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Hearing Date: July 10, 1996
Commission Action:

STAFF REPORT AND RECOMMENDATION ON APPEAL

SUBSTANTIAL ISSUE DETERMINATION

LOCAL GOVERNMENT: City of Trinidad

DECISION: **Approval with Conditions**

APPEAL NO.: **A-1-TRN-96-29**

APPLICANT: **City of Trinidad**

APPELLANTS: Trinidad Civic Club (E.Anne Odom and Helen Annette) and Mickey Fleschner

PROJECT LOCATION: Coastal bluff above Indian Beach near the Trinidad Memorial Lighthouse and the intersection of Trinity and Edwards Streets, City of Trinidad, APN 42-091-05.

PROJECT DESCRIPTION: Construction of the Hogback Trail.

SUBSTANTIVE FILE DOCUMENTS: City of Trinidad Local Coastal Program (LCP) and Local Coastal Development Permit No. 42-091-05.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed because the appellants have not raised any substantial issues with the local government's action and its consistency with either the certified LCP or the access policies of Chapter 3 of the Coastal Act.

STAFF NOTE:

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Pursuant to Section 30603(a), development within the coastal zone that is approved by local

government may be appealed to the Coastal Commission if it is located within mapped appealable areas, is development approved by a county that is not the designated principal permitted use, or is development that constitutes a major public works or energy facility. Mapped areas appealable to the Coastal Commission include the following areas: (1) between the first public road and the sea, (2) within 300 feet of the mean high tide line, (3) within 100 feet of any wetland or coastal stream, or (4) within 300 feet of the top of the seaward face of any coastal bluff. In this case, the development approved by the City is appealable to the Coastal Commission because it is located in each of the four mapped appeal areas that are indicated above.

The grounds for an appeal are limited to those contained in Section 30603(b)(1) of the Coastal Act. Section 30603(b)(1) states:

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

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that the appeal raises no substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of the Commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue must be submitted in writing.

If the Commission finds that a substantial issue exists, the Commission will proceed to a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program. In addition, because the proposed development is located between the first public road and the sea, any approval must also conform with the public access and public recreation policies of Chapter 3 of the Coastal Act.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE.

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal was filed, pursuant to Section 30603(b) of the Coastal Act and as discussed in the following findings below.

The proper motion is:

"I move that the Commission determine that Appeal No. A-1-TRN-96-29 raises No substantial issue with respect to the grounds on which the appeal has been filed."

A majority of the Commissioners present is required to pass the motion. Approval of the motion means that the City permit is valid.

II. FINDINGS AND DECLARATIONS.

The Commission finds and declares as follows:

A. LOCAL GOVERNMENT ACTION.

The development approved by the City which is now before the Commission on appeal is the construction of a public access trail known as the Hogback Trail. In June of 1995, the Redwood Community Action Agency, under contract with the State Coastal Conservancy, completed the Indian Beach Access Feasibility Study. See Exhibit No. 8. The purpose of the study was to determine the feasiblity of constructing a public accessway from atop the 160-foot-high, coastal bluffs near the intersection of Trinity and Edwards Streets down the face of the bluff to Indian Beach. The proposed trailhead at the top of the bluffs is to the west of the Trinidad Memorial Lighthouse. The study analyzed the feasiblity of two trail alignments known as the Hogback Trail and the Western Trail.

As shown in Exhibit No. 4, the Hogback Trail is about 400 feet in length. The Hogback Trail follows a moderately stable ridgeline that goes from the top of the bluffs near the Trinidad Memorial Lighthouse to the base of the bluffs. The Hogback Trail follows the traditional route used by the local Native Americans to reach the Tsuari Village site and the beach. The Western Trail is about 600 feet in length. The Western Trail also follows a moderately stable ground area that goes from the top of the bluffs to the west of the Trinidad Memorial Lighthouse to the base of the bluffs.

The Planning Commission held public hearings on the proposed accessway on February 21, 1996, March 20, 1996, and April 3, 1996. During this period of time, the City Council met on March 1, 1996, and after public input, decided to focus on the Hogback Trail with access through the Civic Club property. The decision to focus on the Hogback Trail rather than the Western Trail was due in part to the public testimony from the Yurok Tribe and Axel Lingren, a Tsurai descendant. The tribe and Mr. Lingren had no objection to construction of the Hogback Trail. However, the tribe and Mr. Lindgren did object to construction of the Western Trail because its alignment would be too near to sensitive cultural resources.

At the April 3, 1996 hearing, the Planning Commission adopted a mitigated negative declaration and approved construction improvements for the Hogback Trail alignment with 12 conditions. See pages three and four in Exhibit No. 7. In summary, the 12 conditions require that:

1. the trail be constructed per the California Department of Parks and Recreation construction and maintenance specifications for trails (1991), the Indian Beach Trail Access Feasibility Study (June, 1995), as modified by the recommendations of the geologic report for the project;

2. the permittee secure an encroachment permit which: (a) provides details on the timing and duration of construction activities, (b) provides techniques to minimize construction impacts on public access, (c) requires the City Engineer to inspect the marked extent of construction activity on the ground at the site and to inspect whether the project was constructed as proposed;

3. the permittee, if other than the City of Trinidad, file a statement approved by the City Attorney which indicates acceptance of responsibility for liability, maintenance, and repair of the structure;

4. information relating to the final trail alignment and construction specifications be provided to the Yurok Tribe, Axel Lindgren, or other lineal descendants of the Tsurai who would be given an opportunity to make specific design recommendations for the project;

5. coliform testing be conducted in seep areas near the alignment of the approved trail, per City Engineer recommendations;

6. directional signs for trail usage be limited to that approved by the City;

7. the information on trail signs be kept to a minimal size and be placed where they are not generally visible from the street;

8. a small sign be placed near the bottom of the trail which is visible from both directions and which indicates restrictions on collecting non-game species and marine life;

9. the permittee obtain a written determination on the project from the State Lands Commission;

10. a short-term parking plan be adopted at the lighthouse area, preferably for one hour or less;

11. construction of trail improvements be done in a manner that deflects foot traffic away from the village site; and

12. trail work occur in a manner that avoids signs that earmark the location of the Tsurai Village from points of view along the trail.

On April 4, 1996, the Trinidad Civic Club appealed the Planning Commission's decision to the City Council. The City Council met on May 8, 1996 and May 22, 1996 to consider the appeal. At the May 22, 1996 public hearing, the City

Council denied the appeal and upheld the decision of the Planning Commission. The final Notice of Action Taken by the City, the motion to deny the local appeal, and the conditions of permit approval are shown in Exhibit No. 7.

B. APPELLANTS' CONTENTIONS.

The appellants' contend that specific requirements of the City's General Plan, the City's Zoning Ordinance, and the California Environmental Quality Act (CEQA) have not been met. In summary, the appellants' contend that:

1. the City did not comply with Section 7.09(D) of the coastal zoning ordinance regarding the approval of CEQA-like findings for a conditional use permit;

2. improper wording of the motions and conditions have resulted in an undefined project and moot findings;

3. specific parties required to participate and formally approve the project have not been involved per Section 4.02(C)(5) of the coastal zoning ordinance and Policy No. 69 of the land use plan;

4. qualified expert testimony affirms the potential for significant geologic and archaeolgical impacts which can't be mitigated, thereby requiring an EIR; and

5. studies to determine threshold levels of impact significance have not been done, but rather have been considered as mitigation measures to monitor impacts and refine the project design.

A complete listing of the appellants' contentions are attached to the end of this staff report as Exhibit No. 15.

C. PROJECT DESCRIPTION AND LOCATION.

The City of Trinidad is a small city (population less than 500) which attracts many tourists because of its beaches, scenic vistas, harbor, and boat launching facilities. The project being appealed is the construction of a 400-foot-long, coastal access trail (the Hogback Trail) from atop the 160-foot-high, coastal bluff near the intersection of Trinity and Edwards Streets and down the face of the bluff to the beach below. See locational Exhibits No. 1, 2, 3, and 4. The proposal to build the trail arose out of a settlement agreement between John Frame, a local resident who resides on Wagner Street, the City of Pacifica, the State Coastal Conservancy, the California Coastal Commission, and the Office of the State Attorney General. See Exhibit No. 9.

The project is located on lands that are designated and zoned as "Open Space" in the Trinidad LCP. See Exhibit No. 4. The subject property is owned by the City of Trinidad and is subject to an open space easement held by the State Coastal Conservancy which allows public access.

The beach below the bluff is popular among local residents and tourists because it faces south and is protected from north winds by the bluff of the terrace on which the City of Trinidad is located. The beach is locally known as "Indian Beach" because of its proximity to the ancestral Native American village which is located east of the proposed trail on a terrace of the bluff. The Yurok village "Tsurai" existed on the bluffs from 1620 to 1916. The site was studied in 1949 by the University of California and it is comprised of 12 pre-historic family houses, a sweat-house, brush dance pit, a modern day dance hall, a water hole, graves, and trails. Although the exact extent of the village is not known, a group of state and tribal representatives agreed in a December 1980 meeting that the village site was at least the size of the area designated as the Tsurai Study area on the City's General Plan map. See the corrected key item in Exhibit No. 3.

A geological investigation of the site was prepared for the project on February 21, 1996 by SHN consulting engineers and geologists. The report describes the geologic condition of the site as follows:

> It has been well established that the coastal bluff slope south of Edwards and Wagner Streets is not a stable landform. The entire bluff slope and top edge is subject to chronic slow colluvial soil creep with localized intermittent shallow landslide occurrences. Most of the slope is mantled by loose silty sands that are highly erodible when exposed to direct rainfall or concentrated runoff. Springs are common along the lower portions of the bluff slope. The resulting emergent groundwater aggravates slope failure and erosion processes. The toe of the bluff is subject to direct ocean wave erosion that slowly undercuts the slope. Most areas of the bluff toe are slowly sliding onto upper reaches of the beach, and as long as this continues the slope above will continue to be unstable. It is important to note that large scale bluff failure has not occurred in this area for over 50 years, but the risk of large scale failure is significant and should not be ignored.

The physical constraints to trail construction include gradient, slope stability, springs, creeks, and soil type. Of these, slope stability and the presence of springs and creeks are the main constraints. Effective trail building techniques have been developed that account for steep and unstable slopes. Cable steps are effective in areas subject to frequent episodes of erosion, such as the toe slope area at the beach. Cribbed steps are effective in areas less susceptible to erosion but with soft or steep slopes. Interlocking trail steps are effective at reducing erosion from runoff by directing water off the trail. The trail would require similar construction techniques and designs. Interlocking cribbing, cable steps, tread reinforced steps, gravel surfaced trail treads, and landings would be used at various locations depending on the gradient.

The proposed Hogback Trail route is approximately 400 feet long and it follows an existing undeveloped trail except for the very beginning near the Memorial Lighthouse and the last 80 feet to the beach. The route of the Hogback Trail

follows a ridge which descends the bluff face. The current path near the beach leads down a saturated blue clay slope at the toe. The proposed alignment would move the end of the trail to drier ground west of the current trail location. Unlike the proposed route for the Western Trail, no evidence of mountain beaver (a non-game species) was observed on the route for the Hogback Trail.

There are no known rare, endangered, or environmentally sensitive plant species in the trail study area. The bluff vegetation is thick coastal scrub. The understory contains blackberry, periwinkle, ferns, grassesm nettles, wild radish, wild cucumber, mint, parsnip, vetch, and herbs, The middle canopy is primarily baccharis, elderberry, and Himalaya beerry. The upper canopy is primarily casara, alder, and willow. One old growth bay tree (pepperwood) is the dominant feature along the Hogback Trail. Approximately one-half of the bluff face is dominated by the upper canopy. The other half is two-thirds middle canopy and one-third ground cover. Vegetation is dense and walking is very difficult, except for portions of the Hogback Trail.

D. SUBSTANTIAL ISSUES ANALYSIS.

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

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

In the subject appeal, some of the contentions raised by the appellants are not valid grounds for appeal because they do not allege that the development does not conform to the certified LCP or the public access policies of the Coastal Act. Accordingly, the allegations have been divided into invalid and valid grounds for appeal. The substantial issue analysis is limited to only those allegations which constitute valid grounds for appeal.

The appellants' allegations are numbered below and are shown in bold type. The response by staff follows each allegation and is shown in regular gothic letter type. As discussed below, the appellants raise 5 issues in the appeal papers and another 14 issues in a supplement to the appeal. See Exhibit No. 15.

E. APPELLANTS' ALLEGATIONS THAT ARE NOT VALID GROUNDS FOR APPEAL.

Several of the allegations raised in this appeal are not valid grounds for appeal because they are an allegation that the development as approved by the City is inconsistent with the City's certified LCP or with the public access policies of the Coastal Act. These allegations are listed and discussed below.

1. [Allegation 4 in the supplement to the appeal in Exhibit No. 15.] The motions made by the PC and CC and the subsequent NOAs of each are

confusing, contradictory, do not establish an identifiable project, and generally don't make much sense. Although those who attended the meetings will have a sense of what was intended for a while, any long term expectations for a clear public record are hopeless. The TCC feels the process should start again with the PC and we should get the public record straightened out.

This allegation is not valid because it does not relate to the approved development's inconsistency with any identified LCP policy or a Coastal Act policy. Furthermore, the appellants do not explain how the motions are confusing, contradictory, etc. Moreover, even if some of the motions could have been presented more clearly, there is no compelling need to start the process over again.

2. *[Allegation 5 in the supplement to the appeal in Exhibit No. 15.] There are several conditions of approval which refer to the need to acquire additional information upon which to base future decisions of project feasibility and design.*

A geology report is referred to but not required,

An encroachment permit will detail "techniques to be implemented to minimize...impacts..."

Condition 4 indicates that a trail alignment currently does not exist, but once information is available on the "final trail alignment" it will be providied to the Yurok tribe and Axel or the Tsurai lineal descendants for recommendations which "shall be considered."

"Some form of short term parking...preferably one hour or less" must be adopted (condition 10).

Trail improvements "will be done in a manner that deflects foot traffic away from the village site." (condition 11) and trail work is "to occur in a manner that avoids signs that earmark the location of the village from points of view along the trail." (condition 12).

These conditions require obtaining information which should be in hand before permits are issued and Environmental Documents finalized. The TCC recommends that studies be done which address these unknowns, and include them as part of a comprehensive management plan for the entire bluff area which may be impacted, and coordinated with mitigation measures required by the CEQA process.

This allegation is not a valid ground for appeal as it does not allege an inconsistency with any LCP policy or access policy of the Coastal Act. Furthermore, even if such a generalized assertion did constitute valid grounds for appeal, the Commission finds that the argument that further study should have been conducted prior to project approval are not supportable for several

reasons. First, a geologic report was reviewed and considered by the City prior to its action on the project.

Second, an encroachment permit is required under Condition No. 2. Among other things, Condition No. 2 requires details on the timing and duration of construction activities on the trail, that the extent of construction be marked on the site for inspection by the City engineer, and that the City engineer be responsible for seeing that the project is constructed as proposed. These requirements are necessary to implement the project in a way that minimizes impacts to public access and the environment. Because construction of the trail will closely follow the lay of the land, and because grading activity and vegetation removal will be kept to a minimum, the decision as to whether a particular segment of the trail should have 7 steps or 8 steps in order to follow the lay of the land can only be make in the field at the time of construction. Although the encroachment permit does require that techniques be implemented to minimize impacts, those impacts are merely refinements to an approved design.

Third, the appellants misinterpret the language of condition No. 4. The appellants state that a trail alignment currently does not exist. Condition No. 4 states in applicable part that:

> Information on the final trail alignment and construction specifications...will be provided to the Yurok Tribe and Axel Lingren or other lineal descendants of the Tsurai, and that project specific recommendations shall be considered into the project design.

Consequently, the basic alignment and construction specifications of the Hogback Trail have been identified. Moreover, only those individuals who know where the sensitive cultural resources of the Tsurai are located have the expertise to determine the final alignment and construction specifications of the trail. These siting and construction details are really minor refinements to the project. If the location of these sensitive cultural resources were identified and made part of this public record, then disclosure of that information could encourage plundering of the cultural resource site. Such illict digging and vegetation removal could also increase the erosion potential and geologic instability of the site.

In summary, the appellants allegations regarding the conditions of approval that require additional information are not valid grounds for appeal because they do not allege an inconsistency with the certified LCP or the access policies of the Coastal Act.

3. *[Allegation 6 in the supplement to the appeal in Exhibit No. 15.] Along with the total realignment action taken by the City Council, conditions 4 and 5 clearly refer to both alignments proposed as alternatives.*

This allegation is not a valid grounds for appeal because it does not raise any LCP policy or coastal access policy of the Coastal Act. Furthermore,

Conditions No. 4 and 5 were prepared by the City's planner prior to the City's adoption of the Hogback Trail as the approved trail. Therefore, any direct or indirect reference to the other trail (the Western Trail) in conditions 4 and 5 should be ignored.

4. [Allegations 7 through 14 in the supplement to the appeal in Exhibit No. 15.]

Allegations 7 through 14 in the supplement to the appeal allege various inconsistencies with the California Environmental Quality Act (CEQA) and with the Mitigated Negative Declaration (MND) that was prepared for the project. The standard of review by the Coastal Commission is whether or not the development, as conditioned, is consistent with the applicable policies of the City's LCP and the coastal access policies of the Coastal Act. In considering an appeal of a local government action, the Commission does not have the legal authority to determine whether the City's actions are legally adequate under CEQA. Therefore, the Commission cannot respond to allegation items No. 7 though 14.

In conclusion, for the reasons stated above, the Commission finds that the above-referenced allegations do not constitute valid grounds for appeal.

F. APPELLANTS' ALLEGATIONS REGARDING AN INCONSISTENCY WITH THE LCP OR THE PUBLIC ACCESSS POLICIES OF THE COASTAL ACT.

1. Improper wording of motions and conditions have resulted in the approval of an undefined project rendering the findings mute [sic] *(Section 7.15).*

Section 7.15 of the City's coastal zoning ordinance applies to application forms. Section 7.15 states:

> Applications for a variance, conditional use permit, design review, and an amendment to the Land Use Map or Zoning Map shall be submitted to the City Clerk's office upon a prescribed form. Maps, drawings, and such other information as specified on the application forms shall be provided in triplicate unless additional copies are specified herein. Each application filed by or on behalf of one or more property owners shall be verified by at least one such owner or his authorized agent, attesting to the truth and correctness of all facts, statements and information presented.

The appellants cite a reference to Section 7.15 of the coastal zoning ordinance. However, this section does not involve the wording of motions and conditions, but instead discusses permit application filing requirements.

In addition, some of the conditions of the permit may result in additional refinements to the design and alignment of the trail. However, contrary to the appellants' assertions, those refinements serve to further clarify the

City's approval. For example, the motion by the City Council in Exhibit No. 7 indicates in applicable part that:

> The City will consult with a representative of the Civic Club to establish the precise location of the start of the trail. It shall be located as far to the west of the Lighthouse Memorial as practically possible so that it can join the historic location of the Hogback Trail and maintain the integrity of the memorial.

Exhibits No. 5 and 6 conceptually show the location of the trailhead in relation to the Lighthouse Memorial. The Indian Beach Trail Access Feasiblity Study identifies design and construction details for construction of the trail, based on the stability and erosion potential of the ground. While final contract drawings have not been prepared, the City's approval has not resulted in an "undefined project." Accordingly, the Commission finds that with regard to this allegation, the appellants have not raised a substantial issue.

2. Significant Local Coastal and CEQA requirements have not been met (Section 7.09D of the zoning ordinance requires compliance with CEQA.)

Section 7.09 of the City's coastal zoning ordinance provides the findings that must be made to grant a conditional use permit. Section 7.09 is applicable because the project being appealed requires a conditional use permit. Section 7.09(D) states:

> That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.

