

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877



W16a

MEMORANDUM

Date: May 11, 2010

To: Commissioners and Interested Parties

From: Peter Douglas, Executive Director
Robert S. Merrill, District Manager – North Coast District

Subject: **Addendum to Commission Meeting for Wednesday, May 12, 2010
North Coast District Item W16a, Permit Amendment Request No. 1-83-270-A (Bower Limited Partnership)**

This addendum presents certain revisions and additions to the staff recommendation for approval of the project with conditions mailed on April 29, 2010, including: (I) modifications to the special conditions of the staff report; (II) revisions and additions to the findings that respond to comments received on the staff recommendation and present findings that staff was unable to complete prior to mailing of the staff report; and (III) the addition of a new exhibit, Exhibit No. 11, which presents additional letters of correspondence and ex parte communications received since publication of the staff report. Staff continues to recommend approval of the permit with conditions as recommended in the April 29, 2010 staff report.

I. Modifications to Special Condition No. 3 of the Staff Recommendation.

- A. Special Condition No. 3 on pages 8-10 of the staff recommendation shall be modified as follows:

The language of the special condition as recommended in the April 29, 2010 staff report is shown in plain type. Text to be deleted is shown in ~~**bold strikethrough**~~, text to be added appears in **bold double-underline**.

3. Revised Final Soil Stabilization and Drainage Improvement Plans

- A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE
DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT**

PERMIT AMENDMENT NO. 1-83-270-A, the permittee shall submit to the Executive Director, for review and written approval, final soil stabilization and drainage improvement plans prepared in consultation with the Redwood Coast Land Conservancy, the Dorothy King Young Chapter of the California Native Plant Society, and the Mendocino Coast Cooperative Weed Management Area that substantially conform to the proposed soil stabilization and drainage improvement plans shown on sheets C100, C110, C200, C300, C400, C500, C504, C505, C600, C601, C610, C611, C620, C621, and C630 titled "Soil Stabilization and Drainage Improvements" dated April, 2008, attached as Exhibit No. 5 of the staff report, but shall be revised to include the following provisions:

- 1.) The Geoweb Retaining Wall shall be aligned such that the seaward edge of the top of the wall conforms with the ~~existing slope break~~ alignment of the original retaining wall constructed pursuant to CDP No. 1-83-270. The approved drainage improvements and septic tank replacement shall be repositioned as necessary to accommodate the required realignment of the approved wall.
- 2.) The storm drain proposed to extend across APN 145-261-05 shall include inline drains to capture runoff from the parcel that flows towards the bluff and an on-site infiltration interceptor to capture any pollutants contained in the run-off. The system shall be designed to treat or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event
- 3.) The end wall proposed at the southern end of APN 145-261-05 shall be designed to accommodate a crossing by the public access trail in its existing location and in a manner consistent with Mendocino County CDP No. 23-03 granted to the Redwood Coast Land Conservancy for construction of the public access trail and related improvements.
- 4.) At the northern end of APN 145-261-05, an end wall extending inland generally perpendicular to the Geoweb retaining wall of a design similar to the end wall approved at the southern end of APN 145-261-05 or its equivalent shall be included to protect against erosion around the north end of the wall. The end wall shall be designed to accommodate a crossing by the public access trail in its existing location and in a manner consistent with Mendocino County CDP No. 23-03 granted to the Redwood Coast Land Conservancy for construction of the public access trail and related improvements. The end wall shall also be designed to accommodate the possible future extension of a bluff retaining wall to the north on the adjacent parcel. This northern end wall on APN 145-261-05 need not be included if the Commission approves Appeal No. A-1-MEN-08-015 for a continuation of the Geoweb retaining wall on to adjoining APN 145-261-13.

- 5.) The permittee shall replace in-kind and in a manner consistent with Mendocino County CDP No. 23-03 any existing public access improvements developed by the Redwood Coast Land Conservancy on APN 145-261-05 and in adjoining areas disturbed by the development authorized under CDP No. 1-83-270-A
 - 6.) All plantings on the face of the Geoweb retaining wall shall be maintained in good condition throughout the life of the project to ensure continued compliance with the approved final landscaping provisions of the plans. If any of the trees and plants to be planted die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than ~~May~~ January 1st of the next ~~spring~~ winter season in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height in amounts sufficient to ensure that at least 50% of the face of the geoweb wall is covered by native vegetation;
 - 7.) All proposed plantings shall be native species and compatible with the plantings to be planted as part of the Northern coastal scrub restoration plan required by Special Condition No. 4, below. All proposed plantings shall be obtained from local genetic stocks within Mendocino ~~and Sonoma County~~ Counties. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted or allowed to naturalize or persist within the development site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;
 - 8.) Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used; ~~and~~
 - 9.) The success of the plantings shall be monitored on a regular basis for five years, and monitoring results shall be submitted annually to the Executive Director by December 31 of each calendar year; ~~and~~
 - 10.) Any imported fill used in the project shall have minimal weed seed and the source and means to be utilized to ensure weed seed is minimized shall be specified.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a

Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

REASONS FOR CHANGES: Comments received from the Redwood Coast Land Conservancy (RCLC) and others note that as the holder and manager of the lateral public access easement that would be protected by the proposed replacement retaining wall, RCLC is responsible for completion and management of a public access trail and associated improvements within the easement. Construction of the Geoweb retaining wall will require excavation of portions of the easement area. Special Condition No. 3(A)(5) requires the applicant to replace in-kind, and in a manner consistent with the coastal development permit that RCLC has obtained to construct the public access trail and associated improvements, the existing public access improvements with the affected area. To ensure that RCLC can review the final construction plans and provide input as to whether the plans for replacement of public access improvements are consistent with Special Condition No. 3(A)(5) and the other requirements of the condition and will enable RCLC to meet its responsibilities for improving and managing the public access easement, the first paragraph of the special condition is revised to require that the plans be prepared in consultation with RCLC. As portion of the plans will also address the selection and methods for planting native plants within the outer cells of the Geoweb wall and the management of invasive plants, the new language also requires that the plans be prepared in consultation with the Native Plant Society and the Mendocino Coast Cooperative Weed Management Area.

In addition, Special Condition 3(A)(1) is revised to specify that the alignment of the replacement Geoweb wall will conform to the alignment of the original retaining wall constructed pursuant to the original permit. Special Condition No. 1 of the original permit (1-83-270) required the permittee to maintain the original retaining wall for the life of the development of the site in order to protect the dedicated accessway. Maintaining the same alignment of the wall will ensure that the easement width is not compromised where existing development on the inland side of the easement comes close to the easement.

Comments received from botanist Peter Baye, Phd note that any plantings that fail and need to be replaced should be replanted no later than January 1, rather than May 1, to ensure greater chances of plant survival by allowing for root propagation during the wet season. Dr. Baye also suggests that any imported fill be as weed free as possible to discourage the spread of invasive plants in areas to be graded. Staff agrees and has made a change to subsection (A)(6) and added subsection (A)(10) to incorporate these suggestions.

The applicant has suggested that the requirement of Special Condition No. 3(A)(6) to require the replacement of any tree or plant that will be planted on the

face of the Geoweb wall that dies or becomes weakened or diseased is onerous as a very large number of plantings will be made, including small ground cover species. The applicant suggests that the special condition be reworded to only require replacement of tree or plants when the remaining trees or plants do not provide adequate screening. Staff agrees that the replacement of each and every small plant that may die is unnecessary to achieve the goal of establishing native plants that will partially screen the face of the Geoweb wall to soften its appearance and help to blend its appearance into the surrounding landscape. Therefore, the staff has changed subsection 3(A)(6) to require that the replacement plantings must be planted in sufficient amounts to ensure that at least 50% of the face of the geoweb wall will be covered by native vegetation.

- B.** Special Condition No. 4 on pages 10-11 of the staff recommendation shall be modified as follows:

The language of the special condition as recommended in the April 29, 2010 staff report is shown in plain type. Text to be deleted is shown in ~~**bold-strikethrough**~~, text to be added appears in **bold double-underline**.

4. Northern Coastal Scrub Habitat Restoration Plan

- A.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 1-83-270-A, the permittee shall submit for the review and approval of the Executive Director a plan for restoring and enhancing the northern coastal scrub habitat located on the portions of the bluff face below the exposed portions of the Geoweb retaining wall that will be disturbed by the development and/or backfilled. The plan shall be prepared by a qualified botanist or licensed landscape architect and shall be prepared in consultation with the Redwood Coast Land Conservancy, the Dorothy King Young Chapter of the California Native Plant Society, and the Mendocino Coast Cooperative Weed Management Area.

- (1) The plan shall demonstrate that

- i. Northern coastal scrub habitat shall be restored all along the portions of the bluff face on APN 145-261-05 below the exposed portions of the Geoweb retaining wall that will be disturbed by the development and/or backfilled;
- ii. The Northern coastal scrub habitat shall visually buffer the base of the Geoweb retaining wall from Gualala Point Regional Park;
- iii. Invasive weeds shall be eliminated from the disturbed bluff area;
- iv. Only those plants that are drought tolerant and native to “northern coastal scrub” habitats of Mendocino County shall be used;

- v. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted or allowed to naturalize or persist on the parcel. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property;
 - vi. No rodenticides of any kind shall be utilized within the property that is the subject of CDP No. 1-83-270-A;
 - vii. All plantings shall be maintained in good condition throughout the life of the project. If any of the plants to be planted die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than ~~May~~ January 1st of the next ~~spring~~ winter season in-kind or with another native Northern coastal scrub species in amounts sufficient to ensure that at least 90% vegetative cover of the restoration area is maintained; and
 - viii. The success of the restoration plan shall be monitored on a regular basis, and monitoring results shall be submitted annually to the Executive Director by December 31 of each calendar year.;
 - ix. As many of the existing large blue blossom and silk tassel bush shall be retained as possible;
 - x. Erosion control fabric shall be installed on filled areas and other bare soil and densely seeded with fast-growing native ground cover to help hold the soil and outcompete non-native velvet grass and other weeds; and
 - xi. Weed eradication strategies shall be focused on eliminating the most noxious of the invasive weeds (Himalayan blackberry, capeweed, greater periwinkle, jubata grass, ice plant, and pride of Madeira) and follow-up strategies shall be devised to eliminate and/or control other invasive plants at the site including poison hemlock, wild radish, velvet grass, Harding grass, wild teasel, bull thistle, and Italian thistle.
- (2) The plan shall include, at a minimum, the following components:
- i. A final landscape site plan depicting the species, size, and location of all plant materials to be planted on the property, any irrigation

system, delineation of the approved development, and all other landscape features;

- ii. A schedule for the planting of the landscaping; and
- iii. A narrative description of the methods to be used for invasive plant removal **and management**; and
- iv. A monitoring plan for evaluating the success of the restoration plan.

- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

REASON FOR CHANGES: The special condition requires the submittal of a restoration plan for restoring the northern coastal scrub plant community in the bluff area to be disturbed by the construction of the replacement retaining wall. As discussed above, comments received from botanist Peter Baye, PhD note that any plantings that fail and need to be replaced should be replanted no later than January 1, rather than May 1, to ensure greater chances of plant survival by allowing for root propagation during the wet season. Staff agrees and has made a change to subsection 4(A)(1)(7) to incorporate this suggestion.

The applicant has suggested that the requirement of Special Condition No. 4(A)(1)(vii) to require the replacement of any tree or plant that will be planted as part of the restoration plan that dies or becomes weakened or diseased is onerous as a very large number of plantings will be made, including small ground cover species. The applicant suggests that the special condition be reworded to only require replacement of tree or plants when the remaining trees or plants do not provide adequate screening. Staff agrees that the replacement of each and every small plant that may die is unnecessary to achieve the goals of establishing native plants that will restore and enhance the appearance of the denuded portions of the bluff face and protecting against erosion that will cause sedimentation of the adjacent Gualala River estuarine/wetland. Therefore, staff has changed subsection 4(A)(1)(vii) to require that the replacement plantings must be planted in sufficient amounts to ensure that at least 90% vegetative cover of the restoration area is maintained.

Certain restoration plan recommendations of the applicant's botanical survey were inadvertently left out of the requirement of staff recommended Special Condition 4. These recommendations called for retaining as many of the existing large blue blossom and silk tassel bush shall be retained possible, installing

erosion control fabric on filled areas and other bare soil areas and densely seeding these areas with fast-growing native ground cover to help hold the soil and outcompete non-native velvet grass and other weeds and focusing weed eradication on particularly harmful invasive plants. To ensure a more successful restoration program, staff has incorporated these recommendations into subsections 4(A)(1)(ix) through 4(A)(1)(xi) of the recommended special condition.

- C. Special Condition No. 6 on page 12 of the staff recommendation shall be modified as follows:

The language of the special condition as recommended in the April 29, 2010 staff report is shown in plain type. Text to be deleted is shown in ~~bold strikethrough~~, text to be added appears in **bold double-underline**.

