

BOTANICAL SURVEY

Bower LLP Project- Gualala

(APN 145-261-013 & 005)

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Prepared for:
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EXHIBIT NO. 7
APPEAL NO. 1-83-270-A1 BOWER LIMITED PARTNERSHIP BOTANICAL SURVEYS (1 of 41)

Botanical Survey

Bower Limited Partnership Project (APN 145-261-05 and 145-261-13)

SUMMARY

A botanical study conducted on parcels APN 145-261-05 and APN 145-261-13 on May 3, June 13, and July 5, 2007 did not result in the observation of any rare, threatened, or endangered plant species or any on-site rare natural communities. The project is located within 100 feet of the Gualala River Estuary and estuarine/intertidal wetland, and mitigation measures are recommended to ensure protection of these environmentally sensitive habitat areas.

INTRODUCTION

BioConsultant LLC conducted a complete floristic survey and botanical assessment on two adjacent parcels (APN 145-261-05 and APN 145-261-13) in the village of Gualala, Mendocino County, California. This work was performed at the request of Julie Price of Rau and Associates, Inc., agent for John Bower, in response to a request from the County that a botanical report be submitted. Both parcels are owned by Bower Limited Partnership (BLP). The purpose of this work is to ascertain whether special-status plants or rare natural communities which are considered to be Environmentally Sensitive Habitat Areas (ESHAs) under the Mendocino County Local Coastal Plan occur on or near the site or have the potential to be negatively affected by the proposed project.

The results of the study are presented in this document, which will be used to supplement a Coastal Development Permit (CDP #55-2006) currently in process with the Mendocino County Department of Planning and Building Services for the portion of the proposed project to be located on APN 145-261-13. A request to amend an existing Coastal Commission CDP (#1-83-270-A1) for the portion of the project to be located on APN 145-261-05 is being processed concurrently with the Coastal Commission. Although the Coastal Commission did not request a botanical assessment of the project, the report addresses the entire project, which spans both parcels.

As part of the biotic investigation for the proposed project, BioConsultant LLC conducted a survey for special-status wildlife species on January 23, 2007. No special-status animals were observed on-site or within adjacent potential habitats. The on-site resources were assessed as containing low quality habitat and limited resources for the potentially occurring target rare and endangered wildlife species. For more detail, refer to the corresponding report titled: *Wildlife Survey. Bower Project* (February 2007).

Project Site Location

The Project Site is located within the Coastal Zone at 39200 South Highway 1, Gualala, California (APN 145-261-05 and 145-261-13). The proposed project will occur behind the Surf Center buildings along the western edge of the two adjacent properties (**Figure**

1). A retaining wall will be constructed along the bluff face, and drainage improvements will be located within the area of the existing parking lot. The survey limits include all areas of vegetation west of the Surf Center buildings.

Project Site Background History

During the winter storms of December 2005 and January 2006, an existing 70ft. wood retaining wall failed and a significant amount of non-engineered fill slid from the bluff face in the westernmost portion of APN 145-261-05, behind the Surf Market. Two additional debris flows occurred on the face of the bluff at the north end of adjacent parcel APN 145-261-13. The debris slides resulted from storm damage to the wall, the presence of a deep layer of non-engineered fill, and inadequate drainage. The bluff face was first altered around the turn of the twentieth century by construction of a railroad grade, and prior to construction of the existing wall, the western portion of both parcels was filled in a non-engineered manner, apparently in order to raise the elevation of the property. At present the entire bluff is susceptible to eroding at an accelerated rate with the consequent risk of loss of land for the Surf Center buildings, Gualala Bluff Trail and parking area (see Project Site Description).

Proposed Development

To prevent additional debris slides from occurring in the future, the project proposes to remove the dilapidated wood retaining wall and the non-engineered fill and to reconstruct and extend the wall along the westerly edge of the Project Site. The new concrete block retaining wall will be 390ft. long and will extend across both parcels. In addition, the landowner proposes to install drainage improvements on both parcels, including a storm drain system and a "Stormceptor" stormwater treatment structure, to reduce drainage-related impacts to the site and bluff top area.

As shown in the Botanical Survey Exhibit, the line delineating the limits of proposed construction activities is located from 28ft. to 70ft. above the mean high tide line. The base of the wall will be placed in direct contact with the underlying bedrock and will occur within a 5ft. area from the limits of construction.

Construction of the wall will involve removal of approximately 7,795 sq. ft. of shrubs and herbaceous vegetation. A comprehensive restoration plan to revegetate disturbed areas, restore coastal scrub habitat all along the length of the bluff, and eliminate invasive weeds will be prepared for the project.

A Storm Water Pollution Prevention Plan (SWPPP) will be developed prior to the start of construction. The SWPPP will identify site-specific measures to be implemented during construction to reduce impacts to water quality and to protect the adjacent estuarine habitat of the Gualala River. Erosion control measures will consist of 20-25 construction site best management practices (BMPs) (see **Appendix D**), including placement of a heavy-duty reinforced "Super Silt Fence" at the limits of construction activities to intercept potentially falling debris.

Project Site Description

The Project Site's configuration, boundaries, existing and proposed structures, and off-site natural resources and trail improvements are shown in **Exhibit 1: Botanical Survey Exhibit Construction Activity Zone**; prepared by RAU and Associates. A color aerial photo shows the Project Site and the surrounding environmental setting (**Figure 2**). Used together, Exhibit 1 and Figure 2 provide a complete representation of the Project Site and its environs.

Several existing commercial structures (Surf Center) occur in the eastern section of the Project Site on a level paved area adjacent to State Highway 1.

In June 2007, phase II of the Gualala Bluff Trail was completed by the Redwood Coast Land Conservancy (RCLC). The completion of the second phase of the public pedestrian bluff top trail now provides a 5ft. wide and 500ft. long level landscaped gravel pathway that extends laterally across the Project Site (Photo 1). The pathway and associated structures (benches, signage, and plantings) are within a 25ft. access easement held by the RCLC and planted with appropriate well-tended coastal native plants.

From the west edge of the newly created Gualala Bluff Trail the site topography slopes sharply down a southwest-facing coastal bluff to the edge of the Gualala River Estuary. Slopes range from 50% to 67% with the steepest areas occurring mid-slope. The bluff contains exposed bedrock and is primarily covered with dense native coastal scrub vegetation. Non-native weeds cover significant portions of the upper bluff face. Four trees are located within the survey limits along the bluff: two Bishop pines, a wind-pruned, multi-trunked Douglas-fir and a large diameter Monterey cypress.

An off-site concrete lined drainage ditch follows the southern Project Site boundary, conveying flows beneath a pedestrian bridge and draining directly onto the rocky bluff. There is no riparian vegetation or riparian habitat associated with this outlet, which is sparsely vegetated with a variety of exotic weeds. The area between the ditch and the adjacent building to the south is mostly bare ground.

The two debris slide areas occur at opposite ends of the project span. The southerly slide area, which is flanked by remains of the 70ft. retaining wall, is large and actively eroding; it is partially vegetated with newly established herbaceous, mostly weedy vegetation (Photo 2). The northerly slide area, which formed from two debris flows, is more densely vegetated with herbaceous vegetation and vines, but signs of active erosion (small rocks and soil debris) were visible on the January 23, 2007 wildlife survey date.

Between the toe of the coastal scrub covered bluff and the Gualala River Estuary is an intertidal area armored with large slabs of wave polished boulders. Scattered pockets of wetland vegetation occur in mud flats among the boulders. The bare mud flats and the vegetated mud flats of the intertidal area comprise an estuarine wetland. The estuary and estuarine/intertidal wetland are located just outside the Project Site boundary (see Exhibit 1).

According to the Soil Survey of Mendocino County, California, Western Part (2001), the Project Site is primarily underlain by soil mapping unit 116: *Bruhel-Shinglemill complex, 2 to 15 percent slopes*.

Literature Review

Prior to conducting the field surveys, the California Department of Fish and Game Natural Diversity Database (CNDDDB) [2007] was queried for special-status plants and rare natural communities reported from the Gualala, McGuire Ridge, Stewarts Point, Saunders Reef, Point Arena, Eureka Hill, and Mallo Pass Creek USGS 7.5 minute quadrangles. The resulting 7-quad CNDDDB list of 28 plants and 6 natural communities is attached as **Appendix A**.

A review of the California Native Plant Society's *Electronic Inventory of Rare and Endangered Plants of California* (CNPS 2007) for the 7-quadrangle area resulted in 35 additional plant species. **Appendix B** combines the results of the CNDDDB and CNPS queries and is a comprehensive list of all 63 special-status plants with potential to occur in the Project Site vicinity.

The following special-status plants have cited CNDDDB occurrences within 0.75 miles of the Project Site: Mendocino coast Indian paintbrush (*Castilleja mendocinensis*), supple daisy (*Erigeron supplex*), thin-lobed horkelia (*Horkelia tenuiloba*), maple-leaved checkerbloom (*Sidalcea malachroides*), and purple-stemmed checkerbloom (*S. malviflora* ssp. *purpurea*). The Project Site is less than 0.25 mile from a documented occurrence of coastal brackish marsh.

SITE ASSESSMENT AND SURVEY RESULTS

BioConsultant LLC staff botanist Linda Esposito, assisted by Derek Marshall and Kim Fitts, conducted botanical surveys on May 3 and June 13, 2007. Ms. Esposito and Ms. Fitts conducted the final survey on July 5, 2007. The investigators walked the entire survey limits making a careful search for potentially occurring special-status plants. They noted and recorded details of terrain, hydrology, plant communities, and the presence of individual plant and animal species. Plant samples were obtained for diagnostic review in the laboratory.

The rare plant survey was conducted pursuant to the California Department Fish and Game (CDFG) *Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities* (Revised May 8, 2000). The survey was floristic in nature and site visits were spaced throughout the blooming season. A complete list of plants observed within the survey limits is included as **Appendix C**.

A search for the early blue violet (*Viola adunca*) was included in the botanical surveys. Early blue violet is the principal larval host plant for the endangered Behren's silverspot butterfly (*Speyeria zerene behrensii*), and conducting surveys for its presence is the first

step in determining if potential habitat for the butterfly is present. Surveys for the early blue violet must be conducted by a qualified biologist between 21 April and 14 June in all areas of 100 meters (300ft.) from proposed activities (USFWS 2005).

Wetland Assessment

Due to concerns discussed at a recent meeting of the Gualala Municipal Advisory Council (GMAC) regarding potential on-site wetlands, soil samples were obtained from two areas with a high coverage of giant horsetail (a hydrophytic plant) located just west of the Gualala Bluff Trail at distances of 77ft. and 347ft. measured from the south Project Site boundary. Philip Northen, Ph.D., conducted the soil analysis and found no wetland properties or indicators. The soil was loosely consolidated gravely sandy fill; with a matrix color of 2.5Y 3/2 according to the Munsell soil color charts (Munsell Color 1975). As previously stated, the bluff top area and the entire western portion of the Project Site are covered with a deep layer of imported fill that was added to level the property (see Project Site Background History). The soil analysis shows that the samples do not represent wetland soils and that they are consistent with the characteristics of fill material.

No wetlands, seeps, or riparian habitat were found within the Project Site. As described above, there is an off-site estuarine wetland in the intertidal area between the toe of the slope and the Gualala River Estuary.

Vegetation Communities

Common plant names are used in the following vegetation community descriptions; for the corresponding scientific names, see Appendix C.

Northern coastal scrub

The predominant vegetation covering the coastal bluff is dense northern coastal scrub. (Extensive invasive weed populations are concentrated in the upper portion of the bluff as described below.) The dominant shrub species are blue blossom and coyote brush; other important shrub species are silk tassel bush, California blackberry, oso berry, thimbleberry and western poison oak. Very large, mature wind-pruned blue blossom shrubs interspersed with clusters of other shrub species form a complex vegetative mosaic. Large stands of mature silk tassel bush and oso berry, both infrequently occurring native species, occur at mid-slope about halfway across the span. A dense herbaceous understory consists primarily of native perennials such as figwort, angelica and Douglas's iris, and more open areas are carpeted with species such as coast paintbrush and California brome. A few species more typical of coastal bluff scrub, such as live-forever and seaside woolly sunflower, also occur.

The on-site association most closely corresponds to Coyote Brush Scrub and Dwarf Scrub Alliance (32.060.00) of the CDFG (Vegetation and Mapping Program) *List of Terrestrial Natural Communities Recognized by the California Natural Diversity Database* (September 2003). This alliance is synonymous with Northern (Franciscan) Coastal Scrub (32100) of the earlier CDFG publication, *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986).

Invasive exotic species

Invasive weeds, defined as those exotic species and ornamentals that aggressively crowd out native plants and are especially difficult to control and eradicate, are widespread on the coastal bluff. They occur in the bluff top area, in the recent debris slides, and less frequently at the toe of the bluff. The abundance of weeds is related to the Project Site's long history of disturbance and the placement of imported fill, which provided bare soil for weed establishment and contained weed seed contaminants.

Himalayan blackberry, capeweed, wild radish, Italian thistle, wild teasel, poison hemlock, bull thistle, Harding grass and velvet grass are most abundant at the top of the bluff, but extend down the slope in places. The newly established vegetation in the debris slide areas largely consists of capeweed, wild radish and other invasive weeds (Photo 3). Greater periwinkle and ice plant have only localized occurrences (at the south end of the bluff top and mid-slope at the center of the project span, respectively). Poison hemlock is a major forb component of the coastal scrub association on the bluff face. Pride of Madeira, a shrub-like ornamental with towering spikes of blue-purple flowers, occurs as huge clumps at both ends of the bluff top span and at the north end of the bluff toe; this garden escape appears to have the potential to invade more of the coastal scrub habitat. Mature clumps of jubata grass are scattered on the lower slope.

Estuarine intertidal wetland

In the intertidal area, scattered pockets of estuarine wetland vegetation occur in mud flats among large polished boulders (Photo 4). These pockets are highly variable in species composition, consisting mainly of native perennial herbaceous species such as silverweed, willow dock, various sedges and rushes, and other hydrophytes. The intertidal area is periodically covered with a fresh/brackish water mix that fluctuates in salinity according to river flows and tidal influence.

Rare, Threatened, and Endangered Plants

Of the 63 special-status plants with potential to occur in the Project Site vicinity (Appendix B), 28 have potential to occur in habitats within the survey limits, based upon the site assessment. **Table 1** lists these species with their common names, blooming times, status, and the plant communities in which they occur.

Table 1. Rare, threatened and endangered plants with potential to occur in habitats within the survey limits.

Scientific Name	Common Name	Plant Communities	Blooming Time	Status
<i>Agrostis blasdalei</i>	Blasdale's bent grass	Coastal bluff scrub, coastal dunes, coastal prairie	May-Jul	CNPS List 1B.2
<i>Angelica lucida</i>	sea-watch	Coastal bluff scrub, coastal dunes, coastal scrub, marshes & swamps (coastal salt)	May-Sep	CNPS List 4.2
<i>Calamagrostis bolanderi</i>	Bolander's reed grass	Bogs and fens, broadleaved upland forest, closed-cone coniferous forest, coastal scrub, meadows & seeps (mesic), marshes & swamps (freshwater), north coast coniferous forest/mesic	May-Aug	CNPS List 4.2
<i>Calamagrostis foliosa</i>	leafy reed grass	Coastal bluff scrub, north coast coniferous forest/rocky	May-Sep	CNPS List 4.2
<i>Calandrinia breweri</i>	Brewer's calandrinia	Chaparral, coastal scrub/sandy or loamy, disturbed sites and burns	Mar-Jun	CNPS List 4.2
<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	Coastal dunes, coastal scrub, north coast coniferous forest	May-Sep	CNPS List 1B.2
<i>Carex californica</i>	California sedge	Bogs & fens, closed-cone coniferous forest, coastal prairie, meadows & seeps, marshes & swamps (margins)	May-Aug	CNPS List 2.3
<i>Carex lyngbyei</i>	Lyngbye's sedge	Marshes & swamps (brackish or freshwater)	May-Aug	CNPS List 2.2
<i>Carex saliniformis</i>	deceiving sedge	Coastal prairie, coastal scrub, meadows & seeps, marshes & swamps (coastal salt)/mesic	Jun (Jul)	CNPS List 1B.2
<i>Castilleja ambigua</i> ssp. <i>humboldtiensis</i>	Humboldt Bay owl's-clover	Marshes & swamps (coastal salt)	Apr-Aug	CNPS List 1B.2
<i>Castilleja mendocinensis</i>	Mendocino coast Indian paintbrush	Coastal bluff scrub, closed-cone coniferous forest, coastal dunes, coastal prairie, coastal scrub	Apr-Aug	CNPS List 1B.2
<i>Ceanothus gloriosus</i> var. <i>gloriosus</i>	Point Reyes ceanothus	Coastal bluff scrub, closed-cone coniferous forest, coastal dunes, coastal scrub/sandy	Mar-May	CNPS List 4.3
<i>Erigeron supplex</i>	supple daisy	Coastal bluff scrub, coastal prairie	May-Jul	CNPS List 1B.2
<i>Fritillaria roderickii</i>	Roderick's fritillary	Coastal bluff scrub, coastal prairie, valley & foothill grassland	Mar-May	CNPS List 1B.1; CA Endangered
<i>Gilia capitata</i> ssp. <i>pacifica</i>	Pacific gilia	Coastal bluff scrub, chaparral (openings), coastal prairie, valley & foothill grassland	Apr-Aug	CNPS List 1B.2
<i>Glyceria grandis</i>	American manna grass	Bogs & fens, meadows & seeps, marshes & swamps (streambanks and lake margins)	Jun-Aug	CNPS List 2.3
<i>Hemizonia congesta</i> ssp. <i>leucocephala</i>	hayfield tarplant	Coastal scrub, valley & foothill grassland/sometimes roadsides	Apr-Oct	CNPS List 3
<i>Horkelia marinensis</i>	Point Reyes horkelia	Coastal dunes, coastal prairie, coastal scrub/sandy	May-Sep	CNPS List 1B.2
<i>Lasthenia macrantha</i> ssp. <i>bakeri</i>	Baker's goldfields	Closed-cone coniferous forest (openings), coastal scrub, meadows & seeps, marshes & swamps	Apr-Oct	CNPS List 1B.2
<i>Lasthenia</i>	perennial	Coastal bluff scrub, coastal dunes, coastal	Jan-Nov	CNPS List

<i>macrantha</i> ssp. <i>macrantha</i>	goldfields	scrub		1B.2
<i>Lathyrus palustris</i>	marsh pea	Bogs & fens, coastal prairie, coastal scrub, lower montane coniferous forest, marshes & swamps, north coast coniferous forest/mesic	Mar-Aug	CNPS List 2.2
<i>Lilium maritimum</i>	coast lily	Broadleaved upland forest, closed-cone coniferous forest, coastal prairie, coastal scrub, marshes & swamps (freshwater), north coast coniferous forest/sometimes roadside	May-Aug	CNPS List 1B.1
<i>Lotus formosissimus</i>	harlequin lotus	Broadleaved upland forest, coastal bluff scrub, closed-cone coniferous forest, cismontane woodland, coastal prairie, coastal scrub, meadows & seeps, marshes & swamps, north coast coniferous forest, valley & foothill grassland/wetlands, roadsides	Mar-Jul	CNPS List 4.2
<i>Lycopodium clavatum</i>	running-pine	Lower montane coniferous forest (mesic), marshes & swamps, north coast coniferous forest (mesic)/often edges, openings, and roadsides	Jun-Aug	CNPS List 2.3
<i>Microseris paludosa</i>	marsh microseris	Closed-cone coniferous forest, cismontane woodland, coastal scrub, valley & foothill grassland	Apr-Jun(Jul)	CNPS List 1B.2
<i>Sidalcea malachroides</i>	maple-leaved checkerbloom	Broadleaved upland forest, coastal prairie, coastal scrub, north coast coniferous forest, riparian woodland/often in <u>disturbed areas</u>	Apr-Aug	CNPS List 4.2
<i>Stellaria littoralis</i>	beach starwort	Bogs & fens, coastal bluff scrub, coastal dunes, coastal scrub, marshes & swamps	Mar-Jul	CNPS List 4.2
<i>Veratrum fimbriatum</i>	fringed false-hellebore	Bogs & fens, coastal scrub, meadows & seeps, north coast coniferous forest/mesic	Jul-Sep	CNPS List 4.3

CNPS List:

- 1B – Rare or Endangered in California and elsewhere
- 2 – Rare or Endangered in California, more common elsewhere
- 3 – Plants for which we need more information – Review list
- 4 – Plants of limited distribution – Watch list

CNPS Threat Code extension:

- .1 – Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat)
- .2 – Fairly endangered in California (20-80% occurrences threatened)
- .3 – Not very endangered in California (<20% of occurrences threatened or no current threats known)

Plant Survey Results

No special-status plant species or rare natural communities were observed within the within the survey limits during the field surveys. Early blue violet was not detected.

Environmentally Sensitive Habitat Areas

Section 20.308.040 of the Mendocino County Coastal Zoning Code defines an environmentally sensitive habitat area (ESHA) as:

...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals.

For this study, the definitions of wetland and estuary contained in the Coastal Act and Mendocino County LCP were used.

Wetland means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.

An estuary is a coastal water body usually semi-enclosed by land, but which has open, partially obstructed, or intermittent exchange with the ocean and in which ocean water is at least occasionally diluted by fresh water runoff from the land. The salinity may be periodically increased above the open ocean by evaporation. In general, the boundary between wetland and estuary is the line of extreme low water.

The Gualala River Estuary and estuarine/intertidal wetland meet the definition within the County of Mendocino's Local Coastal Program (LCP) as "environmentally sensitive habitat areas" (ESHAs). The project proposes buffer zones that range from 28ft. to 70ft. (slope measurements) from the mean high tide line to the limits of proposed construction activities as shown in Exhibit 1, which corresponds with the west edge of soil disturbance. The 3-year mean high tide line completely encompasses the estuarine wetland and was therefore chosen to represent the "outside edge" of the ESHAs. All measurements were provided by civil engineers with RAU and Associates, Inc.; for this report, measurements were rounded to the nearest whole number. No structures are proposed within the buffer; only weed control and habitat restoration will occur in the buffer.

Protective measures are proposed, and should be implemented in order to avoid potential impacts to the off-site Gualala River Estuary and estuarine/intertidal wetland ESHAs during and following construction. These include but are not limited to the following:

- Develop and implement a Storm Water Pollution Prevention Plan (SWPPP) consisting of site-specific measures to reduce impacts to water quality and protect the adjacent estuarine habitats during construction.
- Include erosion control measures consisting of 20-25 construction site best management practices (BMPs) in the SWPPP.
- Prevent the delivery of sediment, rock, debris and/or other materials from entering the ESHA during construction activities by installing a temporary barrier. One of the specified BMPs for the site includes a "Super Silt Fence," which consists of filter cloth over chain link fence reinforced with steel posts driven at least 3 feet into the ground, to be installed along the limit of construction activities.
- Develop and implement a comprehensive restoration plan to revegetate disturbed areas, restore coastal scrub habitat all along the length of the bluff, and eliminate invasive weeds using the services of a professional restoration company.
- Schedule construction activities to minimize impacts to on-site and nearby wildlife species and prior to the onset of the rainy season.
- Perform revegetation and erosion control seeding as soon as possible following construction activities, providing irrigation as needed, to allow for some establishment prior to the rainy season.

BUFFER ZONE ANALYSIS

Projects that propose construction with a buffer less than 100ft. from an ESHA must provide information that demonstrates that a reduced buffer width will not have a significant adverse impact on the habitat. The buffer zone analysis utilizing Mendocino LCP Ordinance 20.496.020 (A) through 3 is presented in Table 4: Reduced Buffer Analysis.

Table 4. Reduced Buffer Zone Analysis.

Section 20.496.020 Coastal Zoning Ordinance	
(A) Buffer Areas. A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.	Buffer widths were analyzed based on the current on-site habitat conditions, parcel size and configuration, site topography and soils, and the ESHA resources.

