

## CALIFORNIA COASTAL COMMISSION

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Staff: MT - SF  
Staff Report: Dec. 17, 1999  
Hearing Date: Jan. 14, 2000

STAFF RECOMMENDATION FOR CEASE AND DESIST ORDER

**CEASE AND DESIST ORDER:** CCC-00-CD-01

**RELATED VIOLATION NUMBER:** V-1-99-01

**PROPERTY LOCATION:** 16825 Highway 101 North  
Smith River, CA 95567  
(APN 101-070-23) (Exhibit 1)

**PROPERTY DESCRIPTION:** A 2.1-acre oceanfront parcel in Smith River, Del Norte County, south of Pelican State Beach. The principal geographic feature of the parcel is a 25-foot bluff, below which is a sandy and rocky beach. The blufftop portion of the property is zoned for commercial recreational use and is currently occupied by perhaps a dozen pre-fabricated cabins.

**PROPERTY OWNER:** Nautical Inn RV Park, Limited Liability Company (LLC)

**ALLEGED VIOLATOR:** Alan Murray dba Nautical Inn RV Park, LLC

**VIOLATION DESCRIPTION:** Unpermitted placement of rock fill and concrete on the beach and against the bluff face.

**SUBSTANTIVE FILE DOCUMENTS:** Del Norte County Minor Subdivision MS9413C; Del Norte County Coastal Building Permit B22361C; Del Norte County Use Permit UP9427C; Del Norte County Coastal Building Permit B22362C; Del Norte County Use Permit RVP9502C

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**I. SUMMARY**

This Coastal Act violation consists of the unpermitted placement on the shoreline of the subject property of approximately 244 tons of unconsolidated rock fill and application of concrete

"grouting." The alleged violator, Alan Murray, conducted these activities without first obtaining a coastal development permit.

Over a period of several months, Commission staff attempted to resolve this violation through the coastal development permit process. Staff directed Murray to file an application for a coastal development permit either to retain the rock and concrete or to remove it. Murray initially indicated a willingness to cooperate. He took steps to file a grading permit application with the County of Del Norte, but ultimately failed to complete that application. More importantly, Murray has not filed a coastal development permit application with the Commission.

Commission staff sent to Murray a letter notifying him of the Executive Director's intent to commence a proceeding for the Commission to issue a Cease and Desist order pursuant to section 30810 of the Coastal Act. Murray countered that Commission staff had not visited the subject property, and asserted that much of the unpermitted rock had eroded away. In response, Commission staff conducted a site visit, and determined that a substantial amount of rock, as well as concrete, remains on the shoreline. Staff again informed Murray of its intent to pursue formal action to resolve the violation.

The proposed order would require Murray to cease and desist from: 1) engaging in any development activity at the property without first obtaining a coastal development permit and 2) maintaining on the property development that violates either the permit requirements of the Coastal Act or the terms of any previously issued permit. The order would direct Murray to apply to the Commission and to the County for a coastal development permit authorizing either 1) retention or 2) removal of the unpermitted development.

## **II. HEARING PROCEDURES**

The procedure for a hearing on a proposed Cease and Desist Order is outlined in Section 13185 of the California Code of Regulations (CCR), Title 14, Division 5.5, Chapter 5, Subchapter 8. The Cease and Desist hearing procedure is similar in most respects to the procedures that the Commission utilizes for permit and local coastal plan matters.

For a Cease and Desist hearing the Chair shall announce the matter and request that all parties or their representatives identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, at any time before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any other speaker. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons, after which staff shall respond to the testimony and to any new evidence introduced.

The Commission should receive, consider, and evaluate evidence according to the same standards it uses in its other quasi-judicial proceedings, as specified in CCR section 13186, incorporating by reference section 13065. After the Chair closes the hearing, the Commission may ask questions as part of its deliberations on the matter, including, if any Commissioner chooses, any question proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by

a majority vote of those present and voting, whether to issue the Cease and Desist order, either in the form recommended by staff or as amended by the Commission.

### III. MOTION

Staff recommends adoption of the following motion:

*I move that the Commission issue Cease and Desist Order No. CCC-00-CD-01 as proposed by staff.*

Staff recommends a YES vote. An affirmative vote by a majority of the Commissioners present is necessary to pass the motion. Approval of the motion will result in the issuance of the Cease and Desist order set forth in Section V, contained herein.

### IV. PROPOSED FINDINGS

Staff recommends that the Commission adopt the following findings in support of its action:

#### A. Site Permit History

The County of Del Norte has issued to Alan Murray five coastal development permits (CDPs) for Murray's oceanfront property at 16825 Highway 101 North, in Smith River.<sup>1</sup> The first four, which the County approved conditionally on May 4, 1994, authorized: 1) a minor subdivision of the original larger parcel (APN 101-070-01) into two parcels; 2) remodeling of an existing restaurant on newly created APN 101-070-22; and 3) replacement of existing motel units on newly created APN 101-070-23 (**Exhibit 3**). One of the conditions of approval required that prior to issuance of the building permits the landowner record a deed restriction that, among other provisions, contains the owner's acknowledgement:

... that the landowner shall not construct any shoreline protective devices to protect any new development or structures established after the date of approval of this permit in the event that the structure, at some future date, is subject to damage or loss from erosion or storm wave damage, and that the landowner understands that the County assumes no obligation to provide shoreline protection for the benefit of this or any other structures at this site, except that the County and/or Coastal Commission may consider, at their discretion, such protection for structures preexisting this permit approval. . . .

Murray did not record the required deed restriction.<sup>2</sup> However, in compliance with a second permit condition, Murray recorded a "Notice of Conditional Approval" for one of the CDPs

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<sup>1</sup> The County assumed permit-issuing authority under its certified Local Coastal Plan in 1984. According to the Commission's mapping unit, Murray's property "is bisected by the Commission's original permit jurisdiction boundary," which in this area follows the base of the bluff (**Exhibit 2**). Thus the County has permit jurisdiction over development on the bluff face landward of the mean high tide line and on the blufftop, while the Commission has retained jurisdiction over development at and seaward of the base of the bluff.

<sup>2</sup> According to Del Norte County planning staff, the County typically does not enforce permit conditions requiring the recordation of deed restrictions.

acknowledging his acceptance of the permit and its conditions. The recorded Notice sets forth those conditions, including that requiring recordation of the deed restriction (**Exhibit 4**).<sup>3</sup>

On March 1, 1995, the County granted to Murray a fifth CDP, No. RVP9502C, which authorized the establishment of a recreational vehicle park instead of motel units at APN 101-070-23 (**Exhibit 5**).<sup>4</sup> Condition No. 12 of CDP No. RVP9502C reiterated the deed restriction condition of the earlier permits, again requiring that prior to issuance of the building permit the applicant record, "if not previously recorded," a deed restriction stipulating that the landowner shall not construct shoreline protective devices to protect any new development. Additionally, Condition No. 11 required that construction plans conform to the recommendations contained in Murray's submitted geologic report (**Exhibit 6**). These included a setback of 20 feet from the top of the bluff for the R.V. spaces, where "only RVs that can be easily and rapidly moved" would be located, and a 30-foot setback for any "permanent improvements." Condition 11 further required that the final building plans reflect a "development bluff setback of not less than 20 feet from the top of the bluff."

As before, Murray did not record the required deed restriction, but he once again recorded a "Notice of Conditional Approval" for the permit (**Exhibit 7**), which includes the conditions described in the preceding paragraph. After receiving a building permit for the R.V. park, Murray began installing on the site pre-fabricated cabins, each consisting of a "park trailer" that he secures to the site with a cable and ground anchors and to which he attaches a stick-frame "side room" and deck.

## **B. Background**

On or about January 12, 1999, Murray received at the property a delivery of approximately 244 tons of rock.<sup>5</sup> The rock consisted of quarried greenstone (a marine volcanic rock) mostly ranging in size from four to six inches, but also containing a significant amount of silt and finer gravel (see **Exhibit 9**, p.5). The contractor supplying the rock unloaded it at the top of the bluff and set up a generator and two conveyors. According to the contractor, Murray and/or his employees then loaded the rock onto the conveyors and dumped it over the bluff and onto the beach below (**Exhibit 10**).<sup>6</sup> The rock formed a steep, unconsolidated mound against the bluff face. Murray later applied concrete "grouting" to the base of a portion of the rock fill.

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<sup>3</sup> In compliance with a third condition, Murray also executed and recorded an irrevocable offer to dedicate a lateral easement for public access. The area subject to the offer runs the length of the two newly created parcels, and extends "inland from the mean high tide line to the first line of vegetation." Commission staff does not know if the subject unpermitted rock fill and concrete or any portion thereof is within the area subject to this offer of dedication.

<sup>4</sup> This permit superceded the previously issued CDP authorizing the replacement of existing motel units on this parcel with new units.

<sup>5</sup> Commission staff obtained copies of invoices (**Exhibit 8**) sent from Freeman Rock Enterprises to Murray which indicate the delivery date and the amount of rock delivered (488,360 lbs., or 244.18 tons).

<sup>6</sup> Commission staff originally directed this enforcement action against both Murray and the contractor, Ted Freeman of Freeman Rock Enterprises. However, staff subsequently settled the enforcement case against

Members of the public reported the placement of rock fill at Murray's property to Commission staff and provided photographic documentation of the violation (**Exhibit 11**). On February 3, 1999, after confirming that 1) the development activity had occurred, 2) at least a portion of the fill is located within the Commission's area of retained permit jurisdiction, and 3) the work had not been authorized by a valid CDP, Commission staff sent to Murray a letter directing him to stop all unpermitted development activity on the subject property (**Exhibit 12**). The letter advised Murray that the placement of material constitutes "development" as defined by section 30106 of the Coastal Act, and that his failure to first apply for and obtain permit approval for the activity was a violation of the Act. The letter instructed Murray to contact staff within three days and to submit within fifteen days a complete CDP application for either retention of the rock or removal of the rock and restoration of the site.<sup>7</sup>

By a letter dated February 8, 1999, attorney Peter Mallon of the law firm Niesar and Diamond responded to staff's letter on Murray's behalf (**Exhibit 13**). Mallon confirmed that the unpermitted activity, which he characterized as "the emergency placement of rocks intended to avert catastrophic erosion of the bluffs from an impending major storm," had stopped. Mallon also said that Murray, who was away on vacation, would be "pleased" to submit a CDP application upon his return to California, but requested that the deadline to do so be extended until March 15, 1999.

In a letter to Mallon dated February 22, 1999 (**Exhibit 14**), Commission staff replied that staff would extend the deadline to file a CDP application to March 15, 1999.

In a letter dated March 2, 1999 (**Exhibit 15**), Del Norte County Engineer Michael Young informed Murray that the placement of uncompacted fill on and against the coastal bluff of the property constituted a violation of the County grading ordinance. The letter ordered Murray to stop "any further fill placement" and cease any grading activities on the property, and to obtain a grading permit from the County within ten days.

In a letter dated March 10, 1999, Martin G. McClelland of Oscar Larson & Associates, an engineering firm, informed staff that Murray had retained the firm to "coordinate" the processing of a CDP application (**Exhibit 16**).

In a second letter (**Exhibit 17**), dated March 15, 1999 (Murray's extended deadline to submit a complete CDP application), McClelland provided a "preliminary schedule of permit related activities" indicating that Murray would submit 1) a grading permit application to the County of Del Norte by April 26, 1999, and 2) a CDP application to the Commission by June 30, 1999. McClelland also proposed submitting to Commission staff a "twice-a-month status report . . . as to our activities."

In a letter dated March 22, 1999 (**Exhibit 18**), County Engineer Michael Young advised McClelland that in order to keep to the permit processing schedule proposed in McClelland's

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Freeman Rock, having determined that Freeman's role in the unpermitted development activity was minimal.

<sup>7</sup> As discussed in Footnote 1, the County has permit jurisdiction over development on the bluff face landward of the mean high tide line and on the blufftop. Pursuant to Coastal Act section 30810(1)(a), the County has requested that the Commission's cease and desist order to Alan Murray include within its scope that portion of the unpermitted rock fill that is located within the County's permit jurisdiction.

March 15 letter to Commission staff, Murray's application for a County grading permit would have to be complete.

In a letter dated March 23, 1999 (**Exhibit 19**), Commission staff asked McClelland to confirm, by no later than March 31, 1999, the nature of the development—retention of the rock, or removal of the rock and restoration of the site—for which Murray intended to seek a CDP.

On March 29, 1999, McClelland sent to staff a letter (**Exhibit 20**) that contained a status report on Murray's CDP application but that failed to confirm the type of development for which Murray was applying.

In a letter to Peter Mallon dated April 15, 1999 (**Exhibit 21**), Commission staff repeated its request for clarification, asking that Mallon or Murray confirm, no later than April 30, 1999, whether Murray would be filing an application to retain the rock or to remove it. Staff extended until May 31, 1999, Murray's deadline to submit a completed CDP application.

On April 26, 1999, McClelland sent staff a copy of Murray's application, dated April 21, 1999, for a grading permit from Del Norte County (**Exhibit 22**), which described the proposed project as "retention of approximately 300 cubic yards of quarry rock . . . placed without benefit of permits at the base of the bluff on the beach and the placement of 500 cubic yards of one-man stone rip-rap."

Murray's grading permit application to the County included a geologic report dated April 13, 1999 (see earlier **Exhibit 9**), prepared by engineering geologist Thomas Ferrero. According to Ferrero's report, the toe of the bluff against which Murray had placed the "pit-run hard facing" had eroded since Ferrero's site evaluation of 1995. Murray had ascribed the erosion to "high surf energy concentrated between the bluff and large rocks adjacent to the bluff." As Ferrero characterized it, Murray's plan had been to "prevent this concentration and erosion" by "fill[ing] the space between the large rocks and bluff" and then grouting the fill "with a lean concrete mix." Ferrero recommended that rather than remove the rock, which could cause more damage, Murray leave it in place and cap it with rip-rap. This approach, he felt, "balances environmental and bluff protection concerns."

In a letter dated April 23, 1999 (**Exhibit 23**), County Engineer Michael Young notified McClelland that Murray's grading permit application was incomplete. The missing items included necessary fees, detailed plans and specifications, and "a biological assessment of present damage or future impact on tide pools and marine life." Young requested that McClelland submit the items by April 30 in order to stay on schedule.

On July 15, 1999, Del Norte County planning staff told Commission staff that the last item in Murray's application file was a file note dated April 28, 1999, indicating that the application remained incomplete.

On July 20, 1999, Commission staff sent to Murray a Notice of Intent to commence Cease and Desist order proceedings (**Exhibit 24**) and a Statement of Defense form.

On July 28, 1999, Murray submitted his Statement of Defense in the form of a letter (**Exhibit 25**). On August 10, 1999, attorney Peter Mallon submitted to Commission staff a supplement to Murray's Statement of Defense consisting of a letter (**Exhibit 26**), and copies of 1) "aggregate durability tests" on the quarry rock Murray had used; 2) Ferrero's geologic report of April 13,

1999; and 3) a letter dated March 10, 1999, from Martin McClelland to Murray containing his firm's preliminary estimate for its permit processing services (**Exhibit 27**).

In his letter of August 10, 1999, Mallon contended that much of the rock fill "has already eroded." According to Mallon, staff of the Department of Fish and Game and of the Army Corps of Engineers had inspected the subject property and "determined that what remains of the rock placement is inconsequential." Mallon added that while "to our knowledge" Commission staff had not inspected the site, "Nevertheless, the Commission takes the position that the rock must be removed."

On September 14, 1999, in response to Mallon's letter, Commission staff conducted a site visit. Staff determined that, contrary to the statements of Mallon and of Murray, 1) a substantial amount of unconsolidated rock fill remained on the shoreline and against the bluff (**Exhibit 28**), 2) the concrete "grouting" Murray had applied to the base of the fill also remained, and 3) the unpermitted rock fill and concrete could and should be removed.

In a letter dated October 19, 1999 (**Exhibit 29**), Commission staff informed Mallon that staff had calendared for the Commission's December 1999 meeting a hearing on a proposed cease and desist order. Staff further advised Mallon that only the receipt by the Commission's North Coast District office of a complete CDP application either to retain the unpermitted rock and concrete or to remove it would cause Commission Enforcement staff to take the pending proceeding off calendar.

In a telephone conversation on October 29, 1999, Mallon indicated that his client wished to resolve the violation and would speak to the Commission's North Coast office about filing an application.

In a letter to Commission staff dated November 11, 1999 (**Exhibit 30**), Mallon requested that staff "not schedule the cease and desist proceeding at this time, and, if this matter cannot be resolved informally, schedule it for a later date when the Commission meets in Northern California."

In a letter to Mallon dated November 15, 1999 (**Exhibit 31**), staff reminded Mallon that the unpermitted rock fill had been in place since January 1999, that staff had made clear its concern about the ongoing impacts of the rock on coastal resources, and that staff had given Murray ample opportunity to resolve the violation through the coastal development permit process. Therefore, staff could not postpone the cease and desist order proceeding beyond January 2000, a full year after the violation occurred.

As of the date of this report, Murray and/or his representatives have not filed an application for an after-the-fact CDP for either retention or removal of the unpermitted development.

### **C. Staff Allegations**

The staff alleges the following:

1. Nautical Inn RV Park, LLC, of which Alan Murray is a principal, is the owner of the property located at 16825 Highway 101 North, Smith River, CA 95567, APN 101-070-23. The property is within the coastal zone of Del Norte County.

2. Murray has undertaken development, as defined in section 30106 of the Coastal Act, at the subject property consisting of the dumping of approximately 244 tons of rock fill onto the beach and against the bluff face, and the pouring of concrete at the base of portions of the rock fill. Murray conducted these development activities without benefit of a coastal development permit.
3. Commission staff has directed Murray to apply for and obtain a coastal development permit either to retain or remove the unpermitted rock fill and concrete. Murray has failed to do so.
4. The unpermitted rock fill and concrete constitutes an ongoing violation of section 30600 of the Coastal Act. In order to resolve this Coastal Act violation, Murray must obtain a coastal development permit authorizing either 1) retention or 2) removal of the unpermitted development.

**D. Alleged violator's Statement of Defense and Commission response**

**1. Murray could not afford the costs associated with the permit application process.**

Murray contends that he abandoned his effort to file an application for an after-the-fact permit because he could not afford the costs of "expert studies required to support" the application. He claims that he was "in arrears" on amounts owed to his engineer, and that the Commission's "insistence" that he obtain an after-the-fact permit had imposed "a real financial crisis." "Indeed," his attorney asserts, "the onerous nature of the permit application process raises the issue of inverse condemnation." Finally, Murray contends that his failure to spend the money necessary to complete an after-the-fact application to retain the rock fill is "justified by his knowledge that the Commission will deny the application."

**Commission response**

Section 30600 of the Coastal Act contains no exception, based on financial hardship or otherwise, to the requirement that any person wishing to undertake development in the coastal zone obtain a coastal development permit. However, the coastal development permit application process is not "onerous"; rather, it is intended to ensure that approved development projects in the coastal zone are consistent with the resource protection policies contained in Chapter 3 of the Coastal Act. Permit applicants are required to submit "expert studies" and other supporting documentation to the extent necessary to demonstrate, for example, that their proposed projects minimize risks; assure geologic stability; minimize alteration of natural land forms; and avoid adverse impacts to marine resources and sensitive habitat areas. In the case of applications for shoreline protection, the Commission is concerned about allowing such projects only when necessary to protect existing structures or public beaches, and only if adverse effects are eliminated or sufficiently mitigated. Therefore, the Commission requires detailed technical information regarding the likely impacts of any such proposed project on beaches and tidelands, as well as an assessment of project alternatives.

In the present case, coastal development permits previously issued by the County stipulated that Murray not construct shoreline protective devices to protect any new development on the property. Murray's CDP for the R.V. park required that permanent development (as opposed to recreational vehicles) be adequately set back from the bluff so as to avoid the need for shoreline



protection. Murray has told Commission staff that a hazardous situation on his property necessitated bluff stabilization. In order to approve a CDP for such a project, the Commission would require studies documenting that a hazard existed.

Coastal Act section 30335.1 requires Commission staff to provide procedural assistance to permit applicants. Applicants may schedule pre-filing discussions with Commission permit analysts to discuss Coastal Act issues raised by their proposals. Analysts advise applicants of a project's apparent inconsistencies with Chapter 3 resource policies of the Coastal Act and may suggest modifications to eliminate or minimize such inconsistencies.

Murray, however, failed to avail himself of such assistance prior to undertaking development, and thereby committed himself to a project that staff believes is inconsistent with permits previously issued for the property and that poses inconsistencies with Chapter 3 resource policies. By his attempt to evade Coastal Act permitting requirements, Murray is responsible for his present circumstances and for the costs of the now-completed project. The costs associated with obtaining regulatory approvals required by law are factors landowners should consider and account for before undertaking development.

**2. Murray deposited the rock fill to avert an immediate threat to public safety.**

Murray claims that imbedded in his bluff is "a large rock the size of a small car that over time had become . . . precariously set." The rock protruded over an undercut, forming a "small cavern" where beachgoers frequently took shelter and watched storm waves. Murray feared that as the bluff eroded "it was only a matter of time before the rock fell," causing "serious injury or death to a tourist." In November 1998, he says, the rock "shifted perceptibly." Concerned about the danger to members of the public, who ignored his "signs and warnings," and about his liability as property owner, Murray decided to "solve the problem" by filling in the area around and under the rock.

**Commission response**

Whether or not an actual danger existed, as Murray claims, Murray was obligated by law to seek regulatory approval before undertaking development, and his arguments about the need to stabilize his bluff should have been made in the context of a coastal development permit application.

**3. Murray attempted to contact the Commission about the erosion danger on his property, but Commission staff did not return his phone calls or provide "meaningful assistance."**

Murray claims that "at one point" he contacted the Commission and spoke to Commission permit analyst Jim Muth.<sup>8</sup> Murray "never got a definitive answer to the problem of the rock," but was told that he could "handle emergency problems" provided the solution "did not add to the property," "was commensurate with the problem," and "did not affect tide pools or water flow." Murray asserts that in November 1998 he again called the Commission, and again "was informed that emergency options were available." However, "no one seemed able" to explain these options

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<sup>8</sup> Muth left the Commission in February 1998.

to Murray. Therefore, he says, "With the Holidays and vacations and no one returning to my calls the decision was left to me."

#### Commission response

There is no evidence that Commission staff did not fulfill its responsibilities under Coastal Act section 30335.1 to provide procedural assistance to applicants. Staff has investigated Murray's contentions, and has found no evidence that Murray ever contacted the Commission about undertaking bluff stabilization work at his property. Enforcement staff spoke to Jim Muth, who recalls discussing with Murray his prior development proposals (that is, the motel units and the R.V. park), but did not recall any discussions of a proposal for shoreline protective work. North Coast District clerical staff reviewed their telephone logbooks for the period during which Murray claims to have inquired about conducting emergency work, and found no record of any calls received from Murray. Nor is there any record that Murray ever submitted a request for an emergency permit. Even if evidence did exist of staff's failure to comply with section 30335.1, such failure would not excuse Murray from complying with his obligation under section 30600 to obtain a CDP.

#### **4. The rock fill has not harmed coastal resources, and its removal would be more detrimental than leaving it in place.**

Murray contends that he deposited on the shoreline only a "small" or "inconsequential" amount of rock fill. The material is not "gravel," as Commission staff alleged in its Notice of Intent, but is rock of the same quality and type as that occurring naturally on the shoreline. Murray argues that because the beach has no tidepools and the site of the fill is "out of the water flow," the rock fill will not harm coastal resources. He claims that staff of the Department of Fish and Game and the Army Corps of Engineers determined that "what remains of the rock placement is inconsequential," and that they told his engineer "there are no negative impacts from the work."

Murray asserts that "the bigger problem would have occurred had the rock fallen." The ensuing "silty soil erosion" from the bluff "would have had far more negative impact" on marine life. Murray points out that local rivers wash vast amounts of sediment and rock onto the beach and into the nearshore waters.

Finally, Murray claims that "all parties"—his geologist, his engineer, and Fish and Game and Corps of Engineers staff—agree that the removal of the rock would be detrimental to the environment, and that therefore it should be left in place.

#### Commission response

This argument is relevant only to the issue of whether or subject to what conditions a permit should be issued for this development. It is not relevant to the question of whether a CDP is required at all.

Although the quarry rock Murray dumped over his bluff may be of the same type as that occurring locally, the amount—about 244 tons—is hardly "inconsequential." Commission staff inspected the site in September 1999 and found a substantial amount of unconsolidated rock remaining on the shoreline. The crude arrangement of the fill is hardly natural either. Two "unsightly fill piles" (as Murray's geologist termed them) rise steeply from the beach to near the

top of the bluff, covering the natural greenstone boulders. Along the base of one pile is a 12-foot-long concrete cap.

Murray has not substantiated his claim that the unpermitted fill has no adverse impacts on coastal resources with any of the evidence that applicants for coastal development permits are required to submit. Without necessary geologic and biologic studies, the Commission cannot assess the likely ongoing or future impacts on coastal resources of the fill. Nevertheless, the Commission finds that it is not necessary or relevant to debate the impacts of the unpermitted fill in the context of this enforcement proceeding. If Murray wished to retain the fill, he should have made his arguments in the context of a complete, fully-documented CDP application to the Commission. Similarly, the Commission finds that it is premature to debate the feasibility of removing the unpermitted rock and concrete. Removal options should be analyzed in a CDP application. Staff has given Murray ample opportunity to file a CDP application either for retention or removal of the fill prior to taking formal enforcement action.

**5. Murray did not perform "development" as defined in the Coastal Act, and he did not commit a knowing and intentional violation of the Coastal Act.**

Murray "denies that his conduct could reasonably [be] construed as 'development,'" or that he committed a knowing and intentional violation of the Coastal Act "as set forth in the Commission's 'Notice of Intent.'" He charges, "The Commission seems to believe that its enforcement power should be exercised for alleged technical violations of permitting requirements, regardless of environmental concerns, public safety concerns, or realistic financial concerns of taxpayers."

**Commission response**

As Murray has not denied that he deposited fill on his property, there is no question that he carried out development as defined by section 30106 of the Coastal Act ("the placement or erection of any solid material or structure"). Similarly, as Murray has not disputed that he did not obtain a coastal development permit prior to undertaking this work, there is no question that he violated the permitting requirements contained in section 30600(a) of the Coastal Act.

Staff believes that Murray was aware of those permitting requirements, having previously received from the County of Del Norte five CDPs for his property. Further, as discussed above, those previously issued CDPs included conditions stipulating that Murray not construct shoreline protective devices to protect new development on the property. The Commission therefore finds that Murray knowingly and intentionally violated the permitting requirements of the County's certified Local Coastal Plan and of the Coastal Act.

**E. Impacts of alleged violation on coastal resources**

The activity that is the subject of this enforcement action is in direct conflict with several resource protection policies contained in Chapter 3 of the Coastal Act.

Section 30253 of the Coastal Act provides that new development shall:

Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Regarding the construction of shoreline protective devices, section 30235 of the Coastal Act states:

Revetments, . . . seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Additionally, Section 30251 provides:

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

The subject property is located just west of Highway 101 in rural northern Del Norte County. The property lies directly south of Pelican State Beach, and its shoreline is visually and physically accessible from the state beach. Beachgoers can see a sweep of coastline that includes scattered offshore rocks, driftwood-strewn sandy beach, rock and cobble beach, grassy dunes, natural bluff faces, and coastal scrub and Sitka spruce.

In this setting, the unpermitted rock fill and concrete at Murray's property, far from being "visually compatible" as required by Coastal Act section 30251, presents a jarring contrast with the undisturbed character of the surrounding coastal area. Murray's own geologic report (**Exhibit 9**) appears to concur that the "unsightly rock piles" were not sited or designed to protect coastal views, and recommends that the rock fill be capped with greenstone riprap to create a structure "that would blend well with the existing greenstone boulder strewn beach morphology."

The rock fill is inconsistent with Coastal Act policies pertaining to shoreline protective devices. Pursuant to section 30235, the Commission approves coastal development permits for shoreline protective devices only when they are necessary to protect existing, permitted structures in danger of erosion, and only when they are designed to eliminate or mitigate adverse impacts on shoreline processes. Pursuant to section 30253, the Commission does not permit new development that will require the construction of protective devices that would substantially alter natural landforms.

Consistent with these Chapter 3 resource policies, the County of Del Norte conditioned its approval of CDP No. RVP9502C, authorizing an R.V. park on Murray's property, on the submittal of final plans showing adequate bluff setbacks for new development. In this instance, the County deemed adequate a setback of 20 feet for recreational vehicles "that can be easily and rapidly moved" back from the bluff. CDP No. RVP9502C also required that Murray record a deed restriction stipulating that he not construct shoreline protective devices to protect new development. Although Murray failed to record the required deed restriction, he acknowledged and accepted all conditions attached to that CDP, including its stipulations prohibiting shoreline protection, by virtue of his execution and recordation of a "Notice of Conditional Approval."