6. Best Management Practices & Construction Responsibilities

The permittee shall comply with the following construction-related requirements:

- A. Any and all excess excavated material resulting from construction activities shall be removed and disposed of at a disposal site outside the coastal zone or placed within the coastal zone pursuant to a valid coastal development permit;
- B. Straw bales, coir rolls, or silt fencing structures shall be installed prior to and maintained throughout the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment and pollutants down slope toward the Gualala River;
- C. On-site vegetation shall be maintained to the maximum extent feasible during construction activities;
- D. Any disturbed areas shall be replanted or seeded and if necessary mulched as soon as feasible following completion of construction, but in any event no later than ~~May~~ **January** 1st of the next ~~spring~~ **winter** season consistent with the final approved plan required by Special Condition Nos. 3 and 4 above;
- E. All on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff;

- F. No ground-disturbing activities shall occur during the period of October 15 and April 15 to minimize the potential for soil disturbance during the rainy season; and
- G. Noise generating construction activities shall be limited in duration to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday only so as to limit noise impacts to nearby visitor serving facilities.

REASON FOR CHANGE: As discussed, previously, plantings that fail and need to be replaced should be replanted no later than January 1, rather than May 1, to ensure greater chances of plant survival by allowing for root propagation during the wet season.

II. Revisions and Additions to Findings

- **Supplemental Finding on the Protection of Environmentally Sensitive Habitat**

Add the following finding on the protection of environmentally sensitive habitat as Finding E, to page 19 of the April 29 staff recommendation and renumber subsequent findings.

E. Protection of Environmentally Sensitive Habitat

LCP Policies and Standards:

Environmentally Sensitive Habitat Areas (ESHA) are defined on page 38 of the Mendocino County LUP as:

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.

Coastal Zoning Code Section 20.496.010 “Environmentally Sensitive Habitat and other Resource Areas—Purpose” states (emphasis added):

...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.

LUP Policy 3.1-7 states: (emphasis added)

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 significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer 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 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 and must comply at a minimum with each of the following standards:

- 1. It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
- 2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
- 3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

Coastal Zoning Code Section 20.496.020 “Environmentally Sensitive Habitat and other Resource Areas—Development Criteria” states (emphasis added):

(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.*

(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.*

...

*(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).*

*(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.*

*(4) **Permitted Development.** Development permitted within the buffer area shall comply at a minimum with the following standards:*

(a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

(b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.

(c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.

(d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.

(e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.

(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.

(h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.

(i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.

(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.

(k) If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991)

Discussion

A botanical survey of the site was prepared for the applicant by BioConsultant LLC dated August 2007 (See Exhibit No. 7). The survey included a complete floristic survey performed during three site visits in the spring and summer of 2007 and a botanical assessment of both the APN 145-261-05, the subject parcel, and APN 145-261-13, the adjoining parcel to the north where a continuation of the geoweb wall is proposed under Appeal No. A-1-MEN-08-015.

The blufftop portion of the subject parcel has been previously disturbed and developed and contains sparse vegetation. In contrast, the bluff face portion of the parcel is heavily vegetated. According to the botanical survey, the predominant vegetation on the bluff face is a dense northern coastal scrub vegetation community. The dominant shrub species are blue blossom and coyote bush. Other important shrub species include silk tassel bush, California blackberry, oso bery, thimbleberry, and western poison oak. The

northern coastal scrub community includes a dense herbaceous understory consisting 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. The botanical survey indicates the vegetation association most closely corresponds to Coyote Brush Scrub and Dwarf Scrub Alliance, two natural communities recognized by the California Natural Diversity Database (September 2003). This alliance is synonymous with Northern (Franciscan) Coastal Scrub recognized by the CNDD in the past. The northern coastal scrub vegetation community is not considered to be rare and is not considered to be an ESHA.

The northern coastal scrub vegetation community at the site should not be confused with a Northern Coastal Bluff Scrub community, which is rare and considered to be ESHA. Although the two scrub communities have some features in common, according to the botanical survey the two communities are recognizably different in stature, species composition, phenology, and physical site factors.

The botanical survey notes that invasive exotic species are widespread on the bluff, occurring in the bluff top area, in the debris slide area, and less frequently at the toe of the bluff. The invasive exotic species include Himalayan blackberry, capeweed, wild radish, Italian thistle, wild teasel, poison hemlock, bull thistle, Harding grass, and velvet grass which occur primarily at the top of the bluff but extend down the bluff face in places. Within the debris slide area, capeweed, wild radish, and other invasive species have become newly established. Other invasive exotics that can be found on the site include greater periwinkle, ice plant, pride of Madeira (a shrub-like ornamental plant), and mature clumps of jubata grass. The abundance of such weeds is attributed 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.

The subject property itself contains no known ESHA. As noted above, the northern coastal scrub vegetation community is not considered to be an ESHA, and no special-status plant species, rare natural communities, or special-status wildlife species were observed during the biological surveys of the site. The site does contain a population of morning-glory plants, and the applicant's botanist evaluated whether the plant is coastal bluff morning-glory (*Calystegia purpurata* ssp *saxicola*), a rare plant, or climbing morning glory (*Calystegia purpurata* ssp. *purpurata*), a common plant. As discussed in a letter dated February 8, 2008 to the Mendocino County Board of Supervisors included at the end of Exhibit No. 7, the botanist concludes the morning glory population on the site is a population of the common climbing morning glory plant because the plants possess the growth habit and overall preponderance of leaf shape characteristics of the common subspecies.

Although no ESHA is known to occur on the subject property, the site is adjacent to an ESHA. Between the toe of the bluff and the Gualala River Estuary, just beyond the western property line, is an intertidal area containing scattered pockets of wetland

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vegetation in mud flats among large boulders. The estuarine/intertidal wetland and the estuary itself are considered to be ESHA. In addition, the sand spit across the river contains sensitive dune habitat and further up the Gualala River Estuary, well beyond the project site, are additional wetland and riparian sensitive habitat area.

As the development site is located adjacent to and as close as 28 feet from the adjoining estuarine/intertidal wetland ESHA and in the vicinity of other ESHA, the subject property is subject to the ESHA buffer requirements of LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020. According to these policies, a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the California Department of Fish and Game (DFG) that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The policies state that in that event, the buffer shall not be less than 50 feet in width.

The existing development at the site was approved prior to certification of the Mendocino County LCP in 1992. The Surf Supermarket with its blufftop public access easement was approved in 1981, pursuant to Coastal Development Permit No. NCR-80-P-75. The public access easement was accepted by the Redwood Coast Land Conservancy and has been partially constructed. The retaining wall that the proposed Geoweb wall will replace was approved under Coastal Development Permit No. 1-83-270 in 1983. Installation of the Geoweb wall under the current permit amendment request will satisfy the requirements of Special Condition No. 1 of the original permit that the retaining wall be maintained. The public access easement and the original retaining wall as originally approved, constructed, and required to be maintained are located as close as 28 feet from the edge of the estuarine/intertidal wetland ESHA. This existing setback from the estuarine/intertidal wetland ESHA at the base of the bluff would not change as a result of the proposed project. The replacement retaining wall would be constructed in the same location as the original retaining wall and would be located a minimum of 28 feet from the ESHA.

As noted above, LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020 indicate that a buffer area of 100 feet shall be established adjacent to all ESHAs, although the buffer width can be reduced to a minimum of 50 feet under certain circumstances. In this case, the substantial existing pre-LCP development, the retaining wall that is required to be maintained under Coastal Development Permit No. 1-83-270, and the required, recorded, and accepted public access easement is located as close as 28 feet from a portion of the ESHA, precluding the establishment of a greater buffer in these portions of the site.

The botanical report recommends the implementation of certain measures to protect the adjacent estuarine/intertidal wetland ESHA. These measures include the following:

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1. Implementation of a Storm Water Pollution Prevention Plan (SWPPP) consisting of site specific measure to reduce impacts to water quality and protect the adjacent estuarine habitats during construction.
2. Use of certain construction site best management practices (BMPs) in the SWPPP.
3. Use of a reinforced "Super Silt Fence" at the limits of construction to prevent sediment, rock, debris and/or other materials from entering the ESHAs during construction.
4. The implementation of a comprehensive northern coastal scrub restoration plan that would not only revegetate disturbed areas reducing the potential for erosion, but would also 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 would produce greater native plant biodiversity, in turn creating higher quality wildlife habitat with pleasing aesthetic and scenic values. The botanical report recommends that the restoration plan (a) use native plantings, (b) be implemented by a professional restoration company, (c) incorporate a restoration monitoring component, (d) include the installation of erosion control fabric on bare soil areas and 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, (e) focusing 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 devising follow-up strategies to eliminate and/or control poison hemlock, wild radish, velvet grass, wild teasel, bull thistle, and Italian thistle, and designing and implementing a long-term management effort, and (f) making modifications to the restoration plan as needed.

To ensure that erosion control measures, northern coastal scrub restoration plan, and other protective measures recommended by the applicant's biologist are implemented, the Commission attaches Special Condition Nos. 3, 4 and 6. Special Condition No. 3 requires the permittee to submit revised final soil stabilization and drainage improvement plans for the review and approval of the Executive Director that substantially conform to the submitted plans, but among other things, are revised to provide that that native species compatible with the Northern coastal scrub habitat on the existing bluff face be planted in the outer cells of the Geoweb wall and be maintained to help make the wall as compatible as possible with the character of the existing bluff setting. The establishment of the vegetation must be monitored for five years and the permittee is responsible to maintain the vegetation such that at least 50% of the face of the Geoweb wall is covered by native vegetation during the life of the development. Special Condition No. 4 requires the submittal for the review and approval of the Executive Director a plan for restoring

and enhancing the northern coastal scrub habitat located on the portions of the bluff face below the exposed portions of the Geoweb retaining wall that will be disturbed by the development and/or backfilled to help make the wall as compatible as possible with the character of the existing bluff setting. The restoration plan must include the specific measures recommended by the applicant's biologist to ensure the best chance at successfully restoring the northern coastal scrub plant community by planting and preserving native plants, eliminating and managing invasive weeds and using erosion control fabric in denuded areas. A monitoring plan must be submitted to measure the success of the restoration effort and provisions of the condition would require that vegetation that fails must be replaced in amounts to ensure at least 90% cover of the restoration area is maintained. Special Condition No. 6 requires the use of various best management practices to control erosion and sedimentation impacts on the Gualala River Estuary. Finally, Special Condition No. 7 requires the applicant to execute and record a deed restriction detailing the specific development authorized under the permit and identifying all applicable special conditions attached to the permit to provide notice to future owners of the terms and limitations placed on the use of the property, including requirements for maintenance of the retaining wall and restoration of the bluff face vegetation. As conditioned, the project will provide for appropriate erosion control measures and the restoration and maintenance of a native northern coastal scrub community along the bluff face to protect against erosion and sedimentation of the adjacent estuarine/intertidal wetland ESHA.

Furthermore, the estuarine/intertidal wetland ESHA as well as the wetland, riparian, and dune ESHA in the project vicinity could be adversely affected by the development if non-native, invasive plant species were introduced from landscaping at the site. Introduced invasive exotic plant species could spread into the ESHA and displace native riparian and wetland vegetation, thereby disrupting the value and function of the adjacent ESHA, either by direct planting or by allowing wind blown seeds from invasives to light in disturbed areas where they could outcompete native plants. As discussed above, Special conditions 3 and 4 require the use of native plant species of native stock and preclude the use of invasive exotics in required plantings and require that exotics not be allowed to naturalize or persist at the site. The restoration plan required by Special Condition No. 4 requires that specific weed eradication strategies be devised and that an invasive plant management plan be prepared. In addition, Special Condition No. 4 requires that denuded areas be covered with erosion control fabric and densely seeded with fast-growing native ground cover to hold the soil and outcompete non-native velvet grass and other weeds. As conditioned, the potential for the development to accelerate the spread of invasive exotic vegetation that could damage native ESHA will be minimized.

To help in the establishment of vegetation, rodenticides are sometimes used to prevent rats, moles, voles, and other similar small animals from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to poses significant primary and secondary risks to non-target wildlife present in urban and

urban/ wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize this potential significant adverse cumulative impact to environmentally sensitive wildlife species, Special Condition Nos. 3 and 4 prohibit the use of specified rodenticides on the property governed by CDP No. 1-83-270-A.

To help prevent continued erosion of the bluff face, the development includes the installation of drainage improvements to capture runoff and direct the flow into an existing drainage channel where the runoff. Although the drainage improvements will help reduce erosion and sedimentation, the captured runoff from the development site that is allowed to drain off the site the estuarine waters below the bluff would contain entrained sediment and other pollutants from impervious surfaces such as building roofs and paved areas used by vehicles and that would contribute to degradation of the quality of coastal waters within the adjacent estuarine/wetland ESHA. Therefore, Special Condition No. 3(A)(2) requires the storm drain proposed to extend across APN 145-261-05 to include an on-site infiltration interceptor to capture any pollutants contained in the run-off and treat or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event to protect water quality,

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent and nearby environmentally sensitive habitat areas, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the adjacent estuarine/intertidal wetland ESHA as well as the wetland, riparian, and dune ESHA in the project vicinity. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the provisions of LUP Policies 3.1-7 and Coastal Zoning Ordinance Section 20.496.020 as all impacts of the development on the adjacent ESHA would be mitigated to less than significant levels.

- **Supplemental Finding on the Protection of Visual Resources**

Add the following finding on the protection of visual resources as Finding F of the April 29 staff recommendation after the ESHA finding above.

