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Staff:	Jim Baskin
Staff Report:	November 28, 2000
Hearing Date:	December 15, 2000
Commission Action:	

STAFF REPORT:DE NOVO HEARING ON APPEAL

LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-MEN-00-20
APPLICANT:	R. D. Beacon
AGENT:	T.M. Herman & Associates
PROJECT LOCATION:	Approximately two miles south of Elk, along both sides of Highway 1, Mendocino County, APNs 131-010-12X & 131-010-14X.
PROJECT DESCRIPTION:	Boundary line adjustment to re-configure two legal parcels. The existing parcels are ±38.5 (Lot #1) and ±51.5 (Lot #2) acres respectively. Currently, State Highway Route 1 bisects Lot #1 such that 9+- acres lie on the west side and ±29.5 acres lie east of the highway. As proposed, the ±29.5 acres lying east of the highway would be combined with existing Lot #2 (also lying east of the highway) resulting in an ±81-acre parcel east of the highway and leaving a ±9-acre parcel west of the highway.

approximately 9-acre parcel west of the highway and an 81-acre parcel east of the highway.

Commission staff recommends that the Commission find that the development, as proposed, is inconsistent with the policies of the certified LCP regarding visual resources. Several policies within the County of Mendocino's LCP require that the visual impacts of future development must be considered at the time of a boundary adjustment even though no site improvements may be proposed. Under the current parcel configuration, the property spans both sides of Highway 1, such that a building site could be located on the portion of the parcel east of highway where it would not affect views to and along the ocean. A principal consequence of the approved boundary line adjustment would be the creation of a parcel lying completely west of Highway 1. There would be no building site on the property west of the highway where a home could be placed where it would not affect views to and along the ocean from the highway.

Much of the property on which the boundary adjustment is proposed is designated as a "highly scenic area." The certified LCP does not contain any policies that prioritize views to and along the ocean as being a visual resource of greater importance than landward views in designated highly scenic areas. Recognizing this fact, the applicant asserts there is no location on the parcel where visual impacts of future development of the parcels could be completely avoided. The applicant also maintains that due to the presence of extensive wetlands on the portion of the property east of the highway, no suitable visually compatible site exists near the base of the slope for future development that would not result in impacts to environmentally sensitive habitat areas on the parcel. Accordingly, the applicant contends that the proposed boundary adjustment will not result in greater potential impacts to visual and environmentally sensitive resources than exist under the current parcel configurations. Given this situation, the applicant contends that the project should be seen as consistent with the County's LCP and approved.

However, both the County's Land Use Plan (LUP) and the coastal zoning regulations of its Implementation Program (IP) do include siting criteria for instances where buildings must be sited within the highly scenic areas. These prescribed standards direct that visual impacts be minimized by siting buildings: (1) near the toe of a slope, (2) below rather than on a ridge, (3) in or near the edge of a wooded area, (4) so as to avoid development in the middle of large open area or terraces if an alternative site exists, and (5) in clusters near existing vegetation, natural landforms or artificial berms.

The boundary line adjustment as proposed would result in the creation of a legal parcel located entirely west of Highway 1 on which development of a home site would have to occur within a large open terrace area. This arrangement would preclude limiting the construction of all future home sites to the east side of the highway in less visually pronounced locations at the toe of the ridge slope as is currently possible under the present parcel configuration. As any resulting building sites west of the highway would need to occur in an open terrace area where it would significantly affect views to and

along the ocean that would not be subordinate to the character of its setting compared with more landward locations, the proposed boundary line adjustment is inconsistent with the provisions of the County's LUP Policies and Coastal Zoning Ordinance. As LUP Policy 3.5-3 states, in applicable part, that "all proposed ... boundary line adjustments within 'highly scenic areas' ... shall not be allowed [emphasis added] if development of resulting parcels could not be consistent with visual policies," staff recommends DENIAL of the application.

Furthermore, contrary to the assertions of the applicant, based upon the wetlands survey conducted for the site, Commission staff has determined there are suitable sites on the property east of the highway located outside of wetlands and their required buffers. Therefore, staff recommends that the Commission find that project alternatives which result in both parcels having building sites east of the highway are less environmentally damaging feasible alternatives.

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION

Pursuant to Section 30625 of the Coastal Act and as discussed below, the staff recommends that the Commission determine that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act and deny the permit. The proper motion is:

MOTION

I move that the Commission approve Coastal Development Permit No. A-1-MEN-00-020 for the development proposed by the applicant.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of the certified LCP. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT HISTORY / BACKGROUND.

On March 24, 2000, the County of Mendocino's Coastal Permit Administrator approved with conditions Coastal Development Boundary Line Adjustment Permit #89-99 (CDB #89-99) for the subject lot line adjustment. The County issued a *Notice of Final Action*, which was received by Commission staff on April 6, 2000 [see Exhibit No. 5]. The local decision was then appealed to the Commission, by Peter Reimuller representing Friends of Schooner Gulch, and Dr. Hilary Adams and Roanne Withers of the Mendocino/Lake Group - Sierra Club, in a timely manner on April 18, 2000 [see Exhibit No. 6]. On April 20, 2000, a second timely appeal was filed by Commissioners Wan and Woolley [see Exhibit No. 7].

The hearing on the appeal was opened and continued on May 10, 2000. The Commission found on June 16, 2000 that the project as approved by the County raised a substantial issue of conformance with the County's certified LCP. The Commission also continued the *de novo* hearing and requested specific information from the applicant to assist the Commission in evaluating the consistency of the project with the LCP, including: (1) demonstration of proof of water service availability; (2) a wetlands survey; and (3) a geologic investigation. Copies of these items are provided in Exhibit Nos. 8-10.

The applicant provided this information on November 15, 2000, and Commission staff scheduled the *de novo* hearing for the December Commission meeting.

B. PROJECT AND SITE DESCRIPTION.

1. Project Setting

The two parcels involved in the proposed boundary line adjustment are located on both sides of State Highway Route 1, approximately two miles south of the unincorporated town of Elk [see Exhibit Nos. 1 & 2]. The two parcels are vacant and are designated under the Land Use Plan and zoned under the Coastal Zoning Map as Range Lands 160-Acre Minimum Parcel Size (RL-160) [see Exhibit No. 3]. The two parcels under both the existing and proposed lot configuration are non-conforming lots with respect to minimum lot size.

The two parcels were recognized as legal parcels by Certificate of Compliance Application #CC 58-91, issued in 1991. The certificates of compliance issued for that application were issued pursuant to Section 66499.35(a) of the California Government Code, indicating that the land division that created the parcels, at the time it was

accomplished, did not need approval under the Subdivision Map Act or a local ordinance enacted pursuant to it. The parcels were legally created prior to the effective date of Proposition 20, the Coastal Initiative. Therefore, no coastal development permit was required to create the existing parcels.

The subject property is within a highly scenic area that is largely undeveloped and characterized by large open grassy agricultural parcels atop a high coastal terrace with a tree-covered coastal ridge as a backdrop to the east. The property is also transected by several emergent and scrub-shrub wetland areas following natural drainage channels and in discrete pockets across the western terrace.

The western edge of the property consists of an ocean bluff, a steep cliff that drops roughly 200 feet to the ocean. From Highway 1, dramatic views are afforded across the western and southern portions of the property to the ocean and the headlands surrounding the cove at the mouth of Elk Creek, just south of the property. Distant horizon views of Point Arena and its lighthouse are also visible along portions of the property's Highway 1 frontage. Landward views from Highway 1 include the terrace pastures and the western flanks of Ridge Cliff to the east, horizon views of Greenview Ridge to the northeast and the promontory south of Elk Creek demarcated on topographic maps as "Sugar."

Remnants of an old narrow-gauge railroad grade can be found along the western edge of the property. According to an archaeological assessment of the property submitted with the application [see Exhibit No. 11], the railroad once traveled along the edge of this portion of the Mendocino County coastline. The grade is excavated into the side of the bluff face on the subject property approximately 10-20 feet below the edge of the bluff, and in two places forms a deep through-cut as it passes through two small points in the cliff. The grade is almost completely eroded away at several locations where the cliff face is very steep and lacks solid bedrock. The archaeological report indicates a few old piling and trestle remnants are present in these locations, suggesting that at least some of the grade may have been supported by a wooden trestle. The archaeological report indicates that two archaeological sites have been discovered on the 9-acre portion of the property west of Highway 1, one prehistoric, and the other historical. In addition, one prehistoric isolated discovery was also made [see Exhibit No. 11].

2. Project Description

The first parcel involved in the boundary line adjustment (APN 131-010-14), herein referred to as "Parcel 1," is a roughly bow tie shaped 38.5-acre parcel that extends inland from the ocean as much as 1,300 feet. Highway 1 bisects the parcel roughly in the narrow (approximately 70-ft. x 210-ft.) middle of the bow-tie shape of the parcel. The 9-acre bluff-top portion of the parcel west of the highway is generally flat open grassland affording views of the ocean from Highway 1. The 29.5-acre portion of Parcel 1 east of the highway includes similar open grassy flat areas near the highway which gradually give way to more rolling terrain near the base of the coastal ridge, and finally to the lower

portions of the coastal landform known as Cliff Ridge. This portion of Parcel 1 is also grass-covered with scattered clumps of brush and largely devoid of trees. A minor saddle crosses the southerly third of the property, from east to west, terminating in a small hillock rise.

The second parcel involved in the boundary line adjustment (APN 131-010-12), herein referred to as "Parcel 2," covers approximately 51.5 acres and borders the eastern boundary of the first parcel. Parcel 2, comprised of a 40-acre, "quarter-quarter section" together with 11 additional acres in the adjoining sixteenth-section to the south, extends approximately ¼-mile further to the east and encompasses more of the lower flanks of Cliff Ridge.

The proposed boundary line adjustment would adjust the parcels in a way that would establish the new boundary between the two parcels at Highway 1. As a result, the 9-acre westerly portion of Parcel 1 would exist west of Highway 1 and an 81-acre parcel comprised of the easterly portion of Parcel 1 together with Parcel 2 would exist east of the highway [see Exhibit No. 4]. No development other than the boundary line adjustment is currently proposed.

C. ANALYSIS OF LCP CONSISTENCY.

As discussed in detail in Staff Report Section II.C.5, in the last several pages of the staff report, the Commission is denying the proposed lot line adjustment for its inconsistencies with visual policies of the certified LCP. The project as proposed is consistent with certain other LCP policies, including those on geologic hazards, environmentally sensitive habitat areas, and archaeological resources, as the proposed lot line adjustment would contain one building site consistent with these other LCP policies. It is also possible that water and sewer would be available to serve the resulting parcels but technical data would first need to be supplied and verified. To set forth how development constraints affect how future development can be located on the property, with or without the proposed lot line adjustment, it is useful to discuss these other subject findings first.

1. Geologic Hazards

LCP Policies:

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

The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas

delineated on the hazards maps, the County shall require a geologic investigation and report, prior to development to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site...

LUP Policy 3.4-3 states the following:

The County shall review development proposals for compliance with the Alquist-Priolo Special Studies Zone Act (as amended May 4, 1975)

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

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

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

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.

All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologist's report.

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

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

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

- (1) Preliminary Investigation. The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.*
- (2) Geologic Investigation and Report. In areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, a geologic investigation and report,*

prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.

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

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

Section 20.500.020(B) of the Coastal Zoning Code states that:

Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.

Discussion:

On October 23, 2000 the applicant's representative submitted an engineering geologic reconnaissance (BACE Geotechnical, 10/19/00) [see Exhibit No. 9]. The preparation of this report followed from a request by the Commission that information on the presence of geologic constraints on the portion of Parcel 1 west of Highway 1 might be assessed to determine if future building sites on the proposed parcel to be created in this area could be developed in full consistency with the certified LCP.

The report-letter describes the subject property westerly of Highway 1 as comprising a coastal terrace lying approximately 190-200 feet above the beach, composed of a mixture of poorly to moderately consolidated Pleistocene-age sands, silty sand, and sandy silt deposits of 10-15 feet in thickness. These deposits overlie slightly more resilient Franciscan Formation sandstone and minor shale of Cretaceous-Tertiary age. The report noted the presence of a deep through-cut down to bedrock that extends laterally along the blufftop margin where the tracks and trestle of a logging railroad were formerly laid.

The report concluded that based upon an average retreat rate of 2½ inches per year for the 75-year economic lifespan of a residential structure, and including a five-fold safety factor, a setback of 78-feet from the inland extent of the railroad cut bank should be established for the length of the parcel's blufftop. Such a setback would leave a band of buildable area approximately 200-300 feet in width extending inland from the railroad cut to the highway where structures could feasibly be placed.

The primary purpose for the report was to assess if the boundary line adjustment as proposed would result in a legal parcel being created located entirely west of Highway 1 without a geologically stable building site, given the presence of other site constraints (i.e., wetlands, buffer areas, known and potential archaeological sites). Although the report would not be a sufficient geotechnical investigation for a specific building site proposal, and the report contains a caveat stating as much, stable building sites do appear to exist west of the highway that would not require intrusion into environmentally sensitive areas (i.e., wetlands, buffers, archaeological sites). These stable areas are located on the southern half of the parcel as proposed to be adjusted.

Therefore, as geologically stable building sites located outside of prescribed setbacks exist on the westerly parcel as proposed to be adjusted, the Commission finds that the proposed project is consistent with the policies of the certified LCP regarding geologic hazards.

2. Environmentally Sensitive Habitat Areas

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

LUP Chapter 3.1 states the following with regard to Environmentally Sensitive Habitat Areas within the County of Mendocino's coastal zone:

In Mendocino County, environmentally sensitive habitat areas include: anadromous fish streams, sand dunes, rookeries and marine mammal haulout areas, wetlands, riparian areas, pygmy vegetation containing species of rare or endangered plants, and habitats of rare and endangered plants and animals. [emphasis added]

Policy 3.1-1 states:

The various resources designations appearing on the land use maps represent the best information available at this time and therefore create a presumption of accuracy which may be overcome only with additional information that can be shown to be a more accurate representation of the existing situation than the information that has been used to determine these boundaries. Such showing shall be done in the context of a minor amendment to the land use plan.

Policy 3.1-7 states, in applicable part:

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of

the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width...[emphasis added]

Policy 3.1-32, pertaining to lot line adjustments involving Environmentally Sensitive Habitat Areas, states:

Land divisions, including lot line adjustments which are located within Environmentally Sensitive Habitat Area boundaries (which are shown on the Land Use Maps, and subject to Policy 3.1-1), will not be permitted if: (1) any parcel being created is entirely within an Environmentally Sensitive Habitat Area; or (2) if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with Policy 3.1-7.

IP Provisions (Excerpts from the Mendocino County Coastal Zoning Ordinance):

Section 20.496.020 provides criteria for developments occurring within ESHAs. The section implements LUP Policy 3.1-7 verbatim and further states in applicable part:

New subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.

Discussion:

The elevations of the two parcels involved in the proposed adjustment range from approximately +6 feet Mean Sea Level (msl) along the western property line of Parcel 1 (Mean High Tide Line) to approximately 450 feet above sea level at the ridge crest of Parcel 2. Much of the subject property is located on the open marine terrace that spans both sides of Highway 1. Typical vegetative cover in this area is comprised of a mixture of sweet vernal grass (*Anthoxanthum orodatum*), common velvetgrass (*Holcus lanatum*), tall fescue (*Festuca arundinacea*), common yarrow (*Achillea millefolium*), hairy cat's ear (*Hypochaeris radicata*), New Zealand biddy-biddy (*Acaena novae-zelandiae*), and Douglas Iris (*Iris douglasii*). The property is also transected by several emergent and scrub-shrub wetland areas dominated by pennyroyal (*Mentha pulegium*), common rush (*Juncus patens*), and California blackberry (*Rubus ursinus*).

A wetland assessment for the project was prepared at the request of the Commission (Wetlands Research Associates, Inc., 8/30/00) for Parcel 1. Based upon characteristics

used by the Commission, the study reported that a total of 3.44 acres of wetlands were found on the property in the form of linear areas corresponding to natural and man-made drainage courses and numerous pocket wetlands ranging from 0.01 to 0.30 acre in size [see Exhibit No. 8].

LUP Policy 3.1-7 and Coastal Zoning Ordinance Section 20.496.020 require that a buffer area be established adjacent to all environmentally sensitive habitat areas (ESHAs) to provide sufficient area to protect the areas from significant degradation resulting from future developments. The default width of the buffer area shall be a minimum of 100 feet measured from the outside edge of the ESHA. The LCP includes a provision for reducing the buffer width down to as small as 50 feet provided the applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and the County planning staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. No evidence supporting a reduced buffer has been submitted at the time of the writing of this report. Accordingly, a minimum 100-foot buffer width from the outside edge of the wetland areas is indicated for this project.

The applicant's representative has submitted a copy of the wetland assessment map with a 100-foot-wide buffer delineated around the wetland areas maps within the wetlands assessment [see Exhibit No. 12, page 25]. This map shows that several areas exceeding one acre in size outside of both ESHAs and their buffers are located on Parcel 1 on both sides of the highway. Accordingly, the boundary line adjustment as proposed would not result in any parcels located entirely within an ESHA or buffer area. Further, all parcels resulting from the lot line adjustment would contain adequate building sites located outside of the buffer areas. The Commission notes that project alternatives which result in both parcels having building sites east of the highway would also allow for development entirely outside of ESHA and buffer areas.

Thus, the Commission finds that the boundary line adjustment as proposed would be consistent with the LCP policies for the protection of environmentally sensitive habitat areas in that: (1) the presence and extent of ESHAs on the site have been studied and mapped; (2) no resulting parcel will be located entirely within an ESHA; (3) no resulting parcel will be located entirely within a buffer area; and (4) areas will remain on all resulting parcels to allow for development of adequate building sites, as required under LUP Policies 3.1-1, 3.1-7, and 3.1-32, and Coastal Zoning Ordinance Section 20.496.020.

3. Archaeological Resources

LUP Provisions (Excerpts from the Mendocino County General Plan— Coastal Element):

Policy 3.5-10 of the Mendocino County Land Use Plan states in applicable part the following:

The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probably archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource...The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance.

IP Provisions (Excerpts from the Mendocino County Coastal Zoning Ordinance):

Section 20.532.095 of the Mendocino Zoning Code in part states that:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

...
(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.

Discussion:

According to A.L. Kroeber's "Handbook of the Indians of California," the project site is located within that area that was traditionally used by the *bokeya* division of the Pomo tribe. During the summer and fall seasons, coastal beach and terrace areas were commonly used to stage abalone and kelp harvesting activities, and for the collection and processing of other plant and animal products for foodstuffs, clothing, and ceremonial regalia. These original inhabitants were displaced upon the arrival of European peoples in the late 18th and early 19th century, with the predominant lands uses of Mendocino County coastal areas subsequently shifting to fur-trapping, and later to mining, timber production, fishing, and agriculture.

Policy 3.5-10 of the LUP requires that a limited field survey by a qualified professional be conducted prior to County approval of a coastal development permit for any development within an area of known or probable archaeological significance. Prior to consideration by the Commission, the Mendocino County Archaeological Commission reviewed the project and determined that an archaeological survey would be required. An archaeological assessment was prepared for the 18-acre area comprising the proposed lot to be created west of the highway and the adjacent existing parcel to the south (Max

A. Neri, Consulting Archaeologist, 9/17/99) [see Exhibit No. 11]. The Archaeological Commission subsequently accepted the report on March 8, 2000.

The Neri study found two prehistoric and one historic cultural resource sites, enumerated as:

- Isolate-01: A very small shell midden containing dense deposits of shell fragments.
- Site-02: An area of very sparse lithic scatter comprised of chert and obsidian flakes, and burnt bone fragments. The site also contained extensive amounts of cattle bones, some showing signs of recent (non-prehistoric) butchering.
- Site-01/H: The remnants of a historic narrow-gauge logging railroad that used to travel down the Mendocino County coastline. The site consists of a 10 to 20-foot-deep through-cut into the terrace deposits down to bedrock running along the edge of the blufftop, with several old piling and trestle remnants scattered through out the area and down the bluff face.

The report observed the highly disturbed and impacted condition of these sites associated with the construction of the railroad and subsequent blufftop erosion of the rail bed. The assessment concluded that given their location, sparseness, and lack of integrity neither of the prehistoric sites would be considered potentially significant or would be impacted by any proposed future construction at the site. With respect to the historic rail roadway, the report found the site to be moderately significant when viewed as part of a regional historic resource. The report also noted that due to the imposition of setbacks from the geologically unstable bluff areas, future construction on the site would not harm any portion of the railroad grade or cause additional erosion that might damage the resource.

Thus, the Commission concludes that as: (1) an archaeological report for the development site was prepared and accepted as required by LUP Policy 3.5-10, and (2) the lot to be created west of the highway under the proposed boundary line adjustment would contain building sites that would not have any adverse impacts on any known archaeological or paleontological resource or ESHA resource, the proposed lot line adjustment would be consistent with LUP Policy 3.5-10 and Section 20.532.095 of the Mendocino Zoning Code. Therefore, the Commission concludes that the project as proposed would be in conformance with the archaeological resources policies of the certified LCP. Since there are no archaeological and paleontological resources east of the highway, the Commission notes that project alternatives which result in both parcels having building sites located east of the highway would also allow for development that would not have any known impacts on these resources.

4. Adequacy of Water Supply and Septic Capacity

Several policies within the County's LCP address both in general and specific language requirements for assessing and demonstrating that an adequate water supply and means of disposing of waste from the development will be available on lots resulting from a coastal development permit for the boundary adjustment..

LUP Provisions (Excerpts from the Mendocino County General Plan- Coastal Element):

Policy 3.8-1 states the following in applicable part:

Highway 1 capacity, availability of water and sewage disposal system and other know planning factors shall be considered when considering applications for development permits.

With specific regard to the adequacy of a water supply, Policy 3.8-9 states the following in applicable part:

Approval of the creation of any new parcels shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels, and will not adversely affect the groundwater table of contiguous or surrounding areas. Demonstration of the proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982, as revised from time to time and the Mendocino County Division of Environmental Health's Land Division requirements as revised. (Appendix 6)...

With specific regard to onsite sewage disposal systems, Policy 3.8-7, in applicable part, states:

Land divisions and subdivisions creating new parcels or building sites or other proposed development, including lot line adjustments, mergers and issuance of conditional certificates of compliance shall be approved only where ... a satisfactory site for a sewage system exists. Leach field approval shall require satisfactory completion of a site evaluation on the site of each proposed septic system. A leach field shall not be located where the natural grade exceeds 30 percent slope or where there is less than 5 feet of soil below the trench if natural grade exceeds 20 percent slope. This septic system policy is consistent with the Minimum Guidelines for the Control of Individual Wastewater Treatment and Disposal Systems adopted by the Regional Water Quality Control Board on April 17, 1979.

Policy 3.9-1 states, in applicable part:

One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists and proposed development is consistent with all applicable policies of this Coastal Element and is in compliance with existing codes and health standards. Determination of service capacity shall be made prior to the issuance of a coastal development permit.

IP Provisions (Excerpts from the Mendocino County Coastal Zoning Ordinance):

Section 20.532.095 in part states that:

The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

...
(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities...

Discussion:

As noted previously, the proposed project is a lot line adjustment between two existing parcels and does not include any physical development on the ground. No development that would generate a need for water and other services is proposed in the current application. However, as the certified LCP would allow at least one residence on each of the adjusted parcels as a principally permitted use, the capacity of the parcels as adjusted to support such uses needs to be considered in conjunction with the coastal development permit for the boundary adjustment.

Hydrologic Setting of the Mendocino County Coastline

The project site is not served by any community water system and there are no streams or other surface waters on the site sufficient to provide water supply. As with most rural areas of the Mendocino County coastal zone not served by a community water system or with available surface water, domestic water supplies would have to come mainly from groundwater wells. As noted in the background section on Water Supply in Chapter 3.8 of the LUP, some areas of the coastal zone do not have adequate ground water to serve even existing development, necessitating the hauling of water during the late summer and fall of dry years.

The California Department of Water Resources has been conducting an ongoing coastal-wide groundwater study. The study produced a report entitled, "Mendocino County Coastal Groundwater Study," published in 1982. The report establishes areas of Sufficient, Marginal, Critical, and Critical Bedrock Water Resource areas, and recommends Land Use Densities in these areas. This study is referred to in Policy 3.8-9.

The Mendocino County Coastal Groundwater Study identifies the subject property as being within a "Critical Water Resource area" (CWR). The land-use density recommendations of the Groundwater Study state in applicable part, the following:

The determination of availability of ground water for a specific development requires professional judgement and interpretation of all available data. This study, though not site specific, has identified coastal areas of differing ground water availability... From this information, general guidelines can be drawn to aid the planner in reviewing proposed developments. It is recommended that: ...Areas designated CWR (Critical Water Resources) shall have a minimum lot size of 5 ac and demonstration of "proof of water." All lots less than 5 ac shall be required to demonstrate 'proof of water' and may require an environmental impact statement. [emphasis added]

Requirements for Establishing Water Supply Adequacy

The LUP policies cited above require that the approving authority consider whether an adequate on-site water source to serve proposed development is available before approving a coastal development permit. Policy 3.8-1 states that availability of water shall be considered when considering applications for development permits. Policy 3.8-9 states that the creation of any new parcels shall be contingent upon an adequate water supply during dry summer months that will accommodate the proposed parcels. Policy 3.9-1 states that one housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate, water capacity exists, and the determination of service capacity shall be made prior to the issuance of a coastal development permit. Coastal Zoning Ordinance Section 20.532.095 states that the granting of a coastal development permit shall be supported by findings establishing that the proposed development will be provided with adequate utilities. These policies reflect the requirements of Section 30250(a) of the Coastal Act that new development be located in areas able to accommodate it.

As set forth above, the Mendocino County Coastal Groundwater Study recommends that development proposed on parcels in CWR-designated areas be required to demonstrate "proof of water." However, no technical evidence was submitted with the application to establish whether adequate groundwater supplies are available to serve residential and other development that might be proposed on the adjusted parcels in the future. Instead, the supporting interested parties have submitted a series of correspondence from a local special district water provider and the applicant regarding potential offsite sources of water supply [see Exhibit Nos. 10 & 12].

As stated in the most recent letter from the manager of the Elk Creek Water District (ECWD), dated March 2, 2000, the district's Board of Directors voted to allow a water system connection for one residential connection for the proposed parcel to be created west of Highway 1 subject to the following conditions:

- Approval must be obtained from the County of Mendocino Local Agency Formation Commission (LAFCo) for an "out of area service contract" and or annexation of the parcel into the district's boundaries;
- Engineering plans showing adequate flow is available to the project site without reducing service to other district connections must be approved by the ECWD;
- A storage tank of 1,500-gallon capacity with adequate back-flow prevention and re-pressurization must be provided; and
- All costs associated with the LAFCo approval or annexation, engineering, installation of the meter, installation of the line extension by an A-1 licensed contractor, and a connection must be paid.

The Commission finds that, despite the favorable statements of the Elk County Water District to provide water service to the parcel proposed to be created west of the highway, the offer is too speculative to be considered as a formal demonstration of proof of water as required by the County's LCP. In order for water to be supplied to the site, the applicant and the district must first secure several authorizations from both LAFCo and the County of Mendocino, including amendment to the district's sphere of influence," annexation or permission to provide service beyond service boundaries, and a coastal development permit for the physical installation of the service line extension. Such an expansion of service area or a proposal to expand service to an area outside of the urban limit line would raise concerns about growth inducing impacts and would likely require an LCP amendment that would have to be certified by the Commission. Given the potential for significant impacts on the environment, an environmental report is likely to be required. In addition, it may not be possible to fully mitigate the growth inducing impacts of such an undertaking to levels of insignificance. Given the significant issues such a proposal would raise and the uncertainty as to whether the necessary approvals could be obtained, provision of water service by the ECWD cannot be relied upon as a means of providing water to the parcel as proposed to be adjusted.. Accordingly, the Commission does not consider the subject correspondence as an adequate demonstration of proof of water.

The Commission has also been provided with correspondence from the applicant received November 9, 2000. This letter discloses the existence of a water well on a neighboring parcel owned by the applicant southeast of the project site. This parcel is the site of a former lumber mill and the wellhead is said to be located near the northwest corner of the mill's shop building. The applicant states his willingness to enter into an agreement to provide water to the 9-acre parcel as a condition of approval of the proposed boundary line adjustment. The applicant states that the mill water system yields 100 gallons per minute.

Based upon quantitative water supply standards stated within the LCP and Commission staff discussions with staff from the County's Environmental Health Department, this water source appears adequate to serve all future development of the parcels involved. In general, if a water quantity test indicates that a minimum of one gallon per minute can reliably be supplied by a well, the well is adequate to serve as a domestic water supply. Assuming that information contained in the applicant's letter, stating that the well on the neighboring parcel yields "about 100 gallons per minute" is accurate, this proposed water source would easily meet the County's well water production requirements to serve all parcels created by the boundary adjustment. Recording an appropriate easement or other legal instrument would be a means of guaranteeing that any future development on the parcels involved in the proposed boundary adjustment could utilize water from the mill water system. It should be noted that no technical data has been supplied with the application regarding the actual production volume of the well or the adequacy of this proposed water supply in terms of its potability or year-round reliability. Before the proposed boundary line adjustment could be found consistent with the requirements of LUP Policy 3.8-1 and 3.8-9 and Coastal Zoning Code Section 20.532.095 that an adequate water supply would be available to serve the proposed development, technical data would need to be supplied to verify the volume and potability of the water from the mill water system.

Sewage Disposal System Requirements

Similar to the LUP policies that address domestic water supplies, the LUP policies cited above require that the approving authority consider whether an adequate site to develop an on-site sewage disposal system to serve proposed development is available before approving a coastal development permit. Policy 3.8-7 states that a site evaluation shall be satisfactorily completed before approval of land divisions, lot line adjustments, mergers and certificates of compliance. Policy 3.9-1 states that one housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that the determination of service capacity shall be made prior to the issuance of a coastal development permit. Coastal Zoning Ordinance Section 20.532.095 states that the granting of a coastal development permit shall be supported by findings establishing that the proposed development will be provided with adequate utilities. Again, these policies reflect the requirements of Section 30250(a) of the Coastal Act that new development be located in areas able to accommodate it.

Based upon quantitative sewage disposal system standards stated within the LCP, the findings of the wetlands assessment regarding on site soil characteristics, and Commission staff discussions with staff from the County's Environmental Health Department, there appear to be suitable areas where onsite sewage disposal systems could be developed to adequately serve all future development of the parcels involved. In general, if a site can be found that: (1) is at least 100 feet from any well, water body, or major break in terrain; (2) is located on ground with less than a 30 percent slope or where there is less than 5 feet of soil below the trench if natural grade exceeds 20 percent slope;

and (3) meets established soil depth, texture and percolation rate criteria, the site may be approved for development of an onsite sewage disposal system.

