

**CALIFORNIA COASTAL COMMISSION**

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# F8a

Filed: June 14, 2006  
60<sup>th</sup> Day: August 13, 2006  
Staff: Jim Baskin  
Staff Report: June 29, 2006  
Hearing Date: July 14, 2006  
Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director  
Robert S. Merrill, North Coast District Manager  
Jim Baskin, Coastal Planner

SUBJECT: **County of Del Norte LCP Amendment No. DNC-MAJ-1-06 – Part A, Alexandre Zoning Amendment; and Part B, – Wetherell Zoning Amendment.** (Meeting of July 14, 2006, in San Diego)

## SYNOPSIS:

### **1. Description of Proposed LCP Amendment.**

The County of Del Norte has submitted an application for an amendment to its certified Local Coastal Program (LCP) for reclassifying the zoning designations on portions of two agricultural properties as follows:

- **PART A: (R0509C - Blake and Stephanie Alexandre), APNs 105-020-62 & -76.** Amend zoning on approximately 20 acres of a roughly 65-acre portion of two agricultural parcels totaling 542.3 acres currently designated General Resource Conservation Area (RCA-1) to Designated Resource Conservation Area – Wetland (RCA-2(w)) and – Wetland Buffer (RCA-2(wb)) with the remaining 45-acre RCA-1 area redesignated as Agricultural Exclusive (AE).

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- PART B: (R0601C – Rich Wetherell), APN 105-020-03. Amend zoning on approximately 2.07 acres of a roughly 4.87-acre portion of a 47-acre dairy ranch parcel currently designated General Resource Conservation Area (RCA-1) to Agricultural Exclusive (AE) with the remaining 2.8 acres currently designated RCA-1 ( $\pm 2$  ac.) and AE ( $\pm 0.8$  ac.) to Designated Resource Conservation Area – Farmed Wetlands (RCA-2(fw)).

No changes to the text of the Land Use Plan (LUP) or the Implementation Plan (IP), other than the subject properties zoning designations on adopted zoning maps, would result from the proposed LCP amendment. The affected property is located: (1) on a portion of Alexandre Eco-Dairy Farms, at 2255 Moseley Road, near Fort Dick, situated within and along the segment of Tryon Creek on the south side of Moseley Road within Section 10, Township 17 North, Range 1 West, Humboldt Baseline and Meridian; and (2) westerly of the dairy wash-down barn on the Wetherell Ranch at the northern terminus of Bailey Road, on pasturelands south of the Smith River within the North Half of the Northeast Quarter of the Southeast Quarter together with an approximately 0.8-acre area in the northeasterly corner of the Northwest Quarter of the Southwest Quarter, both in Section 3, T17N, R1W, HB&M (see Exhibit Nos. 1-2).

The impetus for the changes are to delineate the precise location and extent of environmentally sensitive habitat areas in proximity to two sites slated for agricultural-related development of farm resident housing on the Alexandre property and for a dairy waste pond at the Wetherell Ranch, as required as part of the dairy facilities' water quality treatment responsibilities under the federal Clean Water Act. Under these sites' current resource protection zoning designation, development of these appurtenant facilities and uses could not be authorized until the scope of the resources affected by such development are first assessed through the rezoning process.

## **2. Summary of Staff Recommendation.**

The staff recommends that the Commission, upon completion of a public hearing, **certify both parts of the requested LCP amendment as submitted.** The proposed changes to the Implementation Plan as proposed are consistent with the policies of the certified LCP requiring the reclassification of areas known or suspected to contain or be in the vicinity of environmentally sensitive resources with more accurate delineations to resource-specific designations at such time as a development proposal for the generally designated site arises. At such time, the precise extent of the environmental resources is to be determined and reclassified to a resource area zoning category designating the type of resource area present (i.e., wetlands, wetland buffer, farmed wetlands, riparian vegetation, estuary, coastal sand dunes), with all remaining non-resource and wetland buffer areas being redesignated to a zoning category or categories consistent with the surrounding area.

The proposed revision to the parcels' zoning would also conform with and adequately carry out the policies of the LCP for protecting coastal agriculture by designating lands suitable for such uses to Agricultural Exclusive instead of other designations where incompatible uses might result in adverse impacts on the agricultural land base of the area and/or conversions via land division to parcel sizes not viable to support continued agricultural production. Although a relatively small portion of adjoining AE land would also be redesignated to a farmed wetland resource

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conservation area designation, this zoning change does not represent a conversion of agricultural land, per se. Rather, in addition to the limited spatial scope of the zoning changes, the physical characteristics of the subject area, and its historical agricultural grazing uses, provisions within the new designation's standards allowing for continued utilization of the subject area for a variety of agricultural uses (e.g., grazing, pastoral activities, and the raising and harvesting of crops on land previously cultivated within the last ten years), instead represents the imposition of performance standards limiting agricultural activities in the subject area to those compatible with seasonal wetlands.

The motions to adopt the staff recommendation are found on page 5.

**3. Analysis Criteria.**

The relationship between the Coastal Act and a local government's Local Coastal Program can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving guidance as to the kinds, locations, and intensities of coastal development. The Implementation Program (IP) of an LCP typically sets forth zone districts and site development regulations through legally enforceable ordinances which are the final refinement specifying how coastal development is to precede on a particular parcel. The LUP must be consistent with the Coastal Act. The IP must conform with, and be adequate to carry out the policies of the LUP.

In this case, the proposed LCP amendment under both Parts A and B affect just the IP component of the County of Del Norte's LCP. The proposed IP amendment would solely effectuate changes to the zoning of APNs 105-020-03, -62, and -76 as illustrated on Del Norte County Zoning Map C-5, incorporated by reference into the Local Coastal Program Zoning Enabling Ordinance (LCPZEO) at Section 21.06.020, as certified by the Commission on October 12, 1983. No changes to the text of the LUP or the IP would result from the proposed LCP amendment.

This analysis concentrates on the conformity of by the subject zoning redesignations with the policies and standards of the Coastal Act and the LCP most directly affected. Subsequent development of the dairy waste pond, farm resident housing, or any other development that might be proposed under the new zoning designations will require a coastal development permit and will need to be reviewed by the County for conformance to the certified LCP, as amended.

**4. Additional Information.**

For further information, please contact James R. Baskin at the North Coast District Office (707) 445-7833. Correspondence should be sent to the District Office at the above address.

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**PART ONE: MOTIONS, RECOMMENDATIONS, AND RESOLUTIONS**

**I. MOTIONS, STAFF RECOMMENDATIONS, AND RESOLUTIONS FOR LCP AMENDMENT NO. DNC-MAJ-1-06 PART A (ALEXANDRE)**

**A. APPROVAL OF IP AMENDMENT NO. DNC-MAJ-1-06 PART A, AS SUBMITTED:**

**MOTION:** I move that the Commission reject the Implementation Program Amendment No DNC-MAJ-1-06 Part A for the County of Del Norte as submitted.

**STAFF RECOMMENDATION TO CERTIFY:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment No DNC-MAJ-1-06 Part A for the County of Del Norte as submitted and adopts the findings set forth below on grounds that the Implementation Program conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended, and certification of the Implementation Program will meet the requirements of 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 Implementation Program on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

**II. MOTIONS, STAFF RECOMMENDATIONS, AND RESOLUTIONS FOR LCP AMENDMENT NO. DNC-MAJ-1-06 PART B (WETHERELL)**

**A. APPROVAL OF IP AMENDMENT NO. DNC-MAJ-1-06 PART B, AS SUBMITTED:**

**MOTION:** I move that the Commission reject the Implementation Program Amendment No DNC-MAJ-1-06 Part B for the County of Del Norte as submitted.

**STAFF RECOMMENDATION TO CERTIFY:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment No DNC-MAJ-1-06 Part B for the County of Del Norte as submitted and adopts the findings set forth below on grounds that the Implementation Program conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended, and certification of the Implementation Program will meet the requirements of 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 Implementation Program on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

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**PART TWO: AMENDMENTS TO IMPLEMENTATION PROGRAM**

**I. ANALYSIS CRITERIA**

Section 30513 of the Coastal Act establishes the criteria for Commission action on proposed amendments to certified Implementation Programs (IP). Section 30513 states, in applicable part:

*...The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.*

To approve the amendment, the Commission must find that the amended Implementation Plan will conform with and adequately carry out the provisions of the LUP as certified. For the reasons discussed in the findings below, the proposed amendment to the Implementation Program is consistent with and is adequate to carry out the certified Land Use Plan.

**II. FINDINGS FOR APPROVAL OF IP AMENDMENT NO. DNC-MAJ-1-06 AS SUBMITTED**

The Commission finds and declares as following for IP Amendment No. DNC-MAJ-1-06:

**A. Background.**

The County of Del Norte's certified LCP contains a generalized inventory of the types and locations of environmentally sensitive habitat areas (ESHAs) with provisions for more specific delineation of such areas as part of a zoning amendment process during the review of specific development project proposals. Under this system, an initial inventory of ESHAs is set forth within the Land Use Plan (LUP) and Implementation Program (IP) maps for which additional refinements as to the exact extent and type of these habitats are then undertaken through a zoning amendment process as initiated by a development proposal that could potentially affect such resource areas. In this way, a costly upfront comprehensive evaluation of the exact totality of ESHAs within the County that, with local changes in hydrology and vegetation may become outdated over time, can be avoided by deferring the analysis to a project level review task at the time a particular development project is proposed. Furthermore, under this approach, only the zoning maps portion of the IP for a given site need be amended and certified rather than changes to both the LUP's and IP's mapped designations.

The LUP includes a set of 1:24,000-scale "Land Use Constraints" maps diagrammatically depicting the locations of environmentally sensitive habitats, hazardous areas, and community service areas where additional information addressing site-specific conditions and limitations on such development would be appropriate in the interest of protecting such sensitive areas and service-limited areas. With regard to environmentally sensitive areas, the generalized location and extent of these wetland, riparian estuarine, and dune habitats also appear diagrammatically portrayed on the "Land Use" designation maps as "Resource Conservation Areas."

The County's LCP implements the ESHA identification policies of the LUP through a two-tiered zoning program in which the generalized locations of the ESHAs depicted on the LUP's constraints maps are overlain on zoning maps as "General Resource Conservation Area" (RCA-1) zoning districts, in which permissible land uses are specifically limited to resource compatible uses, namely "fish and wildlife management," "nature study," and "hunting and fishing including development of duck blinds and similar minor facilities," where significant disruption of the habitat would not likely result. Coastal development permits would continue to be required for any of these uses whose activities met the definition of "development" as defined in the Coastal Act and the LCP.

When a particular development proposal in such generally designated resource area is brought to the County for consideration for a use not enumerated under the RCA-1 zoning standards, the site and surrounding areas as applicable must first be rezoned to an appropriate Designated Resource Conservation Area" (RCA-2) designation. To determine the appropriate extent of the designation, an analysis as to the type and precise extent of environmentally sensitive resources that may exist within the RCA-1 designated area is to be performed. The type and extent of

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these resources (i.e., “wetland,” “farmed wetland,” “riparian vegetation,” “estuary,” “coastal sand dune”), and any spatial “wetland buffer” needed to protect the wetland resources within the area, are to be designated with corresponding zoning designation parenthetical suffixes (i.e., “w,” “fw,” “r,” “e,” “sd,” “wb”), respectively. These designations refer to provisions for development of a wider variety of land uses compatible with each particular resource type as set forth in the text of the RCA-2 zoning district standards (see Exhibit No. 6, pages 4-6). Any surrounding areas that are neither ESHA or required as buffer around such areas are to be rezoned to an appropriate non-RCA designation, consistent with the land use designation(s) of the surrounding area, usually that of the adjoining zoning district(s).

A more detailed discussion of the RCA-1 to RCA-2 zoning reclassification system and its requirements follows in Findings Section II.D.2, below.

**B. Description of Amendment.**

1. Site One: (R0509C, Blake and Stephanie Alexandre)

Part A would amend the Implementation Plan (IP) to change the zoning on approximately 20 acres of a roughly 65-acre portion of two agricultural parcels totaling 542.3 acres from General Resource Conservation Area (RCA-1) to Designated Resource Conservation Area – Wetland (RCA-2(w) and – Wetland Buffer (RCA-2(wb) with the remaining 45 acres redesignated as Agricultural Exclusive (AE), as depicted on County of Del Norte Zoning Map No. C-5 (see Exhibit Nos. 4 and 5).

The affected property is located on a portion of an established dairy ranch complex along the segment of Tryon Creek south of Moseley Road on the coastal plain between the lower Smith River and Lake Earl in northwestern Del Norte County (see Exhibit Nos. 1-3). Because of the low relief on this part of the Crescent City Coastal Plain, the Tryon Creek watershed is weakly defined, with the watercourse functioning effectively as a river slough, collecting and conveying the runoff from the area between the Smith River and Lake Earl northwesterly toward Yontocket Slough, a former channel of the lower Smith River. Riverine and palustrine wetlands comprise the defined channel and banks of Tryon Creek and extend laterally outward approximately ten to fifty feet to the edge of the riparian vegetation. The banksides of Tryon Creek have been the site of a stream restoration and stabilization project in which cattle exclusion fencing has been erected and native red alders (*Alnus rubra*) and willows (*Salix* sp.) planted to re-establish a riparian corridor to improve fish and wildlife habitat conditions within this watercourse. Improvements within the adjoining upland area to the west of the creek include a variety of appurtenant agricultural structures, including a barn, irrigation equipment storage areas, and stock tanks. The general terrain of the area consists of a low gradient creek bed, with well defined, near vertical streambanks rising approximately four feet onto the adjacent pastureland floodplain. The developed barn site identified as the site for construction of a farm residence is situated on a low knoll that rises an additional fifteen feet above the level of the creek. Vegetation cover in the surrounding pasture areas is limited to upland grasses and forbs.

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The property that would be affected by Part A of the subject LCP amendment consists of portions of two legal parcels. The parcels are designated for property taxation purposes as Assessor's Parcel Number (APN) 105-020-62 and -76. The portion of the property proposed for amendment is currently planned for Resource Conservation Area and zoned "General Resource Conservation Area" (RCA-1). The standards of the RCA land use designation are detailed in the *Marine and Water Resources* and *Land Use* chapters of the County's certified Land Use Plan zoning ordinance. The RCA planning and zoning designations are intended to disclose areas diagrammatically mapped on accompanying land use constraint maps as wetlands and farmed wetlands, riparian, estuaries, and coastal sand dunes. No single-family residences or other structures are to be permitted within an RCA unless that would result in denial of substantially all reasonable use of the land.

Based upon the above described conditions within the Tryon Creek watercourse and the significance of the surrounding lands as riparian vegetation habitat, the County determined the appropriate resource zoning designation for the area inclusive of the aquatic and riparian wetlands to be "wetlands" (RCA-2(w)), with the outboard 100-foot-wide area bracketing these resource areas demarcated as "wetland buffer" (RCA-2(wb)), consistent with directives within the LCP for protecting environmentally sensitive habitat areas. Remaining areas beyond the stream/riparian buffer would be redesignated to AE, consistent with the surrounding zoning designation.

The standards of the Agricultural Prime land use designation are detailed in *Land Resources* and *Land Use* chapters of the County's certified Land Use Plan. The intent of the Agricultural Prime land use designation is to identify areas which are comprised of contiguous ownership of 20 acres or more of lands actively used for the production of agriculture. Only structures directly related to agricultural production and single-family residences (one unit per specified minimum parcel) are permitted. Additional dwellings for resident farm labor may be allowed subject to a use permit securement. The intensive raising of animals for commercial purposes (i.e., feed lots) and animal husbandry services are also permitted as conditional uses. The minimum lot size for the purposes of divisions of land for sale, lease or financing is 40 acres.

The development standards of the implementing AE and RCA-2 zoning districts similarly proposed for the subject property are set forth in LCPZEO Chapters 21.08 and 21.11A, respectively, and enumerate various principally and conditionally permitted uses as well as establish a variety of prescriptive restrictions on parcel size and density for purposes of land divisions and boundary adjustments, yard standards for provision of open space areas, and special criteria for specific types of agricultural and resource conservation activities, including animal keeping standards and restrictions on allowable wetlands fill, and restoration guidelines (see Exhibit No. 6, pages 1-3 and 7-14).

The AE and RCA-2 zoning designations would be applied to a parcel that is currently planned and zoned for a combination of prime agricultural and resource conservation uses. As illustrated in Table One below, while the very limited uses allowed within the general resource conservation area portion of the site would be replaced with allowances for similar resource-compatible, low-intensity development and uses in wetlands and wetland buffers, provisions for



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**Table One: Comparison of General Resource Conservation Area, Designated General Resource Conservation Area (Wetlands and Wetland Buffers), and Agricultural Exclusive Zoning District Development Regulations for DNC-MAJ-1-06 Part A (Alexandre)**

| Development Regulation Category | <u>Current Zoning of APNs 105-020-62 &amp; -76:</u><br>General Resource Conservation Area (RCA-1)  | <u>Proposed Zoning of APN 105-020-62:</u><br>Designated Resource Conservation Area - Wetlands (RCA-2(w))  | <u>Proposed Zoning of APN 105-020-62:</u><br>Designated Resource Conservation Area – Wetland Buffer (RCA-2(wb))   | <u>Proposed Zoning of APNs 105-020-62 and -76:</u><br>Agricultural Exclusive (AE)   |
|---------------------------------|--|---|---|---|
| Primarily Permitted Uses        | <ul style="list-style-type: none"> <li>Fish and wildlife management;</li> <li>Nature study;</li> <li>Hunting and fishing including development of duck blinds and similar minor facilities.</li> </ul> | <ul style="list-style-type: none"> <li>Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds.</li> </ul>  | <ul style="list-style-type: none"> <li>Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds;</li> <li>Firewood removal by the owner for on-site residential use;</li> <li>Commercial timber harvesting pursuant to California Department of Forestry timber harvest requirements.</li> </ul>   | <ul style="list-style-type: none"> <li>All agricultural uses including horticulture, crop and tree farming, livestock farming and animal husbandry, including dairies, public and private stables, but excepting feed lots;</li> <li>Accessory buildings and uses including barns, stables, and other agricultural buildings;</li> <li>Greenhouses which are constructed with a perimeter foundation;</li> <li><u>A one-family residence with appurtenant uses including home occupations, guest lodging and appurtenant accessory structures.</u></li> </ul> |
| Conditionally Permitted Uses    | <ul style="list-style-type: none"> <li>Wetland restoration pursuant to established criteria.</li> </ul>  | <ul style="list-style-type: none"> <li>A single-family residence and appurtenant structures where denial of such would otherwise substantially deny all reasonable use of the parcel and where such development will be sited and designed to prevent impacts which would significantly degrade the environmentally sensitive habitat area, except that where a transfer of development credit or system has been adopted as part of this title, no residential development shall be permitted;</li> <li>Recreational facilities</li> </ul> | <ul style="list-style-type: none"> <li>A single-family residence and appurtenant structures where denial of such would otherwise substantially deny all reasonable use of the parcel and where such development will be sited and designed to prevent impacts which would significantly degrade the environmentally sensitive habitat area, except that where a transfer of development credit or system has been adopted as part of this title, no residential development shall be permitted;</li> <li>Recreational facilities</li> </ul> | <ul style="list-style-type: none"> <li>Feed lots for the intensive raising of animals for commercial purposes;</li> <li>Hog farming;</li> <li>Produce sales stands, providing that the majority of the produce sold or offered for sale is grown on the premises;</li> <li>A mobilehome or a manufactured home in lieu of a conventional residential unit;</li> <li>Farm quarters for farm labor employed full-time on the premises;</li> <li>Animal husbandry</li> </ul>   |

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| <b>Development Regulation Category</b> | <b><u>Current Zoning of APNs 105-020-62 &amp; -76:</u><br/>General Resource Conservation Area (RCA-1)</b>              | <b><u>Proposed Zoning of APN 105-020-62:</u><br/>Designated Resource Conservation Area - Wetlands (RCA-2(w))</b>  | <b><u>Proposed Zoning of APN 105-020-62:</u><br/>Designated Resource Conservation Area – Wetland Buffer (RCA-2(wb))</b>   | <b><u>Proposed Zoning of APNs 105-020-62 and -76:</u><br/>Agricultural Exclusive (AE)</b>  |
|--|--|---|---|--|
|  |  | <p>included in a State Park and Recreation / Department of Fish and Game Master Plan which has been submitted and approved as an amendment to the General Plan Coastal Element;</p> <ul style="list-style-type: none"> <li>Wetland restoration pursuant to established criteria;</li> <li>Uses enumerated in PRC §30233(a).</li> </ul>  | <p>included in a State Park and Recreation / Department of Fish and Game Master Plan which has been submitted and approved as an amendment to the General Plan Coastal Element;</p> <ul style="list-style-type: none"> <li>Wetland restoration pursuant to established criteria.</li> </ul>   | <p>services including veterinary clinics;</p> <ul style="list-style-type: none"> <li>Greenhouses which are constructed with a slab or other foundation which will preclude the use of the underlying soil(s).</li> </ul> |
| Minimum Lot Area                       | <ul style="list-style-type: none"> <li>None stated.</li> </ul>   | <ul style="list-style-type: none"> <li>Creation of new non-agricultural parcels prohibited;</li> <li>New agricultural parcels must have ≥50% of minimum size of adjoining non-RCA zoning district.</li> </ul>   |   | <ul style="list-style-type: none"> <li>40 acres; or</li> <li>1 acre if separating off a farmhouse existing prior to adoption of AE zoning regulations.</li> </ul>  |
| Minimum Front Yard                     | <ul style="list-style-type: none"> <li>None stated.</li> </ul>   | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>25 feet.</li> </ul>   |
| Minimum Rear Yard                      | <ul style="list-style-type: none"> <li>None stated.</li> </ul>   | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>20 feet;</li> <li>5 feet for accessory buildings.</li> </ul>  |
| Minimum Side Yards                     | <ul style="list-style-type: none"> <li>None stated.</li> </ul>   | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>20 feet.</li> </ul>   |
| Maximum Building Height                | <ul style="list-style-type: none"> <li>None stated.</li> </ul>   | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>None stated.</li> </ul>  | <ul style="list-style-type: none"> <li>None.</li> </ul>  |
| Other Requirements                     | <ul style="list-style-type: none"> <li>Nonconforming use limitations;</li> <li>Special rezoning procedures.</li> </ul> | <ul style="list-style-type: none"> <li>Merger requirements for adjoining substandard parcels under same ownership;</li> <li>Supplemental application information requirements;</li> <li>Special stream and channel alteration use limitations</li> <li>Special wetland dredging, diking, filling use limitations and performance standards;</li> <li>Wetland Restoration Guidelines.</li> </ul> | <ul style="list-style-type: none"> <li>Merger requirements for adjoining substandard parcels under same ownership;</li> <li>Supplemental application information requirements;</li> <li>Special stream and channel alteration use limitations</li> <li>Special wetland dredging, diking, filling use limitations and performance standards;</li> <li>Wetland Restoration Guidelines.</li> </ul> | <ul style="list-style-type: none"> <li>Animal keeping structural setbacks;</li> <li>Agricultural conversion criteria.</li> </ul>   |

development on the portions of the site in the vicinity of the existing barn proposed for an AE designation would be expanded to include a host of agricultural uses and activities presently not possible under the existing RCA-1 zoning. Among these uses are “a one-family residence with

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*appurtenant uses including home occupations, guest lodging and appurtenant accessory structures,”* such as the proposed resident farm dwelling.

The prescriptive development regulations applicable to the subject parcel would also be modified by the zoning amendment. Minimum parcel size and development densities for purposes of land divisions and boundary adjustments would change from the current standard in which no such standard is specifically stated to 40 acres for the AE designated area and a minimum size to be determined on a case-by-case basis for RCA-2 subdivisions, predicated upon demonstration of available minimum area within the adjoining non-RCA lands being present on the new parcels to accommodate development of a single-family residence, and well water and on site sewage disposal facilities. No change would occur to the current requirements for wetland restoration projects irrespective of the site’s zoning changing from RCA-1 to RCA-2.