<p>(1) Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.</p>	<p>The Project proposes buffer widths that range from 28ft. to 70ft., from the mean high tide to the limits of construction activities. The smallest buffer of 28ft. occurs on APN 145-261-05 (Coastal Commission) between the southern slide area and the estuarine wetland. A 50ft. minimum buffer will be maintained on APN 145-261-13 (County) with buffers that range from 50ft. to 70ft. with an average buffer of 60ft.</p> <p>The buffer widths were measured from the western limits of construction (the west edge of soil disturbance) to the mean high tide line, which encompasses the estuary/intertidal wetland ESHAs.</p> <p>The applicant is not proposing to sub-divide the parcel.</p>
<p>(a) Biological Significance of Adjacent Lands. The degree of significance depends upon the habitat requirements of the species in the habitat area.</p>	<p>The existing intact coastal scrub vegetation, (between slide areas) provides the biologically significant function of erosion control and water quality protection for the ESHAs, but the slide areas that are devoid of scrub vegetation have potential for continued and increased sediment delivery during winter rains. Following completion of the Project, the bluff will be stabilized, non-engineered fill removed, and the coastal scrub vegetation re-vegetated and restored; thus enhancing the biological significance of the Project Site and adjacent land.</p>
<p>(b) Sensitivity of Species to Disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development.</p>	<p>Potentially sensitive harbor seals and brown pelicans are known to occur across the River estuary at heavily visited Gualala Regional Point Park (0.5 mi.). This distance, the physical barrier of the estuary, and the habituation capabilities of the harbor seal should be sufficient to avoid significant disturbance. The peak of noise generating activities will occur prior to the late summer arrival of the brown pelican.</p>
<p>b(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species.</p>	<p>No special-status species were observed at the Project Site, and although it is likely that special-status species do occur in the river ESHA, none would require the use of the Project Site. Common song birds and raccoon do utilize and reside in the coastal</p>

	scrub vegetation at the Project Site.
b(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance.	Common species such as raccoon and the resident song bird population are highly adaptable to short-term human disturbances. The Project will displace a portion of the song bird population during the construction phase; however, with the implementation of the restoration plan the habitat will support greater native plant diversity which in the long-term will create higher quality wildlife habitat, especially for the resident song birds. It is expected that common species will continue to utilize the coastal scrub habitat outside of the construction envelope during construction and post-construction.
b(iii) An assessment of the impact and activity levels of the proposed development on the resource.	Implementation of the mitigation and erosion control measures are expected to avoid impacts to the ESHAs during and post-development.
(c) Susceptibility of Parcel to Erosion. The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.	Due to the steepness of the slope, amount of unstable fill, lack of vegetation cover in slide areas, and the amount of vegetation removal required for the wall construction, the potential for erosion is high. However, the project proposes robust and extensive erosion control measures; the most important is the use of the "Super Silt Fence" to be placed at the limits of construction activities to prevent any sediment and/or debris from entering the EHSA. At present the entire bluff is susceptible to eroding at an accelerated rate with the consequent risks of increased sediment delivery to the ESHAs, loss of coastal scrub due to slides, and loss of land for the Surf Center buildings and Gualala Bluff Trail.
(d) Use of Natural Topographic Features to Locate Development	The development and buffer locations are pre-determined by the location of the unstable bluff and location of the slide areas.
(e) Use of Existing Cultural Features to Locate Buffer Zones. Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals,	The development and buffer locations are pre-determined by the location of the unstable bluff and location of the slide areas, therefore the wall cannot be located any further away from the ESHA.

flood control channels, etc., away from the ESHA.	
(f) Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection.	The project has been designed to reduce the amount of vegetation removal and the landowner has proposed appropriate mitigation measures.
(g) Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.	The development is proposed to prevent continued erosion and protect the water quality of adjacent ESHAs. Construction activities are expected to be completed within one (1) construction season.
(2) Configuration. The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).	The buffer widths were measured from the mean high tide to the limit of construction activities, which correspond to the west edge of soil disturbance. The mean high tide line encompasses the landward edge of the estuarine wetland and was therefore chosen to represent the "outside edge" of the ESHAs.
(3) Land Division. New subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.	The applicant does not propose subdividing the property or adjusting the boundary lines.
(k) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.	The proposed Project will not have a significant impact on the environment if the recommended mitigations are implemented.

IMPACT ANALYSIS AND MITIGATION MEASURES

The project includes development within the standard 100ft. buffer to the off-site Gualala River Estuary and estuarine/intertidal wetland ESHAs. The Reduced Buffer Zone Analysis demonstrates that with the implementation of the proposed mitigation and protective measures, the buffer is sufficient to protect the ESHAs. No development or construction related activities are proposed within the buffer; only weed control and habitat restoration will occur in the buffer.

Since the proposed wall can be located no further from the ESHAs, the only possible alternative would be no project. As discussed in the Project Site Description section of this report, the bluff will remain susceptible to slides and accelerated erosion rates with the consequent risk of future catastrophic sediment input into the Gualala estuary, and loss of land supporting the coastal scrub community, Surf Center buildings, and the Gualala Bluff Trail. The "no project" alternative would not implement a program to control invasive weeds, which are encroaching upon and crowding out native species. In the long term, the Project as proposed is less environmentally damaging than the "no project" alternative.

The following analysis of potential impacts to the off-site ESHAs and on-site northern coastal scrub habitat further elucidates the protective measures and proposed mitigations that will prevent and mitigate any negative construction-related impacts while enhancing the habitat conditions and protecting the resource from future erosion and loss of land.

Potential Impact 1: Impacts to northern coastal scrub habitat and function

Native northern coastal scrub habitat is an inherently valuable natural resource that provides many biological values and functions, including habitat for many species of wildlife, native plant biodiversity, and aesthetic and scenic values. Dense, mature coastal scrub with a variety of deep-rooted shrubs and perennial herbs can effectively armor coastal bluff areas with natural vegetation, preventing erosion and protecting the water quality of adjacent open waters.

The habitat values, scenic values and bluff stabilizing function of coastal scrub vegetation at the Project Site have been subject to cumulative negative impacts through a series of historic events. Construction of a railroad grade around the turn of the twentieth century first altered and destabilized the natural slope. A large quantity of imported fill was later added to level the western portion of the property and raise the bluff top. The placement of this non-compacted fill increased the potential for erosion. Weed seeds were imported as fill contaminants and the subsequent widespread establishment of invasive weeds degraded the coastal scrub habitat. Recent debris slides removed more scrub vegetation and caused both fill and invasive weed populations to move further down the slope. Construction of the proposed new retaining wall, which is necessary to prevent future debris slides, would result in additional removal of scrub vegetation and has the potential to increase weed cover.

These impacts could be mitigated with the development of a comprehensive, long-term plan to restore the original habitat values and slope stabilizing function of coastal scrub vegetation at the Project Site. The plan should utilize native plantings based on the results of the plant inventory (Appendix C) and habitat conditions and should be designed to revegetate disturbed areas and bare soil, restore stable northern coastal scrub all along the length of the bluff, and eliminate invasive weeds. It is recommended that the plan be implemented by a professional restoration company such as Circuit Riders, Inc. and incorporate a restoration monitoring component. Ideally a cooperative effort would be

forged between the landowner and RCLC as well as the local Dorothy King Young Chapter of the California Native Plant Society (CNPS) and possibly the Mendocino Coast Cooperative Weed Management Area (WMA) to address the concerns and tap the expertise of interested community members to achieve the most benefit. In this vein, the Gualala Municipal Advisory Council has recommended that the landowner and RCLC work together, and Lori Hubbard, CNPS chapter president, suggested a cooperative vegetation management program in a letter to the County dated January 7, 2007. It is our understanding that the landowner would welcome input from these organizations regarding design as well as potential volunteer participation in weed control and monitoring efforts.

The following specific recommendations are offered to guide the final restoration plan.

- Schedule a site visit by a restoration professional prior to the onset of construction activities to examine pre-construction conditions and to locate occurrences of invasive weeds, noting in particular those areas where invasive weeds are rooted in the middle slope and lower bluff toe areas.
- Retain as many of the existing large blue blossom and silk tassel bush as possible.
- Utilize existing native shrubs species in the plantings: silk tassel bush, blue blossom, coyote brush, thimbleberry, California blackberry, and oso berry.
- Use large-size (5gal. or greater) container shrubs and provide irrigation as needed.
- Install erosion control fabric on filled areas and other bare soil, densely seeding these areas with fast-growing native perennial California brome to help hold the soil in the first year after construction and to outcompete non-native velvet grass and other weeds.
- Remove jubata grass and pride of Madeira (*Echium*) from the toe of the bluff, replacing these species with native shrubs.
- Focus weed eradication strategies on eliminating the most noxious of the invasive weeds (Himalayan blackberry, capeweed, greater periwinkle, jubata grass, ice plant, and pride of Madeira), and devise follow-up strategies to eliminate and/or control poison hemlock, wild radish, velvet grass, Harding grass, wild teasel, bull thistle, and Italian thistle.
- Design and implement a long-term monitoring effort and make modifications to the restoration plan as needed.

Potential Impact 2: Impacts to water quality in the Gualala River Estuary and adjacent estuarine/intertidal wetland

During construction and until vegetation is established, the potential exists for erosion and sediment delivery to the estuary. There is also the potential for falling debris during construction of the project.

The Project includes extensive protective measures to avoid impacts to the off-site Gualala River Estuary and estuarine/intertidal wetland ESHAs during and post-construction.

- Implementation of a Storm Water Pollution Prevention Plan (SWPPP) consisting of site-specific measures to reduce impacts to water quality and protect the adjacent estuarine habitats during construction.
- Adoption of 20-25 construction site best management practices (BMPs) in the SWPPP.
- Use of the reinforced "Super Silt Fence" at the limits of construction to prevent sediment, rock, debris and/or other materials from entering the ESHAs during construction.
- The implementation of the comprehensive restoration plan will not only revegetate disturbed areas reducing the potential for erosion, but also will restore the historically altered coastal scrub habitat all along the length of the bluff and eliminate the widespread invasive weeds. The restored coastal scrub habitat will produce greater native plant biodiversity, in turn creating higher quality wildlife habitat with pleasing aesthetic and scenic values.
- Scheduling project activities during the dry season.
- Early completion of the project to allow vegetative erosion control measures to start to become effective prior to the rainy season.

Potential Impact 3: Impacts to wildlife species

The Project has potential to impact wildlife species in the vicinity of the Project Site during the noise-generating phase and to affect resident common species during the excavation and vegetation removal phase. The robust erosion control measures will avoid any sediment caused impacts to wildlife within the Gualala River Estuary and intertidal wetland ESHAs.

Song birds, such as the coastal resident white-crowned sparrow (*Zonotrichia leucophrys nuttalli*) and several species of hummingbirds utilize and undoubtedly nest in the on-site coastal scrub. Those birds within the construction limits will be temporarily displaced. The January wildlife survey effort detected sign of raccoon (*Procyon lotor*) and woodrat (*Neotoma fuscipes*) on the Project Site, but outside of the limits of construction. Two raccoon dens and scat of woodrat were found at the toe of the bluff in openings in the

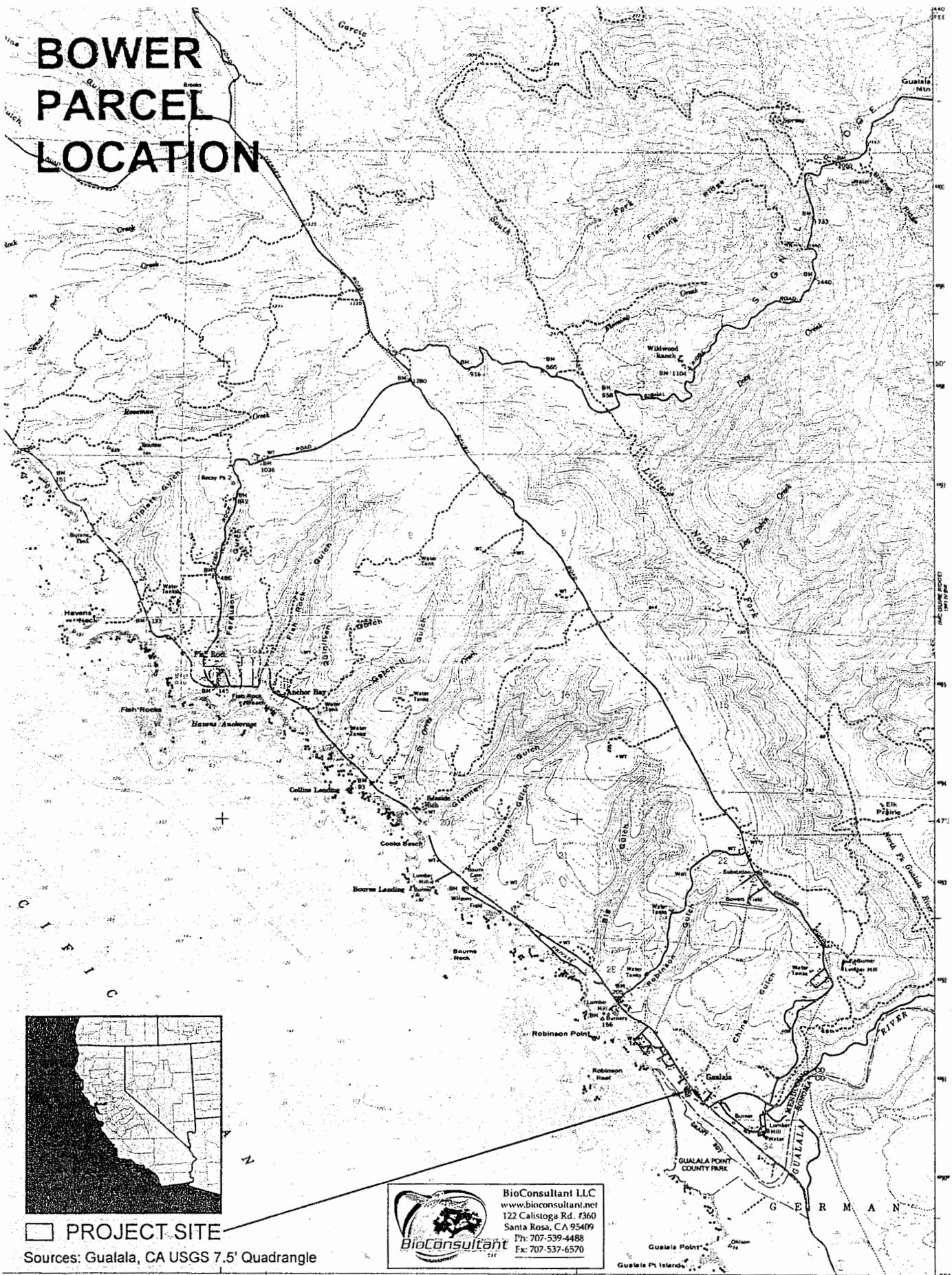
bedrock. Both of these species are highly adaptable to noise and human related activities, and are not expected to be significantly affected.

Harbor seals (*Phoca vitulina*) and brown pelicans (*Pelecanus occidentalis*) are known to occur across the Gualala River at highly visited Gualala Regional Point Park (0.5mi.). The distance, the physical barrier of the estuary, and the habituation capabilities of the harbor seal should be sufficient to avoid significant disturbance. The peak in the noise generating activities will occur prior to the late summer arrival of the brown pelican and therefore should not cause significant impacts.

The following recommendations are offered to minimize impacts to the resident avifauna.

- Schedule the excavation and vegetation removal activities after May 15th. This should allow the white-crowned sparrow and the hummingbirds sufficient time to successfully fledge one brood. Both the sparrow and the hummingbirds have relatively early nesting dates and usually lay several clutches.
- Implement the restoration plan and invasion weed control program to enhance the coastal scrub habitat, which in the long-term will support greater native plant biodiversity, and create high quality wildlife habitat for the resident avifauna.

BOWER PARCEL LOCATION



PROJECT SITE

Sources: Gualala, CA USGS 7.5' Quadrangle



BioConsultant LLC
 www.bioconsultant.net
 122 Calistoga Rd. #360
 Santa Rosa, CA 95409
 Ph: 707-539-4488
 Ex: 707-537-6570

Figure 1. Bower Project parcel location map.

CALIFORNIA ROUTE 1

APN 145-261-12

APN 145-261-13

APN 145-261-05

APN 145-261-14

BASIS OF BEARING
N25°44'02"E
PKA OF

GUALALA RIVER

LANDS OF SONOMA COUNTY

APN: 145-261-13

APN: 145-261-05

1/2 TRAIL EASEMENT
PER ROS 006 P14

1/2 TRAIL EASEMENT
PER ROS 006 P14

GUALALA WOODS
FT. ELEV. 55.003

GUALALA BUILDINGS
FT. ELEV. 55.875

SHORE PROTECT
FT. ELEV. 58.431

SHORE SURF MARKET IMP
FT. ELEV. 40.105

GRAPHIC SCALE
0 10 20 30
FOOT (1:12.5)

RAU AND ASSOCIATES INC.
CIVIL ENGINEERS - LAND SURVEYORS
120 KORN PARK STREET - (707) 463-4336 - UCAH, CA 94942

DRAWING: BOTANICAL SURVEY EXHIBIT
CONSTRUCTION ACTIVITY ZONE
PROJECT: SURF MARKET IMPROVEMENTS

DATE	REVISION	BY
12/8/06	WALL CROSS SECTIONS	DNA

GUYER: BOWER LIMITED TRUST
BOWER LIMITED PARTNERSHIP
LOCATION: 39200 - 39250 S. HIGHWAY 1
GUALALA, CALIFORNIA

DATE: August 2007
SCALE: AS SHOWN
SHEET NO. 1
OF 1



Photo 1: The view is looking to the north and shows the newly created Gualala Bluff Trail. Note the tall weedy vegetation adjacent to the trail at the bluff top area.



Photo 2: A view of the failed wall and the upper slide area near the bluff edge. Note the lack of stabilizing scrub vegetation, amount of bare soil, and presence of invasive species.

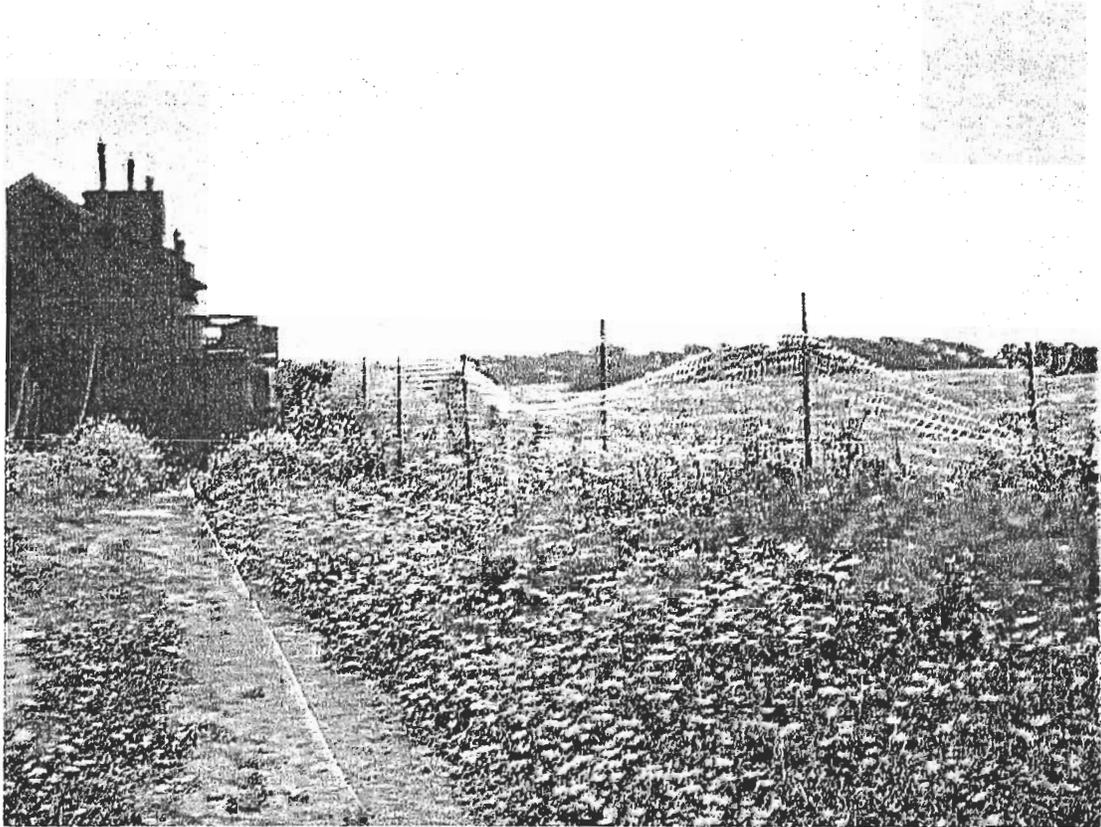


Photo 3: The view is looking south at a carpet of the invasive capeweed mixed with other weedy exotic species occurring above the southerly slide area.



Photo 4: A view of the inertial area: the Gualala River and the wetland with pockets of estuarine vegetation.

Appendix A

California Department of Fish and Game- Natural Diversity Database

Plants & Communities for quads: Mallo Pass Creek, Point Arena, Eureka Hill, Saunders Reef, Gualala, McGuire Ridge, Stewarts Point.

Scientific Name/Common Name	Element Code	Federal Status	State Status	GRank	SRank	CDFG or CNPS
1 <i>Abronia umbellata ssp. breviflora</i> pink sand-verbena	PDNYC010N2			G4G5T2	S2.1	1B.1
2 <i>Agrostis blasdalei</i> Blasdale's bent grass	PMPOA04060			G2	S2.2	1B.2
3 <i>Agrostis clivicola var. punta-reyesensis</i> Point Reyes bent grass	PMPOA040A2			G3?T1Q	S1.2	
4 <i>Astragalus agnicidus</i> Humboldt milk-vetch	PDFAB0F080		Endangered	G2	S2.1	1B.1
5 <i>Calystegia purpurata ssp. saxicola</i> coastal bluff morning-glory	PDCON040D2			G4T2	S2.2	1B.2
6 <i>Campanula callornica</i> swamp harebell	PDCAM02060			G3	S3.2	1B.2
7 <i>Carex callornica</i> California sedge	PMCYP032D0			G5	S2?	2.3
8 <i>Carex lyngbyei</i> Lyngbye's sedge	PMCYP037Y0			G5	S2.2	2.2
9 <i>Carex saliniformis</i> deceiving sedge	PMCYP03BY0			G2	S2.2	1B.2
10 <i>Castilleja ambigua ssp. humboldtiensis</i> Humboldt Bay owl's-clover	PDSCR0D402			G4T2	S2.2	1B.2
11 <i>Castilleja mendocinensis</i> Mendocino coast Indian paintbrush	PDSCR0D3N0			G2	S2.2	1B.2
12 <i>Coastal Brackish Marsh</i>	CTT52200CA			G2	S2.1	
13 <i>Coastal Terrace Prairie</i>	CTT41100CA			G2	S2.1	
14 <i>Coastal and Valley Freshwater Marsh</i>	CTT52410CA			G3	S2.1	
15 <i>Cupressus goveniana ssp. pigmaea</i> pygmy cypress	PGCUP04032			G2T2	S2.2	1B.2
16 <i>Erigeron supplex</i> supple daisy	PDAST3M3Z0			G1	S1.1	1B.2
17 <i>Fritillaria roderickii</i> Roderick's fritillary	PMLILOV0M0		Endangered	G1Q	S1.1	1B.1
18 <i>Gilia capitata ssp. pacifica</i> Pacific gilia	PDPLM040B6			G5T3T4	S2.2?	1B.2
19 <i>Gilia capitata ssp. tomentosa</i> woolly-headed gilia	PDPLM040B9			G5T1	S1.1	1B.1
20 <i>Glycerla grandis</i> American manna grass	PMPOA2Y080			G5	S1.3?	2.3
21 <i>Grand Fir Forest</i>	CTT82120CA			G1	S1.1	
22 <i>Hesperexax sparsiflora var. brevifolia</i> short-leaved exax	PDASTE5011			G4T3	S3.2	2.2
23 <i>Horkelia marinensis</i> Point Reyes horkelia	PDROS0W0B0			G2	S2.2	1B.2
24 <i>Horkelia tenuiloba</i> thin-lobed horkelia	PDROS0W0E0			G2	S2.2	1B.2
25 <i>Lasthenia conjugens</i> Contra Costa goldfields	PDAST5L040	Endangered		G1	S1.1	1B.1

Appendix A

California Department of Fish and Game- Natural Diversity Database

Plants & Communities for quads: Mallo Pass Creek, Point Arena, Eureka Hill, Saunders Reef, Gualala, McGuire Ridge, Stewarts Point.