Assuming that information contained in the wetlands assessment regarding how the terrace soils are typically well-drained notwithstanding their dark color indicating otherwise is accurate, there are several areas on all parcels as proposed to be adjusted where septic systems could conceivably be developed. It should be noted that, except for the wetland assessment study areas, no technical data has been supplied with the application regarding the actual soil and slope conditions in terms of septic system suitability. Before the proposed boundary line adjustment could be found consistent with the requirements of LUP Policy 3.8-7 and 3.8-9 and Coastal Zoning Code Section 20.532.095 that an adequate sewage utilities would be available to serve the proposed development, technical data would need to be supplied to verify the suitability of specific areas for onsite sewage disposal.

5. Visual Resources

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

Policy 3.5-1 states in applicable part:

The scenic and visual qualities of Mendocino county coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting. [emphases added]

Policy 3.5-3 states in applicable part:

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

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the*

*City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1. **

...
All proposed divisions of land and boundary line adjustments within 'highly scenic areas' will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies. [emphases added]

* In addition to areas on the west of Highway 1, the certified Land Use Map covering the area where the project site is located states, "everything within view easterly of (the) highway is designated highly scenic."

Policy 3.5-4 states, in applicable part:

Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open area shall be avoided if an alternative site exists.

...
Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms.

IP Provisions (Excerpts from the Mendocino County Coastal Zoning Ordinance):

Section 20.504.015 states, in applicable part:

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

- (3) *New development shall be subordinate to the natural setting ...*
- (4) *All proposed divisions of land and boundary line adjustments within highly scenic areas shall be analyzed for consistency of potential future development with the regulations of this Chapter, and no division of land or boundary line adjustment shall be*

approved if development of resulting parcel(s) would be inconsistent with this chapter. [emphasis added]

- (5) *Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area...*
- (6) *Minimize visual impacts of development on terraces by the following criteria: (a) avoiding development in large open areas if alternative site exists; (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms...*

Discussion:

Visual Setting

The proposed development site is located in a rural agricultural area 1½± miles south of the unincorporated town of Elk. Due to the extensive views up and down the coast, the dramatic nature of the high coastal bluffs of the area, and the largely undeveloped character of the setting, the visual resources of the project site are of great significance. From the subject property, sweeping blue water views are afforded to travelers along Highway 1. Views of the ocean directly seaward from the highway frontage are mostly limited to open ocean along the horizon due to the elevation differences between the blufftop and beach that block closer shoreline views. Southbound travelers are afforded broad oblique-angle views of the scenic headlands at the mouth of Elk Creek, offshore sea stacks and reefs, and on clear days, distant horizon views of Point Arena and its historic lighthouse. Northbound travelers can also view portions of the forested crest of Greenwood Ridge to the northeast. Oblique-angle inland views for southbound travelers include more terrace pastureland on adjacent parcels to the south and extend to the promontory demarcated as "Sugar" on topographic maps of the area [see Exhibit No. 2].

The 9-acre portion of Parcel 1 proposed to be created on the west side of the highway is a generally flat, open grassland stretching along approximately 600 lineal feet of coastline. The area is generally open in character, however, several houses have been constructed on the parcels to the north. In addition, a residence is currently being reviewed by the County on the 9-acre parcel situated entirely west of the Highway directly to the south of the project site.

The highly scenic area inland of the highway extends easterly to include all areas within view of the highway, including more grazing land that gives way to the lower flanks of the coastal landform known as Cliff Ridge. Views across the 29.5-acre portion of Parcel 1 east of the highway include open grassy flat areas with scattered brush outcroppings near the highway which gradually give way to more rolling terrain near the base of the coastal ridge, and finally to the lower portions of the coastal ridge itself. This portion of the parcel is also largely devoid of trees. However, several agricultural outbuildings and

former sawmill structures exist on the parcels inland of the highway immediately south of the project site.

Parcel 2, the second parcel involved in the boundary line adjustment (eastern portion of APN 131-010-12), covers approximately 51.5 acres and extends another approximately 1,300 feet farther to the east and includes more of the coastal ridge. Parcel 2 is similarly vegetated with upland grasses and forbs interspersed with small brushy thickets. Most of the parcel, encompassing its western ocean-facing slopes, is visible from Highway 1.

Analysis of Conformance of Boundary Adjustment to Visual Resource Policies

As previously described, Parcel 1, the first parcel involved in the boundary line adjustment (western portion of APN 131-010-12 together with APN 131-010-14X), is a roughly bow tie shaped 38.5-acre parcel that extends inland from the bluff face to a location that is as much as 1,300 feet inland of the ocean. Highway 1 bisects the parcel roughly in the narrow middle of the bow tie shape of the parcel. The proposed boundary line adjustment would adjust the parcels in a way that would establish the new boundary between the two parcels at Highway 1. As a result, a 9-acre parcel, comprised solely of APN 131-101-14X would exist west of Highway 1 and an 81-acre parcel, consolidating the two portions of APN 131-101-12, would exist east of the highway.

As indicated above, the subject site is located within the highly scenic area designated by LUP Policy 3.5-3 constituting those portions of the coastal zone lying on the west side of Highway 1 between the Navarro River and the City of Point Arena. In addition, a notation on the Land Use Map for the project area states, "everything within view easterly of highway is designated highly scenic" [see Exhibit No. 3]. Both LUP Policy 3.5-3 and Zoning Code Section 20.504.015(4) call for consideration of the visual impact of future development at the time boundary line adjustments are considered.

To find consistency with the LCP visual policies, a proposed project must be measured against criteria or tests set forth within the Land Use Plan and implementing zoning regulations. As applied to the proposed project and its particular setting (i.e., not involving ridgeline development), the various policies require that the proposed boundary line adjustment must be analyzed for consistency of potential future development with the following tests:

- Future development must be sited and designed to protect views to and along the ocean and scenic coastal areas including designated highly scenic area inland of Hwy 1;
- Future development must be sited and designed to minimize the alteration of natural land forms; and
- Future development must be subordinate to the character of its setting. To achieve such a result, the LCP policies further prescribe that future development:

(a) be sited near the toe of a slope, (b) be sited below rather than on a ridge, (c) be sited in or near the edge of a wooded area, and (d) avoid being placed in the middle of a large open area if an alternative site exists, and (e) be clustered near existing vegetation, natural landforms, or artificial berms.

Future Development West of Highway 1: A principal consequence of the proposed boundary line adjustment is that a legally created parcel would result lying completely west of Highway 1. Future development of the westernmost parcel would have to be located west of Highway 1, whereas under the current parcel configuration, a building site could be located on the portion of Parcel 1 east of Highway 1 where it would not affect views of the ocean.

Although these potential impacts are acknowledged in correspondence from the applicant's agents and supportive interested parties [see Exhibit No. 12], these parties argue that since the highly scenic area extends across all portions of the property and as the LCP does not prioritize the protection of ocean views over the protection of views inland along the coast, substantial visual impacts associated with future development of buildings on the parcel are unavoidable whether the parcel is adjusted or not. In addition, these parties note that several houses have been constructed or are in the process of being developed with structures on the west side of the highway, whereas no similar developments have been pursued on the east side of the highway. Accordingly, these parties conclude that the parcels as proposed to be adjusted on the western side of Highway 1 should be found consistent with the visual resources policies of the County's LCP as future development on the western side: (1) could be sited and adequately mitigated with landscaping to minimize viewshed impacts; (2) would be in character with other housing developments in the area on the west side of the highway; and (3) would be subordinate to the rural residential setting along the western side of the highway.

Although observations about the scenic nature of both sides of the highway and the pattern of development west of the highway are accurate, it should be noted that development in the area is still largely scattered. Although a cluster of mill buildings exists on the east side of the highway to the south of the project site, the focus of views for travelers on Highway 1 is more likely to be drawn toward the magnificent ocean vistas rather than inland. Any home built on the portion of the property west of the highway would be the only house currently within view west of the highway between a home currently being constructed on the adjacent property to the north and to the south at least as far as the top of the southern headlands of Elk Creek, a straight-line distance of approximately one mile and farther in highway miles. It should be noted that the visual setting of this portion of the coast is evolving as the County of Mendocino is currently processing a coastal development for the construction of another house on the blufftop parcel directly south of the project site (CDP XX-00, George R. DelGaudio, Applicant). If this structure is approved, the open vista distance between homes along this portion of the coast would be reduced, but still provide for an approximately ¼-mile separation.

In addition, as noted above, the landscape of the area west of the Highway consists of an open grassy-covered terrace without trees, hills, or other major vegetation or topographical features. A person traveling along Highway 1 is afforded unobstructed views to and along the ocean across the portion of Parcel 1 west of the highway. Opportunities to locate a house on the parcel to be created west of the highway near the toe of a slope or clustered near existing vegetation, natural landforms, or artificial berms are extremely limited. The only feature of the site west of the highway that presents the possibility for creating a shield or backdrop to help make a future structure subordinate to the character of its setting is a small area of brushy vegetation on the southern half of the proposed parcel located near the blufftop. However, assuming the 78-foot blufftop setback recommended in the geologic report prepared for the proposed west-of-highway parcel is applied [see Exhibit No. 9], the house would need to be shifted eastward into the open terrace area, greatly reducing the value of the shrubby area as a backdrop. Accordingly, there is no place on the property west of the highway where a home and landscaping intending to soften the visual expression of the house could be placed where it would not significantly affect views of the ocean from the highway.

With respect to the requirement to minimize the alteration of natural land form, second criteria, some minor alteration of natural landforms would also likely result from future development west of the highway. Establishing a building site, accessway and utility placement would require clearing of vegetation and grading that would result in notable modifications to the current open landscape.

With regard to requirements that new development be subordinate to the character of its setting, given the open nature of the site and the lack of major vegetation or prominent landforms, structures developed west of the highway, would form a silhouette against the horizon obstructing views to and along the coast. Consequently, any structure placed above grade in this area would be the dominant feature and would not be subordinate to the character of the setting. Given the absence of trees and other major vegetation west of the highway, planting landscaping to screen the house would still not make the development subordinate to the character of its setting as the character of the area does not include such vegetation.

Future Development East of Highway 1: Future improvements on the most eastward of the two parcels proposed in the boundary line adjustment meet the three development criteria. Although the landscape on this side of the highway is similarly open in character, the inland side of the highway has a backdrop of slopes and ridges against which the visual dominance of future development would be muted.

With respect to the requirement to minimize the alteration of natural land forms, while some alteration of natural landforms associated with clearing for building sites, roadways, and utilities would be required, these modifications to the terrain would similarly be less noticeable than those undertaken on the west side of the highway.

Accordingly, there are opportunities to site and design future development on the east side of the highway such that the alteration of natural landforms can be minimized.

Finally, regarding requirements that prescribed siting and design standards be followed to ensure that future development be subordinate to the character of its setting, there are several locales on the property east of the highway where this can be accomplished. As previously described, the property east of the highway transitions from open terrace pasture into slopes rising to the first coastal ridge. This terrain provides a setting where house sites could be placed at the toe of the slope among the natural undulations of the land rather than on the ridge or in an open area. These opportunities are not similarly available on the property west of the highway.

The applicant's agents and supporters have responded that due to the presence of extensive wetlands and the need to locate building sites and sewage systems in well-drained locations, significant sensitive environmental habitat impacts would inevitably result from future development on the east side of the highway. These parties assert that the presence of wetlands on portions of the property east of the highway would preclude septic systems and normal house site development.

As previously discussed under Staff Report Section II.C.2, above, the applicant's representative has submitted a copy of the wetland assessment map with a 100-foot-wide buffer delineated around the wetland areas maps within the wetlands assessment [see Exhibit No. 12, page 25]. This map shows that several areas exceeding one acre in size outside of both ESHAs and their buffers are located on the eastside of the highway where future home sites could be developed. As regards the stated concerns regarding limitations on septic system development east of the highway, it should be noted that even if septic system placement on the lower terrace were to be precluded by on site wetlands, it is possible to develop a disposal leachfield on suitable uphill areas. It is not an uncommon or infeasible practice for homeowners to install pressurized sewage systems to pump sewerage to upland areas so that low-lying areas unsuitable as disposal fields are avoided. Accordingly, despite assertions to the contrary, future building sites and sewage disposal systems could be developed on the east side of the highway outside of ESHAs and related buffer areas.

Conclusion

The coastal visual resource affected by the decision is of great significance. The certified LCP designates the subject property and the area surrounding it as "highly scenic" in recognition of its visual qualities. The site is located in a largely undeveloped rural area where open agricultural grazing lands lie atop a high coastal terrace that offers sweeping vistas of the ocean and coastline to the west and southwest. The headlands at the mouth of Elk Creek and the Point Arena landform and its lighthouse, a nationally listed historic landmark, to the south further enhance the visual interest of the setting.

Views inland from the highway in the project vicinity include open terrace pasturelands and grassy hills that give way to forested ridges farther to the east. Although these vistas are within the same designated highly scenic area as those along the west side of the highway, these vistas do not dominate the visual landscape as much as the dramatic views of the ocean and coastline west of the highway. Moreover, there is considerable area inland of the highway where potential future building sites could be feasibly developed that would meet the criteria of the LCP to minimize visual impacts from development on terraces.

Therefore, as future development of the westernmost parcel as proposed to be adjusted would: (1) adversely affect views to and along the ocean; (2) result in the alteration of natural vegetation landforms; and (3) not be subordinate to the character of its setting, the project as proposed is inconsistent with the provisions of LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 that require that new development be sited and designed to protect views to and along the ocean. Thus, the Commission finds the project as proposed would be inconsistent with LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015.

Finally, the Commission finds the proposed boundary line adjustment to be inconsistent with LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015. These provisions require that new development be sited in prescribed locations to minimize visual impacts on open terrace areas. Under the current parcel configuration, an alternative site exists east of the highway near the toe of the coastal ridge, a natural landform, where a future house could be located consistent with the above stated provisions. Under the proposed parcel configuration and to avoid geologically unstable blufftop areas, a future house on the westernmost portion of Parcel 1 would have to be located in a large open area on the coastal terrace where it would substantially impact visual resources. Accordingly, as the cited LCP policies state that boundary line adjustments within highly scenic areas shall not be allowed if development of resulting parcels could not be consistent with visual policies, the proposed boundary line adjustment must be denied.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

Section 13906 of the California Code of Regulation requires Coastal Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Public Resources Code Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse impact that the activity may have on the environment.

The Commission incorporates its findings on LCP consistency at this point as if set forth in full. The proposed project is not consistent with the policies of the certified LCP that require that impacts to coastal visual resources be avoided or minimized. There are feasible mitigation measures and feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. For example, the Commission has determined that project alternatives which result in both parcels having building sites east of the highway are less environmentally damaging feasible alternatives. Therefore, the Commission finds that the proposed project cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.

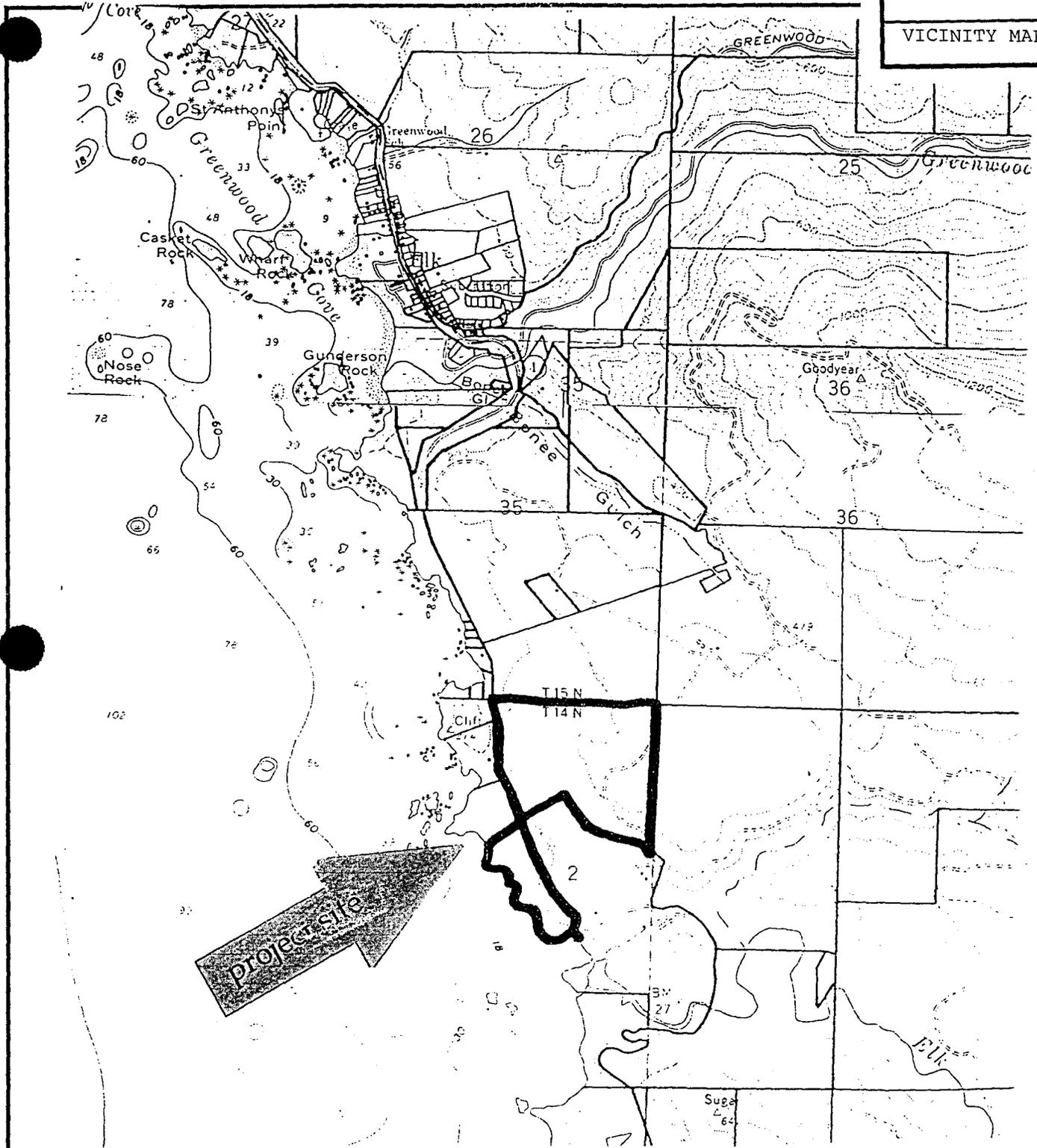
EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Portion, Land Use Plan Map No. 20 - *Elk*
4. Proposed Boundary Line Adjustment
5. Notice of Final Action
6. Appeal No. 1, filed April 18, 2000 (Reimuller, Adams, Withers)
7. Appeal No. 2: filed April 20, 2000 (Wan, Woolley)
8. Wetlands Assessment
9. Geo-technical Reconnaissance
10. Proof of Water Availability
11. Archaeological Assessment
12. Correspondence

EXHIBIT NO. 2

APPLICATION NO.
A-1-MEN-00-20

VICINITY MAP



CASE NUMBER:

cdb 89-99

OWNER:

BEACON, R.D.

AGENT:

T.M. Herman & Assoc.

SPN:

131-010-12, 14

LOCATION MAP

NORTH ↑

1" = 2000'

EXHIBIT NO. 3

APPLICATION NO.
A-1-MEN-00-20

PORTION, LAND USE
PLAN MAP NO. 20-ELK

*2C,4C

EVERYTHING WITHIN VIEW
EASTERLY OF HIGHWAY IS
DESIGNATED HIGHLY SCENIC

PF

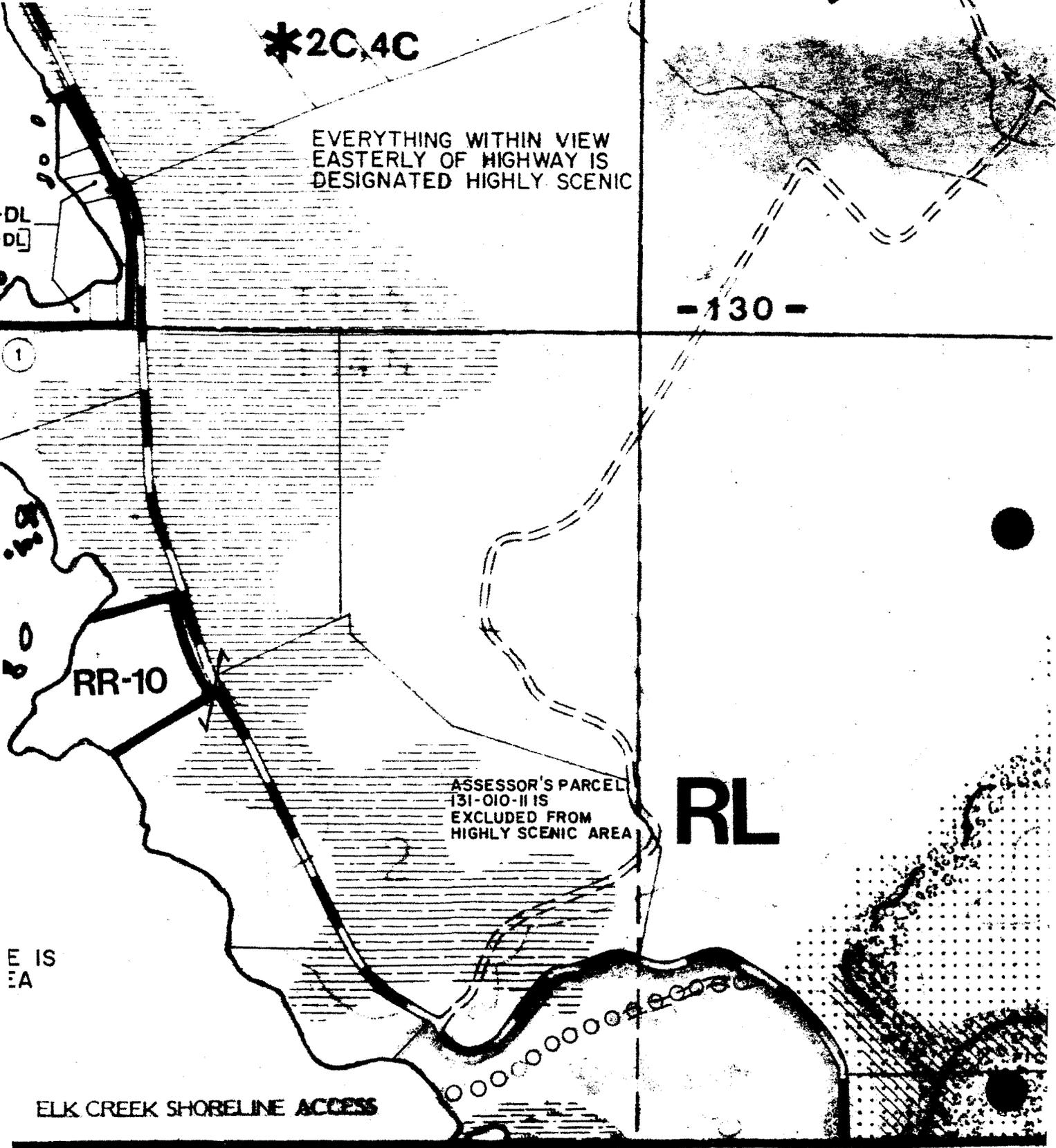
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RR-10

ASSESSOR'S PARCEL
131-010-11 IS
EXCLUDED FROM
HIGHLY SCENIC AREA

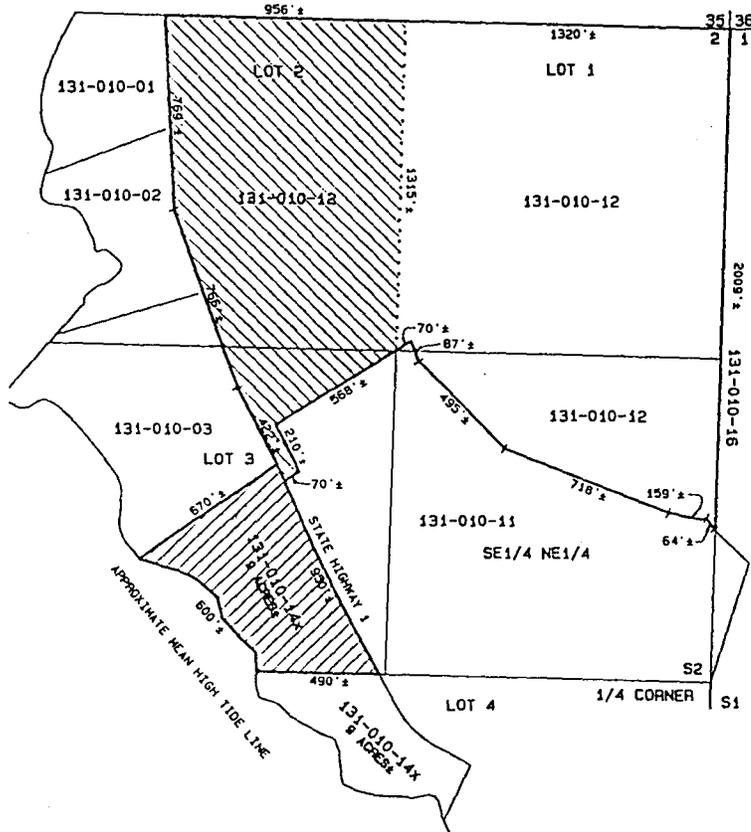
RL

ELK CREEK SHORELINE ACCESS



ASSESSOR'S PARCEL NO'S (SEE NOTE)

PARCEL	EXISTING	PROPOSED	ZONING	GENERAL PLAN
131-010-12	81.00 ACS±	81.00 ACS±	RL160	RL160
131-010-14±	18.00 ACS±	9.00 ACS±	RL160	RL160
131-010-14±	0.00 ACS±	9.00 ACS±	RL160	RL160



NOTE

1. ALL DISTANCES AND ACRESAGES ARE APPROXIMATE AND FOR PLANNING PURPOSES ONLY.
2. PORTIONS OF APN'S 131-010-12, 14 ARE CONTAINED IN THE PARCEL DESCRIPTION FOR C.C. #58-91.

LEGEND

- EXISTING BOUNDARY LINE
- EXISTING BOUNDARY LINE TO BE REMOVED
- - - PROPOSED BOUNDARY LINE
- AREA TO BE ADJUSTED FROM C.C. #58-91 BOOK 2332, PAGE 91, M.C.R. TO APN 131-010-12 (29.5 ACRES±)
- AREA REMAINING FROM C.C. #58-91 AS A SEPARATE PARCEL (9 ACRES±).

EXHIBIT NO. 4

APPLICATION NO.
A-1-MEN-00-20

PROPOSED BOUNDARY
LINE ADJUSTMENT

CASE NUMBER:

cdb 89-99

OWNER:

BEACON, R.D.

AGENT:

T.M. Herman & Assoc.

APN:

131-010-12, 14

Tentative Map

NORTH ↑

1" = 2000'



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

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RECEIVED
 APR 06 2000

CALIFORNIA
 COASTAL COMMISSION

April 4, 2000

NOTICE OF FINAL ACTION

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

CASE#: CDB 89-99

DATE FILED: November 1, 1999

OWNER: R.D. BEACON

AGENT: T.M. HERMAN & ASSOCIATES

REQUEST: Coastal Development Boundary Line Adjustment to re-configure 2 legal parcels recognized by Certificate of Compliance #CC 58-91 creating a 9+- acre and 81+- acre parcel.

LOCATION: 2+- miles south of Elk, lying on both sides of Highway 1; AP# 131-010-12X & 131-010-14X.

PROJECT COORDINATOR: Mary Lynn Hunt

ACTION TAKEN:

The Coastal Permit Administrator, on March 24, 2000, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

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

Attachments

cc: Coastal Commission
 Assessor

EXHIBIT NO.	5
APPLICATION NO.	A-1-MEN-00-20
NOTICE OF FINAL ACTION	
(1 of 7)	

FINAL CONDITIONS FOR CDB# 89-99 - BEACON
MARCH 24, 2000

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. This application is valid for 24 months from the effective date. No extensions can be granted.
2. That for each proposed adjusted parcel, provide one perimeter description of each parcel. The new deed description submitted shall be prepared by, and bear the seal of, a Licensed Land Surveyor.
3. That each transfer of real property be by means of a quit claim deed containing the following wording to be contained within the legal description:

"Any and all lands and any and all interest thereto lying within the following described real property"
(perimeter description of the adjusted parcel(s).)

and,

"This deed is given pursuant to Mendocino County Coastal Development Boundary Line Adjustment #CDB 89-99 and is intended to create no new parcel."

Once the deed(s) and/or instrument(s) have been prepared, please send a copy to the Department of Planning and Building Services. After we have reviewed the documents and accepted them as correct, we will notify you. **DO NOT RECORD ANY DOCUMENTS UNTIL YOU HAVE RECEIVED APPROVAL OF THE DEED(S) BY THIS DEPARTMENT IN WRITING.**

PLEASE NOTE: Title must be transferred identical to the title now being held (all owners with their exact names).

4. Per Mendocino County Code Section 17-17.5(I)(2):

"That the Treasurer-Tax Collector certifies that all taxes and assessments due on each parcel affected by the adjustment have been paid or cleared, and that a deposit to secure payment of the taxes and assessments which are due but not yet payable have been made."

The enclosed Certificate of the Official Redeeming Officer must be certified by the Treasurer-Tax Collector and a copy returned to the Department of Planning and Building Services.
5. After you have been given clearance to record the new documents, you must send a **copy** of the recorded deed(s) to the Department of Planning and Building Services. Upon receipt of this information, you will receive a Completion Certificate.
6. A note shall appear on new deed prepared to state: "Future development of all properties subject to this application shall be subject to the "highly scenic" development standards contained within the Mendocino County Code."
7. A note shall be attached to the deed prepared for the parcel to be created west of Highway 1, which shall state: "Future development subject to geologic hazard evaluation criteria of County Code."



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

1-MEN-00-083
 RAYMOND HALL, DIRECTOR
 Telephone 707-463-4281
 FAX 707-463-5709
 pbs@co.mendocino.ca.us
 www.co.mendocino.ca.us/planning

RECEIVED
 MAR 13 2000

CALIFORNIA
 COASTAL COMMISSION

March 9, 2000

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Mendocino County Subdivision Committee and Coastal Permit Administrator will consider the following project on Friday, March 24, 2000, in the Mendocino County Administration Center, Conference Room C, 501 Low Gap Road, Ukiah, California. The Subdivision Committee will consider the boundary line adjustment at 9:00 a.m., or soon thereafter. The Coastal Permit Administrator will conduct a public hearing to consider issuance of a coastal development permit on the boundary line adjustment, commencing immediately following the Subdivision Committee meeting.

