

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7833 FAX (707) 445-7877



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

### SECTION I. Appellant(s)

Name: James Bisiar

Mailing Address: 1063 Driver Rd.

City: Trinidad Calif.

Zip Code: 95570

Phone: 707-677-0204

### SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Humboldt

2. Brief description of development being appealed:

Construction of a new skeet field on the property of the Arcata-Eureka Airport

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

McKinleyville area, on the east side of Lycoming Ave, approximately 0.72 miles north from the intersection of Airport Road and Lycoming Avenue, Humboldt County (A. P. N.'s 0 511-351-09)

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

- Approval; no special conditions
- Approval with special conditions:
- Denial

# RECEIVED

MAR 01 2012

CALIFORNIA  
COASTAL COMMISSION

<b>EXHIBIT NO. 5</b>
<b>APPEAL NO.</b>
A-1-HUM-12-005
HUMBOLDT TRAP & SKEET CLUB
APPEAL (1 of 11)

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

#### TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-1-1200M-12-005

DATE FILED:

3/1/12

DISTRICT:

North Coast

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: Feb 7 2012

7. Local government's file number (if any): 1-Hum-08-017. CDP-07-37/ SP-07-88.

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Humboldt Trap and Skeet Club, Joe Wheeler  
PO Box 3642  
Eureka, Ca 95502

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Robert P Medina  
5420 Patricks Creek Dr.  
Mckinleyville Ca.  
95519

(2) David Ralston  
1528 Fox Farm Rd  
Trinidad Ca. 95570

(3) Lucille Vinyard  
68 Metsko Ln.  
Trinidad Ca. 95570

(4) David Groth  
290 Moonstone Cross  
Trinidad Ca. 95570

(5) Karen Locken  
1055 Driver Rd.  
Trinidad Ca. 95570

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### SECTION IV. Reasons Supporting This Appeal

#### PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Humboldt County General Plan Volume II, McKinleyville Area Plan of the Humboldt County Local Coastal Program. Present plan Designations Public Facility (PF)

My reasons for this appeal come from inconsistencies in information given to myself and presented in the public hearings both planning and board of supervisors .

1. On the back page of a stapled packet left for me in the will call area of Co of Humboldt Planning from Beth Burks. See attachment labeled photocopy 1

Note at bottom of page" By using the weighted system with the 12 dBA penalty, the acceptable outdoor noise per the General Plan is 48 Ldn."

2. Page 5 of staff report to planning commission report date 9-12-11 See attachment labeled photocopy 2.

Note that the existing noise standard (dBA Ldn) is now " utilizing a typical standard of 45 dBA Ldn interior noise level allows for a maximum of 60 dBA Ldn for ' normally acceptable' exterior levels. Noise levels will not exceed county standards identified in the General Plan, nor will they be unhealthful levels for any duration of time." The County of Humboldt has not adopted a noise ordinance and the staff report seems to be using this draft noise ordinance before the new general plan is adopted rather than the Appendix B McKinleyville area Plan Noise Element Adopted 8-3-77 where applicable

3. Page 5 of July 2010 report by Winzler & Kelly. See attachment labeled photocopy 3

Note :Therefore, under optimal weather conditions, it is possible that the residents of Westhaven could be exposed to a maximum theoretical impulsive noise (shooting noise) of 72 dBA, which falls within the threshold for annoyance. However, noise levels of 64 to 72 dBA are well within the allowable noise limits according to the Humboldt County General Plan ( Appendix E)"

4 . Chapter 3 Page 26 McKinleyville Area Plan, Section G. See attachment labeled photocopy 4.

" The Airport Land Use Commission will define and formally establish an Airport safety zone, adopt specific noise and safety standards, and apply such standards to all new development within these zones." I have specifically researched and asked to see an instrument of release as stated in Volume 441 Official Records Page 467, page 476 subparagraph (6)" for other than airport purposes". The airport has noise contours related to aviation. I have asked for a noise contour study SARNAM for the gun noise, and have asked how the aviation related noise contours relates to the gun noise generated at the airport and have received no answer.

