

(Note: Image shows existing frame rotated to an east-west orientation.)

Proposed PCS Antennas  
on Cal North Tower at Trinidad Head CA

Application # \_\_\_\_\_

Application to the City of Trinidad  
to be completed by applicant

1. Type of Application (check one):

Use Permit	<input checked="" type="checkbox"/>	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  
Phone (707) 677-0223

3. Name of applicant/agent (if different) Cal North Cellular  
Agent: Thomas J. McMurray Jr.  
P.O. Box 1032  
Eureka, CA, 95502  
(707) 499-0901 FAX 442-8499  
Mailing Address P.O. Box 627 Fort Jones, CA, 96032-0627  
Phone (530)468-3140

4. Site location: AP# 042-121-05  
Street address \_\_\_\_\_

5. Project Proposal: The installation of a 50 ft. wood pole, 2 sets of Cellular Panel Antennas 56" x 12" x 4 " prox. One concrete slab 10 ft. x 10 ft. prox. with outdoor transmission cabinet of 34" x 96" x 72" One outdoor cabinet 48" x 48" x 48" prox. on existing slab. No new electrical drops are required. No new fencing.  
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 J. McMurray Jr.  
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 \$ \_\_\_\_\_  
Account \_\_\_\_\_

Received by \_\_\_\_\_  
City of Trinidad

\_\_\_\_\_  
Date

FIVE



November 20, 2000

Ms. Allison Miller, City of Trinidad  
P.O. Box 390  
Trinidad, California 95570

Re: Cellular Facility, Trinidad Head

Dear Ms. Miller:

Enclosed are the following documents in regard to the above captioned expansion project:

- 1. Application for a Use Permit
- 2. Site Plan and Elevation prepared by Ontiveros and Associates showing the new pole with two new Cellular users, new concrete slab with outdoor communication cabinet and a second cabinet on the existing concrete slab. Please note that there will be no new overhead power lines to the site. Also, I have enclosed two envelopes for the public notice.
- 3. Colored copies of photos taken at the site:
  - a. Photo 1 (one) shows panel antennas for one user on the existing Cal North pole.
  - b. Photo number (2) shows the existing site with a simulated drawing of the new pole with two Cellular users.
  - c. Photo number 3 (three) of two panel antennas mounted on our existing pole and antenna array.
  - d. Photo number 4 (four) of two panel antennas mounted on a new pole.
  - e. Photo number 5 (five) showing a typical pole mounting arrangement for panels.



Your fee for \$ 280.00 for this application will be mailed to you as soon as I receive it from the main office. You should have it this week.

Respectfully,

*Thomas J. McMurray Jr.*  
Thomas J. McMurray Jr.  
for Cal North Cellular

cc: Mr. Jim Hendricks, CEO  
Cal North Cellular

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## STAFF REPORT

**APPLICATION #:** 2000/09  
**APPLICANT:** Cal-North Cellular  
**AGENT:** Thomas McMurray  
**PROPERTY OWNER:** City of Trinidad

### **PROJECT DESCRIPTION:**

Use Permit and Design Review for the installation of a 50' wood pole, 2 sets of Cellular Panel Antennas 56" x 12" x 4" prox. One concrete slab 10' x 10' prox. with outdoor transmission cabinet of 34" x 96" x 72". One outdoor cabinet 48" x 48" x 48" prox. on existing slab. No new electrical drops are required. No new fencing. This project is located within and adjacent to an existing communications facility.

**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:** 20 November 2000

### **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. There is an existing site that was developed by Cal-North in 1997, that currently operates a 41' pole and a 21' pole.

**STAFF COMMENTS:**

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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.

The applicant submitted application information and site plans on 20 November 2000, describing the proposed project as well as the existing improvements.

**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:
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. It is proposed to require landscaping along the southern fence since it is 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 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 with the following conditions. 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.*

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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 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, spacing, and maintenance agreement.
6. The Planning Commission acknowledges that technology may change; therefore, to allow for flexibility, has approved the future addition of a microwave parabolic antenna to the existing wooden frame.

2. Approval for City Clerk to organize and to do away with duplicate and outdated City Files and to prepare files for off-site storage.
3. Introduction of Ordinance 2000-03 amending Municipal Code 2.16. Conflict of Interest Code, consent to read by title only and waive reading of text.
4. Approval to close City Hall Friday, November 24, 2000, day after Thanksgiving.

City Council  
Found in 12-7-2000  
agenda

Lin moved to approve the Consent Agenda as read. Motion passed unanimously. *minutes*

*Minutes of NOV 9th 2000*

*Planning Com  
for 12-13-00  
5:00 PM*

XI. **AGENDA ITEMS**

1. Discussion/Decision Regarding the Cal North Cellular proposal to add a new communications antenna to the Trinidad Head. (Heyenga, Tom McMurray)

Heyenga read the Cal North letter, dated June 15, 2000, informing the City that another Cellular carrier wanted to place their antenna on Cal North's existing pole, located on the Trinidad Head. He felt Council should discuss the issue to determine if it proceeds on to design review. Heyenga requested staff recommendations.

Diamond reported that this item might require Coastal Commission and/or Planning Commission design review. She noted that if Council allowed the project to continue the item might require a two (2) step process, first a Land Use design review and secondly a review of the City's existing lease with Cal North.

Cal North representative, Tom McMurray, presented the Council with a packet containing printed photographs, illustrating the existing installations and the two proposals, which the Council reviewed. Council asked why Cal North would represent a competitor's inquiry. McMurray said the FCC required this level of cooperation with competitors. Heyenga asked if the City could expect more future inquiries for additional services on the head. McMurray said yes and offered to help the City manage these requests. He noted that Cal North was charging the competing company \$1,100.00 per month to sub-lease this facility and offered the City of Trinidad a 30% share of the fee, similar to the arrangement Cal North had with the City of Fortuna.

From the audience, Planning Commissioner Odom expressed offense to hearing this item at tonight's Council meeting instead of being directed through the design review process first. Heyenga directed that the issue be reviewed at next week's Planning Commission meeting. Huff recommended that at the same time Council should look at comparative leases and volunteered himself with staff assistance. No further Council action was taken.

2. Discussion/Decision Regarding Frame encroachment permit application for geotechnical testing on Old Wagon Road Trail. (Heyenga, Diamond)

Diamond introduced Roland Johnson of SHN Engineering Consultants as the City's consultant to bluff related issues, including the Frame v. City of Trinidad lawsuit settled in the 1994 stipulated agreement. The City received an encroachment permit application from Frame to continue its geotechnical testing on the Old Wagon Road Trail. Council

12-13-00  
City Council

**X. CONSENT AGENDA**

1. Resolution 2000-10 by the City of Trinidad to approve the Fiscal Year 00/01 Cooperative Fire Protection Services Agreement and authorize the Mayor to sign the required six copies.
2. Adopt Ordinance 2000-03 amending Municipal Code 2.16, Conflict of Interest Code, and consent to read by title only and waive reading of text.
3. Appoint Terry Huff/Finance Committee to review monthly bank statements.

Heyenga read the Consent Agenda Items aloud. Lin moved to approve the Consent Agenda as written. Unanimously approved.

**XI. AGENDA ITEMS**

12-13-00  
minutes

1. Discussion/Decision Regarding the Vacancy on the City Council.  
Heyenga reported that the City received one applicant for the vacancy on the City Council. Marian Bartlett was introduced and provided a brief background of her experiences and interests. Huff asked her if she was aware of the time required to perform well as a council member and a commissioner. Ms. Bartlett said she had a very flexible schedule as an HSU teacher and was prepared to do what was required. Lin nominated Ms. Bartlett to fill the vacancy on the City Council. The motion passed unanimously. The City Clerk administered the oath of office and Council Member Bartlett took her seat at the Council table.

2. Discussion/Decision Regarding the Cal North Cellular lease and proposal to add a new communications antenna to the Trinidad Head. (Heyenga, Tom McMurray)

Heyenga reported the Planning Commission had reviewed the item earlier that day and grappled with the issue of future use of antennas on the Trinidad Head. Tom McMurray reported it was Cal North's proposal to install a 50' pole with two antennas and transmission cabinets on the grounds within the currently fenced area. He added that the Planning Commission had imposed landscape conditions to the present site. McMurray then proposed to share 30% of the revenues Cal North would receive with the new antennas. Huff felt the Council should rewrite the sub lease section with the Cal North Lease Agreement to reflect the proposed revenue. Council reviewed portions of the lease. Lin moved to appoint Huff and City Attorney Diamond to negotiate with Cal North to update the sub lease provisions and amend the lease termination concerns. Motion was seconded and passed - 4 ayes, 1 abstention.

3. Discussion/Decision Regarding Final Progress Pay Estimate #3 for Scenic Drive Contractor. (McHaney)

McHaney referred to his memo of 12-08-00 and summarized the action requested of the Council. Heyenga moved to authorize the payment to Clemens Construction as requested. Motion was seconded and passed - 4 ayes, 1 abstention.

**MINUTES OF THE 13 DECEMBER 2000  
TRINIDAD PLANNING COMMISSION MEETING**

I. ROLL CALL

The meeting was called to order at 7:32 PM. Commissioners in attendance were Heyenga (Council Member), Blue, Snell, and Odom. Commissioners absent were Beuche and Golledge-Rotwein. Staff present were Brown and Miller.

II. APPROVAL OF MINUTES

The minutes were amended with regards to the Council Liaison statements on bike racks that were purchased, not installed. Also amended was a statement regarding the Beresford issue, which was forwarded to the California Coastal Commission. Snell made a motion to approve the minutes as amended. Odom seconded. All in Favor.

III. APPROVAL OF AGENDA

Blue made a motion to approve the agenda as submitted. Odom seconded. All in Favor.

IV. ITEMS FROM THE FLOOR

There were no items from the floor.

V. AGENDA ITEMS

**DESIGN REVIEW DISCUSSION / ACTION**

- 1) CalNorth Cellular/2000-09- AP # 042-121-21. Design Review for the installation of a 50' wood pole, 2 sets of Cellular Panel Antennas 56" x 12" x 4" prox. One concrete slab 10' x 10' prox. with outdoor transmission cabinet of 34" x 96" x 72". One outdoor cabinet 48" x 48" x 48" prox. on existing slab. No new electrical drops are required. No new fencing. This project is located within and adjacent to an existing communications facility.

Brown reviewed the staff report, noting that it included one site plan plus stimulated pictures of the site. Tom McMurray was asked to comment on the project. He stated that the project involved no grading, no changes in the fence line, does not alter the view shed, and is allowed under the current lease agreement with the City.

Odom asked about any future plans involving the site, and the possibility of changing technology necessitating other installations of communications equipment. McMurray responded that there could be a future need for two more

panels, which would be installed on the existing poles, and would be able to fit within the perimeters of the existing space. He stated that there is not enough demand for any more services than those that could be accommodated by the proposed facilities.

Snell raised the issue of the possible health effects of radio transmission waves. McMurray responded that the FCC has an allowable level of radio waves, and the station on the Trinidad Head will operate at 6% of those allowable limits, therefore causing no health effects. McMurray also stated that there are no adverse effects for people recreating on the Head trails, because the station is also operating under the allowable limits for personal exposure in proximity.

Brown summarized the staff recommendations, which recommended the project for design review approval. Brown stated that because the station is located within a zone designated Open Space, all structures also require a use permit, which is therefore also a part of the design review approval process. He explained the vegetation replacement requirements, and the importance of native vegetation. Blue asked about any adverse impacts, to which Brown responded that there are none.

Lastly, McMurray stated that in the future, an additional dish of 2-3' in size might be necessary to improve transmission signal technologies, located on the existing wooden structure. Heyenga suggested the addition of a sixth design review recommendation: The Planning Commission acknowledges that technology may change; therefore, to allow for flexibility, has approved the future addition of a microwave parabolic antenna to the existing wooden frame.

Heyenga made a motion to approve the CalNorth Project with the design review and use permit findings, staff recommendations, and the addition of the aforementioned staff recommendation number six. Odom seconded. All in Favor.

#### PLANNING COMMISSION DISCUSSION / ACTION

1) City Logo.

This item was forwarded to the next regular Planning Commission meeting.

2) General Plan Update.

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## Antenna rental rates and leases

To The Trinidad City Council

*The current offer is fair and seems to be consistent with industry standards. The City Attorney was involved in the negotiations throughout the process and the planning commission was consulted.*

The rates and pricing were based on the previously submitted Fact and observations. My principal concern has been the fairness of the offer and the terms of the lease. The Planning commission resolved the aesthetics issue.

1. The BLM and Forest Service apparently share a common schedule for antenna rents. The BLM would use the \$2828/yr (\$235/mo) rate on there schedule. They apparently use a 25% figure for sub-leases.  
*The offer from Cal North is better than these rates.*
2. Caltrans  
Caltrans uses a license agreement as opposed to a lease agreement. The fee is paid annually and is set at a minimum of \$9,900 (\$824/mo) (One pole with up to three antennas)  
*The offer from Cal North is better than these rates, in that we will receive \$1030/mo for three antennas.*
3. Fortuna  
Fortuna receives \$350 per month plus CPI  
Their new agreement for sub-leases is set at 30%  
They reference the US Forest Service for market rates.  
*The percentage offer from Cal North is the same as these rates except they started with a higher base rate (\$350 vs. \$250). This portion of the lease was approved by a prior council. It is also assumed that they are also a larger market and have more value.*
4. Bay area organization of Cities  
They have set up there own market standards that include \$1500 per month leases. They also have a more liberal 7% max CPI increase.  
*This is a substantially larger market than ours and cannot be compared directly.*
5. Mid-America Towers  
They build towers and antennas in the mid-west and then lease to the telecom companies. The owner said that a lease should be for no less than \$1000/mo and the City should receive 20%

Terry D. Huff

12-10-2000

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*We are slightly more than the \$1000 per month and higher on the percentage of sub-lease return.*

6. There are several potential companies in the future.  
Nextus, Sprint, AT&T, Newcom, Verizon, GTE ---  
*We should think to the future.*
  
7. Trinidad does not seem to have a lock on the market. These companies could locate on Simpson Property.  
*We are not in the strongest negotiating position.*
  
8. Several documents note that the lease agreements offered by some Telecom Companies are one sided and obviously favor themselves. In particular:  
License agreement may be better than a lease agreement.  
*It is too late to change the base agreement.*  
Need for a detailed list of equipment and improvements.  
*We have a detailed list.*  
Restrictions on assignment and subletting.  
*We have restrictions on assignment and subletting.*  
Hazardous materials  
*We have had and now strengthened the restrictions on hazardous waste.*

*The current offer is fair and seems to be consistent with industry standards. The City Attorney was involved in the negotiations throughout the process and the planning commission was consulted.*

Respectfully Submitted

Terry D. Huff

## AMENDMENT TO GROUND LEASE

**THIS IS AN AMENDMENT** (herein "the Amendment") entered into by and between the City of Trinidad (herein "Lessor") and Cal-One Cellular L.P. D.B.A. Cal-North Cellular (herein "Lessee") amending that specific agreement dated April 17, 1997, entitled "Ground Lease" (herein "Ground Lease"). This Amendment to the Ground Lease is effective January 1, 2001.

**NOW THEREFORE**, in consideration of the mutual covenants, conditions and agreements herein to be performed, the parties agree as follows:

1. **Ratification of Lease.** All of the terms and conditions of the Lease are ratified in their entirety except to the extent inconsistent to the terms and provisions of this Amendment. In the event of such inconsistency, this Amendment shall control.

2. **Amendments to Section 10, Assignment and Subletting.** Section 10.3, "Approval of Specific Subleases" is hereby added to Section 10 as follows:

### 10.3 Approval of Specific Subleases

- (a) Lessor hereby consents to a sublease by Lessee to Ubiquitel Leasing Company, LCC, a Delaware Corporation, (herein the "Ubiquitel Sublessee") consisting of approximately 60 square feet of ground space on the premises to locate an approximate 4' x 4' equipment cabinet or cabinets on an existing 8 ft. x 8 ft. concrete slab adjacent to a new telephone pole, and additionally space on said telephone pole to attach receiving and transmitting equipment along with utility cabling and other necessary appurtenances. The equipment to be placed on the telephone pole and adjacent wooden mounting structure hereby authorized includes two panel antennas at approximate 35' center lines, four cable runs of 1 5/8" in diameter, and one 24" microwave dish. No other additional receiving and transmitting equipment shall be permitted without permission from Lessor. A copy of the executed sublease agreement between Lessee and Ubiquitel Sublessee shall be provided to Lessor.
- (b) Lessor hereby consents to a sublease to Edge Wireless, LCC, an Oregon Corporation, (herein the "Edge Wireless Sublessee"). Consisting of approximately 81 square feet of ground space to locate a 3'4" by 8' by 6' high equipment cabinet or cabinets on an approximate 9 ft. x 9 ft., to be constructed, concrete slab adjacent to the new telephone pole, and additionally space on said telephone pole to attach receiving and transmitting equipment along with utility cabling and other necessary appurtenances. The equipment to be

placed on the telephone pole and adjacent wooden mounting structure hereby authorized includes two panel antennas at approximate 45' center lines and two cable runs 7/8" in diameter. No other additional receiving and transmitting equipment shall be permitted on the pole without permission from Lessor. A copy of the executed sublease agreement between Lessee and Edge Wireless Sublessee shall be provided to Lessor.

- (c) Lessee shall pay to Lessor thirty percent (30%) of all payments received by Lessee as compensation for the Ubiquitel Sublease and Edge Wireless Sublease (herein "Sublease Fees"). Payment shall be made no more than thirty (30) days after each receipt by Lessee of the Sublease Fees, whether said payments are made as periodic or lump sum payments. If Ubiquitel Sublessee or Edge Wireless Sublessee furnishes property or services in lieu of paying Sublease Fees to Lessee, Lessee shall pay 30% of the fair market value of such property or services, in cash, to Lessor, no more than 30 days after receiving said property or services. In the event that Sublease Fees are based upon the trade of tower or pole space rather than a specific rental charge, the thirty (30) percent payment to Lessor shall be determined according to the fair market value for tower or pole space rental. Said fair market value shall be the higher of the current rate charged by the U.S. Forest Service or the average of rents charged for like facilities on Lessee's tower or pole at the site, payable monthly on the first day of each month. Payments received by Lessee in reimbursement for direct out-of-pocket expenses incurred solely and directly on account of Sublessee's use or intended use of Lessor's land shall not be considered Sublessee's fees.
- (d) At the present time, Ubiquitel Sublessee and Edge Wireless Sublessee are each charged a Sublease Fee of One Thousand Three Hundred Dollars (\$1,300.00) per month, to be increased four percent (4%) each year, beginning on February 1, 2002, and every year thereafter on February 1. Accordingly, Lessee shall pay Lessor, no later than the first of each month, thirty percent (30%) of said Sublease Fees, or Seven Hundred Eighty Dollars (\$780.00), to be increased beginning on February 1, 2002, at the rate of four percent (4%) per year. In the event that Lessee fails to make payment within thirty (30) days of written notice that payment is overdue, Lessee will be considered to be in default by Lessor, and subject to termination, if Lessor so elects. Past due balances will be assessed the highest legally allowed interest until paid.
- (e) In the event that Lessee renegotiates its rent structure with either Ubiquitel Sublessee or Edge Wireless Sublessee, Lessee shall provide immediate

notice to Lessor to allow for a recomputation of the sublease payments owed to Lessor.

3. **Amendments to Section 4, Uses.** Section 4.07, Restrictions on Lessee's Use, is hereby added to Section 4 as follows:

**4.07 Restrictions on lessee's use.**

Lessee agrees, in using the Leased Premises:

**General and Hazardous Waste**

- (a) Not to commit any waste or suffer any waste to be committed upon the Leased Premises or adjoining area;
- (b) Lessee shall, in all material respects, comply with all applicable federal, state or local laws, statutes, ordinances, rules or regulations now or hereafter in effect, relating to environmental conditions, industrial hygiene or Hazardous Materials (as hereinafter defined) on, under or about the Leased Premises, including but not limited to the Comprehensive Environmental Response, Leased Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq., the Resource Conservation and Recovery Acts, 42 U.S.C. §6901, et seq., the Clean Water Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. §§300f through 300j, and any similar federal, state or local laws, ordinances and regulations now or hereafter adopted, published or promulgated pursuant thereto (collectively, the "Hazardous Materials Laws");

**Prohibitions**

- (c) Lessee shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of or allow to exist on, under or about the Leased Premises any flammable explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including but not limited to any substances defined as, or included in, the definition of "Hazardous Substances," "Hazardous Wastes," "Hazardous Materials" or "Toxic Substances" under the Hazardous Material Law (collectively, "Hazardous Materials"), except in strict compliance with all applicable Hazardous Materials Laws. Furthermore, Lessee shall not allow any underground storage tanks or underground deposits to exist on, under or about the Leased Premises;

#### Notice to Lessor

- (d) Lessee shall immediately advise Lessor in writing of (i) any and all enforcement, clean-up, removal, mitigation, remediation or other governmental or regulatory actions instituted, contemplated or threatened pursuant to any Hazardous Materials Laws affecting the Leased Premises, (ii) all claims made or threatened by any third party against Lessee or the Leased Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from Hazardous Materials (the matters set forth in clauses (i) and (ii) above is hereinafter referred to as "Hazardous Materials Claims"), (iii) Lessee's discovery of any occurrence or condition on the Leased Premises which could subject Lessee, Lessor or the Leased Premises to any restrictions on ownership, occupancy, transferability or use of the Leased Premises under any Hazardous Materials Laws;

#### Joinder of Lessor

- (e) Lessor shall have the right to join and participate in, as a party if it so elects, any settlements, remedial actions, legal proceedings or actions initiated in connection with any Hazardous Materials Claims against Lessee and to have its reasonable attorney's fees incurred in connection therewith paid by Lessee.

#### Indemnities

- (f) Lessee shall be solely responsible for and shall indemnify and hold Lessor harmless and its employees, agents, successors and assignees harmless from all costs (including reasonable attorney's fees), and against any loss, damage, costs, expense or liability incurred by Lessee directly or indirectly arising out of or attributable to the use, generation, manufacture, treatment, handling, refining, producing, processing, storage, release, threatened release, discharge, disposal or presence of Hazardous Materials on, under or about the Leased Premises by Lessee, its employees, agents, successors and assignees, including but not limited to (i) the costs of any required or necessary repair, clean-up or detoxification of the Leased Property, and the preparation and implementation of any closure, remedial or other required plans and (b) all reasonable costs and expenses incurred by Lessor in connection therewith, including but not limited to reasonable attorney's fees;

Lessor shall indemnify Lessee against and hold Lessee, its employees, agents, successors and assignees harmless from all costs and expenses (including reasonable attorney's fees), losses, damages (including foreseeable or unforeseeable consequential damages) and liabilities incurred by the Lessee, its employees, agents, successors and assigns which may arise out of or may be

directly or indirectly attributable to the use, generation, manufacture, treatment, handling, refining, producing, processing, storage, release, discharge, disposal or presence of any Hazardous Material on, within, under or about the Leased Property, unless such Hazardous Materials are present as a result of action by Lessee, its employees or agents. Lessor represents that neither Lessor or, to Lessor's knowledge, any third party, have ever used, generated, stored or disposed of, or permitted use, generation, storage or disposal of any hazardous material on, under about or within the Leased Property. The provisions of this section shall expressly survive the termination of this Agreement;

Environmental Survey

- (g) If Lessor has reason to believe that Lessee's actions may have contaminated the Premises, at the end of the applicable term or other termination of this Agreement, Lessee, at its sole cost and expense, shall cause a Phase I Environmental Survey of the Leased Property to be conducted of the Property by a competent and experienced environmental engineer or engineering firm and shall provide a copy of such Survey to Lessor in order to confirm Lessee's compliance with the covenants contained in this paragraph.

Lessor represents that the Premises have not been used for the generation, storage, treatment or disposal of Hazardous Materials. In addition, Lessor represents that no Hazardous Materials or other fuels or underground storage tanks are located on the Premises. Notwithstanding any other provision of this Lease, Lessee relies upon the representations herein as a material inducement for entering into this Lease.

**LESSEE**

Cal-One Cellular LP  
DBA Cal-North Cellular

By: \_\_\_\_\_  
James G. Hendricks, General Manager

**LESSOR**

City of Trinidad

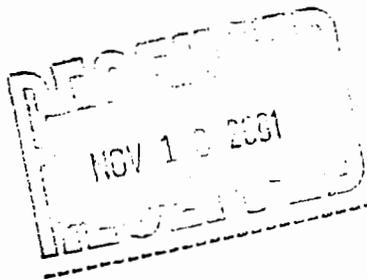
By: \_\_\_\_\_  
Dean Heyenga, Mayor

trinidadcalnorth\amend.104

# CELLULAR

November 12, 2001

City of Trinidad  
P.O. Box 390  
Trinidad, California 95570



Re: Cellular Facility, Trinidad Head

Ladies/Gentlemen:

Cal North Cellular intends to place three (3) panel antennas on their existing communication pole and place a concrete slab outside their existing building for a communication cabinet.

I have enclosed a pole profile, site plan and Penfold Engineering calculations for the proposed installation. There are no additional electrical panels required for this project.

We are requesting a building permit for the slab and the installation of the panels. To assist in granting this permit, I have taken the package to Winzler and Kelly Engineering for building permit review. The estimated value of this work is \$ 7,500.00.

Respectfully,

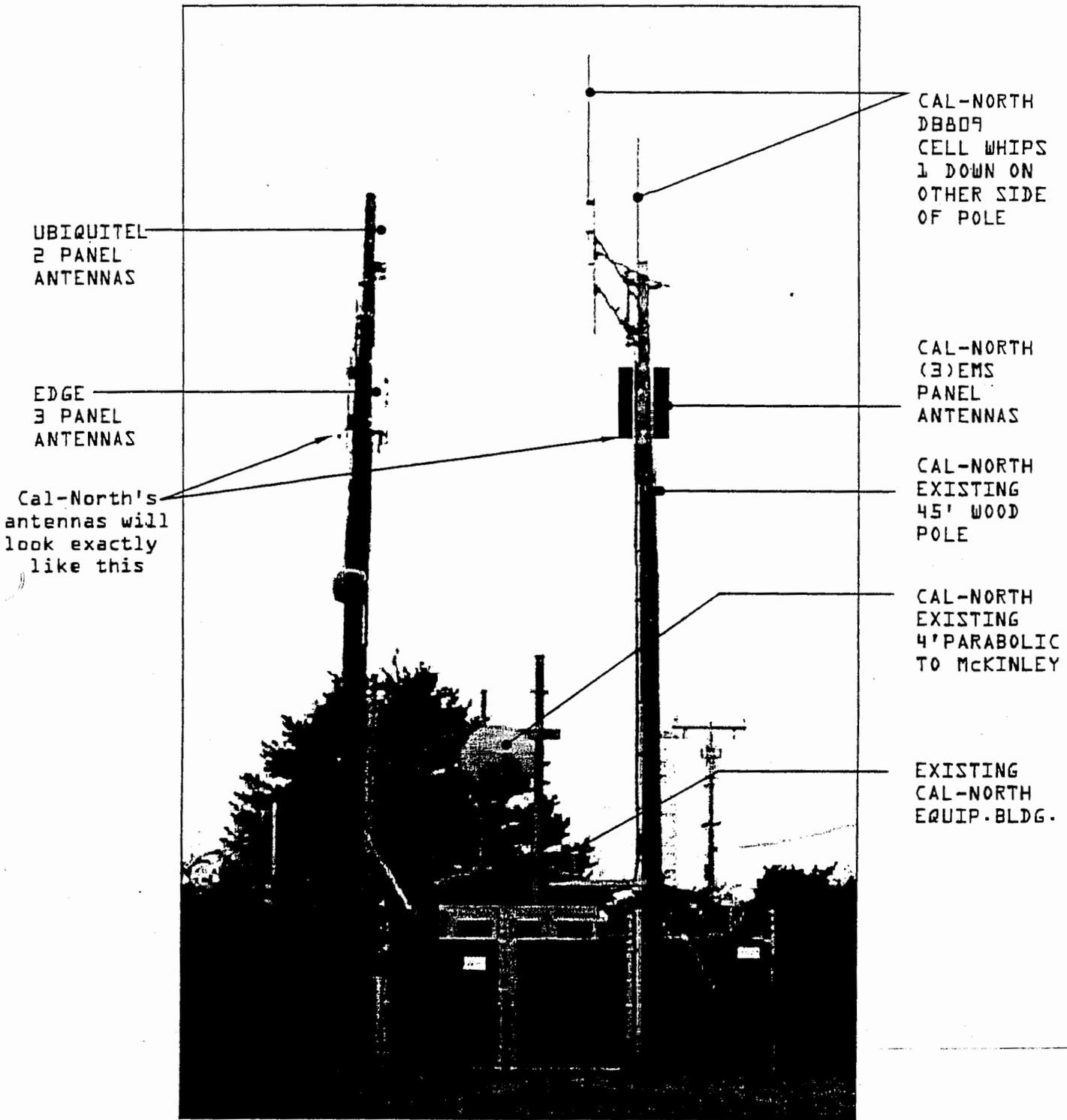
Thomas J. McMurray Jr.  
for Cal North Cellular

TJM/tjm

enclosures:

cc: Ms. Veanne Freckman, General Manger  
Cal North Cellular

Mr. Louis Duenweg, Engineering  
Cal North Cellular



UBIQUITEL  
2 PANEL  
ANTENNAS

EDGE  
3 PANEL  
ANTENNAS

Cal-North's  
antennas will  
look exactly  
like this

CAL-NORTH  
DBB09  
CELL WHIPS  
1 DOWN ON  
OTHER SIDE  
OF POLE

CAL-NORTH  
(3) EMS  
PANEL  
ANTENNAS

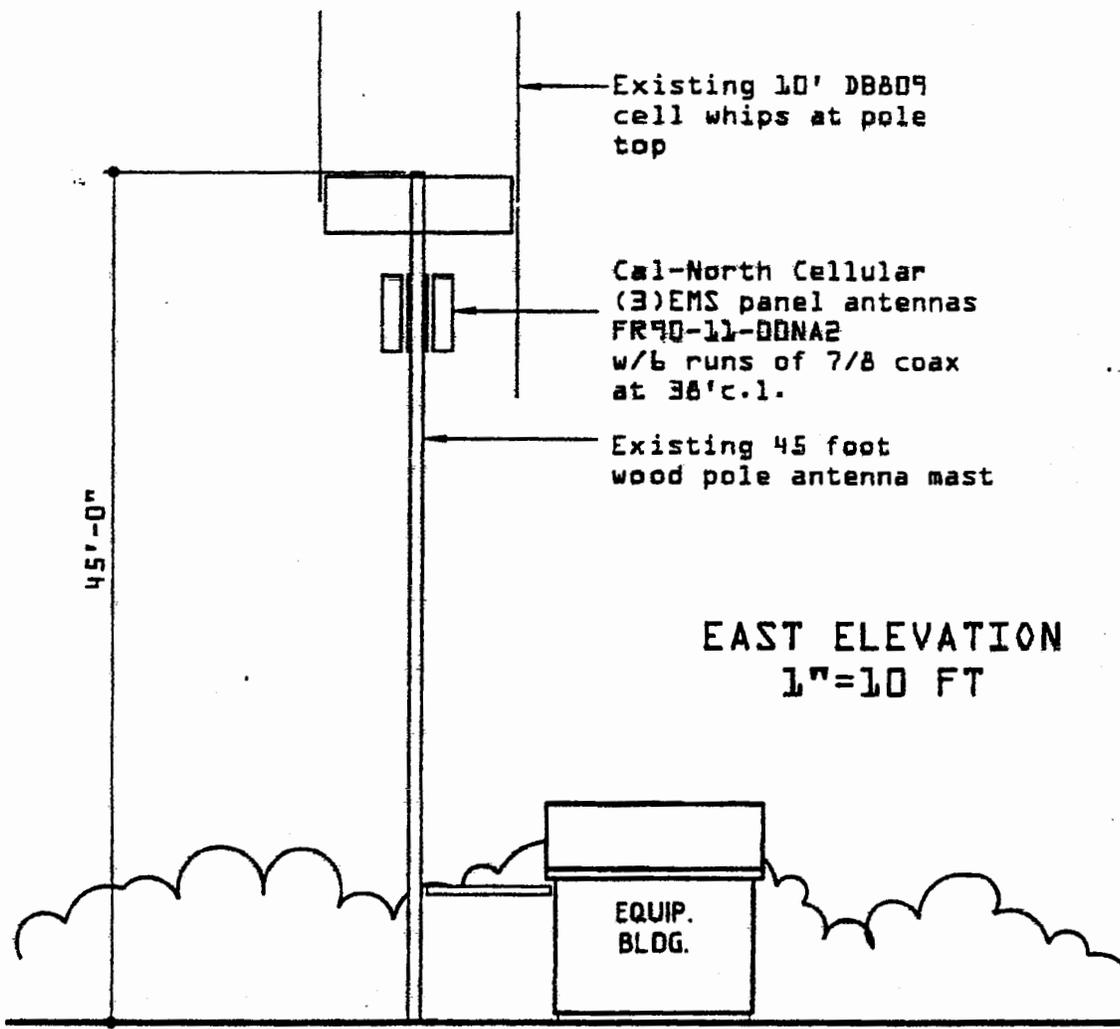
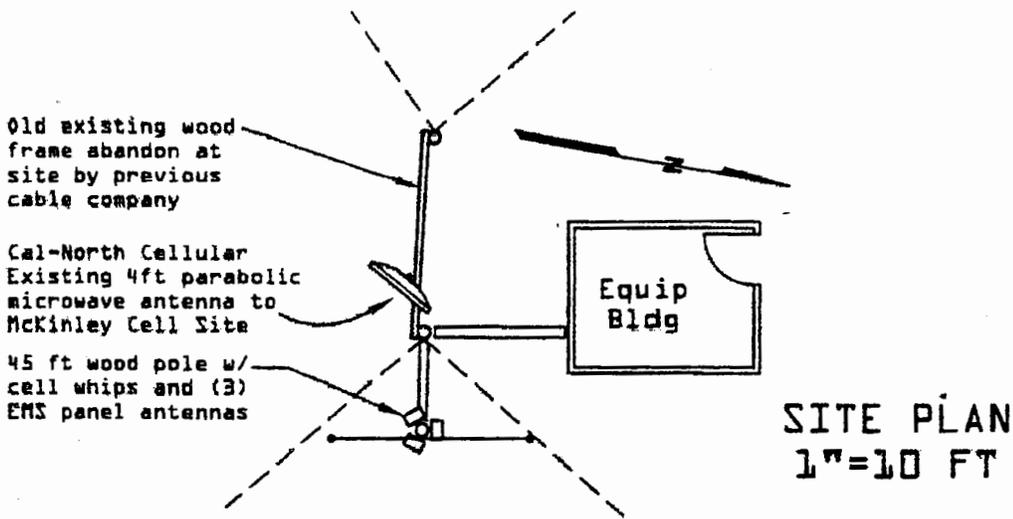
CAL-NORTH  
EXISTING  
45' WOOD  
POLE

CAL-NORTH  
EXISTING  
4' PARABOLIC  
TO MCKINLEY

EXISTING  
CAL-NORTH  
EQUIP. BLDG.

DATE : NOVEMBER 02, 2001  
DWG CAL-NORTH HUMBOLDT HAMMETT.DWG  
DIR humb/humhill

CAL-NORTH CELLULAR  
TRINIDAD HEAD CELL SITE  
Photograph of Site



DATE : NOVEMBER 02, 2001  
 DWG CAL-NORTH TRINIDAD HAMMETT.DWG  
 DIR humb/humhill

CAL-NORTH CELLULAR  
 TRINIDAD HEAD CELL SITE  
 TOWER MAP

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 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, 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.



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**

- 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

Filed: September 15, 2003  
Staff: Trevor 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.

## **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:**

#3  
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.

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.

## **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*

*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.
- 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.

- 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 significantly 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. #5  
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.  
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 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 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*

program of utilization that includes (1) a plan of development, and (2) a plan of management." The City's development plan, according to 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 be 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 CONSISTENCY:

#7

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.

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. Section 17.20.060 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 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 occidentale*), 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 it 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*

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 utilize 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:

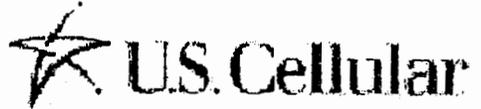
Based on public testimony and information included in the application, I find that Use Permit/Design Review/View Protection Finding(s) "—" can not be made because —, and I move to deny the project.

### **CONDITIONS OF APPROVAL**

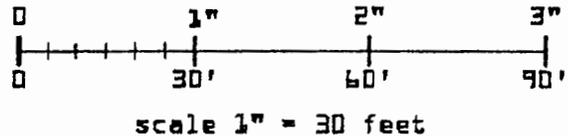
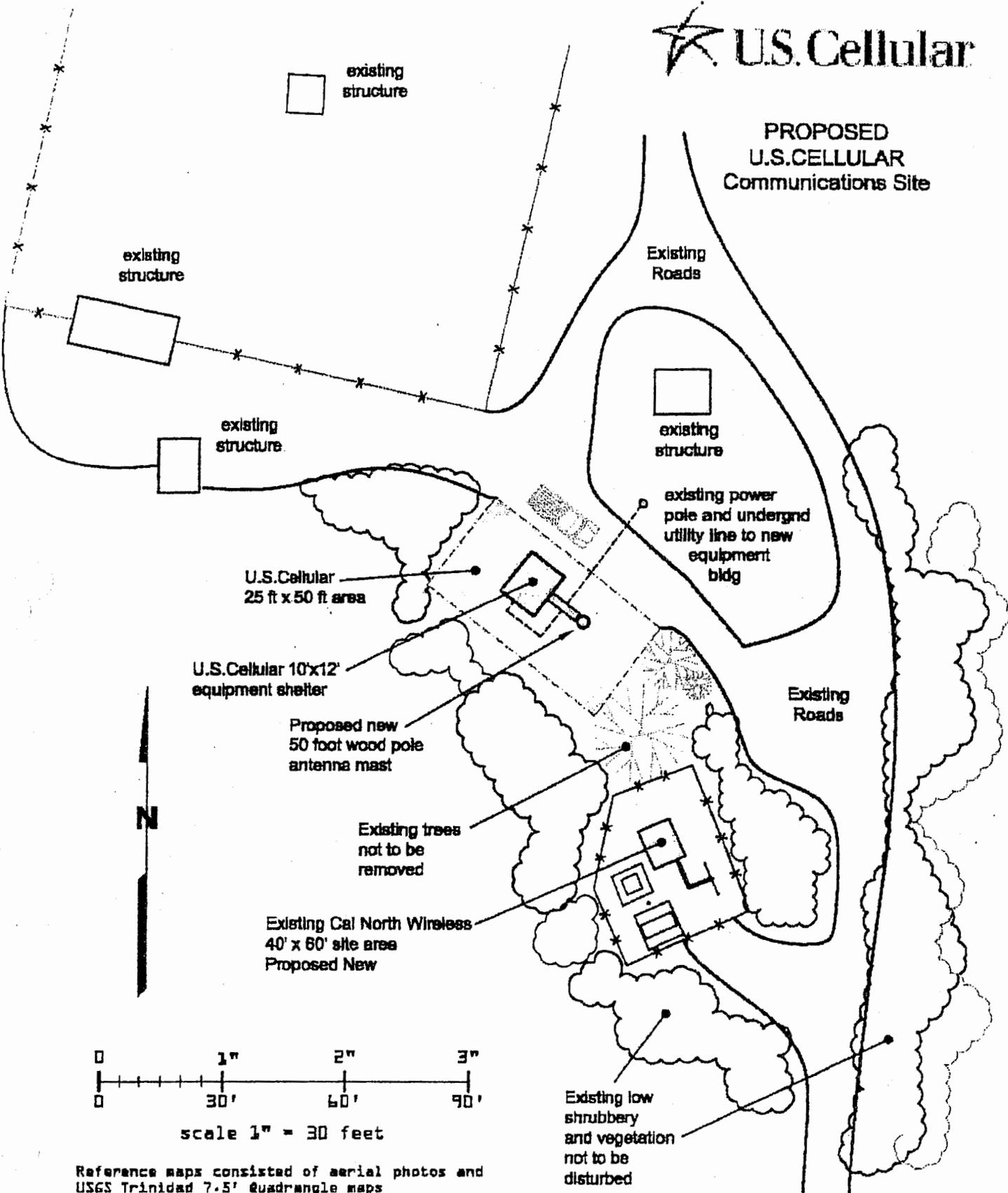
1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*
2. Based on the findings that community values may change in a year's time, design review approval is for a one-year 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.*

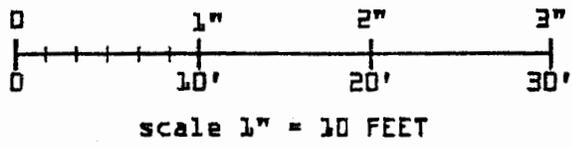
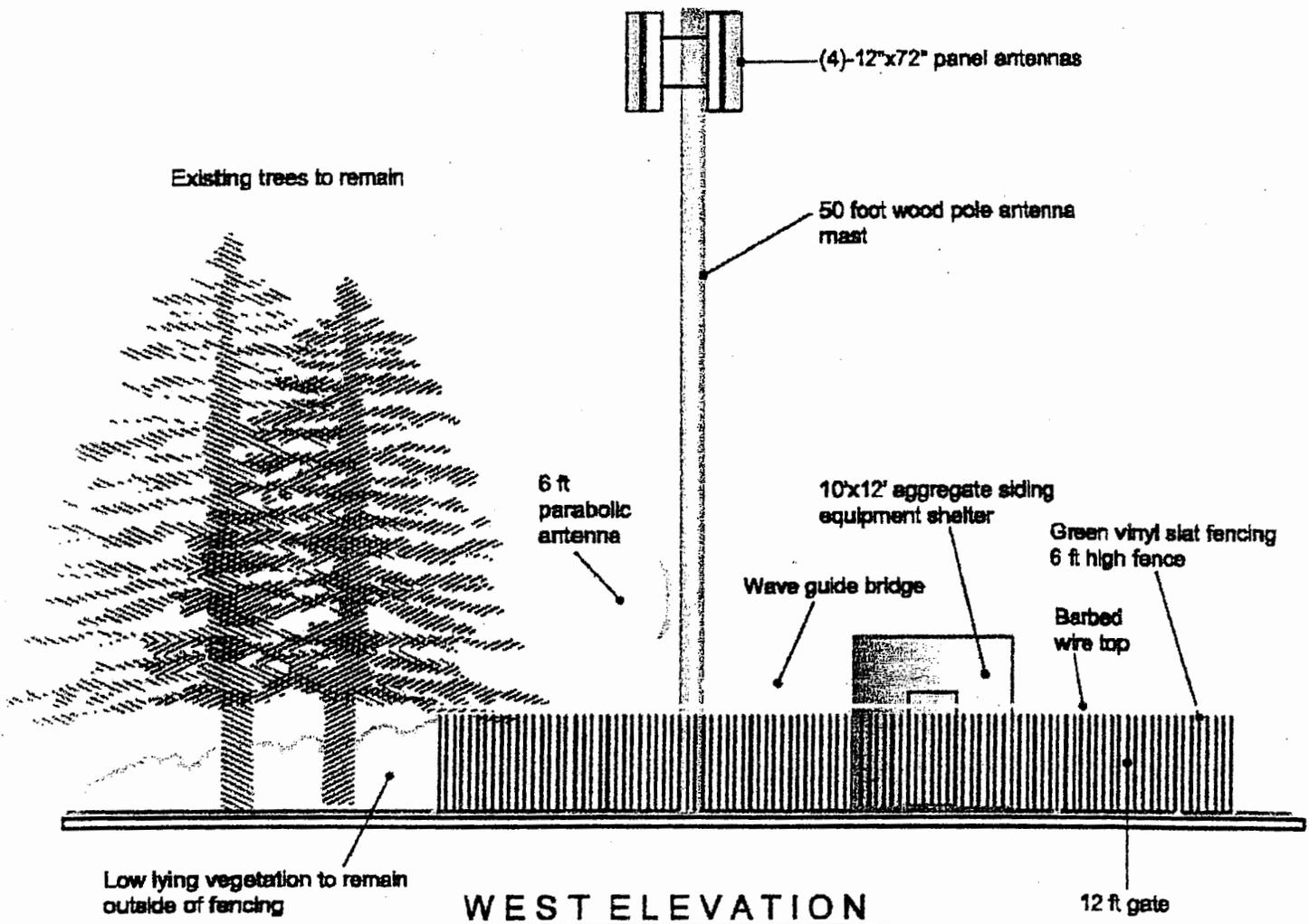
8. After the vegetation is removed, and prior to any other ground disturbing activities, the construction site shall be surveyed by a qualified archeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the City and local tribes. The holder 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.*



**PROPOSED  
U.S.CELLULAR  
Communications Site**



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



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

H:\CAL-1\zz0Chern\FW\US Cellular Trinidad Site Map-#01-dwg Nov 20-2005



PROPOSED  
U.S.CELLULAR  
Communications Site

7.24

**MINUTES OF THE 14 DECEMBER 2005  
TRINIDAD PLANNING COMMISSION MEETING**

- I. ROLL CALL  
Chairman Kenny noted all were present and called the meeting to order at 6:30 p.m. Staff in attendance were Parker and Leachman.
- II. APPROVAL OF MINUTES - None.
- III. APPROVAL OF AGENDA  
There were no modifications to the agenda.
- IV. ITEMS FROM THE FLOOR  
There were no items from the floor.
- V. AGENDA ITEMS

**PLANNING COMMISSION DISCUSSION / ACTION / PUBLIC HEARING ITEMS**

1. US Cellular 2005-13: Design Review, Coastal Development Permit and Conditional Use Permit to establish a new, approximately 25' x 50' communication facility on Trinidad Head, just to the north of the existing communications site. The site will include a 50' tall wooden pole with 2 sets of Cellular Panel Antennas, a 12' x 12' x 10' equipment shelter on a concrete slab all surrounded by a green vinyl slat 6' tall fence topped with barbed wire. Trinidad Head; APN: 042-121-051.

Kenny opened the discussion and asked Parker for the staff report. She summarized the project, site history, required findings and conditions of approval (see Staff Report dated Dec. 2, 2005). Lake asked for further detail on existing structures. Parker displayed a map and pointed out the existing facilities and ownership. She explained that the opportunity for co-locating facilities on the existing site has run out and that any new service would require a new site. Parker suggested that the Commission recommend to the Council that a comprehensive management plan be developed for the use of the Head. She also noted that there may be rare plants and cultural resources in the area.

Odom asked if the applicant will be responsible for any road maintenance. Tom McMurray, applicant's representative, agreed to find out if there were any conditions applied to previous permits and report back to the Commission. Fulkerson asked about co-location and Parker explained the status of existing facilities on the site and that future co-location opportunities would exist on the proposed site.

Kenny asked McMurray, agent for the applicant, for a presentation. He explained that U.S. Cellular will work with the City to meet all requirements. He also explained that the new facility is needed for the company to remain competitive in the digital age of new and improved services such as emergency location finding because of the current lack of service in the Trinidad area.

Odom ask if it were possible to consolidate all of the telecom facilities into the existing area rather than to expand into a new undeveloped area. McMurray said that this is not possible because the antennae could interfere with each other if they are too close.

Fulkerson asked for additional information on co-location at the existing site and technology obsolescence. McMurray explained how co-location works and its limitations as well as current trends in telecom technologies. McMurray said it would be difficult to achieve any further co-location in the area without having a much higher pole than what exists and that cellular technology would be around for quite some time due to its affordability. McMurray added

Commissioner Richard Johnson (new Commissioner) asked McMurray several questions. First he asked what was driving the design of a 50' pole. McMurray indicated that it was staff's recommendation so co-location can be done on the site in the future. The reasoning being that one 50' pole is better than two 35' poles. Next Johnson asked if a site analysis has been conducted in terms of radioactivity and interaction with communication signals for existing antennae. McMurray indicated that general guidelines were used and that it was not standard practice to conduct that in-depth of analysis for a project of this size. Johnson was also interested in if the proposed antenna could be considered for location on an existing PG&E power pole or the Coast Guard tower. McMurray said it had not been considered for this site and that it would have significant limitations. He also said that they had never been successful in obtaining approvals from the Federal Government for co-location.