- CASE#:** CDB 89-99
- DATE FILED:** November 1, 1999
- OWNER:** R.D. BEACON
- AGENT:** T.M. HERMAN & ASSOCIATES
- REQUEST:** Coastal Development Boundary Line Adjustment to re-configure 2 legal parcels recognized by Certificate of Compliance #CC 58-91 creating a 9+- acre and 81+- acre parcel.
- LOCATION:** 2+- miles south of Elk, lying on both sides of Highway 1; AP# 131-010-12X & 131-010-14X.
- PROJECT COORDINATOR:** Mary Lynn Hunt
- ENVIRONMENTAL DETERMINATION:** The Department of Planning and Building Services staff has determined that the project is categorically exempt from environmental review.

You are invited to appear at the hearing or to direct written comments to the Department of Planning and Building Services, at 501 Low Gap Road, Room 1440, Ukiah, California, 95482, no later than March 23, 2000. You may receive notification of the decision on this project by requesting notification in writing and providing a self-addressed stamped envelope to the Department of Planning and Building Services. All correspondence should contain reference to the above noted case number.

Action by the Subdivision Committee and Coastal Permit Administrator shall be final unless appealed to the Board of Supervisors. The appeal must be filed in writing with a filing fee with the Clerk of the Board within 10 calendar days after such action. If appealed, the decision of the Board of Supervisors shall be final except that an approved project may be appealed to the Coastal Commission in writing within 10 working days following Coastal Commission receipt of a Notice of Final Action on this project.

If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Department of Planning and Building Services, the Subdivision Committee or Coastal Permit Administrator, at or prior to, the public hearings.

Additional information regarding the above noted item may be obtained by calling the Department of Planning and Building Services at 463-4281, Monday through Friday, 8:00 a.m. through 5:00 p.m.

Frank Lynch, Coastal Permit Administrator

of 7

REPORT FOR COASTAL DEVELOPMENT BOUNDARY LINE ADJUSTMENT

#CDB 89-99
MARCH 24, 2000
PAGE CPA-1

OWNER: R.D. BEACON
PO BOX 210
ELK CA 95432

AGENT: T.M. HERMAN & ASSOCIATES CDB 89-99
PO BOX 38
WILLITS CA 95490

REQUEST: Coastal Development Boundary Line Adjustment to re-configure 2 legal parcels recognized by Certificate of Compliance #CC 58-91 creating a 9+- acre and 81+- acre parcel.

LOCATION: 2+- miles south of Elk, lying on both sides of Highway 1; AP# 131-010-12X & 131-010-14X.

TOTAL ACREAGE: 99+- acres

ZONING: RL-160

GENERAL PLAN: RL-160

EXISTING USES: Vacant

SUPERVISORIAL DISTRICT: 5

DATE FILED: November 1, 1999

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Certificate of Compliance #CC 58-91 was recorded May 14, 1996 and recognized four legal parcels on the subject property.

PROJECT DESCRIPTION: The applicant is requesting a Coastal Development Boundary Line Adjustment to re-configure two legal parcels recognized by Certificate of Compliance #CC 58-91. The existing parcels are 38.5+- (Lot #1) and 51.5+- (Lot #2) acres respectively. Highway 1 bisects Lot #1 such that 9+- acres lies on the west side and 29.5+- acres lies east of the highway. The 29.5 acres lying east of the highway would be combined with existing Lot #2 (also lying east of the highway) resulting in an 81+- acre parcel east of the highway and leaving a 9+- acre west of the highway. Each parcel will take access directly from Highway 1.

COASTAL POLICY CONSISTENCY REVIEW: Staff reviewed the project relative to coastal issues and determined the following:

1. The boundary line adjustment will not result in a change in density;
2. The boundary line adjustment will not create any new parcels;
3. The parcels subject to the adjustment are not situated within or in close proximity to an environmentally sensitive habitat area.
4. The adjustment will not result in parcels having an inadequate building site. The proposed parcel lying entirely west of Highway 1 has been identified to have possible archaeological sites. An Archaeological Survey has been prepared and accepted. It has been determined that there is an adequate building site which will not disturb the sites that have been identified.

5. No substandard lot will result from the adjustment.
6. The property subject to the adjustment is in an area designated CWR (Critical Water Resources) as identified in the Mendocino County Groundwater Study which states in part:

"Areas designated CWR (Critical Water Resources) shall have a minimum lot size of 5 acres and demonstration of "proof of water". All lots less than 5 acres shall demonstrate "proof of water" and may require an environmental impact statement."

The adjustment will not result in parcels being inconsistent with the Mendocino County Coastal Groundwater Study recommendations.
7. The boundary line adjustment is not located on property containing pygmy vegetation.
8. The property subject to the adjustment is located in a designated "Highly Scenic" area. However, adjustment of the parcels will not result in additional development potential within a "Highly Scenic" area than the development potential that exists under the current configuration. Those policies addressing "Highly Scenic" would still be applicable.
9. That portion of the boundary line adjustment lying west of Highway 1 is located in an appealable area.

ENVIRONMENTAL RECOMMENDATION: The application is Categorically Exempt - Class 5a. Therefore, no further environmental review is required.

COASTAL ELEMENT CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan and Coastal Element.

RECOMMENDED MOTION: The Coastal Permit Administrator approves Coastal Development Permit #CDB 89-99, subject to the following conditions of approval, finding that the application and supporting documents and exhibits contain sufficient information and conditions to establish, as required by the Coastal Zoning Code, that:

1. The proposed boundary line adjustment is in conformance with the Coastal Element; and,
2. The proposed development will be provided with adequate utilities, access roads, drainage, and other necessary facilities.
3. The proposed boundary line adjustment is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code and preserves the integrity of the zoning district; and,
4. The proposed boundary line adjustment will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act (CEQA).
5. The proposed boundary line adjustment will not have any adverse impacts on any known archaeological or paleontological resource per the survey dated September 17, 1999 prepared by Max A. Neri.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. This application is valid for 24 months from the effective date. No extensions can be granted.
2. That for each proposed adjusted parcel, provide one perimeter description of each parcel. The new deed description submitted shall be prepared by, and bear the seal of, a Licensed Land Surveyor.
3. That each transfer of real property be by means of a quit claim deed containing the following wording to be contained within the legal description:

"Any and all lands and any and all interest thereto lying within the following described real property" (perimeter description of the adjusted parcel(s).)

and,

"This deed is given pursuant to Mendocino County Coastal Development Boundary Line Adjustment #CDB 89-99 and is intended to create no new parcel."

Once the deed(s) and/or instrument(s) have been prepared, please send a copy to the Department of Planning and Building Services. After we have reviewed the documents and accepted them as correct, we will notify you. DO NOT RECORD ANY DOCUMENTS UNTIL YOU HAVE RECEIVED APPROVAL OF THE DEED(S) BY THIS DEPARTMENT IN WRITING.

PLEASE NOTE: Title must be transferred identical to the title now being held (all owners with their exact names).

4. Per Mendocino County Code Section 17-17.5(I)(2):

"That the Treasurer-Tax Collector certifies that all taxes and assessments due on each parcel affected by the adjustment have been paid or cleared, and that a deposit to secure payment of the taxes and assessments which are due but not yet payable have been made."

The enclosed Certificate of the Official Redeeming Officer must be certified by the Treasurer-Tax Collector and a copy returned to the Department of Planning and Building Services.

5. After you have been given clearance to record the new documents, you must send a copy of the recorded deed(s) to the Department of Planning and Building Services. Upon receipt of this information, you will receive a Completion Certificate.

NOTE: APPLICANTS OR OTHER PERSONS WHO ARE DISSATISFIED WITH A DECISION OF THE COASTAL PERMIT ADMINISTRATOR FOR A COASTAL DEVELOPMENT PERMIT FOR A BOUNDARY LINE ADJUSTMENT MAY APPEAL THE ACTION TO THE BOARD OF SUPERVISORS. AN APPEAL MUST BE MADE IN WRITING ALONG WITH THE APPLICABLE FEE TO THE CLERK OF THE BOARD OF SUPERVISORS WITHIN TEN (10) DAYS OF THE COASTAL PERMIT ADMINISTRATOR'S DECISION. THE APPEAL ISSUE WILL BE PLACED ON THE NEXT AVAILABLE BOARD OF SUPERVISOR'S AGENDA FOR CONSIDERATION, AND THE APPELLANT WILL BE NOTIFIED OF THE TIME AND DATE. APPEALS TO THE BOARD OF SUPERVISORS DO NOT NECESSARILY GUARANTEE THAT THE COASTAL PERMIT ADMINISTRATOR'S DECISION WILL BE OVERTURNED. IN SOME CASES, THE BOARD OF SUPERVISORS MAY NOT HAVE THE LEGAL AUTHORITY TO OVERTURN THE DECISION OF THE ADMINISTRATOR.

DATE

MARY LYNN HUNT
PLANNING TECHNICIAN II

MLH:sb

3/7/2000

Categorically Exempt

Appeal Fee - \$600.00
Appeal Period: 10 days

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Fort Bragg PBS		X	
Public Works		X	
Env. Health	X		
Building Inspection		X	
Coastal Commission	X		
Arch Commission			X
Sonoma State University			X
Dept. of Fish & Game	X		
Caltrans	X		
Elk Fire District	X		

CALIFORNIA COASTAL COMMISSION

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

1 of 3 pp.
Via fax 445-7877
Hard Copy by mail.



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Peter Reimüller, Friends of Schoener Gulch, Bx 4, Pt Arena 95468 707 882200
Hillary Adams, 1391 Cameron Rd, Elk, CA 95432 (707) 8773527
Roanne Withers, Sierra Club, Mendocino Lake Group, Box 2330, Ft. Bragg
CA 95437 Zip (707) 961-1953 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Mendocino

2. Brief description of development being appealed: Lot Line Adjustment CDB 89-99 CC Parcel Boundary
Line Adjustment APN 131-010-12, 14 (Beacon) RL Zone 1

3. Development's location (street address, assessor's parcel no., cross street, etc.): APN 131-010-12, 14 Hwy 1 Elk, south

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

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CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO.
APPLICATION NO. A-1-MEN-00-20
APPEAL NO. 1 REIMULLER, ADAM WITHERS
(1 of 8)

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

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

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: Mar 24, 2000

7. Local government's file number (if any): CDB 89-99

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:
R.D. BEACON
Box 210
ELV CA 95432

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

- (1) _____

- (2) _____

- (3) _____

- (4) _____

SECTION IV. Reasons Supporting This Appeal

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

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

BOUNDARY LINE ADJUSTMENT DOES NOT CONFORM WITH THE FOLLOWING PROVISIONS OF THE MENDOCINO COUNTY CERTIFIED LCP: ARCHEOLOGICAL, GEOLOGICAL STUDY, CEQA, PROOF OF WATER, INGRESS/EGRESS HWY 1, PUBLIC NOTICE, AND OTHERS.

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

SECTION V. Certification

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

Peter Scrimmally

Signature of Appellant(s) or Authorized Agent

Secretary
Friends
Schoone
GULCH

Date APRIL 17, 2000

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

Section VI. Agent Authorization

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

Peter Scrimmally

Signature of Appellant(s)

Date 4/17/00

Dr. Hillary Adams
1391 Cameron Road
Elk, California 95432

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MAY 25 2000

May 24, 2000

Mr. Robert Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, California 95501-1865

CALIFORNIA
COASTAL COMMISSION

RE: CDB 89-99 (Beacon-Elk)
AP# 131-010-12X and 131-010-14X

Dear Mr. Merrill:

CDB 89-99 (Beacon) is a Coastal Development Boundary Line Adjustment to re-configure 2 parcels recognized by Certificate of Compliance #CC 58-91, creating a 9+ acre and and 81+ acre parcel, zoned RL-160 and presently open space. The land is owned by R.D. Beacon and lies 2+ miles south of the Rural Village of Greenwood/Elk on both sides of Highway #1, a scenic California highway in an area designated as highly scenic by our certified Local Coastal Program (LCP).

I was one of three who appealed this project on April 18, 2000, including also Roanne Withers for the Sierra Club, Mendocino-Lake Group, and Peter Reimueller for Friends of Schooner Gulch. Two members of the Coastal Commission also appealed this project on April 20.

This project does not conform to the provisions of our certified Local Coastal Program, our LUP and the Coastal Zoning in the following areas:

Public Notice: LUP 20536: Sec. 20536.010 C: "At least ten(10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for a development subject to this section. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, . . . ;" and also D.

This project CDB 89-99 did not appear on Mendocino County's internet site in the area concerning development permits. It did not, so far as we can discover, appear in any local coastal newspaper. It was apparently not noticed to those who receive notice by mail regularly on Coastal Development issues. It was

CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

2

quickly approved by a member of the Mendocino County Planning Staff acting as Coastal Administrator at a meeting in Ukiah, which one of the appellants happened to be attending on another matter.

Proof of Water: LUP 3.8.9 "Demonstration of the proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982 and revised from time to time (Appendix 6);

So far as we can determine, the applicant provided no proof of water for the subject parcels. The local water district of Greenwood/Elk does not extend this far to the south. A local Elk resident, George Digardio (sp?) who is apparently interested in the purchase of this property should the lot split occur, has approached the Elk Water District Board concerning the extension of water to this property and has been turned away.

Archaeological and Geological Study: LCP 3.5-10: The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource... ; ; and also Appendices Chapter 22.12 Native American Archaeological Sites, A7-1; and also 3.4-1: "The County shall review all applications for Coastal Development permits to determine threats from and impacts on geological hazards. . . In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development. . . "

So far as we can determine, the applicant has had no geological or study done for these parcels. The March 24, 2000 document page CPA-1.4 states that the "proposed parcel lying entirely west of Highway 1 has been identified to have possible archaeological sites." (This is the kind of area traditionally used by Southern Pomo tribes during the summer and fall abalone and kelp seasons. Similar areas were used for season living areas by the Central Pomo on Navarro Head. The Navarro River was the boundary line between the two tribal areas. The Rural Village of Elk itself had a ceremonial Pomo sweat house, which was still being used in the early 1900's). The statement goes on to say that an archaeological survey has been prepared and accepted and that there is "an adequate building site that will not disturb the sites identified." However, that

CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

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single building site force the location of future building very close to scenic Highway#1 (see Protection of Visual Resources,below).

Protection of Visual Resources: LCP 3.5, Coastal Act : 30251: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas . . . ; also LCP 3.5-3, Navarro River to Point Arena; also Coastal zoning code: Chapter 20.504, Sec. 20.504.015:A, B and C; also LUP South Coast CAC: 4.10, Navarro River to Mallo Pass Creek Planning Area: "Outside Elk, the Coastal Element calls for almost no additional land division because of the absence of urban services..." Although this project is a boundary line adjustment rather than a lot split, and would allow for the same number of lots (2), the lots would be reconfigured to allow one buildable lot on each side of the highway, thus not only increasing the impact on coastal views, but also on ingress/egress from Highway #1, and potentially on fire protection.

The separate parcel on the western side of scenic Highway #1 that would be created by this proposed boundary line adjustment may have very limited development potential due to impact of potential archaeological and other resources. The subject area is 2 miles to the south of Greenwood/Elk (designated Rural Village LUP,4.10-1) above Elk Creek. Elk Creek is mentioned in the LUP for Park development (4.10-9) Should this occur, development on the western proposed parcel would be extremely sensitive. The applicant has spoken frequently, and to me specifically, of his desire to have the Parks department purchase the Elk Creek beach property.

Therefore any building on the proposed western lot might be forced into a position very close to scenic Highway #1. The citizens of Greenwood/Elk have been extremely disturbed in recent years by the development of large houses placed very close to scenic Highway # 1, on "developable parcels" with no alternative but earth berms and landscaping to protect the coastal views. These parcels were usually formed prior to the Coastal Act and the certified Local Coastal Program (LCP), and were part of the reason for the development of the LCP with its efforts to protect the public viewsheds, 1) toward the ocean, and 2) in highly scenic areas. The western lot that would be created by this boundary line adjustment qualifies in both categories.

The landscaping alternative in Mendocino County coastal areas is a very

CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

4

unsatisfactory solution since the County has typically not looked for or enforced in an efficient manner violations to coastal landscaping plans. We have a series of houses at the present time between the village of Greenwood/Elk and the historic town of Mendocino which are out of compliance with the landscaping terms upon which they received their permits from the Coastal Commission. This requires enormous diligence on the part of the public, and much more effort to obtain compliance through Mendocino County staff. Moreover, the kinds of trees which will withstand the beating of wind and weather on coastal bluffs such as this one, require very slow growing species which will not reach maturity for several decades. Moreover, they will not reach the height that they do in more benevolent circumstances. Owners frequently allow the plantings to die and do not replace them. This requires yet another round of public diligence.

If the Coastal Commission were to intentionally create, by the proposed boundary line adjustment, a separate developable parcel on the western side of scenic Highway #1, a parcel which had limited development possibilities and would force development close to scenic Highway #1 in a protected viewshed corridor with the designation of highly scenic, it would, in our opinion, be acting contrary to its own rules and regulations. As the lots are now configured, development could occur on the eastern side of Highway #1 outside of the ocean viewshed and away from any potential archaeological site or future park development.

CEQA Review: Coastal Zoning Code 20532, Section 20.532.040. "Upon acceptance of an application as complete, the Director or his designee shall complete an environmental review of the project as required by the California Environmental Quality Act(CEQA, shall study the project for conformance with all applicable requirement of this Chapter."

Because of the nature of the property, in our opinion, this parcel would require a CEQA review before any boundary line adjustment could occur. This has not been done to our knowledge, or by the evidence provided in the application.

Ingress and Egress to scenic Highway #1: This parcel is near a sharp, steep curve leading down to Elk Creek. Highway One along this coastal stretch is very narrow, with inadequate shoulders. Accidents are frequent in relation to the traffic. Lumber trucks frequently use this highway. Tourist traffic is especially heavy during the summer months. A plan for safe entrance and exit from the

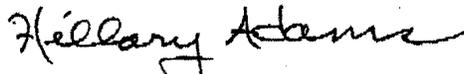
CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

5

highway should have been submitted for both parcels.

This project is another example of Mendocino County Planning Staff and Coastal Administrators approving projects which are contrary to the LCP the LUP and the Coastal Act. In recent years this has occurred with increasing frequency under the leadership of Mr. Ray Hall, head of Planning, who has recently taken on the position of Coastal Administrator on many coastal projects. He is, we feel certain, urged on by at least three members of our five member Board of Supervisors. This project is in the Fifth Supervisorial District. The Supervisor of the Fifth district strongly supports the Coastal Act and our Local Coastal Program. It is unthinkable that Supervisors from inland areas should be impacting our coast as they are. We look to the Coastal Commissioners to strongly uphold the elements of our certified LCP and the Coastal Act and to admonish the Mendocino County Planning Department, and especially Mr. Ray Hall, to do the same.

Sincerely yours,



Hillary Adams

Also representing Peter Reimuller, Friends of Schooner Gulch
and Roanne Withers, Sierra Club, Mendocino/Lake Group

CALIFORNIA COASTAL COMMISSION

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

EXHIBIT NO. 7

APPLICATION NO.
A-1-MEN-00-20
APPEAL NO. 2
COMMISSIONERS WAN
& WOOLLEY
(1 of 8)

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Commissioners Sara Wan and John Woolley
(See Attachment 1)

()
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: Mendocino County

2. Brief description of development being
appealed: Boundary line adjustment to reconfigure two legal parcels
recognized by Certificate of Compliance #CC 58-91 creating a 9± acre
and 81± acre parcel.

3. Development's location (street address, assessor's parcel
no., cross street, etc.): Two miles south of Elk, lying on both sides
of Highway One, Mendocino County (APN(s) 131-010-12 and 14)

4. Description of decision being appealed:

- a. Approval; no special conditions: X
- b. Approval with special conditions: _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-00-020

DATE FILED: April 20, 2000

DISTRICT: North Coast

H5: 4/88

RECEIVED
APR 20 2000

CALIFORNIA
COASTAL COMMISSION

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

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

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: March 24, 2000

7. Local government's file number (if any): CDB 89-99

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

<u>R. D. Beacon (applicant)</u>	<u>T. M. Herman & Associates (agent)</u>
<u>P. O. Box 210</u>	<u>P. O. Box 38</u>
<u>Elk, CA 95432</u>	<u>Willits, CA 95490</u>

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

- (1) Peter Reimuller, Friends of Schooner Gulch
P. O. Box 4
Point Arena, CA 95468
- (2) Hillary Adams
1391 Cameron Road
Elk, CA 95432
- (3) Roanne Withers, Sierra Club - Mendocino/Lake Group
P. O. Box 2330
Fort Bragg, CA 95437
- (4) _____

SECTION IV. Reasons Supporting This Appeal

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

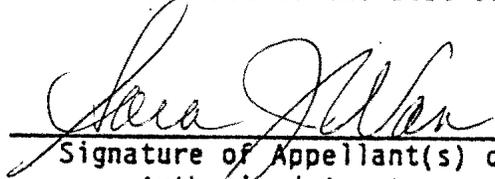
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(See Attachment 2)

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Date April 20, 2000

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

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

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

(See Attachment 2)

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Date April 20, 2000

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

ATTACHMENT 1

Commissioner Sara Wan
22350 Carbon Mesa Road
Malibu, CA 90265

(310) 456-6605

Commissioner John Woolley
Board of Supervisors
825 5th Street
Eureka, CA 95501-1153

(707) 476-2393

ATTACHMENT 2

Reasons for Appeal

The boundary line adjustment as approved by Mendocino County raises a substantial issue of conformance to the visual resource policies of the certified Mendocino County Local Coastal Program (LCP), including Policies 3.5-1, 3.5-3, and 3.5-4 of the Land Use Plan and Section 20.504.015 of the Coastal Zoning Ordinance.

Policy 3.5-1 states in applicable part, *"The scenic and visual qualities of Mendocino county coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting."*

Policy 3.5-3 states in applicable part, *"The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as 'highly scenic areas'...Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1...All proposed divisions of land and boundary line adjustments within 'highly scenic areas' will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies."*

Policy 3.5-4 states, *"Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open area shall be avoided if an alternative site exists...Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms."*

Coastal Zoning Ordinance Section 20.504.015 states, in applicable part, *"Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes..."*

- (3) *New development shall be subordinate to the natural setting and minimize reflective surfaces...*

- (4) *All proposed divisions of land and boundary line adjustments within highly scenic areas shall be analyzed for consistency of potential future development with the regulations of this Chapter, and no division of land or boundary line adjustment shall be approved if development of resulting parcel(s) would be inconsistent with this chapter.*
- (5) *Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area...*
- (6) *Minimize visual impacts of development on terraces by the following criteria: (a) avoiding development in large open areas if alternative site exists; (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms..."*

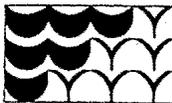
The two parcels involved in the proposed boundary line adjustment are located in a highly scenic area approximately two miles south of Elk in a largely undeveloped area characterized by large open grassy agricultural parcels atop a high coastal terrace with a tree-covered coastal ridge as a backdrop. The first parcel involved in the boundary line adjustment (APN 131-010-14) is a roughly bow-tie shaped 38.5-acre parcel that extends inland from the ocean as much as 1,300 feet. Highway One bisects the parcel roughly in the narrow middle of the bow-tie shape of the parcel. The 9-acre portion of the parcel west of the highway is generally flat open grassland affording views of the ocean from Highway One. The 29.5-acre portion of the parcel east of the highway includes similar open grassy flat areas near the highway which gradually give way to more rolling terrain near the base of the coastal ridge, and finally to the lower portions of the coastal ridge itself. This portion of the parcel is also grass covered and largely devoid of trees. The second parcel involved in the boundary line adjustment, APN 131-010-12, covers approximately 51.5 acres and borders the eastern boundary of the first parcel. The second parcel extends another approximately 1,300 feet farther to the east and includes more of the coastal ridge.

The proposed boundary line adjustment would adjust the parcels in a way that would establish the new boundary between the two parcels at Highway One. As a result, a 9-acre parcel would exist west of Highway One and an 81-acre parcel would exist east of the highway.

The approved project is a boundary line adjustment that does not include any physical development on the ground that would affect visual resources. However, the adjustment of the parcels would limit options for siting future development on the parcels in a manner that could affect visual resources. LUP Policy 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(4) provide that the visual impacts of potential future development of the parcels must be analyzed for consistency with the visual resource policies of the LCP at the time a boundary line adjustment is approved.

A principal consequence of the approved boundary line adjustment is that future development of the westernmost of the two parcels would have to be located west of Highway One, whereas under the current parcel configuration, a building site could be located on the portion of the parcel east of Highway One where it would not affect views of the ocean. As noted above, a person traveling along Highway One is afforded views to and along the ocean across the portion of the parcel west of the highway. As the vacant landscape of the area west of the Highway consists of an open grassy-covered terrace without trees, hills, or other vegetation or topographical features, there is no place on the property west of the highway where a home could be placed where it would not affect views of the ocean from the highway. Therefore, as the boundary line adjustment would preclude the option available under the current parcel configuration of locating both future home sites east of the highway and instead would force one of the homesites to be developed west of the highway where it would affect views to and along the ocean, a substantial issue is raised as to whether the project as approved is consistent with the provisions of LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 that require that new development be sited and designed to protect views to and along the ocean.

In addition to calling for the protection of views to and along the ocean, LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 provide that development in highly scenic areas must be subordinate to the character of its setting. The policies also provide guidance on how to ensure that new development is subordinate to its setting in highly scenic areas. LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 provide that Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) near the toe of a slope; (b) below rather than on a ridge; and (c) in or near a wooded area. These policies also state that the visual impacts of development on terraces must be minimized by (a) avoiding development in large open areas if alternative site exists and minimizing the number of structures and clustering them near existing vegetation, natural landforms or artificial berms. The two parcels involved in the proposed boundary line adjustment are both within the same highly scenic area. Under the current parcel configuration, a house on the westernmost parcel could be located consistent with the above stated provisions near the toe of the coastal ridge, a natural landform. Under the proposed parcel configuration, a house on the westernmost parcel could not be located near the toe of a slope or clustered near existing vegetation, natural landforms, or artificial berms. Instead, the future homesite would have to be located in a large open area on the coastal terrace. Therefore, the approved boundary line adjustment raises a substantial issue of conformance to the siting provisions of LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 and the overall requirement of these policies that new development be subordinate to the character of its setting.



Wetlands Research Associates, Inc.

August 30, 2000

R.D. Beacon
7401 South Highway 1
Elk, California 95432

RECEIVED
SEP 11 2000

CALIFORNIA
COASTAL COMMISSION

At your request, Wetlands Research Associates, Inc. (WRA) conducted a wetland assessment on August 15, 2000 to determine the presence of wetlands subject to federal jurisdiction under Section 404 of the Clean Water Act and State jurisdiction under the California Coastal Act on a portion of Assessor's Parcel # 131-010-12 and 131-010-14x (herein referred to as the "Study Area") in Elk, Mendocino County, California. This report presents the results of this assessment.

The Study Area is located in unincorporated open space along Highway 1 between Elk Creek and Greenwood Creek, south of the city of Elk, in Mendocino County, California (Figure 1). The Study Area exists on privately owned lands currently and/or previously used for cattle grazing and farming. The Study Area consists of a 30 acre parcel east of Highway 1 (131-101-12) and a 9 acre parcel west of Highway 1 (131-010-14x).

As stated in the federal regulations for the Clean Water Act, wetlands are defined as:

"Those areas that are inundated or saturated by surface or ground waters at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas."

(EPA, 40 CFR 230.3 and CE, 33 CFR 328.3)

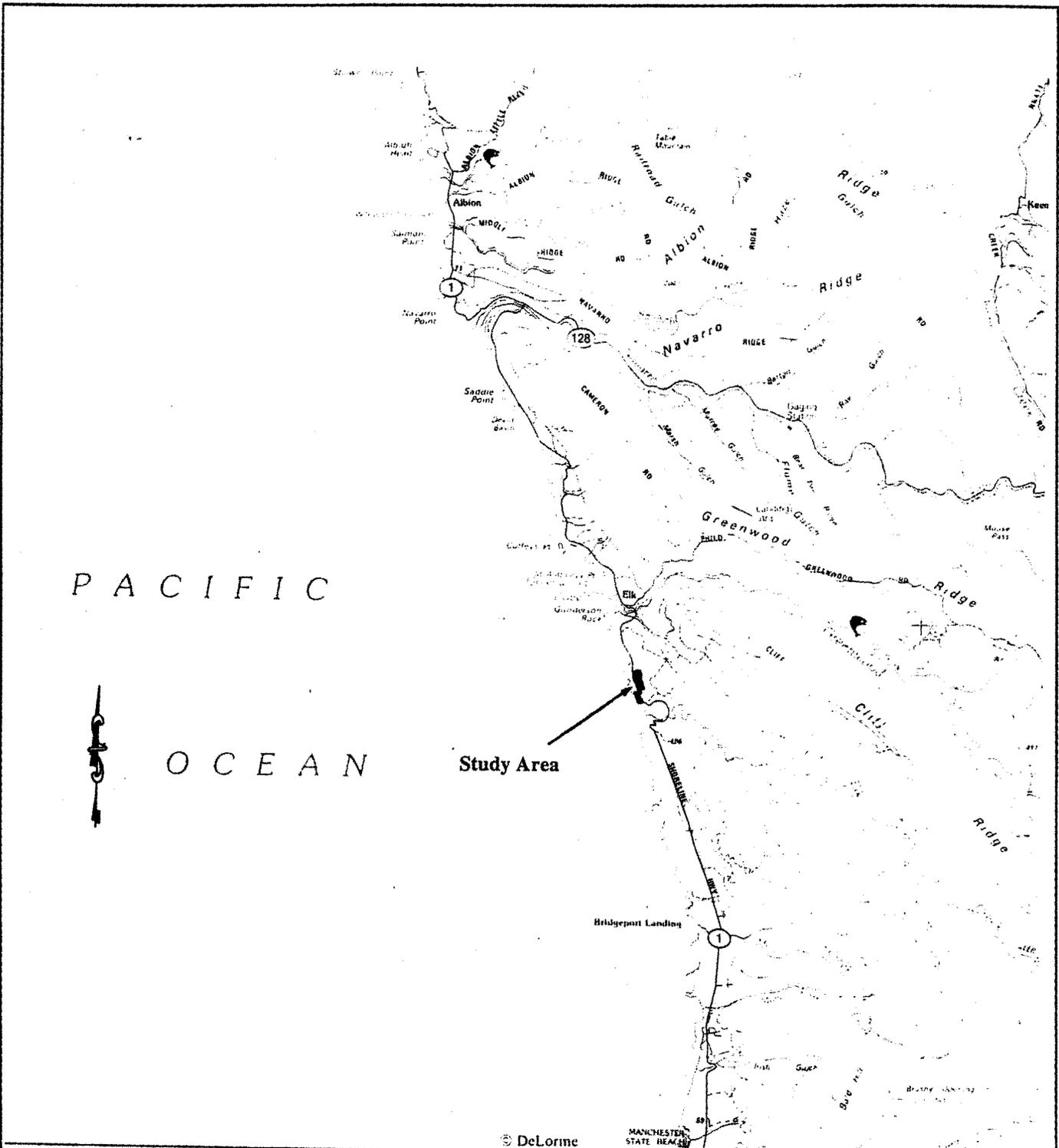
The assessment determined the presence or absence of wetlands through indicators used by the U.S. Army Corps of Engineers (Corps) in making a jurisdictional determination. The three criteria used to delineate wetlands are the presence of: (1) hydrophytic vegetation, (2) wetland hydrology, and (3) hydric soils. According to the *Corps of Engineers Wetland Delineation Manual* (1987):

"...[E]vidence of a minimum of one positive wetland indicator from each parameter (hydrology, soil, and vegetation) must be found in order to make a positive wetland delineation."

