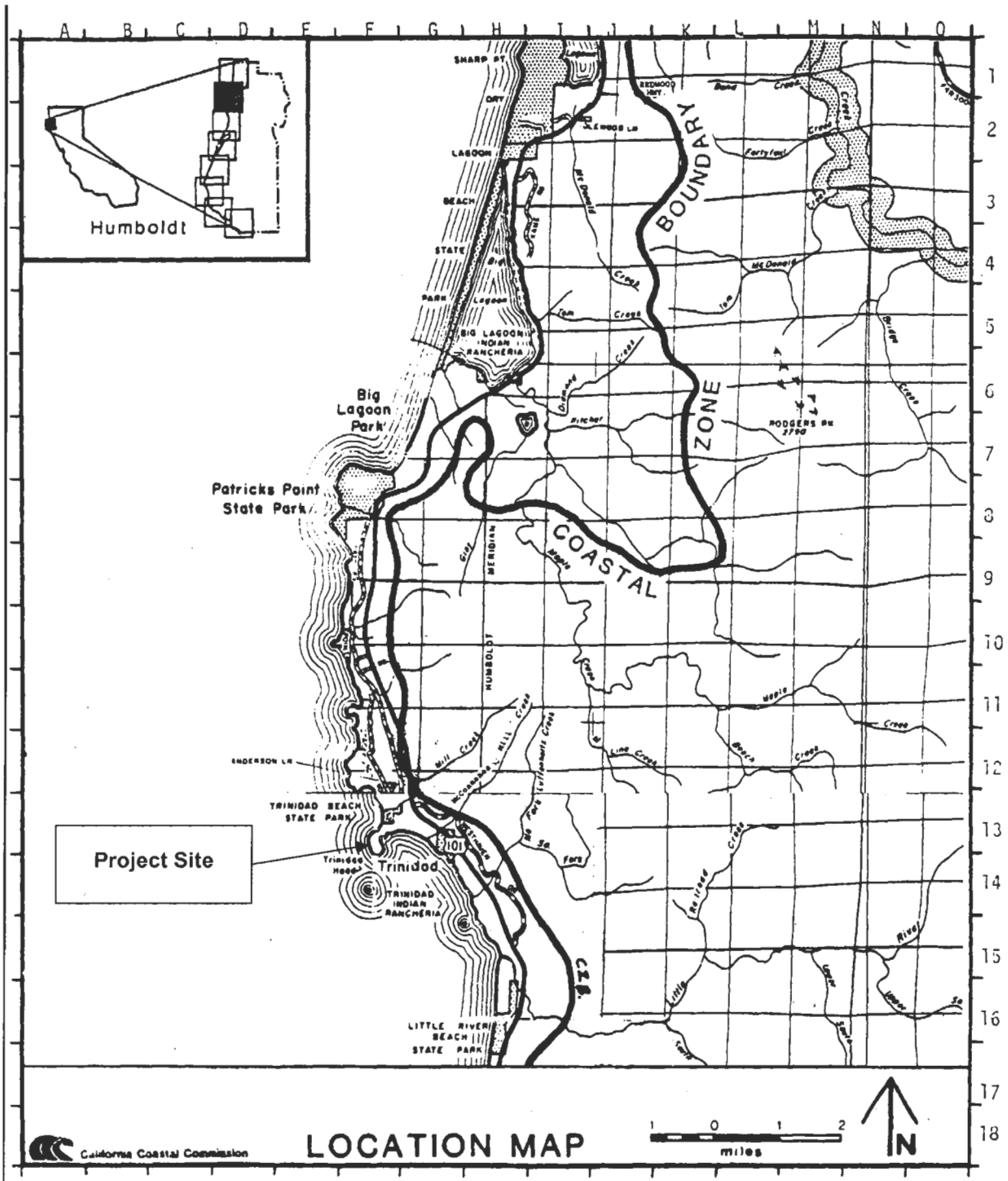


California Coastal Commission

LOCATION MAP

County of Humboldt

EXHIBIT NO. 1

APPLICATION NO.

A-1-TRN-06-042

U.S. CELLULAR CORP.

REGIONAL LOCATION MAP

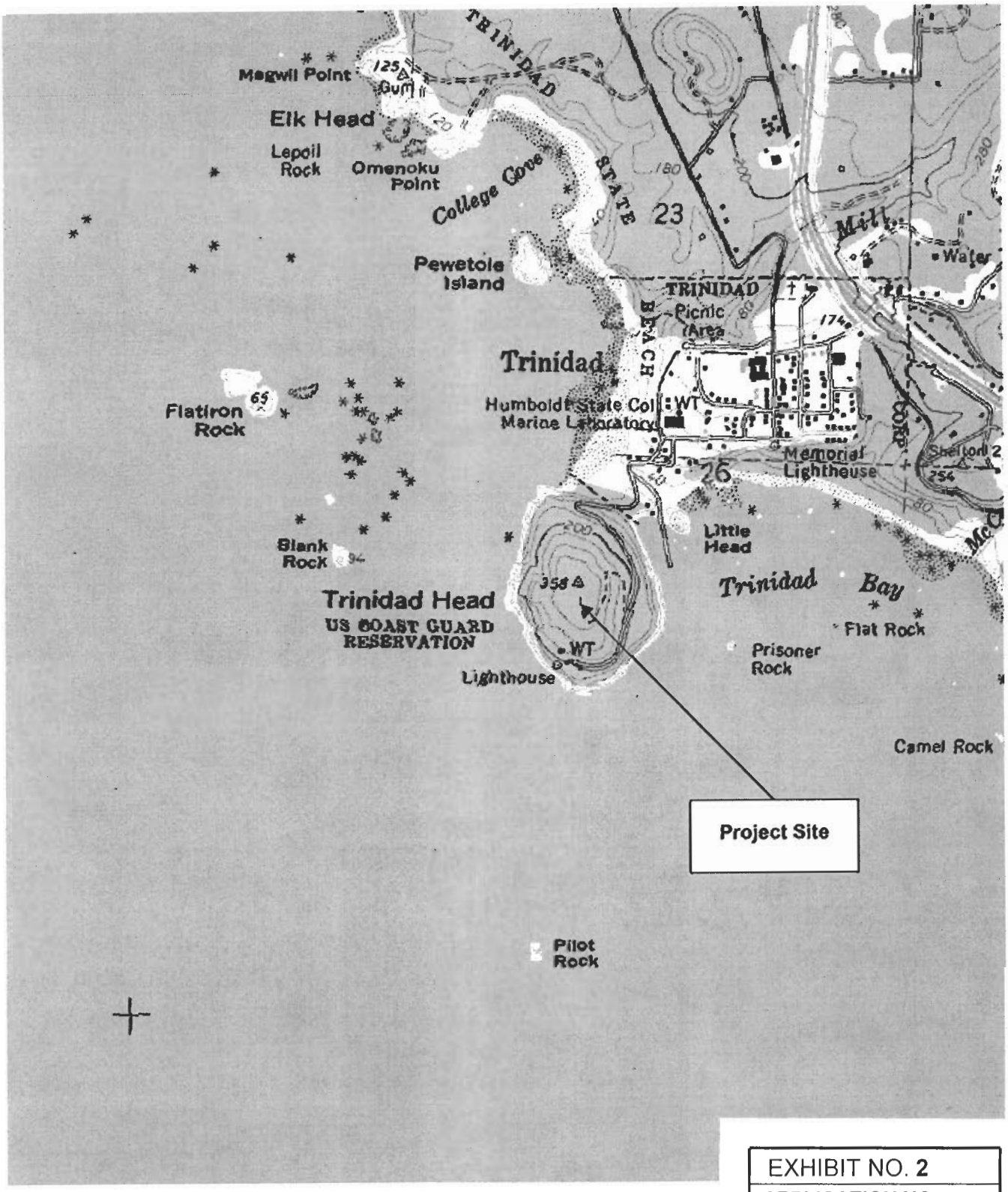


EXHIBIT NO. 2

APPLICATION NO.

A-1-TRN-06-042

U.S. CELLULAR CORP.

VICINITY MAP

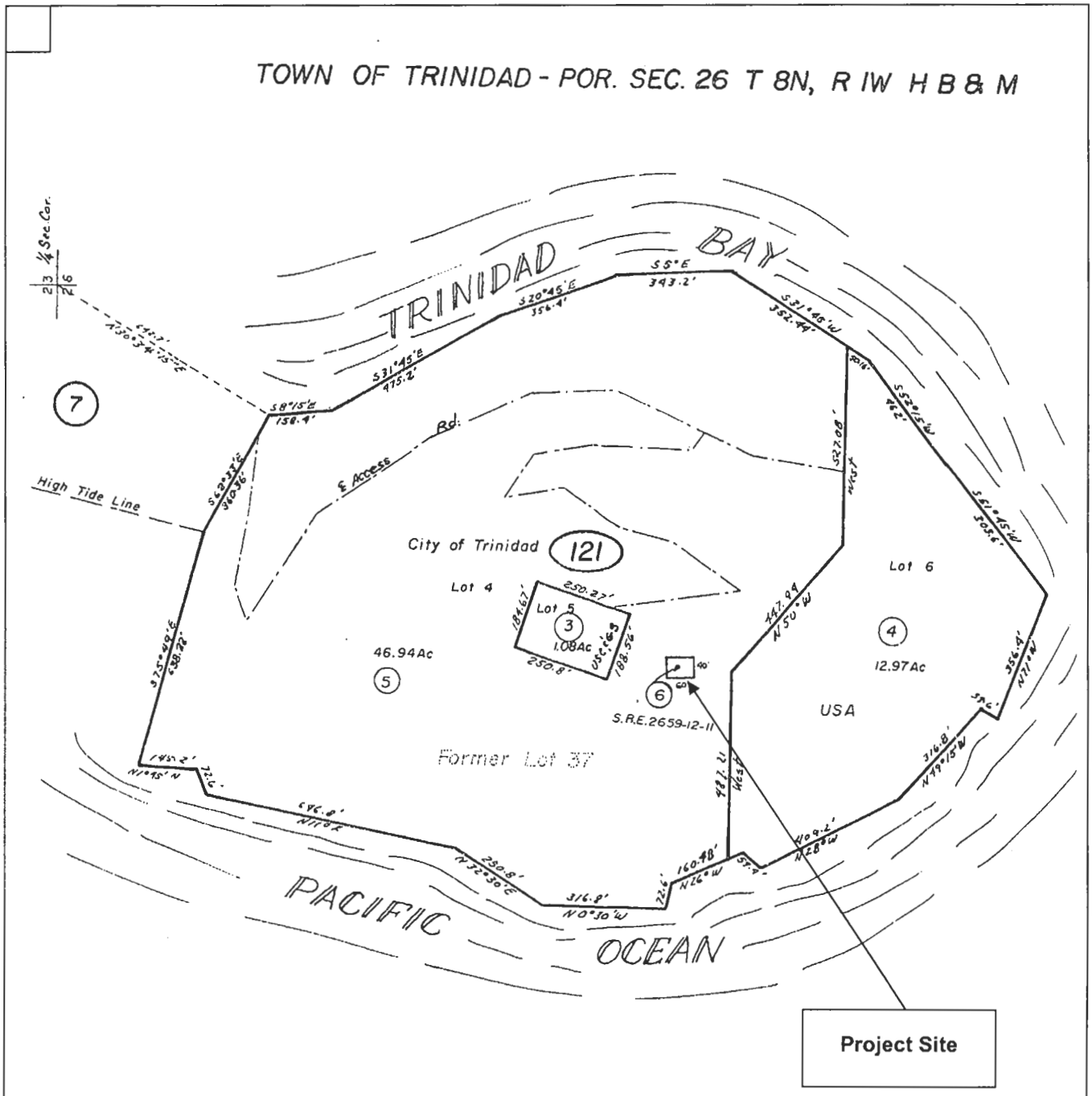


EXHIBIT NO. 3

APPLICATION NO.

A-1-TRN-06-042

U.S. CELLULAR CORP.

HUMBOLDT COUNTY
ASSESSOR'S MAP NO. 42-12

EXHIBIT NO. **4**

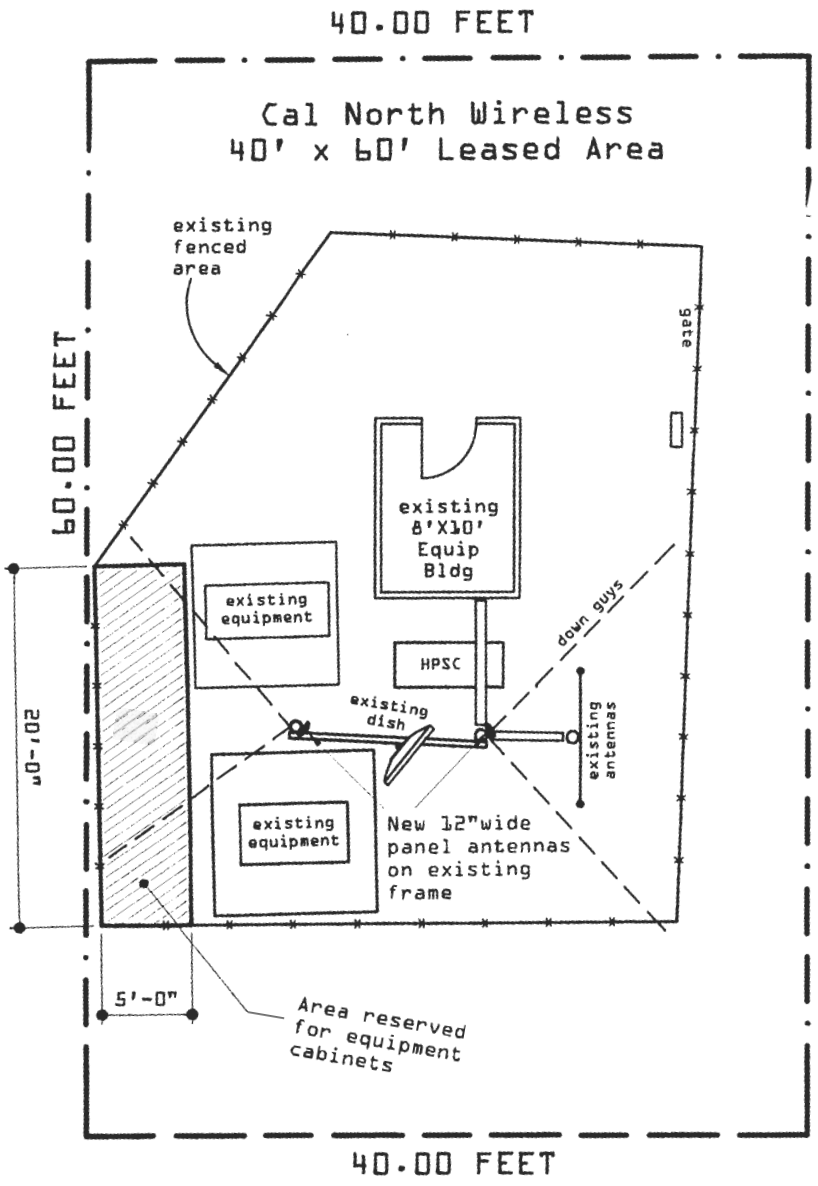
APPLICATION NO.

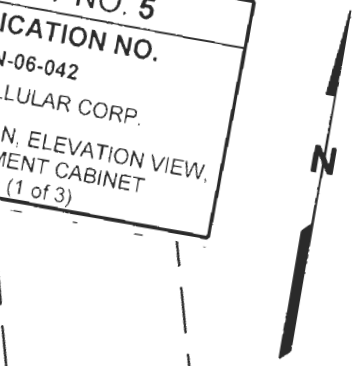
A-1-TRN-06-042

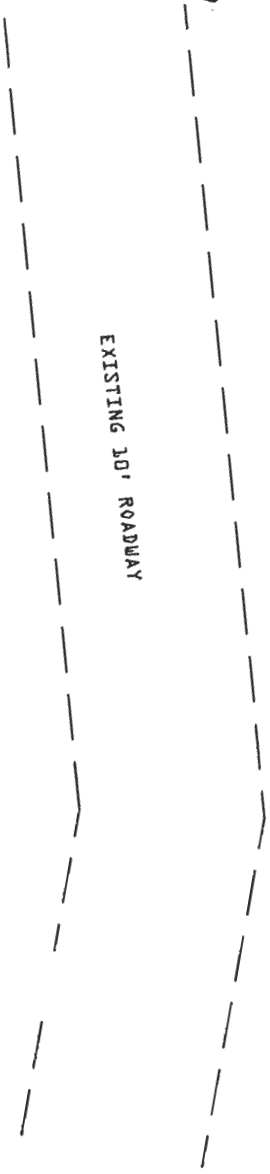
U.S. CELLULAR CORP.

PROJECT SITE AERIAL

EXHIBIT NO. 5
APPLICATION NO.
A-1-TRN-06-042
U.S. CELLULAR CORP.
SITE PLAN, ELEVATION VIEW, & EQUIPMENT CABINET (TYPICAL) (1 of 3)







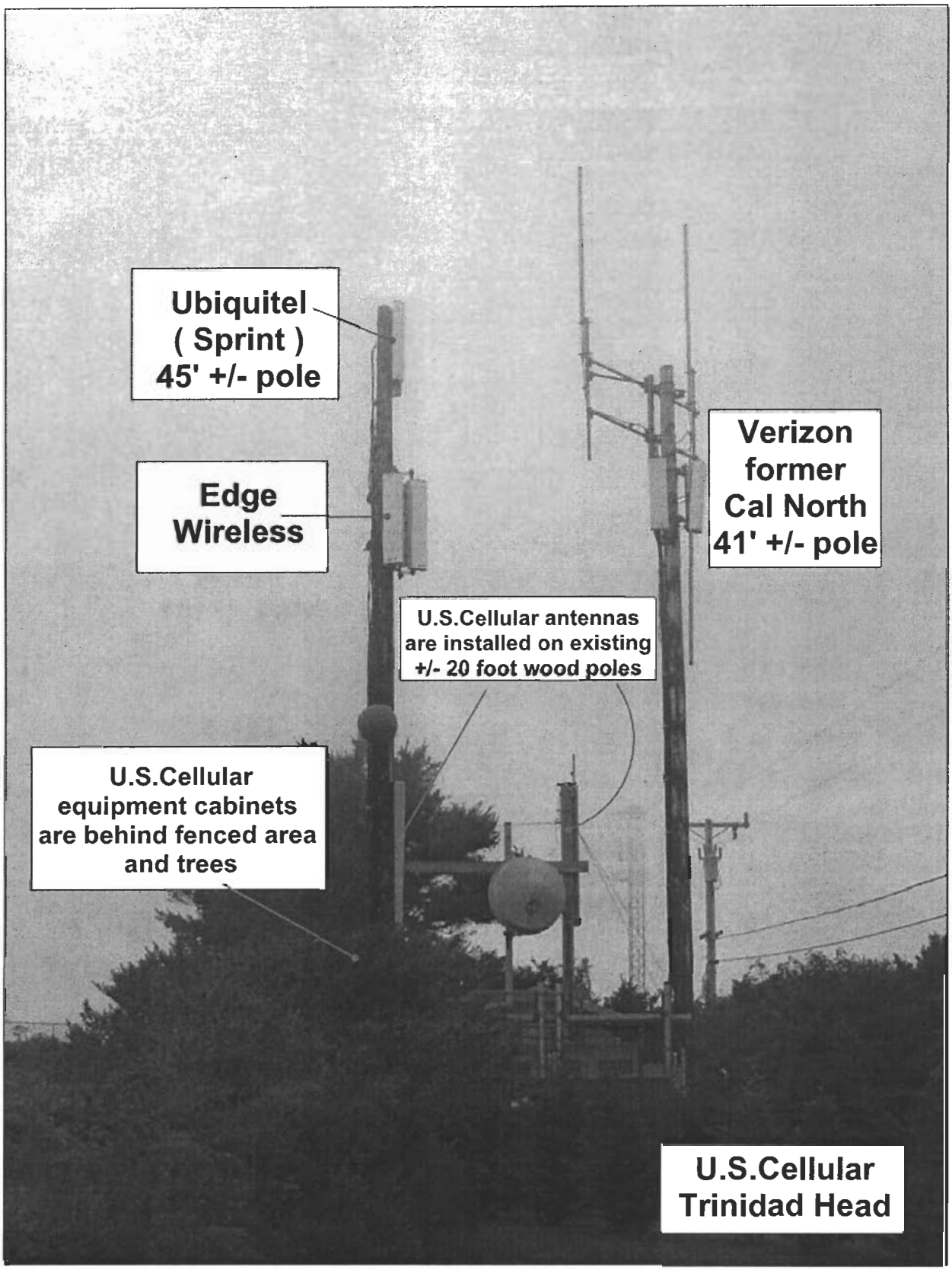
Actual site areas may vary slightly in both square footage and shape from what is shown.

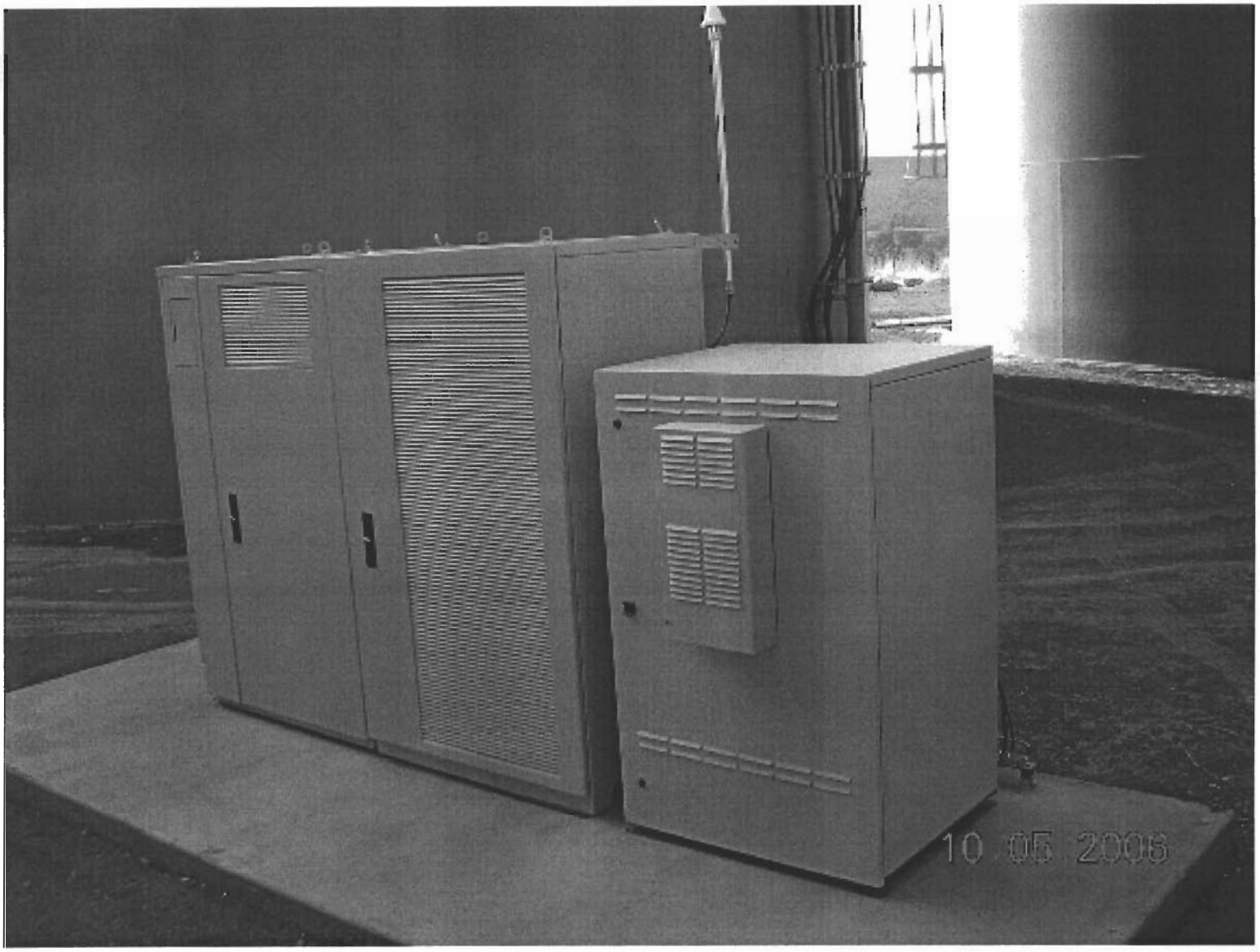
SCALE
1' = 10 FT.

U.S. Cellular

PROPOSED SITE AREA
AT THE EXISTING
TRINIDAD HEAD SITE

April 27,2006


Ubiquitel
(Sprint)
45' +/- pole
Edge
Wireless
Verizon
former
Cal North
41' +/- pole
U.S.Cellular antennas
are installed on existing
+/- 20 foot wood poles
U.S.Cellular
equipment cabinets
are behind fenced area
and trees
U.S.Cellular
Trinidad Head


10 05 2006

FROM: CITY OF TRINIDAD, PO BOX 390, TRINIDAD, CA 95570

TO: CALIFORNIA COASTAL COMMISSION
APPELLANT & APPLICANT

RECEIVED
SEP 20 2006
CALIFORNIA
COASTAL COMMISSION

NOTICE OF ACTION TAKEN

LOCAL PERMIT # 2006-10

APPLICANT: Friends of Trinidad Head
C/O Kim & Stan Binnie; P.O. Box 1037, Trinidad, CA 95570

AGENT: NA

AP # 042-121-05

PROJECT LOCATION: Trinidad Head

THE CITY COUNCIL TOOK ACTION FOR THE FOLLOWING PROJECT AT THEIR SPECIALLY SCHEDULED MEETING OF SEPTEMBER 14, 2006:

Friends of Trinidad Head 2006-10: Appeal of Planning Commission approval of application #2005-13a *(US Cellular 2005-13a: Design Review, Coastal Development Permit and Conditional Use Permit to Permit to install two new antennas on existing 20' poles. New equipment cabinets will be installed within the existing fenced area on a concrete pad on the southwest portion of the site.)* on the basis that the existing cellular site, and therefore this project, is illegal under City regulations and that there is no verifiable need for the project.

THE CITY _____ APPROVED
_____ CONDITIONALLY APPROVED
_____X_____ DENIED (upholding Planning Commission action)

The final staff report, required findings, maps and any conditions placed on the project approval are attached as needed.

City Council action on a Coastal Development Permit, Design Review, Conditional Use Permit or a Variance will become final 10 working days after the date that the Coastal Commission receives this "Notice of Action Taken" from the City, unless an appeal to the Coastal Commission is filed within the time.

Furthermore, this project **is _X_/** ~~is not~~ ___ appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

TREVER PARKER
CITY PLANNER, CITY OF TRINIDAD
DATE: September 18, 2006

EXHIBIT NO. 6
APPEAL NO.
A-1-TRN-06-042
U.S. CELLULAR CORPORATION
NOTICE OF FINAL LOCAL ACTION (1 of 24)

APPEAL STAFF REPORT

APPELLANT: Friends of Trinidad Head

APPEAL:
Friends of Trinidad Head 2006-10: Appeal of Planning Commission approval of application #2005-13a on the basis that the existing cellular site, and therefore this project, is illegal under City regulations and that there is no verifiable need for the project.

APPEAL DATE: July 6, 2006

ORIGINAL PROJECT DESCRIPTION:
US Cellular 2005-13a: Design Review, Coastal Development Permit and Conditional Use Permit to Permit to install two new antennas on existing 20' poles. New equipment cabinets will be installed within the existing fenced area on a concrete pad on the southwest portion of the site. Models of the proposed antennas have been installed for viewing.

PLANNING COMMISSION ACTION / DATE: Conditionally Approved June 21, 2006

PROJECT LOCATION: Trinidad Head, Trinidad CA 95570; APN: 042-121-05

STAFF REPORT:
This staff report has been written as an addendum to the previous staff report (June 2006) for application #2005-13a to address comments made regarding the appeal of the US Cellular project. Please also refer to the original staff report in considering the appeal, as this addendum provides additional information, rather than repeating or summarizing information that has already been provided by staff. Also, please review the memo I wrote dated June 23, 2006 regarding the Planning Commission's action and recommendations to the Council regarding the US Cellular application.

The appeal was filed by Friends of Trinidad Head (hereinafter Friends). The reason for the appeal, as stated in the appeal request is because: ***"Friends have provided more than sufficient evidence to prove the illegality of the commercial facilities currently located on Trinidad Head. Allowing further commercial telecommunication facilities to be constructed on Trinidad Head would further the illegality and nonconforming use of the area. Furthermore, U.S. Cellular has presented no verifiable statistics to support their claim that they have a problem with cellular telephone service in the area."*** It should be noted that until now, staff has not addressed the first issue, as far as the legality of the site. Under the advice of the City Attorney, staff processed this application consistent with previous cellular projects, with the understanding that the site is legal. Since that is the basis for this appeal, staff is now addressing and responding to the materials submitted by Friends supporting their appeal.

In reviewing the evidence that has been submitted or referenced by Friends, I have utilized the following documents:

- Cell Towers – Trinidad Head blue notebook submitted by Friends (293 p.)
- City files on Trinidad Head
- Letter to the Council from the Binnies on behalf of Friends dated August 21, 2006
- Information submitted 6/20/06 by Brad Twoomy (28 p.)
- Letter from Kathy Bhardwaj to Trinidad City Council, Planning Commission and staff, dated 6/20/06 (6 p.)
- Email from Jim Baskin, CA Coastal Commission, to Trever Parker, dated 12/6/05
- Letter from Jim Baskin, CA Coastal Commission, to Trever Parker, dated 12/20/05

These are the documents dealing specifically with the legality of the existing communication site according to City Ordinances. Although not specifically mentioned as part of their appeal, for completeness I also took into consideration a letter dated April 17, 2006 to Mayor Lin and Councilmembers from Stan Binnie, Friends of Trinidad Head, that relates to findings and information contained in the staff report. Some of the comments in that letter are covered by the legality issues, others are not applicable because the project has changed. I have also briefly responded to a letter from Cindy Lindgren dated June 20, 2006. Another letter, from Kim Tays, Friends of Trinidad Head, to Mayor Lin and City Councilmembers, dated 5/1/06, reviews court cases related to cellular projects and has been forwarded to the City Attorney. As you are aware, a variety of other materials and letters have also been submitted, which are less specific, and I believe those concerns are included in the above referenced materials or addressed in earlier staff reports / comments.

Background

The original staff report(s) provide a detailed accounting of the project's history, but is also briefly summarized as follows: The original project, proposing a new cellular site adjacent to the existing one (#2005-13), was heard at the December Planning Commission meeting, and continued to January, where various project alternatives were discussed. In January, the Commission voted 3-2 to deny the project. US Cellular appealed that decision to the City Council. Prior to the appeal hearing, US Cellular submitted a new alternative that avoided the need for a separate facility outside of the existing site, instead locating the proposed equipment within the already developed communications site. Although the Council could have legally taken action on the revised proposal, because of its substantial variation from the original project, the Council voted to send the amended proposal back to the Planning Commission for review. That project (#2005-13a) was then heard, and approved by a 4-1 vote at the June Planning Commission meeting. Along with their decision, the Commission made several recommendations to the City Council regarding cellular facilities and management of Trinidad Head. Their action is summarized in a memo from me dated 6/23/06. The Planning Commission's approval was then appealed by Friends on July 6, 2006, within the legal appeal period.

Response to Appeal

Staff's approach

The legality of the existing site has been questioned by Friends who cite a variety of Zoning Ordinance provisions and other land use regulations. I would first like to point out that Zoning Ordinances are commonly written to allow some flexibility in interpretation, and Trinidad's is no exception. Also, many of the findings that must be made, especially in terms of design review and view protection, such as those dealing with aesthetics and compatibility, must be made on a case-by-case basis. Staff generally makes no specific judgments or recommendations regarding these findings. The responses to these findings are generally written in a manner to allow approval of the project based on the information submitted by the applicant, it is left up to the Planning Commission to make the findings based on the project description, community values, past precedent and common sense. The City Council also needs to use these same considerations in making a decision on this appeal, supported by specific findings (see 'Appeal Process' section below). As far as the interpretation of other ordinance sections, staff utilizes established land use and planning principals and practice to make determinations. We also keep notes as to how previous decisions have interpreted Trinidad regulations in order to document precedent and remain consistent as much as possible. Much of the information submitted by Friends constitutes an alternative interpretation of various ordinance sections, and I will attempt to explain staff's basis for our interpretations. The submitted materials vary, and do not necessarily bullet all the important points, but do provide a lot of information. Staff has attempted to summarize the major issues that have been brought up, and address each one separately.

There is no need or public benefit

The second part of the Friends appeal request (*U.S. Cellular has presented no verifiable statistics to support their claim that they have a problem with cellular telephone service in the area"*) is the easiest for staff to address, and so I will address it first. Friends base this comment on an informal 'study' they conducted on existing cellular service around Trinidad. First of all, there is no requirement for U.S. Cellular to prove that there is a need, or to quantify the need for them to place additional antennas on Trinidad Head, although that can be a consideration in making (or not making) the required findings. As far as staff analysis is concerned, it is implicit in the application that there is a need; U.S. Cellular would not make such an investment if there was no need for it. Further, U.S. Cellular has provided documentation, in the form of coverage maps, of the improved service if the project is approved, particularly in topographically limited areas such as ravines. As stated by the applicant's agent, this project is not just about telephone coverage, but other in-home digital, wireless services as well, which were not 'tested' by Friends. There is a use permit finding required (A) that *"the proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community."* Friends have some submitted evidence to dispute this finding and present an alternative viewpoint. However, this issue was discussed at the first Planning Commission meeting, and in response, US Cellular submitted detailed coverage maps to provide support for this finding, which the Planning Commission did make as part of their action. It was up to the Planning Commission, and

now the City Council, to balance the needs of the neighborhood or the community and the applicant.

The Friends argue that the cellular facility represents commercial development which benefits only a few, as opposed to the Federal facilities on the Head, which benefit the public as a whole. Friends provide a definition of "public service" from the 1999 Edition of Black's Law Dictionary. However, there is no Trinidad ordinance provision requiring the use to be a legally defined public service other than as a potential consideration in making some of the required findings. Further, the Planning Commission made the determination that the project provides a public benefit as part of their decision. The only place where public service is mentioned in any regulatory documents is in the City's Management Plan for Trinidad Head that was adopted as part of the BLM land transfer. The BLM has already found the existing site to be in compliance with their programs and policies. Further, cellular and wireless use is so widespread, that it should be considered to benefit the public in general. This industry is recognized as such, and is therefore specifically regulated by the Public Utilities Commission, one of the legally defined traits of a public service according to Friends' definition. Cable (the original use of the site) and internet service providers are similar examples of privately owned, for-profit, utilities that may disproportionately benefit those people who can afford their services. Coastal Commission staff (12/20/05 letter, p. 7) also acknowledge that telecommunication facilities *"clearly provide a public benefit"*, and staff agrees with this conclusion.

During the original approvals of the Cal-North facility in 1997, the community was generally in strong support of the project, because the City was gaining both cellular service and revenue. Further, there have been four subsequent approvals (1999, 2000, 2001 and 2002) for additional equipment with essentially no objections. Although Friends have united as representing the entire community, there have been residents that have indicated to staff that they do not care, or that they are in favor of the project, but are not willing to speak out at a meeting with an audience 'stacked' against the project. Another consideration is that tourists and fishermen must rely on cellular service almost exclusively for communication, making such service important to these industries, which form a major basis of Trinidad's economy. There will be more appropriate opportunities in the future, when the original lease is up, to reevaluate community priorities. There will also be an update of the General Plan over the next few years that will provide a positive forum for developing new management policies for Trinidad Head, which can then be implemented as part of an overall plan rather than project by project. In recognition of these circumstances, the Planning Commission made several recommendations in terms of future cellular development and management of the Head as part of their action on this project (see memo from me dated June 23, 2006).

<u>Inconsistency between original proposal citing the need for an additional site and the current proposal of co-locating.</u>

This has been cited as one of the major concerns for Friends. However, the above scenario is quite common; applicants often redesign their project after a public hearing where significant objections are expressed. For example, in 2002 and 2004, unrelated applications were completely withdrawn and redesigned based on neighbor comments. In

general, the community expressed gratitude for the considerations that were given to their comments. Probably ½ to ⅓ of the applications for additions and remodels within the view areas of town are continued for at least one month and alterations made to the original design. Since there had never been any public opposition to the cellular facility, US Cellular had no reason to believe that their proposal would meet with such objection, and therefore, there was no need to make the additional effort to co-locate, since the site is near capacity. With public opposition, US Cellular made that extra effort and succeeded in getting permission to co-locate their new equipment. This may have been due to more diligent effort on the part of US Cellular. Or, it could have been because between the time of the original application and the revision, Verizon took over ownership of the site, and may have different policies from Cal-North, making co-location easier. In either case, the situation shows that US Cellular has made concessions to address community concerns.

<u>The nonconforming use was abandoned for more than a year, requiring it to be discontinued indefinitely.</u>

One of the most significant and less open to interpretation of the Zoning Ordinance regulations cited by Friends has to do with the abandonment of nonconforming uses. "Nonconforming" is defined by Zoning Ordinance §17.08.500 as *"a structure and / or land use which was lawfully established but which does not now conform with the land use, yard, height or other requirements and conditions of this chapter."* The Zoning Ordinance provides for the continued use and operation of nonconforming structures and uses under §17.64.010 which states that: *"The lawful use of lands or structures existing on the effective date of the regulations codified in the title, although such use or structure does not conform to the regulations applied to such property or structure, may be continued except as provided..."* At the crux of the issue is one of these exceptions (§17.64.010.C), which states that *"a nonconforming use which has been discontinued for a period of one year or more shall not be reestablished."* The Friends cite the fact that Cox replaced the use of the microwave receiver dish on Trinidad Head with fiber-optics infrastructure that was completed in 1994, and after that time did not pay rent on the Trinidad Head site, to support their contention that the use had been abandoned at that time.

However, just because a site or structure has been vacated, does not necessarily mean it has been abandoned, or "discontinued." The Merriam-Webster Online Dictionary defines 'discontinue' as: 1) to break the continuity of: cease to operate, administer, use, produce, or take; or 2) to abandon or terminate by a legal discontinuance. The Blue Cell Towers Notebook submitted by Friends (hereinafter 'Notebook') provides clear evidence that administration of the site was continuous and that its use was not legally terminated in terms of both an active lease, and active inquiries to the City from other parties wanting to utilize the site. If there are planning and permitting activities ongoing, then the use has not been abandoned. This interpretation is supported by precedence in past Planning Commission determinations. The planning and permitting process often takes more than a year, so this section has been interpreted in the past to include the intent of the use as well as active use, as long as that intent can be reasonably demonstrated.

In addition, if there was an active lease agreement for example, even though the use was not being actively utilized, it does indicate active administration, and it would not constitute

an abandonment of that use, which is the situation for the communications facility. Cox could have reestablished their use of the site within the terms of the active lease agreement, and the lease precluded others from establishing any use. A lease to use the site on Trinidad Head was granted to Cox in order to renew the previous lease on July 1, 1991, and terminated in five years on June 30, 1996 (Notebook p. 93), only 10 months prior to Cal-North submitting an official application to redevelop the site as a cellular facility. In addition, correspondence between the City of Trinidad, Cox Communications and Cal-North Cellular demonstrate that Cal-North, and others, were actively working towards using the site (planning and permitting stages) as early as 1995. The City Council minutes of 9/13/95 indicate that Scripps Institute was interested in installing a generator and using the site in addition to the Federal property. In a letter dated May 15, 1995, Cox Cable indicated in a response to an inquiry by Tom McMurray (then agent for Cal-North Cellular) that *"Cox Cable is not presently using the above mentioned facility* [Trinidad Head Microwave Site] *and does intend to abandon the site in the immediate future."* (Notebook p. 105). This letter indicates two things: 1) that although Cox was not using the site, it had not yet been officially abandoned a year after Friends claim it was; and 2) that prior to the site being abandoned, Cal-North was actively taking the steps necessary to establish their proposed use at the site. Also supporting this viewpoint is a letter from the City of Trinidad to Cox dated 8/23/95, which indicates both that the lease was still active and requests clarification of Cox's intent to possibly terminate the lease early *"as there is some interest by others in the site."* Staff has determined that, based on the evidence, the existing communications site on Trinidad Head, established in 1981, was never abandoned, and is therefore not subject to Zoning Ordinance §17.64.110.C quoted above.

Any change of a nonconforming use shall be to a conforming use and there shall be no expansion of nonconforming uses:
This provision comes from the same Zoning Ordinance section as the previous discussion (§ 17.64.010.C). Friends argue that the conversion of the site from television to cellular constitutes a change of use and that subsequent projects expanded the nonconforming use contrary to the above provision. Staff does not consider the change from a cable television broadcasting site to a cellular communications site a change of use. This is supported by the City's management plan adopted for Trinidad Head, that was accepted by BLM and certified by the CA Coastal Commission, which stated that: *"The City will continue to coordinate with the Cable T.V. company and any future, similar-type users that provide a public service* (emphasis added), *and where use does not conflict with the primary purposes of open space and public recreation."*

Further, the cellular facility is within a discrete area, the size of which has not changed in more than 20 years, consistent with §17.64.010.C. Although there are multiple users and structures, the use of the 60' x 45' site has remained as a cellular communication facility and such use has not been altered or expanded. The intensity of use is not specifically regulated by City ordinances, except as a consideration in making Use Permit Finding 'A,' quoted above. Further, based on the fact that accessory structures are allowed in the OS Zone with a Use Permit per Zoning Ordinance §17.16.030, once a Use Permit is approved, additional structures are not nonconforming as stipulated by §17.64.010.A, and therefore, do not increase the existing degree of nonconformance.

Accessory structures and uses

Friends contend that the proposed, and some existing, structures are not accessory structures allowable under the Open Space regulations. The Trinidad Zoning Ordinance defines an 'accessory structure' as *"detached building or structure, other than a sign, the use of which is accessory to the use of the lot* (§17.08.690)." An 'accessory use' is defined as *"a subordinate use which is customarily incidental to the primary use of the premises, and which does not alter or change the character of the premises* (§17.08.710)." There are no accessory uses within the existing communications site; the entire use is for cellular communications; the site itself would be considered an accessory use to the remainder of the property, which contains the primary use of recreation and open space. In this case, the original structures associated with the Cox facility would constitute the primary structures, and all others are accessory structures and allowed by the Zoning Ordinance with approval of a Use Permit. This is consistent with past analysis for a variety of projects.

Appurtenances and height regulations.

Similar to the above section, Friends argue that the cellular poles and antennas are not appurtenances and therefore violate height restrictions. Please refer to the original staff report for 2005-13a (June 2006) pages 5-6 for an analysis of these regulations; a portion is also quoted below. The section cited in the staff report (below) lists the types of structures that are not subject to height limits; it is a very specific, but short, list and would severely limit certain development if interpreted to be all inclusive. This is a good example of why the Zoning Ordinance language can't be considered all inclusive in all instances. Staff interprets this section to be examples of the types of structures not included in height limits. Telephone poles are an example of appurtenances that necessarily would not be subject to these height restrictions, but which are not specifically listed as exempt.

> "Section 17.56.100 of the zoning ordinance provides further guidance on measuring height. This section reads: *"Heights of buildings and structures shall be measured vertically from the average ground level of the ground covered by the building to the highest point of the roof. Chimneys, vents, flagpoles, conventional television reception antennas, ventilating and air conditioning equipment, parapet walls and similar architectural and mechanical appurtenances shall be excluded in making such measurement."* The transmission antenna could be considered to fit in to the second section as a 'mechanical appurtenance' or similar to a flagpole or T.V. antenna."

Open Space regulations

These are specifically addressed in the original staff report for this project.

Open Space Zoning does not apply to the Federal land.

This is correct in the sense that the Federal Government is not subject to local zoning regulations. However, the fact remains that the entire Trinidad Head is zoned as Open Space in the City's LCP. Under the Federal Coastal Zone Management Act, the Federal development is subject to review by the Coastal Commission. In making their consistency determination for the Federal development, the Coastal Commission only considers the provisions of the Coastal Act and their own regulations, rather than the City's zoning. However, they must consider such things as scenic resources, open space and cumulative

impacts (also see discussion under CEQA below). The main reason for Friends to make this statement is to show how the federal facilities are somehow different from the cellular facilities, and that staff erroneously considered those facilities to be in an open space area in analyzing the impacts of the current proposal. Staff fails to see the merits of this argument. The Scripps and NOAA weather site sits at the very summit of, and takes up approximately 33,500 sq. ft. of the scenic headland that Friends is trying to protect verses the approximately 1,300 sq. ft taken up by the cellular site below the 'summit'. The Coast Guard tower is also much larger than the cellular poles. Just because the Federal Government is not subject to the City's regulations does not make that development less visible, or less obtrusive, especially to tourists, who don't know the difference. When considering such things as aesthetics and cumulative impacts, the whole of the landscape must be taken into consideration, which includes all development on the Head (also see the discussion under CEQA below) and surrounding vegetation, etc.

Site Characteristics – Ground Disturbance.

The June staff report for this project included several statements regarding the amount of ground disturbance. Friends point out that there are inconsistencies in the staff report, because in a couple places, the phrase *"no new ground disturbance"* is used, and in at least one place the phrase *"only minor ground disturbance"* is used. These statements are not conflicting when viewed in context. It is clear that some soil disturbance will need to occur in order to place the proposed equipment cabinets, but they will be placed within the previously disturbed fenced area. This area has already been graded and disturbed by previous construction activities, precluding the potential to disturb sensitive vegetation or cultural resources. That is what is meant by *"no new ground disturbance."* The difference can be seen in the December staff report for the original project proposed on an adjacent site, which included several conditions regarding ground disturbance and protecting vegetation and cultural resources that are not necessary for the current proposal.

Selective citing

Staff takes exception to the widespread quotation of this phrase from the Coastal Commission staff 12/6/05 email which states: *"Having mow made a full reading of Section 17.16.030.E, and seen that it was apparently selectively cited with regard to the rather crucial pre-1979 facilities qualifier..."* The exact language of §17.16.030.E (Uses permitted with a use permit (in the OS Zone)) is as follows: *"Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted."* The 1997 Cal-North staff report (Notebook p. 137) includes the following statement: *"Section 17.16.030(e) allows structures accessory to uses and buildings existing within the Open Space zone at the time the Zoning Ordinance was codified with approval of a use permit."* Although not quoted as written in the Zoning Ordinance, all the elements of that section were included in the staff report description. It was clearly qualified by the fact that the section only applied to existing, nonconforming uses. As described in my response (memo dated 1/6/06) to the more official and detailed Coastal Commission letter dated 12/20/06, there is disagreement between Coastal Commissions staff and City staff as to when the Zoning Ordinance should be considered to be codified for Trinidad Head. Normally this would be a straightforward date of adoption or certification, but Trinidad Head was not within City limits, and therefore, the Zoning

Ordinance did not apply to that property when it was originally codified in 1979 and certified by the Coastal Commission in 1980. Therefore, Staff feels that the appropriate date for establishing an existing use is when the City's LCP and Open Space zoning were applied to the Head when it was annexed in 1984 (certified in 1985), as the cable site was legally established by 1983. Please see the referenced Coastal Commission email and letter and my response for more information.

In a related note, staff would like to respond to a letter to staff dated 6/20/06, which implies that staff was remiss by not analyzing all the available information, because staff did not research what exactly happened between the construction of the cable facility in 1983 and 1997 when the Cal-North project was originally approved. However, there was no need to do further research to obtain this information since the staff report was based on previous approvals in 1997, 2000, 2001 and 2003. It was not until the legality of the 1997 approval was officially questioned in terms of this appeal that staff needed to find that information. Although the Notebook has been available and is a useful document, it represents only a partial file record, and staff must rely on the complete files. This staff report represents the results of that research.

Misstatement on 'Notice of Action' for the 1997 Cal-North approval

It has been pointed out that the 1997 "Notice of Action" prepared by the City Clerk and sent to the Coastal Commission had a misprint that erroneously listed the project location as "Trinidad School" (Notebook p. 145). However, the correct parcel number is listed prior to the incorrect location. Also, the staff report was attached to the Notice of Action, which listed the correct location. The community was aware of the correct location based on the application materials, public notice and staff report, which all included the correct location. Coastal Commission staff never indicated that they were misled as to the location in terms of the 1997 approval.

CEQA (CA Environmental Quality Act) Review

Friends argue that the current proposal and previous cellular approvals were not properly reviewed under CEQA. The following explanation shows that the City has correctly and appropriately applied CEQA provisions. However, it should also be noted that there is a maximum 180 day statute of limitation to file a lawsuit for CEQA determinations, and therefore previous approvals are not challengeable. Notwithstanding that, I will still respond to the issues raised. Two different Categorical Exemptions (CEQA Guidelines §15300-15332) have been used for the current and previous cellular projects: 1) §15301 – Existing Facilities – *Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination;* and 2) §15303 – New Construction or Conversion of Small Structures – *Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from use to another where only minor modifications are made in the exterior of the structures.* Both of these exemptions are followed by several examples of the types of projects that would fall under them. These two exemptions are the most commonly used

ones for all projects in Trinidad, and the cellular antennas clearly fall under them. The argument against the original, 1997 approval was that it was a new use rather than an alteration of an existing use, since the previous use had been abandoned. This issue is already discussed above under nonconforming uses, and staff has determined that the use was not actually abandoned. Furthermore, through noticed public hearings, the issue of impacts to scenic resources or other CEQA topics was not raised during past approvals, and the City correctly supported and determined those categorical exemptions. As part of their action on the US Cellular application 2005-13a, the Planning Commission made the determination that the project is exempt under CEQA per § 15301 of the CEQA Guidelines exempting alteration of, and minor additions to, existing facilities, as stated in the June Staff Report.

However, there are also exceptions to the exemptions in certain situations, including where there are cumulative impacts, which Friends argue is the case for the current proposal. Section 15300.2(b) states: *"All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant."* It is well documented in court cases that: *"In categorical exemption cases, where the agency establishes that the project is within an exempt class, the burden shifts to the party challenging the exemption to show that the project is not exempt because it falls within one of the exceptions listed in Guidelines section 15300.2"* (*Davidon, supra,* 54 Cal.App.4th at p. 115 & *Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1259). Friends showed panel 'representations' of changes that have occurred over the years on the cellular site at the last Planning Commission hearing. These representations were from one point on the Head and considered only the fenced area and not the surrounding landscape, including the nearby vegetation or the Federal property. Cumulative and aesthetic impacts are most appropriately considered on a landscape scale. The communication facility can be seen in context on landscape and aerial photos that have been available at City Hall. These photos show the entire developed area on top of Trinidad Head, which consists of approximately 50,000 sq. ft. of non-vegetated area, the cellular site (1,300 sq. ft. fenced area, 2,400 sq. ft. leased area), the Federal facilities (33,500 sq. ft. developed area, 47,000 sq. ft. property area), the PG&E facility (700 sq. ft.), existing vegetation and the loop trail on Trinidad Head. Staff believes that the City has been prudent in preventing cumulative impacts from the communications site by keeping improvements to existing developed areas, by preventing removal of tall vegetation, by not allowing improvements to encroach closer to the loop trail (which does not include the access road), by requiring screening vegetation, and by limiting the size and height of improvements. It has only been this recent project where this issue has been raised. As part of their action, the Planning Commission made the determination that the cumulative impacts have not yet reached a 'significant' level. But they also recognized the potential for future cumulative impacts, thereby making the recommendations for the City Council to place a moratorium on additional cellular projects, develop a comprehensive management plan, and seek alternative locations and options for cellular providers.

Another consideration that should be taken into account is that the Federal facilities on the Head have been subject to the federal equivalent to CEQA, the National Environmental Policy Act (NEPA), which requires the BLM to consider cumulative impacts when reviewing

projects. Further, the CA Coastal Act, and the CA Coastal Commission operating under their regulations, are considered "functionally equivalent" to CEQA, and their determinations are therefore similar to, but not specifically subject to CEQA. This 'functionally equivalent' process would have included a review of aesthetics and scenic resources for the Federal development on the Head, although the City was not made aware of the process. Under both of these processes, it was not determined that there were significant, adverse impacts to scenic or other resources for projects the Federal Government and the Coastal Commission approved, which were taller, larger and covered more of the actual 'summit' of Trinidad Head.

Findings

Friends have disputed several of the findings contained in the previous staff report, some of which have already been discussed herein. Staff feels that there is enough information to show that the findings as originally written by staff can be made. This was also the determination of the Planning Commission at their public hearing for this project in June. Friends present an alternative viewpoint, and their information can be used by the Council to make alternative findings as they see fit (see attached appeal procedure write-up and appeal section below).

Appeal Process

Although the project was appealed specifically on the legality of the site and the need for the project, the appeal is essentially a new hearing, and the Council can uphold, reverse or modify the Planning Commission's decision. However, the Planning Commission did make the required findings and took action on this project after several public hearings. The Council should only modify the Planning Commission's action if it is determined that the Commission acted inappropriately in making their determination. The discussion should be focused on the basis of the appeal, but the public and / or City Council can open it up to other issues, such as the required findings. The Council should consider all the evidence that has been presented. A reversal of the Planning Commission's decision (denial of the project) should be based on specific evidence that results in not being able to make one or more of the required findings. Any motion should explicitly reflect the findings being made, or which can not be made and the factual basis for that decision. Sample motions can be found in the attached appeal procedure write-up. The Planning Commission's action included eight conditions of approval as well as the five recommendations to the City Council. The Council may also remove, modify or add conditions of approval through this appeal hearing process.

Summary

In summary, staff finds that this project is consistent with City regulations and such decision is supported by past project approvals. Staff also appreciates the fact that community priorities have changed in the last 10 years, and supports the Planning Commission's compromise and recommendations made at their June 21, 2006 hearing. Staff feels that the Planning Commission took appropriate action and recommends that the Council uphold the Planning Commission's determination and deny the appeal, approving the project as conditioned.

Filed:	November 15, 2005
Staff:	Trever Parker
Staff Report:	December 2, 2005
Hearing Date:	December 14, 2005
Commission Action:	Denied
Appealed:	January 31, 2006
Project Revised:	April 27, 2006
2nd Hearing Date:	June 21, 2006
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2005-13a
APPLICANT (S):	US Cellular
AGENT:	Thomas McMurray
PROJECT LOCATION:	Trinidad Head Trinidad, CA 95570
PROJECT DESCRIPTION:	Design Review, Coastal Development Permit and Conditional Use Permit to install two antennas on existing 20' poles; new equipment cabinets will be installed within the existing fenced area.
ASSESSOR'S PARCEL NUMBER:	042-121-05
ZONING:	OS – Open Space
GENERAL PLAN DESIGNATION:	OS – Open Space
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15301 of the CEQA Guidelines exempting alteration of and minor additions to existing facilities.
APPEAL STATUS:	

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project **_X_ is** ~~___is not~~ appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

Trinidad Head is zoned OS – Open Space with a variety of roads, trails, benches, signs and vista points. Other existing improvements include the communication facility, the Coast Guard Lighthouse and NOAA air monitoring sites. This project involves the addition of antennas on existing poles and installation of new equipment cabinets within the existing, fenced communication site. The existing communication facility was originally installed by Cox Cable prior to 1983. It was redeveloped by Cal-North Cellular in 1997, with additions in 1999, 2000 and 2001 and 2003 for use as a cellular service facility. Previously it had been a cable television transmission site. There is currently a 41' pole (original 21' pole with 20' extension) and a 21' pole (part of original cable facility) and a 50' pole added in 2001, a small equipment shed and two transmitter cabinets. There is also a 6' fence, topped with barbed wire, with two separate gates, that surrounds the site. Cal-North (recently purchased by Verizon) has a lease with the City of Trinidad, and Cal-North subleases the site to other communication companies (Sprint and Edge Wireless).The NOAA weather station site is located approximately 40' north of the existing communication site and contains a trailer and several other structures, including the large Coast Guard tower, and a variety of weather monitoring equipment,. The Federal site also appears to be utilized by other entities as well (i.e. Scripps Institute). This revised project will require no new access, utilities or ground disturbance.

STAFF COMMENTS:

Several alternatives have been submitted for this project. Originally a new cellular site was proposed adjacent to the existing one with a new, 50' pole. A couple of alternative locations were proposed to staff prior to the first Planning Commission hearing, but City staff decided that a location slightly north west of the existing site would have the least visual and ground disturbing impacts, and that is the site that was discussed at the December 14, 2005 and January 18, 2006 public hearings. At the Commission hearings, the applicant's agent presented a couple of alternatives, including reducing the height of the pole, and decreasing the size of the equipment building. The hearing was continued from December to January, and the Commission denied the project at their January 18, 2006 w/out prejudice, which allows the applicant to propose a new alternative without waiting a year to submit a new application. That decision was appealed to the City Council by the applicant on January 31, 2006, within the appeal period. Because of workloads and scheduling conflicts, the appeal hearing was not scheduled until mid-May. On April 27, 2006 the applicant submitted a new alternative that eliminated the need for a new or expanded cellular facility. The currently proposed project will add the two necessary antennas to existing poles and the equipment cabinets will be installed within the existing fenced site. Although, according to City Ordinances, the Council could have made a decision on the revised project, On May 9, 2006 the Council decided to send the revised project back to the Planning Commission for public hearing. The Council felt that the project had been altered substantially, so that the best procedure would be for it to go through the Planning Commission, and to obtain the Commission's and the public's input on the project.

The City Council has given their approval as the landowner only to submit the application, which is not an endorsement of the project. The applicant has provided a site plan and elevations detailing the altered project as well as a written description. The applicant has also placed mock-ups of the proposed antennas for viewing by the public. The applicant has provided additional information in response to comments received on the project thus far. This includes a radio frequency analysis of the Trinidad Head site, and information on Federal permit requirements. This facility is subject to Federal environmental and historic preservation laws (webpage attached), but those procedures can not be completed until the applicant has a lease for the facility. The scaled down project currently being proposed is much simpler than the previous project, not only in terms of the physical aspects, but also for the permit processing. Some of the concerns discussed at previous hearings are not applicable to this project, and the regulations governing this version of the project are much clearer.

Referrals for the previous project were sent to the City Engineer, Building Official and Coastal Commission. The Engineer did not have any specific comments on the project at this level of review, but noted that he could respond to any specific concerns. The Building Official noted that a building permit would be required for the equipment shelter, but would not be required in this case if they total less than 100 sq. ft. The Coastal Commission submitted a letter commenting on the previous version of this project, some of which still apply, and my memo in response addresses those concerns. Coastal Commission staff have concerns about cumulative impacts on aesthetics and coastal resources as well as past interpretations of the City's Local Coastal Plan (LCP). They acknowledge that some of the zoning ordinance provisions are open to interpretation, so that even the previous proposal could be allowable, but they urge the City to prepare an overall management plan for communication facilities on the Head prior to approving any more projects. Staff agrees that a management plan for Trinidad Head is appropriate, and it can be included as part of an upcoming General Plan update.

Because of its location and topography, Trinidad Head is an ideal location for the construction of these types of facilities, and more proposals could be expected in the future. Trinidad Head is an important coastal, aesthetic, and cultural resource and has been slated for low-intensity recreation and open space by regulating agencies. The current lease agreement that the City has with Cal-North Cellular requires them to allow co-location for other communication service providers whenever feasible, but the opportunities for this are running out. Based on staff recommendation, the Planning Commission made an official recommendation to the City Council that they create a detailed development / management plan for communication facilities on the Head prior to any further development outside of the existing site.

Between the time of the original Planning Commission decision and now, at least two letters have been sent to the Bureau of Land Management (BLM), who managed the land prior to transferring it to the City of Trinidad in 1985. These letters allege that the City has been mismanaging Trinidad Head in conflict with the transfer agreement with BLM and with its own ordinances. These allegations, if true, would mean that the original redevelopment of the site in 1997 and subsequent approvals were illegal. However, none

of these decisions were challenged or questioned in the past, and almost 10 years later, and without any substantiation, staff must presume that the existing site is legal, and process the permit application under that assumption. This puts the Planning Commission in a difficult position. The City Council and the City Attorney are currently researching the validity of the allegations against the City. The Planning Commission does not have the same information as the City Council because they are not privy to the confidential correspondence and closed session discussions of the Council. However, staff sees this larger issue as something separate from the proposal before the Commission now. The City has not yet received a response from BLM, and there is no indication of when one might be forthcoming. Staff must analyze this application on its merits in terms of the City's Local Coastal Plan (General Plan and Zoning Ordinance). The City Attorney has advised staff that approving this application would not place the City in a worse position than it is now if the existing site were to be determined to be illegal. The applicants should be aware of the situation and will have to proceed at their own risk if this project is approved. In order to address the concerns over this potential conflict and to minimize the risk to both the City and the applicant, a condition of approval has been proposed that the applicant must hold off construction until the City receives either a consistency determination for the existing communication site, or an indication that such a determination is outside of their jurisdiction or otherwise will not be made.

Background

Trinidad Head was transferred to the City in 1983 from the Bureau of Land Management (BLM). That transfer included several commitments by the City. One was *"to develop and manage the lands for recreational purposes in accordance with the approved program of utilization that includes (1) a plan of development, and (2) a plan of management."* The City's development plan, according the BLM staff report *"proposes non-intensive recreational use of the Head, including hiking, viewing, picnicking, and associated day-use activities."* The entire consistency analysis for the transfer was based on this management plan. The documents also include a provision that *"the property would revert to the U.S. Government if the City did not use the property for its approved and intended use, tried to transfer title to another party..."*; this includes any subdivision. There is a provision in the City's management plan that was submitted to the BLM that states: *"The City will continue to coordinate with the Cable T.V. company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation."* This, along with General Plan policies and Open Space zoning regulations, gives the Planning Commission some standards and basis for approval of this project, and should a part of the findings used to make a decision on this project.

Based on file information, it appears that the existing communication site was developed as a cable television site prior to the annexation of the Head in 1983; the weather station was also partially developed at that time. I am lacking information on what occurred between the time of annexation and the 1997 Cal North Cellular pole approval. The staff report for the 1997 project describes an existing pole and equipment building on the site at the time, presumably associated with the cable facility. Further additions to the existing site (in the form of new equipment) were approved in 2000, 2002 and 2003. Cal North

subleases for co-located facilities on their site with Sprint and Edge Wireless. Originally, the applicant had determined that there was not enough space on the existing site to accommodate the desired project, therefore, an additional site was proposed. Since that time, and due to public and City concerns, the applicant has scaled down the project and, working with the primary lease holder, has found a way to accommodate new antennas on existing poles. Associated equipment will also be located within the fencing of the existing cellular facility. The applicant has stated that U.S. Cellular's current service in the Trinidad area is inadequate, and these new antennas will help alleviate those shortcomings.

ZONING ORDINANCE/GENERAL PLAN CONSISTANCY:

The proposed facility falls under the City's, and Coastal Act's definition of development, but would normally fall under the permit exemptions except that it is located in an Open Space Zone, where none of the exemptions apply. Therefore it needs a Coastal Development Permit and Design Review. Because the Head is zoned Open Space, a use permit is also required, and conditional use permit findings per §17.72.040 need to be made. The purpose of the Open Space zone is to: *"maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources, and to ensure that the health and safety of the public is ensured through careful regulations of development in areas affected by geologic instability, steep slopes, tsunami and flood hazards."* Principally permitted uses in the OS zone include low intensity recreation such as hiking and picnicking and removal of hazardous vegetation, but no structural development. Uses permitted with a use permit include trails and vista points, wildlife habitat management, scientific research, removal of vegetation and shoreline protection structures. Applicable to this project, conditionally permitted uses also include: *"Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted."* As noted above, the communication and weather sites were established in some form prior to the annexation of the property into the City of Trinidad. Based on past project approvals, this provision has been interpreted to mean the use of the site in general by communication facilities that provide a public service. This was fairly straightforward in the four most recent approvals because they were all contained within the fenced area of the existing site. This case is exactly the same as those previous proposals as it is only proposing to place new antennas on existing poles and additional equipment cabinets within the fenced area.

Minimum lot size does not apply to this project; subdivisions are not allowed in Open Space zones. Density restrictions also do not apply to this project, and no new dwellings are allowed in an Open Space area. The maximum building height within the OS zone is 15', which the equipment cabinets will meet. The antenna is not a "building" subject to this limitation. However, zoning ordinance §17.16.060 states that all structures allowed in the OS zone must also meet the requirements of the Special Environment regulations, §17.20.060 – 17.20.130. Section17.20.060 restricts building heights to 25 feet. As mentioned above, the pole is not a building, but the OS zone §17.16.060 refers other structures to this section, implying that it may be a height limit for any structures. Section 17.56.100 of the zoning ordinance provides further guidance on measuring height. This section reads: *"Heights of buildings and structures shall be measured vertically from the*

average ground level of the ground covered by the building to the highest point of the roof. Chimneys, vents, flagpoles, conventional television reception antennas, ventilating and air conditioning equipment, parapet walls and similar architectural and mechanical appurtenances shall be excluded in making such measurement." The transmission antenna could be considered to fit in to the second section as a 'mechanical appurtenance' or similar to a flagpole or T.V. antenna. As far as the other applicable SE zone regulations, the project is not within the tsunami hazard area, not on an ocean bluff, not on a slope near a bluff, not in a stream protection area and not within the Tsurai Study Area. Section 17.20.120 requires that portions of a SE zoned lot not within a construction area be protected by an open space easement between the landowner and the City. In this case, the property is already protected through the open space zoning and the City owns the property, so this section is not applicable. Section 17.20.130 outlines requirements for development on lands designated as unstable or of questionable stability; which this project is not.

Zoning Ordinance §17.16.080 protects cultural resources and applies to Open Space areas within the Tsurai Study Area. Although this project is not within the specified area, another cultural protection provision applies. The transfer of the Trinidad Head property included a condition regarding survey and protection of archeological resources. However, this project will not involve any new ground disturbance and therefore does not have the potential to impact unknown archeological resources.

The General Plan Policy 17 (p. 15) encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. Trinidad Head has been identified in General Plan background documents as being habitat for the Western Lily (*Lilium* occidentalis), and possibly other rare plants as well. However, since this project will not involve any new ground disturbance, this concern is not an issue. Policy 66 (p. 39) states that: *"Trinidad Head will be kept in its natural state with hiking trails and vista points."* This project is not fully consistent with this policy, but neither are any of the Federal facilities. The Cox Cable site was already in existence when this policy was adopted. Based on the City's management plan for the Head, which includes the provision that: *"The City will continue to coordinate with the Cable T.V. company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation;"* and considering other development on the Head, this project can be approved.

Finding: The proposed use provides a public service and meets a public need. The proposed use does not conflict with the primary purposes of open space and public recreational use of the Head. The project is consistent with the City's Local Coastal Program, including the Zoning Ordinance and General Plan.

SLOPE STABILITY

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan. Standard

erosion control and drainage best management practices will be required during construction.

SEWAGE DISPOSAL

There is no sewage disposal associated with this project.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings can be made based on the responses provided:

A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community. *Response: Trinidad Head is undeveloped except for the Coast Guard facilities, a weather monitoring station, the existing communications site and public trails, benches and vista points. The proposed project is within the fenced area that is already developed and will provide a public service. It will not be any more visible than existing improvements and will not interfere with public recreational uses.*

B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:

1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; *Response: The proposed project will not alter the size or shape of the existing site.*

2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; *Response: Vehicular access on the Head is restricted for the general public and the site already has ample access and parking. The new antennas and new provider will require four inspections per year once the construction is complete. The only additional traffic would be in case of a system failure, which would add approximately two additional vehicle trips per year.*

3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; *Response: The proposed improvements, as conditioned, will not result in any offensive emissions, including noise, glare, dust and odor. Some dust may result from construction activities, but this will only be temporary. The mechanical equipment will be required to be contained within the proposed building, which will be designed to minimize any noise impacts. The applicant is responsible for assuring that equipment noise not leave the site and increase existing ambient noise levels.*

4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs; *Response: The applicant has stated that the site will not require landscaping or screening because it is already existing. If the Commission finds that landscaping is necessary, it should be of native species that are normally found on the Head. Traffic is addressed above. The project does not include any lighting or signs.*

C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program. *Response: As described above in "Zoning Ordinance/General Plan Consistency," the proposed project can be found to be consistent with both the Zoning Ordinance, General Plan and the City's management plan for the Head, and will carry out policies, consistent with the Trinidad Coastal Program.*

D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment. *Response: The proposed improvements will be within a small area. Conditions of approval have been included in order to minimize potential impacts. The project is exempt from CEQA per §15301, exempting minor alterations of and additions to existing facilities.*

E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:

1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses; *Response: The project will utilized existing access roads and will not impact public access to the shore or to the existing trail system.*

2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast; *Response: The new antennas will not be substantially more visible that other existing improvements and will not interfere with public views. Although the entire Head is open for public access other than the Federal facilities, the site is not adjacent to an officially designated public road or trail.*

3. The development is compatible with the established physical scale of the area; *Response: The project will be located within the existing, fenced communication site.*

4. The development does not significantly alter existing natural landform; *Response: The project will not alter any landforms.*

5. The development complies with shoreline erosion and geologic setback requirements. *Response: Trinidad Head is not an area mapped as being unstable or questionably stable on Plate 3 of the General Plan. The project will not be near the edge of bluff; the proposed improvements will not contribute to instability.*

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following findings can be made based on the responses provided.