The unpermitted rock fill and concrete that Murray placed against his coastal bluff clearly is intended to function as a protective device. Murray has claimed that he acted in the interest of public safety. However, his decision to carry out this work without first seeking permit approval from the Commission and the County appears to have been a knowing and intentional attempt to violate the terms of his previously issued CDPs. Further, by evading Coastal Act permitting requirements, Murray precluded the Commission and the County from reviewing his project for consistency with the resource policies of Chapter 3, to assess its impacts on coastal resources, and to decide whether or subject to what conditions a permit should be issued.

#### **V. CEASE AND DESIST ORDER**

Staff recommends that the Commission issue the following Cease and Desist Order:

Pursuant to its authority under Pub. Res. Code §30810, the California Coastal Commission hereby orders Alan Murray, Nautical Inn RV Park, LLC, all his or its employees or agents, and any persons or entities acting in concert with any of the foregoing, to cease and desist from: 1) engaging in any development activity without first obtaining a coastal development permit; and 2) maintaining on the property at 16825 Highway 101 North, Smith River, Del Norte County, unpermitted development consisting of unconsolidated rock fill and concrete. Accordingly, all persons subject to this order shall fully comply with paragraphs A, B, and C as follows:

- A. Refrain from engaging in any development activity on the property without first obtaining a coastal development permit that authorizes such activity.
- B. Within 60 days of the date of this order, or within such additional time as the Executive Director may grant for good cause, submit to 1) the Commission, and 2) the County of Del Norte for review and approval a complete coastal development permit application (including all necessary local approvals), as required by PRC § 30600(a), authorizing either 1) retention or 2) removal of the unpermitted development specified below.

For the purposes of this requirement, a complete coastal development application for retention of the unpermitted development means an application that includes, but is not necessarily limited to, all items specified in Commission staff's "Memorandum to Applicants for Shorefront Development," attached hereto as **Exhibit 32**.

- C. Fully comply with the terms, conditions, and deadlines of any coastal development permit for either the retention or the removal of the unpermitted development as the Commission and/or the County may impose.

#### **Persons subject to the Order**

Alan Murray; Nautical Inn RV Park, LLC; all employees, agents, or other persons or entities acting in concert with either of the foregoing.

**Identification of the Property**

The property that is the subject of this cease and desist order is described as follows:

16825 Highway 101 North, Smith River, CA 95567. APN 101-070-23.

**Legal Authority**

The property identified in the preceding section is within both the original permit jurisdiction of the Commission and the permit jurisdiction of the County of Del Norte. Accordingly, the Commission is issuing this order pursuant to Pub. Res. Code §§ 30810 and 30810(a)(1).

**Description of Unpermitted Activity**

Placement of 244 tons of unconsolidated rock fill onto the beach and against the coastal bluff of the property; application of concrete grouting to a portion of the base of the fill.

**Term of the Order**

This order shall remain in effect permanently unless and until modified or rescinded by the Commission.

**Compliance Obligation**

Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order including any deadline contained in this order will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists.

**Appeal**

Pursuant to Pub. Res. Code §30803(b), any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

**EXHIBITS**

1. Location of subject property
2. Letter dated March 18, 1999, from Commission mapping staff to Martin McClelland
3. Notice of Action for Del Norte County Coastal Development Permit Nos. MS9413C, B22361C, UP9427C, and B22362C
4. Notice of Conditional Approval for CDP No. B22361C, recorded December 1, 1994
5. Notice of Action for CDP No. RVP9502C
6. Geologic report dated February 8, 1995, prepared by Ferrero Geologic
7. Notice of Conditional Approval for CDP No. RVP9502C, recorded May 5, 1995
8. Invoices dated January 12, 1999, from Freeman Rock Enterprises, Inc., to Nautical Inn RV Park
9. Geologic report dated April 13, 1999, prepared by Ferrero Geologic
10. Statement dated August 9, 1999, of Ted Freeman, Jr., president of Freeman Rock Enterprises, Inc.
11. Photographs dated January 25, 1999, of the subject property
12. Letter dated February 3, 1999, from Commission staff to Alan Murray and Ted Freeman
13. Letter dated February 8, 1999, from Peter Mallon to Commission staff
14. Letter dated February 22, 1999, from Commission staff to Peter Mallon
15. Letter dated March 2, 1999, from Del Norte County Engineer Michael Young to Alan Murray and Ted Freeman
16. Letter dated March 10, 1999, from Martin McClelland to Commission staff
17. Letter dated March 15, 1999, from Martin McClelland to Commission staff
18. Letter dated March 22, 1999, from Michael Young to Martin McClelland
19. Letter dated March 23, 1999, from Commission staff to Martin McClelland
20. Letter dated March 29, 1999, from Martin McClelland to Commission staff
21. Letter dated April 15, 1999, from Commission staff to Peter Mallon
22. Alan Murray's County grading permit application, dated April 21, 1999
23. Letter dated April 23, 1999, from Michael Young to Martin McClelland
24. Commission staff's Notice of Intent to commence Cease and Desist order proceedings, dated July 20, 1999
25. Alan Murray's statement of defense, dated July 28, 1999
26. Supplement dated August 10, 1999, to Alan Murray's statement of defense
27. Letter dated March 10, 1999, from Martin McClelland to Alan Murray
28. Photographs dated September 14, 1999, of the subject property
29. Letter dated October 19, 1999, from Commission staff to Peter Mallon
30. Letter dated November 11, 1999, from Peter Mallon to Commission staff
31. Letter dated November 15, 1999, from Commission staff to Peter Mallon
32. Commission staff's Memorandum to Applicants for Shorefront Development







POR SEC 32 T.19N., R.1W., H.B. & M.

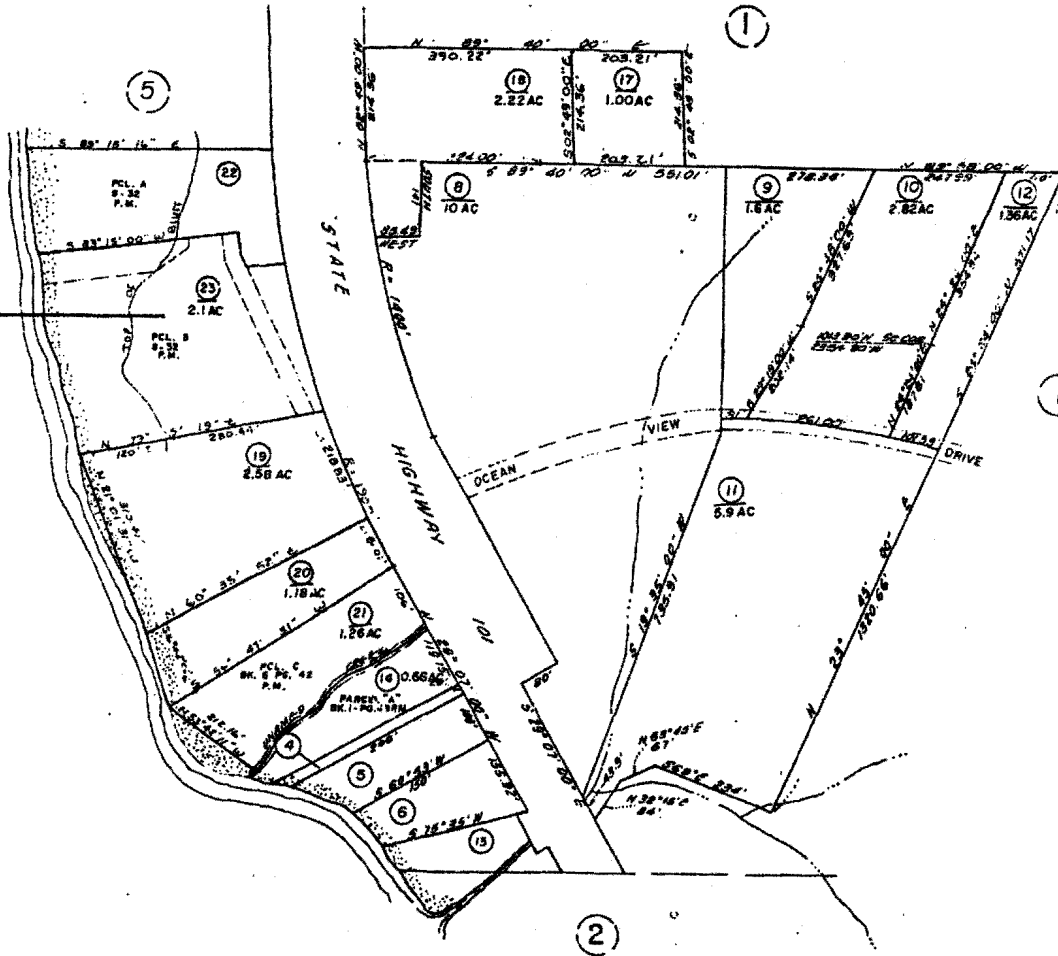
THIS IS NOT AN OFFICIAL MAP  
FOR ASSESSMENT PURPOSES ONLY

101-7



0345

subject  
property



JUL 05 1995

EXHIBIT NO. 1

CCC-00-CP-01

2 OF 2

## CALIFORNIA COASTAL COMMISSION

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



March 18, 1999

Mr. Marty McClelland  
Oscar Larson and Associates  
317 Third Street  
P.O. Box 3806  
Eureka, CA 95502

SUBJECT: Boundary Determination 5-99  
Smith River

This is in response to your recent request for a determination of the Commission's original permit jurisdiction for Del Norte County Assessor Parcel Number 101-070-23.

Based on the information provided, Del Norte County APN 101-070-23 is bisected by the Commission's original permit jurisdiction boundary. In this area, the permit jurisdiction boundary follows the base of the bluff. Any rock material that has been deposited at the base of the bluff or on the beach lies within the Commission's permit jurisdiction, and requires a permit from the Commission. The remaining portion of the parcel lies within the Commission's appeal jurisdiction. Rock material placed on the face of the bluff *landward* of the Mean High Tide Line would require a Coastal Development Permit from the County of Del Norte, which if approved, would be appealable to the Commission.

In any area where the boundary between the Commission's retained permit and appeal jurisdictions is based on the State Lands Commission staff delineation of potential public trust lands, its exact location may vary depending on what lands are *actually* subject to the public trust. Likewise, where the boundary follows an existing tidelands boundary, State Lands Commission needs to be consulted in order to avoid errors in locating the permit boundary. Questions regarding the exact location and extent of tidelands and/or public trust lands should be referred to the State Lands Commission for determination. Their status determination may or may not result in a different boundary.

Please contact me if you have any questions regarding this determination.

Sincerely,

Allyson C. Hitt  
Mapping/GIS Unit

cc: B. Merrill, CCC-NC  
D. Rance, CCC-NC

EXHIBIT NO. 2

CCC-00-CD-01

1 of 1

DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
700 5TH STREET  
CRESCENT CITY, CA 95531

*Coastal*  
**RECEIVED**  
MAY 11 1994  
CALIFORNIA  
COASTAL COMMISSION

NOTICE OF ACTION

- I. Notice is hereby given that the Planning Commission of Del Norte County took the following action on May 4, 1994 regarding the application for development listed below:

Action: ☒ Approved ☐ Denied ☐ Continued ☐ Recommended EIR  
☐ Forwarded to Board of Supervisors

Application Number: MS9413C  
Project Description: Minor Subdivision  
Project Location Address: 16850 Hwy 101 N, Smith River  
Assessor's Parcel Number: 101-070-01  
Applicant: Alan Murray  
Applicant's Mailing Address: 850 Pioneer Road, Brookings, OR 97415  
Agent's Name & Address: Michael Young & Assoc., 711 J St, C.C.

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

II. If Approved:

- ☒ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

This County permit or entitlement DOES NOT serve as a Coastal permit. Consult the Coastal Zone Permit procedure section of your NOTICE OF APPLICATION STATUS or the Planning Division of the Community Development Department if you have questions.

III. Notice is given that this project:

Is not appealable to the California Coastal Commission, however a local appeal period does exist.

- ☒ Is appealable to the California Coastal Commission.
- ☒ Any appeal of the above decision must be filed with the Clerk of the Board by MAY 16, 1994 for consideration by the Board of Supervisors.
- ☒ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working calendar days subject to the requirements of Chapter 2 Coastal Regulations.

(Continued on the next page)

EXHIBIT NO. 3
CCC-00-CD-01
1 OF 20

Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

Is not subject to Coastal Commission regulations however a local appeal process is available. Written appeals must be filed with the Clerk of the Board by \_\_\_\_\_. Consideration will be by the Board of Supervisors.

✓ Parcel map must be filed within 24 months of the date of approval.

Record of Survey (and/or new deeds) must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS - MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS - Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

#### NOTICE - SECTION 1.40.070

The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

#### FISH & GAME FILING FEES

Projects subject to CEQA are also subject to the following fees as required by the CA Dept. of Fish & Game:

Applicable Fee: \_\_\_ Neg.Dec.(\$1275) \_\_\_ EIR(\$875) ✓ Exempt

This fee should be submitted to the Planning Division of the Community Development Department as soon as possible, with a check made payable to the County Clerk's Office. If not paid within 10 days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089 (b)) and will be referred to Fish & Game's Dept. of Compliance and External Audits in the Clerk's monthly deposit and report to Fish & Game.

#### ATTENTION PROSPECTIVE SUBDIVIDER

As a prospective subdivider of property, this notice is to advise you that all taxes must be paid in full prior to the recordation of your map. If the map is filed after February 28th, you taxes due PLUS NEXT YEAR'S TAXES before the map can be

If you have any questions regarding the payment of taxes, contact the Del Norte County Tax Collector's Office at (707)464-7211.

EXHIBIT NO. 3

CCC-00-CD-01

2 OF 20

BELOW ARE LISTED THE CONDITIONS OF APPROVAL FOR YOUR PROJECT. PLEASE BE AWARE THAT COMPLIANCE WITH THESE CONDITIONS, AS WELL AS ANY APPLICABLE COUNTY STANDARDS, IS YOUR RESPONSIBILITY AS THE APPLICANT. NEITHER THE PLANNING COMMISSION NOR ANY OTHER AGENCY OF THE COUNTY OF DEL NORTE WILL TAKE ANY ACTION TO COMPLY WITH THE CONDITIONS OR DO ANY OTHER WORK TO FINALIZE YOUR PROJECT. YOUR PROJECT WILL NOT BE FINALIZED UNTIL THESE CONDITIONS AND/OR STANDARDS HAVE BEEN MET. IF YOU HAVE ANY QUESTIONS REGARDING THE CONDITIONS AND/OR STANDARDS FOR YOUR PROJECT, YOU SHOULD CONTACT THE DEPARTMENT OR AGENCY WHICH REQUIRED THAT CONDITION AND/OR STANDARD.

CONDITIONS FOR MINOR SUBDIVISION:

- 1) A parcel map shall be recorded with the County Clerk within 24 months of the date of approval;
- 2) Community water shall be extended to the project per the requirements of the Smith River Community Services District. (If the existing service is adequate for the proposed development, a written statement to that effect from SRCSD is required);
- 3) Any access improvements within the highway right-of-way may require an encroachment permit from Cal-Trans and is the responsibility of the applicant;
- 4) All construction shall comply with Section 14.16.027 and Section 14.16.028 of Del Norte County Code regarding addressing and the posting of address numbers;
- 5) The project shall comply with the requirements of the Uniform Fire Code applicable at the time of complete application (2/94);
- 6) The geologic demonstration area boundary for the coastal bluff shall be shown on the parcel map and identified as "Bluff Demonstration Area - potential geologic risk area any development or disturbance shall be subject to geologic review";
- 7) The property owner shall, prior to recordation of the parcel map, submit a preliminary title report and an irrevocable offer to dedicate an easement free of prior liens and encumbrances (except tax liens) for the public access way described below. Upon review and acceptance of the document by the County and the Coastal Commission the document shall be recorded with the County of Del Norte. This offer can be accepted by an appropriate agency within 21 years but the County shall have the first right of refusal. A note shall be placed on the map referring to the offer as:  
  
"Lateral access shall be provided for passive recreational use by the general public inland of the mean high tide line to the first line of vegetation.";
- 8) The access easement across parcel B to parcel A for the existing driveway shall be shown on the parcel map;

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ccc-00-CD-01
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9) In order to minimize the development of any additional private beach access points for the parcels, a private beach access for mutual use by both parcels shall be provided on the map or by deed at the location of the existing access path from the parking lot to the beach as shown on the project proposal map. (This is not required to be a public access).

EXHIBIT NO. 3

CCC-00-CD-01

4 OF 20

DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
700 5TH STREET  
CRESCENT CITY, CA 95531

NOTICE OF ACTION

- I. Notice is hereby given that the Planning Commission of Del Norte County took the following action on May 4, 1994 regarding the application for development listed below:

Action: ☒ Approved ☐ Denied ☐ Continued ☐ Recommended EIR  
☐ Forwarded to Board of Supervisors

Application Number: UP9427C  
Project Description: Use Permit/Replace Motel/Cabin Units  
Project Location Address: 16850 Hwy 101 N, Smith River  
Assessor's Parcel Number: 101-070-01  
Applicant: Alan Murray  
Applicant's Mailing Address: 850 Pioneer Road, Brookings, OR 97415  
Agent's Name & Address: Michael Young & Assoc., 711 J St, C.C.

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

II. If Approved:

- ☒ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

This County permit or entitlement DOES NOT serve as a Coastal permit. Consult the Coastal Zone Permit procedure section of your NOTICE OF APPLICATION STATUS or the Planning Division of the Community Development Department if you have questions.

III. Notice is given that this project:

Is not appealable to the California Coastal Commission, however a local appeal period does exist.

- ☒ Is appealable to the California Coastal Commission.

- ☒ Any appeal of the above decision must be filed with the Clerk of the Board by MAY 16, 1994 for consideration by the Board of Supervisors.

- ☒ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working calendar days subject to the requirements of Chapter 23 Coastal Regulations.

(Continued on the next page)

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Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

Is not subject to Coastal Commission regulations however a local appeal process is available. Written appeals must be filed with the Clerk of the Board by \_\_\_\_\_. Consideration will be by the Board of Supervisors.

Parcel map must be filed within 24 months of the date of approval.

Record of Survey (and/or new deeds) must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS - MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS - Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

#### NOTICE - SECTION 1.40.070

The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

#### FISH & GAME FILING FEES

Projects subject to CEQA are also subject to the following fees as required by the CA Dept. of Fish & Game:

Applicable Fee: \_\_\_ Neg.Dec.(\$1275) \_\_\_ EIR(\$875) ☒ Exempt

This fee should be submitted to the Planning Division of the Community Development Department as soon as possible, with a check made payable to the County Clerk's Office. If not paid within 10 days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089 (b)) and will be referred to Fish & Game's Dept. of Compliance and External Audits in the Clerk's monthly deposit and report to Fish & Game.

#### ATTENTION PROSPECTIVE SUBDIVIDER

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If you have any questions regarding the payment of tax, Del Norte County Tax Collector's Office at (707)464-721

EXHIBIT NO. 3

CCC-00-CD-01

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DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
700 5TH STREET  
CRESCENT CITY, CA 95531

NOTICE OF ACTION

- I. Notice is hereby given that the Planning Commission of Del Norte County took the following action on May 4, 1994 regarding the application for development listed below:

Action: ☒ Approved ☐ Denied ☐ Continued ☐ Recommended EIR  
☐ Forwarded to Board of Supervisors

Application Number: B22362C  
Project Description: Coastal Bldg Permit/Replace Motel/Cabin Units  
Project Location Address: 16850 Hwy 101 N, Smith River  
Assessor's Parcel Number: 101-070-01  
Applicant: Alan Murray  
Applicant's Mailing Address: 850 Pioneer Road, Brookings, OR 97415  
Agent's Name & Address: Michael Young & Assoc., 711 J St, C.C.

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

II. If Approved:

- ☒ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

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- ☒ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working calendar days subject to the requirements of Chapter 2: Coastal Regulations.

(Continued on the next page)

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Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

Is not subject to Coastal Commission regulations however a local appeal process is available. Written appeals must be filed with the Clerk of the Board by \_\_\_\_\_. Consideration will be by the Board of Supervisors.

Parcel map must be filed within 24 months of the date of approval.

Record of Survey (and/or new deeds) must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS - MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS - Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

#### NOTICE - SECTION 1.40.070

The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

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If you have any questions regarding the payment of tax Del Norte County Tax Collector's Office at (707)464-728

EXHIBIT NO. 3

CCC-00-CD-01

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DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
700 5TH STREET  
CRESCENT CITY, CA 95531

NOTICE OF ACTION

- I. Notice is hereby given that the Planning Commission of Del Norte County took the following action on May 4, 1994 regarding the application for development listed below:

Action: ☒ Approved ☐ Denied ☐ Continued ☐ Recommended EIR  
☐ Forwarded to Board of Supervisors

Application Number: B22361C  
Project Description: Coastal Bldg Permit/Restaurant Remodel  
Project Location Address: 16850 Hwy 101 N, Smith River  
Assessor's Parcel Number: 101-070-01  
Applicant: Alan Murray  
Applicant's Mailing Address: 850 Pioneer Road, Brookings, OR 97415  
Agent's Name & Address: Michael Young & Assoc., 711 J St, C.C.

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

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- ☒ Is appealable to the California Coastal Commission.
- ☒ Any appeal of the above decision must be filed with the Clerk of the Board by MAY 16, 1994 for consideration by the Board of Supervisors.
- ☒ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working calendar days subject to the requirements of Chapter 2: Coastal Regulations.

(Continued on the next page)

EXHIBIT NO. 3
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Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

Is not subject to Coastal Commission regulations however a local appeal process is available. Written appeals must be filed with the Clerk of the Board by \_\_\_\_\_. Consideration will be by the Board of Supervisors.

Parcel map must be filed within 24 months of the date of approval.

Record of Survey (and/or new deeds) must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS - MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS - Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

#### NOTICE - SECTION 1.40.070

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If you have any questions regarding the payment of taxes Del Norte County Tax Collector's Office at (707)464-728

EXHIBIT NO. 3

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The applicant also proposes to remove (demolish) the four existing cabins (four buildings with two units in each building for a total of eight units). Of the original eight total units, four have/had kitchenettes. The initial proposal of the applicant (copy attached) included replacing the rental units with larger, modern units with two bedrooms, bath, living area and kitchen. All eight units would have kitchenettes, doubling the current number of units with kitchenettes. Each unit is proposed to be approximately 1000 square feet in area, two story units with a single car garage, and moved closer to the ocean bluff.

Access to the project site is from Highway 101 via existing encroachments. Water service is presently provided by the Smith River Community Services District system. Sewage disposal is on-site and new soils tests and designs have been conducted for replacement systems.

The applicant's proposal will require the relocation of the on-site sewage systems. The restaurant is currently served by a functioning on-site system. A new on-site system will need to be constructed when the restaurant is remodeled and/or prior to the proposed subdivision. The rental units are served by an existing system which will be displaced by the construction of the proposed new units. Therefore, a new on-site system is required for the rental units. Soils tests have been conducted for each of the new systems and a replacement area of adequate size has also been determined. The new on-site systems will be constructed to current standards. The rental units are to have one common disposal area and one common reserve area. The plot plan shows the location of these areas.

The environmental review of the proposed project generated comments from Cal-Trans and from the staff of the Coastal Commission. Cal-Trans comments are limited to a statement that any work within the State highway right-of-way will require an encroachment permit from Cal-Trans. The comments from the Coastal Commission identified four issues. These issues are number/ratio of units, public access, privatization of visitor-serving units, and shoreline protective devices.

The previous historical use of the rental units was as a motor court. Prior to the project being called the Knottical Inn, it was named the White Rock. The motor court units totaled eight units, of which four had kitchenettes. The applicant is entitled to replace four of the kitchenettes, however, the other four proposed are not an automatically approved use. Additionally, the kitchenettes/multiple room design may promote long-term stays and conflict with the intended visitor serving use of the Commercial Recreational zone district. Planning staff has suggested that the applicant redesign by placing entry doors at each level and each landing. The applicant has considered this recommendation and has incorporated the idea into his design (see letter dated March 11, 1994, from Michael Young and Associates). This concept increases the number of units from 8 to 24 and allows flexibility in the overnight rental of the units. Each can be let individually or in groups. This design change allows the eight kitchenettes to be considered. The increased number of units establishes a ratio of 2 to 1 of total units to units with kitchenettes. This ratio is consistent with other similar criteria for the Commercial Recreational zone.

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(The ratio of RV spaces to mobilehome spaces in the CR zone is 2 to 1.) The increased number of units requires more parking spaces (16 additional) and a 20 percent increase in the disposal area. However, the applicant's engineer has looked at these increases and has determined that the project can meet these requirements.

Public access from the highway to the beach is provided by the adjacent Pelican Beach State Park. Lateral access has been previously required for a mobilehome placement, however lateral access is being required again to cover the entire project. Any new accessways from the project to the beach are being limited due to erosion and bluff hazards for the project area. An easement for both parcels to share the existing private beach access has been included.

Privatization is in part an issue due to speculative statements about the project. A rumor has circulated that the proponent intends to "condo" the project. The original design included individual sewage systems for each of the buildings. The design includes a single car garage for each structure. These two issues, plus the rumor, created the concern regarding the potential to privatize these units. The applicable zone district for this project is CR. The CR zone district is intended to provide lands for the development of visitor-serving facilities to enhance public opportunities for recreation and to attract the tourist traveler. The permitted uses include, but are not limited to, hotels and motels, guest lodging and motor inns. Therefore, a condition has been recommended which serves as notification that the project at hand is for a visitor serving use and that this discretionary action does not include the conversion of the motel units to another use.

In regards to shoreline protective devices, it is staff's concern that the applicant be informed of the County's position and that of the Coastal Commission. These concerns are that no public agency is committed to come to the rescue of the property owner should shoreline erosion take place. The applicant and future property owners shall recognize that they are constructing in an area in which erosion may take place which could threaten their structures. The County is not in a position, and is not expected to be in a position to provide them assistance. Additionally, it is the policy of the state that permits for shoreline protection will only be considered for preexisting development and preexisting shoreline structures. The applicant's engineer has examined the bluff area and is recommending a setback for the proposed new structures. The restaurant will remain at its existing location.

The remaining conditions deal with the actual physical development of the proposed projects. The conditions of approval and the permits under consideration are for the total proposed project. It may not be necessary for the applicant to return to the Commission if the project is built in compliance with the recommended conditions.

At this time, staff recommends that the Commission open its public hearing regarding the project. At the conclusion of the hearing, staff recommends that the Commission identify any issues which may arise. The recommendation of staff is that the Commission adopt the following

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05/05/94



findings and the Negative Declaration and approve the projects subject to the below listed conditions and notes.

5. FINDINGS:

A) The project is consistent with the policies and standards of the General Plan and Title 21 Zoning;

B) A Negative Declaration has been prepared pursuant to the California Environmental Quality Act which the Commission has considered in reviewing the project and making its decision;

C) An initial study has been conducted by the lead agency so as to evaluate the potential for adverse environmental impact;

D) Considering the record as a whole there is no evidence before the lead agency that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends, as defined in Section 711.2, of the Fish and Game Code. The project involves a minor amendment to a preexisting parcel adding an already disturbed area to the building site in an area of no significant resource issue; and

E) The Planning Commission has, on the basis of substantial evidence, rebutted the presumption of adverse effect contained in Section 753.5.(d), Title 14, CCR (Fish and Game Code);

\*\* F) The Commission has considered the relocation of the rental units and has determined the change in height (ie. existing units to proposed new units from the road level) is not significant. (Each unit will vary in overall height from plus 2 feet to minus 2 feet on each building.); and

\*\* G) The project will provide for the development of visitor serving facilities to enhance public opportunities for recreation and to attract the tourist traffic.

