CALIFORNIA COASTAL COMMISSION

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Staff Report:

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Commission Action:

April 7, 2005

May 26, 2005

October 4, 2005 Ruby Pap

May 26, 2005

June 8, 2005

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:

1-05-008

APPLICANT:

California Department of Parks and Recreation

PROJECT LOCATION:

West of Highway One, at the trestle crossing at Pudding Creek, at the northern city limits of Fort Bragg, Mendocino

County.

PROJECT DESCRIPTION:

Structurally rehabilitate the existing "Pudding Creek Trestle" to provide a connection between the South MacKerricher Coastal Trail and the City of Fort Bragg for pedestrians and bicyclists: (1) replacing or repairing horizontal and diagonal cross members and decking of trestle; (2) replacing approximately 6 bent caps; (3) adding handrail for safety; (4) repairing the bottom of approximately 25% of the existing vertical piles; (5) replacing bolts and other hardware; (6) relocating horizontal and diagonal braces; and replacing miscellaneous shimming, blocking, and bearing blocks.

LAND USE PLAN DESIGNATION:

Mendocino County: Open Space (OS)

City of Fort Bragg: Parks and Recreation (PR)

ZONING DESIGNATION:

Mendocino County: Open Space: Flood Plain (OS:FP)

City of Fort Bragg: Parks and Recreation (PR)

OTHER APPROVALS:

Possible State Lands Commission approval needed U.S. Army Corps of Engineers Nationwide Permit County of Mendocino Coastal Development Permit City of Fort Bragg Coastal Development Permit

SUBSTANTIVE FILE

DOCUMENTS:

Mendocino County Local Coastal Program City of Fort Bragg Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission <u>approve</u> this application with special conditions. The California Department of Parks and Recreation (DPR) is seeking authorization to structurally rehabilitate the Pudding Creek Trestle, an historic logging trestle situated over Pudding Creek, and located between the City of Fort Bragg and MacKerricher State Park. Once the project is completed completed, the Trestle would be opened to the public for bicycle and pedestrian access, and will be off-limits to vehicular traffic.

The portion of the proposed project located within the Commission's jurisdiction, which includes the main body of the Trestle hanging above Pudding Creek itself excluding the north and south abutments, includes the removal and replacement of defective structural members, including horizontal and diagonal stringers and bent caps, repairing damaged and decaying vertical pilings, replacing the entire deck of the Trestle and adding a handrail, replacing bolts and hardware, and replacing miscellaneous shimming, blocking, and bearing blocks. Lumber used would be matched in size and appearance to the existing or original wood, as appropriate. DPR has received approval for work on the northern portion of the Trestle from the County of Mendocino, and for work on the southern portion of the Trestle from the City of Fort Bragg.

The proposed project will enhance public access to the coast consistent with Sections 30210, 30211, and 30212 of the Coastal Act. Once opened, the Pudding Creek Trestle will provide pedestrian and bicycle access to the South MacKerricher Coastal Trail, providing an important connection from the City of Fort Bragg.

Measures to mitigate potential impacts associated with structural fill in Pudding Creek, protect coastal water quality, and protect sensitive bat, bird, and raptor species must be implemented to insure the project's consistency with Sections 30231, 30233 and 30250 of the Coastal Act. Water quality issues associated with the proposed project include the potential for falling debris during construction activities, potential chemical spills from construction equipment, and whether chemical wood preservatives would be used on the Trestle components, all of which can impact the water quality and habitat of Pudding Creek, which serves as habitat for sensitive fish species. Therefore, staff recommends that the Commission impose Special Conditions 1 - 3, which

require the implementation of various measures to prevent debris and other spills from entering the creek, and which prohibit the use of chemical wood preservatives in the project.

Several sensitive bat species, as well as purple martins, could nest or roost within the Trestle, and several sensitive raptor species could nest adjacent to the Trestle in MacKerricher State Park. Proposed construction activities could impact these species, inconsistent with provisions of the Coastal Act that require the protection of sensitive species and coastal resources. DPR proposes to time all construction activities to avoid the nesting and maternity seasons for these sensitive species, conduct biological surveys to ascertain the sensitive bat and purple martin's presence on the Trestle and sensitive raptors' nesting in the vicinity of the Trestle, before commencing construction. Therefore, consistent with the applicant's proposed project, staff recommends that the Commission impose Special Condition Nos. 4 through 7, which require that DPR conduct surveys for sensitive raptors, sensitive bats, and Purple Martins, and submit these survey results to the Executive Director for his review and approval before the issuance of the Coastal Development Permit.

As conditioned, staff believes the proposed project is fully consistent with the Chapter 3 policies of the Coastal Act. The motion to adopt the staff recommendation of approval with conditions is found on pages 3 - 4.

STAFF NOTES

I. Jurisdiction and Standard of Review.

The proposed project bisects three jurisdictional boundaries: The Commission's retained jurisdiction, the City of Fort Bragg, and the County of Mendocino. As depicted in Exhibit 4, the Commission's retained coastal development permit jurisdiction where there are tidelands or other areas subject to the public trust is located over Pudding Creek, extending from "bent 2" north to between "bent 29" and "bent 30" of the Trestle, and excluding the Trestle's north and south abutments. The County's jurisdiction encompasses the north end of the Trestle, and the City's jurisdiction encompasses the south end of the Trestle. The proposed project described herein in this staff report includes those portions of the project activities that would take place within the Commission's jurisdiction. Therefore, the standard of review for Coastal Development Permit Application No. 1-05-008 is the Chapter 3 policies of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-05-008 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

1. Construction Responsibilities, Debris Control, and Waste Disposal

- A. All construction materials and debris originating from the project shall be contained in a manner to preclude uncontrolled entry and dispersion to the waters of Pudding Creek, and all debris resulting from construction activities that enters the creek shall be removed from the waters immediately.
- B. Erosion control fabric, such as canvas or plastic tarps, shall be installed under the Trestle during construction to catch small to large size material and prevent debris from falling into Pudding Creek.
- C. Any and all debris resulting from construction activities shall be collected and removed from the site for disposal at an authorized disposal site within one week of completion of construction. Any disposal of treated wood shall take place in a licensed hazardous materials landfill.

2. Spill Prevention, Control, and Countermeasure Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Spill Prevention, Control, and Countermeasure Plan (SPCC Plan), which includes measures to reduce impacts to water quality from the use and management of hazardous materials on the site. The plan shall be prepared by a licensed engineer with experience in hazardous material management. The plan, at a minimum, shall provide for the following:
 - (a) A spill kit shall be maintained on-site throughout the duration of the project;
 - (b) Any accidental spill shall be rapidly contained and cleaned up. Provisions for the handling, cleanup and disposal of any hazardous or non-hazardous materials used during the construction project including, but not limited to, paint, asphalt, cement, equipment fuel and oil, and contaminated sediments;
 - (c) Equipment fueling shall occur only during daylight hours in designated fueling areas and shall not occur on the Trestle Deck over the waters of Pudding Creek;
 - (d) Provisions for the containment of rinsate from the cleaning of equipment and methods and locations for disposal off- site. Containment and handling shall be in upland areas and otherwise outside of any environmentally sensitive habitat area;
 - (e) A site map detailing the location(s) for hazardous material storage, equipment fueling and maintenance, and any concrete wash-out facilities. These locations shall not include the Trestle structure;
 - (f) Reporting protocols to the appropriate public and emergency services agencies in the event of a spill.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Wood Preservatives

The application of, or the use of wood containing chemical wood preservatives, including, but not limited to chloropicrin, ACZA compounds (ammoniacal copper zinc arsenate), sodium fluoride, and sodium borate compounds, and plasticized sealants is prohibited. Any defective structural members of the Trestle to be replaced shall be replaced with lumber that is not treated with the above preservatives and sealants.

