

# VANNUCCI MOMSEN MORROW

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An Association of Sole Practitioners

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March 19, 2025

Mendocino County Board of Supervisors  
501 Low Gap Road, Room 1010  
Ukiah, CA 95482  
[clinem@mendocinocounty.gov](mailto:clinem@mendocinocounty.gov)  
[mulherenm@mendocinocounty.gov](mailto:mulherenm@mendocinocounty.gov)  
[haschakj@mendocinocounty.gov](mailto:haschakj@mendocinocounty.gov)  
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[williamst@mendocinocounty.gov](mailto:williamst@mendocinocounty.gov)  
[bos@mendocinocounty.gov](mailto:bos@mendocinocounty.gov)

RE: Main St. Mendo LLC Appeal # 2024-0009 of Mendocino Historical Review Board  
Decision  
Address: 45040 Main St., Mendocino, CA APN 119-238-10  
Hearing Date: Potentially April 8, 2025

Dear Supervisors:

This law office represents Main St. Mendo LLC ("Main St") regarding the above referenced appeal of the Mendocino Historical Review Board's ("MHRB") denial of its application to demolish and replace an outdoor stairway on its property that is at the end of its useful life and a danger to the public. Main St requests that this letter and its exhibits be made part of the administrative record regarding this appeal.

## **Factual Background**

45040 Main St. ("the property") houses a two-story commercial building with Flow restaurant as the current upstairs tenant and Blooming as the ground floor tenant. The subject stairway was approved by the County in 1975 and is constructed inside the framing of an old water tower that was dismantled at that time and moved from another location in town. The 1975 construction used some of the materials from the old tower and some newer materials. Since 1975, the subject stairway has been the only public access to the second floor of the building. A

narrow indoor stairway exists inside the building that historically was used by employees of various businesses on the property which is not suitable for public use. The subject stairway was approved prior to the enactment of the Americans with Disabilities Act such that there is no access for disabled persons to the second floor of the building.

Importantly, the building, stairway, tower are not listed in the Inventory of Historic Buildings (Appendix 14 of the Mendocino Local Coastal Plan) such that these structures are not subject to the duties in the County Code requiring property owners to maintain, preserve, and repair. These sections only apply to buildings in the aforementioned inventory which also are considered buildings of historical significance or “landmark buildings” (See MCC Section 20.760.100) In September of 2024, in conjunction with subject application, Main St applied for a hardship waiver to the duty to repair and maintain under these code sections which the County Planning Director denied on the grounds that Main St’s property including the water tower and stairway are not subject to these duties to begin with and are in fact listed as a “non-historic resource.” [See denial letter from Planning Director Julia Krog attached as **EXHIBIT A**].

### **Procedural History**

In March 2022 Main St retained the services of a local architect to propose a new stairway and later applied to the MHRB to replace the existing water tower and stairway with a new design that was enclosed/protected from the weather. On December 5, 2022 the MHRB denied the application without prejudice and continued the hearing to February 2023 in part to consider a new design. Main St then paid its architect to prepare and submit a different design. On February 9, 2023 the MHRB denied the application largely based on the false premise that the project would destroy a structure of historical significance. One Board member also questioned whether the existing stairway actually needed to be replaced.

In response to the Board’s questioning whether the existing stairway is infirm, Main St paid Duncan Engineering to conduct a structural analysis and prepare a report in March 2023 which is included herewith as **EXHIBIT B**. Main St also hired Lake and Mendo Termite to inspect the property and prepare the report attached **EXHIBIT C**. Both reports were included with the instant application which now proposes a simpler design for the replacement staircase. The reports clearly state the existing water tower, and stairway are at the end of their useful life, are dangerous and need to be replaced. The reports mention dry rot, mold, termite and beetle infestations and several notable areas of deterioration including the base of first floor support beams that could easily be penetrated by a three-inch screwdriver. The Duncan Engineering report also mentions rusted out metal supports that cover even older rusted out supports.

Main St. Also included a construction estimate of the cost to remove and replace the existing water tower and stairway with a similar structure to show the MHRB that the cost of reconstruction is economically infeasible. This estimate of \$383,950 is included herewith as **EXHIBIT D**.

Last December, the MHRB denied Main St. Application again based on Board members and public speakers setting forth several proposed fixes of the existing staircase and water tower that were not supported by professional inspection, opinion or analysis. After this hearing and to

support this appeal, Main St prepared asked Duncan Engineering to repair a supplemental report analyzing these proposed fixes which is attached hereto as **EXHIBIT E**. Not surprisingly, none of the proposed fixes are feasible or practical.

### **Applicable Law and Analysis**

Land use decisions such as this permit application that apply existing standards to a specific real property and are determined by facts specific to that parcel are treated as “quasi-judicial” or adjudicatory in nature. *Horn v. County of Ventura* (1979) 24 C 3d 605, 613-614 While granting or denying the permit application is in the discretion of the Board of Supervisors, California law does set forth procedural due process requirements and other limitations on the decision makers such that they cannot base their decisions on their own personal whim. Specifically, the property owner applying for a use permit is entitled to a fair hearing with unbiased decision makers who do not prejudicially abuse their discretion. A prejudicial abuse of discretion is established if the decision makers do not proceed in a manner required by law, the decision is not supported by the findings, or the findings are not supported by the evidence. California Code of civil Procedure Section 1094.5(b)

A decision maker also violates the applicant’s due process rights if he or she considers evidence and information outside of the record. *Vollstedt v. City of Stockton* (1990) 220 Cal. App. 3d. 265, 272-276

An abuse of discretion is established if a court determines that the agencies’ findings are not supported by substantial evidence in light of the whole record. [Code of Civil Procedure Section 1094.5 (c)] “Substantial evidence” includes fact, a reasonable assumption predicated on fact, or an expert opinion supported by fact. “Substantial evidence” is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to or are not caused by physical impacts on the environment. The existence of a public controversy over the environmental impacts of a project shall not require the preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment. [See *McCann v. City of San Diego* (2021) 70 Cal App. 5<sup>th</sup> 51, 86]

By definition, the existing stairway is not historically significant and cannot be regulated as such notwithstanding that many locals may be sorry to see it replaced. Main St and its predecessors in interest had investment backed expectations when they purchased this property that did not list these structures on historical registers. These structures cannot be retroactively added to such registers now, after their useful life is over and replacement costs are nearly \$400,000. Main St is also entitled to fair and uniform enforcement of the County Code.