6. CONDITIONS:

CONDITIONS FOR MINOR SUBDIVISION:

1) A parcel map shall be recorded with the County Clerk within 24 months of the date of approval;

2) Community water shall be extended to the project the requirements of the Smith River Community Service District. (If the existing service is adequate for

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proposed development, a written statement to that effect from SRCSD is required);

3) Any access improvements within the highway right-of-way may require an encroachment permit from Cal-Trans and is the responsibility of the applicant;

4) All construction shall comply with Section 14.16.027 and Section 14.16.028 of Del Norte County Code regarding addressing and the posting of address numbers;

5) The project shall comply with the requirements of the Uniform Fire Code applicable at the time of complete application (2/94);

6) The geologic demonstration area boundary for the coastal bluff shall be shown on the parcel map and identified as "Bluff Demonstration Area - potential geologic risk area any development or disturbance shall be subject to geologic review";

7) The property owner shall, prior to recordation of the parcel map, submit a preliminary title report and an irrevocable offer to dedicate an easement free of prior liens and encumbrances (except tax liens) for the public access way described below. Upon review and acceptance of the document by the County and the Coastal Commission the document shall be recorded with the County of Del Norte. This offer can be accepted by an appropriate agency within 21 years but the County shall have the first right of refusal. A note shall be placed on the map referring to the offer as:

"Lateral access shall be provided for passive recreational use by the general public inland of the mean high tide line to the first line of vegetation.";

8) The access easement across parcel B to parcel A for the existing driveway shall be shown on the parcel map;

9) In order to minimize the development of any additional private beach access points for the parcels, a private beach access for mutual use by both parcels shall be provided on the map or by deed at the location of the existing access path from the parking lot to the beach as shown on the project proposal map. (This is not required to be a public access).

CONDITIONS FOR USE PERMIT/COASTAL DEVELOPMENT PERMIT FOR  
REPLACEMENT OF EXISTING MOTEL/CABINS:

1) Final issuance of a building permit(s) is subject to the review and approval of such permits by County staff;

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CCC-00-CD-01

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2) Prior to issuance of any building permit, an updated plot plan indicating the building footprint, setbacks, sewage disposal areas, and geologic risk areas, consistent with the approved submitted plot plan shall be provided;

3) Prior to issuance of the building permit the construction plans shall be certified by or approved and stamped by a California registered engineer or geologist as conforming to the recommendations contained in the geology report prepared by Michael Young and Associates dated January 31, 1994 and February 3, 1994;

4) Any part of the proposed motel, any structural attachment, any footprint expansion on its bluff side, or any development proposed to be located within the "bluff demonstration area" is subject to further Geotechnical Study;

5) Prior to issuance of the building permit the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to County Counsel, which shall provide: (a) that the applicant understands that the site is subject to erosion and geological hazards and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of the County and agrees to indemnify and hold harmless the County and its employees relative to the County's approval of the project from any future damage associated with this project; (c) for the stipulation that the landowner shall not construct any shoreline protective devices to protect any new development or structures established after the date of approval of this permit in the event that the structure, at some future date, is subject to damage or loss from erosion or storm wave damage, and that the landowner understands that the County assumes no obligation to provide shoreline protection for the benefit of this or any other structures at this site, except that the County and/or Coastal Commission may consider, at their discretion, such protection for structures preexisting this approval; d) that the issuance of the permit and completion of the development does not prejudice any subsequent assertion of any public rights of access to or along the shoreline, ie. prescriptive rights or public trust; e) that approval by the County of this permit shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with any rights of public access to or along the shoreline acquired through use which may exist on this property;

6) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the

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County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents, and the amount of any judgement, including costs of suit and attorney fees, recovered against the County or any shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense.

7) The final building plans shall conform to the floor plans included in the March 11, 1994, from Michael Young and Associates which results in 24 units total, of which up to 8 units will have kitchenettes;

8) The applicant/landowner shall, prior to issuance of the building permit if not accomplished by the parcel map, submit a preliminary title report and an irrevocable offer to dedicate an easement free of prior liens and encumbrances (except tax liens) for the public access way described below. Upon review and acceptance of the document by the County and the Coastal Commission the document shall be recorded with the County of Del Norte. This offer can be accepted by an appropriate agency within 21 years but the County shall have the first right of refusal.

"Lateral access shall be provided for passive recreational use by the general public inland of the mean high tide line to the first line of vegetation.";

9) This entitlement is specifically conditioned on the applicant and any future landowners agreeing that development permit authorizes the development of a visitor serving facility which is a visitor service use exclusively available to the general public on a fee or other basis. Furthermore, the conversion of any portion of this approved development to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facility by an individual or limited group or segment of the public is specifically not authorized by this permit and would require an amendment to this permit or a new permit and/or an amendment to the certified LCP in order to be effective;

10) A Notice of Conditional Approval of this project shall be recorded at the time of acceptance (signing) of the use permit. Such Notice shall contain an ac-

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knowledge block for the signature of the landowner at the time of recordation.

11) The motel shall be served by the Smith River Community Services District for water service.

12) A waste discharge report, health department approval or written waiver therefrom shall be obtained for the project subject to the issuance of the building permits. The rental units shall use one common disposal area and have one common reserve area as shown on the approved plot plan.

13) The project shall comply with the requirements of the Uniform Fire Code applicable at the time of issuance of the building permit;

14) The project shall provide a minimum of 24 paved parking spaces for the motel which are in compliance with the County Parking Ordinance.

CONDITIONS FOR COASTAL DEVELOPMENT PERMIT FOR RESTAURANT  
REMODEL:

1) Final issuance of a building permit(s) is subject to the review and approval of such permits by County staff;

2) Prior to issuance of any building permit an updated plot plan indicating the building footprint, setbacks, sewage disposal areas, and geologic risk areas, consistent with the approved submitted plot plan shall be provided;

3) Any part of the proposed structures, any structural attachment, any footprint expansion of the restaurant on its bluff side, or any development proposed to be located within the "bluff demonstration area" is subject to further Geotechnical Study;

4) Prior to issuance of the building permit the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to County Counsel, which shall provide: (a) that the applicant understands that the site is subject to erosion and geological hazards and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of the County and agrees to indemnify and hold harmless the County and its employees relative to the County's approval of the project from any future damage associated with this project; (c) for the stipulation that the landowner shall not construct any shoreline protective devices to protect any new development or structures

05/05/94

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established after the date of approval of this permit in the event that the structure, at some future date, is subject to damage or loss from erosion or storm wave damage, and that the landowner understands that the County assumes no obligation to provide shoreline protection for the benefit of this or any other structures at this site, except that the County and/or Coastal Commission may consider, at their discretion, such protection for structures preexisting this permit approval; d) that the issuance of the permit and completion of the development does not prejudice any subsequent assertion of any public rights of access to or along the shoreline, ie. prescriptive rights or public trust; e) that approval by the County of this permit shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with any rights of public access to or along the shoreline acquired through use which may exist on this property;

5) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents, and the amount of any judgement, including costs of suit and attorney fees, recovered against the County or any shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense.

6) The final building plans shall conform to the floor plans included in the March 11, 1994, letter from Michael Young and Associates;

7) The applicant/landowner shall, prior to issuance of the building permit if not accomplished by the parcel map, submit a preliminary title report and an irrevocable offer to dedicate an easement free of prior liens and encumbrances (except tax liens) for the public access way described below. Upon review and acceptance of the document by the County and the Coastal Commission the document shall be recorded with the County of Del Norte. This offer can be accepted by an appropriate agency within 21 years but the County shall have the first right of refusal.

"Lateral access shall be provided for passive recreational use by the general public inland of the main high tide line to the first line of vegetation.";

05/05/94

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8) Any expansion of the restaurant seating occupancy shall require compliance with the County Parking Ordinance.

\*\* Added per PC Meeting 5/4/94

05/05/94

EXHIBIT NO. 3

CCC-00-CD-01

20 OF 20

WHEN RECORDED RETURN TO:

County of Del Norte  
Planning Division  
700 5th Street  
Crescent City, CA 95531

94 7789

RECEIVED  
INDEXED  
COMPARED

RECORDED AT REQUEST OF  
Alan P. Murray  
OFFICIAL RECORDS

Dec 1 2 58 PM '94

DEL NORTE COUNTY, CA  
JOHN P. ALEXANDER  
COUNTY CLERK - RECORDER  
BY 2500

NOTICE  
OF  
CONDITIONAL APPROVAL

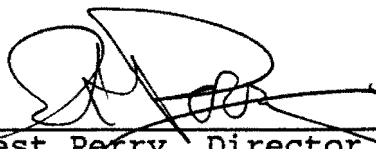
*CTD not  
recorded yet -  
SA's required*

OWNER(S): Alan Murray, A Single Man  
DESCRIPTION: Coastal Development Permit/Restaurant Remodel  
OFFICIAL RECORDS REFERENCE: Book 428 Page 863

Notice is hereby given by the Del Norte County Community Development Department, on behalf of the Planning Commission, that on the 4th day of May, 1994 the Planning Commission of the County of Del Norte conditionally approved the above described project. The conditions applicable to the subject project are as listed below and are derived from the action of the Commission. These conditions may include actions required to be fulfilled prior to establishment of the use or filing of the applicable map and/or may include conditions which run with the project and which shall also be the obligation of subsequent owners.

Interested parties should contact the County Department of Community Development for further information.

DATED: November 30, 1994

  
Ernest Perry, Director  
Del Norte County  
Community Development Department

Signed and Accepted By:

  
Alan Murray

EXHIBIT NO. 4
CCC-00-CD-01
1 of 7

PROJECT APPLICATION NUMBER(S): B22361C  
ASSESSORS PARCEL NUMBER(S) AT TIME OF APPLICATION: 101-070-01

... 12A DATE 201



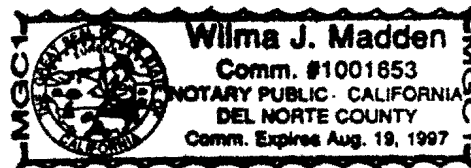
STATE OF CALIFORNIA )

COUNTY OF DEL NORTE )

On 11/30/94 before me, WILMA J. MADDEN, NOTARY PUBLIC,  
personally appeared, ALAN MURRAY  
personally known to me (or proved to me on the basis of satisfac-  
tory evidence) to be the person(s) whose name(s) is/are sub-  
scribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capaci-  
ty(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s)  
acted, executed the instrument.

WITNESS my hand and official seal.

Wilma J. Madden  
Notary Public Signature



STATE OF CALIFORNIA )

COUNTY OF DEL NORTE )

On 12/1/94 before me, WILMA J. MADDEN, NOTARY PUBLIC,  
personally appeared, ERNEST PERRY  
personally known to me (or proved to me on the basis of satisfac-  
tory evidence) to be the person(s) whose name(s) is/are sub-  
scribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capaci-  
ty(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s)  
acted, executed the instrument.

WITNESS my hand and official seal.

Wilma J. Madden  
Notary Public Signature

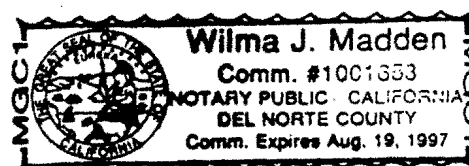


EXHIBIT NO. 4
CCC-00-CD-01
2 OF 7

CONDITIONS: 1) Final issuance of a building permit(s) is subject to the review and approval of such permits by County staff; 2) Prior to issuance of any building permit an updated plot plan indicating the building footprint, setbacks, sewage disposal areas, and geologic risk areas, consistent with the approved submitted plot plan shall be provided; 3) Any part of the proposed structures, any structural attachment, any footprint expansion of the restaurant on its bluff side, or any development proposed to be located within the "bluff demonstration area" is subject to further Geotechnical Study; 4) Prior to issuance of the building permit the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to County Counsel, which shall provide: (a) that the applicant understands that the site is subject to erosion and geological hazards and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of the County and agrees to indemnify and hold harmless the County and its employees relative to the County's approval of the project from any future damage associated with this project; (c) for the stipulation that the landowner shall not construct any shoreline protective devices to protect any new development or structures established after the date of approval of this permit in the event that the structure, at some future date, is subject to damage or loss from erosion or storm wave damage, and that the landowner understands that the County assumes no obligation to provide shoreline protection for the benefit of this or any other structures at this site, except that the County and/or Coastal Commission may consider, at their discretion, such protection for structures preexisting this permit approval; d) that the issuance of the permit and completion of the development does not prejudice any subsequent assertion of any public rights of access to or along the shoreline, ie. prescriptive rights or public trust; e) that approval by the County of this permit shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with any rights of public access to or along the shoreline acquired through use which may exist on this property; 5) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents, and the amount of any judgement, including costs of suit and attorney fees, recovered against the County or any shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense; 6) The final building plans shall conform to the floor plans included in the March 11, 1994, letter from Michael Young and Associates; 7) The applicant/landowner shall, prior to issuance of the building permit if not accomplished by the parcel

EXHIBIT NO. 4	CCS-00-CD-01	3 OF 7
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map, submit a preliminary title report and an irrevocable offer to dedicate an easement free of prior liens and encumbrances (except tax liens) for the public access way described below. Upon review and acceptance of the document by the County and the Coastal Commission the document shall be recorded with the County of Del Norte. This offer can be accepted by an appropriate agency within 21 years but the County shall have the first right of refusal. "Lateral access shall be provided for passive recreational use by the general public inland of the main high tide line to the first line of vegetation."; 8) Any expansion of the restaurant seating occupancy shall require compliance with the County Parking Ordinance.

See attached Exhibit(s): A

EXHIBIT NO. 4
CCC-00-CD-01
4 OF 7

Order No.  
Escrow No. 25975ALR  
Loan No.

WHEN RECORDED MAIL TO:

ALAN MURRAY  
1487 Poplar Drive #4  
Medford, OR 97504

EXHIBIT 'A'

94 5365

RECORDED AT REQUEST OF  
DEL NORTE COUNTY TITLE CO.  
OFFICIAL RECORDS  
AUG 22 10 52 AM '94  
DEL NORTE COUNTY, CA  
JOHN D. ALEXANDER  
COUNTY CLERK-RECORDER  
BY [Signature]

SPACE ABOVE THIS LINE FOR RECORDERS USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

DOCUMENTARY TRANSFER TAX \$880.00

- ☒ Computed on the consideration or value of property conveyed; OR  
☐ Computed on the consideration or value less liens or encumbrances remaining at time of sale.

The undersigned Grantor declares

Signature of Declarant or Agent determining tax - Firm Name

## GRANT DEED

101-070-01

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

ROBERT DARRELL KNOTT and DOROTHY E. KNOTT, husband and wife

hereby GRANT(S) to

ALAN MURRAY, a single man

the real property in the City of Unincorporated Area

County of Del Norte

State of California, described

as  
SEE DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Dated July 15, 1994

Robert Darrell Knott  
ROBERT DARRELL KNOTT

STATE OF CALIFORNIA  
COUNTY OF DEL NORTE

} ss.  
}

Dorothy E. Knott  
DOROTHY E. KNOTT

On July 22, 1994 before  
me, ROBYN GRIMES TUTTLE  
personally appeared ROBERT DARRELL KNOTT  
DOROTHY E. KNOTT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.  
WITNESS my hand and official seal.

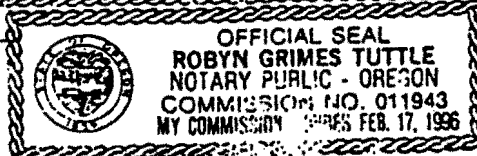
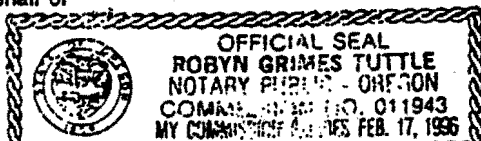
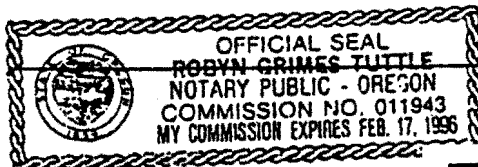


EXHIBIT NO. 4

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BOOK 434 PAGE 205

BOOK 428 PAGE 863

Signature Robyn Grimes Tuttle

## DESCRIPTION

That real property situated in the County of Del Norte, State of California, described as follows:

### PARCEL ONE

BEGINNING at a 2 inch iron pipe 492.26 feet south and 76.66 feet west of another 2 inch iron pipe set on the north line of Lot 5 of Section 32 of the easterly line of State Highway, Road 1-DN-71-B, said last mentioned 2 inch iron pipe bears north 68 degrees 05 2/3 minutes west 3552.54 feet from the southeast corner of Section 32 in Township 19 North of Range 1 West, Humboldt Meridian;

thence from the point of beginning south 79 degrees 00 minutes west 340 feet, more or less, to the line of ordinary high water of the Pacific Ocean;

thence northwesterly along the line of ordinary high water of the Pacific Ocean to its intersection with the north line of said Lot 5 of Section 32;

thence along the north line of said Lot 5 north 89 degrees 40 minutes east to its intersection with the westerly line of State Highway;

thence along the westerly line of State Highway southeasterly to a point from which the point of beginning bears south 79 degrees 00 minutes west;

thence south 79 degrees 00 minutes west to the point of beginning.

### PARCEL TWO

An easement for road purposes and the laying and maintenance of pipe lines over or under the following described parcel of land:

BEGINNING at a 2 inch iron pipe 492.26 feet south and 76.66 feet west of another 2 inch iron pipe set on the north line of Lot 5 in Section 32 on the easterly line of State Highway, Road 1-DN-71-B, said last mentioned 2 inch iron pipe bears north 68 degrees 05 2/3 minutes west a distance of 3552.54 feet from the southeast corner of Section 32, Township 19 North, Range 1 West, Humboldt Meridian;

thence from the point of beginning south 79 degrees 00 minutes west 50.00 feet;

thence south 23 degrees 32 minutes east 92.00 feet;

thence north 79 degrees 00 minutes east to the westerly line of State Highway;

thence northwesterly along westerly line of State Highway to a point from which the point of beginning bears south 79 degrees 00 minutes west;

thence south 79 degrees 00 minutes west to the point of beginning.

(continued on the next page)

EXHIBIT NO. 4

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BOOK 434 PAGE 206

BOOK 428 PAGE 864

PARCEL THREE

An easement for a water pipe-line over and under the lands of the Grantor herein as the present line exists as of this date to Parcel One above with rights of access over the lands of the Grantors herein for the repair and maintenance of said water pipe line. Said water right and easement shall be appurtenant to and for the benefit of Parcel One above. The above easement shall be over the land more particularly described as Parcels One, Two and Three in that certain deed from Frank H. James and wife to Robert Darrell Knott and wife, recorded August 22, 1979 in Book 235 of Official Records, page 311.

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BOOK 434 PAGE 207

BOOK 428 PAGE 865

*Coastal Comm.*

DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
700 5TH STREET  
CRESCENT CITY, CA 95531

NOTICE OF ACTION

- I. Notice is hereby given that the Planning Commission of Del Norte County took the following action on March 1, 1995 regarding the application for development listed below:

Action: ☒ Approved ☐ Denied ☐ Continued ☐ Recommended EIR  
☐ Forwarded to Board of Supervisors

Application Number: RVP9502C  
Project Description: Use Permit for 29 Space R.V. Park  
Project Location Address: 16850 Hwy 101 North, Smith River  
Assessor's Parcel Number: 101-070-01  
Applicant: Alan Murray  
Applicant's Mailing Address: 850 Pioneer Rd, Brookings, OR 97415  
Agent's Name & Address: Michael Young & Assoc, 711 J St, CC

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

II. If Approved:

- ☒ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

This County permit or entitlement DOES NOT serve as a Coastal permit. Consult the Coastal Zone Permit procedure section of your NOTICE OF APPLICATION STATUS or the Planning Division of the Community Development Department if you have questions.

III. Notice is given that this project:

Is not appealable to the California Coastal Commission, however a local appeal period does exist.

- ☒ Is appealable to the California Coastal Commission.
- ☒ Any appeal of the above decision must be filed with the Clerk of the Board by MARCH 13, 1995 for consideration by the Board of Supervisors.
- ☒ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working calendar days subject to the requirements of Chapter Coastal Regulations.

(Continued on the next page)

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Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

Is not subject to Coastal Commission regulations however a local appeal process is available. Written appeals must be filed with the Clerk of the Board by \_\_\_\_\_. Consideration will be by the Board of Supervisors.

Parcel map must be filed within 24 months of the date of approval.

Record of Survey (and/or new deeds) must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS - MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS - Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

#### NOTICE - SECTION 1.40.070

- ✓ The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

#### FISH & GAME FILING FEES

- ✓ Projects subject to CEQA are also subject to the following fees as required by the CA Dept. of Fish & Game:

Applicable Fee: \_\_\_ Neg.Dec.(\$1275) \_\_\_ EIR(\$875) ☒ Exempt

This fee should be submitted to the Planning Division of the Community Development Department as soon as possible, with a check made payable to the County Clerk's Office. If not paid within 10 days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089 (b)) and will be referred to Fish & Game's Dept. of Compliance and External Audits in the Clerk's monthly deposit and report to Fish & Game.

#### ATTENTION PROSPECTIVE SUBDIVIDER

As a prospective subdivider of property, this notice is to advise you that all taxes must be paid in full prior to the recordation of your map. If the map is filed after February 28th, y taxes due PLUS NEXT YEAR'S TAXES before the map can b

If you have any questions regarding the payment of ta Del Norte County Tax Collector's Office at (707)464-7

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Agent: Michael Young & Assoc.

STAFF REPORT

APP# RVP9502C

APPLICANT: Alan Murray

APPLYING FOR: Use Permit for 29 Space Recreational Vehicle Park

AP#: 101-070-01 LOCATION: 16850 Hwy 101 North, 1/2 mile south of  
State Line, Smith River

<u>PARCEL(S)</u>	<u>EXISTING</u>	<u>EXISTING</u>
<u>SIZE:</u> 4 acres	<u>USE:</u> restaurant/motel	<u>STRUCTURES:</u> restaurant

PLANNING AREA: 1 GENERAL PLAN: Visitor Commercial

ADJ. GEN. PLAN: Same

ZONING: CR, RR(1/1) ADJ. ZONING: Same, RRA-1-C(a)(h)

- |                                |                               |                              |
|--------------------------------|-------------------------------|------------------------------|
| 1. <u>PROCESSING CATEGORY:</u> | <u>NON-COASTAL</u>            | <u>APPEALABLE COASTAL</u> X  |
|                                | <u>NON-APPEALABLE COASTAL</u> | <u>PROJECT REVIEW APPEAL</u> |
2. FIELD REVIEW NOTES: DATE: 12/9/94 HEALTH DEPT x BUILDING INSP x  
PLANNING x ENGINEERING/SURVEYING x

<u>ACCESS:</u> Highway 101	<u>ADJ. USES:</u> Com'l, Rural Res.
<u>TOPOGRAPHY:</u> Shelf adjacent to beach	<u>DRAINAGE:</u> Pacific Ocean

3. ERC RECOMMENDATION: Adopt negative declaration. Approval subject to listed conditions.

4. STAFF RECOMMENDATION:

Alan Murray had previously applied to subdivide the Knottical Inn property. The subject property was previously developed with the Knottical Inn restaurant, a mobilehome, and four rental cabins containing two units in each cabin. The subdivision divided the property into two parcels, one of which is approximately 1.3 acres in size and contains the restaurant and its parking lot. The second parcel will be 2.7 acres, and was the site of the four old cabin structures.

The restaurant has been extensively remodeled and the old mobilehome removed. The work on the restaurant is completed, and consisted of interior remodeling, foundation stabilization and replacement work, and the new entrance.

Public access from the highway to the beach is provided by the adjacent Pelican Beach State Park. Lateral access had previously been required for a mobilehome placement, however lateral access was also required again to cover the entire project. New accessways from the project to the beach were limited due to erosion and bluff hazards for the project area. An easement for both parcels to share the existing private beach access was included.

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The initial proposal of the applicant included replacing the rental units with larger, modern units with two bedrooms, bath, living area and kitchen. All eight units were to have kitchenettes, doubling the current number of units with kitchenettes. Each unit was proposed to be approximately 1000 square feet in area, two story units with a single car garages, and moved closer to the ocean bluff.

The project approved by the Planning Commission for the rental units increased the number of units from 8 to 24 and allows flexibility in the overnight rental of the units. This increase did not increase the total square footage, but only changed and added doorways, allowing flexibility in operation. Each could be let individually or in groups. This design change allowed the eight kitchenettes to be permitted. The increased number of units established a ratio of 2 to 1 of total units to units with kitchenettes. This ratio is consistent with other similar criteria for the Commercial Recreational zone district.

The owner, Alan Murray, has now applied for a Use Permit to establish a 32 space Recreational Vehicle Park with an office building, in lieu of the previously approved replacement motel units. Access to the project site is from Highway 101 via existing encroachments. Water service is presently provided by the Smith River Community Services District system. Sewage disposal is on-site and new soils tests and designs have been conducted for replacement systems. (Due to the size and type of project, a report of waste discharge or a waiver therefrom is required of the applicant, to be obtained from the Regional Water Quality Control Board.)

The original submitted layout for the RV Park has been revised to reflect the concerns of Water Quality staff. RV spaces 1, 2, and 3 of the proposed 32 spaces have been deleted to increase the amount of area available for reserve leachfield. An updated geology report has been prepared by Thomas Ferrero, California registered geologist. This geology report recommends a 20 foot setback for the spaces and a 30 foot setback for any permanent improvements (utility lines, access road, etc.). The proposed plot plan needs to be amended to reflect these two changes.

In regard to shoreline protective devices, it is staff's concern that the applicant be informed of the County's position and that of the Coastal Commission. These concerns are that no public agency is committed to come to the rescue of the property owner should shoreline erosion take place. The applicant and future property owners shall recognize that they are constructing in an area in which erosion may take place which could threaten their structures. The County is not in a position, and is not expected to be in a position, to provide them assistance. Additionally, it is the policy of the state that permits for shoreline protection will only be considered for preexisting development and preexisting shoreline structures. The applicant's engineer and geologist have examined the bluff area and are recommending a setback for the proposed development.

At this time, staff recommends that the Commission open its public hearing regarding the project. At the conclusion of the

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recommends that the Commission identify any issues which may arise. The recommendation of staff is that the Commission adopt the following findings and the Negative Declaration and approve the project subject to the below listed conditions and notes.

5. FINDINGS:

- A) The project is consistent with the policies and standards of the General Plan and Title 21 Zoning;
- B) A Negative Declaration has been prepared pursuant to the California Environmental Quality Act which the Commission has considered in reviewing the project and making its decision;
- C) An initial study has been conducted by the lead agency so as to evaluate the potential for adverse environmental impact;
- D) Considering the record as a whole there is no evidence before the lead agency that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends, as defined in Section 711.2, of the Fish and Game Code. The project involves a minor amendment to a preexisting parcel adding an already disturbed area to the building site in an area of no significant resource issue;
- E) The project will provide for the development of visitor serving facilities to enhance public opportunities for recreation and to attract the tourist traffic.

6. CONDITIONS:

- 1) The project improvement plan shall be revised to conform to the plan contained within and described within the application filed and as amended by these conditions and the letter of Michael Young regarding the reserve area and the recommendations contained in the report of Thomas Ferrero, geologist;
- 2) The use permit is issued for 29 spaces. Additional spaces will require an additional use permit;
- 3) The applicant must secure all other necessary permits and approvals;
- 4) A substantial physical start must be made on the project within 12 months of the issuance of the permit by the Planning Commission. Failure to do so invalidates the permit;

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- 5) A building permit shall be obtained for construction of the recreational vehicle park, its improvements including but not limited to spaces, office, laundry facility, access roads, sewage collection system and water distribution system pursuant to Title 25;
- 6) Community water shall be extended to the project per the requirements of the Smith River Community Services District. (If the existing service is adequate for the proposed development, a written statement to that effect from SRCSD is required);
- 7) A Waste Discharge Report, or waiver therefrom, shall be obtained from the Regional Water Quality Control Board;
- 8) The project shall comply with the requirements of the Uniform Fire Code applicable at the time of complete application (12/94) as interpreted by the Smith River Fire District;
- 9) Any access improvements within the highway right-of-way may require an encroachment permit from Cal-Trans and is the responsibility of the applicant;
- 10) All construction shall comply with Section 14.16.027 and Section 14.16.028 of Del Norte County Code regarding addressing and the posting of address numbers;
- 11) Prior to issuance of the building permit, the construction plans shall be certified by, or approved and stamped, by a California registered engineer or geologist as conforming to the recommendations contained in the geology report prepared by Ferrero Geologic dated February 8, 1995. A development bluff setback of not less than 20 feet from the top of the bluff shall be reflected on the final building plans. This development setback shall not be applicable to safety items such as fencing, railing, or access improvements to the beach, or to temporary items such as picnic tables or benches;
- 12) If not previously recorded, prior to issuance of the building permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to County Counsel, which shall provide: (a) that the applicant understands that the site is subject to erosion and geological hazards and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of the County and agrees to indemnify and hold harmless the County and its employees relative to the County's approval of the project from

03/02/95

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any future damage associated with this project; (c) for the stipulation that the landowner shall not construct any shoreline protective devices to protect any new development or structures established after the date of approval of this permit in the event that the structure, at some future date, is subject to damage or loss from erosion or storm wave damage, and that the landowner understands that the County assumes no obligation to provide shoreline protection for the benefit of this or any other structures at this site, except that the County and/or Coastal Commission may consider, at their discretion, such protection for structures preexisting this approval; d) that the issuance of the permit and completion of the development does not prejudice any subsequent assertion of any public rights of access to or along the shoreline, i.e., prescriptive rights or public trust; e) that approval by the County of this permit shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with any rights of public access to or along the shoreline acquired through use which may exist on this property;

13) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents, and the amount of any judgement, including costs of suit and attorney fees, recovered against the County or any shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense;

14) The applicant/landowner shall, prior to issuance of the building permit, if not accomplished by the parcel map, submit a preliminary title report and an irrevocable offer to dedicate an easement free of prior liens and encumbrances (except tax liens) for the public access way described below. Upon review and acceptance of the document by the County and the Coastal Commission, the document shall be recorded with the County of Del Norte. This offer can be accepted by an appropriate agency within 21 years, but the County shall have the first right of refusal.

