

Albion Bridge Stewards Mendocino County

A working group of the Albion Community Advisory Board

P.O. Box 363
Albion, CA 95410

NOV 16 2021

Planning & Building Services

By Electronic Mail

November 16, 2021

**CPA SPECIAL MEETING
ITEMS 2, 3b, 3c
NOVEMBER 17, 2021
CDP 2019-0024 (Caltrans)**

Mr. Ignacio "Nash" Gonzalez, AIP
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pbs@mendocinocounty.org
Director, Planning and Building Services Department Coastal Permit
Administrator
County of Mendocino
860 North Bush Street
Ukiah, California 95482

Dear Director and Coastal Permit Administrator Gonzalez,

Enclosed please find the initial comments of the Albion Bridge Stewards on Items 2, 3b, and 3c on the agenda for the Coastal Permit Administrator's special meeting on November 17, 2021.

We note, in addition, that we have been informed by members of the public, known to Caltrans to have an interest in both the "Navarro Ridge Safety Project" and the "Navarro Drainage" project that they (like us) did not receive the required 10-day advance notice of the special meeting/agenda, and therefore have been precluded, by the lack of reasonable time, from reviewing the documents related to them and for providing comments to you about the project that may likely have presented grounds for denial of the project(s), if they were otherwise properly before you at all.

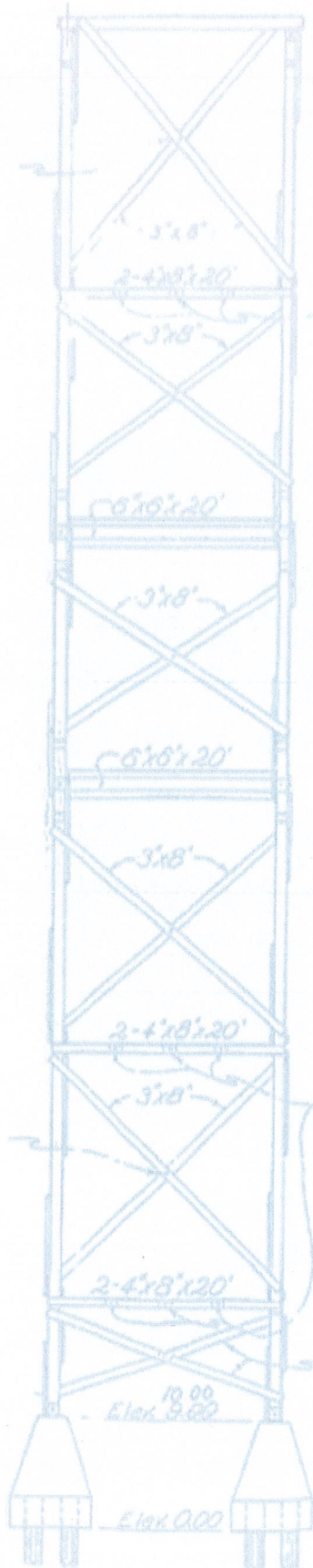
Thank you.

Respectfully yours,

THE ALBION BRIDGE STEWARDS

Copy: Ms. Julia Krog, Assistant Director, Mendocino County PBS
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ALBION BRIDGE STEWARDS

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November 16, 2021

**CPA SPECIAL MEETING ITEMS 2, 3b, 3c
NOVEMBER 17, 2021
CDP 2019-0024 (Caltrans)**

Mr. Ignacio "Nash" Gonzalez, AIP
Director, Planning and Building Services Department
Coastal Permit Administrator
County of Mendocino
860 North Bush Street
Ukiah, California 95482

gonzalesn@mendocinocounty.org
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Dear Director and Coastal Permit Administrator Gonzalez,

The Albion Bridge Stewards are a voluntary organization of artists, business owners, professionals, property owners, retirees, students, teachers, and workers organized to protect the state- and federally-listed historic(al) Albion River Bridge, the nearby Salmon Creek Bridge, and the highly scenic and sensitive Albion coastal environment.

Thank you for this opportunity to present written comments on your November 17, 2021 special meeting Items 2 (Determination of Noticing), 3b (Caltrans District 1 application for the "Navarro Ridge Safety Project", CDP application 2019-0024), and 3c (the Caltrans District 1 overlapping application for the "Navarro Drainage Project", CDP application 2019-0034). The development projects variously described under color of the two applications are interrelated parts of the whole Caltrans project along Highway 1 in Albion and, because of their numerous substantial direct and cumulative adverse effects on protected coastal resources and the environment, and their rampant inconsistencies with the certified County Local Coastal Program ("LCP"), highly controversial.

