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Hearing Date: September 7, 2007
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:	**1-07-009**
APPLICANT:	**Humboldt Bay Harbor, Recreation, & Conservation District**
PROJECT LOCATION:	Foot of South Bay Depot Road, Fields Landing Marine Terminal, Humboldt County, APN 307-101-02.
PROJECT DESCRIPTION:	(1) Demolish, remove, and dispose of the remnants of a storm-damaged shipping pier including approximately 45,000 square feet of timber deck planks, pilings, and pile caps; (2) remove and dispose of stockpiled pier debris which was previously demolished under emergency provisions following severe winter storms of 2005-2006; and (3) remove and dispose of an abandoned spud barge.
GENERAL PLAN DESIGNATION:	MC – Coastal Dependent Industrial
ZONING DESIGNATION:	MC – Coastal Dependent Industrial
LOCAL APPROVALS RECEIVED:	None Required
OTHER APPROVALS:	U.S. Army Corps of Engineers CWA Section 404 Permit (Pending)
SUBSTANTIVE FILE DOCUMENTS:	1) Emergency Permit No. 1-06-001-G

2) Humboldt County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with conditions of the coastal development permit application for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the Coastal Act.

The proposed project involves the demolition, removal, and disposal of the remnants of a storm-damaged shipping pier. The applicant proposes to: (1) demolish, remove, and dispose of approximately 45,000 square feet of storm-damaged timber deck planks, pilings, and pile caps; (2) remove and dispose of stockpiled debris from previously demolished portions of the pier removed under authorization granted by Emergency Permit No. 1-06-001-G, which was issued in January of 2006, following the severe winter storms of 2005-2006; and (3) remove and dispose of a previously abandoned spud barge located near the pier to be removed. The project site is located at the Fields Landing Marine Terminal, an unincorporated area of mostly commercial and industrial development located at the foot of South Bay Depot Road, adjacent to Humboldt Bay, approximately five miles south of the City of Eureka.

Project activities are proposed to occur along the shore of Humboldt Bay within the intertidal zone. Humboldt Bay contains an abundance of marine resources and marine environmentally sensitive habitat areas (ESHA) including various rare, threatened, and endangered fish species, eelgrass beds (considered “essential fish habitat”), and intertidal mudflats and coastal salt marsh habitats, which are habitat for numerous rare, threatened, and endangered plant and animal species.

The pier and barge removal work within the intertidal wetlands and submerged areas is consistent with the use requirements of Section 30240(a) of the Coastal Act. The proposed removal of the piles and structures would remove remnants of an old use within an ESHA and would not constitute a new non-resource dependent use in ESHA. In addition, the removal of the pier structure and the abandoned spud barge would help restore the intertidal and submerged ESHA habitat. Removing structures and piles would enhance the productive potential for eelgrass by increasing solar exposure and would result in more available surface area for invertebrates and eelgrass to colonize. In addition the complete removal of all 700 piles would result in a net increase of approximately 550 square feet of habitat that potentially could be colonized by eelgrass and other species. Thus, the project would enhance the quality of EFH. In addition, the proposed project would eliminate the potential for the collapse of the remainder of the wharf into Humboldt Bay and the resulting disruption of intertidal areas. Staff is recommending a number of conditions to ensure that the demolition and removal work would not significantly disrupt or degrade the habitat and ensure the development will be compatible with the continuance of the habitat.

Special Condition No. 1 lists several construction responsibilities (including those proposed by the applicant) that must be adhered to, including requirements that (a) all construction activities shall be conducted during the dry season period of April 15 through October 15; (b) heavy equipment shall not operate in the bay or intertidal wetlands; (c) all debris shall be removed from the site and disposed of in an upland location at an approved disposal facility within 10 days of project completion; (d) a floating boom shall be erected around the project area within the bay/intertidal wetlands to contain any debris within the project area that may become inadvertently dislodged during construction work; (e) the barge used to support piling removal equipment shall be floating at all times and shall only operate at tides high enough so that the barge does not rest against the intertidal mudflat bottom; (f) any piles that break upon removal shall be cut off at least 1 foot below the mud line; and (g) any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Special Condition No. 2 requires the applicant to submit a plan for erosion and runoff control. Special Condition No. 3 requires the applicant to submit a final plan for the disposal of excess construction-related debris, including, but not limited to, timber deck planks, wooden pilings (both treated and untreated), and the abandoned spud barge. It has not been determined whether the piles to be removed from the Bay were treated with creosote or some other wood preservative prior to their placement in the bay. Treated piles are a form of hazardous waste that must be disposed of in disposal facilities that can accept certain levels of hazardous waste. Therefore, the applicant must determine if preservatives were applied to the piles prior to removal from the site for disposal. The plan must identify an appropriate disposal facility and demonstrate how the stockpile areas will be located where they can be contained to prevent contaminants including any preservative chemicals leaching from the piles from entering the bay.

As conditioned, staff believes that the proposed development adjacent to the ESHA is compatible with the continuance of the ESHA, would not significantly degrade the ESHA and the biological productivity of coastal waters will be assured consistent with Sections 30240, 30230 and 30231 of the Coastal Act. In addition, staff believes that the project As conditioned is fully consistent with the Chapter 3 policies of the Coastal Act.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 4.

STAFF NOTES:

1. Standard of Review

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

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. 1-07-009 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS: See Attachment A

III. SPECIAL CONDITIONS:

1. Construction Responsibilities:

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

a. Heavy equipment shall not operate in the bay or intertidal wetlands. All removal of storm-damaged debris and pilings shall be done either from the upland shore or from the floating barge;

b. All debris, including, but not limited to, timber deck planks, piles, pile caps, and previously-stockpiled material, shall be removed from the site and disposed of in an upland location at an approved disposal facility within 10 days of project completion;

c. No construction materials, debris, or waste shall be placed or stored where it may be subject to entering waters of Humboldt Bay or intertidal wetlands;

d. A floating boom shall be installed around the project area within the bay/intertidal wetlands to contain any debris within the project area that may become inadvertently dislodged during construction work. Any debris discharged into coastal waters shall be recovered immediately and disposed of properly;

e. The barge used to support pile removal equipment shall be floating at all times and shall only operate at tides high enough so that the barge does not rest against the intertidal mudflat bottom;

f. Any piles that break upon removal shall be cut off at least one foot below the mud line;

g. During construction, all trash shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during restoration activities. Following construction, all trash and construction debris shall be removed from work areas and disposed of properly;

h. Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas;

i. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. 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;

j. All on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff; and.

l. The stockpiling area shall be limited to the location and size specified in the permit application.

2. <u>Erosion and Runoff Control Plan</u>

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-07-009**, the permittee shall submit, for review and approval of the Executive Director, a plan for erosion and runoff control demonstrating the following:

(1) The erosion control plan shall demonstrate that:

a. Runoff from the project site shall not result in pollutants entering coastal waters or wetlands;

b. Best Management Practices (BMPs) shall be used to prevent the entry of polluted stormwater runoff into coastal waters or wetlands during construction work;

c. Erosion controls shall be used to protect and stabilize stockpiles and exposed soils to prevent movement of materials (*e.g.*, silt fences, berms of hay bales, plastic sheeting held down with rocks or sandbags over stockpiles, etc.);

d. After project completion, all exposed soils present in and around the project site which may deliver sediment to the bay or intertidal wetlands shall be stabilized with mulch, seeding, and/or placement of erosion control blankets. Erosion control seeding shall include only native, regionally appropriate species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant

species listed as a "noxious weed" by the governments of the State of California or the United States shall be utilized within the property; and

e. The erosion and runoff control plan shall be consistent with all other requirements of the coastal development permit and shall be consistent with the approved debris disposal plan required by Special Condition No.3.

(2) The plan shall include, at a minimum, the following components:

a. A narrative report describing all erosion control measures to be used;

b. A site plan showing the location of all erosion control measures;

c. A schedule for installation and removal of the erosion control measures; and

d. A listing of any plant species to be used to stabilize exposed soils and information indicating whether the species are native or regionally appropriate.

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.

3. <u>Final Debris Disposal Plan</u>

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-07-009**, the permittee shall submit, for the review and approval of the Executive Director, a final plan for the disposal of excess construction and demolition related debris, including, but not limited to, timber deck planks, wooden pilings (both treated and untreated), and the abandoned spud barge.

(1) The debris disposal plan shall demonstrate that:

a. Pier piles removed from the pier shall not be mixed with decking and other debris until it is determined whether the piles were previously treated with creosote or other wood preservatives;

b. All temporary stockpiles of demolition and construction debris shall be located where they can feasibly be contained with appropriate BMPs to prevent any discharge of contaminants to the bay;

c. Each proposed disposal site shall be located in an upland area where materials may be lawfully disposed;

d. All demolition and construction debris shall be removed from the site and taken to the approved disposal sites within 60 days of removal from the bay; and

e. The disposal plan shall be consistent with all other requirements of the coastal development permit and shall be consistent with the approved erosion and runoff control plan required Special Condition No. 2.