EXHIBIT NO. 8

APPLICATION NO.
A-1-MEN-00-20

WETLANDS ASSESSMENT
(1 of 8)

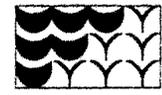


Scale 1:150,000

Contour interval 100 meters
(100 meters = 328.08 feet)

Map Source: DeLorme Mapping Company

Figure 1. Location map of Study Area (APN# 131-010-12 and 131-010-14x), Elk, Mendocino County, California



Wetlands Research Associates, Inc.

The California Coastal Act defines wetlands as:

"Wetland" means land within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens."

Generally, the California Coastal Commission (CCC) has utilized the same definition of wetlands adopted by the Department of Fish and Game. The Department's definition is the same as that used by the US Fish and Wildlife Service and requires the presence of wetland hydrology and one of three other attributes: wetland vegetation, undrained wetland (hydric) soils, or in the case of non-soils, saturated and covered with water. The CCC's definition, therefore, includes many non-vegetated areas such as mudflats, playas, and shallow water areas.

Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes, (2) the substrate is predominantly undrained hydric soil, and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

In the CCC's discussion of technical criteria for identifying and mapping wetlands (Appendix D of the *Statewide Interpretive Guideline for Wetlands and Other Wet Environmentally Sensitive Habitat Areas*, it states that:

"...the single feature that most wetlands share is soil or substrate that is at least periodically saturated with or covered by water, and this is the feature used to describe wetlands in the Coastal Act. The water creates severe physiological problems for all plants and animals except those that are adapted for life in water or in saturated soil, and therefore only plants adapted to these wet conditions (hydrophytes) could thrive in these wet (hydric) soils. Thus, the presence or absence of hydrophytes and hydric soils make excellent physical parameters upon which to judge the existence of wetland habitat areas for the purposes of the Coastal Act, but they are not the sole criteria. In some cases, proper identification of wetlands will require the skills of a qualified professional."

The Department of Fish and Game does not have a manual for the delineation of wetlands and relies instead on the USFWS wetland system for identifying wetlands contained in Cowardin et al (1979). This study took into consideration any areas that might qualify as wetlands using the USFWS definition based on observations of wetland hydrology and any one of the other criteria used by the USFWS.

METHODS

The data used in this assessment to determine the presence or absence of jurisdictional wetlands and waters are based on methodologies described in the *U.S. Army Corps of Engineers Wetland Delineation Manual* (Environmental Laboratory 1987). The routine method for wetland determination described in the *Corps Manual* (1987) was used to identify areas potentially subject to Corps jurisdiction within the Study Areas and also to make determinations based on CCC criteria.

The vegetation, hydrology, and soil criteria used to make wetland determinations are summarized below.

Vegetation

Plant species identified on the project site were assigned a wetland status according to the U.S. Fish and Wildlife Service list of plant species that occur in wetlands (Reed 1988). This wetland classification system is based on the expected frequency of occurrence in wetlands as follows:

OBL	Always found in wetlands	>99% frequency
FACW	Usually found in wetlands	67-99%
FAC	Equal in wetland or non-wetlands	34-66%
FACU	Usually found in non-wetlands	1-33%
NL	Not listed (upland)	<1%

Plants with OBL, FACW, and FAC classifications are classified as hydrophytic vegetation in the *Corps Manual* (1987) methodology. If more than 50 percent of the dominant plant species (dominant is ≥ 20 percent of the cover) are hydrophytic, the area is considered to have met the wetland vegetation criterion.

Hydrology

The jurisdictional wetland hydrology criterion is satisfied if the area is inundated or saturated for a period (minimum of five percent of the growing season or 18 days in coastal California) sufficient to create anoxic soil conditions during the growing season. Evidence of wetland hydrology can include direct evidence (primary indicators), such as visible inundation or saturation, surface sediment deposits, and drift lines, or indirect indicators (secondary indicators), such as oxidized root channels and algal mats. If indirect or secondary indicators are used, at least two secondary indicators must be present to conclude that an area has wetland hydrology according to Corp policy.

Soils

Soils formed under wetland (anaerobic) conditions have a characteristic low chroma matrix color, designated 0, 1, or 2, used to identify them as hydric soils. Chroma designations are determined by comparing a soil sample with a standard Munsell soil color chart (Kollmorgen 1990). Soils with a

chroma of 0 or 1 are considered hydric; soils with a chroma of 2 must also have mottles to be considered hydric.

RESULTS

Study Area Description

The Study Area is located in open, pastureland sloping from east to west along Highway 1 south of Elk in Mendocino County, California (Figure 2). The elevation of the Study Area is approximately 100 to 200 feet NGVD. The Study Area, and all surrounding lands, appeared to have been previously used for cattle grazing and agriculture; however, these activities probably ceased several years ago as the soil did not show recent evidence of discing or other forms of earth movement or recent cattle hoof prints. The Study Area and surrounding lands exhibited minimal topographic variation, some of which appeared natural (e.g., due to drainage and soil patterns) and some due to prior earth movement as evidenced by remnants of linear ditches along Highway 1, used for drainage purposes.

Vegetation

The Study Area generally contained native and non-native grassland and herbaceous plants. Plants typically found in upland areas in coastal Mendocino County in areas of the Study Area with no wetland hydrology included grasses, such as vernal grass (*Anthoxanthum odoratum*, NI), purple velvet grass (*Holcus lanatus*, FAC), and tall fescue (*Festuca arundinacea*, FAC-). Common herbaceous plants observed in the Study Area were yarrow (*Achillea millefolium*, FACU), hairy cat's ear (*Hypochaeris radicata*, NL), biddy-biddy (*Acaena novae-zelandiae*, NL), and douglas iris (*Iris douglasii*, NL).

Vegetation associated with potential wetland areas were found in shallow depressions and swales throughout the Study Area that had indicators of wetland hydrology. Typical dominant wetland vegetation included pennyroyal (*Mentha pulegium*, OBL), spreading rush (*Juncus patens*, FAC), and California blackberry (*Rubus ursinus*, FACW*). Other common wetland vegetation associated with these areas were smooth scouring rush (*Equisetum laevigatum*, FACW), hedge nettle (*Stachys ajugoides* var. *rigida*, OBL), plantain (*Plantago major*, FACW-), monkeyflower (*Mimulus guttatus*, OBL), water bentgrass (*Agrostis viridis*, OBL), and sedge (*Carex* sp., FAC- OBL).

Hydrology

Hydrological sources for the Study Area include direct precipitation, runoff from adjacent slopes, and underground flow from perennial seeps and springs. Primary hydrology indicators such as inundation and saturation in the upper 12 inches were observed within the large swale in the central portion of the Study Area, and secondary indicators such as oxidized root channels were observed at other locations in the Study Area.

Soils

County soil survey information is not currently available for the Study Area, however, soils examined within the Study Area were determined to be sandy clay loam with a dark brown(10 YR 2/1) or gleyed (2.5 N) matrix color. For a soil to be considered hydric, it must have a chroma of 1 or 2 with mottles, or exhibit other indicators (e.g., sulfidic odor, reducing conditions, gleyed colors, concretions, organic content in sandy soils). Ocean terrace soils along the coast, such as the soils on this site, often have low chroma even if they are well drained. Without indicators of wetland hydrology and/or hydrophytic plants, drained soils do not meet the definition of wetlands. Distinct mottling (i.e., 10 YR 5/6) was only observed in wet area soil samples.

POTENTIAL SECTION 404 AND COASTAL ACT JURISDICTIONAL AREAS

The Study Area has thirteen areas with wetland indicators. They range in size from 0.01 acre to 1.76 acres and their extent and location are shown in Figure 2. These areas have indicators of hydric soils, hydrophytic vegetation, and direct and indirect indicators of wetland hydrology. These areas meet the definition as jurisdictional wetlands for both the Corps of Engineers and the California Coastal Commission and total 3.08 acres (Table 1). Only one potential jurisdictional waters of the U.S. (stream) occurs within the Study Area (APN #131-010-14x). This is a seasonal drainage approximately 127 feet in length and averages two feet in width. The unvegetated channel has a defined "bed and bank" and drains toward the Pacific Ocean.

The conclusion of this assessment is based on conditions observed at the time of the field survey (August 2000). The extent of potential wetlands shown on the map is considered to be the minimum as determined from existing field indicators. The extent and location of potential wetlands shown on the map could expand under field conditions where observation of direct wetland hydrology indicators could be made.

Sincerely,



Shannon Lucas
Biologist

Table 1. Acreage of potential jurisdictional areas within the Study Area.

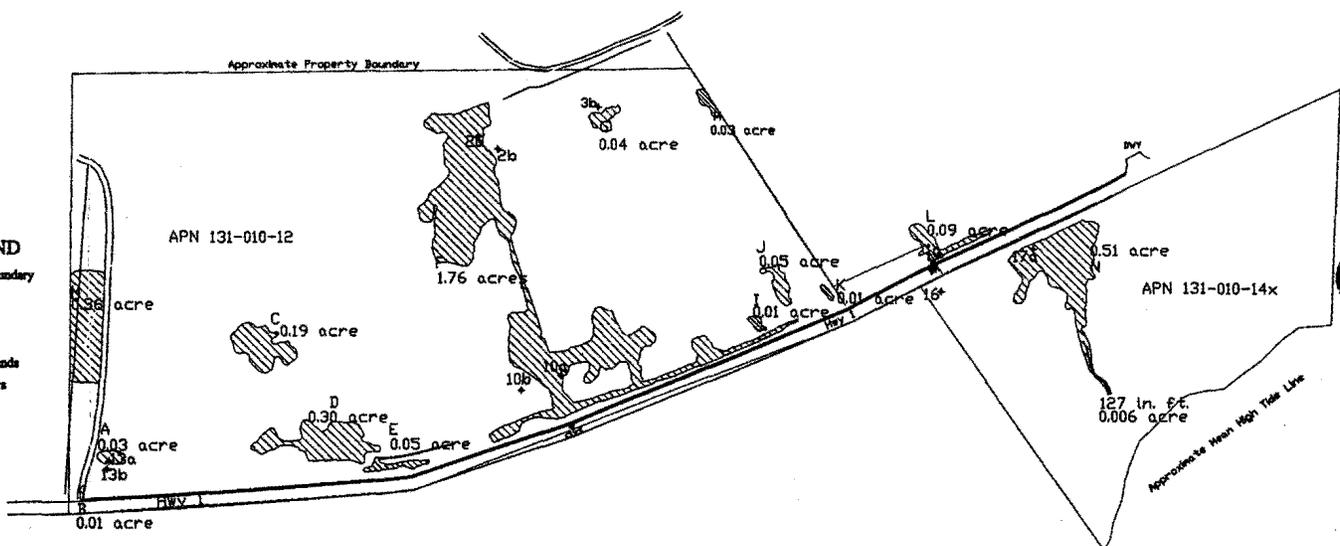
Map Area	Parcel	Acreage
A	131-010-12	0.03
B	131-010-12	0.01
C	131-010-12	0.19
D	131-010-12	0.30
E	131-010-12	0.05
F	131-010-12	1.76
G	131-010-12	0.04
H	131-010-12	0.03
I	131-010-12	0.01
J	131-010-12	0.05
K	131-010-12	0.01
L	131-010-12	0.09
M	131-010-12	0.36
N	131-010-14x	0.51
Total Potential Wetland Acreage		3.44
Total Potential Water	131-010-14x	0.006 (127 ln. ft.)

REFERENCES

- Cowardin, L. M., et. al. 1979. Classification of wetlands and deep water habitats of the United States. U.S. Department of the Interior Fish and Wildlife Service, Office of Biological Services, Washington, D. C. 20240
- Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual. Department of the Army, Waterways Experiment Station, Vicksburg, Mississippi 39180-0631.
- Kollmorgen Instruments Corporation. 1990. Munsell Soil Color Charts.
- Reed, P. B., Jr. 1988. National list of plant species that occur in wetlands: California (Region 0). U.S. Fish and Wildlife Service Biological Report 88 (26.10).

LEGEND

-  Study Area Boundary
-  Fenceline
-  Powerline
-  Roadway
-  Potential Wetlands
-  Potential Waters
-  Sample Point



SCALE
1:3400

12. Assessment of wetlands and waters within the Study Area (APNs 131-010-12 and 131-010-14x), Mendocino County, California. Wetlands and waters surveyed August 15, 2000.



Wetlands Research Associates, Inc.



BACE Geotechnical
A Division of Brunsing Associates, Inc.

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OCT 23 2000

CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 9

APPLICATION NO.
A-1-MEN-00-20

GEOTECHNICAL
RECONNAISSANCE
(1 of 4)

October 19, 2000

Mr. R. D. Beacon
P. O. Box 210
Elk, CA 95432

RE: Limited Engineering Geologic Reconnaissance, Westernmost Parcel of Planned Boundary Line Adjustment of Portions of Lots 1, 2, and 3, and the SE1/4 of the NE1/4 of Section 2, T. 14 N., R. 17 W., Mendocino County, California, Coastal Permit Application A-1-MEN-00-20

Dear Mr. Beacon:

This letter presents the results of our limited Engineering Geologic Reconnaissance of the westernmost (coastal bluff) parcel of planned boundary line adjustment of Portions of Lots 1, 2, and 3, and the SE1/4 of the NE1/4 of Section 2, T. 14 N., R. 17 W., Mendocino County, California. The subject parcel, A. P. No. 131-010-14, is located on the west-southwest side of Highway One, approximately two miles south of the community of Elk.

The undersigned, Principal Engineering Geologist of BACE Geotechnical (BACE), previously performed a reconnaissance for a proposed house site within the southerly portion of A. P. No. 131-010-14; the results of that reconnaissance were presented in a letter dated November 10, 1999.

No specific building site has been determined for this property, as yet. We anticipate further geologic reconnaissance and/or geotechnical investigation will be necessary when a specific site has been selected.

The purpose of our services was to evaluate the ocean bluff stability at the property in order to determine building feasibility and bluff setback criteria. The scope of our services consisted of studying aerial photographs; researching published geologic maps; brief field reconnaissance; consultation; and the preparation of this letter.

Reconnaissance

Our undersigned, Principal Engineering Geologist performed a brief reconnaissance of the site on September 6, 2000. This reconnaissance was performed along the upper bluff edge, only. We did not climb down the bluff or observe the bluff from the ocean (by kayak). As part of our reconnaissance, we reviewed the following published geologic maps:

- Ukiah Sheet, Geologic Map Series of California, 1960, California Division of Mines and Geology (CDMG);

Mr. R. D. Beacon
October 19, 2000
Page 2

11543.1

- Geology and Geomorphic Features Related to Landsliding, Mallo Pass 7.5-Minute Quadrangle, 1984. Open File Report 84-13, CDMG.

We also studied aerial photographs, dated June 30, 1963 and June 23, 1981, both enlarged to a scale of one-inch equals approximately 200 feet. The bluff lines shown in those photographs were compared with each other as well as with the present bluff line, as an aid in determining bluff retreat rates for various portions of the property.

Site Conditions

The northwest side of the property is surrounded by ocean water; a sandy beach is at the bluff toe along the southwest side of the property; Highway One forms the northeasterly boundary. The bluffs within the property are approximately 190 to 200 feet in vertical height with slope gradients that range from vertical to about one horizontal to one vertical (1H:1V). Several, small sea caves were observed along the bluff toe; the extent of the caves could not be determined from our vantage points on the upper bluff.

An abandoned, logging railroad roadbed is situated on the outside edge of the bluff. The railroad roadbed was excavated approximately 15 to 20 feet down to relatively firm rock, beneath the poorly consolidated, terrace deposits. It is probable that the railroad was constructed around, or prior to 1900. The road bed within the property is relatively intact; several sections of the roadbed are missing on properties to the north and south, due to localized landsliding (rock falls).

The upper terrace level of the property is covered by moderately dense grasses and weeds. Concentrations of scrub brush are located along the bluff edges. The lower bluffs are mostly bare rock.

No surface water or ground water seepage was observed on the upper bluffs (including railroad roadbed) or the terrace level. Some relatively minor, localized seepage was observed on the lower bluffs.

Site Geology

The bluffs are comprised of sandstone and minor shale of the Cretaceous-Tertiary Franciscan Complex coastal belt. These rocks are generally massive, little to closely fractured, friable to very hard (predominantly moderate in hardness), and little to moderately weathered. Site bedding orientation consists of a northeast trending strike, with a moderately steep dip of approximately 40 degrees from horizontal to the southeast.



2 of 4

Mr. R. D. Beacon
October 19, 2000
Page 3

11543.1

Approximately 10 to 15 feet of Pleistocene terrace deposits overlie the bedrock in the site vicinity. The roughly flat-lying, terrace deposits consist of poorly to moderately consolidated sands, silty sands and sandy silts. The lower three to four feet of the terrace deposits consist of brown silty sands with some gravels. These sands appear medium dense to dense. One lightly-cemented sand layer, approximately two to three feet in thickness, is located approximately four feet below the ground surface at the southwest end of the property. The upper three to four feet of the terrace deposits (topsoils) consist of dark-colored silty sands with some sandy silts. These topsoils appear loose to medium dense, but relatively low in expansion potential (tendency for volume change with changes in moisture content).

Open File Report 84-13 shows the bluffs to consist of "debris slide slopes"; geomorphic features characterized by steep slopes sculpted by numerous debris slide events. No evidence of recently active landsliding was observed. Evidence of past rock falls was observed in fresh (little weathered), bare rock.

No evidence of faulting was observed at the site, and none of the published references that we reviewed show faults on, or trending towards the property. The active San Andreas Fault is located offshore, approximately four miles to the southwest.

Conclusions and Recommendations

The following bluff setback criteria is in consideration of the fact that the outer 20 to 30 feet of the bluff has been cut away for construction of the railroad and that most of the roadbed is still there, although somewhat eroded, after probably 90 years, or more. For preliminary planning purposes, bluff setback criteria for this portion of the bluffs, is based upon an average retreat rate of between 2 and 2-1/2 inches per year for 75 years (considered to be the economic lifespan of a house by the California Coastal Commission) times a factor of safety of five, for a setback of 78 feet. The bluff setback starts at the landward side of the railroad cut bank. This recommended factor of safety and resulting bluff setback can be significantly reduced once a specific building site has been selected and BACE has performed additional studies.

Conventional footing foundations or drilled piers can be used for a future residence provided that BACE reviews the project plans; verifies the final bluff setback in the field when the house corners have been staked; and observes the foundation excavations during construction. Due to the presence of weak surficial soils, further investigation, including subsurface exploration and laboratory testing, is recommended.

As typical of the Mendocino County coast, the site will be subject to strong ground shaking during future, nearby earthquakes. Since we found no evidence of active



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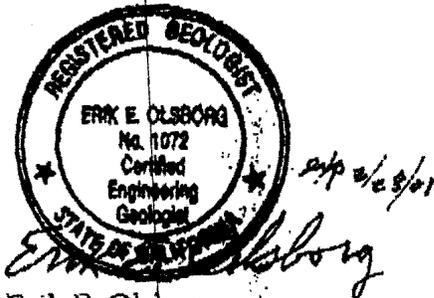
faulting in the property vicinity, we consider the risk of fault rupture at the site to be relatively low

Limitations

This engineering geologic reconnaissance was performed in accordance with the usual and current standards of the profession, as they relate to this, and similar localities. No other warranty, either expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data.

Changes in the condition of a site can occur with the passage of time, whether they are due to natural events, or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, this report may become wholly or partially invalidated by changes outside of our control. Therefore, this report is subject to review and revision as changed conditions are identified.

Respectfully submitted,



Erik E. Olsborg
Engineering Geologist - 1072

EEO/WAS/seb

Three copies submitted

cc: George del Gaudio
Roger Haas



4 of 4

JIM

R.D. Beacon
P.O. Box 210
Elk, California
95432

Robert Merrill
California Coastal Commission
North Coast District Office
710 E Street Suite 200
Eureka, California 95501-1865

Re: A-1-Men-00-20

Dear Mr. Merrill

I will enter into an agreement to provide water to the 9-acre parcel as a condition of approval of boundary adjustment in the matter before your commission. I have a spring that supplies water to the home at the old mill site that produces over 100 gallons per minute in the dry season. The pipeline extends to an area near the proposed new parcel.

I will have my attorney draft an agreement after the approval and have it record.

Best regards,


R. D. Beacon

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CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO.	10
APPLICATION NO.	A-1-MEN-00-20
PROOF OF WATER AVAILABILITY	



Archaeological Assessment Of The Del Gaudio Property; Elk, Mendocino County, California

Prepared by Max A. Neri, Consulting Archaeologist
for the California Coastal Commission

EXHIBIT NO.	11
APPLICATION NO.	A-1-MEN-00-20
ARCHAEOLOGICAL ASSESSMENT	(1 of 24)

September 17, 1999

Introduction:

This report documents the archaeological survey and evaluation of the property of Mr. George del Gaudio approximately 3 miles south of the town of Elk on the central Mendocino coast. This investigation was undertaken at the request of Mr. del Gaudio to assure compliance with California Coastal Commission (CCC) environmental review. Despite the fact that the CCC had not formally requested such a review, Mr. del Gaudio desired to avoid any potential delays in the project and proposed building schedule, and requested that the parcels in question be investigated in order to assure that no previously discovered or potentially unknown historical resources would be impacted by future development. The overall property and area of archaeological survey coverage is depicted on the attached Archaeological Survey Coverage Map and Resource Location Map. Two archaeological sites, one prehistoric the other historical, were discovered as a result of this investigation, designated Gaudio Site-01/H and -02, and one prehistoric isolate discovery was also made, Gaudio Isolate-01. All of these resources are depicted on the above-mentioned Resource Location Map.

Mr. Del Gaudio met the author at the property on September 17, 1999 and demonstrated the extent of the property and the small area to be impacted by the construction of a single-family residence. The survey was completed by conducting 15-meter parallel transects throughout the flat portions of the property and by inspecting the soils exposed in the cut bank along the edge of the cliffs. A shovel was used to periodically expose mineral soils beneath the thick layer of matted grasses and shrubs.

Archaeological Records Check (#99-588)

A complete records check from the Northwest Information Center (NIC) at Sonoma State University in Rohnert Park, CA. The records check indicated that no known resources were present within or adjacent to the project and that no previous surveys had occurred in the area. The records check did indicate that one previously discovered prehistoric site, CA-MEN-839, is located approximately ¼ mile south of the project area. This site is described as a shell midden that has eroded down a large cliff due to "later human activities".

Location: Township 14 North, Range 17 West; Portion of Sections 2: MDBM. Mallo Pass Creek 7.5' USGS Quadrangle (1960). Assessor Parcel #: 131-010-12 and 131-010-14.

Setting:

The project area consists of an 18-acre area of ownership divided into two adjacent 9-acre parcels. The property is located on the west side of Highway One just north of the cove formed by the entrance of Elk Creek into the Pacific Ocean, and approximately 3 miles south of the town of Elk. The property is situated on a bluff overlooking the ocean; a dramatic cliff that drops roughly 200' to the ocean marks the western edge of the property. Although the overall parcels are described as 18 acres on the county assessor maps, the property extends to the average mid-tide line and much of this is very steep and inaccessible. The remainder of the



property is very flat and uniformly covered in a dense growth of grasses and coastal shrubs and forbs. Refer to the attached photographic record for an overview of the vegetation community and topography.

Survey Results: This investigation resulted in the discovery of three archaeological resources: one historic site (Gaudio Site-01/h), one prehistoric site (Gaudio Site-02) and one prehistoric isolate (Gaudio Isolate-01).

Del Gaudio Site-01/H: This site consists of the remnants of the historical narrow gauge railroad grade that traveled along the edge of the Mendocino coastline. The short section of the resource within the project area generally contains very poor integrity, having been greatly impacted by erosion. The grade is excavated into the side of the cliff approximately 10- 20' below the edge of the bluff, and in two places forms a deep through-cut as it passes through two small points in the cliff. The grade is almost completely eroded away at several locations where the cliff face is very steep and lacks solid bedrock. A few old piling and trestle remnants are present in these areas, suggesting that at least some of the grade was supported by a wooden trestle rather than being entirely excavated into the cliff face. Other than the small remnant of trestle beams eroding down the face of the cliff at one location, no other historical artifacts were associated with the grade. The southernmost through-cut, adjacent to Gaudio Isolate-01, is probably the most intact portion of the grade and provides the best approximation of the width of the grade, roughly 12'-14'.

The grade ascends slightly from the southern end of the property to the northern end, continuing the climb out of the Elk Creek gulch. The grade clearly exposes the bedrock and soil strata underlying the project area, and aided in the discovery of Gaudio Site-02.

Del Gaudio Ranch Site-02: This prehistoric site consists of a very sparse lithic scatter with some possible burnt bone fragments. The site is located on the top of the bluff just east of a point that juts westward over the ocean. This is also where the railroad grade has formed a through-cut to avoid traversing the point, and all of the artifacts noted on site, one Franciscan chert and two obsidian flakes, were observed eroding out of the eastern side of the grade. The soils in the through-cut had eroded faster than the underlying bedrock and gravel layers, forming a bench on which the artifacts had been deposited.

It is likely that much of this site has been removed by the railroad grade, as no artifacts were observed to the east on top of the bluff. This site record should be considered as primarily documenting the location of a largely destroyed archaeological site, although it is possible that some subsurface deposits remain intact. Extensive amounts of cattle bone were also located in the area, some of which showed signs of recent (non-prehistoric) butchering.

Del Gaudio Ranch Isolate-01: This isolate discovery consists of a very small remnant of a shell midden that has been greatly impacted by the construction of the railroad grade documented herein as Gaudio Site-01/H. The shell was observed eroding out of a tiny bit of intact soil on the western side of a through-cut formed by the railroad grade. Strangely, no shell was observed eroding out of the western side of the through-cut. The deposit noted was moderately dense and located in an area roughly 7 meters x 4 meters, and contained densities of approximately 20 shell fragments per square-meter in the densest (central) portion. It is estimated that only 20 square meters of soils remains intact on the small point that contains the deposit.

Interpretations:

The discovery of the various prehistoric resources within the project area is not unexpected, however they have clearly suffered greatly from impacts associated with construction of the historic railroad grade. The sparse prehistoric components present on the property likely indicate generalized use of the project area by prehistoric peoples for resource procurement and processing, rather than intensive or even seasonal habitation. Due to both the sparseness of the deposits and the lack of integrity, neither of the prehistoric resources is considered potentially significant. Neither of these resources will be impacted by any proposed construction or ground disturbing activities.

The historic resource present in the project area, the railroad grade, represents only a small portion of the overall extent of the resource. The portion addressed herein generally contains very little integrity, however an



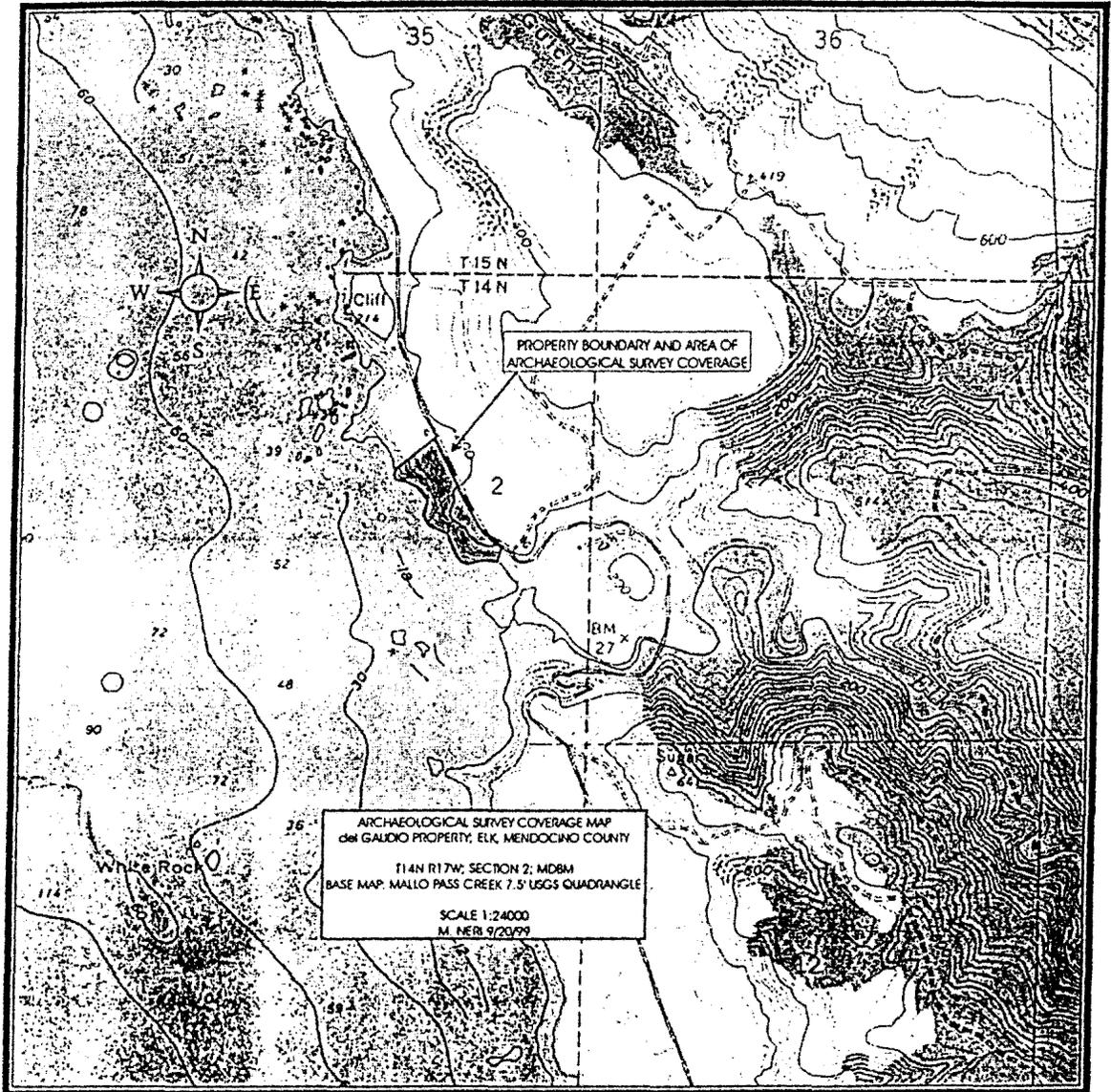
effective determination of significance would necessitate a review of the overall status of the entire resource, a undertaking well beyond the scope of the current report. As such, this resource must be considered to hold a moderate degree of significance, as it is likely that at least some portions of the overall grade have been totally obliterated or destroyed. As with the case of the prehistoric resources, none of the proposed construction activities will harm any portion of the grade or cause additional erosion. Due to geo-technical concerns, the house will be set back at least 35' from the edge of the cliff and the grade itself, providing an adequate protective buffer.