While the Commission's appellate jurisdiction does not extend to adjudicating the legal adequacy of the City's CEQA determinations, the Commission can confirm that the mitigation and alternative analysis required by Section 7.09(D) was utilized to satisfy the substantive standards of the certified LCP. In approving the proposed accessway construction, feasible alternatives, such as the alignment for the Western Trail, were considered and rejected by the City for two important reasons. First, the Yurok Tribe determined that the Western Trail had a greater potential to adversely impact sensitive cultural resources than the traditional Hogback Trail. See Exhibit No. 10. Second, the Indian Beach Trail Access Feasibility Study found that the Western Trail would impact the environmentally sensitive habitat area of the mountain beaver while the Hogback Trail would not.

Many of the 12 conditions of the approved permit are designed to mitigate specific and potentially significant, adverse impacts on the environment. For example, Condition No. 1 states:

> Trail improvements be constructed per the California Department of Parks and Recreation-Recreation Trail Construction and Maintenance Specifications (1991) and the Indian Beach Trail Access Feasibility Study (June, 1995) unless modified by the required geologic report.

It should be noted that the "required geologic report" was prepared and considered by the City prior to its action on the project. The geologic report was prepared by Roland Johnson of SHN consulting engineers and geologists on February 21, 1996. An addendum to the report was prepared on March 28, 1996. See Exhibits No. 11 and 12. The geologic report states the on page 4:

> In summary, it is our opinion that both trail alignments can be located, designed, and constructed in a manner that will not significantly increase erosion and slope instability.

In the March 28, 1996 addendum, the geologists conclude:

> 3. With careful consideration for mitigation of erosion hazards and appropriate grading, the proposed project should have no significant adverse effect on the stability of the bluff....
>
> 4. If the project is located on the ridge line that descends the slope immediately below the memorial lighthouse and designed in accordance with the recommendations of the RCAA "Indian Beach Trail Access Feasiblity Study" it is neither likely to be subject to, nor contribute to significant geologic instability through the lifespan (assume 50 years) of the project. The trail...must be completely "cut to grade" mantled with ereosion resistant material, and outsloped at a gradient of at least 5 percent.

In the present case, the recommendations and conclusions of the geologic report serve as necessary mitigation measures, which in this case, are designed to avoid or lessen risks to life and property in an area of geologic and flood hazards. Additional mitigation measures to lessen other potentially adverse environmental impacts are in found in the other conditions of the approved permit. These measures include Conditions No. 4, 11, and 12 which require consulting with the Yurok tribe, Axel Lindgren, or other lineal descendants of the Tsurai to ensure that the final alignment and construction of the trail does not harm sensitive cultural resources. In addition, Condition No. 5 requires coliform testing of seeps near the trail to ensure that the emerging groundwater near the trail does not present a health hazard to users of the trail. (Development in the City of Trinidad relies upon private septic systems, and some of that treated effluent may emerge as downhill seeps on the side of the bluffs. The coliform testing was done, and seeps do not present a health hazard.)

In summary, the Commission finds that the development as approved by the City does not raise a substantial issue with Section 7.09(D) of the zoning

ordinance because feasible mitigation measures and feasible alternatives were considered by the City in applying the substantive standards of the certified LCP.

3. Specific parties required to participate and formally approve have not been involved (Section 4.02).

Section 4.02(C)(5) of the City's coastal zoning ordinance states:

> Cultural Resources: Within the portion of the Tsurai Study Area zoned Open Space, any soil disturbance, removal of vegetation, placement of temporary or permanent structures, or establishment of a use identified in Subsection A1 shall require a use permit. Except for a fence to protect burial grounds, no soil disturbance, removal of vegetation, structural improvements or use shall be permitted unless it has been approved by the Trinidad City Council, the State Historic Preservation Officer, the Trinidad Rancheria, and the lineal descendants of Tsurai.

The proposed project is located within a portion of the Tsurai Study Area that is zoned as Open Space. Therefore, Section 4.02(C)(5) is applicable. The four parties whose review is required for the development pursuant to Section 4.02(C)(5) have been, or will be, reviewing the project before construction can begin. The first party is the City of Trinidad, and they have granted their approval of the project. The second, third, and fourth parties are the State Historic Preservation Officer, the Trinidad Rancheria, and the lineal descendants of Tsurai.

During the preparation of the feasiblity study for the trail, the State Office of Historic Preservation and the Tsurai Ancestral Society were contacted to determine concerns and proper procedure for potential trail improvements near the Tsurai Village site. The State Historic Preservation Officer Kathryn Gualtieri reviewed and commented on the feasibility study. In August of 1991, she stated that "ground disturbing activities should be kept to the minimum necessary to accomplish the proposed task" of trail, creek, and village site vegetation removal. Local Native Americans from the Trinidad Rancheria attended public hearings on the project and they provided both written and oral comments on the project. The local Native Americans at the Trinidad Rancheria include members of the Yurok Tribe and other tribes. The Tsurai are a subgroup of the Yuroks and Tsurai descendants live at the Trinidad Rancheria. Condition No. 4 of the approved permit states:

> Information on the final trail alignment and construction specifications for each trail will be provided to the Yurok Tribe and Axel Lindgren or other lineal descendant of the Tsurai. Project specific recommendations shall be considered into the project design.

Condition 4 will ensure that the required Native American reviewers will be given a formal role in the approval of the final design of the project. Thus, the Trinidad Rancheria and the lineal descendants of Tsurai (i.e. Axel

Lindgren, etc.) have participated and will continue to be involved with the formal decision making for the project as required by Section 4.02 of the City's coastal zoning ordinance. See Exhibits No. 13 and 14. In summary, all of the required parties have participated in the review and approval of the project and no substantial issue is raised with regard to the project's conformance with Section 4.02(C)(5) of the coastal zoning ordinance.

4. Qualified expert testimony affirms potential for significant impacts which can't be mitigated (Section 4.03(B) and Section 4.03(C)(5)(a,b,c) requiring an EIR.

Section 4.03 applies only to the Special Environment zone. Section 4.03(B) states:

> B. Uses Permitted with a Use Permit.
>
> 1. Pedestrian trails, vista points including improvements to existing facilities; new fire trails provided the trail width is the minimum necessary and the location minimizes visibility from public viewpoints....

In addition, Section 4.03(C)(5)(a,b,c) states:

> (5) Requirements for structures on ocean bluffs: No structure shall be placed on, or extended beyond the face of a bluff and no tunnel or shaft shall be sunk into the bluff face, except that the following structures may be placed on the bluff face and alterations made thereto subject to obtaining a use permit:
>
> a. Stairways, ramps, and other structures or devices designed and intended to provide public access from the top of the bluff to the beach, provided that construction thereof shall not require excavation of the bluff face except to the extent necessary to accommodate placement of vertical or lateral support members;
>
> b. Fences or non-view obscuring type along the bluff top, as reasonably necessary to deter trespassing or to discourage indiscriminate transverse upon the bluff face;
>
> c. Bluff repair and erosion control measures such as retaining walls and other appropriate devices, provided, however, that such measures and devices shall be limited to those necessary to repair existing man-caused damage to the bluff face; provided further that no such measures or devices shall cause significant alteration in he natural character of the bluff face.

The Special Environment zone includes portions of the bluff areas near the proposed project, but not the project area itself. The plans show that the Hog Back Trail is located entirely within the designated Open Space Zone and

not the Special Environment Zone as alleged by the appellants. See Exhibit No. 3. Therefore, the policy does not apply to the proposed project.

Furthermore, even if the policy did apply, the project is consistent with its provisions. Sections 4.03(B) and 4.03(C)(5)(a) allow, through a use permit, the construction of stairways on the ocean bluffs to provide public access from the top of the bluff to the beach, provided the construction does not require excavation of the bluff face except to the extent necessary to accommodate placement of vertical or lateral support members. The design and construction details in the feasiblity study appear to conform with these provisions by using cable steps, cribbed steps, and frequent landings which closely follow the lay of the land.

Moreover, the appellants' allegation is vague and unsupported. Allegation No. 4 does not indicate whose "qualified expert testimony affirms potential for significant impacts." The allegation does not indicate what those impacts may be and how they were determined. The allegation does not indicate why those impacts are significant and why they can't be mitigated. As noted previously in response to the appellants list of allegations, feasible mitigation measures and feasible alternatives were considered, and the City determined that the project would not result in any significant adverse impacts on the environment. Therefore, no substantial issue is raised by the appellants' allegation.

5. *Studies required to determine threshold levels of impact significance have not been done but rather have been considered as mitigation measures to monitor impacts and refine project design (Section 7.09D).*

Section 7.09 lists the findings that must be made for approval of use permit. The project requires a use permit, so Section 7.09 is applicable. Section 7.09 states that:

> A conditional use permit may be granted for any use listed as a conditional use in the applicable zone if the facts establish and written findings are adopted showing:....

Section 7.09 does not specifically use the word "studies". Some facts can be established without the need for a study. Nonetheless, studies to determine threshold levels of impact significance were conducted. These studies include an initial study and environmental checklist per the requirements of CEQA, a specific "Indian Beach Trail Access Feasiblity Study", and a geotechnical report with an addendum. Furthermore, these studies were subject to public review and comment.

In summary, studies were conducted and considered in the decision making process. Although the appellants would have liked to have seen an EIR be prepared for the project, the City concluded that potentially significant impacts which were identified by the studies could be adequately addressed with appropriate mitigation measures. Therefore, the Commission finds that no

substantial issue is raised with regard to the project's conformance with Section 7.09 of the coastal zoning ordinance.

6. *[Allegation 1 in the supplement to the appeal in Exhibit No. 15.] "Special site investigations should precede any environmental disturbance in order to avoid adverse impacts on unstable soils, scenic amenities, cultural resources and the natural character of the area."*

The site was subject to field surveys to prepare the "Indian Beach Access Feasiblity Study" dated June 1995, prepared by the Redwood Community Action Agency, Natural Resources Services for the State Coastal Conservancy under contract #93-048. The site was also subject to a geologic report. Consultation with the local Native Americans has and will continue to occur to avoid adverse impacts to sensitive cultural resources. See Exhibit No. 14. Therefore, several site investigations were conducted and the potential significant adverse impacts of the project have been mitigated in accordance with the cited LCP policies. The LCP does not require that such studies be exhaustive or that public deliberations be unending. This allegation seeks to establish a standard of review that goes beyond what is required in the City's LCP. The work that has been done to date is more than an "cursory investigation" of the area. Therefore, the Commission finds that no substantial issue is raised with regard to the project's conformance with the cited policies.

7. *[Allegation 2 in the supplement to the appeal in Exhibit No. 15.] "Definitive boundaries around Tsurai have not been established as required by Policy 69 of the TGP. Without required "boundary definition" nobody has any way of determining its location. Until this is done the TCC feels that the entire project area should be treated as potential TSA. Also, there is no evidence in the public record to indicate that the Trinidad Racheria, the State Historic Preservation Officier, nor the Northwest Indian Cemetery Protection Association have been involved in this project. The TCC feels that there should be a clear identification of all parties which need to be involved, with a clear delineation of responsibilities, before permits are issued."*

Policy No. 69 states:

> Within the Tsurai Study Area, shown on Plate 1B, the State Historic Preservation Officer, in cooperation with the lineal descendants of Tsurai and the Northwest Indian Cemetery Protective Association, shall investigate and establish definitive boundaries around Tsurai. There shall be no disturbance, vegetative removal or construction, (except for a protective fence around the burial ground) on lands designated as Open Space within the Tsurai Study Area without the approval of the lineal descendants of Tsurai, Trinidad Rancheria, City of Trinidad, and the State Historic Preservation Officer. Lands designated as Special Environment within the Study Area may be developed as provided in the Special Environment regulations provided the State Historic Preservation

Officer is consulted and reasonable measures are required to mitigate any adverse impacts on this cultural resource.

Policy No. 69 has four, not five, parties which must sign off for any development within the lands designated as Open Space. Although Policy No. 69 does require consultation with the Northwest Indian Cemetery Protection Association, such consultation only applies to an investigation to establish the definitive boundaries around Tsurai. Policy No. 69 does not require consultation with the Northwest Indian Cemetery Protection Association regarding a proposed development, such as a public access trail, on the bluffs. Furthermore, Policy No. 69 does not require that the definitive boundaries around Tsurai be established at any particular time. As conditioned by the permit, consultation with local Native Americans who are familiar with the cultural resources at the site is required to site and construct the project in such a manner that it has no adverse impacts on sensitive cultural resources. Given these circumstances, the project can proceed without the need to definitively establish the boundaries around Tsurai at this time. Therefore, this allegation does not raise a substantial issue because the development as approved is consistent with Policy No. 69 in the City's LUP.

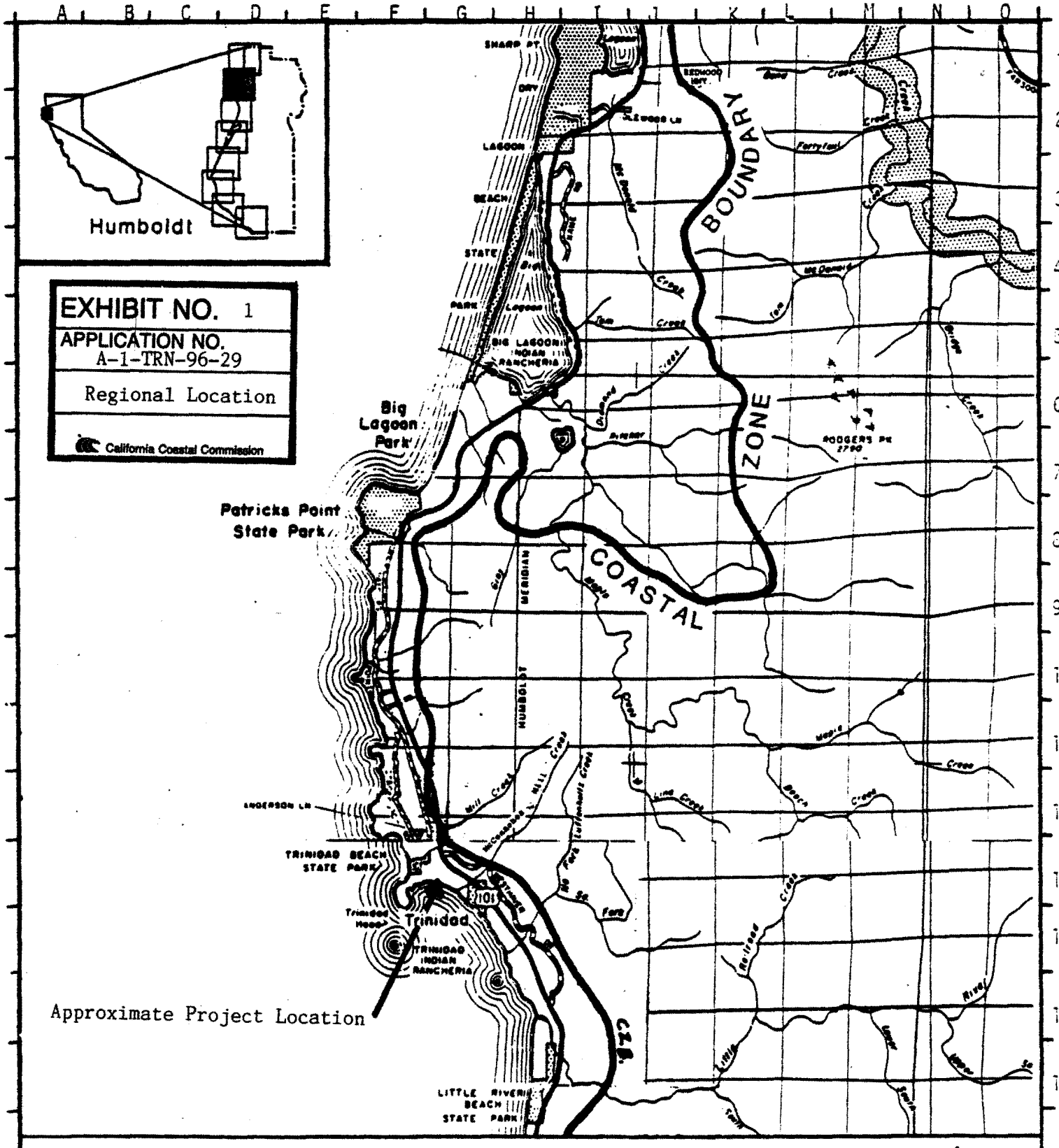
8. *[Allegation 3 in the supplement to the appeal in Exhibit No. 15.] Policy 70, page 39 of the TGP (Attachment 1): Neither the zoning ordinances nor the permit conditions deal with this policy. Conclusion: The TCC feels means for litter control should be established prior to project approval.*

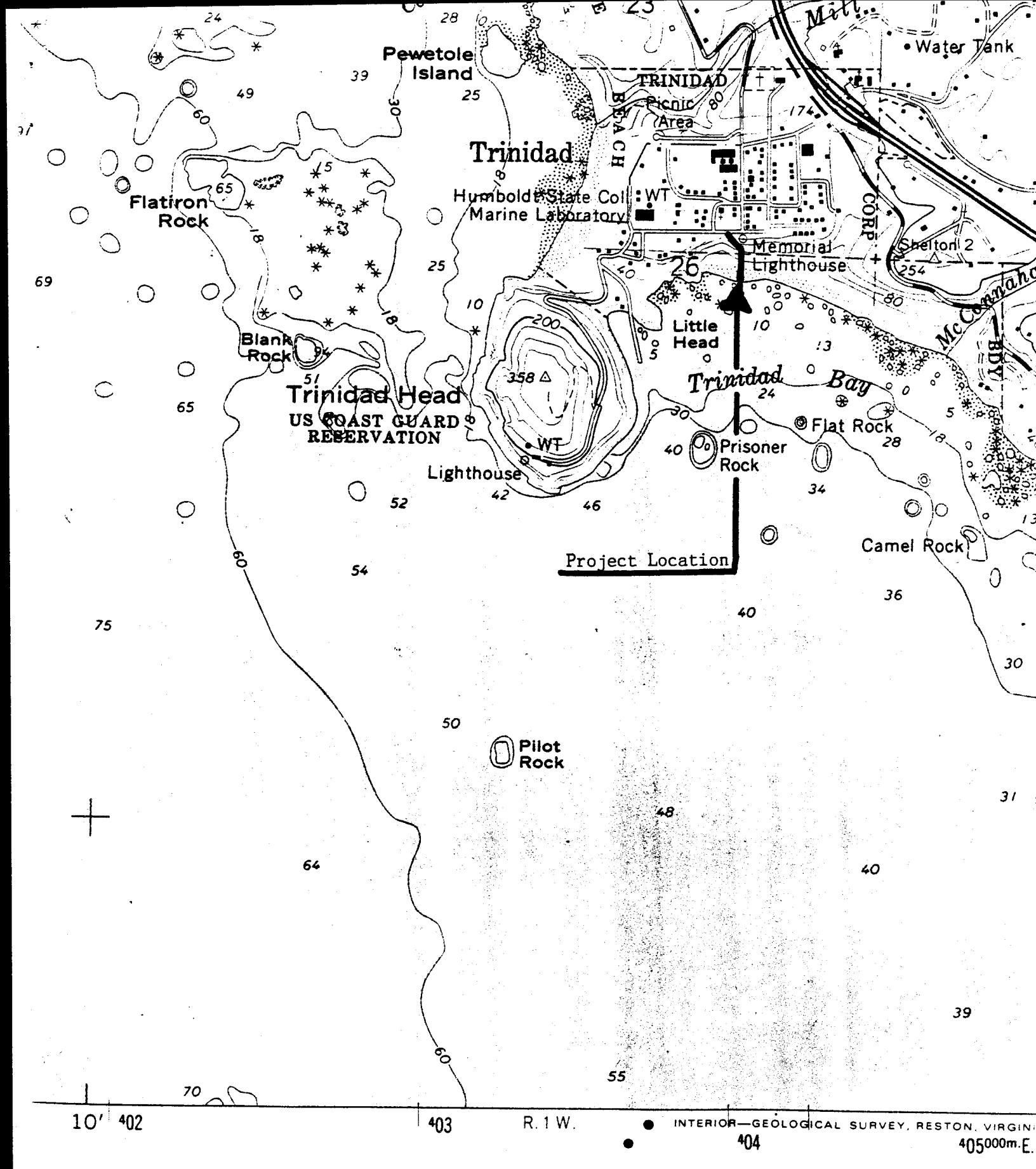
Policy No. 70 states:

In areas open to the public, adequate litter control programs should be provided.