(2) The plan shall include, at a minimum, the following components:

a. A narrative report describing all debris disposal methods including, but not limited, to how it will be determined whether the pier piles to be removed have been treated with creosote or other wood preservatives, how treated piles and salvageable materials will be separated from other debris, and how debris will be removed from the construction site;

b. Information about each proposed disposal site including the specific location, name, evidence that the disposal site is an upland location, and evidence that the disposal site and identify a disposal site that may lawfully accept the debris (*e.g.*, provide the relevant permit number for the disposal facility from the local jurisdiction, if applicable);

c. A site plan of the project site depicting where all stockpiling and sorting of debris will occur; and

d. A schedule for when demolition and construction debris will be removed from the project site and taken to the approved disposal sites.

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 an amendment to Coastal Development Permit No. 1-07-009.

4. U.S. Army Corps of Engineers Approval

PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT, the permittee shall provide to the Executive Director a copy of a permit issued by the Army Corps of Engineers, or 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 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares the following:

A. Background & Project Description

The proposed project entails the demolition, removal, and disposal of the remnants of a storm-damaged shipping pier. During the winter of 2005-2006, a severe tidal storm surge broke apart a portion of the existing pier causing decking pieces and timbers to be cast adrift and creating a navigation hazard to boats and ships. Under Emergency Permit No. 1-06-001-G, issued in January of 2006 (see Exhibit No. 8), the applicant removed approximately 19,550 square feet of damaged pier decking and stockpiled it on site; the remaining approximately 45,000 square feet of storm-damaged timber deck planks, pilings, and pile caps, along with the previously removed stockpiled material, is proposed for removal under this follow-up permit.

1. Site Description

The subject property is located at the foot of South Bay Depot Road, at the Fields Landing Marine Terminal, in the unincorporated community of Fields Landing, along the Humboldt Bay shoreline, approximately five miles south of Eureka (see Exhibit Nos. 1-3). The project area is zoned coastal dependent industrial. The surrounding area is used for industrial and maritime endeavors including ship and barge loading and unloading, boat storage, and boat repair. Other industrial facilities exist to the east along South Bay Depot Road and along Railroad Drive. The nearest residences are approximately 0.5-mile to the east of the proposed project site, with views of the site blocked by commercial and industrial buildings. The specific project area is bordered by a parking and boat storage lot, paved with asphalt and/or graded gravel. The haul road to the staging area is graded gravel.

The habitats in the project area include intertidal mudflats ("estuarine intertidal aquatic bed habitat" as classified by the National Wetlands Inventory classification system; Cowardin *et al.* 1979) where the remaining wharf and pilings are located, and upland ruderal lands where the gravel access roads and stockpiling area are located. According to historical maps of the area, the upland project areas may have originally (*e.g.*, a century ago) supported salt marsh habitat, but they were filled and disturbed decades ago (before Coastal Act enactment). No plants, animals, or habitats identified as environmentally sensitive (ESHA) are known to occur within the boundaries of the project operations (Vicki Frey, California Department of Fish and Game, pers. comm., July 25, 2007), although it is probable that eelgrass beds and sensitive anadromous fish species, which qualify as ESHA under the Coastal Act, are present in the vicinity of the project area.

2. Specific Project Description

The applicant proposes the following developments (see Exhibit No. 4):

(1) Demolish, remove, and dispose of approximately 45,000 square feet of storm-damaged timber deck planks, pilings, and pile caps:

a. **Removal of timber deck planks**: A tracked excavator is proposed to operate from the deck itself and from the adjacent asphalt-paved and/or graded gravel contiguous areas. The excavator would pull the timber planks and support members loose and deposit them on the adjacent surface for cartage to the staging area directly south. A floating boom is proposed to be deployed to contain any debris that may inadvertently fall into the intertidal zone during deconstruction. Any floating debris captured by the floating containment boom is proposed to be removed from the bay at the end of each workday.

b. **Removal of piles and pile caps**: Approximately 700, 1-foot-diameter, wooden piles are proposed to be removed by vibratory method from a barge carrying the piling extraction equipment. To insure protection of any Eelgrass beds that may be present in the project vicinity, the barge is proposed to operate only at tides sufficient to ensure that it will not rest on the bottom in the intertidal area. In the event that any piles break upon removal, they are proposed to be cut off 1-foot below the mud line. The removal of old piles would lead to the creation of additional mudflat habitat potentially suitable for eelgrass colonization. Additionally, prior to extraction of any pile, each pile is proposed to be assessed for the presence of any chemical treatment. Those piles that are found to be treated, if any, would be removed and reused/disposed of according to applicable State and Federal laws.

(2) Remove and dispose of approximately 19,500 square feet of stockpiled debris, which was previously demolished under emergency provisions following severe winter storms of 2005-2006. Under the emergency permit work, approximately 19,500 square feet of storm-damaged pier decking debris was stored at the staging/stockpiling area, which is located on level, upland ground on the southeast end of the project area. This staging/stockpiling area remains and will be utilized in the proposed project. Salvageable timbers and planks from this project are proposed to be recycled. Any debris determined unsuitable for recycling is proposed to be hauled to the Samoa power plant for use as fuel.

(3) Remove and dispose of an abandoned spud barge. Approximately five years ago, a barge ran aground a short distance bayward of the pier to be removed and was abandoned. The proposed project includes removal of the barge from the bay. A survey of the barge by the applicant revealed that the only hazardous materials on the barge are associated with a small engine. The engine has no fuel and only a small amount of lubricating oil. At high tide, the barge is proposed to be towed to the slip at the north end of the terminal and hoisted onto a lowboy trailer using the Marine Terminal's lift equipment. The barge will then be stripped of mechanical equipment and the crane boom, down to its hull. The hull is proposed be cut into "roadable" sections using acetylene torches and then transported to a metal scrap yard in Fortuna, approximately 11 miles to the south.

B. Marine Resources & ESHA

Project activities are proposed to occur along the shore of Humboldt Bay within the intertidal zone. Humboldt Bay contains an abundance of marine resources and marine environmentally sensitive habitat areas (ESHA) including various rare, threatened, and endangered fish species, eelgrass beds (considered "essential fish habitat"), and intertidal mudflats and coastal salt marsh habitats, which are habitat for numerous rare, threatened, and endangered plant and animal species.

Coastal Act Policies:

Section 30230 of the Coastal Act states the following:

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

Section 30231of the Coastal Act states the following:

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 30107.5 of the Coastal Act defines ESHA as follows:

"Environmentally sensitive area" means 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 of the Coastal Act states the following:

(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.

Consistency Analysis:

1. Development Within Environmentally Sensitive Habitat Areas (ESHA)

Section 30240 requires that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on the resource are allowed within the ESHA. The portion of the proposed project within Humboldt Bay, which includes the removal approximately 45,000 square feet of wood piles and dilapidated wharf structure and removal of the abandoned spud barge, would occur within an ESHA (intertidal and submerged wetlands). Although development will be occurring within the wetlands area, such development would not constitute the "diking, dredging or filling" of wetlands regulated by Section 30233 of the Coastal Act.

Anadromous fish species that may occur in Humboldt Bay include federally listed threatened and endangered species including Coho salmon, Chinook salmon, and steelhead trout. Essential Fish Habitat (EFH) has been designated under the Magnuson-

Stevens Fishery Conservation and Management Act and includes those waters and substrates necessary for fish to spawn, breed, feed, or grow to maturity. The piles and structures in the lower intertidal and subtidal area are within EFH.

The proposed pile removal work would remove the last shoreline vestiges of a marine pier that is no longer in operation. Thus, the proposed removal of the piles and structures would remove remnants of an old use within an ESHA and would not constitute a new non-resource dependent use in ESHA. In addition, the removal of the pier structure and the abandoned spud barge would help restore the intertidal and submerged ESHA habitat. Therefore, the pier and barge removal work within the intertidal wetlands and submerged areas is consistent with the use requirements of Section 30240(a) of the Coastal Act. Removing structures and piles would enhance the productive potential for eelgrass by increasing solar exposure and would result in more available surface area for invertebrates and eelgrass to colonize. Each wooden pile is approximately 1 foot in diameter or approximately 113 square inches (0.785 square feet). The complete removal of all 700 piles would result in a net increase of approximately 550 square feet of habitat that potentially could be colonized by eelgrass and other species. Thus, the project would enhance the quality of EFH. Furthermore, it is unknown whether or not the wooden piles are treated with creosote, which is a wood preservative that can have adverse impacts on water quality and biological productivity if harmful contaminants 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. Removal of the potentially hazardous wooden pilings (*i.e.*, if it is discovered, upon removal, that they are treated with creosote) would be beneficial to bay water quality and marine resources. Additionally, the proposed project is expected to improve the surrounding habitat and environment by eliminating the potential for the collapse of the remainder of the wharf into Humboldt Bay and the resulting disruption of intertidal areas.

The National Marine Fisheries Service (NOAA-Fisheries) was consulted during the project and indicated that the project would have negligible effects to Pacific salmonids and EFH. Furthermore, the California Department of Fish and Game commented on the Mitigated Negative Declaration for the project stating that no sensitive species are expected to be impacted by proposed project activities.

Sections 30230 and 30231 of the Coastal Act contains policies requiring the protection of coastal waters to ensure biological productivity and to protect public health and water quality. New development must not adversely affect these values and should help to restore them when possible.