4. Raptor Surveys

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and consistent with the applicant's proposed project description, the applicant shall submit for review and approval of the Executive Director, a survey for nests of sensitive raptor species within 500 feet of the project area, conducted by a qualified biologist or resource ecologist with specific knowledge of raptors, which fully evaluates any and all indications of the presence or absence of nesting sensitive raptor species, and which demonstrates compliance with all of the following:

- A. No less than 14 days and no more than 30 days prior to the beginning of construction, a qualified biologist or resource ecologist shall conduct a non-invasive survey for nesting raptors within 500 feet of the project area. If the survey finds any indication nesting raptors, construction shall halt until the young have fledged unless the California Department of Fish and Game finds that an ample protective buffer zone exists. Restrictions shall remain in place until the young have fledged, as determined by the project resource ecologist.
- B. If no indications of nesting raptors are found during the initial survey, no additional surveys or mitigation is required, provided the project commences within 30 days of completion of the survey, and provided the project does not extend into the commencement of the raptor-nesting season.
- C. If more than 30 days have passed since completion of the survey and work has not commenced, or if work extends past the commencement of the raptor-nesting season (past March) a new survey shall be conducted and submitted for the review to the Executive Director, no more than 30 days and no less than 14 days prior to the start of the nesting-season or the start of work, and submit a report to the Executive Director for review and approval. If nesting raptors are found, the protective steps described above shall be undertaken.

5. Purple Martin Surveys

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and consistent with the applicant's proposed project description, the applicant shall submit for review and approval of the Executive Director, a survey of the Trestle, conducted by a qualified biologist or resource ecologist with specific knowledge of purple martins, which fully evaluates any and all indications of the presence or absence of nesting purple martins, and which demonstrates compliance with all of the following:

A. No less than 14 days and no more than 30 days prior to the beginning of construction, a qualified biologist or resource ecologist shall conduct a non-invasive survey for any purple martins nesting in the Trestle. If the survey finds

any indication that nesting purple martins with unfledged young are present on the Trestle, the project shall not proceed until a subsequent bird survey has been conducted by a qualified biologist that demonstrates that the young have fledged and are not nesting on the Trestle for thirty (30) continuous days, and such surveys have been submitted for the review and approval of the Executive Director.

- B. If no indications of nesting purple martins are found during the initial survey, no additional surveys or mitigation is required, provided the project commences within 30 days of completion of the survey, and provided the project does not extend into the commencement of the raptor-nesting season.
- C. If more than 30 days have passed since completion of the initial survey and work has not commenced, or if it is determined that work will extend past the commencement of the purple martin-nesting season (March 1) a new survey shall be conducted and submitted for the review to the Executive Director, no more than 30 days and no less than 14 days prior to the start of the nesting-season or the start of work, and submit a report to the Executive Director for review and approval. If any survey discovers indications of purple martins nesting on the Trestle, human activity on the Trestle shall be minimized and construction shall cease until a purple martin survey has been conducted by a qualified biologist that demonstrates that all young have fledged and are not nesting on the Trestle for thirty (30) continuous days, and such surveys have been submitted for the review and approval of the Executive Director.

6. Bat Surveys

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and consistent with the applicant's proposed project description, the applicant shall submit for review and approval of the Executive Director, a survey of the Trestle, conducted by a qualified biologist or resource ecologist with specific knowledge on bats, which fully evaluates any and all indications of the presence or absence of roosting sensitive bat species, and which demonstrates compliance with all of the following:

A. No less than 14 days and no more than 30 days prior to the beginning of construction, A DPR-qualified bat biologist or resource ecologist shall conduct a non-invasive survey for any sensitive bat species roosting in the Trestle. If the survey finds any indication that non-volent young bats are present at the site, the project shall not proceed until a subsequent bat survey has been conducted by a qualified bat biologist or resource ecologist that demonstrates that there are no non-volent bats on the Trestle for thirty (30) continuous days, and such surveys have been submitted for the review and approval of the Executive Director.

- B. If no indications of bats are found during the initial survey, no additional surveys or mitigation is required, provided the project commences within 30 days of completion of the survey, and provided the project does not extend into the commencement of the bat maternity season.
- C. If more than 30 days have passed since completion of the initial survey and work has not commenced, or if it is determined that work will extend past the commencement of the bat maternity season (February 15), a new survey shall be conducted and submitted for the review of the Executive Director, no more than 30 days and no less than 14 days prior to the start of the maternity-season or the start of work, and submit a report to the Executive Director for review and approval. If any survey discovers indications of non-volent young roosting on the Trestle, human activity in the Trestle shall be minimized and construction shall cease until after the end of the nursery season on August 15. Construction shall not proceed until a subsequent bat survey has been conducted by a qualified bat biologist that demonstrates that there are no non-volent bats on the Trestle for thirty (30) continuous days, and such surveys have been submitted for the review and approval of the Executive Director.

7. State Lands Commission Review

PRIOR TO THE COMMENCEMENT OF DEVELOPMENT, the applicant shall submit to the Executive Director, for review and approval, a written determination from the State Lands Commission that:

- A. No State or public trust lands are involved in the development; or
- B. State or public trust lands are involved in the development and all permits required by the State Lands Commission for the approved project as conditioned by the Commission have been obtained; or
- C. State or public trust lands may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the approved project as conditioned by the Commission to proceed without prejudice to that determination.

8. U.S. Army Corps of Engineers Approval

PRIOR TO COMMENCEMENT OF DEVELOPMENT, the permittee shall provide to the Executive Director a copy of a permit or letter of permission issued by the U.S. Army Corps of Engineers, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any proposed changes to the approved project required by the U.S. Army Corps of Engineers. Such proposed 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 required.

III. FINDINGS AND DECLARATIONS.

A. Site and Project Description.

Pudding Creek Trestle is located in MacKerricher State Park at the northern city limits of the city of Fort Bragg in Mendocino County. The Trestle spans Pudding Creek, and is situated parallel to and just west of Highway One, at the southwest corner of the park boundary (See Exhibit 2).

Pudding Creek is a relatively small coastal stream with a sensitive coastal lagoon floodplain. The creek is located between the larger drainages of the Noyo River to the south and Ten Mile River to the north and it has a watershed of approximately 11,000 acres. Typical of most north coast streams, Pudding Creek exhibits strong seasonal fluctuations in discharge, mainly in response to heavy winter rain. Peak flow occurs in January and February, followed by a decline in March and a low flow period, usually beginning in late May.

