

**CALIFORNIA COASTAL COMMISSION**

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Staff: Randall Stemler  
Staff Report: April 2, 2004  
Hearing Date: April 16, 2004  
Commission Action:

**STAFF REPORT: APPEAL****SUBSTANTIAL ISSUE & DE NOVO**

**APPEAL NO.:** A-1-MEN-03-066

**APPLICANT:** SERVICE AUTHORITY FOR FREEWAY EMERGENCIES (S.A.F.E.)

**LOCAL GOVERNMENT:** County of Mendocino

**DECISION:** Approval with Conditions

**PROJECT LOCATION:** Along Highway One at the following fourteen mile post markers: 2.57, 10.71, 12.38, 17.27, 22.79, 25.51, 30.79, 36.60, 40.86, 53.86, 56.18, 69.10, 74.54, and 81.64, Mendocino County.

**PROJECT DESCRIPTION:** Installation of fourteen (14) emergency call boxes along Highway One, each consisting of a cellular telephone housed in a yellow box, a solar panel, a cellular antenna, and a blue and white identification sign, all mounted on a 14-foot-tall pole set on a 4-foot-square concrete pad. The maximum height would be 18 feet.

**APPELLANTS:** Norman L. de Vall, Angela and John Zucker, Kevin Jo, and Friends of Schooner Gulch

SUBSTANTIVE FILE

DOCUMENTS:

(1) Mendocino County CDP No. #44-02;

(2) Mendocino County Local Coastal Program

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**SUMMARY OF STAFF RECOMMENDATION:**

**1. Summary of Staff Recommendation: Substantial Issue**

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a *de novo* hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified LCP.

Mendocino County approved a coastal development permit for the installation of 14 call boxes along Highway One as part of a state-wide emergency system offering direct connection to the California Highway Patrol communication dispatch center. Each call box would consist of a cellular telephone housed in a yellow box, a solar panel, a cellular antenna, and a blue and white identification sign, mounted on a 14-foot-tall pole set on a 4-foot square concrete pad. The maximum height would be 18 feet.

The appellants contend that the approved project raises a substantial issue of conformance with the County's Local Coastal Program (LCP) policies pertaining to visual resource protection, incidental public services in wetlands and estuaries, protection of special treatment areas, off-site advertising signs, Land Use Plan (LUP) policies for thirteen planning areas, and failure to notify the Bureau of Land Management (BLM).

Staff recommends that the Commission find that the appeal raises a substantial issue of conformance of the development as approved by the County with the certified LUP policies regarding visual resource protection, because several components of the development could be better located to protect public views to and along the ocean and scenic coastal areas. In two instances, Commission staff identified approved call box sites that interfere with public views of the ocean. Alternative locations are available for these two call boxes that would not block public views and would be consistent with the requirements of LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015(C)(11) that permitted development be sited and designed to protect views to and along the ocean and with the requirements of LUP Policy 3.5-7 that signage minimize disruption of scenic qualities through appropriate use of location. Although the other contentions of the appeal are based on valid grounds in that they raise allegations that the development does not conform to the policies and standards of the certified LCP and the public access policies of the Coastal Act, staff recommends that the Commission find that these contentions raise no substantial issue.

**The motion to adopt the Staff Recommendation of Substantial Issue is found on page 5.**

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**2. Summary of Staff Recommendation De Novo: Approval with Conditions**

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the County's certified LCP.

For purposes of the Commission's *de novo* review, the applicant has submitted a revised project description and revised project plans that re-locate two of the fourteen call boxes from locations where they block portions of the view from Highway One to locations in front of vegetation or road cuts where they would block no existing views of the ocean. The applicant has also amended the project description to include a fifteenth call box located along the inland side of the highway in the town of Cleone that was previously thought to be outside of the coastal zone. With these two call boxes re-located, staff recommends that the Commission find that the project has been sited and designed to protect views to and along the coast consistent with LUP Policy 3.5-1. In addition, staff recommends that the Commission attach a special condition requiring that the blue and white call box sign on each of the call box poles be limited to 18" by 24" in size (Special Condition No. 4), and find that as conditioned, the proposed development will be similar to other highway signs and road improvements and will overall be subordinate to the character of its setting. Staff further recommends special conditions requiring (1) that the call boxes be removed from the highway if, for any reason, they are no longer necessary or are allowed to remain inoperable for a year or more (Special Condition No. 2), and (2) that any needed encroachment permit from Caltrans be secured (Special Condition No. 3). As conditioned, staff recommends that the Commission find that the revised project is consistent with the County's certified LCP and the public access policies of the Coastal Act.

**The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 25.**

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**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, or those located in a sensitive coastal resource area.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute 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) portions of the project are located within 300 feet of the mean high tide line or the top of the seaward face of a coastal bluff; (2) portions of the project are located between the sea and the first public road paralleling the sea; and (3) portions of the project are located within a sensitive coastal resource area. With regard to the appealability of the approved development based on its location in a sensitive coastal resource area, Section 20.308.110(6) of the Mendocino County Zoning Code and Section 30116 of the Coastal Act define sensitive coastal resource areas as "those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity," including, among other categories, "highly scenic areas." Portions of the approved development are located within an area designated in the LCP on the certified land use map as a "highly scenic area," and, as such, the project is appealable to the Commission.

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. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review. If the Commission decides to 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. It takes a majority of Commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellants 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.

Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing and review the merits of the proposed project. This *de novo* review may occur at the same or a subsequent meeting. If the Commission were to

conduct a *de novo* hearing on the appeal, 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 policies of the Coastal Act.

2. Filing of Appeal

The appellants filed a single appeal (Exhibit No. 4) to the Commission in a timely manner on October 27, 2003 within 10 working days of receipt of the County's Notice of Final Action (Exhibit No. 3) by the Commission on October 10, 2003.

3. 49-Day Waiver.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. On November 17, 2003, prior to the 49<sup>th</sup> day after the filing of the appeal, the applicants submitted a signed 49-Day Waiver waiving the applicants' right to have a hearing set within 49 days from the date the appeal had been filed.

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**PART ONE-SUBSTANTIAL ISSUE**

**I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a 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-MEN-03-066 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 **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**Resolution to Find Substantial Issue:**

The Commission hereby finds that Appeal No. A-1-MEN-03-066 presents 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**

The Commission received one appeal of the County of Mendocino's decision to approve the development from Norman L. de Val, Angela and John Zucker, Kevin Jo, and Friends of Schooner Gulch. The project as approved by the County involves the installation of fourteen (14) call boxes along Highway One as part of a State-wide emergency system offering direct connection to the California Highway Patrol communication dispatch center. Each call box would consist of a cellular telephone housed in a yellow box, a solar panel, a cellular antenna, and a blue and white identification sign, all mounted on a 14-foot-tall pole set on a 4-foot-square concrete pad. The maximum height would be 18 feet. The appellants' contentions are summarized below, and the full text of the contentions is included as Exhibit No. 4.

The appellants' contentions as described below, allege inconsistency of the project as approved with the County's LCP policies regarding (1) visual resource protection; (2) incidental public services in wetlands and estuaries; (3) protection of special treatment areas; (4) off-site advertising signs; (5) policies for thirteen planning areas; and (6) failure to notify the Bureau of Land Management.

**1. Visual Resource Protection**

The appellants contend that the project as approved by the County would create an adverse impact to visual resources including impacts to public views of the National California Coastal Monument which encompasses sea-stack islands, and exposed rocks and reefs within twelve miles of the shoreline. The appellants therefore contend that the project as approved by the County is inconsistent with Mendocino County certified Local Coastal Program (LCP) Policy 3.5-1 requiring new development in highly scenic areas to protect views to and along the coast and to be subordinate to the character of its setting.

**2. Incidental Public Services in Wetlands and Estuaries**

The appellants contend that the project as approved by the County is inconsistent with certified LCP Policy 3.1-4(6) and 3.1-19(10) dealing with incidental public services that occur in wetlands and estuaries.

**3. Protection of Special Treatment Areas**

The appellants contend that the project as approved by the County is inconsistent with LCP provisions for Special Treatment Areas (STA) designated to protect the scenic corridor along both sides of Highway One from Ten Mile River to the Sonoma County line.

**4. Off-site Advertising Signs**

The appellants contend that the project as approved by the County is inconsistent with the provisions of certified LCP Policy 3.5-7 restricting the placement of off-site advertising signs in designated highly scenic areas.

**5. LUP Policies for Thirteen Planning Areas**

The appellants contend that the project as approved by the County is inconsistent with the provisions of certified LCP Policies contained in Chapter 4 of the LUP.

**6. Failure to Notify BLM**

The appellants contend that the project as approved by the County is inconsistent with the certified LCP because the Department of Interior, Bureau of Land Management (BLM), the manager of the National California Coastal Monument, was not notified.

**B. LOCAL GOVERNMENT ACTION**

On September 25, 2003, the Mendocino County Coastal Permit Administrator approved a coastal development permit (CDP #44-02) for the project. The County staff recommended five special conditions requiring that: (1) call boxes originally proposed to be located at MP [mile post] 13.18, MP 73.78 and MP 81.70 be located at MP 12.38, MP 74.54 and MP 81.64 respectively, and that the call box proposed to be located at MP 17.27 will be placed at the southerly portion of the turnout, southwest of a group of trees; (2) the call box to be located at MP 30.79 be removed should the trees currently existing at the vicinity of the site cease to provide a backdrop for the call box pole; (3) the blue and white "CALL BOX" sign on each of the call box poles be the smaller size (18" by 24") approved for use in scenic areas; (4) call boxes be removed from the highway if, for any reason, they are no longer deemed necessary or useful, or are allowed to remain in an inoperable condition for a period of one year or more; and (5) the installation and

maintenance of call boxes shall be in compliance with all encroachment permit procedures and requirements administered by the California Department of Transportation (Caltrans). The County issued a Notice of Final Action, which was received by Commission staff on October 10, 2003 (Exhibit No. 3).

The County's approval of the project was appealed to the Coastal Commission in a timely manner on October 27, 2003 within 10-working days after receipt by the Commission of the Notice of Final Local Action. Staff requested a copy of the local record on October 27, 2003. A copy of the local record was received on October 29, 2003.

### **C. SITE AND PROJECT DESCRIPTION**

Approval has been granted by the County for the placement of fourteen (14) emergency cellular service call boxes in various locations spaced along Highway One from Rockport to Gualala, Mendocino County. The call boxes would be part of a statewide emergency system offering a direct connection to the California Highway Patrol communication dispatch center. Sponsored by Mendocino S.A.F.E, the Service Authority for Freeway Emergencies of Mendocino County, to facilitate more rapid response of emergencies, call boxes would be placed along highway segments that have been determined to be of highest priority as indicated by evaluations of accident, injury and fatality rates; traffic volumes; existing pay phone locations; and availability of cellular phone service along the remote Mendocino coastline. Each call box facility would consist of a 14-foot-tall pole with a cellular antenna and solar panel attached to the top, a blue "CALL BOX" sign with white letters positioned about 8 feet above the ground, and a yellow telephone box mounted on the pole about 4 feet above the ground. Each pole would be anchored to a 4-foot by 4-foot concrete pad set 3 feet in the ground. The cellular phones would be Motorola transceivers with three watts of output power. The call boxes would be located within the Highway One corridor, generally within 15 to 20 feet of the painted highway edge line. The call boxes would conform to a standard design used throughout the State to make them easily recognized by motorists in need of emergency service. The locations selected were chosen to satisfy several criteria, including accessibility, adequate parking off the highway, adequate sight distances for leaving and entering the highway, adequate cellular signal performance, adequate sunlight for solar panel functioning and for minimizing adverse visual impact to scenic coastal resources. Specific locations for placement of call boxes are designated by reference to "post mile" (PM) markers. On Highway One, a post mile is the distance along the highway measured north from the Sonoma County line. PM markers (small paddle-shaped signs) displaying the PM distance are installed along the highway by Caltrans, usually at some feature such as at a culvert or bridge, or at whole mile points. The PM locations for placement of the emergency call boxes have been calculated by measuring from the nearest existing PM marker, because in most cases no PM marker currently exists at the exact call box site.

The applicant included in the list of proposed sites provided to the County, locations for call boxes that are outside of the coastal zone. Because the County cannot issue coastal development permits for projects outside of the coastal zone, these sites were not



approved. After appeal of the approved project, Commission staff determined that one of the previously proposed sites is indeed in the coastal zone. It is located on the east side of Highway One within the Caltrans right-of-way where the coastal zone boundary runs along the highway. The County incorrectly believed that the coastal zone boundary ran along the center of the highway, and therefore omitted the site from the project approval. The site has been added back in to the project description by the applicant for purposes of the Commission's *de novo* review.

