

CALIFORNIA COASTAL COMMISSION

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Request Filed: June 4, 1999
 Staff: Jack Liebster
 Staff Report: June 24, 1999
 Hearing Date: July 15, 1999
 Commission Action:

STAFF REPORT: REVOCATION REQUEST

APPLICATION NO.: 1-98-100

APPLICANT: CALIFORNIA DEPARTMENT OF TRANSPORTATION,
 DISTRICT 3

PROJECT LOCATION: Highway One Noyo River Bridge near the south end of the City of Fort Bragg, Mendocino County.

PROJECT DESCRIPTION: Replace the existing two-lane, 36-foot-wide Highway One Noyo River Bridge with an 86.6 ft.wide, 875-ft.-long, triple cast-in place concrete box girder bridge. The proposed bridge will accommodate four 12 ft lanes, a 12 ft. median, 8 ft outside shoulders with approximately 5.5 ft sidewalks and concrete safety railing placed on both sides. Construction of the bridge will require the installation and subsequent removal of temporary falsework and trestles involving (1) the driving of approximately 224 temporary piles displacing approximately 2000 sq. ft. of the river and, (2) constructing an approximately 30,000-square-foot temporary trestle for construction access.

INDIVIDUAL REQUESTING REVOCATION: Vince Taylor, Dharma Cloud Foundation

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission deny the request to revoke permit 1-98-100 because the revocation request does not establish the grounds required by Section 13105 of the Commission's regulations. (Motion on Page 3).

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

1. PROCEDURAL NOTE

The Commission's regulations pertaining to revocation are included in their entirety in Exhibit 1. In pertinent part, they state the grounds for the revocation of a coastal development permit as follows:

Section 13105. Grounds for revocation of a permit shall be:

- a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application

Section 13108 describes the procedures to be followed:

- a) At the next regularly scheduled meeting, and after notice to the permittee and any persons the executive director has reason to know would be interested in the permit or revocation, the executive director shall report the request for revocation to the Commission with a preliminary recommendation on the merits of the request.
- b) The person requesting the revocation shall be afforded a reasonable time to present the request and the permittee shall be afforded a like time for rebuttal.
- c) The Commission shall ordinarily vote on the request at the same meeting, but the vote may be postponed to a subsequent meeting if the Commission wishes the executive director or the attorney general to perform further investigation.
- d) a permit may be revoked by a majority vote of the members of the Commission present if it finds that any of the grounds specified in Section 13105 exist. If the Commission finds that the request for revocation was not filed with due diligence, it shall deny the request.

2. STAFF NOTE

A revocation of a permit removes a previously granted permit. If the Commission revokes the permit and the applicant wishes to pursue the project, a new application is required.

Because of the potential impacts revocation could have on an applicant who may have acted in reliance on the permit, the grounds for revocation are necessarily narrow. The rules of revocation, for instance, do not allow the Commission to make a second judgement on a previously issued permit based on information that comes into existence after the granting of the

permit, no matter how compelling that information might be. The grounds for revocation are, of necessity, confined to information in existence at the time of the Commission's action.

This revocation request is based on subsection (a) Section 13105 of the Commission's regulations. The three elements of Section 13105(a) that must be proved before a permit can be revoked are:

- 1) That the applicant provided inaccurate, erroneous or incomplete information,
- 2) that if the Commission had known of the information, it would have denied the permit or imposed different conditions, and
- 3) that inaccurate, erroneous or incomplete information was supplied intentionally.

In addition to these three elements, Section 13108(d) establishes that the Commission must deny a revocation request that has not been filed with due diligence. As it may take some time to prepare a request, the Commission has accepted requests submitted at various times after permit approval. In this case, the permit was approved March 12, 1999, and the request submitted June 2, 1999. Therefore, no issue of due diligence is raised.

The revocation request presents two significant contentions. One contention concerns the availability of alternative "see-through" railings that met applicable safety requirements, and the second concerns the feasibility of meeting construction traffic objectives with a narrower bridge.