Scientific Name/Common Name	Element Code	Federal Status	State Status	GRank	SRank	CDFG or CNPS
26 <i>Lasthenia macrantha ssp. bakeri</i> Baker's goldfields	PDAST5L0C4			G3TH	SH	1B.2
27 <i>Lasthenia macrantha ssp. macrantha</i> perennial goldfields	PDAST5L0C5			G3T2	S2.2	1B.2
28 <i>Lilium maritimum</i> coast lily	PMLIL1A0C0			G2	S2.1	1B.1
29 <i>Lycopodium clavatum</i> running-pine	PPLYC01080			G5	S3.2	2.2
30 <i>Northern Coastal Bluff Scrub</i>	CTT31100CA			G2	S2.2	
31 <i>Northern Coastal Salt Marsh</i>	CTT52110CA			G3	S3.2	
32 <i>Sidalcea calycosa ssp. rhizomata</i> Point Reyes checkerbloom	PDMAL11012			G5T2	S2.2	1B.2
33 <i>Sidalcea malachroides</i> maple-leaved checkerbloom	PDMAL110E0			G3G4	S3S4.2	4.2
34 <i>Sidalcea malviflora ssp. purpurea</i> purple-stemmed checkerbloom	PDMAL110FL			G5T2	S2.2	1B.2

Appendix B

Special-status Plants with Potential to Occur in the Study Area Vicinity

Sources: CDFG Natural Diversity Database (2007) and CNPS Electronic Inventory of Rare and Endangered Plants

Scientific Name	Common Name	Federal Status	State Status	CNPS List	Blooms
<i>Abronia umbellata</i> ssp. <i>breviflora</i>	pink sand-verbena			List 1B.1	Jun-Oct
<i>Agrostis blasdalei</i>	Blasdale's bent grass			List 1B.2	May-Jul
<i>Agrostis clivicola</i> var. <i>punta-reyesensis</i>	Point Reyes bent grass			None	May-Jul
<i>Angelica lucida</i>	sea-walch			List 4.2	May-Sep
<i>Astragalus agnicidus</i>	Humboldt milk-vetch		Endangered	List 1B.1	Apr-Aug
<i>Astragalus breweri</i>	Brewer's milk-vetch			List 4.2	Apr-Jun
<i>Calamagrostis bolanderi</i>	Bolander's reed grass			List 4.2	May-Aug
<i>Calamagrostis foliosa</i>	leafy reed grass		Rare	List 4.2	May-Sep
<i>Calamagrostis ophitidis</i>	serpentine reed grass			List 4.3	Apr-Jul
<i>Calandrinia breweri</i>	Brewer's calandrinia			List 4.2	Mar-Jun
<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory			List 1B.2	May-Sep
<i>Campanula californica</i>	swamp harebell			List 1B.2	Jun-Oct
<i>Carex californica</i>	California sedge		California	List 2.3	May-Aug
<i>Carex lyngbyei</i>	Lyngbye's sedge			List 2.2	May-Aug
<i>Carex saliniformis</i>	deceiving sedge			List 1B.2	Jun(Jul)
<i>Castilleja ambigua</i> ssp. <i>humboldtiensis</i>	Humboldt Bay owl's-clover			List 1B.2	Apr-Aug
<i>Castilleja mendocinensis</i>	Mendocino coast Indian paintbrush			List 1B.2	Apr-Aug
<i>Ceanothus gloriosus</i> var. <i>gloriosus</i>	Point Reyes ceanothus			List 4.3	Mar-May
<i>Cupressus goveniana</i> ssp. <i>pigmaea</i>	pygmy cypress			List 1B.2	
<i>Cypripedium fasciculatum</i>	clustered lady's-slipper			List 4.2	Mar-Aug
<i>Cypripedium montanum</i>	mountain lady's-slipper			List 4.2	Mar-Aug
<i>Epilobium septentrionale</i>	Humboldt County fuchsia			List 4.3	Jul-Sep
<i>Erigeron biolettii</i>	streamside daisy			List 3	Jun-Oct
<i>Erigeron decumbens</i> var. <i>robustior</i>	robust daisy			List 4.3	Jun-Jul
<i>Erigeron supplex</i>	supple daisy			List 1B.2	May-Jul
<i>Fritillaria agrestis</i>	stinkbells			List 4.2	Mar-Jun
<i>Fritillaria roderickii</i>	Roderick's fritillary		Endangered	List 1B.1	Mar-May
<i>Gilia capitata</i> ssp. <i>pacifica</i>	Pacific gilia			List 1B.2	Apr-Aug
<i>Gilia capitata</i> ssp. <i>tomentosa</i>	woolly-headed gilia			List 1B.1	May-Jul
<i>Glyceria grandis</i>	American manna grass			List 2.3	Jun-Aug
<i>Hemizonia congesta</i> ssp. <i>calyculata</i>	Mendocino tarplant			List 4.3	Jul-Nov
<i>Hemizonia congesta</i> ssp. <i>leucocephala</i>	Hayfield tarplant			List 3	Apr-Oct
<i>Hemizonia congesta</i> ssp. <i>tracyi</i>	Tracy's tarplant			List 4.3	May-Oct
<i>Hesperevax sparsiflora</i> var. <i>brevifolia</i>	short-leaved evax			List 2.2	Mar-Jun
<i>Horkelia marinensis</i>	Point Reyes horkelia			List 1B.2	May-Sep
<i>Horkelia tenuiloba</i>	thin-lobed horkelia			List 1B.2	May-Jul
<i>Iris longipetala</i>	coast iris			List 4.2	Mar-May
<i>Lasthenia conjugens</i>	Contra Costa goldfields	Endangered		List 1B.1	Mar-Jun
<i>Lasthenia macrantha</i> ssp. <i>bakeri</i>	Baker's goldfields			List 1B.2	Apr-Oct
<i>Lasthenia macrantha</i> ssp. <i>macrantha</i>	perennial goldfields			List 1B.2	Jan-Nov
<i>Lathyrus palustris</i>	marsh pea			List 2.2	Mar-Aug
<i>Leptosiphon acicularis</i>	bristly leptosiphon			List 4.2	Apr-Jul
<i>Lilium maritimum</i>	coast lily			List 1B.1	May-Aug
<i>Lilium rubescens</i>	redwood lily			List 4.2	Apr-Aug
<i>Listera cordata</i>	heart-leaved twayblade			List 4.2	Feb-Jul
<i>Lotus formosissimus</i>	harlequin lotus			List 4.2	Mar-Jul
<i>Lycopodium clavatum</i>	running-pine			List 2.3	Jun-Aug
<i>Microseris paludosa</i>	marsh microseris			List 1B.2	Apr-Jun(Jul)
<i>Mitella caulescens</i>	leafy-stemmed mitrewort			List 4.2	Apr-Oct
<i>Navarretia cotulifolia</i>	cotula navarretia			List 4.2	May-Jun
<i>Perideridia gairdneri</i> ssp. <i>gairdneri</i>	Gairdner's yampah			List 4.2	Jun-Oct
<i>Piperia candida</i>	white-flowered rein orchid			List 4.3	May-Sep
<i>Pityopus californicus</i>	California pinefoot		California	List 4.2	(Apr)May-Aug
<i>Pleuropogon californicus</i> var. <i>davyi</i>	Davy's semaphore grass			List 4.3	Mar-Jun
<i>Pleuropogon refractus</i>	nodding semaphore grass			List 4.2	Apr-Aug
<i>Ranunculus lobbii</i>	Lobb's aquatic buttercup			List 4.2	Feb-May
<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom			List 1B.2	Apr-Sep
<i>Sidalcea malachroides</i>	maple-leaved checkerbloom			List 4.2	Apr-Aug
<i>Sidalcea malviflora</i> ssp. <i>purpurea</i>	purple-stemmed checkerbloom			List 1B.2	May-Jun
<i>Stellaria littoralis</i>	beach starwort			List 4.2	Mar-Jul
<i>Trifolium buckwestiorum</i>	Santa Cruz clover			List 1B.1	Apr-Oct
<i>Veratrum fimbriatum</i>	fringed false-hellebore			List 4.3	Jul-Sep
<i>Zigadenus micranthus</i> var. <i>fontanus</i>	marsh zigadenus			List 4.2	Apr-Jul

Appendix C

List of all Plant Species Documented within the Survey Limits

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
FERNS AND ALLIES				
	Dryopteridaceae	<i>Polystichum munitum</i>	western sword fern	yes
	Equisetaceae	<i>Equisetum telmateia</i> ssp. <i>braunii</i>	giant horsetail	yes
	Polypodiaceae	<i>Polypodium</i> sp.	polypody	yes
	Pteridaceae	<i>Pentagramma triangularis</i> ssp. <i>triangularis</i>	goldback fern	yes
GYMNOSPERMS				
	Cupressaceae	<i>Cupressus macrocarpa</i>	Monterey cypress	no
	Pinaceae	<i>Pinus muricata</i>	Bishop pine	yes
		<i>Pseudotsuga menziesii</i> var. <i>menziesii</i>	Douglas-fir	yes
ANGIOSPERMS/DICOTS				
	Aizoaceae	<i>Carpobrotus edulis</i>	ice plant	no
	Anacardiaceae	<i>Toxicodendron diversilobum</i>	western poison oak	yes
	Apiaceae	<i>Angelica hendersonii</i>	angelica	yes
		<i>Conium maculatum</i>	poison hemlock	no
		<i>Oenanthe sarmentosa</i>	water-parsley	yes
		<i>Daucus pusillus</i>	rattlesnake weed	yes
	Apocynaceae	<i>Vinca major</i>	greater periwinkle	no
	Asteraceae	<i>Achillea millefolium</i>	yarrow	yes
		<i>Arctotheca calendula</i>	capeweed	no
		<i>Artemisia douglasiana</i>	mugwort	yes
		<i>Baccharis pilularis</i>	coyote brush	yes
		<i>Carduus pycnocephalus</i>	Italian thistle	no
		<i>Cirsium vulgare</i>	bull thistle	no
		<i>Cotula coronopifolia</i>	brass buttons	no
		<i>Eriophyllum staechadifolium</i>	seaside woolly sunflower	yes
		<i>Lessingia filaginifolia</i> var. <i>californica</i>	California-aster	yes
		<i>Leontodon taraxacoides</i> ssp. <i>taraxacoides</i>	hawkbit	no
		<i>Sonchus asper</i> ssp. <i>asper</i>	prickly sow thistle	no
	Boraginaceae	<i>Echium pininana</i>	pride of Madeira	no
	Brassicaceae	<i>Barbarea orthoceras</i>	wintercress	yes
		<i>Cardamine oligosperma</i>	bitter-cress	yes
		<i>Raphanus raphanistrum</i>	wild radish	no
	Caprifoliaceae	<i>Lonicera hispidula</i> var. <i>vacillans</i>	honeysuckle	yes
	Caryophyllaceae	<i>Silene gallica</i>	windmill pink	no
		<i>Spergularia rubra</i>	red sand-spurrey	no
	Convolvulaceae	<i>Calystegia purpurata</i> ssp. <i>purpurata</i>	climbing morning-glory	yes
	Crassulaceae	<i>Dudleya</i> sp.	live-forever	yes
	Cucurbitaceae	<i>Marah</i> sp.	man-root	yes
	Dipsacaceae	<i>Dipsacus fullonum</i>	wild teasel	no
	Fabaceae	<i>Lotus angustissimus</i>	slender lotus	no
		<i>Lotus corniculatus</i>	birdfoot trefoil	no
		<i>Lupinus</i> sp.	lupine	yes
		<i>Medicago polymorpha</i>	California burclover	no
		<i>Trifolium repens</i>	white clover	no
		<i>Trifolium wormskioldii</i>	cows clover	yes

Appendix C

List of all Plant Species Documented within the Survey Limits

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
	Fabaceae	<i>Vicia benghalensis</i>	purple vetch	no
	Garryaceae	<i>Garrya elliptica</i>	silk tassel bush	yes
	Geraniaceae	<i>Geranium carolinianum</i>	Carolina geranium	yes
	Lamiaceae	<i>Mentha pulegium</i>	pennyroyal	no
		<i>Stachys ajugoides</i> var. <i>rigida</i>	hedge nettle	yes
	Papaveraceae	<i>Eschscholzia californica</i>	California poppy	yes
	Plantaginaceae	<i>Plantago lanceolata</i>	English plantain	no
	Polemoniaceae	<i>Navarretia squarrosa</i>	skunkweed	no
	Polygonaceae	<i>Rumex acetosella</i>	sheep sorrel	no
		<i>Rumex pulcher</i>	fiddle dock	no
		<i>Rumex salicifolius</i>	willow dock	yes
	Primulaceae	<i>Anagallis arvensis</i>	scarlet pimpernel	no
	Rhamnaceae	<i>Ceanothus thyrsiflorus</i>	blue blossom	yes
	Rosaceae	<i>Oemleria cerasiformis</i>	oso berry	yes
		<i>Potentilla anserina</i> ssp. <i>pacifica</i>	silverweed	yes
		<i>Rosa nutkana</i> var. <i>nutkana</i>	nootka rose	yes
		<i>Rubus discolor</i>	Himalayan blackberry	no
		<i>Rubus parviflorus</i>	thimbleberry	yes
		<i>Rubus ursinus</i>	California blackberry	yes
	Rubiaceae	<i>Galium aparine</i>	goose grass	yes
	Salicaceae	<i>Salix lasiolepis</i>	arroyo willow	yes
	Scrophulariaceae	<i>Castilleja wightii</i>	coast paintbrush	yes
		<i>Mimulus aurantiacus</i>	bush monkeyflower	yes
		<i>Scrophularia californica</i>	figwort	yes
		<i>Veronica catenata</i>	chain speedwell	no
	Solanaceae	<i>Solanum furcatum</i>	nightshade	no
	Tropaeolaceae	<i>Tropaeolum majus</i>	garden nasturtium	no
	Urticaceae	<i>Urtica dioica</i>	stinging nettle	yes
	Araceae	<i>Zantedeschia aethiopica</i>	calla lily	no
	Cyperaceae	<i>Carex harfordii</i>	Harford's sedge	yes
		<i>Carex nudata</i>	naked sedge	yes
		<i>Carex obnupta</i>	slough sedge	yes
		<i>Cyperus eragrostis</i>	tall flatsedge	yes
		<i>Eleocharis macrostachya</i>	spikerush	yes
	Iridaceae	<i>Iris douglasiana</i>	Douglas's iris	yes
	Juncaceae	<i>Juncus effusus</i>	soft rush	yes
		<i>Juncus patens</i>	spreading rush	yes
	Liliaceae	<i>Agapanthus</i> sp.	lily-of-the-nile	no
	Poaceae	<i>Anthoxanthum odoratum</i>	sweet vernal grass	no
		<i>Avena barbata</i>	slender wild oat	no
		<i>Briza maxima</i>	quaking grass	no
		<i>Bromus carinatus</i> ssp. <i>carinatus</i>	California brome	yes
		<i>Bromus diandrus</i>	ripgut brome	no
		<i>Bromus hordeaceus</i>	soft chess	no
		<i>Cortaderia jubata</i>	jubata grass	no
		<i>Cynosurus echinatus</i>	hedgehog dogtail	no
		<i>Deschampsia cespitosa</i>	tufted hairgrass	yes
		<i>Hordeum brachyantherum</i> ssp. <i>californicum</i>	meadow barley	yes
		<i>Hordeum murinum</i> ssp. <i>leporinum</i>	barley	no

Appendix C

List of all Plant Species Documented within the Survey Limits

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
	Poaceae	<i>Holcus lanatus</i>	velvet grass	no
		<i>Lolium multiflorum</i>	annual ryegrass	no
		<i>Phalaris aquatica</i>	harding grass	no
		<i>Poa annua</i>	annual bluegrass	no
		<i>Polypogon monspeliensis</i>	annual beard grass	no
		<i>Vulpia bromoides</i>	six-weeks fescue	no

Appendix D

BMP Consideration Checklist

CONSTRUCTION SITE BMPs CONSIDERATION CHECKLIST					
The BMPs listed here should be considered for every project. Those BMPs that are not included in the SWPPP must be checked as "Not Used" with a brief statement describing why it is not being used.					
EROSION CONTROL BMPs					
BMP No.	BMP	CONSIDERED FOR PROJECT	CHECK IF USED	CHECK IF NOT USED	COMMENTS
EC-1	Scheduling	x	x		
EC-2	Preservation of Existing Vegetation	x	x		
EC-3	Hydraulic Mulch	x	x		Bonded fiber matrix
EC-4	Hydroseeding	x	x		
EC-5	Soil Binders	x		x	
EC-6	Straw Mulch	x	x		As needed
EC-7	Geotextiles & Mats	x	x		
EC-8	Wood Mulching	x		x	
EC-9	Earth Dikes & Drainage Swales	x			maybe
EC-10	Velocity Dissipation Devices	x		x	
EC-11	Slope Drains	x	x		
EC-12	Streambank Stabilization	x	x		Incorporates most of the above BMPs

**CONSTRUCTION SITE BMPs
CONSIDERATION CHECKLIST**

The BMPs listed here should be considered for every project. Those BMPs that are not included in the SWPPP must be checked as "Not Used" with a brief statement describing why it is not being used.

SEDIMENT CONTROL BMPs

BMP No.	BMP	CONSIDERED FOR PROJECT	CHECK IF USED	CHECK IF NOT USED	COMMENTS
SE-1	Silt Fence	x	x		Super Silt Fence; also catches rock debris
SE-2	Sediment Basin	x		x	
SE-3	Sediment Trap	x		x	
SE-4	Check Dam	x		x	
SE-5	Fiber Rolls	x	x		
SE-6	Gravel Bag Berm	x		x	
SE-7	Street Sweeping and Vacuuming	x	x		In parking lot and on HWY 1
SE-8	Sand Bag Barrier	x	x		
SE-9	Straw Bale Barrier	x		x	
SE-10	Storm Drain Inlet Protection	x	x		

WIND EROSION CONTROL BMPs

WE-1	Wind Erosion Control	x	x		Water truck for dust control
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TRACKING CONTROL BMPs

TC-1	Stabilized Construction Entrance/Exit	x	x		
TC-2	Stabilized Construction Roadway	x		x	
TC-3	Entrance/Outlet Tire Wash	x	x		

**CONSTRUCTION SITE BMPs
CONSIDERATION CHECKLIST**

The BMPs listed here should be considered for every project. Those BMPs that are not included in the SWPPP must be checked as "Not Used" with a brief statement describing why it is not being used.

NON-STORM WATER MANAGEMENT BMPs

BMP No.	BMP	CONSIDERED FOR PROJECT	CHECK IF USED	CHECK IF NOT USED	COMMENTS
NS-1	Water Conservation Practices	x	x		
NS-2	Dewatering Operations	x	x		If needed
NS-3	Paving and Grinding Operations	x		x	Not part of project scope
NS-4	Temporary Stream Crossing	x		x	Not part of project scope
NS-5	Clear Water Diversion	x	x		Addresses site run-on
NS-6	Illicit Connection/ Discharge	x	x		
NS-7	Potable Water/Irrigation	x	x		Water for irrigation
NS-8	Vehicle and Equipment Cleaning	x	x		
NS-9	Vehicle and Equipment Fueling	x	x		
NS-10	Vehicle and Equipment Maintenance	x	x		
NS-11	Pile Driving Operations	x		x	
NS-12	Concrete Curing	x		x	
NS-13	Concrete Finishing	x		x	
NS-14	Material and Equipment Use Over Water	x	x		
NS-15	Demolition Adjacent to Water	x	x		
NS-16	Temporary Batch Plants	x		x	

**CONSTRUCTION SITE BMPs
CONSIDERATION CHECKLIST**

The BMPs listed here should be considered for every project. Those BMPs that are not included in the SWPPP must be checked as "Not Used" with a brief statement describing why it is not being used.

WASTE MANAGEMENT AND MATERIALS POLLUTION CONTROL BMPs

BMP No.	BMP	CONSIDERED FOR PROJECT	CHECK IF USED	CHECK IF NOT USED	COMMENTS
WM-1	Material Delivery and Storage	x	x		
WM-2	Material Use	x	x		
WM-3	Stockpile Management	x	x		
WM-4	Spill Prevention and Control	x	x		
WM-5	Solid Waste Management	x	x		
WM-6	Hazardous Waste Management	x	x		
WM-7	Contaminated Soil Management	x		x	No contaminated soil expected
WM-8	Concrete Waste Management	x	x		
WM-9	Sanitary/Septic Waste Management	x	x		
WM-10	Liquid Waste Management	x		x	



February 8, 2008

Mendocino County Board of Supervisors
County Administration Center
501 Low Gap Road
Room 1090
Ukiah, CA 95482

Subject: California Native Plant Society comments regarding CDP #55-2006-Bower

Dear Board of Supervisors,

The purpose of this letter is to address comments made by the Dorothy King Young Chapter of the California Native Plant Society (CNPS) in a letter to the Mendocino County Department of Planning and Building Services (County) regarding CDP #55-2006. In the letter, dated November 16, 2007, CNPS recommends that the County deny the CDP partly on the basis of perceived deficiencies in the botanical survey report prepared by BioConsultant LLC, titled: **BOTANICAL SURVEY-Bower LLP Project-Gualala** (APN 145-261-013 & 005) (August 2007). The following responses pertain to CNPS comments regarding this document.

- 1. CNPS claims that the botanical report lacks some components of a scientifically sound botanical survey, including descriptions of protocols and methodology, and asserts that the time period covered by the field surveys was not adequate to identify all plants occurring on or adjacent to the Project Site.**

As is stated on p. 4 of the report, the survey was conducted pursuant to the California Department of Fish and Game (CDFG) *Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities* (Revised May 8, 2000). The report provides specifics of methodology on p. 4-5.

Prior to conducting the field surveys, BioConsultant LLC queried the CDFG and CNPS databases for special-status plants known from seven USGS 7.5' quadrangles surrounding the Project Site (see p. 4 and Appendix B). Based on the on-site habitats the botanist developed a list of special-status plants with potential to occur within the habitats present at the Project Site (Table 1, p.7-8). Field surveys were conducted May 3, June 13, and July 5, 2007; these survey dates coincided with the blooming period of all of the potentially occurring special-status plants.



Moreover, the field survey dates encompassed a time period sufficient to identify all plants occurring on or near the Project Site. As required by the CDFG guidelines, the survey was floristic in nature, that is, every plant observed was identified to the extent necessary to determine its rarity and listing status. Appendix C of the report provides a complete list of all plants found within the survey limits.

2. **CNPS states that the botanical survey report does not contain a discussion of the subtle distinctions between coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*), a rare taxon, and climbing morning-glory (*C. purpurata* ssp. *purpurata*), a common taxon, and does not describe the methods that were used to determine that a population of climbing morning-glory is present at the Project Site.**

BioConsultant LLC's botanist has experience with the rare coastal bluff morning-glory, having identified 2 new populations in Mendocino County in 2006. The botanist studied the Project Site's morning-glory population in the field and collected specimens for subsequent laboratory analysis. She concluded that the population was intermediate in a number of characteristics but possessed the growth habit and an overall preponderance of leaf shape characteristics of the common subspecies. In the botanist's best professional judgment, it is a population of climbing morning-glory. Details of our analysis and consultations with CDFG and other experts are presented in the enclosed "Methods and analysis for BioConsultant LLC climbing morning-glory determination for CDP #55-2006-Bower."

3. **CNPS states that the document does not specify the biological survey area and lacks the information to determine if wetlands could exist on the site. The letter points to three wetland indicator species appearing in Appendix C of the botanical survey report as evidence that wetlands might exist on the site.**

The report clearly states that the survey limits included all areas of vegetation west of the Surf Center buildings (p. 2). Figure 2, a color aerial photograph of the Project Site and its surroundings, shows the vegetated areas west of the Surf Center with the outline of the subject property superimposed. The field surveys were conducted in vegetated areas immediately adjacent to the property on the north and south, and they covered all areas of vegetation from the west side of the Surf Center to the estuary.

The report identifies an off-site estuarine wetland comprised of mud flats in the intertidal area (p. 3, 6). The wetland indicator species cited by CNPS (*Oenante sarmentosa*, *Carex nudata*, and *Potentilla anserina* ssp. *pacifica*) are components of the estuarine wetland and do not occur elsewhere within the survey limits.



The report determined that no potential wetlands exist within the survey limits using the technical criteria for identifying wetlands contained in the Mendocino County Coastal

Element (Appendix D of the California Coastal Commission Statewide Interpretive Guidelines); therefore, no formal wetland delineation was performed. However, public concerns about potential wetlands had been raised due to the presence of a hydrophytic plant, giant horsetail (*Equisetum telmateia* ssp. *braunii*), on the upper bluff. As stated on p. 5, BioConsultant LLC staff determined, based upon an expert analysis of soil samples, that giant horsetail is growing in non-hydric soils. In a September 11, 2007 letter to County staff, BioConsultant LLC stated that neither hydric soils nor a preponderance of hydrophytic vegetation characterize the areas containing giant horsetail. Our findings regarding on-site wetlands are summarized on p. 5 ("Wetland Assessment"): "No wetlands, seeps, or riparian habitat were found within the Project Site."

- 4. CNPS suggests that the shrub-dominated community at the Project Site corresponds (in part or entirely) to Northern Coastal Bluff Scrub, a CNDDDB rare vegetation type, and that the report ignores the presence of another rare plant alliance dominated by mature silk tassel (*Garrya elliptica*) shrubs. CNPS asserts that these vegetation types are ESHAs.**

As stated in the report, dense northern coastal scrub is the predominant vegetation covering the coastal bluff (p. 5). The report provides a detailed description of the community and cites the corresponding community nomenclature according to the CDFG Vegetation and Mapping Program (2003) and the older Holland system (1986). The site does not contain a Northern Coastal Bluff Scrub community. While the two scrub communities have some features in common, they are recognizably different in stature, species composition, phenology and physical site factors. The plant community at the site unambiguously corresponds to northern coastal scrub. The document notes the presence of a large cluster of silk tassel bush: "Large stands of mature silk tassel bush and oso berry, both infrequently occurring native species, occur at mid-slope about halfway across the span" and describes silk tassel bush as an "important" but not a dominant shrub. The silk tassel bush cluster is too small to be considered a separate alliance. It should be noted that recent modifications to the design for the retaining wall preserve the existing silk tassel bush.

- 5. CNPS is critical of proposed project mitigations involving revegetation, restoration of coastal scrub, and elimination of invasive weeds, regarding the recommended methods to be insufficient to insure success. CNPS states that it is unrealistic to expect to accomplish weed control with volunteer labor.**

The report recommends the development of a comprehensive, long-term plan to restore the habitat values and slope-stabilizing function of native northern coastal scrub habitat, including commitments to long-term monitoring and ongoing modifications as needed



(adaptive management). While the report provides specific recommendations (p. 14-15) to guide the plan, this guidance is not meant to be technically detailed or comprehensive.

The key recommendation is that a professional restoration company design and implement the plan, incorporating technical methods suitable to the site.

The report does not recommend that weed control be achieved through volunteer labor. It does envision an ideal scenario in which the landowner, the Redwood Coast Land Conservancy, CNPS, and possibly the local Weed Management Area cooperate to achieve the most benefit, addressing public concerns and tapping community expertise (p. 14-15). The document states BioConsultant LLC's understanding that the landowner would welcome design input and "potential volunteer participation in weed control and monitoring efforts."

We hope that this clarification is helpful and are happy to respond to additional requests for information.

Sincerely,

Kim Fitts

Enclosure

Methods and analysis for BioConsultant LLC climbing morning-glory determination for CDP #55-2006-Bower

Coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*), a CNPS List 1B.2 taxon, is one of two subspecies of *C. purpurata*. The common subspecies, climbing morning-glory (*C. purpurata* ssp. *purpurata*), overlaps the rare subspecies in habitat and range. The two subspecies commonly intergrade and it is often difficult to distinguish between them. The recognized expert on California *Calystegia* and author of *The Jepson Manual*¹ treatment is Richard Brummitt, Ph.D., of Kew Gardens (London, England). Dr. Brummitt traveled to California for field studies in 2004.

The key features that most reliably distinguish the two subspecies are growth habit and leaf shape. The rare morning-glory clambers or climbs weakly on surrounding vegetation and has a majority of leaves with rounded tips and more-or-less closed sinuses. The common morning-glory is strongly climbing, twines around surrounding vegetation, and has a majority of leaves with pointed tips and open, v-shaped sinuses. Additional features that distinguish the rare morning-glory from the common subspecies are stem length (<1 meter vs. > 1 meter); leaf outline (ovate-triangular to kidney-shaped vs. triangular); leaf lobe outline (rounded vs. strongly angled); leaf margins (more-or-less wavy vs. not wavy); and flower bractlets (often alternate and lobed vs. opposite and unlobed).