The following is a list of the emergency call box sites as approved and conditioned by the County located by PM designations with brief descriptions of their locations.

**Post****Mile****Location Description and Comments:**

- 2.57**      **West side, north of Gualala.** At a wide gravel turnout adjacent to a long level straight stretch of highway, with a stand of pines blocking any ocean view.
- 10.71**     **East side, south of Caltrans temporary bridge near Schooner Gulch.** At the south end of a paved passing lane, south of the temporary bridge. The pole would mostly have a grassy hill backdrop, with possibly some sky backdrop. An open view of the ocean to the west would draw one's attention. The call box would not be visible against the ocean.
- 12.38**     **East side, north of Ross Creek.** At this location the backdrop is open grassy hills and trees along Ross Creek, with a metal building (airplane hanger), antenna tower and windsock in the background. The turnout has a paved lane width adjacent to the highway with additional gravel width beyond. No ocean view.
- 17.27**     **East side, north of Rollerville Junction.** On the outside of a 20 mph hairpin turn. The initially-proposed location north of a group of trees would have been visible to northbound traffic against a scenic rural landscape. During a visit to the site, the applicant and the County agreed that a location south of the trees would provide better solar access and would reduce the visual impact, although it may still be visible against the sky briefly to southbound traffic, and the proposed location for the call box was moved to this location.
- 22.79**     **West side, north of Alder Creek Bridge.** Just south of a farm gate access to an open field, with a phone pole nearby. No view of ocean or shoreline. Power lines cross the highway just south of the site.
- 25.51**     **West side, north of Irish Beach near Mallo Pass Creek.** At a large paved turnout, at the bottom of a dip in the highway, with a backdrop of

trees and other vegetation. The call box would affect views of the ocean from some vantage points along Highway One.

- 30.79**      **West side, south of Elk Creek.** Near the top of the hill on the outside of curve, south of the hairpin turns south of Elk Creek. The pole would be located close to some trees, which would partially prevent an ocean and sky backdrop as long as the trees remain in place. This location would be visually unacceptable without the trees.
- 36.60**      **West side, north of Cavanaugh Gulch.** Two miles north of Elk, at the top of Cavanaugh Grade, located at a wide gravel turnout against a cut bank topped with brush and trees. Not visible against sky or ocean.
- 40.86**      **West (south) side, on the grade along the north side of the Navarro River.** At a gravel turnout next to a small cut bank with bushes and power pole nearby. There is a turnout nearby on the opposite side of the highway available to northbound traffic. May be visible against the sky to northbound traffic.
- 53.86**      **West side, south of Caspar, near Pine Grove.** At the south end of a long straight stretch, with pines in the near field, and more trees in the distance. No ocean view.
- 56.18**      **West side, north of Jug Handle Creek Bridge.** At a field with pines to west. No ocean view, but there might be if the trees were removed.
- 69.10**      **West side, south of Ten Mile River.** South of the Caltrans aggregate storage area (mixing table), across from the site of Ten Mile River Inn. A berm and bushes block any view of dunes. No ocean view.
- 74.54**      **West side, north of Caltrans Vista Point.** In a swale with a berm and bushes west of highway. On a curve concave to the west. Upper portions of the pole may be visible against sky, but not against the ocean.
- 81.64**      **West side, north of Westport.** Dirt turnout with trees and bushes providing a backdrop and blocking ocean views. This site was selected as an alternate to PM 81.70.

**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 six of the contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. The Commission finds that one of the contentions raises a substantial issue for the reasons discussed below.

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." (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. 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;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. 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 Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue with regard to appellants' contention relating to visual resource protection. As further discussed below, the Commission finds that with respect to the allegations regarding incidental public services in wetlands and estuaries, protection of

special treatment areas, off-site advertising signs, and LUP policies for specific planning areas, the appeal raises no substantial issue of conformity of the approved project with the certified LCP or the access provisions of the Coastal Act.

**Appellants' Contention that Raises a Substantial Issue**

**a. Visual Resource Protection**

The appellants contend that, as approved by the County, the placement of emergency call boxes located in various sites spaced along the Mendocino coastline from Rockport to Gualala, would adversely impact visual resources inconsistent with LUP Policy 3.5-1, which, in part, requires that development be sited and designed to protect views to and along the ocean and scenic coastal areas, and to be subordinate to the character of its setting. The appellants assert that the County's approval of the proposed project is inconsistent with protection of the California Coastal National Monument, which encompasses sea-stack islands, and exposed rocks and reefs within twelve miles of the shoreline. The Appellants made the following additional statement in their appeal:

*"On April 3, 2003, Mr. Ray Hall, Director of the Mendocino County Department of Planning and Building Services, wrote an extensive Memorandum to the Board of Supervisors advising them of the importance of the Mendocino Coastline to the scoping portion of the Resource Management Plan for the California Coastal National Monument. The appellants in this matter believe that the placement of many of these Call Boxes is detrimental to maintaining the Highly Scenic nature and character of the California Coastal National Monument and the scenic values of the Mendocino Coast."*

Furthermore, the appellants contend that the development as approved is inconsistent with the provision of LUP Policy 3.5-7 that requires signage to minimize disruption of scenic qualities.

**LCP Policies:**

LUP Policy 3.5-1 in applicable part states:

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

Policy 3.5-3 in applicable part states:

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

- *The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision containing parcels of approximately 20 acres in size covered by Policy 4.2-1 and is East of Highway 1.*
- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*
- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*
- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the south boundary of the City of Point Arena and the Gualala River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

*In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within 'highly scenic areas' will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies.*

LUP Policy 3.5-7 in applicable part states:

*...Direction, access, and business identification signs shall minimize disruption of scenic qualities through appropriate use of materials, scale and location...*

Coastal Zoning Code Section 20.504.015 (C)(1) states:

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

Discussion:

LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015(C)(1) require permitted development to be sited and designed to protect views to and along the ocean and scenic coastal areas, to be visually compatible with the character of surrounding areas, and for areas designated highly scenic, to be subordinate to the character of its setting. LUP Policy 3.5-7 requires signage to minimize disruption of scenic qualities through appropriate use of materials, scale and location. By virtue of their locations along Highway One, all of the call boxes are sited in scenic areas. Also, all of the approved sites are within areas designated highly scenic on the applicable Coastal Land Use Plan Maps.

The appellants contend that the County approval disregarded LCP requirements to protect scenic values of the Mendocino coast view shed by allowing emergency call boxes to be placed along Highway One. The very nature of the project requires that the call boxes be easily identifiable and readily apparent to motorists in an emergency. To meet these requirements, a color scheme consisting of a bright yellow phone box and a blue and white sign is the standard used throughout the State to provide easy recognition for the call boxes to be easily spotted from the highway. Minimizing adverse visual impact to scenic coastal resources was one of the criteria used by the applicant for siting the emergency facilities. Other factors affecting the selection of locations for placement of the call boxes include adequacy of the cellular transmission signal, sufficient solar panel aspect, availability of safe exit from and entrance to the highway, adequacy of the space for parking, distance between call box facilities or opportunities for using existing phone booths, and visibility to motorists. According to the applicant, each site was selected considering all of these criteria, as well as the aesthetic impact of the call box. Locations from which the facilities would be predominantly viewed against the ocean, shoreline, or sky were avoided. The applicant indicates sites were selected that had other nearby features such as trees, roadside cut banks, or utility poles, with which call box poles could be grouped to make them less intrusive and more compatible with the surroundings, without being obscured from motorists' views. Selecting locations for emergency call boxes requires placing them where they will be visible and accessible to motorists

traveling Highway One, yet minimizing adverse impacts of development on scenic qualities of the coast. For most motorists, many of the emergency facilities would blend with the other elements common along the highway corridor including uniform highway information and safety signs, utility poles, mailboxes, guardrails, reflectors, and other objects normally seen along highways that interrupt scenic vistas along the coast.

Together with the applicant, and prior to approving the permit, County staff conducted a field review of each of the various sites in an effort to be sure that placement of each of the call boxes would be appropriately sited to protect public views to and along the ocean and scenic coastal areas. Most of the proposed sites would be located where they would protect views by positioning them in front of existing vegetation, road cut banks, and similar objects that already block public views to the ocean. However, the County determined that several sign locations would interfere with coastal views. Therefore, four alternate locations were selected and approved to better protect visual resources, and one of the sites was conditioned to require removal of the call box facility if the nearby trees providing visual screening ever ceased to exist.

On December 2, 2003, after appeal of the County-approved project, Commission staff also conducted a field review of each of the sites with the applicant to assess whether the approved sites would be appropriately sited to best protect public views to and along the ocean and scenic coastal areas. Similar to the County's review, Commission staff also found that most of the approved sites would be located where they would protect public views by being positioned in front of existing vegetation, road cut banks, and similar objects that already block public views to the ocean. However, in two instances, Commission staff and the applicant agreed that changes could be made to better site the call boxes where they would not interfere with the views of the ocean consistent with the LCP requirements that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, and minimize disruption of scenic qualities through appropriate use of signage materials, scale and location. Because there are alternative locations that would prevent at least two of the call boxes as approved by the County from blocking public views, the project raises a substantial issue of conformance with the certified LCP, specifically with the requirements of LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015(C)(11) that permitted development be sited and designed to protect views to and along the ocean and with the requirements of LUP Policy 3.5-7 that signage minimize disruption of scenic qualities through appropriate use of location. The significance of the coastal visual resource affected by the County's approval is great, as development would affect views from a scenic highway of the visually stunning Mendocino coast for thousands of motorists every day. Therefore, the Commission finds that the appeal raises a substantial issue of conformance of the approved project with the requirements of LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015(C)(1) that permitted development be sited to protect views to and along the ocean, and with the requirements of LUP Policies 3.5-7 that signage minimize disruption of scenic qualities through appropriate use of location.

**Appellants Contentions that Do Not Raise a Substantial Issue**

**a. Incidental Public Services in Wetlands and Estuaries**

The appellants contend that the County approved the project inconsistent with LUP Policy 3.1-4(6) and 3.1-19(10), which allow development within wetland areas and estuaries for incidental public services purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

**LCP Policies:**

LUP Policy 3.1-4(6) states:

*As required by the Coastal Act, development within wetland areas shall be limited to: ... 6. Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

LUP Policy 3.1-19(10) states:

*The following activities and facilities shall be permitted in estuaries, consistent with applicable policies of this plan: 10. Incidental public service purpose, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

**Discussion:**

LUP Policies 3.1-4(6) and 3.1-19(10) allow certain development activities to occur in wetlands and estuaries if they qualify as incidental public services, including burying cables and pipes, or inspection of piers and maintenance of existing intake and outfall lines. The appellants contend that in approving the proposed project, the County disregarded LUP Policies 3.1-4(6) and 3.1-19(10) without further elaborating how the County's approval was inconsistent with the LCP. There is no indication that any of the approved call box locations would be placed in wetlands or estuaries. All of the call box sites are in upland areas within the road right-of-way. Even if there were no feasible less environmentally damaging alternative location to placing one or more of the call boxes in a wetland, the provisions of the certified LCP cited by the appellants would support such placement because the call boxes could be considered facilities for public service purposes. Given that none of the call boxes would be placed within wetlands, there is a high degree of factual and legal support for the County's determination that the development is consistent with LUP Policies 3.1-4(6) and 3.1-19(10). Therefore, the appeal does not raise a substantial issue of conformance of the project as approved with LUP Policies 3.1-4(6) and 3.1-19(10) of the LCP. Furthermore, the Commission need not do an exhaustive analysis of why this contention does not raise a substantial issue, because whether or not this contention raises a substantial issue, the result would not



affect the Commission's determination that the grounds for appeal raised with regard to protection of visual resources raises a substantial issue of conformance of the project as approved with the certified LCP.

**b. Protection of Special Treatment Areas**

The appellants contend that in approving the proposed project, the County disregarded Coastal Zoning Code (CZC) Section 20.504.025 of the certified LCP protecting designated resource areas classified as Special Treatment Areas (STA's) including the scenic corridor established along both sides of Highway One from Ten Mile River to the Sonoma County line.

