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Staff: Tiffany S. Tauber
Staff Report: April 26, 2007
Hearing Date: May 11, 2007
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-06-018**

APPLICANT: **PACIFIC UNION COLLEGE**

PROJECT LOCATION: At the Pacific Union College Albion Field Station located on the south bank of the Albion River approximately ¼ mile east of the Albion River Bridge (Highway One) at 34100 Albion Street, Albion, Mendocino County (APNs 123-060-02, 123-060-022, 123-090-02, 123-060-07).

PROJECT DESCRIPTION: (1) Construct an approximately 1,680-square-foot T-shaped boat dock facility, (2) remove an existing 3,840-square-foot dilapidated boat barn in wetlands, (3) construct a new boat barn in an upland area, (4) install a bridge over an unnamed creek behind the proposed new boat barn to provide access to the dock facility, (5) install a 15-foot-wide gravel driveway, (6) remove an existing cement boat from the creek, and (7) remove an existing culvert from a wetland area.

LOCAL APPROVALS RECEIVED: None required.

OTHER APPROVALS RECEIVED:	Department of Fish & Game
OTHER APPROVALS REQUIRED:	(1) Army Corps of Engineers; (2) RWQCB Water Quality Certification; (3) State Lands Commission
SUBSTANTIVE FILE DOCUMENTS:	Mendocino County LCP

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve with conditions the coastal development permit for the proposed improvements to Pacific Union College's Albion Field Station including (1) construction of an approximately 1,680-square-foot, T-shaped boat dock, (2) removal of an existing 3,840-square-foot dilapidated boat barn in wetlands and construction of a new boat barn in an upland area, (3) installation of a bridge over an unnamed creek behind the proposed new boat barn to provide access to the dock facility, (4) construction of a 15-foot-wide gravel driveway, (5) removal of an existing old cement boat from the creek, and (6) removal of an existing culvert from a wetland area.

The project site is located on the south bank of the Albion River approximately ¼ mile east of the Albion River Bridge (Highway One), near the village of Albion, Mendocino County. The project site includes several environmentally sensitive habitat areas (ESHA) including (1) mudflat habitat located adjacent to the flowing river channel, (2) salt marsh habitat occurring in small raised islands in the middle of the mudflats and as a continuous community on the inland edge of the mudflats extending toward the high water mark, and (3) freshwater wetland habitat located at higher elevations adjacent to salt marsh. The Albion River estuary supports eel grass (*Zostera marina*) found on subtidal mudflats and within the main channel of the river. Additionally, an unnamed creek that drains to the Albion River flows down the east-west oriented valley along the east side of the property adjacent to existing campus facilities. There is no environmentally sensitive habitat on the upland portions of the site.

The principle issues raised by the proposed project are placement of fill and dredging in coastal waters and wetlands, development adjacent to environmentally sensitive habitat, water quality, flood hazards, visual compatibility, and potential archaeological resources. Staff believes that with the attachment of nineteen (19) special conditions, the proposed project would be consistent with the Coastal Act.

The proposed project involves installing 30 12"-diameter piles to support the proposed boat dock. Twenty (20) of these piles would be located below the mean high tide line of the Albion River estuary and two piles would be located in an area of salt marsh vegetation, resulting in approximately 22 square feet of structural wetland fill. The project also involves installing approximately 1,680 square feet of boat dock, portions of

which would float directly above the estuarine habitat. Additionally, the proposed project involves removing an existing boat barn and culvert from within freshwater wetlands, and removal of a concrete boat from within the unnamed creek channel, all of which constitute a form of dredging in wetlands. Following removal of the existing barn structure, the applicant proposes to restore the area to its natural condition by recontouring the landscape and allowing the area to revegetate. Removal of the existing boat barn would restore approximately 3,840 square feet of freshwater wetland habitat. Similarly, removal of the culvert and cement boat would eliminate approximately 120 square feet of fill from wetlands.

The wetland fill associated with the proposed project is for the construction of a new boat docking facility used exclusively by students, faculty, and guests of aquatic and marine science field study courses associated with the Albion Field Station of the Pacific Union College. Therefore, staff recommends that the Commission find that the filling and dredging associated with the proposed project are for allowable uses for filling and dredging of coastal waters and wetlands, as (1) the fill is for the construction of a new boat docking facility intended to facilitate nature study programs affiliated with a private educational institution consistent with subsections (a)(4) and (a)(7) of Coastal Act Section 30233, and (2) the dredging associated with the removal of the boat barn, culvert, and cement boat is for restoration purposes consistent with subsection (a)(6) of Coastal Act Section 30233.

In addition to the portions of the proposed project that would involve development within coastal waters and wetlands, the proposed project also involves development adjacent to freshwater wetland and riparian ESHA including (1) installation of a bridge crossing, and (2) construction of a new boat barn. Depending on the manner in which the proposed project is conducted, the project could have potential adverse impacts to (i) mudflat habitat, (ii) eelgrass, (iii) salt marsh, (iv) water quality, (v) sensitive salmonid species, and (vi) freshwater wetland. Therefore, staff recommends that the Commission attach several special conditions as described below.

Special Condition No. 1 imposes certain construction-related responsibilities regarding the use and limitations of construction equipment, including restricting use of pile driving equipment to the gravel shoreline outside of environmentally sensitive habitat. Special Condition No. 2 requires a plan showing the location and limits of material stockpiling and equipment staging areas to demonstrate that material would not be stored and equipment would not be staged within environmentally sensitive habitat areas where debris or equipment-related fuel and oil could potentially enter coastal waters and wetlands.

To ensure that the applicant obtains an accurate inventory of eelgrass present at the site prior to construction and to minimize any adverse impacts to eelgrass, staff recommends Special Condition No. 3 that requires the applicant to submit an eelgrass monitoring plan for the review and approval of the Executive Director that includes monitoring

provisions requiring (1) that the applicant conduct a pre-construction survey to be completed during the active eelgrass growing season prior to the beginning of construction, and (2) that if the performance criteria have not been met at the end of three years following the completion of the project, the applicant shall submit an amendment to the coastal development permit for additional mitigation necessary to satisfy the performance criteria consistent with all terms and conditions of this permit.

Removal of the existing boat barn in the wetlands would cause ground disturbance and exposed soil adjacent to freshwater wetland habitat and the unnamed creek. To minimize the potential for erosion and sedimentation of the adjacent environmentally sensitive habitat areas, staff recommends Special Condition No. 4 requiring the applicant to submit an erosion control plan that provides for the implementation of erosion control measures including (1) installing straw bales and/or silt fencing adjacent to the unnamed creek and wetlands prior to removal of the boat barn, (2) covering all disturbed ground and exposed soil with rice straw immediately following removal of the boat barn and recontouring of the site, and (3) covering and containing all on-site construction stockpiles. Additionally, the demolition and removal of the existing boat barn would generate a significant amount of debris that if not properly disposed of could result in debris and pollutants entering the adjacent wetlands. To ensure that debris is adequately disposed of in an approved location, staff recommends Special Condition No. 7 requiring the applicant to submit for the review and approval of the Executive Director, a plan for the disposal of construction-related debris.

The applicant has not proposed that the steel piles would be treated with an epoxy or other type of exterior treatment and has not proposed the use of any creosote-treated construction materials. To ensure that the steel piles, or other structural elements of the proposed boat dock are not treated with a coating that could have potential adverse impacts to water quality and biological productivity, staff recommends Special Condition No. 5. This condition requires the applicant to submit, for the review and approval of the Executive Director, written evidence that any proposed pile coating or treatment is acceptable to the California Department of Fish & Game for use in marine waters. The condition further requires the applicant to use only the approved coating and prohibits placement of creosote- treated piles, floats, or other materials in the waters of the Albion River.

Staff recommends Special Condition No. 6 that would limit the timing of construction within the Albion River to occur only at low tide to minimize suspension of bottom sediments, and between June 1 and October 15 when spawning and migrating salmonids are least likely to be present in the river.

Although the project has been designed to minimize risks from flooding, the project site is inherently subject to flooding hazards. Thus, staff recommends Special Condition No. 11 that requires the landowner to assume the risks of flooding hazards to the property and waive any claim of liability on the part of the Commission. In addition, recommended

Special Condition No. 18 would require the applicant to record a deed restriction to impose the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property.

To ensure that adequate boat access is provided during construction of the project, the staff recommends Special Condition No. 9 which requires that at all times during project construction, a passage at least 50 feet wide in the mean lower low water (MLLW) channel of the Albion River be kept clear of all obstructions including floating and submerged structures, equipment, and suspended overhead hazards to allow for continued access through the project area by boats and recreational water craft. The condition also requires that the passage be clearly marked with floating buoys.

The project site is within an area designated as "highly scenic" by the Mendocino County LCP. The site is visible to motorists crossing the Albion River Bridge (Highway One) and to boaters from along the river. Currently, the existing boat barn is prominent in the viewshed as seen from Highway One, from the visitor-serving facilities located at Albion Flat, and from the river itself because of its dilapidated condition supported with orange construction fencing that contrasts starkly with the natural setting. The proposed new boat barn would be larger and taller than the existing boat barn proposed to be removed to adequately support the Albion Field Station programs. However, the new boat barn would be located approximately 45 feet further away from the edge of the river and closer to the developed area of the college campus in a manner that would cause it to be less visible from Highway One and other public vantage points than the existing boat barn. The new boat barn is proposed to be constructed of natural materials including weathered cedar or redwood siding that would blend with the natural surroundings and be consistent with the materials of other surrounding structures on the campus. To ensure that the proposed boat barn is sited and designed in a manner that would avoid significant adverse impacts to visual resources, staff recommends Special Condition No. 8. This condition requires the applicant to submit for the review and approval of the Executive Director, final plans for the construction of the boat barn demonstrating that (1) the building is sited within, and no larger than, the 110' x 60' proposed building footprint and shall not exceed 35-feet-high; (2) all exterior siding, trim, and roofing of the proposed structure is composed of natural materials of earth tone colors as proposed in the application, including weathered cedar or redwood siding; (3) all exterior materials, including roof and windows, are comprised of non-reflective materials to minimize glare; and (4) all exterior lights, including any lights attached to the outside of the building, are the minimum necessary for the safe ingress and egress of the structure, and are low-wattage, non-reflective, shielded, and have a directional cast downward.

To ensure protection of any cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches Special Condition No. 10. requiring the applicant to comply with all recommendations and mitigation measures contained in the archaeological report prepared for the project. The condition further requires that if an area of cultural deposits is discovered during the course of the project,

all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

Lastly, the proposed project requires review and approval by several other agencies including State Lands Commission, Department of Fish and Game, Army Corps of Engineers, and National Marine Fisheries Service. To ensure that the project ultimately approved by these other agencies is the same as the project authorized by the Commission, staff recommends Special Condition Nos. 12, 13, 14, and 15 that require the applicant to submit to the Executive Director evidence of these agencies' approval of the project prior to the commencement of work. The conditions require that any project changes resulting from these other agency approvals not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

As conditioned, staff believes the proposed project is consistent with the Chapter 3 policies of the Coastal Act and recommends approval of the project with the above-described special conditions.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 7 below.

STAFF NOTE:

1. Jurisdiction and Standard of Review

The proposed development is located in and adjacent to the Albion River within submerged areas, areas subject to tidal action, and areas shown on State Lands Commission maps over which the state retains a public trust interest. Thus, the proposed development is within the Commission's retained coastal development permit jurisdiction and the standard of review for the permit application is the Chapter 3 policies of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-06-018 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

II. STANDARD CONDITIONS: See attached Appendix A.

III. SPECIAL CONDITIONS:

1. Construction Responsibilities

The permittee shall comply with the following construction-related requirements:

(a) All construction materials and debris originating from the project shall be stored and/or contained in a manner to preclude their uncontrolled entry and dispersion to the waters of the Albion River or surrounding wetland habitat. Any debris resulting from construction activities that could

inadvertently enter the river or wetland habitat shall be removed immediately;

(b) Any and all debris resulting from construction activities shall be removed from the project site within 10 days of project completion;

(c) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss;

(d) Any fueling of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas;

(e) Fuels, lubricants, and solvents shall not be allowed to enter the waters of the Albion River. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call;

(f) All concrete wash-out maintenance shall be conducted at an off-site location where wash runoff can be discharged into a sanitary sewer system;

(g) The pile driver used during the construction process shall operate from a gravel area of the shoreline outside of environmentally sensitive habitat areas and shall not enter the Albion River; and

(h) Catch basins shall be installed around each steel pile prior to pouring concrete in a manner that will prevent discharge of wet cement into coastal waters and wetlands.

2. <u>Equipment Staging and Debris Stockpiling Plan</u>

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause**, the permittee shall submit a plan for the review and approval of the Executive Director that demonstrates that all construction material stockpiling and equipment staging areas will be located outside of environmentally sensitive habitat areas.

1. The plan shall demonstrate that:

(a) construction materials and debris shall not be stockpiled within environmentally sensitive habitat areas; and

(b) construction equipment shall not be staged within environmentally sensitive habitat areas.

2. The plan shall include a site map that depicts, at a minimum, the following components:

(a) location and limits of the equipment staging area(s); and
(b) location and limits of the debris stockpiling area(s)

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. <u>Eelgrass Monitoring and Mitigation Plan</u>

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause**, the applicant shall submit, for review and written approval of the Executive Director, an eelgrass mitigation and monitoring plan that includes the following provisions:

(a) A pre-construction survey shall be completed during the months of May through August, the period of active growth of eelgrass. The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth;

(b) The post-construction survey shall be completed in the same month as the pre-construction survey during the next growing season immediately following the completion of construction;

(c) If post-construction surveys indicate any decrease in eelgrass density or cover, then the site shall be monitored consistent with the approved final mitigation and monitoring plan for three years or until the performance criteria in section (f) have been met. If post-construction survey results demonstrate to the satisfaction of the Executive Director that eelgrass densities have not decreased at all and there has been no loss of extent of vegetated cover, then no further monitoring or mitigation is required;

(d) Adverse impacts to eelgrass shall be measured as the difference between the pre-construction and post-construction estimates of eelgrass cover and density. The extent of vegetated cover is defined as that area where eelgrass is present and where gaps in coverage are less than one meter between

individual turion clusters. Density is defined as the average number of turions per unit area.