Attachments:

- 1) Archaeological Survey Coverage Map and Archaeological Resource Location Map.
- 2) Photographic Record depicting project overviews and site locations.
- 3) Archaeological Records Search Results (Management Summary, File #99-588).
- 4) Archaeological Site Records for Del Gaudio Ranch Site-01/h and -02 and Isolate-01.



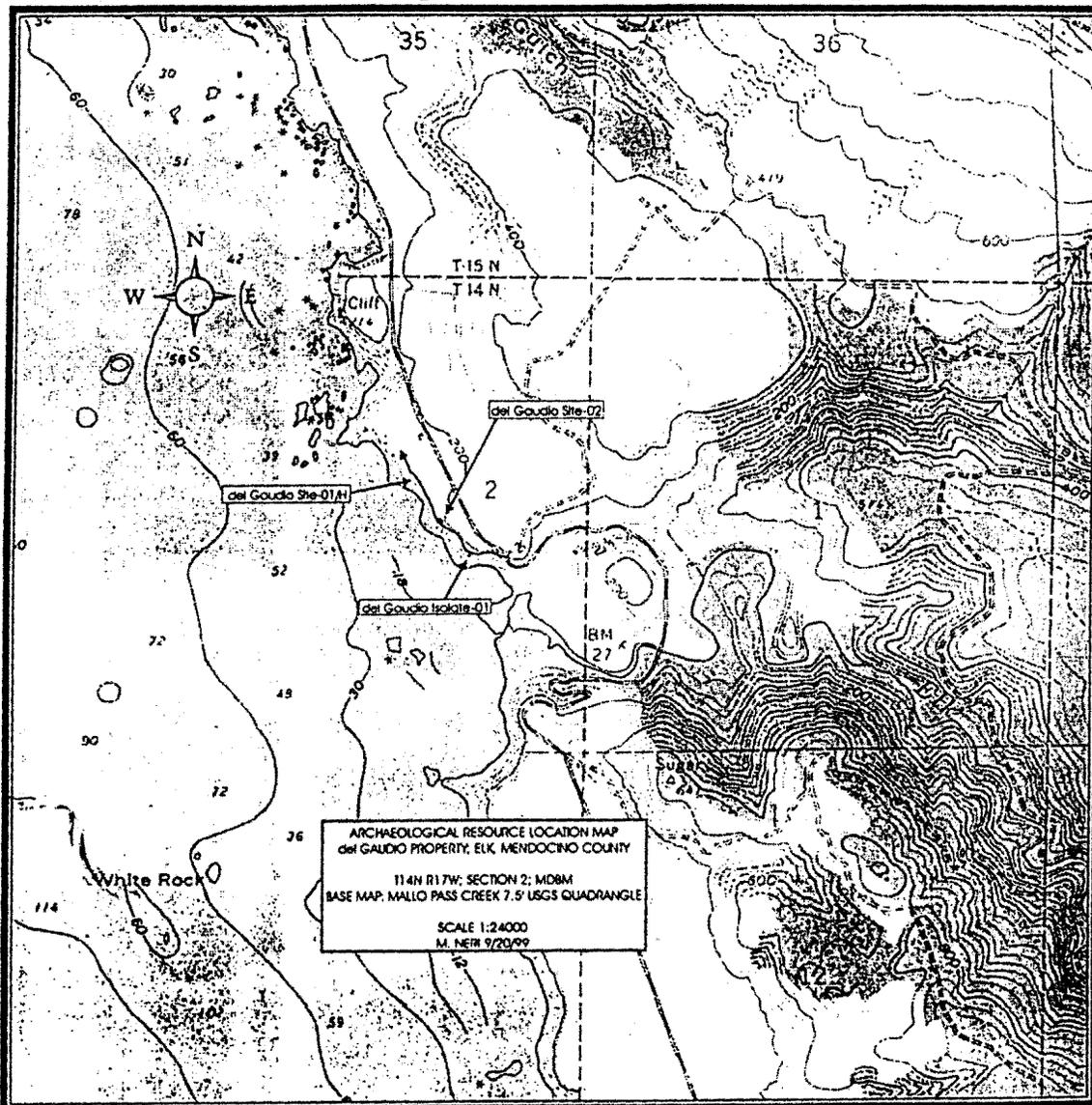
Archaeological Survey Coverage Map



Map Prepared September 20, 1999 by M. Neri.



Archaeological Resource Location Map



Map Prepared March 4, 1999 by M. Neri.

Max A. Neri
Consulting Archeologist
North Coast Resource Management
PO Box 509
Redwood Valley, Ca 95470
Phone: 707-485-0721 Ext. 15
Fax: 707-485-8962

Photographic Record
Del Gaudio Property, 9-17-99
Camera Format: Kodak DC260 Digital Camera



Photo #1: Project Overview from Highway One just north of the southern property line (which is located at the tress in photo left). This photo forms a panorama with the next six photos, progressing from south to north. Viewing south.

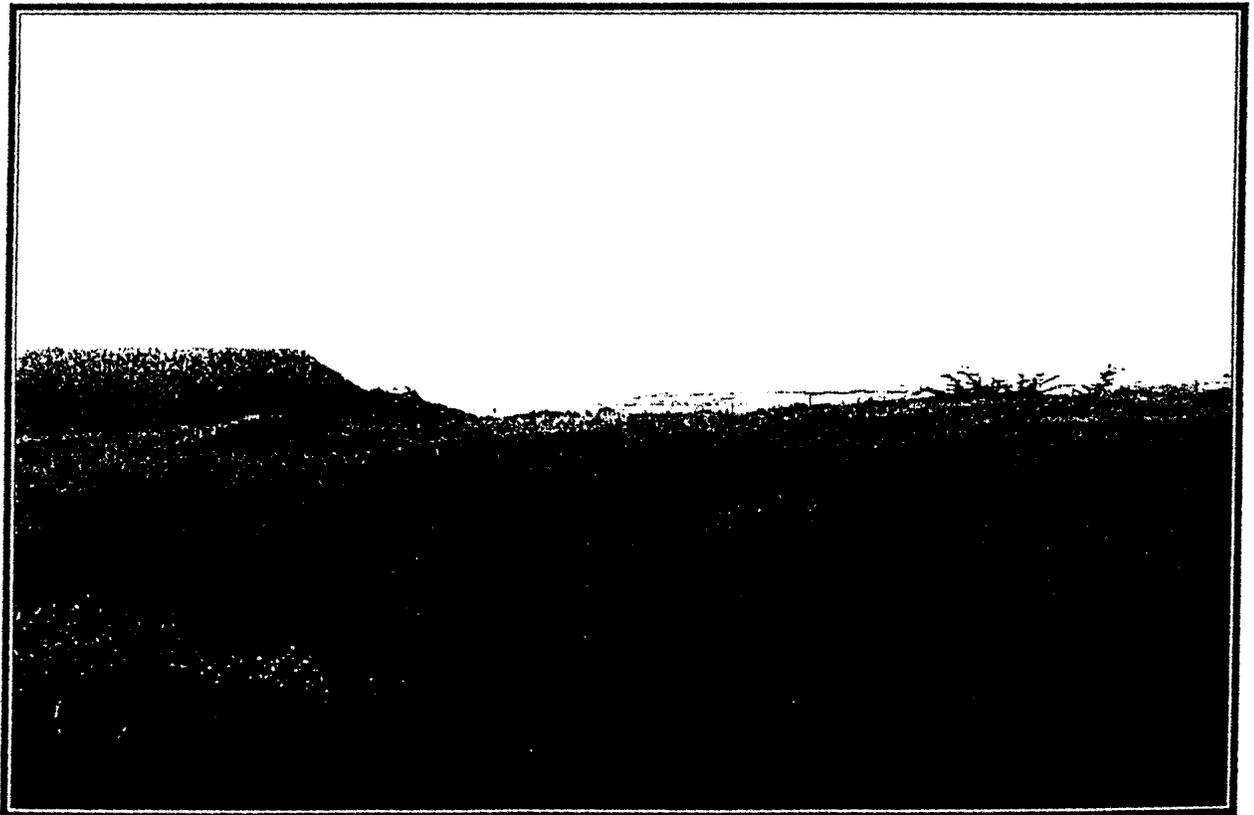


Photo #2: Overview of project area, viewing southwest. Note dense grass growth.

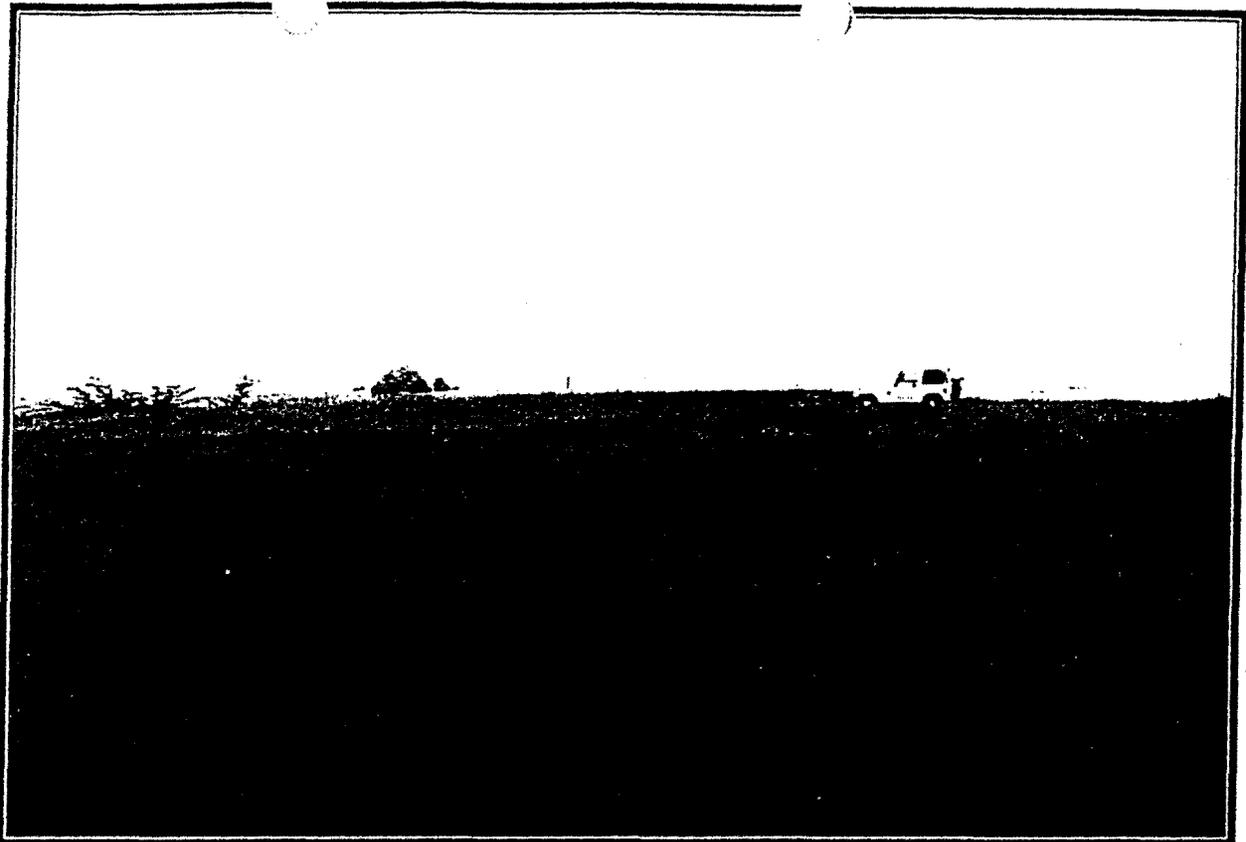


Photo #3: Continued overview of project area. Gaudio Isolate-01 is located down from edge of bluff approximately midway between jeep and low shrub in photo left. Viewing west-southwest

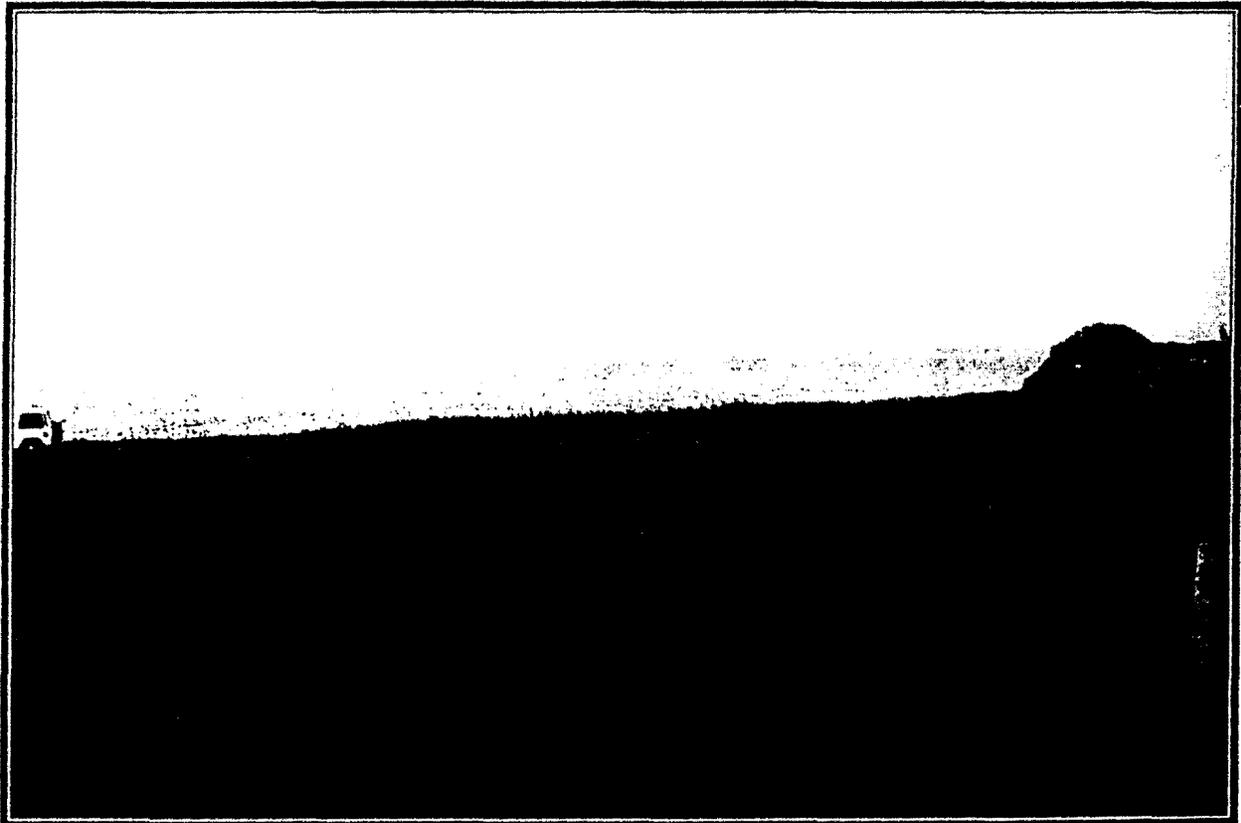


Photo #4: Continued overview, viewing west.

7 of 24

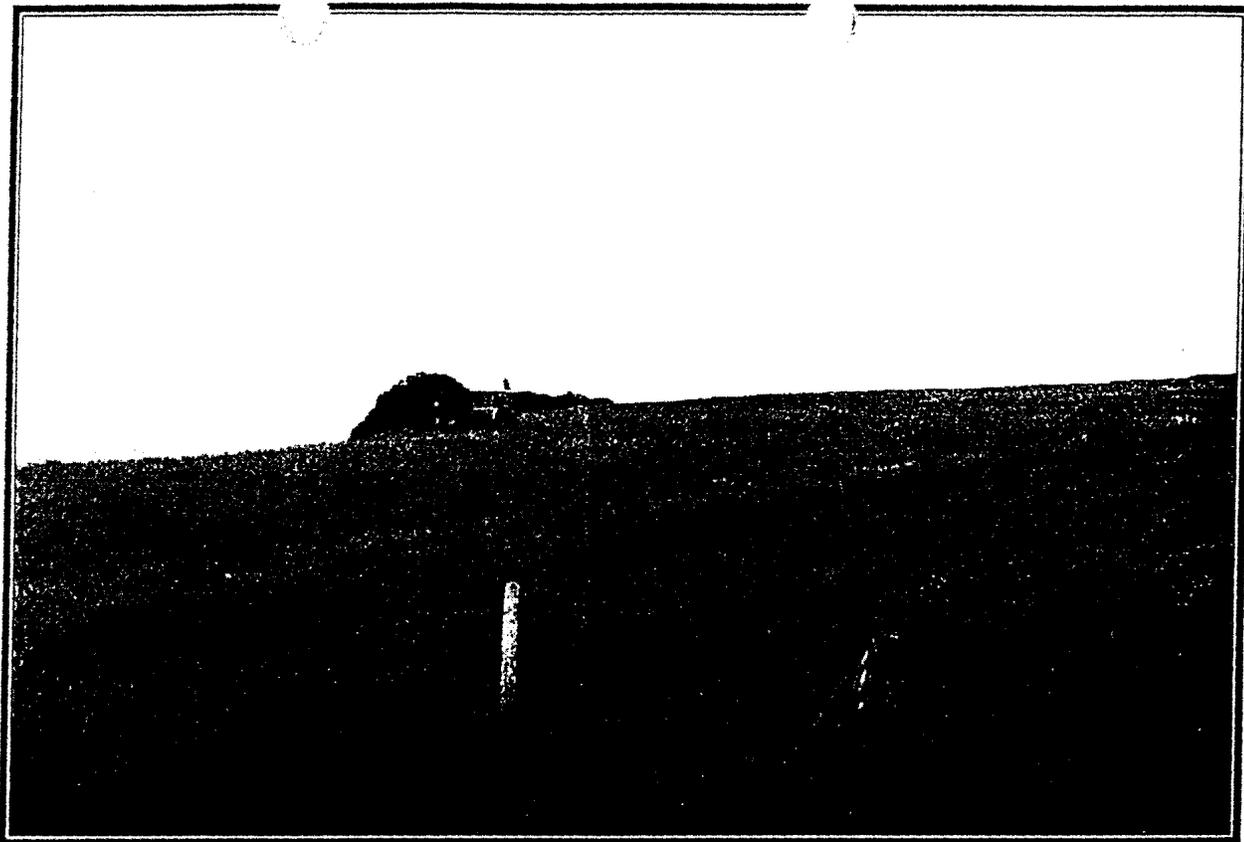


Photo #5: Continued overview, viewing northwest. Site-02 is located past backhoe and just to left of darker protruding point in cliff in photo center-left.

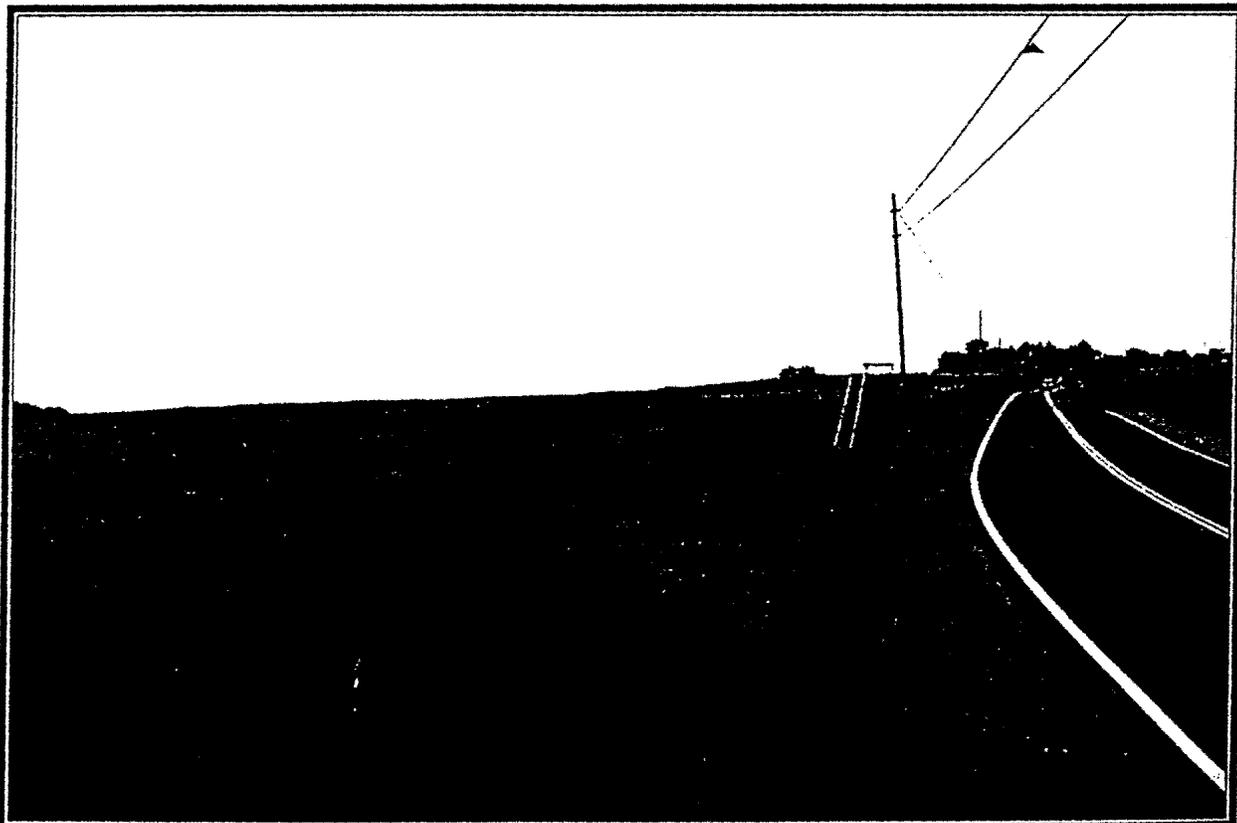


Photo #6: Final overview in panorama, viewing north-northwest. Highway One in photo right. Property extends nearly to small structure visible in photo center-right, just left of power poles.

8924

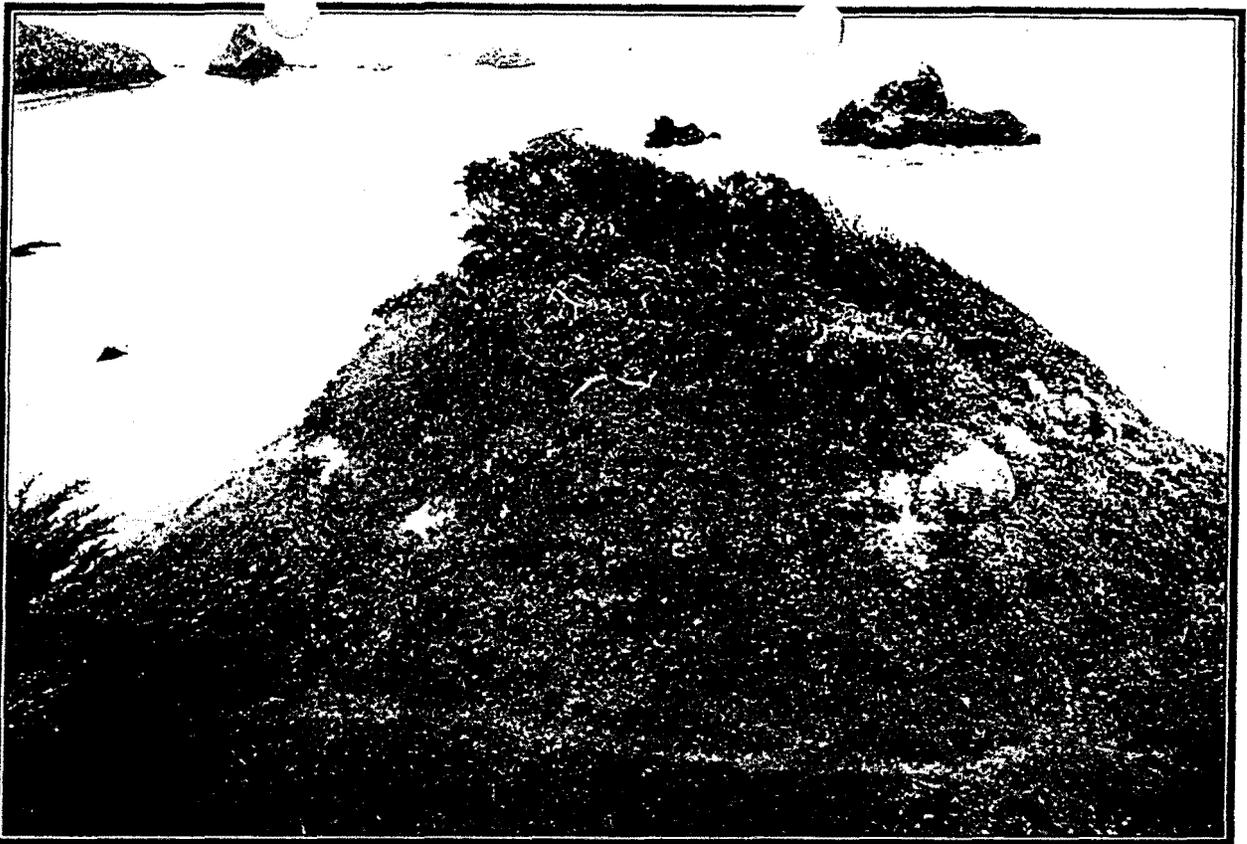


Photo #7: Detail of location of Isolate-02. The shells were observed eroding out of the steep face below the brush covered top of the point. Viewing southwest.



Photo #8: Overview of Site-01/h (RR grade) from cliff approximately midway between Site-02 and Isolate-01, viewing north-northwest. Note cutbank through bluff to avoid protruding point in cliff and the heavily eroded channel that has removed much of the grade bed.

90724



Photo #9: Overview of Site-01/h from same location as photo#1, viewing south-southeast. RR grade travels along far photo right. The excavated cut in photo center may be an old access road leading from top of bluff down to grade. Isolate-01 located on western side of through-cut, as depicted in photo #7.



Photo #10: Overview of Site-01/h from edge of cliff to the north from just south of site-02, viewing south. Grade is clearly visible although severely eroded in places. The cliff to the west drops sharply to the ocean. Note the small pile of timbers present on grade in the center left of photo.



Photo #11: Overview of northernmost of the two through-cuts, taken from Site-02, viewing northwest. The original height of the grade is difficult to determine and has likely eroded away. This photo also depicts the "bench" formed by the erosion of the top soil into the through-cut that allowed identification of Site-02. The darker soils on photo far right may contain additional artifacts.
Viewing north-northwest.

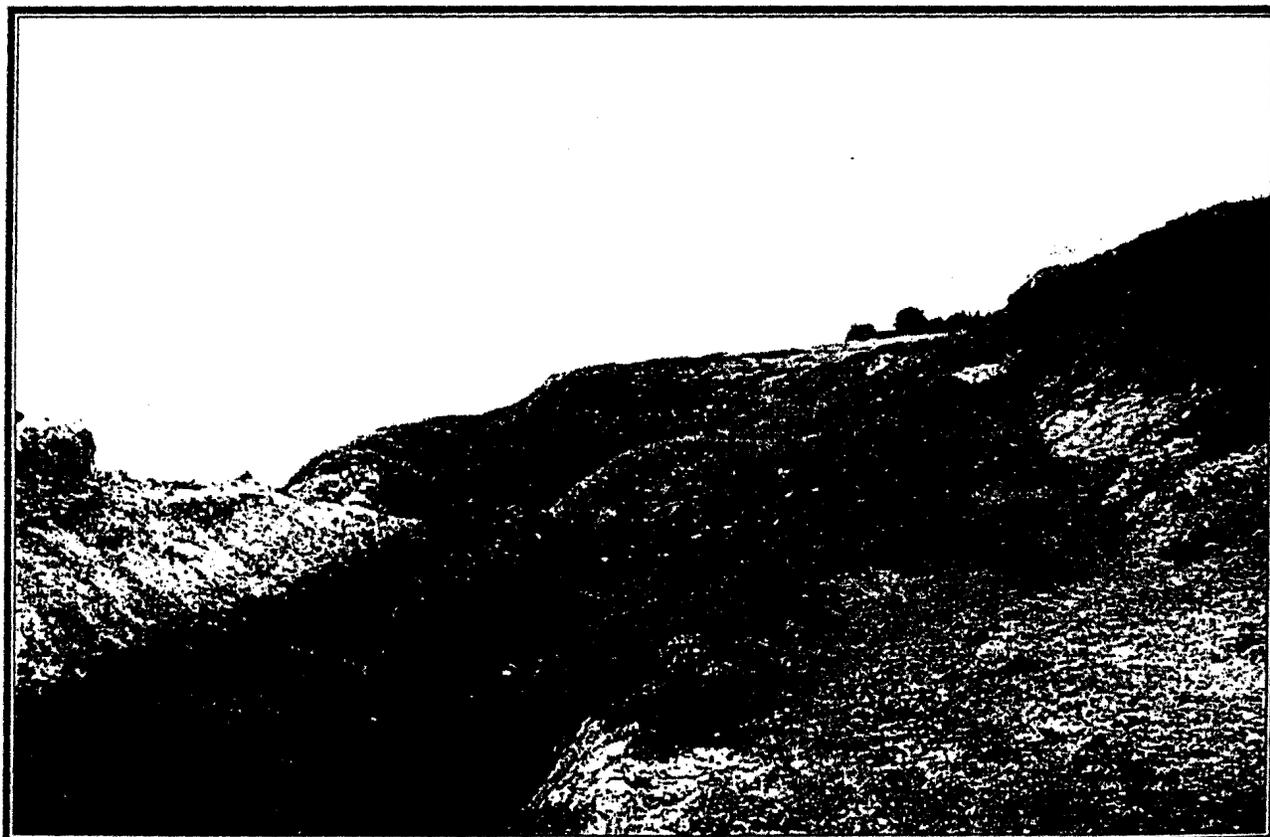


Photo #12: Overview of northern portion of RR grade from Site-02, viewing north-northwest. The through-cut is visible in lower portions of the photo. Soils from the bluff have slumped and eroded onto the farther portions of the grade.