LCP Policies:

LUP Policy 3.1-24 states:

*Any development within designated resource areas, if not specifically addressed by other policies, shall be carefully reviewed and established in accord with conditions which could allow some development under mitigating conditions but would assure the continued protection of the resource.*

CZC Section 20.504.025—Special Treatment Areas (STA's)—states:

*(A) Other areas of visual significance include special treatment areas shown on the Land Use Map and a 200 foot minimum designated scenic corridor along both sides of Highway 1 from Ten Mile River to the Sonoma County line not shown on the Land Use Map. The designated width of this corridor is a minimum of two hundred (200) feet running parallel to Highway 1 or inland to the first line of trees nearest the road. However, in no place does the corridor extend more than three hundred fifty (350) feet from the shoulder of the road. These include archeological and paleontological sites and timber production zones.*

*Special Treatment Area buffer zones were also located adjacent to all publicly owned preserves and recreation areas, including national, state, regional, county and municipal parks. These buffer zones include those forested areas within the Coastal Zone within two hundred (200) feet of all such publicly owned preserves and recreation areas.*

*It is the intent of timber harvesting regulations within the Special Treatment Areas to minimize the visual effect of timber harvesting in order to protect the area's special scenic and natural qualities.*

Discussion:

The appellants contend that the County's approval of the proposed project was inconsistent with Mendocino County's certified LCP requirements to protect designated STA's and scenic corridors along Highway One.

LUP Policy 3.1-24 states that the County shall carefully review and condition coastal development permits to protect coastal scenic resources for any development within designated resource areas, if not specifically addressed by other policies.

In the background text for Chapter 3 of the County's LUP, "Resources and Development Issues and Policies," the designation of STA's is discussed. The text discusses how on July 5, 1977, the Coastal Commission designated sites in coastal forest areas. Coastal development permits are not required for the majority of commercial timber harvesting activities, as timber harvesting subject to timber harvest plan requirements is not development pursuant to the definitions of development contained in Section 20.308.035(D) of the certified CZC and Section 30106 of the Coastal Act. However, the STA designation process identified timberlands where stringent Timber Harvest Plan requirements and harvesting rules must be applied by the California Department of Forestry and Fire Protection (CDF) in the Department's review of Timber Harvest Plans to protect the area's special scenic and natural guidelines. Development that requires and is carried out under CDF-approved timber harvest plans within STAs must maximize protection of coastal resources. STA's were designated to assure the protection of natural and scenic resources, while at the same time allowing management and orderly harvesting of timber resources. STA buffer zones were established by the Commission adjacent to all publicly owned preserves and recreation areas, including national, state, regional, county and municipal parks. These buffer zones include those forested areas in the coastal zone within 200 feet of all publicly owned preserves and recreation areas. The designated STAs also include a designated scenic corridor along both sides of Highway One from Ten Mile River to the Sonoma County line. Therefore, the proposed call box facility project is located within a STA.

However, the project as approved does not have any relationship to commercial timber harvesting in the coastal zone, thus the LCP provisions cited by the appellants do not affect the approved development. As the approved development does not include timber harvesting, there is a high degree of factual and legal support for the County's determination that the development is consistent with the LCP STA policies that relate to timber harvesting activities. Therefore, the appeal raises no substantial issue of conformance of the project as approved with CZC Section 20.504.025 or LUP Policy 3.1-24. Furthermore, the Commission need not do an exhaustive analysis of why this contention does not raise a substantial issue, because whether or not this contention raises a substantial issue, the result would not affect the Commission's determination that the grounds for appeal raised with regard to protection of visual resources raises a substantial issue of conformance of the project as approved with the certified LCP.

c. **Off-site Advertising Signs**

The appellants contend that the County's approval of the proposed project is inconsistent with the provisions of LUP Policy 3.5-7, which prohibit off-site advertising signs larger than 2 square feet from being placed in areas designated as highly scenic.

LCP Policies:

LUP Policy 3.5-7 in applicable part states:

*Off-site advertising signs, other than small directional signs not exceeding 2 square feet, will not be permitted in designated "highly scenic areas."*

CZC Section 20.308.110(21) states:

*"Sign, Off-Site" means any sign as defined in this section other than an on-site sign.*

CZC Section 20.308.110(22) states:

*"Sign, On-Site" means a sign which pertains and is accessory to a business or other use located on the same lot or which offers a lot or portion thereof for sale or lease.*

CZC Section 20.476.025 in applicable part states:

*The following standards shall apply to all on-site signs:*

- (A) On-site signs for bed and breakfast accommodations outside the Commercial or Rural Village Zoning Districts shall be limited to one sign not to exceed two (2) square feet.*
- (B) All signs shall, where feasible, be made of wood.*
- (C) Where a building contains more than one business using a common entrance, a directory sign shall be required.*
- (D) Signs shall not block public views of the ocean.*
- (E) Where sign illumination is required, lighting shall be indirect, low key, and restricted to business hours only. The lighting shall not create glare or reflection onto adjacent properties or public streets and no sign shall be internally illuminated.*

- (F) *No flashing or moving signs or lighting creating the effect of movement shall be permitted.*
- (G) *Signing for home occupation or cottage industry is limited on one (1) sign not exceeding two (2) square feet of area, non-illuminated and attached flat to the main structure or visible through a window.*
- (H) *Sign Types.*

  - (1) *Wall Signs. Signs attached or painted onto a building or approved structure. Wall signs shall meet the following standards:*

    - (a) *Not extend more than eighteen (18) inches from the wall thereof;*
    - (b) *Extend no higher than the building roof line;*
    - (c) *Not exceed forty (4) square foot of sign area for each foot of street frontage, but in no case to exceed eighty (80) square feet. All sites shall be permitted twenty-five (25) square feet minimum wall signs.*
- (I) *Setbacks. All on-site signs shall conform to all setback requirements of the zone in which it is located.*
- (J) *Sign Area – Maximum. Except as permitted in Chapter 20.540 (Variance), Section 20.476-.040 and Section 20.476.045 the total square footage of all signs on a lot may not exceed forty (40) square feet, provided however in the absence of both free-standing signs and roof signs the maximum total sign area allowed may be increased to eighty (80) square feet.*

CZC Section 20.476.035 in applicable part states:

*The following shall apply in the construction and maintenance of on-site and off-site signs.*

- (A) *Special Purpose Signs. The following special purpose signs shall be exempt from these regulations:*

  - (1) *Directional, warning or informational signs required or authorized by law which are erected by federal, state, county, municipal officials or special district officials; ...*

Discussion:

Each call box facility would consist of a 14-foot-tall pole with a cellular antenna and solar panel attached to the top, a 18" by 24" sign, and a yellow telephone box mounted on the pole about 4 feet above the ground. Each pole would be anchored to a 4-foot by 4-foot concrete pad set 3 feet in the ground. The call boxes and signs would be located within the Highway One corridor, generally within 15 to 20 feet of the painted highway edge line. The approved blue "CALL BOX" signs with white letters would be positioned about 8 feet above the ground to mark each emergency call box location. The call boxes and signs conform to a standard design used throughout the State to make them easily recognized by motorists in need of emergency service.

LUP Policy 3.5-7 limits off-site advertising signs from being placed in areas designated as highly scenic, except for small directional signs that don't exceed 2 square feet in size. The appellants contend that the County approval is inconsistent with this provision of LUP Policy 3.5-7. However, this provision of LUP Policy 3.5-7 is intended to address off-site advertising signs, and not uniform traffic control, information and safety signs. Thus, the signs that would be incorporated into the approved call box facility are not "advertising" signs. These call box signs are also not "off-site" signs as defined in CZC Sections 20.308.110(21) and (22). They may, however, be considered to be "on-site" signs because they pertain to and are accessory to the highway use within the highway right-of-way.

As the specific provision of LUP Policy 3.5-7 cited by the appellants is not applicable to the approved development, there is a high degree of factual and legal support for the County's determination that the development is consistent with LUP Policy 3.5-7. Therefore, the appeal does not raise a substantial issue of conformance of the project as approved with the provision of LUP Policy 3.5-7 regarding off-site signs. Furthermore, the Commission need not do an exhaustive analysis of why this contention does not raise a substantial issue, because whether or not this contention raises a substantial issue, the result would not affect the Commission's determination that the grounds for appeal raised with regard to protection of visual resources raises a substantial issue of conformance of the project as approved with the certified LCP.

**d. LUP Policies for Thirteen Planning Areas**

The appellants contend that the County approval of the proposed project is inconsistent with the descriptions and policies for thirteen planning areas as contained in Chapter 4 of the certified LUP.

LCP Policies:

Chapter 4 of the LUP contains descriptions and policies for thirteen geographic planning areas of coastal Mendocino County.

Discussion:

The appellants contend that in approving the proposed project, the County disregarded the LUP descriptions and policies for thirteen geographic planning areas of coastal Mendocino County inconsistent with the certified LCP. The appellants assert that the County approval is inconsistent with seventy-one (71) pages of Chapter 4 policies as cited, but don't elaborate how they think the County's approval is inconsistent. The majority of these particular policies cited by the appellants deal with securing public access and long term planning for broad geographic regions. None of the Chapter 4 policies deal specifically with protecting visual resources from the impacts of new development, and none refer to emergency call box facilities, or to placement of uniform traffic control, information and safety signs. Emergency call boxes have not been approved for placement in more than half of the thirteen regions. Therefore, the certified LCP provisions related to Chapter 4 of the LUP do not affect the approved development. Thus, there is a high degree of factual and legal support for the County's determination that the project as approved is consistent with the policies of Chapter 4 of the LUP. Therefore, the appeal raises no substantial issue of conformance of the project as approved with Chapter 4 of the LUP. Furthermore, the Commission need not do an exhaustive analysis of why this contention does not raise a substantial issue, because whether or not this contention raises a substantial issue, the result would not affect the Commission's determination that the grounds for appeal raised with regard to protection of visual resources raises a substantial issue of conformance of the project as approved with the certified LCP.

e. **Failure to Notify BLM**

The appellants contend that the County failed to notify the Department of the Interior, Bureau of Land Management (BLM), in relation to protection of the Coastal National Monument.

LCP Policies

CZC Section 20.532.025—Application and Fee—in applicable part states:

*Each application for a coastal development permit (administrative, use permit, variance or standard permit) shall be submitted to the Department of Planning and Building Services on forms provided by the department and completed by the applicant, accompanied by a fee set by resolution of the Board of Supervisors. When more than one (1) development is proposed on a parcel, the applications shall be processed concurrently where possible as one (1) application. The application shall include the following information:*

...

*(F) Stamped, addressed envelopes and a list of names and addresses of all other parties known to the applicant to have an interest in the proposed development.*

CZC Section 20.536.010(C)—Notice—in applicable part states:

*(A) Purpose. ...*

*(B) Hearing. ...*

*(C) Notice. At least (10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for a development subject to this section. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, to all property owners within three hundred (300) feet of the perimeter of the parcel on which the development is proposed, to all occupants of property within one hundred (100) feet of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership.*

Discussion:

The appellants assert that the County's approval of the project is inconsistent with the certified LCP because the Bureau of Land Management, as administrator of the California Coastal National Monument was not notified of the applicant's proposed development and therefore was not given an opportunity to comment.

CZC Section 20.532.025 sets forth County application and fee requirements for proper submittal to the Mendocino County Department of Planning and Building Services, including stamped, addressed envelopes and a list of names and addresses of all other parties known to the applicant to have an interest in the proposed development. CZC Section 20.536.010(C) sets forth County noticing regulations including requirements that at least (10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for the proposed development. This notice must be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, to all property owners within three hundred (300) feet of the perimeter of the parcel on which the development is proposed, to all occupants of property within one hundred (100) feet of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project

site, notice must be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership.

The applicant submitted a list of landowners adjacent to the call box location sites, but the Bureau of Land Management does not appear on the list. It is unclear whether BLM manages any Federal land within 300 feet of any call box site or not, or whether BLM requested to be on the interested parties mailing list or not. The noticing requirements of the CZC are process oriented, and deal with the procedure leading up to the County action. The appellants' contention therefore raises a procedural inconsistency and not a substantial or substantive inconsistency of the approved project with the certified LCP. The contention thus raises a local issue relevant to internal procedures and not an issue of regional significance since the County has LCP notification policies in place and the County's decision to approve the permit would not influence the existing LCP standards that include notification provisions. Additionally, the Commission notes that it's own hearing on this appeal provides opportunities for interested parties to provide comments on the project. Furthermore, the Commission need not do an exhaustive analysis of why this contention does not raise a substantial issue, because whether or not this contention raises a substantial issue, the result would not affect the Commission's determination that the grounds for appeal raised with regard to protection of visual resources raises a substantial issue of conformance of the project as approved with the certified LCP.

Therefore, the Commission finds that the contention raised by the appellants' does not raise a substantial issue of conformance of the approved development with the certified Local Coastal Program and the public access policies of the Coastal Act.

### **Conclusion of Part One: Substantial Issue**

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP regarding protection of visual resources.