F. Protection of Visual Resources

LCP Policies and Standards:

LUP Policy 3.5-1 states in applicable part:

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

LUP Policy 3.5-5 states in applicable part:

Providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged. In specific areas, identified and adopted on the land use plan maps, trees currently blocking views to and along the coast shall be required to be removed or thinned as a condition of new development in those specific areas. New development shall not allow trees to block ocean views.

Coastal Zoning Ordinance Section 20.388.060 states: emphasis added:

Development in Westport, Caspar, Little River, Albion, Elk, Manchester, Anchor Bay and Gualala shall be subject to the development criteria in Section 20.504.020. [emphasis added]

Coastal Zoning Ordinance Section 20.504.020 states in applicable part:

(B) The communities and service centers, designated as CRV or CFV, of Westport, Caspar, Albion, Elk and Manchester, and the additional areas of Little River, Anchor Bay and Gualala, as described below, shall have special protection as set forth in Section 20.504.020(C):

(3) Gualala: The Sonoma County Line on the south to Big Gulch on the north including all commercial and industrially zoned parcels on the east side of Highway 1 and all parcels west of Highway 1.

(C) Development Criteria.

(1) The scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood.

(2) New development shall be sited such that public coastal views are protected.

(3) The location and scale of a proposed structure will not have an adverse effect on nearby historic structures greater than an alternative design providing the same floor area. Historic structure, as used in this subsection, means any

structure where the construction date has been identified, its history has been substantiated, and only minor alterations have been made in character with the original architecture.

(4) Building materials and exterior colors shall be compatible with those of existing structures.

(D) The scenic and visual qualities of Mendocino County Coastal Areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting. (Ord. No. 3785 (part), adopted 1991) [emphasis added]

Discussion:

The subject property is not located within a designated highly scenic area but is within a special neighborhood as designated in the Mendocino County LCP. As cited above, the LCP sets forth numerous policies regarding the protection of visual resources. LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas must be considered and protected by requiring that permitted development 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.

In addition, LUP Policy 3.5-2 and CZC Section 20.504.020 require special protection for several communities, including within the Gualala area, all commercial and industrially zoned parcels on the east side of Highway 1 and all parcels west of Highway 1, such as the subject property. CZC Section 20.504.020 requires that development of these parcels are subject to the development criteria set forth in CZC Section 20.504.020(C), which require that (1) the scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood, (2) coastal views by protected, (3) the location and scale of a proposed structure shall not have an adverse effect on nearby historic structures, and (4) Building materials and exterior colors shall be compatible with those of existing structures.

The development as conditioned conforms to the applicable requirements of LUP Policy 3.5-1 and CZC Section 20.504.020. The proposed new development will not block any coastal views. The Geoweb retaining wall will not appreciably rise above the edge of the bluff and thus will not block any of the existing views to the estuary through the site and

from the adjoining public access easement. Therefore, the development will be sited and designed to protect views.

The new development does involve landform alteration. The installation of the Geoweb retaining wall will require excavation and reconstruction of the upper portions of the existing bluff face. As described previously, the Geoweb wall is different from common retaining walls made of concrete blocks or driven sheetpiles in that it is a flexible, three-dimensional cellular confinement system, using interconnected strips of curved and perforated polyethylene to form layers of interconnected cells. The proposed Geoweb wall would utilize layers of cells approximately 3-1/2 feet wide. Each layer of cells is filled with earthen material before the next layer of Geoweb cells is placed on top of the previous layer. Gradually, the layers of cells are built up to the desired height flush with the top of the bluff. The proposed Geoweb wall would be built to the top of the bluff. The vertical length of the proposed wall will vary from approximately 13 to 27 feet, with the greater vertical length occurring at the site of the landslide where the Geoweb wall will be two-tiered. As proposed, some portions of the wall would be placed within excavated portions of the bluff, others alongside the bluff, and still others extending out from the bluff with backfill placed behind. Some portions of the face of the Geoweb wall would be covered with backfill. The outer cells of the exposed Geoweb wall would be filled with topsoil and planted with native vegetation to help mute the appearance of the wall. The approved development would involve approximately 1,376 cubic yards of grading within an excavation area of approximately 3,547 square feet along the bluff.

As discussed previously, the approved Geoweb wall is needed to protect the adjoining public access easement from erosion of the bluff face. The permit granted for the original retaining wall that subsequently failed requires that the wall be maintained in place to protect the public access easement. Installation of the wall will necessarily involve excavation and reconstruction of the bluff face as described above. However, as the wall will be aligned in the same location as the wall that failed, the general form of the bluff will be maintained. As conditioned to require restoration of the northern coastal scrub plant community in the areas of the bluff below the Geoweb wall that will be disturbed, and to require planting of the outer cells of the Geoweb wall with vegetation that will partially screen the retaining wall, the project will restore as much as possible the appearance of the previously existing bluff face. Therefore, the Commission finds that as the alignment of the Geoweb wall will match the alignment of the previous retaining wall and as the restoration of natural plant communities will be restored in disturbed areas of the bluff, the development will minimize the alteration of natural land forms.

The new development will be visually compatible with the character of the surrounding area for several reasons. First, the bluff in this location was previously protected by a retaining wall which formed part of the character of the site. The new Geoweb wall form will replace this aspect of the site with another wall. Second, as discussed above, the requirements of Special Conditions 3 and 4 that the outer cells of the Geoweb wall be planted with native vegetation to partially screen the wall and that the disturbed bluff area

be restored with northern coastal scrub vegetation will help blend the retaining wall into the surrounding bluff face. The conditions require that the vegetation be maintained to retain 50% vegetative cover of the Geoweb wall and that the bluff area below the wall be managed to maintain at least 90% vegetative cover. Third, Special Condition No. 5 requires the applicant to submit for the review and approval of the Executive Director color samples of the proposed Geoweb material and that the color be black or a dark earth tone color to blend into the natural environment of the bluff. Therefore, the Commission finds that the development as conditioned will be visually compatible with character of the surrounding area.

The proposed new development will not have an adverse effect on nearby historic structures. No historic structures are known to exist in the immediate vicinity of the proposed development and the Geoweb wall will not replace any structures except the non-historic failed retaining wall.

For all of the above reasons, the Commission finds that the development as conditioned is consistent with the visual resource protection policies of the LCP, including LUP Policy 3.5-1, LUP Policy 3.5-2, LUP Policy 3.5-15, and CZC Section 20.504.020.

- **Supplemental Finding on Public Access**

Add the following finding on public access as Finding G to the April 29 staff recommendation after the visual resource protection finding above.

G. Public Access

LCP Policies and Standards:

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

Discussion

Addendum - Item W16a

Permit Amendment No. 1-83-270-A (Bower Limited Partnership)

Page 22

In its application of the above policies, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The purpose of the development is to protect an existing public access easement from bluff erosion. As discussed previously, in 1981, the North Coast Regional Commission approved CDP NCR-80-P-75, for the building of the Surf Supermarket located on the subject parcel (APN 145-261-05). As a condition of approval, CDP NCR-80-P-75 required recordation of an offer to dedicate a 25-foot-wide easement for public access and passive recreation along the bluff.

CDP No. NCR-80-P-75 specified that the supermarket building would be set back 35 feet at its northwest corner and 55 feet at its southwest corner from the bluff edge. However, when the building was constructed in the early 1980s, the structure was constructed such that the southwest corner is set back only 24 feet from the bluff edge. Thus, the constructed building was therefore placed directly within the area offered for public access along the bluff constituting a violation of CDP NCR-80-P-75. In an effort to protect the public access required by CDP NCR-80-P-75, the Commission subsequently approved CDP 1-83-270 authorizing a 120-foot-long wood retaining wall west of the market along the edge of the bluff. Special Condition No. 1 of CDP No. 1-83-270 requires that the retaining wall be maintained for the life of the development on the site. the original retaining wall that was constructed failed and was destroyed in land sliding that occurred in the winter of 2005-2006. The resulting slide scarp is over steepened and unstable and threatens the bluff edge where the public access easement exists. The amendment request was submitted to comply with the requirements of Special Condition No. 1 of the original permit by proposing a new retaining wall to replace the wall that has failed and thereby protect the public access easement.

Depending on the manner in which it is built, the replacement of the wall could adversely affect the existing easement or the public access improvements that have been built to date or have yet to be installed. If the wall were aligned inland of the original failed retaining wall, the width of the public access easement could be compromised. To prevent such a result, Special Condition 3(A)(1) requires that the alignment of the replacement Geoweb wall conform to the alignment of the original retaining wall constructed pursuant to the original permit. Special Condition No. 1 of the original permit (1-83-270) required the permittee to maintain the original retaining wall for the life of the development of the site in order to protect the dedicated accessway. Maintaining the same alignment of the wall will ensure that the easement width is not compromised where existing development on the inland side of the easement comes close to the easement.

Construction of the wall will displace already completed portions of the public access trail improvements built within the public access easement by the holder and manager of the easement, the Redwood Coast Land Conservancy (RCLC). The RCLC obtained CDP

No. 23-03 from Mendocino County to construct these public access improvements according to a particular plan. To ensure that these improvements are replaced, Special Condition No. 3(A)(5) requires that the permittee replace in-kind and in a manner consistent with Mendocino County CDP No. 23-03 any existing public access improvements developed by the Redwood Coast Land Conservancy on APN 145-261-05 and in adjoining areas disturbed by the development authorized under CDP No. 1-83-270-A. In addition, to ensure that RCLC can review the final construction plans and provide input as to whether the plans for replacement of public access improvements are consistent with Special Condition No. 3(A)(5) and the other requirements of the condition and will enable RCLC to meet its responsibilities for improving and managing the public access easement, the special condition requires that the plans be prepared in consultation with RCLC.

Therefore, the Commission find that the proposed project, as conditioned, is consistent with the public access policies of the certified Mendocino County LCP and Chapter 3 of the Coastal Act as the Geoweb retaining wall project will protect the existing lateral public access easement along the top of the bluff from continued erosion, ensure that public access improvements damaged by construction will be appropriately replaced.

III. Additional Correspondence Ex Parte Communications

Since publication of the staff report, the Commission has received additional letters of correspondence and ex parte communications. This additional correspondence is included in the attached New Exhibit No. 11, titled, "Additional Correspondence." The additional correspondence and ex parte communications include the following:

1. Letter from Peter Baye, Ph.D. dated and received on May 4, 2010.
2. Letter from Mary Sue Ittner, dated May 4, 2010 and received on May 10, 2010.
3. Letter from Eric Cogdill, Surf Motel, dated May 5, 2010 and received on May 10, 2010.
4. Letter from Lori Hubbart, California Native Plant Society, Dorothy King Young Chapter dated May 6, 2010 and received on May 10, 2010
5. Letter from Alan Block representing Bower Limited Partnership, dated and received May 7, 2010.
6. Letter from Laurie Mueller, Redwood Coast Land Conservancy, dated May 7, 2010 and received on May 10, 2010.
7. Letter from Harmony Susalla received on May 10, 2010.
8. Letter from Steve May dated and received May 10, 2010
9. Ex Parte Communication Disclosure From Commissioner Mark Stone Regarding Communication with Grant Weseman, Sarah Damron, and Margie Kay



(415) 310-5109

Peter R. Baye, Ph.D.
Botanist, Coastal Ecologist
 P.O. Box 65
 Annapolis, California 95412



baye@earthlink.net

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

May 4, 2010

SUBJECT: Bower Limited Partnership Permit Amendment 1-83-270-A1

Dear Mr. Merrill:

I would like to submit the following comments on the staff report recommendations for the proposed Bower Limited Partnership replacement of a retaining wall and septic tank, and installation of new drainage. I incorporate by reference my previous comments to the Coastal Commission and Mendocino County Planning Department (letters dated January 8, 2007 and November 16, 2007, covering CDP #55-2006, Gualala, Mendocino County: Bower Ltd. Trust, Bower Ltd. Partnership (agent: Rau and Associates); proposed Gualala Bluff concrete block retaining wall multiple CEQA and Coastal Commission policy issues.

The current permit (1-83-270-A1) appears to be a segment of the previous proposal, breaking out the replacement of the wooden retaining wall that was installed. I have already expressed my concerns about improper project segmentation (piecemealing) in my January 8, 2007 letter, in relation to the larger Surf Center development. The current permit is narrowly focused on the replacement of the failed slope stabilization and its consequences for a septic tank and drainage. While I have concerns about the validity of the original CCC authorization for fill and slope stabilization, which was solely for the purpose of accommodating the intrusion of buildings into the CCC-required setback in the 1980s (see staff report p. 2) – in effect, building a buffer into the sensitive coastal bluff and estuary margin habitat to compensate for the building footprint overstepping its authorized boundary – I believe the past and present deficiencies in the piecemealed replacement project can and should be mitigated.

