

## **ENVIRONMENTAL ASSESSMENT**

As required by Section 1.1307(a)(6) of the Commission's Rules, this Environmental Assessment is provided because the proposed transmitter site is to be located in a flood plain.

*(1) For antenna towers and satellite earth stations, a description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.*

The proposed facilities and supporting structures are described in Exhibit 11 to the construction permit application. The site, surrounding areas and uses are described in the *Staff Report* prepared for the Sonoma County Board of Zoning Adjustments by the Sonoma County Permit and Resource Management Department attached hereto as Attachment 1 (the "Staff Report"). The applicant does not propose to use high intensity white lighting and the proposed facility will not be located in a residential area.

*(2) A statement as to the zoning classification of the site, and communications with, or proceedings before and determinations (if any) made by zoning, planning, environmental or other local, state or federal authorities on matters relating to environmental effect.*

The zoning classification is described in the *Staff Report*. The Sonoma County Board of Zoning Adjustments adopted resolution 05-0115 (the "Resolution"), authorizing a Use Permit to locate the applicant's proposed facility on a flood plain. The *Resolution* is attached hereto as Attachment 2. Among other things, the *Resolution* included a finding of no significant environmental effect resulting from the proposed facility.

*(3) A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.*

As discussed above, in response to Question 2, the proposed facility was approved by the Sonoma County Board of Zoning Adjustments. The *Staff Report* describes consideration of the project by the Sonoma Valley Citizens Advisory Committee.

*(4) A discussion of environmental and other considerations which led to the selection of the particular site and, if relevant, the particular facility; the nature and extent of any unavoidable adverse environmental effects, and any alternative sites or facilities which have been or might reasonably be considered.*

The *Staff Report* discusses environmental and other considerations which led to the selection of the particular site and alternative site analysis. As discussed above, in response to Question 2, the *Resolution* included a finding of no significant environmental effect resulting from the proposed facility.

*(5) Any other information that may be requested by the Bureau or Commission.*

None

*(6) If endangered or threatened species or their critical habitats may be affected, the applicant's analysis must utilize the best scientific and commercial data available, see 50 CFR 402.14(c).*

To the applicant's knowledge endangered or threatened species or their critical habitats will not be affected.

## ATTACHMENT 1



## Sonoma County Board of Zoning Adjustments STAFF REPORT

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

**FILE:** UPE 04-0115  
**DATE:** September 8, 2005  
**TIME:** 1:10 p.m.  
**STAFF:** David Hardy

Appeal Period: 10 Calendar days

### SUMMARY

**Applicant:** Baybridge Communications - Andy SantaMaria

**Owner:** Vallejo Sanitation and Flood Control District

**Location:** 5400 Sears Point Road, Sonoma  
APN 068-180-017

Supervisory District No. 1

**Subject:** Use Permit

**PROPOSAL:** Request to construct a major freestanding telecommunication facility for AM radio stations KDIA and KDYA, consisting of four 195-foot-tall lattice towers and a 1,250-square-foot unmanned equipment building on approximately four acres of a 942-acre parcel at the southern end of Tubbs Island.

**Environmental Determination:** Mitigated Negative Declaration

**General Plan:** Land Extensive Agriculture - 100 acre density

**Area Plan:** South Sonoma Valley 3 & 4 - General Agriculture, 20-200 acre density

**Ord. Reference:** Sections 26-06-020 (n), 26-88-130 (b) (1)

**Zoning:** LEA (Land Extensive Agriculture), B6 100 acre density, SR (Scenic Landscape Unit), BR (Biotic Resource), F2 (Flood Plain), Z (Second Unit Exclusion)

**RECOMMENDATION:** Adopt the Mitigated Negative Declaration and approve the Use Permit subject to the attached conditions.

### ANALYSIS

**Project Description:**

In order to provide nighttime coverage equal to daytime coverage in the Bay Area for radio station KDIA and expanded North Bay coverage for station KDYA, the applicants propose to construct four freestanding lattice towers that use the tower itself as the AM radio antennas. The 195-foot-tall towers will not have guy wires, and instead will be self-supporting, attached to a 36-square-foot concrete block foundation that is six feet above ground. Each of the tower bases will be fenced. Radiating underground from the base of the towers will be 120 grounding wires, each extending a distance of approximately 150 feet. The ground rings, needed for proper electronic transmission, occupy approximately 1.5 acres, and they are buried approximately one to five feet below ground, with the applicant's ideal depth being approximately three feet below the surface. With the ground rings at a depth of three feet, the surrounding agricultural operations would not be significantly impacted and tilling,