"Lateral access shall be provided for passive recreational use by the general public inland of the mean high tide line to the first line of vegetation.";

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15) Access to the beach shall be via the existing access. A fence shall be installed parallel to the bluff directing people to the existing designated beach access way;

16) Issuance of this use permit voids the previously approved and issued use permit for the motel units (Use Permit #UP9427C);

17) A Notice of Conditional Approval of this project shall be recorded, at the applicant's expense, at the time of acceptance (signing) of the use permit. Such Notice shall contain an acknowledgement block for the signature of the landowner at the time of recordation;

\*\* 18) A fence, or other attractive constructed or planted barrier, shall be constructed/planted along the south property line to prevent trespass onto the adjoining residential parcel;

\*\* 19) Any yard lighting or lighted signage shall be directed away from the adjoining residential parcels.

\*\* Added per PC Meeting 3/1/95

03/02/95

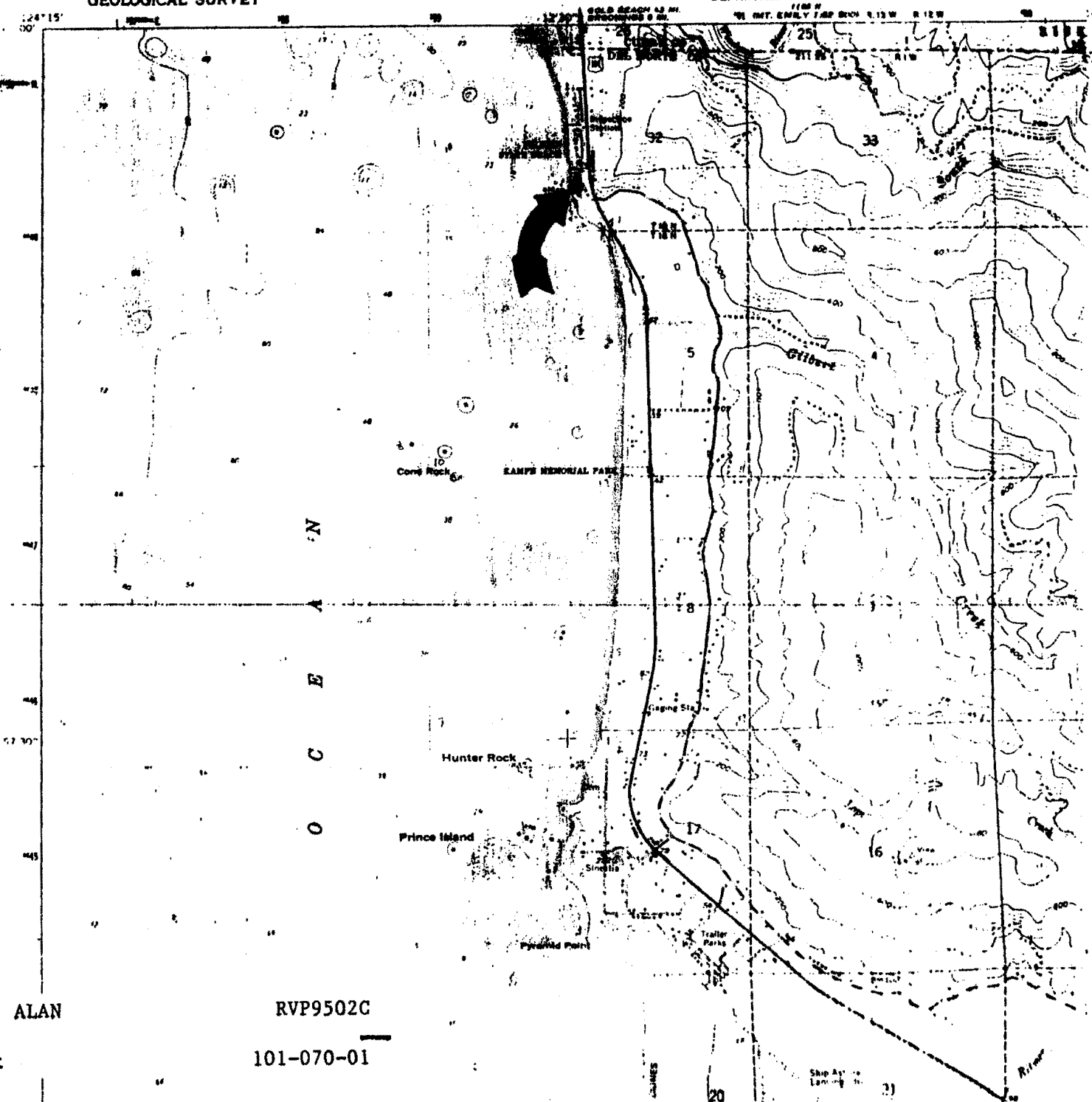
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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES



072

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MURRAY, ALAN

RV Park

RVP9502C

101-070-01



RV Park

101-070-01

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PACIFIC OCEAN

SCALE: 1" = 50'

HIGHWAY 101

[illegible]

PARK/  
BEACH  
ACCESS

34778

1

OFFICE

DUMP  
STATION

RACK

CCC-00-CD-01

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U'74



*FERRERO GEOLOGIC 760 Oak St. Ashland OR 97520  
(503)488-2452*

To: Allan Murray  
850 Pioneer Road  
Brookings, Oregon 97415

Date: 2/8/95

Subject: Nautical Inn RV Park site, geologic investigation.

### **Introduction**

The proposed Nautical Inn RV Park site is located at the California/Oregon state line, on top of a marine sand terrace that stands about 25 feet above beach elevation. In past years, I have evaluated three adjacent sites to the north and south on the same terrace. There has been substantial terrace bluff erosion in recent years. To the north, the westward corner of the Nautical Inn restaurant was undercut by erosion, leading to the need for the recently installed steel support piers as per my evaluation and recommendations. To the south, I saw substantial erosion of the terrace bluff a few years ago when evaluating a proposed home site. I recommended not building a home on that site, and a 65 foot setback for a mobile home on the adjacent site to the south. The terrace bluff on the Nautical Inn RV property shows evidence of ongoing erosion, including steep, unvegetated bluff slopes. There is no doubt that the terrace bluff in this vicinity is vulnerable to substantial erosional retreat. The rate of erosion is unpredictable, since it is associated with random high energy climatic, tidal and/or seismic events.

### **Site Geology**

The attached site plan and cross-sections show the topography and geology of the site. In general, the marine terrace deposits are composed of 3 to 4 feet of black, organic, silty sand loam over 4 feet of red-buff sand over 4 to 10 feet of gray-buff gravelly sand. These deposits overlie bedrock of the Franciscan melange, which locally is composed of sheared mudstone and sandstone. Thrust fault related shearing has transformed layered mudstone and sandstone into boulders of broken sandstone suspended in ground up mudstone, the latter weathering to a silt/clay mixture. As the terrace retreats due to erosion, the weak, ground up mudstone washes out from between the sandstone boulders, leaving a beach covered by the boulders. Where terraces are underlain by more competent bedrock that rises 10 or 20 feet above beach level, the very slow erosion rate of hard rock controls the rate of terrace retreat. On this terrace, the retrea

*FERRERO GEOLOGIC 760 Oak St. Ashland OR 97520  
(503)488-2452*

is potentially more rapid due to the weakness of the ground-up mudstone matrix.

**Site Geohydrology and Related Stability issues**

Groundwater seeps slowly from the gravelly sand/sheared bedrock contact. The terrace sediments, even during this heavy rainfall year, are not saturated due to their high permeability allowing free drainage out of the bluff. Therefore, bluff retreat is not due to saturation and block failure, and the potential for substantial block failure due to earthquakes is low. The primary mode of bluff retreat is erosion by high seas during random climatic, tidal and/or tsunami events.

**Earthquakes**

There are two primary sources of earthquakes in the region. One is a group of plate boundary faults offshore from northern California and Southern Oregon bounding the Gorda and Juan De Fuca plates. These faults have generated several earthquakes in the magnitude 5 to 7 range in historic time, estimated to produce ground accelerations of up to 0.3 g, but more often 0.2 g or less along the Oregon Coast. The other source is the Cascadia Subduction Zone (CSV), which is a linear feature that runs under the coastline from northernmost California to British Columbia.. Based on geologic evidence along the coast of Oregon and Washington, the CSV ruptures every 300 to 500 years, the last time about 300 years ago. It is theorized that these are 8.0 to 8.5 magnitude earthquakes. Geologic evidence indicates that tsunami (seismic sea wave) run-up heights resulting from CSV earthquakes have been 20 feet or higher. Such an event would most likely result in substantial terrace erosion.

**Proposed Site Development/Setbacks**

The proposed plan for development of the site includes a 10 foot setback from the bluff for RV site developments and 30 feet for more permanent developments such as utility lines. It is my understanding that all buildings will be over 100 feet from the bluff. Since only RVs that can be easily and rapidly moved will be on the camp sites, the safety risk is minimal. It is remotely possible that a great earthquake tsunami could overtop the bluff and wash vehicles into the ocean. The risk of loss of human life due to a sudden great earthquake is equal to or higher on any beach. I doubt if the beaches are going to be closed due to that hazard. Storm and/or tide related erosion occurs fairly rapidly sometimes, but not so rapidly that RVs could not be moved out of danger in

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*FERRERO GEOLOGIC 760 Oak St. Ashland OR 97520  
(503)488-2452*

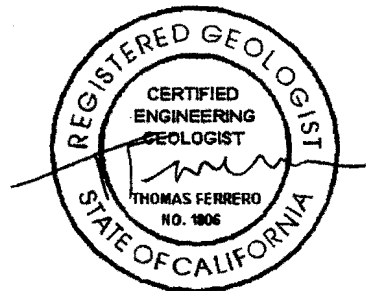
time.

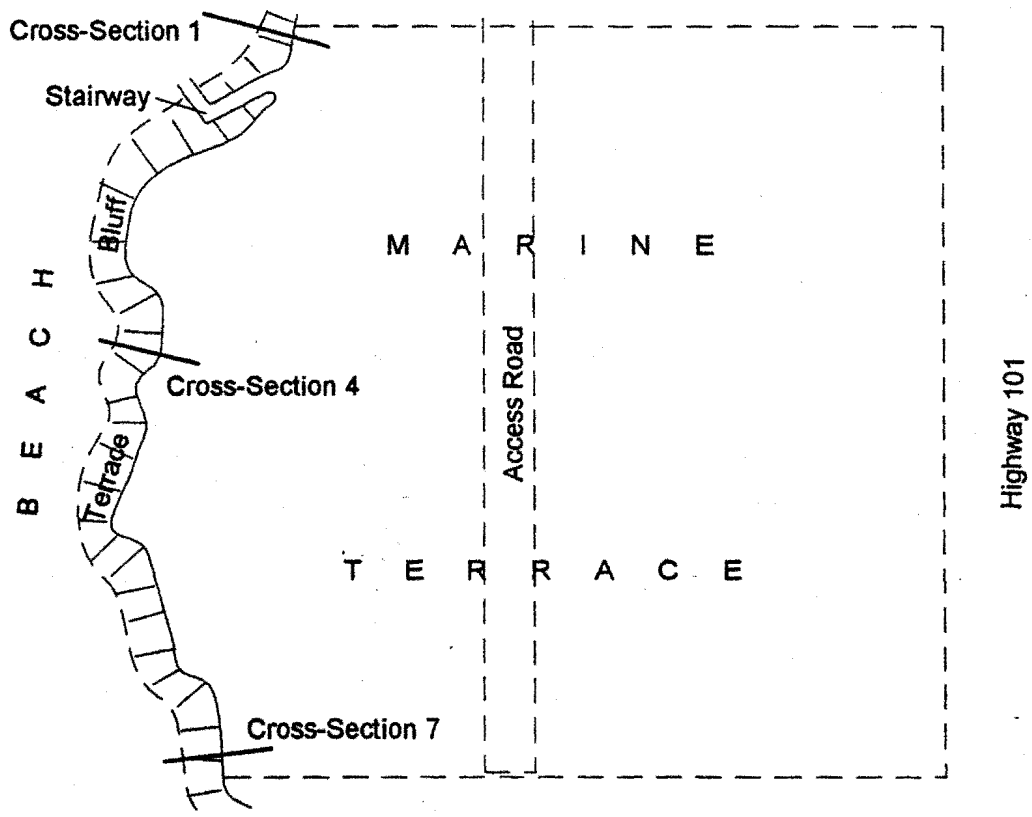
A 35 degree angle projected back up through the terrace sediments from the gravelly sand/sheared bedrock contact on the terrace bluff intersects the top of the terrace 13 feet from the top of the bluff at cross-sections 4 and 7, and 19 feet back at cross-section 1. Though it is unlikely that the weight of an RV could cause terrace bluff failure if it is set back the proposed 10 feet, a prudent setback of 20 feet based on the angle of repose of sand (about 35 degrees) is recommended.

**Recommendations/General Risk Factors**

I recommend the 20 foot setback from the top of the bluff as described above. I estimate that the risk of injury or loss of life and property to people using the proposed Nautical Inn RV Park is very low. The risk of long term bluff retreat is moderate to high. The amount of bluff retreat is not predictable to any meaningful degree of accuracy due to the unpredictability of random climatic, tidal and/or seismic events. I estimate that the risk of bluff retreat back 30 feet to utility lines in the likely useful lifetime of the RV park is low to moderate.

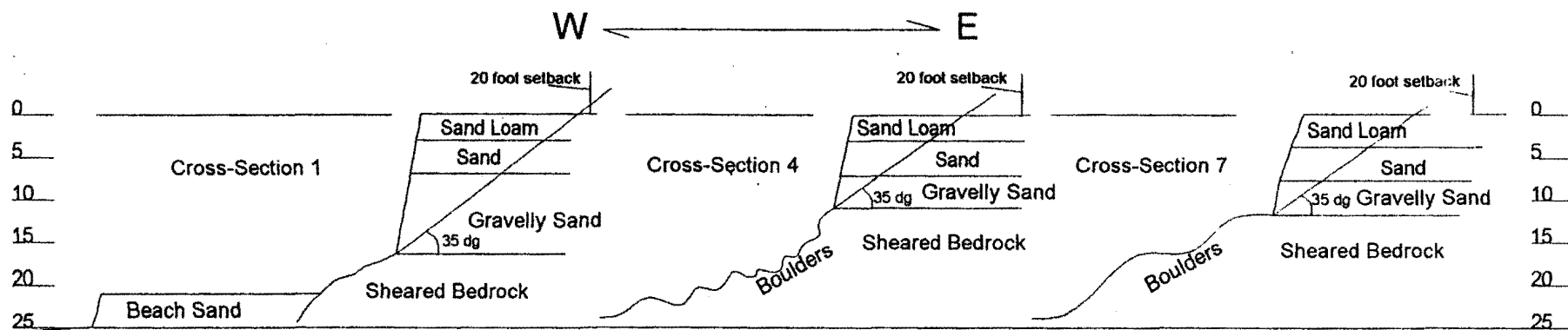
Sincerely,





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 ↑  
 Nautical Inn RV Park  
 Site Plan  
 Geologic Investigation  
 Ferrero Geologic  
 2/8/95  
 Scale: 1 inch = 100 feet

EXHIBIT NO. 6
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Nautical Inn RV Park  
 Cross-Sections  
 Geologic Investigation  
 Ferrero Geologic  
 2/8/95  
 Scale: 1 inch = 20 feet

EXHIBIT NO. 6

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WHEN RECORDED RETURN TO:

County of Del Norte  
Planning Division  
700 5th Street  
Crescent City, CA 95531

95 2097

RETURN  
INDEXED  
COMPALED

RECORDED REQUEST OF

Alan Murray  
OFFICIAL

May 5 11 24 AM '95

DEL NORTE  
COUNTY  
BY 2500  
BWP

NOTICE  
OF  
CONDITIONAL APPROVAL

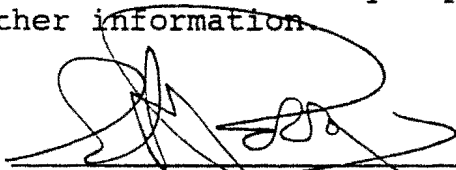
OWNER(S): Alan Murray

DESCRIPTION: Use Permit for Recreational Vehicle Park

OFFICIAL RECORDS REFERENCE: Book 428 Page 863

Notice is hereby given by the Del Norte County Community Development Department, on behalf of the Planning Commission, that on the 1st day of March, 1995, the Planning Commission of the County of Del Norte conditionally approved the above described project. The conditions applicable to the subject project are as listed below and are derived from the action of the Commission. These conditions may include actions required to be fulfilled prior to establishment of the use or filing of the applicable map and/or may include conditions which run with the project and which shall also be the obligation of subsequent owners.

Interested parties should contact the County Department of Community Development for further information.

  
Ernest Perry, Director  
Del Norte County  
Community Development Department

Signed and Accepted By:

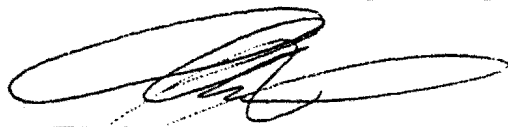
  
Alan Murray

EXHIBIT NO. 7

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PROJECT APPLICATION NUMBER(S): RVP9502C

ASSESSORS PARCEL NUMBER(S) AT TIME OF APPLICATION: 101-070-01

440 265

CONDITIONS: 1) The project improvement plan shall be revised to conform to the plan contained within and described within the application filed and as amended by these conditions and the letter of Michael Young regarding the reserve area and the recommendations contained in the report of Thomas Ferrero, geologist; 2) The use permit is issued for 29 spaces. Additional spaces will require an additional use permit; 3) The applicant must secure all other necessary permits and approvals; 4) A substantial physical start must be made on the project within 12 months of the issuance of the permit by the Planning Commission. Failure to do so invalidates the permit; 5) A building permit shall be obtained for construction of the recreational vehicle park, its improvements including but not limited to spaces, office, laundry facility, access roads, sewage collection system and water distribution system pursuant to Title 25; 6) Community water shall be extended to the project per the requirements of the Smith River Community Services District. (If the existing service is adequate for the proposed development, a written statement to that effect from SRCSD is required); 7) A Waste Discharge Report, or waiver therefrom, shall be obtained from the Regional Water Quality Control Board; 8) The project shall comply with the requirements of the Uniform Fire Code applicable at the time of complete application (12/94) as interpreted by the Smith River Fire District; 9) Any access improvements within the highway right-of-way may require an encroachment permit from Cal-Trans and is the responsibility of the applicant; 10) All construction shall comply with Section 14.16.027 and Section 14.16.028 of Del Norte County Code regarding addressing and the posting of address numbers; 11) Prior to issuance of the building permit, the construction plans shall be certified by, or approved and stamped, by a California registered engineer or geologist as conforming to the recommendations contained in the geology report prepared by Ferrero Geologic dated February 8, 1995. A development bluff setback of not less than 20 feet from the top of the bluff shall be reflected on the final building plans. This development setback shall not be applicable to safety items such as fencing, railing, or access improvements to the beach, or to temporary items such as picnic tables or benches; 12) If not previously recorded, prior to issuance of the building permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to County Counsel, which shall provide: (a) that the applicant understands that the site is subject to erosion and geological hazards and the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of the County and agrees to indemnify and hold harmless the County and its employees relative to the County's approval of the project from any future damage associated with this project; (c) for the stipulation that the landowner shall not construct any shoreline protective devices to protect any new development or structures established after the date of approval of this permit in the event that the structure, at some future date, is subject to damage or loss from erosion or storm wave damage, and that the landowner understands that the County assumes no obliga-

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## NOTICE OF CONDITIONAL APPROVAL

OWNERS(S): Alan Murray

Page 3

tion to provide shoreline protection for the benefit of this or any other structures at this site, except that the County and/or Coastal Commission may consider, at their discretion, such protection for structures preexisting this approval; d) that the issuance of the permit and completion of the development does not prejudice any subsequent assertion of any public rights of access to or along the shoreline, i.e., prescriptive rights or public trust; e) that approval by the County of this permit shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with any rights of public access to or along the shoreline acquired through use which may exist on this property; 13) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents, and the amount of any judgement, including costs of suit and attorney fees, recovered against the County or any shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense; 14) The applicant/landowner shall, prior to issuance of the building permit, if not accomplished by the parcel map, submit a preliminary title report and an irrevocable offer to dedicate an easement free of prior liens and encumbrances (except tax liens) for the public access way described below. Upon review and acceptance of the document by the County and the Coastal Commission, the document shall be recorded with the County of Del Norte. This offer can be accepted by an appropriate agency within 21 years, but the County shall have the first right of refusal. "Lateral access shall be provided for passive recreational use by the general public inland of the mean high tide line to the first line of vegetation."; 15) Access to the beach shall be via the existing access. A fence shall be installed parallel to the bluff directing people to the existing designated beach access way; 16) Issuance of this use permit voids the previously approved and issued use permit for the motel units (Use Permit #UP9427C); 17) A Notice of Conditional Approval of this project shall be recorded, at the applicant's expense, at the time of acceptance (signing) of the use permit. Such Notice shall contain an acknowledgement block for the signature of the landowner at the time of recordation; \*\*18) A fence, or other attractive constructed or planted barrier, shall be constructed/planted along the south property line to prevent trespass onto the adjoining residential parcel; \*\*19) Any yard lighting or lighted signage shall be directed away from the adjoining residential parcels.

\*\* Added per PC Meeting 3/1/95

See attached Exhibit(s): A, B

EXHIBIT NO. 7

CCC-00-CD-01

3 OF 7

440 267

## USE PERMIT

ISSUED BY DEL NORTE COUNTY PLANNING COMMISSION

No.

RVP9502C

To: ALAN MURRAY

(APN 101-070-01)

Zone: CR, RR-1

**Purpose: USE PERMIT FOR 29 SPACE RECREATIONAL VEHICLE PARK**

**CONDITIONS:**

1. Applicant must procure any and all other applicable permits.
2. Issuance of an encroachment permit by Director of Public Works.  
This condition will apply only where construction is required on a public street or right-of-way.
3. UNLESS OTHERWISE SPECIFIED, USE PERMITS MUST HAVE HAD MADE A SUBSTANTIAL START WITHIN ONE (1) YEAR OF THE DATE OF ISSUANCE TO REMAIN VALID.
4. Compliance with all County, State, and Federal rules and regulations.
5. All conditions/requirements of approval are attached.

## ACCEPTANCE OF CONDITIONS

Signature of Applicant

Date \_\_\_\_\_

DATE ISSUED 3/1/95

DATE OF RENEWAL

DATE OF EXPIRATION	3/1/96
--------------------	--------

DEL NORTE COUNTY PLANNING COMMISSION

BY

**Secretary**

EXHIBIT NO. 7

CCC-00-CD-01

4 OF 7

440 268

Order No.  
Escrow No. 25975A/R  
Loan No.

WHEN RECORDED MAIL TO:

ALAN MURRAY  
1487 Poplar Drive #4  
Medford, OR 97504

94 5363

RECORDED AT REQUEST OF  
DEL NORTE COUNTY TITLE CO.  
OFFICIAL RECORDS  
AUG 22 10 52 AM '94  
DEL NORTE COUNTY, OR  
10-NOTARY PUBLIC  
COUNTY CLERK-RECORDS  
BY 1300

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

DOCUMENTARY TRANSFER TAX \$880.00

☒ Computed on the consideration or value of property conveyed; OR

☐ Computed on the consideration or value less liens or encumbrances remaining at time of sale.

The undersigned Grantor declares

Signature of Declarant or Agent determining tax - Print Name

## GRANT DEED

101-070-01

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

ROBERT DARRELL KNOTT and DOROTHY E. KNOTT, husband and wife

heraby GRANT(S) to

ALAN MURRAY, a single man

the real property in the City of Unincorporated Area

County of

Del Norte

State of California, described

as

SEE DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Dated July 15, 1994

ROBERT DARRELL KNOTT

STATE OF CALIFORNIA  
COUNTY OF DEL NORTE

ss.

On July 22, 1994

before

me, ROBYN GRIMES TUTTLE

personally appeared ROBERT DARRELL KNOTT  
DOROTHY E. KNOTT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

*Robyn Grimes Tuttle*

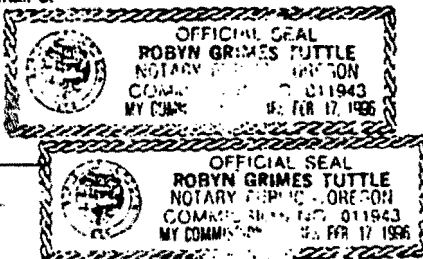
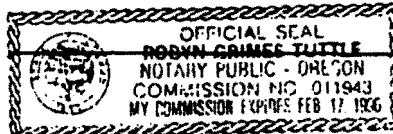


EXHIBIT NO. 7

CCC-DO-CD-01

5 OF 7

BOOK 428 PAGE 863

440 269

## DESCRIPTION

That real property situated in the County of Del Norte, State of California, described as follows:

### PARCEL ONE

**BEGINNING** at a 2 inch iron pipe 492.26 feet south and 76.66 feet west of another 2 inch iron pipe set on the north line of Lot 5 of Section 32 of the easterly line of State Highway, Road 1-DN-71-B, said last mentioned 2 inch iron pipe bears north 68 degrees 05 2/3 minutes west 3552.54 feet from the southeast corner of Section 32 in Township 19 North of Range 1 West, Humboldt Meridian;

thence from the point of beginning south 79 degrees 00 minutes west 340 feet, more or less, to the line of ordinary high water of the Pacific Ocean;

thence northwesterly along the line of ordinary high water of the Pacific Ocean to its intersection with the north line of said Lot 5 of Section 32;

thence along the north line of said Lot 5 north 89 degrees 40 minutes east to its intersection with the westerly line of State Highway;

thence along the westerly line of State Highway southeasterly to a point from which the point of beginning bears south 79 degrees 00 minutes west;

thence south 79 degrees 00 minutes west to the point of beginning.

### PARCEL TWO

An easement for road purposes and the laying and maintenance of pipe lines over or under the following described parcel of land:

**BEGINNING** at a 2 inch iron pipe 492.26 feet south and 76.66 feet west of another 2 inch iron pipe set on the north line of Lot 5 in Section 32 on the easterly line of State Highway, Road 1-DN-71-B, said last mentioned 2 inch iron pipe bears north 68 degrees 05 2/3 minutes west a distance of 3552.54 feet from the southeast corner of Section 32, Township 19 North, Range 1 West, Humboldt Meridian;

thence from the point of beginning south 79 degrees 00 minutes west 50.00 feet;

thence south 23 degrees 32 minutes east 92.00 feet;

thence north 79 degrees 00 minutes east to the westerly line of State Highway;

thence northwesterly along westerly line of State Highway to a point from which the point of beginning bears south 79 degrees 00 minutes west;

thence south 79 degrees 00 minutes west to the point of beginning.

(continued on the next page)

EXHIBIT NO. 7

CCC-00-CD-01

6 OF 7

440 270

BOOK 428 PAGE 864

PARCEL THREE

An easement for a water pipe-line over and under the lands of the Grantor herein as the present line exists as of this date to Parcel One above with rights of access over the lands of the Grantors herein for the repair and maintenance of said water pipe line. Said water right and easement shall be appurtenant to and for the benefit of Parcel One above. The above easement shall be over the land more particularly described as Parcels One, Two and Three in that certain deed from Frank H. James and wife to Robert Darrell Knott and wife, recorded August 22, 1979 in Book 235 of Official Records, page 311.

