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Teresa Beddoe, Project Coordinator
January 8, 2007
County of Mendocino
Department of Planning and Building
790 South Franklin Street
Fort Bragg, CA 95437

November 16, 2007

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

SUBJECT: 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.

Dear Ms. Beddoe and Ms. Tauber:

Please consider the following comments regarding the Staff Report for Coastal Development (CDP# 55-2006) of a proposed concrete block retaining wall above the Gualala River mouth lagoon (seasonal/intermittent estuary), Mendocino County. I previously submitted comments on this project to you in my letter of January 8, 2007, which I am incorporating by reference.

My qualifications to comment are based on nearly 30 years professional experience in conservation, planning, regulation, and management of coastal vegetation and habitats. I performed permit management, joint NEPA-CEQA, Clean Water Act and Endangered Species Act regulatory compliance for the U.S. Army Corps of Engineers, San Francisco District, and prepared recovery plans and Section 7 consultations for the U.S. Fish and Wildlife Service, over an 11 year period. As an independent consulting ecologist, I now prepare wetland restoration and rare plant reintroduction plans, vegetation management plans, CEQA and NEPA documents for conservation-related projects in the central coast region.

Summary of comments

The proposed mitigation for potentially significant impacts to sensitive coastal bluff vegetation is vague and programmatic, inadequate, technically unsound, incomplete, and largely deferred in nature. The biological report's survey methodology for sensitive plants is not reliable for at least one species

known to occur in the project vicinity. The biological report's coverage of wetlands contains conflicting and incomplete information about plants and vegetation. Potentially impacts to sensitive coastal bluff vegetation, plant species, and wetlands, therefore, are not mitigated by proposed conditions of authorization. The project as proposed is neither necessary nor appropriate, nor consistent with County and Commission policy, because there is no reasonable interpretation of "existing development" (an unengineered private dirt parking lot currently closed to public use, with excess capacity) that could justify a full retaining wall and its impacts. The Staff report fails to identify what the existing private dirt parking lot capacity is, and what the existing or future parking "needs" are at this location, but it arbitrarily excludes less environmentally damaging alternatives because they "would not meet the needs of the applicant". Without analysis of project purpose and need, in context of existing and foreseeable land use, this conclusion is arbitrary and capricious. The Staff report fails to evaluate reasonable, feasible reduced-project alternatives that address stormwater runoff and drainage issues, but with reduction or avoidance of impacts to sensitive coastal bluff habitats and species.

1. **Policy**.

The Environmental Determination of the County Staff Report (pre-) dated November 19, 2007 (CPA-2) is based on two major premises, both basically flawed. The first premise is that the proposal is necessary to address valid needs for protection of "existing development", and that "no feasible environmentally damaging alternative is available". The second major premise is that the "project appears to be the only aspect of the project with potential environmental impacts, and they can be mitigated to a level less than significant".

1.1. **"Existing development" premises are invalid and unsound**. The so-called "existing development" behind the proposed retaining wall is unengineered bare dirt parking lot (not designed development) that is an environmental and esthetic nuisance: visual blight of otherwise scenic coastal headland, and a significant source of fine sediment and contaminants from heavy vehicle use adjacent to environmentally sensitive habitats (estuarine lagoon, coastal bluff). Section 20.500,020(E) of the MCCZC (p. CPA-6) requires a determination that "no feasible environmentally damaging alternative is available" and that project design eliminates or mitigates adverse impacts. The Environmental Review fails on both policy criteria for permitting a retaining wall.

First, the lack of meaningful "existing development" behind the proposed location, other than the Gualala Bluff Trail, precludes the eligibility of the project for authorization. Past vegetation removal and devegetation caused by vehicle usage, in the absence of any reasonable improvements for parking (even necessary improvements to comply with Regional Water Quality Control Board Basin Plan requirements for nonpoint source sediment and contaminant discharges to a sensitive waterbody) are not evidence of "development". Rather, they are evidence of neglect and nuisance in unplanned land use.