1. Item 2: CDP Applications 2019-0024 and 2019-0034 have been previously withdrawn and are unavailable now for Director/Administrator approval action. Fundamentally, neither CDP application 2019-0024 (received by the County Building & Services Department ("PBS") on July 1, 2019) nor CDP application 2019-0034 (received on August 30, 2019) is before you for decision because (a) PBS correctly determined each application to be incomplete, and (b) each one remained incomplete as a result of Caltrans' bungling for one year after the date on which it was received by PBS. Pursuant to LCP Coastal Zoning Ordinance ("CZO") section 20.532.040[F], a CDP application that remains incomplete at the end of the year after it is received is deemed withdrawn by operation of law (here, the LCP). After that automatic withdrawal date, County staff has no separate legal ability or authority pursuant to the certified LCP to hold or resurrect a withdrawn CDP application, subsequently determine it to be complete, or for the Coastal Permit Administrator to approve it, because pursuant to CZO section 20.532.040[F] the CDP application is no longer before the County. While section 20.532.040[F] grants Caltrans the ability to thereafter submit a new application for the same or different project(s) in their area, Caltrans for whatever reason(s) has elected not to do so.

The Albion Bridge Stewards therefore respectfully request that you (or your designee, in the event that you do not sit as the Coastal Permit Administrator at the special meeting) determine, after requested hearing on Item 2, that for the above reasons CDP Applications 2019-0024 and 2019-0034 are not before you for action (i.e., to approve, conditionally approve, or deny them) (CZO section 20.532.050).

2. Items 3b and 3c. However, in the event that you were to determine on the record that either former CDP application 2019-0024 or former CDP application 2019-0034 remains pending,

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notwithstanding the controlling provision in CZO section 20.532.040[F] that it became withdrawn in 2020, the LCP requires you to deny the application for (a) all of the following reasons of substantive "Navarro Ridge Safety Project" inconsistencies with the mandatory conservation and development standards of the LCP, (b) the lack of necessary project consistency findings, based on analysis of each project component, with requisite supporting current technical study(-ies), for consistency with each of the Coastal Act Chapter 3 public access and recreation policies - and indeed the inability to make them, and (c) other errors and omissions in the PBS staff reports, proposed findings, and conditions of approval, as discussed below.

First, you do not have before you a valid CEQA environmental document on either the "Navarro Ridge Safety Project" or the "Navarro Drainage" project (or NEPA environmental document, as the case may be, if the project(s) involve federal funding), which precludes you from making the required independent CEQA determination.

The CPA Notice states (page 1) that the Project is categorically exempt from environmental review, pursuant to the CEQA Categorical Exemption contained in PBS staff report Attachment T. That attachment discloses that Caltrans on March 20, 2019 granted itself an inapplicable and invalid Categorical Exemption from CEQA environmental review under color of Title 14, Calif. Code of Regs., § 15301(d). A "Class 1(d)" categorical exemption of a project from environmental review (a) applies only to restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety. However, the categorical exemption is inapplicable where, as relevant here, (b) the cumulative impact of successive projects of the same type in the same place, over time is significant (14 CCR §15300.2(b), (c) there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances, or (d) the project may cause a substantial adverse change in the significance of an historical resource. **First**, the (withdrawn) CDP application does not identify, describe, or indicate in text or on Project drawings that the proposed Highway 1 realignment, banking, widening, and associated grading development is necessary for the restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment in the Project development envelope. As a result, the aforementioned Project components do not qualify for Class 1(d) categorical exemption from environmental review. **Second**, the Project constitutes one segment in a chain of the same type of successive Highway 1 development projects that Caltrans has performed, currently plans to perform, and has incrementally advanced to project funding and regulatory processing within Albion (an area 4 miles in length between the Navarro River and Dark Gulch), with significant cumulative effects on coastal and environmental resources. Moreover, other similar projects on and near the c. 210-mile long Highway 1 in Mendocino, Sonoma and Marin Counties further increase those cumulative development effects on the environment. As a result, the piecemealed Project does not qualify for Class 1(d) categorical exemption from environmental review. **Third**, the Project development envelope contains unusual circumstances, including, but not limited to, (a) the designated and mapped highly scenic Navarro Ridge natural landform and Navarro Point Preserve at the southern gateway from the San Francisco Bay Area and the Sacramento Valley via Highway 128 to coastal Highway 1 in Albion and points upcoast, (b) the regional Navarro Ridge wildlife corridor ESH, (c) the other aforementioned wetland, riparian, bluff/cliff, and sensitive avian species foraging ESH's, and (d) unbalanced grading, with an undisclosed location (in the purported current CDP application) at which approximately half (or more, depending on various Project descriptions) of the proposed excavated Navarro Ridge natural landform earthen materials would be used as fill, with a reasonable possibility that noise, water pollution, natural landform destruction, grading of coastal program regulatory wetlands, riparian, and avian species ESH from Project development and operation will have a significant effect on the environment. **Fourth**, the Project constitutes an integral segment of the Caltrans program to accelerate traffic on a widened and straightened road prism (travel lanes and shoulders) from Navarro Point to and beyond the listed historic(al) Albion River Bridge, which Caltrans actively proposes to remove and replace as part of the whole project. The Project clearly thus does not

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qualify for categorical exemption from CEQA pursuant to Title 14, Cal. Code of Regs. §§ 15301(d) and §15300.2(b); the CPA cannot rely on its outdated 2019 categorical exclusion (which is unsupported by a site-specific geotechnical investigation report, and is based on incomplete and outdated environmental technical studies from 2013-2017); and any CPA decision to approve (or conditionally approve) the Project would require the County to first prepare and certify its own CEQA environmental document, before acting on any valid CDP application for either project, or for creation by Caltrans of the six new fee-title parcels on Navarro Ridge.

