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Filed:	September 10, 2004
49th Day:	Waived
Staff:	Jim Baskin
Staff Report:	November 24, 2004
Hearing Date:	December 10, 2004
Commission Action:	

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE

LOCAL GOVERNMENT:	County of Del Norte
DECISION:	Approval with Conditions
APPEAL NO.:	**A-1-DNC-04-054**
APPLICANT:	**Richard Reed**
PROJECT LOCATION:	On the north side of Buzzini Road, Lake Earl Planning Area, Del Norte County, APN 124-130-01.
PROJECT DESCRIPTION:	Construction of a 24-space Recreational Vehicle Park with onsite water and sewage disposal systems on a roughly 1½-acre portion of a 6.8-acre parcel planned and zoned for visitor-serving commercial recreational development.
APPELLANTS:	**Friends of Del Norte**
SUBSTANTIVE FILE: DOCUMENTS	1) Del Norte County Coastal Use Permit UP0412C; 2) Del Norte County LCP Amendment No. 1-90; and 3) Del Norte County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that NO substantial issue exists with respect to the grounds on which the appeal has been filed.

The Del Norte County Planning Commission approved with conditions a coastal development / conditional use permit for the construction of site improvements for a 24-space recreational vehicle park on a roughly 1½-acre portion of a 6.8-acre parcel located along the northern side of Buzzini Road, situated approximately four miles north of the incorporated City of Crescent City, in Del Norte County. The park would be situated approximately 300 feet from the eastern shore of Lake Earl, a coastal barrier lagoon. A subsequent local appeal of the Planning Commission's action was denied by the County Board of Supervisors.

The appellants contend that the approved project raises a substantial issue of conformance with the County's LCP policies pertaining to the protection of: (1) water quality; (2) coastal access and recreational facilities; (3) environmentally sensitive habitat areas; (4) visual resources; and (5) agricultural lands.

The appellants' primary contention regards the approved project's conformance with the County LCP policies regarding the protection of coastal water quality. The appellants identify a number of issues regarding the potential deleterious effects the development could have on the area's ground and surface water resources. Of particular concern to the appellants is whether: (a) sufficient vertical separation would be provided between the bottom of the leachfield and groundwater beneath the site; (b) the discharging of toxic chemicals within park occupants' recreational vehicle sewerage holding tanks into the park's septic system would not render the system wastewater treatment capabilities inoperable, (c) untreated sewage effluent or toxic holding tank chemicals would not enter the waters of Lake Earl, and (d) the responsibility for oversight of the proper operation and maintenance of the sewage disposal system was delegated to an appropriate entity. In addition, the appellants note that due to the lack of specificity on the site plan, the precise amount of disturbed ground area or area to be paved was not considered. The appellants argue that these omitted details are crucial to an adequate assessment of the project's potential for causing stormwater runoff pollution impacts to the coastal waters of Lake Earl.

Based upon staff's review of the public record for the development, counter to the appellants' claims, it is evident that County did consider these four aspects of potential water quality impacts: A soils suitability report was prepared in conformance with the County's adopted onsite sewage disposal ordinance and water pollution control standards applicable to the North Coast region, and was reviewed and approved by the County's registered environmental health sanitarian. The report documented site conditions that established the depth to groundwater at the site based upon widely recognized soil science principles. The County attached special conditions to the permit in response to

comments received from relevant responsible and trustee agencies for ensuring that the potential hazards to the recreational vehicle park's sewage treatment system and the water resources of the area associated with the discharge of holding tank chemicals, and oversight of the proper operation and maintenance of the park's disposal system were addressed. Similarly, sufficient information detail was found within the project record to allow for an adequate analysis of the potential water quality impacts of grading and paving associated with the development. In addition, the County attached special conditions to the permit requiring the preparation and approval of an engineered grading and drainage plan for the project.

Moreover, unlike other classes of development projects, such as single-family dwellings, minor subdivisions, or major subdivisions served by publicly-owned sewage treatment plants, where the final authority for the development's wastewater treatment system and site plan rests with the local government, the project would be subject to the waste discharge requirements of the State Water Quality Control Board's North Coast Regional Office (NCRWQCB) as the subject development would generate more than 1,500 gallons per day of wastewater. Therefore, the final approval of the septic disposal system, its waste discharges, and the appropriate maintenance oversight entity lies with the NCRWQCB, rather than the County of Del Norte. Issues such as the design of the wastewater system, site drainage, and appropriate oversight authority will be key considerations in the Regional Board's development of the project's waste discharge requirements for protecting of the groundwater and surface waters of the project vicinity

Similarly, as the development consists of a "special occupancy park," the project will be subject to the review and approval of the California Department of Housing and Community Development's Codes and Standards Division, pursuant to the Special Occupancy Parks Act (SOPA). As detailed within the agency's administrative regulations, recreational vehicle parks such as the subject appealed development are required to be constructed and improved to detailed performance standards which address wastewater systems and site drainage.

Thus, staff believes that no substantial issue has been raised regarding the development's consistency with the policies of the LCP regarding water quality.

Secondly, the appellants raise an issue of consistency regarding the approved development's conformance with the requirements of the Coastal Act and the County's LCP regarding coastal access and recreational opportunities. The appellants state that no assurance have been provided that the approved transient-occupancy recreational vehicle park might eventually be converted to a facility for permanent residents. The appellants allege that the applicant has accosted coastal recreationists at the Buzzini Road access point in an attempt to discourage public use of the area. The appellants imply that upon any conversion of the visitor-serving recreational vehicle park to a permanent residential trailer park, further incidents of such interference with public access and recreational use of the area will likely occur.

The appellants also note that in taking action on the coastal use permit for the recreational vehicle park, the County also attached permit conditions intended to resolve a conflict between the County and the applicant/landowner regarding the location of Buzzini Road and the County's access point at the western terminus of the road. The appellants contend that as the permit condition is structured to be administered at a County staff level, no additional opportunity will be provided for the public to review the final resolution of the encroachment conflict. The appellants also make reference to the existing seven rental residential units on another portion of the subject property and argue that for consistency with the site's zoning these units should be required to be used solely for transient visitor-serving facilities rather than as permanent residences.

Staff notes that the development conditionally approved by the County does not authorize the closure of, or interference with, the use of the Buzzini Road coastal accessway, or permit the establishment of permanent residential uses within the recreational vehicle park at the project site. Such changes in use are development that would require additional coastal development permit authorization. In addition, staff finds the allegations regarding the applicants' ultimate intent being to close off public access to Lake Earl to be unrelated to the development approved by the County and speculative. In addition, a conversion of a short-term recreational vehicle park to a long-term residential facility (i.e., a "trailer park") would require amendments to the HCD permits for the facility to change the character of the park's occupancy type from transient to permanent. Furthermore, the County LCP does not contain any policy or standards requiring that the administration of coastal development permit conditional compliance occur within a public hearing venue. Moreover, with regard to the consistency of the other residential uses on the property, the County's Land Use Plan contains a specific policy that provides for these units to continue as rentals regardless of whatever other uses are established on the property. Therefore, given the intent and scope of development approved by the County, staff believes the contention does not raise a substantial issue of conformance of the project as approved with the coastal access and recreational policies of the Coastal Act or the certified LCP.

Thirdly, the appellants contend that the development as approved by the County could potentially result in impacts to environmentally sensitive habitat areas of Lake Earl in proximity to the project site. In addition to the water quality related impacts on the aquatic life within Lake Earl associated with the potential entry of sewage system effluent or holding tank treatment chemicals into the lagoon, the appellants note that the lakeshore area provides habitat to a number of threatened, endangered, and special status raptor species, including the bald eagle, peregrine falcon, ospreys, herons, and egrets, and a host of other wildlife species. The appellants assert that the potential impacts on raptor habitat, particularly bald eagles, from the authorized site improvements, the increased human activity at the park, related offsite major vegetation removal associated with the resolution of the encroachment of a County road onto private property, and the

development of site lighting were not adequately described or addressed by the County in approving the coastal use permit.

Contrary to the appellant's allegations, the County staff report, associated environmental documentation, and testimony before the local hearing boards do include discussions as to whether environmentally sensitive habitat exists on or near the property and the project's consistency with the requirements of LCP for protecting such habitat. Although the presence of bald eagles and other raptors in the Lake Earl area is well documented and the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game have issued comments stating that the removal of standing timber and/or conversions to other non-timberland uses at various sites along the lakeshore in the general vicinity of the project site would result in a direct take of bald eagles through removal of their perching habitat, the project does not propose such development activities. The project site is open pastureland and would not entail the cutting or conversion of timberland. The proposed recreational vehicle park improvements and uses would be situated approximately 270 feet from the forested edge of Lake Earl and over 300 feet from +12′ msl 100-year floodplain elevation of this water body, and approximately 16 to 18 feet vertically above this datum. Neither is there any information in the project record to suggest that site lighting would be more intense than needed to meet the HCD's relatively low-level illumination minimum standards for special occupancy parks. In addition, staff notes that the County attached a condition to the permit requiring that all such lighting be directed away from adjacent areas to minimize off-site glare. Given these factors and considering the presence of the influence the existing intervening six permanent residential units between the project site and the lagoon currently exert on potential raptor habitat use in the immediate project area, staff believes the potential adverse impacts to sensitive fish and wildlife species from the development approved by the County to be less than significant and that the contentions do not raise a substantial issue of conformance of the project as approved with the environmentally sensitive habitat area (ESHA) protection policies of the certified LCP.

Further, in regard to the potential future removal of a mature Sitka spruce tree located within the Buzzini Road right-of-way upon the re-alignment of this public street to resolve the boundary dispute between the County and the applicants, such an action was not authorized by the County in acting on the appealed development and would require a separate coastal development permit that would similarly be appealable to the Commission. Staff also notes that the conceptual agreement executed between the County and the applicants and made a part of the project record before the County Board of Supervisors' hearing on the local appeal provides for no such removal. Thus, given the significance of the coastal resources affected by the decision on the current project on appeal, staff recommends that the Commission find that no substantial issue is raised as to whether the project is consistent with the requirements of LCP that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

The appellants also contend that the approved project raises a substantial issue of conformance with the County's LCP policies pertaining to visual resource protection. First, the appellants observe that Buzzini Road at Lake Earl is a designated scenic viewpoint. Therefore the tree and wooded habitat around the lagoon (i.e., the mature Sitka spruce tree that would allegedly be cut to restore Buzzini Road into its legal right-of-way in satisfaction of a condition of the County's permit) should also be retained for scenic value. The appellants further assert that recreationists on the water in boats, on hiking on trails across the lagoon, or enjoying lagoon views from other scenic viewpoints, may see the site development during the day or glare from its lighting at night, and that the development would likely be out of prevailing rural character of the area.

Although the approved recreational vehicle park would be visible from some public vantage points within and along the far shore of the lagoon, the degree to which coastal visual resources would be affected is not significant. Due to topography and the presence of thick vegetation along the lakeshore, the project site is not visible from the coastal access facility at the end of Buzzini Road. Again, as discussed above in response to the potential impacts to raptor ESHA, no removal of the subject tree has been proposed or agreed to by either the County or the applicants. The view of the site through breaks in the vegetation along the lakeshore would be limited to a relatively small arc within the lagoon's easterly landward viewshed. In addition, these public views would be afforded only from open water areas and along the southwestern shore of the lagoon well removed from the project site, one-half mile to two miles from the development, respectively.

Furthermore, with regard to the project's compatibility with the character of its setting, the surrounding area, while arguably rural in character, is developed with an assortment of residential and agricultural structures with which the site improvements and recreational vehicles using the proposed development would be similar in height and bulk. Therefore, given the significance of the coastal resources actually affected by the County's decision on the permit, staff believes the contention does not raise a substantial issue of conformance of the project as approved with the visual resource policies of the certified LCP.

Finally, the appellants assert that the development as approved by the County is inconsistent with LCP provisions that require designated agricultural lands to be protected from inappropriate development including but not limited to recreational development. The appellants allege that the development is effectively residential in nature and as such its density would set a negative precedent for allowing the currently rural east side of Lake Earl to become urbanized. The appellants further contend that adequate buffers were not provided between the proposed recreational vehicle park and adjacent pasturelands, and speculate that the park occupants' domestic dogs could harass the cattle grazing on these lands.

The development approved by the County consists of a 24-unit transient-occupancy recreational vehicle park contained on an approximately 1½-acre area. Staff does not share the appellants' perspective that the development is residential in nature, as only transient recreational vehicle use has been approved by the County. In addition, staff does not agree that by its very presence the recreational vehicle park would create a significant conflict with existing or likely foreseeable agricultural uses on adjoining lands and establish a precedent that would induce growth, instigate an urban development pattern for the area, or otherwise obviate established requirements and procedures in the LCP and the Coastal Act for the case-by-case review of any proposed conversion of agricultural lands to non-agricultural uses or change in planned development density. Staff notes that unlike nearby agricultural lands in the vicinity, this particular property is planned and zoned for visitor-serving commercial recreational development under the certified LCP. Furthermore, with regard to the adequacy of the buffer width, staff believes the proposed 95-foot-wide distance between the approved park site and adjoining grazing lands to be an adequate spatial separation between these uses. In addition, staff believe that prudent enforcement by the park operator of the standards within the state statutes for special occupancy park that require occupants to keep pet animals on leashes when outside of their vehicles, together with the presence of existing fencing along the roadsides and to constructed around the perimeter of the park would adequately prevent the potential cattle hazing on adjacent grazing lands by park occupants' dogs. Therefore, staff believes the contention does not raise a substantial issue of conformance of the project as approved with the agricultural lands protection policies of the certified LCP.

For all of the above reasons, staff recommends the Commission find that the appeal raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved project with the certified LCP and the public access policies of the Coastal Act. The Motion to adopt the Staff Recommendation of No Substantial Issue is found on Page 8.

STAFF NOTES:

1. Appeal Process.

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or

within one hundred feet of a wetland or stream or three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments constituting major public works or major energy facilities may be appealed whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission because: (1) the property lies between the first public road and the sea; and (2) the development of a recreational vehicle park is not a principal permitted use within the Commercial Recreation (CR) zoning district standards of the certified LCP.

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

Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a *de novo* hearing on the appeal, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program, and the public access and public recreation policies of Chapter 3 of the Coastal Act.

2. Filing of Appeal.

The appellants filed an appeal (see Exhibit No. 6) to the Commission in a timely manner on September 10, 2004, within 10 working days of receipt by the Commission on August 26, 2004 of the County's Notice of Final Action.

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION:

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION:

I move that the Commission determine that Appeal No. A-1-DNC-04-054 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application *de novo* and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-DNC-04-054 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

On September 10, 2004, the Commission's North Coast District Office received an appeal from Friends of Del Norte, a public interest nonprofit organization. The appellants contend that the project as approved by the County does not conform with the LCP policies concerning the protection of coastal resources, including ground and surface water quality, coastal access and recreational facilities, and low-cost visitor serving facilities. The appellants also contend that the approved project is inconsistent with the policies of the LCP regarding the protection of environmentally sensitive habitat areas, areas with highly scenic visual resources, and adjacent agricultural lands, as the extent of

these coastal resources in proximity of the site and identification of measures for their protection were not adequately reviewed as part of the permit process.

The appellants' contentions are summarized below, and the full text of the contentions is also included as Exhibit No. 6.

1. Protection of Water Quality.

The appellants contend that the approved residence raises four water quality concerns related to: (1) the inadequacy of the County's review of the design of the approved septic system which will lead to sewage contamination of groundwater and the lagoon waters; (2) the potential for toxic recreational vehicle holding tank chemicals to migrate into the groundwater and the lagoon from the approved development with adverse impacts to water quality and lagoon habitat; (3) how responsible public agency oversight authority for assuring the proper operation and maintenance of the sewage disposal system was not established; and (4) the lack of information regarding the amount of site preparation grading, paving to be installed on the site, and the lack of identification of appropriate construction-phase and permanent water quality best management practices to prevent significant impacts to coastal waters and the fish and wildlife therein.

The appellant contends that in approving the septic tank / leachfield disposal system, the County did not adequately consider seasonal variations in groundwater depth that could have affected the acceptable design for the system. As substantiation for this assertion, the appellants state that the County's site map for the project in fact shows the lagoon at about 2.5 ft above mean sea level (msl), which is its lowest possible elevation and consequently its furthest possible distance from the project site. In addition, the appellants question the appropriateness of conducting the soil suitability analysis in mid-January when the Lake Earl lagoon was still open to the ocean and tidal, with a water elevation fluctuating around +2′ to +2.5′ msl. Normally, the lagoon reaches ±10′ msl, and under certain conditions, such as flood stages or accidents of nature, may reach significantly higher elevations. The appellants argue that because the groundwater testing was done when the lagoon was at its lowest point, the site investigation is inconclusive. In addition, the applicants state that the cumulative impacts of the effects of the multiple septic disposal systems currently developed on the site were not adequately disclosed by the applicants or considered by the County.

The appellants also contend that potential impacts to water quality, and, in turn, fish and wildlife from the unique constituents within the effluent from recreational vehicle holding tanks (i.e., deodorizers, sanitizers), were largely disregarded. The appellants provided excerpts from materials from the University of Arizona Cooperative Extension detailing the toxicity of these chemical agents and the risks they pose to biological treatment bacteria within septic tank /leachfield based sewage disposal systems, human health, and fish and wildlife.

The appellants also contend that placing sole responsibility and liability on the applicant for monitoring the performance of the disposal system and conducting timely maintenance and/or repairs would result in undue risks to coastal resources should the operator not perform accordingly. The appellants state, consistent with public review comments submitted by the North Coast Regional Water Quality Control Board, that these responsibilities would be better administered through oversight by a legally constitute public entity, such as a municipal or County public works agency, or a community service or other special district. Furthermore, the appellants note that scant detail was provided in the application or considered by the County to conclude that project related grading and paving would not cause stormwater runoff related impacts to Lake Earl.

The appellants contend that with these potential adverse impacts of the approved project on water quality, the project as approved is inconsistent with Policies 1, 3, 4, 5, and 6 of the LUP's Marine and Water Resources chapter which require that: (a) the County seek to maintain and where feasible enhance the quality of existing water and marine resources, that all surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters; (b) wastes from land uses not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters; (c) water conservation measures (e.g., flow restrictors, industrial recycling of usable waste waters) be required in new development to lessen cumulative impacts on existing water systems and supplies; and (d) environmentally sensitive habitat areas be protected against any significant disruption of habitat values, only uses dependent on such resources be allowed within such areas, and that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

2. Protection of Coastal Access and Recreational Facilities.

The appellants contend that the development as approved by the County would interfere with the public's ability to access the coast and recreational facilities in the vicinity of the project site.

The appellants first take issue with the County's allegedly undocumented statement that the existing use of the project site is visitor serving with regard to the six rental dwelling units on the property. The appellants contend that for consistency with zoning these dwellings should be required to be put to visitor serving uses rather than their apparent permanent residential rental unit use.

The appellants further allege that the owner/applicants have in the past confronted recreationists attempting to use the boat launching and parking area access facilities at the end of Buzzini Road, informing the users that they were trespassing on private property,

and expelling them from the area. The appellants state that the applicants' actions have effectively and unofficially closed off this access point to Lake Earl from public use. The appellants speculate that the applicants have undertaken these actions to force resolution of an issue of the encroachment of the County road and the parking area at the shore of onto the applicants' property, and to prevent further vandalism and the dumping of wastes at the end of Buzzini Road. The appellants argue that such past actions raises the question of whether the owners will actively promote and operate the recreational vehicle park as a visitor-serving use, as intended under the zoning for the property, or if the park would be allowed to be occupied by permanent residents. The appellants believe that this issue should have been addressed by the County and appropriate conditions attached to the permit specifically requiring that the site, including the seven existing residential rental units on the western half of the property be used solely for recreational visitor-serving uses, in order for the project to be found consistent with the LCP's recreational policies and zoning standards.

The appellants also question the lack of specificity in the permit conditions as to how resolution of the road and access facility encroachment onto the applicants' property is to be accomplished. The appellants express doubts as to the appropriateness for delegating this task to County staff level administration rather than through a public hearing review process with Coastal Commission oversight. The appellants go on to state that if the property dispute is not properly resolved, the access at the end of Buzzini Road could exclusively become that of the park's permanent residents at the exclusion of the public at large.

The appellants also contend that the County's approval of the project is not consistent with the policies of the LCP concerning development of visitor-serving facilities. The appeal acknowledges that while the development of low-cost visitor-serving facilities such as recreational vehicle parks is recognized as a priority over more expensive facilities by policies in the Land Use Plan and that commercial recreation zoning has been applied to the project parcel to provide for conditional development of such uses, other policies regarding the protection of such facilities were not adequately considered by the County in approving the project. The appellants state that no assurance have been provided that the approved recreational vehicle park will remain a transient-occupancy visitor-serving facility and might eventually be converted to a permanent residential use.

In raising these issues of consistency, the appellants cite Policies 1, 2, 5, 6, 7, 8, and 9 of the LUP's *Recreation* chapter that require the County to: (a) encourage the continued maintenance of coastal recreation areas by both the private sector and public agencies; (b) locate and distribute new recreational development throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding; (c) locate visitor-serving and commercial-recreational facilities on ocean-front parcels only when such development provides an increased opportunity for shoreline access and coastal recreation and enhances scenic and environmental values of the area; (d) consider and protect fragile coastal resources to the greatest possible extent in all new coastal

recreational development; (e) minimize recreational use conflicts on coastal beaches by temporally and spatially separating incompatible activities; (f) encourage the continued maintenance of existing recreational boating facilities by private operators and public agencies; and (g) protect designated agricultural lands from inappropriate development including but not limited to recreational development.

3. Protection of Environmentally Sensitive Habitat Areas.

In addition to the contentions regarding potential water quality impacts to the aquatic habitat within Lake Earl associated with subsurface wastewater effluent and stormwater runoff mentioned in Contention No. 1 above, the appellants also contend that the development project as approved by the County is inconsistent with LCP policies requiring that new development be sited and designed to avoid impacts to adjacent environmentally sensitive habitat areas (ESHAs) with respect to terrestrial habitat on or near the site. The appellants state that the County failed to adequately consider wildlife uses at the edge of the lagoon which may be impacted by what the appellants characterize as "an intense concentration of human activity and residence as constituted by the RV Park." The appellants argue that as the environmental document did not list the species that occur at the lagoon and may occur on this property, and as it is not possible to ascertain the distance between the recreational vehicle park and the forested lagoon edge and/or its floodplain, there was no basis for the County's findings that ESHAs would not be impacted by the development.

The appellants cite past comments from the U.S. Fish and Wildlife Service noting utilization of the forested edge of the Lake Earl lagoon by bald eagles for hunting and perching and stating that any activity within 500 feet of the forested edge of the lagoon is of concern, and that their concerns include residential development, human activity as well as tree removal. The appellants state that as the recreational vehicle park clearly constitutes human activity and, in their view, "intense residential development," the appropriate density of development and the adequacy of the buffer distance between the project and the forested edge of the lagoon should have been evaluated. The appellants also report that bald eagle activity in the area of Buzzini Road on the lagoon edge has been recorded by local ornithologists and cite other bald eagle information contained in materials submitted regarding the to the Trinity Development single-family residential project (CDP Application No. A-1-DNC-04-043), and the McNamara (CDP Application No. A-1-DNC-99-037) and Foster (CDP Application No. A-1-DNC-99-038) timber harvesting projects on appeal before the Commission.

The appellants also cite comments from the California Department of Fish and Game expressing recommendations that the density of residential development adjacent to Lake Earl not be increased as such increased development would result in immediate direct losses of habitat for such species as deer, small mammals, quail, and other birds, reptiles and amphibians, and likely cause indirect impacts, such as avoidance of the adjacent areas by wildlife.

The appellants also raise a concern that the development would introduce additional domestic pets, such as cats and dogs, that would result in increases predation and/or harassment of waterfowl and other ground nesting birds.

The appellants also state that the biological impacts of lighting the recreational vehicle park should also be evaluated, especially the effects that site lighting may have on the navigational orientation of migratory birds on the Pacific Flyway.

4. Protection of Visual Resources.

The appellants further assert that the project as approved by the County would be inconsistent with the LUP policies regarding the protection of visual resources. The appellants note that Buzzini Road at its terminus with Lake Earl is designated as a scenic viewpoint and conclude that the tree and wooded habitat around the lagoon should also be retained for scenic value.

The appellants speculate that recreational vehicle park improvements and its lighting would be visible to recreational boaters and hikers on the lake, on trails across the lagoon, or at other scenic viewpoints during the day and at night, respectively. The appellants argue that the presence of the park structures, vehicles and their lighting would significantly change the lagoon setting and cause glare impacts, and imply that a line-of-sight analysis with photographic documentation should have been performed by the County to fully assess the project's impacts on the viewshed.

With regard to potential light pollution and glare impacts from the project, the appellants state that the current nocturnal baseline conditions in the project vicinity is "darkness," and allege the area to be "very rural." Therefore, the recreational vehicle park, they argue, has the potential to "urbanize" the lagoon edge because of its density, if not properly evaluated and conditioned. The appellants observe that while the County added a condition to the permit requiring that lighting of the facility "be directed away from adjacent areas to minimize off-site glare," the condition is not specific enough. If, for example, tall lighting standards were to be installed, the lighting from these fixtures, notwithstanding being directed onto the property would still cause glare that would adversely affect coastal users' nighttime enjoyment of views of the lagoon. The appellants state that the County should have further considered the potentially significant lighting impacts and attached conditions restricting the maximum height of the lighting fixtures, setting specific shielding standards, establishing prohibitions on lighting in environmentally sensitive locations, and requiring that related electrical utilities be installed underground to preserve the natural and open space qualities of the setting.

In raising this issue of consistency, the appellants cite Policies 1 and 2 of the LUP's *Visual Resources* chapter that require the County to encourage the continuation of existing land uses, where appropriate, to maintain open views in highly scenic areas, and

that proposed development within established highly scenic areas be visually compatible with their scenic surroundings, and be reflective of the character of the existing land uses while conforming to the land use criteria as set forth in the land use component and subsequent zoning ordinance.

5. Protection of Agricultural Lands.

The appellants further contend that the development as approved by the County will adversely impacts agriculture in the surrounding area. Reiterating their perspective of the eastern shoreline of Lake Earl being "rural," the appellants claim that as the density of the approved development is effectively residential, the use would sets a precedent for the area. The appellants also note that no additional agricultural buffer was made a project requirement, based on findings that the existing 95-foot separation between the approved commercial recreation facility and current grazing uses on adjacent lands would be sufficient to protect to protect these adjoining uses. In doing so, the County failed to consider that agricultural use in the immediate vicinity could change in the future, necessitating the establishment of a buffer with a greater width. In addition, the appellants assert that the potential impacts to agricultural uses associated with the chasing cattle by park occupants' dogs should have been evaluated.

In raising these issues of consistency, the appellants cite Policy 9 of the LUP's *Recreation* chapter that requires the County to protect designated agricultural lands from inappropriate development including but not limited to recreational development, and note the discussion within the LUP's *Land Resources* chapter discussion regarding planning issues relating to agricultural lands that states that reasonable transition zones of sufficient width shall be utilized to shield such resource lands from adjoining incompatible land uses and to conversely protect adjacent uses from agricultural impacts.

B. LOCAL GOVERNMENT ACTION

On February 11, 2004, Richard Reed, owner-of-record for the subject development site, submitted a completed Coastal Use Permit Application No. UP0412C to the Del Norte County Community Development Department for the construction of a 24-space recreational vehicle park on a 6.8-acre parcel located on the eastern shore of Lake Earl. Following completion of the Community Development Department staff's review of the project, on June 2, 2004, Del Norte County Planning Commission approved with conditions Coastal Use Permit No. UP0412C for the subject development. The Planning Commission attached a number of special conditions, including requirements that: (1) the project be developed consistent with the approved plot plan and in conformance with the State recreational vehicle park regulations; (2) the project meet applicable Uniform Fire Code requirements; (3) a copy of the permit issued by the California Department of Housing and Community Development for construction of the park be submitted to the County; (4) measures to protect archaeological resources encountered during construction be noticed within deed covenants; (5) all development disturbances occur solely within

the permitted development area and all construction involving earth movement outside of the approved site plan be subject to addition Planning Commission review; (6) any soil testing for the proposed sewage disposal systems and the finalized location for the percolation mound be completed prior to issuance of the use permit; (7) a notice of conditional approval be recorded at the owners' expense at the time of acceptance of the permit; (8) a waste discharge report be obtained from the State Water Quality Control Board prior to construction activity and a copy of that report submitted to the County prior to commencement of construction; (9) the County conduct a site review prior to construction activity to verify the consistency of the construction activities and locations with the approved site plan; (10) an engineered grading and drainage plan be prepared, submitted, and approved by the County prior to commencement of construction, and that a grading permit be secured prior to the commencement of any grading at the site; (11) no grading be conducted between October 30 and April 30; (12) an encroachment permit be secured for any work within the Buzzini Road right-of-way; (13) lighting of the facility be directed away from adjacent areas to minimize off-site glare; (14) a plan for the inspection of the on-site sewage disposal system's performance on an annual basis by a qualified expert be prepared, submitted, and approved by the County containing specific requirements for sampling of toxic substances in the septic tank effluent, estimating monthly septic tank flows, forwarding a copy of the report to the Regional Water Quality Control Board, and that remedial actions resulting from the inspection be the responsibility of the property owner, including possible groundwater monitoring; (15) a plan for the monitoring holding tanks discharges to the on-site system be submitted and any recommendations resulting from the inspection be the responsibility of the property owner; (16) information be provided to park occupants regarding the potential impacts to onsite sewage disposal systems and water resources; and (17) the boundary dispute and recreational user conflict issues between the property owner and the County regarding encroachment of Buzzini Road and public access to Lake Earl onto private lands be resolved prior to issuance of the use permit.

The decision of the Planning Commission regarding the conditional approval of the coastal use permit was appealed at the local level to the County Board of Supervisors. On July 27, 2004, the Board of Supervisors unanimously denied the appeal and upheld the Planning Commission's conditional approval of the project without any changes to the project findings or conditions. The County then issued a Notice of Final Action which was received by Commission staff on August 26, 2004. The appellants filed an appeal to the Commission in a timely manner on September 10, 2004, within 10 working days after receipt by the Commission of the Notice of Final Local Action (see Exhibit No. 5).

C. SITE AND PROJECT DESCRIPTION

1. Site Description

The project site consists of an irregularly shaped 6.8-acre parcel on the north side of Buzzini Road, a County maintained road that runs east to west from Lake Earl Drive

terminating on the central eastern shore of Lake Earl, in unincorporated Del Norte County, approximately 4½ miles north of the City of Crescent City (see Exhibit Nos.2-4). The property is situated on the Crescent City Coastal Plain with elevations ranging from approximately +5′ to +30′ msl. The property rises initially at a 7 to 20% slope upward and away from Lake Earl through a band of relatively thick band of shoreline forested wetland vegetation comprised of a complex of Sitka spruce (Picea sitchensis), Douglas-fir (Psuedotsuga menziesii), various willows (Salix sp.), and red alder (Alnus rubra), with an interspersed understory of twinberry (Lonicera involucrata), thimbleberry (Rubus parviflorus), and Oregon crabapple (Malus fusca). At an elevation of approximately +18′ msl, the site abruptly transitions into a generally flat (3 to 8%), pastureland, covered with upland grassland vegetation consisting primarily of sweet vernal grass (Anthoxanthum odoratum), orchardgrass (Dactylis glomerata), and soft chess (Bromus hordeaceus), intermixed with a variety of ruderal forbs, including sheep sorrel (Rumex crispus), English plantain (Plantago lanceolata), groundsel (Senecio sp.), sow-thistle (Sonchus sp.), and cats ear (Hypochaeris sp.).

The parcel is currently developed with five rental cabins, a single-family residence, and related appurtenant water well septic system, outbuildings, and driveway improvements clustered along the parcel's northwestern quadrant. These residential improvements were constructed prior to the Coastal Act and as such are legal nonconforming uses/structures.

The project site lies within the LCP's "Crescent City/Lake Earl" sub-region and subject to the specific area policies for "Planning Area No. 3." The subject property is designated in the Land Use Plan (LUP) as Visitor Serving Commercial (VSC) and on the Coastal Zoning Map as Commercial Recreation (C-R). These changes to the site's land plan and zoning designations, as well as a text change to the LUP's Specific Area Policies to allow retention of the existing five cabins and house as residential rental units in perpetuity, were certified by the Commission in 1990 (see LCP Amendment No. DNC-MAJ-1-90).

The western terminus of Buzzini Road is designated as a "view corridor" in the LUP's Visual Resources Inventory. Due to the presence of the mature vegetation along the immediate lagoon shoreline, public views to and along Lake Earl across the property from Buzzini Road are limited to fleeting glimpses of the public resource lands at the mouth of unnamed intermittent creek adjoining the property to the north. The LUP's area-specific policies for the Lake Earl planning sub-area provide for retention of the five cabins and house on the property as seven rental units, stipulating that no additional units be constructed. Enlargement of the existing cabin units is also allowed subject to Planning Commission review and if in compliance with setback requirements.

2. Project Description

The proposed development consists of the development of a "24-space recreational vehicle park and related utilities" to serve the visitor-serving facility on a roughly 1 ½-

acre area on the subject property's southeasterly Buzzini Road frontage (see Exhibit No. 4). Assuming that the extension of utilities would involve, in the vernacular of the recreational vehicle park industry, "full hook-ups," potable water, electrical service, and wastewater discharge line conduits would be extended to each vehicle space. Water service could be provided to the park occupants from an existing on-site water well. Wastewater treatment would be accommodated by a Wisconsin mound sewage disposal system developed along the eastern side of the property, to the northeast of the park unit lots. Electrical service could be developed from the existing pole line that crosses the middle of the subject property and similarly extended to each park lot. Neither the site plan map or the project narrative specifically state whether centralized drive-up holding tank wastewater "dump stations," a feature common to many, but not all recreational vehicle parks, would be provided at the subject facility.

The Commission notes that, though not fully described in the application materials accepted by the County, a variety other site improvements would be required by other agencies having review jurisdiction over the recreational vehicle parks, namely the California Department of Housing and Community Development's (HCD) Division of Codes and Standards. The Commission further notes that in analyzing the project the County acknowledged these other requirements and attached a condition to the permit requiring that the project be developed "in compliance with the approved plot plan and the requirements of Title 25 Park Codes" (see Exhibit No. 7).

Pursuant to the cited statute, the Special Occupancy Park Act of 2004 or "SOPA," (Title 25, California Code of Regulations, Section 2000 *et seq.*) (see Exhibit No. 7), the project would also be required to provide the following site improvements and amenities, subject to specific development standards enumerated within the Act:

- Lot (vehicle space) marking and identification numbering.
- Maximum 75% lot coverage by above-grade structures and fixtures.
- Minimum 12-foot (one way) to 18-foot width access roadway subject to roadside parking prohibitions depending upon the developed access roadway widths.
- One toilet, shower and lavatory for each gender per each 15 unit lots or fraction thereof.
- Ground-level illumination requirements for walkways and access roadways (0.2 horizontal foot-candles (HFC)), and the entries (5 HFC) and interiors (10 HFC) of buildings housing required toilets and showers.
- Site grading for positive stormwater drainage from each lot.
- Solid waste receptacles and trash collection.

In addition, pursuant to SOPA, all special occupancy parks are required to adhere to the following operational standards:

- Dogs, domestic and feral cats, and other domestic animals shall not be allowed to roam at large.

- Animal feces shall not be allowed to accumulate on any lot or common area to the extent that a nuisance is created.
- The maximum number of recreational vehicles, tents, camping cabins, employee mobilehomes, and combinations thereof as applicable, occupying any lot or incidental camping area within the park as enumerated in 25 CCR §2118 shall not be exceeded.
- Rubbish and waste materials shall not be allowed to be stored or accumulate on any occupied or unoccupied lot, accessory building, or open space area.
- Contact information for fire, police, park management personnel, park office, special occupancy park enforcement agency (HCD), the address of the park, and the location of the nearest public telephone shall be conspicuously posted.

D. SUBSTANTIAL ISSUE ANALYSIS

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

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

All of the contentions raised in this appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. These contentions allege that the approval of the project by the County was inconsistent with LCP provisions regarding the protection of: (1) water quality; (2) coastal access and recreational facilities; (3) environmentally sensitive habitat areas; (4) visual resources; and (5) agricultural lands.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

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

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

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

- The extent and scope of the development as approved or denied by the local government;

- The significance of the coastal resources affected by the decision;

- The precedential value of the local government's decision for future interpretations of its LCP; and

- Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegations below, the appeal raises NO substantial issue with regard to the approved project's conformance with the certified Del Norte County LCP and the public access and public recreation policies of the Coastal Act.

a. Protection of Water Quality

Cited and/or Applicable Coastal Act Policies and Standards:

Section 30412(b) of the Coastal Act states, in applicable part:

> *The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not... take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.*

Cited and/or Applicable LCP Policies and Standards:

Marine and Water Resources Policy No. 1 of the LUP states:

The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.

Marine and Water Resources Policy No. 3 of the LUP states:

All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.

Marine and Water Resources Policy No. 4 of the LUP states:

Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.

Marine and Water Resources Policy No. 5 of the LUP states:

Water conservation measures (e.g., flow restrictors, industrial recycling of usable waste waters) should be considered by present users and required in new development to lessen cumulative impacts on existing water systems and supplies.

Marine and Water Resources Policy No. 6 of the LUP states:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Discussion:

The appellant contends that the project as approved may result in significant adverse impacts to water quality that would be inconsistent with the Marine and Water Resources policies of the LUP from four perspectives:

- The County did not address whether sufficient vertical separation would be provided year-round between the bottom of the proposed onsite sewage disposal system's leachfield and groundwater beneath the site to assure the treatment of wastewater effluent taking into consideration the potential for seasonally high groundwater conditions due to high rates of precipitation in the area, the proximity and the unique biological resources of nearby surface waters, the

variable and fluctuating surface elevation of the lagoon, the high permeability of soils around the lagoon, and the presence of other nearby sewage disposal systems on the property. The appellants allege that inadequate vertical separation could result in untreated effluent entering the groundwater during the wet season that could in turn diffuse laterally until it entered the surface waters of Lake Earl.

- The County did not acknowledge the potential deleterious effects that the highly toxic sanitation and odor control chemicals within recreational vehicle holding tanks could have on the proper functioning of the sewage disposal system.

- The County did not adequately establish responsible party oversight to ensure that the sewage disposal system would be properly operated and maintained to avoid water quality impacts to ground and surface waters.

- The County did not conduct an adequate review of the potential impacts to water quality from stormwater runoff associated with grading and paving at the project site.

Unlike other classes of development projects, such as single-family dwellings, minor subdivisions, or major subdivisions served by publicly-owned sewage treatment plants where the final authority for the development's wastewater treatment system and site plan rests with the local government, the project would be subject to the waste discharge requirements of the State Water Quality Control Board's North Coast Regional Office (NCRWQCB) because the subject development would generate more than 1,500 gallons per day of wastewater. Therefore, the final approval of the septic disposal system, its waste discharges, and the appropriate maintenance oversight entity lies with the NCRWQCB, rather than the County of Del Norte. Although the Regional Water Quality Control Board has yet to act on the proposed development, the Commission acknowledges that the Regional Water Quality Control Board is the state agency with primary responsibility for the coordination and control of water quality relative to the review of septic system design.

Consideration of Groundwater Hydrology in the Approval of the Septic System

The first appellate sub-issue alleges that the County did not adequately consider the effects that seasonal high groundwater levels could have on the proper functioning of the onsite sewage disposal system approved for the development. As substantiation for this assertion, the appellants state that the County's site map for the project in fact shows the lagoon at about 2.5 ft above mean sea level, which is its lowest possible elevation and consequently its furthest possible distance from the project site, which gives a false impression of the distance between the development and this surface water feature. In addition, the appellants question the appropriateness of the County accepting as adequate a soil suitability analysis performed in mid-January shortly after the lagoon had been breached and was currently at an atypical low level. The appellants suggest that had the

soils investigation been performed at other times of the winter season when the lagoon was at a more typical +10′ to +12′ msl level, the results of the soil pits would have revealed a much shallower groundwater depth and brought into question the year-round functional adequacy of the septic system approved by the County. Furthermore, the appellants state that the high permeability of the area's soils was not adequately taken into consideration. Moreover, the appellants also alleged that the full extent of other sewage disposal in the immediate project area, namely from the six residential units on the property were adequately disclosed and considered.

While the site mapping does depict areas at and below a +2.5′ msl elevation as inundated, the map also boldly demarcates the +12′ msl level corresponding to the maximum lagoon level only occasionally experienced under current flood control practices as administrated by the County and the California Department of Fish and Game. Furthermore, the site map utilizes a two-foot contour interval in depicting the terrain at the project location, with the sewage disposal system located on an area of the parcel with a +24′ to +28′ msl elevation range, ten to fourteen feet above the highest level of the lagoon under current management practices.

With respect to appropriateness of the soil suitability analysis performed, the applicants engineer excavated a total of four soil pits (see Exhibit No. 8). Percolation rates were recorded for each hole. The depths of the exposed soil horizons were profiled and the absorption zone peds classified pursuant to the U.S. Department of Agriculture's soil texture "triangle" for sewage disposal percolation suitability. The depth of the termination of the excavation before groundwater was encountered and the presence of any redoximorphic features (i.e., soils mottling or "gleyed" soils) were also recorded and indicated that a typical depth of 6′ 2″ depth existed between the surface grade and the minimum depth to which groundwater would likely be found (i.e., the upper extent of the soil mottling). Based upon these data, an in-line tandem septic tank / mounded leachfield disposal system was designed which incorporated a safety factor of 1.25 (i.e., design capacity for the effluent from 30 single-family residences rather than just 24 recreational vehicles). The County's Department of Public Health's Environmental Health Division reviewed the report and design following established procedures within the County's onsite sewage disposal ordinance as enacted pursuant to the NCRWQCB's *Water Quality Control Plan for the North Coast Region* (aka: the "North Coast Basin Plan"). Thus, based upon the degree of factual and legal support for the County's decision, the Commission finds that the contention regarding the design of proposed sewage disposal system with respect to adequate leachfield-to-groundwater vertical separation does not raise a substantial issue of conformance of the approved project with policies and standards for the protection of water and marine resources within the certified LCP.

Recreational Vehicle Holding Tank Chemical Hazards

The appellants raise a number of concerns regarding the potential impacts to water quality associated with the entry of recreational vehicle holding tank chemicals into the

park's onsite sewage treatment system, and in turn into groundwater beneath the site and the surface waters of Lake Earl. The appellants attached to their appeal a fact sheet from the University of Arizona Cooperative Extension listing the classes of chemicals typically used in recreational vehicle holding tanks and their irritant, toxic or carcinogenic properties if ingested by humans in drinking water. Some of the products contain chemicals which can be fatal to the anaerobic and aerobic bacteria in septic systems and may contribute to the discharge of dangerous, contaminated, health-threatening effluent to the soil surface or into groundwater or nearby surface waters. The appellants reason that if these compounds cause such health impacts to exposed humans, they would likely be lethal to more sensitive receptors such as the tidewater goby (Eucyclogobius newberryi), coastal cutthroat trout (Salmo clarki clarki), and other aquatic life within Lake Earl. The appellants site comments within a 1991 letter from the California Department of Fish and Games regarding other residential development on the shores of Lake Earl stating that, "The tidewater goby is highly sensitive to minor amounts of pollutants. Failure of sewage systems could impact this fish and its use of the immediate area."

In its action on the proposed development, the County attached three conditions to the use permit in response the concerns voiced by the appellants at the project hearings. The applicants were required to submit a plan for the annual inspection of the on-site sewage disposal system by a qualified expert to ensure the system's proper functioning, including sampling of formaldehyde, zinc, phenol, and nitrogen as ammonium in the septic tank effluent, an estimate of monthly flow to the septic tank shall be included in the report. The name and qualifications of the plan's preparer, a schedule for the submission of the report for review and acceptance of the County community development and public health department, and the provisions of forwarding a copy of the report to the Regional Water Quality Control Board were also stipulated. Implementing any recommendations resulting from the inspection is to be the responsibility of the property owner. In addition, groundwater monitoring was identified as a possible component of the required plan. The applicants were also required to submit a plan for the monitoring of discharges of holding tanks to the on-site system, similarly structured for the implementation of any recommendations resulting from the inspection to be made the responsibility of the property owner. Furthermore, the property owner was directed to educate park users by distributing information similar to the fact sheet published by the University of Arizona Cooperative Extension as provided by the appellants.

The appellants contend that these conditions are not adequate to assure the protection of water quality either on site or within nearby surface waters. The appellants argue that annual testing would not be an adequate inspection timeframe, that the sampling should also include measurements for nitrogen in nitrate form, and that groundwater sampling should be a mandatory part of any performance monitoring protocol. Furthermore, with regard to the approval of the submitted annual plan, the appellants contend that given the record of the County with regard to its insufficiencies in administering sewage disposal system design review and performance, the discharge monitoring plan shall be approved

by NCRWQCB rather than the County. Moreover, the appellants observe that as park users are generally unaware of the environmental impacts associated with holding tank sanitizers and odorizers, may not be familiar with the actual contents of the products they use and what they use, and given their transient nature may be more prone to dumping what they have onboard into the park's sewage disposal system, providing constructive notice and educational materials relating to holding tank chemical pollution would not suffice as an adequate mitigation measure. The appellants state that a better solution would be for the park not to offer hook-up amenities, requiring the vehicles to discharge their holding tank wastes in another appropriate location, such as at a waste treatment plant, where the concentrated effluent could be diluted by volumes of household waste. Alternatively, the appellants suggest that the park's sewage treatment system could be modified to include a large holding tank with provisions transport system these wastes from the site.

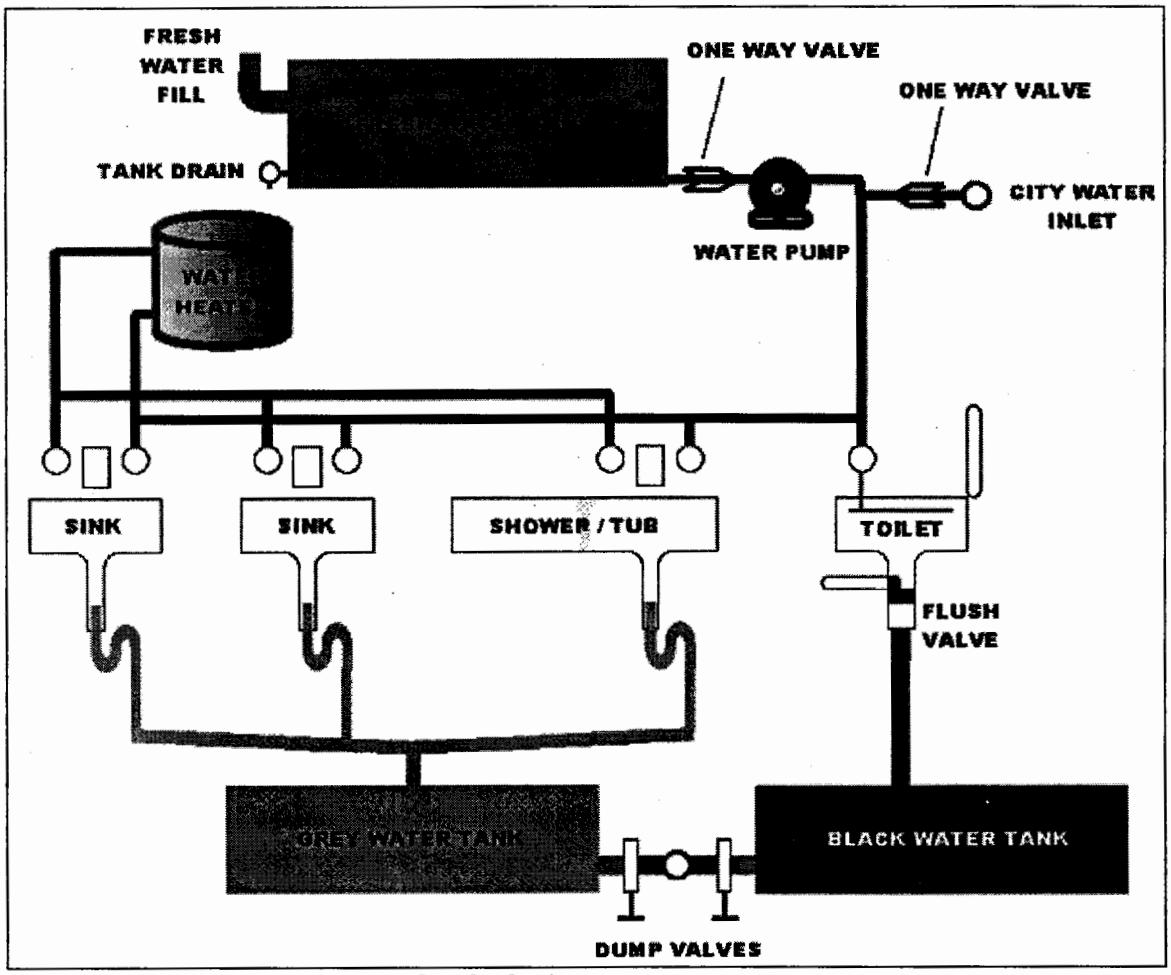
This appellate issue is based on the assumption that the acceptance for disposal of recreational vehicle holding tank sanitizer and odorizer chemicals is a fundamental and formally proposed aspect of the development. The project site plan does not identify the location of a "dump station" in which such so-called "black water" wastes, containing fecal matter, urine, toilet paper, and the related treatment and storage chemicals, would be centrally discharged by park occupants. Rather, the staff report containing the findings for the County's approval of the project only states that "related utilities" would be provided to the park occupants. Assuming this would entail "full hook-up" service typically provided at many recreational vehicle parks, a wastewater receptor line would be extended to each space within the park along with a potable water connection, and a 110/220-volt electrical service.

As can be seen in the plumbing schematic illustrated in Figure 1 below, the typical wastewater system in modern recreational vehicles involves a bifurcated layout with black water and "grey water" (i.e., drainage from sinks, tubs, and showers) segregated into separate tanks and drained out through a common discharge point, controlled by "knife valves," which allow one tank to be drained separate from the other.

Thus, assuming that the park would provide discrete sewerage receptacles to each vehicle space, holding tank chemicals could be effectively prevented from being discharged into the park's sewage disposal system by vehicular recreationists draining only their grey water tanks into the park's facilities. Another management option would be for the park operator to accept vehicles whose black water tanks had been drained out prior to authorizing their entry into the park and similarly prohibiting further draining during their stay at the facility.

Moreover, as discussed above, the final authority for the sewage disposal system that would be ultimately approved for the recreational vehicle park lies with the North Coast Regional Water Quality Control Board. The project as approved includes special

Figure 1: **Schematic of Typical Recreational Vehicle Plumbing**



Source: California Recreational Vehicle Association

conditions requiring that the applicants obtain the necessary approvals from the Water Quality Control Board (Special Conditions Nos. 8 and 14). In developing the waste discharge requirements for such a system, the Regional Board must structure such requirements so that they comply with the North Coast Basin Plan. As a key objective of the plan is the protection of the "beneficial uses" of waters of the state, which includes "water contact recreation," "non-contact water recreation," "commercial and sports fishing," "warm freshwater habitat," "wildlife habitat," "rare, threatened and endangered species," "migration of aquatic organisms," and "estuarine habitat," the physical and biologic effects on the Smith River-Lake Earl Hydrologic Unit will be central to the review of any given disposal system design by the Regional Board. Accordingly, the Board in all likelihood will require the applicants to undertake specific additional measures, either through further enhancements to the onsite treatment system or by modifications to the recreational vehicle park project itself to exclude the acceptance of black water effluent, as may be deemed appropriate, to protect area groundwater and surface water resources.

Thus, given that hook-up systems are available to separate holding tank chemicals from being discharged into the recreational vehicle park's sewage disposal system and that the adequacy and impacts of the septic disposal system will be directly reviewed by the Regional Water Quality Control Board, the Commission finds that there is a high degree of factual support for the County's decision and the development as approved does not raise a substantial issue of conformity with policies and standards for the protection of water and marine resources within the certified LCP with respect to potential significant adverse water quality impacts associated with recreational vehicle park holding tank chemicals.

Assignment of Responsibility for Assuring Proper Sewage Disposal System Operation and Maintenance

The appellants contend that the project as approved did not adequately establish responsible party oversight to ensure that the sewage disposal system would be properly operated and maintained to avoid significant adverse impacts to water quality and would therefore be inconsistent with the Marine and Water Resources policies of the LUP. The appellants cite several letters from the North Coast Regional Water Quality Control Board (NCRWQCB) containing comments submitted for the subject project, as well as correspondence regarding the County's overall administration of its delegated wastewater system authority (see Exhibit No. 10). These latter comments critique the County's degree of review of onsite sewage disposal system designs and monitoring of the performance of such systems once they are installed and in use.

With specific regard to the subject development, the NCRWQCB states in its letter of April 26, 2004 that the NCRWQCB staff does not agree with the County's decision to issue a "negative declaration" environmental review document prepared for the project pursuant to the California Environmental Quality Act (CEQA), as the analysis contained in the document did not adequately address the project's potentially significant adverse impacts to water quality given the high volume of wastewater associated with the development, the sandy soils and within the project area, and high groundwater conditions. Notwithstanding this lack of concurrence, the NCRWQCB stated that if a use permit were to be issued for the project, it should be approved with three conditions, including a condition requiring that the applicants' wastewater treatment system be operated, maintained, and inspected at least annually by a public entity that is empowered to carry out such functions.

As discussed in the preceding appellate contention, the County attached a condition to the coastal development use permit requiring the applicant to submit a plan for the annual inspection of the on-site sewage disposal system by a qualified expert to ensure the system's proper functioning, including sampling of formaldehyde, zinc, phenol, and nitrogen as ammonium in the septic tank effluent, an estimate of monthly flow to the septic tank shall be included in the report. The name and qualifications of the plan's

preparer, a schedule for the submission of the report for review and acceptance of the County community development and public health department, and the provisions of forwarding a copy of the report to the Regional Water Quality Control Board were also stipulated. Implementing any recommendations resulting from the inspection is to be the responsibility of the property owner. In addition, groundwater monitoring was identified as a possible component of the required plan.

The appellants argue that annual testing would not be an adequate inspection timeframe, that the sampling should also include measurements for nitrogen in nitrate form, and that groundwater sampling should be a mandatory part of any performance monitoring protocol. Furthermore, with regard to the approval of the submitted annual plan, the appellants contend that given the record of the County with regard to its insufficiencies in administering sewage disposal system design review and performance, the discharge monitoring plan shall be approved by NCRWQCB rather than the County.

Despite the disagreement between the Regional Board and the County as to the appropriate environmental review documentation procedure for the project, and the perspective of the appellants as regards the adequacy of the inspection condition applied to the development's coastal use permit by the County, as the park will generate greater than 1,500 gallons per day the subject park would be subject to the authority of the NCRWQCB, rather than the County, as set forth in the Basin Plan. Thus, the Regional Board will determine the park's waste discharge requirements, subject to its policies for onsite disposal systems, which can include an operational and maintenance monitoring program with oversight by a public entity if the Regional Board should deem it appropriate. Therefore, given that the County's approval is conditioned to require annual inspections of the septic system and that the adequacy and impacts of the septic disposal system will be directly reviewed by the Regional Water Quality Control Board, the Commission finds that there is a high degree of factual support for the county's decision and the development as approved does not raise a substantial issue of conformity with policies and standards for the protection of water and marine resources within the certified LCP with respect to the propriety of assigned operational and maintenance oversight authority.

Lack of Grading and Paving Improvement Specificity

The appellants also contend that adequate information was not required of the applicant or considered by the County with regard to the degree of grading and paving to be installed, and the effects stormwater runoff would have on the coastal waters of Lake Earl. The appellants indicate that the County staff report states that the recreational vehicle park will be paved, but does not disclose how much new pavement will be laid down, or how ongoing stormwater drainage issues will be handled. The appellants opine that if the Coastal Commission does not take up this issue, there will be no further public review of the issue. The appellants indicate that the site drainage is presently proposed to tend towards Buzzini Road in a sheet flow and that Buzzini Road slopes down toward the

lagoon and the environmentally sensitive habitat therein, with the result that stormwater runoff from the park would drain down to the boat launch and into the lagoon. As this runoff would likely contain automotive lubricant oils and other chemicals, a potentially significant impact to these resources could result inconsistent with the policies of the LCP for protecting the Lake Earl ESHA. The appellants attach to their appeal relevant excerpts from the California Stormwater Best Management Practices Handbook, as substantiation of how the County failed to evaluate and consider recognized issues pertaining to runoff and water quality protection. The appellants suggests that environmentally less damaging alternatives to approved paving and drainage exist, include use of gravel surfacing, or development of a meandering drainage pattern, etc. The appellants state that pursuant to the Clean Water Act and LCP and Coastal Commission regulations, a stormwater drainage plan is required for construction activities and for ongoing "residential" use of the park property, and given the sensitivity of the site, public review of these issues is needed.

With respect to the alleged lack of specific details regarding site grading, and the installation of required improvements, such as utilities, staff notes that the public record for the project contains a variety of information regarding the layout of the facility, including a scalable site plan map, and various correspondence from the applicants' agents and reviewing agencies providing narrative supplements and clarifications to the project description. Based on the site map, an area of approximately 36,000 square feet of the site would be paved for creating the 24 vehicle spaces or "lots" and a perimeter circular access road system. An additional approximately 6,000 square feet would be disturbed in the installation of the septic tanks leachfield and connecting lines to the recreational vehicle lots.

The HCD-mandated improvements for the park, such as for comfort facilities, lighting, plumbing, the extension of utilities, and site grading standards can readily be ascertained by perusing the development standards for special occupancy parks within Title 25 of the California Code of Regulations. Of these requisite improvements, the most extensive would be the construction of a minimum four-unit bathroom facility, to meet the code requirement for one toilet, sink, lavatory, and shower for each gender for each fifteen park lots or fraction thereof. This facility along with the other obligatory site improvements, including perimeter walkways, road shoulders, and utility panels and receptacles, would entail grading on an additional 2,000 to 3,000 square feet, bringing the total disturbed and improved surface area to 44,000 to 45,000 square feet. Thus, based upon a cursory examination of the project site map and applicable improvement standards for special occupancy parks, the amount of paving and related grading can be readily ascertained, contrary to the appellants' contention.

As regards site grading, the County attached Special Condition No. 10 to the permit which requires that a grading and drainage plan be prepared by a California-registered professional engineer and approved by the County Public Works Department's Engineering and Surveying Division prior to the initiation of construction. Pursuant to

standard engineering practices and as set forth in the edition of the Uniform Building Code adopted by the County such reports would include information temporary erosion controls for managing "flooding, water, mud, and debris generated by the project site."

Furthermore, with regard to grading specifications, the HCD standards for special occupancy park development stipulate that grading shall be performed pursuant to Appendix 33 of the California Building Code, as developed by the International Conference of Building Officials (ICBO) and administered for state agency application by the Building Standards Commission of the California State and Consumer Services Agency. Appendix 33 sets forth specific performance standards which, as declared in their purpose statement, are intended to "safeguard health, safety and the public welfare; to protect fish and wildlife and riparian corridors and habitats, domestic and industrial water supplies, private and public property, and to otherwise protect the natural environment from the effects of flooding, accelerated erosion and/or siltation by establishing minimum standards for excavations, cuts, fills, clearing, earthmoving, grading, erosion, and sediment controls." In addition, as construction of the park would involve greater that one-acre of soil disturbance, approval of a storm water pollution prevention plan would similarly be required from the NCRWQCB which would require that appropriate temporary and permanent water quality best management practices be identified and utilized at the site.

With regard to the alleged need for public hearing oversight of the approval of a drainage plan for developments in or near environmentally sensitive areas, neither the state or federal Clean Water Acts, the North Coast Basin Plan, the County's certified LCP, the Commission's regulations, or the Coastal Act stipulate such a requirement.

Given that the County's approval is conditioned to require the submittal of an engineered grading and drainage plan that will address stormwater runoff and that a storm water pollution prevention plan must be prepared that meets the regulations of both HCD and the NCRWQCB, the Commission finds that there is a high degree of factual support for the county's decision that the impacts of stormwater runoff have been adequately addressed. Therefore, the Commission finds that the contention regarding potential stormwater pollution associated with a perceived lack of details regarding paving and grading does not raise a substantial issue of conformity of the approved project with policies and standards for the protection of water and marine resources within the certified LCP.

Conclusion

Therefore, for all of the above stated reasons, the Commission finds that no substantial issue has been raised regarding the approved development's consistency with the policies of the LCP regarding the protection of water quality.

b. Protection of Public Access and Coastal Recreation

Cited and/or Applicable Coastal Act Policies and Standards:

Section 30210 of the Coastal Act states:

> *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational 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 resource areas from overuse.*

Section 30211 of the Coastal Act 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.*

Section 30213 of the Coastal Act states:

> *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*
>
> *The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

Cited and/or Applicable LCP Policies and Standards:

Access Policy No. 1 of the LUP states:

> *The County shall work actively towards the attainment of maximum coastal access for the public, where it is consistent with public safety, property owner rights and the protection of fragile coastal resources.*

Access Policy No. 11 of the LUP states:

> *No permit shall be issued for a project which obstructs lateral access on the immediate shoreline, inland of the mean high tide line to the first line of vegetation, or the crest of the paralleling bluff. The exception would be*

for the placement of navigational aids or shoreline protective devices to protect existing structures, i.e., houses, road-ways and parking areas.

Recreation Policy No. 6 of the LUP states:

Fragile coastal resources shall be considered and protected to the greatest possible extent in all new coastal recreational development.

Recreation Policy No. 9 of the LUP states:

The County shall protect designated agricultural lands from in appropriate development including but not limited to recreational development.

Specific Area Recommendation No. 6 for the Lake Earl Planning Sub-area as contained in the LUP's Land Use Chapter states:

The five rental structures, containing seven residential units, at the end of Buzzini Road shall continue as rentals. The enlargement and/or remodeling of these units may be permitted subject to the provisions of this plan's implementory codes. The property upon which the rental units lie, may be divided from the remaining parcel, such that the remaining (or larger) parcel shall be at least 20 acres in size, and subject to the smaller parcel receiving approval for redesignation as a visitor-serving use.

Discussion:

The appellants contend that the project as approved by the County would result in the potential loss of public access and coastal recreational opportunities in the following ways:

- For compliance with the Commercial Recreation zoning standards applied to project site, the six existing rental residences located on other portions of the subject property should be required to be exclusively operated for visitor-serving uses.

- Past actions by the applicants to confront and expel members of the public from the Buzzini Road access point to Lake Earl suggest that the recreational park will not be promoted and used as a visitor-serving facility, and will instead be allowed to become a permanent residential use. In all likelihood, the residents of the park would then join with the applicants to further confront and discourage persons wishing to utilize the facilities at the end of Buzzini Road in an attempt to gain exclusive control of access and use of the area.

Overall Compliance of Site Improvements with Commercial Recreational Zoning Standards

The appellants take issue with a statement within the County staff report that the existing use of the property is "visitor serving." The appellants report that the six existing habitation structures on the subject property are actually utilized as permanent month-to-month rental residential uses. The appellants contend that unless conditions are applied to the development to require these units to be utilized exclusively visitor-serving uses the project will not conform to the zoning standards for the site.

The Commission notes that while the header information sheet on the County staff report cover sheet does state the existing use of the project site as visitor serving as the appellants state, a further reading of report reveals that these site improvements are further described as "five rental cabins and a single-family residence." Although these statements could be interpreted to suggest that the subject residential units are presently available for overnight or otherwise transient visitor-serving accommodations, while they may not in fact be so proffered, there are no requirements within the Commercial Recreation (CR) zoning district standards which compel pre-existing development on a CR-zoned property to be converted to one of the principal and conditional permitted uses established under the CR designation upon application for other development on the parcel. To the contrary, similar to most other local government land use codes, the County's coastal zoning code contains provisions for the continuance of nonconforming uses developed on a property prior to the adoption of a given zoning district's use limitations. Moreover, as quoted in the Cited and/or Applicable LCP Policies and Standards sub-section above, the LUP contains a planning area policy specifically addressing these residential structures and providing for their continued use as rental units.

Therefore, given the degree of factual and legal support for the County's decision that the development is consistent with the certified LCP, the Commission finds that the contention regarding the other residential uses on the property does not raise a substantial issue of conformity with policies and standards for visitor-serving facilities within the certified LCP or the Coastal Act.

Interference with Public Access and Coastal Recreation Opportunities

The appellants also raise a concern that given the applicants' alleged past actions to confront and expel persons from the Buzzini Road access facility, the actual intended use of the property as accommodations for transient recreational vehicles is dubious. The appellants suggest that instead, the applicants would, similar to the other rental units on the property, allow the park to be inhabited solely by permanent residents. The appellants further speculate that these residents might then be the only persons "allowed" to utilize the Buzzini Road access, with further efforts being applied by the applicants to exclude public users.

Alternately, the appellants raise a concern that if resolution of the property boundary dispute regarding the deviation of Buzzini Road and its Lake Earl access point from the right-of-way and encroachment onto the applicants' property is not administered by the Commission rather than the County loss of this access facility will likely result.

The development approved by the County does not involve the vacation of the Buzzini Road public right-of-way, the closure of the Lake Earl access point, or the erection of any structure or authorization of any use that would otherwise interfere with access to the sea and laterally along the shoreline. Furthermore, in raising this issue of conformance, the appellants have provided no substantive evidence of the applicants' alleged attempt to close off or otherwise interfere with use of these coastal access facilities.

Thus, given the degree of factual and legal support for the County's decision that the development is consistent with the certified LCP, the contention regarding development that would interfere with access to the sea and along the shoreline does not raise a substantial issue of conformity with policies and standards for protecting and providing public access as set forth within the certified LCP or the Coastal Act.

Conclusion

Therefore, as the County's determination of the development's consistency with the policies and standards of the LCP was based on factual information to support such conclusions, the Commission finds that no substantial issue has been raised regarding the approved development's consistency with the policies of the LCP or the Coastal Act regarding public access and coastal recreation opportunities.

c. Protection of Wetlands and Other Environmentally Sensitive Habitat Areas

Summary of LCP Provisions:

Marine and Water Resources Policy No. 3 of the LUP states:

> *All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.*

Marine and Water Resources Policy No. 4 of the LUP states:

> *Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.*

Marine and Water Resources Policy No. 6 of the LUP states:

> *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Marine and Water Resources Section VII.D.4f & g of the County of Del Norte LUP states:

> *f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.*
>
> *g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over the boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:*
>
> *i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.*
> *ii.) Vegetation map.*
> *iii.) Soils map.*
>
> *Review of this information shall be in cooperation with the Department of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet*

> *environmentally sensitive habitat areas as adopted February 4, 1981. The Department of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.* [Emphasis added]

With regard to other standards for buffers, Section IV.D.1.f of the LUP's Marine and Water Resources chapter states that:

> *Natural vegetation buffer strips may be incorporated to protect habitat areas from the possible impacts of adjacent land uses. These protective zones should be sufficient along water courses and around sensitive habitat areas to adequately minimize the potential impacts of adjacent land uses.*

Discussion:

The appellant contends that the presence of environmentally sensitive habitat areas (ESHAs), specifically wetlands, and the terrestrial and aquatic habitats provided by the Lake Earl coastal lagoon were not considered during the County's review of the project as required by the certified LCP.

The above LCP policies provide for the regulation of new development to protect Environmentally Sensitive Habitat Areas (ESHA). The Land Use Plan's Marine and Water Resources chapter defines ESHA's as including wetlands and riparian vegetation areas and identifies the establishment of buffer zones around ESHAs as the primary tool to protect them. Ecologically, a buffer is a transition zone between one type of habitat and another. Buffers provide an area of refuge for plants and animals between their normal or preferred habitat and human activities. Buffers also serve to lessen the impacts caused by road and paved area runoff, landscape fertilizing, and spills of other household hazardous materials that could severely reduce a wetland's ecological value and the quality of the water flowing outward or downward into surface or sub-surface waters.

Protection of Wetlands

LUP Marine and Water Resources Policy VII.D.4f requires that buffer areas shall be established adjacent to all wetlands to provide sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. LUP Policy VII.D.4f further states that the width of the buffer area shall be a minimum of one hundred (100) feet. Alternately, if an applicant can demonstrate, contingent upon coordinated consultation with the California Department of Fish and Game, that one hundred feet is not necessary to protect the wetland area from adverse impacts caused by the proposed development, and specific findings are adopted by the County as to the adequacy of a reduced buffer to protect the resource area, the buffer may be reduced to less than 100 feet in width.

LUP Policy VII.D.4f & g states that where there is uncertainty or a dispute over the boundary or location of an ESHA, a biological survey to determine the extent of the sensitive resource is the appropriate mechanism to resolve the issue. The biological survey may include a topographic base map, a vegetation map, and a soils map.

With respect to the location of the proposed development relative to environmentally sensitive areas on or in proximity to the site, the County staff's report characterizes the setting for the project as follows:

> The project site is generally flat and has been previously used as grazing area for livestock. The site is located immediately north of Buzzini Road, off of Lake Earl Drive. The area is void of significant vegetation and is typical of farmed grazing land in the area. Five historically established rental cabins and a single-family residence are located north and west of the development area separating the site from Lake Earl. The established one percent base flood elevation (12' MSL) is located westerly of the cabins. The parcel is surrounded by General Agriculture and Agriculture Exclusive grazing land. The state owned Lake Earl Wildlife area lies immediately to the west of the subject property and approximately 300 plus feet west (measured to the 12 foot MSL contour) of the proposed R.V. park...
>
> The site is void of significant vegetation and has been historically utilized as yard/cattle grazing area. The site is separated by 300 plus feet from Lake Earl and the related vegetated shore by existing development (rental cabin and residence, roadway).

In the Initial Study checklist responses regarding potentially significant adverse impacts to biological resources, as contained within the Negative Declaration environmental documentation prepared for the development pursuant to CEQA, the County staff further describe the project site as follows:

> The site has been utilized as grazing land, and is generally vegetated with pasture grasses. No indication of wetland habitat was observed as part of a site review. Previous environmental review has occurred as part of a minor subdivision and rezone that establishes the location of the zone districts. Previous environmental review did not result in identification of the site as an area that includes any listed species or environmental sensitive habitat...
>
> The project site is devoid of sensitive habitat and vegetation, and does not include riparian habitat. No sensitive natural community identified in the Del Norte County Local Coastal Plan Sensitive Habitat mapping would be effected (*sic*) by the project proposal...

> The project is not located within a Federally protected wetlands as defined by Section 404 of the Clean Water Act...
> The project site is devoid of significant vegetation, which limits the use of the area by fish and wildlife species. The area is separated from Lake Earl by an existing development. The project development will not interfere with the movement of migratory fish or wildlife, or with native resident species...
>
> Local Coastal Plan policies and recommendations have been adopted for the protection of specific sensitive habitat areas in Del Norte County's Coastal Zone. The project site is not located within a designated sensitive habitat area as specified in the County Local Coastal plan.

In addition, within the soils report prepared for the sewage disposal system design (see Exhibit No. 8), the excavated soils pits revealed a generally well-drained organic horizon extending to a roughly two-foot depth overlying a light-brown elluvial B horizon, extending to a roughly six-foot depth, before the first redoximorphic features (i.e. soil mottling) indicative of periodic inundation by groundwater were encountered. As this latter feature was not found to extend upward into the rooting zone (i.e., within 18-inches of the surface), evidence of hydric soil development was not present at the site. Furthermore, the appellants have not provided a wetland delineation or any other evidence that wetlands are present on the site or within 100 feet of the approved development.

Thus, in considering the presence of wetlands on or near the site, and the effects the proposed development might have on such sensitive resources areas, the County took into account a number of factors, including information collected on visits to the site and a review of past project environmental documents. In addition, as evidenced in the referrals for comments sent out for the project application, the County initiated consultations with relevant resource and trustee agencies for which no specific concerns regarding wetland or any other environmentally sensitive resources were identified.

Consequently, there is a high degree of factual or legal support for the County's decision to approve the project as being consistent with the certified LCP policies regarding the protection of wetlands. Therefore, the Commission finds that, as discussed above, the appeal does not raise a substantial issue with respect to conformance of the approved project with LUP Marine and Water Resources Policy No. 6 and Marine and Water Resources Sections VII.D.4f and g regarding the identification and protection of wetlands.

Protection of Aquatic and Terrestrial Environmentally Sensitive Habitat Areas

The appellants also raise an issue of conformity of the project as approved by the County with the policies of the LCP regarding the protection of the aquatic and terrestrial environmentally sensitive habitat areas afforded by Lake Earl. Specifically, the appellants assert that the possible entry of wastewater effluent, stormwater runoff, and removal of major vegetation, site illumination, increased human activity associated with development and operation of the recreational vehicle park at the subject location, and the potential removal of mature vegetation to re-establish the County road back onto its legal right-of-way would result in significant adverse direct and cumulative impacts to the fish and wildlife resources that utilize the lagoon waters and forested edges for habitat. In presenting this contention, the appellants cite numerous resource agency comments regarding the potential impacts of a variety of other development types on the habitat in and along Lake Earl, including increased residential densities, timber harvesting, timberland conversion to non-timber production uses, and similar major vegetation removal, and the disturbance of raptor habitat by the presence of humans in proximity to mature vegetation suitable for roosting and nesting. However, none of the comments are directed specifically at the development approved by the County.

The project approved by the County is a 24-space recreational vehicle park with the extension of electrical water, and wastewater collection and onsite treatment utilities and the development of amenities as required by the Special Occupancy Park Act, namely access roads, parking areas and pathways, ground-level and building entrance lighting, and comfort station facilities. The development is a transient visitor-serving accommodation use type and does not comprise permanent residential use or represent an increase in the allowable density of residential use in the area.

The development would be clustered into the southeast corner on a 6.8-acre parcel that lies approximately 300 feet from the lagoons floodplain level, and approximately 270 feet from the upland edge of the shoreline tree cover and associated palustrine forested wetlands. The site has six existing residential structures developed in intervening locations within 30 feet of the lagoon waters and at the edge of the forested vegetation along the shoreline. The site of the approved recreational vehicle park consists of nearly flat, open terrain, covered with an assortment of upland grasses and forbs. Other than the excavation of turf and sod for the installation of the park's roads, walkways, vehicle spaces or "lots," and the construction of the other requisite site improvements, no removal of vegetation would occur. The design of the sewage disposal system and the inclusion of measures to prevent stormwater pollution are subject to the review and approval of the North Coast Regional Water Quality Control Board (NCRWQCB). The overall design and construction of the park, with particular regard to grading standards is subject to specified standards within adopted state construction and building standards as administered by the California Department of Housing and Community Development (HCD). Furthermore, based upon information within the conceptual agreement executed between the County and the applicants, no mature vegetation suitable for raptor nesting

or roosting is contemplated to be removed in the course of restoring Buzzini Road back into its right-of-way (see Exhibit No. 9).

In addition to the above enumerated factors and contrary to the appellants contentions, the County in taking action on the project reviewed and analyzed the presence of environmentally sensitive habitat on and near the development. Based upon their review, the County attached special conditions with the specific intent of reducing the projects potentially significant adverse environmental effects, including possible impacts on fish and wildlife habitat, by requiring that the project be developed: (a) pursuant to NCRWQCB and HCD standards; (b) be limited the approved development area; (c) in conformance to an approved plan for staging and material laydown sites; (d) consistent with an approved engineered grading and drainage plan; (e) with no grading occurring between October 30 and April 30; and (f) utilizing lighting directed so as not to shine on adjacent areas.

Thus, in considering the presence of environmentally sensitive habitat on or near the site, and the effects the proposed development might have on such sensitive resources areas, the County took into account a number of factors, including information collected on visits to the site and a review of past project environmental documents. In addition, as evidenced in the referrals for comments sent out for the project application, the County initiated consultations with relevant resource and trustee agencies for which no specific concerns regarding environmentally sensitive resources associated with the proposed project were identified.

Consequently, there is a high degree of factual or legal support for the County's decision to approve the project as being consistent with the certified LCP policies regarding the protection of environmentally sensitive habitat areas. Therefore, the Commission finds that, as discussed above, the appeal does not raise a substantial issue with respect to conformance of the approved project with LUP Marine and Water Resources Policies 3, 4 and 6 siting and designing new development to avoid impacts to environmentally sensitive habitat areas.

Conclusion

Therefore, as: (1) the effects on coastal resources that would result from the County's decision are less than significant; and (2) the County's determination of the approved development's consistency with the policies and standards of the LCP was based on adequate factual information to support such conclusions, the Commission finds that no substantial issue has been raised regarding the approved development's consistency with the policies of the LCP regarding the protection of environmentally sensitive habitat areas.

d. Protection of Visual Resources

Summary of LCP Provisions:

Visual Resources Policy No. 1 of the LUP states:

> *The County encourages the continuation of existing land uses, where appropriate, to maintain open views in highly scenic areas.*

Visual Resources Policy No. 2 of the LUP states:

> *Proposed development within established highly scenic areas shall be visually compatible with their scenic surroundings, by being reflective of the character of the existing land uses while conforming to the land use criteria. As set forth in the land use component and subsequent zoning ordinance.* (sic)

Discussion:

The appellants contend that the development as approved by the County shall result in impacts to the visual resources of the area in the following ways:

- The recreational vehicle park improvements and its lighting would be visible to recreational boaters and hikers on the lake, on trails across the lagoon, or at other scenic viewpoints that would significantly change the lagoon setting and cause glare impacts.

- Any removal of trees and wooded habitat from around the lagoon would be inconsistent with the Buzzini Road area's designation as a scenic view point and should be retained for the scenic value of the area.

The County LCP does not formally designate any areas within the coastal zone portions of Del Norte County as "highly scenic." Instead, the LUP designates numerous locales as either "view points" or "view corridors." The western end of Buzzini Road is designated as such a "viewpoint." Notwithstanding the lack of such a formal designation, the views from at the western terminus of Buzzini Road are remarkable and arguably highly scenic, consisting of open coastal lagoon waters and forested shoreline, with distance glimpses of sand dune areas along and beyond the constriction between Lakes Earl and Talawa to the northwest.

The proposed development site is situated approximately 300 feet inland from the Buzzini Road viewpoint. Because of intervening vegetation and topographic changes, no views of Lake Earl are afforded across the development site from public vantage points.

Open views to and along the lagoon and ocean shorelines are oriented away from the project site.

The main thrust of the appellants' contention regarding visual resources regards the compatibility of the proposed development with its scenic surroundings and whether the site improvements would be reflective of existing land uses. First, the appellants observe that the tree and wooded habitat around the lagoon (i.e., the mature Sitka spruce tree that would allegedly be cut to restore Buzzini Road into its legal right-of-way in satisfaction of a condition of the County's permit) should be retained for its scenic value. The appellants further assert that recreationists on the water in boats, on hiking on trails across the lagoon, or enjoying lagoon views from other scenic viewpoints, may see the site development during the day or glare from its lighting at night, and that the development would likely not be consistent with the prevailing rural character of the area.

In regard to the potential impacts to visual resources associated with removal of mature vegetation from along the Lake Earl shoreline, no removal of the subject tree has been proposed or agreed to by either the County or the applicants.

With respect to the visibility of the project improvements and the effects these structures and vehicles would impose on the viewshed, the degree to which coastal visual resources would be affected is not significant. Firstly, as noted above, due to topography and the presence of thick vegetation along the lakeshore, the project site is not visible from the coastal access facility at the end of Buzzini Road. Secondly, as regards the compatibility of the project improvements with the character of its scenic surroundings, the closest view of the project site from Lake Earl is from breaks in the vegetation along the lakeshore from within a relatively small arc within the lagoon's easterly landward viewshed. In addition, these public views would be afforded only from open water areas and along the southwestern shore of the lagoon well removed from the project site, one-half mile to two miles from the development, respectively. Thirdly, with regard to the project's compatibility with the character of its setting, as can be ascertained from the project vicinity map and site aerial photo (see Exhibit Nos. 2 and 3), the surrounding area, while arguably rural in character, is developed with an assortment of residential and agricultural structures with which the site improvements and recreational vehicles using the proposed development would be similar in height and bulk. Similarly, exterior floor-level site lighting standards as would be required by the Department of Housing and Community Development, are relatively low-level in intensity, ranging from 0.2 horizontal foot-candles (HFC) for pathways and access roads to 5 HFC for comfort station entries. This latter standard would correspond roughly to the output from a "semi-cutoff" (down-directed shielding) 250-watt incandescent lamp mounted at an eight-foot height over a bathroom doorway.[1] Such illumination would not be out of character with the outdoor security and occupied structures lighting currently in use at the numerous

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[1] Illuminating Engineering Society of North America, *IESNA Lighting Handbook - 9th Edition*, December 1, 2000

existing rural residential and agricultural developments along the Lake Earl eastern shoreline.

Conclusion

Therefore, given the significance of the coastal resources actually affected by the County's decision on the permit, the Commission finds that the contention regarding the approved development's potential impacts on open views, its visually compatible with scenic surroundings, and not being reflective of the character of existing land uses does not raise a substantial issue of conformance of the project as approved with the visual resource policies of the certified LCP.

e. Protection of Agricultural Land Resources

Summary of LCP Provisions:

Section II.E.1.e of the LUP's *Land Resources* chapter, though not enumerated as a formal LCP policy states the following with regard to the planning issues associated with adjacent development to agricultural lands:

> Buffer zones, reasonable trensition (*sic*) of zones, may be utilized to shield agricultural lands from adjoining incompatible land uses. Likewise, the area of separation may serve to protect adjacent uses from agricultural impacts. In any event, these protection zones should be of sufficient width to adequately separate all incompatible uses and minimize potential impacts.

Land Resources Policy No. 6 of the LUP states:

> *Land uses adjacent to agricultural lands shall not adversely impact the economic productivity of the agricultural land. Priority should be given to land uses which are least likely to conflict with agricultural productivity.*

Discussion:

The appellants contend that the development as approved by the County would be inconsistent with the LCP's policies for the protection of agricultural lands in the following ways:

- The approved development is effectively residential and the use would set a precedent for the area that could lead to additional conversions of agricultural lands or make similar intensive development more permissible.

- No additional agricultural buffer was made a project requirement, based on findings that the 95-foot separation between the approved commercial recreation use and adjacent grazing lands is sufficient. Thus, the County failed to consider that agricultural use on the adjoining parcels could change in the future, necessitating the establishment of a buffer with a greater width to adequately separate incompatible uses.

- The potential impacts to agricultural uses associated with the chasing cattle by park occupants' dogs was not evaluated.

Setting Precedence for Approval of Future Agricultural Conversions or Other Incompatible Uses

The appellants contend that except for the McNamara Subdivision located approximately one-half mile to the south of the project site, the whole of east side of the lagoon is rural in nature. The appellants argue that the proposed recreational vehicle park is effectively residential use whose density will sets a precedent for eastern lakeshore area. The appellants reason that once such development density has been authorized, "urbanizing" this the eastern lakeshore area might result. The appellants assert that the County failed to consider and evaluate this potential inconsistency with the LCP.

Unlike nearby agricultural lands in the vicinity, this project site property is planned and zoned for visitor-serving commercial recreational development under the certified LCP. Consistent with these designations, the development approved by the County consists of a 24-unit transient-occupancy recreational vehicle park contained on an approximately 1½-acre area.

The appellants' perspective that the development is residential in nature is not borne out by fact that use of the site approved by the County was limited to transient recreational vehicle use. In addition, the assertion that the very presence of the recreational vehicle park would somehow create a significant conflict with existing or likely foreseeable agricultural uses on adjoining lands, or establish a precedent that would induce growth, instigate an urban development pattern for the area, or otherwise obviate established requirements and procedures in the LCP and the Coastal Act for the case-by-case review of any proposed conversion of agricultural lands to non-agricultural uses or change in planned development density is flawed.

With specific regard to the alleged *prime facie* incompatibility of recreational uses with agricultural uses, Section II.E.1.a of the Land Use Plan's *Land Resources* chapter states:

> *In general, recreational uses are compatible with agriculture. However, possible impacts from recreation include: trampling crops; disturbing livestock; and vandalism, Recreational access across farmland is a particular issue. Farmers are reluctant to permit uncontrolled access in*

> *fear of damage to crops or livestock in addition to liability problems. Fences to control access often impede the ability of farmers to move livestock and equipment thereby creating an unnecessary hinderance* (sic) *to agricultural productivity.* [Emphasis added.]

The approved recreational vehicle park would be sited in an area adjoining existing grazing agricultural uses. These areas are bounded by line fencing that would restrain park occupants and guests from seeking casual access onto the open space areas they contain. Furthermore, the park would not introduce any uses into the area (e.g., loud noises, air emissions) that would disturb or otherwise cause harm to the agricultural uses on the area.

According, given: (1) the extent and scope of the development as approved by the County and the degree of factual and legal support for the County's decision to find the development consistent with the certified LCP; and (2) that the effects on coastal agricultural resources that would result from the County's decision is less than significant, the contention that the County's approval of the project would establish a precedent that would adversely affect agricultural land in the vicinity does not raise a substantial issue of conformity with policies and standards for protecting land resources as set forth within the certified LCP.

Adequacy of Agricultural Buffers

The appellants note that no agricultural buffer was made a condition of the recreational vehicle park's permit approval, based upon a finding that the adjoining land's past and current agricultural use is for cattle grazing. The appellants assert that the development's potentially significant adverse impacts to agricultural were not fully evaluated because the County did not consider that agricultural uses in the adjacent areas could change, whereupon greater buffering would be needed.

The approved recreational vehicle park layout would provide a 65-foot setback between the recreational vehicle lots and the site's Buzzini Road frontage. When the roughly 30-foot width of the Buzzini Road is included, a spatial separation of approximately 95 feet would be provided between the park uses and grazing lands across the road from the approved park. The County considered this buffer as adequate to shield the grazing uses on the adjoining property from the activities on the approved park site. As noted above, Land Resources Policy No. 6 of the LUP does not specify that a buffer of any particular width be established between agricultural lands and adjacent land uses.

With regard to the appellants' contention that more intensive agricultural uses that may be pursued on the adjacent agricultural lands at some future time that would necessitate greater buffer widths, the Commission finds this contention to be speculative, unrelated to the specific development approved by the County, and not based upon any reasonably foreseeable development on the lands (e.g., an application is pending before the County

for a more intensive conditional permissible use; the area has been pre-zoned for conversion to other more intensive non-agricultural uses). Furthermore, if the adjoining lands were to be put to significantly more intensive agricultural uses provided for under the standards for the Agricultural Exclusive zoning district in which they are located, such as feedlots, hog farming, greenhouse-based horticulture, such development would require coastal development permit authorizations where the issue of the adequacy of buffers between those proposed uses and an existing recreational vehicle park would be reviewed.

Therefore, given: (1) the extent and scope of the development as approved by the County and the degree of factual and legal support for the County's decision to find the development consistent with the certified LCP; and (2) that the effects on coastal agricultural resources that would result from the County's decision are less than significant, the Commission finds that the contention that the County's approval of the project did not include buffers of adequate width between the approved use and future possible agricultural uses on adjacent lands does not raise a substantial issue of conformity of the project as approved with the policies and standards for protecting land resources as set forth within the certified LCP.

Domestic Animal Impacts to Grazing

The appellants contend that the County did not evaluate the possibility of impacts associated with of the recreational vehicle park's occupants' dogs chasing cattle. The appellants speculate that if the park were to be developed, it could become the source of as many as 24 new dogs in the area, based on an average projected rate of one domestic dog per vehicle in a fully occupied park.

Similar to the other hypothetical impacts identified by the appellants, the Commission finds this contention to be similarly speculative. Moreover, prudent enforcement by the park operator of the HCD operational standards for special occupancy parks which require that occupants keep their pet animals on leashes when outside of their vehicles, together with the presence of existing fencing along the roadsides and the fencing to be constructed around the perimeter of the park would adequately prevent the potential cattle hazing on adjacent grazing lands by park occupants' dogs.

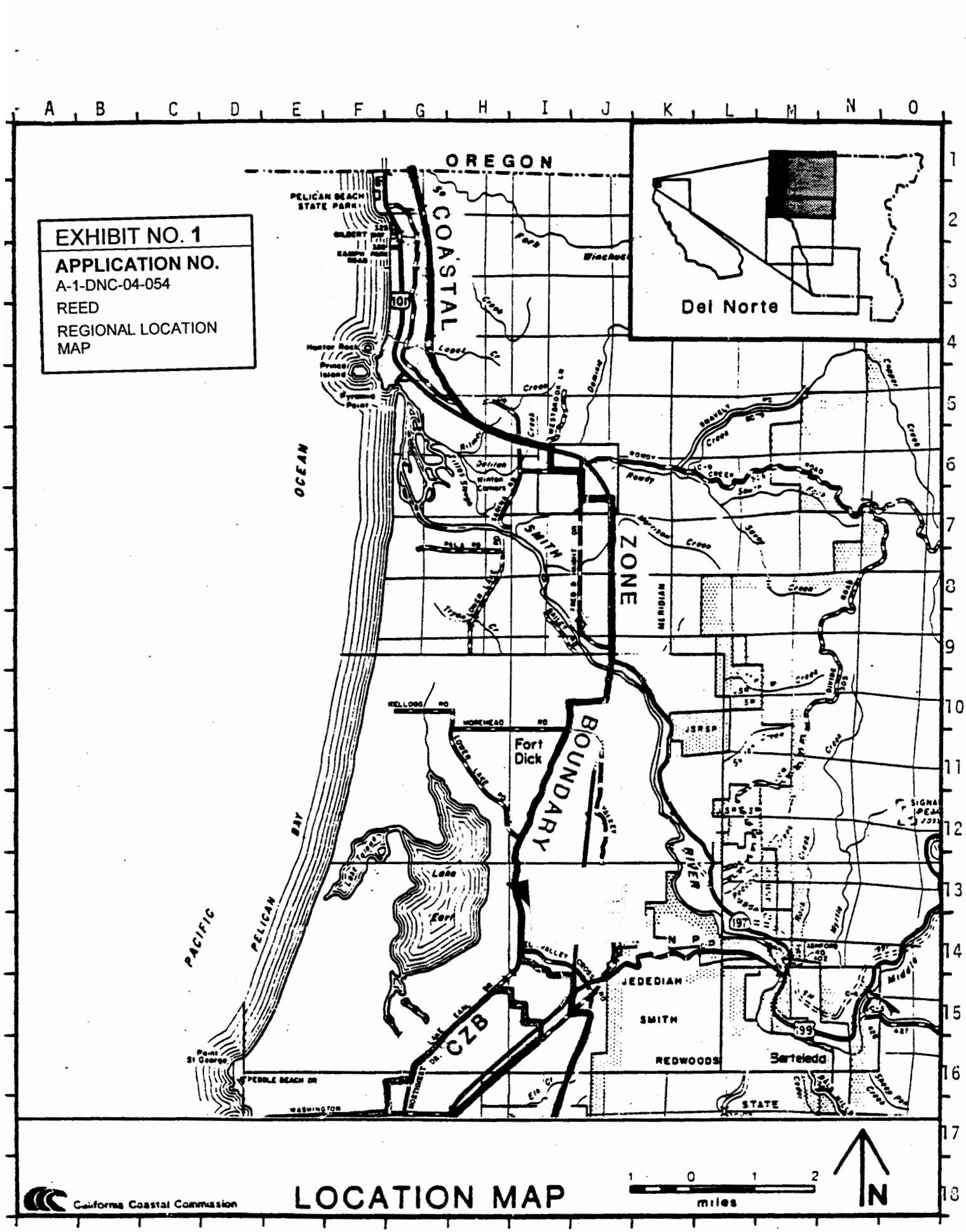
Therefore, given that the effects on coastal agricultural resources that would result from the County's decision is less than significant, the Commission finds that the contention that the County's approval of the project did not adequately evaluate potential impacts on grazing cattle from park occupants' pet dogs does not raise a substantial issue of conformity of the approved project with the policies and standards for protecting land resources as set forth within the certified LCP.

f. Conclusion

The Commission finds that, for the reasons stated above, that the appeal raises no substantial issue with respect to conformance of the approved project with the certified LCP.

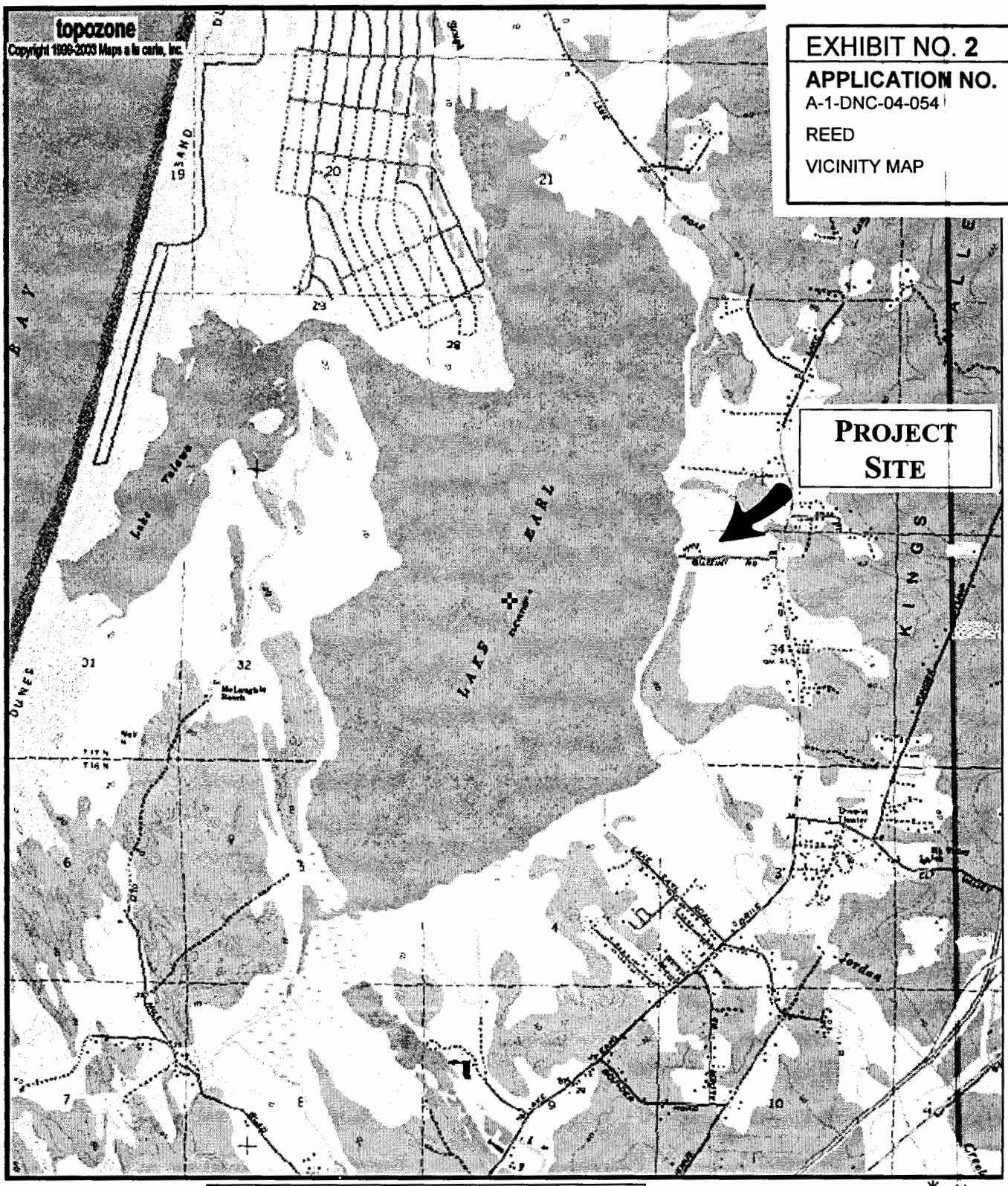
III. EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Aerial Photograph of Project Vicinity
4. Site Plan Map
5. *Notice of Final Local Action*
6. *Appeal from Coastal Permit Decision of Local Government* (Friends of Del Norte, September 10, 2004)
7. Excerpt, Title 25, California Code of Regulations, Department of Housing and Community Development
8. *On-site Sewage Disposal Evaluation* (Stover Engineering, January 26, 2004)
9. *Draft Conceptual Agreement* for Resolving Buzzini Road / Lake Earl Access Encroachment
10. Agency Correspondence
11. General Correspondence



County of Del Norte

Sheet 1 of 3



Map center is UTM 10 401286E 4631103N (WGS84/NAD83)
CRESCENT CITY quadrangle
Projection is UTM Zone 10 NAD83 Datum

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G=-0.793

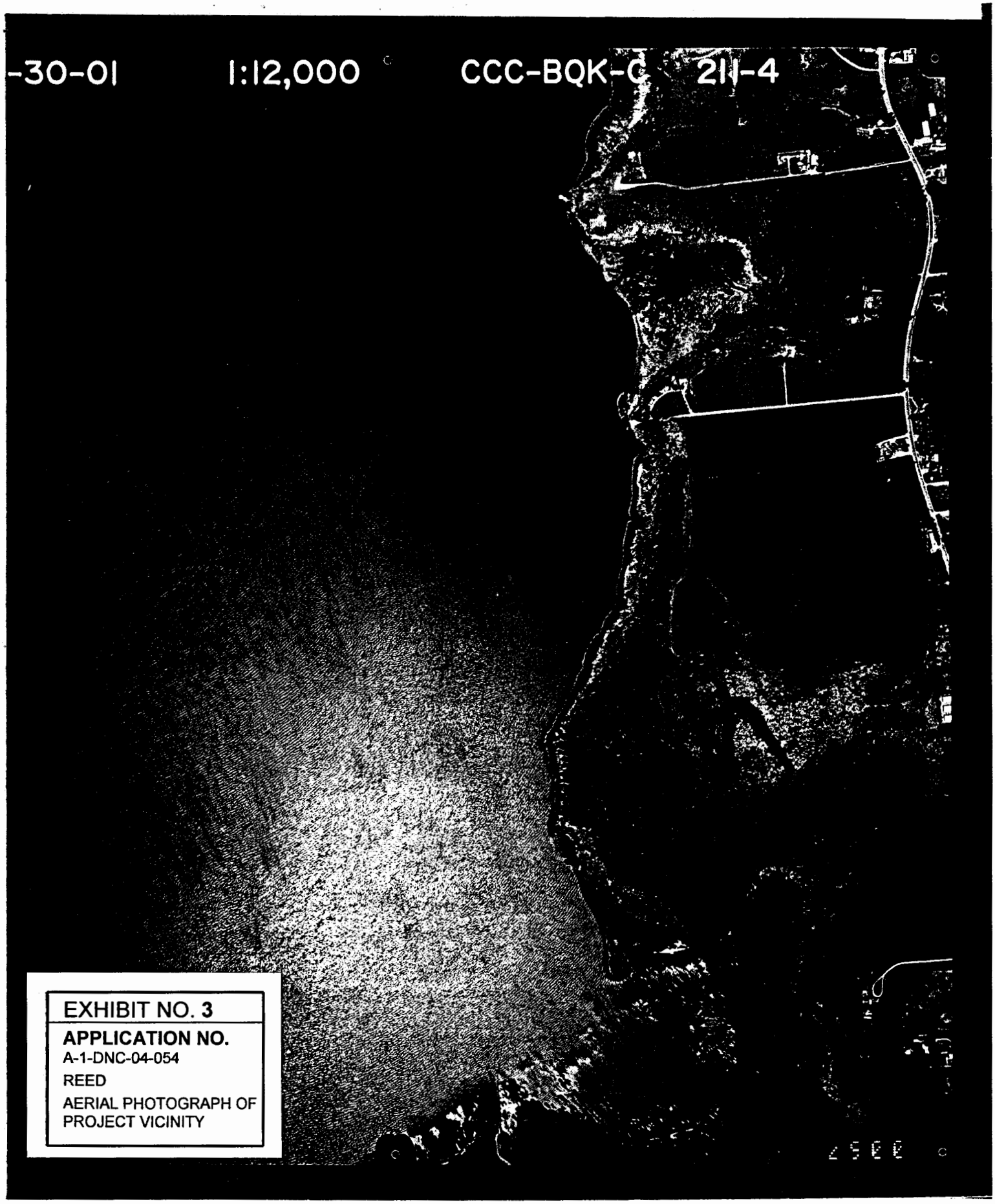
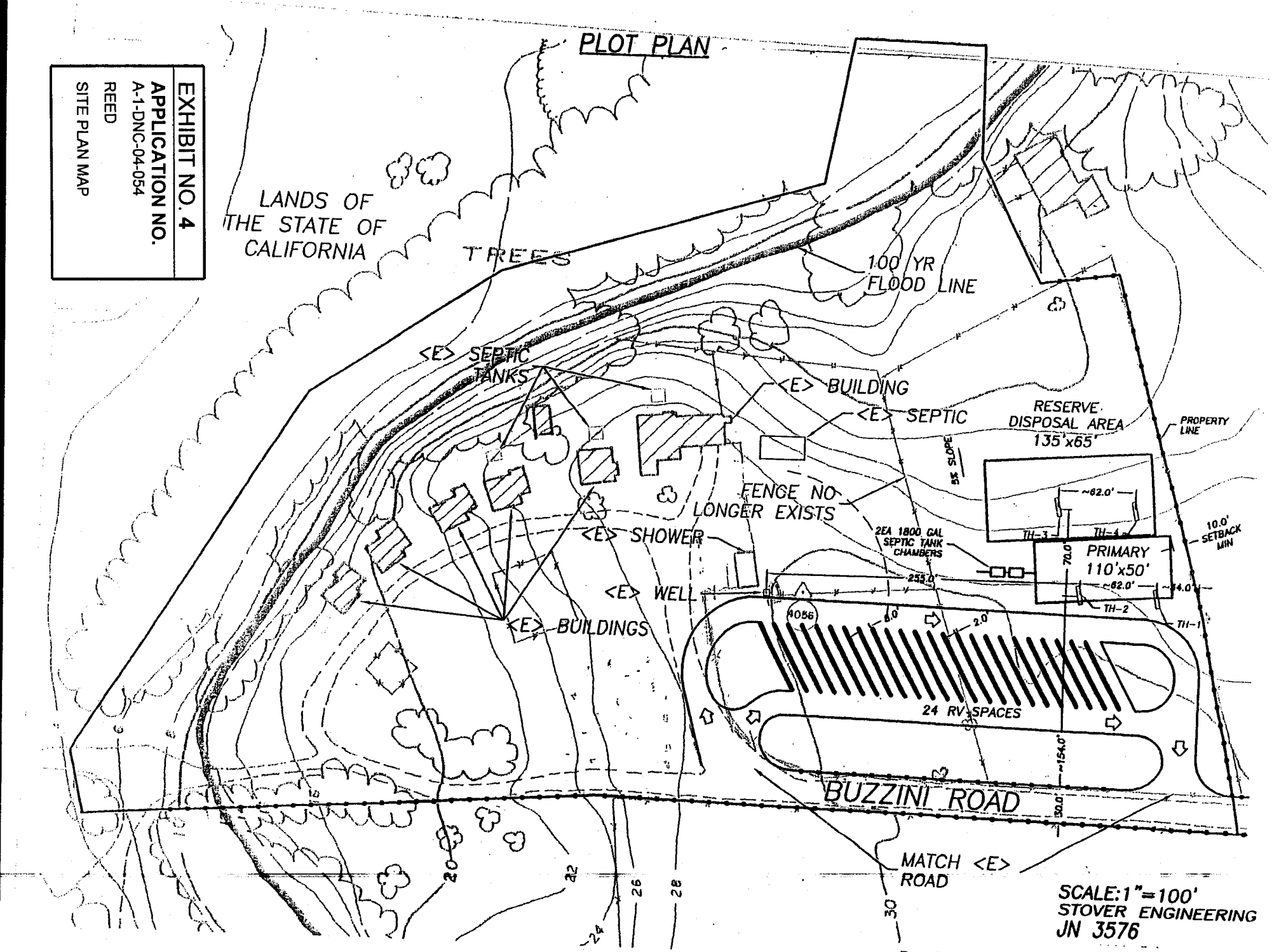


EXHIBIT NO. 3

APPLICATION NO.
A-1-DNC-04-054
REED
AERIAL PHOTOGRAPH OF PROJECT VICINITY



Reed, Richard

UP for an RV

UP0412C

106-021-57

DEL NORTE COUNTY BOARD OF SUPERVISORS
981 H STREET, SUITE 200
CRESCENT CITY, CA 95531

NOTICE OF ACTION

Notice is hereby given that the Board of Supervisors of Del Norte County took action on July 27, 2004 to approve the application for development listed below:

Application Number: UPO412C
Project Description: Use Permit for an RV Park
Project Location: 302 Buzzini Road, Crescent City, CA
Assessor's Parcel Number: 106-0241-57
Applicant: Richard Reed
Applicant's Mailing Address: 302 Buzzini Road, Crescent City, CA 95531
Agent's Name & Address: Stover Engineering, PO Box 783, Crescent City, CA 95531

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

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

Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working days or 21 calendar days subject to the requirements of Chapter 21.52 DNCC and Coastal Regulations.

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

EXHIBIT NO. 5
APPLICATION NO.
A-1-DNC-04-054
REED
NOTICE OF FINAL LOCAL ACTION (1 of 13)

COUNTY OF DEL NORTE

COMMUNITY DEVELOPMENT DEPARTMENT
981 H STREET, SUITE 110
CRESCENT CITY, CALIFORNIA 95531

FAX (707) 465-0340

PLANNING
(707) 464-7254

ENGINEERING & SURVEYING
(707) 464-7229

BUILDING INSPECTION
(707) 464-7253

DEL NORTE COUNTY BOARD REPORT

DATE: 06/18/04 **AGENDA DATE:** 07/~~13~~27/04

TO: DEL NORTE COUNTY BOARD OF SUPERVISORS

FROM: Jay Sarina , Project Planner

SUBJECT: Appeal of the Richard reed Use Permit (UP0412C) – 24 space recreational vehicle park.

RECOMMENDATION:

The Planning Commission unanimously approved the project by a 4-0 vote with commissioner McBrayer absent. In accordance with Ordinance 20.58.020, consider the appeal filed by the Friends of Del Norte.

Staff recommends the Board deny the appeal, and adopt the findings and the Negative Declaration and approve the project as conditioned in the attached staff report with additional conditions 14, 15 and 16.

DISCUSSION/JUSTIFICATION:

Stover Engineering, agent for Richard Reed, has submitted an application for a conditional use permit to construct a 24-space recreational vehicle park with related utilities and access driveways on his 8.6-acre parcel. Located on the north side of Buzzini Road, off of Lake Earl Drive, approximately 1 mile north of Elk Valley Cross Road. Zoning for the site is CR (Commercial Recreational District) with a consistent Local Coastal Plan land use designation of Visitor Serving. The site is developed with five rental cabins and a single-family residence. On-site sewage disposal and well serve the site.

2913

Environmental Setting

The project site is generally flat and has been previously used as grazing area for livestock. The site is located immediately north of Buzzini Road, off of Lake Earl Drive. The area is void of significant vegetation and is typical of farmed grazing land in the area. Five historically established rental cabins and a single-family residence are located north and west of the development area separating the site from Lake Earl. The established one percent base flood elevation (12' MSL) is located westerly of the cabins. The parcel is surrounded by General Agriculture and Agriculture Exclusive grazing land. The state owned Lake Earl Wildlife area lies immediately to the west of the subject property and approximately 300 plus feet west (measured to the 10 foot MSL contour) of the proposed RV Park. The site elevation is between 28 and 30 feet MSL.

Coastal Zone/Jurisdiction

The project site is located within the geographic Appeal Jurisdiction (PCAJ) as shown on the LCP Post Certification map. All uses within the Coastal Zone that are not a principal permitted use are also subject to the appeal process.

Zoning and Land Use

The site is, and has been, zoned Commercial Recreational (CR) since 1990 when the property owner applied for and was approved for a General Plan Amendment. It was rezoned from Agriculture General (A-20-C(s) to Commercial Recreational as specifically outlined in the Specific Area Recommendations in the County Local Coastal Plan policies for the Lake Earl Area. The Policy recommends the establishment of the five cabins as recreational rentals, and also permitted the subdivision of the current parcel from the remaining 20-acre plus agriculture parcel.

The project is adjacent to a continued agriculture activity (grazing) on lands zoned for general agriculture and agriculture exclusive activities. The Del Norte County General Plan and Local Coastal Plan policies protect the continued use of agriculture land and discourage siting of incompatible uses adjacent to agriculture lands. In general, recreational uses are compatible with agriculture however; possible impacts may be associated with crop trampling, disturbance of livestock and vandalism. The project is fenced from adjacent, historical grazing lands reducing the potential or impact to less than significant. The design of the project separates the RV spaces from the southerly agriculture exclusive by fencing, the width of the road right-of-way, access driveway and landscape strip by 95 feet. Typically an agriculture buffer or other form of mitigation is required when adjacent lands are or have been utilized for ornamental flower production and pesticides are utilized. Based on the existing and past uses as grazing land the buffer has not been conditioned on this project and the current design adequately separates the recreational use from the agriculture uses by 95 feet.

The Friends of Del Norte have appealed the project as described in the attached letter with attachments dated June 14, 2004. The appeal has various stated issues. The Planning Commission received a comment letter also outlining various issues to which staff has previously responded. That response and a response to the June 2, 2004 appeal letter are attached. Additional data has been supplied by the applicant's agent to address comments. The staff report and response to comments received by the Planning Commission are also attached. The response lists comments received by the Planning Commission (and attached to the appeal) with the BOS appeal comments following.

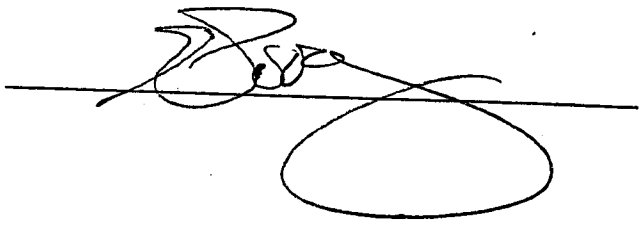
ALTERNATIVES: Uphold the appeal and deny the project with findings.

FINANCING: none

OTHER AGENCY INVOLVEMENT: State Department of Housing and Community Development.

SIGNATURES REQUIRED UPON ADOPTION:

DEPARTMENT HEAD:



4.9.13

Agent: Stover Engineering

STAFF REPORT

APP# UP0412C

APPLICANT: Richard Reed

APPLYING FOR: Use Permit for a RV Park

AP#: 106-021-57 LOCATION: 302 Buzzini Road, Crescent City

PARCEL(S) SIZE: 8.6 acres

EXISTING USE: Visitor Serving

EXISTING STRUCTURES: 6 cabins/rentals

PLANNING AREA: 3

GENERAL PLAN: VisCom

ADJ. GEN. PLAN: Gag-20, RCA, PAg

ZONING: CR

ADJ. ZONING: A-20-C(S), RCA-1, AE

1. PROCESSING CATEGORY: NON-COASTAL APPEALABLE COASTAL X
NON-APPEALABLE COASTAL PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 2/6/04

HEALTH DEPT X BUILDING INSP X
PLANNING X ENGINEERING/SURVEYING X

ACCESS: Buzzini Road
TOPOGRAPHY: Generally Flat

ADJ. USES: Ag./Comm. Rec.
DRAINAGE: Surface

DATE OF COMPLETE APPLICATION: 2/11/04

3. ERC RECOMMENDATION: Adopt Negative Declaration. Approval with conditions.

4. STAFF RECOMMENDATION:

Stover engineering, agent for Richard Reed, has submitted an application for a conditional use permit to construct a 24-space recreational vehicle park and related utilities. Access driveways on his 8.6-acre parcel located on the north side of Buzzini Road, off of Lake Earl Drive, approximately 1 mile north of Elk Valley Cross Road. Zoning for the site is CR (Commercial Recreational District) with a consistent Local Coastal Plan land use designation of Visitor Serving. The site is developed with five rental cabins and a single-family residence. On-site sewage disposal and well serve the site.

Environmental Setting

The project site is generally flat and has been previously used as grazing area for livestock. The site is located immediately north of Buzzini Road, off of Lake Earl Drive. The area is void of significant vegetation and is typical of farmed grazing land in the area. Five historically established rental cabins

and a single-family residence are located north and west of the development area separating the site from Lake Earl. The established one percent base flood elevation (12' MSL) is located westerly of the cabins. The parcel is surrounded by General Agriculture and Agriculture Exclusive grazing land. The state owned Lake Earl Wildlife area lies immediately to the west of the subject property and approximately 300 plus feet west (measured to the 12 foot MSL contour) of the proposed R.V. park.

Coastal Zone/Jurisdiction

The project site is located within the geographic Appeal Jurisdiction (PCAJ) as shown on the LCP Post Certification map. All uses within the Coastal Zone that are not a principal permitted use are also subject to the appeal process.

Zoning and Land Use

The site is, and has been, zoned Commercial Recreational (CR) since 1990 when the property owner applied for and was approved for a General Plan Amendment and Rezone from Agriculture General (A-20-C(s) to Commercial Recreational as specifically outlined in the Specific Area Recommendations in the County Local Coastal Plan, policies for the Lake Earl Area. The Policy recommends the establishment of the five cabins as recreational rentals, and also permitted the subdivision of the current parcel from the remaining 20 acre plus agriculture parcel.

The project is adjacent to a continued agriculture activity (grazing) on lands zoned for general agriculture and agriculture exclusive activities. The Del Norte County General Plan and Local Coastal Plan policies protect the continued use of agriculture land and discourage siting of incompatible uses adjacent to agriculture lands. In general, recreational uses are compatible with agriculture, however possible impacts may be associated with crop trampling, disturbance of livestock and vandalism. The project is fenced from adjacent, historical grazing lands reducing the potential or impact to less than significant. The design of the project separates the R.V. spaces from the southerly agriculture exclusive zoned area by fencing along the width of the road right-of-way, access driveway and landscape strip by 95 feet. Typically an agriculture buffer or other form of mitigation is required when adjacent lands are or have been utilized for ornamental flower production and pesticides are utilized. Based on the existing and past uses as grazing land the buffer has not been conditioned on this project and the current design adequately separates the recreational use from the agriculture uses by 95 feet.

Archaeology/Culture

The project site has been the subject of a Cultural Resources Study conducted by James Roscoe, MA Consulting Archaeologist. The Study and subsequent report was required as part of the Subdivision, General Plan Amendment and rezone of the parcel in 1990. The report documents the results of a Phase 1 Cultural Resources Inventory conducted at the time of the project, and further describes the sensitivity of the area and gives specific recommendations regarding the site. The report is confidential as it describes archaeological resources or sites of ethnic significance within the project area. The report indicates that no archaeological sites were located within the proposed house site, which is located north and east of this site on the adjacent 20-acre parcel. The report also indicates the study determined the area has sensitivity and that there is a slight possibility that undiscovered, buried archaeological resources could be encountered during the construction phase of a proposed project. To alert the property owner and any future property owners of their responsibilities in such instance that resources are uncovered during construction condition number four has been included. The Environmental Review

Committee (ERC), including a representative of the Native American community, was made aware of the report and recommendations. The recommendations were deemed adequate, and no additional review was recommended.

Utilities

The applicant has proposed serving the site with an on-site well, electrical service and an on-site sewage disposal system. The area has not been determined to be a water deficient area, and a field review by the ERC field review committee, including the Health Department representative, did not result in any significant issues relating to the extension of utilities to the site.

On-Site Sewage Disposal

The project would be served by an individual on-site sewage disposal system designed by a Registered Professional Engineer. Erik Weber, RPE of Stover Engineering and project engineer for the Reed application, conducted a site investigation on January 13, 2004 in conformance with wet weather percolation testing standards. A Registered Environmental Health Specialist employed by the Del Norte County Health Department observed the profile holes. Test holes were dug to a depth of approximately seven to eight feet. The Stover report (1/26/2004) indicates that groundwater was not observed in any test pit and percolation testing resulted in rates qualifying the site for an above ground "Wisconsin Mound" sewage disposal system. The report further indicates the site area is suitable for a one hundred percent replacement area. The testing utilized the standards of the Del Norte County On-site Sewage Disposal Ordinance (DNCo Chapter 14.12), Uniform Plumbing Code, and the Environmental Protection Agency Design Manual. The proposed system would result in flows exceeding 1500 gallons per day, which requires review and approval by the North Coast Regional Water Quality Control Board (NCRWQCB). Comments were received during the State Clearinghouse review period from the NCRWQCB relating to the use of an on-site sewage disposal system for the proposed project. Comments regarding the environmental document will be discussed in the California Environmental Quality Act (CEQA) section below. Comments were not specific to the engineered design and do not challenge the design of the system, or it's consistency with the regulations governing the use and construction of an above grade system.

The system design has specified a primary disposal area of 110 feet by 50 feet and a reserve area of 135 feet by 65 feet. Two 1,800-gallon tanks would serve the system. Testing data indicates the design is based on discharge equivalent to thirty sites. This results in a conservative design with built in capacity.

Access/Roads/Grading/Drainage

The project site is accessed off of Lake Earl Drive on Buzzini Road, a County maintained roadway. In 1990 as part of the Richardson subdivision, a right-of-way was dedicated to the County of Del Norte for road and utility purposes. The right-of-way provides a paved access to the site and would transition into the paved surface of the R.V. Park. Conditions below require that any work within the dedicated County right-of-way will require the issuance of an encroachment permit by the CDD, Engineering and Surveying Division prior to work commencing.

Site construction will require grading to prepare the site for paving of access roads and spaces. Although the actual development of the site will be subject to the permit jurisdiction of the California

Department of Housing and Community Development (HCD), a grading and drainage plan prepared by a Registered Professional California Engineer will be required to be submitted to the CDD Engineering and Surveying Division for review and approval prior to construction activity. Site drainage is presently proposed to tend towards Buzzini Road in a sheet flow.

Permitting/Construction

As stated above, the project construction would not be under the supervision of the County of Del Norte. A construction permit is required to be obtained from HCD prior to any site activity. HCD retains permit jurisdiction over construction of mobile home and recreational vehicle parks, however land use decisions continue to be the County's responsibility. Conditions regarding drainage and grading must be complied with as stated above. Condition number nine requires the applicant to coordinate with the County CDD prior to construction activity to allow for site review to determine consistency with conditions of approval and proposed design.

Biological/Species

The site is void of significant vegetation and has been historically utilized as yard/cattle grazing area. The site is separated by 300 plus feet from Lake Earl and the related vegetated shore by existing development (rental cabin and residence, roadway).

Visual Resources/Access

Although it offers only a limited view of Lake Earl, Buzzini Road is identified in the Local Coastal Plan Visual Resources Element as being a scenic Viewpoint, and serves as an access to Lake Earl for a variety of recreational related uses such as hunting, fishing, boating, and birding. The scenic resources of Lake Earl are numerous including dune habitat, marshland vegetation, and mixed conifer forest. The project will utilize Buzzini Road as the primary access off of Lake Earl Drive, and use of Buzzini Road is expected to increase with the project. However, the project is located easterly of the end of the Buzzini Road Viewpoint and will not impact the view of Lake Earl and it's habitat.

Recreation

The General Policies of the Recreation Element of the Local Coastal Plan (30222) state "The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over general agriculture or coastal dependant industry." Also, local policy 30250. c "Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction". 7. States "development of areas for recreational use, on a fee basis, by private property owners should be encouraged". The Recreation Element encourages the development of visitor serving uses within the coastal zone as a priority over other uses.

California Environmental Quality Act (CEQA)

A Negative Declaration (Statement of No Significant Impact) was posted for review and comment after review of the project application and associated technical data and preparation of an initial Study (SCH#2004022102). The complete package was forwarded to the State Clearinghouse (SCH) as

8 of 13

required by CEQA for review by State Responsible and Trustee agencies. The comment period closed on March 23rd, 2004 with comments being submitted by two agencies. No public comment has been received as of the preparation of this report. The Native American Heritage Commission responded in reference to Native American cultural resources that could possibly be affected by the project. The comment letter suggested further analysis of the site be considered due to the possible presence of Native American resources in the area. Native American Heritage Commission comments have been addressed as explained in the Archaeology/Culture section above.

The North Coast Regional Water Quality Control Board (NCRWQCB) submitted a letter directly to the County in response to the Negative Declaration. As noted on the State Clearinghouse and Planning Unit notice letter (March 25, 2004):

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation".

This statement directly reflects the requirements and guidelines of CEQA (Guidelines secs. 1504(f), 15209). Effective comments should address the sufficiency of the document in identifying and analyzing possible significant environmental impacts and how they may be avoided or mitigated. The RWQCB comments question the environmental checklist response that the project will have a less than significant impact with respect to water quality standards. The comment states the proposed project is "...the latest in a series of large septic systems recently proposed for coastal Del Norte County in the vicinity of the Smith River plain when in reality, this project is the only project presently considered complete by the County, and represents only the second permit application received that proposes the use of a "large" septic system. The other application, located approximately 7 miles distance from this project, has not been held complete due to concerns regarding site conditions and soils qualities that the County has expressed. The RWQCB comments are not supported by specific documentation, but rely on the opinion of the commentor that "The cumulative water quality impacts of these systems may be significant in this area of heavy precipitation and shallow ground water". As discussed above the only other system presently under consideration is located at the intersection of Ocean View Drive and Highway 101 north of the town of Smith River approximately seven miles north of the Reed project. The applicant submitted testing and subsequent report has not been challenged, nor has the RWQCB insinuated or directly challenged the consistency of allowing an individual septic system on this site to serve the proposed development. It is the Lead Agency's (Del Norte County) responsibility to consider and respond to substantive comments, however if comments raised are not reasonable or supported by fact the Lead Agency shall provide only a minimal response. The Lead Agency has reviewed the comment and determines the comments to be unresponsive and lacking substance and specificity. No data has been provided to support the comment that the use of an individual septic system will have a significant affect on the environment.

The NCRWQCB also commented that it will be "....unable to complete review of future development proposals until a legally responsible entity is formed to perform maintenance, monitoring, and repair of individual waste treatment and disposal systems". This comment reflects an earlier letter (November 17, 2003) from Thomas Dunbar, Senior Water Resource Control Engineer outlining NCRWCQB policy regarding the maintenance, monitoring and repair of individual waste treatment and disposal systems. In this letter Mr. Dunbar States:

"Maintenance, monitoring, and repair of individual waste treatment and disposal systems shall be the responsibility of:

1. The individual property owner; or
2. A legally responsible entity of dischargers empowered to carry out such functions. That legally responsible entity shall be a public agency, unless demonstration is made to the Regional Water Quality Control board that and existing public agency is unavailable and formation of a new public agency is unreasonable. If such a demonstration is made, a private entity must be established with adequate financial, legal, and institutional resources to assume responsibility for waste discharge.

The project proposes an on-site sewage disposal system designed to be consistent with the County On-site Sewage Disposal Ordinance and the region's Basin Plan. The system would be located on a single property and would serve a single use. Because this is not a system that would serve multiple properties and/or be located off-site, the proposed project would comply with RWQCB policy 1. listed above. The individual property owner, pursuant to item 1. above, would be responsible for the operation, maintenance and monitoring of the proposed on-site sewage system.

After the close of the comment period and in response to consultation between County and RWQCB staff, the NCRWQCB has submitted a letter "supplementing" the previous comment letter. The letter fails to adequately support the statement that the Initial Study does not adequately consider water quality impacts. Again, no data or information has been provided that would reasonably substantiate the statements as required by CEQA.

The applicant has submitted a design prepared by a Registered Professional Engineer based on local and NCRWQCB Basin Plan standards, which was included in the County's State Clearinghouse submittal for the agency review. In two letters of response NCRWQCB staff has not provided evidence of their assumption that a significant impact would occur as a result of the project, nor have they attempted to establish the engineered design does not comply with RWQCB Basin Plan Standards or County Ordinance or what conditions support their statements. Therefore, there is no technical reason to determine significant impact and the project otherwise complies with the RWQCB standards outlined in the Letter of November 17, 2003 and the Basin Plan. Furthermore, the statement that "The cumulative water quality impacts of these systems may be significant in this area of heavy precipitation and shallow groundwater" is not substantiated by any information or data, and is not consistent with the soils profiles developed after digging of test pits on the site. Groundwater was not encounter in any of the 7-8 feet deep holes dug January 13, 2004 during the open wet weather testing period. Furthermore, the site is surrounded by large agriculture designated parcels, which occur throughout the "Smith River plain", and most notably between this project and the only other "large" septic system located approximately seven miles north.

The RWQCB is a responsible agency under CEQA. A responsible agency is a public agency other than the lead agency that have responsibility for carrying out or approving a project and for complying with CEQA, have a more limited authority to require changes in the project to lessen or avoid, or refuse to approve the project to avoid, only the effects of that part of the project that they will be called on to carry out or approve. The NCRWQCB would be responsible for accepting or denying a Report of Waste Discharge due to the project exceeding a discharge volume of 1,500 gallons per day.

ID #13

Requiring an inspection on an annual basis by a qualified expert in order to ensure that the system is in good working order and performing as designed could be a consideration of the Planning Commission. In such a case the property owner would be responsible for submitting a monitoring schedule prior to issuance of the use permit and also be responsible for contracting with a Registered Professional Engineer or Sanitarian to perform the inspection and prepare an annual report. A financial assurance could be posted with the Health Department to ensure that sufficient funds are available for the County to have the inspection completed and report prepared if the property owner fails to perform.

Recommendation

Staff recommends the Commission open the public hearing and consider any public testimony. Furthermore, staff recommends the Commission adopt the findings and the negative declaration and approve the project with the below listed conditions.

5. FINDINGS:

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

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

C) An initial study has been conducted by the lead agency, circulated to the State Clearinghouse and responses have been made to comments received on as a result of this process so as to evaluate the potential for adverse environmental impact; and

D) Considering the record as a whole, there is no evidence before the lead agency that the proposed project will have potential for adverse effect on wildlife resources or the habitat upon which the wildlife depends, as defined in Section 711.2, of the Fish and Game Code

E)The Planning Commission has considered the comments submitted by the North Coast Regional Water Quality Control Board and determined the comments are not substantiated by evidence, data, reference, expert opinion of fact and are not reasonable;

F) The project meets a priority need within the Coastal Zone by providing full coastal recreational opportunity while assuring the protection of important coastal resources and the rights of private property owners;

G) The project is located so as to distribute recreational development throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding; and

H) Fragile coastal resources have been considered, avoided and protected to the greatest possible extent.

6. CONDITIONS:

1) Use Permit Approval is for 24 recreational vehicle spaces to be developed in compliance with the approved plot plan and the requirements of Title 25 Park Codes;
2) The project shall meet the requirements of the Uniform Fire Code applicable at the date of application (2/04);
3) Construction of the park shall be permitted and inspected by the California Department of Housing and Community Development Department, a copy of the approved permit shall be submitted to the Community Development Department prior upon receipt;
4) The owner and any subsequent owners shall be on notice that if any archaeological resources are encountered during any construction activities; such construction activities shall be halted, the Planning Division notified, and a qualified archaeologist shall be hired at the owners expense to evaluate the find. A Notice of Conditional Approval shall be developed to provide such notice prior to issuance of the Use Permit;
5) All development disturbances shall occur within the permitted development area. Any construction that involves earth movement outside of the approved site plan will require additional Planning Commission review;
6) Prior to issuance of the Use Permit any final soils testing required by Klamath Basin Standards shall be completed. The final location and design for the proposed Wisconsin Mound Sewage Disposal system(s) shall be prepared by a registered engineer. These shall be submitted to the County Building Inspection Division for review and acceptance;
7) A Notice of Conditional Approval shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense;
8) A waste discharge report shall be obtained from the State Water Quality Control Board prior to construction activity. A copy of that report shall be submitted to the Community development department prior to construction activity;
9) Prior to construction activity, the applicant shall contact the Community Development Department Planning Division to conduct a site review for coordination of construction activity and location. The site shall be delineated (including any storage/laydown areas) so as to allow staff to confirm consistency with the site plan;
10) Prior to issuance of a permit to construct, an engineered grading and drainage plan shall be prepared for the project area and submitted to the Engineering and Surveying Division for review and acceptance. The plan shall be prepared by a California registered civil engineer. All improvements called for in the plan shall be the responsibility of the applicant and shall be constructed prior to recordation of the parcel map. A Grading Permit shall be obtained for the project prior to any grading work.
11) No grading shall be conducted on any parcel between October 30 and April 30;
12) An Encroachment Permit from Community Development Department, Engineering and Surveying Division shall be obtained for any work in the Buzzini Road right-of- way;
13) Lighting of the facility shall be directed away from adjacent areas to minimize off-site glare; ***Added per PC Meeting 6/2/04***
14) The applicant shall submit a plan for the inspection of the on-site sewage disposal system on an annual basis by a qualified expert in order to ensure the system is in good working order and performing as designed. The inspection shall include grab sampling of Formaldehyde, Zinc, Phenol, and N as ammonium in the septic tank effluent. An estimate of monthly flow to the septic tank shall be included in the report. The applicant shall submit the name and qualifications of the expert and a schedule for the submission of the report for review and acceptance of the County Community

12 of 13

Development Department and the County Health department. The report shall also be forwarded to the Regional Water Quality Control Board. Any recommendations resulting from the inspection will be the responsibility of the property owner. Groundwater monitoring may be required to complete the inspection; ***Added per PC Meeting 6/2/04***

15) The applicant shall submit a plan for the monitoring of discharges of holding tanks to the on-site system. Any recommendations resulting from the inspection will be the responsibility of the property owner; ***Added per PC Meeting 6/2/04***

16) The property owner shall educate park users with information similar to the information published by the University of Arizona as provided by the FDN; and ***Added per PC Meeting 6/2/04***

17) The public access issue for Buzzini Road to, and including the Lake, is to be resolved between the property owner and the County prior to issuance of the use permit for the RV Park. ***Added per PC Meeting 6/2/04***

Conditions Added per PC Meeting 6/2/04

STATE OF CALIFORNIA – THE RESOURCES AGENCY
ARNOLD SCHWARZENEGGER, GOVERNOR

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

MAILING ADDRESS:
P. O. BOX 4908
EUREKA, CA 95502-4908

RECEIVED
SEP 10 2004
CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

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

Friends of Del Norte (FDN)
PO Box 229
Gasquet, CA 95543 (707) 465-8904
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Del Norte County

2. Brief description of development being appealed: Use Permit UP04-12C for an RV Park, Buzzini Road adjacent to Lake Earl lagoon.

3. Development's location (street address, assessor's parcel no., cross street, etc.): APN 124-130-01

4. Description of decision being appealed:

a. Approval; no special conditions: _____

(b.) Approval with special conditions: _____

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-DNC-04-054

DATE FILED: 9/10/04

DISTRICT: North Coast

H5: 4/88

EXHIBIT NO. 6
APPLICATION NO. A-1-DNC-04-054
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (FRIENDS OF DEL NORTE, SEPT. 10, 2004) (1 of 127)

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

a. __Planning Director/Zoning Administrator

c. __Planning Commission

b. ✓ City Council/Board of Supervisors

d. __Other_____

6. Date of local government's decision: _____

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

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Richard Reed
302 Buzzini Rd.
Crescent City, CA 95531

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

(1) Eileen Cooper
1093 Hwy 101 N
Crescent City CA 95531

(2) Donna Thompson – FDN
P.O.B. 229
Gasquet, CA 95543

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

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

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

as attached — inconsistent with LCP, as conditioned, & fails to provide adequate physical access to shore, fails to protect public views.

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

SECTION V. Certification

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

Eileen Cooper (Boardmember)
Signature of Appellant(s) or Authorized Agent

Date September 9 '84

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

Section VI. Agent Authorization

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

_____
Signature of Appellant(s)

Date _____

Appeal to the California Coastal Commission by the Friends of Del Norte
filed on September 10, 2004, from the County of Del Norte's Decision
to grant a coastal development permit to Richard Reed,
for a 24 space RV Park
near the end of Buzzini Road
and on the shore of the Lake Earl coastal lagoon
(APP# UP0412C)

Hand Delivered 9-10-04

This project has the potential to be a recreational enhancement for the Lake Earl coastal lagoon environs, an attraction for visitors, and a benefit to the economy of Del Norte County. However, as proposed and conditioned by the County, it has the potential to adversely and significantly impact the environmentally sensitive habitat area of the lagoon and its endangered species; groundwater and human health, as well as the scenic and aesthetic qualities of the lagoon edge environs.

Issues Raised in this Appeal

The issues raised in this appeal have been raised before the Del Norte County Planning Commission and Board of Supervisors over the last few months. The Friends' initial appeal to the Planning Commission resulted in that Commission's addition of Conditions 13-17, which indicates some responsiveness on the part of the County to the issues that were raised. However, the responses fall far short of what is necessary to protect this sensitive environment and human health. No further conditions were added by the Board of Supervisors when they heard this appeal.

The issues are presented in this document, with the pertinent Coastal Act and Local Coastal Plan (LCP) policies listed at the end of each section.

The Friends will be submitting additional evidence regarding these issues, as needed. References utilized thus far are listed at the end of this document, and marked in the text with an asterisk.

The issues are presented in the following order:

Water Quality Issues
Recreational Use
Coastal Access
Scenic Coastal Resource Issues, including Light Pollution
Endangered and Sensitive Species
Other ESHA issues, including buffers
Agricultural Resources, Buffers

Overview of County Responses

The County's approval as conditioned, has failed to respond adequately to evidence regarding: the sensitivity of the environment next to the Lake Earl lagoon; bald eagle use of the lagoon edge; tidewater goby and coastal cutthroat trout concentrations in the lagoon below and near the site; the potential for the large on-site septic system to fail, and ongoing stormwater runoff impacts (not limited just to the construction period) for lagoon water quality, which will occur due to the slope of the site, heavy rainfall and increased pavement and road use.

In general, the County has no adequate environmental description of the lagoon setting, which is named in the Coastal Act as one of California's most important wetlands for restoration, and which is the largest coastal lagoon in California and the western continental United States.

Further, two letters from the North Coast Regional Water Quality Control Board (NCWB) staff were dismissed as opinion, but clearly point toward potential adverse environmental impacts from this project as approved. RWQCB request to require a responsible entity for septic system maintenance has been ignored.

Project alternatives, to mitigate some of these impacts, that were not considered by the County would be to truck the wastewater/sewage away from the site for treatment and disposal elsewhere, and/or to impose more complete, frequent and stringent monitoring requirements.

The County also failed to respond to evidence that groundwater in the vicinity of the lagoon flows downhill toward the lagoon, and that groundwater in this area fluctuates with the level of the lagoon.

Numerous letters written in the past by California Dept. of Fish & Game and the U.S. Fish & Wildlife Service expressing the need for lagoon buffers cite more encompassing concerns than just timber removal. See attached most recent USFWS letter dated May 15, 2004, which states in part that human activity disturbs bald eagles.

We also express concern that the large spruce tree in the middle of Buzzini road may be taken out, in order to resolve the right of way issue. We ask that resolution include retention of the very large spruce tree in the road. At the very least, potential bald eagle use of this tree must be considered.

Finally, scenic issues need to be addressed more adequately

Water Quality Issues

The environmental setting is not adequately or accurately considered. The site is just up slope from the Lake Earl Coastal Lagoon, an Environmentally Sensitive Habitat Area (ESHA) designated in the LCP, so that the project location becomes especially important under CEQA and the LCP. The County's site map for the project in fact shows the lagoon at about 2.5 ft above mean sea level, which is its lowest possible elevation and consequently its furthest possible distance from the project site.

The project proposes a large 5,000 gallon per day on-site mounded septic disposal system to handle wastewater in an area of permeable soils and high groundwater flowing towards the adjacent lagoon ESHA. The wastewater from RV holding tanks will likely be contaminated with chemicals that are carcinogenic and toxic, and which may cause the septic system to fail. Federally listed species, such as tidewater gobies and bald eagles, are in the vicinity of the project, may be impacted, and are not even mentioned in the County analysis. There are potential adverse cumulative impacts associated with the density of the development and the wastewater already being handled on-site.

On record the North Coast Regional Water Quality Control Board (NCWB) has stated twice to the County that greater oversight is required for on-site septic systems, and that they do not concur with the proposed issuance of a negative declaration for this project because the initial study does not adequately consider water quality impacts.* The County has effectively dismissed these letters.

The Commission will therefore be interested to know that subsequently the NCWB is considering imposing an oversight authority on Del Norte County specifically to ensure that on-site septic systems are better managed. See attached news clippings.* The failure of the County to follow through with installation of mounded septic systems in the McNamara subdivision was part of the NCWB staff analysis of problems. We ask that the Commission consult with NCWB staff Tom Dunbar regarding this matter.

There are particular circumstances that raise concerns for this project:

- very high rainfall of this area
- variable, fluctuating lagoon and groundwater elevations
- high permeability of soils around the lagoon
- unique and valuable biosphere- the lagoon environs.

Groundwater and Lagoon elevations are related

The County should take into account the site location with respect to the lagoon, as groundwater levels fluctuate with the level of the lagoon waters. It is necessary to establish the relationship between the groundwater levels and the lagoon in this particular area. In designing septic systems, anticipated high groundwater levels must be established by testing not only during wet weather and saturated conditions, but also when the lagoon is at its maximum levels. The attached hydrology study by the Dept. of Water Resources* established that groundwater levels surrounding the lagoon vary with the lagoon. Previous testing by Michael Young and Associates in the McNamara subdivision area, on Lake Earl, also documented that the groundwater level around the lagoon fluctuates with the level of the lagoon.*

On the Reed property, the Stover site investigation was conducted on January 13, 2004, but the lagoon had been mechanically breached on January 3, 2004, allowing sufficient time for saturated soils and backed up groundwater to drain down to the lagoon. On January 13 the lagoon was still open to the ocean and tidal, with a water elevation fluctuating around 2 to 2.5ft

msl.* Normally, the lagoon reaches ~10ft msl, and under certain conditions, such as flood stages or accidents of nature, may reach significantly higher elevations. Unfortunately, because the groundwater testing was done when the lagoon was at its lowest point, the site investigation is inconclusive. **Further investigation needs to be done under wet weather and saturated conditions and when the lagoon is elevated.**

Regarding the cumulative impacts on site, the County should consider the six rental cabins and the Reed residence, and day care center, as required by the Basin Plan and LC P policies. The map provided does not locate septics or wells for all of the cabins, and a memo in the file from Stover Engineering states that "Existing Septic Tank locations are based on the owner's first hand knowledge of where the tanks were actually installed and **appears to conflict with preliminary information include with previous applications on file at the County**."* This also raises the issue of what information was used to create the map. All septics and wells should be located.

Since the cabins are older structures and may pre-date restoration of the lagoon to current elevations, it is possible that the septic tanks already on site are not to code and violate lagoon setback requirements of the Basin Plan and LCP.

RV Holding Tanks and Environmental Toxins

In addition, RV Parks and RV holding tanks pose special environmental challenges, and can potentially cause deadly environmental impacts. This is because people put potentially toxic and carcinogenic chemicals in their holding tanks to inhibit odor. If the holding tanks are then released into the proposed septic system, these chemicals may cause it to fail. Pollution of groundwater, surface water and the lagoon may occur.

As a sampling of the available literature and evidence, the University of Arizona Cooperative Extension provides RV users with the following summary:

> "If you spend any time in a recreational vehicle (RV), you probably have experienced the problem of unpleasant odors from the graywater and blackwater holding tanks. There are a number of commercial products available to treat and control those odors while traveling...Some of the products contain chemicals which may also adversely impact the septic systems that receive your holding-tank contents and, as a result, may pollute water resources. These chemicals and their by-products can kill the good bacteria in septic systems and may contribute to the discharge of dangerous, contaminated, health-threatening effluent to the soil surface or into groundwater or nearby surface waters."*

A description of some of the chemicals is attached. The list includes chemicals which are very toxic to humans and are known carcinogens and drinking water contaminants to those that are only moderately toxic to humans or irritating.* In addition to impacts to humans, however, there are potential impacts to the federally listed tidewater goby and other fish, such as coastal cutthroat trout, which are a California Species of Concern. Something that is "very toxic" to humans would be deadly to fish many times over. Federally listed tidewater gobies may be particularly sensitive to wastewater effluent impacts. For example, an attached letter from the California Dept. of Fish & Game, going back to 1991, states that "The tidewater goby is highly

sensitive to minor amounts of pollutants. Failure of sewage systems could impact this fish and its use of the immediate area." * This information has been and is readily available to County staff

Separation distances of groundwater to septic systems filter out pathogens only. Persistent chemicals are not filtered out; they may be transmitted to the groundwater, and to the lagoon. The content of RV waste is very concentrated, as compared to household waste that is much more dilute.

Again, the associated impacts are potentially very significant adverse environmental impacts which need to be better identified, assessed and mitigated.

Roads/Grading/Drainage Issues

The Staff Report states that the RV Park will be paved, but does not mention how much new pavement will be laid down, or how ongoing stormwater drainage issues will be handled. If the Coastal Commission does not take up this issue, there will be no further public review.

This issue alone is a substantial issue because the "site drainage is presently proposed to tend towards Buzzini Road in a sheet flow." Buzzini Road then slopes down into the lagoon ESHA, and during rainstorms the RV Park would drain automotive oils, other chemicals and sediment to Buzzini Road , which drains down to the boat launch and into the lagoon. This is a potentially significant impact which should be analyzed, and addressed by the Coastal Commission.

The attached excerpted sections 2 and 3 of the California Stormwater Best Management Practices Handbook* indicate that the County failed to evaluate and consider recognized issues pertaining to runoff and water quality protection. Possible alternatives include use of gravel for the RV Park instead, or a creative, meandering drainage pattern may be created, etc.

Under the Clean Water Act, and LCP and Coastal Commission regulations, a stormwater drainage plan is required for construction activities and for ongoing "residential" use of the RV Park as well. For such a sensitive site, public review is needed.

Analysis of the County's Response

The Friends has reviewed the conditions that Planning Staff have added to this project as a result of our comments. While it is somewhat helpful that these conditions have been added, they are unfortunately insufficient and incomplete to address the issues raised.

Specific Responses re Communal Mounded Septic System, as Approved, for RV Holding Tank Discharges

After some discussion with RWQCB staff, here are partial responses to the conditions that were added in the Planning Commission approval, indicating points where they are not sufficient:

Condition 14

- Annual testing is not adequate

- grab sampling is not comprehensive; N, including nitrate testing is important to add

- groundwater sampling as well as septic monitoring is essential

Condition 15

Applicant shall submit a plan for monitoring of discharges -

Because of the remarks by RWQCB concerning the insufficiencies of the project, it should be added that:

the discharge monitoring plan shall be approved by NCRWQCB

Condition 16

> The park users are transient, and will be dumping what they have. They often are completely unaware of what they use. Users are not familiar with actual contents of the products they use. Users know the name brands, which are variable and changing.

The better solution or alternative would be for holding tank waste to go somewhere else. The best place is the waste treatment plant, where the concentrated RV effluent will be diluted by volumes of household waste.

> An alternative: a large holding tank and transport system. Or an RV park without full hook-up. They can dump at another facility, such as the facilities in the harbor, where RV waste goes to the waste treatment plant.
>
> The County has ignored the RWQCB response to require the establishment of a responsible entity for the maintenance of the septic system, so as to ensure the proper functioning of this large communal mounded system. Such an entity is specified in the North Coast Basin Plan for large or otherwise unusual septic systems.
>
> Therefore, if the project is allowed to maintain a large mounded system, at minimum, the project should require the establishment of a responsible entity for the continued maintenance of the large mounded septic system.

~~

Coastal Act 30230. 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...Please refer to the LCP Policies above, Marine and Water Resources, VI. C:1,3,6 and Marine and Water Resources, LCP V11.D: Wetlands,4.f , about wetland buffer.

LCP Policy, Marine and Water Resources, VI. C:

1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.

3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of the public health and the biological productivity of coastal waters.

4. Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.

5. Water conservation measures (e. g., flow restrictors, industrial recycling of usable waste waters) should be considered by present users and required in new development to lessen cumulative impacts on existing water systems and supplies.

6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Land Use Issues and Recreational LCP Policy

The County states that Existing Use is Visitor Serving. However, documentation should be provided for this statement. For consistency with zoning, the 6 cabins/rentals already on the parcel should be used for visitor serving purposes. But it appears that they have not been promoted as such and are actually used as permanent residential rentals.

How the RV Park, if built, would be ensured as visitor serving, the use for which it was zoned, is not discussed. Currently the owner, Richard Reed, drives people off his property when they attempt to use the public boat access at the end of Buzzini Road. Please see attached Triplicate letter to the editor, in which windsurfer Hugh Moffatt states: "I just hope that our leaders remember that this is the same Richard Reed who, for years, has been chasing people off who use the long-established Buzzini Road public access to Lake Earl...When I park at the boat launch...the chances are 50/50 that Richard will run down flexing his muscles to aggressively inform me that this area is 'private property'."

Reed is also involved in a dispute with the County because he has unofficially closed off this public boat ramp/Lake Earl access point from public use. Certainly one can sympathize with him about the vandalism and dumping which tend to go with such a use, but it does raise the question of whether the owner will promote/use this RV Park to visitors, as the zoning intended. Or will it also be filled with permanent residents? This should be addressed.

The project should be conditioned for recreational visitor serving use, for consistency with LCP recreational policy and zoning.

How will the dispute with public agencies be resolved if the property truly becomes visitor serving as per this RV Park? If the dispute is not resolved, what is the purpose of the zoning? Will only the residents in this RV Park be allowed to access the public access point?

Recreation, III . C. LCP Policies:

1. The County encourages the continued maintenance of coastal recreation areas by both the private sector and public agencies.

2. New Recreational development shall be located and distributed throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding

5. Visitor-serving and commercial-recreational facilities should be located on ocean-front parcels only when such development provides an increased opportunity for shoreline access and coastal recreation and enhances scenic and environmental values of the area.

6. Fragile coastal resources shall be considered and protected to the greatest possible extent in all new coastal recreational development.

7. Recreational use conflicts should be minimized on coastal beaches through provisions separating incompatible activities by time and/or space.

8. The County encourages the continued maintenance of existing recreational boating facilities by private operators and public agencies.

9. The County shall protect designated agricultural lands from inappropriate development including but not limited to recreational development.

Coastal Access Issues in a Designated Coastal Recreational Access/Boating Area and also adjacent to a Designated ESHA

There is a large spruce tree and wooded area near the edge of the lagoon and within the County right of way. The actual road that has been used for coastal access deviates from the County right-of -way, and curves around the large spruce tree and other significant wooded area. This tree and wooded area, because of proximity to the lagoon, is important wildlife habitat, including habitat for federally listed bald eagles around the Lake Earl lagoon ESHA.

The County condition 17 of the project states that the public access issue for Buzzini Road to, and including the Lake, is to be resolved between the property owner and the County prior to issuance of the use permit for the RV Park. The County condition does not mention ESHA or bald eagle issues. If the Coastal Commission does not take up this issue, there will be no further public review of this purported "resolution."

After Commission review, the project should further condition resolution of the access issue to retain the large spruce tree and wooded area, so as not to disturb the ESHA and sensitive wildlife of the ESHA that utilize the tree and wooded area.

Scenic Coastal Resource Area

Buzzini Road at Lake Earl is also designated as a scenic view point. Therefore the tree and wooded habitat around the lagoon should also be retained for scenic value.

Recreational users who are on the water in boats, or on trails across the lagoon, or enjoying lagoon views from other scenic viewpoints, may see the RV Park at day or night, or experience its light pollution/glare at dusk or during the night. This will significantly change the lagoon setting. See request below for line of sight analysis with photos.

Regarding RV Park light pollution

The current environmental setting is darkness. This is a very rural area. The RV Park has the potential to "urbanize" the lagoon edge because of its density, if not properly evaluated and conditioned. The County has added condition 13: Lighting of the facility shall be directed away from adjacent areas to minimize off-site glare.

The County's condition is not specific enough. If for example the source of lighting is from tall elevated poles, there will still be glare to people enjoying the viewpoint at dusk, dawn, or just enjoying the stars (if access is allowed again). A visual sight line with photos could assist in this assessment. The height of the light source should be considered, as well as shielding, and the lighting in this sensitive location should be conditioned to be low to the ground within a few feet, or directed against buildings, and shielded.

The project should consider putting utilities below ground to preserve the natural and open space qualities of the setting.

> *Aesthetics V. C. LCP Policies: The visual resources of Del Norte County are important to the County's tourist economy and are a continuing source of enjoyment to its residents. Policies designed to maintain the scenic resources in the Coastal Zone of Del Norte County are stated here:*
>
> > *1. The County encourages the continuation of existing land uses, where appropriate, to maintain open views in highly scenic areas.*
> >
> > *2. Proposed development within established highly scenic areas shall be visually compatible with their scenic surroundings, by being reflective of the character of the existing land uses while conforming to the land use criteria. As set forth in the land use component and subsequent zoning ordinance.*

ESHA Buffer and Adjacent Land Use:

As noted, this project has the potential to "urbanize" the lagoon edge unless potential adverse impacts are properly mitigated. Impacts including lighting, noise, physical disruption, and domestic pets are not evaluated or mitigated by the County.

There is no mention of ESHA, wetland or wildlife buffers in this section, although project area is adjacent to Lake Earl Wetland ESHA.

Biological/Species:

This section is inadequate because it fails to discuss the wildlife that uses the edge of the lagoon and which may be impacted by such an intense concentration of human activity and residence as constituted by the RV Park. In general, the environmental document should list the species that occur at the lagoon and may occur on this property. Bald eagles (federally listed), peregrine falcons (federally listed), osprey, herons and egrets (species of concern) use the forested and vegetated edge of the lagoon, and tidewater gobies (federally listed) use the edges as well, and there are other species.* No list, no survey is provided. From the map, it is not possible to tell how many feet of separation or undisturbed buffer are provided between the RV Park and the forested lagoon edge or the 12ft level. Again, runoff from the site is an issue for species.

The lagoon edge functions as wildlife habitat and to some extent as a wildlife corridor for a diverse array of animals, including bear, mountain lion, deer and smaller animals such as badger, river otter, skunk, etc. There are reports of mountain lion and bear along the east side of the lagoon, where this project is located. Deer are seen frequently, and so on.

In letters dated May 15, 2004 and 2000, the USFWS is on record that bald eagles use the forested edge of the Lake Earl lagoon for hunting and perching; that any activity "within 500ft of the forested edge of the lagoon" is of concern, and that their concerns include residential development, human activity as well as tree removal. The RV Park clearly constitutes human activity and intense residential development, but the specific density of development and the distance from the forested edge of the lagoon have not been evaluated. Dr. Robert Mize and his students have reported bald eagle activity in the area of Buzzini Road on the lagoon edge. Please see bald eagle update report submitted to Coastal Commission recently in the appeal of lot 47 in the McNamara subdivision. The Coastal Commission has also stated, in 1999 re McNamara/Foster, that the forested edge of the lagoon is an ESHA.

Agencies such as California Dept. of Fish & Game have been on record for many years expressing recommendations and citing information similar to this 1991 letter: "The Department does not favor increasing the density of residential development adjacent to Lake Earl. Such increased development would result in immediate direct losses of habitat for such species as deer, small mammals, quail, and other birds, reptiles and amphibians. Indirect impacts such as avoidance of the adjacent areas by wildlife also could occur. The introduction of additional domestic pets, such as cats, would result in an increase in predation on nesting

waterfowl and other ground nesting birds."* A recent conversation with CDFG biologist Karen Kovacs confirms that the Department continues to have these concerns, but that staff cutbacks prevent them from commenting in writing on permits.

If each RV space in the proposed park is full, and each RV owner has one dog on average, then 24 dogs will be added to this sensitive location. If RV owners are resident, rather than visitors, then they are likely to have cats as well. Cats kill wildlife very effectively, and dogs at least chase and harass wildlife. Dogs also chase cows, as we will discuss below.

The biological impacts of RV park lighting should also be evaluated. As has been documented, lights below are distracting, confusing and can be deadly to migrating birds, which orient themselves to the moon and stars. The lagoon is on the Pacific Flyway and is an important stopping point for migrating birds.

~~

LCP *Policy, Marine and Water Resources,*

LCP IV: Sensitive Coastal Habitats:

Under Table 1: Sensitive Habitat Types and Their Principle Locations:

Wetlands: Lake Earl and the ponds and sloughs in the Lake Earl and coastal dune region are designated as principle location of ESHA.

LCP Policy, Marine and Water Resources,

LCP V11.D: Wetlands,4: Policies and Recommendations

f.) Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of 100 feet in width. A buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to be done in cooperation with the California Dept. of Fish and Game and the County's determination shall be based on specific findings as to the adequacy of the proposed buffer to protect the identified resource.

LCP Policy, Marine and Water Resources, VI. C:

6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such

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

Agricultural Buffer and Adjacent Land Use:

Except for the McNamara subdivision, the east side of the lagoon is rural. The density of this proposed, effectively residential use sets a precedent for this area.

Staff states that an agricultural buffer was not conditioned on the project, because the past and current agricultural use is grazing. However, the agricultural use could change, and then buffering would be needed.

The proposed density, "urbanizing" this rural area, at least requires some evaluation, as per the LCP policy language. The impacts of dogs chasing cattle, if the RV Park becomes the source of 24 new dogs in the neighborhood on average, should be evaluated.

LCP Policy Agricultural Resources: The County shall protect designated agricultural lands from inappropriate development including but not limited to recreational development.

LCP discussion of Agriculture: E.Adjacent Land Uses, 1. Planning Issues,

e. Buffer Zones:

Buffer zones, reasonable transition of zones, may be utilized to shield agricultural lands from adjoining incompatible land uses. Likewise, the area of separation may serve to protect adjacent uses from agricultural impacts. In any event, these protection zones should be of sufficient width to adequately separate all incompatible uses and minimize potential impacts.

* *References, Attached:*

"Housing foments faceoff between boards, Water panel accused of "roadblocking' work" and "Housing remains in limbo as officials ponder," The Daily Triplicate, August 25 and 26, 2004.

RV Holding Tank Treatments & Deodorizers in Septic Systems, The University of Arizona Cooperative Extension, June 2001.

Letters from Al Wellman and Thomas Dunbar, NCRWQCB, to Del Norte County/Ernie Perry and Jay Sarina, dated November 17, 2003 and March 8 and April 26, 2004.

Stover Engineering/Erik Weber PE Memo to Del Norte County CDD, dated January 26, 2004.

Hydrological Analysis, Appendix B, from Draft Environmental Impact Report for Lake Earl Wildlife Area, CDFG, June 2003. Regarding rainfall, groundwater and lagoon elevations.

Del Norte County Lake Earl Data Logs, January 9 through January 16, 2004.

Letter from CDFG to Diane Mutchie re McNamara subdivision, dated November 26, 1991.

Excerpted sections 2 and 3 of the California Stormwater Best Management Practices Handbook, pages 2-9 to 2-19 and 3-1 to 3-8.

Seasonal Tidewater Goby Habitat map for the goby breeding season (April – August), showing Tidewater Goby concentrations at the edge of Lake Earl and the end of Buzzini Road. From Lake Earl and Lake Talawa Intensive Habitat Study, Del Norte County, California prepared for U.S. Army Corps of Engineers by Tetra Tech, Figure G-23. March 2000.

Also Chapter 8 on Tidewater Gobies from same report.

Also Lake Earl Elevation and Rainfall 1987-1999 Figure E-7 from the same report.

A Position Paper on Current Issues Involving Lake Earl from the Perspective of the Del Norte County Dept. of Public Health, by Richard Mize MD, Public Health Officer, May 27, 2000, pages 1 and 2.

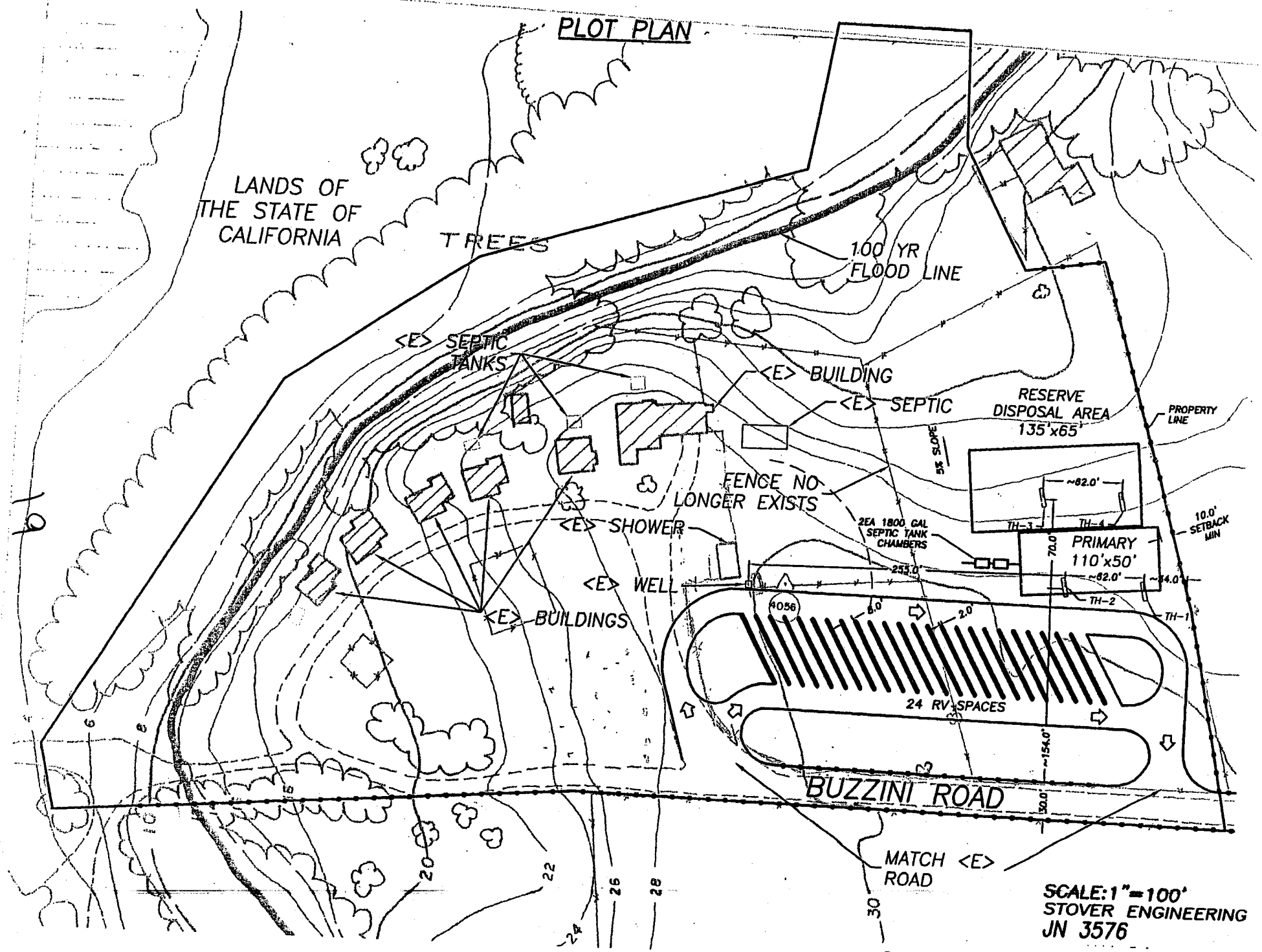
Letter to Richard C. McNamara from Michael Young & Associates dated November 10, 1988, and submitted with Young's 1990 report, pages 1 and 2.

Letter from California Dept. of Fish & Game (CDFG)/Herb Pierce to Diane Mutchie re Del Norte County General Plan, dated August 9, 2000, requesting a 300ft no-cut buffer from the boundary of the Lake Earl Wildlife Area.

Letter from California Coastal Commission/Jim Baskin to Diane Mutchie re Del Norte County General Plan, dated September 25, 2000, supporting request of CDFG for 300ft buffer around Lake Earl.

6. CONDITIONS:

1) Use Permit Approval is for 24 recreational vehicle spaces to be developed in compliance with the approved plot plan and the requirements of Title 25 Park Codes;
2) The project shall meet the requirements of the Uniform Fire Code applicable at the date of application (2/04);
3) Construction of the park shall be permitted and inspected by the California Department of Housing and Community Development Department, a copy of the approved permit shall be submitted to the Community Development Department prior upon receipt;
4) The owner and any subsequent owners shall be on notice that if any archaeological resources are encountered during any construction activities; such construction activities shall be halted, the Planning Division notified, and a qualified archaeologist shall be hired at the owners expense to evaluate the find. A Notice of Conditional Approval shall be developed to provide such notice prior to issuance of the Use Permit;
5) All development disturbances shall occur within the permitted development area. Any construction that involves earth movement outside of the approved site plan will require additional Planning Commission review;
6) Prior to issuance of the Use Permit any final soils testing required by Klamath Basin Standards shall be completed. The final location and design for the proposed Wisconsin Mound Sewage Disposal system(s) shall be prepared by a registered engineer. These shall be submitted to the County Building Inspection Division for review and acceptance;
7) A Notice of Conditional Approval shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense;
8) A waste discharge report shall be obtained from the State Water Quality Control Board prior to construction activity. A copy of that report shall be submitted to the Community development department prior to construction activity;
9) Prior to construction activity, the applicant shall contact the Community Development Department Planning Division to conduct a site review for coordination of construction activity and location. The site shall be delineated (including any storage/laydown areas) so as to allow staff to confirm consistency with the site plan;
10) Prior to issuance of a permit to construct, an engineered grading and drainage plan shall be prepared for the project area and submitted to the Engineering and Surveying Division for review and acceptance. The plan shall be prepared by a California registered civil engineer. All improvements called for in the plan shall be the responsibility of the applicant and shall be constructed prior to recordation of the parcel map. A Grading Permit shall be obtained for the project prior to any grading work.
11) No grading shall be conducted on any parcel between October 30 and April 30;
12) An Encroachment Permit from Community Development Department, Engineering and Surveying Division shall be obtained for any work in the Buzzini Road right-of- way;
13) Lighting of the facility shall be directed away from adjacent areas to minimize off-site glare; ***Added per PC Meeting 6/2/04***
14) The applicant shall submit a plan for the inspection of the on-site sewage disposal system on an annual basis by a qualified expert in order to ensure the system is in good working order and performing as designed. The inspection shall include grab sampling of Formaldehyde, Zinc, Phenol, and N as ammonium in the septic tank effluent. An estimate of monthly flow to the septic tank shall be included in the report. The applicant shall submit the name and qualifications of the expert and a schedule for the submission of the report for review and acceptance of the County Community



Reed, Richard

UP for an RV

UP0412C

106-021-57

Friends of Del Norte
P.O. Box 229
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1-707-951-3020
friendsdelnorte@yahoo.com

PROTECTING THE WILDLANDS, WATERS, and WILDLIFE OF DEL NORTE COUNTY FOR 30 YEARS.

Attention: Chairman Jack Reese, Board of Supervisors, County of Del Norte
Robert Black, County Counsel

Regarding: Richard Reed 24 space RV Park Use Permit Application
(Richard Reed Use Permit UPO412C)

The Friends of Del Norte appeal the June 2, 2004, decision of the Del Norte Planning Commission approving the issuance of a permit to Richard Reed to construct a 24-space recreational vehicle park and related utilities, to the Del Norte Board of Supervisors for new decision.

The Friends of Del Norte attended and presented comments at the May 5, 2004, Planning Commission meeting. The above approval was made a month later, at the June 2nd Planning Commission meeting. We have reviewed the conditions that Planning Staff have added to this project as a result of our appeal at the Planning Commission level. While it is somewhat helpful that these conditions have been added, they are unfortunately insufficient and incomplete to address the issues raised. We will be submitting more evidence to document our points and issues raised.

Overview of Responses

Specifically, but not exclusively, the Planning Commission's approval as conditioned, has failed to respond adequately to evidence regarding: the sensitivity of the environment next to the Lake Earl lagoon; bald eagle use of the lagoon edge; tidewater goby ands coastal cutthroat trout concentrations in the lagoon below and near the site; the potential for the septic system to fail, and ongoing stormwater runoff impacts (not limited just to the construction period) for lagoon water quality, which will occur due to increased pavement and road use.

Further, two letters from the NCRWQCB staff were dismissed as opinion, but clearly point toward potential adverse environmental impacts from this project as approved.

Project alternatives, to mitigate some of these impacts, that were not considered by the Planning Commission, would be to truck the wastewater/sewage away from the site for treatment and disposal elsewhere, and/or to impose more frequent and stringent monitoring requirements.

The Planning Commission also failed to respond to evidence that groundwater in the vicinity of the lagoon appears to flow downhill toward the lagoon, and that groundwater in this area appears to fluctuate with the level of the lagoon. Further, numerous letters written in the past by California Dept. of Fish & Game and the U.S. Fish & Wildlife Service expressing the need for lagoon buffers cite more encompassing concerns than just timber removal. See attached most recent USFWS letter dated May 15, 2004, which states in part that human activity disturbs bald eagles. We will be submitting additional evidence along these lines.

Finally, w e also express concern that the large spruce tree in the middle of Buzzini road may be taken out, in order to resolve the right of way issue. We ask that resolution include retention of the very large spruce tree in the road. At the very least, potential bald eagle use of this tree must be considered.

Specific Responses re Communal Mounded Septic System, as Approved, for RV Holding Tank Discharges

Here are partial responses to the conditions that were added in the Planning Commission approval, indicating points where they are not sufficient:

Condition 14

- Annual testing is not adequate
- grab sampling is not comprehensive; N including nitrate is important
- groundwater sampling as well as septic monitoring is essential

Condition 15

- applicant shall submit a plan for monitoring of discharges ***that has been approved by NCRWQCB***

Condition 16

The park users are transient, and will be dumping what they have. They often are completely unaware of what they use. Users are not familiar with actual contents of the products they use. Users know the Name brands, which are variable and changing.

There are particular circumstances that raise concerns for this project:

- very high rainfall of this area
- variable lagoon and groundwater
- high permeability of soils around the lagoon
- unique and valuable biosphere- the lagoon environs

Separation distances of groundwater to septic systems filter out pathogens only. Persistent chemicals are not filtered out; they are transmitted to the groundwater, and to the lagoon. The content of RV waste is very concentrated, as compared to household waste that is much more dilute.

The better solution or alternative would be for holding tank waste to go somewhere else. The best place is the waste treatment plant, where the concentrated RV effluent will be diluted by volumes of household waste.

An alternative: a large holding tank and transport system. Or an RV park without full hook-up. They can dump at another facility, such as the facilities in the harbor, where RV waste goes to the waste treatment plant.

Summary/Legal Issues

The Friends of Del Norte contend that the Planning Commission approval of the issuance of the permit was an abuse of discretion in that it did not comply with the law as set forth in California Environmental Quality Act ("CEQA," Public Resources Code 21000 et seq) and because it was not based on substantial evidence. More specifically the Friends of Del Norte contend the following:

1. The Planning Commission committed legal error in approving this project under CEQA as a Negative Declaration. A Negative Declaration cannot be found and adopted when a project may have a significant negative effect, and feasible project alternatives and mitigations have not been considered to reduce the impact.

2. Further, the edge of the Lake Earl lagoon is an environmentally sensitive habitat area (ESHA), with several species of concern, as per Coastal Commission reviews and other data put forward in recent years. As per CEQA guideline 15064 (b), "The determination of whether a project may have a significant effect on the environment calls for a careful judgement on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting."

3. Further, under CEQA guideline 15065, "A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project when any of the following conditions occur:

    a) The project has the potential to...reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory."
    c) The project has possible environmental effects which are individually limited but cumulatively considerable...including the effects of probable future projects as defined in Section 15130."
    d) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

As approved, the project's proposed intense concentration of people, lights, noise, chemical use, and domestic animals, has the potential to restrict the movements of, and adversely impact by reducing the number of, listed species such as the bald eagle, as well as peregrine falcons, herons, egrets, and other lagoon edge species. As outlined in our

original comments, ..e septic system has the potential to fai.. ..hich would may reduce the number of tidewater gobies, also a listed species, and other rare aquatic species.

This project requires the preparation of an environmental impact report ("EIR") under Public Resources Code section 21166. Specifically, as noted above, new alternatives to the project which are considerably different from those proposed in the Negative Declaration would substantially reduce the environmental impacts of the project.

Before the Supervisors make their final decision in this matter, the County should give the NCRWQCB the opportunity to review the project with the new conditions added, as these conditions are significant in terms of the potential for substantial adverse water quality impacts. The NCRWQCB may have additional valuable input to improve the monitoring plan.

The Friends of Del Norte respectfully request that a public hearing be held regarding this appeal. Attached to this appeal are the comments presented by the Friends of Del Norte at the Planning Commission meeting of May 5, 2004, which set forth in more detail the factual basis of this appeal. We have not here included the attachments submitted on May 5, as they are part of the record.

On or before the date set for the hearing, the appellants will submit additional written comments and documentation in support of this appeal.

Dated: June 14, 2004

Signed:

Joe Gillespie

Joe Gillespie
President
For the Friends of Del Norte

Attachments: Friends of Del Norte Comments to Planning Commission dated May 5th, 2004.

U.S. Fish & Wildlife Service letter to James Erler, re McNamara Subdivision, dated May 15, 2004.

FILE COPY

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1655 Heindon Road
Arcata, CA 95521
Phone (707) 822-7201 FAX (707) 822-8411

In Reply Refer To:
AFWO
1-14-2004-TA-2216.1

MAY 15 2004

Mr. James Erler, RPF #2323
Erler Forestry Service
1100 Melaney Drive
Crescent City, CA 95531

Subject: Response to Request for Technical Assistance Regarding Habitat Removal on the McNamara Subdivision at Lake Earl, Del Norte County, California

Dear Mr. Erler:

This responds to your request for U.S. Fish and Wildlife Service (Service) technical assistance, received in our office on April 23, 2004, on the development of five lots within unit 3 of the McNamara subdivision, including the removal of approximately 12 Sitka spruce (*Picea sitchensis*) trees ranging from 12 to 58 inches diameter-at-breast height. At issue in the request is the potential for incidental take of the federally listed bald eagle (*Haliaeetus leucocephalus*), as a result of the effects of the proposed action to the existing habitat. After review of the information pertaining to this request, the Service provides the following technical assistance.

According to the California Department of Fish and Game and data on file in this office, the bald eagle is a winter resident at Lake Earl. Numerous records exist of foraging bald eagles using perch/roost trees in the forested habitat adjacent to Lake Earl, which is inclusive of unit 3 of the McNamara subdivision. The proposed removal of approximately 12 potential perch/roost trees eliminates their use by the species. Their removal also facilitates the development of the lots, increasing human activity and disturbance of bald eagles as a result. The proposed action is likely to result in take of bald eagle due to a significant disruption of normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. We recommend that the project proponent seek an incidental take permit for the bald eagle, prior to implementing in any habitat alteration activity within the project area.

Sincerely,

Michael M. Long
Field Supervisor

cc:
CDF: L. Markham, 135 Ridgeway Avenue, Santa Rosa, CA 95402
DFG: K. Moore, 619 Second Street, Eureka, 95501

24

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PROTECTING THE WILDLANDS, WATERS, and WILDLIFE OF DEL NORTE COUNTY FOR 30 YEARS.

May 5, 2004

Attention: Commissioners, Del Norte County Planning Commission

From: Joe Gillespie, President, Friends of Del Norte

Regarding: Richard Reed, Proposed 24 space RV Park near the end of Buzzini Road and on the shore of the Lake Earl coastal lagoon (APP# UP0412C)

Position: This project as proposed has readily identifiable, potentially significant adverse environmental impacts. The environmental document for this project must therefore either contain mitigations which reduce these impacts to less than significant levels, or be evaluated under an Environmental Impact Report (EIR) which would consider alternatives which would likely have fewer adverse impacts.

CEQA Abstract:

A "negative declaration," as proposed by staff, means that there are no significant environmental impacts associated with this project. We describe herein significant potential adverse environmental impacts associated with this project, though no alternatives or substantial mitigations have been evaluated. You have on record the North Coast Regional Water Quality Control Board stating that they do not concur with the proposed issuance of a negative declaration because the initial study does not adequately consider water quality impacts. You've also received a request from the Native American Heritage Commission requesting further investigation. Further, the environmental setting is not adequately described or considered. The site is just up slope from the Lake Earl Coastal Lagoon, an Environmentally Sensitive Habitat Area (ESHA), so that the project location becomes especially important under CEQA and the LCP. The project proposes a very large 5,000 gallon per day on-site septic disposal system to handle wastewater in an area of permeable soils and high groundwater flowing towards the adjacent lagoon ESHA. The wastewater from RV holding tanks will likely be contaminated with chemicals that are carcinogenic and toxic, and which may cause the septic system to fail. Federally listed species, such as tidewater gobies and bald eagles, are in the vicinity of the project, may be impacted, and are not even mentioned. There are cumulative impacts associated with the intensity

of the develo_ment and the wastewater already being _ndled on-site. Additional issues are discussed in the following comments. We advise the Planning Commission to reject the ERC recommendation and require an Environmental Impact Report (EIR) instead. Otherwise, we will challenge your decision.

The following are comments, which respond to the categories of the Staff Report:

Existing Use:

Staff Report states that Existing Use is Visitor Serving. However, documentation should be provided for this statement. The zoning recommends that the 6 cabins/rentals already on the parcel be used for visitor serving purposes, but it appears that they have not been promoted as such and are actually used as permanent residential rentals.

How the RV Park, if built, would transition to the visitor serving use for which it was zoned is not discussed. Currently the owner, Richard Reed, drives people off his property when they attempt to use the public boat access at the end of Buzzini Road. Reed is involved in a dispute with the County and CA Dept. of Fish & Game (CDFG) because he has unofficially closed off this public boat ramp/Lake Earl access point from public use. Certainly one can sympathize with him about the vandalism and dumping which tend to go with such a use, but it does raise the question of whether the owner will promote/use this RV Park as the zoning intended. Or will it also be filled with permanent residents? This should be addressed.

How will the dispute with public agencies be resolved if the property truly becomes visitor serving as per this RV Park? If the dispute is not resolved, what is the purpose of the zoning? Will only the residents in this RV Park be allowed to access the public access point?

Environmental Setting:

The Staff Report fails to properly identify and assess the environmental setting. It mentions that the Lake Earl Wildlife Area lies 300 plus feet west of the RV Park, but does not provide a map or description to indicate the significance of this natural resource, the location of the water body, or to allow assessment of the buffers/setbacks. In the past federal and state wildlife agencies, as per the attached letters, have requested 100-300 foot no-disturb, vegetated buffers around the Lake Earl Coastal Lagoon (lagoon) to reduce human impacts (light, noise, traffic, chemical use, invasive non-native plantings, domestic animals) to wildlife at the lagoon edge.* Bald eagle and peregrine falcon issues will be discussed later. This description does not enable the public or agencies to assess the quality or function of the setback as a buffer for the RV Park activity, which constitutes an intense concentration of potentially adverse impacts just up slope from the lagoon.

The area is described as generally flat. However, the land immediately west of the RV Park site slopes down to the lagoon. The lagoon is not mentioned, yet it is a significant state and federal water body located a few hundred feet down slope from the RV Park. The lagoon is the largest coastal lagoon in California and in the continental western United States.* It is identified in the Coastal Act as one of California's 19 most productive and valuable coastal wetlands, has very significant biodiversity,* and is designated in the LCP as an Environmentally Sensitive Habitat Area (ESHA). Further, the Coastal Commission has described the forested edge of the lagoon as part of the ESHA.*

There is no wetland delineation for the property, or discussion of wetlands, although they probably exist at the lagoon edge and require specific buffers as per the LCP and Coastal Act. There is also a fish-bearing stream adjacent to or on the property which is not discussed.

Zoning and Land Use:

The density of the proposed RV Park is incompatible with the edge of the ESHA, and with the character of the surrounding land use and development. With the notable and controversial exception of the McNamara subdivision, all of the development around the lagoon, which is located this close to the lagoon, is agricultural, rural and low-density.

Staff states that an agricultural buffer was not conditioned on the project because the past and current agricultural use is grazing. However, the agricultural use could change, and then buffering would be needed.

There is no mention of ESHA, wetland or wildlife buffers in this section.

Archaeology/Culture:

This description makes it sound as if the main house site on the adjacent 20 acre parcel was surveyed by James Roscoe for Native American artifacts, but the proposed RV Park site was not. Condition number four seems insufficient to protect the resources which the Roscoe report indicates might exist. Once the "archaeological resources are encountered during any construction activities," they may already be damaged beyond recognition. The County should comply with the request of the Native American Heritage Commission for further investigation, and make this preventative site analysis part of the EIR.

Utilities:

There is no identification of scenic or aesthetic issues regarding the installation and presence of utilities. See further discussion under Visual Resources.

On-Site Sewage Disposal:

Potentially adverse water quality impacts have not been identified or mitigated. This section alone requires an EIR.

The attached two letters from the North Coast Regional Water Quality Control Board (NCRWQB) state in no uncertain terms that there are significant environmental issues in this project which require more than the proposed "Negative Declaration." Why the County staff would proceed over the objections of m a responsible agency is perplexing. The County is effectively setting up the landowner for future conflict, wasted expense and disappointment. An EIR from this point on would instead set up a means for everyone to describe and process the issues before significant funds are expended by the landowner.

Staff Report says NCRWQB comments are not specific, but this is a responsible agency with expertise, and at this stage the comments do not need to be specific. County staff familiar with the Basin Plan can see that among the issues that will be raised are mounding of groundwater and pollution from nitrates. Further, the large proposed wastewater flow to be

handled with an on site mound septic system may be unprecedented in this area of the lagoon. County precedents under similar conditions should be discussed.

Further, the initial site assessment is inconclusive. It would help to clarify issues if the County revised its "wet weather" testing protocol to take into account the site location with respect to large water bodies, in this case the lagoon, as well as the ground elevation and the level of the lagoon waters. It is also necessary to establish the relationship between the groundwater levels and the lagoon in this area.

Previous testing by Michael Young and Associates in the McNamara subdivision area, on Lake Earl, documented that the groundwater level fluctuates with the level of the lagoon.* On the Reed property, the Stover site investigation was conducted on January 13, 2004, but the lagoon had been mechanically breached on January 3, 2004, probably allowing sufficient time for saturated soils and backed up groundwater to drain down to the lagoon. On January 13 the lagoon was still open to the ocean and tidal, with a water elevation fluctuating around 2 to 2.5ft msl.* Normally, the lagoon reaches ~10ft msl, and under certain conditions, such as flood stages or accidents of nature, may reach significantly higher elevations. Unfortunately, because the testing was done when the lagoon was at its lowest point, the site investigation is inconclusive. Further investigation needs to be done under wet weather conditions and when the lagoon is elevated.

The County has not provided the test locations or elevations.

There are potentially cumulative water quality impacts on site, as well as cumulative impacts along the east side of the lagoon (taking into account the McNamara subdivision which is nearing buildout; the Westbrook development near Pine Grove school which may be initiating construction, and other recent development within the groundwater basin of the lagoon). The memo of Dr. Richard Mize* documents that groundwater flows downhill into the lagoon throughout its basin.

Regarding the cumulative impacts throughout the lagoon basin, the County should consider the cumulative impacts of General Plan buildout in this area with reliance solely on septic systems for wastewater treatment, and the potential effects of septic failures on the lagoon aquatic ecology and its tributary creeks and groundwater flow. Septic systems are typically intended to be a relatively temporary expedient, and will not last as long as the structures. The likelihood of a wastewater treatment plant being constructed to assist with buildout in this basin seems unlikely. The soils in the Lake Earl basin are not really suitable for septic tanks, and the potential cumulative impacts intensify as buildout nears.

Regarding the cumulative impacts on site, the County should consider the six rental cabins and the Reed residence, and day care center, as required by the Basin Plan. The map provided does not locate septics or wells for all of the cabins, and a memo in the file from Stover Engineering states that "Existing Septic Tank locations are based on the owner's first hand knowledge of where the tanks were actually installed and **appears to conflict with preliminary information include with previous applications on file at the County."*** This also raises the issue of what information was used to create the map. All septics and wells should be located.

In addition, RV Parks and RV holding tanks have special environmental challenges, and can potentially cause deadly environmental impacts. This is because people put potentially toxic and carcinogenic chemicals in their holding tanks to inhibit odor. If the holding tanks are then released into the proposed septic system, these chemicals may cause it to fail. Pollution of groundwater, surface water and the lagoon may occur.

As a sampling of the available literature and evidence, the University of Arizona Cooperative Extension provides RV users with the following summary:

> "If you spend any time in a recreational vehicle (RV), you probably have experienced the problem of unpleasant odors from the graywater and blackwater holding tanks. There are a number of commercial products available to treat and control those odors while traveling...Some of the products contain chemicals which may also adversely impact the septic systems that receive your holding-tank contents and, as a result, may pollute water resources. These chemicals and their by-products can kill the good bacteria in septic systems and may contribute to the discharge of dangerous, contaminated, health-threatening effluent to the soil surface or into groundwater or nearby surface waters."*

The description of the chemicals is attached. The list includes chemicals which are very toxic to humans and are known carcinogens and drinking water contaminants to those that are only moderately toxic to humans or irritating.* In addition to impacts to humans, however, there are potential impacts to the federally listed tidewater goby and other fish, such as coastal cutthroat trout, which are a California Species of Concern. Something that is "very toxic" to humans would be deadly to fish many times over. Tidewater gobies are particularly sensitive to wastewater effluent impacts, as has been seen in other areas. We will be presenting this evidence. For example, an attached letter from the California Dept. of Fish & Game, going back to 1991, states that "The tidewater goby is highly sensitive to minor amounts of pollutants. Failure of sewage systems could impact this fish and its use of the immediate area." * This information has been and is readily available to County staff.

Again, the associated impacts are potentially very significant adverse environmental impacts which need to be identified, assessed and mitigated, as per an EIR process.

Access/Roads/Grading/Drainage:

The Staff Report states that the RV Park will be paved, but does not mention how much new pavement will be laid down. This is significant because the "site drainage is presently proposed to tend towards Buzzini Road in a sheet flow." Buzzini Road then slopes down into the lagoon ESHA, and during rainstorms the RV Park would drain automotive oils and chemicals and other substances, via the Road and boat launch, down into the lagoon. This is a potentially significant impact which should be analyzed, and possible alternatives include use of gravel for the RV Park instead, or a creative, meandering drainage pattern may be created, etc.

Under the Clean Water Act, and LCP and Coastal Commission regulations, a stormwater drainage plan is required for construction activities and for ongoing "residential" use of the RV Park as well.

In addition, RV Parks and RV holding tanks have special environmental challenges, and can potentially cause deadly environmental impacts. This is because people put potentially toxic and carcinogenic chemicals in their holding tanks to inhibit odor. If the holding tanks are then released into the proposed septic system, these chemicals may cause it to fail. Pollution of groundwater, surface water and the lagoon may occur.

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Access/Roads/Grading/Drainage:

The Staff Report states that the RV Park will be paved, but does not mention how much new pavement will be laid down. This is significant because the "site drainage is presently proposed to tend towards Buzzini Road in a sheet flow." Buzzini Road then slopes down into the lagoon ESHA, and during rainstorms the RV Park would drain automotive oils and chemicals and other substances, via the Road and boat launch, down into the lagoon. This is a potentially significant impact which should be analyzed, and possible alternatives include use of gravel for the RV Park instead, or a creative, meandering drainage pattern may be created, etc.

Under the Clean Water Act, and LCP and Coastal Commission regulations, a stormwater drainage plan is required for construction activities and for ongoing "residential" use of the RV Park as well.

the County, and only bec aware of this project by scanning age at the County building. We have not had sufficient time to analyze this project or to comment. While we comment on the findings below, these comments are not as complete as we would like them to be, given the time constraints.

FINDINGS:

D) This finding seem inappropriate since the lagoon ESHA and its wildlife, directly down slope from the site, have not even been described or mentioned in the environmental setting. USFWS is on record requiring review of timber harvests that are within 500ft of the forested edge of the lagoon because bald eagles have been known to use perch trees located that many feet inland in the lagoon vicinity. There is no mention of such activity.

F) How is the project justified as "meeting a priority need within the Coastal Zone for full coastal recreational opportunity" when public access to the site is blocked by the landowner?

G) Fragile coastal resources, as per our comments, have not even been identified properly. Buffer zones and adverse impacts to wildlife from human residential activity have not even been mentioned.

* ***References and Attachments:***

RV Holding Tank Treatments & Deodorizers in Septic Systems, The University of Arizona Cooperative Extension, June 2001.

Letters from Al Wellman and Thomas Dunbar, NCRWQCB, to Del Norte County/Ernie Perry and Jay Sarina, dated November 17, 2003 and March 8 and April 26, 2004.

Stover Engineering/Erik Weber PE Memo to Del Norte County CDD, dated January 26, 2004.

Del Norte County Lake Earl Data Logs, January 9 through January 16, 2004.

Letter from CDFG to Diane Mutchie re McNamara subdivision, dated November 26, 1991.

Seasonal Tidewater Goby Habitat map for the goby breeding season (April – August), showing Tidewater Goby concentrations at the edge of Lake Earl and the end of Buzzini Road. From Lake Earl and Lake Talawa Intensive Habitat Study, Del Norte County, California prepared for U.S. Army Corps of Engineers by Tetra Tech, Figure G-23. March 2000.

Also Chapter 8 on Tidewater Gobies from same report.

Also Lake Earl Elevation and Rainfall 1987-1999 Figures from the same report.

A Position Paper on Current Issues Involving Lake Earl from the Perspective of the Del Norte County Dept. of Public Health, by Richard Mize MD, Public Health Officer, May 27, 2000.

Letter to Richard C. McNamara from Michael Young & Associates dated November 10, 1988, and submitted with Young's 1990 report. ¢ Jan. 12, 1988 letter

Letter from USFWS to Karen Kovacs regarding Review and Comment on the Lake Earl Management Plan and EIR, dated September 5, 2003.

Letter from CA Coastal Commission/James Muth to Ernie Perry, re McNamara subdivision, dated August 26, 1997.

Local Coastal Plan excerpts.

Letter from California Dept. of Fish & Game (CDFG)/Herb Pierce to Diane Mutchie re Del Norte County General Plan, dated August 9, 2000, requesting a 300ft no-cut buffer from the boundary of the Lake Earl Wildlife Area.

Letter from California Coastal Commission/Jim Baskin to Diane Mutchie re Del Norte County General Plan, dated September 25, 2000, supporting request of CDFG for 300ft buffer around Lake Earl.

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The Daily Triplicate

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Housing fomenting faceoff between boards

County panel plans to confront regional water control staff

By Susan Fitzgerald
Triplicate staff writer

Some 350 housing units in Del Norte County and future developments are at stake in a policy struggle between two agencies charged with balancing the needs of humans with their effect on the environment.

When the Northcoast Regional Water Quality Control Board convenes today in Crescent City, it will be met with the ire – and full attendance – of the Del Norte County Board of Supervisors.

"We should show up en masse," said Supervisor David Finigan, to protest what supervisors see as the staff of the water quality control board usurping the rules that govern disposal of waste in residential developments.

"Their staff's actions threaten our very existence," said Finigan. "We've been saying it

(See *Boards*, Page A9)

Wednesday
August 25, 2004

Boards: Water panel accused of 'roadblocking' work

(Continued from Page A1)

and it's been falling on deaf ears."

At issue is whether owner-maintained septic tanks are an adequate water quality control in developments that the water quality board staff characterizes as "urban-densidy" in rural areas.

There are two allowable ways to make sure human-generated waste doesn't affect water quality:

- The individual property owner, maintaining an on-site waste system (like a the septic tank) to acceptable operating levels; or
- Formation of an entity that is legally responsible for waste discharge.

Del Norte County's position is that the first option is sufficient for the subdivisions it has been approving.

Water quality control staff have been disagreeing, and stalling such subdivisions.

"It appears that the position of your staff is singling out Del Norte County," according to a letter the supervisors approved Tuesday for presentation at the water quality board meeting today.

IF YOU GO
What: Northcoast Regional Water Quality Control Board
When: 8:30 a.m. today
Where: Crescent City Cultural Center, 1001 Front Street

"The staff is roadblocking and going beyond their authority," Supervisor Chuck Blackburn said at Tuesday's meeting, where the board discussed the letter.

"It's time that we as a board take a stand and keep these staff within the law," he said.

"We need the water quality control board to follow the plan," Supervisor Martha McClure said. "Policy is being made based on staff position on individual development."

Initially, Board of Supervisors Chairman Jack Reese had placed the letter on the board's consent agenda. But at the beginning of the meeting he pulled it so the board could discuss it.

"I think it's a little more complicated than what's been stated," he said.

Indeed, responded water quality control board engineer Robert Tancredo, whose staff has been reviewing Del Norte applications, and requested the issue be placed before the water quality control board for discussion.

"A lot of times, people don't know what they're getting into with a septic tank," Tancredo said Tuesday. "Septic tanks require a lot of maintenance and operation. It's not something you can install and walk away from," because it's the nature of septic systems to fail or be overloaded in time.

"The Northcoast has a long experience with this, and a lot of it is not good," said Tancredo. "Del Norte is not alone in having to deal with it, but Del Norte is the only county we see that is pursuing and accepting urban-type developments on septic tanks."

The regional board also will discuss a second topic that affects the ability to expand the housing market, an update on City of Crescent City Wastewater Treatment Facility.

Thursday
August 26, 2004

The Daily Triplicate

Housing remains in limbo as officials ponder

By Susan Fitzgerald
Triplicate staff writer

More than 550 housing units proposed for Del Norte County are still in limbo as government agencies ponder the meaning of "or."

At issue is a regional policy governing waste discharge in housing developments. The policy allows individual property owners to use on-site methods such as septic tanks or establish a "legally responsible entity empowered to carry out such functions," which sounds suspiciously like "another layer of government" to some here.

County officials say they are correctly permitting subdivisions using the owner-responsible option, but staff of the regional water quality control body say the density of proposed developments triggers the "legally responsible entity" clause.

'I understand Del Norte's concern, but having lived with failed septic systems, I'm not averse to using a little bit of time to avoid them.'

— William Massey, regional water quality board chairman

"Can we proceed under the current policy?" Supervisor David Finigan asked the Northcoast Regional Water Quality Control Board on Wednesday. "It works just fine. We ask that you give direction now so we can proceed with orderly, sustained growth."

Short answer: Not today.

Have the supervisors' staff talk to the water board staff and bring proposals to the next meeting, Oct. 6, water board Chairman William Massey instructed.

"There are things happening here that need our attention," Massey said at the water board meeting Wednesday in Crescent City. "I understand Del Norte's concern, but having lived with failed septic systems, I'm not averse to using a little bit of time to avoid them."

But Del Norte doesn't have a problem with failing septic systems, Community Development Director Ernest Perry said. The county's rate of repair/replacement of on-site wastewater systems is 0.6 percent, and 82 percent of the work that had to be done was on systems built before the

(See *Housing*, Page A3)

Housing: Supervisors, water board debate the meaning of word 'or'

(Continued from Page A1)

adoption of more stringent ordinances.

"This is not a crisis," he told the water board.

Greatly increasing the numbers of households that use on-site waste discharge, however, sets the stage for cumulative problems, said water quality control engineer Tom Dunbar, whose interpretation of the "or" clause is contested by Del Norte County.

Dunbar said some recent applications he's reviewed are for subdivisions that are clearly not rural.

"The latest is 78 units, 68 by 115 feet, stacked on top of each other. It's an urban subdivision. I don't see how you can practically administer these as septic systems," he said.

Dunbar said the density and number of the plans he has reviewed in the past two years – 12 subdivisions totalling 550 housing units – trigger a section of the policy beyond the "or" that separates the individual owner responsibility option from the requirement for an entity to oversee septic discharge.

Subdivisions of the density being sought, Dunbar said, trigger Section 4.V.2 of the implementation plan that governs the region, including Del Norte: "For subdivision developments where waste discharge requirements are prescribed by the Regional Water Board, the existence or formation of a legally responsible entity of dischargers shall be required."

But "or" is "or," insisted speaker after speaker, from the entire Del Norte Board of Supervisors to tribal spokesmen to real estate developers.

The board cannot compel the creation of a legally responsible entity as long as the policy includes the language that individual property owners may be held responsible for waste discharge instead.

The water quality control board declined to agree or disagree with Del Norte's position, instead discussing ways to make the "legally responsible entity" concept more viable.

Board members Richard Grundy and Dina Moore expressed interest in seeing a presentation on types of public and private entities that would meet the policy requirements, such as service districts or improvement associations.

"What we are looking for is a definition of a legal entity that could be something other than the government, maybe something a developer could put into place," said Jerry Cochran, speaking in his role as board member. Cochran is also the Del Norte County assessor.

"That's where the profit is," Cochran said. "That's where we have to make sure these things last the life of the development. The government has no way to fund this."

Water quality control staff could be very helpful in working with the county to develop alternatives, said Grundy.

"Staff has a history of working with local government to find joint solutions, institutional solutions," Grundy said. "Tom (Dunbar) is very creative if people don't treat him like he's hardline."

It's not the answer that either developers or county supervisors wanted Wednesday, but Cochran injected a practical note.

"Some developers will be upset that they can't move forward this year," he said, "but the construction season is drawing to a close anyway."

The Daily Triplicate
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Del Norte Co.
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Is RV park developer trying to privatize public access?

I have no problem with Richard Reed's proposed RV park on Lake Earl. I just hope that our leaders remember that this is the same Richard Reed who, for years, has been chasing people off who use the long-established Buzzini Road public access to Lake Earl.

Since he bought the property, he has been trying to claim all of the Buzzini Road access, parking area, and boat launch as his private domain.

When I park at the boat launch a few days a year to windsurf, the chances are 50/50 that Richard will run down flexing his muscles to aggressively inform me that this area is "private property."

Perhaps his buddies are not harassed but most people are, in spite of the fact that most of us make no noise, use the area only by day, and haul out more garbage than we bring. I would hope that the supervisors are not giving Lake Earl's best access to Richard Reed.

I was out of town, unable to attend any meetings, but I hope that our leaders took advantage of this opportunity to improve public access at Buzzini Road, or at least clarify public rights and ensure Mr. Reed stops harassing lawful lake users.

Hugh Moffatt
Crescent City

35

THE UNIVERSITY OF
ARIZONA
COLLEGE OF AGRICULTURE
AND LIFE SCIENCES

RV Holding-tank Treatments & Deodorizers in Septic Systems

ISSUED JUNE, 2001

KITT FARRELL-POE
Water Resources Specialist

RUSS RADDEN
Natural Resources Program Coordinator, Yavapai County

ag.arizona.edu/pubs/water/az1233.pdf

This information has been reviewed by university faculty.

PUBLICATION AZ1233
6/2001

COOPERATIVE EXTENSION
THE UNIVERSITY OF ARIZONA
College of Agriculture and Life Sciences, P.O. Box 210036 • Tucson, Arizona 85721-0036

If you spend any time in a recreational vehicle (RV), you probably have experienced the problem of unpleasant odors from the graywater and blackwater holding tanks. There are a number of commercial products available to treat and control those odors while traveling or camping in your RV. Some of the products contain chemicals which may also adversely impact the septic systems that receive your holding-tank contents and, as a result, may pollute water resources. These chemicals and their by-products can kill the good bacteria in septic systems and may contribute to the discharge of dangerous, contaminated, health-threatening effluent to the soil surface or into groundwater or nearby surface waters.

Many RV facilities, throughout the country, rely on onsite septic systems to treat sewage, and septic systems are particularly vulnerable to chemical contamination. The purpose of this fact sheet is to explain how a septic system works and how RV holding-tank treatments and deodorizers may harm them.

How Septic System Works

Septic systems are individual (onsite) wastewater treatment systems where wastewater is collected, treated, and disposed of (as opposed to offsite treatment at a municipal wastewater treatment plant). A typical septic system contains two major components: a septic tank and an absorption field, also known as a drainfield or leachfield. The purpose of the septic tank is to allow for separation of solids from liquids and to provide time for naturally occurring microorganisms to partially breakdown organic matter in the wastewater. The absorption field disperses the septic tank effluent and provides the final treatment of the wastewater through physical, biological, and chemical processes in the soil.

RV Treatments & Deodorizers

The two major functions of RV treatments and deodorizers are to facilitate the liquefying of solid wastes and reduce odors in the holding tanks. These RV products may contain enzymes or very toxic chemicals, such as formaldehyde. Most products either mask the odor or kill the bacteria causing the odors. When such treated RV wastewater is dumped into a septic system (or municipal wastewater treatment facility), it can kill the bacteria in the system and ultimately cause the treatment system to fail. Without bacteria, the treatment system cannot adequately treat the waste. There is no (or very limited) breakdown ("digestion") of organic matter, and the primary treatment process (settling of the waste) may be hindered. Inadequately treated wastewater allows solids to pass from the septic tank to the absorption field and clog the soil. Clogged systems will allow inadequately treated sewage to surface or percolate to groundwater. Surfacing effluent can affect the health of people or pets who come in contact with it. Percolated chemicals and untreated wastewater may contaminate nearby drinking water wells, rivers, and streams. Please ***read the labels carefully*** to identify any hazardous ingredients. Table 1 has a list of active ingredients to avoid because of their potential threat to onsite wastewater treatment systems

What You Can Do to Help

Sewage treatment problems make RV living less comfortable and increase the cost of operating a RV park. You can help keep your fees reasonable and protect the environment by taking these basic steps:

- Minimize your use of holding-tank treatments and deodorizers by dumping your holding tanks frequently.
- Leave graywater valves open whenever you are connected to a RV park sewer service line. Leave blackwater tank valves closed and dump when half or more full. NOTE: Dumping with less than a half tank will seldom be an adequate volume to properly "flush" solids, and you could experience a persistent paper/fecal build-up in the tank. Holding tank gauges/monitors are seldom accurate. Therefore, use a flashlight and look down from above the stool to judge the fullness of your tank. Don't dump holding tank contents on the ground.
- Use a tank flushing device after dumping a RV holding tank each time. These in-tank devices can be self-installed or by a RV service center. In-line back-flushing or "wand" type devices are also available.

NOTE: don't use potable drinking water hoses for such activities.

- When using a holding-tank treatment or deodorizer, read the label and follow the directions carefully. REMEMBER, excessive amounts of RV holding-tank treatments or deodorizers and those not recommended by the manufacturer can and will disrupt the wastewater treatment system you dump into. Consider using only enzyme-based or bacterial-based products. Please note that the term biodegradable does not necessarily mean that the product is safe for humans or the environment. Never use bleach to treat or "sweeten" a tank. Bleach can severely and quickly damage valves, seals, and gaskets.
- Ask questions of your park manager about drinking (potable) water and wastewater management. Sanitation costs can be minimal, but are not free.
- Educate other RVers. Don't be shy about your health or the health of the environment.

The restoration of failed RV-park septic systems ultimately costs you money. The costs to renovate a system will be added to your space fee, and the restoration of contaminated groundwater can be extremely time consuming and costly. Further information is available on household septic systems at the University of Arizona Extension publications web page (http://ag.arizona.edu/pubs).

Table 1. Active ingredients you should avoid using in your RV holding tank deodorizers.

Active Ingredient	Threats to Human and Environmental Health
Bronopol (chemical name: bromo-nitropropane-diol)	bacterial pesticide
Dowicil (chemical name: 1-(3-chloralkyl)-3,4,7-triaza-1-azoniaadamantane chloride)	bacterial pesticide (EPA states "Do not discharge effluent containing this product to sewer systems without previously notifying the local sewage treatment plant authority.")
Formaldehyde (also known as Formalin; degradate of bronopol)	kills or retards bacterial growth, recognized by EPA as probable carcinogen[1]; moderately toxic to humans[2]
Glutaraldehyde (also known as embalming fluid)	Retards bacterial growth and covers sewage odor, eye/inhalation irritant
Paraformaldehyde (polymerized formaldehyde)	very toxic to humans[3] (see formaldehyde)
Para-dichlorobenzene (common ingredient in mothballs, urinal cakes, and toilet bowl fresheners)	known carcinogen[1] and drinking water contaminant; moderately toxic to humans[2]

[1] a carcinogen causes cancer
[2] lethal dose for 150 lb person is between 1 ounce to 1 pint
[3] lethal dose for 150 lb person is between 1 teaspoon to 1 ounce

This fact sheet was adapted from *Alert for RV, Boat and Mobile Home Owners and Park Operators About Safe Wastewater Disposal*, EPA Publication 909-F-99-002, July 1999.

Issued in furtherance of Cooperative Extension work, acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture, James A. Christenson, Director, Cooperative Extension, College of Agriculture and Life Sciences, The University of Arizona.

4B

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

Tamminen
Secretary for
Environmental
Protection

http://www.swrcb.ca.gov/rwqcb1/
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: 1 (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

Arnold
Schwarzenegger,
Governor

April 26, 2004

Mr. Jay Sarina
Del Norte County Planning Department
981 H Street, Suite 110
Crescent City CA 95531

Dear Mr. Sarina:

Subject: Richard Reed; UP0412C Use Permit for an RV Park
File: Reed RV Park, Del Norte County

This letter is a supplement to our March 8, 2004, letter regarding the subject project. Our March 8 letter questioned the CEQA environmental checklist response that the proposed project will have a less than significant impact with respect to water quality standards. The proposed project has a high volume of wastewater proposed for disposal in an area of sandy soils and high ground water. It also expressed our concern that the project receive proper maintenance, monitoring, and repairs.

We still do not concur with your proposed issuance of a negative declaration pursuant to CEQA for the proposed project because the initial study does not adequately consider water quality impacts. In the event the County issues a conditional use permit for the proposed project, it should be conditioned, at a minimum, upon: 1) the applicant having a wastewater system designed and constructed in accordance with the Regional Water Board's on-site system policy, 2) the applicant obtain waste discharge requirements from the Regional Water Board, and 3) the applicant have the wastewater treatment system operated, maintained, and inspected at least annually by a public entity that is empowered to carry out such functions.

Please contact staff engineer Albert Wellman at wella@rb1.swrcb.ca.gov if you have questions.

Sincerely,

Thomas B. Dunbar

Thomas B. Dunbar
Senior Water Resource Control Engineer

ALW:tab/reedrvparkrowdrequest.doc

cc: Leon Perreault, Del Norte County Health Department, 880 Northcrest Drive, Crescent City, CA 95531
Richard Reed, 302 Buzzini Road, Crescent City, CA 95531

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

Terry Tamminen
Secretary for Environmental Protection

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Arnold Schwarzenegger
Governor

March 8, 2004

Mr. Jay Sarina
Del Norte County Planning Department
981 H Street, Suite 110
Crescent City CA 95531

Dear Mr. Sarina:

Subject: Richard Reed UP0412C Use Permit for an RV Park

File: Del Norte County

This office recently received notice of completion of a negative declaration for issuance of a use permit for a recreational vehicle park requiring a mound system for disposal of approximately five thousand gallons per day of sanitary wastewater. We question the environmental checklist response that this project will have a less than significant impact with respect to water quality standards. The proposed project is the latest in a series of large septic systems recently proposed for coastal Del Norte County in the vicinity of the Smith River plain. The cumulative water quality impacts of these systems may be significant in this area of heavy precipitation and shallow ground water.

By letter dated November 17, 2003, Tom Dunbar requested Del Norte County to form a legally responsible entity of dischargers in conformance with the Regional Water Board's *Policy On The Control of Water Quality With Respect to On-site Waste Treatment and Disposal Practices*. We are unable to continue review of this project and will be unable to complete review of future development proposals until a legally responsible entity is formed to perform maintenance, monitoring, and repair of individual waste treatment and disposal systems.

We cannot support the proposed project or any proposal for waiver of ground water separation standards until a legally responsible entity is available to oversee large septic systems. Please call Tom Dunbar at 707-576-2701 if you have questions.

Sincerely,

Albert Wellman
Water Resource Control Engineer

ALW:js/ReedRvparkNegDecResponse

cc: Leon Perreault, Del Norte County Health Department, 880 Northcrest Drive, Crescent City, CA 95531
Ernie Perry, County of Del Norte, Community Development Department, 981 H Street, Suite 110, Crescent City, CA 95531
Richard Reed, 302 Buzzini Road, Crescent City, CA 95531

California Regional Water Quality Control Board

North Coast Region

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November 17, 2003

Ernie Perry
County of Del Norte
Community Development Department
981 H Street, Suite 110
Crescent City, CA 95531

Dear Mr. Perry:

Subject: Public Entity to Manage On-Site Wastewater Treatment and Disposal Systems

File: Del Norte County General

This office recently reviewed two very large proposed developments in Del Norte County that would be served by on-site wastewater treatment and disposal systems. In reviewing those proposals, our response included reference to the Regional Water Board's *Policy On The Control of Water Quality With Respect to On-site Waste Treatment and Disposal Practices*. The Policy states, in Section V. Maintenance Responsibilities:

> Maintenance, monitoring, and repair of individual waste treatment and disposal systems shall be the responsibility of:
>
> 1. The individual property owner; or
>
> 2. A legally responsible entity of dischargers empowered to carry out such functions. That legally responsible entity shall be a public agency, unless demonstration is made to the Regional Water Board that an existing public agency is unavailable and formation of a new public agency is unreasonable. If such a demonstration is made, a private entity must be established with adequate financial, legal, and institutional resources to assume responsibility for waste discharge.
>
> For subdivision developments where waste discharge requirements are prescribed by the Regional Water Board, the existence or formation of a legally responsible entity of dischargers shall be required.

We are unable to continue review of these two proposed developments and will be unable to complete review of future development proposals until a legally responsible entity is formed to perform maintenance, monitoring, and repair of individual waste treatment and disposal systems. Several types of public entities are authorized under California statutes to perform these functions, including a Septic Tank Maintenance District. In view of the currently proposed developments, I am interested in starting discussions of this process in Del Norte County.

Please let me know your thoughts on how this might proceed. You may call me at 707-576-2701 at your convenience.

Sincerely,

Thomas B Dunbar

Thomas B. Dunbar
Senior Water Resource Control Engineer

TBD:js/DN entity

cc: Leon Perreault, Del Norte County Health Department, 880 Northcrest Drive, Crescent City, CA 95531
Del Norte Housing Development Corporation, 286 M Street, Suite 286, Crescent City, CA 95531
Steve Wert, Wert & Associates, 2590 NE Courtney Drive, Suite #1, Bend, OR 97701
John DeBoice, Oscar Larson & Associates, P.O. Box 3806, Eureka, CA 95502-3806

STOVER ENGINEERING

PO Box 783 - 711 H Street - Crescent City, California 95531 (707) 465-6742 Fax (707) 465-5922
e-mail: stovereng@aol.com

MEMORANDUM

Reference: 3576

To: Del Norte County CDD

From: Erik Weber, PE

CC: File

Date: 1/26/04

Subject: Development Application Project Information Supplement

The proposed project consists of constructing an RV Park with 24 spaces. Spaces will include utility connections and be on a paved, relatively level surface. The drainage of the paved surface will be toward Buzzini Road.

The On-site Sewage Disposal System primary disposal area has been sized based to accommodate the proposed RV Park while the reserve area has been sized to accommodate the RV Park and the existing rental units.

Existing Septic Tank locations are based on the owner's first hand knowledge of where the tanks were actually installed and appears to conflict with preliminary information included with previous applications on file at the County.

(62)

State of California
The Resources Agency

DEPARTMENT OF FISH AND GAME

DRAFT
ENVIRONMENTAL IMPACT REPORT

Lake Earl Wildlife Area

SCH No. 1989013110

June 2003

APPENDIX B

HYDROLOGICAL ANALYSIS

Technical Memorandum - Final

Date: 26 July 2002

To: Melissa L. Bukosky
Associate Wildlife Biologist
California Department of Fish and Game
Northern California North Coast Region
Wildlife Program Branch
619 Second Street
Eureka, CA 95501

From: Jeffrey K. Anderson
Brian Schlosstein

Graham Matthews & Associates
P.O. Box 1516
Weaverville, CA 96093
(707) 825-0145 or (530) 623-5327

Subject re: Lake Earl and Lake Tolowa Hydrologic Review/Analysis

INTRODUCTION, PURPOSE AND SCOPE

The purpose of this technical memorandum is to provide the California Department of Fish and Game (CDFG) with background hydrologic information concerning the Lake Earl/Tolowa lagoon system, and provide an analysis of lagoon levels. It is anticipated that CDFG will use this memorandum in the preparation of the Environmental Impact Report regarding the Lake Earl Management Plan. The exact scope is as follows:

1. A statistical analysis that correlates rainfall to water surface elevations. Provided a correlation exists, then extrapolate data to estimate the pre-European, natural breaching regime (timing) in a naturally functioning watershed.

2. A characterization (summary, explanation) of the current hydrologic setting of the Lake Earl and Lake Tolowa lagoon system under existing watershed conditions and water level management based on a review or summary of all related existing hydrologic data, reports, and professional judgment. Include information on flood frequency, groundwater, and influence of the Smith River.

BACKGROUND TECHNICAL LITERATURE AND DATA SOURCES

Background information for this technical memorandum was taken from the following technical literature: Back (1957), Helley and Averett (1971), DWR (1987), McLaughlin and Harradine (1966), Tetra Tech Inc. (1999), and ACOE (1971).

Data used in this technical memorandum for analysis purposes included precipitation, continuous and static groundwater well levels, continuous Lake Earl/Tolowa water levels, and Smith River stage and discharge. Table 1 lists the name, station ID, data type, period of record, and agency responsible for the data.

Table 1
Summary of data and sources used in this study

Name	Station ID	Data Type	Period of Record	Source[1]
Crescent City 1 N	42147	Precipitation	1943 to current	NCDC
Lake Earl/Tolowa	-	Surface Level	1988 to 1999	DWR
Lake Earl/Tolowa	-	Surface Level	2000 to 2001	DNCPW
DFG Well	17N/1W-16Q1	Groundwater Level	1988 to 2000	DWR
Smith River near Crescent City	11532500	Discharge/Stage	1927 to current	USGS
Smith River at Dr. Fine Bridge	11532650	Stage	1984 to current	USGS

1) NCDC = National Climatic Data Center; DWR = California Department of Water Resources; DNCPW = Del Norte County Public Works; USGS = United States Geological Survey

The continuous lagoon level data provided by DWR contained missing data throughout the record. To provide a complete record, DWR estimated the missing data using linear interpolation for all periods except a portion of the 1997 record. The 2000 and 2001 lagoon level data provided by DNCPW also contained missing data. For 2001, linear interpolation was used to provide a complete record. The 2000 lagoon level record was not manipulated. Due to the length and number of missing data, it was decided not to use the 1997, 1999, 2000 and 2001 lagoon level data for this technical memorandum unless otherwise noted.

All elevations in this technical memorandum are referenced to feet above mean sea level (MSL), which is approximately equal to the 1929 North American Vertical Datum (NGVD29 datum).

LAKE EARL/TOLOWA LAGOON SYSTEM

Lake Earl and Lake Tolowa, collectively known as Lake Earl/Tolowa lagoon for this report, are located in Del Norte County, south of the mouth of Smith River and approximately 5mi north of Crescent City. The two lakes are connected by a narrow channel and thus form a single coastal lagoon system. Coastal lagoons can be defined as a broad, shallow estuarine type system isolated from the ocean by a barrier sand beach or spit, typically running parallel to the shoreline. Large fluctuations in both water depth and salinity are common in coastal lagoons because of natural or anthropogenic breaching of the sand barrier.

Lake Earl is approximately 3mi long and over 1mi wide, while Lake Tolowa is smaller and about 1.5mi long and 0.25mi wide. The combined surface area of the lagoon system

ranges from 2,191ac at a surface elevation of 2ft, to 4,826ac at an elevation of 10ft (Tetra Tech Inc., 1999). Bathymetric surveys of the lagoon were conducted by DWR between 1986 and 1992, and Figures 1 and 2 show the surface area/elevation and capacity/elevation relationships, respectively, for the entire Lake Earl/Tolowa lagoon. It should be noted that the bathymetric surveys were conducted between elevations -11 to 10ft only.

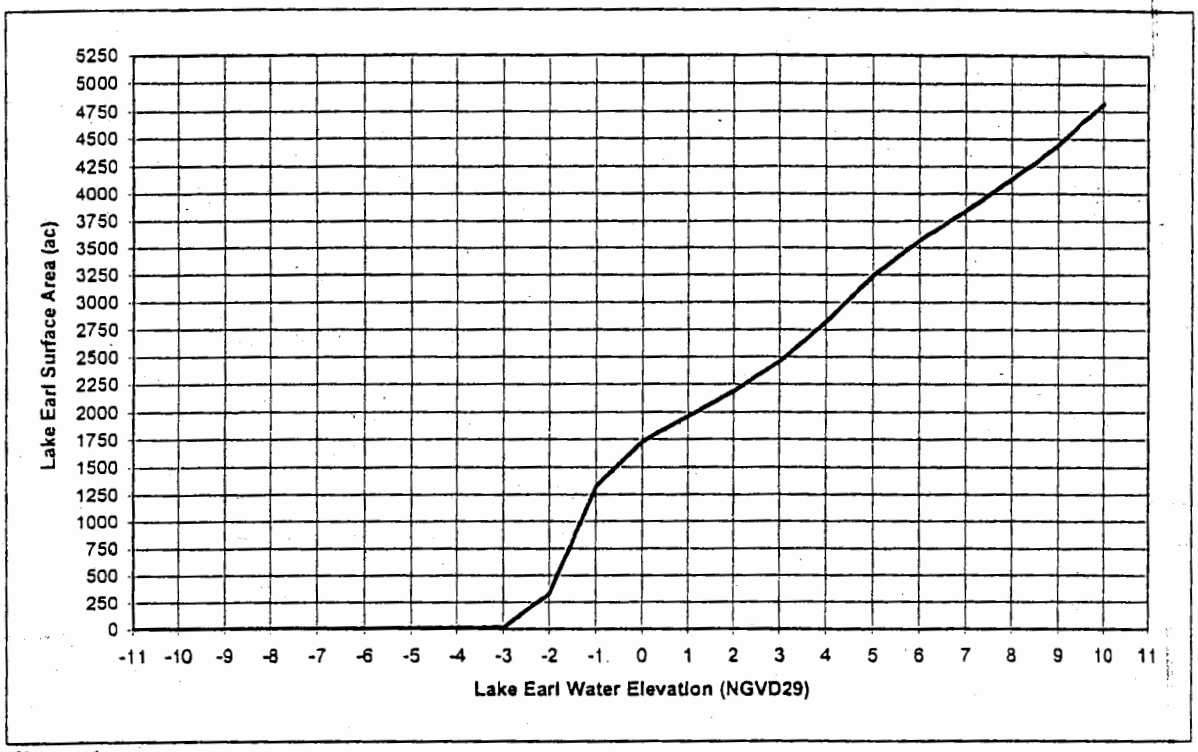

Figure 1
Plot of surface area versus water elevation for the Lake Earl/Tolowa lagoon.

Lake Earl Watershed

The watershed for the Lake Earl/ Tolowa lagoon encompasses an area of only about 32mi^2 in size. Surface water inflows occur from direct precipitation onto the lake, and streamflow from Jordan, Yonkers and other unnamed Creeks. Elevations within the watershed range from 5 to 800ft, with 90% of the watershed below 100ft in elevation (ACOE, 1971).

Precipitation

Precipitation in the Crescent City area (station 42147) averages 66.1in/yr, with a low of 33.2in/yr (1976) and a high of 102.5in/yr (1998). For analysis purposes, it will be assumed that this precipitation trend applies to the Lake Earl/Tolowa area. Figure 3 shows the total annual precipitation plotted against exceedance probability for station 42147. Exceedance probability is the probability that a specified magnitude (e.g. peak

flood discharge, or average daily streamflow) will be exceeded in any year (ACOE, 1996). Also shown on the figure is the total precipitation from October 1 to May 31 of a water year (WY), which will be used later for analysis in this memo. It should be noted that annual precipitation as reported by most climate centers is from January 1 to December 31 of each year. However, hydrologic data, such as streamflow, is reported as a water year (WY), and accounts for a period of data spanning two consecutive years. For example, WY 1998 is the period from October 1 to December 31 of 1997, and January 1 to September 30 1998. For the analysis contained in this technical memorandum most of the data is presented as WYs.

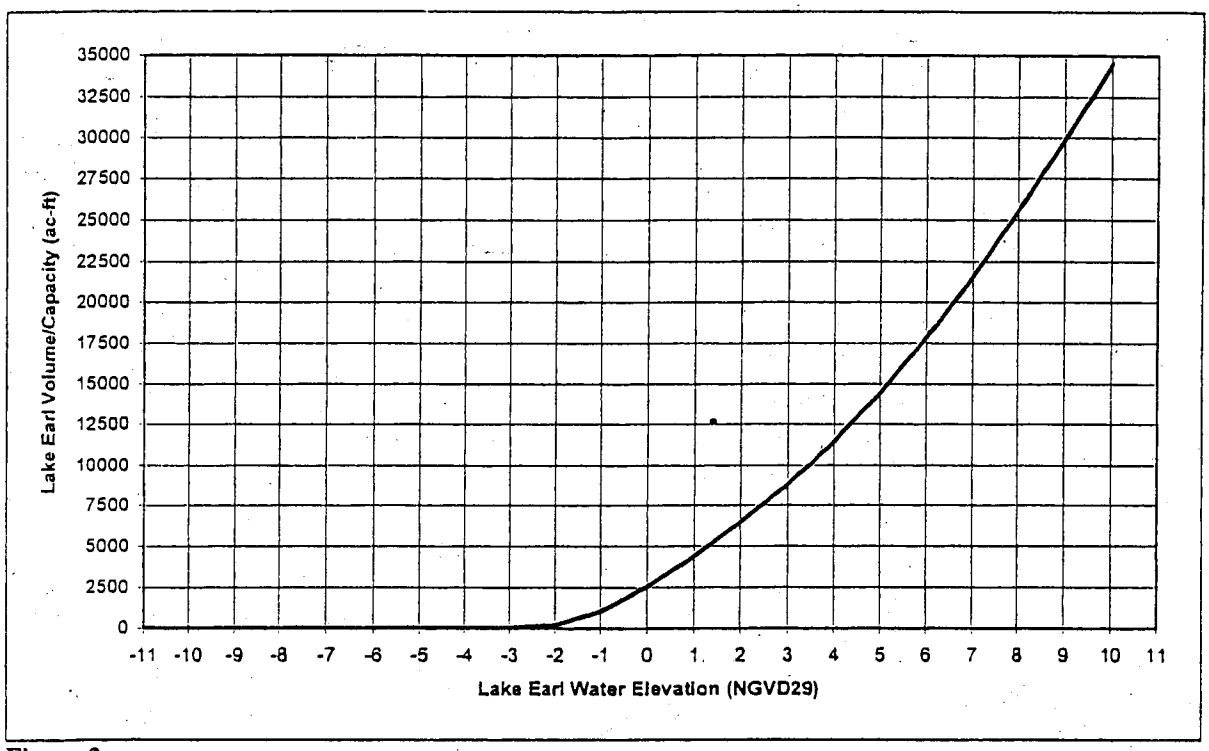

Figure 2
Plot of volume/capacity versus water elevation for the Lake Earl/Tolowa lagoon.

Watershed Geology and Soils

The Smith River Plain, also known as the Crescent City platform, is a large terrace consisting of the Battery and St. George Formations overlying Franciscan Complex bedrock. The Smith River Plain was formed in the late Pleistocene time when higher sea levels formed a wave-cut terrace and deposited unconsolidated fine sand forming the Battery Formation. During this time, the Smith River flowed through the saddle now crossed by HWY 199, and the mouth was near the intersection of HWY 199 and Elk Valley Road. As the Pleistocene sea retreated and the Smith River Plain begin to uplift, the Smith River extended across the Plain flowing in the ancestral channel now occupied by Jordan Creek. At the end of the Pleistocene and during early recent times, Lake Earl was at the mouth of the Smith River. As the Smith River Plain continued to uplift, the

Smith River deflected to the north forming a new channel were it has approximately flowed for the past 200,000 years.

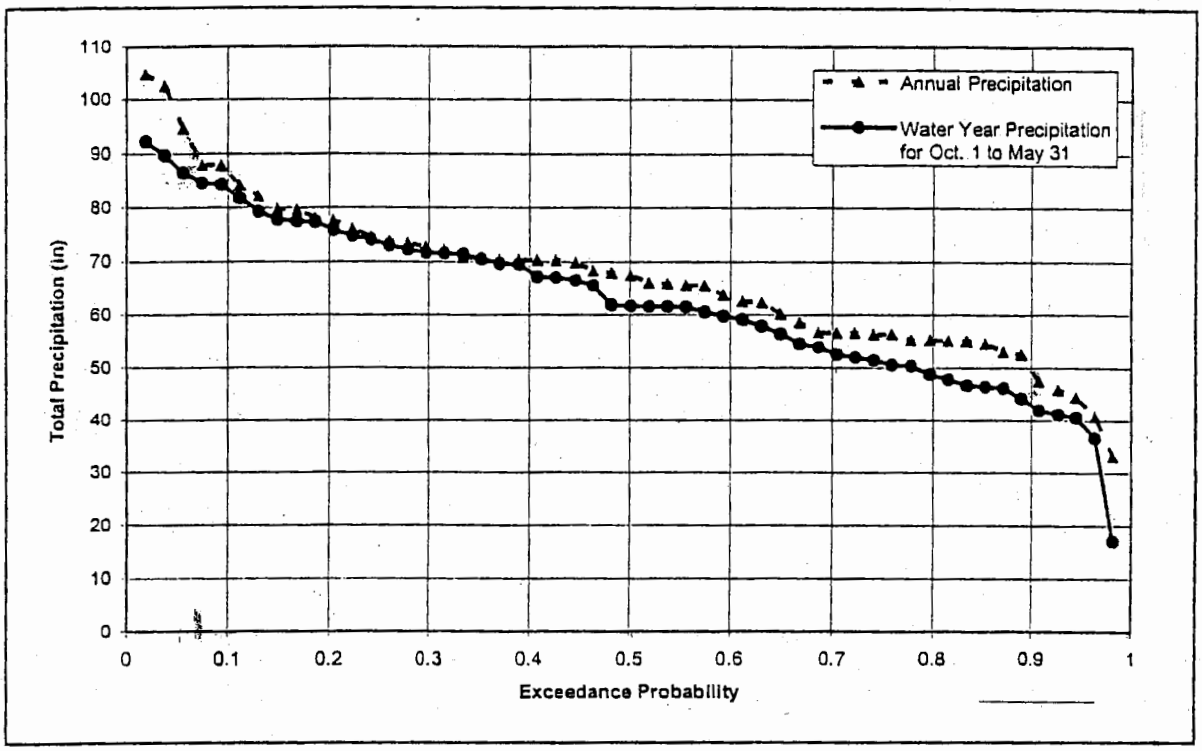

Figure 3
Plot of total annual precipitation and exceedance probability for Station 42147.

Today Lake Earl exists in a shallow depression within the Battery Formation. Lake Earl is bounded on the east and south by the same formation, and along the west by sand dunes. To the north, Lake Earl is bounded by more recent floodplain deposits from the Smith River. Except for the channel connecting it to Lake Earl, Lake Tolowa is completely contained within the sand dune system. Both the sand dunes and floodplain deposits rest on the Battery Formation.

The soils surrounding the Lake Earl/Tolowa lagoon are all relatively permeable. The Battery Formation, which is the principal groundwater aquifer on the Smith River Plain, consists of poorly stratified beds of silty sands, alternating with thin clay layers, and layers of stream deposited sands and gravel east of Lake Earl. Hydraulic conductivities, or permeability, in the Battery Formation ranges from 20.0 to 120 feet per day (ft/d). Floodplain deposits consist of well-rounded and poorly sorted sands and gravels, with some intermixed silt. Hydraulic conductivities are high ranging upward from 804ft/d, and average about 1340ft/d. The sand dunes consist of well-sorted, medium to find sand, and are moderate to highly permeable. Numeric values of hydraulic conductivity for dune sand were not found in the literature; however, conductivities would likely be higher than the Battery Formation and lower than the floodplain deposits.

The high permeability of the Lake Earl/Tolowa watershed is important in describing its hydrologic regime. Since the soils surrounding the lagoon are permeable, surface runoff from rainfall is generally low, and most of the precipitation infiltrates into the shallow groundwater surrounding the lake, especially in the sand dunes to the west. As will be discussed later, the Lake Earl/Tolowa lagoon receives a significant portion of its inflow from direct groundwater discharge.

Regional Groundwater Levels and Movement

Figure 4 is a groundwater contour and movement map of the Smith River Plain for spring 1987 developed by DWR (1987). In general, it can be seen that groundwater moves from east to west (from the base of the hills towards Lake Earl/Tolowa and the ocean) due to the prominent westward sloping groundwater gradient. The primary source of groundwater discharge in the Smith River Plain is to springs, seeps and streams that flow into Lake Earl/Tolowa, direct discharge into the Smith River, or to springs and seeps that drain directly to the ocean.

In the north half of the basin groundwater generally discharges into the Smith River until about ½ mile below Dr. Fine Bridge (Figure 4). From that point and downstream, it appears the Smith River gains water from its north bank and loses or infiltrates water into the south bank of the river. The shape of the 10ft groundwater contour south of the river along this stretch indicates that groundwater moves under low hydraulic head from the Smith River to Tolowa Slough and Lake Earl. In the south half of the basin a groundwater divide exists 1 mile north of Crescent City. North of this divide, groundwater flows toward Lake Earl, and south of the divide groundwater flows into Elk Creek or discharges by seepage along the west sea cliffs. South of Lake Earl high groundwater exists near the airport. Groundwater in this area flows north towards Lake Earl and the ocean, and south towards the ocean. In the permeable sand dune areas west of Lake Earl, groundwater, which would be derived almost entirely from rainfall infiltration, flows east, north and south towards Lake Earl/Tolowa, or west towards the ocean.

Along the coastline, the potential exists for saltwater intrusion to move inland from the ocean. However, as noted by DWR (1987), the westward sloping groundwater gradient, high precipitation, and abundant groundwater discharge provides favorable hydrogeologic conditions against saltwater intrusion.

Based on groundwater level monitoring in several wells, DWR (1987) concluded that in the Smith River Plain, rainfall causes rapid fluctuations in the groundwater table during winter and spring periods, which is due to the overall permeability of the Plain. In the summer and fall, groundwater levels drop as discharge and minor evapotranspiration of the groundwater occurs, with levels approaching a more static condition in the fall.

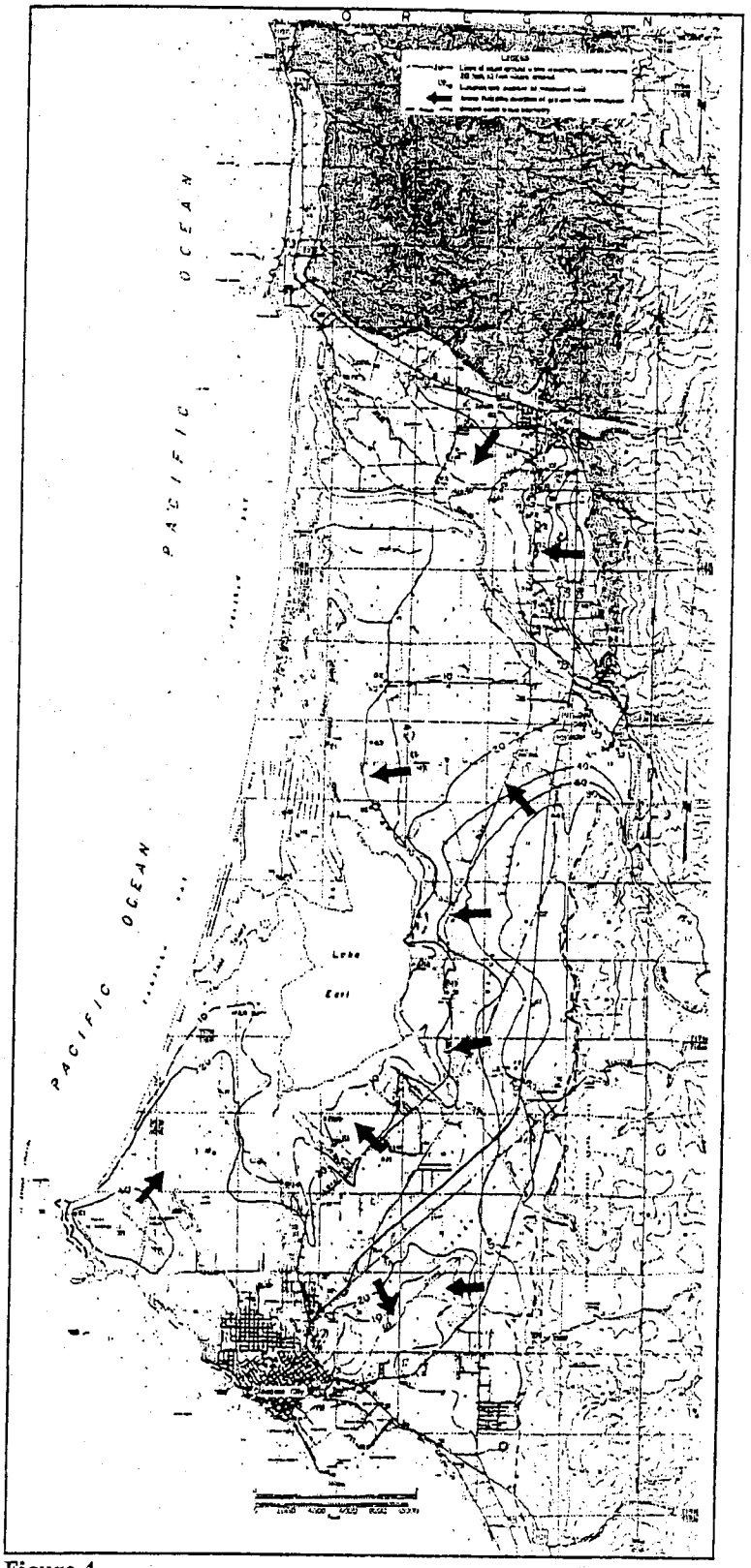

Figure 4
Groundwater contour and direction map (source DWR 1987).

DWR (1987) further concluded, based on groundwater level recorders near Lake Earl/Tolowa, that groundwater discharges to the lagoon all around its perimeter. During one monitoring period on May, after the Lake Earl/Tolowa breach closed, lagoon levels began to rise 0.1 foot per day (ft/d). Groundwater levels in a well located 600ft from the lake (well 17N/1W-34D1) showed that groundwater levels dropped 0.1ft/d during this same period. DWR further stated that all other groundwater well recorders near Lake Earl/Tolowa showed the same trend for this period, which was discharge of groundwater to Lake Earl/Tolowa.

Based on the groundwater work and analysis conducted by DWR (1987) and Back (1957), and the groundwater discussion above, it can be concluded that in general groundwater discharges into the Lake Earl/Tolowa lagoon from all around its perimeter during most of the year. Based on review of the technical literature, it is our opinion that the only likely place were water could actually infiltrate or seep (percolate) from the lagoon would be into the sand barrier along the west side of Lake Tolowa. This infiltrating water would flow west to the ocean and be tidally influenced, and if occurring, would account for some of the lagoon outflow. One exception to this may be during the late summer and fall periods, when groundwater levels in the sand dune areas west of Lake Earl and surrounding Lake Tolowa are low. During this time, it is possible that Lake Earl and Tolowa could provide some groundwater recharge, or seepage back into the sand dune groundwater table.

Lake Earl Water Surface and Groundwater Response

To further clarify how groundwater interacts with the Lake Earl/Tolowa lagoon, continuous groundwater level data for the DFG well (well 17N/1W-16Q1) and continuous lagoon level elevations for October 1987 to June 1990 (water year 1988, 1989, and 2000) were plotted (Figure 5). The DFG well is the closest well to Lake Earl (located north of Lake Earl and south of Lower Lake Road) that has continuous groundwater level data during periods when continuous lagoon level data existed. Also plotted on Figure 5 is the Smith River stage at Dr. Fine Bridge, and cumulative precipitation for this period.

For lagoon elevation, Figure 5 shows the general trend of how Lake Earl/Tolowa currently responds to breaching episodes. Starting around October or November of each year the lagoon level rapidly increases from groundwater and precipitation input. When the level reaches elevation 8ft or greater, the lagoon is mechanically breached and water levels rapidly drop to an elevation of 3ft in less than 2 days (Tetra Tech Inc., 1999). From this point, the lagoon level begins to fluctuate due to tidal influences (inflow) from the open breach. The fluctuations begin with an amplitude of about 1ft, but as lagoon elevation continues to decrease overall, the fluctuations increase to 1.5ft (Tetra Tech Inc., 1999). During this fluctuation period, the lagoon level will generally range about 2 to 3ft in elevation. After a period, the breach closes off the lagoon so that outflow to and inflow from the ocean cannot occur. Generally, the lagoon level will rapidly gain in elevation, and depending on rainfall conditions can reach an elevation of 8ft or greater

requiring a second mechanical breach. For Figure 5, two breach events occurred in water year 1988 and 1999, but only one breach occurred in 2000. Following the winter and spring rainfall period (October through May), lagoon elevations begin to level off around June as rainfall ceases, and then levels begin to drop in summer and fall (June to September) due to evapotranspiration and groundwater seepage.

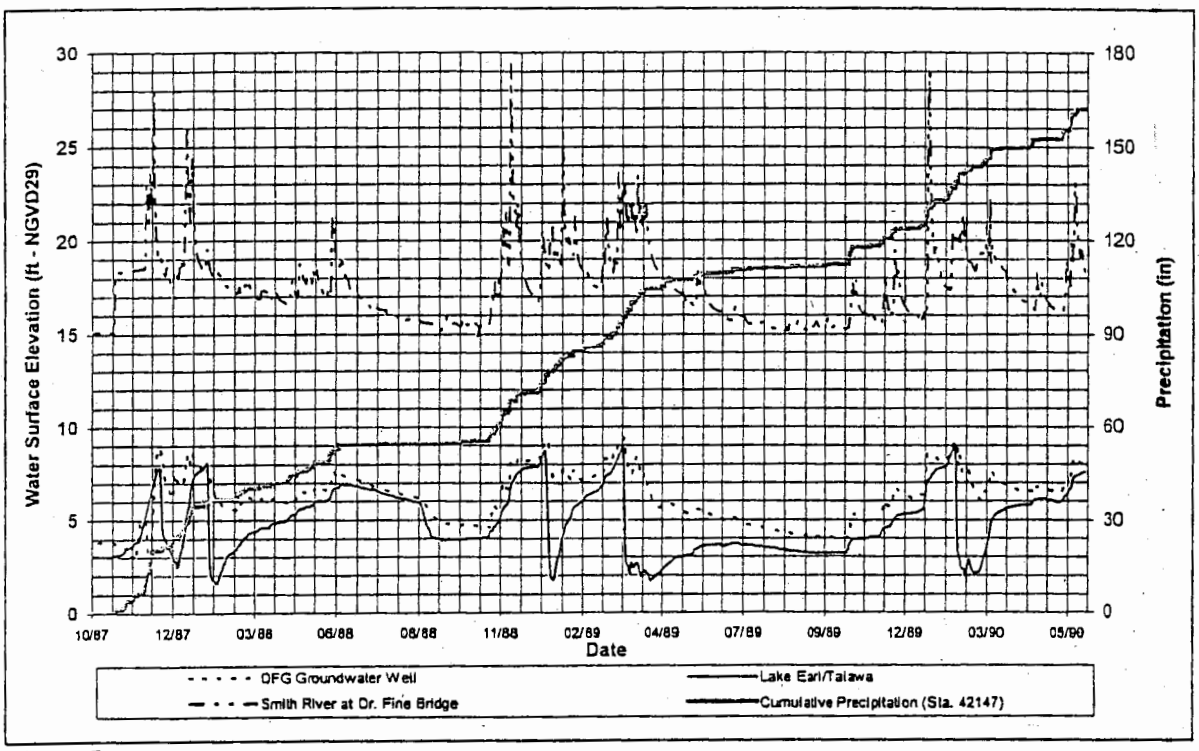

Figure 5
Plot of DFG groundwater well, Lake Earl/Tolowa elevation, Smith River at Dr. Fine Bridge stage, and cumulative precipitation (Sta. 42147) for water year 1988, 1989, and 1990 (data was only plotted to 16 June 1990).

For the DFG well, groundwater level fluctuations generally follow lagoon elevation fluctuations (Figure 5). For almost the entire 3-year period, the groundwater level was always greater than the lagoon level, indicating that the groundwater gradient is towards the lagoon forcing groundwater discharge into the lagoon for the entire period. However, in the winter of 1987, two short periods existed when the lagoon elevation was actually greater than the groundwater levels. This was due to the lagoon level rising faster than groundwater levels, which was likely caused by rapid lagoon response to rainfall. These periods only lasted for a short time until either the groundwater level rose above the lagoon level, or the lagoon level dropped below the groundwater level. During these short periods, it is possible that lagoon surface water could infiltrate into groundwater, since lagoon level is higher than the groundwater level. However, it should be pointed out that this condition appears to occur infrequently, and is a short-term condition.

As can be seen in Figure 5, lagoon and groundwater levels, along with the Smith River stage, are very responsive to rainfall, and generally track each other. Qualitatively, this figure also shows how Lake Earl/Tolowa lagoon levels appear dependent on both groundwater and rainfall inputs.

Coastal Lagoon Breaching

Breaching of coastal lagoons is a complicated physical process that is dependent on such things as wave power, tidal prism, lagoon level, lagoon area, freshwater inflows, season, and barrier or breach configuration, and a detailed discussion of these breaching mechanisms is beyond the scope of this technical memorandum. To provide a concise discussion of the breaching process of coastal lagoons, the following paragraph was taken from a California Coastal Commission staff report regarding the Lake Earl/Tolowa lagoon (CCC, 1999):

> "Coastal lagoons are estuarine waters intermittently separated from the ocean by sand spits or barriers. They form at the mouths of rivers and streams where the velocity of freshwater flow to the ocean is too low to overcome the accumulation of sand from nearshore currents. The sand deposited by currents form a sand spit or barrier across the mouth of the stream, separating the stream from the ocean. Water accumulates behind the barrier to form a lagoon. Water continues to collect increasing the size of the lagoon until it overtops or liquefies the sand spit and erodes an opening by which the trapped water escapes to the ocean. As the lagoon flows into the ocean, its size and depth diminish until reaching equilibrium with the average tides. During the period that a lagoon is open to the ocean, saltwater flows in and out with the tides creating a saltwater or brackish condition in the lagoon. Eventually, the nearshore currents deposit sufficient sand to reform the barrier and close the lagoon, beginning the process anew. The period of this cycle is irregular because of the many variables involved (e.g., rainfall, tides, currents, wind, etc.). The processes that create the Lake Earl lagoon have developed over thousands of years and the species inhabiting the lagoon have evolved over the millennia to adapt to this estuarine ecosystem."

To add to the above discussion, it is our opinion that the most likely natural breaching mechanism of local coastal lagoons (including Lake Earl/Tolowa) is when the lagoon overtops the sand barrier and begins flowing into the ocean. The over flowing water erodes the barrier forming a channel and confining the flow. As the velocity of the flow increases, more sand is eroded and the channel continues to increase in size until equilibrium is reached between the opening size, discharge, shear stresses, available hydraulic energy, etc. The closing mechanism of the breach is a function of the forces acting on the inlet, and include wave forces and flood tide which move sand inward onto the barrier and close the inlet, and the ebb tide which removes sand from the barrier and keeps the inlet open (Johnson, 1976). After the lagoon empties following a breach, the amount of inflow, either from the flood tide and/or from freshwater flows, and the wave power, will determine how long a breach remains open. If enough water exists in the lagoon to remove the sand deposited on the ebb tide (tidal prism), then the breach will likely remain open. However, if enough water does not exist for the ebb tide, or if storm surges or strong currents deposit excess sand that the ebb tide cannot remove, than the breach will close.

The Lake Earl/Tolowa lagoon breaches both naturally and by anthropogenic (mechanical) means. Table 2 provides a summary of breach events for the Lake Earl/Tolowa lagoon from 1987 to 2001. Due to missing and incomplete data, the 1997 and 2000 breach events were not included in Table 2. Included in the table is the number of breach events in each WY, date of breach, elevation of lagoon at the time of breach, and the number of days the breach was open. Between 1987 and 1999, Tetra Tech Inc. (1999) reported that the sand barrier between Lake Tolowa and the ocean breached approximately fourteen times. Recent work indicates that the lagoon has breached on seventeen known dates from 1988 to 2001 (Table 2), and if one considers the missing WYs (1997 and 2000), the number of breach events would be higher for this period. In general, it appears that the breach closes in a relatively short period following a breaching episode (Table 2). However, as noted by Tetra Tech Inc. (1999) and shown in Table 2, the February 1992 breach remained open for several months. Johnson (1976) provides an explanation of why the Lake Earl/Tolowa breach is rarely open, and why the opening closes rapidly following a breach event. By using high-water surface area of the lagoon as a measure of tidal prism, Johnson (1976) determined that the surface area or tidal prism of Lake Earl/Tolowa is too small in relation to the annual wave power to keep the breach open. In addition, the lack of excessive inflows into the Lake Earl/Tolowa lagoon, for example from a large river, also helps explain why the breach is rarely open.

Table 2
Summary of Lake Earl/Tolowa lagoon breach events for 1987 to 2001

Water Year	Water Year Rainfall (in)	Number of Lagoon Breaches In WY	Lagoon Level at Time of Breach (ft)	Date of Breach	Number of Days Breach Was Open (day)
1988	54.79	2	8.01	12/17/1987	16.8
			8.16	2/1/1988	9.0
1989	57.62	2	8.89	12/27/1988	8.0
			9.11	3/14/1989	27.3
1990	53.11	1	9.09	2/5/1990	21.5
1991	49.31	1	8.57	1/4/1991	18.0
1992	46.54	1	9.95	2/27/1992	121.1
1993	82.35	2	10.19	1/19/1993	14.6
			8.41	4/7/1993	86.3
1994	46.27	1	8.54	2/6/1994	64.6
1995	77.15	2	10.52	1/9/1995	77.0
			9.42	3/27/1995	65.3
1996	76.01	1	9.96	1/2/1996	87.2
1998	86.43	2	8.12	12/7/1997	67.2
			6.77	2/21/1998	26.2
1999[1]	81.77	Unknown (1)	9.52	11/24/1998	34.7
2001	36.64	1	9.27	1/27/2001	8.1

1) 1999 contained missing data in later part of WY, so another breach could have occurred besides the one breach on 24 November 1998.

An important item concerning natural breaching of the Lake Earl/Tolowa lagoon, or any coastal lagoon, is the height that the sand barrier reaches between breaching episodes. This is especially important concerning the water level that a lagoon will reach, especially for the first breach in the late fall or winter, and barrier height can be used to determine a potential maximum level that a lagoon may reach prior to breaching. For the Lake Earl/Tolowa lagoon, north winds deposit sand onto the barrier through late spring, summer, and fall, further increasing the height of the barrier, and the ultimate height that the barrier reaches can be used to determine the maximum height that the lagoon could reach before a natural breach occurs. To help determine the potential maximum height that the Lake Earl/Tolowa lagoon could reach prior to a natural breach, it is recommended that the height of the barrier be measured between breach events. According to DNCPW staff (personal communication, 2002) the current elevation (June 2002) of the sand barrier ranges from 8.75 to 9.9ft.

Lake Earl/Tolowa Water Level Fluctuations

Currently, the sand barrier between Lake Tolowa and the ocean is mechanically breached for flood control purposes, and on occasion breaches naturally. Historically, mechanical breaching of Lake Earl/Tolowa has been done since the late 1800s.

The maximum level that the Lake Earl/Tolowa lagoon was allowed to reach before mechanical breaching occurred in the past is difficult to quantify, and review of the pertinent literature shows varied lake levels. According to various sources, the lagoon level prior to breaching appears to range from 4 to 10ft, with overall levels ranging from approximately 2 to 11ft.

The ACOE (1971) report indicated that Lake Earl was breached by order of the County Sanitarian when levels impeded the proper operation of local septic tanks. However, no lake level was given when this typically occurred. According to the ACOE report, normal lake level was about 4ft, and extremes may range from 12ft to mean sea level.

In a letter issued by the Humboldt – Del Norte County Department of Public Health (dated 15 August 1979) to Tom Owen (County Counsel), it was requested that "The Del Norte County Flood Control District must be allowed to open up the bar at Lake Tolowa at the beginning of the winter rainy season and to undertake opening of the bar all through this period with no qualifications regarding the lake level reaching or exceeding 6ft MSL."

In the Back (1957) paper, it was reported that residents indicated that at times surface waters flowed from Lake Earl to the Smith River through the Tolowa Slough area. It should be noted that for this to have occurred the elevation of Lake Earl would have had to be greater than 10ft, as that is the general elevation of the Tolowa Slough area. Based on ACOE (1971) Smith River cross sections in the location were the Smith River would overtop its south bank and flow into Tolowa Slough and ultimately Lake Earl, the top of

the south bank is approximately 14ft. Thus, it would be necessary for Lake Earl to reach an elevation of at least 14ft, before lagoon water could ever flow into the Smith River.

The CCC (1999) staff report indicated that historical records show that the lagoon level exceeded 8ft in five different years from 1950 to 1970. The staff report also documented breach levels of over 7ft in 1955 and 1970 (ACOE records), and Del Norte County flood control records show breach levels at 8.9ft in 1979, and 6.1ft in 1983.

Since about 1988, CDFG and Del Norte County cooperatively have managed the Lake Earl/Tolowa lagoon system. The current practice is to mechanically breach the lagoon when levels exceed 8ft. Using the DWR Lake Earl/Tolowa lagoon level data, it appears that the highest documented level the lagoon has reached since 1986 is 10.52ft (Table 2). Table 2 provides a summary of maximum levels in Lake Earl/Tolowa at the time of breaching from 1987 to 2001. Figure 6 is an average daily level duration curve (similar to a flow duration curve) of Lake Earl/Tolowa from 1987 to 2001, excluding the 1997 and 2000 WY data. Figure 6 can be used to determine the percent time that a specific lagoon level would be exceeded. By using Figure 6, it can be seen that the median (50% value) Lake Earl/Tolowa level is approximately 4.6ft. The figure also shows that the Lake Earl/Tolowa elevation exceeds 8ft only about 7% of the time. In other words, in any year the Lake Earl/Tolowa lagoon level is greater than 8ft approximately 26 days on the year.

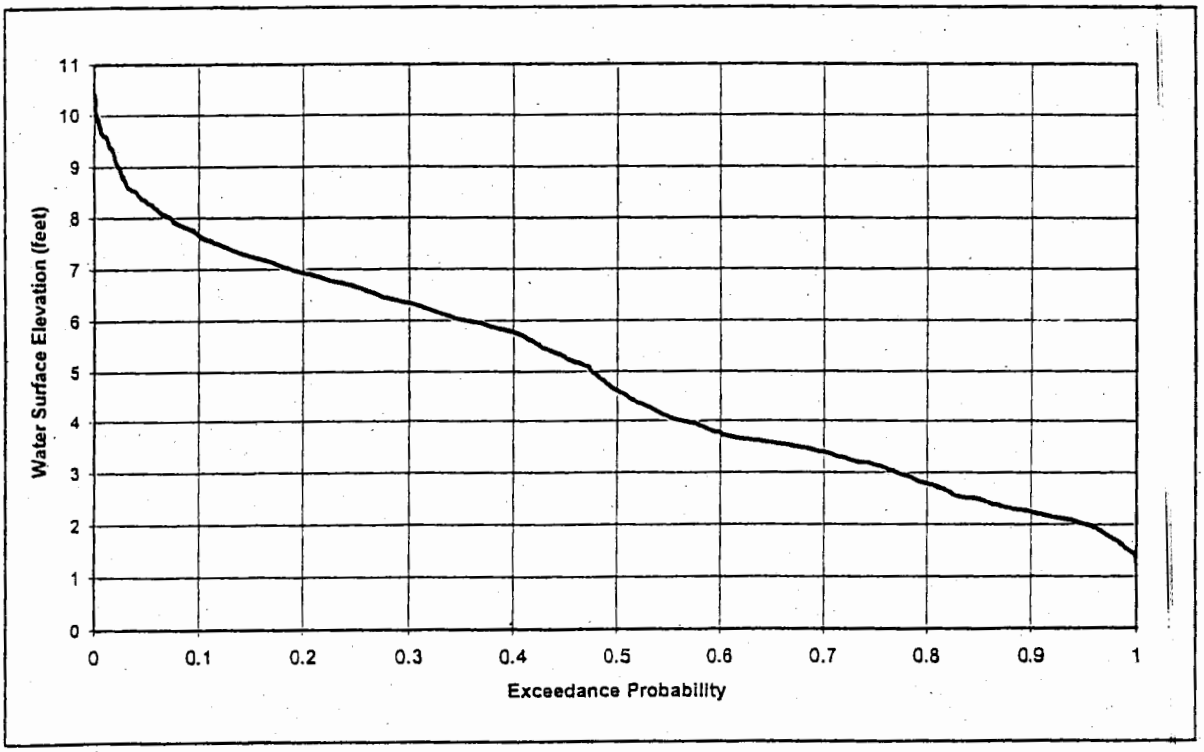

Figure 6
Lake Earl/Tolowa lagoon water surface elevation duration curve for data from 1987 to 2001, excluding 1997 and 2000 data.

Lake Earl/Tolowa Lagoon Level Extremes

The purpose of this section is to provide a brief summary of lake Earl/Tolowa lagoon level extremes based on past technical documents, and provide a discussion and analysis of Smith River flooding into the Lake Earl/Tolowa lagoon system. The past (prior to 1970) documented extreme lagoon levels ranged from 8 to 10ft, which then were considered flood levels in Lake Earl/Tolowa. However, today the Lake Earl/Tolowa lagoon is managed by CDFG and Del Norte County between an elevation of 8 to 10ft, which prior to 1970 were considered flood levels. As is often the case, flooding is based on the perception of the cause and effects of the flood conditions at the time of occurrence, and often that perception changes over time. For example, what was perceived as extreme flood levels in Lake Earl/Tolowa prior to 1970 is today considered upper limits for annual mechanical breaching of the lagoon based on current management practices.

Lake Earl/Tolowa Lagoon Level Extremes Based on Past Literature

Lake Earl/Tolowa flooding is caused by two conditions, intense rainfall onto the lagoon watershed, and overflow flooding from the Smith River (ACOE, 1971). Prior to 1971, the highest recorded Lake Earl/Tolowa flood level was over 10ft prior to mechanical breaching. The flooding was caused by an intense pacific storm that occurred in January 1970, and excess surface runoff, coupled with the inaccessibility to the sand barrier for mechanical breaching, caused lake Earl/Tolowa to rise over 10ft (ACOE, 1971).

The second cause of Lake Earl/Tolowa flooding is when the Smith River overflows it banks and floods into the lagoon. From 1927 through 1970, the Smith River has flooded into Lake Earl 5 times: February 1927, October 1950, January 1953, November 1953, December 1955 and January 1966 (ACOE, 1971). During peak flood stages, the Smith River overtops its south bank and floods through the Tolowa Slough area into the Lake Earl/Tolowa lagoon. During the 1964 Smith River flood event, floodwater overflowed the south bank of the Smith River and flowed into Lake Earl/Tolowa. Lagoon levels rose about 5ft to an elevation over 8ft, prior to a natural breach occurring in the sand barrier, allowing flood waters to discharge directly into the ocean.

Based on ACOE (1971) Smith River cross sections in the location were the Smith River overtops its south bank and flows into Tolowa Slough, shows that the south bank of the river is a large natural levee with a top elevation of approximately 14ft. The levee gradually slopes down to an elevation of about 10ft, which is the approximate surface elevation of the Tolowa Slough area. For the Smith River to overtop its bank and flood into Lake Earl, it is necessary for the river stage to exceed 14ft in this reach.

Flood Flow Frequency Analysis

A flood frequency analysis was conducted to determine the frequency in which the Smith River floods to a high enough stage so that flooding into Lake Earl occurs. Table 3 lists

the annual maximum stage data for the Smith River near Crescent City gage. It should be noted that the annual maximum series contained missing data for 1928, 1929, 1930 and 1931.

As stated earlier, the Smith River has flooded into Lake Earl 5 times: February 1927, October 1950, January 1953, November 1953, December 1955 and January 1966 (ACOE, 1971). Currently, it is not known if the Smith River has flooded into Lake Earl for any years later than 1970. For the 1927 to 1970 period, the lowest discharge for the Smith River in which flooding into Lake Earl occurred was 139,000cfs (37.8ft stage) on January 1953. For this analysis, it was assumed that flooding into Lake Earl from the Smith River would occur only when the discharge on the Smith River is greater than 139,000cfs. It was also assumed that the Smith River discharge for 1927 was greater than 139,000cfs, and the discharge for 1928, 1929, 1930 and 1931 was less than 139,000cfs. Another assumption is that the elevation of the south river bank separating the Smith River and the Tolowa Slough has not changed. Using this information and the annual maximum data for the Smith River near Crescent City (Table 3), an approximate frequency of Smith River overtopping into Lake Earl can be estimated (Table 4). Based on this analysis and assumptions, it appears that the Smith River will overtop and flood into Lake Earl approximately every 8.2 years.

Table 3
Annual maximum stage and discharge data for Smith River near Crescent City (Gage: 11532500)

	1920		1930		1940		1950		1960	
Year	Stage (ft)	Flow (cfs)	Stage (ft)	Flow (cfs)	Stage (ft)	Flow (cfs)	Stage (ft)	Flow (cfs)	Stage (ft)	Flow (cfs)
0					21.22	37200	30.9	91400	28.13	74300
1					23.2	46000	39.51	152000	27.28	69200
2			26.45	61700	26.4	62400	25.6	61500	27.71	71800
3			24.3	51500	30.9	91400	37.8	139000	34.1	113000
4			20.2	33100	21.92	40600	38	141000	31.22	93400
5			20.4	33900	25.05	56500	27.45	70200	48.5	228000
6			25.1	55500	35.6	123000	41.2	165000	38.53	145000
7	41.4		27.8	70100	24	50000	26.93	67100	30.35	87800
8			29.4	78900	29.6	83100	31.3	94300	28.72	77800
9			24.2	51000	26.42	64300	30.75	90400	27.32	69400

	1972 1970		1980		1990		2000	
Year	Stage (ft)	Flow (cfs)	Stage (ft)	Flow (cfs)	Stage (ft)	Flow (cfs)	Stage (ft)	Flow (cfs)
0	35.18	116000	29.94	76500	34.86	113000	25.7	82300
1	36.58	128000	29.7	74800	26.26	52700		
2	43.37	182000	31.8	89600	18.54	31700		
3	25.63	49800	31.64	88400	25.02	76400		
4	33.97	106000	29.36	72500	19.5	37000		
5	36.78	129000	26.76	55700	25.6	81400		
6	24.97	45400	32.78	96800	24.07	68500		
7	17.77	15800	24.49	42400	29.65	126000		
8	33.44	102000	30.01	76900	26.81	93200		
9	30.5	80300	34.58	111000	31.29	143000		

Table 4
Approximate flood frequencies for Smith River flooding into Lake Earl/Tolowa (1927 to 2000)

Assumed flood discharge at Smith River gage causing flooding to Lake Earl (cfs)	Number of events exceeding flood discharge 139,000cfs	Average return period (yr.)	Probability of occurrence
139,000	9	8.2	0.122

12x

LAKE EARL/TOLOWA LAGOON LEVEL MODEL

This section describes the model that was developed as part of this work to provide a relationship between Lake Earl/Tolowa surface elevations to rainfall. Results of this work was used to make inferences concerning maximum Lake Earl/Tolowa lagoon levels and timing under natural breaching conditions.

Description and Assumptions of LLMOD

Plots of rainfall versus Lake Earl/Tolowa lagoon levels did not reveal any sort of relationship (Figure 7). Neither did other rainfall/lake level sequences, such as weekly or monthly totals. It was concluded that other inflow mechanisms, such as groundwater inflow and watershed runoff, were important in describing lagoon level response to rainfall, which could not be accounted for in simple rainfall/lagoon level relationships. Thus, a simple empirical lagoon model was developed that accounted for rainfall, surface runoff, and groundwater inputs.

Development of the Lake Earl/Tolowa lagoon level model (LLMOD) is based on hydrologic mass balance principals, interpretation of the Lake Earl/Tolowa lagoon response to groundwater and precipitation (see above discussions), past experience with lake/lagoon systems, and professional judgment. LLMOD is based on mass balance principals and empirical relationships. The model was not developed to model the complex physical hydrologic/hydraulic interactions that occur between the lagoon, tributaries and watershed. Instead, the model can be considered a planning level tool and first-cut at a Lake Earl/Tolowa lagoon level model and results can be used to assist in developing lagoon level management strategies.

The intent of LLMOD was to develop a model that could predict relative maximum lagoon levels that would occur from hydrologic inputs without breaching of the barrier. The model assumes that no breach occurs, and predicts maximum lagoon elevations that could occur from hydrologic inputs. In should be noted that LLMOD often predicts maximum lagoon levels that are higher than the sand barrier. However, as will be seen, results provided by LLMOD can be used to draw conclusions concerning maximum levels that a lagoon could reach prior to natural breaching. The incorporation of dune heights and natural breaching into LLMOD was beyond the scope and funding of this report.

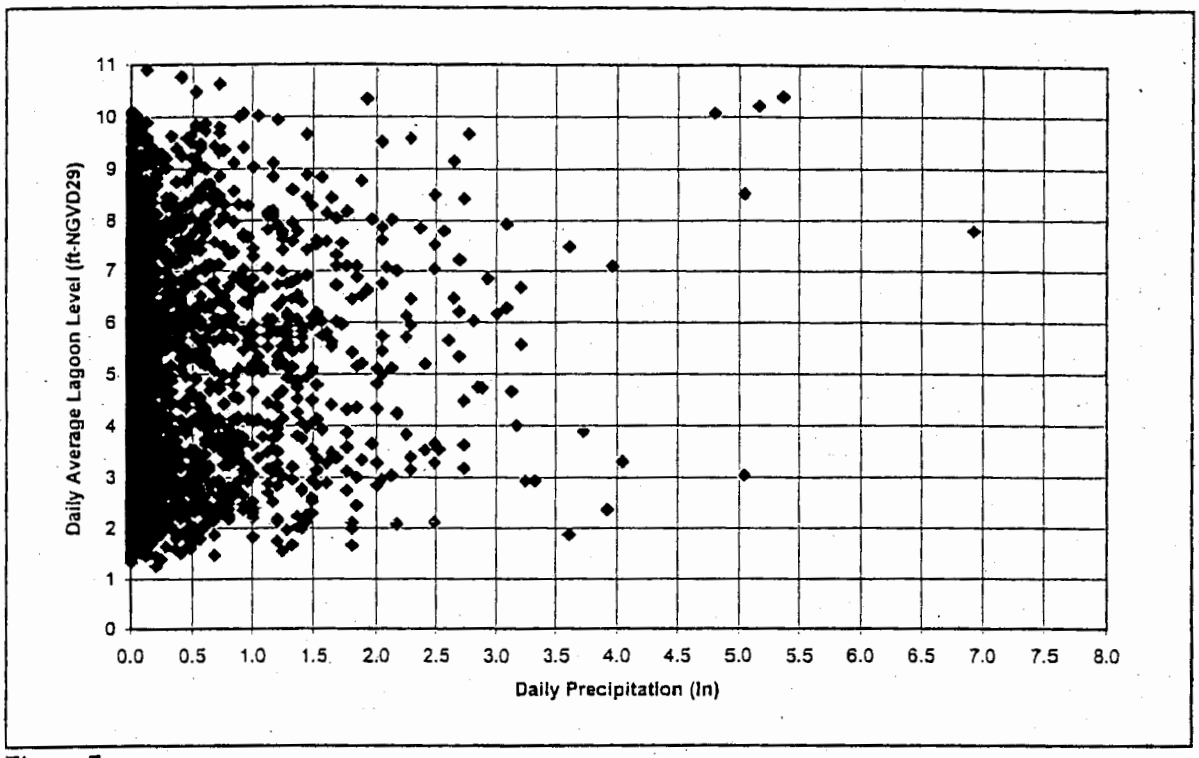

Figure 7
Plot of daily Lake Earl/Tolowa lagoon levels versus daily precipitation.

Assumptions inherent in LLMOD are as follows:

1. Model results can be considered relative maximum lagoon levels based on the calibrated parameters, hydrologic inputs, and initial lagoon elevations.
2. LLMOD predicts maximum lagoon levels based on hydrologic inputs, and calibrated parameters.
3. LLMOD was applied only for the period of a water year (WY) from October 1 to May 31 (WY analysis period).
4. During the WY analysis period, only inflow from groundwater and precipitation to Lake Earl/Tolowa occurred. This assumption was based on prior discussions concerning hydrologic inputs into Lake Earl/Tolowa.
5. During the WY analysis period, no outflow from Lake Earl/Tolowa occurred, which includes natural/mechanical breaching or groundwater loss.
6. The groundwater portion of the model adequately describes groundwater discharge into the Lake Earl/Tolowa lagoon system.
7. The rainfall/runoff portion on the model (rational method) adequately describes surface water runoff into the Lake Earl/Tolowa lagoon system.
8. Calibrated model parameters are constant over the WY analysis period.
9. The total travel time of all tributaries in the watershed are less than one day.

County of Del Norte

Lake Earl Elevation Data Logs - 3 pg. excerpt

1/12/04	14:45:00	2.65
1/12/04	15:00:00	2.65
1/12/04	15:15:00	2.66
1/12/04	15:30:00	2.66
1/12/04	15:45:00	2.66
1/12/04	16:00:00	2.66
1/12/04	16:15:00	2.66
1/12/04	16:30:00	2.66
1/12/04	16:45:00	2.66
1/12/04	17:00:00	2.66
1/12/04	17:15:00	2.66
1/12/04	17:30:00	2.66
1/12/04	17:45:00	2.66
1/12/04	18:00:00	2.65
1/12/04	18:15:00	2.64
1/12/04	18:30:00	2.64
1/12/04	18:45:00	2.62
1/12/04	19:00:00	2.61
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1/13/04	2:30:00	2.37
1/13/04	2:45:00	2.38
1/13/04	3:00:00	2.41
1/13/04	3:15:00	2.43

1/13/04	3:30:00	2.46
1/13/04	3:45:00	2.49
1/13/04	4:00:00	2.49
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1/13/04	6:00:00	2.57
1/13/04	6:15:00	2.56
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1/14/04	4:00:00	2.23
1/14/04	4:15:00	2.26
1/14/04	4:30:00	2.29
1/14/04	4:45:00	2.31

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

DEPARTMENT OF FISH AND GAME
1416 NINTH STREET
P.O. BOX 944209
SACRAMENTO, CA 94244-2090
(916) 653-7664

November 26, 1991

Ms. Diane Mutchie
Del Norte County Planning Department
700 5th Street
Crescent City, California 95531

Dear Ms. Mutchie:

SCH 91103037 - Notice of Preparation - Draft Environmental Impact Report (DEIR), McNamara Subdivision-Phase 3, Del Norte County

The Department of Fish and Game has reviewed the notice of preparation for a DEIR regarding the McNamara Subdivision-Phase 3 development. The proposed project entails a general plan amendment and rezone from general agricultural five-acre minimum to rural neighborhood 0-3 units/acre; rezone from general resource conservation area to designated resource conservation area; and subdivision of up to 51 lots.

The project location is adjacent to Lake Earl and consists of habitats composed of Sitka spruce forest, grazed pasture and freshwater wetlands. Lake Earl is an important wetland complex and is a major staging and breeding area during spring and fall for waterfowl and other birds. In addition, the lake supports the Federal candidate (endangered) tidewater goby (Eucyclogobius newberryi), and the federally-listed threatened Aleutian Canada goose (Branta canadensis leucopareia), and the adjacent areas are habitat for the federally-listed threatened Oregon silverspot butterfly (Speyeria zerene hippolyta).

Lake Earl supports a number of recreational activities such as fishing, waterfowl hunting, windsurfing, and bird watching. The Lakeview Avenue roadway immediately to the north is regularly used by recreationalists for access to the lake.

At present, lake elevations remain higher than occurred in the recent past. It is the Department's intent to allow these higher lake levels to remain unless impacts to the county's infrastructure are imminent, whereby artificial breaching of the lake may occur (i.e., during winter months when the majority of precipitation occurs).

The Department opposes the issuance of a permit which results in the loss of either wetland habitat acreage or wetland habitat values. We recommend a mapping effort be conducted on the site by a biologist trained in wetland delineations, using the method definition and classification system contained in the U. S. Fish and Wildlife Service publication, "Classification of Wetlands and Deepwater Habitat of the United States" (Cowardin, et al, 1979).

Once this mapping is completed, we recommend the proposed layout reflect the avoidance of any wetlands or other sensitive habitat, as well as the inclusion of at least a 100-foot buffer area outside the wetland/upland boundary to minimize the proximity of residential development to Lake Earl and the adjacent habitats. Incorporation of all the wetlands (or other sensitive habitat) into one parcel is highly recommended.

The site may have been tested for on-site sewage capabilities; however, it is unclear whether the currently higher lake levels are reflected in the current Phase 3 proposal. If not, retesting under present conditions is appropriate. The tidewater goby is highly sensitive to minor amounts of pollutants. Failure of sewage systems could impact this fish and its use of the immediate area.

The pasture area should be surveyed by a qualified biologist at the appropriate time of year for the presence of the common blue violet (Viola adunca J.E. Smith), the obligatory larval host plant of the Oregon silverspot butterfly. If Viola adunca is present, a comprehensive study to determine usage of the area by this butterfly during the next season would be warranted. Surveys for the occurence of the common blue violet should be conducted in the spring and summer. Surveys to detect the presence of the butterfly should be carried out during its flight period, also in the summer months. For more information concerning the Oregon silverspot butterfly, contact Mr. Chris Nagano, Entomologist, U. S. Fish and Wildlife Service in Sacramento at (916) 978-4866.

The ensuing document should discuss the potential conflicts with hunters using the periphery of the lakeshore and a planning design to avoid or offset these impacts should be discussed.

The Department does not favor increasing the density of residential development adjacent to Lake Earl. Such increased development would result in immediate direct losses of habitat for such species as deer, small mammals, quail, and other birds, reptiles, and amphibians. Indirect impacts such as avoidance of the adjacent areas by wildlife also could occur. The introduction of additional domestic pets, such as cats, would result in an increase in predation on nesting waterfowl and other ground nesting birds.

If you have any questions regarding the above comments and recommendations, please contact Mr. Banky E. Curtis, Regional Manager, Department of Fish and Game, 601 Locust Street, Redding, California 96001, telephone (916) 225-2363.

Sincerely,

Original Signed By
Howard A. Sarasohn for

Pete Bontadelli
Director

cc: Mr. Banky E. Curtis
Department of Fish and Game
Redding, California

Ms. Cecile Bryant
North Coast Regional Water
Quality Control Board
1440 Guerneville Road
Santa Rosa, California 95403

Mr. James Muth
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Mr. Chris Nagano
U. S. Fish and Wildlife Service
Endangered Species Office
2800 Cottage Way, Room E-1823
Sacramento, California 95825-1846

valuating properties for acquisition, allowing long-term costs associated with BMPs to be factored into the property purchase agreement.

A more extensive discussion of long-term BMP maintenance is included in Section 6.

2.4 Planning Principles

Planning and design for water quality protection employs three basic strategies in the following order of relative effectiveness: 1) reduce or eliminate post-project runoff; 2) control sources of pollutants, and 3) treat contaminated stormwater runoff before discharging it to natural water bodies. See Figure 2-5. These principles are consistent with the typical permit and local program requirements for Priority Projects that require a consideration of a combination of source control BMPs (that reduce or eliminate runoff and control pollutant sources) and treatment control BMPs with specific quantitative standards. The extent to which projects can incorporate strategies that reduce or eliminate post project runoff will depend upon the land use and local site characteristics of each project. Reduction in post project runoff offers a direct benefit by reducing the required size of treatment controls to meet the numeric standard included in the local permit. Therefore, project developers can evaluate tradeoffs between the incorporation of alternative site design and source control techniques that reduce runoff and pollutants, and the size of required treatment controls either included as part of the project or as a commitment to an offsite watershed-based program.

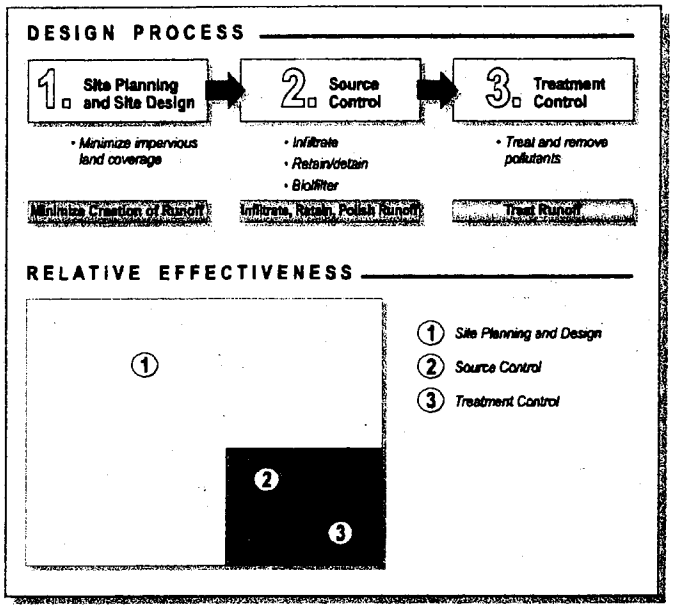

Figure 2-5
Planning Principles

2.4.1 Reduce Runoff

The principle of runoff reduction starts by recognizing that developing or redeveloping land within a watershed inherently increases the imperviousness of the areas and therefore the volume and rate of runoff and the associated pollutant load; and outlines various approaches to reduce or minimize this impact through planning and design techniques.

The extent of impervious land covering the landscape is an important indicator of stormwater quantity and quality and the health of urban watersheds. Impervious land coverage is a fundamental characteristic of the urban and suburban environment -- rooftops, roadways, parking areas and other impenetrable surfaces cover soils that, before development, allowed rainwater to infiltrate.

L08

Without these impervious coverings, inherent watershed functions would naturally filter rainwater and prevent receiving water degradation. Impervious surfaces associated with urbanization can cause adverse receiving water impacts in four ways:

- Rainwater is prevented from filtering into the soil, adversely affecting groundwater recharge and reducing base stream flows.
- Because it cannot filter into the soil, more rainwater runs off, and runs off more quickly, causing increased flow volumes, accelerating erosion in natural channels, and reducing habitat and other stream values. Flooding and channel destabilization often require further intervention. As a result, riparian corridors are lost to channelization, further reducing habitat values.
- Pollutants that settle on the impervious pavements and rooftops are washed untreated into storm sewers and nearby stream channels, increasing pollution in receiving water bodies.
- Impervious surfaces retain and reflect heat, increasing ambient air and water temperatures. Increased water temperature negatively impacts aquatic life and reduces the oxygen content of nearby water bodies.

Techniques for reducing runoff range from land use planning on a regional scale by permittees or other local planning agencies, to methods that can be incorporated into specific projects. These techniques include actions to:

- Manage watershed impervious area
- Minimize directly connected impervious areas
- Incorporate zero discharge areas
- Include self-treatment areas
- Consider runoff reduction areas.

Brief summaries of the following techniques are presented:

Manage Watershed Impervious Area

Land use planning on the watershed scale is a powerful tool to manage the extent of impervious land coverage. This planning has two elements. First, identify open space and sensitive resource areas at the regional scale and target growth to areas that are best suited to development, and second, plan development that is compact to reduce overall land conversion to impervious surfaces and reliance on land-intensive streets and parking systems.

Impervious land coverage is a practical measure of environmental quality because:

- It is quantifiable, meaning that it can be easily recognized and calculated.

- It is integrative, meaning that it can estimate or predict cumulative water resource impacts independent of specific factors, helping to simplify the intimidating complexity surrounding non-point source pollution.

- It is conceptual, meaning that water resource scientists, municipal planners, landscape architects, developers, policy makers and citizens can easily understand it.

Water resource protection at the local and regional level is becoming more complex. A wide variety of regulatory agencies, diverse sources of non-point source pollution, and a multitude of stakeholders make it difficult to achieve a consistent, easily understandable strategy for watershed protection. Impervious land coverage is a scientifically sound, easily communicated, and practical way to measure the impacts of new development on water quality.

Impervious area reductions also provide additional benefits such as reduced urban heat island effect, resulting in less energy use to cool structures and more efficient irrigation use by plants. Reductions have also be attributed to more human-scale landscaper and higher property values.

Minimize Directly Connected Impervious Areas (DCIA)

Impervious areas directly connected to the storm drain system are the greatest contributor to non-point source pollution. The first effort in site planning and design for stormwater quality protection is to minimize the "directly connected impervious area (DCIA)" as shown in Figure 2-6.

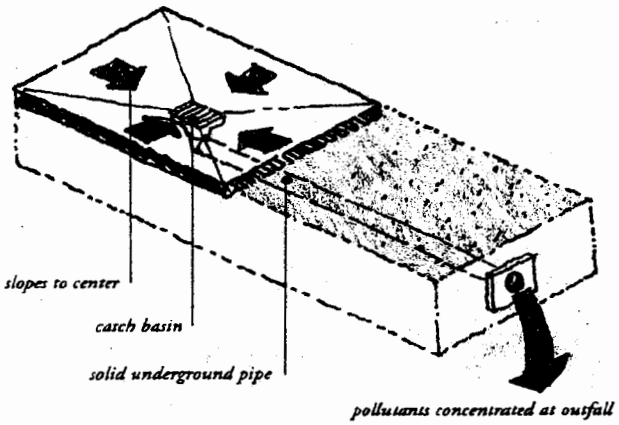

Figure 2-6
Directly Connected Impervious Area

Any impervious surface that drains into a catch basin, area drain, or other conveyance structure is a "directly connected impervious area." As stormwater runoff flows across parking lots, roadways, and paved areas, the oils, sediments, metals and other pollutants are collected and concentrated. If this runoff is collected by a drainage system and carried directly along impervious gutters or in closed underground pipes, it has no opportunity for filtering by plant material or infiltration into the soil. It also increases in speed and volume, which may cause higher peak flows downstream, and may require larger capacity storm drain systems, increasing flood and erosion potential.

Minimizing directly connected impervious areas can be achieved in two ways:

- Limiting overall impervious land coverage

- Directing runoff from impervious areas to pervious areas for infiltration, retention/detention, or filtration

Strategies for reducing impervious land coverage include:

- Cluster rather than sprawl development
- Taller narrower buildings rather than lower spreading ones
- Sod or vegetative "green roofs" rather than conventional roofing materials
- Narrower streets rather than wider ones
- Pervious pavement for light duty roads, parking lots and pathways

Example strategies for infiltration, retention/detention, and bio-filtration include:

- Vegetated swales
- Vegetated basins (ephemeral- seasonally wet)
- Constructed ponds and lakes (permanent- always wet)
- Crushed stone reservoir base rock under pavements or in sumps
- Cisterns and tanks
- Infiltration basins
- Drainage trenches
- Dry wells
- Others

Unlike conveyance storm drain systems that convey water beneath the surface and work independently of surface topography, a drainage system for stormwater infiltration can work with natural landforms and land uses to become a major design element of a site plan. Solutions that reduce DCIA prevent runoff, detain or retain surface water, attenuate peak runoff rates, benefit water quality and convey stormwater. Site plans that apply stormwater management techniques use the natural topography to suggest the drainage system, pathway alignments, optimum locations for parks and play areas, and the most advantageous locations for building sites. In this way, the natural landforms help to generate an aesthetically pleasing urban form integrated with the natural features of the site.

Incorporate Zero Discharge Areas

An area within a development project can be designed to infiltrate, retain, or detain the volume of runoff requiring treatment from that area.

The term "zero discharge" in this philosophy applies at stormwater treatment design storm volumes. For example, consider an area that functionally captures and then infiltrates the 80th

percentile storm volume. If permits require treatment of the 80th percentile storm volume, the area generates no treatment-required runoff.

Site design techniques available for designing areas that produce no treatment-required runoff include:

- Retention/Detention Ponds
- Wet Ponds
- Infiltration Areas
- Large Fountains
- Retention Rooftops
- Green roofs (roofs that incorporate vegetation) and blue roofs (roofs, that incorporate detention or retention of rain).

Infiltration areas, ponds, fountains, and green/blue roofs can provide "dual use" functionality as stormwater retention measures and development amenities. Detention ponds and infiltration areas can double as playing fields or parks. Wet ponds and infiltration areas can serve dual roles when meeting landscaping requirements.

When several "zero discharge" areas are incorporated into a development design, significant reductions in volumes requiring treatment may be realized.

"Zero discharge" areas such as wet ponds, detention ponds, and infiltration areas can be designed to provide treatment over and above the storm volume captured and infiltrated. For example, after a wet pond area has captured its required storm volume, additional storm volume may be treated via settling prior to discharge from the pond. In this case, the "zero discharge" area converts automatically into a treatment device for runoff from other areas, providing settling for storm volumes beyond treatment requirements. Another example is a grassy infiltration area that converts into a treatment swale after infiltrating its area-required treatment volume. The grassy infiltration area in this example becomes a treatment swale for another area within the development.

Figure 2-7 illustrates a residential tract, and a tract incorporating Zero Discharge Area techniques (infiltration areas). The Zero Discharge Area designed tract represents a design to infiltrate (i.e., achieve zero discharge from) a portion of the tract's runoff, reducing total runoff from the tract.

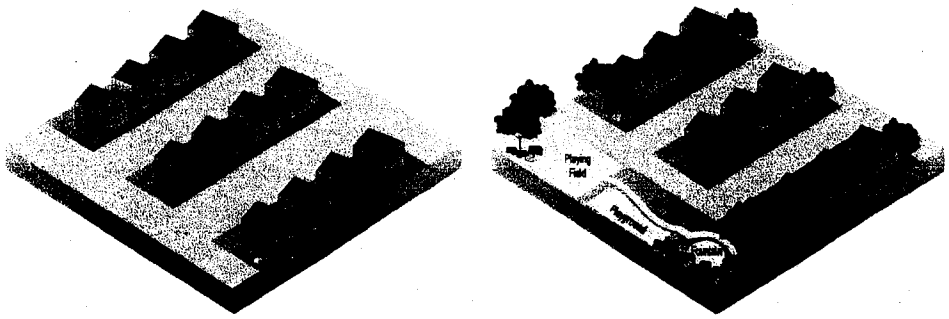

Figure 2-7
Zero Discharge Area Usage

Include Self-Treatment Areas

Developed areas may provide "self-treatment" of runoff if properly designed and drained.

Self-treating site design techniques include:

- Conserved Natural Spaces
- Large Landscaped Areas (including parks and lawns)
- Grass/Vegetated Swales
- Turf Block Paving Areas

The infiltration and bio-treatment inherent to such areas provides the treatment control necessary. These areas therefore act as their own BMP, and no additional BMPs to treat runoff should be required.

As illustrated in Figure 2-8, site drainage designs must direct runoff from self-treating areas away from other areas of the site that require treatment of runoff. Otherwise, the volume from the self-treating area will only add to the volume requiring treatment from the impervious area.

Likewise, under this philosophy, self-treating areas receiving runoff from treatment-required areas would no longer be considered self-treating, but rather would be considered as the BMP in place to treat that runoff. These areas could remain as self-treating, or partially self-treating areas, if adequately sized to handle the excess runoff addition.

Consider Runoff Reduction Areas

Using alternative surfaces with a lower coefficient of runoff or "C-Factor" may reduce runoff from developed areas. The C-Factor is a representation of the surface's ability to produce runoff. Surfaces that produce higher volumes of runoff are represented by higher C-Factors, such as impervious surfaces. Surfaces that produce smaller volumes of runoff are represented by lower C-Factors, such as more pervious surfaces. See Table 2-2 for typical C-Factor values for various surfaces during small storms.

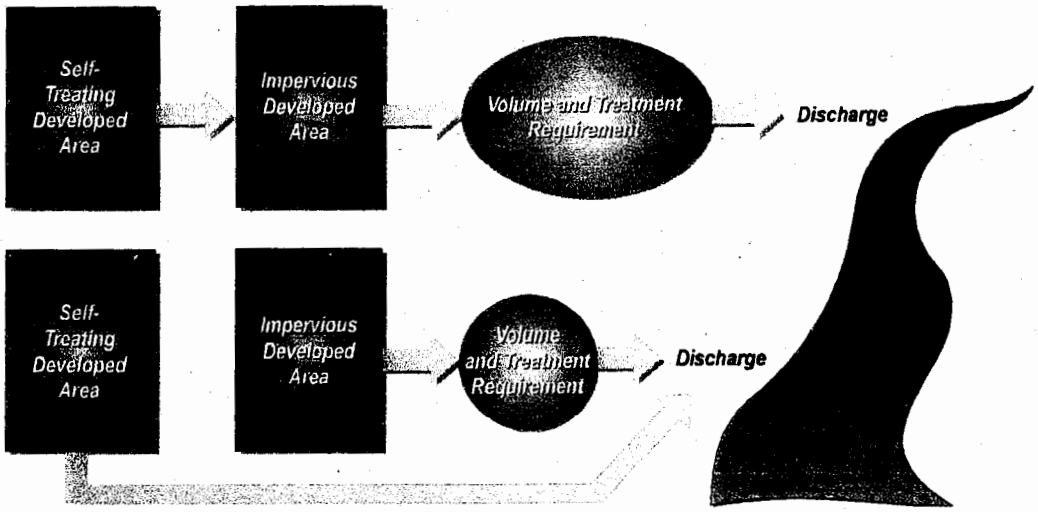

Figure 2-8
Self-Treating Area Usage

Table 2-2 Estimated C-Factors for Various Surfaces During Small Storms

Paving Surface	C-Factor
Concrete	0.80
Asphalt	0.70
Pervious Concrete	0.60
Cobbles	0.60
Pervious Asphalt	0.55
Natural Stone without Grout	0.25
Turf Block	0.15
Brick without Grout	0.13
Unit Pavers on Sand	0.10
Crushed Aggregate	0.10
Grass	0.10
Grass Over Porous Plastic	0.05
Gravel Over Porous Plastic	0.05

Note: C-Factors for small storms are likely to differ (be lower) than C-Factors developed for large, flood control volume size storms. The above C-Factors were produced by selecting the lower end of the best available C-Factor range for each paving surface. These C-Factors are only appropriate for small storm treatment design, and should not be used for flood control sizing. Where available, locally developed small storm C-Factors for various surfaces should be utilized.

Table 2-3 compares the C-Factors of conventional paving surfaces to alternative, lower C-Factor paving surfaces. By incorporating more pervious, lower C-Factor surfaces into a development (see Figure 2-9), lower volumes of runoff may be produced. Lower volumes and rates of runoff translate directly to lower treatment requirements.

Table 2-3 Conventional Paving Surface Small Storm C-Factors vs. Alternative Paving C-Factors

Conventional Paving Surface C-Factors	Reduced C-Factor Paving Alternatives
Concrete Patio/Plaza (0.80)	Decorative Unit Pavers on Sand (0.10)
Asphalt Parking Area (0.70)	Turf Block Overflow Parking Area (0.15)
	Pervious Concrete (0.60)
	Pervious Asphalt (0.55)
	Crushed Aggregate (0.10)

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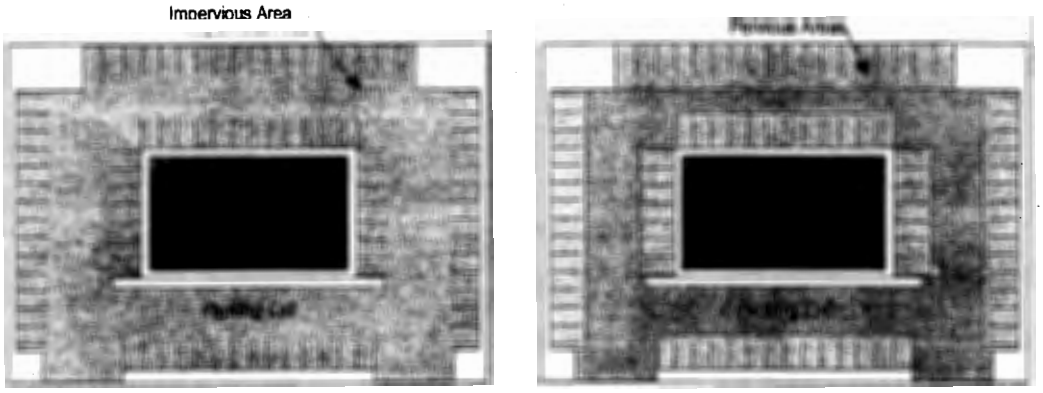

Figure 2-9
Impervious Parking Lot vs. Parking Lot with Some Pervious Surfaces

Site design techniques that incorporate pervious materials may be used to reduce the C-Factor of a developed area, reducing the amount of runoff requiring treatment. These materials include:

- Pervious Concrete
- Pervious Asphalt
- Turf Block
- Brick (un-grouted)
- Natural Stone
- Concrete Unit Pavers
- Crushed Aggregate
- Cobbles
- Wood Mulch

Other site design techniques such as disconnecting impervious areas, preservation of natural areas, and designing concave medians may be used to reduce the overall C-Factor of development areas.

Table 2-4 presents a list of site design and landscaping techniques and indicates whether they are applicable for use in Zero Discharge Areas, Self-Treating Areas, and Runoff Reduction Areas. Several different techniques may be implemented within the same design philosophy. Some techniques may be used to implement more than one design philosophy. Where feasible, combinations of multiple techniques may be incorporated into new development and redevelopment projects to minimize the amount of treatment required.

Table 2-4 Site Design and Landscaping Techniques

Site Design and Landscape Techniques	Design Criteria		Design Philosophy		
	Volume-Based Design	Flow-Based Design	Zero Discharge	Self – Treating	Runoff Reduction
Permeable Pavements					
Pervious concrete	X				X
Pervious asphalt	X				X
Turf block	X			X	X
Un-grouted brick	X				X
Un-grouted natural stone	X				X
Un-grouted concrete unit pavers	X				X
Unit pavers on sand	X				X
Crushed aggregate	X				X
Cobbles	X				X
Wood mulch	X				X
Streets					
Urban curb/swale system	X	X			X
Rural swale system	X	X			X
Dual drainage systems	X	X			X
Concave median	X	X	X		X
Pervious island	X	X			X
Parking Lots					
Hybrid surface parking lot	X				X
Pervious parking grove	X				X
Pervious overflow parking	X			X	X
Driveways					
Not directly connected impervious driveway		X			X
Paving only under wheels	X			X	X
Flared driveways	X				X
Buildings					
Dry-well	X		X		X
Cistern	X	X	X		X
Foundation planting	X	X			X
Pop-up drainage emitters		X			
Landscape					
Grass/vegetated swales	X	X		X	X
Extended detention (dry) ponds	X		X	X	X
Wet ponds	X		X	X	X
Bio-retention areas	X		X	X	X

2.4.2 Control Sources of Pollutants

There are a number of items that can be routinely designed into a project that function as source controls once a project is completed. They include such items as marking new drain inlets and posting informational signs; improving landscape planning and efficient irrigation methods; using water quality friendly building materials; implementing roof runoff controls; properly designing outdoor material and trash storage areas; and permanently protecting slopes and channels from erosion. They also include design features for specific workplace or other activity areas such as vehicle washing areas, outdoor processing areas, maintenance bays and docks, and fueling areas.

Design of BMPs to control workplace exposure to pollutants is guided by three general principles:

- Prevent water from contacting work areas. Work and storage areas should be designed to prevent stormwater runoff from passing through shipping areas, vehicle maintenance yards, and other work places before it reaches storm drains. The objective is to prevent the discharge of water laden with grease, oil, heavy metals and process fluids to surface waters or sensitive resource areas.

- Prevent pollutants from contacting surfaces that come into contact with stormwater runoff. Precautionary measures should be employed to keep pollutants from contacting surfaces that come into contact with runoff. This means controlling spills and reviewing operational practices and equipment to prevent pollutants from coming into contact with storm or wash water runoff.

- Treating water before discharging it to the storm drain. Treatment of polluted runoff should be employed as a last resort. If source control options are not possible, treatment measures that comply with NPDES permit requirements must be adopted.

Once BMPs are designed into a project, they must be appropriately operated and maintained throughout the life cycle of the project in order to accomplish the BMPs pollution control objectives. For information on post construction operation and maintenance of BMPs built into the project, the reader is referred to the Stormwater Best Management Practice Handbook – Industrial and Commercial, companions to this handbook.

2.4.3 Treat Runoff

Until recently, stormwater and street design systems were designed to achieve a single objective – to convey water off-site as quickly as possible. The primary concern of conveyance systems was to protect property from flooding during large, infrequent storms. Drainage systems designed to meet this single volume control objective fail to address the environmental effects of non-point source pollution and increases in runoff volume and velocity caused by development.

Today's drainage systems must meet multiple purposes: protect property from flooding, control stream bank erosion, and protect water quality. To achieve this, designers must integrate conventional flood control strategies for large, infrequent storms with stormwater quality control strategies.

There are several basic water quality strategies for treating runoff:

- Infiltrate runoff into the soil
- Retain/detain runoff for later release with the detention providing treatment
- Convey runoff slowly through vegetation
- Treat runoff on a flow-through basis using various treatment technologies

Solutions should be based on an understanding of the water quality and economic benefits inherent in construction of systems that utilize or mimic natural drainage patterns. Site designs should be based on site conditions and use these as the basis for selecting appropriate stormwater quality controls. The drainage system design process considers variables such as local climate, the infiltration rate and erosivity of the soils, and slope. Many of the negative impacts associated with urban development can be alleviated if policy alternatives encourage developers to protect and restore habitat quality and quantity, include measures to improve water quality, and provide buffers between development and stream corridors.

Unlike conveyance models, which are assessed by simple quantitative measures (flood control volumes and economics), water quality designs must optimize for a complex array of both quantitative and qualitative standards, including engineering worthiness, environmental benefit, horticultural sustainability, aesthetics, functionality, maintainability, economics and safety.

2.4.4 Planning Development Strategies in Practice

The importance of site planning in stormwater quality protection is illustrated in the following examples of development strategies: conventional residential subdivision (Figure 2-10, Alternative 1), conventional subdivision employing BMPs (Figure 2-11, Alternative 2), and a mixed-use transit-oriented development (Figure 2-12, Alternative 3). All three examples are intended to accommodate approximately 660 housing units on a 220 acre site adjacent to a creek.

The conventional residential subdivision (Alternative 1) accommodates 660 single-family homes on individual lots. One-sixth acre lots are accessed by a network of 40 ft wide cul-de-sac streets, with 5 ft sidewalks adjacent to the curb on each side of the street. The street and sidewalks are located within a 60 ft right-of-way, which is covered with a 40 ft wide street and two 5 ft sidewalks, or 50 ft of pavement, 100% impervious land coverage (streets only), and no room for street trees. No variation exists in housing types (all single-family).

Section 3
Site and Facility Design for Water Quality Protection

3.1 Introduction

Site and facility design for stormwater quality protection employs a multi-level strategy. The strategy consists of: 1) reducing or eliminating post-project runoff; 2) controlling sources of pollutants; and 3), if still needed after deploying 1) and 2), treating contaminated stormwater runoff before discharging it to the storm drain system or to receiving waters.

This section describes how elements 1), 2), and 3) of the strategy can be incorporated into the site and facility planning and design process, and by doing so, eliminating or reducing the amount of stormwater runoff that may require treatment at the point where stormwater runoff ultimately leaves the site. Elements 1) and 2) may be referred to as "source controls" because they emphasize reducing or eliminating pollutants in stormwater runoff at their source through runoff reduction and by keeping pollutants and stormwater segregated. Section 4 provides detailed descriptions of the BMPs related to elements 1) and 2) of the strategy. Element 3) of the strategy is referred to as "treatment control" because it utilizes treatment mechanisms to remove pollutants that have entered stormwater runoff. Section 5 provides detailed descriptions of BMPs related to element 3) of the strategy. Treatment controls integrated into and throughout the site usually provide enhanced benefits over the same or similar controls deployed only at the "end of the pipe" where runoff leaves the project site.

3.2 Integration of BMPs into Common Site Features

Many common site features can achieve stormwater management goals by incorporating one or more basic elements, either alone or in combination, depending on site and other conditions. The basic elements include infiltration, retention/detention, biofilters, and structural controls. This section first describes these basic elements, and then describes how these elements can be incorporated into common site features.

Infiltration

Infiltration is the process where water enters the ground and moves downward through the unsaturated soil zone. Infiltration is ideal for management and conservation of runoff because it filters pollutants through the soil and restores natural flows to groundwater and downstream water bodies. See Figure 3-1.

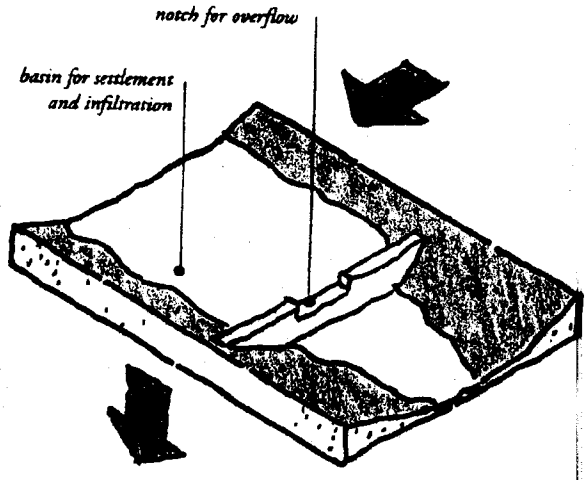

Figure 3-1
Infiltration Basin

The infiltration approach to stormwater management seeks to "preserve and restore the hydrologic cycle." An infiltration stormwater system seeks to infiltrate runoff into the soil by allowing it to flow slowly over permeable surfaces. The slow flow of runoff allows pollutants to settle into the soil where they are naturally mitigated. The reduced volume of runoff that remains takes a long time to reach the outfall, and when it empties into a natural water body or storm sewer, its pollutant load is greatly reduced.

Infiltration basins can be either open or closed. Open infiltration basins, include ponds, swales and other landscape features, are usually vegetated to maintain the porosity of the soil structure and to reduce erosion. Closed infiltration basins can be constructed under the land surface with open graded crushed stone, leaving the surface to be used for parking or other uses. Subsurface closed basins are generally more difficult to maintain and more expensive than open filtration systems, and are used primarily where high land costs demand that the land surface be reclaimed for economic use.

Infiltration systems are often designed to capture the "first flush" storm event and used in combination with a detention basin to control peak hydraulic flows. They effectively remove suspended solids, particulates, bacteria, organics and soluble metals and nutrients through the vehicle of filtration, absorption and microbial decomposition. Groundwater contamination should be considered as a potential adverse effect and should be considered where shallow groundwater is a source of drinking water. In cases where groundwater sources are deep, there is a very low chance of contamination from normal concentrations of typical urban runoff.

Retention and Detention

Retention and detention systems differ from infiltration systems primarily in intent. Detention systems are designed to capture and retain runoff temporarily and release it to receiving waters at predevelopment flow rates. Permanent pools of water are not held between storm events. Pollutants settle out and are removed from the water column through physical processes. See Figure 3-2.

Retention systems capture runoff and retain it between storms as shown in Figure 3-3. Water held in the system is displaced by the next significant rainfall event. Pollutants settle out and are thereby removed from the water column. Because the water remains in the system for a period of time, retention systems benefit from biological and biochemical removal mechanisms provided by aquatic plants and microorganisms. See Figure 3-3.

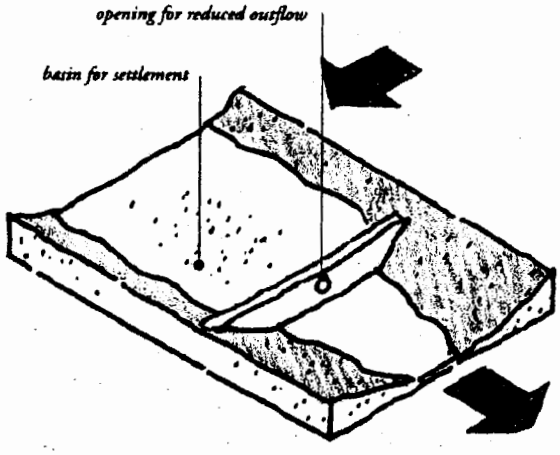

Figure 3-2
Simple Detention System

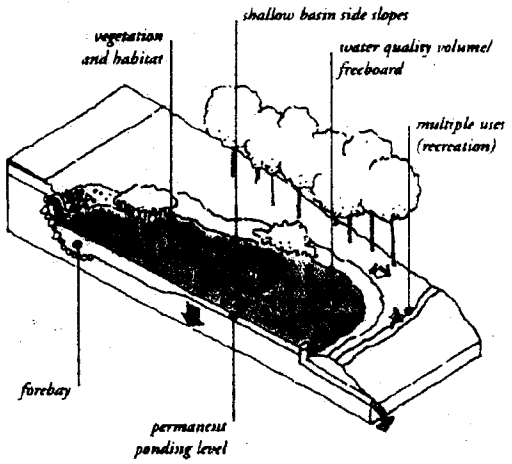

Figure 3-3
Retention System

Retention/detention systems may release runoff slowly enough to reduce down stream peak flows to their pre-development levels, allow fine sediments to settle, and uptake dissolved nutrients in the runoff where wetland vegetation is included.

Bioretention facilities have the added benefit of aesthetic appeal. These systems can be placed in parking lot islands, landscaped areas surrounding buildings, perimeter parking lots and other open space sections. Placing bioretention facilities on land that city regulations require developers to devote to open space efficiently uses the land. An experienced landscape architect can choose plant species and planting materials that are easy to maintain, aesthetically pleasing, and capable of effectively reducing pollutants in runoff from the site.

Constructed wetland systems retain and release stormwater in a manner that is similar to retention or detention basins. The design mimics natural ecological functions and uses wetland vegetation to filter pollutants. The system needs a permanent water source to function properly and must be engineered to remove coarse sediment, especially construction related sediments, from entering the pond. Stormwater has the potential to negatively affect natural wetland functions and constructed wetlands can be used to buffer sensitive resources.

Biofilters

Biofilters, also known as vegetated swales and filter strips, are vegetated slopes and channels designed and maintained to transport shallow depths of runoff slowly over vegetation. Biofilters are effective if flows are slow and depths are shallow (3% slope max.). The slow movement of runoff through the vegetation provides an opportunity for sediments and particulates to be filtered and degraded through biological activity. In most soils, the biofilter also provides an opportunity for stormwater infiltration, which further removes pollutants and reduces runoff volumes. See Figure 3-4.

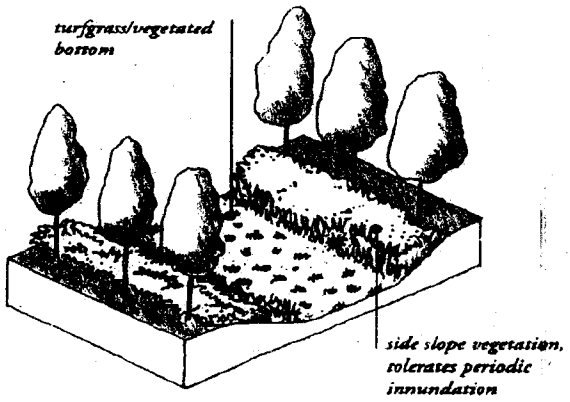

Figure 3-4
Vegetated Swale

Swales intercept both sheet and concentrated flows and convey these flows in a concentrated, vegetation-lined channel. Grass filter strips intercept sheet runoff from the impervious network of streets, parking lots and rooftops and divert stormwaters to a uniformly graded meadow, buffer zone, or small forest. Typically the vegetated swale and grass strip planting palette can

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comprise a wide range of possibilities from dense vegetation to turf grass. Grass strips and vegetated swales can function as pretreatment systems for water entering bioretention systems or other BMPs. If biofilters are to succeed in filtering pollutants from the water column, the planting design must consider the hydrology, soils, and maintenance requirements of the site.

Appropriate plantings not only improve water quality, they provide habitat and aesthetic benefits. Selected plant materials must be able to adapt to variable moisture regimes. Turf grass is acceptable if it can be watered in the dry season, and if it is not inundated for long periods. Species such as willows, dogwoods, sedge, rush, lilies and bulrush species tolerate varying degrees of soil moisture and can provide an attractive plant palette year round.

Structural Controls

Structural controls in the context of this section include a range of measures that prevent pollutants from coming into contact with stormwater. In this context, these measures may be referred to as "structural source controls" meaning that they utilize structural features to prevent pollutant sources and stormwater from coming into contact with one another, thus reducing the opportunity for stormwater to become contaminated. Examples of structural source controls include covers, impermeable surfaces, secondary containment facilities, runoff diversion berms, and diversions to wastewater treatment plants.

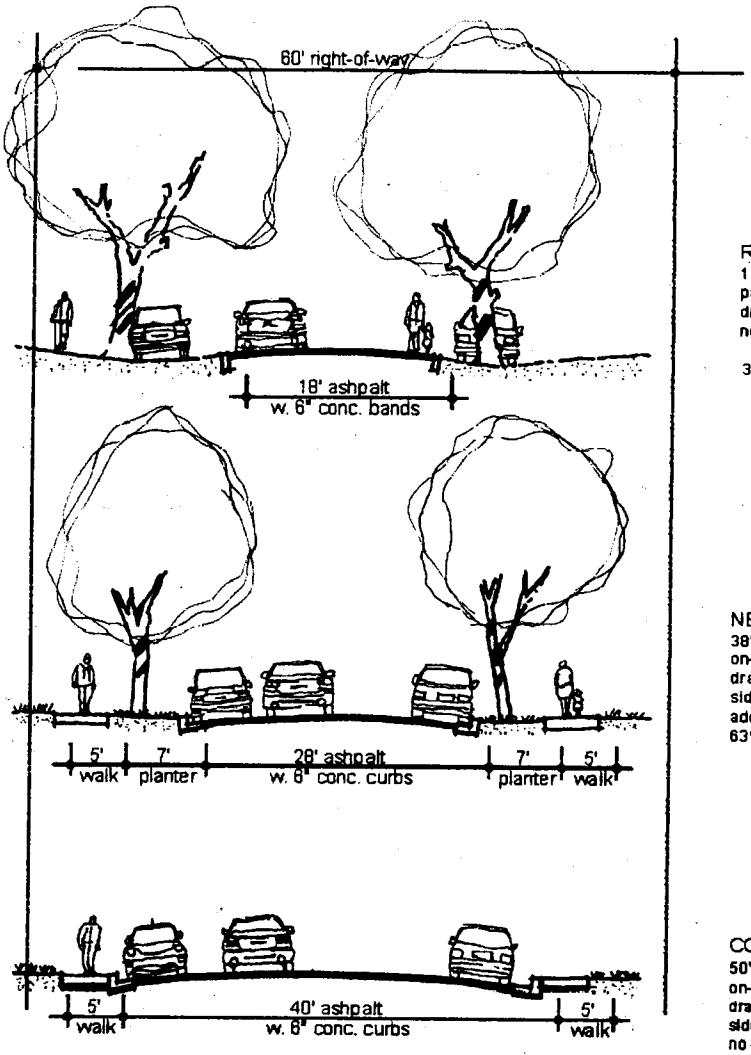
3.2.1 Streets

More than any other single element, street design has a powerful impact on stormwater quality. Street and other transportation related structures typically can comprise between 60 and 70% of the total impervious coverage in urban areas and, unlike rooftops, streets are almost always directly connected to an underground stormwater system.

Recognizing that street design can be the greatest factor in development's impact on stormwater quality, it is important that designers, municipalities and developers employ street standards that reduce impervious land coverage. Directing runoff to biofilters or swales rather than underground storm drains produces a street system that conveys stormwater efficiently while providing both water quality and aesthetic benefits.

On streets where a more urban character is desired, or where a rigid pavement edge is required, curb and gutter systems can be designed to empty into drainage swales. These swales can run parallel to the street, in the parkway between the curb and the sidewalk, or can intersect the street at cross angles, and run between residences, depending on topography or site planning. Runoff travels along the gutter, but instead of being emptied into a catch basin and underground pipe, multiple openings in the curb direct runoff into surface swales or infiltration/detention basins.

In recent years new street standards have been gaining acceptance that meets the access requirements of local residential streets while reducing impervious land coverage. These standards create a new class of street that is narrower and more interconnected than the current local street standard, called an "access" street. An access street is at the lowest end of the street hierarchy and is intended only to provide access to a limited number of residences.



RURAL
19' pavement
parking on gravel shoulder
drainage in gravel swale
no sidewalk- shared space

32% impervious land coverage

NEO-TRADITIONAL
38' pavement
on-street parking, both sides
drainage in concrete gutter
sidewalk both sides
adequate space for street trees
63% impervious land coverage

CONVENTIONAL
50' pavement
on-street parking both sides
drainage in concrete gutter
sidewalk both sides
no street trees
83% impervious land coverage

Figure 3-5
Comparison of Street Cross-Sections (two-way traffic, residential access streets)

3.2.2 Parking Lots

In any development, storage space for stationary vehicles can consume many acres of land area, often greater than the area covered by streets or rooftops. In a neighborhood of single-family homes, this parking area is generally located on private driveways or along the street. In higher density residential developments, parking is often consolidated in parking lots.

The space for storage of the automobile, the standard parking stall, occupies only 160 ft², but when combined with aisles, driveways, curbs, overhang space, and median islands, a parking lot can require up to 400 ft² per vehicle, or nearly one acre per 100 cars. Since parking is usually accommodated on an asphalt or concrete surface with conventional underground storm drain systems, parking lots typically generate a great deal of DCIA.

There are many ways to both reduce the impervious land coverage of parking areas and to filter runoff before it reaches the storm drain system.

Hybrid Parking Lot

Hybrid lots work on the principle that pavement use differs between aisles and stalls. Aisles must be designed for speeds between 10 and 20 mph, and durable enough to support the concentrated traffic of all vehicles using the lot. The stalls, on the other hand, need only be designed for the 2 or 3 mph speed of vehicles maneuvering into place. Most of the time the stalls are in use, vehicles are stationary. Hybrid lots reduce impervious surface coverage in parking areas by differentiating the paving between aisles and stalls, and combining impervious aisles with permeable stalls, as shown in Figure 3-6.

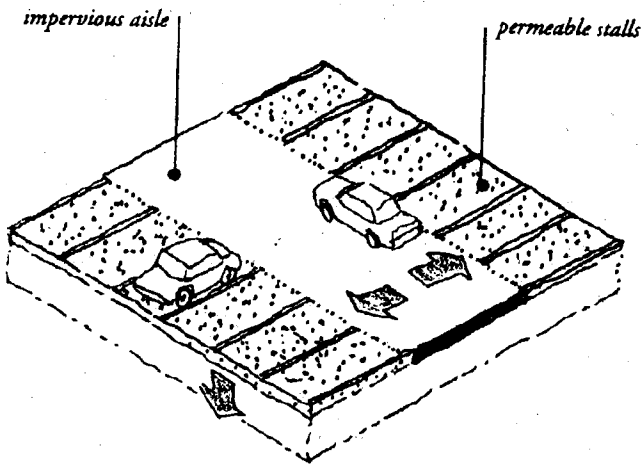


Figure 3-6
Hybrid Parking Lot

If aisles are constructed of a more conventional, impermeable material suitable for heavier vehicle use, such as asphalt, stalls can be constructed of permeable pavement. This can reduce the overall impervious surface coverage of a typical double loaded parking lot by 60% and avoid the need for an underground drainage system.

Permeable stalls can be constructed of a number of materials including pervious concrete, unit pavers such as brick or stone spaced to expose a permeable joint and set on a permeable base, crushed aggregate, porous asphalt, turf block, and cobbles in low traffic areas. Turf blocks and permeable joints are shown in Figures 3-7 and 3-8.

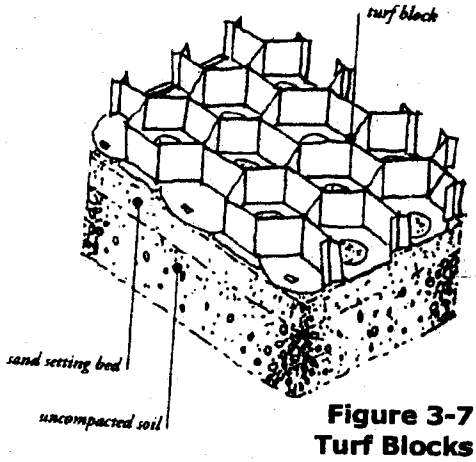


Figure 3-7
Turf Blocks

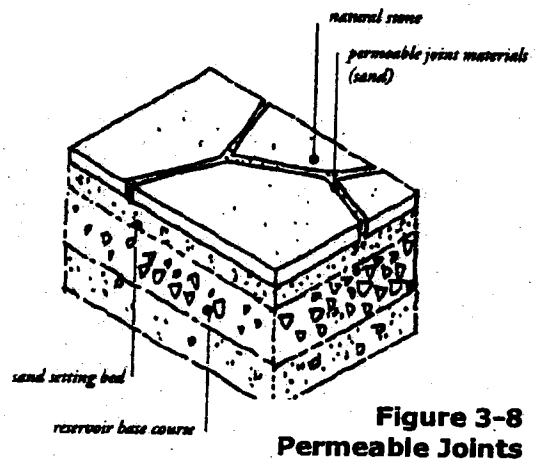


Figure 3-8
Permeable Joints

Parking Grove

A variation on the permeable stall design, a grid of trees and bollards can be used to delineate parking stalls and create a "parking grove." If the bollard and tree grids are spaced approximately 19 ft apart, two vehicles can park between each row of the grid. This 9.5 ft stall spacing is slightly more generous that the standard 8.5 to 9 ft stall, and allows for the added width of the tree trucks and bollards. A benefit of this design is that the parking grove not only shades parked cars, but also presents an attractive open space when cars are absent. Examples of parking groves are shown in Figures 3-9 and 3-10.

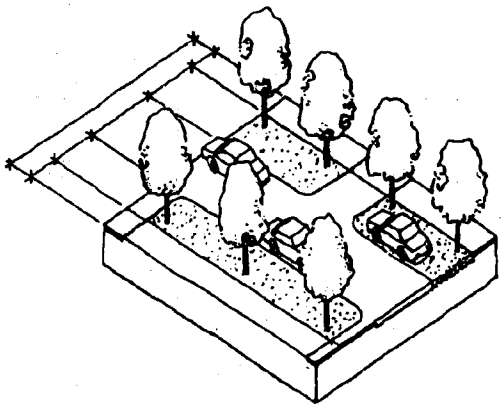


Figure 3-9
Parking Grove

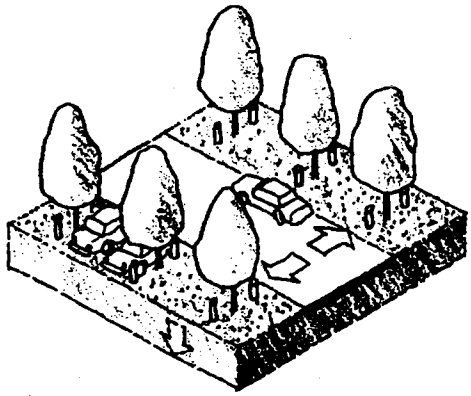


Figure 3-10
Parking Grove

Overflow Parking

Parking lot design often is required to accommodated peak demand, generating a high proportion of impervious land coverage of very limited usefulness. An alternative is to differentiate between regular and peak parking demands, and to construct the peak parking stalls of a different, more permeable, material. This "overflow parking" area can be made of a turf block, which appears as a green lawn when not occupied by vehicles or crushed stone or other materials. See Figure 3-11. The same concept can be applied to areas with temporary parking needs, such as emergency access routes, or in residential applications, RV, or trailer parking.

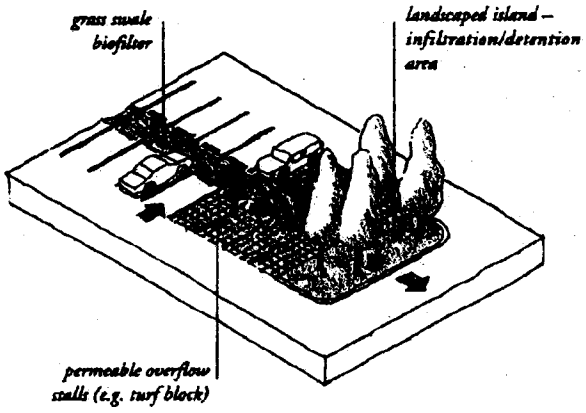


Figure 3-11
Overflows Parking

TC # D101-21

FINAL REPORT
INTENSIVE HABITAT STUDY

for

Lake Earl and Lake Talawa
Del Norte County, California

Prepared for:

US Army Corps of Engineers
San Francisco District
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March 2000

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CHAPTER 8
TIDEWATER GOBY

8.1 INTRODUCTION

From September 1998 through August 1999, a tidewater goby (*Eucyclogobius newberryi*) distribution and abundance study was conducted in the Lake Earl/Lake Talawa lagoon system. Data on physical habitats, water quality parameters, fish and invertebrate species presence, and aquatic vegetation associated with tidewater goby densities were collected. The primary objective of this study was to gather habitat usage and abundance information on tidewater goby. This was investigated by conducting monthly tidewater goby surveys. The secondary objective was to determine the impacts of the artificial breaching events on the tidewater goby population. This was investigated by conducting surveys of the isolated pools and low-lying areas that formed immediately following the November 1998 and February 1999 artificial breaching events. The purpose of this chapter is to present the results of these surveys in order to characterize the population dynamics, and determine the seasonal habitat usage of tidewater goby within the lagoon ecosystem.

8.2 TIDEWATER GOBY REGULATORY HISTORY

The California Department of Fish and Game (CDFG) listed the tidewater goby as a species of special concern in 1980 and elevated it to fully protected status in 1987. These designations conferred some protection from impacts to its habitat. The US Fish and Wildlife Service (USFWS) designated the species a Category 2 species in 1981 and elevated it to a Category 1 species in 1991. It was designated as federally endangered on March 7, 1994 (USFWS 1994), and protection of populations throughout the goby's range took on additional importance. However, on June 24, 1999, the USFWS issued a proposal to remove the northern populations (outside Orange and San Diego counties) of the tidewater goby from the list of endangered and threatened wildlife (USFWS 1999). Currently, the USFWS estimates that from 85 to 100 populations now exist. The delisting of this species is under litigation and pending federal approval.

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Overall, the tidewater goby present in Pool 1 were believed to have survived and returned to the main body of the lagoon once the water level rose to 4.8 feet above msl. The goby stranded in other pools and low-lying areas (approximately 750 to 1,000) were likely lost to avian predation and stranding.

8.7 DISCUSSION

Extreme variability in local abundance of tidewater goby, both spatially and seasonally, made it difficult to derive population estimates for the lagoon. However, seasonal distributions and spawning habitat areas were identified (figures G-19 to G-22). In addition, some valuable observations were made regarding the impacts of breaching on the tidewater goby population in the lagoon.

In general, tidewater goby were observed to use a wide variety of habitats with a relatively wide range of water quality parameters. It appears that tidewater goby move throughout the lagoon, occupying various areas throughout the course of the year. This is likely due to the constantly changing water quality conditions and the amount of available habitat within the lagoon.

Depressed tidewater goby densities were observed during the November and February sampling efforts. Both of these sampling efforts occurred immediately prior to the artificial breaching events, at lagoon levels around 9.9 feet above msl. At this level the overall amount of shallow water habitat increased allowing for greater dispersion of the goby population. In addition, many of the newly inundated areas were not accessible for sampling due to thick bulrush vegetation. Consequently, the depressed densities observed prior to the breaching events may not be indicative of reduced population numbers.

The major factors affecting the tidewater goby population appear to be the amount of inundated habitat available (lagoon level), the timing of breaching events, and the length of time the lagoon remains open following breaching.

As stated previously, the higher the water level in the lagoon, the more shallow water habitat that exists along its fringes. Although depth preference could not be concluded from this study, Irwin et al. concluded that tidewater goby habitat typically ranges from 25 to 100 cm (shallow water) where DO levels are fairly high. As a result, the higher the lagoon level, the more tidewater goby habitat available. The use of shallow water habitats along the fringes of the lagoons is inexorably tied with the timing of breaching events.

During the 1998-1999, study significant stranding occurred following the 2 artificial breaching events. Breaching is a natural function of coastal lagoons; it allows flushing of nutrients that buildup throughout the summer. Consequently, a certain amount of goby stranding is a natural occurrence. The high fecundity (number of offspring produced by an individual) in tidewater goby populations appears to compensate for this periodic loss of individuals. In Lake Talawa, tidewater goby stranding is much greater at the 8-foot above msl level than at

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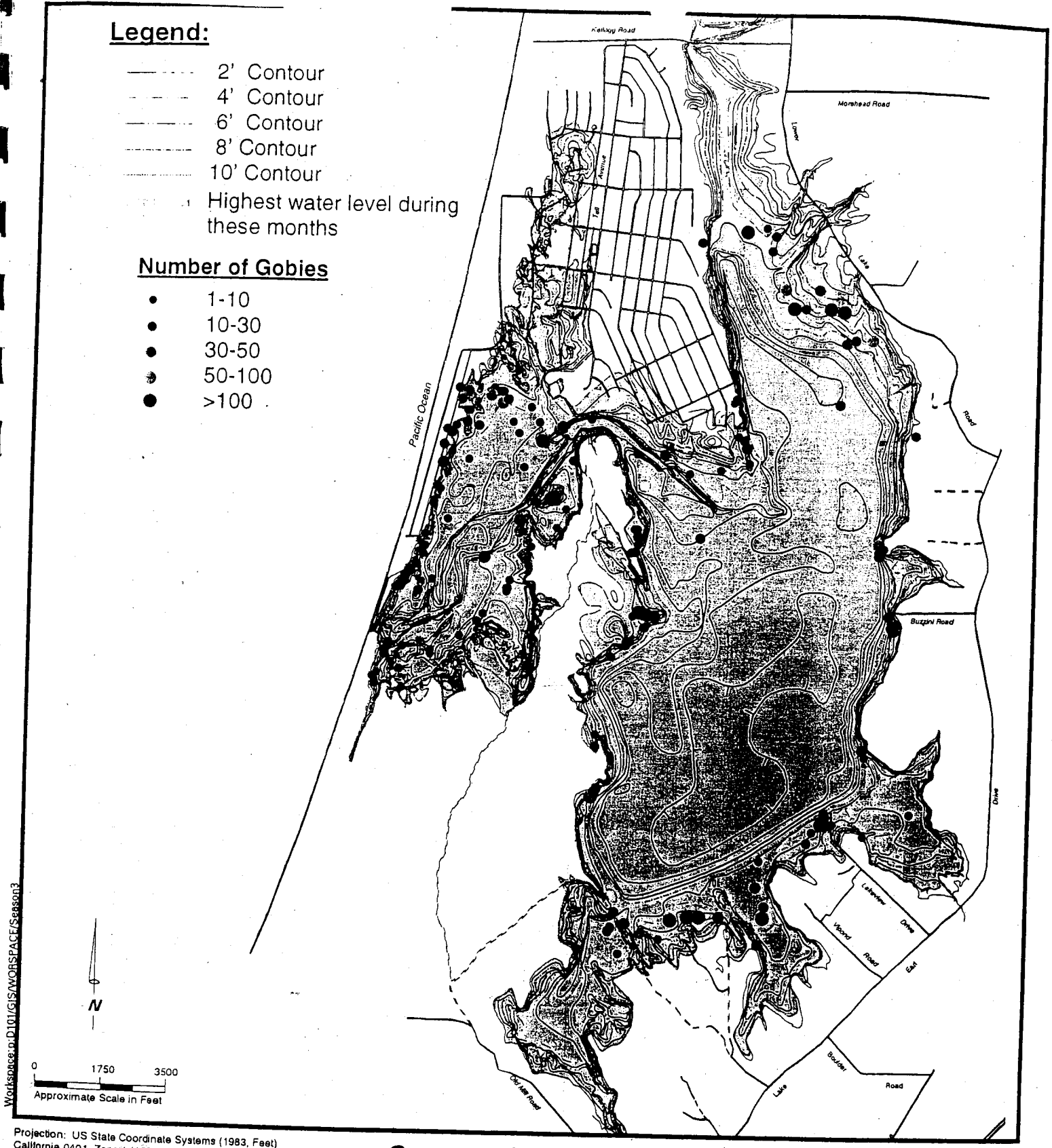
Richard B. Davis Co. 1998. Color aerial photographs of Lake Earl and vicinity at a scale of 1:6,000. June 17, 1998.

US Fish and Wildlife Service (USFWS). 1987. National Wetlands Inventory map of Crescent City, California, 7.5-minute quadrangle. Scale 1:24,000.

US Geological Survey (USGS). 1966. Photorevised 1978. Crescent City, California, 7.5-minute quadrangle. Scale 1:24,000.

89



Projection: US State Coordinate Systems (1983, Feet)
California 0401, Zone 1 (1983, US Survey Feet)
Base Map Source: Department of Water Resources 1996
Contour Interval = 1 foot
Date: 1/5/00

Seasonal Tidewater Goby Habitat (Apr.- Aug.) (All Size Classes)

Lake Earl and Lake Talawa Intensive Habitat Study

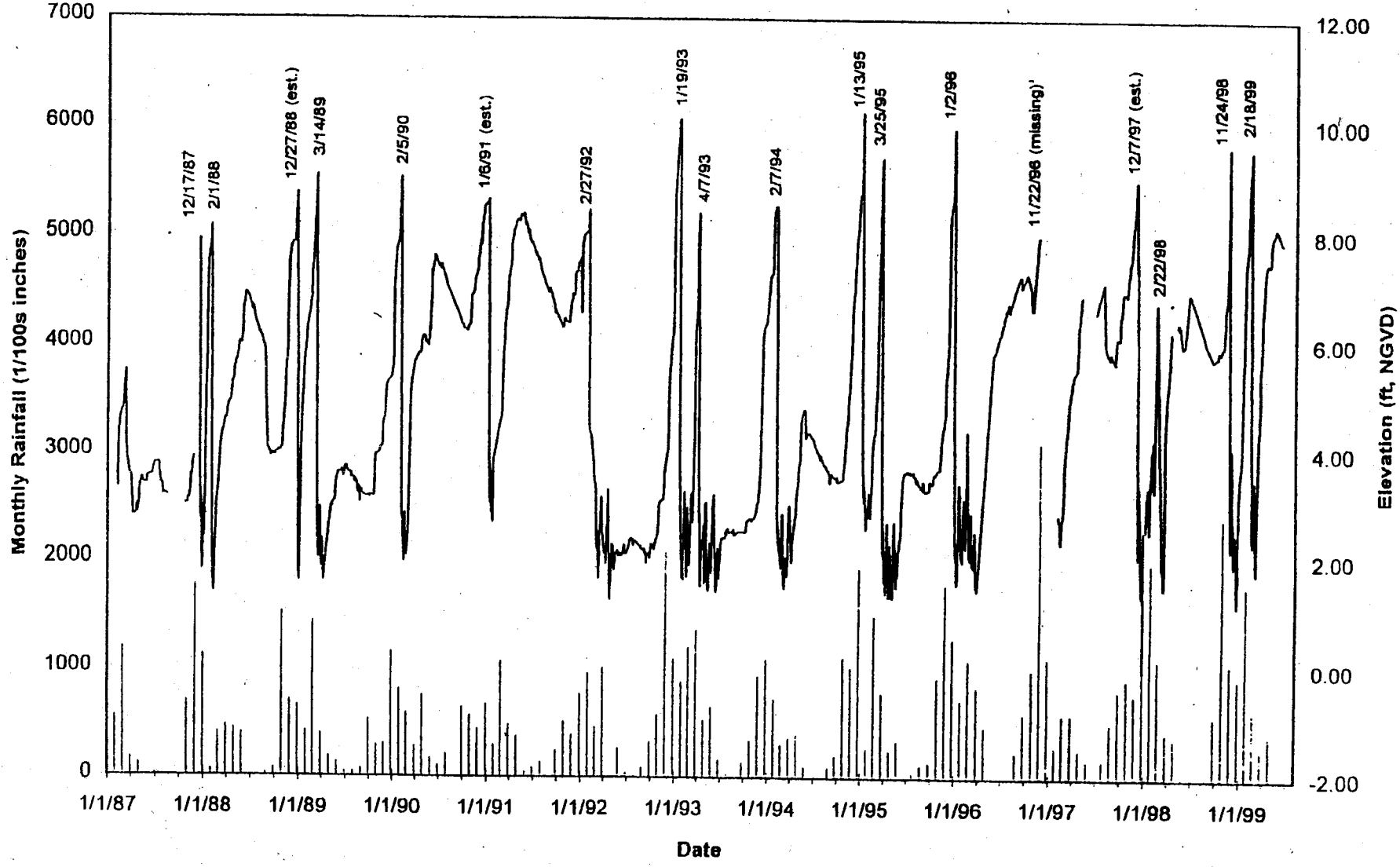
Del Norte County, California

Tetra Tech, Inc.

90

Figure G-23

Figure E-7 Lake Elevation and Rainfall 1987-1999



2004

A Position Paper on Current Issues Involving Lake Earl From the Perspective of the Del Norte County Department Of Public Health

By
Richard Mize MD, Public Health Officer
May 27, 2000

Dear Supervisor Reese:

The ongoing acrimonious discussion about how to best manage Lake Earl has flared recently. The issues discussed below are from a very limited perspective, namely that of the Public Health Department, and I've not attempted to address any other aspects of the controversy. The Health Department has no jurisdiction over any of the day-to-day issues that arise, and our involvement is limited to a single issue, namely the question "Are there times when Lake Earl constitutes a sufficient threat to the health of the people of Del Norte County that I am justified in declaring a public health emergency?"

Over the years a number of health related questions have arisen. I will briefly discuss the recurrent ones.

1. **Lake Earl, at high levels, endangers the water quality in surrounding wells and contributes to the failure of septic systems.**
   Once in the past, when the lake reached 10 feet 3 inches in elevation, a stock well was overtopped and lake water poured down the well. That well has since been destroyed, and the next lowest wellhead is at 10' 5" or 10' 6". However, I have recently concluded that even if a well is overtopped it's not a public health emergency. After the one well was overtopped, I calculated that, for approximately $250,000 to $300,000, we could destroy all known wells below 12', replace them with wells constructed to current standards, and also replace all affected septic systems with new mounded systems. I was unable to generate any interest (i.e., money) for this project.

   Are there contaminated wells around the lake? Yes. Is this from the lake being high? Not directly. Most of the wells are shallow, and were constructed prior to the passage of the county well ordinance. No well constructed before the ordinance passed was sealed (no well driller in the county even had the capacity to seal a well), and unsealed wells are prone to contamination from surface water. The lake elevation rises from heavy rainfall, and heavy rainfall also causes extensive collections of surface water, which is what actually contaminates the well. Specifically, this is not from underground backflow from the lake. The water elevation in the wells is always higher than the lake—the underground water flows towards the lake, rather than from the lake towards the wells. The only potential situation that is otherwise is in the Pacific Shores area itself, since the ground elevation on the ocean side of the dune is lower than the lake level. However, anywhere else in the Lake Earl watershed where the surface elevation is lower than the lake level the area simply fills with water.

(1)

During periods of high groundwater, do septic systems fail? Yes, just as they do in many other low-lying areas of the county with high ground water. At the Health Department we have increasingly become aware of the number of failed and failing septic systems in areas remote from the lake. Again, these systems were constructed in the past at a time when there was considerably less concern about adequate soils analysis than now exists. Any septic system that would be currently permitted would continue to function adequately with high lake levels.

I personally believe that the residents around the lake who built prior to 1988 deserve some mitigation of their problems. Since the lake had been drained on a regular basis for at least 60-70 years prior to 1988, the people who built could reasonably assume that the drainage would continue. I've recently begun working to acquire funding to provide ultraviolet sterilization devices for affected households. I think it would be reasonable for these to be provided with public money, and to let the homeowner be responsible for installation and ongoing maintenance. The total cost of providing these devices would be in the range of $40,000, and would provide bacteriologically clean water to the household. A recent event also illustrates some of the misunderstandings about this. One of the Environmental Health Specialists was recently told by a landowner that he knew his water was clean, because he's seen a snake living in his well, and "snakes will only live in clean water."

Thus, the current situation indeed causes great inconvenience to residents around the lake, and wells, water purification, and septic system failures need to be addressed in some systematic way, but this does not constitute a public health emergency.

2. **High groundwater causes chemical contamination of well water from the old Fort Dick dump.**
This issue has been examined by a number of agencies, and no evidence exists to support the allegation. Specific chemical/heavy metal agents questioned include lead and cadmium. The only two cases of lead poisoning documented in my ten years as health officer were in a small child who was putting dad's fishing sinkers in his mouth, and in an adult with a retained bullet, which was then surgically removed. Cadmium is very insoluble, is present in a large number of plant materials, and by far the largest route of exposure is from cigarette smoking. I'm sure you remember the large number of wells in the Smith River area that were highly contaminated by agricultural chemicals, including chemicals that had been banned in California years earlier. This represents a vastly greater threat to the public health, but monitoring of those wells was discontinued by the involved agency for fiscal reasons.

3. **High lake levels support a huge mosquito population, and these mosquitoes potentially can spread serious and fatal disease.**
First, let me make a simple prediction. Del Norte County will almost undoubtedly experience a bad mosquito year this year, as a result of the heavy rains we've just had over the last few days. I would not be surprised if someone once again tried to generate public hysteria about a disease threat from these mosquitoes. The problems

MICHAEL YOUNG
& ASSOCIATES

CIVIL ENGINEERS

711 "J" STREET
CRESCENT CITY, CALIF. 95531

(707) 464-8711

Mound System

November 10, 1988

Richard C. McNamara
2801 Lake Earl Drive
Crescent City, CA 95531

re: On-site Sewage Disposal Evaluation
McNamara Subdivision

Dear Mr. McNamara:

This is to report on our on-site sewage disposal evaluation of McNmara Subdivision, Phase 1, Del Norte County as shown on the enclosed map. It is proposed to split this property into 21 parcels with this phase. It is intended that each of those parcels will be used for a single family residential unit. It is further our understanding that the water supply will be from individual private wells.

This evaluation report assumes that for each of the 21 proposed parcels the estimated on-site waste water discharge will be 450 gallons per day which is typical design criteria for a three (3) bedroom residence. If a larger home is proposed on any parcel, the sizing of the disposal system will need to be modified and the impact of a larger system evaluated with respect to surrounding parcels, for example setbacks from water supply wells.

This property has previously been the subject of extensive evaluation work which included exploratory test holes, ground water monitoring and field percolation tests throughout the area of the proposed 21 lots and in an area previously proposed for communal disposal. This previous work also included extensive ground water monitoring data to determine the highest anticipated ground water level. That evaluation work is not included herein

as most of that information is already a part of your records, and if not, can be provided to you or any regulatory agency requiring the information.

Our most recent work consisted of additional investigation of each of the now proposed 21 parcels including exploratory excavations and collection and testing of additional soil samples. Our previous data was used for determining highest ground water levels and evaluating cumulative impacts.

The additional exploratory pits were dug in an attempt to have two test holes on each of the 21 proposed lots. Soils samples were collected for testing to evaluate soil percolation suitability. The previous work and data was used to confirm this new data.

The evaluation consisted of a site inspection, the examination of forty-two (42) backhoe excavated exploratory pits, the collection and testing for textural qualities of twenty-one (21) soil samples, and the review of data and reports previously prepared for this property. Included in the appendix are exploratory logs, the laboratory results of the soil samples and drawings for the location, type and sizing of the proposed disposal systems.

The textural analysis of all soil samples indicate soil percolation qualities suitable for on-site disposal of septic tank quality effluent (Zone 2 soils). Generally, the soils are a sandy loam to sandy clay loam. The quality of the soils are such that field percolation tests are not required for conventional leach trench disposal systems design. In the absence of the percolation tests, we would recommend the EPA long term loading rate of 0.60 gallons per day per square foot for the design of the disposal field.

In our previous work, a number of percolation tests were performed in the then proposed communal disposal field and in the general area of Lots 14-19. These percolation rates averaged 30 minutes per inch. This would allow for a loading rate of 0.60 gallons per day per square foot using the U.S. Public Health Service "Manual and Septic Tank Practice". This is consistent with the recommended EPA loading rates.

Our previous work indicated that the highest anticipated ground water under this site was elevation 10 mean sea level (msl). During our most recent work, we observed ground water at elevation 4.5± msl which was approximately the level of Lake Earl at the time of the observations in October 1988. This observation is consistent with our previous data and conclusion that the ground water level under this site is at or near the level of Lake Earl. The highest historical level of Lake Earl is elevation 10.1 msl.

Our field observation in some, but not all, excavations observed traces of mottling beginning at approximately the ele-

State of California - Th ources Agency
DEPARTMENT Of FISH AND GAME
http://www.dfg.ca.gov
601 Locust Street
Redding, California 96001
(530) 225-2300

GRAY DAVIS, *Governor*

August 9, 2000

Ms. Diane Mutchie
Del Norte County Community Development
981 H Street, Suite 110
Crescent City, California 95531

Dear Ms. Mutchie:

SCH 2000012058 - Draft Environmental Impact Report (DEIR) for the Del Norte County General Plan/Coastal Plan Update

The Department of Fish and Game (DFG) has reviewed the subject DEIR for the Del Norte County (County) General Plan/Coastal Plan Update as well as the background draft general plan policy document.

Our comments are as follows:

Section 1 Natural Resources/Conservation

Policy 1.A.10. - We recommend that this policy (as well as the existing implementation programs) regarding the maintenance of motorized vehicles on the wave slope includes provisions for modification or restriction if potential impacts to environmentally sensitive habitat areas or other resources occur.

Policy 1.A.18. - (Listed as 1.A.19 within the policy document). This policy would urge the California Board of Forestry to limit approvals of timber harvest plans within 300 feet of the Lake Earl estuary habitat (measured from the eight-foot contour). We recommend that this 300-foot buffer be measured from the boundary of the Lake Earl Wildlife Area (LEWA). This would protect some of the rapidly declining forested edge along Lake Earl that provides significant structural diversity and habitat value. Further, this 300 feet will provide a visual and linear buffer for adjacent residential and agricultural activities from potential recreational use conflicts along the lake. We would urge the County to provide comments advocating this policy when/if harvest plans, exemptions, conversion, etc., are circulated for public review.

Policy 1.C.9. - Onshore Fisheries Resources. The use of natural drainage courses rather than channelizing streams for stormwater runoff will better protect aquatic habitats for fish. We would recommend that this policy also include measures to minimize peak flows into creeks and streams through the use of detention and retention basin, vegetated drainage swales, etc.

Section 1 Wildlife Habitat Resources

Policy 1.E.1. - This policy recognizes locations of "excellent wildlife habitat, native or natural vegetation, and of aesthetic value." The Crescent City Marsh, Elk Creek wildlife area and surrounding wetlands support many unique species (including the State and federally listed western lily) and plant communities. These areas and their immediate marshland warrant specific listing and recognition and should be "maintained as wildlife habitat and protected from adverse activity."

Policy 1.E.1.c. - "Lakes Earl and Talawa and their immediate marshland, allowing continued agricultural uses" were identified locations that provide significant habitat and aesthetic value. Does this imply that if agricultural uses at lakes Earl and Talawa and their immediate marshland are discontinued that they may no longer warrant listing as a recognized location? Agricultural uses are covered under a separate section within this chapter.

Policy 1.E.15. - We would urge the County to provide actual comment to the California Board of Forestry and Fire Protection advocating this policy for a prohibition of harvest within riparian, wetland, estuary habitat or related buffer areas, designated by a locally adopted general plan or local coastal plan when/if harvest plans, exemptions, conversion, etc., are circulated for public review.

Policy 1.E.17. - We support the policy language to limit the use of motorized vehicles to unvegetated dunes, however, dunes are considered environmentally sensitive habitat areas (Policy 1.E.12). We recommend that this policy (as well as the new implementation program 1.5) include modification or restriction of motorized vehicles if potential impacts to environmentally sensitive habitat areas or other resources occur.

Policy 1.E.21. - This policy language provides for buffers adjacent to wetland areas starting with 100 feet from the edge of the wetland. Further, a buffer of less than 100 feet can be utilized in cooperation with the Department and the County's determination. We believe, however, that in some cases a buffer of greater than 100 feet may be warranted depending on the project and identified impacts to wetland areas. Consequently, we recommend language to include a provision for a wetland buffer of greater than 100 feet where necessary.

Policy 1.E.25. - We recommend that language for mitigation of wetland losses read:

- avoidance of wetland habitat;
- where avoidance is not possible, minimization of impacts on the resource; or with
- replacement, including use of a mitigation banking program.

Policy 1.H.10. - We would urge the County to provide actual comment advocating this policy regarding "demonstrated development permit approval" when/if harvest plans, exemptions, conversions, etc., are circulated for public review.

Section 3. Public Acquisition of Private Land

Policy 3.D.4. - The Department will continue to pursue acquisition from willing sellers. While we understand the County's position regarding the Department's acquisition of private land, our pursuit of these lands (whether to pursue a conservation easement or full fee title) is at the landowner's discretion.

Section 5. Recreational and Cultural Resources

Policy 5.B.9. - We are unclear as to the language regarding the completion of the Lake Earl Wildlife Area Management Plan (Plan) and the proposed inclusion of "the development and promotion of taxpayer, resident and visitor use for educational and enjoyment purposes and the safety of the community." Visitor, scientific and educational use will be included within the scope of the Plan. Taxpayer and resident use are covered under "visitor" use. We find the statement "safety of the community" ambiguous. If it is implied to reflect the water levels of Lake Earl, our position (in cooperation with the County) is clear.

Policy 5.B.10. - The State has been actively pursuing the upgrading of suitable, tillable lands on the LEWA for goose habitat. The County can encourage the State to provide for 1,200 acres of lands for lease back to the agricultural community. However, the County is very aware (based on soil types and zoning of the general plan's land use maps) that the LEWA does not support significant agricultural opportunity.

Policy 5.B.11. - The LEWA is located on the east side of Old Mill Road. The State property mentioned within this policy is managed by the California Department of Parks and Recreation (DPR).

Policy 5.B.12. As in the previous policy statement, these lands are under the management of DPR. What lands identified within this policy that exist on the LEWA is currently developed with trail access. As to boat access, the Department currently supports an unimproved boat ramp in the Teal Point area. The County is aware that Department previously considered an improved boat launching facility at Teal Point which was not completed due to potential significant impacts to wetland resources.

Policy 5.B.13.5. - Day use facilities are the only option for public use on the LEWA. The County will recall that recreational facilities are more in line with the DPR and National Parks mission.

Policy 5.B.14. - It is our understanding that trails currently exist in the DPR lands identified within this policy.

Policy 5.B.16. - The Department has and will continue to offer conservation easements for private parcels being considered as part of the LEWA. However, the option to sell a conservation easement or full fee title are at the discretion of the landowner.

Policy 5.B.18. - As to the continuation of boat access points at Lakeview Drive, we will continue to work with the County (which owns a large portion of the access at Lakeview Drive). If acquisition opportunities arise at Buzzini Road, the Department will pursue this as well.

Policy 5.B.19. - This policy covers the coordination and participation of the Department with local public agencies to provide for bicycle, equestrian and/or public transit access to various locations in the LEWA. We currently provide for bicycle and equestrian (Old Mill Road site) use. We are unclear as to the implied "public transit access" use. Old Mill Road currently provides for public vehicle access to the LEWA office, parking lot and various trail heads.

Policy 5.E.28. - See Policy 1.E.17. regarding off-road vehicle access.

Policy 7.J.5. - Storm and Surface Drainage. See comments under Policy 1.C.9.

Overall, we believe that the proposed draft general plan has incorporated many revisions to strengthen the protection of valuable fish and wildlife resources. We agree that with successful implementation of these policies (including the incorporation of our recommendations), the impact of new development on significant biological resources will be minimized.

Thank you for the opportunity to provide comments and recommendations. Should you have any questions regarding this matter, please do not hesitate to contact Senior Wildlife Biologist Supervisor Karen Kovacs at (707) 441-5789.

Sincerely,

Donald Koch

Donald B. Koch
Regional Manager

cc: Ms. Karen Kovacs
Department of Fish and Game
619 Second Street
Eureka, California 95501

Mr. William N. Holtz
Department of Fish and Game
Post Office Box 1934
Crescent City, California 95531

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

DEPARTMENT OF FISH AND GAME
619 SECOND STREET
EUREKA, CA 95501
(707) 445-6493

Handed out @
3/5/97 RC Mtg

March 5, 1997

Ms. Diane Mutchie
Del Norte County
Department of Community Development
700 Fifth Street
Crescent City, California 95531

Dear Ms. Mutchie:

McNamara Rezone and Major Subdivision

The California Department of Fish and Game has reviewed the McNamara Rezone and Major Subdivision at the end of Vipond Drive. We realize this letter is coming to you after the comment period, but believe the Planning Commission should be aware of our concerns. The Department commented on this project to Mr. and Mrs. McNamara on September 5, 1996, with a copy to you, indicating the Department's concerns. One of those concerns was that there be a 100 foot setback from the shoreline of Lake. One of the principal activities on the Lake Earl Wildlife Area is waterfowl hunting. Part of the purpose for the buffer recommendation is to protect the wetland, but part of the need for separation of the lake edge from development is to maintain a distance between waterfowl hunting and human habitation.

The Department is also concerned about free roaming domestic animals on the Lake Earl Wildlife Area. We would like to have the project conditioned to require the placement and maintenance of a dog proof fence between the subdivision and Department of Fish and Game land.

We appreciate the opportunity to comment on this project. If you have any questions about our comments or if we may be of further assistance, please call me at (707) 441-5790.

Sincerely,

Herbert J. Pierce
Wildlife Biologist

cc: Mr. & Mrs. McNamara

100

STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

MAILING ADDRESS
P. O. BOX 4908
EUREKA, CA 95502-4908

September 25, 2000

Diane Mutchie, Senior Planner
County of Del Norte
Community Development Department – Planning Division
981 H Street Suite 110
Crescent City, CA 95531

RE: Del Norte County General Plan Element Revision – Comments of Public Hearing Draft Policy Document, Dated May 1, 2000

Dear Ms. Mutchie:

Thank you for the opportunity to comment on the Public Hearing Draft Policy Document for the County of Del Norte's revisions to elements of its General Plan. Overall, we feel that the draft revised plan represents a very substantial effort to update the plan to reflect current conditions and issues in the County and restructure the document for greater ease of use. Furthermore, we find that the draft document contains many valuable provisions for guiding the growth and development within the County while ensuring that valuable natural resources, public health and safety, and private property are protected. Accordingly, the purpose of this letter is to provide input for your consideration during the public hearings on the coastal Land Use Plan (LUP) revisions such that any potential nonconformance with the policies of Chapter 3 of the California Coastal Act* may be identified prior to formal submission of the amendment for Commission review.

Given the tentative status of the proposed policies at this time, we have prioritized our comments primarily to those portions of the LUP amendment categorically addressing Coastal Act Chapter 3 policies (e.g., "coastal zone public access," scenic resource areas") designated with a "wave" symbol. Accordingly, these comments should not be considered as all-inclusive or finalized. It is likely additional comments and recommendations may be provided at a later time on other sections of the proposed revised plan, including the various land use designations, County-wide provisions (designated with a "County" symbol) that would also apply in the coastal zone, and area-specific policies. Beginning on the following page are general and specific comments on the draft Land Use Plan revisions categorized by Coastal Act Chapter 3 policy section.

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* Section 30512.2 of the Coastal Act directs, in applicable part:

> The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512:
>
> (a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.

> not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The definition of the term "coastal-dependent use" appears in Coastal Act Section 30101 as:

> "Coastal-dependent development or use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

Revised Policy 3.E.10 includes ""visitor-serving facilities located along the rivers, shoreline, and the sea and its extensions" along with "industrial or heavy-commercial located within or nearby the harbor" in the list of recognized "coastal-dependent" uses. "Visitor-serving facilities" is defined in the draft LUP's glossary as, "public or private developments that provide accommodations, food and services, including hotels, motels, campgrounds, restaurants, and commercial-recreation developments such as shopping, eating, and amusement areas for tourists."

Although the Coastal Act is very supportive of facilities to attract, enhance, and support visitors to the shoreline, such developments along the immediate shoreline are nonetheless subject to prioritization with other uses whose basic feasibility is dependent on a waterside location. Many of the use types identified in LUP definition do not have such siting requirements and could potentially offset development of truly coastal-dependent uses if granted such status. Accordingly, it is recommended that the policy be modified, along with other visitor-serving provisions in the draft LUP, to more clearly provide for the reservation of shoreline locations for coastal-dependent uses.

J. Industrial Development (PRC §§30250, 30260)

Policy-specific Comments:

1. Agricultural Industrial Land Use Designation (Policies 1.G.5, 3.TP.3.9)

These new policies call for the creation of a new "Agricultural Industrial" land use designation. The purpose of the designation appears to be two-fold: (1) to allow for the continuation of existing agricultural-industrial-commercial mixed-use facilities; and (2) and to provide for the development of addition intensive agricultural production facilities, consistent with public service limitations, and compatibility with existing area agriculture and residential uses. Policy 1.G.5 lists several qualitative guidelines to be used in reviewing the suitability of a proposed agricultural industrial use or site.

Though some accommodation on on-site production facilities is warranted in the interest of reducing transportation and processing costs, centralized agricultural processing facilities have been documented to have significant environmental impacts on air and water quality, open space amenities, and other rural aesthetics associated with their physical size, extensive use of chemical fertilizers, herbicides, pesticides, antibiotics, and artificial lighting. It is suggested that the County include policy language that addresses quantitative review, mitigation, and monitoring provisions addressing these potential impacts, both directly and cumulatively, in the siting, operation, and designation of agricultural industrial facilities.

Other Comments:

In addition to the comments provided herein, we would like to incorporate-by-reference the comments provided by the California Department of Fish and Game, dated August 8, 2000, as related to coastal resource issues (i.e., 300-foot buffer around the Lake Earl Wildlife Area, inclusion of coastal lagoon / estuaries into the list of identified ESHA types, urging CDF to prohibit timber harvesting within RCA

buffers, requiring a minimum 100-foot default wetland buffer width with provisions for wider buffers as warranted, and requiring wetlands replacement mitigation for unavoidable filling).

Thank you for this opportunity to provide input on amendments to the County's LCP. Should you have any questions regarding these comments or the LCP amendment certification process, please call me at (707) 445-7833.

Sincerely,

Jim Baskin, AICP
Coastal Planner

Encl:

Cc: Larry Mintier, J. Laurence Mintier & Associates, 1415 20th Street, Sacramento, CA 95814
File DNC-2-00 (MAJOR)

RSM:JB:jb

STATE OF CALIFORNIA THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
(707) 445-7833
www.coastal.ca.gov

ARNOLD SCHWARZENEGGER, Governor

NOTIFICATION OF APPEAL PERIOD

DATE: August 30, 2004

TO: Jay Sarina, Planner
County of Del Norte, Community Development Department
-- Planning Division
981 H Street, Suite 110
Crescent City, CA 95531

FROM: Robert Merrill, District Manager

RE: **Application No. 1-DNC-04-265**

Please be advised that on August 26, 2004 our office received notice of local action on the coastal development permit described below:

Local Permit #: UP0412C

Applicant(s): Richard Reed

Description: Use Permit for an RV Park.

Location: North side of Buzzini Road off of Lake Earl Drive, Del Norte County (APN(s) 124-130-01)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on September 10, 2004.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Richard Reed

COUNTY OF DEL NORTE

BOARD OF SUPERVISORS

981 "H" Street, Suite 200
Crescent City, California 95531
(707) 464-7204

August 25, 2004

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

Re: Richard Reed Appeal

Dear Mr. Merrill:

Enclosed is Notice of Action and supporting documents regarding the above appeal. These documents supplement the letter addressed to the Friends of Del Norte and the Notice of Determination which was forwarded to your office on July 29, 2004.

Sincerely,

Donna M. Walsh
Clerk of the Board
Of Supervisors

Enclosure

COUNTY OF DEL NORTE
BOARD OF SUPERVISORS
981 H Street, Suite 200
Crescent City CA 95531
(707) 464-7204

July 29, 2004

Joe Gillespie
Friends of Del Norte
P.O. Box 229
Gasquet, CA 95543

RE: Use Permit for a RV Park

Dear Mr. Gillespie:

On July 27, 2004 the Del Norte County Board of Supervisors held a public hearing to consider the appeal of the Richard Reed Use Permit (UPO412C) – 24 space recreational vehicle park.

During the hearing comments were heard from Donna Thompson, Rosemary Reed, Richard Miles and Bill Turk. Following discussion by the Board, Supervisor McClure moved to deny the appeal, seconded by Supervisor Sampels and carried unanimously.

Sincerely,

Donna M. Walsh
Clerk of the Board
Of Supervisors

Cc: California Coastal Commission
Richard Reed
Community Development Department

106

25

NOTICE OF DETERMINATION

TO: _X_ Office of Planning and Research
1400 Tenth Street, Room 222
Sacramento, CA 95814

or

___ County Clerk
County of Del Norte

FROM: Del Norte County
Board of Supervisors
981 H Street, Suite 200
Crescent City, CA 95531

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Richard Reed	UP0412C
Applicant Name	Project Title/Project Number
302 Buzzini Road, Crescent City, CA 95531	
Applicant Address	Telephone Number
	Jay Sarina 707-464-7254
State Clearinghouse Number	Contact Person Telephone Number
North side of Buzzini Road off of Lake Earl Drive	(APN 124-130-01)
Project Location	
Use Permit for a RV Park	
Project Description	

This is to advise that the Planning Commission has approved the above described project and has made the following determinations regarding the above described project:

1. The project __ will, XX will not, have a significant effect on the environment.

2. __ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.

_X_ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

The EIR or Negative Declaration and record of project approval may be examined at:

Del Norte County Community Development Dept., Planning Division
981 H Street, Suite 110
Crescent City, CA 95531

3. Mitigation measures __ were, _X_ were not, made a condition of the approval of the project.

4. A statement of Overriding Considerations __ was, _X_ was not, adopted for this project.

Date Received for Filing

FILED

JUL 30 2004

CLERK-RECORDER
COUNTY OF DEL NORTE

Signature (Jack Reese)

Chair, Del Norte County Board of Supervisors
Title

107

Calif. Dept. of Fish and Game Sec. 711.4(c)
Applicable Fee: __ Neg.Dec. ($1,275) __ EIR ($875) _X_ Exempt

DEL NORTE COUNTY BOARD OF SUPERVISORS
981 H STREET, SUITE 200
CRESCENT CITY, CA 95531

NOTICE OF ACTION

Notice is hereby given that the Board of Supervisors of Del Norte County took action on July 27, 2004 to approve the application for development listed below:

Application Number: UPO412C
Project Description: Use Permit for an RV Park
Project Location: 302 Buzzini Road, Crescent City, CA
Assessor's Parcel Number: 106-0241-57
Applicant: Richard Reed
Applicant's Mailing Address: 302 Buzzini Road, Crescent City, CA 95531
Agent's Name & Address: Stover Engineering, PO Box 783, Crescent City, CA 95531

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

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

Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working days or 21 calendar days subject to the requirements of Chapter 21.52 DNCC and Coastal Regulations.

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

COUNTY OF DEL NORTE

COMMUNITY DEVELOPMENT DEPARTMENT
981 H STREET, SUITE 110
CRESCENT CITY, CALIFORNIA 95531

FAX (707) 465-0340

PLANNING
(707) 464-7254

ENGINEERING & SURVEYING
(707) 464-7229

BUILDING INSPECTION
(707) 464-7253

DEL NORTE COUNTY BOARD REPORT

DATE: 06/18/04 **AGENDA DATE:** 27 07/13/04

TO: DEL NORTE COUNTY BOARD OF SUPERVISORS

FROM: Jay Sarina , Project Planner

SUBJECT: **Appeal of the Richard reed Use Permit (UP0412C) – 24 space recreational vehicle park.**

RECOMMENDATION:

The Planning Commission unanimously approved the project by a 4-0 vote with commissioner McBrayer absent. In accordance with Ordinance 20.58.020, consider the appeal filed by the Friends of Del Norte.

Staff recommends the Board deny the appeal, and adopt the findings and the Negative Declaration and approve the project as conditioned in the attached staff report with additional conditions 14, 15 and 16.

DISCUSSION/JUSTIFICATION:

Stover Engineering, agent for Richard Reed, has submitted an application for a conditional use permit to construct a 24-space recreational vehicle park with related utilities and access driveways on his 8.6-acre parcel. Located on the north side of Buzzini Road, off of Lake Earl Drive, approximately 1 mile north of Elk Valley Cross Road. Zoning for the site is CR (Commercial Recreational District) with a consistent Local Coastal Plan land use designation of Visitor Serving. The site is developed with five rental cabins and a single-family residence. On-site sewage disposal and well serve the site.

Environmental Setting

The project site is generally flat and has been previously used as grazing area for livestock. The site is located immediately north of Buzzini Road, off of Lake Earl Drive. The area is void of significant vegetation and is typical of farmed grazing land in the area. Five historically established rental cabins and a single-family residence are located north and west of the development area separating the site from Lake Earl. The established one percent base flood elevation (12' MSL) is located westerly of the cabins. The parcel is surrounded by General Agriculture and Agriculture Exclusive grazing land. The state owned Lake Earl Wildlife area lies immediately to the west of the subject property and approximately 300 plus feet west (measured to the 10 foot MSL contour) of the proposed RV Park. The site elevation is between 28 and 30 feet MSL.

Coastal Zone/Jurisdiction

The project site is located within the geographic Appeal Jurisdiction (PCAJ) as shown on the LCP Post Certification map. All uses within the Coastal Zone that are not a principal permitted use are also subject to the appeal process.

Zoning and Land Use

The site is, and has been, zoned Commercial Recreational (CR) since 1990 when the property owner applied for and was approved for a General Plan Amendment. It was rezoned from Agriculture General (A-20-C(s) to Commercial Recreational as specifically outlined in the Specific Area Recommendations in the County Local Coastal Plan policies for the Lake Earl Area. The Policy recommends the establishment of the five cabins as recreational rentals, and also permitted the subdivision of the current parcel from the remaining 20-acre plus agriculture parcel.

The project is adjacent to a continued agriculture activity (grazing) on lands zoned for general agriculture and agriculture exclusive activities. The Del Norte County General Plan and Local Coastal Plan policies protect the continued use of agriculture land and discourage siting of incompatible uses adjacent to agriculture lands. In general, recreational uses are compatible with agriculture however; possible impacts may be associated with crop trampling, disturbance of livestock and vandalism. The project is fenced from adjacent, historical grazing lands reducing the potential or impact to less than significant. The design of the project separates the RV spaces from the southerly agriculture exclusive by fencing, the width of the road right-of-way, access driveway and landscape strip by 95 feet. Typically an agriculture buffer or other form of mitigation is required when adjacent lands are or have been utilized for ornamental flower production and pesticides are utilized. Based on the existing and past uses as grazing land the buffer has not been conditioned on this project and the current design adequately separates the recreational use from the agriculture uses by 95 feet.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
(707) 445-7833
www.coastal.ca.gov

NOTIFICATION OF APPEAL PERIOD

DATE: August 30, 2004

TO: Jay Sarina, Planner
County of Del Norte, Community Development Department
-- Planning Division
981 H Street, Suite 110
Crescent City, CA 95531

FROM: Robert Merrill, District Manager

RE: **Application No. 1-DNC-04-265**

Please be advised that on August 26, 2004 our office received notice of local action on the coastal development permit described below:

Local Permit #: UP0412C

Applicant(s): Richard Reed

Description: Use Permit for an RV Park.

Location: North side of Buzzini Road off of Lake Earl Drive, Del Norte County (APN(s) 124-130-01)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on September 10, 2004.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Richard Reed

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COUNTY OF DEL NORTE

BOARD OF SUPERVISORS
981 "H" Street, Suite 200
Crescent City, California 95531
(707) 464-7204

August 25, 2004

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

Re: Richard Reed Appeal

Dear Mr. Merrill:

Enclosed is Notice of Action and supporting documents regarding the above appeal. These documents supplement the letter addressed to the Friends of Del Norte and the Notice of Determination which was forwarded to your office on July 29, 2004.

Sincerely,

Donna M. Walsh
Clerk of the Board
Of Supervisors

Enclosure

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COUNTY OF DEL NORTE
BOARD OF SUPERVISORS
981 H Street, Suite 200
Crescent City CA 95531
(707) 464-7204

July 29, 2004

Joe Gillespie
Friends of Del Norte
P.O. Box 229
Gasquet, CA 95543

RE: Use Permit for a RV Park

Dear Mr. Gillespie:

On July 27, 2004 the Del Norte County Board of Supervisors held a public hearing to consider the appeal of the Richard Reed Use Permit (UPO412C) – 24 space recreational vehicle park.

During the hearing comments were heard from Donna Thompson, Rosemary Reed, Richard Miles and Bill Turk. Following discussion by the Board, Supervisor McClure moved to deny the appeal, seconded by Supervisor Sampels and carried unanimously.

Sincerely,

Donna M. Walsh
Clerk of the Board
Of Supervisors

Cc: California Coastal Commission
Richard Reed
Community Development Department

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NOTICE OF DETERMINATION

TO: _X_ Office of Planning and Research
1400 Tenth Street, Room 222
Sacramento, CA 95814

or

___ County Clerk
County of Del Norte

FROM: Del Norte County
Board of Supervisors
981 H Street, Suite 200
Crescent City, CA 95531

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Richard Reed — Applicant Name
UP0412C — Project Title/Project Number

302 Buzzini Road, Crescent City, CA 95531 — Applicant Address
Telephone Number

State Clearinghouse Number
Jay Sarina — Contact Person
707-464-7254 — Telephone Number

North side of Buzzini Road off of Lake Earl Drive — Project Location
(APN 124-130-01)

Use Permit for a RV Park — Project Description

This is to advise that the Planning Commission has approved the above described project and has made the following determinations regarding the above described project:

1. The project __ will, XX will not, have a significant effect on the environment.

2. __ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.

_X_ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

The EIR or Negative Declaration and record of project approval may be examined at:

Del Norte County Community Development Dept., Planning Division
981 H Street, Suite 110
Crescent City, CA 95531

3. Mitigation measures __ were, _X_ were not, made a condition of the approval of the project.

4. A statement of Overriding Considerations __ was, _X_ was not, adopted for this project.

Date Received for Filing

FILED

JUL 30 2004

CLERK-RECORDER
COUNTY OF DEL NORTE

Signature (Jack Reese)

Chair, Del Norte County Board of Supervisors
Title

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Calif. Dept. of Fish and Game Sec. 711.4(c)
Applicable Fee: __ Neg.Dec. ($1,275) __ EIR ($875) _X_ Exempt

DEL NORTE COUNTY BOARD OF SUPERVISORS
981 H STREET, SUITE 200
CRESCENT CITY, CA 95531

NOTICE OF ACTION

Notice is hereby given that the Board of Supervisors of Del Norte County took action on July 27, 2004 to approve the application for development listed below:

Application Number: UPO412C
Project Description: Use Permit for an RV Park
Project Location: 302 Buzzini Road, Crescent City, CA
Assessor's Parcel Number: 106-0241-57
Applicant: Richard Reed
Applicant's Mailing Address: 302 Buzzini Road, Crescent City, CA 95531
Agent's Name & Address: Stover Engineering, PO Box 783, Crescent City, CA 95531

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

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

Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working days or 21 calendar days subject to the requirements of Chapter 21.52 DNCC and Coastal Regulations.

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

The Friends of Del Norte have appealed the project as described in the attached letter with attachments dated June 14, 2004. The appeal has various stated issues. The Planning Commission received a comment letter also outlining various issues to which staff has previously responded. That response and a response to the June 2, 2004 appeal letter are attached. Additional data has been supplied by the applicant's agent to address comments. The staff report and response to comments received by the Planning Commission are also attached. The response lists comments received by the Planning Commission (and attached to the appeal) with the BOS appeal comments following.

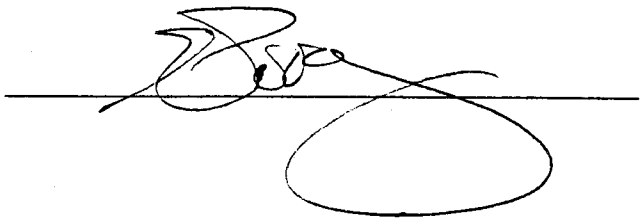
ALTERNATIVES: Uphold the appeal and deny the project with findings.

FINANCING: none

OTHER AGENCY INVOLVEMENT: State Department of Housing and Community Development.

SIGNATURES REQUIRED UPON ADOPTION:

DEPARTMENT HEAD:



Agent: Stover Engineering

STAFF REPORT APP# UP0412C

APPLICANT: Richard Reed

APPLYING FOR: Use Permit for a RV Park

AP#: 106-021-57 LOCATION: 302 Buzzini Road, Crescent City

PARCEL(S)
SIZE: 8.6 acres EXISTING USE: Visitor Serving EXISTING STRUCTURES: 6 cabins/rentals

PLANNING AREA: 3 GENERAL PLAN: VisCom

ADJ. GEN. PLAN: Gag-20, RCA, PAg

ZONING: CR ADJ. ZONING: A-20-C(S), RCA-1, AE

1. PROCESSING CATEGORY: NON-COASTAL APPEALABLE COASTAL X
NON-APPEALABLE COASTAL PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 2/6/04 HEALTH DEPT X BUILDING INSP X
PLANNING X ENGINEERING/SURVEYING X

ACCESS: Buzzini Road
TOPOGRAPHY: Generally Flat ADJ. USES: Ag./Comm. Rec.
DRAINAGE: Surface

DATE OF COMPLETE APPLICATION: 2/11/04

3. ERC RECOMMENDATION: Adopt Negative Declaration. Approval with conditions.

4. STAFF RECOMMENDATION:

Stover engineering, agent for Richard Reed, has submitted an application for a conditional use permit to construct a 24-space recreational vehicle park and related utilities. Access driveways on his 8.6-acre parcel located on the north side of Buzzini Road, off of Lake Earl Drive, approximately 1 mile north of Elk Valley Cross Road. Zoning for the site is CR (Commercial Recreational District) with a consistent Local Coastal Plan land use designation of Visitor Serving. The site is developed with five rental cabins and a single-family residence. On-site sewage disposal and well serve the site.

Environmental Setting

The project site is generally flat and has been previously used as grazing area for livestock. The site is located immediately north of Buzzini Road, off of Lake Earl Drive. The area is void of significant vegetation and is typical of farmed grazing land in the area. Five historically established rental cabins

and a single-family residence are located north and west of the development area separating the site from Lake Earl. The established one percent base flood elevation (12' MSL) is located westerly of the cabins. The parcel is surrounded by General Agriculture and Agriculture Exclusive grazing land. The state owned Lake Earl Wildlife area lies immediately to the west of the subject property and approximately 300 plus feet west (measured to the 12 foot MSL contour) of the proposed R.V. park.

Coastal Zone/Jurisdiction

The project site is located within the geographic Appeal Jurisdiction (PCAJ) as shown on the LCP Post Certification map. All uses within the Coastal Zone that are not a principal permitted use are also subject to the appeal process.

Zoning and Land Use

The site is, and has been, zoned Commercial Recreational (CR) since 1990 when the property owner applied for and was approved for a General Plan Amendment and Rezone from Agriculture General (A-20-C(s) to Commercial Recreational as specifically outlined in the Specific Area Recommendations in the County Local Coastal Plan, policies for the Lake Earl Area. The Policy recommends the establishment of the five cabins as recreational rentals, and also permitted the subdivision of the current parcel from the remaining 20 acre plus agriculture parcel.

The project is adjacent to a continued agriculture activity (grazing) on lands zoned for general agriculture and agriculture exclusive activities. The Del Norte County General Plan and Local Coastal Plan policies protect the continued use of agriculture land and discourage siting of incompatible uses adjacent to agriculture lands. In general, recreational uses are compatible with agriculture, however possible impacts may be associated with crop trampling, disturbance of livestock and vandalism. The project is fenced from adjacent, historical grazing lands reducing the potential or impact to less than significant. The design of the project separates the R.V. spaces from the southerly agriculture exclusive zoned area by fencing along the width of the road right-of-way, access driveway and landscape strip by 95 feet. Typically an agriculture buffer or other form of mitigation is required when adjacent lands are or have been utilized for ornamental flower production and pesticides are utilized. Based on the existing and past uses as grazing land the buffer has not been conditioned on this project and the current design adequately separates the recreational use from the agriculture uses by 95 feet.

Archaeology/Culture

The project site has been the subject of a Cultural Resources Study conducted by James Roscoe, MA Consulting Archaeologist. The Study and subsequent report was required as part of the Subdivision, General Plan Amendment and rezone of the parcel in 1990. The report documents the results of a Phase 1 Cultural Resources Inventory conducted at the time of the project, and further describes the sensitivity of the area and gives specific recommendations regarding the site. The report is confidential as it describes archaeological resources or sites of ethnic significance within the project area. The report indicates that no archaeological sites were located within the proposed house site, which is located north and east of this site on the adjacent 20-acre parcel. The report also indicates the study determined the area has sensitivity and that there is a slight possibility that undiscovered, buried archaeological resources could be encountered during the construction phase of a proposed project. To alert the property owner and any future property owners of their responsibilities in such instance that resources are uncovered during construction condition number four has been included. The Environmental Review

Committee (ERC), including a representative of the Native American community, was made aware of the report and recommendations. The recommendations were deemed adequate, and no additional review was recommended.

Utilities

The applicant has proposed serving the site with an on-site well, electrical service and an on-site sewage disposal system. The area has not been determined to be a water deficient area, and a field review by the ERC field review committee, including the Health Department representative, did not result in any significant issues relating to the extension of utilities to the site.

On-Site Sewage Disposal

The project would be served by an individual on-site sewage disposal system designed by a Registered Professional Engineer. Erik Weber, RPE of Stover Engineering and project engineer for the Reed application, conducted a site investigation on January 13, 2004 in conformance with wet weather percolation testing standards. A Registered Environmental Health Specialist employed by the Del Norte County Health Department observed the profile holes. Test holes were dug to a depth of approximately seven to eight feet. The Stover report (1/26/2004) indicates that groundwater was not observed in any test pit and percolation testing resulted in rates qualifying the site for an above ground "Wisconsin Mound" sewage disposal system. The report further indicates the site area is suitable for a one hundred percent replacement area. The testing utilized the standards of the Del Norte County On-site Sewage Disposal Ordinance (DNCo Chapter 14.12), Uniform Plumbing Code, and the Environmental Protection Agency Design Manual. The proposed system would result in flows exceeding 1500 gallons per day, which requires review and approval by the North Coast Regional Water Quality Control Board (NCRWQCB). Comments were received during the State Clearinghouse review period from the NCRWQCB relating to the use of an on-site sewage disposal system for the proposed project. Comments regarding the environmental document will be discussed in the California Environmental Quality Act (CEQA) section below. Comments were not specific to the engineered design and do not challenge the design of the system, or it's consistency with the regulations governing the use and construction of an above grade system.

The system design has specified a primary disposal area of 110 feet by 50 feet and a reserve area of 135 feet by 65 feet. Two 1,800-gallon tanks would serve the system. Testing data indicates the design is based on discharge equivalent to thirty sites. This results in a conservative design with built in capacity.

Access/Roads/Grading/Drainage

The project site is accessed off of Lake Earl Drive on Buzzini Road, a County maintained roadway. In 1990 as part of the Richardson subdivision, a right-of-way was dedicated to the County of Del Norte for road and utility purposes. The right-of-way provides a paved access to the site and would transition into the paved surface of the R.V. Park. Conditions below require that any work within the dedicated County right-of-way will require the issuance of an encroachment permit by the CDD, Engineering and Surveying Division prior to work commencing.

Site construction will require grading to prepare the site for paving of access roads and spaces. Although the actual development of the site will be subject to the permit jurisdiction of the California

Department of Housing and Community Development (HCD), a grading and drainage plan prepared by a Registered Professional California Engineer will be required to be submitted to the CDD Engineering and Surveying Division for review and approval prior to construction activity. Site drainage is presently proposed to tend towards Buzzini Road in a sheet flow.

Permitting/Construction

As stated above, the project construction would not be under the supervision of the County of Del Norte. A construction permit is required to be obtained from HCD prior to any site activity. HCD retains permit jurisdiction over construction of mobile home and recreational vehicle parks, however land use decisions continue to be the County's responsibility. Conditions regarding drainage and grading must be complied with as stated above. Condition number nine requires the applicant to coordinate with the County CDD prior to construction activity to allow for site review to determine consistency with conditions of approval and proposed design.

Biological/Species

The site is void of significant vegetation and has been historically utilized as yard/cattle grazing area. The site is separated by 300 plus feet from Lake Earl and the related vegetated shore by existing development (rental cabin and residence, roadway).

Visual Resources/Access

Although it offers only a limited view of Lake Earl, Buzzini Road is identified in the Local Coastal Plan Visual Resources Element as being a scenic Viewpoint, and serves as an access to Lake Earl for a variety of recreational related uses such as hunting, fishing, boating, and birding. The scenic resources of Lake Earl are numerous including dune habitat, marshland vegetation, and mixed conifer forest. The project will utilize Buzzini Road as the primary access off of Lake Earl Drive, and use of Buzzini Road is expected to increase with the project. However, the project is located easterly of the end of the Buzzini Road Viewpoint and will not impact the view of Lake Earl and it's habitat.

Recreation

The General Policies of the Recreation Element of the Local Coastal Plan (30222) state "The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over general agriculture or coastal dependant industry." Also, local policy 30250. c "Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction". 7. States "development of areas for recreational use, on a fee basis, by private property owners should be encouraged". The Recreation Element encourages the development of visitor serving uses within the coastal zone as a priority over other uses.

California Environmental Quality Act (CEQA)

A Negative Declaration (Statement of No Significant Impact) was posted for review and comment after review of the project application and associated technical data and preparation of an initial Study (SCH#2004022102). The complete package was forwarded to the State Clearinghouse (SCH) as

required by CEQA for review by State Responsible and Trustee agencies. The comment period closed on March 23rd, 2004 with comments being submitted by two agencies. No public comment has been received as of the preparation of this report. The Native American Heritage Commission responded in reference to Native American cultural resources that could possibly be affected by the project. The comment letter suggested further analysis of the site be considered due to the possible presence of Native American resources in the area. Native American Heritage Commission comments have been addressed as explained in the Archaeology/Culture section above.

The North Coast Regional Water Quality Control Board (NCRWQCB) submitted a letter directly to the County in response to the Negative Declaration. As noted on the State Clearinghouse and Planning Unit notice letter (March 25, 2004):

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation".

This statement directly reflects the requirements and guidelines of CEQA (Guidelines secs. 1504(f), 15209). Effective comments should address the sufficiency of the document in identifying and analyzing possible significant environmental impacts and how they may be avoided or mitigated. The RWQCB comments question the environmental checklist response that the project will have a less than significant impact with respect to water quality standards. The comment states the proposed project is "...the latest in a series of large septic systems recently proposed for coastal Del Norte County in the vicinity of the Smith River plain when in reality, this project is the only project presently considered complete by the County, and represents only the second permit application received that proposes the use of a "large" septic system. The other application, located approximately 7 miles distance from this project, has not been held complete due to concerns regarding site conditions and soils qualities that the County has expressed. The RWQCB comments are not supported by specific documentation, but rely on the opinion of the commentor that "The cumulative water quality impacts of these systems may be significant in this area of heavy precipitation and shallow ground water". As discussed above the only other system presently under consideration is located at the intersection of Ocean View Drive and Highway 101 north of the town of Smith River approximately seven miles north of the Reed project. The applicant submitted testing and subsequent report has not been challenged, nor has the RWQCB insinuated or directly challenged the consistency of allowing an individual septic system on this site to serve the proposed development. It is the Lead Agency's (Del Norte County) responsibility to consider and respond to substantive comments, however if comments raised are not reasonable or supported by fact the Lead Agency shall provide only a minimal response. The Lead Agency has reviewed the comment and determines the comments to be unresponsive and lacking substance and specificity. No data has been provided to support the comment that the use of an individual septic system will have a significant affect on the environment.

The NCRWQCB also commented that it will be "....unable to complete review of future development proposals until a legally responsible entity is formed to perform maintenance, monitoring, and repair of individual waste treatment and disposal systems". This comment reflects an earlier letter (November 17, 2003) from Thomas Dunbar, Senior Water Resource Control Engineer outlining NCRWCQB policy regarding the maintenance, monitoring and repair of individual waste treatment and disposal systems. In this letter Mr. Dunbar States:

"Maintenance, monitoring, and repair of individual waste treatment and disposal systems shall be the responsibility of:

1. The individual property owner; or
2. A legally responsible entity of dischargers empowered to carry out such functions. That legally responsible entity shall be a public agency, unless demonstration is made to the Regional Water Quality Control board that and existing public agency is unavailable and formation of a new public agency is unreasonable. If such a demonstration is made, a private entity must be established with adequate financial, legal, and institutional resources to assume responsibility for waste discharge.

The project proposes an on-site sewage disposal system designed to be consistent with the County On-site Sewage Disposal Ordinance and the region's Basin Plan. The system would be located on a single property and would serve a single use. Because this is not a system that would serve multiple properties and/or be located off-site, the proposed project would comply with RWQCB policy 1. listed above. The individual property owner, pursuant to item 1. above, would be responsible for the operation, maintenance and monitoring of the proposed on-site sewage system.

After the close of the comment period and in response to consultation between County and RWQCB staff, the NCRWQCB has submitted a letter "supplementing" the previous comment letter. The letter fails to adequately support the statement that the Initial Study does not adequately consider water quality impacts. Again, no data or information has been provided that would reasonably substantiate the statements as required by CEQA.

The applicant has submitted a design prepared by a Registered Professional Engineer based on local and NCRWQCB Basin Plan standards, which was included in the County's State Clearinghouse submittal for the agency review. In two letters of response NCRWQCB staff has not provided evidence of their assumption that a significant impact would occur as a result of the project, nor have they attempted to establish the engineered design does not comply with RWQCB Basin Plan Standards or County Ordinance or what conditions support their statements. Therefore, there is no technical reason to determine significant impact and the project otherwise complies with the RWQCB standards outlined in the Letter of November 17, 2003 and the Basin Plan. Furthermore, the statement that "The cumulative water quality impacts of these systems may be significant in this area of heavy precipitation and shallow groundwater" is not substantiated by any information or data, and is not consistent with the soils profiles developed after digging of test pits on the site. Groundwater was not encounter in any of the 7-8 feet deep holes dug January 13, 2004 during the open wet weather testing period. Furthermore, the site is surrounded by large agriculture designated parcels, which occur throughout the "Smith River plain", and most notably between this project and the only other "large" septic system located approximately seven miles north.

The RWQCB is a responsible agency under CEQA. A responsible agency is a public agency other than the lead agency that have responsibility for carrying out or approving a project and for complying with CEQA, have a more limited authority to require changes in the project to lessen or avoid, or refuse to approve the project to avoid, only the effects of that part of the project that they will be called on to carry out or approve. The NCRWQCB would be responsible for accepting or denying a Report of Waste Discharge due to the project exceeding a discharge volume of 1,500 gallons per day.

Requiring an inspection on an annual basis by a qualified expert in order to ensure that the system is in good working order and performing as designed could be a consideration of the Planning Commission. In such a case the property owner would be responsible for submitting a monitoring schedule prior to issuance of the use permit and also be responsible for contracting with a Registered Professional Engineer or Sanitarian to perform the inspection and prepare an annual report. A financial assurance could be posted with the Health Department to ensure that sufficient funds are available for the County to have the inspection completed and report prepared if the property owner fails to perform.

Recommendation

Staff recommends the Commission open the public hearing and consider any public testimony. Furthermore, staff recommends the Commission adopt the findings and the negative declaration and approve the project with the below listed conditions.

5. FINDINGS:

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

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

C) An initial study has been conducted by the lead agency, circulated to the State Clearinghouse and responses have been made to comments received on as a result of this process so as to evaluate the potential for adverse environmental impact; and

D) Considering the record as a whole, there is no evidence before the lead agency that the proposed project will have potential for adverse effect on wildlife resources or the habitat upon which the wildlife depends, as defined in Section 711.2, of the Fish and Game Code

E)The Planning Commission has considered the comments submitted by the North Coast Regional Water Quality Control Board and determined the comments are not substantiated by evidence, data, reference, expert opinion of fact and are not reasonable;

F) The project meets a priority need within the Coastal Zone by providing full coastal recreational opportunity while assuring the protection of important coastal resources and the rights of private property owners;

G) The project is located so as to distribute recreational development throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding; and

H) Fragile coastal resources have been considered, avoided and protected to the greatest possible extent.

6. CONDITIONS:

1) Use Permit Approval is for 24 recreational vehicle spaces to be developed in compliance with the approved plot plan and the requirements of Title 25 Park Codes;
2) The project shall meet the requirements of the Uniform Fire Code applicable at the date of application (2/04);
3) Construction of the park shall be permitted and inspected by the California Department of Housing and Community Development Department, a copy of the approved permit shall be submitted to the Community Development Department prior upon receipt;
4) The owner and any subsequent owners shall be on notice that if any archaeological resources are encountered during any construction activities; such construction activities shall be halted, the Planning Division notified, and a qualified archaeologist shall be hired at the owners expense to evaluate the find. A Notice of Conditional Approval shall be developed to provide such notice prior to issuance of the Use Permit;
5) All development disturbances shall occur within the permitted development area. Any construction that involves earth movement outside of the approved site plan will require additional Planning Commission review;
6) Prior to issuance of the Use Permit any final soils testing required by Klamath Basin Standards shall be completed. The final location and design for the proposed Wisconsin Mound Sewage Disposal system(s) shall be prepared by a registered engineer. These shall be submitted to the County Building Inspection Division for review and acceptance;
7) A Notice of Conditional Approval shall be recorded at the time of acceptance of the permit (signing) at the applicant's expense;
8) A waste discharge report shall be obtained from the State Water Quality Control Board prior to construction activity. A copy of that report shall be submitted to the Community development department prior to construction activity;
9) Prior to construction activity, the applicant shall contact the Community Development Department Planning Division to conduct a site review for coordination of construction activity and location. The site shall be delineated (including any storage/laydown areas) so as to allow staff to confirm consistency with the site plan;
10) Prior to issuance of a permit to construct, an engineered grading and drainage plan shall be prepared for the project area and submitted to the Engineering and Surveying Division for review and acceptance. The plan shall be prepared by a California registered civil engineer. All improvements called for in the plan shall be the responsibility of the applicant and shall be constructed prior to recordation of the parcel map. A Grading Permit shall be obtained for the project prior to any grading work.
11) No grading shall be conducted on any parcel between October 30 and April 30;
12) An Encroachment Permit from Community Development Department, Engineering and Surveying Division shall be obtained for any work in the Buzzini Road right-of- way;
13) Lighting of the facility shall be directed away from adjacent areas to minimize off-site glare; ***Added per PC Meeting 6/2/04***
14) The applicant shall submit a plan for the inspection of the on-site sewage disposal system on an annual basis by a qualified expert in order to ensure the system is in good working order and performing as designed. The inspection shall include grab sampling of Formaldehyde, Zinc, Phenol, and N as ammonium in the septic tank effluent. An estimate of monthly flow to the septic tank shall be included in the report. The applicant shall submit the name and qualifications of the expert and a schedule for the submission of the report for review and acceptance of the County Community

Development Department and the County Health department. The report shall also be forwarded to the Regional Water Quality Control Board. Any recommendations resulting from the inspection will be the responsibility of the property owner. Groundwater monitoring may be required to complete the inspection; ***Added per PC Meeting 6/2/04***

15) The applicant shall submit a plan for the monitoring of discharges of holding tanks to the on-site system. Any recommendations resulting from the inspection will be the responsibility of the property owner; ***Added per PC Meeting 6/2/04***

16) The property owner shall educate park users with information similar to the information published by the University of Arizona as provided by the FDN; and ***Added per PC Meeting 6/2/04***

17) The public access issue for Buzzini Road to, and including the Lake, is to be resolved between the property owner and the County prior to issuance of the use permit for the RV Park. ***Added per PC Meeting 6/2/04***

Conditions Added per PC Meeting 6/2/04

1-DNC-04-265

COUNTY OF DEL NORTE

BOARD OF SUPERVISORS

981 "H" Street, Suite 200
Crescent City, California 95531
(707) 464-7204

RECEIVED
AUG 27 2004
CALIFORNIA
COASTAL COMMISSION

August 24, 2004

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

RE: Richard Reed Appeal

Dear Mr. Merrill:

As a County we have applied the same consideration as staff in reaching our decision to deny the appeal and adopt the findings and negative declaration and approve the project as conditioned.

The project site is located immediately north of Buzzini Road off of Lake Earl Drive and is generally flat and void of vegetation. The parcel is surrounded by General Agriculture and Agriculture Exclusive grazing land. The Lake Earl Wildlife area lies immediately to the west of the property and approximately 300 plus feet west of the proposed RV Park. The site elevation is between 28 and 30 feet MSL.

The site is and has been zoned Commercial Recreational since 1990. It was rezoned from Agriculture General (A-20-C(s) to Commercial Recreational as specifically outlined in the Specific Area Recommendations in the county Local Coastal Plan policies for the Lake Earl Area. The Policy recommends the establishment of the five cabins as recreational rentals. In general recreational uses are compatible with agriculture. The project is fenced from adjacent historic grazing lands reducing the potential or impact to less than significant. Based on the existing and past uses as grazing land the buffer has not been conditioned on this project and current design adequately separates the recreational use from the agriculture uses by 95 feet.

We strongly recommend that the Coastal Commission support the findings of Del Norte County.

Thank you for your anticipated support and prompt consideration.

Sincerely,

Jack Reese, Chairman
Board of Supervisors
County of Del Norte

Cc: Richard Reed
Regional Water Quality Board

Article 2. General Park Requirements

§ 2100. Application and Scope.

(a) The provisions of this article shall apply to the construction, use, maintenance, and occupancy of lots within parks in all parts of the state.

(b) Existing construction and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18872 and 18872.2, Health and Safety Code.

§ 2102. Responsibility.

(a) The owner, operator, or the designated agent for the park shall be responsible for the safe operation and maintenance of all common areas, park-owned electrical, gas, and plumbing equipment and their installations, and all park-owned permanent buildings or structures, within the park.

(b) The owner of a unit, accessory building or structure, or building component shall be responsible for the use and maintenance of the unit, accessory building or structure, or building component and its utility connections up to the lot services in compliance with the requirements of this chapter.

(c) Any person obtaining a permit to construct shall be responsible for the construction or installation in accordance with the requirements of this chapter.

(d) The operator of a park shall not permit a unit, accessory building or structure, building component, or any park utility to be constructed, installed, used, or maintained in the park unless constructed, installed, used, and maintained in accordance with the requirements of this chapter.

(e) Procedures related to notice of violation and responsibilities to abate violations are set forth in article 10, commencing with section 2600 of this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.2, 18866.3 and 18871.8, Health and Safety Code.

§ 2104. Lot Address Identification and Lot Line Marking.

(a) All lots shall be identified by letters, numbers, or street address numbers. The lot identification shall be in a conspicuous location facing the roadway.

(b) All lots shall be defined by permanent corner markers. Corner markers shall be visible at grade and shall be installed in a manner that does not create a hazard.

(c) Permanent corner markers shall be any of the following:

(1) Pressure-treated wood, or wood of natural resistance to decay and insects, as determined in the California Building Code, Chapter 23, section 2302, at least two (2) inches by two (2) inches in nominal dimension, driven into the ground to a depth of at least eighteen (18) inches, or six (6) inches if it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(2) Metallic pipe or rods protected from corrosion by galvanizing, paint, or a protective coating which resists corrosion, and is driven into the ground to a depth of at least eighteen (18) inches, or is driven into the ground to a depth of at least six (6) inches when it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(3) Schedule 40 or better PVC, ABS, or CPVC pipe driven into the ground to a depth of at least eighteen (18) inches, or driven into the ground to a depth of at least six (6) inches when it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(4) Saw cuts, blade marks, or scribe marks in a concrete or asphalt curb or roadway which are different in depth and nature than expansion joints.

(5) A nail with either a metal washer or surveyor's marker, which is either driven or embedde asphalt, curbs or streets.

(d) Lot lines shall not be created, moved, shifted, or altered without the written authorization of owners of the units on the lots affected, if any, and the local planning agency. For the purpose c

EXHIBIT NO. 7

APPLICATION NO.
A-1-DNC-04-054
EXCERPT, TITLE 25, CAL. CODE OF REGS., DEPT. OF HOUSING & COMMUNITY DEVELOPMENT (1 of 5)

the local planning agency may issue a formal statement in writing that it is not objecting to the lot line creation, alteration, or movement.

(e) To determine the edge of a lot bordering a roadway with curbing, the lot ends at the beginning of the curbing; curbing is part of the roadway.

(f) Lot lines identifying individual lots or campsites are not required in an incidental camping area or temporary recreational vehicle park; however, the general locations where camping or parking will be permitted shall be shown on the map or plot plan of the incidental camping area or temporary recreational vehicle park.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18872, 18872.1and 18872.2, Health and Safety Code.

§ 2106. Roadways.

All roadways shall have clear and unobstructed access to a public thoroughfare, except that a roadway may have security gates, if those security gates are not in violation of local government requirements.

(a) In parks, or portions thereof, constructed prior to September 15, l961, each unit shall have access from the lot to a roadway of not less than fifteen (15) feet in unobstructed width.

(b) In parks constructed on or after September 15, 1961, each unit shall have access from the lot to a roadway of not less than eighteen (18) feet, or a one-lane, one-way roadway not less than twelve (12) feet, in unobstructed width.

(c) No vehicle parking shall be allowed on one-way, one-lane roadways less than nineteen (19) feet in width. If vehicle parking is permitted on one side of a one-lane roadway, the roadway shall be a minimum of nineteen (19) feet in width. If vehicle parking is permitted on both sides of a one-lane roadway, the roadway shall be at least twenty-six (26) feet in width.

(d) No vehicle parking shall be allowed on two-lane, two-way roadways less than twenty-five (25) feet in width. If vehicle parking is permitted on one side of a two-way roadway, the roadway shall be a minimum of twenty-five (25) feet in width. If vehicle parking is permitted on both sides of a two-way roadway, the roadway shall be at least thirty-two (32) feet in width.

(e) Roadways designed for vehicle parking on one side shall have signs or markings prohibiting the parking of vehicles on the traffic flow side of the roadway, in order to provide a continuously open and unobstructed roadway.

(f) A two-way roadway divided into separate, adjacent, one-way traffic lanes by a curbed divider or similar obstacle shall be not less than twelve (12) feet in unobstructed width on each side of the divider.

(g) In parks which were constructed after September 23, l974, and which contain not more than three (3) lots, each unit shall have access from the lot to a roadway that is not less than twenty (20) feet in unobstructed width.

(h) Roadways, other than those necessary for maintenance by the operator are not required in incidental or tent camp areas.

(i)Roadways required for emergency vehicles and the operation and maintenance of incidental camping areas and of tent camps shall be maintained to provide safe passage of vehicular traffic.

NOTE: Authority cited: Section 18865.3, Health and Safety Code. Reference: Section 18872.2, Health and Safety Code.

§ 2108. Park Lighting.

In every park, lighting shall be installed which is capable of providing:

(a) An average of five (5) horizontal foot candles of light at the floor level at entrances to toilet and shower buildings, laundry buildings, and recreation buildings when the buildings are in use during the hours of darkness.

(b) An average of ten (10) horizontal foot candles of light at the floor level within toilet and shower buildings, laundry buildings, and recreation buildings when the buildings are in use during the hours of darkness.

(c) An average of two-tenths (.02) horizontal foot-candles of light the full length of all roadways and walkways within a park during the hours of darkness.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.7, 18873, and 18873.2, Health and Safety Code.

§ 2110. Occupied Area.

(a) The occupied area of a lot, consisting of the unit, all accessory buildings and structures including, but not limited to awnings, stairways, ramps and storage cabinets, shall not exceed seventy-five (75) percent of the lot area.

(b) For purposes of this chapter, patios and paved or concreted areas on grade, are not included in the measurement of the occupied area.

NOTE: Authority cited: Sections 18865, Health and Safety Code. Reference Sections 18872 and 18873.5, Health and Safety Code.

§ 2112. Required Toilet and Shower Facilities.

Toilets, showers, and lavatories shall be provided as follows:

(a) In parks constructed and operated exclusively for dependent units, at least one toilet, one shower, and one lavatory for each gender for each fifteen (15) dependent unit lots shall be provided.

(b) In parks constructed after July 7, 2004, and operated for dependent and independent units, at least 1 toilet, shower, and lavatory, for each gender, for each twenty-five (25) lots shall be provided, or fractional part thereof.

(c) In parks constructed on or before July 7, 2004, and operated for dependent and independent units, the following minimum ratio of toilets, showers, and lavatories for each gender shall be maintained:

Lots	Toilets	Showers	Lavatories
1-25	1	1	1
26-70	2	2	2

One additional toilet shall be provided for each gender, for each one hundred (100) additional lots, or fractional part thereof in excess of seventy (70) lots.

(1) Independent, individually enclosed, lockable facilities containing one (1) toilet and lavatory, or shower, may be designated as unisex on an equal one (1) to one (1) ratio to gender-designated facilities, as described in this section, provided the number of gender-designated facilities remain equal.

(2) Sufficient toilets shall be reserved for the exclusive use of the occupants of the lots in the park.

(3) Toilets, lavatories, and showers shall be within five hundred (500) feet of all dependent unit lots or lots not provided with a lot water service outlet and a three (3) inch lot drain inlet.

(4) Toilet, lavatory and shower facilities shall be separated and distinctly marked as either men or women, or unisex.

(5) Showers shall be provided with hot and cold running water. Each shower shall be contained within a separate compartment. Each shower compartment shall be provided with a dressing area of not less than six (6) square feet of floor area that shall have hooks for hanging clothing and a bench or chair for use by the occupant.

(6) Toilets shall be installed in separate compartments.

(7) Toilet and shower facilities are not required in tent camps but, if installed, shall comply with this section. Sanitary facilities that do not comply with this section, such as chemical toilets, may be installed if approved by the local health department.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18873, 18873.1, and 18873.2, Health and Safety Code.

§ 2114. Animals.

(a) Dogs, and other domestic animals, and cats (domestic or feral) shall not be permitted to roam at large (free) in any park.

(b) Animal feces shall not be permitted to accumulate on any lot or common area in a park to the extent that they create a nuisance.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.6, Health and Safety Code.

§ 2116. Park and Lot Area Grading.

(a) The park area and park roadways shall be so graded that there will be no depressions in which surface water will accumulate and remain for a period of time that would constitute a health and safety violation as determined by the enforcement agency. The ground shall be sloped to provide storm drainage run-off by means of surface or subsurface drainage facility.

(b) Each lot shall be graded to prevent the migration of water to the underfloor area of a unit or accessory building or structure. Other methods to prevent the migration of water beneath a unit or accessory building or structure may be approved by the department as alternates, in accordance with section 2016 of this chapter.

(c) To provide for unanticipated water entering the area beneath a unit or accessory building or structure, that area shall be sloped to provide for drainage to an approved outside drainage way. Other positive passive drainage methods may be approved by the department as an alternate, in accordance with section 2016 of this chapter.

(d) Drainage from a lot, site, roadway, or park area shall be directed to a surface or subsurface drainage way and shall not drain onto an adjacent lot, or site.

(e) The area of the lot where the camping cabin is to be installed shall be graded to not more than a two (2) percent grade.

(f) Fills necessary to meet the grading requirements of this section shall comply with section 2045 of this chapter.

(g) Minor fills that do not exceed six (6) inches in depth that are made with a compacted class 2 aggregate, do not require additional approvals.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18863.4 and 18872, Health and Safety Code.

§ 2118. Lot Occupancy.

(a) Parks shall accommodate only recreational vehicles, tents, and camping cabins.

(b) A manufactured home or mobilehome shall not be located or installed in a park except for use by persons employed in the management or operation of the park.

(c) In no case shall a truck-mounted camper be occupied if removed from the truck.

(d) A permanent building, garage, cabana, or storage building shall not be constructed or installed on any lot in a park.

(e) Lot occupancy shall not exceed the number of persons in a camping party as defined in section 18862.7 of the Health and Safety Code.

(f) The following shall apply to lots in parks designed to accommodate recreational vehicles.

(1) Except as provided in paragraph (2) of this section, lot shall accommodate no more than:

(A) one (1) recreational vehicle and one (1) tent, or

(B) one (1) camping cabin, or

(C) two (2) tents, or

(D) one (1) manufactured home or mobilehome used in accordance with subsection (b).

(2) When used as a frequent means of transportation, a self-propelled recreational vehicle or truck mounted camper may be parked beside an occupied unit. That vehicle shall not be occupied or connected to the lot's utility facilities or interconnected with the occupied unit.

(g) The following shall apply in parks designated as incidental camping areas.

(1) An incidental camping area shall accommodate only recreational vehicles, tents, or campers furnishing their own camping equipment.

(2) A cabana, ramada, garage, or permanent building shall not be constructed, or installed, on any campsite in an incidental camping area.

(3) An incidental camping area campsite shall accommodate no more than:

(A) two (2) recreational vehicles, or

(B) one (1) camping party, or

(C) two (2) tents, or

(D) one (1) recreational vehicle and one (1) tent, or

(E) one (1) camping cabin.

(h) The following shall apply in parks designated as tent camps.

(1) A recreational vehicle shall not be permitted to occupy a tent lot or campsite.

(2) Occupancy of lots or campsites is limited to one (1) camping party which may be permitted to occupy not more than two (2) tents on the lot or campsite.

(3) Accessory buildings or structures shall not be constructed, or installed, on any campsite or tent lot in a tent camp.

(i) The following shall apply in parks designated as temporary recreational vehicle parks.

(1) A temporary recreational vehicle park shall accommodate only recreational vehicles and tents.

(2) Accessory buildings or structures shall not be constructed, or installed, on any lot, or campsite.

(3) A temporary recreational vehicle park lot shall accommodate no more than:

(A) two (2) recreational vehicles, or

(B) one (1) camping party, or

(C) two (2) tents, or

(D) one (1) tent and one (1) recreational vehicle.

NOTE: Authority cited: Section 18865, 18865.3 Health and Safety Code. Reference: Sections 18871, 18871.3, 18872, 18873, 18873.1 and 18873.5, Health and Safety Code.

§ 2120. Rubbish and Accumulation of Waste Material.

(a) Occupants shall keep the lot area and the area under, around, or on their unit and accessory buildings or structures free from an accumulation of refuse, rubbish, paper, leaves, brush or other combustible material.

(b) Waste paper, hay, grass, straw, weeds, litter, or combustible flammable waste, refuse, or rubbish of any kind shall not be permitted, by the park owner or operator, to remain upon any roof or on any vacant lot, open space, or common area.

(c) The park area shall be kept clean and free from the accumulation of refuse, garbage, rubbish, excessive dust, or debris.

(d) The park operator shall ensure that a collection system is provided and maintained, with covered containers, for the safe disposal of rubbish.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18872 and 18873.5, Health and Safety Code.

§ 2122. Emergency Information.

The requirements of this section shall be printed and posted in a conspicuous place on the premises and shall contain the following information:

(a) List the following telephone numbers:

(1) Fire Department

(2) Police Department or Sheriff's Office.

(3) Park Office.

(4) The responsible person for operation and maintenance.

(5) Enforcement agency.

(b) List the following locations:

(1) Nearest fire alarm box, when available.

(2) Park location (street or highway numbers).

(3) Nearest public telephone.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

§ 2126. Lot Utility Location.

When utility equipment to supply electrical power, water, sewer or gas is provided to a lot, the utilities shall be located in the rear half (½) of the lot on the left side when facing the lot from the roadway and within four (4) feet of the side of the proposed location of the unit.

NOTE: Authority cited: Sections 18865 and 18873.3, Health and Safety Code. Reference: Section 18872, 18873.1, 18873.3, and 18873.4, Health and Safety Code.

STOVER ENGINEERING

PO Box 783 - 711 H Street - Crescent City, California 95531 (707) 465-6742 Fax (707) 465-5922
e-mail: stovereng@aol.com

RICHARD REED
302 BUZZINI ROAD
CRESCENT CITY, CA 95531

Job Number: 3576

26 January 2004

RE: On-site Sewage Disposal Evaluation – APN 106-021-57

Dear Mr. Reed:

Stover Engineering was retained by you to perform an on-site sewage disposal evaluation for the parcel located off Buzzini Road, Crescent City, California. Based upon our investigation, it is my opinion that a suitable on-site sewage disposal system plus a reserve area can be situated on the proposed parcel for a 30 unit RV Park. This report conforms to the Del Norte County On-site Sewage Disposal Ordinance.

We conducted a site investigation on 13 January 2004, in conformance with the wet weather percolation-testing standards. Steve Landes, REHS, from the Del Norte County Health Department was present during the investigation of the profile holes. Four test holes were dug with a backhoe. Test Hole Nos.1-3 were dug to a depth of approximately 8 feet, while Test Hole No.4 (TH-4) was dug to a depth of approximately 7 feet. The soils in each hole were found to be generally the same with upper 2-foot deep dark loamy topsoil and underlying light brown sandy loam. Small cobbles were observed in all the test holes at depth between 6 and 8 feet below ground surface. No free groundwater surface was observed in any of the Test Holes. The proposed development will utilize a private well for water.

Percolation testing was performed on the same date as the investigation. The beginning of the wet weather percolation-testing season was confirmed with Leon Perrault, REHS, of the Del Norte County Health Department, prior to this testing. Since the work was performed during the wet weather season, no presoaking of the test holes was required. The bottom of each percolation test hole was at 2-feet below the ground surface. Stabilized percolation rates of 3 to 5 minutes per inch (MPI) were observed. Based on the apparent separation distance to the water table and fast percolation rates, a Wisconsin at-grade soil absorption system is recommended. Based on our calculations, there is sufficient room on the parcel to site the appropriate system and reserve field. Attached are our field data and calculations.

We trust this provides the information you require. Please feel free to contact me if you have any questions. If you desire to proceed with the design of the mound system for construction, please feel free to contact me as well.

Very truly yours,

STOVER ENGINEERING

Erik Weber

Erik Weber, PE
Project Engineer

Attachment (19 Pages)

C:\main\3576\SDS Evaluation.doc

EXHIBIT NO. 8
APPLICATION NO.
A-1-DNC-04-054
ON-SITE SEWAGE DISPOSAL EVALUATION (STOVER ENGINEERING, JAN. 26, 2004) (1 of 12)

STOVER ENGINEERING
711 H Street
Crescent City, CA 95531
(707) 465-6742 Fax (707) 465-5922

JOB 3576 F & RV Park
SHEET NO. 2 OF 19
CALCULATED BY EKW DATE 1/23/14
CHECKED BY _____ DATE _____
SCALE _____

- Size Primary Area

Design Flow Rate (DFR) = 3000 gpd (see calc. under Tank Sizing)

SAND LOADING RATE (SLR) = 1.0 gpd/ft² (Assume Sand is per spec)

Basal Loading Rate (BLR) = 0.6 gpd/ft²

FOR LOAM w/ MODERATE STRUCTURE (Per Table 2 Ref. 1)

Linear Loading Rate (LLR) = 10 gpd/lf (Page 7 Ref 1)

Effective Absorption width (A)

$$A = \frac{LLR}{SLR} = \frac{10\ gpd/lf}{1.0\ gpd/ft^2} = 10.0\ ft$$

ABSORPTION LENGTH (B)

$$B = \frac{DFR}{LLR} = \frac{3000\ gpd}{10\ gpd/lf} = 300\ ft$$

BASAL WIDTH = A + I (I = Slope width)

$$A+I = LLR/BLR = \frac{10\ gpd/lf}{0.6\ gpd/ft^2} = 16.67'$$

$$I = 16.67 - A = 16.67 - 10 = 6.67'$$

MOUND Fill Depth (D)

DNCo ORDINANCE REQUIRES 2' min soil (for Alternative SYSTEM) from bottom of leaching trench to Ground water. NO GROUND WATER OBSERVED IN TEST holes (bottom of test hole ≈ 8 bgs). Therefore AT-GRADE MOUND OK.

STOVER ENGINEERING
711 H Street
Crescent City, CA 95531
(707) 465-6742 Fax (707) 465-5922

JOB 3576 2nd RV Park
SHEET NO. 4 OF 19
CALCULATED BY EKW DATE 1/23/14
CHECKED BY _____ DATE _____
SCALE _____

— Size Reserve Area

3000 gpd DOMESTIC WASTE FLOW FROM RV PARK

300 gpd / SINGLE FAMILY DWELLINGS (2 BEDROOM OR LESS) [5 DWELLINGS]

150 gpd / MULTIPLE FAMILY DWELLINGS [3 BEDROOM]

$300(5) + 150(3) = 1950$

Σ 4950 gpd TOTAL DOMESTIC FLOW

DESIGN FLOW RATE (DFR) = 4950 gpd

SAND LOADING RATE (SLR) = 1.0 gpd/ft²

BASAL LOADING RATE (BLR) = 0.5 gpd/ft²

FOR LOAM w/ MODERATE STRUCTURE (PER TABLE 2 REF 1)

LINEAR LOADING RATE (LLR) = 10 gpd/lf (pg 7 REF 1)

EFFECTIVE ABSORPTION WIDTH (A)

$$A = \frac{DFR}{SLR} = \frac{10\ gpd/lf}{1.0\ gpd/ft^2} = 10.0\ Ft$$

ABSORPTION LENGTH (B)

$$B = \frac{DFR}{LLR} = \frac{4950}{10\ gpd/lf} = 495\ Ft$$

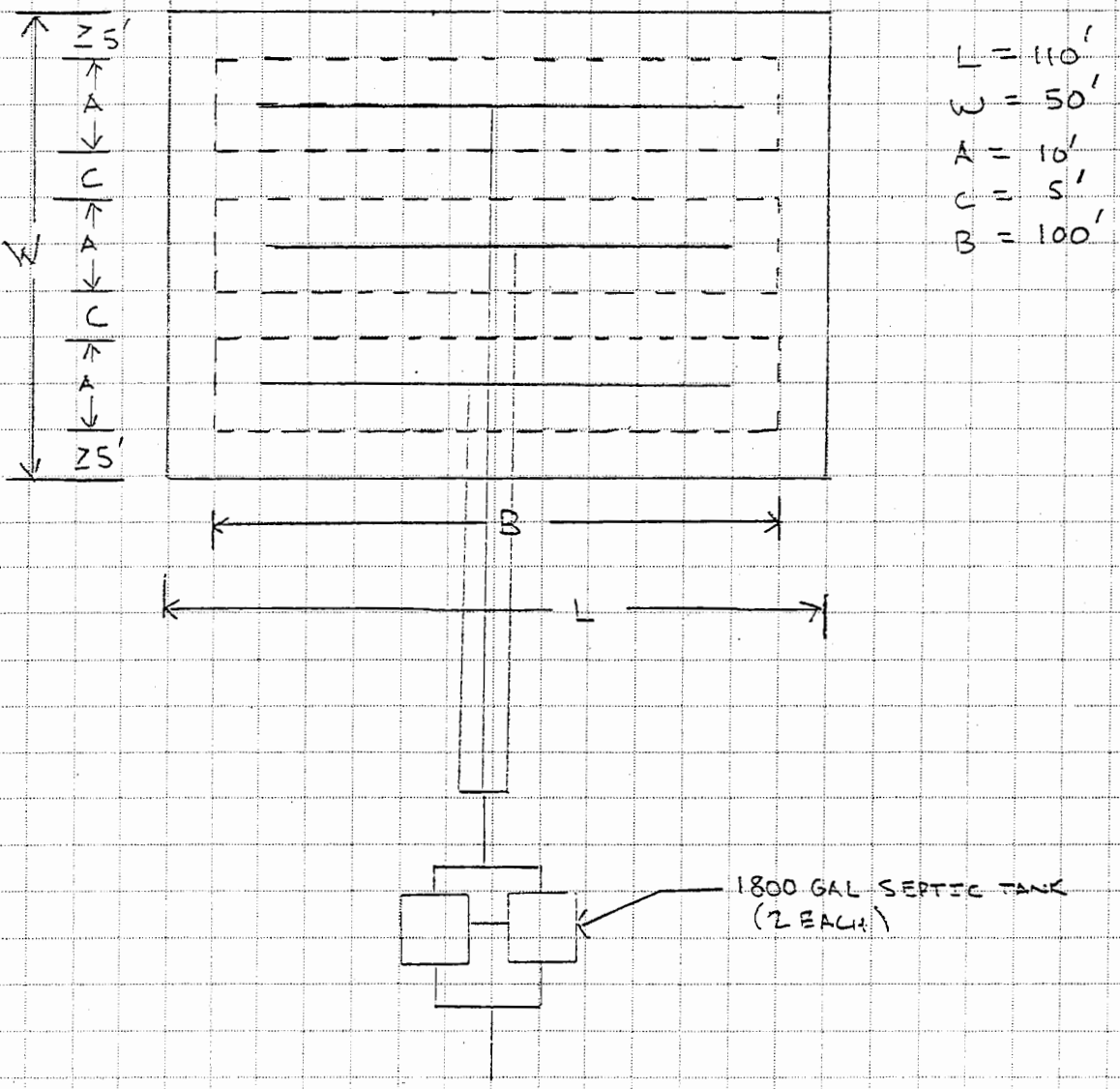
30 of 2

STOVER ENGINEERING
711 H Street
Crescent City, CA 95531
(707) 465-6742 Fax (707) 465-5922

JOB 3576 ed RV Park
SHEET NO. 6 OF 19
CALCULATED BY EKW DATE 1/23/14
CHECKED BY _____ DATE _____
SCALE _____

AT GRADE MOUND LAYOUT

PRIMARY DISPOSAL AREA

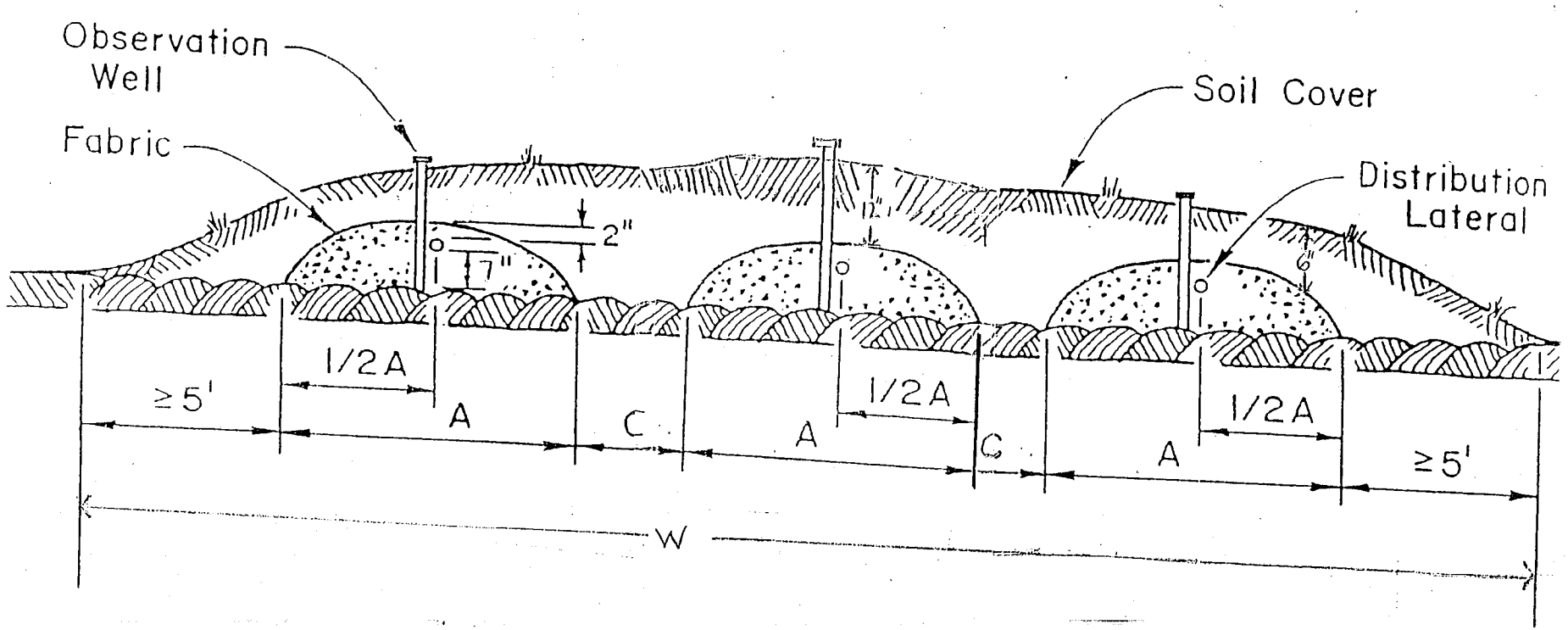


L = 110'
W = 50'
A = 10'
C = 5'
B = 100'

4 of 12

PRIMARY MOUND

TYPICAL SECTION



5876 - Reed RV Park
SHT 8 of 19

STOVER ENGINEERING

SITE EVALUATION SUMMARY

OWNER: [illegible] REED DATE: 1-13-05

ADDRESS: _____ JOB NO. 5876

A.P.N. 106-021-57

LOCATION: Ruzzini Rd

LOT SIZE: 8.6 AC WATER SYSTEM ON SITE WELL

GROUND SLOPE

SETBACKS (Del Norte County Minimum)	SEPTIC TANK	LEACHFIELD
Property Line	X (10')	✓ (10')
Well	X (100')	✓ (100')
Water Line	X (10')	✓ (10')
Stream	X (100')	✓ (100')
Drainage Channel	X (50')	NA (50')
Ocean, Lake, etc.	X (50')	NA (100')
Bluff or cutbank	X (25')	NA (25')

PRIMARY AREA SITES: SEE PAGE 10 of 19

REPLACEMENT AREA SITES: SEE PAGE 10 of 19

OTHER EXCAVATIONS:

DEPTH TO HARDPAN, BEDROCK, ETC. : 5'+ - 8'

DEPTH TO GROUNDWATER: Not Detected

DEPTH TO MOTTLING: NOT OBSERVED

OTHER FACTORS: NONE

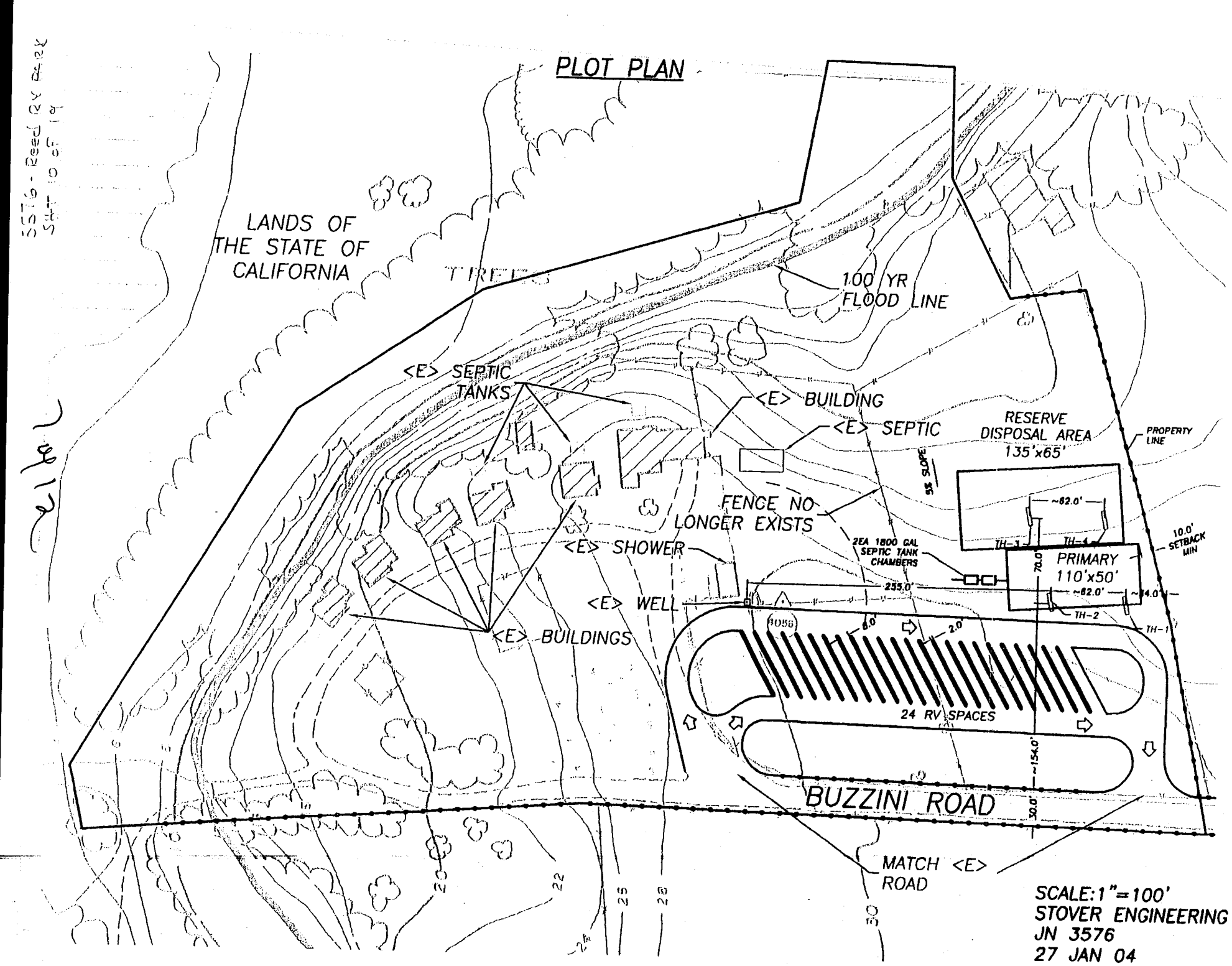
SOIL ANALYSIS ZONE: NA PERCOLATION RATE: 3-5 MPI

DEPTH OF SOIL UNDER LEACHFIELD REQUIRED: 23' (AT GRADE MOUND) ACTUAL DEPTH AVAILABLE: 26'

REPLACEMENT AREA AVAILABLE: YES ADEQUATE: YES

OTHER COMMENTS: Replacement Area SITED For All Proposed & EXISTING Improvements

6 of 12


PLOT PLAN
LANDS OF THE STATE OF CALIFORNIA
100 YR FLOOD LINE
<E> SEPTIC TANKS
<E> BUILDING
<E> SEPTIC
RESERVE DISPOSAL AREA 135'x65'
PROPERTY LINE
5% SLOPE
FENCE NO LONGER EXISTS
<E> SHOWER
2EA 1800 GAL SEPTIC TANK CHAMBERS
PRIMARY 110'x50'
10.0' SETBACK MIN
<E> WELL
<E> BUILDINGS
24 RV SPACES
BUZZINI ROAD
MATCH <E> ROAD
SCALE:1"=100'
STOVER ENGINEERING
JN 3576
27 JAN 04

STOVER ENGINEERING

EXPLORATION TEST LOG

Project Name [illegible] Job Number [illegible] Sample Date [illegible] Logged By [illegible]

Hole Number 3 Hole Type Backhoe Hole Elevation _____ APN [illegible]

Soil Sample	Depth (ft)	Soil Description (Soil, Color, Moisture, Consistancy, Water Levels)
	0	
	1	Topsoil — Dark
	2	
	3	
	4	Silt Loam — Light Brown
	5	
	6	Small Cobble
	7	
	8	
	9	
	10	No ground water observed
	11	
	12	
	13	
	14	
	15	
	16	
	17	
	18	
	19	
	20	
	21	
	22	
	23	

8 of 12

STOVER ENGINEERING

EXPLORATION TEST LOG

Project Name [illegible] Job Number [illegible] Sample Date [illegible] Logged By TE

Hole Number 4 Hole Type [illegible] Hole Elevation [illegible] APN 156-032-57

Soil Sample	Depth (ft)	Soil Description (Soil, Color, Moisture, Consistancy, Water Levels)
	0	
	1	Top Soil — Dark Black
	2	
	3	Silt Loam — Light Brown
	4	
	5	
	6	Small Cobbles
	7	
	8	
	9	No ground water observed
	10	
	11	
	12	
	13	
	14	
	15	
	16	
	17	
	18	
	19	
	20	
	21	
	22	
	23	

9/4/12

STOVER ENGINEERING

PERCOLATION TEST LOG

Project Name _____ Job Number _____ Test Date _____ Logged By TC

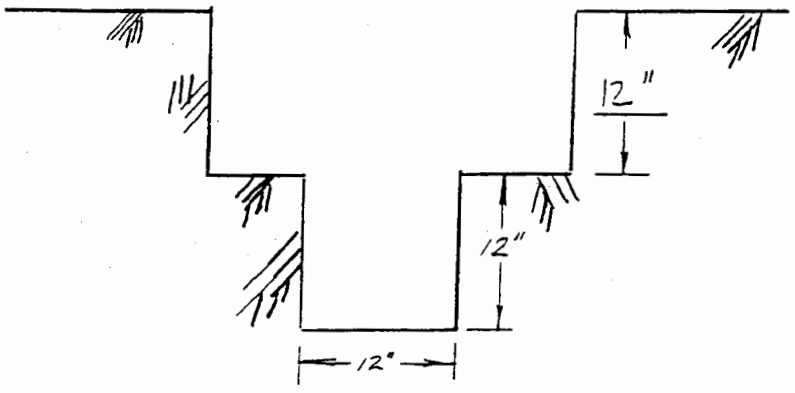
Hole Number 2 Hole Type _____ Hole Elevation _____ APN _____

Soil Type _____ Water Supply _____ Water Table _____

Begin Time	End Time	Begin Level	End Level	Elapsed Time (minutes)	Drop (in)	Rate (min/in)
11:03		6 3/4				3.36
		7				3.53
					4 7/8	3.08
		7	11 1/4		4 1/4	3.53
		6 1/2				3.33
		6 3/4	11 5/8		4 7/8	3.33
		6 3/8				3.24
		6 3/4				3.33
	11:33	6 3/8	10 7/8		4 1/2	3.33

Maximum Allowable Percolation Rate = 5 min/inch
Minimum Allowable Percolation Rate = 60 min/inch

STABILIZED RATE = 3.33 MIN/INCH



10 of 12

STOVER ENGINEERING

PERCOLATION TEST LOG

Project Name _____ Job Number _____ Test Date _____ Logged By TC

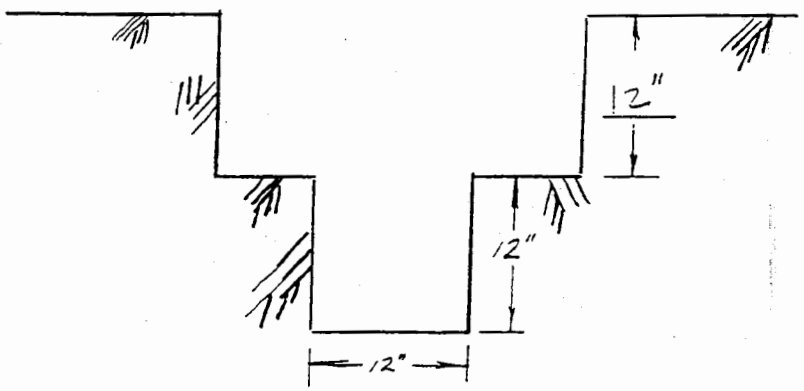
Hole Number 4 Hole Type _____ Hole Elevation _____ APN 101-002-07

Soil Type _____ Water Supply _____ Water Table _____

Begin Time	End Time	Begin Level	End Level	Elapsed Time (minutes)	Drop (in)	Rate (min/in)
1121	1122	7	11 1/4		4 1/4	3.53
1122	1127	7	10 1/2		3 5/8	4.14
1127	1132	6 7/8	11		4 1/8	3.63
1132	1137	6 7/8	10 7/8		4	3.08
1137	1142	7	10 3/8		3 3/8	4.44
1142	1147	6 5/8	10 3/4		4 1/8	3.62
1147	1152	7 1/8	10 3/4		3 5/8	4.14
1152	1157	6 3/4	10 1/2		3 3/4	4
1157	1202	6 7/8	10 1/4		3 3/4	4

Maximum Allowable Percolation Rate = 5 min/inch
Minimum Allowable Percolation Rate = 60 min/inch

STABILIZED RATE = 4 MIN/INCH



11012

3576

COUNTY OF DEL NORTE

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
880 Northcrest Drive
Crescent City, California 95531
(707) 464-3191 - Fax (707) 465-1783

Gary R. Blatnick, Director/Public Guardian
Warren Rehwaldt, M.D., Health Officer

Date: January 14, 2004

To: Community Development/Ward Stover

From: Environmental Health/Steve Landes

Subject: Buzzini Road/Richard Reed Property
Ap# 106-021-57

On January 23, 2004 I witnessed 4 soil profile excavations on the subject property. Tom from Stover Engineering and Bill Wigley were doing the hands on work. The holes were dug in a fashion to form the corners of an approximately 50' by 70' rectangle.

All four holes were similar in that they were approximately 8 feet deep with no ground water encountered in any of them.

General description: 0 to 2'----Dark loose well drained top soil

2' to 6'---light brown sand with clay

6'---2" cobbles encountered

6' to 8'---cobbles mixed with light brown sand and clay

The excavation was damp/wet from top to bottom.

The same light brown color was fairly uniform from 2' to 8'with some mottles noted beginning with the cobbles.

12912

Conceptual Agreement Between
County of Del Norte and Richard L. & Rosemary Reed
For
Buzzini Road/Lake Earl Access

In satisfaction of condition #13 and contingent upon the issuance of a use permit for a recreational vehicle park (UP0412C), the parties agree as follows:

1. Property owner (Richard L. and Rosemary Reed) agrees that the County (County of Del Norte) may continue to use the existing alignment, between the existing fences, of Buzzini Road in order to go around the large spruce tree, which is within the existing dedicated County right-of-way.
2. County agrees to relocate Buzzini Road to within the dedicated right-of-way within 12 months of the subject large spruce tree falling down or otherwise no longer impeding the relocation of Buzzini Road to within the dedicated right-of-way.
3. County and property owner recognize that the access point to Lake Earl at the end of Buzzini Road is partially outside of the right-of-way dedicated by the property owner to the County of Del Norte. Both parties agree that the graveled area on the land of the property owner shall not be expanded and shall be limited to day use activities, which will include the predawn arrival of licensed bird hunters.
4. County agrees that following the road realignment listed in item 2 above, that the County will take measures to shift the lake access to no longer encroach upon the lands of property owner. County agrees to pay property owner $250.00 per year for the use of the area at access point to Lake Earl until such area is no longer encroached upon pursuant to this agreement.
5. County agrees that the use of the existing alignment in item 1 above and the use of the access way to Lake Earl at the end of Buzzini Road in item 3 above shall not be construed as to ripen into prescriptive rights by the said use. County will relocate off the Reed property at the Lake access at the same time as County relocates Buzzini road pursuant to item 2 above. The lake access will be from the southern monument thirty (30) feet north per the map recorded in book 7 of parcel maps, page 147 (prepared by Richard B. Davis).
6. Periodic removal of any and all trash, debris, abandoned cars is to be the responsibility and cost of the County.
7. County agrees to indemnify owners for any suits or claims arising from public use of the existing alignments in item 2 above and the use of the access way to Lake Earl at the end of Buzzini Road in item 3 above.
8. County Counsel will prepare a Settlement Agreement that disposes of the existing litigation and incorporates the terms of this conceptual agreement.

Dated: 07/26/04

Richard L. Reed
Property Owner

Ernest Perry, Director of
Community Development

Rosemary Reed
Property Owner

EXHIBIT NO. 9
APPLICATION NO.
A-1-DNC-04-054
DRAFT CONCEPTUAL AGREEMENT FOR RESOLVING BUZZINI ROAD / LAKE EARL ACCESS ENCROACHMENT

From: Leon Perreault
To: Jay Sarina
Date: 5/25/04 3:24PM
Subject: Re: Reed

Jay,
Some additional comments:
1. Our review of the subject of holding tank additives shows that these products are becoming environmentally friendlier. I talked to Tom Dunbar and he does not think that RV dump stations represent a very great hazard to the groundwater resource.

2. The statement that "...septic systems are a temporary expedient..." is misleading. A pit toilet is a temporary expedient. Onsite sewage disposal through properly designed septic systems is the method of choice for rural sewage disposal. Many areas will never be served by community sewers and onsite is the only game in town. Recognizing this fact, many agencies have been charged with establishing science-based standards for septic systems so that they do not produce negative effects on the environment. Private enterprise has also assisted in producing new and more high-tech solutions to onsite wastewater disposal. Far from being an "expedient," septic systems are an evolving technology able to conform, through the application of scientific principles, to an increasing public and regulatory expectation of environmental protection. See AB 885.

Hope this helps,
Leon
>>> Jay Sarina 05/25/04 12:35PM >>>
Leon,

I'm completing the Reed response. Any comments for me yet?

Jay

Jay Sarina
Planner
jsarina@co.del-norte.ca.us
981 H St., Suite 110
Crescent City, CA 95531

EXHIBIT NO. **10**
APPLICATION NO.
A-1-DNC-04-054
REED
AGENCY
CORRESPONDENCE
(1 of 7)

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

Terry Tamminen
Secretary for Environmental Protection

http://www.swrcb.ca.gov/rwqcb1/
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: 1 (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135

Arnold Schwarzenegger
Governor

April 26, 2004

Mr. Jay Sarina
Del Norte County Planning Department
981 H Street, Suite 110
Crescent City CA 95531

Dear Mr. Sarina:

Subject: Richard Reed; UP0412C Use Permit for an RV Park
File: Reed RV Park, Del Norte County

This letter is a supplement to our March 8, 2004, letter regarding the subject project. Our March 8 letter questioned the CEQA environmental checklist response that the proposed project will have a less than significant impact with respect to water quality standards. The proposed project has a high volume of wastewater proposed for disposal in an area of sandy soils and high ground water. It also expressed our concern that the project receive proper maintenance, monitoring, and repairs.

We still do not concur with your proposed issuance of a negative declaration pursuant to CEQA for the proposed project because the initial study does not adequately consider water quality impacts. In the event the County issues a conditional use permit for the proposed project, it should be conditioned, at a minimum, upon: 1) the applicant having a wastewater system designed and constructed in accordance with the Regional Water Board's on-site system policy, 2) the applicant obtain waste discharge requirements from the Regional Water Board, and 3) the applicant have the wastewater treatment system operated, maintained, and inspected at least annually by a public entity that is empowered to carry out such functions.

Please contact staff engineer Albert Wellman at wella@rb1.swrcb.ca.gov if you have questions.

Sincerely,

Thomas B. Dunbar

Thomas B. Dunbar
Senior Water Resource Control Engineer

ALW:tab/reedrvparkrowdrequest.doc

cc: Leon Perreault, Del Norte County Health Department, 880 Northcrest Drive, Crescent City, CA 95531
Richard Reed, 302 Buzzini Road, Crescent City, CA 95531

2067
199

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

Terry Tamminen
Secretary for Environmental Protection

http://www.swrcb.ca.gov/rwqcb1/
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone 1-877-721-9203 Office (707) 576-2220 FAX (707) 523-0135

Arnold Schwarzenegger
Governor

March 8, 2004

Mr. Jay Sarina
Del Norte County Planning Department
981 H Street, Suite 110
Crescent City CA 95531

Dear Mr. Sarina:

Subject: Richard Reed UP0412C Use Permit for an RV Park

File: Del Norte County

This office recently received notice of completion of a negative declaration for issuance of a use permit for a recreational vehicle park requiring a mound system for disposal of approximately five thousand gallons per day of sanitary wastewater. We question the environmental checklist response that this project will have a less than significant impact with respect to water quality standards. The proposed project is the latest in a series of large septic systems recently proposed for coastal Del Norte County in the vicinity of the Smith River plain. The cumulative water quality impacts of these systems may be significant in this area of heavy precipitation and shallow ground water.

By letter dated November 17, 2003, Tom Dunbar requested Del Norte County to form a legally responsible entity of dischargers in conformance with the Regional Water Board's *Policy On The Control of Water Quality With Respect to On-site Waste Treatment and Disposal Practices*. We are unable to continue review of this project and will be unable to complete review of future development proposals until a legally responsible entity is formed to perform maintenance, monitoring, and repair of individual waste treatment and disposal systems.

We cannot support the proposed project or any proposal for waiver of ground water separation standards until a legally responsible entity is available to oversee large septic systems. Please call Tom Dunbar at 707-576-2701 if you have questions.

Sincerely,

Albert Wellman
Water Resource Control Engineer

ALW:js/ReedRvparkNegDecResponse

cc: Leon Perreault, Del Norte County Health Department, 880 Northcrest Drive, Crescent City, CA 95531
Ernie Perry, County of Del Norte, Community Development Department, 981 H Street, Suite 110, Crescent City, CA 95531
Richard Reed, 302 Buzzini Road, Crescent City, CA 95531

STATE OF CALIFORNIA — Arnold Schwarzenegger, *Governor*

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
(916) 657-5390 – Fax

March 2, 2004

Mr. Jay Sarina
Del Norte County Planning Department
981 H Street
Crescent City, CA 95531

Re: Negative Declaration: Richard Reed—UPO412C – Use Permit for a 24—space RV Park
SCH # 2004022102

Dear Mr. Sarina:

Thank you for the opportunity to comment on the above referenced Negative Declaration. The Commission was able to perform a record search of its Sacred Lands File for the project area. The record search indicates the possible presence of Native American cultural resources that may be impacted by the above-referenced project. The locations of the sites are confidential. However, the following individual(s) may be able to provide you with information concerning sacred sites in the project area and assist in the development of mitigation measures.

Mr. Loren Bommelyn	890 Murphy Ave., Crescent City, CA 95531	(707) 464-1665

Other sources of cultural resources should also be contacted for information regarding known and recorded sites. To adequately assess the project-related impact on archaeological resources, the Commission recommends the following action be required:

- ❑ Contact the appropriate California Historic Resources Information Center for a records search. The record search will determine:
- Whether a part or all of the project area has been previously surveyed for cultural resources.
- Whether any known cultural resources have already been recorded on or adjacent to the project area.
- Whether the probability is low, moderate, or high that cultural resources are located within the project area.
- Whether a survey is required to determine whether previously unrecorded cultural resources are present.
- ❑ The final stage of the archaeological inventory survey is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
- Required the report containing site significance and mitigation be submitted immediately to the planning department.
- Required site forms and final written report be submitted within 3 months after work has been completed to the Information Center.

Enclosed is a list of Native Americans individuals/organizations who may have knowledge of cultural resources in the project area. The Commission makes no recommendation or preference of a single individual, or group over another. This list should provide a starting place in locating areas of potential adverse impact within the proposed project area. I suggest you contact all of those indicated, if they cannot supply information, they might recommend other with specific knowledge. A minimum of two weeks must be allowed for responses after notification. If you receive notification of change of addresses and phone numbers from any these individuals or groups, please notify me. With your assistance we are able to assure that our lists contain current information.

Lack of surface evidence of archeological resources does not preclude the existence of archeological resources. Lead agencies should include provisions for accidentally discovered archeological resources during construction per California Environmental Quality Act (CEQA), Public Resources Code §15064.5 (f); Health and Safety Code §7050.5; and Public Resources Code §5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery and should be included in all environmental documents. If you have any questions, please contact me at (916) 653-6251.

Sincerely,

Carol Gaubatz
Program Analyst

cc: State Clearinghouse

497

NATIVE AMERICAN CON CTS
Del Norte County
March 9, 2004

Elk Valley Rancheria of Smith River Tolowa
Dale Miller, Chairperson
2332 Howland Hill Road Tolowa
Crescent City , C A 95531
dmiller@elk-valley.com
(707) 464-4680
(707) 465-2638 Fax

Smith River Rancheria of California
Roy LaFramboise, Tribal Administrator
250 North Indian Road Tolowa
Smith River , C A 95567
(707) 487-9255
(707) 487-0930 FAX

Barbara Eller
281 E Street Tolowa
Crescent City , C A 95531 Yurok
(707) 464-5494

Elk Valley Rancheria of Smith River Tolowa
Tim Goodman, Tribal Administrator
2332 Howland Hill Road Tolowa
Crescent City , C A 95531
tgoodman@elk-valley.com
(707) 464-4680
(707) 465-2638 Fax

Smith River Rancheria of California
William H. Richards, Sr., Chairperson
250 North Indian Road Tolowa
Smith River , C A 95567
(707) 487-9255
(707) 487-0930 Fax

Elk Valley Rancheria of Smith River Tolowa
Ray Martel, Cultural Reosurces Coordinator
2332 Howland Hill Road Tolowa
Crescent City , C A 95531
rmartell@elk-valley.com
(707) 464-4680
(707) 464-4519 Fax

Melochundum Band of Tolowa Indians
P.O. Box 388 Tolowa
Fort Dick 95538
, C A

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regards to cultural resources assessment for tthe proposed Negative Declaration for the Richard Reed – UPO412C – use Permit for an RV Park; SCH # 2004022102.

5097 ~~258~~

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

Winston H. Hickox
Secretary for Environmental Protection

Gray Davis
Governor

Internet Address: www.swrcb.ca.gov/rwqcb1
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone 1-877-721-9203 Office (707) 576-2220 FAX (707) 523-0135

November 17, 2003

Ernie Perry
County of Del Norte
Community Development Department
981 H Street, Suite 110
Crescent City, CA 95531

Dear Mr. Perry:

Subject: Public Entity to Manage On-Site Wastewater Treatment and Disposal Systems

File: Del Norte County General

This office recently reviewed two very large proposed developments in Del Norte County that would be served by on-site wastewater treatment and disposal systems. In reviewing those proposals, our response included reference to the Regional Water Board's *Policy On The Control of Water Quality With Respect to On-site Waste Treatment and Disposal Practices*. The Policy states, in Section V. Maintenance Responsibilities:

> Maintenance, monitoring, and repair of individual waste treatment and disposal systems shall be the responsibility of:
>
> 1. The individual property owner; or
>
> 2. A legally responsible entity of dischargers empowered to carry out such functions. That legally responsible entity shall be a public agency, unless demonstration is made to the Regional Water Board that an existing public agency is unavailable and formation of a new public agency is unreasonable. If such a demonstration is made, a private entity must be established with adequate financial, legal, and institutional resources to assume responsibility for waste discharge.
>
> For subdivision developments where waste discharge requirements are prescribed by the Regional Water Board, the existence or formation of a legally responsible entity of dischargers shall be required.

We are unable to continue review of these two proposed developments and will be unable to complete review of future development proposals until a legally responsible entity is formed to perform maintenance, monitoring, and repair of individual waste treatment and disposal systems. Several types of public entities are authorized under California statutes to perform these functions, including a Septic Tank Maintenance District. In view of the currently proposed developments, I am interested in starting discussions of this process in Del Norte County.

Please let me know your thoughts on how this might proceed. You may call me at 707-576-2701 at your convenience.

Sincerely,

Thomas B Dunbar

Thomas B. Dunbar
Senior Water Resource Control Engineer

TBD:js/DN entity

cc: Leon Perreault, Del Norte County Health Department, 880 Northcrest Drive, Crescent City, CA 95531
Del Norte Housing Development Corporation, 286 M Street, Suite 286, Crescent City, CA 95531
Steve Wert, Wert & Associates, 2590 NE Courtney Drive, Suite #1, Bend, OR 97701
John DeBoice, Oscar Larson & Associates, P.O. Box 3806, Eureka, CA 95502-3806

STOVER ENG..NEERING

PO Box 783 - 711 H Street - Crescent City, California 95531 (707) 465-6742 Fax (707) 465-5922
e-mail: stovereng@aol.com

EXHIBIT NO. 11
APPLICATION NO.
A-1-DNC-04-054
REED
GENERAL
CORRESPONDENCE
(1 of 4)

JAY SARINA, PLANNER
DEL NORTE COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT
981 H STREET STE 110
CRESCENT CITY CA 95531

Job Number: 3576

25 May 2004

RE: Reed RV Park – Application UP0412C

Dear Jay,

You asked that I review the issues posed by the Friends of Del Norte (FDN) in their memo dated 5 May 2004 as presented to the County Planning Commission that evening. Below are my responses to issues regarding the on-site sewage disposal system.

Let me start out by stating that North Coast Regional Water Quality Control Board commissioned a document titled "Final Report – Assessment of Cumulative Impacts of Individual Waste Treatment and Disposal Systems" prepared by Ramlit Associates dated February 1982. The report took into account the permitted development densities in any particular study area. The project is located in the North Crescent City Development Area studied in the report. There are no other reports that I am aware of in this area and I am not aware of any failures or adverse impacts to the Lake Earl basin.

The on-site sewage disposal design (SDS) is for an additional 3000 gallons per day (gpd) assuming a maximum of 30 RV spaces. This is in excess of the estimated 1950 gpd that is already contributed by the existing cabins and residence located on the parcel. The proposed project is for a maximum of 24 RV spaces (2400 gpd) so the design of the new SDS has an additional 25 percent factor of safety already added to the safety factor built into the design standards. Leachfields are designed for domestic peak flow events. Average daily flows are approximately 1/3 of the maximum daily flows according to the EPA Design Manual for On-Site Wastewater Treatment and Disposal Systems. The Del Norte County On-site Sewage Disposal Ordinance requires a design flow of 450 gpd per single family residence. This would equate to an average daily flow of 150 gpd. The Ramlit Report assumed a projected total wastewater loading of 150 gpd/dwelling unit (page 67). This confirms that the assumptions in the Ramlit Report are consistent with the current County SDS ordinance. Ramlit further states "Maximum wastewater flow estimates (e.g. 150 gpd per bedroom) are suitable for designing individual systems, but do not adequately represent average long-term loading characteristics which are of chief concern in assessing cumulative effects" (page 18). Based on the conservative design flows, the average daily flows for the added RV park is 1000 gpd (and conceivably 800 gpd) and the total flow with the cabins as high as 1650 gpd (11 total equivalent dwelling units). These are the flow rates that must be used for the impact analysis. The project is located on approximately 8.6 acres with vacant agricultural lands adjacent to the site.

FDN raised the issue of water mounding. Water mounding is primarily a concern of tight soils that do not percolate well thus creating an artificially raised groundwater table creating a smaller separation between the leaching field and the groundwater. The project site has more permeable soils of five minutes per inch where mounding is not anticipated. Ramlit's preliminary assessment for groundwater hydraulics in the Development Area is that long-term area wide changes in groundwater levels are not likely to result from on-site wastewater applications in typical residential development situations. It further states that

localized mounding beneath large common leachfield systems is a concern. However, it defines a large common leachfield as absorption fields for disposal of greater than 2500 gpd which is greater than the daily flow of the proposed combined development (1650 gpd) and is much less than the proposed development of 800 gpd.

Cumulative impacts due to nitrate build-up were also not a concern by Ramlit for the Development Area. Again, this project did not meet the definition of a large common disposal system so localized nitrate was not identified as an issue. The critical development density for nitrate loading in the Development area is 0.20 acres/dwelling unit or 5 d.u./acre (Table 7). The proposed project has a lesser density of 1.28 d.u./acre thus further illustrating that the common disposal system is not large.

Mounds constructed in the Lake Earl basin are typically permitted for parcels larger than one acre in accordance with the County SDS ordinance. The density of this project is less than that. The statement by FDN that the flow may be unprecedented is incorrect since the density permitted under a current County ordinance sets the precedence.

The wet weather testing protocol is conducted in accordance with County ordinance with a State Registered Environmental Health Specialist present during the site investigation. The McNamara Subdivision at the end of Vipond Drive is situated with many parcels with elevations of 16 feet and less. This area was studied extensively as described in the FDN memo and that project was permitted by the Coastal Commission after such an exhaustive review. If the groundwater fluctuated to above 16 feet, the McNamara project would be under water The RV project site is situated at a much higher elevation of 25 to 30 feet. The statement by FDN that the initial site assessment is inconclusive is unfounded based on the additional information provided in their very memo.

The FDN memo states that the County has not provided the test locations or elevations. That is a flat out false statement! The extremely detailed plot plan included in the staff report clearly identifies the test hole locations and contours prepared from an aerial survey. The test hole locations are labeled TH-1 through TH-4 with surface elevations ranging from 25 feet to 28 feet.

The statement by FDN that there are potentially cumulative water quality impacts on site and the easterly side of the lagoon conflicts with the statements in the Ramlit Report as well as the environmental documentation prepared for the McNamara Subdivision. The proposed project of 24 RV spaces introduces the equivalent of five new homes in the entire basin. The Ramlit Report did not identify the North Crescent City Development Area as having any significant cumulative water quality impacts related to hydraulic mounding, salt loading, nitrate buildup, nutrient impacts, and bacteriological impacts.

A statement was made in the memo that "Septic systems are typically intended to be a relatively temporary expedient, and will not last as long as the structures." Onsite sewage disposal systems are prevalent in rural areas such as this site and have a long track record. In fact, I have a copy of the US Public Health Service Manual of Septic Tank Practice first published in 1957. Much of the design concepts and standards are promulgated to this day through the EPA Design Manual for Onsite Wastewater Treatment and Disposal Systems. Onsite sewage disposal systems can, and do, last longer than most municipal sewage treatment facilities and are maintained at the expense and responsibility of the landowner's structure for which it serves.

The site plan location of the existing sewage disposal system is approximate. That is why the onsite sewage disposal system was sized to accommodate both the existing cabins and proposed development. If the existing leachfield serving the cabins should fail, a reserve system has already been developed to accommodate such flow. The existing well for the site is located on the plot plan.

The proper operation and maintenance of an onsite sewage disposal system is paramount to the viable and economic operation of a business enterprise. As such, the operator will monitor and educate users of the RV park, much like a municipal agency educates the public of what cannot be disposed of into a public sewage treatment facility. This project will be subject to a waste discharge permit from the North Coast Regional Water Quality Control Board. The Regional Board has successfully issued self monitoring and reporting programs for RV park wastewater systems. The applicant is prepared to implement such a program as approved by the Regional Board that includes the following:

- Monitor discharges of holding tanks to onsite system. Educate park users with information similar to the information published by the University of Arizona as provided by the FDN.
- Estimate monthly flow to septic tank
- Conduct annual inspection and maintenance of septic tank
- Annual grab sampling of Formaldehyde, Zinc, Phenol, and N as Ammonium in the septic tank effluent.
- Submit an annual report to the Regional Board

I trust this provides the information you require. Please feel free to contact me if you have any questions or concerns.

Very truly yours,

STOVER ENGINEERING

Ward L. Stover, PE
Principal

Cc: Richard Reed

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STOVER ENGINEERING

PO Box 783 - 711 H Street - Crescent City, California 95531 (707) 465-6742 Fax (707) 465-5922
e-mail: stovereng@aol.com

MEMORANDUM

Reference: 3576

To: Del Norte County CDD

From: Erik Weber, PE

CC: File

Date: 1/26/04

Subject: Development Application Project Information Supplement

The proposed project consists of constructing an RV Park with 24 spaces. Spaces will include utility connections and be on a paved, relatively level surface. The drainage of the paved surface will be toward Buzzini Road.

The On-site Sewage Disposal System primary disposal area has been sized based to accommodate the proposed RV Park while the reserve area has been sized to accommodate the RV Park and the existing rental units.

Existing Septic Tank locations are based on the owner's first hand knowledge of where the tanks were actually installed and appears to conflict with preliminary information included with previous applications on file at the County.