BioConsultant LLC botanist Linda Esposito studied the morning-glory population during the May, June, and July 2007 field investigations and collected pressed specimens for further study under the dissecting microscope. Kim Fitts, BioConsultant LLC wildlife biologist, collected one additional specimen during a brief site visit in September of 2007. Ms. Esposito's field and laboratory analysis concluded that the morning-glory population at the Project Site possesses the growth habit and an overall preponderance of leaf shape characteristics that distinguish the common taxon from the rare one. Morning-glory plants at the Project Site are strongly climbing and twining and possess a majority of leaves with pointed tips and open sinuses. Some leaves do display rounded tips and closed sinuses, but most of these are the less fully developed juvenile leaves at the tips of the vines. The analysis considered all of the contrasting taxonomic features. The population is intermediate in a number of characteristics and shows evidence of intergradation with coastal bluff morning-glory, but it is more similar to the common subspecies than to the rare taxon.

The botanist's experience with *C. purpurata* includes her identification of two new populations of the rare coastal bluff morning-glory north of Gualala in 2006; she has also observed a pure population of climbing morning-glory near Manchester. In 2004, she observed a number of intergrading populations in coastal Sonoma and Mendocino counties while engaged in rare plant surveys for California State Parks.

¹ Hickman, ed. 1993. *The Jepson Manual: Higher Plants of California*. University of California Press, Berkeley.

BioConsultant LLC discussed the findings as well as the distinctions between the two subspecies of *Calystegia* with Gene Cooley and Tracie Nelson of CDFG. Mr. Cooley referred Ms. Esposito to former CDFG timber botanist Clare Golec, who accompanied Dr. Brummitt during his recent *Calystegia* field studies on the Mendocino coast.

In a lengthy phone consultation in September of 2007, Ms. Golec stated that the most important features to consider in differentiating between the subspecies were growth habit and leaf shape, and that the key leaf tip and leaf sinus shape features should be considered in combination and not independently. Ms. Golec provided photographs of morning-glory populations seen during the trip, including a population in Gualala (Verran's property) that Dr. Brummitt considered to be an example of the rare coastal bluff morning-glory. She noted that the Verran's determination was the most difficult "call" of the entire trip. On examining the photographs, Ms. Esposito found that the leaves of the Verran's morning-glory plants had moderately pointed tips in combination with closed sinuses. As stated above, morning-glories at the Project Site have a preponderance of leaves with pointed tips combined with open sinuses. Ms. Esposito carefully considered all of the information provided by Ms. Golec and did not alter her initial conclusion that the population present at the site is the climbing morning-glory.

California Coastal Commission
North Coast District
1656 Union Street, Room 150
Eureka, California 95501
(707) 443-1623

49th : January 16, 1984
180th Day: May 26, 1984
Staff: /jp
Staff Report: November 28, 1983
Hearing Date: December 14-16, 1983
PC DD

STAFF REPORT: CONSENT CALENDAR

PROJECT DESCRIPTION

APPLICANT: John Bower

PERMIT NO. 1-83-270

PROJECT LOCATION: Westside of Highway One, adjacent to Gualala River, Gualala, Mendocino County.

PROJECT DESCRIPTION: Construction of a 120 foot long wooden retaining wall, west of existing market adjacent to bluff edge and Gualala River.

LOT AREA 26,250 sq.ft. ZONING C-3-5 (Commerical Highway Services)
BLDG. COVERAGE NA (LCP) PLAN DESIGNATION Commercial (C)
PAVEMENT COVERAGE NA PROJECT DENSITY NA
LANDSCAPE COVERAGE NA HEIGHT ABV. FIN. GRADE NA

LOCAL APPROVALS RECEIVED: None required

STAFF NOTES

SITE CHARACTERISTICS: Westerly slope 0-3% to a somewhat irregular bluff adjacent to Gualala River, average slope of bluff face is 3/4:1 to 1:1.

SURROUNDING LAND USE: Mixture of commercial uses on both sides

COASTAL ACT ISSUES: Sections 30235, 30253

STANDARD CONDITIONS: See Attachment #2

SPECIAL CONDITIONS:

EXHIBIT NO. 8
APPEAL NO.
1-83-270-A1
BOWER LIMITED PARTNERSHIP
ORIGINAL PERMIT STAFF REPORT (1 of 7)

- 1. Prior to transmittal of this permit the applicant shall agree, in a form acceptable to the Executive Director, to maintain the proposed retaining wall as well as the existing dedicated accessway. The applicant shall agree to maintain the accessway for a period of 21 years or until the accessway is accepted by either a public or private agency. The retaining wall shall be maintained for the life of the development on site. The offer shall bind any and all successors and assigns of the applicant or landowner.

Staff Report: John Bower
1-83-270

2. The approval is only for the work as submitted with this application and on file at the district office. The work shall be confined to Mendocino County Assessor parcel #145-261-05.

RESOLUTION:

Staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit for the proposed development subject to the Conditions above, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

FINDINGS:

Project Description: The proposed project consists of the construction of a bluff retaining wall approximately 120 foot long. The construction will consist of 12" to 16" x 14' to 16' long redwood poles set at 5' centers with 12" x 12" redwood planks set on landward side. The poles will be set 8' to 10' into the ground and cemented in place. The 12" x 12" planks will be spiked to poles and fill placed behind planks to restablize the eroded area (Exhibit 2). The project site is due west of an existing market approved by the Commission in 1980 (80-P-75). The site characteristics are of a westerly sloping parcel 0-3% to a somewhat irregular bluff adjacent to the Gualala River. The bluff is approximately 30' high with a bluff face of 3/4:1 to 1:1. The erosion is not taking place on the bluff face but landward of the bluff face thus the need for the retaining wall.

Project History: The Commission approved permit #80-P-75 on January 14, 1981 for the construction of a 11,235 sq.ft. retail grocery store. The permit was subject to the following conditions:

- A. A 25 foot lateral access as measured landward from the bluff edge.
- B. Waiver of Liability because of potential geologic hazards.

The conditions were met and the permit issued on April 27, 1981. In March of 1982 it was brought to the Commission staff's attention that the market was constructed closer to the bluff edge than allowed by permit #80-P-75 thus impacting on the lateral accessway. The problem was compounded by the 1982 winter rains which causes the bluff top erosion again reducing the area set aside for the lateral accessway. In working with the applicant to resolve all issues outlined above, the retaining wall was discussed as a viable solution to protect the accessway restore the lost portion of the accessway and protect the applicant's market.

Retaining Walls: Section 30235 of the Coastal Act provides that:

"Revetments, breakwaters, groins harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve

Staff Report: John Bower
1-83-270

coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigated adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible." (Emphasis added).

The wooden retaining wall is to be constructed to protect an existing Commission approved project (80-P-75) and to protect a dedicated lateral accessway. The project as proposed will not impact the shoreline sand supply or other natural processes as it will not extend to the rivers edge and is separated from the ocean shoreline by an semi-enclosed river system which is open to the ocean a few months out of the year.

Alteration of Land Forms: Section 30253(1) and (2) of the Coastal Act provides that:

"New development shall:

- 1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- 2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

In approving the original permit 80-P-75 the Commission required the submission of a geologic report. The report prepared by the firm of MOORE and TABER involved evaluation of long term performance of the bluff and foundation support for the structure adjacent to the bluff setback line.

With regards to the market site the report states that:

"The bluff is somewhat lower, more irregular, and the average slope is typically $\pm 3/4:1$ to $1:1$. The uniform, nearby level ground surface adjacent to the top of the bluff on this parcel results from at least two generations of fill. There appears to be little fill at the east side of parcel; ± 8 feet near the rear line of store site; and as much as 12 feet on the old railroad grade at the top of the bluff. None of the fill is known to have been placed to typical engineering standards." (Reconnaissance Report for Supermarket Site pp.4 Geologic/Soils Evaluation, Moore & Taber, December 5, 1980).

On page 7 of the above identified report it further states that:

"The surface of the fill appears to have been reworked recently and new fill has been placed along the top of the bluff. Small cracks suggest incipient development of small slump features at the crown of the fill slope."

The storms of the 1982 winter dropped approximately 109" of rain along this section of the California coast. This rainfall combined with the recent construction work on the market aggravated the slumping problem and caused the top of the slope erosion, thus the need for the retaining wall. In this instance, an existing building is threatened with structural instability and a portion of lateral accessway may be lost. The construction proposed will remedy the problem with a minimum of landform alterations. The Commission finds that the project as proposed and conditioned is consistent with Section 30253(1) and (2) of the Coastal Act.

Staff Report: John Bower
1-83-270

Access: The project is located west of first public road (Highway One) thus is subject to the access conditions of the Coastal Act. The Commission approved permit #80-P-75 in January 1981. The permit was for the construction of a convenience store. As part of approval was the condition for lateral access. The access offer was recorded and the permit issued in April 1981. Thus the project is consistent with Section 30212 of the Coastal Act.

Local Coastal Program: The project site is located within an area designated as commercial highway services. The proposed project will protect an existing Commission approved project and accessway and will in no way prejudice the final preparation of the County of Mendocino's Local Coastal Program.

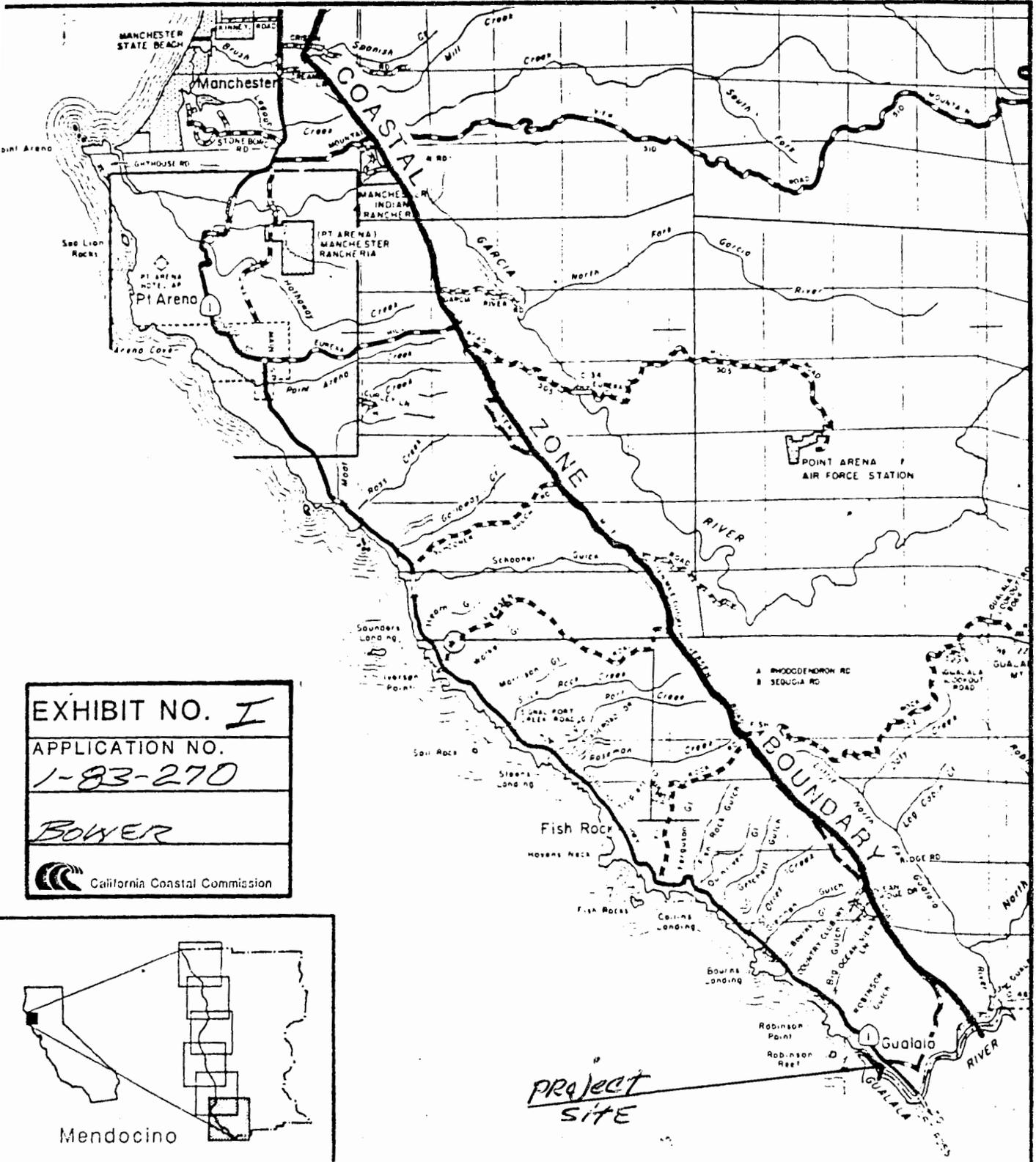


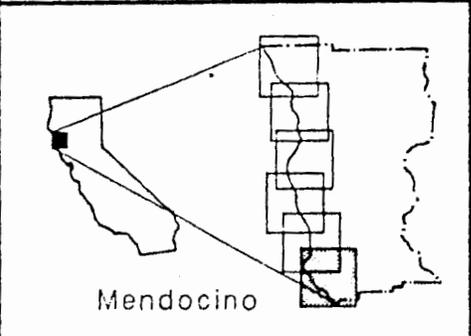
EXHIBIT NO. *I*

APPLICATION NO.
1-83-270

BOWER



California Coastal Commission



PROJECT SITE



LOCATION MAP



California Coastal Commission

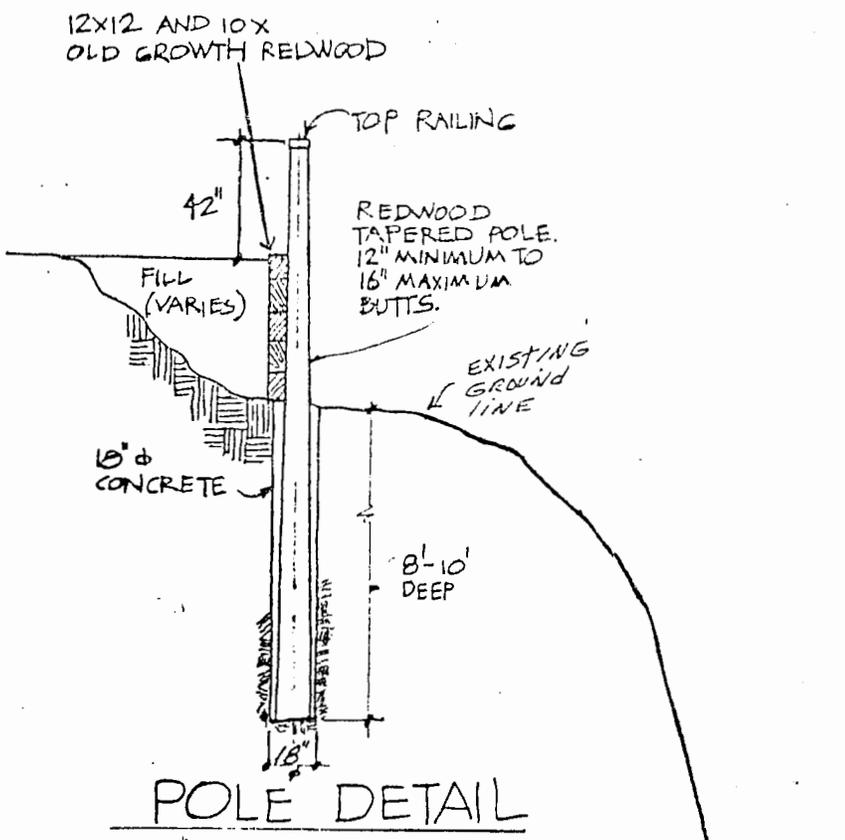
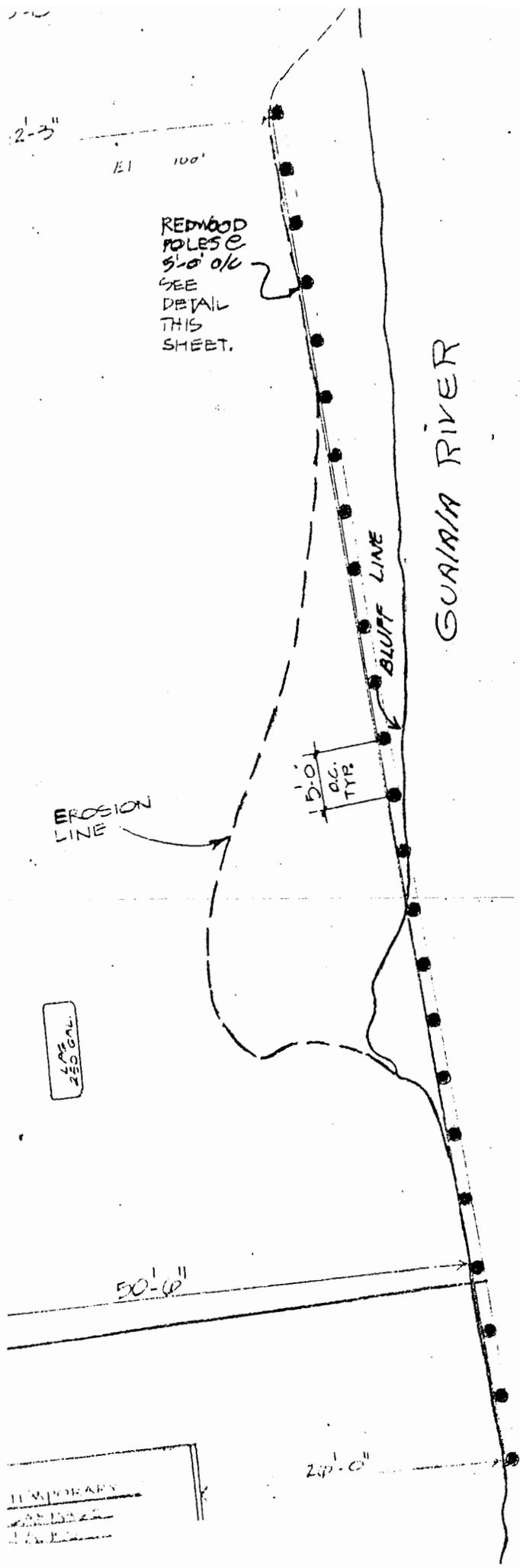
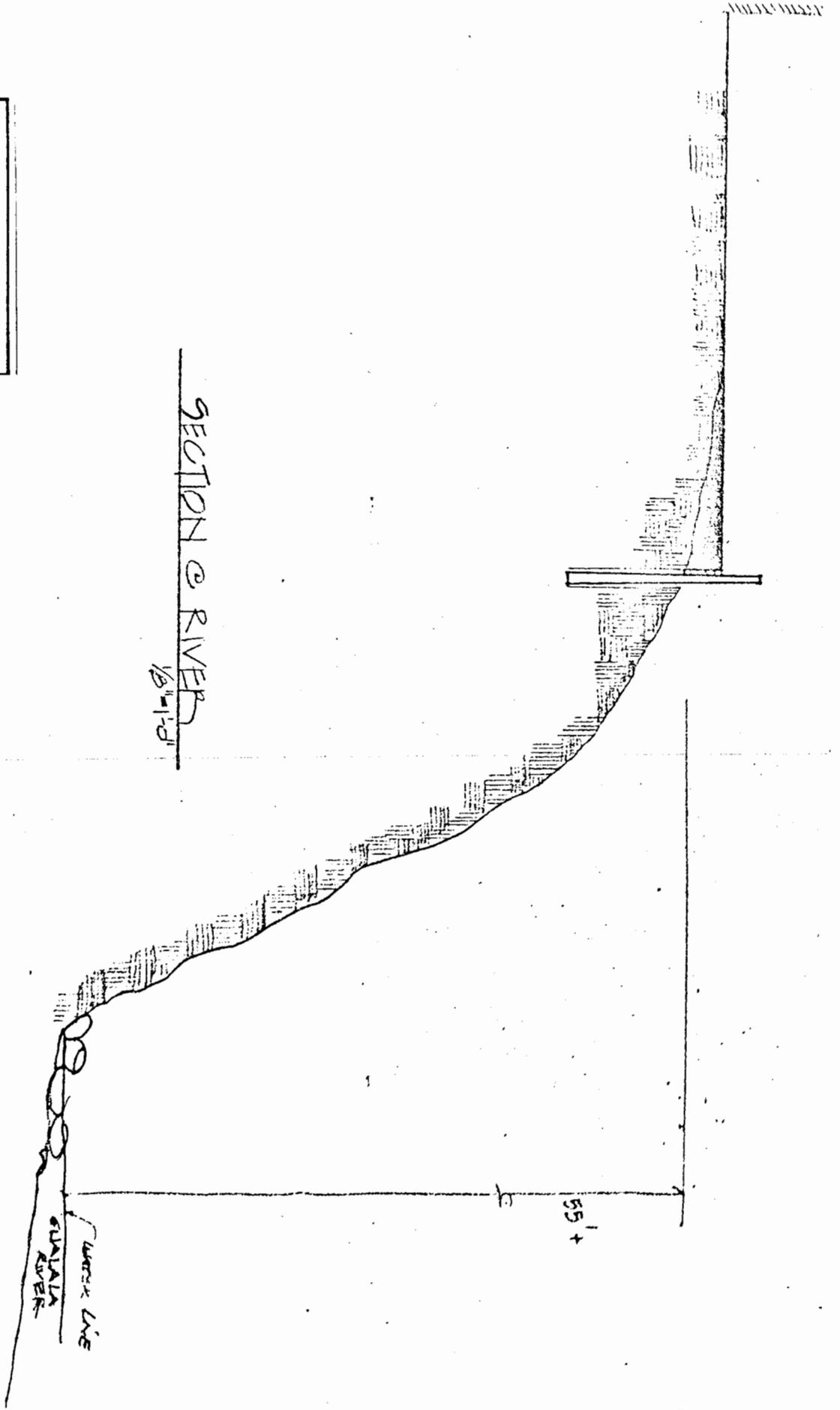


EXHIBIT NO. 2
APPLICATION NO. 1-83-270
BOWER
 California Coastal Commission

TEMPORARY
 EROSION
 CONTROL

EXHIBIT NO. 3
APPLICATION NO. 1-83-270
BOWER
 California Coastal Commission

SECTION @ RIVER
1/8" = 1'-0"



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March 30, 2010

VIA U.S. MAIL AND FAX (707) 445-7877

RECEIVED

APR 01 2010

CALIFORNIA
COASTAL COMMISSION

Mr. Robert Merrill
California Coastal Commission
North Coast District Office
P.O. Box 4908
Eureka, California 95502-4908

EXHIBIT NO. 9
APPEAL NO. 1-83-270-A1 BOWER LIMITED PARTNERSHIP APPLICANTS' CORRESPONDENCE (1 of 37)

Re: **A-1-MEN-08-015 (Bower)**

Project Site: 39200 South Highway One, Gualala, California

Dear Bob:

As you know, this office represents John Bower, Bower Limited Trust and Bower Limited Partnership, the applicant of the above-referenced appeal, as well as the related original application for a coastal development permit (CDP) on the adjacent parcel. Late last week I received an email copy of a letter written to you, dated March 12, 2010, from the Mendocino Council of Governments (MCOG), a copy of which is enclosed for your review.

Although the applicant greatly appreciates the strong support for both related projects from the MCOG this office would like to correct a misstatement contained in the March 12, 2010 MCOG letter. Mr. Bower's pending application to stabilize the bluff west and to the northwest of the Surf Market does not include a request to "develop more off-street parking". The CDP application seeks to stabilize improperly engineered fill on the bluff top. The area to the north of the Surf Market has been used for parking for almost four (4) decades without a complaint from the Coastal Commission and was constructed prior to the effective date of the Coastal Act. The applicant contends that the existing parking to the northwest of the Surf Market must be protected, particularly in light of the Gualala Community Action Plan, which as the MCOG letter states, will result in the removal of parking on the adjacent Highway One. The fact is the implementation of the Gualala Community Action Plan will result in the loss of parking not only on Highway One but to an additional thirteen (13) existing on-site parking spaces adjacent to Highway One. Lack of convenient customer parking in downtown Gualala is the single most serious concern of the majority of downtown businesses.

Mr. Robert Merrill
Re:A-1-MEN-08-015 (Bower)
March 30, 2010

Page 2

Please take this correspondence into your consideration when considering the MCOG letter.

Thank you for your assistance in this matter. If you have any questions regarding this letter or any aspect of this project, please feel free to contact me at your earliest convenience.

Very truly yours,

**LAW OFFICES OF
BLOCK & BLOCK**
A Professional Corporation


ALAN ROBERT BLOCK

ARB/cw
enclosure

cc: John Bower, Bower Limited Partnership
Dan Gjerde, Chair MCOG

LAW OFFICES

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June 3, 2008

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JUN 10 2008

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COASTAL COMMISSION

VIA U.S. MAIL AND FAX (707) 445-7877

Mr. Robert Merrill
California Coastal Commission
North Coast District Office
P.O. Box 4908
Eureka, California 95502-4908

Re: **A-1-MEN-08-015 (Bower)**
Project Site: 39200 South Highway One, Gualala, California
Appeals by Environmental Commons, Lori Hubbard, and Julie Verran

Dear Bob:

As you know, this office represents John Bower, Bower Limited Trust and Bower Limited Partnership, the applicant of the above-referenced coastal development permit, regarding said application. We are writing to you regarding the letter this office sent to the Commission, dated April 10, 2008, in connection with the Commission's review of the appeals for substantial issues.¹ There were statements made in that letter which we believe, in hindsight, require further explanation and clarification so that the Commission can fully understand the nature of the revised project and the benefits we believe it will provide. It is our hope that you will incorporate our prior letter, along with this correspondence, at the time a new staff report on the merits of the project is prepared for the Commission.