The Staff Report fails to identify any engineered or designed or authorized improvements within the alleged "existing development" dirt parking area behind the seawall, other than the recently constructed Gualala Bluff Trail. The Trail is a floating easement, and does not depend on artificial stabilization to ensure its continued existence, public benefit, or reasonable enjoyment of the trail and scenic views by the public. Furthermore, there is no evidence in the report that the proposed stabilization infrastructure is proportionate with (is the minimum necessary, or minimizes impacts to protect) the trail infrastructure.

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The argument that the retaining wall is justified by protection of "existing development" is specious and without merit. It may also be disingenuous: the retaining wall would preclude more environmentally and publicly beneficial future set-backs and buffers for future development (PAC 1-2007; p. CPA-2) and the floating trail easement.

Drainage improvements, either as proposed or environmentally superior alternative designs, do not require the construction of the proposed retaining wall. Necessary and appropriate drainage and stormwater runoff improvements that minimize erosion risks (gullying, slope saturation) would be compatible with either the existing topography or an environmentally superior set-back and vegetated buffer design of the artificial fill edge.

The proposed retaining wall fails to comply with MCCZC Sections 20.500.020(E)(1-2) because it is not necessary to protect a floating coastal bluff trail established by easement, and there is only a derelict, denuded land surface lacking improvements behind it – not "existing development" within any meaningful precedent or other reasonable interpretation of that term.

Even if an unengineered dirt parking lot, and its nuisance nonpoint sources of sediment and contaminants were considered "existing development", the issuance of a permit for a retaining wall to protect it would be unreasonable and contrary to County and Coastal Commission policies because:

- The public impacts of retaining wall construction would outweigh the low private private values of a dirt parking lot;
- The drainage improvements could be achieved independently of a retaining wall by environmentally superior alternative designs that were not evaluated in the Staff Report
- The policy precedent of an unreasonably low threshold of "existing development" (unimproved bare dirt) is contrary to the public interest, because it is ripe for abuse by justifying piecemeal coastal development consisting of shoreline stabilization of token, disingenuous "existing developments" followed by undisclosed but intended larger subsequent development that would otherwise require comprehensive evaluation of cumulative impacts for all reasonably related parts.

The Staff Report uncritically and arbitrarily accepts the BioConsultant argument (CPA-7) the "the only possible alternative would be no project", and fails to evaluate alternatives based on removal of unstable fill, establishment of less stable bluff-top slopes, installation of drainage improvements (including bioswales to filter sediments and contaminants of runoff from nonpoint source areas of pollution), and planned set-backs and buffer zones. Conventional CEQA alternatives, such as reduced project alternatives, alternative method alternatives, are not discussed substantially or meaningfully. The Staff report states (p. CPA-7) that this option would not preserve the existing parking space on the site", but does not provide any reason why a reduced project alternative, or reduction of parking space, would infeasible. It fails to assess any objective criteria or evidence for baseline parking usage, or proposed future parking usage. Nor does it evaluate the appropriateness of parking location in terms of future development and alternative development configurations (PAC 1-2007, p. CPA-2). In fact, the landowner/applicant has closed the parking area for public use by posting notices prohibiting public parking, and parked cars currently occupy a very small fraction of the dirt parking area (see attached figures). The Staff report does not evaluate whether parking capacity for existing commercial uses is in excess or deficiency. The applicant has not identified any quantitative justification for the amount of parking necessary for existing or future proposed

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commercial development, nor has the Staff Report considered this as a threshold for reasonable alternatives based on set-backs reducing parking area.

The Staff Report's conclusions are unsound and noncompliant with MCCZC Section 20.500.020(E)(1-2) because it failed to consider in substantial detail a feasible reduced project alternative based on moderate reduction of (current excess) parking capacity, removal of artificial fill, set-back of the bluff top to a gentler, more stable slope, set-back of the floating trail (easement) and trail improvements, and improved drainage and bioswales to reduce runoff, erosion, and saturation of soil that induces instability of artificial fill. This is also a failure of the CEQA process.