The staff report analyzes these contentions and the applicant's preliminary response. At several points Mr. Taylor, the individual requesting revocation, stipulates that some aspects of his contentions would best be confirmed or denied through obtaining answers to additional questions (see Exhibit 10). Staff has not pursued such detailed investigation and fact finding, but rather, based upon information in the record, has found sufficient information to formulate its recommendation. Staff does note that it is in part the commission's role to determine how much, if any, investigation of facts to require. Section 13108(c) allows the Commission to postpone action on the revocation request to a subsequent meeting if the Commission wishes the Executive Director or the Attorney General to perform further investigation. If the Commission decides not to deny the request on the basis of the staff recommendation, it may require staff to undertake further research on the issues that have been raised prior to final action on the revocation request.

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following motion:

Motion for Denial

The Commission hereby **denies** the request for revocation because no grounds for revocation exist pursuant to 14 Cal. Code of Regulation Section 13105.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND LOCATION

On March 12, 1999, the Commission approved the application of the California Department of Transportation (Caltrans) to replace the existing two-lane, 36-foot-wide Highway One Noyo River Bridge with an 86.6 ft.-wide, 875-ft.-long, triple cast-in place concrete box girder bridge. The proposed bridge will accommodate four 12 ft lanes, a 12 ft. median, 8 ft outside shoulders with approximately 5.5 ft sidewalks and concrete safety railing placed on both sides. Construction of the bridge will require the installation and subsequent removal of temporary falsework and trestles involving the driving of approximately 224 temporary piles displacing approximately 2000 sq. ft. of the river and constructing an approximately 30,000-square-foot temporary trestle for construction access.

B. HISTORY OF REVOCATION REQUEST

On June 2, 1999, the Commission offices received a revocation request from Vince Taylor, Director of the Dharma Cloud Foundation addressing CDP 1-98-100 for the replacement of the Noyo Bridge (see Exhibit 2). The request conforms to the format requirements of Section 13105 et seq. of the Commission's Regulations by alleging that the applicant intentionally included erroneous or incomplete information and that accurate or complete information would have affected the Commission's decision. Specifically, the request presents two contentions supporting revocation of the permit: 1) the availability of alternative "see-through" railings that met safety requirements, and 2) the feasibility of meeting construction traffic objectives with a narrower bridge.

After reviewing the request and determining it was not patently frivolous and without merit, staff informed the applicant (John Webb of Caltrans) that the request had been accepted for further review and Commission hearing, and transmitted copies to the principally involved Caltrans staff. Commission staff invited a written response to the contentions, requesting it by June 16, to allow preparation of a complete staff recommendation.

Caltrans subsequently asked for a personal meeting with the Executive Director, which was scheduled for June 17, 1999. Caltrans' written response (Exhibit 3) was faxed to the Commission June 16, but did not directly address the contentions in the revocation request. Caltrans' attorney Tony Anziano met with the Executive Director and involved staff on July 17, raising a number of issues related to the revocation request. Additional submittals were received from Mr. Taylor on June 21, 1999 (Exhibit 4) and from Caltrans on June 23, 1999 (Exhibit 11).

C. SUMMARY OF THE REVOCATION REQUEST'S CONTENTIONS

As stated above, the grounds for revocation are very narrow. The three elements that must be established before a permit can be revoked under the grounds asserted in this instance are:

- 1) That the applicant provided inaccurate, erroneous or incomplete information,
- 2) that if the Commission had known of the information, it would have denied the permit or imposed different conditions, and
- 3) that inaccurate, erroneous or incomplete information was supplied intentionally.

The revocation request alleges these grounds are met for each of the two contentions: information relating to an alternative bridge railing and to a narrower bridge design.

Bridge Rail Contentions: Mr. Taylor argues in essence that during the time Caltrans was characterizing its “see through” railing as the only viable alternative (i.e. up to the hearing on March 11, 1999), several rail designs that better protected views had in fact either completed or substantially completed the most time-consuming parts of safety testing and could have been adapted for use in the approved project.