Design Criteria

A. The alterations of natural land forms caused by cutting, filling and grading shall be minimal. Structures should be designed to fit the site rather than altering the land form to accommodate the structure. *Response: Only minor disturbance of the soil will be required to construct the proposed improvements.*

B. Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible. *Response: The project is located in an open space area, but improvements will be located within the existing, fenced communication facility, screening it from view. The antennas are consistent with existing development.*

C. Materials and colors used in construction shall be selected for compatibility both with the structural system of the building and with the appearance of the building's natural and manmade surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided. *Response: The proposed improvements are consistent with existing development on the site.*

D. Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used. *Response: The proposed project will not be readily visible from public trails and vista points any more than the existing facilities. Several large trees and shrubs are adjacent to the site and have been retained to help screen it and the existing facilities. The applicant has not proposed additional landscaping, and it can be found to be unnecessary for this project.*

E. On-premises signs should be designed as an integral part of the structure and should complement or enhance the appearance of the surrounding area. *Response: The project does not include any on-premise signs.*

F. New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials. *Response: The proposed improvements will utilize the existing electrical connection to the existing site from the pole across the access road.*

G. Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should have a single design theme. *Response: No off-premise signs are proposed as part of this project.*

H. When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. In particular:
   1. Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.
   2. Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.

   Response: Only small equipment cabinets and antennas on existing poles are proposed.

View Protection Criteria

A. Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible. *Response: The project is located within an open space area, but will be located within the existing fenced facility and, will not be readily visible from public trails and vista points as it will be screened by existing development. The applicant has proposed the improvements within the existing fenced facility in order to minimize impacts.*

B. Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection. *Response: The proposed improvements will not significantly block views.*

C. The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or

greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility: and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction. *Response: There is no residence proposed as part of this project.*

D. If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected. *Response: There is no residence proposed as part of this project.*

E. The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards. *Response: The proposed improvements are not within 100' of the Tsurai Village Site, Trinidad Cemetery, Holy Trinity Church or the Memorial Lighthouse.*

STAFF RECOMMENDATION:

The project is consistent with the City's Zoning Ordinance and General Plan and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Use Permit and Design Review/View Protection Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application materials, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings and approve the project as submitted and as conditioned below.

Alternative Motion for Denial

If the Commission does not agree with staff's analysis, or if the public presents evidence that conflicts with the findings contained in this staff report, the Commission may choose to deny the project. If the Commission does decide to deny the project, the denial should be based on specific findings that can not be made. The Commissioners should specifically

state the reasons for denial and which finding(s) can not be made. A motion could be similar to the following:

Based on public testimony and information included in the application, I find that Use Permit/Design Review/View Protection Finding(s) "---" can not be made because ---, and I move to deny the project.

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*

2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter if construction has not been started, unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk prior to building permits being issued.*

3. Recommended conditions of the City Building Official shall be required to be met as part of the building permit application submittal. *Responsibility: Building Official prior to building permits being issued.*

4. If any equipment installed as part of this project becomes unserviceable or unused, it must be removed at the applicant's expense. *Responsibility: City Planner or Building Inspector to enforce should conditions warrant.*

6. Erosion control measures shall be taken during and after construction to minimize soil loss and runoff. *Responsibility: Building Official to confirm during inspection(s)*

7. The applicant shall design the equipment building and any other noise generating sources so that noise levels are not above pre-project ambient noise levels as measured at the southern boundary of the existing Cal-North Cellular site. *Responsibility: City Planner to verify after site is in operation and periodically as necessary.*

8. Construction shall not occur until after the City receives verification from BLM that the existing communications site, and therefore this project, is consistent with the land transfer agreement for Trinidad Head or until after the City receives information that BLM will not make such a determination. *Responsibility: Building Official prior to building permits being issued.*

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Friends of Trinidad Head, c/o Stan and Kim Binnie

Mailing Address: P.O. Box 1037

City: Trinidad, CA Zip Code: 95570 Phone: 707-677-9078

RECEIVED
OCT 0 4 2006
CALIFORNIA
COASTAL COMMISSION

SECTION II. Decision Being Appealed

1. Name of local/port government:

Trinidad City Council

2. Brief description of development being appealed:

Expansion of cellualr transmission facilities on Trinidad Head by erecting two 6 foot tall panel antennas on existing 21 tall poles, construction of a concrete slab and 15 linear feet of 6 foot tall metal equipments cabinets with cooling fans, and installation of an electric feed.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

City of Trinidad property on Trinidad Head. From bottom of Edwards Street proceed up service road to top of Trinidad Head. AP 42-121-21

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

EXHIBIT NO. 7
APPEAL NO.
A-1-TRN-06-042
U.S. CELLULAR CORPORATION
APPEAL, FILED OCTOBER 4, 2006 (FRIENDS OF TRNIDAD HEAD) (1 of 35)

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-TRN-06-042

DATE FILED: 10/4/06

DISTRICT: North Coast

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

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

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: September 14, 2006

7. Local government's file number (if any): 2006-10

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

PWM Inc.
Attention: Thomas J. McMurray, Jr.
P.O. Box 1032
2039 Williams Street
Eureka, CA 95502

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) Yurok Tribe, c/o Tom Gates
190 Klamath Boulevard
P.O. Box 1027
Klamath, CA 95548

(2) Tsurai Ancestral Society, c/o Axel Lindgren
P.O. Box 390
Trinidad, CA 95570

(3) Trinidad Rancheria, c/o Greg Nesty
P.O. Box 630
Trinidad, CA 95570

(4) SEE ATTACHED MAILING LIST

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

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

See attached document (10/04/06) prepared by Aldaron Laird, an Environmental Planning consultant stating reasons for appeal. Mr. Laird is representing the Friends of Trinidad Head in this appeal.

3 of 35

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

Signature of Appellant(s) or Authorized Agent

Date: 10/04/06

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

Section VI. Agent Authorization

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

Stanley W. Binnie

Signature of Appellant(s)

Date: 10/04/06

Yurok Tribe / Tom Gates
190 Klamath Boulevard
P.O. Box 1027
Klamath, CA 95548

Axel Lindgren
Tsurai Ancestral Society
P.O. Box 390
Trinidad, CA 95570

Trinidad Rancheria
Attn: Greg Nesty
P.O. Box 630
Trinidad, CA 95570

Streamline Planning Consultants
Attn: Trever Parker
1062 G Street
Arcata, CA 95521

Cal-One Cellular L.P.
Attn: Network Real Estate
180 Washington Valley Rd.
Bedminster, NJ 07921

Verizon Wireless
180 Washington Valley Rd.
Bedminster, NJ 07921

HSU Telonicher Marine Lab
Attn: Michael Ives / NOAA
P.O. Box 690 / 570 Ewing St.
Trinidad, CA 95570

Verizon Communications
Corporate Headquarters
140 West Street
New York, NY 10007

Friends of Trinidad Head
c/o Stan and Kim Binnie
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Trinidad, CA 95570

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Eureka, CA 95502

Lynda Roush
Bureau of Land Management
Arcata Field Office
1695 Heindon Road
Arcata, CA 95521

Jeffrey Guttero
1018 Seventh Street
Eureka, CA 95501

Kathy Bhardwaj
P.O. Box 394
Trinidad, CA 95570

Steven C. Mitchell
Geary, Shea, O'Donnell, Grattan & Mitchell, P.C.
37 Old Courthouse Square, 4th Floor
Santa Rosa, CA 95404

Scripps Inst. of Oceanography
University of California, San Diego
La Jolla, CA 92093-0220

California Coastal Commission
Attn: Jim Baskin
710 E Street, Suite 200
Eureka, CA 95501

U.S. Coast Guard
Group Air Stn. Humboldt Bay
1001 Lycoming
McKinleyville, CA

Aldaron Laird
Environmental Planner
980 Seventh Street, Suite K
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Jennifer Kalt / Conserv. Chair
North Coast Chapter - CNPS
P.O. Box 1067
Arcata, CA 95518

Brad Twoomey
P.O. Box 972
Trinidad, CA 95570

City of Trinidad
Trinidad City Clerk
P.O. Box 390
Trinidad, CA 95570

Joe & Cindy Lindgren
P.O. Box 276
Trinidad, CA 95570

5435

Section IV. Reasons Supporting This Appeal

Introduction

On September 20, 2006 the Eureka office of the California Coastal Commission (Commission) received notice of action taken by the City of Trinidad (City) to approve a development (2006-10) between the sea and the first public road paralleling the sea. The City's decision is appealable to the Commission (Public Resource Code (PRC) Section 30603 (a)). The Friends of Trinidad Head (Friends) are an "aggrieved party" as they have testified and provided testimony to the City each time that public hearings were held on this project. They have exhausted their administrative remedies by appealing the Planning Commission's decision to approve this project to the City Council (California Code of Regulations (CCR) Section 13111(a)). The Friends are now appealing the City Council's approval of a project to expand the cellular transmission facility on Trinidad Head to the Commission.

Trinidad Head is: an important coastal resource, a state designated historical landmark (No. 146), listed in California's register of historic resources, and a sacred site to the Yurok and Tsurai peoples. In 1985, upon the City's annexation of Trinidad Head, Cox Cable Company had a limited TV transmission facility on Trinidad Head, which became a nonconforming use once the City's certified Local Coastal Program (LCP) was amended designating its portion of Trinidad Head "Open Space." The Commission has not reviewed the City's application of its LCP in relation to commercial uses they have approved on Trinidad Head. The grounds for this appeal are that the City's approval of a Conditional Use and Coastal Development permits (CUP/CDP) do not rely on, or, conform to standards set forth in the City's LCP (PRC Section 30603(b)). This appeal is also being filed because the development that was approved does not conform to the City's LCP (PRC Section 30604 (b)).

Nonconforming uses, such as the TV transmission facility cannot be: converted, expanded, or re-instated if abandoned. Starting in 1997, the City re-instated as well as converted a prior nonconforming use that had been abandoned in 1994 by Cox when the installation of a fiber optics infrastructure system made use of the TV transmission facility on Trinidad Head obsolete. The City determined that this change in use was not to a different nonconforming use. However, the City did not rely on its certified LCP to make this finding; rather it relies on a provision (Item 6) in a 1983 development plan for Trinidad Head prepared by the City as part of a process of transferring property ownership from the Bureau of Land Management (BLM) to the City.

"The City will continue to coordinate with the Cable TV company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation."

Each time (1997, 2000, 2001/02, 2003, and 2006) the City has approved an expansion of cellular transmission facilities on Trinidad Head it justifies its finding that it is not a new nonconforming use by alleging that the Commission, in 1983, approved this use, as per the provision quoted above, via its approval of a Consistency Determination (CD) (CD-006-83) that BLM prepared as part of the property transfer from the federal government to the City. However, staff with the Commission's federal consistency division in San Francisco, state that the Commission's review and approval of BLM's consistency determination was limited to the proposed transfer of federal property (patent) and not the City's development plan for Trinidad Head. Further, according to Commission staff in the Eureka office, the 1983 development/management plan as well as

provision 6 quoted above, are not part of the City's certified LCP. Therefore, the City relied on an un-certified plan, as per BLM's failure to secure the required federal consistency review, rather than on its certified LCP, to determine whether this use is nonconforming. This is clearly not consistent with the California Coastal Act (Act), or with the City's certified LCP.

Since 1997, each time the City has approved an expansion of the nonconforming use on Trinidad Head, including this recent approval, it has failed to comply with the California Environmental Quality Act (CEQA). The City illegally used a Categorical Exemption (CE) when there are clearly exceptions to its use that apply (PRC Sections 21084 (b), 21084.1 and CCR 15300.2). The City's recent approval, which is the subject of this appeal, again, expands this use in an area of critical concern and adds to several existing adverse impacts (coastal resources, noise, recreational use, and aesthetics) associated with this facility on Trinidad Head. If an environmental analysis had been conducted, it would have been evident that several thresholds of significance had been exceeded long ago, and the City should not have approved this project or allowed any previous installations.

This appeal also provides the Commission with an opportunity to evaluate a significant violation of the Act that has affected the public's use of Trinidad Head. Since 1983, BLM has conducted four compliance examinations of the City's use of Trinidad Head (the property it received via a federal patent) to determine if the City is adhering to the approved development/management plan consistent with it's patent. BLM's most recent determination was released on July 3, 2006. Since 1983, BLM has repeatedly found that the City's approval of commercial uses and their expansion on Trinidad Head does not conflict with the purposes for which the patent was issued. However, pursuant to Section 307 of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), BLM is required to comply with the Act's consistency provisions when their proposed action can affect uses and natural resources in the Coastal Zone. According to the Commission's federal consistency staff, BLM's compliance determinations can affect the coastal zone and they are required to submit a CD, or a Negative Declaration (ND) of impact to coastal resources to the Commission for review and approval. BLM has never submitted a CD or ND for its compliance determinations to the Commission's federal consistency staff. As the City relied heavily on BLM's determinations (09/14/06 City Council Appeal Hearing DVD) for its approval of cellular transmission facilities on Trinidad Head, BLM's determinations have facilitated the negative effects of the City's approval of nonconforming uses on Trinidad Head. Hence, the City's reliance on BLM determinations to justify its approvals and not rely on its LCP is a clear violation of the Act.

Lastly, the Commission has an opportunity with this appeal to determine if the City made a specific finding that this development conforms with the public recreation policies of Chapter 3 of the Act (PRC Section 30604 (c)).

The specific grounds for this appeal are the City's approval of CUP and CDP, as well as the proposed development project do not rely on, or conform to Trinidad's certified LCP and are not consistent with the Act.

The City's certified LCP is composed of the City's Zoning Ordinance, which is subordinate to and must be consistent with the policies, programs, and land-use designations of the Trinidad General Plan (Ch. 17.04 Section 040, Ord. 166 Section1.04, 1979). This appeal will, therefore, first discuss the applicable LCP policies to which the City's approval of the proposed project fail to conform and, second, the zoning regulations relevant to this appeal.

General Plan Policies

Chapter III Development Options and Preferences

Policy 66 "The portion of Trinidad Head not needed by the Coast Guard should be transferred to the City of Trinidad. The area should be kept in its natural state with hiking trails and vista points.(Certified LCP)" "~~The portion of Trinidad Head not needed by the Coast Guard should be transferred to the City of Trinidad. The area should~~ [Trinidad Head will] be kept in its natural state with hiking trails and vista points." (Amended Ordinance 166 12/12/1984)

There is no mention in this policy of utilizing Trinidad Head for commercial communication transmission facilities, let alone allowing for the expansion of such facilities that may have existed at the time this policy or of this Ordinance was adopted.

This policy is explicit: "Trinidad Head will be kept in its natural state..." In-fact in the Ordinance adopted by the City in 1984 to amend this policy it specifically states that the word "should" was replaced with the word "will" regarding keeping the area in its natural state with trails and vista points. Therefore, all future land use decisions by the City, which may affect Trinidad Head, had a clear guidance policy. Approval of proposed development that does not maintain the natural state of Trinidad Head is clearly in violation of this policy. Since 1985, the City has repeatedly failed (the most recent failure being the subject of this appeal) to comply with this policy in approving requests to expand the non-conforming use and structures on Trinidad Head. The City's incremental approvals over time, culminating with the approvals under appeal have failed to maintain the natural state of Trinidad Head at the time this policy was adopted or in 1985 when this policy was amended by ordinance.

Appendix A, Land Use Categories and Zoning Conformance

Land Use Categories, Open Space "Special site investigations should precede any environmental disturbance in order to minimize adverse impacts."

The City decided not to conduct or require any site investigations before approving the proposed project. The City in fact determined that they would forgo any environmental investigations by utilizing a CE pursuant to the CEQA, even after receiving written and oral testimony that there were several exceptions to the use of a CE that applied in this case and advise given to the City that it is required to prepare an environmental review under CEQA (A. Laird Sept. 14, 2006). The appellant's consultant (Laird) repeatedly requested that the City return the project to the Planning Commission for proper environmental impact studies before making a decision. The City rejected these requests. The cumulative effect of the project will cause adverse impacts to the public from increases in noise levels and degraded scenic views. Such impacts compromise the ability of the public to fully enjoy the coastal, historical, and cultural setting of Trinidad Head.

Chapter II Existing Land Use

Policy 21 "Where uses are incompatible they are not recognized in the Land Use Map and it is intended that they be treated as non-conforming uses and not be given zoning preference."

The City has created a de-facto Commercial Zone in the Open Space Zone on Trinidad Head. The City has perpetuated and expanded the non-conforming cellular communications facilities at

the proposed project site. The creation of this de-facto Commercial Zone conflicts in several ways with the primary use of the site for passive recreation, i.e. vehicular traffic on recreational pathways, obstructed and degraded vistas, and increases in noise levels from additional cooling fans, which ruin the serenity and tranquility of Trinidad Head. In its most recent approval, the City claims that by virtue of issuing a CUP, it has now rendered this non-conforming use a conforming in the Open Space Zone. This is an amazing feat given that the Open Space district still does not list commercial use as an allowable use. However, the City saying it is so, does not make it so, according to its LCP.

Policy 20 "Some existing uses are not placed in an appropriate land use category because of their isolated location and the undesirability of providing for expansion of similar uses in the immediate area."

It is clear from this policy that the LCP finds the expansion of land uses that do not conform to land use designation to be undesirable. Yet since 1997, the City has allowed commercial cellular facilities on Trinidad Head to expand four times, the most recent being the decision that is the subject of this appeal.

Appendix B, Community Design Considerations

1. " Structures in, or adjacent to, open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible."
2. "Where possible, structures on sites visible from the beach should be set back as far as possible to make the structure as visually unobtrusive as possible."
3. "Except for necessary public safety facilities, structures should blend with the natural visual form of the area and not unnecessarily extend above the natural silhouette or the silhouette of existing structures in the area."

1) Neither the existing structures nor the proposed expansion of the cellular transmission facilities are constructed or proposed to be constructed from materials that reproduce natural colors or textures.

2) The existing structures and the proposed expansion of the cellular transmission facilities are visible from the beach and are visually obtrusive from the beach, bay, ocean, and city. Complying with this consideration is impossible as the project is anchored to the location of a former nonconforming use and structure from 1985. Clearly the proposed project cannot comply with this consideration.

3) In 1981, Trinidad could not get TV service without putting a receiver dish on Trinidad Head. Use of this site for TV transmission ceased in 1994. The cellular transmission structures and their proposed expansion are not necessary public safety facilities; land-line telephone service is presently available throughout the area, as is cellular phone service from 4 service providers—Verizon, Edge, Sprint and U.S. Cellular. The project applicant testified that the expansion of facilities is intended to increase the strength of their signal to allow for the expansion of cellular coverage for in-building usage, as an alternative service to land-line phone service. However, U.S. Cellular has adequate cell phone service from its nearby facility on Walker Mountain, as many customers who live or work in the area have testified.

The existing structures do not blend with the natural visual form of Trinidad Head. Many of these structures extend significantly above the natural silhouette of Trinidad Head. In 1985, the

height of the single TV transmission pole was 21 feet. Today two cell towers are 41 feet high and one whip antenna reaches 51 feet in height.

Zoning Ordinance Regulations

This appeal will first address the "controlling" regulations set forth in Sections 17.56 through 17.64 that are applicable to City's decision to approve the proposed project and then address the remaining regulations with which the city has not complied.

Chapter 17.56 Specific Use Regulations

Section 010 Applicability "The following specific regulations are intended to provide for the location and control of certain special and accessory uses and to provide supplementary regulations pertaining to yards, buildings, parking and nonconforming uses which apply to several zones or uses. The following regulations shall apply in all zones. Where the provisions of this chapter conflict with the provisions of any zone, the provisions of this chapter shall apply." (Ord. 166 Section 6.01, 1979.)

Section 020 Accessory Uses "Accessory uses, as defined herein, shall be permitted as appurtenant to any permitted use, without the necessity of securing a use permit, unless particularly provided in this chapter...." (Ord. 166 Section 6.02, 1979)

In 1985, the City annexed the project area and placed the area in the Open Space Zone. In 1985, the following structures were present at the project site: one or two 21 foot high towers (9 inches diameter wooden pole), one 12 foot TV broadcast (microwave) dish, an 8 foot by 10 foot wooden building that stood 7 feet tall, with electric service at the site, and an 8 foot by 8 foot concrete pad (see Table 1). Section17.16.030 (E) of the Open Space Zone Chapter describes structures accessory to uses and buildings as those that were existing **at the time** the ordinance was adopted (Ord. 166 Section 4.02 (B), 1979). In order for any future structures at this site to be legal they must be accessory to the use and structures that existed at the time of annexation in 1985. In 1994, this site ceased to be used for TV broadcasting use. The City claims that the proposed project is for an accessory use. The proposed project, a cellular transmission use cannot be accessory to a different use which no longer exists. Even if the cellular transmission facility was considered a legal nonconforming use then the proposed project certainly cannot be an accessory as it is for the same use.

Since 1997, and most recently in the decision that is being appealed herein, the City relied on the issuance of a use permit to legitimize its approval and expansion of the cellular transmission facilities on Trinidad Head. However, as per this section, the City's issuance of a use permit cannot be for an accessory use because such use does not require a use permit.

Section 090 Accessory Structures ..."Accessory structures shall not be more than fifteen feet in height in the SR and UR zones and shall comply with the maximum building height limitation in other zones. (Ord. 166 Section6.09, 1979) ...

The proposed project includes installing two panel antennas 71 inches long by 11 inches wide on top of two 21 foot tall poles, and extending 2 feet higher. In the Open Space Zone, the maximum building height is 15 feet or less if necessary to accomplish the purposes of Sections 17.16.060 and 17.16.080 (Ord. 166 Section4.02(C)(4), 1979) . Section 17.16.080 states that structures proposed within the Open Space Zone shall also satisfy the applicable requirements in Sections

17.20.060 through 17.20.130 (Ord. 166 Section4.02(C)(3), 1979). In an attempt to protect the scenic attributes of coastal bluffs, Section 17.20.080 states that no structure shall be placed on a bluff, except that the following structures may be placed on the bluff face and alterations made there to subject to obtaining a use permit: stairways, fences, and shoreline protection structures. Despite the 15 foot maximum height limitation, the City approved the placement of structures at the proposed project site that are higher than 15 feet. Further, the City approved the placement of structures on Trinidad Head that are not permitted on an ocean bluff as per Section 17.20.080.

Section 100 Height limitations and modifications. Heights of buildings and structures shall be measured vertically from the average ground level of the ground covered by the building to the highest point of the roof. Chimneys, vents, flagpoles, conventional television reception antennas, ventilating and air conditioning equipment, parapet walls and similar architectural and mechanical appurtenances shall be excluded in making such measurement. (Ord. 166 §6.10, 1979)...

The City has relied on this section to claim that the project does not exceed any height limitations because it is in the class of excluded type structures. On the contrary, what is different about the excluded type of structures and this project is that excluded structures are all accessory to the primary structure on a lot whereas the project's structures, 21 foot poles and antennas are the primary structures. The City incorrectly cites this section to find that the project does not exceed the City's height limitation standards.

Chapter 17.60 Design Review and View Preservation

Section 050 View Protection Criteria "The design assistance committee shall be guided by the following criteria when evaluating the impact of new development on public and private vistas of important scenic attractions:

A. Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.

B. Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points"...

The existing and proposed structures are visually very obtrusive when viewing Trinidad Head; the profile of the Head has, and will be, particularly degraded by existing and proposed structures because they are being allowed to be placed in excess of the 15 foot maximum height limit applicable in the Open Space zone. Depending on where from Trinidad Head the public attempts to view of the bay and coastline the existing and proposed structures also block and degrades ones view of the bay, ocean, and coastline (see Figure 1).

Structures present in 1985	
Structure	**Quantity**
21' tall wooden pole- 9" diameter	2
12' tall dish antenna	1
8' x 10' x 7' tall wooden building	1
8' x 8' concrete slab	1
Electric services feed	1
TOTAL [1] *minus fans*	**6**
Structures present in 2006	
Structure	**Quantity**
21' tall wooden pole- 9" diameter	2
41' tall metal poles-15" diameter	2
8' x 10' x 7' tall wooden building	1
8' x 3' x 9' tall building	1
3' x 8' x 6' building	1
4' x 4' x 4' building	1
4.5' x 2' x 6' tall building	1
6' dish antenna	1
2' dish antenna	1
46-60" x 12" panel antenna	8
10' whip antenna	3
Multiple cooling fans	?
"genset" motor and generator	1
concrete pad	5
horizontal metal pole bracing	4
30' x 2' metal scaffolding	1
10' tall metal poles	7
electric service feeds	3
139' of 6' tall cyclone fence with 2 gates and 6 signs	1
TOTAL [1] *minus fans/genset*	**40**
Structures proposed	
Structure	**Quantity**
72" x 11" panel antenna	2
15' x 3' x 6' tall building	1
Multiple cooling fans	?
concrete slab	1
Electric services feed	1
TOTAL [1] *minus fans*	**5**

Table 1. Commercial use structures located on Trinidad Head

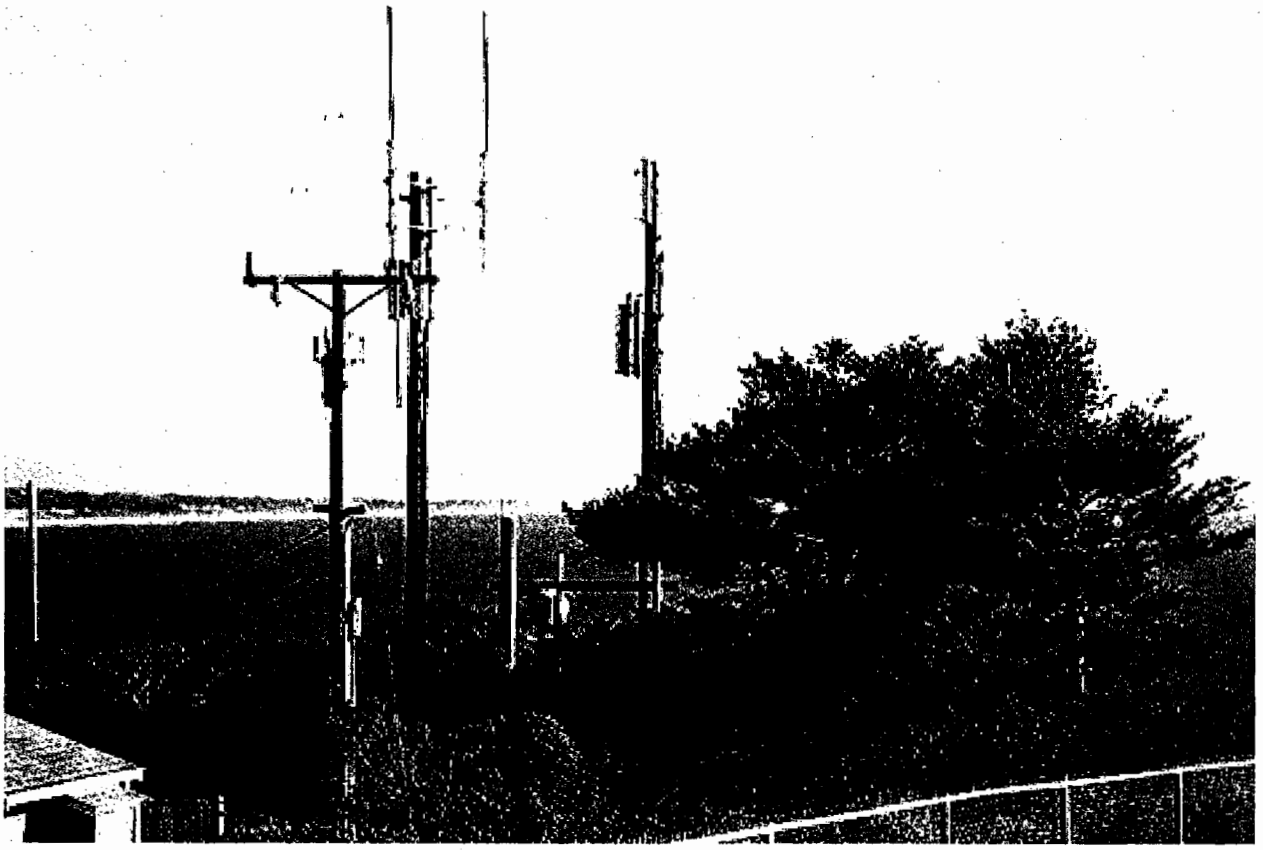


Figure 1. Degraded vista of the coastline from Trinidad Head.

Chapter 17.64 Nonconforming Uses and Structures

Section 010 Nonconforming Uses and Structures "The lawful use of lands or structures existing on the effective date of the regulations codified in this title, although such use or structure does not conform to the regulations applied to such property or structure, may be continued, except as provided as follows:"...

A. Any structure conforming as to use but not conforming as to lot area, yards, height or other requirements herein at the effective date of the ordinance codified in this title may be altered, repaired or extended provided that such alteration, repair, or extension shall not increase the existing degree of nonconformance.

C. Any change of a nonconforming use shall be to a conforming use, and a nonconforming use which has been discontinued for a period of one year or more shall not be re-established. A nonconforming use of a part of a lot or a structure shall not be extended throughout the lot or structure.

D. Any use for which a use permit is required by these regulations shall be considered a nonconforming use until a use permit is obtained."

A. In 1985, when the City applied the open Space designation to the property on Trinidad Head, there were one or two 21 foot high pole(s) and one 12 foot TV broadcast dish at the site of the proposed project. This TV transmission facility became a nonconforming use in the Open

Space Zone upon annexation. The transmission facility's structures were also nonconforming because they exceed the maximum height limit, were visually obtrusive, and extended above the natural silhouette of the area. Each approval to expand the nonconforming use, including this recent decision has increased the degree of nonconformity (see Table 1).

C. On July 1, 1994, Cox Cable Company stopped meeting the terms of its lease when it ceased making annual payments to the City for use of Trinidad Head. In 1997, the City changed the use of the site from the former TV transmission facility to a cellular transmission facility, another nonconforming use when it issued Cal North CUP and CDP. As a consequence of issuing these permits the City failed to conform to this policy because it re-installed a nonconforming use that had been discontinued for more than a year. In 1997, the City also failed to conform to this policy because it did not change the use of this site to an allowable use. The City with its most recent decision again approved a change in use, when compared to the original nonconforming use of 1985, to a use that is nonconforming in the Open Space zone.

D. Lastly, the City in its recent decision, relied upon the issuance of a use permit to render a nonconforming use conforming which not withstanding section 17.064.010 (D) directly conflicts with the City's general plan as per:

Policy 20 which states that it is undesirable to provide for the expansion of a nonconforming use,

Policy 21 states that the General Plan intends that uses that are incompatible be treated as non-conforming uses,

Policy 66 states that the portion of Trinidad Head the City acquired in 1985 be kept in its natural state.

In the matter of conformity with the General Plan, Section 17.04.040 of the Zoning Ordinance states that the Ordinance and any amendment to it shall be consistent with the polices and land use designations of the Trinidad General Plan. The use in this situation is nonconforming because it is not allowed in the Open Space Zone, not because a permit has not been issued. Conditionally permitted uses that occur without first securing a use permit are nonconforming until they do receive a use permit. A permit cannot be used to make a de facto amendment to the LCP and legitimize a nonconforming use.

The following are the remaining Zoning regulations that are applicable to City's recent decision to approve the proposed project which is the subject of this appeal.

Chapter 17.08 Definitions

Section 200 Development ... "placement or erection of any solid material" ... "or extraction of any materials" ... "construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility" ...

The proposed project is a development as defined here and is subject to the City's LCP.

Section 500 Nonconforming ... "means a structure and/or land use which was lawfully established but which does not now conform with the land use, yard, height, or other requirements and conditions of this chapter."

It is not known if prior to 1985 the original TV broadcast transmission facility complied with federal law, so we cannot ascertain in 1985 upon annexation whether the nonconforming use was lawful. The Friends have challenged the lawfulness of the current nonconforming use, as the

original use ceased in 1994, and the current nonconforming use was approved by the City in 1997. The fact is that the existing cellular transmission facilities are nonconforming uses in the Open Space Zone, and the cellular facilities structures are nonconforming structures at a minimum as to height and visibility.

Section 680 Structure ... "means anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground."

The existing cellular transmission facilities and proposed facilities are structures, as they have foundations that fix them permanently as per their excavated footings for poles, concrete pads for equipment buildings, and fencing.

Section 710 Accessory Use ... "means a subordinate use which is customarily incidental to the primary use of the premises, and which does not alter or change the character of the premises."

The existing cellular transmission use of Trinidad Head is not subordinate to any allowable Open Space uses. In fact the cellular transmission use is the primary use at the project site but it is still a nonconforming use in the Open Space Zone. The existing and proposed cellular transmission facility use does adversely alter and change, in fact degrade the character of Trinidad Head.

Chapter 17.12 Establishment and Designation of Zones

Section 010 Use Restrictions..."No building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, water, building, structure or premises be used, designated or intended to be used for any purpose or in any manner other than is included among the uses hereinafter listed as permitted in the zone in which such land, water, building or premises is located."

In 1985, when this site was annexed it was being used for a nonconforming use, a TV broadcast transmission facility. In 1997, the City re-instated another nonconforming use, a cellular transmission facility. The City's Open Space district does not permit cellular transmission use or structures. Since 1997, up to the recent approval which is the subject of this appeal, the City has illegally permitted the erection, alteration, addition to, and enlargement of cellular transmission structures on Trinidad Head in the Open Space Zone.

Chapter 17.16 Open Space Zone

Section 010 Established Purpose..." The open space zone is intended to be applied to areas designated open space in the Trinidad general plan. The purpose of this zone is to maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources"... "The following regulations in this chapter shall apply in all open space zones. (Ord. 166 Section4.02 (part), 1979)."

The City's approval of the proposed project, which expands the number and density of cellular transmission structures, is in direct conflict with maximizing the preservation and protection of the natural and scenic character of Trinidad Head, wildlife habitat, and cultural resources.

Section 020 Principal Permitted Uses "Principal permitted uses in the OS zone are:

A. Public and private open space, wildlife habitat;
B. Low-intensity recreation on publicly controlled lands"...
C. Pedestrian travel"...

D. Removal of vegetation posing an imminent hazard to structures or people if approved by City engineer;
E. Picnicking on public lands designated for such use. (Ord. 166 Section4.02 (A), 1979)"

The City's approval of the proposed project, a cellular transmission facility, is for a use that is not principally permitted in the Open Space Zone..

Section 030 Uses Permitted with a Use Permit "Uses permitted in the OS zone with a use permit are:
A. Pedestrian trails, vista points, including improvements to existing facilities;
E. Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted;"

Section 030 (A) limits the issuance of a use permit for improvements to the existing pedestrian trail or vista point facilities, not cellular transmission uses. Section 030 (E) allows the issuance of a use permit for structures accessory to uses and buildings existing within the Open Space Zone **at the time** the ordinance codified in this title is adopted (Ord. 166 Section 4.02 (B), 1979). In 1985, the City annexed the project area and placed the area in the Open Space Zone. In 1985, there was one or two 21 foot high towers; one 12 foot TV broadcast dish, and a wooden building at the site of the proposed project. The proposed project is neither a supplementary nor subsidiary (accessory) use to TV broadcasting as such use ceased in 1994, therefore the proposed project cannot be accessory to a use which no longer exists. Since 1997, in approving cellular transmission facilities on Trinidad Head, including its most recent approval, the city claims that its approvals are for an accessory use, but fails to identify the primary use. In fact the proposed use has replaced the former nonconforming use which had ceased at this site and is the new primary use.

Chapter 17.72 Variances, Conditional Use Permits and Design Review

Section 040 Conditional Use Permit Findings "A conditional use permit may be granted for any use listed as a conditional use in the applicable zone if the facts establish and written findings are adopted showing:
A. That the proposed use at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community;
C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program;
D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment;
E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:
2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast."

The City, in its recent decision was limited to issuing a CUP only for uses listed as conditional in the Open Space Zone. Commercial uses such as the cellular transmission facilities are not listed as a conditional use in the Open Space Zone. The City claims that the proposed project only involves the construction and installation of accessory structures. Chapter 17.72 Section 070 defines an accessory structure or building as being "detached" and a "subordinate building or structure, the use of which is incidental to that of a main building or use on that lot." There is no "main" building or structure to which the cellular transmission facilities are accessory; this facility and its structures are the main use of this site, and they are nonconforming as per uses allowed in the Open Space zone. Section 17.16.030 (E)) of the Open Space Zone allows a CUP to be granted for structures accessory to uses and buildings existing within the open space zone **at the time** the ordinance codified in this title is adopted. In 1985, there was one or two 21 foot high towers (9 inches diameter wooden pole), one 12 foot TV broadcast (microwave) dish, and an 8 foot by 10 foot wooden building that stood 7 feet tall, with electric service at the site of the proposed project. The proposed project [two panel antennas 71 inches long by 11 inches wide to be placed at the top of 21-foot tall poles, metal equipment building 15 feet wide by 3 feet deep and 6 feet tall with cooling fans on a new concrete slab, with cabling and scaffolding wire carriers] is neither supplementary nor subsidiary (accessory) to commercial TV broadcasting which ceased in 1994. Therefore, the proposed project cannot be accessory to a use which no longer exists. The existing and proposed structures are not accessory to anything. In fact, they now constitute the main buildings and structures at this site of which the main use is providing cellular transmission. The CUP was issued for a use that is not allowed in the Open Space Zone even under the guise of an accessory structure to a lawful nonconforming use, which it is not.

A. The proposed use and present intensity of use, combined with the existing and proposed developments located on Trinidad Head, are not desirable because it/they do not conform to land uses allowed in the Open Space district (General Plan Policy 20). Because of the noise generated by cooling fans in the existing and proposed equipment buildings as well as from a back-up generator, and visual blight created by the towers with multiple antennas, the existing and proposed uses are not compatible with the community. In particular, the proposed use is not compatible with use of the area by members of the Yurok Tribe, particularly the Tsurai who revere Trinidad Head as the first place the creator gave rise to the Yurok people who have used Trinidad Head for centuries to sustain their spiritual existence. The City's finding that its approval was in conformity with the LCP is, therefore, not supported by these facts which were presented to the City during the public hearings on the proposed project.

C. The proposed use and development that the City approved are not consistent with the following LCP elements: General Plan Policies 20, 21, and 66, Appendix A Open Space District, Appendix B Design Considerations and Zoning Ordinance regulations 17.56.020, 17.60.050, 17.64.010, 17.12.010, 17.12.020, 17.12.030, 17.72.040, and 17.72.070. Please refer to previous discussions of the City's approval of the Conditional Use Permit that are not consistent with each of these policies and regulations contained in this appeal. Because the proposed use and development fails to conform to so many General Plan Policies and Zoning Ordinance regulations, the Commission should find that the City's actions are not in conformity with Trinidad's Coastal Program.

D. As stated earlier in this appeal, the City has failed to: conduct any environmental analysis of previous projects or the proposed project. In spite of this, the City determined that project related cumulative impacts had not reached a significant level. The City cannot make this

determination without first conducting the necessary environmental impact studies pursuant to CEQA. The City made determinations that these projects were exempt as per CCR Section 15301 "Class 1-Existing Facilities." The State Legislature charged California's Resources Agency with identifying classes of activities that were not likely to cause significant adverse physical changes to the environment and would be CE from further environmental review under CEQA (PRC Section 21080 (b)(9), and Section 21084 (a)). However, it is important to note that the Legislature recognized that these classes of environmentally benign activities could result in significant environmental damage when such projects are located in areas of critical concern or result in cumulative effects. That is why there are exceptions to the use of a CE (PRC Section 21084(b), Section 21084.1, and CCR Section 15300.2). Areas of critical concern can be scenic coastal resources, historical resources (PRC Section 21084 (e)) or cultural resources.

Trinidad Head is: a renowned scenic coastal area, a state-designated historical landmark (No. 146), listed in California's register of historic resources, an important cultural resource, and a sacred site to the Yurok and Tsurai peoples. One consequence of the City approving the proposed development, the fifth (1997, 2000, 2001/02, 2003, and 2006), is that the cumulative effect of expanding the number of structures over time has exceeded a level that is acceptable to the public who desire to experience and enjoy Trinidad Head, an area with significant scenic, historical, and cultural resources. The Legislature was clear in its intent regarding using C.E. "*No project which may result in damage to scenic resources*"... "*shall be exempted*" (PRC Section 21084 (b)).

The City and the Friends correctly identified that cumulative impacts from the proposed project are an issue, but the City failed to recognize these impacts as one of the Legislature's exceptions prohibiting the use of a CE. While the City focused on cumulative impacts as a consequence of whether the developed footprint is being increased, the Friends instead focused on the cumulative impacts (noise, height, and bulk) of five developments that expanded the use at this site, such as height and bulk of site Culminating with the City's recent approval, all of the developments at this site have expanded the number of structures and the intensity of use, causing significant cumulative impact to the scenic, coastal, historical, or cultural setting of Trinidad Head. This fact should have precluded the City from using a CE (CCR Section 15300.2(b)).

On June 21st the Planning Commission erred when it approved the U.S. Cellular project, because it used a form of environmental impact analysis to generate the proposed mitigation measures which were developed outside the procedures described in the CEQA. Addressing this very issue, the courts have held that "*an agency should not be permitted to evade standards governing the preparation of a mitigated negative declaration by evaluating proposed mitigation measures in connection with the significant effect exception to a categorical exemption*" (Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165). In support of the Friends' appeal to the City Council, the Planning Commission's findings (06/23/06) actually rely on future actions by the City Council to reverse the significant cumulative effects it identifies as a consequence of its approval of U.S.Cellular's project. Again, the courts have held that "*An activity that may have a significant effect on the environment cannot be Categorically Exempt*" (Mountain Lion Foundation v. Fish & Game Com. (1997) 16 Cal.4th 105). Also the Guidelines state that a CE shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (Section15300.2 (c)); in this case, the fact that the project is located on

Trinidad Head, an area of critical concern, and because the proposed use and structures are nonconforming in the City's Coastal Open Space Zone. It is undisputed that the project is located in an area of critical concern by way of Trinidad Head's multiple designations. The only question is whether the project "may impact" this environmental resource or the public's use and enjoyment of these resources. The court has held in regards to using a CE that *"it is the possibility of a significant effect...which is at issue, not a determination of the actual effect, which would be the subject of a negative declaration or an EIR"* (Azusa, supra).

Lastly, the City's use of a CE was illegal, because the exceptions to using a CE applied. The City failed to comply with CEQA and its LCP and conducted no environmental assessment of the proposed project's cumulative effects to scenic coastal resources, historical resources, and cultural resources residing in Trinidad Head, an area of critical concern. The City's approval based on conformity with the LCP is, therefore, not supported by these facts.

E. The Friends have provided the City with photographs, and the public testified during the public hearing held on this proposed project that the existing cellular transmission facility and the proposed developments will further degrade the public's view of the bay, Trinidad Head, and the coastline (see Figure 2). The City's finding that its approval was in conformity with the LCP is, therefore, not supported by these facts.

Section 070 Coastal development permits.

B. Except in the area identified in the map proposed as Appendix B, areas not included in exemptions to coastal development permit, the following categories of development shall not require a coastal development permit:
2. "Accessory structure or building" means a detached and subordinate building or structure other than a sign, the use of which is incidental to that of a main building or use on that lot.

The City approved a CDP for the proposed use and development. Therefore, the City must have determined that the proposed use and development were not accessory to the existing uses, buildings, and structures. The City's finding that its approval of the proposed construction and erection of accessory structures was in conformity with the LCP is contradicted by these facts.

References

California Coastal Commission. 1983. Consistency Determination No. CD-6-83 (Bureau of Land Management). May, 1, 1983.

Friends of Trinidad Head. 2006. City of Trinidad City Council Friends of Trinidad Head Appeal Hearing (DVD). September 14, 2006.

Laird, Aldaron. 2006. Testimony submitted to City of Trinidad City Council for the Friends of Trinidad Head Appeal Hearing. September 14, 2006.

Parker, Trever. 2006. Memorandum to Trinidad City Council transmitting Planning Commission Decision on US Cellular Application. June 23, 2006.

CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

Consistency Determination
No. CD-6-83
(Bureau of Land Management)
45th Day: May 1, 1983

Federal Agency: BUREAU OF LAND MANAGEMENT

Development Location: Trinidad Head, immediately southwest of the City of Trinidad, Humboldt County. (Exhibit 1)

Development Description: Transfer of 47 acres of Federal property to the City of Trinidad for public recreation. (Exhibits 2 and 3)

SUBSTANTIVE FILE DOCUMENTS:

1. Environmental Assessment/Land Report on City of Trinidad application for acquisition of Trinidad Head, by Bureau of Land Management (BLM), December 21, 1982 (Serial No. EA #512).

2. Letter from John W. Lahr (BLM Eureka Resource Area Manager) to Richard G. Rayburn (North Coast District Director, Coastal Commission), March 16, 1983, containing BLM's consistency determination for Trinidad Head property transfer, including application by City of Trinidad to require ownership of Trinidad Head, November, 1982.

3. Land Use Plan for the Trinidad segment of the Humboldt County LCP (certified in part by the Coastal Commission in October, 1982).

4. Certified LCP for City of Trinidad.

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STAFF SUMMARY AND RECOMMENDATION

I. Staff Summary

A. Project Description. The Bureau of Land Management (BLM), an agency in the U.S. Department of Interior, proposes to transfer 47 acres of federal land at Trinidad head to the City of Trinidad (Exhibit 2). The City intends to annex the property and manage it as a recreational area for hiking and other low-intensity recreational uses. About 14 acres of Trinidad Head will remain under federal ownership for the existing U.S. Coast Guard facility. The Coast Guard maintains a light beacon, fog horn, radio antennas, and residence for staff on the southern end of the Head.

BLM's proposed transfer is pursuant to the Recreation and Public Purposes Act (43 USC § 869 et.seq.) and relevant federal regulations (43 CFR Part 2740). These regulations specify the procedure for sale or lease of land by the Secretary of Interior, and limit uses and further transfer of title by grantees. The City of Trinidad applied to BLM in November, 1982, to acquire Trinidad Head for non-intensive recreational use. The stated purpose of the City's acquisition is "to make available to the people forever, for their inspiration and enjoyment, in a condition of unimpaired ecological integrity, the majestic headland known as Trinidad head, together with all related scenic, historic, scientific, and recreational values and resources of the area."

In recommending approval of the City's application, BLM's District Manager made several findings required under the Recreation and Public Purposes Act (item V.B. in Environmental Assessment/Land Report):

(1) The lands have been found to be suitable for recreation and public purposes.

(2) The land is not of national significance and not essential to any Bureau of Land Management program.

(3) The proposed use will have no known significant effect on the human and national environment.

(4) Patenting the above described lands will serve the public interest.

(5) The [City's] land use plan is proposed for amendment to allow for the proposed use.

The approval recommendation also includes a patent reservation and stipulations for use of the property to be transferred to the City. A right-of-way across the property will be reserved by the federal government for access and utilities to the retained property to be managed by the Coast Guard. Two stipulations would be binding upon the City:

(1) Waterbars, outsloping and rock barriers should be used, where appropriate, to reduce erosion, runoff and trail maintenance.

(2) After the vegetation is removed and prior to any construction [primarily trails and vista points], those areas not previously surveyed for cultural values shall be surveyed by a qualified archaeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the Authorized Officer at 555 Leslie Street, Ukiah, California 95482. The holder shall not disturb such resources except as may be subsequently authorized by the Authorized Officer. The Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect cultural resources discovered.

The patent reservation and the stipulations would be part of BLM's patent deed to the City, and are considered to be part of BLM's project for the purposes of the Commission's federal consistency review. The patent deed would also include a reversionary clause, stating that the property would revert to the U.S. government if the grantee (City) did not use the property for its approved and intended use, tried to transfer title to another party, or otherwise violates the conveyance agreement. Any subdivision of the property would constitute a significant change in the project for purposes of the Commission's consistency review.

The City's development plan proposes non-intensive recreational use of the Head, including hiking, viewing, picnicking, and associated day-use activities. The plan calls for new foot trails, to be constructed as much as possible along natural contours to avoid soil and vegetation disturbance. Picnic areas and observation points would be sited in level areas where opportunities for observing scenic and biological resources are maximized (Exhibit 3). Only Coast Guard vehicles would be allowed on the parcel. Public parking would be available on an adjacent parcel north of the Head. Local citizen groups and local government agencies will develop and maintain the proposed improvements, scheduled to be completed in 1985.

It is important to precisely identify the project that is the subject of the Commission's federal consistency review in this instance. BLM's consistency determination addresses both the proposed transfer of federal property and the specific development plan proposed by the City. This is because federal regulations require the preparation of a development plan by the grantee as a condition of transfer. BLM must approve the plan and monitor its implementation; failure to carry out the approved plan can cause title to revert to the federal government. However, the Commission should only review BLM's consistency determination as it concerns the proposed transfer of federal property to a particular party (the City of Trinidad) for a particular use (low-intensity recreational use). This is what is meant by "the project" in the following description and recommended findings. The City, not BLM, will administer and manage the property after the transfer. The City's development plan, while necessary to obtaining title from the federal government, is more fittingly reviewed for conformity with the Coastal Act in the coastal permit process, either at the same time or following Commission review of BLM's consistency determination.

B. Site Description. Trinidad Head is a rocky headland near the City of Trinidad, about 17 miles north of Eureka in Humboldt County (Exhibit 1). The shoreline in this portion of the County is magnificent, including rocky points, offshore rocks, sea stacks and islands, narrow rocky beaches on rock reefs, and small sand and gravel pocket beaches below high bluffs. The shoreline is generally accessible only by steep and occasionally hazardous trails. The Head is immediately southwest of Trinidad, an incorporated city with a population of about 380 (Exhibit 2). The local economy is based on timber, fishing, and tourism. Trinidad harbor and pier, east of the Head, attracts a sizeable number of commercial and recreational fishermen during the salmon season (May through July). Several nearby parks provide recreation opportunities for residents and visitors, including Patricks Point State Park (6 miles north), Little River State Beach (4 miles south), and Trinidad State Beach (only about ½ mile north of the Head).

Trinidad Head itself is connected to the mainland by a neck of land. A gravel road provides access for the U.S. Coast Guard Station on the southern end of the Head (Exhibit 3). The Coast Guard maintains a fog horn, light beacon, staff housing, and radio antennas on the Head. A cable TV antenna is also located on the Head. Most of the Head is covered in dense vegetation, including coyote brush, California blackberry, ceanothus, brush monkey flower, cow parsnip, and salal. The dense brush provides habitat for foxes, raccoons, skunks, rabbits, rodents, salamanders, and reptiles. The Head is also a good viewing point to watch marine mammals such as California and Stellar sea lions, elephant seals, and gray whales during their migration. Consultation with local Indians, the Yuroks, reveals that the Head is and was of cultural significance, although a limited archaeological survey did not find any cultural resources.

C. Federal Consistency Determination. The Bureau of Land Management has prepared a consistency determination for the proposed transfer of federal land to the City for non-intensive recreational use (March 16, 1983, letter from BLM Area Manager John W. Lahr to Richard Rayburn). Federal regulations identify acquisition, utilization, or disposal of land or water resources as a federal development project, for which a consistency determination must be prepared (15 CFR 930.31(b), emphasis added). BLM's consistency determination addresses both the action transferring federal land and the City's development plan for the property. Strictly speaking, the Commission is reviewing at this time only the proposed transfer action, including the receiving agency and the proposed use, with regard to consistency with California's coastal management program. The City's development plan can then be reviewed as a coastal development permit application.

The consistency determination states that the project is consistent with the access and recreation policies of the Coastal Act. It states that the project will have no effect on marine resources or environmentally sensitive habitat. It notes that the project is consistent with Section 30250 regarding new development, since no buildings are proposed and the recreational use has priority under the Coastal Act. It states that views of the harbor, ocean, and shoreline will be enhanced by the project. It concludes that the project is fully consistent with the California coastal management program (including the certified LCP for most of the adjacent City of Trinidad).

II. Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

The Commission hereby concurs with the consistency determination made by the Bureau of Land Management for this project, that the proposed transfer of federal land (including the proposed grantee and use) is consistent to the maximum extent practicable with the California Coastal Management Program.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Public Access. The primary access points in the Trinidad area are at Trinidad State Beach to the north, Trinidad harbor and pier, Indian Beach east of the pier along the Trinidad Bay shore, and a small beach north of Bay Street. A trail system in the City links the harbor and bluff areas to several vertical access trails further south of Trinidad. The harbor area is heavily used by fishermen in the summer season. The transfer of land to the City for recreational use will increase public access to a highly scenic coastal headland and will represent a major expansion of access opportunities in this area. Several Coastal Act policies address access. Section 30210 states that maximum public access to the sea must be provided. Section 30211 prevents new development from interfering with existing public accessways. Section 30212 requires that access to and along the coast be provided in new development projects. Because of the project's emphasis on providing new access, it is consistent with these sections. Access at Trinidad Head should emphasize trails and view points rather than shoreline access, due to the steep terrain, heavy vegetation, and related public safety and erosion considerations.

Visitor parking for the project could be inadequate, depending on the level of use by the public. Two privately-owned parking areas are now available in the site vicinity -- along Bay Street (about 60 cars) and northwest of Bay Street (about 40 cars). The first area is sometimes full during the summer months, due to the influx of fishermen. Cars and boat trailers congest the parking area and local streets. The second area is further from the harbor area but is used by beachgoers to some extent. Section 30212.5 encourages parking and other public facilities to be distributed throughout an area to avoid impacts of overcrowding and overuse. Policy 56 of the certified City of Trinidad LCP reserves a portion of the second parking area for non-harbor users. This would be the primary parking area for project users, since steep slopes, heavy vegetation, and visual constraints would preclude the development of any significant on-site parking. A coastal trail northeast and southeast of the Head is designated in the City's LCP. To the southeast, an existing trail follows the shoreline to Parker Creek; to the northeast, the trail system is being extended to the College Cove area of Trinidad State Beach. These trails would provide visitors an alternative to nearby parking. Demand for parking will depend on the project's popularity and improvements. However, at nearby Trinidad State Beach, the 90-car lot is usually less than half-full in the summer. Parking for the project should be adequate, given the low-intensity recreational uses proposed and the above-noted LCP provisions. Specific demand projections and provisions for parking should be part of the City's coastal development permit application.

B. Recreation. There are several existing recreational facilities in the Trinidad Area. Patricks Point State Park is 6 miles north, Little River State Beach is 4 miles South, and Trinidad State Beach is about ½ mile north of Trinidad Head. Trinidad harbor, including a fishing pier, parking area, bait shop, restaurant, and boat launch facility, is located immediately north-east of the project. Section 30213 of the Coastal Act promotes lower-cost visitor and recreational facilities. Section 30221 gives priority to recreational uses on oceanfront land, unless already provided for in the area. The project is intended to provide new recreational opportunities at Trinidad Head, including trails, vista points, and picnic areas. Given this overall intent, the project is consistent with Sections 30213 and 30221.

C. Marine Resources. The shoreline in the vicinity of Trinidad is very rugged, and includes rocky points, offshore rocks, sea stacks and islands, narrow rocky beaches, rock reefs, and small sand or gravel beaches below high bluffs. Offshore rocks provide nesting areas for birds, and the rocky beaches are noted for prolific tidepool communities of significant scientific value. The sea stacks serve as haul-out areas for California and Stellar sea lions. Harbor seals, elephant seals, and gray whales can be observed from the Head. The project will not interfere with these valuable marine resources, and is thus consistent with Section 30230 and 30233 of the Coastal Act.

Section 30231 requires that developments maintain biological productivity and water quality. Trail construction and other improvements have the potential to increase erosion rates. To minimize potential erosion effects, BLM will stipulate, in its conveyance of the property, that erosion control measures are to be used in constructing project improvements. Given this mitigation measure and the low intensity of use proposed, the project is consistent with Section 30231.

D. Environmentally Sensitive Habitat Areas. Vegetation on Trinidad Head belongs to the north coastal scrub community. Commonly found plants include coyote brush, California blackberry, ceanothus, and brush monkey flower. The dense brush on the Head provides habitat for foxes, raccoons, skunks, rabbits, other rodents, salamanders, and reptiles. BLM's environmental assessment notes two potentially rare plant species -- black crowberry (Empetrum hermaphroditum) and bird rock goldfields (Lasthenia minor, ssp. maritima) could occur on the site, but have not been identified. Black crowberry is listed as "rare" by the Native Plant Society but is not on any state or federal species list. The second plant was recently removed from all plant species lists due to its wide range. Section 30240 of the Coastal Act protects sensitive habitat areas against any significant disruption of habitat value. Because no environmentally sensitive habitat has been identified on the project site and because the project will have minimal effects on site habitat, the project is consistent with Section 30240.

E. New Development. Trinidad Head borders Trinidad's city limits. The City provides water service in and adjacent to its incorporated area, although it usually makes annexation a condition of providing service. On-site septic systems are the prevalent method of wastewater disposal. Water, electricity, and phone lines connect the Coast Guard facility on Trinidad Head to the town.

Vehicular access is along a gravelled road branching off Bay Street. The City has stated its intention to annex the Head if BLM transfers the property.

Both the City's LCP and the Trinidad Area segment of Humboldt County's LCP propose recreational use for the Head if it is no longer needed by the federal government. Policy 66 of the City's General Plan states: "The portion of Trinidad Head not needed by the Coast Guard should be transferred to the City of Trinidad. The area should be kept in its natural state with hiking trails and vista points. Public vehicular access should only be allowed as far as the existing harbor overlook." The public recreation and access policies of the County LCP segment provide similar guidance.

Section 30250 of the Coastal Act requires new residential, commercial, or industrial development to be located in or near existing developed areas or in areas with adequate public services if it will have no adverse effects on coastal resources. The proposed project is a recreational and open space use and thus is not subject to the above requirement of Section 30250. Adequate public services are available to serve the project, and it is consistent with the provisions of both LCPs that have a bearing on the property.

F. Archeological Resources. Trinidad Head is within the territory of the Coast Yurok Indians, and was and is of cultural significance. The Head was used for spiritual purposes and as a burial ground for the old people. The peninsula itself supported a village called Tsurai, which means "Mountains by the Sea". The Head is not currently used for traditional purposes, however. Archeological surveys on the Head in 1976 and 1982 did not reveal any archeological resources or sites. However, only about 20% of the site was surveyed, due to the dense underbrush away from the existing roads and paths. It is possible that such resources could be encountered during construction of improvements such as trails and picnic areas.

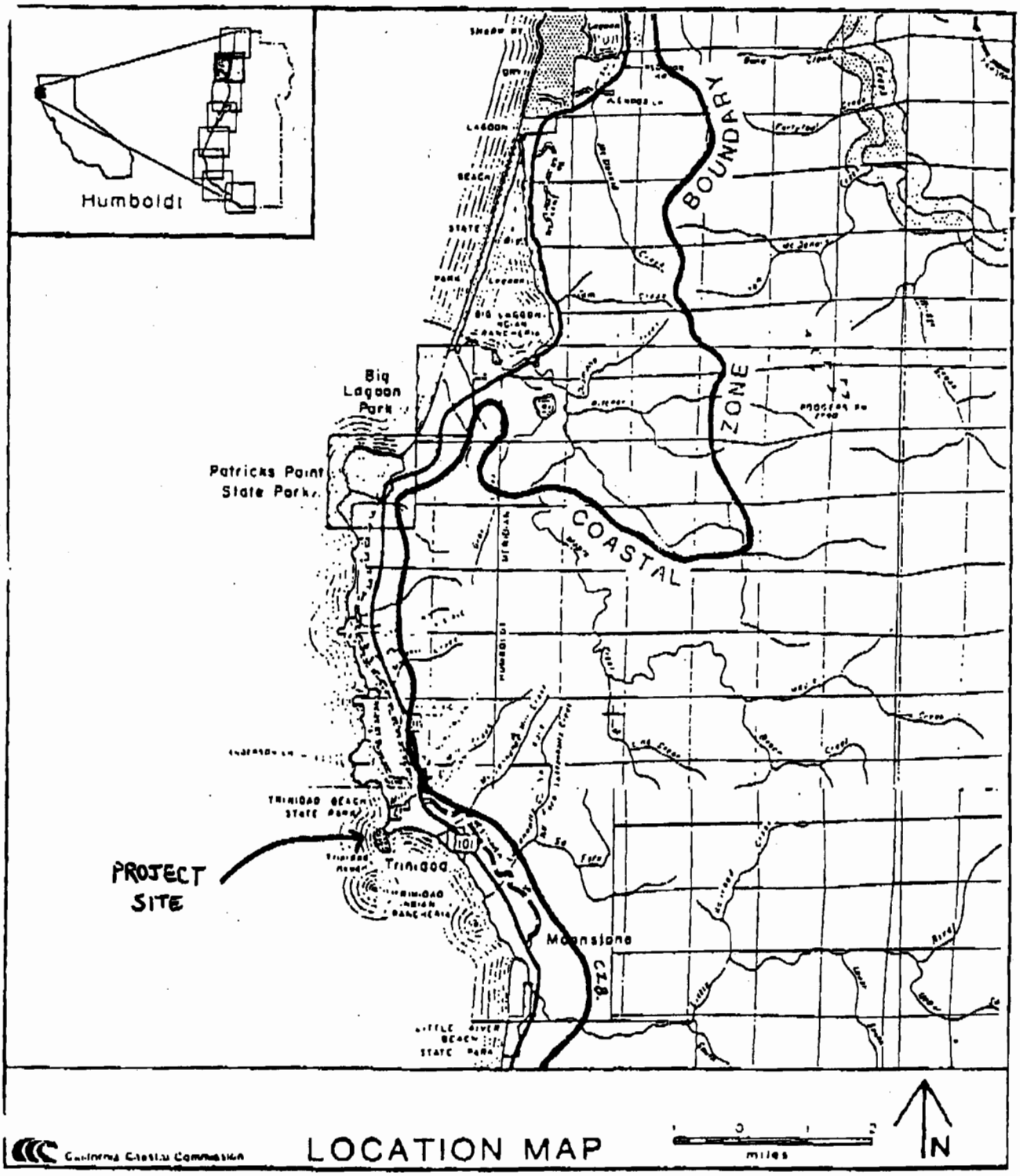
Section 30244 of the Coastal Act states that reasonable mitigation measures shall be required where development would adversely impact archeological or paleontological resources. BLM will include a stipulation in its patent deed to the City to address the possibility of encountering archeological resources during construction. It provides that unsurveyed areas shall be surveyed by a qualified archeologist after vegetation removal and prior to construction. If cultural resources are found during the survey or during construction, a qualified BLM official will evaluate these resources and require mitigation measures to protect them, if necessary. With this mitigation measure, the project is consistent with Section 30244.

G. Visual Resources. The visual setting in Trinidad includes rugged coastal headlands and islands, beaches and surf, the vast expanse of ocean, the small harbor with fishermen unloading their catch, and homes climbing up the hillside. Low-density residential development patterns preserve a small town character. Trinidad Head is prominent in the view from town, the harbor, and coastal trails. Conversely, the Head affords an excellent view back at the harbor, ocean, and the rocky shoreline. From the Head, sightseers can observe marine resources, including seals, whales, shorebirds, and other wildlife. Project improvements for low-intensity recreation, such as trails, picnic areas, and vista areas, will have little or no visual impact.

Section 30251 of the Coastal Act protects the scenic and visual qualities of coastal areas, requiring that new development be sited to protect ocean and coastal views. Because of the low intensity of the project and the heavy undergrowth on the Head, project improvements such as trails and vista points can be designed to be unobtrusive and thus consistent with Section 30251. The project will enhance and augment public views of this highly-scenic coastal area, by providing new vista points and improving access to the Head.

IV. Exhibits

1. Location Map
2. Project Vicinity
3. City of Trinidad Development Plan



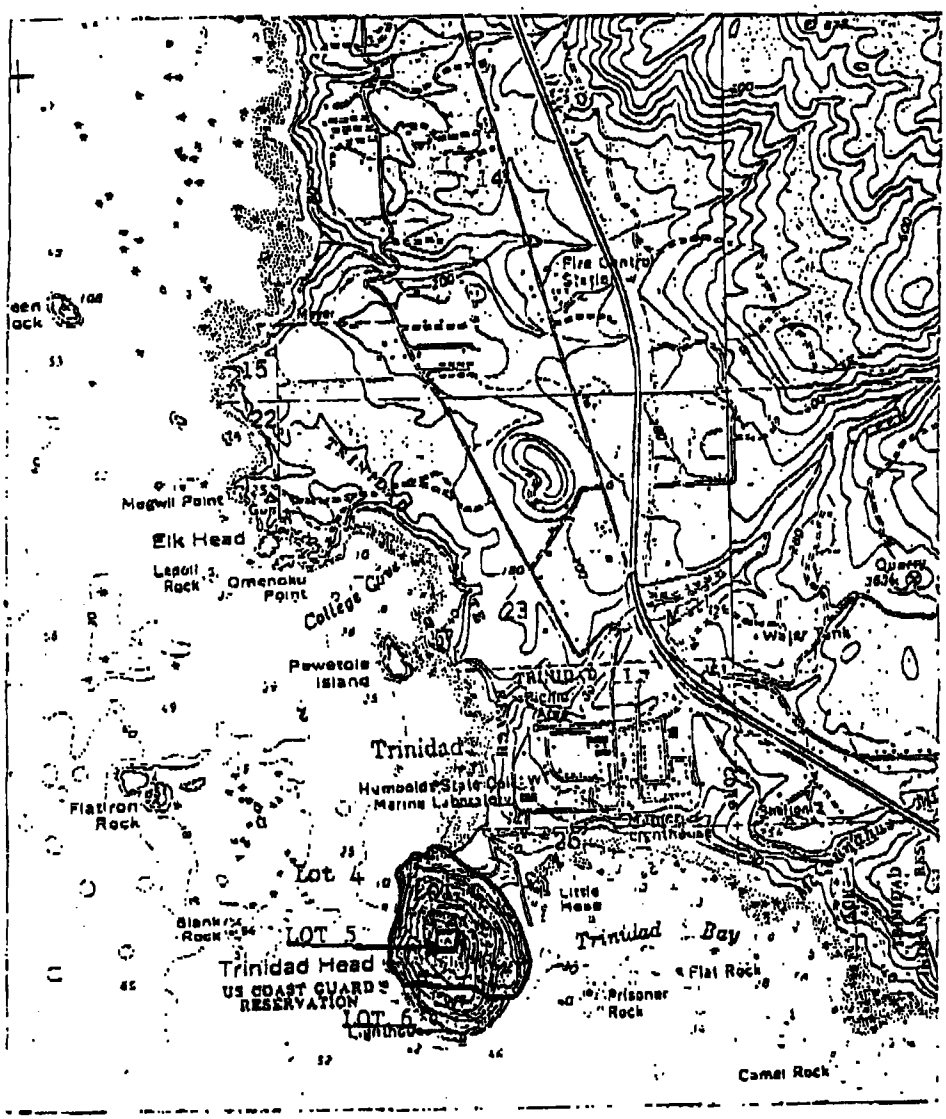
California Coastal Commission

County of Humboldt

Sheet 2 of 8

EXHIBIT 1

28435



Lot 4 To be transferred to City
Lot 5 Retained for Coast Guard (radio antenna)
Lot 6 Retained for Coast Guard (foghorn, light, housing)

EXHIBIT 2
PROJECT VICINITY

29435

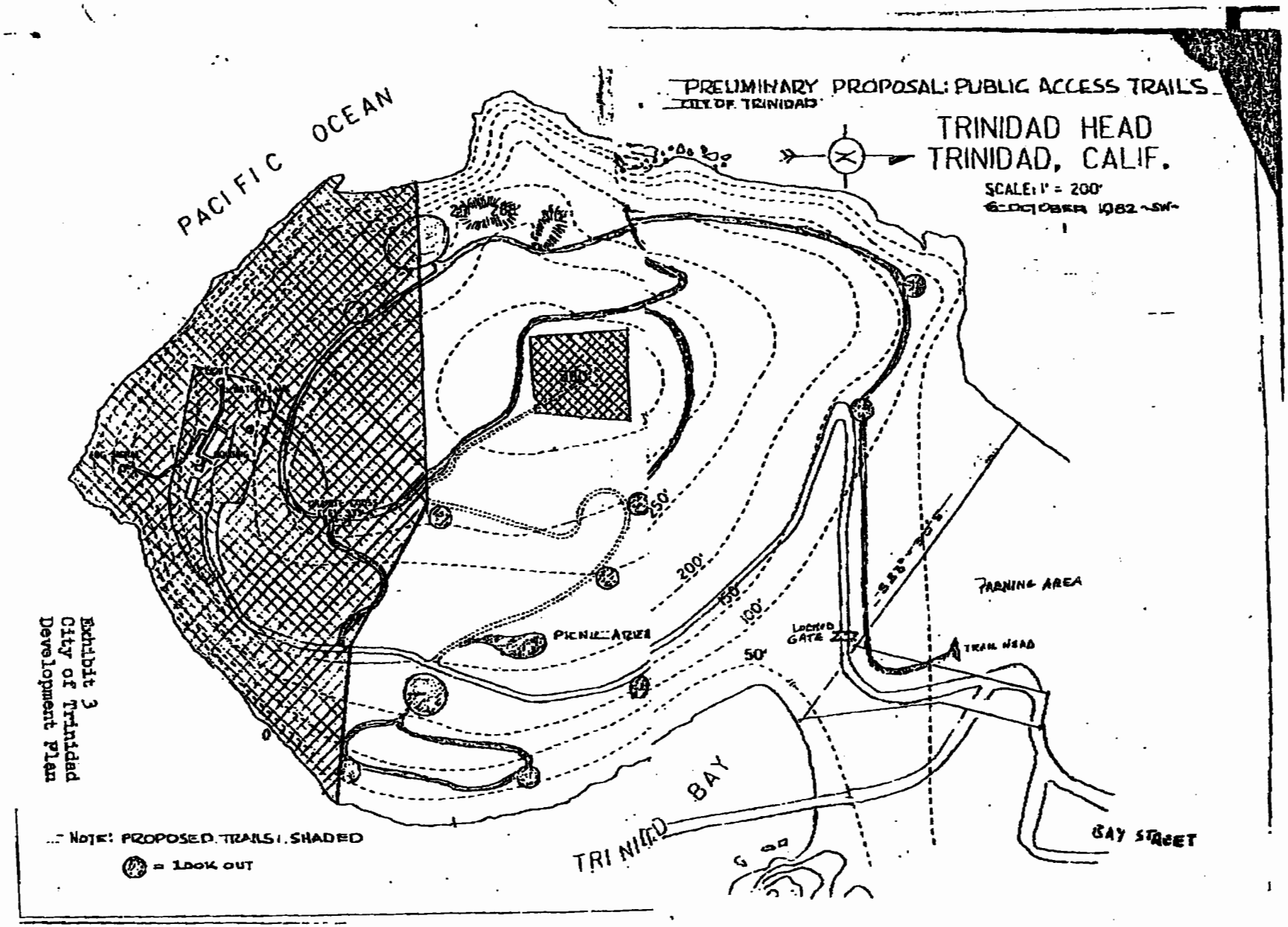


Exhibit 3
City of Trinidad
Development Plan

Aldaron Laird
Environmental Planner
www.riverplanner.com

September 14th, 2006

Mayor Heyenga
Council Members Bowman, Chi-Wei Lin, Cuthbertson, and Marlow
City of Trinidad
409 Trinity Street
Trinidad, CA 95570

Dear Mayor and City Council Members,

My name is Aldaron Laird; I am an environmental planning consultant, and a Planning Commissioner with the City of Arcata. I am here tonight representing the Friends of Trinidad Head (Friends) in the matter of their appeal of the City of Trinidad's Planning Commission June 21st 2006 decision to approve US Cellular's application for a Conditional Use Permit and Coastal Development Permit (CUP and CDP) (No. 2005-13a).