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discing, and harvesting could still occur. If the ground rings are at a depth of one foot, discing and tilling would be precluded but other agricultural operations could continue, such as harvesting and storage of equipment. Because the towers are less than 200 feet tall, they do not need to have lights, according to Federal Aviation Administration regulations. Nevertheless, the applicant proposes to paint the towers white and orange, so that they will be more visible to low-flying aircraft such as crop dusters. The towers will be located approximately 7,200 feet (1.3 miles) from Highway 37. Unlike conventional cellular telephone base stations or two-way radio networks, the towers will not have discrete attached antennas; the towers themselves are the antennas.

In addition to the towers, the project includes a fenced compound with a 1,250-square-foot equipment building and four large dish antennas. The dish antennas will be on the south side of the building and won't be visible from public roads. This would be an unmanned facility, operating 24 hours per day, 7 days a week. On-site maintenance would occur less than twice a month. Since the facility is unmanned, a restroom is not included in the project, and therefore no septic system is needed.

### Site Characteristics:

The subject property is the southern portion of Tubbs Island, which consists of several contiguous parcels totaling 2,500 acres. The island is flat and low-lying, as the F2 (flood plain) designation indicates. The island has been dry-farmed by the Yenni family for many years, and there are two hay barns located immediately north of the tower sites. Crops grown on the island include oat hay, red oats, and wheat. A two-lane road extends south from Highway 37 to the barns and the project site. In addition to the farming activities, the property is used by the Vallejo Sanitation and Flood Control District for the application of lime-treated sludge pursuant to a Use Permit (PLP96-0010). The piles of treated sludge are tilled into the soil of the surrounding farm land. Several utility poles provide electrical power to the site. The site is bordered on the west by a small drainage channel, and the southern end of Tubbs Island borders San Pablo Bay. The site is more than 2,500 feet from the shores of the bay. Unlike the northern portion of Tubbs Island, the southern portion is not in a Williamson Act contract.

### Surrounding Land Use and Zoning:

Tubbs Island is bordered on the south by San Pablo Bay, on the west by Tolay Creek, on the east by Sonoma Creek and San Pablo Bay, and on the north by farm land and the Scaggs Island Naval Reservation. Highway 37 crosses the island, and the northern part of Tubbs Island is the ranch headquarters for the Yenni family and the very southern portion is part of the San Pablo Bay National Wildlife Refuge. Parallel to Highway 37 are two sets of high-voltage power lines, with lattice-framed structures exceeding 150 feet tall. Northwest of the site, at the intersection of Highway 37 and Highway 121 is Infineon Raceway. All of the surrounding lands are zoned the same as the subject property, with the exception of Scaggs Island, which is zoned PF-Public Facility to reflect its ownership by the United States government. Approximately 3,300 acres of Scaggs Island, which was the home base of a former Navy communications unit, is in the process of being turned over to either the state Department of Fish and Game or the U.S. Fish and Wildlife Service for restoration as a wildlife habitat and inclusion in the San Pablo Bay National Wildlife Refuge. All of the existing farming and sludge tilling would continue. According to Norman Yenni, the proposed radio towers would not interfere with his family's agricultural operation. Project referrals were sent to the Bay Institute, the San Francisco Bay Conservation and Development Commission, and the U.S. Fish and Wildlife Service, and none of those agencies responded with comments about the proposal.

## DISCUSSION OF ISSUES

### Issue #1: General Plan and Zoning Consistency

The project site and all of Tubbs Island is designated Land Extensive Agriculture in the General Plan and in the Zoning Ordinance. The island is also designated as a Scenic Landscape Unit on the General Plan Open Space map. The area of the island proposed for this telecommunications development has been used for dry farming of oats, barley, and wheat. A General Plan Amendment to allow the spreading of lime-treated sewage sludge from

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the property owner was approved by the Board of Supervisors in 1997. The sludge is filled into the surrounding agricultural land, a compatible use with agricultural land.

Regarding the consistency and compatibility of the telecommunications facility with the agricultural operation, General Plan Objective LU-8.1 states: "Avoid conversion of lands currently used for agricultural production to non-agricultural use."

