since at least 1942 when the California Eucalyptus Plantation Company owned the property and sold it to the Lawson family.

The Coastal Commission has addressed the legality of existing development at Lawson's Landing in both its original jurisdiction and the County's LCP jurisdiction. In December 2006 the Commission approved a Consent Cease and Desist Order with the Lawson's Landing property owners that recognized that there was significant unpermitted development at Lawson's Landing that required a coastal development permit, including unpermitted grading, fill of wetlands, and the construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard,

² Alliance of Permanent Trailers, et al. v. County of Marin, Board of Supervisors of the County of Marin and Does I through X, inclusive. Case No. CIV 090747.

boats, a laundry facility, and a pier.³ Pursuant to this order, the Commission staff has been coordinating closely with the County of Marin and the applicants on the processing of coastal development permits in Marin County's and the Coastal Commission's jurisdictions. Currently, the Lawson's camping and trailer uses have been reduced to 61.2 acres by fencing off delineated wetlands from camping activities through an interim agreement with the Coastal Commission's enforcement staff.

On November 18, 2008 Marin County approved a CDP, Master Plan, and Tidelands Permit for the site. The approved "Revised Reconfigured and Reduced Use Master Plan Alternative" (Revised MPA) included the following:

- A. Designation of six reconfigured existing campground areas, addition of one campground area and potential addition of one additional campground area;
- B. Reduction of peak daily vehicle trips from current levels;
- C. Relocation of all campground areas, including restrooms and showers, out of wetlands;
- D. Development of an uplands wastewater treatment and disposal facility and related infrastructure (including piping from campground areas);
- E. Maintenance of owner and campground employee housing;
- F. Permanent cessation of the sand quarry operation;
- G. Interim plan, detailing schedules for activities and structures, including existing septic system inspections and if necessary upgrades, fuel bunker upgrades, removal of excess ancillary structures, improved reservation system, closure of "new" wetland road, elimination of current camping in wetlands;
- H. Project phasing plan, detailing schedules for levels of use, activities and structures;
- I. Future submittal of design, architectural, engineering plans and programs showing activity areas, resource protection measures, existing structures to remain and new structures proposed (including restrooms, septic and Lawson's Center), pursuant to completion of a Precise Development Plan;
- J. New Lawson's Center in upland (Area 6) location outside of Alquist Priolo zone, with potential maximum of 15,000 square feet for recreation support services, including store, boat repairs, retail sales, storage, fueling, administrative offices, recreation and meeting rooms, and a laundry;
- K. Grazing Management Plan, with continued cattle grazing, fencing, pasture rotation, and integration with the Adaptive Management Plan;
- L. Adaptive Management Plan;
- M. Elimination of over 120,000 square feet of excess ancillary structures from permanent travel trailers.
- N. Development of an Emergency Response Plan, including shelter-in-place, siren, and evacuation;
- O. Upgrades to Sand Haul Road (along the existing, primary alignment from Dillon Beach Road to Area 6) for primary vehicle access, subject to acceptance of a study at the Precise Development Plan stage of its use for regular vehicle access;
- P. Management of ground disturbing activities;

³ California Coastal Commission, CCC-06-CD-15.

- Q. Continuation and expansion of visitor environmental education program;
- R. Implementation of new travel trailer lease agreement; and
- S. Voluntary merger of small parcels in the C-RCR zoned district.

Although the County's coastal development permit approval for the project is no longer effective, the amount of camping that had been authorized by the County in the various areas delineated at Lawson's Landing is shown in the table below. Various restrictions applied as well. For example, the 246 camping lots in Areas 3 - 5 were authorized for only five years, after which, camping lots would have to observe a 100-foot undeveloped wetland buffer.

Area	CDP Jurisdiction & Area (acres)		Camping Lots (RV, tent, and trailer sites)	Restrictions
	CCC	MC		
1	4.6	0	125	Low Impact Development drainage designs on perimeter
2	10.0	2.0	263	LID requirements; various occupancy limits ⁴
3	4.4	3.7	100	5 yrs only on seasonal basis within 100 ft wetland buffer ⁵
4/5	0	8.7	146/0	5 yrs only on seasonal basis within 100 ft wetland buffer
6	0	4.7	25	
7	0	1.9	20	Tent camping, must meet 100 ft wetland buffer
8	0	5.7	Potential Use (50-100)	Requires additional biological evaluation
Totals	19.0	26.7		
	45.7		679/533-583⁶	

The County approval allowed camping adjacent to currently existing wetlands for a period of five years, at which time wetlands would need to be protected by a 100-foot buffer. In addition, the County approval allowed camping immediately adjacent to central dune scrub habitat, without any required buffers. The County approval also allowed camping in areas in which wetland and ESHA were previously removed without benefit of a coastal development permit. In regards to the permanent travel trailers in Area 2, the County conditioned the permit to require a 90-day per year stay limitation with a requirement for the owner to either remove the trailer when not being used (and hence make the space available for the general public, or to offer the trailer for short-term rental (up to 60 days per short-term occupancy). A 60-day per year

⁴ See Exhibit 3, p. 43, Condition 13.

⁵ Seasonal is defined as beginning on the Friday immediately preceding the Memorial Day holiday and ending on October 15.

⁶ The County's action authorizes up to 679 camping lots for at least five years. Based on data provided by the County, this number would be reduced to between approximately 533 and 583 after five years, assuming that between 50 to 100 lots were approved for Area 8.

occupancy restriction would apply to all other visitors with RVs or tents in the other camping areas 1 and 3 – 8.

On December 10, 2008, the Commission received an appeal from Commissioners Sara Wan and Mike Reilly and on December 15, 2008, the Commission received additional appeals from the Environmental Action Committee of West Marin, the Marin Audubon Society, the Sierra Club-Marin Group, and the Alliance of Permanent Trailers. The appeals raised issues of consistency of Marin County's approval with LCP wetland, sensitive habitat, visitor-serving, recreation, and public service policies.

On January 7, 2009, the Commission found that the appeals raised substantial issues of conformance with the wetland, environmentally sensitive habitat, public services, and recreation and visitor serving policies of the certified LCP. Specifically, the Commission found that the County's action raised a substantial issue of conformance with the LCP policies because the County approved development: (1) located within wetlands and within the required 100-foot buffer from wetlands; (2) located immediately adjacent to central dune scrub sensitive habitat; and the approval (3) raised questions about the feasibility and timing of the new septic system; and (4) raised questions about residential uses in the C-RCR (resort-recreation) zone and whether the appropriate balance between public access and private interests was being met through the approval.

The Commission now has jurisdiction over the entire proposed project. Since the County, the Applicant, and the Executive Director have agreed to consolidate the coastal development permit pursuant to Section 30601.3 of the Coastal Act, the standard of review for the project is the Coastal Act.

3. Revised Project Description for Commission's De Novo Review

Concurrent with the County approval and Commission appeal process, the Applicants completed their permit application to the Commission, and made various revisions to the proposed project details. In June 2011, the Applicants submitted a revised project description. The project description differs from what was approved by Marin County, by decreasing the number of RV, tent, and trailer lots by approximately 29 sites. The Applicants also propose some new uses. The proposed project includes recreational use of approximately 43 acres of Lawson's Landing property, including: 417 RV and tent lots and 233 year-round trailer lots; day use parking; boating facilities, mooring, and launching; support facilities including store, offices, recreational center, employee housing, boat sales and repair, fuel service and storage; waste water/septic system; water tanks; road improvements; a conservation easement over approximately 465 acres; and three habitat restoration and enhancement projects, covering approximately three acres (exhibit 3).

Because most of the existing development on the site has been determined to be unpermitted, as discussed above, the Commission must consider the application as though the development had not occurred and must regard the coastal resources, including any habitat on the site, as though it

had not previously been disturbed by this development occurring without the benefit of a coastal development permit.

Since this is an after-the-fact (ATF) permit, the Applicants have proposed to retain, remove, and relocate uses on the site. A chart detailing all these proposals, separated by Commission retained jurisdiction and Marin County LCP jurisdiction, can be found in exhibit 4. The major components of the proposed project are described below.

Travel Trailers – Year Round Parking (Area 2 – Approximately 14.5 acres)

The Applicant proposes to retain 213⁷ improved year round travel trailer sites in Area 2 as generally shown on Adobe Associates Sheet 18, dated June 2011 (exhibit 3). These trailers are currently used by their owners (see below) either as their full time residence or as long-term private vacation units. The residential use of the trailers solely by their owners (or their family and friends), and the spaces on which they are located, results in the trailers, and the spaces on which they are located, not being available for public visitor serving uses. The Applicants have indicated their willingness to transition the use of these 213 travel trailers to short-term public visitor serving rentals but the details of such a transition have not yet been identified.

The applicants also propose to remove approximately 120,000 square feet of structural additions, including decks, sheds and building additions that were added to the trailers area over the years in order to comply with State Housing and Community Development (HCD) regulations for Special Occupancy Parks.

RV and Tent Camping (Areas 1 – 4)

The Applicants proposal from June 2011 includes 336 RV lots and 81 tent lots for a total of 417 delineated camp lots over 41.3 acres in Areas 1, 2, 3, and 4. The applicants would no longer use approximately 34 acres previously used illegally for camping including but not limited to in Area 5, the northeast corner of Area 1, and camping located within the 'prior limits of camping' line depicted on exhibit 3 (Monk and Associates Sheet 2, October 15, 2010).⁸

Table 1: Proposed RV, Tent, and Trailer Lots

Location	RV	Tent	Trailers	Acreage
Area 1	81	0	0	2.9
Area 2	0	0	233	14.5
Area 3	60	26	0	6.9
Area 4	184*	66	0	17.0

⁷ Included in the 213 are four (4) trailers that are in and adjacent to a delineated wetland on the northeast part of the site (at the end of Row J and Trailer M1) that would be removed. The site would be reconfigured to maximize space, such that those four spaces are accommodated elsewhere on site.

⁸ According to the Applicants, gate records indicate that over the years starting in about 1968, the average number of visitors and campers to the entire Lawson's Landing facility averaged 600 to 800 vehicles per day on weekends. At peak periods in the early 1970s and during holidays such as July 4, Memorial Day, and Labor Day weekends, up to 1,000 vehicles of visitors and campers visited the property per day.

Subtotals	325	92	233	41.3
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*includes 3 group campsites with 41 total contained within

RV sites would range in size from 1400 – 2800 square feet, and tent sites would range 1700 – 2400 square feet and would be demarcated by metal rods driven into the ground at the four corners of the site as required by the Department of Housing and Community Development. The front of the site would have metal rods with disks of approximately 6” x 8” on their tops (shape similar to head of thumbtack or nail) on which the site numbers would be displayed. Parking would be provided for each individual campsite and vehicles for walk in tent sites would be parked in parking lots, as described below.

Staging/Storage

Area 8 (exhibit 3, Sheet 24) is proposed to be used for storage of RVs, boats, 'other storage' and as a staging area for construction.

Day Use Parking

Two-hundred sixty-eight (268) day-use and overflow camping parking spaces would be provided in Areas 1 (22 spaces), 2 (120 spaces), 3 (79 spaces), and 4 (47 spaces). In addition a free three-car day-use parking lot would be retained near the entrance to Lawson's Landing.

Residential Uses

The Applicants propose to retain four additional caretaker mobile homes, located in Area 2 near the bait shop and parking lot, as well as the use of 16-travel trailers in Area 2 for year round permanent residents (exhibit 25).⁹ These travel trailers and mobile homes are used by nine Lawson family members or current employees and seven are occupied by people who have worked at Lawson's Landing over the years and are currently part of the local Dillon Beach workforce.

The owners of Lawson's Landing and their full time employees live on the property. There are 7 existing homes including three in the North Ranch area and four in the South Ranch (two near the gatehouse and 2 uphill on Sand Haul Road). While the Applicants maintain that all of these residences are permitted, the Commission and the County has permit records for four residences only: one mobile home in Area 8 (APN 100-100-48), one mobile home in Area 6 (APN 100-203-03), one mobile home on APN 100-207-03 (next to Area 6), and one mobile home on APN 100-100-22 (on the north ranch agricultural lands). The remaining residences are unpermitted, located on APNs 100-100-48, 100-203-02, and 100-100-21.

Relocation of Recreational Support Services

Currently, recreational support facilities (including the store, administration offices, storage, employee laundry, boat sales, boat repair, boat storage, fuel storage, and storage containers) are

⁹ The remainder of the proposed 233 trailers are typically used on a month to month basis by their owners as vacation homes.

located near the beach at Lawson's Landing (Area 2). As proposed, boat and boat trailer storage, boat repairs and sales, fuel bunker, and fuel service would be relocated to Area 6, to the existing Truck Shed or Oil Shed. These buildings would be repaired and a concrete slab would be installed for the boat repair area.

In a future development phase to be handled by a separate appealable coastal development permit with Marin County, the Applicants will propose to relocate the store, administration offices, storage, employee laundry, boat sales, boat storage, fuel storage, and storage containers, currently located near the beach, to the new "Lawson's Landing Center (Center)," located in Area 6 (exhibit 3, Sheet 22). The uses that would remain in the existing boathouse footprint would be a smaller store or 'bait shop,' freezer, tractor, and other storage. The new Landing Center would include removal of existing buildings in Area 6. This would include a cluster of new buildings constructed over the existing building development footprint. The new buildings would be one and two stories not to exceed 25 foot maximum height with a total floor area of about 15,000 sq ft consistent with the existing building area. Use of the new buildings would include among other things, a store, new office and campground entry, boat sales, repair, boat, RV and other storage, and a conference center or small hotel. This future development proposal would include a potential increase in land use intensity and potentially additional vehicle traffic to the site. Accordingly, also included in any Coastal Permit proposal to the County for this phase of development would be an analysis of potential project impacts, including an analysis regarding moving the primary road access for the campground from the existing access on Cliff Road to what is known as Sand Haul Road. The design of the Center is only conceptual at this point.

Recreational Boating and Fishing Facilities

The Applicants propose to retain the boat launching operation at "Landing Beach," and the 2,797 square foot fishing pier. According to the EIR, Fishing and clamming are the primary water-dependent recreation attractions at the project site. Boat rentals and a launching area into Tomales Bay are available from the beach in the southwestern portion of the site. The Applicant has approximately 12 boats available for rental to the public and averages rental of one to two boats per day. Day-use visitors can also haul their private boat to the project site and launch their vessel into Tomales Bay from the launching ramp on the beach near the pier in Sand Point. Boats are launched at the site by tractor trailer for a nominal fee. Private boats are launched from the project site approximately 2,200 times each year.

Boat mooring in Tomales Bay, east of the pier, is provided to visitors as weather conditions permit. Currently, 35 anchored buoys are provided to moor boats from June through September. On average, 16 boats are moored on a monthly basis.

In addition, boat storage space on land (Area 2) would be provided for day-use.

New Boathouse

A new boathouse would be constructed within the footprint of the existing boathouse in Area 2, including a store, snack bar, freezer, tractor, spa, massage room, and other storage (exhibit 3).

Temporary Retention of Antiquated Septic Tanks

There are approximately 167 septic tanks and 139 individual leach lines serving the travel trailers, store/office, employee laundry, 5 restrooms, 3 houses and the two mobile homes.¹⁰ These systems are located amongst the trailers in the "Sand Point" area on the Southern portion of the property adjacent to Tomales Bay (exhibit 3, Sheet 2; and exhibit 22). The Applicants propose to retain the use of this system "temporarily", while inspecting and abandoning problematic systems, until the new proposed system is in place. Due to concerns about the potential impacts of these systems to Tomales Bay water quality, the Applicants have conducted a series of inspections as a voluntary 'interim measure,' and several problematic systems have been 'abandoned' and corrected at the direction of Marin County Environmental Health Services (MCEHS) (see Section V(H)(1) and exhibit 35). The Applicants propose to continue using these 'corrected' systems until such time that the new wastewater infrastructure and other facilities are installed. The Applicants have not indicated a specific timeframe for installation of the new sewage disposal system.

New Sewage Disposal System

A new sewage disposal system is proposed to be developed in the upland area known as "Scale House Hayfield" and "Scale House Field West Pasture," located on the northeast portion of the property (see Adobe Associates Sheet 3, exhibit 3). The system would consist of 2 acres of leachfield for winter operation and combined use of the 2 acre leachfield plus spray irrigation in the dry season over a 6 acre pasture.

A Septic Tank Effluent Pumping (STEP) system with remote secondary treatment and disposal is also planned (exhibit 23, Figures 1 and 2 Typical STEP unit). The tanks would be sited in close proximity to the travel trailers and restrooms they would serve (exhibit 23, Figure 5 Sand Point Proposed STEP Sewer Schematic Plan). Treated effluent would be delivered to the leachfield area via a proposed septic line located underneath existing roads (see exhibit 3 [Sheet 3]).

A wastewater treatment plant would produce advanced secondary treated effluent, suitable for water recycling with a subsurface drip dispersal system and for spray irrigation of five to six acres of pastureland. The specific design or location of the wastewater treatment plant has not been provided. Options under consideration include: (1) recirculating sand filter; (2) recirculating textile filter; (3) aerobic treatment unit; and (4) membrane bioreactor. Such designs are subject to the Regional Water Quality Control Board approval process. Regardless of the specific design, the treatment plant would require an area of about 10,000 to 15,000 square feet. Concrete or fiberglass tanks would be necessary for any of the designs and would be partially or completely buried below ground. A small building (<500 square feet) would be required for the housing control equipment. The treatment system would be capable of being screened with vegetation or earthen berms.

Water Supply and Facilities

¹⁰ Questa Engineering, June 9, 2009. Lawson's Landing Septic System Evaluation and Interim Measures Program Status Report.

The Applicants also propose to expand the water system to provide redundancy and to fully ensure reliability of service for the proposed camping activities and the Lawson's Landing Center. This includes the construction of two new water tanks, located near existing tanks, to provide additional storage for fire protection. One new 35,000 gallon tank would be located adjacent to the water well and existing tank in Area 5. In addition, a new 100,000 gallon tank would be located in the back section of Area 8 (exhibit 3 [Monk and Associates Sheet 2]). New hydrant locations would be near the clustered use areas.

Sand Haul Road Emergency Vehicle Access (EVA) One-Way Road Alternative

Pursuant to EIR Mitigation 4.8-4, the Applicants propose the use of the existing Sand Haul Road for emergency vehicle access (EVA) (exhibit 27). This road was originally permitted for the now-discontinued quarry operations on the property. No upgrades to the roadway alignment are proposed. Signs and placards showing the emergency route would be installed, and warning signs would also be posted as needed for improved sighting conditions.

As described above, in a future development phase not included in this permit application, the Applicants will propose to redevelop Area 6 with a new "Lawson's Landing Center." Prior to submittal of the CDP application to the County for this Center, the Applicants will conduct a detailed analysis of traffic impacts, mitigation measures and alternatives, including relocating the primary campground access to the site from Cliff Road to Sand Haul Road and improving Sand Haul Road for use as the primary (two way road) or secondary access (one way in/out road) access to the campground. The application will also include a detailed environmental review, consistent with CEQA and the certified local coastal program (LCP), of traffic safety and vehicle circulation impacts as well as analysis of potential environmental impacts on drainage, soil stability, wetlands and sensitive habitats resulting from redevelopment of Sand Haul Road.

Recycling Solid Waste

Recycling containers for solid waste (cans, bottles, paper) would be located in the camping areas and a recycle collection and management plan would be implemented. This includes the use of 10 professional containers, 50 gallons each, with locking lids in service areas outside of the wetland areas. Containers would be checked on a daily basis in peak period use and on Sundays there would be full removal and cleaning of containers.

Agricultural Use

The Applicants propose to continue cattle grazing uses in both the North and South Ranches. The grazing operation in the South Ranch would generally be outside the limits of camping, however during parts of the year, grazing within the camping areas is proposed. A grazing management plan, prepared by a certified range manager would be implemented. According to the conceptual plan prepared by Lisa Bush, a California Certified Rangeland Manager, managed grazing has been found to be an effective means to control exotic plants on the property. As deemed necessary, grazing would be allowed as a method to control non-native grasses. It would be monitored in accordance with the grazing management plan in preparation

for the entire camping and recreation area. The Plan includes considerations for grazing management in sensitive resource areas, including California Red Legged Frog (CRLF) habitat. Temporary fencing is proposed to manage grazing in accordance with the plan.

Camping Removal and Dune Restoration in Area 1 (Restoration Area A) (exhibit 3)

Unpermitted RV camping would be abandoned at the eastern end of Area 1 and restored to native dune scrub habitat. This area was graded without required permits and is currently hard-packed and graveled. Subsoils salvaged from Restoration Area B (removal of abandoned road) would be used to form an undulating topography that can be planted with drought tolerant California native species known from adjacent areas in Marin County coastal habitats.

Road Removal and Wetland Restoration (Restoration Area B) (exhibit 3)

An existing, unpermitted, now-abandoned, chip-sealed road, which traverses in a north - south direction through a large wetland east of Area 2 and Area 3 would be removed and restored. The wetland area around the road used to support unpermitted camping as well, but these uses were removed in 2009 as an 'interim measure.' The Applicants propose to restore the road area only. Surface material of the chip-seal road would be removed and an open-water riparian corridor would be created. The Applicants claim this would benefit the CRLF and red-legged frog at LL. The road surface in its entirety would be removed along with subsoils up to three feet deep. This excavation would expose a seasonal water table within the former footprint of the 30-foot wide road. This excavated area would be expected to fill with water for many months of the year (likely from November – July). California native riparian species would be planted to encourage a naturalistic tributary function. According to the Applicants, this added riparian vegetation would provide birds with nesting habitat and amphibians with escape cover and migration habitat. In addition, the riparian corridor would create a tall, vegetated screen. This would supplement an upland vegetation screen that would be planted along the eastern border of the camping/trailer areas in Areas 2 and 3. The Applicants maintain that by controlling human intrusion into wetlands and reducing the amount of noise being directed towards the wetlands (by the vegetated screen), the wetland habitats would see an increase in shore bird use.

Salvaged soils from Restoration Area B would be used to form an elevated berm in uplands along the eastern boundary of trailer and camping areas in Area 2. This berm would be planted with California native vegetation.

California Red Legged Frog Habitat Enhancements (Restoration Area C) (exhibit 3)

The Applicants propose to remove camping uses from Area 5 to accommodate maximum protection and enhancement for CRLF habitat. There is a CRLF breeding pond located immediately southwest of the primary LL entrance kiosk at the northwest end of LL, and adjacent to Area 5. This pond was excavated by the Lawson family years ago to provide water for cattle. While the primary entrance driveway will remain, a vegetated planting plan would be implemented on the east side of the breeding pond extending eastward across the driveway into the formerly camped Area 5, to enhance migration movements to/from the CRLF pond towards other breeding ponds in the interior dune area (that would be protected by an NRCS conservation easement [see below]). California native species would be utilized. The planting plan would establish both herbaceous and low-level vegetation to provide refugia and cover for moving

frogs. The vegetation would act as a predator protection corridor. Working in collaboration on the NRCS Wildlife Habitat Improvement Program (WHIP) and Wetland Reserve Program (WRP), a program of managed access for cattle to the pond would be developed. This would allow periodic grazing of the pond to provide sunlight and warm water, which would facilitate use of the pond by the CRLF.

A man-made drainage that takes overflow water from the CRLF pond eastward would also be included within the planting area and would provide an aquatic corridor that can be seasonally be used the CRLF. A culvert underneath the access road to Area 5 from the "well road" and the access road would be removed from this drainage and replaced with a larger pipe arch, which would also facilitate CRLF movements.

Promoting Enhanced Water Flow to and Retention in Wetlands

The Applicants propose to enhance water flow to the interior wetlands east of the camping areas by re-grading Areas 1 – 4 so that water quality flows to water quality treatment basins or bioswales that have sand and vegetative filtration and that redirect flows to adjacent wetlands rather than Tomales Bay and the ocean. Bioretention basins would be constructed along the northern and eastern border of Area 1 and the eastern side of Area 2. The areas would be re-graded with a 2 – 5% slope, which would direct surface water sheet flows into the bioretention treatment features. Upon filling, treatment basins would overflow into and through lengthy perforated discharge pipes that are set approximately parallel to the access roads above wetlands. Treated stormwater released from the discharge pipe would be evenly distributed through the perforated pipe installed horizontally within the wetland buffer.

Select existing drainage ditches would also be maintained and modified into BMP bioswales that will continue to serve and facilitate proposed recreational use areas. Bioswales (drainage ditches) would be regularly maintained so that they provide appropriate drainage and effective water quality control and treatment for stormwater that drain from the recreational areas to adjacent wetlands. Maintenance would include removal of trash and debris, removal of sediment when sediment depth exceeds two inches, periodic mowing and removal of vegetation that reduced drainage function in these swales, and removal for material from inlet and outlet areas so that there is no clogging or blockages.

Lastly, two drainage culverts east of Area 2 would be removed. One of these culvers is located 250 feet from the edge of Tomales Bay, and now functions to support a man-made ditch that traverses the eastern side of the dune slack wetlands east of Area 2 and north of Area 1. The intent of this culvert removal would be to reduce outflows from these dune slack wetlands to Tomales Bay and contribute to retention of more water over a longer period of time within the wetlands. The second culvert is located within the dune slack wetlands; about 1,000 feet northeast of the boat launch area, and presently serves no purpose. The Applicants believe that its removal would add incrementally to the amount of open water within the wetland, which would also be a benefit to the wildlife.

Natural Resource Conservation Service (NRCS) Easement (exhibit 3)

The Applicants propose to grant conservation easement rights over approximately 465 acres to the NRCS. The easement area would cover most of the LL South Ranch (exhibit 3) immediately east and south of the existing homes and east of the proposed camping/trailer use areas, all the way to the eastern boundary of the LL property. The NRCS would manage these lands for their natural and wildlife habitat values in perpetuity. The easement would cover the rare coastal wetland dune complex as well as CRLF breeding ponds and corridors, including the CRLF pond near the entrance to LL.

B. HISTORY OF DEVELOPMENT AT LAWSON'S LANDING

The Lawson family purchased the 960 acre property in the 1920's for the primary purpose of raising cattle for the single purchase price of \$10.00. In 1937, the Lawson family constructed a boathouse and wharf in the Sand Point area for recreational use by the public. Throughout the 1940's, the property was used as a ranch with some informal public recreational use.¹¹ In 1957 Merle and Walter Lawson took over the property and opened Lawson's Landing, a fisherman's retreat at Sand Point. The resort began with an old 1937 wooden boathouse and the wooden fishing pier,¹² and camping began to be allowed in the area called "the cow pasture." According to the applicant, the first trailers were allowed on the site in 1959.¹³ Sometime around 1957, a dirt road running through the dunes replaced the trucks running passengers down the beach to the Landing at low tide. A toll gate was installed and cars were charged fifty cents a day to visit the fishing retreat.

In 1962, the State Division of Housing advised the Lawsons that 15 trailers located on the property constituted illegal activity. At that time, HCD informed the Lawsons that the unauthorized placement and use of trailers on the property violated State laws and that permits were necessary.¹⁴ HCD did not receive a permit application for the development, and, consequently, no permit was obtained by Lawson's Landing. In December of 1965, HCD transferred jurisdiction of the trailer park to Marin County. The property was zoned Zone D, which required (by Ordinance in 1940) that use permits were required for automobile camps or trailer camps, privately operated campgrounds, and uses incidental to the conditionally permitted uses. No use permits were obtained.

On January 25, 1966, the property was re-zoned to Limited Agriculture District (A-2) which did not allow trailer parks and campgrounds, but did allow other recreational uses with a use permit.

In March 1966, the property owner entered into a 10-year Agricultural Preserve Contract pursuant to the Land Conservation Act of 1965, stating that the property was limited to Agricultural use. Based on the County record, it appears that there was confusion between the parties as to whether camping and the other related uses could continue on land subject to the Contract.

¹¹ Commission CDO (CCC-06-CD-15) staff report 12/1/06

¹² Lawson's Landing Master Plan Written Narrative, ___.

¹³ Letter from Merle E. Lawson to Marin County Supervisors 6/26/70

¹⁴ The term "Lawson's Landing" used in a sentence refers to the owners of the parcels that comprise Lawson's Landing at the particular time being discussed in the sentence.

Marin County sent Lawson's Landing a violation letter¹⁵, dated December 9, 1966, citing unpermitted development and unpermitted uses that did not conform to the zoning designations assigned to the property, including 125-150 house trailers ranging from 15 – 55 feet in length, four cement block restrooms, a water supply system for the recreational vehicles, a general store, a snack bar, 20-30 sheds, and boat dock facilities.¹⁶ This letter was followed by a second violation notice, specifically addressing the trailer park, and a letter from Marin County Counsel requesting that Lawson's Landing take action to resolve the violations on the property within ten days of receipt of the letter to avoid legal action by the County.

On October 11, 1967, the Lawsons' submitted an application to re-zone the portion of the property where the RVs and trailers were located (the "Sand Point Area") from A-2 to RCR. On February 10, 1968, the County re-zoned the property at "Sand Point" from A-2 to RCR. The RCR zoning was restricted to the 140 southwest most acres where the "existing trailer park and the present boating facility, as well as the area to be utilized for the waste disposal and sewer supply facilities" were located.¹⁷

In June 1968, the Marin County Planning Department published a staff report recommending Master Plan approval for a mobile home park and a travel trailer recreational park and camping area. The report documented existing uses as: 160 trailers, four of which were mobile homes over 50 feet in length and the rest being "travel trailers." Most were located near the boating activity (which is now called Area 2), but seven travel trailers were "scattered along the major access road leading to the "major activity area." The major access road¹⁸ encompasses what is now called Areas 3 – Area 6. The staff report also referred to camping along the access road in non-designated sites with non-designated parking areas. It also referenced four restrooms and a bath house scattered throughout the development. The proposed plan anticipated expansion to a total of 215 travel trailer sites, a new mobile home park with 77 units directly east of the trailer area, 75 camping sites, new roads, new parking area and new marina. Marin County planning staff recommended only 170 trailer spaces (with some relocation) and 38 campsites. On June 22, 1970, the Marin County Board of Supervisors approved the use permit and master plan, but the Lawson's appealed the approval. The matter was referred back to the Planning Commission.

On February 16, 1971, Marin County passed a resolution (71-38) permitting public recreational uses such as hiking, camping, swimming, boating, and fishing as compatible and unrestricted uses on land governed by an Agricultural Preserve contract. This did not eliminate the need for a master plan and use permit for the uses at Lawson's Landing, however, as evidenced by the continued processing of Lawson's Landing application, as described below. On March 21, 1972 the County rezoned the property to A-60, as part of the Agricultural Preserve Rezoning Program for Northwestern Marin. This zoning did not allow travel trailer parks or campgrounds, but did

¹⁵ Case Number 240

¹⁶ While the locations were not included in the letter, it is assumed that these facilities were located in Areas 2 – 3, based on the master plan application exhibits.

¹⁷ Marin County Planning Department staff report January 22, 1968

¹⁸ According to the Applicants, this road was built in the late fifties, around 1957

allow boat harbors, swimming and/or picnicking parks, fishing grounds, and other recreational and accessory uses with a use permit.¹⁹

On 9/21/71, a County site visit found 227 travel trailers existed on the property (Area 2). By 12/17/71, this number had increased to 231 as evidenced by the Lawson's re-submittal of its use permit application to the County (this application was rejected by the County because it did not include changes from its previous application).

In May 1975, an "environmental reconnaissance" at Lawson's Landing by Del Davis Associates, Inc. identified 231 travel trailer sites, 131 campsites, a 2,500 square foot office and store, a 200-foot-long fishing pier, and a 1,200 foot long seawall. On 11/14/75 a new use permit application was submitted, which proposed to expand the trailer uses to 521 trailer sites and proposed 42 campsites, centralized sewage treatment, boat storage, office and store. The County prepared a draft EIR for the proposal (Del Davis Associates, Inc). On December 19, 1977 the final EIR was certified by the Planning Commission. At that time the 'existing setting' was identified as 231 travel trailer sites, 46 campsites, a 2,500 square foot office and store, a 200 foot long fishing pier, a boat launching facility, and a 1,200 foot long seawall. The EIR also stated that a Master Plan and Use Permit would be required.

On January 20, 1978, the State Regional Water Quality Control board sent a letter to the Lawson's requesting a report on the impact of the unpermitted sewage disposal systems on the site to the water quality of Tomales Bay. The County then followed up with a letter to the applicants requiring the monitoring of the septic systems and abandonment if water quality impacts occurred. Related revisions to the master plan were required, as well as the submittal of a seismic study as required by the Alquist Priolo Act of 1972. On May 11, 1979 the fault investigation and peer review was completed and the Lawson's submitted a revised master plan application. The revised project included 233 trailers instead of the 521 originally analyzed in the EIR.

The revised master plan was not acted on over the next several years although the County did complete its review of the Marin County LCP Unit II, which included consideration of several policies related to Lawson's Landing and another re-zone of a portion of the property from Agriculture (A-60) to RCR. On May 5, 1982, the Coastal Commission certified the Marin County Unit II LCP, including the Land Use Plan (LUP) and the Implementation Plan (zoning). The LUP describes Lawson's Landing as having 231 trailers and RV spaces, 46 campsites, and an unknown number of informal campsites, and as a recreational resort used for camping, picnicking, clamming, beachcombing and hang-gliding. The LUP does not acknowledge the use of the property for residential uses. The LUP also states that the Landing is an appropriate place for limited expansion of boating facilities and overnight accommodations, provided appropriate environmental mitigation measures are developed and sewage disposal facilities are improved in accordance with the requirements of the Regional Board. The certified IP rezoned the Sand Point area from A-2 and A-60 to Coastal, Resort and Commercial Recreation (RCR) district to accommodate the recreational uses.

¹⁹ The Applicants claim that County Resolution 71-38 made camping a legal non-conforming use on the site

On 4/13/90 the Coastal Commission certified the Dillon Beach Community Plan (DBCP) and incorporated it into the LCP. The DBCP had similar policies described above related to Lawson's Landing. The Plan describes Lawson's as a dune landscape recreational resort area to provide lower cost visitor serving facilities to 46 designated campsites and additional "informal" campsites on peak weekends, 231 RV and trailer spaces, a pier, boat launch, fuel dock, moorings, dry storage, boat and motor rentals, a clam barge, sport fishing charter boats, a bait and tackle shop, scattered equipment, gravel roads, dispersed parking, and grazing. The Plan recommends only limited expansion of the 16-acre portion of the "Landing" and requires a Master Plan for any additional development. The plan does not acknowledge residential use of the trailers.

On 9/13/90, the County sent a zoning violation letter to the Lawson's for operating a trailer park and campgrounds without permits. It stated that legalization of existing uses required Master Plan approval.

On 1/18/91 the State Department of Housing and Community Development (HCD) sent a letter to the Lawson's announcing that they had reassumed responsibility for enforcement of the mobile Homes Parks Act and that the "Special Occupancy Park" at Lawson's required a permit from the State. Based upon an understanding with the County that a master plan was in process, in December 1992 HCD issued a Permit to Operate for a trailer park with a maximum of 233 RV lots with drains and 1,000 lots without drains (campground Areas 3-5) (no mobile home lots were authorized). This permit, however, only considered the health and safety aspects of the travel trailers at Lawson's Landing, not the land use aspects of the development. When Lawson's Landing received its use permit from HCD in 1992, the county still hadn't issued a land use permit pursuant to its authority under its certified county LCP. That is, the Lawson's still did not have a Master Plan and Coastal Permit from the County or the Commission, so the site remained unpermitted.

In 1991, Lawson's Landing submitted another master plan application to the County. The County determined that the application was incomplete and required Lawson's Landing to provide additional information on traffic, biological resources, and sewage disposal. Over the next seven years, seven additional submittals, comprised either of revised master plan applications or supplemental materials, were made. By 12/13/94, according to the Applicants, the campground had grown to a maximum of 1,000 camping vehicles (on peak weekends) and 233 trailers as evidenced by a revised Master Plan, Tidelands, and Coastal Permit application. Finally, in 1998, the County deemed the application, which was a combination master plan, CDP, and tidelands permit application, complete. A draft environmental impact report was prepared on July 15, 2005 ("DEIR") and circulated to the public for comment.

Commission Enforcement Action

In December 2006 the Commission approved a Consent Cease and Desist Order with the Lawson's Landing property owners that recognized that there was significant unpermitted development at Lawson's Landing that required a coastal development permit, including unpermitted grading, fill of wetlands, and the construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and

leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, and a pier.²⁰ Pursuant to this order, the Commission staff has been coordinating closely with the County of Marin and the applicants on the processing of coastal development permits in Marin County's and the Coastal Commission's jurisdictions.

County Approval

On November 18, 2008 Marin County approved the Master Plan and CDP. The approval authorized the following: Recreational and agricultural use of the 940 to 960-acre Lawson's Landing property, including: approximately 40 acres for up to 679 RV, tent, and travel trailer lots; potential additional 5.7 acres for RV, trailer, and tent lots; day use parking; boating facilities, mooring, and launching; support facilities including store, offices, recreational center, employee housing, boat sales and repair, fuel service and storage; waste water/septic system; water tanks; and road improvements. This approval was appealed to the Coastal Commission.