In our previous letter, we frequently referred to the fact that the proposed development was approved by the Mendocino County Board of Supervisors. However, before the project came before the Board of Supervisors, it was previously recommended for approval by the County's planning staff and was approved by the County's Coastal Permit Administrator.

¹We have not been able to determine if a new application number was assigned to this matter since the Commission determined to hear the application de novo. We would appreciate it if you could apprise us if a new number was issued at your earliest convenience so that we can make sure that correspondence relating to this matter ends up in the correct file.

Mr. Robert Merrill
Re: A-1-MEN-08-015 (Bower)
June 3, 2008

Page 2

The need for the project, as well as its likely impacts, were previously addressed and impacts were found to be insignificant with recommended mitigation conditions imposed. What is particularly significant about the Board of Supervisors' approval is that the proposed development, in an effort to further mitigate both visual impacts and landform alteration impacts, was modified to utilize a Geoweb land retention system rather than a traditional concrete retaining wall or shoreline protective device.

In our April 10th letter, we provided several different applications of the Geoweb system, some of which were different from the application that will be used in connection with the subject project. Our purpose in providing you with those examples was to show that Geoweb retention systems of various application have been used successfully in the coastal zone and in riparian and other sensitive environmental habitats.

The application proposed in the subject application falls under the "earth retention" category, and Exhibits 4 and 6 in our previous letter demonstrate similar applications as proposed. Other even better examples are attached hereto as **Exhibit 1**. It depicts restored slopes at San Elijo and South Carlsbad State Beaches. Although the application we proposed for the subject project falls under the "earth retention" category, Geoweb should still be considered a soil stabilization product – the engineering calculations for the utilization of a Geoweb design are entirely different than for a concrete retaining wall. Hence, the concept described in our previous letter is correct. The Geoweb system is not a retaining wall or shoreline protective device, and it should not be referred to as such in the project description for the subject application.

In our previous letter, we stated that the Geoweb system will "stabilize" the bluff slope. The fact is, natural landforms will not be altered through the use of the Geoweb system because the affected area is a fill slope, not a natural landform. Moreover, the only alterations planned for the site involve the repair of debris flow areas above and on the bluff slope. It is our belief that the use of the Geoweb system will integrate and blend with natural landforms on the site, and create a more natural-looking slope.

In our last letter, we provided a lay explanation of what the Geoweb system is in order to provide a more understandable, albeit less accurate, description. Because we do not wish to misdescribe the Geoweb system, we would like to also provide the manufacturer's description for your consideration. According to the Geoweb system's manufacturer, "[t]he Geoweb system is a flexible, three-dimensional cellular confinement system, formed with surfacetextured strips of polyethylene. The individual strips are inter-connected by a series of offset, full-depth, ultrasonically welded seams. When expanded, the strips form the walls

Mr. Robert Merrill
Re: A-1-MEN-08-015 (Bower)
June 3, 2008

Page 3

of an integrated cellular (honeycomb) structure into which selected fill materials are placed and compacted.”

It should be emphasized that the necessity for the utilization of the proposed Geoweb system is not to shield the subject property from natural shoreline processes, which is the basis for shoreline protective devices. There are no impacts of wave action on the subject property. Conditions at the site, which is located above the Gualala River lagoon/estuary, are not typical of a sandy or rocky coastal beach, which are subject to severe storm wave impacts, but are unique due to the site's location at the mouth of the Gualala River. Here, the Geoweb system is necessary due to the impacts of erosion, surface water run-off, and inadequate drainage facilities on the uncompacted fill that comprises the bluff slope.

The concern about the impacts of erosion on the uncompacted fill slope is that the fill material will spill directly into the Gualala River and estuary. We are informed that, contrary to statements made in our previous letter, the estuary extends to the subject property and that loose fill from the slope on the subject property does not need to be carried by river currents to wind up in the estuary.

The impacts of erosion will also detrimentally effect the improved trail segment on the subject property and its ability to connect to other trail segments on adjacent properties. The bluff trail has been partially and temporarily improved, and does not yet connect the trail segments on each side of the two lots. The trail on parcel 13 is approximately 50% improved, and the trail on parcel 05 has not yet been developed, pending construction of the work described in the subject application. This construction will, contrary to statements made in our last letter, damage trail improvements on the subject property and involve a temporary impairment of public access because the removal of the uncompacted fill on which the trail is located will be required. However, the trail and public access on the subject property will be fully restored as a part of the proposed development.

Lastly, on the subject of erosion, in our previous letter, we indicated that there is currently room for all of the subject property's authorized uses. In fact, damage that has already occurred on site requires the debris flows to be repaired and the fill slope protected in order to merely use the subject property as it has been used for the past several years. We were unaware of the extent of the damage that already occurred and, in our previous letter, did not take that into account. Therefore, the approval of the Geoweb earth retention system will permit the slope to be restored to its *pre-damaged* state.

Mr. Robert Merrill
Re: A-1-MEN-08-015 (Bower)
June 3, 2008

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We hope the foregoing will clarify our position set forth in our April 10, 2008, letter to the Commission. In some instances, it may appear that there is not a significant difference between what we previously stated and what we are stating now. However, the applicant requested that we make these clarifications and we have done so. It is significant to us just how concerned the applicant has been that we present the facts and our arguments to you in as accurate a manner as possible. In our opinion, this reflects quite favorably on the applicant and should give you an additional level of comfort in addressing the need for the proposed development and its likely impacts.

Thank you for your assistance in this matter. If you have any questions regarding this letter or any aspect of this project, please feel free to contact me at your earliest convenience.

Very truly yours,

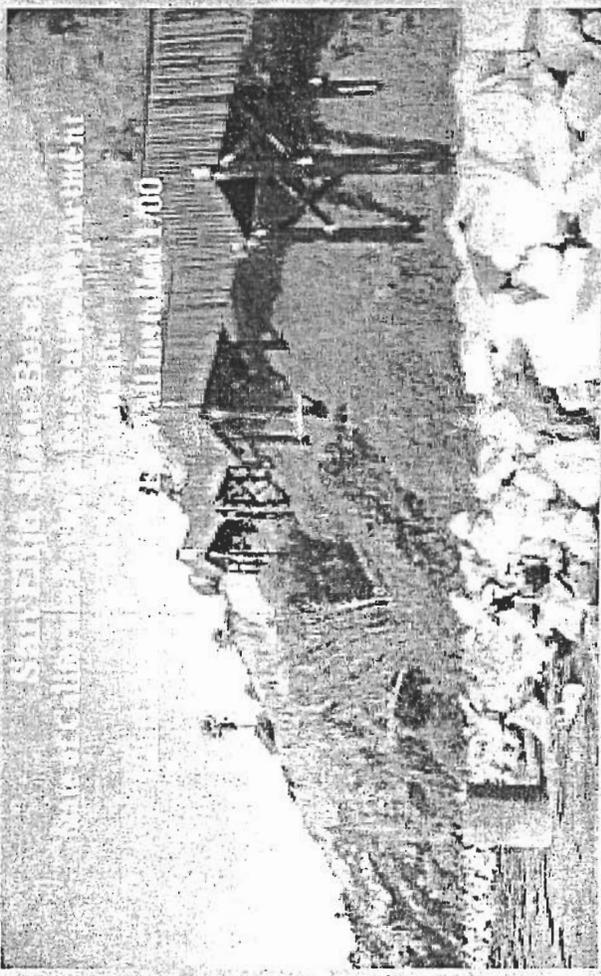
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cc: Julie Price, RAU and Associates
John Bower, Bower Limited Partnership

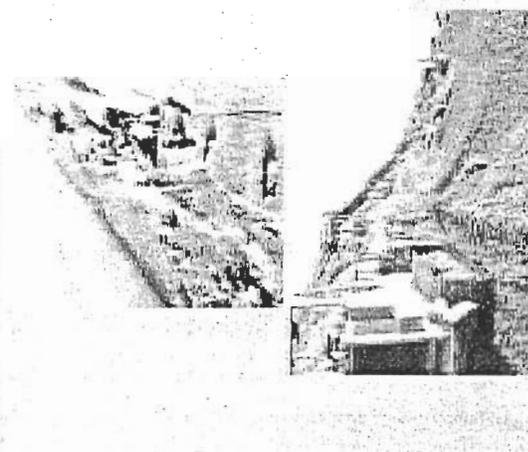
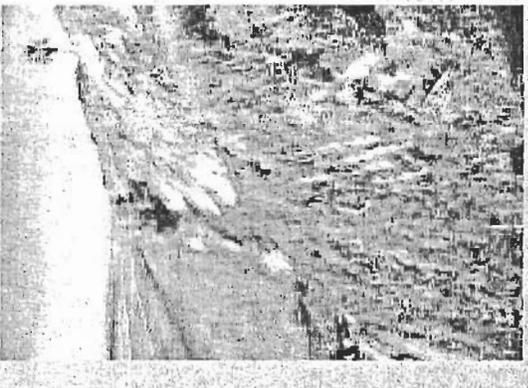
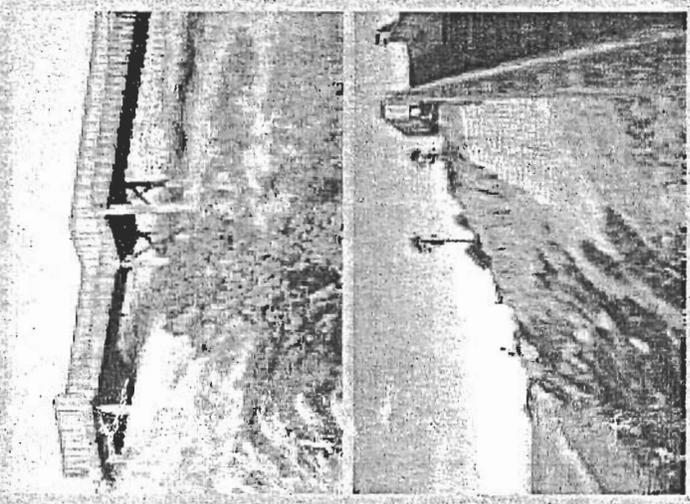
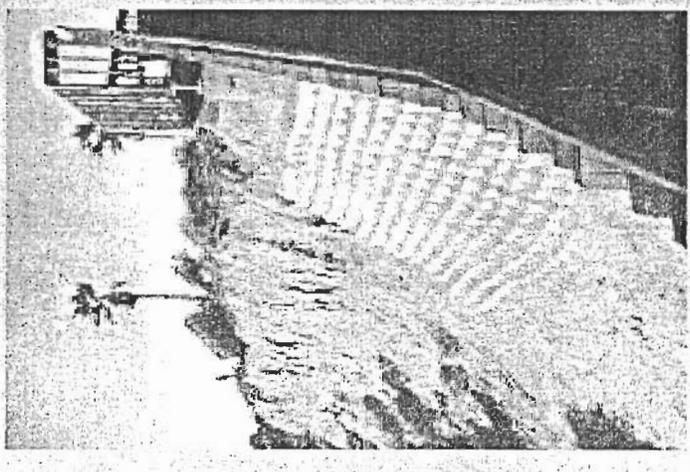
CALIFORNIA COASTAL PROTECTION



San Diego State Beach
 San Diego State Department
 25 Palm Street, Suite 100
 San Diego, CA 92161



South Carolina State Beach
 State of California Parks & Recreation
 1000 California Street
 Bluffton, SC 29910



SSPCO

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 Website: <http://www.sspco.com>

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April 10, 2008

VIA U.S. MAIL AND FAX (707) 445-7877

California Coastal Commission
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P.O. Box 4908
Eureka, California 95502-4908

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CALIFORNIA
COASTAL COMMISSION

Re: **A-1-MEN-08-015 (Bower)**
Project Site: 39200 South Highway One, Gualala, California
Appeals by Environmental Commons, Lori Hubbart, and Julie Verran

Hearing Date: April 11, 2008
Item No. 13.b.

Dear Commissioners:

This office represents John Bower, Bower Limited Trust and Bower Limited Partnership, the applicant of the above-referenced coastal development permit, regarding said application. We are writing to you regarding the three appeals to the County of Mendocino's approval of subject application, the appellants' efforts to manufacture inconsistencies with the Mendocino LCP in order to create the appearance of a substantial issue warranting your de novo review and your staff's apparent support for these ill-conceived appeals.

FAIR AND IMPARTIAL HEARING

It should be noted, initially, that the staff planner for this appeal, Tiffany Tauber, recently sent an 8-page letter to the Mendocino County Department of Planning & Building Services in connection with the Board of Supervisors' hearing on the subject application on February 26, 2008, asserting that the County should deny the subject application. The fact that Ms. Tauber took a position on the subject application, urging its denial in the strongest possible terms, and has now been given the task of evaluating the appeals to the application's approval by the County precludes even the remotest possibility that this Commission can afford the applicant a fair, impartial hearing.

The Commission staff additionally sent a letter to the County in opposition to the subject application in January 2007. The Commission's long-standing critique of the subject application, notwithstanding its many modifications and approvals by local agencies that have assessed both its conformity with the Mendocino LCP and its utility to the local community, reflects an entrenched mind-set that precludes a fair and impartial review of the subject appeals.

In this light, it is not surprising that the staff report recommends that the Commission find a substantial issue with respect to several purported inconsistencies with the Mendocino LCP. It is likewise unsurprising that the staff report mirrors the claims made in Ms. Tauber's letter to the County prior to the Board of Supervisors' approval of the subject application. We addressed Ms. Tauber's concerns in a letter to the County. Yet, her staff report does not address our comments, or even acknowledge the applicant's position with respect to her various contentions, and, instead, presents a flawed and one-sided account of the project approved by the Mendocino County Board of Supervisors in its ongoing effort to modernize and upgrade Gualala's downtown.

PROJECT DESCRIPTION

The project description for the subject application has changed dramatically in response to community feedback regarding the project's initial design. Initially, a solid block wall was proposed. While the elevations at the base of the wall varied naturally, the top of the wall was unavoidably somewhat monolithic. Understandably, there were members of the community who were disappointed with that design. At the time, the applicant had been advised that this design was necessary to protect the slope of its property above the river bank, and its functionality, not necessarily its appearance, was what appealed to the applicant. Motivated by a genuine desire to work with those in the community who desired to preserve the Gualala River and wetlands in its natural state, the applicant sought out and obtained a new, more natural method to stabilize and reinforce the slope at the rear of its property.

This new method, utilizing what is known as a Geoweb Slope Protection System, manufactured by Alcoa, does not involve the construction of a block or brick wall, or any type of wall for that matter, and is a protection system that has continually been approved by the Commission in other jurisdictions outside of Gualala, including, but not limited to, Gaviota, Santa Barbara and Carmel. The "Geoweb" system utilizes interconnected strips of curved and perforated plastic, available in a variety of natural colors which is held in position by a series of anchors, which look like stakes that attach to the Geoweb cells and are

California Coastal Commission
Re: A-1-MEN-08-015 (Bower)
April 10, 2008

Page 3

embedded in the slope. The cells are covered with top soil so that they are nearly invisible at ground level and actually provide better slope support when the roots of surface vegetation penetrate the perforations in the interconnected plastic strips. The Geoweb components work together with surface vegetation to create a dense, solid slope protection device. As the product manufacturer states:

“Presto's perforated Geoweb® cellular confinement system features an engineered pattern of perforations in the cell wall. This hole pattern provides increased frictional interlock with coarse aggregates, crushed rock and concrete.

In vegetated systems, the perforations increase root lock-up, creating a more stable vegetated mass and overall healthier soil environment. The perforations allow lateral drainage through the system, thereby enhancing performance of the Geoweb® system in saturated soil conditions.

The perforated Geoweb® system enhances system performance in Slope and Channel Protection, Earth Retention and Load Support applications.”

Attached hereto as **Exhibit 1** is a true and correct copy of Alcoa's product catalog for the Geoweb Cellular Confinement System. Attached hereto as **Exhibit 2** is a true and correct copy of Alcoa's material specifications for the Geoweb system.

Geoweb has been used successfully in sensitive areas of the California coastal zone to restore and reinforce slopes damaged by severe erosion. An example of this found Gaviota, between Ventura and Santa Barbara, where Geoweb was used to restore a highly scenic 500 foot high slope supporting an oil pipeline. Attached hereto as **Exhibit 3** is a true and correct case study of the Gaviota Geoweb project. Geoweb has also been used with the approval of the USDA Forest Service in Sequoia National Park, in Northern California, as evidenced by the case study for that project, a true and correct copy of which is attached hereto as **Exhibit 4**. Caltrans has utilized Geoweb designs to repair roadway slope failures, as evidenced by the case study for the Sycamore Canyon area of Santa Barbara, a true and correct copy of which is attached hereto as **Exhibit 5**. The Cirby Creek Channel, in Roseville, California was restored using Geoweb, as evidenced by the case study for that project, a true and correct copy of which is attached hereto as **Exhibit 6**.

In Ms. Tauber's February 26, 2008, letter which was sent to the County, she states:

“According to your letter, this Geoweb design would provide slope stabilization without the use of concrete and would allow for vegetation to grow on the face of the structure, thereby minimizing visual impacts and reducing the overall project footprint and area of disturbance. [¶] The Geoweb alternative appears to be a more aesthetically pleasing design over the originally proposed concrete block wall and we appreciate the applicant's efforts to address the visual concerns expressed by members of the community.”

This evaluation of the Geoweb system is conspicuously absent from the staff report presented to the Commission, which corroborates our concern about the unbalanced, one-sided presentation contained in said report. The fact is, the change to the Geoweb design does more than reduce the visual impacts – it eliminates the need for a retaining “wall,” and instead utilizes a subsurface retention system that can stabilize the bluff slope and retain much of its natural contours as well as its appearance.

RETAINING WALL

The primary grounds for each of the appeals is that a retaining wall is not appropriate for this location and would be inconsistent with the Mendocino LUP and Coastal Zoning Code because, they allege, it is not needed to protect existing development. The applicant's position, which is not articulated anywhere in the staff report, is that the retaining wall design for the stabilization and restoration of the bluff at the rear of the subject property was abandoned and that a new technology, Geoweb, was adopted in lieu of the retaining wall, making it possible for the applicant to reinforce the slope at the rear of its property without the necessity of a retaining wall.

Neither the Coastal Act, nor the Mendocino County Coastal Element, nor the Mendocino County Coastal Zoning Code define what constitutes a “retaining wall.” A wall is typically a free-standing vertical structure. It has a top, a bottom and one or more faces. It is anchored to the ground at its bottom. The proposed Geoweb system has none of these features. At one time, failed slopes were repaired using soil nails attached to a shotcrete cover. This type of slope repair is not a retaining wall but it is more akin to the Geoweb technology. With the Geoweb system, a concrete covering is no longer necessary. Instead, subsurface interconnected plastic pieces are held together horizontally by tendons which can be configured to correspond with the natural contours of a slope and vertically by stakes or soil nails, making the Geoweb a subsurface “cover” which can be filled and revegetated, leaving little or no trace of its presence.

LUP Policy 3.4-12, cited by the appellants and reiterated in the staff report is plainly inapplicable to the redesigned project. That policy refers only to “[s]eawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls.” This policy does not embrace the new technology proposed in the subject application. As discussed below, the policy that appears to be applicable to the Geoweb system is Policy 3.4-10, which addresses development on a bluff face.

Even if the Geoweb system were deemed to be a retaining “wall,” there would still be no substantial issue with respect to the proposed development’s consistency with LUP Policy 3.4-12. LUP Policy 3.4-12 and Coastal Zoning Code Section 20.500.020(E)(1), provide, in relevant part, that “retaining walls shall not be permitted unless judged necessary for the protection of existing development or public beaches or coastal dependent uses.” According to the staff report, the proposed Geoweb system is not necessary for the protection of existing development. Staff contends that *future* plans for the property’s use or development cannot be considered, only *existing* development. We concur.

Development, as defined in Public Resources Code §30106 includes grading and the placement of fill material on land. The necessity for the Geoweb system arose, primarily due to erosion to the top of the bluff, which is composed of uncertified fill. The bluff top is man-made and was constructed to standards which were long ago determined to be inadequate to prevent erosion and provide safety and stability. The inadequacy of the constructed bluff top is evidenced by the fact that a septic system located near the bluff’s edge is now exposed due to erosion and has necessitated its repair and relocation. The septic system is, itself, development which necessitates the reinforcement of the slope because, despite future plans to relocate the septic system, the policies which we must all abide by require us to ignore future plans and focus solely on existing development. It is indeed surprising that the staff reports suggests that the Commission disregard the policy’s requirement to focus on existing development and recommend that the Commission find that the Geoweb system is not necessary because the septic system may be relocated in the future. *Its proposed new.*

The proposed Geoweb system will also protect the existing parking lot. The staff report characterizes the rear of the subject property as a location for “informal” parking. While it is wholly unclear what constitutes formal and informal parking, the land is and has been utilized for parking prior to the effective date of the Coastal Act, and parking spaces in the downtown area are steadily decreasing, making this parking area that much more vital to serve the existing market and adjacent commercial development.

There is no question that the Surf Market and other retail stores are authorized uses.

California Coastal Commission
Re: A-1-MEN-08-015 (Bower)
April 10, 2008

Page 6

Mendocino County Zoning Code §20.472.020 requires retail stores to provide 1 parking space per 300 square feet of gross floor area. Parking is therefore a *required* incident of the authorized retail uses. The proposed remodeling of the stores and parking lot does not create the need for the Geoweb system. The remodeling of the stores and parking lot is only impacted by the slope stabilization project if it is denied and a manufactured 2:1 slope is required instead. In that event, less land will be available for parking which will likewise reduce the amount of square footage available for retail use and increase the traffic congestion in and around the market as customers search for increasingly scarce parking spaces.

BLUFF FACE DEVELOPMENT

While the Geoweb system is not a retaining wall, the applicant does not deny that it constitutes development, as defined in Public Resources Code §30106, on a bluff face. Therefore, it appears that Policy 3.4-10 is the applicable policy. That policy provides as follows:

“No development shall be permitted on the bluff face because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development. However, where they would substantially further the public welfare, developments such as staircase accessways to beaches or pipelines to serve coastal-dependent industry may be allowed as conditional uses, following a full environmental, geologic and engineering review and upon the determinations that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects.”

Staff contends that the proposed project, which includes the Geoweb system but also includes drainage and erosion control devices, is inconsistent with the foregoing policy, creating a substantial issue which compels the Commission's de novo review of the subject application. There is no evidence to support this contention. Rather, it appears to constitute solely a value judgment as to whether the proposed development would “substantially further the public welfare.” The applicant submits that the Commission should not substitute its judgment of what does or does not substantially further the public welfare for that of the County Board of Supervisors in the absence of facts constituting substantial evidence of significant unmitigated adverse environmental impacts.

It is clear that the purpose underlying Policy 3.4-10 is to preclude “the potential for

Page 7

resultant increase in bluff and beach erosion due to poorly-sited development” as a result of “the fragility of this environment.” Where, as here, the proposed development is designed to repair and restore the bluff, and to prevent future damage from erosion of the type that has already occurred with damaging impact to the environment, the public welfare is, in fact, significantly furthered. The standard for this policy is not whether the development is “necessary” but rather whether it “furthers the public welfare.”

The need for the slope stabilization improvements has already been established by previous slope failures which caused the uncertified fill at the top of the slope to spill into the Gualala River, where it can migrate into the estuary.

According to the Gualala River Watershed Assessment, performed in March 2003 as part of the North Coast Watershed Assessment Program:

“The Gualala River Estuary/lagoon is within the Big Pepperwood Creek Planning Watershed (10.2 square miles within the Lower South Fork Gualala River Super Planning Watershed), and is located approximately 0.5 miles south of the town of Gualala. During summer months, a sand bar typically forms across the mouth of the estuary which blocks the flow of tidewater, creating a coastal lagoon. [¶] Estuaries and coastal lagoons are critical habitats for all anadromous salmoides by linking freshwater and marine environments. The mixing of sea and fresh waters creates conditions well suited for the anadromous life history strategies of coho salmon and steelhead trout.”

Section 20.492.020 of the Mendocino County Coastal Zoning Code provides a series of requirements for the prevention of sedimentation into sensitive environmental resources. It is clearly the intent of these requirements to minimize the effects of sedimentation from erosion. The proposed Geoweb system that allows the planting of vegetation within the device’s cells, is consistent with the goal of these requirements and will markedly improve erosion control on the subject property.

Additionally, the bluff trail has been improved and currently connects with the trail segments on each side of the applicant’s two adjacent lots. Uncontrolled erosion and even localized slope failure could produce physical breaks in the trail. The public welfare is significantly furthered by a device which protects a developed public trail. While the staff report correctly notes that the public easement is migratory, the trail, not merely the easement, is worthy of protection. If erosion is not controlled, the public trail could be significantly impaired and even the easement could be impaired if it migrates to areas on the

subject property where existing, vested development is already located. In such event, the property owner's vested rights would prevail over the public's newly acquired easement rights in the same land. At present, there is room for all of the subject property's authorized uses. The County Board of Supervisors wisely believed that those uses could best be furthered by protecting the bluff top from further erosion.

Gualala is a coastal residential community which requires a commercial center for its residents' needs. The same commercial center serves outlying communities and visitors alike. The Surf Market has served the needs of residents and visitors for many years, and has provided a significant number of local employment opportunities. It also provides off-street parking at a time when street parking is being decreased in order to provide better traffic flow and less congestion. The County Board of Supervisors clearly had substantial evidence upon which to find that an erosion control system at the rear of the subject property would further the public welfare.