(e) Density and extent of vegetative cover shall be estimated at control areas during pre-construction surveys, post-construction surveys, and during annual monitoring. Changes in density and extent of vegetated cover of the control areas will be used to account for natural variability. Selection of an appropriate control site shall be performed in consultation with the Department of Fish and Game and the National Marine Fisheries Service;

(f) Within three years of completion of the project, the entire project site shall have an extent of vegetated cover equal to the pre-construction extent of vegetated cover and have an average density equal to the pre-construction average density. Specific success and monitoring criteria are as follows:

i. a minimum of 70 percent areal coverage and 30 percent density after the first year;
ii. a minimum of 85 percent areal coverage and 70 percent density after the second year;
iii. a sustained 100 percent areal coverage and at least 85 percent density for the third year.

(g) Monitoring methods shall include photographs and random sampling of the project site using a sampling size adequate to obtain representative qualitative data for the entire project site to determine percent cover and shoot density as defined in subsection (d) above;

(h) A detailed monitoring schedule shall be provided that indicates when each of the required monitoring events will be completed. Monitoring reports shall be provided to the Coastal Commission, the National Marine Fisheries Service, and the Department of Fish and Game within 30 days after the completion of each required monitoring period.

(i) The impacted site shall be remediated within a year of a determination by the permittee or the Executive Director that monitoring results indicate that the site does not meet the performance standards identified in section (f) and in the approved final monitoring and mitigation program. If the performance criteria have not been met at the end of three years following the completion of construction of the project, the applicant shall submit an amendment to the coastal development permit proposing additional mitigation to ensure all performance criteria are satisfied consistent with all terms and conditions of this permit.

B. The permittee shall undertake development in accordance with the approved eelgrass mitigation and monitoring plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. <u>Erosion Control Plan</u>

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause**, the applicant shall submit to the Executive Director, for review and written approval, an erosion control plan demonstrating the following:

(1) Straw bales and/or silt fencing shall be installed between the boat barn to be removed and the adjacent unnamed creek and freshwater wetlands prior to removal of the boat barn to prevent sediment from entering the habitat areas;

(2) All disturbed ground and exposed soil areas shall be covered with rice straw immediately following removal of the boat barn and recontouring of the site; and

(3) All on-site stockpiles of construction debris shall be covered and contained to prevent polluted water runoff.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. <u>Pile Treatment Limitations</u>

PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause, the applicant shall submit, for the review and approval of the Executive Director, written evidence that any proposed steel pile coating or treatment is acceptable to the California Department of Fish & Game for use in marine waters. The applicant shall use only the approved coating. No creosote- treated piles, floats, or any other creosote- treated materials shall be placed in the waters of the Albion River.

6. Timing of Construction

(a) To avoid adverse impacts on sensitive salmonid fish species during principal periods of migration, construction of the portions of the boat dock within the Albion River shall be limited to the period between June 1 and October 15; and

(b) All pile driving work within the Albion River shall be performed during low tide to minimize suspended sediment.

7. Debris Disposal Plan

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause,** the applicant shall submit for the review and approval of the Executive Director a plan for the disposal of construction-related debris, including but not limited to, the existing dilapidated boat barn to be removed. The plan shall describe the manner by which the material will be removed from the construction site and identify all debris disposal sites that will be utilized. The plan shall demonstrate that all disposal sites are in upland areas where construction-related debris from the project may be lawfully disposed.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Boat Barn Plans

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause**, the applicant shall submit to the Executive Director, for review and written approval, final design plans for the proposed boat barn building demonstrating the following:

(1) The boat barn shall be sited at the location as shown on Exhibit No. 3 and shall be no larger than 110’ x 60’ and shall not exceed 35-feet in height;

(2) All exterior siding, trim, and roofing of the proposed structure shall be composed of natural materials in earth tone colors as proposed in the application, including weathered cedar or redwood siding;

(3) All exterior materials, including roof and windows, shall be non-reflective to minimize glare; and

(4) All exterior lights, including any lights attached to the outside of the building, shall be the minimum necessary for the safe ingress and egress of the structure, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Channel Access During Construction

At all times during project construction, and at all stages of the tide at and above the mean lower low water (MLLW), a passage of at least 50 feet wide in the channel of the Albion River shall be kept clear of all obstructions including floating and submerged structures, equipment, and suspended overhead hazards to allow for continued access through the project area by small boats and recreational water craft. The passage shall be clearly marked with floating buoys.

10. Archaeological Resources

A. The applicant shall comply with all recommendations and mitigation measures contained in the cultural resources investigation report prepared for the project by Thad M. Van Buren, Professional Registered Archaeologist, dated January 19, 2005. The applicant shall also comply with the following monitoring conditions during construction:

B. If an area of cultural deposits is discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (C) hereof. A qualified cultural resource specialist shall analyze the significance of the find.

C. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.

(i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed

development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.

(ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

C. The applicant shall undertake development in accordance with the approved supplemental Archaeological Plan. No changes to the approved supplementary archaeological plan shall occur without a Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

11. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

12. State Lands Commission Review

PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause, the applicant shall submit to the Executive Director, a written determination from the State Lands Commission that:

a. No State lands are involved in the development; or

b. State lands are involved in the development and all permits required by the State Lands Commission have been obtained; or

c. State lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

13. Department of Fish and Game Approval

PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause, the applicant shall submit a copy of any necessary Section 1603 Streambed Alteration Agreement or other approval required by the Department of Fish and Game for the project or evidence that no approval is required. The applicant shall inform the Executive Director of any changes to the project required by the Department of Fish and Game. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

14. National Marine Fisheries Service Approval

PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of any incidental take permit or other approval issued by the National Marine Fisheries Service, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the National Marine Fisheries Service. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

15. Army Corps of Engineers Approval

PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause, the permittee shall provide to the Executive Director a copy of a permit issued by U.S. Army Corps of Engineers, a letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

16. NOAA Nautical Chart Revision

WITHIN 30 DAYS OF THE COMPLETION OF THE PROPOSED DEVELOPMENT, the applicant shall provide written verification to the California Coastal Commission that the applicant has submitted to the U.S. Coast Guard and the National Oceanic and Atmospheric Administration (NOAA):

1) as-built drawings, blueprints, or other engineering documents which depict the completed development;

2) geographic coordinates of the location, using a Differential Geographic Positioning System (DGPS) unit or comparable navigational equipment; and

3) the applicant's point of contact and telephone number.

17. Removal of Culvert and Cement Boat

The applicant shall remove (1) the unauthorized culvert located near the western edge of the property adjacent to the existing parking area, and (2) the concrete boat located within the unnamed creek behind the dilapidated boat barn and dispose of the culvert and boat consistent with the debris disposal plan required by Special Condition No. 7 by October 15, 2008, or within such additional time as the Executive Director may grant for good cause.

18. Deed Restriction

PRIOR TO COMMENCEMENT OF CONSTRUCTION and within 180 days of Commission approval or such additional time as the Executive Director may grant for good cause, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

19. Permit Expiration and Condition Compliance

Because some of the proposed development has already commenced, this coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

1. Site Description

The project site is located on the south bank of the Albion River approximately ¼ mile east of the Albion River Bridge (Highway One), near the village of Albion, Mendocino County. The site is located adjacent to a tidally influenced portion of the Albion River approximately ½ mile east of Albion Cove, where the river empties into the sea. (See Exhibit Nos. 1, 2, & 4.) The project site, known as the Albion Field Station, was historically used as a residence camp for the Albion lumber mill until Pacific Union College (the College) purchased the property in the late 1940's. The old redwood buildings of the lumber camp were renovated for use as classrooms, laboratories, and dormitories and the College began to use the site for biological field classes beginning in 1947.

The Albion Field Station property consists of four parcels totaling approximately 17.5 acres. The main campus is comprised of approximately 13.5 acres situated at the bottom of a steep, east-west oriented valley, known locally as Happy Valley that drains to the Albion River. Existing structures at the campus include sleeping cabins, classrooms, restrooms, dining room, laboratory, garage, storage area, and a boat barn.

The Albion River is tidally influenced for approximately five miles upstream from the river mouth. The project site includes several environmentally sensitive habitat areas (ESHA) including (1) mudflat habitat located adjacent to the flowing river channel, (2) salt marsh habitat occurring in small raised islands in the middle of the mudflats and as a continuous community on the inland edge of the mudflats extending toward the high water mark, and (3) freshwater wetland habitat located at higher elevations adjacent to salt marsh. The Albion River estuary supports eel grass (*Zostera marina*) found on subtidal mudflats and within the main channel of the river. Additionally, an unnamed creek that drains to the Albion River flows down the east-west oriented valley along the east side of the property adjacent to existing campus facilities. There is no environmentally sensitive habitat on the upland portions of the site.

The site is located within an area designated as “highly scenic” by the Mendocino County Land Use Plan and is visible to motorists crossing the Albion River Bridge (Highway One), as well as to boaters and recreationists on the river itself.

2. Project Description

The proposed project involves various improvements to the existing Albion Field Station, including (1) construction of an approximately 1,680-square-foot, T-shaped boat dock,

(2) removal of an existing 3,840-square-foot dilapidated boat barn in wetlands and construction of a new boat barn in an upland area, (3) installation of a bridge over an unnamed creek behind the proposed new boat barn to provide access to the dock facility, (4) construction of a 15-foot-wide gravel driveway, (5) removal of an existing old cement boat from the creek, and (6) removal of an existing culvert from a wetland area. These proposed project elements are described in further detail below. (See Exhibit No. 3.)

New Permanent Boat Dock

Since its inception over 50 years ago, the Albion Field Station has utilized a seasonal floating boat docking facility that has served as a point of departure for numerous classes in the marine and aquatic sciences. The seasonal boat docking facility consists of a series of wood and aluminum floats that sit directly on top of estuarine mudflat habitat and extend to the middle of the river. The seasonal dock facility is located between an old bridge abutment and old bridge pilings where the original Highway One Bridge used to cross the Albion River. Wave surges occasionally reaching 3-4 feet in height during winter storms necessitate seasonal removal of the docking facility to prevent storm damage. Typically, the dock has been put into the river in April and removed in late October or early November. The seasonal replacement of the dock has been unpermitted. The applicant proposes to abandon use of this site because using this facility in this location requires crossing a 50-foot-wide strip of land under separate ownership and the owner is unwilling to allow the College the continued use of the property for this purpose. Additionally, the applicant is proposing a new permanent boat dock to eliminate the direct impacts to estuarine habitat associated with use of the seasonal facility.

In 2004, the College purchased the parcel immediately upstream (east) from the site of the seasonal boat docking facility (APN 123-60-07) which extends to the middle of the Albion River. The applicant proposes to replace the existing seasonal boat docking facility with a new permanent boat docking facility located on this parcel approximately 400 feet further upriver and under the sole ownership of the College. The proposed permanent boat docking facility consists of a T-shaped structure comprised of a 6-foot-wide, 160-foot-long steel raised walkway that extends to a hinged ramp forming the base of the “T”. (See Exhibit Nos. 5 & 9.) Six, 6’ x 30’ wood and aluminum sections would be relocated from the existing seasonal boat docking facility and attached to the ramp to form the floating portion of the dock. Thirty 12-inch-diameter, steel-cased cement pilings would be used to support the dock. Of the 30 piles, eight would be located in an upland area, two would be located in an area of saltmarsh habitat, and 20 would be installed in the river. The piles would be installed using a pile-driver that would operate from an existing gravel area of shoreline. No heavy equipment would operate from within the river or wetlands.

Replace Existing Dilapidated Boat Barn in a New Location Outside of ESHA

The site includes an existing 3,840-square-foot barn located in a freshwater wetland adjacent to the river constructed prior to the Coastal Act. A series of recent winter storms demolished the structure to the point that it no longer provides a viable use. Rather than repair or replace the barn in its existing location, the applicant proposes to remove the existing barn from the wetlands and construct a new boat barn in an adjacent upland area. The proposed new boat barn would be located approximately 45 feet further away from the edge of the river adjacent to existing campus buildings in an area currently used as a parking lot for boats and overflow vehicle parking. (See Exhibit No. 3, 6 & 7.)

The new proposed boat barn would be a maximum of 110' x 60' with a maximum height of 35-feet and would be constructed of weathered redwood or cedar siding. The building would be used to store the College's 30-foot ocean-going vessel, boats, canoes, kayaks, paddles, life jackets, and similar gear. A new 16-foot-wide gravel driveway would be constructed between the existing boat barn proposed to be removed and the new boat barn to facilitate ingress and egress by vehicles with boat trailers.

Following removal of the existing boat barn, the area would be recontoured and allowed to naturally recolonize with surrounding wetland vegetation.

Install Bridge Crossing Over Creek

The applicant proposes to install a permanent bridge over the unnamed creek that flows down the valley on the eastern edge of the property directly behind the campus and adjacent to the east side of the proposed new boat barn. A crossing over the creek is necessary to provide foot and vehicle access the east side of the property and to get boats and other necessary equipment to the proposed new boat docking facility. There is no riparian vegetation at the site of the proposed bridge and no riparian vegetation would be removed. (See Exhibit No. 6.)

Remove Existing Culvert and Concrete Boat

Approximately five years year ago, the applicant installed a 12" x 20' culvert without benefit of a coastal development permit to facilitate drainage of a wetland area as a safety precaution at a location where students and visitors would commonly cross to access the river. The applicant proposes to remove this unpermitted culvert from the wetland.

The applicants also propose to remove an approximately 100-square-foot cement boat that was dumped in the unnamed creek by one of the previous owners of the property (see Exhibit No. 8). Removal of the boat would restore this portion of creek to its natural habitat and remove the obstruction to channel flow and wildlife passage.

Septic System and Utility Extensions

A fully engineered septic system exists on the property. The proposed project involves adding a pump out station at the new proposed boat docking facility that would be piped to an existing 5,000 gallon septic tank (approved under CDP No. 1-04-028-W) adjacent to the lab building. Existing sewage effluent is currently piped uphill to an approximately four-acre area for percolation.

