

**CALIFORNIA COASTAL COMMISSION**

710 E STREET, SUITE 200  
EUREKA, CA 95501  
VOICE AND TDD (707) 445-7833  
FAX (707) 445-7877



# F16c

Staff: Jim Baskin  
Staff Report: November 19, 1999  
Hearing on  
Revised Findings: December 10, 1999  
Commission Action  
On Revised Findings:

STAFF REPORT: REVISED FINDINGS

APPEAL - SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: County of Mendocino

DECISION: Approval with Conditions

APPEAL NO.: A-1-MEN-99-43

APPLICANTS: CHRISTIAN AND ANITA VAN PEER

PROJECT LOCATION: 32600 Highway 20, south of Fort Bragg,  
Mendocino County; APN 018-260-56

PROJECT DESCRIPTION: Authorization for Cottage Industry to utilize  
existing 4,000-square-foot metal building for metal  
fabrication for boat building.

APPELLANT: Steven Gardner

SUBSTANTIVE FILE DOCUMENTS: Mendocino County CDU 30-98/V 1-99; Mendocino  
County Local Coastal Program.

COMMISSIONERS ON THE PREVAILING SIDE: Daniels, Dettloff, Estolono, Flemming, Kehoe,  
McClain-Hill, Potter, Reilly, Wan

SUMMARY OF COMMISSION ACTION: Finding of no substantial issue on October 13, 1999.

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**PROCEDURAL NOTE:**

The Commission held a public hearing and acted on this appeal at its meeting on October 13, 1999. The Commission concluded that the appeal did not raise a substantial issue with respect to the grounds on which the appeal was filed. As the Commission's action differed from the written staff recommendation, the following revised findings have been prepared for the Commission's consideration as the needed findings to support its action. The Commission will hold a public hearing and vote on the revised findings at its December 7-10, 1999 meeting. The purpose of the hearing is to consider the adequacy of the revised findings rather than to reconsider whether the appeal raised a substantial issue. Public testimony will be limited accordingly.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the revised findings in Section I below in support of the Commission's action on October 13, 1999, concluding that no substantial issue has been raised by the project appeal. The proper motion is:

**MOTION:**

I move that the Commission adopt the revised findings, dated November 19, 1999, in support of the Commission's determination on October 13, 1999, that Appeal No. A-1-MEN-99-43 raises NO substantial issue with respect to the grounds on which the appeal was filed pursuant to Section 30603 of the Coastal Act.

Staff recommends a YES vote. Pursuant to Section 30315.1 of the Coastal Act, adoption of findings require a majority vote of the members from the prevailing side present at the October 13, 1999 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action on the permit are eligible to vote. See the list on Page 1. Approval of the motion will result in the adoption of revised findings as set forth in this staff report.

**I. REVISED FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

**A. APPELLANTS' CONTENTIONS.**

The Commission received a valid appeal from Steven Gardner on June 25, 1999, within 10 working days of receipt by the Commission on June 21, 1999 of the Notice of Final Action. The appellant contends that the project is not consistent with the criteria of the LCP for Cottage Industries. The appellant also contends that the project is not consistent with the policies of the

LCP concerning industrial development and energy facilities. The appellant further contends that the project is not consistent with the policies of the LCP concerning protection of environmentally sensitive habitat areas.

1. **Cottage Industries.**

The appellant asserts that the construction site does not comply with the LCP policies and guidelines concerning Cottage Industries. The Coastal Guidelines state that the particular uses conducted by the Cottage Industry shall not change or disturb the residential or rural character of the surroundings, that the use shall be environmentally compatible with the project site and region, and that no Cottage Industry permitted shall occupy more than 640 square feet of an area within any building on the same parcel. In addition, the noise generation from within the site shall not exceed 65 decibels at the nearest residence.

2. **Industrial Development and Energy Facilities.**

The appellant asserts that the proposed project is inconsistent with the County's LUP Section 3.11, which references Coastal Act Section 30232 concerning protection against the spillage of crude oil, gas, petroleum projects, or hazardous substances in relation to any development or transportation of such materials, and Coastal Act Section 30250(b), which states that where feasible, new hazardous industrial development shall be located away from existing developed areas.

The appellant contends that the proposed site for boat building will not allow for the protection of the ground and groundwater because the site will be unprotected, and the potential for future, accidental contamination exists. He further contends that the construction of large ocean-going vessels in the middle of a residential neighborhood and within close proximity to wells poses a health hazard to the public.

3. **Environmentally Sensitive Habitat Areas.**

The appellant raises the question of consistency of the project with the policies of the LCP concerning protection of environmentally sensitive habitat areas. He asserts that the continued construction of large ocean going vessels, measuring 75 feet and longer and weighing hundreds of tons in the middle of a residential neighborhood and within close proximity to wells used by private residences, as well as Noyo Harbor District water table poses a real threat to the health of the public, not only to drinking water but the air being inhaled by occupants of residences, some as close as 30 yards from the site.

**B. LOCAL GOVERNMENT ACTION.**

On June 3, 1999, the Mendocino County Planning Commission approved the project and the variance with conditions (CDU 30-98/V 1-99). The project was not appealed to the Board of Supervisors. The County then issued a Notice of Final Action on the permit, which was received by Commission staff on June 21, 1999.

The County attached to its coastal permit a number of special conditions, including, among others: (1) a requirement that the applicant shall apply for a General Plan Amendment and Rezoning to FV (Fishing Village), and that the use permit and variance shall be subject to renewal in three years and be re-evaluated at that time depending on the status of the General Plan Amendment and Rezoning; (2) a requirement restricting sound levels between certain hours; (3) a requirement limiting hours of operation; (4) a requirement that all exterior lighting shall be shielded so that it does not shine or glare beyond the limits of the property; and (5) a requirement that all toxic materials used in the boat building operation shall be stored within the building and operations using potentially toxic materials shall be conducted within the building.

The local action is appealable to the Commission pursuant to Section 30603 of the Coastal Act "because the proposed development is not designated as a "principal permitted use" under the certified LCP, but requires a use permit.

**C. BACKGROUND, PROJECT, AND SITE DESCRIPTION.**

**1. Background.**

The Commission previously approved Coastal Permit Waiver No. 1-87-72W on May 12, 1987, authorizing construction of a single-family residence and a 4,000-square-foot garage on the subject parcel.

According to County staff, the property owner has been utilizing the 4,000-square-foot structure for approximately 10 years to conduct boat building operations without benefit of a coastal permit or local use permit for that use.

**2. Project and Site Description.**

The approved project consists of authorization for a Cottage Industry to utilize an existing 4,000-square-foot metal building for metal fabrication for boat building, and a variance to the 640-square-foot limitation for cottage industries so as to utilize the entire 4,000-square-foot structure.

The subject site is located approximately 1½ miles south of central Fort Bragg, on the north site of State Highway 20, near the intersection with South Harbor Drive. The subject property is a .82-acre parcel currently developed with a single family residence, a 576-square-foot detached

garage and a 4,000-square-foot metal building that has been used for boat building for a number of years (without a coastal permit). The property is accessed via an existing road approach onto State Highway 20.

The subject property is zoned Rural Residential-5 acre minimum (RR-5), meaning that there may be one parcel for every five acres, and that the parcel is designated for residential use and local, small-scale farming. Surrounding properties are also zoned RR-5, except for one adjacent parcel located immediately northwest of the site that is zoned Fishing Village (FV).

The parcel is not located within a designated Highly Scenic Area. There is no sensitive habitat on the property. The project site is approximately ½ mile from the Noyo River and the Hare Creek drainage.

**D. SUBSTANTIAL ISSUE ANALYSIS.**

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

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

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

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

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

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

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;

- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretation of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County does not present a substantial issue with regard to the appellant's contentions concerning the consistency of the approved project with the certified LCP.

1. Cottage Industries/Variance.

The appellant asserts that the approved project, which consists of authorization for a Cottage Industry for boat-building in a 4,000-square-foot metal building on a residential site and variance to the 640-square-foot limitation for cottage industries to utilize the entire 4,000-square-foot structure, does not comply with the criteria established in the Mendocino County LCP for Cottage Industries and Variances, as described below:

LCP Provisions (Excerpts from the Mendocino County Zoning Code – Coastal Zone):

i. Cottage Industry.

*Sec. 20.452.005 Declaration.*

*It is the intent of this Chapter to provide for limited commercial and industrial uses in conjunction with a dwelling which are more extensive than home occupations, but which, like home occupations, do not alter or disturb the residential or rural nature of the premises or its surroundings. Such limited commercial or industrial uses are known as Cottage Industries....*

*Sec.20.452.015 General Standard.*

*(A) The particular uses conducted by the Cottage Industry, and their operation and appearance, shall not change or disturb the residential or rural character of the premises or its surroundings.*

(B) *The use shall be environmentally compatible with the project site and region....*

*Sec. 20.452.020 Specific Standards:*

*Cottage Industries shall conform to the following requirements:*

(A) *Not more than one (1) outside person may be employed on the premises in addition to members of the family residing on the premises...*

(C) *No Cottage Industry permitted pursuant to this subsection may occupy more than 640 square feet of area within any building or buildings on the same parcel...*

(H) *Noise generation from within the site shall not exceed 65 dba at the nearest off site residence.*

*Sec. 20.452.025 Examples of Uses Permitted Upon Securing a Use Permit:*

(A) *...The following are examples of conditional uses that may be treated as Cottage Industries and that may be permitted in the Rural Residential, Remote Residential, Suburban Residential, and Rural Village Zoning Districts:*

*Administrative and Business Offices;...*

*Repair Services, Consumer;...*

*Research Services;...*

*Custom Manufacturing: Light Industrial. (Ord.No.3785 (part), adopted 1991)*

ii. Variances:

*Sec. 20.540.005 Purpose*

*A variance is an exception from zone restrictions granted by the Coastal Permit Administrator upon application when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Variances shall not be granted to authorize uses or activities which are not otherwise expressly authorized by the regulations of this Division...*

*Sec. 20.540.010 Original Jurisdiction*

*The original jurisdiction shall be exercised over variances as follows:*

(A) *Concurrent Application. When an application for granting or modifying a variance is submitted concurrently with an application for granting or modifying*

*another coastal permit and said variance would be incidental and necessary to said permit, the variance shall be designated as a concurrent variance and the application shall be reviewed by the approving authority...*

*Sec. 20.540.020 Findings*

*Before any variance may be granted or modified it shall be shown:*

- (A) That there are special circumstances applicable to the property involved, including size, shape, topography, location, or surroundings; and*
- (B) That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in this Division and applicable policies of the Coastal Element; and*
- (C) That such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances identified in Subsection. (A); and*
- (D) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; and*
- (E) That the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel; and*
- (F) That the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable plans and policies of the Coastal Act. (Ord.No.3785 (part), adopted 1991)*

Discussion:

The approved project consists of establishment of a cottage industry for metal fabrication and boat building in a 4,000-square-foot metal building on a residential lot. According to County staff, the boats that would be constructed are build-to-order commercial fishing boats that are 50' x 20' or larger. Approximately one vessel is constructed per year. Once built, the boats are transported to the Noyo River, which is approximately one-quarter mile from the site.

Section 20.452 sets standards for Cottage Industries, requiring that the particular uses conducted by the Cottage Industry, and their operation and appearance, shall not change or disturb the residential or rural character of the premises or its surroundings.

The proposed boat-building operation involves the use of loud equipment for a coastal-dependent use, would employ two outside persons in addition to the members of the family residing on the premises, and would occupy more than 640 square feet of area on the site. In addition, the proposed project could potentially alter or disturb the residential or rural nature of the premises



and its surroundings, and therefore there is a question whether the approved project should be considered a cottage industry.

Section 20.452.025(A) of the County's Zoning Code provides for examples of uses as cottage industries in certain zoning districts upon securing a use permit. This section includes a "custom manufacturing: light manufacturing" use category as an example of a permissible Cottage Industry. Section 20.328.020 defines this use type as:

*Establishments primarily engaged in the on-site production of goods by hand manufacturing which involves only the use of hand tools or domestic mechanical equipment not exceeding two (2) horsepower each or a single kiln not exceeding eight (8) cubic feet in volume and the incidental sale to consumers of only those goods produced on on-site. Typical uses include ceramic studios, candle making shops, custom jewelry manufacturing, woodworking shops, printing shops, and custom textile manufacturing.*

While not expressly enumerated as a permissible use, in its approval of the proposed project, the County found that the boat-building operations constitute a "Cottage Industry" allowable in the R-R Zone District.

While these facts may raise questions of consistency with the cited general and specific standards and the LUP provisions for Cottage Industries, several factors should be considered with respect to the methodology used by the County of Mendocino in processing and hearing the development proposal:

- The use permit and variance were processed concurrently in conformance with Section 20.540.010(A). This concurrent processing allowed for consideration of deviation from the 640 square-foot size and one-employee limitations of Section 20.452.020;
- While a variance may not authorize a use or activity not otherwise expressly authorized by the zoning provisions (Section 20.540.020(E)), the uses listed in Section 20.452.025 as permissible for Cottage Industries within R-R zoning districts are characterized as "examples," not as an all-inclusive list; and
- In approving the use permit and variance, the Planning Commission stipulated that specific performance standards must be followed by the operator to avoid or reduce the adverse effects of the use on neighboring residential properties to an insignificant level of impact. These included maximum noise levels, hours of operation, and lighting standards.

Further, in terms of the guiding factors for determining whether a substantial issue has been raised cited above, given the manner and fashion in which the County authorized the Cottage Industry the presence of a substantial issue is not indicated for the following reasons:

- The extent and scope of the approval was localized to the particular site and the use proposal before the local government. The actions taken in approving the project were not programmatic in nature and did not affect the regional area.
- The significance of the coastal resources affected is minimal. The project site is located east of Highway 1, approximately ½ mile inland. Coastal visual resources will not be impacted as the building is pre-existing and located in an area that does not affect views of the coast or scenic areas. The project site does not contain nor is in close proximity to environmentally sensitive areas. The project will have no ramifications with respect to coastal access.
- The precedent-setting significance of the project approval is minor. The staff report to the Planning Commission analyzed the uniqueness of the project in terms of:
  - The site's location relative to surrounding zoning, as it is contiguous to a commercial-industrial Fishing Village (FV) district to the northwest;
  - Uses on adjacent properties, observing the mixed-use nature of the area with several other commercial and office-based enterprises interspersed with residential uses;
  - Past actions on Cottage Industries with concurrent variances, noting that only one other such authorization had been granted within the County; and
  - The protracted timeline for resolving land use incompatibility issues through the LCP amendment process, estimated to entail a full year or more.
- The appeal issues raised were issues of local significance, as contrasted with those of regional or statewide significance. The concerns stated by the appellant related primarily to potential adverse effects to the immediate surrounding residential neighborhood in terms of incompatible industrial activity and attending noise, traffic, emissions and discharges. While concerns were voiced regarding potential pollution of regional groundwater, water, and environmental resources, these concerns were not substantiated upon review by relevant resource protection agencies. (See Section D.1.b., below for further discussion of these issues)

Accordingly, the Commission thus finds that the project as approved by the County DOES NOT raise a substantial issue with respect to conformance of the approved project with the LCP policies regarding Cottage Industries.

As discussed above, waiver of Cottage Industry building size and employee standards were pursued through the concurrent variance provisions within the LCP. The appellant's petition of the use permit's issuance indirectly raised a question regarding the required findings to grant the variances. Specifically, the presence of "...special circumstances applicable to the subject property, such as size, shape, topography, location, or surroundings," assuring that the "...special circumstances or conditions are not due to any action of the applicant," whether the "preservation and enjoyment or privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances..." and if the variances are in conformity with the provisions of the LCP in that they seem to authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel have been called into question.

In approving the variances, the County exercised its discretion in evaluating the presence of special circumstances, the causal relationships which led to the variance request, whether a deprivation of substantial property rights was indicated, and the compliance of the proposed use with zoning. A wide range of factors were considered, including over-all community character, land use patterns and history of the site and the surrounding area, the dated nature of the County's LCP, and the timeline needed for resolving the land use issues through the LCP amendment process. The County duly concluded that the required findings to grant the variance could be made under these circumstances.