5. Excerpt from Dec, 2 2003 License Agreement Humboldt Co. and Humboldt Trap and Skeet Club. See attachment Labeled photocopy 5.

Note: Under 12 Improvements and Alterations. "shall be in accordance with all valid laws, ordinances, regulation, and orders of all federal , state, county or local governmental agencies or entities having jurisdiction over said premises."

A. See attachment Labeled photocopy 6 dated 11-13-99  
note these improvements and alterations A new sporting clay field, a new bunker with new stands, also note that clearing of vegetation Trees etc has occurred see blurry airphoto submitted by club for coastal checkerbloom Dec 2010. All of my letters submitted to the Planning Commission and Board of Supervisors speak to this increased noise and improvements and as far as I know this CDP-07-37/ SP-07-08 is the only request for written permission. I also have airphotos that support the improvements without written permission hc-66, hc-74, hc3-30-88, hc10-9-89, hc 6-18-96 available upon request. I have also signed petitions already submitted , dated 8-19-07 and 11-2011 along with a vast amount of related information related to my loss of quiet enjoyment of my property that is of public record with the Humboldt County Planning Commission and the Humboldt County Board of Supervisors and Humboldt County Land Use Division which I also can provide copies of upon request. I have expressed the possibility of a conflict of interest with members of the board of supervisors as in 2007 members had to recuse themselves, but members of the board of supervisors did not recuse themselves from voting on Feb 7 2012, who use the club and have family members and/or relatives that may have associations with the club .

I hope to have presented valid claims that the noise study also written by a club user/member , although a noise study was used by the planning commission and the board of supervisors and the planning dept. without peer review and conducted without shotgun type size or other specifics that does not in my opinion give the general public effected by the increased noise a fair and acceptable right to due process and truth. I therefore request that the Calif. Coastal Commission request a new noise study/ noise contour related that not only addresses my and my neighbor loss of quiet enjoyment of their property, but all properties both coastal and otherwise effected by this increased noise. The physical location of a noise source on a promontory/hill with no berms- baffles or mitigation measures as presented to planning commission and to the board of supervisors of public record is another main reason for this appeal. The Club, should in my and others opinion have presented a valid and accurate noise study so elected and appointed officials can make truthful and fair decision not driven by politics and misinformation presented by the Trap and Skeet Club. A digital noise recorder is required along with a noise meter to record the true effect of the noise from shotguns (impulse noise), as was also presented to the planning commission and board of supervisors.

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**SECTION V. Certification**

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

Signature on File                      Signature on File  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent  
Date: Feb 29 2012                      Feb 29 2012

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

**Section VI. Agent Authorization**

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

\_\_\_\_\_  
Signature of Appellant(s)  
Date: \_\_\_\_\_

Photo Copy 1

This is supplemental information to the noise information submitted by Northern California Safety Consortium on March 28, 2008.

Interview with Russ Brown, Author of report on April 22, 2008 to clarify findings in the report:

The readings are in decibels with A frequency rating (therefore measurement unit is dBA). The margin for error is  $\pm 3$  decibels. The instrument takes a direct reading. The activity is occurring where other industrial noises are present such as the airport, coast guard station and the Humboldt County Animal Shelter. Per the author, the shooting is not the loudest thing in the area unless you are actually at the gun club. In the author's opinion levels of noise are not harmful except for those actually using the gun club.

My notes on noise:

The General Plan Noise Element identifies acceptable noise levels for various types of land use activities. While this is a useful guide, the day night level noise criteria are more suited for stationary noise sources or traffic which is more or less constant with times of increasing and decreasing intensity. The compatibility matrix does not lend itself well to deal with the highly impulsive sounds from gunfire (International Organization for Standardization (ISO) defines sound from gunfire as highly impulsive.)

Generally a 3 decibel sound increase is noticeable to the human ear. A 10 decibel increase would sound twice as loud as before to the human ear. Many publications and research studies show that more stringent should apply to gun noise because human ears tend to respond more sensitively to impulse noises, especially to gun shot noises which may be perceived as dangerous.