Second, the (withdrawn) CDP application has failed to inform PBS, and thereby you and the public, with (1) sufficiently detailed description (in text, maps, data) of current conditions in the whole project development envelope, and (2) of the proposed *settled* development (in site-specific plans, sections, simulations), inconsistent with CZO section 20.532.025(a), with the result that the PBS staff report analysis is incomplete, numerous of its graphics are incomplete, superannuated, and opaque, its recommended findings are unsupported by description and analysis of the current conditions of the sites in which the multiple project components are proposed to be located, or which they may cumulatively impact, and its recommended approval of the project with conditions is unsupported by the findings.

Fewer than two business days ago, PBS under color of a staff memorandum, and without notice to the persons known by Caltrans to be interested in the "Navarro Ridge Safety Project", posted extensive revised project descriptions for it that we have not had a reasonable amount of time to review.

Previously, Caltrans has created - but failed to obtain the required coastal permits for - at least six parcels that are located entirely within the Navarro Ridge wildlife corridor environmentally sensitive habitat area (ESHA) for excessive, unbalanced project grading (with disposal of half the designated highly scenic natural landform excavation volume at an undisclosed location, inconsistent with the prohibition of such "other division of land" development (Coastal Element Policy 3.1-7). The PBS staff report unfortunately fails to analyze this project component, is therefore incomplete, and cannot serve as the basis for any after-the-fact rationalization of these newly created parcels without the requisite CDP entitlement. Notably, Caltrans has declared these new parcels to be for "State Highway" purpose(s) and specifically not in connection with the purchase of such land for public recreational use.

Caltrans in its project location plan depicts the project envelope (where "work" that constitutes regulatory development would be performed) to extend north-south along Highway 1 between near Mile Posts 40.8 and 43.0 (and thus to encompass the area of the former CDP application 2019-0034), but in its former CDP application inconsistently proposes "Navarro Ridge Safety Project" development only between Post Miles 41.8 (41.77) and 42.3, and "Navarro Drainage. In addition, the project proposes (a) grading, major vegetation removal, and new drainage facility development (and by the laws of gravity and thermodynamics will substantively change the condition of land and water in the project impact area) defined by the Navarro Bluffs/Cliffs and the Navarro Point Preserve on the west and Navarro Ridge on the east, and (b) project staging in the sightline-impaired Navarro Ridge-Highway 1 intersection pavement and on the Highway 1 turnout northwest of it, both adjacent to ESHA, and inconsistent with Coastal Element Policy 3.1-29.

Third, the (now withdrawn) CDP application for the "Navarro Ridge Safety Project" is rampantly inconsistent with the applicable substantive standards of review in the LCP Coastal Element, which precludes a CPA finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

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1. The CDP application (withdrawn in 2020) contains various Caltrans/consultant reports for which specified (limited, incomplete) site investigations were identified as having been conducted during 2016-2019, and interagency consultation about the Project may have occurred sometime in 2019 (prior to the Caltrans submittal of the CDP application). However, the CDP application is unsupported by any interagency determination of the current extent of the sensitive resources (a) in the Project development envelope, and (b) down-gradient from it, including, but not limited to, LCP/coastal program wetlands, riparian areas, sensitive avian species foraging areas on west- and southwest-facing Navarro Ridge slopes and the Navarro Point Preserve, the Navarro Ridge-Navarro Point Preserve wildlife corridor, drainages, natural landforms, and coastal bluffs/cliffs, as required by LUP Policy 3.1-2. Consultation by Caltrans with the (likely Caltrans-funded) Caltrans liaison in the California Department of Fish and Wildlife, referenced in the PBS staff report, does not constitute or satisfy the LUP-required interagency consultation. The absence of the required interagency consultation about current Project development envelope environmental conditions thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

2. The (withdrawn) CDP application proposes to fill and hydromodify multiple Project development envelope LCP/coastal program regulatory wetlands and the riparian area near Post Mile 42.1, with excavated earthen material from the Navarro Ridge natural landform that the LCP renders unavailable for such grading. **First**, Caltrans' proposed fill and hydromodifications do not constitute an "incidental public service purpose", as that term occurs in LUP Policy 3.1-4, because the Project proposes not to maintain, inspect, or bury existing drainage pipes in wetlands, but rather develop new drainage facilities in them, or perform changes in the direction and volumes of discharged polluted runoff to downgradient wetlands and the riparian area. **Second**, the proposed fill and hydromodifications (a) are not in accordance with all other applicable provisions of the LUP (e.g., the prohibition of substantial natural land form alteration), and (b) fail to incorporate mitigation measures that (1) maintain or enhance the functional capacity of the wetland, (2) include, at a minimum, either acquisition of equivalent areas of equal or greater biological productivity or opening up equivalent areas to tidal action, or (3) provide for other mitigation measures consistent with LUP Policy 3.1-4. **Third**, the CDP application record contains no analysis of whether a feasible, less environmentally damaging, alternative to the proposed fill and hydromodification of LCP/coastal program regulatory wetlands and the riparian area exists, inconsistent with LUP Policy 3.1-4. The proposed Project fill and hydromodifications of jurisdictional wetlands and the riparian area thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