The adoption of a litter control program would be a useful idea. However, the failure of the City to adopt a litter program in conjunction with the approval of this permit does not make the approved permit inconsistent with the City's LCP. Policy No. 70 does not indicate when the policy should be implemented and contains no language stating that such a program should be implemented in conjunction with any particular development project. In addition, Policy No. 70 only encourages a litter control program. If Policy No. 70 were to require such a program, then the policy would use the word "shall" instead of "should". Moreover, even if a litter problem were to develop after the trail was constructed, it is doubtful that the problem would be so great that it could not be corrected. Therefore, the project raises no substantial issue with regard to the Policy No. 70 of the LUP.

8843p


Humboldt
EXHIBIT NO. 1
APPLICATION NO. A-1-TRN-96-29
Regional Location
California Coastal Commission
BOUNDARY
ZONE
COASTAL
Big Lagoon Park
Patricks Point State Park
Trinidad
Approximate Project Location
LOCATION MAP
miles
N
California Coastal Commission
County of Humboldt
Sheet 2 of 8



1 MILE

EXHIBIT NO. 2

APPLICATION NO. A-1-TRN-96-29

Area Location

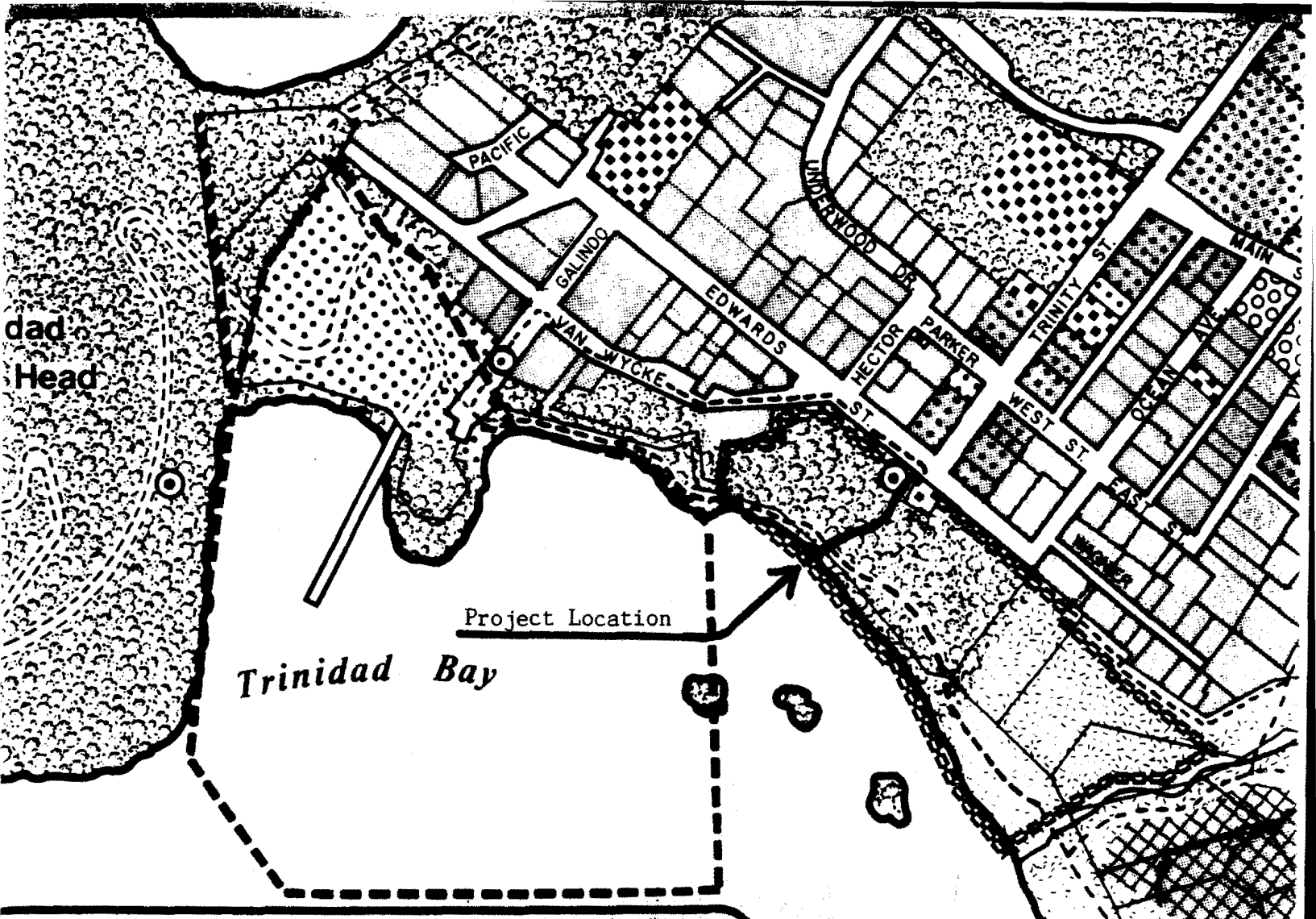
California Coastal Commission

ROAD CLASSIFICATION

Heavy-duty ..... Light-duty .....

Medium-duty ..... Unimproved di

U. S. Route



Trinidad General Plan

LAND USE

PLATE 1B

EXHIBIT NO. 3
APPLICATION NO. A-1-TRN-96-29
LUP Designation
California Coastal Commission

LAND USE CATEGORIES

- Open Space
- Resource Production
- Rural Residential
- Suburban Residential
- Urban Residential
- Visitor Services
- Commercial
- Public & Religious
- Planned Unit Development
- Special Environment

- Intensive Growth Area (AVERAGE DENSITY-LESS THAN 2 ACRES PER DWELLING)
- City Service Limit
- Trinidad City Limit
- Harbor Study Area
- ~~Tsurai~~ Study Area
- Proposed Street
- Trails

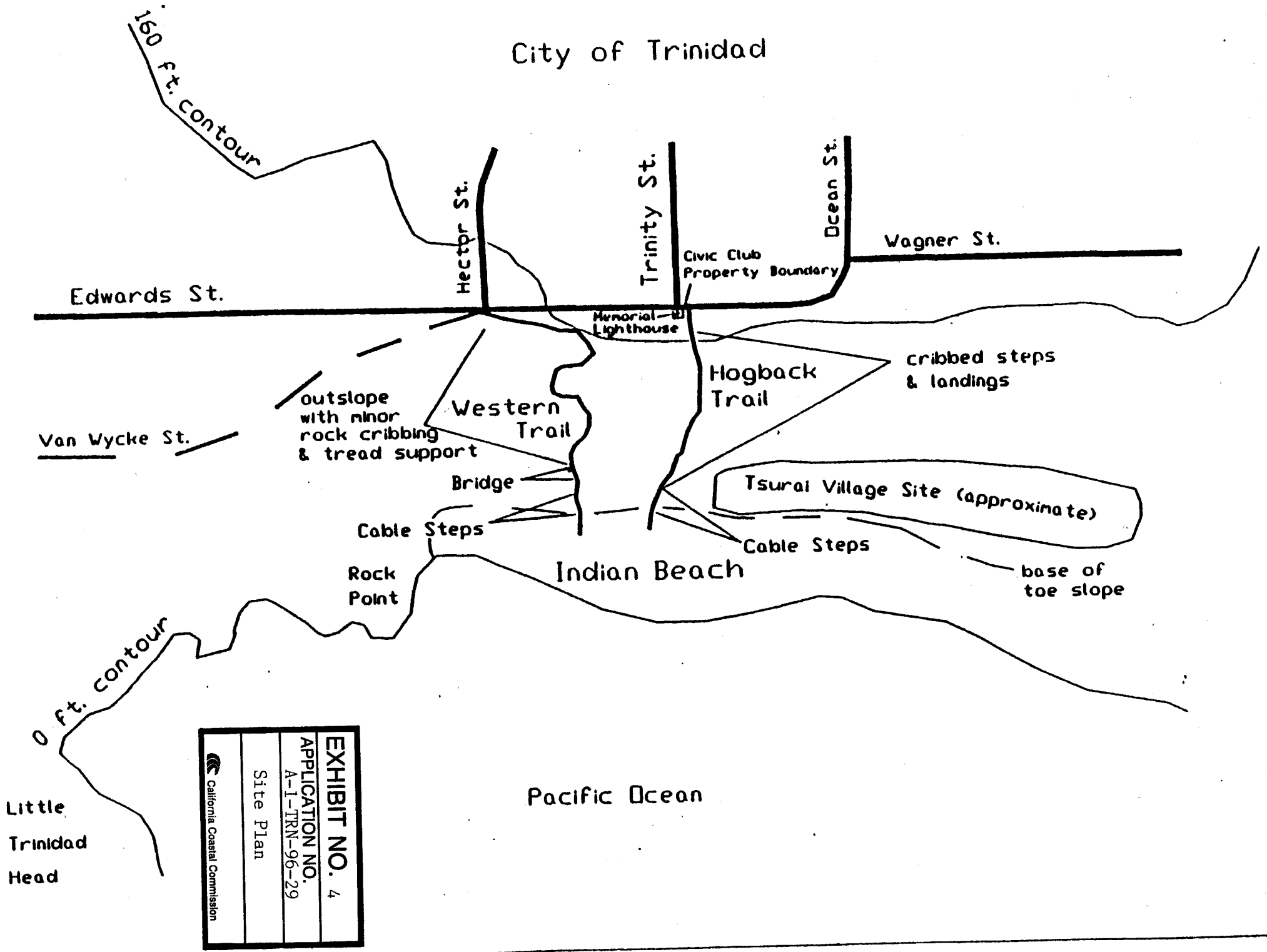


EXHIBIT NO. 4
APPLICATION NO.
A-1-TRN-96-29
Site Plan
California Coastal Commission

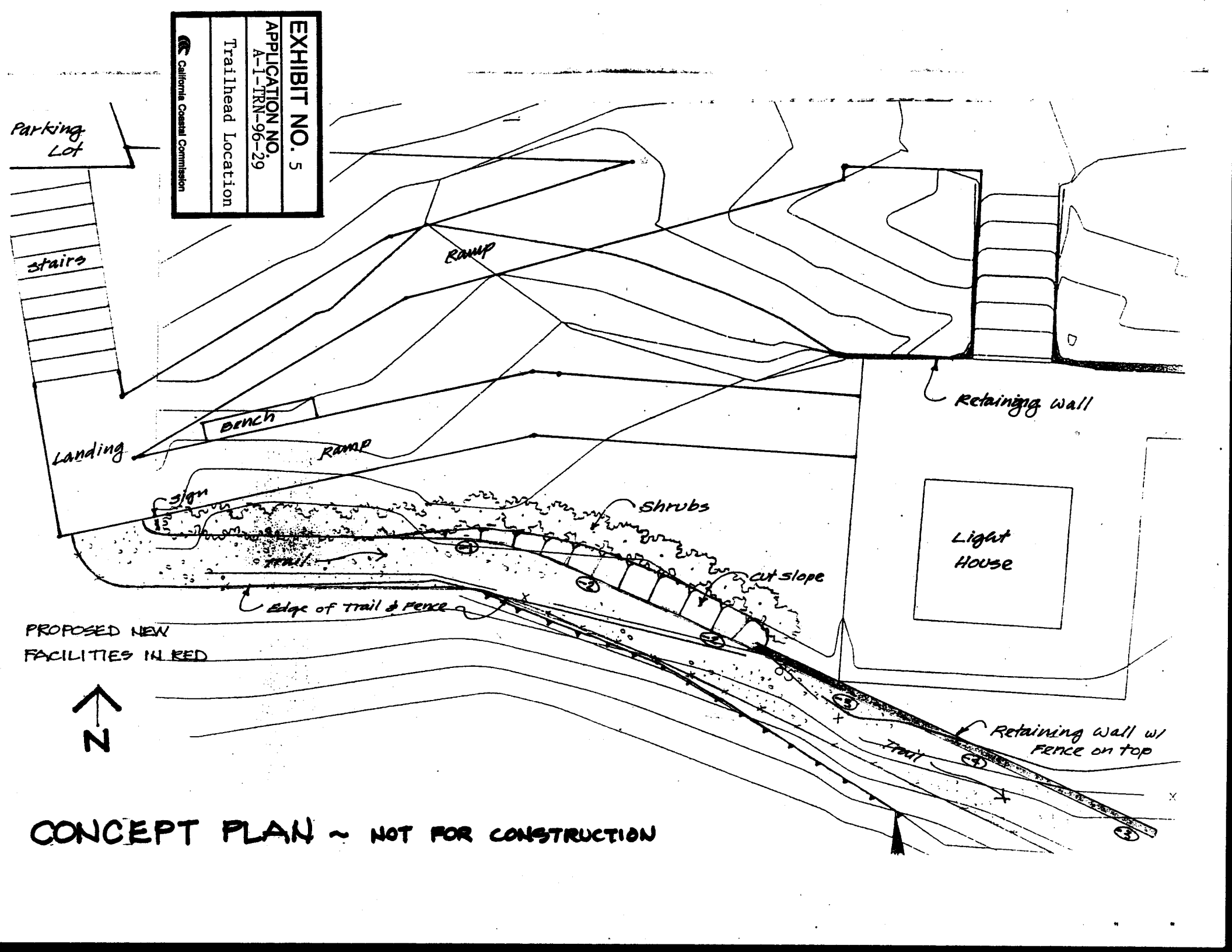


EXHIBIT NO. 5
APPLICATION NO. A-1-TRN-96-29
Trailhead Location
California Coastal Commission
Parking Lot
stairs
Ramp
Retaining Wall
Bench
Landing
Ramp
sign
Shrubs
Light House
trail
cut slope
Edge of Trail & Fence
PROPOSED NEW FACILITIES IN RED
N
Retaining Wall w/ Fence on top
Trail
CONCEPT PLAN ~ NOT FOR CONSTRUCTION

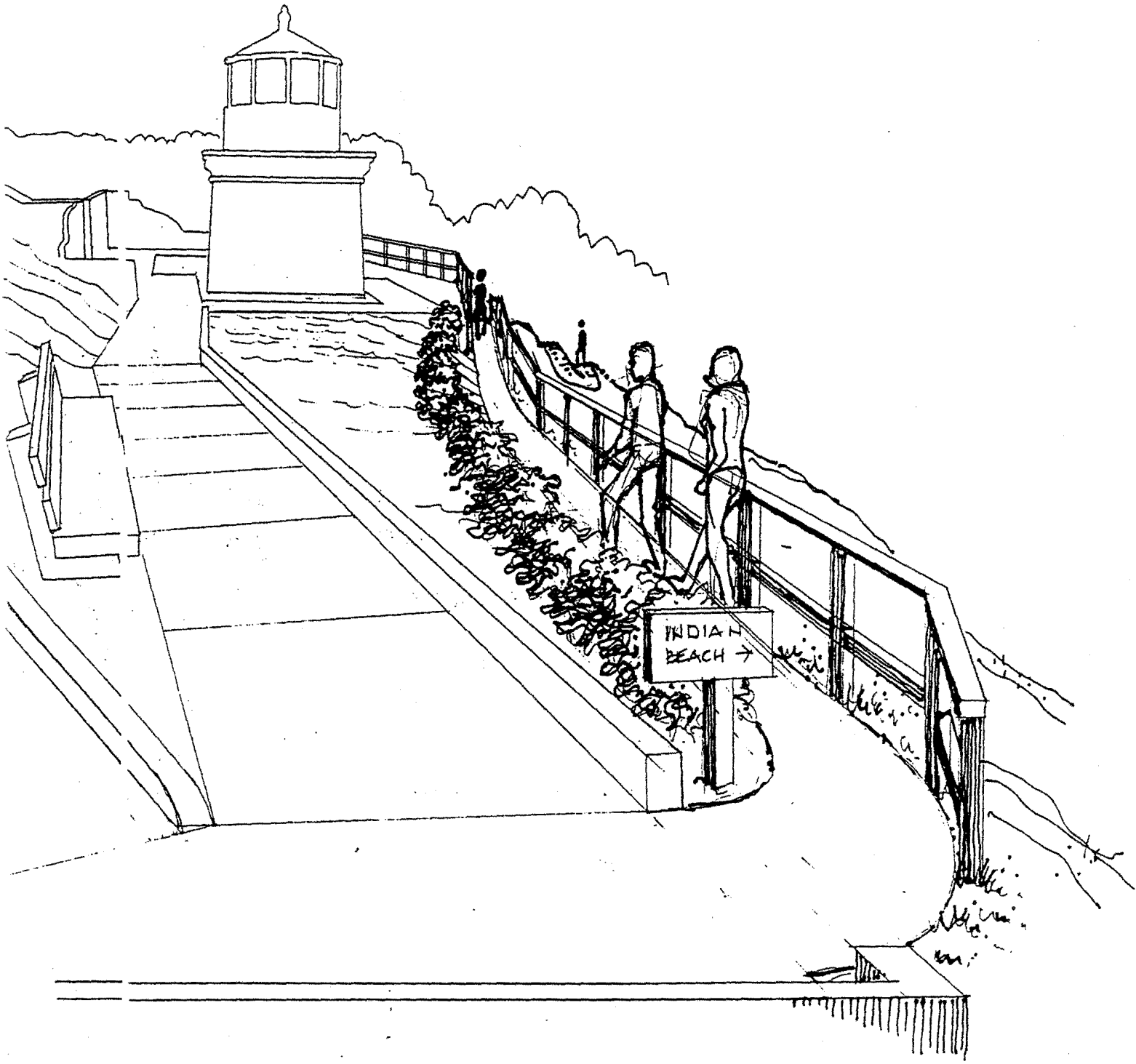


EXHIBIT NO. 6
APPLICATION NO. A-1-TRN-96-29
Perspective sketch of trailhead
California Coastal Commission

NOTICE OF ACTION TAKEN

City of Trinidad

Date 5/23/96

Applicant City of Trinidad AP #

Address P. O. Box 390, Trinidad, California 95570

The City of Trinidad City Council has reviewed the appeal for The Trinidad Civic Club for the planning commission decision on April 3, 1996 Adopting the Mitigated Negative Declaration and Approved Construction Improvements for the Hog Back Trail with Conditions.

on this date: May 22, 1996 .

The City Council :

_____ Approved

_____ Conditionally Approved

XX Disapproved

the appeal. Any conditions placed on the approval are attached. This decision may be appealed to the California Coast Commission at 45 Fremont, Suite, 2000, San Francisco, California 94105-2219, Attention Jim Muth or by telephone at 415-904-5260.

Conditions set on approval See attached.

Janelle Case,
City Clerk Janelle Case

(707) 677-0223 • 409 Trinity Street • P.O. Box 390 • Trinidad, CA 95570 • FAX (707) 677-3759

City of Trinidad

Motion by the Trinidad City Council In Response to the Appeal Filed by The Trinidad Civic Club for the Planning Commission Decision on April 3, 1996 In Regards to the HogBack Trail

Motion was made by Saunders to deny the appeal of the Civic Club and approve the construction of the Hogback Trail in accordance with the conditions and recommendations of the City planner and Planning Commission. The City will consult with a representative of the Civic Club to establish the precise location of the start of the trail. It shall be located as far to the west of the Lighthouse Memorial as practically possible so that it can join the historic location of the Hogback Trail and maintain the integrity of the memorial.