The reason that the Planning Director denied Main St. a hardship exemption is because the existing stairway is not historically significant and there is no law to be exempted from, yet the MHRB enforced the “Duty to Maintain” code sections anyway without Main St receiving any due process on its hardship claim. The Staff Report for the 2024 MHRB hearing mentions that the tower could be considered a “Historically Important” structure pursuant to MCC

20.760.025(C) in which case failure of the owner to perform "reasonable maintenance" can be grounds to deny a demolition permit. This analysis is questionable. While the tower may have originally been constructed in 1904, it is hardly the same "structure" now as it has moved across town and converted into a stairway. Newer 1970's materials were mixed with the old materials during this conversion. In any event, the property owners maintenance of the tower and stairs for over fifty years, since their 1970's installation, meets the reasonableness standard which is less onerous than the "Duty to Maintain" code sections.

Main St. should be treated like any other property owner seeking to demolish a structure that beyond its useful life and a hazard. Proposed fixes coming from public speakers or Board members without the input of licensed professionals who have inspected the existing structure and property are not substantial evidence that can be considered in light of the whole record which now includes contrary findings by an engineer. Forcing the property owner to keep this unsafe structure or pay hundreds of thousands of dollars to rebuild it the way it once was, would be local government at its worst- arbitrary, capricious and unbound by any rule of law. Main St respectfully requests that its appeal be granted, and its permit application be approved. Main St. is willing and able to bring any replacement stairway into ADA compliance as a condition of such approval.

Very truly yours,  
VANNUCCI MOMSEN MORROW

BY:

  
BRIAN S. MOMSEN

Enc.

## **EXHIBIT A**



# COUNTY OF MENDOCINO

## DEPARTMENT OF PLANNING AND BUILDING SERVICES

860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482  
120 WEST FIR STREET • FORT BRAGG • CALIFORNIA • 95437

JULIA KROG, DIRECTOR  
PHONE: 707-234-6650  
FAX: 707-463-5709  
FB PHONE: 707-964-5379  
FB FAX: 707-961-2427  
[pbs@mendocinocounty.gov](mailto:pbs@mendocinocounty.gov)  
[www.mendocinocounty.gov](http://www.mendocinocounty.gov)

VIA EMAIL

October 25, 2024

Main Street Mendo LLC  
Attn: Jennifer Raymond, Member  
PO Box 815  
Mendocino, CA 95460  
[vegicook@gmail.com](mailto:vegicook@gmail.com)

### Hardship Waiver Request for 45040 Main Street, Mendocino

Dear Main Street Mendo LLC,

The Department was provided a copy of the Hardship Waiver that you submitted to the Mendocino County Board of Supervisors on October 16, 2024. The Hardship Waiver submitted October 16, 2024 regarding the water tower at 45040 Main Street in Mendocino requests "approval of a Hardship Waiver from the Mendocino County Board of Supervisors to demolish this structure." The Hardship Waiver will be considered by the Mendocino County Board of Supervisors at their regular meeting on November 5, 2024 at 9 am or as soon thereafter as the item may be heard. For streaming options and a complete list of ways to interact with agenda items please visit: <https://www.mendocinocounty.org/government/board-of-supervisors/public-engagement>.

In reviewing your Hardship Waiver request and the requirements under County Code, the Department does not believe that the Hardship Waiver is the appropriate mechanism to achieve your desired result regarding the water tower at 45040 Main Street in Mendocino, as described in subsequent paragraphs. The purpose of this letter is to inform you of the County Code requirements surrounding Hardship Waivers and that the Department would be advising the Board of Supervisors that the requested Hardship Waiver cannot be granted under the provisions of County Code.

The Hardship Waiver process is discussed in Mendocino County Code (MCC) [section 20.760.100 Duty to Maintain](#). This section of County Code requires that "all buildings of historic significance (as described in the Inventory of Historic Buildings, Appendix 14, "Historic Structures" of the Mendocino County Local Coastal Plan dated August 17, 1983, as amended) in the Mendocino Historic Preservation District shall be preserved against decay, deterioration and structural defects." This section requires that it is the responsibility of property owners to ensure there is reasonable care, maintenance and upkeep consistent with the standards in subpart (A) to historic structures. Subpart (B) allows for a property owner to submit a Hardship Waiver and if granted by the Board of Supervisors provides "an ordinance enforcement waiver...for a specified time period of twelve (12) months with provisions for renewal."

In regards to the water tower at 45040 Main Street in Mendocino, the water tower is attached to a Category IVb structure as listed in the Inventory of Historic Buildings, which is considered non-historic and would not be subject to the Duty to Maintain provisions under MCC section 20.760.100. In addition, the remedy of subpart (B) only provides that the Board may issue an



"ordinance enforcement waiver" for a specified time period of twelve months, which can be renewed. This section does not provide for a remedy of demolition of a building. The only remedy is that the County would be unable to enforce any duty to maintain a structure for a twelve-month period. A Hardship Waiver under MCC section 20.760.100 does not supersede the requirement for a property owner to obtain a permit from the Mendocino Historical Review Board pursuant to MCC section 20.760.030 for work in Historical Zone A requiring approval, which includes demolition of certain structures. As such, the Department will be recommending that the Board of Supervisors determine that the existing water tower is not eligible for a Hardship Waiver and that the demolition of the water tower is not a remedy provided for by MCC section 20.760.100.

Staff notes that you currently have a Mendocino Historical Review Board (MHRB) application submitted to demolish the water tower and reconstruct a staircase in its place (MHRB\_2024-0009). It is recommended that you continue to pursue this MHRB application, as approval of a MHRB permit is the only method to obtain authorization to demolish the water tower. Please note that should the MHRB deny your application [MCC section 20.760.072](#) provides an option for an applicant to file an appeal with the Mendocino County Board of Supervisors within 10 calendar days of such action. Please note that any appeal submitted to the Mendocino County Board of Supervisors must demonstrate how the denied proposal would conform with [MCC section 20.760.065](#).