3. Caltrans has impermissibly created multiple new parcels - for Project grading and development - within the Navarro Ridge wildlife corridor ESH/buffer areas, wetlands/buffer areas, and on sensitive avian species foraging ESH/buffer areas that consist in their entirety of environmentally sensitive habitat areas/buffers, in violation of the prohibition of such other land division in LUP Policy 3.1-7. The unpermitted, and impermissible, creation of these parcels thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

4. Caltrans proposes to (a) remove riparian vegetation ESH in the drainage near Post Mile 42.1, and (b) place structural fill and develop new structural drainage facilities in the ESH, without demonstration that **first**, the proposed development constitutes a use that is dependent on the riparian resources, and **second**, will protect them against significant disruption of habitat values, including, as applicable, through mitigation for any permitted riparian resource-dependent uses, inconsistent with the requirements therefor in LUP Policy 3.1-10. The proposed Project removal of riparian vegetation and fill of the riparian area thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

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5. The Caltrans proposal to fill and hydromodify wetlands and the riparian area, discussed in part 7.4, above, also does not comply with the requirement of LUP Policy 3.1-4 that such fill be consistent with the requirements of Coastal Act §§ 30233(c) and 30607.1. The proposed Project fill and hydromodifications of jurisdictional wetlands and the riparian area thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

6. **First**, the (withdrawn) CDP application does not contain current biological information about all rare, endangered, threatened and protected (e.g., sensitive) plant and wildlife habitats (ESH) in either the Project development envelope, or in the LUP-required 50/100 foot wide buffer area adjacent to it, inconsistent with the requirements for such current ESH/location information in LUP Policy 3.1-29. **Second**, the PBS SR does not require the precise ("pinpointed") locations of such ESH's to prevent their degradation as a precondition to CDP issuance, inconsistent with the requirements for such current ESH/location information in LUP Policy 3.1-29. The lack of the required current, and location-specific, biological information in both the CDP application and the PBS staff report thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

7. Caltrans has impermissibly removed (or caused to be removed by contractor(s)), in whole or parts, some ± 15 trees from the Navarro Point Reserve, westerly of the pre-April, 2020 Highway 1 ROW and road prism, and ± 3 trees from east of that ROW/road prism, without application to, or issuance of, the requisite CDP by PBS, inconsistent with the requirement of LUP Policy 3.1-33 that removal of major vegetation for non-agricultural purposes constitutes regulatory development that requires prior issuance of a CDP, which shall be granted only when the proposed development is consistent with all other sections and policies of the LUP. LUP Policy 3.1-33-inconsistent removal of trees in the Navarro Point Preserve sensitive species foraging ESH and in the Navarro Ridge wildlife corridor by, or on behalf of, Caltrans thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

8. LUP Policy 3.4-1 requires the County to review all CDP applications to determine (a) threats from geologic hazards on development, (b) the threat of impacts from development on unstable geologic conditions, and (c) in areas of known or potential geologic hazards, require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis. **First**, a Caltrans geotechnical engineer in 2020 recommended, following surficial geological observations of slope instability in the Project development envelope on west-facing Navarro Ridge and shallow soil auger borings along the edge of northbound Highway 1, that the site-specific geotechnical investigation/report be performed. **Second**, in response to the request of a property owner in the RR-5-PD land use area for the report, the Caltrans project manager who signed the CDP application and subsequently Caltrans counsel represented the report to exist (serially to Caltrans headquarters staff, the California Transportation Commission, and the property owner), but have failed to produce it. **Third**, the Caltrans CDP application (withdrawn in 2020) failed to include it. **Fourth**, although a member of the public called the attention of the former PBS Director and staff to that omission, PBS apparently did not require the geotechnical investigation report before the one-year clock ran on the incomplete CDP application and it was deemed by the CZO to be withdrawn. Given Caltrans' own observed slope instability in Navarro Ridge areas that it proposes to excavate and in the immediate bluff top area seaward of Post Mile 42.1, the 20th Century slope failure adjacent to the easterly-trending driveway development near Post Mile 41.8, the presence of expansive soils in the Navarro Point Reserve, and deteriorated bluff edge conditions in the Preserve to which previous hydromodifications by Caltrans may likely be tributary, the lack of the LUP Policy 3.4-1-required geotechnical investigation report thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