The scope of the proposed amendment is limited to changes in the zoning designation on a 65-acre portion of two agricultural parcels totaling 542.3 acres. No textual changes to the policies and standards of the LCP would occur. As a result, with the exception of the changes to permissible uses and development controls on the size and placement of structures as enumerated in the zoning district regulations, all other policies and standards of the currently certified LCP applicable to the site (e.g., provision and protection of coastal access, protection of environmentally sensitive areas and visual resources, avoidance of natural and man-made hazards, requisite demonstrated adequacy of community services and utilities to support new development, etc.) would remain in force despite the proposed changes in zone designations.

The County is proposing the subject zoning redesignations to facilitate the development of a farm residence for the ranch’s operator in the upland area adjacent to the existing barn. Development of the residence and any other development that might be proposed would require a coastal development permit and would need to be reviewed by the County for conformance to the certified LCP, as amended. If the proposed improvements were to be located within 100 feet of a wetland or entailed a conditionally permitted use, pursuant to Coastal Act Sections 30603(a)(2) and (4) respectively, an appeal of the County’s approval of such a development could be filed with the Commission.

2. Site Two: (R0601C, Rich Wetherell)

Part B would amend the Implementation Plan (IP) to change the zoning on approximately 2.07 acres of 4.87-acre portion of a 47-acre agricultural parcel currently designated from General Resource Conservation Area (RCA-1) to Agricultural Exclusive (AE) with two acres of the remaining 2.8 acres redesignated as Designated Resource Conservation Area – Farmed Wetlands (RCA-2(fw), as depicted on County of Del Norte Zoning Map No. C-5 (see Exhibit Nos. 4 and 5). The westerly approximately 0.8-acre portion of the 4.87-acre area slated for rezoning situated in the northeasterly corner of the NW¼, SW¼, Sec. 3, T17N, R1W, HB&M appears as part of the adjoining AE zoning district on the adopted zoning map. Reclassification of this limited area from agricultural exclusive zoning to a farmed wetlands resource conservation area designation does not comprise a conversion of agricultural land to non-agricultural uses because

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agricultural activities compatible with the applicable wetland limitations would still be permissible.

The affected property is located on an established dairy ranch complex at the northern terminus of Bailey Road along the southern flanks of the lower Smith River in northwestern Del Norte County (see Exhibit Nos. 1-3). The site is developed with a variety of appurtenant agricultural structures, including a milking/wash-down barn, equipment storage buildings, work sheds, and farm residences. The aspect over the portion of the property adjacent to the barn slated for rezoning to AE is generally northerly to northwesterly, with slopes ranging from 0% to 3%. Vegetation cover is limited to upland grasses and forbs. Approximately 300 feet to the west of the barn, the ground surface drops off into a westerly to northwesterly trending, crescent-shaped depression, representing the remnants of a former meander scar of the Smith River. The depression, as well as surrounding areas to the north, south, and west have been in active cattle grazing and forage production uses extending back to 1868 when the Wetherell Ranch was established.

Vegetation within the depression is comprised of a mixture of cropped-down mesic plant species, notably Kentucky bluegrass (*Poa pretensis*), creeping buttercup (*Ranunculus repens*) with a spattering of curly dock (*Rumex crispus*), white clover (*Trifolium repens*), perennial ryegrass (*Lolium perenne*), Timothy grass (*Phleum pratense*), cinquefoil (*Potentilla pacifica*), chickweed (*Stellaria media*), toad rush (*Juncus bufonius*), and pineapple weed (*Matricaria matricariodes*). While hydrophytic species are present within the swale, they do not predominate the vegetative cover. Nonetheless, based upon the presence of redoximorphic features within the underlying soils indicating saturated conditions extending up into the rooting zone for significant periods of time during the growing season, the depression area meets the definition of wetlands as set forth in the Coastal Act and the County's LCP.

The property that would be affected by Part B of the subject LCP amendment consists of one legal parcel. The parcel is designated for property taxation purposes as APN 105-020-03. The portion of the property proposed for amendment is currently planned for Resource Conservation Area and Prime Agriculture and zoned "General Resource Conservation Area" (RCA-1) and Agricultural Exclusive (AE), respectively. As discussed previously, the standards of the RCA land use designation are detailed in the Marine and Water Resources and Land Use chapters of the County's certified Land Use Plan zoning ordinance.

Based upon the above described conditions within the former river meander depression, including its apparent lack of appreciable fish and wildlife habitat value or potential and its long history of use as cattle pasturage, the County determined the appropriate resource zoning designation for this area to be "farmed wetlands" (RCA-2(fw)).

As previously discussed, the standards of the Agricultural Prime land use designation are detailed in Land Resources and Land Use chapters of the County's certified Land Use Plan. The development standards of the implementing AE and RCA-2 zoning districts proposed for the subject property are set forth in LCPZEO Chapters 21.08 and 21.11A, respectively.

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The AE and RCA-2 zoning designations would be applied to a parcel that is currently planned and zoned for a combination of prime agricultural and resource conservation uses. As illustrated in Table Two below, while the very limited uses allowed within the general resource conservation area portion of the site would be replaced with allowances for similar resource-compatible, low-intensity development and uses in farmed wetlands, provisions for development at the portions of the site adjoining the milking/wash-down barn proposed for an AE designation would be expanded to include a host of agricultural uses and activities presently not possible under the existing RCA-1 zoning. Among these uses are “*accessory buildings and uses including barns, stables, and other agricultural buildings,*” such as a dairy waste pond.

**Table Two: Comparison of General Resource Conservation Area, Designated General Resource Conservation Area (Farmed Wetlands), and Agricultural Exclusive Zoning District Development Regulations for DNC-MAJ-1-06 Part B (Wetherell)**

| Development Regulation Category | <u>Current Zoning of APNs 105-020-62 &amp; -76:</u><br>General Resource Conservation Area (RCA-1)  | <u>Proposed Zoning of APN 105-020-62:</u><br>Designated Resource Conservation Area – Farmed Wetland (RCA-2(fw))   | <u>Proposed Zoning of APNs 105-020-62 and -76:</u><br>Agricultural Exclusive (AE)  |
|---------------------------------|--|---|--|
| Principally Permitted Uses      | <ul style="list-style-type: none"> <li>Fish and wildlife management;</li> <li>Nature study;</li> <li>Hunting and fishing including development of duck blinds and similar minor facilities.</li> </ul> | <ul style="list-style-type: none"> <li>Agricultural uses such as grazing and pastoral activities, the raising and harvesting of crops on cultivated land (cultivated within the prior ten years) and the maintenance and repair of existing dikes, levees, drainage ditches and other similar agricultural drainage systems;</li> <li>Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds.</li> </ul>   | <ul style="list-style-type: none"> <li>All agricultural uses including horticulture, crop and tree farming, livestock farming and animal husbandry, including dairies, public and private stables, but excepting feed lots;</li> <li><b><u>Accessory buildings and uses including barns, stables, and other agricultural buildings;</u></b></li> <li>Greenhouses which are constructed with a perimeter foundation;</li> <li>A one-family residence with appurtenant uses including home occupations, guest lodging and appurtenant accessory structures.</li> </ul>   |
| Conditionally Permitted Uses    | <ul style="list-style-type: none"> <li>Wetland restoration pursuant to established criteria.</li> </ul>  | <ul style="list-style-type: none"> <li>A single-family residence and appurtenant structures where denial of such would otherwise substantially deny all reasonable use of the parcel and where such development will be sited and designed to prevent impacts which would significantly degrade the environmentally sensitive habitat area, except that where a transfer of development credit or system has been adopted as part of this title, no residential development shall be permitted;</li> <li>Recreational facilities included in a State Park and Recreation / Department of Fish and Game Master Plan which has been submitted and approved as an</li> </ul> | <ul style="list-style-type: none"> <li>Feed lots for the intensive raising of animals for commercial purposes;</li> <li>Hog farming;</li> <li>Produce sales stands, providing that the majority of the produce sold or offered for sale is grown on the premises;</li> <li>A mobilehome or a manufactured home in lieu of a conventional residential unit;</li> <li>Farm quarters for farm labor employed full-time on the premises;</li> <li>Animal husbandry services including veterinary clinics;</li> <li>Greenhouses which are constructed with a slab or other foundation which will preclude the use of the underlying soil(s).</li> </ul> |

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| <b>Development Regulation Category</b> | <b><u>Current Zoning of APNs 105-020-62 &amp; -76:</u><br/>General Resource Conservation Area (RCA-1)</b> | <b><u>Proposed Zoning of APN 105-020-62:</u><br/>Designated Resource Conservation Area – Farmed Wetland (RCA-2(fw))</b>   | <b><u>Proposed Zoning of APNs 105-020-62 and -76:</u><br/>Agricultural Exclusive (AE)</b>                     |
|--|---|---|---|
|  |   | amendment to the General Plan Coastal Element;<br>• Wetland restoration pursuant to established criteria.   |   |
| Minimum Lot Area                       | • None stated.  | • None stated.  | • 40 acres; or<br>• 1 acre if separating off a farmhouse existing prior to adoption of AE zoning regulations. |
| Minimum Front Yard                     | • None stated.  | • None stated.  | • 25 feet.  |
| Minimum Rear Yard                      | • None stated.  | • None stated.  | • 20 feet;<br>• 5 feet for accessory buildings.   |
| Minimum Side Yards                     | • None stated.  | • None stated.  | • 20 feet.  |
| Maximum Building Height                | • None stated.  | • None stated.  | • None.   |
| Other Requirements                     | • Nonconforming use limitations;<br>• Special rezoning procedures.  | • Merger requirements for adjoining substandard parcels under same ownership;<br>• Supplemental application information requirements;<br>• Special stream and channel alteration use limitations<br>• Special wetland dredging, diking, filling use limitations and performance standards;<br>• Wetland Restoration Guidelines. | • Animal keeping structural setbacks;<br>• Agricultural conversion criteria.                                  |

The prescriptive development regulations applicable to the subject parcel would also be modified by the zoning amendment. Minimum parcel size and development densities for purposes of land divisions and boundary adjustments would change from the current standard in which no such standard is specifically stated to 40 acres for the AE designated area and a minimum size to be determined on a case-by-case basis for RCA-2 subdivisions, predicated upon demonstration of available minimum area within the adjoining non-RCA lands on the new parcels for development of a single-family residence, and well water and onsite sewage disposal facilities. No change would occur to the current requirements for wetland restoration projects irrespective of the site’s zoning changing from RCA-1 to RCA-2.

The scope of the proposed amendment is limited to changes in the zoning designation on a 4.87-acre portion of a single 47-acre parcel. No textual changes to the policies and standards of the LCP would occur. As a result, with the exception of the changes to permissible uses and development controls on the size and placement of structures as enumerated in the zoning district regulations, all other policies and standards of the currently certified LCP applicable to the site (e.g., provision and protection of coastal access, protection of environmentally sensitive areas and visual resources, avoidance of natural and man-made hazards, requisite demonstrated adequacy of community services and utilities to support new development, etc.) would remain in force despite of the proposed changes in zone designations.

The County is proposing the subject zoning redesignations to facilitate the development of an approximately 236-foot x 236-foot waste pond in the upland area directly adjacent to the existing milking/wash-down barn. To provide for maintenance access, an overall 300-foot x 300-foot operational footprint for the facility has been established. Development of the waste pond facility and any other development that might be proposed would require a coastal development permit and would need to be reviewed by the County for conformance to the certified LCP, as amended. Given the proposed improvement's location within 100 feet of a wetland, pursuant to Coastal Act Section 30603(a)(2), an appeal of the County's approval of such a development could be filed with the Commission.

**C. Implementation Conformity.**

For any proposed change to a property's zoning designation to be certifiable, the implementing zoning designation must be shown to conform with its land use plan counterpart and adequately carry out all applicable LUP policies. In this case, the proposed IP map designations would:

- Delineate the exact extent and type of environmentally sensitive areas diagrammatically depicted under the existing RCA-1 zoning designation as required by the LUP's *Marine and Water Resources* policies;
- Recategorize the delineated resource areas with appropriate zoning designations, identifying the type of resource area and any buffer area necessary to protect any environmentally sensitive habitat therein from adjoining development as required by the LUP's *Marine and Water Resources* policies;
- Reclassify areas beyond the sensitive resources areas and adjoining necessitated buffer areas, if any, to zoning designations consistent with that on surrounding properties as required by the LUP's *Marine and Water Resources* and *Land Resources* policies;
- Establish an adequately wide spatial buffer between the resource area and adjoining lands in which infiltration and bio-treatment of pollutants entrained in stormwater runoff would be incepted before entry into coastal surface waters (Part A) and facilitate the development of wastewater treatment facilities to prevent impacts to groundwater resources from confined animal operations (Part B); and
- Maintain the maximum amount of prime agricultural land in production as required by the *Land Resources* policies of the LUP.

Thus, given this consistency between LUP and zoning designations, as discussed below, the proposed zoning reclassifications will conform with and be adequate to carry out the policies and standards of the resource protection policies of the LUP.

**D. Identification, Designation, and Protection of Environmentally Sensitive Areas and Water Quality.**

The proposed changes to the properties' zoning to Designated Resource Conservation Area would result in areas generally depicted as containing environmentally sensitive habitat being precisely delineated and appropriately designated as to the type and extent of resources they

contain. These coastal program modifications and the developments and uses they would foster are guided and/or limited by various policies within the County's certified LUP.

1. Relevant LUP Policies

The *Marine and Water Resources* chapter of the County's certified Land Use Plan (LUP) sets forth the following definition as to what areas comprise "environmentally sensitive habitat areas" in Sections IV, in applicable part:

- B. *The following criteria are proposed for designating biologically sensitive habitats in the marine and coastal water environments and related terrestrial habitats of Del Norte County:*
1. *Biologically productive areas important to the maintenance of sport and commercial fisheries.*
  2. *Habitat areas vital to the maintenance and enhancement of rare and/or endangered species.*
  3. *Fragile communities requiring protective management to insure their biological productivity, species diversity and/or continued maintenance.*
  4. *Areas of outstanding scientific or educational value that require protection to insure their viability for future inquiry and study.*

*Coastal habitats meeting one or more of these criteria may be considered biologically sensitive and therefore given particular attention in the planning process.*

- C. *Sensitive Habitat Types: Several biologically sensitive habitat types, detailed through the application of the above criteria, are found in the Coastal Zone of Del Norte County. These include: offshore rocks; intertidal areas; estuaries; wetlands; riparian vegetation systems; sea cliffs; and coastal sand dunes... {Emphasis added.}*

Marine and Water Resources Policy No. 6 of the LUP goes on to direct that:

*Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*



The LUP's *Marine and Water Resources* and *Land Use* chapters discuss, in applicable part, factors to be considered in delineating environmentally sensitive habitat areas, generally referred to as "resource conservations areas" within the LCP, the purpose of the Resource Conservation Area land use designation, and limitations on land uses within such areas, as follows:

*Standards for designating land uses in areas in and adjacent to sensitive habitats and criteria for acceptable levels of use are proposed below:*

- a. *Land uses and levels of use in and adjacent to sensitive habitats shall not adversely alter or contribute significantly to a cumulative alteration of the overall biological productivity of the area.*
- b. *Land uses and levels of use in and adjacent to biologically sensitive habitats shall not adversely impact or contribute significantly to a cumulative impact on the viability of flora and fauna inhabiting or utilizing the area...*

*Natural vegetation buffer strips may be incorporated to protect areas from the possible impacts of adjacent land uses. These protective zones should be sufficient along water courses and around sensitive habitat areas to adequately minimize the potential impacts of adjacent land uses...*

*Resource Conservation Areas (RCA) are areas mapped on the accompanying constraint maps as wetlands and farmed wetlands, riparian, estuaries, and coastal sand dunes. Development within these areas is subject to the policies of the certified land use plan. No single family residences or other structures shall be permitted within an RCA unless that would result in denial of substantially all reasonable use of the land. In this event, the land owner should consider participating in Transfer of Development Credits (TDC.) system when such a system exists, as approved by the State Coastal Commission, in order to allow this development of occur at a more suitable location...*

*The allowable uses within designated RCA's shall be limited to:*

1. *Fish and wildlife management.*
2. *Nature study.*
3. *Wetland restoration.*
4. *Hunting and fishing including development of duck blinds and similar minor facilities...*
6. *In Farmed Wetlands or agriculturally used parcels, agricultural operations are a principal use but such uses should maintain long-term habitat values and, where feasible, minimize short-term degradation.*
7. *Those recreational facilities included in a State Park and Recreation / Department of Fish and Game Master Plan submitted and approved as an amendment to the Local Coastal Program...*

9. *In all resource areas, the maintenance of flood drainage control and drainage channels.*
10. *In all resource areas, removal of windblown trees which threaten existing structures.*

With regard to implementing the policies of the LUP regarding resource conservation areas, LCPZEO Chapters 21.11 and 21.11.A set forth procedures for the precise delineation of environmentally sensitive areas for the purpose of rezoning property from a general conservation resource area (RCA-1) to a designated conservation resource area (RCA-2), as follows in applicable parts:

*21.11.010 Intent. Resource conservation areas are those environmentally sensitive habitat areas which are identified by the General Plan Coastal Element as wetlands, farmed wetlands, riparian vegetation, estuary and coastal sand dunes. The general resource conservation area zone is intended to designate those resource conservation areas which require further data, particularly mapping, prior to new or additional development and to serve as a transition zone until such data is made available, reviewed and adopted by the county. Changes of zone from general resource conservation area to another classification are to be made subject to the requirements of Section 21.11.060 herein and only where such uses are in accord with the General Plan or adopted specific plan.*

*For the purposes of Section 21.52.020(A)(4), the general resource conservation area uses listed under the principal permitted use section herein, shall be considered as the principal permitted use in the California Coastal Zone. Variances and adjustments to the district's requirements and standards shall not be considered a principal permitted use for the purposes of Section 21.52.020(A)(4)...*

*21.11.020 Applicability. This zone shall be applied to those parcels or portions of parcels adjacent to or with in the resource conservation areas which are identified by the General Plan Coastal Element for which the requirements of Section 21.11.060 have not been met.*

*The regulations set forth in this chapter apply in all RCA1 districts and are subject to the provisions of Chapters 21.02 through 21.60...*

*21.11.060 Special rezoning requirements. The rezoning of a parcel or parcels designated as RCA may be considered subject to the requirements of Chapters 21.50 and 21.50B and the special requirements listed in this section.*

*A. Mapping. In order to determine the actual boundary of the resource conservation area and the location of any buffer zone which may be required for it, supplemental mapping shall be submitted as a part of the rezoning application, including:*

- 1. Topographic Base Map. The base map should be at a scale sufficiently large to permit clear and accurate depiction of*

*vegetation associations and soil types in relation to any and all proposed development (normally the scale required will be one inch equals two hundred feet). Contour intervals should be five feet, and the map should contain a north arrow, graphic bar scale, and a citation for the source of the base map (including the date). The map should show the following information:*

- a. Boundary lines of the applicant's property and adjacent property, including assessor's parcel numbers, as well as the boundaries of any tidelands, submerged lands or public trust lands, per Section 21.50.040;*
  - b. Names and locations of adjacent or nearby roads, streets or highways, and other important geographic, topographic and physical features such as streams, bluffs or steep slopes;*
  - c. Location and elevation of any levees, dikes or flood-control channels;*
  - d. Location, size and invert elevation of any culverts or tide gates;*
  - e. Existing development (structures, agricultural areas, etc.)*
- 2. Inundation Map. For nontidal wetlands, a map should be prepared indicating permanent or seasonal patterns of inundation (including sources) in a year of normal rainfall.*
- 3. Vegetation Map. Location and names of dominant plant species (e.g., Salicornia Virginica) and vegetation associations (e.g., saltmarsh).*
- 4. Soils Map. If no soil survey is available, a soils map should be prepared and should show the location of soil types and include a physical description of their characteristics.*

*B. Supplemental Information. Where development is proposed in conjunction with the rezoning, a supplement information report may be required pursuant to Section 21-11A.050.*

*C. Review. Upon receipt of a complete rezoning application and prior to any public hearing the county shall submit the above information to the California Department of Fish and Game for review. The Department of Fish and Game shall have up to fifteen days upon receipt of the county notice to review and comment. This requirement does not supersede any other review requirements, such as those of the California Environmental Quality Act, and may be carried out in conjunction with any other review which meets or exceeds the fifteen-day time period.*

*D. Findings and Disposition.*

- 1. The county's determination regarding the rezoning shall be based upon specific findings as to whether the area is or is not a resource conservation and/or a wetland buffer area based on the*

General Plan Coastal Element Criteria and California Coastal Commission's "Statewide Interpretive Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas" as adopted February 4, 1981.

2. Where it is found that all or a portion of a parcel is in a resource conservation area and/or is in any wetland buffer required by Section 21.11A.020(B) said parcel or portion of a parcel shall be rezoned to RCA2 with a parenthetical reference as to the type of resource conservation area, i.e., wetland (w), farmed wetland (fw), estuary (e), riparian vegetation (r), coastal sand dunes (sd), or wetland buffer (wb). Where more than one type exists, the distinction shall be noted on the zoning map.

3. Where it is found that all or a portion of a parcel is not in a resource conservation area and/or any required wetland buffer, a finding shall be made that the non-RCA area is within the abutting General Plan land use classification and said parcel or portion of parcel shall be rezoned to another zoning classification which is in accord with the General Plan or adopted specific plan as set forth in Chapters 21.51A and 21.51B.

4. Where parcels totally within the RCA2 zone are contiguous with a parcel outside or partly outside of the RCA2 area, and where all of these parcels have a single owner, said parcels shall be merged at the time the RCA2 zoning is placed in effect upon the properties... [Emphases added.]

21.11A.010 Intent. Resource conservation areas are those environmentally sensitive habitat areas which are identified by the General Plan Coastal Element as wetlands, farmed wetlands, riparian vegetation, estuary and coastal sand dunes. The designated resource conservation area zone is intended to designate the location and type of resource conservation areas for which specific data has been reviewed, set forth uses and development guidelines for the various sensitive habitat areas and establish any special requirements for development permits in order to protect and enhance the quality and productivity of these sensitive resource areas as mandated by state and federal regulations. Changes of zone from designated resource conservation area to another classification are to be made subject to the requirements of Section 21.11.060 and only where such uses are in accord with the General Plan or adopted specific plan. For the purposes of Section 21.52.020(A)(4), the designated resource conservation area uses listed under the principal permitted use section herein shall be considered as the principal permitted use in the California Coastal Zone. Variances and adjustments to the district's requirements and standards shall not be considered a principal permitted use for the purposes of Section 21.52.020(A) (4). The regulations set forth in this chapter apply in all RCA2 districts and are subject to the provisions of Chapters 21.02 through 21.60

21.11A.020 Applicability.