Fulkerson asked about industry cooperation. McMurray said industry cooperation was very good but in this case a new site is necessary because co-location opportunities had been exhausted on the existing site. Kenny then opened the public comment period.

S. Binny, 482 Main St., asked what the financial gain to the city was going to be and if all three cellular poles could be combined on one pole. McMurray answered that it was not physically possible because of the required separation between antennas. Fulkerson explained that the City would negotiate a new lease. Odom further explained that the funds from the existing site are about \$1500 and have been used for the City Hall improvement project.

K Barwash, 308 Ocean, posed the question "do we are already have the same cellular service?" and commented that the City had a hodge-podge process and

that a plan is needed. McMurray indicated that U.S. Cellular's current service is inadequate and that the upgrade was needed to improve competitiveness. Parker relayed information from the City Attorney concerning the City's ability to restrict cellular facilities based on service types and they have to remain competition-neutral. This means that the current proposal could not be denied just because there is already similar service existing in the area.

A. Scott, a visitor, stated she was concerned about health and visual effects. She feels that additional towers will affect tourism. Cindy Lindgren felt that there is already too much development on the Head and recommended that a moratorium be put in place before the U.S. Cellular tower is approved. She suggested that the City get a plan together before any further development on the Head be allowed.

B Rosen, 364 Ocean, said there are about 80 letters opposed to tower. He said that studies in Europe indicate that cellular technologies do in fact harm people and wildlife. He also argued that this area needs to be protected like Point Lobos for tourists.

Kelly Lindgren stated that the Tsurai Ancestral Society is opposed to the project and asked if the tribe has been consulted. McMurray said that the tribe will be consulted after the City's approval, but prior to building permits. Lindgren suggested that the management plan is outdated and that a new plan is needed.

A lady speaking for E. Hanlon, 562 West St., stated that it does not make sense to allow towers after the City spent so much time and effort to have the electric utilities underground. She also urged the City to not yield to private interests over public opinion. It was noted that the utilities on the Head are not underground and will not likely be converted in the near future.

Lake ended public comment. Parker reviewed the Commission's options. Fulkerson moved to continue the hearing to the January 18, 2006 meeting. Odom seconded. All were in favor.

VI. STAFF REPORT - None.

VI. COUNCIL LIAISON - None.

VIII. ADJOURNMENT

The meeting was adjourned at 7:30.

Respectfully submitted by: Todd Leachman  
Secretary to the Planning Commission  
City of Trinidad

**MINUTES OF THE 18 JANUARY 2006  
TRINIDAD PLANNING COMMISSION MEETING**

I. ROLL CALL

Chairman Kenny noted all Commissioners were present and called the meeting to order at 7:35p.m. Staff in attendance were Parker and Leachman.

II. APPROVAL OF MINUTES – December 14, 2005.

Johnson requested a minor amendment on page 2, paragraph 4, 4<sup>th</sup> sentence, changing "radioactivity" to "radiation". Lake moved to approve the minutes as amended. Johnson seconded. All were in favor. The motion passed 5-0.

III. APPROVAL OF AGENDA

There were no modifications to the agenda.

IV. ITEMS FROM THE FLOOR

There were no items from the floor. Bryce allowed anyone with special needs to speak on the public hearing item (U.S. Cellular). Alice Foster (308 Ocean Ave.) requested permission to address the Commission. She asked the Commission to consider the overall trend of development on Trinidad Head rather than the specific item at hand. She felt that a lot of small changes will have cumulative effects that go unnoticed until it is too late.

V. AGENDA ITEMS

PLANNING COMMISSION DISCUSSION / ACTION / PUBLIC HEARING ITEMS

1. US Cellular 2005-13: Design Review, Coastal Development Permit and Conditional Use Permit to establish a new, approximately 25' x 50' communication facility on Trinidad Head, just to the north of the existing communications site. The site will include a 50' tall wooden pole with 2 sets of Cellular Panel Antennas, a 12' x 12' x 10' equipment shelter on a concrete slab all surrounded by a green vinyl slat 6' tall fence topped with barbed wire. Trinidad Head; APN: 042-121-051.

Kenny opened the discussion and asked Parker to address the modifications to the staff report as outlined in her memo of January 6th. She stated the project had been scaled down, with a smaller pole and a smaller site area now proposed. She also noted that there had been some correspondence between City staff and Coastal Commission staff regarding zoning ordinance interpretation (see letter dated December 20, 2005). She indicated that there was some disagreement, but City staff was standing by their original recommendations.

Kenny asked the applicant's agent Tom McMurray to provide a presentation of their project. He explained the proposed modifications and presented several coverage maps showing existing and proposed signal contours. He also

*1/17*

introduced Bernie Gribbon, U.S. Cellular representative, and Ed Johnson, RF Engineer who would be available to answer questions. Kenny opened the public hearing to questions for the applicant's agents.

The first audience question for McMurray was how many carriers existed on the head. McMurray explained that the site is leased by CalNorth, who sublets to Edge and Sprint; all three companies have antennas adjacent to the proposed site. He also indicated that the FCC license required service providers that have leased public airwaves to provide the best possible coverage.

Commissioners Kenny and Johnson had several questions regarding the coverage maps that were discussed. McMurray explained that one map had a print error and explained the intended information.

Commissioner Johnson also had a question about the Humboldt County e911 plan. Gribbon described the new system which allows cellular phone locating by emergency personnel to within a few feet. He said that county had no specific date for implementing the plan, but that the industry is preparing the network for that eventuality.

Commissioner Johnson then asked about the life expectancy of the current TDMA service with idea that the new system would replace the existing, freeing up pole space in the near future that might accommodate a US Cellular antenna; this would avoid the need for an expanded site. McMurray said that even if the analog system completely went away, there would still be no room for the proposed US Cellular antenna. Ed Johnson continued with additional technical details about the various systems and equipment, which included minimum separation distances. Commissioner Johnson felt that not all of the potential development options had been analyzed and that more creative solutions could still be found.

Several audience members asked if the applicant had studied any alternative locations. McMurray indicated that they had, but no other location would provide the line-of-sight required for digital services in the targeted area. He also said the demand for "in-house" (indoor) and data services, and complaints regarding existing phone service were driving the decision-making regarding the investment in new facilities.

Mike Hentz (785 Underwood Dr.) asked who owns the property and how many existing poles were on the Head. Kenny indicated that the City owns the property and there are two existing poles on City property, along with various supporting equipment. He noted that there are also 3 or 4 PG&E power poles on City property, as well as a variety of poles, buildings and other equipment on the Federal property at the top of the Head.

Brad Twoomy (116 Himalaya Dr.) asked about roaming services for U.S. Cellular customers that may be provided by the existing antennas. McMurray had no information on roaming agreements, but indicated that the different types of services usually do have such agreements, but in this case, US Cellular has determined that a new pole and antenna are necessary.

Jim ~~Calladine~~ asked about the economic justification for both the company and the City. Ed Johnson said that the demand for new digital services was a key factor in deciding to invest in the site, and that US Cellular would not make such an expensive investment without substantial reason. Kenny addressed the second part of the question regarding the City's economic interest. He said that the City does get rent from the existing site, but that issue is outside the purview of the Planning Commission and should be taken up with Council instead.

Sungnome Madrone (1519 Adams Fox Farm Rd., Trinidad) had concerns about noise on the site. McMurray said no generator was proposed nor any equipment that would create noise.

Kenny closed the question and answers session and opened the public comment period.

Naomi Silvertree (1289 McCallum Cir. #21, Arcata) asked the Commission to consider negative health and aesthetic impacts related to the proposed project.

Donna Lin (514 Ewing St.) read a letter from Mary Wilbur (866 Edwards St.) who said she was not in favor of the project and was concerned about the precedent that was being set for additional future development.

Jim ~~Calladine~~ indicated that he was an expert in travel and tourism and that he felt the Head was a visual icon for Trinidad. He felt that the proposed pole would negatively affect tourism.

Kim Tays (487 View Ave.) disputed the responses to the Conditional Use Permit finding (B.2) included in the staff report in terms of public safety / traffic. She also felt that there would be significant aesthetic impacts inconsistent with the Design Review and View Protection findings in the staff report and noted that the barbed wire topping the fence proposed for the site was especially offensive. She wondered why staff was in favor of this project.

Stan Binnie (487 View Ave.) also disagreed with the findings in the staff report. He argued with the finding on page 5, which states that the proposed use does not conflict with open space and recreation uses on the Head. He presented a map which shows the site's vehicular access road overlapping the pedestrian trail. He pointed out 4 sharp / blind corners which represented pedestrian hazards. Further, he took issue with Conditional Use Permit finding "A," on page 6, which states the project is desirable and compatible with the area and will not

be readily visible. He showed pictures that he believed conflicted with what was stated in the staff report.

Cyndi Lindgren (█ Westgate Dr.) stated she was not in favor because the use was not a public benefit, but a lucrative private endeavor. She also noted that, as a US Cellular customer, she felt her service was fine.

Kathy Bhardwaj (308 Ocean Ave.) stated she was not in favor because the site is sacred to the Tsurai tribe. She also hoped the City would take an organized approach to provide for planned, orderly growth of the Head.

Brad Twoomy asked if NOAA or Scripps Institute had been consulted.

Sungome Madrone said he was opposed because the site was a sacred place for Tsurai, and he feels development on the Head should be strictly limited. He also noted that, as a US Cellular customer, he felt his service was fine.

Bryan Rosen (364 Ocean Ave.) indicated that he wanted to see the Head restored to a natural state and that no more antennas should be allowed; although he indicated that he did not have a problem with the federal government facilities.

Victoria Sackville (364 Ocean Ave.), speaking for the newly formed group "Friends of the Head," asked that the commission delay any action until the group could seek legal advice. She also stated that NOAA and Scripps may want to comment on the project and how the cellular antennas may interfere with their monitoring equipment on the Head.

Kenny closed the public comment period and began Commission deliberations.

McMurray commented that the applicant is willing to redesign some aspects of the project and that public safety aspects of cellular service are a positive, citing the New Year's Eve storms as an example. He stated that the service is a public utility regulated by the PUC. Finally, he noted that they will consult with the Tsurai if the project site is approved, but before applying for building permits.

Parker made several points in response to public comments. She clarified that she has to objectively and quantitatively represent the City laws, including the Zoning Ordinance and General Plan and not the public directly. She noted that the Planning Commission and Council represent the public's interest and make qualitative community decisions. Parker stated that she was not "in favor" of this project, and could not, in fact, take any stance on a project, but could only objectively analyze it in terms of City ordinances. She explained that staff reports are almost always written in a positive manner, because conflicts with City ordinances are generally worked out prior to the project application being finalized. However, there is an alternative motion for denial in the staff report in

case the Commission determines that the public has presented conflicting evidence. Parker also clarified that she had worked with the applicant to site and condition the project to minimize impacts but did not directly address aesthetics, because qualitative design review decisions were to be made by the Planning Commission, considering community perspectives.

Parker also noted, in response to publicly stated issues, that there is a proposed condition of approval addressing and limiting noise impacts and that no referrals were received back from NOAA or Scripps, who had been sent a public notice. She noted that the federal Coast Guard and weather facilities are totally outside the control of the City, which is not even notified about what goes on up there. Parker also explained that the proposed rezoning was recommended by both the Coastal Commission staff and City staff in order to better reflect existing, legally permitted uses on the site, as well as to plan for future uses, and not simply to allow this project, or others, to move forward, as implied by public comments.

Parker noted that several unresolved legal issues had come up. First, cellular communication facilities are regulated by the Federal Communications Commission (FCC), which supersedes state laws, including the Coastal Act, although there is a Federal Coastal Zone Management Act. Parker stated that she had been in contact with the City Attorney about the legal issues. She noted that previous court cases have made it clear that the City must remain competitively-neutral in its decision-making; the City may not deny this project, just because there is other cellular service in the area. Finally she noted that a recent court case rejected another city's denial of a cellular tower based on aesthetics alone, but that the case had not yet been published, and so the City attorney had not had a chance to review it. Because Trinidad already has ordinances in place protecting views and aesthetics, it may be in a better position to defend such an action.

Kenny stated that it seemed the central issue was weather or not the proposed use conflicts with the stated goal of maintaining open space and recreation uses on the Head. He said he had not seen a good, objective reason to deny the project; other Commissioners expressed agreement. There was an expressed sentiment that the Commission's "hands were tied" by the City's ordinances; there was a discussion about the ability of the Commission to deny this project. Parker stated that there was plenty of leeway within the staff report and required findings for the Commission to make their own decision. She pointed out that the Commission could consider public comments in making, or not being able to make, the required findings.

Odom indicated that development in the City will continue to progress over time, and he did not feel that one more pole will make that much of a difference on the Head. He was satisfied that the applicant had changed the design enough to mitigate all impacts. He also asked if the company would be willing to locate several survey monuments that are in the area. McMurray responded that U.S.

enny: no reason to deny the project.  
hands are tied by the ordinances

Cellular was already planning on conducting a survey for the project and sharing it with the City.

Fulkerson stated that it was important to protect historic and native values, yet she generally supported the project, because it has public benefits and she did not feel that the impacts would be significant. She hoped that the new service and additional income would be beneficial for the City. Additionally, she did not think it would be fair to deny the application in light of the existing cellular facilities.

Kenny stated that he felt that the capacity of the Head in terms of cellular poles had not yet been reached. He added that eventually these types of developments would result in significant cumulative impacts, but that point has not been reached yet.

Fulkerson asked staff if it would be an option to hold off a decision until a new plan could be adopted that would better address impacts to recreation use of the Head. Parker indicated that she spoke to the applicant about delaying for six months or a year to look at rezoning and that they were not willing to do that. McMurray concurred.

Commissioner Johnson suggested that a mock up be set up so residence could view it before making a decision. He also supported the development of a long-term management plan for the Head. Finally, he said he was not clear about some of the legal issues and the pending 9<sup>th</sup> Circuit court case, and wanted to hold off a decision until they know how those items would affect Trinidad. He pushed for the creation of some alternative designs in order to reduce impacts.

Lake said she makes her decision based on a number of factors including public comment and the established laws. In this case she feels that the established rules favor the applicant, but that the public had presented a case that the primary purpose of open space and public recreation on the Head may be negatively impacted by the project.

Odom made a motion to approve the application as originally submitted. It died for lack of a second.

Kenny moved to approve the scaled-down proposal (shorter pole and smaller site) with no barbed wire on the fence. Odom seconded. Kenny and Odom voted for the motion. Fulkerson, Lake and Johnson voted against it. Motion failed 3-2.

There was a discussion about project design alternatives that would have less impact on aesthetic coastal resources and public recreational and open space uses. After being posed the question from Commissioner Lake, the audience (except for one) indicated that there was no alternative design that could possibly make the project acceptable to them.

McMurray asked that the Commission make a decision rather than continuing the hearing. Parker suggested the alternative of denying the project without prejudice. In this way, the applicant had the option to come back with an alternative design rather than waiting a whole year to reapply if the project were just denied. Johnson made a motion to deny without prejudice. Fulkerson seconded. Johnson, Lake and Fulkerson voted in favor; Odom and Kenny voted against. Motion passed 3-2.

VI. STAFF REPORT - None.

VI. COUNCIL LIAISON - None.

VIII. ADJOURNMENT

The meeting was adjourned at 10:30.

Respectfully submitted by: Todd Leachman  
Secretary to the Planning Commission  
City of Trinidad

**Trinidad City Clerk**

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**From:** "Trever A. Parker" <trever@streamlineplanning.net>  
**To:** "Dean/Judy Heyenga" <heyenga@humboldt1.com>  
**Cc:** "Trinidad City Clerk" <trinidadcityclerk@cox.net>  
**Sent:** Tuesday, January 24, 2006 4:11 PM  
**Attach:** 197-3.jpg  
**Subject:** FW: cell tower

**Trever A. Parker**  
STREAMLINE Planning Consultants  
1062 "G" Street, Suite I  
Arcata, CA 95521  
Phone: (707) 822-5785  
FAX: (707) 822-5786  
[www.streamlineplanning.net](http://www.streamlineplanning.net)

**From:** Jim Baskin [mailto:jbaskin@coastal.ca.gov]  
**Sent:** Tuesday, December 06, 2005 12:07 PM  
**To:** 'Trever A. Parker'  
**Subject:** RE: cell tower

Hi Trever,

...y comment letter will hopefully go out today or tomorrow; I'll email you an advance copy.

I talked with Bob about the project on Friday after our December mailing was done. We'll be stating questions as to how the proposed new US Cellular facilities would be a conditionally permissible use as accessory structures to 1979 existing facilities per Sec. 1716.030.E when, based upon the three preceding permits (CDP Nos. 200/09, 2001-15, and 2003-05), notwithstanding their post-1979 construction, the only pre-existing telecommunication facilities on site are those of other service providers (Cal-North Cellular, Sprint, Edge Wireless). In addition, the issue of cumulative impacts to coastal visual resources will also be broached.

# 8

You should know that at the time of reviewing these past notices of final action, I accepted the staff report on its word that the facilities were permissible as conditionally permitted accessory structures. Having now 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, in hindsight, I should have questioned the City's findings on the permissibility of these past facilities (i.e., ask for clarification as to what was on site in 1979 when Ordinance 166 was adopted that these new facilities would be accessory to; verify continuity in ownership). As a result, and especially when one reviews the 1993 aerial of Trinidad Head and what facilities were or weren't on the ground 14 years after the 1979 benchmark (see attached), the approvals granted in 1997, 2000, 2001, and 2003 are likely have been inconsistent with the OS zoning use standards and therefore in conflict with Sections 17.12.010 and/or 17.12.060.

# 9

Nonetheless, since we didn't "catch" this the last three times, it would be somewhat disingenuous of our office to now belatedly and selectively enforce this provision through an appeal of the current application. Nonetheless, given its topography and location, it is clear that the Head is a highly desirable locale for siting telecommunication facilities and it is likely that additional future requests will be made for constructing additional facilities. It is also evident that Trinidad Head is a significant landform that defines the City's setting as a small harbor town and imparts much of the visual character to the surrounding area. Thus, notwithstanding the permissibility question, an issue of potential cumulative impact to visual resources from the development of additional telecommunication facilities on Trinidad Head is raised by this application.

Accordingly we will urge in our letter that, assuming the City finds the new facilities to be a use consistent with the LCP, to mitigate for potential cumulative visual impacts: (1) the facility be sited in among the cluster of existing facilities where its visual presence would be minimized, and a minimum of grading and vegetation removal would

be required; and (2) the facility be designed and required to accommodate future co-location of additional telecommunication facilities.

71  
However, given the ambiguity in how the City has administered 17.16.030E, 17.16.060.B, and 17.56.090 with respect to telecommunication facilities in OS zones in the past (e.g., is a relay/transmission antenna a form of "mechanical appurtenance" exempt from the OS zone's 15-foot or the SE zone's 25-foot height standards per 17.56.100?), we are also going to request the City impose a moratorium on the placement of additional radio and telecommunication facilities on Trinidad Head and in other OS zoning districts, other than for co-located facilities, until a telecommunications plan containing specific procedures and design criteria to protect visual and other coastal resources is developed and certified by the commission for inclusion in the LCP.

/jb

-----Original Message-----

**From:** Trevor A. Parker [mailto:trevor@streamlineplanning.net]  
**Sent:** Tuesday, December 06, 2005 9:28 AM  
**To:** 'Jim Baskin'  
**Subject:** cell tower

Hi Jim,

On your message you left the other day, you mentioned that you may be submitting a letter regarding the cell tower project. The staff reports will go out on Friday, so if you want your comments included in the staff report or in the packets, I need the letter soon. Of course you can submit it whenever you're ready - even after you file an appeal.☺ I just wanted to remind you of our time line. Either way, I will send you a copy of the staff report when I have it ready. Feel free to give me a call if you want to discuss the project.

**Trevor A. Parker**  
STREAMLINE Planning Consultants  
1062 "G" Street, Suite I  
Arcata, CA 95521  
Phone: (707) 822-5785  
FAX: (707) 822-5786  
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## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE      MAILING ADDRESS:  
710 E STREET • SUITE 200      P. O. BOX 4908  
EUREKA, CA 95501-1865      EUREKA, CA 95502-4908  
VOICE (707) 445-7833  
FAX (707) 445-7877



December 20, 2005

Trever Parker, Assistant City Planner  
City of Trinidad  
Streamline Planning Consultants  
1062 G Street  
Arcata, CA 95521

RE: Proposed New Cellular Telecommunications Facility on Trinidad Head; Coastal Development Permit Application No. 2005-13, U.S. Cellular Corporation, Applicant

Dear Ms. Parker:

The purpose of this letter is to provide the City of Trinidad with comments regarding the above-referenced development project. The proposed project entails the development of: (1) a new 50-foot-tall wooden mast equipped with a 6-foot-diameter parabolic antenna and four 12-inch x 72-inch panel antennae; and (2) a 10-foot x 12-foot equipment shelter to be constructed within an approximately 30-foot x 40-foot area enclosed by six-foot-high green vinyl slat fencing topped with barbed wire. The applicant's agent indicates that these site dimensions could be increased if the City desires co-location of additional future relay and transmission facilities.

Commission staff have prepared the following comments for the City's consideration as to the proposed project's conformance with the policies and standards of the certified Local Coastal Program (LCP):

**A. Permissibility of Use**

1. Applicable LCP Provisions.

Accessory Structures as a Conditional Permitted Use in Open Space Zoning Districts

Section 17.08.690 of the Zoning Ordinance of the City of Trinidad defines "accessory structure" as being synonymous with "accessory building," stating:

*An 'accessory building' means a subordinate building, the use of which is incidental to that of a main building on the same lot.*

Zoning Ordinance Section 17.16.030 states, in applicable parts:

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

*E. 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 §4.02 (B), 1979) [Emphases added.]*

Findings for Approval of Coastal Development and Conditional Uses

Section 17.12.010 of the Zoning Ordinance states:

*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.*

Zoning Ordinance Section 17.72.040 states, in applicable parts:

*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*

*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:*

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

*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.... [Emphases added.]*

2. Discussion.

Section 17.16.030.E provides for structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in Title 17 – Zoning, was adopted to be approved as conditionally permitted uses. Ordinance No. 166, which enacted the City's zoning regulations, was "codified" on October 24, 1979, and for purposes of issuance of coastal development permits was "adopted" on July 9, 1980, upon the Commission's effective certification of the City's LCP and related transfer of coastal development permitting jurisdiction to the City.

As depicted in the enclosed aerial photograph, dated October 12, 1979, other than the radio and long-range navigational aids facilities maintained by the U.S. Coast Guard, the Heceta landing commemorative cross, the run of utility poles to the light station, and a small cluster of what appears to be local agency emergency responder band relay equipment, no other facilities had been developed on the crest of Trinidad Head. Therefore, unless there was a boom in the erection of commercial telecommunication facilities in the nine months leading up to the certification of the subject zoning ordinance provision, it appears that no commercial telecommunication facilities existed at this site for which additional future accessory structures could be authorized pursuant to Section 17.16.030.E.

This does not, however, appear to have been the case. Based upon information within the management plan prepared by the Bureau of Land Management, developed in 1983 in conjunction with efforts to transfer portions of Trinidad Head from the U.S. Government to the City, in addition to the aforementioned U.S. Coast Guard facilities, the sole private telecommunication equipment identified as being in place at this site was a satellite reception facility owned and leased to Cox Communications, Inc. Thus, if this provider were to substantiate that such facilities were in place before July 9, 1980, and wished to pursue accessory additions to these facilities, they alone might be able to pursue a legitimately pursue a permit for such under the current wording of Section 17.16.030.E.

#10

Notwithstanding this apparent situation, between May 22, 1985 — when the Commission certified Local Coastal Program Amendment No. 1-85 applying an Open Space land use and zoning designation to Trinidad Head and transferring coastal development permitting jurisdiction over the area to the City --- and the present, the City has authorized the erection of telecommunication facilities on Trinidad Head as follows:

Permit No.	Applicant	Project Description	Date of Approval
7-1996/97	Cal-North	Installation of 41' pole and 21' pole on APN 042-121-21	1997
2000/09	Cal-North	Installation of a 50' wood pole with 2 sets of 56" x 12" x 4" cellular panel antennae; construct 1 - 10' x 10' concrete slab with 1 - 34" x 96" x 72" outdoor transmission cabinet; erect 1 - 48" x 48" x 48" outdoor cabinet on existing slab on APN 042-121-21	December 6, 2000
2001-15	Cal-North	Install 3-1' x 4.5' x 0.5' panel antennae at a 38' height on an existing communications pole; place a concrete slab outside the existing building for a transmitter cabinet on APN 042-121-05	January 16, 2002
2003-05	Edge Wireless	Construct a 5' x 6' concrete slab and 4.5' x 2' x 6' tall equipment cabinet on APN 042-121-05	October 15, 2003

#1

Based upon the discussions within the staff reports for the above-referenced permit matters, it appears that the City's action to approve the facilities that have been put in place from 1997 to

the present did not fully consider the prior existing facilities requirement of Section 17.16.030.E. Notwithstanding the arguable basis upon which these approvals were granted, insofar as these preceding permits were not timely appealed, the Cal North and Edge Wireless facilities that exist on Trinidad Head today are now legally permitted structures.

#14  
With respect to the current proposed development, since the applicant company only came into existence in 1983, and therefore had no uses or buildings in existence on Trinidad Head prior to July 9, 1980, authorization of these facilities under the conditional use provisions of Zoning Ordinance Section 17.16.030.E and would thus be in conflict with Sections 17.12.010 and 17.72.040.C. Accordingly, consistent with other provisions within the City's certified LCP, to proceed with processing permit requests for the proposed development, the City must first either: (1) amend the Land Use Plan and Zoning Ordinance to reclassify the so-called "Trinidad Head Communications Site" from Open Space to other plan and zone designations that would allow for such uses (e.g., Public and Religious (PR)); and/or (2) amend the text of the zoning regulations to provide specifically for the development of telecommunication facilities as a use within the Open Space district or other zones. Either of these changes would constitute an amendment to the City's LCP and would be subject to certification review and approval of the Coastal Commission.

**B. Other Issues Regarding Telecommunications Development on Trinidad Head**

Once the issue of establishing a mechanism within the City's planning and zoning programs where the development of telecommunication facilities at the Trinidad Head site could be authorized as an allowable use is resolved, consideration of such development in this area would also need to be found consistent with other LCP policies and standards, notably those addressing environmentally sensitive areas and visual resources:

#12  
1. **Protection of Environmentally Sensitive Habitat Areas**

a. **Applicable LCP Provisions.**

Policy No. 17 of the City's Land Use Plan (LUP) states, in applicable part:

*Development of Trinidad Head should be kept to a minimum to protect the mammals and rare plants located there...*

b. **Discussion.**

The new U.S. Cellular facilities are proposed to be constructed in one of two alternative locations on Trinidad Head, situated either to the north-northwest or the south-southeast of the existing Cal-North Wireless antennae and equipment vault, in areas that are currently covered with Coastal Scrub vegetation. In the review of the project, the City should evaluate whether either of these areas contain rare plants or mammalian habitat and base their site selection on such analysis as required by the LUP, including consideration of whether its would be possible to

site the facilities markers, in other alternative locations where such impacts, if any, could be avoided.

### 3. Visual Resources

#### A. Applicable LCP Provisions.

##### Community Design

Policy No. 76 of the City's Land Use Plan (LUP) states:

*The design assistance committee should ensure that any proposed development does not detract from these historical sites and structures.*

##### Recreation

LUP Policy No. 66 states, in applicable part:

*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. [Emphasis added.]*

#13.

##### Fences

Section 17.56.110.E of the City of Trinidad Zoning Ordinance states:

*Fences, walls and hedges within the buildable portion of a lot may exceed six feet in height, but emergency access shall be provided when the fence, wall or hedge obstructs access to a building.*

##### Design Review

Section 17.60.040 of the City's Zoning Ordinance states, in applicable part:

*The design assistance committee shall be guided by the following criteria when evaluating land form alteration and the construction of structures: ...*

- A. *The alteration of natural land forms caused by cutting, filling, and grading shall be minimal. Structures should be designed to fit the site rather than alter the landform to accommodate the structure.*

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<sup>1</sup> Among the historical sites and structures referenced in the text within Chapter III of the Land Use Plan is the large granite cross erected on Trinidad Head to commemorate the 1775 landing of the Heceta expedition at Trinidad Bay.

- B. Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.
- 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 man-made surroundings...
- 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...
- 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: ...
  - 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. [Emphases added.]

#### View Protection

Zoning Ordinance Section 17.60.050 states, in applicable part:

*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... [Emphases added.]

#### B. Discussion.

The proposed telecommunication facilities are types of structures that require review by the City's Design Assistance Committee. Such review should be undertaken prior to the Planning Commission's action on the coastal development permit for the facilities.

With respect to the DAC guidance criteria, the review of the design and siting of additional telecommunication facilities should consider whether: (1) landform alteration is minimized in their siting; (2) if their physical appearance would blend in with their surroundings, in terms of colors and materials; (3) the incorporation of landscaping would further screen or soften the

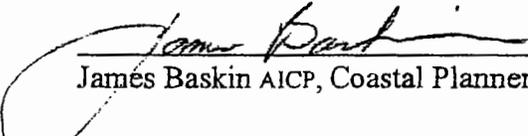
Trever Parker  
City of Trinidad – Community Development Department  
U.S. Cellular Conditional Use and Coastal Development Permits and Design Review  
December 20, 2005  
Page 7 of 7

appearance of the structures from public trails, (4) views of the harbor, significant landforms in the harbor, the ocean, or other portions of Trinidad Head would be significantly blocked, (5) the structures incorporate features in their design to avoid detracting from historical sites and structures and minimize their overall visual obtrusiveness. Accordingly, the DAC should require as part of their review adequately detailed grading and landscaping plans, and construction diagrams from which the above-enumerated determinations can be based.

In closing, our office acknowledges that, due to its unique locational and topographic characteristics, Trinidad Head will likely continue to be a highly desirable site for placing both public and commercial telecommunication facilities. Given these attributes, and the importance these facilities serve in facilitating health and safety, development of such facilities clearly provide a public benefit and should not be outright discouraged or otherwise impeded. Nonetheless, the natural resources that make up Trinidad Head, especially its open space, access, and visual aesthetic amenities, and wildlife habitat, should be concurrently protected and wherever possible, enhanced. To these ends, in resolving the permitting issues surrounding the current development application, we urge the City to consider wide-ranging rather than piecemeal measures for providing these crucial facilities while protecting coastal resources. One such approach would be to develop a comprehensive telecommunications facilities plan for Trinidad Head, and other portions of the City's planning area as may be appropriate, prepared cooperatively and/or with input from all affected stakeholders and the public.

Thank you for the opportunity to provide comments as part of this preliminary project review. Please call if you have any specific questions regarding this letter.

Sincerely Yours,



James Baskin AICP, Coastal Planner

Encl: October 12, 1979 oblique aerial photograph of Trinidad Head

RSM/JB:jb/br





**MEMORANDUM**

To: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: January 6, 2006

RE: CCC letter on U.S. Cellular application (2005-13) dated 12-20-05

This memo is a response to the letter written by Jim Baskin, a Coastal Planner for the local office of the CA Coastal Commission, regarding the above referenced project. First, the main conclusion of Mr. Baskin's letter is that Coastal Commission staff feel that the project is not consistent with current Trinidad Local Coastal Program (LCP) regulations, and therefore can not be approved in its current form without a zoning ordinance amendment. The letter, without actually saying so, is an indication that if the City approves this project, the Coastal Commission will likely appeal it. The Planning Commission and other City officials should be aware of this situation.

I also wanted to respond to some of the issues brought up in the Coastal Commission's letter. While City planning staff can agree with most of the analysis and conclusions in the letter, we do not agree with all of the interpretations of various zoning ordinance sections as described below. These conclusions are based on file information and previous project information that the Coastal Commission staff may not have been aware of.

1. As noted in the December 2, 2005 staff report for this project, Trinidad Head is zoned Open Space (OS), which allows: "*Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted*" as a conditionally permitted use (§17.16.030). The Coastal Commission letter notes that the City's Zoning Ordinance was approved by the City on October 24, 1979 and certified by the Coastal Commission on July 9, 1980. This is one of the things the Coastal Commission staff have based their determination on, stating that the communication facility would have had to be in existing prior to the 1980 certification date. However, at that time, Trinidad Head was not within City limits, and therefore, the City's zoning ordinance did not apply to it. The Head was transferred to the City from the Federal Government in 1983 and annexed into City limits in 1984. The Open Space zoning on the Head did not become effective until the LCP amendment applying that zoning to the Head was certified by the Coastal Commission on May 22, 1985. Therefore, City regulations, including the OS zoning restrictions, did not apply to the Head until this time; prior to then, federal regulations applied. Therefore, it is not reasonable to apply the 1980 date to development on the

Head when it was not within City jurisdiction and the OS zoning ordinance provisions did not apply. City staff have interpreted §17.16.030 to apply to whenever the zoning was officially established, which in this case would be May 22, 1985. Similarly, if some property were to be rezoned to OS today, the above provision would apply from whenever the rezoning was approved, and would not be retroactive back to 1980. By 1983, a cable television (Cox) facility was in existence where the Cal-North Cellular site is today.

2. Another interpretation of City ordinances by Coastal Commission staff that City staff believe to be incorrect, is that since the original telecommunications site belonged to Cox Communications, only Cox, as the original owner, has the ability to add additional structures. Again, this does not seem reasonable in light of standard zoning interpretation, where regulations apply to the land regardless of the owner. If someone sells their property, the same regulations still apply to the new owner. If the property contains a nonconforming use, or has a use permit for example, those generally transfer with ownership of the property. In this case, the City is, and has been, the property owner, but leases the site; the use and structures exist independent of the owner.

Both of the above City staff interpretations are further substantiated by the City's stated management plan (1983) for the Head as approved by the Bureau of Land Management and the Coastal Commission as part of the property transfer. The management plan 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."* This statement was included in the same document that analyzed the City's proposed OS zoning for the Head and its allowable uses. It gives the City some standard on which to base approvals. Therefore, this finding was included in the staff report for the proposed project. The statement above indicates that the City, and approving agencies, anticipated future, public-service types of uses on the Head and provided some guidance for granting permits. Staff consider additional telecommunication facilities as accessory to the existing use. City staff believe that the project is approvable based on objective analysis of current LCP provisions. The Planning Commission must determine whether the project will *"conflict with the primary purposes of open space and public recreation,"* which may be based at least partially on public testimony.

Part B of the Coastal Commission letter outlines and discusses other issues related to this project that are included in current zoning ordinance provisions. All of the sections referenced in the letter are included in, and discussed in the staff report that was prepared for this project. The findings that must be made by the Planning Commission / Design Review Committee, along with the proposed conditions of approval address the concerns and LCP sections discussed in the Coastal Commission letter.

The letter also brings up a slight discrepancy between current City policies and the certified LCP. In order to avoid the possibility of having tie votes and to avoid having a member of the City Council prejudice themselves on a project that could be appealed to them, the Planning Commission now acts as the Design Review Committee and are

one in the same. Officially though, the Design Review Committee still has one non-voting City Council member.

Although City staff believe that the Coastal Commission's recommendations are correct, the overall conclusion that the proposed project is not approvable under current regulations is flawed. Staff agrees that the cleanest approach in terms of any development on the Head is to rezone the developed portion to Public and Religious (PR) in order to better encompass existing uses. It should be kept in mind that the City has no control over the future development of the government facilities on the Head. There will likely be continued development on this site in the future. A management plan for telecommunication facilities on Trinidad Head should also be developed by the City in order to guide future development and to give the Planning Commission a basis for decision-making. The management plan should address such things as location, size, landscaping and resource protection.

In summary, City staff believe that the most appropriate solution to the issue of cell tower development on Trinidad is to go through a formal rezoning process to apply a more appropriate zoning that would match the actual use of the site, such as to Public and Religious (PR). In conjunction with this process, the City should develop a management plan to guide future development on the Head. A management plan would probably be required in order for the Coastal Commission to certify the rezoning. These recommendations are consistent with the Coastal Commission letter. However, City staff disagree with the Coastal Commission staff's conclusion that this project is not currently approvable under existing zoning ordinance regulations. This does not necessarily mean that staff recommend approval, but we believe the project is approvable using an objective analysis of the existing LCP. Many of the required findings, most notably for design review, include subjective judgments about aesthetic impacts and the compatibility of the project with the community. These findings must be made by the Planning Commission based, in part, on community sentiment and welfare. The Planning Commission, and not staff, is the appropriate body for making such subjective determinations. Keep in mind, the project is appealable to the City Council and then the Coastal Commission.

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

TO: CALIFORNIA COASTAL COMMISSION  
APPLICANT

**NOTICE OF ACTION TAKEN**

LOCAL PERMIT #                    2005-13  
  
APPLICANT:                        US Cellular  
   P.O. Box 1032; Eureka, CA 95502  
  
AGENT:                              Thomas McMurray  
  
AP #                                 042-121-05  
  
PROJECT LOCATION:                Trinidad Head

THE PLANNING COMMISSION TOOK ACTION FOR THE FOLLOWING PROJECT AT THEIR REGULARLY SCHEDULED MEETING OF JANUARY 18, 2006:

**US Cellular 2005-13: 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.**

THE CITY                    \_\_\_\_\_                    APPROVED  
   \_\_\_\_\_                    CONDITIONALLY APPROVED  
     X                      DENIED (W/OUT PREJUDICE)

**The denial was based on the finding that, as proposed, the project conflicts with the primary purposes of open space and public recreational use of the Head.**

Planning Commission 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 City Council is filed in the office of the City Clerk 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 if the project is appealed to the City Council and they take action on it.

TREVER PARKER  
CITY PLANNER, CITY OF TRINIDAD  
DATE: January 19, 2006

CITY OF TRINIDAD  
GENERAL FUND - ADMINISTRATION  
FISCAL YEAR 2005-2006

	<b>OPERATING INCOME</b>		
4100	Property Taxes	\$ 65,000	
4200	Sales & Use Tax	160,000	
4300	Transient Lodging Tax	25,000	
4730	Motor Vehicle in Lieu Tax	25,000	
4890	Other Grants	5,000	
4895	Grant Administration Income	4,000	
5300	Other Income	3,000	
5310	Copy Machine Fee	100	
5320	Interest Income	5,000	
5400.2	Planner - Application Processing	14,000	
5400.4	Engineer - Application Processing	1,000	
5400.5	Bldg. Inspector - Application Process	16,000	
5410	Animal Licenses	200	
5415	Business Licenses	7,000	
5430	Encroachment Permits -	1,000	
5600	Rental & Franchise Income	15,000	←
	<b>Total Operating Income</b>	<b>346,300</b>	
	<b>OPERATING EXPENSE</b>		
6100	Employee Gross Wage	15,162	
6500	Employee Taxes, Insurance, Benefits	4,978	
6820	General Liability Insurance, PARSAC	2,000	
7101.1	Attorney - Meetings	3,500	
7101.2	Attorney - Administrative Tasks	5,000	
7101.3	Attorney - Litigation Frame et al	10,000	
7101.4	Attorney - Litigation	1,000	
7107.1	City Engineer - Meeting	600	
7107.2	City Engineer - Admin. Tasks	500	

#15



July 6, 2001

Mayor Heyenga and City Council  
City of Trinidad  
P.O. Box 390  
Trinidad, California 95570

Re: Communication Facility Trinidad Head

Dear Honorable Mayor and Council:

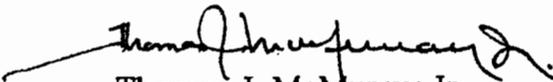
I discussed with Mayor Heyenga an idea on providing additional communication facilities on Trinidad Head. Cal North Cellular and or PWM Inc. would be interested in discussing building another site there with a mutually beneficial revenue sharing program with the City.

This project could involve the construction of a steel tower allowing several users collocation opportunities. There would most likely have to be a review of the following:

1. P.G. & E. availability of additional power.
2. Federal Aviation approvals for a tower of a designated height.
3. Federal Communication Filings for various frequencies.
4. Radio Frequency studies for compliance with FCC guidelines for emitted power.
5. Soil studies for foundation design.
6. A engineered tower and foundation based upon the maximum build-out of the site including all anticipated radio, cellular and microwave antennas.
7. Consideration of constructing a permanent type building or ground space for a certain number of portable buildings.

If you decide to proceed with a project, we would like to be considered. Also, we are available for a study session with the Council or any other method of discussing your plans. I have included a copy of our web page showing the number of sites we either own or manage.

Respectfully,

  
Thomas J. McMurray Jr.

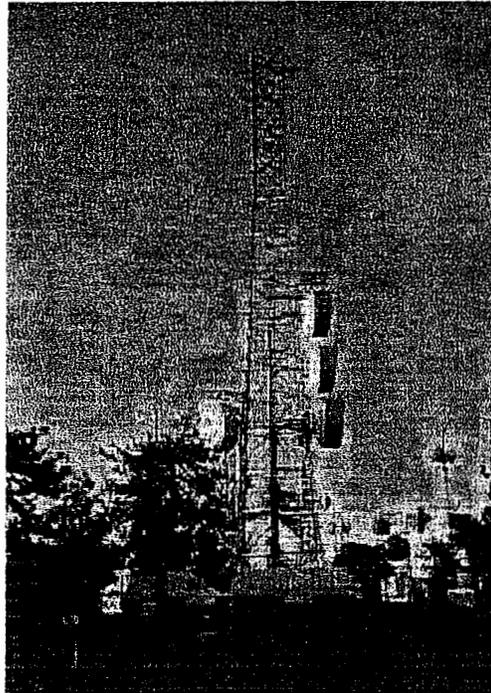
TJM/tjm

cc: Ms. Veanne Freckman, General Manager  
Cal North Cellular

.....

# Cal-North Cellular Towers

.....



.....

**Contacts for:**

Humboldt and Del Norte Counties

Thomas J. McMurray Jr.

P. O. Box 1032

Eureka, CA 95502

(707) 499-0901

Email: [tjmacjr@pacbell.net](mailto:tjmacjr@pacbell.net)

Siskiyou and Trinity Counties

Mr. Jim Hendricks

P. O. Box 157

Etna, CA 96027

(530) 467-6123

Email [jimh@sisqtel.net](mailto:jimh@sisqtel.net)

.....

Cal-North Cellular Site List  
(updated June 14, 2000)  
Listed by county

**Del Norte County**

Site Name	Lat. (Nad27)	Long. (Nad27)	FCC Num.	USGS Elev.	Tower Type and Height
Hytree	41° 50' 36"	124° 07' 55"	1012417	736'	3 leg SS 125' Microflex
KPOD*	41° 45' 35"	124° 11' 28"		9'	310' 38 Guyed Magnur
Requa+	41° 33' 34"	124° 06' 10'		800'	40' Rohn ( 125' 3S SS Fu

## Humboldt County

Site Name	Lat. (Nad27)	Long. (Nad27)	FCC Num.	USGS Elev.	Tower Type and Height
Blue Lake	40° 54' 10"	123° 57' 07"	1029235	2035'	3 leg SS 180' Microflex
Cutten	40° 46' 16"	124° 08' 16"		190'	2000 construction date
Del Norte St *	40° 47' 28"	124° 10' 53"	1033287	10'	4 leg SS 190' Microflex
Eureka Crt Hse	40° 48' 11"	124° 09' 39"	1028321	42'	3 leg SS 40' Rohn
Eureka Mtso	40° 48' 22"	124° 08' 48"	1012411	10'	40' Monopole Microflex
Fickle Hill *	40° 49' 32"	124° 00' 05"		1750'	3 leg Utility 170'
Fortuna	40° 35' 31"	124° 09' 28"	1003316	40'	3 leg SS 150' Microflex
Garberville	40° 07' 29"	123° 46' 00"		2177'	3 leg SS 60' SST Allied
Horse MT#2 +	40° 52' 26"	123° 43' 57"	1055119	4925'	4 leg SS 180' Microflex
Humboldt Hill	40° 42' 52"	124° 12' 03"	1012414	560'	4 leg SS 125' Rohn
Kneeland*	40° 43' 36"	123° 58' 18"		2672'	370' 3S Guyed Tower
McClellan	40° 28' 30"	123° 42' 52"	1028499	3140'	3 leg SS 125' Microflex
McKinley	40° 57' 40"	124° 04' 07"	1012416	610'	250' 3S Guyed Rohn Tc
Mount Pierce	40° 25' 14"	124° 04' 58"	1012413	3060'	4 leg SS 190' Microflex
Orick*	41° 16' 44"	124° 05' 01"		680'	3 leg SS 150' Allied
Pratt*	40° 07' 13"	123° 41' 32"		3880'	3 leg SS 210' Tower
Rainbow (coast)	40° 20' 05"	124° 06' 32"		3622'	3 leg 195' guyed Rohn
Trinidad Head	41° 03' 14"	124° 08' 59"	1029234	358'	60' Wood pole
Walker+	41° 05' 59"	124° 07' 31"		1225'	4 leg SS 180' Microflex
Weott Site	40° 19' 17"	123° 53' 35"	1006762	1506'	3 leg SS 150' Microflex

## Siskiyou County

Site Name	Lat.(Nad27)	Long.(Nad27)	FCC Num.	USGS Elev.	Tower Type and
Antelope Peak	41° 36' 36"	122° 37' 29"	1012415	5840'	3 leg SS 60' Mi
Bear Mountain	41° 18' 06"	121° 43' 05"	1012408	5831'	3 leg SS 60' Mi
Butcher Hill	41° 43' 29"	122° 37' 45"	1028320	3150'	4 leg SS 60' Mi
Chaparral Hill	41° 35' 45"	122° 52' 34"	1012409	4267'	3 leg SS 100' Mi
Collins Cr Baldy	41° 46' 31"	122° 57' 02"		5490'	2001 constructio
East Dorris Hill *	41° 57' 52"	121° 53' 23"		4677'	50' Wooden pole
Gray Butte *	41° 20' 57"	122° 11' 31"		7949'	Wood frame ant
Gunsight	41° 44' 14"	122° 46' 36"		6104'	30' existing pipe
Herd Peak *	41° 37' 42"	122° 13' 50"	1012407	6791'	3 leg SS 100' Mi
Rainbow Ridge	41° 17' 43"	122° 20' 37"	1028322	4208'	3 leg SS 100' Mi
Rocky Gulch	41° 53' 09"	122° 34' 27"	1012418	2953'	3 leg SS 100' Mi
Sheepy Ridge*	41° 59' 00"	121° 34' 56"		4480'	3 leg Guyed 100'
Slater Butte	41° 51' 29"	123° 21' 08"		4640'	4 leg SS 100' Mi
Soda Ridge	41° 13' 29"	122° 14' 29"	1012410	4680'	4 leg SS 100' Mi
Weed	41° 25' 01"	121° 22' 35"	1017310	3960'	3 leg SS 100' Mi
Yreka MTSO	41° 42' 35"	122° 38' 36"		2698'	60' SS Microflect

## Trinity County

Site Name	Lat.(Nad27)	Long.(Nad27)	FCC Num.	USGS Elev.	Tower Type an
Bowerman Ridge	40° 53' 41"	122° 43' 55"		4205'	2000 constructi
Oregon Mt. #1	40° 43' 09"	122° 58' 46"	1012412	3989'	3 leg SS 100' M
Oregon MT. #2*	40° 43' 07"	122° 58' 47"	1055947	3931'	4 leg SS 160' M

\* Indicates that equipment, building and tower are NOT owned by Cal-North Cellular.

+ Indicates that Cal-North Cellular has limited ownership.

This information may not be accurate or current and is not valid for navigation, for flight planning, or for use in flight. Always consult the of

# THE TELECOMMUNICATIONS ACT OF 1996

- The Telecommunications Act (TCA) gives cellular companies five special protections when they apply for tower sites.  
*For a list, see "Industry Protections" tab.*
- It also preserved the right of local governments to make their own zoning decisions, as long as the special protections were observed.  
*See "Local Zoning Authority" tab.*
- Many court decisions supported local governments' refusal of cell tower projects.  
*See "Court Cases" tab.*

*Local agencies have not always been obligated to allow maximum buildout of an area because some carriers are already there.*

*Decisions have included language supporting the right of local governments to make their own zoning decisions.*

## WE URGE THE CITY TO SEEK LEGAL ADVICE BEFORE APPROVING MORE PROJECTS ON THE HEAD

### DOCUMENT LIST

Key Points from the Telecommunications Act of 1996 §704 of the Act (summary by Kathy Bhardwaj)  
Peter Degnan, et al., *The Telecommunications Act of 1996: §704 of the Act and Protections Afforded the Telecommunications Provider in the Facilities Siting Context* 3 MICH. TELECOMM. TECH. L. REV. 1 (1997), available at <<http://www.mttr.org/volthree/mclaren.html>>.