With respect to the guidelines for considering whether a substantial issue has been raised, much of the above discussion relating to approval of the use permit for the Cottage Industry is applicable to the County's actions on the variances relating to compliance with the Cottage Industry standards. Accordingly, the Commission thus finds that a substantial issue IS NOT raised with respect to the conformance of the approved project with the LCP policies and criteria regarding variances.

## **2. Industrial Development and Energy Facilities.**

The appellant contends that the proposed site will not allow for the protection of the ground and ground water because the site will be unprotected and the potential for future, accidental contamination exists. He also contends nearby wells could be affected adversely by the project.

### LCP Provisions (Excerpts from the Mendocino County General Plan – Coastal Element):

#### *3.11-13*

*New industrial development shall be contiguous with, or in close proximity to existing developed areas able to accommodate it or where such areas are not able to accommodate it, in other areas with adequate public service and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources (Section 30250 (a) of the Coastal Act).*

Discussion:

The Regional Water Quality Control Board (RWQCB) conducted a site visit and well testing on an adjacent property for the County of Mendocino as part of the review referral for the project. The results of the site investigations were included in the Department of Planning & Building Services' staff report to the Mendocino County Planning Commission. The report quoted correspondence from Charles T. Vath of the RWQCB, dated March 1, 1999, as follows:

I have inspected the site of the proposed use permit several times since 1991. In addition, on January 27, 1999, in response to a citizen's complaint, I collected water samples from a well on an adjacent property to document existing groundwater quality. Enclosed is a copy of the laboratory analysis report for the well samples collected on January 27, 1999. The results indicate that there is no contamination in this well that could be attributed to the boat building activities.

Based upon my site inspection of the Van Peer Boatworks and the lab analysis results from the well sampling on January 27, 1999, I have found no evidence that past boat building activities at the site have adversely impacted the beneficial uses of surface and ground waters adjacent to the site. furthermore, (sic) if the proposed use permit is approved and future activities are conducted in accordance with appropriate best management practices, I would not expect the proposal to result in adverse impacts on the beneficial uses of surface and ground waters adjacent to the site. (emphasis added)

The County of Mendocino project conditions required the applicant to obtain all other necessary permits from federal, state and county agencies having jurisdiction (Condition of Approval A.3.). However, the project was not specifically required to conduct its operations utilizing RWQCB best management practices (BMPs).

Subsequent clarifying discussions (9/17/99) and correspondence (9/23/99) from Bonnie Rollandeli of the RWQCB further qualified the position of the agency. With regard to the land use:

- The BMPs referenced in the 3/1/99 letter related to the collection and proper disposal of sandblasting grit, and the use of spill containment devices during equipment maintenance work;
- By virtue of its Standard Industrial Classification (SIC) code as a "ship or boat building or repair yard," the proposed use would be required to obtain an Industrial Activities Stormwater Permit from the State Water Resources Control Board; and
- The sources of potential water and groundwater pollutants could be eliminated and Industrial Stormwater Permit compliance facilitated through use of the cited BMPs.

Also noted in the follow-up letter, in addition to preliminary assessment conducted by Mr. Vath, the RWQCB collected several soil samples from the project site on August 11, 1999. Test

results indicated that detected metals were comparable to background conditions, and that the only organic compound detected (toluene) it was found at low concentrations so as not to constitute a threat to beneficial surface water and groundwater uses. While not part of the record before the County when considering the project, the results of this assessment reaffirmed the RWQCB's previous findings with respect to existing and future contamination concerns.

With respect to the five criteria for determining whether a substantial issue has been raised as regards the County's action to authorize new industrial development at the project site:

- The County based its decision on a preponderance of evidence based in fact. This evidence included report-letters from relevant environmental regulatory agencies concluding the presence of no on- or off-site contamination. Further, the report found that if the proposed use were approved and required to be conducted utilizing appropriate best management practices, not similar future concerns were anticipated;
- The extent and scope of the County's approval was project-specific. It did not have programmatic or area-wide implications; and
- The precedential value of the County's decision was similarly limited. The project review focused on the unique effects of the proposed development and included special conditions and performance requirements designed to mitigate those effects (e.g., noise, hours of operation, storage containment of hazardous materials) commensurate with exposure to the surrounding area.

Given these facts, the Commission finds that a substantial issue IS NOT raised with respect to siting the proposed industrial use in conformance with the requirements of LUP Policy 3.11-13 that new industrial development shall be located where it will not have significant adverse effects on coastal resources, as feasible mitigation measures identified as part of the project review will prevent onsite accidental hazardous material contamination that could have significant adverse effects on coastal resources.

### 3. Environmentally Sensitive Habitat Areas.

The appellant asserts that the subject development is inconsistent with the Mendocino County LCP policies regarding Environmentally Sensitive Habitat Areas (ESHA).

#### LCP Provisions (Excerpts from the Mendocino County General Plan – Coastal Element)

LUP Section 3.1 references Coastal Act Section 30240(b), which states that:

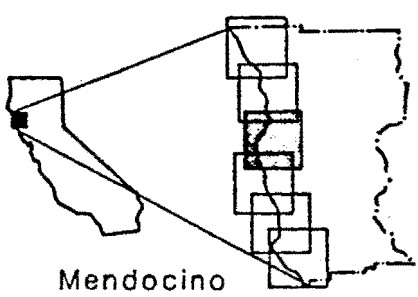
*Development in areas adjacent to environmentally sensitive habitat areas...shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Discussion.

The project site is located on a residential parcel located approximately one-quarter mile from the Noyo River. As noted under Section D.1.c. above, RWQCB staff collected and analyzed water samples on January 27, 1999 from a well on an adjacent parcel to document existing ground water quality. The results indicate that there has been no contamination in this well that could be attributed to the boat building activities. Regional Board staff concluded that based upon the site inspection of the Van Peer Boatworks and the lab analysis results from the well sampling, there was no evidence that past boat-building activities at the site have adversely impacted the beneficial uses of surface and ground waters adjacent to the site.

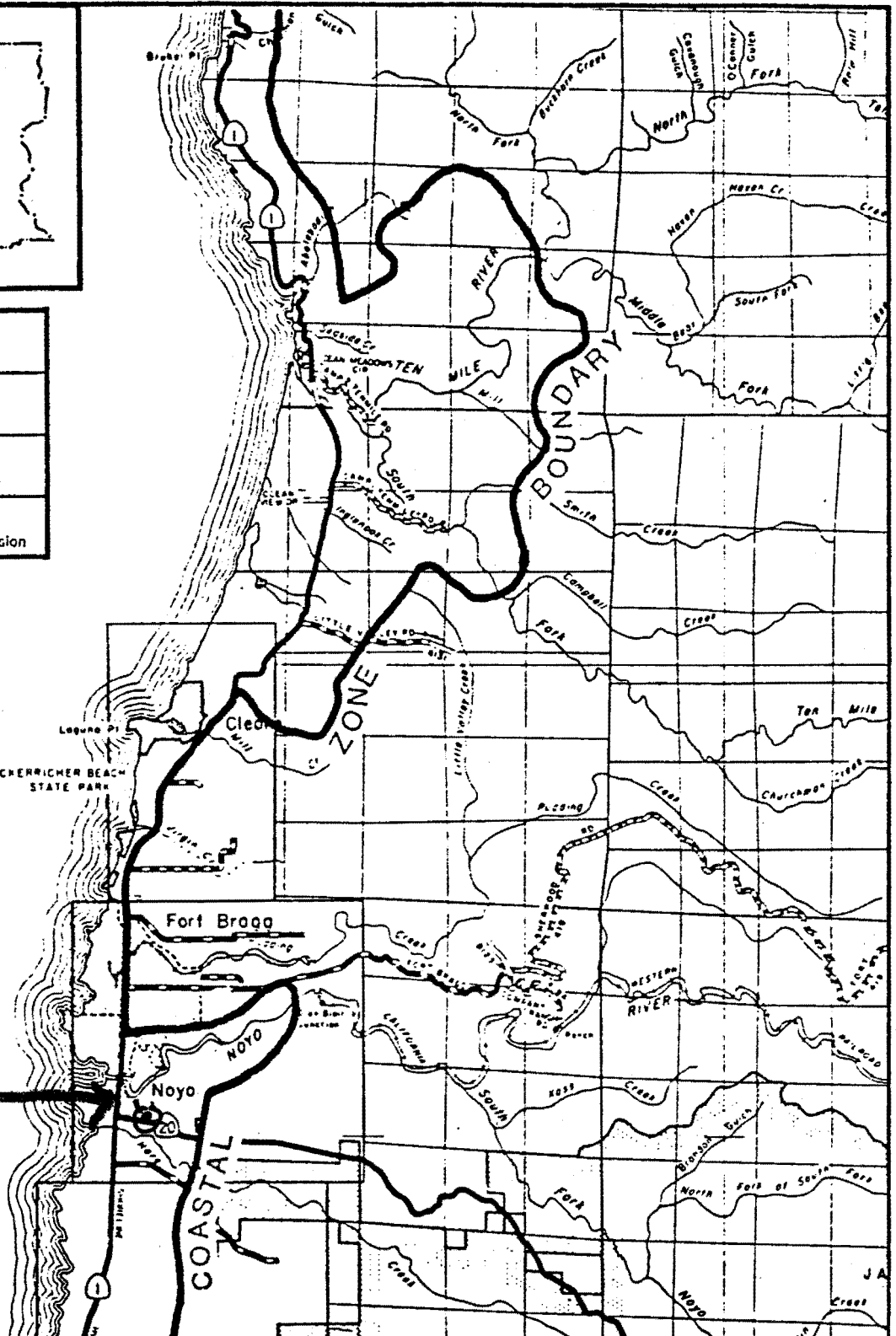
Further, as reflected in the follow-up letter discussed under the preceding issue analysis, the follow-up assessment conducted by the RWQCB has since been completed. The results of this investigation further supported the agency's previous conclusions regarding the lack of or potential for significant ground or groundwater contamination based on the January 27, 1999 site investigation and well water test results.

With respect to the guidelines for considering whether a substantial issue has been raised, much of the above discussion relating to approval of new industrial development is applicable to the County's actions regarding such siting adversely affecting environmentally sensitive habitat areas. Accordingly, there is no evidence that any discharge from the-site to surface and ground waters is degrading the environmentally sensitive habitat areas along the Noyo River. The Commission thus finds that the project as approved DOES NOT raise a substantial issue with respect to conformance of the approved project with the LCP policies regarding protection of environmentally sensitive habitat areas.



Mendocino

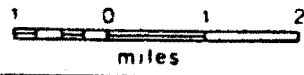
**EXHIBIT NO.** 1  
**APPLICATION NO.**  
 A-1-MEN-99-43  
 VAN PEER  
 Location Map  
 California Coastal Commission



APPROXIMATE  
LOCATION

California Coastal Commission

**LOCATION MAP**



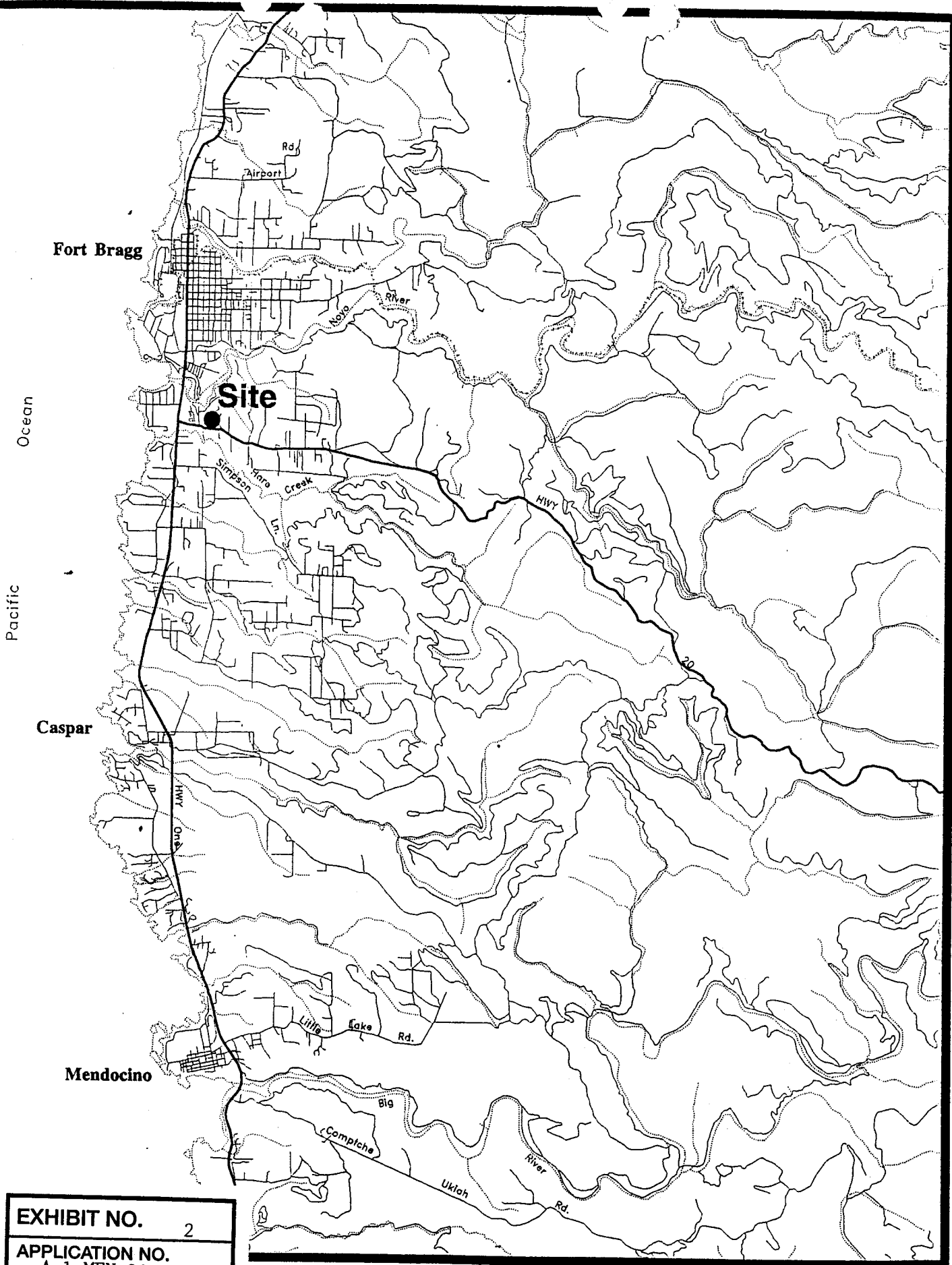
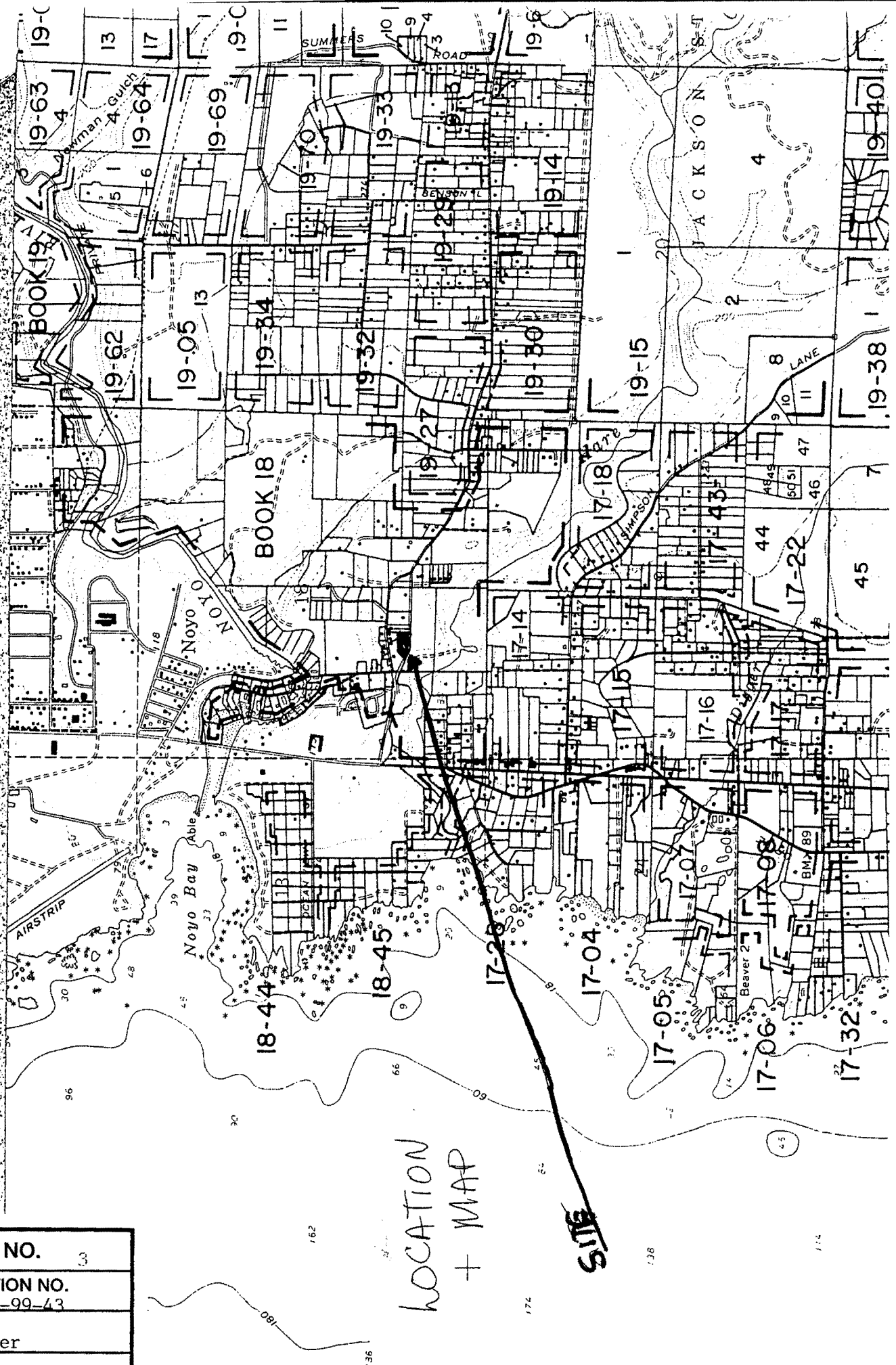