A. *This zone shall be applied to those parcels and/or portion of parcels located within the resource conservation areas which are identified by the General Plan Coastal Element and for which the requirements of Section 21.11.060 have been met.*

B. *This zone shall also be applied to buffer areas which shall be established around wetlands between the edge of the wetland and any future and/or existing development. Such wetland buffers shall be one hundred feet in width unless a determination of no adverse impact upon the wetland is made, in which case a buffer of less than one hundred feet may be utilized. Such a determination is to be made based upon data submitted pursuant to Section 21.11.060 and shall include consideration of the following factors:*

1. *That the most sensitive species of plants and/or animals will not be significantly disturbed based upon:
  - a. *Habitat requirements of resident and/or migratory fish and wildlife for nesting, feeding, breeding, etc.;*
  - b. *Assessment of short and long term ability of plant or animal species to adapt to human disturbance.**
2. *That where erosion impacts from the project may occur, adequate buffer is provided to allow for interception of eroded materials outside of the wetland area.*
3. *That where natural or cultural features such as bluffs, hills, roads, dikes or irrigation canals exist they should be utilized in establishing the location of the buffer area and in separating development [and] wetland areas. Natural features should be included within the buffer area i.e., a buffer boundary which follows an embankment should be located at the top of the bank rather than the bottom. Cultural features should be located outside of the buffer boundary to avoid conflict regarding actions such as repair and maintenance.*
4. *That where existing adjacent development is located closer to the wetland than one hundred feet or where the configuration of a legally created parcel is such that a building area of less than four thousand two hundred square feet would remain, reduction of the buffer could occur, however alternative mitigation measures (such as the planting or reversion to native vegetation) should be provided to ensure additional protection.*

C. *At the time of application of the RCA2 district to a parcel a parenthetical reference as to the type of resource conservation area shall be noted, i.e., wetland (W), wetland buffer (WB), farmed wetland (FW), estuary (E), riparian vegetation (R), or coastal sand dunes (SD). Where more than one type exists the distinction shall be noted on the zoning map.*

The cited 1981 *Statewide Interpretative Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas* enumerates seven factors that should be considered in establishing wetland buffers to ensure their adequacy to protect the wetland resources:

1. *Biological significance of adjacent lands;*
2. *Sensitivity of species to disturbance;*
3. *Susceptibility of parcel to erosion;*
4. *Use of natural topographic features to locate development;*
5. *Use of existing cultural features to locate buffer zones;*
6. *Lot configuration and location of existing development; and*
7. *Type and scale of development proposed.*

Finally, with regard to the compatibility of ESHAs with certain agricultural uses, the LUP's *Marine and Water Resources* chapter at Section IV.D.1.b and e states:

*b. Agricultural Uses: In general, agricultural activities are consistent with and often complementary to wildlife habitat. Grazing lands, for example, are utilized by waterfowl as auxiliary feeding areas. Certain agricultural practices, however, have the potential for adversely affecting sensitive habitats. As an example, intensive agricultural activities on small parcels adjacent to riparian corridors can require the removal of vegetative cover and may alter or severely damage the habitat. The establishment of buffer zones may be necessary to separate such incompatible agricultural uses from sensitive habitats.*

*d. Incompatible Uses: Certain activities in or near sensitive habitats may be entirely non-conforming with the required protection and maintenance of the area's natural resources. Uses which significantly alter the productivity, water quality, or general hydrologic conditions (i.e., groundwater levels or surface drainage) of a designated habitat should be carefully examined and appropriately mitigated where necessary. Further consideration must be afforded to the maintenance of flora and fauna inhabiting or utilizing a sensitive habitat. [Emphasis in original.]*

2. Analysis

The proposed rezoning of the portions of the two subject properties from RCA-1 to RCA-2 and AE zoning district designations would facilitate the identification and protection of environmentally sensitive habitat areas consistent with Resource Conservation Area policy of the

LUP's *Marine and Water Resources* and *Land Use* chapters. Wetland delineations and habitat assessments were prepared for both zoning reclassification sites detailing the extent and type of ESHA and the habitat characteristics of each area (see Exhibit Nos. 7 and 8).

In taking local action on the requested rezoning for Part A (Alexandre), the County found that the owner/applicant's proposal for a fifty-foot-wide buffer from the outside of the delineated riparian corridor vegetation had not adequately documented that the less than 100-foot buffer would adequately protect the stream and riparian resources from significant degradations to biological productivity and sustainability as required by the LCP. As a result, the County alternately adopted, and are seeking certification from the Commission, a 100-foot-wide RCA-2(wb) designation extending outward from the outer edge of the delineated riverine and riparian wetlands in and along Tryon Creek, consistent with the buffer standards of the LCP.

With regard for the identification of the resources within the former river channel meander at the Part B (Wetherell) site and the need for buffers outward of this area, the County reviewed the biological assessment of the locality and duly considered other site-specific factors notably, the status of the area as seasonal wetlands being limited solely to the presence of hydric soil conditions with a noted absence of wildlife habitat or water bio-treatment utility, the 138-year use of the area in continuous active agricultural production, and apparent lack of fish and wildlife habitat utilization. Consequently, the County determined the "farmed wetlands" descriptor as set forth in the standards for the Designated Resource Conservation Area zoning district (RCA-2(fw)) to be appropriate for the site with no corresponding need indicated for the imposition of a wetland buffer between the depression and surrounding AE designated areas.

#### Establishing the Extent of Wetland and Riparian Vegetation ESHA Buffer Areas

Ecologically, a buffer is a transition zone between one type of habitat and another. Buffers provide an area of refuge for plants and animals between their normal or preferred habitat and human activities. Buffers also serve to lessen the impacts caused by road and paved area runoff, landscape fertilizing, and spills of other household and/or industrial hazardous materials that could severely reduce a wetland's ecological value and the quality of the water flowing outward or downward into surface or sub-surface waters.

The LUP's *Marine and Water Resources* chapter at Section VII.D.4f states that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. This policy further states that the primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. Alternately, if an applicant can demonstrate that one hundred feet is not necessary to protect the wetland area from adverse impacts caused by the proposed development, and specific findings are adopted by the permitting authority, in cooperation with the California Department of Fish and Game, as to the adequacy of a reduced buffer to protect the resource area, the buffer may be reduced to less than 100 feet in width.

*Marine and Water Resources* Section VII.D.4.f further requires that utilization of a buffer of less than one-hundred feet can only occur if the reviewing authority has determined that there will be no adverse impact to wetlands and if that determination is based upon specific findings as to the adequacy of the proposed buffer to protect the identified resources. Although the LCP does not provide further specifics as to what those findings of adequacy should be based upon, it does reference the seven point analysis criteria enumerated in the Commission's 1981 statewide guidelines document as factors to be considered in assessing a given proposed reduced-width buffer's protective adequacy. The following is an analysis of the proposed 0-foot-wide buffer proposed for imposition between the portion of the property slated for rezoning to farmed wetlands and adjoining agricultural exclusive areas at the Part B (Wetherell) site:

1. Biological significance of adjacent lands.

The lands adjacent to the farmed wetland area are composed of open, actively grazed and cultivated pasture area with no established tree and brush cover. As discussed further under Factor No. 2 below, given the apparent absence of rare, endangered, or easily disturbed wildlife species utilizing the former river meander depression as habitat, no functional relationship between this wetland ESHA and the adjoining open grassy area is apparent. For example, in the absence of either surface hydrology or hydrophytic vegetative cover, the use of adjoining uplands for wintering habitat by hydric/mesic resource-dependent species, such as amphibians or waterfowl, is not evident. Accordingly, from the perspective of the biological significance of adjacent lands, the Commission finds that the adequacy of the proposed reduced-width buffer has been substantiated.

2. Sensitivity of species to disturbance.

The width of the buffer area should also be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Factors relevant to this analysis include the following: (a) nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species; and (b) an assessment of the short-term and long-term adaptability of the various species to human disturbance.

The subject former river meander comprising the depression meeting the definition of wetlands ESHA has been in active cattle grazing and forage production uses since the Wetherell Ranch was established in 1868. The applicant's consultant's analysis of habitat utilization of the river meander depression wetland observed no wetland-dependent species using the site during any of the field visits made to the property (see Exhibit No. 8). As described, the area consists of a low depression with a sparse cover of copped-down grasses and forbs, with no developed shrub layer or tree canopy cover. The area is currently utilized for cattle for grazing on a seasonally rotated schedule, consistent with past decades-long practices. Accordingly, from the perspective of the sensitivity of species that would be affected by a reduction in buffer width, the Commission finds that the adequacy of the proposed 0-foot-wide reduced-width buffer has been substantiated.

3. Susceptibility of parcel to erosion.

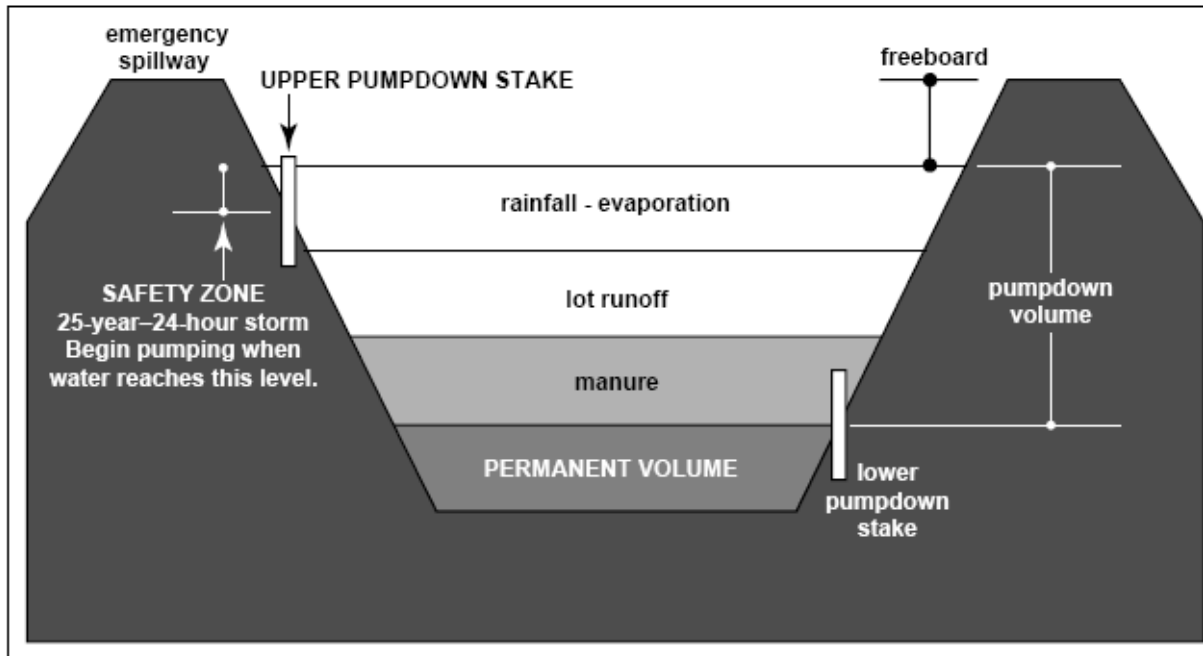


A determination regarding the sufficiency of the width of the buffer area is also dependent, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided. As described in greater detail within the Project Description Finding Section IV.C.2 above, the proposed development for which the subject LCP amendment is being sought consists solely of the construction of an approximately one-acre dairy waste pond approximately 40 to 50 feet to the east of the meander scar next to the existing milking/wash-down barn complex, for the purposes of holding and storing animal wastes associated with dairy milking operations during times when the production levels of the wastes exceeds the ranch's disposal capacity through land application (manure slurry spreading). No other agricultural, industrial, commercial, or residential development is currently contemplated.

Given that a design of the dairy waste pond has not as yet been finalized, a specific assessment of potential erosion and runoff impacts to the farmed wetland ESHA has not been prepared. However, based upon the preliminary information provided by the Natural Resources Conservation Service, the agency assisting the landowner with implementation of the Clean Water Act treatment requirements for this confined animal facility, the facility would be constructed to U.S. Environmental Protection Agency engineered standards, including a bermed perimeter to provide storage freeboard, geotextile liners, as may be appropriate to prevent seepage into groundwater, and an excess capacity safety zone to accommodate stormwater from a 25-year/24-hour storm events (see Figure 1).

In addition, construction of the pond would incorporate appropriate water quality best management practices (BMPs), and in a location where significantly adverse impacts to the farmed wetland area would not likely result, either temporarily during its construction phase, or permanently during the operational life of the facility. Subsequently, it is unlikely that stormwater runoff originating from the adjacent dairy operational areas could have significant adverse erosional and water quality impacts to both the onsite ESHAs and to areas further down slope of the property. Moreover, portions of the nitrogen-rich runoff from the milking/wash-down barns currently flows unabated into the depression as sheet flow, where such nutrients in high concentrations could adversely alter the underlying soil chemistry and in turn percolate into groundwater. Accordingly, with respect to the ability of the proposed zero-width buffer to mitigate the potentially adverse impacts from erosion and stormwater runoff, the Commission finds that the adequacy of the proposed reduced-width buffers has been substantiated.

Figure 1: Typical Cross-section of a Dairy Waste Storage Pond



Source: *Natural Resources Conservation Service*

4. Use of natural topographic features to locate development.

Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. Similarly, bluff faces, hillsides, and other such terrain breaks should not be developed, but should be included in the buffer area.

The bottom of the former river meander comprises wetlands as it is underlain by hydric soils. The terrain surrounding the subject farmed wetland depression consists of flat grazing pasture upland. The side slopes of the depression represent a transition between the wetland and the adjoining upland. The use of this natural topographic feature may arguably improve the effectiveness of the proposed reduced-width buffer. However, given the size of the transitional area at roughly 10 to 15 feet horizontal feet in width, and the fact that many of the uses allowed on the adjoining AE zones pastureland would also be permissible within the farmed wetland at the bottom of the depression, demarcating the side slopes as a protective buffer area would afford no appreciable added protection to the resources lying within the meander scar. Accordingly, for more coherent management of the area, the County has delineated the farmed wetland as inclusive of both the hydric soils wetlands proper and the transitional side slopes. Therefore, the Commission finds that the use of natural topographic features have been incorporated into the designated boundaries of the farmed wetland resource conservation area to aid in distinguishing the location of the ESHA for adjacent development areas.

5. Use of existing cultural features to locate buffer zones.

Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area. The coastal plain setting beyond the depression edges surrounding the former river meander is effectively featureless with respect to the presence of cultural articles. Accordingly, the Commission finds that there are no such features at the site that could be incorporated into the development buffer to bolster its effectiveness and support use of a reduced-width buffer.

6. Lot configuration and location of existing development.

With respect to the role the physical layout and the location of a parcel have in determining the proper width of an ESHA buffer, it should be noted that the proposed rezone site is an existing, long-established dairy ranch that has been in continuous operations for over 130 years. As a result of this long standing use history, the area within the shallow depression has been managed as part of the whole of the ranching operation, indistinguishably from surrounding upland areas, for open cattle grazing and fodder production on a field rotational basis, with support milking and equipment storage facilities having been developed nearby for convenience of the herd's management. Moreover, no changes in property boundaries or the density or number of parcels would result from the changes in the site's zoning.

Therefore, the Commission finds that these project site conditions do not warrant the need for a buffer between the farmed wetlands, wherein grazing, pasturage, and crop production uses could be undertaken and adjoining AE areas where identical agricultural uses could similarly be conducted.

7. Type and scale of development proposed.

The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential developments may not be as compatible as light industrial developments adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by case basis depending upon the resources involved, and the type and density of development on adjacent lands.

As discussed above, given that: (1) the resources within the identified ESHA comprise only hydric soils wetlands with no indication of or potential for fish and wildlife habitat utilization; (2) the contemplated future construction of a dairy waste storage pond would enhance water quality conditions within the farmed wetland ESHA; (3) the waste storage pond would be sited and incorporates design features to prevent malfunctioning or other failures that could result in impacts to environmentally sensitive areas; (4) allowances are made within the farmed wetland designation for conducting and continuing essentially the same cattle grazing-related agricultural uses therein as are and have been conducted on the adjoining and intervening areas between the depression and the proposed water

quality treatment facility, the extent of future contemplated development would not result in impacts to the hydric soils resources. Therefore, the Commission finds that the type and scale of proposed development serves to substantiate the adequacy of the proposed 0-foot reduced-width buffer.

The Commission's determination as to the adequacy of proposed 0-foot reduced-width buffer around the farmed wetland area at the Part B (Wetherell) site is based upon information relating to the specified development of a dairy waste storage pond at a roughly 40 to 50 foot distance from the resource area. Should other development be proposed in place of this ancillary agricultural structure, a different buffer width may be required to prevent impacts to the adjacent farmed wetland ESHA. The issuance of a coastal development permit for any such substituted development must be found consistent with all provisions of the LCP, including the ESHA buffer policies. Accordingly, should another development type be found to require additional spatial separation from the ESHA to protect the resources therein, the additional width must be applied as part of the County's action on the subject permit action. Because of the project site's location within 100 feet of a wetland, any such permit would be appealable to the Commission.

#### Conclusion

Thus, the proposed rezoning would implement the policies of the LUP regarding the precise identification and designation of resource conservation areas as part of a site-specific review associated with a development proposal involving a generally designated resource area. As a result of these evaluations, an accurate demarcation of the environmentally sensitive areas potentially affected by the development and institution of adequately wide buffer areas for protecting the resources would result (in this case, a zero-width buffer), with specific use limitations and/or performance standards for development within and adjoining the delineated resource areas established. Therefore, the Commission finds that the proposed IP amendment conforms with and is adequate to carry out the ESHA identification and protection policies of the *Marine and Water Resources* and *Land Use* chapters of the LUP.

#### **D. Protection of Water Quality.**

##### 1. Relevant LUP Policies

Among the potential sources of water quality impairment in Del Norte County, the prefacing discussion within the Water Resources section of the LUP's *Marine and Water Resources* chapter enumerates the following, in applicable parts:

*Sewage Discharge: A large portion of the households in Del Norte County depend on individual water and sewage systems. The close proximity of sewage disposal sites and shallow wells<sup>1</sup> in some areas pose a potential danger of localized groundwater contamination...*

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<sup>1</sup> The Commission notes that the siting of individual sewage disposal facilities in the vicinity of watercourses similarly poses risks of contamination to surface water resources if adequate spatial

*Agricultural Wastes: Agricultural and silvicultural industries occasionally utilize various amounts of herbicide or fertilizer compounds. Impairment of water quality, especially through cumulative effects, may result as surface runoff and irrigation return waters carry dissolved residual from application areas to producing aquifers...*

Policy No. 3 of the LUP's Marine and Water Resources chapter directs:

*All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.*

LUP Marine and Water Resources Policy No 4 continues on to require that:

*Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.* [Emphasis added.]

Marine and Water Resources Policy No. 6 goes on to direct that:

*Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

## 2. Analysis

The LUP identifies several sources of potential impacts to water quality, including wastes associated with individual onsite sewage disposal systems and from agricultural operations. In considering the requested zoning changes at the Part A site, the County found that a minimum 100-foot-wide buffer was required to protect the environmentally sensitive resources within and along Tryon Creek from the impacts of adjacent development, including water quality impacts associated with stormwater runoff –entrained pollutants and septic system discharges. With respect to the Part B request, the rezoning is initiated specifically for facilitating the development of a dairy waste pond to hold animal fecal materials for eventual measured land application disposal to prevent impacts from releases of these highly nitrogenous materials during periods when their production exceeds the land disposal capacities of the surrounding area. Accordingly, the change in zoning at the Part B would further the policies of LUP with respect to protecting coastal water quality. Therefore, the Commission finds the proposed IP amendment conforms

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separation is not afforded to allow for sufficient biological treatment of the effluent discharged into surrounding land areas.

with and is adequate to carry out the coastal water quality protection policies of the Marine and Water Resources chapter of the LUP.

**E. Protection of Coastal Agriculture.**

The reclassification of remaining lands beyond the delineated environmentally sensitive areas and any needed buffer areas to an Agricultural Exclusive designation would facilitate development of water quality treatment facilities and rural residential uses. These uses are recognized within the LCP as critical to and/or compatible with ongoing agricultural operation at the two project sites, respectively.

1. Relevant LUP Policies

Policy No. 1 of the LUP's Land Resources Chapter states:

*If a parcel is designated for prime agricultural use, conversion to non-agricultural use shall not be permitted except where allowed in Section 30241 of the Coastal Act.*

Referenced Coastal Act Section 30241 states:

*The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas, agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*

*(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*

*(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*

*(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*

*(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*

*(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

*(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Policy No. 6 of the LUP's Land Resources Chapter states:

*Land uses adjacent to agricultural lands shall not adversely impact the economic productivity of the agricultural land. Priority should be given to land uses which are least likely to conflict with agricultural productivity.*

LUP Land Resources Policy No. 9 states:

*Agricultural uses such as grazing and pastoral activities and the raising and harvesting of crops are deemed to be a principle use within Farmed Wetlands. Maintenance activities auxiliary to the above agricultural uses are therefore allowable use including drainage related to crop rotation. Such areas are subject to the other policies of the County's Certified Land Use Plan.*

2. Analysis

Both Part A and B of the subject LCP amendment would result in portions of the project areas being rezoned to an Agricultural Exclusive (AE) zoning designation to facilitate development of farm related improvements, namely a farm residence and a dairy waste pond. Although the County's choice of the AE designation for the portions of the sites currently zoned RCA-1 but subsequently determined as either not containing ESHA or as not being needed for establishing a buffer around wetlands is driven primarily by the directive within LCPZEO Section 21.11.060.D.3 requiring that such non-ESHA areas be zoned consistent with the surrounding land use designation (i.e., Prime Agriculture), the choice of AE would also be consistent with the other provisions of the LUP's Land Resources chapter cited above.

The redesignation of the areas at the periphery of the Tryon Creek and former river meander ESHAs would result in a net increase of approximately 47 acres of land currently designated as possibly containing ESHA (but subsequent determined not to contain such resources) being zoned as Agricultural Exclusive (AE). This action is consistent with Land Resources Policy No. 1. Furthermore, in addition to being appropriate for protecting the resources present within adjoining ESHAs, the reclassification of the former river meander depression at the Part B site would serve to carry out LUP Policy Nos. 6 and 9. As allowances for continued historic grazing and other compatible dairy cattle rearing related uses would be afforded under the RCA-2(fw) designation, no conversion of the Part B site former river channel area would result for which possible conflict with LUP Land Resources Policy No. 1 might arise.

The westerly approximately 0.8-acre portion of the 4.87-acre area slated for rezoning situated in the northeasterly corner of the NW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>, Sec. 3, T17N, R1W, HB&M appears as part of the

adjoining AE zoning district on the adopted zoning map. Reclassification of this limited area from agricultural exclusive zoning to a farmed wetlands resource conservation area designation does not comprise a conversion of agricultural land to non-agricultural uses.

Although a relatively small portion of adjoining AE land would also be redesignated to a farmed wetland resource conservation area designation, this zoning change does not represent a conversion of agricultural land, per se. Rather, in addition to the limited spatial scope of the zoning change, the physical characteristics of the subject area, and its historical agricultural grazing uses, the provisions within the new designation's standards allowing for continued utilization of the subject area for a variety of agricultural uses (e.g., grazing, pastoral activities, and the raising and harvesting of crops on land previously cultivated within the last ten years) instead represents the imposition of performance standards limiting agricultural activities in the subject area to those compatible with seasonal wetlands.

Therefore, the Commission finds that the proposed IP amendment would be consistent with and adequate to carry out the coastal agricultural protection policies of the LUP.

### **III. CONCLUSION**

Based on the foregoing analysis, the Commission finds the proposed amendment to the County's Implementation Program as submitted to be consistent with and adequate to carry out the certified Land Use Plan.

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## **PART THREE: PUBLIC PARTICIPATION AND COMMISSION REVIEW**

The proposed LCP amendment was the subject of local public hearings before the Del Norte Planning Commission and the County Council. All of these public hearings were properly noticed to provide for adequate public participation. The LCP amendment submittal was filed as complete on June 14, 2006 and is consistent with Section 30514 of the Coastal Act and Section 13553 of Title 14 of the California Code of Regulations. Copies of the County Board of Supervisor's adopting ordinances and resolution of transmittal to the Commission are attached as Exhibit Nos. 9, 10, and 11.

