

**CALIFORNIA COASTAL COMMISSION**

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**Application No.:** 1-02-002

**Date:** December 1, 2006

## ADMINISTRATIVE PERMIT

**APPLICANT:**

**HUMBOLDT COUNTY DEPT. OF PUBLIC WORKS**

**PROJECT DESCRIPTION:**

(1) Grading and removal of approximately 3,000 cubic yards of slumped bluff material for use in bluff repair, and (2) removal of an approximately 200-foot-long, 12-foot-wide temporary access road.

**PROJECT LOCATION:**

Along the beach at the end of Letz Road, approximately 700 feet north of the intersection of Letz Road with Airport Road, in the McKinleyville area, Humboldt County (APN 511-351-05).

**EXECUTIVE DIRECTOR'S DETERMINATION:** The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit 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 will be reported to the Commission at the following time and place:

December 15, 2006 9:00 a.m.  
Hyatt Regency Embarcadero  
5 Embarcadero Plaza  
San Francisco, CA

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

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all

conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment 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.

PETER DOUGLAS  
Executive Director

By: Tiffany S. Tauber  
Title: Coastal Planner

**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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
3. 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.
4. 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.

**EXECUTIVE DIRECTOR'S DETERMINATION (continued):**

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 provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant 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.

**FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:**

**1. Project and Site Description**

The proposed project involves after-the-fact authorization for (1) grading and removal of approximately 3,000 cubic yards of slumped bluff material from the beach for use in bluff repair and drainage improvements along the bluff face, and (2) removal of an approximately 200-foot-long, 12-foot-wide temporary access road initially installed without authorization.

The proposed project is associated with a larger project located within Humboldt County's coastal permit jurisdiction. The County issued a coastal development permit for the portions of the development within County jurisdiction in September, 2002 (CDP-01-41). The larger project

involved repairing extensive bluff retreat and erosion that occurred following heavy rains in the winter of 2001. The project approved by the County included placement of (1) 3,000 cubic yards of fill material along the bluff face, (2) a 360' long x 24" diameter temporary drainage pipe, (3) 36" diameter permanent drainage pipe adjacent to the temporary pipe, and (3) approximately 400 cubic yards of 2-3 ton rock as an energy dissipater at the base of the bluff at the pipe outfall. The project approved by the County included erosion control measures including revegetating and reseeding the disturbed areas, installing water bars, and placing straw matting. The work was conducted outside of the snowy plover nesting season to avoid adverse impacts to environmentally sensitive habitat.

The project site is located on the beach south of Clam Beach and the Caltrans Vista Point, near the end of Letz Road, approximately 700 feet north of the intersection of Letz Road with Airport Road, in the McKinleyville area, Humboldt County (APN 511-351-05). The site is zoned Public Recreation (PR) in the McKinleyville Area Plan with a variety of combining zones including beach and dunes, and wetland resources. Several wetland areas are located adjacent to the project site at the base of the bluff and along depressions along the beach. These wetland areas likely formed as remnants of the former channel of the Mad River, which flowed through a portion of the project site prior to its migration southward. The project site is vegetated with native and non-native dune and wetland species and provides habitat for a variety of birds and wetland associated wildlife.

The overall project was completed in the fall of 2002. During construction of the overall project, a temporary access road was installed through an area of wetlands near the base of the bluff from the south end of the existing Caltrans access road along the base of the bluff to the project site. The road was constructed by placing a layer of geotextile fabric along the road alignment, followed by a layer of crushed rock and sand. The temporary access road was in place for approximately one month. Following project completion, the temporary road was removed by scraping the rock and sand, transporting the material to an off-site stockpile location, and pulling up the geotextile fabric. The road alignment was then ripped by a bulldozer to eliminate compaction and allowed to revegetated naturally.

The applicant is not seeking after-the-fact authorization for the installation of the temporary access road. The access road was installed without authorization. The applicant instead seeks authorization for the removal of the access road and restoration of the site of the road. Approval of the removal of the road and restoration of the site brings the applicant into conformance with coastal development permit requirements with regard to the temporary access road. The findings below that relate to the temporary access road only address the conformance of the removal of the road and restoration of the site with the Coastal Act and not the conformance of the initial installation of the road with the Coastal Act.

With the removal of the road, the former contours of the area have been restored and the wetlands have reformed where they existed prior to being traversed by the temporary

access road. In the several years since the work was performed, the area has successfully revegetated and in its current state, there is no evidence of the access road. In addition, the area graded to excavate slide debris for the bluff repair work has similarly been restored to previous contours and dune vegetation has reestablished throughout the site.

## **2. Jurisdiction and Standard of Review**

The overall project bisects the jurisdictional boundary between the Commission's retained jurisdiction and that of Humboldt County. The Commission's retained coastal development permit jurisdiction includes tidelands and other areas subject to the public trust which extends over the beach and dune area seaward of the base of the bluff at the site. The County's jurisdiction encompasses the bluff face and bluff top. The proposed project described herein includes those portions of the project activities within the Commission's jurisdiction. Therefore, the standard of review for Coastal Development Permit Application No. 1-02-002 is the Chapter 3 policies of the Coastal Act.

## **3. Water Quality**

Section 30230 of the Coastal Act states, in applicable part:

*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.*

The proposed grading and excavation work and removal of the temporary access road for which the County is seeking authorization occurred along the beach within and adjacent to environmentally sensitive habitat areas (ESHA). The temporary access road was installed through an area of wetland habitat near the base of the bluff. Additionally, the area graded to excavate slide debris for the bluff repair work was conducted in an area of dune ESHA. The project did not involve the permanent placement of fill in wetlands or coastal waters. The

project did, however, involve soil disturbance and vegetation removal along the beach and placement of temporary wetland fill during construction.

