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March 15, 2019

Board of Supervisors

County of Mendocino

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**Re: March 19, 2019 BOS Meeting – Agenda Item 5b (2) - William Moores’
Rezoning Request, GP_2006-0008/R_2006-0012**

Dear Hon. Board of Supervisors:

I am General Counsel for Irish Beach Water District, and I am submitting the following comments on behalf of the Irish Beach Water District regarding the above referenced project and agenda item. Much of the proposed re-zoning properties are located within the Irish Beach Water District, and District water source supply and facilities are located near these properties.

Primary Comments

While the District maintains a neutral position on the proposed re-zoning, the District nevertheless wants to make sure its facilities and water supply are not adversely impacted. The District understands that if logging activities are anticipated that the property owners would need to obtain specific permitting from agencies outside of the County and that such permitting would potentially set forth conditions necessary to limit impacts. Nevertheless,

the District believes that if timber production or commercial operations are intended to result from any of the new zoning changes, that the applicant should be required by the County at this stage to commit to mitigation measures protective of the Irish Beach Water District including but not limited to the following:

- An approved plan to protect all District wells, pipelines, and water storage facilities that could be impacted by any timber production or other commercial operations. It appears from the applicants' maps, that all three of the District's wells and four of its water storage tanks could potentially be impacted by the Project.
- A requirement that the Applicant be solely responsible for all road maintenance and repair on any roadway (private, public, or privately maintained public roadway) to be used for, or impacted by, logging activities including the unpaved portions of Hillcrest and Alta Mesa Roadways. If trucks are to be used for logging and conveyance of timber or timber products to and from the properties, all impacted roads should be widened and upgraded to allow public utility access through these areas without interference. For example, the District has 3 wells, 4 water tanks and numerous pipelines located in the general area of the proposed re-zone.
- A watershed protection plan for Irish Gulch, Mallo Pass and Moores Creeks. These streams are present and future water supply sources for the District. Mallo Pass supports anadromous fish species such as Steelhead and Coho Salmon. The headwaters of these streams originate in or near the properties at issue in the proposed re-zone.
- Protection of open space areas previously designated by the County and the Coastal Commission in the area adjacent to (or on) the properties proposed for re-zone. See TU 16a – Permits 1-87-141 and 142 (Recorded at bk 1741 starting at p. 684; and Board of Supervisors Minutes – March 28, 1988 [attached]).
- A demonstrated supply of water for fire protection purposes. At this time, the applicant has not connected the properties at issue to the District's water supply system. This should be a condition precedent to any future logging in order to

prevent potential fires. The District has supply to provide such fire protection including the District's Pomo Lake water supply.¹

The imposition of such conditions is not burdensome and is well within the power of the Board of Supervisors. Attached to this letter are conditions imposed by both the County and the Coastal Commission on development in this area including logging. Among such conditions are conditions relating to drainage plans, avoidance of logging trucks on Alta Mesa Road, preservation of Open Space, and road maintenance – all being the responsibility of the property owner/developer. These are conditions that must be primarily enforced by the County and not some other permitting authority in the future. A potential condition of approval by the County for the re-zone could be to require an update to all existing conditions already imposed on these properties.

Additional Basis regarding concerns of impacts to the District

As the Board of Supervisors may not be aware, logging was conducted in this area during the 1990s. That logging had adverse impacts on the District and its water supply. Those impacts included damage to District facilities, fuel spills near District water sources, and impacts to the District's ability to use roads to access its facilities and water sources. Below please find a couple of small excerpts from the District's Minutes regarding these issues (the District would be happy to provide additional information but believes much of this information is already in the possession of the County)

¹ The District is uncertain about the 2005 water service letter from the District that is included in the Applicants' packet and how it relates to the presently proposed project. While all of the Applicants properties within the District are eligible for District supplied water, not all of the properties are currently connected to the District's system. Given the potential for fire in some of these re-zoned areas, the District would recommend that the County consider requiring the applicant at their sole cost to connect each property in their application (located in the District) to the District's water supply system in order to insure water supply for fire protection and dust mitigation if timber production is a future allowed use under the proposed re-zoning.

Irish Beach Water District MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS SATURDAY, January 20, 1996

N. Fuel Spill and contaminated soil: . . . reported that Mendocino County was now involved and that they had taken evidence. The matter has been referred to the District Attorney who assigned it to a deputy specializing in environmental issues. *The fuel spill is in the watershed directly above the wells.* It is also covered by our zero-waste discharge ordinance. Benbow had told the County the spill was cleaned up, and it wasn't. In December the Fish and Game were brought in who discovered an illegal dump as well.