The CCC staff-proposed mitigation measures are aimed at re-establishing appropriate native coastal bluff vegetation to reinforce stabilization of the geoweb-treated bluff slope

Peter R. Baye Ph.D.
 Botanist, Coastal Ecologist
baye@earthlink.net
 (415) 310-5109

EXHIBIT NO. 11
APPLICATION NO.
1-83-270-A1
BOWER LIMITED PARTNERSHIP
ADDITIONAL CORRESPONDENCE (1 of 33)

P.O. Box 65
 Annapolis, California
 95412

reconstructed above the previous debris flow. This is an appropriate objective if the project is authorized. However, the likelihood of success at establishing dominance of native coastal scrub vegetation on the extremely steep slope in the current setting is low, and the likelihood of persistent weed dominance is high. There are three main contributing causes for the probable re-invasion and persistent dominance of weeds in the treated area:

- Introduction of abundant weed seed banks in imported fill, in the absence of a permit condition that requires imported fill with both suitable physical and biological characteristics (negligibly small weed seed banks, storage of stockpiled fill in weed-excluding conditions). Most imported construction fill either contains, or acquires, weed seed banks due to weed prevalence in borrow area or stockpile areas.
- Abundant weed seed dispersal from adjacent and nearby coastal bluff and disturbed urban-rural interface lands (high colonization potential)
- Conventional weed control measures (manual removal) maintain vegetation disturbance gaps that favor recruitment and establishment of weeds, such that short-term weed cover reduction causes or contributes to long-term weed persistence.

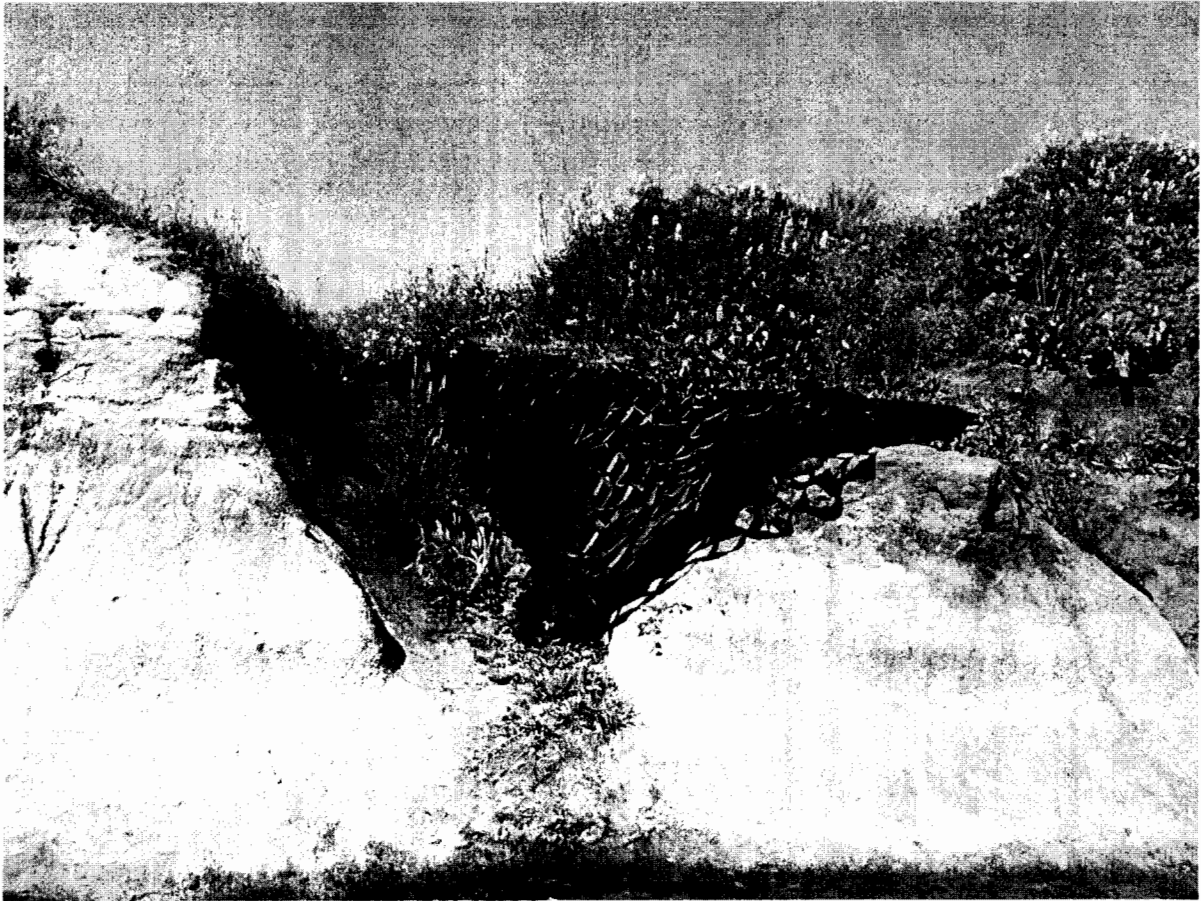
The first cause of weed invasion (seed bank import in fill) can and should be mitigated by a requirement to obtain fill with minimal weed seed. The second cause of weed invasion (dispersal from proximate seed sources) can and should be mitigated by protection and enhancement of the adjacent old native/non-native mixed vegetation within the applicant's control and ownership. The weed abundance on the remaining segment of the bluff has been adversely affected by gully erosion that is directly related to concentrated past runoff (improper drainage) and point-source drainage discharge to the Gualala River lagoon/estuary from the applicant's unimproved dirt parking lot. Weed seed dispersal curves typically are asymptotic – exponential decrease in seed rain with distance – so there is scientifically sound basis for focusing weed mitigation conditions on the adjacent bluff vegetation. The conventional permit condition approach of weed mitigation, weed cover reduction (such as manual removal) is often counter-productive because it maintains disturbed soil gaps favorable for weed regeneration.

It is conventional to balance uncertain compensatory mitigation (replacement of impacted natural resources) with mitigation based on protection and enhancement of existing in-kind habitats with higher probability of conservation success, especially when protection and enhancement measures substantially improve the likelihood of compensatory mitigation success. I recommend that any conditions of authorization include a mitigation measure requiring protection and enhancement of the adjacent coastal bluff scrub that includes degraded (weed-invaded) but valuable mature, old coastal bluff scrub. This measure should include long-term implementation of a scientifically sound, appropriate weed management program. Note that this condition would also fully mitigate the impacts of project segmentation on coastal bluff resources.

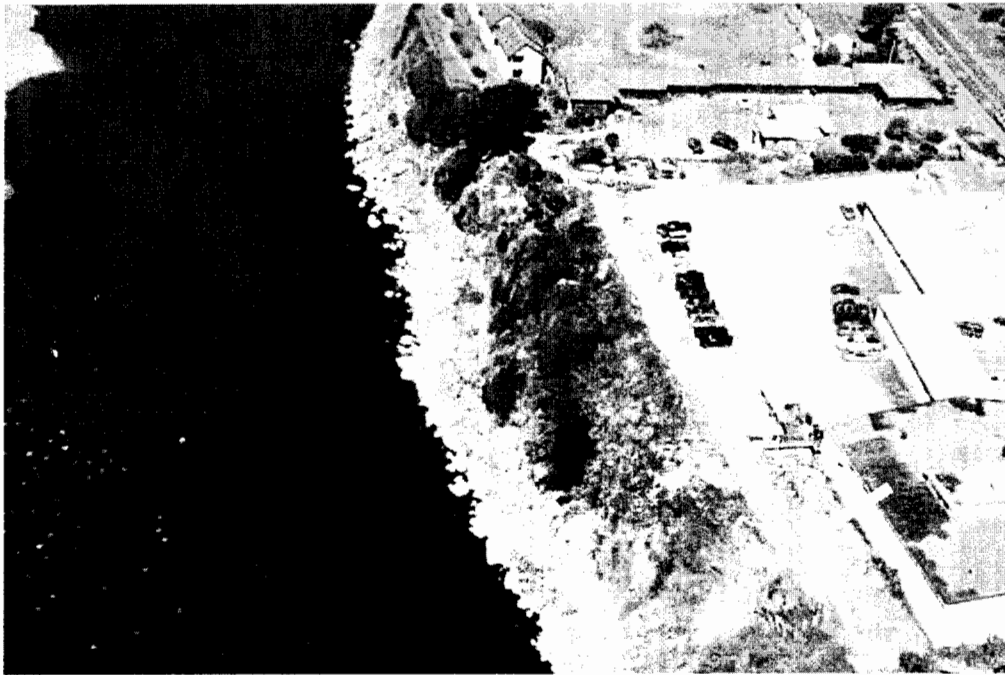
Two of the staff-proposed mitigation measures, despite valid aims, contain deficiencies with regard to vegetation management. Condition 6 requires failed plantings “**replaced no later than May 1st of the next spring season in-kind or with another native species common to the coastal Mendocino County area**”. May 1 is not an appropriate cut-off date for successful transplanting of native shrubs. Native coastal scrub establishment with high survivorship depends on root growth during the entire wet season, and mortality risk increases with planting later than the first soil-wetting rains, especially in dry winters. Transplanting of replacement shrubs should occur no later than January 1 most years. The other planting condition (7) mistakenly assumes that local provenance transplant stock may be “available” rather than custom-grown in advance for a particular project. This is not the case for the native plant nursery industry: custom propagation is the norm for projects outside major restoration planting markets. Regional native stock is maintained only for areas of high commercial demand (particularly in slow economic times), so remote North Coast stock would normally be produced on contract for a particular project. The condition (7) should require custom propagation of local (southern Mendocino Coast/Northern Sonoma Coast; preferably from the site itself) transplants.

The vegetation design for the slide area needs to emphasize shrubs that can spread rapidly and dominate the cover, leaving no gaps for the gap-colonizing broadleaf weeds that dominate now. *Garrya*, *Rhamnus* (slow-growing) can be included, but without a matrix of blackberry, coyote-brush, ceanothus, and other fast-growing spreading shrubs, weeds will perpetuate. They should be planted at fairly high density to ensure rapid closure of the canopy. A pre-emptive competitive weed strategy including a cover crop (hydromulch seed of fast-growing competitive native annuals) should be applied in fall after installation to provide ample competition with weed seedlings. Seeds should be custom-propagated from local sources, otherwise hydroseeding will result in an aberrant landscape of S and Central California commercial bulk seed typical of CALTRANS-maintained roadsides.

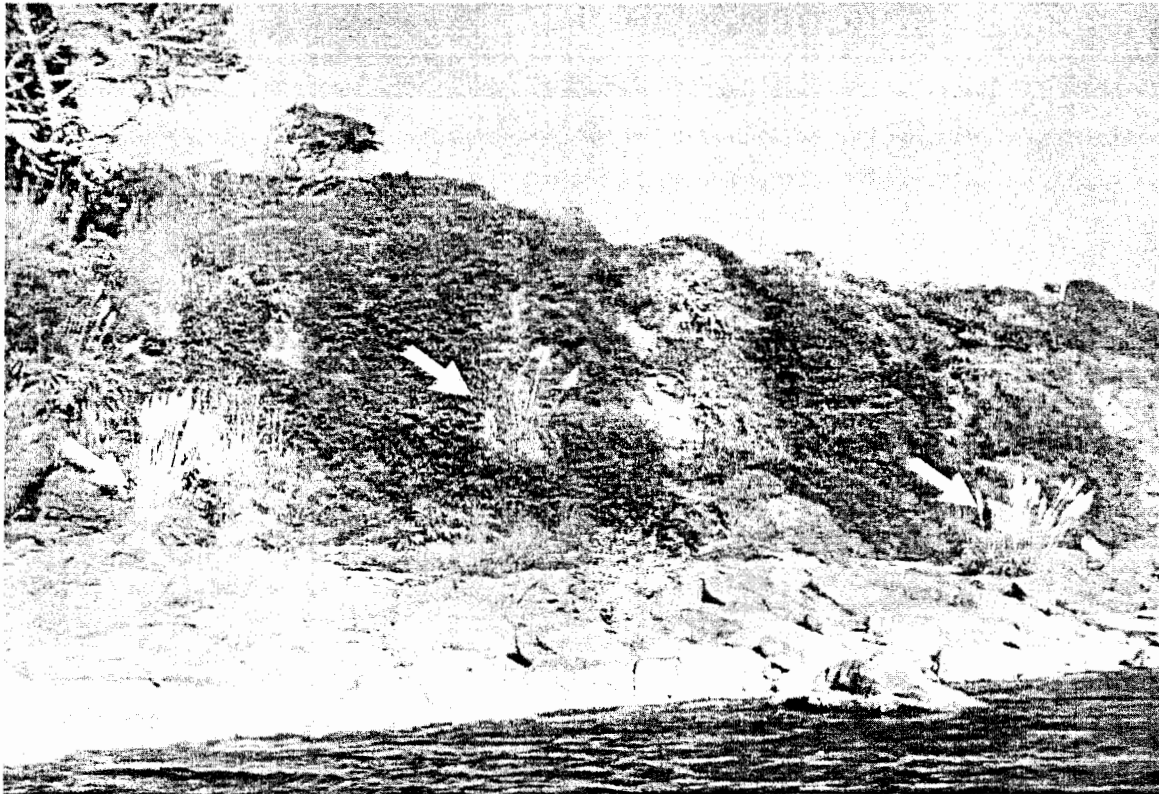
The eventual repeated slope failure on the oversteepened, artificial slope appears likely as sea level rises and extreme storm wave erosion events undermine the slope from the base of the cliff below. Geoweb does not protect against undermining from below; the photo below is an example of geoweb failure at Half Moon Bay coastal bluffs where bluff erosion processes are controlled by wave undermining of a weakly consolidated sandstone marine terrace. The geoweb is left dangling after it is undermined. The Commission should condition the permit so that managed retreat and building relocation to a defensible distance back from the bluff edge, not artificial fill replacement, follows the next episode of inevitable slope failure at this unstable point.