Should you have any questions regarding this letter please contact me at (707) 234-6650 or via email at [krogj@mendocinocounty.gov](mailto:krogj@mendocinocounty.gov).

Sincerely,



Julia Krog  
Director

Cc: Darcie Antle, Chief Executive Officer  
Ted Williams, 5<sup>th</sup> District Supervisor  
Matthew Kiedrowski, Deputy County Counsel  
Liam Crowley, Planner II

## **EXHIBIT B**



# Duncan Engineering Inc.

PO Box 138, Mendocino CA 95460  
Ph (707) 964-9604  
Fax (707) 964-0998  
DEI Job No. 23-114

May 18, 2023

Main Street Mendo LLC  
Attn Jennifer Raymond

Re: **Engineering Assessment**  
Water Tower  
45040 Main St  
Mendocino, CA

This assessment will document an existing wood structure at the above noted location. I made two site visits to assess the structural condition of the existing 'water tower' building and performed analysis in the office. The building has three elevated levels (two floors and a roof above the ground floor). The structure does not currently support a water tank but does provide second floor access to adjacent restaurant (PLATE 1).

## DESCRIPTION OF BUILDING

The building is approximately 20' square in plan at the base and about 30' tall. The construction consists of various sized wood members connected with steel plates and bolts. The tower tapers towards the top. The uppermost level has a waterproof member to act as a roof while the rest of structure is open.

The structure is a braced wood frame with steel plates and bolts connecting them together at the joints. The tower has three elevated levels above the ground. In general, the metal members are rusty and there are many areas where the wood has visible decay. Generally, the decay is at the bottom ends of members. Note three of the four corner columns in the first floor have measurable decay. A stair runs on the east and north sides of each landing providing access to the level above. The first floor and second floor are open to the public. A locked gate prevents public access to the levels above the second floor.

The tower sits on a concrete slab which also acts as the tower's foundation. No further information is available regarding the foundation (ie reinforcement, thickness, embedment).

The main framing members of the tower (columns, beams, cross bracing) appear to be large old growth redwood members- these are not typically available for replacement. The landings and stair framing appear to be of commonly available framing members. The connection between the stair framing consists of light-gauge metal connectors which are showing rust.

In general, the exterior arrangement of the columns beams and bracing are regular and symmetrical. The platforms that create the levels and the stairs are framed irregularly.

## ITEMS OBSERVED IN THE FIELD

There are numerous instances where the existing wood members have decay/dryrot present. This decay makes it difficult to assign a strength to these members as some have minor decay while others have large amounts. Of particular concern are the bottoms of the first-floor

# Duncan Engineering Inc.

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Fax (707) 964-0998

posts. Three of the four corner posts had enough decay to allow the penetration of a 3" screw driver (PLATE 2) into the wood (see Plate 3). The northwest, southwest and southeast corner posts have severe decay. The intermediate posts (or middle posts) on the east and west side rest on corbels. The east corbel rests on decayed wood and is almost floating in air there is so little wood left.

All the steel plates that connect the braces and columns have some rust. It appears that some of these plates may have been installed over older steel plates. It is likely there is some undiscovered decay under these connector plates as the plates tend to trap water and cause decay.

The platform and stair framing has a lot of decay. The stair framing consists of mostly 2x framing members. The stair from the second level to the third level seems to have a lot of decay and should not be used without immediate repair.

The roof membrane appears to have failed. Decay exists in the roof framing.

## HISTORY OF TOWER

The tower was relocated from Mendosa's (a local business several blocks away) in 1976. Also, there may be a buried drain line that runs below the tower's foundation.

## CURRENT BUILDING USE

The current building's second level serves as an entry to the adjacent restaurant. Levels above (levels three and roof level four) are gated off and do not allow access to the general public. The topmost level has a roofing membrane that protects the framing below but the rest of the structure is exposed to the elements. It is important to note that building code requires exits and restaurant floors be designed for 100 psf live load. Roofs only need to carry 20 psf. If the level above the second floor was ever opened for public use, the framing would be inadequate.

## OFFICE ANALYSIS

In general, a building is supposed to resist gravity and lateral loads. Gravity loads represent its' own weight (or dead load) and the intermittent occupant loads (or live loads). The lateral loads represent wind and earthquake forces. The building code for exits and restaurants require a 100 pounds per square foot (psf) live load. Attics only require 10 psf. The stairs to the second floor and the second-floor level should support 100 psf.

A preliminary lateral assessment found that if the wood members were in good condition, the building could withstand current code wind/earthquake forces. But, the wood members are not in good condition so their full strength cannot be relied upon.

A preliminary assessment of the second-floor framing was done. Several members are above their allowable stress limits (See plate 4). Additional posts or bigger members could be installed structurally to enhance the capacity. Levels above two were not analyzed as these are not open to the public. Note there could be some code triggers if the second-floor framing was replaced-an architect could advise on this.

# Duncan Engineering Inc.

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## CONCLUSION & RECOMENDATIONS

The tower building is at the end of its' useful life. The building's use should be phased out or the tower should be rebuilt.

If the tower is rebuilt, additional analysis and design should be done to insure the stairs and landings meet current building code requirements. The biggest challenge would be finding old growth redwood 10"x square columns to replace the existing columns. Note lowest level has 10" square columns, upper levels have 8" square. Alternatively, the existing column ends could be cut off to eliminate portions of decayed wood (tower would end up shorter and smaller). If the tower were to be rebuilt, new foundations should be installed and new steel plates made (or existing plates sandblasted and repaired). The existing stair to the second level would need to be rebuilt per the current code. The access stairs to the second and third level could be removed and just replaced with a ladder. Additionally, since no information about the foundation is known, the four corner columns should have new footings installed.

In general, if the tower's continued existence is desired, the tower could be rebuilt exactly as is (with modified stairs), or a similar structure built in its place. If the tower were rebuilt, then the structure should be completely disassembled and every member examined and replaced as necessary. A supply of old growth redwood members would need to be secured. Alternatively, a new tower could be constructed and would allow variation in member sizes and geometry. In any case, the stair to the second floor would need to be designed to be code compliant with the current building code.