Built by the Union Lumber Company in 1917, the Trestle was once part of the company's railroad between its lumber holdings in the Ten-Mile River Watershed and its mill in Fort Bragg. The Trestle is an open deck redwood timber structure spanning Pudding Creek. In 1949, Union Lumber removed the rails from the rail bed and eventually paved the route. Trucks hauled logs over the "Haul Road" and across the Trestle until the early 1980s.

The Trestle has always been closed to the public and is in an advanced state of decay. The structure needs extensive work, new surfacing, and railings to protect its structural integrity and preserve its historic significance. Stabilization and rehabilitation would also be necessary before it could safely be opened for public use. Once construction is completed, the Trestle would be opened to pedestrian and bicycle traffic.

The applicants are seeking authorization for the structural rehabilitation of the portions of Pudding Creek Trestle within the Commission's retained jurisdiction over tidal areas and lands subject to the public trust, which extends from just after "Bent 1" on the south side of the river to between "Bent 29" and "Bent 30" on the north side.

The applicant proposes to remove and replace the defective structural members of the Trestle. Lumber used in replacement members would be matched in size and appearance to existing or original wood, as appropriate.

Approximately 10-20 stringers, mostly horizontal and diagonal members, and approximately six bent caps are proposed to be replaced. The degree of decay and deterioration on the topside of the stringers and bent caps would be investigated and extent of repairs would be determined once the trestle deck is removed.

Most of the existing piles are proposed to be retained. Approximately twenty five percent of the piles are proposed to be repaired at the bottom, and/or faced with redwood timber on both sides. These pile extensions and facings would extend below the mean high tide line.

All of the bolts and other hardware are proposed to be replaced with new hot-dipped galvanized bolts and hardware. To facilitate replacing the hardware, some of the horizontal and diagonal braces would be relocated, adjacent to their original locations. Miscellaneous shimming, blocking, and bearing blocks are also proposed to be replaced.

The entire deck of the Trestle is proposed to be replaced in kind or with new material compatible with the historic appearance of the structure. New handrails would be installed. The trestle decking and aprons would be designed to comply with the ADA accessibility requirements.

The proposed project bisects three coastal development permit jurisdictions, including the Commission's jurisdiction. The County of Mendocino's jurisdiction encompasses the north end of the Trestle, from "Bent 30" north to the north abutment. The City of Fort Bragg's jurisdiction encompasses the south end of the Trestle from the south abutment north to "Bent 1", and a staging area in a parking lot to the south of the Trestle and a hotel parking lot to the north of the Trestle (See Exhibits 3 and 4). Both the County and City coastal development permits have been approved.

The project is proposed to start in mid-August 2005 with an approximate construction period of 210 calendar days. The sequence of work will start with the demolition and reconstruction of the abutments, which are within the City of Fort Bragg and the County of Mendocino's coastal development jurisdictions, and would take approximately 45 days. The remainder of the work, occurring within the Commission's jurisdiction, will take place after the abutment work.

B. 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 over use. 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 rehabilitation of the Pudding Creek Trestle would result in the enhancement of public access that would link the northwest portion of Fort Bragg to over 10 miles of scenic coastline in Mendocino County. The Trestle is situated parallel to and just west of Highway One,

at the southwest corner of MacKerricher State Park. Visitors to MacKerricher State Park enjoy coastal recreational activities that include walking, beachcombing, bicycling, sightseeing, bird watching, surfing, and abalone diving. The Pudding Creek Trestle is currently closed to all use. Once rehabilitation work is complete and the Trestle is opened to the public, it would provide safe pedestrian and bicycle access across the Pudding Creek drainage to and from the south end of the existing South MacKerricher Coastal Trail (Haul Road) and provide an important connection to the Park and Coastal Trail from the City of Fort Bragg.

Therefore, the Commission finds that the project, as conditioned, enhances public access to the coast, and is consistent with Sections 30210, 30211 and 30212 of the coastal Act.

C. Protection of Coastal Waters

The proposed repair and replacement of Trestle bents and pilings involves some work below the mean high tide line, including the replacement or repair of deteriorated bearing blocks, replacement of horizontal wood facing, the repair or replacement of diagonal wood bracing, the replacement of horizontal facing plies across piles, and the structural and cosmetic repair of deteriorated wood piles (Exhibit 5). The structural repair of wood pilings would involve sand excavation to connect existing piles buried in the sand to piles above. As such, the proposed development includes the placement of fill in coastal waters and is subject to Section 30233 of the Coastal Act, which sets forth specific standards with regard to development involving the fill of coastal waters.

Coastal Act Section 30233 allows fill in coastal waters only where there is no feasible less environmentally damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effects, and where the project is limited to one of eight specified uses.

Section 30233 of the Coastal Act provides as follows, in applicable part:

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

Section 30231 of the Coastal Act addresses the protection of coastal water quality and marine resources in conjunction with development and other land use activities. Section 30231 states:

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

The above policies set forth a number of different limitations on what development projects may be allowed in coastal waters. For analysis purposes, the limitations can be grouped into four general categories or tests. These tests are:

- 1. That the purpose of the filling, diking, or dredging is for one of the eight uses allowed under Section 30233;
- 2. That feasible mitigation measures have been provided to minimize adverse environmental effects;
- 3. That the project has no feasible less environmentally damaging alternative; and
- 4. That the biological productivity and functional capacity of the habitat shall be maintained and enhanced where feasible.
 - (1) Allowable Use

The first test for a proposed fill/dredging project is whether the fill/dredging is for one of the eight allowable uses under Section 30233(a). The relevant category of use listed under Section 30233(a) that relates to the proposed repair and replacement of Trestle bents and pilings is subcategory (5), stated as follows:

(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.

To determine if the proposed fill is for an incidental public service purpose, the Commission must first determine that the proposed fill is for a public service purpose. Since the proposed repair and replacement of Trestle bents and piles would be conducted by a public agency in order to structurally rehabilitate the historic Pudding Creek Trestle for safe public access and recreational purposes for pedestrians and cyclists, the Commission finds that the fill expressly serves a public service purpose consistent with Section 30233(a)(5).

The Commission must next determine if the fill is "incidental" to the public service purpose identified. In the present case, the stabilization, repair and replacement of Trestle bents and piles would be incidental to the primary public service purpose of the proposed project, which is to facilitate use of the Trestle for public access and recreational purposes. The amount of fill involved with shoring the structural integrity of the Trestle at the bottom is also incidental in nature to the amount of rehabilitation work that is proposed to be done on the Trestle deck and its bracing components above the mean high tide line. Further, the proposed fill is not proposed to expand beyond what historically existed. A stabilized structure is therefore, necessary, and incidental to the structure's primary purpose as a public access facility and the maintenance of the historical structure.

The Commission finds that for the reasons discussed above, the fill associated with the proposed repair and replacement of Trestle bents and pilings is for an incidental public service purpose, and thus, is an allowable use pursuant to Section 30233(a)(5) of the Coastal Act.