Without full consideration of reasonably foreseeable future development or parking use in the context of future development (and alternative configurations for parking and development that minimize or avoid impacts, such as runoff and nonpoint source pollution of the lagoon, an environmentally sensitive habitat), the retaining wall could have significant growth-inducing impacts that would not occur but for the retaining wall.

1.2. **Mitigation is defective and insufficient to reduce impacts to less-than-significant levels.**

1.2.1. Revegetation and weed management mitigation are unreliable, unenforceable, and infeasible as proposed. The Staff Report (p. CPA-10) states that "the applicants propose to stabilize and revegetate exposed faces of earth cuts and fills with native seed….proposed to consist of native plant materials", citing Special Condition 1 to mitigate "any potential detrimental impacts". This conclusion is incorrect, and is counter-indicated by readily available evidence about vegetation processes and patterns from inspection of the site, its setting. The BioConsultant recommendations, if implemented, would result in severe competition by overwhelming nonnative weed invasions, and substantial failure (mortality, growth inhibition) of native container-grown shrubs in the harsh bluff substrates and environmental conditions.

The bluffs surrounding the project area are dominated by highly invasive non-native vegetation, including jubata grass (*Cortaderia jubata*) and cape ivy (*Delairea odorata*) and Himalayan blackberry (*Rubus armeniacus*, syn. *R. discolor*), and patches of other highly invasive non-native broadleaf weeds of disturbed substrates (radish, *Raphanus sativa*; poison-hemlock, *Conium maculatum*). The seed banks and seed rain of these invasive species would rapidly overwhelm any native plantings on disturbed substrates, regardless of mulches on extremely steep slopes (application of which which may actually facilitate weed invasion, not retard it).

Coastal bluffs do not support not generic "native vegetation" amenable to generic upland revegetation, erosion control, or weed control techniques. As a coastal plant ecologist with nearly 3 decades of professional experience, and nearly two decades of professional experience in regulation, planning, restoration and management of coastal vegetation in California, I am confident that the generalized, programmatic mitigation for invasive plants and native revegetation recommended on pp. 14-16 of the BioConsultant (2007) report would likely be ineffective in either the long-term or short-term. In particular, I find the recommendation to rely on seeding of native species on the steep, disturbed, post-construction slopes to be both unrealistic and uninformed by experience with coastal bluff vegetation dynamics in settings similar to that of Gualala. The vague, unspecified, deferred mitigation to "devise follow-up strategies to eliminate and/or control poison hemlock, wild radish, velvet grass, Harding grass, wild teasel,bull thistle, and Italian thistle" is, in my professional opinion,

irresponsible and unacceptably speculative, and infeasible without site-specific assessment of feasibility of implementation on steep slopes with seed rain dominated by invasive species on surrounding bluffs, and local seed banks likely dominated by weeds.

The recommendation to "design and implement a long-term monitoring effort and make modifications to the restoration plan as needed" is vague and impermissibly deferred mitigation. If this is the basis of a permit condition, that permit condition would be unenforceable and ineffective. The recommendations for mitigation of vegetation impacts lack even the bare minimum of a site-specific feasibility assessment, review of scientific and technical resource management literature, evaluation of area-specific, habitat-specific weed control and native revegetation methods and precedents for successful implementation, specific criteria (thresholds) for performance or adaptive management, or any instruments (budget, duration, tasks, review and oversight process) to ensure successful results. The cursory mention of potential involvement by a "professional restoration company such as Circuit Riders" and "ideally" cooperative efforts by organizations such as CNPS (which objects to the project and denounces the adequacy of its mitigation!) indicates the unacceptably weak basis for ensuring mitigation success, and indicates the superficial character and deferred nature of mitigation as a whole.