Telecommunications Act of 1996, Sec. 704 Facilities Siting:: Preservation of Local Zoning Authority.

Language from court cases, excerpts by Kim Tays.

Case Studies section from CELL SLAYER Website.

# KEY POINTS from the TELECOMMUNICATIONS ACT of 1996 § 704 of the ACT\*

## FIVE SPECIAL PROTECTIONS ARE GIVEN TO CELL COMPANIES APPLYING FOR TOWER SITES<sup>1</sup>

1. A local agency can't "unreasonably" discriminate among competing providers.<sup>2</sup>  
*But, the local agency has "some flexibility to treat differently facilities that create different visual, aesthetic, or safety effect, at least to the extent permitted under generally applicable zoning requirements."*
2. Local regulations can't have the effect of prohibiting services.<sup>3</sup>  
*An agency can deny an application based on stated objective criteria IF it doesn't ban services in the area.*
3. The local agency has to act "within a reasonable time."<sup>4</sup>  
*No foot-dragging.*
4. Cell towers can't be prohibited because of health or environmental effects of their emissions, as long as the emissions are within regulatory limits.<sup>5</sup>
5. **A decision to deny an application must be in writing and must be supported by substantial evidence contained in a written record.**<sup>6</sup>  
*Substantial evidence = "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion . . . when viewed in the light that the record in its entirety furnishes, including the body of evidence opposed to the denial."*

## COURT ACTION

1. Within 30 days of a denial, the decision can be appealed to a State or Federal court.<sup>7</sup>  
*The Cell company chooses.*

2. The court is limited to looking at the evidence that was presented to the local agency.<sup>8</sup>

*Neither side can add more information.*

3. The court has to decide the case “on an expedited basis.” A decision should be forthcoming “within a matter of months.”<sup>9</sup>

*It wouldn't drag on forever like the Frame case.*

## **WE URGE THE CITY TO SEEK LEGAL ADVICE BEFORE HEARING ANY CELL TOWER APPLICATIONS**

### References

1. Degnan, et al., III., Section 704 of the Act: Protections Afforded the Provider in the Telecommunications Facility Siting Context. (p. 258)
2. Degnan, et al., III A., Governmental Action Shall Not Discriminate. (p. 259)
3. Degnan, et al., III B., Governmental Action Shall Not Prohibit or Have the Effect of Prohibiting the Provision of Personal Wireless Services. (p. 260)
4. Degnan, et al., III C., Upon Application for a Permit to Place, Construct or Modify a Wireless Facility, a Government Shall Act Upon the Application Within a reasonable Period of Time. (p. 260)
5. Degnan, et al., III D., State or Local Government may Not Regulate Wireless Facilities on the Basis of Environmental Effects of Radio Frequency Emissions if the Applicant Demonstrates Compliance with FCC Regulations. (p. 261)
6. Degnan, et al, III E., Any Decision to Deny an Application to Place, Construct or Modify a Wireless Facility Must be in Writing and Supported by Substantial Evidence Contained in a Written Record. (p. 262)
7. Degnan, et al., IV. Filing Suit. (p. 263)
8. Degnan, et al., V A. Type of Action and Evidentiary Questions. (p. 263)
9. Degnan, et. Al., IV D., Time for Judicial Review. (P. 264)

### Document List

\*Peter Degnan et al., *The Telecommunications Act of 1996: § 704 of the Act and Protections Afforded the Telecommunications Provider in the Facilities Siting Context* 3 MICH.

TELECOMM..TECH.L.REV. 1 (1997), available at

<<http://www.mttl.org/volthree/mclaren.html>>.

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# The Telecommunications Act of 1996: § 704 of the Act and Protections Afforded the Telecommunications Provider in the Facilities Siting Context

by Peter M. Degnan, Scott A. McLaren and T. Michael Tennant

Cite As: Peter Degnan et al., *The Telecommunications Act of 1996: § 704 of the Act and Protections Afforded the Telecommunications Provider in the Facilities Siting Context* 3 MICH.TELECOMM.TECH.L.REV. 1 (1997), available at <<http://www.mttlr.org/volthree/mclaren.html>>.

Comments about this article should be sent to [mttlr@umich.edu](mailto:mttlr@umich.edu).

## I. Foreword

## II. Overview and Background of the Act

## III. Section 704 of the Act: Protections Afforded the Provider in The Telecommunications Facility Siting Context

### A. Governmental Action Shall Not Discriminate

### B. Governmental Action Shall Not Prohibit or Have the Effect of Prohibiting the Provision of Personal Wireless Services

### C. Upon Application for a Permit to Place, Construct, or Modify a Wireless Facility, a Government Shall Act Upon the Application Within a Reasonable Period of Time

### D. State or Local Governments May Not Regulate Wireless Facilities on the Basis of Environmental Effects of Radio Frequency Emissions if the Applicant Demonstrates Compliance with FCC Regulations

### E. Any Decision to Deny an Application to Place, Construct or Modify a Wireless Facility Must be in Writing and Supported by Substantial Evidence Contained in a Written Record

## IV. Filing Suit: § 332(c)(7)(B)(v) of the Act Authorizes a Direct Appeal from the Decision of a State or Local Government

### A. Type of Action and Evidentiary Questions

### B. Parties for Whom the Act Provides Protection

### C. Jurisdictional Issues

### D. Time for Judicial Review

### E. Ripeness: Filing an Appeal within the Required Time Period

## V. BellSouth v. Gwinnett County; a Case Study

## VI. Conclusion

### I. Foreword

{1} As the wireless telecommunications revolution has expanded, so has the demand for wireless communications facilities.[1] The number of cellular subscribers in the U.S. has exploded in the past fifteen years from, zero to a current level of over 25 million.[2] In order to keep up with the demand for service, cellular providers have installed some 22,000 radio transmission sites nationwide during the past 15 years.[3] Increasing demand for telecommunications services will require another 100,000 antennae installations in the coming years.[4]

{2} The reason that increased consumer demand requires a corresponding increase in the number of cellular transmission sites is simple. A cellular network is much like a honeycomb. As a cellular user travels from one area to another, the transmission of a telephone call is shifted from one transmission site to the next. As demand increases, the area over which the site can effectively transmit shrinks, causing gaps between the sites, or gaps in the "honeycomb." In order to fill these gaps, cellular service providers must build additional sites to accommodate the increased demand without eroding the quality of service.

{3} Across the U.S., this wireless telecommunications revolution has encountered significant resistance at the grassroots level.[5] Although consumers enjoy the flexible advantages of mobile communications, they also express a "not in my backyard" attitude towards the infrastructural requirements associated with cellular telephone service. For example, in many localities, tower construction is bogged down in a quagmire of community complaints and politically motivated governmental reviews. Thus, cellular providers are saddled with increasing demands of customers and federal licenses that require the cellular company to provide adequate service[6] in the face of increasing opposition to telecommunications siting.

{4} The Telecommunications Act of 1996, signed into law by President Clinton in February, addresses, among many other important subjects, some of the technical problems that have arisen from the increasing popularity of mobile communications. This article will provide an overview of the Act and will focus specifically on the protections afforded a telecommunications provider in § 704 of the Act.

## **II. Overview and Background of the Act**

{5} On February 8, 1996, President Clinton signed into law the Telecommunications Act of 1996. The Telecommunications Act of 1996 ("Telecommunications Act" or "Act") is "expansive legislation designed primarily to increase competition in the telecommunications industry." [7] The legislative history of the Act evidences this competitive objective: "[t]he managers on the part of the House and Senate [intend] . . . to provide for a pro-competitive, de-regulatory, national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition . . ." [8] In fact, the House Report articulates that the "enormous benefits to American businesses and consumers from lifting the shackles of monopoly regulation will almost certainly earn the [Telecommunications Act] the distinction of being the most deregulatory bill in history." [9]

## **III. Section 704 of the Act: Protections Afforded the Provider in the Telecommunications Facility Siting Context**

{6} When attempting to locate a wireless telephone communications facility, such as a cellular transmission tower, a service provider typically has to apply for and receive either a permit to construct

the tower or a rezoning of the land at issue to allow for such construction. Section 704 of the Act, to be codified at 47 U.S.C. § 332(e), provides certain statutory protections to an applicant who applies for such a permit or rezoning, provided the application involves the siting of a personal wireless service facility such as a cellular tower.[10] These protections, of course, are in addition to the standard protections afforded by equal protection, due process, and applicable state law doctrines such as mandamus.[11]

{7} Without completely preempting the authority of local governments to make decisions regarding the placement of wireless communications facilities,[12] the Act provides five separate and substantial protections for the telecommunications facility applicant in the amended 47 U.S.C. § 332 (entitled National Wireless Telecommunications Siting Policy).[13] Section 332 provides that:

(A) the regulation of placement, construction, and modification of personal wireless services facilities by any state or local government shall not unreasonably discriminate among providers of functionally equivalent services;

(B) the regulation of the placement, construction, and modification of personal wireless service facilities by any state or local government shall not prohibit or have the effect of prohibiting the provision of personal wireless services;

(C) once an applicant files a request for authorization to place, construct, or modify a personal wireless service facility, the governmental entity shall act on the application "within a reasonable period of time after the request is duly filed";

(D) no state or local governmental entity may regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations; and

(E) any decision by a state or local governmental entity to deny an application to place, construct, or modify a personal wireless service facility shall be in writing and supported by substantial evidence contained in a written record.[14]

The application of these protections is, of course, dependent upon the context in which they are applied.

#### **A. Governmental Action Shall Not Discriminate**

{8} The Act provides that the regulation of the placement, construction, and modification of a telecommunications facility shall not unreasonably discriminate among providers of functionally equivalent services.[15] The term "functionally equivalent services" refers only to services that directly compete against one another.[16] A governmental authority is prohibited from decisions that favor one telecommunications competitor over another, while it is allowed some flexibility to treat differently facilities that create different visual, aesthetic, or safety effect, at least to the extent permitted under generally applicable zoning requirements.[17] For example, the Act does not contemplate that if a cellular tower is permitted in a commercial district, a tower of the same size and structure must also be

allowed in a residential district.[18] Accordingly, the articulated intent of this specific protection is to prohibit a land use decision or series of land use decisions that would decrease or deter competition in the telecommunications industry and thereby frustrate the purpose of the Act.

***B. Governmental Action Shall Not Prohibit or Have the Effect of Prohibiting the Provision of Personal Wireless Services***

{9} Under 47 U.S.C. § 332(7)(B)(i)(II), governmental policies that explicitly or effectively ban personal wireless services or facilities violate of the Act, and governmental entities must treat each application to place or construct a facility independently.[19] Although a state or local government may deny an application based on stated objective criteria, the criteria upon which the denial is based cannot have the effect of banning telecommunications facilities, nor will a pattern of unsubstantiated denials be tolerated under the Act.

{10} Interestingly, in *Spring Spectrum, L.P. v. City of Medina*, a plaintiff/appellant cellular provider filed suit under the Act claiming that a six-month moratorium on the issuance of permits for wireless communications facilities enacted by the defendant/appellee city violated subsection (B)(i)(II) of the Act because the ordinance's effect was prohibitory.[20] Because the moratorium was temporary in nature, however, the U.S. District Court for the Western District of Washington held that the moratorium was "not a prohibition on wireless facilities, nor does it have a prohibitory effect. It is, rather, a short-term suspension of permit-issuing while the City gathers information and processes applications. Nothing in the record suggests that this is other than a necessary and *bona fide* effort to act carefully in a field with rapidly evolving technology. Nothing in the moratorium would prevent Sprint's application, or anyone else's, from being granted." [21]

{11} Although the *Medina* Court made it clear that temporarily suspending the granting of permits for telecommunications facilities does not violate the Act if it is of reasonable duration (six months), the Court suggested that if all applications would have been *denied* during this six-month period, the moratorium would have violated the Act.[22] Of course, any extension of the moratorium might also be violative of the Act, constituting an unreasonable delay in processing the application under subsection (B)(ii).

***C. Upon Application for a Permit to Place, Construct, or Modify a Wireless Facility, a Government Shall Act Upon the Application Within a Reasonable Period of Time***

{12} Subsection (B)(ii) prevents a governmental unit from sitting on, or refusing to rule on an application to place or construct wireless service facilities.[23] Under this requirement, the governmental entity must respond to the application within a reasonable time frame, "taking into account the nature and scope of each request." [24] If the application involves a permitting procedure, a public hearing, or comment process, the "reasonable period of time" requirement is satisfied if the period for review of the application is the usual period under the applicable ordinance or statutory scheme.[25] It is not the intent of this provision to give preferential treatment to the wireless

communications industry in the processing of requests, or to subject their requests to anything other than the generally applicable time frame for ruling on applications.[26] Thus, a governmental entity need not rule more quickly than it would for an applicant in a non-telecommunications context.

{13} In *City of Medina*, the plaintiff/appellant challenged the city's six-month moratorium on the issuance of permits for wireless communications facilities, alleging a violation of the "reasonable time" requirement.[27] Because the city's moratorium did significantly prolong the approval process for a special use permit, and because the moratorium applied only to "wireless communications facilities"[28], plaintiff/appellant seemed to have a strong claim that a violation of subsection (B)(ii) had occurred.[29]

{14} The District Court for the Western District of Washington, however, held to the contrary:

[t]here is nothing to suggest that Congress, by requiring action "within a reasonable period of time," intended to force local government procedures onto a rigid timetable where the circumstances call for study, deliberation and decision-making among competing applicants. The City is seeking to determine, among other things, whether tall antenna towers are still necessary for the purpose at hand. It is entitled to find that out. The "generally applicable time frames" for zoning decisions, in Washington, may include reasonable moratoria adopted in compliance with state law. To hold otherwise would afford telecommunications applicants the "preferential treatment" that Congress sought to avoid. Medina's moratorium, coupled with its ongoing investigation and its processing of applications, is consistent with this part of the [Act].[30]

{15} In so holding, the *Medina* court relied heavily on a statement within the city's moratorium indicating that the purpose of the moratorium was to study the Telecommunications Act, and the city's ability to regulate wireless communications facilities in light of the Act.[31] The court, therefore, left open the question as to what delays will be considered unreasonable under the Act.

**D. State or Local Governments May Not Regulate Wireless Facilities on the Basis of Environmental Effects of Radio Frequency Emissions if the Applicant Demonstrates Compliance with FCC Regulations**

{16} From an applicant's perspective, the key to enforcing this requirement, codified in subsection (B)(iv), is to provide the governmental decision-maker with evidence (field tests, engineering, specifications, etc.) demonstrating emissions from the protected facility are within FCC limits. This evidence must be provided, of course, prior to any decision on the application in question. The protection of subsection (B)(iv) is applicable once these tasks have been accomplished by the communication provider.

{17} As written, the purpose of the requirement is to prevent telecommunications siting decisions from being based upon unscientific or irrational fears that emissions from telecommunications sites may cause undesirable health effects. In a surprising number of public hearings on the issue of cellular siting, individuals appear and complain of allegedly harmful health effects, although the authors know of no studies substantiating such claims.[32]

***E. Any Decision to Deny an Application to Place, Construct or Modify a Wireless Facility Must be in Writing and Supported by Substantial Evidence Contained in a Written Record***

{18} The protection that arguably has the most significant impact upon the telecommunications industry is the "substantial evidence" standard, which gives the telecommunications provider valuable protection in the facilities siting context.[33] The terms "in writing" and "contained in a written record" are somewhat vague, but at the very least they require some record upon which the decision to deny an application could be based.[34] As set forth in the legislative history of the Act, the "substantial evidence" standard set forth in subsection(B)(iii) "is the traditional standard used for judicial review of agency actions." [35] Substantial evidence, as used in this context, means "more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." [36]

{19} In applying the substantial evidence standard, a court should not a merely rubber stamp a governmental entity's denial of an application. A court is in fact obligated to ensure that the denial is supported by substantial evidence: "the [state or local government denying the application] cannot rest its conclusions on a scintilla of evidence or even on any amount of evidence that is less than substantial. Instead, the [denial of an application] can be enforced only if [the court] find[s] in the record 'such relevant evidence as a reasonable mind might accept as adequate to support the conclusion.'" [37] Although a reviewing court is not free to substitute entirely its judgment for that of the governmental entity, it must overturn the denial of an application "under the substantial evidence test if it 'cannot conscientiously find that the evidence supporting that decision is substantial, when viewed in the light that the record in its entirety furnishes, including the body of evidence opposed to the denial.'" [38]

{20} The stringent substantial evidence standard set forth in Section 704 of the Telecommunications Act must be distinguished from the much more lenient "arbitrary and capricious" standard set forth in the Administrative Procedure Act which also provides for judicial review of agency action. [39] The substantial evidence test requires the court to "take a harder look at [agency] action than [it] would if [the court] were reviewing the action under the more deferential arbitrary and capricious standard applicable to agencies governed by the Administrative Procedure Act." [40]

{21} Another factor which may affect the level of scrutiny that the reviewing court will apply to an application to place or construct a wireless communications facility is the type of decision rendered by the state or local government -- i.e., whether the denial is legislative, or whether it is administrative/quasi-judicial in nature. Determining whether governmental action is legislative or administrative/quasi-judicial turns on whether the governmental act involves policy-making or constitutes mere administrative application of existing policies. [41] If the governmental act involves

policy-making, it is more likely legislative; if the act involves administrative application of existing policies, the decision is more likely quasi-judicial or administrative in nature.[42] Additionally, if the facts utilized by the government in making a determination are specific, rather than general, the decision is more likely administrative or quasi-judicial. This is also true if the decision impacts specific individuals rather than the general population.[43]

{22} If the court determines that the governmental action in question is an administrative or quasi-judicial permitting decision, the court must conduct a more stringent analysis of the governmental denial than it would in the case of a decision involving legislative re-zoning. Courts are more reluctant to overturn local land use decisions by governmental entities when the decisions are legislative in nature. As stated by the Supreme Court in *New Orleans v. Dukes*, 427 U.S. 297 (1976), "the judiciary may not sit as a super-legislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect governmental rights nor proceed along suspect lines." [44] It remains to be seen, however, what level of scrutiny will be applied to a legislative zoning decision in the face of the stringent substantial evidence standard prescribed by the Act.

#### **IV. Filing Suit: § 332(C)(7)(B)(V) of the Act Authorizes a Direct Appeal From the Decision of a State or Local Government**

{23} Subsection (B)(v) states, in pertinent part, as follows:

Any person adversely affected by any final action or failure to act by state or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within thirty days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis.  
[45]

##### **A. Type of Action and Evidentiary Questions**

{24} Although the Act describes the action to be filed by a jilted applicant very generically, the legislative history of the Act makes clear that the action should be couched in the terms of an appeal. [46] Given the fact that the action is an appeal, the court, in reviewing the denial of the application, is limited to the evidence and argument presented to the state or local government below. Efforts to bolster the position of either the communications provider or the government subsequent to the denial of the application will be futile.[47] It is therefore imperative that the communications provider present the entirety of its evidence and argument during the application process below. Like the appeal of a civil trial, an appeal under the Act will be decided solely on the basis of the record below.[48]

### ***B. Parties for Whom the Act Provides Protection***

{25} The specific language of the Act authorizes an appeal by numerous potential claimants. The Act specifically provides that any person adversely affected by a denial may file an appeal.[49] The Act, therefore, contemplates suits by appellants other than the individual/entity that filed for governmental approval of the proposed facility. For instance, a landowner's right to receive rentals for allowing a communication facility on his/her property may be foreclosed by a governmental denial. Such an individual is protected by the Act.[50] Although an interested party does not necessarily have to file the application in question in order to seek relief under the Act, if the party wants to ensure a successful appeal, attention to the amount and type of evidence presented during the application process is important.

### ***C. Jurisdictional Issues***

{26} The Act authorizes appeal in "a court of competent jurisdiction." As stated in the legislative history, a court of competent jurisdiction "may be the Federal district court in which the facilities are located or a State court of competent jurisdiction, at the option of the party making the appeal . . .".[51] In determining which court is more advantageous to the potential plaintiff/appellant, an analysis of the political climate surrounding the governmental denial should be conducted. Telecommunications facilities are often controversial and if local judges are elected, the desires of local voters could play a major part in the judicial decision. Further, the potential claimant should consider whether local courts will be deferential to the actions of local governments with whom they may be, and often are, closely aligned. Finally, the potential plaintiff/appellant should take into consideration the sophistication of local judges and their ability to properly apply federal law.

### ***D. Time for Judicial Review***

{27} The Act specifically requires that a court hearing an appeal under its provisions "shall hear and decide such action on an expedited basis."[52] No matter what forum is chosen, the plaintiff/appellant should attempt to forego any discovery period and request an immediate hearing. This request is not unreasonable because the appeal will be decided solely on the basis of the evidence presented below, and no discovery is necessary. Given the Congressional mandate of an expedited hearing *and decision*, [53] the plaintiff/appellant should be successful in getting a decision within a matter of months.[54]

### ***E. Ripeness: Filing an Appeal within the Required Time Period***

{28} Finally, and very importantly, the plaintiff/appellant must determine when the appeal is ripe for consideration by the reviewing court. In order to be appealable, the Act requires that the governmental denial be a final action or failure to act<sup>[55]</sup> and that the plaintiff/appellant must commence the appeal within thirty days of such action or failure to act.<sup>[56]</sup> As stated in the legislative history, the term "final action" means "final administrative action at the State or local government level so that the party can commence action under the [Act] rather than waiting for the exhaustion of any independent State court remedy otherwise required."<sup>[57]</sup>

{29} After the plaintiff/appellant receives notice that the application to place the communications facility has been denied, the plaintiff/appellant must exhaust all available state and local administrative remedies prior to filing an appeal under the Act. Once administrative relief is exhausted, the appeal is ripe even if the plaintiff/appellant has not utilized all available judicial remedies.<sup>[58]</sup> A plaintiff/appellant should, therefore, analyze the applicable ordinance or local statute governing the application to determine whether an administrative appeal is provided. If so, the plaintiff/appellant must exhaust the administrative remedies prior to filing suit under the Act. Once administrative remedies have been exhausted, the plaintiff/appellant must appeal within thirty days of a denial.

#### V. *Bellsouth v. Gwinnett County*; A Case Study

{30} *BellSouth Mobility* was the first case in which a claimant successfully obtained judicial relief under Section 704 of The Telecommunications Act of 1996. Because this case of first impression will have significant impact on future claims brought under the Act, a brief analysis of the decision is important.

{31} In *BellSouth*, plaintiff/appellant BellSouth Mobility Inc. ("BellSouth") sought to construct a cellular communications monopole upon a designated site in Gwinnett County, Georgia.<sup>[59]</sup> The height of the tower required that BellSouth obtain a tall structure permit prior to construction.<sup>[60]</sup> The county ordinance governing the issuance of tall structure permits authorized the county to deny an application for a tall structure permit when: (1) the proposed structure could interfere with air facilities located within the county; (2) the structure could endanger person or property within the county, or (3) the structure would not be compatible from an aesthetic viewpoint with surrounding area.<sup>[61]</sup>

{32} In preparing to construct the monopole, BellSouth leased the subject property from the owners of the site and filed their application for a tall structure permit with the county.<sup>[62]</sup> The application was supported by numerous evidentiary exhibits indicating that: (1) the monopole would not interfere with navigable airspace in the area; (2) the monopole would not endanger persons or property nearby; and (3) the structure would be compatible from an aesthetic viewpoint with the existing facilities.<sup>[63]</sup> No exhibit or documentary evidence was submitted in opposition to the application.

{33} A hearing was scheduled before the county's board of commissioners and each side presented a five-minute argument. In opposition to the application, a representative from a surrounding neighborhood voiced concerns that the monopole would pose a safety threat to children, that the monopole might cause damage during a storm, and that the monopole would be aesthetically incompatible with existing structures in the area. BellSouth also presented a five-minute argument which was based primarily upon the documentary evidence previously submitted in support of the application.

[64] At the conclusion of the argument, and without further discussion, the county board of commissioners voted to deny the application.[65] BellSouth subsequently received a letter informing it of the permit denial, but the letter did not give any reasons therefor, nor did it specify any evidence upon which the denial had been based.[66]

{34} Because the ordinance in question did not authorize an administrative remedy if an application was denied, BellSouth, along with the owners of the site upon which the monopole was to be constructed, filed an appeal from the county's decision in the Federal District Court in which the monopole was to be constructed.[67] In bringing the Telecommunications Act claim, plaintiffs/appellants relied exclusively on the requirement of 47 U.S.C. § 332(c)(7)(B)(iii) [§704(c)(7)(B)(v), 110 Stat.], mandating that any denial "shall be in writing and supported by substantial evidence contained in a written record." [68] Along with the appeal under the Telecommunications Act, plaintiffs/appellants prosecuted the action under a state-law mandamus theory, arguing that the county's board of commissioners abused its discretion in denying the permit because the evidence clearly supported approval of the application.[69]

{35} In limiting its review to the evidence and argument presented to the county below, the court ruled as follows on plaintiffs'/appellants' "substantial evidence" claims under the Telecommunications Act:

[T]he court cannot conscientiously find that the evidence supporting the board's decision to deny the plaintiffs a tall structure permit is substantial. On the contrary, the court finds that the record evidence supports plaintiffs' application.[70]

{36} The critical issue, however, was not whether the county had violated the Telecommunications Act, but the relief that would be granted to plaintiffs/appellants. Fearing that remand of the application to the county would result in an attempt by the county to bolster their decision by hearing additional evidence from the opposition, plaintiffs/appellants argued vehemently that the Act prohibited remand because it would frustrate Congressional intent to provide an aggrieved party full relief on an expedited basis.[71] Additionally, plaintiffs/appellants argued that remanding the case to the county would frustrate the purpose of the Act because the board of commissioners would still be influenced by the impermissible factors that caused them to deny the application in the first instance -- community opposition and political pressure.

{37} The county contended that the Court should simply remand the matter to the county and allow it to make a decision supported by substantial evidence.[72] The county argued that it was improper for Federal courts to usurp local government authority by directing issuance of a permit, and that the Act did not authorize the Court to issue such an order.

{38} The Court held as follows:

Section 704(a) of the [Telecommunications Act] does not speak to the issue of what relief a court may grant to remedy violations of the [Act]. Although it permits any person who has been adversely affected by actions that are inconsistent with its provisions to 'commence an action in any court of competent jurisdiction,' it does not specify an appropriate remedy.

The [Telecommunications Act], however, does mandate that '[t]he court shall hear and decide such action on an expedited basis.' Indeed, the legislative history of the [Telecommunications Act] makes it clear that its drafters intended that 'the court to which a party appeals a decision under section 332(c)(7)(B)(v) may be the Federal district court in which the facilities are located or a State court of competent jurisdiction, at the option of the party making the appeal, and that the courts act expeditiously in deciding such cases.'

In the court's view, simply remanding the matter to the board of commissioners for their determination would frustrate the [Telecommunications Act's] intent to provide aggrieved parties full relief on an expedited basis. Therefore, defendants' abstention argument notwithstanding, the court finds that the [Telecommunications Act] vests the court with sufficient authority to grant plaintiffs' request for mandamus relief if such relief would be warranted under the circumstances.[73]

Accordingly, the *BellSouth* Court not only found that defendants'/appellees' decision violated the Act because it was not based upon substantial evidence, but also specifically ordered the county to grant the application for the permit in question.[74]

### VI. Conclusion

{39} There can be no doubt that the Telecommunications Act of 1996 will have a significant impact upon facility siting decisions made by local governments. The requirements set forth in the Act give a telecommunications provider protection from the sometimes mercurial temperaments of local governments as they relate to zoning and planning. The *BellSouth* decision provides additional protection because it indicates that the judiciary should be aggressive in carrying out the articulated Congressional desire to reduce barriers to entry and increase competition in the telecommunications industry.

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## S.652

**Telecommunications Act of 1996 (Enrolled as Agreed to or Passed by Both House and Senate)**

### **SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.**

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY- Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

    (7) PRESERVATION OF LOCAL ZONING AUTHORITY-

        (A) GENERAL AUTHORITY- Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

        (B) LIMITATIONS-

            (i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

                (I) shall not unreasonably discriminate among providers of functionally equivalent services; and

                (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

            (ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such

request.

` (iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

` (iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

` (v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

` (C) DEFINITIONS- For purposes of this paragraph--

` (i) the term `personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

` (ii) the term `personal wireless service facilities' means facilities for the provision of personal wireless services; and

` (iii) the term `unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).'

(b) RADIO FREQUENCY EMISSIONS- Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY- Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be

***THE FOLLOWING PORTION OF THIS COURT CASE DEALS WITH UNREASONABLE DISCRIMINATION, GAPS IN SERVICE, PROHIBITION OF SERVICES AND THE NEED FOR PROVIDERS TO FIND ALTERNATIVE SITES FOR PLACEMENT OF CELLULAR FACILITIES:***

AIRTOUCH CELLULAR, a California corporation, Plaintiff, vs. THE CITY OF EL CAJON and THE CITY COUNCIL OF THE CITY OF EL CAJON, Defendants.

CIV. NO. 99-1801-B (LAB)

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

83 F. Supp. 2d 1158; 2000 U.S. Dist. LEXIS 4158

February 10, 2000, Decided; February 10, 2000, Filed; February 11, 2000, Entered

**DISPOSITION: Defendants' Motion for Summary Judgment and/or For Summary Adjudication GRANTED in its entirety; and Plaintiff's Motion for Summary Judgment re: First and Sixth Claims for Relief DENIED.**

[. . .]

2. Did the City Council "Unreasonably Discriminate" Against AirTouch?

In this case, the Court finds that the City did not discriminate against AirTouch at all, let alone unreasonably. While Nextel's prior application on the same site had previously been granted, the situation in the neighborhood had changed in the time between Nextel's application and AirTouch's. At the hearings on AirTouch's application, the residents expressed concern regarding the increase in antennas, adding another equipment structure, and an increase in visual blight and problems such as noise.

For these reasons, the Court finds that the City's decision did not discriminate against AirTouch; it merely reached a different conclusion based on different factors. The City has demonstrated the absence of a material issue of fact on this point.

[. . .]

a. Gap In Coverage

The Court agrees with the weight of circuit authority that § 332(c)(7)(B)(i)(II) prohibits decisions which create "significant gaps" in addition to those which create a "general ban." However, this does not address the question of whether, as in this case, a decision which creates a "gap" in one cellular provider's service violates the section when other providers serve the area. In such a case,

. . . the relevant gap, if any, is a gap in the service available to remote users. Not all gaps in a particular provider's service will involve a gap in the service available to remote users. The provider's showing on this issue will thus have to include evidence that the area the new facility will serve is not already served by another provider.

(p. 7 of 13)

[. . .]

b. Alternatives

There is no prohibition of wireless services within the meaning of § 332(c)(7)(B)(i)(II) if the carrier's request is denied but the carrier may turn to alternative sites, even if those sites "may be less than optimal." Jefferson County, 59 F. Supp. 2d at 1109-10 ("forcing [the carrier] to use lesser alternatives" does not constitute prohibition).

As noted by the First Circuit:

Ultimately, we are in the realm of trade-offs: on one side are the opportunities for the carrier to save costs, pay more to the town, and reduce the number of towers, on the other are more costs, more towers, but possibly less offensive sites and somewhat shorter towers. [The carrier] may think that even from an aesthetic standpoint, its solution is best. But subject to an outer limit, such choices are just what Congress has reserved to the town.

(p. 8 of 13)

[...]

<http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document? m=bf3918d5256b868b267a7d59eaff73ac& docnum=1&wchp=dGLbVzb-zSkVA& md5=541ce419c1ecb8d707be2dcd7cbfa85f>

**THE FOLLOWING PORTION OF THIS COURT CASE DEALS WITH LOCAL ZONING AUTHORITY OVER THE PLACEMENT OF WIRELESS SERVICE FACILITIES:**

APT MINNEAPOLIS, INC., Plaintiff, v. EAU CLAIRE COUNTY, Defendant.  
99-C-609-C

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN  
80 F. Supp. 2d 1014; 1999 U.S. Dist. LEXIS 20369

December 30, 1999, Decided; December 30, 1999, Opinion Filed

**ORDER: IT IS ORDERED that the motion of plaintiff APT Minneapolis, Inc. for summary judgment is DENIED. The motion of defendant Eau Claire County for summary judgment is GRANTED. The clerk is directed to enter judgment in favor of defendant and close this case.**

[...]

Plaintiff argues that comments by board members reveal that the board had a "generalized hostility" to the placement of communications towers. For instance, board member Robin Walsh stated his concern that if plaintiff's variance was granted, "we would have no assurance that another company wouldn't decide to put in their own tower and their own equipment . . ." And board member Robert Hevey expressed his preference for two towers at alternative sites, stating:

So I think, ah, that's one way they should be looking at rather than going, putting another tower up on top of Mt. Tom because eventually what we're going to end up doing if we put the one, we're going to have to put a second one because there are other licenses out there.

Contrary to plaintiff's interpretation, these comments do not evince a generalized hostility to wireless service facilities but rather indicate the board's concern with a proliferation of towers on Mt. Tom exceeding the airport height limitation. See Aegerter, 174 F.3d at 891 (act's prohibition on bans does "not mean that every municipality must have towers wherever anyone wants to put them") [...].

E. Conclusion

The decision of the board to deny plaintiff's application for a variance from the height limitation ordinance did not violate the Telecommunications Act. Although the board's decision may mean a loss of revenue for plaintiff and the city and may require plaintiff to construct multiple towers to achieve the coverage it desires, nothing in the act requires a local zoning authority to allow wireless telecommunications companies to construct towers in the locations of their choice or to maximize their profits. The board concluded from substantial evidence in the record that plaintiff had alternatives available that would allow it to complete its coverage gap without the need to impose an additional obstruction to the airspace above Mt. Tom.

(p. 10 of 11)

([http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?\\_m=67455bb4ea1ed96680f9d6526382ec43&\\_docnum=1&wchp=dGLbVzz-zSkVA&\\_md5=1c701998d93438f985719e8e17d16266](http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?_m=67455bb4ea1ed96680f9d6526382ec43&_docnum=1&wchp=dGLbVzz-zSkVA&_md5=1c701998d93438f985719e8e17d16266))

**THE FOLLOWING PORTION OF THIS COURT CASE DEALS WITH SIGNIFICANT GAPS IN SERVICE AND THE NEED FOR PROVIDERS TO CLOSE SERVICE GAPS BY THE LEAST INTRUSIVE MEANS POSSIBLE:**

APT PITTSBURGH LIMITED PARTNERSHIP, Plaintiff, v. LOWER YODER TOWNSHIP, CAMBRIA COUNTY, a political subdivision of the Commonwealth of Pennsylvania, and ZONING HEARING BOARD OF LOWER YODER TOWNSHIP, Defendants.

Civil Action No. 98-187J

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

111 F. Supp. 2d 664; 2000 U.S. Dist. LEXIS 12693

July 26, 2000, Decided

**ORDER: AND NOW, this 26th day of July, 2000, upon consideration of the record before the Zoning Hearing Board, the written decision of the Board, and the submissions of the parties, it is hereby ORDERED, ADJUDGED and DECREED that judgment shall be entered for defendants, Lower Yoder Township and its Zoning Hearing Board, on all counts in plaintiff's amended complaint. BY THE COURT: D. Brooks Smith, United States District Judge**

Failing to prove that Ordinance No. 77 flatly "prohibits" the provision of communications facilities, APT next argues that the denial of its request nonetheless had the "effect" of prohibiting such facilities. For APT to win on this claim, it must prove two things:

First, the provider must show that its facility will fill an existing significant gap in the ability of remote users to access the national telephone network. In this context, the relevant gap, if any, is a gap in the service available to remote users. Not all gaps in a particular provider's service will involve a gap in the service available to remote users. The provider's showing on this issue will thus have to include evidence that the area the new facility will serve is not already served by another provider.

Second, the provider applicant must also show that the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve. This will require a showing that a good faith effort has been made to identify and evaluate less intrusive alternatives, e.g., that the provider has considered less sensitive sites, alternative system designs, alternative tower designs, placement of antennae on existing structures.

Penn Township, 196 F.3d at 480; [ . . . ] APT has failed to carry its burden on either prong of this two-part test.

APT has failed to present evidence demonstrating a "significant gap in the ability of remote users to access the national telephone network." Penn Township, 196 F.3d at 480. At the hearing, APT explained that it had a gap in its service along portions of Routes 56 and 271. I have no doubt that APT does suffer from such a gap. But to prove a violation of the TCA, a provider must establish more than just a gap in its own service. It must produce "evidence that the area the new facility will serve is not already served by another provider." Penn Township, 196 F.3d at 480; Newtown Township, slip. op. at 8 ("the question then remains as to whether other providers already serve the area at issue in this case."). At the June 30th hearing, APT produced no such evidence. If anything, the evidence adduced at the hearing suggested just the opposite. APT officials, members of the public, and even members of the ZHB testified that there were already wireless towers in Lower Yoder's CS districts. The only inference to be drawn from this evidence is that there was already wireless service in Lower Yoder.

Furthermore, even if there is a significant gap in this case, APT has failed to present any evidence that its proposed tower will be the "least intrusive" way to fill this gap. Penn Township, 196 F.3d at 480. [ . . . ] In

particular, APT must demonstrate that a "good faith effort has been made to identify and evaluate less intrusive alternatives, e.g., that the provider has considered less sensitive sites, alternative system designs, alternative tower designs, placement of antennae on existing structures." Penn Township, 196 F.3d at 480. (p. 6 of 14).

[...]

Even when the facts adduced in Tuttle's affidavit are added to the mix, APT still cannot show that the defendants violated the TCA. First, APT has not tendered any evidence to demonstrate that there is a "significant gap in the ability of remote users to access the national telephone network." Penn Township, 196 F.3d at 480.

[...]

Plaintiff's second claim is that the defendants "unreasonably discriminated among providers of functionally equivalent services," 47 U.S.C. § 332(c)(7)(B)(i)(I), when they denied APT's request for a building permit. In particular, APT claims that other wireless providers have been permitted to locate towers in Lower Yoder's CS districts, while APT has been limited only to the L district. Section § 332(c)(7)(B)(i)(I) of the TCA contemplates proof on two elements. First, APT must show that it was somehow discriminated against by the defendants when its application for a building permit was denied. Second, it must prove that this discrimination was "unreasonable." "The Act explicitly contemplates that some discrimination among providers of functionally equivalent services is allowed. Any discrimination need only be reasonable." AT & T Wireless, 155 F.3d at 427; see also Sprint Spectrum L.P. v. Willoth, 176 F.3d 630, 638 (2d Cir. 1999).

[...]

Even if there was discrimination in this case, APT has produced no evidence proving that such discrimination was "unreasonable." 47 U.S.C. § 332(c)(7)(B)(i)(I). To secure relief under § 332(c)(7)(B)(i)(I), APT must make a showing that "the 'structure, placement or cumulative impact' of the existing facilities make them more intrusive than the proposed facility." Penn Township, 196 F.3d at 480 (quoting Willoth, 176 F.3d at 643) ("it is not unreasonably discriminatory to deny a subsequent application for a cell site that is substantially more intrusive than existing cell sites by virtue of its structure, placement or cumulative impact."). "The phrase 'unreasonably discriminate among providers of functionally equivalent services' [provides] localities with the flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements even if those facilities provide functionally equivalent services." H.R. Conf. No. 104-458, at 208, reprinted in 1996 U.S.C.C.A.N. at 222. APT has produced no evidence comparing the "structure, placement, or cumulative impact" of the existing facilities to the one that it proposed. Neither has it produced any evidence comparing the "visual, aesthetic or safety" aspects of the existing facilities with the one that it proposed. Absent such evidence, I cannot find that the defendants "unreasonably" discriminated against APT.

Indeed, if there was any discrimination between APT and other providers, it was wholly reasonable. It is reasonable for a municipality, like Lower Yoder, to reject an application to build a communications tower in a district where it already has a number of other towers. See Willoth, 176 F.3d at 643. As the record in this case indicates, there are already a number of communications towers in Lower Yoder's CS districts, some of which are owned by APT. It is simply not unreasonable for a municipality to decide, based on aesthetics or "cumulative impact," that it will not permit more towers in its CS districts. That is precisely what the defendants appear to have done in this case. ("local governments may reasonably take the

location of the telecommunications tower into consideration when deciding whether . . . to approve an application for construction of wireless telecommunications facilities, even though this may result in discrimination between providers of functionally equivalent services." 

Because APT has failed to adduce any evidence to prove that the defendants "unreasonably discriminated among providers of functionally equivalent services," 47 U.S.C. § 332(c)(7)(B)(i)(I), I will grant judgment in favor of the defendants on this claim.

APT's final claim under the TCA is that the defendants' denial of APT's application to build a communications tower was not supported by "substantial evidence" as required by 47 U.S.C. § 332(c)(7)(B)(iii). The TCA requires that any decision denying "a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record." 47 U.S.C. § 332(c)(7)(B)(iii). As the Third Circuit has noted, substantial evidence "does not mean a large or considerable amount of evidence, but rather such evidence as a reasonable mind might accept as adequate to support a conclusion." *Cellular Telephone v. Ho-Ho-Kus*, 197 F.3d 64, 71 (3d Cir. 1999).

(pgs. 8-9 of 14).

[ . . . ]

My approach to the substantial evidence issue in this case does not shift the burden of proof on this issue to APT. Rather, the local zoning authority bears the burden of demonstrating its denial is supported by substantial evidence. *Omnipoint v. Penn Forest Township*, 42 F. Supp. 2d 493, 1999. I do believe, however, that the defendants can meet their burden by demonstrating the lack of evidence offered at the hearing in support of a variance. Imagine the results if local zoning boards could not deny applications for communications towers based on lack of proof. Wireless providers, like APT, could simply apply for a variance without offering any evidence in support of their application. Because the zoning board could not deny the application for want of evidence, it would be forced to automatically grant the variance, lest its decision be subject to reversal by a federal court. Such a result would subvert local zoning authority and be contrary to Congress' intent when it passed the TCA that "the authority of State and local governments over zoning and land use matters" be preserved. H.R. Conf.Rep. No. 104-458, at 207-208, reprinted in 1996 U.S.C.C.A.N. at 222. Rather than read the TCA to create such an absurd result, I find that the defendants can satisfy the substantial evidence standard by pointing to the lack of evidence offered at the hearing in support of a variance.

Nonetheless, there is significant evidence in the record of this case questioning the safety of the proposed tower, its aesthetic impact, property value impact, and affect on a near-by residential area. There was also evidence that the proposed tower would have a tremendous impact on the near-by town of Brownstown. This evidence constitutes "substantial evidence" in support of the Board's decision to deny APT's request. Granted, the local citizens did not have the benefit of counsel, and their testimony was not accompanied by elaborate demonstrative aids, expert reports, and colored graphics. Yet, this evidence was straightforwardly presented and specific enough to support the Board's decision.

(p. 10 of 14).

[http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?\\_m=209ce5ce724fab3fd73bc9c700003341&\\_docnum=1&wchp=dGLzVlz-zSkVb&\\_md5=9d1ada7bbda1a320ca41461f139e4303](http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?_m=209ce5ce724fab3fd73bc9c700003341&_docnum=1&wchp=dGLzVlz-zSkVb&_md5=9d1ada7bbda1a320ca41461f139e4303)



***THE FOLLOWING PORTION OF THIS COURT CASE DEALS WITH DISCRIMINATION AMONG PROVIDERS OF FUNCTIONALLY EQUIVALENT SERVICES AND SUBSTANTIAL EVIDENCE:***

AT&T WIRELESS PCS, INCORPORATED; et al., Plaintiffs-Appellees, v. CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, Defendant-Appellant.

No. 97-2389, No. 97-2513

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

155 F.3d 423; 1998 U.S. App. LEXIS 21367; 13 Comm. Reg. (P & F) 425

June 2, 1998, Argued; September 1, 1998, Decided

**CONCLUSION:** Accordingly, we reverse the district court and order summary judgment in favor of the City Council on the claims involving subsection (B)(i)(I) and section (B)(iii), and affirm the district court's grant of summary judgment in favor of the City Council on the claim involving subsection (B)(i)(II).

[. . .]

[. . .] First, we seriously doubt that the City Council discriminated at all "among providers of functionally equivalent services," much less "unreasonably."

[. . .] Second, even assuming that the City Council discriminated, it did not do so "unreasonably," under any possible interpretation of that word as used in subsection (B)(i)(I). We begin by emphasizing the obvious point that the Act explicitly contemplates that some discrimination "among providers of functionally equivalent services" is allowed. Any discrimination need only be reasonable. See 979 F. Supp. at 425 ("The fact that a decision has the effect of favoring one competitor, in and of itself, is not actionable."). There is no evidence that the City Council had any intent to favor one company or form of service over another. In addition, the evidence shows that opposition to the application rested on traditional bases of zoning regulation: preserving the character of the neighborhood and avoiding aesthetic blight. If such behavior is unreasonable, then nearly every denial of an application such as this will violate the Act, an obviously absurd result.

(p. 4 of 8).

The Virginia Beach City Council is a state legislative body, not a federal administrative agency. [. . .] It is not only proper but even expected that a legislature and its members will consider the views of their constituents to be particularly compelling forms of evidence, in zoning as in all other legislative matters.

[. . .].

In light of these principles, the City Council's decision clearly does not violate the "substantial evidence" requirement. The record here consists of appellees' application, the Planning Department's report, transcripts of hearings before the Planning Commission and the City Council, numerous petitions opposing the application, a petition supporting the application, and letters to members of the Council both for and against. Appellees correctly point out that both the Planning Department and the Planning Commission recommended approval. In addition, appellees of course had numerous experts touting both the necessity and the minimal impact of towers at the Church. Such evidence surely would have justified a reasonable legislator in voting to approve the application, and may even amount to a preponderance of the evidence in favor of the application, but the repeated and widespread opposition of a majority of the citizens of Virginia Beach who voiced their views -- at the Planning Commission hearing, through petitions, through letters, and at the City Council meeting -- amounts to far more than a "mere scintilla" of evidence to persuade a reasonable mind to oppose the application. Indeed, we should wonder at a legislator who ignored such opposition. In all cases of this sort, those seeking to build will come armed with exhibits, experts, and evaluations. Appellees, by urging us to hold that such a predictable barrage

mandates that local governments approve applications, effectively demand that we interpret the Act so as always to thwart average, nonexpert citizens; that is, to thwart democracy. The district court dismissed citizen opposition as "generalized concerns." 979 F. Supp. at 430. Congress, in refusing to abolish local authority over zoning of personal wireless services, categorically rejected this scornful approach. (p. 7 of 8).

([http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?\\_m=d7d536d2bcbc4140dceaf4565bd0d9ac&\\_docnum=1&wchp=dGLbVzz-zSkVA&\\_md5=986f7c664b49e0059748d736e732db3d](http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?_m=d7d536d2bcbc4140dceaf4565bd0d9ac&_docnum=1&wchp=dGLbVzz-zSkVA&_md5=986f7c664b49e0059748d736e732db3d))

***THE FOLLOWING PORTION OF THIS COURT CASE DEALS WITH PRESERVATION OF STATE AND LOCAL AUTHORITY OVER ZONING AND LAND USE MATTERS AND PROHIBITION OF SERVICES:***

Omnipoint Communications, Inc., Plaintiff, vs. City of Scranton and Zoning Hearing Board of City of Scranton, Defendants;  
No. 3:Cv-97-0562  
United States District Court for the Middle District of Pennsylvania; 36 F. Supp. 2d 222; 1999 U.S. Dist. Lexis 1457; January 26, 1999, Decided; January 26, 1999, Filed.

**The Clerk of Court is directed to enter judgment in favor of the defendants and against the plaintiff.**

Although the Telecommunications Act placed certain restrictions upon local regulatory bodies, it did not completely preempt their ability to control zoning decisions in relation to telecommunications services. See *Town of Farmington*, 1997 WL 631104. Instead, Congress sought to balance the interests in promoting wireless technology with the rights of the local zoning authorities to maintain the integrity of land use rules. See 47 U.S.C. § 332(c)(7)(A) ("Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities."); H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 207-08 (1996), reprinted in 1996 U.S.C.C.A.N. 10, 222 ("The conference agreement creates a new section 704 which prevents Commission preemption of local and State land use decisions and preserves the authority of State and local governments over zoning and land use matters except in the limited circumstances set forth in the conference agreement.")  
(p. 6 of 16).