I will focus my comments on the Planning Commission's failure to comply with: the California Environmental Quality Act (CEQA), and Trinidad's Local Coastal Program when they approved US Cellular's project.

California Environmental Quality Act

According to the City's Staff Reports the Planning Commission made its determination that this project, pursuant to the CEQA, was exempt as per §15301 of the California Code of Regulations (Guidelines) "Class 1-Existing Facilities." The state legislature charged California's Resources Agency with identifying classes of activities that were not likely to cause significant adverse physical changes to the environment which would be "Categorically Exempt" (CE) from further environmental review under CEQA (PRC § 21080 (b)(9), and § 21084 (a)). However, it is important to note that the Legislature recognized that these classes of environmentally benign activities could result in significant environmental damage when such projects are located in areas of critical concern, or result in cumulative effects; that is why there are exceptions to the use of a CE (PRC § 21084(b), § 21084.1, and Guidelines § 15300.2). Areas of critical concern can be scenic coastal resources, historical resources (PRC § 21084 (e)), or cultural resources. A recent court case, germane to the Planning Commission's use of a CE and this appeal, found that "*mitigation measures developed in the course of an environmental review pursuant to CEQA may support a negative declaration but are premature if proposed to support a CE*" (Salmon Protection & Watershed Network v. County of Marin (2004) 125 Cal.App.4th 343). I intend to show that the Planning Commission's finding that a CE applied in this case is contrary to the evidence in the administrative record, not just because it failed to consider the entire range of exceptions to the use of a CE, but because it also relied on mitigation measures to determine that the project is CE.

Trinidad Head is: a renowned scenic coastal area, a state designated historical landmark (No. 146), listed in California's register of historic resources, and an important cultural resource to the Yurok

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aldaronlaird@riverplanner.com

31435

people as well as the people living on the north coast today. One consequence of the Planning Commission approving the proposed development, the sixth (1997, 1999, 2000, 2001, 2002, and 2006), is that the cumulative effect of expanding the number of structures over time has reached a level which degrades the public's ability to use and enjoy Trinidad Head, an area with significant scenic, historical, and cultural resources. The legislature was clear in its intent regarding using C.E. "*No project which may result in damage to scenic resources*"... "*shall be exempted*" (PRC § 21084 (b)).

On June 21st, the Planning Commission erred when it approved the US Cellular project because it used a form of environmental impact analysis to generate the proposed mitigation measures which was developed outside the procedures described in the CEQA. Addressing this very issue, the courts have held that "*an agency should not be permitted to evade standards governing the preparation of a mitigated negative declaration by evaluating proposed mitigation measures in connection with the significant effect exception to a categorical exemption*" (Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165). In support of the Friends' appeal, the Planning Commission's findings actually rely on future actions by the City Council to reverse the significant cumulative effects it identifies as a consequence of its approval of US Cellular's project. Again, the courts have held that "*An activity that may have a significant effect on the environment cannot be Categorically Exempt*" (Mountain Lion Foundation v. Fish & Game Com. (1997) 16 Cal.4th 105). Also the Guidelines state that a CE shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (§15300.2 (c)), in this case the fact that the project is located on Trinidad Head, an area of critical concern, and because the proposed use and structures are non-conforming in the City's Coastal Open Space Zone. It is undisputed that the project is located in an area of critical concern by way of Trinidad Head's multiple designations; the only question is whether the project "may impact" this environmental resource or the public's use and enjoyment of these resources. The court has held in regards to using a CE that "*it is the possibility of a significant effect...which is at issue, not a determination of the actual effect, which would be the subject of a negative declaration or an EIR*" (Azusa, supra).

The Appeal Staff Report, as do the Friends prior testimony, correctly identify that cumulative impacts from the proposed project are an issue which, as one of the legislature's exceptions, prohibit the use of a CE. While the Staff Report focused on cumulative impacts as a consequence of whether the developed footprint is being increased, the Friends instead focused on the additive impacts of six developments that expanded the use at this site to the scenic, coastal, historical, and cultural setting of Trinidad Head. In fact, the Planning Commission's decision contains several recommendations to the City Council that supports the Friends position that the cellular facilities' lease should not be renewed and that all of the facilities should be removed including the structures just approved. Culminating with the Planning Commission's recent approval, all of the developments at this site have expanded the number of structures and the intensity of use causing a significant cumulative impact to the scenic, coastal, historical, or cultural setting of Trinidad Head. This fact should have precluded the Planning Commission from using a CE (Guidelines § 15300.2(b)).

The facts that I have presented to you are sufficient to conclude that because the Planning Commission failed to consider and make express findings on exceptions prohibiting the use of a CE, the City Council should either overturn the Planning Commission's decision or remand the

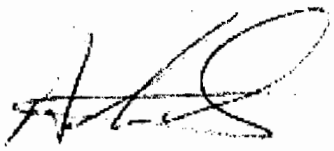
project back to the Planning Commission so that the City can prepare appropriate environmental documents that fully disclose the effects of the project and comply with the CEQA before reaching a decision on whether to approve the proposed project.

Local Coastal Program Consistency; General Plan-Zoning Ordinance.

During its review of the US Cellular project, the Planning Commission should have focused on the facts that the proposed project is not consistent with City General Plan Policy 66 "*Trinidad Head will be kept in its natural state with hiking trails and vista points*" and that the proposed use conflicts with the primary purpose of the City's Coastal Open Space Zone to "*maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources*." The City of Trinidad allows lawful uses that pre-date the application of its Zoning Ordinance, or in the case of this project pre-date annexation, to continue although such use or structures do not conform to the regulations applied to such property, provided that certain exceptions do not apply (Ch. 17 § 64.010). However, the applicable exception only authorizes the alteration, repair, or extension of structures that conform as to use as long as the existing degree of non-conformity is not increased (Ch. 17. § 64.010(B)). US Cellular proposes to put in place two new antennas, construct a concrete pad, and install new equipment buildings; these proposed actions will increase the number of structures that do not conform as to use in the City's Coastal Open Space Zone. The Planning Commission's approval of US Cellular to install additional structures that do not conform to use in the Coastal Open Space Zone would therefore expand the degree of non-conformity at this site.

The facts that I have presented are sufficient to find that, because the Planning Commission failed to adequately evaluate the increase in the degree of non-conformity, its approval of US Cellular's project is not consistent with the City's Local Coastal Program including the Zoning Ordinance and General Plan. The City Council should overturn the Planning Commission's June 21st decision to approve US Cellular's project.

Sincerely,



Aldaron Laird

cc: Friends of Trinidad Head

CITY of TRINIDAD

MEMORANDUM

TO: Trinidad City Council

FROM: Trever Parker, City Planner

DATE: June 23, 2006

RE: Planning Commission Decision on US Cellular Application

US Cellular 2005-13a: FINAL PLANNING COMMISSION ACTION

Based on application materials, information and findings included in this Staff Report, and with the additional finding, based on public testimony, that any additional cellular equipment on Trinidad Head, beyond this project, will interfere with the primary purposes of the open space and public recreation, the motion was made to adopt the information and findings in this staff report and approve the project as submitted and as conditioned below. This motion was approved 4-1.

As part of their motion, the Planning Commission made a strong recommendation to the City Council to follow through with the following:

1. That this project only be allowed only until the term of the primary lease has ended;
2. That a moratorium be placed on the construction or placement of any new cellular equipment or facilities on Trinidad Head;
3. That the City Council consider developing a management plan for Trinidad Head, possibly to be included in a General Plan update;
4. To not renew the primary lease when it runs out and have the cellular facilities removed at that time;
5. Between now and the termination of the lease, work with the community and cellular providers to locate an alternative location for cellular facilities within Trinidad.

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*

2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and

expiring thereafter if construction has not been started, unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk prior to building permits being issued.*

3. Recommended conditions of the City Building Official shall be required to be met as part of the building permit application submittal. *Responsibility: Building Official prior to building permits being issued.*

4. If any equipment installed as part of this project becomes unserviceable or unused, it must be removed at the applicant's expense. *Responsibility: City Planner or Building Inspector to enforce should conditions warrant.*

6. Erosion control measures shall be taken during and after construction to minimize soil loss and runoff. *Responsibility: Building Official to confirm during inspection(s)*

7. The applicant shall design the equipment building and any other noise generating sources so that noise levels are not above pre-project ambient noise levels as measured at the southern boundary of the existing Cal-North Cellular site. *Responsibility: City Planner to verify after site is in operation and periodically as necessary.*

8. Construction shall not occur until after the City receives verification from BLM that the existing communications site, and therefore this project, is consistent with the land transfer agreement for Trinidad Head or until after 90 days from the date of the end of the appeal period if the City has not gotten a response from BLM. *Responsibility: Building Official prior to building permits being issued.*

6-11-97

STAFF REPORT

APPLICATION #: 7-1996/97

APPLICANT: Cal-North Cellular

AGENT: Thomas McMurray

PROPERTY OWNER: City of Trinidad

EXHIBIT NO. 8
APPLICATION NO.
A-1-TRN-06-042
U.S. CELLULAR CORP.
PRECEDING CITY OF TRINIDAD COASTAL DEVELOPMENT PERMITS FOR TRINIDAD HEAD TELECOM-MUNICATION FACILITIES (1 of 31)

PROJECT DESCRIPTION:

Use Permit and Design Review for placement of an approximate 41' high pole directly adjacent to the existing 21' pole and repair the existing equipment building. In addition to the new pole a 4' dish antennae will be installed at the same elevation as the existing 12' diameter dish facing in the direction of the McKinleyville Airport. Whip antennas will be placed on top of the pole.

PROJECT LOCATION: Trinidad Head

ASSESSOR'S PARCEL NUMBER: 42-121-21

ZONING: OS (Open Space)

GENERAL PLAN DESIGNATION: OS (Open Space)

ENVIRONMENTAL REVIEW: Categorically exempt from CEQA per Section 15301(b) of the CEQA Guidelines exempting additions to existing facilities.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk within that time. Furthermore, this project _X_ *is* ___ *is not* appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

DATE: June 11, 1997

SITE CHARACTERISTICS:

Trinidad Head is zoned OS - Open Space with a variety of roads, trails, utility lines and the adjacent Coast Guard Station. Other improvements include existing communication facility sites.

STAFF COMMENTS:

Because the project location is within the Coastal Zone, Design Review and View Protection Findings need to be made per Section 17.071 of the Zoning Ordinance. Section 17.16.030(e) allows structures accessory to uses and buildings existing within the Open Space zone at the time the Zoning Ordinance was codified with approval of a use permit.

#3

The applicant submitted application information and site plans on May 20, 1997, describing the proposed project as well as the existing improvements.

Other improvements in the area besides the existing 12' wide microwave dish and equipment building include existing down guylines and an 8' square diameter concrete path. In addition, there are utility poles running across this area, a metal "guyed" tower with an antenna to the north of the proposed project and weather station equipment to the west of the proposed project site. Access to the site is via a 12'-16' wide gravel road terminating at the metal tower.

The applicant has indicated that he will put a mock representation of tower, weather permitting, on Monday prior to the Planning Commission hearing. It is recommended the Planning Commission view this representation from various points in the City.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approvement of a project. The following findings, as may be revised, are required in order to approve this project:

A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.

B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:

   1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

   2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

   3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

   4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs; and

C That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.

D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.

E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:

1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses;

2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast;

3. The development is compatible with the established physical scale of the area;

4. The development does not significantly alter existing natural landform;

5. The development complies with shoreline erosion and geologic setback requirements. (Ord. 166 §7.09, 1979).

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following statements can be used to make the necessary findings per the worksheet handed out to the Commission:

Design Criteria

A. Only minimal, if any, grading is required.

B. The proposed project is adjacent to an area zoned Open Space but is constructed of materials that reproduce natural colors and textures as closely as possible.

C. Materials and colors used in construction are compatible with both the structural system of the building and the building's natural and man-made surroundings.

D. No plant materials have been proposed as part of this project but none are found to be necessary to screen or soften the visual impact of the new development or provide diversity in developed area.

E. No signs are proposed as part of the project.

F. The proposed project does not require change in electrical service.

G. No signs are proposed as part of the project.

H. The project can be found in terms of the scale, bulk, orientation, architectural character of the structure and related improvements to be compatible with the rural, rustic, uncrowded, unsophisticated, small, casual, open character of the community.

View Protection

A. The structure is visible from Trinidad Head and but has been proposed as visually unobtrusive as possible. Because of the existing structures, the location of the project does not result in significant changes to those viewpoints.

B., C. The project does not obstruct views of the Harbor, Little Trinidad Head, Trinidad Head, or the ocean from public roads, trails or vista points. Views from affected residences have been determined not to be significantly blocked by the project.

3 of 31

D. Previous residence - Not applicable.

E. The project is not located within 100' of the Tsurai Study Area or other historic resources. The addition is minor and public views of those features are not obstructed and the development does not crowd any historic resources or reduce their distinctiveness or subject them to abusive hazards.

STAFF RECOMMENDATION:

The project is consistent with the City's Zoning Ordinance and General Plan and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Use Permit and Design Review/View Protection Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application material, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings and approve the project as submitted.

4-31

Filed:	December 18, 2001
Staff:	Trever Parker
Staff Report:	January 7, 2002
Hearing Date:	January 16, 2002
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2001-15
APPLICANT (S):	Cal North Cellular
AGENT:	N/A
PROJECT LOCATION:	Trinidad Head Trinidad, CA 95570
PROJECT DESCRIPTION:	Design Review, Coastal Development Permit and Conditional Use Permit to install three panel antennas (each 1' x 4.5' x 0.5') 38' high on an existing communication pole and to place a concrete slab outside the existing building for a transmitter cabinet.
ASSESSOR'S PARCEL NUMBER:	042-121-05
ZONING:	UR-Urban Residential
GENERAL PLAN DESIGNATION:	UR- Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15301 of the CEQA Guidelines exempting minor alteration of existing facilities and 15303 exempting new construction of small structures.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project _X_ is ___is not appealable to the Coastal nmission per the requirements of Section 30603 of the Coastal Act.

5 of 31

SITE CHARACTERISTICS:

Trinidad Head is zoned OS - Open Space with a variety of roads, trails, utility lines and the adjacent Coast Guard Station. Other improvements include the existing communication facility sites. The communication facility is located on City property and was developed by Cal-North in 1997, and further in 2000. There is currently a 41' pole and a 21' pole, a small equipment shed and two transmitter cabinets. There is also a 6' fence, topped with barbed wire, with two separate gates, that surrounds the site.

The lease agreement, between the City and Cal North Cellular, allows Cal North to add improvements to the facility that are necessary for the permitted uses of the site (Section 5.05(a) – Improvements). However, the applicant still needs written approval from City Council and any other necessary City approvals, in this case a Conditional Use Permit and Design Review. The City Council was to review this project at their meeting on January 9, 2002.

STAFF COMMENTS:

The three antennas are 1' x 4.5' x 0.5' in dimension and will be located at 38' in height on the existing 45' pole. The panels will be oriented vertically and will be fastened directly to the pole. A Radio Frequency Study was completed for the project by Hammett and Edison, Inc. that determined that the facility, including proposed improvements, is in compliance with the Federal Communication Commission regulations. The applicant has provided photos showing a mock representation of the new antennas on the existing pole. The new cabinet will be within in the fencing and not visible from most viewpoints. Approvals in 2000 included a condition of approval that the applicant must provide landscaping to screen the site. This was never completed, so it has been included as a condition of approval for this project.

ZONING ORDINANCE/GENERAL PLAN CONSISTANCY:

Because the project location is within the Coastal Zone, Design Review and View Protection Findings need to be made per Section 17.071 of the Zoning Ordinance. Section 17.16.030(e) allows structures accessory to uses and buildings existing within the Open Space zone at the time the Zoning Ordinance was codified with approval of a use permit. #3

The General Plan Policy 17 encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. The project is located on an existing site and does not include any expansion beyond the area that has previously been cleared and fenced. Policy 66 states that "Trinidad Head will be kept in its natural state with hiking trails and vista points. Although this project is not consistent with this policy, the site already exists, the lease agreement allows for improvements, as stated above, and the alterations are very minor in nature.

SLOPE STABILITY

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan.

6 of 31

:WAGE DISPOSAL

There is no sewage disposal associated with this project.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approval of a project. The following findings, as may be revised, are required in order to approve this project:

A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.

B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:

1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs; and

C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.

D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.

E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:

7931

1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses;

2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast;

3. The development is compatible with the established physical scale of the area;

4. The development does not significantly alter existing natural landform;

5. The development complies with shoreline erosion and geologic setback requirements. (Ord. 166 §7.09, 1979).

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following statements can be used to make the necessary findings per the worksheet handed out to the Commission:

Design Criteria

A. Only minimal, if any, grading is required.

B. The proposed project is within an area zoned Open Space but the improvements are minimal and are constructed of materials that reproduce natural colors and textures as closely as possible.

C. Materials and colors used in construction are compatible with both the structural system of the building and the building's natural and man-made surroundings.

D. No plant materials have been proposed as part of this project but native landscaping will be required as a condition of approval in order to screen and soften the visual impact of the project.

E. No signs are proposed as part of the project.

F. The proposed project does not require change in electrical service.

G. No signs are proposed as part of the project.

H. The project can be found in terms of the scale, bulk, orientation, architectural character of the structure and related improvements to be compatible with the rural, rustic, uncrowded, unsophisticated, small, casual, open character of the community.

View Protection

8431

A. The structure is visible from Trinidad Head but has been proposed as visually unobtrusive as possible. Because of the existing structures, the location of the project does not result in significant changes to those viewpoints.

B., C. The project does not obstruct views of the Harbor, Little Trinidad Head, Trinidad Head, or the ocean from public roads, trails or vista points. Views from affected residences have been determined not to be significantly blocked by the project.

D. Previous residence - Not applicable.

E. The project is not located within 100' of the Tsurai Study Area or other historic resources. The addition is minor and public views of those features are not obstructed and the development does not crowd any historic resources or reduce their distinctiveness or subject them to abusive hazards.

STAFF RECOMMENDATION:

The project is consistent with the City's Zoning Ordinance and General Plan and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Use Permit and Design Review/View Protection Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application material, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings and approve the project as submitted.

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. Responsibility: City Clerk prior to building permits being issued.

2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time. Responsibility: City Clerk prior to building permits being issued.

3. Recommended conditions of the City Building Official shall be required to be met as part of the building permit application submittal. Responsibility: Building Official prior to building permits being issued.

4. Applicant shall replace any displaced vegetation with native landscaping.

5. A landscape plan of native species must be submitted to the City Planner for approval prior to building permit being issued. Such landscape plan shall indicate screening of the Southern boundary of the project and indicate native species to the area, size and spacing and include a 2-year replacement/maintenance agreement

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Filed:	September 15, 2003
Staff:	Trever Parker
Staff Report:	October 1, 2003
Hearing Date:	October 15, 2003
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2003-05
APPLICANT (S):	Edge Wireless
AGENT:	N/A
PROJECT LOCATION:	Communications Site, Trinidad Head Trinidad, CA 95570
PROJECT DESCRIPTION:	Design Review, Coastal Development Permit and Conditional Use Permit to construct a new 5' x 6' concrete slab and a 4.5' x 2' x 6' tall equipment cabinet.
ASSESSOR'S PARCEL NUMBER:	042-121-05
ZONING:	OS – Open Space
GENERAL PLAN DESIGNATION:	OS – Open Space
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15301 of the CEQA Guidelines exempting minor alteration of existing facilities and 15303 exempting new construction of small structures.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project _X_ is ___is not appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

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SITE CHARACTERISTICS:

Trinidad Head is zoned OS - Open Space and is developed with a variety of roads, trails, utility lines a Coast Guard facility and weather station. Other improvements include the existing communication facility sites. The communication facility is located on City property and was developed by Cal-North in 1997, with additions in 2000 and 2001. There is currently a 41' pole and a 21' pole, a small equipment shed and two transmitter cabinets. There is also a 6' fence, topped with barbed wire, with two separate gates, that surrounds the site. Cal-North subleases the site to other communication companies (Sprint and Edge Wireless).

STAFF COMMENTS:

The lease agreement, between the City and Cal North Cellular allows Cal North (and sublessors), to add improvements to the facility that are necessary for the permitted uses of the site. However, the applicant still needs approval from City Council and any other necessary City approvals, in this case a Conditional Use Permit and Design Review. Edge wireless already has developed communication facilities at the site in the past, including another equipment cabinet and antennas on an existing pole.

The applicant has provided photos of the existing site and proposed cabinet. The new structure will be within in the fencing and generally not visible from any viewpoint. The City Engineer responded to a referral for this project that there were no engineering issues to address other than those already addressed in the project description. The Building Official commented that a building permit would be required for "wind exposure D" levels.

ZONING ORDINANCE/GENERAL PLAN CONSISTANCY:

The applicant is proposing to place a 5' x 6' concrete slab and to install a 4.5' x 2' by 6' tall equipment cabinet. The structures will be located within the southwest corner of the existing communications site on Trinidad Head. Because the project location is within the Open Space Zone, Design Review and View Protection Findings need to be made per Section 17.071 of the Zoning Ordinance and a Coastal Development Permit has to be issued. Section 17.16.030(e) allows development of structures accessory to uses and buildings existing within the Open Space zone at the time the Zoning Ordinance was codified with approval of a use permit; otherwise, new development is generally not allowed in the Open Space zone.

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The General Plan Policy 17 encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. The project is located on an existing site and does not include any expansion beyond the area that has previously been cleared and fenced. Policy 66 states that *"Trinidad Head will be kept in its natural state with hiking trails and vista points..."* Although this project is not wholly consistent with this policy, the site already exists, so improvements are allowed by the Zoning Ordinance (see above), the lease agreement also allows for improvements, and the site will not be enlarged or substantially altered.

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SLOPE STABILITY

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan.

SEWAGE DISPOSAL

There is no sewage disposal associated with this project.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approval of a project. The following findings, as may be revised, are required in order to approve this project:

A. *The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.* Response: The proposed equipment cabinet is consistent with existing development at the site, will not impact its surroundings and enhances its usefulness to the applicant.

B. *Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:*

1. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;* Response: The proposed structure will be enclosed within the existing communications site and will not impact its surroundings;

2. *The accessibility of the traffic patterns for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;* Response: The proposed development will not affect traffic or parking;

3. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;* Response: The proposed project will not involve any emissions;

4. *Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs;* Response: These issues, such as screening, have already been addressed as part of previous approvals; most are not applicable, such as parking.

C. *That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.* Response: As discussed above, under the "Zoning Ordinance / General Plan

Consistency section, the proposed development is consistent with the City's Zoning Ordinance and General Plan and therefore the Local Coastal Program.

D. *That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.* Response: Because of the minor nature of the proposed development and because the site is already developed, the project is exempt from the requirements of CEQA per sections 15301 and 15303 of the CEQA Guidelines.

E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:

1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.* Response: The proposed equipment cabinet will not affect public access or coastal uses because it will be contained within the existing fenced communication facility.

2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast.* Response: See View Protection finding B below.

3. *The development is compatible with the established physical scale of the area.* Response: See Design Review finding H.

4. *The development does not significantly alter existing natural landform;* Response: See design review finding A.

5. *The development complies with shoreline erosion and geologic setback requirements.* Response: The communications site is located on the interior portion of Trinidad Head where shoreline processes will not be impacted and geologic concerns are not known to exist.

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following statements can be used to make the necessary findings per the worksheet handed out to the Commission:

Design Criteria

A. *The alteration of natural landforms caused by cutting, filling, and grading shall be minimal Structures should be designed to fit the site rather than altering the landform to*

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accommodate the structure. Response: The site is already developed and generally flat, only minimal grading will be required for the proposed 5' x 6' concrete slab.

B. *Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.* Response: The project is within an area zoned open space. However the site is already fenced and screened as a result of past approvals; the cabinet will not be visible from offsite.

C. *Materials and colors used in construction shall be selected for the compatibility both with the structural system of the building and with the appearance of the building's natural and man-made surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided.* Response: The proposed equipment cabinet is consistent with the existing development within the communication site; the cabinet will not be visible from offsite.

D. *Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used.* Response: No landscaping is proposed as part of this project. However, it can be found to be unnecessary because the site has already been fenced, screened and landscaped as a result of past approvals.

E. *On-premise signs should be designed as an integral part of the structure and should complement or enhance the appearance of new development.* Response: No on-premise signs are associated with this project.

F. *New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials.* Response: The project is not a new development and will utilize the existing above ground utilities to the site.

G. *Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should be a single design theme.* Response: No off-premise signs are associated with this project.

H. *When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community.* Response: No new commercial or residential buildings are proposed.

View Protection

A. *Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.* Response: The proposed project is minor in comparison to the existing development and will be within a fenced and screened area so that it is as visually unobtrusive as possible.

accommodate the structure. Response: The site is already developed and generally flat, only minimal grading will be required for the proposed 5' x 6' concrete slab.

B. *Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.* Response: The project is within an area zoned open space. However the site is already fenced and screened as a result of past approvals; the cabinet will not be visible from offsite.

C. *Materials and colors used in construction shall be selected for the compatibility both with the structural system of the building and with the appearance of the building's natural and man-made surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided.* Response: The proposed equipment cabinet is consistent with the existing development within the communication site; the cabinet will not be visible from offsite.

D. *Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used.* Response: No landscaping is proposed as part of this project. However, it can be found to be unnecessary because the site has already been fenced, screened and landscaped as a result of past approvals.

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G. *Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should be a single design theme.* Response: No off-premise signs are associated with this project.

H. *When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community.* Response: No new commercial or residential buildings are proposed.

View Protection

A. *Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.* Response: The proposed project is minor in comparison to the existing development and will be within a fenced and screened area so that it is as visually unobtrusive as possible.

B. *Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection.* Response: The proposed development will be enclosed within the existing communications site and will not affect public viewsheds.

C. *The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility: and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction.* Response: The project is not on a vacant lot, nor is it within the SR or UR zones, nor is a residence proposed; this finding is not applicable.

D. *If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again signtficantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected.* Response: There was no residence that was destroyed by fire associated with this project.

E. *The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards.* Response: The proposed project is not within 100 feet of the Tsurai Study Area, Trinidad Cemetery, Holy Trinity Church or the Memorial Lighthouse.

STAFF RECOMMENDATION:

Based on the above analysis, the proposed project can be found to meet the Design Review / View Protection requirements, and sewage disposal requirements. Provisions of the Zoning Ordinance and General Plan can be met. If the Planning Commission agrees with staff's analysis, the proposed motion might be similar to the following:

Based on application material, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings in the staff report and approve the project as submitted.

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*

2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter if construction has not been started, unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk prior to building permits being issued.*

3. Recommended conditions of the City Building Official shall be required to be met as part of the building permit application submittal. *Responsibility: Building Official prior to building permits being issued.*

4. Applicant shall replace any displaced vegetation with native landscaping.

5. If any equipment installed as part of this project becomes unserviceable or unused, it must be removed at the applicant's expense.

Filed: November 15, 2005
Staff: Trever Parker
Staff Report: December 2, 2005
Hearing Date: December 14, 2005
Commission Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2005-13
APPLICANT (S):	US Cellular
AGENT:	Thomas McMurray
PROJECT LOCATION:	Trinidad Head Trinidad, CA 95570
PROJECT DESCRIPTION:	Design Review, Coastal Development Permit and Conditional Use Permit to establish a new, approximately 25' x 50' communication facility just to the north of the existing communications site. The site will include a 50' wooden pole with 2 sets of Cellular Panel Antennas, a 12' x 12' equipment shelter on a concrete slab all surrounded by a green vinyl slat 6' tall fence topped with barbed wire.
ASSESSOR'S PARCEL NUMBER:	042-121-05
ZONING:	OS – Open Space
GENERAL PLAN DESIGNATION:	OS – Open Space
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15303 of the CEQA Guidelines exempting new construction of small structures.

#5

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project **_X_ is** ___is not appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

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SITE CHARACTERISTICS:

Trinidad Head is zoned OS – Open Space with a variety of roads, trails, benches, signs and vista points. Other existing improvements include a communication facility, the Coast Guard Lighthouse and NOAA air monitoring sites. This project includes establishing a new communications site approximately 20' to the northwest of the existing Call North Cellular site. The existing communication facility was redeveloped by Cal-North in 1997, with additions in 2000 and 2001. Previously it had been some sort of cable television transmission site. There is currently a 41' pole and a 21' pole, a small equipment shed and two transmitter cabinets. There is also a 6' fence, topped with barbed wire, with two separate gates, that surrounds the site. Cal-North subleases the site to other communication companies (Sprint and Edge Wireless).The NOAA weather station site is located approximately 20' north of the proposed communication site and contains a trailer and several other structures and a variety of weather monitoring equipment. The site also appears to be utilized by other entities as well (i.e. Scripts Institute). The new site will be located adjacent to the existing access road. The project, as shown on the site plan will not require the removal of any trees in the vicinity, but some shrubs will have to be removed. Utilities will be provided underground from the existing pole across the road from the proposed site.

STAFF COMMENTS:

The City Council has approved the general concept of this project, and if approved by the Planning Commission, will enter in to a new lease outlining the terms of the use of the site. The applicant has provided a site plan and elevations detailing the proposed project. Referrals for this project were sent to the City Engineer, Building Official and Coastal Commission. The Engineer did not have any specific comments on the project at this level of review, but noted that he could respond to any specific concerns. The Building Official noted that a building permit would be required for the equipment shelter. The Coastal Commission has submitted a letter commenting on this project. They have concerns about cumulative impacts on aesthetics and coastal resources as well as past interpretations of the City's Local Coastal Plan (LCP). They acknowledge that some of the zoning ordinance provisions are open to some interpretation, so that this project could be allowable, but they urge the City to prepare an overall management plan for communication facilities on the Head prior to approving any more projects. Through this process it was noted that the weather monitoring facilities on the Head have been increasing without any notice to the City or consistency determination with the Coastal Commission, which is required through the Federal Coastal Zone Management Act. Coastal Commission staff have indicated that they will be writing letters to the appropriate federal agencies reminding them of their responsibilities.

Background

Trinidad Head was transferred to the City in 1983 from the Bureau of Land Management (BLM). That transfer included several commitments by the City. One was *"to develop and manage the lands for recreational purposes in accordance with the approved*

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program of utilization that includes (1) a plan of development, and (2) a plan of management." The City's development plan, according the BLM staff report *"proposes non-intensive recreational use of the Head, including hiking, viewing, picnicking, and associated day-use activities."* The entire consistency analysis for the transfer was based on this management plan. The documents also include a provision that *"the property would revert to the U.S. Government if the City did not use the property for its approved and intended use, tried to transfer title to another party..."*; this includes any subdivision. There is a provision in the City's management plan that was submitted to the BLM that states: *"The City will continue to coordinate with the Cable T.V. company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation."* This, along with General Plan policies and Open Space zoning regulations, gives the Planning Commission some standards and basis for approval of this project, and should a part of the findings used to make a decision on this project.

Based on file information, it appears that the existing communication site was developed as a cable television site prior to the annexation of the Head in 1983; the weather station was also partially developed at that time. I am lacking information on what occurred between the time of annexation and the 1997 Cal North Cellular pole approval. The staff report for that project describes an existing pole and equipment building on the site at the time. Further additions to the existing site (in the form of new equipment) were approved in 2000, 2002 and 2003. Cal North subleases for co-located facilities on their site with Sprint and Edge Wireless. However, according to the applicant, the existing site has reached its capacity and a new, or expanded site is necessary to accommodate more cellular facilities and services. The applicant has stated that U.S. Cellular's current service in the Trinidad area is inadequate, and this new pole will eliminate existing problems. The proposed site has been located to the north of the existing cellular site, between that and the weather station, in order to minimize visual impacts and vegetation removal while maintaining accessibility.

Because of its location and topography, Trinidad is an ideal location for the construction of these types of facilities, and more proposals should be expected in the future. As part of the current project, staff recommends that U.S. Cellular should be required to allow co-location of additional facilities in the future to the maximum extent feasible; this has been made a condition of approval. Staff also recommends that the Planning Commission make an official recommendation to the City Council that they create a detailed development / management plan for communication facilities on the Head prior to any further development. Trinidad Head is an important coastal, aesthetic, and cultural resource and has been slated for low-intensity recreation and open space by regulating agencies. As stated above, the Coastal Commission has concerns about the impacts of this, and similar, projects on coastal resources, and the City should also be concerned. The City should consider the cumulative impacts of these types of projects on the Head and make a determination of how much will be allowed in order to provide guidance and a basis for decision-making on future proposed projects.

#6

ZONING ORDINANCE/GENERAL PLAN CONSISTANCY:

The proposed facility falls under the City's, and Coastal Act's definition of development, and does not fall under any exemptions from permit requirements. Therefore it needs a Coastal Development Permit and Design Review. Because the Head is zoned Open Space, a use permit is also required, and conditional use permit findings per §17.72.040 need to be made. The purpose of the Open Space zone is to: *"maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources, and to ensure that the health and safety of the public is ensured through careful regulations of development in areas affected by geologic instability, steep slopes, tsunami and flood hazards."* Principally permitted uses in the OS zone include low intensity recreation such as hiking and picnicking and removal of hazardous vegetation, but no structural development. Uses permitted with a use permit include trails and vista points, wildlife habitat management, scientific research, removal of vegetation and shoreline protection structures. Applicable to this project, conditionally permitted uses also include: *"Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted."* As noted above, the communication and weather sites were established in some form prior to the annexation of the property into the City of Trinidad. Based on past project approvals, this provision has been interpreted to mean the use of the site in general by communication facilities that provide a public service. This was fairly straightforward in the four most recent approvals because they were all contained within the fenced area of the existing site. Although this project is a related use, and adjacent to areas of the Head that are already developed, it is somewhat different from previous approvals in that it will be a new site. Staff feels that based on past approvals and existing file information and LCP provisions, the project allowable under existing ordinance provisions as long as all the required findings can be made. Staff also advised the applicant that one of the alternate proposed sites, south of the existing Cal-North site, was not consistent with the open space zoning and character and that it should not be considered; the current proposed site has been designed in consultation with staff and is within the already "developed" portion of the Head.

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Minimum lot size does not apply to this project; subdivisions are not allowed in Open Space zones. Density restrictions also do not apply to this project, and no new dwellings are allowed in an Open Space area. The maximum building height within the OS zone is 15', which the equipment building will meet. The antenna is not a "building" subject to this limitation. However, zoning ordinance §17.16.060 states that all structures allowed in the OS zone must also meet the requirements of the Special Environment regulations, §17.20.060 – 17.20.130. Section17.20.060 restricts building heights to 25 feet. As mentioned above, the pole is not a building, but the OS zone §17.16.060 refers other structures to this section, implying that it may be a height limit for any structures. Section 17.56.100 of the zoning ordinance provides further guidance on measuring height. This section reads: *"Heights of buildings and structures shall be measured vertically from the average ground level of the ground covered by the building to the highest point of the roof. Chimneys, vents, flagpoles, conventional television reception antennas, ventilating and air conditioning equipment, parapet walls and similar*

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architectural and mechanical appurtenances shall be excluded in making such measurement." The transmission antenna could be considered to fit in to the second section as a 'mechanical appurtenance' or similar to a flagpole or T.V. antenna. As far as the other applicable SE zone regulations, the project is not within the tsunami hazard area, not on an ocean bluff, not on a slope near a bluff, not in a stream protection area and not within the Tsurai Study Area. Section 17.20.120 requires that portions of a SE zoned lot not within a construction area be protected by an open space easement between the landowner and the City. In this case, the property is already protected through the open space zoning and the City owns the property, so this section is not applicable. Section 17.20.130 outlines requirements for development on lands designated as unstable or of questionable stability; which this project is not.

Zoning Ordinance §17.16.080 protects cultural resources and applies to Open Space areas within the Tsurai Study Area. Although this project is not within the specified area, another cultural protection provision applies. The transfer of the Trinidad Head property included a condition regarding archeological resources, which has been included as a condition of this project approval. *"After the vegetation is removed, and prior to any construction (primarily trails and vista points), those areas not previously surveyed for cultural values shall be surveyed by a qualified archeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the Authorized Officer at...* (address). *The holder shall not disturb such resources except as may be subsequently authorized by the Authorized Officer. The Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect cultural resources discovered."* It is unclear at this point who the authorized officer referred to, therefore, staff has included a standard condition of approval used in CEQA documents to achieve the same purpose.

The General Plan Policy 17 (p. 15) encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. Trinidad Head has been identified in General Plan background documents as being habitat for the Western Lily (*Lilium* occidentalis), and possibly other rare plants as well. The Western Lily is a federally and state listed "endangered" species. Therefore, a condition of approval has been included that the site and the surrounding area be surveyed for rare plants by a qualified professional. Policy 66 (p. 39) states that: *"Trinidad Head will be kept in its natural state with hiking trails and vista points."* This project is not fully consistent with this policy. But based on the City's management plan for the Head and other development on the Head that provides a public service, this project can be approved as long as it is sited, designed and mitigated so that is does not detract from the recreational use of the Head and its open space character.

Finding: The proposed use provides a public service and meets a public need. The proposed use does not conflict with the primary purposes of open space and public recreational use of the Head. The project is consistent with the City's Local Coastal Program, including the Zoning Ordinance and General Plan.

SLOPE STABILITY

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan. Standard erosion control and drainage best management practices will be required during construction.

SEWAGE DISPOSAL

There is no sewage disposal associated with this project.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings can be made based on the responses provided:

A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community. *Response: Trinidad Head is undeveloped except for the Coast Guard facilities, a weather monitoring station, the existing communications site and public trails, benches and vista points. The proposed project is within the general area that is already developed and will provide a public service. It will not be any more visible than existing improvements and will not interfere with public recreational uses.*

B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:

1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; *Response: The proposed site will be located adjacent to existing development and access road at the top of the Head where there are no recreational facilities. It will be fenced to keep people out.*

2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; *Response: Vehicular access on the Head is restricted for the general public. The site will be located next to an existing access road and will not significantly increase or affect traffic patterns on the site.*

3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; *Response: The proposed improvements will not result in any offensive emissions, including noise, glare, dust and*

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odor. Some dust may result from construction activities, but this will only be temporary. The mechanical equipment will be required to be contained within the proposed building, which will be designed to minimize any noise impacts. The applicant is responsible for assuring that equipment noise not leave the site and increase existing ambient noise levels.

4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs; *Response: The applicant has stated that the site will not require landscaping or screening because it will not be visible from existing trails, benches or vista points. If the Commission finds that landscaping is necessary, it should be of native species that are normally found on the Head. Traffic is addressed above. The project does not include any lighting or signs.*

C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program. *Response: As described above in "Zoning Ordinance/General Plan Consistency," the proposed project can be found to be consistent with both the Zoning Ordinance, General Plan and the City's management plan for the Head, and will carry out policies, consistent with the Trinidad Coastal Program.*

D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment. *Response: The proposed improvements will be within a small area. Conditions of approval have been included in order to minimize potential impacts. The project is exempt from CEQA per §15303, exempting new construction of small structures.*

E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:

1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses; *Response: The project will utilized existing access roads and will not impact public access or the existing trail system.*

2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast; *Response: Tall vegetation already existing around the site will screen most of the improvements except the pole. The pole can be found to not significantly*

impact coastal views, but cumulative impacts of other communication / weather facilities should be considered.

3. The development is compatible with the established physical scale of the area; *Response: The project will be located within the area of the Head that is already developed with a variety of structures and equipment serving a public purpose.*

4. The development does not significantly alter existing natural landform; *Response: Only minor disturbance of the soil will be required to construct the proposed improvements.*

5. The development complies with shoreline erosion and geologic setback requirements. *Response: Trinidad Head is not an area mapped as being unstable or questionably stable on Plate 3 of the General Plan. The project will not be near the edge of bluff; the proposed improvements will not contribute to instability.*

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following findings can be made based on the responses provided.

Design Criteria

A. The alterations of natural land forms caused by cutting, filling and grading shall be minimal. Structures should be designed to fit the site rather than altering the land form to accommodate the structure. *Response: Only minor disturbance of the soil will be required to construct the proposed improvements.*

B. Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible. *Response: The project is located in an open space area, but improvements other than the pole will not be readily visible from public trails or vista points. The site will be fenced with green vinyl slats.*

C. Materials and colors used in construction shall be selected for compatibility both with the structural system of the building and with the appearance of the building's natural and manmade surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided. *Response: The proposed improvements are consistent with nearby development.*

D. Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area

shall be used. *Response: The proposed project will not be readily visible from public trails and vista points. Several large trees and shrubs are adjacent to the site and will help screen it. The applicant has not proposed additional landscaping, and it can be found to be unnecessary for this project.*

E. On-premises signs should be designed as an integral part of the structure and should complement or enhance the appearance of the surrounding area. *Response: The project does not include any on-premise signs.*

F. New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials. *Response: The proposed improvements will utilize an underground electrical connection to the existing pole across the access road from the proposed site.*

G. Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should have a single design theme. *Response: No off-premise signs are proposed as part of this project.*

H. When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. *Response: The proposed building will be only 120 s.f..* In particular:
   1. Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.
   2. Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.

View Protection Criteria

A. Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible. *Response: The project is located within an open space area, but, other than the pole, will not be readily visible from public trails and vista points as it will be screened by existing vegetation and existing development. The proposed site has been moved as far to the north as possible in order to avoid visual impacts.*

B. Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista

points, except as provided in subdivision 3 of this subsection. *Response: The proposed improvements will not significantly block views.*

C. The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility: and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction. *Response: There is no residence proposed as part of this project.*

D. If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected. *Response: There is no residence proposed as part of this project.*

E. The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards. *Response: The proposed improvements are not within 100' of the Tsurai Village Site, Trinidad Cemetery, Holy Trinity Church or the Memorial Lighthouse.*

STAFF RECOMMENDATION:

The project is consistent with the City's Zoning Ordinance and General Plan and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Use Permit and Design Review/View Protection Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application materials, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings and approve the project as submitted and as conditioned below.

Alternative Motion for Denial

If the Commission does not agree with staff's analysis, or if the public presents evidence that conflicts with the findings contained in this staff report, the Commission may choose to deny the project. If the Commission does decide to deny the project, the denial should be based on specific findings that can not be made. The Commissioners should specifically state the reasons for denial and which finding(s) can not be made. A motion could be similar to the following:

Based on public testimony and information included in the application, I find that Use Permit/Design Review/View Protection Finding(s) "—" can not be made because ---, and I move to deny the project.

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*

2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter if construction has not been started, unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk prior to building permits being issued.*

3. Recommended conditions of the City Building Official shall be required to be met as part of the building permit application submittal. *Responsibility: Building Official prior to building permits being issued.*

4. No trees over 6 feet in height are to be removed or damaged by this project. Any loss shall require replacement of similar species with a three-year replacement guarantee. The applicant shall replace any displaced vegetation outside of the fenced area with native landscaping. *Responsibility: City Planner to verify after site clearing and during construction.*

5. If any equipment installed as part of this project becomes unserviceable or unused, it must be removed at the applicant's expense. *Responsibility: City Planner to enforce should conditions warrant.*

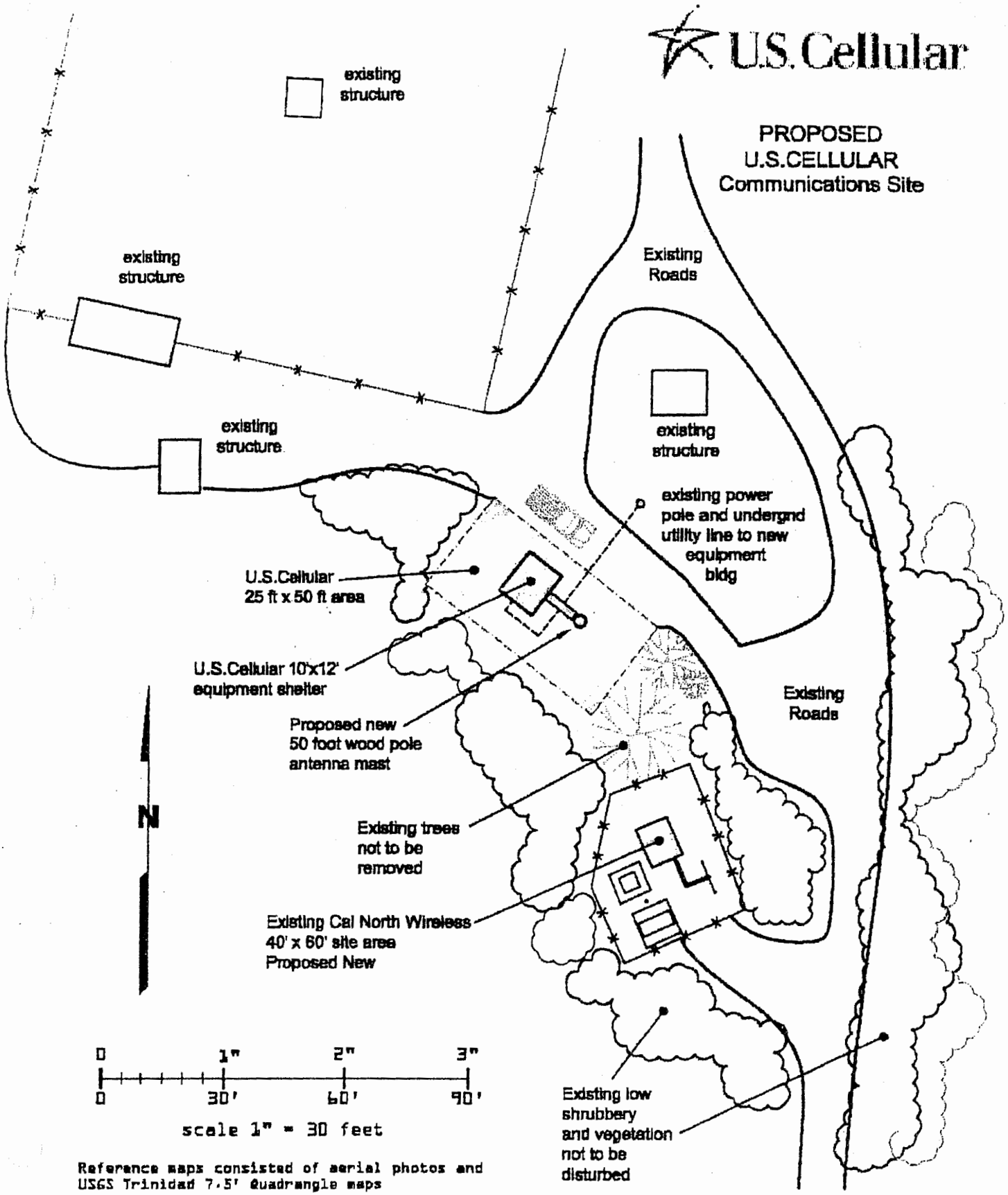
6. Erosion control measures shall be taken during and after construction to minimize soil loss and runoff. *Responsibility: City Planner to verify after site clearing and during construction.*

7. The site and the surrounding area shall be surveyed for rare plants by a qualified professional prior to any ground disturbance or vegetation removal. If any special

status plants are identified, the applicant shall inform the City and the proposed site shall be relocated or the plants moved if feasible. *Responsibility: Building Official prior to building permits being issued.*

8. After the vegetation is removed, and prior to any other ground disturbing activities, the construction site shall be surveyed by a qualified archeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the City and local tribes. The holder shall not disturb such resources until reviewed by a qualified professional. Should concentrations of archaeological materials be encountered during construction or grading operations, all ground-disturbing work shall be temporarily halted or shifted to another area. Work near the archeological finds shall not be resumed until a qualified archeologist has evaluated the materials and offered recommendations for further action. Prehistoric materials which could be encountered include: obsidian or chert flakes or tools, locally darkened midden, groundstone artifacts, depositions of shell, dietary bone, and human burials. Should human remains be uncovered, State law requires that the County Coroner be contacted immediately. Should the Coroner determine that the remains are likely those of a Native American, the Tsurai Ancestral Society and the California Native Heritage Commission must be contacted. The Tsurai Ancestral Society shall determine the appropriate treatment of the remains. *Responsibility: Building Official prior to building permits being issued.*

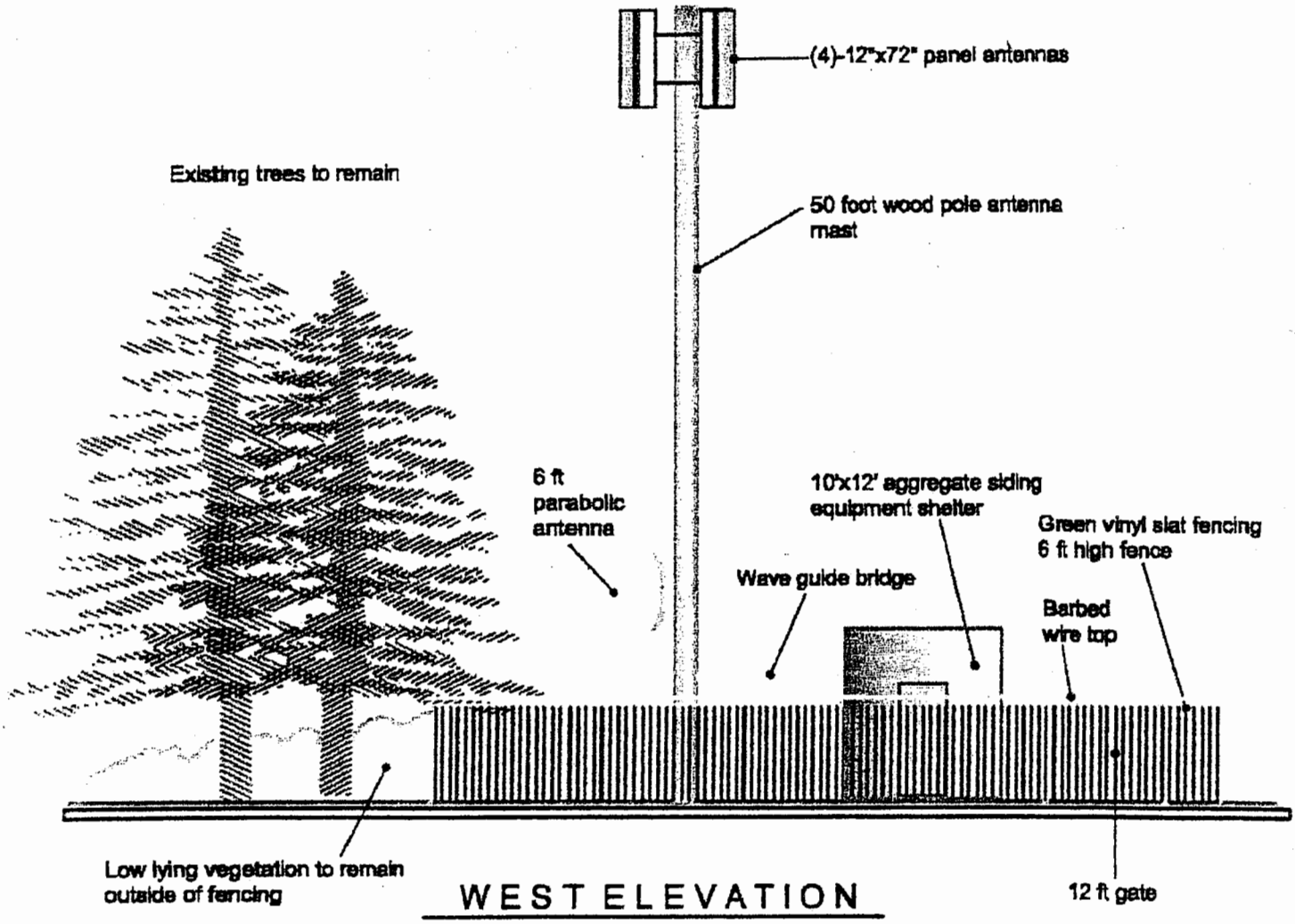
9. The applicant shall design the equipment building and any other noise generating sources so that noise levels are not above pre-project ambient noise levels as measured at the southern boundary of the existing Cal-North Cellular site. *Responsibility: City Planner to verify after site is in operation and periodically as necessary.*



Reference maps consisted of aerial photos and USGS Trinidad 7.5' Quadrangle maps

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WEST ELEVATION

0 1" 2" 3"
0 10' 20' 30'

scale 1" = 10 FEET

Reference maps consisted of aerial photos and USGS Trinidad 7.5' Quadrangle maps

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U.S.Cellular

PROPOSED
U.S.CELLULAR
Communications Site

31 of 31

224

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CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

Consistency Determination
No. CD-6-83
(Bureau of Land Management)
45th Day: May 1, 1983

Federal Agency: BUREAU OF LAND MANAGEMENT

Development Location: Trinidad Head, immediately southwest of the City of Trinidad, Humboldt County. (Exhibit 1)

Development Description: Transfer of 47 acres of Federal property to the City of Trinidad for public recreation. (Exhibits 2 and 3)

SUBSTANTIVE FILE DOCUMENTS:

1. Environmental Assessment/Land Report on City of Trinidad application for acquisition of Trinidad Head, by Bureau of Land Management (BLM), December 21, 1982 (Serial No. EA #512).

2. Letter from John W. Lahr (BLM Eureka Resource Area Manager) to Richard G. Rayburn (North Coast District Director, Coastal Commission), March 16, 1983, containing BLM's consistency determination for Trinidad Head property transfer, including application by City of Trinidad to require ownership of Trinidad Head, November, 1982.

3. Land Use Plan for the Trinidad segment of the Humboldt County LCP (certified in part by the Coastal Commission in October, 1982).

4. Certified LCP for City of Trinidad.

EXHIBIT NO. 9
APPLICATION NO.
A-1-TRN-06-042
U.S. CELLULAR CORP.
PRECEDING COASTAL ZONE MANAGEMENT ACT CONSISTENCY DETERMINATIONS AND CONCURRENCES (1 of 32)

STAFF SUMMARY AND RECOMMENDATION

I. Staff Summary

A. Project Description. The Bureau of Land Management (BLM), an agency in the U.S. Department of Interior, proposes to transfer 47 acres of federal land at Trinidad head to the City of Trinidad (Exhibit 2). The City intends to annex the property and manage it as a recreational area for hiking and other low-intensity recreational uses. About 14 acres of Trinidad Head will remain under federal ownership for the existing U.S. Coast Guard facility. The Coast Guard maintains a light beacon, fog horn, radio antennas, and residence for staff on the southern end of the Head.

BLM's proposed transfer is pursuant to the Recreation and Public Purposes Act (43 USC § 869 et.seq.) and relevant federal regulations (43 CFR Part 2740). These regulations specify the procedure for sale or lease of land by the Secretary of Interior, and limit uses and further transfer of title by grantees. The City of Trinidad applied to BLM in November, 1982, to acquire Trinidad Head for non-intensive recreational use. The stated purpose of the City's acquisition is "to make available to the people forever, for their inspiration and enjoyment, in a condition of unimpaired ecological integrity, the majestic headland known as Trinidad head, together with all related scenic, historic, scientific, and recreational values and resources of the area."

In recommending approval of the City's application, BLM's District Manager made several findings required under the Recreation and Public Purposes Act (item V.B. in Environmental Assessment/Land Report):

(1) The lands have been found to be suitable for recreation and public purposes.

(2) The land is not of national significance and not essential to any Bureau of Land Management program.

(3) The proposed use will have no known significant effect on the human and national environment.

(4) Patenting the above described lands will serve the public interest.

(5) The [City's] land use plan is proposed for amendment to allow for the proposed use.

The approval recommendation also includes a patent reservation and stipulations for use of the property to be transferred to the City. A right-of-way across the property will be reserved by the federal government for access and utilities to the retained property to be managed by the Coast Guard. Two stipulations would be binding upon the City:

(1) Waterbars, outsloping and rock barriers should be used, where appropriate, to reduce erosion, runoff and trail maintenance.

(2) After the vegetation is removed and prior to any construction [primarily trails and vista points], those areas not previously surveyed for cultural values shall be surveyed by a qualified archaeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the Authorized Officer at 555 Leslie Street, Ukiah, California 95482. The holder shall not disturb such resources except as may be subsequently authorized by the Authorized Officer. The Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect cultural resources discovered.

The patent reservation and the stipulations would be part of BLM's patent deed to the City, and are considered to be part of BLM's project for the purposes of the Commission's federal consistency review. The patent deed would also include a reversionary clause, stating that the property would revert to the U.S. government if the grantee (City) did not use the property for its approved and intended use, tried to transfer title to another party, or otherwise violates the conveyance agreement. Any subdivision of the property would constitute a significant change in the project for purposes of the Commission's consistency review.

The City's development plan proposes non-intensive recreational use of the Head, including hiking, viewing, picnicking, and associated day-use activities. The plan calls for new foot trails, to be constructed as much as possible along natural contours to avoid soil and vegetation disturbance. Picnic areas and observation points would be sited in level areas where opportunities for observing scenic and biological resources are maximized (Exhibit 3). Only Coast Guard vehicles would be allowed on the parcel. Public parking would be available on an adjacent parcel north of the Head. Local citizen groups and local government agencies will develop and maintain the proposed improvements, scheduled to be completed in 1985.

It is important to precisely identify the project that is the subject of the Commission's federal consistency review in this instance. BLM's consistency determination addresses both the proposed transfer of federal property and the specific development plan proposed by the City. This is because federal regulations require the preparation of a development plan by the grantee as a condition of transfer. BLM must approve the plan and monitor its implementation; failure to carry out the approved plan can cause title to revert to the federal government. However, the Commission should only review BLM's consistency determination as it concerns the proposed transfer of federal property to a particular party (the City of Trinidad) for a particular use (low-intensity recreational use). This is what is meant by "the project" in the following description and recommended findings. The City, not BLM, will administer and manage the property after the transfer. The City's development plan, while necessary to obtaining title from the federal government, is more fittingly reviewed for conformity with the Coastal Act in the coastal permit process, either at the same time or following Commission review of BLM's consistency determination.

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B. Site Description. Trinidad Head is a rocky headland near the City of Trinidad, about 17 miles north of Eureka in Humboldt County (Exhibit 1). The shoreline in this portion of the County is magnificent, including rocky points, offshore rocks, sea stacks and islands, narrow rocky beaches on rock reefs, and small sand and gravel pocket beaches below high bluffs. The shoreline is generally accessible only by steep and occasionally hazardous trails. The Head is immediately southwest of Trinidad, an incorporated city with a population of about 380 (Exhibit 2). The local economy is based on timber, fishing, and tourism. Trinidad harbor and pier, east of the Head, attracts a sizeable number of commercial and recreational fishermen during the salmon season (May through July). Several nearby parks provide recreation opportunities for residents and visitors, including Patricks Point State Park (6 miles north), Little River State Beach (4 miles south), and Trinidad State Beach (only about ½ mile north of the Head).

Trinidad Head itself is connected to the mainland by a neck of land. A gravel road provides access for the U.S. Coast Guard Station on the southern end of the Head (Exhibit 3). The Coast Guard maintains a fog horn, light beacon, staff housing, and radio antennas on the Head. A cable TV antenna is also located on the Head. Most of the Head is covered in dense vegetation, including coyote brush, California blackberry, ceanothus, brush monkey flower, cow parsnip, and salal. The dense brush provides habitat for foxes, raccoons, skunks, rabbits, rodents, salamanders, and reptiles. The Head is also a good viewing point to watch marine mammals such as California and Stellar sea lions, elephant seals, and gray whales during their migration. Consultation with local Indians, the Yuroks, reveals that the Head is and was of cultural significance, although a limited archaeological survey did not find any cultural resources.

C. Federal Consistency Determination. The Bureau of Land Management has prepared a consistency determination for the proposed transfer of federal land to the City for non-intensive recreational use (March 16, 1983, letter from BLM Area Manager John W. Lahr to Richard Rayburn). Federal regulations identify acquisition, utilization, or disposal of land or water resources as a federal development project, for which a consistency determination must be prepared (15 CFR 930.31(b), emphasis added). BLM's consistency determination addresses both the action transferring federal land and the City's development plan for the property. Strictly speaking, the Commission is reviewing at this time only the proposed transfer action, including the receiving agency and the proposed use, with regard to consistency with California's coastal management program. The City's development plan can then be reviewed as a coastal development permit application.

The consistency determination states that the project is consistent with the access and recreation policies of the Coastal Act. It states that the project will have no effect on marine resources or environmentally sensitive habitat. It notes that the project is consistent with Section 30250 regarding new development, since no buildings are proposed and the recreational use has priority under the Coastal Act. It states that views of the harbor, ocean, and shoreline will be enhanced by the project. It concludes that the project is fully consistent with the California coastal management program (including the certified LCP for most of the adjacent City of Trinidad).

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II. Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

The Commission hereby concurs with the consistency determination made by the Bureau of Land Management for this project, that the proposed transfer of federal land (including the proposed grantee and use) is consistent to the maximum extent practicable with the California Coastal Management Program.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Public Access. The primary access points in the Trinidad area are at Trinidad State Beach to the north, Trinidad harbor and pier, Indian Beach east of the pier along the Trinidad Bay shore, and a small beach north of Bay Street. A trail system in the City links the harbor and bluff areas to several vertical access trails further south of Trinidad. The harbor area is heavily used by fishermen in the summer season. The transfer of land to the City for recreational use will increase public access to a highly scenic coastal headland and will represent a major expansion of access opportunities in this area. Several Coastal Act policies address access. Section 30210 states that maximum public access to the sea must be provided. Section 30211 prevents new development from interfering with existing public accessways. Section 30212 requires that access to and along the coast be provided in new development projects. Because of the project's emphasis on providing new access, it is consistent with these sections. Access at Trinidad Head should emphasize trails and view points rather than shoreline access, due to the steep terrain, heavy vegetation, and related public safety and erosion considerations.

Visitor parking for the project could be inadequate, depending on the level of use by the public. Two privately-owned parking areas are now available in the site vicinity -- along Bay Street (about 60 cars) and northwest of Bay Street (about 40 cars). The first area is sometimes full during the summer months, due to the influx of fishermen. Cars and boat trailers congest the parking area and local streets. The second area is further from the harbor area but is used by beachgoers to some extent. Section 30212.5 encourages parking and other public facilities to be distributed throughout an area to avoid impacts of overcrowding and overuse. Policy 56 of the certified City of Trinidad LCP reserves a portion of the second parking area for non-harbor users. This would be the primary parking area for project users, since steep slopes, heavy vegetation, and visual constraints would preclude the development of any significant on-site parking. A coastal trail northeast and southeast of the Head is designated in the City's LCP. To the southeast, an existing trail follows the shoreline to Parker Creek; to the northeast, the trail system is being extended to the College Cove area of Trinidad State Beach. These trails would provide visitors an alternative to nearby parking. Demand for parking will depend on the project's popularity and improvements. However, at nearby Trinidad State Beach, the 80-car lot is usually less than half-full in the summer. Parking for the project should be adequate, given the low-intensity recreational uses proposed and the above-noted LCP provisions. Specific demand projections and provisions for parking should be part of the City's coastal development permit application.

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B. Recreation. There are several existing recreational facilities in the Trinidad Area. Patricks Point State Park is 6 miles north, Little River State Beach is 4 miles South, and Trinidad State Beach is about ½ mile north of Trinidad Head. Trinidad harbor, including a fishing pier, parking area, bait shop, restaurant, and boat launch facility, is located immediately north-east of the project. Section 30213 of the Coastal Act promotes lower-cost visitor and recreational facilities. Section 30221 gives priority to recreational uses on oceanfront land, unless already provided for in the area. The project is intended to provide new recreational opportunities at Trinidad Head, including trails, vista points, and picnic areas. Given this overall intent, the project is consistent with Sections 30213 and 30221.

C. Marine Resources. The shoreline in the vicinity of Trinidad is very rugged, and includes rocky points, offshore rocks, sea stacks and islands, narrow rocky beaches, rock reefs, and small sand or gravel beaches below high bluffs. Offshore rocks provide nesting areas for birds, and the rocky beaches are noted for prolific tidepool communities of significant scientific value. The sea stacks serve as haul-out areas for California and Stellar sea lions. Harbor seals, elephant seals, and gray whales can be observed from the Head. The project will not interfere with these valuable marine resources, and is thus consistent with Section 30230 and 30233 of the Coastal Act.

Section 30231 requires that developments maintain biological productivity and water quality. Trail construction and other improvements have the potential to increase erosion rates. To minimize potential erosion effects, BLM will stipulate, in its conveyance of the property, that erosion control measures are to be used in constructing project improvements. Given this mitigation measure and the low intensity of use proposed, the project is consistent with Section 30231.

D. Environmentally Sensitive Habitat Areas. Vegetation on Trinidad Head belongs to the north coastal scrub community. Commonly found plants include coyote brush, California blackberry, ceanothus, and brush monkey flower. The dense brush on the Head provides habitat for foxes, raccoons, skunks, rabbits, other rodents, salamanders, and reptiles. BLM's environmental assessment notes two potentially rare plant species -- black crowberry (Empetrum hermaphroditum) and bird rock goldfields (Lasthenia minor, ssp. maritima) could occur on the site, but have not been identified. Black crowberry is listed as "rare" by the Native Plant Society but is not on any state or federal species list. The second plant was recently removed from all plant species lists due to its wide range. Section 30240 of the Coastal Act protects sensitive habitat areas against any significant disruption of habitat value. Because no environmentally sensitive habitat has been identified on the project site and because the project will have minimal effects on site habitat, the project is consistent with Section 30240.

E. New Development. Trinidad Head borders Trinidad's city limits. The City provides water service in and adjacent to its incorporated area, although it usually makes annexation a condition of providing service. On-site septic systems are the prevalent method of wastewater disposal. Water, electricity, and phone lines connect the Coast Guard facility on Trinidad Head to the town.

Vehicular access is along a gravelled road branching off Bay Street. The City has stated its intention to annex the Head if BLM transfers the property.

Both the City's LCP and the Trinidad Area segment of Humboldt County's LCP propose recreational use for the Head if it is no longer needed by the federal government. Policy 66 of the City's General Plan states: "The portion of Trinidad Head not needed by the Coast Guard should be transferred to the City of Trinidad. The area should be kept in its natural state with hiking trails and vista points. Public vehicular access should only be allowed as far as the existing harbor overlook." The public recreation and access policies of the County LCP segment provide similar guidance.

Section 30250 of the Coastal Act requires new residential, commercial, or industrial development to be located in or near existing developed areas or in areas with adequate public services if it will have no adverse effects on coastal resources. The proposed project is a recreational and open space use and thus is not subject to the above requirement of Section 30250. Adequate public services are available to serve the project, and it is consistent with the provisions of both LCPs that have a bearing on the property.

F. Archeological Resources. Trinidad Head is within the territory of the Coast Yurok Indians, and was and is of cultural significance. The Head was used for spiritual purposes and as a burial ground for the old people. The peninsula itself supported a village called Tsurai, which means "Mountains by the Sea". The Head is not currently used for traditional purposes, however. Archeological surveys on the Head in 1976 and 1982 did not reveal any archeological resources or sites. However, only about 20% of the site was surveyed, due to the dense underbrush away from the existing roads and paths. It is possible that such resources could be encountered during construction of improvements such as trails and picnic areas.

Section 30244 of the Coastal Act states that reasonable mitigation measures shall be required where development would adversely impact archeological or paleontological resources. BLM will include a stipulation in its patent deed to the City to address the possibility of encountering archeological resources during construction. It provides that unsurveyed areas shall be surveyed by a qualified archeologist after vegetation removal and prior to construction. If cultural resources are found during the survey or during construction, a qualified BLM official will evaluate these resources and require mitigation measures to protect them, if necessary. With this mitigation measure, the project is consistent with Section 30244.