An approximately 18"-wide x 18"-deep x 150'-long utility trench would be excavated to install a 2" sewer pipe, a 2" electrical conduit, and a ¾" PVC water pipe. The utility trench would be located entirely in an upland area and would extend from the proposed bridge across the unnamed creek to the dock where the utilities would be attached to the dock structure.

3. Protection of Coastal Wetlands, Estuaries, and Water Quality

Section 30108.2 of the Coastal Act defines "fill" as:

> *earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.*

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

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

Section 30231of the Coastal Act states:

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

Section 30233(a) of the Coastal Act states, in applicable part:

> *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
>
> …
>
> *(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
>
> …
>
> *(6) Restoration purposes.*
>
> *(7) Nature study, aquaculture, or similar resource dependent activities.*
>
> *(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary…* [Emphasis added]

The proposed project involves installing 30 12"-diameter piles to support the proposed boat dock. Twenty (20) of these piles would be located below the mean high tide line of the Albion River estuary and two piles would be located in an area of salt marsh vegetation. The project also involves installing approximately 1,680 square feet of boat dock, portions of which would float directly above the estuarine habitat. The proposed installation of piles and construction of a floating boat dock in the Albion River estuary constitute wetland fill under Section 30108.2 of the Coastal Act. The removal of the existing boat barn, concrete boat, and culvert are also a form of dredging subject to the requirements of Coastal Act Section 30233.

Coastal Act Sections 30230, 30231, and 30233 cited above set forth a number of limitations on development in coastal waters, wetlands, and estuaries. For analysis purposes, the limitations can be grouped into four general categories or tests. These tests are:

a. that the purpose of the filling, diking, or dredging is for one of the eight uses allowed under Section 30233;

b. that the project has no feasible less environmentally damaging alternative;

c. that feasible mitigation measures have been provided to minimize adverse environmental effects; and

d. that the biological productivity and functional capacity of the habitat shall be maintained and enhanced where feasible.

a. Allowable Use for Fill in Wetlands

The first test for a proposed project involving filling or dredging in coastal waters, wetlands, or estuaries is whether the fill or dredging is for one of the eight allowable uses under Section 30233(a). Subsection (a)(4) lists "*…new or expanded boating facilities,*" subsection (a)(6) lists "*restoration purposes,*" and subsection (a)(7) lists "*nature study*" among the allowable uses for fill and dredging in wetlands.

The wetland fill associated with the proposed project is for the construction of a new boat docking facility used exclusively by students, faculty, and guests of aquatic and marine science field study courses associated with the Albion Field Station of the Pacific Union College. Structural wetland fill associated with the project would be limited to the installation of 22, 12"-diameter steel piles driven into the muddy intertidal bottom of the Albion River channel and adjacent salt marsh habitat, comprising a total of 22 square feet of new structural wetland fill. The floating portion of the dock would be located above estuarine habitat, but would not result in direct structural fill. Additionally, the proposed project involves removing an existing boat barn and culvert from within freshwater wetlands, and removal of a concrete boat from within the unnamed creek channel, all of which constitute a form of dredging in wetlands. Following removal of the existing barn structure, the applicant proposes to restore the area to its natural condition by recontouring the landscape and allowing the area to revegetate. Removal of the existing boat barn would restore approximately 3,840 square feet of freshwater wetland habitat. Similarly, removal of the culvert and cement boat would eliminate fill from wetlands.

Therefore, the Commission finds that the filling and dredging associated with the proposed project are for allowable uses for filling and dredging of coastal waters and wetlands, as (1) the fill is for the construction of a new boat docking facility intended to facilitate nature study programs affiliated with a private educational institution consistent with subsections (a)(4) and (a)(7) of Coastal Act Section 30233, and (2) the dredging associated with the removal of the boat barn, culvert, and cement boat is for restoration purposes consistent with subsection (a)(6) of Coastal Act Section 30233.

b. Project Alternatives

The second test set forth by Coastal Act 30233 is that the proposed fill project must have no feasible less environmentally damaging alternative. Commission staff and the applicant have considered the various identified alternatives and determined that there is no feasible less environmentally damaging alternative to the project as conditioned.

Alternatives that have been identified include (1) utilizing an off-site boat docking facility, (2) installing fewer piles to support the proposed boat dock, and (3) continuing to utilize the existing boat docking facility (no project). As explained below, each of these alternatives are infeasible and/or do not result in a project that is less environmentally damaging than the proposed project.

Utilizing Existing Boat Docking Facility (No Project)

One alternative to the proposed project would be to continue to utilize the existing seasonal boat docking facility that, according to the applicant, has been used for the past 30 to 40 years. As discussed previously, the existing boat docking facility consists of a series of wood and aluminum floats that sit directly on top of estuarine mudflat habitat at low tide and extend to the middle of the river. This alternative would avoid the need for installing new piles as permanent fill in the Albion River estuary. However, this alternative would result in maintaining the status quo of the use and design of the existing facility. Use of this site requires boaters to trample through the intervening wetlands between the campus and the river. According to the applicant, boats, paddles, and other gear are dragged across the wetlands and mudflat to reach the existing facility and to launch watercraft. Additionally, because the existing boat docking facility is designed to rest on the mudflat during low tide, the existing boat docking facility directly impacts mudflat habitat.

The proposed permanent boat docking facility would involve a floating dock with a gangway suspended above the wetlands adjacent to the river such that no portion of the dock structure, other than the supporting piles, would directly impact the wetland or mudflat habitat. The suspended gangway over the wetlands and salt marsh would prevent boaters from trampling the wetlands to access the floating dock.

Moreover, the location of the exiting seasonal boat docking facility requires crossing a 50-foot-wide strip of land under separate ownership. The property owner is unwilling to allow the College to continue to access the river over this strip of land. Relocating the docking facility to the proposed permanent location approximately 400 feet further upriver would locate the facility entirely on property owned by the College.

The continued use and repeated disturbance of the habitat at the existing boat docking facility would result in greater cumulative adverse impacts to wetland and estuarine habitat. Therefore, continuing to use the existing boat docking facility in its current location and configuration is not a feasible less environmentally damaging alternative.

Installing Fewer Piles to Support the Boat Dock

Construction of the proposed permanent boat docking facility involves the installation of 30, 12”-diameter concrete steel-cased piles, 22 of which would be located within wetland and estuarine habitat for a total of 22 square feet of structural fill. One alternative to the

proposed project would be to install fewer piles such that the project would result in less wetland fill. The length of the gangway proposed to be suspended partially over the wetlands adjacent to the edge of the river could be decreased to minimize the amount of required piles. However, to do so would necessitate boaters trampling directly over the wetlands to access the dock. As the entire length of river edge fronting the subject property contains some wetland habitat, there is no alternative location that would avoid the need to cross the wetlands to access the river. Thus, the suspended gangway over the wetlands as proposed would minimize direct impacts to the wetland habitat adjacent to the river. Furthermore, the proposed gangway and floating dock have been specifically designed to withstand a 100-year flood event. To decrease the number of supporting piles would compromise the integrity of the structure such that it would not withstand the dynamic elements of the estuarine environment.

The proposed project has been designed with the least number of piles necessary to minimize impacts to wetland and estuarine habitat while providing necessary structural support. Therefore, decreasing the number of piles is not a feasible less environmentally damaging alternative.

Utilizing an Off-site Boat Dock

Several existing public boat launching facilities exist along the lower Albion River including a facility located directly downstream from the subject site and a public marina located approximately ¼ mile upstream from the subject site. One alternative to the proposed construction of a new permanent boat dock at the site is to utilize an existing off-site boat launching/mooring facility. However, the proposed boat dock facility is intended to serve students participating in field study courses at the College, thus necessitating the need for the dock to be close to existing campus facilities including classrooms and storage.

This alternative would do nothing to provide boat access to the river from the Albion Field Station for use by students in marine and aquatic science courses. The alternative would require students, faculty, and guests associated with the College to transport boats and gear from the boat barn to other boat launching facilities along the river. Transporting boats and gear for every field course to other facilities would be inconvenient and cumbersome and would potentially adversely impact other public boat launching facilities with a significant increase in use. The Commission finds that utilizing an existing off-site boat launching facility for the College field study courses would not accomplish project objectives in a successful manner. Therefore, the Commission finds that this alternative is not a feasible less environmentally damaging alternative to the proposed project.

Therefore, the Commission finds that the proposed project as conditioned, involves the least environmentally damaging feasible alternative as required by Section 30233(a).

(c) Mitigation of Impacts to Coastal Wetlands, Biological Productivity, and Water Quality

The third test set forth by Section 30233 is whether feasible mitigation measures have been provided to minimize adverse environmental impacts. The project involves installing 22, 12"-diameter piles and approximately 1,680 square feet of floating dock in wetland and estuarine habitat. The project also involves removing the existing dilapidated barn from an area in and adjacent to freshwater wetlands. Depending on the manner in which the proposed project is conducted, the project could have potential adverse impacts to (i) mudflat habitat, (ii) eelgrass, (iii) salt marsh, (iv) water quality, (v) sensitive salmonid species, and (vi) freshwater wetland. The potential impacts and their mitigation are discussed in the following sections:

(i) Mudflat Habitat

Approximately 20 piles would be installed in the mudflat habitat of the Albion River estuary. Mudflat environments provide habitat to benthic invertebrates, which provide important prey for many fish and birds species. Common invertebrates in shallow mudflat areas include various species of polychaetes, bivalves, and gastropods. The community of organisms that inhabit the mudflat area directly beneath the proposed piles would be lost as a result of the installation of piles. However, as the extent of the mudflat area displaced by the piles would comprise a total of only 20 square feet of fill within the extensive mudflat habitat within the Albion River estuary and the new piles would provide hardscape habitat for marine invertebrates, the Commission finds that the impact to muddy intertidal habitat is not significant.

Additionally, the applicant proposes that pile driving would be performed using a long-reach crane located on an existing gravel area of shoreline to avoid impacts to mudflat habitat from heavy equipment. To ensure the protection of mudflat habitat, Special Condition No. 1 imposes certain construction-related responsibilities including restricting use of pile driving equipment to the gravel shoreline outside of mudflat habitat, or any other sensitive habitat area. Additionally, Special Condition No. 2 requires a plan showing the location and limits of material stockpiling and equipment staging areas to demonstrate that material would not be stored and equipment would not be staged within environmentally sensitive habitat areas where debris or equipment-related fuel and oil could potentially enter coastal waters and wetlands, including mudflat habitat.

Therefore, as conditioned, the proposed project would not result in significant adverse impacts to mudflat habitat and no further mitigation is necessary.

(ii) Eelgrass

The Albion River estuary is known to support the growth of eelgrass in subtidal areas of the river channel. Eelgrass (*Zostera marina*) is considered to be an environmentally

sensitive habitat area worthy of protection because it functions as important shelter and foraging habitat. For example, eelgrass provides cover for juvenile fish and in some locations, serves as a spawning ground for herring. In addition, black brant, a species of migratory geese, feed almost exclusively on eelgrass. Eelgrass is a flowering plant that extends long rhizomes (roots) an average of 1.5 – 8 inches below the substrate from which the turions (stems) sprout with long, green blades (leaves) and it thrives in protected coastal waters with sandy or muddy bottoms. Eelgrass can be adversely impacted by direct contact, or indirectly by shading from over-water structures.

Approximately 20 of the 30 steel piles proposed to support the boat dock would be located within the tidal range of the estuary that potentially supports eelgrass. Therefore, it is possible that up to 20 of the new piles would be located in areas that support eelgrass and could displace an amount of eelgrass equivalent to the area occupied by the base of the 20, 12”-diameter piles. Therefore, the installation of the new piles could potentially displace up to 20 square-feet of eelgrass and eelgrass habitat. Additionally, the floating portion of the dock could have potential adverse impacts to eelgrass from shading.

The applicant indicates that the proposed boat dock has been sited and designed to minimize encroachment into existing eelgrass habitat. The floating portion of the dock has been sited to provide the necessary minimum depth for mooring ocean-going boats (five feet) while avoiding eelgrass to the maximum extent. The height of boat dock has been designed to accommodate a 100-year flood event, which according to the applicant would site the dock high enough such that sunlight would continue to reach the water column at various times throughout the day. However, eelgrass is very dynamic and population size and distribution can vary substantially from year to year. Depending on the timing of when construction of the boat dock was to commence, eelgrass may or may not be present at all or portions of the boat dock site. To ensure that the applicant obtains an accurate inventory of eelgrass present at the site prior to construction and to minimize any adverse impacts to eelgrass, the Commission attaches Special Condition No. 3 that requires the applicant to submit an eelgrass monitoring plan for the review and approval of the Executive Director that includes the provisions described below. These provisions are similar to what the Commission has previously required for North Coast projects with potential impacts to eelgrass.

Special Condition No. 3(a) requires the applicant to conduct a pre-construction survey to be completed during the active eelgrass growing season (May-August) prior to the beginning of construction. The pre-construction survey is valid until the beginning of the next period of active eelgrass growth. Therefore, if the project does not commence before the start of the next growing season, a new survey must be completed during the active growing season. The pre-construction survey is required to be conducted during peak growing season conditions rather than during more dormant periods of the eelgrass lifecycle to ensure that project conditions, including monitoring and mitigation requirements, will be based on an accurate inventory of eelgrass present at the site in the peak eelgrass growing season immediately prior to project construction. Special

Condition No. 3(b) requires that post-construction surveys be completed in the same month as the pre- construction survey during the next growing season immediately following project completion to assess any impacts to eelgrass that occur as a direct result from the proposed project. A post-construction survey conducted during a different time of year than the pre-construction survey could result in comparing peak growing season conditions with more dormant periods of the eelgrass lifecycle, thereby providing an inaccurate assessment of project impacts. Eelgrass growth tends to slow and cover is reduced during the winter as a result of increased wave action, wildlife foraging, and decreased light. Therefore, a post-construction survey conducted outside of the peak growing season may yield inaccurate results due to natural seasonal fluctuations in eelgrass density and cover. Furthermore, eelgrass may appear to be damaged immediately following project completion, but even if the blades are damaged, the rhizomes may remain viable. Evidence of permanent damage to eelgrass rhizomes would be more evident during the peak growing season immediately following project completion. To accurately measure impacts to eelgrass from the project, the post-construction survey should occur in the same month as the pre-construction survey during the peak growing season immediately following project completion to compare the density and extent of vegetated cover of the eelgrass under similar growing conditions.