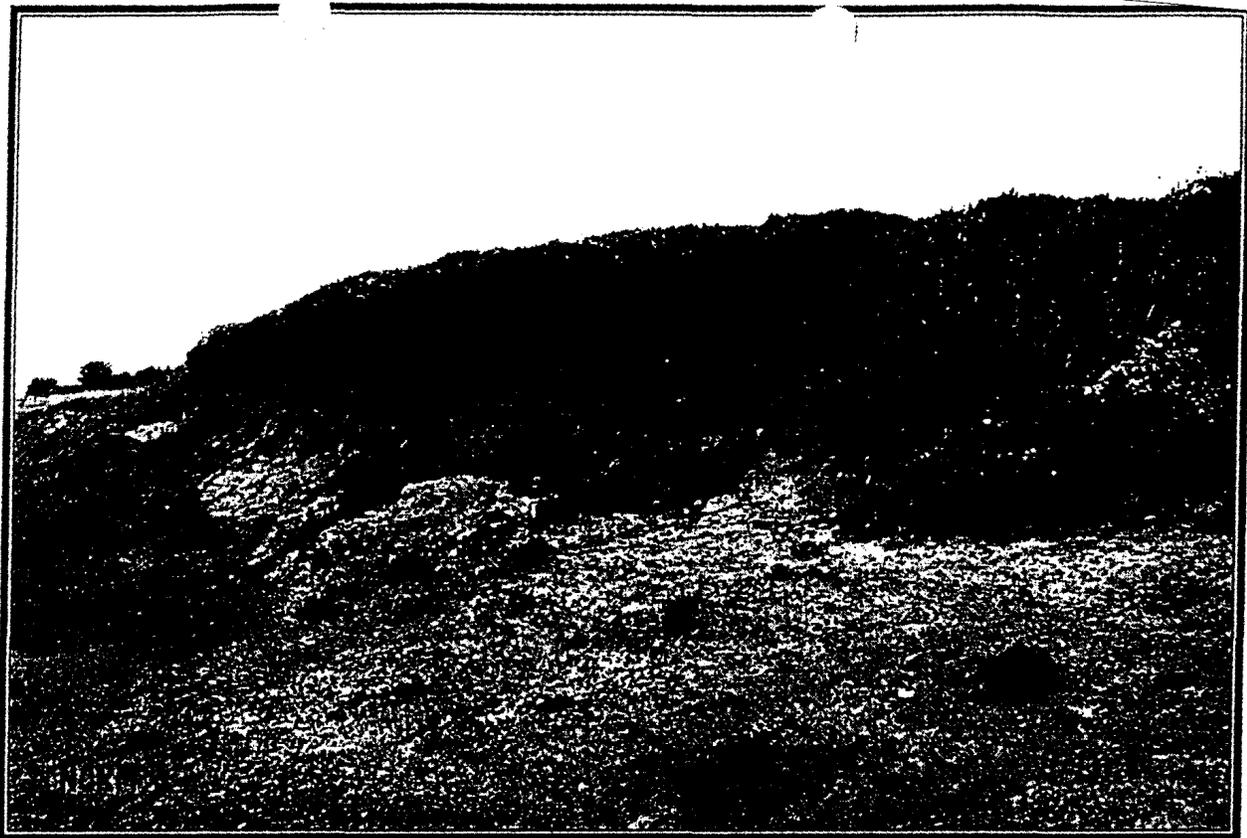


Photo #13: Detail of Site-02. Again, note the "bench" formed by the erosion of the top soil into the through-cut formed by the railroad grade, and darker intact soils overlying bedrock. Viewing northeast.

PRIMARY RECORD

Other Listings Review Code Reviewer Date

Page 1 of 5 *Resource Name or #: Del Gaudio Site-01/H

P1. Other Identifier: None.

*P2. Location: Not for Publication Unrestricted
and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*a. County: Mendocino

*b. USGS 7.5' Quad: Mallo Pass Creek Date: 1960. T14N; R17W; SW 1/4 of NE 1/4 and the NE 1/4 of SE 1/4 of Sec 2: M.D.B.M.

c. Address: Highway One City: Elk CA Zip: 95432

d. UTM: Zone: 10 ; NAD 27: North end: 438,560m East/ 4,328,780m North. South end: 438,850m East/ 4,328,470m North

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) From the town of Elk in Mendocino County, Drive south on Highway One for approximately 3 miles to a point just before the road turns sharply east and drops into the gulch created by Elk Creek. The site is situated along the edge of the bluff overlooking the ocean.

*P3a. Description: This site consists of the remnants of the historical narrow gauge railroad grade that traveled along the edge of the Mendocino coastline. The short section of the resource within the project area generally contains very poor integrity, having been greatly impacted by erosion. The grade is excavated into the side of the cliff approximately 10- 20' below the edge of the bluff, and in two places forms a deep through-cut as it passes through two small points in the cliff. The grade is almost completely eroded away at several locations where the cliff face is very steep and lacks solid bedrock. A few old piling and trestle remnants are present in these areas, suggesting that at least some of the grade was supported by a wooden trestle rather than being entirely excavated into the cliff face. Other than the small remnant of trestle beams eroding down the face of the cliff at one location, no other historical artifacts were associated with the grade. The southernmost through-cut, adjacent to Gaudio Isolate-01, is probably the most intact portion of the grade and provides the best approximation of the width of the grade, roughly 12'-14'. The grade ascends slightly from the southern end of the property to the northern end, continuing the climb out of the Elk Creek gulch. The grade clearly exposes the bedrock and soil strata underlying the project area, and aided in the discovery of Gaudio Site-02.

*P3b. Resource Attributes: (List attributes and codes) AH7; RR Grade.

*P4. Resources Present: Building Structure Object Site District Element of District Other (Isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.) Refer to attached photographic record.

P5b. Description of Photo: (View, date, accession #) N/A.

*P6. Date Constructed/Age and Sources: Historic Prehistoric Both

*P7. Owner and Address: George del Gaudio, PO Box 615, Little River, CA 95456.

*P8. Recorded by: (Name, affiliation, and address) Max Neri, Consulting Archaeologist, North Coast Resource Management, PO Box 509 Redwood Valley, CA 95470.

*P9. Date Recorded: September 17, 1999.

*P10. Survey Type: (Describe) Intensive investigation of archaeologically sensitive areas.

*P11. Report Citation: (Cite survey report and other sources, or enter "none.") Archaeological Assessment of the del Gaudio Property; Elk, Mendocino County, California. Prepared by Max A. Neri, Consulting Archaeologist. On file at the Northwest Information Center at Sonoma State University.

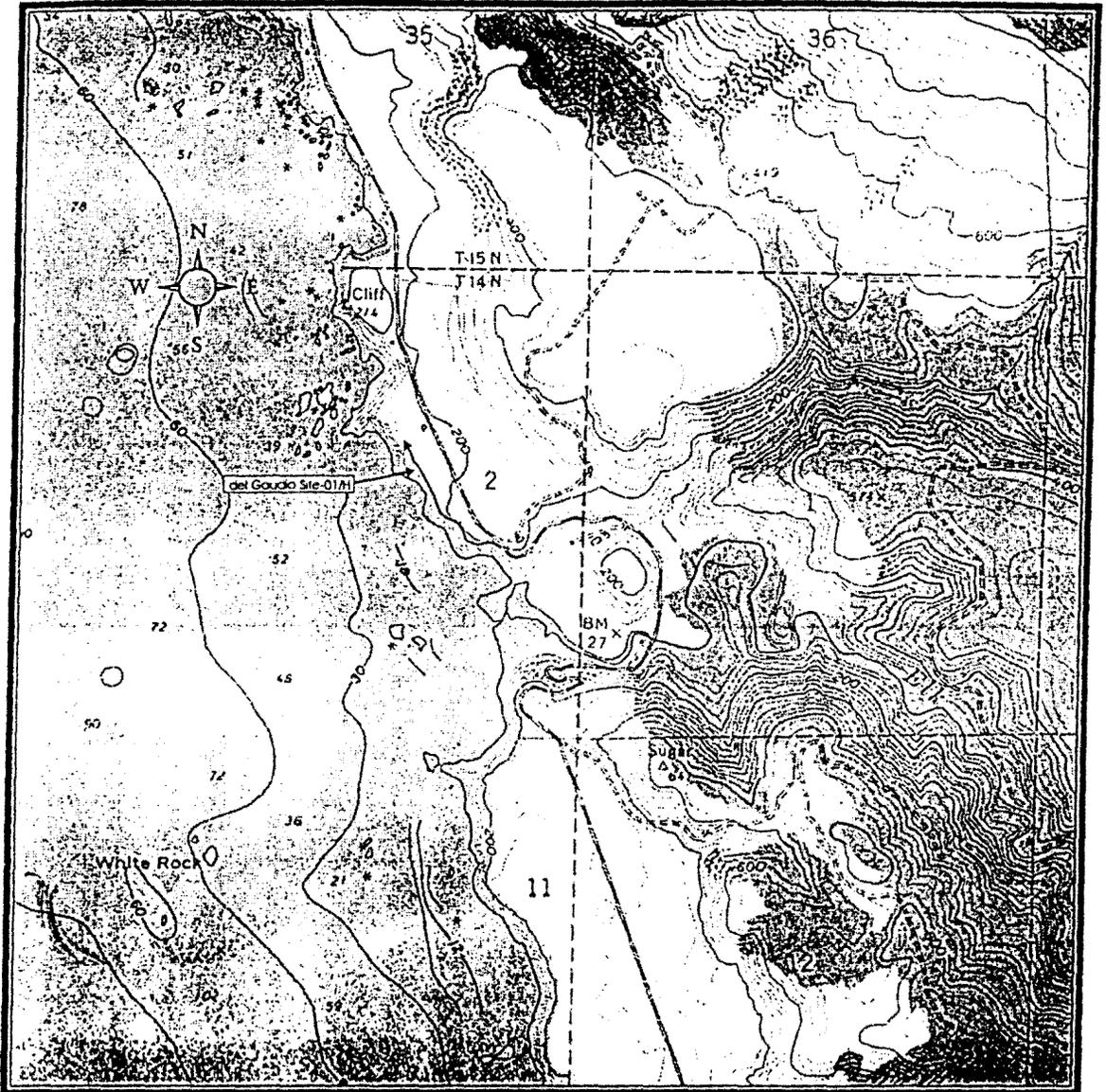
*Attachments: NONE Location Map Sketch Map Continuation Sheet Building, Structure, and Object Record Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List):

DPR 523A (1/95)

*Required Information

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LOCATION MAP



*Map Name: Mallo Pass Creek
DPR 523J (1/95)

*Scale: 1:24000

*Date of Map: 1960
*Required Information

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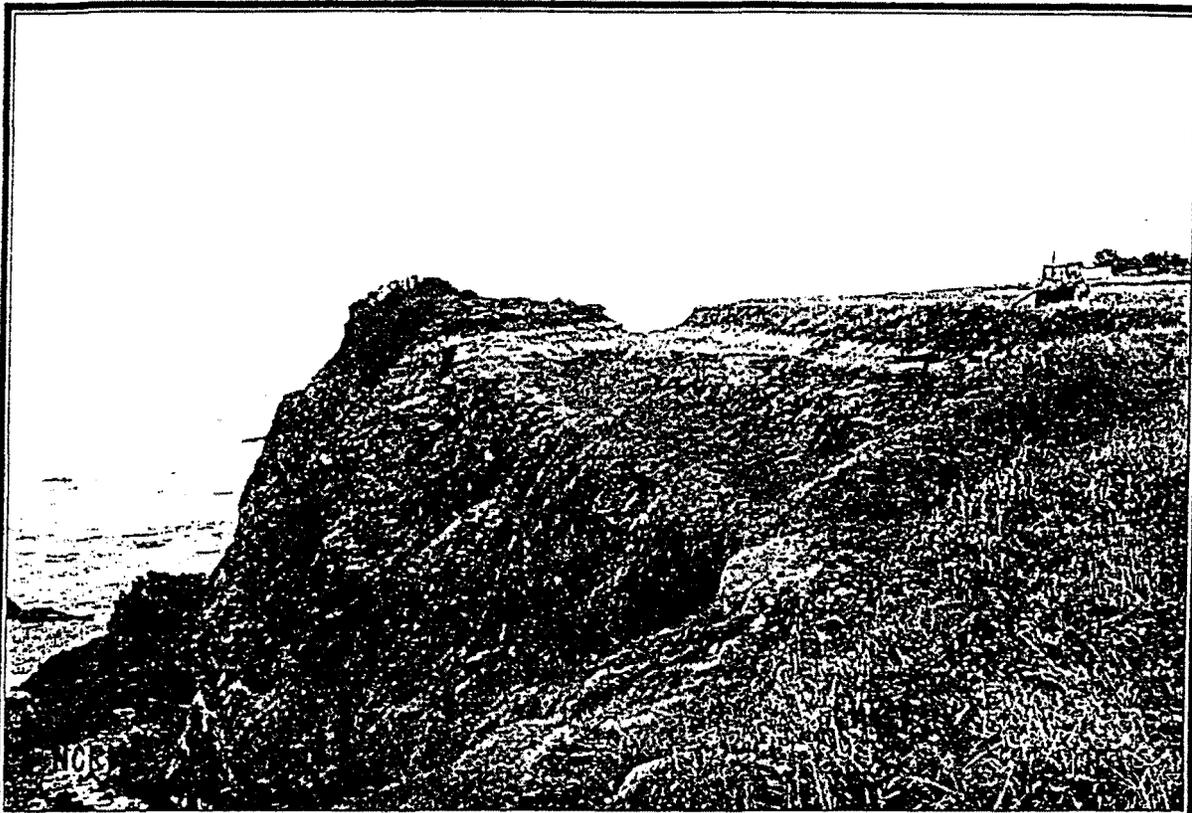


Photo #1: Overview of RR grade from cliff approximately midway between Site-02 and Isolate-01, viewing north-northwest. Note cutbank through bluff to avoid protruding point in cliff and the heavily eroded channel that has removed much of the grade bed.



Photo #2: Overview of RR grade from same location as photo#1, viewing south-southeast. Note the southernmost of the two through-cuts. RR grade travels along far photo right. The excavated cut in photo center may be an old access road leading from top of bluff down to grade.

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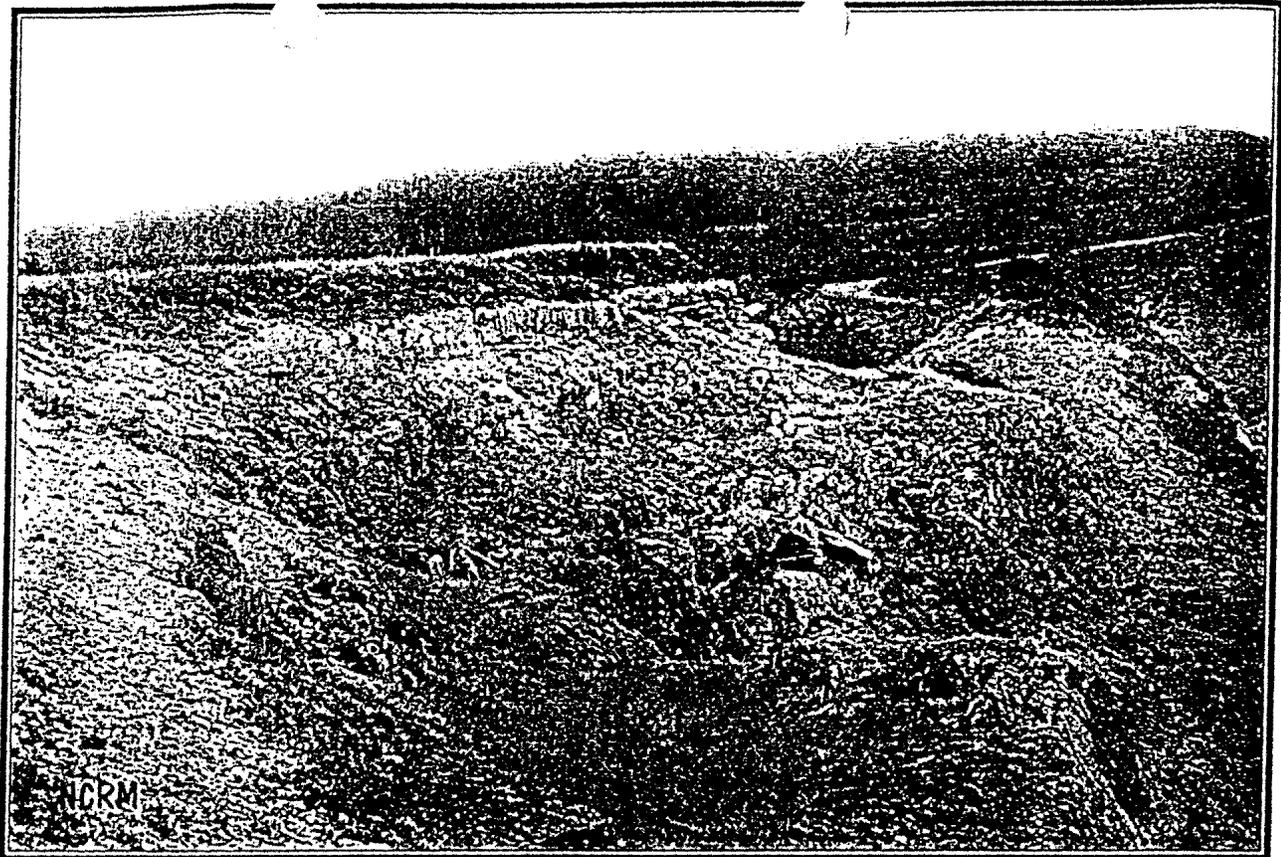


Photo #3: Overview of RR grade edge of cliff to the north from the location of Photo #1 and #2, viewing south. Grade is clearly visible although severely eroded in places. The cliff to the west drops sharply to the ocean. Note the small pile of timbers present on the grade in the center left of photo.

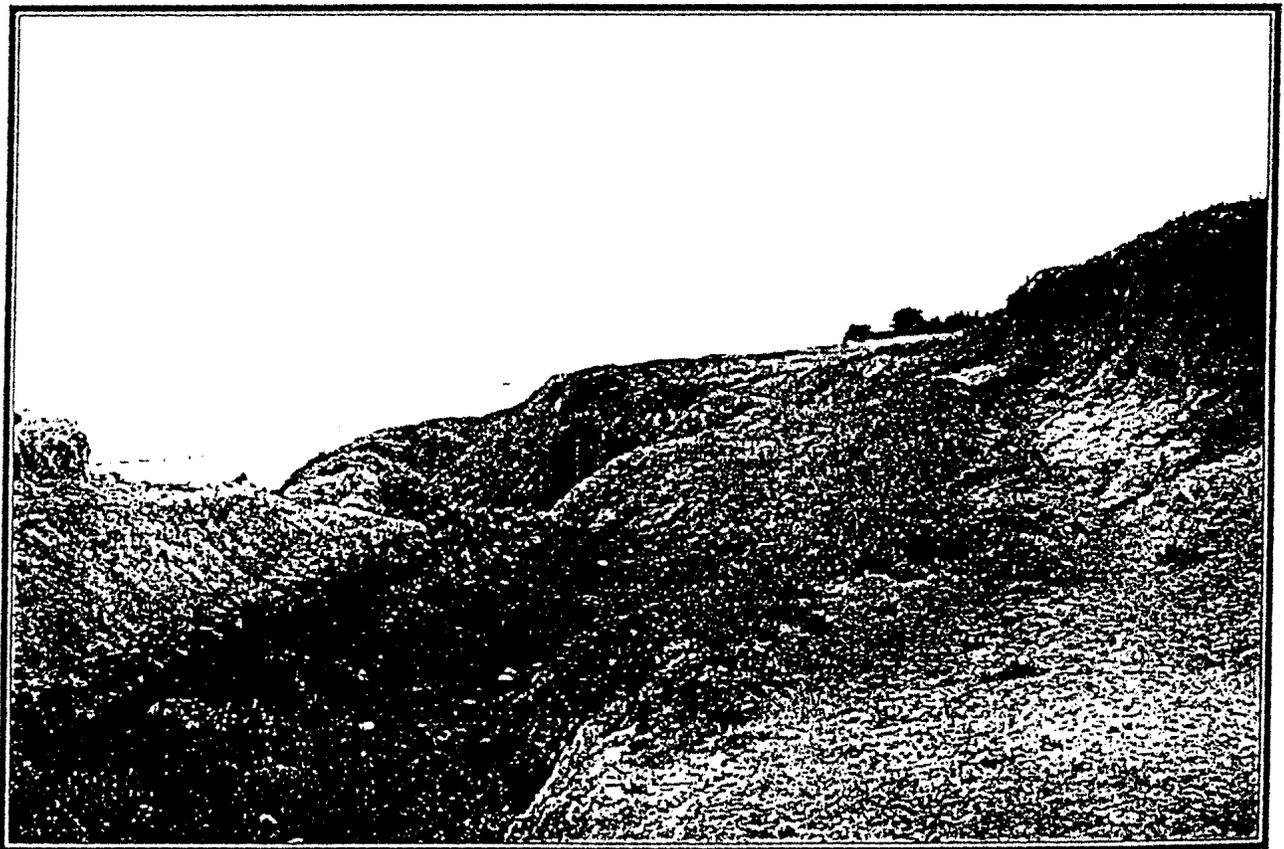


Photo #4: Overview of northern portion of RR grade from Site-02, viewing north-northwest. The through-cut is visible in low portions of the photo. Soils from the bluff have slumped and eroded onto the farther portions of the grade.

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Photo #5: Overview of northernmost of the two through-cuts, taken from Site-02, viewing northwest. The original height of the grade is difficult to determine and has likely eroded away.

PRIMARY RECORD

Other Listings

Review Code

Reviewer

Date

Page 1 of 4

*Resource Name or #: Del Gaudio Site-02

P1. Other Identifier: None.

*P2. Location: Not for Publication Unrestricted

*a. County: Mendocino

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad: Mallo Pass Creek Date: 1960. T14N; R17W; SW 1/4 of NE 1/4 of Sec 2: M.D.B.M.

c. Address: Highway One

City: Elk CA

Zip: 95432

d. UTM: Zone: 10; NAD 27: 438,680m East/ 4,328,580m North

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) From the town of Elk in Mendocino County, Drive south on Highway One for approximately 3 miles to a point just before the road turns sharply east drops into the gulch created by Elk Creek. The site is situated just east of a point in the cliff that protrudes higher than the surrounding bluff.

*P3a. Description: This prehistoric site consists of a very sparse lithic scatter with some possible burnt bone fragments. The site is located on the top of the bluff just east of a point that juts westward over the ocean. This is also where the railroad grade formed a through-cut to avoid traversing the point, and all of the artifacts noted on site, one Franciscan chert and two obsidian flakes, were observed eroding out of the eastern side of the grade. The soils in the through-cut had eroded faster than the underlying bedrock and gravel layers, forming a bench on which the artifacts had been deposited.

It is likely that much of this site has been removed by the railroad grade, as no artifacts were observed to the east on top of the bluff. This site record should be considered as primarily documenting the location of a largely destroyed archaeological site although it is possible that some subsurface deposits remain intact. Extensive amounts of cattle bone were also located in the area, some of which showed signs of recent (non-prehistoric) butchering.

*P3b. Resource Attributes: (List attributes and codes) AP2; lithic scatter.

*P4. Resources Present: Building Structure Object Site District Element of District Other (Isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.) Refer to attached photographic record.

P5b. Description of Photo: (View, date, accession #) N/A.

*P6. Date Constructed/Age and Sources: Historic Prehistoric Both

*P7. Owner and Address: George del Gaudio, PO Box 615, Little River, CA 95456.

*P8. Recorded by: (Name, affiliation, and address) Max Neri, Consulting Archaeologist, North Coast Resource Management, PO Box 509 Redwood Valley, CA 95470.

*P9. Date Recorded: September 17, 1999.

*P10. Survey Type: (Describe) Intensive investigation of archaeologically sensitive areas.

*P11. Report Citation: (Cite survey report and other sources, or enter "none.") Archaeological Assessment of the del Gaudio Proper Mendocino County, California. Prepared by Max A. Neri, Consulting Archaeologist. On file at the Northwest Information Center at Sonoma State University.

*Attachments: NONE Location Map Sketch Map Continuation Sheet Building, Structure, and Object Record Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record Artifact Record Photograph Record
Other (List):

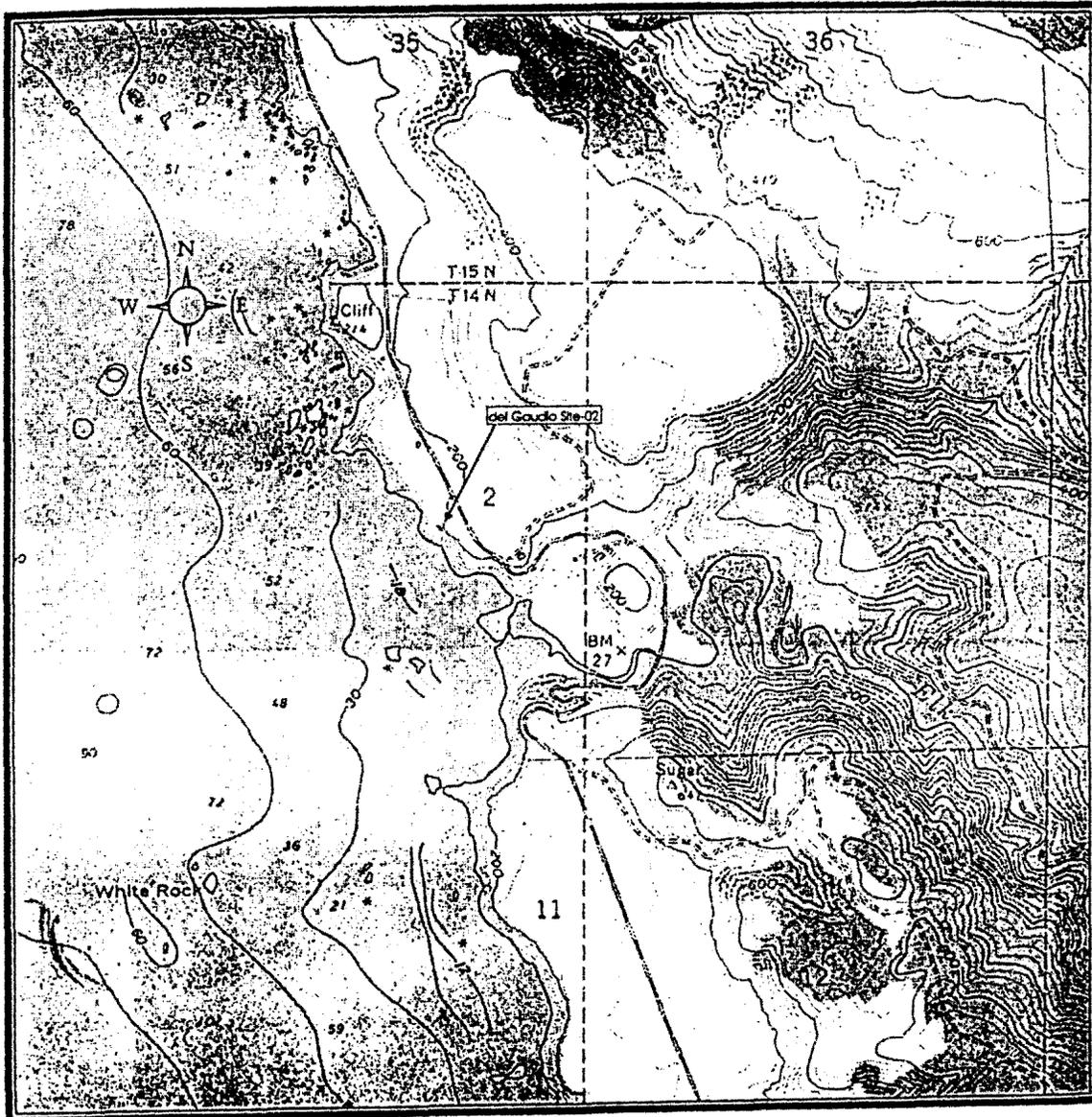
DPR 523A (1/95)

*Required Information

18924

LOCATION MAP

*Resource Name or #: Del Gaudio Site-02



*Map Name: Mallo Pass Creek
DPR 523J (1/95)

*Scale: 1:24000

*Date of Map: 1960
*Required Information

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PHOTOGRAPH RECORD



Photo #1: Overview of Site-02 location from southern end of property adjacent to Highway One, viewing northwest. Site is located past backhoe and just to left of darker point in cliff in photo center-left.