1.2.2. Mature *Garrya*-dominated coastal scrub stands: significant unmitigated and undisclosed impacts. An outstanding and highly significant omission of the mitigation plan is the lack of reference or mitigation measures for impacts to mature coastal scrub stands within the project area, especially those including the project area's "old growth" of *Garrya elliptica,* shown in attached figures (a regionally rare element of coastal scrub that rarely occurs in younger scrub). There is no feasible mitigation to replace mature *Garrya elliptica* stands, and these are biologically significant remnant old stands that occur only in this segment of the lagoon bluffs, and at a few locations opposite Mill Bend. Significant impacts to this rare and irreplaceable old-growth coastal bluff vegetation stand are unmitigated and undisclosed in the staff report, despite earlier expert comments from CNPS and myself.

3. **Impact assessment.**

3.1. Plant survey results for rare species are not likely to be reliable for at least one sensitive species. The BioConsultant report (2007) states that the "entire survey limits were walked" (p. 4), but much of the project area supporting potential rare plant habitat on coastal bluffs consists of near-vertical slopes and outcrops. The report does not explain how potential habitat for *Calystegia purpurata* subspecies in steep, inaccessible portions of the slope (see figures attached) was surveyed close enough to detect and distinguish individuals of the rare ssp. *saxicola* (which is known to occur in the project vicinity) from *C. purpurata* ssp. *purpurata*, which was reported in Appendix C. These two subspecies require close morphological examination, particularly where intermediates that are correctly identifiable as ssp. *saxicola* occur. This herbaceous vine also grows in and through dense shrubs if it established before the shrub canopy closes. The lack of explanation of field survey methods in this terrain indicates a low level of reliability for a negative finding of this subspecies. This conclusion is strongly supported by the reporting of several native species that would easily be identifiable to the species level if they were examined at close range during the survey period, but were instead reported in Appendix C only to the genus level ("sp."), such as *Marah* sp. *Dudleya* sp., *Lupinus* sp. Dudleya, notably, grows mostly on near-vertical bare bedrock outcrops, for which the subspecies *saxicola* (rock-associated) of *Calystegia purpurata* is named.

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Thus, the Staff Report does not have reliable evidence regarding potential impacts to at least one sensitive plant species that is known (by myself and other professional botanists) to occur in the project vicinity.

3.2. Distribution of wetlands (Coastal Commission policy definition) within project impact area is uncertain. The survey identifies multiple wetland indicator plants species within the "survey limits", including some with very strong wetland affinity: *Equisetum telmateia, Oenanthe sarmentosa, Cotula coronopifolia, Rumex salicifolius, Carex nudata* (identification of *C. nudata* is probably erroneous), *Carex obnupta, Urtica dioica, Eleocharis macrostachya, Mentha pulegium, Juncus effusus*, *Polypogon monspeliensis*, etc. The report does not distinguish wetland vegetation occurring along the lagoon shore from those that occur within the project impact footprint. Several of these are either known to occur, or likely to occur, in seeps on the bluff: *Equisetum telmateia, Carex obnupta, Urtica dioica*, not the lagoon shore, because they are intolerant of brackish flooding pulses.

I previously commented on the potential occurrence of seep wetlands on the bluff within the project area, indicated by patches of *Equisetum* and other wetland indicator plants. Despite the survey report of many wetland indicator plants, the Staff Report provides no discussion of potential impacts or mitigation for wetlands in the project area.

3.3. Esthetics. The Staff report (p. CPA-17, 18) does an inadequate and biased job at addressing esthetic impacts and concerns raised by Sonoma County Regional Parks and others. The argument that the "visual mitigations" of an erratic, protruding linear block of stained "California Random Stone" face would in any way conserve the esthetic character of the site (see attached figures) is ludicrous. The sense of place and vista conveyed by existing large patches of mature coastal bluff vegetation and general scrub vegetation, and stratified structure of natural bedrock outcrops adjacent to the site, is not mitigated by artificially stained stone. The County's acceptance of this argument represents an atrocious lack of commitment to protection of scenic coastal resources from a CEQA or regional perspective, and especially in a Park setting. This is a highly significant irreversible and unmitigated impact on esthetics of coastal views.