Example of geoweb failure at Half Moon Bay coastal bluffs (2009) where bluff erosion processes are controlled by wave undermining of a weakly consolidated sandstone marine terrace.



Oblique aerial view of the Bower project site (2007). Yellow arrow: location of slope failure; dashed red line indicates bluff armored at toe by natural bedrock slab-boulders, with mature coastal scrub soil and vegetation on the bluff face invaded by weeds, especially in areas of gully erosion caused by concentrated flow from parking lot runoff. Dominant onshore winds transport weed seed from the bluff vegetation to the proposed slope failure repair site.



Weed seed sources of noxious non-native invasive species (including wind-dispersed jubata grass, *Cortaderia jubata* [yellow arrows], the remaining segment of the bluff west of the proposed slide repair site have been adversely affected by gully erosion that is directly related to concentrated past runoff from the unimproved dirt parking lot. Other weeds also built up populations along the parking lot edge prior to bluff trail improvements. These weed sources should be controlled in perpetuity to minimize risk of weed invasion in the disturbed soils of the proposed slide repairs.

If the Commission approves the proposed project, I recommend that the permit conditions be revised to incorporate the mitigation measures I have analyzed and suggested.

Respectfully submitted,

Signature on File

Peter R. Baye, Ph.D.

May 4, 2010

Robert Merrill and Commissioners
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501
Fax (707) 445-7877

RECEIVED

MAY 10 2010

CALIFORNIA
COASTAL COMMISSION

Re: Permit Amendment No. 1-83-270-A

Dear Mr. Merrill and Commissioners:

This permit amendment is to replace a failed retaining wall, move a tilting septic tank, relocate a propane tank, and add drainage improvements and treatment for water during the rainy season. If approved, all of these changes will impact a section of the Gualala Bluff Trail, a portion of the California Coastal Trail. I am writing as a frequent user of this trail. I have volunteered many hours helping to build, maintain, and monitor the trail so have had many opportunities to talk to members of the public who use the trail and have a good understanding of the issues involved. This letter reflects my opinions as an individual and a strong supporter of the trail.

The Redwood Coast Land Conservancy (RCLC) has a vested CDP for the trail, but most of the trail on this section has not been completed since in the lawsuit settlement RCLC agreed to wait until the retaining wall was replaced. Trail improvements are a gravel path, a drainage ditch, and a ramp with a few railroad tie steps to a crossing over the stream between the Bower property and the adjacent property. Before approving this permit amendment, conditions need to be added to protect the trail. The amendments to this permit were planned to facilitate future development shared with the community but not included in the permit that show expansion of the Market west towards the trail easement and a retaining wall to span the entire property in order to maximize parking on the adjacent parcel.

ESHA

The riparian area of the Gualala River is designated an ESHA in the certified Gualala Town Plan. The LCP states that the buffer area for the ESHA should be measured from the nearest outside edge ("for a stream the landward edge of the riparian vegetation or the top of the bluff"). The retaining wall will be built in the ESHA/ESHA buffer area. The amendment for the original retaining wall did not include any plan to restore vegetation that was lost when the Market was constructed or to contain the weeds on the non-engineered fill. The slide area and the area around it is now badly degraded and the trail easement and the adjoining area a field of weeds dominated by Cape Weed. Replacement of the wall is an opportunity to revegetate the bluff so that the appropriate riparian

vegetation is restored as much as possible and to control the weeds. This will make for a much improved trail experience for the public and less ongoing maintenance for RCLC. Special conditions no. 3 and 4 require that native species compatible with this Northern coastal scrub habitat be planted in the outer cells of the Geoweb wall and be maintained and a plan for restoring the bluff face be reviewed and approved before construction can begin. The botanical report suggests many specific shrubs that need to be included and also addresses weeds to be eradicated. An additional condition needs to be added that includes weed management and provides funding to ensure that the plantings will be maintained and monitored and weed eradication continue until plantings are established.

Drainage and Treatment of Water

Drainage was not adequately addressed with the previous retaining wall, which along with the lack of maintenance, led to its failure. A simple drain that collects water before it reaches the bluff has prevented further slides in this area since 2006 until a more permanent solution could be approved. Treatment of the water before it enters the estuary is important, but RCLC needs to be included in the plans for where this system will be if it is necessary for it to be on the trail easement.

Relocation of the septic interceptor tank

An interceptor tank was located too close to the bluff edge, probably without a permit since placement so close to the edge would be inconsistent with the LCP. It is now tilting and needs to be relocated to protect the estuary/lagoon. This application moves it to the trail easement behind the Market. There was no site analysis to determine where it should be relocated. There are other interceptor tanks adjacent to the trail easement or in a few cases on the easement that were in place before the trail was constructed. Only two of them, this one and the one on the adjacent parcel, are covered by concrete pads so that vehicles can drive over them. This is not only very unattractive, but it also means that the area around them often has standing water during the rainy season. This is an opportunity to move the tank off the easement. The setback area between the trail easement and the Surf Market may not have been considered because of the future plans for the Market to be expanded to the west. There needs to be a setback between the trail and the Market and in any event the trail is floating behind the Market and an expansion of the Market west should not be allowed. The staff report leaves the location of the septic tank up to the applicant and it should not be placed on the trail easement.

Relocation of the propane tank

There has been no justification for the relocation of the propane tank to the trail easement. A plan to bury it is a good one, but it should remain in the setback area further from the bluff and not interfering with the use and enjoyment of the trail when it is maintained. This permit does not address where it is to be relocated, but the application subject to the de novo hearing shows it located on the trail easement on the other parcel. Relocating the propane tank on the easement should be denied.

Garbage and Trash Issues

Garbage disposal issues from the Surf Market dumpsters adjacent to the trail should be addressed in this permit. In the lawsuit settlement RCLC and Bower Limited Partnership


(BLP) agreed to work cooperatively toward a solution, but a solution has not been found. As the public walks this portion of the trail they are exposed to unpleasant odors coming from the dumpsters. Trash falls out when the dumpsters are emptied twice a week. On the frequent windy days, it is especially bad as trash blows all along the trail and on to the bluff. Some of it accumulates behind the Market. Trail monitors consistently report the most trash in this section of the trail. Where the dumpsters are located next to the trail easement blocks the entry to the set back area between the easement and the Market. If maintenance on the Market is needed (painting, fixing the roof), trucks have to drive on the trail easement to get to the set back area. Once the trail is completed, emptying the trash under the current configuration will be more difficult since bollards will have to be removed each time the trash is collected so that the large trucks can access the dumpsters and drive on a portion of the easement. Moving the trash enclosure which is now a barrier to servicing the property could keep vehicles off the easement and adding a trash compactor would prevent trash from blowing out as it would be picked up intact instead of being emptied. If this is not part of this permit, it is unlikely that a solution will be found until the Market is expanded at a much later time. A condition should be added to correct this problem.

Replacing the wall

Attachments to the staff report show a redesign of the trail by the applicant, a design that does not closely follow the vested CDP for the trail which routed the trail away from the bluff which was considered unstable at the time the CDP was approved (before the retaining wall failed.) Special condition No. 3 in the staff report attempts to address this to a degree by asking for a redesign of the end wall on the southern end of the subject parcel to conform more closely with the CDP for the trail. A condition should be added that restores RCLC as the organization in charge of the design for the Gualala Bluff Trail. Consultation between BLP and RCLC on the plan is to be encouraged, but RCLC should remain in charge of the trail easement. The applicant has not been supportive of the trail and attempted in a lawsuit to stop it from being constructed and to limit the trail improvements. Creating a more attractive part of the trail behind the Surf Market is more likely if the group in charge of maintaining and monitoring it retains control of its design.

Adding conditions and denying a portion of the application would make it possible to approve this amendment.

Sincerely,

Signature on File 

Mary Sue Ittner
P.O. Box 587
Gualala, CA 95445

May 5 2010

North Coast District Office
Bob Merrill, District Manager
710 E Street, Suite 200
Eureka, CA 95501
(707) 445-7833 or
(707) 445-7834
FAX (707) 445-7877

RECEIVED

MAY 10 2010

CALIFORNIA
COASTAL COMMISSION

Re: Permit Number 1-83-270-A1 Bower Limited Partnership

Mr. Merrill,

I am writing to express my complete agreement to allow Mr. Bower to save not only his retaining wall since he is the property owner, but his timely actions, along with his financial resources to complete this project at no cost to the Great State of California or its people is a blessing. I would note his efforts will allow future generations of California's to preserve and enjoy a view shed that is second only to mine.

I lived in Pacific Grove, Ca for 14 years and managed inns in Carmel, I know first hand that this Geoweb works. The name "Carmel by the Sea" was not a mistake, but a careful plan to enhance, save and rejuvenate a California treasure, its coastline. That is why it will never be called "Carmel in the Sea".

While I no longer live in that area and have now placed all of my preverbal financial eggs into the ownership of the Surf Motel at Gualala, I must say that my motives are selfish. I have one of only a few allowed retaining walls on the river. My greatest fear is that I will not be able to protect my seawall if any portions of Mr. Bowers fail.

Driving the coast is one thing, getting out of your car and walking it "priceless"

"Gualala by the Sea", yes it has a ring to it, wont you agree.

I would also plead and pray that Mr. Bower be allowed to find new points west on his property and restore it to allow new vista points, ones like mine. I see on a daily bases the photo shots taken at the far west end of my property. I feel, should Mr. Bower get an opportunity to find new points west or several new points along the trail, that the coastal commission will be praised.

I am at your mercy and will be the greater recipient of the commission grace if this project is allowed to proceed.

Respectfully,

Signature on File

~~Eric R. Cogdill~~
Owner Surf Motel

California Native Plant Society

Dorothy King Young Chapter · P.O. Box 985 · Point Arena CA 95468

May 6, 2010

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

RECEIVED

MAY 10 2010

CALIFORNIA
COASTAL COMMISSION

FAX: 707-445-7877

Wednesday: Item 16 a
Approve with Conditions

Re: Permit Amendment No. 1-83-270-A (Mendocino County, Bower Limited Partnership)

Dear Commissioners and Mr. Merrill:

The Dorothy King Young Chapter of the California Native Plant Society (CNPS) would like to offer the following comments on this project.

Scope of Comments

These comments focus on actions likely to have a negative impact on native vegetation, or that could set precedent for future projects that would negatively impact native vegetation. Impacts to be avoided may be direct, indirect or cumulative.

Soil Issues

CNPS supports repair of the slide behind the Surf Supermarket in a low-impact manner. Specific locations subject to slides and debris flows should be dealt with individually, which is why CNPS supports replacement of the original retaining wall that was allowed to fail.

Rather than attempting to "stabilize" the improperly placed, alien fill soil on the blufftop, CNPS recommends that this fill material be removed altogether. Any new fill needed in the course of repairing the old retaining wall should be weed-free and compatible with the native soil.

CNPS remains concerned about the use of a GeoWeb structure to re-establish native plants. It has never been clear how locally compatible, weed free soils for the GeoWeb cells would be obtained. Nor is it clear that the GeoWeb cells are appropriate for growing woody, deep-rooted plants.

Any comparative examples using GeoWeb should be projects with soils similar to our local soils. The Monterey County comparison project cited by the developer apparently has granitic soils, very different than our local soils.

It appears that the Geoweb could fail if the slope failure occurs from below the slump or debris slide. The Geoweb material would be undermined and left dangling – not good for native plants. Is the project proponent liable for repairing damage, should such an event occur?

Vegetation and Mitigation

The adjacent bluff parcel contains mature, woody native vegetation, which should guide revegetation efforts on the parcel behind the Surf Supermarket. Note that native bluff plants

(unlike some introduced plants such as iceplant) tend to have extensive, woody roots that help to hold the soil together and prevent erosion.

CNPS would like to see proper, long term management of vegetation on the site. This is of greater concern than damage from hypothetical, future debris flows.

Plant choices for re-vegetation and vegetation management protocols should be approved by the Coastal Commission. Decisions about re-construction and re-vegetation of the Gualala Bluff Trail should be managed under the aegis of the Redwood Coast Land Conservancy, the organization that holds the easement on the Bluff Trail.

Activities associated with Permit Amendment No. 1-83-270-A will have impacts that require mitigation. Such mitigation measures should include the adjacent bluff parcel owned by the applicant. The entire 285-foot reach on the applicant's land should be preserved, appropriately re-vegetated, and placed under a control program for invasive weeds.

For the parcel behind the market, local native plant species could help control weeds and erosion, while enhancing ecosystem functions on the bluff. This project would benefit from a "pre-emptive" weed control strategy using low, spreading native shrubs as barriers.

Such an approach would focus on shrubs that can spread and cover ground quickly, leaving no openings for gap-colonizing invasive weeds. Coyote brush, CA blackberry (*Rubus ursinus*), *Ceanothus gloriosus*. Planting them fairly close together will allow for rapid establishment of a dense, weed-smothering canopy.