EXHIBIT NO. 7

CCC-00-CD-01

7 OF 7

440 271

BOOK 428 PAGE 865







**FREEMAN ROCK ENTERPRISES, INC.**  
P.O.Box 1218 • Brookings Oregon 97415  
Ph: (541) 469-2444 • Fax: (541) 469-0247



**FREEMAN ROCK ENTERPRISES, INC.**  
P.O.Box 1218 • Brookings Oregon 97415  
Ph: (541) 469-2444 • Fax: (541) 469-0247

Delivery Date 1-12-99 Invoice No. 0005841

Sold To:

Nautical Inn RV

Delivered To:

Park

Ending Time	Ending Mileage	Truck No.
		<u>30-31</u>
Starting Time	Starting Mileage	Driver
		<u>BR</u>
Total Time	Total Mileage	

	Description	Price	Amount
	<u>1310</u>		
Gross	<u>80020</u>	<u>4-6" Open</u>	<u>10.80/T</u>
Tare	<u>32700</u>	<u>BID TR</u>	<u>255.53</u>
Net	<u>47320</u>		

Remarks:

WEIGHT 80020 LB  
03:07PM 12JAN99

Sub Total

Minimum Delivery

TOTAL

**Payment Due Upon Delivery** — accounts past due on the 10th of the month first following month of delivery. **Finance Charge** on all past due accounts determined by applying monthly periodic rate of 1 1/4% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by

J.N. Gaden

Delivery Date 1-12-99 Invoice No. 0005840

Sold To:

Nautical Inn RV

Delivered To:

Inn

Ending Time	Ending Mileage	Truck No.
		<u>16-17</u>
Starting Time	Starting Mileage	Driver
		<u>RS</u>
Total Time	Total Mileage	

	Description	Price	Amount
	<u>1310</u>		
Gross	<u>79200</u>	<u>4-6" Open</u>	<u>10.80/T</u>
Tare	<u>32440</u>	<u>BID TR</u>	<u>252.53</u>
Net	<u>46760</u>		

Remarks:

WEIGHT 79200-LB  
02:40PM 12JAN99

Sub Total

Minimum Delivery

TOTAL

**Payment Due Upon Delivery** — accounts past due on the 10th of the month of delivery. **Finance Charge** on all past due accounts determined by applying monthly periodic rate of 1 1/4% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by

J.N. Gaden

EXHIBIT NO. 8

CCC-00-CD-01

1 OF 5



23.77  
FREEMAN ROCK ENTERPRISES, INC.  
P.O.Box 1218 • Brookings Oregon 97415  
Ph: (541) 469-2444 • Fax: (541) 469-0247

124  
Delivery Date 1-12-99 Invoice No. 0005839

Sold To:

Nautical Inn RV

Delivered To:

Inn

Ending Time	Ending Mileage	Truck No.
		30-31
Starting Time	Starting Mileage	Driver
		BR
Total Time	Total Mileage	

131D	Description	Price	Amount
Gross 80680	4-6" Open	10.80/T	259.09
are 32700		BD 1TX	
Net 47980			

Remarks:

WEIGHT 80680 LB  
02:25PM 12JAN99

Sub Total

Minimum Delivery

TOTAL

Payment Due Upon Delivery — accounts past due on the 10th of the month first following month of delivery. Finance Charge on all past due accounts determined by applying monthly periodic rate of 1 1/2% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by

*[Signature]*



23.55  
FREEMAN ROCK ENTERPRISES, INC.  
P.O.Box 1218 • Brookings Oregon 97415  
Ph: (541) 469-2444 • Fax: (541) 469-0247

125  
Delivery Date 1-12-99 Invoice No. 0005839

Sold To:

Nautical Inn RV

Delivered To:

Inn

Ending Time	Ending Mileage	Truck No.
		16-17
Starting Time	Starting Mileage	Driver
		RS
Total Time	Total Mileage	

131D	Description	Price	Amount
Gross 79540	4-6" Open	10.80/T	254.31
Tare 32440		BD 1TX	
Net 47100			

Remarks:

WEIGHT 79540 LB  
01:52PM 12JAN99

Sub Total

Minimum Delivery

TOTAL

Payment Due Upon Delivery — accounts past due on the 10th of the month first following month of delivery. Finance Charge on all past due accounts determined by applying monthly periodic rate of 1 1/2% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by

*[Signature]*



24.56

**FREEMAN ROCK ENTERPRISES, INC.**  
P.O.Box 1218 • Brookings Oregon 97415  
Ph: (541) 469-2444 • Fax: (541) 469-0247



**FREEMAN ROCK ENT**  
P.O.Box 1218 • Brook  
Ph: (541) 469-2444 • F

EXHIBIT NO. 8

CCC-00-CD-01

3 OF 5

517

Delivery Date 1-12-99 Invoice No. 0005837

Sold To: Nautical Inn RV Delivered To: Inn

Ending Time	Ending Mileage	Truck No.
		<u>30-31</u>
Starting Time	Starting Mileage	Driver
		<u>BR</u>
Total Time	Total Mileage	

BID	Description	Price	Amount
Gross <u>81820</u>	<u>4-6" Open</u>	<u>10.80/T</u>	<u>265.25</u>
are <u>32700</u> <u>20400</u>		<u>BID TAX</u>	
Net <u>649120</u>			

Remarks: <u>WEIGHT 81820 LB</u> <u>01:40PM 12JAN99</u>	Sub Total	
	Minimum Delivery	
	TOTAL	

**Payment Due Upon Delivery** — accounts past due on the 10th of the month first following month of delivery. **Finance Charge** on all past due accounts determined by applying monthly periodic rate of 1½% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by J.W. Jackson

Delivery Date 1-12-99 Invoice No. 0005835

Sold To: Nautical Inn RV Delivered To: Inn

Ending Time	Ending Mileage	Truck No.
		<u>16-17</u>
Starting Time	Starting Mileage	Driver
		<u>RS</u>
Total Time	Total Mileage	

BID	Description	Price	Amount
Gross <u>82620</u>	<u>4-6" Open</u>	<u>10.80/T</u>	<u>270.96</u>
Tare <u>32440</u>		<u>BID TAX</u>	
Net <u>50180</u>			

Remarks: <u>WEIGHT 82620 LB</u> <u>01:03PM 12JAN99</u>	Sub Total	
	Minimum Delivery	
	TOTAL	

**Payment Due Upon Delivery** — accounts past due on the 10th of the month first following month of delivery. **Finance Charge** on all past due accounts determined by applying monthly periodic rate of 1½% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by J.W. Jackson



25,0

**FREEMAN ROCK ENTERPRISES, INC.**

P.O. Box 1218 • Brookings Oregon 97415  
Ph: (541) 469-2444 • Fax: (541) 469-0247

Delivery Date 1-12-99 Invoice No. 0005833

Sold To: Nautical Inn RV Delivered To: Inn

Ending Time	Ending Mileage	Truck No.
		<u>30-31</u>
Starting Time	Starting Mileage	Driver
		<u>BR</u>
Total Time	Total Mileage	

	Description	Price	Amount
<u>1310</u>			
Gross <u>80440</u>	<u>4-6" open</u>	<u>10.80/T</u>	<u>257.80</u>
ire <u>32700</u>		<u>BID Tax</u>	
Net <u>47740</u>			

Remarks: WEIGHT 80440 LB  
12:53PM 12JAN99

Sub Total	
Minimum Delivery	
TOTAL	

**Payment Due Upon Delivery** — accounts past due on the 10th of the month first following month of delivery. Finance Charge on all past due accounts determined by applying monthly periodic rate of 1% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by J.N. Jackson



25,1

**FREE!**

P.O. Box  
Ph: (541)

EXHIBIT NO. 8

CCC-00-CD-01

4 OF 5

**ENTERPRISES, INC.**

Box Oregon 97415  
Ph: (541) 469-0247

Delivery Date 1-12-99 Invoice No. 0005832

Sold To: Nautical Inn RV Delivered To: Inn

Ending Time	Ending Mileage	Truck No.
		<u>30-31</u>
Starting Time	Starting Mileage	Driver
		<u>BR</u>
Total Time	Total Mileage	

	Description	Price	Amount
<u>1310</u>			
Gross <u>82900</u>	<u>4-6" Open</u>	<u>10.80/T</u>	<u>271.00</u>
Tare <u>32700</u>		<u>BID incl Tax</u>	
Net <u>50200</u>			

Remarks: WEIGHT 82900 LB  
12:04PM 12JAN99

Sub Total	
Minimum Delivery	
TOTAL	

**Payment Due Upon Delivery** — accounts past due on the 10th of the month first following month of delivery. Finance Charge on all past due accounts determined by applying monthly periodic rate of 1% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by J.N. Jackson



24.18

FREEMAN ROCK ENTERPRISES, INC.

P.O. Box 1218 • Brookings Oregon 97415  
Ph: (541) 469-2444 • Fax: (541) 469-0247

Delivery Date 1/12/99 Invoice No. 0005830

Sold To:

Nautical Inn

Delivered To:

Park

Ending Time	Ending Mileage	Truck No.
		30-31
Starting Time	Starting Mileage	Driver
		BR
Total Time	Total Mileage	

1310	Description	Price	Amount
Gross 81060	A-6 open	10.80/T	261.14
Tare 32700		BID INC Tax	
Net 48360			

Remarks:

WEIGHT 81060 LB  
11:11AM 12JAN99

Sub  
Total

Minimum  
Delivery

TOTAL

**Payment Due Upon Delivery** — accounts past due on the 10th of the month first following month of delivery. **Finance Charge** on all past due accounts determined by applying monthly periodic rate of 1 1/4% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by

*[Signature]*



26.8

FREEMAN

P.O. Box 12  
Ph: (541) 46

EXHIBIT NO. 8

CCC-00-CD-01

5 of 5

SES, INC.

egon 97415  
(1) 469-0247

Delivery Date 1/12/99 Invoice No. 0005829

Sold To:

Nautical Inn

Delivered To:

Park

Ending Time	Ending Mileage	Truck No.
		30-31
Starting Time	Starting Mileage	Driver
		BR
Total Time	Total Mileage	

1310	Description	Price	Amount
Gross 86300	A-6 open	10.80/T inc tax	289.45
Tare 32700		BID	
Net 53600			

Remarks:

WEIGHT 86300 LB  
10:14AM 12JAN99

Sub  
Total

Minimum  
Delivery

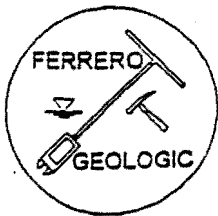
TOTAL

**Payment Due Upon Delivery** — accounts past due on the 10th of the month first following month of delivery. **Finance Charge** on all past due accounts determined by applying monthly periodic rate of 1 1/4% per month (18% Annual Percentage Rate) from delivery. Buyer hereby releases and discharges seller for all damage to underground utilities (water, electrical and gas lines, septic tanks, etc.) when delivery is made inside the curb lines and on all private roads and drives at the request or direction of buyer or his agent.

Received by

*[Signature]*





**Ferrero Geologic**  
760 Oak Street, Ashland, Oregon 97520  
541-488-2452 (ph) 541-488-6473 (FAX)



To: Allan Murray  
White Rock Resort  
16800 Highway 101  
North Smith River, California 95567

Date: 4/13/99

Subject: Short letter report, geologic evaluation, marine terrace bluff pit-run fill  
hard facing, White Rock Resort

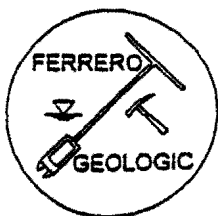
### Introduction

At your request, I have completed a field examination and evaluation of the pit-run fill hard facing of the marine terrace bluff adjacent to your White Rock Resort property. The purpose of my examination and evaluation was to address issues in accordance with requirements put forth by the California Coastal Commission, in a letter dated 12/13/93, and headed "To: Applicants for shoreline development... From: Commission staff... Subject: Information needed before your application can be filed." This report is intended to be a short letter report as defined by the CCC letter for small projects "(for example, adding some 500 cu. yds. of rock to an existing rip-rap wall above the toe and the beach)"

I had previously completed a geologic evaluation of the site related to permitting the White Rock "RV Park site". I submitted various reports in November of 1994, February of 1995 and July of 1997.

### Findings - Previous Site Evaluation

My report dated 2/8/95 contained a description of site and vicinity conditions, including a site map and series of cross-sections. The attached map and cross-section are modifications of these original drawings. The following is my site description from the 2/8/95 report, altered slightly to include new information.



**Ferrero Geologic**  
760 Oak Street, Ashland, Oregon 97520  
541-488-2452 (ph) 541-488-6473 (FAX)



### *Introduction*

The proposed Nautical Inn RV Park site is located at the California/Oregon state line, on top of a marine sand terrace that stands about 25 feet above beach elevation. In past years, I have evaluated three adjacent sites to the north and south on the same terrace. There has been substantial terrace bluff erosion in recent years. To the north, the westward corner of the Nautical Inn restaurant was undercut by erosion, leading to the need for the recently installed steel support piers as per my evaluation and recommendations. To the south, I saw substantial erosion of the terrace bluff a few years ago when evaluating a proposed home site. I recommended not building a home on that site, and a 65 foot setback for a mobile home on the adjacent site to the south. The terrace bluff on the Nautical Inn RV property shows evidence of ongoing erosion, including steep, unvegetated bluff slopes. There is no doubt that the terrace bluff in this vicinity is vulnerable to substantial erosional retreat. The rate of erosion is unpredictable, since it is associated with random high energy climatic, tidal and/or seismic events.

### *Site Geology*

The attached site plan and cross-sections show the topography and geology of the site. In general, the marine terrace deposits are composed of 3 to 4 feet of black, organic, silty sand loam over 4 feet of red-buff sand over 4 to 10 feet of gray-buff gravelly sand. These deposits overlie bedrock of the Franciscan melange, which locally is composed of sheared mudstone and greenstone. Due to thrust fault related shearing, the greenstone has been broken into boulders suspended in ground up mudstone, the latter weathering to a silt/clay mixture. As the terrace retreats due to erosion, the weak, ground up mudstone washes out from between the greenstone boulders, leaving a beach covered by the boulders. Where terraces are underlain by more competent bedrock that rises 10 or 20 feet above beach level, the very slow erosion rate of hard rock controls the rate of terrace retreat. On this terrace, the retreat is potentially more rapid due to the weakness of the ground-up mudstone matrix.

### *Site Geohydrology and Related Stability Issues*





**Ferrero Geologic**  
760 Oak Street, Ashland, Oregon 97520  
541-488-2452 (ph) 541-488-6473 (FAX)



Groundwater seeps slowly from the gravelly sand/sheared bedrock contact. The terrace sediments, even during this heavy rainfall year, are not saturated due to their high permeability allowing free drainage out of the bluff. Therefore, bluff retreat does not appear to be due to saturation and block failure, and the potential for substantial block failure due to earthquakes is low. The primary mode of bluff retreat appears to be erosion by high seas during random climatic, tidal and/or tsunami events.

### *Earthquakes*

There are two primary sources of earthquakes in the region. One is a group of plate boundary faults offshore from northern California and Southern Oregon bounding the Gorda and Juan De Fuca plates. These faults have generated several earthquakes in the magnitude 5 to 7 range in historic time, estimated to produce ground accelerations of up to 0.3 g, but more often 0.2 g or less along the Oregon Coast. The other source is the Cascadia Subduction Zone (CSV), which is a linear feature that runs under the coastline from northernmost California to British Columbia. Based on geologic evidence along the coast of Oregon and Washington, the CSV ruptures every 300 to 500 [350+/-] years, the last time about 300 years ago. It is theorized that these are 8.0 to 8.5 magnitude earthquakes. Geologic evidence indicates that tsunami (seismic sea wave) run-up heights resulting from CSV earthquakes have been 20 feet or higher. Such an event would most likely result in substantial terrace erosion.

### *Proposed Site Development/Setbacks*

The proposed plan for development of the site includes a 10 foot setback from the bluff for RV site developments and 30 feet for more permanent developments such as utility lines. It is my understanding that all buildings will be over 100 feet from the bluff. Since only RVs that can be easily and rapidly moved will be on the campsites, the safety risk is minimal. It is remotely possible that a great earthquake tsunami could overtop the bluff and wash vehicles into the ocean. The risk of loss of human life due to a sudden great earthquake is equal to or higher on any beach. I doubt if the beaches are going to be [permanently] closed due to [in anticipation of] that hazard. Storm and/or tide related erosion occurs fairly rapidly at times, but not so rapidly that RVs could not be moved out of danger in time. [The structures that were



**Ferrero Geologic**  
760 Oak Street, Ashland, Oregon 97520  
541-488-2452 (ph) 541-488-6473 (FAX)



actually placed on the site are a different matter. They are mobile, but not as mobile as the travel trailers or motor homes that I was considering at the time I wrote this report.]

A 35 degree angle projected back up through the terrace sediments from the gravelly sand/sheared bedrock contact on the terrace bluff intersects the top of the terrace 13 feet from the top of the bluff at cross-sections 4 and 7, and 19 feet back at cross-section 1. Though it is unlikely that the weight of an RV could cause terrace bluff failure if it is set back the proposed 10 feet, a prudent setback of 20 feet based on the angle of repose of sand (about 35 degrees) is recommended.

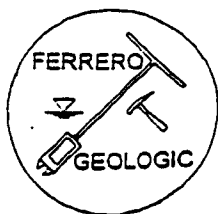
#### *Recommendations/ General Risk Factors*

I recommend the 20 foot setback from the top of the bluff as described above. I estimate that the risk of injury or loss of life and property to people using the proposed Nautical Inn RV Park is very low [given the actual structures on the site, the risk of property damage is low to moderate]. The risk of long term bluff retreat is moderate to high. The amount of bluff retreat is not predictable to any meaningful degree of accuracy due to the unpredictability of random climatic, tidal and/or seismic events. I estimate that the risk of bluff retreat back 30 feet to utility lines in the likely useful lifetime of the RV park is low to moderate.

#### **Findings – 1999 Bluff Hard Facing**

Since 1995, bluff erosion has occurred, concentrated primarily at the toe of the bluff in the area of concern, where the pit-run hard facing was placed. Localized erosion controlled by shoreline morphology is typical in this vicinity, as per the erosion in front of the Nautical Inn restaurant in previous years. Though I have not seen the erosion occurring, the cause has been characterized by you as storm related bluff toe erosion due to high surf energy concentrated between the bluff and large rocks adjacent to the bluff. Site morphology supports that contention. The goal of your plan to fill the space between the large rocks and bluff was to prevent this concentration and erosion.

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**Ferrero Geologic**  
760 Oak Street, Ashland, Oregon 97520  
541-488-2452 (ph) 541-488-6473 (FAX)



Your hard facing plan involved placing the pit-run material between the large rocks and the bluff face, and making it resistant to erosion by grouting it with a lean concrete mix.

The pit-run material is 6 inch minus greenstone from the Freeman rock quarry on the south bank of the Chetco River. It is the same rock type from the same geologic formation as the harder bedrock and boulders under and in front of the White Rock bluff. Some of the 6 inch minus material contains a high percentage of fines (silt to fine gravel material). This is not optimum material for your hard facing plan due to its high erosivity and lack of void spaces that would allow for adequate gravity grouting. A coarser material, say 6 to 12 inch material, with no fines, would have been much more suitable to your plans.

The attached site map shows that I have estimated about 285 yards of the pit-run material placed in front of the bluff. I have shown the material in three sections, defined by the depth, gradation and confinement of the material. Section 2 is where the material is the deepest. It is where the material dropped off the conveyor belt. This material has a high percentage of fines (30%+/-?, visual estimate). The shape of the fill deposit in this section is expressed by deeper pit-run fill shown on the attached cross-section. Section 3 is mostly shallow, coarser pit-run distributed between boulders as expressed on the cross-section as the shallower pit-run material. There is one mass of fill in the upper portion of section three that is similar to the section 2 mass in terms of fines content and depth, but it is a smaller volume. Section 1 is coarse material that sloughed off of the section 2 pile that was washed (fines removed) and distributed by storm wave action. A portion of the pit-run at the base of the section 2 mass was grouted. The extent of grouting is not visible due to its burial under subsequent fill.

The natural beach deposits around the boulders and pit-run fill are fine gravels typical of winter beach deposits. I saw none of the washed fines mixed in with them. The small volume of fines were washed out into the great mass of natural shelf sediments and diluted to the point of virtual non-existence.



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## Conclusions and Recommendations

It is my understanding that one of the issues raised about the hard facing fill is a threat to marine life in tide pools. Based on my memory of the site from previous visits, and your description of the site, the morphology of the beach adjacent to the site changes drastically with the seasons. The sands and gravels are eroded away in the winter, exposing the boulder field, and redeposited in the summer, raising the beach level substantially. Given this beach morphology, it seems unlikely that the fill material washing out could threaten any marine life supporting tide pools, since the winter pools are buried in the summer by sand and gravel deposits. There is a very low risk that the washing out of the pit-run material could impact tide pools away from the site, due to the small volume of material.

Because the pit-run was placed without a permit, the coastal commission is considering requiring removal of the material, depending upon whether or not removal is possible or if it could be done without additional environmental impacts. The most efficient way to remove the material would be with an excavator (large tracked backhoe) walked out on to the beach during summer. Access to the beach for heavy equipment is problematic. The only access is across the property of a non-cooperative owner, and any other access would cause substantial bluff grading and/or damage. If somehow access could be gained without damage, natural boulders would have to be moved to get the machine close enough to the bluff to access the fill. Some of the material would not be accessible to the backhoe bucket because it is in recesses between rocks, as shown on the cross-section. It would require manual labor to remove the portion inaccessible to the backhoe. The bluff would be disturbed by removal of the fill material, which could lead to accelerated erosion.

It seems to me the best answer that balances environmental and bluff protection concerns would be to leave the fill material in place, and cover it with erosion resistant capping material. Some preparation grading by manual labor would be necessary in order to facilitate placement of capping material. This would involve spreading the upper 2 or 3 feet of the thicker sections out over the adjacent thinner sections of existing fill, and reducing the slope of the steepest sections. Capping material would be composed of *one-man stone* rip-rap composed of greenstone from the Freeman quarry. The rip-rap would cover



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the existing fill with an erosion resistant cap and fill in the remaining space between the bluff and large rocks adjacent to the bluff, as per the original filling plan. It would be placed by conveyor belt and *manual labor* (hence, one-man stone). I estimate that this proposal would require about 500 yards of one-man stone rip-rap.

The rip-rap supported at the toe by large rocks would withstand major storm wave action. It is likely that it would withstand 1982-3 winter storm level wave action, but I cannot guarantee that. Either way, the greenstone rip-rap cap would change the existing erosive, unsightly fill piles into a much more effective erosion resistant structure that would blend well with the existing greenstone boulder strewn beach morphology. If the structure was to be washed away during an extreme storm event, the small amount of fines (as discussed above) and the greenstone rip-rap would have no significant negative environmental impact. Fines are continually washed into the shoreline environment from eroding bluffs and down the rivers, as well as boulders, due to natural processes. Compared to these natural deposits, the volume of the existing and proposed fill is insignificant.

I realize that there are issues related to filling without a permit that make the Coastal Commission hesitant to grant approval to finish the structure as I have proposed. However, I believe that my proposal is the most practical and environmentally correct solution given the situation as it exists, regardless of permitting or political issues. These issues are beyond the scope of my geologic evaluation.

Note that I am of the opinion that shoreline hard facing structures are generally unacceptable due to engineering and environmental constraints. No such structure can be considered permanent. The ocean always finds a way to win out over the works of man eventually. Therefore, it is not prudent to develop coastal property in ways that depend upon shoreline hard facing structures of any kind. However, in this case, the challenge is to change a problem into an



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760 Oak Street, Ashland, Oregon 97520  
541-488-2452 (ph) 541-488-6473 (FAX)



asset. I believe that my proposal offers a balanced, logical approach to achieving that end.

Respectfully,

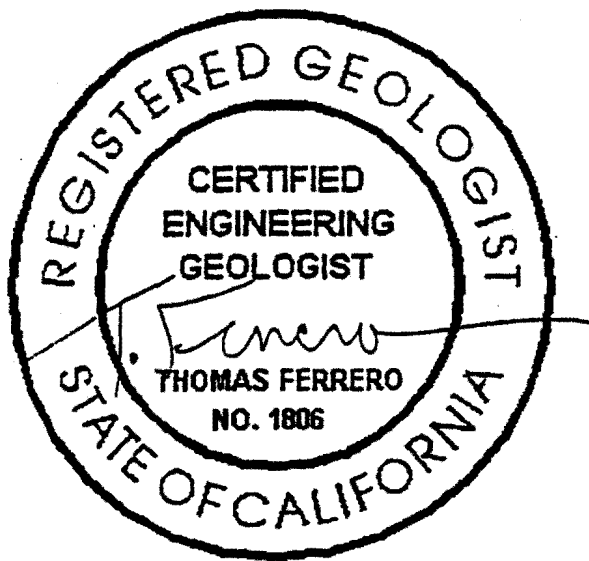
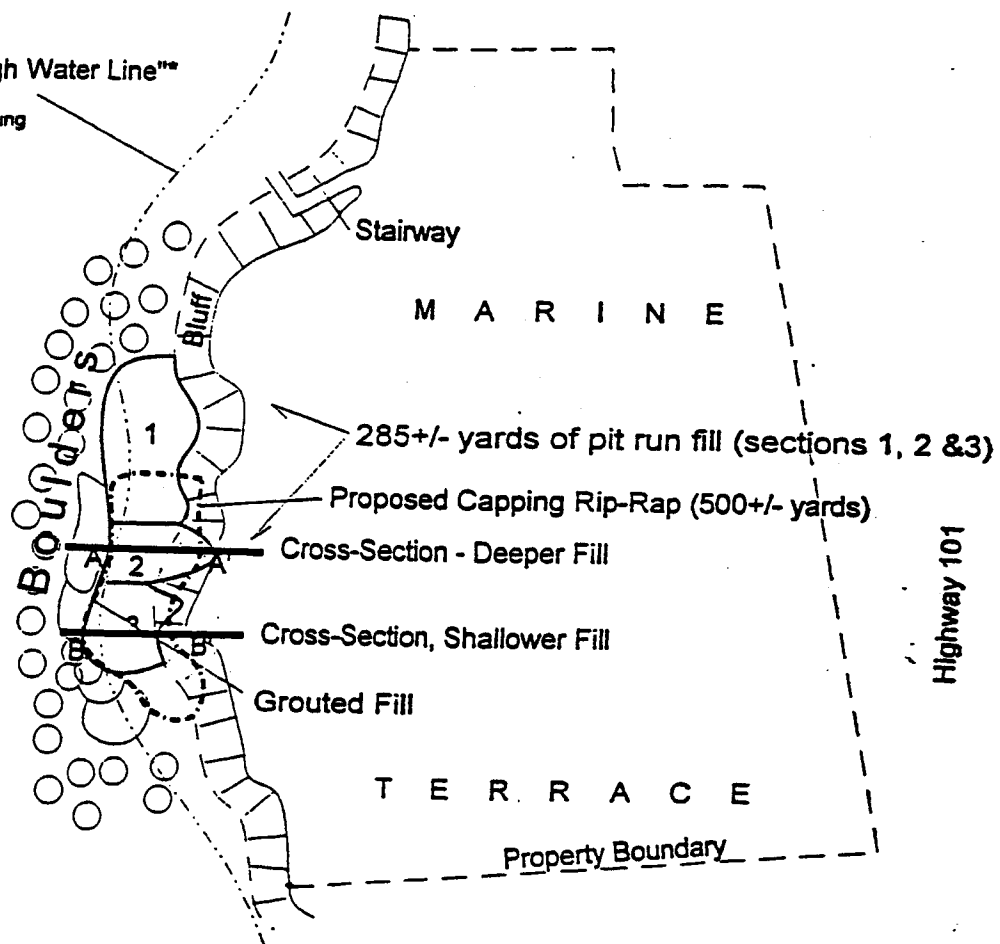


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"Approximate Ordinary High Water Line"

\* from Parcel Map by Micheal Young



N White Rock Resort  
Site Plan - Bluff Hard Facing  
Geologic Investigation  
Ferrero Geologic  
4/13/99  
Scale: 1 inch = 100 feet