Commission Appeal and Consolidated Processing

On January 7, 2009 the Commission found that a substantial issue of consistency with the Marin County LCP was raised by the appeal of the County's approval of development in its jurisdiction, thereby taking coastal development permit jurisdiction over the development within the County of Marin's jurisdiction. Both the applicants and the County then submitted letters requesting consolidated processing by the Commission of the development that had come to the Commission on appeal along with the coastal development permit application for the portion of the project proposed in the Commission's original jurisdiction, which was approved by the Executive Director consistent with Section 30601.3 of the Coastal Act.

Prior Development Authorizations

Seawalls Authorized by Court Judgment or Commission Permit

In 1962, the Lawsons began construction of a 1,400 foot long wooden bulkhead in front of Areas 1 and 2. This bulkhead was completed in 1966. Wire netting and brush were placed at the eastern end of the wall.²¹ On or around July 3, 1974, the Lawsons graded and added fill and rip-rap at the eastern end of the wall where the wire netting failed (Areas 1 and 2). Marin County issued a Stop Work Order and Notice of Violation on November 16, 1973 for conducting this work without permits. On November 30, 1973, Merle Lawson applied to the Commission for an emergency administrative permit (#357) to "repair the east end of our existing sea wall." Mr. Lawson was informed that he could not go forward without Marin County approval. The work continued and the matter led to litigation, California North Central Coast Regional Coastal Zone Conservation Commission v. Merle Lawson, et al. Marin County Superior Court Case No. 71902. Judgment was entered on June 7, 1977 based upon an agreement and General Release; the defendants paid a penalty and agreed not to do additional construction, dredging, filling and grading on the APN without a CDP except repair or maintenance work, or pursuant to an

²⁰ California Coastal Commission, CCC-06-CD-15.

²¹ Department of the Army. San Francisco District Corps of Engineers. December 8, 1975. Public Notice No. 9474-63

emergency permit, approved by the Commission. The Lawson's were allowed to retain the work, described as approximately three feet of fill on the parcel (100-100-048), approximately 500 cubic yards of grading on the parcel, and placement of riprap and fill along the shoreline of the parcel.²²

On 4/11/86 the Commission approved CDP no. 1-86-21 for a 1,227-foot-long, 16-foot-high fir seawall, 1 foot seaward of the existing redwood seawall (Areas 1 and 2). Permit materials state that the seawall is located adjacent to the Lawson's Landing travel trailer area, pier, office and store," and the project description stated that the existing redwood seawall had been constructed 35 years prior to protect adjacent development and prevent wave intrusion into the inland cattle grazing area. The findings of the permit approval state:

This seawall is necessary to protect this extensive existing development and future expansion of resort and recreational facilities, and as such is consistent with the Marin County Land use Plan and will not prejudice the ability of Marin County to implement the Local Coastal Plan.

The findings go on to state that the seawall is consistent with Coastal Act Section 30235 because it protects existing structures in danger from erosion:

This is the case with the Lawson's Landing property as the seawall protects the travel trailer area, office and store.

Permitted Mobile Homes

On 8/12/76 a Use Permit (#2797) was approved by the Deputy Zoning Administrator to establish a mobile home on the property for a ranch employee in conjunction with the agricultural uses on the property. On September 2, 1976, the Coastal Commission approved CDP #868 for placement of a mobile home on Lawson's Ranch (on APN 100-207-03). The permit was authorized for one year, with an option to renew.

A second Administrative CDP for a replacement mobile home in the area now referred to as Area 6 (APN 100-203-03) was approved by Commission staff on February 23, 1977 (#32-77). The County authorized CP 96-465/UP 96-469 on 7/25/96 for replacement of the existing employee mobile home.

On 1/14/82 an administrative Use Permit (#3853) was approved by the County for the third mobile home on parcel 100-100-48 (Area 8). This approval was granted initially for a two-year period, and on 2/23/84, the County granted an indefinite extension, subject to five year reviews. On 12/16/81, Commission staff issued Administrative Permit No. 2-81-54, which renewed the above permit.

²² On July 17, 1978, the Army Corps of Engineers issued a permit to retain a rubble wall, 1000 cubic yards of fill placed behind the rubble wall and an existing 1400-foot long wooden bulkhead near Sand Point to prevent storm waves from inundating agricultural lands, Application No. 9474-63.

In 1991, the County approved a Coastal Permit (CP91-089) and a use permit (91-047) for an agricultural ranch residence at 4300 Dillon Beach Road (parcel 100-100-22).

Permitted Quarry Activities

On 9/27/71 the Marin County Planning Commission approved the first Surface Mining and Quarrying Permit (Q-71-01) for the extraction of blow sand within a 10-acre site for a 5 year period.

The Marin County Planning Commission approved a second Quarrying Permit (Q-76-04) on 2/28/77 for a new, 23.29-acre site west of the original site for five years. The Coastal Commission approved a two-year CDP no. 67-77 on 4/4/77 for Lawson Brothers for the excavation of approximately 500 cubic yards of rock and clay material for the permittee's private use and to quarry blow sand from the 23.29 acre site. These permits also referenced the use of Sand Haul Road for the quarrying operation only. When the County permit expired, a third quarrying permit (Q-82-01) on 6/4/82 for a new 23.3-acre site immediately south of the 2nd site, was approved for a period of 5 years. On 11/5/90, the Marin County Planning Commission approved a Coastal Permit and Sand Quarry Use Permit to allow the expansion of Q-82-01 to include an adjacent 15.2-acre site to the South for five years. The 1990 permit was renewed by the PC on 7/22/96 for a period of 10 years.

Water Wells

Three water wells were drilled in 1962, 1965, and 1969. Copies of Water Well Drillers Reports from the Resources Agency of CA were provided as part of the application. In 1989, Lawson's Landing was granted a State of California Department of Health Services Water supply Permit No. 09-89-011.

No Prior Vested Rights Determination for Unpermitted Development

The Coastal Act requires that a coastal development permit be obtained before new development is performed or undertaken [Coastal Act section 30600(a)]. The construction and/or placement of each of the structures on the site, and the establishment of RV and camping uses, is development as defined by the Coastal Act. Therefore, construction and placement of each of these structures and the establishment of RV and camping uses required a coastal development permit. Section 30608 of the Coastal Act recognizes vested rights "in a development." A vested right is acquired if the development was completed prior to the Coastal Act pursuant to required government approvals or, at the time of enactment of the Coastal Act substantial work had commenced and substantial liabilities had been incurred in reliance on government approvals. As discussed above, the Lawson's undertook most of their development without the necessary government approvals. For example, the Lawson's did not obtain a CDP for much of the development on the site, including, but not limited to the establishment of the campground, restrooms, septic tanks, the residential travel trailer area, and the road through the wetland outside of Areas 2 – 3.

In this case, having entered into a Consent Cease and Desist Order with the Commission, the Lawson's have elected not to avail themselves of the procedure made available by the Commission to acknowledge vested rights instead proceeding before the Commission with a coastal development permit application.²³ Accordingly, the applicants have waived their right to proceed before the Commission with any claim, as owners, that they have a vested right that entitles them to proceed without a CDP for development at Lawson's Landing.²⁴ The applicant must therefore comply with the provisions of the Coastal Act in order to legally undertake any development, such as the establishment of camping areas and the placement of travel trailers and other structures.

C. STANDARD OF REVIEW/AFTER-THE-FACT STATUS

This is a consolidated coastal development permit for recreational and agricultural development at Lawson's Landing. The project spans the Commission's original permit jurisdiction and the County of Marin's LCP permit jurisdiction. On January 7, 2009 the Commission found that a substantial issue of consistency with the Marin County LCP was raised by the appeal of the County's approval of development in its jurisdiction, thereby taking coastal development permit jurisdiction over the development within the County jurisdiction. Both the applicants and the County then submitted letters requesting consolidated processing by the Commission of the coastal development permit application for the portion of the project proposed in the Commission's original jurisdiction along with the portion of the project before the Commission on appeal, which was approved by the Executive Director consistent with Section 30601.3 of the Coastal Act. Therefore, the standard of review for the entire project is the Coastal Act.

In addition, because much of the existing development has not been approved by a coastal development permit, the Commission is reviewing much of the project "after-the-fact" of its development. Where development was unpermitted, ESHA and wetland areas disrupted by the illegal development must still be considered ESHA and wetlands regardless of its current condition. This conclusion is consistent with the Commission's practice of evaluating a site as if unpermitted development had not occurred. Any other approach would reward an applicant for violating the Coastal Act by allowing the applicant to claim there was no ESHA and wetland on site even though the resources had been removed without the benefit of the required coastal development permit.

²³ Section 8.0 of the Consent Cease and Desist Order CCC-06-CD-15, agreed to by the Applicants, states that the Lawson's waived their right to contest the order requiring a CDP for the unpermitted development on the site.

²⁴ The courts established long ago that a claimant's application for a CDP constitutes a waiver of any claim to a vested right for development, and this principle has been upheld in recent case law (*LT-WR, L.L.C. v. California Coastal Comm'n* (2007) 152 Cal.App.4th 770, 785, quoting *Davis v. California Coastal Zone Conservation Comm'n* (1976) 57 Cal.App.3d 700). In *LT-WR*, at 785, the Court of Appeals found that: As stated in [Davis]: "A [property owner] who claims to be exempt from the Coastal Zone Conservation Act permit requirements by reason of a vested right to develop the property must claim exemption on that basis. [citation omitted] *Where the developer fails to seek such a determination but instead elects to apply only for a permit*, he cannot later assert the existence of a vested right to development, i.e., the developer waives his right to claim that a vested right exists. (*State of California v. Superior Court* [(1974)] 12 Cal.3d 237, 248-250, 252[, 115 Cal.Rptr. 497, 524 P.2d 1281].)" (*Davis, supra*, 57 Cal.App.3d at p. 708, 129 Cal.Rptr. 417, italics added.)

D. PUBLIC ACCESS, RECREATION, AND LOWER-COST VISITOR SERVING FACILITIES

Applicable Coastal Act Policies

Section 30210 Access; recreational opportunities; posting

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

(Amended by Ch. 1075, Stats. 1978.)

Section 30211 Development not to interfere with access

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

Section 30212 New development projects

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.

Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30214 Implementation of public access policies; legislative intent

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30250 Location; existing developed area

...(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30220 Protection of certain water-oriented activities

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 Oceanfront land; protection for recreational use and development

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 Private lands; priority of development purposes

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30224 Recreational boating use; encouragement; facilities

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 Commercial fishing and recreational boating facilities

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30234.5 Economic, commercial, and recreational importance of fishing

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Advisory LCP Policies

Marin County certified Land Use Plan Unit II Recreation and Visitor-Serving Policies:

1. General Policy. The County of Marin supports and encourages the enhancement of public recreational opportunities and the development of visitor-serving facilities in its coastal zone. Such development must, however, be undertaken in a manner which preserves the unique qualities of Marin's coast and which is consistent with the protection of natural resources and agriculture. Generally, recreational uses shall be low-intensity, such as hiking, camping, and fishing, in keeping with the character of existing uses in the coastal zone. New visitor-serving commercial development shall be compatible in style, scale, and character with that of the community in which it is located and shall be sited and designed to minimize impacts on the environment and other uses in the area. The County encourages that a diversity of recreational opportunities and facilities be provided, especially those of moderate cost. Facilities for water-oriented recreational uses, such as clamming and boating, are preferred to those which do not require a coastal location.

3. Private recreational and visitor serving development....

g. Dillon Beach. Lawson's Dillon Beach Resort, located immediately south of old Dillon Beach, and Lawson's Landing, located on Sand Point, shall be retained as public recreational areas. Both facilities have the potential for expanded visitor-serving development, although providing for adequate water supply and sewage disposal may be problematical...

...(2) Lawson's Landing is an appropriate site for limited expansion of boating facilities and overnight accommodations. Any such expansion shall be based on thorough planning studies which identify the environmental resources and constraints of the site, including wildlife, vegetation, and archaeological resources, geologic and wave hazards, and public service constraints. Measures to protect the site's resources, particularly sand dunes and dune tansy vegetation, shall be in any development plan. Any such plan shall also include improvements in sewage disposal facilities, in accordance with the recommendations of the Regional Water Quality Control Board. Existing A-60 zoning on A.P. #100-100-48 shall be changed to RCR in the Sand Point area and to a resource protection and/or agricultural zone on the remainder of the parcel. A.P. #100-100-49, the beach front recreational parcel, as well as all parcel zoned A-2 which constitute campground sites, shall be rezoned to RCR to reflect historic and present land use. [emphasis added]

LUP Unit II Public Access Policy No. 1:

General policy and elements of Public Access Component.

The County of Marin supports and encourages the enhancement of public access opportunities to the coast, in conformance with Sections 30210 through 30214 of the Coastal Act. There are three methods by which the policies of these sections will be implemented in the County’s Public Access Component:

- a. Existing accessways. The LCP recognizes existing public accessways in Unit II, both public and private, as an integral part of the County’s overall access program. These accessways, identified in Table 1 on page 6, should be maintained open to the public...*

Table 1: Inventory of Existing Public Access Areas, Unit II Coastal Zone

...

<i>Private</i>	<i>Acreage</i>	<i>Shoreline frontage (miles or feet)</i>
... <i>North of Walker Creek to County Line Lawson’s Landing</i>	250	1 mi.

Dillon Beach Community Plan Policies:

Objective CD-13

To encourage the continuance of visitor-serving recreational activities at Lawson’s Landing, and to encourage improvements to existing facilities to be in a manner that recognizes the significant environmental hazards of the area and that protects and enhances the environmental sensitivity and outstanding visual quality of the site.

Policy CD-13.1

Coastal resort. *Lawson’s Landing shall be maintained as a coastal resort and commercial recreation area for the enjoyment of the rich estuarine, marine, and coastal resources in the area.*

Policy CD-13.4

Appropriate commercial uses. *Small-scale, coastal, visitor-serving commercial uses, such as a grocery store or snack bar, and tackle and bait shop, are appropriate uses in the center of existing development at Sand Point and near the pier.*

Marin County Certified Zoning Regulations for C-RCR Coastal, Resort and Commercial Recreation District:

Section 22.57.151 Purpose:

The purpose of this district is to create and protect areas within the coastal zone for resort and visitor serving facilities. Emphasis is placed on public access to recreational areas within and adjacent to proposed development.

Section 22.57.152 Principal Permitted Uses

The following uses are permitted in all C-RCR districts, subject to Master Plan approval:

1. All uses and normal accessory uses, which the Planning Commission finds are appropriate for a resort area or which are desirable or necessary for public service, utility service or for the servicing of the recreation industry. Residential, industrial, institutional, general commercial uses, mobile home parks, and floating home marinas are not permitted...

1. Camping

The Applicants are proposing to develop approximately 417 campsites and associated infrastructure on the property in Areas 1 – 4 (exhibit 3). The project includes various infrastructure improvements to support the proposed camping, including restrooms, showers, parking areas, trash facilities, water tanks and water lines, and a new sewage disposal system. The project also includes fishing and boating facilities, including a fishing pier, boat rental and launch services, and boat mooring, as well as day use parking and trails to access the shoreline. Although the LCP zoning is advisory, proposed camping areas 1 – 4 are zoned as Coastal, Resort and Commercial (C-RCR), which permits all uses and normal accessory uses appropriate for a resort area or which are desirable or necessary for servicing of the recreation industry, excluding residential, industrial, institutional, general commercial uses, mobile home parks, and floating home marinas.

The Coastal Act calls for the provision of maximum public access and recreation, consistent with the protection of natural resource areas from overuse, and protects and prioritizes oceanfront land for recreational, visitor serving, and water-oriented recreational uses (Sections 30210, 30211, 30221, 30222, 30220, 30250(c)). It also protects and encourages the provision of lower cost visitor facilities and recreational boating facilities (Sections 30213 and 30224). In addition to its certified C-RCR zoning, the Marin County LCP, including the Dillon Beach Community Plan, contains similar resource protections for Lawson's Landing. For example, as cited above, LUP Unit II Recreation and Visitor Serving Policy 3 provides guidance that Lawson's Landing be retained as a public recreational area and states that it has the potential for expansion, but that any such expansion must be based on a plan that takes into account environmental, archeological, geologic, wave, and public service constraints.

Bracketing the issue of the protection of natural resources on the site (see Section V.(E) below), the proposed camping and boating recreational facility would maximize lower cost public access and provide lower cost visitor serving recreational opportunities, including coastal-dependent water-oriented activities such as boating and fishing, at Lawson's Landing. Such activities have taken place at Lawson's Landing since at least the 1950s and although most of the existing development has not been authorized by a coastal development permit, as discussed, the certified

LCP acknowledges the existence and importance of a certain amount of recreational development at this location. Over the last forty years, Lawson's Landing has been a significant location for lower cost camping and water-oriented recreation along the north central coast, albeit without the necessary coastal development permit. The proposed project seeks to legalize camping, boating, and other recreational opportunities which have historically been provided at this unique coastal location at the head of Tomales Bay.

As called for in the Coastal Act, approving the development would provide needed lower cost camping and recreation, and support water-oriented boating, fishing and other activities, in an oceanfront location where public access has been historically significant and where high demand for such facilities continues. Locations such as Lawson's Landing provide extremely important access and lower cost recreational opportunities for the citizens of California, including those from inland locations that do not have a regular opportunity to enjoy coastal access and recreation. For example, according to the National Ocean Economics Project, as of 2004, there were 1,678 hotels in California Coastal Counties but only 64 RV campgrounds. In comparison, as of 2004, there were 2,063 hotels in Florida coastal counties with 115 RV campgrounds. The number of RV campgrounds in Florida coastal counties as of 2004 was almost twice the number in California even though at the time Florida's coastal county population was almost 10 million less.²⁵

Lawson's Landing is currently one of few facilities that provide lower cost recreation, including overnight camping for residents of northern and central California. The cost of tent and RV camping, day use, fishing, and boating at Lawson's Landing is comparable with County and State Parks (\$26.00/night tents; \$31.00/night RVs). While West Marin County is a popular visitor destination, there are few lower-cost facilities and very few coastal campgrounds in comparison to other Counties.

While Lawson's Landing charges \$26.00/night for tent camping and \$31.00/night for RVs, in comparison, in the immediate Dillon Beach vicinity, one can rent a vacation home and spend at least 175.00 per night.²⁶ At the neighboring Dillon Beach Resort, one can rent a cabin for 250.00 per night at high season.²⁷ The closest RV campground is located 23.5 miles to the South at Olema Ranch Campground. Although the Olema Ranch campground is located in the coastal zone, it is at an inland location, and lacks water-oriented facilities and activities. It is also considerably smaller, offering a total of 80 RV sites and 107 tent sites. Rates range from \$49.00 to \$63.00 per night at peak times (summer weekends).²⁸ Further to the South and inland is Samuel P. Taylor State Park, located 31.4 miles south (about 1 hour drive). This park is located outside of the coastal zone in a redwood forest location. This campground is also smaller, with 61 family campsites (these can accommodate small trailers, with no hook-ups) and 4 group sites. Fees range from 35.00 per night for drive-in family sites to 225.00 for a developed group site. Samuel P. Taylor is in high demand, with reservations recommended months in advance. In

²⁵ Memo to Local Government Planning Directors and Interested Persons from Peter Douglas, Executive Director, Re Condominium-Hotel Development in the Coastal Zone, December 26, 2006.

²⁶ See <http://www.vrbo.com/vacation-rentals/usa/california/san-francisco-bay-ar/dillon-beach>

²⁷ <http://www.dillonbeachresort.com/cabins.html>

²⁸ http://www.olemaranch.com/Rate_Information

addition, service reductions were in effect 12/1/10 through 3/31/2011 due to budget cuts.²⁹ Approximately 20 miles east of Lawson's, also outside the coastal zone in the City of Petaluma is a KOA campground offering 312 sites accommodating RVs or tents, and some camping cabins. Costs range from 31.00 per night for tents to 56.00 for full hook-ups on weekends.³⁰

For a lower cost camping coastal experience with drive up tent and RV sites comparable to Lawson's Landing, one must head north to Sonoma County. Approximately 15 miles north of Lawson's Landing at the mouth of Bodega Harbor is Doran County Park, which offers 127 tent/RV sites, charging 22.00 per night. A couple miles further, on the west shore of Bodega Harbor is Westshore County Park, which has 47 tent/RV sites at the same cost.³¹ While not located in a beach or harbor location, Bodega Bay RV Park does provide 72 RV/tent accommodations at 28.00 to 41.00 per night depending on hook up.³² Also on Bodega Bay is Bodega Dunes State Beach Campground and Wright's Beach campground, both a part of the Sonoma Coast State Beach system. These campgrounds offer a total of 125 sites for tents or RVs at 35.00 per night. Advance reservations are recommended at these parks in the peak season because they are very popular. In total, these alternative coastal options located within ½ hour of Lawson's Landing, provide approximately 371 campsites.

However, currently there are State Parks service reductions in this area. As of the writing of this report (June 2011), due to service reductions, the Bodega Head East, Campbell Cove, Bodega Dunes, South Salmon, Schoolhouse Day Use area, Blind Beach, Russian Gulch, and Vista Point Day use area, parking lots and restrooms are closed between December 1, 2010 – June 30, 2011. Bodega Dunes Campground closed all but 20 campsites December 1, 2010 – June 30, 2011. Willow Creek and Pomo Canyon Campgrounds were also closed December 1, 2010 – June 30, 2011.³³

California State Park campgrounds on the coast are in high demand. As described above, Marin County does not have any state parks located either directly on the coast or in the coastal zone. The four nearest coastal state parks (Angel Island State Park [on SF Bay], China Camp State Park [on SF Bay], Mount Tamalpais State Park, and Samuel P. Taylor State Park), are occupied, overall, 67% between Memorial Day and Labor Day. On holiday weekends, the occupancy of these parks increases to 81% (July 4 weekend), 72% (Labor Day Weekend), and 75% (Memorial Day weekend).³⁴

Sonoma County coastal state parks (Salt Point and Sonoma Coast State Beach) are 50% occupied Memorial Day – Labor Day, but this data includes weekdays, which are not a time when people typically go camping. For example, on the busy weekends, such as the July 4th weekend, Sonoma Coast State Beach (which is the park closest to Lawson's Landing to the north) is at capacity, with 91.81% occupancy. On Labor Day weekend, Sonoma Coast State Beach is at 72% occupancy.³⁵

²⁹ http://www.parks.ca.gov/?page_id=469

³⁰ <http://www.petalumakoakcampground.com/>

³¹ <http://www.sonoma-county.org/parks/camping/index.htm>

³² <http://www.bodegabayrvpark.com/>

³³ http://www.parks.ca.gov/?page_id=451

³⁴ ReserveAmerica State Parks ORMS reservation database, Occupancy Report by Site Type, Memorial Day 2010 – Labor Day 2010

³⁵ ReserveAmerica State Parks ORMS reservation database, Occupancy Report by Site Type, Memorial Day 2010 – Labor Day 2010

In San Mateo/Santa Cruz County coastal parks, occupancy levels are at 58% Memorial Day to Labor Day; and on specific holiday weekends occupancy rates increase to: 72% (July 4), 62% (Labor Day), and 62% (Memorial Day). Seacliff State Park, the RV only campground, sells out 7 months in advance, and is 96% occupied from Memorial Day to Labor Day.³⁶

According to the Applicants, historic visitor levels at Lawson's Landing on popular weekends have reached 1,000 camping vehicles (in addition to the 233 permanent travel trailers). The Department of Housing and Community Development (HCD), since 1992, has permitted (as a "Special Occupancy Park"), on an annual basis, 1,000 lots "without drains" and 233 RV lots "with drains." These numbers became part of the "environmental baseline" for the EIR and have commonly been referred to as historic use levels, although the necessary permits were not obtained for most of the development that was undertaken.

Data from traffic studies, wastewater generation studies, and the Lawson's own gate records also provide data on maximum use levels. According to population data collected by Questa Engineering Corporation in 1997 in the Wastewater Facilities Master Plan, the 1995 4th of July weekend reached a maximum of 1,273 campers (people), 65 permanent trailer residents, 105 day use visitors, and 45 employees. On Labor Day weekend, this number jumped to 1,806 campers, 11 day use visitors, 90 permanent trailer residents, and 45 employees.³⁷ On average, over Presidents Day, Memorial Day, 4th of July, and Labor Day, the total population was 1,137 people.³⁸ In 2004, Questa prepared an Addendum to the Wastewater Facilities Master Plan, which documented the approximate number of camping and day use *vehicles* at Lawson's Landing during the high season weekends in July and August 2003 based on a review of gate receipts. The data showed that peak camping and day use activities ranged from 700 – 1,000 vehicles.³⁹ According to EDAW, Inc. on 4th of July 2003 there were 875 (i.e. vehicles) campers and 161 day users at Lawson's Landing.⁴⁰

On Labor Day weekend 2008, on Saturday, 8/31/08, traffic consultants Fehr and Peers documented 885 nightly camping vehicles and 52 monthly camping vehicles, for a total of 937 camping vehicles (+50 second cars), and 208 day users.⁴¹

Taking the data as a whole, it is clear that at certain times in Lawson's history, peak use has reached 1,000 vehicles. Taking a more conservative approach, at least 700 camping vehicles can reasonably be expected to occupy Lawson's Landing on peak weekends.⁴²

Taking into account the environmental sensitivity of the site, the Applicants are now proposing a reduced area campground plan for 417 camp lots, 268 day users, and 233 travel trailers, but

³⁶ReserveAmerica State Parks ORMS reservation database, Occupancy Report by Site Type, Memorial Day 2010 – Labor Day 2010

³⁷ Camping vehicles were not counted in this survey

³⁸ Questa Engineering Corporation. May 20, 1997. Wastewater Facilities Master Plan for Lawson's Landing.

³⁹ Questa Engineering Corporation. June 11, 2004. Addendum Wastewater Facilities Plan for Lawson's Landing.

⁴⁰ EDAW Inc. February 9, 2007. Response regarding California Coastal Commission Inquiry to the Traffic Analysis presented in the Environmental Impact Report for the Lawson's Landing Master Plan.

⁴¹ Fehr and Peers. February 17, 2009. Memorandum to Michael Lawson, Lawson's Landing Re: Lawson's Landing Trip Generation Summary.

⁴² Camping vehicles in this case can generally be equated to campsites, since RVs are the predominate use and are counted as 'camping vehicles.' Day users were counted separately in some cases and would increase the vehicle count.

concentrated in a smaller, more organized area as compared to the area previously used for camping. The Applicants have stated that between 1 and 3 vehicles would be associated with each campsite. Assuming approximately two vehicles per site, the Applicants proposal of 417 campsites equates to approximately 800 vehicles, which is comparable to historic use levels documented in prior studies.

Demand for campground facilities on the coast is likely to increase in the future. Certain demographic trends in the State of California influence the demand for outdoor recreation in the future, including robust population growth. The population projection for 2020 is over 44 million, and most of this growth will be seen in urban areas. As cities and urbanized counties get larger, open spaces for parks get squeezed. Also, many Californians are moving inland to cheaper areas. For example, the population in California's Central Valley is expected to double to 14 million in 2030. The Central Valley is considered 'underserved' by parks and recreational areas, according to the California Department of Parks and Recreation.⁴³ According to a demographic map provided by the Lawson's, a large percentage of visitors to Lawson's Landing come from Counties around Sacramento and the Central Valley, with median incomes between 0 - \$40,000 and \$40,000 - \$71,000 (see exhibit 9).

According to the California Outdoor Recreation Plan (CORP), in 20 years, the population of seniors (ages 55 – 75) will double what it is today. Researchers predict with healthy lifestyles and life expectancy increasing, more seniors will stay active for longer periods of time.⁴⁴ In addition, people want, and are more likely to visit water recreation areas that are rich in amenities, and more amenity-rich campgrounds and RV parks are needed to meet the growing demand for overnight accommodations.⁴⁵ For everyone, as the stress of urban areas increase, so does the need to escape to parks and recreational areas. The use of California's parks and recreational areas is very heavy and continues to increase. According to the CORP:

With the softening of the national economy, rising amount of home foreclosures and the volatile nature of current gasoline prices, Californians are choosing to vacation closer to home, now called a 'staycation,' traveling more within the state, visiting in-state destinations such as state and national parks.⁴⁶

While the statewide demand for campgrounds and recreational facilities is expected to increase, the future of the California State Parks system is uncertain. According to the California State Parks Foundation, State Parks currently has over \$1.2 billion in deferred maintenance needs. In recent years, proposals have been put forth in the State legislature to close parks (in 2008, 48 park closures were proposed; in 2009, 220 parks were vulnerable to shutdown). In the current fiscal year, the State budget anticipates a permanent cut of at least 20% of State Park's general fund support, and Governor Brown announced 70 closures statewide. This includes China Camp State Park and Samuel P. Taylor State Park in Marin County, leaving only two open State Parks in the County: In the meantime,

⁴³ California Department of Parks and Recreation. 2008. California Outdoor Recreation Plan (CORP) 2009 – 2014.

⁴⁴ California Department of Parks and Recreation. 2008. California Outdoor Recreation Plan (CORP) 2009 – 2014.

⁴⁵ California Department of Parks and Recreation. 2005. Park and Recreation Trends in California.

⁴⁶ CA Department of Parks and Recreation. 2008. California Outdoor Recreation Plan (CORP) 2009 – 2014. Trends and Challenges, Page 14.

“California’s state park system is increasingly characterized by partial and indefinite closures that have left restrooms locked, visitors centers shuttered, campgrounds closed, and more.”⁴⁷

With the future of California State Parks uncertain, including service reductions at Sonoma Coast State Beach and Marin State Park closures, the need to preserve and protect other lower cost visitor serving recreational facilities, like Lawson’s Landing, grows. There are very few vacant visitor-serving parcels in Marin County’s coastal zone that could satisfy the type of demand currently being met by Lawson’s Landing. Commission staff conducted a vacant parcel search, for parcels zoned C-RCR and C-VCR, using assessor data provided by the County of Marin, Realquest.com, and the Commission’s mapping/GIS service. Out of 81 vacant visitor serving parcels in the Marin County coastal zone, only one is comparable in size to the proposed camping area at Lawson’s Landing (Applicants proposal involves 43 acres, which is a reduction from historical camping on 75.3 acres). This property, owned by the National Park Service, is 32 acres and located on the east side of Tomales Bay (at 24175 State Route 1; APN 104-110-08) just north of Miller Park. A portion of the parcel is below the mean high tide line, which makes it smaller and constrained for future development. The next largest parcel is only 15 acres, and located just north of the Lawson’s Landing property on Dillon Beach (APNs 100-141-15, 100-141-11, 100-141-05, 100-141-04, 100-141-12, 100-100-46). While similar in location, it contains similar environmental constraints (sand dunes, beach habitat, riparian areas) and is not large enough to accommodate the demand for camping. The third largest is only 12.4 acres, and located inland of the coast near the town of Point Reyes Station (APN166-170-21). It is located in a town setting, next to a baseball diamond, clearly not satisfying the demand for lower cost ocean front camping. All of the rest of the vacant parcels in Marin County zoned for visitor serving uses are less than ten acres.

Coastal Act Section 30213 requires lower cost visitor serving and recreational facilities to be protected, and where feasible, provided. In addition, Coastal Act Section 30221 states that oceanfront land suitable for recreational use shall be protected for recreational use and development unless current and future foreseeable recreational demand is adequately provided for in the area. Further, Coastal Act Sections 30220, 30224 and 30234 require the protection of coastal water-oriented recreational facilities, recreational boating and fishing. Coastal Act Section 30250(c) states that visitor serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors. The Applicants’ are proposing a campground facility, which, in comparison to surrounding facilities (above) would provide needed oceanfront lower cost visitor serving and recreational facilities. Indeed, the current rates are \$26 to \$31 per night. Special Condition 23 requires that any future development to convert camping spaces to higher-cost visitor serving facilities would require an amendment to this permit. As conditioned, the proposed project provides needed lower cost visitor serving and water-oriented recreational facilities consistent with Coastal Act Sections 30213, 30220, 30221, 30224, 30234, and 30250(c).

⁴⁷ California State Parks Foundation & Save the Redwoods League. 2011. The Park Excellence Project: A Vision for Excellence for California’s State Parks. Page 6.

Section 30210 of the Coastal Act requires that maximum public access and recreational opportunities shall be provided for all people, consistent with the need to protect public rights, private property rights, and natural resources areas from overuse. Section 30211 requires that development shall not interfere with the public's right of access to the sea. Section 30212 requires that for new development projects, public access shall be provided to the shoreline. The proposed development, while providing camping, boating, and day use access, would also impact vehicular public access on nearby roads on busy weekends and bring more people to the beach and shoreline, thereby potentially over-crowding Dillon Beach and waterways with people, vehicles, and boats. As proposed, Lawson's Landing would provide two-hundred sixty-eight (268) parking spaces for day use and camping overflow would be provided in Areas 1 (22 spaces), 2 (120 spaces), 3 (79 spaces), and 4 (47 spaces). Due to traffic constraints discussed in Section V(H)(3), Special Condition 14 limits the maximum number of day-use permits to 100 per day, and the maximum number of vehicles per camping site to 1 vehicle per site (as previously proposed by the Lawson's in their October 2010 proposal and as required by the County in its action on the master plan and coastal permit).

Day use at Lawson's Landing costs approximately \$8.00 to \$11.00 per day. In addition Lawson's would offer boat parking for 10 launched boats at the northeast end of Area 1. Further, as conditioned a free five-car day-use parking lot would be retained near the entrance to Lawson's Landing. Special condition 24 and 25 requires this free parking lot and public trail use for these users to be retained for the life of the project, in order to provide maximum public access, consistent with Sections 30210, 30211, and 30212 of the Coastal Act. Special condition 26 ensures that the day use facilities and parking within Lawson's Landing are also retained throughout the life of the project, and Special Condition 23 requires that any future development to convert the day use areas would require an amendment to this permit.

As conditioned, the proposed camping and boating facilities will provide public access and recreation, as required by Coastal Act section 30210-30214. It will also provide needed oceanfront lower-cost visitor serving and recreational facilities, consistent with Coastal Act sections 30213, 30221, and 30250(c). Finally, the proposed project will provide water-oriented recreational uses that cannot be provided at an inland location, as required by Coastal Act 30220; and it will protect and encourage recreational boating of coastal waters, consistent with sections 30224 and 30234.

Although, as conditioned, the project provides public access and needed oceanfront lower-cost visitor serving recreational opportunities, the proposed project raises significant issues concerning its impacts on natural resources at the site, as well as the need to assure that the proposed recreational facilities are provided and circumscribed in such a way as to protect lower-cost public recreation at Lawson's Landing into the future. These issues, and necessary conditions to address them, are discussed in Section V.E and F below.

2. Travel Trailers

The Applicant proposes to retain 213 improved year round travel trailer sites in Area 2 as generally shown on Adobe Associates Sheet 18 (exhibit 3). These trailers are currently used by

their owners (see below) either as their full time residence or as long-term private vacation units. The residential use of the trailers solely by their owners (or their family and friends), and the spaces on which they are located, results in the trailers, and the spaces on which they are located, not being available for public visitor serving uses. The Applicants have indicated their willingness to transition the use of these 213 travel trailers to short-term public visitor serving rentals but the details of such a transition have not yet been identified. The Applicants also propose to add twenty new trailers that would be available to visitors year round on a nightly basis. As discussed below, the first travel trailers appeared on the site around 1959, and their numbers grew to 233 by 2006, when this application was first submitted to the Commission.

History

According to a letter from Merle Lawson to Marin County in 1970, the first trailers were allowed on the site in 1959.⁴⁸ In 1962, the State Division of Housing (HCD) advised the Lawsons that 15 trailers located on the property constituted illegal activity. At that time, HCD informed the Lawsons that the unauthorized placement and use of trailers on the property violated State laws and that permits were necessary.⁴⁹ By 1966, their numbers had grown to approximately 150, as evidenced by a Marin County violation letter sent Lawson's⁵⁰, dated December 9, 1966, citing unpermitted development, including 125-150 house trailers ranging from 15 – 55 feet in length. By June 1968, the number of trailers swelled to 160 (including four mobile homes over 50 feet in length), according to a Marin County Planning Department published staff report for the Lawson's proposed Master Plan. 227 unpermitted trailers existed in Area 2 by 9/21/71, according to a Marin County documented site visit. By 12/17/71, this number had increased to 231 as evidenced by the Lawson's re-submittal of its use permit application to the County. In May 1975, an "environmental reconnaissance" at Lawson's Landing by Del Davis Associates, Inc. also identified 231 travel trailer sites.