Bridge Width Contentions: Mr. Taylor argues that Caltrans had insisted at the time of the Commission hearing on March 11, 1999 that the constructed bridge is the minimum width that could be constructed ‘without accepting major impacts to motorized and/or non-motorized traffic during construction,’ and thus Caltrans would not present a narrower alternative design. He contends, and seeks to demonstrate, that such a narrower alternative is feasible without causing the traffic disruption alleged by Caltrans.

The three specific components of the relevant ground defined by Section 13105 et seq. for each of the two contentions are summarized and then evaluated in the following six sections.

D. SUMMARY AND ANALYSIS: BRIDGE RAILING

Test 1: Did the applicant include inaccurate, erroneous or incomplete information?

Contention:

Mr. Taylor contends “the evidence presented herein is overwhelming that the application included erroneous and incomplete information... “ Specifically he asserts that throughout the permit hearings in Fort Bragg and before the Coastal Commission, Caltrans insisted that its proposed “see-through” railing was the only one then available. He contends: **“At the time Caltrans was making these statements, there existed a number of existing railing systems that met federal and state safety requirements and that would better preserve existing Noyo views”** that Caltrans did not inform the Commission of.

He describes several railings of two different types that he asserts were federally approved to at least the crash level of the proposed railing for the Noyo Bridge. The first type of railing is a “Combination railing” which can be used alone on the outer side of bridge sidewalks as a barrier for both pedestrians and automobiles. (The approved project’s railing is of this type). Among the combination railings discussed by Mr. Taylor are:

- From **Massachusetts, the S3-TL4 Steel Bridge Railing** (Exhibit 2, pgs. 4, 16, 17 and 25).
- From the New England Transportation Consortium, **the NETC 4-Bar Sidewalk-Mounted Bridge Railing**. (Exhibit 2, pgs. 4, 18 and 23).

Mr. Taylor acknowledges that both designs would need to be slightly modified to comply with California building code requirements for a maximum 4” opening between members as opposed to the federal 6” standard they now meet.

The other type of railing Mr. Taylor asserts could be used are “Traffic railings” which provide a barrier for vehicles only. Traffic railings may be used to separate pedestrians from vehicle traffic on bridges, when combined with a lighter-weight pedestrian railing on the outside of the bridge. Because pedestrian railings can be of much lighter material, they allow for much greater visibility. A picket-type railing, which has most members oriented vertically, provides almost unimpeded visibility for motorists because vertical elements are essentially invisible from moving vehicles.

Mr. Taylor asserts that there are many traffic railings that would meet current federal and state safety standards, and singles out one:

- **The Wyoming 2-Tube traffic railing** (Exhibit 2, pgs. 4, 19 and 27, and Exhibit 5) “stands out because of its low visual obstruction. This railing is of particular interest for the Noyo Bridge because it allows a railing solution that offers both increased safety for pedestrians and maximum views for motorists.”

Mr. Taylor then suggests the existing **Redwood Creek Bridge** in Humboldt County, California (Exhibit 2, pgs. 4, 20 and 21) provides a starting point for designing an environmentally outstanding railing for the Noyo Bridge. The Redwood Creek Bridge uses a Type 27 concrete railing to separate the sidewalk from traffic and a second pedestrian/bicycle railing on the outside. Mr. Taylor states that this bridge was designed in 1996 and meets current California safety regulations. By substituting the Wyoming Railing for the concrete traffic barrier, and combining it with an architecturally enhanced outer pedestrian railing similar to the one used on the Redwood Creek Bridge, Mr. Taylor asserts that “**the result would be a railing system that would provide almost unimpeded views for motorists. *The railing system would meet current federal and state safety standards***”.

Mr. Taylor appended testimony to the California Transportation Commission (CTC) that included a rendering comparing how this “environmentally outstanding railing” compares to the approved railing (Exhibit 6).

He concludes “the evidence confirms that the first essential test for revocation is met.”

Analysis:

The issue posed by the first test in this case is did the applicant provide inaccurate, erroneous or incomplete information about alternative bridge rails that were then available or might be adapted for use within a reasonable period of time? Although Commission staff requested information about the adequacy of Caltrans’ proposed “see-through” railing, the applicant did not provide information to the Commission about any of the alternative bridge rails cited by Mr. Taylor. In a letter cited in the revocation request (Exhibit 2, pg. 6), Caltrans District Director Rick Knapp indicated that Caltrans recognized the need for a see-through railing as early as September 16, 1998. In that same letter, he defined the key criteria for a see-through railing:

“While some are not happy with the proposed railing, I must emphasize that we do not have the luxury to provide railings that do not meet State and Federal safety standards.”