It might also be advisable to utilize seed of fast-growing competitive native annuals, applied via hydromulch, fall after installation. Seeds should be obtained from north coast sources.

Silk tassel is slow-growing, so should be included, but within a matrix of blackberry or coyote-brush to help smother out weeds. Other woody plants could include *Ceanothus griseus*.

Project activities should retain as many existing mature, native shrubs, such as silk tassel, blue blossom and coyote brush, as possible. Plantings should also utilize native shrub species already on or close to the site.

Remove jubata grass (*Cortaderia jubata*) and pride of Madeira (*Echium* sp.) from the toe of the bluff and anywhere else they occur, replacing them with native shrubs

Eradicate macro-invasive species such as Himalayan blackberry, Capeweed, greater periwinkle, jubata grass, ice plant and pride of Madeira. Annual or biennial weeds like poison hemlock, teasel and alien thistles remain standing after they have died, presenting a fire hazard, so these should also be controlled. Wild radish and grasses like Harding and velvet grass will move into vacancies left by removal of larger weeds, so control is needed for these as well.


Conclusion

While CNPS has opposed many aspects of the proposals for both the applicant's parcels, our

members can still support some of the broader goals of the applicant, such as opening up coastal views.

CNPS comments are aimed at ensuring due process, so that coastal project applications are analyzed and permits issued in a manner consistent with the language and intent of the Local Coastal Plan.

We appreciate the diligence of the Coastal Commission staff in carefully considering all aspects of this project in the context of the California Coastal Act.

Sincerely, 

Signature on File

Lori Hubbard, Chapter Conservation Chair
California Native Plant Society
Dorothy King Young Chapter

BLOCK & BLOCK

A PROFESSIONAL CORPORATION

1880 CENTURY PARK EAST, SUITE 415
LOS ANGELES, CALIFORNIA 90067-1604
TELEPHONE (310) 552-3336
TELEFAX (310) 552-1850

ALAN ROBERT BLOCK
JUSTIN MICHAEL BLOCK

SENDER S E-MAIL
alan@blocklaw.net

May 7, 2010

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

Re: Coastal Development Permit No. 1-83-270-A (Bower Limited Partnership)

Project Description: Amend the existing permit to allow for the (1) replacement of a 70 foot long wooden retaining wall with an approximately 105 foot long "Geoweb" retaining wall extending across the subject property with an approximately 30 foot long concrete block wall at the southern end of the retaining wall; (2) installation of 118 linear feet of 12 inch storm drain with a storm drain manhole; and (3) replacement of an existing underground septic tank.

Scheduled: May 12, 2010
Agenda Item: 16(a)

Dear Commissioners:

This office represents the applicant, Bower Limited Partnership ("BLP"), with regard to the pending amendment to a previously issued coastal development use permit ("CDP") to replace a wood retaining wall that was destroyed in a landslide that occurred in the winter of 2005-2006. The resulting slide scarp is over steepened and unstable and threatens the bluff edge where a public access easement exists. The amendment request was submitted to comply with the requirements of the originally issued CDP. The replacement of the destroyed wood retaining requires the relocation of an existing septic tank and the installation of drainage improvements. The property is located in the commercial area of Gualala along the east side of the Gualala River Estuary, in the southern County of Mendocino County.

Staff is recommending approval of the project with numerous special conditions, including, but not limited to, (1) submitting a revised Soil and Stabilization Plans requiring with numerous sub-category requirements; (2) submitting a Northern Coastal Scrub Habitat Restoration Plan with numerous sub-category requirements; (3) approval of color of Geoweb material; (4) Best Management Practices and Construction

California Coastal Commission

Re: Coastal Development Permit No. 1-83-270-A (Bower Limited Partnership)

May 7, 2010

Page 2

Responsibilities with numerous sub-category requirements; (5) the recordation of a deed restriction against the property delineating all conditions of approval; and (6) permit compliance and conditional compliance.

The applicant has agreed to all recommended special conditions of approval with the exception of Special Condition Nos 3A(1); 3 A(6) and 4A(1)(vii).

Recommended Special Condition No. 3A(1) now provides as follows:

"The Geoweb retaining wall shall be aligned such that the seaward edge of the top of the wall conforms to the existing slope break. The approved drainage improvements and septic tank shall be repositioned as necessary to accommodate the required realignment of the approved wall."

The proposed location of the geoweb system was designed to both recapture the 7 to 10 feet that were lost in the landslide of 2005-2006 and provide sufficient area for the new drainage system and septic tank relocation with the minimum amount of landform alteration. Although we understand that the Commission is concerned with maintaining the "natural contours" the recommended condition will NOT achieve this result. The applicant requested his engineer, George Rau, to design the least impacting fix possible. A fairly straight line to lay the geoweb system, and for the most part, that is what you have in this location, except for the slide area, which must be backfilled. Special Condition 3A(1) as recommended by staff will require that a substantial amount of existing earth be removed landward in order to both conform to the slide area and reposition the proposed drainage system and septic tank replacement. This will reduce the setback to the Surf Supermarket which was supposed to be achieved by the original settlement, preserving a corridor for the trial easement as well as a functional area to maintain the building at the rear of the market. For this reason, to achieve the intent of the original approval for the retaining wall, the applicant strongly contends that Special Condition No. 3A(1) should be modified to assure that the wall is constructed in its original location prior to the landslide.

Recommended Special Condition Nos. 3A(6) now provide as follows:

"All plantings on the face of the Geoweb retaining wall shall be maintained in good condition throughout the life of the project to ensure continued compliance with the approved final landscaping provisions of the plans. If any trees and plants to be planted die, become decadent, rotten, or weakened by decay or disease, or

California Coastal Commission

Re: Coastal Development Permit No. 1-83-270-A (Bower Limited Partnership)

May 7, 2010

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are removed for any reason, they shall be replaced no later than May 1st of the next spring season in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height”

The purpose of Special Condition 3A(6) is to screen the visual effects of the Geoweb wall from the Gualala Point Regional Park. As worded, Special Condition No. 3A(6) requires that if ANY trees and/or plants die, become decadent, rotten, or weakened by decay or decease, or are removed for any reason, they must be replaced regardless of any visual effects of their death or removal. The applicant merely requests that the recommended special condition be reworded to only require replacement of trees or plants wherein the remaining trees or plants do not provide adequate screening to the park.

Recommended Special Condition No 4A(1)(vii) similarly provides as follows:

“All plantings shall be maintained in good condition throughout the life of the project. If any of the plants to be planted die, die, become decadent, rotten, or weakened by decay or decease, or are removed for any reason, they shall be replaced no later than May 1st of the next spring season in-kind or with another native Northern coastal scrub species.”

Similar, to Special Condition No. 3A(1), the purpose of Special Condition No. 4A(1)(vii) is to screen the visual effects of the Geoweb wall from the Gualala Point Regional Park. As worded, Special Condition No. 4A(1)(vii) requires that if ANY trees and/or plants die, become decadent, rotten, or weakened by decay or decease, or are removed for any reason, they must be replaced regardless of any visual effects of the dead or otherwise removed trees or plants. The applicant merely requests that the special condition be reworded to only require replacement of tree or plants when the remaining trees or plants do not provide adequate screening to the park

The Proposed Retaining Wall is Consistent With Applicable LUP Policies

The Coastal Act provides, first and foremost, the measure of a project’s consistency with the State’s goals regarding coastal resources. Therefore, before even reaching the issue of the consistency of the proposed retaining wall with applicable LUP policies, consideration should be given to the Coastal Act itself. Public Resources Code §30253 relevantly provides:

May 7, 2010

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"New development shall:

* * *

(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.

* * *

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

The proposed retaining wall serves multiple, legitimate, authorized purposes, including but not limited to (1) compliance with Special Condition No. 1 of the original CDP which requires protection of the existing public access easement; (2) the preservation of the natural bluff slope; (3) the protection and relocation of the existing septic tank and ; (4) the optimization of proposed drainage facilities to be constructed near the edge of the bluff.

Public Resources Code §30251 provides, in relevant part:

"Permitted development shall be sited and designed 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."

The proposed Geoweb wall as designed merely attempts to recapture the 7-10 feet of the western most bluff top lost in the winter 2005-2006 landslide. The placement of the wall as designed allows the construction of the Geoweb improvements, with necessary drainage improvements and septic tank replacement, without having to do substantial grading and excavation on the remaining bluff top area which will reduce ground disturbance closest to the existing trail and buildings. If the wall must be realigned as currently recommended in Special Condition No. 3A(1), landward of the slide area which will be backfilled, additional ground disturbance will be necessary to relocate the existing septic tank and install the necessary drainage improvements. This

California Coastal Commission

Re: Coastal Development Permit No. 1-83-270-A (Bower Limited Partnership)

May 7, 2010

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will not minimize land form alternation and not be consistent with the intent of the Coastal Act

Public Resources Code §30251 protects visual resources. Recommended Special Conditions Nos. 3A(6) and 4A(1)(vii) can do so adequately without requiring the replacement of EVERY single tree and plant which dies, or must otherwise be removed. Replacement of trees and plants should only be required when the screening of the wall from the park, or other public viewing areas, is not adequate

The applicant respectfully requests an approval as recommended by staff with modification to Special Condition Nos 3A(1), 3A(6) and 4A(1)(vii) as proposed above.

Thank you for your consideration, courtesy and anticipated cooperation.

Very truly yours,

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



ALAN ROBERT BLOCK

ARB/cw

cc: Commissioners
Bob Merrill
John Bower
George Rau



REDWOOD COAST LAND CONSERVANCY

Dedicated to protection of open spaces and natural resources from the Navarro to the Russian rivers

P.O. Box 1511, Gualala, CA 95445-1511 • (707) 785-3327 • email: rclc@mcn.org • www.rc-lc.org

May 7, 2010

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

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MAY 10 2010

CALIFORNIA
COASTAL COMMISSION

Wednesday Item 16a

Re: 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 Coastal Commission will be considering Permit No. 1-83-270-A on May 12, 2010. As the steward of the Gualala Bluff Trail, RCLC has a strong interest in having this issue resolved.

RCLC agrees in principle with the staff recommendation that Bower Limited Partnership (BLP) be allowed a permit with conditions to build a Geoweb retaining wall to replace the wooden wall which failed in 2006. Replacement of the retaining wall on parcel APN 145-261-05 will enable RCLC to complete an unfinished segment of the Gualala Bluff Trail and to connect it with the already completed portion of the trail south of the area where the wall failed.

As outlined in previous correspondence, RCLC requests that certain conditions be placed on the permitted construction to facilitate the building of the trail and to minimize any negative impacts on public access, use and enjoyment of the trail.

RCLC concurs with the requirement that BLP submit a full soil stabilization and drainage improvement plan for review by the Executive Director and recognizes that this process will necessarily be lengthy. RCLC's principal concern is that once the necessary approvals are obtained and construction begins on the replacement wall, the public's access to the completed portions of the trail will be negatively affected, potentially for a considerable period. Our concern is heightened by the fact that the trail is a vital link in the California Coastal Trail in Mendocino County.

The staff report notes the requirement in the settlement agreement that the trail be replaced "expeditiously". RCLC would prefer that BLP, in consultation with RCLC be required to establish a reasonable set time frame for the construction phase for building the wall and other improvements and for replacing trail sections impacted by construction. In this way, negative impacts to public access would be minimized.

The staff report also notes that BLP will be required to replace "in-kind" and "expeditiously repair at its own expense" any part of the trail that is damaged. As the steward of the trail, RCLC wishes to maintain control of the design and construction of the trail and would therefore like it stipulated, in addition, that any replacement or repair be done under the direction of and/or with the concurrence of RCLC regarding design, placement and materials used.

As RCLC has expressed in previous correspondence, we have several concerns about how the proposed retaining wall replacement will impact the design of the trail and surrounding area and the public access to and enjoyment of the trail:

- As holder of the Mendocino County CDP No. 23-03 for the Gualala Bluff Trail, RCLC is responsible for the development and maintenance of the trail. Although the language under Special Conditions requires that the wall be designed "in a manner consistent with the CDP" granted to the RCLC for the construction of the public access trail, there is no explicit requirement that RCLC have the opportunity to review and comment on the design of the wall and its potential impact on the building, use and maintenance of the trail. We therefore ask that BLP be explicitly directed to consult with RCLC when developing its proposed plan for replacing the retaining wall to make certain the plan is consistent with the CDP and will meet the needs of the public access trail and its ongoing maintenance, which will be RCLC's continuing responsibility.
- The staff report recommends that the wall follow the natural slope of the bluff edge rather than using fill to extend it westward. This recommendation is in keeping with RCLC's plan to build a trail with a natural feel rather than one with concrete walls and steps as submitted by BLP. We therefore request that BLP redesign the southern end of its proposed retaining wall to enable the trail to naturally follow the terrain as it currently does. Such a design would be more aesthetically pleasing and safer to traverse than a set of steep concrete stairs and would provide much easier access for wheelbarrows and other tools and equipment needed to maintain the trail.
- RCLC would also like to make certain that some form of safety barrier be designed along the wall to discourage people from approaching the bluff edge. The design should minimize impacts on the currently unobstructed views from the trail of the watershed. We would also like to work with BLP to preserve several large native trees and shrubs that might otherwise be removed during the construction of the wall.
- The staff report recommends approval for replacing the abandoned septic tank currently located in the trail easement. RCLC requests that BLP be directed to relocate the septic tank and other tanks and slabs outside the easement to provide a more aesthetically pleasing experience for trail users. As the staff report notes, the original CDP for construction of the Surf Supermarket did not authorize any structures or materials in any portion of the easement.
- RCLC also asks that BLP be directed to relocate permanently the Surf Supermarket's garbage and recycling containers away from the trail to eliminate the negative effect that litter and unpleasant odors currently have on the enjoyment of the trail. By addressing this nuisance, BLP would meet its commitment under the settlement to resolve the garbage problem.