EXHIBIT NO.	2
APPLICATION NO.	A-1-MEN-99-43
Van Peer	
Location Map	

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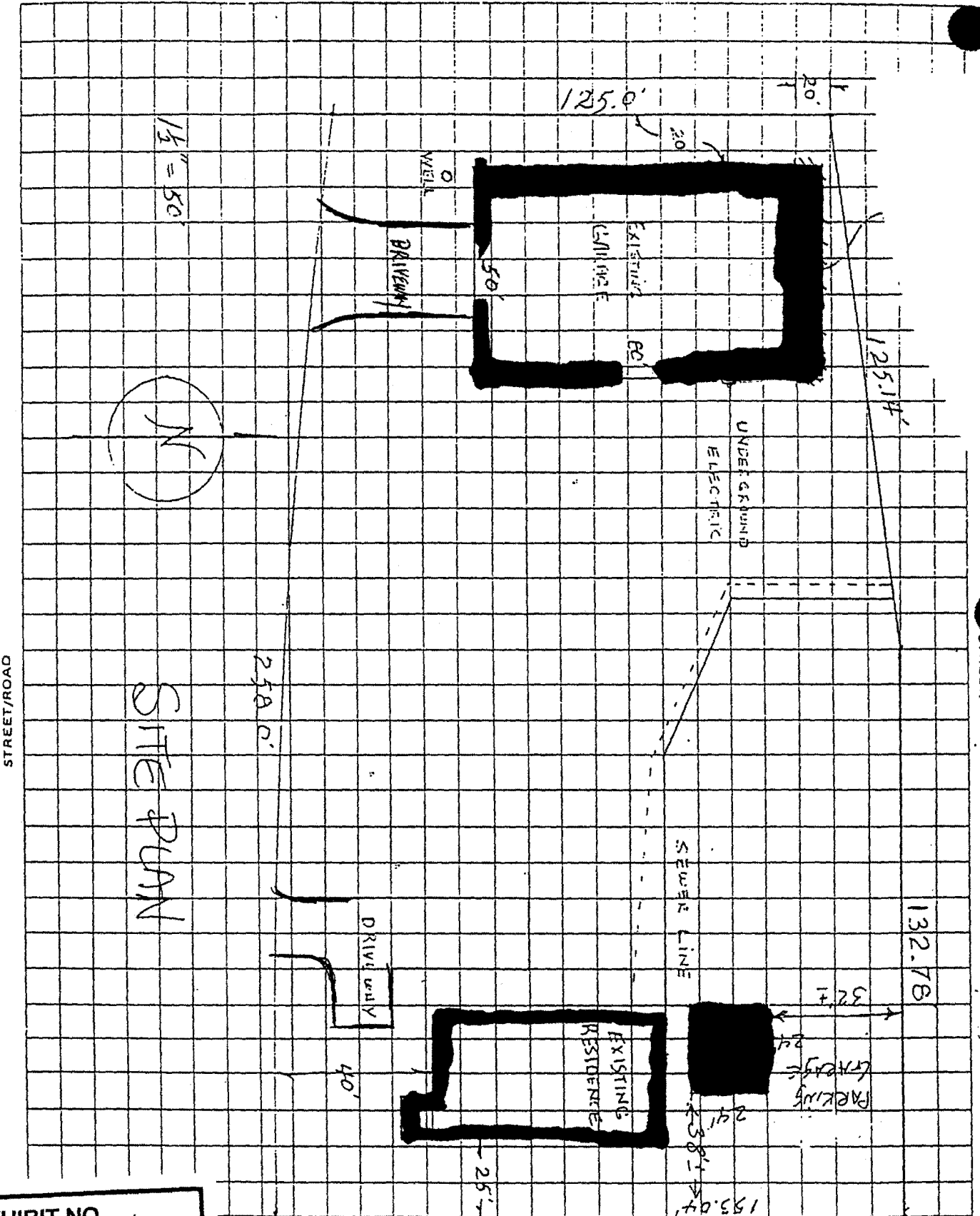


EXHIBIT NO.	53
APPLICATION NO.	A-1-MEN-99-43
Van Peer	
Vicinity Map	



LOCATION  
+ MAP  
SITE

STREET/ROAD



SITE PLAN

EXHIBIT NO.	4
APPLICATION NO.	A-1-MEN-99-43
Van Peer	
Site Plan	

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

FILED  
JUN 23 1999  
CALIFORNIA  
COASTAL COMMISSION



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):

Steven A. Gardner 32650 Old Willits Rd. Fort Bragg, Calif.

Zip code 95437 Phone 707-964-1246

\_\_\_\_\_  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County-outside city limits of Fort Bragg

2. Brief description of development being appealed: Heavy industrial shipbuilding complex with 4200 square foot warehouse.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 32600 Hwy 20 Fort Bragg, California  
Nearest cross street-South Harbor Drive. AP# 18-260-56

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: \_\_\_\_\_
- 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: A-1-MEN-99-043

DATE FILED: 6/23/99

DISTRICT: North

H5: 4/88

EXHIBIT NO.	5
APPLICATION NO.	A-1-MEN-99-43
Appeal	
Page 1 of 6	

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.  Planning Commission

b.  City Council/Board of Supervisors      d.  Other \_\_\_\_\_

6. Date of local government's decision: 6/3/99

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

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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

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.)

Under the General Standards for Cottage Industry this construction site does not comply with with Coastal Guidelines-A. The particular uses conducted by the Cottage Industry shall not change or disturb the residential or rural character of the surroundings. B. The use shall be environmentally compatible with the project site and region. Specific Standards-C. No Cottage Industry permitted pursuant to this subsection may occupy more than 640 sq.ft. of an area within any building on the same parcel. (see attached)

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.

\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date \_\_\_\_\_

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

Section VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

Specific Standards continued- H. Noise generation from within the site shall not exceed 65 dba at the nearest site of residence.

### 3.11 Industrial Development and Energy Facilities

#### Coastal Act Requirements

Section 30332. Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. The purposed site for construction by this shipbuilder will not allow for the protection of the ground and resulting ground water because the site will be unprotected and the potential for future, accidental contamination exists. The proximity to natural occurring wells is approximately 75 yards and directly upgrate from the neighborhood drinking sources. Section 30250 (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

The continued construction of large ocean going vessels, measuring 75 feet and longer and weighing hundreds of tons in the middle of a residential neighborhood and within close proximity to wells, used by private residences as well as Noyo Harbor District water table poses a real threat to the health of the public, not only to drinking water but the air being inhaled by residences, some as close as 30 yards of the site.

My grounds for appeal are legal as well as environmental and public health.

#### Coastal Act Policy

30240 Protect environmentally sensitive habitat areas. Site

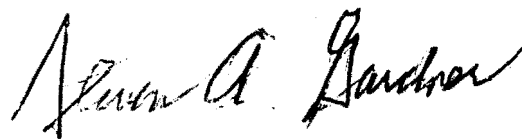
and design new development in areas adjacent to these areas to prevent significant adverse impacts.

I ask that your commission review this matter and consider my appeal.

I truly believe that the real issue here is- what has the higher priority in this society- industry or the health of the public.

Thank you

Steven A. Gardner

A handwritten signature in cursive script that reads "Steven A. Gardner". The signature is written in dark ink and is positioned below the typed name.

CALIFORNIA Coastal Commission

RECEIVED

JUN 14 1999

CALIFORNIA  
COASTAL COMMISSION

June 11, 1999

I am formally writing your offices to appeal the decision made by the Mendocino Planning Commission on June the 3rd, 1999 issuing a temporary permit and variance to the Van Peer Boatworks, owned by Chris Van Peer and located at 32650 Hwy. 20, Fort Bragg California.

I am contesting this decision because I believe that a through investigation of the soil and water on the construction site must be conducted before a decision can be made regarding the safety of past and future contamination by hazardous chemicals used by the shipbuilder.

The owner in the past had no county, state or federal regulation of the business and has openly admitted to storing hazardous chemicals on the bare and unprotected ground.

Please consider my appeal, the wells I and my neighbors use for drinking water are located within 75 yards and directly downhill from this construction site and there exists a legitimate concern.

Steven A. Gardner

Address: 32650 Old Willits Rd.  
Fort Bragg, California  
Phone 707-964-1246<sup>95437</sup>

*Steven A. Gardner*





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

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

June 17, 1999

NOTICE OF FINAL ACTION

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

**CASE#:** CDU 30-98/V 1-99

**DATE FILED:** December 10, 1998

**OWNER:** CHRISTIAN & ANITA VAN PEER

**AGENT:** BUD KAMB

**REQUEST:** Use Permit for Cottage Industry to utilize existing 4,000 square foot metal building for metal fabrication for boat building and variance to the 640 square foot limitation for cottage industries so as to utilize the entire 4,000 square foot structure.

**LOCATION:** 1 1/2 miles south of central Fort Bragg, situated on the north side of State Highway 20, approximately 400 feet east of its intersection with South Harbor Drive (CR# 415); AP# 18-260-56.

**PROJECT COORDINATOR:** Ignacio Gonzalez

**ACTION TAKEN:**

The Planning Commission, on June 3, 1999, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

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

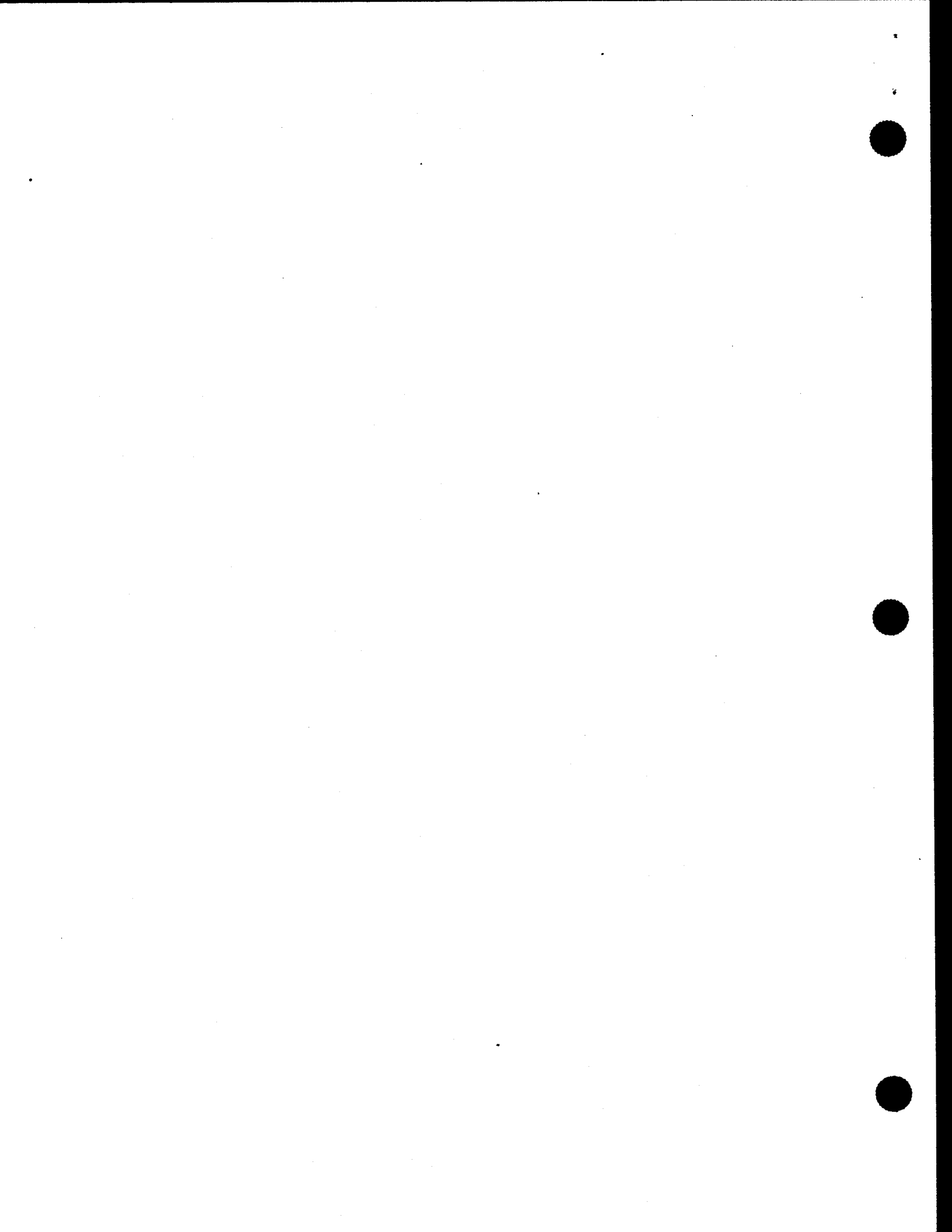
Attachments

cc: Christina & Anita Van Peer  
Bud Kamb  
Steve Gardner  
Coastal Commission  
Assessor

RECEIVED  
JUN 21 1999

CALIFORNIA  
COASTAL COMMISSION

EXHIBIT NO.	6
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Mendocino Co. Notice of Final Action	
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**MENDOCINO COUNTY PLANNING COMMISSION  
MINUTES - DRAFT  
JUNE 3, 1999**

**5A. CDU 30-98/CDV 1-99 - VAN PEER - South of Fort Bragg**

Request: Use Permit for Cottage Industry to utilize existing 4,000 square foot metal building for metal fabrication for boat building and variance to the 640 square foot limitation for cottage industries so as to utilize the entire 4,000 square foot structure.

Mr. Falleri summarized the Commission's discussion on this matter at their May 6, 1999 meeting and reviewed an addendum to the staff report dated June 3, 1999. Mr. Falleri responded to questions from Commissioners explaining that the Department's practice is not to pursue enforcement of a violation if an applicant is pursuing administrative remedies unless there is a serious environmental or public safety issue. He estimated that it would take approximately one year to complete a General Plan Amendment application.