Mr. Knapp re-emphasized this point in his testimony before the Commission:

“...certainly there are numerous see-through railings. They don’t meet standards. And, we don’t get to set standards in Fort Bragg, you know, for national highways, federally supported highways. We go through rigorous testing of railings, and were able to be successful in **accelerating** that testing process, in order to get the **first see-through safety railing** approved.” (emphasis added)

Caltrans Attorney Tony Anziano states that “with respect to bridge railings, the Department testified before the Commission that the only sidewalk-mounted see-through bridge railing approved for use in the state of California was the railing included in the design for the project. This was and is a true statement...” (Exhibit 11.) The Commission has no information to indicate that this statement is erroneous. In short, Mr. Taylor asserts that railing alternatives existed that had some level of federal approval, or acceptance, but he does not demonstrate State of California approval. The applicant states flatly that California approval did not and does not exist for see-through railings, other than the one approved by the Commission. The Commission concludes therefore that there is no evidence that the applicant provided **inaccurate** or **erroneous** information.

An argument could be made nevertheless that the applicant provided **incomplete** information. As reflected in the staff report (cited in Exhibit 2, pg. 5) Caltrans estimated that “the design, crash testing and approval process for an improved ‘see-through’ barrier could take from 2 to 4 years.” But the revocation request points to a number of railings that had already substantially or fully completed a time-consuming part of the approval process, namely the design, crash testing and federal acceptance phases, at the time Caltrans made their 2 to 4 year estimate. The applicant did not bring up before the Commission the progress of federal review of other alternative railing designs. In their preliminary response to this point, Caltrans states that potential use of any of the alternatives cited by Mr. Taylor would require a number of policy changes and Department review of existing crash test results, all of which “would consume a great deal of time.” (Exhibit 11.) Caltrans also notes that one of the designs, the NETC railing design cited by Mr. Taylor, was only the subject of a final letter of acceptance on March 11, one day prior to the Commission hearing on March 12. (Exhibit 11.)

For the Commission to find grounds for revocation on this point, the Commission would have to conclude that the applicant supplied **incomplete** information by failing to discuss with the Commission railing alternatives that had completed a portion but not all of the approval process. The Commission does not find it necessary to reach a conclusion on this point. The Commission finds that whether or not the applicant supplied incomplete information, this contention does not provide grounds for revocation because as demonstrated below, incomplete information was not supplied intentionally and complete information would not have altered the Commission’s decision.

Test 2: Would accurate and complete information have affected the conditions or the approval of the permit?

Contention:

Mr. Taylor contends that a major factor in the acceptance by the Coastal Commission of the proposed bridge design was Caltrans’ insistence that no “see-through” railing design other than the one proposed met current safety standards:

He refers again to the section of the staff report that relies upon Caltrans statements that the ‘see-through’ barrier incorporated in the project was the only one available and that developing an improved ‘see-through’ barrier could take from 2 to 4 years. He cites these findings as the basis for the staff report’s conclusion that “no available feasible alternative railing design currently exists that meets the necessary safety criteria.” He asserts this conclusion was instrumental in the staff’s recommendation to the Commission to accept the Caltrans design and to compensate for the loss of views by attaching Special Condition No. 6, which provides for Caltrans to pay a mitigation fee (Exhibit 2, page 5).

Analysis:

These contentions may be an accurate statement of some of the factors that led to the staff recommendation regarding the bridge rail. Whether knowledge of other railing alternatives would have affected the Commission's decision regarding conditions of approval of the permit is a different question. One of the alternatives proposed by Mr. Taylor (the Wyoming 2-Tube traffic railing coupled with a Redwood Creek-type pedestrian railing) seems clearly superior in its see-through quality to the railing approved by the Commission. The other railings (the Massachusetts S3-TL4 and NETC 4-BAR) are less of an improvement over the approved railing. However, according to Caltrans, none of the three had existing state approval, and it is unclear how long such approval might require or whether such approval might ever be forthcoming.