(2) Feasible Mitigation Measures

The second test set forth by Section 30233 is whether feasible mitigation measures have been provided to minimize any adverse environmental impacts of the project. The work associated with the repair and rehabilitation of the Trestle components could cause construction debris or chemicals or hydrocarbons from construction equipment to discharge into the creek, potentially causing water quality impacts. The applicant proposes to install erosion control fabric, such as canvas or plastic tarps, under the Trestle to catch small to large-sized material and prevent debris from the proposed project from falling into Pudding Creek. In addition, a Spill Prevention, Control, and Countermeasure Plan (SPCC Plan) for all chemicals, such as fuels and lubricants, used during construction, would be prepared prior to the start of construction and a spill kit maintained onsite throughout the duration of the project. To insure that these measures are implemented, the Commission imposes Special Condition Nos. 1 and 2. In addition Special Condition No. 1 requires that all construction debris be contained, and removed from the Creek immediately should uncontrolled entry of debris to the Creek should occur, and that all debris and waste from the proposed activity be collected and disposed of in an authorized disposal site within one week of construction completion. Only as conditioned will the proposed project ensure that marine resources and water quality be protected as required by Section 30231 and 30233 of the Coastal Act.

The original plans for the proposed project included the use of chemical wood preservatives and weather proofing on new wood Trestle components. As stated in the Mitigated Negative Declaration for the project, Coho Salmon, a Federal Threatened species; Steelhead, a Federal Threatened Species and a California Species of Special Concern; and Tidewater Goby, also a Federal Endangered species and a California Species of Special Concern are known to inhabit Pudding Creek and are subject to behavioral changes and possible injury or death as a result of exposure to chemical wood preservatives, inconsistent with provisions of the Coastal Act that protect sensitive species and the biological productivity and quality of coastal waters as well as limit development adjacent to parks and recreation areas. Exposure could occur from accidental

spills or from chemicals leaching from the treated wood into Pudding Creek by contact with ocean tides and rainfall. After staff discussions with the applicant, the use of chemical preservatives and wood preservatives were removed from the project, including the use of chemical preservative treatments and/or plasticized sealants, in order to avoid contaminants from affecting the water quality of Pudding Creek. The applicant proposes to use untreated redwood in all Trestle components. Therefore, the Commission imposes Special Condition No. 3, which requires that no application of, or use of wood containing chemical wood preservatives be used. Only as conditioned will the proposed project insure that marine resources and water quality are protected as required by Sections 30231, 30233, and 30240 of the Coastal Act.

Therefore, the Commission finds that the development proposed, and as conditioned includes measures, where feasible, to minimize significant adverse impacts to aquatic habitat and water quality, consistent with Sections 30233 and 30231of the Coastal Act.

(3) Alternatives Analysis

The third test of Section 30233(a) is whether there are feasible less environmentally damaging alternatives to the proposed project. Possible alternatives include: (1) the no project alternative; and (2) repairing above water Trestle components utilizing angular bracing and cantilevering and re-opening the Trestle without placing fill to repair the bottom of the Trestle. The Commission finds, as discussed below, that there is no feasible less environmentally damaging alternative to the project as conditioned.

Option No. 1, the "no project" alternative is not a feasible less environmentally damaging alternative because the project's proposed objective would not be achieved. The Trestle would remain closed to the public, and the public would continue to have inadequate access to the Coastal Trail (Haul Rd.) from the City of Fort Bragg, because they would have to continue to detour around Pudding Creek. This alternative could also be more environmentally damaging, because without the rehabilitation and repair of the Trestle, additional deterioration of the Trestle pilings and other components could cause increased debris to fall into Pudding Creek, impacting water quality and fish habitat.

The Trestle is currently closed to public access due to its deterioration and structural instability. Option No. 2, re-opening the Trestle to the public without structurally repairing it at the bottom is infeasible because it would cause a public safety hazard to the public. The use of angular bracing and cantilevering off to the side would provide some additional structural stability, however these methods could not provide for the complete structural stability needed for the safety of the Trestle. Cantilevering and angular bracing would also be infeasible from a historic preservation standpoint, because these new components would not be true to the Trestle's original and existing design, and would diminish the Trestle's status as an important historic landmark. This alternative could also be more environmentally damaging, because the continued use of the Trestle without the proper shoring, could cause additional decay and associated debris of the Trestle pilings to fall into Pudding Creek, impacting water quality and fish habitat, and the use of side cantilevering could cause additional sedimentation and erosion on the side banks.

Therefore, the repair of above water Trestle components utilizing angular bracing and cantilevering and reopening the Trestle without placing fill to repair the bottom of the Trestle is not a feasible less environmentally damaging alternative.

Therefore, the proposed development is the least environmentally damaging feasible alternative to sufficiently enhance safe public access and recreation over Pudding Creek and along the Coastal Trail.

(4) Maintenance and Enhancement of Habitat Values

The fourth general limitation set by Section 30233 is that any proposed dredge or fill project in coastal waters must maintain and enhance the biological productivity and functional capacity of the habitat, where feasible.

Coho Salmon, Steelhead, and Tidewater Goby are known to inhabit Pudding Creek. The work associated with the repair and rehabilitation of the Trestle components could cause construction debris or chemicals or hydrocarbons from construction equipment to discharge into the creek. As required by Condition No. 1 and proposed by the applicant, however, erosion control fabric, such as canvas or plastic tarps, would be installed under the Trestle to catch small to large-sized material and prevent debris from the proposed project from falling into Pudding Creek. In addition, as required by Special Condition No. 2, a Spill Prevention, Control, and Countermeasure Plan (SPCC Plan) for all chemicals, such as fuels and lubricants, used during construction, would be prepared prior to the start of construction and a spill kit maintained onsite throughout the duration of the project. Further, Special Condition No. 1 requires that all construction debris be contained, and removed from the Creek immediately should uncontrolled entry of debris to the Creek should occur, and that all debris and waste from the proposed activity be collected and disposed of in an authorized disposal site within one week of construction completion. As proposed by the applicant and required in Condition No. 3, no application of, or use of wood containing chemical wood preservatives or plasticized sealants would be used. Therefore, potential impacts from construction debris and chemicals to the fish habitat would be avoided.

The Commission, therefore, finds that the project will maintain the biological productivity and functional capacity of the aquatic habitat consistent with the requirements of Section 30233 of the Coastal Act.

The Commission thus finds that the proposed fill is for an allowable use, that there is no feasible less environmentally damaging alternative, that feasible measures have been incorporated to mitigate potential impacts associated with the placement of fill into coastal waters, and that aquatic habitat values will be maintained or enhanced. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30233 of the Coastal Act.

D. Protection of Sensitive Species and Coastal Resources

Section 30240 of the Coastal Act protects sensitive species and parks and recreation areas from significant disruption. Section 30250 of the Coastal Act states, in part, that new development shall be located where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Several special-status raptor species are known to occur within MacKerricher State Park adjacent to the project, including Osprey, Sharp-Shinned Hawk, Northern Harrier, White-tailed Kite, Cooper's Hawk, and Short-eared Owl. All are California Species of Special Concern, except for the White-tailed Kite, which is a California Fully Protected Species and a Federal Species of Concern. Any raptors nesting nearby could be disturbed by construction activities, such as noise. Given that all these raptors are listed as having special statuses of concern and the Kite's protected status, the project could have significant cumulative, as well as individual impacts to these species, if adequate mitigation measures are not put in place. To mitigate these concerns, the applicant proposes to conduct surveys for raptor nests within 500 feet of the project area prior to construction and prior to the nesting season, and submit results to the Executive Director for approval. If nesting raptors are found within 500 feet of the project area, construction would be halted until the young have fledged, unless the Department of Fish and Game determines that continued construction activities would have no negative impacts on nesting raptors. To insure that this proposed mitigation is implemented consistent with the applicant's proposed project description, the Commission imposes Special Condition No. 4, which requires the raptor surveys and mitigation described above. Only as conditioned will the proposed project ensure that individual and cumulative impacts to raptors are avoided, consistent with provisions of the Coastal Act that require protection of sensitive species and coastal resources as well as limit development adjacent to parks and recreation areas.

