

CALIFORNIA COASTAL COMMISSION

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Date Filed: July 18, 2001
49th Day: September 5, 2001
180th Day: January 14, 2002
Staff: Tiffany S. Tauber
Staff Report: August 31, 2001
Hearing Date: September 13, 2001
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-01-038**

APPLICANT: **JUDITH HARTMAN**

AGENTS: Pacific Affiliates, Inc.

PROJECT LOCATION: 4640 Broadway, Eureka, Humboldt County

PROJECT DESCRIPTION: Removal of approximately 8,000 cubic yards of stockpiled fill material to a location outside of the coastal zone by October 15, 2001, installation of silt fencing, and seeding the site following removal of the material.

GENERAL PLAN DESIGNATION: General Industrial (GI)

ZONING DESIGNATION: Coastal General Industrial (MG)

LOCAL APPROVALS REQUIRED: City of Eureka Coastal Development Permit

OTHER APPROVALS: None Required

SUBSTANTIVE FILE DOCUMENTS: (1) CDP No. 1-85-089, Hartman; (2) City of Eureka LCP

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions of the proposed removal of approximately 8,000 cubic yards of stockpiled fill material located at an industrial site known as Rockin' R Meat Company at the south end of the City of Eureka adjacent to Highway 101. The proposed project involves removing the fill material to an approved location outside the coastal zone by October 15, 2001 and also involves the installation of silt fencing and seeding the site following removal of the fill material.

The stockpiling of the fill material was performed without benefit of a coastal development permit and the proposed project is intended to correct the violation by removing the unauthorized material and restoring the site to pre-stockpile conditions. The fill material is located adjacent to coastal wetlands, an environmentally sensitive habitat area. To ensure that stormwater runoff from the stockpile area does not cause sedimentation and other water quality impacts to the adjacent wetlands, staff recommends three special conditions.

Special Condition No. 1 requires the applicant to install a silt fence around the perimeter of the southern drainage swale and cover all storm drain inlets within 75 feet of the fill stockpiles. Consistent with the terms of the proposed project description, Special Condition No. 2 requires all fill material to be removed to an approved location outside of the coastal zone before October 15, 2001. Special Condition No. 3 requires all disturbed portions of the fill stockpile site to be seeded with a grass seed mix within 10 days following completion of removal of the fill material and no later than October 25, 2001. Special Condition No. 1 requires that the silt fence remain in place following removal of the fill material until the applicants have demonstrated the success of the seeding of the disturbed portions of the site.

As conditioned, staff believes that the project is fully consistent with the Chapter 3 policies of the Coastal Act.

STAFF NOTES:

1. Standard of Review

The proposed project is located within the City of Eureka. The City of Eureka has a certified LCP. However, the portion of the project that is the subject of Coastal Development Permit No. 1-01-038 is located within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, this portion of the site is within the Commission's retained jurisdiction. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-01-038 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions: See Attachment A.

III. Special Conditions:

1. Sedimentation Control

- (a) A silt fence to trap sediment contained in sheet flow shall be installed around the perimeter of the southern drainage swale prior to commencement of any fill removal operations. The silt fence shall be constructed with filter fabric which retains 85% of the soil, by weight, based on sieve analysis, but is not finer than an equivalent opening size of 70. The fence shall extend along the entire perimeter of the drainage swale and its ends shall be turned upslope to prevent runoff from flowing around the fence. The fence posts shall be spaced a maximum of 6 feet apart and driven securely into the ground a minimum of 30 inches. The filter fabric shall extend approximately 2 feet above ground with its bottom securely buried in a trench, approximately 8 inches wide and 12 inches

deep, excavated along the line of posts and upslope from the barrier. The trench shall be backfilled with compacted native material. The silt fence shall be maintained and inspected weekly and after each rainfall and sediment shall be removed prior to when the buildup of trapped sediment reaches 1/3 the fence height.

- (b) The silt fence shall remain in place following removal of the fill material until the applicants have demonstrated the success of the seeding of the disturbed portions of the site as required pursuant to Special Condition No. 3.
- (c) All storm drain inlets located within 75 feet of the removal operation shall be covered during fill removal operations in a manner that will prevent sediment from entering the inlets.

2. Timing of Removal

All fill material shall be removed to within six inches of the original grade and disposed of at a storage site outside of the coastal zone before October 15, 2001. Failure to complete removal of the fill material as required above by October 15, 2001 may result in the institution of enforcement action with respect to the unpermitted development on the property under the provisions of Chapter 9 of the Coastal Act.

3. Site Reclamation

- A. All disturbed portions of the fill stockpile site shall be seeded with a grass seed mix within 10 days following completion of removal of the fill material and no later than October 25, 2001. Areas of disturbed soil shall achieve no less than 100 percent coverage within 9 months after seeding the disturbed area.
- B. The permittee shall submit a monitoring report to the Executive Director within 10 months after seeding the disturbed area. The final report must be prepared by a qualified professional and evaluate whether the objective of 100% coverage of the disturbed area within 9 months of the seeding has been achieved. If the report indicates that the seeding effort has been unsuccessful, in part, or in whole, the applicant shall submit for the review and approval of the Executive Director a revised seeding program to achieve the 100% coverage performance standard. The revised seeding program shall require an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

1. Site Description & Project Description

The project site is located at the south end of the City of Eureka, on the west side of Highway 101 at 4640 Broadway, north of Pound Road. The site is an approximately 8.5 acre industrial site also known as the Rockin' R Meat Company and is located approximately 0.25 miles east of Elk River and Humboldt Bay (Exhibit Nos. 1 & 2). The property is located in the southeastern Humboldt Bay lowlands in an area that commonly supports tidally influenced wetlands in low gradient areas and ditches. The current land use on the site is industrial and due to the authorized placement of fill in the past, the site is elevated several feet higher than the surrounding natural topography.

The proposed project involves removal of approximately 8,000 cubic yards of stockpiled fill material to an approved location outside the coastal zone by October 15, 2001. The applicant proposes to remove the fill material to within six inches of the original grade. Following removal of the material, the area would be graded smooth and exposed earthen areas would be seeded with a lawn seed mix and irrigated so that the seed germinates prior to the wet season.

The stockpiled fill is excavated road bank material from a Caltrans project which involved the construction of a retaining wall along Broadway (Highway 101) in Eureka and was stockpiled at the site without benefit of a coastal development permit within the last year. In 1985, the Commission approved Coastal Development Permit No. 1-85-089 for the placement of 5,500 cubic yards of fill in 1.5 acres of farmed wetlands at the site, adjacent to the City of Eureka's wetland restoration program at Elk River. However, this previously approved coastal development permit did not authorize stockpiling fill material at the site.

The entire site is within the coastal zone and is bisected by the boundary between the Commission's and the City of Eureka's coastal development permit jurisdiction. The approximately 8,000 cubic yards of fill was placed in two areas on the property. One area is located in the northwestern portion of the property, in which approximately 1,000 to 2,000 cubic yards of fill was placed. A small portion of this stockpile area is within the City's coastal development permit jurisdiction. The second area is located entirely within the Commission's jurisdiction on the southwestern portion of the property, in which approximately 6,000 to 7,000 cubic yards of fill was placed (Exhibit No. 3).

A wetland assessment was prepared for the site and identified three distinct vegetation types including non-native grassland, North Coast riparian scrub, and coastal salt marsh. According to the wetland assessment, based on the adjacent upland vegetation and on the review of a 1998 aerial photograph, the fill was placed in the upland non-native grassland portions of the parcel and not within the wetlands. The distance of the fill from the wetland varies from 10 feet at the northwest edge of the northern fill area (within the City's jurisdiction) to 120 feet at the southwest edge of the southern fill area.

The City of Eureka LCP enumerates specific principally permitted uses within the General Industrial zone. The enumerated uses does not specifically include "stockpiling of fill material," but does include "gravel, rock, and cement yards" as a principally permitted use under Section

10-5.100.3.2(24) of the Eureka Municipal Zoning Code. Thus, the City considers the stockpiling of fill to be incidental to a gravel, rock, and cement yard and therefore considers the stockpiling of fill to be an allowable use at the site. However, like the Commission, the City is currently processing a coastal development permit for the removal of the portion of the project that falls within the City's permitting jurisdiction.

2. **Protection of Environmentally Sensitive Habitat Areas (ESHA) and Water Quality**

Coastal Act Section 30240 states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (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.*

Coastal Act Section 30231 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.

The fill material is stockpiled in two locations on the site in areas located adjacent to coastal wetlands, an environmentally sensitive habitat area. Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal wetlands be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, and controlling runoff. In addition, Section 30240 of the Coastal Act states that development in areas adjacent to environmentally sensitive habitat 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 areas.

A wetland assessment of the site was prepared by Natural Resources Management Corporation dated June 20, 2001 and involved a field review to determine the extent of the wetlands and to map the placement of the fill in relationship to the wetlands (Exhibit No. 4). Three distinct vegetation types were identified at the site including non-native grassland, North Coast riparian scrub, and coastal salt marsh. According to the wetland assessment, the non-native grassland is a

herbaceous-dominated vegetation type that is ruderal (weedy) in nature and has been periodically mowed. The North Coast riparian scrub and coastal salt marsh are shrub to herbaceous-dominated vegetation types and are interspersed along a manmade ditch and associated low gradient areas including two drainage swales on the western perimeter of the property which are tidally influenced. According to the wetland assessment, based on the adjacent upland vegetation and on the review of a 1998 aerial photograph it was determined that the fill material was placed in the upland non-native grassland portions of the parcel and not within wetland areas.

The distance of the fill from wetland areas varies from ten feet from the drainage swale at the northwest edge of the northern fill area (within the City's jurisdiction) to 120 feet at the southwest edge of the southern fill area. The northern fill area has been stockpiled along an existing elevated berm that separates the perimeter wetland ditch from the upland grasslands and encroaches to within 26 feet from the southern drainage swale. The southern fill area is located as close as 45 feet to the southern drainage swale and from 84 to 120 feet from the perimeter wetland ditch (Exhibit No. 3).

Site drainage from the western portion of the property is largely directed to the two existing tidally influenced drainage swales which drain into the perimeter wetland ditch. Due to the proximity of the substantial amount of fill material to the adjacent wetlands, the proposed fill removal project has the potential to adversely impact water quality and the biological productivity of the wetlands from erosion and sedimentation. Sediments entrained in runoff can result in adverse water quality impacts such as increased turbidity and can result in potential adverse impacts to the adjacent wetlands. Potential adverse impacts to the wetlands from the introduction of sediment include reduction of surface area, changes in chemical composition and nutrient cycling, changes in hydrologic regime, and burial of sensitive wetland plant and animal species.

The applicant indicates that a silt fence exists along the northern drainage swale (within the City's jurisdiction) where fill material is located as close as ten feet to the drainage swale. The applicant proposes to install a similar silt fence along the southern drainage swale, which would minimize the likelihood that sediment would reach the drainage swell and adjacent wetlands. To ensure that this silt fence is installed as proposed to control sedimentation and minimize the potential for large quantities of sediment to leave the site, the Commission attaches Special Condition No. 1(a). Special Condition No. 1(a) requires a silt fence to be installed around the perimeter of the southern drainage swale prior to the commencement of any fill removal activities. Special Condition No. 1(a) further requires that the silt fence be inspected regularly and that sediment be removed when it reaches 1/3 the fence height. Special Condition 1(b) requires the silt fence to remain in place until the applicant has demonstrated that the site has been successfully seeded as proposed and discussed below.

To further protect the quality and biological productivity of the coastal wetlands adjacent to the site and minimize the potential for sediment to leave the site, the Commission attaches Special Condition No. 1(c). Special Condition No. 1(c) requires that all storm drain inlets located within

75 feet of the stockpiled fill that is to be removed be covered prior to commencement of fill removal operations and remain covered until completion of the project.

The applicants propose to remove the stockpiled fill material by October 15, 2001 before the start of the rainy season. The applicant proposes to remove the fill material to within six-inches of the original grade. Following removal of the material, the area would be graded smooth and exposed earthen areas would be seeded with a lawn seed mix and irrigated so that the seed germinates prior to the wet season. Seeding the site following removal of the fill would prevent erosion of and potential sedimentation from the disturbed area. If the stockpiled material were to remain uncontained and exposed during the rainy season, the fill material could more likely become entrained in surface runoff and could result in adverse water quality impacts such as increased turbidity and sedimentation impacts to adjacent and off-site environmentally sensitive habitat areas. Therefore, to ensure that the fill material is removed prior to the start of the rainy season as proposed, the Commission attaches Special Condition No. 2 which requires that all fill material be removed to an approved location outside of the coastal zone by October 15, 2001. Special Condition No. 3 requires that all disturbed portions of the fill stockpile site be seeded within 10 days following completion of removal of the fill material and no later than October 25, 2001. Special Condition No. 3 further requires the permittee to submit a monitoring report to the Executive Director within 10 months after seeding the disturbed area. The final report must be prepared by a qualified professional and evaluate whether the objective of 100% coverage of the disturbed area within 9 months of the seeding has been achieved. If the report indicates that the seeding effort has been unsuccessful, in part, or in whole, the applicant is required to submit for the review and approval of the Executive Director a revised seeding program to achieve the 100% coverage performance standard.

Therefore, the Commission finds that the project as conditioned would be sited and designed to prevent impacts which would significantly degrade the adjacent ESHA, would protect the biological productivity of the coastal wetland by minimizing site runoff and sedimentation, consistent with Sections 30240 and 30231 of the Coastal Act.

3. Visual Resources

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and requires in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas. Furthermore, Section 30240(b) of the Coastal Act states that development in areas adjacent to 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 recreation areas.

The proposed project involves the removal of approximately 8,000 cubic yards of fill material that is piled approximately 15-feet-high in some areas. The subject site is located in an industrially developed area at the south end of Eureka adjacent to Highway 101 and near the Elk

River City Wildlife Area which is located to the west of the project site. Although the existing stockpile does not block public views to the bay or ocean, the proposed removal of the fill material and seeding of the site would improve the general visual quality of the area and be visually compatible with the character of the surrounding area by eliminating the substantial amount of fill material from the viewshed along Highway 101.

Therefore, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act as the proposed removal of the fill material would not adversely impact public views to and along the ocean, but rather, would improve the visual quality of the area.

4. Public Access

Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30212 of the Coastal Act 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. In applying these sections of the Coastal Act, the Commission is also 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.

Although the project is located between the first public road and Humboldt Bay, an inlet of the sea, it will not otherwise adversely affect public access. There are no trails or other public roads that provide shoreline access within the vicinity of the project. Furthermore, the proposed fill removal project will not change the nature or intensity of visitor-serving commercial use, and thus will not create any new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project would not have an adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212.

5. Alleged Violation

As noted above, the fill material was placed at the site in an area of the Commission's retained jurisdiction without the benefit of a coastal development permit. The proposed removal of the fill material by October 15, 2001 is intended to correct the violation at the site. Failure to implement the project as proposed and required above by October 15, 2001 may result in the institution of enforcement action with respect to the unpermitted development on the property under the provisions of Chapter 9 of the Coastal Act.

The applicant has implemented several mitigation features into the removal project and Special Condition Nos. 1-3 require the applicant to implement additional mitigation to prevent impact to adjacent wetland resources in the area. After removal occurs, the applicant is required to seed the site and to provide a monitoring report assessing the success of seeding of the site after fill removal occurs. If the initial seeding does not achieve 100% vegetation consistent with the special conditions, the applicant will be required to perform additional mitigation to assure the restoration of the site to pre-violation conditions and future minimization of impacts to the adjacent wetland resources. Thus, as conditioned, the Commission finds that the proposed removal project is consistent with the Chapter 3 resource policies of the Coastal Act. Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the cited alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

6. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement 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 the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. 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. Mitigation measures which will minimize or avoid all significant adverse environmental impact have been required. 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 would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

JUDITH HARTMAN

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EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Site Map
4. Wetland Assessment (NRMC June, 2001)

ATTACHMENT A

Standard Conditions:

1. Notice of Receipt and Acknowledgment. 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 of 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.

A B C D E F G H I J K L M N O

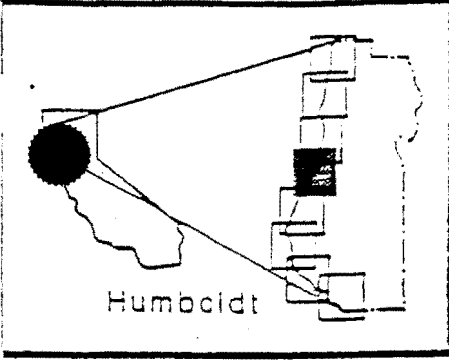


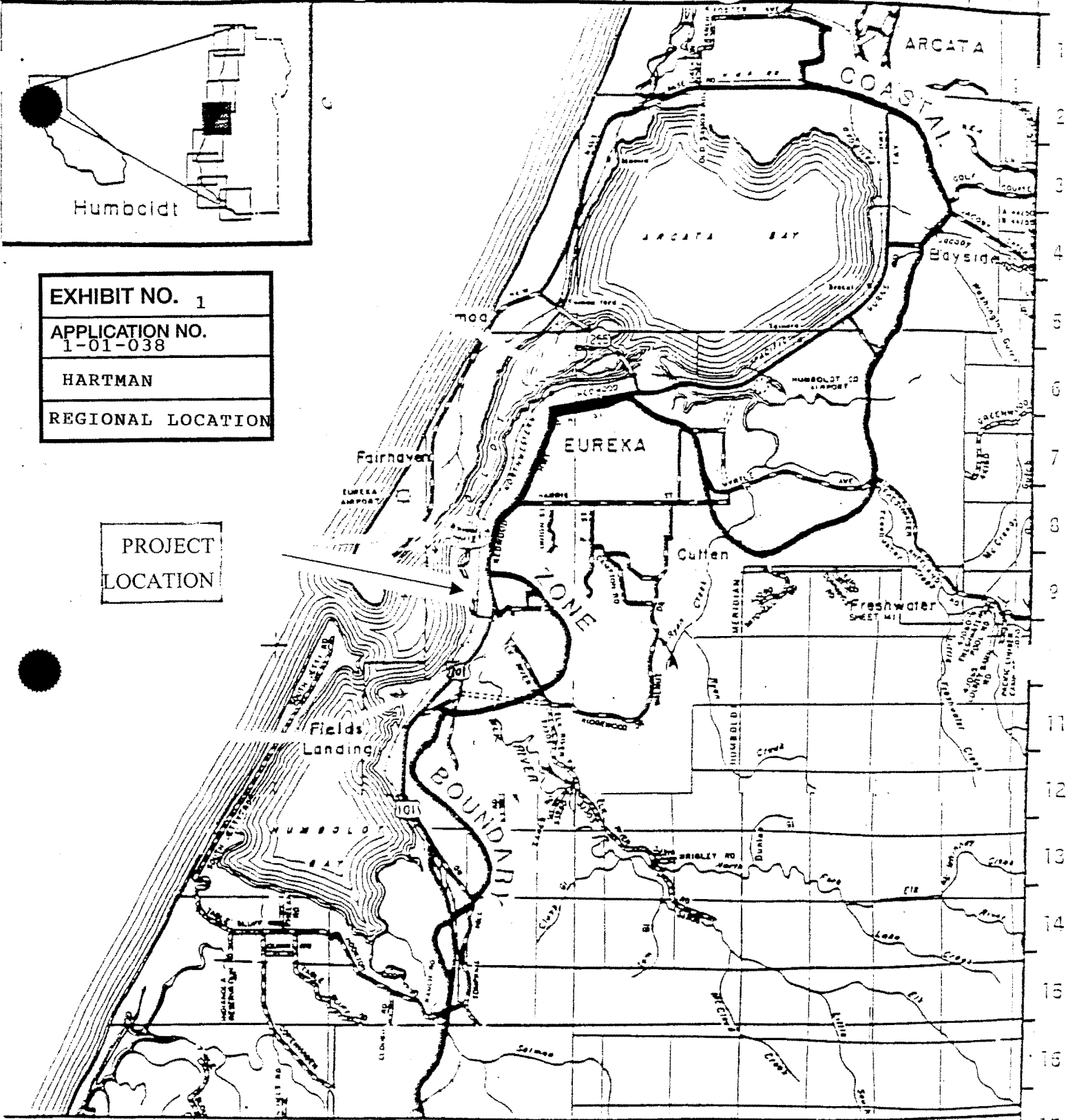
EXHIBIT NO. 1

APPLICATION NO.
1-01-038

HARTMAN

REGIONAL LOCATION

PROJECT LOCATION



California Coastal Commission

LOCATION MAP

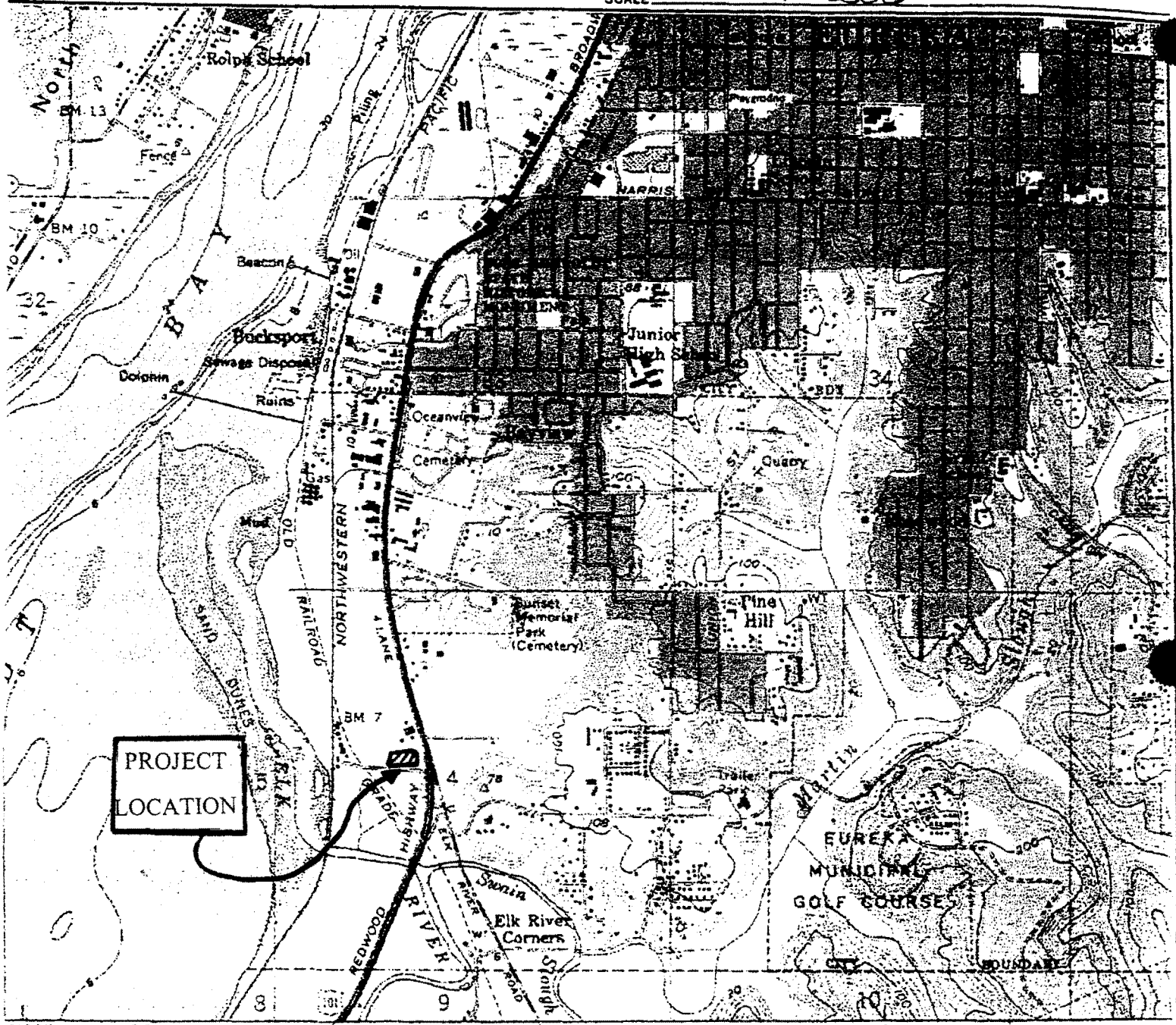


County of Humboldt



PACIFIC AFFILIATES, INC.
A CONSULTING ENGINEERING GROUP
 990 W. WATERFRONT DRIVE • EUREKA • CA • 95501
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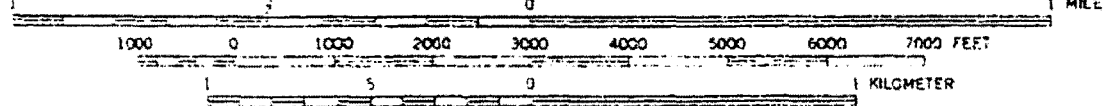
SHEET NO. 1 OF 1
 CALCULATED BY PK DATE 7/31/00
 CHECKED BY _____ DATE _____
 SCALE 1" = 2000' ±



**PROJECT
LOCATION**

2'30" FIELDS LANDING 2.2 MI. FORTUNA 1.9 MI. (FIELDS LANDING) ELK RIVER 1 MI. S. W. 10' 102 RIDGE

SCALE 1:24 000

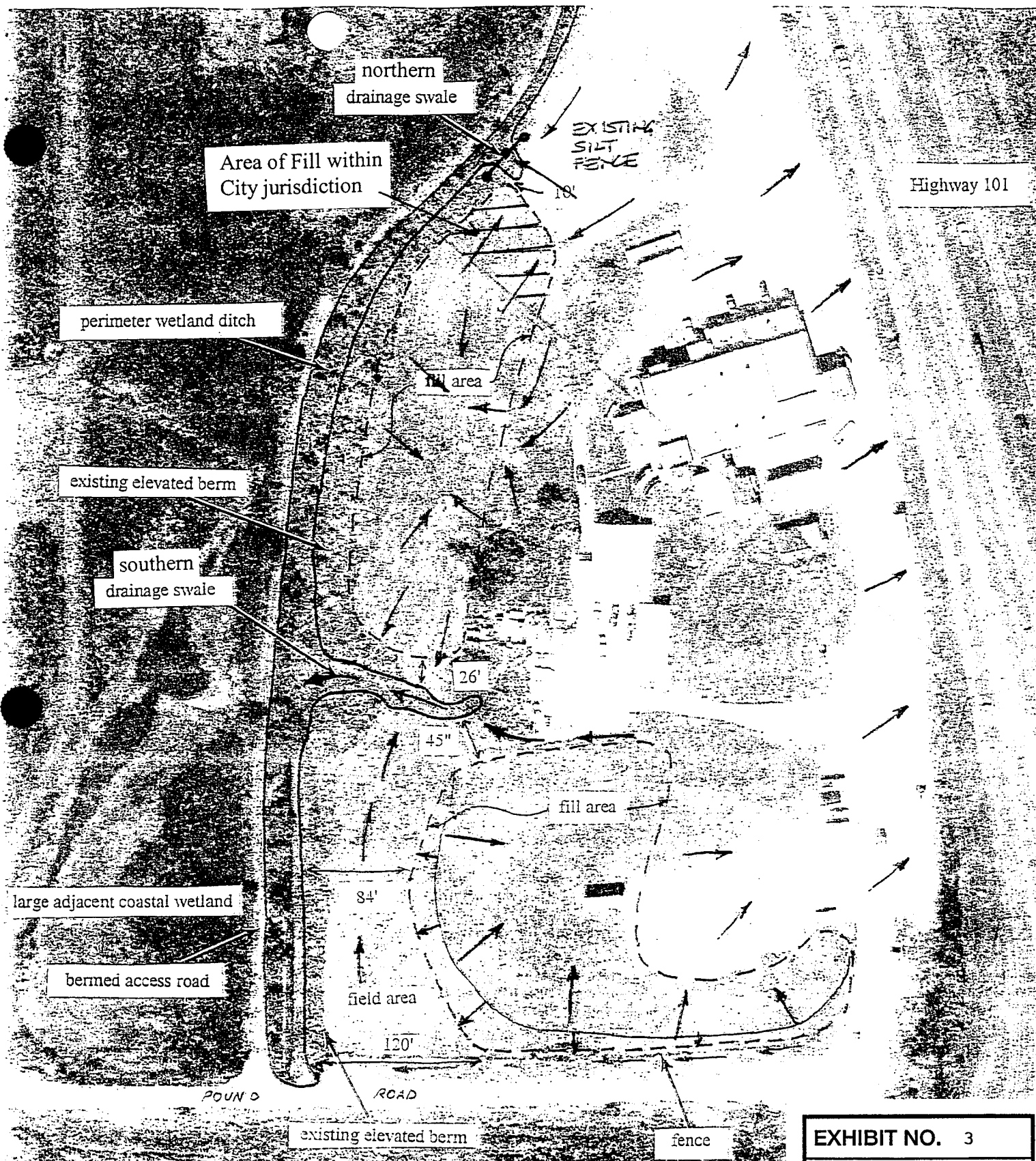


CONTOUR INTERVAL 20 FEET
 DOTTED LINES REPRESENT 10-FOOT CONTOURS
 DATUM IS MEAN SEA LEVEL
 DEPTH CURVES IN FEET—DATUM IS MEAN LOWER LOW WATER
 SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER
 THE MEAN RANGE OF TIDE IS APPROXIMATELY 4 FEET

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
 FOR SALE BY U. S. GEOLOGICAL SURVEY, DENVER, COLORADO 30225, OR RESTON, VIRGINIA 22092
 A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

EUREKA, CALIF.
 SW 1/4 EUREKA 15' QUADRANGLE
 N4045—W12407.5/7.5

EXHIBIT NO. 2
APPLICATION NO. 1-01-038
HARTMAN
VICINITY MAP



Highway 101

Area of Fill within City jurisdiction

perimeter wetland ditch

existing elevated berm

southern drainage swale

large adjacent coastal wetland

bermed access road

existing elevated berm

fence

EXHIBIT NO. 3
APPLICATION NO. 1-01-038
HARTMAN
SITE MAP

ROCKIN' R WETLAND ASSESSMENT MAP
 Approximate Map Scale: 1" = 100'
 Photo Date: September 1998

(Arrows indicate direction of drainage)

ARROWS INDICATE DIRECTION OF DRAINAGE

Rockin' R Wetland Assessment
Prepared by: Clare Tipple Golec
Natural Resources Management Corporation
1434 Third Street, Eureka, CA 95501

June 20, 2001

EXHIBIT NO. 4
APPLICATION NO. 1-01-038
HARTMAN (pg. 1 of 5)
WETLAND ASSESSMENT

Introduction

A field review was performed June 4 and 19, 2001, by Natural Resources Management's (NRM) staff botanist, Clare Golec to assess the placement of fill in relation to wetlands on and adjacent to the Rockin' R property. The placement of approximately 8,000 cubic yards of fill on the Rockin' R property resulted from the dumping of excavated road bank material from a Cal Trans project, which involved the construction of a retaining wall along Broadway in Eureka.

