

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
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**W-12a**

RECORD MANAGEMENT

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180th Day: Oct. 12, 2003  
Staff: SLB-SF  
Staff Report: Nov. 20, 2003  
Hearing Date: Dec. 10, 2003

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION FILE NO.:** 2-03-003

**APPLICANTS:** Warren Weber

**PROJECT DESCRIPTION:** (1) Removal of four culverts, a wooden platform and approximately 547 cubic yards of fill, (2) wetland restoration for the areas of proposed fill removal, (3) after-the-fact approval for mowing in the northern portion of the parcel to manage area for shorebirds, (4) removal of a 3 foot-high historic cattle fence, and (5) after-the-fact authorization of a 6.5-foot high wire mesh fence.

**PROJECT LOCATION:** 95 Olema-Bolinas Road, Bolinas, Marin County  
APN 195-290-24

**LOCAL APPROVALS:** Marin County Tidelands Permit

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A.

**1.0 EXECUTIVE SUMMARY**

The applicant proposes removal of approximately 547 cubic yards of fill from existing levees located along the southern and eastern boundary lines on APN 195-290-24, wetland restoration for the areas of proposed fill removal, removal of a 3 foot-high historic cattle fence, after-the-fact approval for mowing in the northern section of the parcel, after-the-fact authorization for construction of a deer fence, removal of culverts, and removal of a wooden platform on a 2.36-acre parcel at 95 Olema-Bolinas Road, Bolinas, Marin County.

Staff recommends approval of the proposed development with conditions regarding implementation of a restoration program to protect wetland resources and erosion control to protect the biological productivity and water quality of Bolinas Lagoon.

**STAFF NOTE**

The proposed project is located between Olema-Bolinas Road and Bolinas Lagoon in Marin County (Exhibit 1, Regional Map & Exhibit 2, Vicinity Map). Although Marin County has a

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certified LCP, the project site is located on former tidelands and/or public trust lands over which the State retains a public trust interest. Therefore, pursuant to Section 30519 of the Coastal Act, the Commission maintains development review authority. The standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

### 2.0 STAFF RECOMMENDATION OF APPROVAL

The staff recommends that the Commission approve Coastal Development Permit No. 2-03-003 subject to the conditions in Sections 2.1 and 2.2 below.

#### **Motion:**

*I move that the Commission approve Coastal Development Permit No. 2-03-003 subject to conditions pursuant to the staff recommendation.*

#### **Staff Recommendation of Approval:**

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **Resolution to Approve the Permit:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

### 2.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## 2.2 Special Conditions

### 1. Wetland Restoration Program

The permittee shall undertake development in accordance with the approved final wetland restoration plan titled "Supplement to Voluntary Restoration Plan for Star Route Farms, Revised June 2003." Any proposed changes to the approved final plans shall be submitted for the review and approval of the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### 2. Construction Period Erosion Control.

**A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and approval of the Executive Director, an erosion control plan to prevent the transport of sediment from the project site. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff, and retain sediment on-site during construction. The plan shall also limit application, generation, and migration of toxic substances and ensure the proper storage and disposal of toxic materials. The Erosion Control Plan shall include, at a minimum, the Best Management Practices specified below:

#### 1. Erosion & Sediment Source Control

- a. Establish fuel and vehicle maintenance staging areas located away from all drainage courses, and design these areas to control runoff.
- b. Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Only use water for any on-site cleaning. Do not use soap, solvents, degreasers, steam cleaning, or similar methods.
- c. All stockpiled materials or wastes prone to running off or subject to wind erosion must be covered.
- d. Use fiber rolls instead of silt fences to capture sediment where appropriate.

**B.** The permittee shall be fully responsible for advising construction personnel of the requirements of the approved Erosion Control Plan.

**C.** The permittee shall undertake development in accordance with the approved Erosion Control Plan. No proposed changes to the approved Erosion Control Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### 3. Condition Compliance

**WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP,** or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy

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prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

### 3.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

#### 3.1 Project Location and Site Description

The project site is situated on the east side of Olema-Bolinas Road approximately one mile north of the town of Bolinas and consists of a 2.36-acre parcel (APN 195-290-24) (Exhibit 1, Regional Map, Exhibit 2, Vicinity Map, & Exhibit 3, Assessors Parcel Map). Tidal and transitional wetlands of Bolinas Lagoon border the project site on the east and a vacant parcel owned by the Marin County Open Space District abuts the site on the south. An 8.99-acre parcel (APN 195-290-13), also owned by the applicant, borders the project site (Parcel 24) on the north and west. The project site and the adjacent parcel (Parcel 13) create an "L" shaped piece of property totaling approximately 11 acres, which together constitute a portion of an approximately 100-acre organic farming operation known as Star Route Farms.<sup>1</sup>

Located on the eastern and southern sides of the project site adjacent to the tidal and transitional wetlands are drainage ditches, levees, a deer fence, and a historic cattle fence (Exhibit 4, Site Plan). The levee on the southern boundary measures approximately 225 feet in length, four feet in height, and two feet in width and continues for another 150 feet onto Parcel 13 for a total length of approximately 375 feet. The eastern levee of approximately the same height and width of the southern levee measures 562 feet in length. It continues onto the southern boundary of Parcel 13 for approximately 225 feet. A drainage ditch runs parallel to each of the levees. The drainage ditches are approximately three feet deep and vary in width from approximately two to eight feet, and, like the levees, continue onto Parcel 13 as well. A 6.5-foot-high wire grid fence with wooden posts four to six inches in diameter set every 60 feet, and metal deer fence stakes infilling the posts at 20-foot intervals, rests atop the levees demarcating the approximate southern and eastern boundaries of the project site. Immediately adjacent to the levees and the deer fence is a three-foot-high historic cattle fence. At the southeast corner of the parcel sits a six-foot by six-foot wooden platform, approximately four feet above ground. Four rusted culverts lie below the platform.

The elevation increases slightly from Olema-Bolinas Road (east to west) over the entire 11 acres (project site and Parcel 13) with the project site portion receiving the most tidal influence. Although no official delineation has been carried out, Commission staff biologist, Dr. John Dixon, concurs with the determination of the applicant's consulting biologist that the project site is diked palustrine emergent wetland habitat. The primary source of water for these wetlands is rainfall and storm water runoff. Extreme tidal events coinciding with storm events serve to supplement the amount of water received at the project site.

No farming presently occurs on the project site; however, the applicant organically farms the southwestern portion of Parcel 13 with row crops in the summer and a cover crop in the fall. Typically, the cover crop is turned under in the spring unless it is too tall, in which case it is cut,

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<sup>1</sup>The applicant also proposes development that requires a CDP on Parcel 13; however, Parcel 13 is located in Marin County's coastal development permitting jurisdiction. On January 28, 2003, the Marin County Board of Supervisors approved a CDP for the proposed development on Parcel 13; however, local approval of the CDP was subsequently appealed and is also before the Commission as Item 11a (Appeal number A-2-MAR-03-008).

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composted, and reapplied. Salad greens, squash, or potatoes are sown and watered as needed. After the last harvest, a cover crop (clover, vetch, or other species) is sown in the fall whereupon it germinates with the first few rainfall events. The northern section of the property, part of Parcel 13, is left fallow and includes a corner of riparian vegetation associated with Pine Gulch Creek. Portions of the remaining acreage, including the project site, are periodically mowed and composted and cows are sometimes brought in to graze the cover crop in the spring.

### **3.2 Background**

As stated above, the project site and Parcel 13 create an 11-acre piece of property that is part of a larger 100-acre organic farm owned by the applicant. The applicant purchased Parcel 13 and the project site in 1981 to add to the existing farm. As noted in the section above, the applicant cultivates a portion of Parcel 13 and mows the remaining portions of Parcel 13 and the project site.

At the time of purchase, small levees, drainage ditches, and an approximately three-foot-high historic livestock fence ran along the eastern and southern boundaries of the two parcels. Two ditches also ran in an east-west direction across the two parcels from Olema-Bolinas Road to Bolinas Lagoon effectively trisecting the parcels. The exact time the levees, ditches, and fence were constructed is unknown, but according to historic photographs and a technical analysis prepared by the applicant's consultant, the development predates any coastal development permitting requirements. Prior to the purchase of the parcels by the applicant, the historic use of the property included cattle grazing, hay production, and open space. According to correspondents received by the Commission, the site has been used for agriculture since at least the 1870s (Exhibit 5, Letter from Pepper).

A report prepared by Prunuske Chatham, Inc. for the County of Marin concluded that the vegetative makeup of the parcels prior to the applicant's acquisition of them included approximately one acre of salt marsh in the southeast quadrant of the property that graded to seasonal freshwater wetland and gradually sloped to upland near the road. The levees on the southern and eastern boundaries that are the subject of this permit are included within this wetland area. Although Prunuske Chatham, Inc. was unable to determine an exact wetland upland boundary, the historic record indicates that perhaps as much as 50% or more of the area currently under cultivation (located on Parcel 13) was seasonal wetland. The plant community in this area would have been similar to that of the adjacent Marin County Open Space property to the south. Native plants would have included rushes, native blackberry, marsh beaked buttercup, and pacific cinquefoil mixed with non-native annual grasses such as Italian ryegrass and velvet grass. The remainder of the cultivated area would have been upland grassland dominated by non-native annual grasses, naturalized herbaceous weeds, and probably patches of non-native blackberry. Although a brief period of regular seasonal grazing in the mid-1970s probably favored taller growing grasses and fewer weedy species, the sporadic, low intensity grazing use before and after this period maintained a patchwork of grasses, forbs, and shrubs. The report further concluded that current management practices have reduced the amount of salt marsh, seasonal wetland and grassland vegetation (Prunuske Chatham, Inc. 2002).

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In 1986, the applicant performed maintenance work on the existing drainage ditches using an excavator to remove accumulated sediment.<sup>2</sup> Without the benefit of an approved coastal development permit, the applicant placed the sediment on top of the adjacent levees within the wetland. In addition, the applicant constructed a wooden platform at the southeastern corner of the project site, as well as four culverts that would be used to convey water off the property from the eastern and southern ditches, both of which are located within the wetland. The applicant also placed tide gates on the culverts to control tidal influence over the property (the tide gates were subsequently removed). In 1995, without the benefit of an approved coastal development permit, the applicant installed a 6.5-foot-high wire mesh deer fence along the southern and eastern boundaries of parcel.

On August 27, 1996, Commission planning staff notified the applicant in writing that unpermitted development carried out on the property constituted a violation of the Coastal Act. In response to staff's letter, the applicant submitted a CDP application for the annual recontouring of historical ditches along west and south border of APN 195-290-24 and after-the-fact authorization to retain the deer fence; however, this application was never processed. Subsequently, it was determined that the application should include the removal of the unpermitted fill.

In June of 1999, Coastal Commission staff determined that the property on which the Coastal Act violation existed partly in the coastal permit jurisdiction of the Coastal Commission and partly within the coastal permit jurisdiction of Marin County. Specifically, Parcel 13 is located within the County's permit jurisdiction, and the project site (Parcel 24) is entirely within the Commission's permit jurisdiction boundary. Thus, it was concluded that coastal permits would be required from both the County and from the Coastal Commission for removal of the unpermitted fill.

On May 22, 2000, enforcement staff instructed the applicant in writing to first obtain a coastal permit from Marin County for the portion of the fill in the County's coastal development permit jurisdiction. In July 2000, the applicant submitted to the County a coastal permit application for the removal of unpermitted fill for the portion within the County's jurisdiction. Before the permit could be processed, the County required that soil profiles be taken to estimate the amount of fill to be removed from the existing berms. Soil profiles were subsequently taken on June 4, 2002, and it was established that 153 cubic yards of fill on the berms along the southern and eastern boundaries of the Parcel 13 and 547 cubic yards of fill on the project site in question would be removed for a total of 770 cubic yards.

On January 28, 2003, the County approved Coastal Development Permit 01-03, which approved the removal of approximately 153 cubic yards of fill as well as after-the-fact authorization for the unpermitted deer fence. This permit was subsequently appealed to the Coastal Commission on to February 28, 2003.

On February 4, 2003, the applicant submitted a Coastal Development Permit for the portion within the Coastal Commission's jurisdiction, which included the removal of unpermitted fill, and a request for after-the-fact authorization for the deer fence. Subsequently, on a March 3,

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<sup>2</sup> As discussed above, the drainage ditches existed prior to 1972. Maintenance performed by the applicant to retain the 1972 ditch configuration is exempt from review; however, modification of that configuration would constitute new development and would require a coastal development permit.

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2003 site visit, Commission staff notified the applicant that the platform and culverts also constituted a violation of the Coastal Act. The applicant amended the CDP application on May 23, 2003, to include removal of the platform and culverts.

In addition, in 1998, the U.S. Army Corps of Engineers informed the applicant that there were alleged violations of the Clean Water Act on his property involving unauthorized fill of wetlands. A settlement agreement between the applicant and the Corps was signed on December 14, 1998. This agreement required, among other things, that the applicant remove the fill placed on the levees, restore and maintain the two interior trisecting ditches, and place all removed material in an upland location at least 100 feet from any stream channel.

### 3.3 Project Description

The applicant proposes to (1) remove approximately 547 cubic yards of wetland fill from existing levees located along the southern and eastern boundary lines of APN 195-290-24; (2) remove four rusted culverts and a wooden platform in the southeast corner of the wetland parcel and discontinue mowing within the southern portion of the parcel; and (3) carry out wetland restoration for the areas of proposed fill removal. In addition, the applicant is requesting after-the-fact authorization for mowing within the northern portion of the parcel and construction of a deer fence along the southern and eastern boundaries of the parcel (Exhibit 6, Proposed Development Plan).

The Grading, Restoration and Erosion Control Plan dated April 2003 depicts the fill removal area in plan view and the Partial Site Survey of Assessor of Parcel Numbers 195-290-13 & 195-290-24 dated May 2000 illustrates the levee cross-sections and their locations (Exhibit 7, Grading, Restoration and Erosion Control Plan and Exhibit 8, Partial Site Survey). The cross sections show the approximate amount of fill to be removed and the resulting elevations. The actual volume of fill to be removed from the project site would be determined in the field by site-specific soil observations at intervals along the levees during the removal project. The fill removal would be completed under the guidance and supervision of the applicant's wetland scientist, and the Corps would inspect the property to confirm that soil removal has been satisfactorily completed.

All fill removed from the property would be spread as a soil enhancement over approximately 20 acres of upland cropland located across the Olema-Bolinas Road north and west of the project site. All material would be placed at least 100 feet from any stream channel. This land is also owned by the applicant, and is not within the Commission's original jurisdiction.<sup>3</sup>

Fill removal would be undertaken at such time as there is no water in the existing ditches. Notwithstanding that the work would be accomplished during the dry season, and when there would be no water in the ditches, the applicant proposes to implement sediment and erosion control measures to prevent sediment from entering Bolinas Lagoon.

The proposed project would include replacement of an existing 3-foot tall historic cattle fence with a 6.5-foot tall deer fence (Exhibit 9, Photographs of Cattle Fence & Deer Fence). As noted above, the proposed deer fence was constructed in 1995 without the benefit of a coastal development permit. Prior to the proposed removal of fill from the berms, the applicant would

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<sup>3</sup> The placement of the removed fill on the upland property was approved under the County Coastal Development Permit No. 01-03 which is now before the Commission as appeal A- 2-MAR-03-008.

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remove both the deer fence and cattle fence. Once fill removal is completed, only the deer fence would be replaced. In addition, the remnants of the culvert, as well as the wooden platform, would be removed. Following fence, culvert, and wooden platform removal the area would be mowed close to the ground and then an excavator would be used to remove this side cast soil, placing it in two dump trucks. The trucks would transport the material to the upland parcels across Olema-Bolinas Road, where it would be spread at a shallow depth over a wide area as a soil amendment. The applicant estimates that the fill removal would occur over a two-week period.

Finished grading following fill removal would involve grading along the edges of the excavated area to tie into the existing gently sloping topography to facilitate wetland hydrology, soil, and vegetation development. Grading activities would be monitored by a grade checker to ensure that the surface of soils that have been covered by the fill would be exposed. The grade checker would be under the direction of the applicant's wetland scientist.

After fill removal and finished grading are completed, the perimeter deer fence would be installed approximately one-foot interior of the property line. The fence would be 6.5 feet high wire grid with two strands of top wire. Wooden posts four to six inches in diameter would be set every 60 feet, and metal deer fence stakes would infill the posts at 20-foot intervals. With removal of the soil material, the top of the fence would be several feet lower than it is presently.