This policy is not an absolute prohibition on non-agricultural use, and a major telecommunications facility is a permitted use in the LEA zoning district. In addition, although this property is not in a Williamson Act agricultural preserve, "electronic towers and antennas" are listed as a compatible use in the County's adopted rules for the administration of agricultural preserves. The four acres of tidal farmland to be used for the radio project equate to approximately 0.16 percent of Tubbs Island. The land, which may or may not be removed from cultivated agriculture, would still be available as pasture land, and the radio station use is clearly incidental to the primary use of agriculture that would continue. As noted above, the family that farms the property considers the radio operation to be compatible with the existing agricultural operation. If the ground wires are three feet deep, tilling can continue. At a lesser depth, some tilling may be precluded but harvesting of untilled crops and storage of hay could continue on the land around the towers, according to the applicant.

The project site is also located within a Scenic Landscape Unit on the General Plan Open Space Map OS-5i. The property is apparently so designated to preserve views of San Pablo Bay. The policy (2.2 on page 172 of the General Plan) for Scenic Landscape Units in the General Plan says that "features such as the Mayacamas and Sonoma Mountains provide scenic backdrops to communities...These hillsides are an important part of the South County landscape with a simple landform, minimal vegetation, and a clear widespread viewing area. Pasture and forage lands along the Highway 37 corridor are included to preserve views of the San Pablo Bay."

The general policy regarding commercial or industrial uses is OS-2a, which says to avoid such uses in scenic landscape units. However, Policy OS-2e exempts telecommunication facilities if they meet the siting and design criteria of the SR-Scenic Resources zoning district, which are discussed below.

Tubbs Island was included in the South Sonoma Valley Areas 3 & 4 specific plan that was repealed with the adoption of the 1989 General Plan. The Area 3 & 4 specific plan designated the project area as General Agriculture in the Land Use Plan, with the most southerly portion of Tubbs Island (more than 2,500 feet from the project site) designated as Public Land, because of the potential for wildlife refuge. The Open Space section of the Area 3 & 4 plan designated the subject property as Scenic Corridor and Tidal Farmland. The primary intent of the policies in the specific plan is to encourage the preservation of agriculture and delineate areas for infill residential development. The General Agriculture designation indicated that new residential development should be directly related to some agricultural activity. There are no specific policies addressing telecommunications facilities or utility use of the island.

Under current zoning, the project site is designated LEA B6 100 SR (Scenic Landscape Unit), BR (Biotic Resource), F2 (Secondary Floodplain), Z (Second Unit Exclusion). Within the LEA (Land Extensive Agriculture) zoning district, under Section 26-06-020 (n) (10), a major freestanding commercial telecommunication facility is a use permitted in the LEA zoning district with a Use Permit approval subject to the applicable criteria in Section 26-88-130, the Telecommunications Ordinance.

Zoning Ordinance Section 26-64-040 addresses telecommunication facilities on properties located in the SR zoning district, and says that a freestanding commercial telecommunication facility may be considered subject to the following criteria:

- (1) The facility shall be subject to approval of a Use Permit.
- (2) Cuts and fills are discouraged.

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(3) An alternatives analysis shall be prepared by or on behalf of the applicant.

(4) A visual analysis, which may include a photo montage or other techniques. Consideration shall be given to views from public areas...but shall focus on preservation of scenic resources. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities.

The applicant has applied for a Use Permit, and no cuts and fills are involved because the property is flat. The alternatives and visual analysis, also required by the LEA zoning for a major freestanding facility, are discussed in the next issue section.

The property's BR-Biotic Resource zoning is limited to the shores of the island and is not near the project site.

#### Issue #2: Compliance with the Telecommunications Ordinance

The Telecommunications Ordinance defines the proposed facility as a Major Commercial Freestanding Telecommunications Facility because it is greater than 130 feet in height. The ordinance stipulates that this type of facility be set back from the nearest offsite dwelling unit 110 percent of the pole's height (i.e., 215 feet) or the applicable zoning setback (i.e., 30-foot front yard, 10-foot side yard, 20 foot rear yard), whichever is greater. In this case, the closest neighboring residence is several thousand feet away, so this criteria is easily met.

#### Alternative Site Analysis

The applicant's project objective is to make the nighttime broadcast coverage as clear and strong as the daytime signal. According to the applicant's alternatives analysis ( Exhibit "L") prepared by the consulting firm of Hammett & Edison, station KDIA (1640 AM) currently operates as a "split-site operation, with the daytime facility operating non-directionally (i.e. from one tower) as a shared operation from the existing site at Pt. Isabel in Richmond. The nighttime broadcast is a shared operation (one tower) from Vallejo. The current KDIA nighttime broadcast covers only 12% of the population that receives the daytime broadcast. Because of Federal Communications Commission (FCC) regulations to avoid interference, a non-directional tower has limitations on shared use. Therefore, to get a stronger nighttime signal, the applicant is proposing the multiple tower array to provide a directional transmission to cover the areas of Alameda, Contra Costa, Marin, San Mateo, San Francisco, Solano, and Sonoma counties that receive the daytime signal. The site has to provide coverage of the "City of License," which is Vallejo.