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9. The (withdrawn) application for CDP 2019-0024 proposes a substantial rock fill structure in the upper bluff and/or adjacent narrow bluff top area westerly of Post Mile 42.1. LUP Policy 3.4-7 requires that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years), with (a) setbacks to be of sufficient distance to eliminate the need for shoreline protective works, (b) adequate setback distances to be determined from information derived from the required geologic investigation and the LCP setback formula, and (c) all grading specifications and techniques to follow the recommendations cited in the Uniform Building Code or the engineering geologists report. **First**, the CDP application fails to contain the required geotechnical investigation report of the subject Project development area. **Second**, the CDP application contains no (a) historic and (b) 75-year future bluff retreat analysis of it in a separate (e.g., coastal hazards) analysis by a qualified coastal engineer, as required by Policy 3.4-7, to inform the applicant, PBS, and the CPA of the design criteria to meet its very clear policy objectives, grading specifications, and techniques. The lack of the LUP Policy 3.4-1-required and LUP Policy 3.4-7-referenced geotechnical investigation report (and of a professional coastal hazards engineering report in addition, or as a subpart of the former) thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

10. LUP Policy 3.4-9 requires that any development landward of the blufftop setback shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to the instability of the bluff itself. **First**, Caltrans has failed to calculate the site-specific development setback requirement. **Second**, Caltrans has failed to present as part of the (withdrawn) CDP application any geotechnical analysis, including, but not limited to, a cross-section (profile) of the proposed substantial rock fill structure in the upper bluff and/or adjacent narrow bluff top area westerly of Post Mile 42.1 that provides for construction of the fill and new drainage facility (if it were otherwise permissible) in a manner that ensures that drainage in and from the area does not erode or destabilize the bluff. The lack of the site-specific geotechnical investigation report thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

11. LUP Policy 3.4-10 generally prohibits development on the bluff face, but, **first**, Caltrans has failed to delineate the bluff edge that defines the upper termination of the bluff in the area westerly of Post Mile 42.1. In addition, LUP Policy 3.4-10 provides that development that would substantially further the public welfare may be allowed as a conditional use, following a full environmental, geologic and engineering review and upon the determinations that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects, but, **second**, Caltrans has failed to perform the required technical studies and mitigation analysis to meet that standard. The lack of the site-specific geotechnical investigation report, alternatives analysis, and mitigation analysis for the proposed bluff edge structure near Post Mile 42.1 thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

12. LUP Policy 3.5-1 requires that State Highway 1 in rural areas of the Mendocino County coastal zone shall remain a scenic two-lane road and, further, that permitted development shall be sited and designed to protect views to and along scenic coastal areas, minimize natural landform alteration, and be subordinate in designated highly scenic areas to the character of its setting. **First**, the Project development envelope is located in the rural coastal zone, outside the nearest urban/rural boundary. **Second**, the Project is located in the LCP-designated and mapped Highly Scenic Area that encompasses the westerly facing Navarro Ridge slopes and the entire Navarro Point Preserve. **Third**, Highway 1 in its current alignment generally conforms to the curved natural landform contours of the west-facing Navarro Ridge slopes, and as such functions as the scenic two lane road that LUP Policy 3.5-1 protects. However, Caltrans proposes to (a) excavate and compact most of the 2,000 foot long Navarro Ridge natural landform - variously up to (what is now represented by merely typical (not site-specific) cross

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sections) up to a vertical height of 30 feet above the proposed elevated roadway, (b) straighten the existing contoured roadway, and (c) enlarge the road prism by a series of manufactured fills and slopes into the Navarro Point Preserve that would be highly visible from the highway, going upcoast and downcoast, and from Navarro Point Preserve and the California Coastal Trail, looking landward. **Fourth**, the unsupported (by the required geotechnical investigation report, or by a comprehensive alternatives analysis that would substantially reduce and balance Project grading volumes, as the representatives of one property owner outlined to Caltrans staff) and proposed unbalanced Project cut and fill grading does not minimize the alteration of either the Navarro Ridge or Navarro Point Preserve natural landforms. **Fifth**, neither the proposed Project excavation nor the road prism fill onto Navarro Point Preserve would be subordinate to the designated highly scenic area, but rather stand in sharp contrast to it. Moreover, monitoring by the Albion Bridge Stewards of other recent Caltrans "revegetation plan" projects along Highway 1 in Albion indicates a repeated history of Caltrans non-performance and failed, out of plan, implementation that, absent a much more rigorous and fully transparent (quantitative) set of performance criteria, preparation of planting areas, selection of compatible *in situ* native species, continuing regular weeding, and regular (short interval, specifically accountable) monitoring, reporting and adaptive management, would likely continue and thereby not even restore the native vegetation on the manufactured slopes. This out-of-context Project is simply inconsistent with the scenic road, highly scenic area, and natural landform protection standards of LUP Policy 3.5-1, and thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

13. LUP Policy 3.5-2 specifically requires that new development in Albion shall protect the community by remaining within the scope and character of existing development, consistent with the CZO and other implementing ordinances. **First**, the scope and character of the Project (including, but not limited to, grading, alteration of Navarro Ridge and Navarro Preserve natural landforms, development that follows natural landform contours, straightening of the roadway, widened road shoulders, are substantially outside - rather than within - the scope and character of existing development in the Project area of South Albion. **Second**, as discussed *infra*, the two projects are inconsistent with numerous mandatory CZO conservation and development standards. The Project is destructive, rather than protective, of the environmental setting of the Albion community, and thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