On May 11, 1979 the Lawson's submitted a revised master plan application that included a request for 233 trailers. The revised master plan was not acted on over the next several years although the County did complete its local coastal program (LCP) which included consideration of several policies related to Lawson's Landing. On May 5, 1982, the Coastal Commission certified the Marin County Unit II LCP, which describes Lawson's Landing as having
...the largest concentration of overnight accommodations in Unit II is located at Lawson's Landing on Sand Point: 46 campsites and 231 trailer and RV spaces.⁵¹

On 1/18/91 the State Department of Housing and Community Development (HCD) sent a letter to the Lawson's announcing that they had reassumed responsibility for enforcement of the Mobile Homes Parks Act, and the "Special Occupancy Park" at Lawson's required a permit from the State. Based upon an understanding with the County that a master plan was in process, in December 1992 HCD issued a Permit to Operate for a trailer park with a maximum of 233 RV

⁴⁸ Letter from Merle E. Lawson to Marin County Supervisors 6/26/70

⁴⁹ The term "Lawson's Landing" used in a sentence refers to the owners of the parcels that comprise Lawson's Landing at the particular time being discussed in the sentence.

⁵⁰ Case Number 240

⁵¹ Marin County Local Coastal Program Unit 2 Land Use Plan, p. 29

lots with drains (no mobile home lots were authorized)⁵². Since then, the Lawson's have received annual permits to operate from HCD.

When Marin County approved the coastal development permit for the subject Master Plan,⁵³ it did so with a condition requiring that the travel trailers be subject to a 90-day owner stay limitation, with the remainder of the year the trailer either being removed or rented to members of the public. According to the County, this condition was necessary to comply with local C-RCR zoning, which permits and visitor serving and resort facilities only. The Alliance for Permanent Trailers (APT), one of the Appellants for the subject item, then sued the County, seeking a writ of mandate to set aside conditions imposed by the County with respect to the use of the trailers and declaratory relief with respect to vested rights for the trailer use. The case eventually went to arbitration, with the question of whether 150 legal non-conforming spaces for trailer use exist on Lawson's Landing in 1965.

The Arbitrator determined that as of 1965 there were 150 spaces for trailers at Lawson's Landing that were legal non-conforming uses. The award did not identify where these spaces were located. The award was based on the fact that even though the landowner had not obtained the necessary permits from the County or the State Mobile Home Agency, the landowner had *substantially complied* with state mobile home requirements which he believes preempted County zoning authority. The Commission was not a party to the lawsuit or the arbitration award settling the lawsuit and is therefore not bound by the arbitration award.

As stated above, Lawson's Landing agreed, pursuant to a Consent Cease and Desist Order, to apply for a CDP for all unpermitted development on the site. They did not obtain a vested rights determination from the Commission. Even if Lawson's Landing had attempted to apply for a vested right for use of the travel trailers, Lawson's Landing's 233 travel trailer sites are not legal non-conforming uses that existed prior to the passage of the Coastal Act. Prior to February 1, 1973, the effective date of Proposition 20, anyone who wished to operate a park that accommodates travel trailers had to apply and receive a permit to operate such a park prior to operations. (See Health & Safety Code, §§ 18500, 18770 (preceded by the Auto Camp Act of 1939, former section 18300 which made it unlawful for any person to construct a travel trailer camp without a permit from the regulating state agency).) If a property owner operated such a park without a permit, then the property owner was acting in an unlawful manner. Here, Lawson's Landing's use of travel trailers on its land in December 1965 was not lawful because it had never acquired a permit to operate from the State Division of Housing.⁵⁴

Current Status

The travel trailer occupants do not have any ownership interest in the property. Each travel trailer owner executed a lease with Lawson's Landing for placement of the owner's trailer. Thus,

⁵² HCD also authorized 1,000 lots without drains, which represents the camping in Areas 3-5. This is discussed in section A, B, D, and E of this report.

⁵³ As discussed in Subsection A, the permit was appealed to the Commission and the Commission found that the appeal raised a substantial issue of conformance with the certified LCP.

⁵⁴ In 1992, the California Department of Housing and Community Development (CDHCD) issued Lawson's Landing a use permit to operate the park with a capacity of 233 travel trailers.

the travel trailer occupants are lessees, who have occupancy for a prescribed period and the travel trailer occupants have rights only to continue their uses of the trailers during the term of their leases. The standard Travel Trailer Lease Agreement provides that the lease is from month to month. Unless terminated by the parties, the Lease automatically renews on the first of every month. The standard Termination Clause provides that upon the occurrence of events of default (non-payment of rent, non-compliance with local, state or federal law relating to the Park or the vehicle, acting in a manner that constitutes a substantial annoyance to other people or wildlife in the Park, upon certain convictions of misdemeanors or felony, or failure to comply with notices issued by the Landlord), the Landlord may terminate the lease and may remove the vehicle from the Park. Termination may also occur if there is a "change in use of the park or any portion thereof." Accordingly, the occupants of the travel trailers have a property right in their respective trailer, but no property right in the underlying land, nor do they have any right to remain on the land if "there is a change of use in the Park or any portion thereof."

Currently the travel trailer sites serve a residential purpose. The trailers generally remain on the site year round, are owned by individuals, and are not available to the general public. Before 2008, the trailer owners were subject to a minimal list of rules and were charged \$300.00 per month. Many of the trailers were never moved, and became permanent fixtures through the construction of ancillary facilities such as decks, storage sheds, and fences. In some cases, people live year round at Lawson's Landing in their trailers. In others, owners may come a few weekends a year. In 2008, the Lawson's created month-to-month leases for the 209 'non-employee' travel trailers. This lease, among other things, required the trailers to remove all ancillary structures and meet California HCD Special Occupancy Park standards, including requiring all vehicles to be registered and mobile. In any case, the travel trailer area remains exclusive to trailer owners and their guests, making the travel trailer area more akin to a mobile home park.

The majority of the trailers are on a month-to-month Travel Trailer Lease Agreement costing \$350.00 per month. All new trailers renting spaces since 2008 are subject to a lease that includes a 90 day stay limitation, costing \$400.00 per month. According to the Applicants, at least 28 trailer owners are on this lease. The new leases also offer electricity hook-up at \$25.00 per month and boat storage for \$40.00 per month. The tenants are required to keep the space and the vehicle in good condition, and follow the various rules of the Park, including various rules regarding utility connections. Some examples of these lease rules include that: (a) all vehicles and all vehicles used for transportation must have and maintain a valid registration showing both registered owner and legal owner; (b) all vehicles must have an operable towing hitch at all times. If the towing hitch is designed to be removed and reinstalled, the towing hitch must be readily available for re-installation; (c) All wheels, tires, vehicle axles and their assemblies must be on the vehicle and in good repair at all times. Vehicles must be in a condition to be moved at all times with tires fully inflated; (d) The vehicle may not be permanently affixed to the Premises or installed on a foundation system; and (e) guests may use a vehicle for no more than thirty (30) consecutive days and all guests must have written permission from the Tenant prior to occupying the trailer. Guests are subject to a fee of \$10.00 per car per night, \$30.00 per car per week or \$50.00 per car for the thirty (30) day period.

The lease specifically states that sublease or sale of the trailer is prohibited because the owners keep a waiting list of people who wish to move in with their trailers once a space is vacated. Ancillary structures, including without limitation decks, sheds, stone entryways, garages, cabanas, storage building, carports and the like are not permitted. The lease has specific provisions requiring tenants to comply with the installation of the future new sewer system, as well as the removal of all ancillary structures on the trailers. The Lawson's may terminate the lease with 30 days notice (for those tenants with leases less than 9 months old) or 60 days notice (for those tenants with leases more than 9 months old) in the event of a lease default, condemnation by a government agency, or in the event of a change in use of the park.

Since the travel trailer area grew organically over the years, without permits requiring plotting of lot lines or formal leases, there are certain rules contained in the newer lease that are not enforced at this time. The owners have stated that anything needing a formally delineated lot line to validate its placement is not currently being enforced.⁵⁵ The owners have proposed to remedy these issues once the new wastewater system is implemented (see Section V.H.1). When the new septic tanks are installed, all the trailers would be moved elsewhere from the property, the area would be cleared of all materials, lots would be plotted and marked (steel rods in the ground at the corners as per HCD rules), and utility lines would be installed to the lots. The trailers would then be placed back on their newly marked lots and all aspects of the lease could be enforced.

Coastal Act Analysis

Coastal Act Section 30222 directs that the use of private lands for visitor serving commercial recreational facilities shall have priority over private residential, general industrial, or general commercial uses. In addition, Coastal Act Section 30221 states that oceanfront land suitable for recreational use shall be protected for recreational use and development unless current and foreseeable recreational demand is adequately provided for in the area.

Thus, the Coastal Act establishes visitor-serving uses, including overnight accommodations, as a higher priority land use than residential land uses. It also establishes a preference for lower-cost accommodations. Consistent with these mandates, the advisory Marin County certified zoning for Area 2 is Coastal, Resort and Commercial (C-RCR), which permits:

all uses and normal accessory uses which the Planning Commission finds are appropriate for a resort area or which are desirable or necessary for public service, utility service or for the servicing of the recreation industry. Residential, industrial, institutional, general commercial uses, mobile home parks, and floating home marinas are not permitted...

This local zoning specifically prohibits residential uses, including mobile home parks. In short, visitor serving commercial recreational facilities have priority, and residential uses are prohibited under the advisory LCP. As described above, the permanent travel trailers in Area 2 serve either as permanent residential homes or private vacation homes for their owners. They do not provide a visitor-serving commercial recreational use to the general public, and are for the exclusive use

⁵⁵ For example, article 12 of the lease stipulates that the tenant will "comply with all state, federal and local laws, ordinances, rules and regulations applicable", which would include Title 25 of California's Department of Housing and Community Development's Special Occupancy Park regulations. Particularly, Section 2330, "Unit Separation and Setback Requirements within Parks", part (b), requires that "a unit shall be located a minimum of three (3) feet from all lot lines."

of their owners and their families and friends. This private residential use is inconsistent with Coastal Act Section 30222, which prioritizes visitor serving recreational uses over private residential uses. Further, such private residential use is inconsistent with the directive contained in Coastal Act Section 30221 that ocean front land suitable for recreational use be protected for recreational use and development unless current and future foreseeable recreational demand is adequately provided for in the area.

Counsel for the Alliance for Permanent Trailers (APT), one of the Appellants to this case, contends in a letter dated June 30, 2010 that the trailers owned by the members of APT are not residences or mobile homes because the structures don't fit the definition of a mobile home pursuant to the Marin County Community Development Code (MCCDC). This definition, as cited by the APT counsel, states that the mobile home must be certified under the 1974 Manufactured Housing Construction and Safety Standards Act (NMHCSSA), over eight feet in width and forty feet in length, with or without a permanent foundation, and not including a recreational vehicle. The trailers are less than eight by forty feet, are not certified by the NMHCSSA, and are actually "recreational vehicles," as defined by the MCCDC. In other words, because of their size and lack of certification, APT concludes that they should not be treated as residences, but rather as temporary recreational uses, and that the travel trailers are RVs and RVs are allowed under the C-RCR zoning. APT counsel concludes:

Accordingly, the travel trailer use should be allowed to continue as a nonresidential, recreational use.

The Commission agrees that if the *use* of the 'travel trailers' or 'recreational vehicles,' no matter what their size and shape or label, were visitor-serving recreational rather than exclusively used by the owners and their family and friends, then they would be consistent with Coastal Act Sections 30221 and 30222. Indeed, it is the actual *use* of the land as well as the development that is regulated in these sections of the Coastal Act, not the type of structures alone. Additionally, the advisory Marin County RCR zoning specifically prohibits mobile home parks and these structures don't meet the physical definition, the zoning also prohibits residential uses. Further, the zoning allows only those uses appropriate for servicing of the recreational industry. The Applicants proposal to add 20 trailers of their own to rent out to the general public that would be exclusively available for visitor serving recreational uses, is consistent with Coastal Act Sections 30221 and 30222. The remainder of the year round 213 travel trailers currently are used residentially, which is inconsistent with Coastal Act Sections 30221 and 30222 because the use of private lands suitable for public recreational visitor serving facilities has priority over private residential or commercial uses on oceanfront land, and present and future foreseeable demand for public recreational facilities is not adequately provided for in the area. These private residential uses are occupying oceanfront areas that would otherwise be available for lower cost visitor serving and public recreational facilities. The Applicants have indicated their willingness to transition the trailers, to a limited extent, from a residential to a visitor serving function, however special conditions are still needed to ensure that the trailers function more truly as a visitor serving use within defined time limitations and restrictions.

In this particular case, the proposed retention of the travel trailers can be found consistent with the Coastal Act only as long as the use is primarily visitor-serving and strict conditions are

placed on the operation of the travel trailers to ensure the travel trailers primarily function as public visitor serving overnight accommodations. The conditions hereby imposed by the Commission restrict the owner's use and occupancy so that the units will truly function as visitor units rather than residences or vacation homes. The conditions limit the time period of authorization of the travel trailers and require a CDP amendment supported by audit and monitoring information, to allow continued use of the travel trailers after a specified date in 2017. The conditions also seek to reduce the possibility of non-compliance by requiring that owners and potential purchasers be given notice of the restrictions and legal responsibilities. Lastly, the conditions establish record keeping, reporting and auditing requirements that will assist the Commission with identifying violations and enforcing restrictions.

Therefore, the Commission adopts **Special Condition No. 5**. This special condition requires the Applicants to submit a visitor-serving plan for the year round travel trailer sites for review and approval by the Executive Director. The Plan shall provide for the short term visitor-serving occupancies of the trailer sites by prescribed dates and for monitoring of occupancy. The plan shall limit usage of each trailer or site by its current owner to a maximum of 90 days annually, with a maximum of 30 days during the summer peak season. The plan shall govern the use of the travel trailers through a specified date in 2017. The plan shall require the permittee, prior to January 1, 2017, to submit a coastal development permit application to govern the use of the travel trailers after the specified date in 2017. The amendment application that is submitted by the permittee to govern the use of the travel trailers must be supported by the results of the audit and monitoring requirements specified in the condition.

Special Condition 5, requires modifications to the approved leases between the property owner and the trailer owner to require the applicant or any successor-in-interest property owner to maintain the legal ability to ensure compliance with the terms and conditions of the permit at all times and be responsible in all respects for ensuring that all parties subject to this permit comply with the terms and conditions of this permit. The condition requires that each owner of an individual travel trailer be jointly and severally liable with the property owner for violations of the terms and conditions of this permit, and the permit itself will be recorded on the property deed so that any successor in interest to Lawson's Landing will be aware of the responsibility and liability associated with ownership of these units.

In addition, special condition 5 places restrictions on the use, rental and marketing of the travel trailers, prohibits conversion to residential use, and contains detailed provisions for the monitoring and recording of occupancy and use by the general public and the owners of individual travel trailers throughout each year, to ensure that the restrictions set forth in the special conditions are being complied with.

Special condition 5 also specifically prohibits the conversion of any part of the project to full-time owner occupancy. While most of the marketing and advertising of the travel trailers will likely be performed by the recreational vehicle operator, each individual owner will retain the right to market or advertise their vehicle on their own.

Special Condition 5 further contains detailed provisions for the monitoring and recording of occupancy and use by the general public and the owners of individual vehicles throughout each year, to ensure that the restrictions set forth in the special conditions are being complied with.

Lastly, in regards to other lease requirements, in March 2008 Lawson's Landing notified trailer owners that by July 18, 2008, that all trailer additions, with the exception of one 5'x7' storage cabinet, must be removed. This requirement included removal of all excess building materials/debris, appliances, etc. The Applicants state that these ancillary structures have since been removed with the exception of sheds in the area of employee homes which are needed for their employment at Lawson's Landing and one home of a handicapped individual who requires wheel chair ramps and some accessories. However, on observation, it appears that not all these facilities have actually been removed. The agreement also required vehicles to be registered and mobile. The Applicants claim that all trailers not meeting the mobility requirement have been removed however there are conflicting statements in the record as to whether all the trailers currently meet the mobility requirement. For example, exhibit 25, an exhibit by Questa Engineering showing all the proposed resident and employee trailers indicates that all trailers are licensed, and "all are mobile except as otherwise indicated." Approximately 7 of these trailers are stated to be not yet mobile. Special Condition 6 requires, as proposed by the Applicant, that all ancillary structures be removed and that all trailers meet California HCD Special Occupancy Park standards. Removal of these structures would provide a safer, more attractive environment for visitors. Requiring that the trailers be mobile provides a more seamless avenue to phase out older, un-rentable trailers for newer units. Mobility also allows the vehicles to be evacuated in the case of an advance warning of a natural disaster such as a flood event.

Employee Housing

The Applicants propose to retain four caretaker mobile homes, located in Area 2 near the bait shop and parking lot, as well as the use of 16-travel trailers in Area 2 for year round residents. These travel trailers and mobile homes are used by nine Lawson family members or current employees and seven are occupied by people who have worked at Lawson's Landing over the years and are currently part of the local Dillon Beach workforce. As described above the Coastal Act and LCP prioritize visitor serving uses in this area, and the local C-RCR zoning prohibits residences. To the extent that the nine Lawson family members/current employees need housing to run the visitor serving/recreational and agricultural operations of Lawson's Landing, such caretaker units could be found consistent with the Coastal Act and LCP, however certain restrictions are needed to ensure that these units are solely used for current employees and the units do not revert to general residential uses. Where the units are not utilized for employees, they would need to be utilized for visitor serving uses as described above. **Special condition 8** requires that the 16 trailers and 4 mobile homes must be phased out in accordance with Special condition 5 unless they are proven to be for employee housing. Special condition 8 requires the Applicants to submit for review and approval by the Executive Director an "Employee Housing Plan," for those necessary employees to assist in the recreational use of the property. The Plan shall identify which trailers or mobile homes are proposed for employee housing. If the Applicants do not sufficiently demonstrate that residents are current employees of the recreational use of the property, these trailer and/or mobile home lots shall be utilized for visitor serving uses in accordance with special condition no. 5.

In conclusion, the Coastal Act establishes visitor-serving uses, including overnight accommodations, as a higher priority land use than residential land uses. It also establishes a preference for lower-cost accommodations. The Commission finds that the proposed use of the travel trailers, as conditioned as described above, is consistent with Coastal Act Sections 30210-30214, 30220-30222, 30224, 30234, 30234.5, and 30250(c) of the Coastal Act.

E. WETLANDS AND ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Coastal Act Section 30233 states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

...

Coastal Act Section 30607.1 states:

Where any dike and fill development is permitted in wetlands in conformity with Section 30233 or other applicable policies set forth in this division, mitigation measures shall include, at a minimum, either acquisition of equivalent areas of equal or greater biological productivity or opening up equivalent areas to tidal action; provided, however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface areas shall be dedicated to an appropriate public agency, or the replacement site shall be purchased before the dike or fill development may proceed. The mitigation measures shall not be required for temporary or short-term fill or diking if a bond or other evidence of financial responsibility is provided to assure that restoration will be accomplished in the shortest

feasible time.

Coastal Act Section 30240:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30107.5 Environmentally sensitive area

"Environmentally sensitive 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 be easily disturbed or degraded by human activities and developments.

Overview of Habitats at Lawson's Landing⁵⁶

Lawson's Landing is located within the Tomales Dunes near Dillon Beach. This dune complex is mostly undeveloped but has been significantly altered by European beach grass (*Ammophila arenaria*) and the invasive yellow bush lupine (*Lupinus arboreus*). *Ammophila* changes the physical characteristics of the foredune and drastically alters the biological community. When *Ammophila* is established, it develops an extensive system of roots and horizontal rhizomes that stabilize the sand. This cycle results in vertical dune building, decreased lateral sand movement, and loss of native cover. Unlike *Ammophila*, yellow bush lupine is native to California but its native range and habitat affinities remains unresolved. There is some question whether it was a natural member of the Tomales dune community. Like European beach grass, yellow bush lupine has been planted to stabilize dune systems.

At Lawson's Landing, there is a wide deflation plain behind the high stabilized foredunes next to the beach, which was likely caused by the lack of sand replenishment from dune stabilization coupled with continuing wind scour. This was not always the case. Photographs thought to have been taken in the 1920s show the partially vegetated dune sheet rising from the back beach and only a narrow foredune is evident (Exhibit 6, Figures 1 & 2). *Ammophila* is reported to have been planted by the Soil Conservation Service during the 1930s to stabilize the foredune. By 1952, a deflation plain had formed in the northern portion of Lawson's Landing. Dune slack wetlands and emergent marsh, which are characteristic of deflation plains, were probably much more extensive when the deflation plain was newly formed, as suggested by the fact that over 7,000 feet of ditches have been constructed to drain the low-lying areas and facilitate grazing. Portions of these drained areas are now also used for camping.

Vegetation

⁵⁶ More detail on the biological resources present on site is provided in: Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6)

Due to the spread of European beach grass and, probably yellow bush lupine, native dune grass and dune mat vegetation is much reduced, and the area is now classified as a European beach grass community. Sparse populations of native species still remain but are now more abundant in the interior dunes east of the deflation plain. This geologically recent dune sheet is comprised of both active and vegetated dunes with a trend toward conversion to vegetated dunes. The vegetated dunes are classified as central dune scrub, a rare plant community dominated by mock heather (*Ericameria ericoides*). At Tomales Dunes, yellow bush lupine is a co-dominant shrub in many areas. The herbaceous layer supports a diverse native flora, including many species also found in northern foredunes.

Special – Status Plants

Of 38 special-status plant species that have the potential to occur in the Tomales Dunes based on geography and habitat affinities, three are known to be present. This includes Point Reyes bird's beak (*Cordylanthus maritimus* ssp. *palustris*), a California Native Plant Society (CNPS) 1B species, that is found in the salt marsh at the southern end of the site east of Area 1; Woolly-headed spineflower (*Chorizanthe cuspidata* var. *villosa*) is a CNPS 1B species occurring at several locations; and San Francisco spineflower (*Chorizanthe cuspidata* var. *cuspidata*), also a CNPS 1B species observed next to the woolly-headed spineflower. A fourth, Tidestrom's lupine (*Lupinus tidestromii*), was identified in 1992, but is no longer present in the same area and may be locally extinct. There are also numerous examples of plants that are geographically distinctive (e.g., at the edge of their range) or taxonomically unique (hybrids or undescribed species) in the Tomales dunes.⁵⁷

California Red Legged Frog

The California red-legged frog is federally listed as threatened and is a California Species of Special Concern. The red-legged frog requires standing water for an average of 20 weeks to complete metamorphosis, generally at least through August. Three perennial ponds at Lawson's Landing have been found to support breeding red-legged frogs. These are located near the entrance (entry pond), in Area 8 (Area 8 pond), and in the interior dune slacks (interior dune slack pond). Any wet area could potentially be utilized for shelter, foraging, predator avoidance, or aquatic dispersal at some time during the year. For example, frogs have been observed occupying flooded ditches of western dune slacks adjacent to the camping area.⁵⁸ Dispersal is generally in straight lines, often across considerable expanses of dry uplands. The U. S. Fish and Wildlife Service (2001, 2006, 2011) identifies aquatic breeding habitat, adjacent aquatic non-breeding and upland habitats, and barrier-free dispersal habitat between breeding ponds as habitats that must be protected to insure sustainable populations of red-legged frogs. The three breeding ponds at Lawson's Landing are less than a mile apart. Direct dispersal corridors would cross Area 5 and the northernmost part of Area 4 and would pass through and around the buildings near the entrance. Other than the buildings, there are no physical barriers, although the roads near the entrance and in Area 8 are potential sources of mortality.

Western Snowy Plover

⁵⁷ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6), citing Baye and Wright 2004.

⁵⁸ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6), citing Baye and Wright 2004.

The beach at Lawson's Landing is used as wintering habitat by "substantial numbers" of western snowy plovers (*Charadrius alexandrinus nivosus*), a federally threatened species and California Species of Special Concern. Dillon Beach has been designated "critical habitat" by the U.S. Fish and Wildlife Service. Western Snowy Plovers can be disturbed by recreational activities such as walking through the dunes and along the beach. Wintering birds are less sensitive to disturbance than when nesting, but still tend react to humans and especially dogs when approached within about 120 feet.⁵⁹

The owners of Lawson's Landing have entered into a Cooperative Agreement with the U.S. Fish and Wildlife Service's (USFWS) Partners for Fish and Wildlife Program to develop and implement a species recovery action at Lawson's Landing to protect the western snowy plover (snowy plover), a Federal threatened species and California species of special concern. The program was launched in 2010 and primarily involves reducing disturbance to the snowy plover from beachgoers and their pets through installation of symbolic fences and signage to deter foot traffic into the main snowy plover roosting area, and placement of an educator on the beach during busy times. The educator offers snowy plover viewing opportunities with a spotting scope and informs beachgoers of the plight of the snowy plover and keeps visitors and dogs at a proper distance to avoid disturbing the snowy plovers and disrupting foraging and other critical life cycle activities.

A proposed rule to re-designate critical habitat for the western snowy plover was published March 21, 2011 and Dillon Beach was proposed for critical habitat.

Insects

There are documented occurrences of at least two insect federal Species of Concern at Tomales Dunes. Both the Pacific sand bear scarab beetle (*Lichnanthe ursina*) and the globose dune beetle (*Coelus globosus*) live in coastal sand dunes. The dune habitat is considered appropriate for the Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), federally listed as endangered, and there is an unconfirmed sighting from the Tomales Dunes. The USFWS recovery plan identifies the Tomales dunes as a high-priority area for reintroduction.

Wetlands

There have been several wetland delineations conducted at Lawson's Landing over the years and, when looked at together, show the dynamic nature of this habitat on the site. In July 1992 WESCO conducted a delineation based on the federal Army Corps of Engineers (ACOE) definition of wetlands, and Monk and Associates followed up with a new ACOE delineation in 2002. The wetland boundaries were similar, except for two areas in the foredunes that delineated as wetland in 1992 but that were not mapped as wetlands in 2002 (see Exhibit 6).

In 2006 at the request of Commission staff, Huffman – Broadway Group mapped wetlands according to the wetland definition in the Coastal Act and Commission's Regulations. Because

⁵⁹Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6), citing Lafferty 2001

the Coastal Act definition of wetlands is broader than the federal definition, this delineation mapped more area as wetland. Then, in the Spring of 2009 Monk and Associates conducted another delineation, assessing vegetation soils, and hydrology at 114 sample points. This showed that all of the 2006 wetlands that were identified based only on wetland vegetation had converted to uplands (*Pennisetum* grassland).⁶⁰ These changes occurred in the northern camping areas (Areas 4 -5) with the exception of drainage ditches, ponds, and small areas of dune slack wetland.⁶¹

These delineations show that the northern portions of the deflation plain, including Areas 4 and 5, have been profoundly affected by the invasion of kikuyu grass (*Pennisetum clandestinum*), a species native to tropical Africa. Kikuyu grass was not identified by WESCO in 1992, was present in unknown abundance in 1998,⁶² and was a dominant species in much of the deflation plain by 2002. From 2002 – 2009 the Kikuyu grass continued to spread, as evidenced by the delineations in 2006 (Huffman and Broadway) and 2009 (Monk and Associates) described above.

Effects of Historical Unpermitted Camping Activities on Wetlands

A question that naturally arises is what effect, if any, have the recreational and associated maintenance activities had on wetlands in the deflation plain. Dr. John Dixon, Staff Ecologist, analyzed a series of vertical and oblique aerial photographs and states:

“I think the available evidence suggests that recreational activities do have negative effects on the vegetation community within dune slacks, favoring non-native species adapted to the drier end of the wetland gradient, although the causal relationship to any particular species is unknown.”⁶³

In order to specify actual floristic changes correlated with the camping uses, it is necessary to have a pre-camping baseline which is unavailable. However, to get a rough idea of camping effects on the vegetation community, Dr. Dixon compared points placed close to each other across the line between camping and the undisturbed dune slack. This was done at six locations along the eastern edge of Area 4 in 2009 to verify the wetland boundary. The conversion of this area to recreational use has altered the physical structure of the vegetation from shrubby and tussocky to pasture-like, and is likely ultimately responsible for the decreased portions of wetland indicator species that are present. However, whether the continued camping contributed to the recent dramatic increase of the invasive kikuyu grass is unknown. Nonetheless, based on the evidence available, it appears likely that recreational activities in the deflation areas have resulted in the conversion of wetlands to uplands.

In the southern dune slack wetland northeast of Areas 1 and 2 (exhibit 6, figures 19, 22, & 24), the effects of conversion to camping and a road in the 80s and 90s is quite clear. This is demonstrated by aerial photographs, and an ACOE wetland delineation that delineated the entire

⁶⁰ According to John Dixon, PhD, Commission Staff Ecologist, this delineation is a substantially accurate reflection of the Commission's regulations.

⁶¹ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6)

⁶² Personal communication between John Dixon and Sarah Lynch, November 22, 2010

⁶³ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6)

area as wetland in 1992. Therefore, there is a baseline of knowledge of the habitat before and after these activities. The same qualitative changes in the vegetation that are visually apparent in the time series of photographs of Area 4 also occurred in this southern dune slack, but in this case it is known that the habitat was 'wetland' before camping was introduced. These changes are apparent in paired photographs taken before and after the introduction of camping.⁶⁴

ESHA Determination

Coastal Act Section 30107.5 defines environmentally sensitive (habitat) areas (ESHA) as

“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 be easily disturbed or degraded by human activities and developments.”

Coastal dune habitats are rare, as are the vegetation communities and many of the species associated with them. They are also easily damaged by human activities, as demonstrated throughout California, including at the Tomales Dunes. According to Dr. Dixon, in its natural state, the entire nearshore dune complex at Lawson's Landing, consisting of foredunes, active unvegetated dunes, vegetated backdunes, dune swales and deflation plains, would clearly have met the definition of ESHA. See Figure 1 of Exhibit 6 showing Lawson's Landing in the 1920s, prior to more significant alterations associated with recreational and agricultural use following this time.

Today, all the pieces of this dune complex are still present, albeit in a somewhat degraded to severely degraded condition. In prior actions, the Commission has found that even severely degraded dunes meet the definition of an ESHA in Section 30107.5 of the Coastal Act⁶⁵. Based on aerial photographs, many of the camping related deleterious changes to the vegetation are relatively recent, having taken place sometime between about 1979 and 1986. This includes such unpermitted activities and development as camping (i.e. driving camping vehicles, parking vehicles, and camping/recreating around them), mowing, and development of side driveways off of the main road.⁶⁶ Despite the significant degradation of the dune habitats and the many stabilizing constraints operating on this dune complex, it still is a dynamic system and the various parts, including the upland portions of the deflation plain, still interact with one another. For example, blow-outs periodically convert areas of deflation plain to dune or create drainages where there previously were none, providing opportunities for new plant and animal colonization. Therefore, regardless of the fact that the Tomales Dunes at Lawson's Landing is no longer pristine, the dune complex of foredunes, central dune scrub, bare sands, and deflation plains, including the dune-slack wetlands and uplands, is rare, performs the important ecosystem function of supporting a rare plant community, rare plant and animal species, including the Federally Threatened California red-legged frog and western snowy plover, and is easily

⁶⁴ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6)

⁶⁵ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6) citing Wheeler 3-09-049 (Asilomar dunes), Malibu LCPA 1-07 (fore dunes), Ca Parks & Rec 1-09-026 (Little River fore dunes, deflation plain, and stabilized dunes).

⁶⁶ The main road out to the Landing was completed sometime around 1957, and no grading permits appear to have been required at that time.

disturbed by human activities. Therefore, all of the existing habitat areas of the dune complex at Lawson's Landing, including the foredunes, central dune scrub, bare sands, and deflation plains, including the dune-slack wetlands and uplands, must be considered Environmentally Sensitive Habitat Area under the Coastal Act. This includes proposed camping areas 3, 4, 5, and 7.⁶⁷

According to Dr. Dixon, although much of the habitat at Lawson's Landing is degraded ESHA, portions of the site, particularly Areas 1 and 2, have been so drastically altered by development that they no longer retain the characteristics of a natural habitat. Even so, because most of the development altering the ESHA was undertaken without the necessary coastal development permits, unless the development (e.g. grading, fill, roads, structures, and trailers) in these areas was previously permitted or otherwise determined to be legal, the underlying land area must still be treated as meeting the definition of ESHA.

DEVELOPMENT WITHIN PORTIONS OF AREA 1 AND AREA 2 IS APPROVABLE PURSUANT TO COASTAL ACT SECTIONS 30240 AND 30233

Although much of the habitat at Lawson's Landing is degraded environmentally sensitive habitat area (ESHA), including portions of the site that have been altered by development occurring without the benefit of a coastal development permit, some of the existing development in Area 1 did receive Coastal Commission authorization.

Area 1 and 2 Development Proposal

Area 1 is approximately 4.4 graded acres located at the southern end of Lawson's Landing adjacent to Tomales Bay. Area 1 is the graded area immediately east of the developed travel-trailer area known as Area 2 (see exhibit 3). Area 1 has been used for RV camping without the benefit of a coastal development permit and the Applicants propose to continue this use by designating 81 RV camp lots and developing restroom facilities in the area (on approximately 2.9 acres). In addition, the Applicants propose to relocate some of the travel trailers from Area 2 into Area 1 (Area 2 sites 1 – 19). RV sites would be approximately 1,276 square feet and would be demarcated by metal rods driven into the ground at the four corners of each site. The sites would not be served by any wastewater or electrical hookups. As proposed, the area would be re-graded to direct runoff to the wetland area to the north. In addition to the proposed camping spaces, the Applicants propose to remove informal camping from the Northeast corner, also known as the "tail" area, and restore this area back to dune scrub habitat (see Exhibit 3 [Monk and Associates Exhibit C, dated June 3, 2011]). As evidenced below, this "tail" area was graded without permits, is hard-packed, and graveled, and supports unpermitted camping activities.

Analysis of Portions of Area 1 and Area 2

According to aerial photographs, Area 1 consisted primarily of a vegetated sandy dune environment with some grading behind a low seawall in 1972 (see Exhibit 13, California Coastal

⁶⁷ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6)

Records). By 1975, though, most of Area 1 was now graded and used for RV camping and other recreation (exhibit 14). Some of the grading and alterations in Area 1 may have occurred prior to the passage of the Coastal Act and other land use regulations but such development was never authorized by the Commission pursuant to the requisite vested rights determination. Other development occurred pursuant to local and Coastal Commission development permits, as described below. As detailed below, the only portion of Area 1 proposed for camping that does not now meet the definition of ESHA is development officially authorized by the Commission.

According to aerial photographs taken in 1952, much of Areas 1 and 2 were tidally influenced (exhibit 10). This comports with the Commission's retained jurisdictional boundary line on the property, due to historic tidelands. This tidal area can also be seen on Figure 3 of Dr. Dixon's memo (exhibit 6) "Tomales Dunes and Lawson's Landing in 1952" (from Cooper 1967).

In 1962, the Lawson's began construction of a 1,400 foot long wooden bulkhead in front of Area 1 and Area 2 (east of the pier) primarily to prevent storm waves from inundating agricultural land as well as to protect trailer spaces (Trailers started to appear in Area 2 around 1959, according to the applicant). This bulkhead was completed in 1966. A 1965 aerial photograph shows the bulkhead near completion in front of Area 2, east of the pier. The 1965 photograph shows that much of the area that was tidally influenced in 1952, is now filled in, both east, west, and north of the pier. According to the Lawson's project plan provided to the Army Corps of Engineers around 1975, the project involved 1,000 cubic yards of fill behind the bulkhead, which extended back to various lengths, between 20 – 200 feet. Wire netting and brush were placed at the eastern end of the wall (exhibit 39 Army Corps letter and associated Lawson's bulkhead site plan).⁶⁸ The construction of the bulkhead occurred prior to local tidelands permit requirements (which were codified in 1970) and prior to Army Corps of Engineers Review Authority (which began in 1969 under the Rivers and Harbors Act). The grading and filling associated with the bulkhead also appears to have been exempt under the applicable Marin County Local Ordinance #1183 because it was either associated with agricultural activities⁶⁹ or the fill amounts were below the amounts needed to qualify as grading and fill, i.e. requiring permits. Marin County Ordinance No. 1183 defines "fill" as

Artificial movement of earth leaving a fill earth bank over five feet (5') in vertical height or filled earth over five feet (5') deep...

According to a site plan attached to an Army Corps of Engineers 1975 public notice regarding retention of the seawall, the 'existing bulkhead' involved approximately 4.25' of filled earth, below the 5' threshold to be considered fill requiring a grading permit. In addition, Marin County Ordinance No. 1183 defines "grading" as:

"Artificial movement of over 1,000 cubic yards of material, or movement of any earth affecting any natural or existing legally established drainage channel..."

According to this same site plan, the grading and fill associated with, and behind the bulkhead was 1,000 cubic yards. The fill extended back to varying lengths between 20 – 200 feet.

⁶⁸ Department of the Army. San Francisco District Corps of Engineers. December 8, 1975. Public Notice No. 9474-63

⁶⁹ Board of Supervisors of the County of Marin Ordinance No. 1183

Also, pursuant to Marin County Ordinance 1183, a Use Permit was not required for these activities, because it did not involve:

“Any excavating, grading, or fill involving any cut or fill bank over twenty feet (20’) high...”

Thus, some of the available evidence suggests that the bulkhead, and certain grading and filling (approximately 1 acre) that were conducted behind it prior to 1973, may have been developed prior to any coastal development permitting requirements.