Purple martin (Progne subis), a California Species of Special Concern, could potentially nest in the Pudding Creek Trestle because it often nests in old woodpecker cavities and human-made structures. The proposed project construction activities could have significant adverse effects on this special status species, either individually, or cumulatively, if construction proceeds while birds and their young are nesting in the Trestle. In order to mitigate this concern, the applicant proposes to conduct surveys for nesting purple martins prior to construction and prior to the nesting season (March-August) (if the construction schedule extends into the nesting season), and submit results to the Executive Director for approval. If the survey finds any indication that nesting purple martins with unfledged young are present on the Trestle, the project would not proceed until a subsequent bird survey has been conducted by a qualified biologist that demonstrates that the young have fledged and are not nesting on the Trestle. To insure that this proposed mitigation is implemented consistent with the applicant's proposed project description, the Commission imposes Special Condition No. 5, which requires the surveys and mitigation described above. Only as conditioned will the proposed project ensure that individual and cumulative impacts to purple martins are avoided, consistent with provisions of the Coastal Act

that require protection of sensitive species and coastal resources as well as limit development adjacent to parks and recreation areas.

There are several sensitive bat species that may occur within MacKerricher State Park, and some of these species have been known to roost within structures similar to the Pudding Creek Trestle, the project site. The California Species of Special Concern bat that might roost within the Pudding Creek Trestle is the Pallid Bat (Antrozous pallidus). The Federal Species of Concern bats that might roost in the structure are the Long-Eared Myotis (Myotis evotis), and the Long-Legged Myotis (Myotis volans). Although the reproductive cycle varies among species for most temperate species of bats, implementation takes place in early spring, gestation lasts 60-90 days, and one or two young are born between May and July. Young begin to fly after two to five weeks and are generally weaned by six weeks. The proposed project construction activities could have significant adverse effects on these special status species, either individually or cumulatively, if construction proceeds while bats and their young are roosting on the Trestle. To mitigate this concern, the applicant proposes to conduct surveys for roosting bats prior to construction and prior to the maternity season (February 15-August 15) (if the construction schedule extends into the nesting season), and submit results to the Executive Director for approval. If the survey finds any indication that roosting bats with non-volent young are present on the Trestle, the project would not proceed until a subsequent bat survey has been conducted that demonstrates that there are no non-volent bats on the Trestle for thirty (30) continuous days. To insure that this proposed mitigation is implemented consistent with the applicant's proposed project description, the Commission imposes Special Condition No. 6, which requires the surveys and mitigation described above. Only as conditioned will the proposed project ensure that individual and cumulative impacts to sensitive bat species are avoided, consistent with provisions of the Coastal Act that require protection of sensitive species and coastal resources as well as limit development adjacent to parks and recreation areas.

The Western Snowy Plover (Charadrius alexandrinus nivosus), a Federal Threatened Species and California Species of Special Concern, is also known to nest at MacKerricher State Park, near Virgin Creek, within a U.S. Fish and Wildlife Service designated Snowy Plover Recovery Unit (CA-14). This site is located approximately one mile north of the project site. While the rehabilitation and re-opening of the Trestle for public use is not expected to result in a significant number of new visitors to the area, any increase in visitation to the Snowy Plover Recovery Unit (CA14) could have individual or cumulative impacts on the species during nesting season. DPR has stated that informational signs would be installed at access points to the nesting areas, and trash control and existing limits on access for visitors with dogs and/or horses will be enforced.

As discussed in the previous findings, the project as conditioned will have no significant adverse impacts on public access and has been conditioned to avoid or reduce to a level of insignificance potential adverse impacts to water quality.

Therefore, as conditioned, the Commission finds that the proposed project will have no significant adverse effects, either individually or cumulatively, on sensitive species and coastal

resources or adjacent parks and recreation areas and is consistent with Sections 30240 and 30250 of the Coastal Act.

E. State Waters

The project site is located in an area subject to the public trust. Therefore, to ensure that the applicant has the necessary authority to undertake all aspects of the project on these public lands, the Commission attaches Special Condition No. 7, which requires that the project be reviewed and where necessary approved by the State Lands Commission prior to the commencement of development.

F. U.S. Army Corps of Engineers Review

The project is within and adjacent to a navigable waterway and is subject to review by the U.S. Army Corps of Engineers (USACE). Pursuant to the Federal Coastal Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the USACE, the Corps will not issue a permit until the Coastal Commission either approves a federal consistency certification for the project or approves a coastal development permit. To ensure that the project ultimately approved by the Corps is the same as the project authorized herein, the Commission attaches Special Condition No. 8 that requires the applicant, prior to the commencement of development, to demonstrate that all necessary approvals from the USACE for the proposed project have been obtained.

G. California Environmental Quality Act

Section 13906 of the Commission's administrative regulation requires Coastal Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any 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. The 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 consistent with the policies of the Coastal Act. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts, which the activity may have on the environment. Therefore, the

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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.

EXHIBITS:

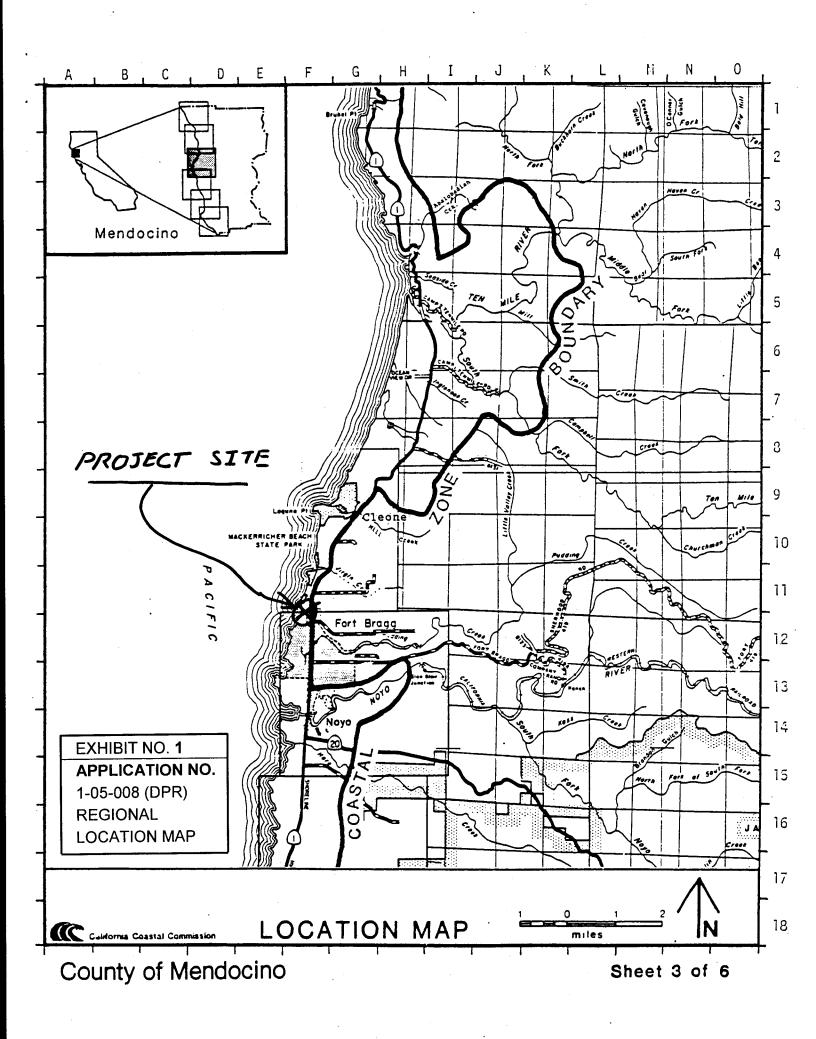
- 1. Regional Location Map
- 2. Vicinity Map
- 3. Map of Trestle and Immediate Surroundings
- 4. Coastal Development Permit Jurisdictional boundaries
- 5. Project Site Plans