NOTE: This issue apparently started with the Regional Water Quality Control Board but eventually made its way back to the County, which is why the District is requesting conditions be imposed at the County level.

Irish Beach Water District MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS SATURDAY, September 13, 1997

6. Reports

B. Water.

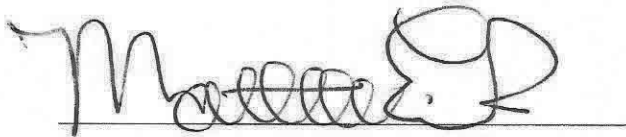
What it basically boils down to is that the road work was required due to timber harvest violations per the CDF, which apparently gave either the landowner or the logger until Jan. 10, 1998 to clean up the area. Mr. Moore is requesting the Water District to pay 1/3 of the cost for cleaning up THP violations.

NOTE: The County needs to clearly designate the Property owner as being solely responsible and liable for road maintenance and repair during any and all logging activities to avoid future misunderstandings.

Thank you very much for the opportunity to provide these comments. Again, to be clear, the District neither opposes nor supports the zoning change. The District simply needs to make sure that its ability to provide a safe and reliable water supply is protected at all times and at every level of project approval.

Very truly yours,

LAW OFFICES OF MATTHEW EMRICK



MATTHEW EMRICK

APPENDIX B

APPROPRIATE COUNTY CONDITIONS
INCORPORATED BY REFERENCE

BOARD OF SUPERVISORS PLANNING MINUTES - MARCH 28, 1988 PAGE 304

A. CONDITIONS OF APPROVAL FOR MODIFICATION OF SUBDIVISION #S
10-75:

1. The applicant shall submit a letter from the Irish Beach Water and Fire District and any other responsible fire agency to the Department of Planning and Building Services demonstrating the District's satisfaction with on site fire safety measures provided for within the Irish Beach Unit Number 9 subdivision.
2. The Irish Beach Water and Fire District and the State Department of Health Services, Public Water Systems Branch and any other responsible government agencies shall approve plans and specifications for water source, storage and distribution facilities before installation and approve acceptance only after satisfactory inspection by a qualified civil engineer. If improvements are bonded for, installation and inspection of such installations may occur after filing the final map.
3. Soil permeability testing to determine sewage disposal feasibility must be performed on parcels 1 through 44 according to the standards found in the Division of Environmental Health's "Subdivision and Parcel Map Requirements" latest revision. Test results including a map showing the location of all tests must be submitted to, and accepted by, the Division of Environmental Health.
4. Soil profiles must be performed on parcels 1 through 44. Each profile must be to a minimum depth of eight (8) feet, and include a description which is to be submitted to the Division of Environmental Health for review.

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5. Prior to filing the Final Map the subdivider shall submit to the Department of Planning and Building Services and the Department of Public Works a site development plan prepared by a civil engineer in conformance with the Soils and Geology Report prepared by Hollenbeck, McKay and Associates. The plan shall:
 - (a) Show the final exterior boundary of Unit Number 9.
 - (b) Show roadways.
 - (c) Show lot lines for all approved parcels.
 - (d) Delineate "building areas" and "non-building areas" in accordance with Condition Number A-17.
 - (e) Contain a notation that "Construction of roads (except for emergency purposes, i.e., fire suppression) and any above ground structures including fences, tanks, towers and antennae is prohibited within the area designated as non-building area."
 - (f) Identify building and leach field envelopes
 - (g) Identify maximum percentages of slopes found within the building envelopes.
 - (h) Demonstrate adequate room for primary and replacement sewage disposal systems considering such factors as parcel size, topography, leach field size, building and driveway locations, and setbacks from property lines, easements and slopes, and any other pertinent information.
 - (i) Prescribe any grading or drainage improvements or other measures to be completed by the subdivider prior to filing the Final Map to mitigate any existing slope stability and erosion problems which have resulted from previous grading on the site.
 - (j) Prescribe measures to mitigate soil stability and erosion impacts due to placement of leach fields, preparation of building pads, and construction of roads and driveways. A schedule for implementing such measures shall be included.
6. A note shall appear on the Final Map stating, "Future development shall be completed in accordance with the Site Development Plan on file in the Department of Planning and Building Services."
7. Where public water and/or sewer systems are to be utilized, the subdivider must submit to the Division of

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Environmental Health, a letter from the district(s) or agency(s) indicating a willingness and ability to supply services to the proposed parcels.