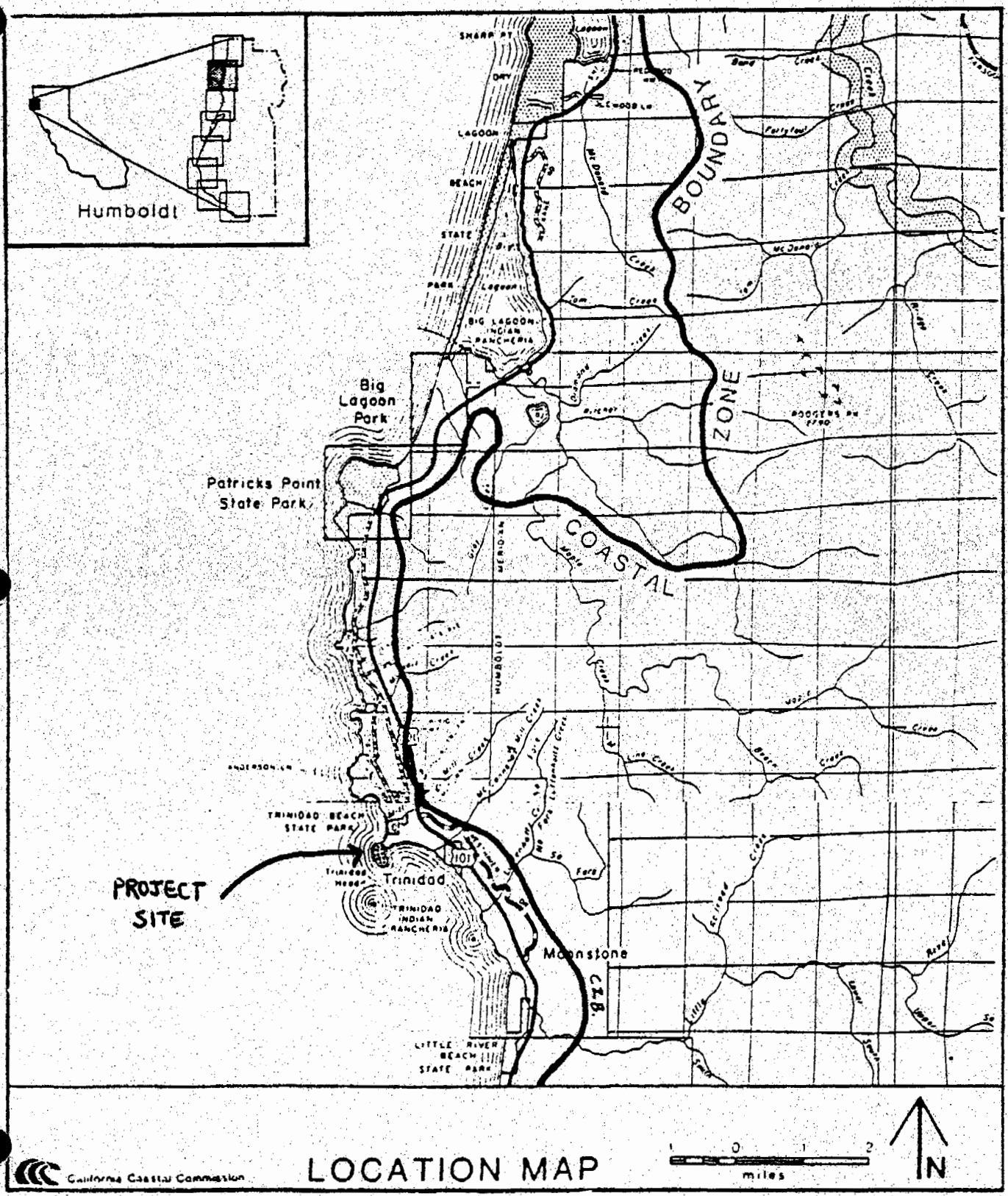
G. Visual Resources. The visual setting in Trinidad includes rugged coastal headlands and islands, beaches and surf, the vast expanse of ocean, the small harbor with fishermen unloading their catch, and homes climbing up the hillside. Low-density residential development patterns preserve a small town character. Trinidad Head is prominent in the view from town, the harbor, and coastal trails. Conversely, the Head affords an excellent view back at the harbor, ocean, and the rocky shoreline. From the Head, sightseers can observe marine resources, including seals, whales, shorebirds, and other wildlife. Project improvements for low-intensity recreation, such as trails, picnic areas, and vista areas, will have little or no visual impact.

Section 30251 of the Coastal Act protects the scenic and visual qualities of coastal areas, requiring that new development be sited to protect ocean and coastal views. Because of the low intensity of the project and the heavy undergrowth on the Head, project improvements such as trails and vista points can be designed to be unobtrusive and thus consistent with Section 30251. The project will enhance and augment public views of this highly-scenic coastal area, by providing new vista points and improving access to the Head.

IV. Exhibits

1. Location Map
2. Project Vicinity
3. City of Trinidad Development Plan

8432



California Coastal Commission

LOCATION MAP

County of Humboldt

9432

Sheet 2 of 8

EXHIBIT 1



Lot 4 To be transferred to City
Lot 5 Retained for Coast Guard (radio antenna)
Lot 6 Retained for Coast Guard (foghorn, light, housing)

10432

EXHIBIT 2
PROJECT VICINITY

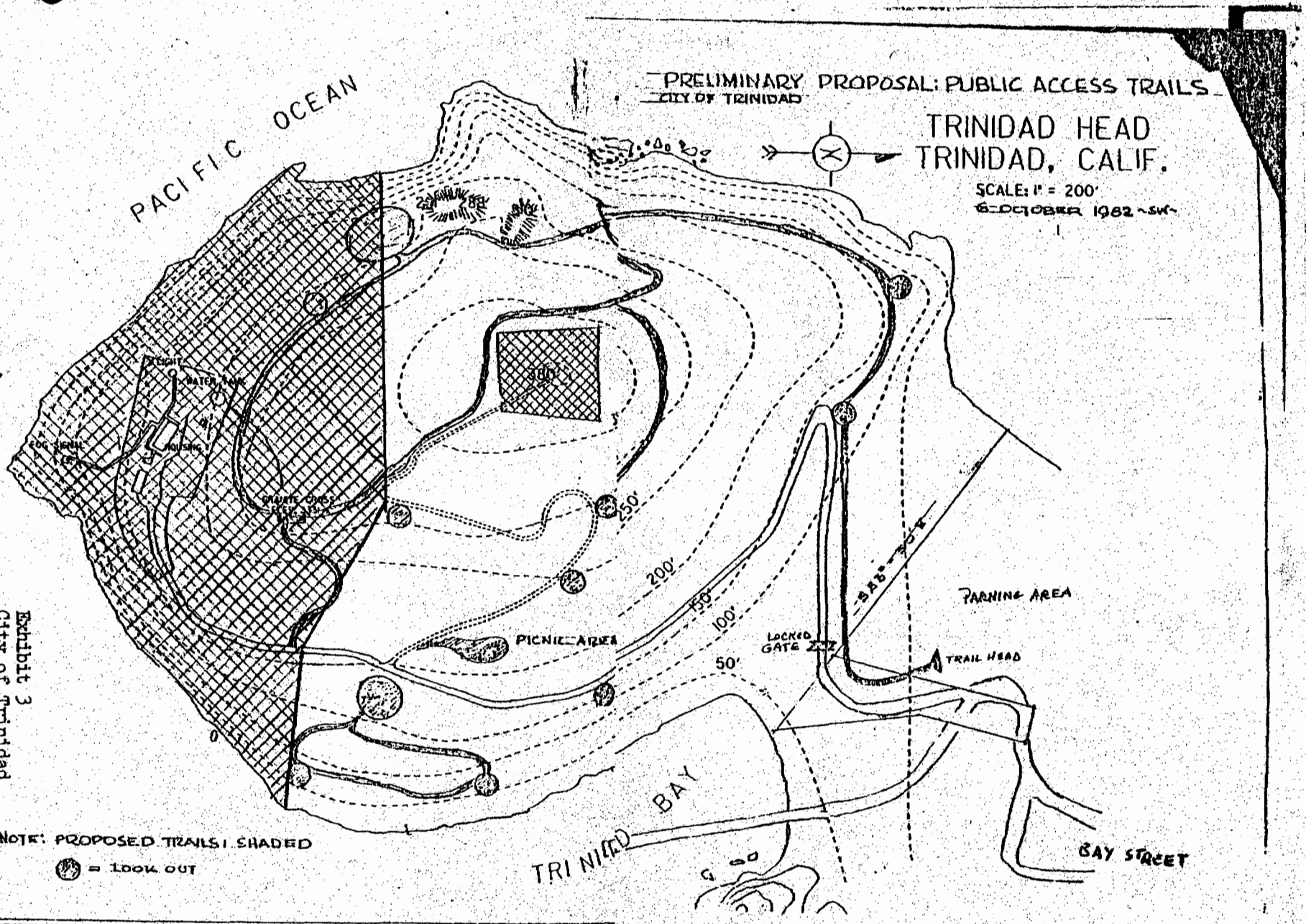


Exhibit 3
City of Trinidad
Development Plan

11432

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

June 27, 2002

Thanh Minh Trinh, Regional Environmental Compliance Officer
National Oceanic and Atmospheric Administration
7600 Sand Point Way N.E.
PO Box 15700
Seattle, Washington 98115-0070

Re: **ND-036-02** Negative Determination, National Oceanic and Atmospheric Administration, Installation of mobile trailers, temporary access walkway, solar platform and scientific and weather data collection instruments at Trinidad Head, Humboldt County

Dear Mr. Trinh:

The Coastal Commission staff has received the above-referenced negative determination for the installation of two mobile trailers, 150 feet of power line, temporary scaffolding and access-ways, a solar platform and replacement of an existing 20 foot high wind tower at Trinidad Head, Humboldt County.

The project's temporary structures will be constructed to facilitate the installation of sampling instruments, and will be removed within six weeks of completion of the project. A wooden access walkway, 30 inches wide and 135 feet in length, will be constructed to facilitate the transfer of instruments and equipment from the mobile trailers. The existing 20 foot wind tower will be replaced with a 30 foot tower that will use the existing footprint and foundation. The project will not adversely affect scenic views as the project is visually similar to existing uses at the site.

The Commission staff agrees that the project will have no adverse impact to coastal resources. We therefore **concur** with your negative determination made pursuant to Section 15 CFR 930.35 of the NOAA implementing regulations. Please contact Kathleen Stycket of the Commission staff at (415) 904-5295 should you have any questions.

Sincerely,

PETER M. DOUGLAS
Executive Director

cc: North Coast District Office

12 of 32

National Oceanic and Atmospheric Administration,
Host Agency serving:
Economic Development Administration
International Trade Administration
Minority Business Development Agency
Bureau of Export Administration

U.S. DEPARTMENT OF COMMERCE
Western Administrative Support Center
7600 Sand Point Way N.E.
PO Box 15700
Seattle, Washington 98115-0070

October 1, 2002

RECEIVED
OCT 0 7 2002
CALIFORNIA
COASTAL COMMISSION

James Raives
Federal Agencies Consistency Coordinator
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: Correction. NOAA Trinidad Trailer Installation & Wind Tower Replacement Project.
Ref: 1) NOAA Letter dated 4/30/02 requesting a "Negative Determination Concurrence"
2) **ND-036-02** Negative Determination, California Coastal Commission letter dated 6/27/02

Mr. Raives,

Thank you for your office response to our request on the referenced subject. However, there is a correction in our project description that I would like to bring to your attention for your review and determination.

In our original letter dated 4/30/02, we listed the Temporary Scaffolding as #3 to install a 5'x6'x30' temporary construction scaffolding structure. The correction involves our need to replace this temporary scaffolding with a permanent 30-foot triangular trussed sampling tower. The shape, size, and construction of this tower is similar to the "Wind Tower" described as #6 in the original project description. The error was due to a miscommunication between our technical and environmental professionals.

The assessment we offered in our 4/30/02 letter still stands. The impact to the coastal visual resources would not be significant – the small footprint of the replacement tower makes its potential effect much smaller than that of the scaffolding now in place. The revised proposed action would not dominate the present view, primarily due to the existence of the adjacent United States Coast Guard towers and antennas (at least 50' tall) that are much larger in height, cross sectional area, and overall foot print.

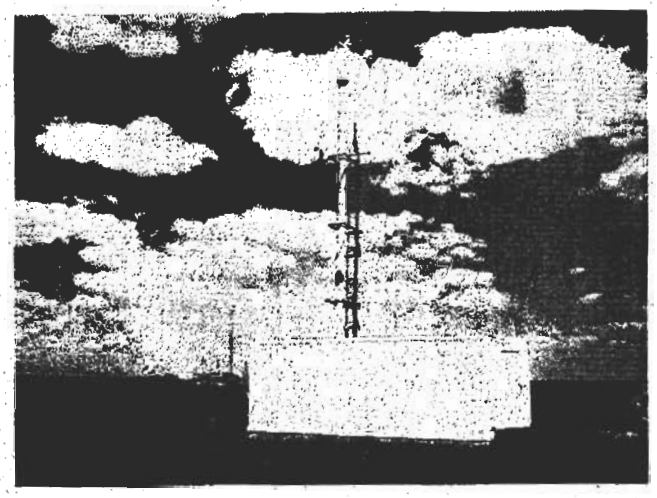
As such, I am requesting your office to review the ND-036-02 Negative Determination that your office issued on 6/27/02 to NOAA for any change. For your convenience, I have attached the initial package that I submitted on 4/30/02 along with photos of the replacement tower installed at other NOAA sites.

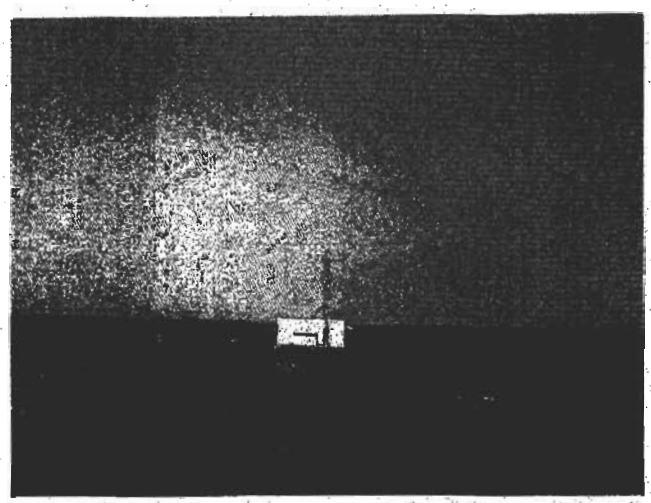
I would like to apologize for any confusion and inconvenience. Once again, your assistance and cooperation in this matter is greatly appreciated. If you have any question, please do not hesitate to call me @ 206-526-6647. Thanks.

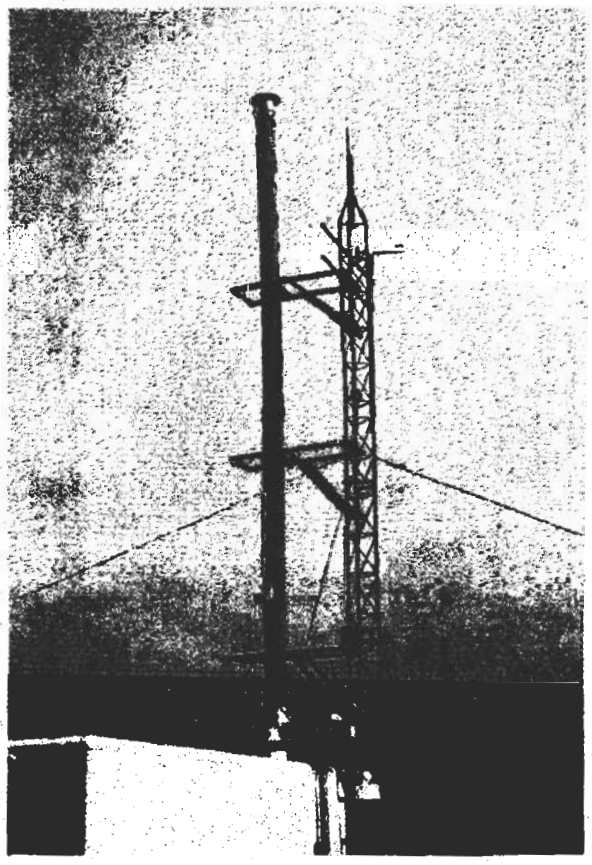
Sincerely,

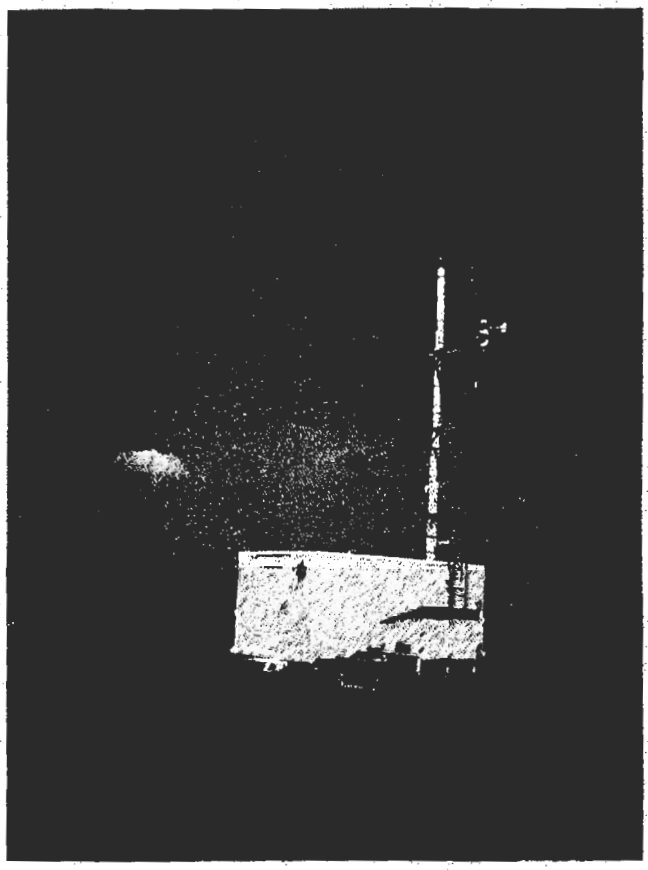
Thanh Minh Trinh, P.E.
Regional Environmental Compliance Officer

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4. Temporary Access Walkway. Install a 30" wide, 135 feet long wooden walkway along the power line. The walkway will be constructed using 3 waffle board planks laying side by side of each other. Each plank is 9-1/2" by 1-1/2" by 30'. The planks will be laid on top of 2-1/2" by 12" (laying sideways) deck joists at 6-foot intervals. The end result will yield a walkway that is 30" wide by 135 feet long and 2-1/2 inch above ground level. This wooden walkway will minimize soil surface disturbance and hence sediment erosion during transfer of instrumentations and equipment to and from the trailers. This structure will be removed at the same time as the temporary scaffolding removal.

5. Solar Platform. The solar platform will be a scaffolding structure that is approximately 4.5' X 6' X 10' tall. The feet of the scaffold (qty 4) will sit on cement blocks. The scaffold will also need guy wires for stability. This structure will be placed at about 10 feet directly south of the White trailer or on the left side looking westward. See P2 photo.

6. Wind Tower Replacement. Replace the existing 20-foot high wind tower with a 30-footer. The new tower will have the same existing foundation footprint. The new tower is triangular in shape similar to the existing tower and each side is 13" long. We propose to lift out the existing concrete, (shown in our engineering drawings to be 30"x30"x60") and replace it with a cylindrical concrete foundation, 33" diameter x 54" deep. Minimum to no disturbance of the native vegetation and soils will be necessary to perform this maintenance. See photograph P2 and Figure 3.

Typically, we start our NEPA (National Environmental Policy Act) process from the onset of a project. The NEPA assessment would have required consultation with your office prior to any fieldwork begins. But the recent detection of dust storms generated in China has required our scientists to rush our resources and instruments to strategically located facilities to study, investigate, and monitor the development and movement of these dust storms. Trinidad Head is one of such facilities. As a result, we did not conduct our NEPA assessment in the proper order that we would normally expect, and some field installation has been completed. In particular, we have completed Items #1, #2, and #4 as listed above. Dr. James Butler was directing the installation under the impression that he had approval to do so and that this project was categorically excluded because of its involvement in research and that local permission was all that was required. To be sure, Dr. Butler had notified the U.S. Coast Guard (USCG) office requesting permission to proceed with the project. In the course of his discussions with a number of individuals, he was told that this would not be a problem. During field installation, Dr. Butler maintained contact with the USCG during all work. The contractor hired to bring in the trailers and install the electrical service, Mr. Marvin Manor, consulted with the USCG Station Chief Mozzini with each stage of work, to be sure that all installation was done properly. Mr. Manor has worked up on Trinidad Head for a number of USCG projects and handled this one with utmost care to prevent environmental damage.

Of particular concerns to NOAA is the fact that the trench had been dug and backfilled as described above. According to Mr. Manor, the action site had been disturbed previously by the

16932

Pacific Gas & Electric Company and USCG for the installation of their power lines and communication towers respectively. The contractor did not note anything of archaeological or historical values and did not haul any excess dirt offsite from the trenching work.

Upon learning of the facts, I have instructed my field office to stop all digging work until we have properly satisfied all NEPA requirements. Subsequently, I requested the North Coastal Information Center – Yurok Tribe to conduct a record search of the action site to determine if there is any record of historic or cultural resources. Additionally, I hired a local firm to conduct a biological assessment to determine if the NOAA proposed project would have any effects on the federally listed endangered, threatened and proposed species under the Endangered Species Acts that was communicated to us by the U.S. Fish & Wildlife Service (USFWS) letter dated 02/07/02 (see attached Reference #3).

In accordance with the Federal Coastal Zone Management Act of 1972 (Act) as amended, Secion 307(c)(1), NOAA has determined that the proposed actions as described above would have no effects upon coastal uses or resources and therefore does not require a consistency determination.

Furthermore, NOAA has determined that the proposed actions, as described above, would occur outside the coastal zone. As defined in Setion 304 of the Act, the term "coastal zone" does not include "lands held in trust by or whose uses are subject solely to the discretion of the federal government." Trinidad Head is operated by the USCG and therefore is excluded from the coastal zone.

However, NOAA does recognize that actions outside the coastal zone may affect land or water uses or natural resources of the coastal zone and therefore are subject to the provisions of the Act. Consequently, an analysis of the impacts of the proposed actions on the coastal zone was conducted. The issues relating to impacts on the coastal zone include impacts on water quality, air quality, federally listed endangered and threatened species, and visual resources. Other issues not considered part of the coastal zone, as defined, but that may be of interest to your office include impacts to archeological or historic resources.

Potential impacts to water quality associated with the proposed actions could result from an increase in erosion. However, due to the scale and location (at 320 feet above sea level) of the proposed action, the surface disturbance in trenching excavation and in accessing the site from an existing dirt road would not significantly alter existing drainage patterns. Rice straws will be applied to minimize the erosion impacts. Thus no changes in the runoff would results and the quality of the water surrounding Trinidad Head would not change.

Potential impacts to air quality are none. The operation of the weather related data equipment does not generate any type of air emissions or pollutants. Some localized air emissions associated with the operation of internal combustions engines would be on an intermittent basis only during construction (estimated to take less than seven working days) as a result of vehicular activity.

The extent to which the proposed action impacts coastal visual resources would not be significant. The proposed action would not dominate the present view, primarily due to the existence of the adjacent USCG towers and antennas (at least 50' tall) which are much larger both in height and area.

Reference A shows that there is no record of historic or cultural resources at the project area and there is a "Low to Medium probability of findings sites or other evidence of human historic or cultural activity" in our project area.

Reference B determines that the project will have no direct or indirect effects on the species of concern or their respective critical habitat listed by the USFWS for the Trinidad Quad where the project area is located.

Accordingly, I am writing to request a concurrence from your office of our determination.

Just for your background information, we have requested and obtained an interim permit from the U.S. Coast Guard to complete items #3 and #5 as listed above. These items do not require any digging but necessary for NOAA to conduct studies and monitoring of impending dust storms from the Gobi Desert of China. This permit is valid until July 29, 2002. The interim status can be converted into permanent if NOAA conducts and satisfies all NEPA assessment and requirements by then.

Your assistance and cooperation in this matter is greatly appreciated. If you have any questions, please do not hesitate to call me @ 206-526-6647. Thanks.

Sincerely,

Thanh Minh Trinh, P.E.
Regional Environmental Compliance Officer

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P1 - View from USCG Tower
(looking Southwest)



P2 - View from Access Road (looking West)



2043324

P3 - Arial View of Trinidad Head

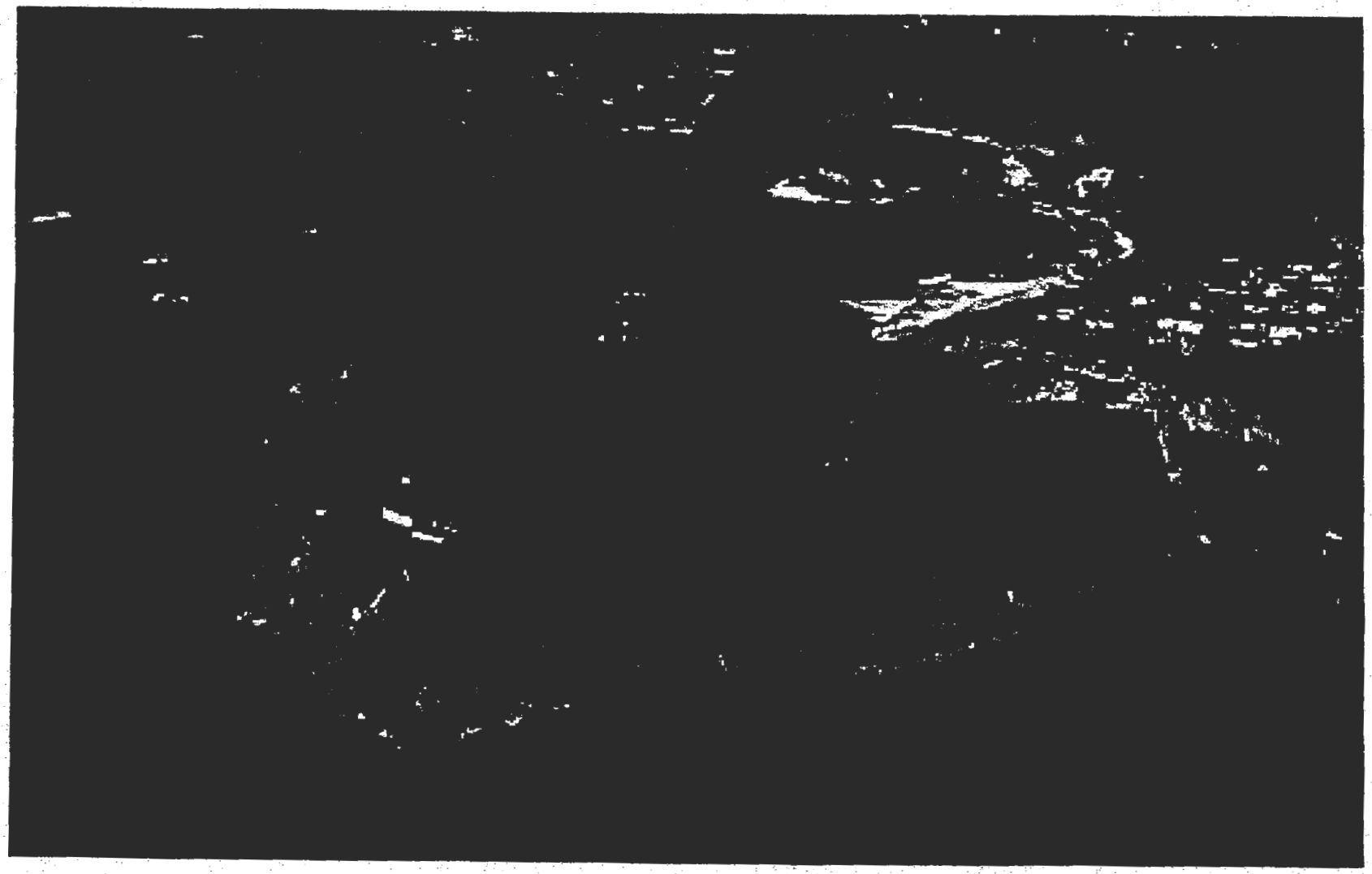
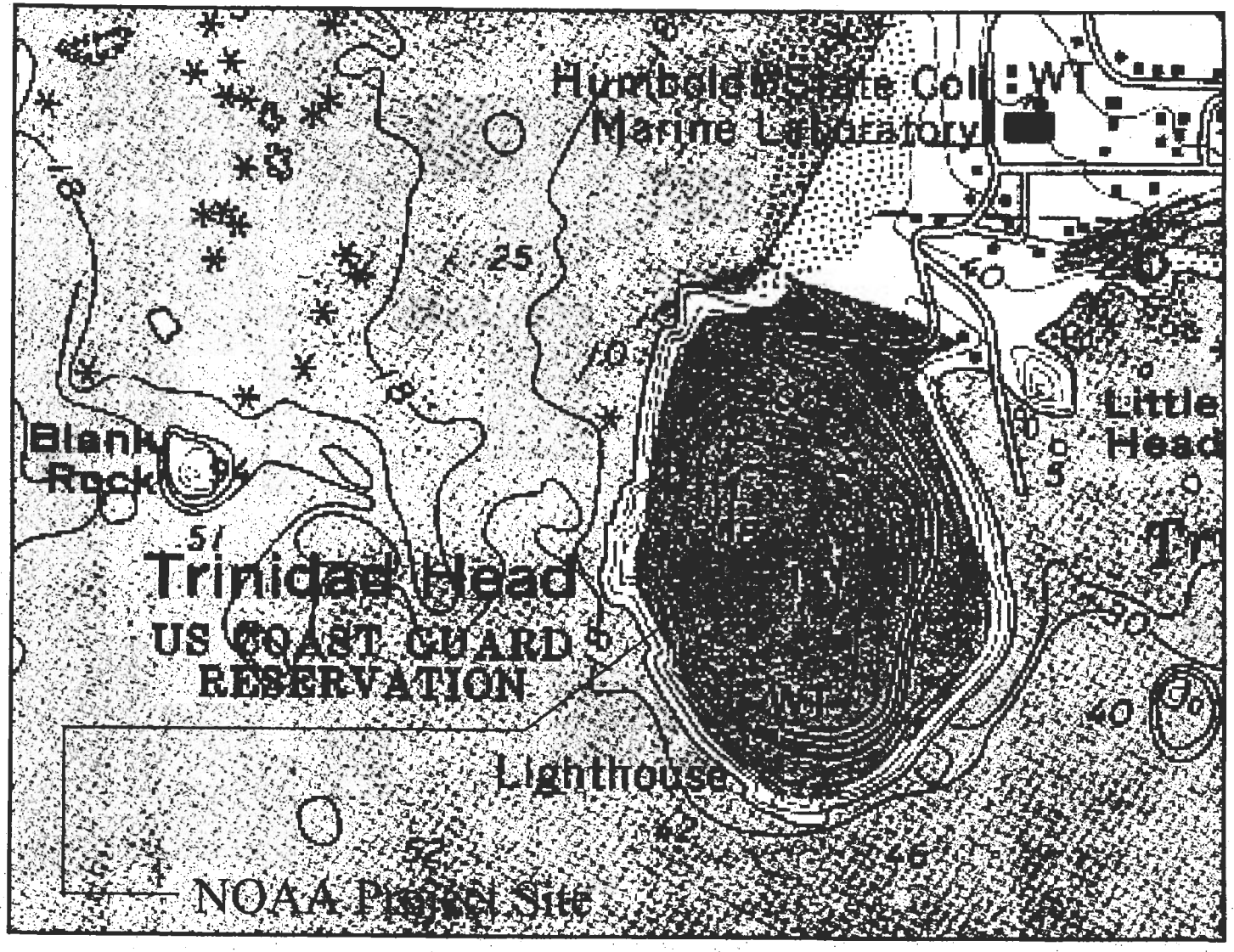
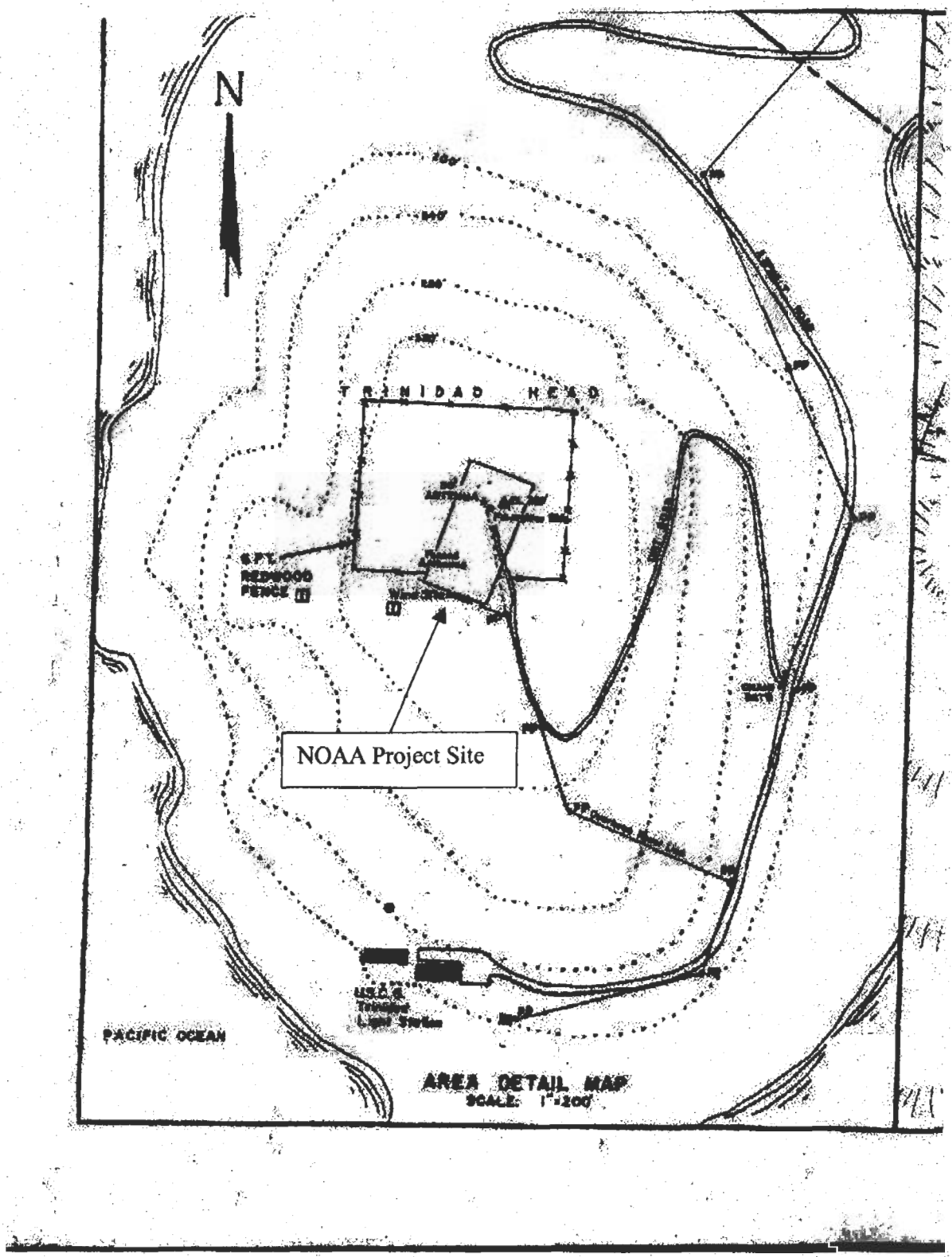


Figure 1 - Trinidad Head Topography



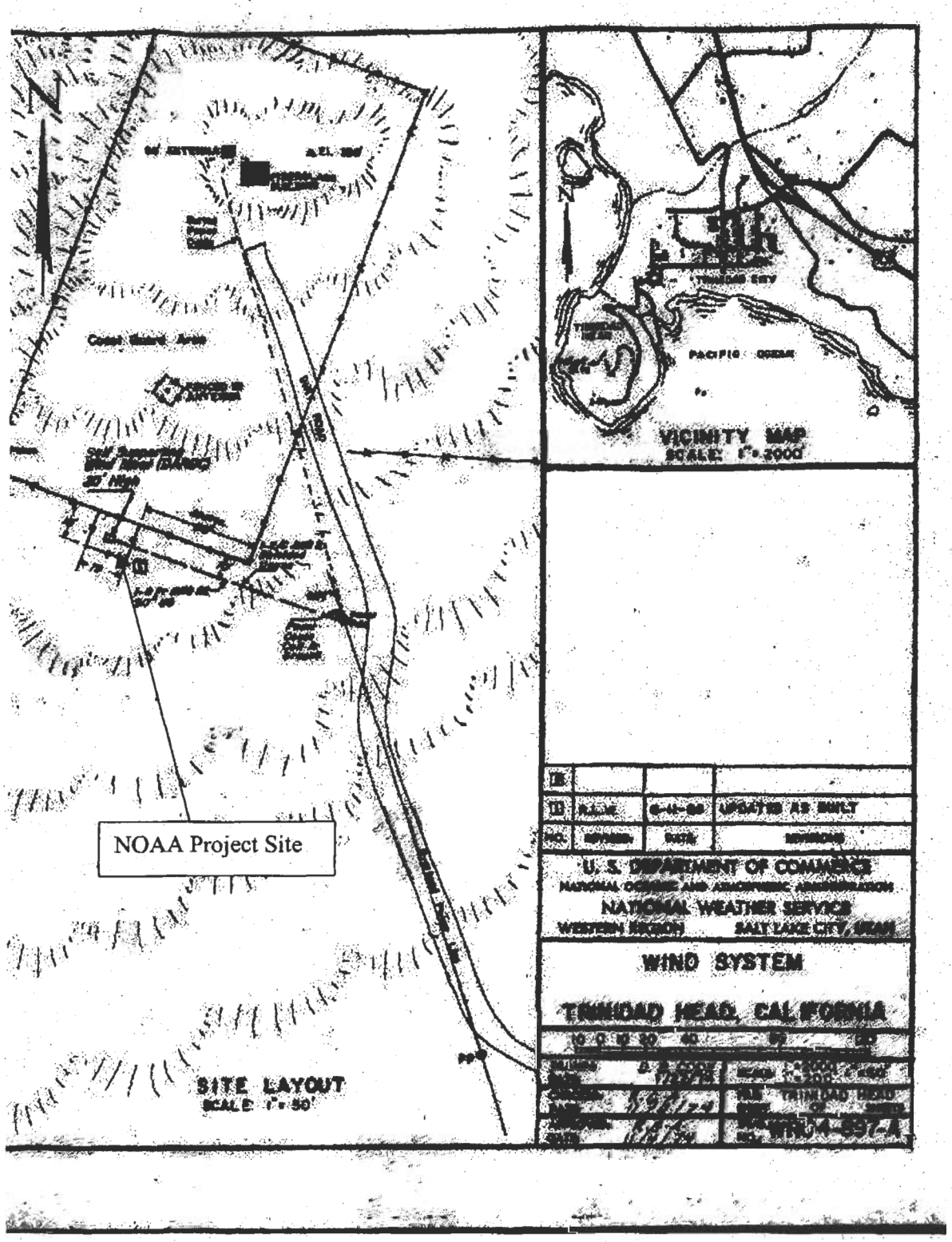
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Figure 2a – Project Site Topography



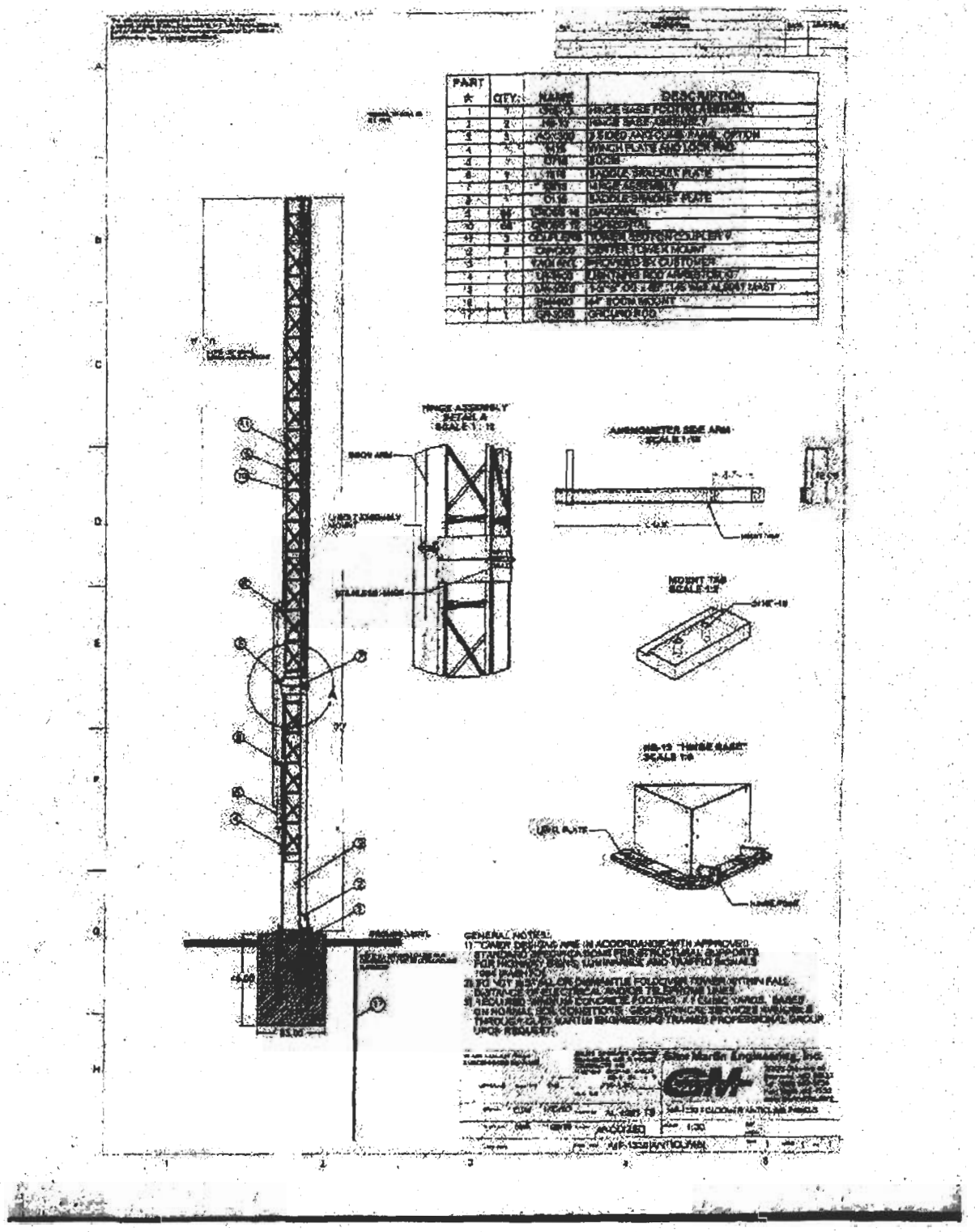
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Figure 2b – NOAA Project Site General Layout



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Figure 3 – NOAA Proposed Wind Tower



25 of 32

Biological Assessment:
Trailer Installation and Wind Tower Replacement
USDOC, NOAA
Combined OAR and NWS Projects
Trinidad, California

by
MGW Biological Surveys
Arcata, CA 95521

April 23, 2002

26432

1-2PM

I. INTRODUCTION

This Biological Assessment reviews a project proposed by NOAA to determine its effects on federally listed endangered, threatened and proposed species under the Endangered Species Act.

The project proposed by NOAA, "Trailer Installation and Wind Tower Replacement," includes installation of scientific and weather data collection instruments on Trinidad Head in Trinidad, California.

The species of concern that occur near the project area are California brown pelican (*Pelecanus occidentalis californicus*), endangered under the Endangered Species Act, and marbled murrelet (*Brachyramphus marmoratus*), threatened under the Endangered Species Act. For the marbled murrelet, critical habitat is formally designated. Other threatened, endangered, or proposed species which occur in the TRINIDAD Quad but for which no suitable habitat exists in the project area are as follows:

Scientific Name	Common Name
<u>Fish</u>	
Eucyclogobius newberryi	Goby, tidewater Entire
Oncorhynchus mykiss	Northern California steelhead
Oncorhynchus tshawytscha	Salmon chinook (CA coastal)
<u>Reptiles</u>	
Dermochelys coriacea	leatherback turtle
Chelonia mydas	green turtle
Caretta caretta	loggerhead turtle
Lepidochelys olivacea	olive ridely sea turtle
<u>Birds</u>	
Coccyzas americanus	yellow-billed cuckoo
Phoebastris albatrus	short-tailed albatross
Strix occidentalis caurina	northern spotted owl
Charadrius alexandrinus nivosus	western snowy plover
Haliaeetus leucocephalus	bald eagle
<u>Mammals</u>	
Physeter macrocephalus	sperm whale
Balaenoptera borealis	Whale, Sei
Balaenoptera physalus	fin whale
Balaenoptera musculus	blue whale

27 of 32

Megaptera novaeangliae	humpback whale
Eumetopias jubatus	Steller sea lion

The listed/proposed threatened and endangered species list for TRINIDAD Quad was provided by the United States Fish and Wildlife Service on February 7, 2002.

II. DESCRIPTION OF THE PROPOSED PROJECT

The project was proposed by USDOC, NOAA. It was proposed for Trinidad Head, CA in township 8N, range 1W, section 26. The project includes the following: installation of 150 feet of power line in a 2.5" conduit; installation of one temporary trailer (8'X8'X28') to be removed by the end of May 2002 and one permanent trailer (8'X8'X24'); installation of temporary scaffolding (5'X6'X30') with guy wires; temporary access walkway (30" wide, 135' long); construction of a solar platform (4.5'X6'X10'); and replacement of the existing 20' wind tower with a 30' tower with a concrete foundation at 33" in diameter and 54" deep (Appendix A).

III. SPECIES ACCOUNTS

California brown pelicans historically nested from Monterey, CA south to islands along the west coast of Baja California and in the Gulf of California (CDFG 1980). They no longer nest north of the Santa Barbara Channel, CA (Wahl and Tweit 2000; Briggs et al. 1983). In the southern breeding colonies, habitat for nesting includes trees, bushes or the ground. Pelicans rarely occur in northern California during the months of January through April due to their nesting activity in the southern colonies (Briggs et al. 1983). Pelicans are present in the greatest numbers in Trinidad, CA in July through autumn, due to post-breeding migration (Briggs et al. 1983). When in northern California, California brown pelicans roost on offshore rocks or platforms very close to open water (Briggs et al. 1983).

Marbled murrelets range from Santa Cruz County, CA north to the Aleutian islands, AK (O'Donnell 1993). They nest inland in older, coniferous trees, and usually lay eggs beginning in mid-April (O'Donnell 1993). Marbled murrelets forage in the ocean and return to roost or nest inland in coniferous trees.

Efforts to determine status of the species in the project area included four site visits in which surveys for marbled murrelets and California brown pelicans and their respective habitat were conducted. The dates of the site visits of the project were April 20-22, 2002. Site visits were performed by Mourad W. Gabriel and Greta M. Wengert of MGW Biological Surveys. Site visits included a two-hour survey before and after sunset, a two-hour survey before and after sunrise, a two-hour survey at mid-day, and a two-hour survey from an ocean vessel from the west face of Trinidad Head. Marbled murrelets

travel to and from their nests at sunrise and sunset; therefore, we conducted our surveys at these times. No marbled murrelets were detected. California brown pelicans are not present in northern California in April, so they were not detected.

The project area falls within the distribution of marbled murrelets, but is characterized by steep terrain with dense brush and shrub habitat and no older coniferous trees (Appendix B). The marbled murrelet requires older, coniferous trees for nest-building and roosting near the ocean. No such habitat occurs in the project area; therefore, no potential suitable habitat for the marbled murrelet is present in the project area.

The project area also falls within the non-breeding range of California brown pelicans. However, since California brown pelicans do not breed in northern California, there is no nesting habitat present on or near Trinidad Head, CA. During the non-breeding season, they roost in close proximity to open water on offshore rocks or nearshore platforms. The project area does not include these habitat characteristics, and therefore, does not have suitable habitat for the California brown pelican.

IV. EFFECTS OF THE PROPOSED PROJECT

The project will have no direct or indirect effects on the species of concern or their respective critical habitat listed for the TRINIDAD Quad.

V. DETERMINATION

It is the determination of MGW Biological Surveys that the project "Trailer Installation and Wind Tower Replacement" will not affect the following threatened, endangered or proposed species or their respective critical habitat:

Fish

Eucyclogobius newberryi	Goby, tidewater
Oncorhynchus mykiss	Northern California steelhead
Oncorhynchus tshawytscha	Salmon chinook (CA coastal)

Reptiles

Dermochelys coriacea	leatherback turtle
Chelonia mydas	green turtle
Caretta caretta	loggerhead turtle
Lepidochelys olivacea	olive Ridely sea turtle

Birds

Pelecanus occidentalis californicus	California brown pelican
Coccyzas americanus	yellow-billed cuckoo
Phoebastris albatrus	short-tailed albatross
Strix occidentalis caurina	northern spotted owl

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Charadrius alexandrinus nivosus	western snowy plover
Haliaeetus leucocephalus	bald eagle
Brachyramphus marmoratus	marbled murrelet

Mammals

Physeter macrocephalus	sperm whale
Balaenoptera borealis	Sei whale
Balaenoptera physalus	fin whale
Balaenoptera musculus	blue whale
Megaptera novaeangliae	humpback whale
Eumetopias jubatus	Steller sea lion

VI. LITERATURE CITED

Briggs, T.K., W.B. Tyler, D.B. Lewis, P.R. Kelly and D.A. Croll. 1983. Brown pelican in central and northern California. Journal of Field Ornithology 54(4): 353-373.

California Department of Fish and Game. 1980. At the crossroads: A report on the status of California's endangered and rare fish and wildlife. California Department of Fish and Game: Sacramento.

O'Donnell, B.P. 1993. Patterns of activity and vocalizations of the marbled murrelet, *Brachyramphus marmoratus*, within old-growth redwood stands in northwestern California. Master's Thesis, Department of Wildlife, Humboldt State University, Arcata, California.

Wahl, T.R. B. Tweit. 2000. Seabird abundances off Washington, 1972-1998. Western Birds 31: 69-88.

VII. CONTRIBUTORS

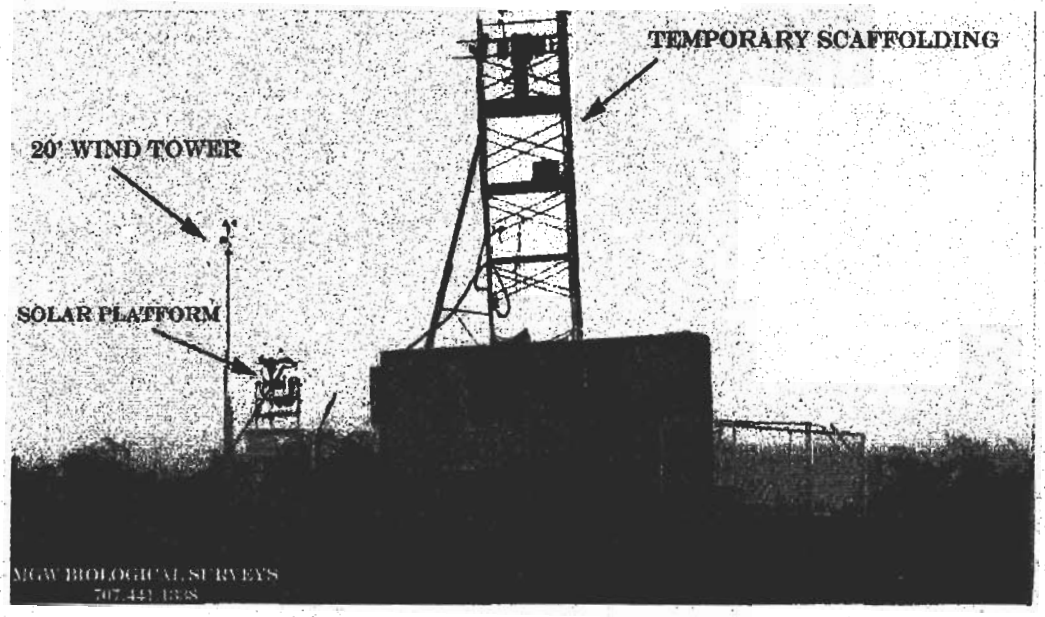
Gabriel, Mourad W.

Wengert, Greta M.

30 of 32

APPENDIX A.

North view of project site.



31 of 32

Appendix B.

Southwest view of the project site from the Pacific ocean.



32432

Monday, January 22, 2007

RE: U.S. Cellular Corporation de novo hearing A-1-TRN-06-042

Dear Commissioners,

The local chapter of the Sierra Club (Sierra Club North Group) urges the California Coastal Commission to deny the applicant's (U.S. Cellular's) "Coastal Development Permit Application" to put its cell phone equipment on Trinidad Head.

Sincerely,

Gregg Gold
Chair, Sierra Club North Group

RECEIVED
JAN 25 2007
CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 10
APPLICATION NO.
A-1-TRN-06-042
U.S. CELLULAR CORP.
GENERAL
CORRESPONDENCE



Trinidad Rancheria

January 18, 2007

RECEIVED
JAN 23 2007
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
c/o Jim Baskin
Norlth Coast District Office
P.O. Box 4908
Eureka, CA 95502-4908

Subject: U.S. Cellular Corporation De Novo Hearing A-1-TRN-06-042

Trinidad Rancheria supports the appeal filed by Friends of Trinidad Head concerning the placement of cell phone towers on the Head. Trinidad Rancheria objects to the leasing practice that has allowed commercial uses to occur and expand on Trinidad Head without proper environmental documentation. We encourage the Coastal Commission to consider the views of the Native American community and to move toward restoring a natural environment on Trinidad Head.

Sincerely,

Garth Sundberg

Garth Sundberg
Tribal Chairperson

P.O. BOX 630 — TRINIDAD, CALIFORNIA 95570 — (707) 677-0211 — FAX (707) 677-3921

January 21, 2007

RECEIVED
JAN 22 2007
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
c/o Jim Baskin
North Coast District Office
P.O. Box 4908
Eureka, California 95502-4908

Re: U.S. Cellular Corporation de novo hearing A-1-TRN-06-042

Dear Coastal Commissioners:

My name is Tony Lefevre and I am a building contractor living and working in the Trinidad area. I also am a fisherman and keep my boat in the Trinidad Harbor during the salmon season.

Please do not approve any more cellular phone facilities up on Trinidad Head. They are really misplaced up there as I think Trinidad Head is zoned open space and should be preserved.

They are very ugly from the ocean and from other views along the coastline. This is too bad because Trinidad Head is one of the most beautiful spots remaining on the coast. I think that the BLM have even made it a coastal monument.

I fish all over the area and never have any reception problems on my cell phone while out on the ocean. There are so many towers in the neighboring towns that I don't think anymore on Trinidad Head are necessary.

Thank you.

Tony Lefevre.
866 16th Ave.
Westhaven, CA 95570

January 20, 2007

RECEIVED
JAN 22 2007
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
c/o Jim Baskin
North Coast Office
P.O. Box 4908
Eureka, California 95502-4908

Re: U.S. Cellular Corp. de novo hearing A-1-TRN-06-042

Dear Commissioners:

I am a fisherman and student at Humboldt State University. I respectfully ask that you not approve more cell phone facilities on the Trinidad Head.

It is a beautiful place that is not intended for the commercial cell tower build-up that is happening up there.

Thank you for protecting our coast for the next generations.

Sincerely,

Jaylon Lefever
1841 H St Arcata Ca 95521

January 18, 2007

RECEIVED
JAN 22 2007
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
c/o Jim Baskin
North Coast District Office
P.O. Box 4908
Eureka, California 95502-4908

Re: U.S. Cellular Corporation de novo hearing A-1-TRN-06-042

Dear Coastal Commissioners:

I have been fishing off the coast of Trinidad since I was a boy (about 48 years). My wife and I moor our boat in the Trinidad Harbor a good part of the year and fish for salmon almost every weekend during the spring, summer and early fall.

I have been using a U.S. Cellular cell phone for seven years. My wife got her U.S. Cellular cell phone four years ago. We are very pleased with our cell service within Trinidad, the outskirts of town and on the ocean. Within densely forested areas there are a few dropouts but this is to be expected and is true of all other cellular carriers and satellite radio.

While out on the ocean, we have never had any problems with reception or dropped calls on our U.S. Cellular cell phones. Since U.S. Cellular does not have any facilities on Trinidad Head we presume that the good reception is due to the straight lines from existing towers in McKinleyville and Walker Ridge (Trinidad).

I am against U.S. Cellular adding additional cell towers facilities to Trinidad Head because:
1) U.S. Cellular's reception (especially on the water) is already excellent;
2) I am confident that the service U.S. Cellular is currently offering (without facilities on Trinidad Head) is more than satisfactory in any emergency situation while out on the ocean;
3) The Trinidad Head is a Yurok and Tsurai sacred site and should be protected from all commercial development;
4) The existing cell towers are an eyesore from the beaches, the coastline, the town and the while boating out on the ocean.

I think that some of the local fishermen are being misled to believe that their ability to communicate via cell phone (and their safety) will be compromised should U.S. Cellular

not be allowed to locate on Trinidad Head. I hope that the Coastal Commission can see that this is not true.

Thank you for helping to preserve our beautiful coastline.

Sincerely,

Joe Lindgren
P.O. Box 276
Trinidad, CA 95570
(707) 677-3954

I

Aldaron Laird

Environmental Planner

www.riverplanner.com

California Coastal Commission
c/o Jim Baskin
North Coast District Office
P.O.B. 4908
Eureka, CA 95502-4908

January 19th, 2007

RECEIVED

JAN 19 2007

CALIFORNIA
COASTAL COMMISSION

Re: U.S. Cellular Corporation de novo hearing A-1-TRN-06-042

Dear Commissioners,

On November 22nd you found that the Friends of Trinidad had raised substantial issues in its appeal (A-1-TRN-06-042) of the City of Trinidad granting U.S. Cellular Corporation a Coastal Development Permit (CDP) to expand the cellular telecommunications facility on Trinidad Head. On behalf of the Friends of Trinidad Head, I would like to provide you with the following facts to support you making a finding during this de novo hearing that the proposed project is not consistent with the City of Trinidad's certified Local Coastal Program (LCP) and respectfully request that you deny the applicant's request.

Since 1997, the Commission has not reviewed the City's application of its LCP when it allowed the installation/construction of a cellular telecommunications facility, which is a commercial use in the Open Space Zone on Trinidad Head. If the Commission were to approve U.S. Cellular's CDP, it would be encouraging further expansion of commercial uses on Trinidad Head which would cumulatively be disastrous to the public's use and enjoyment of this unique coastal resource. The City has permitted this commercial use to be expanded several times since 1997, the latest being the subject of our appeal to you. All of the City's CDP approvals for the cellular telecommunications facility on Trinidad Head have neither relied on, nor conformed to, the policies and standards set forth in the City's LCP. Specifically, the City's CDP approvals for this commercial use on Trinidad Head have relied on a provision (Item 6) in a 1983 development plan prepared by the City as part of a process of transferring property ownership on Trinidad Head from the Bureau of Land Management to the City.

"The City will continue to coordinate with the Cable TV company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation."

According to Commission staff in the Eureka office, neither the 1983 development/management plan nor provision 6 quoted above are part of the City's LCP. However, Trinidad's LCP does contain Policy 66, which is specific to use of the land the City annexed on Trinidad Head:

"The portion of Trinidad Head not needed by the Coast Guard should be transferred to the City of Trinidad. The area should be kept in its natural state with hiking trails and vista points. Trinidad Head will be kept in its natural state with hiking trails and vista points." (Amended Ordinance 166 12/12/1984)

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There is no mention in Policy 66 of utilizing Trinidad Head for commercial use such as a cellular telecommunication facility, let alone allowing for expansions of such facilities. This policy is explicit: "Trinidad Head **will** be **kept** in its natural state..." in-fact in the Ordinance adopted by the City in 1984 to amend its LCP, it specifically states that the word "should" shall be replaced with the word "will" regarding keeping the area in its natural state with trails and vista points. Therefore, all future land use decisions which may affect Trinidad Head, including the one that generated this appeal, were provided clear guidance as to compliance with the City's LCP. Any approval of a development that does not maintain the natural state of Trinidad Head is clearly in violation of this policy and, therefore, the LCP.

The City's prior actions also violate Policy 21 of the LCP, and if the Commission were to approve this CDP, it would create and give preference to a de-facto Commercial Zone within the Open Space Zone on Trinidad Head. The creation of this de-facto Commercial Zone conflicts in several ways with the primary use of the site for passive recreation, i.e. vehicular traffic on recreational pathways, obstructed and degraded vistas, and increases in noise levels from additional cooling fans, which will ruin the serenity and tranquility of Trinidad Head. Simply stated, the City's LCP says the Open Space Zone is intended for recreational uses and does not provide for commercial uses.

Policy 20 of Trinidad's LCP states that it is undesirable to allow the expansion of land uses that do not conform to the underlying land use designation. The proposed project is an expansion of a commercial use that is not allowed in the Open Space Zone as per Policy 66, nor is it desirable on Trinidad Head as per Policy 20.

Appendix B of the General Plan (LCP) contains several design considerations to protect existing and future uses when considering development projects.

"Where possible, structures on sites visible from the beach should be set back as far as possible to make the structure as visually unobtrusive as possible."

The existing structures visually pollute the scenic vistas from Trinidad Head and views from the shoreline, Trinidad Bay, open ocean and nearby hiking trails, as would the proposed addition by U.S. Cellular. Complying with this consideration is impossible, as the project proponent does not wish to relocate the cellular telecommunications facility from Trinidad Head.

"Except for necessary public safety facilities, structures should blend with the natural visual form of the area and not unnecessarily extend above the natural silhouette or the silhouette of existing structures in the area."

Expansion of this commercial facility is not necessary for public safety, because land-line telephone service is presently available throughout the area, as is cellular phone service from other service providers—Verizon, Edge, and Sprint. Lastly, U.S. Cellular currently has adequate cell phone service in Trinidad area and at sea from its nearby facility on Walker Mountain and the McKinleyville Airport, as many customers who live or work in the area have testified.

The existing cellular telecommunications structures do not blend with the natural visual form or silhouette of Trinidad Head. Many of these structures extend significantly above the natural profile

of Trinidad Head. In 1985, the height of the single TV transmission pole was 21 feet. Today two cell towers are 41 feet high and one whip antenna reaches 51 feet in height.

The City's Zoning Ordinance (LCP) does not allow the erection, alteration, addition to, and enlargement of structures for uses not provided for in the zone in which the structures reside (Chapter 17.12 Section 010 Use Restrictions). The stated purpose of the Open Space Zone is to maximize the preservation of the natural and scenic character of these areas, including the protection of important wildlife habitat and cultural resources. The City's Open Space Zone does not permit commercial uses such as cellular telecommunication facilities (Chapter 17.16 Section 010 Applicability). Therefore, the proposed project does not comply with the City's LCP.

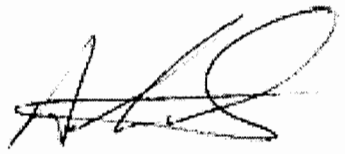
The LCP does allow the issuance of a use permit for structures accessory to uses and buildings existing within the Open Space Zone **at the time** the ordinance codified in this title is adopted (Ord. 166 Section 4.02 (B), 1979) (Chapter 17.16 Section 030 Uses Permitted with a Use Permit). In 1985, the City annexed the project area and placed the area in the Open Space Zone. In 1985, there were one or two 21-foot high poles; one 12-foot TV broadcast dish antenna and a wooden building at the site of the proposed project. The proposed project is neither a supplementary nor subsidiary (accessory) use to the TV broadcasting facility as such use ceased in 1994. Therefore, the proposed project cannot be accessory to a use which no longer exists. In-fact, adding more cellular equipment to the site would expand a non-conforming use, because cellular services are the primary use and no the accessory use on the site.

The project proponent claims it only wants to install *accessory* structures, specifically two panel antennas 71 inches long by 11 inches wide on top of two 21-foot tall poles, and extending 2 feet higher. However, the height of any accessory structure must comply with the maximum building height in the Zone in which it resides (Chapter 17.16 Section 090 Accessory Structures). In the Open Space Zone, the maximum building height is 15 feet or less if necessary to accomplish the purposes of Sections 17.16.060 and 17.16.080 (Ord. 166 Section4.02(C)(4), 1979). Section 17.16.080 states that structures proposed within the Open Space Zone shall also satisfy the applicable requirements in Sections 17.20.060 through 17.20.130 (Ord. 166 Section4.02(C)(3), 1979). In an attempt to protect the scenic attributes of coastal bluffs, Section 17.20.080 states that no structure shall be placed on a bluff, except that the following structures may be placed on the bluff face and alterations made there [to] subject to obtaining a use permit: stairways, fences and shoreline protection structures. The proposed project does not comply with these standards in the LCP, because it violates: the 15-foot maximum height limitation in the Open Space Zone and the prohibition on placing structures on an ocean bluff.

Trinidad Head is: a renowned scenic coastal area, a state-designated historical landmark (No. 146), listed in California's register of historic resources, an important cultural resource, and a sacred site to the Yurok and Tsurai peoples. The Friends of Trinidad Head ask the Commission to bring to an end the continued expansion of commercial facilities on Trinidad Head. The Commission should know that Verizon Wireless has approached the City with plans to expand the cellular facilities on Trinidad Head pending the Commission's decision.

It is reasonable to conclude that if U.S. Cellular's application is approved, it will only sanction and encourage further degradation of the public's ability to experience and enjoy Trinidad Head and its unparalleled views of the North Coast.

Sincerely,



Aldaron Laird
Environmental Planner
on behalf of the Friends of Trinidad Head

California Native Plant Society

North Coast Chapter
P.O. Box 1067
Arcata, CA 95518
January 19, 2007

Jim Baskin
California Coastal Commission
North Coast District Office
P.O. Box 4908
Eureka, CA 95502-4908

Re: U.S. Cellular Corporation de novo hearing A-1-TRN-06-042

Dear Mr. Baskin,

I am writing this letter on behalf of the North Coast Chapter of the California Native Plant Society (CNPS). CNPS is a nonprofit organization of nearly 10,000 amateurs and professionals dedicated to the preservation of California's diverse native flora. CNPS conducts a variety of conservation efforts focused on long-term protection and preservation of native flora in its natural habitat, and is the foremost non-governmental organization working to protect rare, threatened, and endangered plants in California. The North Coast Chapter is based in Arcata and represents approximately 300 members, many of whom enjoying the trails, scenic views, and natural environment of Trinidad Head on a regular basis.

CNPS opposed to U.S. Cellular's proposed expansion of wireless communications facilities on City of Trinidad property within the Coastal Zone on Trinidad Head. CNPS believes that the project is in conflict with numerous local, state, and federal regulations, including the Trinidad General Plan and Local Coastal Plan, the California Environmental Quality Act (CEQA), the Coastal Zone Management Act, and the National Environmental Policy Act (NEPA).

We urge you to deny the project applicant's request for the reasons described in detail below. We believe that numerous more appropriate sites exist in the area for wireless communications facilities. We also would like to stress that if this use of City property in conflict with open space zoning is approved, another wireless company (Verizon) has applied for their own expansion of generators and other equipment, and the expansion of these facilities will continue. It is therefore imperative that these uses be discontinued, as they are inappropriate and illegal at the proposed project site.

Project is Inconsistent with Zoning

The project proposes commercial construction on city property zoned for Open Space. Trinidad Head is an important coastal, aesthetic, and cultural resource and has been slated for low-intensity recreation and open space by regulating agencies. According to the City of Trinidad's Staff Report, "Policy 66 (p. 39) states that: *"Trinidad Head will be kept in its natural state with hiking trails and vista points."* For these reasons, CNPS believes that commercial construction is inappropriate for the area and the project should be denied unless the area is rezoned for commercial use.

The North Coast Chapter leads field walks to Trinidad Head, and many of our members visit the area to enjoy the solitude, silence, and natural environment. CNPS believes that the noise associated with the proposed project (in addition to existing noise from previously-constructed equipment) will interfere with the recreation and open space values of the area, to the detriment of our members and the public who participate in our field walks.

Project Would Impact Environmentally Sensitive Habitat Areas (ESHAs)

The Coastal Act defines "environmentally sensitive area" as an area in which plant or animal life or their habitats are either rare or especially valuable because of their nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Cal. Pub. Res. Code § 30107.5.

Trinidad Head would be considered an ESHA under both definitions, since it is defined by City General Plan Policy 17 as rare plant habitat and is also quite likely an area that would be easily disturbed or degraded by human activities. Development within or adjacent to an ESHA is expressly and severely limited. Under the Coastal Act, ESHAs "shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Cal. Pub. Res. Code § 30240(a). Communications facilities are not a coastal dependent use and thus would not be allowed in an ESHA within the Coastal Zone. The statute, by its terms, and as emphasized by the few courts who have considered the issue, restricts development only "to uses dependent on [the] resources" – which would appear to restrict essentially all significant commercial development. See *Sierra Club v. California Coastal Commission* (1993) 12 Cal. 4th 602, 617, and *Bolsa Chica Land Trust v. Superior Court of San Diego* (1999) 71 Cal. App. 4th 493,

Furthermore, the project is likely to impact an adjacent ESHA, the coastal waters surrounding Trinidad Head. Erosion, runoff and non-point source pollution, and other impacts related to the project construction and ongoing maintenance could degrade the adjacent coastal waters and associated fish and wildlife habitat.