Commissioner Barth commented that 14 parking spaces seems excessive, however, Mr. Falleri explained that this is required by the County Code based on square footage.

In response to Commissioner Barth, Mr. Zotter stated that the Commission cannot restrict the use permit to the current owner. A use permit runs with the land.

Commissioner Barth recommended modifications to conditions to require that the applicant apply for a General Plan Amendment and Rezoning and that all toxic materials be stored within the building and operations using toxic materials be conducted within the building.

Commissioner Little suggested that a condition be required, if the General Plan Amendment and Rezoning are not completed within a three year period, that the operation be reduced to 640 square feet to comply with the zoning regulations. Mr. Falleri noted that in previous cases where cottage industries have been proposed in structures larger than the 640 square feet, that staff has required that the building be partitioned. Commissioners and staff discussed the proposal to amortize the size of the operation, however, Mr. Zotter voiced some concern with requiring such a condition and discussed the difficulty in revoking use permits once they have been established. Denial of a General Plan Amendment and Rezoning could not be used as a factor in revoking the use permit once it is established.

In response to Commissioner McCowen, Mr. Zotter stated that he does not believe the applicant is being denied an equitable remedy because the Coastal Element has not been updated. Mr. Zotter briefly discussed case law substantiating his opinion. He stated that the Coastal Commission cannot deny an application because the County has failed to review the Plan; they must review the application based on the merits of the proposal.

Mr. Falleri reported that, based on conversations with Coastal Commission staff, the Commission's policy is that they do not want to see applications that increase densities, particularly residential densities which have the lowest priority in the coastal zone. He stated that this is considered the highest priority since it is a coastal dependent use. This particular use may be considered differently by the Coastal Commission since it is considered a high priority as a coastal dependent use and does not increase densities.

Mr. Falleri reviewed two letters in support of the application from Kerry Merritt and Steve Merritt.

Mr. Falleri reported that old files in the department indicate that there were a lot of commercial uses in this particular area. He also discussed the Board of Supervisors' action approving a variance for a Cottage Industry permit near Willits.

Commissioner McCowen stated that the applicant, not the County, created the present situation. He acknowledged that other businesses were operating in the area but that was not a reason to approve a variance in this case. Commissioner McCowen noted the overwhelming community support, the lack of any evidence of toxic contamination and the proximity to lands zoned Fishing Village. He further stated that he was uncomfortable making the findings for a variance and that it would be more appropriate to pursue a General Plan Amendment. However, the County's failing to update the LCP and the stated position of the Coastal Commission created conditions where the applicant reasonably believed that a General Plan Amendment was not feasible. In fact, staff has indicated as much to applicants. Commissioner McCowen stated that, in view of all of the circumstances, he could support this application if it is limited to three years, the applicant makes a good faith effort to pursue a General Plan Amendment and all operations that might effect air quality or generate heavy industrial noise are conducted inside the building.

In response to Commissioner Calvert, Mr. Falleri stated that, if the Commissioner were to refer this matter to the Board of Supervisors, it would take approximately one month to get on an agenda.

Mr. Fallier reported that staff was contacted by the Regional Water Quality Control Board and was advised that they would be doing additional testing on the site.

The Commission considered several options for conditions. Commissioner McCowen supported limiting operations generating significant noise to inside the building noting that the applicant previously agreed to conduct all operations within the building. Commissioners Barth and Berry felt that proposed Condition B-5 will adequately address noise issues. Mr. VanPeer stated that he would be willing to conduct all feasible operations within the building, however, he could not conduct all operations within the building.

Commissioner Calvert stated that she cannot support approval of the application finding that this use does not fit the cottage industry provisions. She recommended that the Commission recommend that the Board of Supervisors establish this as a priority in order to expedite processing of an application to amend the Coastal Element. Several Commissioners indicated that they would support adoption of a motion supporting Commissioner Calvert's recommendation that an amendment to the Coastal Element for this property be made a priority.

Upon motion by Commissioner Barth, seconded by Commissioner Berry and carried by the following roll call vote, IT IS ORDERED that the Planning Commission adopts a Negative Declaration and approves #CDU 30-98 and #CDV 1-99 making the following findings and subject to the following conditions of approval:

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

- B. That special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division and applicable policies of the Coastal Element.

Although the shop building was originally constructed as a private garage and workshop, for which all required building permits were obtained, the proposed use of the building will not cause any visual alteration of the existing setting or any other significant environmental impacts which can not be adequately mitigated. The applicant has obtained many of the necessary clearances from the County to operate his business at this site.

- C. That such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances identified in Subsection (A).

Although no similar variances have been granted in the project area, there are a number of other businesses in the area, several located on RR-5 zoned property, and one of which ( the nursery business on the south side of Highway 20) utilizes a larger building area than the Van Peer operation. Also, while not in the immediate area, but on Highway 20 near Willits, a similar variance was granted to Lund-Nielsen on 5-10-99 by the Board of Supervisors to legitimize a cottage industry which utilized a 4,800 +- square-foot building.

- D. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.

The review of potential adverse environmental impacts concludes that this project will not have any significant impacts on the environment which can not be adequately mitigated through the required conditions of approval.

- E. That the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel.

The cottage industry provisions for RR-5 zoning within the Coastal Zoning Code, while intended to allow for small scale commerce and industry in conjunction with a residential use of property, do provide for "Custom Manufacturing: Light Industrial" which encompasses the proposed use.

- F. That the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable policies of the Coastal Act.

As subject to the mitigating conditions of approval and the other findings discussed in Findings A-E above, the project is consistent with applicable goals and policies of the Coastal Zoning Code, the Coastal Element and the Coastal Act.

**Project Findings:** The Planning Commission, making the above findings, approves #CDU 30-98 and CDV 1-99 subject to the following conditions of approval.

**CONDITIONS OF APPROVAL:**

- A. Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$25.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to May 21, 1999. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
2. That the applicant shall secure all required permits/clearances from the Air Quality Management District for the operation of the facility. The applicant shall submit written verification to the Department of Planning and Building Services from the Air Quality Management District that this condition has been met to the satisfaction of the Air Quality Management District.
3. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
4. The applicant shall comply with those requirements in the California Department of Forestry letter of January 5, 1999, or other alternatives as acceptable to the California Department of Forestry. Written verification shall be submitted from the California Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the California Department of Forestry.
5. That the applicant shall secure all necessary permits/clearances for from the Building Inspection Division for change of occupancy of the structure from noncommercial to commercial/industrial use and or occupancy.
6. The applicant shall submit to the Department of Planning and Building Services for review and approval a parking and circulation plan legibly drawn to scale which illustrates the location of all parking spaces, including circulation movements outside public right-of-way and private ways not intended for that purpose or use. All required parking shall be established in conformance with Chapter 20.472 of the Mendocino County Code. A total of fourteen (14) on-site parking spaces shall be established, of which one shall be designated for handicapped use, with appropriate identification signs pursuant to the Uniform Building Code.
7. This permit shall become effective after all applicable appeal periods have expired or appeal process exhausted. Failure of the permittee to make use of this permit within two years shall result in the automatic expiration of this permit.
8. The applicant shall apply for a General Plan Amendment and Rezoning to FV (Fishing Village). The use permit and variance shall be subject to renewal in three years and be

re-evaluated at that time depending on the status of the General Plan Amendment and Rezoning.

**B. Conditions which must be complied with for the duration of this permit:**

1. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 - Division II of the Mendocino County Code unless modified by conditions of the use permit.
2. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission.
3. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

4. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
5. Sound levels from the project, as measured at the property line, shall not exceed for any more than 30 minutes in any hour, the standards of 50 dBA between the hours of 10 PM to 7 AM nor shall it exceed 60 dBA between the hours of 7 AM to 10 PM. If ambient sound levels exceed the sound level Standard cited above, then the ambient level will be considered the standard. Adjustments to the Standard are permitted within the following schedule:

L50	30 minutes per hour	Standard
L25	15 minutes per hour	Standard + 5dB
L0	Maximum instantaneous level	Standard + 20 dB
Irritating sound characters		Standard -5 dB

Irritating sounds characters with a tone, whine, screech, hum or impulsive, hammering, riveting or music or speech shall suffer a penalty of Standard -5 dB.

6. Hours of operation be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday.

7. All exterior lighting shall be shielded so that it does not shine or glare beyond the limits of the property.
8. All toxic materials used in the boat building operation shall be stored within the building and operations using potentially toxic materials shall be conducted within the building. Operations generating excessive noise shall be conducted within the building when feasible.
9. The applicant shall obtain all necessary clearances and comply with those recommendations contained in the California Department of Transportation's letter dated April 22, 1999, on file in the Department of Planning and Building Services.

AYES: McCowen, Little, Berry, Barth, Piper  
NOES: Calvert  
ABSENT: Hering

Upon motion by Commissioner Barth, seconded by Commissioner Calvert and carried (5-1; McCowen opposed, Hering absent), IT IS ORDERED that the Planning Commission recommends that the Board of Supervisors direct that staff fast track a General Plan Amendment and Rezoning of this parcel to Fishing Village.

Mr. Kamb thanked the Commission and staff for their efforts on behalf of Mr. VanPeer and noted that staff worked long and hard on this issue. He also noted that former Supervising Planner Gary Berrigan also assisted in the applicant's efforts to legalize this business.



STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT/VARIANCE

#CDU 30-98/CDV 1-99

May 6, 1999

Page PC-1

OWNER: CHRISTIAN & ANITA VAN PEER  
32600 HIGHWAY 20  
FORT BRAGG, CA 95437

AGENT: BUD KAMB  
PO BOX 616  
LITTLE RIVER, CA 95456

REQUEST: Use Permit for Cottage Industry to utilize an existing 4,000 square foot metal building for metal fabrication for boat building and a Variance to the 640 square feet. Limitation for cottage industries so as to utilize the entire 4,000 square foot structure.

LOCATION: 1 1/2 +/- mile south of Central Fort Bragg, situated on the north side of State Highway 20, approximately 400 feet east of its intersection with South Harbor Drive (CR# 415), APN 18-260-56.

TOTAL ACREAGE: 0.82+/- acre

ZONING: RR-5

ADJACENT ZONING: North: RR-5 & FV:40,000  
East: RR-5  
South: RR-5:FP  
West: RR-5

GENERAL PLAN: RR-5 [RR-1]

EXISTING USES: Residential

SURROUNDING LAND USES: Residential

SURROUNDING LOT SIZES: North: 0.45+/- to 1.0+/- acre  
East: 0.40+/- acre  
South: 10.73+/- acres  
West: 0.44+/- acre

SUPERVISORIAL DISTRICT: 4

GOV. CODE 65950 DATE: 7-12-99

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Certificate of Compliance #CC 10-81 was recorded on April 1, 1981, which recognized the subject property (APN 18-260-56) as a legal parcel.

PROJECT DESCRIPTION: The applicants, Christian and Anita Van Peer are requesting approval of this entitlement to allow for the establishment of a "Cottage Industry" to utilize an existing 4,000 square foot metal building for metal fabrication for boat building. The applicants are also requesting a Variance to Section 20.452.020 (C) of the Mendocino County Code, which states:

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Mendocino County Staff Report	
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"No Cottage Industry permitted pursuant to this Chapter may occupy more than six hundred forty (640) square feet of area within any building or buildings on the same parcel."

However, because the applicant's proposal would be inconsistent with this section of the Zoning Ordinance, as the proposal would occupy 4,000 square feet, the variance is sought.

The project site is located 1 ½ miles south of central Fort Bragg and is situated on the north side of State Highway 20, being approximately 400 feet east of its intersection with South Harbor Drive. The subject property is a 0.82+/- acre parcel which is currently developed with a single-family residence, a 576 square foot detached garage and a 4,000 square foot metal building in which the cottage industry for boat building would be conducted. The subject property is currently accessed via an existing road approach onto State Highway 20. The subject property and surrounding properties are zoned Rural Residential (RR-5), with one adjacent parcel located immediately northwest of the site being zoned Fishing Village (FV). The property has been used for boat building for a number of years, however, proper permits were not obtained.

**ENVIRONMENTAL REVIEW:** In completing the environmental review for this project, staff has noted the following potential environmental impacts as identified in the Environmental Review Checklist.

Air Quality (Items 2A and 2B). As the proposed project will involve the practice of sandblasting, painting/finishing work which may result in impacts to the air quality of the surrounding neighborhood, the Air Quality Management District (AQMD) has reviewed the proposed project for such impacts. Many impacts generated by such industrial uses can be mitigated through appropriate mitigating conditions as imposed by the AQMD. Such mitigations are similar to those imposed on such uses as auto-body shops. Staff will recommend that the applicant secure all required permits from the Air Quality Management District (Conditions A-2 and A-3).

Water Quality (Items 3B, 3E and 3G). The subject property is currently served by the City of Fort Bragg for both domestic water and sewage disposal. The Division of Environmental Health has reviewed the proposed project and has no negative comments regarding water quality issues. Because of the nature of the proposed use, the Regional Water Quality Control Board (RWQCB) has reviewed the proposed project. According to a letter dated March 1, 1999 to the Department of Planning and Building Services from Charles T. Vath at the RWQCB, Mr. Vath states:

"I have inspected the site of the proposed use permit several times since 1991. In addition, on January 27, 1999, in response to a citizen's complaint, I collected water samples from a well on an adjacent property to document existing ground water quality. Enclosed is a copy of the laboratory analysis report for the well samples collected on January 27, 1999. The results indicate that there is no contamination in this well that could be attributed to the boat building activities.

Based upon my site inspection of the Van Peer Boatworks and the lab analysis results from the well sampling on January 27, 1999, I have found no evidence that past boat building activities at the site have adversely impacted the beneficial uses of surface and ground waters adjacent to the site. Furthermore, if the proposed use permit is approved and future activities are conducted in accordance with appropriate best management practices, I would not expect the proposal to result in adverse impacts on the beneficial uses of surface and ground waters adjacent to the site."

Based on the comments received from the Division of Environmental Health and the Regional Water Quality Control Board on this project, staff does not anticipate any significant adverse environmental impacts to water quality as a result of the project.

Plant and Animal Life (Items 4B and 5D). No unique or sensitive resources have been identified on the County Biological Resources Map or the Department of Fish and Game's Natural Diversity Data Base. As of the writing of this report, no negative comments have been received from the Department of Fish and Game regarding the proposed project. Further, as the property is currently developed and the project would only utilize existing structures, staff does not foresee any significant impacts to fish and wildlife resources. Therefore, staff recommends the de minimus finding be applied to this project.

Noise (Items 6A and 6B). The Division of Environmental Health has reviewed the proposed project relative to potential noise impacts. So as to mitigate possible sound level impacts to neighboring properties from the project, the Division of Environmental Health has recommended the following:

"Sound levels from the project, as measured at the property line, shall not exceed for any more than 30 minutes in any hour, the standards of 50 dBA between the hours of 10 PM to 7 AM nor shall it exceed 60 dBA between the hours of 7 AM to 10 PM. If ambient sound levels exceed the sound level Standard cited above, then the ambient level will be considered the standard. Adjustments to the Standard are permitted within the following schedule:

L50	30 minutes per hour	Standard
L25	15 minutes per hour	Standard + 5dB
L0	Maximum instantaneous level	Standard + 20 dB
	Irritating sound characters	Standard -5 dB

Irritating sounds characters with a tone whine, screech, hum or impulsive, hammering, riveting or music or speech shall suffer a penalty of Standard -5 dB (Condition B-5)."

In addition to the noise attenuation condition recommended by the Division of Environmental Health, staff will recommend that the hours of operation be limited to 8:00 am to 5:00 pm, Monday through Friday (Condition B-6).

Land Use (Item 8A). The applicant is requesting the establishment of a cottage industry for metal fabrication and boat building. Typically, the boats that would be built are commercial fishing boats which are 50x20 feet or larger. Section 20.452.015 of the Mendocino County Code states:

- "A. The particular uses conducted by the Cottage Industry, and their operation and appearance, shall not change or disturb the residential or rural character of the premises or its surrounding.
- B. The use shall be environmentally compatible with the project site and region.
- C. No additional service demands will be created by the end use."