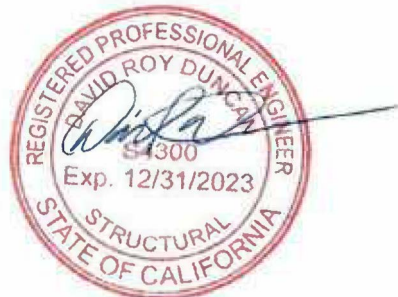
## LIMITATIONS

It is assumed that spot checking wood members represent the overall condition of the members. A full blown rebuild plan is not enclosed as it would be beyond the scope of this assessment.

Lastly, an architect should be consulted about options and requirements when rebuilding the second floor access.

If there are any questions, please do not hesitate to call.

David Duncan



# Duncan Engineering Inc.

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PLATE 1- SOUTH ELEVATION OF WATER TOWER BUILDING  
Showing ground floor= Level 1, Level 2, Level 3 and roof=Level 4

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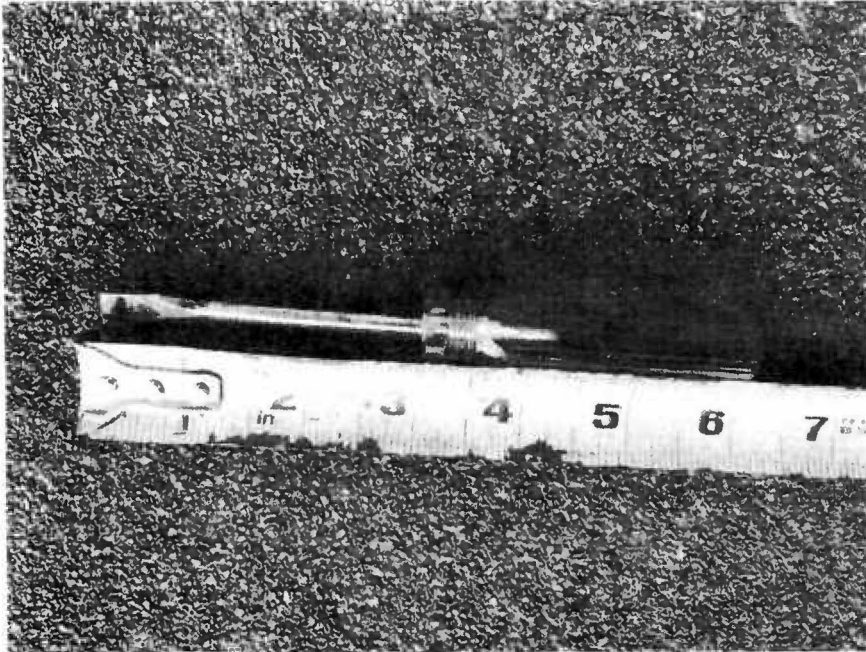


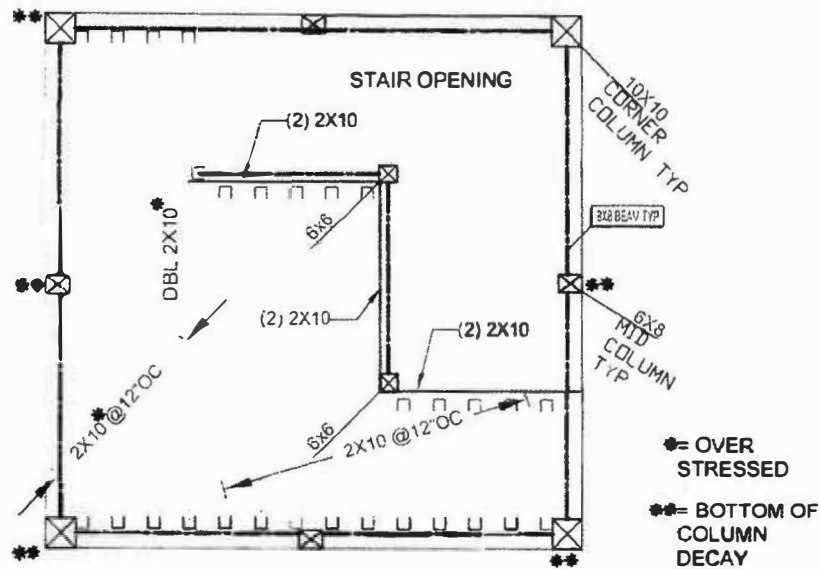
PLATE 2- 3" SCREW DRIVER-used to probe wood



PLATE 3-SOUTH-EAST COLUMN WITH DECAY (3" SCREW DRIVER EMBEDDED)

# Duncan Engineering Inc.

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## SECOND FLOOR FRAME PLAN

SCALE: 1/4" = 1' - 0"