Second by Hogan. Dobrec, Hogan, Saunders, Globus, aye. Sisnerso did not vote on this action. Motion carried.

ATTEST:

Janelle Case
City Clerk

(707) 677-0223 • 409 Trinity Street • P.O. Box 390 • Trinidad, CA 95570 • FAX (707) 677-3759

City of Trinidad

P.O. Box 390
Trinidad, California 95570
(707) 677 - 0223

MEMO

TO: Janelle Case, City Clerk

FROM: Robert Brown, City Planner

RE: Indian Beach Trail

DATE: April 4, 1996

At a specially scheduled Planning Commission meeting on April 3, 1996, a motion was made by Orv Shultz, seconded by Terry Huff, as follows:

Based on the information included in the application, the Staff Report, including findings, and information submitted to the Commission and public testimony, I move to adopt the Negative Declaration, and approve the use permit with conditions as follows:

PROPOSED CONDITIONS OF APPROVAL:

1. Trail improvements to be constructed per the California Department of Parks and Recreation-Recreation Trail Construction and Maintenance specifications (1991) and the Indian Beach Trail Access Feasibility Study (June, 1995) unless modified by the required geologic report.

2. The permittee shall secure an encroachment permit which details techniques to be implemented to minimize construction related impacts to the public access areas. As part of encroachment permit, details on the timing and duration of construction activities on the trail and bluff slope will be included and the extent of construction will be marked for inspection by the City Engineer. The City Engineer will also be responsible for inspecting that the project has been constructed as proposed. Photographs of the completed project after revegetation shall be required to be submitted by the applicant.

3. The permittee if other than the City of Trinidad shall file a statement approved in form by the City Attorney indicating acceptance of responsibility for liability, maintenance and repair of the structure.

4. Information on the final trail alignment and construction

specifications for each trail will be provided to the Yurok Tribe and Axel Lindgren or other lineal descendant of the Tsurai. Project specific recommendations shall be considered into the project design.

5. Coliform testing adjacent to either approved trail alignment will be conducted, per City Engineer recommendations, in adjacent seep areas.

6. Directional signage for trail usage shall be limited to that approved by the City for the existing Indian Beach trailheads.

7. Restrictional and/or information signage for trail usage shall be kept to a minimal size and be placed where not generally visible from the street.

8. A small sign shall be placed near the bottom of the trail, visible from both directions, indicating restrictions of collecting non-game species of marine life.

9. The permittee shall submit written determination from the State Lands Commission as required per Section 17.20.070.

10. Some form of short-term parking plan be adopted at the lighthouse area, preferably one hour or less.

11. Construction of trail improvements will be done in a manner that deflects foot traffic away from village site.

12. Trail work to occur in a manner that avoids signs that earmark the location of the village from points of view along the trail. Sisneros, Shultz, Ely, Huff, aye

Motion passed 4 to 1. Boyle, Naye

A separate motion was made by Orv Schultz, seconded by Terry Huff that Based on the information in the application, the Staff Report, including findings, and information submitted to the Commission and public testimony, I move to adopt the design review/view preservation findings and approve design review as conditioned for approval in the use permit.

Motion passed 4 to 2.

Sisneros, Shultz, Ely, Huff, aye

Boyle, Galledge-Kostureni - Naye

City of Trinidad

P.O. Box 39
Trinidad, California 9557
(707) 677-022

Date 4/4/96

Notice of Action Taken

Applicant City of Trinidad Application #_____

Address Hog Back Trail-Off Edwards Street AP#. 42-091-05

The City of Trinidad has reviewed the application for Use Permit Design Review/CDP for construction of trail improvements of Indian Beach - Hog Back Trail on this date: 4/3/96

The Planning Commission/City Council:

_____ Approved

__XX__ Conditionally Approved (See Attached)

_____ Disapproved

the application. Any conditions placed on the approval are attached. This decision may be appealed to the City Council/ Coastal Commission. Appeals shall be filed in the office of the City Clerk within 10 days of the date the Coastal Commission receives a Notice of Action Taken. For details of appeals procedure, contact the City Clerk.

Sincerely,

Conditions set on approval: See Attached

Findings by the Planning Commission/City Council

INDIAN BEACH TRAIL ACCESS FEASIBILITY STUDY

TRINIDAD, CALIFORNIA

JUNE 1995

Prepared for:

STATE COASTAL CONSERVANCY

Contract # 93-048

Prepared by:

REDWOOD COMMUNITY ACTION AGENCY

NATURAL RESOURCES SERVICES

904 G. St., Eureka, CA 95501

Introduction

Natural Resources Services (NRS), a division of Redwood Community Action Agency (RCAA), entered Contract #93-048 with the State Coastal Conservancy (SCC) on June 30, 1994. This contract requires NRS to prepare a feasibility study of constructing an improved primary trail access to an ocean beach in the city of Trinidad (Humboldt County) on the north coast of California.

The beach, known as "Indian Beach" because of its proximity to the ancestral Native American village on the terrace above, has been popular among local residents. Indian Beach faces south and is protected from north winds by the bluff of the terrace on which the city of Trinidad is located. Trinidad is a small city (population less than 500) which attracts many tourists with its beaches, scenic vistas, harbor, and boat launching facilities. The local Chamber of Commerce has been actively and successfully promoting tourism. The increase in tourism coupled with the changes in trail access identification over the past 15 years have led to an increase in use of the access trails to Indian Beach. An alternative access trail would alleviate pressure on the other access trails. This report presents the results of a feasibility study investigating the development of an alternative trail to Indian Beach.

Background

There are currently six access trails that lead to Indian Beach. Three trails, Wagner Street, Parker Creek road, and Groth Lane, have various improvements but are in out-of-the-way locations. None of these trails access Edwards Street, the main coastal road in the City. The Wagner Street and Parker Creek Road accesses connect near the top of the bluff before descending to the beach down the Parker Creek canyon. The Groth Lane access joins the Wagner Street/ Parker Creek Road trails at the east end of the Iverson property on the first terrace above the beach (at the eastern end of the Tsurai Village site). All three trails share the same access from the terrace to the beach. This access is a gravel road that periodically erodes where it meets the beach.

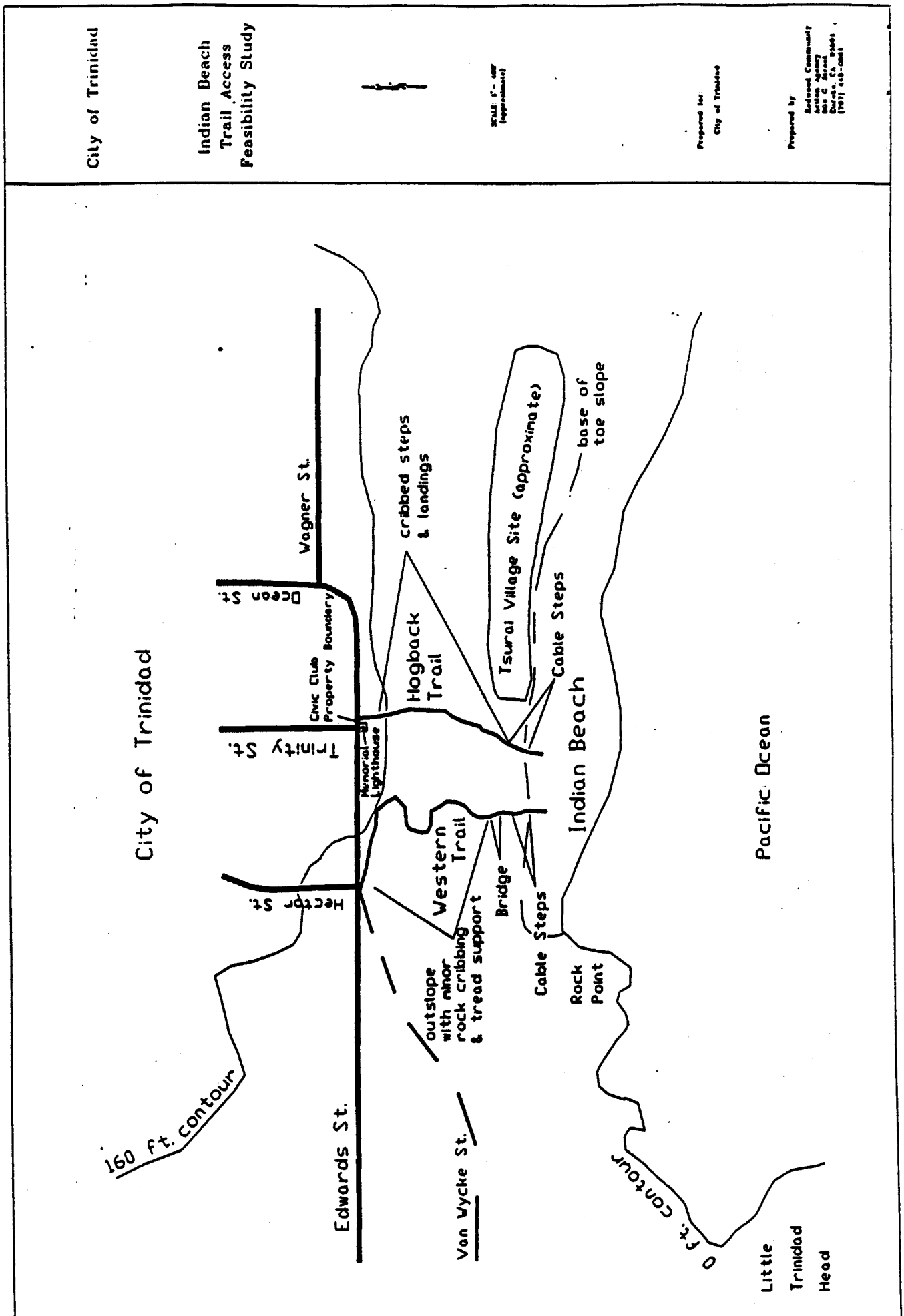
Improvements to these trails have been minimal, consisting mainly of mowing and brushing. Slumping and earth movement are evident on the bluff face below the trail where the Wagner Street access turns east into the bluff top trail (between the Replogle and Frame properties). Slumping is also evident adjacent to the trail on the Iverson property. These areas of slumping are activated by erosion of the toe slopes and earth flow of the colluvial soils downslope of the erosion (see "Site Conditions: Geology").

The other three access routes are un-improved. Two of these follow the beach, one from the harbor boat launching area and one from the beaches to the south. These routes provide access only at low tide and require difficult and sometimes treacherous hiking around rock points.

The third unimproved access is the "Hogback Trail" which was a Tsurai Village access trail according to Axel Lindgren, a direct descendent of the Yurok tribe that occupied the area. There is minor erosion along

Location Map. Figure 1

Site Map. Figure 3 Edwards St. Trail ernatives (Not all beach trails shown)



trails around the site. The letter stated that the City's trails plan and the planned 1982 SCC Indian Beach trail improvement projects were a step in the right direction.

Recent communications with Axel Lindgren indicate a change in ideas about access to the Tsurai Study Area. Mr. Lindgren and others feel that lack of vegetation maintenance jeopardizes the site by clogging creek channels, leading to erosion. Thick vegetation also conceals the site so that acts of vandalism are not visible from the bluff top. Vegetation removal and maintenance would make the TSA more accessible but increased visibility from the bluff top would deter vandalism.

Any improvements to existing trails or construction of new trails in the TSA will require submission of an application which will go through the City's permit approval process. This will involve review and approval of improvements by the Tsurai Ancestral Society and other concerned state agencies.

Land Ownership and Access

The entire study area is owned by the City of Trinidad with the exception of the area around the Memorial Lighthouse which is owned by the Trinidad Civic Club. The City's property is restricted by an open space easement held by the State Coastal Conservancy. Any changes to the property will require notification of and approval by the SCC.

Site Conditions

The area covered by this feasibility study is on the southern edge of the City of Trinidad on the coastal bluff face between Edwards Street and Indian Beach in Section 26, T8N, R1W, Humboldt Meridian. The site is defined as the area from Edwards Street to the beach. The western boundary is a line from the eastern edges of the Fulkerson and Boyle properties on Van Wycke and Edwards Streets to the beach. The eastern boundary is a line extended from the intersection of Edwards and Ocean Streets to the beach (figure 3).

Field Surveys

The site was explored by hiking the existing hogback trail and bluff face to identify possible trail locations. Trail locations would ideally meet the following criteria:

1) occupy the most gentle gradient
2) avoid, as much as possible, the most geologically unstable areas
3) avoid, as much as possible, the springs, seeps, and wet areas on the slope
4) have an access from Edwards Street
5) avoid crossing private property

Two possible trail sites were located that meet the criteria. These sites include the existing Hogback Trail near the center of the site and a route at the western end of the site. These two potential trail locations were traversed with the above criteria in mind.

Geology

In 1990 NRS retained the services of Busch Geotechnical Consultants to conduct a geologic investigation and comment on the likely effects of installing drainage improvement structures in an effort to reduce bluff erosion. Portions of the following description are taken from the Busch report (Busch Biotechnical Consultants, 1990).

The bluff height in the study area ranges from approximately 140 feet at the western end to 160 feet at the eastern end. The site contains three major geomorphic units: the Trinidad marine terrace bluff edge and face, a transportational midslope, and Indian Beach. The terrace bluff edge contains a seepage slope and convex creep slope. The bluff face has a well developed colluvial footslope that has prograded over the midslope. Site slopes are primarily moderate gradient transportational midslopes. Slope gradients are approximately 60% on the Trinidad terrace edge, 23 to 47% throughout the midslope region, approximately 8% on a lower "flat" (the Tsurai village site), and approximately 130% on the bluff face at the toe of the slope on Indian Beach. Most of the site below the Trinidad terrace edge averages 30-35%. The flat may be an ancient marine-cut bench or a bench created by the backward rotation of a slump block in response to marine undercutting of the slope toe .

The site has been mapped as Quaternary (Late Pleistocene) marine terrace sediments overlying JuraCretaceous Franciscan melange bedrock. Colluvial soils (soils moved on site from an upslope location) cover most of the site. The poorly consolidated terrace sand and gravel deposits form the steep northern portion of the site and Franciscan melange underlies the rest of the site.

There are two major geomorphic units: the marine terrace bluff face and the transportational midslope developed on melange. Most of the site falls into the transportational midslope zone. Trail access points from Edwards Street are in the marine terrace zone. The egress points onto the beach cross the Franciscan melange. Within the generally unstable bluff face, the ridge that the Hogback Trail follows is the most stable terrain.

Many significant geologic and pedologic processes are occurring. These processes include:

- soil formation (weathering of parent materials, translocation of clays, silts, etc.)
- stream erosion (downcutting and minor lateral planation)
- soil creep due to gravity and bioturbation (disturbance of soil by organisms)
- small scale slope failures
- marine undercutting of the toe of the slope
- earthflow of the Franciscan melange

The site is unstable overall. BGC (1990) classifies these slopes as "Provisionally Stable" to "Unstable". Provisionally stable slopes are "stable" under existing conditions but are subject to failure if destabilized by inappropriate development or management activities or by natural events such as extremely high ground water table and pore water pressures or strong seismic shaking. If an episode of marine undercutting was to occur, the site could break into discrete blocks of land, each with an arcuate slip surface (failure plane) on the uphill side. The base of each block would be defined by one or more translational slip surfaces. The blocks of earth would then move differentially downslope towards Indian Beach, creating a stair-stepped morphology. The present morphology suggests that this process has occurred repeatedly in the past.

The entire area encompassing the bluff top, the midslope, and the slope toe at Indian Beach is a sensitive area geologically. The annual wet season (October through April) creates saturated soil conditions that make the area sensitive to disturbance, especially to seismic activity. The process of bioturbation (burrowing by animals) adds another dimension to slope instability. Any trail location must avoid the most sensitive areas- those areas showing signs of soil creep, slumping, or earthflow. Burrows made by mountain beaver present hazards to pedestrians and may be considered sensitive because of potential harm to both the mountain beaver and to trail users.

The Memorial Lighthouse is located at the top of the Hogback ridge which is relatively stable compared to the rest of the bluff face. However even this area cannot be considered stable. The Lighthouse replica is built on a flat carved just below the bluff top and is set back ten to thirty feet from the break in slope at the top of the bluff face. A catastophic event such as a large landslide or earthquake and subsequent earth movement could destabilize the Lighthouse. Such an event would also affect the trail and access to the entire bluff would be restricted. Warning signs and barricades would have to be erected.

Archaeology

The Yurok village "Tsurai" existed from 1620 to 1916 on the eastern portion of the site (the "flat") below the bluff edge. The site was the object of a 1949 study by Heizer & Mills of the University of California. The site was comprised of 12 pre-historic family houses, a sweat-house, brush dance pit, a modern day dance hall, a water hole, graves, and trails.

The Tsurai Village site is a sensitive resource. The exact extent of the village is not known but a group of state and tribal representatives meeting in December of 1980 agreed that the village site was at least the size of the area designated as the Tsurai Study Area and in fact consisted of a larger area. The issue of whether or not a trail should be built or improved within the TSA must be addressed by several entities as required by City Policy 69. This group also needs to resolve the issue of whether or not to fence the village site if the Hogback Trail is improved.

Hydrology

Springs and seeps are numerous on the hillslope and are sensitive to disturbance. Water emitting from the springs and seeps has the potential to saturate and destabilize downslope and to directly cause soil erosion through overland flow. Springs and seeps are concentrated in the concave areas of the slope or draws where past earthflows and slumps have removed soil. There are two general draws along the bluff. These are located on either side of the Hogback Trail. The beach access from the bottom of the Hogback Trail currently follows the eastern draw up the toe slope for approximately 30 feet. This area is wet, blue clay (Franciscan melange) and is hazardous to hikers. The soil is easily penetrated when walked on and with use quickly becomes very rough. The bottom of this trail should be re-routed to avoid the wet area.

The Western Trail avoids wet areas until it reaches a small creek that forms from several seeps and springs coming together. This creek flows through a narrow terrace approximately 75 feet up the trail from the beach (see Figure 2, Site Map.)

Flora & Fauna

There are no known sensitive plant species in the study area. The bluff vegetation is thick Coastal Scrub. The understory contains blackberry, Himalaya berry, periwinkle, ferns, grasses, nettles, wild radish, wild cucumber, mint, wild parsnip, vetch, and herbs. The middle canopy is primarily baccharis, elderberry, and Himalaya berry. The upper canopy is primarily cascara, alder, and willow. One old growth bay tree (pepperwood) is a dominant feature along the Hogback Trail. Approximately half of the bluff face is dominated by the upper canopy. The other half is two thirds middle canopy and one third ground cover. Vegetation is dense and walking is very difficult except for portions of the Hogback Trail. No known sensitive, threatened, or endangered plant species are known to exist within the study area

A wide variety of birds frequent the study area. During site visits, osprey, pileated woodpeckers, several varieties of seagulls, cormorants, brown pelicans, and many perching and song birds have been observed. A complete fauna list is beyond the scope of this project. No known sensitive, threatened, or endangered bird species are known to nest within the study area. Several snags in the study area provide valuable habitat.

The most notable animal presence in the study area is the mountain beaver. These nocturnal animals are difficult to observe as they spend the days in their burrows. However their extensive system of burrows may be found concentrated in drier, deep soil areas of the slope. Evidence of mountain beaver was found in two areas along the Western Trail. No evidence of mountain beaver was observed on the Hogback Trail. Most trail use would be during daylight hours so the trail and mountain beaver habitat are not necessarily incompatible. Trail construction and use could affect some burrows. Trail construction will require further studies to map the extent of the mounatin beaver habitat, identify

impacts, and develop mitigation measures for any potential impacts. Dogs accompanying trail users would have to be kept on a leash as they may harass the mountain beaver and dig up their burrows. A warning to this effect would be required on trail identification signs.