In order to consider the gun shot noise on relative terms with the other ambient noises, the ISO recommends a 12- dBA penalty to account for the impulse noise. By reducing the acceptable Ldn in the compatibility table by 12 dBA we can create an "absolute criterion" which will apply to the assessment regardless of ambient noise levels.

In this case the primary areas of concern are the residential uses in the Westhaven area. There is one Westhaven resident that has complained about the noise levels from the club for several years. I confirmed with two other residents of Westhaven that the gun shot noise is audible in the area.

By using the weighted system with the 12 dBA penalty, the acceptable outdoor noise is per the General Plan is 48 LdN

The existing County noise standard utilizes an averaging mechanism (dBA Ldn) applicable to activities that generate sound sources averaged over a 24-hour period of time. This type of measurement is commonly used for measuring highway noise or industrial operations. A ten-decibel addition is added to noise levels occurring at nighttime – between 10:00 p.m. and 7:00 a.m. Utilizing a typical standard of 45 dBA Ldn interior noise level allows for a maximum of 60 dBA Ldn for 'normally acceptable' exterior levels.

Noise levels will not exceed county standards identified in the General Plan, nor will they be at unhealthful levels for any duration of time. It should be noted however that the day night average (Ldn) has not been deemed an acceptable measurement of short term noise events. Short term noise events need to be assessed differently in order to make the CEQA finding that the project will not have a substantial temporary or periodic increase in ambient noise levels in the project vicinity above existing without the project.

A commonly accepted standard, currently under consideration for the General Plan Update, proposes a sound reading based on the Lmax, which is a reading of the maximum noise level of short term or instantaneous noise sources. The acceptable level of short term or instantaneous noise in residential areas is 65 dBA between 6 AM to 10 PM. All readings fell below 65 dBA.

*Staff Recommendation*

Based on the on-site inspection, a review of Planning Division reference sources and comments from all involved referral agencies, planning staff believes that the applicant has submitted evidence in support of making all of the required findings for conditionally approving the Coastal Development Permit and Special Permit.

**ALTERNATIVES:**

1. The Planning Commission could elect not to approve the project. This alternative should be implemented if your Commission is unable to make all of the required findings.

Photocopy 3

Winzler & Kelly also calculated the theoretical maximum sound pressure levels if six shotguns were discharged simultaneously (the maximum number of shooters which could occur at one time, including the proposed new skeet field). The table below presents the results of calculations based on the discharge of six shotguns at a time.

Measurement Location	Distance from Source	Theoretical Maximum dBA	Actual Reading Average dBA
Convair Road	1,500 feet	94-96	62.2
Kjer Road	2,550 feet	88-90	58.3
Driver Road	19,800 feet	70-72	50.6

According to a reference in the RCMP report, the "threshold for annoyance" due to impulsive noise is from 60 to 65 dBA. Therefore, under optimal weather conditions, it is possible that residents of Westhaven could be exposed to a maximum theoretical impulsive noise (shooting noise) of 72 dBA, which falls within the threshold for annoyance. However, noise levels of 64 to 72 dBA are well within the allowable noise limits according to the Humboldt County General Plan (Appendix E). The general plan states that "clearly acceptable" sound levels along a public right of way range from 50 to 70 dBA, while "normally acceptable" levels range from 71 to 81 dBA. It should be noted that the actual sound pressure levels measured during the HTSC study were significantly lower than the calculated theoretical maximums.

E. Flood Plains - No critical facilities should be permitted to locate within the 100 year flood plain. Utility cross hazard zone there is no reasonable alternative and provisions are made to mitigate the hazard, critical facilities should be permitted in the 100 year flood plain only if adequate flood control measures, such as control works, compact fill, etc., that would result in a site being beyond or above the 100 year flood extend, are provided. Further, the county will continue to review development in light of and impose conditions consistent with National Flood Insurance Program.

F. New shoreline protection structures, including revetments, breakwaters, groins, seawalls, and other such construction, that alter natural shoreline processes may be permitted to protect existing principal structures or public facilities in areas subject to damage from wave action where relocation of the structures is not feasible and when:

1. It is the least environmentally damaging feasible alternative.
2. Adverse impacts on shoreline sand supply have been eliminated or minimized by the project's design.
3. The project has been designed by a registered civil engineer with expertise in shoreline processes.