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## **PART TWO-DE NOVO ACTION ON APPEAL**

### **Staff Notes:**

#### **1. Procedure**

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.



2. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings above.

3. Submittal of Additional Information by the Applicant

For purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information including a revised project description and revised project plans. The supplemental information provides clarification of the proposed project and additional information regarding issues raised by the appeal that was not part of the record when the County originally acted to approve the coastal development permit.

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I. MOTION, STAFF RECOMMENDATION DE NOVO, AND RESOLUTION:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-03-066 pursuant to the staff recommendation.

Recommendation of Approval:

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

Resolution to Approve Permit:

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

**II. STANDARD CONDITIONS: See Attachment A.**

**III. SPECIAL CONDITIONS:**

**1. Conditions Imposed By Local Government**

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

**2. Abandonment of Emergency Call Box Facilities**

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement stating that the applicant agrees that if in the future, any of the call box facilities are no longer needed, the applicant agrees to abandon the facilities and be responsible for the removal of all portions of the structure(s) and restoration of the site(s) consistent with the character of the surrounding area. Before performing any work in response to the requirements of this condition, the applicant shall obtain a coastal development permit from the Commission or from the applicable certified local government.

**3. Encroachment Permit(s)**

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide to the Executive Director a copy of encroachment permit(s) issued by the California Department of Transportation (Caltrans), or evidence that no permit(s) is required. The applicant shall inform the Executive Director of any changes to the project required by Caltrans. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

**4. Conformance with Revised Project Description**

Except as otherwise modified by the conditions herein, the applicant shall undertake development in accordance with all elements of the project description as revised for purposes of *de novo* review by the Commission, including but not limited to (a) siting the call box facilities in the specific locations indicated, (b) limiting the maximum size of the blue and white "CALL BOX" signs to 18-inches by 24-inches, (c) limiting the height of each call box pole to a maximum of 14 feet, and (d) removing the call box located at milepost 30.79 if trees at the site that provide a visual screen backdrop for the emergency call box facility die or are removed for any reason. Any proposed changes to the approved project shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive determines that no amendment is legally required.

#### IV. FINDINGS AND DECLARATIONS

##### 1. Project and Site Description

The proposed project involves placement of fourteen (14) previously approved emergency cellular service call boxes and locations, and one new location spaced along Highway One from Rockport to Gualala, Mendocino County. The call boxes are part of a statewide emergency system offering a direct connection to the California Highway Patrol communication dispatch center. Sponsored by Mendocino S.A.F.E, the Service Authority for Freeway Emergencies of Mendocino County, to facilitate more rapid response of emergencies, call boxes would be placed along highway segments that have been determined to be of highest priority as indicated by evaluations of accident, injury and fatality rates; traffic volumes; existing pay phone locations; and availability of cellular phone service along the remote Mendocino coastline. Each call box facility would consist of a 14-foot-tall pole with a cellular antenna and solar panel attached to the top; a blue "CALL BOX" sign with white letters positioned about 8 feet above the ground; and a yellow telephone box mounted on the pole about 4 feet above the ground. Each pole would be anchored to a 4-foot by 4-foot concrete pad set 3 feet in the ground. The cellular phones would be Motorola transceivers with three watts of output power. The call boxes would be located within the Highway One corridor, generally within 15 to 20 feet of the painted highway edge line. The call boxes would conform to a standard design used throughout the State to make them easily recognized by motorists in need of emergency service. The locations selected have been chosen to satisfy several criteria, including accessibility, adequate parking off the highway, adequate sight distances for leaving and entering the highway, adequate cellular signal performance, adequate sunlight for solar panel functioning and for minimizing adverse visual impact to scenic coastal resources. Specific locations for placement of call boxes are designated by reference to "post mile" (PM) markers. On Highway One, a post mile is the distance along the highway measured north from the Sonoma County line. PM markers (small paddle-shaped signs) displaying the PM distance are installed along the highway by Caltrans, usually at some feature such as at a culvert or bridge, or at whole mile points. The PM locations for placement of the emergency call boxes have been calculated by measuring from the nearest existing PM marker, because in most cases no PM marker currently exists at the exact call box site.

For purposes of *de novo* review by the Commission, the applicant has revised the project description as follows:

- A. The call box proposed for MP 25.51 shall be located at MP 25.21, on the west side of State Route 1.
- B. The call box originally proposed for MP 74.78, then approved for MP 74.54 in the Mendocino County Coastal Development Permit process, shall be

precisely located at 33 feet north of MP 74.54 to take advantage of visual shielding afforded by a group of willows.

C. Modifications to the project identified during County's review of the Coastal Development Permit application are incorporated as follows:

1. Call boxes originally proposed to be located at MP 13.18, MP 73.78 and MP 81.70 shall be located at MP 12.38, MP 74.54 and MP 81.64 respectively. The call box proposed to be located at MP 17.27 will be placed at the southerly portion of the turnout, southwest of a group of trees.
2. The call box to be located at MP 30.79 shall be removed should the trees currently existing at the vicinity of the site cease to provide a backdrop for the call box pole.
3. The blue and white "CALL BOX" sign on each of the call boxes shall be no larger than the size (18" by 24") approved for use in scenic areas.
4. Call boxes shall be removed from the highway if, for any reason, they are no longer deemed necessary or useful, or are allowed to remain in an inoperable condition for a period of one year or more.
5. The installation and maintenance of call boxes shall be in compliance with all encroachment permit procedures and requirements administered by the California Department of Transportation (Caltrans).

D. Add the following call box site that was thought to have been outside the coastal zone, but has subsequently been determined to lie within the coastal zone, thereby rendering this site subject to Commission review:

Postmile 64.54: East side of State Route 1, south of Cleone, north of Bouldin Lane. Site is located at a wide turn-out near a residence and some nearby trees. There is no ocean view in this area.

## 2. Visual Resources

The visual resource section of the Mendocino County Land Use Plan incorporates Section 30251 of the Coastal Act, which states in applicable part:

*30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to*

*be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

LUP Policy 3.5-1 in applicable part states:

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

LUP Policy 3.5-3 in applicable part states:

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

- *The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision containing parcels of approximately 20 acres in size covered by Policy 4.2-1 and is East of Highway 1.*
- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*
- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*
- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the south boundary of the City of Point Arena and the Gualala River*

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

*In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within 'highly scenic areas' will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies.*

LUP Policy 3.5-7 in applicable part states:

*...Direction, access, and business identification signs shall minimize disruption of scenic qualities through appropriate use of materials, scale and location...*

Coastal Zoning Code Section 20.504.015 (C)(1) states:

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

#### Discussion:

Mendocino County LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015(C)(1) require permitted development to be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and for areas designated highly scenic, to be subordinate to the character of its setting. LUP Policy 3.5-7 requires signage to minimize disruption of scenic qualities through appropriate use of materials, scale, and location. By virtue of their locations along Highway One, all of the call boxes are sited in scenic areas. Also, all but one of the proposed sites are within areas designated highly scenic on the applicable Coastal Land Use Plan Maps.

#### **Subordinate to the Character of its Setting**

The visual character of the project area is in large part defined by the presence of Highway One itself. In addition to the pavement, the stretch of highway for the project area includes reflective, yellow and white markers and lane striping, numerous shapes, sizes and colors of informational, directional, and safety signs that are often reflective to

attract attention, various posts and poles including utility poles, guard rails, bridges and bridge railing, fencing, culverts, and miscellaneous auxiliary structures. The proposed project would add emergency call boxes to these existing typical highway features for the project area. In order to be most effective, the call boxes, would by design, be easily recognizable to motorists in need of emergency service.

At the same time, the applicant has taken steps to design the call box facilities to be the least obtrusive as possible with respect to how the project affects views of the surrounding landscape. For instance, although it is necessary for each emergency phone to be marked with an easily recognizable and familiar sign, the applicant has chosen to use an 18-inch by 24-inch-sized-sign, which is a smaller approved sign than the standard size used with call boxes along State highways in scenic areas. Additionally, the applicant has minimized the number of call box facilities needed by taking into consideration the availability of phone service provided by existing public phones. A total of only fifteen (15) call boxes would be placed along the approximately 85-mile segment of Highway One.

Even though the phones themselves would be painted yellow, and the signs would be the standard, recognizable, blue and white CALL BOX signs, each facility would be a fairly minimal structure that would blend in with the other highway accoutrements. The County considered requiring the applicant to paint the poles brown that the phones would be attached to, but decided that the standard gray color of the galvanized metal pole as proposed would not be any less visible. The Commission agrees that galvanized metal gray is a color that would blend with the setting considering that so many other highway corridor features as discussed above already include galvanized metal components, such as informational, directional, and safety sign poles and posts, guard rails and bridge railing, fencing, and culverts. Furthermore, any paint applied to the call box poles would also be subject to chipping and peeling, especially in the salt air environment along the coastal bluffs. Unless the applicant follows a rigorous ongoing maintenance program to re-paint the poles once they begin to chip and peel, the call box facilities would stand out more than if the poles were left in the uniform color of the unpainted galvanized metal.

Even though the emergency call boxes will be noticeable, as a necessity of their function, the Commission finds that the call boxes would be compatible with and subordinate to the character of the highway, which includes emergency and safety signs, as well as painted yellow lines, utility poles and other normal features associated with a major state highway.

Therefore, the project has been sited and designed to be compatible with and subordinate to the character of the surrounding area and its setting, consistent with LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015(C)(1).

### **Minimization of alteration of natural landforms**

The project would not result in any significant alterations to landforms along Highway One, since the call boxes would be located along flat ground and existing slope gradients and would not require significant grading. The only excavation needed would be that required to set the 4-foot by 4-foot concrete anchor pad of each call box facility 3 feet into the ground. Therefore, the proposed project is consistent with LUP Policy 3.5-1, as alterations to natural contours and landforms would be minimized.

### **Protecting Views To and Along the Ocean and Scenic Coastal Areas**

As discussed above, LUP Policies 3.5-1, 3.5-3 and CZC Section 20.504(C)(1) require that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas. As proposed, views to the coast from Highway One would not be blocked by the proposed placement of the emergency call box facilities. Each of the proposed sites are discussed below with discussion indicating how the proposed development would be sited and designed to protect views to and along the ocean and scenic coastal areas.

#### **Post Mile**

#### **Location Description and Comments:**

- 2.57**      **West side, north of Gualala.** The call box location at this site would have a thick stand of trees as a backdrop that obscures views of the ocean from the highway. Other highway corridor features already existing in the vicinity of the proposed site include a power pole and wooden post and rail fence running parallel to the road approximately 25 feet from the white fog line.
- 10.71**      **East side, south of Caltrans temporary bridge near Schooner Gulch.** Because this site is located on the east side of the highway against a backdrop of grazing land, the proposed call box would not be visible against the ocean. Attention would be drawn to an expansive view of the ocean to the west. Other highway corridor features already existing in the vicinity of the proposed site include a metal barbed wire fence running along the highway, and reflective lane striping.
- 12.38**      **East side, north of Ross Creek.** The proposed location of this site is on the east side of the highway with no view of the ocean available. The site is viewed against a backdrop of open grassy hills and trees along Ross Creek, with a metal building (airplane hanger), antenna tower and windsock in the background. This site was selected as a preferred alternative to a location previously proposed at MP 13.18 on the west side of the highway that would have been partly visible against the sky and ocean.



- 17.27 East side, north of Rollerville Junction.** The location for this site was chosen just south of a tall group of trees to reduce the visual impact, although it may still be briefly visible against the sky to southbound traffic.
- 22.79 West side, north of Alder Creek Bridge.** The call box at this site would be just south of a farm gate and road providing access to an open field, with a utility pole nearby. No view is available of the ocean or shoreline.
- 25.51 West side, north of Irish Beach near Mallo Pass Creek.** As originally proposed, this call box would have been sited near the southern end of a large paved turnout, at the bottom of a dip in the highway. The facility as approved in this location would have blocked some views to the ocean from certain vantage points. However, an alternative site that would not create such visual impacts is available, and the revised project description submitted by the applicant for *de novo* review by the Commission moves the call box facility to this alternative location. As conditioned by Special Condition No. 4, at its new location at milepost 25.21, the call box would not block public views of the ocean, and would not present significant adverse impacts to scenic coastal resources because the site is viewed against a backdrop of a road cut that blocks all view to the ocean. Therefore, the call box facility as re-located is consistent with LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015(C)(1).
- 30.79 West side, south of Elk Creek.** This site is located near the top of the hill on the outside of the curve, south of the hairpin turns that are south of Elk Creek. The call box would be located close to some trees, which would prevent an ocean and sky backdrop as long as the trees remain in place. Even though the call box would be seen against this backdrop of vegetation, it would still be within the field of view of this expansive vista at the top of the hill. For travelers approaching the call box sit from the south along Highway One, the vista at this location includes magnificent views on both sides of the call box. Even so, given the small stature of the call box facility, its conformity with other highway facilities, and the fact that it would have a backdrop of trees, the Commission finds that the call box and attached sign would not result in a significant adverse impact, and would not block views to and along the ocean. However, placement of a call box at this location would be visually unacceptable without the trees, and the applicant has revised the project description for purposes of *de novo* review by the Commission to state that the call box will be removed if the visual screen provided by the trees ceases to provide a backdrop for the call box pole. To ensure that the call box is removed under such circumstances, the Commission attaches Special Condition No. 4. This special condition requires the applicant to undertake the development in accordance with all elements of the project description as revised for purposes of *de novo* review by the Commission, including the proposed removal of the call box located at milepost 30.79 if trees at the site

cease to provide a visual screening backdrop for the emergency call box facility.