Other small mammals such as skunks, raccoons, rabbits, mice, woodrats are common in the surrounding area. Their presence within the study area is likely but not verified. No known sensitive, threatened, or endangered animal species are known to nest within the study area.

Effects of Improved Access to Hogback Trail

The Hogback Trail is close to a popular parking area which overlooks Trinidad Bay and the Memorial Lighthouse. In its present undeveloped state and with a fence barricade at the top, only a few people use the trail, and then on an infrequent basis. The Memorial Lighthouse and adjacent parking area is a high use area and trail and access improvements here will lead to an increase in foot traffic on the trail. Not all trail users will return by way of the Hogback Trail. Once on the beach, many users will explore other access trails. Trail users may use the existing trail access at the eastern end of Indian Beach which returns up a trail adjacent to Parker Creek and then along the old wagon trail on top of the bluff, ending on Wagner Street or Parker Creek Road. The other possible loop trail crosses the rock headland at the west end of Indian Beach, crosses the beach adjacent to the boat launching facility, and either connects to the Galindo Street trail or follows Edwards Street back to the parking area. Use of Indian Beach could increase with improvement of either the Hogback or Western Trail. If beach use increases, there could be an increased demand for parking in the area. During high use periods, existing parking facilities could be inadequate.

The Trinidad Civic Club has expressed a concern that connecting the Hogback Trail to the corner of their property at the Memorial Lighthouse will negatively impact their plans for the site. They feel that extensive trail use would detract from their attempts to create a quiet, reflective memorial setting. Most of the members of the club do not favor developing a trail access through their property. Due to existing erosion, a retaining wall would be required near the southeast corner of the Civic Club's property in order to connect the Hogback trailhead to Edwards Street without crossing Civic Club property.

Physical Constraints to Trail Construction

The physical constraints to trail construction include gradient, slope stability, springs, creeks, and soil type. Of these, slope stability and the presence of springs and creeks are the main constraints. Effective trail building techniques have been developed that account for steep and unstable slopes. Cable steps are effective in areas subject to frequent episodes of erosion such as the toe slope area at the beach. Cribbed steps are effective in areas less susceptible to erosion but with soft soils or steep slopes. Interlocking trail steps are effective at reducing erosion from runoff by directing water off the

trail. They are used in low gradient areas. In flat or near flat areas the trail can be outsloped and covered with crushed rock to prevent erosion and provide traction in wet conditions.

The Hogback Trail is constrained by steep slopes, the presence of a creek near the beach, and the unstable toe slope area. The steep slopes are near the upper end of the trail just below Edwards Street and at the toe slope at the beach. Short sections of steep gradient also occur in the mid slope region. The Western Trail is constrained by steep slopes, the presence of a creek near the beach, soft soil, mountain beaver burrows, and the unstable toe slope area. The main areas of steep slope are at the trail head off Edwards Street, a short section approximately 160 feet down the trail, a section under the alder/ cascara canopy at mid slope, and at the toe slope.

Feasibility - Alternative Routes

At the western end of the study area, an alternative trail route was located (see figure 2, site map). This "Western Trail" route avoids most of the springs and seeps but does require crossing a creek near the beach. The Western Trail and the Hogback Trail are the most stable locations across the bluff face where trails can be constructed or improved without having significant impacts on the springs and areas of saturated soil.

Trail Options

I. Improve Hogback Trail

Pro's:

- Would be a primary use trail, more central, and easier to find.
- May reduce use on secondary trails.
- Is a historic trail and could be part of a Village Site Restoration Plan as part of an overall Tsurai Village Master Plan.
- Portion of construction costs are to be covered by Frame.

Con's:

- May increase use of secondary trails.
- Increased access could lead to increased vandalism and theft in archeological site.
- Will increase use of Indian Beach and environments, increasing impacts to tidal zones.
- Maintenance costs to be covered by city.
- May cost more than the Western Trail to build if Civic Club property must be avoided and retaining wall needs to be built.
- High use may impact Civic Club Memorial and increase their liabilities.
- Will lead to increased parking needs on Edwards Street.

II. Build Western Trail

Pro's:

- Primary use trail, more central, and easier to find.
- May reduce use on secondary trails.
- Is further from the Village Site and is less likely to lead to archeological site vandalism
- Portion of construction costs to be covered by Frame.
- May be less expensive to build than Hogback if retaining wall is needed for Hogback Trail.
- Avoids Civic Club Memorial area.

Con's:

- May increase use of secondary trails.
- Will increase use of Indian Beach and environments, increasing impacts to tidal zones.
- Maintenance costs to be covered by city.
- May not divert as much secondary trail use to primary trail as Hogback would due to entrance being further down Edwards Street.

III. No New Trail - Sign Existing Four Routes Equally

Pro's:

- Use of Indian Beach, its environments, and the existing secondary trails will not increase significantly.
- There are no new construction costs or maintenance costs.
- Equal signage should lead to more even use over time.
- Does not increase use of Tsurai study area.
- Does not increase need for parking on Edwards Street.

Con's:

- Equal signage may not lead to even use. (i.e.: one trail may end up with more use than the others)
- Does not lead to rebuilding of historic trail. (Hogback Trail).

Conceptual Design and Proposed Alignment

Both trails, the Western Trail and the Hogback Trail, will require similar construction techniques and designs. Interlocking cribbing, cable steps, tread reinforced steps, gravel surfaced trail treads, and landings will be used at various locations depending on the gradient (see figure 4- Interlocking Trail Steps, figure 5- Cribbed Steps, figure 6- Cable Steps, and figure 7- Gravel Surfaced Trail Treads). The western trail will require a small bridge or a rock ford to cross a creek. The Hogback Trail will require a retaining wall if the access to Edwards Street does not cross the Memorial Lighthouse property.

Hogback Trail

The proposed Hogback Trail route will follow the existing undeveloped trail except for the last 80 feet to the beach. The current path leads down a saturated blue clay slope at the toe. The proposed alignment will move the bottom of the trail to drier ground west of the current trail location. The proposed Hogback Trail is approximately 400 feet long. Figure 3, Site Map, shows the proposed trail alignment.

The steep slope at the upper access off Edwards Street will require cribbed steps. A retaining wall may also be necessary on the east side of the trail adjacent to the lower flat of the Memorial Lighthouse, depending on the exact location of the trail head. If the trail head is from the landscaped flat of the Memorial Lighthouse, cribbed steps leading from the flat will be sufficient. If the access is developed east of the flat, a retaining wall on the east side of the trail will be necessary. The steep spots in the mid slope will require cribbed steps combined with interlocking trail steps. The toe slope area will require cable steps. The creek near the beach can be avoided by moving the trail to the west. This will put the trail out of the creek bed and onto a more stable and drier "ridge",

Western Trail

The proposed Western Trail is approximately 600 feet long. Slopes vary from 0% to over 60% with an average slope of approximately 35%. Figure 3 shows the proposed alignment. The access to the Western Trail is just east of the intersection of Van Wycke and Edwards Street. Construction of this trail will require a coastal access sign in the vicinity of the Memorial Lighthouse.

From Edwards Street, a short stretch (60 feet) of 60% slope heads south and turns east into a gentle gradient above a stand of cascara and alder. Mountain beaver burrows occur in this area. The proposed trail switches back through the cascara/ alder grove, an area of moderate gradient (30-40%), and then emerges from under an old growth alder into an area of very soft soil at a 50% slope predominantly covered with nettle, mint, and small cascara under the alder canopy. Numerous mountain beaver burrows occur in this soft soil area. The gradient decreases gradually until the creek is reached. The area on either side of the creek (approximately 30 ft.) is relatively flat. On the south side of this flat the trail emerges on to the top of the toe slope. The toe slope is approximately 40 feet of exposed Franciscan melange at a 60% slope with 75% ground cover and 25% bare soil. Just east of the proposed trail location, a dense grove of willow and baccharis cover the toe slope all the way to the beach.

Construction of the Western Trail will require use of cable steps for the last 60 feet to the beach. Across the creek a 15-25 ft. long bridge or rock lined ford will be needed. Through the mid slope region, tread reinforced steps with occasional interlocking steps will be required except in areas of gentle gradient

where outsloping and a crushed rock surface will suffice. The upper 100 feet of the trail to Edwards Street will require interlocking and cribbed steps.

Soft soil occur in conjunction with the concentrations of mountain beaver burrows. Both soft soil and the burrows can be hazardous to pedestrians. The mountain beaver burrows will be avoided. The soft soil areas will require cribbed steps, interlocking steps, or a gravel surfaced trail, depending on gradient.

The creek near the beach will require either a 15 to 25 ft. long bridge with gravel ramps at either end or a rock lined ford. This creek probably dries up in late summer but will still be soft and muddy even then. A rock lined ford will provide an adequate crossing during the dry season. In the wet season the ford will have water in it but it can be designed to keep the channel narrow and crossable.

Design Details

Four types of trail construction will be employed. These include interlocking trail steps (figure 4), cribbed steps (figure 5), cable steps (figure 6), and gravel surfaced trail tread (figure 7).

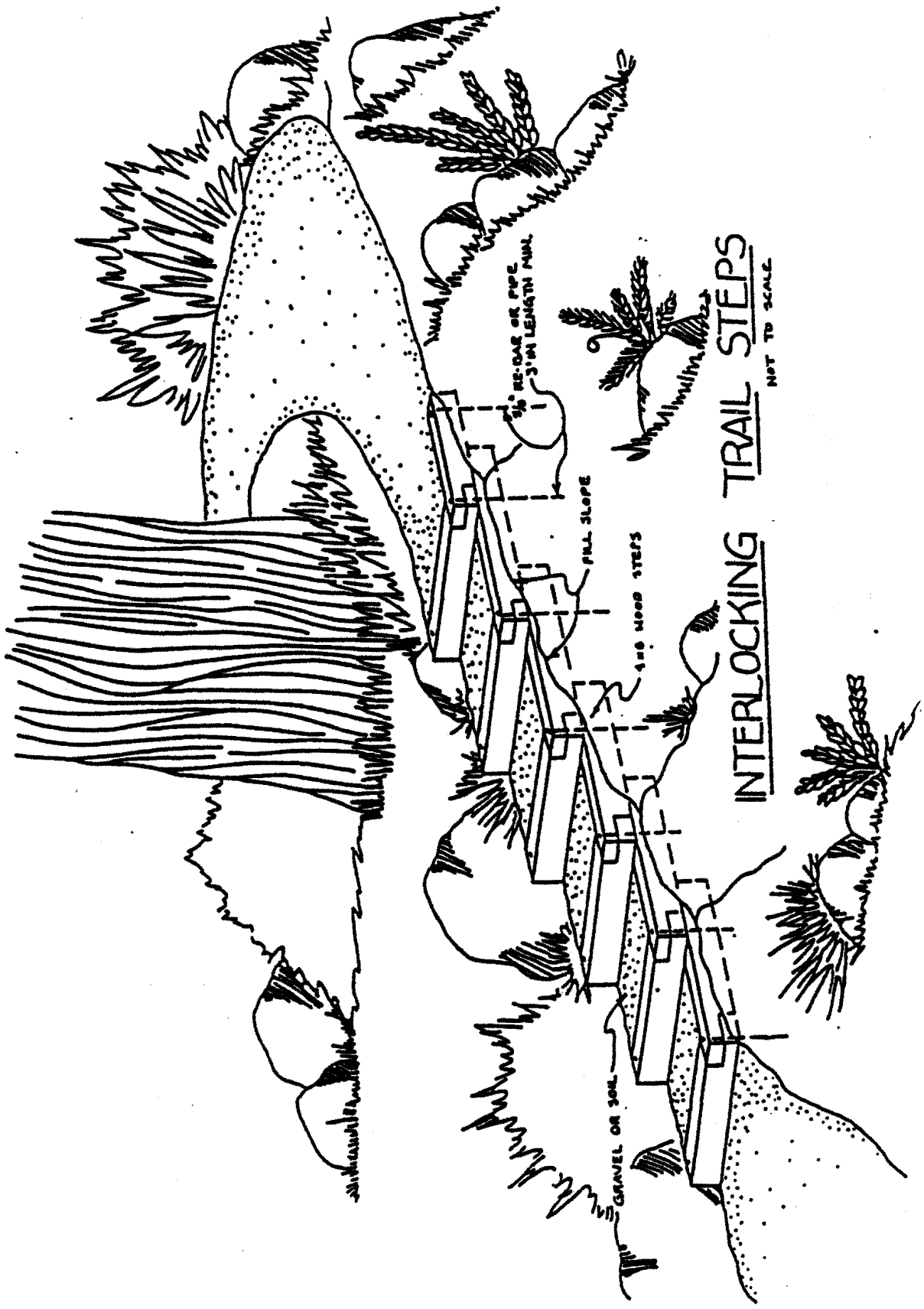
Interlocking trail steps are used in areas of low to moderate gradient. Wooden steps are made by pinning 4" X 8" pressure treated fir or redwood together with re-bar or pipe that extends two to three feet into the ground. The 4 X 8's make a rectangular frame that is filled with native soil or imported gravel or crushed rock. The length and width of each step depend on site conditions.

Cribbed steps are used in steeper areas where slope stability is relatively good. They require 4" X 8" beams (stringers), set on top of preceding layers and set back to leave room for the tread. The tread is made by cross beams which are notched and fitted together with the stringers. Cross beams act as the tread of each step. Steps are 13"- 18" wide with an 8" rise and are back filled with permeable soil or gravel.

Cable steps are used in steep, unstable areas prone to erosion. Six inch diameter redwood or pressure treated fir make the tread. Each tread is drilled with parallel holes at either end to allow a 3/8" galvanized cable (wire rope) to be passed through. Cable clamps on either side of the tread keep it from sliding up the cable. A series of treads are secured to the cable at intervals dependent on the slope of the trail. The top and bottom end of the cables are attached to "deadmen" (anchors) buried into the soil. Crushed rock or gravel is placed between treads and large, angular rock is placed beside the steps to stabilize the adjacent slope.

Gravel surfaced trail treads are cut into the native soil. This technique is used on gentle gradients. The trail can either be outsloped (when used on the side slope of a hill) or can be crowned to create a high and dry surface in flat areas. The trail is first shaped and a woven fabric may be laid down before spreading the gravel. The fabric will allow water but not soil to pass through. The gravel is compacted to make a stable surface.

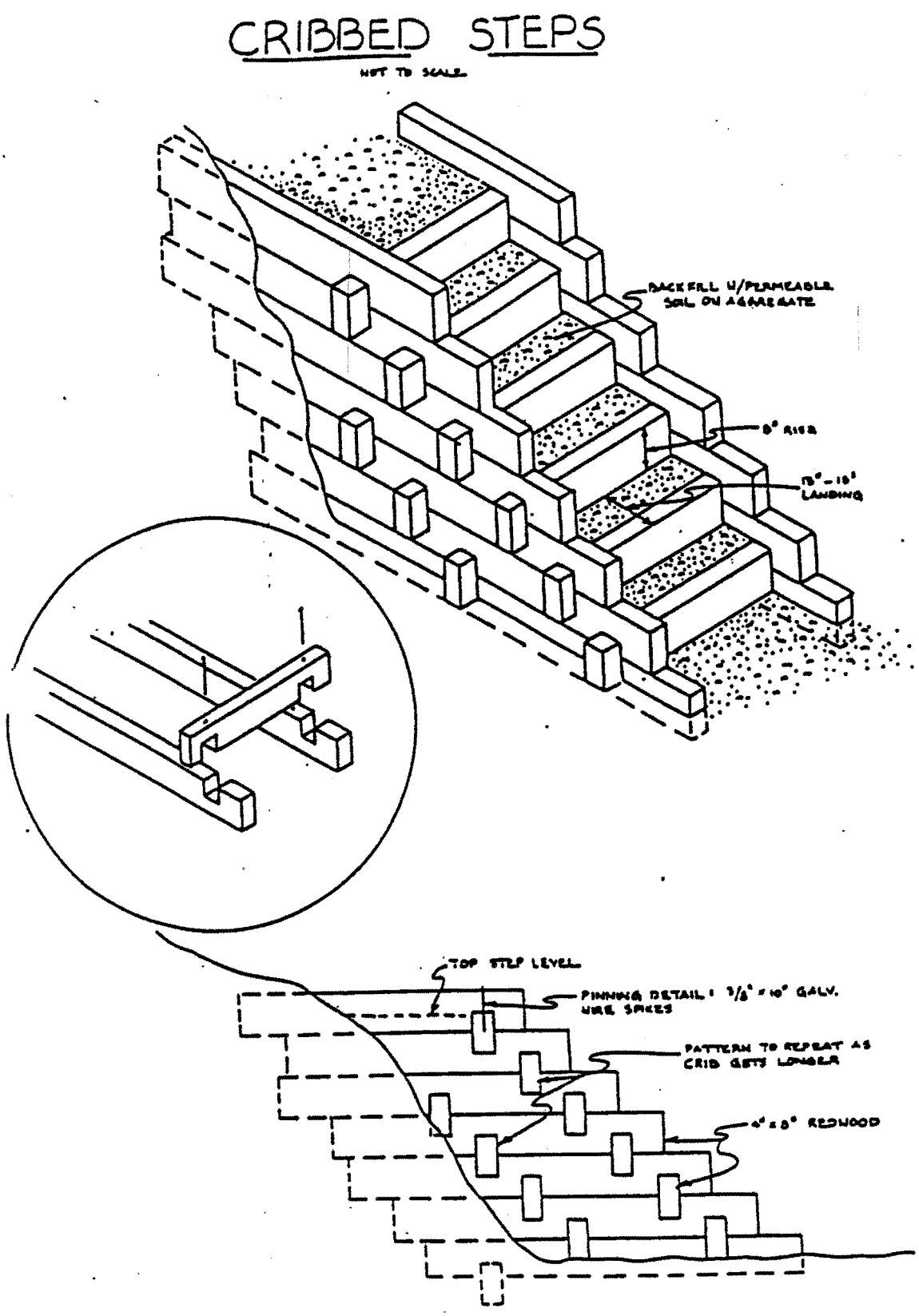
Interlocking Trail Steps. Figure 4



Page 14, Exhibit No. 8, A-1-TRN-96-29

Source: California Department of Parks and Recreation. 1991.