The project area would be replanted in accordance with the Supplement to Voluntary Restoration Plan. In order to establish more rapid plant growth, the restoration area would be sprigged and/or seeded with salt grass, the dominant species found in adjacent wetland areas. Planting would occur after the side cast soil material is removed and planting bed prepared. Preparation of the planting bed would involve the use of a rototiller and hand tools. Salt grass sprigs approximately one inch in diameter would be planted at a rate of 500 sprigs per acre. If the site is seeded with salt grass, the rate would be 25 pounds per acre. No pre- or post-planting applications of fertilizer or herbicides would occur. The source of the salt grass sprigs would be the adjacent wetlands. Sprig collection would be accomplished so as not to destroy or significantly disrupt the donor site. A local commercial native plant vendors seed source would be used. Follow-up inspections would be made as necessary to ensure proper plant growth.

The applicant also proposes to abandon unauthorized mowing activities in the southern portion of the parcel, and requests after-the-fact authorization to continue mowing the northern portion of the parcel to manage the area specifically for shorebirds (Exhibit 10, Proposed Shorebird Management Plan). Mowing would be carried out in the late spring and/or early fall when the soil is dry.

### 3.3.1 Wetland Resources

Coastal Act Section 30233 states in relevant part:

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*



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*(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*

*(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*

*(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*

...  
*(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

*(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

*(7) Restoration purposes.*

*(8) Nature study, aquaculture, or similar resource dependent activities.*

...

Although no official delineation has been carried out, a report titled the Supplement to Voluntary Restoration Plan for Star Route Farms dated June 2003 and submitted by the applicant, classifies the project site as diked palustrine emergent wetland habitat and describes the underlying soils as poorly drained clay loam soils with low permeability. These soils are the same type that occurs in the existing wetlands immediately adjacent to the project site. The report further states that hydric soils within the existing wetland pond and/or saturate during the rainy season for long to very long durations of time. The soils also become inundated and/or saturated during extreme tidal events. The primary source of water for these wetlands is rainfall and storm water runoff. Extreme tidal events coinciding with storm events serve to supplement the amount of water received at the project site. At present, the eastern and southern ditches drain to Bolinas Lagoon to the east through a ditch opening approximately 7 feet wide at the intersection of the eastern and southern levees. The four remnant corrugated metal culverts that are rusting apart are within this opening area with water flowing around and through these structures. No flap gates are present on the culverts. The opening allows for relatively unobstructed tidal flow onto the parcel. The opening also allows for relatively unobstructed drainage of standing waters resulting from storm water or in combination with tidal influence following coinciding extreme storm and high tide/wind events.

As noted in Section 3.2 (Project Background), in 1986, the applicant carried out the following development within the wetland without the benefit of coastal development permit: (1) deposited

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approximately 547 cubic yards of sediment to existing levees on the southern and eastern boundaries of the project site; (2) constructed a wooden platform at the southeast corner of the site; and (3) installed four culverts under the platform. The additional 547 cubic yards of fill added to the existing levees resulted from maintenance activities the applicant carried out on the adjacent drainage ditches. The wooden platform, installed at the same time, served as a bridge to cross over the ditch where the southern and eastern ditches come together, as well as a place to sit; however, it has since fallen into a state of disrepair. The applicant installed the culverts to convey water from the ditches off the property. As noted above, the culverts have since disintegrated and only rusted remnants remain. In addition to the unpermitted fill, the applicant has been removing vegetation from the wetland by mowing the interior area of the project site adjacent to the drainage ditches.

Coastal Act Section 30233 limits the types of development allowed within a wetland as listed above and only where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. The unpermitted development carried out by the applicant is not allowable under Section 30233. Therefore, the placement of 547 cubic yards of soil material, a wooden platform, and culverts is in conflict with Section 30233. However, the applicant proposes to remove the 547 cubic yards of soil, culverts, and platform, consistent with Section 30233.

Through the removal of the fill, the frequency of past inundation would be restored to the historic levee area prior to the placement of the fill. Lowering the levee to the elevation prior to 1972 would create a greater opportunity for overtopping and extreme high tide/wind events, but these events are infrequent. Nevertheless, given that the east and south ditch systems would continue to drain Parcel 13 and the project site through the south-east corner opening and would allow tidal waters to enter the site in a unobstructed manner along basically the same flow path, the frequency and duration of wetland hydrology conditions within the project site and Parcel 13 after removal of the fill should be similar to those that currently exist.

In addition to removing the fill, the applicant proposes wetland restoration activities in those areas. This constitutes an approximately 10-foot wide area approximately 200 feet long along the southern boundary and a 10-foot wide area approximately 750 feet long along the eastern edge of the parcel. The restoration plan includes the following components: (1) goals and objectives of the restoration program; (2) restoration program success criteria; (3) restoration program implementation; (4) restoration success monitoring plan; (5) management and maintenance plan during monitoring plan period; and (6) contingency measures if the restoration success criteria are not met by the end of the third year. To ensure that the restoration activities are carried out consistent with the restoration program, **Special Condition 1** requires the applicant to undertake development in accordance with the approved final wetland restoration plan. As conditioned, the restoration of the area of proposed fill removal would adequately restore the wetland habitat impacted by the unpermitted wetland fill.

Since the proposed development removes unpermitted wetland fill, and as conditioned would incorporate measures to adequately restore the impacted wetlands, the Commission finds that the proposed removal of the unpermitted fill, wooden platform and culverts, and wetland restoration, as conditioned, is consistent with Coastal Act Section 30233.

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As part of the application, the applicant also proposes to abandon unauthorized mowing activities in the southern portion of the parcel, and requests after-the-fact authorization to continue mowing the northern portion of the parcel to manage the area specifically for shorebirds. Mowing would be carried out in the late spring and/or early fall when the soil is dry.

The applicant's parcel provides a unique niche for shorebirds in Bolinas Lagoon. The Marin County Unit I LCP documents a historic use of this portion of the property by shorebirds. It states the following:

*These lands [marshy pastures south of the Pine Gulch Creek Delta] have been identified by Page and Stenzel (1975) as important feeding and resting areas for shorebirds.*

The LCPs further states:

*The eleven-acre Henry Wilkins property (Assessor Parcel Numbers 195-290-13 and 24) is the only remaining hightide roost for shorebirds and water fowl in Bolinas Lagoon that is protected from significant disturbance, and is the only habitat adjacent to the lagoon for snipe (Capella gallinago), with a population of about 100 individuals. In addition, it is one of the few locations around the lagoon where there is a transition from salt marsh to freshwater marsh habitats and thereby adds to the total diversity of habitat areas around the lagoon.*  
[Emphasis added.]

Grazing activities and unauthorized mowing have kept the vegetation low on this property, which as a result has favored shorebirds. The applicant proposes to continue mowing activities on the northern portion of the property to maintain the habitat for shorebirds. In support of his proposal, the applicant submitted a letter from Rick Stallcup, staff naturalist for the Point Reyes Bird Observatory and field biologist and science advisory board member for the Audubon Canyon Ranch in which Mr. Stallcup comments on the proposed mowing activities (Exhibit 11, Lecture from Stallcup). Mr. Stallcup comments that the hardy non-native plants in the northern portion of the property are deeply entrenched and that their removal and replacement with weaker natives would require constant perpetual care that would likely not succeed. He further states that:

*Because, a current lack of grazing on the west side of Bolinas Lagoon and because extreme high tide a mandate Kent Island (formally a high tide sanctuary for thousands of shorebirds), your cultivated parcel [applicant's parcel] of open land (the pumpkin patch - Parcel 13) enhanced by rain runoff has become a MAJOR high tide roost for leaders and waterfowl.*

...

*There are now few places for the myriad shorebirds that winter at Bolinas Lagoon to shelter during extreme high tide...*

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He recommends mowing the parcel in the northern section to increase availability of "safe haven" for shorebirds during high tide situations. Commission staff biologist concurs that mowing would allow for the continued use of the parcel by shorebirds.

Under Coastal Act Section 30233 development within a wetland is allowed for restoration and resource dependent activities. As discussed above, the purpose of the mowing would be to manage and enhance the habitat for the continued use by shorebirds consistent with the historic uses of the property identified in the certified LCP. Therefore, the Commission finds the proposed mowing in the northern portion of the property consistent with the Coastal Act Section 30233 limitations on allowable dredge activities and wetlands.

In addition to the placement of the platform, culverts, and 547 cubic yards of soil material in the wetland in 1986, the applicant erected a 6.5 foot-high deer fence, on top of the levees and adjacent to the existing historic cattle fence along the southern and eastern boundaries of the project site. As discussed in Section 3.3 (Project Description), the applicant proposes to replace the existing cattle fence with the deer fence.

The proposed deer fence is necessary to allow for continuing agricultural use of the property, which is clearly contemplated by the Marin County Unit I LCP. The approved development is located on agriculturally zoned land and agricultural activities have occurred on the property since the early 1900s, long before the passage of the Coastal Act and certification of the Marin County Unit I LCP. Grazing was the primary historic use of the site, which was supported by the historic cattle fence that still exists on the property. In the early 1980s the applicant changed the type of agricultural use from grazing to row cropping. With the change in agricultural use came different managerial challenges, including foraging deer. Deer are capable of jumping over the three-foot high cattle fence and will graze the row crops. As such, the cattle fence was not effective in keeping out the deer and thus, no longer sufficient to support the ongoing agricultural use of the property. At first the applicant managed the deer under a predator permit from the Department of Fish and Game (DFG); however, DFG stopped issuing predator permits in the early 1990s if applicants did not try nonlethal control methods first, which required the applicant to approach managing the deer differently.

The change in the type of agricultural use of the project site from grazing to organic farming requires the replacement of the existing cattle fence with a deer fence. Replacement of the cattle fence with a deer fence will reduce the wetland fill associated with the fence from approximately 60 square feet to 3 square feet. As such, the proposed development would result in a net decrease of wetland fill. Moreover, the proposed fill will not result in the establishment of a new use inconsistent with the allowable use provisions of Section 30233 of the Coastal Act because the purpose of the fill is to allow for a less extensive fence that would only continue to facilitate the pre-existing historic agricultural use of the site. Therefore, the Commission finds the proposed replacement of the cattle fence with a deer fence is consistent with wetland protection requirements of Coastal Act Section 30233.

### **3.3.2 Erosion and Polluted Runoff**

Coastal Act Section 30230 states:

## 2-03-003 (Weber)

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Coastal Act Section 30231 states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The proposed development is located adjacent to Bolinas Lagoon. Bolinas Lagoon is within the Gulf of the Farallones National Marine Sanctuary, one of four national marine sanctuaries in California and one of thirteen in the nation. The Sanctuary was designated in 1981 to protect and manage the 1,255 square miles encompassing the Gulf of the Farallones, Bodega Bay, Tomales Bay, Drakes Bay, Bolinas Bay, Estero San Antonio, Estero de Americano, Duxbury Reef, and Bolinas Lagoon. The approximately 2.2-square-mile (1,400-acre) lagoon contains environmentally sensitive habitat, including wetland and mudflats. The lagoon provides an important haul-out and birthing site for harbor seals. In addition, benthic invertebrates and fish in the lagoon support a great diversity and abundance of wintering and migratory shorebirds, waterfowl, gulls, and other water-associated birds (Marin County LCP 1981). One of the water quality challenges Bolinas Lagoon faces today is increasing sedimentation. As a result of human activity since European colonization, Bolinas Lagoon has been filling in at an accelerated rate and the Lagoon is predicted to begin closing intermittently within the next 50 years. The result of these closures would be a disruption in the flow of water in the Lagoon, and the Lagoon's value as estuarine habitat would decline. Protecting the water quality of Bolinas Lagoon, which includes preventing increased sedimentation, is essential to preserving the Lagoon and the coastal resources it supports.

Section 30230 states that marine resources, especially those areas and species of special biological significance, shall be maintained and where possible enhanced. Section 30231 protects the biological productivity and the quality of coastal waters, and wetlands. During fill removal, soils would be exposed and subject to wind erosion and runoff. Furthermore, construction equipment associated with the development would be present on-site. Since the project site is immediately adjacent to the Lagoon, increased sediment load as well as debris or contaminants resulting from the removal of the culverts and platform and associated equipment could affect the water quality and potentially any organisms living in the Lagoon, inconsistent with Sections 30230 and 30231 of the Coastal Act.

To address potential water quality impacts related to the fill removal, the applicant proposes to carry out work (1) during the dry season, (2) when the adjacent drainage ditches are dry, and (3) in accordance with the submitted Grading, Restoration, and Erosion Control Plan dated April

## 2-03-003 (Weber)

2003. The grading and erosion control plan includes installing sterile (weed-free) straw on bare soil areas and using vegetable clippings, straw bales, silt fences, fiber rolls, or other suitable barrier material to prevent sediment from entering Bolinas Lagoon.

To further ensure that the proposed development would not introduce sediment or other contaminants into the Lagoon, the Commission finds that additional temporary erosion and runoff control best management practices (BMPs) are necessary, which include covering all stockpiled materials or wastes prone to running off or subject to wind erosion, establishing fuel and vehicle maintenance staging areas located away from all drainage courses, and maintaining and washing equipment and machinery in confined areas specifically designed to control runoff. Therefore, the Commission imposes **Special Condition 1** to require the applicant to submit a final erosion control plan, incorporating best management practices, to minimize the potential sources of sediment, control the amount of runoff, and retain sediment on-site during fill removal.

Thus, the Commission finds that the proposed development, as conditioned, would protect the water quality and biological resources of Bolinas Lagoon, consistent with Coastal Act Policies 30230 and 30231.

### 3.4 Public Access

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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

Coastal Act Section 30212 states:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

*(1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*

*(2) Adequate access exists nearby, or,*

*(3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

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

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

**2-03-003 (Weber)**

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

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

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

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

*As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

*(a) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

In its application of these policies, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to offset a project's adverse impact on existing or potential public access.

The project site, located at 95 Olema-Bolinas Road, which runs along east side Bolinas Lagoon, lies between Olema-Bolinas Road and Bolinas Lagoon. The applicant privately owns the project site and there are no recorded public access easements or offers to dedicate public access easements affecting the subject parcel. However, because a portion of the land is located on tidelands and filled former tidelands, a public trust easement may extend over some of the site. This easement guarantees the public's right to access the shoreline for the purposes of navigation, commerce, fishing and recreation. In addition, neither the applicant nor the Commission staff have conducted a study to determine whether the public may have a right to access the coast through any portion of the project site based on use. Thus, there is a potential that the public may have acquired a right by implied dedication to use the project site to access the coast and the sea.

However, the proposed development is located on private property on which there is no evidence of public trails; aerial photographs evidence farming of the site. Furthermore, immediately adjacent to the project site is a parcel owned by Marin County Open Space District that includes public trails. The proposed development involves the removal of unpermitted development, including a wooden platform, culverts, fill, wetland restoration, and a request for after-the-fact approval for an unpermitted fence. The removal of the fill, platforms and culverts, and wetland

## **2-03-003 (Weber)**

restoration would not interfere with any public access rights which may exist on the site. Only the construction of a fence could potentially conflict with any public rights that may exist to access the shoreline and the sea. However, the likelihood of any such conflict is remote since the deer fence would replace, in the same alignment, a cattle fence that has existed on the property well before the passage of the Coastal Act and its predecessor statute. In this case, the Commission finds there is no evidence that the proposed fence conflicts with any public rights that may exist to access the shoreline and the sea because public access exists on the open-space parcel immediately adjacent to the project site, the proposed fence would not interfere with that public access, aerial photographs depict farming, not trails, and the replacement fences in the same alignment as a historic cattle fence that has existed on the property since well before the passage of the Coastal Act. Therefore, as conditioned, development would not interfere with any public trust easement to the extent that any exists. Therefore, the Commission finds that as conditioned the proposed project is consistent with Sections 30210, 30211 and 30212 of the Coastal Act.

### **3.5 Alleged Violation**

Between 1986 and 1995, without benefit of a coastal permit, the applicant undertook development consisting of the: (1) placement of approximately 547 cubic yards of wetland fill; (2) installation of four culverts and a wooden platform; and (3) construction of a 6.5-foot deer fence in Bolinas, Marin County (Exhibit 4, Site Photographs). In February of 2003, the applicant applied for after-the-fact authorization of the above-mentioned development.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the policies of Chapter 3 of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation, nor does it constitute an admission as to the legality of any development undertaken on the site without a coastal permit.