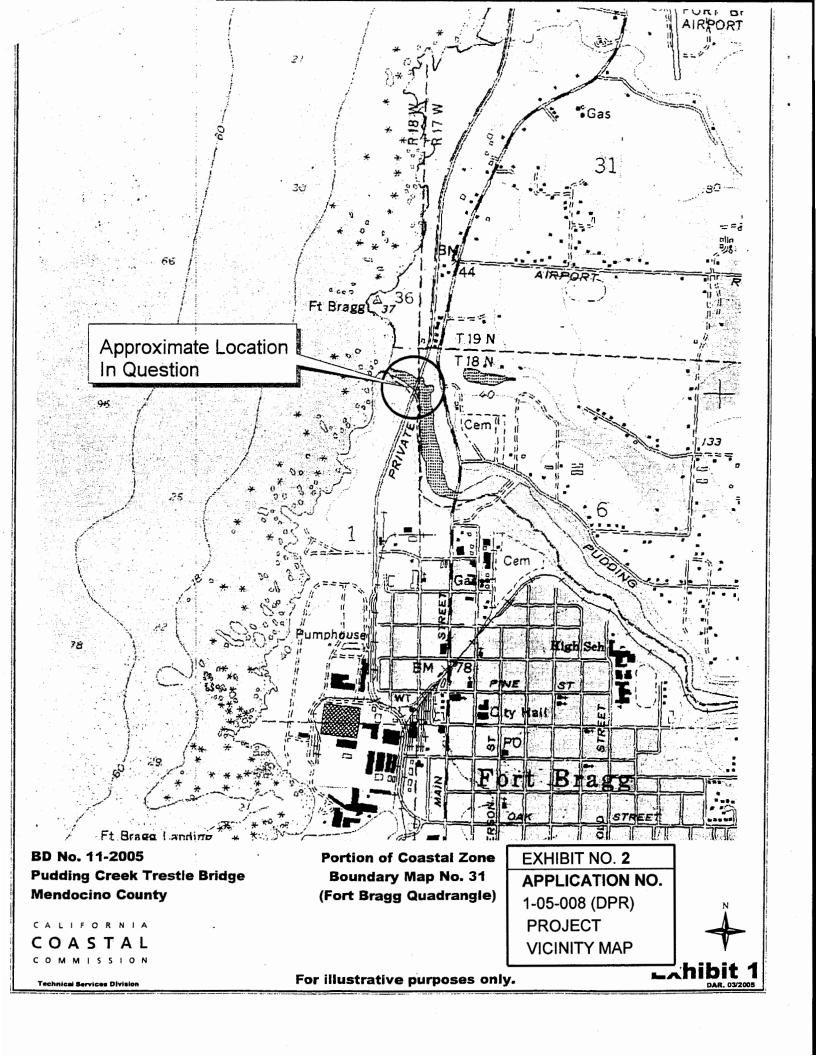
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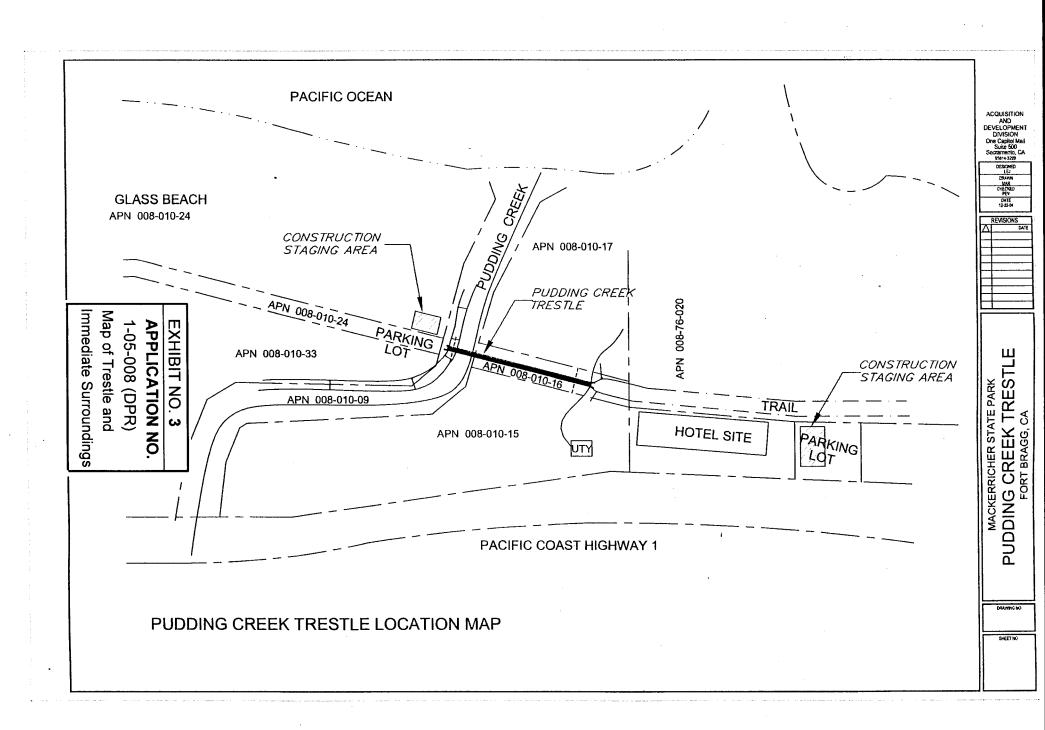
APPENDIX A