Setting

The Rockin' R property is comprised of two adjacent parcels (APN 302-171-37 and -34) that are located at 4640 Broadway in Eureka. The property is in the Coastal Zone and is situated in the southeastern Humboldt Bay lowlands. These lowlands commonly support tidally influenced wetlands in low gradient areas and ditches. The current land use on the parcels is industrial, and due to past fill the parcels are elevated several feet higher than the natural topography. The fill and wetlands areas assessed are located along the western edge of the larger parcel (APN 302-171-37) and are delineated in the attached map in Appendix A.

Methods

The assessment involved a field review to determine the extent of wetlands and to map the placement of fill in relationship to the wetlands.

The wetlands were delineated on an aerial photograph and the delineation was based on topography and dominance of wetland plants (hydrophytes). Soil characteristics were not used due to past fill placement on the parcels, however adjacent unfilled lowland areas have very poorly drained Bayside silty clay loam soils (University of California 1965), which are hydric soils. Three distinct vegetation types were identified in the field: Non-Native Grassland, North Coast Riparian Scrub, and Coastal Salt Marsh (Holland 1986). The Non-Native Grassland is a herbaceous-dominated vegetation type that is ruderal (weedy) in nature and has been periodically mowed. The North Coast Riparian Scrub and Coastal Salt Marsh are shrub to herbaceous-dominated vegetation types that intergrade along a manmade ditch and associated low gradient areas (such as drainage swales) on the western perimeter of the property, and are tidally influenced. The vascular plants associated with these vegetation types were noted in the field and subsequent to the field review these species were assigned a U.S. Fish and Wildlife Service (USFWS) wetland indicator status for the California Region. These species are listed below with their USFWS wetland indicator status when applicable (please note not all species have assigned indicators). The wetland indicator status was derived from USFWS *National List of Plant Species that Occur in Wetlands for California* (Reed 1988). The assigned indicator status designates the probability of that species occurring in a wetland. The wetland occurrence probability and abbreviations utilized in the list are presented below. A species indicator of OBL, FACW and FAC determines a wetland plant, although in

the north coast region where fog and rainfall create overall moist conditions obligate and facultative wetland plants are a better indicator of a wetland plant, and have more significance in the determination of a wetland. The species that are obligate or facultative wetland indicator species were used in this wetland assessment to decide whether a prevalence of hydrophytic vegetation existed. A species indicator of FAC-, FACU and NL determines an upland species.

- OBL**, obligate wetland plants with >99% occurrence in wetlands
- FACW**, facultative wetland plants with 67-99% occurrence in wetlands
- FAC**, facultative plants with 34-66% occurrence in wetlands
- FACU**, facultative upland plants with 1-33% occurrence in wetlands
- UPL**, obligate upland plants with <1% occurrence in wetlands
- NI**, no indicator (insufficient information) for the region (rated neutral)
- NL**, not listed (rated upland)
- plus sign (+)**, frequency toward higher end of a category
- minus sign (-)**, frequency toward lower end of a category
- asterisk (*)**, indicates tentative assignment based on limited information.

Table 1. North Coast Riparian Scrub and Coastal Salt Marsh Vascular Plant List

Scientific Name	Common Name	R-IND
<i>Agrostis exarata</i>	western bent-grass	FACW
<i>Baccharis pilularis</i>	coyote brush	NL
<i>Chenopodium album</i>	lamb's quarters	FAC
<i>Cotula coronopifolia</i>	brass-buttons	FACW+
<i>Distichlis spicata</i>	salt grass	FACW
<i>Equisetum telmateia</i> ssp. <i>braunii</i>	giant horsetail	OBL
<i>Gnaphalium luteo-album</i>	weedy cudweed	FACW-
<i>Juncus bufonius</i>	common toad rush	FACW+
<i>Juncus effusus</i>	soft rush	OBL
<i>Lotus corniculatus</i>	birdfoot trefoil	FAC
<i>Lythrum hyssopifolium</i>	Hyssop loosestrife	FACW
<i>Melilotus officinalis</i>	yellow sweet clover	FACU
<i>Mentha pulegium</i>	pennyroyal	OBL
<i>Parentucellia viscosa</i>	yellow parentucellia	NI*
<i>Plantago major</i>	common plantain	FACW-
<i>Polypogon monspeliensis</i>	annual beard grass	FACW+
<i>Potentilla anserina</i>	common silver-weed	OBL
<i>Rumex crispus</i>	curly dock	FACW-

Scientific Name	Common Name	R-IND
<i>Rumex salicifolius</i>	willow dock	OBL
<i>Salicornia virginica</i>	pickleweed	OBL
<i>Salix hookeriana</i>	Hooker's willow	FACW
<i>Salix sitchensis</i>	Sitka willow	FACW+
Total Hydrophytic Plants (OBL and FACW)		81%