In this case, having entered into a Consent Cease and Desist Order with the Commission, the Lawson's have elected not to avail themselves of the procedure made available by the Commission to acknowledge vested rights instead proceeding before the Commission with a coastal development permit application.⁷⁰ Accordingly, the applicants have waived their right to proceed before the Commission with any claim, as owners, that they have a vested right that entitles them to proceed without a CDP for development at Lawson's Landing.⁷¹ The applicant must therefore comply with the provisions of the Coastal Act in order to undertake any development, such as the placement of travel trailers and other structures.⁷²

However, even though the applicant did not seek a vested rights determination for the grading and filling of land that occurred in Area 1 and Area 2, some grading and fill development was independently authorized by the Commission via a court judgment and acknowledged in subsequent Commission action (see exhibit 40 for an illustration of this area). Sometime after the bulkhead was originally constructed, additional grading, fill and rip-rapping began to occur east and north of the bulkhead in Area 1 at the eastern end of the wall where the wire netting previously placed was failing. In fact, Marin County issued a Stop Work Order and Notice of Violation on November 16, 1973 for these activities, which were alleged to have occurred on or around July 3, 1973, which was after Marin County's tidelands ordinance came into effect in 1970 and after the institution of coastal permit requirements under Proposition 20 in February, 1973. On November 30, 1973 Merle Lawson applied to the newly created Regional Coastal Commission for an emergency administrative permit (#357) to “repair the east end of our existing seawall.” The matter was eventually resolved via litigation (*California North Central Coast Regional Coastal Zone Conservation Commission v. Merle Lawson et al.*). Judgment was entered on June 7, 1977; the defendants paid a penalty and agreed not to do additional

⁷⁰ Section 8.0 of the Consent Cease and Desist Order CCC-06-CD-15 agreed to by the Applicants, states that the Lawson's waived their right to contest the order requiring a CDP for the unpermitted development on the site.

⁷¹ The courts established long ago that a claimant's application for a CDP constitutes a waiver of any claim to a vested right for development, and this principle has been upheld in recent case law (*LT-WR, L.L.C. v. California Coastal Comm'n* (2007) 152 Cal.App.4th 770, 785, quoting *Davis v. California Coastal Zone Conservation Comm'n* (1976) 57 Cal.App.3d 700). In *LT-WR*, at 785, the Court of Appeals found that: As stated in [Davis]: “A [property owner] who claims to be exempt from the Coastal Zone Conservation Act permit requirements by reason of a vested right to develop the property must claim exemption on that basis. [citation omitted] *Where the developer fails to seek such a determination but instead elects to apply only for a permit*, he cannot later assert the existence of a vested right to development, i.e., the developer waives his right to claim that a vested right exists. (*State of California v. Superior Court* [(1974)] 12 Cal.3d 237, 248-250, 252[, 115 Cal.Rptr. 497, 524 P.2d 1281].)” (*Davis, supra*, 57 Cal.App.3d at p. 708, 129 Cal.Rptr. 417, italics added.)

⁷² Even if development was completed lawfully (i.e. with all required permits) prior to the enactment of the Coastal Act and the applicant had elected to pursue a vested rights determination for the specific grading that preceded all land use regulatory requirements, any future modifications to that development are still subject to existing law at the time those new modifications or development take place. For example, if one were proposing to place a travel trailer on land that had lawfully been graded prior to the enactment of the Coastal Act and all other state and federal regulations, the original placement of and any future maintenance, additions, or remodels of the travel trailer would still be subject to the requirements of the Coastal Act. Thus, even if the applicant had obtained a vested right for specified grading in portions of Area 1 and Area 2 which preceded local, state and federal regulation, any subsequent development on the property is still subject to any existing laws at the time the new development takes place.

construction, dredging, filling and grading on the parcel in question without a coastal development permit, except for repair or maintenance work, or pursuant to an emergency permit, approved by the Commission.

The Lawson's were allowed to retain all of the grading and fill work that had occurred, which was described as approximately three feet of fill on the parcel (100-100-048), approximately 500 cubic yards of grading on the parcel, and placement of an unspecified amount of riprap and fill along the shoreline of the parcel.⁷³ According to an aerial photo taken on July 29, 1975 (exhibit 14 – Hoban Schach and Assoc.), the grading and fill work authorized by the Judgment in Area 1 included the linear east-west strip of now unvegetated land covered by proposed RV sites 31 – 81, and Area 2 travel trailer sites 1 – 16, but *not* Area 1 RV sites 1 – 30 (see exhibit 40).⁷⁴ In addition, the grading and fill work authorized by the Judgment does not include the north-south trending 'tail' of graded land located on the far east side of the area, which is now proposed for camping removal and dune restoration (see below).⁷⁵

Finally, the legality of the seawall and the majority of the graded area behind it is further documented by a prior Commission permit for a replacement seawall in front of the original seawall. On April 11, 1986, the Commission approved CDP 1-86-21 for a 1,227-foot-long, 16-foot-high fir seawall, 1-foot seaward of the existing redwood seawall around Areas 1 and 2. The staff report states that the seawall is located adjacent to the Lawson's Landing travel trailer area, pier, office and store, and that the existing redwood seawall had been constructed 35 years prior to protect adjacent development and prevent wave intrusion into the inland cattle crazing area. The adopted findings approving the seawall also state: "This seawall is necessary to protect this extensive existing development and future expansion of resort and recreational facilities..."

In conclusion, the grading and filling of land covered by proposed Area 1 RV sites 31-81 and Area 2 travel trailer sites 1 – 16 was independently authorized by the Commission via a court judgment and acknowledged in subsequent Commission action. Therefore, most of the proposed development footprint in Area 1, including some of the Area 2 visitor travel trailer extension (sites 1 – 16) (see exhibit 40) was legally altered and the land underlying that development no longer meets the definition of ESHA. Therefore, the camping and travel trailer use now proposed in these non-ESHA areas, is consistent with the section 30240 prohibition on non-resource dependent developments in ESHA.

In comparison, the land area proposed for Area 1 RV spaces 1 – 30, and the main part of Area 2 (approximately travel trailer sites 16 – 233) (see exhibit 3), however was historically part of the dune scrub/wetland ESHA area and was not authorized by Court Judgment or subsequent Commission action. Therefore, development in these areas must be reviewed, after the fact, for its consistency with the ESHA policies of the Coastal Act. Coastal Act Section 30240 allows development in ESHA only for "resource dependent" uses. RV and travel trailer spaces are not

⁷³ On July 17, 1978, the Army Corps of Engineers issued a permit to retain a rubble wall, 1000 cubic yards of fill placed behind the rubble wall and an existing 1400-foot long wooden bulkhead near Sand Point to prevent storm waves from inundating agricultural lands, Application No. 9474-63.

⁷⁴ This is confirmed by an aerial photo from 1978, which shows the most inland strip of land (around Area 1 RV sites 1 - 30) as mostly vegetated.

⁷⁵ According to aerial photographs and oblique photos from the California Coastal Records Project in 1978 the dune is still present (exhibits 15 and 16) and in 1986 the dune is graded. The 'tail' appears to have been illegally graded sometime between 1979 - 1986, and no permits were obtained. In a 1979 photograph the area appears as ungraded, vegetated dunes, and as discussed above, would be considered ESHA at that time.

resource dependent, and therefore proposed Area 1 RV spaces 1 - 30 and Area 2 trailer sites 16 - 233, are inconsistent with Coastal Act Section 30240. These sites, however, are approvable via conflict resolution, which is discussed below in Section V.F.

RESTORATION PROJECTS PROPOSED CONSISTENT WITH COASTAL ACT SECTIONS 30233 AND 30240

Restoration Area A: the northeast "tail" of Area 1

As discussed above, grading and fill work authorized by the Judgment in Area 1 does not include the north-south trending 'tail' of graded dunes located on the far east side of the area (which is currently hard-packed and graveled, and supports year round camping), which is now proposed for camping removal and restoration to dune scrub habitat. Therefore, this area is considered dune ESHA. The Applicants propose to remove the unpermitted camping uses and restore the area to dune scrub ESHA, known as Restoration Area A, as follows. Subsoils salvaged from Restoration Area B (removal of unpermitted road, discussed below) would be used to form an undulating topography that would be planted California native species known from adjacent areas and Marin County coastal habitats. Section 30240 of the Coastal Act requires that ESHA be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. The proposed restoration of the dune ESHA is a 'resource dependent' activity because without the dune resource, there would be nothing to restore. Further, the restoration of the native dune habitat will ensure that the restored ESHA and the dune ESHA that surrounds it is protected from any significant disruption of habitat values because habitat values will be enhanced. However, the restoration plan is not fully developed and the area proposed to be restored is not large enough to cover the area that was illegally graded. As shown in exhibit 3, sheet 17, the southern portion of the 'tail' area, just above proposed RV spaces 25 - 30 is proposed as a water quality infiltration treatment basin, access road, parking, and turnaround area. This entire area must be restored to its pre-disturbance dune habitat condition. Further, the details of the proposed restoration have not been provided including the planting palette referenced as 'planting palette g,' Special condition 4 requires the Applicants to submit a dune restoration plan, prepared by a restoration ecologist that includes the entire area described above. The goal of plan shall be to enhance and restore the area to a self-sustaining natural habitat state adequately buffered from adjacent development. It shall include a baseline assessment, measurable goals and success criteria, monitoring, and submission of reports to the Commission's Executive Director. As conditioned, the Commission finds that proposed Restoration Area A is consistent with Coastal Act Section 30240.

Road Removal and Wetland Restoration (Restoration Area B) (exhibit 3)

As proposed, an existing, unpermitted, now-abandoned, chip-sealed road, which traverses in a north south direction through a large wetland behind Area 2 and Area 3 would be removed and restored. The wetland area around the road used to support unpermitted camping as well, but these uses were removed in 2009 as an 'interim measure.' The Applicants propose to restore the road area only. Surface material of the chip-seal road would be removed and an open-water riparian corridor would be created. The Applicants claim this would benefit the CRLF and red-legged frog at LL. The road surface in its entirety would be removed along with subsoils up to three feet deep. This excavation would expose a seasonal water table within the former footprint

of the 30-foot wide road. This excavated area would be expected to fill with water for many months of the year (likely from November – July). California native riparian species would be planted to encourage a naturalistic tributary function. According to the Applicants, this added riparian vegetation would provide birds with nesting habitat and amphibians with escape cover and migration habitat.

The unpermitted road described above is located in a wetland habitat, not a riparian habitat. Creation of a riparian area is a significant alteration of the wetland habitat and would fail to restore the area to its previous wetland condition. This is inconsistent with Coastal Act Section 30233 which allows fill in wetlands for restoration purposes. The area underneath the road must be restored to its previous undisturbed wetland condition. Further, such an undertaking must be designed by a restoration ecologist. Therefore, the Commission imposes Special Condition 2(A)(3), which requires the Applicants to submit a wetlands restoration enhancement plan prepared by a restoration ecologist, and that the unpermitted road to be restored to wetland functions and values compatible with the surrounding wetland environment. As conditioned, the Commission finds that the proposed road removal and restoration is consistent with Coastal Act Section 30233.

CRLF Habitat Enhancements (Restoration Area C) (exhibit 3)

The Applicants propose to remove camping uses from Area 5 to accommodate maximum protection and enhancement for CRLF habitat. There is a CRLF breeding pond located immediately southwest of the primary LL entrance kiosk at the northwest end of LL, and adjacent to Area 5. This pond was excavated by the Lawson family years ago to provide water for cattle. While the primary entrance driveway will remain, a vegetated planting plan would be implemented on the east side of the breeding pond extending eastward across the driveway into the formerly camped Area 5, to enhance migration movements to/from the CRLF pond towards other breeding ponds in the interior dune area (that would be protected by an NRCS conservation easement [see below]). California native species would be utilized. The planting plan would establish both herbaceous and low-level vegetation to provide refugia and cover for moving frogs. The vegetation would act as a predator protection corridor. Working in collaboration on the NRCS Wildlife Habitat Improvement Program (WHIP) and Wetland Reserve Program (WRP), a program of managed access for cattle to the pond would be developed. This would allow periodic grazing of the pond to provide sunlight and warm water, which would facilitate use of the pond by the CRLF (In the absence of all grazing pressure there is some concern that the pond could become too vegetated, and tall riparian vegetation could elevate levels of evapotranspiration and use of water by plants that effectively dewater the pond, thereby removing frog breeding habitat).

A man-made drainage that takes overflow water from the CRLF pond eastward would also be included within the planting area and would provide an aquatic corridor that can be seasonally be used the CRLF. A culvert underneath the access road to Area 5 from the “well road” and the access road would be removed from this drainage and replaced with a larger pipe arch, which would also facilitate CRLF movements.

The Commission's staff ecologist has reviewed the conceptual plans for Restoration Area C, and found that the planting palette for the CRLF vegetated refugia is inappropriate for the dune scrub habitat. In addition, the restoration plan needs to be designed by a restoration ecologist. Special Condition 2(A)(4) requires that a restoration and enhancement plan prepared by a restoration ecologist be submitted to the Executive Director for review and approval, including engineered plans, and that the planting palette be modified to include native central dune scrub vegetation. As conditioned the Commission finds that Restoration Area C, the California Red Legged Frog enhancement habitat enhancement project, is consistent with Coastal Act Section 30240.

DEVELOPMENT THAT IS NOT CONSISTENT WITH SECTIONS 30233 AND 30240 OF THE COASTAL ACT AND IS ONLY APPROVABLE USING THE CONFLICT RESOLUTION PROVISIONS OF THE COASTAL ACT

As described above, except for the portion of Area 1 and Area 2 previously authorized by Court Judgment or subsequent Commission permits, proposed Areas 1 - 4 consist entirely of ESHA. In its natural state, the entire nearshore dune complex at Lawson's Landing, consisting of foredunes, active unvegetated dunes, vegetated backdunes, dune swales and deflation plains, meets the definition of ESHA. All of the pieces of this dune complex are still present, albeit in various stages of degradation. Despite the significant degradation of the dune habitats and the many stabilizing constraints operating on this dune complex, it still is a dynamic system and the various parts, including the upland portions of the deflation plain, still interact with one another. For example, drifting sand periodically converts areas of deflation plain to dune or blowouts create drainages where there previously were none, providing opportunities for new plant and animal colonization. Regardless of the fact that the Tomales Dune Complex is no longer pristine, the system of foredunes, central dune scrub, bare sands, and deflation plains, including the dune-slack wetlands and uplands is rare, performs the important ecosystem function of supporting rare plants and the Federally Threatened California red-legged frog, and is easily disturbed by human activities.

Because the existing development on the site has been determined to be unpermitted, as discussed above, the Commission must consider the application as though the development had not occurred and must regard the habitat on the site as though it had not previously been disturbed by this development occurring without the benefit of a coastal development permit.

Since the development described above is located in areas that would significantly disrupt the habitat values and would significantly degrade the ESHA, this proposed development is inconsistent with Coastal Act Section 30240. In addition, since some of the development above is located in wetlands, and Coastal Act Section 30233 does not allow campground and trailer uses in wetlands, the proposed development is inconsistent with Coastal Act Section 30233.

Summary of Proposed Development in ESHA and wetlands

Area 1

Area 1 has been used for RV camping without the benefit of a coastal development permit. The Applicants propose to continue to allow RV camping in the dune ESHA located in the area

generally demarcated by proposed RV sites 1 – 30 (see exhibit 3, Sheet 17). RV sites would be approximately 1,276 square feet and would be demarcated by metal rods driven into the ground at the four corners of each site. As proposed, the area would be re-graded to direct runoff to the wetland area to the north.

Area 2

The Applicants propose to retain 217 permanent year-round travel trailer sites in dune and wetland ESHA. The Area would be re-graded and reconfigured to accommodate this number within the development footprint generally depicted on Adobe Associates Sheet 18 (exhibit 3). Four travel trailers located at the end of Row J are proposed to be removed due to their proximity to wetlands, and trailer M1 is also proposed to be removed. Existing RV and boat storage would be removed directly adjacent to Area 3 and replaced with eleven of the new trailers.

Area 3

As shown in Exhibit 3, Sheet 19, the Applicants propose to retain and reconfigure the campground and re-grade Area 3 as follows to allow 26 walk-in tent campsites, 60 RV sites, and three restroom facilities. Area 3 consists entirely of dune ESHA. The RV and tent sites would be demarcated with metal rods driven into the ground at the four corners of each site.

Area 4

The Applicants propose to retain, re-grade, and reconfigure campsites in Area 4 as shown on plan sheet 20 (exhibit 3) as follows to allow 213 RV campsites, 112 tent campsites, 2 parking areas, and 2 restroom facilities. Area 4 consists entirely of wetland and dune ESHA.

Coastal Act Section 30240 allows only 'resource-dependent' uses in ESHA, and requires development adjacent to ESHA to be sited and designed to prevent impacts that would degrade the ESHA, and to be compatible with the continuance of the habitat. Grading, camping, parking, and restroom facilities are not dependent on the dune ESHA. Therefore, the proposed campground facilities and accessory uses in Areas 1 - 4 are inconsistent with 30240 of the Coastal Act. Further, Section 30233 does not allow travel trailers, RVs, or camping in general in wetlands. Therefore, the proposed campground facilities and accessory uses in portions of Area 2 and 4 are inconsistent with Section 30233 of the Coastal Act. Further, in order to prevent impacts and ensure compatibility with the continuance of the habitat, the Commission's staff ecologist recommends a 50-foot buffer between development and the dune ESHA and a 100-foot buffer between development and wetlands is necessary. Therefore, much of the proposed development is also inconsistent with Section 30240 and 30233 because it would be located within 50 feet of dune ESHA and within 100-feet of wetlands.

In conclusion the proposed development in Areas 1 – 4, except for proposed RV sites 31-81 in Area 1 and trailer sites 1-16 in Area 2 (areas where grading was previously authorized by Court Judgment or subsequent Commission permits) is inconsistent with Coastal Act Section 30240 and 30233 of the Coastal Act.

F. CONFLICT RESOLUTION

As noted above, most of the proposed development throughout Areas 1 - 4 would be located in and/or adjacent to environmentally sensitive habitat area (ESHA) and wetlands, inconsistent with Sections 30240 and 30233 of the Coastal Act. However, as discussed in Subsection D above, applicant's proposal would provide needed oceanfront lower-cost overnight camping and recreation, including water-oriented boating and other coastal-dependent and related recreational activities. Not approving certain portions of the project would result in a failure to provide lower cost visitor serving recreation facilities needed to meet current and future foreseeable demand for such facilities, inconsistent with Coastal Act sections 30213 and 30221. It would also result in a failure to provide water-oriented recreational uses that cannot be provided at an inland location, inconsistent with Coastal Act 30220. Finally, not approving certain portions of the project would not protect and encourage recreational boating of coastal waters, as required by sections 30224 and 30234. If lower cost coastal camping and recreation was not provided at Lawson's Landing, considerably more pressure would be placed on surrounding campgrounds in the Marin County Area. Taking into account population growth, demographic changes and State Parks closures discussed previously in Subsection D, these surrounding campgrounds in the area would not be able to meet current and future foreseeable demand given their occupancy rates and sizes – an outcome that is fundamentally at odds with a basic objective of the Coastal Act.

The Identification of a True Conflict is Normally a Condition Precedent to Invoking a Balancing Approach

The standard of review for the Commission's decision whether to approve a coastal development permit in this consolidated review is whether the project is consistent with the Chapter 3 policies of the Coastal Act. In general, a proposal must be consistent with all relevant policies in order to be approved. Put differently, consistency with each individual policy is a necessary condition for approval of a proposal. Thus, if a proposal is inconsistent with one or more policies, it must normally be denied, or conditioned to make it consistent with all relevant policies.

However, the Legislature also recognized in Coastal Act Section 30007.5 that conflicts can occur among the policies of Chapter 3. It therefore declared that when the Commission identifies a conflict among the policies in Chapter 3, such conflicts are to be resolved "*in a manner which on balance is the most protective of significant coastal resources* [Coastal Act Sections 30007.5 and 30200(b)]." That approach is generally referred to as the "balancing approach to conflict resolution." Balancing allows the Commission to approve proposals that are inconsistent with one or more Chapter 3 policies, based on a conflict among Chapter 3 policies as applied to the proposal before the Commission. Thus, the first step in invoking the balancing approach is to identify a conflict among Chapter 3 policies.

Identification of a Conflict

For the Commission to use the balancing approach to conflict resolution, it must establish that a project presents a substantial conflict between two statutory directives contained in Chapter 3 of the Coastal Act. The fact that a proposed project is consistent with one policy of Chapter 3 and

inconsistent with another policy does not necessarily result in a conflict. Virtually every project will be consistent with some Chapter 3 policy. This is clear from the fact that many of the Chapter 3 policies prohibit specific types of development. For example, 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 . . .*,” and subdivision (2) of section 30253 states that new development “*shall . . . neither create nor contribute significantly to erosion . . . or in any way require the construction of protective devices . . .*” Almost no project would violate every such prohibition. A project does not present a conflict between two statutory directives simply because it violates some prohibitions and not others.

In order to identify a conflict, the Commission must find that, although approval of a project would be inconsistent with a Chapter 3 policy, the denial of the project based on that inconsistency would result in coastal zone effects that are inconsistent with some other Chapter 3 policy. In most cases, denial of a proposal will not lead to any coastal zone effects at all. Instead, it will simply maintain the *status quo*. The reason that denial of a project can result in coastal zone effects that are inconsistent with a Chapter 3 policy is that some of the Chapter 3 policies, rather than prohibiting a certain type of development, affirmatively mandate the protection and enhancement of coastal resources, such as sections 30210 (“*maximum access . . . and recreational opportunities shall be provided . . .*”), 30213 (“*[l]ower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*”); 30220 (“*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses*”) and 30221 (“*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area*). If there is ongoing degradation of one of these resources, and a proposed project would cause the cessation of that degradation, or if the denial would otherwise result in adverse effects inconsistent with the affirmative mandate, then denial would result in coastal zone effects inconsistent with the applicable policy. Thus, the only way that denial of a project can have impacts inconsistent with a Chapter 3 policy, and therefore the only way that a true conflict can exist, is if: (1) the denial of the project will result in adverse effects on coastal resources that would be stopped by approval of the project and (2) there is a Chapter 3 policy requiring the Commission to protect and/or provide the resource being degraded. Only then is the denial option rendered problematic because of its failure to fulfill the Commission’s protective mandate.

With respect to the second of those two requirements though, there are relatively few policies within Chapter 3 that include such an affirmative mandate to enhance a coastal resource. Moreover, because the Commission’s role is generally a reactive one, responding to proposed development, rather than affirmatively seeking out ways to protect resources, even policies that are phrased as affirmative mandates to protect resources more often function as prohibitions. For example, Section 30240’s requirement that environmentally sensitive habitat areas “*shall be protected against any significant disruption of habitat values*” generally functions as a prohibition against allowing such disruptive development, and its statement that “*only uses dependent on those resources shall be allowed within those areas*” is a prohibition against

allowing non-resource-dependent uses within these areas. Similarly, section 30251's requirement to protect "*scenic and visual qualities of coastal areas*" generally functions as a prohibition against allowing development that would degrade those qualities. Section 30253 begins by stating that new development shall minimize risks to life and property in certain areas, but that usually requires the Commission to condition projects to ensure that they are not unsafe. Denial of a project cannot result in a coastal zone effect that is inconsistent with a prohibition on a certain type of development. As a result, there are few policies that can serve as a basis for a conflict.

Similarly, denial of a project is not inconsistent with Chapter 3, and thus does not present a conflict, simply because the project would be less inconsistent with a Chapter 3 policy than some alternative project would be, even if approval of the proposed project would be the only way in which the Commission could prevent the more inconsistent alternative from occurring. For denial of a project to be inconsistent with a Chapter 3 policy, the project must produce tangible, necessary enhancements in resource values over existing conditions, not over the conditions that would be created by a hypothetical alternative. In addition, the project must be fully consistent with the Chapter 3 policy requiring resource enhancement, not simply less inconsistent with that policy than the hypothetical alternative project would be. If the Commission were to interpret the conflict resolution provisions otherwise, then any proposal, no matter how inconsistent with Chapter 3, which offered even the smallest, incremental improvement over a hypothetical alternative project, would necessarily result in a conflict that would justify a balancing approach. The Commission concludes that the conflict resolution provisions were not intended to apply based on an analysis of different potential levels of compliance with individual policies or to balance a proposed project against a hypothetical alternative.

In addition, if a project is inconsistent with at least one Chapter 3 policy, and the essence of that project does not result in the cessation of ongoing degradation of a resource the Commission is charged with enhancing, the project proponent cannot "create a conflict" by adding on an essentially independent component that does remedy ongoing resource degradation or enhance some resource. The benefits of a project must be inherent in the essential nature of the project. If the rule were to be otherwise, project proponents could regularly "create conflicts" and then demand balancing of harms and benefits simply by offering unrelated "carrots" in association with otherwise-unapprovable projects. The balancing provisions of the Coastal Act could not have been intended to foster such an artificial and manipulatable process. The balancing provisions were not designed as an invitation to enter into a bartering game in which project proponents offer amenities in exchange for approval of their projects.

Finally, a project does not present a conflict among Chapter 3 policies if there is at least one feasible alternative that would accomplish the essential purpose of the project without violating any Chapter 3 policy. Thus, an alternatives analysis is a condition precedent to invocation of the balancing approach. If there are alternatives available that are consistent with all of the relevant Chapter 3 policies, then the proposed project does not create a true conflict among Chapter 3 policies.

In sum, in order to invoke the balancing approach to conflict resolution, the Commission must conclude all of the following with respect to the proposed project before it: (1) approval of the project would be inconsistent with at least one of the policies listed in Chapter 3; (2) denial of the project would result in coastal zone effects that are inconsistent with at least one other policy listed in Chapter 3; (3) the project results in tangible, necessary resource enhancement over the current state, rather than an improvement over some hypothetical alternative project; (4) the project is fully consistent with the resource enhancement mandate that requires the sort of benefits that the project provides; (5) the benefits of the project are a function of the very essence of the project, rather than an ancillary component appended to the project description in order to “create a conflict”; and (6) there are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

An example of a project that presented such a conflict is a project approved by the Commission in 1999 involving the placement of fill in a wetland in order to construct a barn atop the fill, and the installation of water pollution control facilities, on a dairy farm in Humboldt County (CDP #1-98-103, O'Neil). In that case, one of the main objectives of the project was to create a more protective refuge for cows during the rainy season. However, another primary objective was to improve water quality by enabling the better management of cow waste. The existing, ongoing use of the site was degrading water quality, and the barn enabled consolidation and containment of manure, thus providing the first of the four necessary components of an effective waste management system. Although the project was inconsistent with Section 30233, which limits allowable fill of wetlands to seven enumerated purposes, the project also enabled the cessation of ongoing resource degradation. The project was fully consistent with Section 30231's mandate to maintain and restore coastal water quality and offered to tangibly enhance water quality over existing conditions, not just some hypothetical alternative. Thus, denial would have resulted in impacts that would have been inconsistent with Section 30231's mandate for improved water quality. Moreover, it was the very essence of the project, not an ancillary amenity offered as a trade-off, that was both inconsistent with certain Chapter 3 policies and yet also provided benefits. Finally, there were no alternatives identified that were both feasible and less environmentally damaging.

The Proposed Project Presents a Conflict

The Commission finds that the proposed project presents a true conflict between Chapter 3 policies of the Coastal Act. First, as detailed above, the proposed camping sites and associated facilities in Areas 1 - 4 would result both in a non-resource dependent uses in ESHA and/or needed resource buffers, inconsistent with Coastal Act Section 30240 of the Coastal Act, as well as land uses not allowed in wetlands, inconsistent with section 30233. Thus, the first required finding to invoke the balancing provision of section 30007.5 is met.⁷⁶

Second, to not approve portions of the project (camping and associated facilities in Areas 1 – 4) based on inconsistencies with wetlands and ESHA protection requirements would result in a failure to provide needed oceanfront lower-cost visitor serving and recreational facilities,

⁷⁶ As discussed earlier in the report, a portion of the proposed development in Area 1 and Area 2 is approvable consistent with Sections 30233 and 30240 of the Coastal Act because it was authorized by a prior Court judgment and successive Commission permit actions.

including coastal-dependent boating and fishing, that would be inconsistent with the mandates of Coastal Act Sections 30213, 30220, 30221, 30224, 30234 and 30234.5. Section 30220 requires that coastal areas suited for water-oriented recreational facilities that cannot be readily provided at inland areas shall be protected for such uses. Section 30221 requires that oceanfront land suitable for recreational use be protected for recreational use and development unless present and future foreseeable demand for recreational activities is adequately provided for in the area. Section 30224 encourages increased recreational boating use of coastal waters. Section 30213 requires that lower cost visitor and recreational facilities be protected, encouraged, and, where feasible provided. Pursuant to this provision, developments providing public recreational opportunities are preferred. Finally, Sections 30234 and 30234.5 protects facilities serving commercial fishing and recreational boating industries.

As detailed in Subsection D, the proposed camping and boating recreational facility will provide oceanfront lower-cost visitor-serving overnight camping that has historically been available at Lawson's Landing. The demand for this lower cost public access and visitor serving recreational resource has been significant and growing for forty years. As discussed, there are few facilities in the region of Lawson's Landing that provide such lower-cost recreational opportunities, and certainly none that provide the unique experience to be found at this location at the head of Tomales Bay. The project will meet historic, current and future foreseeable demand for coastal-dependent water-oriented activities such as boating and fishing, as well as coastal recreation generally that cannot be provided at inland locations. If this level of lower-cost visitor camping and recreation is not approved at Lawson's Landing, the mandates of Coastal Act section 30213, 30220, 30221, 30224, and 30234.5 will not be met.

And, notwithstanding its long procedural history with various permitting authorities, as discussed above in the finding addressing visitor serving recreational facilities, this is not a case where a new higher cost visitor-serving facility would be provided to add to an already adequate inventory of visitor serving hotel facilities in the area.⁷⁷ If that were true, then potentially any proposed visitor-serving development in a sensitive resource area could be said to potentially create a conflict under Chapter 3. Rather, Lawson's Landing is an extremely unique case, unlike any other visitor-serving situation in the coastal zone, where extremely important lower-cost visitor-serving and recreational resources have been utilized by the public for many years, even while most of it has never received formal authorization under the Coastal Act. In this exceptionally unique circumstance, not approving the level of development that would meet the historic current and future foreseeable public demand for lower-cost visitor-serving and water-oriented recreation would not only not meet the various mandates of the Coastal Act cited above, but would result in adverse coastal resource impacts to the public's on-going use of lower-cost water-oriented recreation by not providing for this known demand.

The broad outlines of public use at Lawson's Landing are clear. Lawson's Landing has provided and continues to provide an extremely important access and recreation opportunity for the citizens of California, particularly those from inland locations that do not have a regular

⁷⁷ For example, according to the National Ocean Economics Project, as of 2004, there were 1,678 hotels in California coastal counties but only 64 RV/campgrounds. In comparison, as of 2004, there were 2,063 hotels in Florida coastal counties with 115 RV/campgrounds. The number of RV/campgrounds in Florida coastal counties as of 2004 was almost twice the number in California even though at that time Florida's coastal county population was almost 10 million less.

opportunity to enjoy coastal access and recreation. In 1926, Howard and Winifred Lawson began operating Lawson's Landing recreation area, to provide boating, coastal access, and other visitor serving amenities. Walter and Nita Lawson's bought the adjoining property in 1929 to farm, and then over the years, other brothers and sisters, and sons and daughters joined the family business, expanding service to include camping, trailers, and other amenities to better serve coastal visitors from California's Central Valley and beyond. In 1937, the Lawson family constructed a boathouse and wharf in the Sand Point area for recreational use by the public. Throughout the 1940's, the property was used as a ranch with some informal public recreational use.⁷⁸ The Lawson family has lived, worked, and recreated at the Landing for more than 90 years, and since 1957 (over fifty years) the Lawson's have shared the area with campers, boaters, hikers, and fisherman from throughout California. These visitors and their families come back to this unique coastal community each summer, and have become part of the Lawson's "extended family." Again, Lawson's Landing offers coastal access, water-dependent recreation, and lower-cost visitor serving amenities, including:

- Lower-cost tent and RV camping on the coast
- Coastal public access
- Fishing
- Boating
- Boat rentals
- Boat repairs
- Kayaking
- Stand up paddle boarding
- Hiking
- Other lower-cost coastal visitor serving amenities.

Prices for tent, RV, travel trailers, day use, fishing, and boating are comparable with California public State Parks (see exhibit 8). Historical visitor data, spatial analysis, and average income numbers provided by the Applicants show that Lawson's provides lower-cost visitor serving and affordable water-dependent recreation for people from middle and lower income areas from a wide geographic range, from the Central Valley and beyond. According to the applicant, a large percentage of campers accessing the coast at Lawson's' Landing are families who cannot afford to stay at a coastal hotel, bed and breakfast, or other lodging along the California coast. According to a demographic map provided by the Lawson's, many of the visitors to Lawson's Landing come from Counties with median incomes between 0 - \$40,000 and \$40,000 - \$71,000 around Sacramento and the Central Valley (see exhibit 9).

Overall, it is clear that denying all of the proposed development at Lawson's Landing will result in resource impacts inconsistent with various public access and recreational policies of the Coastal Act. Thus, the second required test to invoke balancing through conflict resolution is met.

⁷⁸ Commission CDO (CCC-06-CD-15) staff report 12/1/06

The third required test is whether the proposed development results in tangible, resource enhancement over the current state, rather than an improvement over some hypothetical alternative project. As proposed the project will clearly improve resource protection and management at Lawson's Landing through clear delineation and organization of authorized camping areas. Over the years demand for recreational access at Lawson's Landing has evolved and been met in somewhat ad hoc fashion, which has resulted in camping and other activities in sensitive areas, such as the wetlands and dune environments of Areas 3, 4, and 5. Even in recent years as the Applicants have responded to the County's permitting review and the Commission's pending review, resource management has improved, such as more clearly delineating wetland areas and prohibiting camping in them; working with USFWS to better manage potential impacts to the snowy plover; and proposing to remove camping in Area 5 to protect an important California Red Legged Frog (CRLF) corridor. Overall, the project design, as conditioned will result in meeting the historic demand for camping at Lawson's but in a much smaller area (33.5 acres versus 75 acres historically). With respect to water quality, as the project is phased in, potential adverse impacts to marine and coastal resources will be addressed through the new wastewater collection, treatment, and disposal system for the camping and travel-trailer areas.

The visitor experience at Lawson's will no doubt be enhanced through the project as well, as camping and recreational areas become better organized and delineated. Other ancillary amenities that support the recreational experience will be improved, such as restroom facilities, wastewater treatment and disposal, traffic circulation, opportunities for the public to rent out existing trailers on the site, and environmental education on snowy plovers.

The fourth test for invoking balancing through conflict resolution is whether the project is fully consistent with the resource enhancement mandate(s) that requires the sort of benefits that the project provides. As previously detailed, the proposed facility will provide significant lower-cost overnight facilities and other coastal recreational uses and amenities, fully consistent with Coastal Act sections 30213, 30220, 30221, 30224, 30234, and 30234.5. These uses will be available to the public. As discussed above, and in Subsection D, the Commission's approval as conditioned requires the trailers in Area 2 to be utilized as visitor serving units through length of stay limitations and strict conditions that are placed on the operation of the travel trailers to ensure the travel trailers primarily function as public visitor serving overnight accommodations. The project also includes free public parking and trail and beach access; camping, boating facilities and storage, as well as access to the shoreline for water-oriented recreation such as fishing and wind-surfing. Thus, the fourth test is met.

The proposed project also very clearly meets the fifth requirement for invoking balancing, which is to ask whether the benefits of the project are a function of the very essence of the project, rather than an ancillary component appended to the project description in order to "create a conflict." All of the resource benefits just described and detailed elsewhere in these findings are the essence of the project; they are not ancillary to any other land use or larger project; they are the project. It is the fact of the proposal itself which has created a conflict between the various public access and recreation policies of Chapter 3 and the wetland and ESHA protection policies of the Chapter 3.

Alternatives Analysis

Finally, the sixth test that must be met to invoke balancing through conflict resolution is whether there are feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies. This is because a true conflict among Chapter 3 policies would not exist if there are feasible alternatives available that are consistent with all of the relevant Chapter 3 policies.

In this case, there are three general categories of potential alternatives to the proposed project: (a) the "no project" alternative; (b) alternative sites; and (c) alternative methods or configurations of project features at the proposed site.

(i) "No Project" Alternative

The "no project" alternative would result in the cessation of camping and recreation at Lawson's Landing and clearly not meet the objectives of the project. In addition, this would result in an obvious failure to meet the significant existing and future foreseeable public demand for lower-cost visitor serving and recreational facilities, including coastal-dependent boating and fishing, inconsistent with the mandates of Coastal Act Sections 30213, 30220, 30221, 30224, 30234, and 30234.5. There are few, if any, other existing facilities on the coast that provide this type of oceanfront lower cost visitor serving and public recreational facility to thousands of visitors from all over California and beyond.