PLATE 4- SECOND FLOOR FRAME

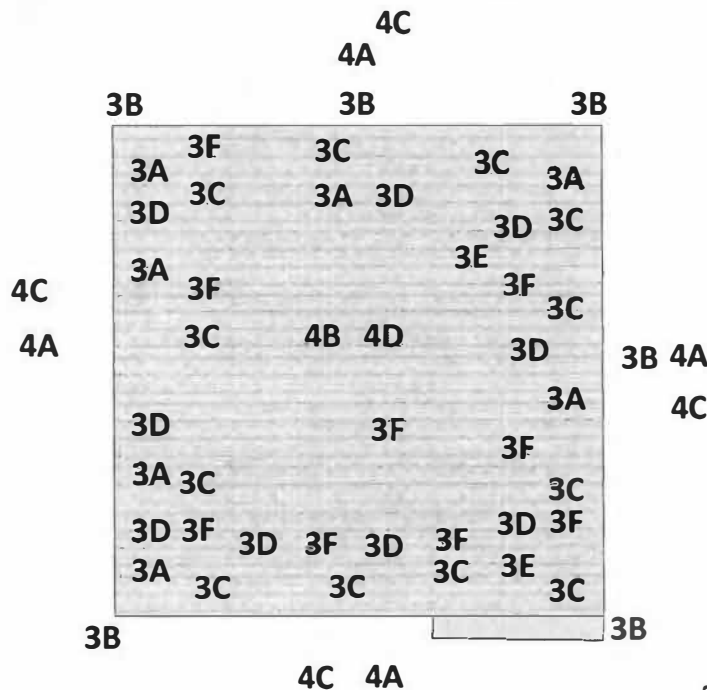
## **EXHIBIT C**



# WOOD DESTROYING PESTS AND ORGANISMS INSPECTION REPORT

#: 20230051

BUILDING NO. 45040	STREET MAIN STREET	CITY MENDOCINO	ZIP 95460	Date of Inspection 02/15/2023	# OF PAGES 1 of 5
<b>Mendo Lake Termite Control</b> P.O. Box 329 Fort Bragg, CA 95437 PH# (707) 964-7909 PH# (707) 462-7819 PR 5675					
Ordered by: JUDY STEELE 45040 MAIN STREET MENDOCINO, CA 95460 PH.# 707-937-2216		Property Owner and/or Party of Interest MAIN STREET MENDO, LLC C/O JUDY STEELE 45040 MAIN STREET MENDOCINO, CA 95460 FAX: 707-937-2216		Report sent to:	
COMPLETE REPORT <input checked="" type="checkbox"/>		LIMITED REPORT <input type="checkbox"/>		SUPPLEMENTAL REPORT <input type="checkbox"/>	
REINSPECTION REPORT <input type="checkbox"/>		GENERAL DESCRIPTION: Three story water tower with no roofing.			
Inspection Tag Posted: Not Practical To Post				Other Tags Posted:	
An inspection has been made of the structure(s) on the diagram in accordance with the the Structural Pest Control Act. Detached porches, detached steps, detached decks and any other structures not on the diagram were not inspected.					
Subterranean Termites <input type="checkbox"/> Drywood Termites <input checked="" type="checkbox"/> Fungus/Dryrot <input checked="" type="checkbox"/> Other Findings <input checked="" type="checkbox"/> Further Inspection <input type="checkbox"/>					
If any of the above boxes are checked, it indicates that there were visible problems in accessible areas. Read the report for details on checked items					
Key: 1 = Subterranean Termites 2 = Drywood Termites 3 = Fungus/Dryrot 4 = Other Findings 5 = Further Inspection					



Inspected By CLINTON GIBNEY License No. FR 50778 Signature Clint Gibney

You are entitled to obtain copies of all reports and completion notices on this property report to the Structural Pest Control Board during the preceding two years. To obtain copies contact: Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, California 95815-3831.

NOTE: Questions or problems concerning the above report should be directed to the manager of the company. Unresolved questions or problems with services performed may be directed to the Structural Pest Control Board at (916) 561-8708, (800) 737-8188 or www.pestboard.ca.gov. (t1a: 4/27/17) 43M-41 (Rev. 10/01)

BUILDING NO.	STREET	CITY	ZIP	Date of Inspection	NUMBER OF PAGES
45040	MAIN STREET	MENDOCINO	95460	02/15/2023	2 of 5

## NOTES, CAUTIONS AND DISCLAIMERS

**NOTICE:** Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company.

*The owner of this structure has certain obligations regarding maintenance, and pertaining to the deterrence of wood destroying organisms. Maintenance procedures include; but are not limited to: Reasonable cleaning, upkeep of roofs, gutters and downspouts; painting and sealing of exposed surfaces; caulking about doors and windows or grouting about commodes, tub and shower enclosures; storing materials one foot away the structure's foundations; providing adequate ventilation, maintaining proper drainage away from structure (including sprinkler systems); keeping soil levels below the top of foundations and prohibiting earth contact with wood components of the structure(s).*

*This company will reinspect repairs done by others within four months of the original inspection. A charge, if any, can be no greater than the original inspection fee for each inspection. The reinspection must be done within ( 10 ) working days of request. The reinspection is a visual inspection and if inspection of concealed areas is desired, inspection of work in progress will be necessary. Any guarantees must be received from parties performing repairs. Authority cited: Section 8525, Business and Professions Code. Reference: Section 8516, Business and Professions*

This is a report of an inspection for wood destroying pests and organisms of an unoccupied and unfurnished structure with no floor coverings. This inspection was of only the visible and accessible areas of the structure. This inspection report does not reveal building code compliance or non-compliance. For information about code compliance, a company that makes structural home inspections should be engaged. We have not inspected areas under furnishings, appliances, storage, or floor coverings, nor did we inspect inside finished walls and ceilings. Inspection of these areas is not practical. If inspection of any of these areas is requested, we would perform that inspection for an additional charge. We did not inspect electrical heating or mechanical systems nor did we inspect the plumbing systems except as may be specifically noted below. Inspection of these systems is beyond the scope of this inspection report. **NOTE: THE EXTERIOR SURFACE OF THE ROOF WAS NOT INSPECTED. IF YOU WANT THE WATER TIGHTNESS OF THE ROOF DETERMINED, YOU SHOULD CONTACT A ROOFING CONTRACTOR WHO IS LICENSED BY THE CONTRACTORS' STATE LICENSE BOARD.**

**NOTE:** Molds, sometimes called mildew, are not wood destroying organisms. Branch 3 licensees do not have a duty under the Structural Pest Control Act and related regulations to classify molds as harmful to human health or not harmful to human health. This does not modify the Structural Pest Control Act or related regulations.