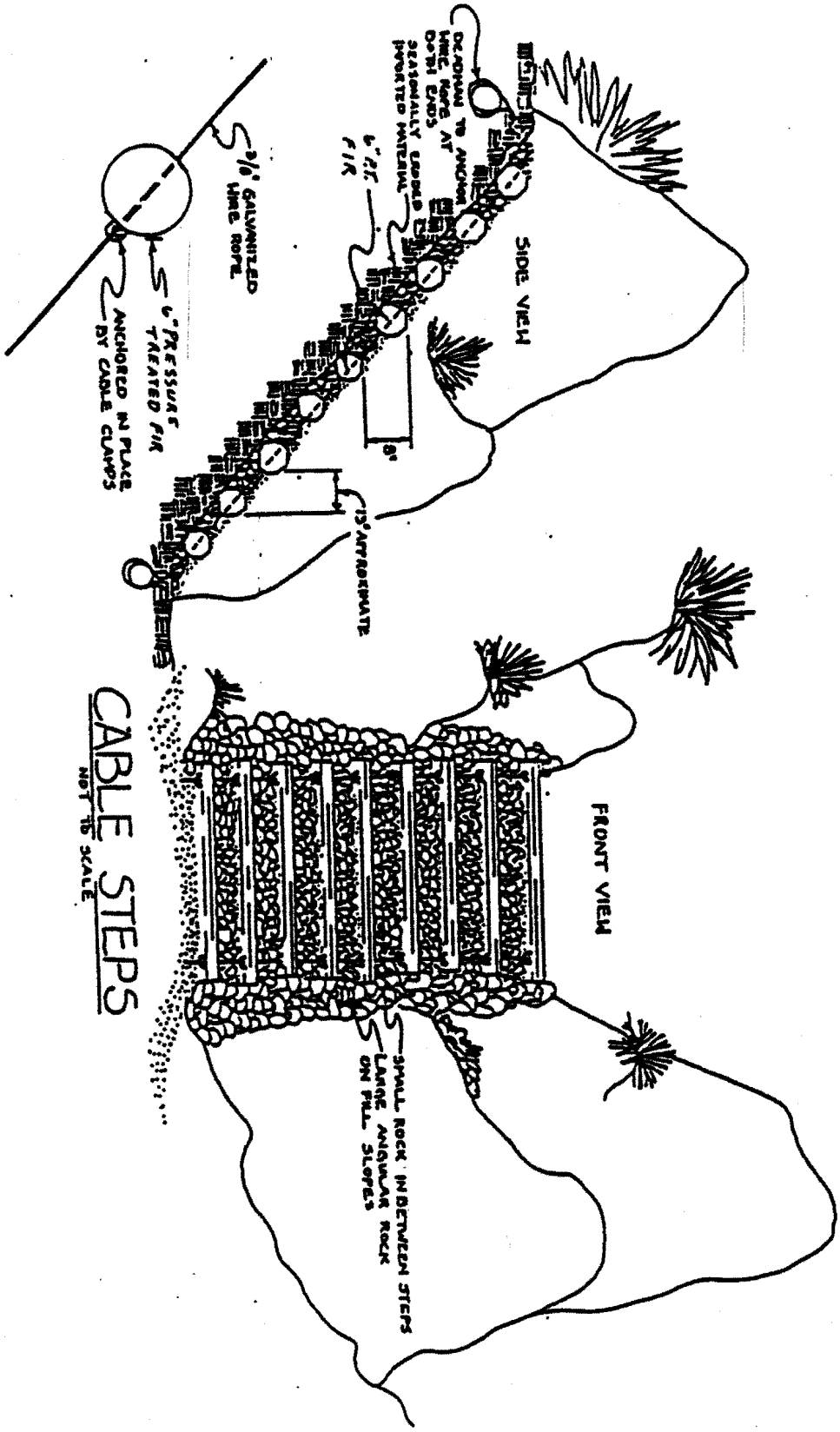
Cribbed Steps. Figure 5



Page 15, Exhibit No. 8, A-1-TRN-96-29

Source: California Department of Parks and Recreation. 1991.

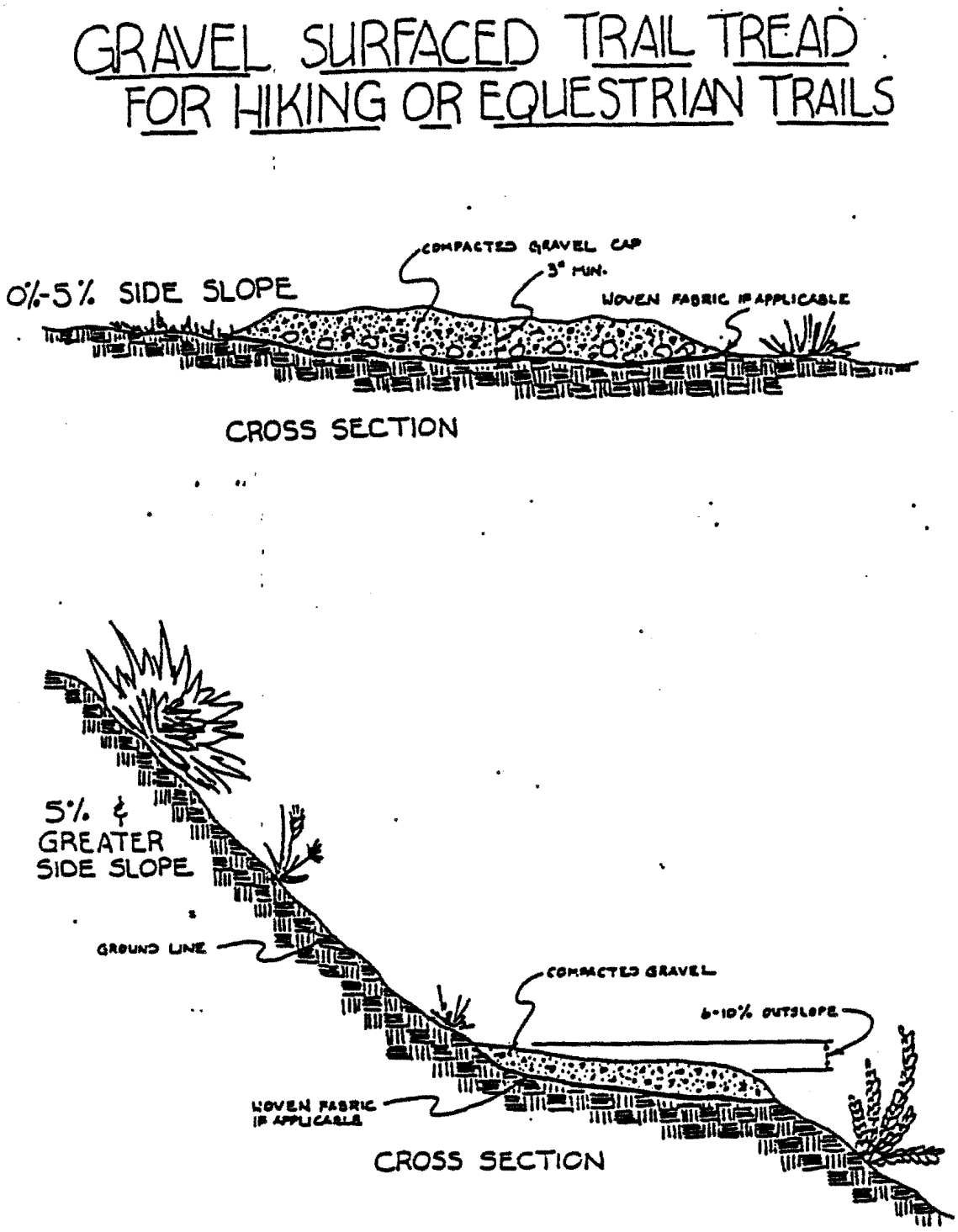
Cable Steps. Figure 6



Page 16, Exhibit No. 8, A-1-TRN-96-29

Source: California Department of Parks and Recreation. 1991.

Gravel Surface Trail Tread. Figure 7



Source: California Department of Parks and Recreation. 1991.

Cost Estimates

Construction Costs

Note: Construction costs can be reduced by reducing the level of improvements, but maintenance costs will go up accordingly. These costs are not based on prevailing wage rates.

These costs are estimated to be in the same range for both the Hogback and Western Trail. They both would have similar lengths of cable steps at the toe. The Hogback would have more cribbed and interlocking steps, and the western trail would have a bridge or rock ford and long sections of outsloped grade with some bank reinforcing with rock.

While the Hogback Trail is 200 feet shorter than the Western Trail, the improvements necessary are more material and labor intensive, and these elements balance out with the longer, less intensive techniques needed for the Western Trail.

The primary cost difference in construction would involve the cost of a retaining wall at the lighthouse area of the Hogback Trail, if required due to access restrictions. The construction costs per trail are estimated to be:

Mobilization (Final designs, scheduling, coordination) 16 X $20 =	$ 320
Construction:	
Labor (10 people - 20 days)=	24,000
Materials (rock, gravel, lumber, rebar, cable, clamps, hardware)=	15,000
Signage	2,000
Tools (Hand and Power) =	1,000
Overhead (15%)	7,171
Demobilize (16 x20)	320
TOTAL ESTIMATE	$49,811

These costs do not include permitting and approvals for the project. These costs are based on RCAA's trail building experience and recent actual costs of the Houda Point Trail Project. Both trails are expected to cost from $45,000 to $50,000 each.

If access is not secured through the Civic Club property, then the necessary retaining wall will cost an additional $8,000 to $10,000 for engineering, labor, and materials. The wall would be built of treated lumber with deep pilings and cable tie backs to anchored "deadmen". Additional rock placement would also be necessary on the slope below the wall.

Operation & Maintenance Costs

These costs are also expected to be similar for both trails. Annual brush removal will be necessary along with some minor maintenance of structures. In wet years, slope movement will cause more extensive repairs to cribbing and interlocking step areas. The western trail will have some occasional sloughing of soil onto the trail and will require clearing. Both trails are expected to require periodic maintenance and occasionally significant rebuilding of the cable steps at the toe slope. Annual costs for labor, materials, and equipment are estimated at $1,500-$2,000 for vegetation management and minor maintenance along the trail. Significant slope movement could require sections of the trail to be rebuilt at significantly higher costs which, in extreme events, could approach the initial cost of construction.

Timeline

Trail construction is best done in the dry season, May - October, to minimize potential for erosion. The entire trail construction process can be completed in one month or less.

Steps to Building a New Trail and Permit Requirements

1. The City, or the Lead Agency, has to complete, or have completed, all final designs, permits, and approvals including:
    - Final trail route and design, including the Hogback Trail retaining wall, if necessary.
    - Design review for signage in this area.
    - CEQA review- this project may be categorically exempt under Section 15304 (CEQA Guidelines), Minor Alterations to Land
    - Conditional Use Permit/ Coastal Development Permit (to include an Engineering Geologist investigation)
    - Approval for improvements by the State Historic Preservation Officer in coooperation with the lineal descendants of Tsurai and others listed in Policy 69.
    - Access permission and easements from Civic Club if necessary.
    - State Lands Commission approval
    - US Army Corps of Engineers, Section 10 permit, Rivers & Harbors Act.
3. Contract for improvements through:
    A. City request for bids, to include prevailing wages and notification procedures; or
    B. State Coastal Conservancy contracts for a non-profit/CCC cooperative project. (Note that the cost estimates for this construction project are based on this alternative)
4. The City designates a staff person to monitor, inspect, and approve contracted work.
5. Construct trail.

References

Busch Geotechnical Consultants. 1990. Historic Tsurai Village, Trinidad, CA: slope stability evaluation and geotechnical recommendations. Unpub. report, RCAA. Eureka, CA. 13 pp & appendices.

California Department of Parks and Recreation. 1991. Recreation trail construction and maintenance. California Department of Parks and Recreation. Eureka, CA.

Heizer, R.F. and J.E. Mills. 1952. The four ages of Tsurai. University of California Press. Berkeley, CA.

BACKGROUND

• THE CITY OF TRINIDAD WAS SUED BY JOHN FRAME. HE CLAIMED THAT WALKING ON THE ROAD (TRAIL) BEHIND HIS HOUSE WAS CAUSING DAMAGE TO HIS PROPERTY AND HE MAINTAINED THAT THE CITY WOULD BE LIABLE FOR ANY DAMAGE THAT DEVELOPED AS A RESULT OF GROUND MOVEMENT ALONG THE TRAIL.

• JUDGE FERROGGIARO RECOMMENDED THAT THE CITY AND MR. FRAME ARRIVE AT A MEDIATED SETTLEMENT TO AVOID A LONG, CONTENTIOUS LAW SUIT. BOTH SIDES AGREED TO ATTEMPT TO REACH A MEDIATED SETTLEMENT.

• AS A RESULT OF THE MEDIATION, A SETTLEMENT WAS REACHED AND SIGNED BY JUDGE FERROGGIARO ON 23 AUGUST 1994. KEY PROVISIONS OF THE SETTLEMENT INCLUDE:

- BEST EFFORTS WILL BE MADE TO CONSTRUCT A NEW "PRIMARY" TRAIL TO INDIAN BEACH. IT WILL BE IN THE GENERAL VICINITY OF THE TRINIDAD LIGHTHOUSE.

- THE COASTAL CONSERVANCY/COASTAL COMMISSION WILL FUND THE INITIAL FEASIBILITY STUDY TO DETERMINE THE BEST LOCATION FOR THE TRAIL.

- CONSTRUCTION WILL BE PAID FOR AS FOLLOWS: THE FIRST $10,000 BY JOHN FRAME, THE NEXT $10,000, ONE HALF BY JOHN FRAME AND ONE HALF FROM OTHER SOURCES(NOT TO INCLUDE THE CITY OF TRINIDAD), ALL COSTS OVER $20,000 FROM OTHER SOURCES, NOT TO INCLUDE THE CITY OF TRINIDAD.

- ALL REASONABLE EFFORT WILL BE EXERCISED TO COMPLETE THE NEW, PRIMARY TRAIL BY JULY 1, 1994.

- PROCUREMENT AND INSTALLATION OF SIGNING FOR THE NEW TRAIL SHALL BE GOVERNED BY THE ABOVE FUNDING ARRANGEMENT. DESIGN TO BE DETERMINED BY THE TRINIDAD DESIGN REVIEW COMMITTEE.

- ONCE THE PRIMARY TRAIL IS CONSTRUCTED, THEN:

*THE THREE EXISTING TRAILS TO INDIAN BEACH WILL BE DESIGNATED AS SECONDARY TRAILS. SIGNING WILL BE IDENTICAL ON THESE THREE TRAILS.

*THE WAGNER STREET TRAIL WILL BE OPEN ONLY DURING DAYLIGHT HOURS. NO DOGS WILL BE ALLOWED ON THE WAGNER STREET TRAIL.

*THE SECONDARY TRAIL NEXT TO JOHN FRAME'S HOUSE WILL BE CLOSED FOR 90 DAYS SO THAT ENGINEERING STUDIES CAN BE PERFORMED. AT LEAST HALF OF THIS PERIOD WILL BE DURING THE SUMMER SEASON. ONCE THE STUDY IS COMPLETED THE WAGNER STREET TRAIL WILL BE REOPENED.

• STATUS OF IMPLEMENTATION OF AGREEMENT

- RCAA CONDUCTED FEASIBILITY STUDY TO DETERMINE BEST LOCATION FOR NEW TRAIL. THIS STUDY WAS NOT COMPLETED UNTIL THE SPRING OF 1995. THE STUDY RECOMMENDED THAT EITHER THE "HOGBACK" OR "WESTERLY" TRAIL COULD BE CONSTRUCTED. THE PLANNING COMMISSION HELD A PUBLIC HEARING IN WHICH THERE WAS GENERAL AGREEMENT IF A NEW TRAIL HAD TO BE CONSTRUCTED, THEN THE "HOGBACK" TRAIL WAS THE BETTER CHOICE DUE TO SLOPE STABILITY AND CONSTRUCTION/MAINTENANCE COSTS.

- A GEOLOGICAL STUDY CONCLUDED THAT THE SLOPE STABILITY IN THE AREA OF THE 'HOGBACK" TRAIL WAS RELATIVELY STABLE AND A TRAIL COULD BE CONSTRUCTED IN THAT LOCATION. THE GEOLOGIC STUDY DID NOT ADDRESS ALL THE ISSUES THAT THE PLANNING COMMISSION REQUIRED IN ORDER TO ISSUE A USE PERMIT. THE PLANNING COMMISSION MADE THAT FINDING AT ITS FEBRUARY 1996 MEETING. AN UPDATED REPORT WAS RECEIVED BY THE CITY LAST WEEK AND A SPECIAL PLANNING COMMISSION MEETING IS SCHEDULED FOR WEDNESDAY, APRIL 3.

- THE CITY IS ACTIVELY PURSUING OBTAINING EASEMENTS/DEDICATION WITH THE PROPERTY OWNERS ALONG THE PARKER CREEK AND GROTH LANE SECONDARY TRAILS.

THE CITY IS ALSO LOOKING INTO TITLE SEARCHES FOR THE TRAIL ACCESSES.

- JOHN FRAME REQUESTED THAT JUDGE FERROGGIARO IMMEDIATELY CLOSE WAGNER ST. TO DOGS AND RESTRICT ITS USAGE TO DAYLIGHT HOURS BECAUSE THE CITY HAS NOT ACTED IN GOOD FAITH IN EXPEDITIOUSLY CARRYING OUT THE TERMS OF THE SETTLEMENT AGREEMENT. THERE HAVE BEEN TWO HEARINGS ON THIS ISSUE. THE LAST ONE OCCURRED ON MARCH 22 AND THE JUDGE WAS OBVIOUSLY DISPLEASED THAT THE CITY HAD NOT MADE MORE PROGRESS. HE AGREED TO HOLD IT OVER ONE MORE TIME SO THAT THE OTHER DEFENDANTS (STATE OF CA. AND COASTAL COMMISSION) COULD BE REPRESENTED. HOWEVER, IT IS VERY DOUBTFUL THAT HE WILL CONTINUE IT BEYOND THE NEXT COURT DATE OF APRIL 5.

- THE CITY HAD REQUESTED THAT THE CIVIC CLUB ALLOW ACCESS TO THE START OF THE "HOGBACK" TRAIL THROUGH THE LIGHTHOUSE AREA AS THIS WOULD ELIMINATE SIGNIFICANT CONSTRUCTION COSTS AND WOULD MAINTAIN THE SCENIC BEAUTY OF THE VIEW SHED. THE CIVIC CLUB DENIED THE REQUEST.

- THE CITY ENGINEER SURVEYED THE LIGHTHOUSE AREA TO DETERMINE WHERE THE CITY'S PROPERTY LINES ACTUALLY WERE LOCATED SO THAT ACCESS ACROSS CITY PROPERTY COULD BE EVALUATED. THE UPDATED MAP IS ENCLOSED AND SHOWS THAT MOST TO THE LIGHTHOUSE AREA IS ACTUALLY CITY PROPERTY. THE CITY WOULD LIKE TO WORK WITH THE CIVIC CLUB TO RESOLVE THIS PROBLEM IN THE BEST INTEREST OF THE PEOPLE OF TRINIDAD.

YUROK TRIBE

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February 21, 1996

Planning Commission
City of Trinidad
P.O. Box 390/408 Trinity Street
Trinidad, CA 95570

RE: Yurok Tribe Position Statement On Two Trail Alternatives Providing Access to Indian Beach Submitted at Feb. 21 Public Hearing of Planning Commission of the City of Trinidad

Honorable Planning Commissioners,

The Council confirms to the City of Trinidad that the Yurok Tribe is the only federally recognized Yurok governmental body and merits consultation, and that both trails being proposed are clearly within Yurok ancestral territory. As you are aware, one of the trails is a Yurok traditional trail dating back to pre-contact times. The other trail alternative may impact significant and sensitive cultural sites. Specifically, any trail development that provides access to Indian Beach will increase possible impact to the Tsurai Village site, and the Tribe has serious concerns about possible impacts to any of its cultural sites; villages, trails or otherwise. The Tribe asserts its right to be consulted in the planning and implementation phase of this proposed project.

The Yurok Tribe is in favor of the enhancement of the traditional trail with the following mitigating conditions:

1. **That the Tsurai Village Site is protected from further impact or intrusion by:**
- constructing the trail improvements in a way that deflects foot traffic away from the village site.
- proceeding with trail work in a manner which avoids signs that earmark the location of the village from points of view along the trail until such future time as the village has been considered in an overall management plan that reflects consultation with the Yurok Tribe.
- that meetings be scheduled by the City Council to consider management of the village site including the option of turning the village site lands over to the Yurok Tribe.

2. That the traditional trail restoration and enhancement work be carried out by a Yurok work crew in coordination with the City of Trinidad, State Coastal Conservancy and the Yurok Tribe; and

3. That the City of Trinidad agree to amend the city's *Local Coastal Program Policy 69* to reflect the Yurok Tribe's right to be consulted in regards to any of the city's proposed projects that have the potential to impact any of the Yurok Tribe's cultural properties within the city's sphere of influence.

We suggest that a meeting be scheduled between the City of Trinidad, the Yurok Tribe, the Coastal Commission and the Coastal Conservancy to bring a very immediate solution to a long standing issue.

Sincerely,

Susie L. Long
Chairperson, Yurok Tribe.

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John R. Selvage, P.E.
K. Jeff Nelson, P.E.
Roland S. Johnson, Jr. C.E.G.