Permanent shoreline structures shall be permitted only when based on a comprehensive study of areawide shoreline processes, which assesses long-term effects of the structures on sand transport, downdrift beaches, circulation patterns and flow rates, including effects such as erosion, shoaling, or reflection of wave energy on adjacent shorelines. It is the policy of the County to prefer beach nourishment and vegetative protection where feasible, to permanent structural shoreline stabilization. Temporary shoreline structures to protect individual lots may be permitted in emergencies provided that any temporary structure is removed upon construction of a permanent structure.

4. The County shall request the Department of Boating and Waterways to review plans for construction of shoreline protective structures. The Department may recommend measures to mitigate adverse effects on shoreline processes.
5. The County encourages study of shoreline erosion in McKinleyville do develop long term solutions to existing erosion hazards between School Road and Hiller Road.

~~G. Arcata-Eureka Airport Special Study Area~~

Photo copy 4.

1. New development within the Arcata-Eureka Airport approach and transitional zones shall be consistent with the approved off-site development guidelines contained in the adopted County Airport Master Plan. The Airport Land Use Commission will define and formally establish an airport safety zone, adopt specific noise and safety standards, and apply such standards to all new development within these zones.
2. Generally, within the airport approach and transitional zones the plan recommends an overall residential density of 1 unit permit 2-1/2 acres. Based on this recommendation, the land use designation Residential Low Density within the transitional and approach zone is amended to include the plan density of 0-8 units per acre. As amended, the planned land uses and densities will not frustrate or prejudice the Airport Land Use Commission's task of implementing the Airport Master Plan.
3. The clustering of new development or planned unit development technique shall be encouraged for new development proposed in these zones to mitigate health and safety concerns.

### 3.29 ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

\*\*\* 30244. Where new development would adversely impact archaeological or paleontological resources as identified by State Historic Preservation Officer, reasonable mitigation measures shall be required.

Photo Copy 5.

Excerpt From L 2 2003 License Agreement  
Humboldt Co + Humboldt Trap & Skeet Club

C. Be responsible for any repairs caused by the negligence of LICENSEE'S members and/or invitees.

D. Be responsible for any repairs to LICENSEE'S phone systems/computers, or installation thereof.

E. Be responsible for any maintenance and/or repairs to electrical or water lines, septic tank and/or leach field.

F. Be responsible for maintenance of access road to Trap and Skeet Club and acknowledges that COUNTY is not responsible for any maintenance to said road.

COUNTY shall not be responsible for any interior or exterior maintenance to any of the buildings, structures or improvements to the premises.

LICENSEE acknowledges and recognizes that COUNTY is not responsible to maintain the road to the Humboldt Trap and Skeet Club.

#### 10. OPERATIONAL OBLIGATIONS

LICENSEE must conform to all applicable federal/state/county/municipal building, safety, health, fire, sanitary codes, ordinances, and AIRPORT rules and regulations that are in effect or that may be hereafter adopted pertaining to LICENSEE'S activities on AIRPORT. To the extent necessary to protect the rights and interests of COUNTY or to ascertain compliance with the standards, rules, and regulations the Director of Public Works or his authorized representative shall have the right to inspect, during reasonable hours, all premises and facilities on AIRPORT.

LICENSEE may set the hours of operation with the understanding that these hours are to accommodate the general public.

LICENSEE agrees that it will operate and manage the services offered in competent and efficient manner at least comparable to other well managed operations of similar type.

LICENSEE and employees shall wear an identification tag and shall be clean, courteous, efficient, and neat in appearance at all times.

#### 11. EMERGENCY CONTACTS

LICENSEE shall provide to the Director of Public Works, and keep current, a list of the Board of Directors, any supervisory employees, and telephone numbers for emergency use.