The project proposes to use heavy equipment (from the shoreline or from a barge) to remove storm damaged material and piles and pile caps, and potential adverse impacts to water quality and wetlands could result from heavy equipment use in this area. For example, if removal equipment or work vehicles on site were leaking hazardous fluids such as oil, fuel, or other fluids, these harmful pollutants could enter the bay and wetlands

and adversely affect water quality and marine resources. Furthermore, storm-damaged debris, including hazardous debris such as creosote-treated piles, potentially could, during removal activities if not properly contained, inadvertently escape the project area and litter the bay and intertidal wetlands, effectively polluting the water and compromising water quality and wetland habitat quality. Also, proposed activities could increase sedimentation in the bay water and intertidal wetlands as a result of the vibrations in the water column during piling removal. Additionally, the abandoned spud barge, which is proposed to be removed under this permit, contains lubricating oil in its small engine which, if not properly handled, could contaminate the bay water and intertidal wetlands.

The applicant proposes various measures to avoid or minimize the potential for impacts to wetlands and water quality from demolition and removal activities occurring within the intertidal wetlands and submerged ESHA. These include (1) deploying a floating boom to contain any debris that may inadvertently fall into the intertidal zone during deconstruction; any floating debris captured by the floating containment boom is proposed to be removed from the bay at the end of each workday; (2) limiting piling removal activities to high enough tides so that the barge harboring the removal equipment does not rest against the intertidal mudflat habitat; and (3) cutting off piles that break upon removal at least one foot below the mud-line.

In general, the protocols proposed are appropriate to protect wetlands and water quality. However, in certain instances the measures proposed do not meet current standards, are incomplete, not site-specific, or do not go far enough to assure wetland and water quality protection. For example, several construction-related details such as hazardous materials and spill response procedures and other details are either lacking or incomplete. Some of the Caltrans BMPs proposed are general and must be refined on a site by site basis. Therefore, the Commission attaches Special Condition No. 1.

Special Condition No. 1 lists several construction responsibilities (including those proposed by the applicant) that must be adhered to, such as (1) heavy equipment shall not operate in the bay or intertidal wetlands; (2) all debris shall be removed from the site and disposed of in an upland location at an approved disposal facility within 60 days of project completion; (3) a floating boom shall be erected around the project area within the bay/intertidal wetlands to contain any debris within the project area that may become inadvertently dislodged during construction work; (4) the barge used to support piling removal equipment shall be floating at all times and shall only operate at tides high enough so that the barge does not rest against the intertidal mudflat bottom; (5) any piles that break upon removal shall be cut off at least 1 foot below the mud line; (6) during construction, all trash shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during restoration activities; (7) any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated

staging areas; and (8) fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands.

As conditioned, the Commission finds that the proposed demolition and removal development to occur within the intertidal wetlands and submerged ESHA will only involve uses dependent on the resources of the ESHA, the ESHA will be protected against any significant disruption of habitat values and the biological productivity of coastal waters will be assured consistent with Sections 30240(a), 30230 and 30231 of the Coastal Act.

2. Development Adjacent to Environmentally Sensitive Habitat Areas

Sections 30230 and 30231 of the Coastal Act contains policies requiring the protection of coastal waters to ensure biological productivity and to protect public health and water quality. New development must not adversely affect these values and should help to restore them when possible. Section 30240(b) requires that development in areas adjacent to environmentally sensitive habitat areas (ESHA) shall be sited and designed to prevent impacts which would significantly degrade the ESHA and that development shall be compatible with the continuance of the adjacent ESHA.

Some of the demolition and temporary stockpiling development would occur on shore adjacent to the intertidal and submerged ESHA habitat. In addition, the proposed removal of the wooden piling, dilapidated pier, and abandoned spud barge would occur in the vicinity of eelgrass beds, EFH, and other sensitive marine resources (such as Pacific salmonids).

Eelgrass (*Zostera marina)* is a flowering plant that extends long rhizomes (roots) an average of 1.5 to 8 inches below the substrate from which the turions (stems) sprout with long, green blades (leaves) and it thrives under particular conditions in protected coastal waters with sandy or muddy bottoms. Eelgrass is considered to be an environmentally sensitive habitat area worthy of protection because it functions as important shelter and foraging habitat for a variety of fish and wildlife. For example, black brant, small migratory geese, feed almost exclusively on eelgrass. In addition, eelgrass provides cover for juvenile fish and in some locations serves as a spawning ground for herring.

Neither NMFS nor CDFG commented that an eelgrass survey or any other species survey was necessary prior to project activities, because it is believed that no eelgrass or other sensitive species occur within the project area. Eelgrass is, however, mapped as occurring across the southern portion of Humboldt Bay, including in the Fields Landing vicinity in general, and as discussed above, Pacific salmonids and essential fish habitat may occur in the general vicinity of the project area.

The proposed removal of the remaining wharf, piling, and spud barge could significantly degrade adjacent eelgrass ESHA if (1) the barge to be used in demolition and removal

operations were to rest on the mudflat bottom and directly damage the eelgrass plants, and/or (2) if the pilings were not cut off 1-foot below the mud line, thereby leaving potentially hazardous chemicals (creosote-treated piles) exposed to the intertidal and submerged bay environment.

To prevent on-shore stockpiling, sorting, and removal operations from causing significant adverse impacts to water quality within the adjacent intertidal wetlands and submerged ESHA, the applicant proposes implementing erosion control and hazardous materials management "best management practices" (BMPs) in accordance with Caltrans Construction Site BMP Manual (Sections SS-9, Earth Dikes, Drainage Swales & Ditches; NS-9, Vehicle and Equipment Fueling; and WM-4, Spill Prevention and Control).

In general, the protocols proposed are appropriate to protect wetlands and water quality. However, in certain instances the measures proposed do not meet current standards, are incomplete, not site-specific, or do not go far enough to assure wetland and water quality protection. For example, several construction-related details (such as restricting work areas, hazardous materials and spill response procedures, and other details are either lacking or incomplete. Some of the Caltrans BMPs proposed are general and must be refined on a site by site basis. Furthermore, no site-specific erosion/sediment control devices have been proposed. Finally, the proposed debris disposal plan lacks specificity, does not address disposal of treated pilings, and does not ensure that debris resulting from the project will be disposed of lawfully in an approved upland location. Therefore, the Commission attaches Special Condition Nos. 1, 2, and 3.

Special Condition No. 1 lists several construction responsibilities (including those proposed by the applicant) that must be adhered to, such as requirements that: (1) all debris be removed from the site and disposed of in an upland location at an approved disposal facility within 10 days of project completion; (2) no construction materials, debris, or waste be placed or stored where it may be subject to entering waters of Humboldt Bay or intertidal wetlands; (3) during construction, all trash be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during restoration activities; (4) any fueling and maintenance of construction equipment occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas; (5) fuels, lubricants, and solvents not be allowed to enter the coastal waters or wetlands; (6) all on-site stockpiles of construction debris be covered and contained at all times to prevent polluted water runoff; and (7) the stockpiling area be limited to the location and size specified in the permit application.

Special Condition No. 2 requires the applicant to submit, for the review and approval of the Executive Director prior to issuance of the CDP, a plan for erosion and runoff control demonstrating the following: (1) runoff from the project site shall not result in pollutants entering coastal waters or wetlands; (2) Best Management Practices (BMPs) shall be used to prevent the entry of polluted stormwater runoff into coastal waters or wetlands during construction work; (3) erosion controls shall be used to protect and stabilize stockpiles

and exposed soils to prevent movement of materials; and (4) after project completion, all exposed soils present in and around the project site which may deliver sediment to the bay or intertidal wetlands shall be stabilized with mulch, seeding, and/or placement of erosion control blankets.

Special Condition No. 3 requires the applicant to submit, for the review and approval of the Executive Director prior to issuance of the CDP, a final plan for the disposal of excess construction-related debris, including, but not limited to, timber deck planks, wooden pilings (both treated and untreated), and the abandoned spud barge. As discussed previously, it has not been determined whether the piles to be removed from the Bay were treated with creosote or some other wood preservative prior to their placement in the bay. If such preservatives were utilized, it's possible that the preservative chemicals may be leaching from the piles into the bay and could continue to leach into the environment where the removed piles are placed. Treated piles are a form of hazardous waste that must be disposed of in disposal facilities that can accept certain levels of hazardous waste. Therefore, the applicant must determine if preservatives were applied to the piles prior to removal from the site for disposal. Special Condition No. 3 requires that the debris disposal plan describe the manner by which the debris will be removed from the construction site and identify a disposal site that is in an upland area where materials may be lawfully disposed. In addition, the plan must discuss how the piles to be removed will be separated from the rest of the demolition debris and evaluated to determine whether the piles had been treated with creosote or other wood preservatives in the past. The plan must demonstrate how the stockpile areas will be located where they can be contained to prevent contaminants including any preservative chemicals leaching from the piles from entering the bay.

As conditioned, the Commission finds that the proposed development adjacent to the ESHA is compatible with the continuance of the ESHA, would not significantly degrade the ESHA and the biological productivity of coastal waters will be assured consistent with Sections 30240, 30230 and 30231 of the Coastal Act.