14. LUP Policy 3.5-3 lists the LUP Map 19-designated Highly Scenic Area in the area of the "Navarro Ridge Safety Project" development envelope - as mapped in the inset on Map 19 to include, from south to north, the RR5, RMR 20, RMR 40, RR 5 PD land use designation areas easterly of Highway 1, and RL land use designations, but not the RR5PD and RR 10 land use designations westerly of Highway 1, north of (unmarked) APN - as one in which (a) new development shall be subordinate to the character of its setting, (b) any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes, (c) new development should be subordinate to natural setting and minimize reflective surfaces, and (d) all proposed divisions of land and boundary line adjustments within "highly scenic areas" will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies. **First**, as discussed *infra*, the "Navarro Ridge Safety Project" grading of the west-facing Navarro ridge slopes, road prism widening and drainage facility expansion onto the Navarro Point Preserve, and rock-drainage structure development in the area west of Post Mile 42.1 are not subordinate to the character of its setting, and therefore are inconsistent with LUP Policy 3.5-3. **Second**, the Navarro Ridge slope grading, expanded drainage facilities and road prism into the Navarro Point Preserve, rock drainage structure west of Post Mile 42.1 are prominently both in the ocean and coastal viewshed from Highway 1, and in the coastal viewshed from the Navarro Point Reserve, looking

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landward, downcoast, and upcoast, inconsistent with LUP Policy 3.5-3. **Third**, the proposed straightened highway, with new shoulders and temporarily stained metal guardrails (until the stain is abraded), is not subordinate to the natural setting, but as Caltrans' own photo-simulations show, rises above it to block views from passenger vehicles (rather than trucks) traveling along Highway 1 of the nearshore Pacific Ocean and to and along the Navarro Point Preserve, inconsistent with LUP Policy 3.5-3. **Fourth**, Caltrans' (unpermitted) creation of Project parcels, without prior County CDP approval, on the west-facing Navarro Ridge slopes in the RR-5-PD land use designations constitutes a blatant attempt to circumvent the County's CDP regulatory authority and requirements, including here specifically with regard to visual quality protection, inconsistent with LUP Policy 3.5-3. The Project thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

15. LUP Policy 3.5-5 provides for tree removal or thinning to avoid concentrations of trees that unreasonably obstruct views of the ocean, e.g., from roads. **First**, as the United Coast Survey topographical map of the Navarro Point marine terrace (T-1362, 1872) shows, its historical conditions included a substantial stand of trees on the delta (alluvial fan) of the west-trending Navarro stream and a smaller additional grove along the toe of the west-facing Navarro Ridge slopes near where trees currently occur along the seaward side of the Highway 1 road berm. **Second**, Caltrans has provided no documentation or analysis in the (withdrawn) CDP application of existing concentrations of trees within the Project area that unreasonably obstruct ocean views from Highway 1. **Third**, Caltrans has provided no analysis in the (withdrawn) CDP application of whether careful tree thinning along Highway 1 in the Project area would open public views of the ocean that are now unreasonably obstructed. **Fourth**, Caltrans proposes wholesale removal of all trees, including previously killed trees, on the Navarro Point Preserve to be able to expand the Highway 1 road prism onto it, which Project component on its face substantially exceeds any reasonable trimming or removal of selected trees to open ocean views from Highway in the tree-vegetated segment, and thus is inconsistent with LUP Policy 3.5-5. The Project thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

16. LUP Policy 3.5-9 provides for review of the location of all new access roads in rural areas prior to any grading work to ensure safe location and minimum visual disturbance. **First**, Caltrans has previously informed property owners in the RR-5-PD land use designation that it proposes to utilize a former (abandoned) road down the west-facing Navarro Ridge as a mechanized equipment access corridor to perform excavation grading of these slopes from the relatively flat adjacent Ridge top, working downslope to Highway 1. **Second**, the Caltrans Project plans contain no grading plans for the area of Caltrans' proposed Navarro Ridge slope grading access road, inconsistent with LUP Policy 3.5-9. **Third**, the CDP application contains no visual impact analysis of the proposed Navarro Ridge grading access road, inconsistent with LUP Policy 3.5-9. This only partly disclosed Project component thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

17. LUP Policy 3.6-17, when harmonized with LUP Map 19, requires Caltrans to construct a turnout on the westerly side of Highway 1 near Post Mile 41.8 as part of any highway improvement project. **First**, Caltrans failed to comply with this requirement when it has previously performed improvement projects near Post Mile 41.8, inconsistent with LUP Policy 3.6-17. **Second**, the (withdrawn) CDP application fails to provide for the required turnout, inconsistent with LUP Policy 3.6-17. Although the Navarro Point Preserve gravel parking lot constitutes an important, and in fact unique, access point to the trails in the Preserve for persons who elect to leave the highway, the LCP-required turn out serves a wholly different function, in that it provides an important view origination point for motorists on Highway 1 at the southern gateway to the central Mendocino County coast. The (withdrawn) CDP application thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