Alternatives Assessment

Since the project would be subject to regulation by the Federal Communications Commission, it is subject to the National Environmental Policy Act (NEPA) regulations. NEPA requires all Federal agencies to implement procedures to make environmental consideration a necessary part of an agency's decisionmaking process. As a licensing agency, the Commission complies with NEPA by requiring Commission licensees and applicants to review their proposed actions for environmental consequences. FCC rules

implementing NEPA are found at Title 47 of the Code of Federal Regulations, Part 1, Subpart I, rule sections 1.1301 to 1.1319. If a licensee's proposed action falls within one of the categories listed in section 1.1307, section 1.1308(a) requires the licensee to consider the potential environmental effects from its construction of antenna facilities or structures, and disclose those effects in an environmental assessment (EA) which is filed with the Commission for review. The Commission solicits public comment on the EAs and assists its licensees in working with the appropriate local, state, and federal agencies to reach agreement on the mitigation of potential adverse effects. The filing of an EA is required when a proposed facility may have an a significant on historic properties such as Trinidad Head.

NEPA requires that agencies:

> "Use the NEPA Process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment" (40 CFR § 1500.2 (e))
>
> "Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." (§1502.14 (a))

An important alternative to consider is the siting of the proposed project outside the Coastal Zone, in an area not defined as Environmentally Sensitive Habitat Area.

Lack of Botanical Scoping and Surveys for the Project Area

The most glaring inadequacy of the proposal with regard to botanical resources is the failure to conduct surveys for the federally endangered western lily (*Lilium occidentale*). According to the Trinidad City General Plan, suitable habitat for the western lily and other rare plants has been identified on Trinidad Head. Failure to consult with a botanist is unacceptable and inappropriate. Failure to conduct seasonally appropriate surveys is a violation of state and federal laws. The lack of surveys also violates the U.S. Fish and Wildlife Service's *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants* (1996).

The proposal also fails to include basic information on rare plants that could occur within the area and that qualify for protection under 15380(d) of CEQA. Environmental assessment of such a project should include a list of plants from of the California Natural Diversity Database and California Native Plant Society's *Inventory of Rare and Endangered Plants of California* to disclose sensitive species which have the potential to occur in the plan area (CNDDB Nov. 2002; CNPS 2001).

Botanical surveys should be conducted in all suitable habitat that will be impacted by the proposed project. The City's appeal response dated September 8, 2006 states that:

> It is clear that some soil disturbance will need to occur in order to place the proposed equipment cabinets...

Botanical scoping should be conducted to determine which sensitive species are known from the project area. These species qualify for consideration under 14 Cal. Code Reg. § 15380. Botanical surveys should be conducted by botanists with knowledge of the local

flora, taxonomy and identification of all local taxa, including grasses and graminoids, and experience with project-related impacts and feasible mitigations to protect sensitive plant species from those impacts. Botanical surveys should include an inventory of all species present within the plan area, as described in the DFG Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities (CDFG 2000).

The City of Trinidad's Staff Report states on page 6 that:

> The General Plan Policy 17 (p. 15) encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. Trinidad Head has been identified in General Plan background documents as being habitat for the Western Lily (*Lilium occidentalis*), and possibly other rare plants as well. However, since this project will not involve any new ground disturbance, this concern is not an issue.

Page 6 of the City of Trinidad's Staff Report states that "This project is not fully consistent with this policy." CNPS believes that this inconsistency is grounds for denial of the project. If it is approved, the General Plan's consistency with the Local Coastal Plan and the Coastal Zone Management Act will be in question.

Not only is the project in conflict with the Trinidad General Plan, but it is also in conflict with CEQA, which requires that sufficient information be provided to allow the lead agency, trustee agencies, and the public to evaluate potentially significant adverse effects and to disclose to the public the reasons why the action was approved [14 CCR § 897(b)(3), 898.2(c), 1034 (w), § 15003, 15091, 15126.2, 15126.4; PRC § 21082.2]. This is most clearly stated in 14 CCR § 15002, which lists the basic purposes of CEQA. Two of these basic purposes are 1) to inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities and 2) disclose to the public the reasons why a governmental agency approved the project in the manner chosen.

Conclusion

CNPS appreciates the opportunity to comment on this project. We also have concerns about cumulative impacts on aesthetics and coastal resources as well as past interpretations of the City's Local Coastal Plan (LCP). The City's action regarding this proposal is inconsistent with the City's LCP. CNPS recommends that the LCP be reviewed for consistency before further actions are taken in the Coastal Zone within the area covered by the Trinidad LCP.

Respectfully,

Jennifer Kalt

Jennifer Kalt, Conservation Chair

Cc: Friends of Trinidad Head, c/o Kimberley Binnie
Aldaron Laird, Environmental Planner
Bonnie Neely, Commissioner, California Coastal Commission

References:

California Department of Fish and Game, Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities. May, 2000.

California Department of Fish and Game, Natural Diversity Database. Nov. 2002. Special Vascular Plants, Bryophytes, and Lichens. Biannual publication, Mimeo. 150 pp.

CNPS. 2001. *Inventory of Rare and Endangered Plants of California* (sixth edition). Rare Plant Scientific Advisory Committee, David P. Tibor, Convening Editor. California Native Plant Society. Sacramento, CA.

Donald H. Weburg v. State Board of Forestry, 12/6/02, Superior Court of California, County of Sacramento.

Tuttle, A. July 2, 1999. *CDF Guidelines for Species Surveys, Avoidance of Significant Impacts and Identified Mitigations.* California Dept. of Forestry, Sacramento, CA.

United States Fish and Wildlife Service. 1996. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants. Sacramento, CA.

January 18, 2007

California Coastal Commission
c/o Jim Baskin
North Coast District Office
710 E Street, Suite 200
P.O. Box 4908
Eureka, CA 95502-4908

RECEIVED
JAN 18 2007
CALIFORNIA
COASTAL COMMISSION

Re: Friends of Trinidad Head Appeal No. A-1-TRN-06-042 (APN 042-121-05, Trinidad, Humboldt County) and U.S. Cellular *de novo* hearing

Dear Commissioners:

I am requesting that the "Blue Binder," dated March 2006, which was submitted by Friends of Trinidad Head ("Friends") to the City of Trinidad and the North Coast District Office of the California Coastal Commission in the above-referenced matter, be entered as evidence and taken into consideration with regards to U.S. Cellular's *de novo* hearing before the Commissioners in San Diego to be held sometime between February 14-16, 2007.

Friends believe the "Blue Binder" contains many important documents which reflect the hundreds of hours (and thousands of dollars) our group has spent working to protect one of our most beautiful and important coastal resources—Trinidad Head.

Friends kindly request that the "Blue Binder" be kept a part of the record in this matter.

Thank you,

Kimberly Tays Binnie

Kimberly Tays Binnie
Member, Friends of Trinidad Head
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First, we want to thank the City Council members and staff for creating an open and positive environment for public participation in the process of government.

We know this isn't always the situation in government, and we are grateful to you.

Thank you, too, City Council members for donating your time to the City.

The documents in this notebook were scattered throughout the City files, and took many hours to locate. We tried to put all the important documents in order, then studied them to outline the major points relevant to the cell towers on the Head and to the US Cellular proposal. We also included information about the Telecommunications Act and court cases, and may send a few more things later.

The documents revealed that the towers violate the BLM commitment, SEQA regulations, and the General Plan. (It is easier to see the violations with a full set of documents!)

We are confident that after examining the documents, you will make the right decision and we want to assist in this process.

TO USE THIS BOOK

Read the key points and trust that we have thoroughly and honestly outlined the major issues.

OR

Read the key points and confirm them by checking the references to the documents.

OR

Just read the documents. We tried to include all the relevant ones, put into chronological order.

Friends of Trinidad Head
March 2006

ZONING ISSUES

CELL TOWER PROJECTS ON THE HEAD HAVE VIOLATED CITY ZONING REGULATIONS AS FOLLOWS:

Chapter 17.08
DEFINITIONS

An "accessory use" is a subordinate use which does not change the character of the premises. [1]

Cell towers are not a subordinate use to a cable TV station; Major new structures have been added for new uses, expanding and altering the site.

Chapter 17.16;
OPEN SPACE ZONE

Structures in OS zoning shall be no higher than 15'. [3]

Cell towers are "structures," [4] permanently attached to the ground, not "appurtenances." [5] They exceed height regulations by 35'.

OS zoning regulations permit low-impact recreation. [7]

Cell towers are not a recreational use.

Chapter 17.60
DESIGN REVIEW AND VIEW PRESERVATION

Cell towers violate view protection criteria.[8]

They are visually obtrusive to users of the Head.

They block views of the ocean from the top of the Head.

Chapter 17.64
NONCONFORMING USES AND STRUCTURES

A nonconforming structure may only be modified in ways that do not increase the degree of nonconformance.[9]

Modifications/extensions of the Cable TV site by Cal-North increased the degree of physical nonconformance.

Any change of a nonconforming use shall be to a conforming one.[10]

The Cable TV site is now used for Cellular transmission towers; this change is not to a conforming use.

A nonconforming use which has been discontinued for a year shall not be reestablished.[11]

Documents indicate that the Cable TV site was unused for about three years prior to the cell tower installations. See Cable TV (blue) section.

Chapter 17.72
VARIANCES, CONDITIONAL USE PERMITS AND DESIGN REVIEW

A conditional use permit must be for a use that the community needs at that location.[12]

Cell installations can be permitted in areas where proper zoning exists: we do not "need" to put them on the Head.

Trinidad Head is zoned OS recreation and not zoned for telecommunications.

Health/safety/welfare of the public shall not be compromised.[13]

The maintenance road on the Head is co-located with the hiking trail, and has four sharp switchbacks with blind corners. Hikers report near-misses with cars and maintenance vehicles. Additional cell companies = additional traffic.

Safeguards shall be taken against noise, glare, dust, and odor.[14]

A cooling fan in the Cal-North installation operates on warm days. It can be clearly heard from the trail below. Additional cell installations = cumulative noise impacts.

Dust, debris and emissions from construction equipment will compromise the atmospheric sampling done at the NOAA and Scripps facilities.

Chapter 17.76
ENFORCEMENT-VIOLATIONS-PENALTIES

Employees shall not issue permits for projects that don't conform to regulations.[15]
If they do, the permits are null and void.[15]

The City's BLM Application cannot be cited to overrule Zoning Regulations.[16]

The following statement on p. 21 of the City's Application to the BLM has been quoted to justify cell tower installations:

"The city will continue to cooperate with the Cable TV Company and any future similar- type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation."

The City's General Plan regulations are more restrictive and therefore control.[16] *(Of course, there are other problems here: legal definition of a "public service,"*[17] *and conflict with recreational use of the Head.)*

Cell towers are in direct conflict with Open Space zoning and in violation of the conditions established by the BLM in granting Trinidad Head to the City of Trinidad.

Document List
Excerpts from the City of Trinidad General Plan
Definition of "appurtenance."

(The following excerpts are taken from the City of Trinidad General Plan and do not represent the chapters in their entirety.)

Chapter 17.08

DEFINITIONS

17.08.010 Construction. A. Unless the context otherwise requires, the definitions set forth or otherwise provided for in this chapter shall be used in the interpretation and construction of this title. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure," and the word "shall" is mandatory." (p.251)

17.08.680 Structure. "Structure" means anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. (Ord. 166 Appx. A (part), 1979) (p.260) #4

17.08.690 Structure, accessory. "Accessory structure" means a detached building or structure, other than a sign, the use of which is accessory to the use of the lot. (Ord. 166 Appx. A (part), 1979) (p.260)

17.08.700 Use. "Use" means the purpose for which either land or water or a structure thereon is designed, arranged, or intended, or for which it is, or may be, occupied or maintained. (Ord. 166 Appx. A (part), 1979) (p.260)

17.08.710 Use, accessory. "Accessory use" means a subordinate use which is customarily incidental to the primary use of the premises, and which does not alter or change the character of the premises. (Ord. 166 Appx. A (part), 1979) (p.260) #1

Chapter 17.12

ESTABLISHMENT AND DESIGNATION OF ZONES

17.12.060 Limitations on structures and lots. No building or part thereof shall be erected nor shall any existing building be altered, enlarged or moved into any zone in any manner not in compliance with the minimum yards, maximum building height, maximum density and other regulations for the zone in which such building is located, nor shall any parcel of land be divided or the boundaries thereof be adjusted in any manner not in compliance with the minimum lot area, minimum yards, maximum density and other regulations for the zone in which such lot is located, except as provided in Chapters 17.56 through 17.64. No yard or other space provided about any building for the purposes of complying with the provisions of these regulations shall be considered as providing a yard or open space for more than one building or lot unless specifically permitted elsewhere in these regulations. (Ord. 166 §3.06, 1979) (p.263)

Chapter 17.16

OS ZONE

17.16.020 Principal permitted uses. Principal permitted uses in the OS zone are:

A. Public and private open space, wildlife habitat;

B. Low-intensity recreation on publicly controlled lands and waters such as beachcombing, hiking, fishing;

#1 C. Pedestrian travel within public access easements consistent with the trail system identified in the general plan;

D. Removal of vegetation posing an imminent hazard to structures or people if approved by the city engineer;

E. Picnicking on public lands designated for such use. (Ord. 166 §4.02 (A), 1979) (p.264)

17.16.030 Uses permitted with a use permit. Uses permitted in the OS zone with a use permit are:

A. Pedestrian trails, vista points, including improvements to existing facilities;

B. Shoreline related recreation uses, including improvements to existing facilities;

C. Removal of vegetation including timber;

D. Structures and improvements, such as seawalls and revetments, related to the protection or maintenance of scenic and cultural resources, beaches, coastal bluffs and buildings threatened by natural processes;

E. Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted;

F. Wildlife habitat management and scientific research activities and related temporary structures. (Ord. 166 §4.02 (B), 1979) (p.264)

17.16.070 Maximum building height. In the OS zone the maximum building height is fifteen feet except that the design assistance committee may require a lesser height if necessary to accomplish the purposes of Sections 17.16.060 and 17.16.080. (Ord. 166 §4.02(C) (4), 1979) (p.265)

#3

Chapter 17.56

SPECIFIC USE REGULATIONS

17.56.020 Accessory uses. Accessory uses, as defined herein, shall be permitted as appurtenant to any permitted use, without the necessity of securing a use permit, unless particularly provided in this chapter, provided that no accessory use shall be conducted on any property in the SE, SR and UR zones unless and until the main building is erected and occupied, or until a use permit is secured. Use of a recreational vehicle as a temporary residence by visitors for not more than fifteen days in any calendar year shall be a use accessory to a dwelling. (Ord. 166 §6.02, 1979) (pg.286)

17.56.090 Accessory structures. Accessory structures shall be located in the area between side property lines from the rear lot line to the rear of the front yard, except that accessory structures shall not be closer than ten feet to any on-site building and not closer than fifteen feet to any side lot line abutting a street. Accessory structures for nonhousehold animals shall not be located closer than fifty feet to any dwelling. Accessory structures shall not be more than fifteen feet in height in the SR and UR zones and shall comply with the maximum building height limitation in other zones. (Ord. 166 §6.09 1979) (p.289)

17.56.100 Height limitations and modifications. Heights of buildings and structures shall be measured vertically from the average ground level of

the ground covered by the building to the highest point of the roof. Chimneys, vents, flagpoles, conventional television reception antennas, ventilating and air conditioning equipment, parapet walls and similar architectural and mechanical appurtenances shall be excluded in making such measurement. (Ord. 166 §6.10 1979) (p.289)

Chapter 17.60

DESIGN REVIEW AND VIEW PRESERVATION

17.60.010 Purpose. The small scale of the community and its unique townsite, affording spectacular views of the coastline and ocean horizon, define the character of Trinidad. Maintaining this character is essential to the continued desirability and viability of the city. A design assistance committee, consisting of the city planning commission and one member of the city council, is established to review new developments to ensure their consistency with the character of the city and minimize their impact on important vistas. (Ord. 84-180 §3 (part), 1984: Ord. 166 §6.19 (part), (1979) (p.297)

17.60.040 Design criteria. The design assistance committee shall be guided by the following criteria when evaluating land form alterations and construction of structure:

B. Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.

. . .

H. When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. (p.297-298)

17.60.050 View protection criteria. The design assistance committee shall be guided by the following criteria when evaluating the impact of new development on public and private vistas and important scenic attractions:

A. Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.

#8

B. Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails and vista points, except as provided in subdivision 3 of this subsection. (pgs.298-299) #8

17.60.060 Review procedure. The committee shall prescribe application forms and information requirements for use by those proposing activities subject to design assistance review. If a use permit, coastal development permit or other approval is required by the planning commission or city council, the review of the design shall be subsequent to other permit considerations and may occur at the same meeting, subject to fulfillment of public notification requirements. Otherwise the procedure for submittal and consideration of the application shall be the same as for a use permit as provided in Chapters 17.68 through 17.76. Where view considerations are involved, the applicant is encouraged to contact property owners within one hundred feet and show them the layout and profile of the proposed structure. The committee shall not approve any application unless it finds that all of the applicable criteria have been considered and the minimum adjustments required to achieve the objectives applicable to the area where the development is located. (Ord. 84-180 §3 (part), 1984: Ord. 166 §6.19 (part), 1979) (pgs.299-300)

Chapter 17.64

NONCONFORMING USES AND STRUCTURES

17.64.010 Nonconforming uses and structures. The lawful use of the lands or structures existing on the effective date of the regulations codified in this title, although such use or structure does not conform to the regulations applied to such property or structure, may be continued, except as provided as follows:

A. Any structure conforming as to use but not conforming as to lot area, yards, height or other requirements herein at the effective date of the ordinance codified in this title may be altered, repaired or extended provided that such alteration, repair or extension shall not increase the existing degree of nonconformance. #9

. . .

C. Any change of a nonconforming use shall be to a conforming use, and a nonconforming use which has been discontinued for a period of one year or more shall not be reestablished. A nonconforming use of a part of a lot or a structure shall not be extended throughout the lot or structure.

#10
#11

D. Any use for which a use permit is required by these regulations shall be considered a nonconforming use until a use permit is obtained. (pgs. 300-301)

Chapter 17.72

VARIANCES, CONDITIONAL USE PERMITS AND DESIGN REVIEW

17.72.020 Required hearings. A. The planning commission or hearings officer shall consider all applications for variances and conditional use permits. The design assistance committee, consisting of the planning commission and one member of the city council, shall consider all applications for design review. (p.306)

17.72.040 Conditional use permit findings. A conditional use permit may be granted for any use listed as a conditional use in the applicable zone if the facts establish and written findings are adopted showing:

A. That the proposed use at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and

#12

B. That such use as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

#13

1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures,

2. The accessibility and traffic pattern for persons and vehicles, and the type of volume of such traffic, and the adequacy of proposed off-street parking and loading,

#13

3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor,

#14

4. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and

C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.

D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.

. . .

2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast, (pgs.307-308)

17.72.050 Imposition of conditions. In granting a variance, conditional use permit, or design review, the planning commission or design assistance committee shall impose such conditions as deemed necessary to carry out the intent and purpose of this title. The violation of any specification or condition so imposed shall constitute a violation of this title and may constitute grounds for revocation of the variance, conditional use permit or design review. (Ord. 166 §7.10, 1979) (pgs.308-309)

Chapter 17.76

ENFORCEMENT--VIOLATION--PENALTIES

17.76.020 Enforcement. All employees of the city vested with the duty or authority to issue permits, shall conform to the provision of this title and shall issue no permit, certificate or license for uses, buildings, or purposes in conflict with the provisions of this title; and any such permits, certificates or licenses issued in conflict with the provisions of this title shall be null and void. It shall be the duty of the city engineer to enforce the provisions of this zoning title pertaining to the erection, construction, #15

reconstruction, moving, conversion, alteration, or addition to any building structure. (Ord. 166 §7.19.1979) (p.317)

17.76.030 Conflict with other regulations and private agreements. Where conflict occurs between the provisions of this title and the building code or other regulations effective within the city, the more restrictive of any such regulations shall apply. It is not intended that this title shall interfere with or abrogate or annul any easements, covenants, or other agreements not in effect; provided, however, that where this title imposes a greater restriction upon the use of buildings or premises than are imposed or required by such agreements, the provisions of this title shall control. (Ord. 166 §7.22, 1979) (p.317)

17.76.040 Public nuisance. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this title and/or any use of property contrary to the provisions of this title shall be, and the same is declared to be, unlawful and a public nuisance; and the city attorney of the city shall, upon order of the city council, immediately commence action or proceedings for the abatement and removal and enjoinment thereof in the manner provided by law, and shall take such other steps and shall apply to such other courts as may have jurisdiction to grant such relief as will abate and remove such building or structure and restrain and enjoin any person, firm, or corporation from setting up, erecting, building, maintaining, or using any such building or structure or using any property contrary to the provisions of this title. The remedies provided for herein shall be cumulative and exclusive. (Ord. 166 §7.21, 1979) (pgs.317-318)

APPURTENANCE:

Merriam-Webster Online Dictionary

1. An incidental right (as a right-of-way) attached to a principal right of a property right and passing in possession with it.
2. A subordinate part or adjunct.
3. Plural: accessory objects.

Compact Oxford English Dictionary (askoxford.com)
An accessory associated with a particular activity.

onelook.com
A supplementary component that improves capability.

Encarta.msn.com
An accompanying part or feature of something: as in "an athletic club with all the appurtenances."

PUBLIC SERVICE:

A term applied to the objects and enterprises of certain kinds of corporations, which specially serve the needs of the general public or conduce to the comfort and convenience of an entire community, such as railroad, gas, water, and electric light companies; and companies furnishing public transportation. A public service or quasi public corporation is one private in its ownership, but which has an appropriate franchise from the state to provide for a necessity or convenience of the general public, incapable of being furnished by private competitive business, and dependent for its exercise on eminent domain or governmental agency. It is one of a large class of private corporations which on account of special franchises conferred on them owe a duty to the public which they may be compelled to perform.[1]

---

[1] Black's Law Dictionary, 7th Edition. Bryan A Garner, editor in chief, St. Paul Minn: West Group, 1999: p. 1231.

TRANSFER DOCUMENTS:
THE CITY TAKES OWNERSHIP OF THE HEAD

KEY POINTS

- The BLM grants Trinidad Head to the City for recreational use **only**.[1]

- The BLM can TAKE IT BACK if this condition is violated.[2]
  Compliance checks have missed violations.[5]

- The City will coordinate with the Cable TV company & future similar-type users . . . that provide a public service, as long as the primary recreational purpose isn't violated.[3]
  What is the legal definition of a "public service?" [4]

REFERENCES TO DOCUMENTS

*1 City's Application to the BLM, (pp.1, 2, 21); Land Patent from BLM to City , (p. 1).
*2 Land Patent, (pp. 2, 3).
*3 City's Application to the BLM, (p.22).
*4 Black's Law Dictionary, 7th ed., p. 1231).
*5 BLM Compliance Checks.

DOCUMENT LIST

The City's Application to the Bureau of Land Management. (1982)
The Land Patent giving the Head to the City. (1983)
Black's Law Dictionary, 7th edition, Bryan A. Garner, editor in chief, St. Paul Minn: West Group, 1999: definition of "PUBLIC SERVICE," p 1231.
Letter 4/20/83 from Coastal Commission to BLM
BLM Compliance Checks for 1988, 1993, 2001.

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FORWARD by: Axel Lindgren, direct lineal descendent of the Tsurai Village residents.

A small peninsula which juts out into the Pacific Ocean in such a fashion that it formed a well protected bay from the winds and high seas from the north, the perfect protection from the high seas, winter and summer, was recognized by a band of Indians who established a permanent settlement on a terrace on the bayside about twenty feet above sea level. The village is Tsurai, which means "Mountain By The Sea."

The peninsula, itself, was called Tsurewa, which served the Tsurais in various aspects. Tsurewa was worshipped for the protection which allowed seafood harvesting on any day of the year; it was an oracle from which good and evil was predicted by the various fog formations which would cover the top, as if wearing a hat, or only the top would be visible, or a perfect band with only the top and bottom visible.

Tsurewa was covered with grass and was more productive and accessible when free of brush; useful herbs, berries and roots were permitted to grow after an annual burn. With the entire area accessible, it made a perfect vantage point from which to study the migration of ducks and whales and to monitor the sea lion supply.

The leaders were free to travel to established places to pray, meditate or communicate with the creator. Spears were stored on the steep wall above the waterline between the bay

and the point.

Then in 1775, June 9th, the Spanish intrusion occurred, which lasted for ten days; enough time to allow the Spaniards to study the people, the forest, and erect a cross on the beach and atop of Tsurewa, which is now known as Trinidad Head.

Form 2740-1
(November 1968)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Land Office
(BLM Use Only)
Expires August 31, [illegible]

Date
11-15-82

Serial Number

APPLICATION FOR LAND FOR RECREATION OR PUBLIC PURPOSES

(Act of June 14, 1926, as amended, 43 U.S.C. 869, 869-4)

Home phone (for BLM use only)

1a. Applicant's name	b. Address (Number, street, city, state, and zip code)	Business phone (for BLM use only)
CITY of TRINIDAD	P.O. Drawer N, Trinidad, CA	(707) 677-0223

2. Give legal description of lands applied for (*if surveyed, metes and bounds description, if unsurveyed*):

SUBDIVISION	SECTION	TOWNSHIP	RANGE	MERIDIAN
Lot 37	Sec. 26	Township 8 North	Range 1 West	Humboldt County Meridian

County of	State of	Containing (in acres)
Humboldt	California	42.79

3a. This application is for Lease XX Purchase* (*If lease, indicate years*) *at no cost.

b. Proposed use is X Public Recreation ; Other Public Purposes: (*Specifically identify type of use, development, road, time table, and management schedule in attached plan of development*).

4. Attach three (3) copies of the statement required by 43 CFR 2741.3.

5. If applicant is State or Political subdivision thereof, cite your statutory or other authority to hold land for these purposes.

Government Code, Section 37350

6. Attach a copy of your authority for filing this application and to perform all acts incident thereto.

7. If land described in this application has not been classified for recreation and/or public purposes pursuant to the Recreation and Public Purposes Act, consider this application as a petition for such classification.

8. What plans do you now have or will have to inform employees, participants, beneficiaries, and the general public about the requirements of Title VI and that your programs are operating free from discrimination on the basis of race, color, religion, national origin, sex, or age? Explain.

As a political subdivision of the State of California, the City of Trinidad conducts all business in a public manner with appropriate notice, publication, an public hearing. Notice of non-discrimination is appropriately posted in City offices and necessary public documents, contracts, agreements, etc.

9. Are all activities, facilities, services, financial aid, or other benefits, included in your Federal assistance programs, provided without regard to race, color, religion, national origin, sex, or age? [X] Yes [ ] No (*If "no," describe the situation or activity and your plans for achieving compliance.*)

19. Have you received any complaints arding Title VI? Yes X No *If "yes," explain the nature of the complaints and actions you are taking.*

11. Do you utilize advisory committees in your program? [X] Yes [ ] No *If "yes," list total number of members, total number of members who are Negro, Spanish-American, American-Indian, or Oriental.* 5;
American-Indian 1.

Applicant's signature	Date

Compliance report is [ ] Approved [ ] Disapproved

Authorized Officer's signature	Title	Date

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representation as to any matter within its jurisdiction.

GENERAL INSTRUCTIONS

1. Type or print plainly in ink.
2. Submit application and related plans, in *triplicate*, to the proper BLM State Office for the State in which the land is located.
3. Study controlling regulations in 43 CFR 2740 *(Sales)* and 43 CFR 2912 *(Leases)*.
4. If applicant is non-governmental association or corporation attach a copy of your charter, articles of incorporation or other creating authority. If this information has been previously filed with any BLM office, refer to previous filing by date, place, and case serial number.
5. If applicant is non-governmental association or corporation, attach a copy of your authority to operate in the State where the lands applied for are located. If previously filed with any BLM office, refer to previous filing by date, place, and case serial number.

SPECIFIC INSTRUCTIONS
(Items not listed are self-explanatory)

Item

2 If land is surveyed, give complete legal description. If land is unsurveyed, description should be by metes and bounds connected, if feasible, by course and distance with a corner of public land survey. If possible, approximate legal subdivisions of unsurveyed lands should be stated. Acreage applied for must not exceed that specified by regulations.

3a Generally, title to lands will not be granted upon initial approval of an application. In order to assure proper development or use plans, the general practice will be to issue a lease or lease with option to purchase after development is essentially completed. In any case, term of lease may not exceed 20 years for non-profit organizations or 25 years for governmental agencies, instrumentalities or political subdivisions.

4 Leases and patents under this act are conditioned upon continuing public enjoyment of the purposes for which the land is classified. The plan of development, use, and maintenance must show, at a minimum:

a. A need for proposed development by citing population trends, shortage of facilities in area, etc.

b. That the land will benefit an existing or definitely proposed public project authorized by proper authority.

c. Type and general location of all proposed improvements, including public access (roads, trails, etc.). The showing may take the form of inventory lists, maps, plats, drawings, or blueprints as are available and necessary to describe the finished project. Site designs should be provided for intensive use sites and general information about improvements existing or planned on lands within the overall project.

d. An estimate of the construction costs, how the proposed project will be financed, including a list of financial sources, and an estimated timetable for actual construction of all improvements and facilities.

e. A plan of management to include operating rules, proposed source and disposition of revenues arising from the proposed operation, personnel requirements, etc.

f. A specific maintenance plan to include, for example, sewage and garbage disposal, road maintenance, upkeep and repair of grounds and physical facilities, etc.

g. Applications for solid waste disposal sites must comply with guidelines established by the Environmental Protection Agency (40 CFR 240 and 241) and must include a detailed physical description of the site including a map showing 5-foot contours at a scale of 1 inch = 200 feet), description of ground water situation, soil characteristics and management plan.

6. This may consist of a copy of a delegation of authority, resolution or other evidence of authority from the governing board of the applicant's organization, copy of the by-laws of the organization, or the like.

(19)

U.S. Government Printing Office: 1982—578

RESOLUTION NO. [illegible]

RESOLUTION TO ACQUIRE TRINIDAD HEAD

WHEREAS, The United States Coast Guard proposes to release portions of Trinidad Head from reserved status, making them available for acquisition by other parties.

WHEREAS, the City of Trinidad has maintained a long standing, (since 1976) request for acquiring the Head in the event of such a release.

WHEREAS, the City of Trinidad's Coastal Commission approved General Plan and the Coastal Commission approved Draft Local Coastal Plan, (both of which meet Federal consistancy requirements of the National Oceanic and Atmospheric Administration's Office of Coastal Zone Management) call for transfer of the Head to City ownership should this become possible.

WHEREAS, the City, together with other local service groups, has a demonstrated capacity to manage lands for open space and public recreational purposes.

NOW THEREFORE BE IT RESOLVED, that the City of Trinidad submit the appropriate application materials to the Federal Government and take all other necessary measures reasonable and prudent to obtain ownership of the Head.

AND FURTHER, that the City resolves to manage the Head in such a manner as to maintain the current rugged scenic and other natural qualities as well as provide non-intensive forms of public recreation (such as hiking and picnicing) consistent with these qualities.

Passes, approved and adopted on this 10 day of November 1982, by the following roll call vote:

AYES: Hanlon, Sharum, Replogle, Freeman & Zebo
NOES: none
ABSENT: none
ABSTAIN: none

[signature]
Mayor, City of Trinidad

ATTEST:

Merilea Partch
City Clerk

CITY OF TRINIDAD APPLICATION FOR LAND FOR RECREATION STATEMENT PURSUANT TO 43 CFR 2741.3:

Purpose

The purpose for the City's acquisition of Trinidad Head is to make available to the people forever, for their inspiration and enjoyment, in a condition of unimpaired ecological integrity, the majestic headland known as Trinidad Head; together with all related scenic, historic, scientific and recreational values and resources of the area.

Introduction

By designation as State Historical Landmark No.146, Trinidad Head has been recognized by California for its rich historical heritage. As population pressures have increased and our society has become more mobile, Trinidad has also been recognized by the public at large for its wealth of recreational opportunities. Land use planning efforts, primarily at the direction of the California Coastal Commission, have attempted to deal in a co-ordinated manner with these issues and needs, and in doing so have derived specific recommended policies for Trinidad Head:

Policy 66, State approved Coastal Plan for the City of Trinidad: The portion of Trinidad Head not needed by the Coast Guard should be transferred to the City of Trinidad. The area should be kept in its natural state with hiking trails and vista points. Public vehicular access should only be allowed as far as the existing harbor overlook.

Paragraph 7, State approved Local Coastal Plan for Humboldt County: If the Federal Government determines that Trinidad Head is surplus property, the City of Trinidad or other appropriate public agency should assume management of the property as open space. Foot paths and bike trails,.if appropriate, should also be provided.

The following text provides:

1) Historical, archeological, economic and environmental information substantiating the basis for the City's application and the needs formalized by the above policies;
2) A map detailing the proposed improvement project;
3) The implementation measures;
4) The long-term management program.

Cultural Resource Background

Preliminary report on California Indian Cultural Resources for Trinidad Head, Humboldt County, California. By: Ann King Smith, Archaeologist, Redwood National Park, Arcata, California:

Introduction

This report was prepared at the request of Chad Roberts of the Humboldt North Coast Land Trust. The Land Trust is preparing a resources inventory of Trinidad Head as part of a proposed transfer of the Head out of Bureau of Land Management jurisdiction. Due to time constraints, this is a preliminary report and is limited to Native American cultural resources. It is the author's understanding that historic resources will be reported elsewhere. The following tasks were completed: (1) a records search, (2) a field survey of the project area, and (3) initial consultations with local Indians. The results of the above tasks are described below:

Record Search

The Northwest Information Center of the California Archaeological Inventory at Sonoma State University was contacted to conduct an archaeological records search. According to the Center, Trinidad Head was surveyed by Chad Roberts in 1976. The survey did not result in the recording of archaeological sites in the areas which could be examined (Appendices 1 and 2).

Trinidad Head is within the territory of the Coast Yurok people, whose traditional lifeways have been described in detail (Pilling 1978; Kroeber 1925; Waterman 1920). A review of Yurok Geography (Waterman 1920) indicated that 75 place names for Trinidad Head and Bay were recorded (Appendix 3). The names attached to Trinidad Head imply that, at a minimum, the Head was traditionally used for hunting and gathering marine and coastal resources, for spiritual an oracle, and as a place of residence for one who "watches the people" (Waterman 1920, p.270). The large number of place names in a relatively small geographic area is an indication of both the intensive use and importance to Yuroks of Trinidad Head.

Field Reconnaissance

On October 7, 1982, the author conducted a field survey of as much of Trinidad Head as was feasible. Areas walked and examined for surface evidence of cultural resources included: roads and cut-banks of roads; the top, open area of the Head in the vicinity of the cross, transmitting, receiving and weather recording facilities; a trail connecting the top of the Head with the Coast Guard structures below; and the open areas in and around the Coast Guard structures. Accessible rocks were also examined for evidence of petroglyphs. Elsewhere, dense coastal scrub made ground visibility impossible.

No surface evidence of cultural resources was encountered. However, it is estimated that perhaps only 10 acres were subjected to archaeological reconnaissance. A similar field survey by Roberts (1976) resulted in the same limited coverage and negative findings.

Consultations

Three local Yuroks were consulted with regard to the cultural resources inventory of Trinidad Head: Axel Lindgren, Kathleen Silva and Joy Sundberg. The consultations resulted in a number of items of information:

1) In the past, Indians would burn-off portions of the coastal scrub on Trinidad Head in order to make the area more accessible and to encourage the growth of utilizable plants;
2) Trinidad Head served as an oracle for the people. The patterns of movement of fog around the promontory were indicators of future events;
3) Trinidad Head was used as a burial ground by the old people;
4) The Head, as one of the most important features of the area, was very significant to the Yuroks.

Summary and Recommendations

First, it should be emphasized again, that this is a preliminary study. Only a portion of the gentler, less steep areas which would likely have cultural resources could be examined. The possibility of burials and cultural resources in areas not inspected exists as does the possibility of burials and subsurface cultural resources in the areas previously examined. Background research and consultations conducted should also be considered preliminary. A number of archival resources were not researched and there are knowledgeable Indians and Whites who could not be contacted due to time constraints.

Second, based on the results from the above record search and consultations, it is clear that Trinidad Head is and was of strong cultural significance to the local Indians. To the author's knowledge, the Head is not currently used for traditional purposes, but that is due in large part to the changing traditional culture and to either the lack of privacy or lack of access to Trinidad Head.

Finally, since the Indian community has a demonstrated interest in Trinidad Head, it is recommended that the following persons be contacted with regard to future development plans: the Northwest Indian Cemetery Protective Association, the Trinidad Rancheria Tribal Council, descendents of Tsurai and interested members of the local Indian community. Consultations during the early planning stages are essential.

If, during the course of future developments, brush clearing or ground disturbance occurs, or buried archaeological resources are encountered, a concerned member of the Indian community and an archaeologist should be contacted.

References Cited

Krober, A. L., 1925. Handbook of the Indians of California. Bureau of American Ethnology Bulletin 78., Washington, D.C. (Reprinted in 1970 by California Book Company, Berkeley. Reprinted in 1976 by Dover Publications, New York).

Pilling, A. R., 1978. "Yurok" in Handbook of North American Indians, California; Vol. 8, R. F. Heizer, Ed. Washington, Smithsonian Institution.

Roberts, P., 1976. An Archaeological Survey of Trinidad Head, In Humboldt County, California AIR #S-263. Manuscript on file at the Northwest Information Center, California Archaeological Inventory, Dept. of Anthropology, Sonoma State University, Rohnert Park, California.

Waterman, T. T., 1920. Yurok Geography. Univ.of Calif.Publications in American Archaeology & Ethnology 16(5): 177-314. Berkeley, California.

HISTORICAL SKETCH OF TRINIDAD
1579-1977

Trinidad clings to the edge of the coastline with a heritage dating back nearly 400 years. Many historians believe, with good reason, that it was here that Sir Francis Drake spent his three months during 1579.

In 1595, Trinidad Bay was discovered by Sebastian Rodriquez Cermeno, Captain of the Portugese ship, "San Agustin," when he entered but did not anchor for fear of rocks. Records show other ships explored this coast area in the 1600's -- Spanish, Russians, Englishmen, Portugese, Americans.

A Spanish expedition of two ships, captained by Don Bruno de Hezeta and Don Juan Francisco de la Bodega y Quadra, entered the Bay on June 9, 1775. On June 11, being Holy Trinity Sunday, the Captain with most of the crew and two priests, marched to the top of the mountain. They packed the wooden cross, after blessing it on shore, up the rough, brushy terrain. It was erected with proper ceremonies and Mass was celebrated, conducted by Father Miquel de la Campa, assisted by Father Benito de la Sierra and believed to be the first Catholic Mass said in Northern California. The name "Trinidad" was given in honor of the Holy Trinity.

Soon after anchoring, Indians in canoes boarded to trade otter skins for knives and beads. This was the Yurok tribe from the village "Tsurai," located on the edge of the cliff with direct access to the ocean. Tests show this village was in existence prior to 1600 and flourished until 1916. The site is now State Historical Landmark No.838. The bronze plaque is mounted on native rock from Hoopa and is situated at the end of Ocean and Edwards streets, the original location of the village.

Many ships anchored here from 1800 to 1817, trading with the Indians and exploring. American land expeditions were recorded during this time.

On April 8, 1850, a party of men from the schooner, "James R. Whiting," landed, surveyed, laid out a townsite, and erected several buildings. The present town was named "Warnersville" and boomed overnight, having a population of over 3,000. An Alcalde was elected by vote of 140 men on the third day, the flag was raised on a 60-foot pole and government began in this gold rush town where men and supplies entered by ship. Most men were going to the mines on the Trinity River and the mountain area, packing in by mule trains and later to the mines at Gold Bluffs, north of Trinidad and near Orick. This period of prosperity lasted about two years. Records show the population dropping to zero.

The first authenticated record of incorporation of the city is November 7, 1870, according to some historians, while others record the date to be 1852, saying it was the second and smallest city to be incorporated in California. One report says, "The city became incorporated by order of the Board of Supervisors of Klamath County under authority of Chapter 133, Statutes of 1856." Another recording states, "In 1912, it was discovered that the incorporation of 1852 had never been dissolved." This is a subject of controversy. Government was established when the town "came alive" on three occasions -- 1850, 1870 and 1912.

From 1870 to 1886, sawmills and lumbering caused a period of prosperity, with the population growing to nearly 500. Fire and land scandals caused this era to come to a close. During this time, a railroad with oxen or mule-drawn cars operated from Mayville (now Sea Cliffs) to the mills on the flats very near the Bay and out around the base of Trinidad Head. Logs were brought to the mills, some were made into lumber, both were loaded directly on the ships from this wharf.

With huge losses of ships and lives between the years 1850-1865 and finally the sinking of the "Brother Jonathon" with 171 lives lost, Congress appropriated $20,000 for the construction of a lighthouse atop Trinidad Head. It began operating in 1871, tended by 25 keepers up to 1974 when it became fully automated. Electricity partially automated it in 1942. In 1949, the United States Coast Guard gave the Trinidad Civic Club the coal-oil lantern and the two-ton bronze bell, formerly used as a fog signal. This gift was made possible through the efforts of Mrs. Glyndon (Ruth) Smith of Eureka.

The Trinidad Civic Club, organized as the Ladies Civic Club by seven members in 1913, erected the Memorial Lighthouse in 1949 and are responsible for its upkeep and the maintenance of the grounds. The land was donated by Mr. and Mrs. Earl Hallmark and is situated at the foot of Trinity Street. The Memorial is an exact replica of the original lighthouse. Services are held annually, honoring those lost at sea.

The Club joined the local, state and national Federation of Womens Clubs in 1913, 1914, 1924. Many projects were of historical significance. Aid was given the Humboldt Womens' Clubs when they replaced the wooden cross with a two-ton granite one on Trinidad Head; helped plan and raised funds for the Town Hall, furnished the ladies dressing room; requested and had established a County Library, helped with its furnishings, installed electricity for its lighting; installed fluorescent lights in the club rooms and the large hall; purchased fire extinguishers for the Library; gave a sizeable contribution to the Fire Department for some equipment. The Trinidad Civic Club has been the center of social activities throughout the years.

The present cemetery dates from the 1850's with the oldest headstone bearing the date of 1862. The first post office opened on July 28, 1851, and a public school house was built in 1870 near the site of the cemetery at a cost of $220 in gold. The Holy Trinity Church was erected in June 1873. After years of disuse, it was restored and observed its 100th anniversary with a public Mass and ceremonies in 1973. Father Walrath was its first priest.

The whaling industry brought a period of prosperity when the station began operation in 1920. A total of 574 whales were caught near Trinidad from 1920 to 1926. The station closed permanently in 1930.

Since 1850, Trinidad has gone through four definite growth periods. The gold rush, lumbering, whaling and the tourist boom -- all struggles of a small town for survival. With a population of less than 300 in 1977, the main source of revenue was derived from the influx of sports fishermen, their wives and friends. Trailer parks and motels fill to capacity for the four-month run of salmon. As many as 500 sports fishing boats anchor in the Bay during peak season. People fish commercially while others process and smoke quantities of fish for later use. Two places of business buy and sell fish and crabs as well as smoking fish for the public. The commercial fleet of over 100 boats often anchors in the Bay. The pier or wharf was built by Earl Hallmark in 1945 and has been in use since 1946.

Trinidad boasts a Chamber of Commerce, a Lions' Club and a Fire Department. The year-round population consists of retired professional people, younger business people working in nearby cities, college students, artists, potters and sculptors. It is a good place to live!

Compiled by: Sibyl M. Jamieson
Trinidad Civic Club Member, 1977

(77)

CURRENT USAGE

With the informal consent of the U.S. Coast Guard, the Trinidad Head is currently being used in a very limited manner. Hiking and sightseeing is allowed in all areas except the living quarters. Easter sunrise services on the Head are a long standing practice, as well as other ad hoc community events.

AN EASTER TRADITION
By: Esther Holmes

The cross at Trinidad Head has been the site of Easter Sunrise Services for nearly 20-years. This tradition is sponsored by Christian students (Campus Christian Fellowship) from Humboldt State University in Arcata for the sole purpose of meeting to celebrate the Resurrection of Christ.

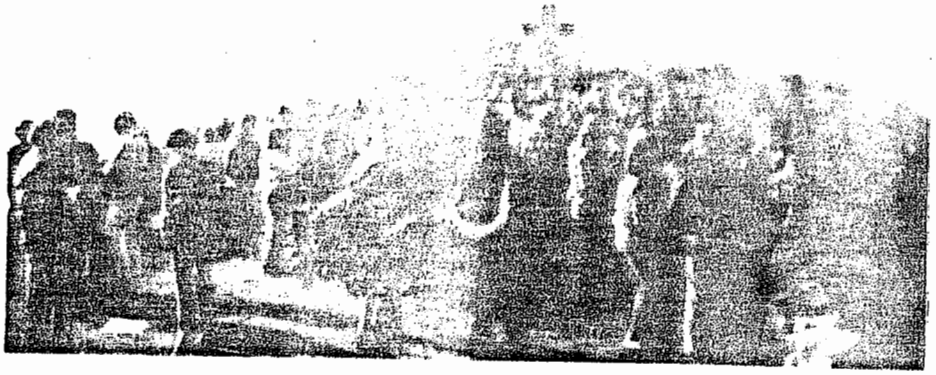
Over 100 students and community members gathered at sunrise Easter Sunday morning in 1982. Several students, with whom I spoke, talked of their impressions and joy during the service. All agreed that greeting the sunrise on Easter, worshipping at the cross and looking out at the view was a profoundly spiritual experience. Only once in the past decade has the rain forced the service indoors to a local church.

Members of the community are encouraged and welcome to come and join this group in singing, praying and scripture reading very early each Easter Sunday morning on Trinidad Head!

TRINIDAD BICENTENNIAL

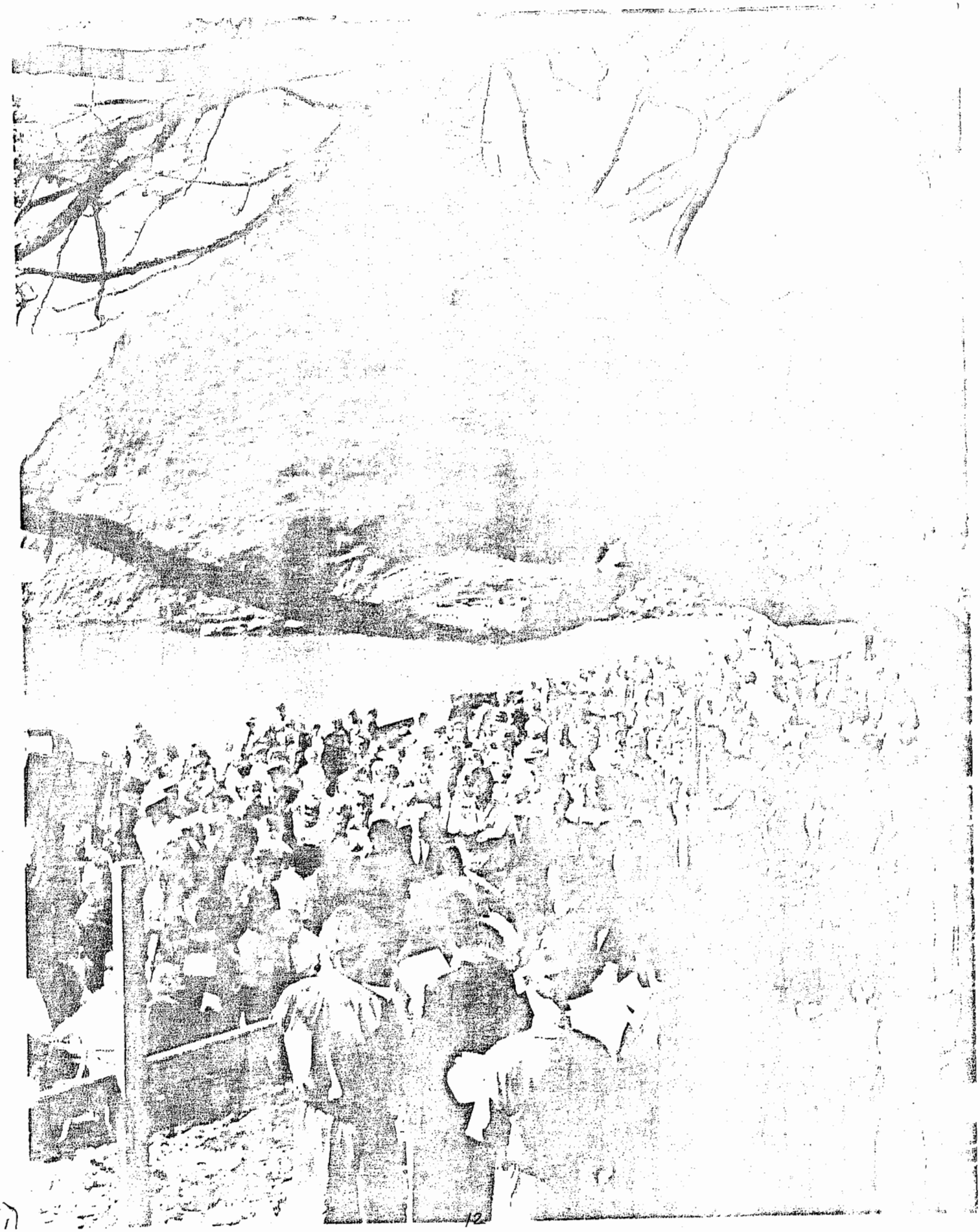
The accompanying article and photos capture the community spirit characteristic of Trinidad, and the types of activities for which the Head forms the backdrop.







Early Worshippers
Recall the
Lord's Easter



NATURAL RESOURCE BACKGROUND

Marine Resources

By: John DiMartini, Ph.D.

Trinidad Head is one of the best vista points in northern California. Besides a panorama of the Pacific Ocean, Trinidad Bay and Harbor, one has a view of marine mammals and birds. Looking westward, the large rocks, or stacks, serve as haul-out areas but not as pupping areas, for California and Stellar sea lions. These animals can often be viewed hauled-out and basking themselves. The smaller lower rocks are utilized by harbor seals as hauling-out areas. Thus, one can often observe all these species either on their respective rocks, or in the water.

During March, up to six elephant seals about 15 months old have been observed annually. Good binoculars aid immensely in making such observations. The large rocks also serve as important sea bird rookeries. Large numbers of sea birds, like Brandt's and Double-crested cormorants, pigeon guillemots and common murres, are common. When schools of small fish, like anchovies are between the rocks and Trinidad Head, sea birds including brown pelicans can be observed feeding. Gray whales can also be observed readily from Trinidad Head during their southward migration in the fall and during their northward migration in the spring. Especially on calm days, one can observe the leviathans when they may move-in very close to the Head. Killer whales also can be seen at times.

If one looks eastward across Trinidad Bay, harbor seals are commonly observed on low relief rocks exposed at low tide. The harbor seals utilize the Bay more than the sea lions. Sea birds more readily seen in the Bay are the turnstones, plover-like birds birds that feed intertidally. Also, the black oystercatcher, characterized by black plumage and red beak and feet, can commonly be seen singly or in small groups flying from rock to rock in search of food.

Trinidad Head offers the visitor a display of floristic, marine and aesthetic attributes. It is a natural park that can be wisely stewarded for the good of both the tourist and the local citizenry. With the spectrum of talents and concerns for the wisest use of Trinidad Head, our community can develop sets of experiences that can enrich not only the visitor, but also ourselves.

- - - - - - -

NATURAL RESOURCE BACKGROUND

Terrestrial Natural History

By: R. Chad Roberts, Ph.D.
Humboldt North Coast Land Trust Docent Auxiliary

This report is intended to provide preliminary findings documenting a proposed use of Trinidad Head by the City of Trinidad. It is anticipated that such use will not involve major structures or significant new access-road construction, though minor structures and on-site access improvements are likely. Transferring the Head to the City would allow these access improvements, thereby benefitting the public-at-large and would allow effective control of the Head to rest with those citizens most affected by any changes in land-use on the Head: namely, the citizens who live in the Trinidad area.

This report provides preliminary information regarding the area's natural history values, so that site-specific factors can be considered in the transfer and decision-making process. In addition, the report aims to suggest appropriate considerations that would enhance the Head's use without impacting the natural history values. Long-term management practices must be based on a more thorough natural history analysis, however, some factors to be considered are listed herein:

HABITATS

Habitat refers in general to the collection of cover, food, water, and related factors that affect wildlife use in a site. In this case I use the term in the broader sense of plant associations that can be identified in the field and correlated across several sites as identifiable types; i.e., typological plant "associations" in the botanical sense. Fine distinctions are unnecessary, since for practical purposes most of the Head exists in one association, North Coastal Scrub. However, species present on the site include some that under more favorable circumstance could be expected to produce forest associations. Plant species identified on the Head during and subsequent to the field review are listed in the appendix to this report.

Assignment of the site to the North Coastal Scrub follows Munz and Keck (1959:13) and Heady et al. (1977:745 ff.). To the extent that salt spray and wind stress the shrubby growth, this association is self-replacing or "climax." Where site conditions permit, tree species typical of North Coastal Coniferous Forest (Munz and Keck 1959:14) have invaded the scrubland (e.g., as described by Zinke 1977; Franklin and Dyrness 1973).

In addition to the vegetated part, Trinidad Head has a rocky cliff face on its seaward exposure, which appears to be important in the habitat preferences of some marine bird species (see below). The final habitat type found on the Head occupies the lowest slopes at the point of intersection with the "neck" of the mainland; this is also present on the neck and on the dune areas behind nearby beaches. This association is the Coastal Strand of Munz and Keck (1959:12), or generally the Beach vegetation of Barbour and Johnson (1977).

WILDLIFE

Sampling for this report did not involve quantitative wildlife studies, which would be necessary to determine wildlife use at any instant. Nor did it include sequential monitoring that would reflect species turnover through time. No data were collected or reviewed for site use by reptiles or amphibia, mammals, or insects. Bird species observed on the Head on the survey date are listed in the Appendix. These species are a subset of those expected in the Coastal Scrub habitat type on a typical October day. No records were kept of marine bird species sighted from the Head; in general, these species also were those to be expected in the nearshore marine environment.

Trinidad Head nonetheless has significance for birds and marine mammals. Bird migrations, especially the fall southward migration, frequently follow coastlines. Large shoreline features such as Trinidad Head, which offer a leeward side no matter what the wind direction, can be important stopover and resting points for migrants. The dominant vector in the Trinidad Head wind rose is from the northwest (49% of all measurements; Environmental Research Consultants 1976:31). The southeast face of the Head can be an important bird sheltering point. Not coincidentally, the vegetation on the southeast face is larger and more luxuriant than that on most of the Head.

It is expected that Trinidad Head should have a large breeding hummingbird population, since the coastal scrub habitat is both "selected" by them (see discussion in James 1971), and has a large number of flowering currents, huckleberries, beeflowers, and salal plants when the birds are present. These plant species form the bulk of those visited by hummingbirds on Humboldt Bay's north spit (personal observation).

Trinidad Head has nesting seabirds in many years; at least Pelagic Cormorants (Phalocrocorax pelagicus) and Pigeon Guillemots (Cepphus columba) are known nesters (see table "9" in Appendix, from Osborne 1972). The Head also has a commanding view of nearby offshore rocks on which many other marine bird species nest.

Marine mammals do not appear to use the Head itself, but do use the offshore rocks and nearshore ocean areas. The Head is closer to these rocks than is any other part of the mainland. Both northern (Eumatopias jubatus) and California (Zalophus californianus) sea lions are regularly seen. Gray Whales (Eschrichtius robustus) may occasionally be seen close inshore. There is some reason to believe that the kelp (Nereocystis luetkenana) beds north of the Head are important in maintaining the sea lion populations (Environmental Research Consultants 1976).

PLANTS

In addition to the plants expected on the Head by virtue of its geographical location and climate, there is a possibility that other, less-expected species may be found. On the basis of existing records in the California Natural Diversity Data Base in Sacramento, two "sensitive" plant species appeared likely to be present (Rick York, personal communication). Empetrum hermaphroditum is a "crowberry," and is apparently a "relict" species in California, a member of more northern plant associations today, but presently a remnant in Humboldt County of past times when local vegetation had a more northern aspect. Crowberries are found within two miles of the Head, in similar habitats; some may grow on the Head, though none were observed on 3 October 1982.

Lasthenia (formerly Baeria) minor ssp. maritima is a plant found on many rocks off the northern California coast. Once considered quite rare because of its relative disappearance from mainland sites, it is now considered to be relatively stable, if in small numbers. This species is known from rocks near the Head, and was located on the Head as well. The located plants were in a relatively open area on the Head's south face.

IMPLICATIONS

It does not appear from present information that Trinidad Head is a critical habitat area for any endangered or threatened plant or animal species. Nor does it seem likely that any such species would be disturbed by increased human use of the Head. It is possible that visitors to parts of the Head overlooking the rocky western face could adversely affect the nesting seabirds there, and increased visitor use could also create impacts

to other breeding birds, mammals, and "herptiles" on the Head. However, given the vegetation density and the resulting difficulty in getting off an established trail, I consider the probability of serious impacts rather light. Additionally, it appears that some opening of the dense vegetation might favor at least one of the "sensitive" plant species.

It is unclear as to the effects of visitor use on the Head on wildlife breeding or resting on the offshore rocks. It appears that the rocks are far enough offshore that no significant, adverse effects should result (a definitive study would be required to prove this). Conversely, there appear to be certain benefits related to using the Head for visitor observations. First, the observational potential here is greater than for other mainland points with similar easy access. Second, the Head's location makes the potential for watching whales better than other sites along this coastal stretch (excepting Patrick's Point). Third, (and related to both of the foregoing), such observations and access lead to support for protecting the offshore rocks and the adjacent marine habitat, by increasing public support and awareness levels.

References:

Barbour, M.G., and A.F.Johnson. 1977. Beach and dune. Pages 223-261, in: Barbour, M.G., and J.F.Major (ed.): Terrestrial Vegetation of California. Wiley; New York.

Environmental Research Consultants,Inc., 1976. Trinidad General Plan Project--Environmental conditions and constraints.

Franklin, J.F., and C.T.Dyrness, 1973. Natural Vegetation of Oregon and Washington. USDA For. Serv. Gen.Tech.Rep. PNW-8. Pac. Northwest For. & Range Exp.Stn., Portland, OR.

Heady, H.F., T.C.Foin, M.M.Hektner, D.W.Taylor, M.G.Barbour and W.J.Barry, 1977. Coastal prairie and northern coastal scrub. Pages 733-760, in: Barbour, M.G., and J.Major (ed.): Terrestrial Vegetation of California. Wiley, New York.

James, F.C., 1971. Ordination of habitat relationships among breeding birds. Wilson Bull. 83: 215-236.

Munz, P.A., and D.D.Keck, 1959. A California Flora. Univ. of California Press, Berkeley, CA.

Osborne, T., 1972. Ecology and avian use of the coastal rocks of northern California. Unpub. MS Thesis, Humboldt State University, Arcata, CA.

Zinke, P., 1977. The redwood forest and associated north coast forests. Pages 679-698, in: Barbour, M.G., and J. Major (ed.): Terrestrial Vegetation of California. Wiley, New York.

THE PROJECT

Exhibit #1 details the proposed project. New trail development will be designed for low impact; minimal soil and vegetation disturbance, with the trails parallel to natural contours as much as possible. Except for the existing roads which will be maintained by the Coast Guard, all new trails will be for foot traffic only. Picnic areas and viewpoints will be sited on naturally level areas, and located to maximize user opportunities for observing the scenic and biological resources of the area.

PROJECT IMPLEMENTATION

Costs: Trail construction

Labor	0
Materials	2,000
Picnic/Viewpoint construction	
Labor	0
Materials	1,800
Total construction costs:	$3,800

Funding sources: As the anticipated scope of the project is so small financially, obtaining funds is not expected to present a problem. Traditional sources of labor and funds include:

Private: Local - Trinidad Civic Club
Humboldt North Coast Land Trust
Lions' Club
Chamber of Commerce
Garden Club
Humboldt Area Foundation
Humboldt Bay Maritime Museum

Other - California Native Plant Society
Audabon Society
Nature Conservancy
Calif. Div. of Forestry
(especially the Calif. Conservation Corps)

Governmental - Humboldt State University
State Dept. of Parks & Recreation

State Coastal Conservancy

Coastal Commission

Humboldt County

City of Trinidad

Time schedule: All work to be substantially completed by September 1985.

PROJECT MANAGEMENT

Recreational use of the Head will be oriented towards non-intensive, day-use, pedrestrian access for hiking, viewing, picnicing and related activities. Primary management concerns will be soil erosion, vandalism, litter, public safety, fire prevention, domestic animal control, public facility coordination, toilet facilities, and access for the elderly and the handicapped.

1) Soil erosion on the trails and picnic areas is expected to be minimal. Local volunteer labor will meet most needs. Large scale failures should they occur will require assistance from special contractors or the C.D.F. California Conservation Corps.

2) Trinidad City Police, local citizen crime prevention groups, and the cooperation of residents adjacent to the project area will adequately control vandalism.

3) Initially the City will depend upon volunteer efforts of citizen groups such as the Chamber of Commerce, the Trinidad Alliance, Volunteer Fire Department, and others to deal with litter. As experience is gained with the magnitude of the problem, the City recognizes it may have to make more formal arrangements for litter control.

4) The primary concern with public safety is the high cliffs

around the Head's perimeter. Trail location and vegetation management, coupled with guard-rails and warning signs, will provide adequate safety.

5) Fire prevention and domestic animal control both fall under existing City regulations. Enforcement would be extended to the Head when acquired by the City.

6) The City will continue to coordinate with the Cable T.V. company and any future similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation. #3

7) If intensity of use warrants it, toilet facilities will be provided in the parking area at the trail head,

8) A vehicular transportation plan will be developed up to the existing turn-around area on the Coast Guard access road. This plan will provide for transporting elderly and physically handicapped members of the public onto the Head so that they may also enjoy the views.

Continuing sources of funding will have to be obtained to support the costs of this management plan. Again, however, due to the low intensity and low cost of the development, the high visibility and interest of the project to the community; and the many sources of funding available for this type of activity (see list in the Implementation section), management funding is not expected to be a problem.

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APPENDICIES for ARCHEOLOGICAL REPORT

APPENDIX 1

California
Archaeological
Inventory

ALAMEDA
CONTRA COSTA
DEL NORTE
HUMBOLDT
LAKE
MARIN
MENDOCINO
NAPA
SONOMA

Northwest Information Center
Department of Anthropology
Sonoma State University
Rohnert Park, California 94928
(707) 664-2494

7 October 1982

File No.: 6090-1496-S

Ann King Smith
Redwood National Park
Arcata Office
P.O. Box SS-791 Eigth Street
Arcata, CA 95521

re: An Archaeological Records Search for the Trinidad Head Project, Humboldt County.

Dear Mrs. Smith:

As per your letter request of 30 September 1982, an archaeological records search has been conducted. No archaeological sites were previously recorded within the boundaries of the subject parcel.

One archaeological field survey, S-263 entitled "An Archaeological Survey of Trinidad Head, in Humboldt County, California (Roberts 1976), had been previously conducted within the project area.

According to Kroeber the ~~Yurok~~ Wiyot place name for Trinidad Head was ~~Chirokwan~~ K-lumeehk (Kroeber 1925:116).

Trinidad head is listed in both the, California Inventory of Historic Resources (State of California 1976:162) and California Historical Landmarks (State of California 1979: 29).

> On June 11, 1775, Bruno de Hezeta, commandant of an expedition up the northwest coast, marched with his men and two Franciscan fathers from the shore of the bay to the summit of Trinidad Head. Here they erected a cross and took possession in the name of Charles III of Spain (State of California 1976: 162).

A copy of the survey report, S-263, is available upon request.

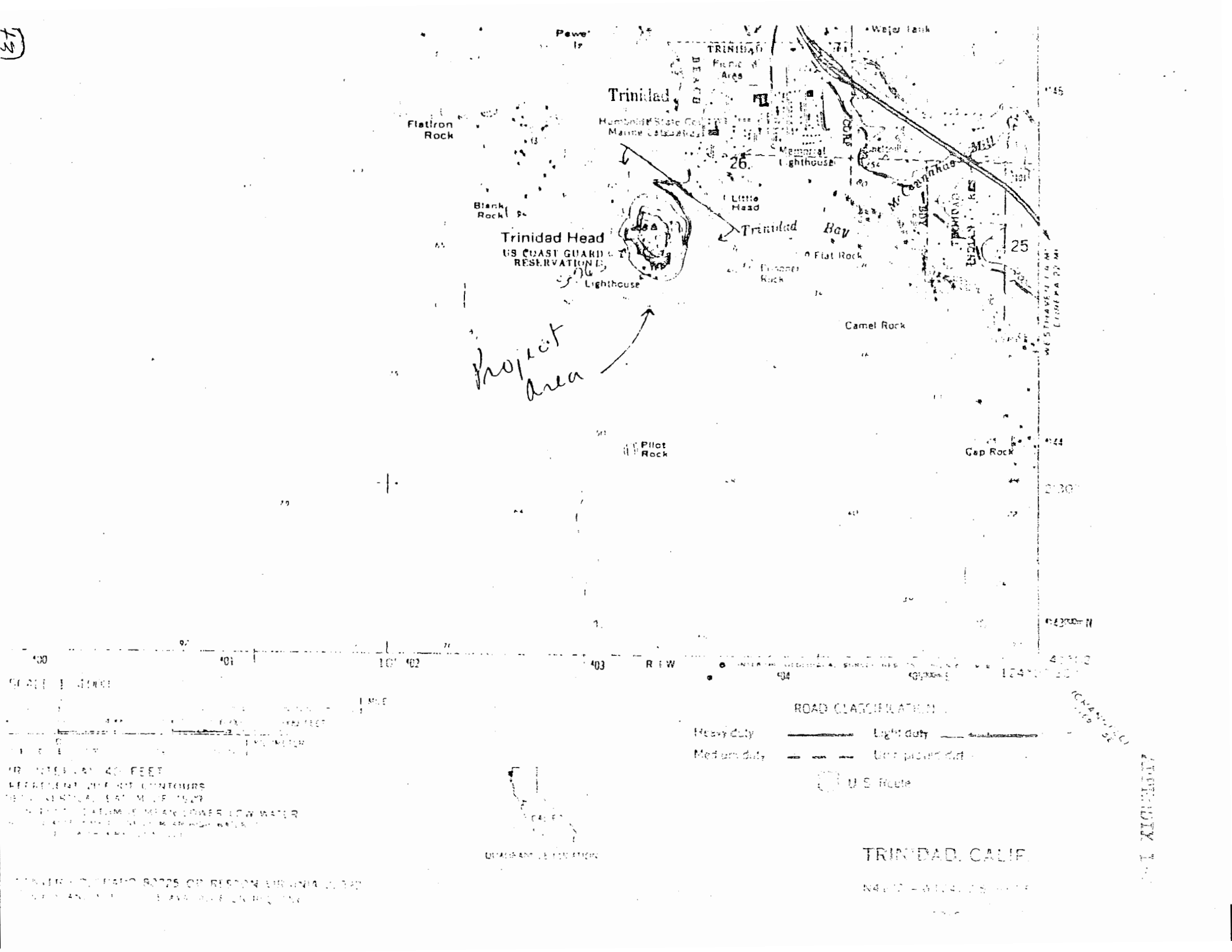
Thank you for using our services. Please sign and return the enclosed agreement of confidentiality. Should you have ant questions, do not hesitate to contact me.

Sincerely,

Deborah Rippey

Deborah Rippey
Curatorial Assistant

DR:lm


Trinidad
Flatiron Rock
Trinidad Head
US COAST GUARD RESERVATION
Lighthouse
Little Head
Blank Rock
Trinidad Bay
Flat Rock
Camel Rock
Pilot Rock
Gap Rock
Memorial Lighthouse
TRINIDAD BEACH
Picnic Area
Humboldt State College Marine Laboratories
Mill
McConnahe
Project area
26.
25
ROAD CLASSIFICATION
Heavy duty
Light duty
Medium duty
U.S. Route
TRINIDAD, CALIF.

APPENDIX 2

An Archaeological Survey of Trinidad Head in Humboldt County, California

Pamela Roberts
Staff Archaeologist
Anthropology Laboratory

A Report Prepared
in Accordance with an Agreement
between David A. Fredrickson,
California State College, Sonoma
and the 12th Coast Guard District
San Francisco, California.

February 22, 1976

An Archaeological Survey of Trinidad Head

Humboldt County, California

I

Introduction

This paper presents the results of an archaeological survey conducted within United States Coast Guard property at Trinidad Head in Humboldt County, California. The survey was undertaken at the request of Dr. Nancie Bell, 12th Coast Guard District, San Francisco, California in order to determine whether any archaeological resources were located within the project area, a major portion of which is planned for ownership transfer. The survey was coordinated by Dr. David A. Fredrickson, Chairman, Department of Anthropology, California State College, Sonoma, and was carried out in the field by the writer and two assistants. Additionally, Mr. James Moon, Director, Northwest Indian Cemetery Protective Association and two associates were consulted and assisted in the survey.