C. Public Access

This proposed development is located between the first public road and the sea. Section 30604(c) of the Coastal Act requires that every coastal development permit issued for development between the first public road and the sea *"shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200)."*

Coastal Act Policies:

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public

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

Consistency Analysis:

The remnants of the pier to be removed are located at the foot of South Depot Road, a public road. The shoreline is not set aside as a formal public access area, but there currently are no fences or other obstacles to prevent people from walking along the shoreline adjacent to the pier site and further to the south. A County boat ramp which is designed for public use with restrooms, signage, and parking facilities is located about a mile to the north of the site. The bay itself is used for various kinds of recreational boating activities, including kayaking, canoeing, and rowing.

The proposed project will not increase use of the shoreline or otherwise increase the demand for public access in the area. However, for safety purposes, the proposed project will temporarily preclude public access to the bay and shoreline at this location. Project activities are expected to last four to six weeks and are proposed to begin in September, if possible. Upon completion of construction activities, the public will once again be able to access the area without interference.

As the temporary nature of the disturbance of the informal public access that exists at the will only be approximately six weeks in duration, the Commission finds that the impact on public access use is not significant.

The proposed project involves the removal of numerous piles from Humboldt Bay. If the piles are only partially removed, or broken off during removal and left protruding out of the mudflat into the water column, they could pose a safety and navigation hazard to boaters and recreators on the bay. Therefore, to avoid adverse impacts to public access and recreation on the bay from hazardous piles, the Commission attaches Special Condition No. 1(f) which requires that any piles that break upon removal shall be cut off at least one foot below the mud line to ensure that the piles do not become a hazard to boaters and recreators on the bay and adversely affect public access.

Therefore, the Commission finds that the 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.

D. Other Agency Approvals

Portions of the project require review and approval by the U.S. Army Corps of Engineers (Corps) pursuant to Section 404 of the Federal Clean Water Act (PL 95-217). 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 USACE, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification for the project or approves a permit.

As part of the Corps' permit process, applicants often are required to undergo formal Federal Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS). In this case, the Corps is not initiating a consultation with either agency as it was determined that the proposed project would not adversely affect sensitive species or resources (K. Reid, Corps Ecologist, Eureka, pers. comm., July 25, 2007). Certain types of projects qualify for issuance of one of the Corps' established "nationwide permits" for minor classes of development determined to have minimal impacts to water quality and navigable waters. It is not clear what type of permit the Corps is issuing for the proposed project. Nevertheless, to ensure that the project ultimately approved by the Corps, in consultation with the USFWS and the NMFS as may be applicable, is the same as the project authorized herein, the Commission attaches Special Condition No. 4. Special Condition No. 4 requires the applicant to submit to the Executive Director, prior to commencement of any development, evidence of the Corps' approval of the project prior to the issuance of the permit. The condition also requires that any project changes resulting from agency approval(s) not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

E. California Environmental Quality Act

The Humboldt Bay Harbor, Recreation, and Conservation District prepared a Mitigated Negative Declaration for the project in March of 2007 (SCH #2007032059; Exhibit No. 6). The Notice of Determination for the MND was filed with Humboldt County on May 3, 2007.

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available,

which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on conformity with the Chapter 3 policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As 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 can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

V. EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Assessors Map
4. Project Description & Site Plans
6. Mitigated Negative Declaration
7. CDFG Comments on MND
8. Emergency Permit No. 1-06-001-G

ATTACHMENT A

STANDARD CONDITIONS:

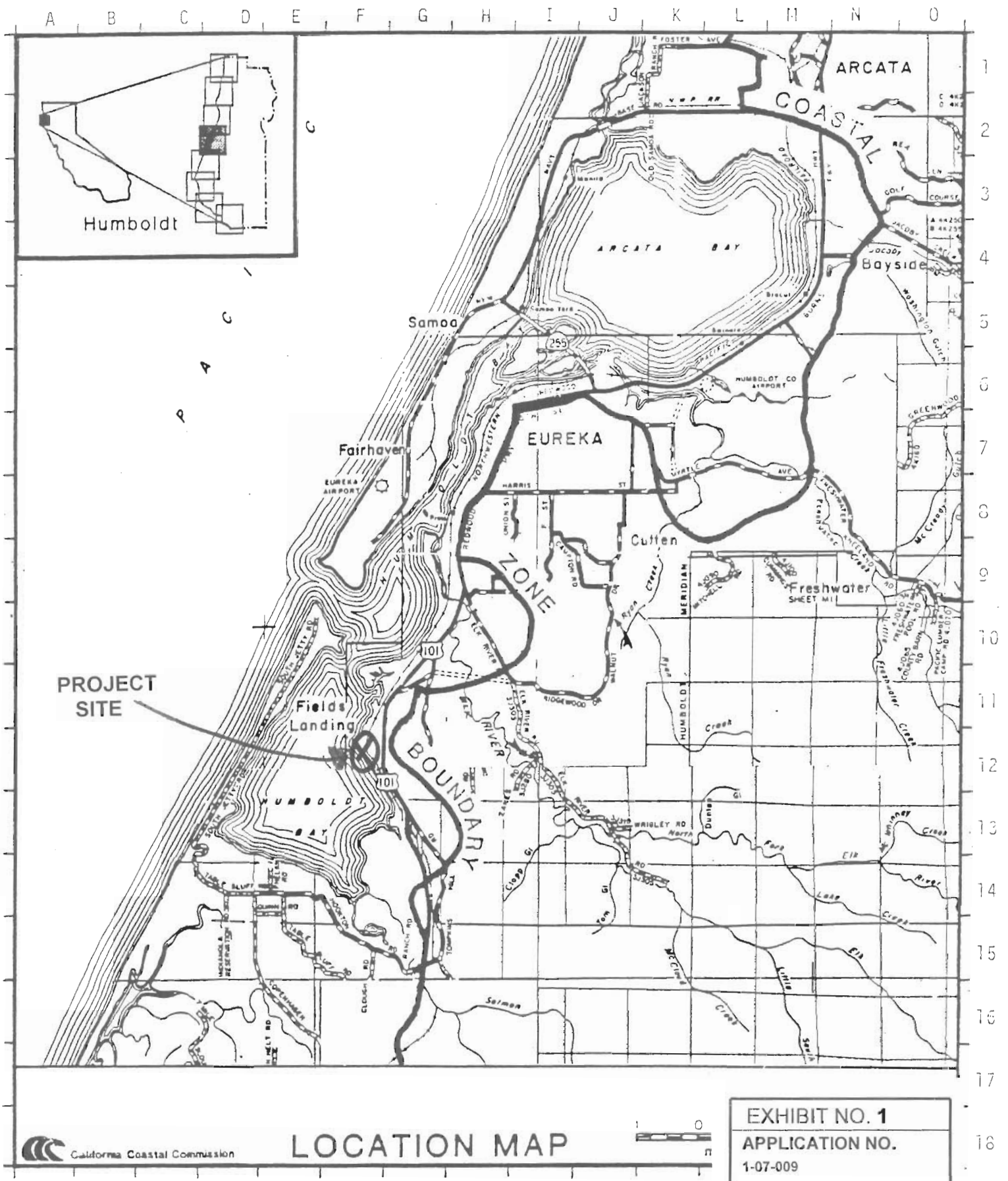
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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