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18. LUP Policy 3.6-20 recommends that Caltrans provide paved 4-foot wide shoulders along Highway 1 wherever construction is feasible without unacceptable environmental effects. **First**, a property owner in the RR-5-PD land use designation area demonstrated to Caltrans District 1 staff that construction of such an highway shoulder along the northbound Highway 1 travel lane is feasible within Caltrans' claimed existing right of way, with only minimized encroachments into adjacent private property, but Caltrans staff summarily - and unreasonably - dismissed this alternative, without analysis, in favor of Caltrans' proposed mass excavation of the west-facing Navarro Ridge slopes for locating the shoulder and adjacent drainage ditch. The property owner similarly demonstrated the conceptual feasibility, based on other similar Caltrans projects, of providing a southbound 4-foot wide shoulder lane by cantilevering it from the existing road prism, which Caltrans staff similarly dismissed without analysis. **Second**, as discussed *infra*, construction of the 4-foot wide shoulders as proposed by Caltrans in the (withdrawn) CDP application would have significant adverse effects on the protected visual quality of the west-facing Navarro Ridge slope natural landforms, the Navarro Ridge wildlife corridor, and - in the absence of a geotechnical investigation report and incorporation of its mitigation measures, consistent with the mandatory standards of the LCP, likely on Navarro ridge slope stability, inconsistent with applicable LUP policies. The (withdrawn) CDP application thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

19. LUP Policy 3.8-1 requires that highway capacity be a standard for review of the projects. However, Caltrans has presented no data in the withdrawn CDP applications - and can present none, because none exists - that either the "Navarro Ridge Safety Project" or the "Navarro drainage" project are necessary to meet current or future Highway 1, or Highway 1-Navarro Ridge Road intersection, capacity demand. To the extent that the term "capacity demand" may be construed to include safety considerations, alternative feasible, less environmentally damaging project components exist to the withdrawn CDP application project descriptions that can provide for an increased safe roadway environment, including, but not limited to, (a) day/night/weather condition-responsive posting of reduced vehicle speeds, (b) posting of wildlife corridor crossing signs, (c) development of lane shoulders within the Caltrans-claimed 2020 highway right of way and by minor fill or cantilevered segments along the southbound travel lane, (d) placing the existing drainage ditch along the northbound Highway 1 travel lane in a conduit, with appropriate filtration and water diffusion components for sustainable discharge to existing Navarro Point Preserve wetlands, and for other non-potable uses, (e) redirecting the highly erosive drainage outfall at the Navarro Bluff/Cliff westerly of Post Mile 42.1 to a non-erosive drainage discharge facility, and, (f) restoring the historic Navarro Stream to its natural and sustainable stream bed by removal of the superannuated road prism fill (and avoidance of any new fill, wetlands destruction/disturbance, or other artificial hydromodifications), with replacement by a suitably designed elevated roadway span that comports with the designed highly scenic area. In any event, no current CDP application for either project is now before the CPA for decision and Caltrans has time, during preparation of the required substantive environmental document for these projects (and the whole 4-mile long Caltrans Highway 1 project in Albion between the Navarro River and Dark Gulch), to further address these alternatives. The (withdrawn) CDP application thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

Fourth, in the event that you determined that the withdrawn CDP application for the "Navarro Drainage" channelization project of the historic (US Coast Survey, T-1362, 1872) west-draining Navarro Stream were not withdrawn in 2020, it is fundamentally inconsistent with Coastal Element Policy 3.1-9, which prohibits flood control projects where other feasible methods for protecting structures in the flood area (such as the aforementioned restoration of the natural stream with placement of the roadway on a span above it) are available. Further, the project proposes wetland fill for an expanded Highway 1 road prism *without the requisite alternatives*

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analysis that would avoid that wetland fill, inconsistent with Coastal Element Policy 3.1-4. The CDP application thus precludes the CPA's finding of Project consistency with the LCP required by CZO § 20.532.095(A)(1).

Fifth, Coastal Act section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea, or the shoreline of any body of water located within the coastal zone, shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200). Caltrans, in its (withdrawn) CDP application for both projects failed to include the lateral (upcoast-down coast, e.g., a compatibly improved California Coastal Trail) and vertical (seaward, e.g., as depicted on LUP Map 19) public accessways required, respectively, by Coastal Act sections 30210 (to maximize public access for all the people), 30211 (to avoid interference with existing public access trail segments in or near the proposed Highway 1 road prism expansion onto Navarro Point Preserve), 30212(a) (the required public access along the coast in the two project development envelopes, including, but not limited to where proposed drainage facilities and fill would block or impede existing lateral public access), 30213 (lower cost visitor and recreational facilities shall be provided), 30221 (oceanfront land suitable for recreational use shall be protected for such use, unless adequate provision of public recreational facilities exists to meet present and foreseeable future demand), 30252 (new development shall maintain and enhance public coastal access by facilitating/extending transit service and providing for non-automobile circulation within the development, and 30253(e) (new development shall protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. Unfortunately, the PBS staff reports on both projects did not analyze the respective projects for consistency with each of these standards. The (withdrawn) CDP applications thus preclude the CPA's finding of respective project consistency with the LCP required by CZO § 20.532.095(A)(1).