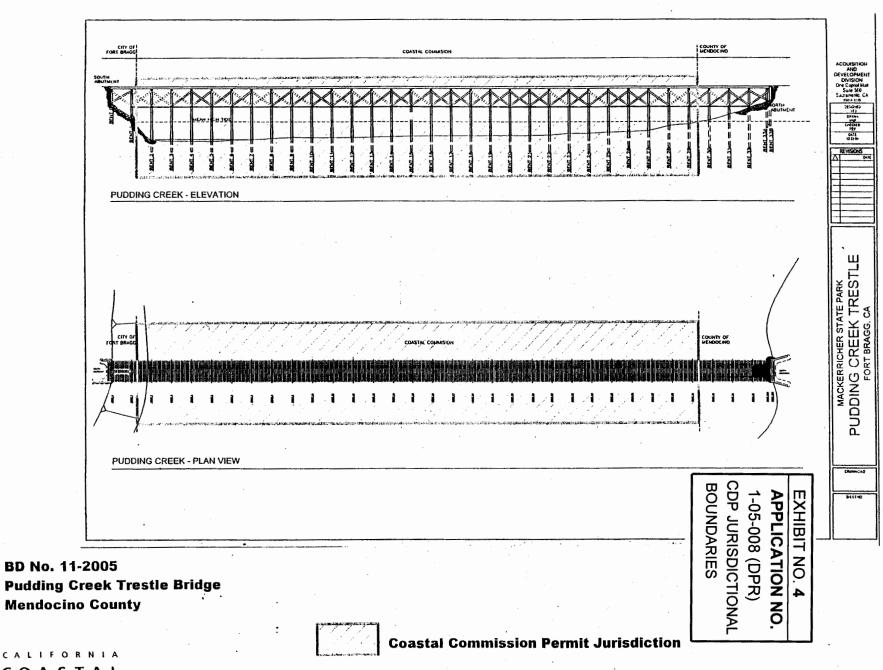
STANDARD CONDITIONS

- 1. <u>Notice of Receipt and Acknowledgment</u>. 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. <u>Expiration</u>. 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
- 4. <u>Assignment.</u> 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. <u>Terms and Conditions Run with the Land.</u> 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.





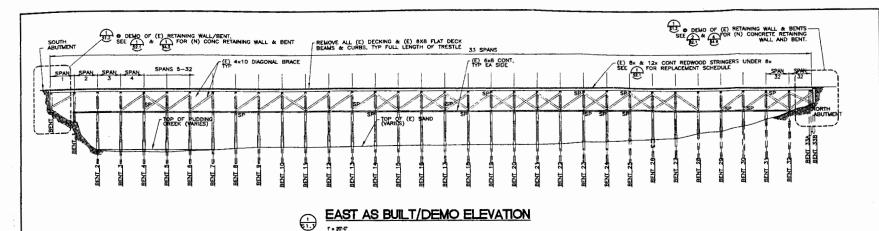


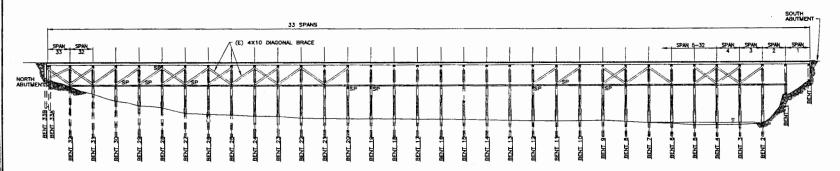


For illustrative purposes only.

Exhibit 2

COMMISSION





WEST AS BUILT/DEMO ELEVATION

ROJECT SITE 1-05-008 APPLICATION Ш XHIBIT (Page (DPR) NO. 잌 O ס G <u>N</u>O.

ANS

NOTES:

- 1. SEE SHEET SO.2 FOR TYPICAL DEMOLITION NOTES.
- Excavate sand as required to expose (E) file or facing elements for repair. Backfill sand as required to restore original grade.
- EAST AND WEST BENT BRACING, VERTICAL BENT BRACING AND FOUNDATION REPAIRS SHALL BE COUNTERTED PROFIT TO DEMOLITION WORK PROCEEDING WITH STRINGERS AND DECK BEAMS
- TEMPORARY LONGITUDINAL BRACING SHALL BE INSTALLED PRIOR TO ABUTMENT DEMOLITION. SUBMIT BRACING PLANS FOR APPROVAL BY STATE PRIOR TO PROCEEDING
- DEMOLITION AND CONSTRUCTION METHODS AND MEANS SHALL COMPLY WITH ALL ENVIRONMENTAL PROTECTION MEASURES REFERENCED IN THE PERMIT DOCUMENTS.
- SP INDICATES SPLIT LUMBER TO BE REPLACED, ALL LUMBER TO BE RE-USED FOR BINCHING EXILIANTS MUST BE VERREIC AS ADEQUATE, MEMBERS WITH SIGNIFICANT DECAY, SPLITS, BONY OF TIMES SHALL BE REPLACED.

AND DEVELOPMENT DIVISION One Capitol Mail Suite 500 Sacramento, CA 95814-3229

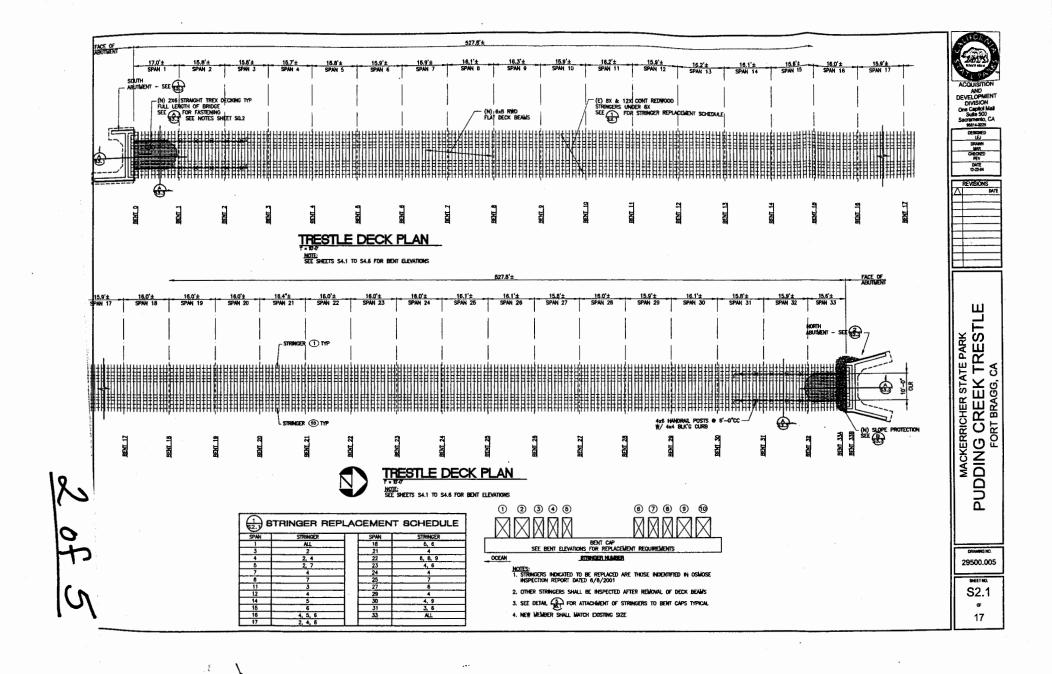
DESIGNED
LEJ
DRAMN
MAR
CHECKED
PEV
DATE
12-22-04