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

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

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



California Coastal Commission

LOCATION MAP

County of Humboldt

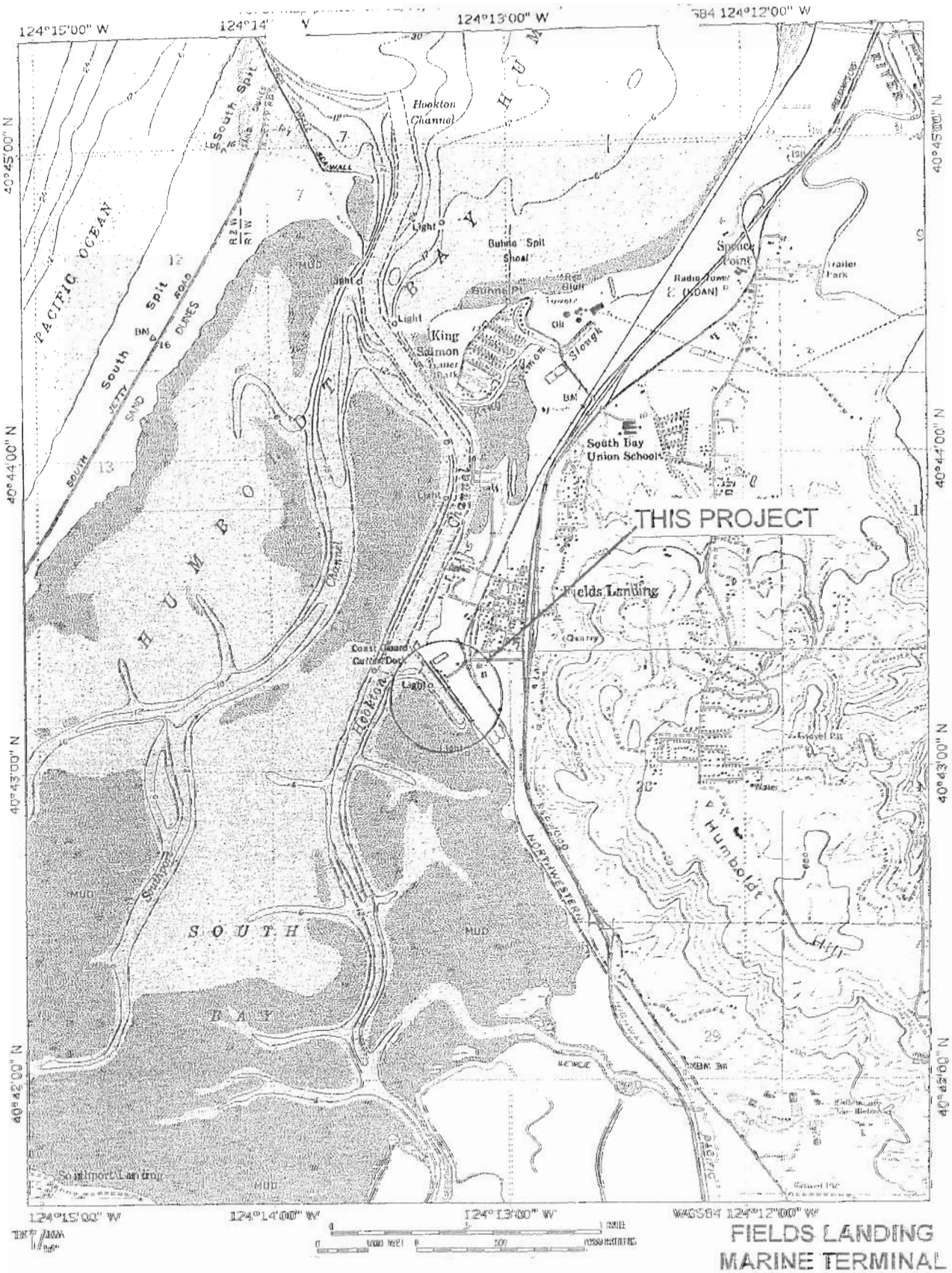
EXHIBIT NO. 1

APPLICATION NO.

1-07-009

HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT

REGIONAL LOCATION MAP



FIELDS LANDING
MARINE TERMINAL

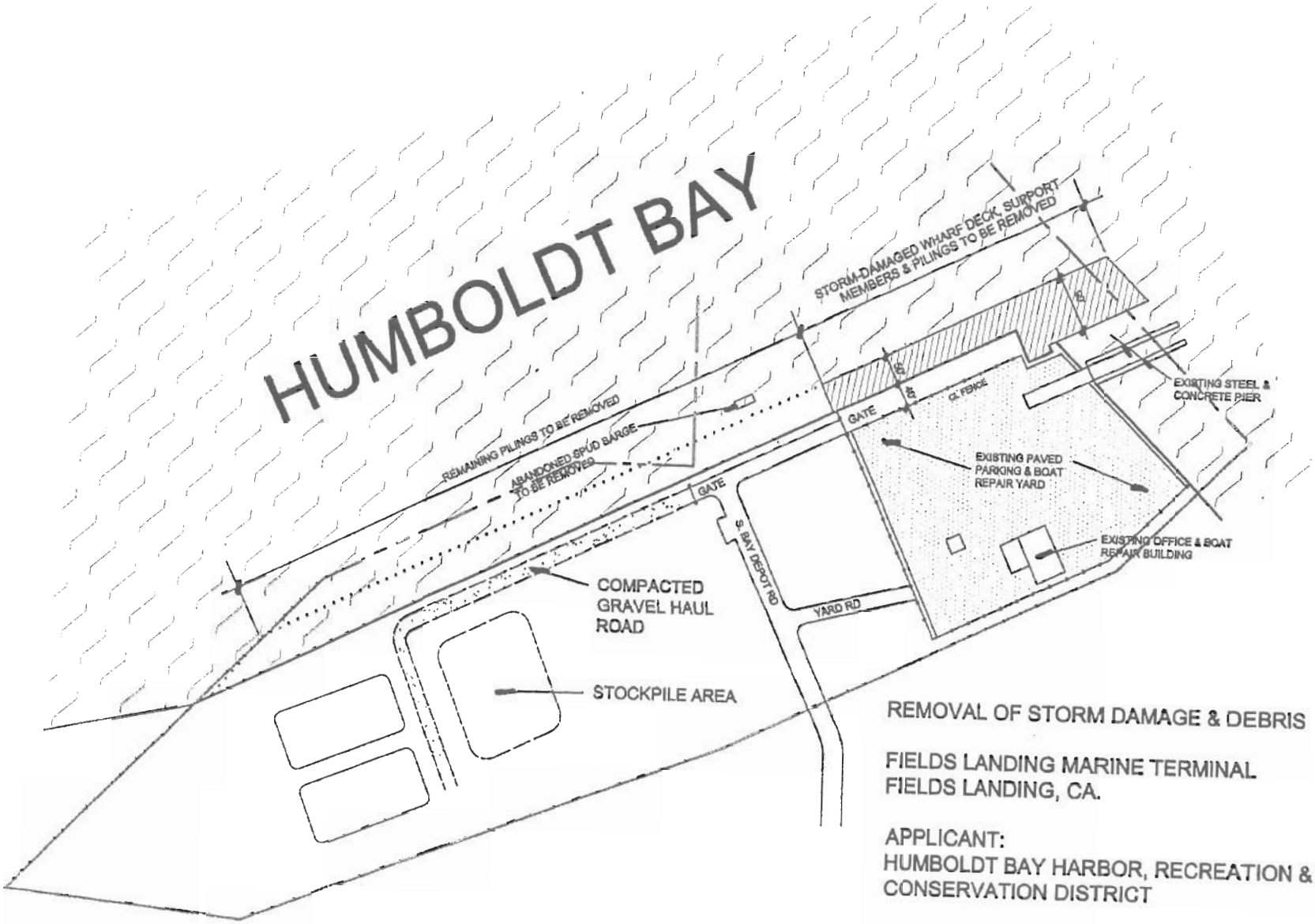
north

EXHIBIT NO. 2

APPLICATION NO.
1-07-009

HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT

VICINITY MAP



REMOVAL OF STORM DAMAGE & DEBRIS

FIELDS LANDING MARINE TERMINAL
FIELDS LANDING, CA.

APPLICANT:
HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT

APN 307-101-002

SITE PLAN

1" = 300'

N

EXHIBIT NO. 3
APPLICATION NO.
1-07-009
HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT
SITE PLANS (1 of 3)