(ii) Alternative Sites

There are no other sites on the property that provide the *coastal* visitor serving and recreational experience as is provided in the sand point and meadow areas of Lawson's Landing. The existing Marin County zoning for these areas, Coastal Resort/Commercial Recreation (C-RCR), reflects this fact and stands in contrast to the inland and upland agricultural areas that are not immediately adjacent to or oriented to the shore. The areas proposed for continued overnight and recreational use provide ready access to the beach, boat launch, and fishing pier area. Similar to the no project alternative, relocating the proposed development to upland or inland areas would not provide coastal recreation and overnight opportunities in the same way and thus fail to meet the objectives of the project.

Such alternatives also raise other potential inconsistencies with Chapter 3. Relocating the camping and RV activities to the upland agriculturally-zoned areas was considered by the Commission as a potential alternative to camping in the ESHA. Access to these areas would have to be provided by Sand Haul Road, which is very steep and unimproved. Relocating hundreds of RV and tent campers to the agricultural lands, in some areas over a mile away, would not provide ready access to the beach, boat launch, and fishing pier area. Campers in such inland areas would not have the same kind of immediate access to the shoreline, for hiking, beach recreation, boating, fishing, etc., inconsistent with the Chapter 3 mandates to provide such. In addition, such a relocation would pose direct conflicts with the agricultural grazing operation at Lawson's Landing, raising questions of consistency with the Coastal Act Sections 30241 and 30242 mandate to protect agricultural lands. Finally, there is evidence which suggests that there are significant areas of ESHA in the agricultural lands, as well, including wetlands and

California Red Legged Frog breeding areas.⁷⁹ Thus, the relocation of camping to any agricultural lands containing ESHA would not eliminate inconsistencies with the Chapter 3 mandates to protect wetlands and ESHA.

(iii) *Alternative Configuration of Project Features*

In recent years the Applicants have revised the intensity and configuration of the project on multiple occasions in an effort to respond to the various requirements of the County and Commission's environmental and coastal permit reviews. Most recently, on June 6, 2011, the Applicants submitted a revised proposal that would remove all camping from Area 5 (approximately 2.1 acres; 29 campsites), in order to concentrate the recreational facilities in Areas 1 – 4, away from important California Red Legged Frog (CRLF) breeding and migration habitat; and abandoned its proposal to develop more campsites in Areas 7 and 8. As described at the outset of these findings, there are alternative configurations available, including reductions in intensity, relocations of various specific uses and amenities, varying approaches to buffers and temporal use, and so forth. However, although there is a multitude of potential reconfigurations of the proposed visitor-serving uses at Lawson's Landing, each of them falls into one of two categories, neither of which provides a feasible alternative consistent with Chapter 3.

First, as analyzed previously, there are undeveloped locations in Area 1⁸⁰, as shown on exhibit 40, that do not contain wetlands or dune scrub, and that do not otherwise constitute ESHA, or are sufficient distance away from red-legged frog breeding areas. These areas do provide substantial physical area for recreational visitor-serving development, outside of needed buffer areas for adjacent resources, including approximately 3 acres in Area 1. However, it is clear that this area is no where near enough to meet the historic, current and future foreseeable demand for lower-cost overnight accommodations and recreation at this location. As discussed in Subsection D, visitor demand at Lawson's has ranged from approximately 700– 1000 camping vehicles (at peak times), and with population growth and the current State Park closure threats, demand on facilities at Lawson's Landing will increase. The Applicants are currently proposing a total of 650 recreational sites (including 417 RV and tent sites, 20 visitor-serving travels, and 213 quasi-visitor-serving travel trailers) to meet the demand, concentrating them into a smaller area in recognition of the environmental limitations of the site. Even with the most compact design and configuration (as is currently proposed for the part of Areas 1 that is not ESHA), the existing demand could not be met in these areas. Only approximately 132 camping sites could be provided in this area. Area 6 would only provide an additional 1.5 acres or approximately 45 RV sites (at 1,400 square feet each). In short, neither the project objectives nor the mandates of Chapter 3 to provide lower-cost visitor-serving and water-oriented recreation would be met by this alternative.

The second general category of potential reconfigurations is all of the potential project designs that would include both the places of Areas 1 that are not sensitive and some combination of all of the other locations that do contain wetlands or ESHA, including Area 5 next to the CRLF breeding pond, or Areas 7 and 8 that have never been camped in before. As also discussed

⁷⁹ See Monk and Associates. March 11, 2010. Revised Biological Resources Report, Sand Haul Road, Lawson's Landing, Dillon Beach, California.

⁸⁰ 'Area 1' includes the area of land covered by the proposed visitor serving trailer sites 1 – 16 that are labeled as part of Area 2, but for all intents and purposes, are located in Area 1 as shown on Sheet 17 (exhibit 3).

further below, clearly any of these potential alternatives would not be consistent with Coastal Act sections 30233 or 30240 and would impact the more pristine and previously undisturbed ESHA onsite. In sum, there are no feasible alternatives that would meet the project objectives and be consistent with Coastal Act sections 30233 or 30240.

Conflict Resolution

The six pre-requisites for invoking balancing through conflict resolution are met by the proposed development at Lawson's Landing, and there is a clear conflict between Chapter 3 policies. After establishing a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict in a manner that is "on balance ... the most protective of significant coastal resources." In this case, a balance must be struck that considers protection of some of the most significant resources that the Commission is charged with protecting: public access, recreation, and lower cost visitor serving facilities on one hand and sensitive wetlands and ESHA on the other. To strike the appropriate balance, it is necessary to evaluate more carefully both the requirements for meeting the current and future foreseeable existing demand for lower cost recreation on this oceanfront land and the relative significance and potential of the various sensitive resource areas in and around the proposed development areas.

First, with respect to the need to meet the public recreational and lower cost visitor serving demand at Lawson's Landing, the alternative that would completely avoid impacts to wetlands and ESHA would not suffice. However, it is also clear from various factors, including staff site evaluations, aerial photos, analysis of potential camping configurations, and the Applicant's descriptions of historic public demand and use of Lawson's Landing, that all of the area proposed for camping by the Applicants is not needed to meet the present and future foreseeable demand for such. Indeed, to date, RV and tent camping at the project site has not been formally organized as is currently proposed. No specific RV or campsites are currently delineated onsite as they would be if the project as proposed is approved. Rather, camping at Lawson's Landing has been more informal, with RVs filling available space, and RV and tent camping loosely and perhaps "self-organizing" in available areas. In some cases it is clear that groups of camping parties "stake out" locations to establish a "campsite." The result is a very inefficient pattern of use of the potential camping area. Exhibit 7 provides a good illustration of such camping patterns.

One of the benefits of the project is that it will result in a more formal organization of the camping and recreational experience at Lawson's Landing, to the benefit of both the public and the sensitive resources the Commission must protect. For example, with the clear delineation of 81 RV sites in Area 1 (approximately 28 RVs/acre), more RVs will be accommodated in this location than might otherwise be the case, resulting in reduced demand for RV spaces in other areas, and thus a reduction in the currently unauthorized impacts to wetlands and ESHA. Indeed, there appear to be great efficiencies available in the provision of camping in area 4, which historically has not had more formally-organized campsites. As proposed by the Applicants in June 2011 approximately 184 RV and 66 tent sites now would be located in Area 4. Similarly, Area 3 is proposed for approximately 26 tent sites and 60 RV sites, no doubt a significant increase in camping density over historic use patterns in this area.

Through the Applicant's proposed formalization of camping areas, it is thus clear that the current and future foreseeable demand for camping at Lawson's Landing can be met with less area than is currently proposed by the applicants. Precisely how much area is needed, though, to strike the optimum balance between camping and resource protection, is a judgment that requires consideration of various potential configurations, buffers, resource protection measures, etc. Considering the totality of the record, the Commission finds the following:

First, considering the sensitivity of the entire project area, both proposed for camping and the surrounding dune environment, it is clear that concentrating recreational development in and adjacent to Areas 1 and 2 would be most protective of existing ESHA and wetlands. Areas 1 and 2 are the most degraded, and provide more limited opportunities on the edges of surrounding wetland and dune areas for resource recovery and enhancement. This is in contrast, for example, to Area 5, where prohibiting camping, allowing recovery, and restoring wetland areas would be more integrally connected to adjacent sensitive resource areas and provide relatively greater resource value and function. This is particularly true given the known locations of CRLF breeding ponds and suspected movement corridors, which would be better enhanced by keeping development away from Area 5 and the northern portion of Area 4 (see Exhibit 6, Figure 5). Area 5 is located in the deflation plain adjacent to Area 4 and is directly adjacent to a CRLF breeding pond and provides a migration corridor to more inland ponds. By concentrating development away from Area 5, this contiguous habitat will be better protected.

Camping impacts will also be further minimized relative to other possible configurations by concentrating proposed camping in Area 3, which is dominated by degraded central dune scrub ESHA, and requiring the campsites to be walk-in tent sites on bare sand only. Walk-in tent sites would minimally impact the adjacent dune scrub vegetation, which has already been invaded by the invasive European beach grass, and compared to retaining camping in Area 5 (which is adjacent to a red-legged frog breeding pond), or allowing new camping areas 7 (contains relatively undisturbed wetlands and dune scrub) and 8 (also near a red-legged frog breeding pond), would be much less damaging to sensitive resources.

Allowing camping development in potential resource buffer areas around Areas 1 and 2 also provides a relatively more optimum configuration for camping than would allowing expanded camping to the north of area 4, into the previously proposed areas 5, 7, and 8. In addition, given the relative degradation of resources in Areas 1, 2, 3, and 4 and the better opportunities for meaningful resource recovery and restoration in Area 5 (as described above) and the north end of Area 1 ('the tail'), concentrating and clustering camping and trailer uses in the more degraded areas, strikes a better balance, all things being equal, than moving these recreational sites to less degraded areas and areas near CRLF breeding ponds (e.g. previously proposed Areas 5, 7 and 8). Similarly, allowing some travel-trailers to remain in extremely degraded areas, such as Areas 1 and 2, is better than moving this development to a location farther away from concentrated development in Areas 1 and 2.

Of course, given the trade-offs between concentrating development in Areas 1 - 4 versus allowing development in previously proposed Areas 5, 7 and 8, there is no question that

concentration would be more optimum. Area 7 would have been a new proposed camping area, and is more sensitive than areas that have been degraded by on-going camping. The development of Area 7 into tent camp sites, as previously proposed, would have significant adverse impacts on natural habitat inconsistent with Coastal Act Section 30240 and 30233. The development of Area 7 would open up a new area to development, an area that is non-contiguous with the rest of the camping area, intensifying development directly adjacent to pristine dune and wetland ESHA.

Similarly, although there is some existing development already in Areas 6 and 8, absent specific evidence that this development was properly authorized, the area must be considered ESHA. Also, there are CRLF breeding ponds that should be protected if not enhanced. Locating or intensifying camping uses in the vicinity of these ponds, as previously proposed, would not be a more optimum balance than locating camping in the core, already-degraded areas. In Area 8, while one could theoretically find that camping would coexist with and enhance the existing cattle grazing activities on the property, it is not possible to find that the proposed development would not have significant adverse impacts on natural habitats in this area. As discussed in Subsection E, there is a pond located on the site that is breeding habitat for the California Red Legged Frog, a Federally threatened species. This pond is a sensitive land habitat pursuant to Coastal Act section 30240. According to Dr. Dixon, a 300-foot buffer is necessary around all breeding ponds to protect breeding and upland dispersal habitat, pursuant to the most protective of the U.S FWS recommendations. Locating or intensifying camping within this required buffer, as previously proposed, would conflict with the protection of CRLF habitat.

In addition, in and around Areas 6 and 8, there are patches of central dune scrub, a sensitive land habitat pursuant to Coastal Act section 30240. A 50-foot buffer is necessary to protect the habitat. Several of the previously proposed campsites in Area 8 would be located within this buffer.

Finally, the Applicants also propose *temporal* management measures to minimize impacts to wetlands and dune scrub, by filling the least sensitive sites first through an advanced reservation system. This involves first filling sites that are furthest away from wetlands (called tier 1 sites); then filling those 25 feet away; and then lastly filling sites adjacent to the ditches. With the proposed delineation of individual camping lots and a new reservation system, most days of the year the campsites near wetlands and other sensitive areas in Areas 3 and 4 would be vacant. Special Condition 3 would adopt this temporal management scheme, but modified, to the required buffer widths in Special Condition 2.

Therefore, the Commission finds that the impacts on public coastal access and recreation from not constructing the project if it were denied would not strike a balance that is most protective of important coastal resources. Further, the Commission finds that overall, based on the assessment of the existing demand needed to meet the public access and recreation policies of Chapter 3 and the need to provide optimum protection of natural resources, the Commission finds that the appropriate balance is to approve development in the following areas or conditioned as follows:

- Camping in Area 1 with a 100-foot buffer from wetlands or the functionally-equivalent buffer of 25' from the wetlands combined with the construction of a sandy berm between the wetlands and the campsites. In addition a 50-foot buffer from dune scrub ESHA is required, and native riparian plants shall be planted along the edges of the wetland to provide additional visual screen. This would result in approximately 3 acres of developable space (exhibit 19).
- Camping or visitor serving travel trailers in Area 2 with a minimum 25-foot buffer from the wetland⁸¹ to the east, combined with plantings of native riparian species, and a minimum 35-foot buffer from the wetland to the north of trailer rows J, K, and L. This would result in approximately 13 acres of developable space (exhibit 19).
- Tent and RV camping and associated parking and restroom facilities in Area 3 as previously proposed in October 2010, with walk – in tent camping only occurring on the bare sand between the sensitive dune scrub. A 100-foot buffer from all wetlands shall be maintained. This would result in approximately 5.8 acres of developable space (exhibit 19).
- Camping and associated facilities in Area 4 only if conditioned to maintain a 300 foot buffer from the CRLF breeding pond to the north and a 300- foot wide CRLF migration corridor as shown on Figure 5 of exhibit 6, a 100- foot buffer between development and wetlands, and 50-foot buffer between development and dune scrub. A reduced 25-foot buffer is appropriate for the man-made ditches, which can be further reduced to 10-feet during the dry season. This would result in approximately 10.14 acres of developable space for camping and facilities (see exhibit 19).
- Adopt the Applicants temporal management proposal to minimize impacts to wetlands and dune scrub, by filling the least sensitive sites first through an advanced reservation system. This involves first filling sites that are furthest away from wetlands (called tier 1 sites); then filling those 25 feet away; and then lastly filling sites adjacent to the ditches. With the proposed delineation of individual camping lots and a new reservation system, most days of the year the campsites near wetlands and other sensitive areas in Areas 3 and 4 would be vacant. Special Condition 3 would adopt this temporal management scheme, but modified, to the required buffer widths described above and adopted in Special Condition 2.

The appropriate balance described above differs from the Applicants proposal in a few ways. In Area 1, RV sites 1 – 81 are sandwiched between the seawall on Tomales Bay and a large wetland area to the North. Also, the area is adjacent to central dune scrub ESHA to the east. To address this proximity to sensitive resources, the Applicants have proposed the following resource-protection measures to minimize impacts of camping to adjacent wetlands and ESHA:

- A 25-foot buffer between wetlands and camping, with water quality Infiltration treatment basin area along the northern and western border of Area 1 (see Exhibit 3, Sheet 17).
- Vegetation enhancement screening installed in upland within the 25-buffer along the north edge of Area 1 to control human intrusion into the wetlands. Species to be planted to create the vegetation screen are listed in "Plant Palette F" (Exhibit 21).
- Grading of the camping area (2 - 5% slope) so that runoff flows to the bio-retention areas.
- A 25-foot wide buffer would be provided around the edge of central dune scrub habitat, between the access road and camping areas.

⁸¹ All references to wetland and ESHA buffers mean buffers to the wetlands and ESHA as they delineate today

A 25-foot buffer between the proposed RV camping area and wetlands combined with the proposed bio-retention area and vegetation enhancement areas within the buffer are not sufficient to prevent impacts that would significantly degrade the wetlands. Habitat buffers, or development setbacks, perform many ecological functions, including keeping disturbances such as human camping activities and domestic animals at a distance, reducing night lighting, providing undisturbed upland transitional habitat adjacent to wetlands, and reducing the chances of accidentally released petroleum products or other anthropogenic materials from entering the protected habitat. As recommended by Dr. Dixon, additional buffer space or an actual elevated physical barrier is needed to prevent impacts from the RV uses to the adjacent wetland.⁸²

Although the Commission often requires at least a 100-foot buffer between development and wetlands, the adequacy of a buffer must be determined based on the facts of each case, including the function and values of the wetlands, type of development activities, frequency of activities and associated impacts, topography, etc. In this case, the enhanced protection of the wetlands north of Area 1 that would be provided by a greater buffer, can also be achieved through the use of the proposed 25-foot wetland buffer coupled with a sandy earthen berm to prevent runoff from entering the wetland, and native plantings to provide a visual screen to protect the habitat from the adjacent camping activity.⁸³ Given the relatively lower intensity of the proposed RV camping use compared to more permanent types of development, this mitigation measure should assure adequate protection of the adjacent wetland. The proposed water quality infiltration basin combined with the vegetation screen, without an elevated physical barrier, such as a berm, is not enough to prevent runoff from entering the wetland or to provide an adequate visual screen to protect the habitat from adjacent camping activity. Therefore, the Commission adopts Special Condition 2, which requires a 25-foot wetland buffer that includes a sandy berm and native plantings. In regards to the proposed grading and water quality basins, Special conditions 28 – 31 do not authorize any grading or construction of water quality BMPs until the Applicants submit engineered plans justifying such a course of action (see findings in Subsection L). On balance, the Commission finds that this is most protective of coastal resources, consistent with the Coastal Act.

In regards to the Central Dune Scrub ESHA northeast of the proposed RV sites, the Commission's Staff Ecologist recommends a minimum 50-foot buffer from all central dune scrub, as opposed to the Applicant's proposed 25-foot buffer, in order to keep disturbance at a further distance and ensure the continuance of the habitat consistent with Section 30240 of the Coastal Act. Therefore, the Commission adopts Special Condition 2, which requires a 50-foot buffer from the central dune scrub in Area 1. On balance, the Commission finds that this is most protective of coastal resources, consistent with the Coastal Act.

In Area 2, the Applicants propose a 25-foot buffer between travel trailers and the wetland to the east, combined with the placement of an earthen berm to act as a sound barrier. According to the

⁸² Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6)

⁸³ Dixon, John Ph.D. (Commission Staff Ecologist). June 23, 2011. Memorandum to Ruby Pap (Commission Staff) Regarding Lawson's Landing (exhibit 6)

Staff Ecologist, a reduced wetland buffer would be sufficient to protect the habitat in this area if best management practices (BMPs) are employed to prevent polluted runoff from entering the wetland, and if riparian plant species are planted in the buffer area to screen the wetland and provide complimentary habitat. An earthen berm is not appropriate in this area because of the topography and the close proximity to the wetlands, as opposed to Area 1 where the topography is more conducive to this sort of measure. Special condition 2 requires the buffer and native plantings described above. Special condition 28 - 30 requires the applicant to submit a drainage plan and stormwater management plan. Grading is not permitted unless shown to be necessary by the water quality management plan. Lastly, there is a ditch immediately adjacent and west of the western-most of these two rows of trailers (exhibit 6, Figure 8). This ditch minimally functions as natural habitat, and there is no buffer. The Commission's Staff Ecologist recommends that this ditch and its extension to the east should only be allowed to drain the trailer area and should not receive water from nearby wetlands. Special condition 2 incorporates this recommendation, and Special condition 4(A)(4) requires the Applicants to submit a hydrological assessment, prepared by a hydrologist, as part of a larger wetlands restoration plan; and Special Condition 28 requires the applicants to submit a drainage plan to address this issue. On balance, the Commission finds that the measures described above are most protective of coastal resources, consistent with the Coastal Act.

The Applicants propose the following resource protection measures for Area 3:

- A 25-foot buffer between camping areas and delineated wetlands to the north and east of the area.
- A linear strip of native vegetation enhancement planting areas between camping and wetlands.
- Re-grading of the area so that water flows to water quality treatment basins or in bioswales that have sand and vegetative filtration that redirect flows to adjacent wetlands rather than to Tomales Bay or the ocean.

As discussed in the memo from the Commission's Staff Ecologist (exhibit 6), a 100-foot buffer from wetlands is necessary to protect wetlands from disturbance, and special condition 2 requires this buffer. Much of the proposed Area 3 is located 100-feet from wetlands except for some campsites and roads on the north side, therefore it is possible to achieve this buffer while still providing for camping demand in this area. The linear strip of native vegetation proposed as a buffer by the Applicants is not necessary or appropriate with the 100-foot buffer. Further, due to the sensitivity of the relict foredunes in Area 3, and as recommended by the Staff Ecologist, this area shall be restricted to walk-in tent camping, as partially proposed by the Applicants in a previous submittal (October 2010), and parking shall be restricted to along the access road. As currently proposed, RV camping and parking would be located within this sensitive dune area, however this is not the least environmentally damaging alternative. Re-grading of this area is prohibited. The perimeter road, except for the access road to the travel trailer area shall be abandoned and restored to dune habitat (as shown in Exhibit 6, figure 25). On balance, restricting this area to tent camping only, with parking along the road, and maintaining a 100-foot buffer from wetlands is the most protective of coastal resources, consistent with the Coastal Act.

The Applicant's propose the following resource protection measures for Area 4:

- A 25-foot buffer between camping areas and delineated wetlands that lie to the north and east of area 4;
- A 35-foot buffer on northern and eastern edges of wetlands to intercept and infiltrate any surface flows there may be from the north and east
- A 25-foot wide buffer between camping and parking areas and the edge of central dune scrub ESHA along the eastern, northern and southern edges of Area 4;
- No buffers are proposed between the foredunes and proposed camping areas on the western portion of the area. The Applicants maintain that these areas are dominated by *Ammophila* and hence are not ESHA;
- 5-foot buffers are proposed between man-made ditches and tent camping areas. Details for these buffers and tent sites on both sides of the drainage ditches (to also function as bioswales) are shown on exhibit 3, p. 15. Applicants would employ a temporal management system for these sites (see above);
- A 200-foot buffer to the California Red Legged Frog (CRLF) breeding pond to the North is proposed. To provide additional protection to enhance the CRLF breeding ponds, a California native shrub and herbaceous vegetation community would be planted around the ponds. Along the north side of Area 4, vegetated refugia would continue more than 430 feet away from the pond. Openings through the plantings and fencing would allow managed cattle access to breeding ponds. Cattle would be allowed to access the ponds at fixed locations, which would maintain open water areas along pond edges at designated locations.
- Re-grading of the area so that water flows to water quality treatment basins or in bioswales that have sand and vegetative filtration that redirect flows to adjacent wetlands rather than to Tomales Bay or the ocean

The Commission's staff ecologist recommends a 100-foot buffer from all wetlands, a 50-foot buffer from dune scrub, a 300-foot buffer from CRLF breeding ponds, and a 300 foot wide CRLF migration corridor running to the southeast from the entrance breeding pond. In this case, varying the buffer, as proposed by the Applicants, is not necessary to protect the lower cost visitor serving recreational facility. By applying the recommended buffer widths, which are also consistent with the Marin LCP advisory policies, the Commission has determined that approximately 11.88 acres would still be available for camping and associated facilities (e.g. wetlands). This buffer width does vary with regards to the manmade ditches. As recommended by the Staff Ecologist, 25-foot buffers are adequate to protect the ditches during the wet months, and this may be reduced to 10-feet during the dry summer. Special condition 2 requires these setbacks as described above. As in Area 3, the linear strip of native vegetation is not necessary as a buffer in this case because the recommended setbacks would be employed. Planting this vegetation would introduce habitat that is patchily present in dune swale wetlands in less manipulated dune fields, but making it a major part of the vegetation is not ecologically justified in this case. On balance, the measures described above are the most protective of coastal resources, consistent with the Coastal Act.

On balance, approving the development described above would adequately provide needed lower cost visitor serving facilities, while minimizing impacts to ESHA and wetlands. The final

approved camping configuration would serve to concentrate development in areas that have been previously disturbed and have low ecological value. This would serve to maximize open space on the rest of the site, providing opportunity for the relatively more pristine habitat east of the camping areas to thrive, and providing contiguity with more sensitive areas no longer used for camping. Concentrating camping in Areas 1-4 (southern end) will also provide the more optimum visitor-serving and water-oriented experience than would allowing camping further away from the shore and the boating/recreational pier area. The approved area would be approximately 33.5 acres in the locations summarized below (see exhibit 19 [approximate development envelopes]). Based on analyses conducted by the Commission's mapping and planning staff, this could accommodate approximately 650 sites. With an area of approximately 33.5 acres, the Applicants would have maximum flexibility to reconfigure the campgrounds and the campsites to achieve demand at the site.

<i>Area</i>	<i>Acres</i>	<i>Sites</i>	<i>Density (sites/acre)</i>
1	3.75	~81 RV sites/tents	21.6
2	12.06	~233 Travel Trailers/RVs/tents	19.3
3	5.84	~86 tents	14.7
4	11.88	~250 tents/RVs	21.04
Totals	33.53	~650 campsites	19.4

Overall, and on balance, the approved development areas, as conditioned, is most protective of coastal resources (both recreational and natural), consistent with the Coastal Act.

Marin County LCP

While advisory only, the Marin County certified LCP supports the resolution chosen by the Commission. LUP Unit II, which was certified by the Commission in 1982, and the Dillon Beach Community Plan (DBCP), which amended the LCP in 1989, describes Lawson's Landing as a "popular recreational vehicle and camping resort, comprising 46 designated campsites (plus additional "informal" campsites on peak season weekends as demand warrants), 231 trailer sites, as well as a pier, boat launch, fuel dock, moorings, dry storage, boat and motor rentals, a clam barge, sport fishing charter boats, and a bait and tackle shop."⁸⁴

LUP Unit II Recreation and Visitor Serving Policy 3(g), "Private Recreational and Visitor Serving Development," states:

...Lawson's Dillon Beach resort, located immediately south of old Dillon Beach, and Lawson's Landing, located at Sand Point, shall be retained as public recreational areas. Both facilities have the potential for expanded visitor-serving development...(2) Lawson's Landing is an appropriate site for limited expansion of boating facilities and overnight accommodations. Any such expansion shall be based on thorough planning studies which identify the environmental resources and constraints of the site, including wildlife, vegetation, and archaeological resources, geologic and wave hazards, and public service

⁸⁴ DBCP, p. 6-2.

constraints. Measures to protect the site's resources, particularly sand dunes and dune tansy vegetation, shall be in any development plan. Any such plan shall also include improvements in sewage disposal facilities, in accordance with the recommendations of the Regional Water Quality Control Board.

As discussed above, and throughout this report, environmental resources and constraints have been thoroughly identified, and as conditioned, the project includes measures to protect dunes, wetlands, archaeological resources; and the project includes measures to update the sewage disposal facilities such that water quality is protected, and measures to avoid geologic and wave hazards.

Further, DBCP Policies 13.1 and 13.2 state that LL shall be maintained as a commercial recreation area for the enjoyment of rich coastal resources in the area, and that expansions and improvements shall require a master plan. This approval approves the CDP for the Lawson's Master Plan, which was completed with County approvals. DBCP Policy 13.7 directs the dune areas be protected by restricting vehicles, including RVs to areas immediately adjacent to roadways. In Area 3, the Commission has required walk-in tent sites only in between the sensitive dune scrub, and RVs to the roads edge.

Regarding wetlands, LUP Unit II Natural Resources policy 4(d) requires a 100-foot buffer strip along the periphery of wetlands and shall be wider. The Commission has maintained this buffer requirement, where possible, except where to maintain it would result in a loss of protection of lower cost visitor serving facilities. As described above Special Condition 2, requires a 100-foot buffer from all wetlands in Area 4, and a 300-foot buffer from the CRLF breeding ponds. The camping in Area 3 would be located 100-feet away from the wetland to the east, and the low-impact tent camping would also be located 100-feet away. In Areas 1 and 2, the sites have become so degraded over time, that the Commission's staff ecologist has found it appropriate to reduce the buffer to 25-feet from the wetland and a sandy berm in area 1 and native plantings in area 2 to provide additional protection, blocking humans, noise, pets, and light from the wetland. This provides a functional equivalent to the 100-foot buffer in this unique case where to deny development in these locations would result in a loss of lower cost visitor serving campsites.

In regards to the residential travel trailers in Area 2, Marin County certified zoning regulations for the Coastal, Resort and Commercial Recreation (C-RCR) district allow visitor serving facilities, and prohibit residential facilities. As discussed above, and in Subsection D, the Commission's approval as conditioned requires the trailers in Area 2 to be utilized as visitor serving units through length of stay limitations and strict conditions that are placed on the operation of the travel trailers to ensure the travel trailers primarily function as public visitor serving overnight accommodations. Thus, the Commission's approval as conditioned is consistent with the County's zoning requirements.

Addressing Impacts to ESHA and Wetlands

As stated above, the conflict resolution provisions of the Coastal Act require that the conflict be resolved in a manner that on balance is the most protective of significant coastal resources. To

meet this test, in past actions where the Commission has invoked the balancing provisions of the Coastal Act, the Commission has considered whether the adverse impacts on coastal resources allowed through balancing would be offset to the maximum extent feasible. The approved recreational development summarized above will result in impacts to ESHA and wetlands, including the direct loss of approximately 30 acres of wetland/dune ESHA, albeit none of this area is in actual pristine condition, and approximately 13 acres in Areas 1 and 2 are severely degraded and are considered ESHA today only within the legal construct of this ATF approval (i.e. they do not actually function as ESHA currently). The project will also place intensive recreational development adjacent to wetlands and dunes. From a systemic/ecologic standpoint, allowing recreational development in Areas 1 - 4 will continue to disrupt the natural ebb and flow of the dune/wetland system, both hydrologically and in terms of the natural movement of the dune sand system.

The applicants propose various environmental restoration measures. Some of these work towards resolving various development violations, such as the elimination of the road behind Areas 1-3, that are not being approved by the Commission. In addition, though, the Applicants propose as part of the project both a significant conservation easement over approximately 465 acres of the Tomales dune complex, as well as wetland hydrology enhancements to restore wetlands, a conceptual grazing management plan for the benefit of native species, and water quality measures.

Natural Resource Conservation Service (NRCS) Easement

The Applicants propose to grant conservation easement rights over approximately 465 acres to the NRCS. The easement area would cover most of the South Ranch of Lawson's Landing, as shown on page 16 of exhibit 3. The NRCS would manage these lands for their natural and wildlife habitat values in perpetuity. According to the Applicants, all development rights would be 'usurped' from the conservation acreage. The easement would cover the rare coastal wetland dune complex as well as CRLF breeding ponds and corridors, including the CRLF pond near the entrance to LL.

According to the Applicants, the NRCS would endeavor to implement wildlife and wetland enhancement projects within the conservation easement area, but at this time cannot specify when or what specific restoration activities would commence within the easement. Apparently NRCS staff have indicated to the Applicants that the easement must be recorded prior to when they can spend significant time preparing restoration plan specifics. It is anticipated that the easement would be recorded by late 2012. However, an option agreement allowing the NRCS to exercise the option is anticipated to be signed by the owners of Lawson's Landing prior to the July 2011 Commission hearing.

The Lawson's property also previously was accepted for a National Coastal Wetland Grant from the U.S. Fish and Wildlife Service with a matching grant from the Coastal Conservancy resulting in \$1.5 Million to preserve 50 acres of wetland and surrounding upland on the property. The NRCS easement would cover this area, and if the NRCS easement is perfected, this grant would not need to be accepted. The Applicants prefer to have management of the entire wetland dune complex by a single agency (NRCS), for the sake of wildlife and its habitat. According to the

Applicants, Coastal Conservancy staff has indicated that it may be possible to provide funds for restoration and enhancement projects within the NRCS WRP easement.

Promoting Enhanced Water Flow to and Retention in Wetlands

The Applicants have also submitted a conceptual narrative proposal to enhance water flow to the interior wetlands east of the camping areas by re-grading Areas 1 – 4 so that water quality flows to water quality treatment basins or bioswales that have sand and vegetative filtration and that redirect flows to adjacent wetlands rather than Tomales Bay and the ocean. Bioretention basins would be constructed along the northern and eastern border of Area 1 and the eastern side of Area 2. The areas would be re-graded with a 2 – 5% slope, which would direct surface water sheet flows into the bioretention treatment features. Currently camping surfaces drain anytime there are sheet flow conditions directly into Tomales Bay. The proposal would collect, treat, and direct treated stormwater to adjacent wetlands, thereby increasing water flow in the wetlands.

Select existing drainage ditches would also be maintained and modified into BMP bioswales that would continue to serve and facilitate proposed recreational use areas. Bioswales (drainage ditches) would be regularly maintained so that they provide appropriate drainage and effective water quality control and treatment for stormwater that drain from the recreational areas to adjacent wetlands. Maintenance would include removal of trash and debris, removal of sediment when sediment depth exceeds two inches, periodic mowing and removal of vegetation that reduced drainage function in these swales, and removal for material from inlet and outlet areas so that there is no clogging or blockages. These enhanced ditches are expected to provide some marginal, temporary habitat for wildlife in the winter, although water is expected to drain from these features shortly after rainfall events subside. Summer tent camping would occur adjacent to the ditches but is not expected to impact them.

Lastly, two drainage culverts east of Area 2 would be removed. One of these culvers is located 250 feet from the edge of Tomales Bay, and now functions to support a man-made ditch that traverses the eastern side of the dune slack wetlands east of Area 2 and north of Area 1. The intent of this culvert removal would be to reduce outflows from these dune slack wetlands to Tomales Bay and contribute to retention of more water over a longer period of time within the wetlands. The second culvert is located within the dune slack wetlands, about 1,000 feet northeast of the boat launch area, and presently serves no purpose. The Applicants believe that its removal would add incrementally to the amount of open water within the wetland, which would also be a benefit to the wildlife.

While the Commission agrees that enhanced hydrology to the wetlands east of the camping area is an important component of any restoration in the Tomales wetland-dune complex, the proposal submitted by the Applicants is conceptual at best, and contains some elements that may be problematic. First, due to the sensitive nature of the habitats within the camping areas, especially areas 3 and 4, it may not be appropriate to re-grade those areas. Enhancing and removing sediment from the existing ditches may be beneficial, but great care needs to be taken to ensure that these activities do not further drain wetlands. The system of manmade ditches at Lawson's have historically drained some wetlands to the ocean and they do need to be thoroughly

examined and re-evaluated by an expert in hydrology to determine the best course of action that will benefit, not harm coastal wetlands. Therefore, Special condition 4(A)(4)(d) requires that a hydrological assessment, prepared by a hydrologist with experience in wetland restoration, be submitted that identifies measures to increase inundation and soil saturation within the Tomales wetlands/dune complex, including removal of existing drainage ditches and prevention of drainage of wetland areas to the ocean. Only as conditioned, can the Commission find that the proposed hydrology enhancement plan is consistent with Coastal Act Sections 30240 and 30233.

In conjunction with the offered 465 acre conservation easement, the proposed restoration of wetland hydrology, including the remediation areas (A, B, and C) discussed in Subsection E, provides significant environmental benefits to address the direct impacts of the camping development approved herein. Still, these measures do not offset these impacts to the maximum extent feasible.

There are opportunities for environmental restoration and enhancement on the Applicant's property that would have benefits throughout the wetland-dune complex area. For example, although it would be a challenging and laborious undertaking, restoration of the foredunes by removing invasive European dune grass would be ecologically significant; however, it would ultimately probably result in the conversion of the deflation plain to a system more dominated by sand dune habitats. This, in turn, would impact existing infrastructure such as the main access road and camping support facilities, leading to the potential loss of camping in Areas 3 and 4 and making the provision of access to Areas 1 and 2 difficult.

However, the exotic species that were introduced or have colonized the foredunes are also spreading to interior dune habitats and threatening natural physical processes and native communities. An on-going program of invasive species control would have profound benefits for this currently relatively unimpacted dune habitat area. There are also opportunities to enhance or reintroduce rare dune species.

In addition, as described in Dr. Dixon's memo, the perimeter road around Area 3 could also be restored to its original habitat (as shown on exhibit 6, figure 25). This road was graded sometime 1965 - 1970. According to Dr. Dixon, restoring this area back to its original habitat would be beneficial to the resource.

In addition to dune restoration, there are opportunities for enhancing the wetlands system, as described above. The wetlands are now drained by an extensive system of ditches. Many of these could be filled or re-routed so as to increase the amount of water that fills the wetlands in various locations (those areas not approved for camping). This would increase the extent and duration of inundation and saturation and benefit native species while inhibiting the spread of some invasive species. The Applicants have proposed some hydrological improvements, described above, but this is a complicated undertaking that would have to be based on a plan developed cooperatively by ecologists, hydrologists, and Lawson's Landing to maximize benefits while avoiding unintended consequences to permitted infrastructure and activities and to natural habitats.