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## **PART FOUR: CALIFORNIA ENVIRONMENTAL QUALITY ACT**

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:



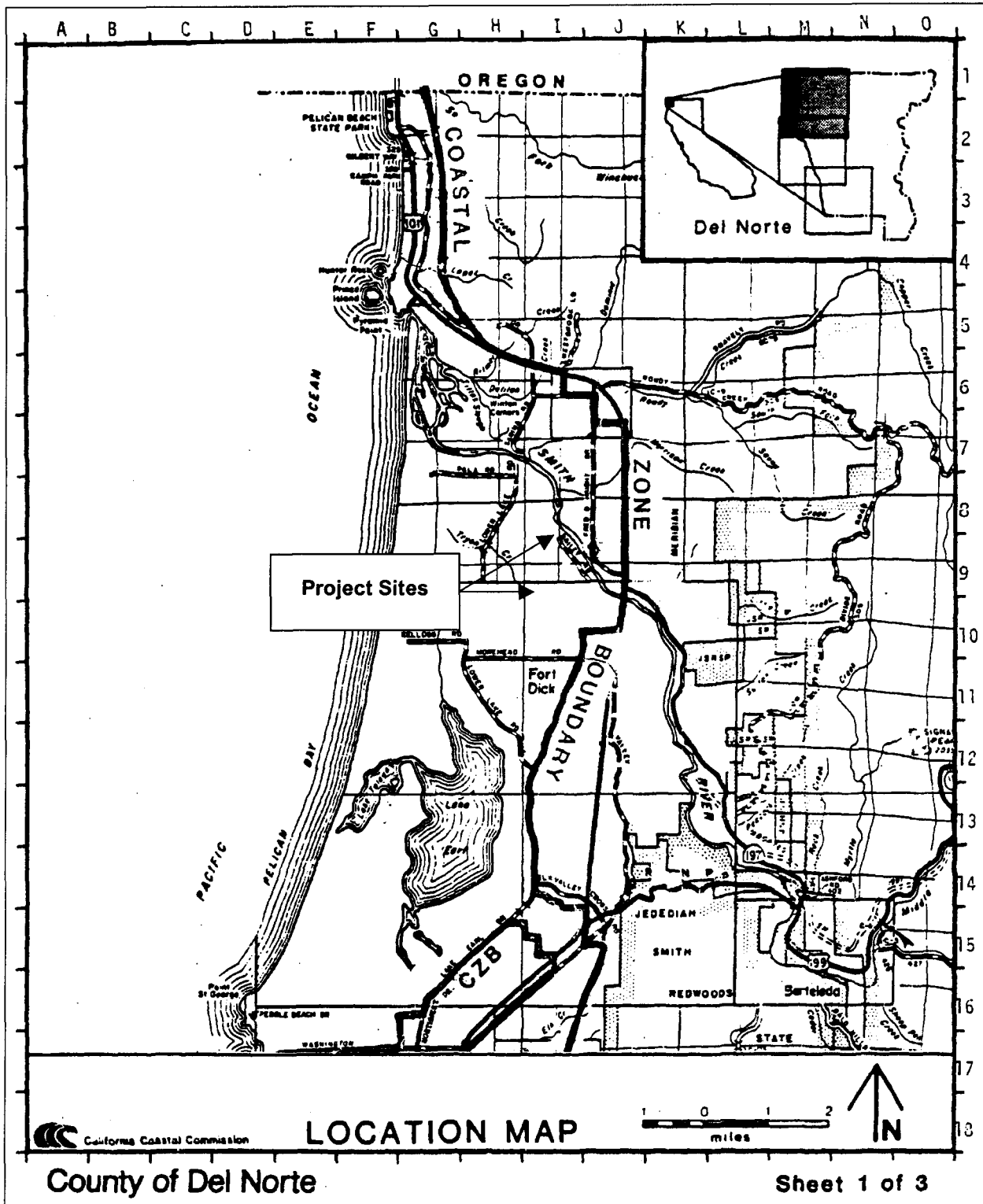
*... if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.*

As discussed in the findings above, the amendment request is consistent with the California Coastal Act and will not result in significant environmental effects within the meaning of the California Environmental Quality Act.

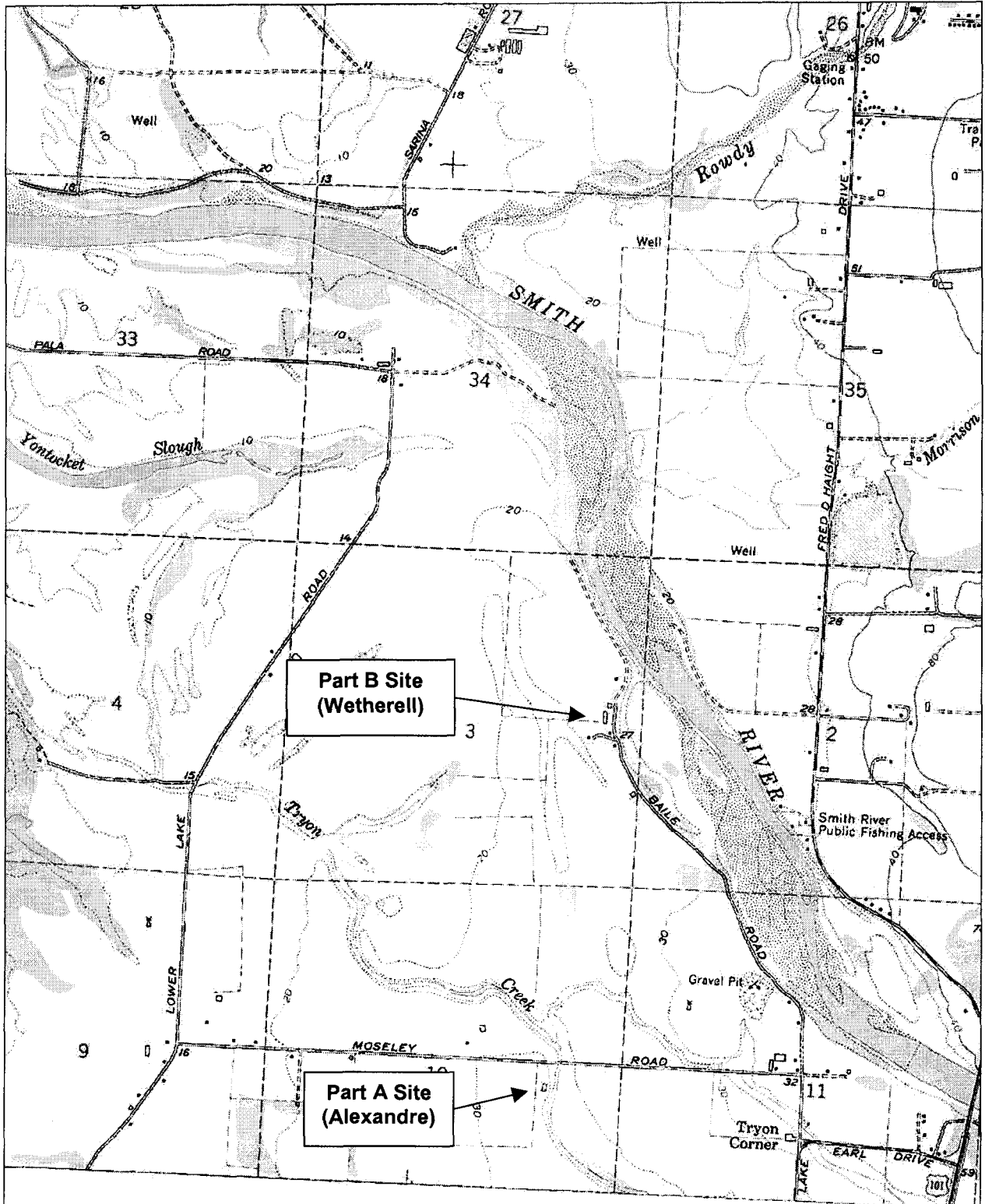
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**EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Site Aerial Photographs
4. Existing Zoning Map No. C-5
5. Proposed Amended Zoning Map No. C-5
6. Excerpts, County of Del Norte Local Coastal Program Zoning Enabling Ordinance – Chapters 21.08, 21.11, and 21.11A – AE, RCA-1, & RCA-2 Zoning District Standards
7. Excerpts, Wetland Delineations and Biological Habitat Assessment for Alexandre Rezone (Galea Wildlife Consulting)
8. Excerpts, Wetland Delineations and Biological Habitat Assessment for Wetherell Rezone (Natural Resources Conservation Service)
9. County Resolution No. 2006-37 – Submittal of LCPA Application
10. County Ordinance No. 2005-22 – Alexandre Zoning Amendment
11. County Ordinance No. 2005-25 – Wetherell Zoning Amendment

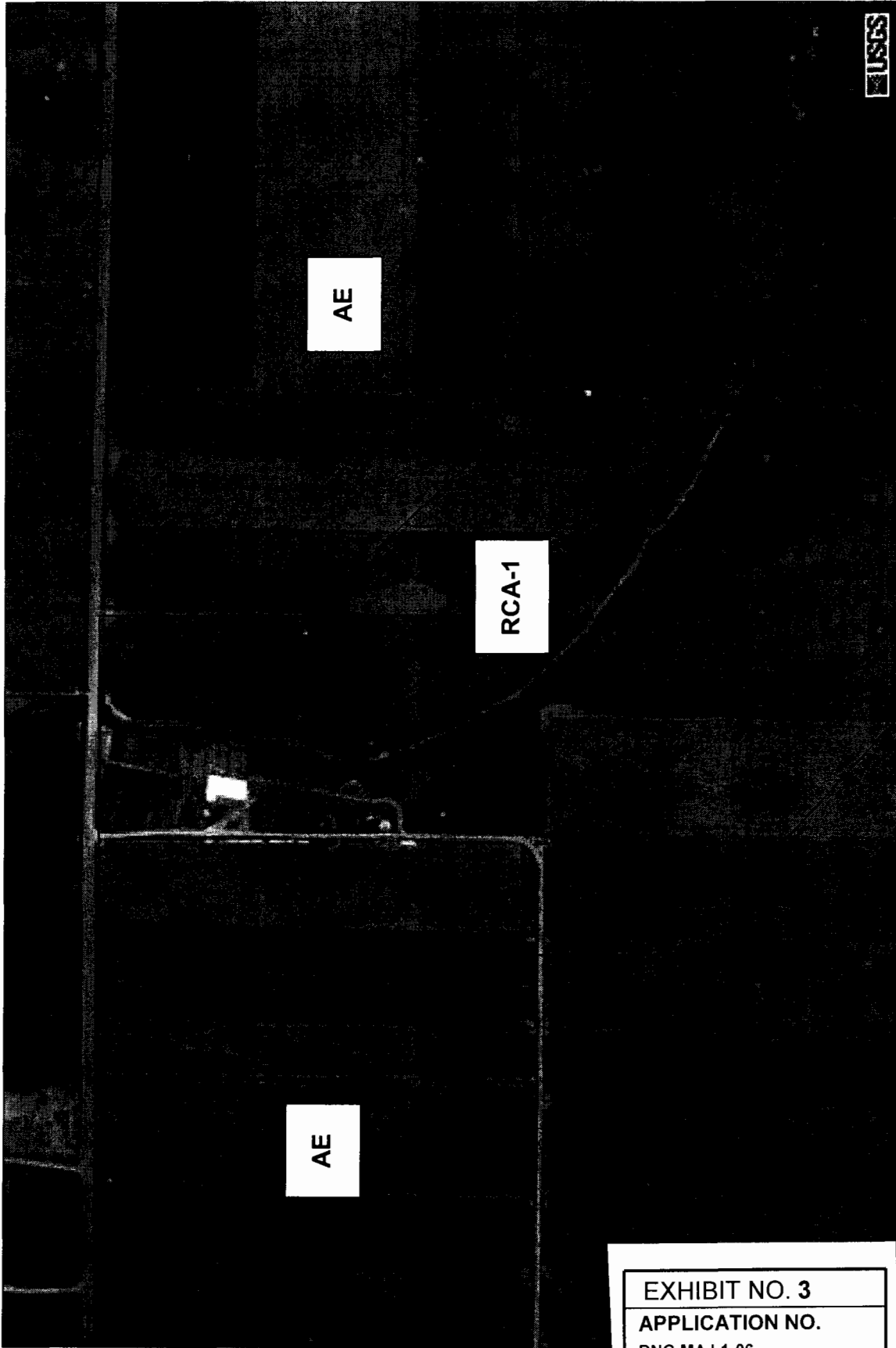


**EXHIBIT NO. 1**  
**APPLICATION NO.**  
 DNC-MAJ-1-06  
 DEL NORTE COUNTY LCP  
 AMENDMENT (ALEXANDRE-  
 WETHERELL)  
 REGIONAL LOCATION MAP



**EXHIBIT NO. 2**  
**APPLICATION NO.**  
 DNC-MAJ-1-06  
 DEL NORTE COUNTY LCP  
 AMENDMENT (ALEXANDRE-  
 WETHERELL)  
 VICINITY MAP

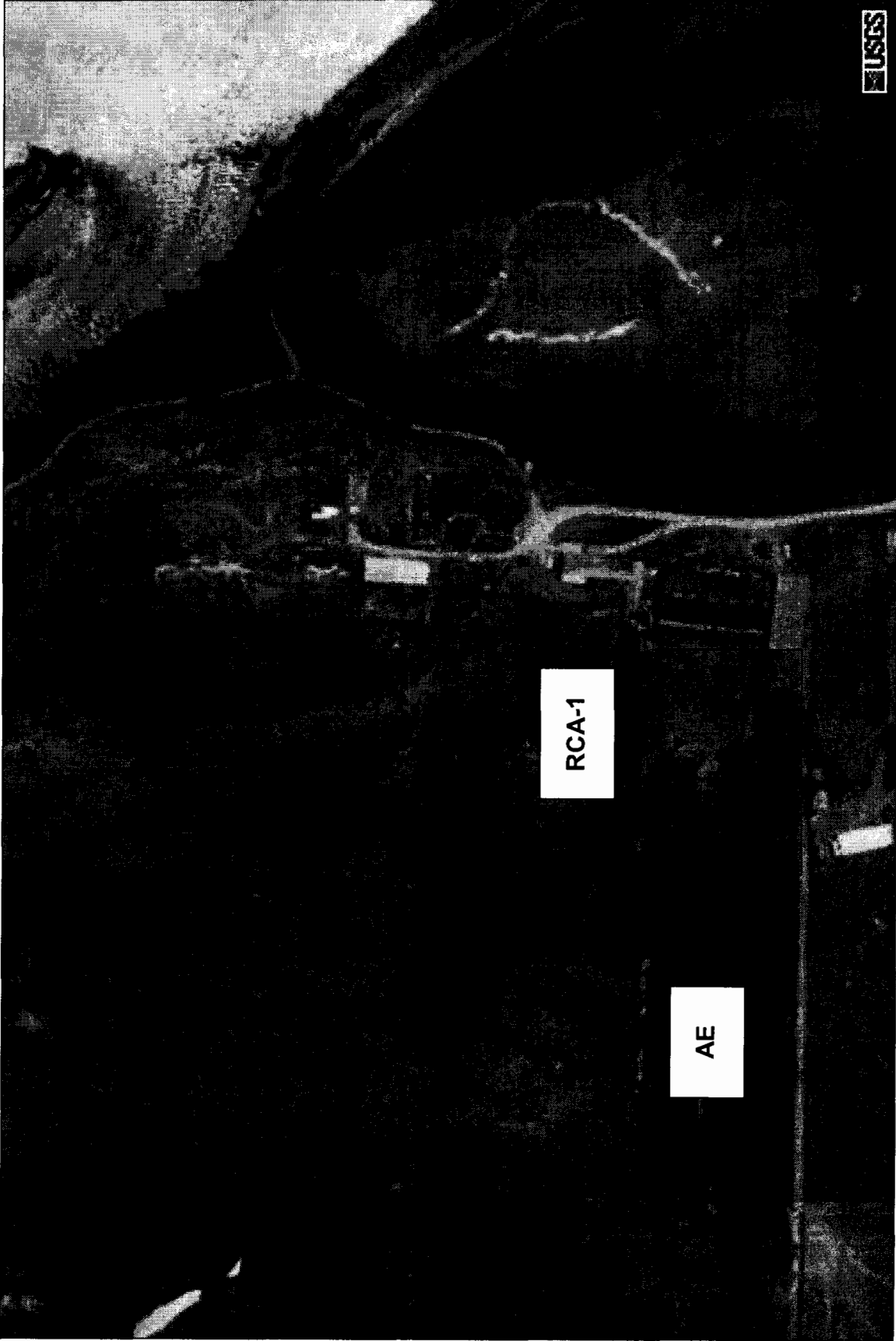
Figure A: 1993 Aerial Photograph of LCP Amendment No. DNC-MAJ-1-06 -- Part A (Alexandre)



|                         |
|-------------------------|
| <b>EXHIBIT NO. 3</b>    |
| <b>APPLICATION NO.</b>  |
| DNC-MAJ-1-06            |
| DEL NORTE COUNTY LCP    |
| AMENDMENT               |
| SITE AERIAL PHOTOGRAPHS |
| (1 of 2)                |

Source: United States Geologic Survey

Figure B: 1993 Aerial Photograph of LCP Amendment No. DNC-MAJ-1-06 – Part B (Wetherell)



Source: United States Geologic Survey

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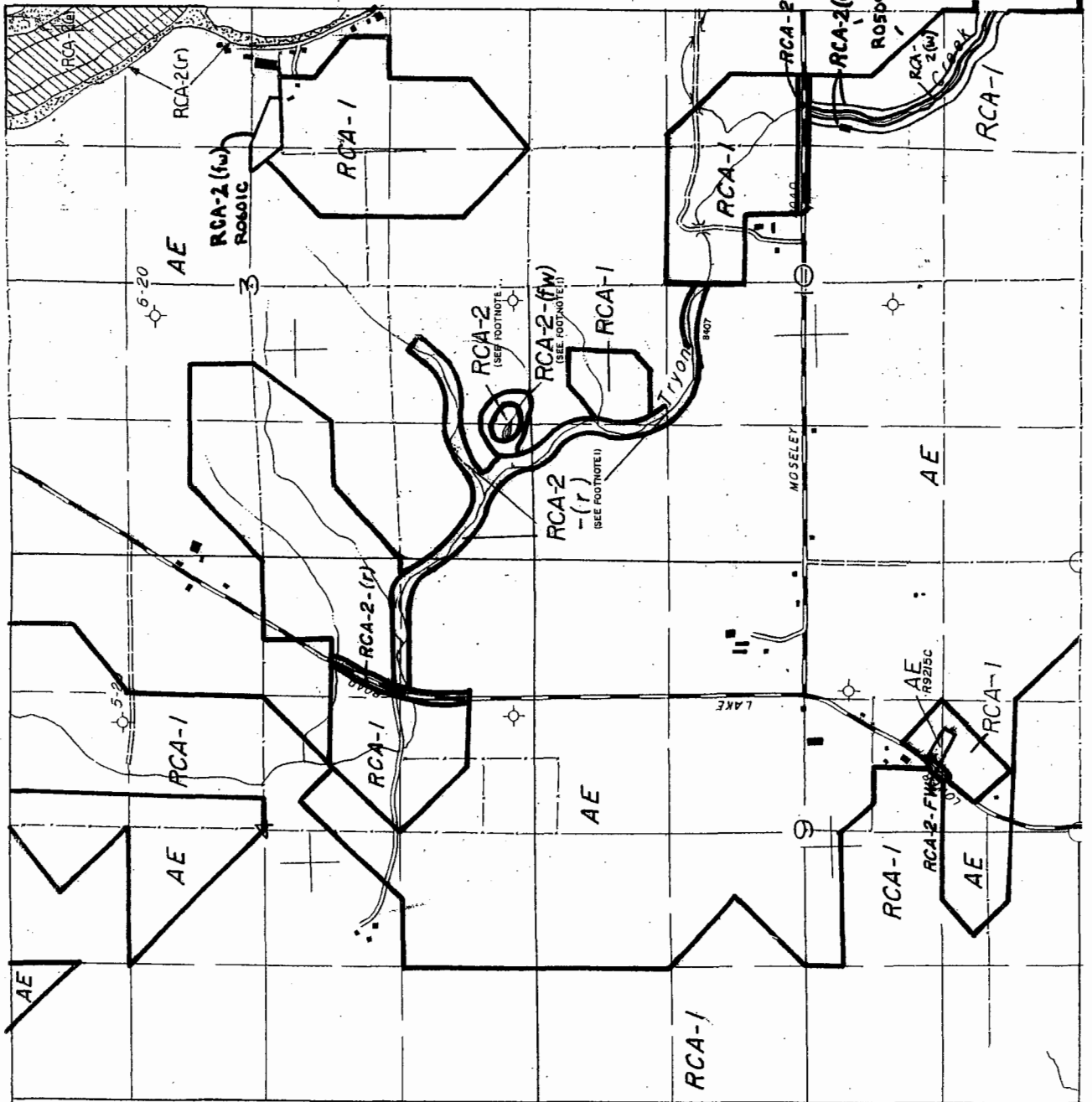
1. See R8407 for detailed boundary delineation

|                        |  |
|------------------------|--|
| <b>EXHIBIT NO. 5</b>   |  |
| <b>APPLICATION NO.</b> |  |
| DNC-MAJ-1-06           |  |
| DEL NORTE COUNTY LCP   |  |
| AMENDMENT              |  |
| PROPOSED AMENDED       |  |
| ZONING MAP NO. C-5     |  |

### EXHIBIT A

Section 21, 06.050 Ordinance 83-03  
**DEL NORTE CO. ZONING MAP**  
**AREA C-5**  
 SECTIONS 3, 4, 9, 10  
 TWP 17 N RGE 1W HB&M  
 FORT DICK AREA

APPROVED BY PLANNING COMMISSION  
 APPROVED BY BOARD OF SUPERVISORS  
 COUNTY OF DEL NORTE, CALIFORNIA  
 83-03: Sept 6, 83



## Chapter 21.08

### AE AGRICULTURE EXCLUSIVE DISTRICT

#### Sections:

- 21.08.010 Intent--Applicability.
- 21.08.020 The principal permitted use.
- 21.08.030 Uses permitted with a use permit.
- 21.08.040 Building height limit.
- 21.08.050 Minimum lot area required.
- 21.08.060 Front yard required.
- 21.08.070 Side yard required.
- 21.08.080 Rear yard required.
- 21.08.090 Special yards and distances between buildings required.
- 21.08.100 Special requirements.

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| <b>EXHIBIT NO. 6</b>   |
| <b>APPLICATION NO.</b><br><b>DNC-MAJ-1-06</b>  |
| EXCERPTS, COUNTY OF DEL<br>NORTE LOCAL COASTAL PROGRAM<br>ZONING ENABLING ORDINANCE-<br>CHAPTERS 21.08, 21.11 & 21.11A -<br>AE, RCA-1 & RCA-2 ZONING<br>DISTRICT STANDARDS (1 of 14) |

**21.08.010 Intent--Applicability.** Because prime agricultural land is not a readily renewable resource, this district classification is intended to provide for the protection of agricultural land and uses against encroachment by other uses which may be in conflict therewith.

The provisions of this section therefore, shall be interpreted to apply to agricultural pursuits and related uses, to the end that no other use shall be permitted, and no regulation shall be deemed or construed to interfere with any normal accessory use conducted in conjunction therewith.

It is the intention of this section to prevent the subdividing of prime agricultural lands into lot sizes which might threaten the use of such lands for agriculture, and changes of zone from AE to another classification are to be made only where such uses are in accord with the General Plan or an adopted specific plan.

For the purposes of Section 21.52.020(A)(4), the agriculture exclusive district uses listed under the principal permitted use section herein shall be considered as the principal permitted use in the California Coastal Zone. Variances and adjustments to the district's requirements and standards shall not be considered a principal permitted use for purposes of Section 21.52.020(A)(4).