### ARBITRATION OF DISPUTES

**BY RELYING ON THIS WOOD DESTROYING ORGANISMS REPORT, YOU AGREE THAT ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO MENDO LAKE TERMITE CONTROL'S INSPECTION AND/OR THIS REPORT SHALL BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.**

**MENDO LAKE TERMITE CONTROL'S PERFORMANCE OF THE RECOMMENDATIONS DESCRIBED ABOVE IS GOVERNED BY THE TERMS OF A WORK AUTHORIZATION, WHICH PROVIDES THAT ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO MENDO LAKE TERMITE CONTROL'S WORK SHALL BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.**

BUILDING NO.	STREET	CITY	ZIP	Date of Inspection	NUMBER OF PAGES
45040	MAIN STREET	MENDOCINO	95460	02/15/2023	3 of 5

**Mendo Lake Termite Control can perform all recommended TREATMENTS ONLY as noted in this report. Repair prices are estimates only and do not include further conditions found during repair process and must be completed by another. Mendo Lake Termite Control can not guarantee contractor pricing as prices vary from company to company.**

**Price given by Mendo Lake Termite Control for fumigation is an estimate only. Firm price to be given by Branch 1 Fumigation Contractor.**

**SECTIONED REPORTING:** This is a separated report which is defined as section 1 or section 2 conditions evident on the date of this inspection. Section 1 contains items where there is evidence of active infestation, infection or conditions that have resulted in or from infestation or infection on the date of inspection. Section 2 items are conditions deemed likely to lead to infestation or infection but where no visible evidence of such was found on the date of inspection. Further inspection items are defined as recommendations to inspect area(s) which during the original inspection did not allow the inspector access to complete his inspection and cannot be defined as Section 1 or Section 2.

### 3. FUNGUS OR DRYROT

#### ITEM NO. 3A

(Section 1)

FINDING AND  
RECOMMENDATION: 3A

Select decking at first level deck was noted damaged by fungus and old drywood termites and wood boring beetles with the substructure or portions of substructure at this deck/porch mostly inaccessible due to height and/or being blocked by skirting.

Appropriate trades to remove and replace damaged and infected timbers with new material. If further is wished remove decking at random and/or remove skirting to check the substructure/s for further conditions and issue a supplemental report if conditions are found with recommendation and price to complete any items.

#### ITEM NO. 3B

(Section 1)

FINDING AND  
RECOMMENDATION: 3B

Select large dimension support beams, diagonal supports and pads was noted damaged by fungus and wood boring beetles.

Appropriate trades to remove and replace fungus damaged and badly wood boring beetle infested timbers with new material. Check for further conditions and issue a supplemental report if conditions are found.

#### ITEM NO. 3C

(Section 1)

FINDING AND  
RECOMMENDATION: 3C

Second level plywood subfloor, tongue and groove decking and select railing was noted damaged by fungus and dampwood termites.

Appropriate trades to remove and replace any damaged and infected timbers with new material. Check for further conditions and issue a supplemental report if conditions are found. If damage is in roof areas roofing contractor to check and certify.

#### ITEM NO. 3D

(Section 1)

FINDING AND  
RECOMMENDATION: 3D

Third level plywood subfloor where marked on diagram was noted fungus damaged.

Appropriate trades to remove and replace damaged subfloor with new material. Check for further conditions and issue a supplemental report if conditions are found.

BUILDING NO.	STREET	CITY	ZIP	Date of Inspection	NUMBER OF PAGES
45040	MAIN STREET	MENDOCINO	95460	02/15/2023	4 of 5

**ITEM NO. 3E**

(Section 1)

(Section 1)

FINDING AND  
RECOMMENDATION: 3E

Select step treads, landing and framing at internal stairway where marked on diagram was noted fungus damaged.

Appropriate trades to remove and replace damaged step treads, landing and framing with new material. Check for further conditions and issue a supplemental report if conditions are found.

**ITEM NO. 3F**

(Section 1)

FINDING AND  
RECOMMENDATION: 3F

Select rafter tails, roof decking and plywood shear at top level where marked on diagram was noted fungus damaged.

Appropriate trades to remove and replace damaged rafter tails, roof decking and plywood shear with new material. Check for further conditions and issue a supplemental report if conditions are found.

**4. OTHER FINDINGS**

**ITEM NO. 4A**

(Section 2)

FINDING AND  
RECOMMENDATION: 4A

Select metal fasteners/flashings and/or brackets were noted in rusted condition.

Initiate repairs as necessary, repaint and/or seal to extend lifespan of metal components.

**ITEM NO. 4B**

(Section 2)

FINDING AND  
RECOMMENDATION: 4B

Evidence of past repair was noted to select beams and joisting.

If further is wished on these repairs the contractor who initiated them to be consulted. NOTE: Mendo Lake Termite Control does not warranty or guarantee the work done by others.

**ITEM NO. 4C**

(Section 2)

FINDING AND  
RECOMMENDATION: 4C

Exterior framing was noted of barewood type and in weathered condition.

Repaint and seal siding and maintain for moisture protection.

**ITEM NO. 4D**

(Section 2)

FINDING AND  
RECOMMENDATION: 4D

This water tower lacks a waterproof roof surface.

We recommend a roof installation to prevent water intrusion.

BUILDING NO.	STREET	CITY	ZIP	Date of Inspection	NUMBER OF PAGES
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## COMMENTS AND OTHER INFORMATION

CALIFORNIA STATE LAW REQUIRES THAT YOU BE GIVEN THE FOLLOWING INFORMATION: "caution pesticides are toxic chemicals". Structural pest control operators are licensed and regulated by the structural pest control board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that based on existing scientific evidence there are no appreciable risks if proper use conditions are followed or that risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

If within twenty-four hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center at: (800) 222-1222 and your pest control operator immediately.

For further information, contact any of the following:

Your Pest Control Company (707) 964-7909

For Health questions - Health Department (800) 734-7793

For Application information - County Agriculture Department (707) 463-4208

For Regulatory information - Structural Pest Control Board (916) 561-8704

2005 Evergreen Street, Ste. 1500, Sacramento, Ca. 95815

PESTICIDES(S) TO BE USED:

ACTIVE INGREDIENTS:

**Mendo Lake Termite Control**

P.O. Box 329  
Fort Bragg, CA 95437  
PH# (707) 964-7909 PH# (707) 462-7819

**INVOICE**

**Invoice Number:**  
20230051  
**Invoice Date:**  
02/15/2023

**Bill To:**

JUDY STEELE  
45040 MAIN STREET  
MENDOCINO, CA 95460  
PH.# 707-937-2216

**Address of Property Inspected:**

45040 MAIN STREET  
MENDOCINO, CA 95460

**Invoice Description:**

**Date of Inspection:** 02/15/2023

Termite Inspection Report Fee: \$ 275.00 *(Termite work not included.)*  
(CC by: Judith Steele.) Payments: \$ 275.00 **Date:** 02/16/2023

**TOTAL DUE: \$ 0.00**

**Terms:** All inspection fees and treatment costs are due at time of service.

**Billing Charges:** A billing charge of \$50 will be assessed if payment is not received on date of service.

**NOTICE TO OWNER**

Under the California Mechanics Lien Law any structural pest control company which contracts to do work for you, any contractor, subcontractor, laborer, supplier or other person who helps to improve your property, but is not paid for his or her work or supplies, has a right to enforce a claim against your property. This means that after a court hearing, your property could be sold by a court officer and the proceeds of the sale used to satisfy the indebtedness. This can happen even if you have paid your structural pest control company in full if the subcontractor, laborers or suppliers remain unpaid.