8. Water main and services shall be installed to serve each lot in said Subdivision and connected to the municipal, special district, or county system providing service (Subdivisions lying either partially or wholly within five hundred (500) feet of a public water system).
9. Deleted.
10. Deleted.
11. Upon filing the final map for this revised tentative map, the subdivider shall submit a letter to the Department of Planning and Building Services withdrawing the original tentative map approved on February 23, 1977.
12. Approval of the revised tentative map shall not extend the final date (July 9, 1988) for filing the final map with the County Recorder. All conditions of approval must be satisfied and the final map filed on or before July 9, 1988.
13. Deleted.
14. Subdivision improvement plans shall be accompanied by a drainage report prepared by a civil engineer. The report shall:
 - (a) Provide a hydrology/hydraulic data necessary to support sizing and location of planned drainage facilities. ✓
 - (b) Develop a drainage plan, to be implemented by the subdivider as part of the subdivision improvements, that fully complies with the provisions in Sections 17-57 of the County Division of Land Regulations and incorporates the mitigation measures specified in the project environmental impact report. ✓
15. Surface drainage facilities appurtenant to the subdivision street shall be designed and constructed in accordance with the following minimum standards:
 - (a) Culverts shall be designed to accommodate a "10-year" storm with no head at the inlet.
 - (b) Roadside gutters/ditches shall be designed to accommodate a "10-year" storm without encroaching into the adjacent traffic lane or road shoulder.

- (c) Drainage easements for ditches shall be at least twenty (20) feet wide.
- (d) Drainage easements for culverts/storm drains shall be at least ten (10) feet wide.
- (e) Minimum allowable ditch grade shall be 0.5 percent (0.3 percent if paved).
- (f) Adequate erosion control measures shall be provided when ditch or channel grade exceeds five (5) percent.

16. Deleted.

17. The Site Development Plan shall designate "non-building area" for all that area outside of the area highlighted in red on the Exhibit Map B dated March 17, 1988 as submitted by the subdivider to include all that area within 200 feet of adjacent Timber Production or Agricultural Preserve lands.

18. The subdivider shall provide a pedestrian path between the ridge and Alta Mesa Road, CR# 577, or Hillcrest Drive, acceptable to the Department of Planning and Building Services.

Minimum width - 4 feet
Surfacing - 4 inches of rock
Maximum grade - 20 percent

B. CONDITIONS REPLACING ORIGINAL SUBDIVISION CONDITIONS ADOPTED BY THE BOARD OF SUPERVISORS JANUARY 20, 1977.

1. Subdivision improvement plans shall be accompanied by a soils report prepared by a civil engineer or engineering geologist. The report shall identify all soil conditions or geological hazards that will affect development of the subdivision as proposed and shall define those mitigating measures required to reduce the likelihood of property damage due to soil conditions or geological hazards to an acceptable level of risk. The report shall emphasize those issues that have been raised in the environmental impact report and preliminary soils reports and shall establish all necessary parameters to guide design of planned lot grading, driveway improvements, and road improvements. All improvements required to mitigate unfavorable soil conditions and geological hazards shall be included in the subdivision improvement plans and shall be constructed as part of the subdivision improvements. The report shall conclude that upon implementation of the prescribed mitigation measures, there are no significant soil or geological hazards that will impact development of the subdivision.

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- 2. That all grading, foundation preparation work and other major grading shall be done under the direction of a qualified engineer. Building site grading subject to Building Inspection monitoring, road grading under Department of Public Works monitoring. ✓
- 3. That the applicant must seek the advice of the Soil Conservation Service relative to methods of soils stabilization and revegetation program on cut slopes. A copy of such recommendation must be supplied to the Department of Planning and Building Services and fully implemented by the applicant. ✓
- 4. Subdivision improvement plans shall include cross-sections at intervals not to exceed fifty (50) feet. Prior to start of construction subdivision street and driveways shall be slope staked at intervals not to exceed fifty (50) feet.
- 5. Pursuant to encroachment permit procedures administered by the Department of Public Works and as a part of the required subdivision improvements, the subdivider shall place a one and one-half (1.5) inch thick asphalt concrete overlay, full width, over those existing county maintained roads (Sea Cypress Drive, CR# 568, and Alta Mesa Road, CR# 577) providing access to the subdivision from State Highway One. The County shall prepare the roadway to accept the overlay.
- 6. The subdivision streets shall be designed and constructed in accordance with procedures prescribed in the County Division of Land Regulations and the following minimum design standards:

- (a) Portion of subdivision street between Alta Mesa Road, CR# 577, and common driveway providing access to Lots 1 through 5:

RIGHT OF WAY WIDTH	50 FEET MINIMUM
(R/W WIDTH SHALL BE SUFFICIENT TO ACCOMMODATE A THEORETICAL CUT SLOPE NO STEEPER THAN TWO FOOT HORIZONTAL FOR ONE FOOT VERTICAL).	
ROADBED WIDTH	25 FEET MINIMUM
PAVEMENT WIDTH	20 FEET MINIMUM
SHOULDER WIDTH (UNSURFACED)	3 FEET MINIMUM
PAVED GUTTER WIDTH	2 FEET MINIMUM
MAXIMUM ALLOWABLE GRADE	20 PERCENT
(GRADE TO BE MEASURED AT INSIDE SHOULDER OF CURVE)	
MINIMUM HORIZONTAL CURVE RADII	100 FEET
SURFACE TYPE	ASPHALT CONCRETE
TRAFFIC INDEX	5.0

- (b) Portion of subdivision street between common driveway providing access to Lots 1 through 5 and cul de sac bulb:

RIGHT OF WAY WIDTH	50 FEET MINIMUM
ROADBED WIDTH	32 FEET MINIMUM
PAVEMENT WIDTH	24 FEET MINIMUM
DITCH OFFSET FROM SHOULDER	5 FEET MINIMUM
MAXIMUM ALLOWABLE GRADE	10 PERCENT
MINIMUM HORIZONTAL CURVE RADII	160 FEET
SURFACE TYPE	ASPHALT CONCRETE
TRAFFIC INDEX	5.0
DESIGN SPEED (VERTICAL ALIGNMENT)	25 MPH

- (c) Common driveways providing access to Lots 1 through 5, Lots 19 through 22, and Lots 25 through 28:

RIGHT OF WAY WIDTH	40 FEET MINIMUM
ROADBED WIDTH	20 FEET MINIMUM
PAVEMENT WIDTH	16 FEET MINIMUM
DITCH OFFSET FROM SHOULDER	4 FEET MINIMUM
MAXIMUM ALLOWABLE GRADE	20 PERCENT
SURFACE TYPE	ASPHALT CONCRETE
TRAFFIC INDEX	4.0

- (d) Cul de sac at end of subdivision street:

RIGHT OF WAY RADIUS	45 FEET MINIMUM
RADIUS OF PAVEMENT	35 FEET MINIMUM
RADIUS AT CURVE RETURNS	100 FEET MINIMUM
MAXIMUM GRADE	6 PERCENT

- (e) Cul de sac at end of common driveways providing access to Lots 1 through 15 and Lots 19 through 22:

RIGHT OF WAY RADIUS	45 FEET MINIMUM
RADIUS OF PAVEMENT	32 FEET MINIMUM
RADIUS AT CURVE RETURNS	100 FEET MINIMUM
MAXIMUM GRADE	6 PERCENT

- (f) The following shall apply to that portion of the subdivision street between Alta Mesa Road, CR# 577, and the common driveway providing access to Lots 1 through 5:

- CENTERLINE AND EDGE LINES SHALL BE PROVIDED.
- APPROPRIATE WARNING AND SPEED ADVISORY SIGNS SHALL BE PROVIDED.
- GUARDRAILS SHALL BE INSTALLED WHERE EMBANKMENT SLOPES OR NATURAL SLOPES EXCEED TEN (10) FEET IN HEIGHT: FACE OF RAIL TO BE AT LEAST 23 FEET FROM FACE OF DIKE.

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- 7. (Condition 7 from January 20, 1977 Conditions Deleted)
- 8. Prior to filing the final map the subdivider shall create an organization, capable in the opinion of County Counsel, of maintaining the subdivision street, common driveways, emergency access road, pedestrian trails, drainage facilities, and erosion control facilities. ✓
- 9. In addition to any work required to bring that portion of the subdivision street between Alta Mesa Road, CR# 577, and the common driveway providing access to Lots 1 through 5 into conformity with the minimum standards established as a condition of approval of the tentative map; the following shall be accomplished in accordance with the approved subdivision improvement plans:
 - (a) Repair/replace all areas of settlement or distressed pavement. Repair shall include necessary corrective measures to minimize reoccurrence of the maintenance problem. ✓
 - (b) The existing asphalt dike shall be repaired or replaced where necessary due to poor condition of the existing asphalt dike.
 - (c) Place asphalt concrete leveling course as necessary to achieve a uniform surface.
 - (d) Place a 1.5 inch thick asphalt concrete overlay.
 - (e) Place shoulder backing as necessary to maintain a full width shoulder at grade.
 - (f) The existing storm drainage system in this section of roadway is accepted in its present location and condition. Any costs involved in obtaining the necessary easements shall be borne by the subdivider including costs of condemnation.
- 10. An emergency access road connecting the easterly end of the subdivision street with Forest View Road, CR 551A, shall be improved in accordance with the following standards: ✓

Roadway width	12 feet minimum
Maximum allowable grade	20 percent
Surface type	4" rock minimum
Turnout spacing	500' maximum
Turnout width	8' minimum
Turnout length	50' minimum

Cross culverts shall accommodate a "10 year" storm with no head at inlet.