The following regulations shall apply in all AE districts, subject to the provisions of Chapters 21.02 through 21.60. (Ord. 83-03 (part))

**21.08.020 The principal permitted use.** The principal permitted agriculture exclusive use includes:

- A. All agricultural uses including horticulture, crop and tree farming, livestock farming and animal husbandry, including dairies, public and private stables, but excepting feed lots;
- B. Accessory buildings and uses including barns, stables, and other agricultural buildings;
- C. Greenhouses which are constructed with a perimeter foundation;
- D. A one-family residence with appurtenant uses including home occupations, guest lodging and appurtenant accessory structures. (Ord. 83-03 (part))



**21.08.030 Uses permitted with a use permit.** Uses permitted with a use permit shall be as follows:

- A. Feed lots for the intensive raising of animals for commercial purposes;
- B. Hog farming;
- C. Produce sales stands, providing that the majority of the produce sold or offered for sale is grown on the premises;
- D. A mobilehome or a manufactured home in lieu of a conventional residential unit;
- E. Farm quarters for farm labor employed full-time on the premises;
- F. Animal husbandry services including veterinary clinics;
- G. Greenhouses which are constructed with a slab or other foundation which will preclude the use of the underlying soil(s). (Ord. 95-06 §4 (part), 1995; Ord. 83-03 (part))

**21.08.040 Building height limit.** Building height limit shall be none. (Ord. 83-03 (part))

**21.08.050 Minimum lot area required.** Minimum lot area shall be as follows:

- A. Forty acres;
- B. Within the California Coastal Zone the division of agricultural lands in order to separate the existing farmhouse from the ranch or farm lands for the purposes of sale, lease, financing of the lands or the farmhouse may be approved by the planning commission for parcels less than the minimum parcel size. This action is subject to the following:
  - 1. The minimum lot for the farmhouse shall be one acre,
  - 2. The subject residence must have existed prior to the county's zoning of the lands to AE,
  - 3. The subject lands are designated agricultural prime in the General Plan Coastal Element. (Ord. 83-03 (part))

**21.08.060 Front yard required.** Required front yard shall be twenty-five feet. Also refer to Section 21.46.090. (Ord. 83-03 (part))

**21.08.070 Side yard required.** Required side yard shall be twenty feet. (Ord. 83-03 (part))

**21.08.080 Rear yard required.** Required rear yard shall be twenty feet for main building and five feet for accessory building. (Ord. 83-03 (part))

**21.08.090 Special yards and distances between buildings required.**

- A. Accessory buildings used as barns, stables or farm outbuildings for animals other than small livestock farming, shall be not less than twenty feet from any side or rear property line, and not less than twenty feet from any dwelling unit on the property.
- B. Yards for the use of any animal husbandry shall be fenced to keep animals not less than twenty feet from any dwelling.
- C. Side and rear yards for veterinary clinics shall be no less than sixty feet when adjacent to a lot or parcel used for residential purposes. (Ord. 83-03 (part))

**21.08.100 Special requirements.** Conversion of a parcel within the California Coastal Zone which has been designated as agriculture exclusive land use and/or zoning district to nonagriculture land use and/or zoning district shall not be permitted except where:

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- A. Continued or renewed agricultural use is not feasible; or
- B. Such conversion would preserve prime agricultural land or concentrate development within, contiguous with or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Where conversion is made, it shall be subject to Coastal Act priorities for Coastal Land Uses (e.g., recreation, coastal dependent industries) , Rural Land Division Criteria and be consistent with the General Plan Coastal Element. (Ord. 83-03 (part))

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## CHAPTER 21.11

### RCA1 GENERAL RESOURCE CONSERVATION AREA DISTRICT

#### Sections:

- 21.11.010 Intent.
- 21.11.020 Applicability.
- 21.11.030 The principal permitted use.
- 21.11.040 Uses permitted with a use permit.
- 21.11.050 Preexisting development.
- 21.11.060 Special rezoning requirements.

**21.11.010 Intent.** Resource conservation areas are those environmentally sensitive habitat areas which are identified by the General Plan Coastal Element as wetlands, farmed wetlands, riparian vegetation, estuary and coastal sand dunes. The general resource conservation area zone is intended to designate those resource conservation areas which require further data, particularly mapping, prior to new or additional development and to serve as a transition zone until such data is made available, reviewed and adopted by the county. Changes of zone from general resource conservation area to another classification are to be made subject to the requirements of Section 21.11.060 herein and only where such uses are in accord with the General Plan or adopted specific plan.

For the purposes of Section 21.52.020(A)(4), the general resource conservation area uses listed under the principal permitted use section herein, shall be considered as the principal permitted use in the California Coastal Zone. Variances and adjustments to the district's requirements and standards shall not be considered a principal permitted use for the purposes of Section 21.52.020(A)(4).

The regulations set forth in this chapter apply in all RCA1 districts and are subject to the provisions of Chapters 21.02 through 21.60. (Ord. 83-03 (part))

**21.11.020 Applicability.** This zone shall be applied to those parcels or portions of parcels adjacent to or with in the resource conservation areas which are identified by the General Plan Coastal Element for which the requirements of Section 21.11.060 have not been met. (Ord. 83-03 (part))

**21.11.030 The principal permitted use.** The principal permitted resource conservation area general use includes:

- A. Fish and wildlife management;
- B. Nature study;
- C. Hunting and fishing including development of duck blinds and similar minor facilities. (Ord. 83-03 (part))

**21.11.040 Uses permitted with a use permit.** Uses permitted with a use permit include:

- A. Wetland restoration per Section 21.11A.070. (Ord. 83-03 (part))

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**21.11.050 Preexisting development.** Development which exists on a parcel at the time of the application of this chapter to that parcel shall be considered a nonconforming use. Any property owner/applicant considering an expansion of or change in such development should consider the rezoning of the property pursuant to Section 21.11.060 to determine whether the project would be consistent after rezoning. Where such a rezoning is not found to be feasible, an application may be submitted pursuant to Section 21.48.080(E) which shall include the supplemental information required by Section 21.11A.050. (Ord. 83-03(part))

**21.11.060 Special rezoning requirements.** The rezoning of a parcel or parcels designated as RCA may be considered subject to the requirements of Chapters 21.50 and 21.50B and the special requirements listed in this section.

A. Mapping. In order to determine the actual boundary of the resource conservation area and the location of any buffer zone which may be required for it, supplemental mapping shall be submitted as a part of the rezoning application, including:

1. Topographic Base Map. The base map should be at a scale sufficiently large to permit clear and accurate depiction of vegetation associations and soil types in relation to any and all proposed development (normally the scale required will be one inch equals two hundred feet). Contour intervals should be five feet, and the map should contain a north arrow, graphic bar scale, and a citation for the source of the base map (including the date). The map should show the following information:

- a. Boundary lines of the applicant's property and adjacent property, including assessor's parcel numbers, as well as the boundaries of any tidelands, submerged lands or public trust lands, per Section 21.50.040;
- b. Names and locations of adjacent or nearby roads, streets or highways, and other important geographic, topographic and physical features such as streams, bluffs or steep slopes;
- c. Location and elevation of any levees, dikes or flood-control channels;
- d. Location, size and invert elevation of any culverts or tide gates;
- e. Existing development (structures, agricultural areas, etc.)

2. Inundation Map. For nontidal wetlands, a map should be prepared indicating permanent or seasonal patterns of inundation (including sources) in a year of normal rainfall.

3. Vegetation Map. Location and names of dominant plant species (e.g., *Salicornia Virginica*) and vegetation associations (e.g., saltmarsh).

4. Soils Map. If no soil survey is available, a soils map should be prepared and should show the location of soil types and include a physical description of their characteristics.

B. Supplemental Information. Where development is proposed in conjunction with the rezoning, a supplement information report may be required pursuant to Section 21-11A.050.

C. Review. Upon receipt of a complete rezoning application and prior to any public hearing the county shall submit the above information to the California Department of Fish and Game for review. The Department of Fish and Game shall have up to fifteen days upon receipt of the county notice to review and comment. This requirement does

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not supersede any other review requirements, such as those of the California Environmental Quality Act, and may be carried out in conjunction with any other review which meets or exceeds the fifteen-day time period.

D. Findings and Disposition.

1. The county's determination regarding the rezoning shall be based upon specific findings as to whether the area is or is not a resource conservation and/or a wetland buffer area based on the General Plan Coastal Element Criteria and California Coastal Commission's "Statewide Interpretive Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas" as adopted February 4, 1981.

2. Where it is found that all or a portion of a parcel is in a resource conservation area and/or is in any wetland buffer required by Section 21.11A.020(B) said parcel or portion of a parcel shall be rezoned to RCA2 with a parenthetical reference as to the type of resource conservation area, i.e., wetland (w), farmed wetland (fw), estuary (e), riparian vegetation (r), coastal sand dunes (sd), or wetland buffer (wb). Where more than one type exists, the distinction shall be noted on the zoning map.

3. Where it is found that all or a portion of a parcel is not in a resource conservation area and/or any required wetland buffer, a finding shall be made that the non-RCA area is within the abutting General Plan land use classification and said parcel or portion of parcel shall be rezoned to another zoning classification which is in accord with the General Plan or adopted specific plan as set forth in Chapters 21.51A and 21.51B.

4. Where parcels totally within the RCA2 zone are contiguous with a parcel outside or partly outside of the RCA2 area, and where all of these parcels have a single owner, said parcels shall be merged at the time the RCA2 zoning is placed in effect upon the properties. (Ord. 83-03 (part))

## Chapter 21.11A

### RCA2 DESIGNATED RESOURCE CONSERVATION AREA DISTRICT

#### Sections:

- 21.11A.010 Intent.
- 21.11A.020 Applicability.
- 21.11A.030 The principal permitted use.
- 21.11A.040 Uses permitted with a use permit.
- 21.11A.050 Minimum lot areas.
- 21.11A.060 Supplemental application data.
- 21.11A.070 Requirements for all permitted development.
- 21.11A.080 Wetland restoration guidelines.

**21.11A.010 Intent.** Resource conservation areas are those environmentally sensitive habitat areas which are identified by the General Plan Coastal Element as wetlands, farmed wetlands, riparian vegetation, estuary and coastal sand dunes. The designated resource conservation area zone is intended to designate the location and type of resource conservation areas for which specific data has been reviewed, set forth uses and development guidelines for the various sensitive habitat areas and establish any special requirements for development permits in order to protect and enhance the quality and productivity of these sensitive resource areas as mandated by state and federal regulations. Changes of zone from designated resource conservation area to another classification are to be made subject to the requirements of Section 21.11.060 and only where such uses are in accord with the General Plan or adopted specific plan. For the purposes of Section 21.52.020(A)(4), the designated resource conservation area uses listed under the principal permitted use section herein shall be considered as the principal permitted use in the California Coastal Zone. Variances and adjustments to the district's requirements and standards shall not be considered a principal permitted use for the purposes of Section 21.52.020(A) (4). The regulations set forth in this chapter apply in all RCA2 districts and are subject to the provisions of Chapters 21.02 through 21.60. (Ord. 83-03 (part))

#### **21.11A.020 Applicability.**

A. This zone shall be applied to those parcels and/or portion of parcels located within the resource conservation areas which are identified by the General Plan Coastal Element and for which the requirements of Section 21.11.060 have been met.

B. This zone shall also be applied to buffer areas which shall be established around wetlands between the edge of the wetland and any future and/or existing development. Such wetland buffers shall be one hundred feet in width unless a determination of no adverse impact upon the wetland is made, in which case a buffer of less than one hundred feet may be utilized. Such a determination is to be made based upon data submitted pursuant to Section 21.11.060 and shall include consideration of the following factors:

1. That the most sensitive species of plants and/or animals will not be significantly disturbed based upon:

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- a. Habitat requirements of resident and/or migratory fish and wildlife for nesting, feeding, breeding, etc.;
    - b. Assessment of short and long term ability of plant or animal species to adapt to human disturbance.
  - 2. That where erosion impacts from the project may occur, adequate buffer is provided to allow for interception of eroded materials outside of the wetland area.
  - 3. That where natural or cultural features such as bluffs, hills, roads, dikes or irrigation canals exist they should be utilized in establishing the location of the buffer area and in separating development wetland areas. Natural features should be included within the buffer area i.e., a buffer boundary which follows an embankment should be located at the top of the bank rather than the bottom. Cultural features should be located outside of the buffer boundary to avoid conflict regarding actions such as repair and maintenance.
  - 4. That where existing adjacent development is located closer to the wetland than one hundred feet or where the configuration of a legally created parcel is such that a building area of less than four thousand two hundred square feet would remain, reduction of the buffer could occur, however alternative mitigation measures (such as the planting or reversion to native vegetation) should be provided to ensure additional protection.
- C. At the time of application of the RCA2 district to a parcel a parenthetical reference as to the type of resource conservation area shall be noted, i.e., wetland (W), wetland buffer (WB), farmed wetland (FW), estuary (E), riparian vegetation (R), or coastal sand dunes (SD). Where more than one type exists the distinction shall be noted on the zoning map. (Ord. 83-03 (part))

**21.11A.030 The principal permitted use.**

- A. The principal permitted designated resource conservation area (wetland) use includes uses such as:
- 1. Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds.
- B. The principal permitted designated resource conservation area (wetland buffer) use includes uses such as:
- 1. Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds;
  - 2. Firewood removal by the owner for on-site residential use;
  - 3. Commercial timber harvesting pursuant to California Department of Forestry timber harvest requirements.
- C. The principal permitted designated resource conservation area (farmed wetland) use includes uses such as:
- 1. Agricultural uses such as grazing and pastoral activities, the raising and harvesting of crops on cultivated land (cultivated within the prior ten years) and the maintenance and repair of existing dikes, levees, drainage ditches and other similar agricultural drainage systems;
  - 2. Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds.

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D. The principal permitted designated resource conservation area (estuary) use includes uses such as:

1. Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds;
2. Maintenance and improvement of boating facilities consistent with the General Plan Coastal Element land use policies.

E. The principal permitted designated resource conservation area (riparian) use includes uses such as:

1. Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds and recreation trails;
2. Firewood removal by the owner for on-site residential use;
3. Commercial timber harvest of conifers pursuant to California Department of Forestry Forest Practice Rules for special treatment areas and stream protection zones and where:
  - a. Heavy equipment is not used,
  - b. At least fifty percent of the coniferous tree canopy and all of the hardwood tree canopy is retained;
4. Wells, within rural areas;
5. Maintenance of existing flood-control and drainage channels;
6. Roads, road maintenance and repair. Where new stream crossings are proposed they shall be limited, when feasible, to right-angle crossings of the stream corridors.

F. The principal permitted designated resource conservation area (sand dunes) use includes:

1. Nature study, fish and wildlife management and hunting and fishing, including the development of minor facilities such as duck blinds. (Ord. 83-03 (part))

**21.11A.040 Uses permitted with a use permit.** Uses permitted with a use permit include:

A. In all designations, a single-family residence and appurtenant structures where denial of such would otherwise substantially deny all reasonable use of the parcel and where such development will be sited and designed to prevent impacts which would significantly degrade the environmentally sensitive habitat area, except that where a transfer of development credit or system has been adopted as part of this title, no residential development shall be permitted.

B. In all designations, those recreational facilities included in a State Park and Recreation/Department of Fish and Game Master Plan which has been submitted and approved as an amendment to the General Plan Coastal Element.

C. In all designations, wetlands restoration subject to Section 21.11A.080.

D. In the wetlands, farmed wetlands, and estuary designations, diking, filling, or dredging shall be permitted in accordance with the provisions of the General Plan Coastal Element and Section 21.11A.070(B), where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to:

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1. New or expanded port, energy and coastal-dependent industrial facilities, including commercial fishing facilities;
2. Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps;
3. In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (B) of Section 30411 of the Public Resources Code for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland; provided, however, that in no event shall the size of the wetland area used for such boating facility, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, be greater than twenty-five percent of the total wetland area to be restored;
4. Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of pier and maintenance of existing intake and outfall lines;
5. Mineral extraction, including sand for restoring beaches, pursuant to Chapter 7.36 of the Del Norte County Code;
6. Restoration purposes;
7. Nature study, aquaculture, or similar resource-dependent activities;
8. In estuaries only, new or expanded boating facilities.

E. In estuary designations on the Smith and Klamath Rivers, channel navigation modifications which are seasonal and do not require construction of permanent facilities which will adversely affect the flow of the stream if the following determinations are made:

1. The modifications are not permanent and will be removed before or during the following high-water period;
2. The modifications are necessary to provide free movement of recreational and/or commercial boating;
3. The project is consistent with all applicable local, state and federal laws and regulations. (Ord. 83-03 (part))

**21.11A.050 Minimum lot areas.**

A. No new development parcels shall be created totally within any RCA2 zone; except that agricultural parcels not intended for residential development may be created subject to all applicable policies of the General Plan Coastal Element and the minimum parcel size of the adjacent agricultural land use designation and where the landowner records a covenant with the county which runs with the land prohibiting all buildings and limits the use to nonresidential development as set forth in this chapter.

B. Where parcels totally within any RCA2 zone are contiguous with a parcel outside or partly outside of the RCA2 zone, and where all of these parcels have a single owner, said parcels shall be merged at the time the RCA2 zoning is placed in effect upon the properties.

C. Where a portion of a parcel is partly outside of the RCA2 zone, only the acreage not in the RCA2 zone may be used in determining development density based on the non-RCA

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designation, except that those areas designated as a wetland buffer may be used in determining the development density.

D. Parcels may be created which include RCA land areas subject to the provision of a non-RCA area totaling at least fifty percent of the minimum lot size (as required by the non-RCA zone) for parcels designated as one unit/two acres or higher in density or a minimum of one acre for parcels designated as one unit/three acres or lower in density. (Ord. 83-03 (part))

**21.11A.060 Supplemental application data.** Where development is proposed wholly or partially within a resource conservation area and/or any buffer which may be required for it, a supplemental information report may be required as part of the permit application. If such is required, it should investigate physical and biological features existing in the habitat area and evaluate the impact of the development on the existing ecosystem. The report should be based on on-site investigation, in addition to a review of the existing information on the area, and should be sufficiently detailed to enable the planning commission to determine potential immediate and long-range impacts of the proposed project. The report should describe and analyze the following:

- A. That information required in Section 21.11.060(A) which has not previously been reviewed and/or requires updating;
- B. Present extent of the habitat, and if available, maps, photographs or drawings showing historical extent of the habitat area;
- C. Previous and existing ecological conditions:
  - 1. The history, ecology and habitat requirements of the relevant resources, such as plants, fish and wildlife, in sufficient detail to permit a review of functional relationships (the maps described above may supply part of this information),
  - 2. Restoration potentials;
- D. Present and potential adverse physical and biological impacts on the ecosystem;
- E. Alternatives to the proposed development, including different projects and off-site alternatives;
- F. Mitigation measures, including restoration measures and proposed buffer areas;
- G. If the project includes dredging, explain the following:
  - 1. The purpose of the dredging,
  - 2. The existing and proposed depths,
  - 3. The volume (cubic yards) and area (acres or square feet) to be dredged,
  - 4. Location of dredging (e.g., estuaries, open coastal waters or streams),
  - 5. The location of proposed spoil disposal,
  - 6. The average grain size distribution of spoils,
  - 7. The occurrence of any pollutants in the dredge spoils;

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H. If the project includes filling, identify the type of fill material to be used, including pilings or other structures, and specify the proposed location for the placement of the fill. The quantity to be used and the surface area to be covered and any proposed use of the fill area;

I. If the project includes diking, identify on a map the location, size (length, top and base width), depth and elevation of the proposed dike(s), as well as the location, size and invert elevation of any existing or proposed culverts or tide gates;

J. If the project is adjacent to a wetland or wetland buffer and may cause mud waves, a report shall be prepared by a qualified geotechnical engineer which explains ways to prevent or mitigate the problem;

K. Benchmark and survey data used to locate the project, the lines or highest tidal action, mean high tide, or other reference points applicable to the particular project. (Ord. 83-03 (part))

#### **21.11A.070 Requirements for all permitted development.**

A. Any development which is proposed must be a permitted use under Sections 21.11A.030 and 21.11A.040 and must meet all general requirements of the Del Norte County Code and the General Plan Coastal Element.

B. Where any dike and/or fill development is permitted in conformity with Section 21.11A.040(D) mitigation measures shall include, at a minimum, either acquisition of equivalent areas of equal or greater biological productivity or opening up equivalent areas to tidal action concurrent with project construction; provided however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface area (including any litigation and/or restoration costs) shall be dedicated to an appropriate public agency, or such replacement site shall be purchased before the dike or fill development may proceed. Such mitigation measures shall not be required for temporary or short-term fill or diking; provided, that a bond or other evidence of financial responsibility is provided to assure that restoration of the project site will be accomplished in the shortest feasible time.

C. Where dredging is permitted in conformity with Section 21.11A.040(D) mitigation measures must at least include the planning and implementation of dredging and spoils disposal which avoids significant disruption of wetlands habitat and/or water circulation, consideration of limitations upon timing of the operation, type of operation, quality of dredge material removed and location of the spoil site, and, where feasible, the transportation of dredge spoils suitable of beach replenishment to appropriate beaches or into suitable longshore current systems.

D. Where diking, filling, or dredging are permitted in conformity with Section 21.11A.040(D) the development must maintain or enhance the functional capacity of the existing sensitive habitat area. Functional capacity means the ability of the wetland or estuary to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is being maintained, the applicant must demonstrate all of the following:

1. That the project does not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance and composition are essentially unchanged as a result of the project;
2. That the project does not harm or destroy a species or habitat that is rare or endangered;

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3. That the project does not eliminate a species or habitat that is essential to the natural biological functioning of the wetland or estuary;
  4. That the project does not significantly reduce consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of the wetland or estuarine ecosystem.
- E. Where development is permitted within a stream or river the following requirements must be met:
1. All channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible to minimize adverse environmental effects. Substantial alterations shall include channelizations, dams, or comparable projects which significantly disrupt the habitat value of a particular river or stream. A development which does not significantly disrupt the habitat value of a particular river or stream is one which maintains or enhances the functional capacity of that river or stream. Roads and bridges necessary to cross streams and rivers may be permitted if there is no feasible less environmentally damaging alternative and if feasible mitigation measures have been provided to minimize adverse environmental effects.
  2. Flood-control projects shall be subject to both of the following conditions:
    - a. The project must be necessary for public safety or to protect existing development;
    - b. There must be no other feasible method for protecting existing development in the floodplain.
  3. Boating facilities constructed in streams are subject to the same requirements as boating facilities constructed elsewhere. (Ord. 83-03 (part))

**21.11A.080 Wetland restoration guidelines.** Restoration projects which are a permitted development in Section 21.11A.040(D) are publicly or privately financed projects in which restoration is the sole purpose of the project except as set forth in subsection A of this section:

A. Requirements for filling for the purpose of reclassification in urban areas restoration projects may include some fill for reclassification for nonpermitted uses if the wetlands are small, extremely isolated and incapable of being restored. Small, extremely isolated wetland parcels that are being restored to biologically productive systems may be filled and developed for reclassification only if such actions establish stable and logical boundaries between urban and wetland areas and if the applicant provides funds sufficient to accomplish the approved restoration program in the same general region. All the following criteria must be satisfied before this exception can be granted:

1. The wetland to be filled is so small (e.g., less than one acre) and so isolated (e.g., not contiguous or adjacent to a larger wetland) that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.
2. The wetland must not provide significant habitat value to wetland fish and wildlife species, and must not be used by any species which is rare or endangered. (For example: such a parcel would usually be completely surrounded by urban commercial, residential, or industrial development which are incompatible with the existence of the wetland as a significant habitat area.)

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3. Restoration of another wetland to mitigate for fill can most feasibly be achieved in conjunction with filling a small wetland.
4. Restoration of a parcel to mitigate for the fill must occur at a site which is next to a larger, contiguous wetland area providing significant habitat value to fish and wildlife which would benefit from the addition of more area. In addition, such restoration must occur in the same general region (e.g., within the general area surrounding the same wetland or estuary where the fill occurred).
5. The Department of Fish and Game and the U.S. Fish and Wildlife Service have determined the proposed restoration project can be successfully carried out.

**B. Degraded Wetlands.** The California Department of Fish and Game must identify an area as a degraded wetland. The requirements for the restoration of such a designated wetland shall be as set forth in the "Statewide Interpretive Guideline for Wetlands and Other Wet Environmentally Sensitive Habitat Areas" adopted by the California State Coastal Commission on February 4, 1981. (Ord. 83-03 (part))

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## BIOLOGICAL ASSESSMENT FOR PROPOSED REZONE, MOSELEY RANCH, DEL NORTE COUNTY, CA. APRIL 2005 (APN #s 105-020-06, 76, 07 & 62)

### INTRODUCTION

The Alexandre Family EcoDairy Farms of Crescent City, California is proposing a rezoning of 25 acres of a property located on both the south and north sides of Moseley Road (Figure 1). Galea Wildlife Consulting (GWC) Incorporated was contracted to provide a general biological assessment to determine the potential impacts of the project on sensitive wildlife species, including federally or state listed species, and species of special concern. Additionally, GWC conducted a review of habitats within and adjacent to the project area to determine if wetlands were present and if a wetland delineation was necessary.