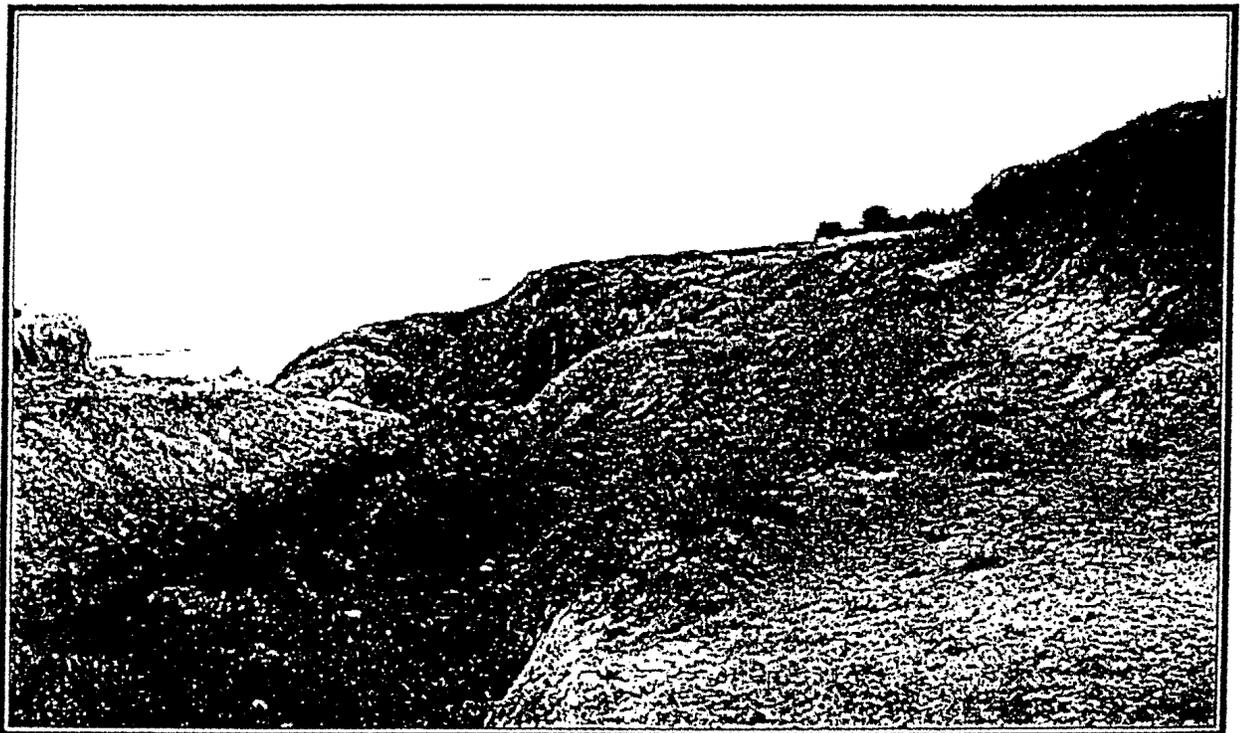


Photo #2: Detail of the "bench" formed by the erosion of the top soil into the through-cut formed by the railroad grade. The soils on photo far right may contain additional artifacts. Viewing north.

20424

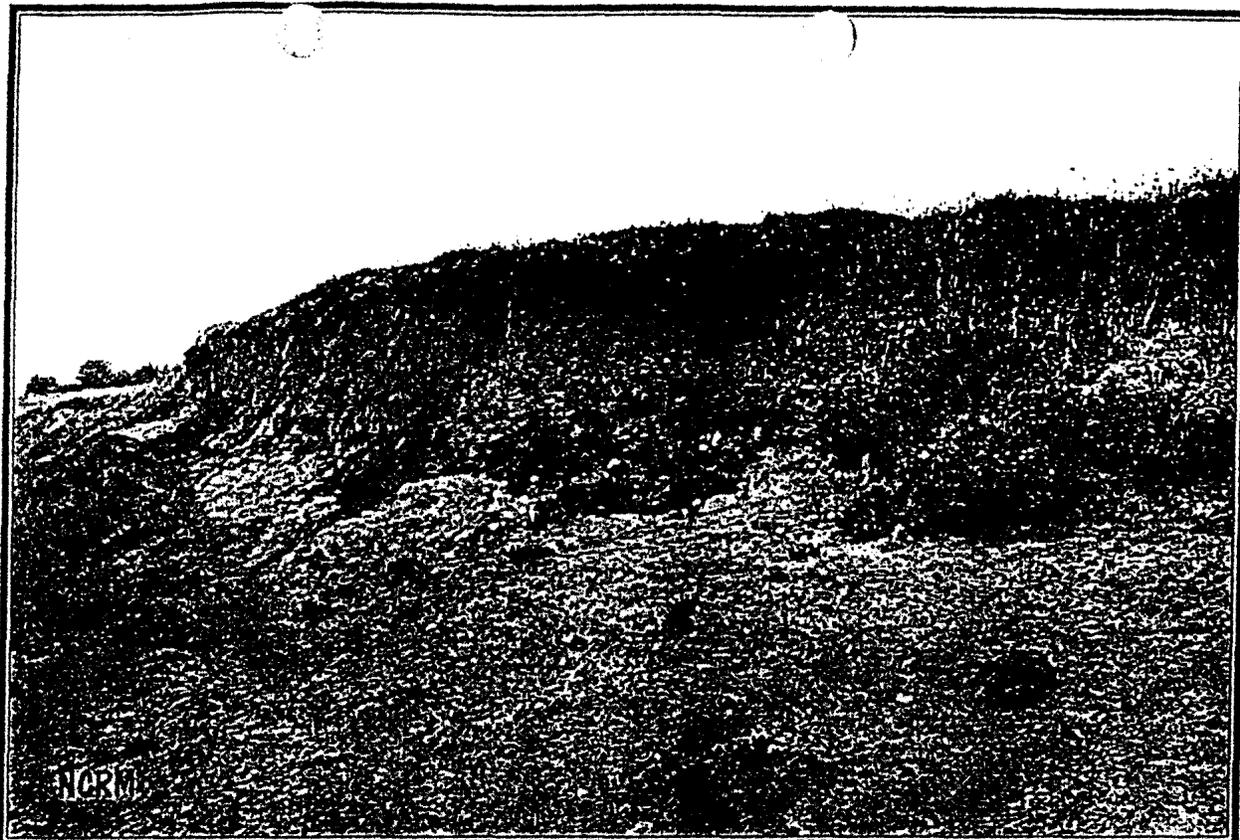


Photo #3: Detail of the "bench" formed by the erosion of the top soil into the through-cut formed by the railroad grade. Again note darker intact soils overlying bedrock. Viewing northeast.

21 of 24

PRIMARY RECORD

HRI #

Trinomial

NRHP Status Code

Other Listings

Review Code

Reviewer

Date

Page 1 of 4

*Resource Name or #: Del Gaudio Isolate-01

P1. Other Identifier: None.

*P2. Location: Not for Publication Unrestricted

*a. County: Mendocino

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad: Mallo Pass Creek Date: 1960. T14N; R17W; NE 1/4 of SE 1/4 of Sec 2: M.D.B.M.

c. Address: Highway One

City: Elk CA

Zip: 95432

d. UTM: Zone: 10; NAD 27: 438,780m East/ 4,328,470m North

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) From the town of Elk in Mendocino County, Drive south on Highway One for approximately 3 miles to a point just before the road turns sharply east and drops into the gulch created by Elk Creek. The site was discovered on the far southwestern edge of the bluff, where a RR grade has created a through-cut.

*P3a. Description: This isolate discovery consists of a very small remnant of a shell midden that has been greatly impacted by the construction of the railroad grade documented herein as Gaudio Site-01/H. The shell was observed eroding out of a tiny bit of intact soil on the western side of a through-cut formed by the railroad grade. Strangely, no shell was observed eroding out of the western side of the through-cut. The deposit noted was moderately dense and located in an area roughly 7 meters x 4 meters, and contained densities of approximately 20 shell fragments per square-meter in the densest (central) portion. It is estimated that only 20 square meters of soils remains intact on the small point that contains the deposit.

*P3b. Resource Attributes: (List attributes and codes) AP16; Isolate.

*P4. Resources Present: Building Structure Object Site District Element of District Other (Isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.) Refer to attached photographic record.

P5b. Description of Photo: (View, date, accession #) N/A.

*P6. Date Constructed/Age and Sources: Historic Prehistoric Both

*P7. Owner and Address: George del Gaudio, PO Box 615, Little River, CA 95456.

*P8. Recorded by: (Name, affiliation, and address) Max Neri, Consulting Archaeologist, North Coast Resource Management, PO Box 509 Redwood Valley, CA 95470.

*P9. Date Recorded: September 17, 1999.

*P10. Survey Type: (Describe) Intensive investigation of archaeologically sensitive areas.

*P11. Report Citation: (Cite survey report and other sources, or enter "none.") Archaeological Assessment of the del Gaudio Property; Mendocino County, California. Prepared by Max A. Neri, Consulting Archaeologist. On file at the Northwest Information Center at Sonoma State University.

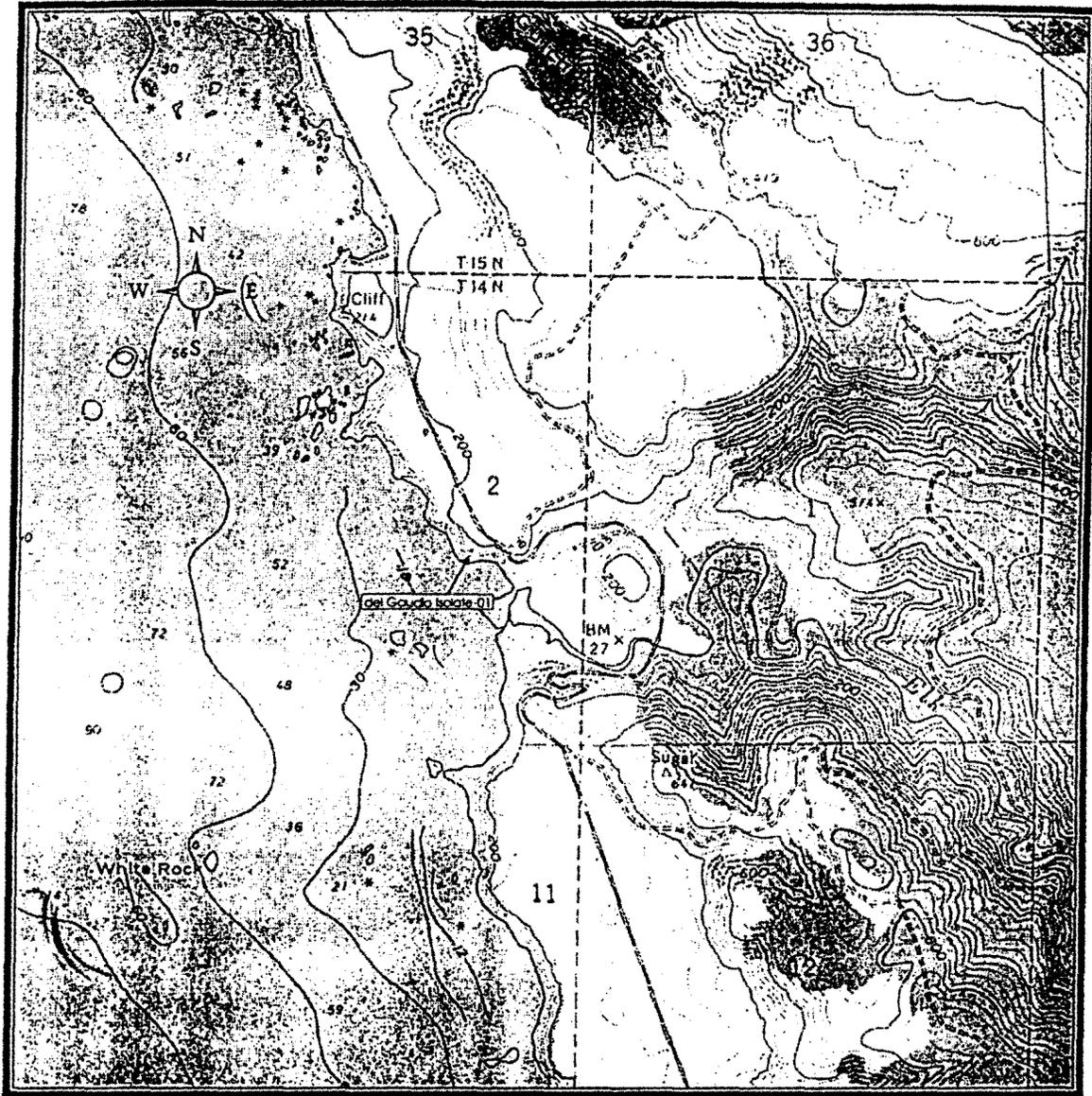
*Attachments: NONE Location Map Sketch Map Continuation Sheet Building, Structure, and Object Record Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record Artifact Record Photograph Record
Other (List):

DPR 523A (1/95)

*Required Information

22 of 24

LOCATION MAP



*Map Name: Mallo Pass Creek
DPR 523J (1/95)

*Scale: 1:24000

*Date of Map: 1960
*Required information

23 of 24

PHOTOGRAPH RECORD



Photo #1: Overview of Isolate-01 location edge of cliff north of site, viewing south. The shell midden remnants were observed eroding down the eastern edge of the small point to the west of the through-cut formed by the RR grade.

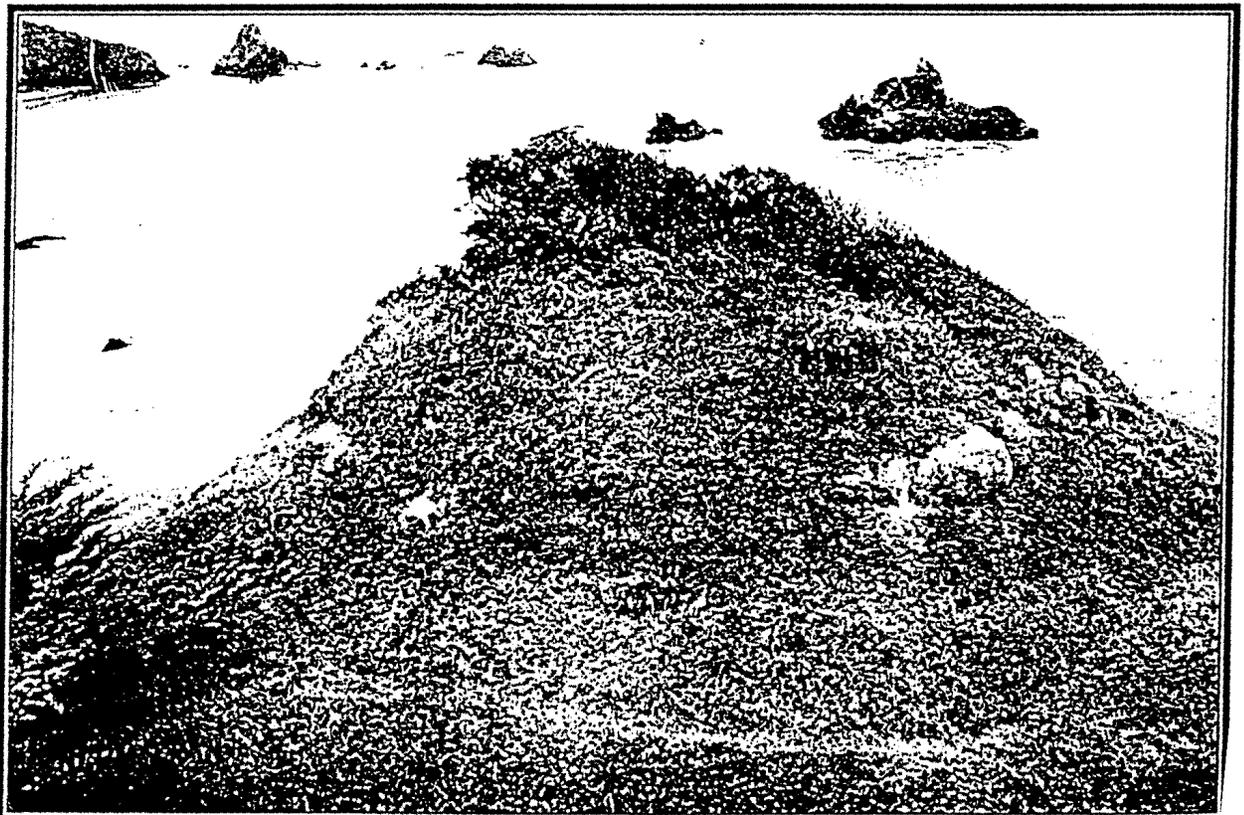


Photo #2: Detail of location of Isolate-02. The shell were observed eroding out of the steep face below the brush covered to point. Viewing southwest.

24 of 24

EXHIBIT NO. 12

APPLICATION NO.
A-1-MEN-00-20

CORRESPONDENCE
(1 of 25)

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

To: California Coastal Commission
Subject: Appeal No A-1-MEN-00-20
attention: Mr. Robert Merrill

May 16, 2000
RECEIVED
MAY 22 2000
CALIFORNIA
COASTAL COMMISSION

I support the subject Boundary Line Adjustment (BLA) for the following reasons. The BLA will not:

- result in a change in density
- create any additional parcels
- result in parcels having an inadequate building site
- result in parcels being inconsistent with the Mendocino County Coastal Groundwater Study recommendations
- result in additional development potential within a "Highly Scenic" area than the development potential that exists under the current configuration, and
- the proposed project is consistent with applicable goals and policies of the General Plan and Coastal Element.

The appeal filed by Commissioners War and Wolley contends that the BLA, if approved would allow development on the west side of Highway One,

Cont

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

whereas under the current parcel configuration, development could be confined to the east side of Highway One.

In regards to this, I offer the following:

- Coastal Zoning Ordinance Section 20.504.015 states in part, "any development permitted in highly scenic areas shall provide for the protection of coastal views --". It is my understanding that "coastal views and highly scenic" apply to both sides of Hwy One.
- The 29.5 acre portion of the parcel east of the highway is open, tree less, and devoid of houses. The land along the highway (East side) is wet (run off and active springs) with standing water during many months of the year. To require development on this portion of the parcel would require siting the house approx. 20'-40' higher than the highway.

If the BLA is not approved, and development is forced to the East side of Highway One:

- the house will be more prominent given it will sit in the middle of a large, open field, and

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

- it will have to be sited on the toe of the slope to provide a dry building site, septic system, etc.

The logical building site is on the west side of Highway One near the edge of the flat. With the planting of 20-30 trees and/or a berm, the visibility would be minimal. Much less visible than if placed on the toe of the slope on the east side of the highway. Thus, the BLA, approved by the County of Mendocino, should be allowed to stand.

Please contact me if you have any questions.

Thank you,
George R del Gaudio

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

May 22, 2000

To : California Coastal Commission
Subject : Appeal No. A-1-MEN-00-20
Attention : Mr. Robert Merrill

Dear Mr. Merrill

Attached is a report from Wally's Associates, civil engineers, on the subject property. Please note that it supports my position (letter dated May 16, 2000) that the only building site on the east side of Highway One is an elevated site and thus more visible than if placed on the west side of the highway. Thus, the Coastal Commission should allow the Boundary Line Adjustment, as approved by the Mendocino County authorities, to stand.

Please call me after you have had a chance to review this material

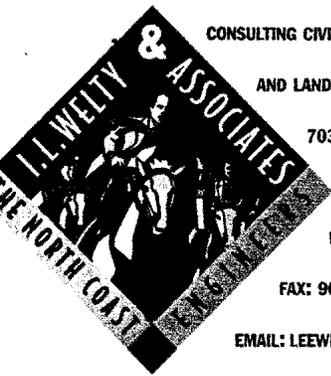
RECEIVED
MAY 24 2000

CALIFORNIA
COASTAL COMMISSION

Thank you,

George del Gaudio

Attachments



CONSULTING CIVIL ENGINEERS

AND LAND SURVEYORS

703A NORTH MAIN STREET

FORT BRAGG, CA 95437

PHONE: 707-964-8865

FAX: 964-5920

EMAIL: LEEWELTY@MCN.ORG

May 19, 2000

George R. del Gaudio
P O Box 25
Elk, CA 95432

Re: California Coastal Commission
Appeal # A-1-MEN-00-20
S/O Elk, CA

Dear Mr. Del Gaudio:

In accordance with your request we have inspected the property that is included in the above referenced appeal.

It is our understanding that the appeal is against a boundary line adjustment and the basis of the appeal has to do with the visual impact of building west of Highway One or east of Highway One.

The purpose of our inspection was to determine the feasibility of building sites on the two properties so that visual impacts can be addressed.

The ocean front property has an ap # 131-010-14X and the east of Highway One property has an ap # 131-010-12

The ocean front property has a gentle slope toward the ocean, a natural drainage swale on the northern property line and in general has no obvious building constraints. The main development task is to minimize visual impacts, which is usually accomplished with soil beams, landscaping and low line architectural features.

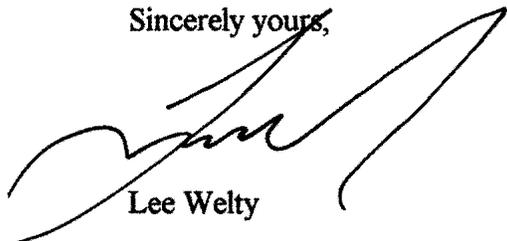
The property on the east side of the highway is north of the ocean front property and drains to the ocean front natural swale. This property has a broad band of a drainage swale 400 feet wide and the area borders Highway One.

The existing vegetation in the broad band indicates a seasonal wet area which would preclude septic systems and normal house site development. The area between the toe of the slope and the highway voltage power line looks feasible for building. This area is also subject to design problems relative to ^{visual} visual impacts. The best access to this property is at the existing drive at the northern boundary.

Attached please find an edited map showing the approximate location of the areas described above.

Please contact us if further information is needed.

Sincerely yours,



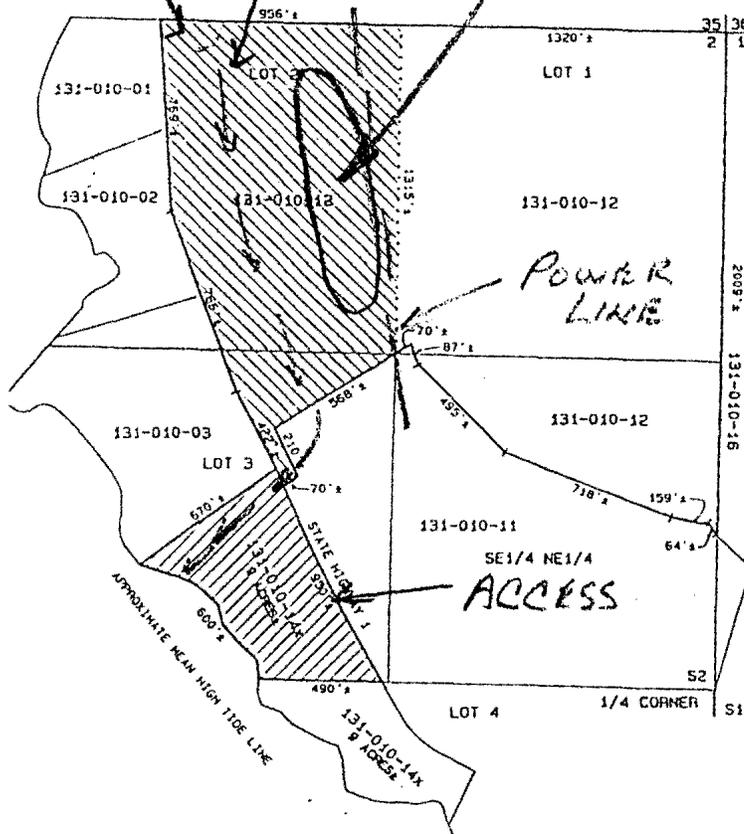
Lee Welty

attach ment

Access *DRAINAGE* *SIDE HILL BUILDING AREA*

ASSESSOR'S PARCEL NO'S (SEE NOTE)			
PARCEL	EXISTING	PROPOSED	ZONING
131-010-12	81.00 ACS	81.00 ACS±	RL160
131-010-14	18.00 ACS±	9.00 ACS±	RL160
131-010-14	0.00 ACS±	9.00 ACS±	RL160

GENERAL PLAN
RL160
RL160
RL160



- NOTE
1. ALL DISTANCES AND ACRESAGES ARE APPROXIMATE AND FOR PLANNING PURPOSES ONLY.
 2. PORTIONS OF APN'S 131-010-12, 14 ARE CONTAINED IN THE PARCEL DESCRIPTION FOR C.C. #58-91.

LEGEND	
	EXISTING BOUNDARY LINE
	EXISTING BOUNDARY LINE TO BE REMOVED
	PROPOSED BOUNDARY LINE
	AREA TO BE ADJUSTED FROM C.C. #58-91 BOOK 2332/ PAGE 91, N.C.R. TO APN 131-010-12 (29.5 ACRES±)
	AREA REMAINING FROM C.C. #58-91 AS A SEPARATE PARCEL (9 ACRES±).

CASE NUMBER: # cdb 89-99	OWNER: BEACON, R.D.	AGENT: T.M. Herman & Assoc.
APN: 131-010-12, 14	Tentative Map	NORTH ↑ 1" = 2000'

September 6, 2000
T. Roger Haas
117 Spreading Oak Drive
Santa Cruz, California
95066

RECEIVED
SEP 11 2000

CALIFORNIA
COASTAL COMMISSION

Robert Merrill
California Coastal Commission
North Coast District Office
710 E Street Suite 200
Eureka, California 95501-1865

Dear Mr. Merrill

Re:A-1-Men-00-20

I have been assembling the information on the issues that you identified in the staff report on the appeal of the boundary adjustment by R. D. Beacon on land located south of the town of Elk, in Mendocino County.

The proposed boundary adjustment would have created a 9-acre parcel west of Highway 1 and an 81-acre parcel east of Highway 1. The present configuration is a 40-acre parcel divided by Highway 1 with Caltrans having a right-of-way but not ownership of the land under Highway 1. The east and west portions of the property are connected by a strip of land 70 feet wide and 210 long. The land in the strip is mostly used by Caltrans for Highway 1.

The three issues identified in the staff report are:

1. Demonstration of proof of water

I have attached copies of four letters, three from the Elk County Water District and one from R. D. Beacon on the issue of supplying water to the property. The Elk County Water District has a 2 1/2 inch main to the adjacent parcel just to the north of the 9-acre portion, which also is west of Highway 1. The Elk County Water District has also set forth the condition to serve the parcel to the south of this one, which is also west of Highway 1. The owner of the parcel to the south is in the process of drilling a test well to determine the availability of ground water. If he finds sufficient ground water he may chose to develop his own water supply, but this would show the availability of ground water in the area. If the test well is a failure he will proceed with the Elk County Water District for service and the main extension will cross the 9-acre portion of the property west of Highway 1.

The third source of water is from a spring that flows 100 gallons per minute that presently supplies water to a residence at the old mill site to the south. The spring and residence is owned by R.D. Beacon and he has agreed to supply water to the proposed 9-acre parcel west of Highway 1.

2. Wetland Survey

Wetland Research Associates, Inc were hired to conduct a wetland survey of the 40-acre parcel and have identified the wetlands within the parcel. There are wetlands on both sides of the Highway 1. They identified 13 wetlands areas with 12 east of the highway and 1 west of the highway. The wetlands complex extends beyond the 31 acre portion east of the highway well into the 50 acre parcel the adjoins it to the north. The proposed boundary adjustment would joined the 31 acres and 50 acres parcels and create an 81 parcel that would have access from the road to the "Beacon Light Bar" and not across the wetlands portions of the property from Highway 1.

Lee Welty a consulting civil engineer visited the property and prepared a report showing the area where building might be possible on the portion east of Highway 1 and a septic tank possible would work. The area is in the portion of the 31 acres east of Highway 1 is identified in his report, which is attached.

The problem of building east of Highway 1 is building a road through the wetlands area to get to the site. The 100-foot set back from wetland area and changes in water flow patterns caused by road construction might severely alter the flow of water within the wetlands area. Welty's report shows a southerly flow of water through the site, while a road would have to be constructed from west to east. Constructions of a road

to the site although, it is possible to meet the 100 foot setback from the wetlands as they were measured in August of this year, it may not be possible in the wet season. Wetlands Research Associates report stated that the wetland are larger during the wet season, thus, depending on when it was measure it might not be possible to meet the 100 foot set back.

The effect on the wetland complex on the east side of Highway 1 is best shown by looking at the results of a seasonal road constructed on the north end of the 31-acre portion east of Highway 1. The road is only passable June until first rains in the fall and it has altered the flow of water enough to create or modify the wetlands area to the north. The construction of an all season road would certainly alter the flows to a greater extent.

I have taken the wetlands map from Wetlands Research Associates and drawn the 100-foot set backs from the wetlands as they have identified.

3. Geological Investigation

Bace Geotechnical has been retained to write the Geological report on the 9 acres west of Highway 1. I have attracted a report written on the 9 acre just south of the parcel. Once the report on this site is finished I will forward it to you.

4. Other issue that the Coastal Commission should take into consideration

The area east of Highway 1 from the Beacon Light road to the old mill site just north of Elk Creek, was reported in an Environmental report, prepared by Jones and Stokes in 1972, for "SilverKing Oceanic Farms proposed ocean ranching farm on Elk Creek" as a major feeding area for White-tailed Kites, which are on California Department of Fish and Game "Animal of Special Concern".

Caltrans owns most of the right-of-way for Highway 1 in the area and is in the process of acquiring more from R.D. Beacon for an area south of Elk Creek. Looking at assessor's maps near the site Caltrans has fee ownership of most of the right-of-way except portions between Elk Creek and Greenwood Creek. If Caltrans were to acquire the strip for whatever reason that connects the east and west portion of this property they would create a less desirable boundary change than the one proposed by R. D. Beacon.

The visual impact of building on the 31 acres east of Highway 1 would be greater than building west of the highway. Building west of the highway a home could be hidden with dirt berm and plantings while east the home would be elevated to keep out of the wetlands.

The erosion from road construction to a building site east of Highway 1 and from the site itself could adversely effect the wetland area.

The proposed boundary adjustment does not create more parcels on the coast. It does preserve the wetland area east of Highway 1 by creating a larger parcel with the more sensitive habit in one large parcel.

I have also included an aerial picture taken of the area in June 2000 which shows the wetland complex extending to the Beacon Light road.

I hope this information is helpful in make your report.

Best regards,



T. Roger Haas

Attached:

Lee Welty Report
Bace Geotechnical (we be mailed later)
Bace Geotechnical, for the 9 acre parcel to the south
Aerial Picture (we be mailed later)
Wetland Research Associates, Inc
Map Showing 100 Foot setback
Fish and Game Concern List
Letter for R.D. Beacon
3 Letters from Elk Creek County Water District

Elk County Water District
P.O. Box 195
Elk, California 95432
707-877-3474

George del Gaudio
P.O. Box 25
Elk, CA 95432

March 2, 2000

Dear George:

re: water connection

At the regular meeting of the Elk County Water District on March 1, 2000, the Board of Directors voted to allow one residential connection to your property on Highway One south of Elk AP# 131-010-14/12 subject to the following:

1. Approval by the Local Agency Formation Commission of an "out of area service contract" and or annexation to the district.
2. Approval by ECWD of an engineered plan for the line extension including calculations showing adequate flow is available to the project without reducing service to other existing district connections.
3. Providing a storage tank of at least 1500 gallons capacity with adequate back-flow prevention and a re-pressurization system adequate for the residence to be served.
4. Payment of all costs associated with the line extension including engineering, permits, and installation by a licensed A-1 contractor. *cost per foot?*
5. Payment for actual costs of meter installation (parts and labor).
6. Payment of a connection fee to be determined by the updated cost allocation plan (which is now being drafted by the ECWD's consultant). *\$1,500. - now*
7. Payment of any other fees required for parcel annexation or LAFCO approval.