Reference: 920215.100

February 21, 1996

Revised After Planning Commission Meeting 96

David E. Tranberg
City of Trinidad
P.O. Box 390
Trinidad, CA 95570

SUBJECT: GEOLOGIC REPORT FOR TWO TRAIL ALTERNATIVES SOUTH OF EDWARDS STREET, TRINIDAD, CALIFORNIA

Dear Mr. Tranberg:

SHN is providing this report as documentation of our surficial geologic investigation as requested by the City on November 28, 1995. The primary intent of our investigation was to assess general geologic conditions relative to erosion and slope instability impacts of trail development. The area investigated covered the two trail alignments (and areas immediately adjacent) delineated in the "Indian Beach Trail Access Feasibility Study" prepared June 1995 by Natural Resource Services, a division of Redwood Community Action Agency. The focus of our investigation is to determine if either or both of the proposed trail alignments can be constructed without creating significant additional slope failure or erosion of the coastal bluff south of Edwards Street. A second task is to assist in locating trail routes that would traverse the most stable areas available. We understand that the overall objective would be to construct a trail that would minimize adverse environmental impacts and future trail maintenance costs.

It has been well established that the coastal bluff slope south of Edwards and Wagner Streets is not a stable landform. The entire bluff slope and top edge is subject to chronic slow colluvial soil creep with localized intermittent shallow landslide occurrences. Most of the slope is mantled by loose silty sand soils that are highly erodible when exposed to direct rainfall or concentrated runoff. Springs are common along lower portions of the bluff slope. The resulting emergent groundwater aggravates slope failure and erosion processes. The toe of the bluff is subject to direct ocean wave erosion that slowly undercuts the slope. Most areas of the bluff toe are slowly sliding onto upper reaches of the beach, and as long as this

continues the slope above will continue to be unstable. It is important to note that large scale bluff slope failure has not occurred in this area for over 50 years, but the risk of large scale failure is significant and should not be ignored.

During our surficial investigations, we identified a variety of landforms that generally correspond to long term (± 10 years) rate of earth movement. Since the different landforms do not necessarily correlated with bluff slope position or slope gradient, we produced a schematic map delineating four general categories of indicated earth movement. Because previous earth movement included both erosion processes (movement of soil grains by water) and mass wasting processes (such as soil creep, slump, and earthflow) we separated the project area into four "Slope Stability Categories", see Figure 1. Actually, each of the "Slope Stability Category" areas grade into the adjacent area over a relatively wide zone. The "Most Stable" category represents areas where long term earth movement has been so slow that it is not perceptible over the long term. The "Unstable" category represents areas where relatively rapid, chronic, earth movement is occurring. Unstable areas are characterized by open ground cracks, stepped ground surfaces, bare soil, and very loose surface conditions. The "Moderately Stable" and "Marginally Stable" categories are transitional between the Most Stable and Unstable areas. Most observers would notice significant ground changes in marginally stable areas over the longterm, whereas, most observers would notice only subtle ground changes in moderately stable areas over the longterm.

Designating relative rates of ground movement is pertinent because past rates of movement are likely to represent future potential for earth movement. This potential for slope instability represents the "undisturbed" condition, but it also corresponds directly to the potential for acceleration of erosion and/or slope failure when "disturbed" by development activities such as ground cover disturbance, grading, or surface drainage alteration. In other words, the more stable landforms can tolerate a higher level of ground disturbance than less stable landforms without significantly increasing erosion rates or accelerating slope failure processes.

During our reconnaissance of the project area we noted that an area of moderate slope gradient (also characterized by moderately stable landforms) descends the bluff slope in an easterly direction from the head of Van Wycke Street. Since this area would be less susceptible to ground disturbance than adjacent steeper and less stable areas, we decided to identify an alternative trail alignment. The approximate location of this alternative route is shown on Figure 1 as "Proposed Western Trail Alignment." This alternative alignment starts at the same point as the "Western Trail" described in the Natural Resources Services (NRS) document and middle portions are also in the same basic area of the slope. Our alternative alignment differs primarily in the top section and the bottom section of the trail. Our suggested top section descends on a gradient averaging approximately 30% (25% minimum to 35% maximum) until it reaches a short 60% slope just before the stream on the lower portion of the bluff. Steps would be required to descend the 60% slope and a bridge/ford to cross the stream. The bottom section would avoid the highly unstable wet bluff toe indicated in the NRS document, by crossing a gently sloping area south of the stream then descending the moderate gradient slope now occupied by the existing Hogback Trail.

The proposed "Western Trail" would have to be designed to accommodate runoff from the area above the trail to the south edge of Edwards Street without causing significant erosion. The gravel trail surface would need to be out sloped at gradient of no less than 6%. The trail could be no wider than 4 feet where cross slope gradients exceed 25% and no wider than 3 feet where cross slope gradients exceed 40%. The trail surface should not be supported on side cast fill soil. Cut banks should be excavated to a gradient of 100% or flatter. Excavated soil will need to be hauled out or broadcast no more than 2 inches deep onto downhill slopes. Cut slopes will need to be covered with erosion protection materials so that rill erosion cannot occur. If natural drainage swales (or channels) are encountered, measures must be installed to convey future concentrated runoff across the trail and back into the original drainageway.

The existing Hogback Trail alignment straddles a ridgeline that descends the coastal bluff on an average gradient of 50%. Except for the bottom 50 to 60 feet the existing trail is located in Moderately Stable to Most Stable slope stability category areas. Assuming that the

existing trail will be upgraded, trail construction as proposed will require only minor grading. Erosion control should primarily consist of protecting bare ground areas and outsloping any trail segments that do not consist of cribbed steps or cable steps.

In summary, it is our opinion, that both trail alignments can be located, designed, and constructed in a manner that will not significantly increase erosion and slope instability. Mitigation measures required to minimize potential adverse effects will need to be very carefully designed and implemented if the Western Trail alignment is approved for construction. Mitigation measures for the Hogback trail would be generally straightforward and less likely to require frequent maintenance. If the Western Trail is constructed, the City should plan to inspect the alignment after each heavy rain for the first two wet seasons so that concentrated runoff can be dispersed before deep rills can form in cut slopes or in native soil surfaces immediately below the trail. After two wet seasons, native vegetation should be dense enough to convey most runoff events without signification erosion occurring.

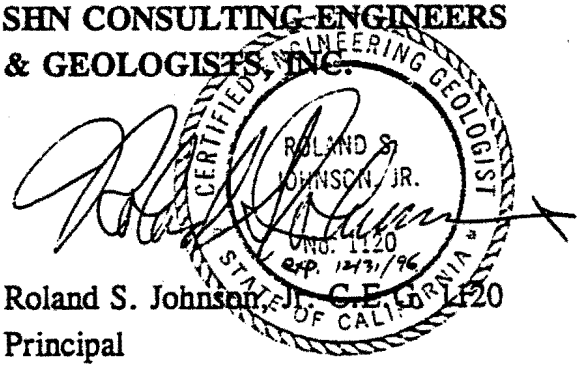
Trail construction as proposed will not contribute to the existing slope failure hazard in any significant way. The entire project area is subject to significant long term risk of slope failure. In this geologic environment slope failure events tend to be episodic and unpredictable. Slope failure events that are large enough to substantially damage a significant portion of either trail alignment are considered to be a low level hazard through the lifespan of the project.

The conclusions and recommendations provided in this report are based on surficial investigations, and many years of experience with the geologic process that affect the area. Since the level of study was limited, the conclusions are qualitative and subject to the uncertainly of unanticipated subsurface conditions, unknown past events, and unpredictable future events.

Please call if you have questions or require clarification of the information in this report. We appreciate the opportunity to work with you on this project.

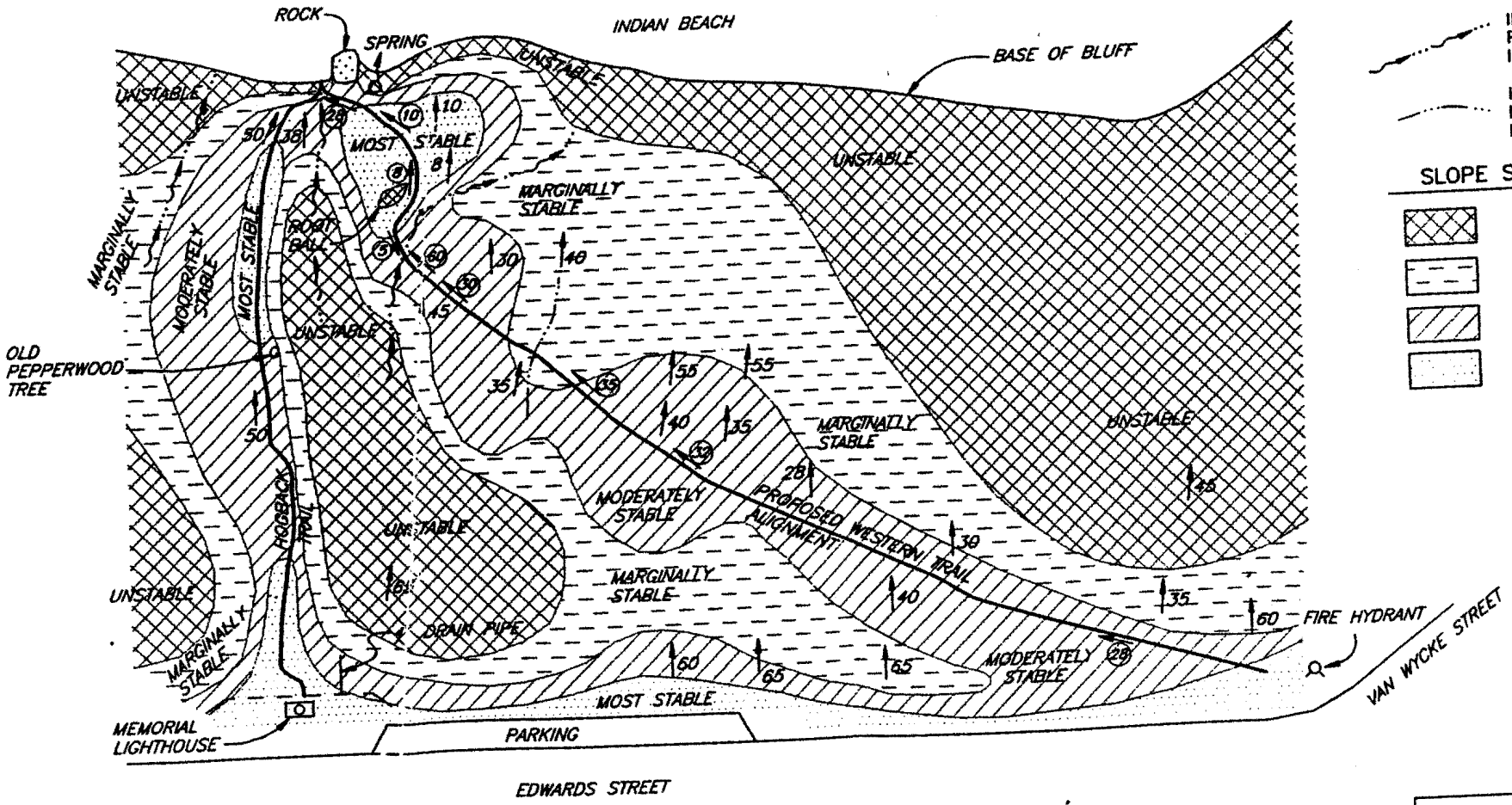
Sincerely,

SHN CONSULTING ENGINEERS & GEOLOGISTS, INC.



Roland S. Johnson, Jr. C.E.G. 1120
Principal

RSJ:ls
Enclosure



EXPLANATION

- 40 — DOWNSLOPE DIRECTION, GRADIENT IN PERCENT
- (28) — GRADIENT (IN PERCENT) ON PROPOSED TRAIL ALIGNMENT
- INTERMITTENT STREAM, FLOWING AT TIME OF INVESTIGATION (1/22/96)
- INTERMITTENT STREAM, NOT FLOWING AT TIME OF INVESTIGATION (1/22/96)

SLOPE STABILITY CATEGORIES

- UNSTABLE
- MARGINALLY STABLE
- MODERATELY STABLE
- MOST STABLE

CITY OF TRIN
GEOLOGIC INVESTIGATION OF
TRAIL ALIGNM

SLOPE STABILITY I

CONSULTING ENGINEERS
& GEOLOGISTS

812 W. Wabash
Eureka, CA 95501-2138
(707) 441-8855
FAX (707) 441-8877

1680 Hemsted Drive
Redding, CA 96002
(916) 221-5424
FAX (916) 221-0135

Reference: 920215.100

March 28, 1996

David E. Tranberg
City of Trinidad
P.O. Box 390
Trinidad, CA 95570

SUBJECT: ADDENDUM TO GEOLOGIC REPORT FOR TWO TRAIL ALTERNATIVES SOUTH OF EDWARDS STREET, TRINIDAD, CALIFORNIA

Dear Mr. Tranberg:

As you requested, SHN is providing this document as an addendum to our referenced report of February 21, 1996. The purpose is to provide professional opinions regarding Section 17.20.130, Determination of Development Feasibility, of the Trinidad Zoning Ordinance (five items). We will only address the Hog Back Trail alignment because we understand that it is the preferred trail alignment.

1. The area we investigated and reported on is sufficient to evaluate (demonstrate) site geotechnical hazards consistent with geologic, seismic, hydrologic, and soils conditions.

2. The February 21, 1996 report discusses slope failure and erosion hazards that effect the coastal bluff under typical conditions consistent with recent history. As such, it is our opinion that the "extent of potential damage that might be incurred by the development (in this case the Hog Back Trail) during all foreseeable normal...conditions" has been sufficiently delineated. When we consider "unusual conditions" including ground saturation and shaking caused by the maximum credible earthquake, we must speculate on an event that has not occurred during the history of Trinidad and possibly, not during the last few thousands of years. Under these conditions, damage (slope failure, tsunami inundation, ground lurching, and so on) to the bluff might be total. In other words, the entire surface (including any structures the ground supports) of the bluff slope and many tens of feet of the bluff top could break up and slide toward the ocean. An event of this sort could obliterate the entire trail alignment and numerous other structures located along the top of the bluff.

3. With careful consideration for mitigation of erosion hazards and appropriate grading, the proposed project should have no significant adverse effect on the stability of the bluff. A detailed discussion is provided in the February 21, 1996 report.

4. If the project is located on the ridge line that descends the slope immediately below the memorial lighthouse and designed in accordance with the recommendations of the RCAA "Indian Beach Trail Access Feasibility Study" it is neither likely to be subject to, nor contribute to significant geologic instability through the lifespan (assume 50 years) of the project. This statement is conditioned on a trailhead located north and east of a line that was delineated by SHN along the bluff top edge on March 14, 1996. The trail in this location must be completely "cut to grade," mantled with erosion resistant material, and outsloped at a gradient of at least 5%.

5. There is a low to moderate degree of uncertainty about slope stability and erosion hazards conclusions presented herein. The descriptions of site conditions and hazards are based on limited natural soil exposures, general knowledge of the geology, and personal experience with the project site over the last 40 years. Subsurface conditions are inherently variable and, therefore, somewhat speculative unless extensive, costly explorations and analyses are conducted. It is SHN's opinion that studies of this type would be considered unconventional and probably beyond the "standard of practice" for a trail project.

All conclusions presented in the February 21,1996 report remain applicable to the project now proposed. Please call if you require additional clarification of the information presented to date.

Sincerely,

SHN CONSULTING ENGINEERS & GEOLOGISTS, INC.

CERTIFIED ENGINEERING GEOLOGIST
ROLAND S. JOHNSON, JR.
No. 1120
STATE OF CALIFORNIA

Roland S. Johnson, Jr. C.E.G. 1120
Principal

RSJ:lms

City of Trinidad

P.O. Box 390
Trinidad, California 95570
(707) 677 - 0223

July 10, 1995

Debra Rindels
Office Manager
Trinidad Rancheria
P.O. Box 630
Trinidad, CA 95570

RE: Indian Beach Trail Access Feasibility Study

Dear Ms. Rindels:

As you may be aware, when the State of California, the City of Trinidad, the North Coast Land Trust, Carl and Replogle, and John Frame settled his lawsuit approximately one (1) year ago, part of the agreement was that the State of California would conduct a feasibility study. The purpose of the study was to investigate the feasibility of and alternatives for the construction of a new trail from the general vicinity of the lighthouse to Indian Beach. Each of the parties was then going to share the report with other individuals or entities, for the purpose of soliciting their comments on the report and, hopefully, their approval of the construction of one or both of the alternative trails suggested by the report. The purpose of this letter is to transmit to the Trinidad Rancheria the report obtained by the State, and to respectfully request the Rancheria's consideration of the report and favorable comments concerning one or both of the alternative trails proposed in the report.

Please feel free to contact Mayor Odom or City Clerk Janelle Case should you have any specific questions or concerns.

Inasmuch as the City is obligated to report back to the other parties within thirty (30) days, your prompt attention to this matter would be greatly appreciated.

Very truly yours,

David E. Tranberg
Trinidad City Attorney

DET/pg

Enclosure

cc: Trinidad City Council

EXHIBIT NO. 13
APPLICATION NO. A-1-TRN-96-29
City Letter to Trinidad Racheria
California Coastal Commission

YUROK TRIBE

15900 Hwy 101 N. • Klamath, CA 95548
(707) 482-2921
FAX (707) 482-9465

1034 Sixth Street • Eureka, CA 95501
(707) 444-0433
FAX (707) 444-0437

May 30, 1996

John Frame
P.O. Box 360
Trinidad, CA
95570

RE: Implementation of the Hogback Trail

Dear Mr. Frame,

With this letter I wish to reiterate the Tribe's desire to participate in the restoration of the Hogback Trail. We feel that the trail is a unique Yurok cultural property that would provide the opportune environment for training tribal youth in trail restoration while at the same time sharing a part of our heritage with a younger generation of Yuroks.

We propose to involve Axel Lindgren, fifth generation ancestral descendent of Tsurai, as the project's elder advisor. Axel will contribute a wealth of knowledge of the trail and its context in providing access to the village of Tsurai, Indian beach, and as a historical link between the first ships to set anchor in the Trinidad Bay and the interior gold mines. He will make sure that the trail is implemented in the most culturally sensitive manner.

We intend to utilize a Yurok work crew with a crew supervisor who will coordinate between the Yurok crew members, the elder advisor, the planning department of Trinidad, and others who have offered technical assistance on a volunteer basis.

Through previously established relationships, the Tribe can network with other state and federal agencies to supply contributions of materials that will allow for proper installation of the more technical sections of the trail. In addition the Tribe's Forestry Department is willing to assist with a loan of power and hand tools, assorted gear and proper safety equipment to the crew for the duration of the project.

The Tribe's Cultural Department, a recent recipient of State Historic Preservation Officer (SHPO) status can assist in the documentation of the project including assessment of any artifacts that may be unearthed in the course of implementing the trail and the processing of linear site and artifact forms.

We await a favorable decision that includes Tribal participation in the restoration of one segment of its ancestral heritage and are prepared to begin work within a week of receiving approval for our proposed restoration.

Sincerely,

Susie L. Long
Chair, Yurok Tribe

cc: Mark Wheetly, North Coast Projects Manager, Coastal Conservancy
Bob Globus, Mayor Trinidad
Bill Davis, attorney for John Frame
Axel Lindgren, Yurok Elder

SL:tg

COLDWELL BANKER

TRINIDAD REALTY

361 MAIN STREET
TRINIDAD, CA 95570
BUS. (707) 677-0213
FAX (707) 677-3366

RECEIVED
JUN 04 1996
CALIFORNIA
COASTAL COMMISSION

FACSIMILE COVER SHEET

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Jim Muth

LOCATION: 415-904-5400

FROM: Mickey Fleschner

WE ARE TRANSMITTING A TOTAL OF 14 PAGES INCLUDING THIS COVER SHEET

DATE: 6/4/96

TIME: 4:40

SUBJECT/CLIENT:

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE GIVE US A CALL.