The Commission finds that to ensure that eelgrass habitat values are not diminished to any extent as a result of the project, the project site must achieve density and an extent of vegetated cover equal to pre-construction levels within three years. This performance standard is required as section (c) of Special Condition No. 3. Subsection (e) of Special Condition No. 3 requires density and extent of vegetative cover to be estimated at control areas during both pre-construction surveys and annual monitoring. Changes in density and extent of vegetated cover of the control areas will be used to account for natural variability. Special Condition No. 3(i) requires that if the performance criteria have not been met at the end of three years following the completion of the project, the applicant shall submit an amendment to the coastal development permit for additional mitigation necessary to satisfy the performance criteria consistent with all terms and conditions of this permit.

Therefore, the Commission finds that as conditioned, the project would not result in significant adverse impacts to eelgrass habitat and is adequate to minimize significant adverse impacts to eelgrass consistent with Section 30233 of the Coastal Act.

(iii) Salt Marsh

A small hummock (island) of salt marsh vegetation approximately 30 feet in diameter is located in the vicinity of the alignment of the gangway portion of the proposed boat dock. Two 12”-diameter supporting piles would be located in this area of salt marsh habitat vegetated primarily by pickle weed (*Salicornia virginica*), thus directly displacing approximately two square feet of salt marsh vegetation. Approximately 30 linear feet of 6-foot-wide gangway would extend over this salt marsh habitat.

The proposed gangway portion of the boat dock has been designed to be constructed of open-mesh steel grate material to allow sunlight penetration through the structure in a manner that would ensure the continuance of the salt marsh vegetation. As a result, other than the two square feet of salt marsh vegetation directly displaced by the supporting piles, the salt marsh habitat would not be directly impacted by the portion of the dock that would be suspended over the vegetated hummock.

As discussed above, relocation of the existing boat barn facility would eliminate approximately 3,840 square feet of wetland fill. Thus, the displacement of two square feet of wetland habitat would be offset by eliminating a much larger amount of wetland fill.

Therefore, the Commission finds that the proposed project as conditioned would not result in a significant adverse impact to wetland habitat and no further mitigation is required.

(iv) Water Quality

(a) Construction and Material Impacts

The proposed project involves constructing a new boat dock in the Albion River estuary, including the installation of steel-cased concrete piles in submerged portions of the estuary. Potential adverse impacts to the water quality of the Albion River could occur during the construction process if hazardous materials, construction debris, or other pollutants were to enter coastal waters.

The use of certain kinds of wood preservatives commonly used to treat piles such as creosote, can lead to adverse impacts to water quality and biological productivity. Contaminants in the wood preservative can potentially leach out of the piles and into the water column where they can be absorbed by fish and other aquatic organisms with potentially adverse consequences. The applicant proposes to install 30 concrete steel-cased piles. The applicant has not proposed that the steel piles would be treated with an epoxy or other type of exterior treatment. Additionally, the applicant has indicated that none of the wood floats proposed to be relocated from the existing seasonal boat dock facility to the new permanent boat dock facility are comprised of creosote-treated materials. To ensure that the steel piles, or other structural elements of the proposed boat dock are not treated with a coating that could have potential adverse impacts to water quality and biological productivity, the Commission attaches Special Condition No. 5. This condition requires the applicant to submit, for the review and approval of the Executive Director, written evidence that any proposed pile coating or treatment is acceptable to the California Department of Fish & Game for use in marine waters. The condition further requires the applicant to use only the approved coating and prohibits

placement of creosote- treated piles, floats, or other materials in the waters of the Albion River.

The water quality of the Albion River could also be adversely affected by construction debris entering the water, or from the introduction of potentially hazardous materials, such as fuels and oils associated with construction equipment and concrete grout used for filling the steel piles. To ensure that adverse water quality impacts associated with project debris and construction equipment, Special Condition No. 1 imposes certain construction-related responsibilities. Most notably, these responsibilities require that (1) all construction materials and debris originating from the project shall be stored and/or contained in a manner to preclude their uncontrolled entry and dispersion to the waters of the Albion River or surrounding wetland habitat; (2) any fueling of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas; (3) hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call; and (4) catch basins shall be installed around each steel pile prior to pouring concrete in a manner that will prevent discharge of wet cement into coastal waters.

Additionally, Special Condition No. 2 requires a plan showing the location and limits of material stockpiling and equipment staging areas to demonstrate that material would not be stored and equipment would not be staged within environmentally sensitive habitat areas where debris or equipment-related fuel and oil could potentially enter coastal waters and wetlands.

Lastly, water quality of the Albion River estuary could be adversely affected by increased turbidity caused by the suspension of sediments during pile driving operations. In addition to potential adverse impacts from increased turbidity on aquatic plant productivity and fish habitat, sediment is the medium by which many other pollutants are delivered to aquatic environments, as many pollutants are chemically or physically associated with the sediment particles. The applicant proposes to conduct pile driving operations during low tide to minimize suspension of bottom sediments. Therefore, Special Condition No. 6(b) requires that all pile driving work within the Albion River be performed during low tide as proposed.

(b) Navigation Hazards

The proposed project involving construction of a new boat dock facility is located in the channel of the Albion River in an area used for navigation and recreational boating. The boat dock is proposed to be constructed in an area of open water, through which boats currently may pass freely.

According to the National Oceanic and Atmospheric Administration (NOAA), "*Over 98% of the nation's cargo is carried by waterborne transportation - a good portion consisting of hazardous cargo, posing a continuous threat to the environment*"[1]. Although cargo vessels do not frequently travel up the Albion River, the fuel all vessels carry is also hazardous to the marine environment. Should a vessel collide with the dock, there is potential for a spill of oil and other hazardous materials to the marine environment. A spill of oil or other hazardous materials could damage sensitive eelgrass habitat, as well as resident and migratory marine mammals and birds found in the area such as harbor seals and California Brown pelicans. Additionally, a spill of oil or other hazardous materials could adversely impact sensitive salmonid species and commercial and recreational fisheries in the area. Such an event would conflict with Sections 30230 and 30231 of the Coastal Act that set forth provisions for the protection of coastal water quality and biological productivity.

The Commission finds that the proposed new boat dock may pose a navigational hazard if boaters were unaware of its presence in the river and that updates to navigational information may be necessary. Recreational boaters and other mariners rely on updated charts and other nautical information to safely navigate. Using obsolete chart information may create dangerous situations for vessel operators. For example, if the recreational boat captain does not know, from using all of the currently available navigational information, that a new boat dock obstructs his or her intended path, he or she might, in heavy fog or other circumstances, guide the boat into a collision with the dock. If mariners are not properly notified of the development, the existence of the boat dock has the potential to create a navigational hazard.

The potential for vessel accidents and subsequent damage to the marine environment may be significantly reduced if both the U.S. Coast Guard and NOAA staffs are provided with information about the development, so they can evaluate it for inclusion in navigational databases, nautical charts and updated editions of the Coast Pilot 7 as necessary. The Commission therefore attaches Special Condition No. 16 that requires the applicant notify the U.S. Coast Guard and NOAA's Nautical Data Branch of the nature and location of the proposed boat dock within 30 days of its completion. The U.S. Coast Guard and NOAA staffs have indicated they will evaluate the information, and if additional information is needed, they will work directly with the permittee to obtain it.

Therefore, the Commission finds that the project as conditioned, includes all feasible mitigation measures to minimize all significant adverse impacts to water quality consistent with Sections 30230, 30231, and 30233 of the Coastal Act.

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[1] From National Oceanic and Atmospheric Administration website, http://chartmaker.ncd.noaa.gov/staff/charts/htm, accessed 5/18/01.

(v) Sensitive Fish Species

The Albion River supports federally-listed Northern California threatened steelhead (*Oncorhynchus mykiss*), Central California Coast threatened coho salmon (*Oncorhynchus kisutch*), California Coastal threatened Chinook salmon (*Oncorhynchus tshawytscha*), and designated and proposed critical habitat for these species.

The proposed project could potentially result in adverse impacts to sensitive fish species by increasing water turbidity through disturbance of bottom sediments during pile driving operations. Suspended sediments can impair salmonid prey and predator detection, reduce feeding opportunities, induce behavioral modifications, cause respiratory problems for fish, and smother incubating eggs or juvenile fish or spawning habitat. Therefore, the Commission attaches Special Condition No. 6(a) to limit all construction within the waters of the Albion River from June 1 to October 15 when spawning and migrating salmonids are least likely to be present in the river. Additionally, the applicant proposes to conduct pile driving operations during low tide to minimize suspension of bottom sediments. Therefore, Special Condition No. 6(b) requires that all pile driving work within the Albion River be performed during low tide as proposed.

In a letter from the Corps to the National Marine Fisheries Service (NMFS) dated December 11, 2006, the Corps initiated informal Section 7 consultation on federally-listed salmonids. The Corps concluded that the project may affect but is not likely to adversely affect steelhead, Coho and Chinook salmon, or critical habitat pursuant to Section 7(a) of the Endangered Species Act and requests in the letter, written concurrence on the determination within 30 days after receipt of the letter by NMFS. The letter further indicates that the proposed project qualifies for authorization under Department of the Army Letter of Permission and Nationwide Permits 18 for *Minor Discharges* and 25 for *Structural Discharges* pending completion of the consultation process. However, to date, there has been no response from NMFS to the Corps' request for consultation. Therefore, to ensure that the project ultimately approved by the Corps and the National Marine Fisheries Service is the same as the project authorized herein, the Commission attaches Special Condition Nos. 14 and 15 that require the applicant to submit to the Executive Director evidence of these agencies' approval of the project prior to the commencement of work. The conditions require that any project changes resulting from these other agency approvals not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

(vi) Freshwater Wetlands

The proposed project also involves removing the existing dilapidated boat barn located within an area of freshwater wetlands adjacent to the river. Following removal of the structure, the applicant proposes to restore the area to its natural condition by recontouring the landscaping and allowing the area to revegetate. Removal of the existing boat barn would restore approximately 3,840 square feet of freshwater habitat.

The demolition and removal of the existing boat barn would generate a significant amount of debris that if not properly disposed of, could result in debris and pollutants entering the adjacent wetlands. To ensure that debris is adequately disposed of in an approved location, the Commission attaches Special Condition No. 7 requiring the applicant to submit for the review and approval of the Executive Director, a plan for the disposal of construction-related debris. The plan must describe the manner by which the material would be removed from the construction site, identify all debris disposal sites that would be utilized and demonstrate that all disposal sites are in upland areas where construction-related debris from the project may be lawfully disposed. Additionally, Special Condition No. 2 requires the applicant to submit a plan, for the review and approval of the Executive Director, showing the location and limits of material stockpiling and equipment staging areas to demonstrate that material would not be stored and equipment would not be staged within environmentally sensitive habitat areas where debris or equipment-related fuel and oil could potentially enter the wetlands.

Removal of the existing boat barn in the wetlands would cause ground disturbance and exposed soil adjacent to freshwater wetland habitat and the unnamed creek. To minimize the potential for erosion and sedimentation of the adjacent environmentally sensitive habitat areas, the Commission attaches Special Condition No. 4. This condition requires the applicant to submit an erosion control plan for the review and approval of the Executive Director that provides for the implementation of erosion control measures including (1) installing straw bales and/or silt fencing adjacent to the unnamed creek and wetlands prior to removal of the boat barn, (2) covering all disturbed ground and exposed soil with rice straw immediately following removal of the boat barn and recontouring of the site, and (3) covering and containing all on-site construction stockpiles.

The proposed project also involves removing (1) a 12” x 20’ culvert installed in wetland habitat without benefit of a coastal development permit, and (2) an old cement boat placed in the channel of the unnamed creek by a previous property owner. Removal of these structures would return approximately 120 square feet of wetland habitat to its natural condition in a manner that would restore these environmentally sensitive habitat areas to a more natural condition.

Therefore, the Commission finds that the project as conditioned, includes all feasible mitigation measures to minimize all significant adverse impacts to sensitive fish species consistent with Section 30233 of the Coastal Act.

(d) Maintenance and Enhancement of Marine Habitat Values

The fourth general limitation set by Sections 30231 and 30233 is that any proposed dredging or filling in coastal wetlands must maintain and enhance the biological productivity and functional capacity of the habitat, where feasible.

As discussed above in the section of this finding on mitigation, the conditions of the permit would ensure that the project will not have significant adverse impacts on wetland habitats, sensitive fish species, or water quality and thus, would not adversely affect the biological productivity and functional capacity of coastal waters, wetlands, or estuarine habitat. The Commission finds that the project, as conditioned, would maintain the biological productivity and functional capacity of the habitat consistent with the requirements of Sections 30231 and 30233 of the Coastal Act.

(e) Conclusion

The Commission thus finds that the project is an allowable use, that there is no feasible less environmentally damaging alternative, that feasible mitigation is required for potential impacts associated with the filling of coastal waters and wetlands, and that marine habitat values will be maintained or enhanced. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Sections 30230, 30231 and 30233 of the Coastal Act.

4. Protection of Environmentally Sensitive Riparian Habitat Areas

Section 30240 of the Coastal Act states:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Coastal Act Section 30107.7 defines "environmentally sensitive area as meaning:

> *…any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30240(b) states that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas. The proposed project involves development adjacent to freshwater wetland and riparian ESHA including (1) installation of a bridge crossing, and (2) construction of a new boat barn.