According to the analysis, the applicant has searched for several years and evaluated 19 prospective locations, in addition to investigating others. Some sites were rejected because of inability to secure a lease, and others because of insufficient land for four towers or the ability to cover Vallejo. The sites considered included:

- The West Contra Costa Sanitary Landfill in Richmond, which was rejected because of insufficient land for more than two towers and the inability to secure a lease;
- The parking lot on the north shore of Pt. San Pablo, which had topographic problems and insufficient land for more than two towers;
- Mare Island abandoned Naval property, rejected for insufficient land for the array and inability to secure a lease.

Co-locating with the KCBS towers near Gness Field near Novato and the KVON towers in Napa was rejected because of insufficient coverage. Several sites in Vallejo were rejected because of either insufficient land for the directional array or inability to secure a lease. The analysis concludes: "Of the sites studied, the Tubbs Island location was the only one available that met the requirements for the design of the AM directional array for KDIA and for which Baybridge Communications was able to obtain a lease."

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While the alternatives analysis does not include all of the information requested in the Telecommunications Ordinance, much of that information is oriented toward the cellular telephone market that was emerging in 1996 and is not applicable to an AM-radio tower. For example, the alternatives analysis section requests information related to a "local network of facilities" and asks for different places to place antennas so that there is coverage along a particular route. An AM radio station broadcasts on a different set of frequencies from cellular telephone systems and a vast network of antennas on poles is not required. One or two AM tower sites will cover a broad region. Therefore, staff considers that the applicant has adequately accomplished the goal of the alternatives analysis by identifying numerous alternatives that are feasible for the applicant's operation and documenting the problems with those alternatives.

Visual Analysis and Aviation Safety

The property is designated as a Scenic Landscape Unit on the Open Space maps of the Sonoma County General Plan. Highway 37 is designated in the General Plan as a scenic corridor, although the state has not applied such a designation. Despite the scenic designation, the corridor is cluttered with two lines of PGE high voltage power lines that run generally parallel to Highway 37 across the top of Tubbs Island. Also, to the north of those lines, at the northeast corner of Tubbs Island on the Yenni Ranch, the Pappas Group is proposing three AM radio towers that would be 600 feet tall and would require lighting by the Federal Aviation Administration. Those proposed towers are located approximately 1,200 to 1,300 feet north of Highway 37.

The applicant proposes to build the towers at a height of 195 feet so as to avoid the Federal Aviation Administration requirement to light towers 200 feet tall or greater, yet the applicant proposes to paint the towers orange and white to alert pilots, such as crop dusters working on the surrounding agricultural land. Several small general aviation airports are located near the project site. Sonoma Skypark is approximately seven miles to the northeast and the Sonoma Valley Airport is approximately six miles to the northeast. Gness Field in Marin County is located approximately seven miles to the northwest, near Highway 101. Napa County Airport is located approximately seven miles to the east, near Highway 29, and has a pilot training center. The California Division of Aeronautics received a referral regarding the project, and responded "No comment." However, the County of Napa Department of Conservation, Development and Planning requests that the KDIA towers be lighted "as an aviation safety measure."

To evaluate a project's visual impacts, PRMD has established a Visual Assessment procedure that has been applied to several projects, including the Sonoma Country Inn that was approved by the Board of Supervisors. Under the procedure, the site itself would be considered to have a "high" sensitivity because it is "within a land use or zoning designation protecting scenic or natural resources, such as General Plan designated scenic landscape units...or scenic corridors. The site vicinity is generally characterized by the natural setting and forms a scenic backdrop for the community or scenic corridor."