### **3.6 California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires 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). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effects, which the activity may have on the environment.

The proposed project has been conditioned to be found consistent with the policies of the Coastal Act. The Commission finds that the removal of unpermitted development, including four culverts, a wooden platform, approximately 547 cubic yards of fill, removal of a historic cattle fence, placement of a deer fence, and restoration of wetland and shorebird habitat, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



**2-03-003 (Weber)**

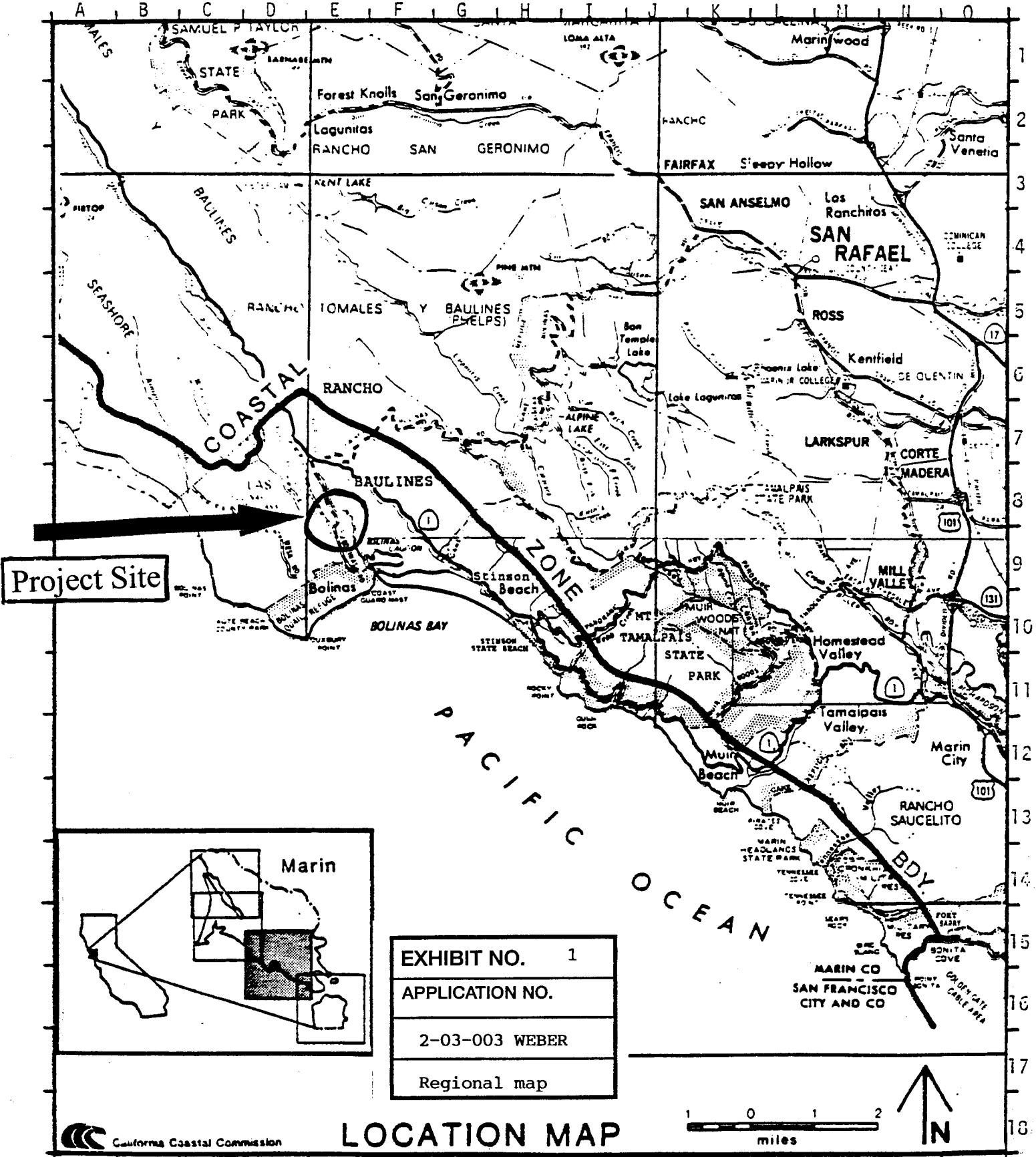
**EXHIBITS:**

1. Regional map
2. Vicinity map
3. Assessors Parcel Map
4. Site Plan
5. Letter from Frank G. Pepper
6. Proposed Development Plan
7. Grading, Restoration, and Erosion Control Plan
8. Partial Site Survey
9. Photographs of Cattle Fence & Deer Fence
10. Proposed Shorebird Management Plan
11. Letter from Rich Stallcup, November 10 , 2003

**APPENDIX A: SUBSTANTIVE FILE DOCUMENTS**

Prunuske Chatham, Inc., Habitat Investigation of a Portion of Star Route Farms, Bolinas for  
Marin County Community Development Agency. January 9, 2002.

## Exhibits



**Project Site**

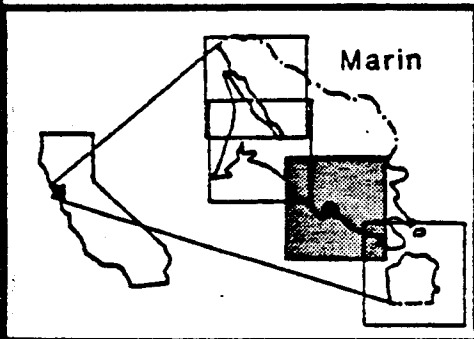

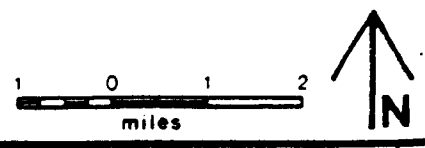


EXHIBIT NO.	1
APPLICATION NO.	
2-03-003 WEBER	
Regional map	

 California Coastal Commission

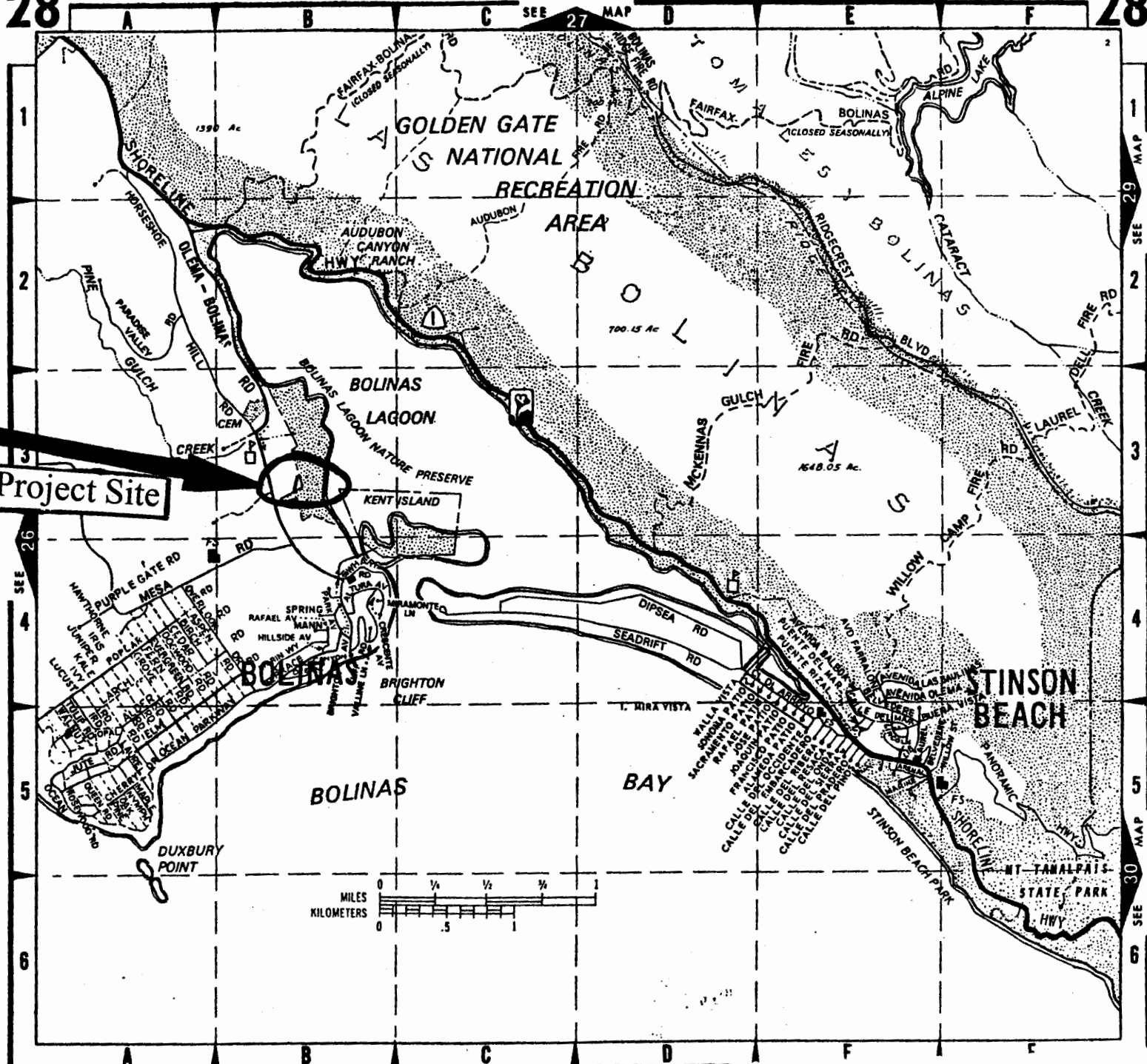
**LOCATION MAP**



28

28

EXHIBIT NO.	2
APPLICATION NO.	2-03-003 WEBBER
Vicinity map	



Project Site

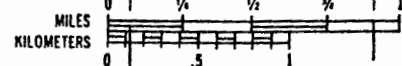


EXHIBIT NO.	3
APPLICATION NO.	2-03-003 WEBER
Assessors Parcel map	

# MULINAS LAGOON

T.L.S. 23

S 121° E	627.0
S 31° E	1316.02
EAST	198.0
N 31° W	1516.02
N 121° W	627.0
WEST	198.0

T.L.S. 131

N 65° W	330
N 71 1/4° W	245.52
S 85° W	245.52

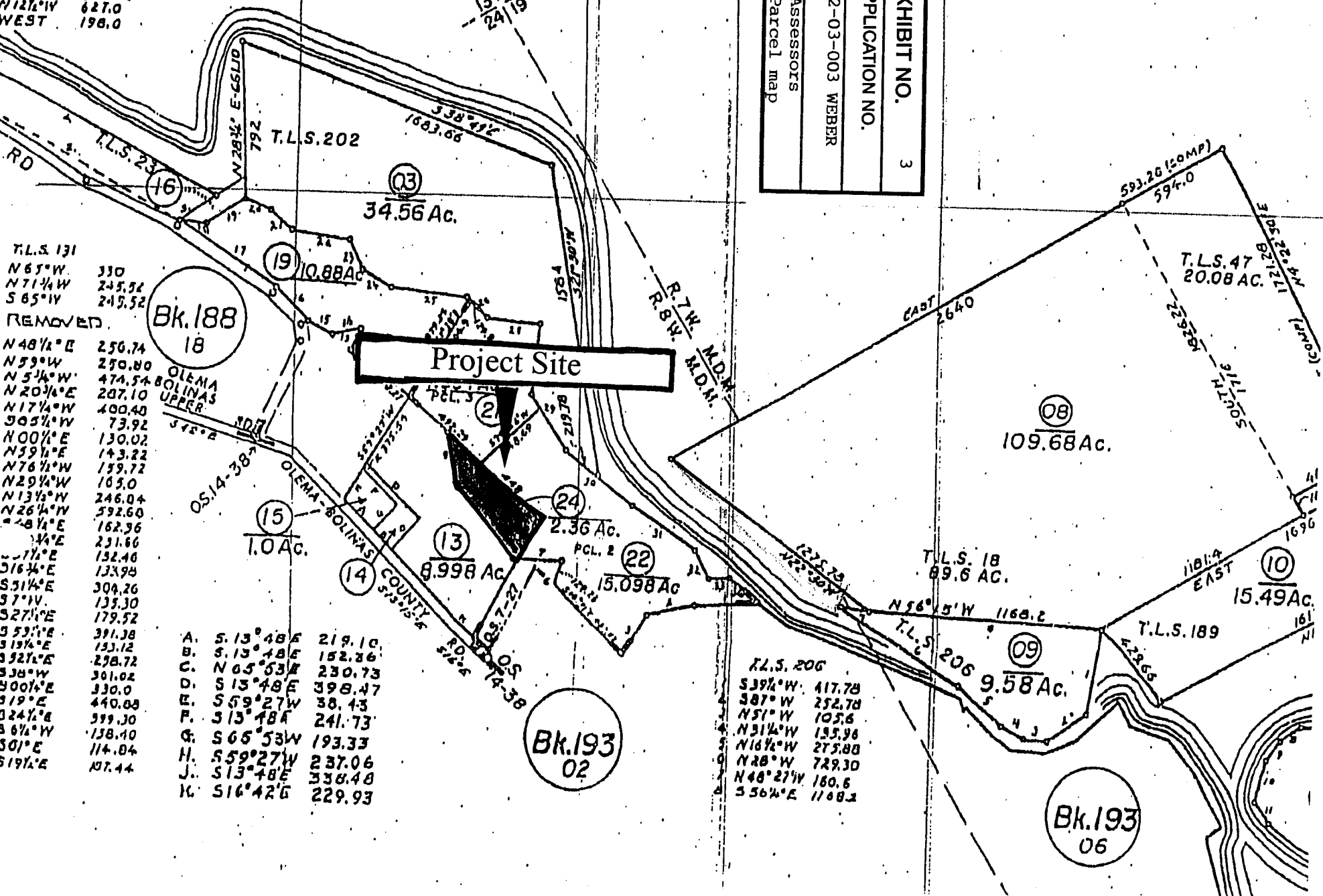
REMOVED

N 48 1/2° E	256.74
N 59° W	250.80
N 5 1/4° W	474.54
N 20 3/4° E	207.10
N 17 1/4° W	400.40
S 05 1/2° W	73.92
N 00° E	130.02
N 59 1/2° E	143.22
N 76 1/2° W	159.72
N 29 1/4° W	165.0
N 13 1/2° W	246.04
N 26 1/4° W	592.60
N 48 1/2° E	162.36
N 34° E	231.66
N 71° E	152.46
S 16 1/4° E	133.98
S 31 1/4° E	300.26
S 7° W	139.30
S 27 1/2° E	179.52
S 53 1/2° E	391.38
S 19 1/2° E	153.12
S 52 1/2° E	290.72
S 38° W	301.02
S 00° E	330.0
S 19° E	440.00
S 24 1/2° E	399.30
S 6 1/2° W	138.10
S 01° E	114.04
S 19 1/2° E	107.44

A.	S 13° 48' E	219.10
B.	S 13° 48' E	152.36
C.	N 65° 53' E	230.73
D.	S 13° 48' E	398.47
E.	S 59° 27' W	38.43
F.	S 13° 48' E	241.73
G.	S 65° 53' W	193.33
H.	S 59° 27' W	237.06
J.	S 13° 48' E	330.48
K.	S 16° 42' E	229.93

T.L.S. 206

S 39 1/2° W	417.78
S 87° W	252.78
N 51° W	105.6
N 31 1/4° W	153.96
N 16 1/2° W	275.88
N 28° W	729.30
N 48° 27' W	180.6
S 56 1/2° E	1168.2



Bk. 188  
18

Bk. 193  
02

Bk. 193  
06

EXHIBIT NO. 4

APPLICATION NO.