Of course Policy 3.4-10 requires "a full environmental, geologic and engineering review and . . . determination . . . that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects." It was this extensive review process that compelled the abandonment of the retaining wall design and the shift to the Geoweb system. The redesign of the erosion control device was, itself, a feasible mitigation measure. Neither appellants nor staff have cited any further feasible mitigation measure which has less environmental impact.

Substantial grading and trimming of the slope to a manufactured 2:1 slope may also reduce erosion over time but there is no evidence that such significant landform alteration is desirable, much less more effective than the Geoweb system. Moreover, neither the appellants nor staff identify any adverse environmental impacts from the installation of the Geoweb system. The use of traditional grading solutions, while perhaps better-understood by the appellants and staff, is not a superior method or less environmentally damaging alternative to the Geoweb system, a relatively new technology which has not been shown to cause any environmental damage whatsoever. The Geoweb system is designed to conform to the natural contours of a slope or to create a natural-looking contour where slope failure has already occurred.

The fact that the project was redesigned to substitute a Geoweb system for the initially-planned retaining wall proves that the review process was both adequate and effective. No superior method of achieving the desired result of erosion control was produced despite the appellants' and staff's participation at the County level. There is no

substantial issue regarding the use of the Geoweb system or the need for it to protect the existing public trail, existing parking area and existing septic system. Moreover, since furtherance of the public welfare is the applicable standard, the Board of Supervisors could appropriately consider the potential for future use of the subject property for commercial uses with on-site parking. It is clearly within the appropriate exercise of the board's discretion to determine that the public welfare will be best furthered by protecting the subject property, and particularly the area historically used for on-site parking, from erosion which will decrease the usable area of the subject property and cause sedimentation of the Gualala River and estuary.

OTHER ISSUES

The applicant submits that the issue of bluff face development is the most significant issue for the Commission's consideration, and that some of other issues raised by appellants in seeming shotgun fashion do not merit as significant discussion as the previous issues. Therefore, we will provide some comment regarding these other issues but submit that none of them, either individually or cumulatively, warrant a finding of a substantial issue if there is no substantial issue with respect to the bluff face development policy, Policy 3.4-10.

The siting and designing of development to minimize geologic hazards and to avoid the need for shoreline protection devices, while a worthy policy, is not applicable to the subject application. At present, there is no development to site or design which would obviate the need for the Geoweb system. The Geoweb system is necessary to protect existing development, including the fill on the bluff top, the existing parking area, the existing septic system and the existing public trail. The appellants' contention about the siting and design of future development is premature. While the appellants contend that the Geoweb system will enable denser development of the property, that simply states the obvious – that if erosion does not cause the uncertified fill at the rear of the property to fall into the river, that the land in that area will be usable in the future, just as it is now. The Geoweb system is not being used to extend the bluff top seaward, it is designed to protect only what is there now.

The appellants contend, and staff appears to concur, that the proposed development is inconsistent with the policy requiring the protection of public access and visitor-serving facilities. This contention defies reason. The Surf Market is a visitor-serving facility, as is the improved public trail at the rear of the subject property. The Geoweb system is expressly designed to protect the slope which enables the continued use of the public trail and market parking area. The expressed concern for the wording of the County approval is facile, at best. The County's findings make it clear, and the applicant so understands, that it cannot

destroy the public trail and not replace it. That is ludicrous. It is not anticipated that the trail will be damaged by the installation of the Geoweb system on the bluff. However, if it is necessary to do so, the trail will be closed or re-routed during construction, as the County's findings require, and reopened or routed back to its original location after construction. There is no evidence, substantial or otherwise, to support the contention that the proposed development will impair public access or visitor-serving facilities. The exact opposite is true. Delay or denial of proposed development will create the type of impairment which the Commission seeks to avoid.

The County's approval of the subject application does not create a substantial issue with respect to the Commission's policy of protecting environmentally sensitive habitat areas. This area is, regrettably, disturbed as a result of grading performed long ago with the use of uncertified fill which is now eroding into the Gualala River and estuary. The proposed development expressly seeks to prevent the migration of sediment into the river. Any impact to the area will occur only during the construction phase and adequate mitigation measures have been imposed to prevent such transitory damage. The restoration of the site is included as part of the proposed development and the Geoweb system was employed expressly to allow the bluff slope to be revegetated and the sensitive areas below to be protected and, in part, restored. The revegetation of the slope will be performed to restore the vegetation that was found and cataloged in three separate botanical studies. While the appellants have criticized those studies in general terms, they have not provided evidence sufficient to meet their burden of proof on this appeal that the proposed revegetation of the bluff slope is inconsistent with the policy requiring the protection of ESHA. Moreover, if, at the time that the revegetation process takes place, or as the new vegetation grows in, the appellants are not without recourse at the County level to raise concerns about the quality of the revegetation of the slope.

The County's approval of the subject application does not create a substantial issue with respect to the Commission's policy of protecting special neighborhoods. On this issue, even staff concurs. The subject property is zoned for commercial use and has been used, since prior to the adoption of the Coastal Zone Conservation Act of 1972, as a market with on-site parking. The County Board of Supervisors has encouraged the upgrade and expansion of the downtown area to serve local residents, visitors and residents of outlying areas. While the County has appropriately allowed more development on the land side of Highway 1 rather than on the ocean side, the Board of Supervisors could properly find sufficient need for the commercial uses on the ocean side to serve residents on the ocean side of Highway 1, users of the public trail and southbound motorists to justify its decision to allow the stabilization of the slope at the rear of the subject property. Neither the appellants

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nor staff have shown any facts or evidence that the proposed development could produce a potential impairment of this special neighborhood – downtown Gualala.

CONCLUSION

This application is not for the development of an expanded market or parking lot. It will not provide for any change in use or density of the subject property. From the tenor of appellants' arguments, it does not appear that the proposed development is for erosion control and bluff restoration devices. That merely exposes the appellants' ulterior motive in bringing this appeal. That does not mean that the appellants do not have legitimate concerns or that they should be locked out of the decision-making process. However, they have jumped the gun. If and when a project is proposed to remodel the Surf Market and other improvements on the subject property, appellants and all other members of the public with any interest in the Gualala community will have ample opportunity to participate in the decision-making process. The applicant has a commercial property. Appellants and other members of the community are actual or at least potential customers of the market. The applicant has no desire to alienate any of these individuals. The applicant desires to provide a market that will be viewed favorably and patronized regularly by local residents, including the appellants. But if appellants seek to keep the market on subject property small, that is not best accomplished by allowing the rear of the subject property to fall into the river. What is before us now is a restoration and erosion control project which is necessary to protect the property as it is now, or as it may be used in the future. That is all that should be considered and the project, as redesigned, is consistent with the Mendocino LCP and does not raise a substantial issue regarding its conformity with the LCP's policies.

Thank you for your attention to this matter. The applicant and its representatives will be available at the hearing to answer any question you may have regarding the foregoing.

Very truly yours,

**LAW OFFICES OF
ALAN ROBERT BLOCK**
A Professional Corporation


ALAN ROBERT BLOCK

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cc: John Bower, Bower Limited Partnership
Julie Price, RAU and Associates
Robert Merrill, North Coast Coastal Staff
Tiffany Tauber, North Coast Commission Staff

GEORGE C. RAU, P.E.
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RAU AND ASSOCIATES INC.
CIVIL ENGINEERS • LAND SURVEYORS

January 14, 2009

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COASTAL COMMISSION

Mr. Robert S. Merrill, District Manager – North Coast District
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

Job Number R05024

**RE: APPEAL NO. A-1-MEN-08-015 (BOWER LIMITED PARTNERSHIP); APN 145-261-13;
39200 S. HIGHWAY 1, GUALALA; CONSISTENCY WITH MENDOCINO COUNTY LUP POLICIES**

Dear Mr. Merrill:

During your recent visit to the site which is the subject of the above referenced appeal, you mentioned that there were some apparent inconsistencies with the Mendocino LUP Policies which made it difficult to recommend approval of the project. The Coastal Commission's substantial issue staff report of March 28, 2008 states that the project is not consistent with several Mendocino County LUP policies, sections of the Mendocino County Coastal Zoning Code and sections of the Coastal Act. We strongly disagree with the consistency assessment described in the staff report and offer the following discussion to support findings of consistency.

i. Limitations on Construction of Retaining Walls (p.14)

The Coastal Commission's staff report describes the project as inconsistent with LUP Policy 3.4-12 and Mendocino County Coastal Zoning Code (CZC) Sec. 20.500.020 (E)(1):

Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development or public beaches or coastal dependent uses. Allowed developments shall be processed as conditional uses, following full environmental geologic and engineering review. This review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other adverse environmental effects. The design and construction of allowed protective structures shall respect natural landforms, shall provide for lateral beach access, and shall minimize visual impacts through all available means. (emphasis by staff)

Existing Development. Page 15 of the staff report states, "Parking near the bluff edge is not an authorized use of the site."

Section 20.308.035 of the CZC defines development, in pertinent part, as follows (emphasis added):

"Development" means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials...

The proposed project will protect the existing parking lot which has been utilized for parking prior to the effective date of the Coastal Act. A parking area is clearly development. The Surf Market has been in existence since 1956 [in the building known locally as the Pharmacy] and other retail stores are authorized

uses which are required to provide 1 parking space per 300 square feet of gross floor area per CZC Sec. 20.472.020. Parking is therefore required to support the authorized retail uses. Photographic evidence shows that the area has been used for decades for parking and delivery of goods.

Protection of public beach. Page 15 further states, "There is no evidence to support the County's assertion that the retaining wall is necessary to protect the public beach downslope of the site from erosion."

The attached photographs of the debris flow that occurred behind the Surf Market are clearly indicative of the impacts to the public beach below. If not properly repaired and protected, erosive fill soils are subject to accelerated erosion and continued debris flows, delivering sediment, debris and other pollutants to the public beach and estuary below.

Protection of trail/easement. Page 15 continues, "The proposed retaining wall is not necessary to protect the trail easement from erosion as the ambulatory nature of the easement itself establishes a mechanism for protection of the trail."

The Gualala Bluff Trail, not the easement, is the coastal dependent use in question. Although the easement is movable, without the drainage improvements, the loss of fill edge will cause damage to the trail in the future and the trail will have to be repaired/reconstructed/moved eastward. While this is legally possible, it is not wise when considering costs, labor, and the existing authorized use of the property which will continue to be threatened by loss of land, not to mention the environmental impact of continued accelerated erosion. Every alternative offered by the appellants will require deconstructing and reconstructing the trail. The easement is not development and does not require protection; however the trail, which is defined under Sec. 20.308.035 of the CZC as development, is threatened by accelerated erosion and continued debris flows due to poor drainage in the form of concentrated runoff directed over the face of the fill. The only environmentally responsible solution is to repair the problem in order to prevent further degradation of coastal resources.

Future development. The staff report states, "It is clear from the County's approval that the retaining wall is also intended to serve future redevelopment of the site."

We agree that, in order for it to be approved, the project must protect existing development, and the project has been designed to do just that: to protect the existing parking lot and trail. Any protection of the property will inherently be beneficial for any future development on the property; this is true for most any land improvement project. The critical point is that the proposed project was designed to address the debris flows and eroding fill which is causing the loss of land and threatening the viability of the Surf Center, an existing, authorized commercial use, which is vital to the area for the services it provides. The fact that Mr. Bower has a vision for future improvements on the property does not pertain to the project before you.

Alternatives. Page 16 of the staff report states, "The County failed to fully analyze whether less environmentally damaging feasible alternatives exist that would avoid the need for the construction of a retaining wall."

The applicant discussed different alternatives with the County. We have prepared multiple letters to the County and Coastal Commission regarding the use of alternative wall types and why they would not be feasible at this site, or would have a greater environmental impact than the alternative proposed. A letter to the Coastal Commission, dated June 25, 2008, was specifically in response to alternative recommendations from project appellant Francis Drouillard. During a site visit with Coastal Commission staff, staff suggested sloping back the fill in order to eliminate the need for a wall. Our firm prepared an exhibit which demonstrated why this would not be feasible. Alan Block also addressed this in his letter to the Board of Supervisors. Alternatives were exhaustively studied by RAU. In this particular case, a soil stabilization and retention structure is a necessary component of the drainage improvement project. Either the soil is sloped to a stable angle of repose (2H:1V) or steeper slopes must be stabilized. The former option has been

discarded as not feasible, as it would reduce land area for both parking on APN 145-261-13 and the trail easement behind the Surf Market¹, and it would not blend with the natural landform of the bluff.

RAU discussed with the County the possibility of removing the uncompacted fill, reducing the slope and installing adequate drainage. This alternative was considered to be infeasible due to the significant lowering of the parcel that would occur [as much as 14 feet vertically], and the resulting loss of accessibility to the existing Surf Super Market. Removal of fill would also require deconstruction of the trail since the trail is constructed on top of the fill.

Other suggested alternatives involved (1) removing the non-engineered fill and recompacting the area consistent with engineering standards or (2) re-grading and installing adequate drainage that would prevent surface run-off from reaching the bluff face. Appellants claim that these alternatives would not require dismantling and closing the Gualala Bluff Trail or damaging the current stable bluff face.

These alternatives were proposed to RAU by appellant Britt Bailey and considered by RAU to not be feasible. The first alternative does not address how to retain the recompacted soil, which would require a 2:1 slope, absent a retaining wall or soil stabilization system. Since the trail is located on the non-engineered fill, the trail would need to be removed and recompacted as well, so dismantling and temporarily closing the trail would, in fact, occur with this alternative. In conversations with Ms. Bailey, the second alternative offered was based on removing fill only to the east edge of the 25-foot trail easement where a French drain would be installed. This alternative does not address the unstable fill beneath the trail, runoff from the trail draining over the edge of the fill, and raindrop impact on exposed and unstable [steeper than 2H:1V] fill soils.

RAU also discussed with County staff the option of repairing only the debris flow areas. Understanding existing drainage issues on the site and instability of the fill, it would be short-sighted to only repair past debris flows, knowing that future debris flows will occur if these problems are not addressed. Although the retaining structure is long, it is not high. Excluding the section at the debris flow behind the Surf Market, the average exposed structure height will be 5 feet of vegetated Geoweb. County staff agreed with the applicant that a low profile, vegetated retaining structure would be preferable to continued exposure of unstable fill soils that would eventually be delivered to the estuary.

Fragile Environment. The report continues, "The significance of the resource affected is great in that the 285-foot-long retaining wall would be located on a high fragile bluff immediately adjacent to the Gualala River estuary, an environmentally sensitive habitat area."

We recognize the sensitivity of the site. We suggest that the consequences to the bluff and estuary of *not* stabilizing the fill be considered. The majority of disturbance during construction activities will occur above the bluff face, where the fill was placed and which is dominated by noxious weeds. Woody vegetation that will be removed as a result of the project would likely be "removed" by future debris flows if the fill is not stabilized. Native vegetation will be replaced in the backfill at the base of the Geoweb face, maintained and monitored by a professional vegetation restoration company, until success criteria have been met, as conditioned in the County's staff report. Habitat of common wildlife species will be temporarily disrupted for the duration of construction, but no special status wildlife species will be affected. Construction and post-construction Best Management Practices (BMPs) have been prescribed for the project to protect the bluff and estuary, and were included in the CDP conditions of approval. The list of BMPs can be found in the Botanical Survey prepared by BioConsultant. The project as designed will protect the estuary without altering natural landforms.

Alteration of Natural Landforms. Page 16 of the staff report states, in part, "The retaining wall would permanently alter the natural bluff landform which is located across the river from... a significant public access facility..."

¹ Although the portion of the project located on APN 145-261-05 (Surf Market parcel) is not part of the appeal, it is part of the larger, contiguous improvement project which was designed as a single project, and the implications associated with both parcels must be considered.

To understand the effects of the proposed project, the fill that was placed on top of the bluff in the early 1970's must be differentiated from the bluff itself. The project will (a) repair the areas of the face of the bluff that have already been altered by debris flows and (b) stabilize the fill soils placed on top of the bluff, and above the natural bluff face. The face of the natural bluff will only be affected at the two debris flow sites, sites which must be repaired to prevent soil and debris from entering the estuary and to stop the spread of invasive weeds which have now dominated these disturbed areas. The project will not alter the natural landform of the bluff where it is intact, and will protect the bluff from damage associated with continued debris flows. In fact, the project will enhance the natural vibrancy of the coastline by preventing additional unsightly debris flows [and intermittent interruption of the use of the Gualala Bluff Trail while it is being repaired or moved] and by providing an enhanced native vegetation community.

ii. Limitations on Bluff Face Development (p. 16)

The staff report alleges that the project is not consistent with the following policies and code sections:

LUP Policy 3.4-10:

No development shall be permitted on the bluff face because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development. However, where they would substantially further the public welfare, developments such as staircase accessways to beaches or pipelines to serve coastal-dependent industry may be allowed as conditional uses, following a full environmental, geologic and engineering review and upon the determinations that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects. (emphasis by staff)

CZC 20.500.020(B)(4):

No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects. (emphasis by staff)

Development on Bluff Face. Page 17 of the staff report states, "The development approved by the County would involve development along the face of the bluff above the Gualala River estuary. [Above-cited policies] generally prohibit development on the bluff face because of the fragility of this environment."

As discussed above, with the exception of the two debris flow areas, the Geoweb system will be constructed within the existing fill which will be stabilized on top of, and landward from, the natural face of the bluff using this system. While the natural bluff face is generally stable (see Geotechnical Report prepared by RAU), the fill on top of the bluff is not. The Geoweb system will stabilize the fill and the two areas of the bluff which have already been altered by the debris flows. If the fill is not stabilized, the bluff and its sensitive habitats below will continue to be threatened by excessive sediment, loss of vegetation and invasive weeds from continued debris flows. The project protects, not damages, the natural bluff face.

Public Welfare. The report continues, "The County's approval fails to demonstrate that the approved development would (1) significantly further the public welfare..."

The public welfare benefits of the project are numerous and significant, and frankly we are dumbfounded by the claim that this has not been demonstrated. Public welfare benefits include long-term protection of the Gualala River estuary, the natural bluff face, the enhancement of native vegetation and habitats, water quality, the public beach and the Gualala Bluff Trail, as described throughout this letter. The project will further the public welfare by protecting the trail into the future and by protecting a vital commercial retail center and essential downtown parking area, which are important to residents and visitors alike. The project protects and enhances coastal resources which are currently in a state of continuing degradation at the site. Contrary to the claims of the staff report, failure to properly protect these resources would be a failure to protect the public welfare.

Natural Landforms. On page 18, the staff report states, "The County's approval fails to demonstrate that the approved development would . . . minimize the alteration of natural landforms."

Refer to our discussion on the previous page regarding the alteration of natural landforms. The Geoweb system is flexible and can be installed to blend with the surrounding natural topography. It will only be applied to manmade land forms, and not to the natural face of the bluff itself, except where the debris flows have occurred.

iii. Minimize Geologic Hazards (p. 19)

The staff report states that the project is inconsistent with the following policies related to geologic hazards:

LUP Policy 3.4-1:

The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.

LUP Policy 3.4-2

The County shall specify the content of the geologic site investigation report required above. The specific requirements will be based upon the land use and building type as well as by the type and intensity of potential hazards. These site investigation requirements are detailed in Appendix 3.

LUP Policy 3.4-7

The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:

$$\text{Setback (meters)} = \text{Structure life (years)} \times \text{Retreat rate (meters/year)}$$

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.

All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologists report. (emphasis by staff)

LUP Policy 3.4-8

Property owners should maintain drought-tolerant vegetation within the required blufftop setback. The County shall permit grading necessary to establish proper drainage or to install landscaping and minor improvements in the blufftop setback.

LUP Policy 3.4-9

Any development landward of the blufftop setback shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to the instability of the bluff itself.

CZC Section 20.500.010

(A) *The purpose of this section is to insure that development in Mendocino County's Coastal Zone shall:*

- (1) *Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
- (2) *Assure structural integrity and stability; and*
- (3) *Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Ord. No. 3785 (part), adopted 1991)*

CZC Section 20.500.015

(A) *Determination of Hazard Areas.*

(1) *Preliminary Investigation. The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.*

(2) *Geologic Investigation and Report. In areas of known or potential geologic hazards such as shoreline and blufftop lots and areas delineated on the hazard maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.*

(B) *Mitigation Required. Where mitigation measures are determined to be necessary, the foundation, construction and earthwork shall be supervised and certified by a licensed engineering geologist or a registered civil engineer with soil analysis expertise who shall certify that the required mitigation measures are incorporated into the development. (Ord. No. 3785 (part), adopted 1991)*

CZC Section 20.500.020 Geologic Hazards (applicable part)

(A) *Faults.*

...

(B) *Bluffs.*

(1) *New structures shall be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years). New development shall be setback from the edge of bluffs a distance determined from information derived from the required geologic investigation and the setback formula as follows:*

$$\text{Setback (meters)} = \text{structure life (75 years)} \times \text{retreat rate (meters/year)}$$

Note: The retreat rate shall be determined from historical observation (aerial photos) and/or from a complete geotechnical investigation.

(2) *Drought tolerant vegetation shall be required within the blufftop setback.*

(3) *Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.*

(4) *No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects.*

(C) *Tsunami. In tsunami inundation areas, as illustrated on resource maps or land use maps, only harbor development and related uses shall be allowed. These uses shall be allowed only if a tsunami warning plan has been developed.*

(D) Landslides.

...

(E) Erosion.

(1) Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses. Environmental geologic and engineering review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other significant adverse environmental effects.
(emphasis by staff)

(2) The design and construction of allowed protective structures shall respect natural landforms, shall provide for lateral beach access and shall minimize visual impacts through all available means.

(3) All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineer's report and Chapter 20.492 of this Division.

(4) Within the Gualala Town Plan planning area, a special condition shall be attached to all coastal permits for blufftop residential or commercial development, requiring recordation of a deed restriction that states the following:

(a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazard and the landowner assumes the risk from such hazards;

(b) The landowner agrees that any adverse impacts to property caused by the permitted project shall be fully the responsibility of the applicant;

(c) The landowner shall not construct any bluff or shoreline protective devices to protect the subject permitted residence, guest cottage, garage, septic system, or other improvements in the event that these structures are subject to damage, or other natural hazards in the future;

(d) The landowner shall remove the subject permitted house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the subject permitted house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowner shall bear all costs associated with such removal.

(e) The requirements of Subsection (d) shall not apply to residences or associated improvements on the property that pre-date the subject coastal permit. (Ord. No. 3785 (part), adopted 1991, Ord. No. 4083, adopted 2002)

Fixing the bluff edge. On page 23 the staff report states, "The appellants allege that the retaining wall approved by the County is actually intended to facilitate future commercial development at the site by stabilizing and "fixing the bluff edge in a static location."

It is important to recognize that the bluff being discussed is not a typical bluff face exposed to the ocean waves which one pictures as a coastal bluff. Rather, it is a bluff adjacent to the Gualala River Estuary and is protected by a wide, high, sand bar between the estuary and the ocean. As such it receives waves from the ocean only very rarely and then only after the waves have crossed the sand bar. The natural bluff is approximately 40 feet high and is naturally armored with near horizontal layered sandstone. Wave height due to Tsunami are expected to reach only 8 feet at this location, and the recommended Tsunami Zone is only 25 feet high¹.

¹ Williams, John W., and Trinda L. Bedrossian, Geologic Factors in Coastal Zone Planning, Schooner Gulch to Gualala River, Mendocino County, California, California Department of Conservation, Division of Mines and Geology, DMG Open-File Report 76-3, 1976.

The project will not fix the bluff edge; rather, the fill on top of the bluff will be stabilized. The uncontrolled fill on top of the bluff is not eroding at a natural rate, but at an accelerated rate. If there were no fill on top of the bluff, a "protective device" would not be necessary. As demonstrated by the 2005/06 storms, the fill is subject to debris flows that would not occur if there were no fill (as stated in the geologic report, the bluff below the fill is generally stable). At this accelerated rate of soil loss, the trail easement will be forced to move eastward more rapidly than under natural conditions, threatening the parking area appurtenant to existing authorized businesses. For this reason, a "protective device," or more accurately, a soil stabilization system, is necessary.

Removal of the fill is not an option because the Surf Super Market was constructed after placement of the fill. Removal of the fill would significantly increase the elevation difference between the loading dock and parking area and the market, making access impossible. Impacts to the market must be considered, because if the fill were to be removed, it would need to be removed across both Assessor's Parcels 145-261-05 and 13 to maintain consistent slopes within the Surf Center for parking, access, and to comply with ADA standards.

The soil stabilization system will only affect the face of the bluff at the debris flow sites; the remaining length of the system will be located above, and landward from, the face of the natural bluff in order to stabilize the fill only. Future development is not a consideration. The protection of existing development is critical insofar as the accelerated erosion, continued debris flows, and the resultant trail easement moving eastward would affect the property owner's continued ability to use his property consistent with existing uses and to provide the required parking. If the westerly edge of the property were eroding at a natural rate, which is considerably slower than the rate that the fill is eroding, the proposed stabilization system would not be needed. The soil retention system is to protect existing coastal resources, including vital existing economic resources.

Septic tank location. The report continues, "The County's approval does not include a geotechnical analysis demonstrating that the septic tanks have been relocated in a manner consistent with the requirements of LUP Policy 3.4-7."

The natural bluff has been documented, in the Geotechnical Report for this project, to be stable and to have an immeasurable retreat rate because of its natural armoring and because it is protected from constant battering by ocean waves. Please refer to our June 25, 2008 letter for a detailed discussion of the bluff retreat issue.

The alternatives analysis found that a soil stabilization structure would be the least environmentally damaging project due to the unique conditions at this site. This soil stabilization system will prevent further deterioration of the slope of the fill. Therefore, both a bluff retreat analysis and a fill retreat analysis were conducted when considering relocation of the interceptor (septic) tanks.