The second part of the evaluation deals with the structure and its degree of "visual dominance." The applicant has submitted several photosimulations of the project from various viewpoints along Highway 37 and Scaggs Island. The structure is located approximately 7,200 feet from Highway 37, which is as close as the motoring public can get to the project site. Those who walk can take a trail that commences at a small parking lot maintained by the Department of Fish and Game along the Tolay Creek shore of Tubbs Island, and the walking public can get closer to the site than the motoring public. The antenna site is south of the highway and north of San Pablo Bay, and is therefore generally backlit by the sun and reflections from the bay water or else masked by fog. The lattice structures, while tall, are considered "subordinate" because they let light pass through and fit the criteria of being "minimally visible from public view. Element contrasts are weak - they can be seen but do not attract attention...." The proposed towers are clustered next to two hay barns that are approximately 30 feet tall, and the radio station's equipment building will be located behind and south of the barns when viewed from the highway. Using the PRMD threshold of significance, a subordinate structure in a high sensitivity area is considered to be less than significant. Lighting the structures would increase the visibility at night, but not so much during the day. Lighted towers on a



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clear night would have as a backdrop the hills on the south side of San Pablo Bay and the communities of Vallejo, Rodeo, Pinole, north Richmond, Black Point, and Bel Marin Keys. The big city lights of San Francisco would be blocked by Angel Island, which plugs the visual opening between Point San Pedro near China Camp State Park and Point San Pablo by the Chevron refineries. The lights of Berkeley and Oakland would be blocked by the hills of San Pablo and Richmond.

Painting of the towers would probably not significantly affect the visibility that much from Highway 37 and the north because of the towers' position relative to the sun and water. Whether the towers are painted white and orange for safety or galvanized to better blend with clouds and sky, the lattice elements will almost always be in shadow on a sunny day because of the backlighting. In addition, as the sun sits lower in the sky during the winter months, the glare from the bay will be more intense. As the sun moves, so will the shadows on the tower, and the light/dark element will be a bigger visual factor than the color. Because of the concern for safety, the proximity to four different airports, agricultural crop-dusting activities, and the request from Napa County, staff recommends that the towers be lighted and, in addition, that they be painted white and orange, as the applicant proposes. The applicant does not object to a condition that the tower be lighted.

### Issue #3 Sonoma Valley Citizens Advisory Committee

The Sonoma Valley Citizens Advisory Committee considered the project at its January 26, 2005, meeting, and a motion to recommend approval of the project was defeated. The only member of the SVCAC who visited the site said that the visual impact is minimal to the casual observer, although they would be visible to those who are looking for them. Others commented that in light of the SVCAC's opposition to the pedestrian bridge over Highway 121 at Infineon Raceway, the committee should oppose the KDIA radio project because of a potentially significant impact and because the project "is a benefit to Vallejo but not to the residents of the Valley." The minutes of the meeting are attached as Exhibit N.

### **STAFF RECOMMENDATION**

Staff recommends that the Board of Zoning Adjustments adopt the Mitigated Negative Declaration and approve the request for a Use Permit for the four 195-foot high AM radio towers with associated antennas and equipment after making the following findings and subject to the attached conditions.

### **FINDINGS FOR RECOMMENDED ACTION**

1. Based upon the information contained in the Initial Study, it has been determined that there will be no significant environmental effect resulting from this project with mitigations established to control construction dust. The Mitigated Negative Declaration has been completed in compliance with CEQA State and County guidelines and the information contained therein has been reviewed and considered.
2. The proposed telecommunications facility, as conditioned, complies with the Telecommunications Ordinance because it would not expose humans to non-ionizing electromagnetic radiation (NIEER) in excess of the levels specified in the most current standard governing human exposure to NIEER utilized by the Federal Communication Commission (FCC); it complies with the design and location criteria; and its location results in fewer or less severe environmental impacts than any other feasible alternative sites identified in the applicant's Alternatives Analysis prepared by a licensed radio engineer.
3. The establishment, maintenance or operation of the use for which application is made will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case are:

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- a. The location and design of the tower would not significantly affect the scenic quality of the surrounding area because of its distance from public viewing points. The antenna site is south of the highway and north of San Pablo Bay, and is therefore generally backlit by the sun and reflections from the bay water or else masked by fog. The lattice structures, while tall, are considered "subordinate" because they let light pass through and fit the criteria of being "minimally visible from public view. Element contrasts are weak - they can be seen but do not attract attention...." The proposed towers are clustered next to two hay barns that are approximately 30 feet tall, and the radio station's equipment building will be located behind and south of the barns when viewed from the highway. Using the PRMD threshold of significance, a subordinate structure in a high sensitivity area is considered to be less than significant.
  - b. The tower is located in a remote area of Tubbs Island, more than 4,000 feet from the nearest residence and 2,500 feet from the shores of San Pablo Bay.
4. The use, as conditioned, meets the requirements in the Sonoma County Telecommunication Ordinance, the Land Extensive Agriculture General Plan land use designation and zoning.