2-03-003 WEBER

Site plan

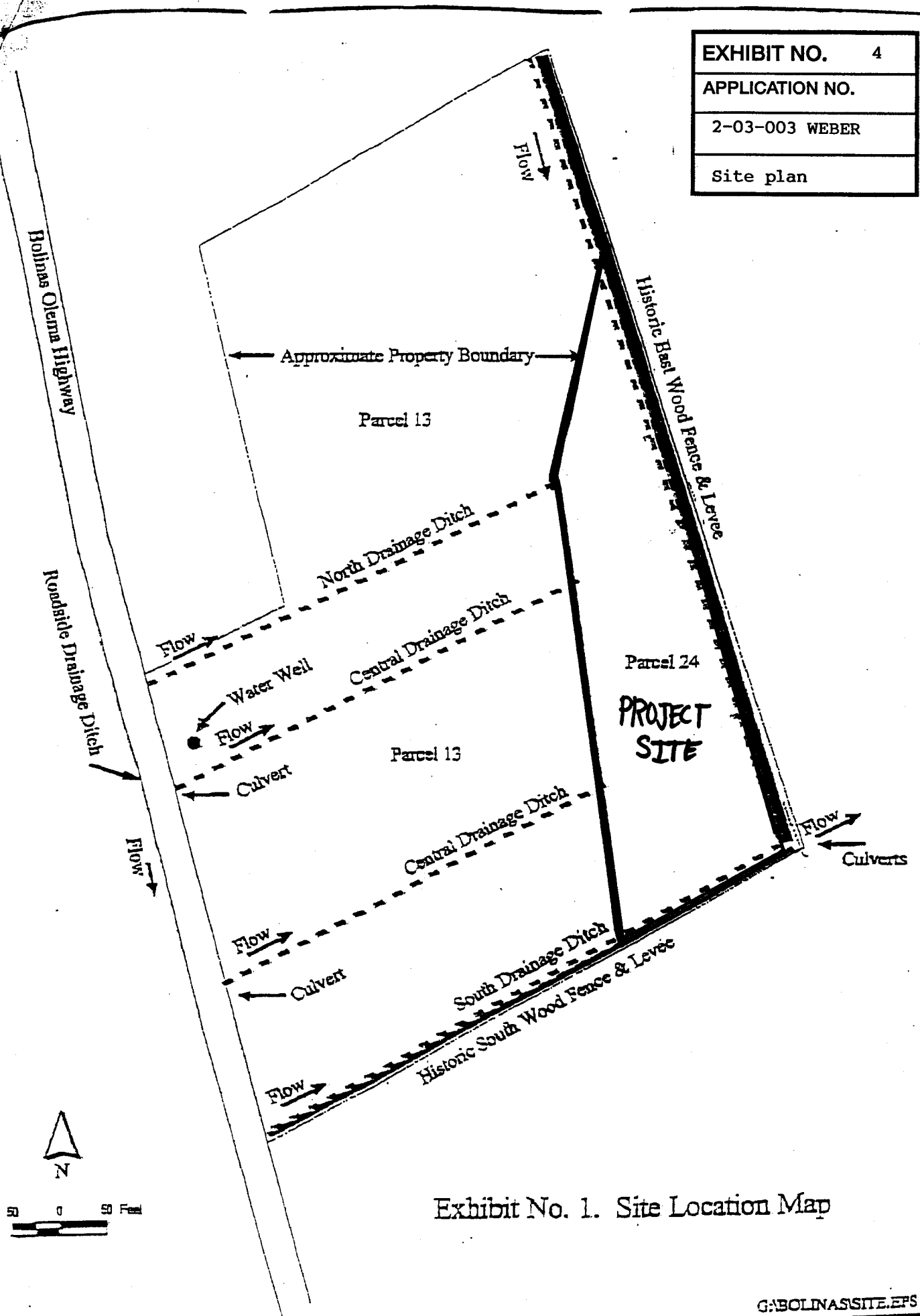


Exhibit No. 1. Site Location Map

EXHIBIT NO.	5
APPLICATION NO.	2-03-003 WEBER
Letter from	Frank G. Pepper
(Page 1 of 2 pages)	

**POINT REYES LIGHT****LETTER TO THE EDITOR ( NOT SENT)**

In response to the article by David Rolland (12-19-96), concerning Star Route Farms using the 11 acre field as farmland, I would like to make the following comments:

When my Great Grandparents, and my Grandparents came to Bolinas 120 years ago all that area in question was a hayfield protected by a dike and continuously farmed for years.

Both my parents were born and raised in Bolinas, and were aware of all this area being farmed during their lifetime.

I was born in Bolinas 83 years ago, and I remember the hayfields, meadows, and dikes.

My father's parents owned the property between the subject 11 acres and Pine Gulch Creek, which my Grandfather intensively truck-gardened for many years.

Mr. Weber is not altering the land, he is simply using the land for farming as all those other owners did before him.

Frank G. Pepper, Bolinas

PT Reyes Reg RR  
To the Editor:

In response to your recent  
articles of David Roland ~~and~~  
~~the~~ ~~from~~ about Star Route  
Farm "I am bold, I would  
like to make these comments:

When my great Grandparents, and  
Grandparents, came to Bolivar  
120 years ago all that  
area was a hay field protected  
by a dike.

Both of my parents were  
born and raised in Bolivar  
and they remember the former  
area from in Bolivar 83

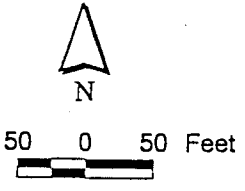
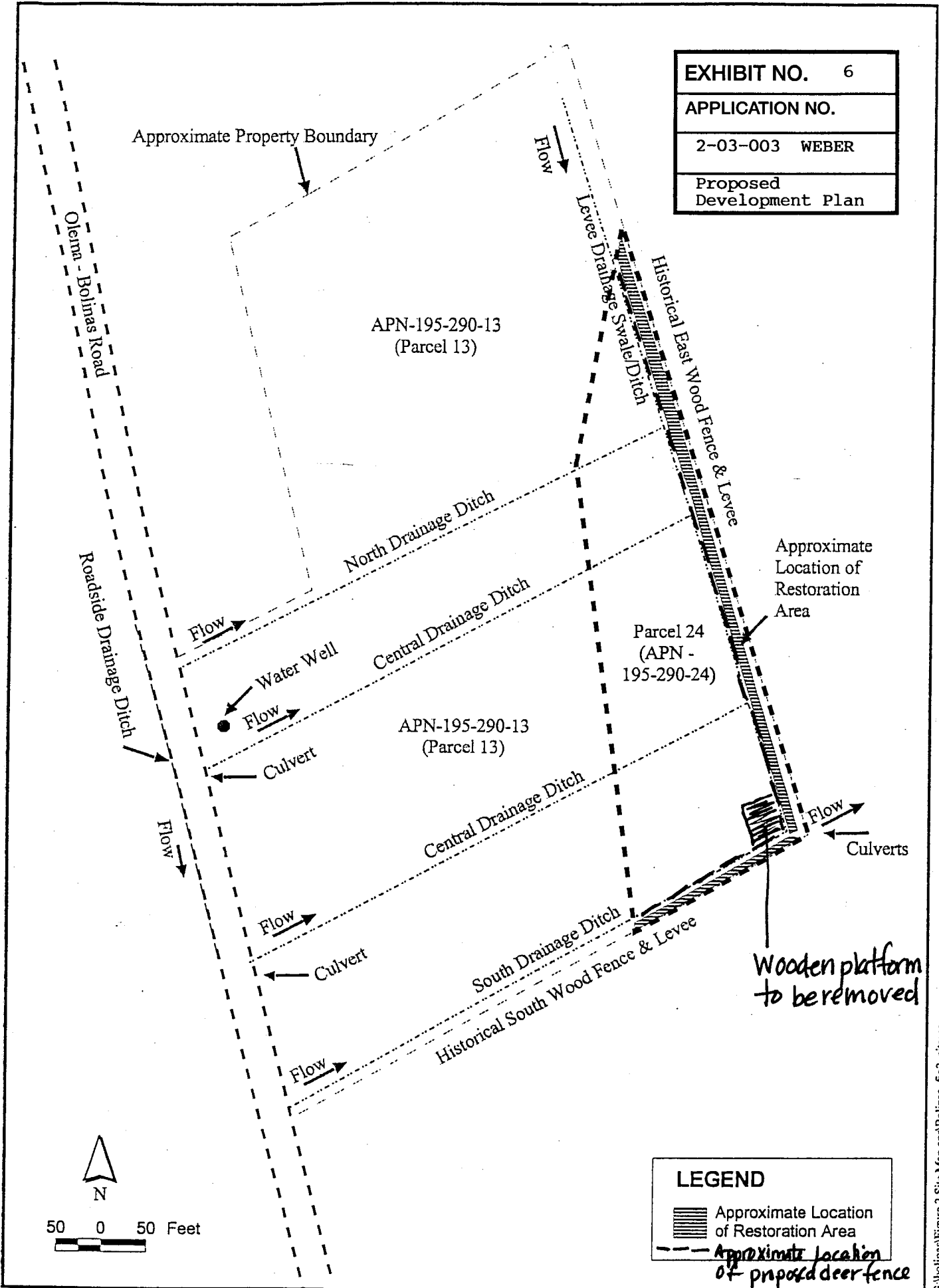
years ago and I remember  
growing up on ~~the~~ ~~fields~~ and ~~the~~ ~~fields~~  
The hay fields and ~~the~~ ~~fields~~ owned  
my father's parents. In  
the property between the  
" even the ~~vine~~ ~~field~~ ~~vine~~  
which my grandfather owned  
was ~~the~~ ~~field~~ ~~owned~~ for years

The (BLTAC) mentioned by  
Faria, is apparently on  
encompassing of new Corner  
where ~~the~~ ~~land~~ ~~was~~ ~~been~~  
very long. ~~on~~ ~~the~~ ~~area~~  
~~needed~~ ~~to~~ ~~be~~ ~~on~~ ~~the~~ ~~area~~

Frank Rose, Sr.



EXHIBIT NO.	6
APPLICATION NO.	
	2-03-003 WEBER
Proposed Development Plan	



LEGEND	
	Approximate Location of Restoration Area
	Approximate location of proposed deer fence

G:\bolinas\Figure 2 Site Map.apr\Bolinas\_fig2\_sitemap.eps

Exhibit 1, Figure 2. Site Map, Showing Approximate Location of Restoration Area

**EXHIBIT NO. 7**

**APPLICATION NO. 2-03-003 WEBER**

**Grading, Restoration and Erosion Control Plan**

Date: March 3, 2003  
 Revised:  
 Scale: Noted  
 By: LFE  
 Sheet: 1 of 1

Erickson Engineering Inc.  
 Valley Ford CA 94972-0446  
 707-795-2498 Voice/Fax



**Location Sketch**

USGS 7.5-min Quad map: Bolinas  
 Scale: 1" = 2000'; 40' Contours

Site topography survey (partial) of spoils removal areas by Meridian Surveying Engineering, May 2000. Upland disposal area topography March 2003 by EEI using intermittent data points. Contours by linear interpolation of data points and are approximate. Property limits approximate per Assessor Parcel Map data and existing fences and have not been field determined. Field topography and parcels overlaid on scanned and enlarged quad map using visual best fit. Verify critical property limits and elevations and dimensions prior to construction. Fill removal limits shall be determined in consultation with U.S. Army Corps of Engineers staff at time of construction.

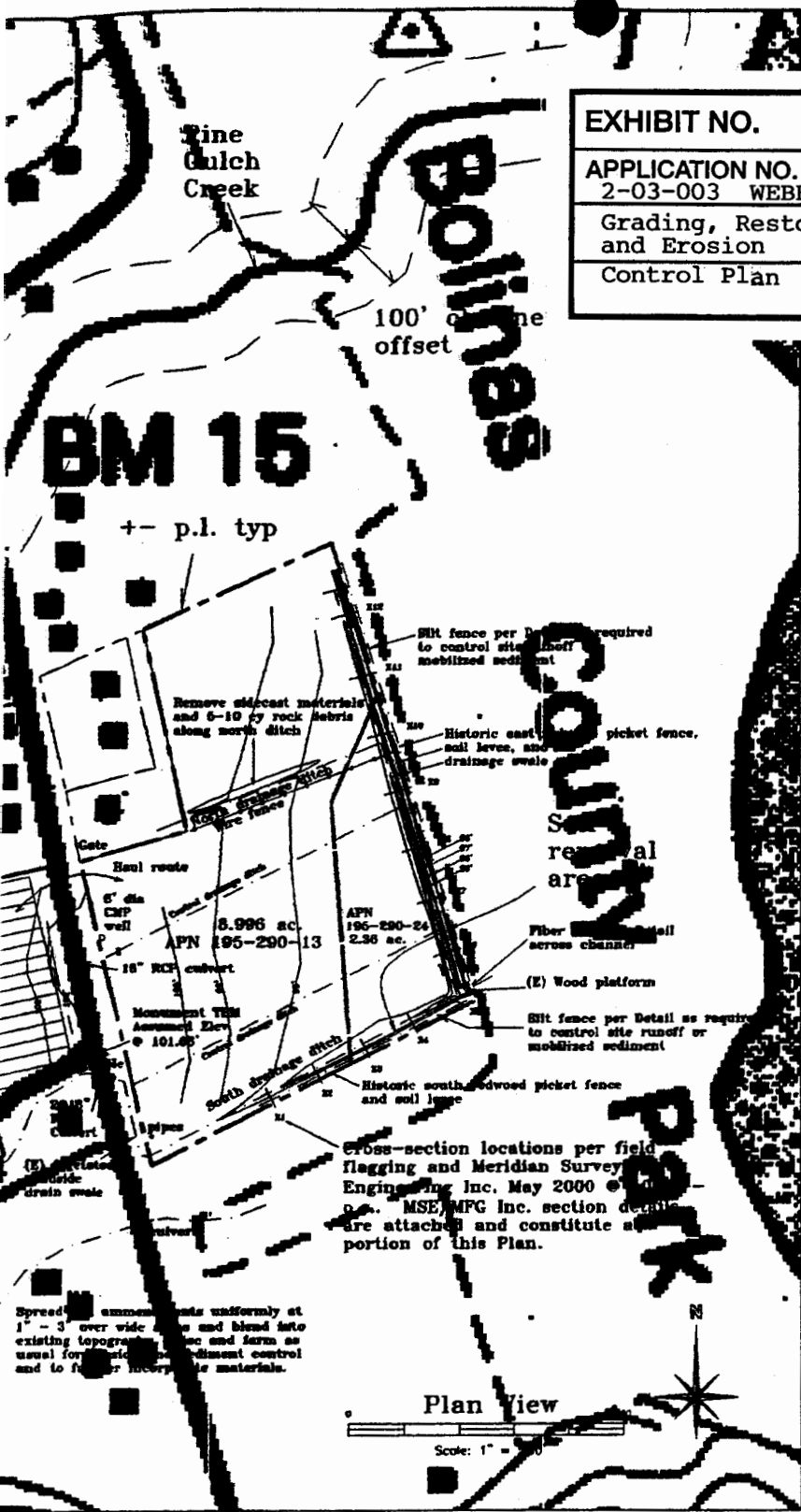
**Grading, Restoration, and Erosion Control Requirements**

- \* The work constitutes activities under approved Coastal Permit 01-03 and Tidelands Permit 01-01. All work shall conform to the requirements of applicable permits and regulatory agencies.
- \* A job copy of the approved permits and the approved grading plan shall be required to be on site during work activity.
- \* Work shall be completed upon authorization of all regulatory and permitting agencies, and according to the timelines specified by the U.S. Army Corps of Engineers.
- \* Work shall conform to plans entitled "Soil Reconnaissance Investigation, including cross sections, prepared by MFG Inc. dated July 26, 2002 and the Partial Site Survey by Meridian Surveying Engineering Inc. of May 2000.
- \* Approximately 770 cubic yards of fill shall be removed from existing ditches along the south and east boundaries of APNs 195-290-13 and -24. Finished grade shall approximate the 1981 topography in the work area.
- \* U.S. Army Corps of Engineers staff have been authorized by CP 01-03 and TP 01-10 Conditions of Approval to determine the exact amount of fill to be removed based on field inspections and work supervision at the time of removal.
- \* Temporary removal and reinstallation of the existing perimeter deer fencing to facilitate earthwork activities is allowed under the Conditions of Approval.
- \* Soil shall be removed using excavators, trucks, or other appropriate earthmoving equipment, and transported to upland parcels APN 193-010-19 and/or 188-170-45 for reuse.
- \* Spoils reutilization from the initial work and future ditch maintenance shall be as a soil amendment of shallow depth over the area in the approximately 24 acres available for reuse.
- \* Remove sidewalk materials and rock debris along the north drainage ditch per instruction of U.S. Army Corps staff. Dispose of the materials in an off-site location consistent with applicable rules and regulations.
- \* Grading activities are restricted to 7AM - 5PM Monday - Friday and 9AM - 4PM Saturdays. No construction is permitted on Sundays or holidays. The Community Development Director may consider modification of this condition at the written request of the applicant.
- \* Dust control using applicable methods including watering roads or limiting loads is required as necessary to prevent dust from work activities depositing on surrounding properties. The applicant shall be responsible for maintenance and cleanup of County roads to pre-construction conditions.
- \* If the amount of soils removed under supervision of the U.S. Army Corps of Engineers changes, the applicant shall notify the County and shall submit revised grading plans to Marin County Department of Public Works.
- \* The applicant is responsible for ensuring that all construction vehicles, equipment, and materials are stored on site and off the street so that pedestrians and vehicles can pass safely at all times.
- \* The applicant shall be responsible for ensuring that all construction vehicles shall be limited to the minimum number necessary to complete the project. Streets shall not be blocked. Property owners shall be notified 24 hours in advance of any temporary blockage due to construction activities.
- \* If any archaeological resources are discovered during remaining construction, all work at the site shall stop and the owner or applicant shall contact the Marin County Environmental Coordinator. A registered archaeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Director advancing appropriate measures to protect the resources discovered. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with the findings and recommendations of the archaeological report as approved by the Director.
- \* Reseeding with native grasses or wildflowers for erosion control in conformance with Public Works standards is required.
- \* The applicant shall contact the Department of Public Works within 30 days of work completion to schedule a final inspection.