[. . .]

In short, Omnipoint was required to present evidence that (1) the coverage "gap" could not have been cured by moving the proposed site; or (2) no other viable alternatives, such as a communications tower, existed to cure the coverage "gap." Although these matters were raised at the zoning hearing, Omnipoint failed to address them. It is not fair to impose on local citizens the obligation of proving that there are no alternative viable sites. Those residing in a residential area should not be expected to undertake the exercise of bringing in experts and conducting studies. The Ordinance imposes the burden on the applicant for a variance to prove its case, and that burden must necessarily extend to explaining why alternatives will not work, especially where, as here, the objectors question the availability of other locations and suggest that the site chosen by the applicant is simply the least expensive site, not the only site. Otherwise, zoning ordinances will be overcome by the well-financed and organized personal wireless services providers. As the Fourth Circuit recently explained:

In all cases of this sort, those seeking to build will come armed with exhibits, experts, and evaluations. Appellees, by urging us to hold that such a predictable barrage mandates that local governments approve applications, effectively demand that we interpret the Act so as always to thwart average, nonexpert citizens; that is, to thwart democracy. The district court dismissed citizen opposition as "generalized concerns." Congress, in refusing to abolish local authority over zoning of personal wireless services, categorically rejected this scornful approach.

AT&T Wireless PCS, Inc., 155 F.3d at 431.

In this case, concerns were expressed at the zoning hearing regarding potential alternative sites for the antennae or a tower to overcome the coverage gaps. These concerns directly related to whether Omnipoint had met its burden of demonstrating an unnecessary hardship if it could not locate its antennae on a two-story residential building. Omnipoint bore the burden to adequately address these concerns, and failed to do so.

(p. 10 of 16)

[...]

It is well-settled, however, that a single decision by a local regulatory agency is insufficient to demonstrate a prohibition on personal wireless communication services. The courts have uniformly held that § 322(c)(7)(B)(i)(II) is violated only where the local regulatory agency creates a general ban against all personal wireless communication services. See H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 208 (1996), 1996 U.S.C.C.A.N. 124, 222.

[...]

AT&T Wireless Servs. of Fla., 23 F. Supp. 2d 1355 at 1361 (It is plain from the express language of the Act, and the legislative history, that Congress did not obviate the need to comply with local government requirements, as long as the requirements do not serve to ban towers entirely."); Virginia Metronet, 984 F. Supp. at 971 ("[Congress] intended to limit general bans of personal wireless services, or policies which have the effect of prohibiting personal wireless services."). Thus, a moratorium against the expansion of personal wireless services would violate the Telecommunications Act. See Sprint Spectrum L.P., 968 F. Supp. at 1468. A single denial, even where it results in a gap in services, does not constitute in a prohibition against personal wireless services.

[...]

As recently noted by one court:

Were courts to hold that merely because there are some gaps in wireless service in an area . . . the public interest necessarily tips the balance in favor of allowing a variance, local boards would be obliged to approve virtually every application which would improve service, without regard to its impact on the surrounding areas. That simply cannot be the case. Such a result would vitiate state land use law and render irrelevant the factors considered in a variance application. As long as the Board's decision was not an attempt to prohibit personal wireless service altogether . . . local land use law is controlling.

Cellular Tele. Co., 24 F. Supp. 2d at 373.

(p. 11 of 16)

[...]

As explained in the House Conference Report:

The conference agreement creates a new section 704 which prevents [Federal Communications] Commission preemption of local and State land use decisions and preserves the authority of State and local governments over zoning and land use matters except in the limited circumstances set forth in the conference agreement. . . . The intent of the conferees is to insure that a State or local government does not in making a decision regarding the placement, construction and modification of facilities of personal wireless services described in this section unreasonably favor one competitor over another. The conferees also intend that the phrase "unreasonably discriminate

among providers of functionally equivalent services" will provide localities with the flexibility to treat facilities that create aesthetic, or safety concerns differently to the extent permitted under the generally applicable zoning requirements even if those facilities provide functionally equivalent services. For example, the conferees do not intend that if a State or local government grants a permit in a commercial district, it must also grant a permit for a competitor's 50-foot tower in a residential district."

H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 208 (1996), 1996 U.S.C.C.A.N. 124, 221-22; see also *Orange County*, 23 F. Supp. 2d at 1363 ("It is within the prerogatives of a local government to determine that a tower (or steeple) is too imposing for a particular neighborhood.").

As noted, personal wireless service providers are not public utilities and, therefore, not governed by the Public Utility Commission. Because personal wireless service providers are not regulated and governed by the Public Utility Commission, local regulatory bodies may reasonably apply zoning provisions to wireless service providers.

(p. 14 of 16).

([http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?\\_m=fd6ceae64058ad3940142d30508ef06a&\\_docnum=1&wchp=dGLzVlz-zSkVb&\\_md5=72b5f7ec363fe2e896943e24cca0d70d](http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?_m=fd6ceae64058ad3940142d30508ef06a&_docnum=1&wchp=dGLzVlz-zSkVb&_md5=72b5f7ec363fe2e896943e24cca0d70d))

**THE FOLLOWING PORTION OF THIS COURT CASE DEALS WITH UNREASONABLE DISCRIMINATION AMONG PROVIDERS OF FUNCTIONALLY EQUIVALENT SERVICES AND PROHIBITION OF SERVICES:**

**SPRINT SPECTRUM, L.P.**, d/b/a SPRINT PCS, Plaintiff-Appellant, -- v. -- **CRAIG WILLOTH**, Chairman, et al.,  
Defendants-Appellees,

Docket No. 98-7442

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

176 F.3d 630; 1999 U.S. App. LEXIS 10032; 16 Comm. Reg. (P & F) 37

November 23, 1998, Argued; May 24, 1999, Decided

**Affirmed. Costs of the appeal will be borne by Sprint**

**PORTIONS OF THE UNREASONABLE DISCRIMINATION CLAIM:**

[. . .]

The Act explicitly contemplates that some discrimination among providers of functionally equivalent services is allowed. Any discrimination need only be reasonable." *AT&T Wireless PCS, Inc. v. City Council of Va. Beach*, 155 F.3d 423, 427 (4th Cir. 1998). The legislative history of the TCA contemplated that the very form of discrimination asserted by Sprint would occur and should be permitted. 

The phrase 'unreasonably discriminate among providers of functionally equivalent services' will provide localities with the flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements even if those facilities provide functionally equivalent services. For example, the conferees do not intend that if a State or local government grants a permit in a commercial district, it must also grant a permit for a competitor's 50-foot tower in a residential district. 

H.R. Conf. No. 104-458, at 208, reprinted in 1996 U.S.C.C.A.N. at 222.

In other words, local governments may reasonably take the location of the telecommunications tower into consideration when deciding whether: (1) to require a more probing inquiry, and (2) to approve an application for construction of wireless telecommunications facilities, even though this may result in discrimination between providers of functionally equivalent services. See *AT&T Wireless PCS*, 155 F.3d at 427 (discrimination based on traditional bases of zoning regulation such as preserving character of neighborhood and avoiding aesthetic blight not unreasonable). As far as the record reveals, that is what occurred in this case. Thus, we reject Sprint's unreasonable discrimination claim.  
(p. 5 of 13).

**PORTIONS OF THE PROHIBITING SERVICES CLAIM:**

[. . .]

We do not read the TCA to allow the goals of increased competition and rapid deployment of new technology to trump all other important considerations, including the preservation of the autonomy of states and municipalities. See *Town of Amherst v. Omnipoint Communications Enter.*, 173 F.3d 9, 13 (1st Cir. 1999).

[. . .]

("When utilizing the term 'functionally equivalent services' the conferees are referring only to personal wireless services that directly compete against one another.")

(p. 6 of 13).

[...]

A local government may reject an application for construction of a wireless service facility in an under-served area without thereby prohibiting personal wireless services if the service gap can be closed by less intrusive means. See *Town of Amherst*, 173 F.3d at 14. [...] A local government may also reject an application that seeks permission to construct more towers than the minimum required to provide wireless telephone services in a given area. A denial of such a request is not a prohibition of personal wireless services as long as fewer towers would provide users in the given area with some ability to reach a cell site.

(p. 9 of 13).

Furthermore, once an area is sufficiently serviced by a wireless service provider, the right to deny applications becomes broader: State and local governments may deny subsequent applications without thereby violating subsection B(i)(II). The right to deny applications will still be tempered by subsection B(i)(I), which prohibits unreasonable discrimination. However, it is not unreasonably discriminatory to deny a subsequent application for a cell site that is substantially more intrusive than existing cell sites by virtue of its structure, placement or cumulative impact.

[...]

Where the holes in coverage are very limited in number or size (such as the interiors of buildings in a sparsely populated rural area, or confined to a limited number of houses or spots as the area covered by buildings increases) the lack of coverage likely will be de minimis so that denying applications to construct towers necessary to fill these holes will not amount to a prohibition of service. See *Wisconsin Dep't of Revenue v. Wrigley Jr., Co.*, 505 U.S. 214, 231, 120 L. Ed. 2d 174, 112 S. Ct. 2447 (1992).

(p. 10 of 13)

[http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?\\_m=18adb838d2761caf8bbf89b00df111c6&\\_docnum=1&wchp=dGLzVlz-zSkVb&\\_md5=90b9cf993d5fd636a67f0c6f75b068cb](http://web.lexis-nexis.com.ezproxy.humboldt.edu/universe/document?_m=18adb838d2761caf8bbf89b00df111c6&_docnum=1&wchp=dGLzVlz-zSkVb&_md5=90b9cf993d5fd636a67f0c6f75b068cb)



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## Case Studies

No effort has been made to assemble all of the cases citing the Telecommunications Act relating to wireless antenna facilities. Most of the decisions have come out of federal district courts throughout the country. A few of the most interesting ones follow:

**Sprint Spectrum L.P. v. City of Medina**, 924 F. Supp. 1036 (W.D. Wash, 1996). My favorite case. Basically decided that a moratorium was a reasonable land use tool which did not violate any of the prohibitions set forth in Section 704 of TCA (47 USC Section 332(c)(7)), including prohibitions against discriminating among providers of functionally equivalent service and the prohibition of personal wireless services. As far as I know, this was the first case filed and the first decision issued under TCA.

**AT&T Wireless PCS v. City Council of the City of Virginia Beach** (Citation unavailable, a copy of the entire decision can be located at [www.millervaneaton.com](http://www.millervaneaton.com)). The U.S. Fourth Circuit Court of Appeals overruled a district court decision which had ordered Virginia Beach to approve applications for two 135-foot cell towers. The court held that the city did not discriminate amongst functionally equivalent service providers because the tower applications involved four providers, two digital and two analog, and the denial of the application affected everyone the same. The court held that the carriers were not entitled to any relief from any incidental discrimination because the denial rested on traditional bases of zoning regulations, preserving the character of a neighborhood and avoiding aesthetic blight and that such a denial was reasonable. The court was willing to overlook a remark from one Council person that residents were satisfied with current wireless service. As the court pointed out, no one testified that they like analog service better than digital, merely that they thought 135 foot towers should be in the nearby commercial zone and not in the midst of a residential area. The court held that the denial did not violate the TCA mandate that regulations "shall not prohibit or have the effect of prohibiting the provision of personal wireless services." It held this mandate only applies to blanket prohibitions and general bans or policies, not to individual zoning decisions. The Fourth Circuit also disagreed with the applicants' contention that the decision was not "in writing and supported by substantial evidence contained in a written record," as TCA Section 704 requires. The court found that the writing requirement was satisfied by the condensed minutes of the meeting and by stamping a letter from the planning commission describing the

application with the word "DENIED." The court did not agree that a written decision required findings of fact and an explanation of the decision. The court held that there was sufficient evidence in the record to support the decision based upon testimony of various residents opposed to the facilities and several petitions opposing the location. Although the court held that the providers may have produced the best evidence, expert testimony of the need for the facilities and the minimal impact on the community, the testimony in opposition provided far more than a mere scintilla of evidence. Especially interesting was the court's observation that since the decision was made by a legislative body, it was only natural and appropriate to assume that the legislators would give great weight to the opinions of their constituents.

Despite the holding in this case that it is not necessary, I would still recommend that any jurisdiction denying a permit prepare a written decision. This is an excellent opportunity to show that our legislative bodies make their decisions based on reason and not emotion and to show why the applicants' evidence missed the mark. Another interesting although irrelevant fact deriving from the decision is that the two towers were going to be paying a local church a combined rent of \$60,000 per year.

**BellSouth Mobility Inc. v. Gwinnett County**, 944 F. Supp. 923 (N.D. Ga. 1996). This case is an interesting lesson in how not to conduct a public hearing. The county commissioners gave the proponents and opponents five minutes each to explain their positions, then they summarily denied the tower. (Reading between the lines, the application was so unreasonable the commissioners did not feel it justified much consideration.) You have to realize that wireless siting professionals are well schooled in what they do. I attended a conference put on by one of the providers in New Orleans last year. They brought in their siting people from around the country and spent several days discussing cases like Gwinnett County and training their people how to prepare a record. In Gwinnett County the provider was able to build a complete record during its five minutes because everything it needed to support its position was in writing. The opponent had one spokesperson talk about his fears that this ugly tower would reduce property values. The district court took one look at the expert testimony on one side and the conjecture on the other and ordered the county to issue the permit. It did not even consider remanding the matter to the county to give it the opportunity to develop a proper record and/or appropriate written decision.

Many federal district courts around the country have followed Gwinnett County, including the summary form of relief which was granted. I am only aware of one decision, by Judge Zilly of the local federal district court, which remanded a decision to a board of county commissioners to allow the board the opportunity to supplement an otherwise

inadequate decision.

**Cellco Partnership v. Haywood County**, (Citation not available, Federal District Court for the Western District of North Carolina). This decision issued in June 1998, flies in the face of a frequently made industry assertion that *Sprint v. Medina* is no longer good law. The district court upheld the County's moratorium even though it was not adopted until 16 months after passage of The Telecommunications Act. It relied on the fact that, like in the City of Medina, the moratorium was a good faith effort to temporarily suspend issuance of permits while writing an adequate ordinance. The court cited the lack of any comprehensive ordinances in the county dealing with wireless facilities and the fact that the county worked with the providers in preparing a new ordinance. This is of importance to many smaller cities throughout the country who may have heard rumors about what is going on but will not be approached by providers until they have first built out the major metropolitan areas.

**Century Cellunet v. Ferrysburg**, 1997 U.S. Dist. LEXIS 20553 (W.D. Mich.). In this case a federal district court affirmed the decision of a small city not to allow a 230-foot tower. It agreed that there was an unreasonable "topple" danger because the tower was higher than the dimensions of the lot on which it sat. It also agreed that a 230-foot tower with white flashing lights during the day and red lights at the top and middle was not in harmony with the existing city.

**Sprint Spectrum v. Town of Ontario Planning Board**, (Citation unavailable, 1998 decision in U.S. District Court for New York). Sprint sued Ontario, New York, for denying three 150 foot towers. After nine hearings and preparation of an environmental impact statement, the town found that the proposed towers would have a measurable and significant impact on property values and that the visual impact would be visible over a wide area. Sprint argued that it needed the three towers to provide the level of service that it deemed appropriate and that the town could not deny its application on the basis that a single tower could provide adequate service. The court disagreed citing the TCA's broad preservation of the local zoning authority, it stated that such zoning authority was paramount to Sprint's desired coverage levels. In other words, the desires of the industry do not supersede a community's ability to preserve its character.

### Conclusion

This is a fascinating field. Much remains to be done by municipal authorities and municipal attorneys and by interested citizens and their attorneys if we are to preserve the character of our neighborhoods. In addition to the court actions, the industry is making every effort to obtain favorable legislation at the federal, state and local levels. It has petitioned the FCC to take away local zoning authority. It has asked our state legislature to open up all rights-of-way to all

telecommunications providers, potentially including wireless providers. This is a very aggressive industry. Although the investment in infrastructure by the industry is tremendous, so are the expected returns. Every effort needs to be made to work with the industry, and to oppose it where necessary, in order to require the industry to develop an infrastructure which does not necessarily impact property values or the quality of life.



**The Law Offices of Kirk R. Wines**

210 Crockett Street, Seattle WA 98109 | ph: 206/301-9558 | fax: 206/213-0021

email: [kirkw@cellslayer.com](mailto:kirkw@cellslayer.com)

# CEQA REVIEW

***NONE OF THE CELL TOWER PROJECTS HAD CEQA REVIEW.***

**CEQA (California Environmental Quality Act) requires an Environmental Impact Report for many projects.**

Certain projects qualify for Categorical Exemptions because they do not have a significant effect on the environment.<sup>2</sup>

Categorical Exemptions were claimed for the cell tower projects under :

- Section 15301 (Minor alterations of small existing facilities),<sup>3</sup>
- Section 15303 (New construction of small structures)<sup>4</sup>

<u>Project</u>	<u>Section 15301</u>	<u>Section 15303</u>
1997	X	
2000	X	
2001	X	X
2003		X
2005		X

## WHY THE 1997 PROJECT NEEDED CEQA REVIEW

This is the original permit which established the cell tower site. An exemption was claimed under Section 15301, EXISTING FACILITIES:

“This section describes the class of projects wherein the proposed activity will involve negligible or no expansion of the use existing at the time the exemption is granted . . . The key consideration is whether the project involves negligible or no expansion of an existing use.”<sup>5</sup>

***THERE WAS NO EXISTING USE IN 1997. USE HAD BEEN DISCONTINUED FOR NEARLY 3 YEARS. SECTION 15301 DID NOT APPLY. THEREFORE, A CEQA REVIEW WAS REQUIRED.***

## WHY ALL THE CELL PROJECTS NEEDED CEQA REVIEW

### CUMULATIVE IMPACTS ARE ONE REASON.

Section 15300.2 lists EXCEPTIONS to Categorical Exemptions.<sup>6</sup> One of these is *Cumulative Impact*:

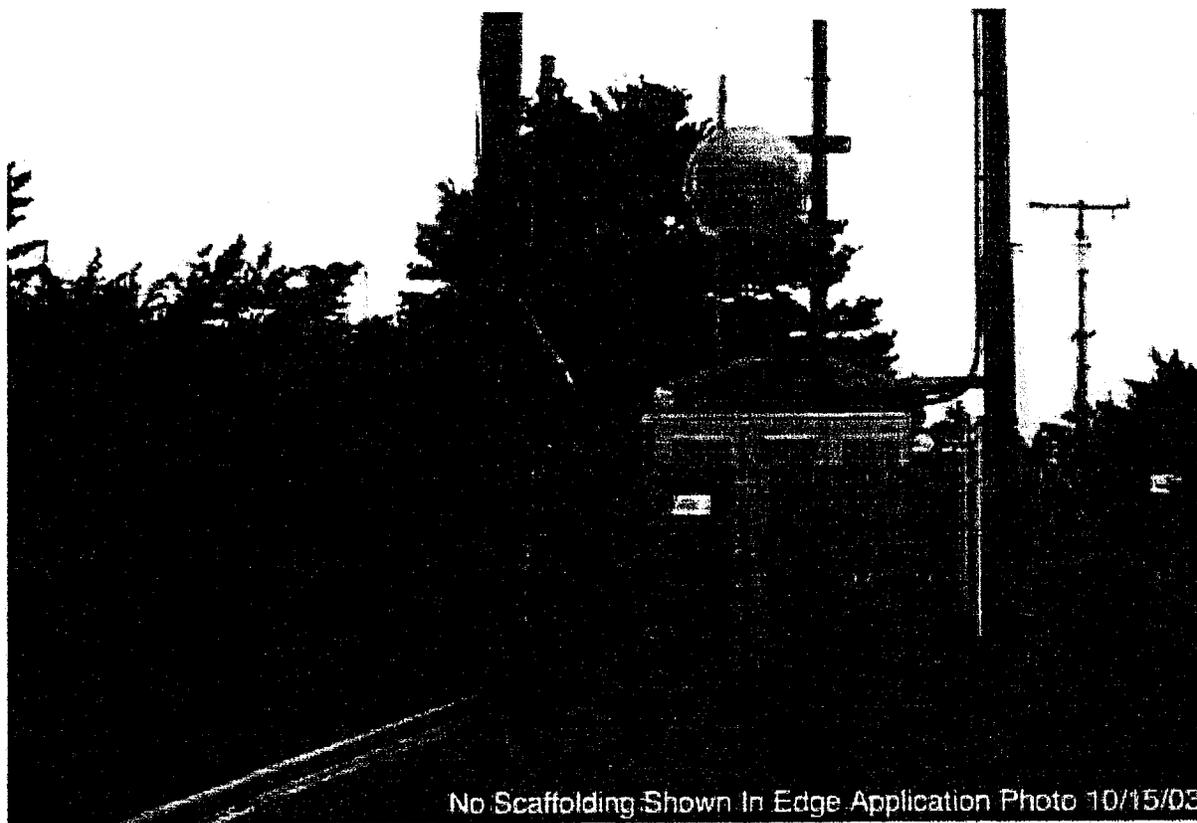
**“Cumulative Impact:** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.”<sup>7</sup>

THE CELL TOWERS HAVE GROWN THROUGH SMALL ADDITIONS.

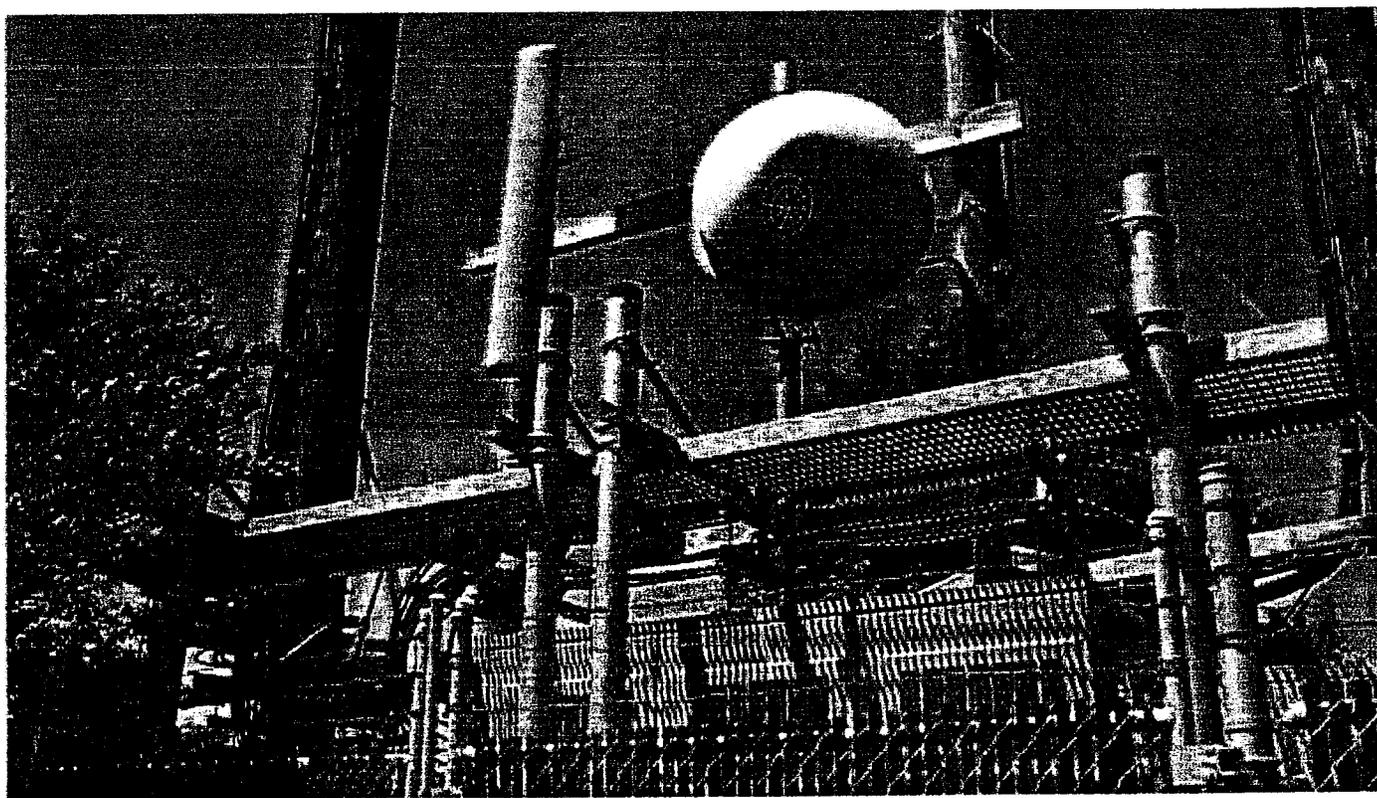
*EACH SMALL PROPOSAL ADDS CUMULATIVE IMPACTS.*

The attached photos document some of the changes that happened 2003-2006.

***BECAUSE OF CUMULATIVE IMPACTS, EACH ADDITION TO THE CELL TOWERS SHOULD HAVE HAD A CEQA REVIEW***



No Scaffolding Shown In Edge Application Photo 10/15/03



6/14/2006

(289)

# CEQA

The California Environmental Quality Act

*Title 14. California Code of Regulations*  
 Chapter 3. Guidelines for Implementation of the  
 California Environmental Quality Act

## Article 19. Categorical Exemptions

Sections 15300 to 15333

### 15300. Categorical Exemptions

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. # 2

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

#### 15300.1. Relation to Ministerial Projects

Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

#### 15300.2. Exceptions # 6

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. 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. # 7

(c) Significant Effect. A categorical exemption 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.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in

damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d 190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

**Discussion:** In *McQueen v. Mid-Peninsula Regional Open Space* (1988) 202 Cal. App. 3d 1136, the court reiterated that categorical exemptions are construed strictly, shall not be unreasonably expanded beyond their terms, and may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

Public Resources Code Section 21084 provides several additional exceptions to the use of categorical exemptions. Pursuant to that statute, none of the following may qualify as a categorical exemption: (1) a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources within a scenic highway (this does not apply to improvements which are required as mitigation for a project for which a negative declaration or EIR has previously been adopted or certified); (2) a project located on a site included on any list compiled pursuant to Government Code section 65962.5 (hazardous and toxic waste sites, etc.); and (3) a project which may cause a substantial adverse change in the significance of a historical resource.

### 15300.3. Revisions to List of Categorical Exemptions

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15300.4. Application By Public Agencies

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes and examples in this article except under the provisions of Section 15300.2.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15301. Existing Facilities

## 1530.1 Existing Facilities, cont.

#5

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. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
  - (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
  - (2) 10,000 square feet if:
    - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
    - (B) The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
- (g) New copy on existing on and off-premise signs;
- (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);
- (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;
- (j) Fish stocking by the California Department of Fish and Game;
- (k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;
- (l) Demolition and removal of individual small structures listed in this subdivision;
- (1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.

- (2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.
- (3) A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.
- (4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.
- (n) Conversion of a single family residence to office use.
- (o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.
- (p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21084, Public Resources Code; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307.

**Discussion:** This section describes the class of projects wherein the proposed activity will involve negligible or no expansion of the use existing at the time the exemption is granted. Application of this exemption, as all categorical exemptions, is limited by the factors described in section 15300.2. Accordingly, a project with significant cumulative impacts or which otherwise has a reasonable possibility of resulting in a significant effect does not qualify for a Class 1 exemption.

### 15302. Replacement or Reconstruction

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

- (a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent.
- (b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.
- (c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.
- (d) Conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15303. New Construction or Conversion of Small Structures

# 4

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 one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.
- (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21084 and 21084.2, Public Resources Code.

**Discussion:** This section describes the class of small projects involving new construction or conversion of existing small structures. The 1998 revisions to the section clarify the types of projects to which it applies. In order to simplify and standardize application of this section to commercial structures, the reference to occupant load of 30 persons or less contained in the prior guideline was replaced by a limit on square footage. Subsection (c) further limits the use of this exemption to those commercial projects which have available all necessary public services and facilities, and which are not located in an environmentally sensitive area.

### 15304. Minor Alterations to Land

Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to:

- (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.
- (b) New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping.
- (c) Filling of earth into previously excavated land with material compatible with the natural features of the site;
- (d) Minor alterations in land, water, and vegetation on existing officially designated wildlife

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 Corporation *de novo* hearing

Dear Mr. Baskin

This packet represents a complete set of letters (totaling 135) that were sent to the Planning Commissioners/City Council/City of Trinidad from members of the public opposing the expansion of the cell tower facilities on Trinidad Head.

Due to the volume of the letters and the cost involved, I am unable to make 20 sets for the Commissioners. Instead, I am asking you to please retain them as part of the record in this matter and refer to them in your staff report. To our knowledge, no letters were received by the City in support of U.S. Cellular's proposed project.

Recently, however, Friends of Trinidad Head became aware of petitions that were circulated and signed by members of the public, including fishermen, showing support for the City's approval of U.S. Cellular's application and stating that they "depend on their cell phones and the subject antenna for emergency and routine use at sea." It should be noted that the fishermen will not lose their U.S. Cellular cell phone service if this project is denied, as U.S. Cellular's current facilities are located on Walker Mountain—not on Trinidad Head.

Further, to our knowledge, prior to these petitions which were sent to the California Coastal Commission, no members of the public, including fishermen, have come forward at any of the Planning Commission or City Council meetings to support U.S. Cellular's project or to complain publicly about their cell phone service in and around Trinidad or at sea.

Thank you,



Kimberly Tays Binnie  
Member, Friends of Trinidad Head  
P.O. Box 75  
Trinidad, CA 95570  
707-677-9078  
[ktays@suddenlink.net](mailto:ktays@suddenlink.net)

## Trinidad City Clerk

---

**From:** "Trevor A. Parker" <trever@streamlineplanning.net>  
**To:** "Trinidad City Clerk" <trinidadcityclerk@cox.net>  
**Sent:** Wednesday, February 08, 2006 12:03 PM  
**Subject:** RE: cell tower letters

Thanks Gabe,

I only have 83, so I'll have to get caught up. I have a packet of 49, that you numbered in the corners from Dec. 13 and 14<sup>th</sup>. Then I have a packet of 34 that are all dated Jan 17. I hope that makes it easy for you to separate the ones I don't have. If so, when you have a chance, could you copy and send them to me pleeeeeease. Or, I need to come up there in the next couple of weeks anyway to do site visits for the applications that have come in (sooner rather than later would be better). We could also go through the Head files while I am there – unless you want to do it here. I know you are busy with meeting stuff and what not right now, but we should chat soon to figure out a good time. The cell / Head stuff is more important right now than the site visits – I have more time for that.

**Trevor A. Parker**  
STREAMLINE Planning Consultants  
1062 "G" Street, Suite I  
Arcata, CA 95521  
Phone: (707) 822-5785  
FAX: (707) 822-5786  
[www.streamlineplanning.net](http://www.streamlineplanning.net)

---

**From:** Trinidad City Clerk [mailto:trinidadcityclerk@cox.net]  
**Sent:** Wednesday, February 08, 2006 11:21 AM  
**To:** Trevor A. Parker  
**Subject:** Re: cell tower letters

Trevor:

I just counted 127 letters from public regarding Cell pole proposal.

35 are dated after January 1.

Not too sure how many are from campaign.

~ final answer.

**Gabriel Adams**  
Trinidad City Clerk  
707.677.0223  
P.O. Box 390  
Trinidad, CA 95570  
[www.trinidad.ca.gov](http://www.trinidad.ca.gov)

----- Original Message -----

**From:** Trevor A. Parker  
**To:** Gabe Adams  
**Sent:** Wednesday, February 01, 2006 4:24 PM  
**Subject:** cell tower letters

Hi Gabe,

Could you please give me a tally of the letters received on the cell pole? I would like separate numbers for the Dec and Jan meetings. Also, if you can tell which ones were a result of Rosen's letter writing campaign verses which ones were received independently, that would be useful. Thanks!

**Trever A. Parker**

STREAMLINE Planning Consultants

1062 "G" Street, Suite I

Arcata, CA 95521

Phone: (707) 822-5785

FAX: (707) 822-5786

[www.streamlineplanning.net](http://www.streamlineplanning.net)

✓  
Dear Trinidad Council -  
please no obstructions  
on the head.

Re: Dudley

6720349

PO Box 512

ps. no cell phone tower on head &  
and more restoration on head

RECEIVED

DEC 14 2005

City of Trinidad

2-13-06-001

✓  
Dear Planning Commission,

We as the People of TRINIDAD  
Do not need another cell tower.  
There are enough

Thank you  
TONY SULLIVAN  
1024 8th Ave  
Westhaven CA  
95570

RECEIVED

DEC 14 2005

City of Trinidad

2/04 002

✓

Dear Trinidad Planning Commission —

We've lived in Trinidad 25 years  
now and want unobstructed views.

Please vote against cell phone  
tower on Trinidad head —  
better ~~use~~ efforts would be in  
restoration of the head.

Thank you

Betty Dilthey

Betty Dilthey

435 Cupson Dr.

Trinidad, CA. 95570

677 0349

2/06 003

FROM: NATE LUNA  
565 B TRINITY  
TRINIDAD, CH

10/11/05  
VOTER ✓

TO THE PLANNING COMMISSION

RECEIVED

GABEL

DEC 14 2005

City of Trinidad

THIS IS A BEAUTIFUL  
SPOT ON GODS GREEN EARTH.

I LIVE BY THE LIGHT HOUSE,  
I WALK THE HEAD A LOT.

ALREADY WE HAVE THE  
"PLAY STRUCTURE". COULD

YOU MAKE THAT INTO  
A CELL PHONE TOWER?

OTHERWISE, PLEASE, WE

NEED SOME SORT OF  
PHOTOS OR A STUDY

WITH SOME MOCK UPS,  
BEFORE MAKING ANY  
DECISIONS, LETS SEE

IT. ALREADY THE TOWER  
AND LINES ON THE TOP

OF THE HEAD ARE A

PITY. — NATE LUNA

2/06

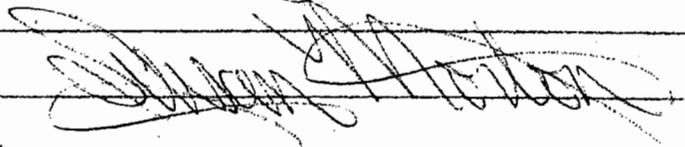
004

Trinidad Planning Commission ✓  
409 TRINITY ST  
TRINIDAD

Dear Trinidad Planning Comm,

I am opposed to the new  
cell phone tower planned for  
Trinidad Head. Cell phone  
towers are proven to be  
harmful.

Sincerely



RECEIVED

DEC 14 2005

City of Trinidad

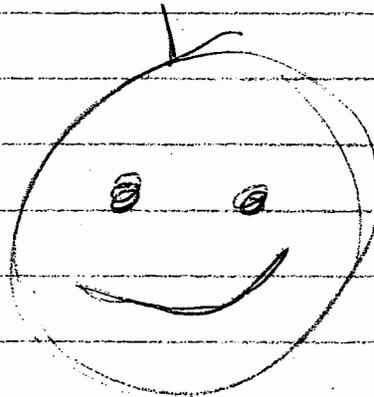
Susan Morton  
638 N Westhaven Dr  
Trinidad CA 95570

2/66 005

Dear Planning Commission

I am opposed to the new cell phone  
~~cell~~ Tower planned for Trinidad heads.  
Please do not disgrace this beautiful  
spot or if made into reality, yes  
who chose this tower will only live  
to suffer. In my humble opinion  
I feel those who need cell phone  
towers already suffer. Those who  
dig the ditch shall lie in them.

John Konyak  
1300 Westhaven Dr. Westhaven, CA



RECEIVED  
DEC 14 2005  
City of Trinidad

2/06 006

✓  
Dear Trinidad Planning Commission

Please do not allow this cell phone  
tower. We have an amazingly scenic  
and beautiful treasure in Trinidad  
head we should be trying to protect  
it including from this merchant!

Sincerely,  
Denise C. Dandall

RECEIVED

DEC 14 2005

City of Trinidad

P.O. Box 626

Trinidad, Ca 95570

Denise C. Dandall

2/06 007

Dec 13 '05 ✓

Dear Planning Commissioners,

While I agree that a cell phone tower might be of use in the Trinidad area, I oppose the idea of putting one on Trinidad Head. It is a place of great beauty, as well as historical significance and my family enjoys peaceful walks there - and the beautiful views

Sincerely,

Helen Pitre

Helen Pitre

RECEIVED

DEC 14 2005

City of Trinidad

839 Stagecoach Rd  
Trinidad, Ca 95571

2/06 008

✓  
Dear Planning Commissioners

I am opposed to a new cell tower in Trinidad. I believe it will negatively impact the serenity and beauty of this unique part of Colbyville.

Paula Pevla

RECEIVED

3633 Patricia Pt. Dr. #11  
Trinidad, Ca 95570

DEC 14 2005

City of Trinidad

2/06 009

Requester + Voter!  
Dear Planning Commissioners

Please, please, please,  
No more cell phone towers!  
It has been shown that  
these towers increase leukemia  
rates among children.  
There are far too many sources  
of electromagnetic waves  
already polluting the environ-  
ment and we truly do not  
know the long-term effects.

Sincerely,  
Margo (Naomi) Gross  
Box 394  
Trinidad A  
95570

NV

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 010



Dear Trinidad Planning Com

I have greatly appreciated visiting your beautiful area and have had no problem with reception on either <sup>phone</sup> ~~cell~~ ~~phone~~ ~~cell~~.

To further pollute the area with another tower seems useless and distractive. Am shortsighted. Please try to keep Trinidad naturally beautiful and peaceful for future home consumers.

Sincerely

Paul Imrie  
522 Wood Ave  
Fayetteville Ar,  
72701

RECEIVED

DEC 14 2005

City of Trinidad

2/06 011

✓  
Dear Planning Commissioners,

Please don't place a cell phone tower in  
Trinidad. It's a beautiful place we have  
here. Let's keep it in its natural state

Thank you for your consideration.

Michael Stephenson

**RECEIVED**

DEC 14 2005

Michael Stephenson

Box 890

**City of Trinidad**

Trinidad, CA

95570

2/06 012

✓  
Dear Planning Commission,

I OPPOSE a  
new cell phone Tower in  
Trinidad Head — adamantly

RECEIVED

DEC 14 2006

City of Trinidad

Lori Melendrez  
101 Anderson Ln.  
Trinidad, CA

Lori Melendrez

2/06 013

12.13.05 ✓

Dear Trinidad Planning Commission  
Please do NOT deface our  
beautiful, sacred landscape with  
another cell phone tower. As a  
long time resident of the Trinidad  
area - (30+ years) I beg you to  
consider the importance of preserving  
our home. More unnecessary development  
mean less tourism and more over less  
beauty is pass on to our children.  
Thank you for considering the  
needs of our community & it's people

Thank you

RECEIVED

DEC 14 2005

City of Trinidad

Kathleen Nunley  
586 S. Westhaven  
Trinidad, CA  
95570

2/06 014

11/15/05 ✓

PLANNING COMMISSION

PLEASE UNDERSTAND THAT THE  
SCENIC VIEWS AROUND TRINIDAD HEAD  
ARE AN IMPORTANT RESOURCE FOR  
LOCAL QUALITY OF LIFE, AND FOR  
TOURISM. I REQUEST THAT YOU  
DO NOT PLACE A CELL TOWER ON  
TRINIDAD HEAD.

JIM STEPHENSON

499 N. WESTHAVEN DR

TRINIDAD

RECEIVED

DEC 14 2005

City of Trinidad

2/06 015

✓  
Dear Planning Commission

Please, no more development  
on Trinidad Head

It is a precious treasure  
in its natural state and  
much more valuable as  
a tourist attraction +  
spiritual refuge

Thank you

RECEIVED

DEC 14 2005

Joyce H King

City of Trinidad

685 School Rd

McKinleyville CA 95579

2/06 616

Dear Planning Comm. ✓

Trinidad Head is a  
drawing card for many tourists  
and the jumble of towers  
there are getting out of  
hand. Its time to stop  
and get our Head back  
to its beautiful place  
on Trinidad.

**RECEIVED**

DEC 13 2005

**City of Trinidad**

Donna B Ulrich  
Donna B. Ulrich  
PO 178 95570

2/06 017

✓

Why add another cell phone tower on the Head?

if it benefits a few then I'm not support of this project.

this a beautiful, important place for ~~visitors~~ and visitors residents

**RECEIVED**

DEC 13 2005

**City of Trinidad**

please reconsider

Sean Power

87 E. 12th St.

arcata Ca.

95521

2/06 018

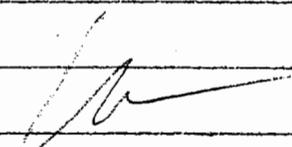
✓  
WE NEED TO DO WHAT WE CAN TO PREVENT  
CONSTRUCTION OF A CELL PHONE TOWER ON  
TRINIDAD HEAD. THE RADIO TOWER ALREADY  
IN PLACE IS BAD ENOUGH. LET'S CLUTTER  
THE HEAD NO FURTHER.

WE'RE VERY FORTUNATE TO HAVE SUCH  
A SPECTACULAR PARK IN OUR LITTLE  
TOWN. OUR EFFORTS SHOULD BE DIRECTED  
TOWARD PRESERVING IT.

**RECEIVED**

DEC 13 2005

*City of Trinidad*

  
MATT HINTON

P.O. BOX 734

TRINIDAD 95570

2/04 019

✓

To the Planning Commission  
Trinidad Head is an important  
historical site & should be preserved  
in its natural condition. <sup>Another</sup> A cell  
phone tower is necessary for  
this area but another site would  
be more appropriate.

Burt Dyer  
3415 Patrick's Point Dr.  
Trinidad, A.

**RECEIVED**

DEC 13 2005

**City of Trinidad**

2/06 020

Dear Trinidad Planning Commission, City of Trinidad  
DEC 13 2005

I am a resident of Arcata, eight years I moved to the area. Many places I traveled looking for the right place where I can feel comfortable to live and breathe. ~~But~~ The cities are too pollutant, and many small town environmental practices are a little off by my beliefs, physically and spiritualy. When I came to Arcata I noticed a higher <sup>environmental</sup> consciousness and felt at home. One of the main attractions for me are the beaches up here in Trinidad. My family visits from Ohio and stays in Trinidad every time. They love the place. Where can you walk on the beach and feel at peace? Let's go to Trinidad! They even get cases of Serrano's Mustard Sauce sent to them so they can savour their experiences. They think of retiring up here. I must say that I was appalled, even a little ashamed of the city to want to put a phone tower of Trinidad head! We are very opposed of any such thing. I hope you vote against this happening for the children.

Jessiah ~~James~~  
2/06 021

No address

✓  
Dear Planning Commission  
No cell phone tower  
on Trinidad Head.

Barbara Hammill  
820 Stagecoach Rd.

RECEIVED

DEC 14 2005

City of Trinidad

2/06 022

RECEIVED

DEC 14 2005

City of Trinidad

Dec 14, 2005

Trinidad Planning Commission

Please do not add additional cell  
tower radiation to Trinidad head.

- towers more suitable isolated  
- tower would be preferable

Respectfully,

Charles W. Haddock

427 Wagner St.

Trinidad, CA 93570

Registered Voter

2/06 023

Dear Planning Commission:  
I oppose the new tower  
cell

Pat Morales

RECEIVED

DEC 14 2005

City of Trinidad

2/06 024

RECEIVED

DEC 14 2005

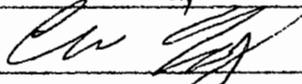
Dear Planning Commissioners,

City of Trinidad

I enjoy the beautiful & pristine views every morning when I come out for my morning bike ride. There's already enough eyesores all around, please reconsider the option of this extra tower.

Thank you,

Chris Taylor

  
1507 5th St, Eureka CA

PS: If I have to choose between a marred beach or a clean forest, I'll start riding south.

2/66 025

✓  
Dec. 14 05

Dear Trinidad  
PLANNING COMMISSION

We do not need  
another ugly tower  
on Trinidad Head.

U.S. Cellular can go  
somewhere else.

Thank you —

Cristy Sabo  
P.O. Box 115  
Trinidad Pa  
95570

RECEIVED

DEC 14 2005

City of Trinidad

2/06 026

Trinidad Planning Commission ✓

I would like to express my  
opposition to the proposed cell phone  
facility on the Trinidad Head.

We need to preserve existing  
natural areas for residents & visitors  
to enjoy.

I hope the planning commission and  
city council reject this proposal.

Stan Binjie  
482 Main St.  
Trinidad

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 627

✓  
TO TRINIDAD PLANNING COMMISSION

RE: U.S. Cellular tower.

I moved here more than 30 years ago to enjoy the magnificent beauty of the area -

Please do not destroy it with another cellular tower. Please vote No and work with this community to restore TRINIDAD HEAD to its Natural State.

Sincerely

RECEIVED

DEC 14 2005

WIKI DELSON

City of Trinidad

450 Mosser Ct. Stagecoach Rd.

TRINIDAD

677-3181

2/06 028

RECEIVED

DEC 14 2005

City of Trinidad

029

2/06

DEAR PLANNING COMMISSIONERS ~

I LOVE TO COME TO TRINIDAD FOR

SPIRITUAL RETREAT - PLEASE LEAVE

IT AS IS, NO CELL PHONE TOWERS

ON TRINIDAD HEAD ~ KEEP IT A GEM

FOR TRUST INDUSTRY -



DEBBY WARD 704 Blue Oak Ct,  
Carmel, CA 95008

connect@earthlink.net

✓ RECEIVED

DEC 15 2005

**City of Trinidad**

Dear Planning Commission:  
Please restore Trinidad Head, and  
remove man made structures. Please  
don't put a cell phone tower!

Jana Mann

41 Ocean view Dr.

Trinidad, CA, 95570

2/06

030

RECEIVED

DEC 15 2005

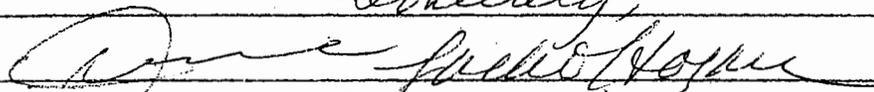
City of Trinidad

Dear Planning Commission,

Please do not put  
a cell tower up on Trinidad Road.  
So close to the Village  
it is a toxic situation.

We have enough -  
I would prefer there were  
no towers on the Road.  
The <sup>electric magnetic</sup> pollution is  
greater than we realize!

Sincerely,

  
SIR ENCLAD 56 Jackie Hogan

SAM → Box 1157

SAM → Trinidad CA 95500

2/06 031

I would rather restore Trinidad  
Head than have a cellphone tower  
there. Vote to restore it now. I live  
in the city limits.

Corrie Butler ✓  
463B Trinity St  
Trinidad

RECEIVED

DEC 15 2005

City of Trinidad

2/06 032

✓

TO TRINIDAD PLANNING COMM:  
PLEASE ADD CELL PHONE TOWER  
IN TRINIDAD. RESTORE TRIN. HEAD

*Ivan Reed*

IVAN REED  
71 HANSEN ST.  
TRIN. CA.

RECEIVED

DEC 15 2005

City of Trinidad

2/06 033

TO: PLANNING COMMISSION ✓

FR: NICIE FRANK

RE: TOWER

I PROPOSE THAT TRINIDAD HEAD SHOULD  
BE OFF-LIMITS TO TOWERS OR  
ANY OTHER DEVELOPMENT. IT SHOULD  
BE LEFT PRISTINE.

RECEIVED

DEC 15 2005

City of Trinidad

no address

2/06 034

✓  
December 13, 2005

Please - We were cell phone towers  
on Trinidad Head

Michael McGinn  
417 Sound House Creek Rd  
Trinidad, CA 95570

PS I do have a cell phone -  
and I do not have reception at my home  
Rural

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 035

RECEIVED

DEC 14 2005

To Trinidad Planning Commission,  
**City of Trinidad**

The cell phone reception in Trinidad is already good. To add another one would be redundant.

Trinidad Head is a natural Monument in my mind and should be treated as such. NO more cell phone towers. We need to start restoring Trinidad Head to a natural state.