#### LIST OF ATTACHMENTS

EXHIBIT A: Conditions of Approval  
EXHIBIT B: Proposal Statement and Application  
EXHIBIT C: Vicinity Map  
EXHIBIT D: General Plan Map  
EXHIBIT E: Zoning Map  
EXHIBIT F: U.S.G.S. Topographic Map  
EXHIBIT G: Aerial Photograph  
EXHIBIT H: Overall Site Plan  
EXHIBIT I: Elevation View  
EXHIBIT J: Photograph of Existing Site  
EXHIBIT K: Photosimulations from Highway 37 (Visual Analysis)  
EXHIBIT L: Alternative Site Analysis dated September 14, 2004  
EXHIBIT M: Letters  
EXHIBIT N: SVCAC Minutes  
EXHIBIT O: Visual Assessment Guidelines  
EXHIBIT P: Draft Resolution

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Separate Attachment for Commissioners: Mitigated Negative Declaration and Color Photosimulations

## ATTACHMENT 2

## Resolution Number 05-0115

County of Sonoma  
Santa Rosa, California

September 8, 2005  
UPE04-0115 David Hardy

**RESOLUTION OF THE BOARD OF ZONING ADJUSTMENTS,  
COUNTY OF SONOMA, STATE OF CALIFORNIA, ADOPTING A  
MITIGATED NEGATIVE DECLARATION AND GRANTING A USE  
PERMIT TO BAY BRIDGE COMMUNICATION FOR A  
TELECOMMUNICATIONS FACILITY ON A 942-ACRE PARCEL  
LOCATED AT 5400 SEARS POINT ROAD, SONOMA, APN 068-  
180-011.**

WHEREAS, the applicant, Bay Bridge Communication, filed a Use Permit Application with the Sonoma County Permit and Resource Management Department for the construction of a major freestanding telecommunication facility for AM radio station KDIA, consisting of four 195-foot-tall lattice towers and a 1,250-square-foot unmanned equipment building on approximately four acres of a 942-acre parcel located at the southern end of Tubbs Island at 5400 Sears Point Road, Sonoma; APN 068-180-011; Zoned LEA (Land Extensive Agriculture), B6 100 acre density, SR (Scenic Resource), BR (Biotic Resource), F2 (Secondary Flood Plain), Z (Second Dwelling Unit Exclusion); Supervisorial District No 1; and

WHEREAS, a Mitigated Negative Declaration was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing on September 8, 2005, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, said Board makes the following findings:

1. Based upon the information contained in the Initial Study, it has been determined that there will be no significant environmental effect resulting from this project with mitigations established to control construction dust. The Mitigated Negative Declaration has been completed in compliance with CEQA State and County guidelines and the information contained therein has been reviewed and considered.
2. The proposed telecommunications facility, as conditioned, complies with the Telecommunications Ordinance because it would not expose humans to non-ionizing electromagnetic radiation (NIER) in excess of the levels specified in the most current standard governing human exposure to NIER utilized by the Federal Communication Commission (FCC); it complies with the design and location criteria; and its location results in fewer or less severe environmental impacts than any other feasible alternative sites identified in the applicant's Alternatives Analysis prepared by a licensed radio engineer.
3. The establishment, maintenance or operation of the use for which application is made will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case are:

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- a. The location and design of the tower would not significantly affect the scenic quality of the surrounding area because of its distance from public viewing points. The antenna site is south of the highway and north of San Pablo Bay, and is therefore generally backlit by the sun and reflections from the bay water or else masked by fog. The lattice structures, while tall, are considered "subordinate" because they let light pass through and fit the criteria of being "minimally visible from public view. Element contrasts are weak – they can be seen but do not attract attention...." The proposed towers are clustered next to two hay barns that are approximately 30 feet tall, and the radio station's equipment building will be located behind and south of the barns when viewed from the highway. Using the PRMD threshold of significance, a subordinate structure in a high sensitivity area is considered to be less than significant.
  - b. The tower is located in a remote area of Tubbs Island, more than 4,000 feet from the nearest residence and 2,500 feet from the shores of San Pablo Bay.
  - c. The freestanding tower does not have guywires to support it.
4. The use, as conditioned, meets the requirements in the Sonoma County Telecommunication Ordinance, the Land Extensive Agriculture General Plan land use designation and zoning.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Zoning Adjustments hereby adopts the Mitigated Negative Declaration and mitigation monitoring program set forth in the conditions of approval. The Board certifies that the Mitigated Negative Declaration has been completed, reviewed, and considered, together with comments received during the public review process, in compliance with CEQA and State and County Guidelines, and finds that the Negative Declaration reflects the independent judgment of the Board.