Section 20.328.015 defines Coastal-Dependent Industrial as:

"Coastal-dependent industrial uses require a maintained navigable channel to function, including, for example: public or private docks, water-borne commercial carrier import and export operations, **ship/boat building and repair**, commercial fishing facilities, including berthing and fish receiving, off boat sales and fish processing when product is for human consumption (fish waste processing and fish processing of other products for other than human consumption are permitted under the coastal-related use type), and aquaculture support facilities. Offshore mining, dredging, mineral or petroleum extraction processes, or the stockpiling or transfer of relative material are not included."

Section 20.452.025 (A) of the Mendocino County Code provides for examples of uses as cottage industries permitted in the Rural Residential Zoning Districts upon securing a use permit. However, this Section does not provide for Coastal-Dependent Industrial uses, such as boat building. The proposed use would not be consistent with the zoning for the subject property (which is currently RR-5). It is staff's opinion that the proposed use would be more conducive in an Industrially zone area of the coast or perhaps in the Noyo Harbor along with other associated fishing related industries. Although the use has coexisted for a number of years within the residential neighborhood it is currently located in, based on the inconsistencies cited above, staff believes that the proposed use would conflict with the established zoning of RR-5 and with the intent of Cottage Industries as expressed in Section 20.160.005 as follows:

"It is the intent of this Chapter to provide for limited commercial and industrial uses in conjunction with a dwelling which are more extensive than home occupations, but which, like home occupations, do not alter or disturb the residential or rural nature of the premises or its surroundings. Such limited commercial and industrial uses are known as cottage industries and are defined within this Chapter. (Ord. No. 3639 (part), adopted 1987)"

Transportation/Circulation (Items 12A, 12B, 12C, 12D, 12E and 12F). The proposal has been reviewed by Caltrans for potential impacts to State Highway 20. In a referral received from Caltrans dated January 29, 1999, Caltrans states that the proposal will have no significant impact on the State Highway system. Based on this, staff does not anticipate any significant adverse impacts to State Highway 20.

Relative to on-site parking, the proposal calls for the use of an existing 4,000 square foot building for the "Boat Building" operation with two (2) employees working on the premises.

Section 20.472.035 (F) of the Mendocino County Code states:

"Manufacturing, industrial use of all types: one (1) parking space for every employee working on the largest shift, plus ten (10) customer or visitor parking spaces plus parking for each of the vehicles operated from or on the site."

Additionally, the property also contains a single-family residence, which, pursuant to Section 20.472.015 (A) of the Mendocino County Code requires two (2) on-site parking spaces for the residence.

Therefore, a total of fourteen (14) on-site parking spaces will need to be provided for the site, which includes the existing residence. Additionally, pursuant to Section 20.472.010 (K) of the Mendocino County Code, one of the fourteen spaces must be designated for handicapped use. Staff will recommend that the applicant submit to the Department of Planning and Building Services a detailed parking and circulation plan, legibly drawn to scale which illustrates the location of all parking spaces including circulation movements outside public rights-of-way and private ways not intended for that purpose or use. All required parking shall be established in conformance with Chapter 20.472 of the Mendocino County Code (Off-Street Parking). Compliance with Condition A-6 will adequately address the issue of adequate on-site parking.

Public Services (Item 13A). The subject property has been identified as being within a "Moderate" fire hazard designation and within the jurisdiction of the California Department of Forestry for wildland fire suppression. The Fort Bragg Fire Protection Authority would have the initial response to structure fires as well as responsibility for any field inspections of the proposed project.

General Plan Fire Protection Goal 1 (Page I-82) states:

"New development proposals shall have a letter from appropriate fire protection agency that adequate fire protection can be provided."

General Plan Safety Element Policy Number 3 (Page IV-29) states:

"Insure that adequate fire protection is incorporated into all new developments consistent with policy risk levels."

The Fort Bragg Fire Authority has reviewed the proposed project, and no negative comments have been submitted regarding the proposal. The California Department of Forestry has also reviewed the proposal and has made specific recommendations relative to addressing standards, gate entrances, and the maintenance of defensible space. Therefore, staff will recommend that the applicant be required to submit to the Department of Planning and Building Services written verification from the California Department of Forestry that their recommendations have been met to the satisfaction of the California Department of Forestry (Condition A-4).

Although, the Building Inspection Division submitted no negative comments regarding the proposal, the structure when originally constructed was conditioned that it not be utilized for commercial purposes. Due to the change in occupancy/use, staff will recommend Condition A-5, which will address any changes in the use and occupancy of the existing 4,000 square foot metal building.

Human Health (Items 16A, 16B, 16C and 16D). The Division of Environmental Health has reviewed the proposed project and has stated that the Van Peer Boatworks have an approved Hazardous Materials Business Plan for the existing operation. With no negative comments received from the fire agencies, the Regional Water Quality Control Board, and the Division of Environmental Health, staff does not anticipate any significant adverse impacts to human health as a result of the proposed project.

Cultural Resources (Items 19A, 19B, 19C and 19D). The subject property as well as the surrounding neighborhood is currently developed as residential, with State Highway 20 providing access to the subject property and the surrounding neighborhood. As the area is somewhat fully developed or "built-up," staff does not anticipate any impacts to cultural/archaeological resources as a result of the proposed project. Additionally, the proposed project would utilize an existing structure with no new construction proposed, thus further not resulting in an impact to archaeological resources.

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

**GENERAL PLAN CONSISTENCY RECOMMENDATION:** The proposed project is in conflict with applicable goals and policies of the Coastal Element of the General Plan. The subject property and surrounding properties' General Plan classification is Rural Residential (RR-5), with one parcel located immediately to the north being designated Fishing Village (FV). The intent of the RR classification is to "encourage and preserve local small scale farming in the coastal zone on lands which are not well-suited for large scale commercial agriculture. Residential uses should be located as to create minimal impact on the agricultural viability."

Ship/boat building and repair are classified as a Coastal-Dependent Industrial use which is not allowed in the RR-5 zoning district or under the provisions of the Cottage Industry intent of the Coastal Element of the General Plan. The provisions call for limited commercial and industrial uses in conjunction with a dwelling which are more intensive than home occupations, but which, like home occupations, do not alter or disturb the residential or rural nature of the premises or its surroundings. Further, the request for variance to the Cottage Industry size requirement would increase the square footage from 640 square feet to 4,000 square feet.

Based on the nature of the intended use and the size of the cottage industry, staff believes that the proposal is inconsistent with the applicable goals and policies of the General Plan.

**PROJECT RECOMMENDATION:** The project involves two entitlements, a use permit and variance. One entitlement (use permit) relates to the use of the site for boat building and the other entitlement (variance) is for increasing the maximum area allowed for a cottage industry from 640 square feet to 4,000 square feet. Staff will recommend that the Planning Commission deny both #CDU 30-98 and #V 1-99, as it would be inconsistent with the applicable goals and policies of the General Plan. Staff acknowledges that the use is in close proximity to the Noyo Harbor and the adjoining Fishing Village designation, which does permit Coastal Dependent-Industrial uses. The building of large commercial fishing boats would be a use more appropriate in an area zoned or designated for industrial uses because of the nature of the operation. An application for an amendment to the Coastal Element and a rezone would be necessary to designate the property Fishing Village or Industrial. One could make the argument that building small boats could be a cottage industry, if it were done on a small scale and contained within a 640 square foot structure, such as a garage or small shop and that it be subordinate to the primary residential use of the property. As in the case of this proposal, the 4,000 square foot metal building used for building large commercial vessels is more dominant over the residential character of the property as well as the immediate neighborhood.

Additionally, staff would note that the applicant is attempting to resolve a zoning violation through these two entitlements. It was staff's understanding that the applicant would secure a use permit for a cottage industry for metal fabrication only with the actual boat building operation occurring elsewhere on a different site, more appropriately suited. However, the applicant has chosen to pursue the full scope of the operation. It should also be noted, when the structure was originally constructed, it was approved with the condition that the building not be used for "commercial purposes." Although the use was established and has been in existence for several years, it was established in violation of applicable codes and regulations.

Finally, staff does not believe that the required findings for the use permit and the variance can be substantiated, specifically Findings 1 and 3 for Coastal Development Permits and Variance Findings A, B, C, E and F listed below, in that the request is not in conformity with the certified local coastal program or consistent with the intent of the zoning district. Additionally, there are no special circumstances applicable to the property, granting the variance is not in conformity with the provisions of the Coastal Act, and that the variance does authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel.

**RECOMMENDED MOTION:** That the Planning Commission denies #CDU 30-98/#CDVV 1-99 making the following findings:

**Use Permit Findings:**

1. That the project is inconsistent with the General Plan and zoning policies;
2. That the required findings can not be supported due to these inconsistencies; and
3. Given the above , the project has the potential to have a significant effect on surrounding residential development.

**Variance Findings:**

- A. That there are special circumstances applicable to the property involved, including size, shape, topography, location or surroundings.**

The applicant's desire to locate a large scale industrial venture on residential property is not a special circumstance applicable to the property. Finding can not be made.

- B. That special circumstances or conditions are not due to any action of the applicant subsequent to this application of the zoning regulations contained in the Division and applicable policies of the Coastal Element.**

The 4,000 square foot metal building was constructed by the current property owner, Mr. Van Peer. A building permit was issued on August 5, 1987 for the construction of the building, with a condition that the structure was not to be utilized for commercial purposes. The permit was subsequently finalled on March 18, 1988. The applicant has created his own special circumstance by establishing a commercial/industrial venture in a building originally intended for personal use only. Finding can not be made.

- C. That such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances identified in Subsection (A)**

No similar Variances have been granted in the area. Finding can not be made.

- D. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.**

While the increase in square footage is a concern, there would be minimal impact with regards to traffic. There would be two employee vehicles per day in addition to those of the property owners. In reviewing the site photos provided by the applicant and site plan, there appears to be adequate on-site parking. While there would be no direct adverse impacts from the proposal, staff believes that such an expanded cottage industry could induce further such activity in the area and set a precedent which could affect the integrity and residential character of the immediate area. Finding can not be made.

- E. That the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel.**

Section 20.452.020 (C) of the Mendocino County Code states that no cottage industry within the coastal zone may occupy more than 640 square feet of area within any building or buildings on the same parcel. Additionally, Section 20.452.020 (A) also limits the number of employees outside of the family residing on the premises to one employee. The proposal includes for 2 employees. The applicant is requesting to utilize an existing 4,000 square foot metal building for a cottage industry for metal fabrication and boat building. Prior to the current zoning classification of RR-5, the subject property was zoned A-1

(Unclassified), which did permit the establishment of the 4,000 square foot metal building as an accessory building, but did not allow for metal fabrication or boat building as currently being requested. The proposal is beyond the scope of what staff believes a cottage industry to be, especially for a residential area. Staff further believes that this Finding cannot be made as the proposed cottage industry if approved is a use that is not authorized by the zoning.

**F. That the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable policies of the Coastal Act.**

The proposed use and request is in conflict with Chapter 20.452 of the Mendocino County Code (Cottage Industry provisions) as the proposed use exceeds the allowable square footage for cottage industries within the boundaries of the coastal zone. Finding cannot be made.

**ALTERNATIVE MOTION:** Should the Planning Commission wish to approve #CDU 30-98/#CDV 1-99, the following alternative motion is provided.

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

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

**Department of Fish and Game Findings:** The Planning Commission has evaluated the Initial Study and other information pertinent to the potential environmental impacts of this project and finds that, based upon the existing development on the subject parcel and surrounding parcels, the project will not have any adverse impact upon wildlife or the habitat upon which wildlife depends and, therefore, the Commission has rebutted the presumption set forth in subdivision (d) of Section 753.5.

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

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

**Variance Findings:**

- A. That there are special circumstances applicable to the property involved, including size, shape, topography, location or surroundings.
- B. That special circumstances or conditions are not due to any action of the applicant subsequent to this application of the zoning regulations contained in the Division and applicable policies of the Coastal Element.
- C. That such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances identified in Subsection (A)
- D. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.
- E. That the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel.
- F. That the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable policies of the Coastal Act.

**Project Findings:** The Planning Commission, making the above findings, approves #CDU 30-98 and CDV 1-99 subject to the conditions of approval recommended by staff.

**RECOMMENDED CONDITIONS:**

- A. **Conditions which must be met prior to use and/or occupancy and for the duration of this permit:**
  - 1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$25.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to May 21, 1999. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void..
  - \*\* 2. That the applicant shall secure all required permits/clearances from the Air Quality Management District for the operation of the facility. The applicant shall submit written verification to the Department of Planning and Building Services from the Air Quality Management District that this condition has been met to the satisfaction of the Air Quality Management District.
  - \*\* 3. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
  - \*\* 4. The applicant shall comply with those requirements in the California Department of Forestry letter of January 5, 1999, or other alternatives as acceptable to the California Department of Forestry. Written verification shall be submitted from the California Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the California Department of Forestry.



- \*\* 5. That the applicant shall secure all necessary permits/clearances for from the Building Inspection Division for change of occupancy of the structure from noncommercial to commercial/industrial use and or occupancy.
- \*\* 6. The applicant shall submit to the Department of Planning and Building Services for review and approval a parking and circulation plan legibly drawn to scale which illustrates the location of all parking spaces, including circulation movements outside public right-of-way and private ways not intended for that purpose or use. All required parking shall be established in conformance with Chapter 20.472 of the Mendocino County Code. A total of fourteen (14) on-site parking spaces shall be established, of which one shall be designated for handicapped use, with appropriate identification signs pursuant to the Uniform Building Code.
- 7. This permit shall become effective after all applicable appeal periods have expired or appeal process exhausted. Failure of the permittee to make use of this permit within two years shall result in the automatic expiration of this permit.

**B. Conditions which must be complied with for the duration of this permit:**

- 1. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 - Division II of the Mendocino County Code unless modified by conditions of the use permit.
- 2. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission.
- 3. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

- 4. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
- 5. Sound levels from the project, as measured at the property line, shall not exceed for any more than 30 minutes in any hour, the standards of 50 dBA between the hours of 10 PM to 7 AM nor shall it exceed 60 dBA between the hours of 7 AM to 10 PM. If ambient sound levels exceed the sound level Standard cited above, then the ambient level will be considered the standard. Adjustments to the Standard are permitted within the following schedule:

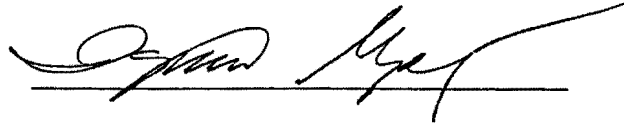
L50	30 minutes per hour	Standard
L25	15 minutes per hour	Standard + 5dB
L0	Maximum instantaneous level	Standard + 20 dB
Irritating sound characters		Standard -5 dB

Irritating sounds characters with a tone, whine, screech, hum or impulsive, hammering, riveting or music or speech shall suffer a penalty of Standard -5 dB.

- \*\* 6. Hours of operation be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday.
- \*\* 7. All exterior lighting shall be shielded so that it does not shine or glare beyond the limits of the property.

4-6-99

DATE



IGNACIO GONZALEZ  
PLANNER II

IG:ac

Negative Declaration

Appeal Fee - \$600.00

Appeal Period - 10 days

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

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
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Planning - Ft Bragg	XX		
Public Works		XX	
Env. Health			XX
Building Inspection - Ft Bragg		XX	
Coastal Commission	XX		
Air Quality Management			XX
Caltrans			XX
Dept. of Forestry			XX
Dept. of Fish and Game	XX		
RWQCB			XX
Fort Bragg Sewer Dist.	XX		
Fort Bragg Water	XX		
Fort Bragg Fire District		XX	
Fort Bragg City Planning	XX		



# California Regional Water Quality Control Board

## North Coast Region

### Ross R. Liscum, Chairman



Gray Davis  
Governor

Winston H. Hickox  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov>  
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403  
Phone (707) 576-2220 FAX (707) 523-0135

September 23, 1999

RECEIVED  
SEP 30 1999

CALIFORNIA  
COASTAL COMMISSION

Mr. Chris Van Peer  
Van Peer Boatworks  
32600 Highway 20  
Fort Bragg, CA 95437

Dear Mr. Van Peer:

Subject: Van Peer Boatworks, 32600 Highway 20, Fort Bragg, California  
Case No. 1NMC411

EXHIBIT NO. 8

APPLICATION NO.