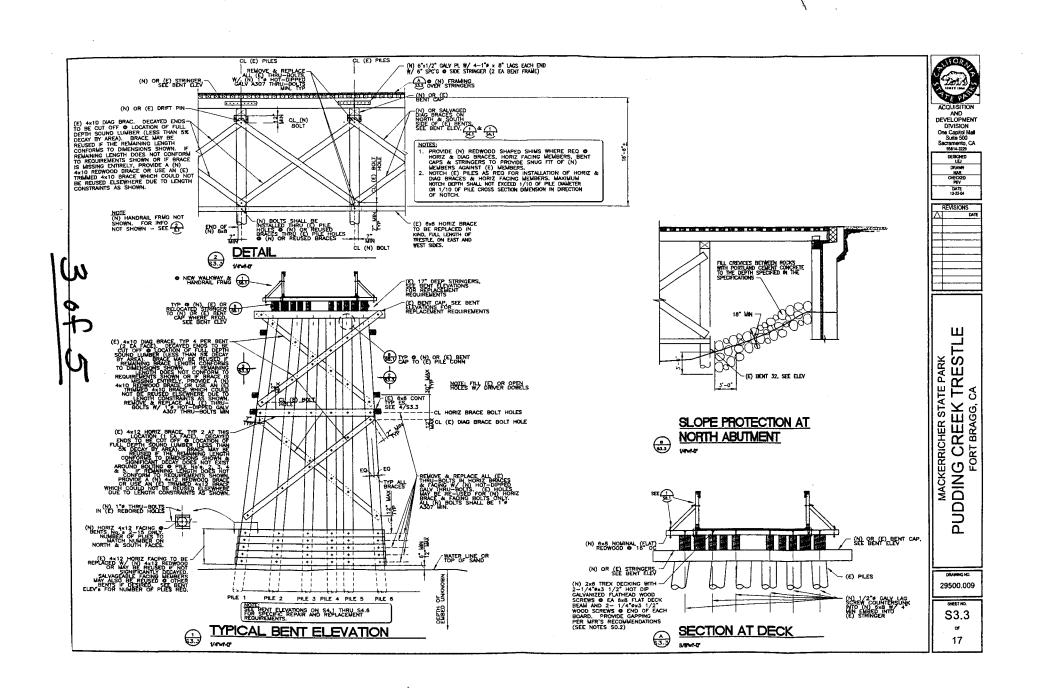
REVISIONS DATE

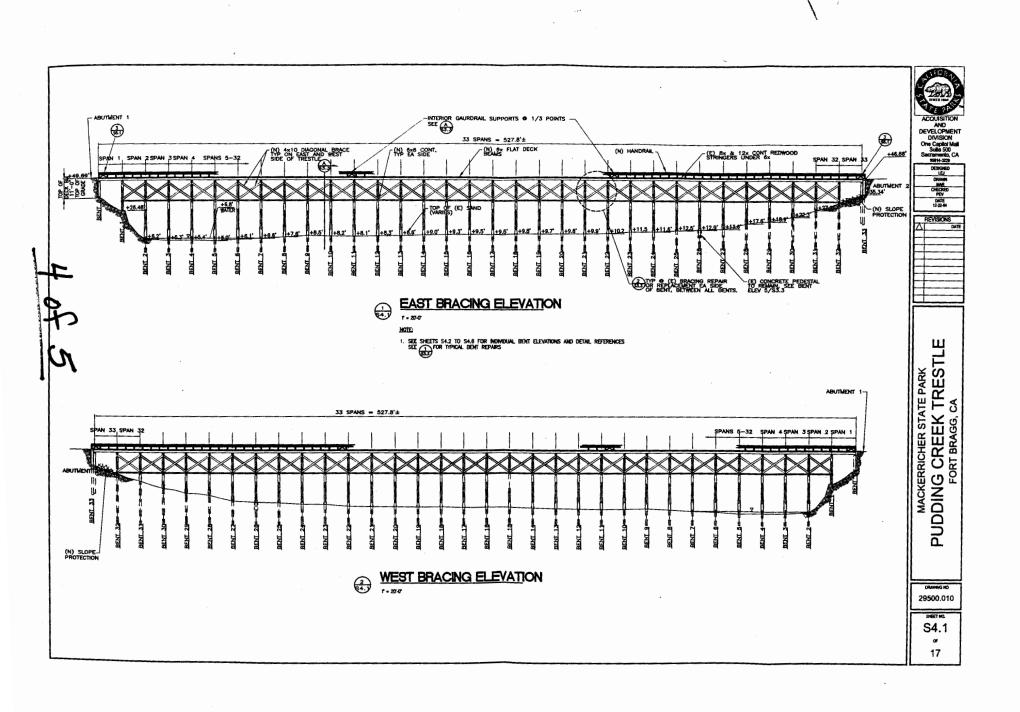
Ш MACKERRICHER STATE PARK
PUDDING CREEK TRESTL
FORT BRAGG, CA

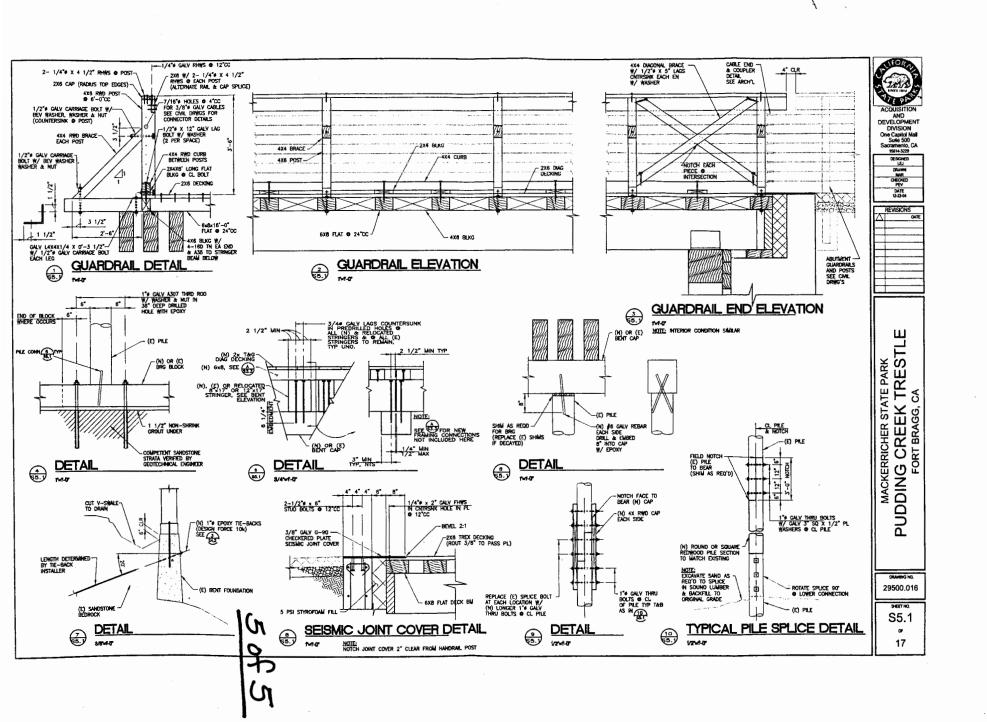
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