The soil stabilization alternative was designed to include the tanks and their connecting lines, and the plans were forwarded to the Mendocino County Division of Environmental Health prior to County approval of the project. Specific setbacks from the face of the soil retention system were set on the design drawings. The setbacks were subsequently reviewed and approved by the Mendocino County Division of Environmental Health. Furthermore, Item 10 of the settlement agreement between Bower Limited Partnership (BLP), Redwood Coast Land Conservancy (RCLC) and the Coastal Commission (CCC) allows for the relocation of tanks and utilities within the trail easement. The interceptor tanks are planned to be relocated to an area where they can be easily accessed for maintenance purposes.

Future development. The staff report states on pages 23-24, "The [future] plan proposes development immediately adjacent to the existing location of the 25-foot-wide lateral public access easement, which assumes that the bluff edge will be fixed in place and that the floating access agreement will not need to float landward over time due to bluff retreat as allowed by the easement."

Future development plans are preliminary at this point and have not been formally submitted to the County due to many unknown factors, including whether the fill will be stabilized and the width of the State Highway 1 right-of-way. Preliminary plans were drafted based on the assumption that the debris flow areas and fill would be stabilized. Natural bluff retreat has little bearing because the project is primarily addressing the unstable fill on top of the bluff. As stated before, the natural bluff has an immeasurable retreat rate. The

applicant shared his long-term vision of the property with his community in an effort of transparency and to receive community and agency input. He was encouraged to solicit early input from GMAC (Gualala Municipal Advisory Committee) and the community by County planning staff. He is now being penalized for sharing his ideas of improving a downtown service center in serious need of rehabilitation. In essence, Coastal Commission staff is encouraging applicants not to disclose their ideas about future improvements in order to avoid claims of "future development." This is an extremely unfortunate approach. It discourages early problem-solving and the opportunity for a community to work towards mutually beneficial solutions which provide a comprehensive view towards protecting coastal resources.

The staff report continues, "The approval would have the effect of allowing future development to be located where it is dependent on the bluff retaining wall in a location where it would otherwise not be allowed..." and "By approving the retaining wall prior to the commercial redevelopment of the site, the County is effectively and erroneously precluding the requirements of CZC 20.500.020(E)(4)(c)."

Whether or not a future project ever materializes on the site, the fill needs to be stabilized to maintain parking for existing uses. The protection of parking area to support existing businesses is the driving force for this project. Although preliminary plans for a long-term project were submitted to the County and the Commission for preliminary review, they are not final plans and are dependent on a number of factors. The primary reason for submitting the plans was to get feedback from the agencies regarding potential issues, so they could be addressed early in the planning process and prior to a final design. Again, the applicant should not be penalized for soliciting early input from agencies about a future project; on the contrary, he should be encouraged to solicit early consultation from the lead and responsible agencies.

Need for wall. The staff report states, "The proposed relocation and upgrade of the septic system and installation of drainage improvements could clearly be performed without the construction of a retaining wall."

First, the Geoweb system does not function as a retaining wall; rather, it creates an internal "skeleton" of sorts, allowing the replaced soil to be stable and to maintain stable, vegetated slopes, that are considerably steeper than 2H:1V. It is correct that the relocation of sanitary sewer facilities could occur without requiring soil stabilization. The tank that is being undermined by the eroding fill could be replaced by the Gualala Community Services District without any permit.

It is not, however, correct that the drainage improvements could be performed without soil stabilization. The primary goal of the drainage plan is to collect the storm water runoff before it reaches the trail and the edge of the fill above the bluff face. The major drainage collection and storm water treatment structures require stable ground for long term serviceability. Having an assurance of stable ground requires removal of the existing 12-14 feet of unstable, unengineered fill. Either the fill is removed from the site, and the grade of the site is lowered by 12 to 14 feet, or the soil is replaced as engineered fill, so that both the fill and the fill slopes are stable. The first option creates unworkable final slopes across the property as previously discussed. The second option is feasible provided that some type of structure is used to stabilize the slope of the soils adjacent to the edge of the natural bluff. The Geoweb cellular confinement system is the least obtrusive, lowest profile and most environmentally sound system which will be able to perform this function.

iv. Protection of Public Access (p. 25)

The staff report finds the project inconsistent with sections of the Coastal Act regarding public access

Coastal Act Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (emphasis added)

Coastal Act Sec. 30214.

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

Coastal Act Sec. 30213.

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Trail Closure. Page 26 of the staff report states, "The County's approval of the project does not include provisions to require that the trail be re-routed, or that equivalent public access be provided while the trail is temporarily closed during construction... [and] fails to incorporate measures to ensure that the trail would be reconstructed and restored to pre-project conditions following completion of construction."

The County's Staff Report, Condition 8 states:

"As expeditiously as possible, the applicant shall return the existing coastal trail within the easement area on the subject parcel to its currently existing status and condition. The intent of this condition is to include the County as a responsible party, together with Redwood Coast Land Conservancy (RCLC), to enforce the requirement that replacement and reconstruction of the trail occur as soon as possible. Prior to the temporary closure of the trail, the applicant shall submit an inventory of the existing trail to the satisfaction of the Coastal Permit Administrator (CPA). The CPA shall refer the inventory to the RCLC for review and comment."

The settlement agreement between BLP/RCLC/CCC states that RCLC understands and agrees that such work may result in temporary disruption and/or temporary relocation of pedestrian access on RCLC's easement area and that BLP further agrees that to the extent that any of its use of or access to the easement area damages the public pedestrian access amenities constructed by RCLC, BLP will expeditiously repair such damage at BLP's expense. County staff was aware of this agreement and drafted Condition 8 to address this very issue. Sheet C100 of the project drawings documents the state of the Gualala Bluff Trail, and Sheet C110 of the project drawings incorporates what has been done with the conceptual plan of RCLC, so that the can accurately be replaced.

Coastal Act Section 30210 balances the provision of public access with public safety needs and rights of the private property owner. In this case, public access will be temporarily closed at the project site during construction activities. The applicant has a right to improve his property and a responsibility to protect the public from construction-related hazards. The issue of re-routing of the trail during construction is easily rectified by adding a condition to the CDP requiring that the trail be re-routed to the extent feasible, recognizing that the applicant only has the authority to re-route trail users on his own property. If the trail detour must occur on adjacent property not owned by BLP, Mr. Bower will make every effort to coordinate the trail re-routing with his neighbors.

v. Protection of Environmentally Sensitive Habitat Areas (p. 27)

When the staff report was written, staff did not yet have copies of the biological studies that were prepared for the project. Project appellants claim the project is inconsistent with the following policies and code sections regarding Environmentally Sensitive Habitat Areas (ESHAs).

LCP Section 3.1 Narrative - Environmentally Sensitive Habitat Areas.

Any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

CZC Section 20.496.010

Environmentally Sensitive Habitat Areas (ESHA's) include: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation which contain species of rare or endangered plants and habitats of rare and endangered plants and animals. (Ord. No. 3785 (part), adopted 1991)

Botanical reports incomplete/inaccurate. Page 27 of the staff report states, "The three appellants assert that the biological surveys performed for the proposed project were incomplete and/or inaccurate . . ."

A wildlife survey, botanical survey and ESHA buffer analysis were performed by BioConsultant LLC. All letters that were submitted to the County Dept. of Planning & Building Services by members of the public regarding biological resources were provided to BioConsultant prior to conducting the studies in order to make sure that all issues raised would be addressed in the studies. BioConsultant consulted with planning staff and DFG staff. Following submittal of the botanical report and ESHA buffer analysis to the County, planning staff and DFG staff visited the site together and DFG subsequently approved the report. Following allegations by CNPS and others that the surveys were inadequate, BioConsultant prepared a detailed written response in defense of their work. We assume you are now in receipt of the local record from the County, and are able to refer to the biological reports and correspondence referred to in this letter.

We would also note that a 2-page botanical report was submitted to the County in 2001 for development of the Gualala Bluff Trail and no questions regarding the adequacy of the survey were raised. Neither the Coastal Commission nor BLP appealed the project based on inadequate biological surveys, even though the survey did not follow DFG guidelines (which were in effect at the time), did not identify the dominant plant community, did not adequately address wetlands, and did not properly survey for rare plants. Although this survey was highly deficient, it was not questioned, while Bower's comprehensive studies are claimed to be inadequate. We would hope to see all applicants held to the same standard for the sake of impartiality and to provide consistent protection of coastal resources.

Pages 27-28 of the staff report state, in part, "The appellants allege that the botanical reports prepared for the project are inadequate because they (1) do not adequately address the habitat value of the mature coastal scrub habitat and silk tassel-dominated plant communities present at the site..."

In a letter to the Board of Supervisors dated February 8, 2008, BioConsultant specifically addresses silk tassel and coastal bluff scrub concerns raised by CNPS:

"The document [Botanical Survey] notes the presence of a large cluster of silk tassel bush: "Large stands of mature silk tassel bush and oso berry, both infrequently occurring native species, occur at mid-slope about halfway across the span" and describes silk tassel bush as an "important" but not a dominant shrub. The silk tassel bush cluster is too small to be considered a separate alliance. It should be noted that recent modifications to the design for the retaining wall preserve the existing silk tassel bush."

"As stated in the report, dense northern coastal scrub is the predominant vegetation covering the coastal bluff (p. 5). The report provides a detailed description of the community and cites the

corresponding community nomenclature according to the CDFG Vegetation and Mapping Program (2003) and the older Holland system (1986). The site does not contain a Northern Coastal Bluff Scrub community. While the two scrub communities have some features in common, they are recognizably different in stature, species composition, phenology and physical site factors. The plant community at the site unambiguously corresponds to northern coastal scrub."

The staff report continues, "The appellants allege that the botanical reports prepared for the project are inadequate because they ... (2) fail to properly survey for the rare coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*)..."

The letter from BioConsultant to the Board of Supervisors of February 8, 2008 specifically addresses coastal bluff morning-glory concerns raised by CNPS:

"BioConsultant LLC's botanist has experience with the rare coastal bluff morning-glory, having identified 2 new populations in Mendocino County in 2006. The botanist studied the Project Site's morning-glory population in the field and collected specimens for subsequent laboratory analysis. She concluded that the population was intermediate in a number of characteristics but possessed the growth habit and an overall preponderance of leaf shape characteristics of the common subspecies. In the botanist's best professional judgment, it is a population of climbing morning-glory. Details of our analysis and consultations with CDFG and other experts are presented in the enclosed 'Methods and analysis for BioConsultant LLC climbing morning-glory determination for CDP #55-2006-Bower.'"

The assertion continues on page 28, "The appellants allege that the botanical reports prepared for the project are inadequate because they ... (3) conclude an absence of wetlands based solely on soil conditions despite having identified the presence of several wetland plant species."

The Botanical Survey dated August 2007, prepared by BioConsultant LLC states:

"Due to concerns discussed at a recent meeting of the Gualala Municipal Advisory Council (GMAC) regarding potential on-site wetlands, soil samples were obtained from two areas with a high coverage of giant horsetail (a hydrophytic plant) located just west of the Gualala Bluff Trail at distances of 77ft. and 347ft. measured from the south Project Site boundary. Philip Northen, Ph.D., conducted the soil analysis and found no wetland properties or indicators. The soil was loosely consolidated gravely sandy fill; with a matrix color of 2.5Y 3/2 according to the Munsell soil color charts (Munsell Color 1975). As previously stated, the bluff top area and the entire western portion of the Project Site are covered with a deep layer of imported fill that was added to level the property (see Project Site Background History). The soil analysis shows that the samples do not represent wetland soils and that they are consistent with the characteristics of fill material.

No wetlands, seeps, or riparian habitat were found within the Project Site. As described above, there is an off-site estuarine wetland in the intertidal area between the toe of the slope and the Gualala River Estuary."

BioConsultant elaborates in their letter to the Board of Supervisors of February 8, 2008:

"The report identifies an off-site estuarine wetland comprised of mud flats in the intertidal area (p. 3, 6). The wetland indicator species cited by CNPS (*Oenanthе sarmentosa*, *Carex nudata*, and *Potentilla anserina* ssp. *pacifica*) are components of the estuarine wetland and do not occur elsewhere within the survey limits.

The report determined that no potential wetlands exist within the survey limits using the technical criteria for identifying wetlands contained in the Mendocino County Coastal Element (Appendix D of the California Coastal Commission Statewide Interpretive Guidelines); therefore, no formal wetland delineation was performed. However, public concerns about potential wetlands had been raised due to the presence of a hydrophytic plant, giant horsetail (*Equisetum telmateia* ssp. *braunii*), on the upper bluff. As stated on p. 5, BioConsultant LLC staff determined, based upon an expert analysis of

soil samples, that giant horsetail is growing in non-hydric soils. In a September 11, 2007 letter to County staff, BioConsultant LLC stated that neither hydric soils nor a preponderance of hydrophytic vegetation characterize the areas containing giant horsetail. Our findings regarding on-site wetlands are summarized on p. 5 ("Wetland Assessment"): "No wetlands, seeps, or riparian habitat were found within the Project Site."

It is clear that the only wetland identified during the survey was at the margins of the estuary, off-site and outside of the project limits. However, recognizing the sensitivity of this ESHA, BioConsultant inventoried all of the plants down to the mean high tide line, prepared a buffer analysis, and made considerable recommendations to protect the estuary from construction activities. The recommendations were adopted by the County as conditions of approval of the CDP.

The staff report continues, "Appellant 3 asserts that the biological reports are inadequate because they fail to address potential impacts to wildlife associated with the Gualala River estuary including a known otter population at the base of the bluff and the Point Arena Mountain Beaver that may be present in the area."

Kim Fitts of BioConsultant is a qualified wildlife biologist who specializes in the study of Point Arena Mountain Beaver (PAMB). She is included on the USFWS list of biologists qualified to conduct PAMB surveys on behalf of the USFWS. She determined that the site was out of the distribution range for this species. Otter, a common species, was not surveyed because it is not a special status species.

OTHER PERTINENT POLICIES FOR CONSIDERATION

The following policies were not addressed in the staff report, however provide further evidence of the project's consistency with the Coastal Act:

Coastal Act Sec. 30250.

- (a) *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*
- (b) *Where feasible, new hazardous industrial development shall be located away from existing developed areas.*
- (c) *Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

Proposed redevelopment is located in an existing developed area and will have positive effects on coastal resources both directly by rehabilitating the unstable artificial fill and by restoring the disturbed areas with native plants. In the long term, the proposed redevelopment will also increase the safety and accessibility for a coastal-dependent use (the Coastal Bluff Trail) by reducing the probability of debris flows and damage to the trail.

Coastal Act Sec. 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Proposed re-development not only protects a natural landform from degradation, it partially restores the historic alteration of a natural land form (the fill placed on top of the bluff before the Coastal Act was implemented). The views both from and toward the project area will be enhanced by the proposed redevelopment through the replacement of weeds with native plants. In contrast to often proposed concrete soil retention structures, the proposed redevelopment implements the Geoweb soil stabilizing system which can be completely revegetated with native plants. The final result is anticipated to be identical in appearance to neighboring stands of native vegetation and will replace the current preponderance of weeds and invasive plants that continue to colonize the project site, decreasing the site's value as a natural resource.

Coastal Act Sec. 30253.

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.

(d) Minimize energy consumption and vehicle miles traveled.

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Here, more than anywhere else in the Coastal Act, the proposed project meets and exceeds policy standards for development in the Coastal Zone. Though more accurately described as redevelopment or improvement and not "new development," the proposed project would minimize risks to life and property in a very real, environmentally sound way by reducing the risk of debris flows which could potentially injure individuals recreating on or passing through the project site.

The project is proposed to improve the stability and structural integrity of the parking lot while simultaneously reducing erosion and eliminating debris flow threats. The "device" (Geoweb system) protects only the artificial fill and does not alter natural landforms along bluffs or cliffs.

The project minimizes energy consumption and vehicle miles traveled both directly by employing local engineers, consultants, and construction contractors and indirectly by supporting vital economic goods and services in the heart of a walkable downtown urban center.

The project may also protect a special community since it reduces the probability of debris flows that would necessitate periodic closure and re-construction of the Coastal Bluff Trail (which may qualify as a special community/neighborhood because of its unique location adjacent the Gualala River Estuary and its popularity as a recreational trail).

CONCLUSIONS

We believe not only that considerable evidence exists to find the project consistent with the Coastal Act, the Mendocino County Coastal Land Use Plan and the Mendocino County Coastal Zoning Code, but that the benefits of the project to the coastal environment and public welfare have been consistently overlooked by the Coastal Commission staff and need to be recognized. The proposed project will repair human-induced erosion along the west edge of the property, will treat currently untreated parking lot runoff before it enters the Gualala River, will reduce the spreading of invasive weeds on the Gualala Bluff Trail, and will enhance the bluff habitat by reducing disturbance to the natural bluff face and implementing restoration of native vegetation.

The photographs which were referred-to near the top of Page 2 of this letter are attached to demonstrate the real threat of sediment delivery to the Gualala River Estuary. The North Coast Watershed Assessment Program (NCWAP) has classified the Gualala River as a sediment impaired stream. This is significant because of the waning populations of anadromous fish, including steelhead trout and coho salmon, in the river. This project will reverse one area of cumulative affect along the length of the impaired stream. Because the geoweb is aesthetically superior to hard solutions and because it promotes vegetation, which has been shown to be the most effective medium for preventing sediment delivery on steep slopes, it is the most environmentally sound solution.

We appreciate your recent visit to this project site and hope that this follow-up letter on Coastal Policy will aid in your analysis of this project. We, of course, will be pleased to answer any questions or provide supplemental information.



Very truly yours,

George C. Rau, P.E.
Registered Civil Engineer 21908
Registered Geotechnical Engineer 710
Expires 9-30-09

Julie Price
Environmental and Resource Planner

cc: John Bower
Alan Block

Enclosures: Photos Showing Debris Flow Potential for Impacting Gualala River Estuary

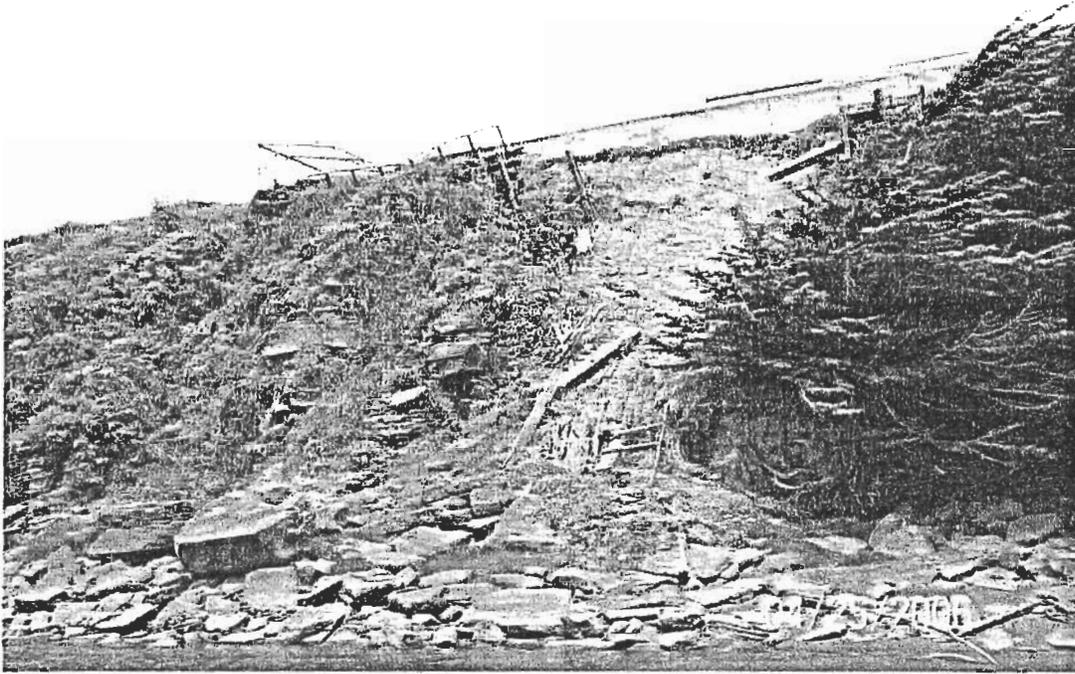


Photo 1. Debris flow behind Surf Market



Photo 2. Fill failure



Photo 3. Sediment delivery to estuary.



Photo 4. Sediment delivery to estuary.



Photo 5. Exposed traffic slab covering interceptor tank due to eroding fill.

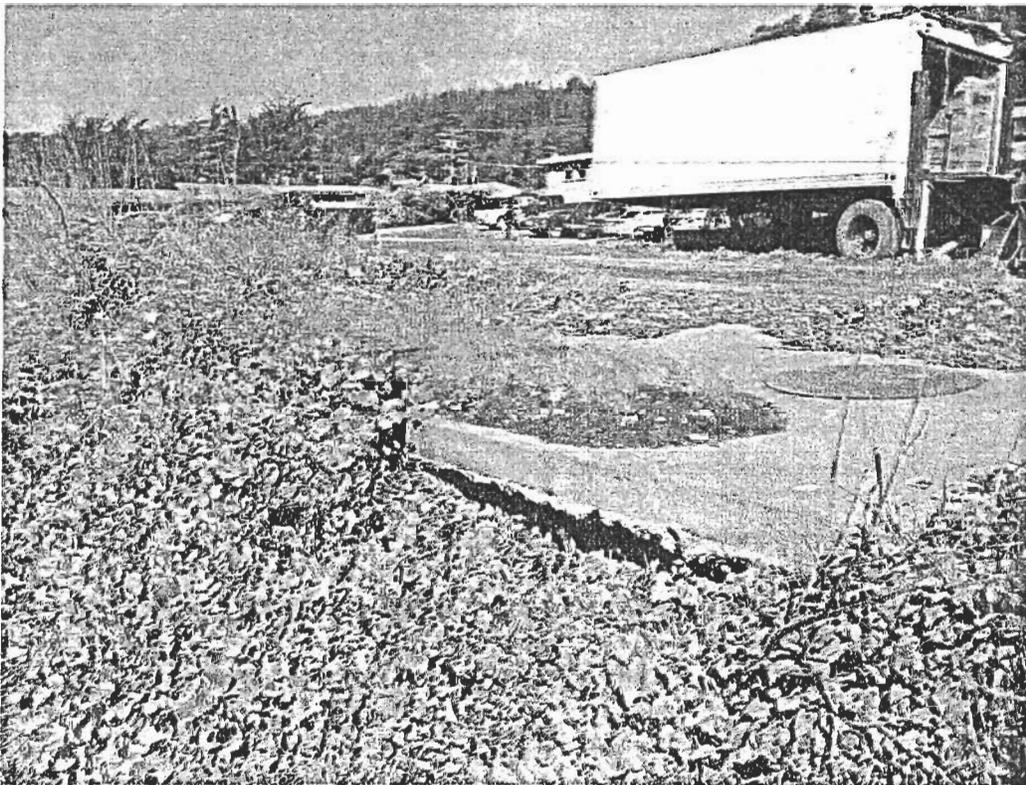


Photo 6. Exposed traffic slab at edge of fill.



REDWOOD COAST LAND CONSERVANCY

Dedicated to protection of open spaces and natural resources from the Navar

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EXHIBIT NO. 10
APPEAL NO. 1-83-270-A1 BOWER LIMITED PARTNERSHIP GENERAL CORRESPONDENCE (1 of 15)

March 30, 2010

California Coastal Commission
Robert Merrill, District Manager
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

REC

APR 6 1 2010

CALIFORNIA
COASTAL COMMISSION

Re: Appeal No. A-1 MEN-08-15 (Bower Limited Partnership, Mendocino Co.)
Permit No. 1-83-270-A (Bower Limited Partnership, Mendocino Co.)

Dear Commissioners and Mr. Merrill:

Redwood Coast Land Conservancy (RCLC) is pleased that the Commission will soon hear the two referenced matters, because we have a strong vested interest in their ultimate disposition. RCLC is the steward, on behalf of the people of California, of a dedicated pedestrian access easement on the coastal property subject to the Appeal and Permit and has constructed and maintained the Gualala Bluff Trail (GBT), which to date has been completed on a portion of that easement. The Trail provides sweeping, bluff-top views of the Gualala River estuary/lagoon and Pacific Ocean and is a vital link in the California Coastal Trail. Continued construction and completion of the GBT have necessarily been suspended since May 2007, pending the Commission's resolution of these matters, which will in any outcome significantly impact the Trail.

It is important to point out that we are not objecting to the Permit application, per se, because RCLC agreed not to do so pursuant to a 2007 Settlement Agreement (referenced fully below) that resolved litigation brought by the Permit applicant against RCLC and the Commission. That Agreement did permit RCLC to comment on the impacts of the applicant's proposed retaining wall on the aforementioned easement. We have described extensively those impacts in prior correspondence to Mendocino County authorities and the Commission, copies of which are being provided to the Commission Staff as part of this submission. It suffices to say here that the most profound immediate impact of the proposed retaining wall would be destruction of large parts of the existing Trail, the need to reconstruct them and the consequent closure of the easement and Trail to public access for an extended period.

Therefore, in addressing the Commission now, RCLC's paramount goal is straightforward: the expeditious completion of the entire GBT, in accordance with the CDP granted by Mendocino County in 2004 and management plan subsequently approved by the Commission, so that the public can at last fully enjoy the Trail's many benefits.