A-1-MEN-99-43  
VAN PEER

CORRESPONDENCE

I have recently been assigned as the new lead person for this facility. The intent of this letter is to discuss the results of the samples collected by staff of the Regional Water Board, recommend best management practices (BMPs) that are applicable to the site, and discuss the status of this facility.

On August 11, 1999, three soil samples were collected by Regional Water Board staff during a facility inspection. The samples were analyzed for CAM metals and EPA Method 8260 and 8270 for semi volatile and volatile organic compounds. The analytical reports indicated the following:

- Metals detected in the soil are comparable to background conditions.
- The only organic compound detected was toluene at 0.0373 parts per million (ppm) at the sampling location immediately adjacent to a stored crane. The amount of toluene found in the soil is minor and does not appear to be a threat to the beneficial uses of surface water or groundwaters. However, we recommend that care be used when servicing or using the crane, and any other vehicles, in order to prevent any future spills or leaks.

There are several best management practices (BMP) issues to be addressed. I am sending you excerpts from the January 20, 1993 report titled, "THE REPORT ON MANAGEMENT OF HAZARDOUS MATERIALS FOR THE PROTECTION OF WATER QUALITY", prepared by staff of the Regional Water Board.

The sandblasting slag, which has been left at the facility, can be a potential source of pollution. If the slag is removed from the property, then the source of potential pollution is eliminated.

California Environmental Protection Agency



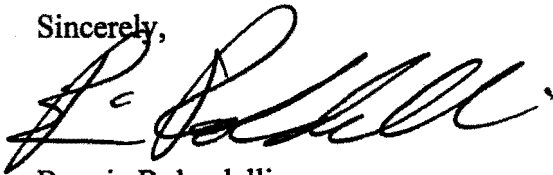
Recycled Paper

Therefore, Regional Water Board staff recommends that the slag be removed from the property as part of the BMPs for this facility.

The last issue pertains to the requirement of an Industrial Activities Stormwater Permit (Stormwater Permit) for your facility. The Stormwater Permit requires business with a Standard Industrial Classification (SIC) code for Ship and Boat Building or Repairing Yards to obtain a Stormwater Permit. Therefore, I have included the appropriate documents for you to complete and submit to the State Water Resources Control Board.

Please contact me at (707) 576-2667 if you have any questions, or if you need assistance with the Stormwater Permit and the associated monitoring and reporting program.

Sincerely,



Bonnie Rolandelli  
Associate Engineering Geologist

BAR:TMK/vp1.doc

Enclosure:

1. Excerpts from "*THE REPORT ON MANAGEMENT OF HAZARDOUS MATERIALS FOR THE PROTECTION OF WATER QUALITY*"
2. Storm Water Check List for Submitting a Notice of Intent
3. Sampling and Analysis Reduction Certification
4. No Exposure Certification

cc: Mr. Jim Baskin, California Coastal Commission, North Coast District Office,  
P.O. Box 4908, Eureka, CA 95502-4908  
Mr. Bob Merrill, California Coastal Commission, North Coast District Office,  
P.O. Box 4908, Eureka, CA 95502-4908  
Mr. Wayne Briley, Mendocino County Health Department, 501 Low Gap Road,  
Room 1326, Ukiah, CA 95482  
Mr. Jim Ehlers, Mendocino County Health Department, 790 A-1 South Franklin Street,  
Fort Bragg, CA 95437  
Mr. Ignacio Gonzalez, County of Mendocino, Department of Planning and Building  
Services, 501 Low Gap Road, Room 1440, Ukiah, CA 95482  
Ms. Pam Townsend, County of Mendocino, Department of Planning and Building Services,  
501 Low Gap Road, Room 1440, Ukiah, CA 95482  
Ms. Cheri Sigman, Mendocino Realty, P.O. Box 14, Mendocino, CA 95460  
Mr. Steven Gardner, 32650 Old Willits Road, Fort Bragg, CA 95437  
Mr. Bud Kamb, P.O. Box 616, Little River, CA 95456



3.

### HAZARDOUS MATERIALS MANAGEMENT PRACTICES

Within the North Coast Region, the Regional Board is responsible for the protection of all beneficial uses of surface and groundwater from pollution, including contamination by hazardous and toxic substances. In addition to controlling and regulating containment of hazardous materials, the Regional Board also advocates the use of alternative management practices (AMPs) by businesses and industries. AMPs are recommended practices to be implemented by a business or industrial facility to protect surface and groundwater from contamination by hazardous substances.

Implementation of AMPs by business and industry is needed in the North Coast Region due to the use of poor management practices, currently and historically, at small businesses and industries, and the many cases of surface and groundwater contamination that have been documented. The Spills, Leaks, and Investigations and Cleanup (SLIC) program, Well Investigation program (WIP), and Underground Storage Tank (UST) program have shown that poor management practices have lead to serious groundwater contamination problems and adverse impacts on drinking water wells. The State Mussel Watch program, Toxic Substance Monitoring program, and other Regional Board monitoring programs have shown problems with surface water contamination. It is anticipated that monitoring conducted through the NPDES stormwater permitting program will turn up additional sources of surface water contamination. Most of the surface water contamination can be attributed to poor management of hazardous materials.

Poor management of a hazardous substance can cause contamination of soil, upset or pass through a sewage treatment plant, discharge to a storm drain or agricultural drainages, and ultimately, contamination of surface water or groundwater. Cases of water quality contamination from hazardous substances can be expected to continue if changes in management practices are not promoted and changed.

Water contaminated with a hazardous substance can become wide spread, be a significant threat to human health, and be a major liability for a business or industry that failed to handle the substance properly. The cost of cleanup is large in comparison to the costs to prevent a problem through implementation of good management practices. Business and industries should be aware of their responsibilities, as well as the benefits of complying with laws and regulations regarding hazardous materials and wastes that they use, generate, store, and dispose. Businesses and industries using good management practices for hazardous substances may realize cost savings in the form of lower insurance premiums, real estate retaining a reasonable value, no government fines or enforcement actions, and reduced material and disposal costs.

One of the Regional Board's goals through this project is to encourage the use of good management practices when dealing with hazardous substances to protect water quality and to ultimately cause a reduction in direct Regional Board regulatory oversight on businesses and industries. The objective of this section is to suggest those AMPs which will reduce or eliminate the risk of discharge of hazardous materials to both surface and groundwater. The alternative management practices take into account current regulations as well as industry's need for a cost-effective approach to hazardous materials management.

### ALTERNATIVE MANAGEMENT PRACTICES

AMPs deal with minimizing hazardous material use and hazardous waste generation, as well as practices that prevent spills to the ground and, hence, to surface and/or groundwater. AMPs are realized not only through source and waste reduction, recycling, reuse, and proper storage and containment, but also through personnel training programs, advance planning (i.e., preparation of a spill plan with predetermined steps to take if a spill occurs), and knowledge of regulations and the agencies that implement them (See Section 2). The implementation of AMPs can result in protection of property values, reduction of insurance costs and prevention of costly cleanup.

This section is divided into four subsections related to the following topics: 1) Conducting a Hazardous Materials Self-Audit; 2) Recommended General Alternative Management Practices; 3) Recommended Alternative Management Practices to Address Common Problem Areas; and 4) Industry-Specific Alternative Management Practices. Each subsection is intended to be useful to business and industry and, as such, each subsection is designed to stand alone so that it can be removed from this report and used as a reference by business and industry for maximum benefit.

Subsection 3.1 titled "Conducting a Hazardous Materials Self-Audit" has been prepared in a checklist format. This is the first step that a facility should take to assess which AMPs are most effective or industry-appropriate. The self-audit could determine areas or processes where waste streams can be reduced or eliminated and could reveal storage and handling practices that may be improved. After conducting the self-audit, the general and industry-specific alternative management practices included in this section can be selected for use by each facility. Many large industrial facilities have been required to conduct hazardous materials audits in response to regulatory requirements and many useful articles regarding facility audits have been written by governmental agencies such as DTSC and private consultants. It is important that small businesses also conduct periodic self-audits on their own facilities and operations to ensure hazardous material management practices are effective.

Subsection 3.2 titled "Recommended General Alternative Management Practices" lists management practices that can be adapted to almost any facility with regard to their hazardous materials handling, storage and disposal practices. These are specific and practical recommendations requiring varying degrees of planning and effort for implementation.

Subsection 3.3 titled "Recommended Management Practices to Address Common Problem Areas" includes a list of nine problem areas that were consistently observed by Regional Board staff during on-site inspections of business and industrial facilities<sup>4</sup> and suggested management practices to resolve these common problem areas. It is recommended that all business and industrial facilities review these practices and implement the AMPs which apply to their processes and operations.

Subsection 3.4 titled "Recommended Industry-Specific Alternative Management Practices" contains recommended AMPs for 19 types of industries that are commonly found in the North Coast Region and where problems concerning the management of hazardous materials and wastes have been observed. A dry cleaning facility or a circuit board manufacturer can turn to the section that applies to their specific industry and find AMP's that apply to the processes and operations that are very specific to their industry.

Reducing hazardous materials use and waste generation reduces costs for product/service raw materials and costs for waste disposal. These reductions, in turn, reduce product or service cost to the industry, bring in more profit, and increases the industry's competitive edge. In addition to the cost savings to the business, preventative measures are typically less costly than cleanup procedures. While some AMPs identified in each of the above subsections may need technical guidance for implementation, many require only stronger management practices and awareness of processes which can be identified by utilizing the self-audit. By utilizing AMPs, business and industry can reduce the threat of contaminating water with hazardous and toxic substances, and reduce the likelihood of direct Regional Board regulation.

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<sup>4</sup> "Development of Best Management Practices for Storage and Handling of Hazardous Substances in the Russian River Basin", Cathleen A. Goodwin, North Coast Regional Water Quality Control Board, April 3, 1987





3.1

SELF-AUDIT CHECKLIST

- 1) Know Your Facility: Become familiar with facility layout, process flow diagrams, processes, hazardous materials on-site, machinery operation, purchasing routines, Spill Prevention Control and Countermeasures (SPCC) Plan, existing regulations, permitting requirements, past violations, waste manifests and results of previous audits. Know your present costs for waste management. Material Safety Data Sheets (MSDS) should be available for all hazardous substances used or stored at the facility. This data provides physical and chemical characteristics and provides information for emergency response.

Is your firm and its employees familiar with all federal, state, and local regulations your facility must comply with?  yes  no

Are current MSDS on file for every hazardous substance on the premises and are they accessible in a central area?  yes  no

Do you have an emergency spill contingency plan?  yes  no

- 2) Know Where Your Waste is Going: During facility inspection, identify all waste streams, including wastewater discharges (to sewer or elsewhere), stack emissions, fugitive emissions (e.g. tank evaporation losses), and solid wastes. Identify wastes which can be segregated for recycle or reuse versus disposal. Follow waste disposal as required under regulations.

How is hazardous waste currently disposed?

What are your present costs of management and disposal of wastes?

Equipment costs?  
Labor costs?  
Transportation costs?  
Lab analysis costs?

Are you utilizing licensed haulers and manifests?  yes  no

Can you utilize a waste exchange so that your waste can be used as raw material by another company?  yes  no

- 3) Characterize Each Waste Stream:

What are the physical and chemical characteristics of the waste stream?

Do you need laboratory tests performed to quantify and qualify the types of hazardous materials/wastes present?  yes  no

Is the waste stream hazardous or non-hazardous?

Determine the point of generation - Is hazardous waste created in a process or during handling and/or mixing?

What quantity of hazardous wastes is generated?

Could a less hazardous or more degradable substitute be used?  yes  no

4) Know About Your Storage and Handling Areas .

Are storage or handling areas properly protected against releases?  yes  no

Is there a spill containment system, concrete floors, revetment?  yes  no

Are there drains within the storage or handling areas?  yes  no

If so, where do these drains discharge?

Sewer?  yes  no

Storm drain?  yes  no

Other?  yes  no

Are all containers inspected before being accepted from the suppliers?  yes  no

Are stored materials monitored for leaks?  yes  no

Are containers properly labeled?  yes  no

Are hazardous materials stored separately from non-hazardous materials?  yes  no

Are hazardous wastes stored separately?  yes  no

5) Observe Good Housekeeping Practices

Are there areas where "general housekeeping" practices could be improved? (See subsection 3.2)  yes  no

6) Know Your Specific Industry: Investigate waste-specific and industry-specific practices for minimizing or eliminating hazardous materials waste generation (see subsection 3.4). Consider the following:

Raw Material Substitution

Can hazardous raw material be substituted with something non or less hazardous?  yes  no

With raw material substitution, will new by-product(s) or waste be generated?  yes  no

If yes, will the new by-product(s) or waste be hazardous or less hazardous?

Modification of Processes

Can modification of processes reduce or eliminate hazardous materials/waste generation?  yes  no

Could an additional step be included in the process that would render the hazardous waste into a non-hazardous state (e.g. pH control to neutral state)?  yes  no

Can equipment substitution or upgrade reduce or eliminate hazardous material use or hazardous waste generation?  yes  no

If hazardous waste is not currently being recycled or reused, could it be?  yes  no

7) Recommend Appropriate Changes: Include an estimated schedule of costs and schedule for completion.

8) Implement Changes Recommended in the Audit

9) Consider Personnel Training: (See subsection 3.2)

Are employees given manuals or training that outlines specific methods for handling the types of hazardous materials/wastes at your facility?  yes  no

Are employees trained on a regular basis to handle hazardous materials/waste?  yes  no

Does training emphasize waste minimization?  yes  no



### 3.2 RECOMMENDED GENERAL ALTERNATIVE MANAGEMENT PRACTICES

1. If possible, segregate waste streams for recycling, reuse or treatment;
2. Contact local POTW for pretreatment requirements or the Regional Board for wastes going to storm drains;
3. Provide safeguards to keep non-hazardous materials from becoming contaminated by hazardous materials;
4. Store hazardous materials properly and safely until used or removed by a Cal/EPA certified, licensed transporter:
  - Assign maintenance of storage area to one person or team;
  - Set-up uniform labeling procedures;
  - Restrict traffic through these areas;
  - Secure against vandalism;
  - Cover and contain storage areas for raw materials and hazardous waste;
  - Containment should consist of an impermeable storage pad with berms, capable of holding contents of the largest barrel or tank to be stored;
  - Containment is 110% for 1 container. For multiple containers, double containment is 150% of the largest container or 110% of the total gallonage;
  - Ensure that all drains empty to a holding tank or pre-treatment system;
5. Adhere to strict inventory management and control to minimize hazardous quantities stored:
  - Keep inventory control records current;
  - Records detailing methods of disposal, recycle, or reuse of regulated materials must be maintained for a minimum of 3 years in one location unless the user is involved in any enforcement action with local, state or federal agencies. In this case, all documents shall be maintained until all proceedings are final;
  - Label contents and expiration dates;
  - Coordinate inventory so materials used = materials replaced;
  - Return obsolete or out-dated materials to the supplier;
  - Purchase materials in bulk to reduce the number of contaminated containers;
  - Test/inspect raw materials before acceptance;
  - Designate one person to manage hazardous raw materials and one person to manage hazardous wastes. This measure will ensure consistent storage techniques, inventory control, labeling, and Material Data Safety Sheet (MSDS) compliance. Coordination between these people is important to ensure material used = material replaced;

- MSDS for all chemical products used on the premises must be maintained in an area accessible to all employees;
  - Be aware that the Health and Safety Code limits the storage of hazardous waste onsite to 90 days, without special permitting.
6. Utilize spill clean-up methods which allow spilled materials to be reused or recycled after clean-up.
    - If unable to recycle or reuse spilled materials, dispose of hazardous substance and all clean-up materials according to regulations;
  7. Require a written record of all spills, leaks or accidents. Use this information to identify spill prevention options;
  8. Perform periodic "self-audits" (See subsection 3.1) to minimize inefficiency and waste;
  9. Where possible, reuse or recycle empty containers;
  10. If reuse or recycle of empty containers is not possible, use proper disposal techniques. (See subsection 3.3.7)
  11. Use squeegees to thoroughly clean-out tanks or drums prior to rinsing;
  12. Use handpumps, hoses and funnels for material transfer, making sure that equipment is free from contamination and containers are compatible with material;
  13. Where possible, use positive displacement pumps instead of gravity-fed pumps;
  14. Install drip trays or racks to collect residue for recycling back into the process.
    - Drip trays or racks should be installed near solvent sinks, hot tanks and jet spray washers;
    - Use drip pans to catch drips when filling containers;
    - When filling storage tanks, purge pipelines and use drip pans under hoses;
    - Place drip pans under machinery, equipment and vehicles when repairing or doing maintenance work.
  15. Saturated rags should be stored in an approved storage container for flammables. Where possible, use approved laundry service;
  16. Where possible, reuse spent solvents after purification with activated commercial silica gel;
  17. Before disposal of wastes, a Hazardous Waste Generator ID # must be obtained from Cal/EPA (916 324-1781);

18. Only a Cal/EPA certified hauler or facility shall be contracted to recycle or dispose of any waste determined to be hazardous under the California Administrative Code, Title 22, Chapter 11, Articles 2 and 3.