The district will make every effort to expedite the approval process for the elements listed above, but please be aware that this parcel is located outside the ECWD district, that the district is still in process developing its final Sphere of Influence plan required by LAFCO, and that the Cost Allocation Plan is yet to be completed. All of these projects take time, so your patience is also required.

Sincerely,

Charles Acker, ECWD Manager

10 of 25

#600.
937-1070
Keith
Parker
Albion
- give photos
- have would
new in
Carl Thar
account

- C-271 -

**Elk County Water District
P.O. Box 54
Elk, California 95432**

George del Gaudio
P.O. Box 615
Little River, California 95456

October 8, 1999

Dear George:

re: water connection

As we discussed on the phone today, I will be checking with Ed McKinley, our LAFCO consultant, about the general question of your line extension. Once we have a general indication that LAFCO will approve the connection, we will have our engineer do the necessary calculations to see if the capacity exists for your project. The engineer has estimated that these calculations will cost in the neighborhood of \$600.00.

Also, as I indicated to you on the phone, I stated the connection fee incorrectly to you in my September 15 letter. The fact is that a new connection fee is to be calculated by our engineer based on the Master Plan study and a yet to be complete Cost Distribution Plan. At this time we are waiting for the engineer to complete the Cost Distribution Plan so we do not know what the connection fee will be. All new connections must be made under the new Cost Distribution Plan guidelines. Unfortunately, the new fees will undoubtedly be higher than the former \$1500 connection fee.

I apologize for my error.

Sincerely,



Charles Acker, manager, ECWD (Any questions, please call 877-3474)

- COPY -

Elk County Water District
P.O. Box 54
Elk, California 95432

George del Gaudio
P.O. Box 615
Little River, California 95456

September 15, 1999

Dear George:

re: water connection

At the regular meeting of the ECWD Board of Directors September 8, the subject of your proposed water connection was discussed. A connection to the ECWD system is possible after all of the following is provided:

1. An engineer's report stating that adequate line capacity exists to supply all the parcels along that section of Highway One and still leaving adequate capacity for your project. The study should also show that adequate over all system capacity exists for the project.
2. Approval by LAFCO to provide "out of area service" to your parcel.
3. On site storage must be installed by the owner of a minimum 1500 gallons per residential unit. Re-pressurization is the responsibility of the parcel owner as well. The ECWD only supplies low flow metered potable water to the storage tank.
4. Connection fees of \$1500 must be paid plus meter cost and installation charges. Bi-monthly charges of \$40 flat rate plus \$4 per 1000 gallons for any usage over 5,000 gallons per month.
5. All costs relating to line installation, permits, engineering, etc.

Discussion:

Your parcel(s) are located outside the ECWD district and outside the currently identified "Sphere of Influence" of the District. Any new contracts for out of area services must be approved by LAFCO.

About 15 years ago, 5000 feet of 3" water main was installed along Highway One part of the way to your parcel and connected to the main distribution line near Greenwood Creek. Another 1000 feet of 2 1/2" line was added to connect the former trailer park parcel just north of your property. The line extension ends at the north boundary of the Trailer Park parcel.

Nine residential connections exist sharing the capacity of the 3" portion of the main and three additional parcels are connected to the 2 1/2" portion. More than half of these connections have on site storage and any yet to be built units will have that requirement. All existing parcels along the line in question are either already connected, or have paid for connection rights (total of 12 units).

From the above pipe sizes and lengths, you may be able to see why the concern over line capacity is so critical. A 3" line has a limited capacity. The LAFCO considerations will hinge on the ECWD getting finished with some details in its overall planning and mapping requirements, but most of the LAFCO requirements have been met.

The district's engineer is Tom Yokoi at Brelje and Race in Santa Rosa. Tom is on vacation this week but I will contact him next week to explain the request and get an estimate of his costs to provide the information we need.

Sincerely,



Charles Acker, manager, ECWD (Any questions, please call 877-3474)

12 of 25

8/10/2000

Dear George:

As per our conversation about getting water for your (current) nine-acre parcel, as well as supplying water for the adjacent nine-acre parcel, this letter should serve as proof to the Coastal Commission that you have permission to take water from the Beacon water system that supplies the old saw mill and the mill house.

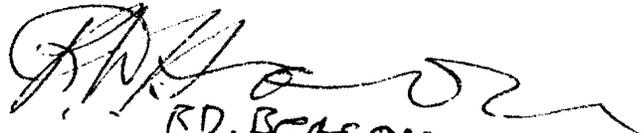
This system yields about 100 gallons per minute.

This water system has been in existence in excess of 150 years. You will have to run pipe at your own expense from the east side of Highway 1 (at the northwest corner of the shop building) to serve your locations.

Your monthly charge for water will be \$50 per-parcel, per month, flat rate. This is untreated and unpurified water. There are other sources available if you would prefer your own system that may yield more product.

If you need a more legally binding agreement, please have your attorney draw up such papers.

Thank you very much,


R.D. Beacon
8-10-2000

4925



BACE Geotechnical
A Division of Brunsing Associates, Inc.

November 10, 1999

11401.2

Mr. George del Gaudio
P. O. Box 615
Little River, CA 95456

**RE: Engineering Geologic Reconnaissance, Proposed Blufftop Residence,
8300 South Highway One, Elk, A. P. No. 131-010-14, Mendocino County,
California**

Dear Mr. del Gaudio:

This letter presents the results of our Engineering Geologic Reconnaissance of the proposed building site at 8300 South Highway One, A. P. No. 131-010-14, Mendocino County, California. The property is located on the southwest side of Highway One, approximately two miles south of the community of Elk.

The property is comprised of, Lots 4 and 5, Section 2, T14N, R17W, and is shown on the unauthored Site Map, preliminary stamp dated September 9, 1999. Our study was primarily directed toward the proposed building area near a point at the south end of Lot 4 (8300 South Highway One). The Site Plan, prepared by Debra Lennox, Design Draftsman, dated October 11, 1999, is based upon the Site Map and our bluff edge setbacks recommended verbally during our reconnaissance

The purpose of our services was to evaluate the ocean bluff stability at the property in order to determine building feasibility and bluff setback criteria. The scope of our services, as outlined in our Service Agreement, dated October 5, 1999, consisted of studying aerial photographs; researching published geologic maps; field reconnaissance, including exploration of sea caves by kayak; consultation; and the preparation of this letter.

Reconnaissance

Our undersigned, Principal Engineering Geologist performed reconnaissances of the site on August 5 and October 5, 1999. Our October reconnaissance included exploration of the sea caves at the property by use of a kayak. As part of our reconnaissance, we initially reviewed the following published geologic maps:

14 of 25

Mr. del Gaudio
November 12, 1999
Page Two

- Ukiah Sheet, Geologic Map Series of California, 1960, California Division of Mines and Geology (CDMG);
- Geology and Geomorphic Features Related to Landsliding, Mallo Pass 7.5-Minute Quadrangle, 1984, Open File Report 84-13, CDMG.

We also studied aerial photographs, dated June 30, 1963 and June 23, 1981, both enlarged to a scale of one-inch equals approximately 200 feet. The bluff lines shown in those photographs were compared with each other as well as with the present bluff line, as an aid in determining bluff retreat rates for various portions of the property.

Site Conditions

The southeast, southwest, and northwest sides of the property are surrounded by ocean water; Highway One forms the easterly boundary. A sandy beach is located at the mouth of Elk Creek, just south of the southeast corner of the property. The bluffs within the the property are approximately 190 to 200 feet in vertical height with slope gradients that range from vertical to about one horizontal to one vertical (1H:1V).

An abandoned, logging railroad roadbed is situated on the outside edge of the bluff. The railroad roadbed was excavated approximately 20 to 25 feet down to relatively firm rock, beneath the poorly consolidated, terrace deposits. It is probable that the railroad was constructed around, or prior to 1900. Several sections of the roadbed are missing, as shown on the attached Site Geologic Map, Plate 1, due to localized landsliding (rock falls). Some of the landslides occurred prior to, or during the operations of the logging trains; the remnant of a trestle which spanned a slide area are located at the edge of the slide area in the approximate center of the southwest bluff in Lot 4. Another remnant of a trestle abutment is located on neighboring property on the other side of a slide area at the southeast end of the property. The roadbed is in the form of a through-cut where the Lot 3/Lot 4 boundary crosses the bluff, and west of the proposed building area where the roadbed crosses a southwest-trending point.

The proposed building site is at the southerly end of Lot 4 near the south-facing bluff and the southwest-trending point, as shown on the attached Site Geologic Map. Also shown on this map are several sea caves explored during our reconnaissance. The caves vary from about 20 to 30 feet in width, 10 to 15 feet in height, and 30 to 50 feet in length (into the bluff). Because of the slope of the bluff face, none of the caves appear to extend as far as, or beyond (inland from) the upper bluff edge.



09 25

The upper terrace level of the property is covered by moderately-dense grasses and weeds. Concentrations of scrub brush are located along the bluff edges. The lower bluffs are mostly bare rock. A few cypress trees are located on the upper bluffs at the south end of the property.

No surface water or ground-water seepage was observed on the upper bluffs (including railroad roadbed) or the terrace level. Some relatively minor, localized seepage was observed on the lower bluffs.

Site Geology

The bluffs are comprised of sandstone and minor shale of the Cretaceous-Tertiary Franciscan Complex coastal belt. These rocks are generally massive, little to closely fractured, friable to very hard (predominantly moderate in hardness), and little to moderately weathered. Site bedding orientation consists of a northeast trending strike, with a moderately steep dip of approximately 40 degrees from horizontal to the southeast. Open File Report 84-13 shows a north-northwest trending anticlinal axis approximately 300 feet east of the southeast property corner; however, we did not observe this anticlinal axis, nor did we observe associated westerly dipping beds in the property vicinity.

Approximately 10 feet of Pleistocene terrace deposits overlie the bedrock in the site vicinity. The roughly flat-lying, terrace deposits consist of poorly to moderately consolidated sands, silty sands and sandy silts. The lower three to four feet of the terrace deposits consist of brown silty sands with some gravels. These sands appear medium dense to dense. One lightly-cemented sand layer, approximately two to three feet in thickness, is located approximately four feet below the ground surface. This light brown sand layer is dense and moderately cemented. The upper approximately four feet of the terrace deposits (topsoils) consist of dark-colored silty sands with some sandy silts. These topsoils appear loose to medium dense, but relatively low in expansion potential (tendency for volume change with changes in moisture content).

Open File Report 84-13 shows the bluffs to consist of "debris slide slopes"; geomorphic features characterized by steep slopes sculpted by numerous debris slide events. Except for the slide areas (rock falls) shown on the referenced Site Map, no landslides were observed by us during our reconnaissance. The slide areas are devoid of landslide debris; the debris has dropped into the ocean and has been washed away. No evidence of recently active landsliding was observed. Most of the slides occurred prior to, or during the operation of the logging railroad.



Mr. del Gaudio
November 12, 1999
Page Four

11401.2

No evidence of faulting was observed at the site, and none of the published references that we reviewed show faults on, or trending towards the property. The active San Andreas Fault is located offshore, approximately four miles to the southwest.

Conclusions and Recommendations

Preliminary bluff setback distances for the proposed residence are provided on the attached Site Geologic Map. The setbacks for this portion of the bluffs, outside of the slide areas, are based upon an average retreat rate of between 2 and 2-1/2 inches per year for 75 years (considered to be the economic lifespan of a house by the California Coastal Commission) times a factory of safety of two, for a setback of 31 feet. This setback can be rounded off to 30 feet, considering that the outer 20 to 30 feet of the bluff has been cut away for construction of the railroad and that most of the roadbed is still there, although somewhat eroded, after probably 90 years, or more.

The bluff southeast of the building area has a slightly larger setback (40 feet) based upon the bluff stability (past landsliding). The landsliding (rock fall) does not appear recent and may have occurred prior to, or during operation of the railroad.

Since the sea caves described above do not appear to extend back as far as the upper bluff edge, they are not a factor in determining the bluff setback. Further, the caves do not increase in height toward the back; there is still approximately 175 feet of bedrock over the cave roofs.

Conventional footing foundations can be used for the planned residence with these setbacks provided that BACE reviews the project plans; verifies the setbacks in the field when the house corners have been staked; and observes the foundation excavations during construction. Due to the presence of weak surficial soils, footings should be deepened beyond Uniform Building Code minimum depth to gain uniform support in either compacted fill (observed and tested by BACE) or the underlying cemented sand layer at approximate depth of four to five feet.

As typical of the Mendocino County coast, the site will be subject to strong ground during future, nearby earthquakes. Since we found no evidence of active faulting in the property vicinity, we consider the risk of fault rupture at the site to be relatively low



Mr. del Gaudio
November 12, 1999
Page Five

11401.2

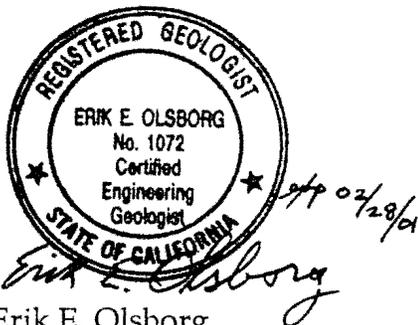
Limitations

This engineering geologic reconnaissance was performed in accordance with the usual and current standards of the profession, as they relate to this, and similar localities. No other warranty, either expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data.

Changes in the condition of a site can occur with the passage of time, whether they are due to natural events, or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, this report may become wholly or partially invalidated by changes outside of our control. Therefore, this report is subject to review and revision as changed conditions are identified.

The conclusions and recommendations contained in this report are based upon certain specific project information regarding type of construction and project location which has been made available to us. If any project modifications are made later, we should be allowed to review them in light of this report to determine if our conclusions and recommendations are still applicable.

Respectfully submitted,



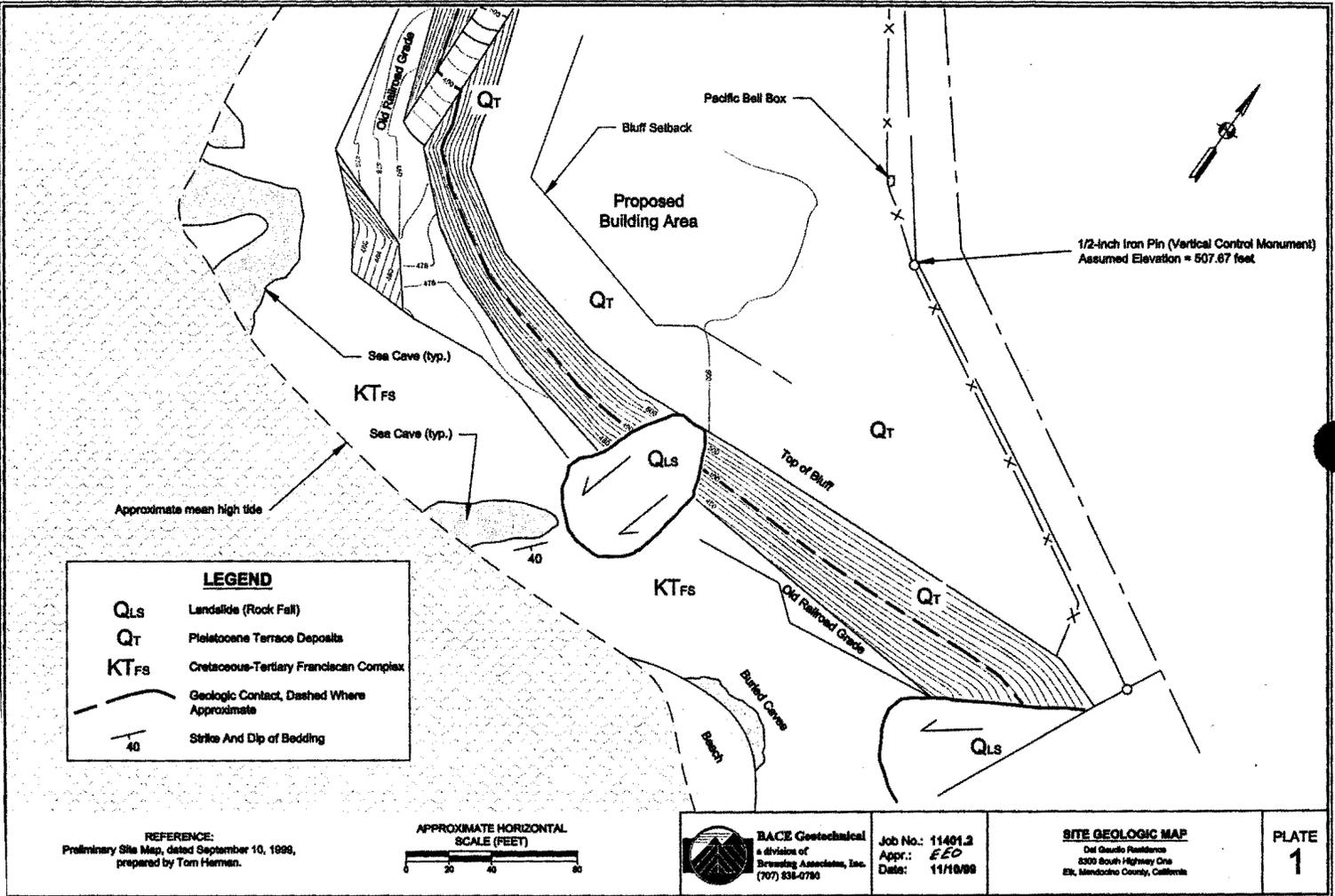
Erik E. Olsborg
Engineering Geologist - 1072

EEO/PRD/mab

three copies submitted



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9425

September 11, 2000
T. Roger Haas
117 Spreading Oak Drive
Santa Cruz, California
95066

RECEIVED
SEP 14 2000
CALIFORNIA
COASTAL COMMISSION

Robert Merrill
California Coastal Commission
North Coast District Office
710 E Street Suite 200
Eureka, California 95501-1865

Dear Mr. Merrill

Re:A-1-Men-00-20

I have enclosed pictures of the area. The pictures are numbers.

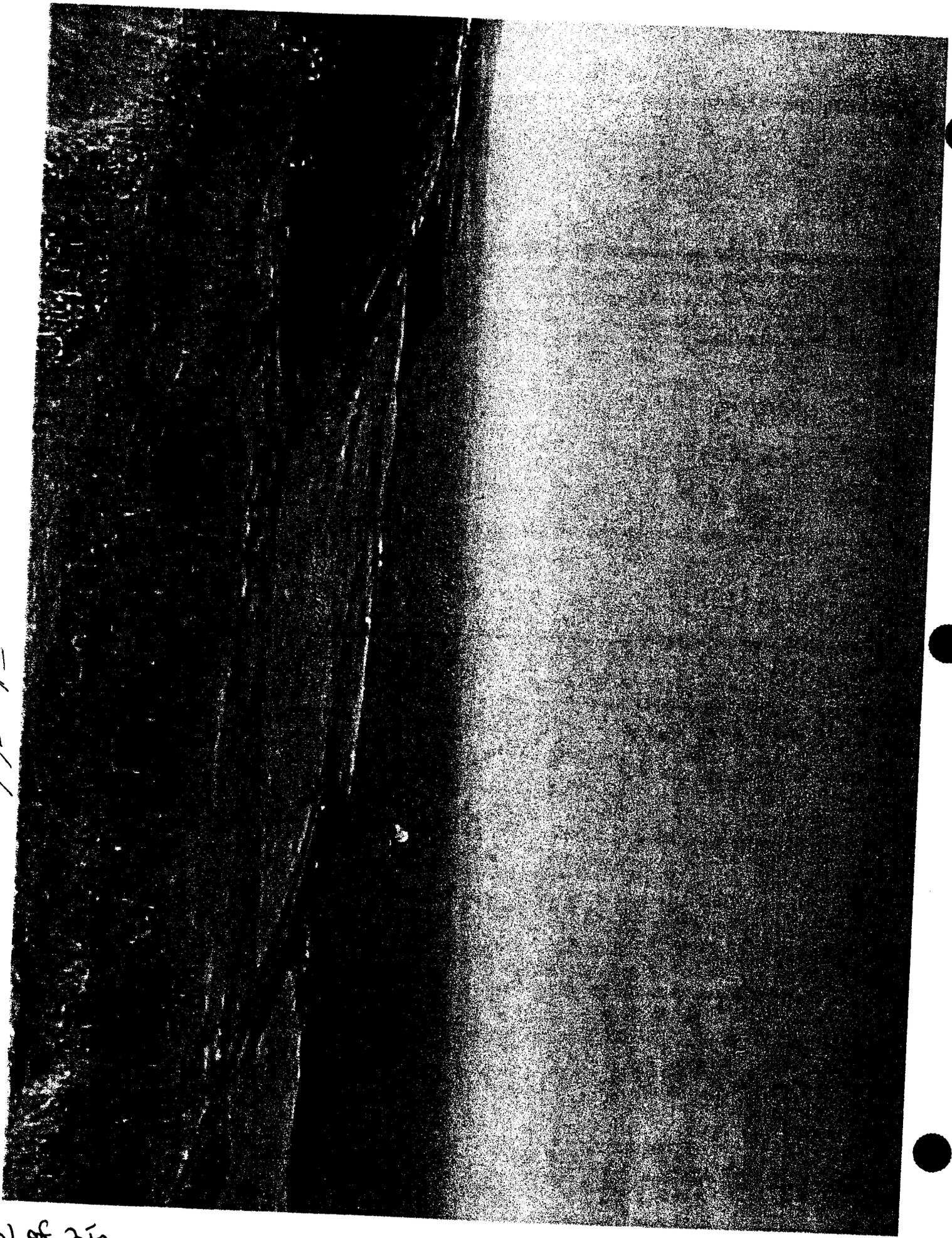
1. Outlined in green are both the east and west portions of the 40 acres. Taken 9/6/00
2. Shows the area to the north of 31-acre portion and the extension of the wetlands area to the north. The seasonal road is shown. The north property line is shown in red and is close to the actual location of the line. Taken 9/6/00
3. Aerial picture taken of the coast nears the town of Elk and to the south. The road to Beacon Light Bar is labeled and the green area near Highway 1 and inland $\frac{3}{4}$ inch are potential wetlands with the red lines pointing to the area. Viewing the area from the ground and comparing it to the areas defined by Wetlands Research Associates, Inc. they look very similar. Taken 6/14/00
4. Picture showing north line of 31-acre and the wetlands area near the north boundary and it's extension into the 50-acre parcel to the north. This is the parcel that the boundary adjustment would join would join the 31-acre and 50-acre to create an 81 acre parcel.

I hope these help. Please feel free to call if you need any more information. The geological information will be mailed as soon as I receive it from the consultant.

Best regards,


T. Roger Haas

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Taken 9/6/00

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6-14-00

12,500

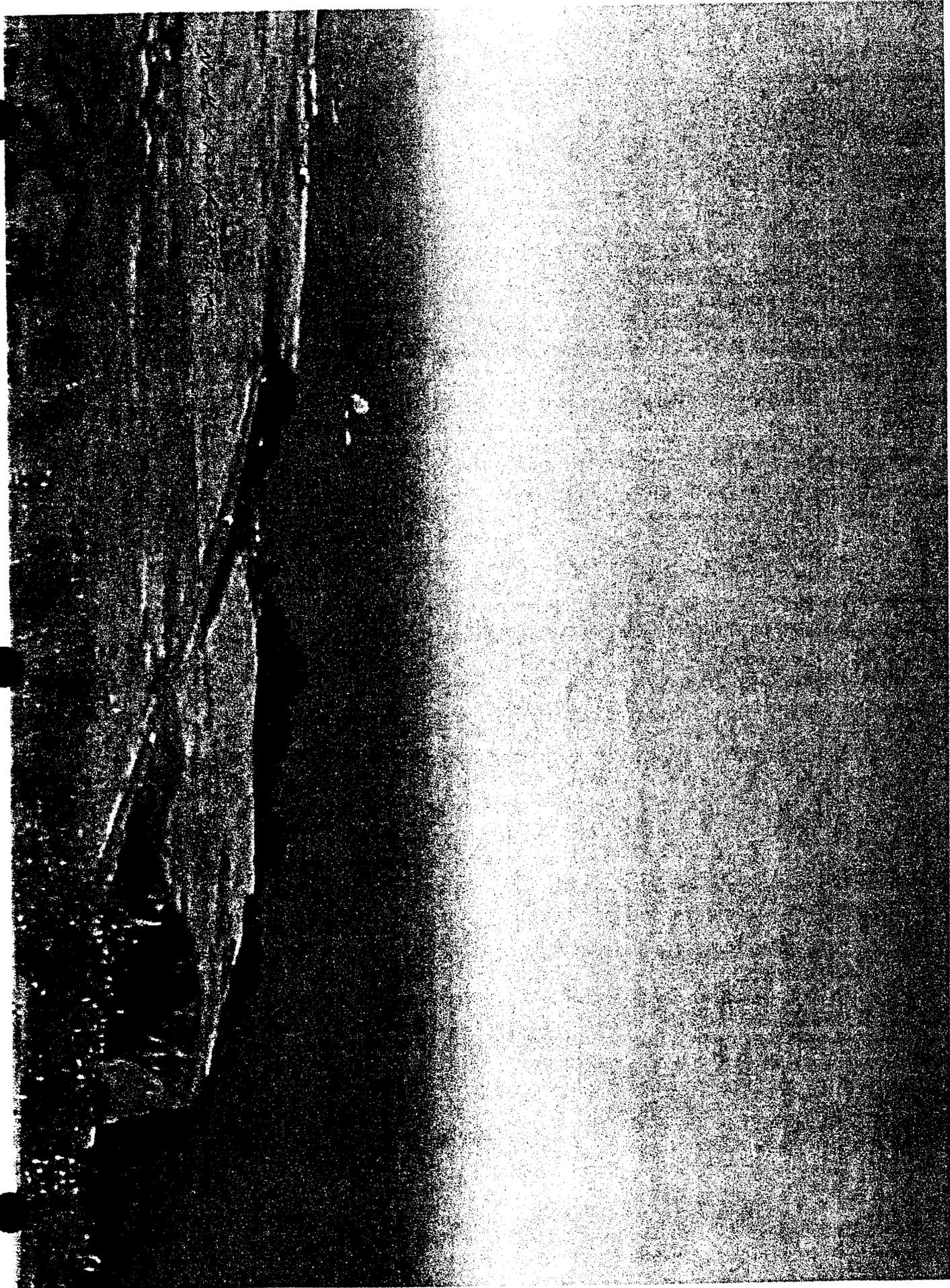
SE 5A-1



Potomac Highlands

1000 ft. elevation

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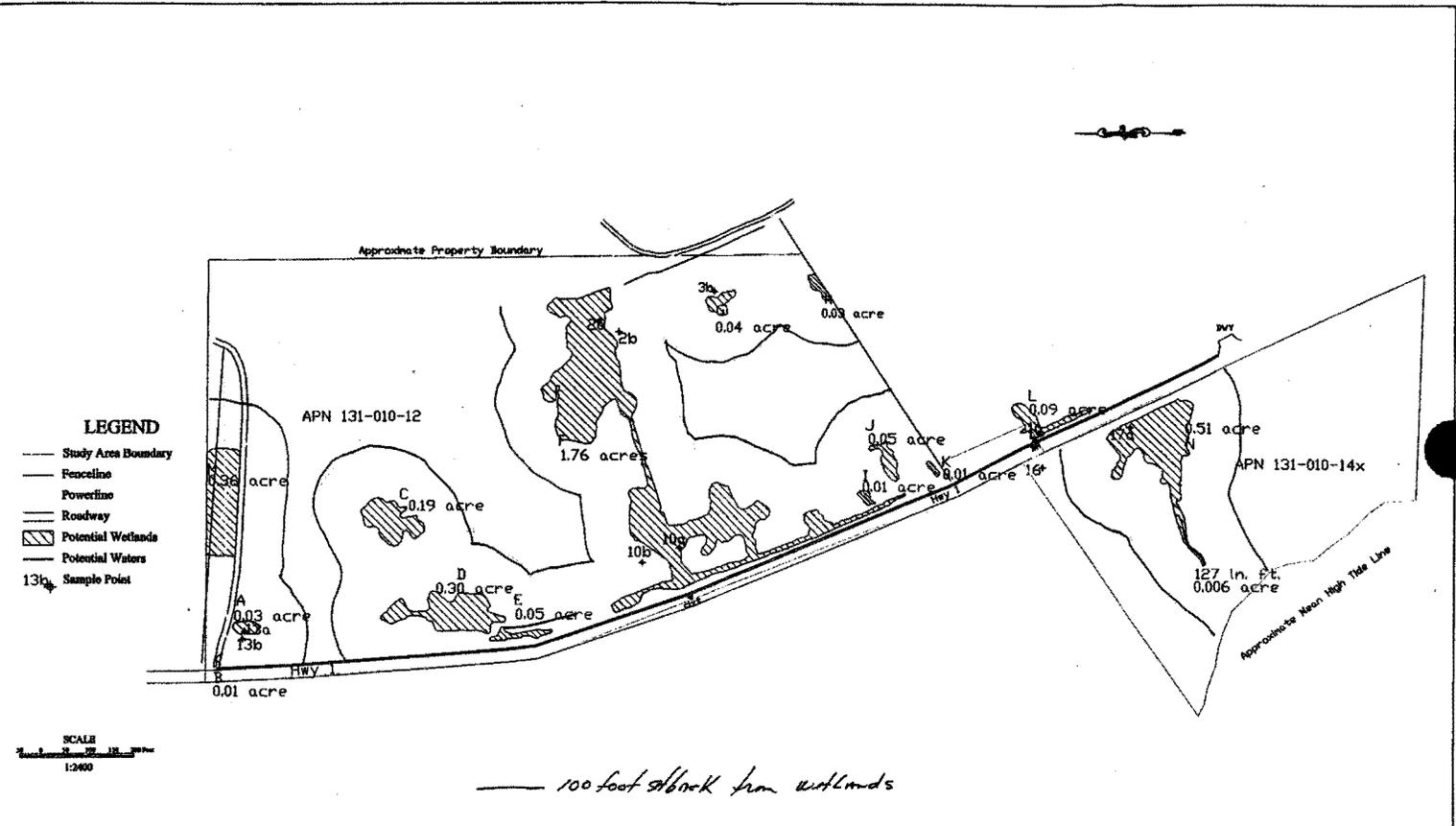


Figure 2. Assessment of wetlands and waters within the Study Area (APN# 131-010-12 and 131-010-14x), EB, Mendocino County, California. Wetlands and waters surveyed August 15, 2000.



Wetlands Research Associates, Inc.

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