To preserve their right to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are required to provide you with a document entitled "Preliminary Notice". Prime contractors and laborers for wages do not have to provide this notice. A Preliminary Notice is not a lien against your property. Its purpose is to notify you of persons who may have a right to file a lien against your property if they are not paid.



# Work Authorization

Page 1 of 3 pages

Prepared by

Report # : 20230051

## Mendo Lake Termite Control

### ADDRESS OF PROPERTY INSPECTED

ADDRESS OF PROPERTY INSPECTED:

45040 MAIN STREET, MENDOCINO 95460

DATE OF  
INSPECTION

02/15/2023

Ordered by:

JUDY STEELE

45040 MAIN STREET

MENDOCINO, CA 95460

PH.# 707-937-2216

Property Owner and/or Party of Interest

MAIN STREET MENDO, LLC

C/O JUDY STEELE

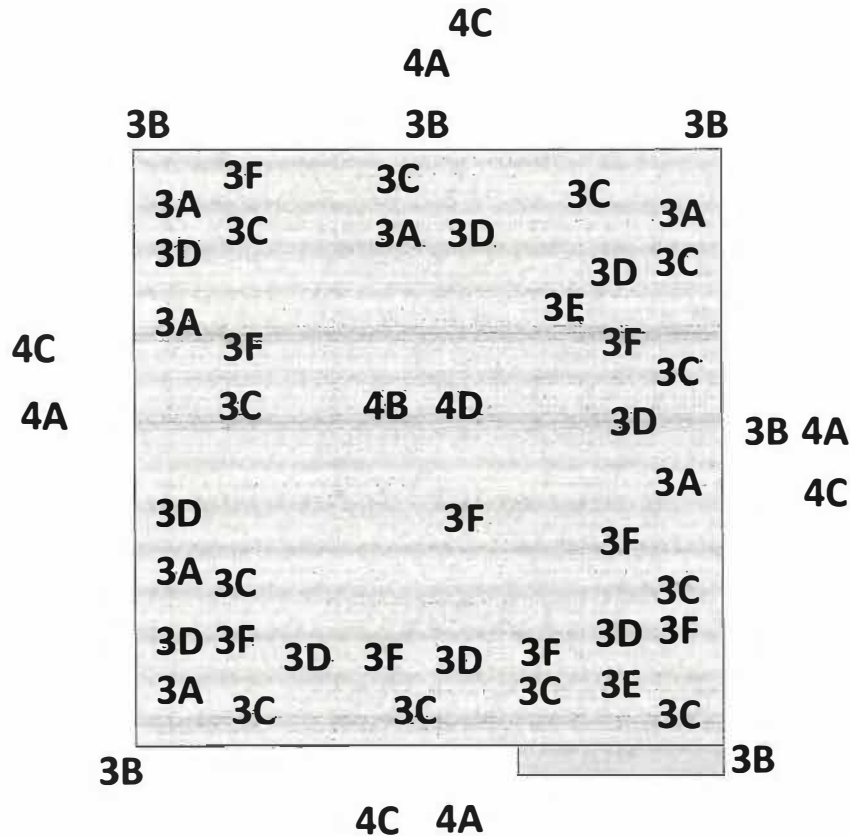
45040 MAIN STREET

MENDOCINO, CA 95460

Report sent to:

An inspection has been made of the structure(s) on the diagram in accordance with the the Structural Pest Control Act. Detached porches, detached steps, detached decks and any other structures not on the diagram were not inspected.

NOTE: If diagram is not displayed here, please see the report.







# Work Authorization

Prepared by

Page 2 of 3 pages

Report # : 20230051

## Mendo Lake Termite Control

ADDRESS OF PROPERTY INSPECTED:

45040 MAIN STREET, MENDOCINO 95460

DATE OF  
INSPECTION

02/15/2023

### Section 1

3A	=	3500.00	P
3B	=	25000.00	P
3C	=	7500.00	P
3D	=	4000.00	P
3E	=	8000.00	P
3F	=	7500.00	P

### Section 1 Totals

Total using primary recs \$ 55500.00

### Section 2

4A	=	Appropriate Trades
4B	=	Contractor
4C	=	Appropriate Trades
4D	=	Roofer

### Section 2 Totals

Total using primary recs \$ 0.00

Cost of all Primary Recommendations \$ 55500.00

NOTE: Damage found in Inaccessible Areas may require a Supplemental report and/or Work Authorization, or may require amendments to this Work Authorization.

### NOTICE TO OWNER

Under the California Mechanics Lien Law any structural pest control company which contracts to do work for you, any contractor, subcontractor, laborer, supplier or other person who helps to improve your property, but is not paid for his or her work or supplies, has a right to enforce a claim against your property. This means that after a court hearing, your property could be sold by a court officer and the proceeds of the sale used to satisfy the indebtedness. This can happen even if you have paid your structural pest control company in full if the subcontractor, laborers or suppliers remain unpaid.

To preserve their right to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are required to provide you with a document entitled "Preliminary Notice". Prime contractors and laborers for wages do not have to provide this notice. A Preliminary Notice is not a lien against your property. Its purpose is to notify you of persons who may have a right to file a lien against your property if they are not paid.