REMOVAL OF STORM DAMAGE & DEBRIS AT FIELDS LANDING MARINE TERMINAL

APPLICANT:
Humboldt Bay Harbor, Recreation & Conservation District

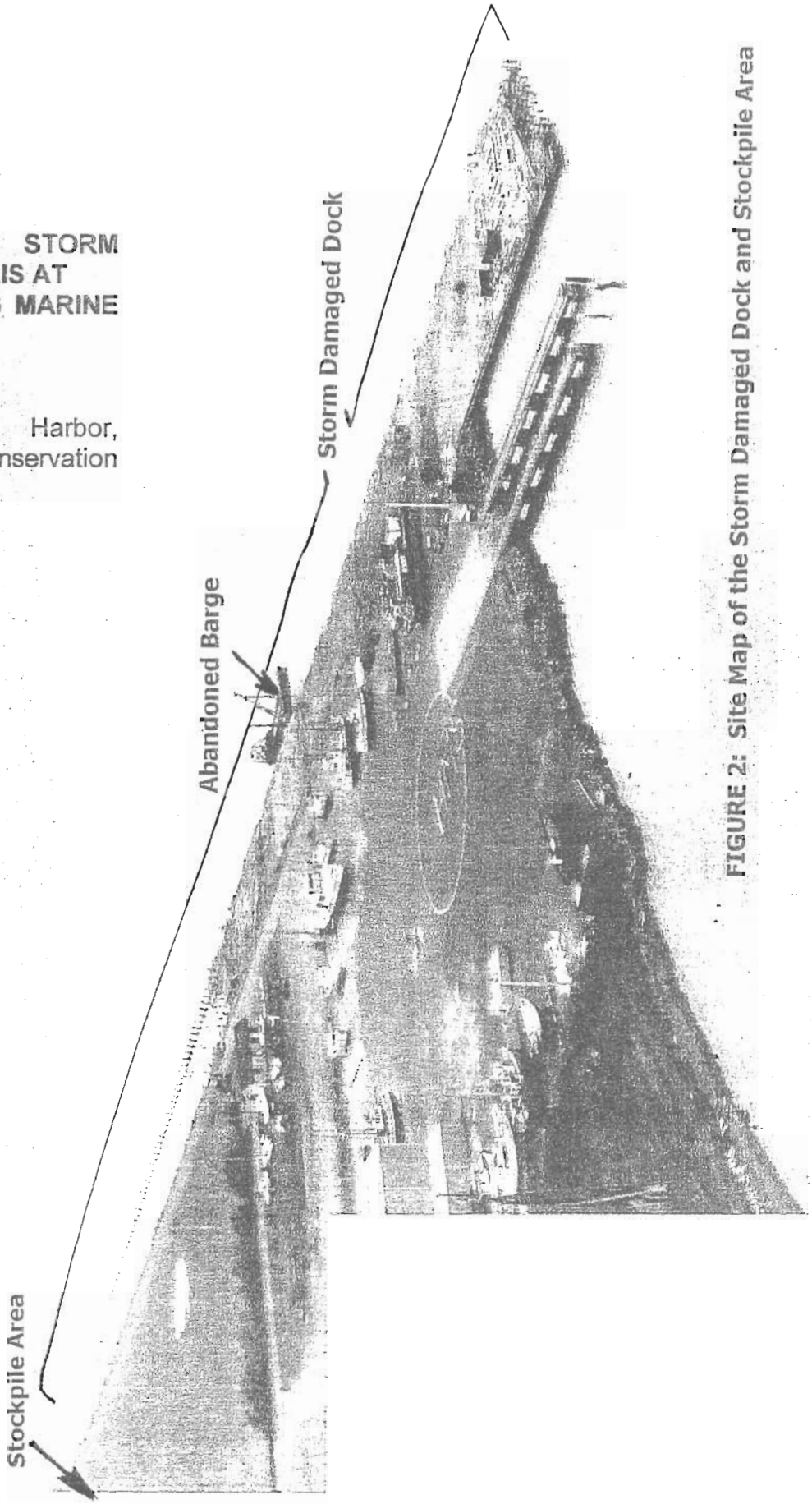
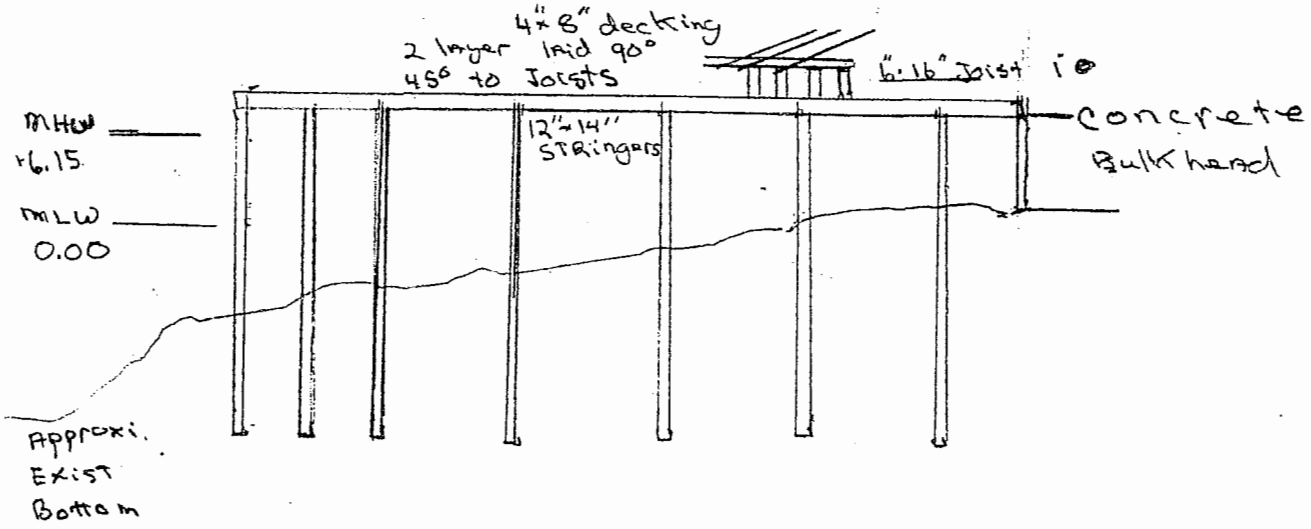


FIGURE 2: Site Map of the Storm Damaged Dock and Stockpile Area

EXHIBIT 2: PROJECT SITE AERIAL PHOTO



DOCK SECTION
not to scale

SCOPE OF WORK:
Removal of storm damaged deck, pilings and piling caps – see Block 18

APPLICANT:
Humboldt Bay Harbor, Recreation & Conservation District

EXHIBIT 3: CROSS SECTION OF DOCK STRUCTURE TO BE REMOVED

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

April 11, 2007

David Hull
Humboldt Bay Harbor District
601 Startare Drive
Eureka, CA 95501

Subject: Removal of Storm Damage and Debris from the Fields Landing Marine Terminal
SCH#: 2007032059

Dear David Hull:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on April 10, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

EXHIBIT NO. 4
APPLICATION NO.
1-07-009 - HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT
MITIGATED NEGATIVE DECLARATION (MND) (1 of 14)

RECEIVED
APR 16 2007
H.B.H.R. & C.D.

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2007032059
Project Title Removal of Storm Damage and Debris from the Fields Landing Marine Terminal
Lead Agency Humboldt Bay Harbor

Type Neg Negative Declaration

Description Demolition, removal and disposal of approximately 45,000 square feet of storm damaged timber dock and approximately 700 wooden pilings resulting from severe winter storms of 2005/06.

Lead Agency Contact

Name David Hull
Agency Humboldt Bay Harbor District
Phone (707) 443-0801 **Fax**
email
Address 601 Startare Drive
City Eureka **State** CA **Zip** 95501

Project Location

County Humboldt
City
Region
Cross Streets Depot
Parcel No. 307-101-002
Township **Range** **Section** **Base**

Proximity to:

Highways 101
Airports
Railways NWPRR
Waterways Humboldt Bay
Schools South Bay ES, College of the Redwoods
Land Use MC - Coastal Dependent Industrial

Project Issues Air Quality; Noise; Toxic/Hazardous; Traffic/Circulation

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 1; Department of Parks and Recreation; Native American Heritage Commission; Public Utilities Commission; Department of Fish and Game, Region 1; Department of Water Resources; California Coastal Commission; California Highway Patrol; Caltrans, District 1; Department of Boating and Waterways; Department of Toxic Substances Control; State Lands Commission

Date Received 03/12/2007 **Start of Review** 03/12/2007 **End of Review** 04/10/2007

Note: Blanks in data fields result from insufficient information provided by lead agency.

20070320059

MITIGATED NEGATIVE DECLARATION FOR:

REMOVAL OF STORM DAMAGE AND DEBRIS FROM THE FIELDS LANDING MARINE TERMINAL

March 2007

Lead Agency:

Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, CA 95502-1030

MITIGATED NEGATIVE DECLARATION FOR:

REMOVAL OF STORM DAMAGE AND DEBRIS FROM THE FIELDS LANDING MARINE TERMINAL

March 2007

TABLE OF CONTENTS

EXHIBITS

II. DESCRIPTION OF PROJECT:

Demolition, removal and disposal of approximately 45,000 square feet of storm-damaged timber deck planks, pilings and piling caps resulting from the severe winter storms of 2005-2006. Portions of the dock that suffered severe damage and collapsed into Humboldt Bay were removed from the intertidal areas in early 2006, and staged in a proximal location east of the shore under emergency provisions of the California Coastal Act. The staging area was on level ground, and was diked with earth to contain and prevent any potential stormwater runoff from reaching the intertidal areas. This diked staging area remains, and will be utilized in this final phase of the project.

The remaining timber plank deck, pilings and piling caps are shown on Exhibit 2. A tracked excavator will be operated from the deck itself, and from the adjacent asphalt-paved and/or graded gravel contiguous areas, to pull the timber planks and support members loose, and to deposit them on the adjacent surface for cartage to the staging area directly south. A chain link fence has been installed to separate the work area from the Fields Landing Marine Terminal and the adjacent boat yard operation. This fence will protect yard workers and boat owners from the demolition operations. Trained construction personnel will be on the jobsite to cut away or unbolt deck components as may occur, and to guide and assist the equipment operator(s) and truck drivers as required. A floating boom will be deployed to contain any debris that may inadvertently fall into the intertidal zone during deconstruction and any floating debris captured by the floating containment boom be removed from the bay at the end of each workday.

After the decking is removed, approximately 700 untreated wooden pilings will be removed. Pilings are to be completely removed by vibrating. In the event that the pilings break upon removal, they will be cut off one-foot below the mud line. All pilings are approximately 1-foot in diameter or approximately 113 square inches (0.785 square–feet). All pilings removed will be counted. The total number of square-feet of pilings removed will be "banked" as mitigation credits. The total number of credits will be held by the Humboldt Bay Harbor, Recreation and Conservation District and applied to any future mitigation requirements for piles driven at the Fields Landing Marine Terminal. Credits are not transferable to any other entity. This banking applies only to mitigation for future pile driving at the Fields Landing Marine Terminal and in no way shall be construed to alleviate or replace the need for full CEQA analysis and permitting of any future project.

This Project also includes the removal and disposal of an abandoned spud barge as shown in Exhibit 2. The barge is constructed of steel and all hazardous materials have been removed.

GENERAL PLAN DESIGNATION:
MC

ZONING:
MC

III. ENVIRONMENTAL SETTING:

The Fields Landing Marine Terminal is at the southeast shore of Humboldt Bay, approximately five miles south of the city limits of Eureka, Ca., and at the foot of S. Bay Depot Rd. The surrounding area is used for industrial and maritime endeavors, boat storage and boat repair. Other industrial facilities exist to the east along S. Bay Depot Rd., and along Railroad Drive. The most proximal residences are approximately one-half mile to the east of the project site, with view of the site blocked by commercial/industrial buildings. The specific area is bordered by a parking and boat storage lot, paved with asphaltic concrete and/or graded gravel. The haul road to the staging area is graded gravel, with some growth of nuisance weedy plants of no special status. No vegetation identified as environmentally sensitive exist, or are expected to exist within the boundaries of the project operations.