BE IT FURTHER RESOLVED that the Sonoma County Board of Zoning Adjustments hereby grants the requested Use Permit, subject to the conditions in Exhibit A, attached hereto.

BE IT FURTHER RESOLVED that the Board of Zoning Adjustments designates the Secretary as the custodian of the documents and other material which constitute the record of proceedings upon which the Board's decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

BE IT FURTHER RESOLVED that the Sonoma County Board of Zoning Adjustments' action shall be final on the 11th day after the date of the resolution unless an appeal is taken.

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THE FOREGOING RESOLUTION was introduced by Commissioner Fogg, who moved its adoption, seconded by Commissioner Bennett, and adopted on roll call by the following vote:

Commissioner Bennett	Aye
Commissioner Sponamore	Aye
Commissioner Murphy	Aye
Commissioner Furch	Aye
Commissioner Fogg	Aye

Ayes: 5    Noes: 0    Absent: 0    Abstain: 0

WHEREUPON, the Chairman declared the above and foregoing resolution duly adopted; and

SO ORDERED.

**Final Conditions of Approval**

<b>Date:</b>	September 8, 2005	<b>File No.:</b>	UPE04-0115
<b>Applicant:</b>	Baybridge Communications	<b>APN:</b>	068-180-017
<b>Address:</b>	5400 Sears Point Road, Sonoma		

Project Description: Request for a Use Permit for a new freestanding commercial AM radio telecommunications facility consisting of four 195-foot-tall freestanding lattice towers, 120 subsurface grounding wires extending radially approximately 150 feet from each tower, and a 1,250 square foot unmanned communications equipment building with four ground-mounted satellite receiving antennas on a four-acre leasehold.

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**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

**BUILDING:**

1. The applicant shall apply for and obtain building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, Building Permit, and Grading Permit.

**HEALTH:**

"The conditions below have been satisfied" BY \_\_\_\_\_ DATE \_\_\_\_\_

2. This is an unmanned facility with no water or sewage facilities. Therefore, no occupancy is allowed and site visits shall not exceed two hours.
3. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

Maximum Exterior Noise Level Standards, dBA

Cumulative Duration of Noise Event in any one-hour Period	Daytime 7 a.m. to 10 p.m.	Nighttime 10 p.m. to 7 a.m.
30-60 Minutes	50	45
15-30 Minutes	55	50
5-15 Minutes	60	55
1-5 Minutes	65	60
0-1 Minutes	70	65

Limit exceptions to the following:

- A. If the ambient noise level exceeds the standard, adjust the standard to equal the ambient level.
- B. Reduce the applicable standards by five dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

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- C. Reduce the applicable standards by 5 decibels if they exceed the ambient level by 10 or more decibels.
4. Vibration shall not be permitted which is discernible with instruments at the lot line of the property on which the vibration is generated.
5. No activities shall be permitted which emit dangerous radioactivity at any point, or electrical disturbance or electromagnetic interference adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
6. The facility shall be operated so that it shall not result in human exposure to nonionizing electromagnetic radiation (NIER) in excess of the levels specified in the most current standard governing human exposure to NIER utilized by the Federal Communications Commission(FCC) in its licensing decision for the applicable facility. The applicant shall be responsible for demonstrating that the facility complies with this standard by providing a copy of an FCC issued permit, license, or waiver, or evidence that the FCC has categorically excluded this facility.

#### TRANSPORTATION AND PUBLIC WORKS:

"The conditions below have been satisfied" BY \_\_\_\_\_ DATE \_\_\_\_\_

7. The proposal accesses the public road system using a road under State of California jurisdiction (Hwy. 37). Therefore, prior to issuance of building permits, Caltrans shall review this development proposal for possible improvement requirements. If Caltrans determines that improvements to the roadway are necessary, the Developer shall obtain a State of California Encroachment Permit before making any improvements, including driveway involving State highway right of way.
8. Prior to issuance of any building permit which results from approval of this application, a development fee (Traffic Mitigation Fee) shall be paid to the County of Sonoma, as required by Section 26, Article 98 of the Sonoma County Code. The applicants expect less than one trip per day on average.