Overall, the Commission recognizes and finds the proposed conservation easement, wetlands hydrology work, grazing management plan (see discussion below) and other measures to be significant environmental benefits that offset the direct impacts of the project. Nonetheless, to assure that the optimum balance is achieved that is most protective of coastal resources, the Commission also finds it necessary to assure additional restoration efforts are made in the interior dune areas, and that the wetland hydrology work is developed and implemented within a more comprehensive framework of a wetland restoration plan. There are also other restoration proposals that are proposed to address prior violations not being approved, that should be considered within a comprehensive restoration framework. Therefore, the Commission adopts Special Condition 4 which memorializes some of the Applicant's proposal, such as the offered conservation easement to permanently protect the wetland-dune complex, and that will govern and refine the various restoration efforts, including removal of the road, camping area 5, and the graded 'tail' of area 1; restoration of the main wetlands area inland of Areas 1-3, and a focused dune enhancement effort in the back dunes that includes removal of Invasive and non-native species and planting native species of local stock appropriate to the restoration area to enhance habitat values, such as butterfly habitat. Overall, as proposed and as refined through the special conditions of this authorization, the Commission finds that the project's direct impacts to ESHA and wetlands are offset to the maximum extent feasible, and the project as a whole is, on balance, most protective of coastal resources, including lower-cost public access and visitor serving recreational facilities and sensitive wetlands and ESHA, as required by the various Chapter 3 policies of the Coastal Act discussed herein.

G. AGRICULTURE

The Coastal Act and the Marin County LCP protects prime agricultural lands and lands suitable for agriculture and limits conversion of such lands to non-agricultural uses as described in Sections 30241 and 30242 below.

Coastal Act Policies

Section 30241 Prime agricultural land; maintenance in agricultural production

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands. (emphasis added)

Section 30242 Lands suitable for agricultural use; conversion

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Advisory LCP policies

LCP Unit II Policy 3 Intent of the Agricultural Production Zone

The intent of the Agricultural Production Zone is to preserve lands within the zone for agricultural use. The principal use of the lands in the APZ shall be agricultural. Development shall be accessory, incidental, or in support of agricultural land uses and shall conform to the policies and standards in #4 and #5 below.

LCP Unit II Policy 4 Development Standards and Requirements

All land divisions and developments in the APZ shall require an approved master plan showing how the proposed division or development would affect the subject property. In reviewing a proposed master plan and determining the density of permitted uses, the County shall make all the following findings:

- a. The development would protect and enhance continued agricultural use and contribute to agricultural viability*
- b. The development is necessary because agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.*
- c. The land division or development would not conflict with the continuation of agriculture on that portion of the property which is not developed, on adjacent parcels, or those within one mile of the perimeter of the proposed development*
- d. Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after*

provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream habitats or significantly reduce freshwater inflows to Tomales Bay, either individually or cumulatively.

...

- g. The proposed land division and/or development will have no significant adverse impacts on environmental quality or natural habitats, including stream or*
- h. Development consists of permitted and conditional uses as authorized in the APZ*

2. Conditions. As part of the approval of a master plan, the following conditions shall be required:

- a. All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use. Development, including all land converted from agricultural use such as roads, residential support facilities, shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.*
- b. Permanent conservation easements over that portion of the property not used for physical development or services shall be required to promote the long-term preservation of these lands. Only agricultural uses shall be allowed under the easements. ..*
- c. The creation of a homeowner's or other organization and/or the submission of agricultural management plans may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis...*

3. Definitions and uses.

...

c. Conditional uses.

...

- Public or private recreational activities, such as hunting, fishing, and camping*

Marin County Certified Zoning Regulations for Agricultural Production Zone District (C-APZ) Section 22.57.033: Conditional Uses.

...

15. Public or private recreational activities, such as hunting, fishing, and camping

...

18. *Dump.*

Section 22.57.035 Development Standards and Requirements:

All development permits in the C-APZ shall be subject to the following standards and requirements:

1. *All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use. Development...shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife, habitat and streams, and adjacent agricultural operations.*
2. *Permanent conservation easements over that portion of the property not used for physical development or services shall be required to promote the long term preservation of these lands. Only agricultural uses shall be allowed under the easements...*
4. *Design standards as set forth in 22.57.024.*

Section 22.57.036 Required Findings:

Review and approval of development permits, including a determination of density shall be subject to the following findings:

1. *the development will protect and enhance continued agricultural use and contribute to agricultural viability*
2. *The development is necessary because agricultural use of the property is no longer feasible...*
3. *The land division of development will not conflict with the continuation or initiation of agriculture, on that portion of the property is not proposed for development, on adjacent parcels, or those within one mile of the perimeter of the proposed development.*
4. *Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after provision has been made for existing and continued agricultural operations*
- ...
6. *The proposed...development will have no significant adverse impacts on environmental quality or natural habitats, including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met.*

A large portion of the subject site has historically been used for agricultural purposes (sheep and cattle grazing) and approximately 849 acres is zoned Agriculture Production Zone (C-APZ). The northern portion (North Ranch) of the property houses a ranching operation with a barn complex

and several ranching pastures and hayfields totaling approximately 552 acres. The southern portion of the property (South Ranch) supports approximately 221 acres of grazing and calving land, but cattle and sheep graze over most of the site (i.e., approximately 849 total acres). As discussed above, the majority of the proposed recreational uses are concentrated along the shoreline, on lands locally zoned Coastal Resort/Commercial Recreation (C-RCR) that are not governed by the certified LCP. The approximately 960-acre site consists of 42 Assessor's parcels, 7 of which (approximately 780 acres) are under Williamson Act contract for the protection of agriculture.⁸⁵

Grazing of the property began in the 1920's when the Lawson family purchased the property. These portions of the property are designated as Grazing Land and Farmland of Local Importance under the Farmland Mapping and Monitoring Program of the California Department of Conservation (CDC). This land does not qualify as "prime agricultural land," rather it is "land suitable for agriculture."

The Applicants will continue grazing cattle on the North Ranch of the property on lands zoned Agriculture Production Zone (C-APZ) in the certified LCP, as well as on the South Ranch of the property on lands zoned C-APZ and C-RCR. The South Ranch contains a variety of sensitive habitats, including wetlands and dunes. The Applicant has submitted a draft grazing management plan, prepared by a Certified Range Manager (see Exhibit 41). As described therein:

This plan describes a grazing program designed to manage aggressive non-native weeds that potentially threaten wetland and other natural resource values, and to enhance native species within wetland and upland vegetation communities on the Lawson's Landing South Ranch (LLSR). A majority of the LLSR acreage will be subject to a USDA Natural Resources Conservation Service (NRCS) Wetland Reserve Program (WRP) conservation easement, which will allow continued livestock grazing only for the purpose of enhancing wetlands and other natural resources. Grazing will continue under a Compatible Use Authorization, renewable at five-year intervals. NRCS biologists and range management specialists have reviewed the proposed grazing program and determined it to be consistent with WRP purposes⁸⁶

The draft plan proposes various considerations for grazing management in a manner protective of sensitive resource areas, including California Red Legged Frog habitat.

Camping In and Adjacent to Agricultural Lands

All of the proposed camping areas are located on agricultural lands pursuant to the Coastal Act (Section 30241 and 30242) because the area is and has been historically grazed. However, the proposed camping is also located on lands zoned for recreational pursuant to the advisory LCP.

⁸⁵ The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value. Local governments receive an annual subvention of forgone property tax revenues from the state via the Open Space Subvention Act of 1971 (California Department of Conservation 2005).

⁸⁶ Bush, Lisa (California Certified Rangeland Manager #18). June 27, 2011. DRAFT Lawson's Landing South Ranch Grazing Plan Prepared for Lawson's Landing Inc., Lawson's Ranch, and Lawson's Livestock.

Camping in Areas 1 - 4 is thus consistent with the advisory LCP policies for this area. Specifically, the area is locally zoned Coastal Resort/Commercial Recreation (C-RCR), and camping is an important recreational use that is allowable and encouraged in this zone. The Commission finds that the proposed camping uses in Areas 1 – 4 are not an impermissible conversion of agricultural land to a non-agricultural use, because the two uses coexist and camping is compatible with the continuance of grazing on the site. No permanent habitable structures would be erected for the campsites and the land would remain available for agriculture. Bathrooms would be constructed on these recreationally-zoned lands, but these structures would be small and accessory to the camping uses. Further, since grazing typically occurs on a rotational basis, the grazing operation would not be affected by the proposed camping as conditioned. Therefore, these activities would not impermissibly convert agricultural lands to non agricultural uses, would not create conflicts between agricultural and urban land uses, and would maintain the stable boundary between this agricultural area and urban uses, consistent with Coastal Act Sections 30241 and 30242. Thus, camping would be incidental to the agricultural uses on the site, and would not conflict with continued agricultural use of site, consistent with the LCP advisory policies (LUP Unit II Policies 3 and 4 and certified zoning code Section 22.57.036).

Therefore, for the reasons described above, the Commission finds, as conditioned, camping in areas 1 – 4 is pursuant to Section 30007.5, consistent with Coastal Act Sections 30241 and 30242. Therefore, as conditioned, the Commission finds that the proposed camping is consistent with Coastal Act Sections 30241 and 30242.

Leachfield and Sprayfield in Agricultural Lands

As described in Section V.A.3., the Applicants propose to upgrade the sewage disposal system by installing a leachfield on the “North Ranch” portion of the property on lands suitable for agriculture pursuant to Coastal Act Sections 30241 and 30242 and zoned for agriculture (C-APZ) in the Marin County certified LCP. This area is currently used for cattle grazing.

The proposed sewage disposal system would cover approximately 2 acres for the leachfield during the winter and an additional 6 acres during the dry season for spray irrigation, for a total of 8 acres (<1%) of the 849-acre agricultural area. The Lawson's have only a small grazing operation that is rotated around the entire property, including the recreational area, so there is significant acreage available for grazing and hay production outside of this small area proposed for the leach and sprayfields. Further, since the leachfield and sprayfield are underground, do not change the use of the land above, and the ground land remains available for agriculture, these activities do not impermissibly convert agricultural lands, consistent with Coastal Act Sections 30241 and 30242. The sprayfield area could also be grazed during the wet season. The area would be fenced off during the irrigation period and a 30-day ‘rest’ period following irrigation. After that period is over, grazing could resume on the sprayfield area. Spray irrigation would likely occur from May – September, and the rest period would be during the month of October. Therefore, grazing could resume on the area November – April. In other words, for six months of the year, a 6-acre portion of the grazing area would be used as a sprayfield, but since grazing typically occurs on a rotational basis, the grazing operation would not be affected.

On the 1.5-acre leachfield area (proposed for subsurface drip irrigation during the wet season), livestock would be excluded because livestock could damage drip irrigation piping and valves and also contribute to localized soil compaction in portions of the dispersal area. However, the Applicants state that the area could support other 'beneficial' agricultural uses such as plants/crops that could take advantage of the drip irrigation system. For example, certain plants used for landscaping, restoration, decoration could be grown including rushes, sedges, and lavender, which are grown and used locally.

The specific design and location of the wastewater treatment plant has not been determined by the Applicants, however it is likely that it would be another 10,000 to 15,000 square feet underground. It is also anticipated that a small building would be used to house the control equipment. It will be located in the area of the existing scale house and will occupy, with all related equipment, less than a quarter of an acre. Although the scale house is a small abandoned building which is removable, it can provide some storage function while it is not being utilized for grazing.

In sum, the proposed leachfield, sprayfield, and treatment plant would be located underground or within existing structures, would not change the use of the land, and the land would remain available for agriculture. Therefore, these activities would not impermissibly convert agricultural lands to non agricultural uses, would not create conflicts between agricultural and urban land uses, and would maintain the stable boundary between this agricultural area and urban uses, consistent with Coastal Act Sections 30241 and 30242. Further, this development would be incidental to the agricultural uses on the site, and would not conflict with continued agricultural use of site, consistent with the LCP advisory policies (LUP Unit II Policies 3 and 4 and certified zoning code Section 22.57.036).

However, as discussed in Section V.A.3., the proposed wastewater disposal system is only conceptual at this time, and its design will be further refined through the Regional Water Quality Control Board approval process. Special Condition 9 requires that By July 13, 2012, or within such additional time the Executive Director may extend for good cause, the permittee shall submit a Coastal Development Permit Application for the new wastewater treatment and disposal system and abandonment of the 167 individual septic systems. This condition requires that the system substantially conform to the conceptual system design described above (exhibit 42), and that the system shall not convert any agricultural lands. Any proposed change to either the location or to the below-ground system design, will require an amendment to the permit. As conditioned, the Commission finds that the proposed wastewater disposal system does not impermissibly convert agricultural lands and is consistent with Coastal Act Sections 30241 and 30242.

H. ADEQUACY OF SERVICES

Coastal Act Coastal Act Section 30250:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close

proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

(c)Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30231 Biological productivity; water quality

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Coastal Act requires new development, such as all the proposed uses at Lawson's Landing, to be located in areas with adequate services, including sewage disposal, road access/capacity, and water supply. The Marin LCP, which provides guidance on this application, requires that any expansion or redevelopment at Lawson's Landing must include improvements to the sewage disposal facilities, which have 'caused problems in the past,' and that all such improvements must be conducted in accordance with the CA Regional Water Quality Control Board and Marin County Environmental Health Services standards. In addition, the LCP specifically requires that development applications be analyzed for traffic and parking impacts on the community, including along Dillon Beach Road, Beach Drive, Cliff Drive, and the entrance to Lawson's Landing.

1. Wastewater Capacity

Existing Unpermitted System

There are approximately 167 septic tanks and 139 individual leach lines serving the travel trailers, store/office, employee laundry, 5 restrooms, 3 houses and the two mobile homes on the Lawson's Landing property. These systems are located amongst the trailers in the "Sand Point" area on the Southern portion of the property adjacent to Tomales Bay (exhibit 22). Due to concerns about the potential impacts of these systems to Tomales Bay water quality, the Applicants have conducted a series of inspections as a voluntary 'interim measure,' and several problematic systems have been 'abandoned' and corrected according to specific protocol provided by Marin County Environmental Health Services (MCEHS) (see exhibit 35, MCEHS letter). The Applicants propose to continue using these 'corrected' systems until such time that the new wastewater infrastructure and other facilities are installed (see below).

The Applicants hired Questa Engineering Corp. to evaluate the 167 existing septic systems. The objective of the work was to determine the functioning status of the septic systems and to undertake appropriate maintenance or other corrective work to address problems. The inspection work occurred over the course of ten visits during the period of May 9, 2008 and May 5, 2009. Questa first prioritized those systems with full or part-time use adjacent to Tomales Bay or interior drainage channels; then all other systems were tested.

A small number of unpermitted conventional septic tank – leachfield systems also exist on the property. The inspection of these tanks was conducted according to the Marin County Septic System Performance Evaluation Guidelines. These guidelines provide for visual inspection of the tank's structural conditions, inlet and outlet piping, measurement of sludge and scum accumulation, visual check of the leachfield area, and a hydraulic loading analysis. During the hydraulic loading test, fluorescent dye tablets were added to the septic tank and flushed into the leachfield system. Visual checks were made of the leachfield area and/or nearby watercourses over several days to a week's time to look for any evidence of dye. If dye was observed, this would have been an indication of some type of short-circuiting of the wastewater effluent and would have required further follow-up investigation. If no dye was observed, this would have been a good indication that the wastewater effluent flow is properly maintained in the subsurface and of sufficient duration for dissipation/absorption of the dye along with most wastewater constituents of concern.

Most of the unpermitted systems at Lawson's Landing are 'non-conventional,' consisting of open bottom circular septic tanks with leachfields/seepage pits. In these cases, the MCEHS guidelines for inspection were not applicable, because the septic tanks were not constructed according to today's standard, and the standard openings and piping are not typically accessible for routine inspection of liquid levels and solids accumulation. These unpermitted systems can remove solid wastes, but they provide little or no treatment of the liquid wastes that are discharged to shallow groundwater. Inspection work included: (a) a short-term hydraulic loading test (including addition of dye to each tank); and (b) a visual inspection of the leachfield area and nearby drainages for saturation and possible surfacing of effluent or dye.

The test results rated 146 systems as "excellent," based on their performance during the hydraulic load and dye test; 109 systems as "satisfactory," and 8 systems as "marginal." The following four (4) systems failed the visual inspection and/or hydraulic load test:

1. Trailer K3: The leachfield has failed.
2. Office/store: The redwood septic tank for the office/store is partially collapsed and failed the hydraulic load test. The toilet connected to the tank has been removed and a hand washing sink remains.
3. Trailers A17 and A18: The leachfields have failed and the system will be abandoned.
4. Trailer G26: The system serving this trailer remains slow after cleaning and repair.

Based on the inspections, in November and December 2009, Questa and its contractors completed the following interim measures:

- a) redwood septic tank at the boathouse/office/store was abandoned and replaced with a new 1,500-gallon septic tank that currently serves as a water tight holding tank, which will be converted to a STEP tank in the future
- b) The septic tank for K-3 was abandoned and the trailer plumbing was connected to K-2 tank
- c) The failing septic tank shared by Trailers A-17 and A-18 was abandoned and an new 1,500 gallon water – tight tank was installed, which will be converted to a STEP tank in the future
- d) The septic tank for C-7 was abandoned and the trailer was connected to the existing septic system serving trailer C-8
- e) The septic tank for M-1 was abandoned and the trailer was removed
- f) The leach line for Trailer G-26 was repaired
- g) The systems for trailers D20 and J21 had minor structural problems corrected
- h) Sags and high points in sewer lines at trailers F11, E32, and E33 were corrected
- i) All greywater sinks were abandoned or connected to the functioning septic system at the respective trailer

All interim corrective work was permitted and inspected by Marin County EHS staff. Final inspection of tanks and plumbing occurred on January 14, 2010 and final septic tank abandonment was completed during the week of January 11 – 15, 2010. According to a letter written by Marin County EHS staff on January 25, 2010, all EHS permits applied for were approved, and inspections were completed. EHS staff observed and verified the corrections described above. EHS is also requiring the ongoing monitoring of the C7 and K2 leachfield biannually as well as verification of regular septic tank pumping.

The Applicants are requesting the continued use of the “corrected” system until such time that the new wastewater collection, treatment and disposal system is installed (see below). However, no specific timeframe has been requested for use of this system.

New Wastewater Collection, Treatment and Disposal System

To bring Lawson's Landing's sewage disposal into compliance with state standards as applied by the San Francisco Bay Regional Water Quality Control Board (Regional Board) and Marin County Environmental Health Standards, as well as the policies of the Coastal Act and Local Coastal Program, the Applicants propose a new wastewater treatment and disposal system and abandonment of the existing unpermitted system described above. Through the environmental review process with Marin County, the Applicants have undertaken several feasibility studies for locating and designing the new system. Since the system must ultimately be approved by the Regional Board, the Applicants are requesting approval of their preliminary proposal (described below) only.⁸⁷

⁸⁷The San Francisco Bay Regional Water Quality control Board (RWQCB) maintains regulatory authority and permitting authority for review, approval, certification, and inspection of onsite wastewater treatment systems in Marin County. While Marin County Environmental Health Services Division (MCEHS) has regulatory authority over individual wastewater treatment systems (such as those existing systems described above), because the proposed new system would serve multiple uses, such as the Lawson's Landing Center, mobile homes, restrooms, and travel trailers, it would not be considered an individual system subject to County approvals.

Wastewater collection

The collection system proposed for the site is a Septic Tank Effluent Pumping (STEP) system with remote secondary treatment and disposal is also planned (exhibit 23, Figures 1 and 2 Typical STEP unit). Wastewater collection tanks would be sited in close proximity to the travel trailers and restrooms they would serve (exhibit 23, figure 5 Sand Point Proposed STEP Sewer Schematic Plan) and the tanks would have access openings to allow for inspection and periodic removal of solid wastes. The liquid wastes would be pumped to a treatment system where additional solids, bacteria and nutrients would be removed to achieve secondary treatment standards.⁸⁸ The treated effluent would then be pumped to a leachfield or designated spray irrigation area via a proposed septic line located underneath existing roads (see exhibit 3 [sheet 3]). The construction, operation and maintenance of a STEP collection system is feasible for this project because the collection tanks, conveyance pipes and treatment system would all be on property owned by a single entity. The STEP system is also being considered for this project because of the need to convey the wastewater to a higher elevation at a significant distance from the trailer park, precluding the use of a gravity-driven collection system.

New Wastewater treatment

Although various wastewater treatment systems have been considered by the Applicant, no particular system has been selected and the details of the design are yet to be developed. The Regional Board will need to approve a permit for the proposed system and while they cannot specify the treatment system, they will specify the quality of the treated water so that all beneficial uses of state waters are protected. According to a June 25, 2007 report by Questa Engineering Corp, secondary treatment standards⁸⁹ will likely be required by the Regional Board and Coastal Commission water quality staffs agree that it is likely the Regional Board will require at least secondary treatment standards. The Applicant has indicated that a variety of wastewater treatment technologies are being considered to meet the wastewater treatment needs, including a recirculating sand filter system, recirculating textile filter, aerobic treatment unit, and membrane bioreactor. The exact location for the treatment system has not yet been identified, but will most likely be in the Scale house hayfield area. The treatment plant will require an approximate area of 10 – 15,000 square feet. Concrete or fiberglass tanks will be necessary and they will be buried underground. A small building (<500 square feet) would be required to house equipment.

New wastewater disposal System

A new sewage disposal system is proposed to be developed in the upland area known as “Scale House Hayfield” and “Scale House Field West Pasture,” located on the northeast portion of the property (see Sheet 3 of exhibit 3). The system, located underground, would consist of

⁸⁸ Secondary treatment standards include a average monthly concentration of suspended solids less than 30 milligrams per liter (mg/L) and an average monthly concentration of biochemical oxygen demand (a measure of organic carbon and impacts to dissolved oxygen) of less than 30 mg/L.

⁸⁹ Secondary treatment standards include a average monthly concentration of suspended solids less than 30 milligrams per liter (mg/L) and an average monthly concentration of biochemical oxygen demand (a measure of organic carbon and impacts to dissolved oxygen) of less than 30 mg/L.

approximately 1.3 acres of leachfield for winter operation and combined use of the leachfield plus spray irrigation in the dry season over a 6 acre pasture.

Since 2007 Questa Engineering Corp has been conducting studies of this area to confirm its feasibility to serve the proposed development. In May 2007, Questa conducted preliminary field investigations in the area. The work included completion of three hand-augered exploratory soil borings spread over the 8-acre area of interest. The overall assessment showed that the area has very well drained sandy surface soils to a depth of about 3.5 to 4.5 feet, which transitions to more slowly permeable clayey subsoils underlain by weathered sandstone. No groundwater was encountered in any of the test holes to the depth investigated, however it was speculated that it was likely that a seasonal, perched water table develops at a depth of about 3 to 6 feet in portions of the site during the rainy season.⁹⁰

Questa concluded that based on location, topography, and preliminary soils information, the area is suitable and has sufficient capacity to meet the wastewater disposal needs for Lawson's Landing. It was recommended that a subsurface leachfield be developed in the westernmost portion of the site (near test hole 3) because of deeper and more sandy soils along with favorable slope conditions; and a seasonal spray irrigation pasture be developed in the remainder of the site because of the shallower soil conditions, flatter slopes with greater potential for seasonal saturation, and the higher potential for lateral migration of water onto the neighboring property to the east if the subsurface leachfields were to be used.

Questa concluded in 2007, based on the seasonal activity and wastewater flow characteristics at Lawson's Landing, the wastewater disposal needs could be served most effectively with a system similar to what has been proposed: a 2-acre leachfield that would be used in the winter, which could handle approximately 15,000 gallons per day of wastewater; and a 6-acre spray irrigation area, with leachfield as back up to use in the summer, which could handle up to 30,000 gallons per day of wastewater.⁹¹ Upon further study by Questa over the years, the proposal has been refined as described below.

In December 2008, Questa conducted excavation and logging of 15 soil test pits. Soil profile trenches ranged from 7 to 0 feet in depth and typical soil conditions were found to consist of a loamy sand surface soil layer (16 to 36-inches deep), underlain by sandy loam to sandy clay loam subsoil (24 to 36 inches thick), with weathered sandstone parent material beginning at depths ranging from about 36 to 72 inches below ground surface.

In August 2009, formal leachfield soil/percolation testing was conducted in consultation with staff of Marin County Environmental Health Services. Nine (9) backhoe test pits were dug showing fine sand to 36", sandy loam to sandy clay loam to 60" and highly weathered sandstone at 60+ inches.

⁹⁰ Questa Engineering Corp. June 25, 2007. Letter to Lawson's Landing Re Alternative Wastewater Disposal Site Evaluation.

⁹¹ Questa Engineering Corp. June 25, 2007. Lawson's Landing Alternative Wastewater Disposal Site Evaluation.

Six percolation tests were also conducted. An average rate of 3.5 minutes per inch (MPI) was found in sandy surface soils, and an average of 18.4 MPI in the loamy sub-soils. Final system designs would be based on the slower percolation rates.⁹²

Questa has also been conducting on-going groundwater monitoring at the proposed site. In December 2008, 11 groundwater observation wells were installed about 5 – 6 feet deep to the weathered bedrock surface. Wet weather groundwater readings were taken from December 2008 – 2010. The results were used to help define the best area for locating the winter leachfield.

On October 22, 2009 five additional monitoring wells were installed in the proposed leachfield/drip area (MW-14 through MW-18). These five wells augment the existing well (MW-6) that was installed during the 2008-2009 winter season, providing a total of six monitoring wells. The number and location of monitoring wells was reviewed with Marin County Environmental Health Services staff prior to installation.

Questa submitted a report to Mike Lawson on April 22, 2010 with groundwater level monitoring results from the 2010 wet season (11 sampling events from 10/22/09 through 4/16/10). All results during the period of 10/22/09 through 4/16/10 show groundwater level at least 26 inches below the ground surface (bgs) except for one sample in well MW-6 that showed groundwater at 11 inches bgs. This sample appears to be a short term anomaly since all other wet season samples in this well showed at least 43 inches bgs.

In the adjacent pasture area to the east, proposed for seasonal spray irrigation during the dry season, four wells (depths from 52 to 75 inches) were sampled up to fifteen times from 1/5/2009 through 4/16/2010. Although only a few samples were taken between the beginning and end of the 2009 dry season (two samples on 4/13/2009 and 5/5/09 and four samples in 10/22/009, 11/18/09 and 12/14/09), these all were dry down to bottom of the wells (52 to 75 inches bgs).⁹³

According to Questa, the groundwater monitoring results along with the previous soils and percolation data support the use of a shallow subsurface drip dispersal as a viable method of disposal for treated wastewater. The driplines would be installed at a depth of 6 to 10 inches below ground surface, providing a minimum groundwater separation distance of 2+ feet under wet weather conditions.⁹⁴

Based on field exploration and test results to date, Questa estimates a capacity for winter wastewater flows of approximately 10,000 to 15,000 gpd in the 1.3 acre leachfield area, based on an estimated loading rate of 0.2 to 0.25 gallons per day per square foot. The 6-acre spray field is expected to be adequate for at least 30,000 gpd during the dry season (peak usage period), based on plant water requirements of 0.10 to 0.15 gpd/ft².⁹⁵

The wastewater disposal capacity estimate of 15,000 gallons per day(gpd) for the leachfield/dripfield is a preliminary estimate based on the available acreage (approximately 1.5

⁹² Questa Engineering Corp. September 14, 2009. Lawson's Landing Wastewater Feasibility – Interim Status Report

⁹³ Questa Engineering Corp. April 22, 2010. Letter to Mike Lawson Re Lawson's Landing Wastewater Facilities

⁹⁴ Questa Engineering Corp. April 22, 2010. Letter to Mike Lawson Re Lawson's Landing Wastewater Facilities

⁹⁵ Questa Engineering Corp. September 14, 2009. Lawson's Landing Wastewater Feasibility – Interim Status Report

acres) and an approximate wastewater loading rate of 0.2 to 0.25 gallons per day per square foot (gpd/ft²). This is a conservative estimate based on the soil percolation rates, which were found to be average approximately 9 minutes per inch in the upper 24 to 36 inches of soil. Per Marin County Regulations and industry guidelines, an acceptable wastewater loading rate for subsurface drip dispersal in sandy soils with this level of permeability would be on the order of 1.0 to 1.2 gpd/ft². The lower, conservative estimate is based on having to account for potential groundwater mounding effects, which would reduce the wastewater disposal capacity.⁹⁶ Questa is currently in the process of analyzing the groundwater mounding effects, which will be analyzed by the Regional Board during final approval.

Wastewater capacity estimates for the proposed dry season spray irrigation field (sprayfield) area have been developed based on the objective of providing sufficient water for pasture grasses, but not an excessive amount that would result in percolation and possible groundwater flow to the watershed and pond located to the south. Reference evapotranspiration (ET_o) rates published by the Department of Water Resources, California Irrigation Management Information System (CIMIS), for "Zone 1 – Coastal Plains Heavy Fog Belt", were used to approximate the monthly water requirements for the pasture sprayfield area. Questa used this information to plot the estimated average daily turfgrass water requirements for the dry season irrigation period of April through October, using the CIMIS information applied to the 6-acre proposed sprayfield area (exhibit 24 Irrigation Water Demand summary).⁹¹

This information allows one to minimize percolation in the sprayfield area by limiting the irrigation amount to the estimated requirements and directing any additional wastewater flow to the adjacent leachfield/dripfield area to the west for percolation and plant uptake. For example, the peak usage is projected to be in July, and to accommodate an average daily wastewater flow of 30,000 gpd, the estimates indicate that 25,500 gpd could be directed to the 6-acre sprayfield, with the remaining 5,500 gpd dispersed in the 1.5 acre leachfield/dripfield area.⁹⁷

The wastewater flow estimates are based on previous estimates of wastewater flow for historical camping/RV/trailer use activities at Lawson's Landing. This includes records from the 1990s, supplemented with additional information from 2000 to 2003 when peak camping ranged between 700 to 1,000 vehicles during summer months. Water use data was evaluated to provide a conservative (safe) estimate of the total potential wastewater generation.

Based on U.S. EPA estimates and Marin County regulations, the per unit volume of wastewater in gallons per day (gpd) for various uses proposed at Lawson's Landing are estimated as follows:

Residences and mobile homes	210 gpd/residence
Trailers	50 gpd/trailer
Camping	25 gpd/person
Day Use	10 gpd/person
Employees	15 gpd/person

⁹⁶ Questa Engineering Corp. April 22, 2010. Letter to Mike Lawson Re Lawson's Landing Wastewater Facilities

⁹⁷ Questa Engineering Corp. April 22, 2010. Letter to Mike Lawson Re Lawson's Landing Wastewater Facilities

Due to the wide fluctuation in occupancy and wastewater flows at Lawson's Landing, flow equalization would be incorporated in the system design to moderate flows during peak periods, by temporarily holding some of the water in storage or "surge" tanks. Wastewater in these tanks would then be pumped into the system on timed-dosing, after the peak activity has passed, to provide continuous even distribution to the treatment and disposal systems. The storage or surge tanks would be located at each of the public restrooms and at the treatment plant.⁹⁸

Questa has also analyzed potential water resources impacts of the leachfield and spray irrigation system, and determined that potential impacts would be avoided because: (1) the facility would be located south of the watershed divide for Dillon Creek, thereby avoiding the creation of any impacts to the water supply recharge area for the Town of Dillon Beach; (2) the distance of the Scale House Hayfield area to the water supply wells for Lawson's Landing is approximately ½ mile with an estimated travel time for percolating water of 2 to 5 years or more; (3) the combination of secondary treatment, disinfection and long travel time/distance between the wastewater disposal site and the wells would assure ample protection of the water quality in the wells; (4) limiting wastewater disposal in the Scale House Hayfield to spray irrigation only in the summer months would eliminate the potential for subsurface migration of wastewater onto the neighboring property and any associated impacts that might occur if leachfields were used; (5) the leachfields would be confined to the western portions of the site where subsurface flow is to the adjacent dune lands on the Lawson's Landing property; and (6) wastewater impacts to Tomales Bay and onsite wetlands within Lawson's Landing would be negligible due to the extremely long travel distances and travel times for groundwater migration.⁹⁹

COASTAL ACT CONSISTENCY ANALYSIS

Interim Use Of Corrected Septic System

Coastal Act Section 30250 requires new development, such as all the proposed uses at Lawson's Landing, to be located in areas with adequate services, including sewage disposal; and Coastal Act Section 30231 requires that the quality of coastal waters be maintained by, among other means, minimizing the effects of wastewater discharges. In regards to the Applicants' request for continued use of the existing 'corrected' septic systems, the Commission finds that the more immediate problematic aspects of the current system identified during site monitoring have been 'corrected' with the oversight of Marin County EHS staff, and that the system, with ongoing inspection and maintenance, is adequate to serve the proposed development, as conditioned, until the new system described below is permitted by the Regional Water Quality Control Board and constructed. However the poor design of the current system, including the antiquated construction, location near the bay and wetland habitat, shallow depth to groundwater, and drainage into highly permeable sandy soils, require that the system be upgraded in the near future to prevent significant adverse impacts to coastal waters. Under the current conditions it is possible that nutrient rich groundwater is discharging to Tomales Bay even though it would be difficult to measure that discharge or its adverse aquatic impacts. In addition, the possibility exists that the system could exhibit additional failures due to the aging infrastructure, changes in

⁹⁸ Questa Engineering Corp. April 22, 2010. Letter to Mike Lawson re Lawson's Landing Wastewater Facilities.

⁹⁹ Questa Engineering Corp. June 25, 2007. Lawson's Landing Alternative Wastewater Disposal Site Evaluation.

loading or changes in groundwater conditions and so on-going monitoring and inspections are necessary to avoid future impacts to water quality. Notwithstanding the interim measures above, the current system needs to be replaced for the long term protection of coastal water quality. Even well-designed septic systems contribute nutrients to groundwater and the current system has the potential to have long-term chronic impacts to Tomales Bay and wetland features due to the concentration of septic systems, shallow groundwater and relative proximity to the bay.

Hence Special Condition 9 requires the construction of a new wastewater treatment system that is approved by all required state and local agencies and the cessation of use of the current system concurrent with construction of the new system. Special Condition 9 also requires that if the wastewater treatment and disposal system has not been constructed within three years of Commission approval of this permit, or within additional time the Executive Director may grant for good cause (not to exceed 5 years), the Applicant shall cease all uses that depend on the 167 septic systems, until such time that the Applicant has applied, and the Commission has approved, an amendment to this Coastal Development Permit to construct an alternative wastewater disposal system to support such uses.

The use, below ground, of agricultural lands to construct a sewage disposal system to serve camping and travel trailer uses would result in the abandonment of on-site antiquated sewage disposal systems immediately adjacent to the mouth of Tomales Bay. Advisory policy LUP Unit II Policy 3(g)(2) specifically calls for the improvements in sewage disposal facilities at Lawson's Landing in accordance with the recommendations of the Regional Water Quality Control Board.

The new sewage disposal system would be located approximately 3,600 feet from the ocean and over a mile from the mouth of Tomales Bay. Placing the sewage disposal system in this location would increase the protection of water quality of Tomales Bay by eliminating any potential for sewage discharged into the Bay waters. Furthermore, the applicant proposes to abandon and remove all existing sewage tanks, cesspools, and disposal trenches. Subsurface use of the agricultural portions of the property for the sewage disposal system would therefore correct significant adverse impacts to coastal water quality and human health from the on-site sewage disposal systems.

Special Conditions 9 and 10 require that the Applicants properly abandon the existing septic systems in accordance with state, local and CDP requirements.

Special Condition 10 requires on-going inspections of the interim system and corrective actions as necessary. These inspections should include the biannual (twice a year) monitoring of C7 and K2 leachfield as well as verification of regular septic tank pumping, as required by Marin County EHS staff in a letter dated January 25, 2010 (Attachment XX). In addition, the eight (8) systems identified as marginal by the previous testing should undergo additional hydraulic testing with dye testing within one year of Commission approval of this permit. If the testing indicates that the systems are still marginal then the Applicant is required to submit a coastal development permit amendment to the Commission to take corrective action or abandon those systems, in a manner also approved by Marin County EHS.

Special Condition 10 requires that if the applicant requests that the Executive Director grant an extension of the use of the current system beyond the three years for good cause (as allowed by Special Condition 9), that request shall be supported by the results of a comprehensive inspection of the current system and proposal to conduct corrective actions needed to protect coastal waters. The design of this comprehensive inspection shall be submitted to the Executive Director for review and written approval at least two months before commencement of inspection.

As conditioned, the Commission finds that the on-going use of the existing 'corrected' septic systems for a period of 3 – 5 years is consistent with Coastal Act Sections 30250 and 30231.

Wastewater Treatment System

Based on the numerous studies conducted by Questa on soils, percolation, depth to groundwater, and wastewater demand, it appears that the proposed leachfield and spray field provides adequate wastewater disposal to serve the proposed development for 3-5 years, consistent with Coastal Act policy 30250. However, as stated above, the designs are still considered subject to Regional Board review.