**Grading, Restoration, and Erosion Control Plan for APNs 195-290-13/24**

**Star Route Farms 80 Olema - Bolinas Road Bolinas CA 94924**

**Star Route Farms 95 Olema - Bolinas Road Bolinas CA 94924**



**Erosion Control Revegetation**

1. Coastal native grass and wildflower seed mix at 25 lb/cu. in disturbed non-farming areas.
  2. Weed-free straw mulch or vegetation clippings from current farming operations at 2000 lb/cu on all disturbed non-farmed areas. Use straw blanket on slopes over 3H:1V.
- The Design Engineer shall certify to the County in writing, including signature and stamp, that all grading work was done in accordance with plans and field directions. Field changes, if any, shall be described.
- Grading improvements, including spoils removal and spreading and ditch repairs shall be inspected and approved by the Department of Public Works Engineer in consultation with U.S. Army Corps staff prior to permit sign-off.



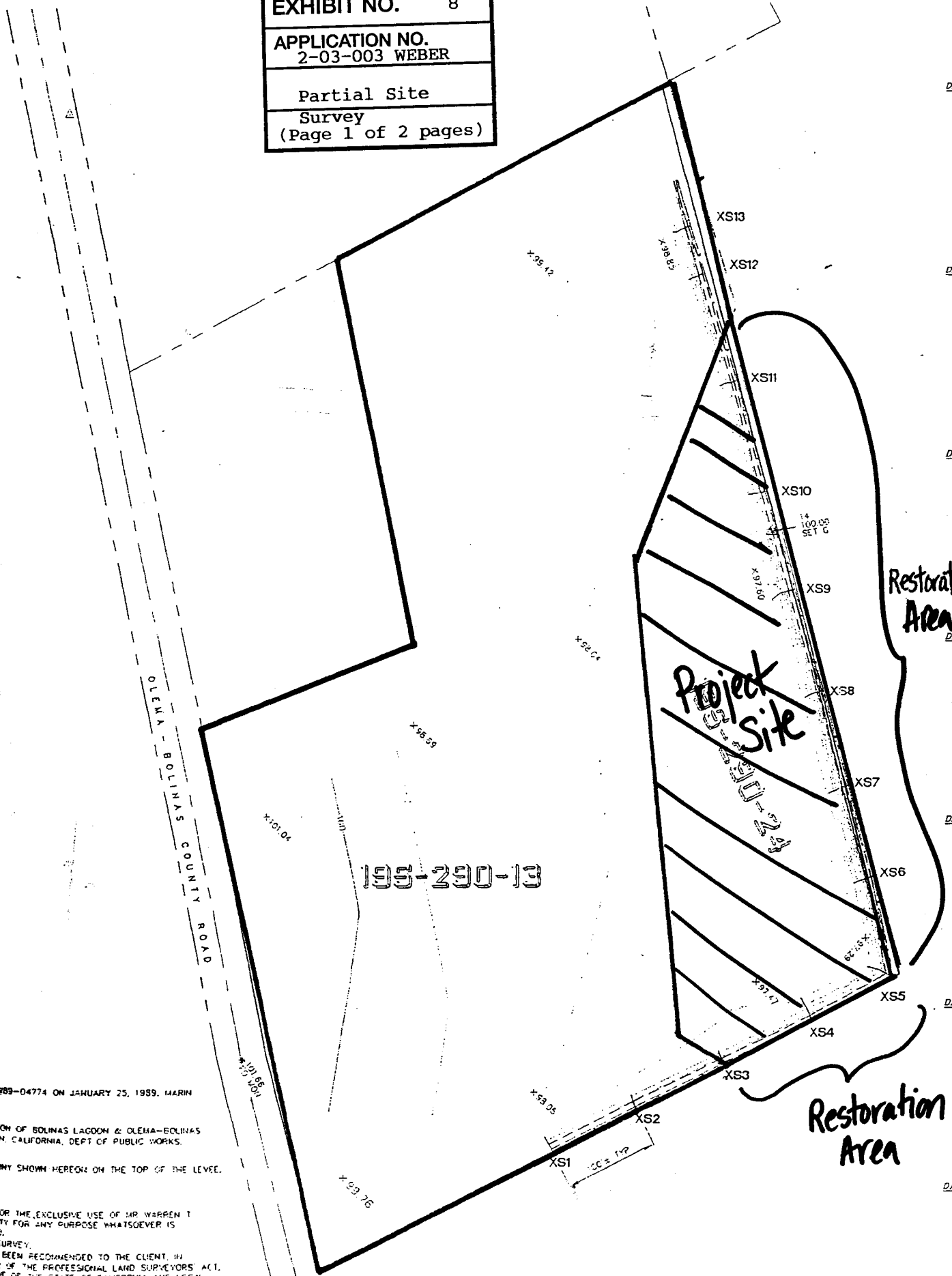
PRELIMINARY; SUBJECT TO CHANGE PURSUANT TO COASTAL COMMISSION CONDITIONS FOR APN 195-290-24

(E) deer fence  
 Silt fence per Detail as required for sediment control  
 (E) Historic reduced gradient fence and prop. limit.  
 New fill  
 Old fill  
 Finished grade  
 to complete grading for grading limits.  
 detail sections attached.  
 construction conditions  
 workman-like and free of debris.  
 Detail No Scale

EXHIBIT NO. 8

APPLICATION NO.  
2-03-003 WEBER

Partial Site  
Survey  
(Page 1 of 2 pages)

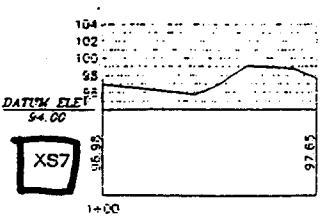
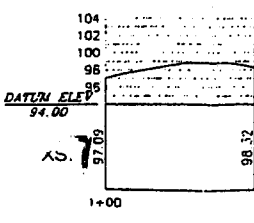
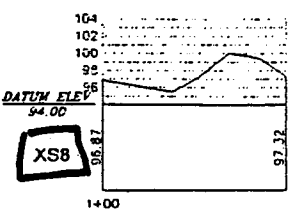
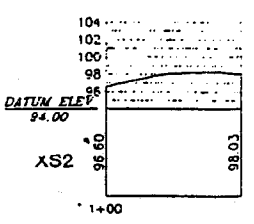
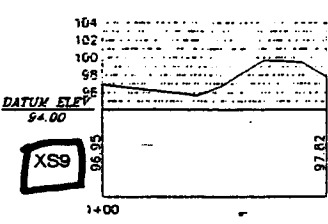
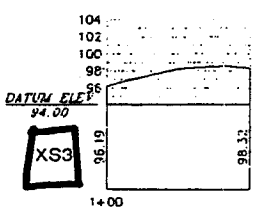
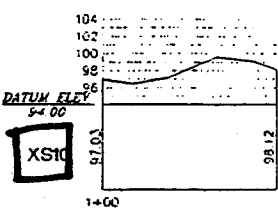
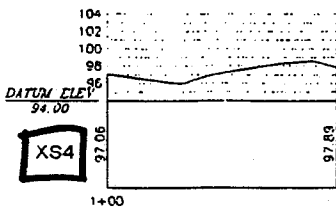
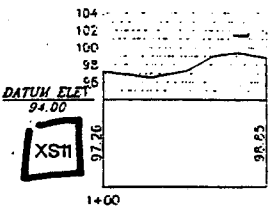
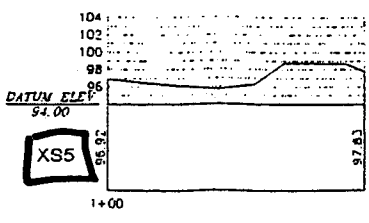
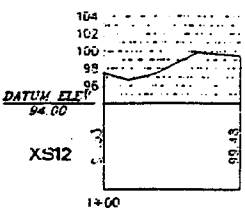
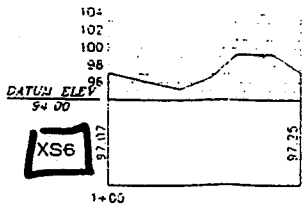
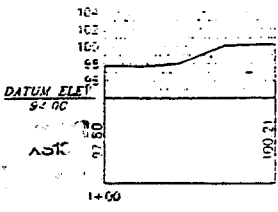
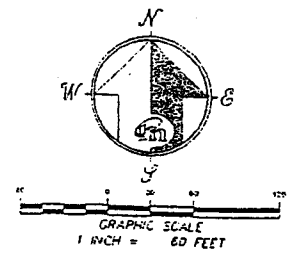


DATE: 1989-01-25  
NO. 000000000-04774 ON JANUARY 25, 1989, MARIN COUNTY, CALIFORNIA.  
PURPOSE: PORTION OF BOLINAS LAGOON & OLEMA-BOLINAS LAGOON, MARIN COUNTY, CALIFORNIA, DEPT. OF PUBLIC WORKS.  
LOCATION: AS SHOWN HEREON ON THE TOP OF THE LEVEE.  
PREPARED FOR THE EXCLUSIVE USE OF MR. WARREN T. WEBER FOR ANY PURPOSE WHATSOEVER IS NOT WARRANTED.  
BOUNDARY SURVEY.  
THIS SURVEY HAS BEEN RECOMMENDED TO THE CLIENT, IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT, CHAPTER 822 OF THE STATUTES OF THE STATE OF CALIFORNIA AND LOCAL ORDINANCES.

Restoration Area

Project Site

Restoration Area



**□ = SAMPLES TAKEN FROM RESTORATION AREA**

**LEGEND**

- FO FOUND
- G GINNY
- MON MONUMENT
- PLS PROFESSIONAL LAND SURVEYOR
- XS CROSS SECTION
- FOUND CITY MONUMENT
- △ SURVEY CONTROL POINT

**PARTIAL SITE SURVEY**

OF  
ASSESSOR PARCEL NUMBERS  
195-290-13 & 195-290-24

CITY OF BOLINAS  
PREPARED AT THE REQUEST OF  
WARREN T. WEBER

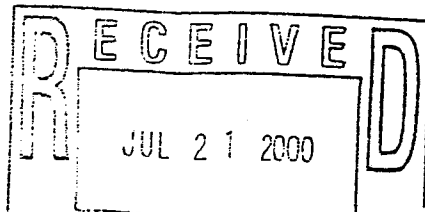
MARIN COUNTY CALIFORNIA  
SCALE 1"=60' MAY 2000



MERIDIAN SURVEYING ENGINEERING, INC.  
1812 UNION STREET 100 DRAKES LANDING #164  
SAN FRANCISCO 94123 GREENBRAE, CA 94904  
(415) 440-4131 (415) 451-1241

DATE	CHK'D	DATE	CHK'D
	CM		CM
	CM		CM
	CM		CM

CROSS SECTIONS 1-13  
HORIZONTAL & VERTICAL  
SCALE: 1"=10'