To this end, we request that the Commission, in disposing of the referenced matters, require that any permitted construction by Bower Limited Partnership (BLP) of a retaining wall along all or part of the dedicated easement be subject to certain conditions. Collectively, they are intended to facilitate both the timely rebuilding of those GBT segments destroyed in the course of such construction as well as the ultimate completion of the entire Trail. We emphasize that the latter objective was the Commission's stated intent, when it stipulated in 1977 and 1981 that the original OTD's relating to the easement and GBT be executed. RCLC will work diligently and cooperatively with BLP and John H. Bower to accomplish that objective.

Specifically, RCLC requests that, as conditions to any permitted construction pursuant to the referenced Appeal or Permit, BLP be required to:

1. complete such permitted retaining wall and associated construction expeditiously and within a stipulated timeframe as short as reasonably possible;

2. post a performance bond or similar contractual obligation in favor of the State of California to assure, for the public benefit, the timely completion of such permitted construction and subsequent reconstruction and use of the Trail;

3. pay or reimburse to RCLC all costs of redesigning (under RCLC's authority), rebuilding and otherwise restoring those segments of the existing GBT damaged or destroyed in the course of BLP's permitted construction; and secure BLP's obligation to do so by a performance bond, escrow or similar financial arrangement that provides a mechanism, acceptable to RCLC, for the timely completion of such Trail restoration and the payment/reimbursement of the costs related thereto;

4. expressly acknowledge that RCLC shall retain sole authority for any redesign of the GBT and its features contemplated in Paragraph 3, above, so as to ensure their compatibility with RCLC's 2004 CDP and to further ensure that the redesign and rebuilding of the Trail meet RCLC's specifications for vegetation management, maintenance and aesthetic quality;

5. in planning and undertaking any permitted construction and to ensure the public's continued enjoyment of the GBT's westerly viewshed and natural habitat: (a) minimize impacts to existing native vegetation westerly of the GBT easement, protecting as much as possible existing natural habitat and wildlife corridors between the Gualala River estuary/lagoon and Trail; (b) revegetate completely any disturbed areas, including the retaining wall, with native vegetation (replicating native plant associations and plant species expected to grow naturally between the Trail and Gualala River estuary) and ensure that such vegetation is permanently established; (c) manage for and eradicate on a continuing basis any non-native invasive species in all areas subject to BLP's permitted construction; and (d) design any protective barriers intended to mitigate the safety hazard to Trail users created by the steep slope of the retaining wall, so as to

minimize impacts on the currently unobstructed views from the Trail of the watershed and native vegetation;

6. redesign its proposed retaining wall, so that the reconstructed GBT connector between the BLP and adjacent southerly parcels steps naturally (as it does presently) through native vegetation to the bridge connecting the two parcels, thereby maintaining a natural trail experience;

7. incorporate, in the final design of any permitted construction, drainage solutions that address storm water from the roofs of buildings and from the parking area northerly of the GBT that currently sheet flows across the Trail and could erode the edge of the GBT easement, preferably by installing an intercept drain in a regraded valley east of the northerly section of the GBT, thereby avoiding destruction of the Trail in that area;

8. (a) move the tilting septic tank, currently located in the GBT easement next to the bluff edge, to a place outside of the easement; and (b) agree that any future relocation of existing propane tanks or septic systems, in conjunction with the proposed retaining wall or otherwise, shall be to sites outside the GBT easement, so as to provide a more aesthetically pleasing experience for Trail users;

9. permanently relocate and effectively contain garbage/trash disposal and recycling facilities associated with the Surf Supermarket, so as to reduce or eliminate current odors and litter impacts to GBT users and enhance their enjoyment of the Trail; and

10. (a) reaffirm that the location of the GBT easement on BLP property is as confirmed in the February 16, 2007, Mutual Settlement Agreement and Release By and Between BLP, John H. Bower, RCLC, et al and the Commission; and (b) expressly agree not to seek any future modification in the terms of the easement that would cause it to be a "fixed" rather than "floating" easement.

We appreciate the Staff's and Commissioners' consideration of our position and requests. We will be happy to respond to your needs for further information or clarification. We may also offer additional comments upon reviewing the Staff Report on these matters.

Your sincerely,

Signature on File

Laurie Mueller
President

encls: 11/14/07 Letter to Mendocino County Planning and Building (Hall, Beddoe)
8/21/08 Letter to California Coastal Commission (Merrill)



MENDOCINO
COUNCIL OF GOVERNMENTS

367 North State Street~Suite 206~Ukiah~California~95482

PHILLIP J. DOW, EXECUTIVE DIRECTOR

Telephone 707-463-1859
Fax 707-463-2212
www.mendocinocog.org

March 12, 2010

Mr. Bob Merrill, District Manager
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

RE: APPEAL NO. A-1-MEN-08-15 (BOWER LIMITED PARTNERSHIP, MENDOCINO COUNTY)

Dear Mr. Merrill:

At the February 1, 2010 regular meeting of the Mendocino Council of Governments (MCOG), the Board took action to recommend approval of the proposed soil retention system associated with California Coastal Commission Appeal Number A-1-MEN-08-15 and authorized the Chair to indicate support in a letter to the Commission.

Mendocino Council of Governments is the regional transportation planning agency for Mendocino County. In recent years, MCOG has been involved in development of a Community Action Plan for Gualala that addresses alternative approaches for traffic calming, increased bicycle and pedestrian safety, traffic circulation, parking supply, and Highway 1 beautification in downtown. Phase I of the Community Action Plan was completed in 2007. Phase II, which resulted in a Downtown Streetscape Design Plan, was completed in March, 2009. Both phases were completed under "Community Based Transportation Planning" grant programs awarded by Caltrans and administered through MCOG. The entire Gualala Downtown Design Plan is available for review on MCOG's website.

Parking supply (on-street as well as off-street) was recognized early in the planning process as a critical issue in Gualala. Most off-street parking in downtown Gualala lies east of Highway 1. However, there are critical businesses located west of Highway 1 between the highway and the coastal bluff. One of these is the Surf Market, an important local asset, located on a parcel with a project pending Coastal Commission decision, and adjacent to the parcel subject to appeal. Parking is historically constrained at this location and removal of parking on adjacent Highway 1 would exacerbate the limited on-street parking situation, negatively impacting this coastal business that provides over 50 local jobs.

During the first phase of the Gualala Community Action Plan, Mr. John Bower, property owner on which the Surf Market operates, informed MCOG and our consultants (RRM Design Group) of his plan to stabilize the coastal bluff behind and north of the Surf Market as part of a plan to develop more off-street parking. The additional parking to be provided would be more than

enough to compensate for the several adjacent spaces to be lost with parking removal on Highway 1 as the Gualala Downtown Design Plan is implemented. Although there are other areas within the community where parking removal (without an increase in off-street parking supply) would negatively impact businesses, the Surf Market property is the most impacted parcel.

The interest of the Mendocino Council of Governments in the subject Coastal Development Permit and subsequent appeal process is that of implementation of the Gualala Downtown Design Plan. In order to provide the full range of use of the Highway 1 corridor for pedestrians, bicyclists, passenger vehicles and trucks, parking must be removed in downtown Gualala. Parking prohibition on Highway 1 in this area is not only consistent with the Mendocino County Coastal Element; it is required per Section 4.12-4 of the element.

Increasing the supply of off-street parking in downtown Gualala is critical to efforts in developing a highway corridor that provides a full range of transportation alternatives. Bower Limited Partnerships has developed a project that would lead to an increased supply of off-street parking for that property that would be most impacted by parking prohibition on Highway 1. The Coastal Permit Administrator approved the Coastal Development Permit when it was heard at the Coastal Permit Administrator's hearing on November 19, 2007, and the County again supported the project when the project was appealed to the Mendocino County Board of Supervisors. The Mendocino County Board of Supervisors heard the first level of appeal at their February 26, 2008 meeting, and denied the appeal.

The Gualala Downtown Design Plan was developed through extensive public involvement over a three-year period. Although consensus was not achieved regarding all aspects of the plan, there is awareness in the community that none of the desired improvements can be made without parking removal on Highway 1. The property owner of the most critical parcel has developed a project that has met local approval, and if now approved by the California Coastal Commission, will remove a major obstacle to design plan implementation in Gualala.

The Board of the Mendocino Council of Governments, on the basis of its unanimous vote on February 1, 2010, urges the California Coastal Commission to decide in favor of the proposed soil retention system associated with appeal A-1-MEN-08-15.

Sincerely,

Signature on File

Dan Gjerde, Chair

Copies: Carrie Brown, Chair, Mendocino County Board of Supervisors
David Colfax, Supervisor, Fifth District
John Bower, Bower Limited Partnership

Michael A. Lane, Ph.D.

January 12, 2009

California Coastal Commission
710 E Street, Suite 200
Eureka, CA 95501

RECEIVED

JAN 14 2009

Attention Mr. Bob Merrill, District Manager

CALIFORNIA
COASTAL COMMISSION

Re: Amendment 1-83-270-A1 & Appeal A-1-Men-08-015

I am a licensed California geologist (#3513). I hold a Ph.D. from Indiana University (concentration – Structural Geology), and have more than 40 years professional experience in industry, consulting and academia.

I call your attention to the following facts.

- 1) The project area borders the Gualala River Estuary, not the open ocean.
- 2) Bedrock in the project area consists of interbedded sandstone and shale of the Anchor Bay Member, Gualala Formation.
- 3) The proposed project envisions excavation not only of fill material, but removal of pre-existing natural soils.
- 4) The fill in APN 145-261-13 was sampled by two borings (B-4 and B-5) Depth of fill in both was reported as approximately 5 feet.

DISCUSSION

Location and geology.

The project area separated from the open ocean by a barrier bar and the Gualala River Estuary (see attached map). Distance between the base of the bluff and the seaward side of the barrier bar ranges from 600 to 800 feet. Occasional storm and rogue waves top the bar, but the proposed project area is not regularly or consistently subject to wave erosion.

The bedrock in the project area consists of gently dipping sandstone and shale. The sandstone is well cemented and resistant. Borings for pedestrian bridge supports on the Gualala Bluff Trail a short distance south of the project area were emplaced using a diamond-studded core barrel. Fill thickness, especially on the northern parcel, appears to be minimal. The existing slope failures may well represent localized drainage conditions, rather than any widespread soil or rock weakness.

Michael A. Lane, Ph.D.

Excavation of natural soils

The report "Site Reconnaissance and Preliminary Investigation" contains project area fill thickness obtained from five auger holes. The fill thicknesses are: B1: 7', B2: 7', B3 8', B4: 5' and B5: 5'. The proposed depth of excavation is apparently greater. The June 25, 2008 letter "Re: Appeal No. A-1-MEN-08-015 (Bower Limited Partnership) George Rau to Bob Merrill., references "...excavation and reprocessing of the 12 to 14 feet depth of fill material and loose original surficial soils..." (p.1)

Project documents do not indicate exactly what is to be excavated. Drawings C200 and C500 show finished contours, but not proposed excavation depths. This is in spite of the fact that two borings (B4 and B5) were emplaced in the area to be excavated. This omission limits an informed review of the proposed project.

Site characterization variability

Parcel APN 145-261-13, the subject of Appeal No. A-1-MEN-08-015, extends for approximately 275' along the bluff. Fill and natural soils in this distance were tested by only two borings (B4 & B5). The fill thickness in both was shallow, approximately 5'. Soil testing was conducted on a single sample, including both fill and natural soils, composited from both borings. Therefore data specific to either the fill or the natural soils was not obtained.

CONCLUSIONS

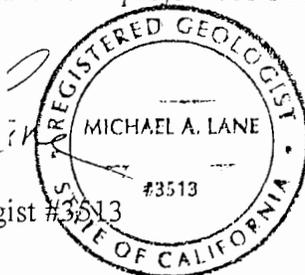
In my opinion, the proposed project is not justified either by need to protect the bluff from ocean forces, or from land-based impacts. The open ocean is separated from the bluff by a barrier bar and estuary, and the bedrock is resistant and stable. Fill, at least over the northern parcel, is thin and at any rate not characterized. The proposed project would armor a bluff composed of gently dipping stable resistant rock adjacent to a lagoon and hundreds of feet from the ocean.

Furthermore, even if it were found to be necessary, the proposed project is based on incomplete site characterization. Additional subsurface information along the 275' feet of bluff in parcel 145-261-13 would be needed to guide excavation. Given the thin fill encountered in the two existing borings, it might be determined that excavation could be minimized, and site disturbance and project costs reduced.

Respectfully submitted

Signature on File

Michael A. Lane, Ph.D.
California Licensed Geologist #3513



cc. Tiffany Tauber

GUALALA BLUFF TRAIL

Proposed Trail Markers



Below main entrance

Our "No please" sign behind main cliff

Play One in front of Surf Motel

Bluff trail sign behind Surf Motel

Bluff trail sign behind Surf Motel

14526113

14526105

Space fence behind Breakers Inn

End of trail railing behind Breakers Inn

SW corner of Ocean Song



0 200 400 Feet



Lane GeoGraphics, LLC
Gualala, CA
lanegeo@mcn.org

Trail by Redwood Coast Land Conservancy
Gualala, Mendocino County California
September 2007

Orthophoto base: AirphotoUSA 2002-2004
Parcel Boundaries: Mendocino County Building & Planning, Cartographic Section

Francis Drouillard, CE
2021 Shady Lane
Novato, CA 94945

A-1-MEN-08-015
OPPOSE

RECEIVED

DEC 17 2008

CALIFORNIA
COASTAL COMMISSION

Robert Merrill, District Manager
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

Re: Appeal No. A-1-MEN-08-015 (BOWER LIMITED PARTNERSHIP)
And Rau & Associates letter dated June 25, 2008

Dear Mr. Merrill,

The proposed project requires the construction of a GeoWeb retaining wall that extends across two adjacent parcels along a bluff face in the town of Gualala, CA. My reasons for opposing the wall are related to its location west of the current bluff edge and the fact that it isn't needed along the full length of parcels AP 145-261-05 and AP 145-261-13.

Proposed Wall Location and Length

The current project includes a proposed wall that is 10 to 17 feet west of the current bluff edge. The applicant provides no rational basis for choosing that proposed location, nor offers any discussion or evaluation of alternative wall locations.

The preferred location for any retaining wall alternative is along the current bluff edge. Any wall built farther west on the bluff face will have to be built taller and longer and will have a greater adverse impact on the environment.

Building the wall along the current bluff edge is the least environmentally harmful alternative for any wall type, including the proposed GeoWeb wall.

Proposed Wall at Parcel AP 145-261-05 (Surf Super Parcel)

Special Condition No. 1 of CDP 1-83-270-A1 requires the owner to build and maintain a wooden retaining wall to protect the existing Surf Super building and the Gualala Bluff Trail. The wall built to comply with that special condition is now in a complete state of disrepair.

The owner is seeking a modification to Special Condition No. 1 that would allow construction of non-wood retaining structures. That requested modification is unnecessary. A conventional wood crib wall conforms to Special Condition No. 1 as currently written and is a suitable alternative for repairing the large debris flow behind Surf Super and restoring the Gualala Bluff Trail to its previous condition.

Proposed Wall at Parcel AP 145-261-13 (Old Pharmacy Parcel)

The site constraints and need for the wall at the Old Pharmacy parcel differ from those at the Surf Super parcel.

For one, no authorized development is threatened by bluff retreat. The Gualala Bluff Trail is within an easement that moves east as the bluff erodes, so it does not need protection. The nearest building is 100 feet away and is unlikely to be threatened by bluff retreat.

Secondly, the need for a wall on this parcel is somewhat dubious since the bluff itself is stable. The uncompacted fill placed atop the natural bluff face is the real hazard. Removing that fill would be less environmentally harmful than any wall type in any location, either along the bluff edge or farther west on the bluff face.

The applicant's claim that existing development is threatened by bluff erosion should be supported by a bluff retreat rate analysis and an appropriate bluff retreat buffer zone should be established. However, there are additional restrictions to bluff face development within the town of Gualala that may preclude building the wall and obviate the need for a bluff retreat rate analysis.

Inadequate Alternatives Analyses

The applicant has failed to adequately consider feasible alternatives to the proposed wall. Alternatives such as locating the wall along the bluff edge, removing some or all of the fill subject to debris flows, re-compacting that fill or re-grading the site and installing an intercept drain along the east edge of the trail easement should be evaluated, analyzed and submitted for review.

Used either singly or in combination, those alternatives would achieve the stated project goals with less harm to the environment and at a substantially lower cost than either the Ultra Block Wall previously proposed or the GeoWeb Wall currently proposed.

Development on Bluff Face Restricted

There are additional restrictions to bluff face development that apply to this project. Section 20.500.020(B)(4) of the MCCZC states:

No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects.

The proposed wall is not needed to support a coastal-dependent use and therefore does not "substantially further the public welfare." In fact, by closing the Gualala Bluff Trail, it inhibits an existing and very popular coastal-dependent use.

As discussed above, there are several alternatives to the proposed wall that are less environmentally damaging. Even if the proposed wall passed the "public welfare" test it would not pass the "least harmful" test, and therefore should not be allowed.

Bluff Face a Designated ESHA

The Gualala Town Plan (GTP) and the Local Coastal Plan (LCP) impose further restrictions on bluff face development in the town of Gualala where the bluff face is designated as an ESHA.

Section 2.7 of the certified Gualala Town Plan states in part:

The Coastal Element's environmentally sensitive habitat area (ESHA) policies apply to the Gualala River which includes the following ESHAs: anadromous fish stream, wetlands, riparian areas, habitats of rare and endangered plants and animals.

and

Goal G2.7-1. To protect land used for timber and crop production outside of the Residential Reserve area and environmental resources, including the Gualala River estuary/lagoon, stream corridors, riparian areas, and wetlands from incompatible development.

Section 20.496.020(A)(2) of the Mendocino County Coastal Zone Code (MCCZC) defines the extent of the riparian area as follows:

Configuration. The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).

Also, Section 20.496.020(A)(1)(d) of the MCCZC requires the applicant to incorporate the bluff face into the buffer zone:

Use of Natural Topographic Features to Locate Development. Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.

Sec. 20.496.020(A)(1) of the MCCZC specifies the minimum width of an ESHA buffer area:

Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a

buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.

As noted previously, the proposed wall on the Old Pharmacy parcel does not qualify for exceptions that would allow development on a bluff face. Therefore, it must comply with ESHA setback requirements in the GTP and LCP. That means a minimum 50-foot wide buffer area must be provided and the width of that buffer area shall be measured from the current bluff edge.

Applicant Should Provide Additional Information

The application as submitted is incomplete. As currently proposed the GeoWeb Wall does not comply with key provisions of the certified Gualala Town Plan or the certified Local Coastal Plan.

A complete application would:

1. Identify the coastal-dependent use that the wall supports.
2. Provide the reason for locating the wall on the bluff face.
3. Locate the eastern boundary of the designated ESHA.
4. Provide information regarding dates when the fill was placed on the two parcels.
5. Identify the extent of the unauthorized fill.
6. Provide additional borings or test pits or both.
7. Show how the fill depth varies on the Old Pharmacy parcel.
8. Provide a bluff retreat rate analysis.
9. Identify the need to locate new or relocated underground utilities and interceptor tanks within the ESHA buffer area. Note that locating these elements east of the required ESHA/riparian area buffer zone would obviate the need for a wall.

Until the application addresses all of the above issues it should be considered incomplete. Otherwise, the project can only be viewed as fundamentally incompatible with the Gualala Town Plan, the Local Coastal Plan and Chapter 3 of the Coastal Act. In either case, the application should be rejected or withdrawn.

Thank you for considering my professional opinions on this matter.

Sincerely,


Signature on File

Francis Drouillard
CE 04240, exp. 3/31/10



GUALALA MUNICIPAL ADVISORY COUNCIL
POST OFFICE BOX 67, GUALALA, CALIFORNIA 95445

To: California Coastal Commission
(Attn.) Tiffany Tauber
710 E Street, Suite 200
Eureka, CA 95501

RECEIVED

July 18, 2007

JUL 23 2007

CALIFORNIA
COASTAL COMMISSION

From: Robert Juengling,
Gualala Municipal Advisory Council (GMAC) member

RE: CDP# 1-83-270 (a.k.a. Bower retaining wall located @ 39250 S. Hwy.1 -
APN 145-261-05) Other references-CDP Amendment
No. 1-83-270-A1 , CDP# 55-2006 (Bower Ltd. Trust)

Dear Tiffany Tauber,

I am writing on behalf of the GMAC and wish to address the above mentioned subject matter. It is our sincerest desire that you can take a few moments to read the exact content of this letter.

For the record, GMAC has reviewed proposed CDP# 55-2006 at a GMAC meeting held on Dec. 7, 2006. At the time this CDP was heard, the proposal by (Bower Ltd. Trust) was to construct a 285-ft. long concrete block retaining wall at 39200 S. Hwy. 1 (APN# 145-261-13 – commonly known as the Old Pharmacy parcel) and connect it to a proposed 70-ft. long retaining wall on an adjacent parcel 39250 S. Hwy. 1 (APN 145-261-05 – commonly known as the Surf Supermarket parcel). The proposed 70-ft. long retaining wall portion of CDP# 55-2006 was planned as a replacement for an existing yet failed wooden retaining wall which is under California Coastal Commission (CCC) jurisdiction (Original Permit # 1-83-270). At the Dec. 7, 2006 GMAC meeting, council members voted (4Yes2No) to recommend approval of subject CDP#55-2006 to Mendocino County Dept. of Planning & Building Services – Attn. Teresa Beddoe (see letter enclosed).

Prior to and at the June 7, 2007 meeting of GMAC, certain materials were distributed to council members (see enclosed e-mails) concerning correspondence between Julie Price of Rau & Associates, Inc. (John Bower's engineer) and Tiffany Tauber of the CCC. An attachment to this correspondence is referred to as Pertinent Coastal Act Policies and identified as CDP Amendment No 1-83-270-A1 (Bower). This subject CDP Amendment No 1-83-270-A1 appears to reflect Julie Price's thoughts to Tiffany Tauber concerning Coastal Act Policies and her interpretation of how certain specific policies apply to the Bower retaining wall project. Applicant John Bower requested GMAC to place the Surf



GUALALA MUNICIPAL ADVISORY COUNCIL

POST OFFICE BOX 67, GUALALA, CALIFORNIA 95445

Center Retaining Wall issue on the June 7, 2007 GMAC Agenda (enclosed); distributed the subject list of pertinent Coastal Act Policies and took the lead on the discussion concerning the subject matter. [See enclosed 6/7/07 Meeting Minutes & Motion Transcript]. GMAC noted the Julie Price correspondence as a courtesy and regard it as information only. GMAC has not received an official CDP Amendment No 1-83-270-A1 application from Mendocino County Planning & Building and/or the CCC for review and cannot make any further recommendations.

At the behest of my fellow council members on the Gualala Municipal Advisory Council, I am to write a letter of support to the CCC for retaining wall project CDP# 55-2006 (Bower Ltd. Trust) now CCC Amended Permit #1-83-270-A1 (Bower). [ref. 6/7/07 GMAC Meeting Minutes-end of Item 6-enclosed]. The letter I agreed to write to the CCC however, concerns only the original, existing CDP# 1-83-270, without any regard to proposed CDP# 55-2006 whatsoever [ref. 6/7/07 GMAC Motion Transcript].

I would like to officially state on behalf of GMAC and the entire Gualala community, that we encourage and wholeheartedly support some sort of conclusion (whatever that may be) to the failed wooden retaining wall issue, located immediately behind and westerly of the Surf Supermarket, exclusively on APN# 145-261-05; taking into consideration the concerns of Mr. Bower, the Redwood Coast Land Conservancy and naturally conforming with all of the applicable Coastal Act Policies of the CCC. The Gualala area would like to see an end to the pending Coastal Commission jurisdictional issue so that we may move forward with the completion of the Gualala Bluff Trail over APN 145-261-05.

Apparently there exists a formal application to the CCC, being referred to as 1-83-270-A1 (Bower); an amendment to the original, existing CDP# 1-83-270. As noted in paragraph 2 of this letter, GMAC has not officially received this amendment to CDP# 1-83-270 (nor would we necessarily), nor have we been asked to respond or comment to the original, existing CDP# 1-83-270 or the 1-83-270-A1 (Bower) amendment. Other than to state in general our support, encouragement, and hope for a decision to this matter in a timely manner, GMAC realizes it cannot make any further recommendations. With all due respect to the CCC, we are fully aware of the requirement that Mr. Bower rebuild the failed existing wooden retaining wall, and that currently the CCC is going through the process of considering what type of construction will be allowed to be built at this location.

Thank you for the opportunity to weigh in on this matter. We are looking forward to continued forward progress after the resolution of the botanical study issues.

Sincerely,

Signature on File

Robert Juengling, GMAC member

RECEIVED

FEB 04 2008

CALIFORNIA
COASTAL COMMISSION

24 January 2008

Re: CDP #55-2006 and CDP#1-83-270

To Whom It May Concern:

I am writing to you in support of John Bower's project to take down the old buildings around the Surf Supermarket and put in a well designed replacement parking lot which will open up views to the Pacific Ocean.

One of the things that you notice when you drive north through Gualala is that you can't see the ocean. The view is stopped by buildings that were designed years ago with different needs in mind, ease of highway access for one. Now John Bower wants to remove some of those buildings and replace them with an open lot so that we, the public, can again view the ocean. And he has offered to reposition and resurface the public trail so that it would have scenic overlooks and be handicap accessible. In addition, when this project is finally done there will be a public bathroom, which is sorely needed (as any of us who work in businesses in town will tell you).

I am in total support of this. I don't understand people who aren't. This will be good for the town, good for the area and good for businesses because it will look aesthetically better than what exists now and provide much needed parking for the entire town. It will also restore our long absent view of the ocean.

I would hope that the time for division about this issue is over...and that we could find a way to be good neighbors and work together for the good of the whole community. The bottom line is, this new plan is good for all of us.

Respectfully yours,

Signature on File



Naomi Schwartz
PO Box 387
Gualala, CA 95445