In terms of wastewater treatment, however, the design and location of the proposed treatment system is less developed than the leachfield. Due to the numerous constraints on the Lawson's Landing property, including wetlands, dunes, and other ESHA; as well as potential conflicts with public access, visual resources, and agricultural activities; and the lack of information about the treatment facility's location, the Commission lacks sufficient evidence to find that the proposed treatment system is consistent with the Coastal Act and LCP. Further, because the final system must be reviewed and approved by the regional board, it would be premature to approve the final system at this time. Therefore, the proposed treatment system must be denied. A new wastewater treatment and disposal system is necessary and required by Coastal Act sections 30250 and 30231 in order to adequately support the Lawson's Landing development approved by the Commission with condition. The Commission finds that the current wastewater system, with the interim measures described above, and with on-going inspection and maintenance, is adequate to protect the biological productivity and quality of coastal waters (Coastal Act Section 30231) in the short term (3-5 years) while the new wastewater treatment system is designed, permitted and constructed. However the long-term solution must include a wastewater treatment system that achieves at least secondary treatment standards, including removal of nutrients, pathogens and suspended solids to level that will not adversely impact coastal waters. The discharge of the treated water must be sited to eliminate adverse impacts to coastal waters.

Therefore, the Commission imposes Special Condition 9. This condition requires that the Applicants apply for and receive an amendment to the CDP within three to five years of Commission approval of this permit incorporating the updated sewage treatment and disposal system into the project, located in the scalehouse/hayfield area, as generally depicted on exhibit Sheet 3 of exhibit 3. The system that is proposed shall demonstrate that it shall be located outside all buffer areas required by the CDP including the 100-foot buffer area for all wetlands and the 50-foot buffer area for all central dune scrub and foredunes, and the treatment system shall not block public access to the coast or any of the public recreational facilities at Lawson's

Landing; nor shall the treatment system block public views to the coast from all public vantage points.

As conditioned, the proposed wastewater treatment and disposal system is adequate to serve the campground development, consistent with Coastal Act Section 30250. In addition, as discussed above, the proposed development would: (1) not result in significant impacts to agricultural resources; (2) benefit the water quality of Tomales Bay and human health; and (3) allow for the operation of a priority ocean-front visitor serving use. Thus, the Commission finds the proposed development as conditioned is in conformance with Coastal Act Sections 30230-30231 and 30241-30242.

2. Water Supply

Aqua Resources, Inc. completed a hydrogeologic assessment of the Dillon Beach project in 1996. This was a preliminary, reconnaissance-level assessment of the groundwater supply in the Dillon Beach area, focusing specifically on lands south of Dillon Creek. Although it was not conducted for Lawson's Landing, the study encompassed all of the dune lands, which are predominantly within Lawson's Landing property. The study includes a review and mapping of local geologic and groundwater conditions, and estimates an annual recharge to the sand dune aquifer (from percolating rainfall) to be on the order of about 950 acre-feet per year (i.e. more than 300 million gallons per year). In comparison, the historical pumping of groundwater from the aquifer by Lawson's Landing is estimated to be approximately 6.0 million gallons per year, i.e., less than 2 percent of the annual aquifer recharge volume.¹⁰⁰ The annual water supply needs at Lawson's Landing are less than 50 acre-feet per year.¹⁰¹

There are four existing wells on the property with a combined capacity of approximately 59 gallons per minute (gpm) (approximately 86,400 gallons per day) that currently serve Lawson's Landing.¹⁰² Three of the wells serve the Landing area, and the fourth is used to serve the ranch and ranch homes. The wells are pumped a short time each day to supply the estimated 30,000 gpd water demand at Lawson's Landing.

There are also six existing onsite water storage tanks with a combined storage of 35,000 gallons.¹⁰³ The Applicants propose to retain five storage tanks and expand the water system to provide redundancy and to fully ensure reliability of service for the proposed camping activities and the Lawson's Landing Center. This includes the construction of two new water tanks, located near existing tanks, to provide additional storage for fire protection. One new 35,000 gallon tank would be located adjacent to the water well and existing tank in Area 5. In addition,

¹⁰⁰ Questa Engineering Corp. January 26, 2009. Letter to Mike Lawson re sewage disposal and water supply information. Citing Aqua Resources, Inc. 1986. Hydrogeologic Assessment of the Dillon Beach Project.

¹⁰¹ Questa Engineering Corp. April 23, 1998. Letter to Dean R. Powell, Principal Planner, Marin Community Development Agency, Re Lawson's Landing Master Plan 91-011; Response to Completion Comments #10, #11, and #14.

¹⁰² Three of these wells were drilled in 1962, 1965, and 1969, prior to the passage of the Coastal Act. Copies of Water Well Drillers Reports from the Resources Agency of CA were provided as part of the application. In 1989, Lawson's Landing was granted a State of California Department of Health Services Water supply Permit No. 09-89-011. One of the wells was permitted by the County for domestic purposes for one of the owners homes.

¹⁰³ EDAW 2007

a new 100,000 gallon tank would be located in the back section of Area 8. One old 35,000 gallon redwood tank would be removed (exhibit 3).

Based on a well pumping study prepared by Questa Engineering in 1997, the existing wells have adequate capacity to serve the project. The project also needs to conform with the Marin County Fire Department's fire flow requirements. The construction of the new storage facilities would provide the additional storage needed to comply. According to the EIR, the County Fire Marshal has indicated that existing fire flow capabilities at Lawson's are substandard. The Applicants have consulted with the fire department to determine the amount of new storage needed as well as the location of new fire hydrants. Fire flow and water pressure to the fire hydrants, new and existing, would greatly improve the Lawson's capability respond to fire.¹⁰⁴

The two proposed water storage tanks would improve water pressure and fire flow at the site. All proposed water fixtures associated with the new restroom facilities, showers, and water spigots would be served by the water storage tanks. The tanks would provide a more reliable reserve of water for use during peak recreational periods and during emergency fire events.

Under worst case (high demand) pumping conditions, groundwater levels near the existing wells would only be expected to result in a localized drawdown (i.e. within 500 feet) of the underlying groundwater aquifer by less than one foot, which is within the normal range of groundwater level fluctuations experienced at the site. In general, a substantial lowering of the groundwater table is considered a lowering of 10 feet or more, which would adversely affect the ability of the basin to recharge. Because the project would not result in a substantial drawdown of the groundwater basin such that it impairs the ability of the basin to naturally recharge, drawdown impacts on coastal resources would not be significant.¹⁰⁵

Therefore, based on the evidence described above, there is adequate water supply capacity at Lawson's Landing to serve the proposed development, and with the addition of the water tanks, fire flow requirements would be met. Therefore, the proposed development is consistent with Coastal Act Section 30250.

3. Transportation/Circulation

The proposed project site is located south of Dillon Beach along Dillon Beach Road. Regional access to the project site is provided by Highway 1, which passes through the town of Tomales approximately 3 miles east of the site. Dillon Beach Road extends approximately four miles east from the Pacific coastline to SR 1 in Tomales. In general, this roadway has two well paved lanes, a curving alignment, and moderate grades. Dirt shoulders are provided at infrequent intervals. Vehicle speeds along Dillon Beach Road range from 25 to 40 mph near the project site. Valley Ford-Franklin School Road and Middle Road both intersect Dillon Beach Road between Dillon Beach and Tomales. In the past, Dillon Beach Road has experienced erosion and pavement collapse near the coastline, which has temporarily limited travel to one-way flow over short segments until repairs are made.

¹⁰⁴ EDAW. 2007.

¹⁰⁵ EDAW. 2007.

Cliff Street extends to the south from Dillon Beach to Lawson's Landing. Within Lawson's Landing the roadway changes names to Bay Drive. Cliff Street is a narrow, well paved two-lane roadway with moderate to flat grades. Cliff Street also incorporates two sharp curves near the entrance to Lawson's. Bay Drive is a narrow, poorly paved roadway with a generally flat alignment. One sharp S-curve is located along Bay Drive near the travel trailers at Sand Point (exhibit 26).

The entrance gate at Lawson's Landing is located along Cliff Street. During peak recreation periods (e.g. summer and holidays), vehicles entering Lawson's Landing often queue at the entrance gate. These vehicles will sometimes back up as far as Dillon Beach resulting in traffic congestion along Cliff Street. Residents living in Dillon Beach have expressed concern with traffic congestion because it limits their ability to leave or enter their homes in Dillon Beach. This congestion has also limited the ability of emergency vehicles to enter the community.¹⁰⁶ In addition, this congestion hinders the ability of the public (i.e. non-Lawson's Landing visitors) to access the coast.

Traffic congestion in the vicinity of Lawson's Landing was studied by three different consultants as part of the CEQA process. Traffic volumes on Dillon Beach Road and Cliff Street were included in the 1991 and 1993 traffic studies (Goodrich Traffic Group in WESCO 1991, Crane Transportation Group 1993) prepared for the Lawson's Landing Master Plan. W-Trans also collected traffic volumes in 2003. At Lawson's, there are six maximum use weekends per year that correspond with three summer holidays and three springtime low tide events. Traffic counts were obtained during the summertime during typical camping weekends at Lawson's Landing. According to these studies, both roadways operate at LOS C or better based on observed two-way traffic volumes, and were projected to continue to operate at acceptable levels of service (LOS).¹⁰⁷

The EIR did not consider the impacts of the existing unpermitted camping operations at Lawson's Landing as potential impacts to be mitigated because it considered those existing conditions to be the environmental baseline. However, the Commission must examine the impacts of all newly proposed development that has never before been permitted by the Commission, since such development exists without the benefit of the necessary CDP. As acknowledged in the EIR, during peak weekend usage, such as 4th of July weekend, traffic volumes and associated campsite and recreational occupation rates would be expected to temporarily increase for a short period. While it was not considered representative of 'typical' summertime traffic, traffic volumes along Dillon Beach Road and Cliff Street during peak weekend use can be substantially greater than observed.

The EIR also concluded that there would be potential increases to roadway congestion from construction traffic, increased traffic hazards because of the current design of the roads, and impacts to emergency access. EIR mitigation measure 4.8-3 requires that Cliff Street be widened

¹⁰⁶ EDAW. 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1A.

¹⁰⁷ EDAW. 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1A.

to the extent of the existing right of way at three sharp curves to improve sight distance to the satisfaction of Marin County Department of Public Works Traffic Division. Pursuant to EIR Mitigation Measure 4.8-4, the Applicants propose to use the existing unimproved Sand Haul Road for Emergency Vehicle Access. Signs and placards showing the emergency route along Sand Haul Road would be installed and posted in appropriate locations. For improved sighting conditions, warning signs would also be posted as needed to address any safety concerns. The Applicants indicate that grading and paving would not be needed, as per the advice of Local Fire Department Captain Keith Parker, however the EIR mitigation measure requires "grading, graveling, or paving of certain sections of the alignment to provide a smooth traveling surface for passenger cars to travel easily. No widening of the road would occur.

Also, Mitigation Measure 4.8-1 addresses traffic impacts associated with construction activities. Prior to construction, the applicant would have to prepare a construction traffic control plan that would require that no construction occur on the local roadway network on Sundays or holidays and would limit the hours for delivery and construction worker traffic. The local roadways would be jointly monitored by the County and Applicant every six months to determine whether the roadways are damaged and any repairs needed.

In addition, pursuant to required EIR mitigation measures, the Applicants proposes to implement a new reservation system that allows-pre-assignment of camping lots, reducing the need for campers to get in line at the entrance. Also, gate improvements would make it possible to move campers through the gate more quickly avoiding queuing time at entry and associated traffic back – ups.

Special Condition No. 36 incorporates all of these mitigation measures as a condition of approval, consistent with Coastal Act Section 30250.

As described above, the EIR did not consider the impacts of the existing unpermitted camping operations at Lawson's Landing as potential impacts to be mitigated because it considered those existing conditions as the environmental baseline. However, the Commission must examine the impacts of all newly proposed development that has never before permitted by the Commission, since such development exists without the benefit of the necessary CDP. Because the traffic studies did not evaluate Lawson's Landing during maximum use periods, when the CDP Application was submitted to the Commission, Commission staff requested additional studies.

In response to Commission staff questions about traffic impacts during maximum use periods, Fehr and Peers conducted a traffic study on Labor Day Weekend in 2008. Traffic counts along Tomales-Dillon Beach Road and Cliff Street over the Labor Day weekend in 2008 were conducted to determine level of traffic activity on the roadways that provide access to Lawson's Landing.¹⁰⁸ Based on the documented occupancy numbers, most of the Lawson's Landing customers arrived between Thursday 8/28/08 and Friday 8/29/08, however no time period for arrival was provided. Traffic counts were taken on Friday between 5 – 6 p.m. It is possible, therefore that these traffic counts did not capture a significant amount of traffic that could have

¹⁰⁸ That weekend, the maximum number of Lawson's Landing customers was reached on Saturday 8/30/08, with 208 day users, 885 nightly campers, 49 second cars (nightly), and 52 monthly campers.

occurred prior to 5 p.m. The results of the existing LOS analysis showed that the roadways providing access to Lawson's Landing operated at LOS C or better during the peak arrival and departure periods, in addition to other non-peak times. Given the uncertainty of peak arrival/departure times, the Commission notes that while the traffic volume data shows "acceptable levels of service," it doesn't necessarily accurately document the unique traffic congestion situation that has been documented anecdotally over the years. According to the advisory certified Dillon Beach Community Plan,

"While roadway capacities and levels of service as presented in this Plan reflect a conventional approach to traffic analysis, Dillon Beach traffic and circulation conditions are unique due to the large number of slow-moving recreational vehicles using the roadways at highly predictable peak periods such as holidays, vacation periods and weekends, particularly low tides in spring and summer."¹⁰⁹

The Applicants claim that they are proposing to reduce use levels and hence traffic congestion would improve because they are proposing to eliminate some of the illegal development that occurred without benefit of the necessary coastal development permit. However, as described above the Commission must review the project as if the illegal development had not yet occurred and review all of the project impacts as a whole. Nevertheless, actual documented impacts can be easier to analyze than traffic projections before a project is built. Prior to the Applicant's latest proposal to reduce camping levels to 417 camp lots, 233 travel trailers, and 268 day use permits, Fehr and Peers conducted a study of 600 camp lots, 100 day use permits, and 215 year round trailers (consistent with the February 2009 project description). The trip generation rates per use type were applied to the historic maximum levels and the proposed levels to determine how traffic volumes on Tomales-Dillon Beach Road, Dillon Beach Road, and Cliff Street could change with the proposed project. While the Applicants called this a 30% reduction from historic levels, 'campsites' were equated with number of vehicles in calculating the percentage reduction, and no evidence was provided of how the number of campsites compares to the historical use level of 1,000 *vehicles*. The Lawson's have historically counted vehicles instead of campsites, and have equated vehicles to campsites. However, there is often more than one vehicle per camping party, and the Applicants have not proposed to limit the number of vehicles per camping party. In actuality, their analysis was based on a reduction to 600 campsites and 100 day-use permits, and 215 travel trailers which could actually mean up to 1300 + vehicles, depending on how many travel trailers are actually occupied. While Fehr and Peers did base its trip generation rates based on the number of occupied campsites, day use permits issued, and permanent trailers, they then applied these trip generation rates to the number of campsites rather than the number of vehicles.

The results showed that on days when maximum capacity is reached, the trip generation of Lawson's Landing would potentially decrease from 1,598 vehicle trips under the historic maximum level to 934 vehicle trips under the reduced level analyzed, a reduction of 40 percent.¹¹⁰ However, the conclusions of the Fehr and Peers 2009 study do not take into account

¹⁰⁹ The Marin County Planning Department and Wallace Roberts and Todd. August 1989. Dillon Beach Community Plan.

¹¹⁰ The EIR did not consider the impacts of the existing unpermitted camping operations at Lawson's Landing as potential impacts to be mitigated because it considered those existing conditions to be the environmental baseline. However, the Commission must examine the impacts of all newly proposed development that has never before permitted by the Commission because such development exists without the benefit of the necessary CDP.

the fact that there is usually more than one vehicle per camping party. The Commission finds, however, that the roadways at peak periods have still been shown to operate at LOS C or better, although the LOS does not appear to capture the vehicle platoon phenomenon that occurs at peak arrival/departure times due to slow traveling RVs and narrow streets, turning vehicles, and vehicle/pedestrian conflicts.

Regarding the most recently revised project description now before the Commission, neither the currently proposed camping levels and associated vehicle use, nor the increased day use parking areas have been analyzed by the Applicant. While the applicants assert there is a reduction in historic camping of 58.3% by developing only 417 campsites, there is often more than one vehicle per camping party and the Applicants have not proposed to limit the number of vehicles per camping party. Therefore, comparing the proposed 417 camp lots with the historic 1,000 vehicle level cannot accurately be considered a 58% reduction. In reality, the applicants have indicated that 1 – 3 vehicles would be accommodated per campsite (utilizing existing site + overflow parking areas).¹¹¹ Taking the conservative approach (2 vehicles), the real comparison would be $417 \times 2 = 834$ or more vehicles, that is a 200 vehicle reduction from the historic 1,000 levels. While a 200 vehicle reduction is a significant number, one must also take into account day use vehicles. The applicants actually propose to increase day use from 200 to 268 (combined with camping overflow parking). Therefore, a more accurate comparison with the historic levels is 902 vehicles vs. 1,000, a reduction of 98 vehicles, or a 10% reduction (in terms of traffic levels).

As described above, while comparisons are helpful to provide a 'reality check' with traffic data, the Commission must analyze the proposal as if the illegal development has not yet occurred. Therefore, pursuant to Coastal Act Section 30250, it must analyze whether roadway capacity is adequate to accommodate the traffic generated by the proposed project. The proposed project as of June 2011 is 417 camp lots (with no limitation on vehicles), 268 day use permits, and 233 travel trailers. This is an increase from the March 2011 project description and October 2010 project descriptions, which proposed a maximum 100 day use permits. While existing traffic counts show the roadways to be LOS C or better, the LOS standard does not accurately reflect the 'vehicle platoon' effect described in the EIR and the community plan, and documented by Dillon Beach community members with photographs. Further, the traffic projections and trip generation rates discussed in the Fehr and Peers traffic studies equated the number of campsites to the number of vehicles. Further, limiting the number of vehicles associated with the campsites to one vehicle per campsite would minimize traffic, and be in line with the assumptions made in the Applicant's traffic studies. In addition, limiting the allowable day use permits to 100, consistent with what was previously proposed and analyzed by the Applicants, would assist with limiting congestion. Therefore, the Commission imposes Special Condition 14, which limits the total allowable campsite vehicles to the number of allowable camp sites in Special condition 2. The number of day use vehicles shall be limited to 100. The limitations contained in Special Condition 14 are consistent with what the County required in its merits review process.

There is also significant concern in the Dillon Beach community about traffic queue's at the entrance to the Landing backing up into the community and affecting traffic circulation.

¹¹¹ Email communication with Tom Flynn. Lawson's Landing representative, 4/14/11

Although the EIR mitigations are designed to help the situation, the EIR did not fully analyze the impacts of all the newly proposed and unpermitted development at Lawson's Landing because it considered the existing development to be an environment baseline even if it had not been legally permitted. If traffic from the proposed development is not adequately monitored and mitigated, there will also be impacts on vehicular public access to Dillon Beach. Therefore the Commission imposes a traffic management and monitoring condition (special condition 14) to ensure that traffic impacts to the Dillon Beach community and public access impacts are reduced and traffic safety is enhanced. The condition includes a monitoring and adaptive management component, with submission of annual reports to the Commission to ensure that traffic goals are achieved.

Due to the fact that: (1) the Applicants would be implementing several traffic calming mitigation measures as stipulated in the EIR, including the use of Sand Haul Road as an emergency vehicle access, and (2) Special Condition 14 requires a Traffic Management and Monitoring Condition and further limitations on vehicles to address vehicle queue impacts on the Dillon Beach circulation system, and (3) Special Condition 14 limits the amount of day use and campsite vehicles to that which has already been adequately analyzed, the Commission finds that the proposed development, in terms of transportation/circulation, is consistent with Coastal Act Section 30250.

Sand Haul Road – Primary Access

In response to concerns expressed by several Dillon Beach community members about observed and experienced traffic congestion, including vehicle delays and associated hazards during the summertime, the Applicants have agreed to conduct feasibility studies for developing Sand Haul Road as a full time alternative accessway for visitors to Lawson's Landing (exhibit 27).

This study would be part of a future development phase to be handled by a separate appealable coastal development permit with Marin County. The Applicants plan to relocate the store, administration offices, storage, employee laundry, boat sales, boat storage, fuel storage, and storage containers, currently located near the beach, to the new "Lawson's Landing Center (Center)," located in Area 6 (exhibit 3). Use of the new buildings would include among other things, a store, new office and campground entry, boat sales, repair, boat, RV and other storage, and a conference center or small hotel. This future development proposal would include a potential increase in land use intensity with a corresponding change in vehicle traffic to the site. Accordingly, also included in the Coastal Permit proposal to the County for this phase of development would be an analysis of the impacts of the newly proposed development on the primary road access for the campground as well as an analysis of alternatives such as shifting from the existing access on Cliff Road to Sand Haul Road.

This study would occur prior to submittal of a coastal development permit application for the Phase II redevelopment plan in Area 6 (Lawson's Landing Center). The Applicant will conduct a detailed analysis of traffic impacts including relocating the primary access to Sand Haul Road and improve it either as a primary (two-way) road or secondary access (one way in/out) road. The future development plan would incorporate the use of Sand Haul Road and would be subject

to review by Marin County through an appealable coastal development permit. The application would also include a detailed environmental review, consistent with the certified LCP, as well as traffic safety and vehicle circulation impacts.

I. COASTAL HAZARDS

Coastal Act Section 30253:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

.....

Geology

Lawson's Landing consists of approximately 960 acres of coastal dune, wetland, and hillside lands east and south of Dillon Beach. The majority of the project site, including the recreational use area in the southwestern portion of the site known as Sand Point (Areas 1 – 2) is located on relatively flat ground. Steep slopes within the project area are associated with sand dunes, which typically average 30 – 40 feet in height. The highest elevation within the study area is the top of a knoll at an elevation of 230 feet, located near the middle of the northernmost extent of the dune field.

The surface geology of the project area consists of a 10- to 40-foot thick section of late Holocene (up to 10,000 years old) dune and beach sand with little to no soil development. There are both active and partially stabilized sand dunes. In addition, stabilized dunes occur as a barrier "foredune complex" adjacent to the beach along the west side of the project area, and a moderately stable dune complex approximately 1,500 feet wide extending across the east side.

Between the barrier dunes on the west and the inland sand field there is a topographic low area containing local accumulations of fine-grained, organic rich estuarine deposits in addition to dune sand. The lowland area contains pockets of standing water because the water table is high, with groundwater often up to 5 feet above mean sea level in lowland areas and rising to greater than 10 feet approaching the hills to the north and east.

The lowland area is open to the bay to the southeast, and a low seawall has been constructed to minimize flooding and erosion. The low elevation of this area and exposure to the sea indicate the region is susceptible to flooding during storms and tsunami (exhibits 30 and 37).¹¹² Recent mapping efforts by the Pacific Institute¹¹³ and the California Emergency Management Agency¹¹⁴

¹¹² EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text.

¹¹³ Heberger, et al. 2009. Draft Paper: The Impacts of Sea Level Rise on the California Coast; California Climate Change Center, California Energy Commission; CEC-500-2009-024-D, March 2009, 99 pages; http://www.pacinst.org/reports/sea_level_rise/index.htm

¹¹⁴ State of California, Department of Conservation;
http://www.consrv.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Pages/Statewide_Maps.aspx

confirm these apparent risks. This area is shown to be in the area at-risk from flooding under current conditions and with a rise in sea level; it is also in the potential tsunami inundation zone. These hazards are discussed further in the sections on tsunamis, flooding and sea level rise.

The stratigraphy of the area consists of surficial late Holocene dune, beach, and estuarine deposits that overlie Quaternary to Pliocene (up to 5.3 million years old) alluvial and marine sediments and Mesozoic age Franciscan Complex. Most of the project area is covered by late Holocene sand dunes. Soils developed on the dunes that are vegetated have a very weak A-horizon containing decayed organic material in a sand matrix. The active dunes lack soil profile development.¹¹⁵ The areas overlain by sand dunes are highly permeable and well drained. The lowland areas contain finer grained organic estuarine deposits; the soils are mostly sandy to silty loams. These soils are highly permeable, but remain undrained because of the high groundwater level.

Upland areas north and east of the camping area, away from the dune complex, are overlain by clay loam soils extending to a depth of 30-40 inches. The permeability of these soils is moderately low. The soils are potentially prone to rapid runoff that could create local erosion hazards.¹¹⁶

Soils at the project area are not prone to shrink-swell phenomenon; therefore, the hazard from expansive soil is considered low.¹¹⁷

Dune forms and processes are relatively complex at Lawson's Landing and have, to a certain degree, been influenced by human activities, such as the introduction of European Beach grass in the 1930s.¹¹⁸ The dune field is currently in a transitional state between a pristine, naturally functioning dune ecosystem, and a disrupted and fragmented dune field dominated by invasive, non-native or naturalized vegetation (exhibit 28; EIR exhibit 4.6-3). The general geomorphology of the dune field can be described as a well developed foredune bordered inland by a deflated surface and currently active transverse dunes of the youngest dune sequence. These historically active transverse dunes in and near the project area have been advancing over older paleodunes to the east at varying rates that in some areas average up to 10.9 feet per year. Recent increases in exotic vegetation on the foredune appear to have dramatically reduced the available sand supply to the active dune system. This has allowed unnatural enlargement of the deflated surfaces as the active transverse dunes migrate to the east without sand replenishment from the

¹¹⁵ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing Soil Conservation Service (SCS). 1985. *Soil Survey of Marin County, California*. U.S. Department of Agriculture).

¹¹⁶ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing Western Ecological Services Company, Inc. (WESCO). 1991 (August). *Draft Lawson's Landing Environmental Assessment*. Novato, CA. Prepared for Nancy Vogler, Lawson's Landing, Dillon Beach, CA.)

¹¹⁷ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing Soil Conservation Service (SCS). 1985. *Soil Survey of Marin County, California*. U.S. Department of Agriculture).

¹¹⁸ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing Pacific Watershed Associates (PWA). 2004 (September). *Physical Processes and Geomorphology of the Coastal Sand Dunes at Lawson's Landing, Dillon Beach, Marin County, California*).

active beach. In addition, recreational activities that occur at the project site have the potential to result in disturbances to the natural function of the dune system.¹¹⁹

Seismicity

The San Andreas Fault crosses Lawson's Landing at Sand Point near Areas 1 and 2 (exhibits 31 and 32).¹²⁰ The high rate of tectonic activity along the San Andreas Fault and the dynamic processes within the coastal environment are the most influential factors in the recent geologic and geomorphic development of the landscape surrounding Lawson's Landing. Faults of the San Andreas system form the major structural features in the vicinity of the Lawson's Landing project area. This system accommodates 1.4 inches per year of the total Pacific and North American plate motion.¹²¹ Exhibit 32 (EIR exhibit 4.6-1) illustrates the location of the project area with respect to faults and the epicenters of post -1967 earthquakes in the region.

Surface fault rupture

Several studies have mapped the inferred location of the San Andreas Fault (exhibit 31, EIR exhibit 4.6-5). The exact location of the fault trace is unknown because of the overlaying sands and soils, but the project area does lie within the Alquist Priolo Earthquake Hazards zone (page 4.6 – 8 of EIR). However, the Final EIR, in citing William Lettis and Associates (2003) estimated the “preferred” and “possible” locations of the main and secondary fault zones and inferred that the main fault trace can be anywhere within the main fault zone (exhibit 33, EIR exhibit 4.6-7). Based on observations at nearby Tom's Point and offshore data, the main fault zone (which includes the area accommodating the majority of slip during earthquakes) is approximately 130 – 165 feet wide.¹²² This fault zone is located in the Sand Point area and partially encompasses the proposed travel trailer area (Area 2). William Lettis & Associates (2003) estimated that future displacement within the main fault zone would be comparable to the 8-foot displacement at Tom's Point that was measured after the 1906 earthquake.¹²³ Approximately 1.6 feet of additional displacement could occur within the secondary fault zone. This secondary zone covers parts of Areas 1, 2 and 3 (exhibit 33, FEIR exhibit 4.6-7). The proposed travel trailers, and the RVs and other recreational facilities, such as the pier, parking areas, boat launching area, and restroom facilities would be located within or immediately adjacent to these identified fault zones and would be subject to the potential adverse effects of an earthquake along or near the San Andreas Fault or nearby fault system.¹²⁴

Liquefaction

¹¹⁹ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text
¹²⁰ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing Bortugno, E. J. 1982. Map showing regency of faulting, Santa Rosa Quadrangle, 1:250,000. California Division of Mines and Geology, Regional Geologic Map Series, Map 2A, sheet 5 of 5.)

¹²¹ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing Wallace, R. E. 1990. The San Andreas Fault System, California. *U.S. Geological Survey Professional Paper* 1515.

¹²² EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing William Lettis & Associates. 2003 (September). *Geologic Hazards Assessment for Lawson's Landing Development, Dillon Beach, Marin County, California*. San Rafael, CA

¹²³ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (Citing Lawson, A. C. 1908. The California Earthquake of April 18, 1906—Report of the State Earthquake Investigation Commission. Carnegie Institution of Washington Publication 87.

¹²⁴ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text

Liquefaction is the phenomenon during which loose, saturated, cohesionless soils temporarily lose shear strength during strong ground shaking. According to the EIR, Lawson's Landing experienced soil failure as a result of liquefaction during the 1906 earthquake, indicating that soil within the project area has a very high susceptibility to liquefaction. The areas of liquefaction susceptibility vary as follows:

- Lowland areas underlain by estuarine deposits: Very high, because of fine grained nature of deposits, low density, and shallow groundwater.
- Beach areas: Moderate to high, because of the increased packing of grains relative to lowland areas.
- Within dune fields (where elevations are greater than 15 feet): Moderate, depending on depth to groundwater and degree of consolidation. However, these areas could be affected by gravitational flow failure as a result of the liquefaction of deeper layers and lateral spreading of surficial deposits. In general, the dune areas may have lower liquefaction susceptibility, because the deposits are very well drained, and may not have the opportunity to develop increase pore pressures that lead to soil liquefaction.

Exhibit 29 (EIR exhibit 4.6-8) shows the liquefaction susceptibility zones, as well as maximum tsunami inundation areas at Lawson's Landing. Parts of proposed camping Areas 1, 3, 4, and 5 have very high liquefaction susceptibility. The proposed travel trailers in Area 2 are located in a moderate liquefaction susceptibility area and a portion of these trailers on the eastern side have very high liquefaction susceptibility. In sum, all of the proposed camping and travel trailer areas, restrooms, day use parking, boat storage, fishing pier, and boat launching activities are located in areas with moderate to very high liquefaction potential.

Tsunami

A tsunami is an ocean wave produced by sudden and significant displacement of the seafloor and/or sea surface. Tsunamis are high-energy, long-period sea waves caused by seismic disturbances, volcanic activity, submarine slope failures or meteor strikes. Tsunami waves can travel almost undetected through the open ocean, but as it approached the coastline, the wave speed decreases and wave height increases. Because of the high number of large-magnitude earthquakes within the "circum-Pacific seismic belt," Pacific coastlines appear to have experienced more tsunami events than elsewhere.¹²⁵

Part of the Lawson's Landing project area experienced tsunami inundation following the M_w 9.2 1964 Alaska earthquake. Observations of tsunami runup along the California coast caused by this earthquake vary widely. The highest runup observed was in Crescent City where it reached 15.7 feet above normal wave height, causing more than \$15 million in damages. Just north of Sand point at Bodega Bay the runup was 2.6 feet. According to eyewitness accounts, the tsunami achieved a runup height of approximately 3.3 feet at Sand point, damaging the pier and flooding low-lying areas (elevation of less than 10 feet). William Lettis and Associates (2003) conservatively estimates that a maximum runup for a future tsunami event at Lawson's Landing would be approximately 6.5 feet. However, because the 1964 tsunami was caused by the second

¹²⁵ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing Lander, J. F., P. A. Lockridge, and M. J. Kozuch. 1993. Tsunamis Affecting the West Coast of the United States 1806-1992. United States Department of Commerce, National Oceanic and Atmospheric Administration, NGDC Key to Geophysical Records Documentation No. 29)

largest earthquake in recorded history (measured with modern instruments), and historical earthquakes in the northern California region have not produced significant tsunami wave trains, the maximum runup from the 1964 event represents a likely maximum runup elevation (see exhibit 29, EIR exhibit 4.6-8).^{126, 127}

In December 2009, the California Emergency Management Agency and the California Geologic Survey (CalEMA/CGS) released tsunami inundation maps for most of the California Coast. These maps were not prepared for likely maximum inundation from just one event, but were developed from a composite of many possible tsunami sources such as a subduction zone event starting near the Aleutian or Kuril Islands, a rupture on the Cascadia Subduction Zone, a rupture along the Chile coast, or some potential local submarine landslides. The CalEMA/CGS maps show the maximum likely inundation from all these possible events (see exhibit 37 for Lawson's Landing). There should be general agreement between this inundation map and the one prepared by William Lettis and Associates for the single source inundation option; however, since the CalEMA/CGS maps are more recent and more inclusive, these maps will be used to identify inundation areas and those facilities and structures that are currently within the inundation zone.

All of the proposed camping, permanent travel trailer areas, and other associated facilities in Areas 1 – 4 are located in the maximum tsunami inundation area and would be subjected to the adverse effects of tsunami wave run up (exhibit 37).

In addition to the inundation maps, that indicate that areas likely to be inundated by a large tsunami, the Marin County Sheriff's Department has prepared a tsunami evacuation map for this area. The Marin County map indicates those areas that should be evacuated, either because the areas may be inundated, the access out of this area may be at risk, or inundation zones have been aggregated up to the block or neighborhood level for ease of emergency planning. The evacuation zone may also extend beyond the inundation zone to provide convenient landmarks for evacuation, such as across Highway One. The evacuation map for Lawson's Landing (exhibit 34) includes all areas in Lawson's Landing that are below the 30 ft contour line as being in the evacuation zone.

Flooding

The project site has medium-grained sand and slow percolation rates. During storm events, water either ponds on site or drains into Tomales Bay. The proposed development project will add to the impervious land area and cause a small increase in peak discharge by 0.2 cfs and in discharge volume for a 100-year storm event of 0.06 acre-feet. On-site ponding will continue. The beach area is designated as FEMA Zone V -- subject to flooding as well as high velocity wave action. Parts of the proposed camping, permanent travel trailer areas, and other associated facilities in Areas 1 – 5, including parking, boat storage, restrooms, and entrance gatehouse are

¹²⁶ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text (citing William Lettis & Associates. 2003 (September). *Geologic Hazards Assessment for Lawson's Landing Development, Dillon Beach, Marin County, California*. San Rafael, CA.)

¹²⁷ The main damage to the coast from the Tohoku tsunami was due to fast moving currents in enclosed bays and harbors; there were few, no reports of significant damage to the open coast since the highest waves from the tsunami arrived during low tide and the combined water level was not high enough to overtop the dunes or the seawall. Lawson's Landing, like other open ocean sites, did not experience impacts from the Tōhoku Earthquake and associated tsunami.

designated as FEMA Zone C floodplain areas susceptible to flooding during storm events. As noted by the EIR, "during flood events, the structures and people that use these structures could be exposed to flood hazards (e.g., rising water)¹²⁸. The project proposes to mitigate for flood impacts by designing new permanent structures, such as restrooms, so that the finished floor elevations for structures will be at or above the FEMA designated base flood elevation. Other uses that are proposed to be retained, such as the trailers and RV/tent spaces, would rely on emergency response and evacuation plans. Flood susceptibility will increase in the future with a rise in sea level.

Sea Level Rise

Sea level rise is an important consideration for the planning and design of projects in coastal settings. Such changes in sea level will exacerbate the frequency and intensity of wave energy received at shoreline sites, including both storm surge and tsunamis, resulting in accelerated coastal erosion and flooding in such locales. There are many useful records of historic sea level change, but projections of future sea level rise vary, depending on assumptions about future increases in atmospheric greenhouse gas emissions and air temperatures. Notwithstanding the controversy and uncertainties about future global or local sea levels, guidance on how to address sea level rise in planning and permitting process is evolving as new information on climate change and related oceanic responses become available.

The Commission, like many others permitting agencies, used to undertake assessments of sea level rise effects using historic trends as an indication of future changes. This assumed that natural processes such as erosion, deposition, and sea level changes occur at relatively uniform rates over time rather than in episodic or sudden catastrophic events. As a result, future ocean surface elevations have been extrapolated from current levels using historical rates of sea level rise measured over the last century. For much of the California coast, sea level rise has been at a rate of about seven to eight inches per 100 years. The historic rate of sea level rise for the Tomales Bay area has been 7.2 inches (0.6 feet) per 100 years, comparable to the average rate for the state. Until the 2007 IPCC report and recent studies of accelerated sea level rise, the Commission has typically seen projects that use rates of about one foot per century (i.e. 50% above the historic trend) to account for regional variation and to provide for some degree of uncertainty in the form of a safety factor. This rate of rise has then been further adjusted upward or downward as needed depending upon other factors, such as localized subsidence or tectonic uplift.