**36.60 West side, north of Cavanaugh Gulch.** This site is located at a wide gravel turnout up against a cut bank topped with brush and trees. The facility would not be visible against the sky or ocean.

**40.86 West (south) side, on the grade along the north side of the Navarro River.** The proposed site for this call box would be juxtaposed against a cut bank with a large California bay tree providing visual screening. A power pole is located nearby. No view of the ocean is available, and the call box at this location would not be seen against the sky from either northbound or southbound traffic.

**53.86 West side, south of Caspar, near Pine Grove.** The call box at this location is situated with pine trees in the immediate background, and more trees further in the distance. There is no ocean view at this site.

**56.18 West side, north of Jug Handle Creek Bridge.** The call box at this site would be placed next to a field with pine trees growing to the west. No ocean view is available. A wooden post and metal wire fence runs parallel to the highway.

**64.54 East side of State Route 1, south of Cleone, north of Bouldin Lane.** The site is located on the east side of the highway at a wide turnout near a residence and some nearby trees. There is no ocean view in this area.

**69.10 West side, south of Ten Mile River.** The call box location at this site would be south of the Caltrans aggregate storage area (mixing table) where a berm and bushes block public view of the sand dunes. No ocean view would be available at the site of the call box facility. A fence runs parallel to the highway.

**74.54 West side, north of Caltrans Vista Point.** The call box at this location was originally proposed for a site south of the Caltrans Vista Point. In this location the call box would have impacted ocean and sky views as seen from the highway. However, there is an alternative site available. Moving the call box facility to a location precisely 33 feet north of MP 74.54 would take advantage of visual screening afforded by a group of willow trees. In this alternative location, the call box would not block public views of the ocean, and would not present significant adverse impacts to scenic coastal resources because of the backdrop of willow vegetation. The applicant has revised the project description for purposes of *de novo* review by the Commission to site this call box 33 feet north of MP 74.54. The Commission imposes Special Condition No. 4 to require the proposed call box to be moved 33 north of MP

74.54 as proposed to ensure this call box will be consistent with LUP Policies 3.5-1, 3.5-3, 3.5-7, and CZC Section 20.504.015(C)(1).

**81.64 West side, north of Westport.** This proposed site was selected by the applicant as an alternative to a previously proposed site at MP 81.70 that would have been visible against the sky and ocean. The currently proposed site at MP 81.64 has a thick backdrop of brush and trees that already blocks all view to the ocean.

The applicant has also amended the project description for the purposes of the Commission's *de novo* review to include the requirement that the call boxes be removed from the highway right-of-way if, for any reason, they are no longer deemed necessary or useful, or are allowed to remain in an inoperable condition for a period of one year or more. To ensure that the call box facilities are removed under such circumstances, the Commission imposes Special Condition No. 2 to require the applicant to submit a written agreement stating that the applicant agrees that if in the future, any of the call box facilities are no longer needed, the applicant agrees to abandon the facilities and be responsible for the removal of all portions of the structure(s) and restoration of the site(s) consistent with the character of the surrounding area and pursuant to a new coastal development permit from the Commission.

As all of the call box facilities will either be east of Highway One or set in front of existing vegetation, road cut banks, or other obstacles that already block views to and along the ocean, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of LUP Policies 3.5-1, 3.5-3, 3.5-7, and CZC Section 20.504.015(C)(1), which require permitted development to be sited and designed to protect views to and along the ocean and scenic coastal areas, and signage to be located to minimize disruption of scenic values.

### **Conclusion**

For all of the above reasons, the Commission finds that the proposed development is consistent with the visual resource protection provisions of LUP Policies 3.5-1, 3.5-3, 3.5-7 and CZC Section 20.504.015(C)(1).

### **3. Public Access**

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. In applying Sections 30210, 30211 and 30212, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to

special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

The proposed improvements would not block or interfere with existing trails to or from the shoreline or along the coast. In addition, none of the call box facilities would serve to increase the demand for public access. As the proposed call box facilities would not affect existing access to the shoreline, or increase the demand for access to the shoreline, the development would have no adverse impact on public access. Therefore, the Commission finds that the development does not have any significant adverse effect on public access, and that the development without new public access is consistent with the coastal access requirements of Coastal Act Sections 30210, 30211, and 30212.

#### **4. California Environmental Quality Act**

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Mendocino County LCP and the Coastal Act. Mitigation measures that will minimize or avoid all significant adverse environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

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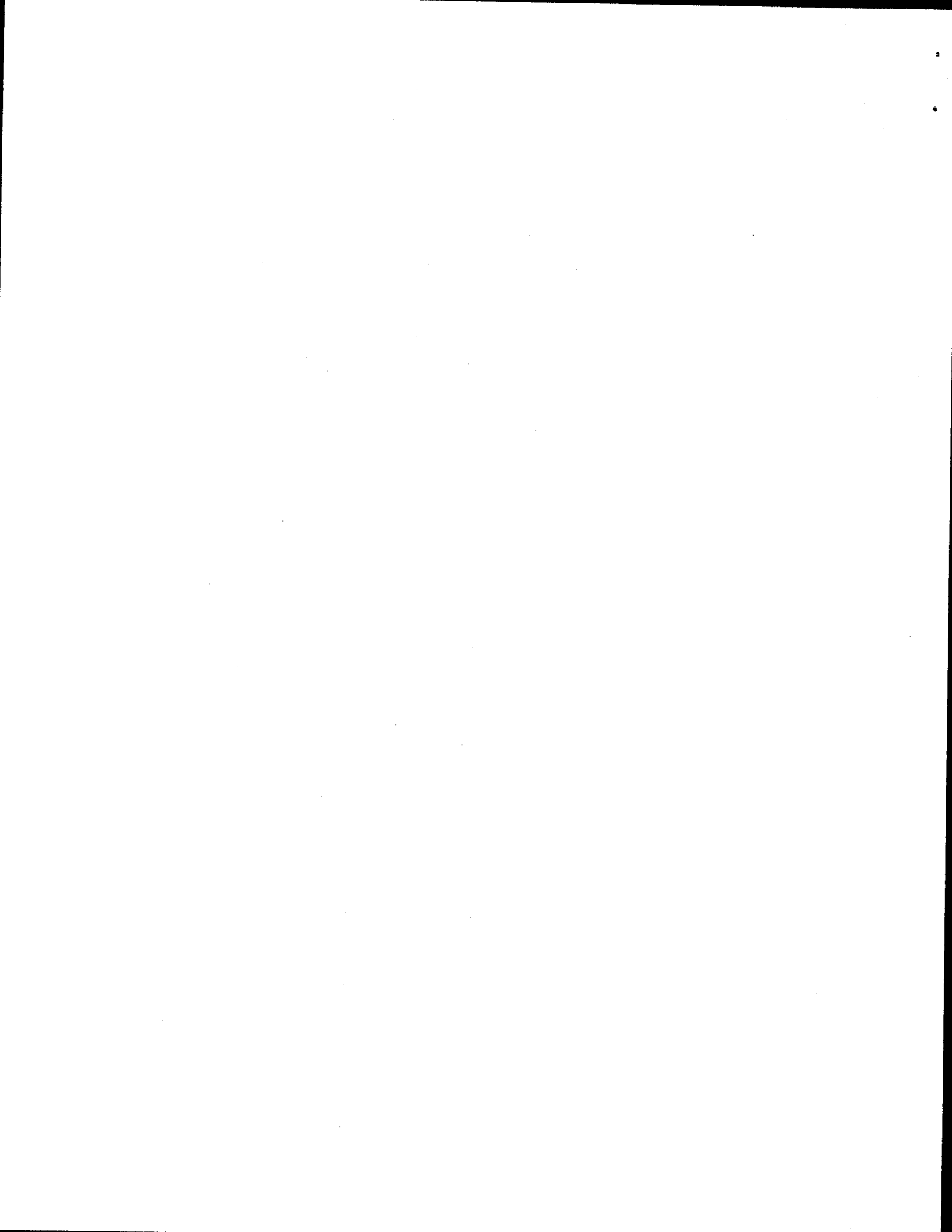
#### **V. EXHIBITS:**

1. Location Map
2. Typical Call Box Design Photo
3. Notice of Final Action
4. Appeal
5. Amended Project Description

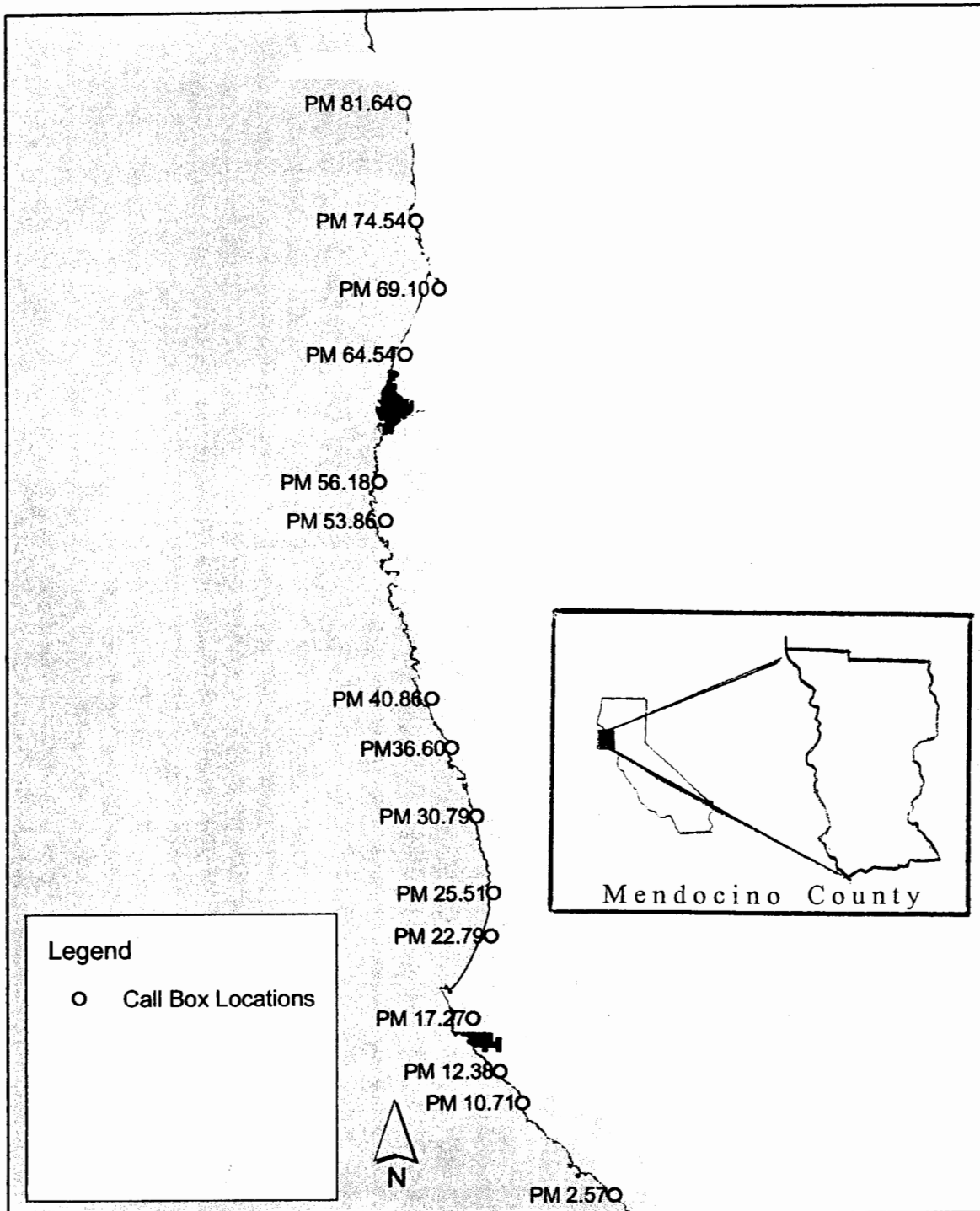
## ATTACHMENT A

### Standard Conditions:

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



# Mendocino S.A.F.E. Locations for Call Box Installations on State Route 1



**EXHIBIT NO. 1**  
**APPLICATION NO.**  
A-1-MEN-03-066  
S.A.F.E.  
LOCATION MAP

# Typical Call Box Design



**EXHIBIT NO. 2**

**APPLICATION NO.**

A-1-MEN-03-066

S.A.F.E.