CITY OF BOLINAS COMMUNITY DEVELOPMENT  
PLANNING DIVISION

East Boundary

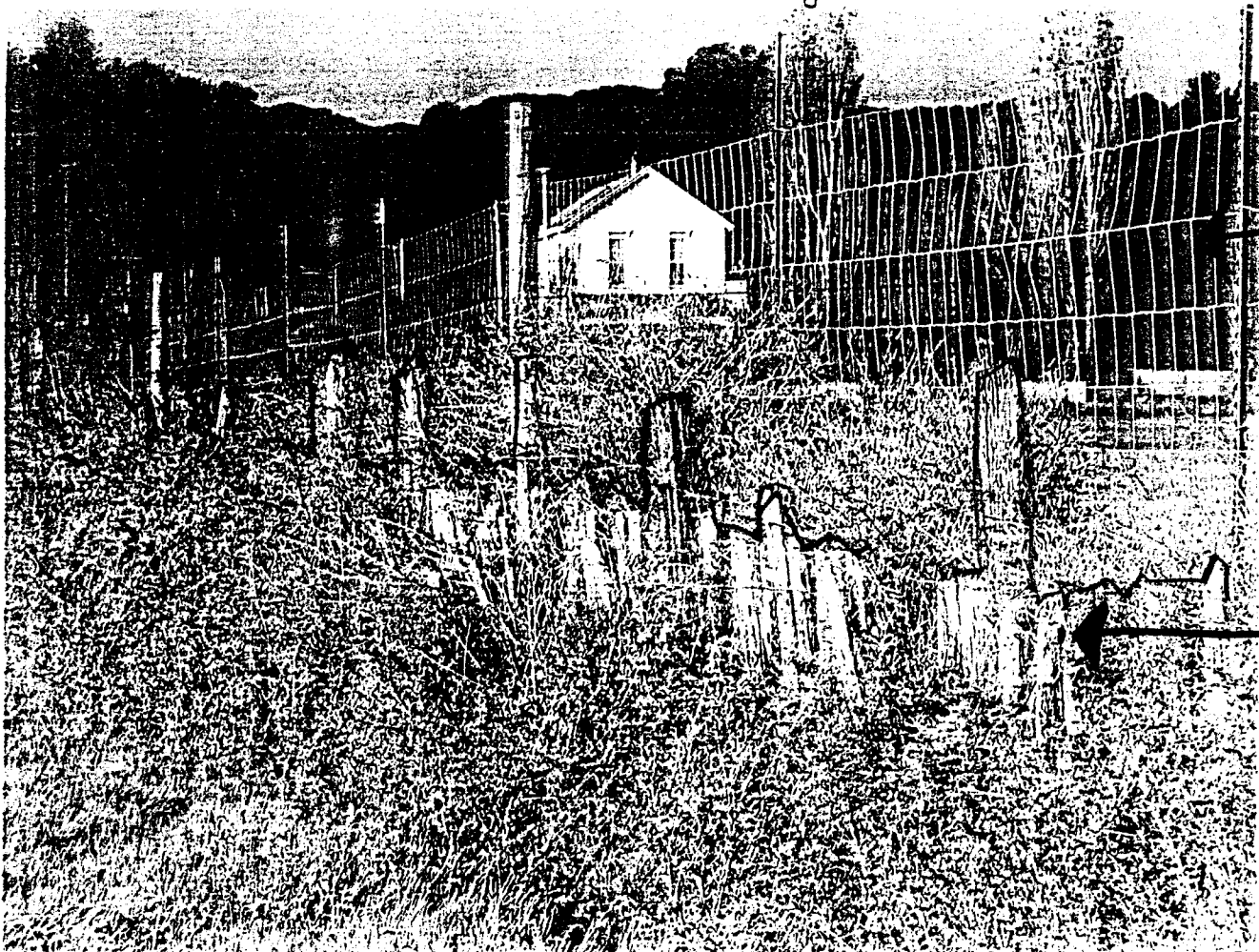
EXHIBIT NO. 9

APPLICATION NO.  
2-03-003 WEBER

Photographs of  
Cattle Fence &  
Deer Fence



South Boundary



Deer  
Fence

CATTLE  
FENCE

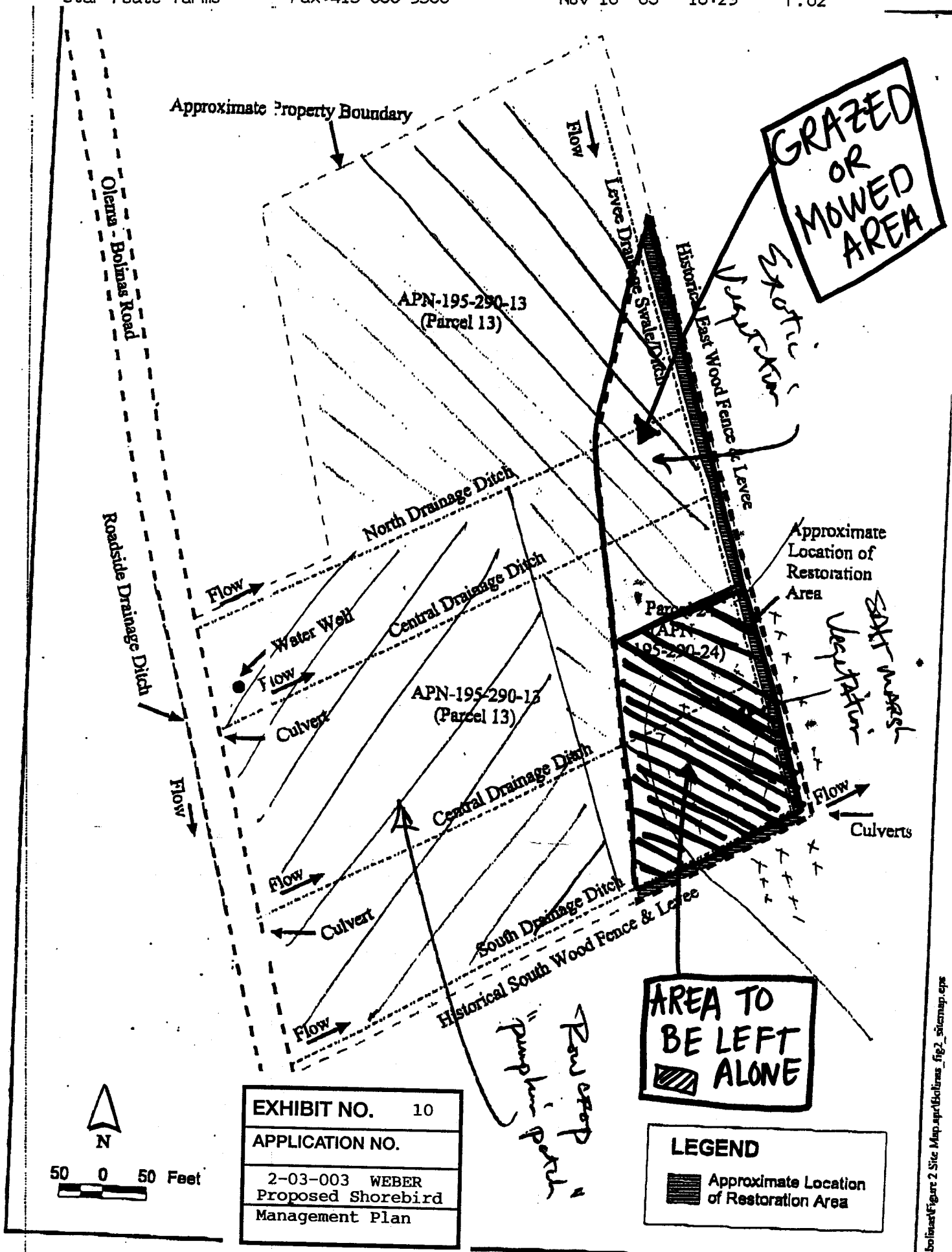


Exhibit 1, Figure 2. Site Map, Showing Approximate Location of Restoration Area

**RICH STALLCUP**  
**P.O. BOX 36**  
**INVERNESS, CA 94924**

EXHIBIT NO.	11
APPLICATION NO.	2-03-003 WEBER
Letter from Rich Stallcup, 11/10/03	
(Page 1 of 5 pages)	

November 10, 2003

Warren Weber  
 95 Olema-Bolinas Road  
 Bolinas, CA 94924

Dear Warren Weber:

As you requested, here is my professional, unbiased and objective opinion about "best alternative" at your land parcel A-24 for wildlife enhancement (in this case, shorebirds and waterfowl).

The southern portion, that which is vegetated by (mostly) native, saltmarsh vegetation (salicornia, jaumea, Frankenia and saltgrasses) should be left alone in hopes (once the dike is lowered) that some tidewater will reach it and enhance their vigorous growth. However, if that area is taken over by exotic species as has happened on the adjacent Open Space District parcel, it should be mowed to keep the vegetation low enough to allow shorebirds and waterfowl to use it.

The northern portion (clearly defined by presence of nearly 100% non-native vegetation) requires more thought!

Because, hearty non-native plants are deeply entrenched, their removal and replacement with weaker natives would require constant, perpetual care and would likely, still, be a losing battle.

Because, a current lack of grazing on the west side of Bolinas Lagoon and because extreme high tides inundate Kent Island (for nearly a high tide sanctuary for thousands of shorebirds), your cultivated parcel of open land (the pump patch--Parcel 13) enhanced by rain runoff has become a MAJOR high tide roost for waders and waterfowl.

It seems, then, appropriate that A-24 might best be mowed and perhaps disced to provide more refuge during high tides for shorebirds. However, once the berm is reduced to its historic level, if this northern section becomes inundated (unlikely?) by saltwater and native saltmarsh plants colonize, then GREAT--just let it revegetate on its own.

There are now few places for the myriad shorebirds that winter at Bolinas Lagoon to shelter during extreme high tides:

- The Seadrift sandspit that might have served the purpose in historical times is now overly disturbed by humans and dogs.
- The formerly grazed fringe of Pine Gulch Creek that provided some safe roosts are now well forested by willows and alders (magnificent natural habitat for many species of landbirds) and unattractive to waterbirds.
- Perhaps because of sedimentation in Bolinas Lagoon (not, here, an issue), Kent Island is often, totally flooded by high, winter tides.

My bottom line is: The best use of your parcel A-24 (north) is to mow, disc, or graze the non-native plant tangle and, thus, increase availability of "safe haven" for shorebirds during high tide situations.

All Best Wishes,

*Rich Stallcup*

Rich Stallcup  
 P.O. Box 36  
 Inverness, CA 94937

**Richard W. Stallcup  
Naturalist/Ornithologist**

**Education**

California State University, Hayward                      Biology                      1967-1970

**Employment**

- 1994-present                      Coordinator, Golden Gate National Recreation Area  
Spotted Owl census teams
- 1994-present                      Consultant, Golden Gate National Recreation Area, bird list  
for the Presidio of San Francisco and Muir Beach
- 1993-present                      Consultant/Instructor, N.O.A.A. Gulf of the Farallones  
National Marine Sanctuary. Beachwatch Program
- 1990-present                      Staff Naturalist, Point Reyes Bird Observatory, Ranch,  
Stinson Beach, CA 94970
- 1989-present                      Staff Field Biologist, Avocet Research Associates. Point  
Reyes Station, CA 94956
- 1988-present                      Field Biologist, Audubon Canyon Ranch, Stinson Beach,  
CA 94970 *and scientific advisory board member*
- 1972                                      Research Biologist. California State University, Hayward.  
Investigated birds as aircraft hazards.
- 1968                                      Point Reyes Bird Observatory Field Station, Resident  
Biologist, Stinson Beach, CA 94970

**CONTRIBUTIONS TO THE LITERATURE****Books:**

- Forshaw, J., S. Howell, T. Lindsey, and R. W. Stallcup. 1994. *Birding*. A Nature Company Guide. The Nature Company, Berkeley, CA 94710. 288 p.
- Stallcup, R. W. 1993. *Birds of California - A Guide to Viewing Distinctive Varieties*. American Traveler Guidebooks, Renaissance Press, Frederick, CO 80530. A photo illustrated guide, 51 p.



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Stallcup, R. W. 1985. *Birds for Real*. Published by Robbins, et al. 100 p.

Stallcup, R. W. 1981. *Pelagic Birds of Monterey Bay, California*. Revised and reprinted from *Western Birds* 1974.

### Column

Stallcup, R. W. 1982-present. FOCUS. A column on bird identification and bird related subjects in the quarterly Newsletter of the Point Reyes Bird Observatory. Sixty  
articles, ongoing.

### Selected Journals and Technical Reports:

Evens, J.G., G.W. Page, L.E. Stenzel, R.W. Stallcup, and R.P. Henderson. 1989. Distribution, abundance, and habitat of the Black Rail, *Laterallus jamaicensis coturniculus*, in tidal marshes of the San Francisco Bay estuary. California Department of Fish and Game. *PRBO publication #426*.

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Page, G.W., L.E. Stenzel, J.G. Evens, and R.W. Stallcup. 1989. *Black Rails and California Clapper Rails in Suisun Bay and Carquinez Strait tidal marshes*. Study for the Shell Oil Spill Assessment and Recovery Monitoring Environmental Effects Program. Point Reyes Bird Observatory. Report to Entrix, Inc.

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Stallcup, R.W. and J. Winter. 1975-1976. Middle Pacific Coast Region: Seasonal Reports. *American Birds*.

**Reviewer for Publications:**

*An Illustrated Guide to Attracting Birds*. 1990. Sunset Books, Menlo Park, CA.

Beedy, T. and S. Granholm. *Discovering Sierra Birds*. 1996. Yosemite Natural History Association and Sequoia Natural History Association. 229 p.

*Birds of North America*, Second Edition. 1983. Robbins, et al. Golden Press, N.Y. 360 p.

DeSante, D. and P. Pyle. 1986. *Distributional Checklist of North American Birds*. Artemisia Press, Lee Vining, CA. 445 p.

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Evens, J. 1988. *The Natural History of the Point Reyes Peninsula*. Point Reyes National Seashore Association. 225 p.

*Field Guide to Western Birds*, Third Edition. 1990. Peterson, Roger Tory, Houghton Mifflin Co. Boston, MA. 432 p.

Gaines, D. 1988. *Birds of Yosemite and the East Slope*. Artemisia Press, Lee Vining, CA. 352 p.

Kaufmann, K. 1990. *Peterson Field Guide to Advanced Birding*. Houghton Mifflin Co., Boston. 299 p.

Lane, J. 1977. *A Birder's Guide to Southeastern Arizona*. 110 p.

*Master Guide to Birding*, Vol. 1. 1983. Farrand, J. Ed. Alfred A. Knopf, New York.

Pyle, P. and S. Howell. 1987. *Identification Guide to North American Passerines*. Slate Creek Press, Bolinas, CA 270 p.

Sander, T. *Common Breeding Birds Songs of the San Francisco Area*. An audio cassette production.

### **AFFILIATIONS**

- 1970-present American Birding Association, Elective Member
- 1970-present California Birds Records Committee of the Western Field Ornithologists, Member
- 1968-present Point Reyes Bird Observatory (PRBO), Honorary Life Member
- 1988-1991 Point Reyes Bird Observatory (PRBO), Board of Directors, Stinson Beach, CA 94970
- 1979-1981 Western Field Ornithologists, President
- 1974-1977 Journal of American Birds, Regional Editor
- 1966 Point Reyes Bird Observatory, Co-Founder

## Correspondence



# MARIN AGRICULTURAL LAND TRUST

P.O. Box 809, Point Reyes Station, CA 94956 • 415 663 1158 • FAX 663 1099 • www.malt.org

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FOUNDED IN 1980 BY

Ellen Straus &

Phyllis Faber

September 12, 2003

Peter M. Douglas, Executive Director  
California Coastal Commission  
45 Fremont Street, Ste. 2000  
San Francisco, CA 94105-2219

Re: File No. 2-03-003 (Weber)

Dear Mr. Douglas:

I am writing to urge the staff and Commission to deny the Tomales Bay Association's appeal of the Marin County Board of Supervisor's conditional approval of the Weber Coastal Permit and Tidelands Permit application.

The portion of the property which is the subject of this project had been in agricultural use when Mr. Weber acquired the property. The project will not result in any expansion or change in use and would not result in any encroachment over tidelands.

The County does not require permits for a change from one agricultural use to another, and that there are no violations related to the current (or past) agricultural use of the property. We are especially concerned about the appellant's attempt to attack the agricultural use of the property through the County's and Commission's jurisdictions over particular aspects of the voluntary restoration agreement between the Army Corps of Engineers and the property owner that relate only to restoration activities and not to past or current agricultural uses on the property.

Agriculture is a vitally important land use in California coastal areas. Star Route Farms is a pioneering organic farm, and is an important contributor to Marin County's and the region's economy, culture and environment.

We urge the Commission to deny the appeal.

Thank you.

Sincerely,

Robert Berner  
Executive Director

RECEIVED

SEP 17 2003

CALIFORNIA  
COASTAL COMMISSION

**Margot Patterson Doss  
120 Horseshoe Hill Road  
Bolinas, CA, 94924-0220**

**RECEIVED**  
SEP 09 2003

CALIFORNIA  
COASTAL COMMISSION

Supervisor Steve Kinsey  
County of Marin  
Civic Center  
San Rafael, CA 94903

March 10, 1999

Dear Steve,

This note is in support of Warren Weber's Star Route Farm.

The property owned by Warren Weber east of the Olema-Bolinas Road that has been questioned by opponents is zoned for agriculture and no zoning regulations have been violated.

The Bolinas Community Plan, designates these parcels as agricultural, and rightfully so. As planners envisioned, farming these parcels has kept the vegetation down thereby enhancing the environment for shorebirds. This is evidenced by their large numbers compared to the neighboring properties.

This is a textbook example of a symbiotic relationship between man and nature —pumpkin in the fall, a panoply of shorebirds in the spring.

I hope that the County will do all it can to preserve organic agriculture in our area.

Ever,

Margot

Burr Heneman . 35 Horseshoe Hill . Bolinas, California 94924

Phone 415.868.1460

burr@igc.org

Fax 415.868.1439

2 September 2003

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

**RECEIVED**

SEP 04 2003

CALIFORNIA  
COASTAL COMMISSION

Dear Peter,

I am writing in support of Warren Weber and Star Route Farms.

I am addressing two issues: the question of whether Star Route Farms' activities constitute a change of use, and the habitat value of the Star Route Farms lagoon field for the purposes listed, first, in the Bolinas Community Plan and, subsequently, in the LCP. Attached to this letter are relevant excerpts from those two documents.

I'm writing as someone who was intimately involved in drafting the Bolinas Community Plan (1975) and the Bolinas Lagoon Management Plan Update (1996). I am a former executive director of the Point Reyes Bird Observatory. For about 25 years, I have been either a representative or an alternate on the county's Bolinas Lagoon Technical Advisory Committee.

1. Change of use?

The Bolinas Community Plan was the origin of the "change of use" language in regard to the Star Route Farms lagoon field and some adjacent parcels. Those of us who wrote the Community Plan considered "change of use" only to refer to a change from agriculture to development. That's what we had in mind because that's how the County told us they used that term: a change from one zoned use to another. There was no County "grazing" zoning, nor a "cultivated agricultural" zoning. Just "agricultural" zoning. So the plan proposed that "an environmental impact report be required on projects that change the use of existing shorebird winter feeding lands" (page 29). There's no mention of grazing. Other community plan excerpts attached show the strong support for agriculture of various types for the Pine Gulch Creek Delta properties, which include much of Star Route Farm.

Warren Weber began to cultivate his lagoon field only a few months after several Bolinas residents had put hard work in on drafting the LCP (and the 1981 Bolinas Lagoon

Resource Management Plan), yet no one, including the drafters of those planning documents, raised an issue about what Warren was doing with the County. Why? Because none of us considered it to be a change of use. We welcomed the change, in part because we saw it as implementation of a Community Plan goal, and in part because there were some problems with the grazing operation that the shift to cultivation solved.

Why does the LCP say "if current agricultural uses were to change" on page 24 and "changes in existing grazing use" on page 27? The explanation is straightforward: inconsistent and sloppy re-drafting of the Community Plan wording quoted above.

I'm sure you can imagine what happens if the Coastal Commission starts saying that changing from grazing to row crops is a change of use that triggers various reviews.

## 2. Habitat value

For better or worse, both the Community Plan and the LCP focus entirely on shorebird use of Warren's lagoon parcels and other nearby parcels during winter storms and extreme high tide events. (The Community plan mentions several species of shorebirds, including snipe. The LCP mentions shorebirds, generally, and snipe specifically.) Presumably, shorebird use of those parcels should be of interest.