### Project Description

The Moseley ranch is located on both sides of Moseley Road, west of the Smith River in Del Norte County. This ranch is a dairy farm and has been for decades. Tryon Creek runs through the Moseley Ranch. Portions of the Moseley Ranch adjacent to Tryon Creek have a RCA-1 (Rural Conservation Area 1) zoning designation at this time, as the resources on the property (the creek and surrounding riparian habitats) have not been field delineated and mapped. The Applicant wishes to rezone a portion of the ranch south of Moseley Road to AE (Agricultural exclusion) thereby allowing them to use a portion of the property to build a home. The rezone is proposed for 25 acres of the 73 acres south of the road currently zoned as RCA-1.

### Project Area Description

The legal description of the property is Township 17 North, Range 1 West, in Section 10. The project would be located within the bold delineated portion of the property as identified in the submitted project map. The area of assessment for this project is that portion of the approximate 193 acre property, plus all habitats within 1/4 mile of the project area.

The project area is located on the southern portion of the property, consisting primarily of flat pastureland. The pasture is raised topographically above Tryon Creek, located just east and below the pasture. Additional pasture land is located in every direction on adjacent properties.

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| <b>EXHIBIT NO. 7</b>  |
| <b>APPLICATION NO.</b>  |
| DNC-MAJ-1-06  |
| EXCERPTS, WETLAND<br>DELINEATIONS & BIOLOGICAL<br>HABITAT ASSESSMENT FOR<br>ALEXANDRE REZONE (GALEA<br>WILDLIFE CONSULTING) (1 of 14) |

Tryon Creek, a low gradient stream on the Moseley Ranch, drains agricultural lands on the Crescent City flats area. Tryon Creek runs through the ranch as it flows north toward Yontocket Slough, which then periodically (high water events) flows into the Smith River. Hydrology between Yontocket Slough and the Smith River have been impacted by works projects on State Park lands.

### **Physical Environment**

Climate in the area is characterized as Mediterranean, with cool, wet winters and warm, dry summers with frequent fog. Proximity to the Pacific Ocean produces high levels of humidity and results in abundant fog and precipitation. The maritime influence diminishes with distance from the coast, resulting in less fog, drier summer conditions and more variable temperatures. Annual precipitation in the project watershed ranges from 60 - 150 inches occurring primarily as rain during the winter months. Snowfall is sporadic at higher elevations. Air temperatures measured in Crescent City, south of the Project Area, vary from 41°F to 67° F annually.

### **Geology and Soils**

Bedrock in the project area is predominately of the Broken Formation of the Franciscan Assemblage. The rocks of this formation are late Jurassic to early Cretaceous in age, and are composed of tectonically fragmented inter-bedded graywacke, shale and conglomerate. The geologic unit that underlies the general area is primarily massive, coherent sandstone with only moderate shearing and fracturing. Soils produced from parent material are moderately deep to deep with good cohesion as a result of the high clay and iron contents. Wide valley bottoms along the Smith River are filled with vegetated alluvial terrace deposits of fluvial origin dating from the Pleistocene and Holocene ages.

## **METHODS**

### **Records Search**

A records search of the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (2005), Smith River quadrangle, was conducted to determine if any additional special-status plant or animal species had been previously reported within or near the project area. For the purposes of this report, special-status plant and animal species are defined as those listed in the California Fish and Game Code as Rare, Threatened or Endangered, those listed as Threatened or Endangered under the Federal Endangered Species Act, candidates for state or federal listing, and unlisted species that may be significantly affected and warrant consideration. Listed and sensitive wildlife species potentially occurring within the Smith River quadrangle are presented in Table 1.

Galea Wildlife Consulting is located in Crescent City, and has conducted numerous surveys for sensitive and endangered species in the Smith River drainage and has extensive experience in this area.

### **Field Investigation**

A field investigation of the project area was conducted in January of 2005. Certified Wildlife Biologist Frank Galea conducted the field review. All potential wildlife habitats within the project area and within 1/4 mile around the project area were assessed for their potential for listed wildlife species.

## RESULTS AND POTENTIAL IMPACTS

### Records Search

The CDFG Natural Diversity Data Base (CNDDDB, 2005) provided a summary of those federal and state-listed and sensitive wildlife species and their mapped locations, reported to have occurred at least once within the Smith River quadrangle.

A list of those sensitive or listed animal species potentially occurring in the vicinity of the project area is presented in Table 1, including the common and scientific names for each. The listing status of each species and if potential habitat (as determined by GWC, based upon a review of habitat available within the project area) was located within the project area is also indicated in Table 1. The rationale for habitat determinations per species is provided in Appendix A, in the Habitat Analysis Review section.

### Habitat Analysis for Fish and Wildlife

A habitat assessment for sensitive wildlife species was conducted in January of 2005. The project area was found to contain no potential for the wildlife species listed in Table 1 except for the red-legged frog. No occurrences of threatened, endangered or otherwise sensitive wildlife species are listed in the CNDDDB for the project site.

Threatened or Endangered Species: Table 1 shows no potential habitat for threatened or endangered species within the project area. The project area is an open pasture with no trees except for a few along the creek. This project, therefore, would have no potential impacts upon any threatened or endangered species.

Fish: Currently the only anadromous fish species known in Tryon Creek are the coastal cutthroat and steelhead trout. The latter likely are not regularly found in the creek. Tryon Creek is a low gradient silt bottomed stream which meanders through agricultural pasture lands before meeting Yontocket Slough and the Smith River. The Project is located in the middle portions of Tryon Creek with preferred spawning areas located farther upstream and east of Highway 101. Tryon Creek has been degraded in the past and efforts are ongoing to improve conditions in and along the creek. Part of improvements include the enlargement of riparian areas and the addition of approximately 6,000 feet of fencing to keep cattle out of the creek and riparian habitats. The Alexandre family has greatly contributed to this effort. See mitigation section. The Project as proposed will have no detrimental impacts on fish or fish habitat.

Amphibians: Table 1 lists the Del Norte salamander and the northern red-legged frog. Suitable habitat for the Del Norte salamander is not available within the project area or the stream corridor. This species was recently downgraded as sensitive by the U.S. Forest Service and Department of the Interior, primarily as surveys had located this species far beyond where it was once thought to only exist. Although this species is relatively abundant in Del Norte county, no preferred habitat was found in the assessment area.



Suitable habitat was found for the northern red-legged frog. Potential habitat for this species was located in the riparian corridor along the creek, which would be protected by a no-development setback from the edge of the riparian habitat along the creek. This species is not a protected species in Del Norte County and is locally relatively abundant. This project will have no significant impact upon the local population.

Invertebrates: The Fort Dick Limnephilus Caddisfly is the only invertebrate species listed for the assessment area. In 1963 a male of this species was collected during a nighttime insect collecting survey using a black light trap, approximately one mile south of the project area.

Caddisfly require clear, flowing water for a portion of their life cycle. Tryon Creek may have had habitat for this species in 1963, however it does not contain preferred habitat now. There have been no further records for this species since 1963.

There is no potential habitat for other sensitive invertebrate species in the assessment area.

Botanical Species: The project area is located within a flat pasture with no potential for wetland conditions. Botanical surveys are not necessary as there is no potential habitats for sensitive or rare plant species in or near the project area.

Two sensitive plant species were noted to historically occur within one mile of the project area. In 1936 and 1937 a botanist named Van Deventer collected in the Fort Dick area and noted the presence of Indian pipe, a saprophytic plant preferring mature conifer stands, and Horned butterwort, a species associated with bogs, fens, meadows and seeps. No records of these species have occurred in the Smith River quadrangle since then. The project area is a raised pasture with good drainage, and no conifers grow there, therefore no habitat for either species is available.

Wetlands: The project area portion of the property and habitats within 200 yards were surveyed for wetland habitats by Certified Wildlife Biologist Frank Galea. No wetlands were detected within or near (within 200 yards) of the project area outside of the creek. The project area is located within a leveled pasture with sufficient slope to provide drainage.

### Riparian Habitat:

#### Definition of Riparian Habitat

In September, 2003 the California Department of Fish and Game released "Biological Protection Recommendations" which included definitions and recommendations for wetland and riparian protection and buffers. These guidelines were created for the entire Northern California area, including inland areas.

Riparian habitat was defined as "an association of plant species growing adjacent to fresh-water courses, including perennial and intermittent streams, lakes and other bodies of fresh water...in most cases the plants are here only because the water is there" (page 4). The document also lists a number of reasons why riparian habitats are important to biological resources (Page 2).

Recommended buffers to watercourses and /or riparian habitats were based upon those used for the Sacramento River, the largest river system in California. As an example, the agency recommended a 150 foot buffer from top of bank for large rivers or 75 feet of buffer from the outside edge of existing riparian. Lesser buffers are recommended for main and secondary tributaries (Page 4), using increments of 50 feet less buffer per order of stream size. These are recommendations for the most pristine conditions, in situations where sensitive resources require protection from development and disturbance.

For a secondary tributary (such as Tryon Creek) the buffer should be the riparian vegetation plus 25 feet, or a 50 foot buffer from the top of bank, whichever is greater. In the case of Tryon creek the applicant is willing to designate a 50 foot buffer from riparian habitat.

## RECOMMENDATIONS AND MITIGATIONS

1. Riparian Buffers: Tryon Creek is a relatively small Class I watercourse and a secondary tributary. As such, a 50 foot buffer of no development, from the edge of the riparian corridor, should be provided as part of the project.

Mitigation: Previous to 2002, Tryon Creek was impacted by cattle having direct access to the creek. Riparian habitat along the creek was limited due to the cattle as well. In 2002 the Project Area was the site for a major riparian enhancement project on Tryon Creek. The Alexandre family, in conjunction with Rural Human Resources and partially funded by the California Department of Fish and Game, fenced out to 25 feet on both sides of Tryon Creek to exclude cattle, then planted riparian tree species and monitored the planting to insure the growth of the trees. Approximately 6,000 feet along Tron Creek was fenced. The Alexandre family has been involved in several other resource protection projects on their ranch as well.

Riparian habitat along Tryon Creek is now better established and the habitat and the creek are protected with fencing. Mitigation for this project has, in effect, already occurred on site.

## SUMMARY OF POTENTIAL IMPACTS

The proposed project is located in a flat pasture which has been in this condition for decades. No wetlands are located on the project area. Tryon Creek is located to the east and has been well protected with adequate fencing and riparian habitat, which was recently re-established. Overall, this project would have no significant impacts upon any sensitive or rare wildlife species.

## STAFF QUALIFICATIONS

Habitat assessment and report writing was conducted by Principal Biologist Frank Galea. Frank is the primary Biological Consultant and owner of Galea Wildlife Consulting, established in 1989, and is a Certified as a Wildlife Biologist through the Wildlife Society. Frank's qualifications include a M. S. Degree in Wildlife Management from Humboldt State Univ. and a Bachelor of Science in Zoology from San Diego State Univ. Frank has been assessing habitat and conducting field surveys for Threatened and Endangered species for over 12 years. Frank has taken an accredited class on wetland delineation through the Wetland Training Institute, and has successfully completed a Watershed Assessment and Erosion Treatment course through the Salmonid Restoration Federation.

| Table 1. Sensitive Wildlife Species Occurring or with the Potential to Occur Within the Region of the Project Area<br>(From NDDB 2005 Quad search, USFWS Del Norte County list, and GWC sources) |  |                |              |                                   |                                 |
|--|--|----------------|--------------|-----------------------------------|---------------------------------|
| Common Name  | Scientific Name                            | Federal Status | State Status | Breeding Habitat in Project Area? | Forage Habitat in Project Area? |
| <b>BIRDS</b>   |  |                |              |                                   |                                 |
| Northern spotted owl   | <i>Strix occidentalis caurina</i>          | FT             | CSC          | No                                | No                              |
| Bald eagle   | <i>Haliaeetus leucocephalus</i>            | FT             | CE/CFP       | No                                | No                              |
| Bank Swallow   | <i>Riparia riparia</i>                     | None           | CT           | No                                | No                              |
| Western Snowy Plover   | <i>Charadrius Alexandrinus Nivosus</i>     | FT             | CSC          | No                                | No                              |
| <b>FISH</b>  |  |                |              |                                   |                                 |
| Steelhead  | <i>Oncorhynchus mykiss</i>                 | FSC            | None         | None                              | Limited                         |
| Coastal cutthroat trout  | <i>Oncorhynchus clarki clarki</i>          | FSC            | CSC          | Limited                           | Limited                         |
| <b>AMPHIBIANS</b>  |  |                |              |                                   |                                 |
| Del Norte salamander   | <i>Plethodon elongatus</i>                 | None           | CSC          | No                                | No                              |
| Southern torrent (seep) salamander   | <i>Rhyacotriton variegatus</i>             | None           | CSC          | No                                | No                              |
| Tailed frog  | <i>Ascaphus truei</i>                      | None           | CSC          | No                                | No                              |
| Foothill yellow-legged frog  | <i>Rana boylei</i>                         | None           | CSC          | No                                | No                              |
| Northern red-legged frog   | <i>Rana aurora aurora</i>                  | None           | CSC          | Yes                               | Yes                             |
| <b>INVERTEBRATES</b>   |  |                |              |                                   |                                 |
| Fort Dick Limnephilus Caddisfly  | <i>Limnephilus atercus</i>                 | None           | None         | No                                | No                              |
| <b>PLANTS</b>  |  |                |              |                                   |                                 |
| Indian pipe  | <i>Monotropa uniflora</i>                  | None           | CNPS-2       | No                                | No                              |
| Horned Butterwort  | <i>Pinguicula vulgaris ssp. macroceras</i> | FSC            | CNPS-1B      | No                                | No                              |

Codes:

Federal Status

FE Federally endangered  
 FT Federally threatened  
 FC Federal candidate for listing  
 FSC Federal species of concern  
 FPE Federally proposed for endangered listing

State Status

CE California endangered  
 CT California threatened  
 CCE California candidate for endangered listing  
 CSC California species of concern (CDFG)  
 CFP California fully protected  
 CNPS California Native Plant Society Ratings

6 of 14  
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## APPENDIX A - HABITAT ANALYSIS FOR POTENTIAL RARE, THREATENED OR ENDANGERED WILDLIFE SPECIES OF CONCERN

The following is an analysis of the potential for any of the protected wildlife species listed in Table 1 to occur within the project area, or the potential by which they may be affected by this project.

### **Bald Eagle** (*Haliaeetus leucocephalus*)

**Distribution.** The bald eagle is listed as federally threatened and a California endangered and fully protected species, although they were recently proposed for federal delisting. They are found throughout California, and the population is expanding westward toward historic range. Bald eagles are not known to currently nest within the flat, agricultural portions of Del Norte county. Bald eagles are typically seen during the winter at Lake Earl, located two miles southwest of the town of Smith River, however there have been no observations of bald eagles nesting near Lake Earl or the bay near Smith River.

**Habitat Requirements.** Bald eagles prefer to nest close (within one mile, usually in view) to large, fish-rich waters such as lakes and rivers. They typically utilize large conifers to build nests in, which can be standing alone or in the midst of a dense timber stand.

**Occurrence within the Assessment Area.** No nesting habitat for bald eagles was observed within 0.5 miles of the project area. There have been no known observations of bald eagles near the town of Smith River during summer.

**Management Considerations.** As the potential for this species occurring in the assessment area is very low, and there are no records of nesting within 2 miles, there is no need for management consideration.

### **Northern Spotted Owl** (*Strix, occidentalis caurina*)

**Distribution.** This species is listed as federally threatened and a California species of concern. The spotted owl is not uncommon over most of its range, which in northern California includes most conifer forests and mixed-conifer woodlands of the coastal mountains. It occurs locally in second-growth forests.

**Habitat Requirements.** This species prefers large diameter trees within well-shaded stands for nest sites, where they will use old nests built by other species, cavities or shaded, broken-topped trees. They prefer an overhead canopy over nests and roost sites for thermal and predator protection and are intolerant to extreme heat, especially for nest sites. Spotted owls hunt in relatively closed canopy forests with open sub-canopies and moderate stem densities.

**Occurrence within the Project Area.** No potential habitat is available within the project area. As no spotted owl habitat would be impacted by this project, there is no potential for this project to impact or disturb this species.

**Management Considerations.** As there is no potential for this species occurring in the project area, and no habitat for this species would be affected, there is no need for management consideration.

**Marbled Murrelet** (*Brachyramphus marmoratus*)

**Distribution.** The marbled murrelet is listed as federally threatened and as California endangered. Their range is closely tied to large, intact tracts of old-growth redwood and Douglas-fir forests located within 20-40 miles of the California and Oregon coasts.

**Habitat Requirements.** Marbled murrelets nest in old-growth stands from April to July, and spend the remainder of the year on the open ocean. They only nest in very large, shaded old-growth trees, within intact stands, with big, mossy limbs, and are intolerant of high temperatures during the breeding season. They are semi-colonial nesters, preferring to nest in stands occupied by others of their species. They then can travel back and forth to marine forage areas in groups, assumably to deter attacks by predators such as the peregrine falcon.

**Occurrence within the Project Area.** No potential habitat exists within the assessment area.

**Management Considerations.** As there is no potential for this species occurring in the assessment area, there is no need for management consideration.

**Western Snowy Plover** (*Charadrius alexandrinus nivosus*)

**Distribution.** This species is listed as federally threatened and a California species of concern. The snowy plover is a rare bird along the California and Oregon coasts, inhabiting barren sand beaches and flats.

**Habitat Requirements.** The snowy plover preferably utilizes marine environments such as barren sand beaches. They will rarely utilize sandy gravel bars along major rivers, as was recently discovered in Humboldt county.

**Occurrence within the Project Area.** No potential nesting or foraging habitat was observed in the assessment area.

**Management Considerations.** As there is no potential for this species occurring in the assessment area, there is no need for management consideration.

**Osprey** (*Pandion haliaetus*)

**Distribution.** This species is a California species of concern. The osprey is common over most of its range, which in northern California includes fish-bearing rivers and lakes, plus bays and other productive forage areas along the ocean.

**Habitat Requirements.** The osprey prefers large diameter snags within conifer stands for nest sites, where they will build their own nests. Osprey specialize on foraging on fish species, however they can utilize fresh or saltwater habitats for foraging.

**Occurrence within the Project Area.** Potential nesting and foraging habitat is available within the assessment area, however no nesting or foraging habitat occurs within the project area, and no nests were observed during field surveys. The California NDDDB shows no osprey nest sites within 0.50 miles of the project.

**Management Considerations.** As limited potential habitat exists within the assessment area for this species, no management is required.

#### **Southern Torrent Salamander (*Rhyacotriton variegatus*)**

**Distribution.** The southern torrent salamander inhabits the humid coastal forests of Washington, Oregon, and California. In California, southern torrent salamanders occur only in the extreme northwestern portion of the state in Del Norte, Humboldt, western Siskiyou, Trinity, and Mendocino Counties.

**Habitat Requirements.** The southern torrent salamander is found most often in the cool, moist microclimate of late seral-stage forests (Bury and Corn 1988, Welsh 1990). Transformed and larval salamanders are usually found in shallow, cool streams, or beneath rocks and organic debris. Transformed individuals are also found under surface objects, wet moss, or leaf litter adjacent to streams and seeps, usually in the splash zone and within 1 meter of free-running water (Nussbaum and Tait 1977). They are always found in or near water, have an extremely low range of temperature tolerance (Brattstrom 1963), and are the most sensitive salamander to loss of water (Ray 1958).

**Occurrence within the Project Area.** There was no potential habitat for southern torrent salamanders within the project area.

**Management Considerations.** Because southern torrent salamanders require habitat that does not occur within the project area, there is no need for management consideration.

#### **Tailed Frog (*Ascaphus truei*)**

**Distribution.** The range of the tailed frog extends from southwestern British Columbia south through western Washington and Oregon and into northwestern California. Disjunct populations also exist in Montana and Idaho. In California, the tailed frog is found in the northwestern corner of the state from Del Norte County south to central Sonoma County and east as far as southwest Shasta County (Bury 1968, Stebbins 1985).

**Habitat Requirements.** The tailed frog requires cold, perennial, swift-flowing streams, and cool, moist conditions (Welsh 1990). They are associated with redwood, Douglas-fir, and yellow pine forests (Bury 1968). Specialized larvae are found attached to rocky substrates in fast-flowing water. In this area tailed frogs are often found in small, moderate to high gradient fish bearing and non-fish bearing watercourses. Larval tailed frogs mature for a period of one to two years before metamorphosis occurs. Tailed frogs are vulnerable to extreme habitat changes and predation from resident trout and Pacific giant salamanders. Although the tailed frog is known to occupy cool, small headwater streams it can sometimes be located in lower gradient reaches of larger streams.