The staging area will be restored to its original state at the conclusion of the project, and removal of all debris.

IV. ENVIRONMENTAL EFFECTS:

Using the recommended mitigation measures, no significant adverse effects are expected from the proposed project. An environmental checklist follows, which addresses the aspects of the project as defined by CEQA, any adverse effects upon those aspects, and recommends mitigation in some portions of the work to ensure that significant negative impacts to the environment do not occur as a result of this project.

DETERMINATION:

On the basis of this initial evaluation, and the checklist that follows:

___ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION shall be prepared.

XX I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by, or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION shall be prepared.

___ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

___ I find that although this project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed on the proposed project, nothing further is required.

Signature

March 8, 2007

Date

David Hull, Chief Executive Officer

printed name

Humboldt Bay Harbor, Recreation and Conservation District

for

V. ENVIRONMENTAL CHECKLIST AND EXPLANATORY NOTES

NOTE ABOUT THIS CHECKLIST: *This checklist duplicates the checklist portion of Appendix G of the State CEQA Guidelines, as approved on October 26, 1998. We have modified the checklist to allow for explanatory and summary notes, and any recommended mitigation under the separate categories, where appropriate.*

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors noted below would be potentially affected by this project. We have tabulated the level of significance as follows: ***0 = No impact*** means that the effect does not apply to the proposed project, or clearly will not impact, or be impacted by the project; ***1 = Less than significant*** means that the effect is not significant, and no mitigation is required; ***2 = Less than significant with mitigation*** means that the incorporation of one or more mitigation measures, where noted in the checklist, can reduce the effect to a level that is less than significant; ***3 = Potentially significant*** means that there is substantial evidence that an effect may be significant.

0	Aesthetics	0	Agricultural Resources	1	Air Quality
0	Biological Resources	0	Cultural Resources	0	Geology/Soils
1	Hazards and Hazardous Materials	0	Hydrology/Water Quality	0	Land Use/Planning
0	Mineral Resources	2	Noise	0	Population/Housing
0	Public Services	0	Recreation	1	Transportation/Traffic
0	Utilities/Service Systems	0	Mandatory Findings of Significance		

I. **AESTHETICS** – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Have an adverse effect on a scenic vista?				X
b) Damage scenic resources, such as trees, rock outcroppings, or historic buildings within a scenic highway?				X
c) Degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of light or glare that would adversely affect day or nighttime views in the area?				X

DISCUSSION:

I (a-d): The proposed project is well away from Highway 101, and the work will have no adverse effect on the aesthetics of the area. Removal of the debris could result in improvement of the local vista.

II. **AGRICULTURAL RESOURCES** – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Convert Prime Farmland, Unique Farmland, or Farmland of statewide importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program in the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?				X
c) Involve other changes in the existing environment that, due to their location or nature, could individually or cumulatively result in loss of Farmland to non-agricultural use?				X

DISCUSSION:

II (a-c): There is no farmland in the project area, and the project will have no impact on agriculture.

III. AIR QUALITY – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute to an existing or projected air quality violation, including in relation to asbestos in construction materials or in earth?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable Federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?			X	

DISCUSSION:

III (a-e): The North Coast Air Basin is presently in attainment of all State and Federal ambient air quality standards, with the exception of the State standard for particulate matter less than ten micrometers in diameter (PM_{10}). Nearly all areas of California are classified as non-attainment for PM_{10}. Demolition and hauling operations will cause temporary emissions of diesel engine combustion products from trucks and a tracked excavator, and combustion products may be generated by 2-cycle chain saw engines. Any net increase of PM_{10} will be miniscule and brief, and not a cumulatively significant increase. No separate mitigation is necessary to prevent a significant impact. No atmospheric effects other than those noted above are expected.

IV. BIOLOGICAL RESOURCES – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations or by the California Department of Fish and Game, or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat of other sensitive natural community in local or regional plans, policies, or regulations or by the California Department of Fish and Game, or U.S. Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?				X

DISCUSSION:

IV (a-e): No Federal or State listed species are expected to be impacted by this work. The demolition work and material transport will all be conducted on the dock itself, and debris will be hauled across land that is either asphalt-paved or graded gravel. Virtually no vegetation exists in the vicinity of the haul road and staging area, and there is no riparian habitat, nor eelgrass, nor Federally-protected wetlands within or adjacent to the work areas. No mitigation measures are required.

V. CULTURAL RESOURCES – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X

DISCUSSION:

V (a-d): There are no known historical, archeological or paleontological resources in the vicinity of the work or of the haul routes, and none are expected to be encountered. The project does not include sub-surface excavation, or any disturbance of the earth, so it is unlikely that any human remains will be disinterred. However, if undiscovered historical, archeological, paleontological, ethnic or religious resources are discovered during the progress of the work, State law requires that all work cease, and a qualified cultural resources specialist be contacted to analyze the significance of the find, and formulate appropriate mitigation. And pursuant to the California Health and Safety Code Section 7050.5, if human remains are encountered, all work must cease, and the County Coroner be contacted. Based on these caveats, the project will not disturb historical, archeological or paleontological resources, nor have the potential to cause a physical change that would affect unique ethnic cultural values, or restrict existing religious or sacred uses of the project area.

VI. GEOLOGY AND SOILS – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault? *Refer to Division of Mines and Geology Special Publication 42.*				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion, or the loss of topsoil?				X
c) Be located on a geological unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?				X
d) Be located on expansive soils, as defined in Table 18-1-B of the uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

DISCUSSION:

VI (a): The general region is subject to strong earthquakes, as is much of California. The project site may be subject to moderate-to-strong seismic shaking, but not as a result of this work. There is no increased exposure to geological hazards for people or property due to the proposed project. The North Coast is home to several fault lines, and is nearby the intersection of three tectonic plates. An existing hazard is an earthquake-related tsunami, but the risk is not increased by the implementation of this project, and exposure to tsunami risk would be limited to the duration of the work – approximately 4-6 weeks. Based upon review of the Alquist-Priolo Earthquake Fault Zoning Maps, the project site is not in an area where fault rupture is expected. Therefore, the project will have no impact on increasing the risk of a seismic event, and no mitigation is warranted.

VI (b): None of the planned operations will result in erosion, not the loss of topsoil. Virtually all of the operation will take place on asphalt-paved, graded gravel surfaces or on the timber dock itself. The surrounding area is nearly level, and no soil disturbance is anticipated.

VI (c-e): The project, including staging area(s) is on stable ground with no expansive soils identified, and posing no threat of landslide, lateral spreading, subsidence, liquefaction or collapse. Further, no septic systems or wastewater disposal systems are known to exist in the project vicinity, nor are any planned as part of this project. No mitigation is warranted.

VII. HAZARDS AND HAZARDOUS MATERIALS – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials in the environment?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas, or where residences are intermixed with wildlands?				X

DISCUSSION:

VII (a): No handling, removal or transport of hazardous materials is within the scope of this project. No mitigation is warranted.

VII (b): A recognized hazard potential is the ordinary use of equipment fuels and hydraulic fluids during operations. To the maximum extent practical, equipment fueling will take place on hard surfaces, remote from the waterfront and soil. The small chance of a fuel spill is not considered a significant impact. No use of toxins, corrosives or explosives are planned for use in this project. Recommended mitigation includes the Contractor having in place at all times Best Management Practices and sufficient manpower for safe handling of fuels and equipment during operations. And per the Contract Documents, no fueling is permitted on the dock itself, nor in the intertidal area.

VII (c): This project is not located within one-quarter mile of an existing or planned school.

VII (d-h): This project is not located on a listed hazardous materials site. It is not located within an airport land use planned area, or within two miles of a public or public-use airport. The project will not interfere with any known emergency response or evacuation plan. And there is no forestation or grassland near the project site; therefore, there is no threat to an urban or residential area from wildland fire.

VIII. HYDROLOGY AND WATER QUALITY – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lower of the local groundwater table level (e.g. the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or				

area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?				X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the amount of surface runoff in a manner which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map, or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of failure of a levee or dam?				X
j) Be exposed to inundation by seiche, tsunami, or mudflow?				X

DISCUSSION:

VIII (a-j): The project will have no impact on either groundwater or surface drainage characteristics of the site. Debris will be stockpiled in a manner that will not interrupt free flow of storm water, before it is hauled away for disposal. The project site has the potential for inundation by tsunami [see VI (a)], but no mitigations appears warranted.

IX. LAND USE AND PLANNING – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency having jurisdiction over the project (including, but not limited to the general plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

DISCUSSION:

IX (a-c): The project will have no impact on land use or planning.

X. MINERAL RESOURCES – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X

DISCUSSION:

X (a,b): There are no known mineral resources of value in the vicinity of this project.