CONCLUSIONS

The project as proposed should not be permitted because:

- the construction of a retaining wall is not justified by "existing development" of an unimproved, unengineered dirt parking lot closed to public use, and with excess capacity;
- slope instability could be adequately addressed, and with substantially superior environmental results, by set-back (removal of artificial fill at bluff top), slope adjustment behind the bluff top, minimization of vegetation disturbance, improved vegetation management, establishment of suitable buffers, and proper drainage and runoff treatment of the existing area – none of which were evaluated as a coherent, substantial alternative in the staff report;
- potentially significant impacts to mature coastal scrub vegetation stands, wetlands, and sensitive species are not adequately mitigated by the defective (vague, deferred , unenforceable, and infeasible, technically unsound) mitigation proposed.

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- Esthetic impacts of the retaining wall from Sonoma County Regional Parks are significant and unmitigated by the ludicrous proposal to apply an artificial stained stone face to replace established and mature coastal bluff vegetation.

The Staff Report advances arguments and conclusions about alternatives and mitigation that are arbitrary, and appear to be biased towards the applicant's preferences at the expense of objective evaluation of project purpose, need, and foreseeable land use changes and projects.

The application should either be denied without prejudice as incomplete, and returned to the applicant to provide a full project description (or programmatic plan for all reasonably related development) and sufficient information; or it should be denied on its merits because it is inconsistent with County and Commission policies, and has unmitigated potentially significant impacts.

I recommend that the Commission and County require the preparation of either a programmatic EIR for all reasonably related developments within the area or applicant's control, or Specific Area Plan and EIR for the town's expansion (with the County as lead agency). To do otherwise would forfeit important opportunities to reconcile the development of Gualala with environmentally responsible and comprehensive planning. This is the obligation and mission of the Commission in particular, but also for both agencies under CEQA.

Respectfully submitted,

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Copies furnished:
Friends of the Gualala River, Gualala
California Native Plant Society, DKY chapter, Gualal
Redwood Coast Land Conservancy
Interested Parties

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ATTACHMENT: Figures

Figure 1. General appearance of cliff outcrops and coastal bluff vegetation west of the project area, where wave energy (erosion of cliff toe) is higher. Note stratified bedrock outcrops, and patchy fine-grained mosaic of coastal bluff vegetation in upper half of profile. October 8, 2007. Photo courtesy of Jamie Hall.

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Figure 2. So-called "existing development" of dirt parking lot mid-day on weekday, October 8, 2007. Note excess capacity of parking lot that is closed to public parking; private parking only. Most cars are parked at edge of floating trail easement. Note concentration of mature bluff vegetation patches. Photo courtesy of Jamie Hall.

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Figure 3. Mature woody coastal bluff vegetation below parking lot, site of proposed retaining wall and artificial "California Random Stone" stained for esthetic mitigation. Sandstone slabs are from natural erosion of cliff. Author photo, October 1, 2007.

Figure 4. Example of long-stable, mature, wind-sheared coastal scrub stand (*Baccharis pilularis*, bonsai-like *Pinus muricata*, and *Garrya elliptica*) in project area, established in fractured bedrock. This mature woody vegetation structure and mass cannot be replaced above or below ground. Author photo, October 1, 2007.

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Figure 5. West end of project area, showing extensive spread of mature woody vegetation mantle of the bluff. The spreading, near-prostrate shrubs span the bluff. Damage to portions of the spreading shrubs would likely kill the entire shrub mass. Trunk/root locations were not assessed in the 2007 BioConsultant report. This slowly developed, mature vegetation structure cannot be replaced; nor can its visual character. Author photo, October 1, 2007.

Figure 6. Shallow debris slide of oversteepened, poorly drained past artificial fill, east of proposed retaining wall (separate proposal). Note weed dominance of disturbed sediments. Author photo, October 1, 2007.

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Figure 7. PVC pipe adjacent (west) of project area, apparently unauthorized. Source of discharge is unknown. Cumulative impact of this point source and nonpoint sources of discharges to the lagoon were not addressed at all in the Staff Report. October 1, 2007. Author photo.

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