I have done storm and high-water event bird censuses of Warren's lagoon field several times over the past four years. Up to 1,200 shorebirds were on those parcels during some censuses. Hundreds of shorebirds are routinely present during high-water events. Those numbers compare favorably with the censuses of those parcels conducted by Gary Page and Lynne Stenzel of PRBO in the early 1970s. In addition, wintering snipe still use Warren's lagoon field.

The real change of use has occurred on the parcels south of Warren's lagoon field, those owned by the County and the Buells. Those parcels are no longer grazed, and the vegetation on them is so tall that shorebirds (with the exception of snipe) can no longer use those parcels. Perhaps the Coastal Commission should require "a detailed environmental investigation" of the change of use on the County and Buell parcels.

Regards,





Documentary History of Policy Related to the Weber Property  
(Prepared by Burr Heneman, August, 2003)

**1. Bolinas Lagoon Plan. 1972, County of Marin**

This plan, approved by the State Lands Commission, fulfilled the County's obligation under legislation passed in 1969 granting Bolinas Lagoon lands to the County. The plan does not mention the Weber (formerly Wilins) property or adjacent properties, and makes no specific recommendations related to privately owned property around the lagoon.

**2. Aspects of the Ecology of Shorebirds on Bolinas Lagoon. 1975, Gary Page and Lynne Stenzel, PRBO.**

This report to the Marin County Department of Parks and Recreation summarized and interpreted four years of censuses and studies of feeding ecology of shorebirds on the lagoon. It includes the following relevant statements (emphasis added):

Shorebirds used several areas other than the tidal flat for feeding and roosting. These areas included the estuary's salt marsh (located primarily on Kent Island and the Pine Gulch Creek delta), the fish ponds and marshy pastures adjacent to the Pink Gulch Creek salt marsh, the Seadrift sand spit (particularly the tip), intertidal areas of the open coast, and pastures near the fire station on Bolinas mesa. . . . Several species of shorebirds fed or roosted at the fish ponds and adjacent marshy pastures (area J, Fig. 1). [p. 34]

Bolinas Lagoon does not totally support the entire shorebird population that occurs there. The adjacent open coast, including Duxbury Reef, and pastures near and adjacent to Bolinas Lagoon contribute resources for some species. It is the combined resources of all the areas that allows the establishment of the particular shorebird population in the estuary-open coast-upland area. [p. 78]

Area J of Figure 1, referred to above, includes the Weber property and several other properties. The PRBO report, on which all subsequent references is based, makes it clear that there were several properties south of the Pine Gulch Creek delta that were important for shorebirds.

**3. Bolinas Community Plan. 1975, County of Marin and Bolinas Planning Group.**

The Bolinas Community Plan includes the following relevant statements (emphasis and bracketed information added):

Certain grassland areas marked on the habitat map on which water stands during the winter are surprisingly important to shorebirds wintering on the Lagoon. Gary Page and Lynne Stenzel, who are completing a three-year study of the Lagoon for the Point Reyes Bird Observatory, have reported that the results of 16 censuses show shorebirds . . . use Area 1 [pastures on the Bolinas mesa], and Area 2 [which includes the Wilkins/Weber and several adjacent properties] is used by Killdeer, Common Snipe, Willet, Marbled Godwit, Least Sandpiper, Greater Yellowlegs, and Long- and Short-billed Dowitchers. It is clear that the shorebirds feed in these pastures when suitable habitat on Bolinas Lagoon is unavailable, and at times substantial percentages of the Lagoon population are found there. . . . Grazing seems to improve these areas as shorebird feeding habitat since tall vegetation obstructs movements of these feeding birds. [p. 79]

It has been determined that many of the grassland areas on the Peninsula are necessary upland feeding areas for several species of shorebirds that winter on the Lagoon. The Plan

proposes an environmental impact report be required on projects that change the use of existing shorebird winter feeding lands. [p. 29]

The second quote above does not say existing *grazing* use because we were only concerned, in drafting the Community Plan, about real change of use — from agriculture to development. The first quote makes it clear why shorebirds no longer use the fields south of the Weber parcels because the vegetation is no longer kept short enough.

The open lands to the north and east of the Gridded Mesa, the Francisco Mesa bordering downtown to the north, the Pine Gulch Creek delta, and the three small valleys north along Pine Gulch Creek are Bolinas' main agricultural lands. The lands to the north and west are used for cattle grazing (although this may change to crop growing with the finish of the BCPUD's sewerage resource system). The Pine Gulch Creek delta and the three Pine Gulch Creek Valleys have the warmest, sunniest climate, the best soil in Bolinas and a fairly abundant water supply. They have the potential of becoming the Bolinas "Breadbasket." . . . . This Community Plan supports all public and private attempts to ensure continued agricultural use of the land. [page 33]

**Gospel Flat (Pine Gulch Creek delta):** this area lies along the West shore of the Bolinas Lagoon running from the intersection of the Bolinas Olema Road with Horseshoe Hill Rd. south to and including Francisco Mesa and west to the foot of the Bolinas Mesa. Present uses include horse and cattle grazing, small farming, a small earth moving and grading contractor, a nursery, the Bolinas-Stinson School, the Christian Science Church, and about 10 residences, some of which house the operators of the above listed activities. The soils of the Pine Gulch Creek delta were rated 2 on a 1969 U.S. Soil Conservation Service survey on a scale of 1-8 (1 being the best). . . . . The weather is sunnier and less windy than most of the Peninsula, and the low elevation, high water table, and proximity to Pine Gulch Creek give it important agricultural potential as is shown by its present and past use. Recommended zoning is A-10 (10 acre minimum lot size). [page 39]

The Community Plan clearly supports agricultural uses without reservation for the area that includes the Weber lagoon parcels.

#### **4. Bolinas Lagoon Resource Management Plan. 1981, Madrone Associates.**

This report, prepared for the Marin County Parks and Recreation Department, includes the following relevant statements (emphasis added):

Upland grassland feeding areas, including but not limited to the Bolinas Mesa and the Henry Wilkins [Weber] property, should be protected against any significant disruption of habitat values. Efforts should be made to secure the Wilkins [Weber] property in the Nature Preserve for permanent open space and eliminate inappropriate uses, such as hunting. . . . Numerous water birds feed and roost in these areas, especially during the winter, when high tides and heavy rains reduce the area of available mudflat on the Lagoon. The Henry Wilkins property is the only remaining hightide roost for shorebirds and waterfowl in Bolinas Lagoon which is protected from significant disturbance, and is the only habitat adjacent to the Lagoon for snipe (*Capella gallinago*), supporting a population of about 100 individuals. In addition, it is one of the few locations around the Lagoon where there is a transition from salt marsh to freshwater marsh habitats, adding to the total diversity of habitat areas around the Lagoon. However, the continued quality of the habitats depends on the adherence to conditions of the grazing contract, which presents potential conflicts with habitat management and water quality. [p. 30]

The first underlined statement is simply not true, nor was it when it were written (1981). As the earlier PRBO report and Community Plan recognized, that description also applied to the County and Buell properties just to the south of the Weber property. Since 1981, however, grazing has ended on the County and Buell properties. Those two properties are no longer used as "hightide roosts for shorebirds and waterfowl" because the vegetation is now too high (see the 1<sup>st</sup> quote from the Community Plan). The Weber property, on the other hand, is used heavily as a hightide and winter-storm roost and feeding area for wintering shorebirds and waterfowl.

#### 5. Marin County Local Coastal Program, Unit 1. 1981, County of Marin.

The LCP includes the following relevant statements (emphasis added):

[Two remaining areas of land use resource conflict.] One concerns the marshy pastures south of the Pine Gulch Creek Delta. These lands have been identified by Page and Stenzel (1975) as important feeding and resting areas for shorebirds. A portion of this land has been acquired by the County, but the section adjacent to the Bolinas-Olema Road is in private ownership. The land is zoned A-10, but none of the parcels are ten acres in size. Homes are found on several of the parcels. The land known as the "Wilkins" [Weber] parcel contains the majority of the significant marsh areas. Under the existing zoning, one home could be built on this land. The value of the land to shorebirds could be greatly reduced if current agricultural uses were to change. [p. 24]

The eleven-acre Henry Wilkins property . . . is the only remaining hightide roost for shorebirds and water fowl in Bolinas Lagoon that is protected from significant disturbance, and is the only habitat adjacent to the Lagoon for snipe (*Capella gallinago*), with a population of about 100 individuals. In addition, it is one of the few locations around the lagoon where there is a transition from salt marsh to freshwater marsh habitats and thereby adds to the total diversity of habitat areas around the Lagoon. In order to protect the wetland and upland habitat values of the parcel, changes in existing grazing use of the site shall be preceded by detailed environmental investigation and shall assure protection of the habitat values of the site in accordance with other policies in the LCP. Public acquisition of the site is encouraged.

The first LCP quote is entirely correct. The second LCP quote repeats the mistaken habitat characterization from the Bolinas Lagoon Resource Management Plan and botches the "change of use" language by substituting "grazing" for "agricultural."



**UNIVERSITY of CALIFORNIA**  
**Agriculture & Natural Resources**



**COOPERATIVE EXTENSION • MARIN COUNTY**

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COASTAL COMMISSION

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CALIF. COASTAL COMMISSION

August 29, 2003

California Coastal Commission  
Peter Douglas, Executive Director  
45 Fremont St, Suite 2000  
San Francisco, CA 94973

Dear Peter:

I am writing this letter in support of the Star Route Farm operation owned by Mr. Warren Weber in Bolinas, California. I have worked with Mr. Weber in a professional capacity as the Farm Advisor for the University of California Cooperative Extension (UCCE) for the past 15 years. I have brought many different tours, fieldtrips and individuals from all over the world to see his exemplary organic operations.

Mr. Weber has been in the organic farming business for more than 25 years. He operates in the urban-rural interface with an elementary school adjoining and the town of Bolinas not far away. A portion of his farm also adjoins the Bolinas Lagoon, and Pine Gulch Creek bisects his farming operation.

I consider Warren to be our most outstanding organic farmer in Marin and the North Bay. He has stewarded the creek and surrounding areas with utmost sensitivity to the natural community that surrounds his property. Each time I visit I see many different species of songbirds and raptors; and Pine Gulch Creek has one of the few remaining healthy salmon runs in the county.

Any form of farming or human development has its obvious impact on the ecosystem. We are fortunate to have an organic farmer who grows local, high quality food for those of us living in the Bay Area, which reduces the need for transporting food from great distances.

Sometimes we criticize (wearing our environment hat) what isn't perfect in our own backyard while we make food purchase decisions (wearing our consumer hat) that have much greater negative impacts on the environment (transportation distances, use of pesticides, increased packaging, etc.) Growing food locally with organic standards and conservation practices needs to be encouraged and supported.

Warren also participates as the President of Marin Organic, a non-profit community organization that is educating other agricultural landowners about transitioning to organic practices. This organization encourages its member producers to consider the ecological, conservation, and labor issues on their farms that enhance rather than degrade their environment. I don't think it's necessary to require permits each time a rancher or farmer changes a crop or product. This would place undue economic burden on the producer.

Warren has worked cooperatively with the County and the Army Corps of Engineers to remove two dikes on his property. The project has been approved by all parties to this point, and I encourage the Commissioners to vote to approve this project as well.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ellie Rilla".

Ellie Rilla  
UCCE Director-Marine Co.

SEIFER, MURKEN, DESPINA & JAMES  
A LAW CORPORATION

MONROE A. SEIFER  
DOUGLAS G. MURKEN  
ELEANORE DESPINA  
H. NATHAN JAMES  
LISA A. SALIMAN  
LARISSA C. BROOKES

2135 LOMBARD STREET  
SAN FRANCISCO, CALIFORNIA  
94123-2712

August 26, 2003

RECEIVED

AUG 27 2003

CALIFORNIA  
COASTAL COMMISSION

TELEPHONE: (415) 749-5900  
FAX: (415) 749-0344  
E-MAIL: [general@smdjlw.com](mailto:general@smdjlw.com)

California Coastal Commission  
Attn: Sarah Borshelt  
45 Fremont Street, Suite 2000  
San Francisco, California 94105-2219

Dear Commissioners:

As a member of the board of directors of Marin Organic, a West Marin non-profit which promotes responsible agriculture, and as a resident of West Marin, I am writing in support of Warren Weber's application to remove two dikes from his farm land in Bolinas.

Marin Organic supports the environment *and* agriculture. Marin environmental organizations have traditionally found a balance between these two considerations, which are both so essential to our way of life in West Marin. It is with regret that I've watched the recent polarization between these groups which were allied for twenty years, striking a balance that kept agriculture healthy while protecting our wild lands.

The agricultural use of Warren's land, as I understand it, goes back more than 100 years. I believe it was once grazing land - a use that must have had much more impact on the waterway. I understand that a change in use permit is being considered for West Marin agriculture and feel that this would be very burdensome to already financially burdened farmers. We can't expect farmers to grow our food for nothing! If we value locally grown food and the savings to the planet when fossil fuel is not used to transport it; if we value our rural way of life; if we value the open space that agriculture protects and preserves, we should be very thoughtful about the additional burdens we place on farmers.

Warren's use of the land is organic. It therefore does not spew industrial fertilizers or pesticides into the waterway. In the winter, the field is idle, and appears to be grown over lightly in grasses to protect it from erosion.

When I was at Star Route Farms this winter, the parcel was gently flooded, and migratory birds were feeding on it. The parcels on either side, which are not farmed, were growing spikey native grasses. No birds were feeding on those parcels.

California Coastal Commission

August 26, 2003

Page 2

Please, as you do your work, consider the seven years and thousands of dollars which have been consumed by Warren Weber's effort to find a balance for this piece of land. It is my hope that the Commission will not entertain this appeal any further.

Very truly yours,

  
ELEANORE DESPINA

cc: Carol Whitmire

August 19, 2003

California Coastal Commission  
c/o Peter Douglas  
45 Fremont St., Ste. 2000  
San Francisco, Ca. 94105-2219

RECEIVED  
AUG 25 2003  
CALIFORNIA  
COASTAL COMMISSION

RE: File No: 2--03-003 (Weber)

Dear Mr. Douglas,

I am writing in support of a fellow farmer and esteemed colleague, Warren Weber, and his application for a permit to remove the dikes on his farm, Star Route. I am a farmer in Marin County, chair of the Marin Food Policy Council, and the Program Officer for food systems at the Center for Ecoliteracy, a public foundation. This letter provides an opportunity to acknowledge a valued and trusted leader of the Marin County agricultural community and to say a few obvious and noteworthy things about him that he is entirely too modest to ever say about himself.

As you know, Star Route Farm has been engaged in a long (seven years) permit process to take down dikes on two of their parcels. Star Route is now reaching the conclusion of this arduous process with the impending date of their last hearing before the Coastal Commission. The project has been approved by the Army Corps and the County.

It has come to my attention as Chair of the Marin Food Policy Council that the granting of permits has been appealed by a small group of people who claim to be the ones to speak for environmental interests. The County Planning Commission and the Board of Supervisors each unanimously denied the appellants, and so the appellants are now appealing to the Coastal Commission. Since I worked closely with precisely these individuals during the Food Policy Council's 18 month development of food policy related input to the recent updating of the Countywide Plan, I feel compelled to add a farming and policy perspective to your deliberations. In doing so, I am characterizing myself and my fellow organic farmers as environmentalists. Our expression of that environmental perspective is the unmediated, long-term, and firsthand care and responsibility for the living systems we engage in the practice of agriculture.

I wonder if you have ever visited Star Route Farm. If so, you know it to be one of the most beautiful and consciously run farming operations in the country. Even for those without a farming background, it seems clear. Something is going terribly right at Star Route. In addition, the farm is providing a service to the whole community in many ways, seen and unseen. Due to the inspired, thoughtful, patient and informed farming ethic of Warren Weber and his accomplished farm manager, Doug Gallagher, the set of production practices employed at Star Route have helped to inform the course and set



the standard for organic and ecologically sound farming operations throughout the state and the nation. Over the course of the last 30 years and more, which is essentially the entire history of "organic" production in the United States, Star Route Farm has established itself as the shining example of how it is possible to farm productively, and at the same time, protect the environment and wildlife.