(1) Installation of a Bridge Crossing

The proposed project involves installing a permanent bridge over an unnamed creek that drains the east-west oriented valley and runs adjacent to the east side of campus and empties into the Albion River. A bridge over the creek is necessary to provide foot and vehicle access to the eastern side of the property and the proposed boat dock, as the property is effectively bisected by the creek. The proposed permanent bridge would be approximately 50-feet-long and 30 feet wide and would fully span the creek. The creek in this location is very narrow, approximately four feet wide, and the area of the proposed bridge approaches on either side is devoid of riparian vegetation. The bridge is designed to provide a minimum five feet of clearance between the water surface and the bottom of the bridge such that channel flow, wildlife migration, and vegetation growth would not be impeded. Given the absence of riparian vegetation at the proposed bridge location and its proposed design to fully span the creek without any portion of the structure being located within the channel, the bridge would not involve the placement of any fill or construction within the environmentally sensitive habitat. Due to the height of the bridge over the creek, no significant cover or shading of aquatic habitat would result from construction of the bridge. The proposed permanent bridge would effectively avoid any significant adverse impact to riparian ESHA.

Therefore, the Commission finds that the proposed installation of a permanent bridge crossing over the unnamed creek is consistent with the use limitations of Section 30240 of the Coastal Act regarding development adjacent to ESHAs.

(2) Construction of a New Boat Barn

The proposed project also involves the construction of a new boat barn adjacent to the unnamed creek and freshwater wetland habitat. As discussed above, the existing dilapidated boat barn located within the wetlands would be removed and the habitat would be returned to its natural condition. The proposed site for the relocated boat barn is approximately 45 feet further away from the Albion River in an upland area adjacent to existing campus buildings currently used for overflow boat and vehicle parking. The new proposed boat barn would be sited approximately 75 feet from the edge of the Albion River, 30 feet from the edge of the unnamed creek, and 15 feet from the wetland habitat at the closest northwest corner of the building.

Potential sites for relocating the boat barn are limited due to the presence of extensive wetland habitat along and adjacent to the Albion River. The new boat barn has been sited as far from the river and wetlands as possible while still providing adequate space to store boats and gear and to facilitate maneuvering boats in and out of the barn to meet the needs of the Albion Field Station programs.

Although the proposed relocation of the boat barn would not provide a buffer of a width typically required for development adjacent to ESHA, the College originally considered

repairing the existing barn in its existing location within the wetland ESHA. However, based on guidance from Commission staff and staff from the Department of Fish & Game, the applicant agreed to relocate the barn out of the wetland ESHA, thereby improving the overall protection and continuance of the wetland habitat. In this case, the proposed project would improve the overall protection of the ESHA by removing the existing structure from the wetlands, thereby returning approximately 3,840 square feet to functioning wetland habitat. Additionally, the new boat barn would be located 45 feet further away from the edge of the river and approximately 10 feet further away from the edge of the creek than the existing barn. As the boat barn proposed to be removed has existed at the site for many years and until its recent destruction by winter storms had been used by the College for boat and gear storage, the proposed new boat barn, located 15 feet from the wetland habitat, will not significantly degrade, or create a new disturbance to, wildlife or adjacent habitat and will be compatible with the continuance of those habitat areas. The new boat barn would create similar noise, visual, and other disturbance to the habitat that the existing barn has caused only as a reduced level due to its location out of the wetland.

The demolition and removal of the existing boat barn would generate a significant amount of debris that if not properly disposed of could result in debris and pollutants entering the adjacent wetlands. To ensure that debris is adequately disposed of in an approved location, the Commission attaches Special Condition No. 7 requiring the applicant to submit for the review and approval of the Executive Director, a plan for the disposal of construction-related debris. The plan must describe the manner by which the material would be removed from the construction site, identify all debris disposal sites that would be utilized and demonstrate that all disposal sites are in upland areas where construction-related debris from the project may be lawfully disposed. Additionally, Special Condition No. 2 requires the applicant to submit a plan, for the review and approval of the Executive Director, showing the location and limits of material stockpiling and equipment staging areas to demonstrate that material would not be stored and equipment would not be staged within environmentally sensitive habitat areas where debris or equipment-related fuel and oil could potentially enter coastal waters and wetlands.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent wetland habitat, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of those habitat areas. Therefore, the Commission finds that the project as conditioned is consistent with Section 30240 of the Coastal Act.

Therefore, the Commission finds that the environmentally sensitive habitat areas adjacent to the proposed development would be sited and designed to prevent impacts that would significantly degrade adjacent environmentally sensitive areas, and would be compatible with the continuance of those habitat areas. Therefore, the Commission finds that the

proposed development, as conditioned, is consistent with Section 30240(b) of the Coastal Act.

5. Flood Hazard

Section 30253 of the Coastal Act states in applicable part:

> *New development shall:*
>
> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

Coastal Act Section 30253 requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard. The primary natural hazard affecting development of the subject property is flooding.

A hydrology and flood hazard study was prepared for the proposed project by I.L. Welty & Associates dated February 2006. The study was conducted to determine the necessary elevation above mean sea level for the proposed boat dock to avoid damage from a 100-year flood event. The flood hazard report indicates that based on discussions with the Federal Emergency Management Agency (FEMA), an analysis that adds the 100-year flood flow data on top of a zero tide is appropriate for this location. Based on a survey of the river bottom and application of the 100-year flood data, the required elevation was determined to be 6.0 feet above mean sea level. The flood hazard report indicates that a safety factor of 3.5 additional feet of tidal effect was added to the 100-year flood data and the proposed boat docking facility was designed to provide an elevation of 9.5 feet above sea level. Therefore, the proposed project has been designed to minimize risks to life and property from flood hazards.

Although the project has been designed to minimize risks from flooding, the project site is inherently subject to flooding hazards. Thus, the Commission attaches Special Condition No. 11 that requires the landowner to assume the risks of flooding hazards to the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite flooding risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, Special Condition No. 18 requires the applicant to record a deed restriction to impose the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. This special condition is required, in part, to ensure that the development is consistent with the Coastal Act and to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance

agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a protective device could be constructed to protect the approved development and will ensure that future owners of the property will be informed of the Commission's immunity from liability, and the indemnity afforded the Commission.

Therefore, as conditioned, the project would minimize risks to life and property from flood hazards consistent with Section 30253 of the Coastal Act.

6. Public Access

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions.

Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety.

In applying these policies, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential public access.

As discussed above, the proposed project involves improvements to the Albion Field Station including the construction of a new boat dock for use by the Pacific Union College, a private educational institution. The boating facility would be used exclusively by students, faculty, and guests associated with educational programs offered by the College.

The proposed new boat dock would not interfere with kayak, canoe, or other boat traffic on the river, as the dock has been sited such that it would not extend into the river in a manner that would obstruct the navigable channel. The proposed project would not change the nature or intensity of use of the site, and thus would not create any new demand for public access or otherwise create any additional burdens on public access. Furthermore, there are no public trails or other public roads that provide shoreline access within the vicinity of the project. Although the proposed dock would not be made available for use by the general public, there are several public boating facilities in the

immediate vicinity including the Albion River Campground located directly downriver from the site and at a public marina located approximately ¼ mile upriver from the site.

The Commission finds that the proposed project could interfere with boating during construction if the placement of booms, construction materials, or use of overhead pile driving equipment extending from the shoreline is not adequately controlled. Therefore, to ensure that adequate boat access is provided during construction of the project, the Commission attaches Special Condition No. 9 which requires that at all times during project construction, a passage at least 50 feet wide in the mean lower low water (MLLW) channel of the Albion River be kept clear of all obstructions including floating and submerged structures, equipment, and suspended overhead hazards to allow for continued access through the project area by boats and recreational water craft. The condition also requires that the passage be clearly marked with floating buoys.

Therefore, the Commission finds that the proposed project as conditioned, does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

7. Visual Resources

Coastal Act Section 30251 requires permitted development to be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

The project site is within an area designated as "highly scenic" by the Mendocino County LCP. The site is visible to motorists crossing the Albion River Bridge (Highway One). The view of the area is characterized by the wood trestle bridge itself, the steep forested valley walls extending up the Albion River estuary, and the quaint hillside village of Albion. The site is also visible to boaters from along the river. As the project site is located on the east side of Highway One, the proposed project would not obstruct any views to or along the ocean afforded on the west side of the highway.

Currently, the existing boat barn is prominent in the viewshed as seen from Highway One, from the visitor-serving facilities located at Albion Flat, and from the river itself because of its dilapidated condition supported with orange construction fencing that contrasts starkly with the natural setting. The proposed new boat barn would be larger and taller than the existing boat barn proposed to be removed to adequately support the Albion Field Station programs. However, the new boat barn would be located approximately 45 feet further away from the edge of the river and closer to the developed area of the college campus in a manner that would cause it to be less visible from Highway One and other public vantage points than the existing boat barn. Furthermore, the new boat barn is proposed to be constructed of natural materials including weathered

cedar or redwood siding that would blend with the natural surroundings and be consistent with the materials of other surrounding structures on the campus.

Similarly, the proposed new boat dock would be visible from the highway and from the river itself. The proposed new permanent boat dock would replace the existing seasonal boat docking facility historically used by the College. The new boat dock would be located further upriver and thus further out of the viewshed as seen from Highway One. A boat dock is a form of development one expects to see along a coastal waterway and would be compatible with the character of surrounding development and would not result in significant adverse impacts to the scenic coastal area. The proposed project as sited and designed would also not result in the alteration of natural landforms. The project does not involve any significant grading and would not alter the shape and form of the hillsides, riverbank, or adjacent floodplain areas.

The applicant has identified a building envelope and proposed that the new boat barn would be a maximum of 110' x 60' with a maximum height of 35 feet. However, final design plans for the building have not yet been prepared. The final design of the building would be determined by the designing engineer based on the dimensions necessary to best accommodate the required boat storage and ingress and egress of the site given the ESHA constraints discussed above. The site is planned and zoned Fishing Village (FV) in the Mendocino LCP, which allows a maximum building height of 35 feet consistent with the proposed maximum height of the building. To ensure that the proposed boat barn is sited and designed in a manner that would avoid significant adverse impacts to visual resources, the Commission attaches Special Condition No. 8. This condition requires the applicant to submit for the review and approval of the Executive Director, final plans for the construction of the boat barn demonstrating that (1) the building is sited within, and no larger than, the 110' x 60' proposed building footprint and shall not exceed 35-feet-high; (2) all exterior siding, trim, and roofing of the proposed structure is composed of natural materials of earth tone colors as proposed in the application, including weathered cedar or redwood siding; (3) all exterior materials, including roof and windows, are comprised of non-reflective materials to minimize glare; and (4) all exterior lights, including any lights attached to the outside of the building, are the minimum necessary for the safe ingress and egress of the structure, and are low-wattage, non-reflective, shielded, and have a directional cast downward. Any deviation from the approved final plans, including but not limited to, a change in the siding materials of the boat barn would require an amendment to the permit, unless the Executive Director determines that no amendment is legally required. This condition will ensure that the Commission can review any changes to the project for conformance with Section 30251.

Therefore, the Commission finds that the proposed development, as conditioned, will protect views to and along the ocean and scenic coastal areas, minimize the alteration of landforms, and be compatible with the character of the surrounding area consistent with Section 30251 of the Coastal Act.

8. Archaeological and Cultural Resources

Coastal Act Section 30244 provides protection of archaeological and paleontological resources and requires reasonable mitigation where development would adversely impact such resources. The Albion River and surrounding area is located within the ethnographic territory of the Northern Pomo indigenous tribe.

The applicant submitted a cultural resources study of the project area prepared by a professional archaeologist dated January 2005. According to the report, the purpose of the investigation was to (1) acquire background information, (2) conduct a field survey to identify any archaeological and historical resources at the subject property, and (3) prepare recommendations for regarding resource findings.

The report concludes that the field survey resulted in the recordation of a single archaeological resource. Additionally, two concentrated deposits of artifacts dating between the 1890s and 1930s were observed. The report indicates that buildings at the site are all modern structures that do not qualify as historical resources. The report further states,

> *"It is likely both loci with observed archaeological deposits can be protected by avoiding development in those locations, keeping their locations confidential to deter looting, and retaining vegetative cover to maintain the invisibility of [one of the two features]."*

The report further recommends that in the event that previously unidentified cultural resources are encountered during development of the property, work in the immediate vicinity of the find(s) should be temporarily suspended until a qualified professional archaeologist can examine the evidence and determine a suitable course of action in consultation with the owner and regulatory officials with jurisdiction over project activities.

Therefore, to ensure protection of any cultural resources that may be discovered at the site during construction of the proposed project, and to implement the recommendation of the archaeologist, the Commission attaches Special Condition No. 10. Special Condition No. 10 requires the applicant to comply with all recommendations and mitigation measures contained in the Cultural Resources Study prepared for the project by Thad M. Van Buren, Registered Professional Archaeologist, dated January 19, 2005. The condition further requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section Coastal Act Section 30244, as the development will not adversely impact archaeological resources.

9. State Lands Commission Approval

The project site is located in an area subject to the public trust. Therefore, to ensure that the applicant has the necessary authority to undertake all aspects of the project on these public lands, the Commission attaches Special Condition No. 12, which requires that the project be reviewed, and where necessary approved, by the State Lands Commission prior to the commencement of construction.

10. Army Corps of Engineers Approval

The project requires review and approval by the U.S. Army Corps of Engineers (Corps). Pursuant to the Federal Coastal Zone Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the U.S. Army Corps of Engineers, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification for the project or approves a permit.