### 3.3 RECOMMENDED ALTERNATIVE MANAGEMENT PRACTICES TO ADDRESS COMMON PROBLEM AREAS

#### 3.3.1 OIL AND HAZARDOUS MATERIALS SPILL CONTINGENCY PLANNING

Spills of hazardous substances occur frequently in the North Coast Region. Spills include the accidental, inadvertent, or non-permitted discharges, leaks, or depositions of materials to the ground or water.

A contingency plan is a predetermined action plan to be implemented in the event of a hazardous substance spill. In order to be effective, a contingency plan must be in writing and available to all spill responders. Regional Board Order No. 74-151 (or its revised order), "Contingency Planning and Spill Notification Requirements for Accidental Spills and Discharges", requires each regulated facility which conveys, supplies, stores or otherwise manages wastes or other hazardous materials, shall prepare a site-specific contingency plan. Currently, the Regional Board requires this only of regulated facilities, however, the format is useful and includes the following information:

- Potential locations and/or circumstances where accidental discharges could occur and locations of drains and where to block them in the event of a spill;
- Identification and chemical characteristics of material(s) which may be spilled;
- A conceptual plan for cleanup and abatement, to include: designation of individual(s) responsible for cleanup, the equipment and personnel available to implement the cleanup and abatement, and the location(s) of material(s) and equipment available for spill control;
- A listing of telephone numbers of local authorities to be notified (including the Regional Board), in the event of a spill or threatened spill;
- Provisions for the training of personnel in spill response.

For facilities regulated by the Regional Board, other plans prepared in accordance with regulations (e.g. AB 2185, stormwater permitting), shall be acceptable in lieu of the above spill contingency plan, provided that the plan includes the above information. A revised contingency plan shall be prepared by each facility in the event of ownership change or change in individuals(s) responsible for cleanup, change in quantity or type of material(s) stored, handled, or created, or a change in operating procedures which would affect the previously submitted plan.

### 3.3.2 ABOVE GROUND TANK STORAGE

Many facilities in the Russian River and Eureka Basins store petroleum products and/or other hazardous substances in above ground storage tanks (ASTs), which (along with their associated piping and fixtures), are subject to leaks and spills caused by accident, vandalism or acts of nature. Many of these tanks are situated in areas where surface or groundwater could be affected should a discharge occur.

The storage of certain hazardous materials and wastes is regulated by the Regional Board. A Spill Prevention Control and Countermeasure (SPCC) Plan, along with a storage statement describing the AST's location, size, age, and contents, is required by EPA and in accordance with Regional Board Order No. 74-151, "Contingency Planning and Spill Notification Requirements for Accidental Spills and Discharges".

In addition to the SPCC, all regulations as specified under federal and state law shall be followed. Additional alternative management practices for above ground storage tanks should be followed:

- Revetments will be constructed of impermeable materials and designed to contain the contents of the largest tank, preventing discharge to surface or groundwater;
- All pipes and fixtures for adding or removing material to tank(s) are to be contained within the revetment;
- The containment area shall be roofed and tributary drainage diverted to prevent stormwater from entering;
- The discharge pipe from the containment area shall be locked or secured to ensure selective and controlled removal of waste;
- Containment of fuel storage tanks shall be in compliance with EPA regulations contained in Title 40, Part 112 of the Federal Register, titled "Oil Pollution Prevention". (See Appendix D)

### 3.3.3 UNDERGROUND TANK STORAGE

Leaks and overspill from underground storage tanks (USTs) have resulted in groundwater contamination in many locations throughout the Russian River and Eureka Basins. USTs are highly subject to leakage due to corrosion of the tank or connecting joints. Additionally, spills may occur above ground due to negligence and/or vandalism of pumps and above ground pipes.

USTs are highly regulated. Regulations address requirements for new underground storage tank construction, monitoring standards (for new and existing tanks), release reporting requirements,

leak detection systems and containment stipulations, allowable repairs, and closure requirements. Regulations are implemented through the local Administering Agency (AA), with oversight by the Regional Board.

Foremost, all USTs must be registered and permitted, complying with state, local and federal regulations.

For a complete summary of UST regulations, see "California Underground Storage Tank Regulations and Related Health and Safety Code Sections", published by the State of California Water Resources Control Board, June 1992.

#### 3.3.4 SERVICING AND REFUELING OF EQUIPMENT

Many facilities engage in servicing and refueling of agricultural, commercial, industrial, and private vehicles and equipment. Hazardous substances not only enter watercourses, directly or through surface runoff, but many fuel constituents and lubricants are mobile in soil environments and easily percolate to groundwater.

Alternative management practices should be observed, as follows: (Note that "Areas" denotes "servicing and refueling areas")

- Areas shall be situated as far from surface water as feasible.
- Areas close to surface water channels shall have berms constructed around them.
- Waste fluids (such as waste oil and solvents) produced during servicing shall be stored in sound containment vessels for proper recycling, reuse, or disposal (in accordance with the California Hazardous Waste Control Act of 1972), and stored indoors or in a properly revetted area.
- Waste oil shall not be used for weed or dust control.
- Spills shall be cleaned up immediately. Spills that have the possibility of immigrating to groundwater or entering surface water shall be reported to the Regional Board and other required agencies. If the facility is regulated by the Regional Board, the spill report shall be in accordance with Regional Board Order No. 74-151 "Contingency Planning and Spill Notification Requirements for Accidental Spills and Discharges". This is only for regulated discharges.
- Servicing and refueling operations shall be paved and roofed whenever possible.

- The State of California and the Federal Government currently exempt used oil filters from the hazardous waste regulatory loop if they are drained and transferred for the purpose of metal reclamation. It is recommended that all used oil filters, car and truck, be drained, crushed, and recycled.

### 3.3.5 CLEANING OF EQUIPMENT AND PARTS

Many facilities in the Russian River and Eureka Basins engage in steam cleaning and high pressure cleaning to remove grease, oil and dirt from machinery and/or equipment. Solvents and detergents are frequently added to washwaters to expedite a more efficient removal of oil and grease. Wastewaters containing oil, solvents, detergents and grease are often discharged to the ground or nearby waterways where they may adversely affect surface or groundwaters, or they are discharged to the sewer. Discharge of solvents or oily wastes without treatment and a Regional Board permit is prohibited.

Many facilities which discharge to waterways construct oil separators and settling chambers for the removal of floatable and settleable materials. The effectiveness of oil separators has not been determined, and should not be viewed as the solution to water pollution control for all facilities. The following issues need to be considered:

- Oil separators are frequently installed at facilities without adequate technical guidance, resulting in systems that are often poorly designed or are undersized;
- Oil separators require regular maintenance, inspection and cleaning to be effective for oil removal and this maintenance is often neglected. Oil and grease must be collected at least monthly and disposed as hazardous waste. During the rainy season, if the trap is on an outdoor drain, inspection should be more frequent.
- The use of detergents and/or solvents to aid in the removal of oil, grease and dirt allow for solubilization of some petroleum fractions and emulsification of the oil, resulting in the potential for discharge through oil separators or skimmers.
- Dissolved constituents of oil such as aromatic or chlorinated hydrocarbons are not removed by oil separators. Since these dissolved constituents are present in oil, fuel, and solvents, without enough treatment to remove them, they would be discharged to waterways as effluent from many oil separators throughout the basins.

### 3.3.6 AUTO WASHES AND STEAM CLEANING

Car washes, vehicle wash rack and steam cleaning generate solid and aqueous wastes which threaten water quality. Hazardous substances not only enter watercourses directly or through surface runoff, but many fuel constituents and lubricants are mobile in soil environments and easily percolate to groundwater.

Steam cleaning requires very little water, degreasers, or detergents, but presents similar problems with runoff and possible water quality contamination.

Alternative management practices should include the following:

- Vehicle wash area should be situated on a well-drained concrete pad. The pad should capture all wash water, preventing runoff to soil, storm drains or any surface waters before treatment;
- All wash water should drain to a pre-treatment system (such as an oil/water separator with grit capture) prior to discharge;
- Wash water should never drain to a leachfield or dry well;
- Prior to installation of pre-treatment system, sample wastewater in order to determine whether it is hazardous or not;
- Car washes and wash rack areas should never be used to dispose waste oil;
- When steam cleaning, wash over a sump to collect wastewater. The sump could be pumped out or connected through oil separators to the sewer. Check with local Publicly Owned Treatment Works for requirements.

### 3.3.7 CLEANING AND DISPOSAL OF EMPTY HAZARDOUS MATERIAL CONTAINERS

Facilities throughout the Russian River and Eureka Basin generate "empty" containers and drums which could contain residual chemicals. Spills of residual chemicals to surface or ground water could result when exposed to rain. Some facilities rinse drums for reuse. Other facilities may wash their ground and aerial spray equipment, and/or dusting equipment containing pesticide and fire retardant residues. Both practices could result in spillage of residual chemicals and rinsewaters, and/or discharges to the ground or waterways. Most small containers (under 20 gallons) are deposited in the facility trash receptacle for subsequent removal to landfills. Large containers (generally 20 gallons or larger) are either returned to the supplier, reused at the facility, or picked up by a drum recycler.

Alternative Management Practices shall include the following:

- Empty pesticide containers and residuals shall be handled in accordance with the California Administrative Code, Title 3, Chapter 6. In particular, Sections 6684, 3142, and 3143, respectively, address rinse and drain procedures, disposal of rinsed containers, and disposal of pesticides and unrinsed containers;
- Empty hazardous materials containers and residual chemicals shall be handled according to instructions on the container label. If a label is not available or if instructions for proper disposal are not provided on the label, the container and any residuals shall be handled as a hazardous material;
- Rinsewaters generated during the cleaning of hazardous materials containers (including ground and aerial pesticide spray tanks), shall be collected for reuse, recycling or proper disposal as follows:
  - Rinsewater shall be collected in properly designed and managed tanks, sumps or lined ponds in accordance with State hazardous waste regulations;
  - Rinsewater storage areas shall be contained within appropriate revetments designed to collect spills from the primary storage tank;
  - Rinsewater storage areas shall be checked regularly for spills and leaks;
- Unrinsed empty hazardous materials containers shall be stored with all lids and closures securely tightened;
- Unrinsed empty hazardous materials containers shall be disposed of as follows:
  - Returned to the supplier, with the supplier's prior approval, with all lids or closures securely tightened;
  - In a recycling program where drums are reconditioned by a process approved by DTSC, or
  - In a secure holding site pending disposal as provided above;
- Empty hazardous materials containers may be disposed of in a solid waste disposal site provided the treated containers and rinseate are managed in compliance with applicable requirements;

- Rinsing with a suitable liquid capable of dissolving or removing the hazardous constituents which the container held in accordance with requirements for rinsewaters, as stated above;
- Container is altered by a physical process such as crushing, shredding, grinding or puncturing, that changes only the physical properties of the container or inner liner, provided the container or inner liner is first rinsed and the rinseate is removed from the container or inner liner, as stated above.

RECOMMENDED INDUSTRY SPECIFIC  
ALTERNATIVE MANAGEMENT PRACTICES

### 3.3.8 LEAD-ACID BATTERY STORAGE AND DISPOSAL

It is illegal to discard motor vehicle or other lead-acid batteries and the disposal of lead-acid batteries in landfills is prohibited. Draining battery fluid is illegal and can contaminate surface water, groundwater and soil.

A generator can be an owner or operator of an auto repair shop, retail store, or service station who services, stores, or sells more than 10 batteries at any given time. A transporter is one who hauls or transports the batteries from one location to another. An interim storage facility operator is one who stores the batteries until they are transported to an EPA approved battery recycler.

Generating locations and interim storage locations may not exceed the following storage guidelines:

- More than 1 ton of spent lead-acid batteries for more than 180 days at one location;
- Less than 1 ton of spent lead-acid batteries for more than a year at one location.

If the quantities or time periods are exceeded, the site must be declared a hazardous waste storage facility and follow the California Department of Health Services hazardous waste requirements.

Retailers are required to accept spent lead-acid batteries from a consumer in exchange for the purchase of a new battery under 1985 regulation AB 3204. County and city household hazardous waste collection days will accept 10 or fewer spent lead-acid batteries from homeowners. Over 97% of a spent lead-acid battery is recyclable. If handled properly and recycled, batteries don't present a threat to the environment or water quality. However, when discarded or broken, batteries present a great threat to the environment and water quality, through lead contamination. Lead is extremely toxic.

In order to protect the environment and water quality from toxic contamination, the following alternative management practices should be followed:

- Inspect each battery for damage and/or leaks;
- Damaged batteries, (cracked or missing caps) should be stored properly and transported as manifested hazardous waste by a certified hauler to an EPA certified facility;
- If possible, use weather-resistant material such as paint to label all batteries with date battery was taken out of service and/or received for transport/storage;
- Spent batteries should be stored so that short circuits are prevented and battery acid does not leak;
- Should broken or cracked batteries leak acid, baking soda or cement can be used to neutralize and/or contain spill(s), however, residue must be disposed of as a hazardous waste as it may contain lead and/or other contaminants;
- Store batteries on an impermeable, acid-resistant, covered surface, out of the sun and weather, enclosed by a containment barrier;
- As of 1989, California State law requires retailers to accept spent lead-acid batteries for recycle;
- If unsure as to disposal, contact an auto parts retailer or battery distributor, service station, local garage, or recycling center for disposal advice.
- Transport of spent lead-acid batteries shall be as detailed in Department of Transportation regulations, as per 49 CFR, Chapter 1, Section 173.260.

### 3.3.9 VANDALISM PROTECTION

Many facilities in the Russian River and Eureka Basins store petroleum products and other toxic chemicals in above ground tanks and drums and in underground tanks with above ground dispensing pumps. Frequently these tanks, drums, and dispensing pumps are stored in areas where vandals could have easy access. Even when the tanks and drums are stored within containment structures, spills can still occur due to the work of vandals unless proper controls are provided by way of secure fences with locks and visual obstructions to prevent potential vandals from viewing the storage areas.



To secure areas against vandalism, the following Alternative Management Practices should be followed:

- All hazardous substance storage areas shall be within a securely fenced area;
- Hazardous substance storage areas shall be placed in an area which is not visible to potential vandals whenever possible;
- All outdoor hazardous substance storage areas shall be checked daily for signs of vandalism.



### 3.3.2 AUTOMOTIVE PAINT INDUSTRY

Types of Hazardous Wastes generated include:

- Solvents and thinners
- Mixed wastes, including: paint hardeners, catalysts, and reducers

Other types of wastes that may be generated at some automotive paint shops are those which are typical of auto repair shops (i.e. radiator fluids, motor and transmission fluids and floor washdown water). See subsection 3.4.17 for additional AMPs.