II

Project Area

Trinidad Head, surrounded by water on three sides, is a small, dome-shaped peninsula which juts out into the Pacific Ocean and is situated adjacent to the town of Trinidad, California, approximately 25 miles north of Eureka, California. The project area consisted of Trinidad Head, 42.6 acres in size, and a strip of land seventy feet wide which extended from the foot of Van Wycke Street to the Coast Guard property boundary, a distance of about 450 feet (see Map 1).

III

Ethnography of the Project Area

Trinidad Head is situated in territory that was controlled during pre-European times by the Algonkian-speaking Yurok. The Yurok controlled land from the mouth of the Klamath River to where it is joined by the Trinity River and along the Pacific coast from Wilson Creek in Del Norte County to Little River, just below Trinidad Head (see Map 2). Most Yurok settlements were located along the rivers, although there were some villages at the coast but usually near freshwater lagoons or mouths of rivers. The historic Yurok village of Tsurai (CA-Hum-169) located on the north shore of Trinidad Bay, is about 1/4 mile east of Trinidad Head (see Map 3). Tsurai was occupied from about 1620 A.D. to about 1916 (Elasser and Heizer 1966: 58) and was a major Yurok village. There were at least seventeen Yurok names for places on Trinidad Head that had some significance; e.g., "tmer u mi'L-olo'o. Said to mean, 'watches the people.' Spot on the side of the head. A one-legged spirit lives there, who keeps track of everything people do" (Waterman 1920: 270). Other place names referred to various kinds of activities that took place such as a spot to practice arrow shooting or a place to put angelica root.

Present archaeological evidence indicates that sites in this coastal region were occupied within the last 1000 years. Scientific investigations conducted by the University of California at Patricks Point State Park (CA-Hum-118) yielded material with a radiocarbon date of about 1310 A.D. (Elasser and Heizer 1966: 57). More recently a radiocarbon date of 310 B.C. was obtained from an archaeological site near Crescent City, California (Gould 1972: 41) in Tolowa territory, adjacent to land held by the Yurok.

Survey Method and Results

Prior to conducting the field survey, a record search of archaeological site location forms on file at California State College, Sonoma, was made to determine whether any sites were recorded within the vicinity of the project area. There was no record of sites located within the project area, although the historic village of Tsurai and CA-Hum-170 were located nearby (see Map 3).

A "General surface reconnaissance" as defined by the Society for California Archaeology (King, Moratto, Leonard n.d.:10) was conducted within the project area. This was a technique of examining every portion of the project area where the ground surface could be seen without major vegetation modification.

Trinidad Head was covered by a dense vegetation made up of mostly blackberry, dogwood, salal, poison oak, and grasses. The highest point of Trinidad Head had been cleared of vegetation so that a radio beacon atenna, and related equipment located there, could be constructed. This portion was intensively surveyed by searching for evidence of archaeological site material (see Map 1). Site indicators in this area could consist of chert and obsidian chipping waste, accululations of marine shell, mammal bone fragments, and circular housepit depressions. The west edge of the project area was not surveyed due to steep slopes covered by impenetrable brush. Several areas where paths had been partially cleared through the brush were walked and the ground surface was examined. The east side of the project area was fairly level but

was not accessible due to the very dense vegetation cover. The access roads on Trinidad Head were intensively examined as well as the cut banks made by the roads. The strip of land, seventy feet wide, leading from Van Wycke Street to the north edge of the Coast Guard property was also examined in those areas where the vegetation could be penetrated (see Map 1).

No archaeological resources were observed during the course of the survey. Because of the impenetrable vegetation, it is estimated that only about ten acres of land were accessible and examined. An estimated 20 acres consisted of precipitous slopes unsuitable for human utilization. A historic monument which was erected in honor of the founder of Trinidad Bay was situated on the south end of the project area. The monument was a granite cross about fifteen feet high with a cement foundation (see Map 1).

V

Recommendations

Although no archaeological site indicators were observed during the survey, only about 25% of the project area was accessible. The more level portions of the project area that could not be examined, a total of about 10 acres, may contain cultural resources. Based on Waterman's (1920) accounts of Yurok place names on Trinidad Head, there is a possibility that archaeological sites such as tool manufacturing areas or human burials could be located in the flatter portion of those areas that were not accessible at the time of this survey.

Although any hidden or buried cultural resources would probably remain untouched as a result of a transfer of ownership, potential

cultural resources could be subject to negative effect if any ground clearing, construction, land grading, or road improvements occurred within the project area. It is recommended that if any of these activities take place in the future and if any identifiable archaeological materials, such as human burials, are uncovered, an archaeologist be retained to evaluate the finds. If human graves were encountered, it is further recommended that the Northwest Indian Cemetery Protective Association be contacted with respect to ultimate disposition of the human materials.

VI

Summary

An archaeological survey was conducted on Trinidad Head and within a 75 foot wide access corridor to determine whether any archaeological resources were located within these Coast Guard property boundaries. No archaeological resources were observed during the course of the survey. However, due to impenetrable vegetation and precipitous slopes, it was possible to survey only about 25% of the project area. It was recommended that an archaeologist be retained if future land-use activities such as ground clearing, construction, land grading, or road improvements uncovered evidence of an archaeological nature. It was also recommended if human graves were encountered that the Northwest Indian Cemetery Protective Association be contacted.

- - - - - - -

Form 1860–9
(March 1965)
(formerly 4–1043)

Serial No. CA 13094

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS

City of Trinidad, California,

is entitled to a Land Patent pursuant to the Act of June 14, 1926, 44 Stat. 741, as amended, 43 U.S.C. 869 (1976), for the following described land:

Humboldt Meridian, California

T. 8 N., R. 1 W.,

Sec. 26, Lot 4;

containing 46.94 acres.

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES unto the above named claimant the land above described for recreational purposes only; TO HAVE AND TO HOLD the said land with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant, and to its successors, forever;

#1

EXCEPTING AND RESERVING TO THE UNITED STATES from the land so granted:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law;

3. That right-of-way and all appurtenances thereto constructed by the United States through, over, or upon the land herein described for the existing roads, telephone line, electrical transmission line, and water pipeline pursuant to permit No. CA 13095 issued to the United States Coast Guard, pursuant to Sec. 507 of the Act of October 21, 1976, 43 U.S.C. 1767, and the right of the United States, its agents and employees to

Patent Number 04-83-0056

MTP O&G LSBL HI ACQ HL 7-13-83
MIN LOC OTHER SRS DATE mcb 6/24/83
5-3-983

GPO 847-844

(51)

maintain, operate, repair or improve the same so long as is needed or used for or by the United States; and further reserving that right for visibility of the aid-to-navigation light located on Lot 6 said Sec. 26 and the operation of the antennas located on Lot 5 said Sec. 26, wherein no structures or other improvements may be erected on the land so granted which would interfere with the operation of the antennas or obstruct the arc of light.

Provided, that, title shall revert upon a finding, after notice and opportunity for a hearing, that, without the approval of the authorized officer:

1. The patentee or its approved successor attempts to transfer title to or control over the land to another;

2. The land has been devoted to a use other than that for which the land was conveyed;

3. The land has not been used for the purpose for which it was conveyed for a 5-year period; or

4. The patentee has failed to follow the approved development plan or management plan;

Provided, further, that the Secretary of the Interior, or his delegate, may take action to revest title in the United States if the patentee directly or indirectly permits its agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees, and permittees) to prohibit or restrict the use of any part of the patented land or any of the facilities thereon by any person because of such person's race, creed, color, sex, or national origin.

(51)

Serial #CA 13094

RECREATION AND PUBLIC PURPOSES ACT
PATENT RESERVATIONS, CONDITIONS, AND LIMITATIONS

Provided, that, title shall revert upon a finding, after notice and opportunity for a hearing, that, without the approval of the authorized officer:

(1) The patentee or its approved successor attempts to transfer title to or control over the lands to another;

(2) The lands have been devoted to a use other than that for which the lands were conveyed (for recreational purposes); #2

(3) The lands have not been used for the purpose for which they were conveyed for a 5-year period; or

(4) The patentee has failed to follow the approved development plan or management plan.

Provided, further, that the Secretary of the Interior, or his delegate, may take action to revest title in the United States if the patentee directly or indirectly permits its agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees, and permittees) to prohibit or restrict the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, sex, or national origin.

The grant of the herein described lands is subject to the following reservations, conditions, and limitations:

(1) The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.

(2) If the patentee or its successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.

(3) The patentee, by acceptance of this patent, agrees for itself or its successors in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revest in the United States full title to the lands involved in the declaration.

(4) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

PATENT No. 04-83-0056
APR 24 1983

(53)

Form 1860-25
(July 1975)

Serial No. CA 13296

The grant of the herein described lands is subject to the following reservations, conditions, and limitatio

(1) The patentee or his (its) successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits

(2) If the patentee or his (its) successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.

(3) The patentee, by acceptance of this patent, agrees for himself (itself) or his (its) successors in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revest in the United States full title to the lands involved in the declaration

(4) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

(5) The patentee or his (its) successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed

(6) The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the patentee and his (its) successors in interest for the period it or any of the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits

(7) The assurances and covenant required by sections (1)-(6) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in Sacramento, California
the TWENTY-FOURTH day of APRIL in the
of our Lord one thousand nine hundred and EIGHTY-THREE
and of the Independence of the United States the two hun
and SEVENTY.

SEAL

BRUCE CONRAD

By _____
Deputy State Director, Operations
California State Office

84-83-0056

Patent Number _____

GPO 830

Form 1860-2 (March

54

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

CERTIFICATE

Serial Number

CA 13094

Act(s) of June 14, 1926, as amended, 44 Stat. 741, 43 U.S.C. 869 (1976)

PATENT No. 04-83-0056

APR 24 1983

Entryman City of Trinidad, California

has (have) complied with the requirements of the above Act(s) for the following-described lands:
(describe the land as it will appear in the patent)

Humboldt Meridian, California

T. 8 N., R. 1 W.,

Sec. 26, Lot 4;

in the County of Humboldt , and containing 46.94 acres.

NOW, THEREFORE, BE IT KNOWN, that patent may issue to the grantee(s) named herein, subject to the following exceptions, reservations, and restrictions:

A-1

B-4

Special: EXCEPTING AND RESERVING TO THE UNITED STATES from the land so granted that right-of-way and all appurtenances thereto constructed by the United States through, over, or upon the land herein described for the existing roads, telephone line, electrical transmission line, and water pipeline pursuant to permit No. CA 13095 issued to the United States Coast Guard, pursuant to Sec. 507 of the Act of October 21, 1976, 43 U.S.C. 1767, and the right of the United States, its agents and employees to maintain, operate, repair or improve the same so long as is needed or used for or by the United States; and further reserving that right for visibility of the aid-to-navigation light located on Lot 6 said Sec. 26 and the operation of the antennas located on Lot 5 said Sec. 26, wherein no structures or other improvements may be erected on the land so granted which would interfere with the operation of the antennas or obstruct the arc of light.

cial provisions attached.

(Signature of Authorized Officer)

APR 22 1983

(Date)

Deputy State Director, Operations
California State Office

(Title)

posted:

Form 1860-2 (March 1972)

53

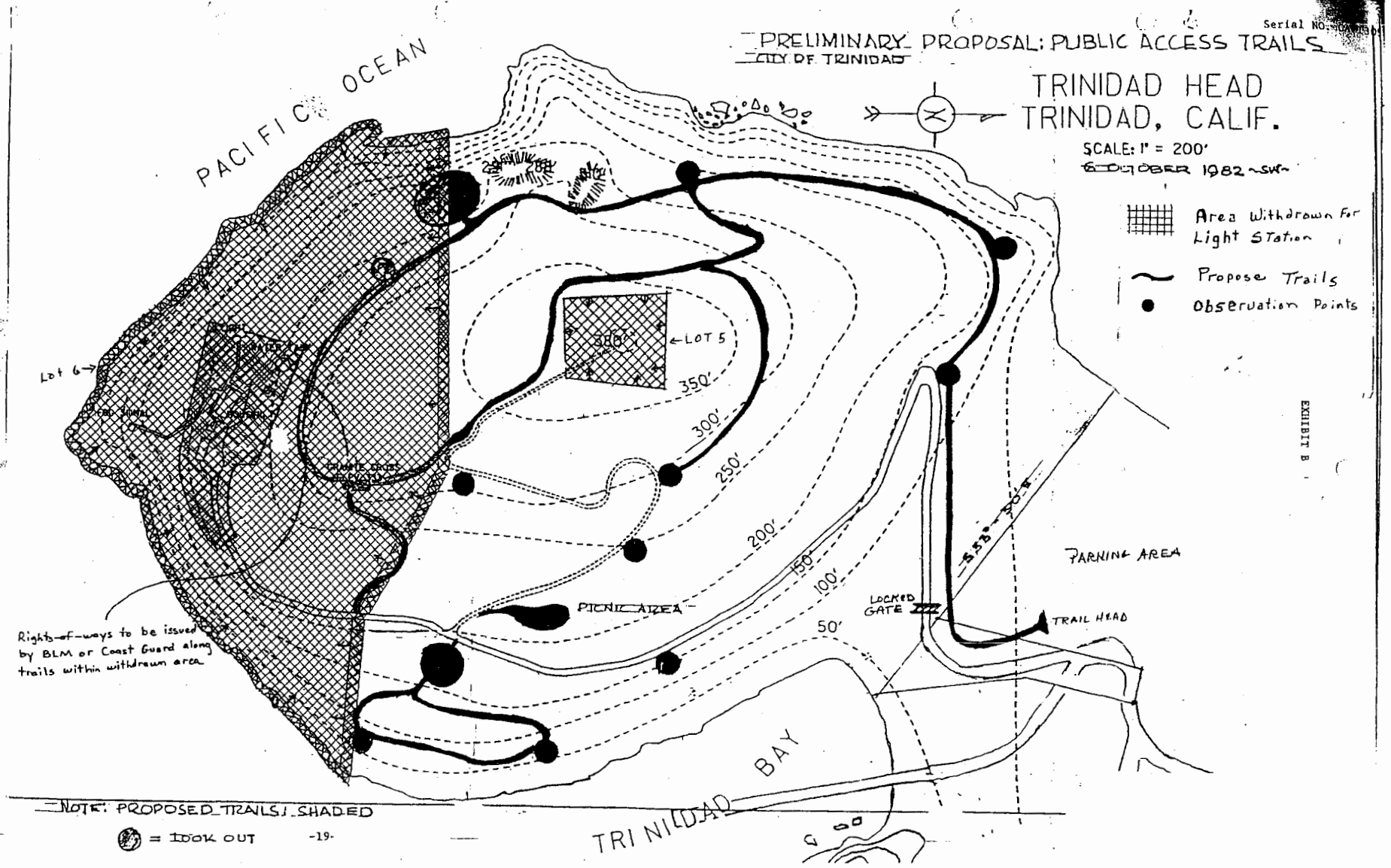
(5) The patentee or its successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.

(6) The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

(7) The assurances and covenant required by sections (1)-(6) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

PATENT No. 04-83-0056
APR 24 1983

(58)


PRELIMINARY PROPOSAL: PUBLIC ACCESS TRAILS
CITY OF TRINIDAD
TRINIDAD HEAD
TRINIDAD, CALIF.
SCALE: 1" = 200'
OCTOBER 1982 ~SW~
Area Withdrawn For Light Station
Propose Trails
Observation Points
PACIFIC OCEAN
LOT 5
LOT 6
350'
300'
250'
200'
150'
100'
50'
PICNIC AREA
PARKING AREA
LOCKED GATE
TRAIL HEAD
S 55° E 700'
Rights-of-ways to be issued by BLM or Coast Guard along trails within withdrawn area
TRINIDAD BAY
NOTE: PROPOSED TRAILS SHADED
= LOOK OUT
EXHIBIT B

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Eureka Resource Area
1585 J Street
P.O. Box TT
Arcata, California 95521

IN REPLY REFER TO

Trinidad Head
CA 13094
CA-056

3-16-83

Received
MAR 21 1983

Mr. Richard C. Rayburn
District Manager
California Coastal Commission
P.O. Box 4946
Eureka, California 95501

Dear Rick:

As you know, over the last few months the Bureau of Land Management has been processing an application from the City of Trinidad for transfer of approximately 47 acres of federal public land at Trinidad Head.

This public land parcel has been withdrawn from sale, disposal or entry and location under the public lands laws since the mid-1850's for Coast Guard purposes of lighthouse and coastal navagational aide. Approximately 12 acres of the land area will remain under Coast Guard withdrawal for continued use in that agency's mission regarding northern coastal California and adjacent waters.

The B.L.M. accepted the City of Trinidad application in November of 1982 and issued a formal decision on December 21, 1982 whereby the City's plan of development and management plan was approved by B.L.M. under the authority of the Recreation and Public Purposes Act of 1926 as amended.

I have provided you with copies of the decision, environmental analysis, land report, and the City's plan of development and management.

Several germane factors apply to this transfer from federal public ownership to City of Trinidad ownership for park and recreational purposes only. One key factor is that the California Coastal Commission adopted the Trinidad Local Coastal Plan in October 15, 1982. Page 3-37 of that document states the City of Trinidad should assume management if the federal government determines Trinidad Head surplus. Another factor is the application and attendent plan of development and management has had a 45 day public review by all state, federal, and local agencies in accordance with regulations prescribed by 43 CFR Part 2741 and 43 CFR Part 2650. These regulations deal with the specific authority of the Recreation and Public Purposes Act and the Petition Application Classification System respectively.

As a result of the public review, the Humboldt County Board of Supervisors adopted a resolution of the proposal, only one protest was received and found to be without merit by BLM, and in general support for the action is widespread throughout the North Coast community.

I provide these facts as background for the purpose of a consistency determination as regards the Bureau of Land Management decision to transfer the land in accordance with the approved plan of development and management by the City of Trinidad.

I also assume by this action the Coastal Commission will, in it's determination of consistency act on the plan of development and management of the City thereby negating any formal application by the City for a coastal permit. I bring this matter up because if any modifications to the plan as submitted and approved by the Bureau as a result of future actions these must be, in accordance with federal law and regulations promulated thereto, approved by the Bureau.

In sum, I hope we agree that a "paper chase" can be resolved in this one action of consistency determination.

As to the consistency of the federal action with the California Coastal Plan as stated in the approved Trinidad Area Plan we find the following:

A. Public Access and Recreation

Several of the Coastal Act policies address these factors. We find the action and the plan of development and management to be consistent with the following Coastal Act Policies:

1. Section 30210
2. Section 30211
3. Section 30212
4. Section 30213
5. Section 30221

B. Marine Environment and Sensitive Habitat

The plan of development and management are consistent with the following Coastal Act policies:

1. Section 30231 -
   No impact on coastal waters or wetlands is involved.

2. Section 30233 -
   No dredging, diking or filling is involved.

3. Section 30240 -
   No environmentally sensitive habitat will be affected or degraded. The plan calls for trail and overlook development by foot access only (i.e. non-vehicular traffic). No threatened, rare, or sensitive species were found during the field examination and E.A. preparation.

C. New Development (Including Archaeology, Visual, Hazards, etc.)

The action and plan, as approved, is consistent with the following:

1. Section 30250 -
   The plan is not for commercial, residential, or industrial development, but is for recreation and public access by trail. No buildings will be constructed, except possibly shelters which entrance views of the harbor or ocean. Picnic tables will be

placed and refuse receptables placed and pickup routinely by city employees. Trail construction overlooks, etc. will be labor intensive and conform to the landscape and contour of the area.

A qualified archaeologist examined the site and during construction of trails the B.L.M. will include a provision for qualified archaeologist to be on site or on call if any cultural resources are encountered.

Visual impacts are minimal as most area proposed for development are now developed, i.e. TV satellite disc, radio antenna, granite cross, roads, and overhead powerlines.

Public utilities are available and in place in the form of water, power, phone, paved and gravel roads to the top of the Head. These provide necessary services and maintenance access for the Coast Guard facilities.

3. Section 30244 -

Mitigation measures are included to prevent damage to archaeologic and/or historic resources.

4. Section 30251 -

Views to the ocean, harbor, and northern coastal shoreline will be enhanced by the project for the general public on a non-discriminatory basis as required by federal law.

5. Section 30253 -

The area is subject to seismic shaking as it lies within one of the most earthquake prone areas of the world - however, the Head has withstood the most severe earthquakes and erosional forces for literally millenia. Trail development and overlooks will be designed to minimize soil erosion.

In conclusion, we find the action - including the plan of development and management - is fully consistent with the California Coastal Act and local Trinidad Area Plan.

I would appreciate a prompt response to this as we plan to issue the patent deed to the City in mid-April.

Sincerely yours,

John W. Lahr

John W. Lahr
Area Manager

State of California, ~~Edmund G. Brown Jr., Governor~~
George Deukmejian, Governor

California Coastal Commission
631 Howard Street, 4th floor
San Francisco, California 94105
(415) 543-8555

received
4-28-83

April 20, 1983

John W. Lahr, Area Manager
BLM - Eureka Resource Area
1585 J. Street, P.O. Box II
Arcata, CA 95521

Subject: Consistency Determination CD-6-83 (Transfer of Trinidad Head to City of Trinidad, Humboldt County)

Dear Mr. Lahr:

On April 14, 1983, by a vote of 11 in favor, 0 opposed, with a majority vote needed for concurrence, the California Coastal Commission concurred with BLM's consistency determination for the proposed transfer of land at Trinidad Head to the City of Trinidad. The Commission found the project to be consistent to the maximum extent practicable with the policies and objectives of the California Coastal Zone Management Program. The Commission's findings are contained in the attached staff report.

RECEIVED
APR 25 1983
BUREAU OF LAND MGMT.

Sincerely,

MICHAEL L. FISCHER
Executive Director

By: Stephen Hill
Coastal Program Analyst

MLF/ay

cc: North Coast District

Attachment

CALIFORNIA COASTAL COMMISSION

631 Howard Street, San Francisco 94105 — (415) 543-8555

RECEIVED
APR 25 1983
BUREAU OF LAND MGMT.
EUREKA RESOURCE AREA

Consistency Determination
No. CD-6-83
(Bureau of Land Management)
45th Day: May 1, 1983

Federal Agency: BUREAU OF LAND MANAGEMENT

Development Location: Trinidad Head, immediately southwest of the City of Trinidad, Humboldt County. (Exhibit 1)

Development Description: Transfer of 47 acres of Federal property to the City of Trinidad for public recreation. (Exhibits 2 and 3)

SUBSTANTIVE FILE DOCUMENTS:

1. Environmental Assessment/Land Report on City of Trinidad application for acquisition of Trinidad Head, by Bureau of Land Management (BLM), December 21, 1982 (Serial No. EA #512).

2. Letter from John W. Lahr (BLM Eureka Resource Area Manager) to Richard G. Rayburn (North Coast District Director, Coastal Commission), March 16, 1983, containing BLM's consistency determination for Trinidad Head property transfer, including application by City of Trinidad to require ownership of Trinidad Head, November, 1982.

3. Land Use Plan for the Trinidad segment of the Humboldt County LCP (certified in part by the Coastal Commission in October, 1982).

4. Certified LCP for City of Trinidad.

STAFF SUMMARY AND RECOMMENDATION

I. Staff Summary

A. Project Description. The Bureau of Land Management (BLM), an agency in the U.S. Department of Interior, proposes to transfer 47 acres of federal land at Trinidad head to the City of Trinidad (Exhibit 2). The City intends to annex the property and manage it as a recreational area for hiking and other low-intensity recreational uses. About 14 acres of Trinidad Head will remain under federal ownership for the existing U.S. Coast Guard facility. The Coast Guard maintains a light beacon, fog horn, radio antennas, and residence for staff on the southern end of the Head.

BLM's proposed transfer is pursuant to the Recreation and Public Purposes Act (43 USC § 869 et.seq.) and relevant federal regulations (43 CFR Part 2740). These regulations specify the procedure for sale or lease of land by the Secretary of Interior, and limit uses and further transfer of title by grantees. The City of Trinidad applied to BLM in November, 1982, to acquire Trinidad Head for non-intensive recreational use. The stated purpose of the City's acquisition is "to make available to the people forever, for their inspiration and enjoyment, in a condition of unimpaired ecological integrity, the majestic headland known as Trinidad head, together with all related scenic, historic, scientific, and recreational values and resources of the area."

In recommending approval of the City's application, BLM's District Manager made several findings required under the Recreation and Public Purposes Act (item V.B. in Environmental Assessment/Land Report):

(1) The lands have been found to be suitable for recreation and public purposes.

(2) The land is not of national significance and not essential to any Bureau of Land Management program.

(3) The proposed use will have no known significant effect on the human and national environment.

(4) Patenting the above described lands will serve the public interest.

(5) The [City's] land use plan is proposed for amendment to allow for the proposed use.

The approval recommendation also includes a patent reservation and stipulations for use of the property to be transferred to the City. A right-of-way across the property will be reserved by the federal government for access and utilities to the retained property to be managed by the Coast Guard. Two stipulations would be binding upon the City:

(1) Waterbars, outsloping and rock barriers should be used, where appropriate, to reduce erosion, runoff and trail maintenance.

(2) After the vegetation is removed and prior to any construction [primarily trails and vista points], those areas not previously surveyed for cultural values shall be surveyed by a qualified archaeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the Authorized Officer at 555 Leslie Street, Ukiah, California 95482. The holder shall not disturb such resources except as may be subsequently authorized by the Authorized Officer. The Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect cultural resources discovered.

The patent reservation and the stipulations would be part of BLM's patent deed to the City, and are considered to be part of BLM's project for the purposes of the Commission's federal consistency review. The patent deed would also include a reversionary clause, stating that the property would revert to the U.S. government if the grantee (City) did not use the property for its approved and intended use, tried to transfer title to another party, or otherwise violates the conveyance agreement. Any subdivision of the property would constitute a significant change in the project for purposes of the Commission's consistency review.

The City's development plan proposes non-intensive recreational use of the Head, including hiking, viewing, picnicking, and associated day-use activities. The plan calls for new foot trails, to be constructed as much as possible along natural contours to avoid soil and vegetation disturbance. Picnic areas and observation points would be sited in level areas where opportunities for observing scenic and biological resources are maximized (Exhibit 3). Only Coast Guard vehicles would be allowed on the parcel. Public parking would be available on an adjacent parcel north of the Head. Local citizen groups and local government agencies will develop and maintain the proposed improvements, scheduled to be completed in 1985.

It is important to precisely identify the project that is the subject of the Commission's federal consistency review in this instance. BLM's consistency determination addresses both the proposed transfer of federal property and the specific development plan proposed by the City. This is because federal regulations require the preparation of a development plan by the grantee as a condition of transfer. BLM must approve the plan and monitor its implementation; failure to carry out the approved plan can cause title to revert to the federal government. However, the Commission should only review BLM's consistency determination as it concerns the proposed transfer of federal property to a particular party (the City of Trinidad) for a particular use (low-intensity recreational use). This is what is meant by "the project" in the following description and recommended findings. The City, not BLM, will administer and manage the property after the transfer. The City's development plan, while necessary to obtaining title from the federal government, is more fittingly reviewed for conformity with the Coastal Act in the coastal permit process, either at the same time or following Commission review of BLM's consistency determination.

B. Site Description. Trinidad Head is a rocky headland near the City of Trinidad, about 17 miles north of Eureka in Humboldt County (Exhibit 1). The shoreline in this portion of the County is magnificent, including rocky points, offshore rocks, sea stacks and islands, narrow rocky beaches on rock reefs, and small sand and gravel pocket beaches below high bluffs. The shoreline is generally accessible only by steep and occasionally hazardous trails. The Head is immediately southwest of Trinidad, an incorporated city with a population of about 380 (Exhibit 2). The local economy is based on timber, fishing, and tourism. Trinidad harbor and pier, east of the Head, attracts a sizeable number of commercial and recreational fishermen during the salmon season (May through July). Several nearby parks provide recreation opportunities for residents and visitors, including Patricks Point State Park (6 miles north), Little River State Beach (4 miles south), and Trinidad State Beach (only about ½ mile north of the Head).

Trinidad Head itself is connected to the mainland by a neck of land. A gravel road provides access for the U.S. Coast Guard Station on the southern end of the Head (Exhibit 3). The Coast Guard maintains a fog horn, light beacon, staff housing, and radio antennas on the Head. A cable TV antenna is also located on the Head. Most of the Head is covered in dense vegetation, including coyote brush, California blackberry, ceanothus, brush monkey flower, cow parsnip, and salal. The dense brush provides habitat for foxes, raccoons, skunks, rabbits, rodents, salamanders, and reptiles. The Head is also a good viewing point to watch marine mammals such as California and Stellar sea lions, elephant seals, and gray whales during their migration. Consultation with local Indians, the Yuroks, reveals that the Head is and was of cultural significance, although a limited archaeological survey did not find any cultural resources.

C. Federal Consistency Determination. The Bureau of Land Management has prepared a consistency determination for the proposed transfer of federal land to the City for non-intensive recreational use (March 16, 1983, letter from BLM Area Manager John W. Lahr to Richard Rayburn). Federal regulations identify acquisition, utilization, or disposal of land or water resources as a federal development project, for which a consistency determination must be prepared (15 CFR 930.31(b), emphasis added). BLM's consistency determination addresses both the action transferring federal land and the City's development plan for the property. Strictly speaking, the Commission is reviewing at this time only the proposed transfer action, including the receiving agency and the proposed use, with regard to consistency with California's coastal management program. The City's development plan can then be reviewed as a coastal development permit application.

The consistency determination states that the project is consistent with the access and recreation policies of the Coastal Act. It states that the project will have no effect on marine resources or environmentally sensitive habitat. It notes that the project is consistent with Section 30250 regarding new development, since no buildings are proposed and the recreational use has priority under the Coastal Act. It states that views of the harbor, ocean, and shoreline will be enhanced by the project. It concludes that the project is fully consistent with the California coastal management program (including the certified LCP for most of the adjacent City of Trinidad).

II. Staff Recommendation

The staff recommends that the Commission adopt the following resolution:

The Commission hereby concurs with the consistency determination made by the Bureau of Land Management for this project, that the proposed transfer of federal land (including the proposed grantee and use) is consistent to the maximum extent practicable with the California Coastal Management Program.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Public Access. The primary access points in the Trinidad area are at Trinidad State Beach to the north, Trinidad harbor and pier, Indian Beach east of the pier along the Trinidad Bay shore, and a small beach north of Bay Street. A trail system in the City links the harbor and bluff areas to several vertical access trails further south of Trinidad. The harbor area is heavily used by fishermen in the summer season. The transfer of land to the City for recreational use will increase public access to a highly scenic coastal headland and will represent a major expansion of access opportunities in this area. Several Coastal Act policies address access. Section 30210 states that maximum public access to the sea must be provided. Section 30211 prevents new development from interfering with existing public accessways. Section 30212 requires that access to and along the coast be provided in new development projects. Because of the project's emphasis on providing new access, it is consistent with these sections. Access at Trinidad Head should emphasize trails and view points rather than shoreline access, due to the steep terrain, heavy vegetation, and related public safety and erosion considerations.

Visitor parking for the project could be inadequate, depending on the level of use by the public. Two privately-owned parking areas are now available in the site vicinity -- along Bay Street (about 60 cars) and northwest of Bay Street (about 40 cars). The first area is sometimes full during the summer months, due to the influx of fishermen. Cars and boat trailers congest the parking area and local streets. The second area is further from the harbor area but is used by beachgoers to some extent. Section 30212.5 encourages parking and other public facilities to be distributed throughout an area to avoid impacts of overcrowding and overuse. Policy 56 of the certified City of Trinidad LCP reserves a portion of the second parking area for non-harbor users. This would be the primary parking area for project users, since steep slopes, heavy vegetation, and visual constraints would preclude the development of any significant on-site parking. A coastal trail northeast and southeast of the Head is designated in the City's LCP. To the southeast, an existing trail follows the shoreline to Parker Creek; to the northeast, the trail system is being extended to the College Cove area of Trinidad State Beach. These trails would provide visitors an alternative to nearby parking. Demand for parking will depend on the project's popularity and improvements. However, at nearby Trinidad State Beach, the 80-car lot is usually less than half-full in the summer. Parking for the project should be adequate, given the low-intensity recreational uses proposed and the above-noted LCP provisions. Specific demand projections and provisions for parking should be part of the City's coastal development permit application.

B. Recreation. There are several existing recreational facilities in the Trinidad Area. Patricks Point State Park is 6 miles north, Little River State Beach is 4 miles South, and Trinidad State Beach is about ½ mile north of Trinidad Head. Trinidad harbor, including a fishing pier, parking area, bait shop, restaurant, and boat launch facility, is located immediately north-east of the project. Section 30213 of the Coastal Act promotes lower-cost visitor and recreational facilities. Section 30221 gives priority to recreational uses on oceanfront land, unless already provided for in the area. The project is intended to provide new recreational opportunities at Trinidad Head, including trails, vista points, and picnic areas. Given this overall intent, the project is consistent with Sections 30213 and 30221.

C. Marine Resources. The shoreline in the vicinity of Trinidad is very rugged, and includes rocky points, offshore rocks, sea stacks and islands, narrow rocky beaches, rock reefs, and small sand or gravel beaches below high bluffs. Offshore rocks provide nesting areas for birds, and the rocky beaches are noted for prolific tidepool communities of significant scientific value. The sea stacks serve as haul-out areas for California and Stellar sea lions. Harbor seals, elephant seals, and gray whales can be observed from the Head. The project will not interfere with these valuable marine resources, and is thus consistent with Section 30230 and 30233 of the Coastal Act.

Section 30231 requires that developments maintain biological productivity and water quality. Trail construction and other improvements have the potential to increase erosion rates. To minimize potential erosion effects, BLM will stipulate, in its conveyance of the property, that erosion control measures are to be used in constructing project improvements. Given this mitigation measure and the low intensity of use proposed, the project is consistent with Section 30231.

D. Environmentally Sensitive Habitat Areas. Vegetation on Trinidad Head belongs to the north coastal scrub community. Commonly found plants include coyote brush, California blackberry, ceanothus, and brush monkey flower. The dense brush on the Head provides habitat for foxes, raccoons, skunks, rabbits, other rodents, salamanders, and reptiles. BLM's environmental assessment notes two potentially rare plant species -- black crowberry (Empetrum hermaphroditum) and bird rock goldfields (Lasthenia minor, ssp. maritima) could occur on the site, but have not been identified. Black crowberry is listed as "rare" by the Native Plant Society but is not on any state or federal species list. The second plant was recently removed from all plant species lists due to its wide range. Section 30240 of the Coastal Act protects sensitive habitat areas against any significant disruption of habitat value. Because no environmentally sensitive habitat has been identified on the project site and because the project will have minimal effects on site habitat, the project is consistent with Section 30240.

E. New Development. Trinidad Head borders Trinidad's city limits. The City provides water service in and adjacent to its incorporated area, although it usually makes annexation a condition of providing service. On-site septic systems are the prevalent method of wastewater disposal. Water, electricity, and phone lines connect the Coast Guard facility on Trinidad Head to the town.

Vehicular access is along a gravelled road branching off Bay Street. The City has stated its intention to annex the Head if BLM transfers the property.

Both the City's LCP and the Trinidad Area segment of Humboldt County's LCP propose recreational use for the Head if it is no longer needed by the federal government. Policy 66 of the City's General Plan states: "The portion of Trinidad Head not needed by the Coast Guard should be transferred to the City of Trinidad. The area should be kept in its natural state with hiking trails and vista points. Public vehicular access should only be allowed as far as the existing harbor overlook." The public recreation and access policies of the County LCP segment provide similar guidance.

Section 30250 of the Coastal Act requires new residential, commercial, or industrial development to be located in or near existing developed areas or in areas with adequate public services if it will have no adverse effects on coastal resources. The proposed project is a recreational and open space use and thus is not subject to the above requirement of Section 30250. Adequate public services are available to serve the project, and it is consistent with the provisions of both LCPs that have a bearing on the property.

F. Archeological Resources. Trinidad Head is within the territory of the Coast Yurok Indians, and was and is of cultural significance. The Head was used for spiritual purposes and as a burial ground for the old people. The peninsula itself supported a village called Tsurai, which means "Mountains by the Sea". The Head is not currently used for traditional purposes, however. Archeological surveys on the Head in 1976 and 1982 did not reveal any archeological resources or sites. However, only about 20% of the site was surveyed, due to the dense underbrush away from the existing roads and paths. It is possible that such resources could be encountered during construction of improvements such as trails and picnic areas.

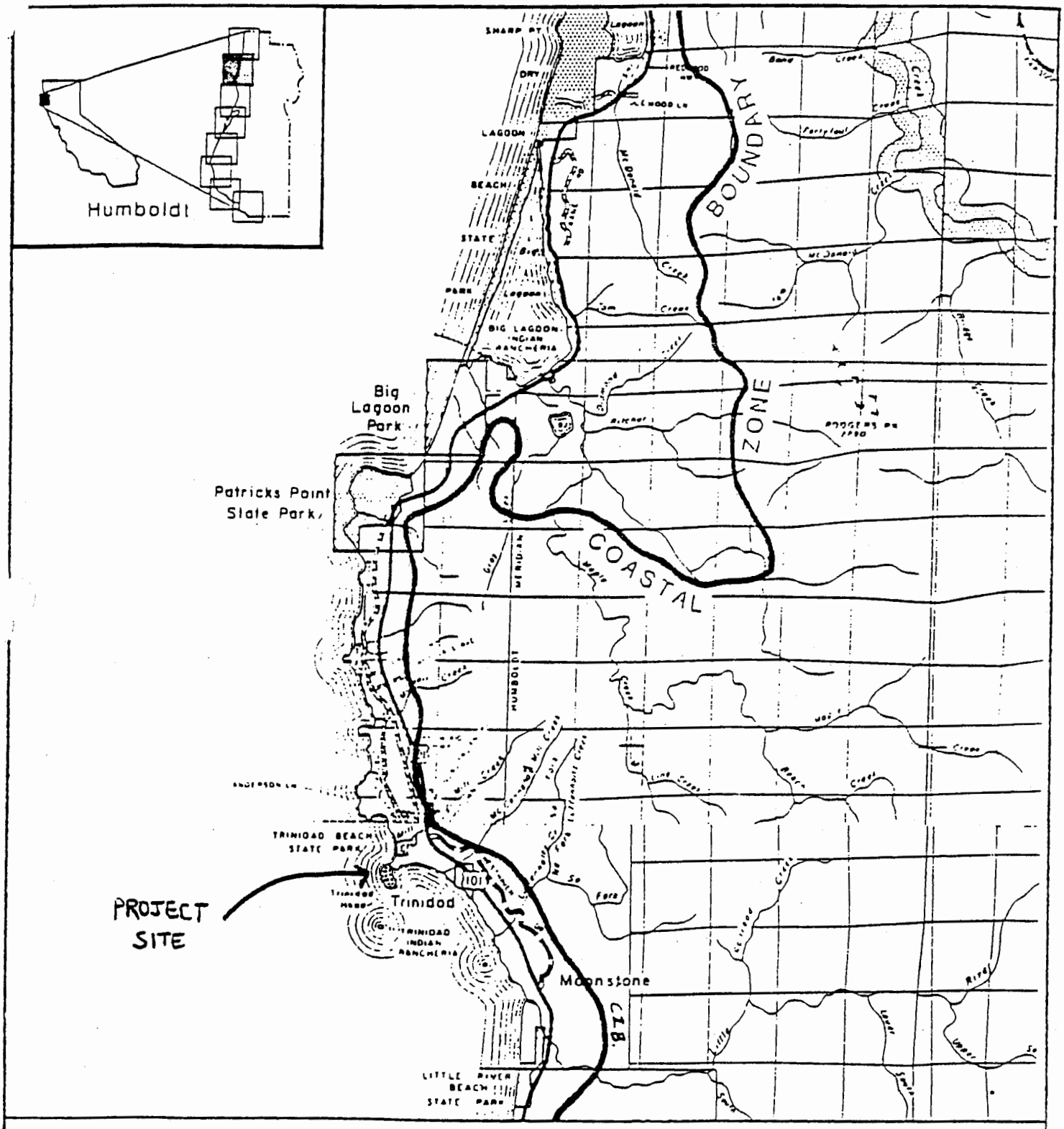
Section 30244 of the Coastal Act states that reasonable mitigation measures shall be required where development would adversely impact archeological or paleontological resources. BLM will include a stipulation in its patent deed to the City to address the possibility of encountering archeological resources during construction. It provides that unsurveyed areas shall be surveyed by a qualified archeologist after vegetation removal and prior to construction. If cultural resources are found during the survey or during construction, a qualified BLM official will evaluate these resources and require mitigation measures to protect them, if necessary. With this mitigation measure, the project is consistent with Section 30244.

G. Visual Resources. The visual setting in Trinidad includes rugged coastal headlands and islands, beaches and surf, the vast expanse of ocean, the small harbor with fishermen unloading their catch, and homes climbing up the hillside. Low-density residential development patterns preserve a small town character. Trinidad Head is prominent in the view from town, the harbor, and coastal trails. Conversely, the Head affords an excellent view back at the harbor, ocean, and the rocky shoreline. From the Head, sightseers can observe marine resources, including seals, whales, shorebirds, and other wildlife. Project improvements for low-intensity recreation, such as trails, picnic areas, and vista areas, will have little or no visual impact.

Section 30251 of the Coastal Act protects the scenic and visual qualities of coastal areas, requiring that new development be sited to protect ocean and coastal views. Because of the low intensity of the project and the heavy undergrowth on the Head, project improvements such as trails and vista points can be designed to be unobtrusive and thus consistent with Section 30251. The project will enhance and augment public views of this highly-scenic coastal area, by providing new vista points and improving access to the Head.

IV. Exhibits

1. Location Map
2. Project Vicinity
3. City of Trinidad Development Plan



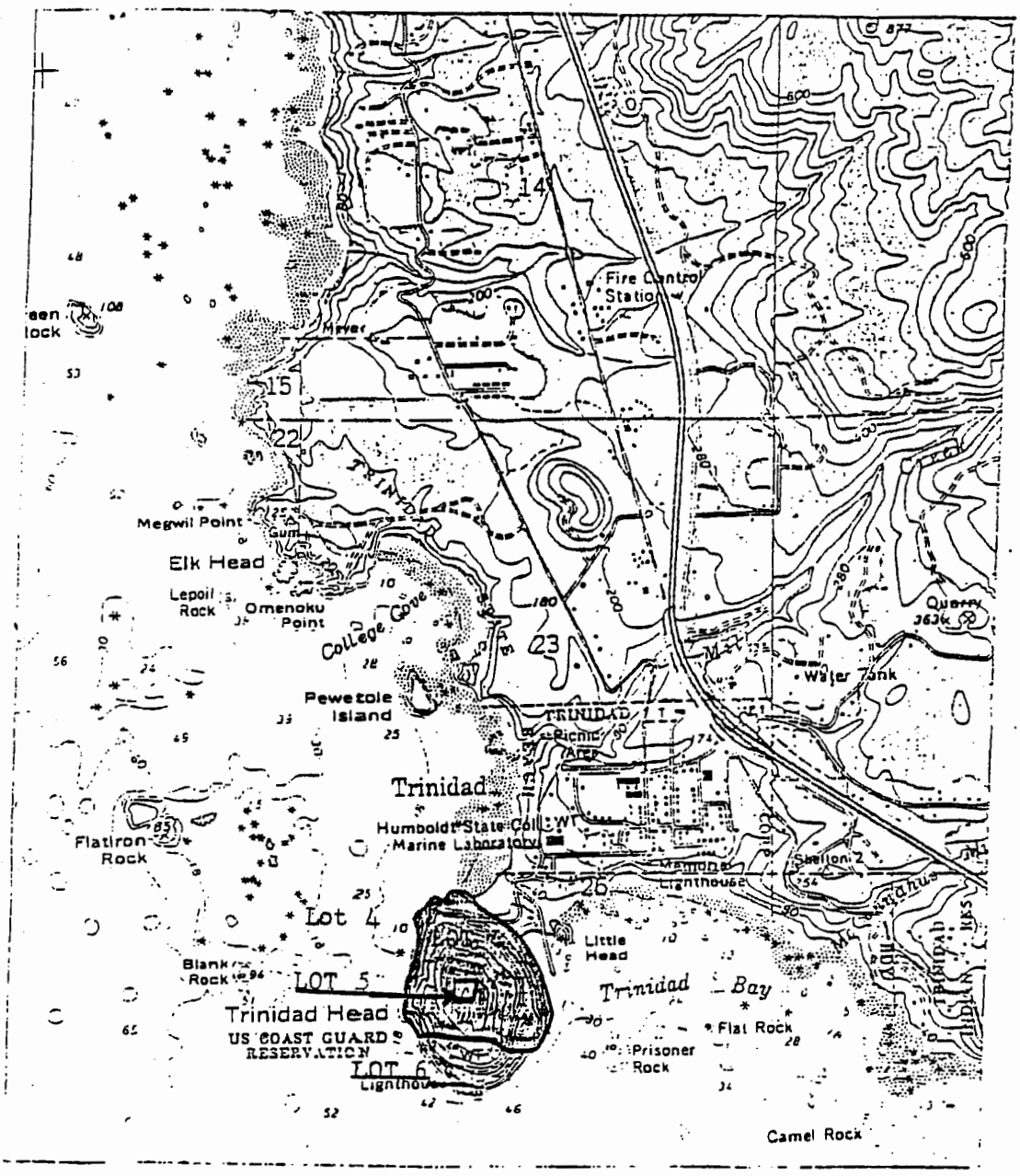
California Coastal Commission

LOCATION MAP

County of Humboldt

Sheet 2 of 8

EXHIBIT 1



Lot 4 To be transferred to City
Lot 5 Retained for Coast Guard (radio antenna)
Lot 6 Retained for Coast Guard (foghorn, light, housing)

EXHIBIT 2

PROJECT VICINITY

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Ukiah District Office
Arcata Resource Area
P.O. Box 1112
Arcata, California 95521

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
CA-13094
1862
CA-056

JUN 0 9 1988

Memorandum

To: Area Manager, Arcata

From: Realty Specialist, Arcata

Subject: R&PP Compliance Check - Trinidad Head - City of Trinidad

On May 8, 1988, I field inspected the subject R&PP grant for compliance. By all appearances, the property is developed and being used for the intended purposes as applied for. Trails have been constructed and maintained; overlooks and benches installed; and picnic area (w/tables) installed. The area is maintained in a neat and clean condition and no fees are being charged although the City of Trinidad has the authority to do so under the terms of the grant.

I recommend that the City of Trinidad be held in compliance with the terms of the grant per CA-13094 and patent 04-83-0056 as authorized by the Act of June 14, 1926 (44 Stat. 741) as amended, 43 U.S.C. 869 (1976).

Robert R. Wade

I do/~~do not~~ concur. _____ 6-8-88
Arcata Area Manager Date

(77)

Form 2740-4
(June 1987)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECREATION AND PUBLIC PURPOSE COMPLIANCE CHECK TRANSMITTAL

[X] TO: Area Manager, Arcata

FROM: Assistant District Manager, Resources

[X] TO: District Manager, Ukiah

FROM: Arcata Area Manager

SUBJECT: Recreation and Public Purposes Act Compliance Check

Recreation Public Purposes Grant *(Serial No.)* CA-13094 , *(Name of Grantee)* City of Trinidad
Is due for a compliance check as of *(Date)* 4-24-1988.
May we have your recommendations by *(Date)* 4-24-1988.

Earle H. Curran
Acting, ADM Res (Signature)

AUTHORIZED OFFICER'S FINDING AND RECOMMENDATION

Grantee is:

[XXX] In compliance with grant terms and conditions and no further action is needed.

[ ] Not in compliance with grant terms and conditions *(Refer to attached compliance report)*.

[ ] Issue show-case notice because of apparent violation of patent terms and conditions.

[ ] Issue decision of divestiture.

[ ] Refer to Solicitor for recommended action, appears to be non-compliance involving discrimination.

[XX] Schedule next compliance check on 4/24/93 .
(Date)

X _____ June 2, 1988
(Signature, Authorized Officer) (Date)
Arcata Area Manager

Enclosure(s)
Report of Compliance Check
Official File

UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
Arcata Resource Area Office
1125 16th Street, Room 219
Arcata, California 95521

In Reply Refer to:
CA 13094
2740
(CA-056)

February 22, 1993

MEMORANDUM

To: Acting Area Manager, Arcata

From: Realty Specialist, Arcata

Subject: R&PP Compliance

On this date I field inspected Trinidad Head in conjunction with the compliance report due for the R&PP patent to the City of Trinidad (CA 13094). The property continues to be used for the purposes intended in the grant.

I recommend compliance be approved. Charlotte Hawkes

I concur ✓ I do not concur _____.

Stephen J. Hawks

Stephen J. Hawks
Acting Area Manager

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Arcata Field Office
1695 Heindon Road
Arcata, California 95521-4573

2740
CACA 013094
CAS 025019
CAS 026862
CAS 026863
CAS 069095
CA 330

October 10, 2001

MEMORANDUM:

To: Daniel Averill, Assistant Field Manager, Arcata

From: Realty Specialist, Arcata

Subject: Report and Recommendation

On October 9, 2001, I performed site visits to Clam Beach, Big Lagoon, Trinidad Head and Prairie Creek State Park to determine whether or not the State of California (in the case of Clam Beach, Big Lagoon and Prairie Creek State Park) and the City of Trinidad (in the case of Trinidad Head) are in compliance with the terms and conditions of their Recreation and Public Purposes Act patents (see above serial numbers).

In all cases I found the managing agencies to be in compliance with the terms and conditions of their patents.

Charlotte Hawkins

I recommend compliance be approved.

DECISION

I concur ✓ I do not concur _____ with the recommendation.

D E Averill

Daniel E. Averill
Assistant Field Manager

TIME LINE: CABLE TV ON THE HEAD

1981: CABLE TV COMES TO TRINIDAD

- **JANUARY 1981**
  City Council passes Cable TV Franchise Ordinance (Ordinance #171) allowing the City to contract with a cable TV provider.[1]
- **MARCH 1981**
  City passes Ordinance # 173 granting Cable TV Franchise to Trinity Systems.[2]
- **NOVEMBER 1981**
  Trinity arranges with the Coast Guard to place a satellite receiver dish on the Head.[3]

1983: CITY OF TRINIDAD ANNEXES THE HEAD

- City grants Trinity a Revocable License[4] to use the receiver dish site on the Head; Trinity begins paying rent on the site to the City.[5]
- Thus, two payment streams are given to the City by Trinity Systems; one for the Franchise, another for rent on The Trinidad Head site.

1985: TRINITY SYSTEMS SELLS THE FRANCHISE

- **FEBRUARY 1985**
  Ordinance 85-181 is passed, approving the transfer to Trans-Video.[6] Two payment streams continue, as Trans-Video takes over both the Franchise Agreement and the Revocable License.
- **DECEMBER 1986**
  Trans-Video transfers the franchise to Cox.[7]
- **DECEMBER 1990**
  Cox pays 3 years of rent on the Trinidad Head site, including 2 years 5 months of unpaid back rent.[8]
- **DECEMBER 31, 1991**
  New Revocable License drawn up for the satellite receiver dish site on the Head, reflecting a rent increase.[9]

1994: COX STOPS USING THE SATELLITE RECEIVER DISH ON TRINIDAD HEAD

- **1994**
  Fiberoptics infrastructure system completed by Cox,[10] replacing use of the receiver dish on the Head,[11] which is discontinued.[12]
- **MAY 15, 1995**
  Letter from Cox stating that they are no longer using the site.[13]
- **JUNE 30, 1995**
  City records[14] show NO RENT collected on the Trinidad Head site during the past 12 months; Franchise fees continue to be collected.[14]
- **JUNE 30, 1996**
  City records[15] show a SECOND YEAR of NO RENT collected on the Trinidad Head site. Franchise fees continue to be collected.
- **OCTOBER 1996**
  Franchise agreement with Cox Cable is renewed.[16] Cox continues to provide Cable TV services to Trinidad through its fiberoptics infrastructure.

1997: CAL-NORTH LEASES OLD CABLE TV SITE

- **APRIL 17, 1997**
  Date on Cal-North Ground Lease in City files;[17] missing document.[22]
- **MAY 20. 1997**
  Date of Cal-North application.[19] Site has not been used for 2 years, 10 months, violating Zoning Regulation 17.64.010.
- **JUNE 30, 1997**
  City records[20] show THIRD YEAR of NO RENT on the Cable TV site.
- **AUGUST 1997**
  Date of first payment by Cal-North.[21] Cal-North letter indicates Lease was dated 8-1-97.[22]

REFERENCES TO DOCUMENTS

1. City Council Minutes for 1-13-81.
2. Ordinance 173..
3. City Council Minutes for 11-11-81.
4. Revocable License, 8-1-83.

(CONTINUED ON FOLLOWING PAGE)

5. City Council Minutes for 6-8-83.
6. Ordinance 85-181.
7. Resolution 86-10.
8. Letter dated 12-4-90 from Cox to the City Clerk RE: back lease payments.
9. Revocable License, dated 12/31/91, granting Cox Cable a 5 year lease on the Trinidad Head site.
10. "Trinidad Progressive Flow," from a Cox 12-26-95 document seeking to renew the Franchise.
11. "Plant Maintenance and Upgrades," from a Cox 12-26-95 document seeking to renew the Franchise.
12. Planning Commission Minutes 6-18-97.
13. Letter dated May 15, 1995 from Cox Vice President/General Manager to Tom McMurray.
14. City of Trinidad General Fund Statement of Revenues and Expenditures - for the Twelve Months Ended June 30, 1995.
15. Combined Statement of Revenues, Expenditures, and Changes in Fund Balances - For the Year ended June 30, 1996.
16. Amended and Restated Cable Television Franchise Ordinance.
17. Ground Lease with Cal-North, cover page, signature page and Reference to Exhibit E (missing)
19. Cal-North Application dated 5-20-97.
20. Combined Statement of Revenues, Expenditures, and Changes in Fund Balances - For the Year Ended June 30, 1997.
21. Letter from Cal-North dated 7-8-00.
22. Letter from Cal-North dated 12-15-05.

DOCUMENT LIST

Excerpts from City Council Minutes between 1981 - 1996, discussing Cable TV issues.
Ordinance No.173, dated 3-10-81, granting Franchise to Trinity Systems.
Revocable License, dated 7-1-83, granting Trinity Systems a 5 year lease on the Trinidad Head site.
Ordinance No. 85-181, dated 2-13-85, approving transfer of franchise to Trans-Video.
Assignment of Cable Television Franchise, dated 3-7-85, between Trinity and Trans-Video.
Resolution No. 86-10, dated 23-20-86, approving transfer of franchise to Cox.
Revocable License, dated 12/31/91, granting Cox Cable a 5 year lease on the Trinidad Head site
Letter dated December 4, 1990 from Cox, enclosing missing lease payments on the Trinidad Head site.
Cover letter and two documents from a Cox 12-26-95 application to renew the Franchise: " Trinidad Progressive Flow," and "Plant Maintenance and Upgrades."
Planning Commission Minutes, 6-18-97.
City of Trinidad General Fund Statement of Revenues and Expenditures - for the Twelve Months Ended June 30, 1995
Letter dated May 15, 1995 from Cox Vice President/General Manager to Tom McMurray, with cover letter to City by Tom McMurray.
Letter dated 8-23-95, from City Attorney Tranberg to Cox.
Combined Statement of Revenues, Expenditures, and Changes in Fund Balances - For the Year ended June 30, 1996.
.Amended and Restated Cable Television Franchise Ordinance, cover page.
Cover sheet, signature page and reference to Exhibit E from 1997 Ground Lease with Cal-North. (The complete document is in the section about Cell Towers on the Head.)
Cal-North Application form, 5-20-97.
Combined Statement of Revenues, Expenditures, and Changes in Fund Balances - For the Year Ended June 30, 1997.
Letter dated 7-8-2000 from Cal-North to the City, with attachments, regarding annual adjustments to base rent.
Letter dated 12-15-05 from Cal North to the City, with attachments.

TRINIDAD CITY COUNCIL MINUTES RELATING TO CABLE TV

1-13-81
Motion . . . to adopt Ordinance #171, the City's new Cable TV Franchise Ordinance. **(Passed)** #1

2-10-81
MOTION by Freeman, second by Wilson to adopt Resolution 80-15, setting March 10, 1981 as the date to consider an application for a franchise application (sic) from Trinity Systems, Inc. Motion carried

8-11-81
Robert Winstead, Trinity Systems local representative, reported that the pole easements were being obtained from PG &E and the telephone company now. He said that the 5 meter dish should be installed on Trinidad Head by October 1 . . .

9-8-81
Robert Winstead, Trinity Systems manager, reported to the Council that they will be "on line" by December 1, if all goes according to plan. He said the Coast Guard is still processing the application for the disk on Trinidad Head.

11-11-81
Bob Winstead reported that they have received approval from the Coast Guard to place the dish on the head, and are still looking at 12/1/81 for their deadline to be completed. #3

12-8-82
The interference that is occurring is due to telephone microwaves. It is a "no fault" situation. The recommendation from engineers is to move the disc. Trinity Systems is looking for a new location; high ground is a necessity. Community suggestions are welcomed. The interference can not be completely eliminated. But a new site will help.

2-16-83 (Planning Commission Meeting)
(discussion of placing a dish at City Hall)
Bob, representing Trinity Systems, was asked questions . . . height, location, color and fence possibilities were discussed . . . wind load and uplift . . . Bob explained the weight and bolts required to hold the dish down will withstand winds up to 200 mph and the Town Hall itself is a barricade against wind . . . MOTION to approve . . . Motion passed.

6-8-83
TRINIDAD HEAD UPDATE
Zebo reported his meeting with LAFCO this morning regarding annexation process. Tranberg explained the process. If we begin now we may be finished by Sept. The City won't have to pay taxes on the land. The Council authorized Tranberg and Simpson to begin the annexation process . . .

#5 Zebo reported that Trinity Systems is to pay rent to the City for Trinidad Head land they use. Hanlon reported that Trinity Systems has not received notice to this effect. Zebo said he will get the proper papers sent to Trinity Systems . . .

7-13-83
MOTION by Freeman, second by Replogle to accept Trinity System's agreement with a copy of their insurance coverage. Motion passed.

2-8-84
Jim Cheezum from the Coast Guard gave a run down of the problem; the residents on Trinidad Head want Cable TV but Trinity Systems, Inc. Seems to be stalling. Discussion . . .

3-14-84
Zebo read a letter from Trinity Systems, Inc. Regarding cable service to Trinidad Head residents. Discussion of alternatives ensued . . .

6-13-84
Jim Cheezum reported that they will soon have cable TV on Trinidad Head.

1-9-85

John Camphouse (of Trinity Systems) . . . reviewed the process of selling which began last spring. A tentative agreement was made last summer with Cox Cable. Trinity Systems and Cox Cable would like to make a formal request next month . . . Both parties have signed an agreement . . .

Tranberg added that the Council needs to pass a Resolution approving of the transfer . . . The Council can accept the transfer as is or can impose new requirements . . .

2-13-85

John Camphouse of Trinity Systems . . . explained that Trans-Video Corp. Is a subsidiary of Cox Cable and Trans-Video is requesting the franchise . . .
Cox Cable and Trinity Systems are planning to close the deal on February 28th.

MOTION by Pettit, seconded by Caldwell to adopt Ordinance no. 85-181. Motion passed.
Tranberg reminded the Council to notify Cox Cable once escrow closes to pay the rent on a monthly basis.

11-15-91

Tranberg reported that he has sent a copy of his proposed contract between the City and Cox Cable raising the lease agreement . . .

6-12-95

Tranberg reported that cable franchise negotiations are highly regulated and the council may wish to hire a consultant to look into the agreement . . .

9-13-95

Discussion Re: Cox Cable Termination of Lease Agreement on Trinidad Head and Possible Lease With Other Interested Parties. Scripps Institute is interested in installing a generator and using the site along with site at the coast guard station. Tranberg has written a letter to Cox regarding the status of their use. They have not responded as yet. It would take some time to prepare a new agreement and have reviewed by PARSAC and have Scripps review.

Scripps schedule of construction is to start on September 28, 1995. No action was taken on this item as the timing would not be feasible for construction dates.

1-10-96

#4 Ordinance of the City of Trinidad relating to Cable TV Franchises

#5 Renewal of the Cox Cable TV Franchise Agreement

Tranberg reported that the law firm he had hired had informed him that the public hearing should be tonight and the ordinance and franchise agreement should be next month. Dorothy Lovald of Cox Cable addressed the council and explained how Cox Cable acquired the cable franchise from Trinity Systems some years ago . . .

6-12-96

CONSENT AGENDA ITEM: Extension of the Cox Cable Franchise Agreement for and (sic) additional 90 days (to allow contract negotiations to be completed)

(Excerpts from City Council Meeting Minutes by Kathy Bhardwaj, regarding Cable TV issues relevant to the Head)

ORDINANCE NO. 173

AN ORDINANCE OF THE CITY OF TRINIDAD GRANTING A FRANCHISE FOR CABLE T.V. TO TRINITY SYSTEMS INC.

The City Council of the City of Trinidad does ordain as follows:

Section 1: The City of Trinidad hereby grants a franchise for cable T.V. to Trinity Systems, Inc. on such terms and conditions as are contained in ORDINANCE 171, together with all the representations of Del Norte Cablevision as contained in their franchise application.

Section 2: This ordinance shall take effect 30 days after its adoption by the City Council.

DATED:

ATTEST: APPROVED:

City Clerk, City of Trinidad Mayor, City of Trinidad

CLERKS CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of ordinance No. 173 passed and adopted at a regular meeting of the City Council of the City of Trinidad, Humboldt County, California, held on the 10 day of March, 1981.

AYES:

NOES:

ABSENT:

City Clerk, City of Trinidad

REVOCABLE LICENSE

The CITY OF TRINIDAD, hereafter called Licensor, grants to TRINITY SYSTEMS, INCORPORATED, 2719 Carol Lane, Bishop, California, 93514, a corporation organized under the laws of the State of California, hereafter called Licensee, a Revocable License to use a portion of CITY OF TRINIDAD HEAD, CALIFORNIA, subject to the following terms and conditions.

1. The licensor grants the licensee the revocable non-exclusive permission to use a 60 foot by 45 foot square plot of land located within and along the westerly line of Parcel #2 on Record of Survey filed on 29 September 1976 in Book 33 of Surveys at Page 46 in the County of Humboldt, State of California, a copy of which is attached hereto and made a part hereof, together with necessary rights of ingress and egress.

2. The licensee shall use the licensed premises for the sole purpose of installing, operating and maintainfng a satellite receiver site.

3. The license shall be in effect for a period of five (5) years, commencing on July 1, 1983.

4. No permanent interest in the real property subject to this Revocable License shall vest in the Licensee.

5. The Licensor or its successor may revoke this license at any time by giving thirty (30) days written notice of termination to the Licensee at the above address. The licensee may revoke this license at any time by giving thirty (30) days written notice of termination to the CITY OF TRINIDAD at the address shown below. This license may be renewed for additional periods at the discretion of the Licensor. Application for renewal must be submitted to the CITY OF TRINIDAD, P. O. Drawer N, Trinidad, California, 95570, at least thirty (30) days prior to the expiration of this license.

6. Licensee shall pay to the CITY OF TRINIDAD an annual rental of THREE HUNDRED SIXTY DOLLARS AND NO CENTS, $360.00, payable monthly in advance at the rate of THIRTY DOLLARS AND NO CENTS, $30.00, per month. Payment shall be from July 1, 1983. Payment shall be by check or money order made payable to the CITY OF TRINIDAD and mailed to the CITY at the above address.

7. The Licensee shall protect, maintain and keep in good order the licensed premises or facilities. This obligation includes responsibility for all costs incurred for any maintenance and repair (including long-term maintenance) which the Licensee shall consider necessary or desirable in connection with its occupancy hereunder.

8. Any item of long-term maintenance, or any additions to, or alterations of, the premises or facilities which the Licensee shall consider necessary or desirable in connection with its use and occupancy shall be made only with the prior approval and consent of the Licensor and at the sole cost and expense of the Licensee. Upon revocation, expiration or surrender of this License, and to the extent directed by the Licensor the Licensee shall remove all alterations, additions, betterments and improvements made, or installed and restore the premises or facilities to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.

9. a. The Licensee shall bear all risk of loss or damage to the licensed property arising from any cause created by the Licensee, and shall pay to the Licensor any damages caused by the Licensee's use and entry authorized by this License.

b. The Lisensee agrees to protect, defend, indemnify and hold CITY, its officers, employees and agents free and harmless from and against any and all losses of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this license and/or the performance hereof.

The Licensee further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto.

Notwithstanding the foregoing, the Licensee shall not be liable to indemnify CITY, for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of CITY, or its employees.

10. The Licensee shall not make any substantial alteration of existing premises or construction of permanent type improvements without the prior written consent of the Licensor. Any structure or device erected or installed without Licensor's written consent or which may be found to interfere with the proper operation of any of Licensor's equipment or activities shall be removed at Licensee's own expense. Upon revocation, expiration or surrender of this License, the Licensee shall remove all structures and devices installed and restore the premises or facilities to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted. The Licensor hereby consents to the Licensee's installation of dish antenna on a five foot by five foot concrete pad, a temperature controlled structure eight feet by ten feet by seven feet on an eight foot by ten foot concrete pad.

11. The Licensee shall obtain separate metering of its electric services and pay for its own utility services.

12. The Licensor shall have access to the licensed property at all reasonable times for inspection, maintenance, or any other purpose.

13. The Licensee may not transfer or assign its interest, or any part thereof, in this license.

14. Licensee shall take all precautions necessary for the safety and prevention of damage to property on or adjacent to the site, and for the safety of and prevention of injury to persons, including CITY'S employees, Licensee's employees, and third persons,

on or adjacent to the site. All activities shall be conducted entirely at Licensee's risk. Licensee agrees to carry, for the duration of this license, public liability and property insurance in an amount, and with an insurer, acceptable to CITY, and further agrees to provide a copy of said policy to CITY prior to commencement of the term. The amount of the public liability insurance shall be $500,000, and the amount of the property insurance shall be $500,000. Licensee also agrees to carry workers compensation insurance according to State law, and will furnish CITY with proof of such insurance prior to commencement of work.

15. This written license contains the sole and entire agreement between the parties. It supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this license or any representations inducing the execution and delivery hereof except such representations as are specifically set forth herein; and each party acknowledges that it has relied on its own judgment in entering into the license. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with its dealings with the other.

16. No waiver or modification of this license or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this license, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

ORDINANCE NO. 85-181

AN ORDINANCE OF THE CITY OF TRINIDAD GRANTING A FRANCHISE FOR CABLE T.V. TO TRANS-VIDEO CORPORATION.

The City Council of the City of Trinidad does ordain as follows:

SECTION 1: The City of Trinidad hereby authorizes the sale of the assets of Trinity Systems, Inc., together with all its existing franchise rights, to Trans-Video Corporation.

SECTION 2: The remainder of the term of the existing cable TV franchise shall, from the date this Ordinance becomes effective, be held solely by Trans-Video Corporation, subject to all of the representations and conditions of Ordinance 171 of the City of Trinidad, together with each of the terms and conditions of Trans-Video Corporation's application for franchise submitted to the City of Trinidad.

SECTION 3: From the date this Ordinance becomes effective, Trinity Systems, Inc. shall no longer hold a cable TV franchise within the City of Trinidad.

SECTION 4: This Ordinance shall take effect 30 days after its adoption by the City Council.

Dated: February 13, 1985.

ATTEST:

Merilea Parker
CITY CLERK, City of Trinidad

APPROVED:

Carl J. Poplin
MAYOR, City of Trinidad

ASSIGNMENT OF CABLE TELEVISION FRANCHISE

Trinity Systems, Inc., the present holder of a cable television franchise from the City of Trinidad, California, granted by Ordinance No. 171 and amended by Ordinance No. 83-2, does hereby sell, transfer and assign all of its right, title and interest in and under such franchise and Ordinances to Trans Video Corporation.

Date: March 7, 1985

TRINITY SYSTEMS, INC.

By: John L Camphouse
President

RESOLUTION NO. 86-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD CONSENTING TO THE TRANSFER OF THE CABLE TELEVISION FRANCHISE FROM TRANS-VIDEO CORPORATION TO COX CABLE, HUMBOLDT, INC.

WHEREAS, Trans-Video Corporation has requested the Trinidad City Council to transfer the cable television franchise to Cox Cable, Humboldt, Inc.; and,

WHEREAS, Trans-Video Corporation and Cox Cable, Humboldt, Inc., are affiliate corporations, subsidiaries of Cox Cable Communications, Inc., the parent company; and,

WHEREAS, such request was made for the purpose of simplifying the corporate structure of Cox Cable Communications, Inc., and to offer Cox Cable Communications, Inc., federal tax advantages, and for no other reasons; and,

WHEREAS, there will be no change in the operation, management, or ultimate ownership of the franchise;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Trinidad that this Council accepts and consents to the request to transfer from Trans-Video Corporation to Cox Cable, Humboldt, Inc., of the cable television franchise.

Dated: December 10, 1986

Mayor, City of Trinidad

ATTEST:

City Clerk, City of Trinidad

911 West Wabash
Eureka, California 95501
Tel. (707) 443-3127

Cox Cable
Humboldt, Inc.

Dorothy Lovfald
Vice President & General Manager

December 4, 1990

Ms. Janell Case
City Clerk
City of Trinidad
Trinidad, CA 95570

Subject: Trinidad Head License Agreement

Dear Janell,

Attached is a copy of the license agreement and assignment that we discussed on the telephone.