It is possible that the 2 to 4 year design, crash testing and approval process cited by Caltrans could have been shortened for alternative designs developed in other states, but the Commission lacks any factual basis on which to conclude that a superior railing design is indeed feasible. Without such information, the Commission cannot find that knowledge of other railing alternatives at various points of the approval process would have affected the Commission's decision.

The Commission therefore finds that this contention does not provide grounds for revocation under Section 13105(a) because it does not demonstrate that accurate and complete information would have affected the conditions or the approval of the permit.

Test 3: Was the erroneous or incomplete information supplied intentionally?

Contention:

Mr. Taylor asserts (please see Exhibit 2, pg. 5-7 for full text) that in "attempting to determine whether or not errors and omissions of Caltrans were intentional, it is necessary to consider two statements put forth simultaneously by Caltrans in their testimony on their application:"

Mr. Taylor states:

Statement 1: Federally approved railings are acceptable to Caltrans...

Statement 2: The "see-through" barrier incorporated in the project is the only one currently approved...

Statements 1 and 2 are not compatible with facts that Caltrans knew or should have known.

First, Caltrans testified that federally railings approved could be used on the proposed Fort Bragg Bridge (Position 1). Second, Caltrans professionals insisted that there were

no approved railings other than the one proposed (Position 2). These positions together imply that Caltrans had done a thorough search for federally approved “see-through” railings and had come up empty handed. Certainly, given the amount of controversy over the proposed railing, any reasonable person would expect Caltrans to have done the thorough search implied by its unconditional statement that there were no other approved railings.

As has been shown herein, there are a number of federally approved railing designs in addition to the one proposed. **Is it possible that Caltrans professionals could have made a thorough search but not found the approved alternative railings? No, it does not seem possible.** It took me, who had no prior knowledge of the Federal Highway Administration, only a few phone calls to determine that there were two federally approved see-through pedestrian/traffic railings (combination railings) and numerous approved traffic railings that can be used as barriers between sidewalk and traffic lanes (traffic railings)... Caltrans professionals are much better connected to the bridge safety section of the Federal Highway Administration than I.

Another possibility is that the Caltrans professionals on the Noyo Bridge project did not know that railings approved by the Federal Highway Administration are generally acceptable to the state, even though this is the Caltrans policy. But, this is not a realistic possibility, because the Structures Division of the Engineering Service Center of Caltrans was the source within Caltrans for its proposed “see-through” railing and also the source of the confirmation that federally approved railings were acceptable to the state.

There are only two realistic possibilities:

- Caltrans professionals knew that there were approved alternative railings but intentionally omitted mention of them from their testimony, or
- Caltrans professionals did not search for federally approved alternative railings, but intentionally implied that they had done so and found no other approved railings.

Regardless of which possibility is correct is irrelevant to determining whether there was “intentional inclusion of inaccurate, erroneous or incomplete information” by Caltrans, because both possibilities involve intentional misrepresentation by Caltrans. The evidence confirms that the third essential test for revocation is met.”

Analysis:

In this last component of the grounds for revocation, Mr. Taylor suggests only two possibilities:

1. Caltrans professionals knew that there were approved alternative railings but intentionally omitted mention of them from their testimony, or

2. Caltrans professionals did not search for federally approved alternative railings, but intentionally implied that they had done so and found no other approved railings.

For the first suggestion, the revocation request provides no direct evidence at all, nor does the Commission have any reason to think that anyone associated with the project would consider such an action.

The second suggestion relies completely upon inference to demonstrate what Caltrans “implied.” No evidence is presented that Caltrans directly stated that they had searched for other federally approved railings, and that is the key issue.

The Commission therefore finds that this contention does not provide grounds for revocation under Section 13105(a) because it does not show that erroneous or incomplete information was supplied intentionally.