In a letter from the Corps to the National Marine Fisheries Service (NMFS) dated December 11, 2006, the Corps initiated informal Section 7 consultation on federally-listed salmonids. The Corps concluded that the project may affect but is not likely to adversely affect steelhead, Coho and Chinook salmon, or critical habitat pursuant to Section 7(a) of the Endangered Species Act and requests in the letter, written concurrence on the determination within 30 days after receipt of the letter by NMFS. The letter further indicates that the proposed project qualifies for authorization under Department of the Army Letter of Permission and Nationwide Permits 18 for *Minor Discharges* and 25 for *Structural Discharges* pending completion of the consultation process. However, NMFS has not provided written concurrence regarding the Corps' request for consultation to date. Therefore, to ensure that the project ultimately approved by the Corps and the National Marine Fisheries Service is the same as the project authorized herein, the Commission attaches Special Condition No. 14 and Special Condition No. 15 that require the applicant to submit to the Executive Director evidence of these agencies' approval of the project prior to the commencement of work. The conditions require that any project changes resulting from these other agency approvals not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

11. Department of Fish and Game Approval

The project also requires approval by the Department of Fish and Game (DFG). The applicant obtained a letter from DFG dated November 28, 2006 in response to the applicant's Notification of Lake or Streambed Alteration (Notification No. 1600-2006-0238-3) in which the DFG indicates that due to staffing constraints, the DFG was unable to meet the required date for submitting a Lake or Streambed Alteration Agreement to the applicant. As a result, the letter indicates that the applicant may complete the project described in the notification without an agreement. However, DFG indicates that the project must be the same as described in the notification. As the proposed project has changed somewhat since the applicant submitted the notification to DFG, (e.g., the project involves installation of a bridge rather than a culvert at the unnamed creek), the Commission attaches Special Condition No. 13 that requires the applicant to submit to the Executive Director evidence of DFG approval of the project as revised from the notification referred to in DFG's letter dated November 28, 2006, or evidence that no further approval is required. The condition requires that any project changes resulting from DFG approval not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

12. Violation

Although certain development has taken place at the project site without benefit of a coastal development permit, including the installation of a culvert in wetlands, the placement of a concrete boat in the unnamed creek, and the seasonal installation of a boat dock on a recurring basis, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal development permit.

13. California Environmental Quality Act

Section 13906 of the Commission's administrative regulation requires Coastal Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. Those findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior

to preparation of the staff report. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Site Plan
4. Photo Overview of Albion Field Station
5. Photos of Existing & Proposed Boat Dock
6. Photos of Existing Dilapidated Boat Barn & Proposed Bridge Site
7. Photos of Existing & Proposed Boat Barn
8. Photo of Existing Concrete Boat
9. Boat Dock Engineered Plans

APPENDIX A

STANDARD CONDITIONS:

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

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

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

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

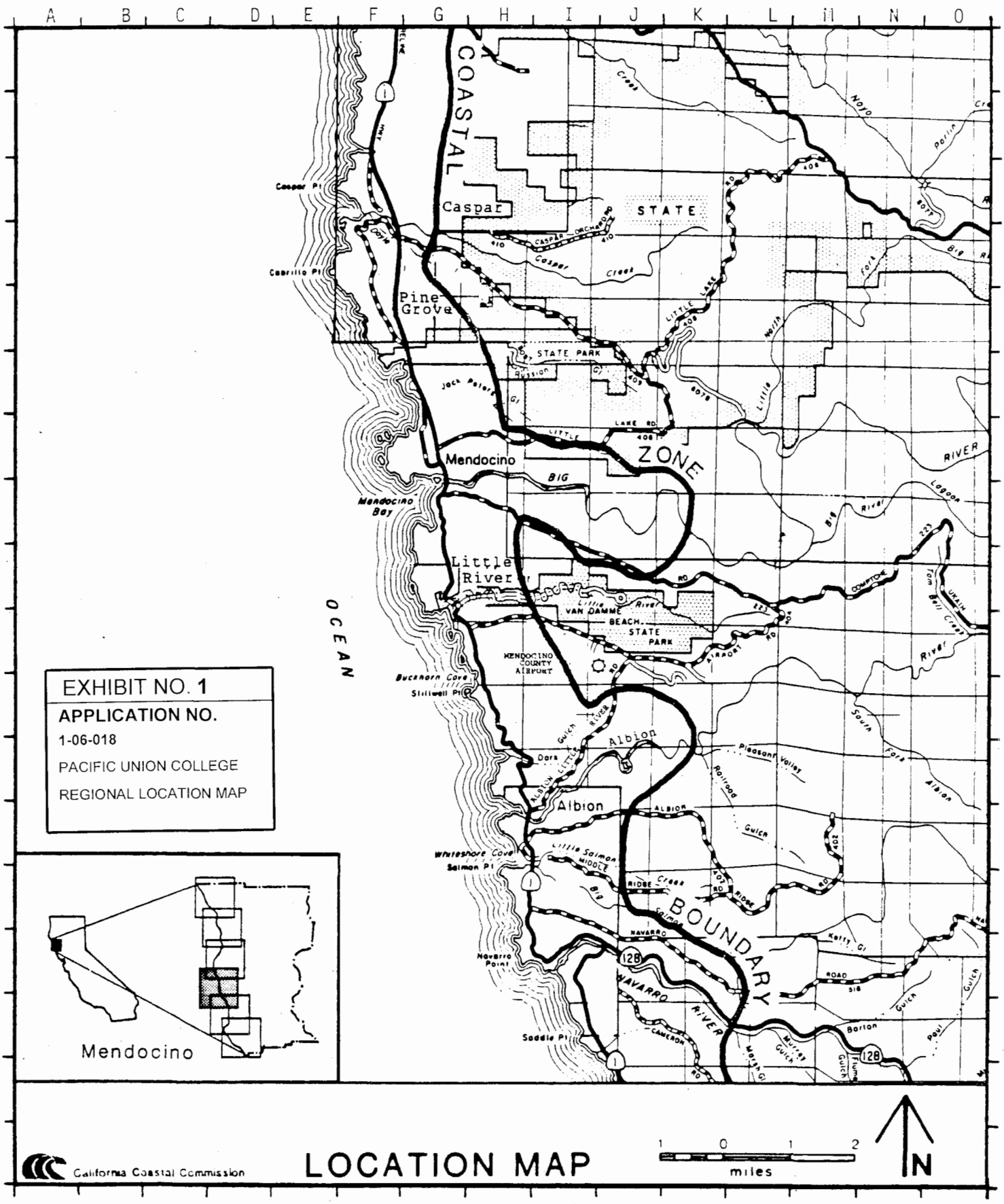


EXHIBIT NO. 1

APPLICATION NO.

1-06-018

PACIFIC UNION COLLEGE

REGIONAL LOCATION MAP

California Coastal Commission

LOCATION MAP

County of Mendocino

Sheet 4 of 6

Project Location

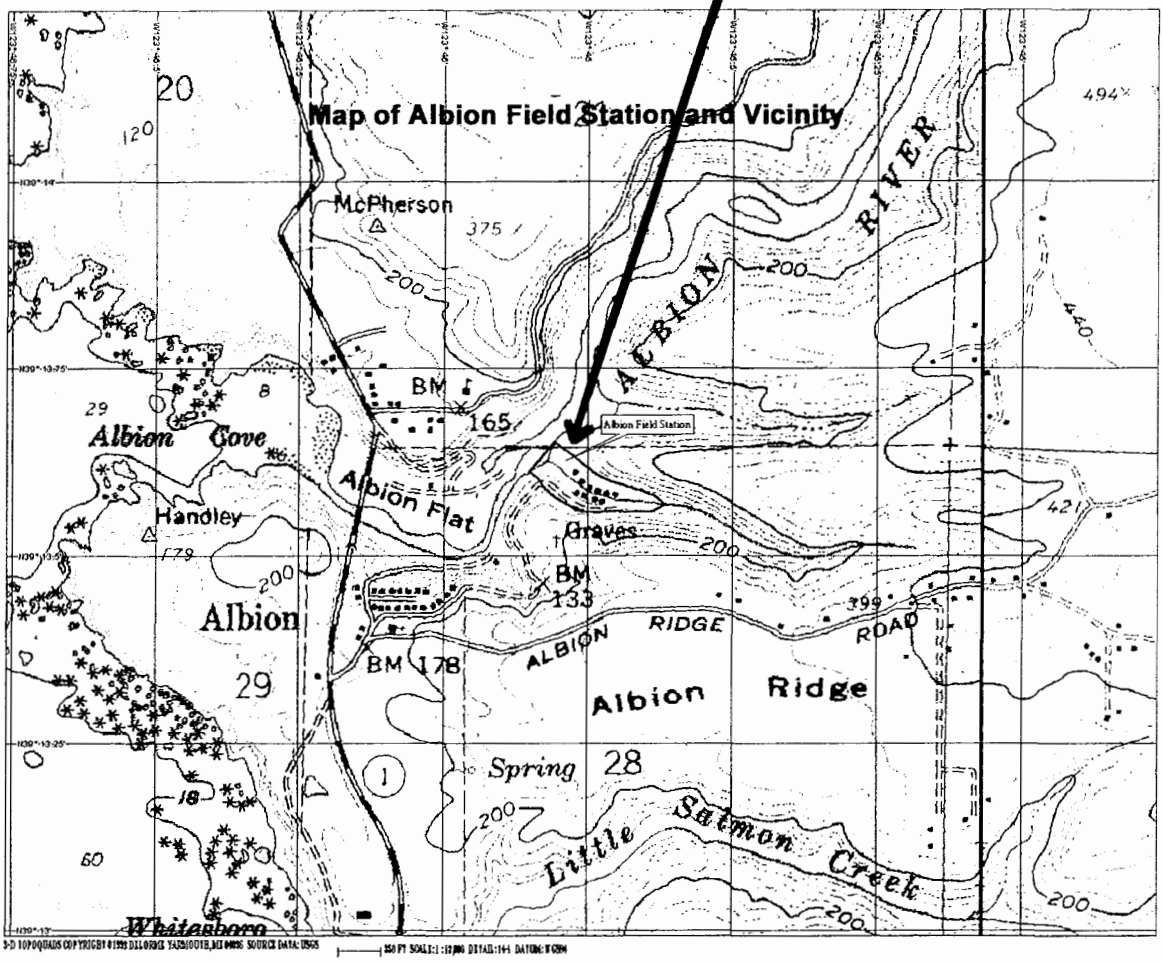


EXHIBIT NO. **2**

APPLICATION NO.