Coastal Act Sections 30230 and 30231 protect the biological productivity and quality of coastal waters, streams, and wetlands through, among other means, controlling runoff and maintaining natural vegetation. Soil disturbance and vegetation removal adjacent to coastal waters and wetlands could result in the discharge of sediment into these habitat areas causing increased turbidity and adversely affecting 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. Sediments may physically alter or reduce the amount of habitat available in a watercourse by replacing the pre-existing habitat structure with a stream-bottom habitat composed of substrate materials unsuitable for the pre-existing aquatic community. 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.

The material that was graded and removed from the beach accumulated on the beach as a result of natural erosion processes of the bluff face above the project site exacerbated by heavy winter rains. The applicant used this material in the repair and stabilization of the bluff face and drainage facilities, thereby necessitating the use of heavy equipment on the beach strand. The applicant installed erosion control measures following construction to avoid the potential for further erosion and sedimentation of coastal waters and adjacent wetlands. These measures included revegetating disturbed areas, installing water bars along the bluff face, and placing straw matting. Additionally, the removal of the temporary access road was performed in a manner that minimized erosion and sedimentation. The temporary access road had been constructed by placing crushed rock and sand on a layer of geotextile fabric along the road alignment. To remove the road, the rock and sand material was scraped off and the geotextile fabric was pulled up, thereby allowing for the complete removal of the temporary fill material and minimizing the potential for sedimentation of the wetland ESHA. Commission staff has visited the site and confirmed that the areas of grading and road removal have been recontoured to natural grade in a manner that has facilitated the successful revegetation of the site and has further minimized the potential for erosion and sedimentation of coastal waters and adjacent wetlands.

Therefore, the Executive Director finds that the biological productivity and quality of coastal waters will be maintained and the project is consistent with Sections 30230 and 30231 of the Coastal Act.

#### **4. Protection of Environmentally Sensitive Habitat Areas (ESHA)**

Section 30240 of the Coastal Act 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.*

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHA) be protected against significant disruption of habitat values from adjacent development, and that only uses dependent on the resources of the ESHA be allowed within the ESHA.

As noted above, the proposed grading and excavation work and removal of the temporary access road for which the County is seeking authorization occurred along the beach within and adjacent to environmentally sensitive habitat areas (ESHA). The temporary access road for which the applicant is seeking after-the-fact authorization for its removal was installed through an area of wetland habitat near the base of the bluff. The area graded to excavate slide debris for the bluff repair work was conducted in an area of dune ESHA. The wetland areas provide habitat for a variety of bird and wetland associated wildlife species. In addition, the dune ESHA provides potential habitat for the Western snowy plover, a federally-listed threatened species.

The project also involved recontouring and restoring the dune and wetland habitat areas affected by the grading and roadway installation following project completion. As discussed above, the material that was graded and removed from the beach accumulated on the beach as a result of natural erosion processes of the bluff face above the project site exacerbated by heavy winter rains. The applicant used this material in the repair and stabilization of the bluff face and drainage facilities, thereby necessitating the use of heavy equipment on the beach strand. The applicant installed erosion control measures following construction to avoid the potential for further erosion and sedimentation of adjacent ESHA. These measures included revegetating disturbed areas, installing water bars along the bluff face, and placing straw matting. Furthermore, the grading and excavation work to remove the eroded material occurred outside of the snowy plover nesting season (March 1 – September 15) to avoid adverse impacts to environmentally sensitive habitat. Additionally, the removal of the temporary access road was performed in a manner that avoided significant impacts to ESHA. The temporary access road had been constructed by placing crushed rock and sand on a layer of geotextile fabric. To remove the road, the rock and sand material was scraped off and the geotextile fabric was pulled up, thereby allowing for the complete removal of the temporary fill material and minimizing impacts to the wetland ESHA. Commission staff has visited the site and confirmed that the areas of grading and road removal have been recontoured to natural grade in a manner that has facilitated the successful revegetation of the site.

As the dune and wetland habitats in the project area have been restored to pre-construction conditions, (a) the ESHA has been protected against significant disruption of habitat values, (b) impacts which would significantly degrade the ESHA have been prevented, and (c) the development being approved is compatible with the continuance of the habitat area. Furthermore, the development involves restoration of ESHA, a use dependent on the resource,

and does not introduce any new use within the ESHA. Therefore, the Executive Director finds that the project as conditioned is consistent with Section 30240 of the Coastal Act.

**5. 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 over use. 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. 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 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 public access.

The proposed project is located on the beach south of Clam Beach and the Caltrans Vista Point and adjacent to a portion of the Hammond Trail. Although the project involved the use of heavy equipment on the beach, the area surrounding the project site provided an expansive sandy beach that allowed for continued lateral public access during project construction without interference. Additionally, the proposed project did not have any adverse impact on the public using the Hammond Trail. Furthermore, the proposed project has not created any new demand for public access or otherwise created any additional burdens on public access.

Therefore, the Executive Director finds that the proposed project does not have any significant 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, 30212, and 30214.

**6. Violation**

Although project construction occurred without benefit of a coastal development permit, consideration of the application by the Executive Director has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal development permit.

**7. California Environmental Quality Act**



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 Executive Director 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 achieve consistency between the proposed project and the requirements of the applicable 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 that 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 Executive Director 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.

**SPECIAL CONDITIONS:**

**1. Permit Expiration and Condition Compliance**

Because the proposed development has already occurred, this coastal development permit shall be deemed issued upon the Executive Director's approval and will not expire.

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**ACKNOWLEDGMENT 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.

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**Applicant's Signature**

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**Date of Signing**