Mike Egan

*Mike Egan*

PO Box 218

Trinidad,

2/06 036

12/14/05

TO: WHOM IT MAY CONCERN

I WOULD LIKE TO SEE THE  
COAST LINE UNPLUTED WITH TANGERS  
FIND A NEW PLACE.

Sincerely CHRIS JAGER  
P.O. BOX 592  
TRINIDAD, CA 95570

RECEIVED

DEC 14 2005

City of Trinidad

2/06

037

✓  
Dear Planning Commission:

Please save Trinidad Head  
from further development

Marcie Cavanaugh

Marcie Cavanaugh  
295 Quarry Rd.  
Trinidad, CA 95570

RECEIVED

DEC 14 2005

City of Trinidad

2/06 038

Dear Planning Commission:

I live 2 miles from Trinidad  
Head and often walk it.

Please don't add anything  
to it! Towers or  
anything else!

Thanks,

Nicholas Francioni  
Box 263

Trinidad 95570

RECEIVED

DEC 14 2005

City of Trinidad

2/06 039

Trinidad Planning Commission

P.O. Box 390

Trinidad, CA 95570

RECEIVED

DEC 14 2005

City of Trinidad

Dear Planning Commission,

Please don't allow the construction of the cell tower on Trinidad Head. The head is a natural beauty + commercial development lowers that beauty.

Sincerely, Suzanne Castiglione

no  
address

2/06 040

Please -

no tower on head

✓

Don + Suzanne <sup>Bowlus</sup> Bowlus

PO Box 978 Trinidad CA

remove other junk as well!

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 041

✓  
Dear Fleming

Keep TRINIDAD The way  
it is. Thanks Ernie A Rocha

ERNIE A. ROCHA 2936 UNION ST. EUREKA CA.

PS. Restore trinidad head for tourist  
attraction.

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/04

042

Planning Commissioner,  
Please don't  
clutter our head with cell phone  
towers. Enough is enough.

Jennifer Dell  
504 Forestrave,  
Arcata Ca.  
95521

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06

043

Dear [unclear]

I'm opposed to a New cell tower on Trinidad Head.

Trinidad head is a fantastic meeting of land and sea. If restored, it would be more attractive for tourism. The towers and structures up there detract from one's experience of nature and solitude.

This is our public land. Let's not lease it out for private companies to make money.

If this head were almost completely natural, it would be much more of a tourist attraction. Let's keep this area beautiful, from becoming more like the rest of the modern world. We need natural places for spiritual communion, and our souls, to get in touch with ourselves and nature. Cell phone towers have some sort

2/06 044

of energy That is Antagonistic to  
That. We really don't know The  
health effects of cell phones and cell  
towers. Much research is funded by  
corporations and those who have an  
agenda to make profit. Independent  
research shows they may be quite  
harmful. OF course, we need to know  
more, study the research more. How many  
of you would want a cell phone tower  
right next to your house?

Thank you,

Bryan Rosen

Registered Trinidad Voter

---

PO Box 1052  
Trinidad CA 95570

RECEIVED

DEC 14 2005

City of Trinidad

Dear Planning Commissioners ✓

I approve the new cell phone tower.

Eileen Mulvihill

687 Palwick's Point

Trinidad 95570

2/06

045

12-14-05

Dear Planning Commission,

please consider another location  
for any more towers,

thanks

Mark Stuebel

998 Kingdom rd.

Trinidad, Ca.

RECEIVED

DEC 14 2005

City of Trinidad

Can't read  
name

2/04

046

12/14/05

Planning Commissioners,

Please do not allow US Cellular  
to put a tower on Trinidad Head

Thank you

Donna Lin

Donna L.

514 Ewing St  
POB 753  
Trinidad CA 95570

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 047

RECEIVED

DEC 14 2005

City of Trinidad

TO WHOM IT MAY CONCERN,

WE VISIT HERE TO SEE AN UNspoiled VIEW OF  
THIS BEAUTIFUL COASTLINE. ANY KIND OF STRUCTURE  
THAT INTERFERES WITH THE VIEW - ROUSES UP THE  
EXPERIENCE - THAT INCLUDES ANTENNAS - BECAUSE  
ONCE ONE GETS ZONED - IT IS EASY TO ERECT MORE  
INTRUSIVE ANTENNAS - THEY WILL GROW AND FURTHER  
SPOIL THE VIEW

GLENN BUICKEROOD

PO BOX 234

GARDINER OR

97441

2/04 048

Dear Planning Commission:

12-14-05

I have already written in opposition to the erection of a cell tower facility on Trinidad Head. I hike the Head frequently and would be very upset to see such a horrible visual blight on such a uniquely beautiful area.

It would be a crying shame to approve this structure, so please think about the consequences of turning over our natural treasures to corporate interests. Instead, maintain (or even restore) this area for all of <sup>us</sup> to enjoy and for future generations to enjoy.

Preserve Trinidad Head! ~~for~~

Kimberly Tays  
677-9078

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/04 049

RECEIVED  
DEC 13 2005

City of Trinidad

Dear Trinidad City Council members,

As a frequent visitor to Trinidad to enjoy the wonderful beaches and small town atmosphere, I am disappointed to learn that you are considering an additional (cell) tower on Trinidad head.

While I am not familiar with what towers exist already on the head, I am familiar with the hazards of cell tower emissions to the public. The close proximity of the head to your downtown community warrants a close examination - I encourage you to take your time to engage yourselves and the community in a process that would identify co-location possibilities that

2/06 050 →

are removed from the downtown area.  
If the city of Trinidad does not have  
a cell tower ordinance that identifies  
set-backs and other guidelines for  
placement and maintenance, I  
encourage you to engage in this  
process to help enable an informed  
decision based on current science.  
Both the county and city<sup>of Arcata</sup> are in  
the process of developing code that  
guides them towards responsible  
placement. Your community is too  
wonderful to compromise - your school  
and majority of residents expect you  
to protect them from physical + visual  
blight and to make carefully  
considered decisions. They are in  
close proximity to this proposed tower.  
Too close.

Respectfully, Lisa Brown  
an address Arcata, Ca.

Dear Trinidad planning commission, ✓

Trinidad head is a beautiful place, a fantastic meeting of land & sea. If restored to it's natural state it could rival Pt Lobos - as a tourist attraction. Another cell phone tower is a big mistake. Cell towers, research indicates, harm humans & wildlife. Let's not destroy Trinidad head.

RECEIVED

DEC 13 2006

City of Trinidad

Theresa Harville  
825 Ocean Drive  
Nickinleyville, Ca.  
95519

2/04 051

12/13/05

L

DEAR TRINIDAD PLANNING COMMISSION:

I AM VIGOROUSLY OPPOSED TO THE  
 MERE THOUGHT MUCH LESS THE ACTUAL  
 RESURRECTION OF A CELLULAR PHONE  
 TOWER. I VISIT, FISH, SURF, MTN BIKE  
 IN THIS AREA. I WOULD<sup>NOT</sup> VISIT OR FREQUENT  
 THIS AREA KNOWING THAT A NEW TOWER  
 WOULD BE INSTALLED. BEING A CELL PHONE  
 USER MYSELF, I WOULD RATHER HAVE NO  
 RECEPTION IN TRINIDAD THAN BE  
 INUNDED W/ CRYSTAL CLEAR  
 "MICROWAVE" RECEPTION...

PLEASE BE ECO-CONSIDERATE  
 & PUT A TOWER IN SOME OTHER  
 LOCATION. A TOWER WOULD BE  
 CANCEERICHLY DISSAPPOINTING NOT TO  
 MENTION AN ENVIRONMENTAL EYE SOAP.  
 PLEASE DON'T DO THIS.

GOD IS WATCHING...

RECEIVED

DEC 13 2005

City of Trinidad

KEVIN BYRNE  
 P.O. BOX 732  
 GARBERVILLE CA 95542



2/06 052

Dear Planning Commissioners, ✓

Please do not place any cell phone towers or other man made structures on Trinidad Head. Slowly there are becoming less and less places in and around Trinidad to take our children where they can enjoy local nature which is why we live here. The head is a beautiful natural place where we can hike and enjoy nature in our back yard without paying a fee like at the state parks. Also as time marches on more and more evidence of harmful output is becoming known through research. Protect us, our children and nature.

Patty Davis

Patty Davis  
PO 934  
Trinidad, Ca 95570

**RECEIVED**

DEC 13 2005

**City of Trinidad**

2/06 053

RECEIVED ✓

DEC 13 2005

City of Trinidad

Dear Trinidad Planning Commission, I am in disapproval of any new towers in the Trinidad or in any near surrounding areas. I appreciate the raw untainted, stunning land and abounding beauty that this place holds, I am into the restoration preservation and protection of these native lands not into contributing to the destruction of this sacred and wonderful place. The public draw and amount of energy that could be generated through tourism is much greater and beneficial in such a vastly broader scope it would seriously be unfortunate to see a cell tower arise.

Melissa Bamford  
may mother earth be  
your guide

no address

2/06 054

✓

Trinidad Head has been  
desecrated enough with  
all of the ugly stuff  
that's already up there!  
Restore! Trinidad Head  
to a more pristine  
condition. Think about  
decommissioning the install-  
~~ment~~ations that are  
up there now.

**RECEIVED**

DEC 13 2005

**City of Trinidad**

Thanks  
David Schwin  
265 stagecoach rd.  
Trinidad, Ca.  
677-5714  
2/06 055

Trinidad Planning Commission  
409 Trinity St,  
Trinidad, CA 95570

✓  
**RECEIVED**

DEC 13 2006

**City of Trinidad**

Dear Trinidad Planning Commission,

I don't live here, but come to visit regularly, to enjoy the natural beauty of this area - its beaches, trails, shops and restaurants. A cell phone tower would be an ugly disaster, ruining what remains of Trinidad's charm. Please don't do this! Cell phone towers may have harmful effects - If you build one I wouldn't want to visit anymore. Why not spend money to further restore this landscape, thus increasing the attractiveness of this area for visitors like me.

Sincerely, *Andrea L. Scott*  
13865 S.W. Fern St  
Tigard, OR 97223

2/06 056

Dec. 13, 2005 ✓

Dear Trinidad Planning Commission,

I am completely against having a  
new cellphone tower on Trinidad Head!  
It will mar our beautiful landscape

Sincerely,

Judi Gould

Judi Gould  
888 Galindo  
Trinidad

**RECEIVED**

DEC 13 2005

**City of Trinidad**

2/06

057

DEAR TRINIDAD PLANNING COMMISSION ✓

I, ERIC G NELSON, OPPOSE THE  
INSTALLATION OF NEW CELL TOWER ON THE HEAD.  
I DO NOT LIVE HEAD TO FIT IN WITH THE OUTSIDE  
WORLD. CELL HEAD SLOTS ARE A REFUGE NOT A  
HINDERANCE IN MY LIFE

Thank You

ERIC G NELSON



RECEIVED

DEC 13 2006

City of Trinidad

ERIC G NELSON  
1086 PATRICKS AVE  
#3  
TRINIDAD, CA 95570

2/06 058

Dear Trinidad Planning Commission,

This area is one of the most pure and lovelier places I have ever been blessed to visit. Cellphone reception is ~~not~~ available in Akata and Ewaka. The people of Trinidad just aren't really into having more wires crisscrossing their business. Save the purity of the mindscape. Blessed love.....

Ableah Baird  
1631 patrickspoint Drive  
Trinidad CA

**RECEIVED**

DEC 13 2005

**City of Trinidad**

2/06

059

RECEIVED

DEC 13 2006

City of Trinidad

Dear Trinidad Planning Commission,

sticks Point Drive

I was born and raised in Northern Humbolt and have lived in Trinidad for the past twelve years. I spent four years cooking at the Seascape Restaurant and now have been a crab fisherman for five years this season out of Trinidad Bay. I feel very lucky to have grown up in this community and I will never leave because of the beauty of the land and the people. I see the Trinidad Head from both the land and the sea more than most people, and I enjoy the natural beauty. I feel good to see the "Head" after a long hard day of work at sea. I would like to see the Head retain what natural beauty it has left. I am also a cell phone user and get good reception from my house on north Patricia's Point Drive to Eureka and see no need for an additional cell tower. We are a very different people than those even just a few miles south and we should keep it that way.

2/06 060

Sincerely  
Caird Ryder

no address

✓

I use cellphones and  
I think I would like to  
see Trinidad Head free from  
man-made objects that take away  
the natural beauty

A local beach-goer  
Cliff Creighton  
no address

**RECEIVED**

DEC 13 2005

**City of Trinidad**

2/06

061

✓  
Dear Trinidad planning commission,

Just most recently informed that you are planning to build a cell phone tower on the Trinidad Head. I strongly oppose to these future plans. It will be disturbing the beauty of Trinidad that is globally known.

Nikki Berg  
3634 Patricks Pt dr  
Trinidad CA 95570

**RECEIVED**

DEC 13 2005

**City of Trinidad**

2/06

062

Trinidad ~~the~~ head should not be used for cell towers because its a beautiful natural place that should not be turned into an ugly place.

Normi A.

RECEIVED

DEC 14 2005

City of Trinidad

Nomi Anderson  
398 old wagon Rd  
Trinidad, CA  
95570

2/06

065

Dear TRINIDAD Planning Commission,

I would not appreciate another cell tower on TRINIDAD Head due to the possibility of the frequencies harming the wild life and possibly us humans also.

As a 20+ year resident of TRINIDAD, and a property owner for 8 years, I have seen how difficult it is for us citizens to build even a shed on our Coastal zone property.

I certainly hope that you realize that the impact of this cell tower, could be damaging for our community, and that it will not be permitted.

Sincerely, Jon Jean Keating Wright

700 N. Westhaven Dr.

P.O. Box 892

TRINIDAD, CA 95570

677-9311 2/06 066

RECEIVED

DEC 14 2005

City of Trinidad

Dear Planning Commission -  
Please reconsider  
putting up the cell  
phone tower on the  
head - It will  
detract from the  
beauty of Trinidad

Anne Kenney  
437 Westgate  
Trinidad, Ct

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/04 067

12-13-05

Dear Planning Commissioners

I love to walk the Head & do it regularly with my family & friends. I hate the huge buzz & noise up at the top — I don't want another tower. Let us preserve our beautiful, natural coastline and cast a vote for nature, people, the animals the planet and our future as an interconnected species — we are not the weaver or the web — we are only part of it. Vote No!

RECEIVED

DEC 14 2005

City of Trinidad

Marije Kieselhorst Eckart  
673 N. Westhaven Dr 2/06 068  
Trinidad Ca 95570

12/13/05

Dear Trinidad Planning Commission,

Please ~~do~~ not consider putting a cell phone tower on Trinidad Head.

This would be unsightly and having grown up here it is an insult to my childhood memories. I consider this to be a sacred place and have enjoyed the Trinidad Head being open to the public for use.

Sincerely,

Kay M. Cockrell  
P.O. Box 445  
Trinidad, CA 95570

RECEIVED

DEC 14 2005

City of Trinidad

2/09

069

Dear Planning Commission please  
do not put another thing on the Trinidad  
Head. Specifically cell phone towers

Thank you

Perry C. Thrash  
267 1/2 North Westham Drive  
P.O. Box 11  
Trinidad Co 95570

RECEIVED

DEC 14 2006

City of Trinidad

2/04

670

RECEIVED

DEC 14 2005 ✓

City of Trinidad

Dear Big Picture People

Put the tower on a hill  
above the town. It will be  
well worth investing a few  
more dollars in order to  
preserve that scenic beauty  
that attracts those precious  
tourist dollars, as well as  
the quality of the backdrop  
for our own all natural lifestyles

respects Sterling Moya  
100 Anderson Lane

2/04 071

12/13/05 Trinidad.

Trinidad Planning Commission.

Cell reception already abounds. Please  
no more cell towers. They make some  
people sick.

Thanks

Charles Garth

Charles Garth  
PO 157  
Trinidad, CA

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 072

12/13/05

Trinidad Head is a public treasure and  
a Yurok holy spot. Haven't we defaced enough  
of their cathedral?

Keep the garbage off the head.

J. Dessel  
677-3662  
Jennifer Dessel  
PO. Box 1074  
Trinidad CA

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 073

✓  
DEAR Planning Commission

NO CELL PHONE TOWER  
Debra L. Messa  
675-B 8th Ave  
Trinidad

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 074

Dear Planning commissions ✓

RECEIVED

DEC 14 2005

City of Trinidad

Please do not allow another cell phone tower in our natural, balanced, beautiful community. It will look very tacky and will stop people from visiting our community. We want Trinidad to look beautiful not ugly with a cell phone tower. People want to come here for natural beauty, not for ugly high tech mass in the center of our community. Please listen to my request!

Amanda Russell,

Patricks Point Drive Viewcrest lodge

#42 93570 CA

P.O. Box 445

Please do not make ~~our~~ ugly our community ugly! 2/06 075

Dear Planning Commissioners

Considering Trinidad as a true blessing; an environmental ecstasy,  
please think twice before further developing Trinidad Head.

As a local resident, I don't feel the need to put another cell  
phone tower (which is a current issue) up in our area.

Your consideration and smart decisions will be greatly  
admired.

Sincerely Julie Bradford  
West Haven no address

RECEIVED

DEC 14 2005

City of Trinidad

Restore, Prioritize, Keep Natural.

2/06 076

To Trinidad Planning Commission ✓

Please consider alternative locations to the Trinidad head for the 3rd cell phone tower. I regularly walk on the head and enjoy its natural beauty. The 2 currently functioning cell towers are enough of an eye sore to the beauty of the head, 1 more is unneeded. Where else could cell phone towers go ~~where no~~ beautiful local places would be disturbed?

Sincerely,

Jen Mishkin  
Trinidad resident  
BOX 547

RECEIVED

DEC 14 2005

City of Trinidad

2/04 677

DEC 2007

RECEIVED

DEC 14 2005

City of Trinidad

Dear planning Comm,

I am opposed to  
a tower at Trinidad  
Head. Thank you



Jen Plawin  
121 Anderson  
Trinidad, CA  
95570

2/06 078

PLANNING COMMISSIONERS ✓

MY FAMILY AND I DO NOT WISH TO SEE A CELL PHONE TOWER PLACED ON THE TRINIDAD HEAD. PLEASE TAKE IN TO CONSIDERATION THAT IT WOULD BE SUCH AN EYE SORE FOR THE RESIDENTS, VISITORS AND WOULD BE A POOR DECISION TO DO SO.

THANKS,

MICHAEL ZETTER  
311 TRINITY  
TRINIDAD CA 95570

RECEIVED

DEC 14 2005

**City of Trinidad**

2/06 679

Dear Planning Commissioners.

Trinidad doesn't need a Mother  
Cell tower. It will kill animals home  
and our Trinidad head is beautiful  
as it is. If you tear it down  
you tear animals homes down  
and tear our hearts.

RECEIVED

DEC 14 2005

City of Trinidad

Trameena  
Quinn

822 N. Westhaven  
Dr. Trinidad CA  
95570

2/06 080



Dec. 14, 2005

Dear Planning Commission,

Please don't build another cell phone tower on Trinidad Head. We need to preserve the beauty of the area & restore it.

Clare Phillips  
1935 H Street  
Arcata, CA 95521

**RECEIVED**

DEC 14 2005

*City of Trinidad*

2/04 081

Dear Planners — ✓

**RECEIVED**

DEC 14 2005

**City of Trinidad**

My concerns are:

- ① There are enough NOW
- ② How many more will be allowed?

Can't we please say we have enough,  
or couldn't we replace existing towers  
with what is needed, as technology  
improves?

PS - My cell phone works quite  
well in and around Trinidad.

Thanks,

Charles Netzow

1337 Stagecoach Road  
Trinidad

2/06 082

Dec 14, 2005 ✓

Dear Members of the Planning Commission,  
I am opposed to the installation of an additional cell phone tower on Trinidad Head. The coast line should be preserved as is, since the town of Trinidad relies heavily on tourism, including eco-tourism, as a revenue base.  
I urge you to seek other, less damaging, sites to install the tower.

Thank you,

Cyn Van Fleet  
165 Kluck Ln  
Eureka CA 95503

**RECEIVED**

DEC 14 2005

**City of Trinidad**

2/06 087

RECEIVED

DEC 14 2005

Dec 14 05.

Julie Joynt  
Bill Boss  
170 Scenic Drive  
Trinidad, CA 955

City of Trinidad

Dear Trinidad Planning Commission

As a resident of Trinidad I am writing this letter to urge you to halt the addition of any new cell-poles on Trinidad Head. Though I own a cell-phone, I would rather not have the use of it here, if I had to make a choice. As we all know, Trinidad Head and Trinidad in general is a Unique area. Rich in Natural beauty and historical significance. ~~I~~ I would wish that Trinidad head be replanted with Native vegetation and trees and that eventually all the cell-poles be removed (and relocated - once the contracts end).

There are many small communities in America whom have succeeded in choosing not to have cell towers in their areas both for reasons of aesthetics and health. The health issues relate to radiation from cell towers/poles, and even phone is not widely talked about, or even accepted by many. However there is extensive research in Europe and by individuals here who regard that it is of serious concern.

Whether the reasons to STOP further <sup>Cell-Pole Addition</sup> ~~addition~~ be health, aesthetics or tourism (anything we can do to make Trinidad more beautiful, will attract more tourists) all are valid - Thankyou Julie Joynt and Bill Boss (currently in Trinidad)

2/06 084

12/16/05

Dear Planning Commission,  
I wish to state I am  
against cell phone towers  
on the Tuned Head.

There certainly must be  
other places for such a  
tower.

The Head is one of our  
favorite views and wish it  
to stay as natural as  
possible.

Thank you for any  
consideration.

Sincerely

A. Bryce  
Resident of Trinidad  
P.O. Box 313  
Trinidad, Ca. 95570  
2/04 '085

DEAR PLANNING COMMISSION  
AND CITY COUNCIL.

PLEASE LET TRINIDAD REMAIN UNDEVELOPED.  
DO NOT FOLLOW THE PURPOSE OF THE OPEN SPACE  
AND LOCATE TOWERS ELSEWHERE.

TED CORIELL  
145 12TH ST  
AREATA CA  
95521

RECEIVED

JAN 17 2005

City of Trinidad

2/06 106

Dear Planning Commission  
+ City Council

The coastal commission wants the City to approve an overall management plan before approving any more development on Trinidad Head.

Please follow the purpose of the open space zone to "maximize preservation."  
Locate cell towers elsewhere. Restore Trinidad Head

Please consider changing public values.

M. Hamilton - 119 Somo Blvd. Apt 45  
Arcata, Ca 95521.

**RECEIVED**

JAN 17 2005

**City of Trinidad**

2/06 107

- Planning Commission 1/16/06

Dear City Council Member

Trinidad head already has too many cell phone towers & what I would like to see is NO MORE towers on the head. Any alternative plans would be great. As a registered voter of Trinidad I would like this to stop before it gets worse.

Thank you.

Holly Mills  
HOLLY MILLS  
363 Ocean Ave  
Trinidad CA  
95570

RECEIVED

JAN 17 2005

City of Trinidad

2/06 108

To: City Council, Planning Commission  
From: Michael Max Hutz ✓  
Resident 6 years, City of Trinidad,  
PO Box 363, Trinidad.

Trinidad Head should not be further  
developed for commercial purposes!

RECEIVED

JAN 17 2005

City of Trinidad

Thank You,

Michael Max Hutz

1/16/2005

no address

---

2/06 109

✓

Why Trinidad head. do you have  
no foresight for the economy that  
supports are area. TOURISM is #1  
and people do not come to Trinidad  
to see cell towers. why dont you  
put your thinking caps on and find  
a more appropriate place for this  
type of infrastructure

Daniel Ferguson  
Westhaven

RECEIVED

JAN 17 2005

City of Trinidad

607 Stone Lane  
Westhaven CA 95570

2/04 110

Dear Planning Commission ✓  
and city council.

I think you should not put up a  
dread full cell phone tower. I think  
they are tacky. and so do  
a lot of other people who  
live in trinidad or people who  
don't!

RECEIVED

JAN 17 2005

City of Trinidad

Sincerely

Amanda Russe

11 years old

P.O. Box 445

Trinidad Ca 95570

2/06 111

Dear City Council & Planning Comm members,

I would appreciate ~~not~~ no additional towers on Trinidad Head. I've never had a cell phone and don't intend to (I'm in my 50's). Never had a computer even with. In England cell phones are ~~forbidden~~ banned until age 18, for avoidance of brain tumors. I educate people on natural health care. I'm sure there is a ~~health~~ healthy alternative design. That I would support.

I appreciate council

I appreciate a council of ethics

Thank you & a resident of Trinidad

no  
address

Trinidad economy depends on tourist dollars.  
Another tower would detract from that.

RECEIVED

JAN 17 2005

City of Trinidad

2/04 112

Dear City Council and Planning  
Commission members,

Please protect what makes  
Trinidad unique and beautiful  
- our Head!

We already have cell towers  
and service. Please do not violate  
the natural landscape with  
another ugly tower

**RECEIVED**  
JAN 17 2005  
**City of Trinidad**

Sincerely,

Paula Klein  
707 Underwood Dr.  
Trinidad, Ca.

no longer  
here

2/04  
113

near City Council → Planning COM. ✓

I live in Trinidad, have for about 15 years, and I love the trails on the head. It would be a shame to see towers of any sort up there. Teresa Lomberson 858 W. Westhaven DR.

RECEIVED

JAN 17 2005

City of Trinidad

2/06 114

1/16/06 ✓

Leave the towers off  
Trinidad head.

It's fine the way  
it is naturally!

Sincerely

Steu Salter

3224 Patricia St. Dn

TRINIDAD, CA

95570

RECEIVED

JAN 17 2005

City of Trinidad

2/06

115

Dear City Council & Planning  
Commission,

As a long time resident of Trinidad  
I treasure this place. It is so  
like my home town of Mendocino  
before Mendocino was turned  
into a tourist trap.

I see no need to have cell phone  
coverage in triplicate. It would be  
far better to restore native plants  
and maintain the remaining unique  
beauty of Trinidad Head.

In addition, I would very much  
appreciate a ban on motorcycles  
if they come in without mufflers.  
The noise they make is very disturbing  
to our quiet summer days.

Sincerely,  
Margo Gross  
Trinidad  
P.O. Box 394

RECEIVED

JAN 17 2005

City of Trinidad

2/06 116

Dear Planning Commissioners,

January 5, 2006

I am strongly opposed to the U.S. Cellular request to expand the communication site on top of Trinidad Head. I am fortunate to have a prominent southerly view of the entire Head. The ugly cellular towers that currently loom are very visible and mar my view now, contrary to what agent Tom McMurray, from US Cellular, reports. Several issues in regard to this request concern me.

1. We have a responsibility as stewards, citizens and leaders of the Trinidad community to preserve the natural landscape and beauty of this precious area. Few places in our nation remain as pristine. The 12,000 tourists that visit our town each year attests to this.
2. There must be a long-term development plan regarding Trinidad Head in place BEFORE the approval of any further development in order to responsibly regulate such development.
3. What is known of the safety of these towers?
4. Consultation with area tribes should happen NOW, not once the permit for expansion is approved.

I am heartened that this letter joins sentiment with at least 80 other letters in opposition to the expansion that the Commission has received. Please give this matter your most serious consideration.

Sincerely,



Maria Bartlett  
806 B Edwards  
677-0459

**RECEIVED**

JAN 06 2006

**City of Trinidad**

cc: Chi-Wei Lin, Mayor  
Trinidad City Council members  
Gabe Adams, Trinidad City Clerk

2/06 117

✓

TO TRINIDAD PLANNING COMMISSION -  
REGARDING THE CELLULAR TOWER, 1/18/05

45° I learned about the tower a bit too late to re-frame this letter in Type. I hope you will take the hand written at least as token of my genuine concern over what I see will be many, many discussions about Trinidad's developmental concerns. I am NOT an extremist about Techno-Development. It's the double-edge issue... our decisions about any development here has consequences that often are unforeseen. So lots of "input" is important. "Wise" Techno-choices refer to things we all need but "WANTS + NEEDS" often need re-defining in the light of context of the situation.

Respectfully

Esther Roberts -  
PO Box 907  
TRINIDAD

IF YOU FEEL IT IS APPROPRIATE  
TO REAM THIS PUBLICLY PLEASE  
DO SO.

at the time of this writing I was unaware that one part payment had already been in effect.

RECEIVED

DEC 14 2005

City of Trinidad

December 14, 2005

Dear Planning Commission,

We don't need another cell  
phone tower. Leave our  
beautiful site alone.

Thank You

Daleen Chusem  
2424 Hubbard Lane #C  
Eureka, Ca 95501

2/06 Duplicate  
024  
119

Feb. 5, 2006

City Council:

Please no more  
development on Trinidad  
head. Let it remain natural  
and in a wild state. With  
a view to restore it in  
original state.

Sharon K. Tranter  
341 Ocean Ave  
Trinidad, Ca. 95570

**RECEIVED**

FEB 08 2006

**City of Trinidad**

2/06 120

165 A St.

Arcata 95521

1-19-06

Dear City Council, I've been hearing a lot about the prospect of a cell-phone tower on Trinidad Head lately. Even though I'm a resident of Arcata, I'd like to put in my two cents' worth.

One of the great pleasures of driving north from here is seeing the Head as ~~one~~ crests the hill on 101 past the airport, and bringing out-of-town visitors to Trinidad to enjoy the spectacular views. A tower would certainly destroy the beauty of the area, and giving encouragement to "Corky" Cornwell, who is already more than obnoxious, would be, at least morally, a crime.

2/06 121

Despite the recent supreme court ruling in favor of the communications industry, I urge you to fight this proposed tower in order to preserve

year Planning Commission  
+ City Council.

I am strongly  
opposed to  
changing the zoning  
on TRINIDAD HEAD.

The value of  
open space and  
pristine landscape  
to our community.

**2/06 122**

Additional tele  
communications installation  
on TRINIDAD HEAD  
would be a  
desecration of  
recreational +  
spiritual values.

OTHER SITES ARE  
AVAILABLE. Please  
preserve and  
protect TRINIDAD  
HEAD. — MARK PRINGLE  
SS/P.O. Box 2085  
TRINIDAD, GT

1/24/06

Trinidad City Council  
409 Trinity St.  
Trinidad CA

RECEIVED

JAN 30 2006

**City of Trinidad**

Gentlemen

I very much object to any further construction on Trinidad Head. It is unique and beautiful and should be reserved for recreational uses - no construction, maintenance, traffic.

Sincerely

Alice E. Foster  
308 Ocean Ave  
Trinidad CA

2/06 123

DEAR PLANNING COMMISSION  
and CITY COUNCIL —

I AM A LOCAL TRINIDAD  
RESIDENT AND I OPPOSE  
ANY CELL TOWERS ON  
THE HEAD MUCIL LESS  
NEW ONES and/or MORE!  
MY UNDERSTANDING OF  
COMMUNITY VALUES ARE  
THE PRISTINE BEAUTY OF  
TRINIDAD BAY and ITS  
NATURAL SURROUNDINGS.

I, FURTHERMORE, WOULD  
ENCOURAGE RESTORATION  
of THE HEAD and WOULD  
LIKE TO SEE THAT ON  
THE AGENDA.

THANK YOU —

MEUSSA SHOCKLEY  
216 LOOP PLACE  
TRINIDAD, CA

signed: *Meussa Shockley* 95570  
2/06 124

RECEIVED

JAN 18 2005

City of Trinidad

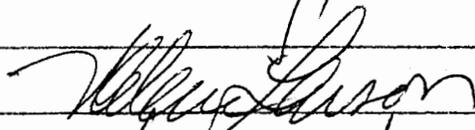
1-17-06

Dear Planning Commission + City Council

I oppose a cell tower  
development in our lovely  
town of Trinidad and  
maintain our Ocean Views.

Please put restoration on  
your City Agenda.

Sincerely,

  
VALERIE LARSON  
PO Box 1202  
Trinidad, CA 95570

RECEIVED

JAN 18 2006

City of Trinidad

2/06 125

Dear City Council,

Please preserve the beauty  
of Trinidad head. By restricting  
the development of structures on the head.  
And also working to restore it for  
future generations to enjoy.

Trinidad

J N Mills

Jesse Mills  
373 Ocean Ave  
Trinidad CA  
95570

**RECEIVED**

FEB 09 2006

**City of Trinidad**

2/06 126

P.O. Box 1052  
Trinidad, CA 95570  
January 23, 2006

**RECEIVED**

Trinidad City Council  
P.O. Box 390  
Trinidad, CA 95570

JAN 25 2006

Dear City Council members, .

**City of Trinidad**

Rezoning Trinidad Head would violate the agreement between the BLM and the city, to preserve open space. Keeping open space zoning is absolutely necessary to prevent development up there, which is what the BLM intended. Already projects have been approved that violate this important agreement to preserve Trinidad Head. These developments have seriously diminished protection of the area as well as the quality of the recreational experience. They were not approved legally as stated in the Coastal Commission letter by Jim Baskin. If the BLM had been fully aware of what the city was doing, it probably would have taken the land back by now, as stated in the agreement.

Please don't study changing the zoning. There is no zoning better than open space zoning. A study shouldn't be based on a preconceived notion that development up there is good. This proposed rezoning would make development of Trinidad Head much easier; that is why proponents of rezoning want to change the zoning. This is an agenda on the part of a few.

The community doesn't want development of Trinidad Head, and certainly doesn't want rezoning to make such development easier. The large volume of letters received attest to the desire to preserve the Head as a beautiful coastal resource. Many of these letter writers want to restore Trinidad Head. Please represent the people in their desire to protect Trinidad Head, and don't change the zoning.

Instead, study restoration, and how it can be done over time. Study feasible alternative locations for what is there. The staff report on the cell phone tower doesn't even mention feasible alternatives, which there are. Many citizens don't feel comfortable in having Streamline Planning conduct a study due to the highly flawed nature of its analysis (i.e. views from trails will not be impacted).

Study how property values would be affected if structures on Trinidad Head were removed. The views of the structures must lower the property values of the million dollar homes facing them.

Study how the Coast Guard facilities, now abandoned and boarded up, could be removed over time. See what the public wants. Try to arrange tours of the Coast Guard site to help the public with its input.

Try to listen to the public instead of telling them what they have to comment on.

There's too much car traffic on Trinidad Head. I don't think

2/06 127

the scientific institutions taking delicate measurements of the air appreciate the vehicles or the fumes. Study how auto traffic can be reduced, and eventually eliminated. Many people would like to see Trinidad Head become a car-free zone. Please take input from the public on this, and if you insist on studying something, then study this.

On the top of Trinidad Head is a powerful spot with an incredible view, which for the most part has been blocked by development. Study putting a few picnic tables up there. Study the impact that restoring Trinidad Head would have on tourism.

Now that some ideas have been submitted to you on what you can study, are you going to study what a growing number of citizens want addressed? Or do you have your own agenda?

Thank you,  
Bry—'s Rose  
Bryan Rosen

Registered Voter of Trinidad

RECEIVED

January 17, 2006  
Trinidad City Council

JAN 19 2005

*City of Trinidad*

Dear council members:

We just learned that the proposal for a new cell tower on Trinidad Head will be discussed at tomorrow night's council meeting. We would like to go on record as being opposed to the tower.

The Head is already bristling with numerous towers and structures. Its beauty and naturalness will be further compromised by any additional towers.

For this reason, we are strongly opposed to the proposal to rezone the Head to permit additional development there. The only further development we would find acceptable would be equipment needed by the Coast Guard, National Weather Service, or other agency for the benefit of the people at large. Commercial development is totally unacceptable, as it only benefits a small segment of the population to the detriment of us all. Trinidad should not allow the beauty of the Head to be decreased simply for monetary gain.

Is the tower even needed? We know a number of people here on Stagecoach Road who get good reception on their cell phones.

Thank you for your attention.

Sincerely,

*Jim Waters Virginia Waters*  
James and Virginia Waters  
Stagecoach Road

2/06

128

Dear City Council And Planning  
Commission,

RECEIVED

JAN 13 2005

CITY OF TRINIDAD

I oppose a new cell tower on  
Trinidad head. This would seriously  
disturb views, and the recreational  
experience.

This is not a legal use of  
the "open space zone". It doesn't  
"maximize preservation of the natural  
and scenic character of these areas,  
including protection of important  
wildlife habitat and cultural resources."  
In fact, it diminishes wildlife  
habitat, and undeveloped open land.

The tower approved in 1997 -  
was not approved legally. The city  
has stretched its interpretation very far -  
in its desire to approve development.  
(See The Coastal Commission letter from  
Jim Baskin).

The existing tower, which is not legi-  
needs to be removed.

Community values have changed.  
The City Planner needs to represent  
what's best for the community, not just  
try to get projects approved, which may  
be quite detrimental.

Bryan Rosen  
PO Box 1052  
Trinidad, CA 95570

2/06 129

Trinidad's beauty and character.

It's hard to believe that such a potential eyesore is really necessary just to facilitate annoying public conversations. After all, it's not as if people can't phone one another already, on land lines if their cell phone reception isn't good.

I just wanted to let you know of my support for those opposed to this tower, because I don't think it's a concern just for the residents of Trinidad, but for Humboldters in general.

Sincerely,

Duncan Burgess

2/06 130

2/13/06 - END

**RUBY-EYED WESTERN GREBE**  
(*Aechmophoros occidentalis*)

This highly aquatic relative of the Palegic Loon is considered an expert diver but a labored flier. Grebes feed on fish, crustaceans, tadpoles and aquatic insects.

From: MAREVA L Russo (City Resident)  
POB 972 / TRINIDAD 95570

RECEIVED

APR 19 2006

APR

City of Trinidad



To Dean Heyenga; The 2005  
US Cellular Application to site a new  
or any additional cellular telephone equipment  
cellphone tower on Trinidad Head should  
be rejected. This proposal violates NUMEROUS  
city ordinances, is against the spirit of  
Trinidad's agreement with BLM regarding  
custodianship of the Head, and disrespects  
a sacred Yurok site.

To:  
Mr. Dean  
Heyenga  
POB 390  
TRINIDAD CA  
95570

Photography of KENNAN WARD

Sincerely,  
Mareva Russo

4/06 131

FOUR SEASONS HOTEL  
*Hong Kong*



PLEASE !!

NO MORE CELL  
TOWERS ON  
TRINIDAD HEAD

THANK YOU  
Lallean Manattala  
P.O. Box 336  
Trinidad

10:11

4/06  
132

FOUR SEASONS  
*Hotels and Resorts*

Trinidad City Council

P.O. Box 390 RECEIVED

TRINIDAD

CA 95570

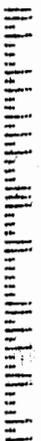
U.S.A.

APR 28 2006

City of Trinidad



35570#0330



BY AIR MAIL  
航 空 郵 寄

RECEIVED

JUN 21 2006

To whom it may concern:

**City of Trinidad**

This letter is on behalf of the Beachcomber Café in regards to the proposed cell tower on Trinidad Head. We are opposed to the approval of any new cell towers for a variety of reasons.

1. There is no need. As a US Cellular customer, Jackie can testify that it is the quality of the telephone that affects reception in Trinidad. Only the most archaic phones, used by almost nobody anymore, get bad reception within Trinidad. The patchy zones along the curvy, tree-lined roads may never get good reception, unless we decide to put cell towers every 100 feet along the roads. (This is not a suggestion!) Do we really need to use precious resources for construction that may not have any tangible impact?
2. Tourism. In one word, the butter on Trinidad's bread. Without the money brought in, very few businesses would survive in this town. While we don't really believe that a cell tower will drive people away, we feel that it does nothing to enhance the valuable resource that is Trinidad's natural beauty. We often suggest to visitors to check out the head, and any more intrusions of concrete and steel on the head only lessen the emotional impact of awe one feels there. People may be less likely to suggest to a friend to go there, or they may say "...except there are ugly cell towers up there". Has Mendocino's tourism suffered for its lack of cell towers? On the contrary, it adds to the quaintness and slow pace of a weekend getaway town.
3. Personal recreation. As inhabitants of this town, we walk around the head often after a long day's work. Upon reaching the top, we often comment on how unfortunate it is that those ugly structures are there. The air quality station serves a decent purpose, as do cell towers in some people's opinion, but why so many? When is enough enough? There seems little need for there to be more than one tower in a location as beautiful as the head. Is perfect reception really worth it? Promoting the beauty of the head promotes the health of our community. A daily walk around the head is enough to keep one fit. Why should we devalue this by continuing to build there?

We understand that there needs to be balance between modern convenience and preserving the natural state of things. However, there is clearly not enough justification for the addition of this structure, or any similar structures in our opinions. Please heed the call of the community and put a stop to this once and for all. Thank you.

FRED G. NELSON  
1895 PATRICKS PT  
#2

Sharon Walker

Sincerely,

The Beachcomber Crew

Jacqueline Keegan  
David Schmitt

Janice Perry

6/06  
133

6/21/06

To the Trinidad Planning Commission:

Robert Becker, M.D. and author of the book Crosscurrents is considered a world authority on the epidemiological effects of all forms of electromagnetic fields in the environment.

He is of the opinion, based on his own and numerous credible scientific studies, that the effects of electromagnetic pollution in the environment including microwave is harmful to humans at levels much lower than the standards now set in the industry.

Sincerely,

David Schwin

David Schwin

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JUN 21 2006

City of Trinidad

when more than one source is operating the effects are additive ~~to~~ whether AM, FM, short wave, microwave etc so another source would increase the ill effects of the several existing installations.

6/06  
134

*Protect Preserve Restore*

*C.O. P.O. Box 304  
Trinidad CA 95570*

May 14, 2006

Lynda Roush  
Bureau of Land Management  
Arcata Field Office  
1695 Heindon Rd.

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MAY 23 2006

*City of Trinidad*

Re: Cell towers on Trinidad Head

Dear Ms. Roush:

The Friends of Trinidad Head is a group of community members that is opposed to the existing, and to any future commercial development on Trinidad Head.

We have done extensive research on the history of the existing cell towers on Trinidad Head, and have compiled documentation that shows a surprising number of violations. We have shared our documentation with the City of Trinidad so that it may have this background information as it considers the US Cellular application. We would like to share it with the Bureau of Land Management also.

We will contact your office to see if you are amenable to scheduling a time for us to deliver these documents to you.

Sincerely,

*Alice E. Foster*

Alice E. Foster  
(On behalf of Friends of Trinidad Head)

Cc: Gabriel Adams, Clerk, and City of Trinidad

5/06  
135

From: Citizens of Trinidad and vicinity who agree with the City Council "cell tower" decision.

To: California Coastal Commission

Subject: Letter in Agreement with Trinidad City Council vote approving U.S. Cellular use of existing antenna on Trinidad Head and opposition to "Friends of Trinidad Head" appeal to the Coastal Commission

The "Friends" stated their legal arguments to the Coastal Commission in a Oct 17 guest opinion by Carol Rowe in the October 17, 2006 issue of the McKinleyville Press. (Enclosure 1) The following is a rebuttal to those arguments.

1. The arguments made by the "Friends of Trinidad Head" contain exaggerations and misstatements. The "Friends" do not represent the entire population of the town and include supporters who are not residents. Many other residents and neighbors in the adjacent areas support the city councils' decision for the following reasons.

2. They desired to avoid another unaffordable lawsuit filed against Trinidad, especially for a cause that leaves the existing antenna in place and a cause that already had a long term solution = A legal contract expiration date.

3. This antenna has been in existence for many years. It existed in 1997 when the city council approved it for cell phone company use. The "Friends, through the press, have given the impression a new antenna is being installed. The change proposed by U.S. Cellular was a modification to the existing antenna, not a new antenna. A mock up was installed so the changes could be seen. The antenna, when viewed from town, looks basically the same with or without the minor changes.

4. Whether the friends win or lose this battle the existing antenna is used by others and can not be removed until 2017. The Friends have failed to make this clear, and in fact, encouraged the misconception. When 2017 arrives the so-called "visual blight" can be removed quickly. It is not the "industrial complex" the Friends have tried mightily to portray. (If the Friends win - the city council vote should not be changed. The city can not afford to be part of a resulting suit.)

5. The Friends call the ground control equipment "visible blight". This is false. The cell tower control boxes on the slab are not visible to viewers from Trinidad and vicinity because they are hidden by an existing fence and shrubbery. A hiker must leave the hiking trails to visit the fenced area. A nearby government antenna is a posted unauthorized area.

6. The trail for hikers was not intended to be exited in order to visit the antenna area. Most historic landmarks or scenic areas do not want hikers to leave the designated hiking trails. When the Friends claim the antenna is a "potential traffic injury hazard to hikers and freeway type noise" they are exaggerating. Its been there for years without any injuries of which we are aware. Perhaps a few more signs are needed to keep curious hikers on the proper trails. The residents of Trinidad can not hear any noise from this antenna while in town or at home. If they stay on the hiking trails they will hear the breeze, the surf, or seals barking but definitely not a freeway type noise?

7. The Friends brought in an outside planning and environmental commissioner and a botanist to support their arguments. The botanist should first warn the Friends about leaving the established hiking trails if there are indeed some rare plants around. Botanist have previously been here. In past years the town had a Christmas tree decoration on

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Prisoner Rock in the harbor. Then a botanist type declared one plant on the almost barren surface endangered by this once a year visit. That lovely harbor Christmas scene is now just a memory.

8. The most confusing part of the "Friends" complaint states "the council's decision paves the way for unlimited commercial development on Trinidad Head." Who, in this town, wants unlimited commercial development? If the Friends can prove anyone is promoting such development we all will join the Friends in fighting them. The signers of this letter have no desire to alter the place they worked so hard to preserve and will continue to oppose any effort to do so.

9. The 1997 city council approval to use an existing unused antenna to earn some income for the cash strapped town had local legal approval and no opposition. The argument that non conforming use can not be renewed after a dormant period is not true. An applicant has to reapply and the city can deny or approve the request. Approved variances are common in most towns. Another factor influencing approval was the fact the contract had not yet expired.

10. A small town run by inexperienced but honest local people can be criticised for minor procedural errors if a group of experts from big cities arrive, with their magnifying glasses drawn, inspecting every dotted i and crossed t. The ridiculous volume of overlapping laws drawn up by lawyers to run states and large towns, guided by droves of legal and administrative experts are an impossible financial burden for small towns. Small towns suffer from these costly, "one rule fits all" guidelines, containing no common sense factor, developed by urban politicians, and written by lawyers to insure they have jobs. The 1997 usage approval was open, legal, and no one involved did anything for their own gain.

11. The extra income from the antenna has helped the town; the contract has a legal expiration date; and complaints were non-existent until activists recently started complaining about visual blight, and began comparing a relatively small antenna to a noise emitting industrial site. The telephone poles on Trinidad head are more of a visual blight if anyone cares to walk to the pier and look up.

12. Because this appeal, win or lose, will not remove the antenna until 2017 when the contract expires, it is basically a waste of time. When the contract expires in 2017 the city council can decline to renew or, perhaps, demand an antenna disguised to look like a small tree and ask for a larger lease sum; and win on both counts.

Note: A short brief of this letter was prepared for signatures. This writeup was too lengthy for a petition. The signed briefs are enclosed.

C.C. "Bud" Miller

C.C. Bud Miller  
(707) 677 0642

Letter by Activist Group "Friends of Trinidad Head"  
Opposing the existing cell phone antenna on Trinidad Head

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# Trinidad cell tower battle

## Guest Opinion

By CAROL ROWE

Trinidad residents were frustrated, angered and dismayed by Trinidad City Council's approval of U.S. Cellular's (USC) application to install equipment on Trinidad Head.

USC's application was heard first by the council, who sent the review to the planning commission. USC scaled down their project (an act they first testified was impossible) and submitted it to the council that remanded it to the commission, which approved the plan. Friends of Trinidad Head (Friends) appealed that approval to the council. On Sept. 14, the council denied the Friends appeal and approved USC's development.

On the morning before the hearing, USC delivered a letter to the councilmembers stating "if permits for cellular facilities are denied in violation of the Telecommunications Act, the carrier may file action in federal court against the public entity to compel the entity to issue the permit."

USC asserts that their request to expand services is based on necessity, although there was testimony at the hearing that USC's service is already superior to the other three companies currently operating on Trinidad Head. Further, no unpaid member of the public attended stated support for the development.

### Background

Since cellular development began on Trinidad Head in 1997 (distinct from prior cable TV equipment), the cumulative impact of mechanical equipment has more than doubled in size and scope, creating visual blight, potential traffic injury hazards to hikers, freeway type

noise emissions from cooling fans, and electromagnetic emanations.