# Work Authorization

Page 3 of 3 pages

Prepared by

Report #20230051

## Mendo Lake Termite Control

### ADDRESS OF PROPERTY INSPECTED

ADDRESS OF PROPERTY INSPECTED:	CITY	DATE OF INSPECTION
45040 MAIN STREET, MENDOCINO 95460		02/15/2023

Cost of all Primary Recommendations \$

55500.00

**NOTE: Damage found in Inaccessible Areas may require a Supplemental report and/or Work Authorization, or may require amendments to this Work Authorization.**

1. If FURTHER INSPECTION is recommended, if additional work is required by any government agency, or if additional damage is discovered while performing the repairs, this company reserves the right to increase prices.
2. In the event that legal action is necessary to enforce the terms of this contract, reasonable attorney's fees may be awarded to the prevailing party.
3. MLTC will use due caution and diligence in their operations but assume no responsibility for matching existing colors and styles, or for incidental damage to tile, concrete, stone, walkways, floors, roof coverings, Tv. Antennas, solar panels, rain gutters, plant life, or paint.
4. This report is limited to the accessible areas shown on the diagram. Please refer to the report for the areas not inspected.
5. This contract is due and payable at time of service and appointment for service must be secured by credit card. Credit cards will not be charged if payment is made in full by other payment method at time of service. The persons signing this contract are responsible for payment, and if fees are not received by service date and/or are invalid a billing charge of \$50 will be added to the amount due. A 50% deposit is required 30 days prior to fumigation with a non-refundable \$1500 cancellation/re-scheduling fee assessed if cancelled or re-scheduled with less than 14 days notice.
6. If this agreement includes a charge for opening an area for FURTHER INSPECTION, it is for opening the area only and does not include making additional repairs, if needed, nor does it include replacing removed or damaged floor coverings, wall coverings, or painted exposed surfaces unless specifically stated.
7. Please enter contact information for scheduling of work to be completed:

Contact Name: \_\_\_\_\_

Phone Number and/or E-mail: \_\_\_\_\_

8. Please list billing information below:

Bill to: Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**REQUIRED:** This company is authorized to perform items: \_\_\_\_\_

Cost of work authorized: \$ \_\_\_\_\_

<b>OWNER /AGENT SIGNATURE:</b>	DATE:
X _____	_____
X _____	_____

Mendo Lake Termite Control
BY: _____
ESCROW CO: _____
ESCROW NO: _____

## **EXHIBIT D**

William F. Pell Construction Lic #680114

43450 Little Lake Rd  
Mendocino, CA 95460 US  
wpell@mcn.org

Estimate

ADDRESS

Judy Steel  
Main Street Mendo LLC  
45040 Main Street  
Mendocino Ca.  
95460

ESTIMATE 1023  
DATE 08/26/2023

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Estimate	Estimated cost for removal of water tower and rebuild. Complete removal of existing tower. Haul off all debris. Rebuild with same size timbers unless engineering requires different sizes. Same foot print and elevations.	1	383,950.00	383,950.00
TOTAL					\$383,950.00

Thank you

Accepted By

Accepted Date

## **EXHIBIT E**

# Duncan Engineering Inc.

PO Box 1348, Mendocino, CA 95460  
Ph (707) 964-9604  
Fax (707) 964-0998  
DEI Job No. 23-114

January 23, 2025

Main Street Mendo LLC  
Attn Jennifer Raymond

Re: **Engineering Assessment-Supplemental**  
Water Tower  
45040 Main St  
Mendocino, CA

A structural assessment for the above noted structure was made in May of 2023. The items in that original assessment are still relevant and valid. A picture of the Water Tower is enclosed in Plate 1.

The current owners are proposing to remove the existing tower and replace with a new structure that could provide building code compliant ADA access to the second floor. During the Mendocino Historical Review Board meeting several board members objected to the tower's removal and suggested some possible repairs instead.

Below is a brief review of the suggestions and their usefulness:

## Epoxy Repair

It was suggested epoxy could be used to fill in the voids left by the decayed wood. Several products exist to repair wooden pilings. This would not work with the rectangular members of the water tower. These repairs use a circular sleeve that is left in place the sleeve extends above and below the damaged area of the vertical piling. Note most wood pilings decay in the middle (at the splash zone) so running a sleeve above and below the decay is viable. The decay on most of the members at the water tower occur at the ends and connection points which do not lend themselves to an overlapping sleeve. Further, there are limits to the amount of wood that can be substituted for the epoxy. There is currently no product that I am aware that could be used to repair this structure.

## Piece Replacement

It was suggested to only replace the decayed members. Virtually every member I examined had decay. To replace pieces with decay would entail procuring new wood members for the tower. The water tower is exposed to weather so would need decay resistant lumber. The options would be pressure treated wood (not historical) or use Old Growth Redwood. As an engineer working on the coast for over 20 years I have occasionally run into a project where a client procured Old Growth Redwood but these were one-off instances that usually involved a personal acquaintance. There are currently no regular sources of commercially available Old Growth Redwood.

## Steel Support Structure

It was suggested a steel skeleton could be constructed around the existing water tower to support the decayed wood members. This could theoretically be done but would have many

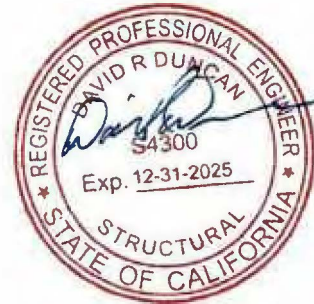
# Duncan Engineering Inc.

PO Box 1348, Mendocino, CA 95460  
Ph (707) 964-9604  
Fax (707) 964-0998

practical drawbacks. Although steel is stronger than wood, a certain amount of cross section would be required. Tubes of approximately 6" diameter would be required. They would crisscross the structure and probably obscure any view. Steel would need to be repainted frequently to prevent rust. The cost would be astronomical. And, the steel would not be historically accurate.

If there are any questions, please do not hesitate to call.

David Duncan





# Duncan Engineering Inc.

PO Box 1348, Mendocino, CA 95460  
Ph (707) 964-9604  
Fax (707) 964-0998



PLATE 1- SOUTH ELEVATION OF WATER TOWER BUILDING  
Showing ground floor= Level 1, Level 2, Level 3 and roof=Level 4