#### FLOOD AND DRAINAGE:

"The conditions below have been satisfied" BY \_\_\_\_\_ DATE \_\_\_\_\_

9. The setback line along the waterway shall be measured from the toe of the stream-bank outward, a distance of  $2\frac{1}{2}$  times the height of the stream-bank plus 30 feet, or 30 feet outward from the top of the streambank.
10. Grading and / or building permit require review and approval by the Flood & Drainage Review Section prior to issuance.
11. Construction equipment and staging areas shall not be closer than 50 feet to the existing waterways. A siltation fence must be placed along the construction site to prevent loose soil and debris from entering the waterway. The silt fence location and details must be shown on the plans submitted to acquire the necessary permits.



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**PLANNING:**

"The conditions below have been satisfied" BY \_\_\_\_\_ DATE \_\_\_\_\_

12. This Use Permit allows the applicant to construct four freestanding 195-foot-tall lattice towers that use the tower itself as the AM radio antennas. The towers will not have guy wires and will be self-supporting, attached to a 36-foot-square concrete foundation block that is six feet above ground. At the base of each towers will be 120 subsurface grounding wires, extending radially a distance of approximately 150 feet. The project includes a fenced compound with a 1,250-square-foot equipment building and four large dish antennas. The dish antennas will be on the south side of the building and not visible from public roads. This would be an unmanned facility, operating 24 hours per day, 7 days a week. On-site maintenance shall occur on an as needed basis in order to properly maintain facility. The facility shall be constructed and operated in conformance with the application, site plan and elevations as submitted to the Sonoma County Permit and Resource Management Department and dated April 29, 2005, except as modified herein.
13. The 195-foot-tall towers shall be lighted at night and shall be painted a white and orange color per Federal Aviation Administration recommendations for aviation safety. Prior to issuance of a building permit, the applicant shall notify all airports within 10 miles of the site and, if requested by the airport management, shall provide an easement allowing access to inspect the tower and lighting.
14. The applicant shall pay all applicable development fees prior to issuance of building permits.
15. Development on this parcel is subject to the Sonoma County Fire Safe Standards and shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: emergency vehicle access and turn-around at the building site(s), addressing, water storage for fire fighting and fire break maintenance around all structures. Prior to occupancy, written approval that the required improvements have been installed shall be provided to the Permit and Resource Management Department from the County Fire Marshal/Local Fire Protection District.
16. Prior to issuance of any Building or Grading Permit the following note shall be included on such plans: "If human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the Coroner so that a "Most Likely Descendant" can be designated."
17. If archaeological artifacts such as pottery, arrowheads, midden are found, all work shall cease and PRMD staff shall be notified so that the find can be evaluated by a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists). When contacted, a member of PRMD Project Review staff and the archaeologist shall visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. No work shall commence until a mitigation plan is approved and completed subject to the review and approval of the archaeologist and Project Review staff.
18. Warning signs shall be posted at the base of the poled and on all four sides of fence alerting the public to the presence of radio frequency electromagnetic fields. Warning signs shall be in place prior to final of building permit.

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19. Following assembly and installation of the new facilities, all waste and debris shall be removed and disposed of in a lawful manner.
20. Upon abandonment or termination, the entire facility, including all equipment, towers, antennas, etc., shall be removed and the site restored to its pre-construction condition or other authorized use.
21. The owner/operator of any facility that causes interference with local television or radio reception shall be responsible for mitigation of such interference in accordance with the operator's applicable FCC license requirements.
22. The following measures shall be included as a note on all County-approved construction plans, including a County Grading Permit for the project :
  - a. Water all active construction areas at least twice daily.
  - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
  - c. Apply water three times daily on all unpaved access roads, parking areas and staging areas at construction site.

Mitigation Monitoring: During the grading inspection site visits, if the above measures are not being implemented, a stop work order shall be issued until such dust control measures are initiated.

23. The applicant shall pay all applicable development fees prior to issuance of building permits.
24. The applicant shall pay within five days after approval of this project to the Permit and Resource Management Department a mandatory Notice of Determination filing fee of \$35 for County Clerk processing (check shall be made payable to Sonoma County Clerk and submitted to the Permit and Resource Management Department) and:
  1. \_\_\_\_\_ No additional fee because the project is exempt from Fish and Game fee.
  2. \_\_\_\_\_ \$850 because an EIR was prepared, for a total of \$885.
  3.   X   \$1250 because a Negative Declaration was prepared, for a total of \$1285.

This fee must be paid or the approval of this project is not valid.

25. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate. Such changes may require a new or modified Use Permit and full environmental review.
26. In any case where a Use Permit has not been used within two (2) years after the date of the granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code.

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This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:

- (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code.

27. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations.