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Staff: M. Kraemer–A
Date: August 28, 2015

ADMINISTRATIVE COASTAL DEVELOPMENT PERMIT AMENDMENT

Application No.:	**1-15-0546-A1**
Applicant:	**The Wildlands Conservancy**
Location:	Eel River Estuary Preserve, 770 Russ Lane, Ferndale area, Humboldt County (APNs 100-121-01, -04, -05; 100-131-03, -04; 100-142-01; 100-143-01)
Description of Previously Approved Project:	Repair and maintain (1) duck ponds and associated dikes, and (2) an access road and associated culvert.
Proposed Amendment:	Modify permit granted for repair and maintenance of ranch facilities including ranch road to allow replacement of damaged culvert with larger diameter culvert than originally approved to lessen constriction of channel flows and stream bank erosion.

I. EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination and any special conditions appear on subsequent pages.

Note: Public Resources Code Section 30624 provides that this permit amendment shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit amendment will be reported to the Coastal Commission at the following time and place:

Thursday, September 10, 2015 – 8:30 a.m.
Humboldt State University
Great Hall
1 Harpst Street
Arcata, CA 95521

IMPORTANT: Before you may proceed with development, the following must occur:

You must sign the enclosed duplicate copy acknowledging the permit amendment's receipt and accepting its contents, including all conditions, and return it to our office pursuant to Title 14, California Administrative Code Sections 13150(b) and 13158. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the policies of Chapter 3 of the California Coastal Act, including those policies regarding public access and coastal recreation opportunities, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

CHARLES LESTER
Executive Director

By: _____

MELISSA B. KRAEMER
Supervising Planner

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgement**. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions is returned to the Commission Office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation**. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment**. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land**. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

Note: The original permit contains six (6) special conditions (in addition to five (5) standard conditions). Special Conditions 1, 2, 3, 5, and 6 are reimposed as conditions of this amended permit and remain in full force and effect. Special Condition 4 is reimposed as modified as shown below as a condition of this amended permit. Special Condition 7 is a new special condition applicable to this amended permit.

The new text and modifications from the original permit text are noted in ~~strikethrough~~ and **bold double underline** format.

This permit is granted subject to the following special conditions:

1. **California Department of Fish and Wildlife Approval.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE CULVERT REPAIR WORK, the Permittee shall provide to the Executive Director a copy of a permit issued by California Department of Fish and Wildlife, or evidence that no permit is required. The Permittee shall inform the Executive Director of any changes to the project required by the Board. Such changes shall not be incorporated into the project until the Permittee

obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

2. North Coast Regional Water Quality Control Board Approval. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE CULVERT REPAIR WORK, the Permittee shall provide to the Executive Director a copy of a permit issued by North Coast Regional Water Quality Control Board, or evidence that no permit is required. The Permittee shall inform the Executive Director of any changes to the project required by the Board. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

3. U.S. Army Corps of Engineers Approval. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE CULVERT REPAIR WORK, the Permittee shall provide to the Executive Director a copy of a permit issued by U.S. Army Corps of Engineers, or evidence that no permit is required. The Permittee shall inform the Executive Director of any changes to the project required by the Corps. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

4. Standards for Repair and Maintenance Work

A. Timing of work: Repair and maintenance activities authorized by this permit shall only be performed during the dry season (April 15 to October 15). Repair and maintenance of the duck ponds and associated dike system shall only be performed during latter part of the dry season (July through October) to avoid disturbance to breeding northern red-legged frogs.

B. No expansion of dike footprint: No excavated material shall be placed outside of the existing footprint of the dike system. Sediment placed on the existing dikes to be repaired shall not extend beyond the footprint of the dike as it existed before the repair. The determination of the location of the extent of the dike shall be made through a 'string line' method, whereby the portions of the dike that are not in need of repair or restoration on each side of the area that is in need of repair shall be used to determine the maximum extent of the repair area.

C. No stockpiling in wetlands: Excavated material, Class-2 aggregate base, and other materials associated with the authorized work shall be stockpiled outside of coastal wetlands and transitional agricultural lands.

D. Sediment control: Silt curtains or equivalent devices shall be installed around the culvert repair site prior to commencement of culvert repair work to reduce the discharge of fill materials and sediment laden runoff into Cutoff Slough or associated wetlands. The sediment and turbidity control devices shall be maintained during project construction and removed upon completion of the project. **To minimize wildlife entanglement and plastic debris pollution, the use of temporary rolled erosion and sediment control products with plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers used in fiber rolls, erosion control blankets, and mulch control netting) is**

prohibited. Any erosion-control associated netting shall be made of natural fibers and constructed in a loose-weave design with movable joints between the horizontal and vertical twines.

E. Spill prevention: To prevent and address spills of equipment fuels, lubricants, and similar materials, the repair work shall incorporate the following measures: (a) no equipment fueling shall occur on the property during the course of the repair and maintenance work; (b) equipment used during construction shall be free of oil and fuel leaks at all times; (c) oil absorbent booms and/or pads shall be on site during project construction and deployed if necessary in the event of a spill; and (d) all spills shall be reported immediately to the appropriate public and emergency services response agencies.

F. Debris disposal. All construction debris and excess material not needed for dike repairs shall be removed from the site and disposed of only at an authorized disposal site. Side casting of such material or placement of any such material within coastal wetlands is prohibited.

G. Revegetation. Disturbed areas shall be reseeded with California native seed as proposed in project description included with the CDP application.

H. Aquatic resources protection. For the culvert replacement work, (1) temporary coffer dams shall be installed and the work area in the channel around the culvert repair area shall be dewatered prior to commencement of culvert replacement activities, (2) temporary coffer dams shall remain in place only long enough to complete the culvert repair work, after which time the temporary coffer dams shall be fully removed and stream flow restored, and (3) the culvert replacement work shall be conducted under the supervision of a qualified fish biologist in accordance with appropriate fish and aquatic resources protection measures including, but not limited to, the seining and removal of fish from the culvert replacement work area prior to commencement of culvert replacement activities.

5. Repair and Maintenance Limitations. The Permittee shall implement the project as proposed, including implementing all proposed best management practices for protection of surrounding wetlands, waters, and environmentally sensitive habitats. All pond and dike repair and maintenance work authorized under this coastal development permit shall be wholly undertaken and completed within the existing footprint of the existing ponds and dikes. Any expansion of pond or dike areas, creation of new ponds or dikes, repair or maintenance of existing pit blinds or installation of new pit blinds shall require a permit amendment or a new coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Length of Development Authorization. Repair and maintenance activities are only authorized by this permit for five (5) years from the date of Commission approval (i.e., until August 13, 2020). One request for an additional five-year period of repair and maintenance authorization may be accepted, reviewed and approved by the Executive Director for a maximum total of 10 years of repair and maintenance authorization, provided the request would not substantively alter the project description, and/or require modifications of conditions due to new information or technology or other changed

circumstances. The request for an additional five-year period of repair and maintenance authorization shall be made prior to August 13, 2020. If the request for an additional five-year period would substantively alter the project description, and/or require modifications of conditions due to new information or technology or other changed circumstances, an amendment to this permit will be necessary.

7. Final Plans for Access Road Repair and Maintenance. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE CULVERT REPAIR WORK, the Permittee shall provide to the Executive Director, for review and approval, final plans for the culvert repair work demonstrating that the rock armoring proposed to be installed around the replacement culvert inlet and outlet will not result in any enlargement or expansion of the historic roadway prism of the existing access road.

IV. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT LOCATION AND EXISTING CONDITIONS

The subject site is located on the Eel River Estuary Preserve, an approximately 1,100-acre property located on the southern spit of the Eel River estuary in Humboldt County, approximately three miles west of the City of Ferndale. The Wildlands Conservancy (hereafter "Applicant" or "TWC") acquired the property, formerly Occidental Ranch and later Connick Ranch, in 2008. The property contains significant expanses of tidal wetlands, agricultural lands and seasonal freshwater wetlands (both diked former tidelands), and an approximately 84-acre narrow strip of coastal dunes about three miles long. Nearly the entire property, except for the dunes, the existing road and dike systems along sloughs and around ponds, and areas around the existing barn, consists of coastal wetland habitats of varying types (e.g., tidal, freshwater, and grazed seasonal wetlands).

Existing development on the property includes a barn, an approximately mile-long dirt and graveled access road leading from the barn out to the largest tidegate in the County on Cutoff Slough at the northeastern edge of the property (the tidegate actually is comprised of six top-hinged tidegates mounted to a large concrete structure), and two bridges and several culverts associated with the access road. The tidegate structure, constructed in the 1970s, protects surrounding agricultural land from tidal flows and flooding from the Eel River and Salt River. Approximately 650 acres of pasturelands on the property currently are leased to an organic dairy rancher for cattle grazing.

Since 1954, approximately eight acres of the approximately 650 acres of the property's agricultural pasturelands have been leased to the Eel River Gun Club for waterfowl hunting. Within the 8-acre lease area are seven existing shallow seasonal ponds. The pond complex includes a dike system around the ponds to protect the ponds from the influx of sediment-laden water during flood events (which are relatively common in this region during periods of heavy rains). Existing buried pit blinds near each pond allow hunters to remain hidden while hunting. An existing electric pump is used to draw water from an existing artesian well in the lease area, which fills the ponds in late summer each year through a series of gravity-fed

ditches extending between ponds. The artesian well was established prior to 1954. By the time duck-hunting season begins each October, the ponds typically are filled with 3-inches to 4-inches of water, providing desired habitat for ducks and other waterfowl. The ponds typically hold water throughout the hunting season (into March). After the ponds dry out in the spring, the ponds are disked to promote the growth of pasture grass. The ponds and the areas around the ponds are used for cattle grazing during the dry season, which maintains short-grass habitat attractive to waterfowl in the fall and winter. The ponds also provide breeding habitat for northern red-legged frog (*Rana aurora*), a California species of special concern.[1]

B. PROJECT DESCRIPTION

The Applicant proposes to amend CDP 1-15-0546. The original project as approved involved two distinct elements: (1) repair and maintenance of the duck ponds and associated dikes; and (2) repair and maintenance of certain portions of the access road and an associated culvert, which recently has failed (collapsed).

The existing access road to be repaired extends between the barn on the south end of the property and the tidegate on the north end of the property. A portion of the existing access road alignment is on top on an existing dike that separates agricultural pastures and marshlands of the property from Cutoff Slough. The original permit authorized repairs to a portion of the access road on the dike and one of its associated culverts by replacing an existing undersized collapsed culvert that is partially deteriorated in-kind with a 48" double-walled plastic culvert and placing ¾" Class-2 aggregate base and plantings around the culvert repair site to stabilize the drainage structure and banks. The original permit had been conditioned upon the Permittee obtaining other agency approvals, including Special Condition No. 1 which requires the Permittee to obtain any necessary authorization from the California Department of Fish & Wildlife (Department). During its review of a Streambed Alteration Agreement for the project, the Department required that the existing culvert be replaced with a larger diameter 72-inch culvert which is large enough to span the entire 6.5-foot-wide channel to avoid constriction of water flows and resulting erosion of channel banks. Pursuant to the requirement of Special Condition No. 1, the Applicant is applying for a permit amendment to incorporate these changes to culver replacement required by the Department into the permit.

As proposed, the amended culvert replacement work would involve (1) replacing an existing culvert with a 72-inch diameter, 40-foot-long culvert and placing ¾" Class-2 aggregate base and plantings around the culvert repair site to stabilize the drainage structure and banks, (2) installing rock armoring around replacement culvert inlet and outlets to protect the culvert from future erosion, (3) installing a rolling-dip on the north side of the road prism to disconnect road runoff from the stream channel, and (4) installing a coffer dam on both the inlet and outlet sides of the culvert repair site during low tide prior to culvert repair work to facilitate the repair work. Prior to replacing the culvert, the Applicant would install fish exclusionary fencing and sediment curtains around the work site. A temporary coffer dam on both the inlet and outlet sides of the culvert repair site would also be used to dewater the work

[1] California Natural Diversity Database (CNDDB), RareFind 5. July 2015. California Department of Fish and Wildlife, Biogeographic Data Branch, Sacramento.

area.Work would be conducted at minus tides to minimize the potential for turbidity. There would be temporary impacts to approximately 40 linear feet of slough channel as a result of culvert removal and replacement.

C. STANDARD OF REVIEW

The proposed project is located in the Commission's retained jurisdiction. The County of Humboldt has a certified local coastal program (LCP), but the site is within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

D. LOCAL GOVERNMENT AND OTHER APPROVALS

California Department of Fish and Wildlife (CDFW). The Department requires a Streambed Alteration Agreement (SAA) pursuant to Section 1603 of the California Fish and Game Code for the proposed culvert replacement work. Special Condition 1 requires that the Applicant obtain any necessary approvals from the Department for the proposed culvert replacement work prior to commencement of construction.

North Coast Regional Water Quality Control Board. The Regional Board requires a water quality certification (WQC) for the proposed culvert repair work pursuant to Section 401 of the Clean Water Act and/or the Porter-Cologne Water Quality Control Act. Special Condition 2 requires that the Applicant obtain any necessary approvals from the Board for the proposed culvert replacement work prior to commencement of construction.

U.S. Army Corps of Engineers. The Corps may have regulatory authority over the proposed culvert repair work under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 1344) and/or Section 404 of the Clean Water Act. Section 10 of the Rivers and Harbors Act regulates structures or work in navigable waters of the United States. Section 404 of the Clean Water Act regulates fill or discharge of materials into waters and ocean waters. Special Condition 3 requires the Applicant to obtain any necessary approvals from the Corps for the proposed culvert replacement work prior to commencement of any construction.

E. REPAIR AND MAINTENANCE

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of, the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations. Section 30610 of the Coastal Act provides, in relevant part, the following:

> *Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .*

> *(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.* [Emphasis added]

Section 13252 of the Commission administrative regulations (14 CCR 13000 *et seq*.) provides, in relevant part, the following:

> *(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:…*
>
> *(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*
>
> *(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;*
>
> *(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.*
>
> *All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.…* [Emphasis added.]
>
> *(b) Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.*

The amended repair and maintenance work on the existing access road and culvert qualifies as a repair and maintenance project because the work as proposed (a) does not involve an addition to or enlargement of the object of the repair and maintenance activities, and (b) does not involve replacement of 50% or more of the object of the repair and maintenance activities.

Although certain types of repair projects are exempt from CDP requirements, Section 13252 of the regulations requires a CDP for extraordinary methods of repair and maintenance enumerated in the regulation. The proposed work involves the placement of construction materials and removal and placement of solid materials within 20 feet of coastal waters and within 50 feet of wetland ESHA. Therefore, the proposed project requires a CDP under Sections 13252(a)(3) of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the existing development.

The repair and maintenance work could have adverse impacts on coastal resources, in this case primarily coastal wetlands and waters, if not properly undertaken with appropriate mitigation. Coastal wetlands and waters are located adjacent to the access road repair site. TWC proposes to replace the existing defunct culvert and repair the damaged road section around the culvert using ¾-inch Class-2 aggregate base material. Heavy equipment will be used to perform the repair and maintenance activities.

The project proposes a number of mitigation measures to minimize the potential for project impacts to water quality, wetlands, and other sensitive habitat areas. These include (1) installing fish exclusionary fencing and sediment curtains around the work site, (2) working at minus tides and use of a coffer dam to isolate the culvert and road repair area from coastal waters, and (3) performing the work during the summer dry season to minimize the potential for sediment-laden runoff to enter surrounding coastal waters and wetlands. While the applicant has proposed some mitigation measures to protect coastal resources, more specific measures are needed to further minimize the project's expected and potential impacts on wetlands and water quality. The conditions required to ensure that these measures are part of the project are discussed in the following findings.

In addition, Special Condition 7 is imposed to ensure that the proposed culvert and access road repair work does not result an expansion or enlargement of the access road width beyond the historic roadway prism. If the access road were to be enlarged, the work could not be considered repair and maintenance pursuant to Section 30610(d) of the Coastal Act, but instead would constitute new development. Special Condition 7 requires submittal of final plans for the culvert repair work, for the Executive Director's review and approval, prior to commencement of construction of the culvert repair work. The final plans shall demonstrate that the rock armoring proposed to be installed around the replacement culvert inlet and outlet will not result in any enlargement or expansion of the historic prism of the existing access roadway.

Therefore, as conditioned in these findings, the Executive Director finds that the permit amendment for the repair and maintenance work is consistent with the Chapter 3 policies of the Coastal Act.

E. PROTECTION OF WATER QUALITY, MARINE RESOURCES, AND ESHA

Section 30230 of the Coastal Act states the following:

> *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30233 of the Coastal Act states, in applicable part, as follows:

> *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects,*
>
> …

Section 30240 of the Coastal Act states, in applicable part, as follows:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values…*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The proposed repair and maintenance project involves soil disturbance, which could increase sedimentation in the bay, slough, and wetlands and which could disturb sensitive habitats. As previously discussed, several sensitive resources, including seasonal wetlands, sensitive fish such as tidewater goby (*Eucyclogobius newberryi*), and northern red-legged frog breeding habitat could potentially be adversely affected as a result of project effects on water quality.

Coastal Act Section 30231 protects the quality of coastal waters, streams, and wetlands through, among other means, controlling runoff. Coastal Act Section 30240 requires that

environmentally sensitive habitat areas be protected against any significant disruption of habitat values, and the section further requires that development adjacent to ESHA must be sited and designed to protect the ESHA and provide for the continuance of the habitat area.

Erosion of existing channel banks and grading and soil disturbance can result in the discharge of sediment into site runoff, which, upon entering coastal waters, increases turbidity and adversely affects fish and other sensitive aquatic species. Sediment is considered a pollutant that affects visibility through the water, and affects plant productivity, animal behavior (such as foraging) and reproduction, and the ability of animals to obtain adequate oxygen from the water. In addition, sediment is the medium by which many other pollutants are delivered to aquatic environments, as many pollutants are chemically or physically associated with the sediment particles.

Installation of the larger 72-inch culvert will help reduce sedimentation impacts to the channel by improving the hydraulics of the existing culverted crossing of the channel. The 72-inch existing smaller culvert and previously approved replacement culvert. As noted above, the 72-inch culvert is large enough in diameter to completely span the 6.5-foot-wide channel, which will avoid constriction of flow in the channel during high water periods. As a result, less erosion of the stream banks and road prism will occur, thereby reducing sedimentation impacts in the channel.

Implementation of the proposed amended project will result in grading and soil disturbance, and the transportation and placement of fill materials to the sites to be maintained, and the use of staging areas for stockpiling of materials to be used for the project and other material to be disposed of (excess fill, etc.). Unless appropriate protocols are followed, these activities could result in various adverse impacts to water quality, seasonal wetlands, or sensitive areas from, for example, fuel or oil spills, improper storage of materials in or adjacent to sensitive areas, increased turbidity, installation of temporary access roads and staging areas through the seasonal wetlands, disturbance of ESHA, etc. Therefore, the proposed amended project has the potential to adversely impact the water quality and biological productivity of coastal waters and wetlands as well as to adversely impact northern red-legged frog breeding habitat.

As discussed above, the protocols proposed by the Applicant include a number of measures to protect water quality and surrounding sensitive habitats and marine resources, including (1) installing fish exclusionary fencing and sediment curtains around the work site, (2) working at minus tides and use of a coffer dam to isolate the culvert and road repair area from coastal waters, and (3) performing the work during the summer dry season and reseeding disturbed areas with California native seed to minimize the potential for sediment-laden runoff to enter surrounding coastal waters and wetlands and to avoid impacts to frog breeding habitat. Special Condition 4 is imposed to require that the repair and maintenance activities be undertaken in accordance with these and other appropriate mitigation measures necessary for water quality, marine resource, and ESHA protection, such as (a) sediment spoils, Class-2 aggregate base, and other materials associated with the authorized work shall be stockpiled outside of coastal wetlands and transitional agricultural lands; (b) no spoils shall be placed outside of the existing footprint of the dike system; (c) no equipment fueling shall occur on the property during the course of the repair and maintenance work; (d) equipment used during

construction shall be free of oil and fuel leaks at all times; (e) oil absorbent booms and/or pads shall be on site during project construction and deployed if necessary in the event of a spill; (f) all spills shall be reported immediately to the appropriate public and emergency services response agencies; (g) repair and maintenance activities authorized by this permit shall only be performed during the dry season (April 15 to October 15), and (h) appropriate aquatic resources protection measures will be employed for the culvert replacement work. These latter measures include the appropriate installation of coffer dams to isolate the culver repair area from the flowing channel and seining and removal of fish from the work area by a qualified biologist prior to commencement of culvert replacement activities.

Therefore, the Executive Director finds that as conditioned, the proposed repair and maintenance project is consistent with Sections 30230, 30231, 30233, and 30240 of the Coastal Act, because: (a) the proposed amended development as conditioned maintains marine resources and protects water quality and wetlands consistent with Section 30230, 30131, and 30233; and (b) the proposed amended project as conditioned is sited and designed to prevent impacts that could significantly degrade sensitive wetland habitat and is compatible with the continuance of the ESHA consistent with Section 30240.

F. PUBLIC ACCESS

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission also is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

Repair and maintenance is not considered new development for purposes of Section 30212. Coastal Act Section 30212(b)(5) excludes repair and maintenance activities such as those activities authorized herein from Coastal Act access requirements unless the Executive Director *determines that the activity will have an adverse impact on lateral beach access*.

The proposed development will have no impact on lateral beach access because: (a) staging areas will be located outside of any access or access points; and (b) there is no beach adjacent to the section of ranch roadway to be repaired. The project is therefore consistent with the requirements of Sections 30210 and 30212.

Coastal Act Section 30211 also requires new development not to interfere with existing access. The ranch road to be repaired has not been used by the public to gain access to the ocean or to Centerville Slough or the Eel River during their long existence, except by

permission of the owners. In addition, the repairs to the roadway and culvert will keep the roadway in service and help ensure any use of the roadway made by the public to gain access to the shoreline can continue.

Therefore, the Executive Director finds that the proposed project will not adversely affect public access and the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Executive Director incorporates his findings on conformity with the Chapter 3 policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the amended development has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts, have been required as permit special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Executive Director finds that the amended development as conditioned to mitigate the identified impacts can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

ATTACHED EXHIBITS

1. Regional location map
2. Vicinity map

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Permittee's Signature **Date of Signing**

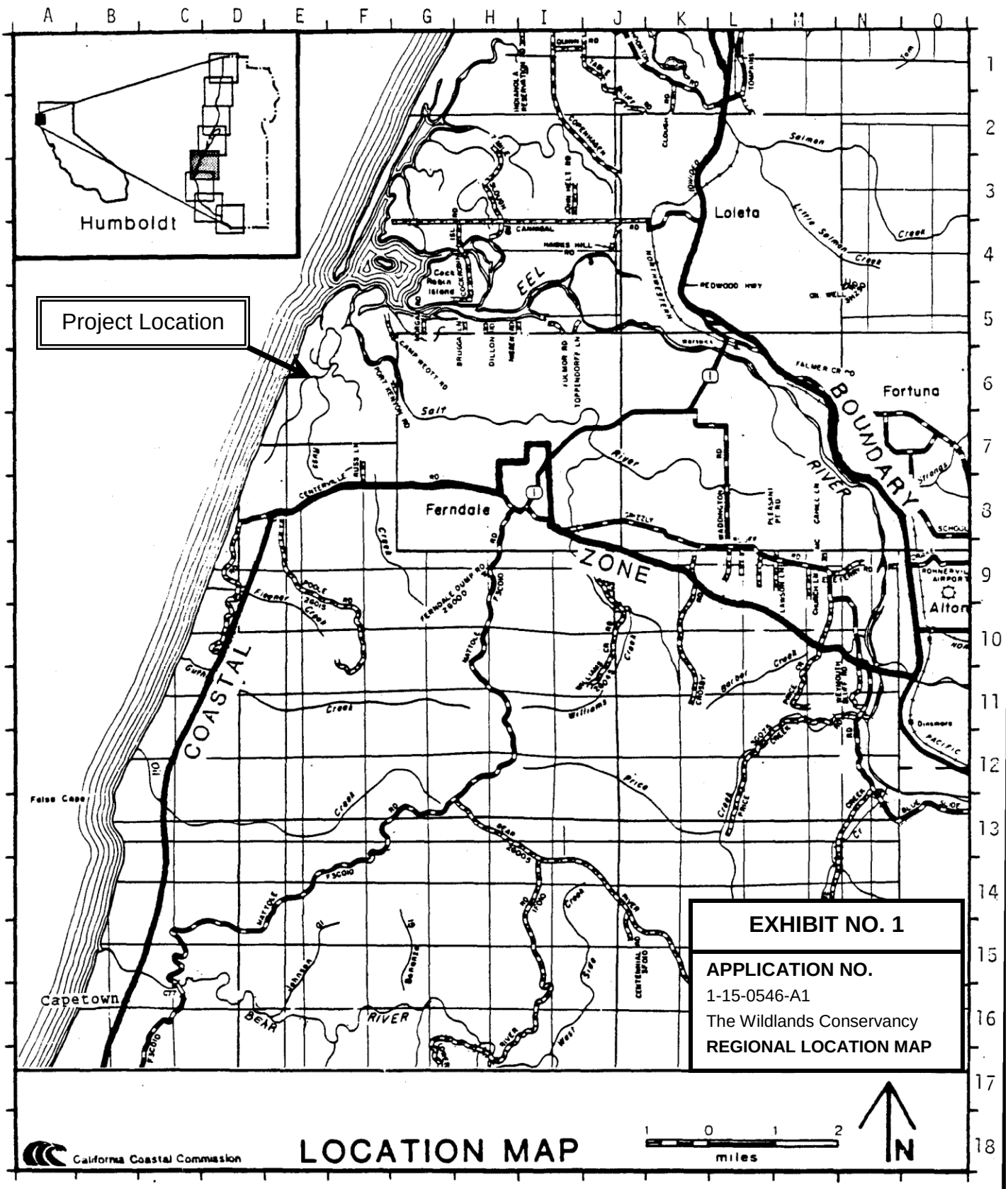

EXHIBIT NO. 1

APPLICATION NO.
1-15-0546-A1
The Wildlands Conservancy
REGIONAL LOCATION MAP

County of Humboldt

Figure A: Map of Eel River Estuary Preserve

EXHIBIT N0. 2
APPLICATION NO.
1-15-0546-A1
The Wildlands Conservancy
VICINITY MAP