TYPICAL CALL BOX  
DESIGN PHOTO



1-MEN-02-150



RAYMOND HALL  
DIRECTOR

TELEPHONE  
(707) 964-5379

**COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES**

MAILING ADDRESS:  
790 SO. FRANKLIN  
FORT BRAGG, CA 95437

**RECEIVED**

OCT 10 2003

CALIFORNIA  
COASTAL COMMISSION

October 6, 2003

**NOTICE OF FINAL ACTION**

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

- CASE#:** CDP #44-02
- OWNER:** State of California (Caltrans)
- APPLICANT:** Service Authority for Freeway Emergencies of Mendocino County
- AGENT:** Phillip J. Dow
- REQUEST:** Install 16 call boxes along Highway One as part of a state-wide emergency system offering direct connection to the California Highway Patrol communication dispatch center. Each call box will consist of a cellular telephone housed in yellow box, a solar panel, a cellular antenna, and a blue and white identification sign, all mounted on a 14 ft. tall pole set on a 4 ft. square concrete pad. Maximum height will be 18 ft.
- LOCATION:** In the coastal zone, along Highway 1 at the following post mile points measured north from the Sonoma County line: 2.57, 10.71, 12.38 or 13.18, 17.27, 22.79, 25.51, 30.79, 36.60, 40.86, 53.86, 56.18, 64.56, 69.10, 73.78 or 74.54, 81.64 or 81.70, 85.67 or 85.75.
- PROJECT COORDINATOR:** Charles Hudson

**HEARING DATE:** September 25, 2003

**APPROVING AUTHORITY:** Coastal Permit Administrator

**ACTION:** Approved with Conditions.

See staff report for the findings and conditions in support of this decision.

The project was not appealed at the local level.

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

<b>EXHIBIT NO. 3</b>
<b>APPLICATION NO.</b> A-1-MEN-03-066 S.A.F.E. NOTICE OF FINAL ACTION (1 of 13)

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP #44-02  
SEPTEMBER 25, 2003  
CPA-1

1-MEN-02-150

OWNER:

RECEIVED

SEP 18 2003

State of California (Caltrans)  
P. O. Box 3700  
Eureka, CA 95502

APPLICANT:

CALIFORNIA  
COASTAL COMMISSION

Service Authority for Freeway Emergencies of  
Mendocino County  
367 N. State St., Suite 206  
Ukiah, CA 95482

AGENT:

Phillip J. Dow  
367 N. State St., Suite 206  
Ukiah, CA 95482

REQUEST:

Install 16 call boxes along Highway 1 as part of a state-wide emergency system offering a direct connection to the California Highway Patrol communication dispatch center. Each call box will consist of a cellular telephone housed in yellow box, a solar panel, a cellular antenna, and a blue and white identification sign, all mounted on a 14 ft. tall pole set on a 4 ft. square concrete pad. Maximum height will be less than 18 ft.

LOCATION:

In the coastal zone, along Highway 1 at the following post mile points measured north from the Sonoma County line: 2.57, 10.71, 12.38 or 13.18, 17.27, 22.79, 25.51, 30.79, 36.60, 40.86, 53.86, 56.18, 64.54, 69.10, 73.78 or 74.54, 81.64 or 81.70, 85.67 or 85.75.

APPEALABLE AREA:

Yes

PERMIT TYPE:

Standard

TOTAL ACREAGE:

Not applicable. Within highway right-of-way.

GENERAL PLAN:

Within Highway 1 right-of-way.

ZONING:

Within Highway 1 right-of-way.

ADJACENT ZONING:

Varies, depending on call box locations.

EXISTING USES:

State highway, utility lines.

SURROUNDING LAND USES:

Varies, depending on call box locations.

SUPERVISORIAL DISTRICT:

4 & 5

ENVIRONMENTAL DETERMINATION:

Categorically exempt - Class 1(f).

**OTHER RELATED APPLICATIONS:**

Coastal Development Permit CDP 94-00, submitted in November, 2000, by Caltrans, requesting approval of two changeable message signs, one on Highway 20 at South Harbor Drive, and one on Highway 1 north of Boice Lane, was approved for the Highway 20 sign only in April, 2001, by the Coastal Permit Administrator.

Coastal Development Permit CDP 49-01, submitted in May, 2001, by Caltrans, requesting approval at a different location for the sign denied in CDP 94-00, above, was denied in September, 2001, by the Coastal Permit Administrator as inconsistent with Coastal Plan policies protecting the scenic qualities of Highway 1.

**PROJECT DESCRIPTION:** Mendocino SAFE, the Service Authority for Freeway Emergencies of Mendocino County, proposes to install 16 emergency call boxes at various locations along Highway 1 between Gualala and Rockport. Eleven of the call boxes are to be installed following issuance of permits. The remaining five are for future installation upon availability of funds. Mendocino SAFE was created in 1994 by a joint powers agreement between the County of Mendocino and the cities of Fort Bragg, Point Arena, and Ukiah. SAFE is funded by a \$1.00 fee assessed on all registered vehicles in the County, and was created for the purpose of placing call boxes along highways to facilitate more rapid response of emergency services. Call boxes have been placed along highway segments determined to be of highest priority, with the an ultimate goal of establishing boxes at two-mile intervals along most State highways in the County. Some call boxes have already been installed along Highways 20 and 101.

A Call Box Locational Analysis Report was prepared in 1998 by Dow & Associates, to identify appropriate call box locations and establish a priority system for placement of boxes as funding becomes available. A variety of traffic and safety information was examined, including traffic volumes, accident, injury, and fatality rates, pay phone locations, and availability of cellular phone service. The 16 sites of this application were chosen from 53 sites along Highway 1 examined in the report.

The call boxes proposed to be installed are similar to those installed on Highways 20 and 101 outside the coastal zone. They consist of a 14 foot pole with a cellular antenna and solar panel at the top, a blue "CALL BOX" sign with white letters at about 8 feet above ground, and a yellow telephone box at about 4 feet above ground. The pole is mounted on a concrete pad set in the ground. The cellular phone in the box only connects with the California Highway Patrol dispatch unit. The phone is a Motorola transceiver with three watts of output power. Except when in use, the phone operates in a quiescent mode, with all but essential electronics powered down. When in use the phone switches between active mode and standby mode. The phone only transmits in the active mode.

Within the priority highway segments, several factors were used to determine specific call box locations. The primary determinant was safety, including adequate parking area, and adequate sight distances for leaving and entering the highway. Access to cellular telephone service, and access to sunlight for the solar panels was also a requirement. To the extent possible, consideration was given to impact on coastal vistas. The application states that locations where the proposed call box would be the sole object in and otherwise unobstructed view were avoided. In four cases, alternate sites are being considered based on a joint site inspection by staff from SAFE and Planning and Building Services.

Initially 12 call boxes were proposed when the application was submitted. Subsequently five additional locations were added and one was deleted. Sixteen call boxes at the locations listed below are currently being proposed, 11 to be installed following issuance of the permit, and five at some time in the future. Two of the locations, at post miles 64.54 and 85.75, are not in the coastal zone and are not subject to this coastal development permit application.

Call box locations along the highway are designated by "post miles" (PM). On Highway 1, a post mile is the approximate distance along the highway measured north from the Sonoma County line. Post mile markers (small paddle-shaped signs) displaying the post mile distance are installed along the highway by Caltrans, usually at some feature such as a culvert or bridge, or at whole mile points. The post mile locations for the proposed call boxes have been approximated by measuring from the nearest post mile marker. In most cases, no post mile marker exists at the proposed call box site.

**Post  
Mile**

**Location description and comments:**

- 2.57**      **West side, north of Gualala.** At a wide gravel turnout adjacent to a long level straight stretch of highway, with a stand of pines blocking any ocean view. Overhead power lines along the west side of the highway may affect the call box location. Interference may occur if the phone is under or too close to the lines, however there is sufficient width available to avoid locating under the wires.
- 10.71**      **East side, south of the Caltrans temporary bridge near Schooner Gulch.** At the south end of a paved passing lane, south of the temporary bridge. The pole will mostly have a grassy hill backdrop, with possibly some sky backdrop. An open view of the ocean to the west will draw one's attention. The call box will not be visible against the ocean.
- 12.38**      **East side, north of Ross Creek.** Possible alternate location for the future site at PM 13.18. At this location the backdrop is open grassy hills and trees along Ross Creek, with a metal building (airplane hanger), antenna tower and windsock in the background. The turnout has a paved lane width adjacent to the highway with additional gravel width beyond. No ocean view.
- 13.18**      **West side, south of Moat Creek Drive.** Possible future site. At the southerly end of a long downhill straight, near a farm gate into an undeveloped field with scattered small trees. The call box pole will be partly visible against sky and ocean, with only scattered trees in between. PM 12.38 would be a preferred alternative based on visual impacts.
- 17.27**      **East side, north of Rollerville Junction.** Possible future site. On the outside of a 20 mph hairpin turn. The initially-proposed location north of a group of trees would have been visible to northbound traffic against a scenic rural landscape. During a visit to the site, it was agreed that a location south of the trees would provide better solar access and would reduce the visual impact, although it may still be visible against the sky briefly to southbound traffic.

- 22.79      **West side, north of Alder Creek Bridge.** Possible future site. Just south of a farm gate access to an open field, with a phone pole nearby. No view of ocean or shoreline. Power lines cross the highway just south of the site.
- 25.51      **West side, north of Irish Beach near Mallo Pass Creek.** At a large paved turnout, at the bottom of a dip in the highway, with a backdrop of trees and other vegetation.
- 30.79      **West side, south of Elk Creek.** Near the top of the hill on the outside of curve, south of the hairpin turns south of Elk Creek. The pole is located close to some trees which will partially prevent an ocean and sky backdrop as long as the trees remain in place. This location would be visually unacceptable without the trees.
- 36.60      **West side, north of Cavanaugh Gulch.** Possible future site. Two miles north of Elk, at the top of Cavanaugh Grade, located at a wide gravel turnout against a cut bank topped with brush and trees. Not visible against sky or ocean.
- 40.86      **West (south) side, on the grade along the north side of the Navarro River.** At a gravel turnout next to a small cut bank with bushes and power pole nearby. There is a turnout nearby on the opposite side of the highway available to northbound traffic. May be visible against the sky to northbound traffic, but the road demands attention in this vicinity.
- 53.86      **West side, south of Caspar, near Pine Grove.** At the south end of a long straight stretch, with pines in the near field, and more trees in the distance. No ocean view.
- 56.18      **West side, north of Jug Handle Creek Bridge.** At a field with pines to west. No ocean view, but there might be if the trees were removed.
- 64.54      **East side, south of Cleone, north of Bouldin Lane, not in the coastal zone.** At a wide dirt turnout in front of a residence with a display of patriotic signs and some nearby trees. No ocean view.
- 69.10      **West side, south of Ten Mile River.** Possible future site. South of the Caltrans aggregate storage area (mixing table), across from the site of Ten Mile River Inn. A berm and bushes block any view of dunes. No ocean view.
- 73.78      **West side, south of Caltrans Vista Point.** Visible against sky and ocean. A better alternate location was found at PM 74.54.
- 74.54      **West side, north of Caltrans Vista Point.** Alternate to PM 73.78. In a swale with a berm and bushes west of highway. On a curve concave to the west. Upper portions of the pole may be visible against sky, but not against the ocean.
- 81.64      **West side, north of Westport.** Dirt turnout with trees and bushes providing a backdrop and blocking ocean views. This site was selected as a alternate to PM 81.70.
- 81.70      **West side north of Westport.** Dirt turnout with no trees. Callbox would be visible against ocean and sky. A less visually intrusive alternate site was found at PM 81.64.