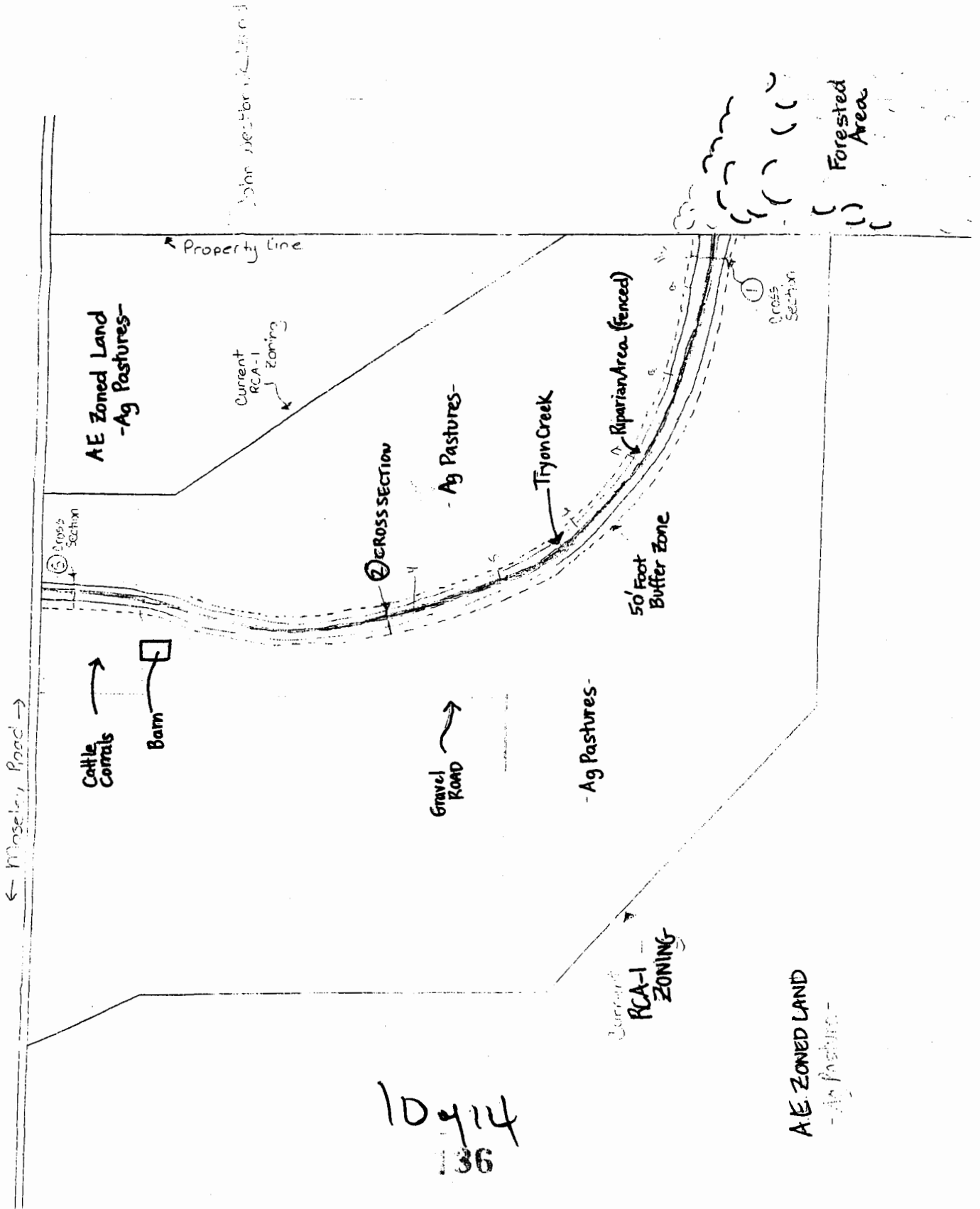
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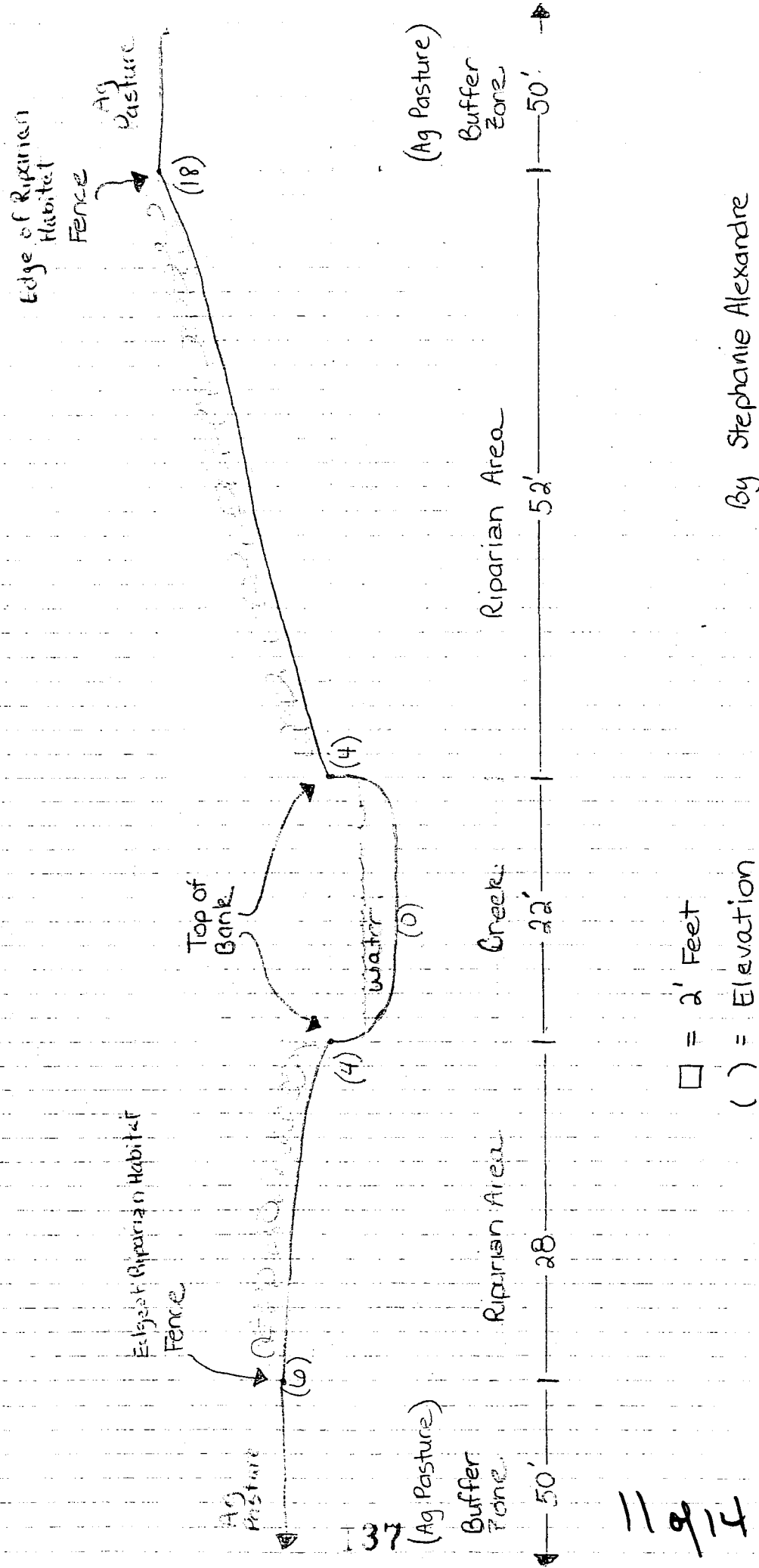


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① Cross Section

Location #1

Tryon Creek on Museley Ranch



By Stephanie Alexandre

† Ken Weaver

June 27, 2005

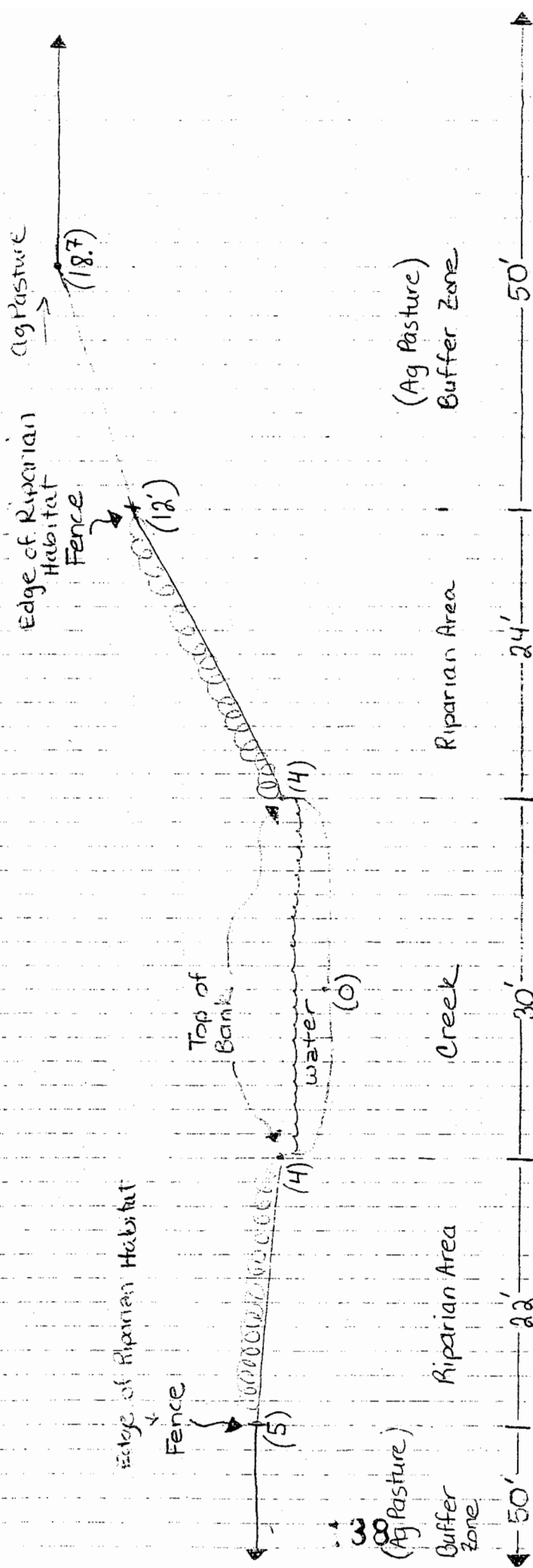
11/9/14



② Cross Section

Location # 2

Tryon Creek on Moseley Road



□ = 2 Feet

( ) = Elevation

17914

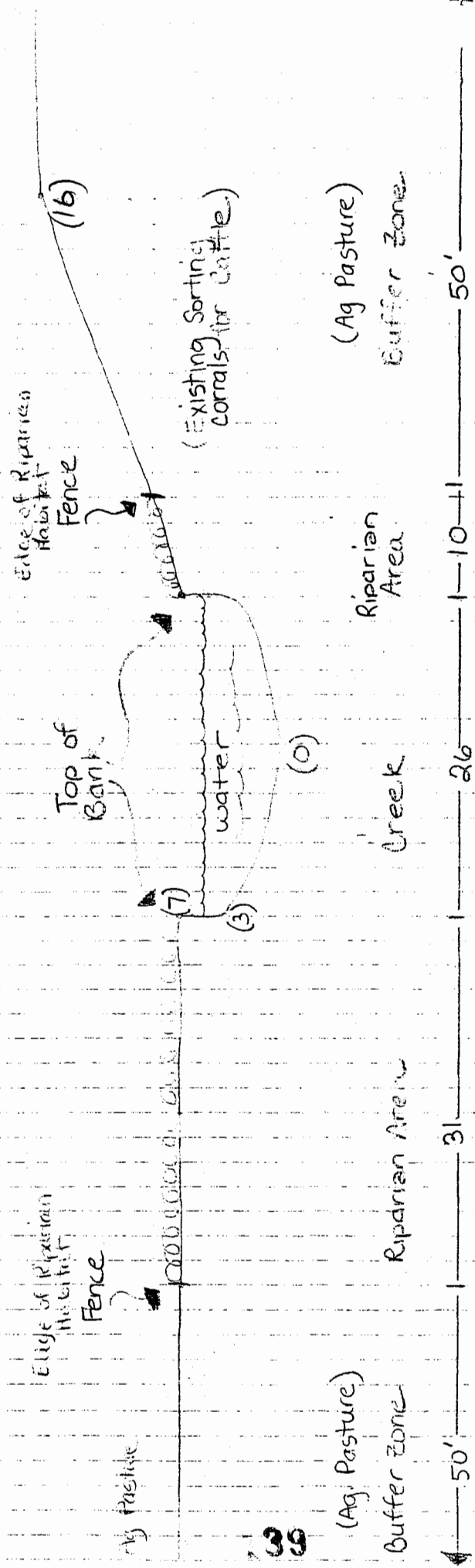
By Stephanie Alexandre  
 & Ken Weaver

June 27, 2005

② Cross Section

Location #9

Tryon Creek on Mosley Road



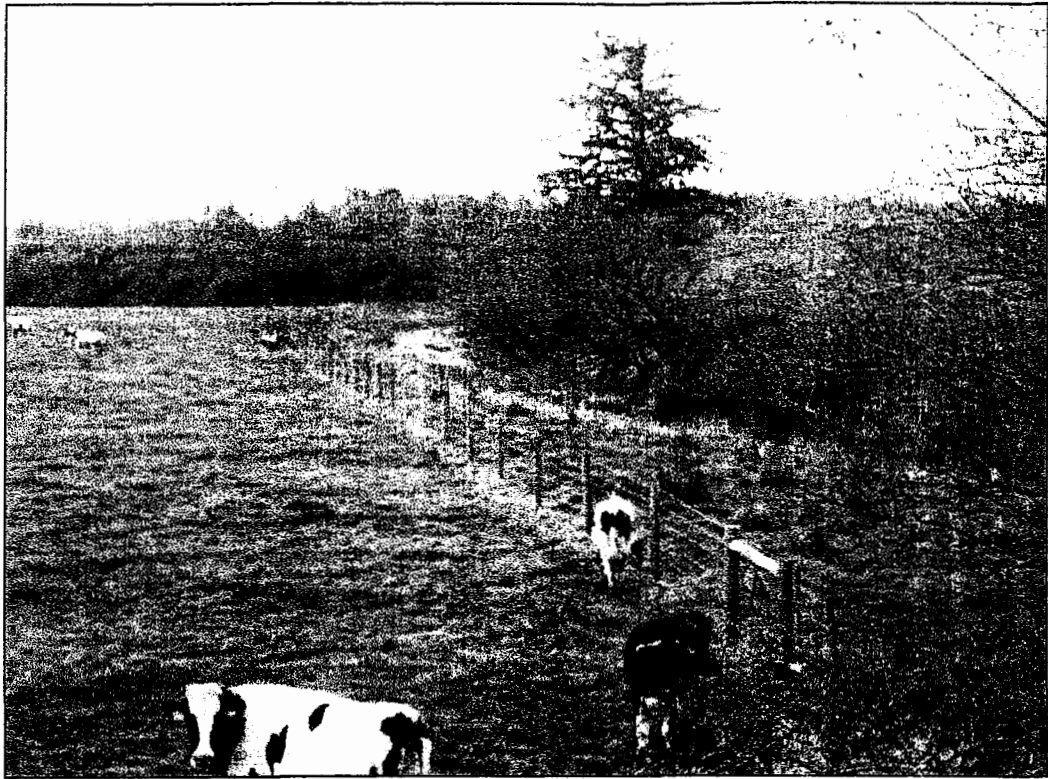
□ = 2' Feet

( ) = Elevation

13 of 14

By Stephanie Alexandre  
& Ken Weaver

June 27, 2005



March 2005 – Tryon Creek after completion of riparian fencing and tree planting



March 2005 – Tryon Creek after completion of riparian fencing and tree planting

147/14-30

United States Department of Agriculture



Natural Resources Conservation Service

Eureka Field Office  
5630 S. Broadway  
Eureka, CA 95503

Mark Meissner  
Soil Conservationist  
Phone (707) 442-6058 x 108  
Fax (707) 442-7514  
Email: [mark.meissner@ca.usda.gov](mailto:mark.meissner@ca.usda.gov)

Date: July 6, 2005

Ms. Heidi Kunstal  
Senior Planner  
Del Norte County Planning Department  
981 H Street, Suite 110  
Crescent City, CA 95531

RE: Rich Wetherell dairy waste storage pond, grading plan, and RCA-1 re-zone

Dear Ms. Kunstal:

Dairyman Rich Wetherell has been working with staff of the USDA Natural Resources Conservation Service (NRCS) to develop a conservation plan for his dairy facility and surrounding land. One element of this plan entails construction of a waste storage pond. The proposed site for this pond lies partially within the boundaries of a designated Resource Conservation Area 1 zone.

The proposed waste storage pond site was chosen because its proximity to the dairy buildings is ideal for landowner convenience and operational efficiency. The site was also chosen because water table and soil features are favorable for construction of a pond in accordance with NRCS standards. Installation of this pond and other conservation practices will also result in complete compliance with water quality regulations.

As part of our inventory of physical features in the vicinity of the proposed waste storage pond, a wetland delineation was conducted within existing RCA-1 zone boundaries. As detailed in the enclosed attachment, a finding was made that no wetland and no riparian area exist within the proposed pond perimeter or in the near vicinity.

Considering the information provided above and in the wetland delineation, we are requesting the following: (1) Move the northern boundary of this RCA-1 zone to a location south of the proposed pond; (2) Move the eastern boundary of the RCA-1 zone to a location west of the proposed pond (refer to enclosed map).

Contingent on approval of the RCA-1 re-zone, the Eureka NRCS Field Office Engineer, Jeremy Svehla, has prepared and enclosed a Flood Hazard Data Report and Grading Plan in order to proceed with the proposed dairy waste storage pond.

Sincerely,

Mark Meissner  
Soil Conservationist, NRCS Eureka

**EXHIBIT NO. 8**

**APPLICATION NO.**

DNC-MAJ-1-06  
EXCERPTS, WETLAND  
DELINEATIONS & BIOLOGICAL  
HABITAT ASSESSMENT FOR  
WETHERELL REZONE (NATURAL  
RESOURCES CONSERVATION  
SERVICE) (1 of 14)

United States Department of Agriculture



Natural Resources Conservation Service

Eureka Field Office  
5630 S. Broadway  
Eureka, CA 95503

Mark Meissner  
Soil Conservationist  
Phone (707) 442-6058 x 108  
Fax (707) 442-7514  
Email: [mark.meissner@ca.usda.gov](mailto:mark.meissner@ca.usda.gov)

August 11, 2005

To: Heidi Kunstal and Ernie Perry  
RE: Wetland Delineation for Rich Wetherell

Dear Heidi and Ernie:

This is in response to your request for clarification.

On June 22, 2005, field work for a wetland delineation was completed by a USDA-NRCS team. The team consisted of Todd Golder (Range Management Specialist, Eureka Field Office), Joe Seney (Soil Scientist, Arcata Soil Survey Office), Alaina Frazier (Soil Scientist, Arcata Soil Survey Office), and myself as lead planner. In 1995, I attended a week of "Regulatory IV Wetland Identification and Delineation" training provided by instructors from USDA-NRCS and the U.S. Army Corps of Engineers.

This investigation was conducted to determine whether wetland exists within a certain proximity to a proposed waste storage pond. The building site for the waste storage pond has historically been used as a gravelled corral. It is located on nearly flat upland. To confirm the presence of a wetland according to the NRCS and Corps of Engineers scientific standard, three criteria must be met: (1) A dominance of wetland plants (called hydrophytic vegetation); (2) Wetland hydrology, and (3) Hydric (waterlogged) soil. To the south and west of the proposed pond site, there is a swale that was identified by us as the only potential wetland site within the area of concern due to its topography. This swale has been grazed pasture for decades. Our investigation concluded that **the area of evaluation is not a wetland** because the hydrophytic vegetation dominance criterion is not met.

As documented on the routine wetland determination data form, the two dominant plants in the swale bottom are Kentucky bluegrass and creeping butter-cup. Other plants were found as well, each of which comprises less than 20 percent of total plant composition. These are curly dock, white clover, perennial ryegrass, Timothy grass, cinquefoil, chickweed, toad rush, and pineapple weed. Hydrophytic plants (those that thrive in wet conditions) are present, but they do not dominate.

In summary, there is not a wetland on the proposed pond site or in the surrounding pasture.

Sincerely,

Handwritten signature of Mark Meissner in black ink.  
Mark Meissner

**RECEIVED**

AUG 12 2005

PLANNING  
COUNTY OF DEL NORTH

2914

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

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DATA FORM  
 ROUTINE WETLAND DETERMINATION  
 (1987 COE Wetlands Delineation Manual)

|  |  |
|--|--|
| Project/Site: <u>DAIRY PASTURE FSA TRACT 1031</u><br>Applicant/Owner: <u>RICH WETHERELL</u><br>Investigator: <u>MARK MEISSNER and others *</u>   | Date: <u>June 22, 2005</u><br>County: <u>Del Norte</u><br>State: <u>CA</u> |
| Do Normal Circumstances exist on the site? <input checked="" type="radio"/> Yes No<br>Is the site significantly disturbed (Atypical Situation)? <input checked="" type="radio"/> Yes No<br>Is the area a potential Problem Area? <input checked="" type="radio"/> Yes No<br>(If needed, explain on reverse.) | Community ID: <u>SWALE BOTTOM</u><br>Transect ID: _____<br>Plot ID: _____  |

**VEGETATION**

| Dominant Plant Species        | Stratum  | Indicator   | Dominant Plant Species | Stratum | Indicator |
|-------------------------------|----------|-------------|------------------------|---------|-----------|
| 1. <u>Kentucky bluegrass</u>  | <u>—</u> | <u>FACU</u> | 9. _____               | _____   | _____     |
| 2. <u>Creeping butter-cup</u> | <u>—</u> | <u>FACW</u> | 10. _____              | _____   | _____     |
| 3. _____                      | _____    | _____       | 11. _____              | _____   | _____     |
| 4. _____                      | _____    | _____       | 12. _____              | _____   | _____     |
| 5. _____                      | _____    | _____       | 13. _____              | _____   | _____     |
| 6. _____                      | _____    | _____       | 14. _____              | _____   | _____     |
| 7. _____                      | _____    | _____       | 15. _____              | _____   | _____     |
| 8. _____                      | _____    | _____       | 16. _____              | _____   | _____     |

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 30%

Remarks: Kentucky bluegrass (Poa pratensis) = 60% composition  
Creeping butter-cup (Ranunculus repens) = 30% composition

**HYDROLOGY**

|  |   |
|--|---|
| <p>___ Recorded Data (Describe in Remarks):<br/>         ___ Stream, Lake, or Tide Gauge<br/> <input checked="" type="checkbox"/> Aerial Photographs<br/>         ___ Other<br/>         ___ No Recorded Data Available</p> <hr/> <p>Field Observations:</p> <p>Depth of Surface Water: _____ (in.)</p> <p>Depth to Free Water in Pit: _____ (in.)</p> <p>Depth to Saturated Soil: <u>4.8 to 5.6</u> (in.)</p> | <p>Wetland Hydrology Indicators:</p> <p>Primary Indicators:</p> <p>___ Inundated<br/> <input checked="" type="checkbox"/> Saturated in Upper 12 Inches<br/>         ___ Water Marks<br/>         ___ Drift Lines<br/>         ___ Sediment Deposits<br/>         ___ Drainage Patterns in Wetlands</p> <p>Secondary Indicators (2 or more required):</p> <p><input checked="" type="checkbox"/> Oxidized Root Channels in Upper 12 Inches<br/>         ___ Water-Stained Leaves<br/> <input checked="" type="checkbox"/> Local Soil Survey Data<br/>         ___ FAC-Neutral Test<br/>         ___ Other (Explain in Remarks)</p> |
| <p>Remarks: <u>1989 and 1994 FSA air photos show faint markings to differentiate swale from surrounding area; i.e. swale is a slightly different shade uniformly.</u></p>  |   |







SOILS *Swale bottom*

| Map Unit Name<br>(Series and Phase): <u>FE3 (minor component)</u>  |         | Drainage Class: <u>Poorly</u>  |                                  |  |  |
|--|---------|--|----------------------------------|--|--|
| Taxonomy (Subgroup): <u>Endoaquepts (Warswick)</u>   |         | Field Observations<br>Confirm Mapped Type? Yes <input type="radio"/> No <input checked="" type="radio"/> *   |                                  |  |  |
| <b>Profile Description:</b>  |         |  |                                  |  |  |
| Depth CM<br>(Inches)   | Horizon | Matrix Color<br>(Munsell Moist)  | Mottle Colors<br>(Munsell Moist) | Mottle<br>Abundance/Contrast   | Texture, Concretions,<br>Structure, etc. |
| 0-14   | A       | 10YR 3/2   | —                                | —  | vfSL (16% C) 2f sBk                      |
| 14-24  | Bw      | 2.5Y 3/2   | 5Y 4/1<br>10YR 4/6               | → 70% Dep Matrix Fe <sup>2+</sup><br>→ 5% f Fe <sup>3+</sup> Conc          | vfSL (19% C) 1f, M sBk                   |
| 24-50+   | C       | 2.5Y 3/3   | 10YR 4/6<br>2.5Y 4/1             | → 20% f, M Fe <sup>3+</sup> Conc<br>→ 70% f, M Fe <sup>2+</sup> Dep matrix | fSL (13% C) MASSIVE                      |
|  |         |  |                                  |  |  |
|  |         |  |                                  |  |  |
|  |         |  |                                  |  |  |
|  |         |  |                                  |  |  |
|  |         |  |                                  |  |  |
| <b>Hydric Soil Indicators:</b>   |         |  |                                  |  |  |
| <input type="checkbox"/> Histosol<br><input type="checkbox"/> Histic Epipedon<br><input type="checkbox"/> Sulfidic Odor<br><input checked="" type="checkbox"/> Aquic Moisture Regime<br><input checked="" type="checkbox"/> Reducing Conditions<br><input checked="" type="checkbox"/> Gleyed or Low-Chroma Colors |         | <input type="checkbox"/> Concretions<br><input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils<br><input type="checkbox"/> Organic Streaking in Sandy Soils<br><input type="checkbox"/> Listed on Local Hydric Soils List<br><input type="checkbox"/> Listed on National Hydric Soils List<br><input type="checkbox"/> Other (Explain in Remarks) |                                  |  |  |
| Remarks:<br>Picture Taken; NRCS hydric indicator<br>*minor component   |         |  |                                  |  |  |

WETLAND DETERMINATION

|                                 |                                  |    |          |   |
|---------------------------------|----------------------------------|----|----------|---|
| Hydrophytic Vegetation Present? | Yes                              | No | (Circle) |   |
| Wetland Hydrology Present?      | <input checked="" type="radio"/> | No |          | (Circle)  |
| Hydric Soils Present?           | <input checked="" type="radio"/> | No |          |   |
|                                 |                                  |    |          | Is this Sampling Point Within a Wetland? Yes No |
| Remarks:                        |                                  |    |          |   |