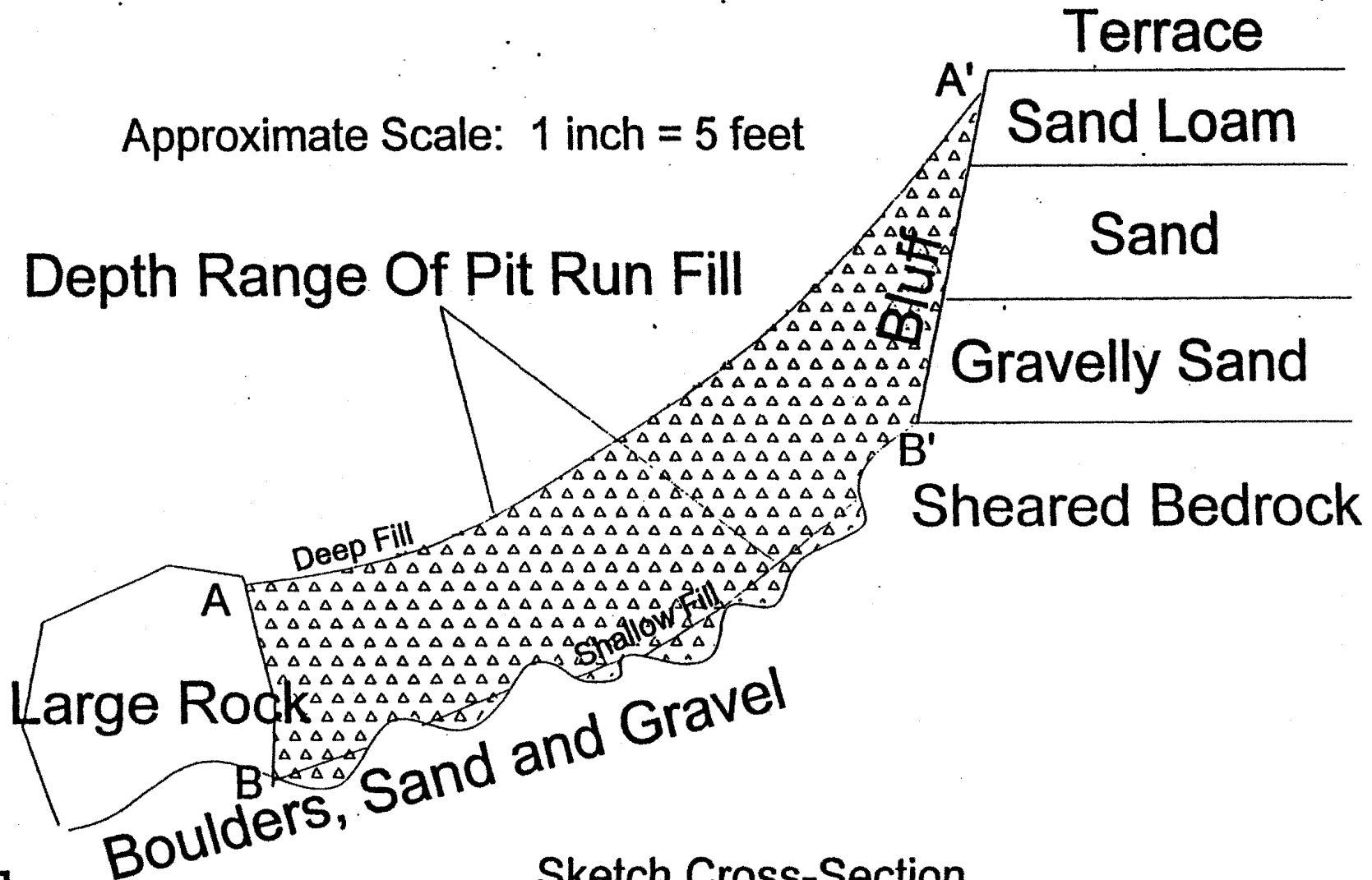
EXHIBIT NO. 9

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Approximate Scale: 1 inch = 5 feet

Depth Range Of Pit Run Fill



Sketch Cross-Section

White Rock Resort - Bluff Hard Facing Fill Evaluation

Ferrero Geologic, 4/13/99

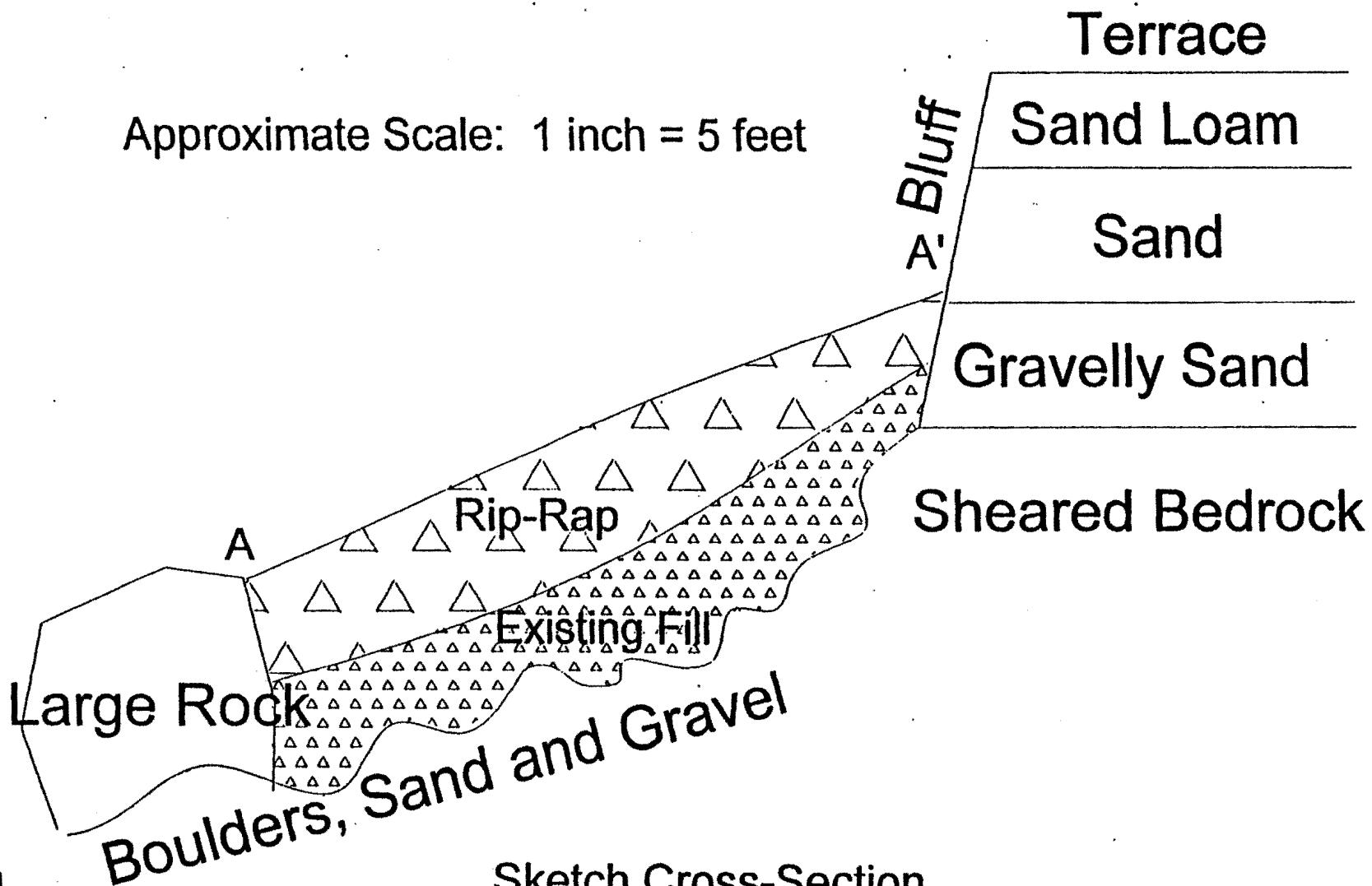
EXHIBIT NO. 9

CCC-00-CD-01

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Approximate Scale: 1 inch = 5 feet



Sketch Cross-Section

White Rock Resort - Proposed Rip-Rap Cap Over Deep Fill

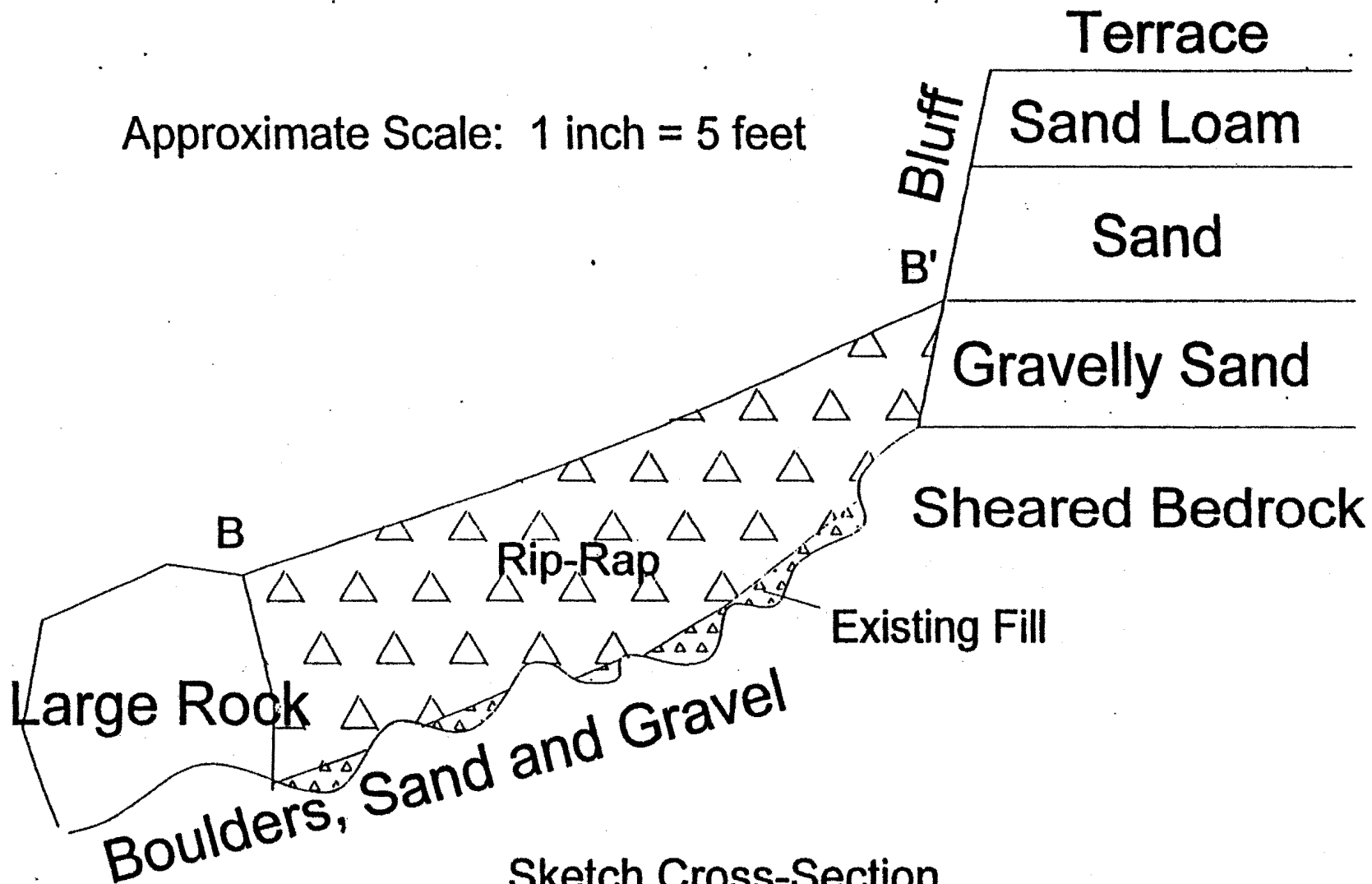
Ferrero Geologic, 4/13/99

EXHIBIT NO. 9

CCC-00-CD-01

11 OF 12

Approximate Scale: 1 inch = 5 feet



Sketch Cross-Section

White Rock Resort - Proposed Rip-Rap Cap Over Shallow Fill

Ferrero Geologic, 4/13/99

EXHIBIT NO. 9

CC-00-CD-01

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# STATEMENT OF THE PRESIDENT OF

## FREEMAN ROCK ENTERPRISES, INC.

I, Ted Freeman, Jr., the President of Freeman Rock Enterprises, Inc., an Oregon corporation (the "Corporation"), for purposes of the Statement of Defense given to the California Coastal Commission in response to the Notice of Intent to Commence Cease and Desist or Restoration Order Proceedings (Coastal Act Violation File No. V-1-DNC-99-01), dated July 20, 1999, hereby state the following:

1. I am the duly elected and qualified President of the Corporation, authorized to have access to all existing information pertaining to the business and affairs of the Corporation.

2. On or about January 7, 1999, the Corporation entered into a contract (the "Contract") with Alan Murray for the rental of certain equipment and sale and delivery of rock to Mr. Murray's property at 16800 Highway 101 North, Smith River, California (the "Property"). A copy of the Contract is attached to the Corporation's Statement of Defense.

3. At the time the Contract was entered into, Mr. Murray informed me that he had contacted the California Coastal Commission regarding obtaining a permit for the deposit of the rock on the Property. Mr. Murray also informed me, however, that such process was taking too long, that he did not want to wait any longer, and that he would take care of getting the necessary permits later. It was my understanding that Mr. Murray would, in fact, follow through with obtaining the necessary permits to deposit the rock at the Property.

4. In reliance on the terms of the Contract and Mr. Murray's statements, the Corporation proceeded to, on or about January 25, 1999, rent a generator and two conveyors and deliver 4"-8" marine basalt quarry rock to the Property. Pursuant to Mr. Murray's instructions, the Corporation deposited this rock on top of the bluff on the Property. Two employees of the Corporation set up the generator and conveyors to run between certain structures located on the Property. Once the conveyor system was established, an employee or other agent of Mr. Murray loaded the rock onto the conveyors by tractor and deposited the rock over the bluff.

5. The Corporation's employees oversaw only the set up and proper operation of the conveyors and generator; at no time in connection with the Contract did the Corporation or any of its employees deposit any rock over the bluffs and onto the beach located below Mr. Murray's property.

IN WITNESS WHEREOF, I have executed and delivered this Statement as of the 9<sup>th</sup> day of August, 1999.

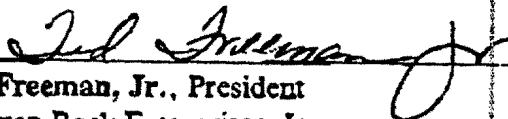
  
Ted Freeman, Jr., President  
Freeman Rock Enterprises, Inc.



EXHIBIT NO. 11

CCC-00-CD-01

1 OF 1

Unpermitted fill - Jan.  
25, 1999

## CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000

SAN FRANCISCO, CA 94105-2219

VOICE AND TDD (415) 904-5200



February 3, 1999

Sent by Regular and  
Certified MailAlan Murray  
White Rock RV Park  
16825 Highway 101 North  
Smith River, CA 95567

#778 712 076

Ted Freeman, President  
Freeman Rock Enterprises, Inc.  
99031 South Bank - Chetco River Road  
Brookings, Oregon 97415

#778 712 077

Dear Messrs. Murray and Freeman:

Our office has confirmed reports that on or about January 25, 1999, Freeman Rock Enterprises, under the the direction of Alan Murray, placed a large quantity of gravel over the bluffs and onto the beach below the White Rock RV Park, a coastal zone property subject to the Commission's permitting jurisdiction. We have also confirmed that a valid coastal development permit has not been issued by the Commission to authorize this activity. You are hereby notified to stop immediately all unpermitted development activity on the subject property.

The act of placing gravel material onto the beach constitutes "development" as defined by section 30106 of the Coastal Act:

*Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal*

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1 OF 3

*or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...*

Section 30600(a) requires that any person wishing to perform or undertake development in the coastal zone must obtain a coastal development permit, in addition to any other permit required by law. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act.

The subject unpermitted activity appears to have been undertaken in an attempt to reinforce a retreating bluff face and has resulted in significant landform alteration. Furthermore, this activity appears to be a significant violation because it has the potential to result in extensive resource damage to an environmentally sensitive area and has created a potential hazard to the public.

**If the unpermitted development activity is not immediately stopped, you may be served a cease and desist order or sued in court.**

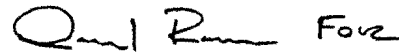
Coastal Act section 30809 states that if the executive director determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the executive director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists. Moreover, Section 30811 authorizes the Commission to order restoration of a site where the development occurred without a coastal development permit from the commission, is inconsistent with the Coastal Act, and is causing continuing resource damage.

Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount not to exceed \$30,000. Coastal Act section 30820(a)(2) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

Significant adverse impacts to sensitive coastal resources have resulted from the initial placement of the unpermitted gravel/rock material onto the beach. In addition, this activity has the potential to result in significant ongoing resource damage when the ocean waters redistribute the gravel into nearby tide pools and the greater intertidal area.

You must **contact this office within three (3) days** of receipt of this notice so we can discuss how this matter can be remedied. In addition, you must **submit a complete coastal development permit application** for after-the-fact authorization for either retention of the development or removal and restoration of the site to its pre-development condition **within fifteen (15) days** of receipt of this notice. A permit application is enclosed. Your failure to comply with either of these provisions will force us to elevate this case to our Legal Division in San Francisco for appropriate enforcement action. If you have any questions regarding the content of this letter, please contact Darryl Rance of the North Coast District Office at (415) 904-5268.

Sincerely,



---

Bob Merrill  
North Coast District Manager

Enclosure: Coastal Permit Application

cc: Ernest Perry, Director, County of Del Norte  
Jay Sarina, Planner, County of Del Norte  
Herb Pierce, Associate Wildlife Biologist, California Department of Fish and Game  
Michael Lamprecht, Ecologist, U.S. Army Corps of Engineers  
Nancy Cave, Statewide Enforcement Program, California Coastal Commission  
Darryl Rance, North Coast District, California Coastal Commission





**NIESAR & DIAMOND LLP**  
ATTORNEYS AT LAW

90 NEW MONTGOMERY STREET, 9TH FLOOR  
SAN FRANCISCO, CALIFORNIA 94105  
TELEPHONE (415) 882-5300  
FACSIMILE (415) 882-5400  
www.ndlaw.com

February 8, 1999

**RECEIVED**  
FEB 09 1999  
CALIFORNIA  
COASTAL COMMISSION

*Via Certified Mail – Return Receipt Requested  
And Regular U.S. Mail*

Bob Merrill, North Coast District Manager  
California Coastal commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Re: White Rock Resort**  
**Our File No.: 504.001**

Dear Mr. Merrill:

This firm is counsel to the White Rock Resort and its principal, Mr. Alan Murray. The White Rock Resort is a RV Park owned and operated by Mr. Murray.

Mr. Murray is currently out of state, and requested that I respond in his absence to your letter of February 3, 1998. Please do not infer that, because this response was issued by an attorney it is intended to signal any lack of cooperation or intimate any threat of litigation from Mr. Murray. As will appear, Mr. Murray shares the Coastal Commission's desire to resolve this matter amicably through the formal permit process. Unfortunately, he will not be back in California until approximately March 1, 1999, and did not want the Commission's letter to go unheeded until his return.

Your correspondence states that "[i]f the unpermitted development activity is not immediately stopped, you may be served a cease and desist order", citing Coastal Act § 30810. Please rest assured that the "development activity" described in your correspondence—the placement of rocks on or about the beach and bluffs—**has already stopped**. In fact, it is our understanding that the only thing which occurred was the emergency placement of rocks intended

**EXHIBIT NO. 13**

**CCC-00-CD-01**

**1 OF 2**

NIESAR & DIAMOND LLP

Letter to California Coastal Commission

White Rock Resort

February 8, 1999

Page 2

to avert catastrophic erosion of the bluffs from an impending major storm. Further, the rocks utilized were of the same type used by the Coast Guard for the same purpose. In any event, since there is no ongoing activity, there is no need or reason to issue a cease and desist order. *See: Civil Code § 3532* [The law neither does nor requires idle acts.]

In addition, Mr. Murray will be pleased to submit a coastal development permit application for after-the-fact authorization upon his return to California. However, he will not be able to attend to this within the fifteen (15) day period allotted in your correspondence. We request that you kindly allow Mr. Murray until March 15, 1999 within which to submit his permit application.

Please feel free to contact me at the telephone number listed above with your kind response. Your anticipated professional courtesy and cooperation in this matter are greatly appreciated.

Very truly yours,



PETER MALLON

cc: Mr. Darryl Rance, North Coast District Office  
Mr. Alan Murray, White Rock Resort

EXHIBIT NO. 13

CCC-00-CD-01

2 OF 2

## CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
TELEPHONE AND TDD (415) 904-5200



February 22, 1999

Peter Mallon  
Niesar & Diamond, L.L.P.  
90 New Montgomery Street, 9<sup>th</sup> Floor  
San Francisco, CA 94105

Re: White Rock RV Park (Murray Property)  
Our File No. V-1-DNC-99-01  
Your File No. 504.001

Dear Mr. Mallon:

Thank you for your letter of February 8, 1999 regarding the placement of a large quantity of gravel over the bluffs below the White Rock RV Park in Smith River, California. We appreciate you responding on Mr. Murray's behalf and your expressed intention to cooperate to resolve the matter through the Coastal Commission's permit process. Your letter indicated that the placement of rocks onto the beach has already stopped. The Coastal Commission would like to reiterate that no further development activity of any sort should take place on the property without the appropriate permits issued. Under the provisions of the California Coastal Act, all activities that meet the definition of development, including emergency shoreline protection, require coastal development permit authorization.

You have asked for an extension until March 15, 1999 to submit an after the fact coastal development permit application. In the spirit of cooperation, the Coastal Commission staff is willing to agree to this extension of time to file an application under the following conditions:

(1) That your client sign the enclosed Waiver of Legal Argument. By signing this agreement, your client agrees that he will not use the time spent seeking informal resolution of this matter to argue that the Commission no longer has authority to enforce the Coastal Act requirements. Without such an agreement, staff is obligated to seek resolution through formal legal action. In exchange for your agreement, Commission staff agrees not to elevate this violation file to the Office of Attorney General for appropriate legal action while you pursue obtaining a coastal development permit.

(2) That you submit a *completed* Application for Coastal Development Permit no later than March 15, 1999 (copy enclosed). Please be advised that the application form is approximately 16 pages, and requires detailed information regarding the owner/applicant, the nature of the project, project approvals, and environmental impacts.

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CCC-00-CD-01

1 OF 2

In addition, please note that projects located on or in close proximity to tidelands or navigable waters may be subject to the public trust, and will therefore require a boundary determination from the State Lands Commission. *A coastal development permit application will not be deemed complete until such a determination is received by the Coastal Commission.* Further information is included in the attached memorandum to "Applicants for shorefront development." Furthermore, applications for shoreline protection devices must also provide certain coastal engineering information about the project as detailed in the memorandum.

The Commission remains very concerned over the unknown effects of the type of rock selected, the damage that the crushed rock may have already caused to tide pools in the area, as well as the potential future damage to nearby tide pools and other natural resources resulting from the settling, erosion or movement of the rock from storm conditions and waves. It is because of these resource concerns that the Commission believes that this matter warrants the prompt attention of all concerned parties.

In closing, the Commission also trusts that this matter can be resolved amicably through the formal permit process. Your cooperation and prompt response is much appreciated. We will expect the completed permit application and all supporting documentation by the agreed upon date of March 15, 1999. Please return the Waiver of Legal Argument form to our office by March 15<sup>th</sup> as well. If you have any questions, please do not hesitate to call Darryl Rance of my staff at (415) 504-9268.

Sincerely,



Robert Merrill  
North Coast District Manager

Enclosures: (1) Application for Coastal Development Permit  
(2) Memorandum to Applicants for Shorefront Development  
(3) Waiver of Legal Argument Form

cc: Alan Murray, White Rock RV Park  
Ernest Perry, Director, County of Del Norte  
Jay Sarina, Planner, County of Del Norte  
Herb Pierce, Associate Wildlife Biologist, California Dept. of Fish & Game  
Michael Lamprecht, Ecologist, U.S. Army Corps of Engineers  
Nancy Cave, Statewide Enforcement Program, California Coastal Commission  
Darryl Rance, North Coast District, California Coastal Commission

EXHIBIT NO.
CCC-00-CD-01
2 OF 2



COUNTY OF DEL NORTE  
COMMUNITY DEVELOPMENT DEPARTMENT

700 Fifth Street  
CRESCENT CITY, CALIFORNIA 95531

FAX (707) 465-0340

PLANNING  
(707) 464-7254

ENGINEERING & SURVEYING  
(707) 464-7229

BUILDING INSPECTION  
(707) 464-7253

March 2, 1999

Alan Murray  
White Rock RV Park  
16825 Highway 101 North  
Smith River, CA 95567

Certified Mail Z 433 684 770

Ted Freeman, President  
Freeman Rock Enterprises, Inc.  
99031 South Bank Road - Graceland River Road  
Brookings, OR 97415

Certified Mail Z 433 684 771

re: Grading Ordinance Violation APN 101-070-23

Dear Messrs. Murray and Freeman:

An inspection of the White Rock RV Park property has revealed the placement of fill on and against the coastal bluff of this property. This fill appears to be an uncompacted fill placed without proper surface preparation. This activity is a violation of Del Norte County Code Title 14, Chapter 14.05 (Grading, Excavation and Filling).

In accordance with DNCC Section 14.05.100, you are hereby ordered to stop any further fill placement and cease any, and all, other grading activities on this property. You are further required to obtain a Grading Permit for the work already performed and for any further work contemplated, including the removal of the unauthorized fill. A Grading Permit, including plans, reports and specifications, shall be obtained within ten days.

Please contact the Del Norte County Engineer's Office to obtain a Grading Permit application. If you have any questions, or comments, please feel free to contact me at (707) 464-7229.

Very truly yours,

Michael Young,  
County Engineer

RECEIVED  
MAR 3 - 1999

cc: Ernest Perry, CDD Director

EXHIBIT NO. 15

CCC-00-CD-01

1 OF 1

**Oscar Larson & Associates**  
Consulting Engineers & Land Surveyors

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MAR 15 1999

CALIFORNIA  
COASTAL COMMISSION

317 Third Street • P.O. Box 3806 • Eureka • CA 95502 • 707-445-2043 • FAX 707-445-8230 • email: olarson@northcoast.com • Website: www.northcoast.com/~olarson

**CERTIFIED MAIL**

Mr. Bob Merrill  
North Coast District Manager  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco CA 94105-2219

Reply to: OL:03109:MGM:6566.1

10 March 1999

**Subject:** White Rock RV Park (Murray Property)  
CCC File No. V-1-DNC-99-01

Dear Mr. Merrill:

In your letter dated 22 February 1999, you requested that Mr. Murray sign a "Waiver of Legal Argument" form.

Please find enclosed the executed (4 March 1999) form for your records.

As a side note, we have been asked by Mr. Murray to coordinate the permit processing associated with this issue. Please provide to us a copy of any correspondence, etc. you may receive or issue pertaining to this matter.

Thank you in advance for your assistance.

Sincerely,

OSCAR LARSON & ASSOCIATES

*Marty McClelland*  
Martin G. McClelland  
Operations Manager

MGM:ikmy

Encl.

copy: Alan Murray (w/Encl.)

EXHIBIT NO. 16
CCC-99-CD-01
1 OF 1

**Oscar Larson & Associates**  
Consulting Engineers & Land Surveyors

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MAR 17 1999  
CALIFORNIA  
COASTAL COMMISSION

317 Third Street • P.O. Box 3806 • Eureka • CA 95502 • 707-445-2043 • FAX 707-445-8230 • email: olarson@northcoast.com • Website: www.northcoast.com/~olarson

Mr. Bob Merrill  
North Coast District Manager  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco CA 94105-2219

**FAXED**  
3-17-99  
15:16 I.C.  
Oscar McClelland

Reply to: OL:03159:MGM:6566.1

15 March 1999

Subject: White Rock Resort, 16800 Highway 101 North, Smith River, CA; APN 101-070-23  
Your File No. V-1-DNC-99-01

Dear Mr. Merrill:

This letter is being sent in response to your letter dated 22 February 1999 and in behalf of the property owner Mr. Murray.

We have developed a preliminary schedule of permit-related activities through which we hope to achieve a successful resolution of the violations.

We would propose a twice-a-month status report to you as to our activities as we proceed commencing 1 April 1999.

Please let us know if you need additional information or have any questions pertaining to the activities or the schedule.

Sincerely,

OSCAR LARSON & ASSOCIATES

*Marty McClelland*  
Martin G. McClelland  
Operations Manager

MGM:ikmy

Encl.

copy: Darryl Rance, North Coast District Office, California Coastal Commission  
Michael Young, County Engineer, Community Development Department, County of Del Norte  
Ernie Perry, Director, Community Development Department, County of Del Norte  
Jay Sarina, Planner, County of Del Norte  
David Ammerman, Eureka Field Office, US Army Corps of Engineers  
Herb Pierce, California Department of Fish & Game  
Tom Ferrero, Ferrero Geologic

EXHIBIT NO. 17
CCC-00-CD-01
1 OF 2

## ATTACHMENT A

## PRELIMINARY SCHEDULE

Permits		In Place
1.	Coastal Grading Permit Application	
	Site Plan	4/15/99
	Special Studies	4/22/99
	Application (Submittal)	4/26/99
	Referrals	
	Environmental	
	Planning Commission Hearing	6/15/99
2.	Coastal Development Permit (CCC)	
	Application Processing (Submittal)	6/30/99
	Commission Hearing - Condition Compliance	8/99
	Permit Issuance	9/99
3.	Army Corps of Engineers Section 404 and/or 10 Permit	
	Preapplication	5/99
	Application Processing (includes environmental review)	6/99
	Issuance (1)	8/99
(1) It is noted that the Corps has no firm statutory standards within which to process permits. The dates are guesses and could vary significantly.		

EXHIBIT NO. 17

CCC-00-CD-01

2 OF 2





COUNTY OF DEL NORTE  
COMMUNITY DEVELOPMENT DEPARTMENT

700 Fifth Street  
CRESCENT CITY, CALIFORNIA 95531

FAX (707) 465-0340

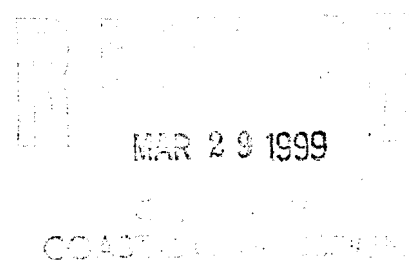
PLANNING  
(707) 464-7254

ENGINEERING & SURVEYING  
(707) 464-7229

BUILDING INSPECTION  
(707) 464-7253

March 22, 1999

Martin McClelland  
Oscar Larson & Associates  
P. O. Box 3806  
Eureka, CA 95502



re: White Rock Resort, Grading Ordinance Violation  
APN 101-070-23

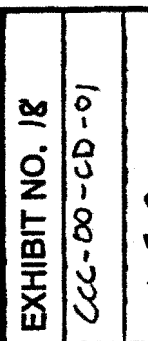
Dear Mr. McClelland:

Your March 15 to Bob Merrill, California Coastal Commission, letter sets forth a schedule to secure various permits for the subject matter and property.

A Grading Permit from Del Norte County is among the required permits. Your schedule envisions a Grading Permit application submittal date of April 26, 1999 which is five weeks away. This should be adequate time to prepare the necessary plans and specifications to fully describe the work, both presently completed and future.

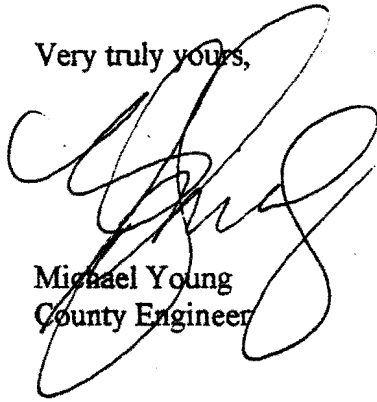
Based on receiving a complete application on or before April 26, County staff will schedule a field review of the project site on May 7, then place the matter on the May 13 Environmental Review Committee agenda. Dependent on the CEQA review, the matter will be scheduled for the Planning Commission meeting of June 2 or July 7. The project will go to the June meeting if the CEQA review allows for an "exemption", but if a Negative Declaration is required the project must wait for the July meeting to allow State Clearing House review.

This processing schedule assumes that a complete application is submitted. If the application is lacking and additional information is required, the hearing before the



Planning Commission will be delayed which in turn delays issuance of the permit. Therefore, I can not over stress the importance of a complete application. In fact, I suggest that the application be submitted as soon as possible for a preliminary staff review so that additional information, if needed, can be identified and submitted early enough to not delay the permit process. Your proposal for a semi-monthly status report is an excellent idea and will, hopefully, keep this project on schedule.

Very truly yours,



Michael Young  
County Engineer

cc: Bob Merrill, California Coastal Commission  
Darryl Rance, California Coastal Commission  
David Ammerman, US Army Corps of Engineers  
Herb Pierce, California Department of Fish & Game  
Tom Ferrero, Ferrero Geologic  
Jay Sarina, Planner, Del Norte County  
Alan Murray, White Rock Resort

EXHIBIT NO.
CCC-00-CD-01
2 OF 2

**CALIFORNIA COASTAL COMMISSION**

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



March 23, 1999

Mr. Martin G. McClelland  
Oscar Larson & Associates  
Consulting Engineers & Land Surveyors  
317 Third Street, P.O. Box 3806  
Eureka, CA 95502

Re: White Rock Resort (Murray Property)  
Our File No. V-1-DNC-99-01

Dear Mr. McClelland:

Thank you for your letter of March 15, 1999 proposing a schedule for permit-related activities. As a preliminary point of clarification, the Coastal Commission does not speak for, nor does it have authority to approve permitting deadlines imposed by other agencies, including the County of Del Norte and the U.S. Army Corps of Engineers. Therefore, we suggest that you work directly with those agencies regarding their permit requirements and time frames.

As to your schedule for compliance with the California Coastal Act, you have proposed to submit a Coastal Development Permit (CDP) application on or before June 30, 1999. Please confirm, in writing, the type of coastal development permit application you will be seeking (i.e., whether for restoration/removal of the rocks or for retention of the rocks). Commission staff cannot grant an additional three and one-half month extension of time to file a permit application without this information. We expect to receive this confirmation from you no later than March 31, 1999.

The Commission staff maintains its position that the gravel deposited onto the beach below the bluffs at the White Rock Resort property is causing significant ongoing damage to valuable coastal resources, including the environmentally sensitive tidepool area north of the Smith River and south of Pelican State Park. This damaging and unpermitted gravel has been in existence since approximately January 25, 1999, and we have already granted one extension (from February 20, 1999 until March 15, 1999). The Commission staff sees no reason why the submission of the permit application should take until June 30, 1999.

The Commission staff cannot make any assurance about dates for hearings on the permit, or dates for issuing the permit before we have received the completed CDP application in our office. We appreciate and accept your offer to submit twice a month status reports to our office.

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Mr. Martin G. McClella  
March 23, 1998  
Page 2

Please advise this office at your earliest opportunity and in any event, no later than March 31, 1999, of the type of permit you will seek, so that we may come to a mutually agreed upon time frame within which to resolve this matter. Thank you for your anticipated cooperation.

Sincerely,



Robert Merrill  
North Coast District Manager

cc: Peter Mallon, Niesar & Diamond  
Alan Murray, White Rock RV Park  
Nancy Cave, Statewide Enforcement Program  
Darryl Rance, North Coast District

G/North Coast/Bob/Letters/White Rock McClelland 3/23/99

EXHIBIT NO. 19
CC-00-CD-01
2 OF 2



**Oscar Larson & Associates**  
Consulting Engineers & Land Surveyors

RECEIVED

MAR 30 1999

1082.m 3:30:17

RECEIVED

MAR 30 1999

117 Third Street • P.O. Box 3806 • Eureka • CA 95502 • 707-445-2043 • FAX 707-445-5239 • Email: oscar@northcoast.com • Website: www.northcoast.com • Oscar Larson  
CALIFORNIA COASTAL COMMISSION

Mr. Bob Merrill  
North Coast District Manager  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco CA 94105-2219

Reply to: OL:03299:MGM:6566.1

29 March 1999

Subject: White Rock Resort (Murray Property), 16800 Highway 101 North, Smith River, CA  
APN 101-070-23  
Your File No. V-1-DNC-99-01

Dear Mr. Merrill:

The purpose of this letter is to provide to you a response to your letter of 23 March 1999 (received 26 March), and to provide a summary of activities to date.

We are, and have been, working directly with the County (Sarina/Young) and the Corps (Ammerman) on their permit requirements and time frames.

The owner has obtained the services of Ferrero Geologic to develop the County Coastal Grading Permit information.

A site visit was scheduled for last week to obtain the site information needed. The visit was initially scheduled for the same day as the ACOE (Ammerman) visit. However, Mr. Ferrero, the engineering geologist, injured his back and was not able to go last week. In addition, Mr. Ammerman's visit was postponed to April (next good low tides) due to high surf conditions last week.

We await the receipt of the County's Coastal Grading Ordinance provisions.

Contact has been made with State Lands. We await the site information from the geologist so that it may then be forwarded to State Lands.

We received a Boundary Determination from your staff - No. 5-99, Smith River (Allyson Hitt).

We have contacted Fish & Game as it concerns the need for their site visit. To date the visit has not been scheduled. (This will affect the timing of obtaining marine resource information which may be required.)

EXHIBIT NO. 20

CC-00-CD-01

1 OF 2

Mr. Bob Merrill  
North Coast District Manager  
California Coastal Commission  
29 March 1999  
Page 2

We received a response from the County (22 March 1999) to our preliminary schedule (attached to our memo to you 15 March 1999). Our take is that the Coastal Grading Permit would go to their Planning Commission 2 June 1999 (possibly 7 July, if expanded environmental review is needed).

The County's letter provides scheduling information which comports with the schedule submitted to you 15 March 1999.

Your letters of 3 February, 22 February, and 23 March 1999 indicated your need of a complete application. We understand your direction and have proceeded to get the local approval needed to submit a complete application and will submit the site information to State Lands as soon as we can after receipt from the geologist.

Please let us know if you have any other questions.

Sincerely,

OSCAR LARSON & ASSOCIATES

  
Martin G. McClelland  
Operations Manager

MGM:ikmy

copy: Darryl Rance, North Coast District Office, California Coastal Commission  
Michael Young, County Engineer, County of Del Norte  
Ernie Perry, Director, Community Development Department, County of Del Norte  
Jay Sarina, Planner, County of Del Norte  
David Ammerman, Eureka Field Office, US Army Corps of Engineers  
Herb Pierce, California Department of Fish & Game  
Tom Ferrero, Ferrero Geologic

EXHIBIT NO. 20
CU-00-ED-01
2 OF 2

## CALIFORNIA COASTAL COMMISSION

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

April 15, 1999



Peter Mallon, Esq.  
Niesar & Diamond, L.L.P.  
90 New Montgomery Street, 9<sup>th</sup> Floor  
San Francisco, CA 94105

Re: White Rock RV Park (Murray Property)  
Our File No. V-1-DNC-99-01  
Your File No. 504.001

Dear Mr. Mallon:

As you are aware, Martin McClelland of Oscar Larson & Associates has been in contact with the Coastal Commission staff on behalf of Alan Murray. It is our understanding that Mr. McClelland is taking the lead on coordinating Mr. Murray's permit related activities and we are happy to work with him with respect to filing an after-the-fact coastal development permit application with the Coastal Commission. However, we need to discuss resolution of the outstanding Coastal Act violation with Mr. Murray and you are his attorney of record with respect to the violation.

In the Coastal Commission staff's March 23, 1999 letter, the staff advised Mr. McClelland that we would not agree to a June 30, 1999 submission date for the after-the-fact permit application, nor would we pre-commit to any recommendations of approval or set hearing dates before we receive a completed CDP application. More importantly, we specifically requested to be advised, in writing, as to the nature of the development for which Mr. Murray will be seeking a permit. We wish to know whether Mr. Murray will seek a permit to retain the rocks or a permit to remove the rocks. Mr. McClelland's response of March 29, 1999, did not answer this question.

The staff can only infer by this lack of an answer, coupled with the proposed time frame for CDP application, that Mr. Murray intends to submit a CDP application for retention of the coastal protection device/gravel deposited onto the beach below the bluffs at the White Rock RV Park, rather than for removal and restoration of the property to its pre-violation status. In light of this, we wish to advise you that the Coastal Act only allows construction of shoreline protective devices for certain limited purposes. The relevant section of the Coastal Act is § 30235, which states as follows:

"Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing

EXHIBIT NO. 21

CC-00-CD-01

1 OF 2

Peter Mallon, Esq.  
April 15, 1999  
Page 2

structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply."

Although § 30235 allows shoreline protective devices to protect existing structures in danger from erosion, it is not clear that a shoreline protective device could be approved at the subject property under this provision. We note that the Special Use Permit issued by the County of Del Norte contemplates a recreational vehicle park and requires a 20-foot setback from the top of the bluff for development (see page 3, Condition No. 11). The Special Use Permit advises that permits for shoreline protective devices are only considered for pre-existing shoreline development (see page 2, paragraph 5), and specifically provides:

"the landowner shall not construct any shoreline protective devices to protect any new development or structures established after the date of approval of this permit in the event that the structure, at some future date, is subject to damage or loss from erosion or storm wave damage..."

(see page 3, Condition No. 12(c)).

The Commission agrees to a final extension, until May 31, 1999, for submission of a completed CDP application. However, please advise us no later than April 30, 1999 as to the nature of the development for which Mr. Murray plans to submit a CDP application. If you or your client fail to comply with this request, we will pursue formal enforcement action to resolve this matter.

Sincerely,



Robert Merrill  
North Coast District Manager

cc: Martin G. McClelland  
Nancy Cave, Manager, Statewide Enforcement Program

G/North Coast/Bob/Letters/White Rock Mallon

EXHIBIT NO. 21
CCC-00-CD-01
2 OF 2





**Oscar Larson & Associates**  
Consulting Engineers & Land Surveyors

APR 28 1999

Third Street • P.O. Box 3806 • Eureka • CA 95502 • 707-445-2043 • FAX 707-445-8230 • email: olarson@northcoast.com • Website: www.northcoast.com/~olarson

Mr. Mike Young  
County Engineer  
County of Del Norte  
700 Fifth Street  
Crescent City CA 95531

Reply to: OL:04219:KGD:6566.1

21 April 1999

Subject: Grading Permit Application - White Rock Resort - APN 101-720-01 [101-070-23 (old)]

Dear Mr. Young:

Please find enclosed a grading permit application for the retention and placement of fill at the base of the bluff of the White Rock Resort property.

Included please find:

- Grading Permit Application.
- Geologic Report (two originals) prepared by Ferrero Geologic, April 1999.
- Geologic Report (one copy) prepared by Ferrero Geologic, 1995, and pertaining to the White Rock RV Park use permit.
- Assessor Parcel Map (2 pages).
- Site Plan (copy of previous permit package); shows ordinary high water line.
- Portion of Parcel Map showing ordinary high water line.
- Portion of Assessor Parcel Book page showing "an area of dedication" from prior permit activity.
- California Coastal Commission Boundary Determination.
- Notice list of owners/residents within 100 feet of property boundary.

Please let us know if there is any other party who has requested notice.

Please call if you have any questions.

Sincerely,

OSCAR LARSON & ASSOCIATES

*Marty McClelland*  
Martin G. McClelland  
Operations Manager

MGM:ikmy

Encl.

copy: Bob Merrill, North Coast District Manager, California Coastal Commission (w/Encl.)  
Tom Ferrero, Ferrero Geologic (without/Encl.)  
Herb Pierce, California Department of Fish & Game (w/Encl.)  
David Ammerman, Eureka Field Office, US Army Corps of Engineers (w/Encl.)  
Linda Fiack, Supervisor, North Coast Unit, State Lands Commission (w/Er

EXHIBIT NO. 22

CC-00-CD-01

1 OF 2

# County of Del Norte

Engineering and Surveying

700 Fifth Street

Crescent City, Ca 95531

(707)464-7229

## Grading Permit Application

Assessor's Parcel Number	101-720-01 (new) 101-070-23 (old)	Marty McCelland Oscar Larson & Associate: 317 Third Street Eureka CA 95501
Property Owner:	Alan Murray	Applicant/Agent (if different):
Address:	16800 Highway 101 North Smith River CA 95567	Phone Number: 707-445-2043 Fax Number: 707-445-8230

### Project Description (include general description and reason for application):

The retention of approximately 300 cubic yards of quarry rock (4" - 6" in size) placed with-  
out benefit of permits at the base of the bluff on the beach and the placement of 500 cubic  
yards of one-man stone rip-rap.

### Attach a scaled site map showing all property lines, grading area, roads, structures, ditches, fences, swales, etc.

Approximate depth of cut and/or fill: see sketches Feet

Note: Grading Plan by  
Ferrero Geologic

Approximate area to be graded: see sketches Square Feet

Approximate quantity of material: 800 Cubic Feet Yards (300 in place plus 500)

Removal of vegetation only: Yes x No

### NOTICES

- 1.) Any work conducted after issuance of this permit but prior to the end of the appeal period is at the applicant's risk.
- 2.) Issuance of this permit does not authorize any work which will violate the provisions of any recorded or unrecorded covenants, conditions, restrictions, or easements. The permit holder is solely responsible for determining the existence of such covenants, conditions, restrictions, or easements.

### AFFIDAVIT

I declare under penalty of perjury that this application and all the foregoing is true and correct.

Signed: 

Date: 4-14-98

### APPROVALS

Division	Required	Not Required	Approved By	Date
Planning				
In Coastal Zone?	Y			
Building	Y			
Engineering	Y			

### PERMIT FEES

Grading Permit Fee	800 Cu. Yards @ \$	\$
Plan Check Fee	Cu. Yards @ \$	\$
Inspection Fee		\$
Total Fees		\$

Permit Issued By:

Date Issued:

Pe

EXHIBIT NO. 22

CCC-00-CD-01

2 OF 2



PLANNING  
(707) 464-7254

**COUNTY OF DEL NORTE**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
700 Fifth Street  
CRESCENT CITY, CALIFORNIA 95531

ENGINEERING & SURVEYING  
(707) 464-7229

**RECEIVED**  
APR 28 1999  
CALIFORNIA  
COASTAL COMMISSION

FAX (707) 465-0340

BUILDING INSPECTION  
(707) 464-7253

April 23, 1999

Martin G. McClelland  
Oscar Larson & Associates  
P. O. Box 3806  
Eureka, CA 95531

FAX (707) 445-8230

**re: Grading Permit Application – White Rock Resort**

Dear Mr. McClelland:

I am in receipt of your April 21 letter submitting the subject application. I appreciate receiving it before the April 30 deadline for the next round of application processing. There are a few items of information that are yet required. These include:

1. Fees for the grading permit and plan review in the amounts of \$96.00 and \$22.50 respectively for a total of \$118.50.
2. Environmental review fee of \$300.00
3. Plans and specifications for the existing and proposed grading work. Attached is a copy of the "Del Norte County Grading Plan Improvement Plan Checklist" which indicates plan requirements. I believe more detailed plans and specifications are needed now (and definitely needed for construction) to detail the work proposed. For example, information on fill site preparation (toe trench? benching? etc.), rip-rap size and means of placement, fill slope (gradient), grouting specifications, slope returns, etc. Plans are needed that fully describe the work to be done. These plans should be suitable for construction.
4. A biological assessment of present damage or future impact on tide pools and marine life should be submitted.

These are my initial comments and do not include comments from other Departments nor from the Environmental Review Committee. The above information

EXHIBIT NO. 23

CC-00-CD-01

1 OF 2

should be submitted to this office by April 30 in order to stay on the schedule outlined in your March 15 letter and my March 22 letter.

If you have any questions please feel free to call.

Sincerely,



Michael Young  
County Engineer

cc: Bob Merrill, California Coastal Commission  
Darryl Rance, California Coastal Commission  
David Ammerman, US Army Corps of Engineers  
Herb Pierce, California Department of Fish & Game  
Tom Ferrero, Ferrero Geologic  
Jay Sarina, Planner, Del Norte County  
Alan Murray, White Rock Resort

EXHIBIT NO.

CCC-00-CD-01

2 OF 2

**CALIFORNIA COASTAL COMMISSION**

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

**REGULAR AND CERTIFIED MAIL**

July 20, 1999

Alan Murray  
White Rock RV Park  
16825 Highway 101 North  
Smith River, CA 95567

(Article No. Z 212 418 396)

Ted Freeman, President  
Freeman Rock Enterprises, Inc.  
99031 South Bank - Chetco River  
Brookings, Oregon 97145

(Article No. Z 212 418 397)

**SUBJECT: Notice of Intent to Commence Cease and Desist or Restoration Order Proceedings; Coastal Act Violation File No. V-1-DNC-99-01**

Dear Messrs. Murray and Freeman:

This letter is to notify you of the intent of the California Coastal Commission (Commission) to commence, pursuant to the California Coastal Act (Public Resources Code section 30810 or 30811, respectively), cease and desist or restoration order proceedings as a consequence of unpermitted development activity undertaken on and adjacent to Mr. Murray's property (APN 101-070-23) at 16825 Highway 101 North in Smith River, Del Norte County.

The above-referenced violation file concerns development (as that term is defined in section 30106 of the California Coastal Act) that has been undertaken in a manner that is inconsistent with the permitting requirements contained in section 30600 of the Coastal Act. This development consists of the placement of a large quantity of gravel over the bluffs and onto the beach located below the subject property. It is our understanding that Freeman Rock Enterprises was involved in the initial deposition of the gravel at the site on or about January 25, 1999. This development has not been authorized by any prior or subsequent coastal development permit (CDP) issued by the Commission.

On February 3, 1999, shortly after the material was deposited, Commission staff informed you that the placement of gravel or other material requires a CDP, and that your failure to first apply for and obtain permit approval for this development activity constitutes a violation of the Coastal Act. Commission staff also informed you that the

EXHIBIT NO. 24

CCC-00-CD-01

1 OF 3

gravel deposited onto the beach has the potential to cause significant ongoing resource damage.

By letters dated February 3, 1999, and February 22, 1999, Commission staff directed Mr. Murray to submit a complete CDP application for either retention of the development or removal of the development and restoration of the site to its pre-violation condition. By a letter dated March 23, 1999, Commission staff requested clarification of the nature of the development—retention of the gravel, or removal of the gravel and restoration of the site—for which he intended to seek a CDP. By a letter to Mr. Murray's attorney, Peter Mallon, dated April 15, 1999, staff repeated this request, asking that Mr. Murray provide this information no later than April 30, 1999. Commission staff also agreed to extend until May 31, 1999, the deadline to submit a completed CDP application. Commission staff further advised Mr. Mallon that 1) it was not clear that a shoreline protective device at the subject property could be found consistent with the Coastal Act, and 2) failure to comply would cause the Commission staff to pursue formal enforcement action to resolve this Coastal Act violation. As of the date of this notice, Mr. Murray has failed both to submit a coastal development permit application to either retain or remove the unpermitted development and to provide the requested clarification as to his intended project.

Pursuant to Coastal Act section 30810, the Commission has the authority to issue an order directing any person to cease and desist if the Commission, after public hearing, determines that such person has engaged in "any activity that . . . is inconsistent with any permit previously issued by the commission. . . ." Additionally, pursuant to section 30811, the Commission has the authority to order restoration of a site if the Commission, after public hearing, determines that the development has occurred without a coastal development permit, is inconsistent with the resource policies of the Coastal Act, and is causing continuing resource damage.

An order issued pursuant to either of these Coastal Act sections would require that you: 1) refrain from engaging in any further development activity at the property without first obtaining a coastal development permit that authorizes such activity, and/or 2) submit a complete coastal development permit application for removal of the unpermitted development and restoration of the site to pre-violation condition within a specified timeframe.

Please be advised that section 30821.6(a) of the Coastal Act authorizes the Commission to seek a penalty up to \$6,000 per day for any intentional or negligent violation of a cease and desist or restoration order for each day in which the violation persists. Also be advised that Commission staff believes the subject violation is a knowing and intentional violation of the Coastal Act.

In accordance with the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice by completing the enclosed Statement of Defense form. California Code of Regulations, Title 14, sections 13181(a)

EXHIBIT NO. 24

CCC-00-CD-01

2 OF 3

Alan Murray and Ted Freeman  
Notice of Intent to commence Cease and Desist Order Proceedings  
July 20, 1999

or 13191(a), as applicable, requires the return of a completed Notice of Defense form.  
**The completed Statement of Defense form must be received by this office no later than August 10, 1999.** Should you have any questions, please contact Mary Travis at (415) 904-5294.

Sincerely,



James W. Burns  
Chief Deputy Director

Enclosure

cc: Peter Mallon

Robert S. Merrill, North Coast District Manager (w/o enclosure)

Nancy L. Cave, Manager, Statewide Enforcement Program

EXHIBIT NO. 24

CC-00-CD-01

3 OF 3





# White Rock Resort

## Ocean Front Cabins

July 28, 1999

SENT VIA CERTIFIED MAIL

Dear Ms. Travis:

I am in receipt of Mr. Burns' letter dated July 20, 1999. The letter raises several points of concern and I will try to answer them individually and hopefully we can reach a solution that is correct for both parties.

Your first concern of why I have not kept the process moving forward in the timetable you state in your letter is simple. I do not have the money for such an expensive process. While the permit itself may be nominal, the cost of studies is incredibly expensive. My business is small and does not have the resources to proceed without certain bankruptcy. At this point I am in arrears on the amounts owed the engineers and have only arranged to pay them this month. Without payment they will proceed no further and I do not have the monies available for the timetables you wish. If I am able to proceed with the complete process it will have to be as I can afford to pay the fees of the professional services required by a complete permit process. The advent of court costs or fines would benefit neither of us.

Additionally, I am confused as to why this small amount of rock placed to avert a larger problem has taken on the proportions that it has. My property is a couple hundred feet of oceanfront that has a RV park with park models facing the ocean. We rent these 'cabins' out on a nightly basis for the owners of the cabins. In a short time we have become a popular destination. The cabins are on a bluff about 20 feet above the sand and forty feet from the water. The shoreline is rock and sand. There are no tide pools and the bluff is popular with the locals to walk along. Imbedded in the bluff was a large rock the size of a small car that over time had become more and more precariously set. This posed a big problem. The rock was sitting there with an undercut beneath it and could fall at any time on the tourists who would sit underneath it in the shade. This last winter the rock shifted and this was apparent to those familiar with the rock but those only visiting still went and sat underneath. This spot was very popular with the local storm watchers as they could get up under the rock and the waves would hit a large rock directly to the front and they could watch the crash while protected from the spray.

16800 Hwy 101 N., Smith River, CA 95567  
888-487-4659/707-487-1063 fax  
email:whiterock@punch.net

EXHIBIT NO. 25

CC-00-CD-01

1 OF 4

Should the rock have fallen while tourists were underneath it, it most certainly would have meant injury and most likely death for those directly underneath with no where to go. Additionally, as the rock shifted the perch became more inviting and more and more people began to take cover there regardless of our signs and warnings telling them not to do so. As more people took shelter they did the things that people do and picked at the bank and pulled small rocks loose further eroding the bank and rock. It was only a matter of time before the rock fell. At one point I contacted the Coastal Commission office in San Francisco (I can retrieve my phone records and pinpoint date and time if required) and talked to a Mr. Muth. I never got a definitive answer to the problem of the rock, but I was told that I was able to handle emergency problems as long as the problem solving did not add to the property (it does not), was commensurate with the problem (it is) and did not affect tide pools or water flow (it does not).

This last November I again called the Coastal Commission after a narrow incident of the rock shifting perceptibly endangering the bank and people on the beach. Again I was informed that emergency options were available but no one seemed to be able to tell me what they were or how to initiate the process. With the Holidays and vacations and no one returning my calls the decision was left to me.

So, early in December I was faced with the following decisions:

1. Do nothing and:
  - A. Let the rock fall in which case there is a good chance of serious injury or death to a tourist;
  - B. If the rock falls it will disturb the bank and create an erosion problem during the heavy rains and storms.
2. Solve the problem by:
  - A. Fill behind the big rock in front of the slipping rock so that the rock will stop falling and fill the small cavern that people are crawling into.

I chose 2. For the following reasons:

1. Allowing the rock to fall and injure or kill people is just wrong. All governmental agencies aside it would be morally wrong and my own liability as the property owner should such an incident occur. After the fact debate such as we are doing now would be entirely different if I was being sued in court by the families of those hurt by a rock falling from my property. One can imagine the attorney for the other side saying that I was aware of the rock and the problem and dangers it posed and yet to no action to stop it. You must remember while the Coastal Commission regulates such items I am still responsible for any misfortune;
2. After talking to the County Assessor he assured me that my property line was up to the mean high tide line, which the area in question is above. Therefore, I pay the taxes and am responsible for that area;
3. It is my understanding that the purpose of the coastal regulations are to protect the different areas such as tide pools and to make sure any development does not affect water flow to negatively impact other properties. As this area is

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usually sand and has no tide pools there would be no impact on coastal life, and the area is out of the water flow so it does not affect any other property.

- It should be noted that at the behest of the Coastal Commission the site has been viewed by the Department of Fish and Game and the Army Corps of Engineers, both of whom have stated to my engineer, Marty McClelland, that there are no negative impacts from the work done, and if there had been, the impact was too minimal to even gauge.