Warren Weber is highly regarded by his peers as a leader in what has become a national movement to develop criteria for a benign methodology of food production that is environmentally sound, economically viable and socially just. Star Route has defined the upper range of those values, year in and year out, for the rest of the industry. Recently, Warren was awarded the Sustainable Agriculture Stewardship Award, known by organic farmers throughout the world as the "Sustie." The award was presented by the Governing Committee of the Ecological Farming Association in a ceremony at their annual conference at Asilomar Conference Center. The conference and ceremony are attended by thousands of farmers. This recognition is the highest expression of acknowledgment a farmer can receive from this world class body and is the equivalent of a lifetime achievement award from the heart of sustainable agriculture.

In my own work through the Marin Food Policy Council with the individuals who are seeking to delay or derail approval of Star Route's permit, I would say that some confusion was present in the thinking that would seek to eliminate productive farming from that landscape in the name of "environmentalism" but could not describe any system of production that would be more locally responsive, environmentally sound, or considerate of place. The problem with this kind of thinking is that it tars all farming operations with the same brush. Such faulty thinking falls into the pothole of short-sightedness—a failure to assess a system at the level of the whole system. The presenting challenge at hand is to provide food for our communities, and the question ought to be how best to accomplish that...not whether or not it needs to be done or whether or not we need farms to do it. This especially egregious blind spot occurs at a time when the ability to distinguish between farming with nature or against it is a critical requirement for developing more sustainable and equitable human patterns of living.

In the years of research conducted by the Marin Food Policy Council, we could not describe a single more environmentally beneficial action than to move the field closer to the table by shortening the distance food travels between producer and consumer. Since food is essentially 80% water by weight, this single action, with all that it implies, would drastically stave the drawdown on our non-renewable resources by cutting "food miles". There are no logical environmental arguments to support the use of non-renewable resources to move renewable resources (food) around. What does make sense is to decentralize food production and locate farms near people. In following that course, communities experience a greater degree of community food security and increased benefits in the areas of health, environment and disaster preparedness. The task is to insure that those many and small, locally responsive farming operations employ production practices that protect the environment and ensure a future for farming. The location, production and distribution practices of Star Route,

and of its neighboring farms, are part of that locally oriented pattern of ecologically sound production and Star Route Farm is the exemplar for the Marin watershed.

I urge the Coastal Commission to use its best thinking when considering the granting of a permit to Star Route Farm. If possible, visit the farm and observe for yourselves the tranquil and sheltered setting the farm has become over its many decades of ethical operation. Star Route is a part of Marin's illustrious farming history and carries with it that critical regard for tradition. It is an irreplaceable treasure to all Marin residents.

Consider that the best farmers have always relied on ingenuity, innovation and regard for future generations to keep the farm productive and to respond to changing conditions. Changing conditions may imply a range of challenges such as a shift in climate, market opportunity, community need, and the maintenance of soil fertility. Please refrain from introducing a cumbersome set of regulatory "hampers" to the permit that will only increase the difficulty of being appropriately responsive and agile in rotating crops, introducing new crops, and allowing the farm to rest or over-winter in soil building "covers". In these activities it is important to recognize that the farmer, when the farmer is the owner/operator, really does know best.

Warren Weber has always been considerate of the landscape in the design and implementation of his vision for Star Route. His first years at Star Route were spent in the patient art of horse farming—using draft horses for traction. In the countless hours Warren devoted to this slow and reflective practice, he came to know every partial degree of elevation, and every slight transition in the quality of the soil across the field, like the back of his hand. The borders, hedgerows, brushy banks and surrounding hills that also make up the farm are part of his understanding of farming with nature, not against it. Star Route maintains critical wildlife corridors and accepts those inevitable crop losses as part of the whole pattern of farming with nature. It is a fruitful haven for migratory birds throughout the year, a stopover on the flyway where they can shelter, rest and nourish themselves. In late winter and early spring, it is obvious that birds in particular are being sustained in part by what they "glean" from the fields. Migratory pollinators arrive in early spring to the support of nectar producing plants introduced to the cover crops in tandem with the native perennials that thickly surround the fields.

I would also like to bring to your attention to another of those unseen contributions the farm makes to the community. I am referring to the thousands of pounds of fresh organic vegetables Star Route Farm has donated to the Marin Food Bank, soup kitchens, seniors lunch programs and programs for those with limited access and increased need for chemical free foods. Over the years, through the Marin County Gleaning Project, hundreds of Marin teenagers have spent part of a day at Star Route gleaning crops that would otherwise be turned under to make way for winter plantings and delivering the food they harvest to those in need. The students learn more about how food reaches the table and have an opportunity to visit a working farm. The farm reduces the amount

of food that would otherwise go to waste, and hungry people in Marin County are fed. Warren Weber's generosity, and the commitment he places on helping the next generation learn how to feed themselves, make this program a success.

I would be remiss if I omitted mention of Star Route's first and foremost mission: to produce delicious, wholesome, and nutritionally exceptional food to Bay Area communities. In this it is an incomparable resource and outstanding success. Although Star Route markets its produce to some of the finest groceries and restaurants in the Bay Area, it still maintains a welcome presence at large and small farmer's markets and is a mainstay of the local CSA subscription box distributed throughout Marin County. This is due in part to Warren's commitment to nurture and maintain connections between city folk and rural folk to the advantage of both.

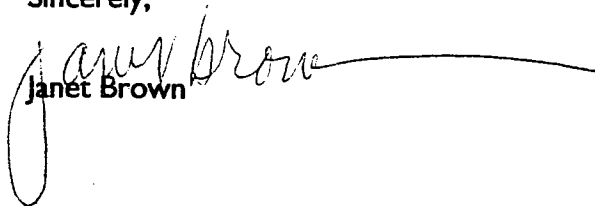
At the very bedrock of all the above mentioned productivity and ethical business management is Warren Weber's long term commitment to a small and particular, beloved place on the planet we are referring to as Star Route Farm. Commonsense would naturally lead one to conclude that it is not possible to deliver a diverse and nourishing harvest, year after year after year, without a particular skill and regard for maintaining soil fertility, and that soil fertility cannot be maintained without care and concern for the entire ecology that surrounds and upholds the farm. This is the foundation of sustainable farming and Warren Weber has devoted a significant part of his life to mastering it.

In closing, I would want you to know that Warren Weber has shown extraordinary vision and leadership to the organic farming community in Marin County. Currently, he is president of Marin Organic, an association of over 25 organic farms. In that capacity, Warren is doing what he has always done, which is to share his energy, talent and knowledge base of sustainable farming practices with his peers and with new farmers in need of guidance and mentoring. His message is the same as it has been for decades; care for the soil, consider the whole farm, fit the solution to the farm and not the other way around, focus on quality, respect the customer, and give something back.

In closing, I urge the Coastal Commission to act in support of an environmentally considerate, ecologically integrated food system by upholding the decisions of the County and the Army Corps of Engineers. Please deny the appeal to the permit process and allow Star Route Farm the necessary and well deserved freedom to move forward.

If I can be of any further assistance to you please do not hesitate to call me. I can be reached at home at (415) 488-9464 or you may email me at [janet@ecoliteracy.org](mailto:janet@ecoliteracy.org).

Sincerely,

  
Janet Brown



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The Environmental Action Committee of West Marin

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JUL 21 2003

CALIFORNIA  
COASTAL COMMISSION

Management guidelines for APNs 195-290-13 and 195-290-24

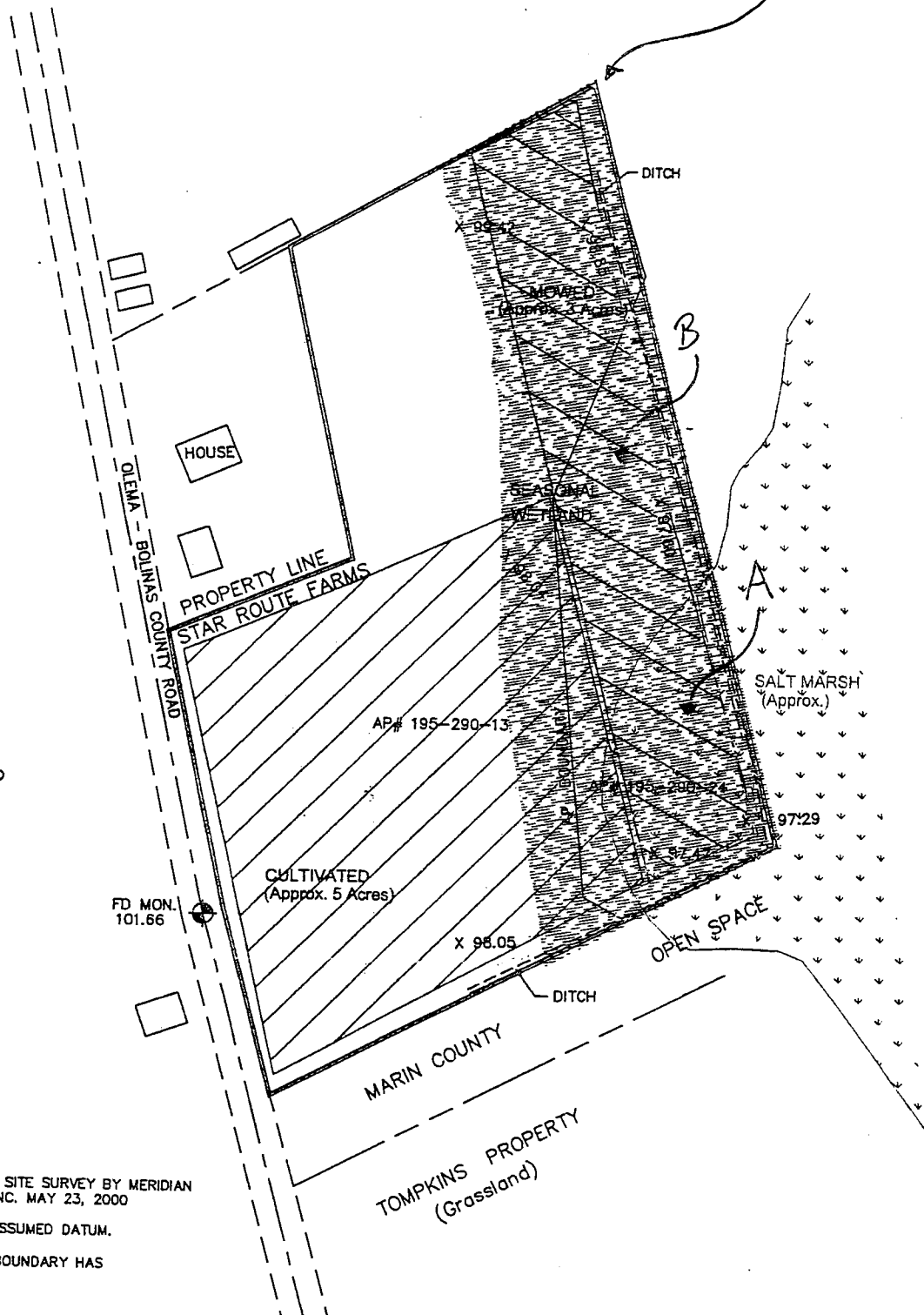
The lower portion of the property, that acreage within and adjacent to and upland from the natural mean higher high water (MHHW) line, has the most significant habitat values for wildlife and the ecological health of the lagoon. Restoration of the lagoon edge will progress as human disturbances cease or are modified to allow natural vegetation types to re-colonize wetland portions of the site. As the natural plant community becomes established, it will form a relatively continuous band of habitat from the Pine Gulch Creek delta habitat southward along the edge of the lagoon to the MCOSD and Tompkins properties. This will add value to the existing intertidal habitat at the lower elevations of the Wilkins-Weber parcel as well as to adjacent properties and provide critical habitat to tidal marsh-dependent plant and wildlife species.

Rehabilitation of the site depends first and foremost on adherence to the Army Corps Agreement that requires the removal of the unauthorized fill to allow full tidal influence and restore intertidal habitat along the western edge of Bolinas Lagoon. EAC recommends that the following *additional* steps be undertaken to restore the intertidal habitat (section A on the accompanying map) as well as to provide transitional habitat that will create a buffer between tidal marsh and upland or cultivated habitat.

1. Establish a transition zone (section B) by leaving the substrate undisturbed a minimum of 10 meters upgradient of the MHHW line so that peripheral transitional vegetation becomes established to provide refuge for tidal marsh-dependent species during periods of extreme inundation. This transition zone will provide a buffer between the fully tidal wetland and any potentially cultivated upland area;
2. Cease cultivation of the lower portion (Sections A & B) of the property and remove fences that currently run through historic tidal wetlands;
3. Discontinue mowing of the *Juncus* community that occupies the NE corner of the property and allow vegetation to reestablish itself to natural height and provide habitat for Common Snipe and other wetland dependent species (in Sections A & B);
4. Implement appropriate control measures if alien species colonize the site after cessation of cultivation in Sections A&B.
5. Outside Sections A & B:
  - Limit the addition of soil amendment to cultivated area, as recommended in the Prunuske Chatham report.
  - Limit the application of fresh water to the cultivated area to an amount that can be beneficially used by the crops plus the transpiration amount, so that overwatering does not freshen adjacent salt and brackish marshlands;
  - Prohibit the application of herbicides and pesticides in the cultivated area;
  - Limit fencing to the perimeter of the cultivated area



→ Shaded area represents approx. area for restoration



NOTES:  
 CONTOURS ARE BASED ON SITE SURVEY BY MERIDIAN SURVEYING ENGINEERING, INC. MAY 23, 2000  
 ELEVATION IS BASED ON ASSUMED DATUM.  
 EXACT UPLAND/WETLAND BOUNDARY HAS NOT BEEN DETERMINED

PRUNUSKE CHATHAM, INC.  
 P.O. BOX 828  
 OCCIDENTAL, CA 95465  
 (707) 874-0100

DATE: August, 2000  
 SCALE: 1" = 200'  
 CHECKED BY: HA  
 DRAFTED BY: EA  
 DESIGNED BY:

HABITAT TYPES  
 Star Route Farms  
 for: Marin County Community  
 Development Agency

Figure  
 3



The Environmental Action Committee of West Marin

June 16, 2003

California Coastal Commission  
45 Fremont St. #2000  
San Francisco, CA 94105-2219

**RECEIVED**

JUN 17 2003

CALIFORNIA  
COASTAL COMMISSION

RE: Weber Application/Appeal No: A-2-MAR-03-008

Dear Commissioners,

As part of your action on this matter, the Environmental Action Committee of West Marin hopes that you will ensure that Local Coastal Plan policies are enforced and that any violations of those policies on the portion of the property that is included in the application/appeal are resolved.

Thank you.

Sincerely,

Catherine Caufield  
Executive Director

*Phyllis M. Faber*  
212 Del Casa Drive  
Mill Valley, California 94941  
(415) 388-6002

November 13, 2003

Commissioners  
California Coastal Commission  
45 Fremont Street #2000  
San Francisco, Ca 94941

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NOV 17 2003

CALIFORNIA  
COASTAL COMMISSION

Sarah Borchelt  
RE: CDP Application No 2-03-003

Dear Commissioners,

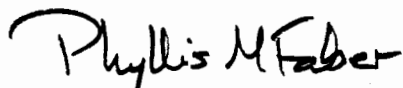
I would like to endorse Warren Weber's management plan for dealing with the exotic vegetation on his Parcel 190-290-24. By agreeing to mow or disc the upland areas not colonized by native tidal salt marsh vegetation on this parcel, he is preserving (creating and protecting) important habitat for birds that are increasingly squeezed all along their migratory route.

Warren's operation provides issues that cut between the Commission's wetland and ag policies. Having my feet in both arenas as a co-founder of the Marin Agricultural Land Trust and as a wetland biologist now writing a set of guidelines for tidal salt marsh restoration in San Francisco Bay for the Coastal Conservancy, I am sensitive to the dilemmas presented.

Warren has operated his farm with great consideration for the natural resources, to the creek that runs through his property and to the margins of the marsh. I have checked him out for the past 25 years and he gets good grades. In addition to his careful stewardship of his land, Warren is a leader and a trend setter for his type of agriculture. This is terribly important to an industry that is struggling to find stable footing close to a major metropolitan area. He and his associates have breathed new life into what only a few years ago seemed pretty hopeless.

So in sum, I feel this proposal deserves your support as the management plan supports both ag and resource policies with implications that overlap on this land.

Sincerely,



Phyllis M. Faber  
Former Coastal Commissioner