In lieu of developing subdivision improvement plans the

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emergency access road may be constructed under the direct supervision of a civil engineer. Upon completion of the road the responsible civil engineer shall file a brief report with the Department of Public Works verifying that---(1) The emergency access road has been completed in substantial compliance with the prescribed minimum standards and in accordance with established industry construction standards---and (2) Appropriate mitigation measures have been implemented to minimize soil erosion due to the road construction. Special Note: This condition applied on the understanding the subdivider owns the necessary right of way/easement and can construct and maintain the emergency access road without acquiring additional rights of way or easements. If the Planning Commission/Board of Supervisors have misunderstood the subdivider's ownership of the necessary right of way/easement, action on the tentative map shall be rendered null and void.

11. That a buffer zone be provided in future harvesting plans to minimize visual and noise pollution from the forested properties adjacent to the subdivision. ✓
12. Deleted.
13. Deleted.
14. Deleted.
15. That a 10 foot strip along the frontage on roadways be provided for utility easement. All roadways to be designated as public utility easements.
16. That recommendation of the Soils Conservation Service be sought and implemented to the satisfaction of that agency prior to filing of the final subdivision map.
17. That recommendations of the Division of Forestry included in letter of December 8, 1975 be adhered to or as amended by said agency (see letters dated November 21, 1975 and February 2, 1976).
18. Conditions of Approval to be considered as Deed Restrictions:
 - (1) That no logging trucks be allowed on Alta Mesa Road. ✓
 - (2) That bare earth areas be replanted with native or native-like grass, shrubs, and trees. ✓
 - (3) That all buildings be set back 30 feet from the top of an inclined slope of one and three-fourths to one.

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- (4) That all recommendations contained in the Soils and Geology Report prepared by Hollenbeck, McKay, and Associates be adhered to during building site preparation and structural building phase.
- (5) That building sites shall be largely upgraded and buildings be designed to conform to topography.
- (6) That an architectural review committee shall be established to evaluate and determine acceptability of design proposals based on criteria established by architecture and geologic consultants. (For additional criteria, see Page 126, 127, 141 and 142 of the EIR).
- (7) That all heavy equipment be restricted in its operation to areas specifically designated for building sites and access roads. ✓
- (8) That all building pads be installed with a low earth berm on the downslope side.
- (9) That all road and access repair or construction be conducted under the supervision of a registered civil engineer qualified in soils and/or hydrologic engineering. ✓
- (10) That storm run-off which is to be directed onto or across highly erodible slopes be contained in a pipe.
- (11) That all disturbed ground be reseeded after construction of homes and driveways.
- (12) That specifications and requirements for erosion control be contained in the covenants and restrictions, with the appropriate enforcement procedures, to ensure compliance to performance and maintenance standards.
- (13) That all chimneys be equipped with spark arresters.
- (14) That all plant material that is considered to be highly flammable, be restricted.
- (15) That off-road vehicle use be prohibited.
- (16) That in the event that archaeological materials are uncovered during grading or excavation activity, such work shall stop until archaeological consultation can take place and the appropriate County officials notified.

(17) Deed Restriction on Forest Lands:

- (a) That a deed restriction be placed on those lands proposed for inclusion in the Timber Management Plan, allowing residents of the Irish Beach and Mendocino Coast Developments (Units Number 1 through Number 9, and future units to be established in the Phase II area - south of the gulch) and their guest access to these lands for recreational purposes to the extent such use does not have a degrading effect on the timber resource. No structures shall be established to accommodate the recreational use. For the purpose of this restriction, recreation use shall mean: Use of the land for walking, hiking, picnicking and outdoor games, and wildlife observation and study. Areas subject to logging activities may be subject to restricted access during harvesting period. No fires shall be allowed in conjunction with recreational uses.
- (b) To aid in slash and fire fuel removal, the land owner or his assignee may desire to designate areas for firewood cutting by residents. If such activities are permitted, they shall be supervised by the owner or his assignee, assuring that equal and well distributed pressures are placed on the various species of trees on the site. The supervisor shall also assure that in addition to other wood cutting equipment that woodcutters have a fire extinguisher and a shovel easily accessible within the wood cutting area.