Although the city "staff" reports ("staff" is actually a private Arcata firm, Streamline Planning) have uniformly supported development permits for all three prior cell corporations claiming "categorical exemption" from complying with the California Environmental Quality Act (CEQA).

### Basis for appeal

The Friends is a citizen group devoted to the protection and restoration of the cultural and natural treasure of Trinidad Head.

Trinidad Head is designated as a "State Historic Landmark" and an "area of significant concern."

Trinidad Head is zoned "Open Space," restricting its use to "recreational purposes only," (no mention of commercial development by a private corporation.) However, the city has permitted commercial development on Trinidad Head including two 41-foot towers, exceeding the city's 15-foot height limit. USC's project includes antennas to be installed at a height of 23 feet, plus 15 feet of cabinets on a concrete pad.

The Bureau of Land Management representative, Linda Rouch, determined the developments to be in compliance. Unfortunately, that report was based on errors, including BLM's reference to USC's current lease with the city (no lease exists), and an admis-

sion that BLM compliance officers mistakenly believed the cell tower development to be located on U.S. Coast Guard property, when in truth it is located on city property. The Friends presented these errors to the council.

### The lease

In 1994 Cox Cable TV abandoned their operation on the Head. City Ordinance states that after a nonconforming use is abandoned for over 1 year, the use shall not be re-established.

Despite this restriction, in 1997 the City allowed Cal North to develop cell phone equipment on Trinidad Head.

The city "staff" report declared these non-conforming uses to be now conforming, since the previous developments were granted a use permit by the city, based on Streamline's favorable reports.

The city never executed a memorandum to adopt the 1997 lease agreement with Cal North (now Verizon) who is also subleasing to two collocated.

### Who testified

The Friends delivered a comprehensive PowerPoint presentation detailing the history of development on Trinidad Head, outlining numerous errors, and violations of administrative procedures and City and State laws.

Aldaron Laird, an Environmental Planner and Planning Commissioner for the City of Arcata, testified that Trinidad was ignoring several exceptions pursuant to CEQA that apply to their use of a Categorical Exemption, and the city should prepare the proper environmental document. As no CEQA review was performed for this or earlier projects, the

city has never complied with CEQA, instead improperly relying on Categorical Exemptions.

Jennifer Kalt, Conservation Chair for the Northcoast Chapter of the California Native Plant Society testified that the city failed to conduct a botanical survey for assessing impacts to rare plants, as required by CEQA.

Axel Lindgren of the Tsurai Ancestral Society and Dr. Tom Gates representing the Yurok Tribe testified that Trinidad Head has enormous historical, cultural and spiritual importance to the Tsurai and Yurok people, and they oppose the development.

### Hearing outcome

The city council voted 3 to 1 to approve USC's development, basing their approval on favorable "staff" and BLM reports, without addressing the conflicting factual presentations by the Friends.

Mayor Heyenga said he based his approval on Trinidad City Attorney Jeff Guttero having "ruled on the legality issue" and "prior council's following proper noticing and hearing procedures."

It should be noted that the city's 1997 written notification to the Coastal Commission, and subsequent appeal form posted to notify the public, identified "Trinidad school" (not Trinidad Head) as the location for development.

The Friends intends to file an appeal to the California Coastal Commission because this Council's decision paves the way for unlimited commercial development on Trinidad Head.

The Friends invites legal and financial assistance. Please call Carol 845-4033.

# Bogus claims and big guns assault tower

This guest opinion is a response to the Oct. 17 McKinleyville Press "Trinidad cell tower battle" guest opinion by Carol Rowe of the "Friends of Trinidad Head."

## Guest Opinion

By BUD MILLER

Starting with the first sentence the article contains the expected exaggerations and omissions every dedicated advocate uses to influence readers. To say Trinidad residents were "frustrated, angered and dismayed" by the City Council's decision to approve the cellphone application was inaccurate without prefixing it with "some," "many," "a few," "the activist half," or perhaps just the "Friends."

The "Friends," some of whom are Trinidad residents, may have the city's best interests at heart but this particular issue has been misleading and divisive. The City Council and many residents were NOT angered by this decision because they had reasonable concerns and intimate knowledge of the facts such as:

- 1.) They desired to avoid another unaffordable lawsuit filed against Trinidad, especially for a cause that leaves the existing antenna in place and a cause that already had a long term solution – a legal contract expiration date.
- 2.) The knowledge that the existing antenna will not be removed until 2011, whether the Friends win or lose this battle. The Friends have failed to make this clear and, in fact, encouraged the misconception. Other users will still be using this antenna until the contract expires in 2011. The antenna or "visual blight" when viewed from Trinidad and vicinity will remain the same. When 2011 arrives the "visual blight" can be removed quickly. It is not the industrial complex the Friends have tried mightily to portray. (If the Friends win, the City Council vote should not be changed. Let the cell phone company sue the Coastal Commission. The city can not afford to be part of the suit.)
- 3.) The knowledge that the control boxes on the slab are invisible to viewers from Trinidad and vicinity because they are hidden by an existing fence and shrubbery. They are not part of any "visual blight" as claimed. A hiker must leave the hiking trails to visit the fence and a nearby government antenna is a posted unauthorized area.
- 4.) The trail for hikers was not intended to be exited in order to visit the antenna area. Most historic landmarks or scenic areas do not want hikers to leave the designated hiking trails. When the Friends claim the antenna is a "potential traffic injury hazard to hikers and freeway traffic noise" I must

admit I'm befuddled. It's been there for years without any injuries of which I am aware. I walked the trail many times. Perhaps a few more signs are need-

ed to keep our curious hikers on the proper trails. I doubt the residents of Trinidad can hear any noise from this antenna while in town or at home. If they stay on the hiking trails they will hear the breeze, the surf, or seals barking but definitely not a freeway type noise. Perhaps the city should simulate freeway noise by running a big rig through town at midnight so the Friends could learn the difference. Are the words "activist" and "exaggeration" somehow synonymous.

My title mentioned "big guns." Elsewhere they would not be so described, however, when the Friends bring in an outside planning and environmental commissioner and a botanist to this little town administered by untrained, often volunteer, city councilmen, these "outside experts" qualify as "big guns." Ms. Rowe obviously had law training because the manuscript reads more like a court presentation than a guest opinion. The botanist should first warn the Friends about leaving the established hiking trails if there are indeed some rare plants around. Botanists have previously been here. In the past we had a Christmas tree decoration every year on Prisoner Rock in the harbor. Then a botanist type declared one plant on the almost barren surface endangered by this once a year visit. That lovely harbor Christmas scene is now just a memory.

The most confusing part of the manuscript is the last paragraph. It claims "the council's decision paves the way for unlimited commercial development on Trinidad Head." Who, in this town, wants unlimited commercial development? If the writer can prove anyone is promoting such development we all will join the Friends in fighting them. It will be a united front. Some of the Friends are outsiders. Many of the resident "Friends" are relative newcomers. They might be surprised to learn the older, less political town residents, including all of those who were on the city council when the prior use of the tower was approved, are also against developing Trinidad Head. These older residents have no desire to change the place they worked so hard to preserve and will continue to oppose any effort to do so. The newer progressives join the think-alike click and also began vocalizing their politics; manipulating the press; bringing in experts; manufacturing nonexistent pro-development opposition and blaming those

who proceeded them for vague misdeeds. What this crowd needs is a good dose of molasses and a Dale Carnegie course.

The 1997 City Council approval to use an existing unused antenna to earn some income for the cash strapped town had no opposition and local legal approval. The argument that non-conforming use can not be renewed after a dormant period is not true. An applicant has to reapply and the city can deny or approve the request. Another factor influencing approval was the fact the contract had not yet expired. Approved variances on applications are legal in all towns. A small town run by inexperienced but honest local people will always be criticized for minor errors if a group of experts from big cities arrive, with their magnifying glasses drawn, inspecting every dotted i and crossed t.

The ridiculous volume of overlapping laws drawn up by lawyers to run states and large towns, guided by droves of legal and administrative experts are an impossible financially burden for small towns. Small towns suffer from these costly, "one rule fits all" guidelines containing no common sense factor developed by urban politicians and written by lawyers to insure they have jobs. No one involved with this antenna has intentionally done anything for their own gain. The extra income has helped the town, the contract has a legal expiration date, and complaints were nonexistent until activists started complaining about visual blight, and comparing a relatively small antenna to a noise emitting industrial site.

The telephone poles on the head are more of a visual blight if anyone cares to walk to the pier and look up.

Because this appeal, win or lose, will not remove the antenna until 2011 when the contract expires, it is basically a waste of time. For this reason I believe this issue is more about progressive hatred for corporations than rapid blight removal. The progressive element earlier tried to pass a big box prohibition when there was absolutely no chance one would ever be located in tiny Trinidad. I'm no fan of corporations but town meetings are long enough without including political posturing issues to impress the folks in Arcata.

When the contract expires in 2011 the city council can decline to renew or, perhaps, demand an antenna disguised to look like a small tree and ask for a larger lease sum; and win on both counts. The fresh batch of upcoming City Council members are volunteers. It would be a pleasant surprise to learn some are more interested in cooperation than causes.

Jan - Jan 9, 2007

To: The California Coastal Commission

From: Trinidad and area residents who support the City Council vote approving U.S. Cellular's use of the antenna on Trinidad Head

The decision of the Trinidad City Council to approve U.S. Cellular usage and minor modifications to the existing cell tower antenna on Trinidad Head was proper. The arguments recently submitted to the Coastal Commission by opponents are exaggerated or erroneous as follows:

1. The 1997 agreement to allow cell phone usage for an existing antenna was approved by legal counsel, was welcome income for the town and, until recently, had no opposition by residents.
2. Opponents cite "visual blight" as a factor for denying usage to U.S. Cellular. Two other companies remain under contract until 2017 to use the antenna. Denial of U.S. Cellular usage will not result in the antenna (ie, "visual blight") removal.
3. Opponents cite noise problems and danger to hikers. No sound from the antenna can be heard from town. No known cases of injury exist. Hikers should not leave hiking trails to visit the site. An adjacent government antenna is a posted unauthorized area. If hikers remain on the trails the sounds of the wind, sea, birds and sealife will be heard over any antenna noise.

The city council decision approving the U.S. Cellular request was correct.

Thomas J. Odum P.O. Box 302 Trinidad (881 Van Wyke)  
Elizabeth Anne Odum P.O. Box 302 Trinidad  
881 Van Wyke Ave

Gail Sanders, PO Box 1244, Trinidad  
692 Underwood Drive

Judi Gould Post Office Box 782, Trinidad

Wendy J

John Nickles PO Box 93, Trinidad

Barbara J. Ratzliff PO Box 605 Trinidad

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Jan 2-Jan 9, 2007

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The city council decision approving the U.S. Cellular request was correct.

\* NOTE: The signers below are Trinidad based fisherman who depend on their cell phones and subject antenna for emergency and routine use at sea.

Mike Zabin

Lucky 50

Mark Record  
Don

Jeannie II  
JUMPIN JACK

Jim Hall

F/V CHALLENGER

Bob Allen

F/V TONI RAE II

Jonathan Hinchey

F/V Alibi

Craig Loubert

F/V Second Wind

David M. Turner

F/V Nightwind

Rub Shetty

F/V JOIELYNN

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The city council decision approving the U.S. Cellular request was correct.

Hoyt Dille P.O. Box 1121 Trinidad, CA

Bud Miller 1391 Westhaven Dr., 95570. P.O. 1291, Trinidad

Alan Sanchez P.O. Box 212 Trinidad, CA.

Jim Bertino POB 823 Trinidad

Sandra Miller 80 Box 1291 Trinidad

Donald Blue Box 834 Trinidad 95570

Roy Hallum Box 79 Trinidad 95570

Jim C. Wilson P.O. 771 Trinidad

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Merrill M. Styer P.O. Box 812  
Robert Hallmark P.O. Box 123

William Harris 60 Scenic Dr

Jim Ellsworth P.O. Box 1201

Carol Haveland P.O. Box 123

Sandra Cuthbertson 840 View Wyckse, Trinidad

Donald D. Ratzloff P.O. Box 605 Trinidad

William A. Jermineck P.O. Box 813 Trinidad Ca 95570

Glenn W. Saunders PO Box 3010 Trinidad Ca 95570

James J. Saunders PO Box 3010 Trinidad CA 95570

Fred Wagner 329 Ocean Ave Trinidad Ca.

Dennis Cooley 306 VIEW AV TRINIDAD Ca

Pam Cooley 306 VIEW AVE TRINIDAD Ca

Van Froli 306 VIEW AVE TRINIDAD Ca

Cindy Underknecht 306 VIEW AVE TRINIDAD Ca

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Jodel J Collins

505 WEST ST  
TRINIDAD 677-0437

NANCY HOGAN 505 WEST ST TRINIDAD 677-0437

Geo. E. Collins 513 Junity St. TRINIDAD 677-3344

Clay Collins 500 West St. Trinidad 677-9488

Caroline Collins 500 West St Trnd 677-9485

Pauline 531 West St trnd 677-9585

G MITCHELL 531 WEST TRND 677-9478

Robert H. Wood 136 Stumpstown Rd Trinidad

Marc Miller 150 Skyhorse Ln Trinidad, 95570

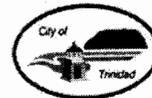
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**TRINIDAD CITY HALL**  
P.O. Box 390  
409 Trinity Street  
Trinidad, CA 95570  
(707) 677-0223

**Chi-Wei Lin, Mayor**  
**Gabriel Adams, City Clerk**



Posted: January 19, 2007

## **NOTICE AND CALL OF THE SECOND REGULAR MEETING OF THE TRINIDAD CITY COUNCIL**

The Trinidad City Council will hold its second monthly meeting on  
**TUESDAY, JANUARY 23, 2007 at 7:30 PM**  
in the City Hall at 409 Trinity Street.

### **NO CLOSED SESSION**

- I. CALL TO ORDER/ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. APPROVAL OF AGENDA**
- IV. APPROVAL OF MINUTES**
- V. ITEMS FROM THE FLOOR**  
*(Three (3) minute limit per Speaker unless Council approves request for extended time.)*
- VI. CONSENT AGENDA**
  1. Proposed resolution to place a moratorium on further commercial development on Trinidad Head and to phase out the existing facilities by the end of the current lease agreement. (Binnie)
  2. Second Reading: Proposed Ordinance to amend City Municipal Code Section 2.04.010 and 2.04.070 relating to Council meetings.
- VII. AGENDA ITEMS**
  1. Discussion/Decision on submitting a conceptual grant application to the Clean Beach Initiative Program of the State Water Resources Control Board. (Lin/City Engineer)  
*Brief description: The City, HSU Marine Lab, and Trinidad Rancheria are collaborating to put together a conceptual grant application to be submitted to the Clean Beach Initiative Program of the SWRCB. In this item, a outline of the concept and a MOU among the three entities will be presented to the Council for approval.*
  2. Continued discussion/decision on fire/fireworks ordinances. (Heyenga/City Attorney/Police Chief)  
*Brief description: Draft ordinances regarding fires and fireworks on Trinidad beaches, with penalties included, have been reviewed by the Police Chief and City Attorney and are ready for Council action.*
  3. Discussion/Decision on Town Hall improvement projects. (Lin)  
*Brief description: Late last year, the Council initiated the solicitation of proposals for improvement of the Town Hall. A number of proposals have been received and evaluated by individual Council members. The Council will now decide which projects will be done this year, next year, or postpone indefinitely.*
- VIII. ADJOURNMENT**

**Gabriel Adams**  
Trinidad City Clerk

City of Trinidad: January 23, 2007 CC2 Agenda

#### **EXHIBIT NO. 11**

#### **APPLICATION NO.**

**A-1-TRN-06-042**  
U.S. CELLULAR CORP.  
CITY OF TRINIDAD RESOLUTION  
IN RE: DISCONTINUANCE OF  
LEASING TRINIDAD HEAD FOR  
TELECOMMUNICATION USES  
(WITHDRAWN) (1 of 3)

RESOLUTION 2007-\_\_\_

**POSITION OF CITY COUNCIL REGARDING COMMERCIAL DEVELOPMENT  
ON TRINIDAD HEAD**

**Whereas**, in November 2006, a new majority was elected to the City Council; and

**Whereas**, in November 2006, the California Coastal Commission found that there is substantial issue with the expansion of a cellular telecommunications facility in the Open Space Zone located within City-owned property on Trinidad Head; and

**Whereas**, in February 2007, the California Coastal Commission will be considering request to expand a commercial cellular telecommunications facility in the Open Space Zone located within City-owned property on Trinidad Head; and

**Whereas**, the current City Council would like to communicate its position to the California Coastal Commission regarding construction or installation of additional cellular telecommunications equipment and facilities in the Open Space Zone located within City-owned property on Trinidad Head; and

**Whereas**, the City's certified Local Coastal Program (LCP) does not provide for commercial uses in the Open Space Zone on Trinidad Head; and

**Whereas**, the City's certified LCP specifically states that Trinidad Head should be kept in its natural state with hiking trails and vista points; and

**Whereas**, expansion of a non-conforming cellular telecommunications facility in the Open Space Zone on Trinidad Head violates the purposes for which that area was designated Open Space for recreational use only; and

**Whereas**, cumulative impacts from additional commercial facilities on Trinidad Head will further interfere with recreational use, increase noise levels, block ocean and coastal views, including offshore rocks that are part of the California Coastal National Monument; and

**Whereas**, the City has received 135 letters from members of the public in opposition to construction of additional cellular facilities on Trinidad Head; and

**Whereas**, it is the intent of the current Trinidad City Council to adhere to the City's certified Local Coastal Program and phase out all uses not allowed in the Open Space Zone on Trinidad Head, specifically the existing commercial cellular transmission facilities; and

**NOW, THEREFORE BE IT RESOLVED**, that the current Trinidad City Council supports a moratorium on the construction or placement of any new cellular equipment or facilities in the Open Space Zone located within City-owned property on Trinidad Head,

the phasing out of all uses not allowed in the Open Space Zone, and working with the telecommunications industry towards relocation of the cellular transmission facilities to a less sensitive site.

**PASSED, APPROVED, AND ADOPTED** on this 23rd day of January, 2007, by the following vote:

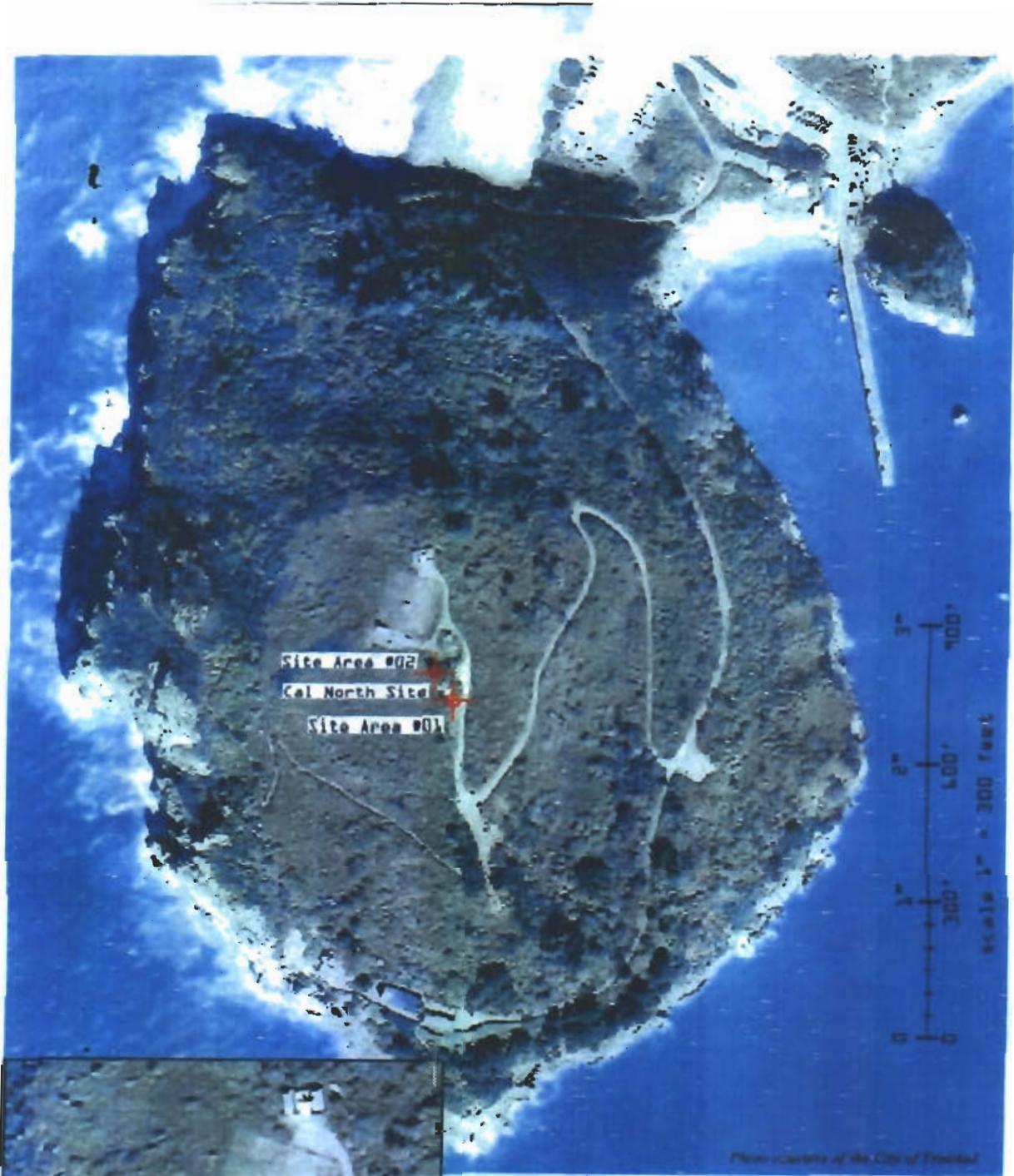
Ayes:  
Noes:  
Absent:  
Abstain:

Attest:

\_\_\_\_\_  
Gabriel Adams  
Trinidad City Clerk

\_\_\_\_\_  
Chi-Wei Lin  
Mayor

**Withdrawn**



**RECEIVED**

JAN 26 2007

CALIFORNIA  
COASTAL COMMISSION



PROPOSED  
TRINIDAD HEAD SITE

EXHIBIT NO. 12
APPLICATION NO.
A-1-TRN-06-042
U.S. CELLULAR CORP.
APPLICANT'S & INTERESTED PARTIES' CORRESPONDENCE WITH INDIVIDUALIZED COLOR PHOTO ATTACHMENTS

<b>1</b>	<b>View of Trinidad Head Communication Site</b>
<b>2</b>	<b>Drive Test Area Existing</b>
<b>3</b>	<b>Cellular Facilities US Cellular Site Plan</b>
<b>4</b>	<b>Walker Mt. Line of Site Study</b>
<b>5</b>	<b>McKinleyville Line of Site Study</b>
<b>6</b>	<b>Trinidad Head Line of Site Study</b>
<b>7</b>	<b>Combined Line of Site Data</b>
<b>8</b>	<b>Existing Indoor Coverage in Trinidad New Indoor Coverage in Trinidad</b>
<b>9</b>	<b>Combined New and Existing Coverage</b>
<b>10</b>	<b>Drive Test Area Existing Drive Test Area with Trinidad Head</b>
<b>11</b>	<b>Drive Test Downtown Existing Drive Test Downtown with Trinidad</b>
<b>12</b>	<b>Drive Test Westhaven Existing Drive Test Westhaven w/Trinidad Friends of Trinidad Study RF Study</b>

# PWM INC.

P.O. Box 1032 2039 Williams Street, Eureka, CA. 95502 Phone: (707) 442-8420 Fax: (707) 442-8499

January 23, 2007

Mr. Bob Merrill  
Northcoast Director  
California Coastal Commission  
710 E Street  
Eureka, California 95501

Re: Trinidad Head  
U.S. Cellular

Dear Mr. Merrill:

You have asked for additional information concerning the proposed Cellular installation. Please consider the following:

## **Alternate Site Analysis:**

This has been provided per our letter to the Trinidad City Council dated September 4, 2006 and contained in our binder. Essentially, the information is based upon the existence of two sites that already exist that attempted to service Trinidad and were found to be inadequate. Trinidad Head cannot be duplicated due to its location offshore, the elevation and the ability to service the City of Trinidad, beaches, ravines, hillsides, Westhaven and Hiway 101-all east of Trinidad Head. This can readily be seen by the expanse of the view shown in the photograph looking east towards the shore. Also, three Cellular carriers are located there, two of which decided not to locate on the present Walker Ridge Tower north and east of Trinidad Cal North Cellular (Verizon) is located on the Walker Ridge Tower and had to locate on Trinidad Head in order to properly service the area. Ubiquitel (Sprint) and Edge Wireless had knowledge of the Walker Ridge site and chose to locate on the Head because of inadequate coverage from that site.

## **Geological Study**

Enclosed is a letter from Neale Penfold Engineer that addresses the location and structural capability of the antennas to be mounted on the existing two poles. The U.S. Cellular is proposed to be located within the fenced area and will not require any new pole installation. The poles will not be altered, except for the installation of one antenna and coax cables.

Mr. Bob Merrill  
Northcoast Director  
California Coastal Commission  
January 4, 2007  
Page two

**Biological Study**

The proposed installation of the U.S. Cellular Facility will be entirely within the existing, fenced, graveled site. U.S. Cellular will agree to the following:

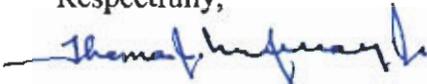
1. All excavations for the concrete slab will be completed without the use of motorized equipment within the fenced area. All digging will be completed by hand. The existing ground is principally gravel and all excess materials will be placed within the fenced area or removed from the site by hand methods.
2. The transportation of the concrete mix will be pumped from the existing roadways. The concrete ready-mix truck will be placed upon the existing roadways.
3. The cellular equipment cabinets will be lifted over the fence by a crane placed on the existing roadways.

These proposed methods eliminate any motorized equipment from being used in any undisturbed areas.

There is not one site within the area that would duplicate the coverage from Trinidad Head. In fact it is our opinion that it would take several sites within the Coastal Zone to duplicate it. Also, the antennas mounted on the existing poles will have no significant impact on Coastal view-sheds.

We are aware of the remaining lease term that exists on the site.

Respectfully,



Thomas J. McMurray Jr.  
for U.S. Cellular

TJM/tjm

enclosures: Bound materials

**COMMUNICATIONS**  
Tower Development & Site Management

**REAL ESTATE**  
Consulting, Development and Management

**CONSTRUCTION**  
Materials & Project Management

NEALE B. PENFOLD PROFESSIONAL CIVIL ENGINEERING

2107 FIRST STREET  
EUREKA, CALIFORNIA 95501

PHONE (707) 442-4587  
FAX (707) 268-3907

January 23, 2007

Mr. Thomas J. McMurray Jr.  
PWM Inc.  
P.O. Box 1032  
Eureka, CA 95502

RE: U.S. Cellular Antennas,  
625 Indianola Road  
Trinidad Head

**Job #103-07**

Dear Mr. McMurray:

I have reviewed the installation of the proposed installation of two eight foot by 12 inch cellular antennas mounted to two existing wood poles, one each pair per pole. The poles are braced with a horizontal beam, one horizontal cable and two guide wires per pole to the ground.

With the antennas mounted directly to the pole, the wind surface is minimized. The poles are adequate to support the antennas.

If you have any questions, please contact me.

Very Truly Yours,



Neale B. Penfold  
RCE 1215



## Tom McMurray

**From:** Johnson, Ed [Ed.Johnson@uscellular.com]  
**Sent:** Friday, January 20, 2006 11:15 AM  
**To:** 'tjmacjr'  
**Subject:** Post construction road usage

Tom,

After a cellular site is constructed, the local technician responsible for that facility is required to make quarterly (4 per calendar year) visits to perform preventive maintenance on the equipment. The only additional traffic would be due to a system failure of some kind which is rare, but does happen. Historically, this would only account for two additional trips within a years time.

Feel free to call or email if you need further clarification on this subject.

Sincerely,

## Ed Johnson

*Associate RF Engineer*

**US Cellular**- Longview, WA.

*desk: 360.749.7726*

*cell: 360.749.6403*

# PWM INC.

P.O. Box 1032 2039 Williams Street, Eureka, CA. 95502 Phone: (707) 442-8420 Fax: (707) 442-8499

September 14, 2006

Mayor Dean Heyenga and Council Members  
City of Trinidad  
P.O. Box 390  
Trinidad, California 95570

Re: United States Cellular-Trinidad Head Cellular Site  
Friends of Trinidad Head Appeal

Dear Mayor and Council:

The above captioned appeal is based upon two claims:

1. That the Cellular facilities that presently exist on the Head are illegal
2. That U.S. Cellular has presented no verifiable information that they have a problem with cellular telephone service in the area.

The claim that the Cellular Facilities are illegal is a City of Trinidad issue. However, these ordinances were reviewed by the City and their legal representatives on at least four applications and were found to be legal. These determinations allowed Cox Cable, Cal North Cellular, Ubiquitel (Sprint) and Edge Wireless facilities to be constructed within the present site.

The Second Claim that U.S. Cellular has not presented verifiable information that they have a problem with cellular telephone service in the area is not based upon substantial information presented by the appellants. In fact, their claim is based upon a random sampling of cellular coverage at various locations in and around the City of Trinidad where they could show there was coverage. The Friends concluded that U.S. Cellular has the best overall coverage and locating on the Head is not necessary to provide adequate coverage to the Trinidad area. Their testing did not meet a reasonable standard for cellular services and is defective due to the following reasons:

1. Did not test holding the call while continuing to drive.
2. Did not test or present areas where there is no coverage.
3. Did not test for new, digital services that are being offered.
4. Did not test for E911 potential at locations throughout the Trinidad area.

The Trinidad area is serviced by two towers, one located at McKinleyville and one located at Walker Ridge, north and west of Trinidad. The first tower constructed that provided coverage to the Trinidad Area was McKinleyville and is currently occupied by Verizon, U.S.Cellular, Edge Wireless and Sprint. The second tower that provides coverage to this area is Walker Ridge. This tower is occupied by Verizon and U.S. Cellular.

When Cal North (Verizon) constructed and occupied the towers at McKinleyville and Walker Ridge, the coverage in Trinidad and the surrounding areas was inadequate. As a result, Cal North filed an application and received a building permit for a new facility on the existing communication site on Trinidad Head.

Mayor Dean Heyenga and Council Members  
City of Trinidad  
September 14, 2006  
Page two

Later, Ubiquitel (Sprint) and Edge Wireless received Planning and Building permits for a facility there..

If Cal North and their customers were satisfied with the coverage from McKinleyville and Walker Ridge there would have been no need to construct the facility on Trinidad Head. The same is true for U.S. Cellular. The comparison is clear. Both Cal North and U.S. Cellular occupy the same sites and are using the same basic frequencies. Cal North and their customers were not receiving adequate coverage from these two sites and therefore constructed the Trinidad Head Site. Also, Sprint and Edge concluded that McKinleyville was inadequate for Trinidad area coverage, chose not to locate on Walker Ridge and constructed their facility on Trinidad Head.

Denying U.S. Cellular the right to occupy the same site as the other carriers discriminates against this carrier and prevents U.S. Cellular customers from having reliable coverage and new services now being offered.

We have provided for you in our binder and power point presentation, expanded information showing the need for additional coverage in the Trinidad Area.

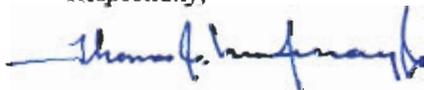
1. A drive test study conducted by U.S. Cellular Technicians.
2. A line of site study from the McKinleyville, Walker Ridge, the proposed Trinidad sites and a combined map assuming all three sites in operation. New services rely increasingly on line of site transmission.
3. Information on the test conducted by the Friends of Trinidad Head.

The Planning Commission determined that the U.S. Cellular Facility conformed to the City Ordinances and General Plan. They adopted various conditions for approval. Those conditions are acceptable and will be incorporated into the project. The findings made by the Planning Commission for approval of this project are part of the record.

We believe that the current Staff report represents accurately the description of our project and the need for this increased coverage.

We have also included a portion of the information that is currently in your file from previous hearings and ask that all materials contained in the official City files on this project be included as part of the overall project record

Respectfully,



Thomas J. McMurray Jr.  
for United States Cellular

Enclosures:

cc: Ms. Trever Parker, Streamline Planning

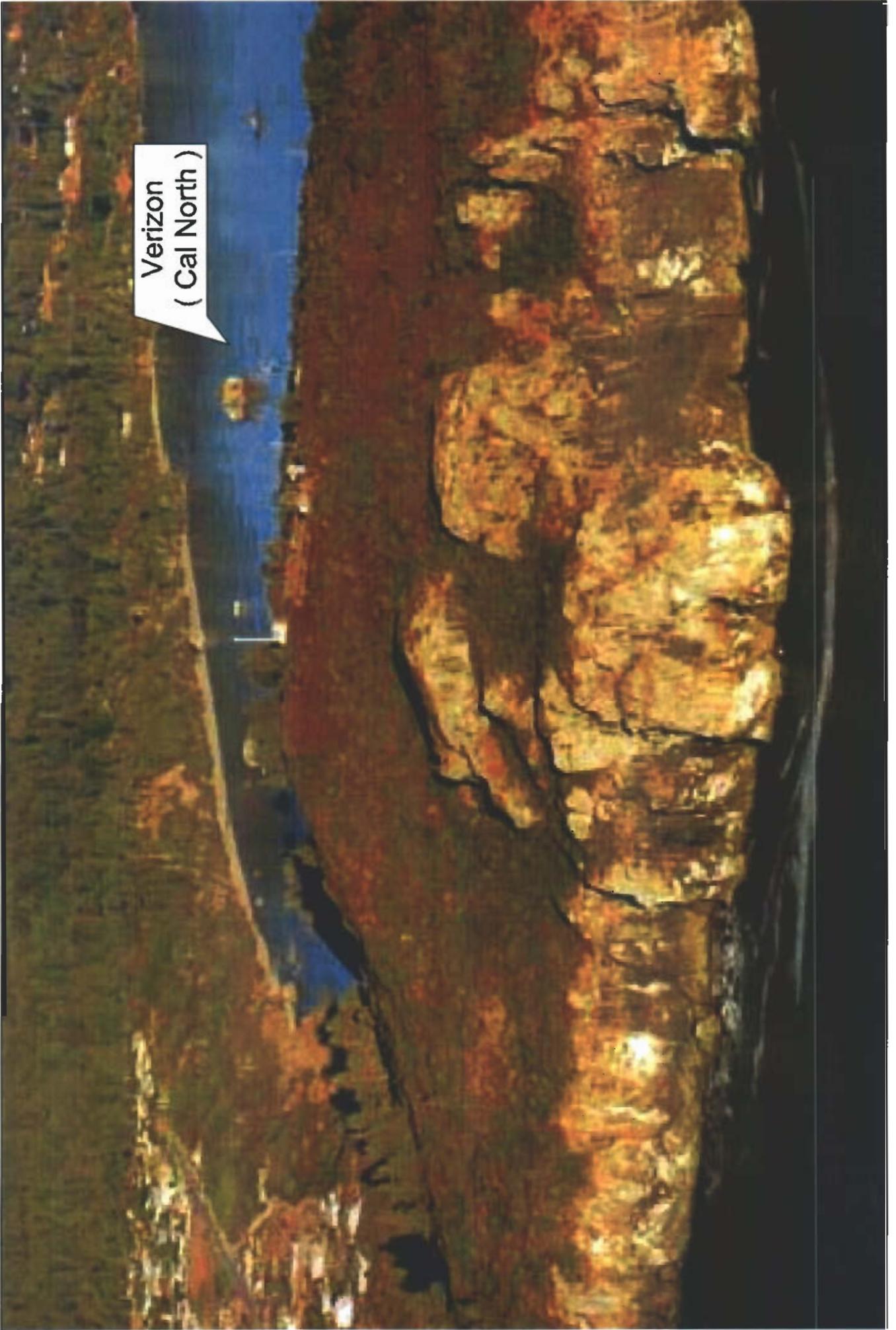
**COMMUNICATIONS**  
Tower Development & Site Management

**REAL ESTATE**  
Consulting, Development and Management

**CONSTRUCTION**  
Materials & Project Management



Verizon  
( Cal North )



2

Drive Test Area Existing

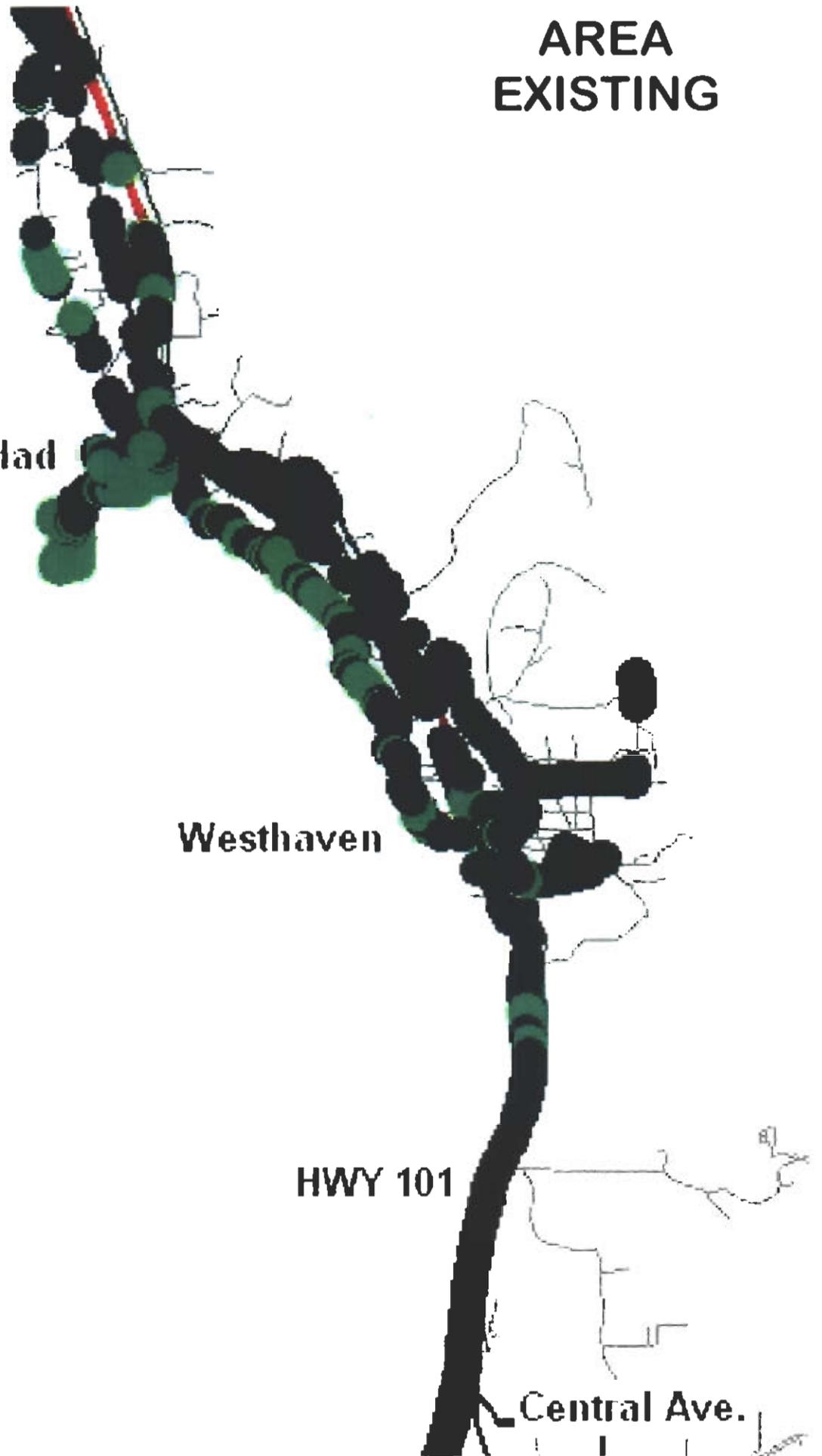
**AREA  
EXISTING**

**Trinidad**

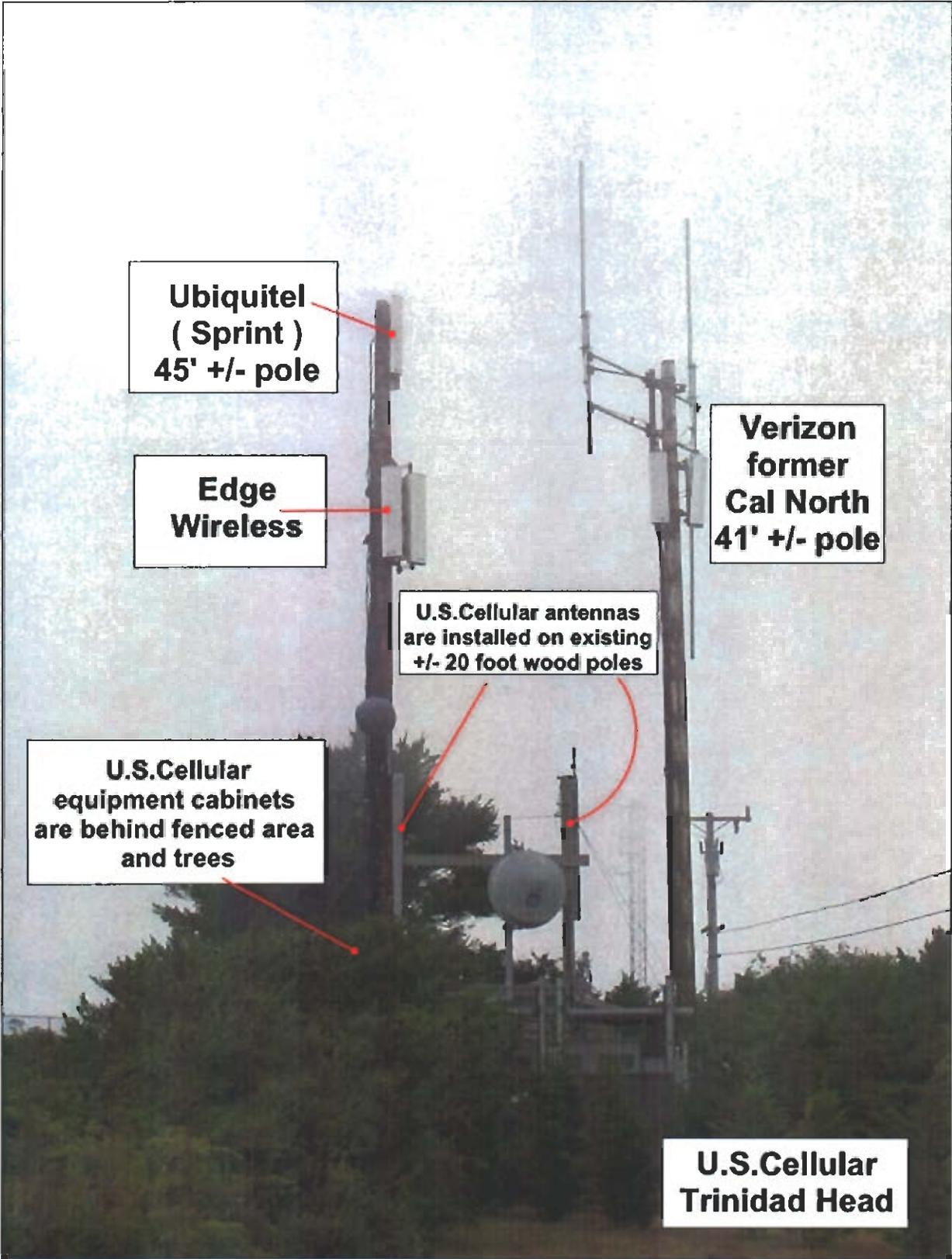
**Westhaven**

**HWY 101**

**Central Ave.**







**Ubiquitel  
( Sprint )  
45' +/- pole**

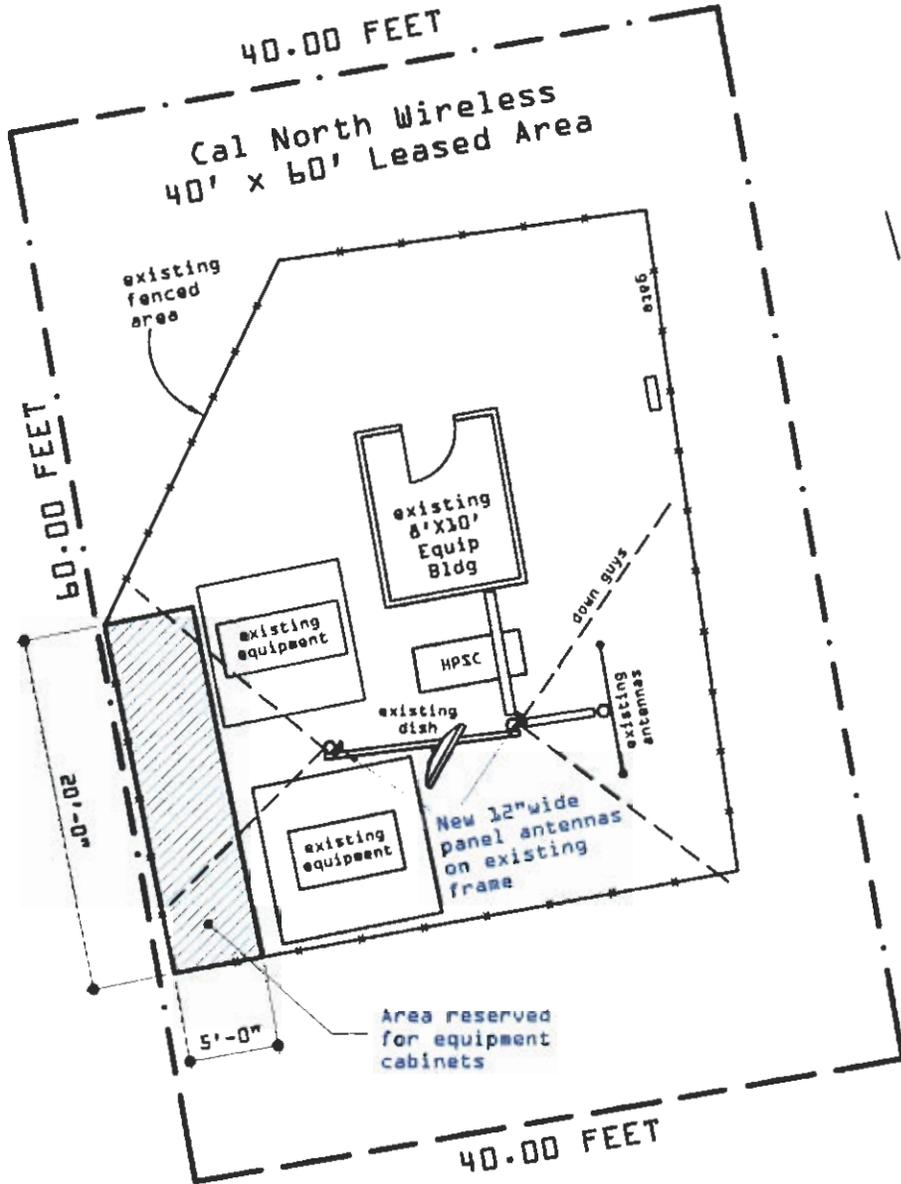
**Edge  
Wireless**

**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**



EXISTING 10' ROADWAY

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

SCALE  
1' = 10 FT.