Most climate models now project that the historic trends for sea level rise, or even a 50% increase over historic trends, will be at the very low end of possible future sea level rise by 2100. Satellite observations of global sea level have shown sea level changes since 1993 to be almost twice as large as the changes observed by tide gauge records over the past century. Recent observations from the polar regions show rapid loss of some large ice sheets and increases in the discharge of glacial melt. The 2007 Fourth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC)¹²⁹ notes that sea level could rise by 7 to 23 inches from 1990 to 2100,

¹²⁸ EDAW, 4.5-12

¹²⁹ The IPCC is a scientific intergovernmental body established by the World Meteorological Organization (WMO) and the United Nations Environmental Programme to provide the decision makers and others interested in climate change with an objective source of information about climate change; <http://www.ipcc.ch/ipccreports/assessments-reports.htm>

provided there is no accelerated loss of ice from Greenland and West Antarctica.⁴ Sea level rise could be even higher if there is a rapid loss of ice in these two key regions.

An important report on sea level rise that has attempted to introduce the influence of accelerated glacial ice melt to sea level rise was prepared by Dr. Stefan Rahmstorf of the Potsdam Institute for Climate Impact Research (hereinafter "Rahmstorf Report")¹³⁰. This report, and a refinement of by Drs. Vermeer and Rahmstorf (hereinafter the "Vermeer & Rahmstorf Report")¹³¹ have become the central reference points for much of recent sea level rise planning. The Rahmstorf Report projects that by 2100, sea level could be between 20 to 55 inches higher than 1990 levels; The Vermeer & Rahmsdorf Report projects that by 2100, sea level rise could be between 30 to 75 inches higher than 1990 levels.

The Rahmstorf Report developed a quasi-empirical relationship between historic temperature and sea level change. Using the temperature changes projected for the various IPCC scenarios, and assuming that the historic relationship between temperature and sea level would continue into the future, the report projected that by 2100 sea level could be between 20 inches and 55 inches (0.5 to 1.4 meters) higher than the 1990 levels (for a rate of 0.18 to 0.5 inches/year). These projections for future sea level rise anticipate that the increase in sea level from 1990 to 2050 will be from about 8 inches to 17 inches (for a rate of 0.13 to 0.28 inches/year); from 1990 to 2075, the increase in sea level would be from about 13 inches to 31 inches (for a rate of 0.15 to 0.36 inches/year) and that the most rapid change in sea level will occur toward the end of the 21st century. The Rahmstorf Report has been used in the California Climate Action Team's Climate Change Scenarios for estimating the likely change ranges for sea level rise by 2100¹³². Most recent sea level rise projections show the same trend as the projections by Rahmstorf — that as the time period increases the rate of rise increases and that the second half of the 21st century can be expected to have a more rapid rise in sea level than the first half.

On November 14, 2008, Governor Schwarzenegger issued Executive Order S-13-08, directing state agencies to undertake various studies and assessments toward developing strategies and promulgating development review guidelines for addressing the effects of sea level rise and other climate change impacts along the California coastline¹³³. Three of the key actions in the Executive Order were to (1) develop a statewide climate change adaptation strategy, (2) get a report from the National Academy of Science about impacts from sea level rise to California, and (3) provide interim guidance to state agencies about planning for sea level rise; and, each of these actions has been initiated. The California Natural Resources Agency completed the first statewide Climate Adaptation Strategy in 2009¹³⁴. The National Academy of Science has convened a panel to study sea level rise concerns specific to the western US, and some agencies

¹³⁰ Rahmsdorf, S. (2007) A Semi-Empirical Approach to Projecting Future Sea-Level Rise, *Science*, V. 315: 368 – 370.

¹³¹ Vermeer, M., S. Rahmsdorf (2009) Global sea level linked to global temperature, *Proceedings of the National Academy of Sciences*, V. 106: 21527-21532.

¹³² Cayan et al. 2009. Draft Paper: Climate Change Scenarios and Sea Level Estimates for the California 2008 Climate Change Scenarios Assessment; CEC-500-2009-014-D, 62 pages;

<http://www.energy.ca.gov/2009publications/CEC-500-2009-014/CEC-500-2009-014-D.PDF>

¹³³ Office of the Governor of the State of California, 2008. Executive Order S-13-08;

<http://gov.ca.gov/index.php?/print-version/executive-order/11036/>

¹³⁴ California Natural Resources Agency (2009) 2009 California Climate Adaptation Strategy: A Report to the Governor of the State of California in Response to Executive Order S-13-2008; <http://www.energy.ca.gov/2009publications/CNRA-1000-2009-027/CNRA-1000-2009-027-F.PDF>

have adopted their own, interim sea level rise rates. For example, the governing board of the State Coastal Conservancy adopted interim sea level rise rates: (a) 16 inches (40 cm) by 2050; and (b) 55 inches (140 cm) by 2100 for use in reviewing the vulnerability of projects it funds. On March 11, 2011, the Ocean Protection Council (OPC) provided state-wide interim guidance on sea level rise¹³⁵.

The OPC Guidance provides sea level rise amounts that can be used for planning purposes. The guidance relies upon refinements to the Rahmsdorf Report by the Vermeer & Rahmsdorf Report that include a rapid response term into the relationship between temperature and sea level. This term was introduced as a means to better represent rapid changes (i.e. over years and decades rather than hundreds of years) in sea level from such events as warming the surface mixing layer of the ocean.

Sea level rise is an important consideration for the planning and design of projects in coastal settings. Such changes in sea level will exacerbate the frequency and intensity of wave energy received at shoreline sites, including both storm surge and tsunamis, resulting in accelerated coastal erosion and flooding in such locales. There are many useful records of historic sea level change, but projections of future sea level rise vary, depending on assumptions about future increases in atmospheric greenhouse gas emissions and air temperatures. Notwithstanding the controversy and uncertainties about future global or local sea levels, guidance on how to address sea level rise in planning and permitting process is evolving as new information on climate change and related oceanic responses become available.

Table 1: Sea-Level Rise Projections^{136, 137} using 2000 as the Baseline Year¹³⁸

YEAR		Average of Models	Range of Models
2030		7 in (18 cm)	5-8 in (13-21 cm)
2050		14 in (36 cm)	10-17 in (26-43 cm)
2070	Low	23 in (59 cm)	17-27 in (43-70 cm)
	Medium	24 in (62 cm)	18-29 in (46-74 cm)
	High	27 in (69 cm)	20-32 in (51-81 cm)
2100	Low	40 in (101 cm)	31-50 in (78-128 cm)
	Medium	47 in (121 cm)	37-60 in (95-152 cm)
	High	55 in (140 cm)	43-69 in (110-176 cm)

¹³⁵ California Ocean Protection Council (2011) Resolutions of the California Ocean Protection Council on Sea-Level Rise; http://opc.ca.gov/webmaster/ftp/pdf/agenda_items/20110311/12.SLR_Resolution/20110311OPC-SLR-Resolution.pdf

¹³⁶ Based upon the SLR estimates presented in Martin Vermeer and Stefan Rahmstorf, "Global sea level linked to global temperature", *Proceedings of the National Academy of Sciences*, published online before print December 7, 2009; doi: 10.1073/pnas.0907765106.

¹³⁷ For dates after 2050, Table 1 includes three different values for SLR - based on low, medium, and high greenhouse gas emission scenarios. These values are based on the Intergovernmental Panel on Climate Change emission scenarios as follows: B1 for the low projections, A2 for the medium projections and A1Fi for the high projections.

¹³⁸ These values are based on the October 2010 version of the SLR Interim Guidance Document. For future reference, check the OPC website at www.opc.ca.gov to see if there is an updated guidance document that has been developed by the CO-CAT.

At this time, most of the scientific community has ceased debating the question of whether sea level will rise several feet higher than it is today, but is instead only questioning the time period over which this rise will occur. However, as the conditions causing sea level rise continue to change rapidly, projections of sea level rise are similarly in flux. As a result of this dynamism, anticipated amounts and rates of sea level rise used in project reviews today may be either lower or higher than those that will be utilized ten years from now and those that will actually be experienced along the coast. What is clear is that development in low-lying areas will be exposed to greater risks from flooding, erosion and inundation as sea level increases.

Coastal Act Analysis

Coastal Act Section 30253 requires new development to minimize risks to life and property in hazard areas, assure stability and structural integrity and not contribute to erosion or geologic instability.

All of the proposed development located in Areas 1 - 4 is located in the maximum tsunami inundation area, according to CalEMA (exhibit 37). The proposed recreational structures and uses that are currently located at the beach/sand point area are located in earthquake fault zones (exhibits 31-33). As described above, most of the proposed development is in a low-lying area and will be exposed to greater risks from flooding, erosion, and inundation as sea level rises.

As proposed, the Applicants would relocate the boat repair shop from the boat house to the existing truck shed or oil shed in Area 6, which is outside of the maximum tsunami inundation area. Moving this use to Area 6 would also avoid hazards such as sea level rise and earthquake hazards associated with the seismic hazard zone. The administrative offices, store, boat repair and fuel service location are proposed to remain in the current location, but are contemplated to eventually be relocated away from the earthquake fault zones (and high liquefaction area) and tsunami inundation area to Area 6 as part of a future development proposal to the County for the 'Lawson's Landing Center.'¹³⁹ Special condition 17 requires that as structures become threatened by sea level rise or other flooding hazards, they be relocated rather than constructing hard protective devices. If there is no space available for relocation within the approved development footprint, structures shall be removed from the site to avoid further impacts to ESHA.

The Applicants also propose to minimize hazards by constructing new restrooms and showers to comply with finished first floor levels based on designated flood elevations (in accordance with the project EIR and the Marin County flood management regulations). Additionally, the Applicants propose to prepare hazard response plans for earthquakes and tsunamis. The Applicants' plans would include a tsunami siren warning system, and would require year-round trailers to be licensed and able to roll on wheels to avoid hazards. Currently there are a number of trailers in Area 2 that are not on wheels and contain appurtenant structures such as decks and storage sheds that would have to be removed. An emergency evacuation plan would also be prepared and implemented, utilizing existing roadways for egress from the lower beach ground

¹³⁹ The Lawson's Landing Center could be set back a substantial horizontal distance and 10 to 15 feet vertical distance from the 20-foot contour tsunami run-up line.

areas to the upland areas on the property near the Lawson Landing 'gateway.' The Sand Haul Road would be used as an Emergency Vehicle Accessway (EVA) and would be used for evacuation for campers and vehicles.

The Cascadia Subduction Zone is the major local tsunamigenic offshore fault zone for the northern California coast and Lawson's Landing is within 90 to 120 minute travel time for a tsunami generated on the southern section of this fault. The development of a tsunami evacuation is an important aspect of tsunami planning; however, one of the main tsunami evacuation messages has been to evacuate on foot and not rely upon vehicle transportation as a means to reach safety. The Marin County Office of Emergency Services (OES) is the local agency responsible for tsunami evacuation planning. Commission staff have been in contact with tsunami planners in OES to discuss the proposal for vehicle evacuation from Lawson's Landing and staffs from both agencies are in agreement that vehicle evacuation should be avoided. There may be many reasons for vehicles at Lawson's Landing to be road-ready, such as for fire evacuation, to get away from slow rising floods, or to remove the vehicles after a disaster has occurred to allow for site clean-up; however road-ready vehicles would not be a necessary component for tsunami evacuation.

One major source of resource damage following a flood or tsunami is the loose debris that can be washed into nearby streams and waterbodies. Due to the low-lying nature of this site and the nature of the proposed development, floating debris can be expected to be a significant concern. If paint or other toxic substances are stored in low-lying areas, they can become both floating debris and water pollutants. Tie-downs and other systems can be used to keep mobile homes, trailers, and RVs secure and any appurtenance structures that cannot be secured would need to be removed. Elevated storage areas, as an example, could keep harmful chemicals from becoming floating hazards, and insure that they do not end up in the nearby waterbodies. It is not possible to protect this area from flooding or tsunami hazards; but it will be possible to minimize loss of life, damage to property and collateral ecological damage, consistent with Coastal Act Section 30253. The hazard plan for Lawson's Landing has not been completed, and will need to consider ways to minimize floating debris and ways to store chemicals so that they will stay safely on site and will not be allowed to enter the ground water or any nearby water bodies.

Special conditions 17 require the Applicants to submit revised hazard response plans, focusing on foot evacuation, as described above, within 60 days of Commission approval of the CDP. In addition, Special Condition 17 requires the Applicants to submit evidence that all trailers and recreational vehicles and spaces have available tie-downs to prevent vehicles from becoming floating debris and all unsecured appurtenant structures have been removed and flood-safe storage has been provided for all toxic chemicals used on site. As conditioned, the Commission finds that the proposed visitor-serving trailers, RVs and associated structures are consistent with Coastal Act Section 30253 in regards to tsunami hazards.

As described above, the proposed development is located on the Tomales Bay/Bodega Bay shoreline, in an area subject to inundation from coastal storms and tsunamis, exacerbated by sea level rise, and liquefaction, shaking and landslides from seismic hazards associated with proximity to the San Andreas Fault. The location of the RVs, tents, and travel trailers, and

permanent accessory structures, such as restrooms, would be exposed to these powerful shoreline processes. Because the Applicants voluntarily propose to undertake an inherently hazardous activity, the Commission imposes **Special Condition 19**, requiring the applicant to assume the risks of any injury or damage from such hazards, waive any claim of liability against the Commission for such injury or damage, and indemnify the Commission against any resulting third party claims or liability.

As conditioned as described above, the Commission finds that the proposed recreational development is consistent with Coastal Act Section 30253 in regards to tsunamis, flooding, sea level rise, and seismic hazards.

Leachfield

A leachfield sewage disposal system is proposed in the North Ranch in the agricultural lands outside the tsunami run-up zone and the fault zones.

A preliminary engineering review of potential alternative leachfield locations in the North Ranch indicates that based on soil types, slopes, and erosion hazards present, construction of a leachfield system would be feasible as long as it were located in an area with less than 15% slope.^{140,141}

The proposed leachfield location is in the Scale House Hayfield and Scale House Field West Pasture. According to Questa Engineering Corp, the area is located on ground slopes not exceeding 11%. The area comprises approximately 8 acres that is currently used for grazing, and used in the past for hay production. The gently rolling land surface drains in a southerly direction toward the main sand dunes of Lawson's Landing, and the geology indicates that groundwater beneath the area likely flows in the same general direction. In May 2007, Questa conducted field investigations in the area. The work included completion of three hand-augered exploratory soil borings spread over the 8-acre area of interest. The overall assessment showed that the area has very well drained sandy surface soils to a depth of about 3.5 to 4.5 feet, which transitions to more slowly permeable clayey subsoils underlain by weathered sandstone. No groundwater was encountered in any of the test holes to the depth investigated, however it is thought that it is likely that a seasonal, perched water table develops at a depth of about 3 to 6 feet in portions of the site during the rainy season.¹⁴²

Questa concluded that based on location, topography, and preliminary soils information, the area is suitable and has sufficient capacity to meet the wastewater disposal needs for Lawson's Landing. It was recommended that a subsurface leachfield be developed in the westernmost portion of the site (near test hole 3) because of deeper and more sandy soils along with favorable slope conditions; and a seasonal spray irrigation pasture be developed in the remainder of the site because of the shallower soil conditions, flatter slopes with greater potential for seasonal saturation, and the higher potential for lateral migration of water onto the neighboring property to the east if the subsurface leachfields were to be used.

¹⁴⁰ EDAW 2007. Final Environmental Impact Report for the Lawson's Landing Master Plan. Volume 1a: Final Draft EIR Text

¹⁴¹ PSOMAS 2005. Letter EDAW Inc. Re Lawson's Landing Alternative Sites Preliminary Review.

¹⁴² Questa Engineering Corp. June 25, 2007. Letter to Lawson's Landing Re Alternative Wastewater Disposal Site Evaluation.

Based on the above evidence, the Commission finds that the proposed wastewater disposal system location is not in an area of high geologic, flood, and fire hazard. It would assure stability and structural integrity, and neither create nor contribute significantly to erosion and geologic instability, consistent with Coastal Act Section 30253.

Conclusion

For all the reasons described above, the Commission finds that the proposed development, as conditioned, is consistent with Coastal Act Section 30253.

J. SCENIC RESOURCES

Coastal Act Section 30251:

The scenic and visual qualities of 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 visual characteristics of the Lawson's Landing property are diverse and vary depending on the viewpoint. Aerial views of the project site generally consist of grassy hillsides in the eastern property area, a large system of migrating dunes and meadow areas in the central and northwestern property areas, and coastal beaches on the western portion of the site. Close-range views are generally characterized by beaches, foredunes, meadows, and sand dunes.

Views of the site are available from the Town of Dillon Beach, from portions of Dillon Beach Road east of the site, and from Point Reyes National Seashore across Tomales Bay.

The proposed camping and travel trailer uses and associated facilities areas 1 – 4 (restrooms, parking, etc.), as conditioned, would be visible from the town of Dillon Beach, portions of Dillon Beach Road east of the site, and from public trails at the Point Reyes National Seashore across Tomales Bay. Coastal Act Section 30251 requires that the scenic and visual qualities of areas be considered and that new development be sited and designed to protect views, be visually compatible with the character of the surrounding area, and restore and enhance visual quality in visually degraded areas. As described in Subsection E, siting development at Lawson's Landing is constrained by sensitive habitats such as wetlands and dunes and agricultural lands. There is also very little tree cover or natural topography on the site to use for screening purposes. Therefore, the areas remaining that are appropriate for the proposed recreational and visitor serving uses are visible from public vantage points. However, certain measures can be taken to protect views and ensure that the development is visually compatible with the character of the surrounding area, and restore and enhance visual quality, as described below.

Lawson's Landing has had a long history of unpermitted camping and trailer uses that have, on maximum use periods, included up to 1,000 camping vehicles, 233 permanent travel trailers, and

200 day users. Historically, these uses have been informal and disorganized, lending to a visual environment that is visually cluttered and unorganized. The visual camping pattern has resulted in general clusters of mixed-size groupings of RVs and travel trailers. South of the pier, along the seawall, the visual environment is more organized in appearance, with RVs oriented along the seawall in dense, clustered rows.¹⁴³ The subject application presents an opportunity to enhance visual quality in a historically visually degraded area. The Applicants propose to remove, relocate, and re-organize camping and travel trailers. This would result in 417 RV and tent camping spaces. In camping areas 1 and 4, camping would be formally organized and clustered in rows and grouped into RV and tent sites to maximize use and space. In Area 3, as conditioned, lower-impact walk-in tent sites would dominate the area, with parking segregated along the road. Campsites would be formally delineated. This would have the effect of improving the visual feel of these areas by organizing the camping into a system that clusters camping and maximizes open space.

In terms of the proposed travel trailers in Area 2, the Applicants propose to remove and clean up structural additions, including decks, sheds and building additions that were added to the land over the years by individual trailer owners. Removing these ancillary structures would free up the existing development footprint and enhance the visual quality in the area. Special Condition 6 requires the Applicants to complete this clean up with six months of Commission approval of this permit. Special condition 6 also requires the Applicants to ensure that all trailers meet California HCD Special Occupancy Park standards. These standards require that the trailers be mobile and maintain a vehicle license.

While the reduction and reorganization of camping and trailer uses would be a visual improvement, the proposed development would still be highly visible from public vantage points such as Dillon Beach Road and Point Reyes National Seashore. Special Condition 22 requires the Applicant to submit a landscaping plan designed to provide partial/mottled screening and soften the appearance of new development as seen from public vantage points to the maximum extent feasible.

Water Tanks

The proposed water storage tanks would be visible from hillside areas of Dillon Beach east of the main entrance road. These facilities would be of comparable size as the existing onsite water storage tank and would blend with the existing terrain. The water tank would be constructed of similar materials as the existing water storage tanks and would be painted or designed to blend with the landscape. The existing storage tanks are barely perceptible from off-site areas and the construction of two new tanks while slightly larger would not introduce a new substantial feature in the overall viewshed from off-site areas.¹⁴⁴ Special Condition 11 requires the applicants to submit a detailed utilities and facilities plan, for review and approval of the executive director, which details the location of all utilities, including water tanks, bathrooms, etc. Such plan shall include standards to ensure that the water tank will not block views to the coast, and be compatible with the character of their setting, consistent with Coastal Act Section 30251.

¹⁴³ EDAW 2007

¹⁴⁴ EDAW 2007

Lighting

Implementation of the project would require the installation of some new lighting sources in the South Ranch area of the property and adjacent to proposed restroom facilities. The proposed lighting in the South Ranch area would be pole-mounted and would provide downward directional lighting near existing buildings. Lighting associated with the restrooms would be either attached to a pole next to each restroom facility or attached directly to the restroom structures. According to the EIR, the project sponsor proposes to install lighting fixtures that would be focused downwards to avoid the upwards casting of light, and area, or flood lighting, is not proposed. However, the Applicants revised project description does not include a mitigation measure in regards to lighting. Therefore, Special Condition 16 requires the Applicants to submit, within 60 days of Commission approval of this coastal development permit, a proposed lighting plan for Camping Areas 1 – 4 and all other areas where lighting is anticipated. Such plan shall propose the minimum lighting necessary for safe ingress and egress, consistent with HCD standards for RV parks, and shall be shielded and cast downward. All utility lines shall be placed underground.

Restrooms

The Applicants propose to retain five existing unpermitted restrooms, three located in Area 2 amongst the travel trailers, store, and boat storage area and two located within = Area 3. The Applicants also propose to construct a maximum of 10 new restrooms, some with showers located throughout the camping area (Areas 1 – 4). Because the design of the new proposed sewage disposal system is still preliminary in nature, and still subject to review by the Commission and the Regional Board, the exact location of the restroom facilities are to be determined. Therefore, Special Condition 11 requires the Applicants to submit, prior to construction and no later than July 13, 2012, a utilities and facilities plan depicting the exact location of the restrooms. Such plan shall show that the restroom locations shall ensure that the scenic and visual qualities of Lawson's Landing are protected, are sited and designed to protect views to and along the ocean, and be visually compatible with the character of the surrounding area. Such plan shall include the exact locations, designs and dimensions for each restroom facility, including color schemes.

Based on the facts described above that, as conditioned: (1) camping will be clustered in a more organized manner; (2) landscaping and earth toned building materials are required by special condition to soften the appearance of the development; (3) future plan requirements for facilities, such as restrooms and water tanks require that visual qualities are protected; and (4) night time lighting would be limited to the minimum necessary, and shielded and downcast to prevent glare; the Commission finds that the proposed development, as conditioned, is consistent with Coastal Act Section 30251.

K. CULTURAL RESOURCES

Section 30244 Archaeological or paleontological resources – Governing Chapter 3 policy

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

According to the EIR, A number of archaeological reports, which include overviews (Marin County Community Development Agency 2000; WESCO 1991) and surveys of cultural resources, have been prepared for the project area (Alvarez 1991; Gerike 1982; Holman 1983; Jackson 1976). These reports were reviewed, and a search request was sent to the Northwest Information Center (NWIC) of the California Historical Resources Information System in May 2003 to obtain copies of Department of Parks and Recreation site record forms for recorded resources within the project area.

Twenty-three archaeological sites have been identified within the Lawson's Landing project area. The 23 sites fall into several categories; occupation/burial, shell scatter (frequently with bird and small mammal bone), lithic scatter, and historic homesteads. One site, CA-MRN-523, identified in the interior sand dune area (near where the original leachfield system was proposed), was noted in the 1976, 1981 and 1991 surveys, but has since disappeared. Over the course of several years, the dune that the site was situated on shifted several feet, and all site constituents were blown away, buried or otherwise removed leaving only a sparse lithic scatter on the surface. In 1997, subsurface testing was conducted at CA-MRN-523. No surface or subsurface artifacts were noted at that time. No development is proposed in this area. Of the remaining sites, the WESCO report (1991) estimated that at least 10 have a subsurface component. The ethnographic village of *sakloki* was reportedly located near CA-MRN-523. If evidence of this village remains, it seems likely that it is buried below the trailers in the Sand Point area (Area 2) (Shannon 1998).

Based on information provided by the pre-field research and field survey conducted for the EIR, the project site may contain significant cultural and archaeological resources. Large occupation sites with human burials have been documented on the site. The Dillon Beach area was heavily occupied during the prehistoric period as evidenced by the number and variety of cultural resources sites located in the area. Implementation of the project has the potential to adversely affect previously undiscovered important prehistoric and historic archaeological resources.

Human remains have been found during previous field surveys within the sand dunes. None of the burials were located in areas currently proposed for project development. However, development of the project could disturb previously undiscovered prehistoric burials. The lack of surface evidence of cultural resources does not preclude the existence of buried, subsurface materials, including human remains.

Coastal Act Section 30244 requires that reasonable mitigation measures shall be required where development could adversely impact archaeological or paleontological resources. EIR Mitigation Measure 4.12-2: requires that a qualified archaeologist approved by Marin County shall monitor all ground disturbing activities during construction. If cultural resources are discovered during construction, construction activities shall halt and the property owner will be notified regarding the discovery. The archaeologist shall evaluate the resource in accordance

with state and federal guidelines and shall determine whether the resource is significant. All archaeological excavation and monitoring activities shall be conducted in accordance with prevailing professional standards as outlined in Section 21083-2 of CEQA. Mitigation in accordance with a plan approved by the Marin County Community Development Agency will be implemented prior to commencement of work within the area of the resource find.

EIR Mitigation Measure 4.12.3 requires the Applicants to stop potentially damaging work if human remains are uncovered during construction, assess the significance of the find, and pursue appropriate management. California law recognizes the need to protect Native American human burials, skeletal remains, and items associated with Native American burials from vandalism and inadvertent destruction. The procedures for the treatment of Native American human remains are contained in California Health and Safety Code Sections 7050.5 and 7052 and California Public Resources Code Section 5097.

In accordance with the California Health and Safety Code, if human remains are uncovered during construction at the project site, the construction contractor shall immediately halt potentially damaging excavation and notify the coroner, the State Native American Heritage Commission, and affected Native American groups. The California Health and Safety Code requires that if human remains are found in any location other than a dedicated cemetery, excavation is to be halted in the immediate area, and the county coroner is to be notified to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). The responsibilities of the Agency for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.9.

Special Condition 13 of the permit incorporates these EIR mitigation measures into the CDP. As conditioned, the Commission finds that the proposed development is consistent with Coastal Act Section 30244.

L. WATER QUALITY AND MARINE RESOURCES

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Coastal Act requires that new development protect the quality of coastal waters. The Lawson's Landing Revised Project Description, dated May 31, 2011, describes new development that has the potential to adversely impact water quality through the generation of pollutants that can be carried by storm water runoff into Tomales Bay, wetlands and to the Pacific Ocean

The revised project description modification and construction water quality protection features as part of a drainage system designed to collect, treat and retain storm water. The description includes the modification of existing ditches to serve as "bioswales" and the excavation of basin to serve as "water quality basins" or "bioretention area improvements". In addition, overflow from the water quality basins is proposed to be discharged in a non-erosive manner to wetlands on the site. In order to evaluate whether these features can be effective as water quality best management practices (BMPs) more information must be provided.

The revised project description describes the development of the bioswales and water quality basins as follows:

Bioswales

Page 51, Area 4, Bioswale/Ditches:

There are three man made ditches in Area 4 which will be improved as Best Management Practices (BMP) bioswales. All will collect storm water draining from camping areas and will treat this storm water prior to flow to dune slack wetlands. Sediments and other impurities will be removed by vegetation, hence treating storm water and greatly improving the quality of surface runoff from this camping area. Sandy soils within the treatment swales that are naturally porous will also promote groundwater infiltration and recharge the groundwater aquifer. Infiltration through sandy soils will provide a natural purification of collected storm water.

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Bioswale maintenance. Bioswales will be regularly maintained so that they provide appropriate drainage and effective water quality control and treatment for storm water that drain from recreational areas to adjacent wetlands. Maintenance will include best management practices such as removal of trash and debris from swales, removal of sediment when sediment depth exceeds two inches, periodic mowing and removal of vegetation that reduced drainage function in these swales, and removal of material from inlet and outlet areas so that there is no clogging or blockages.

These shallow, man-made ditches that will be enhanced to improved bioswales, and will provide some marginal, temporary habitat for wildlife in the winter, although water is expected to drain from these features shortly after rainfall events subside. Summer tent camping is not expected to adversely affect the limited ecological value and function that these man-made ditches/bioswales will offer in the winter. Specifically, in the past, most of the ditches have only flowed during and immediately following storm events, and most of the ditches only support Facultative (FAC) plant species, which are also found in the surrounding uplands; only a few Obligate (OBL) wetland plant species are present in some of the ditches. Despite the limited ecological value of these man-made ditches/bioswales, Lawson's proposed tent camping would only be allowed and would prohibit camping within a 5 foot buffer beyond the dry banks of these ditches in the dry periods of the year. Most camping occurs in the dry months of the year, and Lawson's will only allow camping adjacent to the ditches/bioswales during the dry months. Tent camping adjacent to these man-made ditches/bioswales is not expected to impact the facultative plants or the few obligate wetland plants.

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*... Vegetative bioswales would support native wetland grasses (such as *Agrostis* spp., *Distichlis spicata*, and *Hordeum brachyantherum*, among others, which are all currently present in the wetlands), and other herbaceous species such as native rushes (*Juncus* spp.) and sedges (*Carex* spp.). The fine roots and shoots of native grasses, rushes, and sedges are particularly effective at slowing/dissipating flow energy and thus filtering sediment from surface runoff and locking up potential contaminants in the soil.*

Water Quality Basins

Page 46, Water Quality Basins:

Two water quality basins (bioretention area improvements) will be constructed along the northern and western border of the Area 1 and will collect storm water sheet flows (Updated Sheet 17 and Exhibit C). Area 1 will be graded with a 2 to 5 percent slope, which will direct surface water sheet flows into the constructed bioretention treatment features. These basins will provide hydromodification functions that will ensure there are no erosive flows leaving the camping areas. In addition, these basins will gather first flush storm water runoff and will treat this runoff prior to the time it could be discharged via gravity flows from camping surfaces to wetlands immediately north of Area 1.

Currently camping surfaces drain anytime there are sheet flow conditions directly into Tomales Bay. The proposed reconfigured grading and drainage would collect, treat, and direct treated storm water to adjacent wetlands. This would accomplish one of the Coastal Commission staff's objectives to "increase water flow to the Tomales wetlands/dune complex, including through redirection and/or removal of existing drainage ditches and prevention of drainage of wetland areas to the ocean."

The water quality basins will greatly improve surface runoff water quality by collecting sheet water flows from surfaces used by campers. The basins will collect sediments and other impurities and treat such waters through settling and percolation. Sandy soils within treatment basins that are naturally porous will promote groundwater infiltration and recharge of the groundwater aquifer. Via infiltration through sandy soils there will be a natural water quality

treatment of collected storm water at standards consistent with BMPs promoted by the California Regional Water Quality Control Board.

Upon filling, which under most circumstances is expected to occur, treatment basins would overflow into and through lengthy perforated discharge pipes that are set approximately parallel with Area 1 access road and above wetlands. Treated storm water released from the discharge pipe will be evenly distributed through the perforated pipe installed horizontally within the wetland buffer. Treated water that is discharged through the perforated pipe will be non-focused, thus greatly reducing flow velocity and erosive potential along the buffer. This treatment approach is made possible by the existing ground elevation differences between campground Area 1 and the lower wetland areas immediately to the north. As the perforated discharge pipe will be installed at minimal elevation above relatively flat ground that eventually transitions into seasonal wetlands north of Area 1, most treated water that is discharged will be likely to infiltrate into permeable soils between wetlands and the discharge pipe. The installation of the bioretention treatment basins will greatly improve wetland resource protection measures

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A water quality basin will be constructed in Area 2 that will collect storm water sheetflows that are funneled through bioswales in Areas 2 to this basin (Exhibit C). The basin will provide hydromodification functions that will ensure that there are no erosive flows leaving the trailer/camping areas in Areas 2. In addition, the bioswales in combination with the basin will gather first flush storm water runoff and will treat this runoff prior to the time it is discharged via gravity flows from camping/trailer areas to wetlands immediately east of Areas 2. Water will be treated in the bioswales and water quality basin via percolation through sandy soils. Upon filling, which under most circumstances will not occur, the basin would overflow into wetlands east of Area 2. This would greatly improve the hydrology of these wetlands that historically have had water diverted from them in the interest of facilitating camping in the now abandoned/reclaimed area east of the newly proposed Area 2.

While the Revised Project Description suggests some modifications of the site features to improve the drainage of the site, take advantage of the landscape to improve water quality and convey clean water to site wetlands, the details of the proposal needed to assess the benefits are missing. For example, it is not clear that the landform modification (e.g., grading) needed to improve drainage will have adverse impacts on other coastal resources besides water quality. More information is needed on the extent and location of slope modifications and excavation needed to implement the bioswales, water quality basins and overall drainage system. Site Grading and Drainage Plans are needed to show how site runoff drains under current and proposed conditions in order to determine if the proposed storm water features will be effective. A Storm Water Pollution Prevention Plan is needed to show what water quality management practices will be put in place to prevent adverse impacts to water quality by construction activities on the site. A Storm Water Management Plan is needed to describe the system of post-construction BMPs and other water quality management practices that will be used to protect water quality from storm water runoff or dry weather flow. These plans are also needed to determine if the proposed water quality protection features will require landform changes that may adversely impact other coastal resources.

Additional information about the site drainage, potential grading, and stormwater management is needed to determine consistency with Coastal Act Sections 30230 and 30231. Therefore Special Conditions 28 through 30 require that the applicant provide a Drainage Plan, Grading Plan, a Stormwater Management Plan for review and written approval by the Executive Director prior to issuance of a Coastal Development Permit. The Commission finds that only with submittal and approval of these plans can the project be found to be consistent with the water quality policies of the Coastal Act.

M. VIOLATION FINDING

Alleged Violations:

Development including, but not limited to, unpermitted grading, unpermitted fill of wetlands, and the unpermitted construction or placement of trailers, a campground, mobile homes, roads, restrooms, water lines and water tanks, sewage lines and leach fields, a sewage disposal station, sheds, garages, parking lots, a boat house, a snack bar, a shop, a boat mooring facility, boat yard, boats, a laundry facility, a pier, and other items of development, has taken place without benefit of a coastal development permit.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the policies of the Marin County LCP and Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a coastal permit, or that all aspects of the violation have been fully resolved. In fact, approval of this permit is possible only because of the conditions included herein, and failure to comply with these conditions would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval, for engaging in unpermitted development, unless and until the conditions of approval included in this permit are satisfied.

N. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13906 of the Commission's administrative regulation requires Coastal Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements 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 any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The County of Marin prepared a programmatic Environmental Impact Report (EIR) for the Lawson's Landing Master Plan, Coastal Permit, and Tidelands Permit applications pursuant to requirements of the California Environmental Quality Act ("CEQA," Public Resource Code Sections 21000-21177), State CEQA Guidelines, and County CEQA procedures). After the

public review period and after public hearings, the EIR was certified by the Board of Supervisors on March 13, 2008 by adopting resolution no. 2008-28.

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 consistent with the policies of the Coastal Act. The 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.

As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. These include: (a) required habitat protection buffers in camping areas 1 - 4 and temporal management measures designed to fill campsites located the furthest away from sensitive areas first; (b) allowing walk-in tent camping only next to sensitive dune habitat in Area 3; (c) required sensitive habitat fencing to avoid intrusion into habitat areas; (d) habitat restoration and mitigation, including enhanced wetland hydrology, invasive species removal, and dune restoration; (e) required phase out and abandonment of antiquated septic systems coupled with required ongoing inspections; (f) traffic management and monitoring requirements; (g) dune trail consolidation to minimize impacts from foot traffic; (h) limiting the use of nighttime lighting to the minimum necessary for safe ingress/egress; (i) measures to eliminate or minimize floating debris in the case of tsunamis, and on-foot evacuation plans (rather than vehicle), consistent with Marin County Office of Emergency Services policy; and (j) native landscaping capable of partial/mottled screening and softening the appearance of the campground development as seen from public vantage points, such as Point Reyes National Seashore. As conditioned, there are no other feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment.

In addition, there are no other feasible alternatives which would substantially lessen any significant adverse impacts which the activity may have on the environment. Relocating the campground to the agricultural lands in the North Ranch would have significant adverse impacts on the agricultural operation, as well as potential wetland and California Red Legged Frog breeding ponds in those areas. Relocating the camping to other areas of the South Ranch, such as Areas 5, 7, and 8 would have the potential to impact wetlands, sensitive dune scrub, and California Red Legged Frog habitat. Shrinking the camping areas to Areas 1 and 2 would fail to provide needed future lower cost visitor serving and recreational facilities on oceanfront lands because existing and foreseeable demand for these types of public recreational facilities is not adequately provided for in the area.

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 to conform to CEQA.