#### ALTERNATIVE MANAGEMENT PRACTICES - Source Reduction Methods

1. Reduce spent filter generation by covering filters with additional, inexpensive furnace filters sprayed with water to filter dust and dirt;
2. Where possible, use equipment with high efficiency and low overspray. Electrostatic spray guns produce only 5-10% overspray. Conventional spray guns produce as much as 60% overspray;
3. Replace lead and chromium pigments, fillers or biosites with non-metallic pigment, filler or biosite types of paints;
4. Use biodegradable substitutes for solvents and degreasers;

#### ALTERNATIVE MANAGEMENT PRACTICES - Resource Recovery and Recycling Methods

1. Solvents can be recycled by using distillation units, or solvent recovery systems;
2. Spray guns can be cleaned in gun washer with reusable solvents;
3. Wastewater from car washing or floor cleaning can be cycled through a water recycler.

#### ALTERNATIVE MANAGEMENT PRACTICES - General "Good Housekeeping" Practices

1. Train spray operators on proper application techniques;
2. Use materials in concentrations below ignitability levels;
3. Allow saturated rags and similar materials to dry before disposing. Saturated rags must be stored in approved storage container for flammables. Use approved industrial laundry service, where possible;

4. Prevent paint from drying in hoses, lines and paint guns;
5. Store materials in a designated area, protected against vandalism and spills;
6. Cycle wastewater from car washing or floor cleaning through an oil and sludge separator prior to discharge to the sewer;
7. Use licensed haulers and licensed recyclers for off-site disposal. Some recyclers specialize in providing and recycling solvent specifically for the automotive industry;
8. Metal filings from sanding and grinding should be swept up and disposed of properly to keep filings from soil and stormwater;
9. When performing asbestos brake jobs, use only industry-accepted methods and equipment.

### 3.4.11 METAL PRODUCTS

Fabricated metal and metal finishing operations are integral to aerospace, electronics, defense, automotive, furniture, domestic appliances and other industries. Metal machining, surface treatment, and stripping wastes include:

- Wastewater treatment sludge (containing metals, divergent pH)
- Spent plating and process baths
- Caustic, detergent and/or acid aqueous cleaners
- Waste solvents and oils
- Abrasives
- Surface treatment and plating wastes
- Cyanides and heavy metals
- Paint overspray
- Empty containers

Waste minimization techniques for most of these waste streams generally fall into one of the following categories: process changes, better operating practices, and material/product substitutions. Many of the techniques have been outlined in subsections 3.4.6 and 3.4.13.

#### ALTERNATIVE MANAGEMENT PRACTICES - Source Reduction Methods

1. Replace cyanide (strong acid) process baths with non-cyanide (trisodium-phosphate or ammonia) ultrasonic process baths to reduce sludge volume;
2. Use non-chelate process chemistries to reduce the volume of wastewater treatment sludge;
3. Use deionized water in process baths and rinsing operations to minimize the amount of sludge generated;
4. Remove sludge frequently and continuously from all cleaning equipment and solvent tanks to extend solvent life;
5. Use alkaline cleaners instead of solvents for degreasing and pre-cleaning operations;
6. Extend life of alkaline wash by removing oil;
7. Use non-chrome etchants;
8. Use immiscible rinses;
9. Use no-rinse coatings, where possible;
10. Reduce the volume of water used for rinsing operations to reduce the volume of wastewater requiring treatment. Techniques include:

- Spray rinse systems or fog nozzles;
  - Agitation in the rinse tanks by forced air or water;
  - Multiple-stage countercurrent rinse systems;
  - Flow restrictors and flow control valves to regulate water usage;
  - Pre-cleaning parts by wiping, air blowers, or pre-dipping in a cold mineral spirit dip;
  - Remove parts from vapor zone slowly to reduce dripping;
11. Drag-out reduction can reduce the concentration of chemicals in the wastewater and the volume of sludge generated during wastewater treatment. Techniques include:
- Increase drainage time;
  - Install drainage boards between process and rinse tanks and recycle drag-out back into process tank;
  - Use dedicated drag-out tanks after process baths to capture drag-out;
  - Minimize bath concentrations to lower end of operating range;
  - Maximize bath operating temperatures to lower solution's viscosity;
  - Use wetting agents in process baths to decrease amount of drag-out;
  - Install drainage boards after rinse tank and recycle drag-out to the rinse bath by installing spray rinses above heated baths;
  - Rotate parts to allow condensed solvent to drip back into tanks;
12. Process bath life can be extended through electrolysis, chemical precipitation, filtration and bath replenishment;
13. Use pH meters or conductivity meters to monitor the process baths in order to determine the need for replenishment;
14. Use dry cleanup where possible to minimize the volume of wastewater;
15. Substitute non-chrome sulfuric acid and hydrogen peroxide for chromic acid pickles, deoxidizers and bright dips;
16. Substitute acid tin chloride for tin cyanide;
17. Where possible, substitute copper sulfate for heavy copper cyanide plating bath;
18. Substitute water-based coatings and powder painting for solvent-based coatings;

19. Where possible, use of de-mineralized water, gas coolants or longlife synthetic fluids can minimize machining fluid wastes;
20. Regenerate machining fluid by filtration, skimming, coalescing, hydrocloning, centrifuging, and/or pasteurization;
21. Minimize wastes from parts cleaning and stripping by using lids on cleaning tanks to reduce evaporation, increasing freeboard space, and using freeboard chillers and cooling jackets;
22. Use an automatic liquid spray system for application of abrasive onto wheel;
23. Use solvent recovery or incineration to reduce Volatile Organic Compounds (VOC) emissions from cure ovens.

#### ALTERNATIVE MANAGEMENT PRACTICES - Resource Recovery and Recycling Methods

1. Segregate wastes for recycling and treatment;
2. Separate waste streams needing only neutralization from those requiring metal removal to reduce waste and treatment cost;
3. Use process chemistries which are treatable or recyclable on-site;
4. Recover acid from spent baths and rinsewater;
5. Recycle spent rinse water and solvent for on-site or off-site treatment;
6. Recycle rinse water wherever possible. Use rinse water effluent from one rinse system for rinse water influent to another rinse system;
7. Implement material reuse techniques such as regeneration of spent process bath chemicals, rinse water solutions, and spent solvents;
8. Reclaim metals from spent baths, waste rinse water, and filters for recycling;
9. Standardize oil types used on machining equipment (cutting, cooling and lubricating oils) for easier recycle or reuse;
10. Centrifuge, dry and separate oil and scrap metal mixtures for recycle;

Treatment alternatives include treatment of waste streams to reduce their volume or toxicity, waste segregation to allow for selective treatment, and treatment process modifications to reduce the volume of the resultant waste stream. Some examples are:

- Treatment of rinse water prior to rinsing operations to reduce the sludge volume and improve rinsing efficiency;
- Use alternate treatment chemicals as precipitants to reduce the volume of sludge generated;
- Use sludge de-watering equipment to increase sludge solids content and decrease sludge volume;
- Use alternative treatment systems such as ion exchange, evaporation, electrolytic metal recovery, reverse osmosis and electro dialysis;

**ALTERNATIVE MANAGEMENT PRACTICES - General "Good Housekeeping" Practices**

1. Separate wastes for recycling, reuse or disposal;
2. Improve inventory procedures to control volume of hazardous materials stored and used on-site (materials used = materials replaced);
3. Segregate raw material and hazardous waste storage areas, providing proper storage and spill containment to minimize risks of spills and vandalism and to comply with regulations;
4. Provide proper storage and spill containment to minimize risks of spills and vandalism and to comply with regulations;
5. Train employees on proper handling of hazardous materials and operation of equipment;
6. Use bench-scale testing for samples rather than in-process baths;
7. Limit bath-mixing to trained personnel;
8. Prevent and contain spills and leaks by installing drip trays and splash guards around processing equipment;
9. Inspect tanks, tank liners, plumbing, and other equipment on a regular basis in order to avoid failures;
10. Inspect plating racks for loose insulation to prevent increased drag-out;
11. Use licensed haulers and licensed recyclers for off-site disposal.



### 3.4.13 PAINT INDUSTRY

Paint Industry products include paints in paste and ready-made form, varnishes, lacquers, enamels and shellacs, putties, wood fillers and sealers, paints and varnish removers, paint brush cleaners, and associated products.

Types of hazardous wastes generated include:

- Solvents
- Empty materials packages and containers
- Dust from air emissions
- Off-specification paint, customer returns and obsolete stock
- Spill clean-up materials (including rags)
- Equipment clean-out wastes and spent filter bags

#### ALTERNATIVE MANAGEMENT PRACTICES - Source Reduction Methods

1. Use water-based rather than solvent-based formulations;
2. Substitute non-hazardous pigments for pigments containing lead and chromium;
3. Use non-mercury bactericides in solvent-based paints;
4. Where possible, use wire screens instead of bags or cartridges;
5. Use reusable bag filters rather than cartridges;
6. Use pigments in slurry form to reduce waste bags and packages;
7. Use solvents which can be used as ingredients of final products;
8. Encourage customers who purchase large volumes of drummed paint to convert to bulk purchase. This can be achieved by implementing a cost incentive program. It results in fewer drums returned for cleaning and also reduces residuals;
9. Spills and off-specification paint can be minimized by increased process automation;
10. Maintain minimum solvent content in waste to render it less hazardous;
11. Sell off-specification paint, obsolete paint, or used in-house paint as utility paint;
12. Use "light to dark" batch sequencing to eliminate intermediate cleaning steps.

ALTERNATIVE MANAGEMENT PRACTICES - Resource Recovery and Recycling Methods

1. Segregate solvent wastes for reuse, recycle or disposal;
2. Reclaim solvent wastes by distillation or burn for energy recovery either onsite or offsite;
3. Use one type of solvent to increase recyclability;
4. If possible, reuse dust and equipment cleaning residues as ingredients for producing other paint batches;
5. Where possible, reuse filter bags and cleaning solvent residues;
6. Explore waste exchange possibilities.

ALTERNATIVE MANAGEMENT PRACTICES - General "Good Housekeeping" Practices

1. Use high pressure nozzles for cleaning of equipment to reduce wastewater;
2. Practice good inventory control to reduce obsolete stock and volume of hazardous materials onsite;
3. Reduce traffic through raw material storage area and processing/mixing area to prevent contamination and dispersal of materials to other areas;
4. Provide proper storage and spill containment to minimize risks of spills and vandalism and to comply with regulations;
5. Increase employee/operator training to improve operating and cleanup procedures;
6. Educate the customer on how to dispose of waste products properly;
7. Where possible, reuse or recycle empty containers. If reuse or recycle of empty containers is not possible, use proper disposal techniques. (See subsection 3.3.7)
8. Saturated rags should be stored in an approved storage container for flammables. Where possible, use approved laundry service;
9. When cleaning brushes, use "gross" cleaning methods first (scrape off paint residue, paint newspapers, or other surfaces), prior to using non-water based recyclable brush cleaning machines;

10. Spray guns can be cleaned in gun washer with reusable solvents;
11. Tightly cap or cover all paint and paint-related products.



### 3.4.17 VEHICLE MAINTENANCE AND REPAIR/SERVICE STATIONS

Automobile repair services are numerous and, due to the diversity of services offered, generally handle large volumes of hazardous materials. This industry represents the largest number of active toxic sites, most of which are associated with leaking underground storage tanks of petroleum products.

Types of Hazardous Wastes generated include:

- Rust removers
- Carburetor cleaners
- Used rags
- Used oil, lubricants and transmission fluids
- Spent solvents
- Spent caustic washing solution
- Parts cleaning tank sludge
- Oily waste sump sludge
- Fuel waste
- Auto/truck batteries (lead-acid batteries)
- Used antifreeze, radiator flush and brake fluid
- Spent oil filters

#### ALTERNATIVE MANAGEMENT PRACTICES - Source Reduction Methods

1. Substitute detergent-based solutions instead of caustic solution when cleaning to reduce sources of hazardous materials;
2. Use water-based cleaners instead of solvent cleaners (halogenated compounds, petroleum based cleansers and/or cleansers with phenols) to reduce sources of hazardous materials;
3. Increase freeboard space on tanks to prevent overflow and reduce sources of hazardous material;
4. Remove parts slowly after immersion in solvent solution to prevent spillage - allow time to drain completely into the solvent sink/bucket;
5. Locate solvent sinks/buckets close to auto service bays to reduce the amount of solvent dripped onto the floor;
6. Use multiple rinse tanks for maximum efficiency of rinse solution and reduce solution use;
7. Change solvent solutions only at required intervals to reduce wasting fluids;
8. Install fluid filtration systems to extend fluid change intervals;

9. Life extension of aqueous solutions used in hot tanks and jet sprays reduce wasted solutions and can be accomplished by:

- Pre-rinsing parts with spent cleaning solution. This prewashing step reduces the introduction of oil, grease and dirt into the final wash solution;
- Remove dissolved solids and heavy metal components by sludge removal or solids fixation.
- Use filtration equipment and periodic tank maintenance to remove sludge materials.
- Add fresh detergents to extend the efficiency of the solution.

#### ALTERNATIVE MANAGEMENT PRACTICES - Resource Recovery and Recycling Methods

1. Recover asbestos dust and friable asbestos waste for recycling;
2. Filter particulates from antifreeze and reuse where possible;
3. Segregate solvent and aqueous wastes and store properly for recycling;
4. Practice solvent recovery by installing recovery equipment or arrange to have it hauled for recycling;
5. Use a solvent service to supply and recycle (or dispose of) spent solvent;
6. The following materials should be picked-up by a licensed hauler for recycling or disposal:
  - Waste motor oils;
  - Aqueous wastes containing hazardous levels of grease, oil, and heavy metals;
  - Spent radiator fluid and antifreeze;
  - Spent solvents (if not recovered onsite);
  - Lead-acid batteries.
7. The State of California and the Federal Government currently exempt used oil filters from the hazardous waste regulatory loop if they are drained and transferred for the purpose of metal reclamation. Therefore, it is recommended that all used oil filters, car and truck, be drained, crushed, and recycled.

#### ALTERNATIVE MANAGEMENT PRACTICES - General "Good Housekeeping" Practices

1. Operate and maintain equipment properly;
2. Use detergents in place of solvents;

3. Utilize:
  - Solvent sinks with covers;
  - Hot tanks with covers;
  - Jet spray washers with proper containment for spray;
  - Drip trays over sinks;
4. Collect cleaning residues for recycling or proper disposal;
5. Use pumps and funnels during the transfer of materials from one container to another;
6. For drums:
  - Keep drums in a roofed area, in a basin enclosed by a berm;
  - Basin should be of sufficient capacity to contain the contents of the largest drum.
7. Practice good inventory control in order to minimize hazardous substances on hand (material in = material out);
8. Properly store and handle all hazardous materials to minimize risks and comply with regulations;
9. Saturated rags should be stored in approved storage container for flammables. If possible, use approved laundry service;
10. Clean-up leaks, drips and spills without water whenever possible. Use rags for small spills, a damp mop or dry absorbent for general clean-up and dry absorbent material for larger spills;
11. Avoid hosing or wet mopping work areas or gas pump areas. Utilize a "dry clean" method where possible;
12. Drain and replace motor oil, coolant and other fluids in a designated area where there are no connections to the storm drain or the sanitary sewer;
13. Don't leave drip pans or other open containers unattended;
14. Empty containers such as oil cans, paint buckets, aerosol cans, antifreeze bottles and carburetor cleaner solvent cans are hazardous wastes and cannot be discarded with the regular trash (see subsection 3.3.7);

15. Consider sharing expensive equipment, such as environmental control machines for CFC removal, with another facility or business.



Lee A. Michlin  
Executive Officer

11.3.99

MR. STEVE GARDNER,

RE: VAN PEER BOAT WORKS, FT. BRAGG

BASED ON BRIEFINGS FROM OUR STAFF,  
I AM CONFIDENT THAT THE VAN PEER  
BOAT WORKS IS CURRENTLY IN  
COMPLIANCE WITH REQUIREMENTS  
OF THIS AGENCY.

THANK YOU FOR YOUR CONCERN. PLEASE  
CONSIDER THIS NOTE AS THE RESPONSE  
TO YOUR 11/3 TELEPHONE MESSAGE.

SINCERELY,

CH: MR. VAN PEER  
STAFF

*Lee Michlin*

California Regional Water Quality Control Board  
North Coast Region

5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403  
(707) 576-2225  
Fax: (707) 523-0135  
Email: Michl@rb1.swrcb.ca.gov

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