It was my understanding at the time of the sale the previous owner Mr. Camphouse did have all necessary licenses and leases reassigned to Cox Cable Communications.

In 1988, the City Clerk Marilee Partsch returned our check stating she had no idea what the payment was for.

Also attached is our check in the amount of $1,080.00 lease payment for three years (7/1/88 to 6/30/91).

I am certainly sorry this has been neglected for two years. Please let me know what I can do to get the whole matter resolved.

Thank you.

Sincerely,

Dorothy Lovfald
Vice President
and General Manger

DL/kg
Enclosure

(97)

REVOCABLE LICENSE

The CITY OF TRINIDAD, hereafter called Licensor, grants to COX CABLE HUMBOLDT BAY, INC, 311 West Wabash, P.O. Box 1305, Eureka, California 95502, a corporation organized under the laws of the State of California, hereafter called Licensee, a Revocable License to use a portion of CITY OF TRINIDAD HEAD, CALIFORNIA, subject to the following terms and conditions.

1. The licensor grants the licensee the revocable non-exclusive permission to use a 60-foot by 45-foot square plot of land located within and along the westerly line of Parcel #2 on Record of Surveys filed on 29 September 1976 in Book 33 of Surveys at Page 46 in the County of Humboldt, State of California, a copy of which is attached hereto and made a part hereof, together with necessary rights of ingress and egress.

2. The licensee shall use the licensed premises for the sole purpose of installing, operating and maintaining a satellite receiver site.

3. The license shall be in effect for a period of five (5) years, commencing on July 1, 1991, and terminating on June 30, 1996.

4. No permanent interest in the real property subject to this Revocable License shall vest in the Licensee.

5. The Licensor or its successor may revoke this license at any time by giving thirty (30) days' written notice of termination

12/31/91

(93)

to the Licensee at the above address. The Licensee may revoke this license at any time by giving thirty (30) days' written notice of termination to the CITY OF TRINIDAD at the address shown below. This license may be renewed for additional periods at the discretion of the Licensor. Application for renewal must be submitted to the CITY OF TRINIDAD, P.O. Box 390, Trinidad, California 95570-0390, at least thirty (30) days prior to the expiration of this license.

6. Licensee shall pay to the CITY OF TRINIDAD an annual rental of ONE THOUSAND TWO HUNDRED DOLLARS AND NO CENTS ($1,200.00) payable annually in advance. Payment shall be from July 1, 1991. Payment shall be by check or money order made payable to the CITY OF TRINIDAD and mailed to the CITY at the above address.

The base rent described herein shall be increased on July 1, of each succeeding year by any increase in the Consumer Price Index, San Francisco, California--All Urban Consumers. The index published for June 1991, shall be the base index.

Further, if during the term of this license agreement the licensee increases the charges to subscribers, the base rent charged by the City shall be adjusted upward in an equivalent amount.

7. The Licensee shall protect, maintain and keep in good order the licensed premises or facilities. This obligation includes responsibility for all costs incurred for any maintenance and repair (including long-term maintenance) which the Licensee shall consider necessary or desirable in connection with its

(94)

occupancy hereunder.

8. Any item of long-term maintenance, or any additions to, or alterations of, the premises or facilities which the Licensee shall consider necessary or desirable in connection with its use and occupancy shall be made only with the prior approval and consent of the Licensor and at the sole cost and expense of the Licensee. Upon revocation, expiration or surrender of this License, and to the extent directed by the Licensor the Licensee shall remove all alterations, additions, betterments, and improvements made or installed, and restore the premises or facilities to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted.

9. a. The licensee shall bear all risk of loss or damage to the licensed property arising from any cause created by the Licensee, and shall pay to the Licensor any damages caused by the Licensee's use and entry authorized by this License.

b. The Licensee agrees to protect, defend, indemnify and hold CITY, its officer, employees, and agents free and harmless from and against all and any losses of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this license and/or the performance hereof. The Licensee further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto.

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Notwithstanding the foregoing, the Licensee shall not be liable to indemnify CITY, for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of CITY, or its employees.

10. The Licensee shall not make any substantial alteration of existing premises or construction of permanent type improvements without the prior written consent of the Licensor. Any structure or device erected or installed without Licensor's written consent or which may be found to interfere with the proper operation of any of Licensor's equipment or activities shall be removed at Licensee's own expense. Upon revocation, expiration or surrender of this License, the Licensee shall remove all structures and devices installed and restore the premises or facilities to the same or as good condition as existed on the date of entry under this License, reasonable wear and tear excepted. The Licensor hereby consents to the Licensee's installation of dish antenna on a five-foot by five-foot (5'x5') concrete pad, a temperature-controlled structure eight feet by ten feet by seven feet (8'x10'x7') on an eight-foot by ten-foot (8'x10') concrete pad.

11. The Licensee shall obtain separate metering of its electric services and pay for its own utility services.

12. The Licensor shall have access to the licensed property at all reasonable times for inspection, maintenance, or any other purpose.

13. The Licensee may not transfer or assign its interest, or any part thereof, in this license.

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14. Licensee shall take all precautions necessary for the safety and prevention of damage to the property on or adjacent to the site, and for the safety of and prevention of injury to persons, including CITY'S employees, Licensee's employees, and third persons on or adjacent to the site. All activities shall be conducted entirely at Licensee's risk. Licensee agrees to carry, for the duration of this license, public liability and property insurance in an amount, and with an insurer, acceptable to CITY, and further agrees to provide a copy of said policy to CITY prior to commencement of the term. The amount of the public liability insurance shall be $1,000,000, and the amount of the property insurance shall be $500,000. Licensee also agrees to carry workers' compensation insurance according to State law, and will furnish CITY with proof of such insurance prior to commencement of the term hereof.

15. This written license contains the sole and entire agreement between the parties. It supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this license or any representations including the execution and delivery hereof except such representations as are specifically set forth herein; and each party acknowledges that it has relied on its own judgment in entering into the license. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of

them has relied thereon in connection with its dealings with the other.

16. No waiver or modification of this license or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of affecting this license, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

Executed at Trinidad, California, on January 6, _____, 1992.

CITY OF TRINIDAD

By: James Bernacchi

Title: Mayor Pro Tem

COX CABLE HUMBOLDT [redacted], INC.

By: [signature]

Title: Vice President

98

911 West Wabash
Eureka, California 95501
ph (707) 443-3127
fax (707) 444-9017

COX COMMUNICATIONS

December 26, 1995

Honorable Mayor and Members of the Council
City of Trinidad
Trinidad, CA 95570

Dear Mayor Odom and Members of the Council:

Enclosed for your review is Cox Communications' response to the request for Renewal Proposal.

The primary focus of Cox Communications Humboldt, Inc. is to provide the very best cable television system, give our customers excellent service, and continue to explore avenues that will offer new services and lead us into the age of the Information Superhighway.

Since our acquisition of Trinity Systems in 1985, Cox has complied with all material terms of the existing Franchise and with applicable laws and/or regulations.

Every effort has been made to answer each question to the fullest extent possible. If some issues need further clarification please do not hesitate to notify me.

Thank you for your consideration and I look forward to working with all of you in the future.

Sincerely,

Dorothy Lovfald
Vice President & General Manager

cc: Mr. David Tranberg

TRINIDAD PROGRESSIVE FLOW

1985	Cox purchased the Trinidad cable system
1986	Cox installed a microwave path between Trinidad and Eureka increasing the channel capacity to 260 mhz
1988	Cox redesigned and upgraded the Trinidad system to 300 mhz matching the Eureka cable system
1992	Cox completed a total rebuild of the Trinidad system to 550 mhz introducing the first use of fiber optic cable in a fiber star design
	Cox participated in a Trinidad City ordinance to remove all aerial lines and cables and place them underground
1994	Cox replaced the microwave path with an extension of the fiber backbone architecture between Trinidad and Eureka

#10

PLANT MAINTENANCE & UPGRADES

After the acquisition of the Trinidad system in 1985, Cox embarked upon an aggressive upgrade strategy that included increasing channel capacity, improving picture quality, and developing a reliable performance record. All of this was achieved while exceeding the FCC performance specifications.

This plan began with the installation of a microwave path for channel expansion and was followed by a system plant upgrade and resplice. In 1991, a complete system rebuild was completed. This was followed by the replacement of the microwave with the state of the art fiber backbone structure. Cox has continued to build into all new residential and commercial areas as they have developed. Cox also participated in the cities Rule 20 order that removed the aerial lines in the city and replaced them with underground utilities.

#11

We currently have 747 active customers in the Trinidad, Westhaven, and Big Lagoon areas. When Cox purchased the cable system from Trinity Systems, there were 690 active customers. Although the growth has been slow, over the past seven years Cox has invested $863,000 upgrading and rebuilding the cable plant to provide more and better services to the residents of this area. The City of Trinidad, as of 12/15/95, has 107 active customers.

Planning Commission
Minutes
June 18, 1997

The meeting was called to order by Chairman Huff at 7:30PM.

I. Roll Call

Commissioners Present:	Boyle, Bueche, Cuthbertson, Golledge-Rotwein and Huff
Absent:	Dobrec
Staff Present:	Brown

II. Approval of Minutes - May 21, 1997

Huff asked that the line which said that "Huff said that maybe Globus could handle this matter" be stricken from the record. Motion made by Cuthbertson to approve the minutes with the above line being stricken from the record. Second by Boyle. Motion passed unanimously.

III. Old Business

Brown said that he had not been able to completely research the matter regarding the limit on the term of office for the chairman but would be able to get an answer by the next meeting. Brown spoke to Alex regarding the check list. Brown said that he, the city clerk and the building official are trying to get together on a more regular basis in order to update one another on permits, etc. Golledge-Rotwein said that she thought it was a good idea when Brown gives the commission an update on projects. Huff said he would like to see this update on paper rather than only verbally. Huff said it would be helpful to know who verified each phase of a project. Brown also said that he found nothing in the ordinance book regarding the permit time. Brown suggested that in the design review adding a time limit for the permit. Golledge-Rotwein suggested not doing it project to project but rather have one policy. Brown said that the planning commission might want to ask the council to process it separately or make it part of the general plan and then it would be amended and would need approval by the coastal commission. Huff said that they should discuss this matter during the general plan.

IV. Agenda Items

1. Design Review/Use Permit - Cal North Cellular - Trinidad Head Transmission Antenna, Pole & Equipment Building Repair

Brown explained the staff report given to the commission. He began by saying that Tom McMurray from Cal-North Cellular had placed a mock antenna so the commission could see the size and location on Trinidad Head. Brown had recommended approval with no conditions but the commission may want to add conditions. Huff asked if the site is already being used. Brown said that COX Cable had a previous lease at the same site but they were no longer interested. Huff asked if the mock was at the 41 feet and was told that yes it was. Brown said that the council had approved the lease with Cal-North but said that did not mean that it was unconditionally approved. Huff asked if

there was any comments from the public. Brown said that the city had not received any letters regarding the public notice in the clerk's office. Cuthbertson had some concerns about maintaining the road to the site. Golledge-Rotwein said that the road to the site is not being used that often. Public Hearing - Tom McMurray said that the reason COX is not using the site is because they are now using fiber optics. He said that Cal-North #12 is contributing money to help in maintaining the road. He added that once the site has been set-up with the antennas they will only need to go up there about every two weeks. Cal-North will also do some work on the building because they need to make sure that it is water tight and they have suggested to the city that they put a lock. They will be putting wiring into the building and putting fence in around the building. McMurray said that dish does not affect their transmission. Golledge-Rotwein asked if this could be accomplished with an antenna that is shorter. McMurray said that this is the minimum height that in order to provide better service to their customers. McMurray said that this is the perfect site for the area that they are trying to cover. Cuthbertson asked about the fence they had discussed. McMurray said that it would be about 6 feet high with barbed wire. Huff asked if there was a possibility of getting rid of the dish left by COX Cable. McMurray said that he would be happy to work with COX Cable in removing the dish. Golledge-Rotwein asked if there was another location to put some of the antennas. Huff added that maybe we could cluster some of the antennas. McMurray said that there would be a problem with interference if you put them too close and he said they also need to be careful not to interfere with the coast guard station. Golledge-Rotwein commented that the antenna is very visible from the lighthouse area and down Scenic Drive. Question proposed - Motion made by Cuthbertson to approve the project as said with the conditions that Cal-North will remove the 12 foot dish and add the slats to the fence at no cost to the city. Huff said that it should be added that the applicant will reimburse the city for any costs for processing. Second by Bueche. Motion passed 4-1; Golledge-Rotwein opposed.

2. Design Review - Eugene & Jane Robin - 528 Pacific
Proposed Solarium on Existing Upper Deck

Brown said included in their packets was the staff report. Brown said that the set-backs are at the location and the septic is at northwest section of the lot. Brown said that he did not think that the solarium would affect any of the neighbors. Cuthbertson agreed. Brown said that notices went out to the neighbors and no one had voiced any concern. Golledge-Rotwein asked about the slope stability and where it would be located on the plot plan. Brown said that it would be in the lower portion of the lot. Golledge-Rotwein felt that this was an incomplete application because it does not have a plot plan. She added that the plans did not include where the septic disposal system was located. Huff asked if there was a difference between the plot plan. Brown said that the city uses a checklist. Brown also said that this particular project does not require that you know where the septic system is. Huff suggested that since this is a concern of Golledge-Rotwein then maybe the applicant could put down where the septic tank is and leech field and indicate actual set-backs regardless of the project. Cuthbertson and Boyle agreed that if it is unnecessary for the applicant to put this information then

CAL NORTH CELLULAR

March 8, 1997

Mayor and City Council
City of Trinidad
Trinidad, California 95570

Fax Mail 677-3759

Re: Cox Cable Facility
Trinidad Head

Dear Mayor and Council:

For your files and information I am enclosing a copy of a letter written to me on May 15, 1995 in regard to the above captioned facility. Dorothy Lovfald of Cox Cable wrote this letter in response to a question I had asked her concerning their continued use of the site.

Thank you for your cooperation.

Respectfully,

Thomas J. McMurray Jr.
for Cal North Cellular

TJM/tjm

cc: Mr. Jim Hendricks, General Manager
Cal North Cellular

Mr. Dave Tranberg

2212 Second Street • Eureka, CA 95501-0808 • 707 444-2255 • FAX 707 445-5029

911 West Wabash
Eureka, California 95501
Tel. (707) 443-9127

Cox Cable
Humboldt, Inc.

Dorothy Lovfald
Vice President & General Manager

May 15, 1995

Thomas J. McMurray, Jr.
P.O. Box 1032
Eureka, CA 95502

RE: Trinidad Head Microwave Site

Dear Mr. McMurray:

To answer your question, Cox Cable Humboldt is not presently using the above mentioned facility and does intend to abandon the site in the immediate future.

If I can be of further assistance, please do not hesitate to call me.

Sincerely,

Dorothy Lovfald
Vice President & General Manager

cc: Janelle Case, City Clerk

City of Trinidad

(707) 677 - 0223

8/24

August 23, 1995

COPY

Dorothy Lovfald
Vice-President
Cox Cable Humboldt Bay
P.O. Box 1305
Eureka, CA 95501

Dear Ms. Lovfald:

The City of Trinidad and Cox Cable Humboldt Bay, Inc. entered into Revocable License Agreement, which by its terms, expires on June 30, 1996. The annual rental payment was due on July 1, 1995 for the last one year period. Please remit the base rent together with the applicable cost of living increase, which may be calculated by the City Clerk, immediately.

Alternatively, you had indicated to me some time ago that you may desire to terminate the agreement early, as the site was no longer required by you. The Revocable License Agreement provides that upon 30-days written notice you may terminate the Agreement. If that is your intention please communicate that in writing to me, as there is some interest by others in the site.

I look forward to hearing from you soon.

Very truly yours,

David E. Tranberg
Trinidad City Attorney

DET/pg

cc: Trinidad City Council



Statement of Revenues and Expenditures
Budget to Actual
For the Twelve Months Ended June 30, 1995

	CURRENT PERIOD	YEAR TO DATE	BUDGET	FAVORABLE (UNFAVORABLE)	NOTES
evenues					
Taxes					
Property tax-secured	$ 0.86	$ 22,903.14	$ 30,000.00	$ (7,096.86)	
Property tax-unsecured	238.29	1,664.48	0.00	1,664.48	
Property tax prior	45.53	106.17	0.00	106.17	
Supplemental role	320.75	320.75	0.00	320.75	
Sales and use tax	6,234.87	41,196.91	25,821.00	15,375.91	
PG&E franchise	0.00	4,706.39	3,400.00	1,306.39	
Cable franchise	0.00	3,081.20	2,600.00	481.20	
Cox system rent	0.00	0.00	1,200.00	(1,200.00)	#14
Business license tax	3,636.00	6,297.25	6,000.00	297.25	
Real property transfer tax	846.99	1,326.86	0.00	1,326.86	
Transient lodging tax	0.00	5,049.73	8,000.00	(2,950.27)	
Total Taxes	$ 11,323.29	$ 86,652.88	$ 77,021.00	$ 9,631.88	
Licenses and Permits					
Construction permits	$ 37.00	$ 1,420.98	$ 4,000.00	$ (2,579.02)	
Encroachment permits	0.00	100.00	0.00	100.00	
Movie permit	0.00	350.00	0.00	350.00	
Animal license fees	220.00	350.00	500.00	(150.00)	
Total Licenses and Permits	$ 257.00	$ 2,220.98	$ 4,500.00	$ (2,279.02)	
Fines					
Court fines	$ 315.60	$ 447.52	$ 0.00	$ 447.52	
Total Fines	$ 315.60	$ 447.52	$ 0.00	$ 447.52	
f Money and Property					
Interest	$ 141.62	$ 12,126.11	$ 18,231.00	$ (6,104.89)	
Town Hall Rent	38.24	2,433.59	3,000.00	(566.41)	
Harbor Lease	1,100.00	3,486.78	2,500.00	986.78	
Total Use of Money and Property	$ 1,279.86	$ 18,046.48	$ 23,731.00	$ (5,684.52)	
Intergovernmental					
Motor vehicle in-lieu tax	$ 1,155.76	$ 13,009.58	$ 13,000.00	$ 9.58	
Off highway motor veh in-lieu	0.00	21.35	0.00	21.35	
ISTEA	914.00	1,593.00	0.00	1,593.00	
Home owners prop. tax relief	602.51	741.11	0.00	741.11	
FEMA	3,036.00	3,036.00	0.00	3,036.00	
Peace off. stds. & trng.	0.00	1,935.80	0.00	1,935.80	
Public safety 1/2 cent	305.22	764.64	0.00	764.64	
Total Intergovernmental	$ 6,013.49	$ 21,101.48	$ 13,000.00	$ 8,101.48	
Fees for Services					
Plan check fees	$ 120.00	$ 940.20	$ 2,000.00	$ (1,059.80)	
Parking fees	0.00	365.00	0.00	365.00	
Copy machine fees - City	10.00	199.30	0.00	199.30	
Reimbursed engineering	0.00	988.88	0.00	988.88	
Special police services	18,154.82	94,312.87	91,395.64	2,917.23	
Animal shelter fees	50.00	50.00	0.00	50.00	
Total Fees for Services	$ 18,334.82	$ 96,856.25	$ 93,395.64	$ 3,460.61	
Other Revenues					
Donations - City	$ 0.00	$ 1,000.00	$ 0.00	$ 1,000.00	
Miscellaneous	0.00	84.20	0.00	84.20	
--funds	(120.00)	1,794.27	0.00	1,794.27	
Other Revenue	$ (120.00)	$ 2,878.47	$ 0.00	$ 2,878.47	
otal Revenues	$ 37,404.06	$228,204.06	$211,647.64	$ 16,556.42	

See accountant's compilation report
which is an integral part of this statement.

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COMBINED STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
GENERAL AND SPECIAL REVENUE FUND TYPES
For the Year Ended June 30, 1996

City of Trinidad
Exhibit C

	General Fund		
	Budget	Actual	Variance Favorable (Unfavorable)
REVENUES			
Taxes:			
Property tax-Secured	$ 23,820	$ 25,741	$ 1,921
Property tax-Unsecured	1,665	1,871	206
Property tax-Prior year	110	377	267
Supplemental role	321	468	147
Sales and use tax	41,000	54,854	13,854
PG & E franchise	4,700	3,650	(1,050)
Cable franchise	2,600	1,985	(615)
Cox system rent	-	-	-
Business license tax	6,250	5,691	(559)
Real property transfer tax	-	591	591
Transient lodging tax	7,150	8,716	1,566
Total Taxes	$ 87,616	$ 103,944	$ 16,328
Licenses and Permits:			
Construction permits	$ 1,500	$ 692	$ (808)
Encroachment permits	150	125	(25)
Movie permits	350	-	(350)
Animal license fees	350	240	(110)
Total License and Permits	$ 2,350	$ 1,057	$ (1,293)
Use of Money and Property:			
Interest	$ 23,207	$ 12,634	$ (10,573)
Town Hall Rent	2,500	562	(1,938)
Harbor lease	3,500	2,129	(1,371)
Total Use of Money and Property	$ 29,207	$ 15,325	$ (13,882)
Intergovernmental:			
Motor vehicle in-lieu tax	$ 13,000	$ 13,952	$ 952
Off highway motor vehicle in-lieu tax	-	6	6
Gas tax funds	-	-	-
Transportation Development Act	-	-	-
Integrated waste management	-	-	-
ISTEA	1,600	-	(1,600)
Homeowners property tax relief	700	851	151
National disaster assistance	-	-	-
Peace officer standards and training	-	-	-
Public safety	804	749	(55)
Fema	-	-	-
Total Intergovernmental	$ 16,104	$ 15,558	$ (546)

#15

CITY OF TRINIDAD

AMENDED AND RESTATED CABLE TELEVISION FRANCHISE ORDINANCE

ADOPTED AND EFFECTIVE
October 9, 1996

GROUND LEASE

BY AND BETWEEN

CITY OF TRINIDAD
AND
CAL-ONE CELLULAR, L.P. D.B.A. CAL-NORTH CELLULAR,

APRIL 17, 1997

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SECTION 5. MAINTENANCE, REPAIRS AND
ALTERATIONS.

5.01
Surrender.

5.02 Lessor's

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parties at such addresses as Lessor may from time to time hereafter designate by notice to Lessee. Notice given under this section shall be deemed in compliance with applicable statutory notice requirements, including Code of Civil Procedure Section 1162 and Civil Code Section 1953.

The following information is informational only and may be changed in the manner described above for altering mailing addresses:

Lessor: Contact: City of Trinidad (707) 677-0223

Lessee: Contact: James G. Hendricks (916) 468-5222

19.06 Waivers.

No waiver by Lessor or Lessee of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Lessor or Lessee of the same or any other provision. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to or approval of any subsequent act by Lessee. The acceptance of rent hereunder by Lessor shall not be a waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

19.07 Cumulative Remedies.

No remedy or election under this Lease shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

19.08 Binding Effect Choice of Law.

Subject to any provisions hereof restricting assignment or subletting by Lessee and subject to the provisions of Section 12, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California applicable to leases entered into, and to be wholly performed, within the State. The language of all parts of this Lease shall be construed with its fair meaning and not strictly for or against the Lessor or Lessee.

19.09 Conditions to Effectiveness of Lease.

The approval of the Trinidad City Council constitutes an express condition precedent to the effectiveness of this Lease. The City Council resolution approving this Lease shall be attached hereto as Exhibit E.

19.10 Attorneys' Fees.

If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorneys' fees and court costs to be paid by the losing party.

19.11 Consent.

Whenever under this lease the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed and all such determinations shall be made on a reasonable basis and in a reasonable manner.

19.12 Authority.

Each individual executing this Lease on behalf of Lessee and Lessor represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said Party.

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19.13 Captions.

The captions used herein are for convenience only and are not a part of this Lease and do not in any way amplify the terms or provisions hereof.

19.14 Protections Against Interference.

Lessee's operations shall not interfere with Lessor's present communications uses of their property. Lessor will not grant a lease to any party for use of their property if such use would interfere with Lessee's operation of the communications facility. Any future sub-lease of the Site which permits the installation of communication equipment shall be conditioned upon not interfering with Lessee's operation of the communications facility. Subject to Lessor's rights under Section 4.04 (which Section 4.04 supersedes this Section with respect to interference with Lessor's essential municipal services) and Lessee's rights under Section 7.02 (b), in the event either party experiences radio frequency interference to their operations (operated within FCC Rules), caused by the operations of the other party, the party experiencing the interference shall notify the other party in writing (which writing shall include the opinion of a qualified electrical engineer stating the nature of the interference) and the other party shall commence to cure such interference within five (5) days receipt of such notice and shall diligently prosecute that cure to completion. If the interference has not ceased within sixty (60) days of the initial notice, the interfering party shall cease the interfering operations until the interference is resolved. Both parties shall work diligently in good faith to resolve any such interference problem quickly and cost effectively.

SECTION 20. FURTHER ASSURANCES.

In addition to the actions specifically mentioned in this Lease, the parties shall each do whatever may be reasonably necessary to accomplish the transactions contemplated in this Agreement including, without limitation, execution of a Notice of the Lease hereof in form appropriate for recording in the county in which the Site is situated.

IN WITNESS THEREOF, the parties hereto have executed this Lease at the place and on the dates specified immediately adjacent to their respective signatures.

LESSEE	**LESSOR**
By_____	By
James G. Hendricks, General Manager	Mayor
Cal-One Cellular L.P. D.B.A. Cal-North Cellular	City of Trinidad

SECTION 21. EXHIBITS

Exhibit A: Map of the Site
Exhibit A1: Tower and Building Profile
Exhibit B: Certified Minutes of City Council Meeting Approving Lease

Application # _____

Application to the City of Trinidad
to be completed by applicant

1. Type of Application (check one):

Use Permit	✓	Rezone/Ord. Amendment	____
Variance	____	Subdivision	____
Design Review	✓	Grading Permit	____
Lot Line Adjustment	____	Other _____	____

2. Name of property owner City of Trinidad
Mailing Address PO Box 390 Trinidad
Phone 677-0223

3. Name of applicant/agent (if different)
Cal North Cellular C/O Thomas Mc Murray
Mailing Address PO Box 1032 Eureka 95502
Phone _____

4. Site location: APN Trinidad Head 42-12-12A
Street address N/A

5. Project Proposal: transmission antenna & pole

I understand that ten (10) copies of plans and supplemental information are required to accompany the application and that a pre-application review precedes formal acceptance of the application. I also understand that incomplete application submittals may cause delay in processing the application request. I hereby certify that the above and all accompanying information and plans are true and correct and that City personnel are authorized to enter upon the described property as reasonably necessary to evaluate the project. Further, I reviewed the attached information to the application form and understand the application process described therein.

Thomas Mc Murray
Signature of applicant/agent

If the applicant/agent is not the owner of record:
I authorize the applicant to file this application and to represent me in all matters concerning the application.

_____
Signature of Owner of Record

A filing fee is required to accompany this application.

TO BE COMPLETED BY CITY STAFF

Receipt No. _____
Receipt of $ 120—
Account _____

Received by Donna Rossa
City of Trinidad
5/20/97

COMBINED STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
GENERAL AND SPECIAL REVENUE FUND TYPES
For the Year Ended June 30, 1997

City of Trinidad
Exhibit C

	General Fund		
	Budget	Actual	Variance Favorable (Unfavorable)
REVENUES			
Taxes:			
Property tax-Secured	$ 24,300	$ 26,690	$ 2,390
Property tax-Unsecured	-	1,898	1,898
Property tax-Prior year	-	249	249
Supplemental role	300	394	94
Sales and use tax	58,000	58,020	20
PG & E franchise	3,500	3,490	(10)
Cable franchise	2,000	3,046	1,046
Business license tax	5,700	3,554	(2,146)
Real property transfer tax	-	696	696
Transient lodging tax	6,500	7,826	1,326
Total Taxes	$ 100,300	$ 105,863	$ 5,563
Licenses and Permits:			
Construction permits	$ 1,500	$ 2,794	$ 1,294
Encroachment permits	150	-	(150)
Movie permits	1,000	1,285	285
Animal license fees	300	203	(97)
Total License and Permits	$ 2,950	$ 4,282	$ 1,332
Use of Money and Property:			
Interest	$ 23,000	$ 23,244	$ 244
Town Hall Rent	1,000	933	(67)
Harbor lease	3,500	2,268	(1,232)
Total Use of Money and Property	$ 27,500	$ 26,445	$ (1,055)
Intergovernmental:			
Motor vehicle in-lieu tax	$ 13,615	$ 14,620	$ 1,005
Off highway motor vehicle in-lieu tax	-	6	6
Gas tax funds	-	-	-
Transportation Development Act	-	-	-
Integrated waste management	-	-	-
ISTEA	-	-	-
Homeowners property tax relief	400	893	493
National disaster assistance	-	-	-
Supplemental Law/COPS Program	-	842	842
Public safety	300	836	536
Total Intergovernmental	$ 14,315	$ 17,197	$ 2,882

CAL NORTH CELLULAR

July 8, 2000

City of Trinidad
P.O. Box 390
Trinidad, CA 95570

Re: Lease Payments
Trinidad

In reviewing our ground lease contract it has come to my attention that the Consumer Price Index (CPI) adjustments have been overlooked. Enclosed please find a summary sheet detailing the actual amounts owed versus the actual amounts paid, along with a check for the difference. I would like to apologize for any inconvenience this may have caused you. If you have any questions, please feel free to call me at (530)467-6123.

Sincerely,

Jim G. Hendricks
General Manager

Enc.

Cal-North Lease payment history

TRINIDAD
City Of Trinidad
P.O. Box 390
Trinidad, CA 95570

Period	Owed	Paid	Due
08/01/1998 - 07/31/1999 (12 months)	254.20/Mo. 3050.40	250.00/Mo. 3000.00	50.40
08/01/1999 - 07/31/2000 (12 months)	259.18/Mo. 3110.16	250.00/Mo. 3000.00	110.16
		TOTAL DUE:	$160.56

Current rate of $259.18/Mo. to be paid through 07/31/2000.

Date of first annual CPI adjustment = 8-1-98
∴ Date of first Lease payment = 8-1-97

Cal North Cellular Lease Payment History

Date of Deposit	Payment Amount	Explanation
7/3/98	$250.00	July 1998 rent
8/4/98	$250.00	August 1998 rent
9/11/98	$250.00	September 1998 rent
10/5/98	$250.00	October 1998 rent
11/10/98	$250.00	November 1998 rent
12/14/98	$250.00	December 1998 rent
1/8/99	$250.00	January 1999 rent
2/18/99	$250.00	February 1999 rent
3/12/99	$250.00	March 1999 rent
4/7/99	$250.00	April 1999 rent
5/10/99	$250.00	May 1999 rent
6/4/99	$250.00	June 1999 rent
7/6/99	$250.00	July 1999 rent
8/12/99	$250.00	August 1999 rent
9/13/99	$250.00	September 1999 rent
10/8/99	$250.00	October 1999 rent
11/9/99	$250.00	November 1999 rent
12/9/99	$250.00	December 1999 rent
1/4/00	$250.00	January 2000 rent
2/3/00	$250.00	February 2000 rent
3/2/00	$250.00	March 2000 rent
4/4/00	$250.00	April 2000 rent
5/3/00	$250.00	May 2000 rent
6/9/00	$250.00	June 2000 rent
7/6/00	$250.00	July 2000 rent
724/00	$160.56*	Rent true up
8/3/00	$259.18	August 2000 rent
9/13/00	$278.20	September 2000 rent ($268.69) Rent true up ($9.51)
10/4/00	$268.69	October 2000 rent
11/8/00	$268.69	November 2000 rent

* Letter of July 8th details consumer price index (CPI) adjustments.
Difference calculated in two amounts: $50.40 (8/1/98 - 7/31/99)
and $110.16 (8/1/99 - 7/31/2000) paid in one check.

CAL NORTH CELLULAR

December 15, 2005

City of Trinidad
P.O. Box 390
Trinidad, CA 95570

RECEIVED

DEC 19 2005

City of Trinidad

Re: Location: Trinidad Head
Lease dated August 1, 1997

Gentlemen and Ladies:

In a detailed review of our real property interests we have discovered that we do not have an executed Memorandum of Lease for the Trinidad Head Site.

To complete our documentation for this location, we have prepared and enclose two counterparts of a Memorandum of Lease Agreement, both of which have been executed and acknowledged on behalf of Cal-One Cellular L.P.

We ask that you have both counterparts executed and have the signatures notarized. Also, please sign on the "owner" line beneath the statement that no documentary transfer tax is due. Please retain one counterpart for your records and return the other to us in the enclosed self-addressed and stamped envelope.

If you have any questions concerning this request or the enclosed documents, please don't hesitate to telephone me at the direct-dial number shown below my name.

Thank you for your assistance in this matter.

Sincerely,

James T. Lowers
For Cal-One Cellular, a California corporation
General Partner of Cal-One Cellular L.P.
(530) 467-6171

Enclosures

CELL TOWER LEASES

KEY POINTS

- Four Cell Industry permits [1] granted 1997-2001 on disused [2] Cable TV site as accessory use.[3]
  What is an accessory use? [4]

- US Cellular Proposal would open new site [5] on the Head for future co-locations, [6] as "accessory" [7] to Cable TV site.

- Per Coastal Commission, cell towers violate OS zoning on the Head:[14]
  Concerns include:
  - cumulative impacts of cell installations on visual resources [8]
  - selective quoting of statutes to permit previous installations [9]
  - continuity of ownership for accessory use [10]
  - height limitations in open space zoning [11]
  - protection of environmentally sensitive habitat [12]
  - impacts on recreational use of the Head [13]

  Amendments to Local Coastal Plan require protection for coastal resources, and Coastal Commission approval.[14]

- Income from cell tower leases is currently $15,000/year, [15] or 4.3% of 2005-2006 Operating Income.

REFERENCES TO DOCUMENTS

1. Coastal Commission Letter, p. 3.
2. For documentation of 2 year, 10 month lapse in use of site, see Cable TV Section located behind the blue divider.
3. Staff Reports for 1997, p. 1; 2000, p. 2; 2001, p. 2; 2003, p. 2.
4. City of Trinidad General Plan 17.08.690, 17.08.710; Blacks Law Dictionary, 7th ed., definition of "accessory use."
5. Staff Report 2005, p. 1.
6. Staff Report 2005, p. 3.
7. Staff Report 2005, p. 4.

(Continued on following page)

8. Coastal Commission Email, p. 1.
9. Coastal Commission Email, p. 1.
10. Coastal Commission letter, p. 3.
11. Coastal Commission Email, p. 2.
12. Coastal Commission letter, p. 4.
13. Coastal Commission letter, p. 5.
14. Coastal Commission letter, p. 4.
15. City of Trinidad document, General Fund Administration Fiscal Year 2005-2006.

DOCUMENT LIST

City of Trinidad General Plan 17.08.690, 17.08.710

Blacks Law Dictionary, 7th edition, Bryan A. Garner, editor in chief, St. Paul Minn: West Group, 1999: definition of "accessory use.

Cal-North correspondence prior to first lease

- Letter dated 2-6-97 from Cal-North.
- Letter dated 2-18-97 from Cal-North.
- Letter dated 2-23-97 from Cal North.
- Letter dated 3-8-97 from Cal-North, enclosing letter, dated 5-15-95, from Cox Cable documenting disuse of Cable TV site.
- Letter dated 3-27-97 from Cal North RE: delivery of Lease, and changes to project.
- Memorandum dated 1-1-97 from City Attorney to Council RE: lease provided by Cal-North.

Documents relating to 1997 Cal-North permit

- 1997 application documents.
- Planning Commission Minutes, June 18, 1997.
- Staff Report 1997.
- Coastal Commission notification (Notice of Action Taken)
- Coastal Commission Notification of Appeal Period, 7-1-97.
- Public Utilities Commission notification, 9-9-97.
- Ground lease 1997.
- Letter and attachments, dated 7-8-00, from Cal-North RE: annual adjustments in Lease payment.
- Letter and attachments, dated 12-15-05, from Cal-North RE: missing Memorandum of Lease.

Documents relating to 2000 Cal-North permit

- Application letter to City, 11-20-00.
- Staff Report 2000.
- City Council/Planning Commission Minutes
- Antenna Rental Rates and Leases (Huff), 12-10-00.
- Coastal Commission Notification of Appeal Period, 1-11-01.
- Amendment to Ground Lease, 1-1-01.

Documents relating to 2001 Cal-North permit

- Application letter to City, 11-12-01
- Staff Report 2001.

Documents relating to 2003 Edge Wireless permit

- Staff Report 2003.

Documents relating to US Cellular permit

- Staff Report, 2005
- Coastal Commission (Jim Baskin) Email, December 6, 2005.
- Coastal Commission (Jim Baskin) letter, December 12, 2005.
- Staff Response to Coastal Commission letter, 1-6-06.

Planning Commission Minutes, 12-14-05 & 1-18-06.
Notice of Action Taken, 1-19-06.
Streamline Planning Response Memo
City Of Trinidad General Fund Administration document for 2005-2006, listing income.
Letter dated 7-6-2001 from Tom McMurray proposing intensive development of the Cal-North lease site.

(The following excerpts are taken from the City of Trinidad General Plan and do not represent the chapters in their entirety.)

Chapter 17.08

DEFINITIONS

17.08.010 Construction. A. Unless the context otherwise requires, the definitions set forth or otherwise provided for in this chapter shall be used in the interpretation and construction of this title. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure," and the word "shall" is mandatory." (p.251)

17.08.680 Structure. "Structure" means anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. (Ord. 166 Appx. A (part), 1979) (p.260)

17.08.690 Structure, accessory. "Accessory structure" means a detached building or structure, other than a sign, the use of which is accessory to the use of the lot. (Ord. 166 Appx. A (part), 1979) (p.260)

17.08.700 Use. "Use" means the purpose for which either land or water or a structure thereon is designed, arranged, or intended, or for which it is, or may be, occupied or maintained. (Ord. 166 Appx. A (part), 1979) (p.260)

17.08.710 Use, accessory. "Accessory use" means a subordinate use which is customarily incidental to the primary use of the premises, and which does not alter or change the character of the premises. (Ord. 166 Appx. A (part), 1979) (p.260)

#14

Chapter 17.12

ESTABLISHMENT AND DESIGNATION OF ZONES

Accessory during the fact. One who stands by without interfering or giving such help as may be in his power to prevent the commission of a criminal offense.

Accessory building. Structures used for benefit of main building; *e.g.* tool shed. Out-buildings.

Accessory contract. An accessory contract is made for assuring the performance of a prior contract, either by the same parties or by others; such as suretyship, mortgage, and pledge.

Accessory obligation. An obligation which is incidental to another or principal obligation; *e.g.* the obligation of a surety.

Accessory use. With reference to zoning law, an "accessory use" in its ordinary signification is a use which is dependent on or pertains to principal or main use. Town of Foxborough v. Bay State Harness Horse Racing & Breeding Ass'n, Inc., Mass.App., 366 N.E.2d 773, 777. A use which is subordinate to, clearly incidental to, customary in connection with, and ordinarily located on same lot with, principal use. Board of County Com'rs of Boulder County v. Thompson, 177 Colo. 277, 493 P.2d 1358, 1360.

Access to counsel. Right of one to consult with his attorney as guaranteed by the 6th Amendment, U.S. Const. Geders v. U. S., 425 U.S. 80, 96 S.Ct. 1330, 47 L.Ed.2d 592. *See also* Counsel, right to.

Access to courts. Right of person to require fair hearing from judiciary. Gilmore v. Lynch, D.C.Cal., 319 F.Supp. 105, 110.

Accident. The word "accident" is derived from the Latin verb "accidere" signifying "fall upon, befall, happen, chance." In an etymological sense anything that happens may be said to be an accident and in this sense, the word has been defined as befalling a change; a happening; an incident; an occurrence or event. In its most commonly accepted meaning, or in its ordinary or popular sense, the word may be defined as meaning: a fortuitous circumstance, event, or happening; an event happening without any human agency, or if happening wholly or partly through human agency, an event which under the circumstances is unusual and unexpected by the person to whom it happens; an unusual, fortuitous, unexpected, unforeseen or unlooked for event, happening or occurrence; an unusual or unexpected result attending the operation or performance of a usual or necessary act or event; chance or contingency; fortune; mishap; some sudden and unexpected event taking place without expectation, upon the instant, rather than something which continues, progresses or develops; something happening by chance; something unforeseen, unexpected, unusual, extraordinary or phenomenal, taking place not according to the usual course of things or events, out of the range of ordinary calculations; that which exists or occurs abnormally, or an uncommon occurrence. The word may be employed as denoting a calamity, casualty, catastrophe, disaster, an undesirable or unfortunate happening; any unexpected personal injury resulting from any unlooked for mishap or occurrence; any unpleasant or unfortunate occurrence, that causes injury, loss, suffering or death; some untoward occurrence aside from the usual course of events. An event that takes place without one's foresight or expectation; an undesigned, sudden, and unexpected event. Kochring Co. v. American Auto. Ins. Co., C.A.Wis., 353 F.2d 993, 996. *See also* Act of God; Casualty; Inevitable accident; Unavoidable accident.

Its synonyms are chance, contingency, mishap, mischance, misfortune, disaster, calamity, catastrophe.

Automobiles. The word as used in automobile liability policy requiring notice of any "accident" to be given to the insurer as a condition precedent to liability means an untoward and unforeseen occurrence in the operation of the automobile which results in injury to the person or property of another. Ohio Casualty Ins. Co. v. Marr, C.C.A.Okl., 98 F.2d 973, 975. The word "accident", requiring operator of vehicle to stop immediately in case of accident, contemplates any situation occurring on the highway wherein driver so operates his automobile as to cause injury to the property or person of another using the same highway. *See also* Hit and run accident.

Insurance contract. An accident within accident insurance policies is an event happening without any human agency, or, if happening through such agency, an event which, under circumstances, is unusual and not expected by the person to whom it happens. A more comprehensive term than "negligence," and in its common signification the word means an unexpected happening without intention or design.

Maritime law. "Accidents of navigation" or "accidents of the sea" are such as are peculiar to the sea or to usual navigation or the action of the elements, which do not happen by the intervention of man, and are not to be avoided by the exercise of proper prudence, foresight, and skill. The G. R. Booth, 171 U.S. 450, 19 S.Ct. 9, 43 L.Ed. 234. *See also* Perils of the sea.

Unavoidable accident. One which is not occasioned in any degree, either directly or remotely, by the want of such care and prudence as the law holds every man bound to exercise. Vincent v. Johnson, Tex.Civ.App., 117 S.W.2d 135. One which could not have been prevented by exercise of due care by both parties under circumstances prevailing. Woodiwiss v. Rise, 3 Wash. App. 5, 471 P.2d 124, 126. One which occurs while all persons concerned are exercising ordinary care, which is not caused by fault of any of persons and which could not have been prevented by any means suggested by common prudence. Cavanaugh v. Jepson, Iowa, 167 N.W.2d 616, 623. See Restatement, Second, Torts § 8. *See also* Unavoidable accident.

Workers' compensation acts. Within meaning of Worker's Compensation Act is any unforeseen, untoward happening which was not to be reasonably anticipated. A.P. Green Refractories Co. v. Workmen's Compensation Appeal Bd., 8 Pa.Cmwlth. 172, 301 A.2d 914, 917. As referred to in Act is an unlooked for and untoward event which is not expected or designed by injured employee; a result produced by a fortuitous cause. Reams v.

#4

From: Black's Law Dictionary, 7th ed., p 15.

CAL NORTH CELLULAR

February 6, 1997

Mr. Bob Globus, Mayor
City of Trinidad
Trinidad, California 95570

Fax Mail 677-3759

Re: Cox Cable Facility
Trinidad Head

Dear Mayor Globus:

As per our recent telephone call, Cal North Cellular is interested in discussing the use of the Cox Cable Facility on Trinidad Head.

I have enclosed the Bureau of Land Management and United States Forest Service rate schedules for communication facilities on Federal Land.

I will attend your next Council meeting as you suggested to discuss our proposal. Would you please have your City Clerk mail me an agenda or Fax Mail it to me at 442-8499.

Thank you for your consideration.

Respectfully,

Thomas J. McMurray Jr.
for Cal North Cellular

TJM/tjm

2212 Second Street • Eureka, CA 95501-0808 • 707 444-2255 • FAX 707 445-5029

CAL NORTH CELLULAR

RECEIVED
FEB 19 1997

February 18, 1997

Mayor and City Council
City of Trinidad
Trinidad, California 95570

Fax Mail 677-3759

Re: Cox Cable Facility
Trinidad Head

Dear Mayor Globus:

We have completed the site review and computer study as approved by the City Council. We are now in the process of analyzing this information. When we have completed this review, we will contact you.

According to the enclosed lease document with Cox Cable, their lease at Trinidad Head terminated on June 30, 1996.

I have also enclosed two articles on the benefits of having good cellular service during emergencies.

I was mistaken when I told you the rate schedules included in my fax to you were baaed on a monthly rate. They are annual as you indicated.

Thank you for your consideration

Respectfully,

Thomas J. McMurray Jr.
for Cal North Cellular

Post-it® Fax Note 7671	Date 2/20/97 # of pages ▶ 11
To Jill Ivanberg	From Dana Dixon
Co./Dept.	Co.
Phone #	Phone #
Fax #	Fax #

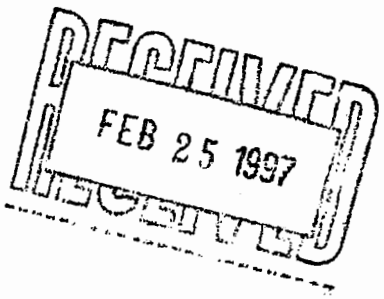
TJM/tjm

cc: Mr. Jim Hendricks, General Manager
Cal North Cellular

2212 Second Street • Eureka, CA 95501-0808 • 707 444-2255 • FAX 707 445-5029

(115)

CAL NORTH CELLULAR



February 23, 1997

Mayor and City Council
City of Trinidad
Trinidad, California 95570

Fax Mail 677-3759

Re: Cox Cable Facility
Trinidad Head

Dear Mayor Globus:

We have completed the process of analyzing pertinent information and have determined that the site is suitable as a fill-in location for our Cellular Service.

If we could negotiate a lease we would improve the building to make it more weather and vandal proof. Also, we would be responsible for keeping the site mowed, trimmed and free of debris. We would also be willing to participate in the maintenance of the gravel road to the site if desired. Providing special Cellular service for the Police and Fire Department could also be discussed in the lease negotiations.

This facility would offer excellent hand held cellular service to Trinidad and the adjoining beach areas. We would appreciate a response on what would be required to begin these discussions.

Thank you for your consideration

Respectfully,

Thomas J. McMurray Jr.
for Cal North Cellular

TJM/tjm

cc: Mr. Jim Hendricks, General Manager
Cal North Cellular

2212 Second Street • Eureka, CA 95501-0808 • 707 444-2255 • FAX 707 445-5029

(141)

CAL NORTH CELLULAR

March 8, 1997

Mayor and City Council
City of Trinidad
Trinidad, California 95570

Fax Mail 677-3759

Re: Cox Cable Facility
Trinidad Head

Dear Mayor and Council:

For your files and information I am enclosing a copy of a letter written to me on May 15, 1995 in regard to the above captioned facility. Dorothy Lovfald of Cox Cable wrote this letter in response to a question I had asked her concerning their continued use of the site.

Thank you for your cooperation.

Respectfully,

Thomas J. McMurray Jr.
for Cal North Cellular

TJM/tjm

cc: Mr. Jim Hendricks, General Manager
Cal North Cellular

Mr. Dave Tranberg

2212 Second Street • Eureka, CA 95501-0808 • 707 444-2255 • FAX 707 445-5029

911 West Wabash
Eureka, California 95501
Tel. (707) 443-9127

Cox Cable
Humboldt, Inc.

Dorothy Lovfald
Vice President & General Manager

May 15, 1995

Thomas J. McMurray, Jr.
P.O. Box 1032
Eureka, CA 95502

RE: Trinidad Head Microwave Site

Dear Mr. McMurray:

To answer your question, Cox Cable Humboldt is not presently using the above mentioned facility and does intend to abandon the site in the immediate future.

If I can be of further assistance, please do not hesitate to call me.

Sincerely,

Dorothy Lovfald
Vice President & General Manager

cc: Janelle Case, City Clerk

CAL NORTH CELLULAR

March 27, 1997

Mayor and City Council
City of Trinidad
P.O. Box 390
Trinidad, California 95570

Re: Trinidad Head
Communication Site

Fax Mail 677-3759

Dear Mayor and Council:

We prepared a lease agreement dated March 25, 1997 on the above captioned site which was hand delivered today to City Hall and Mr. Dave Tranberg.

Please note in the lease that we have attempted to meet the project description previously outlined. Also we have included additions or changes listed below:

1. Existing telephone pole will be extended instead of installing a new pole.

2. Cellular phones for the Police and Volunteer Fire Departments have been included in the Lease.

3. We have designated the size of the parcel to be leased as 60 ft. x 45 ft. or 2700 sq. ft. which is the same parcel size that was licensed to Cox Cable.

If you have any questions please call me at (707) 499-0901.

Respectfully,

Thomas J. McMurray Jr.

Thomas J. McMurray Jr.
for Cal North Cellular

TJM/tjm

cc: Mr. Jim Hendricks, General Manager
Cal North Cellular

Mr. Dave Tranberg

2212 Second Street • Eureka, CA 95501-0808 • 707 444-2255 • FAX 707 445-5029

C O N F I D E N T I A L M E M O R A N D U M

TO: Mayor and City Council

FROM: David E. Tranberg, Trinidad City Attorney

DATE: April 1, 1997

RE: Lease of Trinidad Head to CAL NORTH CELLULAR

Mr. McMurray has provided me with a draft Ground Lease to facilitate the Council consideration of the proposed lease with CAL NORTH CELLULAR. As you can see from the enclosed copy, I have a number of questions and comments which could lead to a more advantageous arrangement for the City. Since I have no sense of what the City Council would like to see in such a lease, I would respectfully urge the City Council to designate one or two of its members to act as a committee in meeting with staff and representatives of CAL NORTH CELLULAR to hammer out the final draft of a lease that then could either come to the City Council for approval or could be pre-approved by the City Council subject to its successful negotiation. I am willing to be part of that process, but I believe it is important for there to be Council participation as well.

DATED: April 1, 1997

David E. Tranberg
City Attorney

DET/pg

Enclosure

(13)

Application #_____

Application to the City of Trinidad
to be completed by applicant

1. Type of Application (check one):

Use Permit	✓	Rezone/Ord. Amendment	____
Variance	____	Subdivision	____
Design Review	✓	Grading Permit	____
Lot Line Adjustment	____	Other _____	____

2. Name of property owner City of Trinidad
Mailing Address P.O. Box 390 Trinidad
Phone 677-0223

3. Name of applicant/agent (if different)
Cal North Cellular C/O Thomas Mc Murray
Mailing Address PO Box 1032 Eureka 95502
Phone _____

4. Site location: AP# Trinidad Head 42-12-121
Street address N/A

5. Project Proposal: transmission antenna & pole

I understand that ten (10) copies of plans and supplemental information are required to accompany the application and that a pre-application review precedes formal acceptance of the application. I also understand that incomplete application submittals may cause delay in processing the application request. I hereby certify that the above and all accompanying information and plans are true and correct and that City personnel are authorized to enter upon the described property as reasonably necessary to evaluate the project. Further, I reviewed the attached information to the application form and understand the application process described therein.

Thomas Mc Murray
Signature of applicant/agent

If the applicant/agent is not the owner of record:
I authorize the applicant to file this application and to represent me in all matters concerning the application.

_____
Signature of Owner of Record

A filing fee is required to accompany this application.

TO BE COMPLETED BY CITY STAFF

Receipt No. _____
Receipt of $ 120—
Account _____

Received by Dana Dosa
City of Trinidad
5/20/97
Date

CAL NORTH CELLULAR

May 20, 1997

Mr. Robert Brown, City Planner
City of Trinidad
P.O. Box 390
Trinidad, California 95570

Re: Communication Site, Trinidad Head

Dear Mr. Brown:

Per your request in your letter of March 13, 1997, Cal North Cellular is submitting an application for a Use Permit and Design Review on the above captioned facility.

I have included a plot plan and elevation that describe the project. Pictures that have been taken indicate that it will be very difficult to see the antenna from any location in the City or along the shoreline.

As indicated to the City Council, we are willing to construct a mock extension to the existing pole and install a model of the antennas for viewing prior to the City Planning Commission Meeting. This will be the best way to actually determine the visual impacts.

The project involves the excavation of a hole approximately six feet deep to set the new pole directly adjacent to the existing 21 foot pole. The new pole will be attached to the existing pole for proper bracing. The existing building will be repaired to make it secure and watertight. In addition to the new pole, a four (4) foot dish will be installed at the same elevation as the existing dish, facing in the direction of the McKinleyville Airport.

This project will have no environmental impacts. The viewshed impact will be minor, if noticeable at all.

Thank you for the opportunity to submit this material.

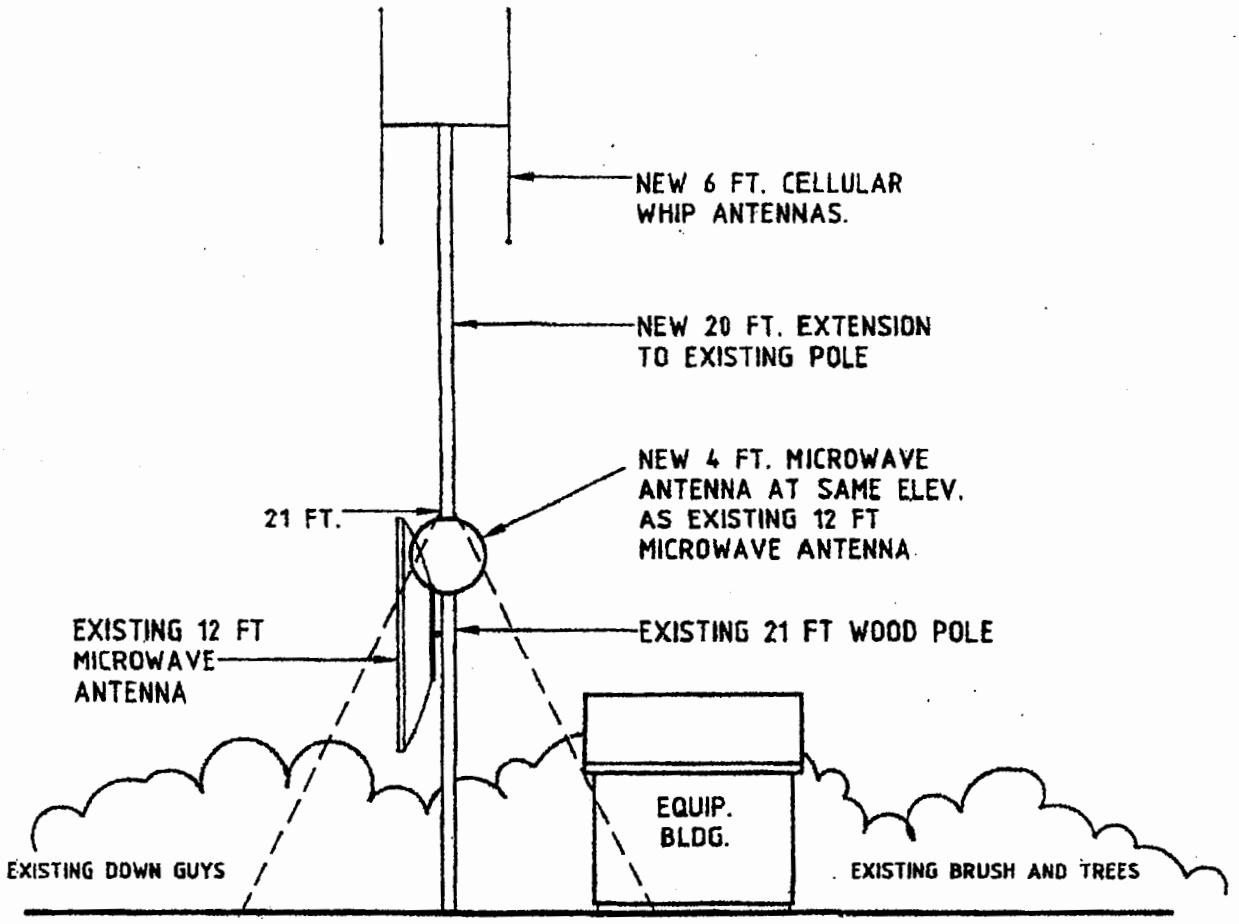
Respectfully,

Thomas J. McMurray Jr.
for Cal North Cellular

TJM / tjm
encl:
cc: Mr. Jim Hendricks, General Manager

2212 Second Street • Eureka, CA 95501-0808 • 707 444-2255 • FAX 707 445-5029

(132)



EAST ELEVATION
1' = 10 FT.

CAL NORTH
CELLULAR

EXHIBIT "A1"
TRINIDAD HEAD
FORMER COX CABLE SITE

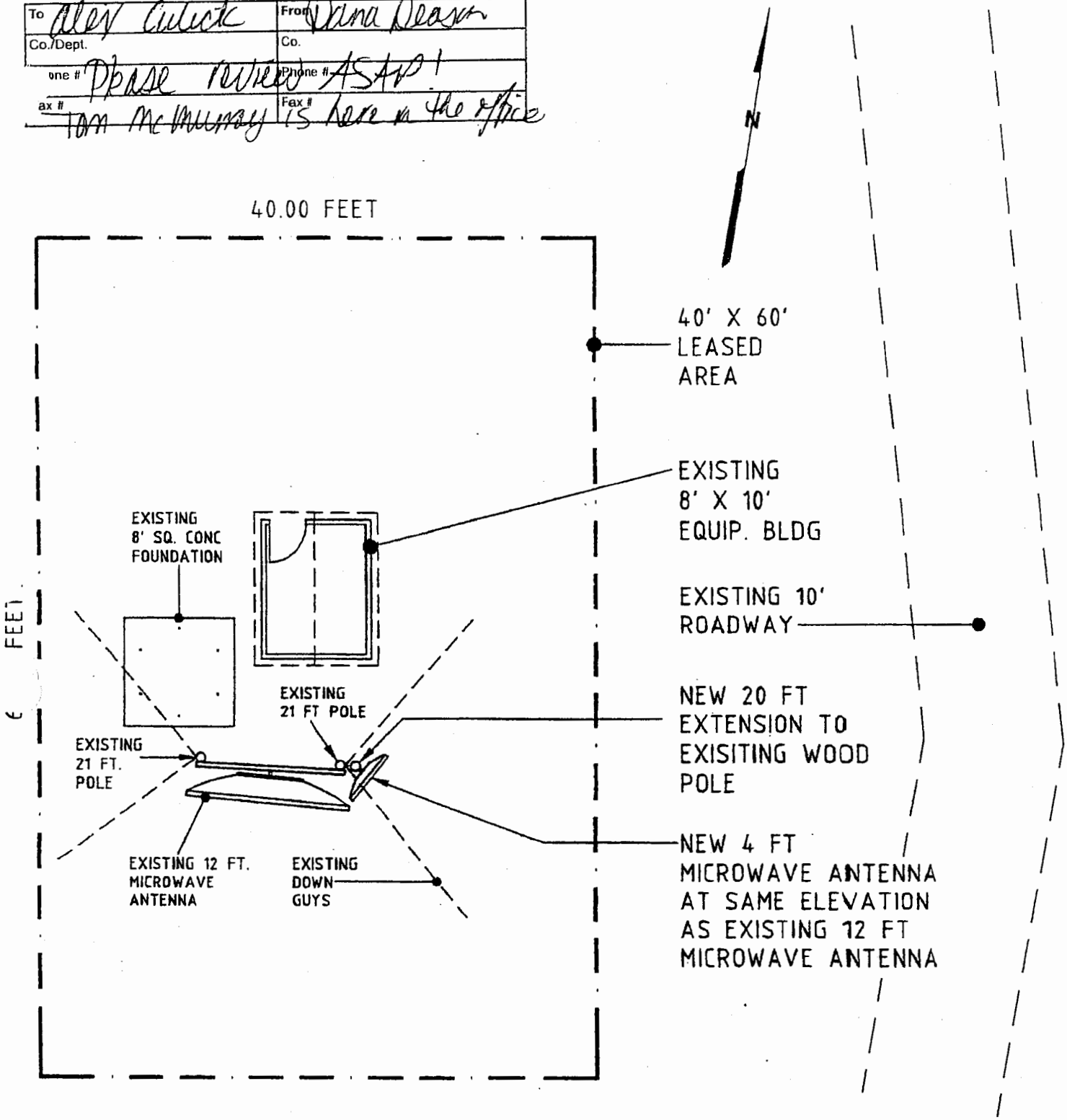
Post-it® Fax Note 7671 | Date 5/20 | # of pages ▶ 2

To Alex Cutler | From Dana Dean

Co./Dept. | Co.

one # Please review ASAP! | Phone #

ax # Tom McMurray is here in the office | Fax #



SITE PLAN

" = 10 FT.

CAL NORTH CELLULAR

EXHIBIT "A"

TRINIDAD HEAD

FORMER COX CABLE SITE

ENFOLD ENGINEERING INC.
CIVIL AND STRUCTURAL ENGINEERS
2107 FIRST STREET EUREKA, CALIFORNIA 95501
PHONE: (707) 442-4587

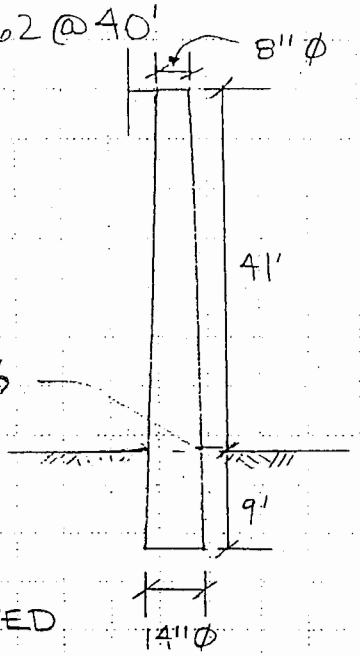
JOB Trinidad Cal North Cellular Pole
SHEET NO. 1 OF 2
CALCULATED BY SKS DATE 8/21/97
CHECKED BY ____ DATE ____
JOB NO. 97219

WIND LOAD

WIND: 80MPH, EXP D $q_{65} = 16.4$ PSF $C_e = 1.62$ @ 40'

$P_{WIND} = C_e C_q q_{65}$

$P_{WIND} = (1.62)(1.4)(2/3)(16.4) = 24.8$ PSF



WIND DESIGN

$P_{POLE} = 41' \times \frac{(8+12)}{2} \times \left(\frac{1ft}{12in}\right)(24.8\ PSF) = 847^{\#}$

FOOTING DESIGN

Allowable Lateral Soil Pressure = 150 PSF
h = 20.5' 2X INCREASE ALLOWED

Try 9':

$$d = \frac{A}{2}\left(1+\sqrt{1+\frac{4.36h}{A}}\right)$$

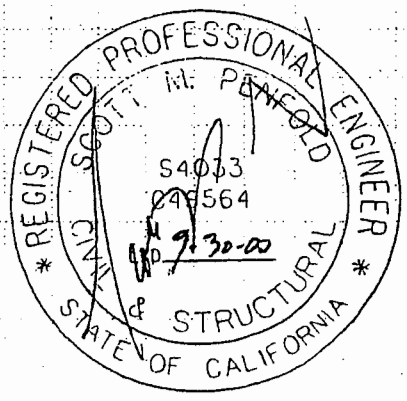
$$A = \frac{2.34(847^{\#})}{\left(\frac{9}{3}(300PSF)\right)(13".\ \frac{1ft}{12in})} = 2.03$$

$$d = \frac{2.03}{2}\left(1+\sqrt{1+\frac{4.36(20.5')}{2.03}}\right) = 7.83'$$

$d = 7.83' < 9'$, TRIAL OK.

USE 9' DEPTH

(NOTE - POLE TO BE BURIED DIRECTLY IN SOIL. 14" ϕ AT BUTT.)



CHECKING THE POLE

$M = Ph$

$M = (1016.8^{\#})(20.5') = 250,132.8^{\#11}$

CHECK POLE @ GROUND SURFACE 12" ϕ

$S = 0.785398R^3 = 0.785398(12/2)^3 = 170 in^3$

$F_b = 2450$ PSI

$f_b = 250,132.8^{\#} - 1471$ PSI $< F_b = 2450$ PSI

6-11-97

STAFF REPORT

APPLICATION #: 7-1996/97

APPLICANT: Cal-North Cellular

AGENT: Thomas McMurray

PROPERTY OWNER: City of Trinidad

PROJECT DESCRIPTION:

Use Permit and Design Review for placement of an approximate 41' high pole directly adjacent to the existing 21' pole and repair the existing equipment building. In addition to the new pole a 4' dish antennae will be installed at the same elevation as the existing 12' diameter dish facing in the direction of the McKinleyville Airport. Whip antennas will be placed on top of the pole.

PROJECT LOCATION: Trinidad Head

ASSESSOR'S PARCEL NUMBER: 42-121-21

ZONING: OS (Open Space)

GENERAL PLAN DESIGNATION: OS (Open Space)

ENVIRONMENTAL REVIEW: Categorically exempt from CEQA per Section 15301(b) of the CEQA Guidelines exempting additions to existing facilities.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk within that time. Furthermore, this project _X_ *is* __ *is not* appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

DATE: June 11, 1997

SITE CHARACTERISTICS:

Trinidad Head is zoned OS - Open Space with a variety of roads, trails, utility lines and the adjacent Coast Guard Station. Other improvements include existing communication facility sites.

STAFF COMMENTS:

Because the project location is within the Coastal Zone, Design Review and View Protection Findings need to be made per Section 17.071 of the Zoning Ordinance. Section 17.16.030(e) allows structures accessory to uses and buildings existing within the Open Space zone at the time the Zoning Ordinance was codified with approval of a use permit.

#3

The applicant submitted application information and site plans on May 20, 1997, describing the proposed project as well as the existing improvements.

Other improvements in the area besides the existing 12' wide microwave dish and equipment building include existing down guylines and an 8' square diameter concrete path. In addition, there are utility poles running across this area, a metal "guyed" tower with an antenna to the north of the proposed project and weather station equipment to the west of the proposed project site. Access to the site is via a 12'-16' wide gravel road terminating at the metal tower.

The applicant has indicated that he will put a mock representation of tower, weather permitting, on Monday prior to the Planning Commission hearing. It is recommended the Planning Commission view this representation from various points in the City.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approvement of a project. The following findings, as may be revised, are required in order to approve this project:

A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.

B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:

   1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

   2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

   3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

   4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs; and

C That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.

D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.

E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:

1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses;

2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast;

3. The development is compatible with the established physical scale of the area;

4. The development does not significantly alter existing natural landform;

5. The development complies with shoreline erosion and geologic setback requirements. (Ord. 166 §7.09, 1979).

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following statements can be used to make the necessary findings per the worksheet handed out to the Commission:

Design Criteria

A. Only minimal, if any, grading is required.

B. The proposed project is adjacent to an area zoned Open Space but is constructed of materials that reproduce natural colors and textures as closely as possible.

C. Materials and colors used in construction are compatible with both the structural system of the building and the building's natural and man-made surroundings.

D. No plant materials have been proposed as part of this project but none are found to be necessary to screen or soften the visual impact of the new development or provide diversity in developed area.

E. No signs are proposed as part of the project.

F. The proposed project does not require change in electrical service.

G. No signs are proposed as part of the project.

H. The project can be found in terms of the scale, bulk, orientation, architectural character of the structure and related improvements to be compatible with the rural, rustic, uncrowded, unsophisticated, small, casual, open character of the community.

View Protection

A. The structure is visible from Trinidad Head and but has been proposed as visually unobtrusive as possible. Because of the existing structures, the location of the project does not result in significant changes to those viewpoints.

B., C. The project does not obstruct views of the Harbor, Little Trinidad Head, Trinidad Head, or the ocean from public roads, trails or vista points. Views from affected residences have been determined not to be significantly blocked by the project.

D. Previous residence - Not applicable.

E. The project is not located within 100' of the Tsurai Study Area or other historic resources. The addition is minor and public views of those features are not obstructed and the development does not crowd any historic resources or reduce their distinctiveness or subject them to abusive hazards.

STAFF RECOMMENDATION:

The project is consistent with the City's Zoning Ordinance and General Plan and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Use Permit and Design Review/View Protection Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application material, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings and approve the project as submitted.



City of Trinidad

NOTICE OF PUBLIC HEARING

Date: June 5, 1997

Date Application Completed: May 20, 1997

Date of Hearing: June 18, 1997

Time of Hearing: 7:30PM

Place of Hearing: 409 Trinity St., Council Chambers Trinidad Town Hall

Applicant's Name: Cal North Cellular

Address: 2212 Second St., Eureka

Project Location: Trinidad Head

AP#: 42-12-121

Street Location: Abbott parking lot, Trinidad State Beach

Description: Transmission Antenna & pole

Located within Coastal Zone: YES X NO _____

If you have any comments on this project, you are invited to communicate them to the Commission/Council at the Public Hearing, or in writing, in care of the City Clerk, PO Box 390, Trinidad, California 95570.

Proposed Project Plans and pertinent date are available for inspection at City Hall, 409 Trinity Street, Monday through Friday from 8:00AM to 2:00PM.

Appeal of any approved project is possible by any aggrieved persons, for further information contact the City Clerk.