Approved by HQUSACE 3/92

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SOILS *Near base of swale slope*

| Map Unit Name<br>(Series and Phase): <u>FE3 (minor component)</u>   |                | Drainage Class: <u>SWF</u>   |  |   |  |
|---|----------------|--|--|---|--|
| Taxonomy (Subgroup): <u>(canalschool)</u>   |                | Field Observations<br>Confirm Mapped Type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |  |   |  |
| Profile Description:  |                |  |  |   |  |
| Depth cm<br>(inches)  | Horizon        | Matrix Color<br>(Munsell Moist)  | Mottle Colors<br>(Munsell Moist)   | Mottle<br>Abundance/Contrast                                      | Texture, Concretions,<br>Structure, etc. |
| 0-23  | A              | 2.5Y 5/4   | 10YR 4/6 →<br>2.5Y 4/1   | 1% Fe <sup>3+</sup> along<br>root channels<br>1% Fe <sup>2+</sup> | vPSL (16% C) 1P, M5EK                    |
| 23-30   | C <sub>1</sub> | 2.5Y 4/2   | 10YR 4/6 →<br>2.5Y 4/1   | 1% Fe <sup>3+</sup> conc in matrix<br>1% Fe <sup>2+</sup> DPL "   | vPSL (13% C) MASSIVE                     |
| 30-50   | C <sub>2</sub> | 2.5Y 4/2   | 10YR 4/6 →<br>2.5Y 4/1   | 10% Fe <sup>3+</sup> conc in matrix<br>15% Fe <sup>2+</sup> DPL " | SL (10% C) MASSIVE                       |
|   |                |  |  |   |  |
|   |                |  |  |   |  |
|   |                |  |  |   |  |
|   |                |  |  |   |  |
|   |                |  |  |   |  |
|   |                |  |  |   |  |
| Hydric Soil Indicators:   |                |  |  |   |  |
| <input type="checkbox"/> Histosol<br><input type="checkbox"/> Histic Epipedon<br><input type="checkbox"/> Sulfidic Odor<br><input type="checkbox"/> Aquic Moisture Regime<br><input type="checkbox"/> Reducing Conditions<br><input type="checkbox"/> Gleyed or Low-Chroma Colors |                |  | <input type="checkbox"/> Concretions<br><input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils<br><input type="checkbox"/> Organic Streaking in Sandy Soils<br><input type="checkbox"/> Listed on Local Hydric Soils List<br><input type="checkbox"/> Listed on National Hydric Soils List<br><input type="checkbox"/> Other (Explain in Remarks) |   |  |
| Remarks:<br>* Minor component in FE3 map unit<br>Not hydric   |                |  |  |   |  |

WETLAND DETERMINATION

|                                 |  |   |
|---------------------------------|--|---|
| Hydrophytic Vegetation Present? | Yes No (Circle)                            |   |
| Wetland Hydrology Present?      | Yes No                                     | (Circle)  |
| Hydric Soils Present?           | Yes <input checked="" type="checkbox"/> No | Is this Sampling Point Within a Wetland? Yes No |
| Remarks:                        |  |   |

Approved by HQUSACE 3/92

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SOILS *Near base of swale slope*

| Map Unit Name<br>(Series and Phase): <u>F E3</u>  |                | Drainage Class: <u>WD</u>  |   |
|---|----------------|--|---|
| Taxonomy (Subgroup): <u>Typic Udifluvents (Ferndale)</u>  |                | Field Observations<br>Confirm Mapped Type? <input checked="" type="radio"/> Yes <input type="radio"/> No   |   |
| Profile Description:  |                |  |   |
| Depth CM<br>inches  | Horizon        | Matrix Color<br>(Munsell Moist)  | Mottle Color<br>(Munsell Moist)   |
| 0-20  | A              | 2.5Y 3/2   | 10YR 4/6 → 2% F Fe Con along root channels<br>2.5Y 3/1 → 5% F, M Fe Dep surrounding conc. |
| 20-40   | C <sub>1</sub> | 2.5Y 4/2   | —   |
| 40-50   | C <sub>2</sub> | 2.5Y 4/2   | —   |
|   |                |  | Texture, Concretions,<br>Structure, etc.  |
|   |                |  | vPSL (15%) 1 MB<br>107, PS BK   |
|   |                |  | SL (10% C) massive  |
|   |                |  | SL (10% C) massive  |
| Hydric Soil Indicators:   |                |  |   |
| <input type="checkbox"/> Histosol<br><input type="checkbox"/> Histic Epipedon<br><input type="checkbox"/> Sulfidic Odor<br><input type="checkbox"/> Aquic Moisture Regime<br><input type="checkbox"/> Reducing Conditions<br><input type="checkbox"/> Gleyed or Low-Chroma Colors |                | <input type="checkbox"/> Concretions<br><input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils<br><input type="checkbox"/> Organic Streaking in Sandy Soils<br><input type="checkbox"/> Listed on Local Hydric Soils List<br><input type="checkbox"/> Listed on National Hydric Soils List<br><input type="checkbox"/> Other (Explain in Remarks) |   |
| Remarks:<br>+ Redox surface features due to compaction<br><br>Not hydric  |                |  |   |

WETLAND DETERMINATION

|                                 |   |  |        |
|---------------------------------|---|--|--------|
| Hydrophytic Vegetation Present? | Yes No (Circle)                         | (Circle)<br>Is this Sampling Point Within a Wetland? | Yes No |
| Wetland Hydrology Present?      | Yes No                                  |  | Yes No |
| Hydric Soils Present?           | Yes <input checked="" type="radio"/> No |  | Yes No |
| Remarks:                        |   |  |        |

Approved by HQUSACE 3/92

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Natural Resources Conservation Service  
5630 South Broadway  
Eureka, CA 95503

July 2005

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|                                   |
|-----------------------------------|
| <h2>Flood Hazard Data Report</h2> |
|-----------------------------------|

The peak water surface elevation in the lower Smith River that occurred during the 1964 flood is used for a design guide for any agriculture structure development in the Smith River Flood Zone. This elevation was confirmed to be 1.45' above the milk parlor floor (ground elevation) of the Wetherell Dairy by Mr. Wetherell himself (see attached map that includes both the grading plan specifications and the 1964 flood elevations). The average ground elevation throughout the pond footprint is equivalent to that of the milk parlor floor. Refer to the attached map for displacement calculations.

The height of the pond top will be 4.55' above 1964 high water surface elevation (exceeding NRCS Design Standards). See attached cross-section for clarification.

Jeremy S. Svehla, EIT  
Field Office Engineer  
707-442-6058 ext. 109

10414

## United States Department of Agriculture



Natural Resources Conservation Service  
P.O. Box 124  
Fort Dick, CA 95538

707-487-7630  
FAX 707-487-7640

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**SUPPLEMENTAL WETLAND DELINEATION****WETHERELL RANCH****Del Norte County, California****March 22, 2006**

The attached map "Supplemental Wetland Delineation" outlines the area proposed for rezoning. The areas of meander scars are shown. Regarding their wetland status under California's Coastal Act NRCS soil and wetland specialists have determined the following:

- A. Hydrophytic vegetation is not predominant in the bottom of the meander scars; mesophytic vegetation predominates.
- B. Soil at the bottoms of the meander scars is hydric. However, redoximorphic features marginally meet hydric soil criteria.
- C. Scars are subject to brief overland flow and bottoms remain saturated only near the surface. A shallow water table is not present during months of high rainfall or the water table occurs only briefly during storm events. The east/west channel close to the water quality improvement project has minimal watershed but a high contribution of runoff from the barn and road areas.

110914

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## United States Department of Agriculture



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Fort Dick, CA 95538

707-487-7630  
FAX 707-487-7640

## IMPLEMENTATION ASSESSMENT

## WETHERELL CONSERVATION PLAN

Del Norte County, California

April 3, 2006

## Need for Action

Wetherell Ranch is working with the Natural Resources Conservation Service (NRCS) to implement a conservation plan for its dairy facility and surrounding land. Currently, the farm does not have the storage capacity required for dairy waste, especially during the winter. Due to this lack of storage capacity, the ranch is in the position of having to apply wastes on lands when plants cannot utilize nutrients and when soils do not have the capacity to store material. This creates the potential for contamination of surface and ground water. Without adequate storage capabilities, Wetherell Ranch will not obtain a resource management system that fully addresses natural resource concerns.

## Proposed Action

Implement a Comprehensive Nutrient Management Plan (CNMP) at Wetherell Ranch. Implementation will include upgrading the nutrient distribution system and adoption of nutrient budgeting. The nutrient management pond is a necessary component of the dairy's CNMP. Having an implemented CNMP will set the vital ground work for meeting environmental protection standards including: 1) complying with Regional Water Quality Control Board requirements; 2) supporting the *California Management Measures for Polluted Runoff* (CMMPR) developed by the California Coastal Commission and other state agencies; 3) reducing commercial fertilizer inputs; and 4) protecting ground and surface water quality. This project supports CMMPR Management Measure 1B: the storage of runoff from confined animal facilities, and associated Management Measure 1C: nutrient management.

## Setting

Wetherell Ranch, located at the end of Bailey Road, has been an active dairy farm since 1868 and is developed with barns, fencing, a road, and utilities. The project site is located on nearly flat upland with a gentle swale located in the south and west portion of the parcel. The shallow swale is apparently a remnant of an old meander scar of the Smith River. The project area is

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listed as (U) upland on National Wetlands Inventory Map; however, there are indicators of hydric soils. Neither hydrophytic vegetation nor hydrology was found outside of the delineated meander scar or within 100 feet to the north and west of the proposed RCA-1 rezone and nutrient management pond. Within the project site, land has historically been used as pasture land, cultivated land and a graveled corral. Pastureland is located to the north and west of the project site. Lands to the east are developed with the dairy barn and milk parlor. Lands to the South are developed with a floral farm with greenhouses and cultivated cropland.

### **Alternatives**

Three alternate ponds site were considered: 1) 100 feet north of proposed site; 2) 100 feet west of the proposed site; and 3) the current proposed site. Locations at a greater distance than 100 feet from the proposed site were not considered due to additional piping, additional pumping and utilities relocation requirements. Locations to the South and East were discredited due to the proximity of existing structures and property lines.

1) The northern alternative offered a greater distance from observed wetland indicators. However, this alternative also increases the loss in prime pasture land while using a smallest amount of the current corrals and heavy use areas. Site 1 was determined to increase the physical area of disturbance and economic footprint of the project without additional long term resource benefits.

2) The western alternative increased the proximity of the pond to the meander scar, increased the impact on existing pasture and decreased the amount of the current corral converted. Site 2 did not offer any additional resource benefits over options 1 and 3.

3) The proposed site, while within 100 feet of the wetland indicators, occupies the greatest area of historic heavy use. In addition, water table depth, and soil features favor construction of the pond in the proposed location. Short term effects may include noise and potential for soil erosion. Soil erosion will be mitigated with the use of best management practices. Long term effects on soil, water, plant, animal, and human resources are determined to be positive. Site 3 was determined to have the smallest negative impact on resources and is the most practical and viable alternative.

### **Environmental Impacts**

The principal effect of the implemented conservation plan will be a reduction in nonpoint source pollution. This project is designed to limit the impact agriculture has on sensitive habitats and promote land management compatible with such habitat areas. An existing corral and adjacent pasture have been selected as the construction site for the proposed nutrient holding pond. Existing development in close proximity to area include: farm roads, fencing, utilities, and buildings. Historic and current land uses of the area include grazing and crop production.

NRCS staff, including ecologist Richard King, have conducted a field review of the project and an environmental assessment was completed. It was determined; there is not a significant functional relationship between the project area and the meander scars and the development of an

13014



earthen pond at the current site will not affect threatened, endangered or other sensitive plant or animal species. Management of the surrounding land will remain unchanged allowing for continued possibility of nesting, feeding, breeding, resting and other habitat use by both resident and migratory wildlife species.

A buffer will be provided between the delineated area and the pond. The shoulder of the meander and the pond embankment will function as a natural topographic buffer. This conservation buffer will be maintained after construction of the pond. This area will be planted with grasses and protected from grazing during the winter. During construction, best management practices will be followed including the use of straw mulch and silt fencing if the likelihood of rain is greater than 30%. After installation, a maintenance plan will be followed to insure the pond integrity and adjacent field cover.

14914

**BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE  
STATE OF CALIFORNIA**

**RESOLUTION NO. 2006 - 37**

**EXHIBIT NO. 9**

**APPLICATION NO.**

DNC-MAJ-1-06

DEL NORTE COUNTY LCP  
AMENDMENT

COUNTY RESOLUTION NO.  
2006-37 - SUBMITTAL OF LCPA  
APPLICATION (1 of 2)

**A RESOLUTION OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS  
SUBMITTING A LOCAL COASTAL PLAN AMENDMENT (R0601C Wetherell and  
R0509C Alexandre) TO THE CALIFORNIA COASTAL COMMISSION FOR  
CERTIFICATION REVIEW.**

**WHEREAS**, on February 01, 1984, the California Coastal Commission certified the Del Norte County Local Coastal Plan; and

**WHEREAS**, the Del Norte County Board Local Coastal Plan provides for amendments to the Local Coastal Plan; and

**WHEREAS**, the Board of Supervisors have held public hearings and considered requests to amend the Local Coastal Plan including the Land Use Plan and the implementing Title 21 Coastal Zoning; and

**WHEREAS**, the requests for amendment have been reviewed and processed pursuant to the provisions of the Local Coastal Plan and Title 21 (Coastal Zoning); and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) an environmental document has been prepared and circulated for each request in compliance with CEQA which the Board has determined as adequate for each request; and

**WHEREAS**, the Board of Supervisors now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County and amends the Local Coastal Program as follows:

1. R0509C Alexandre - Amending Coastal zoning map C-5 which defines the location of a stream corridor for Tryon Creek and specifies Resource Conservation Area 2 zone district for the stream and stream corridor.
2. R0601C Wetherell - Amending Coastal zoning map C-5 by rezoning a portion of land which was previously zoned as a Resource Conservation Area 1 to Resource Conservation Area 2 (farmed wetland) and by removing a portion which has been determined to have been inappropriately mapped as no resource conservation area lies within the area to be rezoned.

**WHEREAS**, the proposed amendments are consistent with the provision of the Coastal Act of 1976, the Del Norte County Local Coastal Plan and are intended to be carried out in a manner in conformity with the Coastal Act and the implementing Local Coastal Plan.

**NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. The above listed and described changes are hereby approved and adopted as amendments to the Del Norte County Local Coastal Plan.
2. The Board of Supervisors of the County of Del Norte directs and authorizes that the above listed amendments are within the California Coastal Zone and are to be transmitted to the Coastal Commission for its review and certification for the unincorporated area of the County.
3. The Chair of this Board is hereby authorized and directed to sign and certify all maps, documents, and other materials and to take other necessary steps in accordance with this Resolution to reflect the above described action by the Board of Supervisors.
4. These amendments shall take effect and be enforced thirty (30) days after the date of the passage of the companion ordinance, and after approval of the amendment by the Coastal Commission, whichever is later.

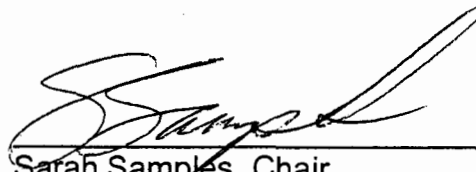
**PASSED AND ADOPTED** this 22 th day of Aug 2006, by the following polled vote of the Board of Supervisors of the County of Del Norte.

AYES: Supervisors McNamer, Finigan, Blackburn, McClure and Sampels

NOES: None

ABSTAIN: None

ABSENT: None



Sarah Samples, Chair  
Del Norte County Board of Supervisors

ATTEST: .



Sherri Adams, Deputy Clerk of the Board of Supervisors  
County of Del Norte, State of California

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ORDONANCE NO. 2005-22  
**BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE  
STATE OF CALIFORNIA**

**AN ORDINANCE AMENDING ORDINANCE NO. 83-03  
AND COUNTY CODE TITLE 21 BY ADOPTING NEW COASTAL ZONING MAP C-5  
(Alexandre) TO THE COASTAL COMMISSION AS AN LCP AMENDMENT**

The Board of Supervisors, County of Del Norte, State of California, does ordain as follows:

Section I: Section 2.D.2 of the Coastal Zoning enabling Ordinance No. 83-03 and County Code Title 21 is hereby amended by deleting therefrom Coastal Zoning Area Map C-5 and amending same with a new Coastal Zoning Area Map C-5 as specified in attached Exhibit "A" and subject to the following condition:

Section II: This ordinance shall take effect and be enforced thirty (30) days after the date of its passage or approval of the rezone by the Coastal Commission, whichever is the latter.

Findings of

Fact:

This Ordinance is passed and adopted based upon the findings cited in the Staff Report and the Board of Supervisors hereby makes said findings as more particularly described in said Staff Report, which is herein incorporated by reference (65804(c)(d) of the Government Code).

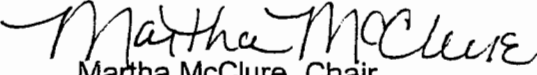
**PASSED AND ADOPTED** this 13th day of December 2005 by the following polled vote:

AYES: Supervisors McClure, Finigan, Sampels & McNamer

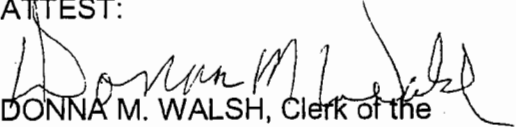
NOES: None

ABSENT: Supervisor Blackburn

ABSTAIN: None

  
Martha McClure, Chair  
Del Norte County  
Board of Supervisors

ATTEST:

  
DONNA M. WALSH, Clerk of the  
Board Of Supervisors, County of  
Del Norte, State of California

APPROVE AS TO FORM:

ROBERT BLACK, County Counsel  
County of Del Norte, State of California

**EXHIBIT NO. 10**

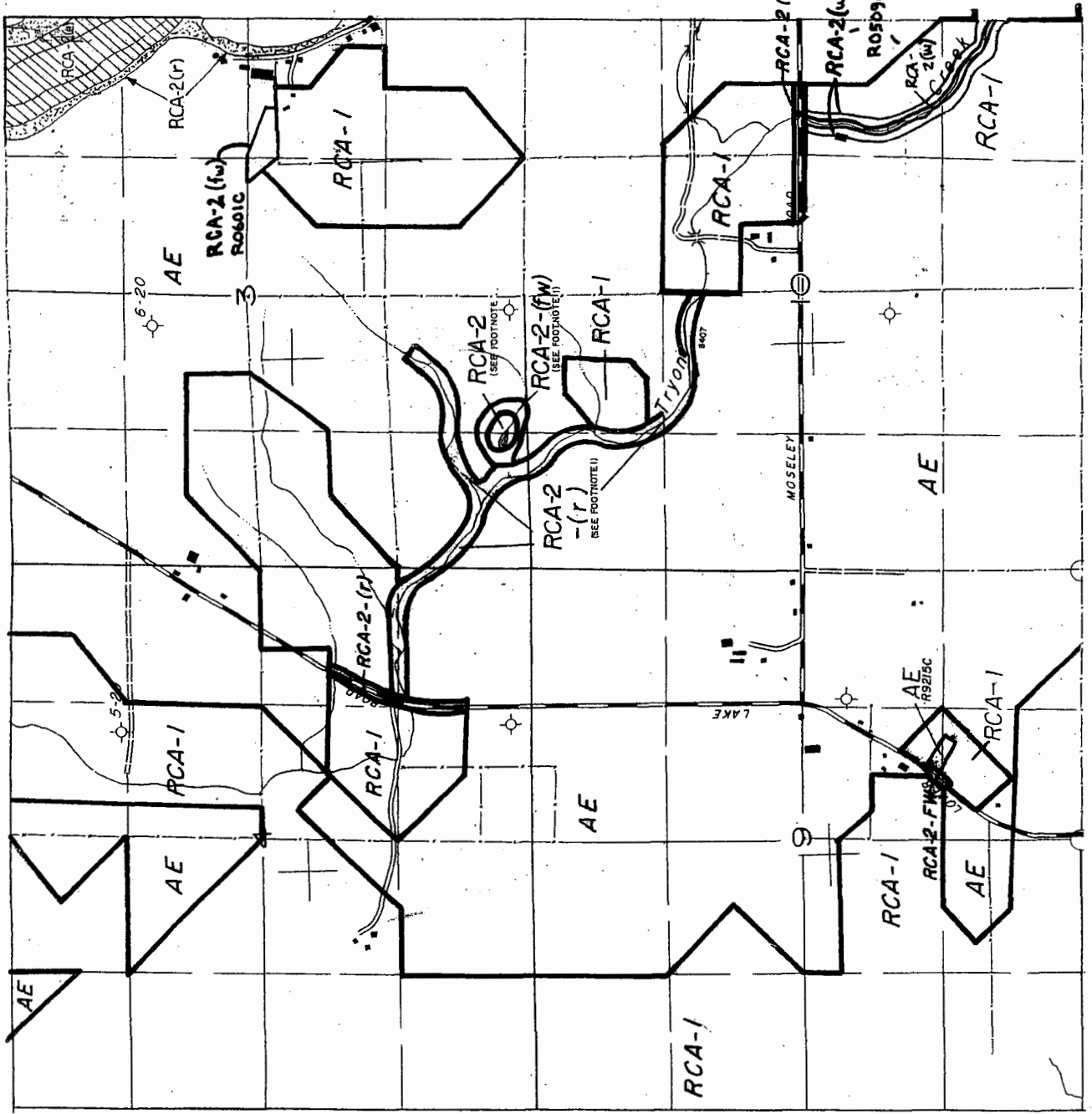
**APPLICATION NO.**

DNC-MAJ-1-06

DEL NORTE COUNTY LCP  
AMENDMENT

COUNTY ORDINANCE NO.  
2005-22 - ALEXANDRE ZONING  
AMENDMENT (1 of 2)

1. See RB407 for detailed boundary delineation



# EXHIBIT A

Section 21.06.050 Ordinance 83-03  
**DEL NORTE CO. ZONING MAP**  
**AREA C-5**

SECTIONS 3, 4, 9, 10  
 TWP 17 N RGE 1W HB&M  
 FORT DICK AREA

APPROVED BY PLANNING COMMISSION  
 APPROVED BY BOARD OF SUPERVISORS  
 COUNTY OF DEL NORTE, CALIFORNIA  
 83-03-Sept 6, 83

ORDINANCE NO. 2005-25  
**BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE  
STATE OF CALIFORNIA**

**AN ORDINANCE AMENDING ORDINANCE NO. 83-03  
AND COUNTY CODE TITLE 21 BY ADOPTING NEW COASTAL ZONING MAP C-5  
(Wetherell) TO THE COASTAL COMMISSION AS AN LCP AMENDMENT**

The Board of Supervisors, County of Del Norte, State of California, does ordain as follows:

Section I: Section 2.D.2 of the Coastal Zoning enabling Ordinance No. 83-03 and County Code Title 21 is hereby amended by deleting therefrom Coastal Zoning Area Map C-5 and amending same with a new Coastal Zoning Area Map C-5 as specified in attached Exhibit "A" and subject to the following condition:

Section II: This ordinance shall take effect and be enforced thirty (30) days after the date of its passage or approval of the rezone by the Coastal Commission, whichever is the latter.

Findings of

Fact: This Ordinance is passed and adopted based upon the findings cited in the Staff Report and the Board of Supervisors hereby makes said findings as more particularly described in said Staff Report, which is herein incorporated by reference (65804(c)(d) of the Government Code).

**PASSED AND ADOPTED** this 13th day of December 2005 by the following polled vote:

AYES: Supervisors McClure, Finigan, Sampels and McNamer

NOES: None


ABSENT: Supervisor Blackburn

ABSTAIN: None



Martha McClure, Chair  
Del Norte County  
Board of Supervisors

ATTEST:



DONNA M. WALSH, Clerk of the  
Board Of Supervisors, County of  
Del Norte, State of California

APPROVE AS TO FORM:

ROBERT BLACK, County Counsel  
County of Del Norte, State of California

|  |
|--|
| <b>EXHIBIT NO. 11</b>  |
| <b>APPLICATION NO.</b>   |
| DNC-MAJ-1-06   |
| DEL NORTE COUNTY LCP<br>AMENDMENT  |
| COUNTY ORDINANCE NO.<br>2005-25 - WETHERELL ZONING<br>AMENDMENT (1 of 2) |