PROPOSED SITE AREA  
AT THE EXISTING  
TRINIDAD HEAD SITE

April 27, 2006



# Walker Mt Line of Site Study

Grid:  ▾

### Viewshed method

- Simple calculation (classified grid: visible / invisible)
- Complex calculation (+/- height to make JUST visible)

### Viewing parameters

Looking From: X: (- 409975.54962233198, 4534974.3590864306) ▾

Viewpoint height:  metres

Viewshed offset:  metres

Viewing radius:  Meters

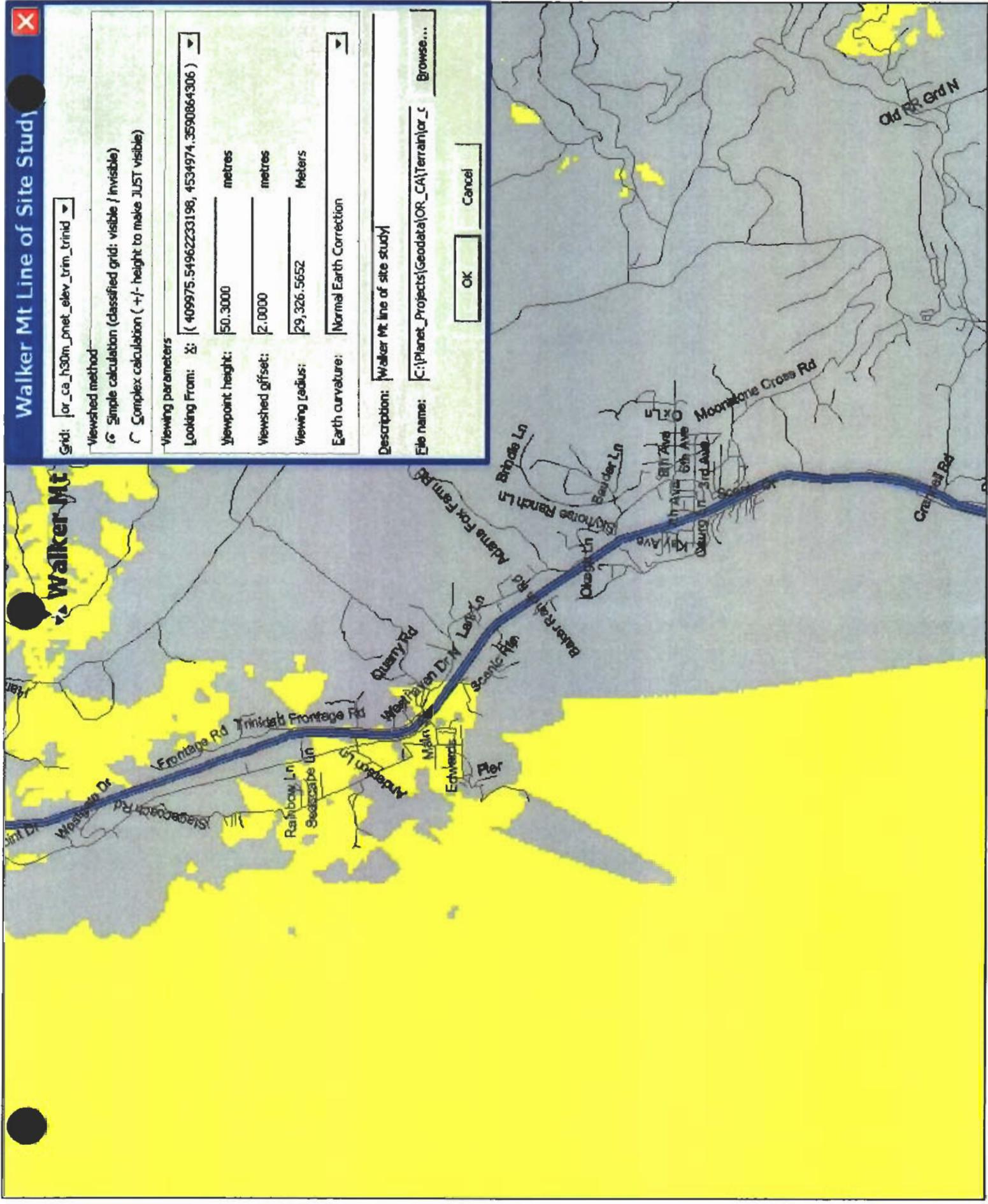
Earth curvature:  ▾

Description:

File name:  Browse...

OK

Cancel







# McKinleyville Line of Site Study

Grid:

Viewshed method

- Simple calculation (classified grid: visible / invisible)
- Complex calculation (+/- height to make JUST visible)

Viewing parameters

Looking From:

Viewpoint height:  metres

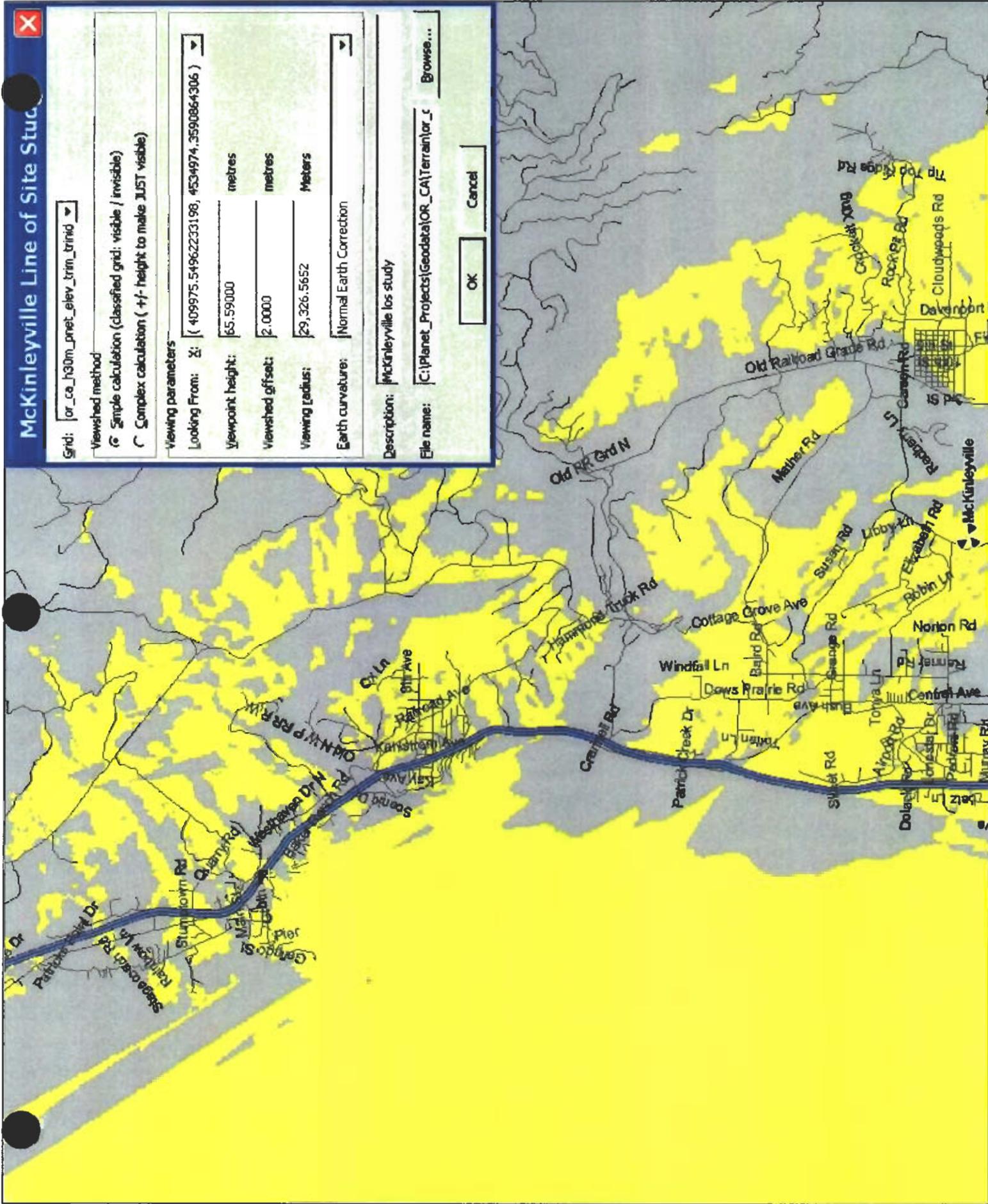
Viewshed offset:  metres

Viewing radius:  Meters

Earth curvature:

Description:

File name:







# Trinidad Head Line of Site Study

Grid: or\_ca\_jr30m\_pnet\_elev\_trin\_trinid

Viewshed method

- Simple calculation (classified grid: visible / invisible)
- Complex calculation (+/- height to make JUST visible)

Viewing parameters

Looking From: X: (-403290.74260165921, 4545346.3478981089)

Viewpoint height: 6.0000 metres

Viewshed offset: 2.0000 metres

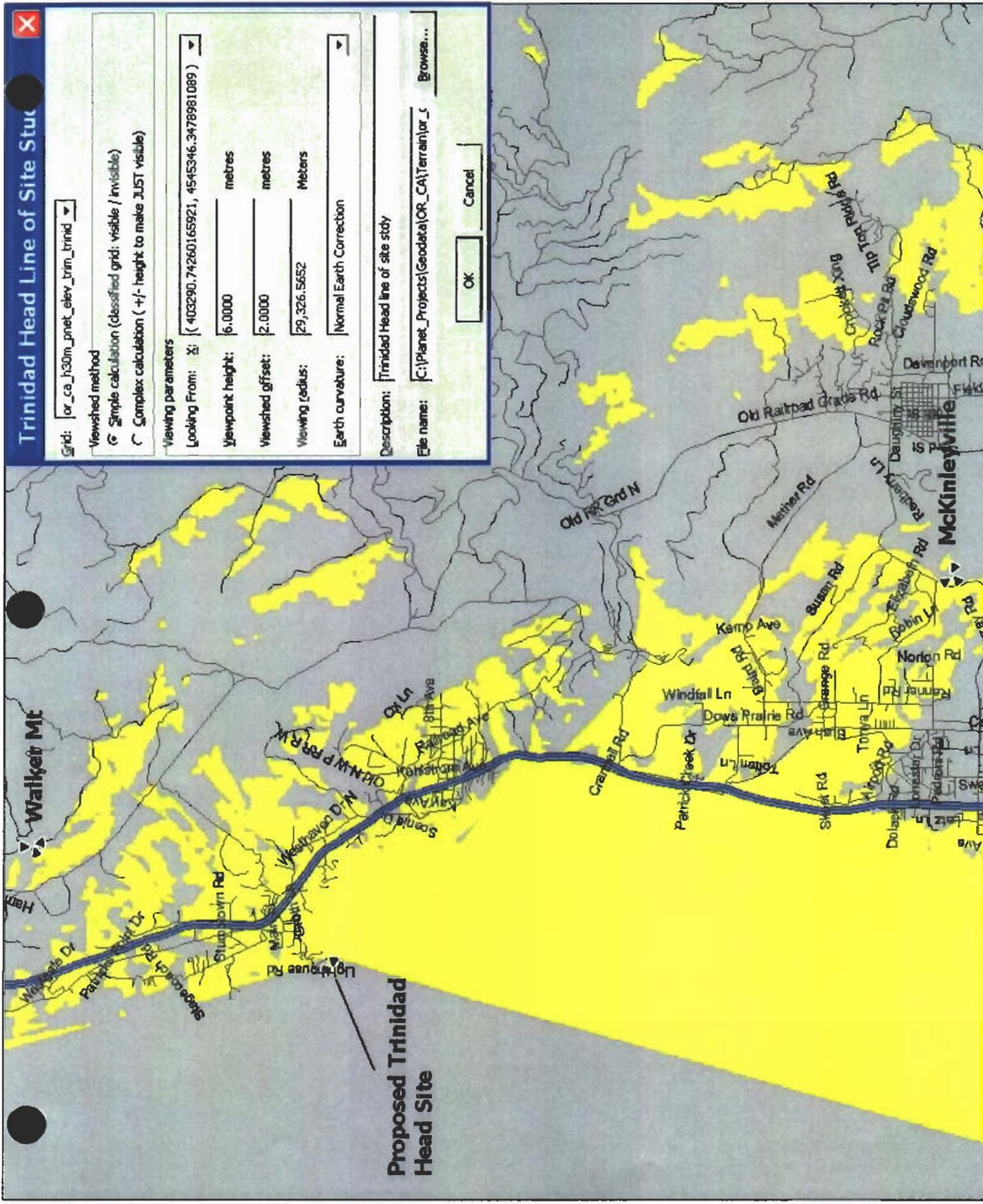
Viewing radius: 29,326.5652 Meters

Earth curvature: Normal Earth Correction

Description: Trinidad Head line of site study

File name: C:\Planet\_Projects\Geodata\OR\_CA\Terrain\or\_s Browse...

OK Cancel

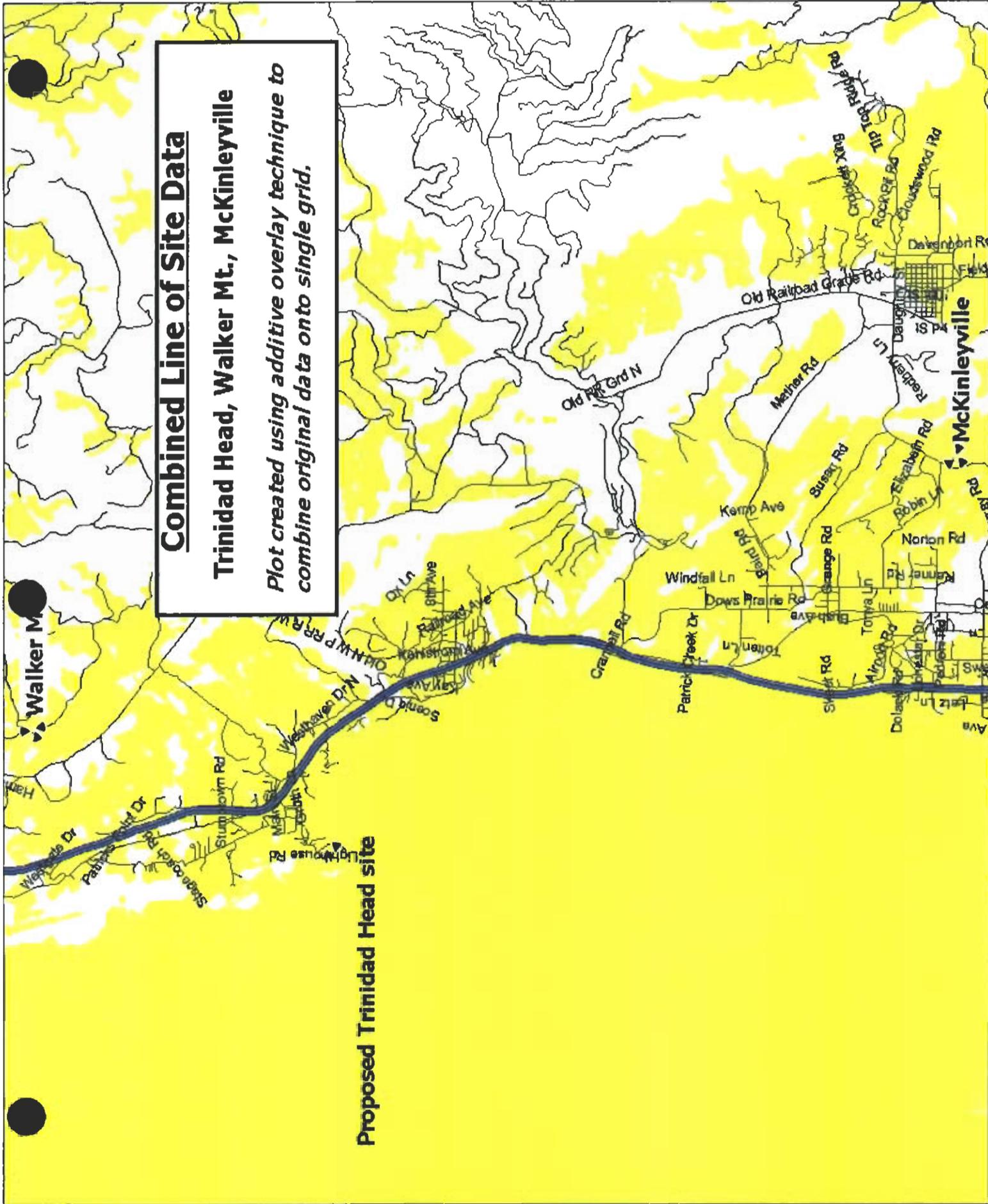


Proposed Trinidad Head Site

Walker Mt

McKinleyville





**Combined Line of Site Data**

**Trinidad Head, Walker Mt., McKinleyville**

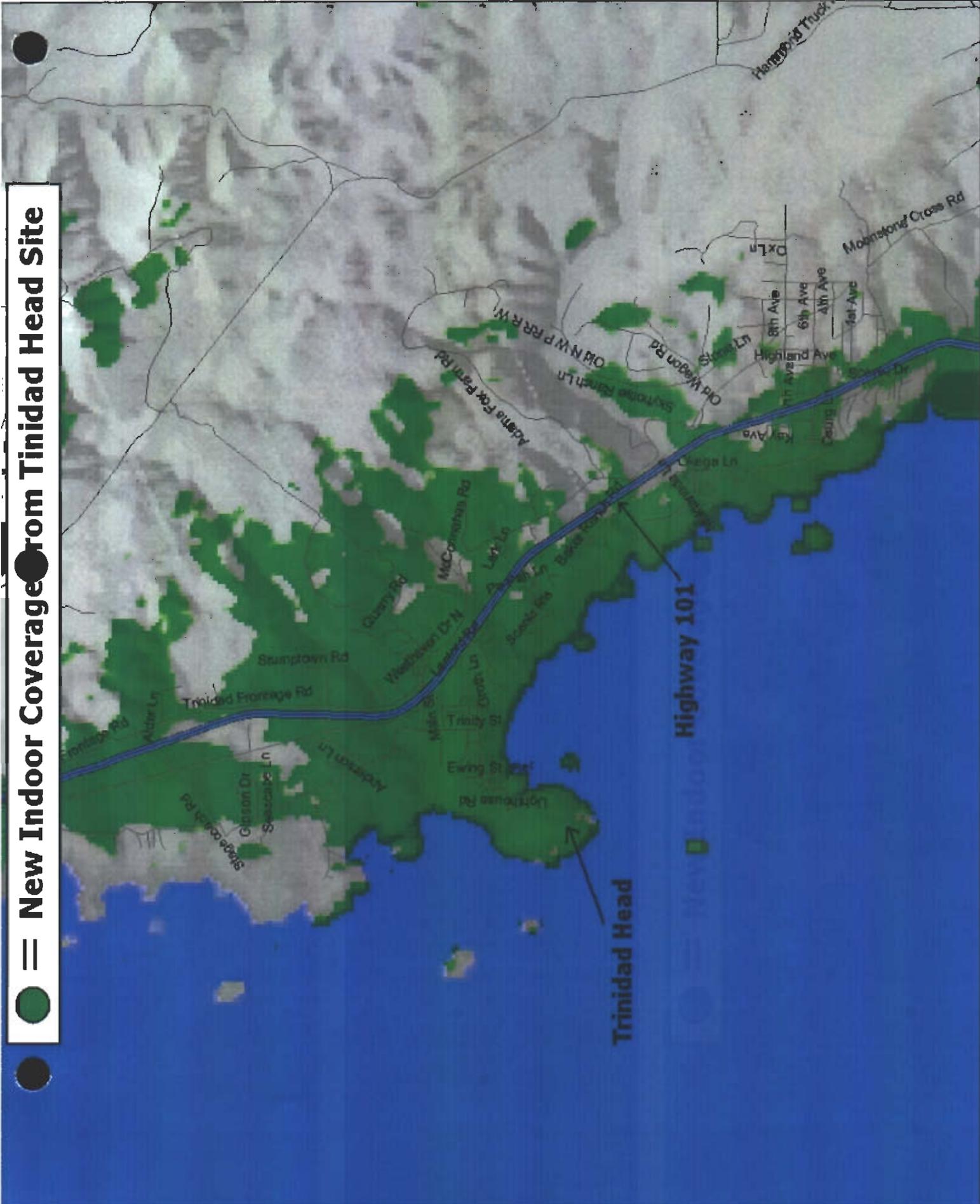
*Plot created using additive overlay technique to combine original data onto single grid.*

**Proposed Trinidad Head site**

Existing Indoor Coverage in Trinidad  
New Indoor Coverage in Trinidad

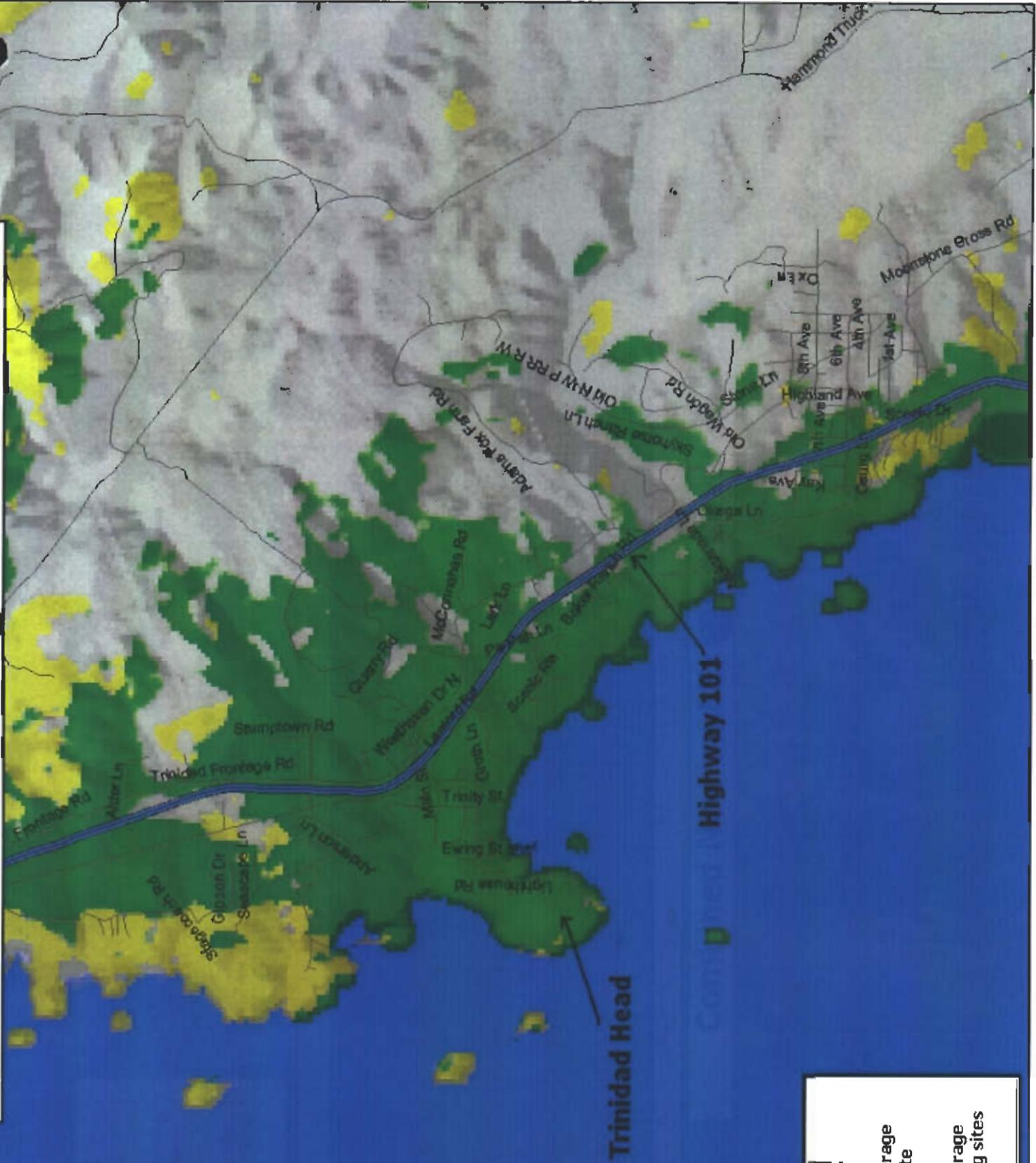


**● = New Indoor Coverage from Trinidad Head Site**





# Combined New and Existing Coverage



**Legend**

-  Indoor coverage from new site
-  Indoor coverage from existing sites

Drive Test Area Existing  
Drive Test Area with Trinidad Head.



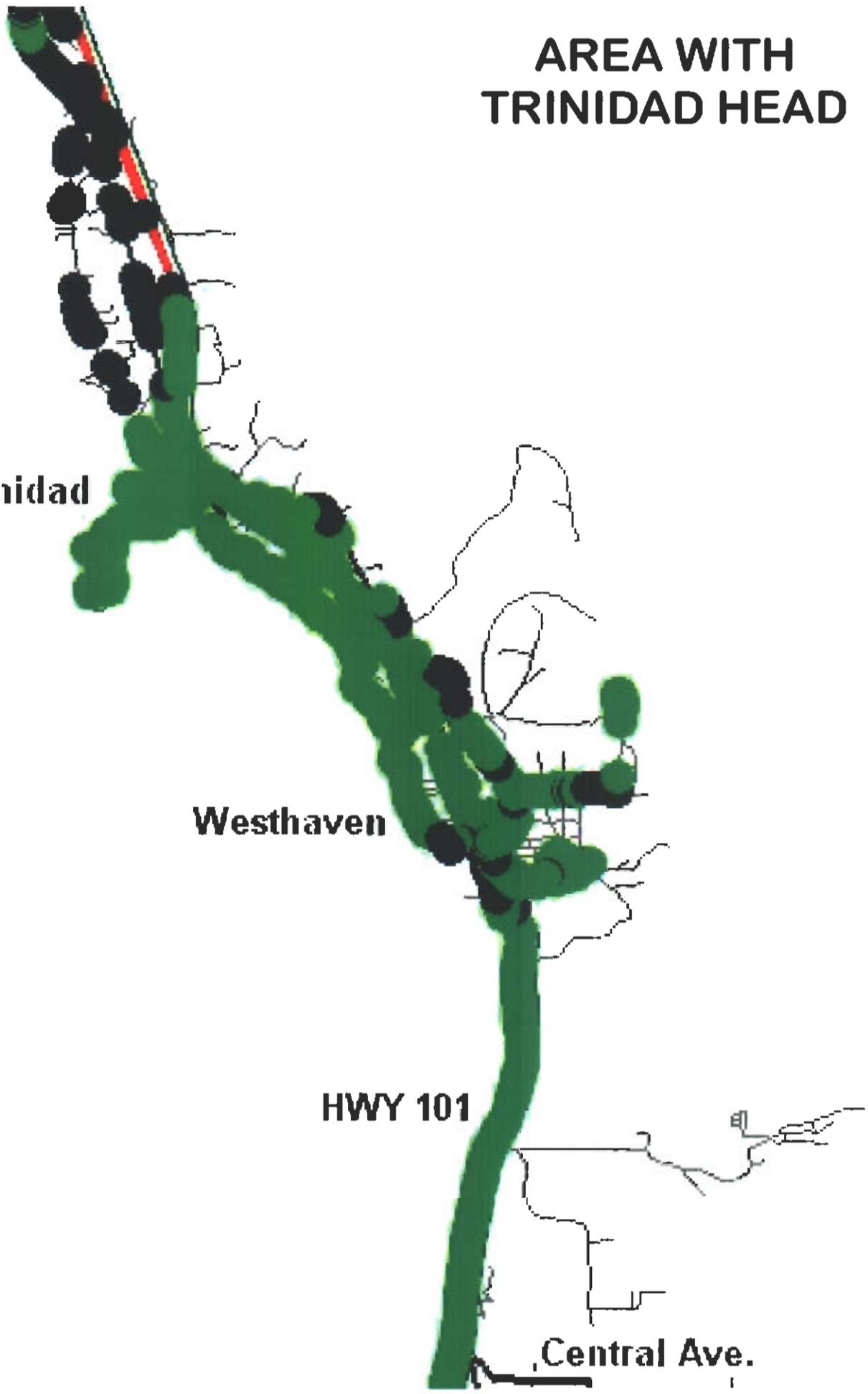
# AREA WITH TRINIDAD HEAD

Trinidad

Westhaven

HWY 101

Central Ave.

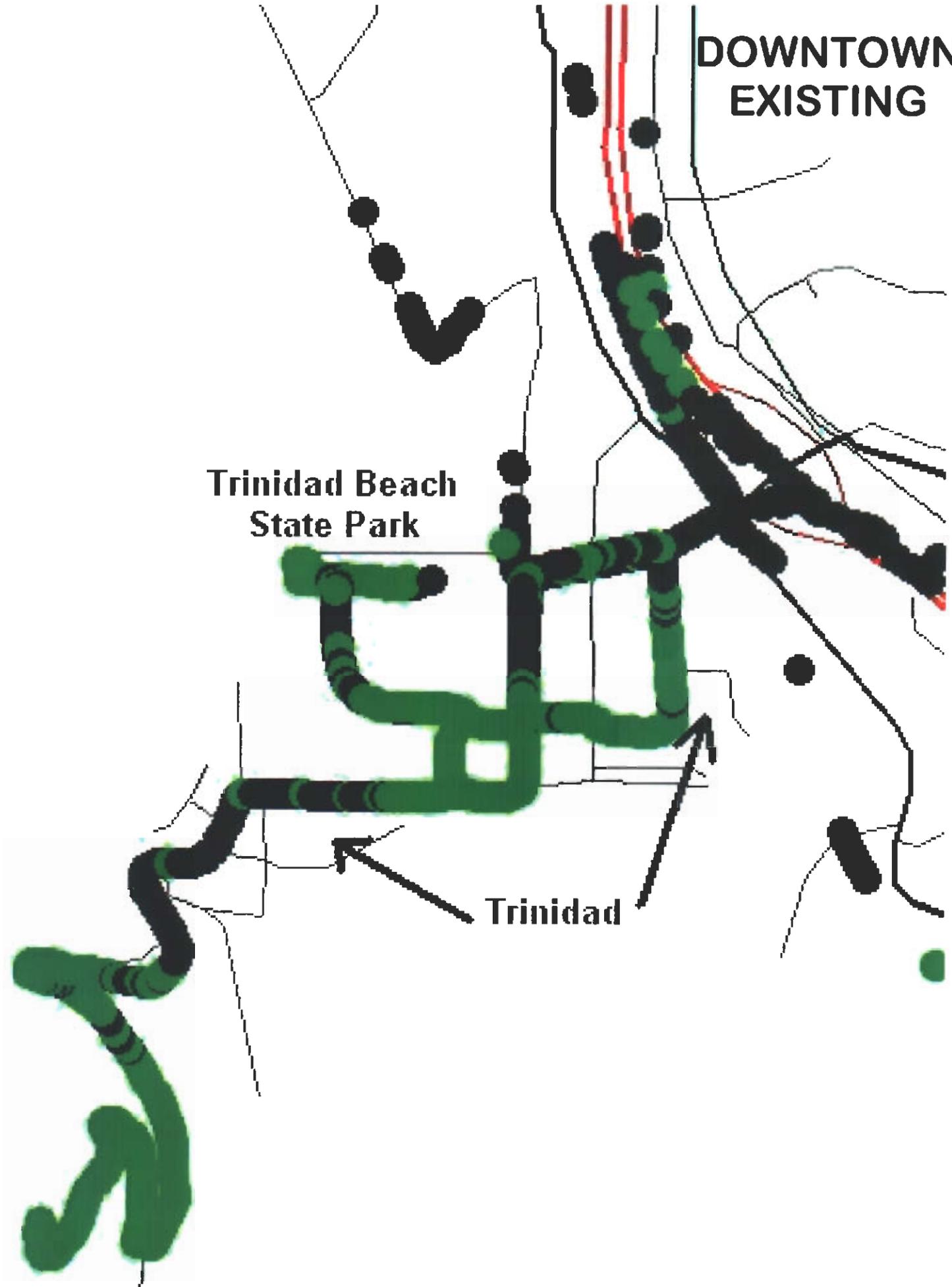


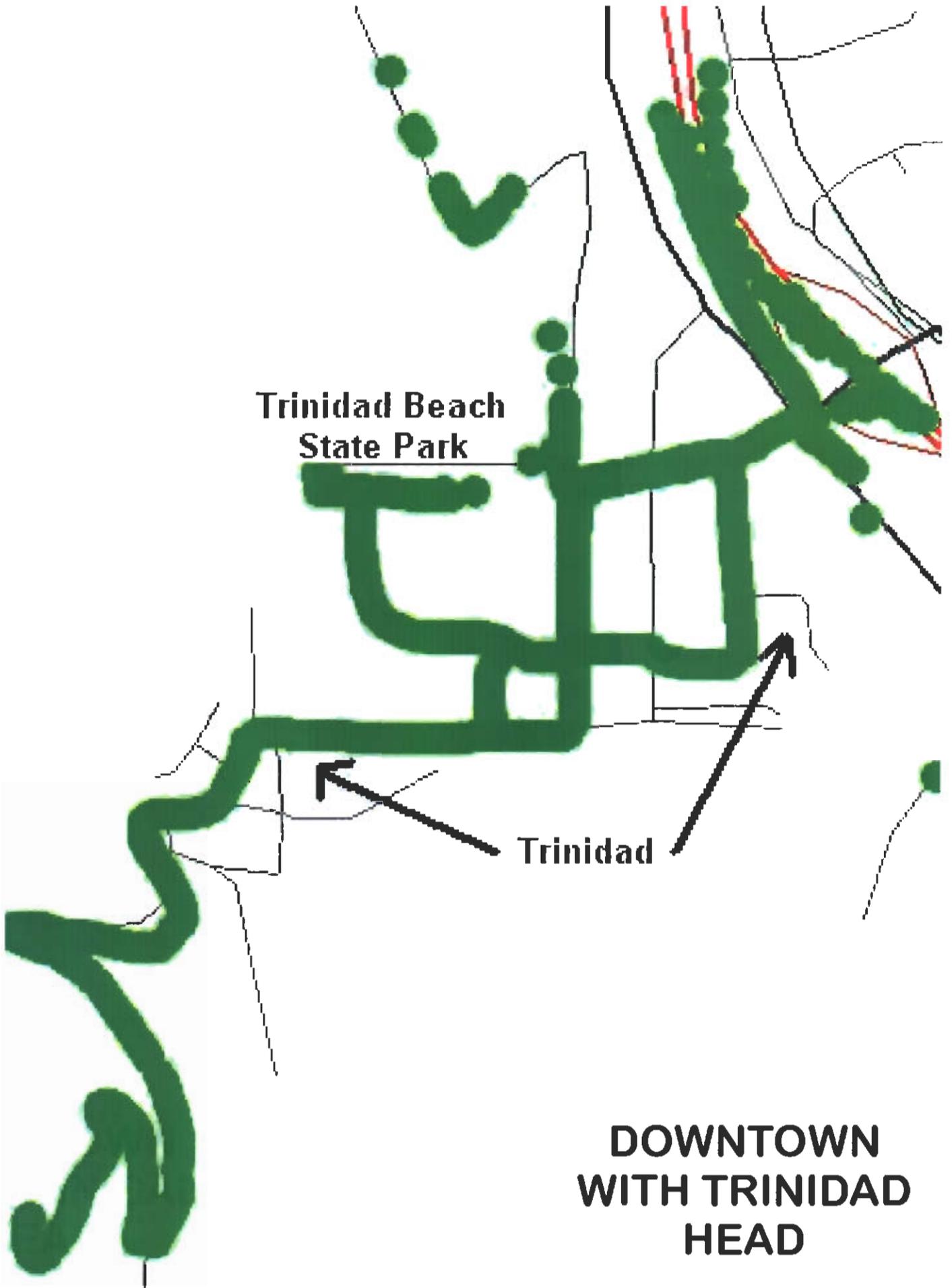


**DOWNTOWN  
EXISTING**

**Trinidad Beach  
State Park**

**Trinidad**





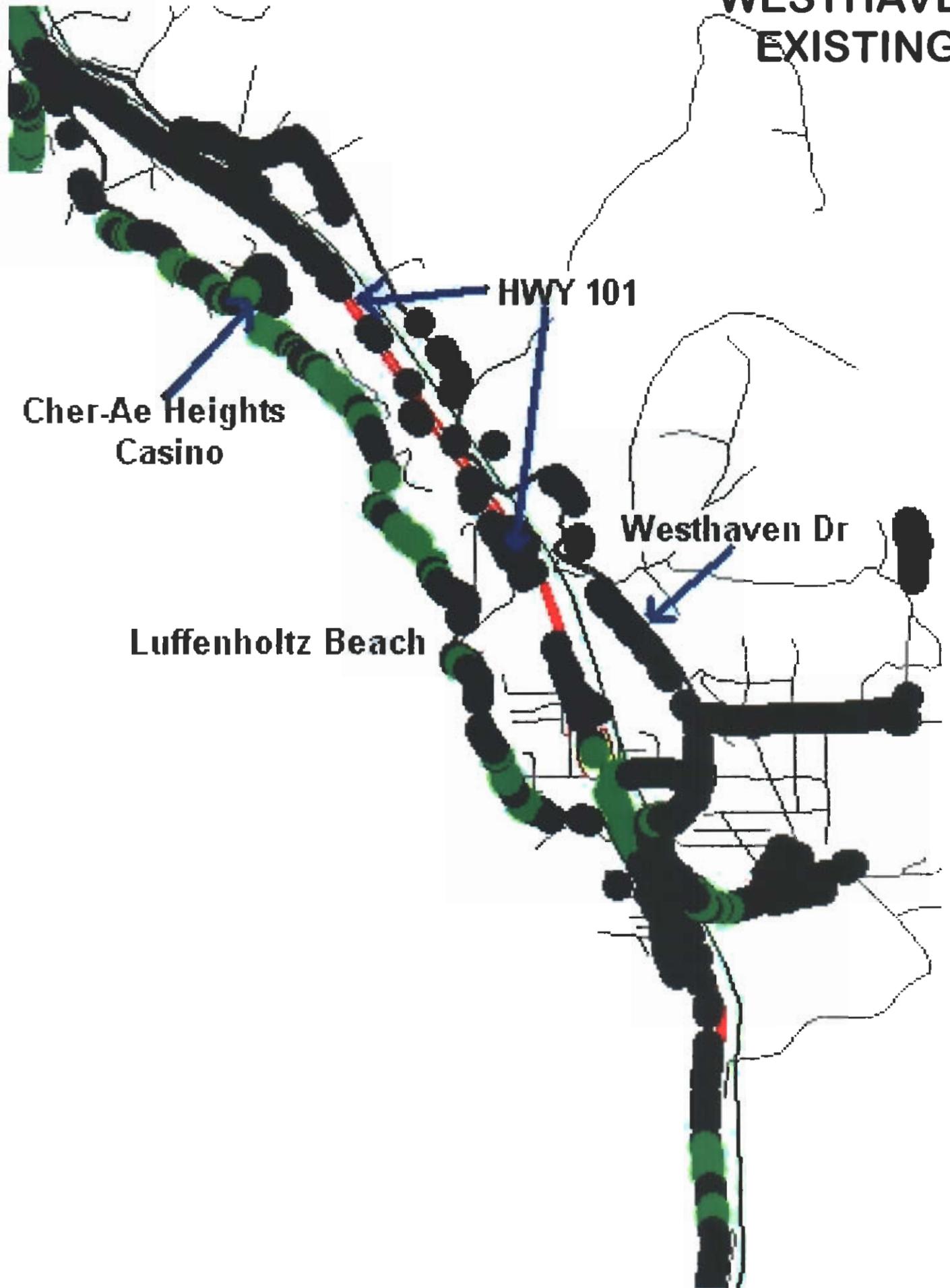
**Trinidad Beach  
State Park**

**Trinidad**

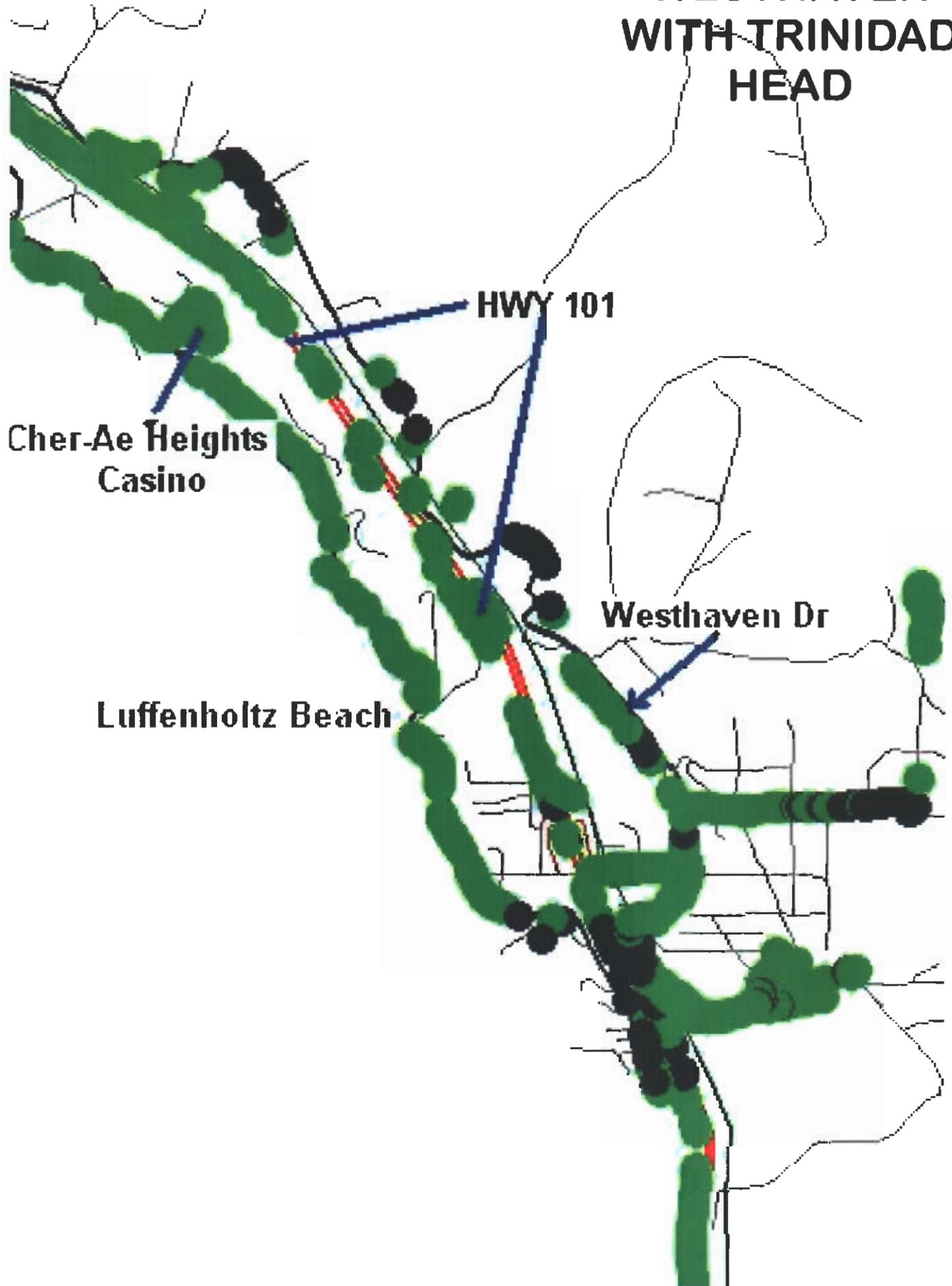
**DOWNTOWN  
WITH TRINIDAD  
HEAD**

Drive Test Westhaven Existing  
Drive Test Westhaven w/ Trinidad  
Friends of Trinidad Study  
RF Study

# WESTHAVEN EXISTING



# WESTHAVEN WITH TRINIDAD HEAD

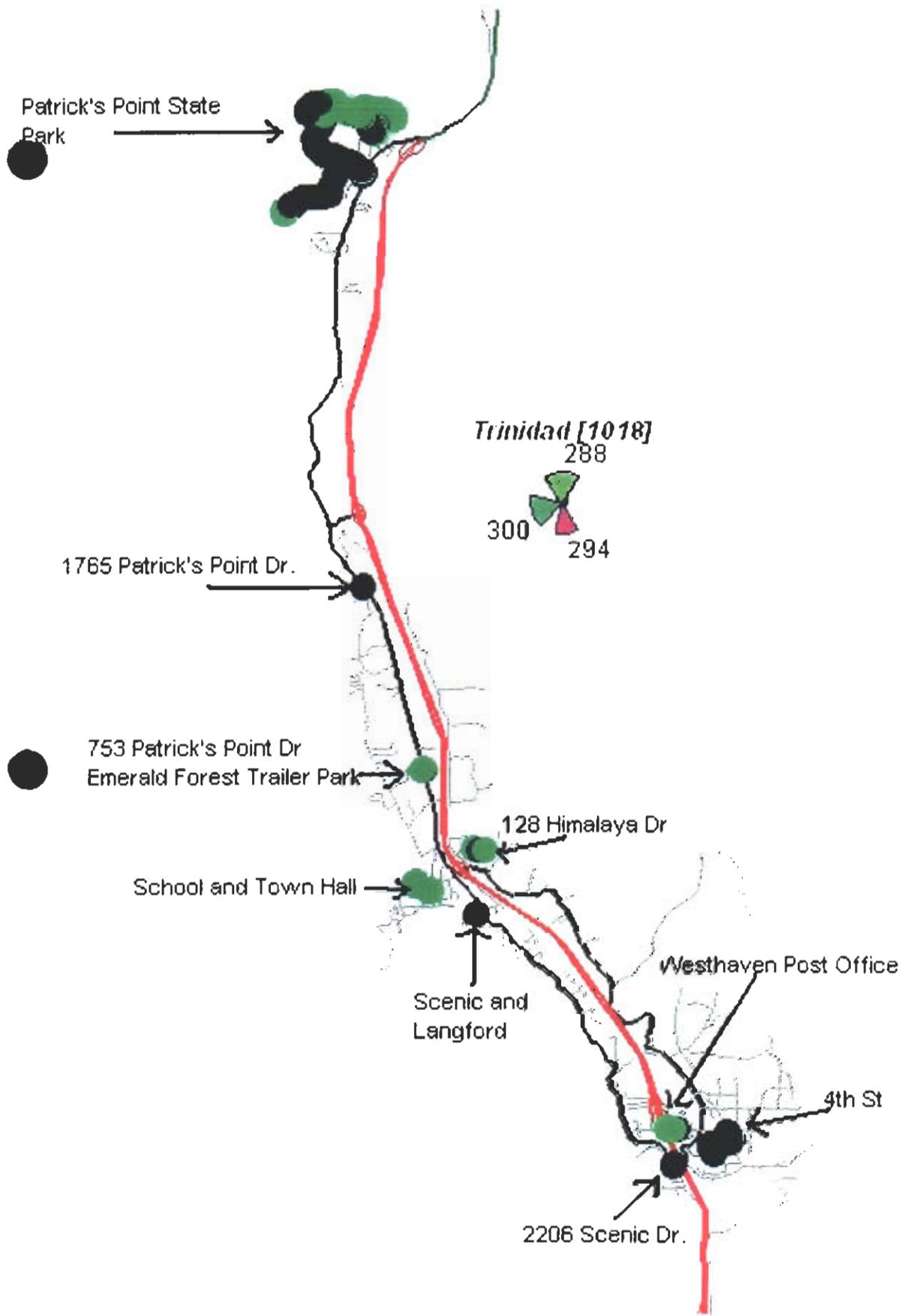


**Cher-Ae Heights  
Casino**

**HWY 101**

**Westhaven Dr**

**Luffenholtz Beach**





**Global RF Solutions<sup>SM</sup>**  
**RF Engineering Consultants**  
"Serving The Wireless Industries Needs"

1990 N. Alma School Road #122  
Chandler, AZ 85224  
(480) 814-1393

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**Evaluation of Human Exposure to  
Radio Frequency Emissions**



**Analysis of 568437 - Trinidad  
Trinidad, CA**

## **LIMITED WARRANTY**

Global RF Solutions warrants that this analysis was performed using substantially the methods that are referenced and described in this report and based entirely upon the information on the antenna site that was provided by US Cellular. Global RF Solutions disclaims all other warranties either expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose.

In no event will Global RF Solutions be liable to you or by any other person for damages, including any loss of profits, lost savings, or other special, exemplary, punitive, incidental or consequential damages arising out of your use or inability to use the analysis whether such claim is based on breach of warranty, contract, tort or other legal theory and regardless of the causes of such loss or damages. In no event shall Global RF Solutions entire liability to you under this Agreement exceed an amount equal to the price paid to for the analysis.