Additionally, it should be noted that the rock used is the same rock from the same pile and yard as the rock being used by Curry County, Del Norte County, Crescent City Harbor, Department of Transportation and the Coast Guard for all of their ocean front work and embankments. Several times you have referred to the rock as "gravel." It is not gravel but rocks identical in make up to the rock already there. Both Freeman Rock and soil engineer Tom Ferrero have confirmed this to your office. It is doubtful that anyone could tell the rock that was used from a rock already existing on the beach. They are the same rock.

The bigger problem would have occurred had the rock fallen. The erosion that would have taken place during the heavy rainy season in December through the spring may have washed hundreds of tons of topsoil into the water which may have had a negative impact on any ocean life that exists in this area. This silty soil erosion would have had far more negative impact than this natural stone placed above the water line as was done here. It should also be noted that within walking distance of this spot are two rivers (Smith River, Winchuck River) and that both rivers deposit literally hundreds of thousands of times more rock into the same exact location. The hydrologist makes this statement in his findings and even states that due to the high usage of the public in this area it would be beneficial to place more rock. More rock would benefit the public use and environment at the same time. This rock was placed because my business is a business dealing with the public and much like a governmental agency in that we both have large numbers of the general public. Those actions that are done, like this rock, that benefit both the public and environment are mutually beneficial to all concerned. I can assure you that if this was a public beach getting this much use (I must allow public access from Pelican State Park next door yet since this area in questions is technically on my property I must assume liability for those who are not my customers) that the State would definitely take action to protect the public. To not do so because I am a private individual is illogical and makes no sense. A rock falling from private property is as lethal as a rock falling from public property. Additionally, the state parks department works on the property next door placing rocks, ditching, plants and fill to protect the property. The state has provided an access to my beach so in every aspect I am now responsible for the general public, whether they are my customers or not.

My property and business rely on the natural beauty, ocean and wildlife on and adjacent to my property. It would therefore be downright stupid of me to damage that in any way. I made several attempts to enlist the Coastal Commission but did not receive meaningful assistance in any way and was lead to believe in phone conversations that my actions

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were consistent with the law and that my solution and intentions should be in accordance with improving, not damaging, the area and that the final product was in accordance with the ideas of preservation and not having any negative impact in averting what would surely be a far more negative (erosion, silt, loss of use) and dangerous (precarious rock fall) problem.

This site has been visited by professionals both on your request and at your direction (Army Corp of Engineers, Department of Fish and Game) and experts in hydrology (Ferraro Geologic, Oscar Larson & Assoc.) and all have come to the same conclusion. That this is much ado about nothing in that the amount of rock is incredibly small and that what has been done has been done well with proper materials placed correctly and having no negative impact. The hydrologist states that my actions most likely enhanced the area and that I should do more of the same as it benefits the public and environment at the same time. These actions did not add to my property, harm wild life, alter water flow or do any damage whatsoever. Additionally, all parties agree that the removal of rock would be detrimental and that the rock should be left in place.

The process of permits is expensive and not in the spirit of private parties doing what is mutually beneficial. As a taxpayer who has worked hard to create a site that accentuates the pristine beauty and natural site I find it ironic that the actions of the state are on par with driving me out of business for using good will and common sense. It would do neither of us any good to force penalties or expensive permits on such a small business owner and small amount of rock that all who have seen admit was done correctly and caused no harm but in fact was beneficial to the area and increased all uses. Since my ownership of the property I have cleaned up an environmental nightmare left from the previous owners, restored the land and been a better steward than all my neighbors combined.

Sincerely,

Alan Murray

cc: Peter Mallon

16800 Hwy 101 N., Smith River, CA 95567  
888-487-4659/707-487-1063 fax  
email:whiterock@punch.net

EXHIBIT NO. 28
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**NIESAR & DIAMOND LLP**

ATTORNEYS AT LAW

90 NEW MONTGOMERY STREET, 9<sup>TH</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA 94105  
TELEPHONE (415) 882-5300  
FACSIMILE (415) 882-5400  
www.ndlaw.com

August 10, 1999

*Via Facsimile (415-904-5235) & U.S. Mail*

Ms. Mary Travis, Legal Division  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

<b>Re: White Rock Resort</b> <b>Coastal Act File No. V-1-DNC-99-01</b> <b>Our File No.: 504.001</b>
---

Dear Ms. Travis:

As you know, this firm is counsel to the White Rock Resort and its principal, Mr. Alan Murray. This is in furtherance of my conversation with you and Ms. Nancy Cave (Manager, Statewide Enforcement Program) on August 10, 1999.

As a preliminary matter, this will confirm that the Coastal Commission has accepted Mr. Murray's correspondence of July 28, 1999 as and for his Statement of Defense (hereinafter "Statement of Defense"). This letter is intended to supplement Mr. Murray's Statement of Defense, and reiterates some of the issues we discussed yesterday.

As set forth in the Statement of Defense, Mr. Murray specifically denies that "gravel" has been deposited over the bluffs and onto the beach below his property as alleged in the Coastal Commission's "Notice of Intent" letter. Enclosed are copies of the "Aggregate Durability Tests" prepared by Century West Engineering Corporation evidencing that the material supplied by Freeman Rock to Mr. Murray was "rock" of the same quality and type as that used by various California counties, the Department of Transportation and the Coast Guard for ocean front work and embankments as discussed by Mr. Murray.

In addition, as set forth in the Statement of Defense, Mr. Murray's conduct consisted of emergency measures taken to protect the public safety. The measures taken by Mr. Murray were taken out of necessity and as such, are privileged and comport with the goals of the Coastal Act. Mr. Murray denies that his conduct could reasonably construed as "development" as defined in

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Letter to California Coastal Commission  
White Rock Resort  
August 10, 1999  
Page 2

Public Resources Code § 30106, or that he committed a "knowing and intentional violation of the Coastal Act" as set forth in the Commission's "Notice of Intent".

During our discussions yesterday, I also pointed out that the Department of Fish and Game (Messrs. Herb Pierce and Ron Warner) and the Army Corp. of Engineers (Mr. Dr. Ammerman) have inspected the area in question and have determined that what remains of rock placement is inconsequential. To our knowledge, the Coastal Commission has inspected the area in question. Nevertheless, the Commission takes the position that the rock must be removed. During our conversation yesterday, and as set forth in the Commission's Notice of Intent letter, the Commission intends to seek an order requiring Mr. Murray to remove the rock although experts have opined that *removal* of the rock would be more detrimental to the environment than leaving it in place. (See: Enclosed Report of April 13, 1999 from Ferrero Geologic.) Mr. Murray's failure to spend \$56,000 or more to complete an after the fact permit application to retain the rock is justified by his knowledge that the Commission will deny the application, having already taken a position that the rock must be removed notwithstanding environmental and public safety concerns.

Finally, Mr. Murray has appropriately indicated that a real financial crisis has been imposed upon him by the Commission's insistence that he obtain an after the fact permit for his emergency placement of an inconsequential amount of rock (much of which has already eroded). After making reasonable attempts to resolve this matter with the Commission, Mr. Murray commenced the permit application process, retained and paid experts to prepare various expert studies required to support the permit application as the Commission requested. However, as the enclosed report from Oscar Larson & Associates dated March 10, 1999 demonstrates, Mr. Murray was quoted a cost of \$56,000 merely to complete the application process. As Mr. Murray attested to in his statement of defense, he cannot afford to pay \$56,000 to complete the Commission's application process. Indeed, the onerous nature of the permit application process raises the issue of inverse condemnation.

The Commission seems to believe that its enforcement power should be exercised for alleged technical violations of permitting requirements, regardless of environmental concerns, public safety concerns, or realistic financial concerns of taxpayers which provide for its existence. During our discussion yesterday, I attempted to direct our conversation towards reaching an informal and practical resolution of this matter to no avail.

Unfortunately, this matter has taken on an adversarial nature in derogation of the Coastal Act's goals to protect the coast, "promote the public safety, health and welfare..." (Public Resources Code § 30001) and "[m]aximize public access to and along the coast and maximize public recreational opportunities in the coastal zone..." (Public Resources Code § 30001.5(c).) As you may know, Mr. Murray's White Rock Resort has become a popular haven for those who enjoy the coast's natural beauty. The actions taken by Mr. Murray further the very same goals of the state for which the Coastal Act was created.

EXHIBIT NO. 26

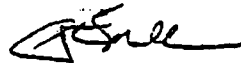
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Letter to California Coastal Commission  
*White Rock Resort*  
August 10, 1999  
Page 3

The practical ramifications of failing to deal with this matter in a proportionate fashion are quite serious. Please feel free to contact me at the telephone number listed above with your kind response. Your anticipated professional courtesy and cooperation in this matter are greatly appreciated.

Very truly yours,



PETER MALLON

cc: Mr. Alan Murray, White Rock Resort (*via fax; w/o enc.*)  
Ms. Danette M. Capello (*via fax; w/encl.*)

EXHIBIT NO. 26

CCC - 00 - CD - 01

3 OF 3







**Oscar Larson & Associates**  
Consulting Engineers & Land Surveyors

317 Third Street • P.O. Box 3806 • Eureka • CA 95502 • 707-445-2043 • FAX 707-445-8230 • email: olarson@northcoast.com • Website: www.northcoast.com/~olarson

**FAXED** *and mailed*  
3-72-99  
11/05

Mr. Alan Murray  
White Rock Resort Cabins  
16800 Highway 101 North  
Smith River CA 95567

Reply to: OL:03129:MGM:6566.1

10 March 1999

Subject: Resolution Schedule; Preliminary Assessment

Dear Mr. Murray:

The purpose of this letter is to provide to you our preliminary estimate [REDACTED]. We have developed two schedules. The first is based upon no expansion of the amount of fill placed. The second is based upon an expanded project (as yet undefined).

For the purpose of schedule creation, we have assumed that the following permits, at minimum, will be required:

- County of Del Norte Coastal Grading Permit
- California Coastal Commission Coastal Development Permit
- Army Corps of Engineers - Section 404 and/or Section 10 Permit

For all permits, an adequate site plan developed through a field survey is needed. The site plan must be of sufficient detail to meet agency minimum requirements.

Once we receive a deposit of \$5,000 (as requested 3/9/99), the site plan may be created within three to four weeks (depending upon other workload ongoing).

The geologic report and the coastal hydraulic report will differ in time and cost according to your decisions. Our preliminary estimate of time is three to four weeks to complete if a non-expanded project and four to six weeks if the project is expanded.

We would estimate the cost to range from \$5,000 to \$7,500 and \$12,000 to \$15,000 accordingly. The times and numbers need to be confirmed with your geologist.

A biological resources report is required. A preliminary report may be prepared (by OLA staff) within three to four weeks and will depend upon the project selected and the timing of selection. The report may require modification through supplements based upon agency reviews or project changes. The costs are not and cannot be known at the time of this writing. For an expanded project, you should allow an additional two to three weeks and an additional cost of \$5,000.

The preparation of each application, once the site survey, geologic report, hydraulic report, and biologic report are completed, will take less than a week for each. An allowance of \$2,750 should be made for the abbreviated project and \$6,000 for an expanded project. The allowances do not include other special studies which may be required by the agencies.

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Mr. Alan Murray  
White Rock Resort Cabins  
12 March 1999  
Page 2

Processing, agency liaison, and project management and coordination (including client consultation) should average \$2,000 to \$4,000 per month.

All agency fees, charges or assessments are your direct responsibility and not yet included in the estimates.

Because there remain several unknowns or uncertainties, we are unable to provide to you an overall estimate. It will cost what it costs to achieve agency acceptance.

~~Of course, the estimates are not a guarantee of any particular outcome.~~

The following table summarizes the above:

Task	As-Is		Expanded	
	\$	Time	\$	Time
Site Plan	\$5,000	3 - 4 weeks	\$5,000	3 - 4 weeks
Geologic/Hydraulic Reports	\$7,500 - \$10,000	3 - 4 weeks	\$12,000 - \$15,000	4 - 6 weeks
Biological Report	\$3,000	3 - 4 weeks	\$8,000	5 - 7 weeks
Application Preparation	\$2,750	1 week	\$6,000	2 weeks
Permit Processing Liaison	\$15,000	assumes 6 months	\$22,000	assumes 9 months
Project Management	12%	6 months	12%	9 months

Please review the above and let's discuss.

Sincerely,

OSCAR LARSON & ASSOCIATES

*Marty McClelland*  
Martin G. McClelland  
Operations Manager

MGM:ikmy

copy: ✓ Peter Mallon, Niesar & Diamond LLP, Attorneys at Law

**FAXED** and mailed  
3-12-99  
1053 I.K.

EXHIBIT NO. 27

CCC - 00 - CD - 01

2 OF 2

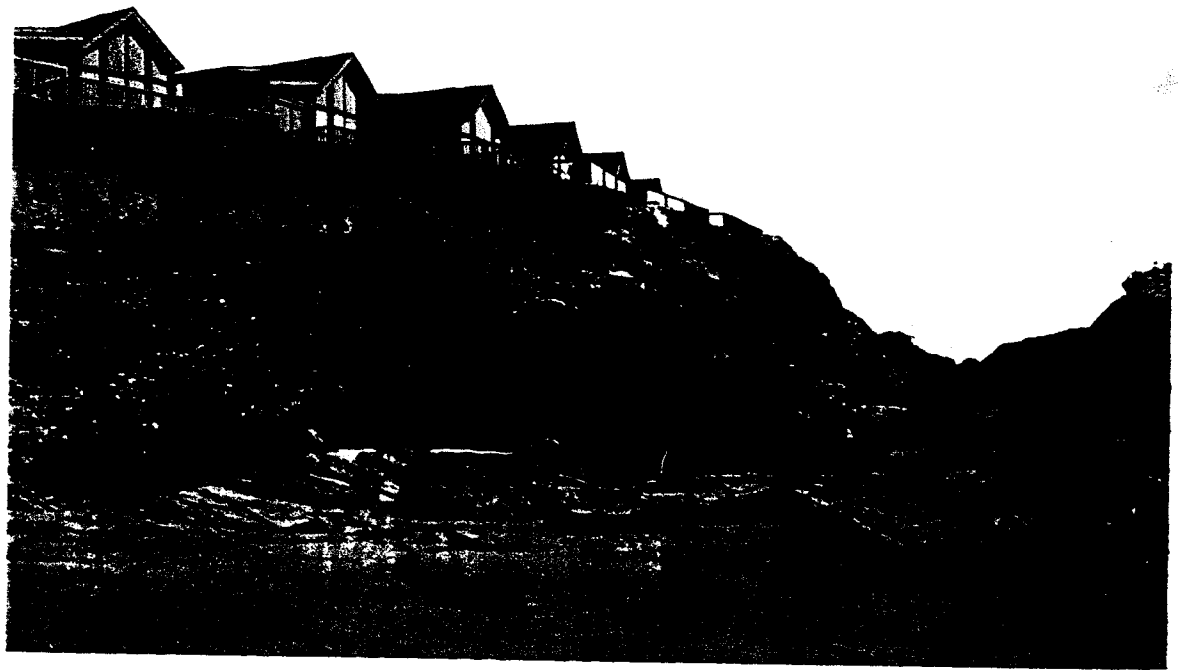


EXHIBIT NO. 28
CC-00-CD-01
1 of 2
Unpermitted fill - Sept. 14, 1999



EXHIBIT NO. 28

CCL-00-CD-01

2 of 2

Unpermitted fill - Sept.  
19, 1999

**CALIFORNIA COASTAL COMMISSION**

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



October 19, 1999

Peter Mallon  
Niesar & Diamond  
90 New Montgomery Street, 9<sup>th</sup> Floor  
San Francisco, CA 94105

**SUBJECT: Notice of Intent to commence Cease and Desist Order proceedings;  
Coastal Act Violation File No. V-1-DNC-99-01**

Dear Mr. Mallon:

Commission staff has reviewed the Statement of Defense, consisting of a letter from Mr. Murray dated July 28, 1999, and a letter from you dated August 10, 1999, submitted to us in response to staff's Notice of Intent letter dated July 20, 1999. In these letters, you and Mr. Murray contend that what remains of the unconsolidated rock fill that is the subject of this enforcement action consists of "an incredibly small" amount of rock that is, according to you, "inconsequential."

As you know, on September 14, 1999, Commission staff members John Dixon, Jo Ginsberg, and I met with Mr. Murray at the property to conduct a site visit. We found that, contrary to your statements, a substantial amount of unconsolidated rock fill remains on the shoreline and against the bluff. Further, we found that Mr. Murray had applied concrete "grouting" to the base of a portion of the rock fill.

Commission staff continues to believe that the subject rock and concrete fill constitutes an ongoing violation of the Coastal Act that is having significant adverse effects on coastal resources. Accordingly, we believe that the unpermitted rock and concrete should be removed.

If Mr. Murray wishes to cooperate in the resolution of this Coastal Act violation, he must file an application for a coastal development permit (CDP) for removal of the unpermitted rock and concrete and restoration of the site. A CDP is required because removal and restoration constitute "development" as defined in section 30106 of the California Coastal Act. The Commission will review any proposed removal and restoration project to ensure that it is consistent with the resource policies contained in Chapter 3 of the Act. We encourage you to discuss restoration plans with the Commission's North Coast District Office in Eureka prior to filing an application, particularly if your client believes that complete removal of the rock is not feasible.

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CCC-00-CD-01

1 OF 2

Peter Mallon  
October 19, 1999

While your client has the right to apply for a CDP to retain the unpermitted rock fill, I must advise you that Commission staff most likely would recommend denial of such an application, since the development appears to be inconsistent with Chapter 3 policies of the Act.

Only the receipt by our North Coast office of a **complete** application for a CDP to either retain the rock and concrete or remove it and restore the site will cause us to take the pending cease and desist order proceeding off calendar. A complete application must be received prior to the date of the Commission hearing on the proposed cease and desist order. For CDP filing requirements, please contact Bob Merrill or Jim Baskin in our Eureka office at (707) 445-7833.

Although you will receive written notice as to when this matter has been scheduled for a hearing before the Commission, I would like to inform you that we have tentatively calendared the matter to be heard during the Commission's December 1999 meeting. The December 1999 meeting is scheduled for December 7-12, and will be held in San Rafael. Commission staff will respond formally to Mr. Murray's Statement of Defense in the staff recommendation prepared for the cease and desist order hearing. A copy of that staff recommendation will be mailed to you and your client prior to the date of the scheduled hearing in accordance with the Commission's administrative regulations. Should you have any questions before then, you may call me at (415) 904-5284.

Sincerely,



Mary Travis  
Statewide Enforcement Analyst

cc: Robert S. Merrill, North Coast District Manager  
Jim Baskin, North Coast District Permit Analyst  
Nancy L. Cave, Manager, Statewide Enforcement Program

EXHIBIT NO. 29
CCC-00-CD-01
2 OF 2

**NIESAR & DIAMOND LLP**  
ATTORNEYS AT LAW

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TELEPHONE (415) 882-5300  
FACSIMILE (415) 882-5400  
www.ndlaw.com

November 11, 1999

*Via Facsimile (415-904-5235) & U.S. Mail*

Ms. Mary Travis, Legal Division  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

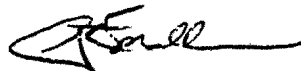
<b>Re:      White Rock Resort</b> <b>Coastal Act File No. V-1-DNC-99-01</b> <b>Our File No.:      5040.01</b>
---

Dear Ms. Travis:

This is to confirm that I advised you on October 28, 1999, that I am scheduled to commence a 5-day trial on December 6, 1999, in the Napa Superior Court. As such, I will not be available to assist my client, Alan Murray, dba White Rock Resort, should the Commission proceed with a cease and desist hearing during the meeting scheduled for December 7-12 in San Rafael.

As a matter of professional courtesy, we kindly request that you not schedule the cease and desist proceeding at this time and, if this matter cannot be resolved informally, schedule it for a later date when the Commission meets in Northern California. Your continued professional courtesy and cooperation are greatly appreciated.

Very truly yours,



PETER MALLON

cc: Mr. Alan Murray, White Rock Resort

EXHIBIT NO. 30
CCC-00-CD-01
1 OF 1

**CALIFORNIA COASTAL COMMISSION**

48 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



VIA FACSIMILE AND U.S. MAIL

November 15, 1999

Peter Mallon  
Niesar & Diamond  
90 New Montgomery Street, 9<sup>th</sup> Floor  
San Francisco, CA 94105

**SUBJECT: Notice of Intent to commence Cease and Desist Order proceedings;  
Coastal Act Violation File No. V-1-DNC-99-01**

Dear Mr. Mallon:

I have received your letter dated November 11, 1999, confirming that you have a five-day trial scheduled to begin on December 6, 1999, and that you will be unable to represent your client, Alan Murray, at a cease and desist order hearing conducted by the Coastal Commission during the Commission's December 1999 public meeting scheduled for December 7-12 in San Rafael, California.

In our telephone conversation with you on November 8, 1999, Nancy Cave and I advised you that Commission staff would agree to postpone the pending cease and desist order proceeding only if you, on behalf of your client, agreed to have the matter rescheduled for hearing during the Commission's January 2000 meeting, which will take place in Santa Monica, California. In your November 11 letter you have instead requested that staff not reschedule the matter at this time, or that we delay scheduling a hearing until the Commission next meets in Northern California.

As Ms. Cave and I explained to you, the Commission is obligated to take timely enforcement action to address and resolve violations of the Coastal Act. The unpermitted rock fill that is the subject of this cease and desist order proceeding has now been in place for ten months, since January 1999. Commission staff contacted Mr. Murray in February 1999 regarding the need to obtain a coastal development permit authorizing this development. At that time your client expressed his willingness to apply for a coastal development permit, and soon thereafter he provided evidence to Commission staff that he was preparing an application and would file it by June 1999. However, without contacting Commission staff to discuss the matter, Mr. Murray abandoned the application process, purportedly because of cost concerns. The alleged Coastal Act violation remains unresolved, thereby causing staff to initiate this formal enforcement action.

EXHIBIT NO. 31
CCC-00-CD-01
1 OF 2



Peter Mallon  
November 15, 1999

Commission staff remains concerned about the ongoing impacts on coastal resources of the unpermitted rock fill at your client's coastal zone property. We have stated and restated this concern in our every communication with your client and you. Since February 1999, staff has attempted to work with your client to achieve resolution of the alleged violation through the coastal development permit process, to no avail.

In light of the fact that your scheduled trial causes you to be unavailable to represent Mr. Murray during the December meeting, Commission staff agrees to postpone the cease and desist order proceeding for one month. The matter will come before the Commission at its January 2000 meeting, to be held January 11-14 in Santa Monica. We will contact you once we know the specific date and time of the hearing.

I understand that this location may be inconvenient for your client, but for the reasons I have stated above, staff cannot comply with your request that we delay further. Commission staff believes Mr. Murray has had ample opportunity to resolve this violation through the permit process. That opportunity is still available to him. However, in the continued absence of our receipt of a complete application for a coastal development permit application to remove the unpermitted rock and concrete and restore the site, we cannot postpone the cease and desist order proceeding any longer than one month. Any further postponements of the proceeding will be at the discretion of the Commission, and not the staff.

Sincerely,



Mary Travis  
Statewide Enforcement Analyst

cc: Robert S. Merrill, North Coast District Manager  
Jim Baskin, North Coast District Permit Analyst  
Nancy L. Cave, Manager, Statewide Enforcement Program

EXHIBIT NO. 31
CCC-00-CD-01
2 OF 2

## CALIFORNIA COASTAL COMMISSION

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



December 13, 1993

EXHIBIT NO. 32

CCC-00-00-01

1 OF 3

TO: Applicants for shorefront development

FROM: Commission Staff

SUBJECT: Information needed before your application can be filed

To ensure that applicants have the legal ability to go forward with projects on or in close proximity to sovereign (i.e., state tide and submerged) lands or navigable waters (i.e., appear to be within the area encompassed by the Commissions "red line" maps), the Coastal Commission must have a written determination from the State Lands Commission whether it asserts that a development either encroaches onto lands seaward of the Mean High Tide Line (MHTL) or onto lands where the public easement in navigable water may exist. If such encroachments do occur, evidence must also be provided that the State Lands Commission has approved such encroachments.

The Coastal Commission has also become increasingly concerned about the effect on beaches of seawalls and other shore and bluff protective devices. Because protective devices may cause erosion, and may cover beach areas, public use and access along the shoreline can be adversely affected. Preventing or mitigating such loss of access and recreational opportunities is a principal responsibility of the Coastal Commission. The Commission is also concerned about shoreline issues such as impact of projects on adjacent properties, visual impacts of protective works, and allowing protective devices only if adverse affects are eliminated or sufficiently mitigated. Thus, the Commission requires detailed technical information regarding the proposed project's likely impact on the beaches and tidelands.

To assist the Commission staff in filing and processing an application for a development which is on or in close proximity to tidelands or navigable waters, please provide the following information:

1. Written determination from the State Lands Commission (SLC)

For a project that falls within the area delineated in the Commission's 'redline maps,' an application cannot be filed until the SLC determines whether it asserts that the development encroaches onto sovereign lands. A determination will also be required from the SLC whether it asserts that the development intrudes into an area covered by the public easement in navigable waters. It is the applicant's burden to establish that there is no encroachment. The SLC charges a fee for making this

\*The "red line" corresponds to the "retained jurisdiction" line on post certification maps and on draft "post cert" maps available in the Commission's offices.

determination; not to exceed its actual cost. Applicants should contact the State Lands Commission's Coastal Development Project Coordinator, 1807 13th Street, Sacramento, CA 95814, (916) 323-2694, for information on procedures and costs for obtaining boundary determinations. A coastal development permit application cannot be deemed complete for filing purposes until this SLC determination has been submitted to the Coastal Commission.

2. Project Plans

Plans for shoreline projects must be prepared or certified by a registered professional engineer with expertise in shoreline processes. Normally, this means a civil engineer or engineering geologist. On occasion, this can be a structural engineer or soils engineer if he/she has experience in coastal engineering.

The submitted plans for all projects should show the project footprint in relation to the applicant's property boundaries. The plans should also show the locations of all MHTLs identified through surveys and the location of any boundaries in the immediate project vicinity to which the State Lands Commission has agreed.

If the project extends onto an adjoining property, the applicant must show a legal right to use the adjoining property, and the adjoining owner must be invited to apply as a co-applicant.

3. Information needs for protective works

In the case of shoreline protective works, a permanent surveyed benchmark should be shown on the plans and established on the site for future project maintenance and monitoring. This benchmark should be in relation to the standard of NGVD (National Geodetic Vertical Datum). A map showing beach contours at 1 foot intervals should also be provided. Construction access should be identified with any special considerations noted.

A geotechnical report must be prepared by a registered professional engineer or engineering geologist for all shoreline protective works. For small projects (for example, adding some 500 cu. yds. of rock to an existing rip-rap wall above the toe and the beach) a short letter report may be acceptable. If a prior thorough investigation has been done, only an update may be necessary. For most shoreline projects, however, a full report that is prepared according to the standards set by the Division of Mines and Geology, (see Note #44, Guidelines for Preparing Engineering Geology Reports; copy available upon request) will be required.

Other information needed for protective works include the following:

- \* Design wave height and design constraints, and methodology used for such calculations

- \* Maximum expected wave height
- \* Frequency of overtopping and verification that the structure is designed to withstand storms comparable to the winter storms of 1982-83
- \* Normal and Maximum tidal ranges
- \* Erosion rate with/without protection device
- \* Effect of structure on adjoining property
- \* Potential for, and effect of, scouring at base
- \* Design life of structure and maintenance requirements
- \* Quantification of loss of sand to the beach because of the amount of the armoring of a bluff face
- \* Alternatives to the project and to the chosen design. Project alternatives include, but are not limited to: no project, relocation of the threatened structure, beach nourishment, etc.
- \* Effect of structure upon public access to and along adjacent public tidelands
- \* Locations of any required staging areas and the technique of construction
- \* In some cases, provision of a monitoring program for the life of the project will be required. Such a program should evaluate the effectiveness of the structure, and the expected impacts of the structure on nearby beach areas (i.e., change in beach profile), and proposed methods for dealing with those impacts.

Applicants should also be aware that due to the impacts of a protective device on beaches, the Commission may require some type of mitigation if adverse impacts are expected. One typical type of mitigation condition is a requirement for an offer to dedicate a lateral public access easement for that portion of the beach seaward of the approved protective device. But there may be other mitigation requirements such as contributions to programs that provide for nourishment of beaches.

If you have any questions about the content of this informational memo, or the Commission procedures in general, please don't hesitate to contact your nearest Coastal Commission office.

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