1-06-018

PACIFIC UNION COLLEGE

VICINITY MAP

Plot of Proposed Boat Barn and Boat Docking Facility

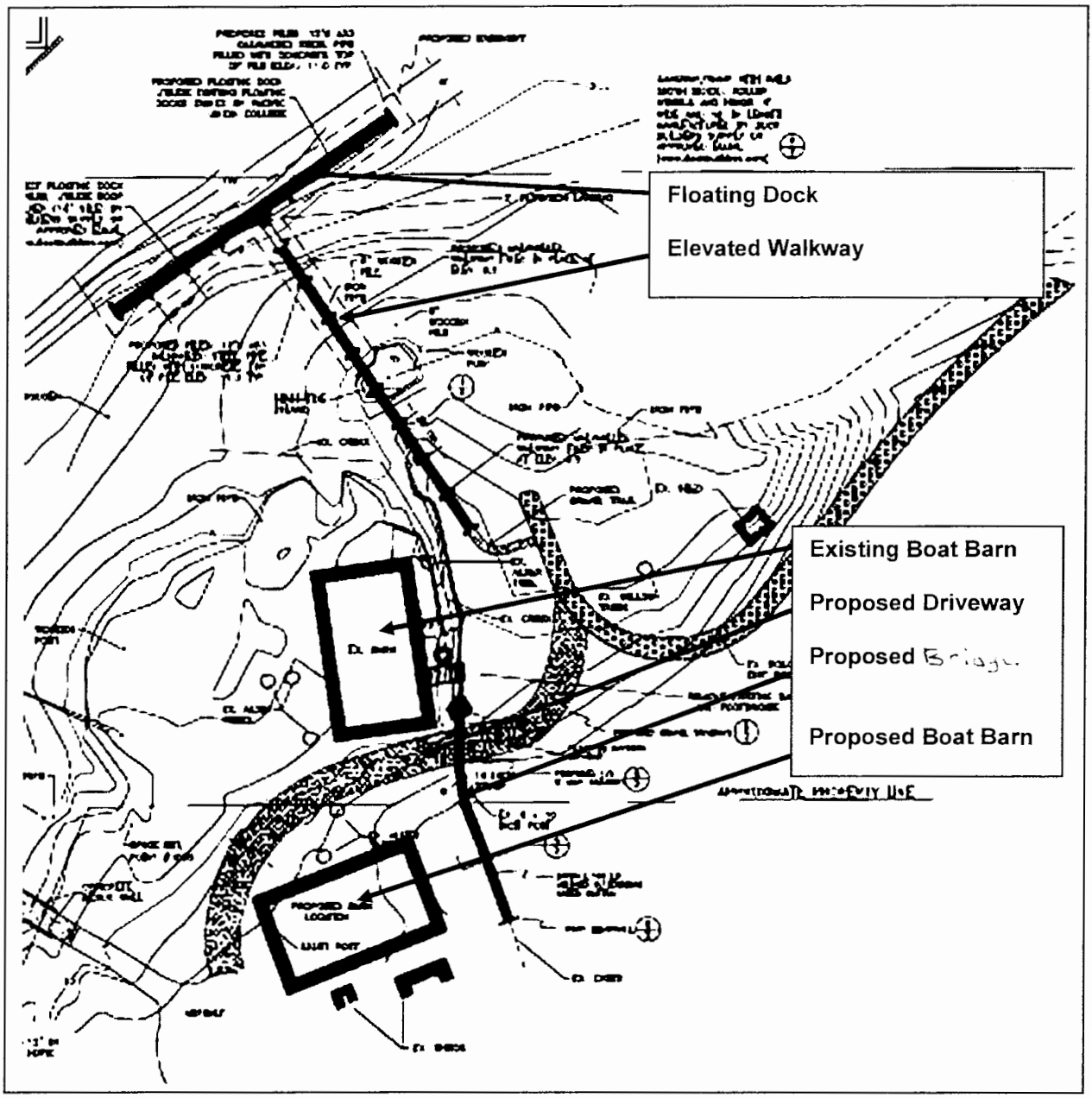


EXHIBIT NO. 3
APPLICATION NO.
1-06-018
PACIFIC UNION COLLEGE
SITE PLAN

Albion Field Station

Albion Field Station

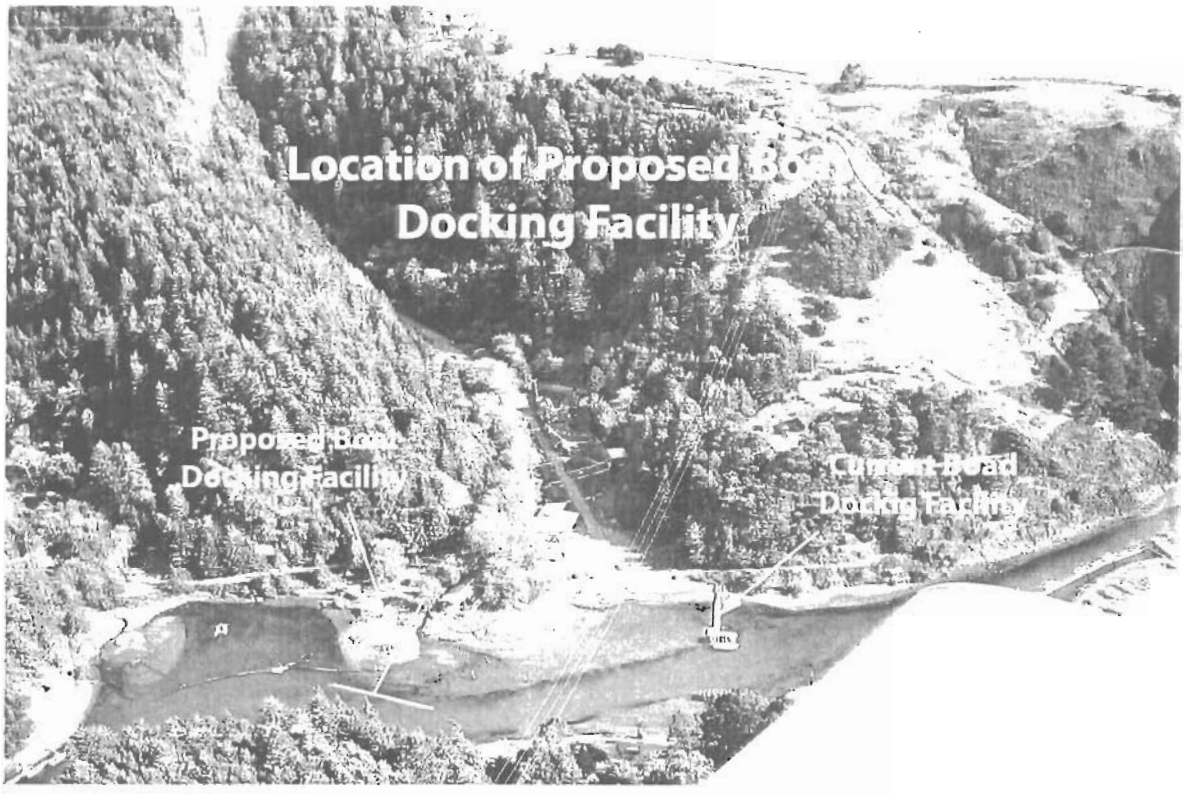
EXHIBIT NO. **4**

APPLICATION NO.

1-06-018

PACIFIC UNION COLLEGE

PHOTO OVERVIEW OF ALBION FIELD STATION



Existing Boat Docking Facility Photos

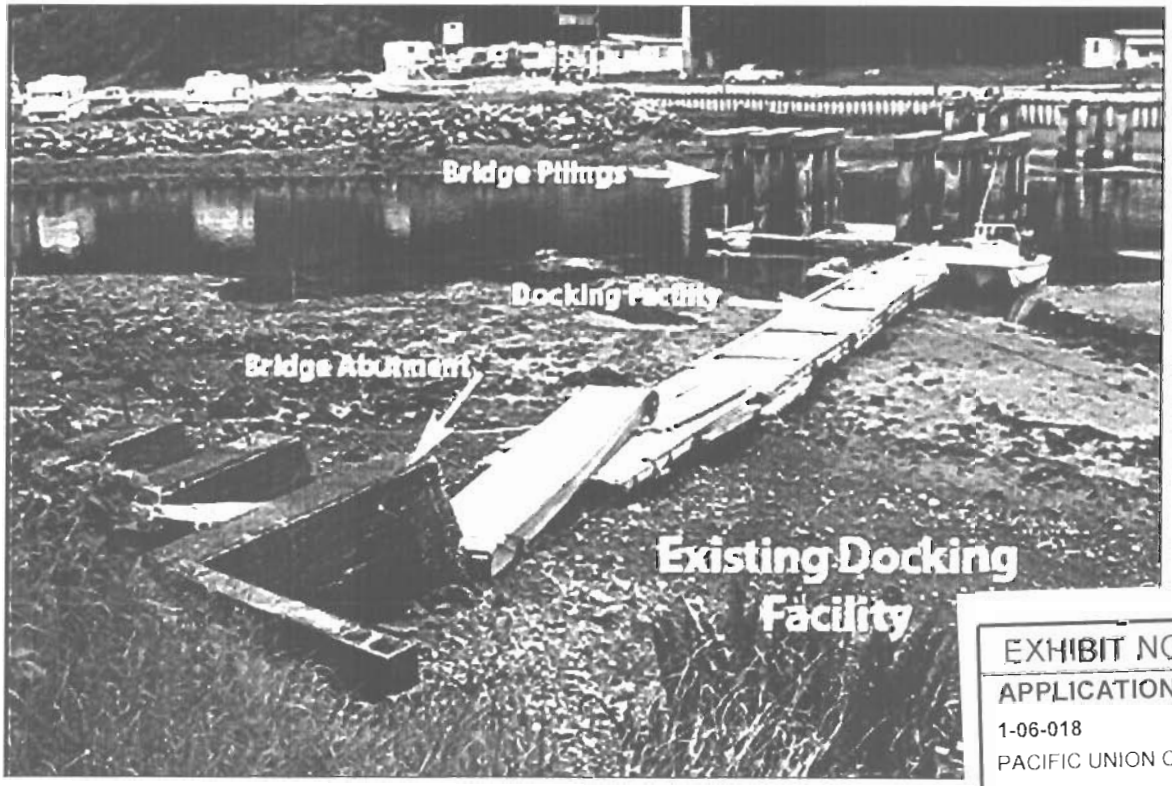
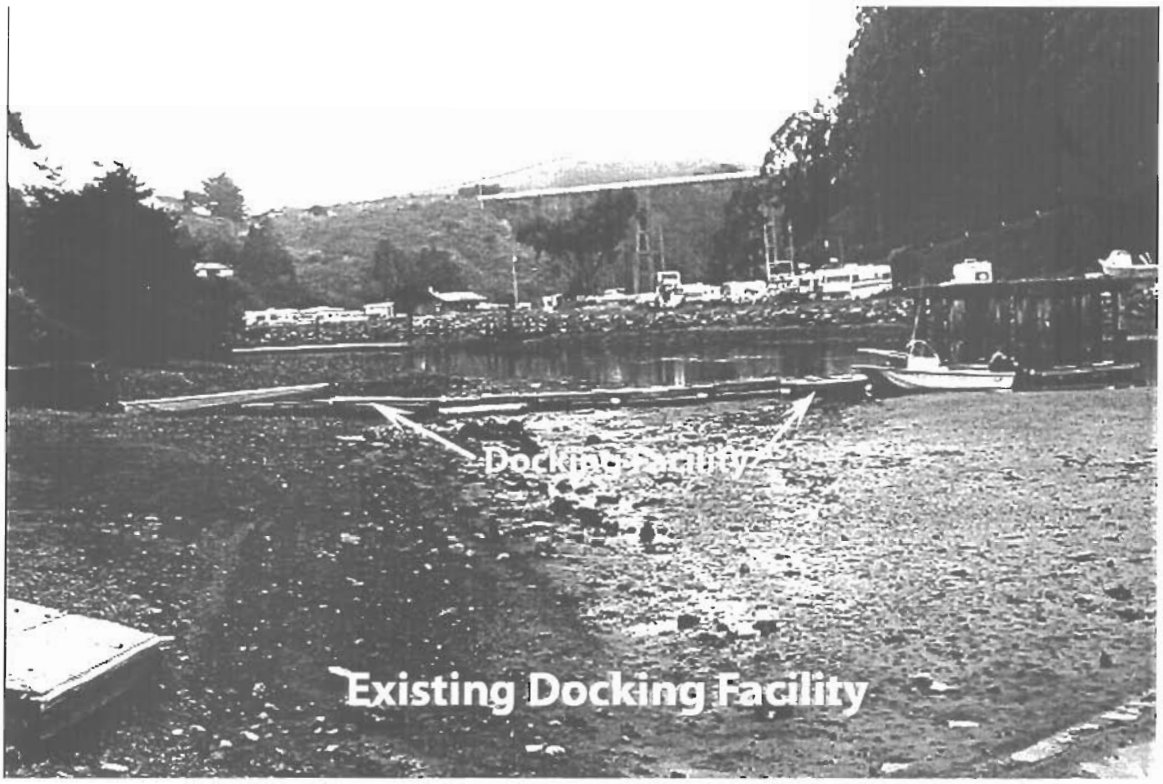
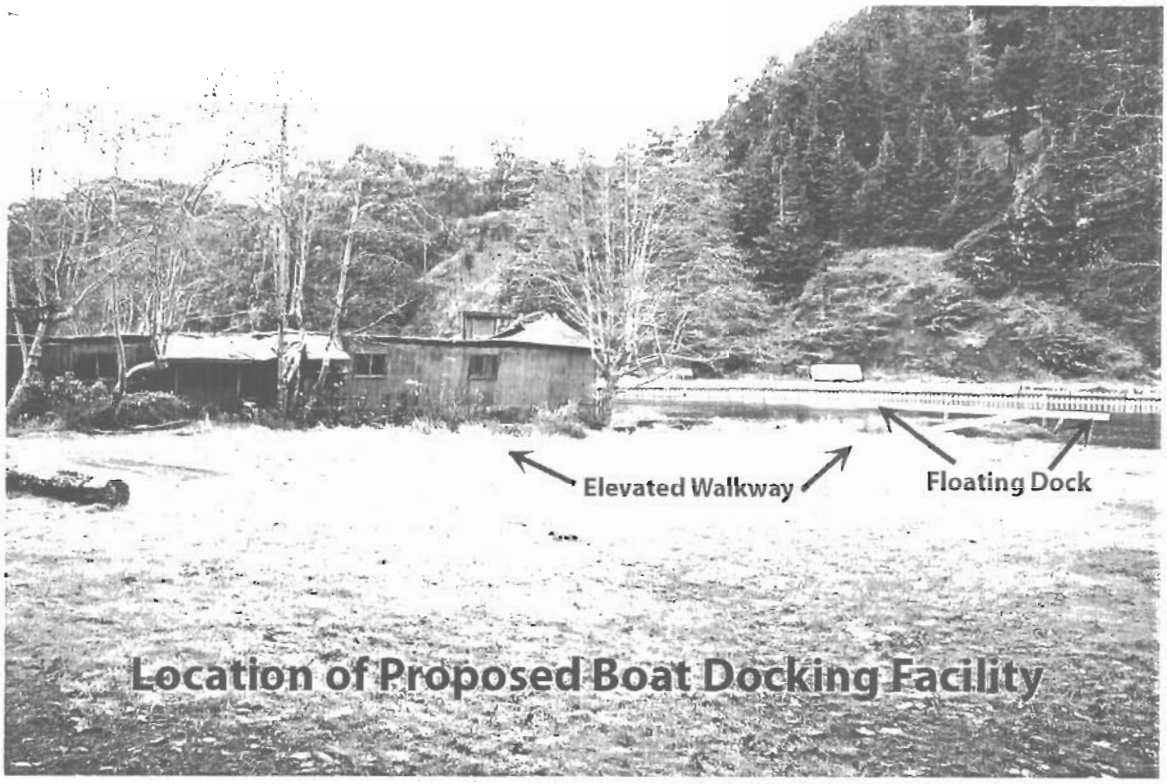


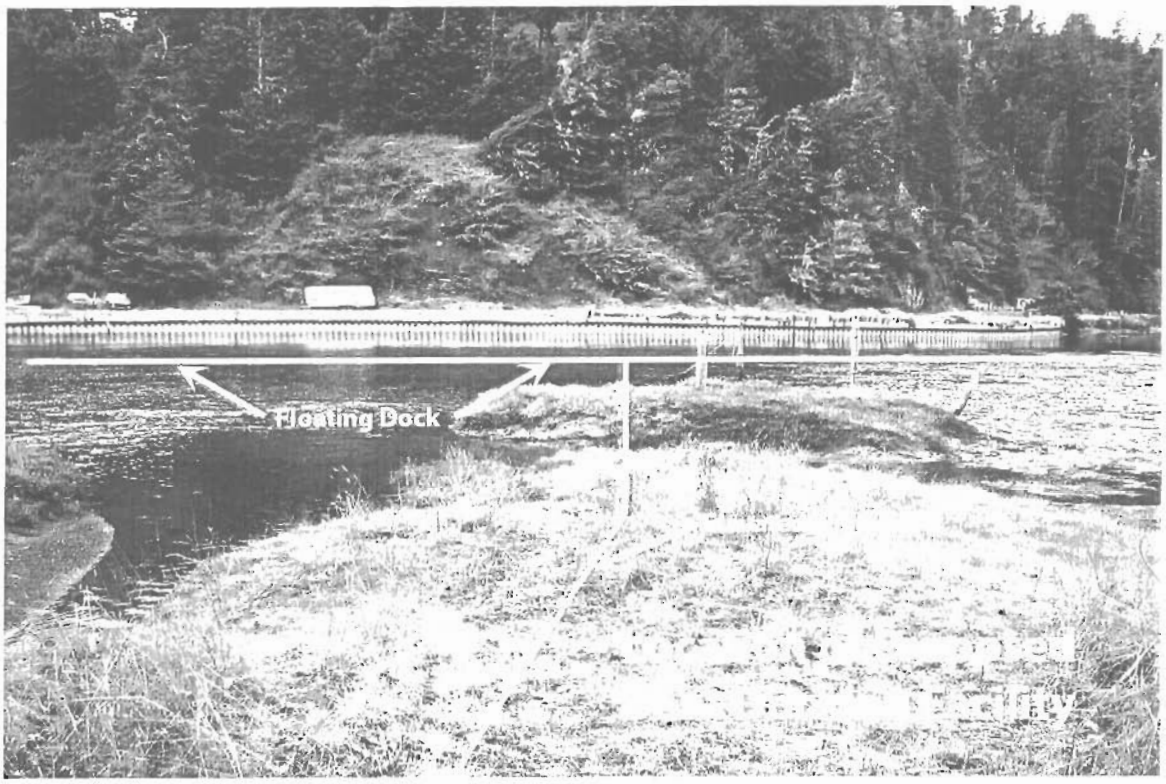
EXHIBIT NO. 5
APPLICATION NO.
1-06-018
PACIFIC UNION COLLEGE
PHOTOS OF EXISTING & PROPOSED BOAT DOCK
(1 of 4)