EXHIBIT NO. 15
APPLICATION NO. A-1-TRN-96-29
Appeal Papers
California Coastal Commission

TRINIDAD CIVIC CLUB P.O. BOX 295 TRINIDAD, CALIFORNIA 95570

California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

3 June 1996

Dear Commissioners,

The Trinidad Civic Club has a long and distinguished record of service to our Community. Over the years we have consistently supported our City Council and have appreciated the self sacrifice and sense of dedication exhibited by our City officials and staff. However, due to extraordinary pressures caused by circumstances peripherally related to the proposed project we feel the City has unwisely waived proper procedure. Specific requirements of the City of Trinidad General Plan, the Zoning Ordinance of the City of Trinidad, and the California Environmental Quality Act have not been met. By this communication to you we appeal the subject action taken by the City to construct a trail.

Herewith we submit, on the forms provided by your office, an APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT. Attached to the appeal form is a detailed description of the grounds for our appeal with a number of supporting attachments.

As an informational note the undersigned appellants wish to emphasize that this action is taken reluctantly and only after all other means of addressing our concerns have failed. We are fearful that our action will be interpreted as being critical of the personal performance of the members of the City Council. Such is not the case. Although we believe the Council's decision improper, we feel its intent was sincere and meant to be in the best interests of the City. We appreciate the hard, stressful efforts the Council has made over the years of legal struggle which ultimately led to the proposed project.

As provided on the appeal form we have asked that Mickey Fleschner be allowed to assist us in handling this matter.

Sincerely,

E. Anne Odom

E. Anne Odom, Chairman, Memorial Lighthouse Committee
Other Trinidad Civic Club Members:

Helen I Annette

Mickey Fleschner

Mickey Fleschner, Agent and co-appellant

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):
TRINIDAD CIVIC CLUBS (MICHEY FLESCHNER AGENT) MEMBERS
POB 754
TRINIDAD CA 95570 (707) 677-0213
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY OF TRINIDAD

2. Brief description of development being appealed: USE PERMIT / DESIGN REVIEW / COASTAL DEVELOPMENT PERMIT FOR CONSTRUCTION OF TRAIL IMPROVEMENTS OF INDIAN BEACH - HOG BACK TRAIL

3. Development's location (street address, assessor's parcel no., cross street, etc.): VICINITY OF THE MEMORIAL LIGHTHOUSE AT THE CORNER OF TRINITY AND EDWARDS STREETS.

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: APN #42-091-05

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

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

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

a. ___Planning Director/Zoning Administrator

c. X Planning Commission (APPEAL TO CITY COUNCIL DENIED)

b. ___City Council/Board of Supervisors

d. ___Other_____

6. Date of local government's decision: _____

7. Local government's file number (if any): APN# 42-091-05

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:
CITY OF TRINIDAD
POB 390
TRINIDAD CA 95570

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

(1) YUROK TRIBE C/O TOM GATES
1034 6th ST.
EUREKA, CA 95501

(2) HUMBOLDT NORTHCOAST LAND TRUST
POB 356
TRINIDAD CA 95570

(3) OFFICE OF HISTORIC PRESERVATION
POB 942896
SACRAMENTO CA 94296-0001

(4) AXEL LINDGREN
POB 62
TRINIDAD CA 95570

(CONTINUED ON SEPARATE SHEET)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.) SEE ENCLOSED "REASONS FOR APPEAL" FOR COMPLETE LIST.

SIGNIFICANT LOCAL COASTAL AND CEQA REQUIREMENTS HAVE NOT BEEN MET (SECTION 7.09 D OF THE ZONING ORDINANCE REQUIRES COMPLIANCE WITH CEQA); IMPROPER WORDING OF MOTIONS AND CONDITIONS HAVE RESULTED IN THE APPROVAL OF AN UNDEFINED PROJECT RENDERING THE FINDINGS MUTE (SECTION 7.15); SPECIFIC PARTIES REQUIRED TO PARTICIPATE AND FORMALLY APPROVE HAVE NOT BEEN INVOLVED (SECTION 4.02 5.); QUALIFIED EXPERT TESTIMONY AFFIRMS POTENTIAL FOR SIGNIFICANT IMPACTS WHICH CAN'T BE MITIGATED (SECTION 10 a) & 10 b) 1-5) REQUIRING AN EIR; STUDIES REQUIRED TO DETERMINE THRESHOLD LEVELS OF IMPACT SIGNIFICANCE HAVE NOT BEEN DONE BUT RATHER HAVE BEEN CONSIDERED AS MITIGATION MEASURES TO MONITOR IMPACTS AND REFINE PROJECT DESIGN (SECTION 7.09 D.).

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

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

AGENT & CO-APPELLANT:
MICKEY FLESCHNER
POB 754
TRINIDAD, CA 95570
707-677-0213
FAX 707-677-3366

Signature of Appellant(s) or Authorized Agent

Date 6/3/96

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

Section VI. Agent Authorization

I/We hereby authorize MICKEY FLESCHNER to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date 6/3/96

Identification of Other Interested Persons

Supplement to

Section III b. : Appeal From Coastal Permit Decision of Local Government

(5) Redwood Community Action Agency
904 6th Street
Eureka, CA 95501

(6) Northwest Indian Cemetery Protection Association
(address unknown at this time)

(7) State Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, CA 94612

Special City Council
May 22, 1996
Sign In Attendance: Voluntary

Helen Annette
Betty & John Harkins
Fran Chappel
Pat & Tom Williams
Marcia Duckworth
Pat & Ross Chaney
DO
[illegible]
Jim & Olivia Tankersley
Ellen Hardin
Betty & John Nicklas
George & Christen Phillips
Gene McCrory
~~Marilyn and Paul [illegible]~~
Mary Willar
Francis [illegible]
William Dartz
Anne Rodden
Anne Marie Kopf
Peter Fleschner
Mickey Fleschner
Kathleen Duncan
Ned Simmons
Paul Kirk
Tom - Anne Odom

REASONS FOR APPEAL

Supplement to

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

This statement of Reasons for Appeal of the City of Trinidad's decisions regarding a proposed trail project is organized into 2 sections: I. The Local Coastal Program (LCP) basis for appeal and II. The California Environmental Quality Act (CEQA) basis for appeal. CEQA requirements are LCP requirements in that Section 7.09 D) of the Trinidad Zoning Ordinance requires compliance with CEQA for conditional use permits. Within these two categories 14 Items have been identified as concerns regarding the validity of the City's actions.

I. LOCAL COASTAL PROGRAM (LCP) BASIS FOR APPEAL.

A. Trinidad General Plan (TGP).

ITEM #1. The extremely sensitive nature of the area of the proposed project is emphasized in the TGP:

- Page 38 (Attachment 1): The last paragraph under Public Recreation reads: "Protection of open space areas and retention of scenic and natural characteristics along the Trinidad shoreline is a matter of continuing public concern. With few exceptions these lands are unstable bluffs and are unsuitable for intensive park development or intensive public recreational use."
- Page 38 (Attachment 1): The last sentence under Development Preference reads: "There is considerable resident and visitor interest in the Tsurai Village site and respect for the interests of the descendants of the village."
- Appendix A, page A-1 (Attachment 2) Under Open Space the provision: "Special site investigations should precede any environmental disturbance in order to minimize adverse impacts."
- Appendix A, page A-1 (Attachment 2) Under Special Environment the provision: "Special site investigations should precede any environmental disturbance in order to avoid adverse impacts on unstable soils, scenic amenities, cultural resources and the natural character of the area."

Conclusion: The TGP envisions the most thorough and detailed studies, analysis, and deliberations prior to commencing any project such as that proposed. The Trinidad Civic Club (TCC) feels the cursory investigations to date fall far short of this standard.

ITEM #2. Definitive boundaries around Tsurai have not been established as required by Policy 69 of the TGP (Attachment 1, page 39). Any project other than a fence around the grave sites (location to be agreed upon) in the Tsurai Study Area (TSA) needs approval of a minimum of 5 parties: 1) State Historic Preservation Officer, 2) Lineal Descendants of Tsurai, 3)Northwest Indian Cemetery Protection Association, 4) Trinidad Rancheria, and 5) City

of Trinidad. Also, any project anywhere in the Special Environment category needs approval of the State Historic Preservation Officer.

Conclusion: 1) Nobody knows where the TSA is. Without the required "boundary definition" nobody has any way of determining its location. Until this is done the TCC feels that the entire project area should be treated as potential TSA. 2) There is no evidence in the public record to indicate that the Trinidad Rancheria, the State Historic Preservation Officer, nor the Northwest Indian Cemetery Protection Association have been involved in this project. Furthermore the reference to the Tsurai Lineal Descendants is unclear: "Axel Lindgren or other lineal descendants ...". The TCC feels there should be a clear identification of all parties which need to be involved, with a clear delineation of responsibilities, before permits are issued.

ITEM #3. Policy 70, page 39 of the TGP (Attachment 1): Neither the zoning ordinances nor the permit conditions deal with this policy.

Conclusion: The TCC feels means for litter control should be established prior to project approval.

B. Trinidad Zoning Ordinance and Design Review. Discussion in this section is organized according to the public record documents associated with the actions of the Trinidad City Planning Commission (PC) and the Trinidad City Council (CC):

- PC action "Memo" dated 4 April 1996 from the City Planner to the City Clerk (Attachment 3), which details the motions and the conditions.

- PC Notice of Action (NOA) dated 4 April 1996 (Attachment 4).

- CC motion on TCC appeal, undated (Attachment 5).

- CC NOA dated 23 May 1966 (Attachment 6).

ITEM #4. Wording of motions and project descriptions in the public record:

<u>The PC motion:</u>

- Approves a Negative Declaration <u>not</u> a Mitigated Negative Declaration (very important later in Item #7).
- Approves only a Use Permit and not a Coastal Development Permit (CDP).
- Does <u>not</u> select a trail route (ie Hog Back vs. Western and note that subsequent conditions consistently refer to the two trails as viable options).

<u>PC motion for design approval:</u> Approves a project design although as is clear later in this Item and in Items 5, 6, and 7 the project, both in location and concept, is not sufficiently developed to have a design.

PC NOA:

- In contrast to the PC motion, the NOA indicates the Hogback trail was selected and a CDP approved.
- Does not indicate action was taken on an Environmental Document.

CC motion:

- Denies Civic Club appeal.
- Approves "construction of the Hog Back Trail in accordance with conditions and recommendations of the City Planner and the Planning Commission" without tying them to the PC conditions and recommendations in the permits themselves.

- No reference is made to a use permit, CDP, or Environmental document.
- Requires "future consultation" with the TCC regarding trail location, specifying a location west of the Lighthouse which ties in with the Hogback trail; an alignment found nowhere else in this entire process.

CC NOA:

- Only refers to the denial of the appeal of the PC action and does not refer to the approval of anything.

Conclusion: The motions made by the PC and CC and the subsequent NOAs of each are confusing, contradictory, do not establish an identifiable project, and generally don't make sense. Although those who attended the meetings will have a sense of what was intended for a while, any long term expectations for a clear public record are hopeless. The TCC feels the process should start again with the PC and we should get the public record straightened out.

(Items 5 and 6 refer to the PC Memo, Attachment 3)

ITEM #5. There are several conditions of approval which refer to the need to acquire additional information upon which to base future decisions of project feasibility and design:

- A geology report is referred to but not required (see Item 7).
- An encroachment permit will detail "techniques to be implemented to minimize ... impacts ..."
- Condition 4 indicates that a trail alignment currently does not exist, but once information is available on the "final trail alignment" it will be provided to the Yurok tribe and Axel or the Tsurai lineal descendants for recommendations which "shall be considered."
- "some form of short term parking ... preferably one hour or less" must be adopted (condition 10).
- Trail improvements "will be done in a manner that deflects foot traffic away from village site." (condition 11) and trail work is "to occur in a manner that avoids signs that earmark the location of the village from points of view along the trail." (condition 12).

Conclusion: All these conditions require obtaining information which should be in hand before permits are issued and Environmental Documents finalized. The TCC recommends that studies be done which address these unknowns, and include them as part of a comprehensive management plan for the entire bluff area which may be impacted, and coordinated with mitigating measures required by the CEQA process (see CEQA section below).

ITEM #6. Along with the total realignment action taken by the CC (Item 4), conditions 4 and 5 clearly refer to both alignments proposed as alternatives.

Conclusions: TCC feels that this matter should be referred back to the PC for a decision.

II. CEQA BASIS FOR THIS APPEAL

The remaining items relate to the Mitigated Negative Declaration (MND) document prepared for the City by Robert Brown and dated 15 November 1995 and incorporated herein by reference. The document is comprised of a cover letter, a 10 page Environmental Checklist Form, and a 13 page section discussing responses and entries on the checklist.

ITEM #7. The "detailed, site specific geology report" of Mitigation Measure #1 in the MND has a relationship with the conditions of the PC project approval which is complex and deserves special attention:

- Sections III e) and f) of the MNG each contain the pertinent comment: "The extent that the projects could cause an impact to occur will not be known until a focussed geological investigation on trail improvements, location and construction techniques is concluded." Emphasis added.
- A licensed expert geologist has, after on site study, questioned the adequacy of the geological conclusions of the MND and believes the geological impacts to be potentially significant (Attachment 7).
- The MND also recognizes geological impacts as potentially significant, but proposes Mitigation Measure #1 as a means to reduce impacts to insignificant levels.
- Mitigation Measure #1 is not included as a PC condition of the permit approval although Mitigation Measures #2 and #3 are.
- The PC approved a Negative Declaration not a Mitigated Negative Declaration, which it has ample authority to do if it feels justified, and which therefore leaves the requirement to do the geology report out of the picture.

Conclusions: The PC and CC actions have: 1) left in doubt the requirement to prepare the site specific geology report, and 2) ignored established procedure and judicial precedent that a)

disagreement between experts on threshold levels of significance triggers preparation of an EIR, and b)studies to assess impacts are not mitigation measures. The TCC requests that the PC approval of a Negative Declaration be denied. The TCC feels that an EIR should be prepared which addresses the significant geological impacts and provides site specific information on the trail prior to project approval.

ITEM #8. On page 1 of the MND is the summary of "Environmental Factors Potentially Affected."

Conclusion: As indicated in Items 9,10, and 13 below, the TCC feels the categories of Biological Resources, Hazards, and Recreation should also be checked.

ITEM #9. Section VII on page 7 of the MND checklist evaluates impacts on biological resources. Page 11 of the MND discussion which deals with the items on the checklist. Lines a), c), d), and e) all contain comments which indicate that there are potential impacts:

a) regarding rare/endangered species: trail construction "... would not potentially impact the habitat of these species if [the project were] located within the existing trail and properly constructed." Items above indicate we have not established the trail location. It is subject to future recommendations of Indians, Civic Club members, and possible geology reports.

c) & d) the area is described as riparian, and a conclusion is directly drawn from this that construction of a trail (not mentioned is the subsequent increase in use) "would not result in significant impacts ...".

e) regarding wildlife: "The proposed projects ... would not necessarily result in potential impact to wildlife ...". and "Added human use to the trail could result in indirect or direct impacts ...".

Conclusion: The project area is a riparian habitat on a steep bluff with unstable soils; there are few if any sites in the County that could be considered more environmentally fragile. The TCC feels that the above checklist items must be considered at least at the level of potentially needing mitigation.

ITEM #10. The MND checklist does not have a line item for hazards with regard to trails; the issue simply has not been addressed.

Conclusion: No organization, public or private, which manages trails available to the public in the Trinidad area is unaware of the liability responsibilities that accompany such management. The proposed project's objective is to increase public access to Indian Beach and shift the major burden of existing foot traffic from the Wagner Street trail. No insurance underwriter would be comfortable with the conclusion that there was no potential impact of

increasing the hazard risk should the City meet its objective of increase use. The TCC feels there is a potentially significant impact of increasing the risk of hazard involved in the project; this should be recognized in the environmental assessment and, if needed, mitigation measures required.

ITEM #11. Section XI item d) of the MND checklist considers maintenance impacts on public facilities. Minimal and generalized discussion on page 12 of the MND discussion section support the checklist assumption of less than significant impacts. Only direct maintenance impacts of the physical facility of the trail (ie clearing debris, repairing steps etc.) are considered.

Conclusions: Once the City, on its own volition and with no guarantees from any other party, constructs a major public access route into the middle of one of the most environmentally and culturally sensitive sites on California's northcoast it will assume the sole responsibility for the easily foreseeable indirect impacts of public use for the entire Tsurai Study Area. The City is in no way equipped to shoulder this burden. The TCC recommends that a coordinated resource management plan be prepared, involving all interested parties and with responsibilities and cost sharing arrangements firmly in place, as part of a mitigation measure for these substantial and largely unmitigatable Public Service impacts.

ITEM #12. *Section XIV a)-e), page 9 of the MND checklist consider cultural resources. The related discussion on page 12 and 13 of the MND discussion section is, as in Item 11 above minimal and general. Several passages are of interest:*

- *"... improvements themselves, where located on the existing trail, would not impact existing paleontological, archaeological or historical resources." This passage assumes that where the trail is now is where it will be constructed. It also ignores the testimony of Mr. Thomas Gates who, in public testimony at the CC meeting, clearly expressed his feeling that the trails themselves are archaeological and historical resources.*
- *"The changes at the lower portion of the Hogback trail are proposed to be re-routed to avoid the wet area but will need to be analyzed to whether cultural resources may be affected if the concern is raised." The problematic implications of this statement, occurring as they do in an environmental analysis document, stand on their own without further comment.*
- *"The increase in use at the Hogback Trail could result in further damage to the integrity of the Tsurai Village site."*
- *Although all Section XIV items are checked as having potentially significant impacts unless mitigated, there is no discussion of mitigation measures. It is probably assumed that Mitigation Measure #3, that Axel Lindgren or other lineal descendants of the Tsurai will review trail alignment and construction specifications, solves all these problems.*

Conclusions: The TCC feels all checklist items in this section are potentially significant; require an EIR; and should be addressed in conjunction with the coordinated resource program proposed in Item #11 above.

ITEM #13. Section XV b) of the MND checklist considers impacts on existing recreational opportunities. Discussion on page 13 is perfunctory and assumes it unlikely that the development of a new trail would have any adverse impacts. Attachment #8 describes the relationship between this project and a legal issue regarding the current primary access route to Indian Beach. Important points include:

- An individual property owner, disgruntled by the public's use of a publicly owned trail adjacent to his property, has had astonishing success within our legal system at approaching a resolution in his favor of shutting this trail down.
- Implementing this project appears to be a substantial milestone in the effort of that property owner to demonstrate there is no longer a need for the Wagner Street trail.
- All legal machinations surrounding this effort, of which the California Coastal Commission is a full participant, are kept secret from the public.

Conclusions: Approval of this project has, through indirect means within our judicial system, a significant potential to close a primary public access trail. The TCC feels that these legal impacts are therefore a part of the project. They must come out into the public arena, ending their "behind closed doors" influence of this critical land use decision. The Wagner Street trail issue should be addressed and resolved on its own needs and merits, just as any new trail should be considered on its own needs and merits.

ITEM #14. Section XVI d) on page 10 of the checklist is a Mandatory Finding of Significance regarding negative affects on human beings. Discussion on page 13 flatly denies any such impacts.

Conclusions: The cultural impacts of this project on the community of Trinidad have been the most severely negative in recent history and it hasn't even received final approval yet. As Items 1-13 above indicate, if the proposed project is approved and implemented without the modifications recommended by the TCC, the negative impacts on the human beings of Trinidad will be substantial. Here the TCC reiterates the need for an EIR and a coordinated resource management plan as proposed above.