Dana Deason

City of Trinidad

Planning Commission
Minutes
June 18, 1997

The meeting was called to order by Chairman Huff at 7:30PM.

I. Roll Call

Commissioners Present:	Boyle, Bueche, Cuthbertson, Golledge-Rotwein and Huff
Absent:	Dobrec
Staff Present:	Brown

II. Approval of Minutes - May 21, 1997

Huff asked that the line which said that "Huff said that maybe Globus could handle this matter" be stricken from the record. Motion made by Cuthbertson to approve the minutes with the above line being stricken from the record. Second by Boyle. Motion passed unanimously.

III. Old Business

Brown said that he had not been able to completely research the matter regarding the limit on the term of office for the chairman but would be able to get an answer by the next meeting. Brown spoke to Alex regarding the check list. Brown said that he, the city clerk and the building official are trying to get together on a more regular basis in order to update one another on permits, etc. Golledge-Rotwein said that she thought it was a good idea when Brown gives the commission an update on projects. Huff said he would like to see this update on paper rather than only verbally. Huff said it would be helpful to know who verified each phase of a project. Brown also said that he found nothing in the ordinance book regarding the permit time. Brown suggested that in the design review adding a time limit for the permit. Golledge-Rotwein suggested not doing it project to project but rather have one policy. Brown said that the planning commission might want to ask the council to process it separately or make it part of the general plan and then it would be amended and would need approval by the coastal commission. Huff said that they should discuss this matter during the general plan.

IV. Agenda Items

1. Design Review/Use Permit - Cal North Cellular - Trinidad Head Transmission Antenna, Pole & Equipment Building Repair

Brown explained the staff report given to the commission. He began by saying that Tom McMurray from Cal-North Cellular had placed a mock antenna so the commission could see the size and location on Trinidad Head. Brown had recommended approval with no conditions but the commission may want to add conditions. Huff asked if the site is already being used. Brown said that COX Cable had a previous lease at the same site but they were no longer interested. Huff asked if the mock was at the 41 feet and was told that yes it was. Brown said that the council had approved the lease with Cal-North but said that did not mean that it was unconditionally approved. Huff asked if

there was any comments from the public. Brown said that the city had not received any letters regarding the public notice in the clerk's office. Cuthbertson had some concerns about maintaining the road to the site. Golledge-Rotwein said that the road to the site is not being used that often. Public Hearing - Tom McMurray said that the reason COX is not using the site is because they are now using fiber optics. He said that Cal-North is contributing money to help in maintaining the road. He added that once the site has been set-up with the antennas they will only need to go up there about every two weeks. Cal-North will also do some work on the building because they need to make sure that it is water tight and they have suggested to the city that they put a lock. They will be putting wiring into the building and putting fence in around the building. McMurray said that dish does not affect their transmission. Golledge-Rotwein asked if this could be accomplished with an antenna that is shorter. McMurray said that this is the minimum height that in order to provide better service to their customers. McMurray said that this is the perfect site for the area that they are trying to cover. Cuthbertson asked about the fence they had discussed. McMurray said that it would be about 6 feet high with barbed wire. Huff asked if there was a possibility of getting rid of the dish left by COX Cable. McMurray said that he would be happy to work with COX Cable in removing the dish. Golledge-Rotwein asked if there was another location to put some of the antennas. Huff added that maybe we could cluster some of the antennas. McMurray said that there would be a problem with interference if you put them too close and he said they also need to be careful not to interfere with the coast guard station. Golledge-Rotwein commented that the antenna is very visible from the lighthouse area and down Scenic Drive. Question proposed - Motion made by Cuthbertson to approve the project as said with the conditions that Cal-North will remove the 12 foot dish and add the slats to the fence at no cost to the city. Huff said that it should be added that the applicant will reimburse the city for any costs for processing. Second by Bueche. Motion passed 4-1; Golledge-Rotwein opposed.

2. Design Review - Eugene & Jane Robin - 528 Pacific
Proposed Solarium on Existing Upper Deck

Brown said included in their packets was the staff report. Brown said that the set-backs are at the location and the septic is at northwest section of the lot. Brown said that he did not think that the solarium would affect any of the neighbors. Cuthbertson agreed. Brown said that notices went out to the neighbors and no one had voiced any concern. Golledge-Rotwein asked about the slope stability and where it would be located on the plot plan. Brown said that it would be in the lower portion of the lot. Golledge-Rotwein felt that this was an incomplete application because it does not have a plot plan. She added that the plans did not include where the septic disposal system was located. Huff asked if there was a difference between the plot plan. Brown said that the city uses a checklist. Brown also said that this particular project does not require that you know where the septic system is. Huff suggested that since this is a concern of Golledge-Rotwein then maybe the applicant could put down where the septic tank is and leech field and indicate actual set-backs regardless of the project. Cuthbertson and Boyle agreed that if it is unnecessary for the applicant to put this information then

ACTIONS OF THE PLANNING COMMISSION/DESIGN REVIEW COMMITTEE
June 18, 1997

CAL-NORTH CELLULAR

Jim Cuthbertson made a motion "to approve the Cal-North project based on the findings in the Staff Report with the following conditions:

1. The applicant is responsible to remove the Cox Cable satellite dish at no cost to the City.

2. Slats shall be added to the perimeter fencing.

3. The applicant is responsible for reimbursing the City for all costs associated with processing the application.

4. Based on a finding that community values may change in a year's time, design review approval is for a one year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time."

Motion was seconded by Diane Bueche. Motion passed 3-2 with Susan Golledge-Rotwein and Terry Huff opposing.

EUGENE & JANE Robin

Susan Golledge-Rotwein made a motion that "based on information submittal in the application and included in the Staff Report and on public testimony, I move to adopt the information and findings in this staff report and approve the proposed project with the following conditions:

1. The applicant will submit a completed plot plan prior to building permits being issued.

2. The applicant is responsible for reimbursing the City for all costs associated with processing the application.

3. Based on the findings that community values may change in a year's time, design review approval is for a one year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time."

Motion passed unanimously.

Note to Dana - The action form to the Coastal Commission should indicate the paragraph from the Staff Report appeal status that both projects are appealable to the Coastal Commission as noted below. Call me if you have any questions.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk within that time. Furthermore, this project _X_ *is* ___ *is not* appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

CITY OF TRINIDAD, PO BOX 390, TRINIDAD, CA 95570

TO: CALIFORNIA COASTAL COMMISSION

NOTICE OF ACTION TAKEN

APPLICANT: CAL NORTH CELLULAR

AP# 42-121-21

ADDRESS: 2212 SECOND STREET
EUREKA, CA 95501-0808

PROJECT LOCATION: TRINIDAD SCHOOL

THE PLANNING COMMISSION / CITY COUNCIL HELD A PUBLIC HEARING FOR TRANSMISSION ANTENNA, POLE & EQUIPMENT BUILDING REPAIR

THE CITY
_____ APPROVED
__X__ CONDITIONALLY APPROVED
_____ DISAPPROVED

THE APPLICATION. ANY CONDITIONS PLACED ON THE APPROVAL ARE ATTACHED. THIS DECISION MAY BE APPEALED TO THE CALIFORNIA COASTAL COMMISSION AT 45 FREMONT, SUITE 2000, SAN FRANCISCO, CA 94105-2219, ATTENTION JIM MUTH OR BY TELEPHONE AT (415) 904-5260.

PLANNING COMMISSION ACTION ON A COASTAL DEVELOPMENT PERMIT, A VARIANCE OR CONDITIONAL USE PERMIT AND DESIGN ASSISTANCE COMMITTEE APPROVAL OF A DESIGN REVIEW APPLICATION, WILL BECOME FINAL 10 WORKING DAYS AFTER THE DATE THAT THE COASTAL COMMISSION RECEIVES A "NOTICE OF ACTION TAKEN" FROM THE CITY, UNLESS AN APPEAL TO THE CITY COUNCIL IS FILED IN THE OFFICE OF THE CITY CLERK WITHIN THAT TIME. FURTHERMORE, THIS PROJECT _X_ IS ___ IS NOT APPEALABLE TO THE COASTAL COMMISSION PER THE REQUIREMENTS OF SECTION 30603 OF THE COASTAL ACT.

CITY COUNCIL ACTION ON AN APPEAL WILL BECOME FINAL 10 WORKING DAYS AFTER THE DATE THAT THE COASTAL COMMISSION RECEIVES A "FINAL NOTICE OF ACTION TAKEN" UNLESS AN APPEAL TO THE COASTAL COMMISSION IS FILED IN THE NORTH COAST OFFICE IN SAN FRANCISCO WITHIN THAT TIME.

CONDITIONS SET ON APPROVAL: SEE ATTACHED CONDITIONS

DANA DEASON
CITY CLERK
CITY OF TRINIDAD

CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA OFFICE
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

NOTIFICATION OF APPEAL PERIOD

DATE: July 1, 1997

TO: Dana Deason, City Clerk
City of Trinidad
P.O. Box 390
Trinidad, CA 95570

FROM: James Muth, Coastal Planner

RE: **Application No. 1-TRN-97-206**

Please be advised that on June 30, 1997 our office received notice of local action on the coastal development permit described below:

Local Permit #: **No. 7-1996/97**

Applicant(s): **Cal-North Cellular**

Description: **For placement of an approximate 41' high pole directly adjacent to the existing 21' pole and repair the existing equipment building. In addition to the new pole a 4' dish antennae will be installed at the same elevation as the existing 12' diameter dish facing in the direction of the McKinleyville Airport. Whip antennas will be placed on top of the pole.**

Location: **trinidad school, Trinidad (Humboldt County) (APN(s) 042-121-21)**

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on July 15, 1997.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Cal-North Cellular

RECEIVED
JUL 02 1997

CAL NORTH CELLULAR

NOTIFICATION LETTER

September 9, 1997

Mr. Larry McNeely
Safety & Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear Mr. McNeely:

This is to provide the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC") that:

☒ (a) The cellular company has obtained all requisite land use approval for the project described in Attachment A.

☐ (b) That no land use approval is required because _____ _____.

A copy of this notification letter is also being provided to the appropriate local government agency for its information. Should there be any questions regarding this project, or if you disagree with any of the information contained herein, please contact Jim G. Hendricks of Cal-North Cellular at (916) 468-3123, or Mr. Larry McNeely of the CPUC Safety & Enforcement Division at (415) 703-1836.

Very truly yours,

Cal-One Cellular L.P. D.B.A. Cal-North Cellular

Jim G. Hendricks, General Manager

Attachment

cc: Ms. Dana Deason, City Clerk
City of Trinidad
P. O. Box 390
Trinidad, CA 95570

PO Box 627 • Fort Jones, CA 96032-0627 • 916 468-5222 • FAX 916 468-5402

ATTACHMENT A

DESCRIPTION OF CONSTRUCTION:

Replace existing wood structure with 41' wood pole. Repair existing 8' X 10' communications building. Install power meter and associated power wiring. Install fence around site. Replace existing 12' parabolic antenna with new 6' parabolic antenna. Install (3) 10' omni-directional whip antennas, 2 up, 1 down. Install transmission lines from new antennas to new electronics equipment inside building. Install power equipment and batteries inside building.

NAME: Trinidad

LOCATION: Take Highway 101 to Trinidad, CA. Exit at the Trinidad Exit; proceed West 0.25 mile on Main Street to Trinity Street; then proceed South 0.25 mile on Trinity Street to Edwards Street; then proceed West 0.3 mile on Edwards Street to the Trinidad Head Parking Lot. Signs mark trail to Site Area, approximately 0.7 mile from Parking Lot.

Trinidad, CA 95570

A. P. N. 042-121-02

NEW SITE: Repair building, replace pole, install fencing, antennas, transmission lines and equipment at existing communications site.

BUSINESS ADDRESS OF LOCAL GOVERNMENT AGENCIES:

Ms. Dana Deason, City Clerk
City of Trinidad
P. O. Box 390
Trinidad, CA 95570

STATEMENT OF LAND USE APPROVAL:

The City of Trinidad issued Building Permit #00158 for the above described work on September 9, 1997.

GROUND LEASE

BY AND BETWEEN

CITY OF TRINIDAD
AND
CAL-ONE CELLULAR, L.P. D.B.A. CAL-NORTH CELLULAR,

APRIL 17, 1997

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Exhibit A: Map of the Site

Exhibit A1: Tower and Building Profile

Exhibit B: Certified Minutes of City Council Meeting Approving Lease

LEASE

PREAMBLE

THIS LEASE ("Lease"), dated _____, 1997 is made by and between the CITY OF TRINIDAD,a municipal corporation ("Lessor") and CAL-ONE CELLULAR L.P., D.BA. Cal-North Cellular, a California limited partnership of which Cal-One Cellular, a California corporation of Fort Jones, California, is the General Partner; ("Lessee").

RECITALS

WHEREAS, Lessor, a public agency, is the owner of certain property situated in the City of Trinidad, Humboldt County, State of California, commonly known as Trinidad Head; and

WHEREAS, Lessee desires to lease a portion of such real property, said portion hereinafter the "Site", and to obtain an easement for access and utilities; and

WHEREAS, Lessee requests use of the Site for the installation and operation of certain radio and microwave communication facilities and equipment; and

(67)

WHEREAS, Lessor is willing to permit Lessee to lease the said Site in accordance with the terms, conditions and covenants of this Lease.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SITE.

Lessor hereby leases to Lessee and Lessee leases from Lessor for the term, at the rental, and upon all of the conditions set forth herein, that certain real property at Trinidad Head, Trinidad, California, consisting of approximately twenty four hundred (2400) square feet of ground space, more particularly described as: (i) a parcel of land upon which Lessee shall have the right to use an existing equipment shelter, existing microwave antenna and the addition of one microwave antenna for communication and related equipment; and (ii) space for installation of a 20 ft. extension to an existing telephone pole (collectively the "Site"). A map of the Site is contained in Exhibit A to this Lease; a description of the Site which may be used for legal purposes is contained in Exhibit B to this Lease.

SECTION 2. TERM.

The term of this Lease shall be for a period of twenty (20) years with one five (5) year option. The term of this Lease shall commence on the first of the month following the execution of the lease by both parties.

Should this Lease Agreement still be in effect at the conclusion of the lease term provided for herein, this Lease Agreement shall continue in force upon the same covenants, terms, and conditions for a further period of one (1) year, and for like annual periods thereafter, until and unless terminated by either party by giving to the other written notice of its intention to so terminate at least ninety (90) days prior to the date of lease expiration. Annual rental adjustments shall be made during any such additional period(s), just as if the Lease Agreement were still in effect.

SECTION 3. RENTAL.

Lessee shall pay to the Lessor as rent for the Site in advance on the first day of each calendar month of the term of this Lease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of two hundred and fifty dollars ($250.00). Lessee shall be permitted to enter the Site to commence use and modification of the Communications Site (defined herein) after the issuance of all necessary permits under all of the terms and conditions of this Lease.

During the entire term of this Lease the rental charge shall be adjusted annually and said adjustment shall be effective on each anniversary of the Commencement Date of this Lease (the "Adjustment Date"). The annual rental adjustment shall be based on the one-year period ending on the last day of the month of the most recent monthly inflation statistics available on the Adjustment Date reported in the Consumer Price Index, for all Urban Consumers, ("CPI") issued by the Bureau of Labor Statistics of the United States Department of Labor, with a maximum of five percent (5%) in any one year.

SECTION 4. USES

4.01 Permitted Uses and Improvements.

Lessee shall use the Site as one of Lessee's communications sites (a "Communications Site"). Lessee may use the Site for the purpose of constructing, maintaining and operating a communication facility with a maximum twenty (20) foot extension to an existing telephone pole, the right to use an existing microwave antenna, P.G. & E electrical service and install an additional microwave antenna (see Exhibit A), At Lesee's expense a security fence of chain link or similar construction shall be placed around the perimeter of the Site (not including the easement area). The construction of the Lessee's facility shall be at the Lessee's sole expense, and Lessee shall maintain the Site in a reasonable condition throughout the term.

All of Lessee's contractors and subcontractors shall be duly licensed in the state of California. Lessee shall be solely responsible for any and all costs associated with the installation, maintenance and use of any improvements, equipment and facilities on the Site.

4.02 Access Areas.

Lessor hereby grants to Lessee for the duration of this Lease, or any extensions thereof, an unimpaired, non-exclusive easement, license and right of way for providing physical access by personnel and equipment to or from the Site as shown on Exhibit C. Such rights shall include the right of ingress and egress, twenty-four (24) hours per day, seven (7) days per week. The rights granted to Lessee herein are for the purpose of constructing, maintaining, restoring, replacing, and operating Lessee's equipment located within or on the Site, including any necessary electrical and telephone conduits or lines.

4.03 Prohibited Uses.

Lessee shall not use the Site for any purpose not expressly permitted hereunder or under any other City permits and codes.. Lessee shall not (a) create, cause, maintain or permit any nuisance in, on or about the Site or permit or suffer the Site to be used for any unlawful purpose and (b) interfere with or disturb in any way other uses required for service to the public. Lessee and Lessor shall coordinate to avoid interference between Lessee's use of the Site and any future facilities or operations that may be implemented by Lessor. Lessor shall use its best efforts to ensure that any future uses of the Site which are essential municipal services required for service to the public do not interfere with Lessee's operation of the Communications Site.

4.04 Approval by the City and Other Agencies.

As a condition precedent to Lessor's obligation to tender the Site to Lessee, Lessee shall obtain the prior approval of the City and such other governmental agencies and bodies that may have jurisdiction over use of the Site by Lessee to make the improvements specified in Section 4.01 and to conduct the activities permitted under this Lease including all design review approval. Prior to use of the Site, Lessee shall obtain all required permits, licenses and approvals from the City and any other governmental agencies having jurisdiction over Lessee's use of the Site. As a condition of this Lease, Lessee shall maintain such permits, licenses and approvals in force throughout the term of this Lease, including extentions of the term in the event the Lease is extended. Lessee shall be solely responsible for conducting any environmental review required to be undertaken in association with Lessee's use of the Site and for any and all costs associated therewith, as well as any and all fees, charges, or other expenses that may be imposed by the City or other regulatory agencies in connection with Lessee's use or enjoyment of the Site prior to the Lease commencement.

Lessor agrees to fully cooperate with Lessee in obtaining the local permits and without limiting the generality of the foregoing, to execute any applications, maps, certificates, or other documents that may be required in connection with local permits. Notwithstanding this agreement, the parties acknowledge that Lessor still has absolute discretion, to permit or not to permit the project, should any discretionary city permits be required.

4.05 Compliance with Laws.

Lessee shall not do or permit anything to be done in, on or about the Site, or bring or keep anything in, on or about the Site, which will conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated by any public authority.

4.06 Condition, Use and Zoning of Site.

Lessor makes no warranty or representation of any kind concerning the condition of the Site, or the fitness

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of the Site for the use intended by Lessee, or of the applicable zoning regulations to Lessee's proposed use thereof, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties that Lessee has personally inspected the Site, knows their condition, finds them fit for Lessee's intended use, accepts them as is, and has ascertained that they can be used for the limited purposes specified in Section 4.01.

SECTION 5. MAINTENANCE, REPAIRS AND ALTERATIONS.

Lessee shall keep in good order, condition, and repair the Site, and the improvements, facilities and equipment placed on the Site by Lessee, and every part thereof. Lessee shall keep the Site clean and free of debris. Lessor shall maintain access road and grass and plant removal adjacent to the access road and around communication site as deemed necessary by the Lessor.

5.01 Surrender.

On the last day of the term hereof, or upon any prior termination, Lessee shall surrender the Site, excluding all improvements made thereto by Lessee, to Lessor in the same condition as when received by Lessee, ordinary wear and tear excepted, clean and free of debris. Except as set forth below, Lessee shall remove all structures, buildings, microwave dishes, antennas, and any other facilities, equipment or improvements that Lessee places upon the Site, repairing any damage to the Site occasioned by the installation, maintenance or removal of Lessee's improvements, fixtures, furnishings and equipment, and restoring the Site to the same condition as when Lessee received the property from Lessor. Title to Lessee's equipment, and all improvements installed at and affixed to the Site by Lessee shall be and shall remain the property of Lessee. Lessee may, at any time, including any time it vacates the Site, remove Lessee's equipment, fixtures, and all of Lessee's personal property from the Site, but the foregoing notwithstanding, Lessee shall not be required to remove any underground conduit or improvements.

At Lessor's option, when this Lease Agreement expires or is terminated and upon advance written notice to Lessee, Lessee shall leave Lessee's building, its foundation, and the security fence to become the property of the Lessor.

5.02 Lessor's Rights.

If Lessee fails to perform Lessee's obligations under this Section 5 or under any other section of this Lease, Lessor may at its option enter upon the Site after twenty (20) days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required but Lessor must diligently attempt to notify Lessee as soon as possible thereafter), to perform such obligations on Lessee's behalf and put the same in good order, condition and repair, and the reasonable cost thereof shall become due and payable as additional rental to Lessor together with Lessee's next rental installment.

5.03 Lessor's Obligations.

Lessor shall have no obligation to repair and maintain the Site nor the improvements thereto and facilities placed thereon. Lessor shall cooperate with Lessee to maintain its adjacent property in a manner which will not interfere with Lessee's operation of the Site as a Communications Site. If Lessor fails to perform Lessor's obligations under this Section 5 or under any other section of this Lease, Lessee may at its option upon thirty (30) days' prior written notice to Lessor (except in the case of an emergency, in which case no notice shall be required but Lessee must diligently attempt to notify Lessor as soon as possible and only take corrective action needed to protect Lessee's facilities, (unless advised to do so by the City at the time of the emergency), perform such obligations on Lessor's behalf and put the same in good order, condition and repair, and the reasonable cost thereof shall be deducted from rent due to Lessor in the next rental installment. In all other respects, Lessee expressly waives the benefit of any statute now or hereinafter in effect which would otherwise afford Lessee the right to make repairs at Lessor's expense or to terminate this Lease because of Lessor's failure to keep Site in good order, condition and repair.

5.04 Security Measures.

Lessor has no obligation to provide any security measures at the Site other than those the Lessor in its discretion determines are needed for its own facilities. Lessor may provide security measures for its facilities and such measures shall accommodate Lessee's access to and use of the Site consistent with the terms and conditions of this Agreement. Lessee may provide reasonable security measures for its facilities provided that such measures shall not limit Lessor's use of the Site in any way consistent with the terms and conditions of this agreement. Lessor shall provide Lessee with a reasonable number of keys to gates to the Site for access and such keys shall not be duplicated. Lessee shall obtain prior approval before installing or implementing any other security system or device to protect Lessor's adjacent property.

5.05 Improvements.

(a) Lessee, at its sole cost and expense, may make alterations, improvements, additions or utility installations (hereinafter collectively referred to as "Improvements") to or on the Site that are necessary for the conduct of the permitted uses of the Site, subject to the prior written approval of the Lessor and, if necessary, all other governmental agencies, including the City, which have jurisdiction over the use of the Site by Lessee. In order to obtain Lessor's prior written approval for any Improvement, Lessee shall submit maps and drawings or renderings of any proposed Improvement to Lessor, sufficiently detailed to enable Lessor to make an informed judgment about any proposed Improvement. Should Lessee make any Improvements without the prior approval of Lessor, Lessor may require that Lessee remove any or all of the same at Lessee's sole cost and expense. The foregoing notwithstanding, Lessor has given its consent to the construction of the improvements set forth in Exhibit A, subject to the reviews, approvals and requirements set forth in Section 5.05 (b), (c) and (d) below and Lessor's consent shall not be required for the repair and replacement of Lessee's equipment and antennas which are consistent with such prior approvals.

(b) Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Site, which claims are or may be secured by any mechanics' or materialmen's lien against the Site or any interest therein. Lessee shall give Lessor not less than five (5) working days' notice prior to the commencement of any work on the Site, and Lessor shall have the right to post notices of non-responsibility in or on the Site as provided by law. If Lessee in good faith, contests the validity of any such lien, claim or demand, then Lessee shall, at its sole expense, defend itself and Lessor against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Lessor or the Site. If Lessor shall require, Lessee shall furnish to Lessor a surety bond satisfactory to Lessor in an amount equal to such contested lien, claim or demand indemnifying Lessor against liability for the same and holding the Site free from the effect of such lien or claim. In addition, Lessor may require Lessee to pay Lessor's attorneys' fees and costs in participating in such action if Lessor shall decide it is to its best interest to do so.

(c) Any alterations, improvements, additions or utility installations which may be made on the Site by Lessee and which are not covered under Section 5.01 shall, upon Lessor's option, remain the property of Lessor at the end of the term.

(d) Before construction of any improvements are commenced on the Site and before any building materials therefor have been delivered to the Site by Lessee or agents under Lessee's authority, Lessee shall obtain all necessary approvals from Lessor's Planning Department, Building Department ' and Public Works Department as required under applicable local law.

5.06 Warranties and Covenants of Lessee.

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Lessee hereby warrants and covenants as follows:

(a) **Construction Schedule.** Lessee shall deliver to the Lessor for the Lessor's approval a time schedule setting forth in detail a description of the improvements and all steps for construction of the improvements, and Lessee's best estimate of the date upon which each step shall be substantially completed. Lessor shall approve or disapprove of said schedule within (3) working days of receipt thereof. Lessor's silence shall be deemed approval of the schedule. Lessor's disapproval of the schedule shall not delay commencement of construction. Lessee shall coordinate with Lessor to alleviate any objection to such schedule presented in a timely fashion by Lessor to avoid delaying Lessee's construction of the Communications Site.

(b) **Protection of Adjacent Property. Indemnity of the Lessor.** Lessee shall protect Lessor's adjacent real property against damage resulting from the performance of any work undertaken by Lessee or Lessee's agents, employees, contractors, or assigns, and shall indemnify the Lessor against all liens or liability in any way arising out of the performance of the work or the furnishing of labor, services, materials, supplies, equipment or power in connection therewith.

(c) **Insurance.** In addition to the insurance coverage otherwise required under this Lease, Lessee shall maintain or cause to be maintained workers' compensation insurance covering all persons employed in connection with the construction of any improvements, repair or maintenance activities with respect to whom death or injury claims could be asserted against the Lessor, Lessee, or the Site. Lessor may require that any third parties performing work on the Site maintain such workers' compensation insurance as well. Such insurance shall be maintained at Lessee's sole cost and expense at all times when any work is in process and shall otherwise conform to the requirements of this Lease for insurance.

(d) **Notice of Completion.** Immediately on substantial completion of any improvement, Lessee shall prepare and provide Lessor with a notice of completion suitable for recordation in the official records of the County of Humboldt. Lessor, at its option, may elect to record said notice.

(e) **Notice of Changes in Plan.** On completion of any improvement, Lessee shall give the Lessor notice of all changes in plans and specifications made during the course of the work and shall at the same time deliver to the Lessor "as built" drawings accurately reflecting all such changes; provided, no change that substantially alters the final plans last approved by the Lessor shall be made without the Lessor's prior written approval, which shall not be unreasonably withheld. Any field approvals obtained by Lessee from Lessor's Planning, Building or Public Works Departments shall satisfy the obligations of this Section and shall be incorporated in the final "as built" plans.

5.07 Lessee's Obligation to Furnish Cellular Phones to Lessor.

(a) Lessee shall furnish to Lessor at the time Lease commences, two mobile Cellular telephones for exclusive use by the City's Police Department and Volunteer Fire Department. Lessee agrees to furnish the telephones at no charge for the equipment, installation, monthly service charges and air time. Lessor agrees that telephones will be for official use only and also agrees to closely monitor said use. Lessee shall notify Lessor if use seems excessive. If use is deemed to be personal in nature, Lessor agrees to correct the misuse within 30 days of notice by Lessee.

SECTION 6. INDEMNITY AND INSURANCE.

6.01 Indemnity.

(a) **Indemnity of the Lessor.** This Lease is made upon the express condition that Lessee shall indemnify, keep and save harmless Lessor, and its Councilmembers, officers, agents and employees against any and all suits, claims or actions arising out of any injury or injuries to, or death or deaths of, persons or property that occur, or that are alleged to have occurred from any cause or causes whatsoever, while in, upon or about or connected with the Site during the term of this Lease, or during any holdover tenancy thereof (except where caused by the sole negligence of Lessor, its employees or agents). Lessee further agrees to investigate and defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgment be rendered against the Lessor or any of the other individuals enumerated above in any such action, Lessee shall, at its expense, satisfy and discharge the same.

(b) **Indemnity of the Lessee.** Lessor shall indemnify Lessee against and hold Lessee harmless from any and all claims of liability for or loss from personal injury and/or property damage to the extent such claims result from or arise out of the use and/or occupancy of Lessor's property by Lessor. Notwithstanding the preceding, Lessor does not indemnify Lessee against any claim to the extent that it arises from or in connection with any negligent or intentional conduct of Lessee or of any agent, servant or employee of Lessee.

6.02 Insurance.

(a) **Workers' Compensation.** Lessee shall procure and maintain at all times during the term of this Lease and any holdover tenancy thereof Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws where applicable. Employers' Liability Insurance shall not be less than One Million Dollars ($1,000,000) per accident or disease. Prior to commencement of the term of the Lease, Lessee shall deliver to Lessor a Certificate of Insurance which shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Lessor.

(b) **Bodily Injury, Death and Property Liability Insurance.** Lessee shall also procure and maintain at all times during the term of this Lease and any holdover tenancy thereof comprehensive broad form General Public Liability Insurance (including automobile operation) covering Lessee and Lessor for any liability arising out of the use of, or occurring in, on, or about the Site. The policy(ies) shall include coverage for all vehicles, licensed or unlicensed used by or on behalf of Lessee on the Site during the term of its Lease or holdover tenancy thereof. The policy(ies) shall be subject to a limit for each occurrence of One Million Dollars ($1,000,000) and Two Million Dollars ($2,000,000) in aggregate, naming as an additional insured, in connection with Lessee's activities, Lessor, its Councilmembers, officers, employees and agents. The Insurer(s) shall agree that its policy(ies) is Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering Lessor. The City and the Lessee shall review the insurance coverage at the end of ten (10) years.

Inclusion of Lessor as an additional insured shall not in any way affect its rights as respects to any claim, demand, suit or judgment made, brought or recovered against Lessee. Said policy shall protect Lessee and Lessor in the same manner as though a separate policy had been issued to each but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured.

Prior to commencement of the term of the Lease, Lessee shall deliver to Lessor endorsements evidencing compliance with the insurance requirements of this paragraph

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and shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Lessor.

(c) **Fire and Extended Coverage Insurance.** Lessee shall maintain a policy of standard fire and extended coverage insurance on its improvements to the Site.

SECTION 7. LESSEE TERMINATION.

7.01 Temporary Facilities.

Lessor acknowledges and agrees that it is necessary that Lessee maintain continuous operation on the Site during the term of this Lease. Therefore, in the event of damage which renders Lessee's System inoperable or unusable, Lessee shall have the right (subject to any requirements of law or governmental authority and any applicable covenant, conditions and restrictions) to construct or install temporary facilities, including a temporary antenna pole and antennas, if necessary, in or about the Site, in such locations as may be reasonably acceptable to Lessor and in a manner which will not interfere with any repair or reconstruction efforts, in order to continue operation. Lessor shall allow Lessee to install such equipment and fixtures, and shall permit Lessee such access, repair and maintenance rights as may be necessary to allow Lessee to operate and maintain such temporary facilities until the Site have been sufficiently repaired to permit Lessee to use the Site, or until a substitute permanent location acceptable to Lessor and Lessee has been agreed upon, and construction of such substitute permanent facility has been completed.

7.02 Lessee's Right to Terminate.

Lessee shall have the right to terminate this Lease should one of the following events occur:

(a) The approval of any agency, board, court, or other governmental authority necessary for either the construction or operation of this Communications Site cannot be obtained, or said approval is revoked, or Lessee determines the cost of obtaining such approval is prohibitive: or

(b) Lessee determines that the property is not appropriate for locating its communications operations for technological reasons, including, but not limited to, signal interference; or

(c) Lessor fails to comply with any term, condition or covenant of this Lease and does not cure such failure within thirty (30) days after written notice thereof or in the event of a cure which requires in excess of thirty (30) days to complete, if Lessor has not commenced such cure within thirty (30) days of such notice and is not diligently prosecuting said cure to completion.

In the event Lessee terminates the Lease without cause, Lessee shall pay the City Six Thousand ($6,000) dollars.

Lessee will give Lessor sixty (60) days written notice of termination of this Lease under the terms of Section 7.02 (a), (b) and (c) and upon such termination, Lessee shall remove all of Lessee's communications equipment from the Site and shall restore the Site to its original condition, except for normal wear and tear and as set forth in Section 5.01, and Lessor and Lessee shall be relieved of any further obligation under this Lease, with the exception that Lessee shall be obligated to pay any rent, as specified in Section 3, accruing prior to the date of termination of this Lease.

7.03 Termination - Advance Payments.

Upon termination of this Lease pursuant to this Section 7, Lessor shall retain the prorated portion of any advance payments of rent through date of termination.

7.04 Waiver.

Lessor and Lessee waive the provisions of any statutes which relate to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

SECTION 8. TAXES.

Any and all real property tax or any other form of tax assessed or imposed against the property arising out of, or attributable to, Lessee's occupancy and use of the Site shall be borne exclusively by Lessee.

SECTION 9. UTILITIES.

Lessee shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Site, together with any taxes thereon.

SECTION 10. ASSIGNMENT AND SUBLETTING.

10.01 Lessor's Consent Required.

Lessee shall not voluntarily or by operation of law assign, transfer, mortgage, sublet or otherwise transfer or encumber all or any part of Lessee interest in this Lease or in the Site, without Lessor's prior written consent. Lessor shall respond to Lessee's request for consent thereunder in a timely manner and any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void, and shall constitute a breach of this Lease. Notwithstanding the foregoing, Lessee may assign or sublet the Site, or any portion thereof, with Lessor's consent, to any entity which controls, is controlled by, or is under the common control with Lessee, or to any entity resulting from any merger or consolidation with Lessee, or to any partner of Lessee or to any partnership in which Lessee is a general partner, or to any person or entity which acquires all of the assets of Lessee as a going concern, or to any entity which obtains a security interest in a substantial portion of Lessee's assets. Approval by the Lessor of an assignment or sublease shall not be unreasonably withheld. Any such assignment, subletting or transfer shall not relieve Lessee of its obligations under this Lease.

10.02 No Release of Lessee.

No subletting or assignment as approved by Lessor shall release Lessee of Lessee's obligation or alter the primary liability of Lessee to pay the rent and to perform all other obligations to be performed by Lessee hereunder. The acceptance of rent by Lessor from any other person shall not be deemed to be a waiver by Lessor of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting. In the event of default by any assignee of Lessee or any successor of Lessee in the performance of any of the terms hereof, Lessor may proceed directly against Lessee without the necessity of exhausting remedies against said assignee. Lessor may consent to subsequent assignments or subletting of this Lease or amendments or modifications to this Lease with assignees of Lessee, without notifying Lessee, or any successor of Lessee, and without obtaining Lessee's consent thereto and such action shall not relieve Lessee of liability under this Lease. If Lessor executes a new lease with new owners, then all future responsibility and liability of Lessee shall cease.

SECTION 11. DEFAULTS: REMEDIES.

11.01 Defaults.

The occurrence of any one or more of the following events shall constitute a material default or breach of this Lease by Lessee:

(a) The abandonment of the Site by Lessee as set forth under California Civil Code Section 1951.3.

(b) The failure by Lessee to make any payment of rent or any other payment required to be

made by Lessee hereunder, as and when due, where such failure shall continue for a period of thirty (30) business days after written notice thereof from Lessor to Lessee. In the event that Lessor serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes, such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph.

(c) The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease in any material respect to be observed or performed by Lessee, other than those described in Section 11.01 (b) above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Lessor to Lessee; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(d) (1) The making by Lessee of any general arrangement or assignment for the benefit of creditors;

(2) Lessee becomes a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days);

(3) The appointment of a trustee or receiver to take possession of all or substantially all of Lessee's assets located at or on the Site or of Lessee's interest in this Lease where possession is not restored to Lessee within thirty (30) days; or

(4) The attachment, execution or other judicial seizure of all or substantially all of Lessee's assets located at or on the Site or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days.

Provided, however, in the event that any provision of this Section 11.01(d) is contrary to any applicable law, such provision shall be of no force or effect.

11.02 Remedies.

In the event of any such material default or breach by Lessee, Lessor may at any time thereafter, with or without notice or demand and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such default or breach:

(a) Terminate Lessee's right to possession of the Site by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Site to Lessor. In such event Lessor shall be entitled to recover from Lessee all damages provided under California Civil Code Section 1951.2 incurred by Lessor by reason of Lessee's default including, but not limited to, the cost of recovering possession of the Site, reasonable attorneys' fees, the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided.

(b) Maintain Lessee's right to possession in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Site. In such event Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

(c) Pursue any other remedy now or hereafter available to Lessor under the laws or judicial decision of the State of California. Unpaid installments of rent and other unpaid monetary

obligations under the terms of this Lease shall bear interest from thirty (30) days following the date due at the maximum rate then allowable by law.

SECTION 12. LESSOR' S LIABILITY.

The term "Lessor" as used herein shall mean only the owner of the fee title of the Site at the time in question. In the event of any transfer of such title or interest Lessor herein named (and in case of any subsequent transfers then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Lessor's obligations thereafter to be performed, provided that any funds in the hands of Lessor at the time of such transfer, in which Lessee has an interest, shall be delivered to the grantee.

SECTION 13. INTEREST ON PAST-DUE OBLIGATIONS.

Except as expressly herein provided, any amount due to Lessor not paid when due shall bear interest from thirty (30) days following the date due at a Ten Percent (10%) annual rate.

SECTION 14. HOLDING OVER.

If Lessee remains in possession of the Site or any part thereof after the expiration of the term or option term hereof, such occupancy shall be a tenancy from month to month with all the obligations of this Lease applicable to the Lessee and at a monthly rental obligation of One Hundred Fifty Percent (150%) of the per month rental in effect at the time of expiration.

SECTION 15. LESSOR'S ACCESS.

Lessee's communications equipment is highly sensitive and is subject to federal requirements that any entry onto the Site which could damage or interfere with it must be controlled. Accordingly, although Lessor may have a key to the Site, Lessor shall not enter the Site (other than in an emergency) unless it has given Lessee twenty-four (24) hours actual notice. In case of emergency, Lessor shall make reasonable efforts to notify Lessee prior to entering the Site.

SECTION 16. QUIET POSSESSION.

Upon Lessee paying the rent for the Site and observing and performing all of the covenants, conditions and provisions on Lessee's part to be observed and performed hereunder, Lessee shall have quiet possession of the Site for the entire term hereof subject to all of the provisions of this Lease. The individuals executing this Lease on behalf of Lessor represent and warrant to Lessee that they have legal right to possession of the Site and are fully authorized and legally capable of executing this Lease on behalf of Lessor and that such execution is binding upon all parties holding an ownership interest in the Site.

SECTION 17. EASEMENTS.

Lessor reserves to itself the right, from time to time, to grant such easements, rights and dedications that Lessor deems necessary or desirable, and to cause the recordation of Parcel Maps and restrictions, so long as such easements, rights, dedications, Maps and restrictions do not interfere with the use of the Site by Lessee. Lessee shall sign any such document upon request of Lessor.

SECTION 18. WARRANTIES AND COVENANTS OF LESSOR.

Lessor warrants and covenants that (a) Lessor shall make available to Lessee at the Site, all presently existing utility services required by Lessee for purposes of the operation of Lessee's equipment at the Site, provided that Lessee may at its own expense (or Lessor may, if Lessee so requests, at Lessee's expense), install any and all additional utilities service facilities which are so required; (b) Lessor shall, during the term hereof, make payment of all real property taxes and special assessments, as applied to all properties within the area, levied against the Site which it has the duty to pay within the time allowed by the taxing authorities

in order to avoid penalty, and Lessee shall compensate Lessor for any real property taxes attributable to the value of Lessee's improvements on the Site, following written notice from Lessor of the amount due, (which payment shall be made by Lessee to Lessor at least ten (10) days prior to the date when due to the taxing authority without penalty); and (c) subject to Lessee's obligation under the terms and conditions of Section 4.03, Lessee shall have access to the Site at all times and all access road and security gates shall be operational.

SECTION 19. GENERAL PROVISIONS.

19.01 Severability.

The invalidity of any provision of this Lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19.02 Time of Essence.

Time is of the essence of this Lease.

19.03 Additional Rent.

Any monetary obligations of Lessee to Lessor under the terms of this Lease shall be deemed to be rent and all references herein to "rent" shall be deemed to include the minimum rent and all other sums paid or payable by Lessee to Lessor hereunder.

19.04 Entire Agreement.

This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification. Except as otherwise stated in this Lease, Lessee hereby acknowledges that neither the Lessor nor any employees or agents of the Lessor has made any oral or written warranties or representations to Lessee relative to the condition or use by Lessee of said Site and Lessee acknowledges that Lessee assumes all responsibility regarding the Occupational Safety and Health Act, the legal use and adaptability of the Site and compliance with all applicable laws and regulations in effect during the term of this Lease.

19.05 Notices.

Any notice required or permitted to be given hereunder, including a Notice to Pay Rent or Quit, or Notice to Terminate, shall be in writing and may be given by personal delivery or by certified mail, and if given personally or by mail, shall be deemed sufficiently given if addressed to Lessee or to Lessor at the address noted below:

Lessor: City of Trinidad
P.O. Box 390
Trinidad, CA. 95570

Lessee: Cal-One Cellular L.P. D.B.A. Cal-North Cellular
11918 Main Street
P. O. Box 627
Fort Jones, CA 96032

Each notice shall specify the paragraph of this Lease, if any, pursuant or with reference to which it is given. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to Lessor hereunder shall be concurrently transmitted to such party or

parties at such addresses as Lessor may from time to time hereafter designate by notice to Lessee. Notice given under this section shall be deemed in compliance with applicable statutory notice requirements, including Code of Civil Procedure Section 1162 and Civil Code Section 1953.

The following information is informational only and may be changed in the manner described above for altering mailing addresses:

Lessor: Contact: City of Trinidad (707) 677-0223

Lessee: Contact: James G. Hendricks (916) 468-5222

19.06 Waivers.

No waiver by Lessor or Lessee of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Lessor or Lessee of the same or any other provision. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to or approval of any subsequent act by Lessee. The acceptance of rent hereunder by Lessor shall not be a waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

19.07 Cumulative Remedies.

No remedy or election under this Lease shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

19.08 Binding Effect Choice of Law.

Subject to any provisions hereof restricting assignment or subletting by Lessee and subject to the provisions of Section 12, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California applicable to leases entered into, and to be wholly performed, within the State. The language of all parts of this Lease shall be construed with its fair meaning and not strictly for or against the Lessor or Lessee.

19.09 Conditions to Effectiveness of Lease.

The approval of the Trinidad City Council constitutes an express condition precedent to the effectiveness of this Lease. The City Council resolution approving this Lease shall be attached hereto as Exhibit E.

19.10 Attorneys' Fees.

If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorneys' fees and court costs to be paid by the losing party.

19.11 Consent.

Whenever under this lease the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed and all such determinations shall be made on a reasonable basis and in a reasonable manner.

19.12 Authority.

Each individual executing this Lease on behalf of Lessee and Lessor represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said Party.

19.13 Captions.

The captions used herein are for convenience only and are not a part of this Lease and do not in any way amplify the terms or provisions hereof.

19.14 Protections Against Interference.

Lessee's operations shall not interfere with Lessor's present communications uses of their property. Lessor will not grant a lease to any party for use of their property if such use would interfere with Lessee's operation of the communications facility. Any future sub-lease of the Site which permits the installation of communication equipment shall be conditioned upon not interfering with Lessee's operation of the communications facility. Subject to Lessor's rights under Section 4.04 (which Section 4.04 supersedes this Section with respect to interference with Lessor's essential municipal services) and Lessee's rights under Section 7.02 (b), in the event either party experiences radio frequency interference to their operations (operated within FCC Rules), caused by the operations of the other party, the party experiencing the interference shall notify the other party in writing (which writing shall include the opinion of a qualified electrical engineer stating the nature of the interference) and the other party shall commence to cure such interference within five (5) days receipt of such notice and shall diligently prosecute that cure to completion. If the interference has not ceased within sixty (60) days of the initial notice, the interfering party shall cease the interfering operations until the interference is resolved. Both parties shall work diligently in good faith to resolve any such interference problem quickly and cost effectively.

SECTION 20. FURTHER ASSURANCES.

In addition to the actions specifically mentioned in this Lease, the parties shall each do whatever may be reasonably necessary to accomplish the transactions contemplated in this Agreement including, without limitation, execution of a Notice of the Lease hereof in form appropriate for recording in the county in which the Site is situated.

IN WITNESS THEREOF, the parties hereto have executed this Lease at the place and on the dates specified immediately adjacent to their respective signatures.

LESSEE
By_____
James G. Hendricks, General Manager
Cal-One Cellular L.P. D.B.A. Cal-North Cellular

LESSOR
By
Mayor
City of Trinidad

SECTION 21. EXHIBITS

Exhibit A: Map of the Site
Exhibit A1: Tower and Building Profile
Exhibit B: Certified Minutes of City Council Meeting Approving Lease

CAL NORTH CELLULAR

December 15, 2005

City of Trinidad
P.O. Box 390
Trinidad, CA 95570

RECEIVED

DEC 19 2005

City of Trinidad

Re: Location: Trinidad Head
Lease dated August 1, 1997

Gentlemen and Ladies:

In a detailed review of our real property interests we have discovered that we do not have an executed Memorandum of Lease for the Trinidad Head Site.

To complete our documentation for this location, we have prepared and enclose two counterparts of a Memorandum of Lease Agreement, both of which have been executed and acknowledged on behalf of Cal-One Cellular L.P.

We ask that you have both counterparts executed and have the signatures notarized. Also, please sign on the "owner" line beneath the statement that no documentary transfer tax is due. Please retain one counterpart for your records and return the other to us in the enclosed self-addressed and stamped envelope.

If you have any questions concerning this request or the enclosed documents, please don't hesitate to telephone me at the direct-dial number shown below my name.

Thank you for your assistance in this matter.

Sincerely,

James T. Lowers
For Cal-One Cellular, a California corporation
General Partner of Cal-One Cellular L.P.
(530) 467-6171

Enclosures

Recording requested by and
when recorded mail to:

Cal-One Cellular L. P.
P.O. Box 627
Fort Jones, CA 96032

Documentary Transfer Tax $ None

By _____ Owner

SIGN HERE

Site Name: Trinidad Head

MEMORANDUM OF LEASE AGREEMENT

THIS MEMORANDUM OF LEASE AGREEMENT evidences that a Lease was made and entered into by written Lease as of August 1, 1997 (the "Lease Agreement"), by and between City of Trinidad ("Owner"), and Cal-One Cellular L.P., a California limited partnership ("Cal-One").

The parties hereto agree as follows:

1. Owner leases to Cal-One that certain site located in the City of Trinidad, County of Humboldt, State of California, more particularly described in Exhibit A attached hereto, and grants Cal-One an easement to use common areas for ingress and egress and to install and maintain utility services, for a term of twenty (20) years and thereafter year-to-year until terminated by either party, commencing on September 1, 1997. The other terms and conditions of the Lease Agreement are incorporated herein by reference.

IN WITNESS WHEREOF, Owner and Cal-One have caused this Memorandum of Lease Agreement to be executed by their respective duly-authorized representatives.

Owner:
City of Trinidad

By: _____

_____
Name and Title

Date: _____

Cal-One:
Cal-One Cellular L.P.
By: Cal-One Cellular, a California corporation
Its General Partner

SIGN HERE

By: Jeanne V. Smith
Jeanne Smith, VP-Operations

Date: 12.15.05

(1 of 7)

ACKNOWLEDGMENTS

STATE OF CALIFORNIA)
) SS.
COUNTY OF _____)

On _____, 2005, before me, _____, a notary public in and for said state, personally appeared _____ _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL] _____

STATE OF CALIFORNIA)
) SS.
COUNTY OF SISKIYOU)

On DECEMBER 14, 2005, before me, DUANE E. STACHER, a notary public in and for said state, personally appeared **VEANNE SMITH**, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the entity upon behalf of which the person acted executed the instrument.

WITNESS my hand and official seal.

[SEAL]

DUANE E. STACHER
Commission # 1372284
Notary Public - California
Siskiyou County
My Comm. Expires Sep 26, 2006

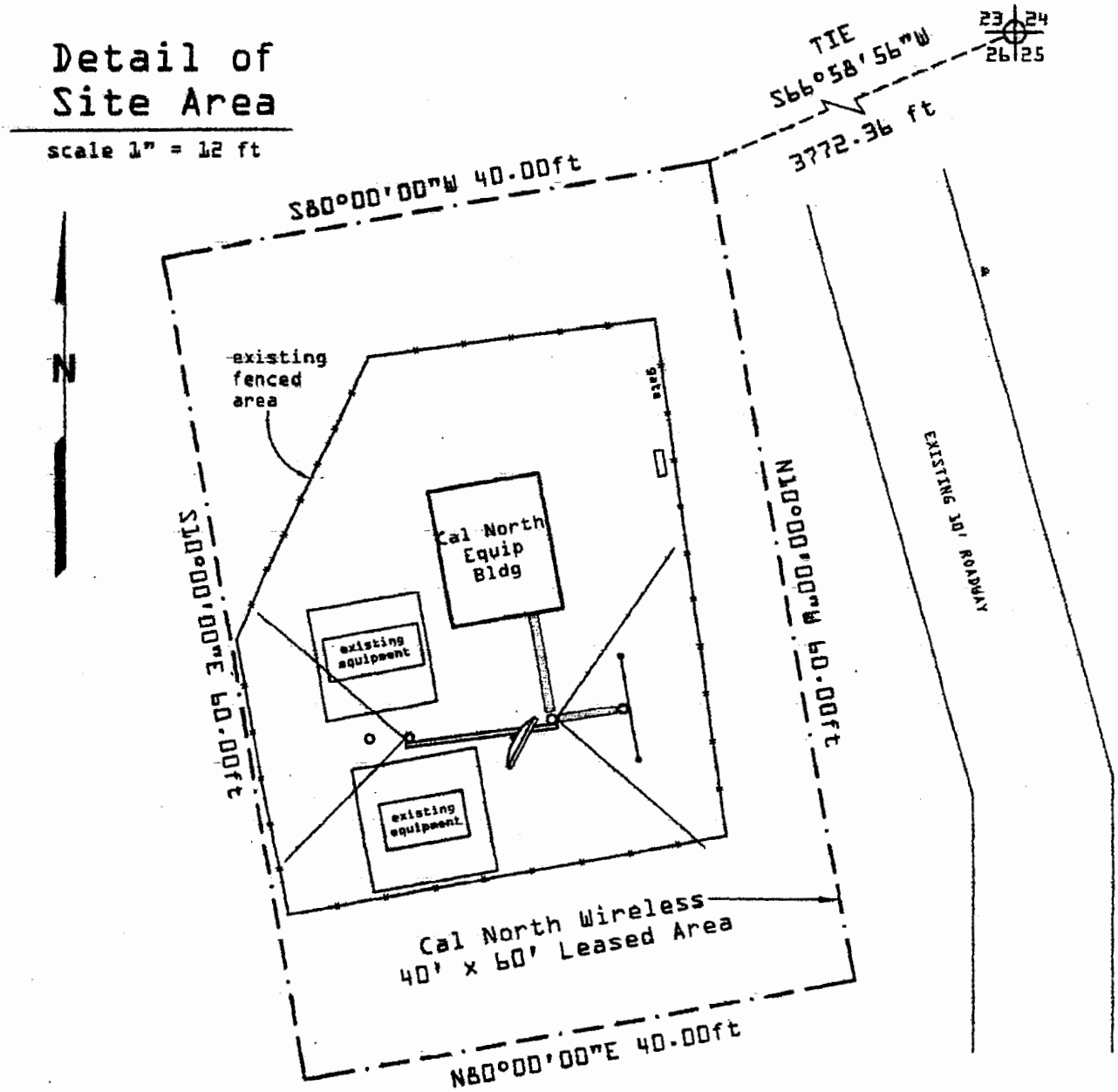
Duane E Stacher

Exhibit A
Legal Description of Trinidad Head Site

That certain property located in the
City of Trinidad, County of Humboldt, State of California,
located in
NW1/4 of the SE1/4 of the NW1/4 of Section 26,
more particularly described as:
From the northeast section corner of Section 26,
T08N, R01W, H.M., S66°58'56"W 3772.36 ft
to the point of beginning
thence S80°00'00"W 40.00ft
thence S10°00'00"E 60.00ft
thence N80°00'00"E 40.00ft
thence N10°00'00"W 60.00ft
and back to the point of beginning.
Humboldt County Assessor Parcel 042-121-020

Detail of Site Area

scale 1" = 12 ft



CAL NORTH
CELLULAR

July 8, 2000

City of Trinidad
P.O. Box 390
Trinidad, CA 95570

Re: Lease Payments
Trinidad

In reviewing our ground lease contract it has come to my attention that the Consumer Price Index (CPI) adjustments have been overlooked. Enclosed please find a summary sheet detailing the actual amounts owed versus the actual amounts paid, along with a check for the difference. I would like to apologize for any inconvenience this may have caused you. If you have any questions, please feel free to call me at (530)467-6123.

Sincerely,

Jim G. Hendricks
General Manager

Enc.

(170)

Cal-North Lease Payment History

TRINIDAD
City Of Trinidad
P.O. Box 390
Trinidad, CA 95570

Period	Owed	Paid	Due
08/01/1998 - 07/31/1999 (12 months)	254.20/Mo. 3050.40	250.00/Mo. 3000.00	50.40
08/01/1999 - 07/31/2000 (12 months)	259.18/Mo. 3110.16	250.00/Mo. 3000.00	110.16
		TOTAL DUE:	$160.56

Current rate of $259.18/Mo. to be paid through 07/31/2000.

Date of First CPI adjustment = 8-1-98

∴ Date of First payment on Trinidad Head site = 8-1-97

Cal North Cellular Lease Payment History

Date of Deposit	Payment Amount	Explanation
7/3/98	$250.00	July 1998 rent
8/4/98	$250.00	August 1998 rent
9/11/98	$250.00	September 1998 rent
10/5/98	$250.00	October 1998 rent
11/10/98	$250.00	November 1998 rent
12/14/98	$250.00	December 1998 rent
1/8/99	$250.00	January 1999 rent
2/18/99	$250.00	February 1999 rent
3/12/99	$250.00	March 1999 rent
4/7/99	$250.00	April 1999 rent
5/10/99	$250.00	May 1999 rent
6/4/99	$250.00	June 1999 rent
7/6/99	$250.00	July 1999 rent
8/12/99	$250.00	August 1999 rent
9/13/99	$250.00	September 1999 rent
10/8/99	$250.00	October 1999 rent
11/9/99	$250.00	November 1999 rent
12/9/99	$250.00	December 1999 rent
1/4/00	$250.00	January 2000 rent
2/3/00	$250.00	February 2000 rent
3/2/00	$250.00	March 2000 rent
4/4/00	$250.00	April 2000 rent *
5/3/00	$250.00	May 2000 rent
6/9/00	$250.00	June 2000 rent
7/6/00	$250.00	July 2000 rent
724/00	$160.56*	Rent true up
8/3/00	$259.18	August 2000 rent
9/13/00	$278.20	September 2000 rent ($268.69) Rent true up ($9.51)
10/4/00	$268.69	October 2000 rent
11/8/00	$268.69	November 2000 rent

* Letter of July 8th details consumer price index (CPI) adjustments.
Difference calculated in two amounts: $50.40 (8/1/98 - 7/31/99)
and $110.16 (8/1/99 - 7/31/2000) paid in one check.

CAL NORTH CELLULAR

November 7, 2000

Mayor and City Council
City of Trinidad
P.O. Box 390
Trinidad, California 95570

Re: Cellular Facility
Trinidad Head

Dear Honorable Mayor and Council:

Attached are copies of photographs taken of the Cellular site captioned above.

Photo number (1) one shows the existing pole with our Cellular antennas and the proposed installation of two PCS Cellular antennas on the same pole.

Photo number (2) two is the same photo except a new pole with antennas is shown attached to the existing wooden structure supporting the microwave dish.

Photo number (3) three is a close up view of the existing antenna array with the two PCS antennas attached to the mounting frame.

Photo number (4) four is a close up view of how the PCS antennas would look if they were attached to a new pole as shown in picture number two.

The preferable alternative would be to locate a new pole and install the PCS separate from the existing Cellular antennas.

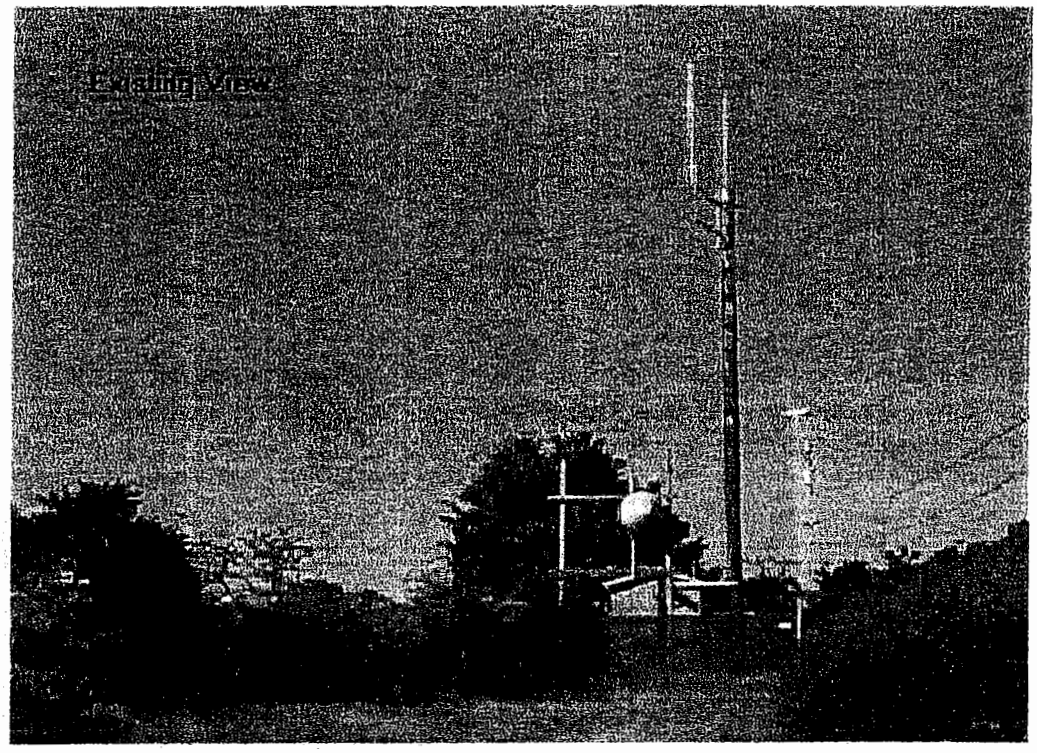
Thank you for the opportunity to submit this information.

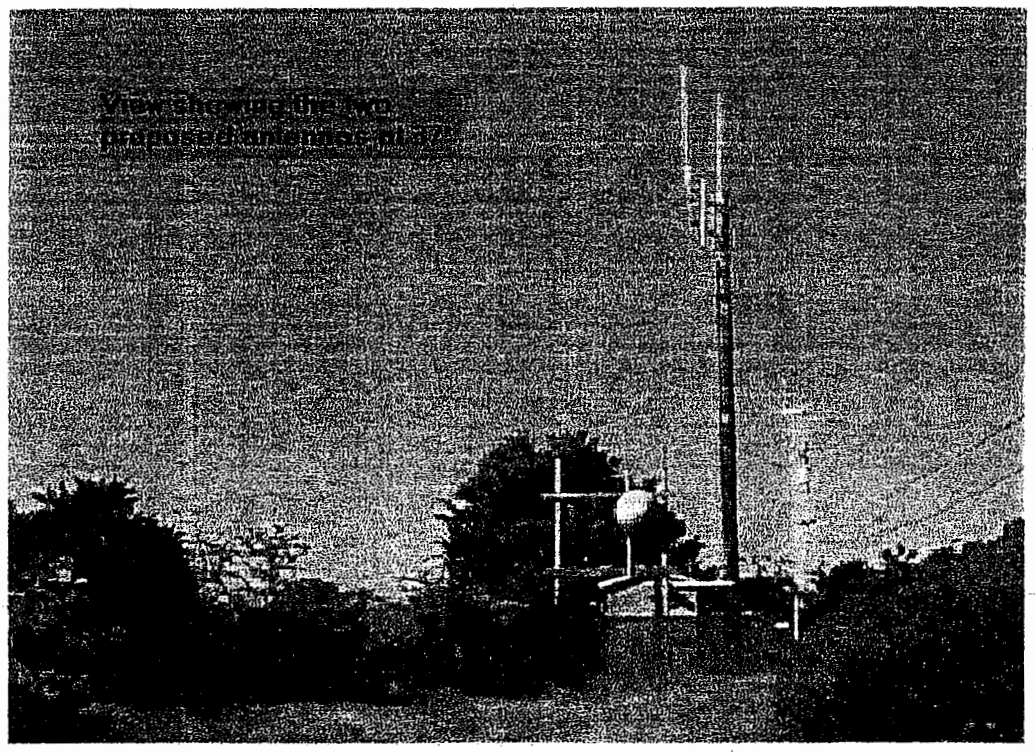
Respectfully,

Thomas J. McMurray Jr.
for Cal North Cellular

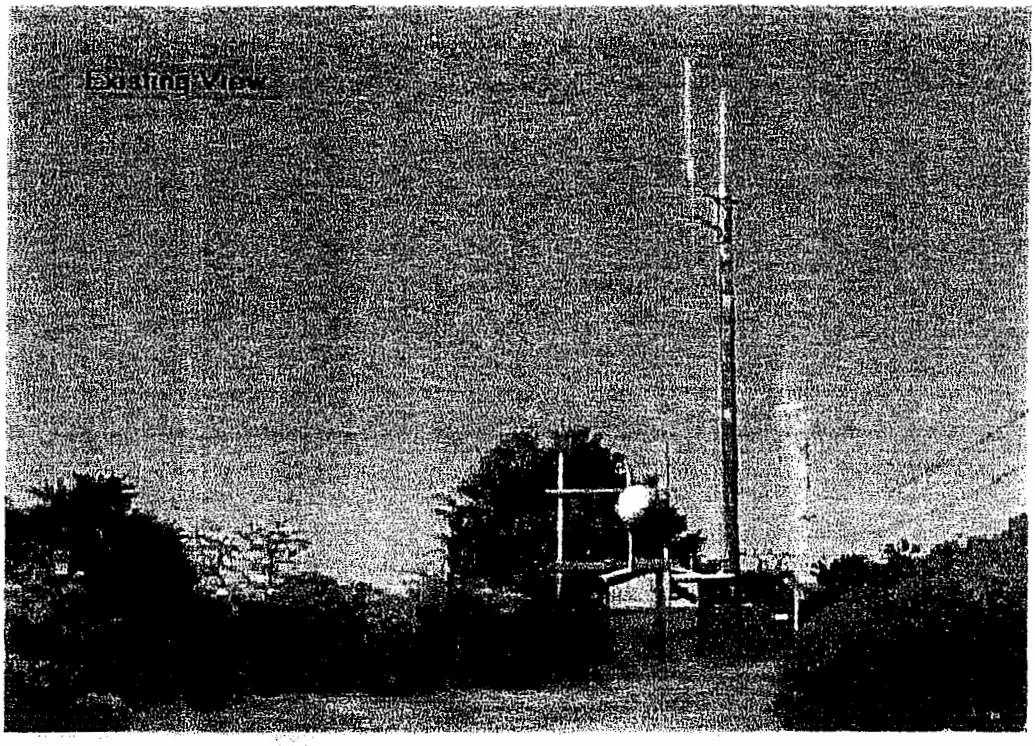
TJM/tjm

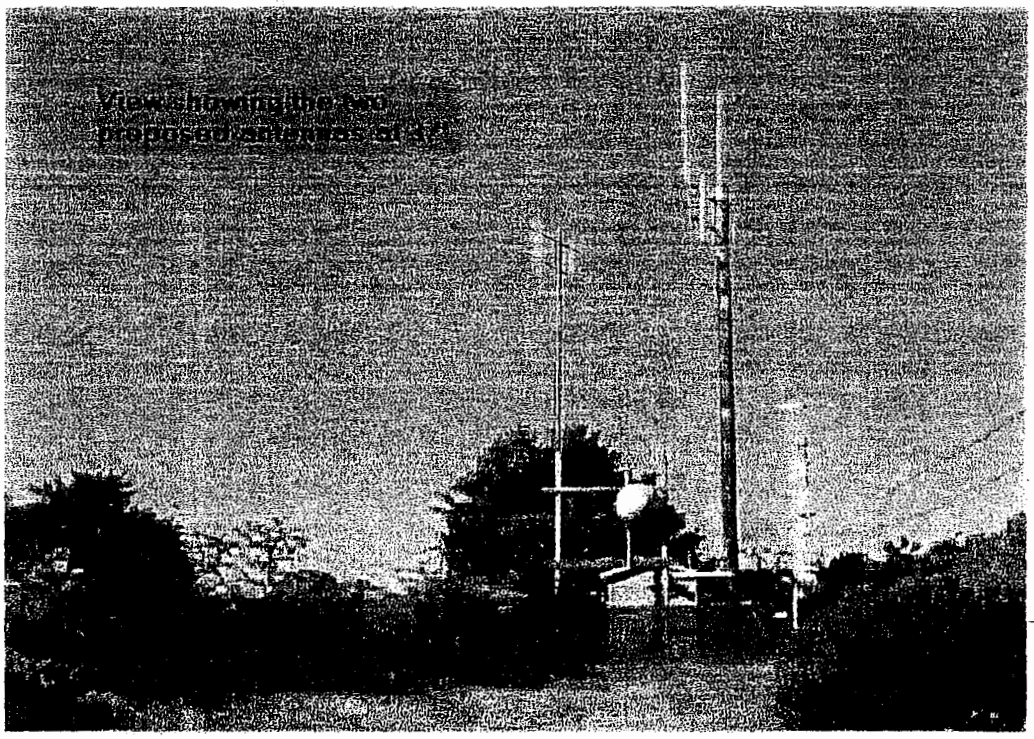
P.O. Box 1032 • Eureka, CA 95502-1032 • 707 499-0901 • FAX 707 442-9499
www.calnorth.net



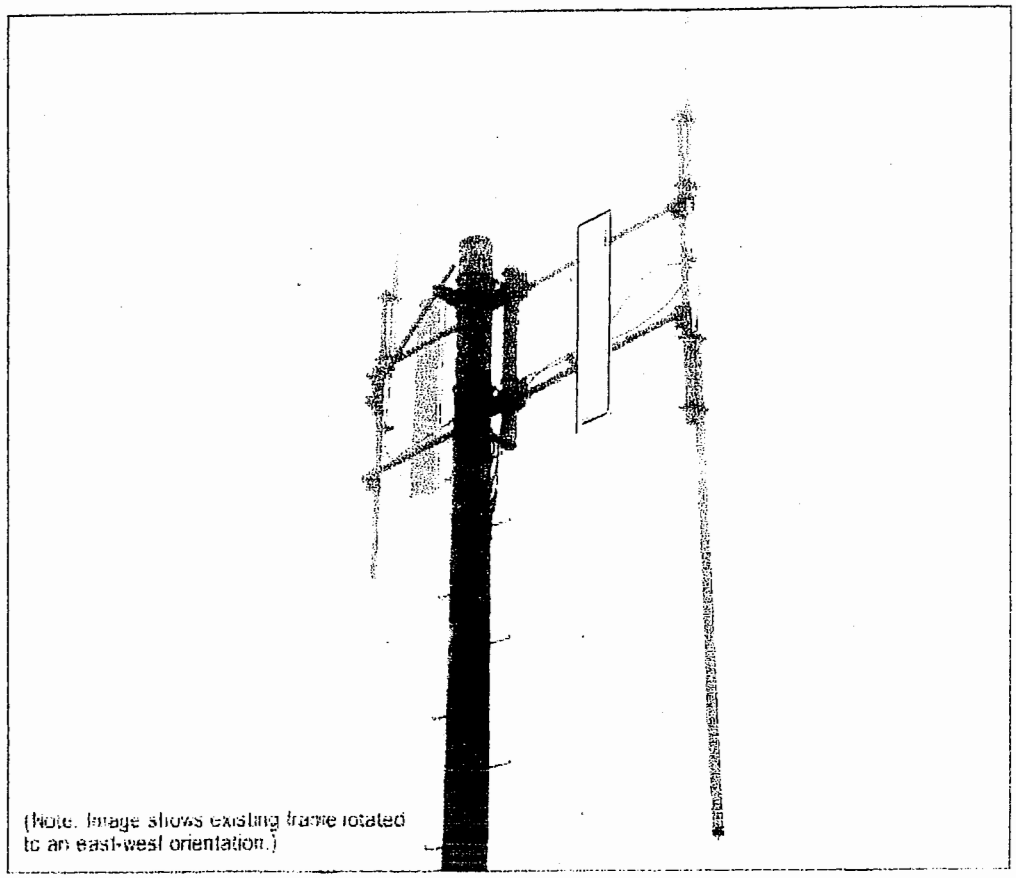


Looking North towards Cal North site from access Driveway at approximately 60' away





Looking North towards Cal North site from access Driveway at approximately 60' away



Proposed PCS Antennas
on Cal North Tower at Trinidad Head CA