## **TABLE OF CONTENTS**

1. INTRODUCTION

2. SITE DESCRIPTION

3. ANALYSIS

4. RESULTS

5. CONCLUSIONS AND RECOMMENDATIONS

APPENDIX A – LIMITS FOR MAXIMUM PERMISSIBLE EXPOSURE (MPE)



# 1. Introduction

An analysis of this Communications Facility has been completed to determine if it will be compliant with guidelines set forth by the Federal Communications Commission (FCC) with regards to maximum human exposure limits. This site was surveyed on Thursday, April 13, 2006 at 16:30. This determination of FCC Compliance is **ONLY** applicable to US Cellular transmitting equipment. This has been accomplished with the use of predictive modeling software and measurements performed with a Narda 8715 meter serial #10003 and a shaped A8742D probe serial #01151. The meter and probe are properly calibrated until August of 2006. The Narda survey has been done to measure current conditions.

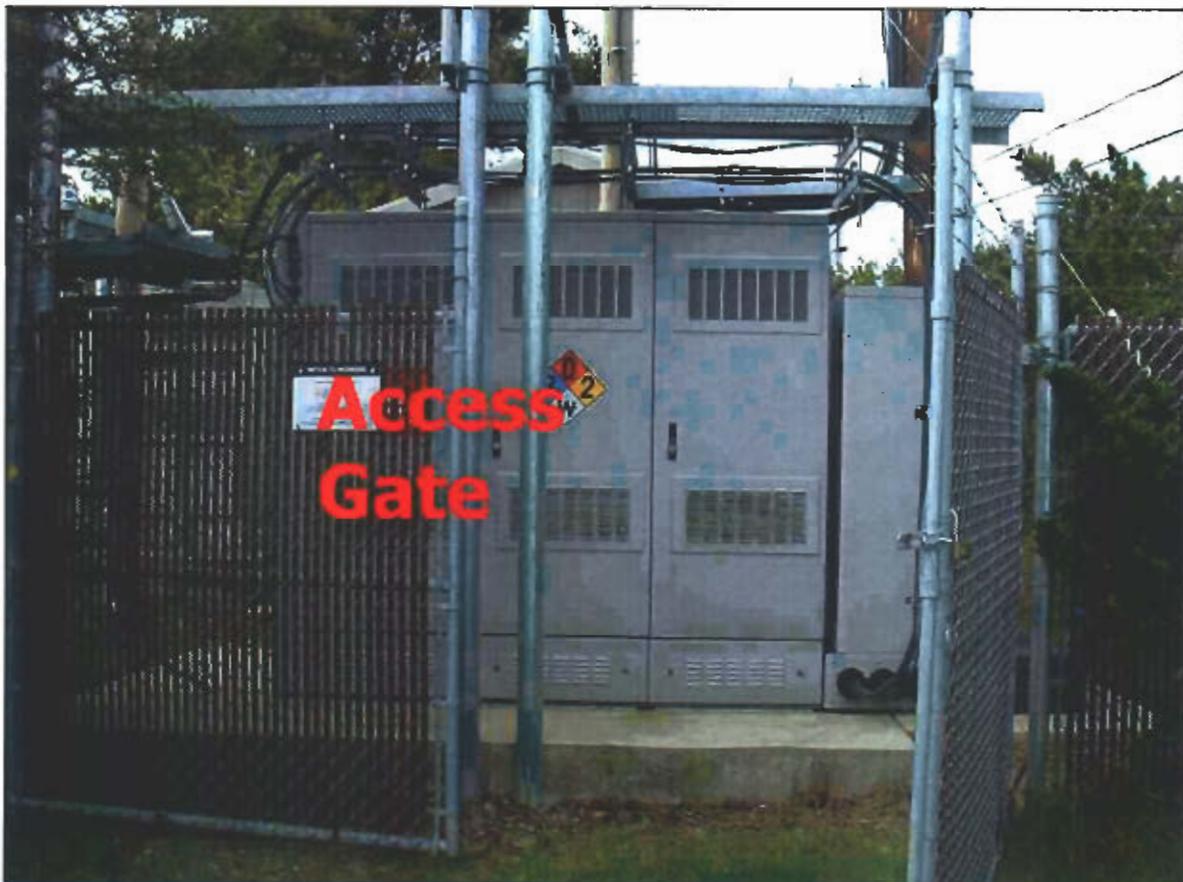
The Radio Frequency Power Density predictions have been done using 100% transmitter duty cycle. This will predict a worst-case scenario for safety reasons. The predictive software tool utilizes a cylindrical model that provides spatially averaged power density that is calculated in one square foot increments (pixels). The composite RF fields are displayed as a percentage of the exposure limit. The software tool utilized for predictive analysis is RoofView®, a product developed by Richard Tell Associates, Inc. The FCC recognizes this software tool as a valid means of determining Maximum Permissible Exposure levels (MPE).

## 2. SITE DESCRIPTION

<b>Site ID: 568437</b>		<b>Site Name: Trinidad</b>			
<b>Date of Evaluation</b>	<b>4/13/2006</b>	<b>Site Evaluator (name): Harry Young</b>			
<b>Site Type</b>	<b>Building</b>	<b>Tower/Monopole</b>	<b>XX</b>	<b>Water Tower</b>	
<b>Address: End of Lighthouse Rd, Trinidad, CA</b>					
<b>GPS NAD83</b>	<b>N 41 3 14.01</b>	<b>W 127 9 2.07</b>	<b>Structure Height AGL</b>	<b>22'</b>	
<b>Access Restricted</b>	<b>Yes</b>				

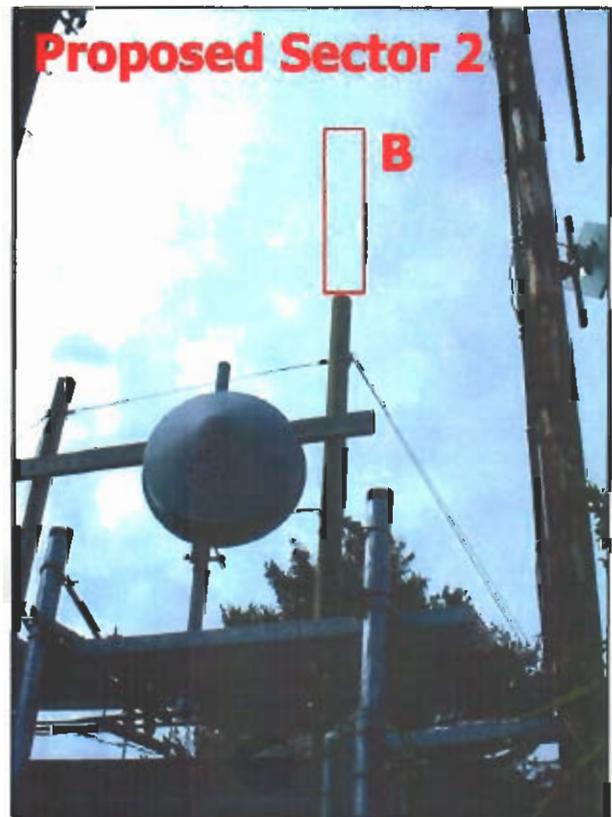
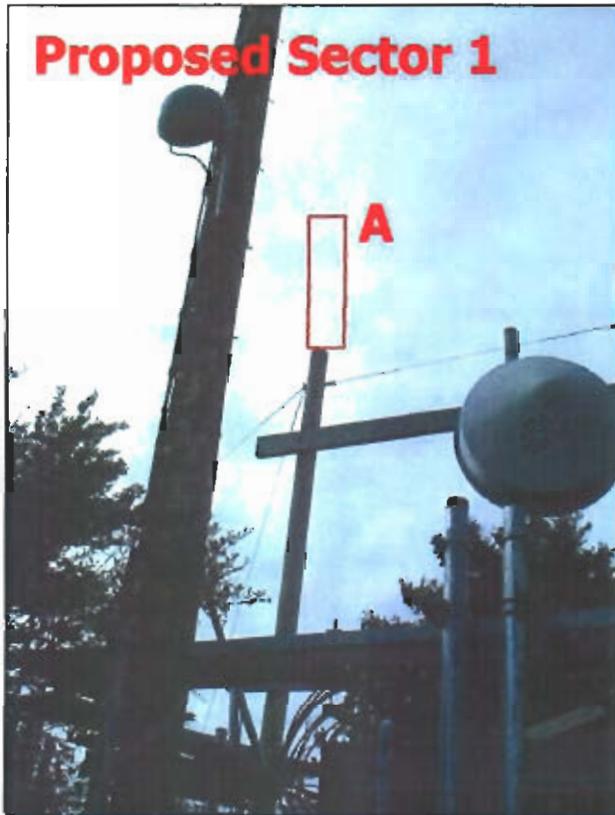
This communications site will be located on two monopoles inside a locked compound. The antennas can be accessed by climbing the monopoles. The service providers will restrict the access to the antennas. Access is not restricted to EME Awareness trained personnel and an RF Safety plan is not in place.

These are photographs of the 568437 Trinidad site:



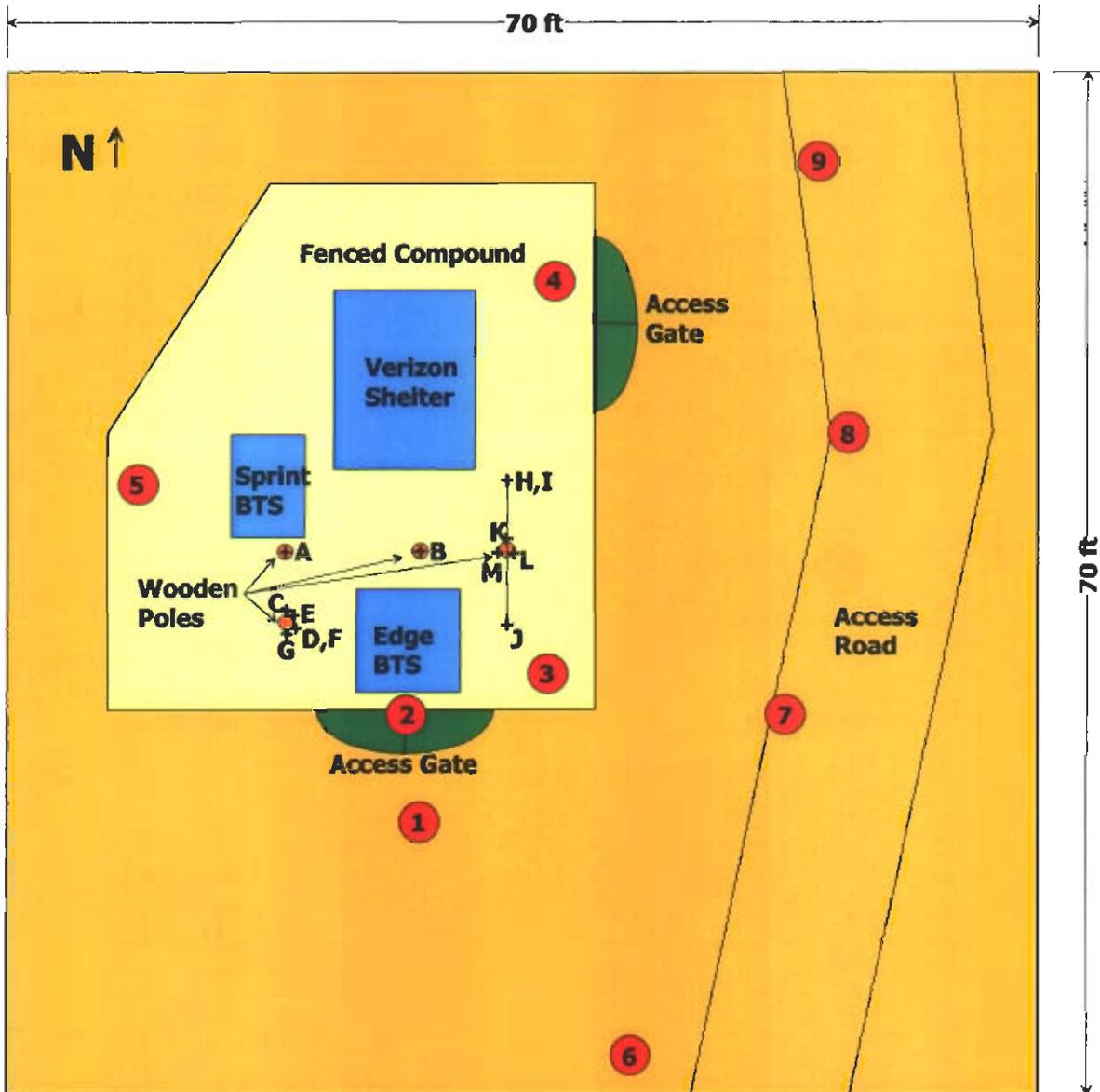
## 2. SITE DESCRIPTION (continued)

These are photographs of the 568437 Trinidad site:



## 2. SITE DESCRIPTION (continued)

This drawing depicts the layout of the 568437 Trinidad communications facility. The antenna legend is on page 8.



## 2. SITE DESCRIPTION (continued)

This is the antenna legend for the drawing on page 7.

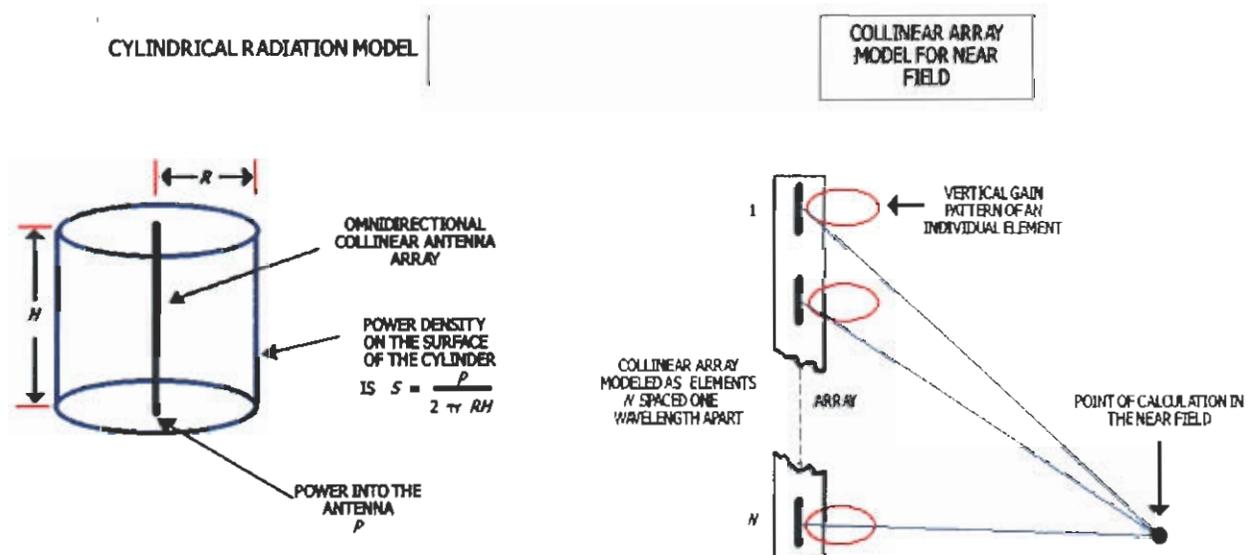
<b>Antenna ID</b>	<b>Owner</b>	<b>Frequency</b>	<b>Antenna Manufacturer</b>	<b>Antenna Model</b>
<b>A</b>	<b>US Cellular</b>	<b>875.00000</b>	<b>Antel</b>	<b>RWA-80015</b>
<b>B</b>	<b>US Cellular</b>	<b>875.00000</b>	<b>Antel</b>	<b>RWA-80015</b>
<b>C</b>	<b>Edge Wireless</b>	<b>1965.00000</b>	<b>EMS</b>	<b>RR90-17-00</b>
<b>cc</b>	<b>Edge Wireless</b>	<b>1970.00000</b>	<b>EMS</b>	<b>RR90-17-00</b>
<b>D</b>	<b>Edge Wireless</b>	<b>1965.00000</b>	<b>EMS</b>	<b>RR65-18-02</b>
<b>dd</b>	<b>Edge Wireless</b>	<b>1970.00000</b>	<b>EMS</b>	<b>RR65-18-02</b>
<b>E</b>	<b>Sprint</b>	<b>1930.00000</b>	<b>EMS</b>	<b>Panel</b>
<b>F</b>	<b>Sprint</b>	<b>1930.00000</b>	<b>EMS</b>	<b>Panel</b>
<b>G</b>	<b>Sprint</b>	<b>1930.00000</b>	<b>EMS</b>	<b>Panel</b>
<b>H</b>	<b>Verizon</b>	<b>885.00000</b>	<b>Decibel</b>	<b>Omni</b>
<b>I</b>	<b>Verizon</b>	<b>885.00000</b>	<b>Decibel</b>	<b>Omni</b>
<b>J</b>	<b>Verizon</b>	<b>885.00000</b>	<b>Decibel</b>	<b>Omni</b>
<b>K</b>	<b>Verizon</b>	<b>885.00000</b>	<b>EMS</b>	<b>Panel</b>
<b>L</b>	<b>Verizon</b>	<b>885.00000</b>	<b>EMS</b>	<b>Panel</b>
<b>M</b>	<b>Verizon</b>	<b>885.00000</b>	<b>EMS</b>	<b>Panel</b>

### 3. ANALYSIS

#### Site Modeling:

Electromagnetic energy (EME) exposure situations have been modeled at this site by using the following techniques. A cylindrical model in the near field of a vertical collinear antenna is run through a computer calculation engine. This model was used to compute the average power density on the surface of an imaginary cylinder, with a height equal to the antenna's aperture, and a radius equal to the distance of interest.

The collinear antenna model estimates the number of elements in the array and in the gain pattern of each element. The power density in the near field of the antenna is calculated by combining the contributions from each element in the array. The completed calculations of these models are plotted in the RESULTS section. The software tool utilized for predictive analysis is RoofView®, a product of Richard Tell Associates, Inc.

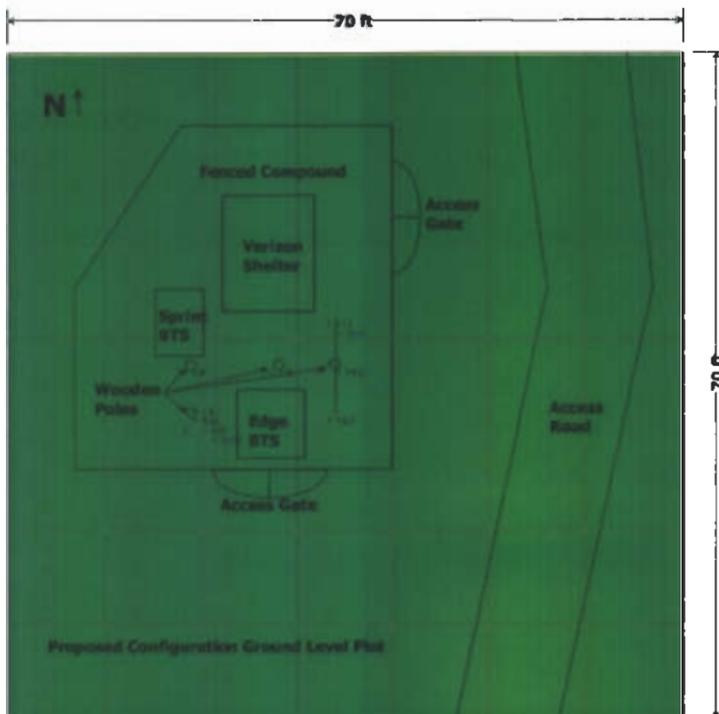
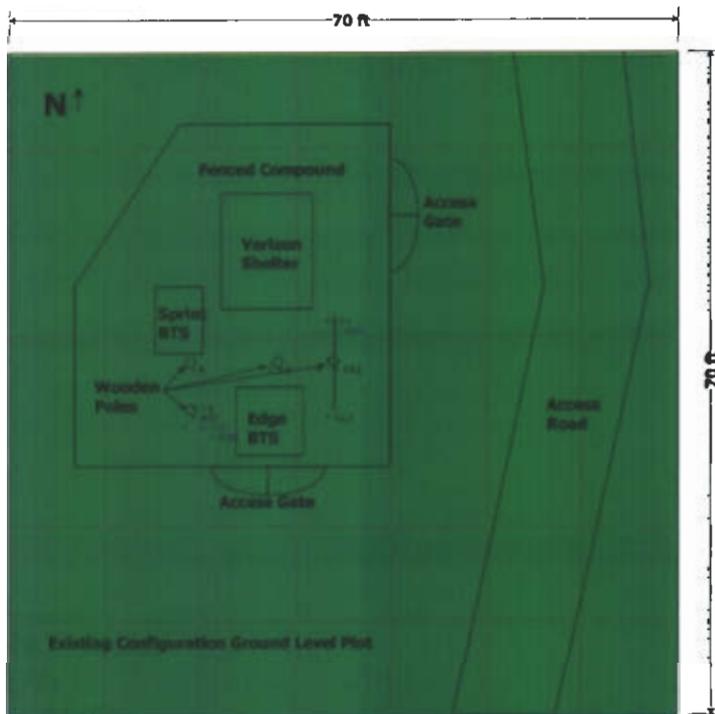


#### RF Survey:

The field survey validates modeling results and defines exclusion areas at the site. Electromagnetic energy (EME) fields were assessed through direct measurement at the transmitter site, using properly calibrated field probes. Due to the possibility that EME fields may exist over a wide frequency range within which the exposure limits vary, field measurements were performed with a meter equipped with a frequency shaped probe that can automatically weigh each field contribution in accordance with its frequency.

## 4. RESULTS

This is the predicted software plot using the FCC PUBLIC and FCC OCCUPATIONAL standard. The grid is in 10-foot increments. This shows that the MPE limits cannot be exceeded at this site currently and with the proposed addition of US Cellular antennas.



**FCC OCCUPATIONAL  
MPE %  
UPTIME = 100%**

**GREEN** = <20%

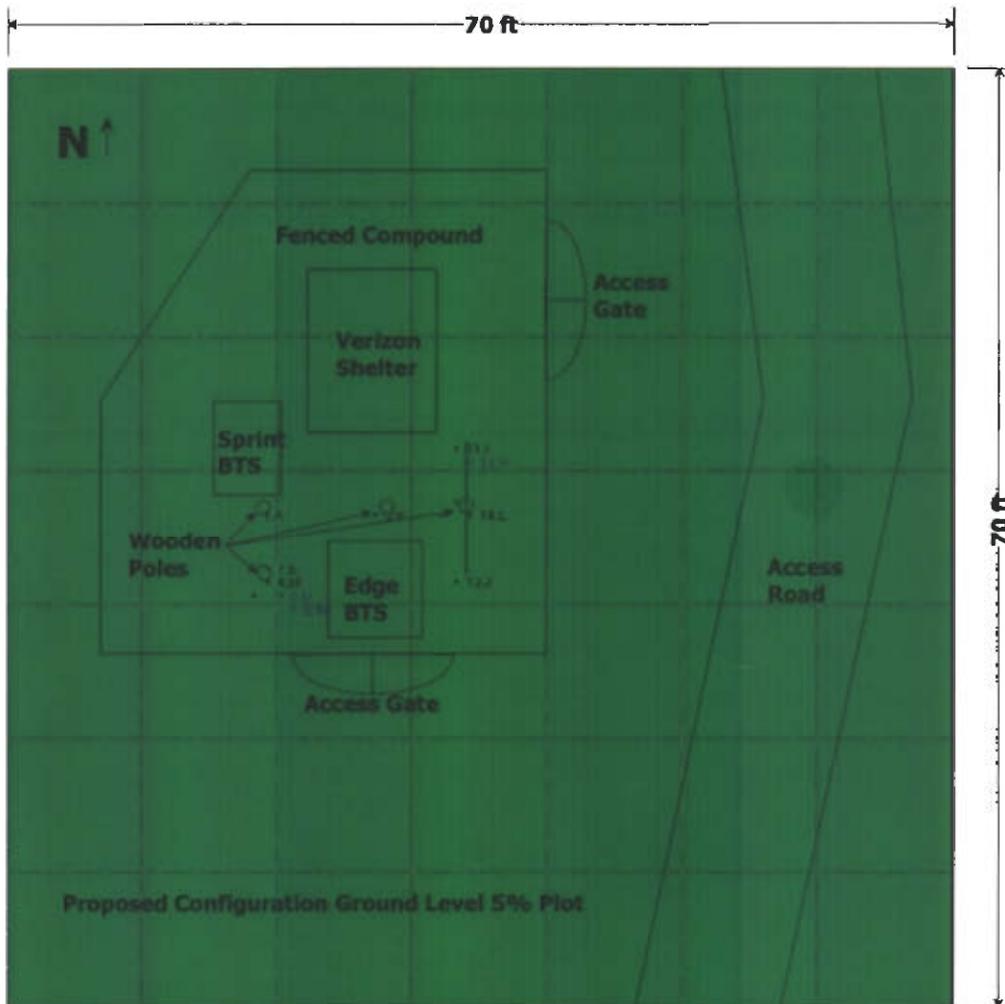
**BLUE** = 20% - 100%

**YELLOW** = 100%-1000%

**RED** = >1000%

## 4. RESULTS (continued)

This is the predicted software plot with the threshold set to 5% of the FCC PUBLIC Standard for the US Cellular antennas only. All other antennas are turned off! The grid is in 10-foot increments.



**UPTIME = 100%**

**GREEN** = < 5% FCC  
Public Standard

**PURPLE** = > 5% FCC  
Public Standards

## 4. RESULTS (continued)

Narda meter survey results for the existing configuration are referenced on the site drawing (page 7). The measured results are listed in the accompanied table.

Reference Point	Spatial Maximum % FCC Occupational MPE Limit	Spatial Average % FCC Occupational MPE Limit	Distance in feet indicated RF field decreases below General Public MPE Limit (Spatial Average)	US Cellular Antenna
1	4%	<1%	N/A	N/A
2	3.7%	<1%	N/A	N/A
3	4%	<1%	N/A	N/A
4	4%	<1%	N/A	N/A
5	3.7%	<1%	N/A	N/A
6	3.8%	<1%	N/A	N/A
7	3.7%	<1%	N/A	N/A
8	3.6%	<1%	N/A	N/A
9	3%	<1%	N/A	N/A

NOTE: US Cellular antenna RF field indications above represent measurements obtained in accessible regions near the antennas. Antenna mounting height and/or location may prevent RF field measurements of specific antennas.

## 5. CONCLUSIONS AND RECOMMENDATIONS

### Conclusion:

The predicted software analysis has shown that US Cellular cannot exceed maximum permissible exposure levels for the FCC Public or FCC Occupational standards at this proposed site. Narda survey measurements confirm that the existing configuration of service providers also does not exceed levels. US Cellular has properly proposed their equipment to be compliant with FCC guidelines concerning MPE issues. US Cellular **will be compliant** with FCC Guidelines.

### Recommendations:

US Cellular will be compliant with FCC Guidelines at this site as proposed. Site access is restricted and not controlled by an RF safety plan. US Cellular is not required to perform additional mitigation procedures.

The use of a **Notice** sign is recommended as well as a "10-Site guidelines" sign. These signs should be posted at the gates used to access the compound.

Landlord must ensure that US Cellular antenna access will be restricted to personnel that have been authorized by US Cellular (EME Awareness trained personnel only). This would include all maintenance personnel and contractors accessing the antenna area.

# APPENDIX A- LIMITS FOR MAXIMUM PERMISSIBLE EXPOSURE (MPE)

(REFERENCE= TABLE 1. Title 47 CFR)

## (A) Limits for Occupational/Controlled Exposure

Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm <sup>2</sup> )	Averaging Time  E  <sup>2</sup> ,  H  <sup>2</sup> or S (minutes)
0.3-3.0	614	1.63	(100)*	6
3.0-30	1842/f	4.89/f	(900/f <sup>2</sup> )*	6
30-300	61.4	0.163	1.0	6
300-1500	--	--	f/300	6
1500-100,000	--	--	5	6

## (B) Limits for General Population/Uncontrolled Exposure

Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm <sup>2</sup> )	Averaging Time  E  <sup>2</sup> ,  H  <sup>2</sup> or S (minutes)
0.3-1.34	614	1.63	(100)*	30
1.34-30	824/f	2.19/f	(180/f <sup>2</sup> )*	30
30-300	27.5	0.073	0.2	30
300-1500	--	--	f/1500	30
1500-100,000	--	--	1.0	30

f = frequency in MHz\*Plane-wave equivalent power density

NOTE 1: **Occupational/controlled** limits apply in situations in which persons are exposed as a consequence of their employment provided those persons are fully aware of the potential for exposure and can exercise control over their exposure. Limits for occupational/controlled exposure also apply in situations when an individual is transient through a location where occupational/controlled limits apply provided he or she is made aware of the potential for exposure.

NOTE 2: **General population/uncontrolled** exposures apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or can not exercise control over their exposure.

Brad Twoomey for  
Friends of Trinidad Head  
P.O. Box 972  
Trinidad, CA 95570  
January 21, 2007

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

**RECEIVED**

JAN 22 2007

CALIFORNIA  
COASTAL COMMISSION

Re: Friends of Trinidad Head Appeal No. A-1-TRN-06-042  
and U.S. Cellular Corporation *de novo* Hearing

Dear Commissioners:

The comments below address Trinidad area resident Bud Miller's 12-point letter and the preamble headings on his "petition" that were sent to the Coastal Commission on January 10, 2007. Ideas not specifically addressed do not, in any way, indicate agreement with them.

Notice that on one page of the petitions (under the preamble) someone hand wrote: "The signers below are Trinidad based fisherman who depend on their cell phones and subject antenna for emergency and routine use at sea." The real "subject antenna" of this application does not exist yet and is what U.S. Cellular would like to be approved. Apparently, these fishermen are reliant on and CONTENT WITH the existing U.S. Cellular antenna performance from its Walker Ridge location, which is northeast of Trinidad and offers a much higher elevation and broader sweep of the ocean around Trinidad than Trinidad Head can provide. It also implies fishermen using other cell phone companies' services are satisfied with the current situation. They are not expressing or demonstrating any need for U.S. Cellular to be allowed onto Trinidad Head.

Mr. Miller somehow has many issues with a guest opinion article written by Friends' member, Carol Rowe of Trinidad, and we thank him for sending it

to you, because it reports an accurate summary of the cell towers' history. Friends believe Mr. Miller would not have issues with Ms. Rowe's letter if he would acquaint himself with Trinidad's authorized ordinance and the Local Coastal Plan that governs development projects within the City's boundaries.

Mr. Miller says the towers cannot be removed even if U.S. Cellular's application is turned down. Mr. Miller writes that the Friends of Trinidad Head advocate a "...cause that already has a long term solution," which is the expiration of the lease with current cellular service providers on Trinidad Head ten years from now. You can see from his article (that he sent you) he developed his "long-term solution" idea when he mistakenly thought the lease had only another four years left instead of ten. He didn't alter his long-term solution in any way after realizing there was ten years left. His phrase "Long term solution" normally means a well thought out solution being implemented now, which will solve the problem in the future. In Mr. Miller's scenario, "long term" just means that a long time from now something *could* be done and he plans to wait another ten years - allowing for continued expansions along the way. But the cellular companies (especially Verizon, which has already approached the City with plans for expansion) might very well relocate to a legal location within the City if the Commission denies U.S. Cellular's application for development on Trinidad Head.

Not widely known is the fact that currently the lease agreement between the City of Trinidad and Verizon is null and void because CalNorth, the original tenant in 1997, transferred interest in their cellular communication company to Verizon in 2006 without the City's written consent (specifically described in the 1997 lease, which says if transfer of interest occurs without prior consent from the City, the lease becomes null and void). It also affects the other two companies on Trinidad Head - Sprint and Edge Wireless, because they were sublessees of CalNorth (now Verizon) - not the City. There is no company (at this writing) under legal contract with the City.

Additionally, in 1997 the City was required to pass a resolution to formally adopt the lease agreement; this never occurred. The lease also requires that a survey of the site be included for legal purposes. Despite having a parcel number, a survey has never been made of the 40x60-foot cell site that provides a description of its location relative to the existing survey corners on the City or the Coast Guard's property. The cell "site" is not a separate

parcel but is just part of the one piece of Open Space land the City owns on the Head. At this time, Verizon is very anxious to get a survey done and to create a new lease so they can expand their nonconforming use of Trinidad Head's Open Space.

Regarding the cable TV use that ended in 1994, Mr. Miller writes, "...the contract had not yet expired," (before the first cell tower was applied for). Friends point out that the contract did expire due to abandonment and non-payment of the monthly rent on June 30 1994 - two years and ten months before the first cell tower application was submitted on May 20, 1997. No parties contacted the city during the first year of the site's abandonment regarding use of the abandoned TV broadcast location. Acknowledgment of the contract expiring when it did leads to provision 17.64.010 C, which is clear and mandatory: "A nonconforming use that has been discontinued for a period of one year or more shall not be reestablished." It also states, "A nonconforming use of a part of a lot or structure shall not be extended throughout the lot or structure." Those two conditions are mandatory under DEFINITIONS in Chapter 17.08 of the ordinance.

Contrary to what Mr. Miller states, in 1997 Trinidad's City Council did not approve the use of an existing unused antenna; it was multiple new antennas on a new 45-foot pole and a fence enclosure. Mr. Miller calls what happened in 1997, "...minor procedural errors." Mr. Miller does not appreciate the result of those errors, which is illegally sited commercial industrial apparatus in the Open Space area of a Historic Landmark. U.S. Cellular is just one of approximately 17 other cell phone companies operating in California that may wish to also have their own complete systems on Trinidad Head.

Mr. Miller accuses, "...the friends brought in an outside planning (consultant)...to support their arguments." Friends point out: the City of Trinidad's Planning Consultant - who organized approving all of the cell tower applications - is from the same city as the Friends' consultant.

Mr. Miller claims no one involved (with approving the cell towers) "...did anything for their own gain," but in fact some of the same people who approved the cell towers have been deciding how income from the rent has been spent for the last ten years. (Historical note: Mr. Miller's advisors and petition signers are a who's who in Trinidad of the California Coastal Commission's biggest skeptics.)

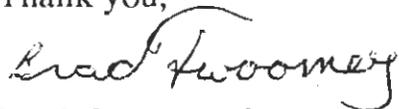
Mr. Miller states, "The trail for hikers was not intended to be exited in order to visit the antenna area." That is the Friends' position, too. Maybe Mr. Miller has never been to the top of Trinidad Head; otherwise he would know that hikers do not have to exit the trail to visit the towers. All you do is stay on the access road that the hikers share with vehicles (the very same road hikers start out on at the base of the Head hoping to reach the summit). Hikers experience quite a shock the first time they near the summit and find a cell tower complex occupying the scenic vista.

Another common experience Mr. Miller avoids by not hiking on the Head is needing to take evasive action when vehicles and hikers meet on the road at the steep-sloped, hairpin turns with no shoulders. Increased commercial development on the Head will increase these incidents.

If Mr. Miller hiked around the Head, he might be more sympathetic to how peace and tranquility is lost amidst the noise coming from the cooling fans and compressors in the cabinets at the cell tower site. Without the noise and visual blight, the summit would be the most rewarding part of the Trinidad Head trail system, but the sight and sound of the cell towers discourage most hikers from exploring that area. It is ridiculous to argue that because you cannot hear the noise on Trinidad Head from town, it is not a problem. Many people who hike around the Head find the noise very annoying because it drowns out the sounds of nature that should be heard.

The illegality of the precedent set on Trinidad Head is well established; the incompatibility of commercial facilities within open space zoning is obvious. Commissioners now have the opportunity to set a proper precedent for conforming to Trinidad's Local Coastal Plan and moving Trinidad's coastal development in the right direction.

Thank you,



Brad Twoomey for  
Friends of Trinidad Head



**Former BLM Arcata Field Manager John Lahr wrote to the Coastal Commission (regarding transfer of 46.9 acres on Trinidad Head to the City) on April 16, 1983:**

**“...Several germane factors apply to this transfer from federal public ownership to City of Trinidad ownership for park and recreational purposes only.**

**“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.”**

# The Primary Purposes Of Open Space

**17.16.020 Principal permitted uses.** Principal permitted uses in the Open Space 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**
- 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)

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

# Notice City sent to Coastal Commission Describing Cal North's 1997 Project

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

**PROJECT LOCATION: DESCRIBED  
AS "TRINIDAD SCHOOL"  
Instead of "Trinidad Head"**



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 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

*A Place to Listen to - the Dynamo Hum*



**Letter Sent by CalNorth (now Verizon) 8 1/4-Years After  
CalNorth's First Cell Tower Was Approved**



December 15, 2005 ← December 15, 2005

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

RECEIVED

DEC 19 2005

**Re: Trinidad Head  
Lease dated  
August 1, 1997**

Re: Location: Trinidad Head  
Lease dated August 1, 1997

City of Trinidad

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.

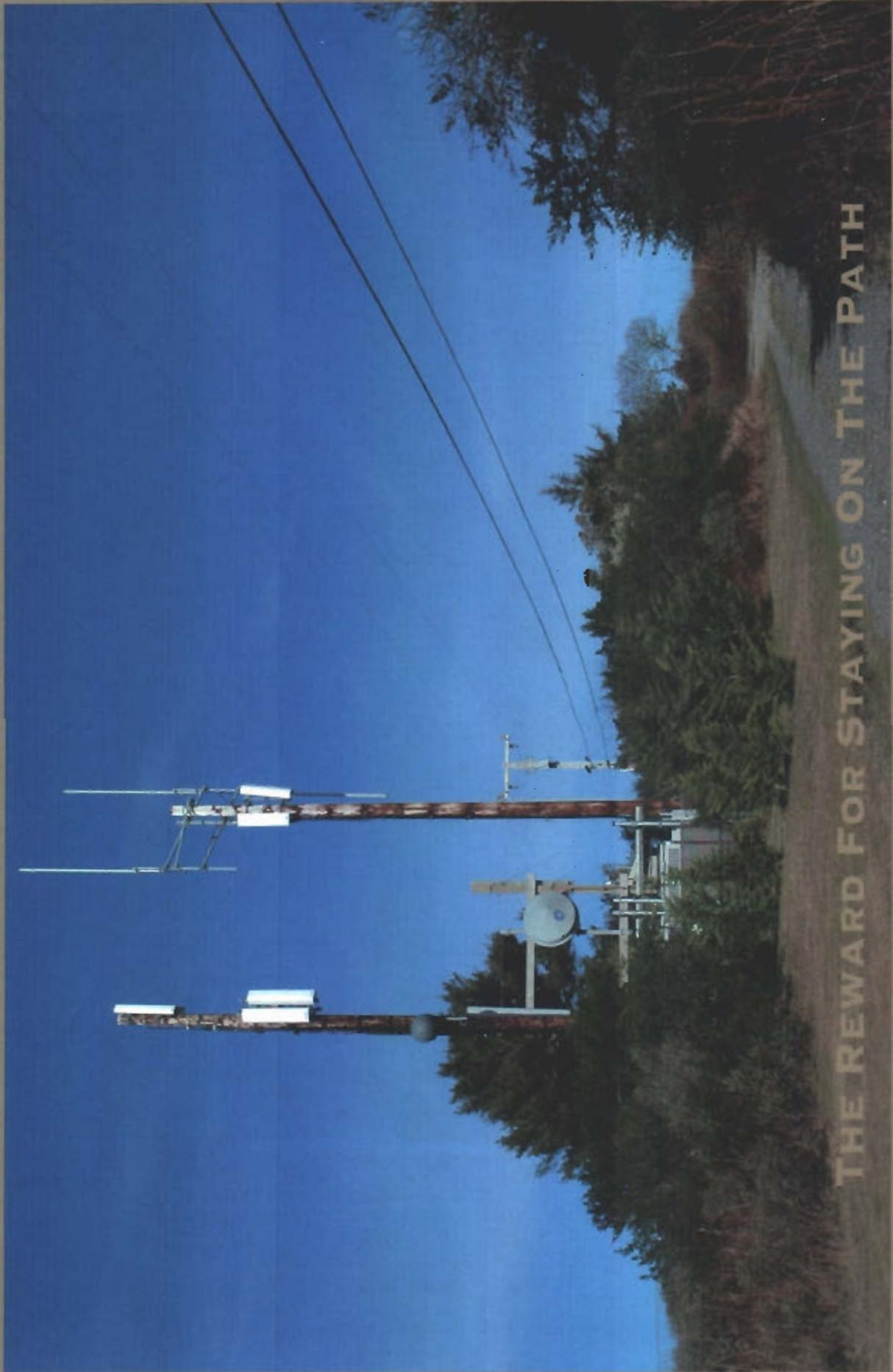
Sincerely,

*James T. Lowers*  
James T. Lowers

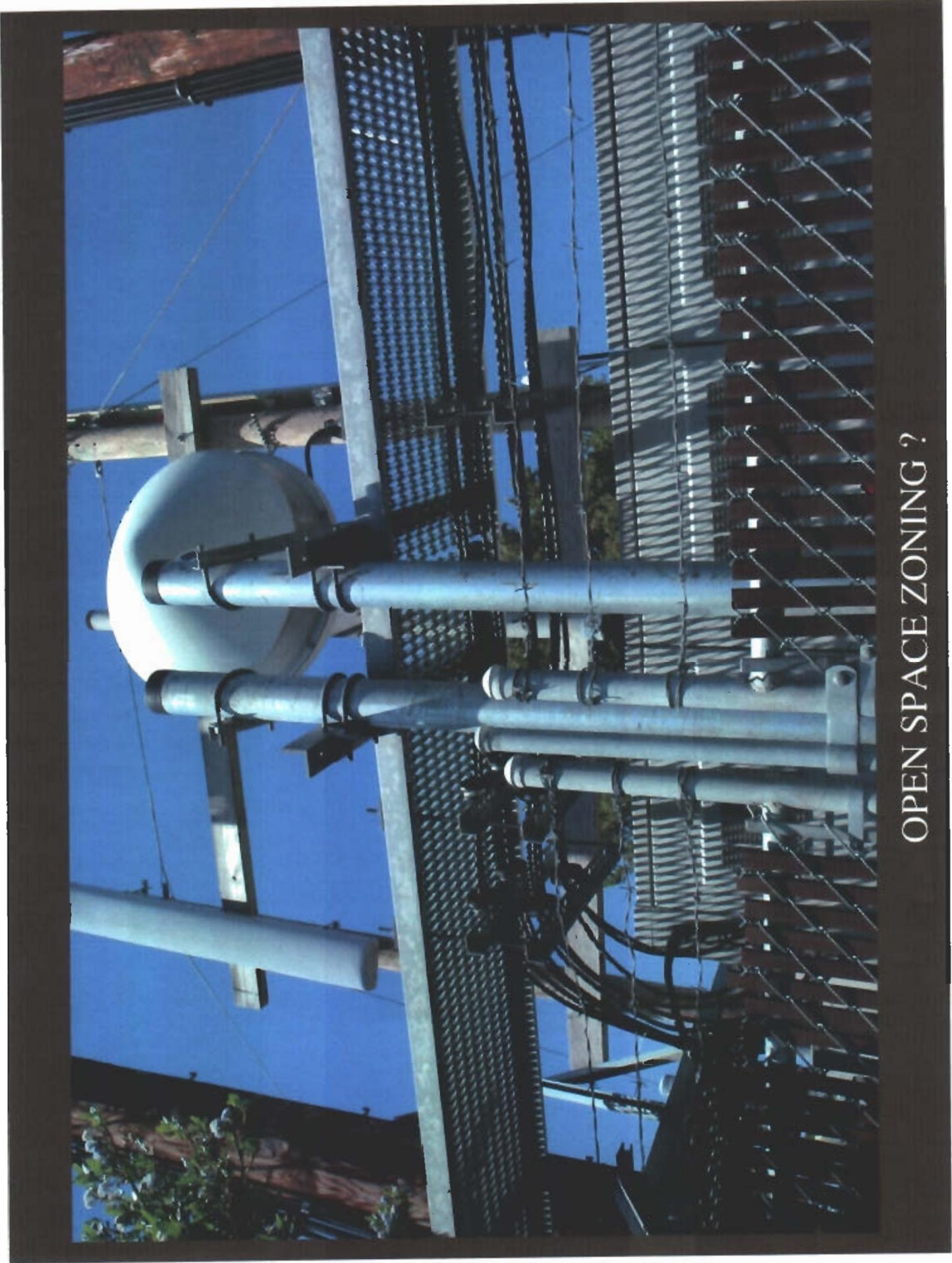
For Cal-One Cellular, a California corporation  
General Partner of Cal-One Cellular L.P.  
(530) 467-6171

Enclosures

Memorandum  
of Lease for the  
Trinidad Head  
Site.”



THE REWARD FOR STAYING ON THE PATH



OPEN SPACE ZONING ?

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 Corporation *de novo* hearing

Dear Commissioners:

Attached is a portion of a PowerPoint presentation that I gave (as a member of Friends of Trinidad Head) to the Trinidad City Council in September 2006 regarding our appeal of the Trinidad Planning Commission's approval of U.S. Cellular's Application #2005-13a. My portion of the presentation emphasized the cumulative impacts of commercial development which have occurred since 1997 within City-owned property on Trinidad Head.

Arguments have been made that U.S. Cellular's additional equipment/facilities will have little impacts to the already existing commercial site.

This is not true. The projects that were approved in 1997, 1999, 2000, 2001 and 2003 represent a pattern of development that has become cumulative on Trinidad Head. I believe the photographs that are part of my package clearly demonstrate this. The cellular tower site does not represent *just one* project (or installation)—it is an accumulation of successive projects of the same type in the same place over time. This is the nature of cumulative impacts.

I hope the Commissioners will review this packet of information and look closely at the photographs to see what has taken place on Trinidad Head over the past 10 years. Friends of Trinidad Head ask the California Coastal Commission to recognize the cumulative impacts on Trinidad Head and deny U.S. Cellular's project.

If U.S. Cellular is allowed to construct/install equipment on Trinidad Head, it will be the fourth cell phone company operating on the site. And we can surely expect that the other wireless companies co-located on Trinidad Head (Edge Wireless and Sprint) will also want to expand their equipment/facilities. In fact, Verizon Wireless (the primary lessor) has approached the City of Trinidad with plans for additions to the current site, including enlarging the fenced-in-area by 10 feet, removing vegetation, expanding the existing equipment shed and installing a power generator with 210-gallon Diesel fuel tank.

California Coastal Commission  
January 18, 2007  
Page -2-

The continued commercial development on Trinidad Head will further degrade this remarkable landmark and coastal resource. Therefore, is imperative that the California Coastal Commission deny U.S. Cellular's application.

Thank you for your time and consideration.

*Kimberly Tays Binnie*

Kimberly Tays Binnie  
Member, Friends of Trinidad Head  
P.O. Box 75  
Trinidad, CA 95570  
707-677-9078  
[ktays@suddenlink.net](mailto:ktays@suddenlink.net)



**“The purpose for the City’s acquisition of Trinidad Head is to make available to the people forever, 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.”**

**(From the City’s application to acquire Trinidad Head from the Bureau of Land Management in 1983.)**

# TRINIDAD HEAD--MAGNET FOR TELECOMMUNICATIONS DEVELOPMENT

} **Unique  
geographic  
location**

} **400 feet of  
elevation**

} **Existing  
access road**

} **Access to  
electricity**



# CUMULATIVE IMPACTS - INTERFERENCE WITH RECREATIONAL USE

- } Additional equipment adds to bulk and orientation of the site
- } Imposing structure discourages hiking to summit
- } Hikers assume area around equipment site is off limits



## **CUMULATIVE IMPACTS - ADDITIONAL NOISE**

- } More equipment equals more noise**
- } Impossible to prevent noise from leaving site**
- } Measurements from southern boundary may not accurately measure noise from U.S. Cellular equipment**
- } Pre-project ambient noise measurements need to be taken from equal distances and all sides of the fence line with appropriate frequencies before approval of USC's project**

# CUMULATIVE IMPACTS - INTERFERENCE WITH PUBLIC VIEWS

- } Cell towers are visible from public trails and vista points
- } Cell towers block ocean views from summit
- } More development degrades the natural and scenic beauty of the area



# CUMULATIVE IMPACTS - INCREASE IN TRAFFIC

- } Nearly 1/2 of hiking trail co-located with access road
- } Hikers must share hiking trail with cars and trucks
- } More commercial development on Trinidad Head increases traffic
- } Health and safety of hikers jeopardized

