

February 15, 2008

Mendocino County Board of Supervisors
501 Low Gap Rd., Room 1090
Ukiah, CA 95482

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

Dear Supervisor:

If this application is approved, the public access easement and the Gualala Bluff Trail will be impacted to a major degree. As stewards for this easement, the Redwood Coast Land Conservancy ("RCLC") appreciates your consideration of our views in this important matter. We are attaching a History of the Gualala Bluff Trail outlining the long struggle to complete the trail.

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. 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 structure, 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". The applicant and his engineer have repeatedly raised concerns that adding the Gualala Bluff Trail would make the bluff less stable. We are happy to report that on site monitoring during this current rainy season of the portion of the trail that has been added shows that adding the trail has helped. After heavy rain there is less water on that portion of the easement. There is more water flowing during the rain and ponding afterwards in the areas of the easement we have not improved while waiting for the retaining wall to be replaced.

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. Construction of a retaining structure would cause a segment of

the Trail to be closed to public use for an extended period while work was being done. We have asked the applicant how long this would be, but have not received an answer. We assume that the trail will be dismantled under the Geoweb® system although we have not received an answer to that question either. 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”. The public, for whose benefit the existing trail was created, is entitled to be compensated for being deprived of its use during construction of the retaining wall. We recommend that BLP be required to pay RCLC or the State Coastal Conservancy a mitigation fee for each day the trail is closed to the public during construction. Mitigation fees would be used to fund coastal access projects on the Sonoma-Mendocino coast.

Drainage

RCLC strongly supports creation of a drainage system that would protect the Trail from rainwater runoff. 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. It is our understanding that if the area to the east of the easement was re-graded, improved surface drainage could be achieved to prevent erosion. Runoff could be collected and treated before it reached the easement, the bluff, and the estuary. In the proposed design, it appears the low spot is still on the easement. Although water would be collected before it reaches the easement, in periods of heavy rainfall, excess water would still be directed toward the low spots in the easement. If a drain is added on the easement as part of the drainage system, we would request that it be added in a way so that damage to the trail would be minimized.

Vegetation

RCLC appreciates that the applicant has found a product that would not require the removal of as much vegetation and the suggestion that the applicant might be considering hiring some one to do the maintenance necessary to establish new vegetation. Based on our experience we continue to have concerns that it will be difficult to establish vegetation on a steep slope and worry that weed seeds in any fill that is used will have a better chance of getting established than the native plants. The weedy vegetation there now is growing in the fill. We are concerned that in future years the public may have views of fraying Geoweb® cells that will not be very attractive.

Loss of Existing Improvements

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. Boulders were added, soil excavated and removed, new soil, plants, weed cloth, and a watering system added, a bench put in for users of the trail and bollards and chains added to keep cars off the easement. 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. The plants have

been lovingly cared for, weeds removed in the beds, and as a result the plants have thrived.

These improvements are generating very positive comments from visitors and the community. If the requested permit is approved it appears the improvements made to the Trail on parcel 13 would be undone. 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. In addition we strongly 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 adjacent “parking area” is essential to the enjoyment and use of the Trail.

Relocation of the Septic Tanks

RCLC’s concerns about the septic system relocation/ upgrade were not addressed in the coastal permit administrator hearing. It is our understanding that since a public access easement is involved, a site analysis needed to be done to determine where they would be relocated and that tanks and maintenance of them should not interfere with use of the easement. There continues to be no conversation with RCLC about where these tanks are to be located and what effect they would have on the use and enjoyment of the trail if they are located on the easement. There may be a more appropriate location for them off the easement, but this is difficult to determine since this application does not include all the planned redevelopment of this property.

Reinstallation of Amenities

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”. This agreement assumed that damage would be minimal, not that the entire improvements on the property would be destroyed. In addition, the applicant has already questioned whether he should have to replace the boulders that are an important part of the current trail amenities. RCLC would expect to have the trail replaced as it was originally constructed.

Although we continue to hope one day to work cooperatively with the applicant, we feel the need to be in charge of when and how the trail is rebuilt if it is destroyed. Therefore, if this application is approved, RCLC requests that a condition be included in the permit that obligates BLP to set aside a performance bond or other financial assurance satisfactory to RCLC that would allow RCLC to rebuild the trail. The total amount of money needs to allow for all the labor and professional advice previously provided by volunteers, and also include the hours spent in establishing the native plants. RCLC cannot count on the volunteer effort crucial to the initial construction of the trail being repeated.

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.

Lengthy Delays

Please be aware that RCLC has experienced considerable delays 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 on Parcel 5 behind the Surf Supermarket that was supposed to protect the easement. Unfortunately, neither the retaining wall nor the drainage behind it were ever properly maintained. It is now being delayed while a decision is made on how the retaining wall can be replaced and whether this application for a much longer structure will be approved. Since it seems likely that the decision of the Board of Supervisors will be appealed by one side or the other to the Coastal Commission we expect that the matter may not be resolved in time for work to be done this year. This could delay completion of the GBT until late 2009 or perhaps even 2010.

In addition, since the retaining structure is proposed to be located west of the daily bluff edge that was agreed to in the lawsuit settlement, we understand that Mr. Bower plans to apply to the Coastal Commission to change the terms of the easement, if the proposed retaining structure is approved. He hopes to move the easement west and to change it from a floating easement to a fixed one. Coastal Commission staff have told the applicant and RCLC that in their experience these kinds of easements have never been changed, but a final determination could delay completion for an even longer time. RCLC would vigorously oppose diminishing the easement by changing it to a fixed easement.

In conclusion, we have addressed above RCLC's many concerns about the impacts of the proposed retaining wall on the use and enjoyment of the Gualala Bluff Trail. We thank you for considering our comments and concerns and would be pleased to respond to any questions you may have.

Sincerely yours,

George Anderson
President, Redwood Coast Land Conservancy

Cc: Robert Merrill, District Manager, California Coastal Commission
Deborah Hirst, California Coastal Conservancy

Enclosure