RCLC appreciates the Commission's consideration of the concerns we have outlined in this and previous communications regarding the replacement of the retaining wall and its possible impact on the Gualala Bluff Trail. Representatives from our organization will be available at the May 12th hearing to provide further information on these issues of concern.

Signature on File

Laurie Mueller
President



REDWOOD COAST LAND CONSERVANCY

Dedicated to protection of open spaces and natural resources from the Navarro to the Russian rivers

P.O. Box 1511, Gualala, CA 95445-1511 • (707) 844-4426 • email: rclc@mcn.org • www.rc-lc.org

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MAY 10 2010
CALIFORNIA
COASTAL COMMISSION

May 5, 2010

To Robert Merrill and Commissioners
FAX: 707-445-7877

RE: Item **W 16a** for May 2010

We noticed that the two attachments to our March 30, 2010 were not included with that letter.

We ask you to please add the following 8 pages to the record. These are copies of the 11/14/07 Letter to Mendocino County Planning and the 8/21/08 Letter to California Coastal Commission (Merrill).

Thank you.

Signature on File

Bob Rutemoeller
RCLC Treasurer



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P.O. Box 1511, Gualala, CA 95445-1511 • (707) 785-3327 • email: rclc@mcn.org • www.rc-lc.org

November 14, 2007

Raymond Hall, Coastal Permit Administrator
Teresa Beddoe, Project Coordinator
Mendocino County Planning and Building
790 South Franklin Street
Fort Bragg, CA 95437

Re: CDP #55-2006, Gualala, Mendocino County
Applicant: Bower Limited Partnership

Dear Mr. Hall and Ms. Beddoe:

As stewards of the public access easement and Gualala Bluff Trail affected by the referenced permit application, Redwood Coast Land Conservancy ("RCLC") appreciates your consideration of our views in this important matter.

In the Settlement Agreement, dated February 16, 2007, between Bower Limited Partnership ("BLP"), John H Bower, Redwood Coast Land Conservancy, and the California Coastal Commission, RCLC agreed not to oppose the applications for a coastal development permit by BLP for retaining walls but did reserve the right to comment, without limitation, on impacts of the proposed retaining walls on public pedestrian access and enjoyment of the easements created on the subject parcels. Accordingly, as permitted by the Settlement Agreement, we want to take this opportunity to express our great concerns, as set forth below, about the potential impacts of the proposed retaining wall.

Before addressing those impacts, RCLC wishes to state that the Gualala Bluff Trail does not require the protection of the proposed, or any, retaining wall, since the legal document that conveys and defines the easement allows it to move, if necessary, in response to movements in the "daily bluff edge". We emphasize this point because protection of the Bluff Trail is cited in the Staff Report as a principal justification for allowing the proposed retaining wall.

Impacts of Proposed Retaining Wall on the Use and Enjoyment of the Easement

Extended Closure of the Trail

The Staff Report states that the proposed project would result in "temporary" disruption of public use of the trail. However, construction of the retaining wall would cause this segment of the Trail to be closed to public use for an extended period of perhaps six months, if not longer, since after the retaining wall is finished the Trail would still have to be restored. Because this segment is in the middle of the Trail and there is no current access to it except through the Surf Motel parking lot, this would in effect close all of the

Bluff Trail south of the Surf Motel. Accordingly, we do not believe that such disruption of use of the Trail can fairly be described as "temporary".

Drainage

RCLC strongly supports creation of a drainage system that would protect the Trail from rainwater runoff. However, the drainage system as proposed in the application would at times adversely impact the use of the Trail.

At present, because drainage from the current commercial "parking area" was never properly addressed, water from this parking area flows down to the bluff and ponds on the easement. If the low spot were located east of the easement, rainwater would drain in the other direction and could be collected and treated before it empties into the estuary. The proposed design, however, would place the collection area in the middle of the easement, allowing water to continue to inundate the easement and the Bluff Trail. Installing the drain in this location would also undo some of the improvements to the Trail. Furthermore, it would be disruptive to use of the Trail when maintenance is necessary. Ultimately, the Trail would be better protected by locating a drainage system in a buffer zone east of the easement, so that water would not drain onto the easement from the parking lot and the Trail improvements would not be damaged. This would also serve to eliminate drainage as a factor that would otherwise potentially cause the easement and the Trail to be moved in the future.

Vegetation

The Staff Report suggests that, in the event this permit is approved, RCLC should participate in a revegetation attempt necessitated by the removal of existing established plants. In addition, the botanical survey submitted in connection with the application, instead of emphasizing protecting the native vegetation that has slowly established itself over time, actually advocates the retaining wall project as an opportunity for removing exotic vegetation. RCLC does not presently have the resources to take on such projects, and our participation as suggested should therefore not be presumed. Moreover, our experience attempting to reestablish appropriate native vegetation below the area where our pedestrian bridge was installed has shown it to be extremely difficult. We also seeded and tried to add mature plants, but only some of the mature plants have survived and few if any of the seeds. Plants added to a steep slope cannot be easily weeded and watering is difficult. There is no close source of water to establish plants below the proposed retaining wall, and a drip irrigation system for the area is impractical. We suspect that adding a retaining wall would, in fact, result in more invasive weeds replacing established native plants because of the disturbance caused by excavating so much soil. Lastly, we are amazed that the proposed removal of 7795 square feet of shrubs and herbaceous vegetation could be characterized as a "minor" disturbance.

Loss of Existing Improvements

As set forth in the letter of September 12, 2007 from RCLC's Project Coordinator to Teresa Beddoe, more than \$17,000 of public money has been spent, along with a considerable amount of volunteer time and some donated professional time, in developing a permanent addition to the Trail on a portion of the easement. None of this

is reflected as a consideration in the Staff Report and recommendations. Therefore, to reiterate from our letter, public money has been spent excavating to remove fill so gravel, weed cloth, and pipes for the watering system for the plants for the Trail could be added. Large boulders were purchased and very carefully placed so that planting mounds could be created that would insure that the organic soil that was added after some of the fill was removed would not wash onto the easement. Planting mounds were needed to separate the trail from the commercial "parking area" and to give users of the Trail the feeling that they were walking on a trail instead of through a parking lot. The contractor took great care to add the boulders so that visitors to the trail could sit on them and admire the view. Low growing native plants adapted to bluff conditions were added to the mounds underneath weed cloth, along with a drip irrigation system, and were mulched. Volunteers watered each week during the summer months, which entailed dragging a long hose to attach to the watering system, since there was no close source of water. Weeds have been removed and the plants are thriving. A few other plants were added to areas of the easement that would provide an attractive visual break, including three shore pines next to the septic tanks where limited Trail improvements are possible. A bench was installed where there would be an attractive view. After the contractor dug holes, volunteers added bollards and chains over much of the parcel to keep cars from driving on the easement. We are attaching pictures of the trail on the Bower parcel to illustrate what has been accomplished.

These improvements are generating very positive comments from visitors and the community. If the requested permit is approved in its current form, the improvements made to the Trail on parcel 13 would be undone during construction of the retaining wall. It is unlikely that the plants would survive, as they would be dug up during the beginning of the dry season. All of the time expended by volunteers to establish them would be lost, and the process would have to be repeated more than two years later. In addition we disagree with the staff conclusion that it would be easier to establish plants in newly engineered compacted fill, and we believe that having plants to soften the effect of the "parking area" is essential to the enjoyment and use of the Trail.

Relocation of the Septic Tanks

RCLC was unaware until reading the Staff Report that there is a plan to relocate and upgrade the underground septic systems, as this was not included in the original permit application that we and other agencies were given to comment on. It is not listed in the project description on Page 3 of the Staff Report and was not discussed at the GMAC meeting. Neither the applicant nor county planning staff brought it to our attention or asked for input before the Staff Report was written. The drawing in the Staff Report makes it difficult to determine if this expansion of the application is consistent with the design of the Gualala Bluff Trail (CDP 22-2003). Landscaping is an important component of the use and enjoyment of the Gualala Bluff Trail. If this application is approved and the Trail improvements are dismantled in the process, we request that RCLC be included in the determination of where the septic tanks are relocated before the Trail is restored.

Reinstallation of Amenities

Finally, we remind the staff that the Settlement Agreement provides, in the case of damages caused by BLP to the public pedestrian access amenities installed by RCLC, that "BLP will expeditiously repair such damage at BLP's expense". Therefore, if this application is approved, RCLC requests that a condition be included in the permit requiring BLP to use its best efforts to complete such repairs expeditiously and that BLP's obligation to do so be secured by a performance bond or other financial assurance satisfactory to RCLC.

Our concerns in this regard are prompted by the significant delays RCLC has experienced to date in completing the Gualala Bluff Trail since receiving our CDP for Phase Two in May 2004. It was first delayed by the lawsuit filed by BLP to stop construction and to question the validity of the easement. It was next delayed by the failure of the retaining wall that was supposed to protect the easement. Unfortunately, neither the retaining wall nor the drainage behind it were ever properly maintained. Approval of this permit application would likely cause completion of the Trail to be further delayed until late 2008 or perhaps even 2009. The Gualala Bluff Trail is quickly becoming one of the most treasured features of Gualala. The extension of the Trail has restored views of the Gualala River and the ocean that were obstructed by buildings on the BLP property. In the event the retaining wall is approved and built, there must be assurance that the Trail and its amenities will be promptly restored.

In conclusion, we have addressed above RCLC's specific concerns about the impacts of the proposed retaining wall on the use and enjoyment of the Gualala Bluff Trail. Above and beyond these, we are concerned that Mr. Bower plans to apply to the Coastal Commission to change the terms of the easement, if the proposed retaining wall is approved. This would surely delay completion of the Trail for a very long time.

We thank you for considering our comments and concerns and would be pleased to respond to any questions you may have.

Sincerely yours, ^h

Signature on File

George Anderson
President, Redwood Coast Land Conservancy

Enclosure

Cc: Robert Merrill, District Manager, California Coastal Commission
David Colfax, Supervisor, County of Mendocino
Deborah Hirst, California Coastal Conservancy



REDWOOD COAST LAND CONSERVANCY

Dedicated to protection of open spaces and natural resources from the Navarro to the Russian rivers

P.O. Box 1511, Gualala, CA 95445-1511 • (707) 785-3327 • email: rc-lc@mcn.org • www.rc-lc.org

August 21, 2008

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

Re: CDP Amendment Application No. 1-83-270-A1 (Bower Limited Partnership)
Re: CDP #55-2006 (Bower Limited Partnership)

Dear Mr. Merrill:

We understand that new information from George Rau has been submitted about these two applications that will impact the public access easement and the Gualala Bluff Trail. As stewards for this easement, we would appreciate your consideration of our views about this information.

We continue to support finding a solution for the failed retaining wall that would protect the public access easement and the Surf Market. We are hopeful the portion of our easement that was lost when the retaining wall failed can be restored. On the other hand, we continue to have questions that have not been answered about application 55-2006.

We were given a copy of a site plan dated April 2008 at a meeting 5/23/08 with John Bower and Julie Price. Minutes of this meeting and a letter written by the RCLC President to John Bower are enclosed. I would like to emphasize some of the points made. The site plan includes many changes to the design of the vested CDP for the second phase of the Gualala Bluff Trail and the trail as currently constructed. RCLC was not consulted about these changes in advance and does not endorse this site plan. The trail was designed years ago as part of the permit process. We understand that changes may be needed as a result of the failure of the wall, but feel that changes in the trail design are up to RCLC, not Bower Limited Partnership.

CDP Amendment Application No. 1-83-270-A1 (Parcel 5)

RCLC and BLP have been unable to come to an agreement about how to connect the trail between the Bower and Humber properties. Original drawings for the trail in this area showed stairs descending to the swale area, but these stairs were not engineered, nor were they described in the CDP for the trail which refers to stairs connecting to the Pedestrian Bridge. The first contractor we hired in reviewing the design, suggested a change to the design that would make it easier to build the trail and to maintain it, as well as making it easier for both property owners if there needed to be maintenance of the swale area. He designed a switch back ramp that created a gentler slope, allowing materials to be brought in by wheelbarrow and making it easier for some to walk than steep stairs. In a meeting with the building inspector, RCLC volunteers and contractor, and Mr. Bower, we were told by the building inspector that since the stairs were not engineered that the ramp was an acceptable alternative. We agreed at this meeting to try to find a compromise solution that we both could agree to, but this has been elusive. The site plan shows a

retaining wall that would prevent the access to the swale from the ramp. Mr. Bower wishes for the Gualala Bluff trail to be built close to the western edge of the easement. The CDP for the trail shows the trail being set back from the edge of the easement since that area was felt to be unstable. In the May 2008 meeting when asked to explain about his opposition to the ramp, Mr. Bower said that he has plans to build behind the market and wants the trail routed as far away as possible. The trail easement is a floating one in this area and can float to the edge of the Surf Market. The Market was built on part of the required set back restricting how far the easement can move. RCLC does not feel that possible future development of the Market should be the deciding factor in changing the design of the trail.