Conclusion: Bridge Railing

A permit may be revoked if the Commission finds that either of two alternatives grounds for revocation exist in a revocation request. However, such grounds for revocation exist only if the Commission finds that all the tests set out in Section 13105(a) are met. The Commission finds the ground for revocation related to the bridge railing design fails as described above.

E. SUMMARY AND ANALYSIS: BRIDGE WIDTH

Test 1: Did the applicant include inaccurate, erroneous or incomplete information?

Contention:

Mr. Taylor introduces this section by summarizing arguments that the bridge is too wide (Exhibit 2, pg. 8), in particular, that the “excessive width, as well as the Caltrans railing design, makes impossible the preservation of existing views. The shoulders plus pedestrian lanes total 13.5 feet, compared to 4.5 feet on the current bridge; thus drivers are moved 8.5 feet further away from the edge and have a significantly shallower downward angle of view. Maintaining the present downward angle of view for motorists is critically important to maintaining the harbor views...On the proposed bridge, drivers would be unable to see the waters of the harbor even if there were no railing at all. Decreasing the width of the bridge is essential to maintaining the present coastal views.”

He states his contention for revocation as follows:

“Caltrans has insisted throughout all permit hearings that the constructed bridge is **the minimum width that could be constructed ‘without accepting major impacts to**

motorized and/or non-motorized traffic during construction.’ Therefore, it has not presented any alternative, narrower designs. (emphasis added)

Mr. Taylor cites from Caltrans’ *Frequently Asked Questions* document (Exhibit 8) where Caltrans explains its position:

“The easterly [Stage 1] bridge section will be 25.3’ wide; ...This width is necessary for construction safety of traffic, non-motorized traffic, and construction workers.

The westerly [Stage 1] bridge section will match the easterly bridge section and carry one lane of traffic also, but with one exception. It will not have a sidewalk built initially. The additional width will be used to accommodate **two lanes of traffic** during a limited period of time **when a large piece of equipment will need to sit on the easterly bridge section** to begin dismantling the existing bridge. During this time, the easterly bridge will not be available to traffic during the day. The westerly bridge section will be 25.3’ wide...

To provide less than these temporary construction widths would mean that either some or all of the pedestrian, disabled, bicycle, and motorized traffic would be subject to **major delays or would be unable to get across** the bridge altogether during construction.” (emphasis added)

Mr. Taylor contends that these statements are not accurate, that there are feasible alternatives for dismantling the bridge that do not require long-term closure of one of the new sections of the bridge, that Caltrans omitted any discussion or analysis of these alternatives in its testimony, and that in so doing, Caltrans precluded consideration of narrower-bridge designs.

In support of this contention, Mr. Taylor seeks to show that a narrower bridge could maintain two-way traffic (Exhibit 2, pgs. 9-11, including footnotes omitted here):

“...only a 18.7’ lane would be needed to provide an 11-foot traffic lane, a 1-foot-wide railing, a temporary 4-foot pedestrian lane, a 2-foot edge barrier, and 0.7 foot of overhang. Omitting the pedestrian lane on one side in Stage 1, as Caltrans proposes to do, the second Stage-1 bridge section could be 14.7’ wide. The total width of the bridge would then be 69.4 feet, rather than the 87-foot width of the bridge proposed by Caltrans.

“Caltrans dismantling plan determines bridge width. The critical factor that drives the width of the proposed bridge is Caltrans’ assertion that “a large piece of equipment will need to sit on the easterly bridge section to begin dismantling the existing bridge.” Closing the east section creates the need to build the west section sufficiently wide to carry two-way traffic in order not to create “major delays.”...