Existing Docking Facility


Old Bridge Pilings

Location of Proposed Boat Docking Facility Photos




Floating Dock

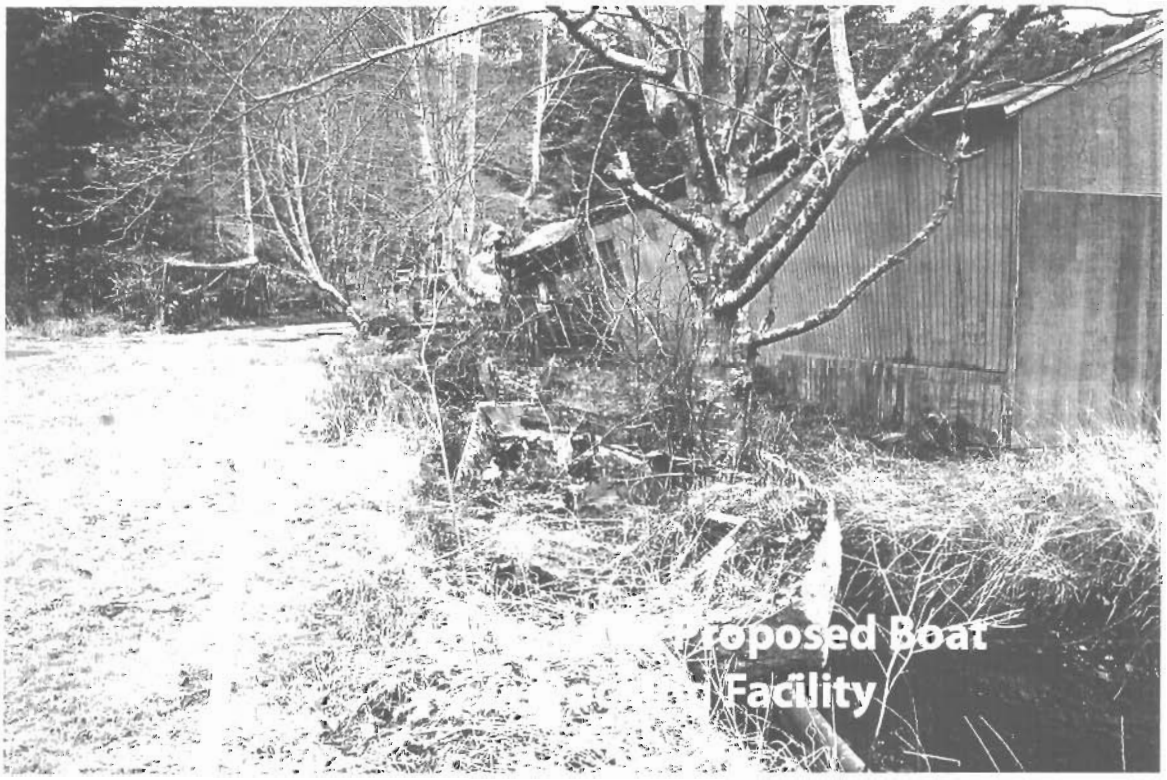

Proposed Boat
Facility

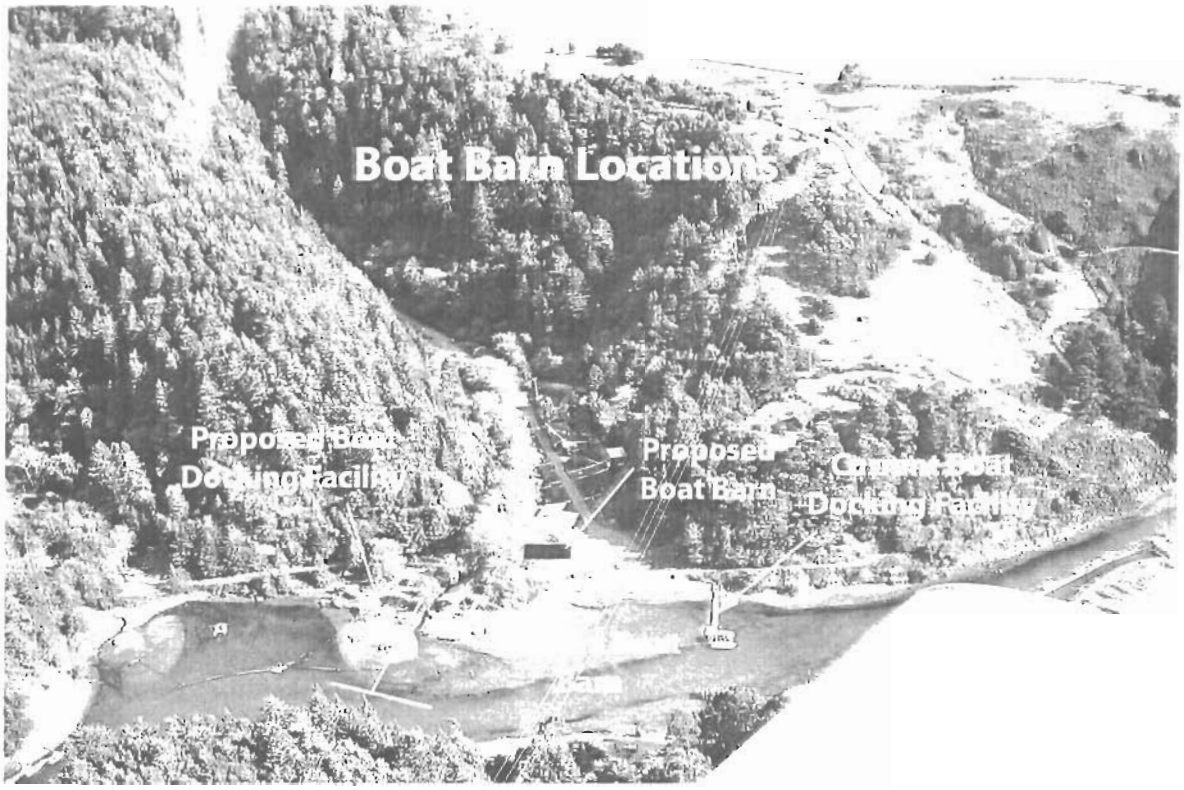
EXHIBIT NO. 6

APPLICATION NO.

1-06-018

PACIFIC UNION COLLEGE

PHOTOS OF EXISTING BOAT DOCK & PROPOSED BRIDGE SITE



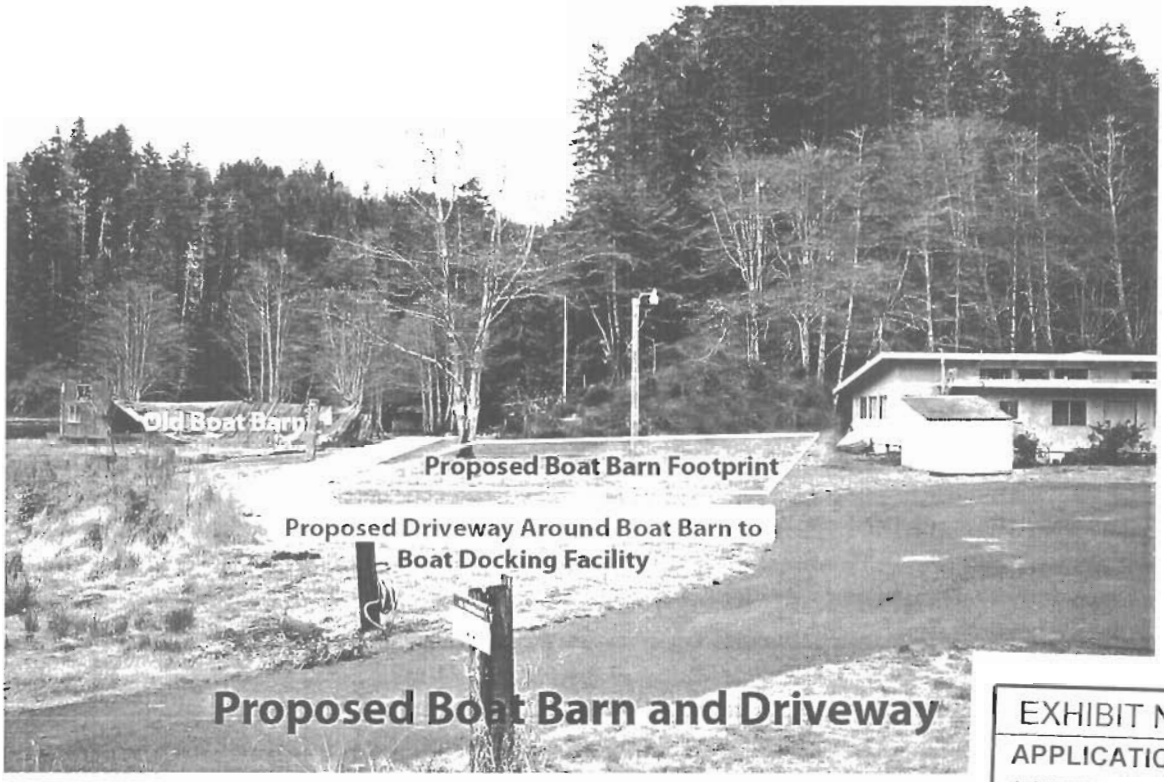


EXHIBIT NO. 7
APPLICATION NO.
1-06-018
PACIFIC UNION COLLEGE
PHOTOS OF EXISTING & PROPOSED BOAT BARN

EXHIBIT NO. 8
APPLICATION NO.
1-06-018
PACIFIC UNION COLLEGE
PHOTO OF EXISTING CONCRETE BOAT

Engineered Details of Boat Docking Facility

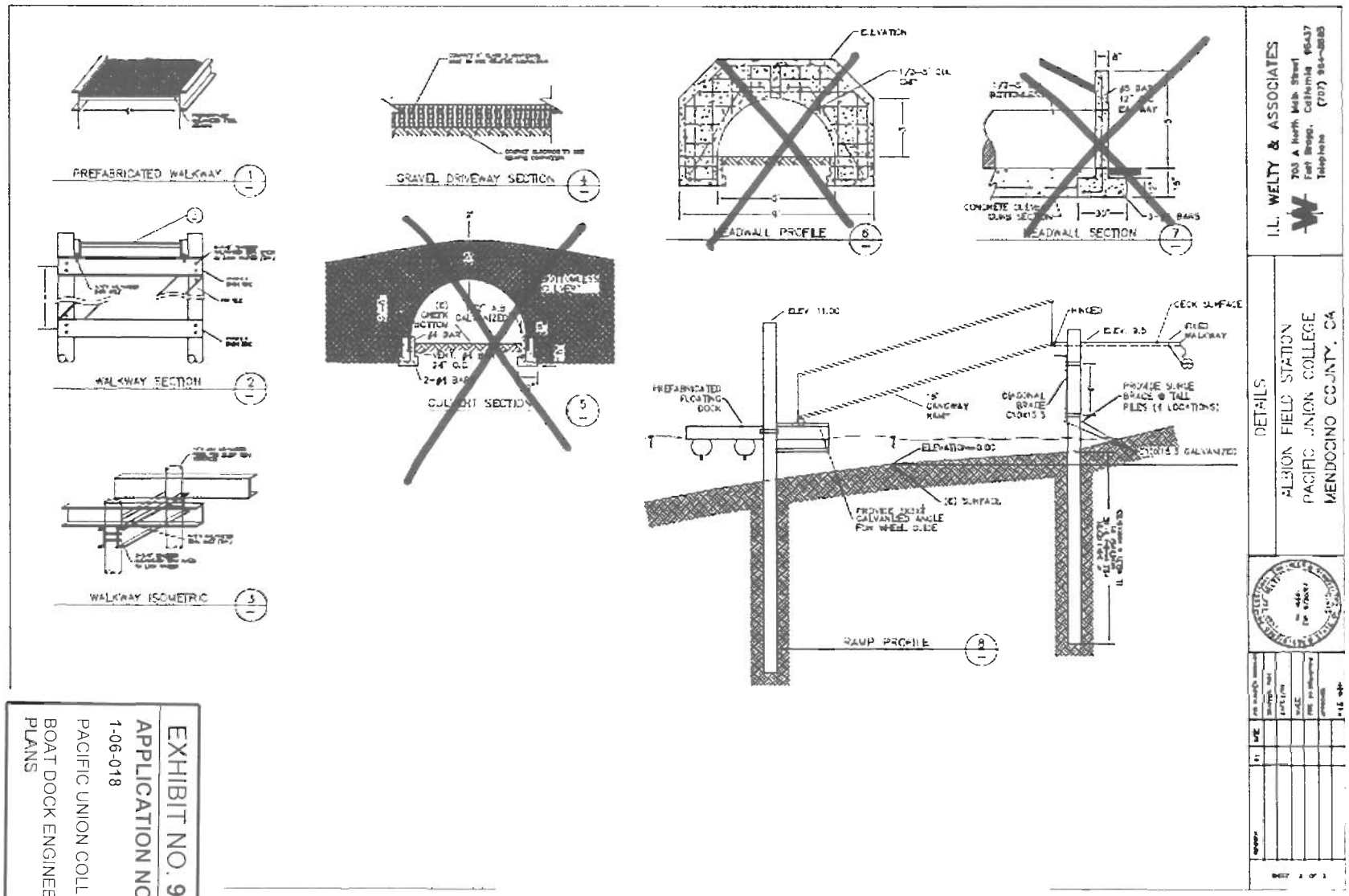


EXHIBIT NO. 9
APPLICATION NO.
1-06-018
PACIFIC UNION COLLEGE
BOAT DOCK ENGINEERED PLANS