RCLC does not have the expertise to analyze the stormceptor and drainage improvements. Building drainage is a potential cause of slope erosion and the Surf Market does not have gutters in the area of the failed wall. Additional water from the adjoining parcel 13 which drains from Highway One is to be directed to this parcel and ultimately to the swale that also receives water from the parking area of the Breakers Inn and Highway One. RCLC would like to be assured that sizing and configuration of critical new drainage improvements is adequate and that the natural swale to which all the storm flows are directed has sufficient capacity.

There are large trees that are quite dramatic close to the swale and it is not clear whether they can be protected in the current plan. We would want them retained as they add to the enjoyment of the trail and make an attractive green scene when viewed from the Regional Park.

Additional concerns that RCLC has about the site plan on parcel 5 have to do with the propane tank, the relocation of the septic tanks, and the Surf Market dumpsters. We understand that the septic tank that was sited next to the bluff edge that is tilted needs to be relocated and that in the settlement agreement RCLC agreed to uses of the easement that were not inconsistent with a public pedestrian easement and if the necessary permits were obtained. But that does not mean that the tanks and an added grease trap must be on the easement if another location is better. These tanks need to be set back from the ESHA (the Gualala River riparian corridor). We understand that the design for both includes an impervious concrete pad so vehicles can drive over both. Not only is this unattractive, but it contributes to standing water on the trail easement and the possibility of disruption to the trail if repairs are necessary.

The Surf Market dumpsters continue to be an ongoing concern. In the settlement we agreed to work cooperatively on a resolution to this problem. We receive many complaints from the public about the odor and how unsightly this area is. Trail monitors report that this area of the trail generates the most trash. On windy days when the garbage is collected, trash falls out and blows all over the easement. Surf Market tenants have instituted a few changes that have helped to a degree, but have not solved the problem. In addition the dumpsters are often moved to the trail easement for a period of time after they have been emptied. We have been told that once the trail is completed, it will be difficult for the trash to be collected where it is currently located. A solution offered by the company that collects the trash was for a system that replaced the dumpsters with a trash compactor that could be hauled away intact. This would save the Market the cost of multiple pick-ups and we understand would be set back further from the easement. Trash would not blow away during the pick up. This alternative appears to be on hold. We would like to see a solution to the garbage problem be included in this application.

CDP #55-2006 (Parcel 13)

We continue to be concerned that under the current plan the trail amenities on Parcel 13 will be deconstructed and the trail will be closed in the middle during construction. We have been told

that the trail would be closed for at least four months. We have not been presented with any viable reroute. This trail is well used and loved by the public. We support as an alternative to the plan presented the creation of a drainage system that would protect the trail, the fill, and the bluff from rainwater runoff from downtown Gualala and would shorten the time the trail would be closed. The current private informal parking area was never the subject of a permit and as a result drainage was never properly addressed. Water from this parking area flows down to the bluff, ponds on the easement, and is directed to the current low spots. The Rau letter does not explain why regrading the site and creating a valley east of the bluff trail easement and installing an intercept drain along that valley that would prevent surface runoff from saturating and scouring the unauthorized fill would not be a solution that would address the problems without deconstructing the trail.

Questions remain unanswered about the loss of native vegetation as a result of adding the Geoweb across the entire bluff. The November 2007 letter from consulting coastal plant ecologist Peter Baye who is an expert on bluff restoration suggests that the revegetation and weed management mitigation presented in the BioConsultant's report is unreliable and infeasible. The revegetation plan will not be formulated unless the application is approved. There are no answers therefore about how to eliminate the weeds certain to appear from overtaking the native plantings on such a steep slope. Even if the fill can be rearranged so the part with the most weeds is on the bottom, there are numerous weedy species in the surrounding areas. The plan calls for removing almost as much bluff soil as fill since the fill was shown to be 5 to 8 feet and the plan is to excavate 12 to 14 feet. It is necessary to create a flat compacted surface for the first layer of the Geoweb. We are concerned that this would damage the special rare bluff vegetation above and below this 'road' in the middle of the bluff and do not see how a 14 foot steep slope could be easily weeded. We are concerned that instead of removing weedy vegetation, the end result would be to increase it.

There continues to be no attempt to consider where the best place is for the relocation of the septic system on Parcel 13 and no explanation why propane tanks needs to be moved to the easement and close to the bluff. The proposal is to upgrade and relocate the septic system on parcel 13 not farther away from the bluff, but north to another location on the easement. If the Coastal Commission decides that development on the bluff is not allowed under the LCP, the relocation should not be allowed to destroy the RCLC amenities and plantings. There has been no justification for why they need to be moved to another location. If the interceptor tanks are upgraded and kept in their current location, we would see no reason that they would need to be protected by an impervious concrete pad. Vehicles are prevented from accessing the easement by bollards and chains. Interceptor tanks adjacent to the easement on the Surf Inn, the Seaclyff, and Breakers Inn properties do not have concrete pads over them. The most standing water now during the winter on the easement is adjacent to the concrete pads.

At the county level, RCLC argued that it should be in charge of restoring the trail if it was deconstructed with a condition added that BLP set aside a performance bond or other financial assurance satisfactory to RCLC that would allow RCLC to rebuild the trail. In addition it was felt that some allowance needed to be made for all the volunteer hours that were spent in establishing the native plants on the easement. The several year process of watering and weeding until the plants are established would have to start over. The new site plan reinforces why this is so important. The trail has been redesigned, new viewing sites added, vegetated swales incorporated, mowed grassy areas for emergency vehicle access added, etc. It looks like the new plan would increase the maintenance required by RCLC to keep the easement and the trail attractive. Since the Gualala Bluff Trail is used by so many people and is so public, RCLC already puts in many

hours every week to make sure this trail is an asset to our community and does not want to take on more maintenance.

Before building the trail on this parcel, our contractor dug holes to see if the fill would be suitable for native plants we planned to add in our mounds. We concluded that as it had so little air porosity in it because it was so compacted from being driven on and was mostly clay, that native plants that need good drainage would not thrive. It was necessary to remove the fill and haul it away and to bring in new soil. Since we needed to be sure that adding the trail would not make the drainage problems worse, we came up with a solution that has worked well. We added large boulders around the mounds, reduced and changed some of them from the original plans so that water would flow around them and pond in the usual areas. The boulders added a beautiful touch, but also were utilitarian. They kept the soil and mulch from washing out of the mounds, protected the plants and watering system from being walked on by the public before the plants could be established, made weeding easier, and created a place where people could sit to admire the view. If the fill is removed as proposed, added back and recompact, this will not make a good environment for adding native plants to soften the look and feel of the trail which will continue to be adjacent to an informal parking area. Mr. Bower is opposed to adding back the boulders around the mounds and the new plan does not seem to include them. Letters from Rau refer to replacing the trail "in kind." RCLC would want the trail replaced as it was, not in kind and does not want to have to engage in another battle over the right to build the trail. In the lawsuit settlement the parties agreed that RCLC could proceed with development of pedestrian access as authorized by the CDP issued in May 2004. Having funds to hire someone to put the trail back under our supervision would also mean RCLC could be sure that the trail would be completed as soon as possible. This would eliminate any potential future disagreements that might require revisiting the settlement agreement over when and how the trail was rebuilt.

Thank you for allowing us to address some of our concerns. We hope to be included in the decision making that impacts the public access easement and the trail.

Sincerely,

/ **Signature on File**

Mary Sue Ittner, Project Manager,
Gualala Bluff Trail II

Cc: Tiffany Tauber, California Coastal Commission
Deborah Hirst, California Coastal Conservancy

Enclosures

msi

Wednesday Item 16 a
Approve with Conditions

Robert Merrill and Commissioners
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501
Fax (707) 445-7877

RECEIVED
MAY 10 2010
CALIFORNIA
COASTAL COMMISSION

Re: Permit Amendment No. I-83-270-A

Dear Mr. Merrill and Commissioners:

I am a frequent user of the Gualala Bluff Trail. I also am a volunteer monitor for the trail. I consider the Gualala Bluff Trail to be the gem of our down town area.

I see this permit amendment as the perfect opportunity to address some of the issues that would make the Gualala Bluff Trail even better!

1. The trash situation is really an issue. Having dumpsters right next to the trail makes for a stinky and dirty trail. It would be WONDERFUL if the dumpster could be replaced with a trash compactor and also relocated to a spot that would make for maintenance of the market easier and less likely to impact the Gualala Bluff Trail.
2. Relocating the septic interceptor and propane tank would also be a great thing for the trail -- in terms of aesthetics, long term maintenance needs and current drainage. As it is located now water sits on these concrete pads making for puddles on the trail after the rain.
3. Replacing the wall is the perfect opportunity to replant the area with native non-invasive plants that will help stabilize the bluff.

Thank you for your thoughtful consideration of these issues.

In gratitude,

Signature on File

Harmony Susalla
PO Box 892
Gualala, CA 95445

Bob Merrill

From: Steve May [maybers@gmn-usa.com]
Sent: Monday, May 10, 2010 11:57 AM
To: Bob Merrill
Subject: [Possible Spam] Surf Supermarket Inc. RE: Bower Soil Retention Application

Importance: Low

Dear Commissioner.

My name is Steve May. I am writing on behalf of myself, Teri Fagan, and Alan Olesen. Together we own Surf Supermarket in Gualala, California. Surf Market has been in business since 1956. We are the third set of owners.

The purpose of my letter is to ask that you consider affirmatively John Bower, our landlord's, proposal to build a soil retention system on the lot that our business stands and the neighboring lot. I do not understand the nuance of the law, but will try to explain why I think John's plan should be approved.

Surf Market has been in business for 54 years. Since the beginning, Surf Market has played a truly vital role in many aspects of our community. Now having become the largest employer in town we spend well over a million dollars per year on our local economy in the form of wages. We support numerous not for profit programs in Gualala and our larger community. For example, we donate over \$5000.00 per year in free catering services to our local medical center. We provide high school students with their first job, retirees with their last, and real training and career opportunities for unskilled laborers willing to work hard. Our company offers health benefits to all full time employees. Surf Market also functions as a community hub. Lacking a town square, people socialize, catch up on the latest gossip, sell raffle tickets, send in dry cleaning, and shop for products not available elsewhere. The community has come to rely on Surf Market.

If it is relevant to your decision, I would like to state that the parking area behind Surf Market and the adjoining buildings has been in use since well before the 1970s. I have seen photographs of the same and spoken to old timers from our community and the former owner of the market who spoke of the use of the lot during this time frame.

Parking is critical to the survival of our business. You may be aware that our town plan calls for elimination of parking along Highway 1 in the downtown area. That coupled with the community action plan that is underway to widen the highway will eliminate a number of critical parking spaces from the front of our business. We have a small number of spaces as it is (about 25). We have managed to do a tremendous business for such a small parking area. Our yearly customer count runs over 300,000 which is more than 800 customers per day. We can not afford to lose any of our parking. But the highway widening could eliminate 13 spaces. If this happens, it is not an exaggeration to say our business may not survive.

We need every grain of sand behind our market to stay in place so that we may receive deliveries from our vendors, have a place for our employees to park, and in the future when the highway widening takes place, park our existing customers.

It is for these reasons that I ask you to approve John Bower's plan for a soil retention and drainage system behind Surf Market and the adjoining property.

Thank you for your consideration,

Respectfully,

Steve May

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This e-mail was delivered via satellite phone using GMN's XGate software. Please be kind and keep your replies short.

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS**

Name or description of project, LCP, etc.: W16a Permit No. 1-83-270-A
(Bower Limited Partnership,
Mendocino Co.)

Date and time of receipt of communication: 5/5/10, 1:00 pm

Location of communication: Board of Supervisor's Offices, Santa
Cruz, California

Type of communication: In person meeting

Person(s) initiating communication: Grant Weseman
Sarah Damron
Margie Kay

Person(s) receiving communication: Mark Stone

RECEIVED
MAY 06 2010
CALIFORNIA
COASTAL COMMISSION

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

I met with a group from ORCA who said that they question whether the retaining wall should be permitted at all. It appears that the retaining wall is only to protect the ability for some future development and not really to protect the trail at all as the trail easement already contemplates the dynamics of coastal bluff erosion. Besides the erosion is primarily caused by poor drainage and the bluff is otherwise fairly stable. What they are asking for is that: a. the bluff should be restored and there should be a vegetation management plan, b. the Redwood Conservancy should be a part of the design of the retaining wall and should have a part in the trail maintenance, c. the Commission should require a performance bond in case the wall fails again and in case the construction takes longer than anticipated and the public is denied access for longer than expected, d. the septic and propane tanks should not be relocated into the easement, and e. the dumpsters should be moved or at least there should be a trash management plan to keep the overflow and loose garbage off of the trail.

Date: 5/5/10 Signature of Commissioner: / Signature on File

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the