Sixth, the PBS staff report recommends that the CPA adopt 11 essentially identical conditions of approval as part of staff's recommended decision to approve the (withdrawn) CDP application 2019-0024, and ___ conditions of approval to approve the (withdrawn) CDP application 2019-0034. The conditions fail, as follows, to bring the projects into compliance with the LCP.

Condition 3 inapplicably and ambiguously describes "the [withdrawn] application", "along with [unspecified] supplemental exhibits and related material" as the "elements of [each project's] permit, and thereby sets up an undisclosed and unenforceable project description and unidentified documents as the content of two CDP's for which the County has no valid applications.

Condition 5 hinges on the contents of the "proposed project[s]", for which the staff report and findings contain no complete descriptions (assuming that the withdrawn CDP were otherwise pending for decision).

Condition 9 provides that the contractor performing the work "shall provide proof of appropriate disposal of exported material to Caltrans and "the County prior to close out of construction". This after-the-fact compliance condition is speculative, lacks requisite specificity for analysis of project component consistency with the LCP and Coastal Act, and therefore void.

Condition 10 is essentially meaningless, in that it limits the requirement for vegetation restoration of graded areas to "any soil disturbed *after* construction", rather than to restoration of all graded areas.

Condition 11 parades a list of "recommended mitigations, BMP's, and avoidance and mitigation measures" in parts of (a) two superannuated Caltrans documents that do not address current conditions in the project envelopes, and (b) a spatially and systemically incomplete revegetation

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plan/memo that propose species that would replace *in situ* ESHA, rely on ESHA protection techniques that Caltrans has repeatedly demonstrated in Albion since 2017 it does not implement, and lacks clear performance criteria.

Conversely, the staff recommendation proposes no conditions of CDP approval, for either project, that would (if the CDP applications had not been withdrawn in 2020) potentially mitigate the herein identified significant project environmental impacts to below their respective levels of significance.

The staff recommended Conditions of Approval therefore do not serve to bring the project into compliance with the LCP and Coastal Act standards, and on that basis fail.

Seventh, the staff reports for both projects parade two essentially identical sets of eight findings, which in relevant parts are erroneous, unsupported, and do not bridge the analytic gap between the relevant project facts and the controlling LCP and Coastal Act standards.

1. Contrary to Finding 1, the proposed development is **not** in conformity with the certified Local Coastal Program, as demonstrated above. Moreover, the CDP application record contains no evidence that (unspecified) “resource agencies” have reviewed and agree on “appropriate [ESHA] protection measures” for the projects.
2. Finding 2 misrepresents the scope of drainage components in the project, and relies on an ambiguous reference to “other necessary facilities” for its conclusory finding of project consistency.
3. Finding 3 misleads that the projects are consistent with the purposes of the Zoning District and other CZO provisions, in that the projects are specifically inconsistent with the CZO and the Coastal element, as discussed above.
4. Finding 4 is conclusory in that (a) the respective Caltrans Class 1(d) categorical exemptions from environmental review are inapplicable to either project, and thus not a valid environmental document for either, and (b) the projects implicate unusual circumstances and will have potentially significant direct and cumulative adverse effects on the environment, and thus require environmental review.
5. Finding 6 states that public roadway capacities have been considered and are adequate, when in fact the (withdrawn) CDP application record contains no current road capacity data.
6. Finding 7 purports, without analysis of each applicable County Coastal Element policy, that the projects conform to those policies, and contrary to the exclusionary fencing depicted on the Caltrans project plans across the entrance to the Navarro Point Preserve for the up to 2 year project construction period, that all existing public access within the vicinity of the project area will be accessible throughout construction activities.
7. Finding 8 purports, without (a) analysis of the seasonal spectrum of current conditions in the encompassing project development envelope, (b) definition of respective levels of project impact significance, (c) the required geotechnical investigation report, and (d) independent analysis of available alternatives, that the the proposed development is consistent with ESHA policies that require the following findings: (1) The resources as identified will not be significantly degraded by the proposed development; (2) There is no feasible less environmentally damaging alternative; and (3) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

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8. Remarkably, the PBS staff report altogether omits the detailed consistency analysis of the two projects in relation to the Coastal Act public access and recreation policies, required by Coastal Act section 30604(b) of all development located to seaward of the pre-project first continuous public road and CZO section 20.532.095(B)(1).

The PBS staff-recommended findings and conditions for the (withdrawn) CDP applications 2019-0024 and 2019-0034 thus fail and cannot serve as the basis for staff's recommended approval with conditions of the projects.


In the event that you were to determine the two CDP applications to be properly before you at the special meeting, we request on the basis of the aforementioned identified substantive project inconsistencies with the applicable standards of review that you deny CDP applications 2019-0024 and 2019-0034.

Thank you for this opportunity to provide these written comments, which we will supplement at hearings on Items 2, 3b, and 3c at the special meeting.


Respectfully yours on behalf of the Albion Bridge Stewards, by:
(authorized electronic signatures)


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