“Caltrans omitted consideration of alternative ways to dismantle bridge. If it were true, as Caltrans asserts, that a “large piece of equipment” (a crane) were needed on the

east section, the proposed bridge would be the minimum width that would allow staged construction and avoid extended one-way traffic. However, what Caltrans omitted from its testimony was that ...[t] here are many different possible ways to dismantle the bridge, not all of which require a crane to be located on one of the new bridge sections. I discussed alternative dismantling plans with two crane-rental companies and with Caltrans personnel. Some points that emerged from these conversations and Caltrans documents:

- Caltrans's current dismantling scenario envisions that a section of approximately 100' would be cut from the center of the bridge and lowered as a single piece without the use of cranes... the entire operation should not take longer than one day...
- "At least two" large cranes (200-250 tons) are envisioned by Caltrans as being located below the bridge, on temporary trestles, during bridge construction and dismantling....
- The size of the crane ...[to be]... placed on the new east section would be restricted by the 21' clear width ... of the section. Only "a small hydro-type crane could fit in 21 feet."...
- Cranes could operate from below the bridge or from the ends of the bridge as substitutes for the crane envisioned by Caltrans as being placed on the new bridge section. There is no question of feasibility, only of cost...
- With respect to the cost of alternative dismantling approaches, note that narrowing the bridge by 15 feet, an entirely feasible amount, would save \$3 million in construction costs – far more than the possible additional cost of a dismantling alternative that avoids use of a new bridge section...

"What emerges clearly is that there exist feasible alternatives for dismantling the bridge that do not require long-term closure of one of the new sections of the bridge... Caltrans omitted any discussion or analysis of these alternatives in its testimony. By omitting discussion of dismantling alternatives, Caltrans precluded consideration of narrower-bridge designs."

Analysis:

The record is clear that Caltrans did not present a narrowed-bridge alternative as outlined above for potential Commission evaluation. However, a critical element of the Commission's analysis of this project under the Coastal Act was whether there were "**feasible** less environmentally damaging alternatives to the proposed project," specifically a narrower bridge. Caltrans specifically asked and answered this question in their *Frequently Asked Questions* document (Exhibit 8) as follows:

“3. Can it be replaced with a narrower structure?”

No. Not without accepting major impacts to motorized and/or non-motorized traffic during construction.”

Mr. Taylor presents an opposing view that there may in fact have been a less environmentally damaging narrowed bridge alternative that need not entail the traffic impacts Caltrans asserted. However, it is not clear that this alternative would have been feasible. A difference of opinion regarding feasibility does not equal erroneous information, inaccurate or incomplete information.

The Commission therefore finds that this contention does not provide grounds for revocation under Section 13105(a) because it does not demonstrate the applicant provided inaccurate, erroneous or incomplete information.

Test 2: Would accurate and complete information have affected the conditions or the approval of the permit?

Contention:

Mr. Taylor’s contention recounts the importance the Commission placed upon protecting the existing scenic views to and from the Noyo Bridge (Exhibit 2, pgs. 11-13).

Mr. Taylor further states:

“In my testimony before the Coastal Commission on the Noyo-Bridge permit, I showed how a narrower bridge, combined with a different railing approach, could completely preserve existing views from the bridge...
A narrower bridge, thus, would contribute significantly to preserving important coastal resources. Had Caltrans presented the Commission with the option of a narrower bridge, the Commission seems likely to have required different conditions or to have denied a permit for the proposed bridge.”

Analysis:

The Commission must determine whether accurate and complete information would have affected the conditions or the approval of the permit. Mr. Taylor contends that had Caltrans presented the Commission with the narrower bridge option, it seems likely the Commission would have acted differently.

However, as Mr. Taylor points out, he himself provided testimony to the Commission showing how a narrower bridge could “completely preserve existing views.”(Exhibit 9).

It is true that Mr. Taylor's testimony was not received in time to be discussed in the staff report, and was included in an addendum handed out only days before the hearing. However, the fact Mr. Taylor made the argument for a narrower bridge to the Commission, and the Commission chose not to mandate that alternative indicates that had Caltrans supplied information about a narrower bridge, the result would have been the same.

The Commission therefore finds that this contention does not provide grounds for revocation under Section 13105(a) because it does not show accurate and complete information would have affected the conditions or the approval of the permit.

Test 3: Was the erroneous or incomplete information supplied intentionally?

Contention:

Mr. Taylor contends the evidence shows the Caltrans project team was aware that bridge width was an issue, and was in communication with the Caltrans Office of Structure Construction. Staff of that office acknowledged there were dismantling alternatives that would not require placement of a crane on one of the new bridge sections.