#### 12. IMPROVEMENTS AND ALTERATIONS

LICENSEE may, at its own expense, make any reasonable improvements to the premises, including but not limited to, construction of buildings, installation of utilities, installation of septic tank, land clearing, brush removal, etc. Said projects shall be constructed, and all work performed on said premises and all buildings or other improvements erected on said premises shall be in accordance with all valid laws, ordinances, regulation, and orders of all federal, state, county, or local governmental agencies or entities having jurisdiction over said premises. All work performed

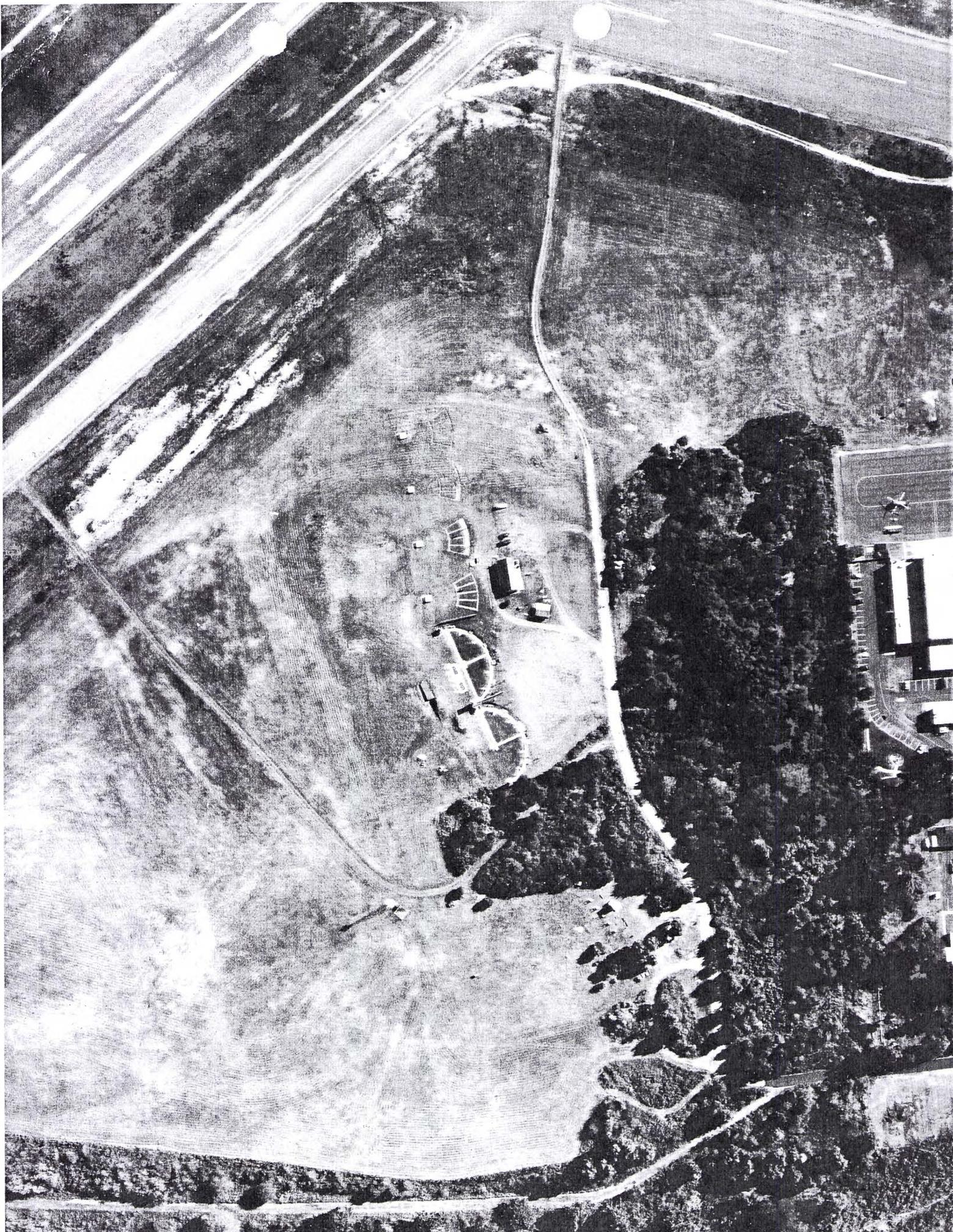


PHOTO 11-15-97  
PALE LA  
PHOTO 10