Table 2. Non-Native Grassland Vascular Plant List

Scientific Name	Common Name	R-IND
<i>Achillea millefolium</i>	common yarrow	FACU
<i>Agrostis exarata</i>	western bent-grass	FACW
<i>Aira caryophyllea</i>	silver European hairgrass	NL
<i>Anagallis arvensis</i>	scarlet pimpernel	FAC
<i>Anthoxanthum odoratum</i>	sweet vernal grass	FACU
<i>Briza maxima</i>	rattlesnake grass	NL
<i>Bromus diandrus</i>	ripgut grass	NL
<i>Chenopodium album</i>	lamb's quarters	FAC
<i>Cirsium vulgare</i>	bull thistle	FACU
<i>Conium maculatum</i>	poison hemlock	FACW
<i>Convolvulus arvensis</i>	field bindweed	NL
<i>Cortaderia jubata</i>	weedy pampas grass	NL
<i>Dipsacus sylvestris</i>	wild teasel	NI
<i>Festuca arundinacea</i>	tall fescue	FAC-
<i>Foeniculum vulgare</i>	fennel	FACU
<i>Geranium dissectum</i>	cut-leaved geranium	FACW
<i>Gnaphalium luteo-album</i>	weedy cudweed	FACW-
<i>Holcus lanatus</i>	common velvet grass	FAC
<i>Hypochaeris radicata</i>	hairy cat's ear	NL
<i>Leucanthemum vulgare</i>	ox-eye daisy	NL
<i>Linum bienne</i>	western blue flax	NL
<i>Lolium multiflorum</i>	Italian ryegrass	NL
<i>Lotus corniculatus</i>	birdfoot trefoil	FAC

Scientific Name Common Name	R-IND
<i>Lupinus rivularis</i> riverbank lupine	FAC
<i>Medicago polymorpha</i> bur clover	NL
<i>Parentucellia viscosa</i> yellow parentucellia	NI*
<i>Picris echinoides</i> bristly ox-tongue	FAC*
<i>Plantago lanceolata</i> English plantain	FAC-
<i>Poa annua</i> annual bluegrass	FACW-
<i>Polygonum arenastrum</i> common knotweed	FAC
<i>Polypogon monspeliensis</i> annual beard grass	FACW+
<i>Pteridium aquilinum</i> var. <i>pubescens</i> bracken fern	NL
<i>Raphanus sativus</i> wild radish	NL
<i>Rubus discolor</i> Himalayan blackberry	FACW*
<i>Rumex acetocella</i> sheep sorrel	FAC-
<i>Rumex crispus</i> curly dock	FACW-
<i>Sonchus asper</i> ssp. <i>asper</i> prickly sow thistle	FAC
<i>Sonchus oleraceus</i> common sow thistle	NI*
<i>Spergula arvensis</i> ssp. <i>arvensis</i> stickwort	NL
<i>Taraxacum officinale</i> dandelion	FACU
<i>Trifolium hirtum</i> rosy clover	NL
<i>Trifolium repens</i> white clover	FACU+
<i>Vicia sativa</i> common vetch	FACU
<i>Vicia sativa</i> common vetch	FACU
Total Hydrophytic Plants (OBL and FACW)	20%

The placement of fill and proximity of fill to wetland areas was mapped in the field on an aerial photograph, utilizing a measuring tape and referring to distinct structural and other features on the aerial photograph.

Results

The analysis of these vegetation types and associated species with their USFWS wetland indicator status indicated that the Non-Native Grassland was not dominated by hydrophytes, and North Coast Riparian Scrub and Coastal Salt Marsh was dominated by hydrophytes. The topography corresponded with the vegetation types, with the wetlands (North Coast Riparian Scrub and Coastal Salt Marsh) occupying the low gradient areas (such as the drainage swales and western perimeter ditch) and the uplands (Non-Native

Grassland) occupying the more elevated portions of the parcel. The wetlands have been delineated on the attached map in Appendix A.

The approximately 8,000 cubic feet of fill was placed in two areas on the property (see attached map, Appendix A). One area is located in the northwestern portion of the property, in which approximately 1,000 to 2,000 cubic yards of fill was placed. The second area is located in the southwestern portion of the property, in which approximately 6,000 to 7,000 cubic yards of fill was placed. The fill appears to have been placed in the upland Non-Native Grassland portions of the parcel based upon the adjacent upland vegetation and on the review of a 1998 aerial photograph. The aerial photograph depicts a similar mowed grassland vegetation throughout the fill areas and this distinct vegetation signature on the aerial photograph (light gray without any prominent vegetation features) was verified in the field as upland Non-Native Grassland. The placement of fill in the northern area has created circular bermed areas, which are now ponding water and are beginning to support opportunistic wetland plants (in particular the annual toad rush), however these areas did not appear to have existed before the placement of fill.

The distance of the fill from the wetland varies, with the closest being 10 feet at the northwest edge of the northern fill area and farthest being 120 feet at the southwest edge of the southern fill area. The northern fill area has been piled along the existing elevated berm that separates the perimeter ditch wetlands from the upland grasslands with closest fill to wetlands (10 feet) at the northwest edge next to a manmade drainage feature, which connects to the ditch. The southern fill area is well removed from the ditch (84 to 120 feet) with closest fill to wetlands (45 feet) at the northwest edge where there appears to be a remnant natural drainage feature, which also connects to the ditch. Please see the attached map in Appendix A for more details on the variation in distance of the fill from the wetlands.

Summary

Three distinct vegetation types were noted on the Rockin' R property: North Coast Riparian Scrub, Coastal Salt Marsh, and Non-Native Grassland. The North Coast Riparian Scrub and Coastal Salt Marsh vegetation types occupy the wetlands and are associated with the perimeter ditch and two drainage features along the western edge of the property. The Non-Native Grassland vegetation type is an upland vegetation type, and the dominant vegetation on the parcel. In this upland vegetation type approximately 8,000 cubic yards of fill was placed in two areas on the Rockin' R property and the fill was not placed in existing wetlands. The distance of fill from the wetlands varies from 10 feet at the northwest edge of the northern fill area to 120 feet at the southwest edge.

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