- 85.67 East side, north of Hardy Creek, not in the coastal zone. Dirt turnout on curvy section after Highway 1 goes inland. No ocean view, trees all around. Power pole nearby. This site was selected as an alternate to PM 85.75 for better solar access.
- 85.75 East side, north of Hardy Creek, not in the coastal zone. Dirt turnout north of 20 mph curve. Poor solar access. Abandoned in favor of PM 85.67.

The Gualala Municipal Advisory Council commented that it approved of the program, but noted that there were discrepancies between some of the mile post locations versus the mapped locations. The maps and mile post locations have been revised and now correspond with each other. The Council also recommended that the box at MP 10.71 be moved to the east side of the highway, which has been done. The GMAC letter also included a comment from Jim Lotter, recommending relocation of the box on the grade along the north side of the Navarro River. The suggested alternate locations were considered, but were unacceptable due to poor cellular access.

**LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION:** The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below.

**Land Use:** The call boxes will be located within the Highway 1 corridor, generally within 15 or 20 feet of the painted highway edge line. The function of the call boxes is to provide motorists with the ability to communicate with the California Highway Patrol dispatch center to report highway emergencies. The boxes are allowed under Section 20.456.020 (B), which provides for accessory structures and uses necessarily and customarily associated with, and appropriate, incidental, and subordinate to the principal civic use, which in this case is the State highway. Call boxes have been installed along many highways throughout the State, including Highway 1 in other counties, and Highways 20 and 101 in Mendocino County, supporting a determination that they are facilities customarily found in association with highways. The call boxes are a standard design used throughout the State to make them easily recognized by motorists in need of emergency service, thereby being appropriate for their function. The locations selected have been chosen to satisfy several criteria, including accessibility, safety in exiting and entering the highway, and visual impact, which, together with the limited number proposed (16 boxes spaced out over approximately 85 miles of highway, or roughly one every five miles), makes them clearly incidental and subordinate to the highway itself.

Each of the call boxes includes a blue and white sign identifying the facility to be a "CALL BOX" and providing location information. Signs are regulated by Chapter 20.476 of the Coastal Zoning Code, which includes the following provisions:

*Sec. 20.476.005 Intent*

*The purpose of this Chapter is to promote and protect the public health, welfare, and safety by regulating existing and proposed signs of all types. It is intended to protect property values, create a more attractive, economic and business climate, enhance the aesthetic appearance of the physical community, preserve the scenic and natural beauty of the coastal area, and protect the aesthetic qualities which contribute to the coastal character. It is further intended hereby to reduce signs or advertising distractions and obstructions that may contribute to traffic accidents or visual pollution.*

*Sec. 20.476.035 General Regulations*

*The following shall apply in the construction and maintenance of on-site and off-site signs.*

*(A) Special Purpose Signs. The following special purpose signs shall be exempt from these regulations:*

*(1) Directional, warning or informational signs required or authorized by law which are erected by federal, state, county, municipal officials or special district officials;*

Based on the above provisions, even though the project itself is not exempt from Local Coastal Plan and Coastal Development Permit requirements, the proposed signs associated with the call boxes are exempt from the specific requirements of the sign ordinance with regard to size, height, lighting, etc., because they are authorized by law and erected by a government agency.

Two of the proposed call box locations are outside the coastal zone. The site at PM 64.54, south of Cleone, is on the east side of Highway 1 at a point where Highway 1 is the easterly boundary of the coastal zone. The site at PM 85.75 and its preferred alternative at PM 85.67, are along Highway 1 north of Hardy Creek, north of the point at which the highway turns inland and leaves the shoreline and also the coastal zone. These sites outside the coastal zone are not dependent upon approval of this coastal development permit application. Outside the coastal zone, transmitter antennas are generally subject to Chapter 20.236 of the Inland Zoning Code, which requires a use permit for most antennas other than private radio and television reception antennas. Chapter 20.236 was adopted as an interim measure, with the primary objective of requiring use permit review of large antennas and antenna towers such as those being installed by cellular telephone service providers. It was anticipated that a more comprehensive ordinance would be adopted with different provisions, or even exemptions, for different types of antennas. It has been County policy that it would be consistent with the County's objectives in adopting Ordinance No. 3953, to treat non-commercial antennas not exceeding the height limit for the applicable zone as Minor Impact Utilities not requiring approval of a use permit. With a maximum height under 18 feet, and no commercial use proposed, the call box facilities are considered to be a permitted use in the inland portion of the County, with no discretionary review required.

**Public Access:** Several of the call boxes will be installed on the west side of Highway 1, however their installation will neither obstruct nor improve coastal access. No coastal access impacts will result.

**Hazards:** The Coastal Element of the General Plan lists six hazards that must be considered in relation to development proposed in the coastal zone: tsunamis, seismic activity, landsliding, shoreline and bluff erosion, flooding, and fire; and contains policies for avoidance of unnecessary risk. Chapter 20.500 of the Coastal Zoning Code contains provisions designed to implement the policies of the Coastal Element, requiring that development shall:

- (1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
- (2) Assure structural integrity and stability; and*

- (3) *Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The call boxes will be located within the Highway 1 corridor, typically at existing turnouts where there is room to park a vehicle near the call box. None of the sites are within a 100 year flood plain, a tsunami zone, or in an area of high fire danger. The possible future site near Alder Creek (PM 22.79) is within the San Andreas Earthquake Fault Zone, however no significant hazard will result due to the small size of the facility. Five of the sites are on the west side of the highway above coastal bluffs. Again, because of the small size of the call box facilities, and the fact that they could easily be removed in case they should become threatened by bluff erosion and retreat, no geotechnical investigation or report was deemed necessary. The small amount of earthwork necessary to prepare the concrete pad foundation will not alter existing conditions sufficiently to cause erosion or soil instability.

**Visual Resources:** Aesthetic impact is the primary coastal permit issue to be considered in this application. By virtue of their locations along Highway 1, all of the call boxes are sited in scenic areas. All but one of the sites within the coastal zone are designated "highly scenic" on the Coastal Land Use Plan Map. Compounding the issue are the requirements that the call boxes be easily identifiable and readily apparent to motorists in an emergency situation. To meet these requirements, a color scheme consisting of a bright yellow phone box and a blue and white sign is the standard used throughout the State to provide easy recognition, and the boxes necessarily are located where they can be easily spotted from the highway.

Section 30254 of the California Coastal Act states that it is the intent of the State Legislature that Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Policies in the Coastal Plan and provisions of the Zoning Code strive to maintain the scenic qualities of the coastal zone.

Policy 3.5-1 of the Coastal Element and Section 201504.020 (D) of the Code apply to all development in the coastal zone. They state:

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

Within designated highly scenic areas, additional Coastal Element policies and Code sections apply. Policy 3.5-3 limits structures to one story (18 feet) in height, requires development to be subordinate to its natural setting, and restricts reflective surfaces. Policy 3.5-4 specifies a number of methods to be used in the design and location of new development to minimize visual impact, such as siting structures at the base of hills or near existing vegetation, avoiding ridges and open areas, and using colors that blend with the surroundings. The above policies are implemented through requirements specified in Section 20.504.015 (C) of the Code.

As stated above, visual impact was one of the criteria considered by the applicant in making the original selections of sites to be included in this application. To the extent possible, in conjunction with the need



for call box locations to have cellular access, solar access, safe exit from and entrance to the highway, adequate parking area, and visibility to motorists, consideration was given to the aesthetic impact of the call box facility at each location. Locations from which the devices would be predominantly viewed against the ocean, shoreline, or sky were avoided. Where possible, sites were chosen that had other nearby features such as trees, roadside cut banks, or utility poles, with which call box poles could be grouped to make them less intrusive, without being obscured from motorists' views.

The Department of Parks and Recreation commented that there would be some visibility from State Parks, but that the issue was not of concern as long as the call boxes were within the State Highway right-of-way. The Department stated that it supports the project.

After the application was submitted, following a joint site visit by Phil Dow, representing SAFE, and Charles Hudson from the Planning and Building Services Department, alternate locations for four of the call box sites were identified to further reduce aesthetic impact. The box originally proposed at MP 13.18 on the west side of the highway is recommended to be located at MP 12.38 on the east side. The box proposed at MP 17.27 is recommended to be moved to a less-visible point on the same turnout. And the boxes proposed at MP 73.78 and MP 81.70 are proposed to be moved to MP 74.54 and MP 81.64 respectively.

Selecting locations for emergency call boxes is a matter of balancing conflicting objectives—the need for the boxes to be visible and accessible to motorists traveling Highway 1, and the Coastal Plan objectives of minimizing the impact of development on the scenic qualities of the coast. For most motorists, the call boxes will only be one more element in the visual “roadside clutter” along the highway, which includes highway signs, utility poles, litter pickup signs, mail boxes, guard rails, post mile markers, reflectors, and other objects, that interrupt scenic vistas along the coast. Of course, for the occasional motorist in need of a call box, the device will be a welcome sight. Recognizing the inherent conflict between the two objectives, it is staff's opinion that the sites that have been selected are consistent with Coastal Plan visual resource policies, provided that the four identified alternate sites are used. Staff would also recommend that the site at MP 30.79 be conditioned on the continued presence of the nearby trees. Without these trees the call box pole would be a dominant object on the outside of a turn, with nothing between it and a view of the ocean and sky. Special Conditions Number 1 and 2 are recommended to require that the alternate sites be used, and that the call box at MP 30.79 be removed should the trees at that location cease to provide a backdrop for the pole.

In Monterey County, the Transportation Agency for Monterey County looked into the possibility of redesigning the call box devices to be less visually intrusive in the Big Sur area. At the time ten call boxes were under consideration. After some study, the agency estimated that it would cost \$250,000 to \$300,000 to design, crash test, and install ten call boxes of a new design, versus \$70,000 to \$80,000 to install ten boxes using the standard design. It was decided to use the standard design, with a brown (earth-tone) painted pole and a smaller “CALL BOX” sign. (Two smaller signs, one 18 by 24 inches, and one 12 by 18 inches, are approved for use with call boxes along State highways in scenic areas. Smaller signs are also in use in San Luis Obispo County along Highway 1.)

Based on a photo found on the internet, it is staff's opinion that the brown painted pole used in Monterey County is not any less visible than the standard gray galvanized pole color, and it is not recommended that the pole be painted. Staff would support the use of the smaller 18 by 24 inch “CALL BOX” sign along Highway 1 in Mendocino County, and recommends Special Condition Number 3.

In the event that any of the call boxes cease to be functional or useful, staff would recommend that they be removed from the highway. Special Condition Number 4 is recommended.

**Natural Resources:** All of the call boxes are located within the Highway 1 corridor, in areas that have been altered from their natural condition by construction, maintenance, and use of the highway. No impacts to natural resources will occur.

**Archaeological/Cultural Resources:** The call box sites are located along the highway shoulder, in ground that has been substantially modified in conjunction with construction of the highway. The presence of archaeological and/or cultural resources at these locations is considered highly unlikely, particularly considering the small amount of earthwork necessary for the concrete base. Standard Condition #8 is recommended to advise the applicant of the County's archaeological ordinance and to ensure protection of any archaeological resources that may be discovered during construction.

**Groundwater Resources:** There is no water use or waste water disposal associated with the proposed call boxes. There will be no impact to water resources.

**Transportation/Circulation:** Section 30254 of the California Coastal Act states that it is the intent of the State Legislature that Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Potential impacts on scenic resources are addressed under Visual Resources, above. The availability of call boxes along Highway 1 is not anticipated to have any impact on highway capacity or trip generation. A limited number of trips will occur during installation of the facilities, and an occasional trip will be necessary to for maintenance.

Section 20.444.020 of the Coastal Zoning Code establishes requirements for corridor preservation setbacks along streets and highways, however the setbacks are only applicable to lots or parcels that abut roads and roadway easements. Utilities and other structures installed within the highway right-of-way are subject to provisions of the encroachment permit issued by Caltrans. No referral response was received from Caltrans, however Special Condition Number 5 is recommended to require the encroachment permits be obtained for each of the call box installations.

**Zoning Requirements:** The project complies with all of the zoning requirements of Division II of Title 20 of the Mendocino County Code.

**PROJECT FINDINGS AND CONDITIONS:** Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project with the recommended modifications, and adopts the following findings and conditions.

**FINDINGS:**

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and

3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development; and
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

**STANDARD CONDITIONS:**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit is subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.

6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - a. The permit was obtained or extended by fraud.
  - b. One or more of the conditions upon which the permit was granted have been violated.
  - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or is a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within 100 feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

**SPECIAL CONDITIONS:**

1. Call boxes originally proposed to be located at MP 13.18, MP 73.78 and MP 81.70 shall be located at MP 12.38, MP 74.54 and MP 81.64 respectively. The call box proposed to be located at MP 17.27 will be placed at the southerly portion of the turnout, southwest of a group of trees.
2. The call box to be located at MP 30.79 shall be removed should the trees currently existing at the vicinity of the site cease to provide a backdrop for the call box pole.
3. The blue and white "CALL BOX" sign on each of the call box poles shall be the smaller size (18' by 24") approved for use in scenic areas.
4. Call boxes shall be removed from the highway if, for any reason, they are no longer deemed necessary or useful, or are allowed to remain in an inoperable condition for a period of one year or more.
5. The installation and maintenance of call boxes shall be in compliance with all encroachment permit procedures and requirements administered by the California Department of Transportation (Caltrans).

Staff Report Prepared By:

Sept. 15, 2003  
Date

Charles N. Hudson  
Charles N. Hudson  
Senior Planner

Attachments: Exhibit A – Location Map  
Exhibit B – Typical call box installation

Appeal Period: Ten calendar days for the Mendocino County Board of Supervisors, followed by ten working days for the California Coastal Commission following the Commission's receipt of the Notice of Final Action from the County.

Appeal Fee: \$645 (For an appeal to the Mendocino County Board of Supervisors.)

**SUMMARY OF REFERRAL AGENCY COMMENTS:**

Planning – Ukiah	Height regulations?
Department of Transportation	No comment.
Environmental Health – Fort Bragg	No comment.
Building Inspection – Fort Bragg	No comment.
Assessor	No response.
Friends of Schooner Gulch	No response.
Department of Fish & Game	No response.
Caltrans	No response.
Native Plant Society	No response.
Coastal Commission	No response.
California Highway Patrol	No response.
Mendocino County Sheriff	No response.
Dept. of Parks & Recreation	Some visibility from State parks, but not a concern, as long as placement remains within Caltrans right-of-way. Visibility in fact, enhances public safety benefits. State Parks supports the project.
Westport Village Society	No response.
Point Arena City Hall	No response.
Fort Bragg City Planning	No response.
GMAC	Generally in approval, with comments: Some discrepancies in location map. Site at PM 10.85 should be moved to turnout on east side due to bluff erosion problems. Also suggested that the site at PM 40.86 be moved to the Navarro River bridge area or the intersection with Navarro Ridge Road.

STATE OF CALIFORNIA - THE SOURCES AGENCY  
**CALIFORNIA COASTAL COMMISSION**  
 NORTH COAST DISTRICT OFFICE  
 710 E STREET • SUITE 200  
 EUREKA, CA 95501-1802  
 VOICE (707) 445-7833  
 FACSIMILE (707) 445-7877

GRAY DAVIS, GOVERNOR



RECEIVED

OCT 27 2003

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):

Norman L. de Vall, P.O. Box 3, Elk, California 95432  
tel: (707) 877-3551 Fax: 877:1861

Zip	Area Code	Phone No.
-----	-----------	-----------

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County

2. Brief description of development being appealed: LDP #44-02 Placement of Call Boxes on Highway One

3. Development's location (street address, assessor's parcel no., cross-street, etc.): Highway One, Mendocino County

4. Description of decision being appealed
- 1. Approval; no special conditions: \_\_\_\_\_
  - 2. Approval with special conditions: \_\_\_\_\_ X
  - 3. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-03-066

DATE FILED: 10/27/03

DISTRICT: North Coast

<b>EXHIBIT NO. 4</b>
<b>APPLICATION NO.</b>
A-1-MEN-03-066
S.A.F.E.
APPEAL (1 of 6)

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 Coastal Permit Administrator

6. Date of local government's decision: September 25, 2003

7. Local government's file number (if any): CDP #44-02

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.) Friends of Schooner Gulch, State Park Ranger Kevin Jo (as an individual), Public Radio Station KZYX, ICO, Mendocino Beacon (See below)

a. Name and mailing address of permit applicant:  
Mendocino Council of Governments (MCOG), 367 N. State Street,  
Ukiah, California 95482 (707) 463-1859

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) Mendocino Beacon, P.O. Box 225, Mendocino, California 95460  
ICO, P.O. Box 1200, Gualala, California 95445  
Fort Bragg Advocate, 450 N. Franklin Street, Ft. Bragg 95437
- (2) Public Radio Station KZYX (news dept.), P.O. Box 1, Philo, 95466  
State Park Ranger Kevin Jo, (as an individual), Box Holder, Elk, 95432  
Friends of Schooner Gulch, P.O. Box 4m Pt. Arena, 95468
- (3) Radio Station KMFB, Attn: Ed Kowas, 101 Boatyard, Ft. Bragg, 95437  
Angela & John Zucker, 3400 South Highway One, Elk, 95432
- (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.)

County approval disregarded County's LCP requirements to protect  
viewsheds. (letter with code sections to follow) Failure to  
notify Department of Interior, Bureau of Land Management,  
California Coastal National Monument, and perhaps others.

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

SECTION V. Certification

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

Additional Appellants:

Angela & John Zucker

Ranger Kevin Jo, (as an individual)

Friends of Schooner Gulch

See Sec. III (b) for addresses.

*[Handwritten Signature]*  
Signature of Appellant(s) or  
Authorized Agent

Date October 26, 2003

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

SECTION VI. Agent Authorization

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

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

Date \_\_\_\_\_



Norman L. de Vall  
P.O. Box 3  
Elk, California 95432  
(707) 877-3551 877:1861  
[ndevall@mcn.org](mailto:ndevall@mcn.org)

October 27, 2003

California Coastal Commission  
North Coast District Office  
710 E Street, Suite 200  
Eureka, California 95501-1865  
(707) 445-7833, 445:7877  
via fax 10-27-03 12:50 PM

Appeal from Coastal Permit  
Decision of Mendocino County  
CDP #44-02 – Call Boxes

Dear Sirs, Ms.,

Please accept the following as additional information to be made a part of our appeal (Mendocino County CDP #44-02 – Call Boxes):

Section IV (continued)

In addition to the comments made, County approval disregarded the following sections of the Mendocino County General Plan Coastal Element, certified by the California Coastal Commission on November 20, 1985 as follows:

**Section 3: The Land Use Plan: Resources and Development Issues and Policies**

**Sub-Section: 3.1 Habitats and Natural Resources**

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

Definitions: (Pg. 37 11.5.85)

Special Treatment Areas (STA) include a designated scenic corridor along both side of Highway 1 from Ten Mile River to the Sonoma County line. et seq.

**Sub-Section 3.5 Visual Resources, Special Communities and Archeological Resources**

Definitions: (Pg. 74 11.5.85)

Special Communities and Neighborhoods et seq.

Highly Scenic et seq.

Visual Resources, Special Communities and Archaeological Resources Issues

Special Treatment Areas et seq.

Section 3.5-1 State Highway 1 in rural areas of the Mendocino County coastal zone shall remain a scenic two-lane road. et seq including: "New development in highly scenic areas designated by the County of Mendocino County Coastal Element shall be subordinate to the character of its setting.

Section 3.5-7 "Off-site advertising signs, other than small directional signs not exceeding 2 square feet, will not be permitted in designated "highly scenic areas". et seq

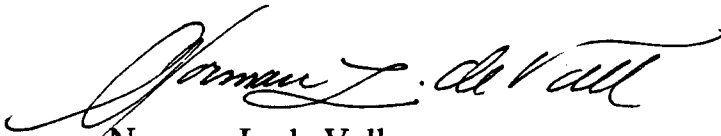
Section 4 The Land Use Plan: Descriptions and Policies for Thirteen Planning Areas et seq.

(for example): Section 4.10 et seq.

On April 3, 2003, Mr. Ray Hall, Director of the Mendocino County Department of Planning and Building Services, wrote an extensive Memorandum to the Board of Supervisors advising them of the importance of the Mendocino Coastline to the scoping portion of the Resource Management Plan for the California Coastal National Monument. The appellants in this matter believe that the placement of many of these Call Boxes is detrimental to maintaining the Highly Scenic nature and character of the California Coastal National Monument and the scenic values of the Mendocino Coast.

In permitted, the appellants reserve the right to provide additional information.

Sincerely,



Norman L. de Vall  
Obo Appellants

Enc: Raymond Hall Memo to the Board of Supervisors, dated April 3, 2003

Cc: David Colfax, Mendocino County Supervisor, Fifth District

# Mendocino SAFE

Service Authority for Freeway Emergencies of Mendocino County

367 North State Street ~ Suite 206 ~ Ukiah, CA 95482  
Phone (707) 463-1859 ~ Fax (707) 463-2212

January 28, 2004

**RECEIVED**

Mr. Randall Stemler  
California Coastal Commission  
North Coast District Office  
P.O. Box 4908  
Eureka, CA 95502-4908

FEB 02 2004

CALIFORNIA  
COASTAL COMMISSION

**EXHIBIT NO. 5**

**APPLICATION NO.**

A-1-MEN-03-066

S.A.F.E.

AMENDED PROJECT  
DESCRIPTION

RE: COMMISSION APPEAL NO. A-1-MEN-03-066

Dear Mr. Stemler:

The Service Authority for Freeway Emergencies of Mendocino County (Mendocino SAFE) is revising its project originally filed with the County of Mendocino and processed as Coastal Development Permit Application #CDP 44-02 for the purposes of the Commission's de novo review. Specifically, Mendocino SAFE accepts and incorporates into the project description the five Special Conditions identified in Mendocino County's staff report and approved at the Coastal Development Permit hearing in Fort Bragg on September 25, 2003. These five Special Conditions are:

1. Call boxes originally proposed to be located at MP 13.18, MP 73.78 and MP 81.70 shall be located at MP 12.38, MP 74.54 and MP 81.64 respectively. The call box proposed to be located at MP 17.27 will be placed at the southerly portion of the turnout, southwest of a group of trees.
2. The call box to be located at MP 30.79 shall be removed should the trees currently existing at the vicinity of the site cease to provide a backdrop for the call box pole.
3. The blue and white "CALL BOX" sign on each of the call boxes shall be no larger than the size (18" by 24") approved for use in scenic areas.
4. Call boxes shall be removed from the highway if, for any reason, they are no longer deemed necessary or useful, or are allowed to remain in an inoperable condition for a period of one year or more.
5. The installation and maintenance of call boxes shall be in compliance with all encroachment permit procedures and requirements administered by the California Department of Transportation (Caltrans).

Furthermore, as part of the appeal process, a field review was conducted of all proposed sites identified in Mendocino SAFE's application. At the conclusion of that field review on December 2, 2003 with North Coast District Office staff, it was agreed that:

1. The call box proposed for MP 25.51 shall be located at MP 25.21, on the west side of State Route 1.
2. The call box originally proposed for MP 74.78, then approved for MP 74.54 in the Mendocino County Coastal Development Permit process, shall be precisely located at 33 feet north of MP 74.54 to take advantage of visual shielding afforded by a group of willows.

Mendocino SAFE incorporates into the project description all five Special Conditions previously identified in the Coastal Development Permit process as modified and agreed to with North Coast District Office staff identified herein.

In consideration of the above, Mendocino SAFE is looking forward to favorable review of our project by the North Coast District Office staff and the California Coastal Commission.

Sincerely,



Phillip J. Dow, P.E.  
Executive Director

# Mendocino SAFE

Service Authority for Freeway Emergencies of Mendocino County

367 North State Street ~ Suite 206 ~ Ukiah, CA 95482  
Phone (707) 463-1859 ~ Fax (707) 463-2212

March 30, 2004

Mr. Randall Stemler  
California Coastal Commission  
North Coast District Office  
P.O. Box 4908  
Eureka, CA 95502-4908

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CALIFORNIA  
COASTAL COMMISSION

RE: COMMISSION APPEAL NO. A-1-MEN-03-066

Dear Mr. Stemler:

The Service Authority for Freeway Emergencies of Mendocino County (Mendocino SAFE) is modifying its project description originally filed with the County of Mendocino and processed as Coastal Development Permit Application #CDP 44-02 for the purposes of the Commission's de novo review. Specifically, Mendocino SAFE wishes to include the following site that was thought to have been outside the coastal zone, but has subsequently been determined to lie within the coastal zone, thereby rendering this site subject to Commission review:

**Postmile 64.54:** East side of State Route 1, south of Cleone, north of Bouldin Lane.  
Site is located at a wide turn-out near a residence and some nearby trees. There is no ocean view in this area.

Mendocino SAFE looks forward to favorable review of our project by the North Coast District Office staff and the California Coastal Commission.

Sincerely,



Phillip J. Dow, P.E.  
Executive Director