XI. NOISE – Would the project result in:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive ground-borne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?		X		

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

DISCUSSION:

XI (a-c): The project should generate no more noise than the normal daily operation of a marine terminal. Trucks hauling off debris will generate a *modicum of noise*, but only sporadically, and only for the duration of the project. Any increase in ambient noise levels will not be permanent. Ground borne noise may occur, but only on roadways designed for truck traffic.

XI (d): Temporary and periodic noise levels will increase as a result of this project, due to the operation of motorized equipment, including trucks. Although the Contract Documents permit 24-hour operations, it is anticipated that work will cease daily at dusk.

XI (e,f): This project is not located within an airport land use planned area, or within two miles of a public or public-use airport.

XII. POPULATION AND HOUSING – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes or businesses) or indirectly (for example, by extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

DISCUSSION:

XII (a-c): There will be no population growth, nor displacement of neither people nor housing as a result of this project.

XIII. PUBLIC SERVICES	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environ-mental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services below:				
Fire protection?				X
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X

DISCUSSION:

XIII (a): There are neither changes nor increases anticipated in the need for public services as a result of this project.

XIV. RECREATION	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

DISCUSSION:

XIV (a,b): This project will have no impact on existing recreational facilities, nor will it generate the need for additional recreational facilities.

XV. TRANSPORTATION/TRAFFIC – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e. result in a substantial increase in either the number of vehicle trips, the volume to capacity ration on roads, or congestions at intersections)?			X	
b) Exceed either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location those results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?				X

DISCUSSION:

XV (a-g): This project should cause no permanent change in existing traffic volume, patterns, roadway design features, emergency access, parking, or implementation of alternative transportation policies. There will be a short-term increase in truck traffic as debris is hauled from the staging area to the permanent disposal site, but this increase will terminate after completion of the project – approximately 4-6 weeks.

XVI. UTILITIES AND SERVICE SYSTEMS – Would the project:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new stormwater drainage facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements required?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state and local statutes and regulations related to solid waste?				X

DISCUSSION:

XVI (a-g): Any utilities at the wharf will be terminated as part of this project, and no new utilities are planned at this time. Solid waste and debris generated by this project will be disposed of at approved location(s), and subject to separate permitting.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE:	POTENTIALLY SIGNIFICANT	LESS THAN SIGNIFICANT w/MITIGATION	LESS THAN SIGNIFICANT	NO IMPACT
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish of wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or pre-history?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

DISCUSSION:

XVII (a-c): This project, consisting of demolition and removal only of a storm-damaged waterfront structure will not degrade the environment nor habitat for wildlife and plants. The habitat and environment should actually be improved, by eliminating the potential for collapse of the wharf into Humboldt Bay, and the resulting disruption of the intertidal areas. There are no current plans for replacement of the wharf, so it is not possible to evaluate any cumulative effects of any future work at this location.

State of California – The Resources Agency ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
Marine Region
350 Harbor Boulevard
Belmont, CA 94002
650.631.6789

April 9, 2007

EXHIBIT NO. 5
APPLICATION NO.
1-07-009 - HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT
CDFG COMMENTS ON MND
(1 of 2)

David Hull
Humboldt Bay Harbor, Recreation, and Conservation District
P.O. Box 1030
Eureka, California 95502-1030

Dear Mr. Hull:

The California Department of Fish and Game (Department) has reviewed the Mitigated Negative Declaration (MND) for the Removal of Storm Damage and Debris from the Fields Landing Marine Terminal (SCH #2007032059). The Department appreciates the opportunity to comment on the MND. The project site is located in Humboldt Bay at the foot of S. Bay Depot Rd. in Fields Landing. The project entails the demolition, removal and disposal of approximately 45,000 square feet of storm-damaged timber deck planks, pilings, and piling caps. A tracked excavator will be operated from the deck itself to pull the timber planks and support members loose and deposit them on the adjacent land. A floating boom will be deployed to contain any debris that falls into the bay during deconstruction. All debris will be removed at the end of each workday. After the decking is removed, approximately 700 untreated wooden pilings will be removed by vibrating them out of the mud. If a pile breaks during removal, it will be cut off one-foot below the mud-line. All debris will be stored at a staging area that is on level ground and surrounded by an earthen dike. In addition, an abandoned spud barge constructed of steel will be removed and disposed. The Humboldt Bay Harbor Recreation, and Conservation District (HBHRCD) proposes to "bank" mitigation credits for removal of the 700 wooden pilings to be used only by the HBHRCD for future pile driving activity at the Fields Landing Marine Terminal.

As trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. In this capacity, the Department administers the California Endangered Species Act, the Native Plant Protection Act, and other provisions of the California Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction the Department has the following concerns, comments, and recommendations regarding the MND.

1. The Department concurs with the MND that no State or Federally listed species are expected to be impacted by the project. There are no sensitive plant species, or eelgrass, in the project vicinity.
2. The Department has concerns regarding the mitigation credits for the removal of 700 wooden pilings to be used by the HBHRCD for any future pile driving activity at the Fields landing Marine Terminal. Future projects will need to comply with all requirements of resource and permit agencies at the time of any future project. The HBHRCD should be aware that mitigation credits for pile driving activity at a 1:1 ratio may not satisfy future permit requirements.

The Department appreciates the opportunity to provide comments on the MND. As always, Department personnel are available to discuss our concerns, comments, and recommendations in greater detail. To arrange for discussion, please contact Ms. Vicki Frey, Environmental Scientist, 619 2nd St., Eureka, CA. 95501, (707) 445-7830

Sincerely,

Becky Ota
Senior Environmental Scientist
Habitat and Conservation Program
Marine Region

cc: Vicki Frey
Department of Fish and Game
Eureka, CA 95501

Mr. Jim Baskin
California Coastal Commission
710 E Street
Eureka, CA 95501

Mr. Kelley Reid
U. S. Army Corp of Engineers
P.O. Box 4863
Eureka, CA 95502

Mr. Dean Prat
North Coast Regional Water Quality Control Board
5550 Skylane Blvd, Suite A
Santa Rosa, CA 95403

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
(707) 445-7833
www.coastal.ca.gov

EMERGENCY PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
(707) 445-7833

RE: **Emergency Permit No. 1-06-001-G**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the North Coast District Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular Coastal Permit is necessary to make it a permanent installation. I agree to apply for a regular Coastal Permit within 60 days of the date of the emergency permit (i.e., by), OR I will remove the emergency work authorized by such permit in its entirety within 150 days of the date of the emergency permit (i.e., by).

Signature of property owner or
Authorized representative

DAVID Hull
Name

PO Box 1030
Address

EUREKA, CA 95502

1-9-2006
Date of Signing

RECEIVED
JAN 13 2006
CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 6
APPLICATION NO.
1-07-009 - HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT
EMERGENCY PERMIT NO. 1-01-001-G (1 of 3)

STATE OF CALIFORNIA THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501

(707) 445-7833
www.coastal.ca.gov

ARNOLD SCHWARZENEGGER, *Governor*

EMERGENCY PERMIT

Attention: David Hull
Humboldt Bay Harbor, Recreation, and Conservation District
P.O. Box 1030
Eureka, CA 95502-1030

Date January 6, 2006
Emergency Permit **1-06-001-G**

LOCATION OF EMERGENCY WORK:

Along Humboldt Bay tidelands, at the foot of Depot Road, in Fields Landing (Humboldt County) (APN(s) 307-101-02)

WORK PROPOSED:

Remove the remnant decking and supporting timbers of a storm-damaged portion of an existing dock using heavy equipment, grade a temporary ramp from the top of bank to the tidelands beneath the dock to provide access for equipment eroded portions of an existing earthen levee, and remove the ramp upon completion of the debris removal work.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of severe tidal storm surge has broken apart portion of an existing dock causing decking pieces and timbers from the dock to be cast adrift and creating a navigation hazard to boats and ships and requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. The Executive Director of the Coastal Commission hereby finds that:

(a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit;

(b) Public comment on the proposed emergency action has been reviewed if time allows;

(c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the attached page.

Sincerely,

PETER M. DOUGLAS
Executive Director

By: ROBERT MERRILL
District Manager

cc: Humboldt County Planning Division
Vicki Frey, CA Dept. of Fish & Game
Kelly Reid, U.S. Army Corps of Engineers

Enclosures: 1) Acceptance Form; 2) Regular Permit Application Form

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit (i.e., by February 5, 2006).
4. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless of any liabilities o damage to public or private properties or personal injury that may result from the project.
5. Debris removal work shall be limited to periods of low tide.
6. No construction materials, debris, or waste shall be stored where it may enter the tidal waters of Humboldt Bay.
7. Fueling of equipment is prohibited on the tidelands.
8. Any and all debris resulting from demolition activities shall be removed from the project site and disposed of in a lawful manner outside of the coastal zone or at an authorized disposal site;
9. Upon completion of the demolition work, the construction access ramp to the tidelands beneath the wharf shall be removed and pre-project contours restored to ensure there is no permanent fill of tidelands.

The emergency work is considered to be TEMPORARY work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a Coastal Development Permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate an easement) and/or a requirement that a deed restriction be placed on the property assuming liability for damages incurred from storm waves.

If you have any questions about the provisions of this emergency permit, please call the Commission's North Coast District Office at the address and telephone number list on the first page.