Mr. Taylor concludes:

“What seems apparent from conversations with the Caltrans Project Manager and the record is that Caltrans was aware that there very well might be dismantling alternatives compatible with a narrower bridge but chose not to explore them and not to present them to the Commission.

Because consideration of dismantling alternatives was essential to consideration of narrower-bridge alternatives, Caltrans intentional omission of dismantling alternatives precluded consideration of narrower-bridge alternatives.”

Mr. Taylor, however, does not provide any direct evidence that Caltrans had evaluated dismantling alternatives that would have permitted a narrower bridge and intentionally withheld this information from the Commission.

The Commission therefore finds that this contention does not provide grounds for revocation under Section 13105(a) because it does not show the erroneous or incomplete information was supplied intentionally.

Conclusion: Bridge Width (See previous conclusion)

A permit may be revoked if the Commission finds that the grounds for revocation stated in Section 13105(a) exist. Such grounds for revocation exist only if the Commission finds that all the tests set out in Section 13105(a) are met. The Commission finds the ground for revocation

related to the bridge width fail all of the tests, as described above, and therefore does not present grounds for revocation.

F. OVERALL CONCLUSION

The Commission denies the revocation request for Coastal Development Permit 1-98-100, the Noyo River Bridge Replacement, because the grounds identified in Section 13105(a) do not exist.

EXHIBITS

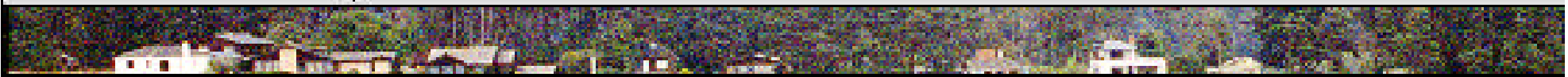
1. Commission Administrative Regulations Sections 13104 through 13108
2. Revocation Request from Vince Taylor for CDP 1-98-100, May 31, 1999
3. Letter of Tony Anziano, Caltrans Deputy Attorney, June 16, 1999
4. Letter of Vince Taylor, June 21, 1999
5. Wyoming 2-Tube Traffic Railing
6. Views of Noyo Harbor with Alternative Bridge Designs
7. Transcript of Hearing of CDP 1-98-100, March 12, 1999(Excerpts)
8. Noyo River Bridge Replacement Frequently Asked Questions, Caltrans 2/99
9. Vince Taylor, Testimony March 12, 1999 re CDP 1-98-100, excerpt
10. Vince Taylor: Questions for further investigation per Section 13108(c)
11. Letter of Tony Anziano, Caltrans Deputy Attorney, June 22, 1999

Proposed Noyo Bridge “See-Through Railing” Small Sedan View

Steel rail



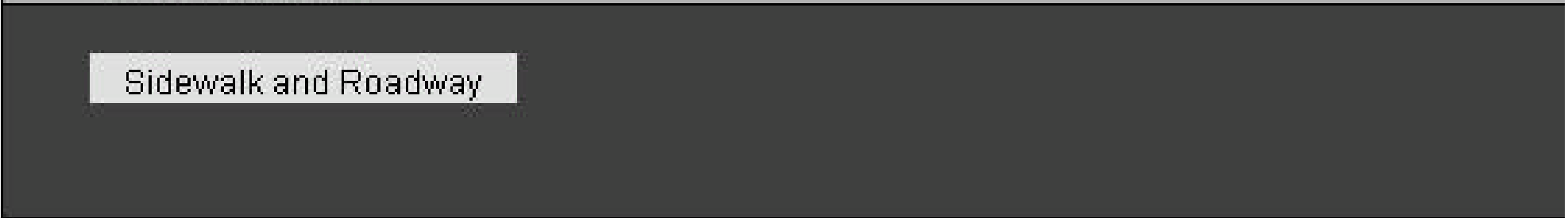
Concrete Railing



Concrete Railing



Sidewalk and Roadway



**Modified New Noyo Bridge —
Wyoming Traffic Railing and
Picket-Style Pedestrian Railing
Small Sedan View**

Pedestrian rails



Wyoming Rails

Pedestrian Lane